

AGENDA FOR THE KERRVILLE CITY COUNCIL MEETING

TUESDAY, MAY 28, 2024, 6:00 P.M.

CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

The Community Vision

Kerrville will be a vibrant, welcoming and inclusive community that:

- *Respects and protects the natural environment that surrounds it;*
- *Seeks to attract economic growth and development;*
- *Provides opportunities for prosperity, personal enrichment and intellectual growth for people of all ages; and*
- *Does so while preserving the small-town charm, heritage, arts and culture of the community.*



Kerrville2050



CITY COUNCIL MEETING AGENDA
MAY 28, 2024 6:00 PM
CITY HALL, 701 MAIN STREET, KERRVILLE, TEXAS



**Council Meeting Procedures, City Council and City Staff Safety,
And Citizen Participation Guidelines**

Citizens may view and hear City Council meetings on Spectrum Channel 2 or by live-stream via the City's website (www.kerrvilletx.gov). City Council meetings are recorded and the recordings are posted on the City's website. Citizens wishing to speak during a meeting shall submit a completed "speaker request form" to the City Secretary before the item is introduced, but are encouraged to submit the form before the meeting begins. Each speaker is limited to four minutes.

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon on this property.

Thank you for your participation!

CALL TO ORDER: By Mayor Joe Herring, Jr.


INVOCATION AND PLEDGE OF ALLEGIANCE: By Mayor Joe Herring, Jr.

1. **ANNOUNCEMENTS OF COMMUNITY INTEREST:** *Announcement of items of community interest, including expressions of thanks, congratulations, or condolences; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by city officials or employees; and announcements involving imminent threats to the public health and safety of the city. No action will be taken.*
2. **PRESENTATIONS:**
 - 2.A Proclamation: May 2024 as Building Safety month in the City of Kerrville. (Mayor Herring)
 - 2.B Recognition of the City of Kerrville Human Resources department for receiving the Texas Municipal Human Resources Association (TMHRA) Human Resources Impact Award of Distinction (population 25,000 and under). (Mayor Herring, K Meisner)
 - 2.C Recognition of the City of Kerrville Citizens' Academy participants. (Mayor Herring)
 - 2.D Consider a funding request from the Bluewood apartment developers. (M Hornes)
3. **VISITORS/CITIZENS FORUM:** *Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. The speaker request form must be submitted to the City Secretary before the item is called or read into record. City Council may not discuss or take any action on an item but may place the issue on a future agenda. Each speaker is limited to four minutes.*
4. **CONSENT AGENDA:** *These items are considered routine and can be approved in one motion unless a Councilmember asks for separate consideration of an item. It is recommended that the City Council approve the following items which will grant the Mayor or City Manager the authority to take all actions necessary for each approval:*
 - 4.A Professional Services Agreement with Schaumburg & Polk, Inc. for the Galbraith Street and Quinlan Street Waterline Replacement project in the amount of \$328,655.00. (K Burow)
Attachment: [20240528_PSA Schaumburg-Polk for Waterline Replacement.pdf](#)



- 4.B Professional Services Contract with FORVIS, LLP for the City's Annual audit for FY2024. (J Behrens)
Attachment: [20240528_PSA Forvis LLP - Independent Annual Audit FY2024.pdf](#)
- 4.C City Council special-called meeting minutes for May 14, 2024 (Canvass of Election). (S McElhannon)
Attachment: [20240528_Minutes CC special-called meeting 5pm Canvass.pdf](#)
- 4.D City Council meeting minutes May 14, 2024. (S McElhannon)
Attachment: [20240528_Minutes CC meeting 5-14-24 6pm.pdf](#)
- 4.E City Council special-called meeting minutes May 21, 2024. (S McElhannon)
Attachment: [20240528_Minutes CC special-called meeting 5-21-24.pdf](#)

END OF CONSENT AGENDA.

5. ORDINANCES, SECOND READING:

- 5.A Ordinance No. 2024-12, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, otherwise known as the City's Zoning Code; by changing the zoning for the property known as 601 Lois St. from a Single Family Residential Zoning District (R-1) to a Residential Transition Zoning District (RT); and providing other matters relating to the subject. (D Paxton)
Attachment: [20240528_Ord 2024-12 Zone change 601 Lois 2nd read.pdf](#)
-  5.B Ordinance No. 2024-13, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, otherwise known as the City's Zoning Code; by changing the zoning of the property known as 3600 Memorial Blvd (Kerrville VA Medical Center) from a Public and Institutional Zoning District to a Multifamily Residential Zoning District; and providing other matters relating to the subject. (D Paxton)
Attachments: [20240528_Ord 2024-13 Zone change 3600 Memorial Blvd 2nd read.pdf](#)
[20240514_Letter in favor Noller - Freedoms Path.pdf](#)
- 5.C Ordinance No. 2024-14, second reading. An Ordinance declaring the adoption of amendments to the City of Kerrville, Texas, Charter in accordance with the adoption of Propositions A, B, C, E, G, H, and I at the Special Election held on May 4, 2024; adopting the Charter, as amended; providing an effective date; and providing other matters related to this subject. (M Hayes)
Attachment: [20240528_Ord 2024-14 Charter amend 2nd read w red-line.pdf](#)

6. CONSIDERATION AND POSSIBLE ACTION:

-  6.A Economic Development Grant Agreement between Habitat for Humanity-Kerr County and the City of Kerrville, Texas Economic Improvement Corporation for installation of Public Infrastructure for the development of the Mariposa Residential Neighborhood, such grant amount not to exceed \$2,260,000. (M Hornes)
Attachments: [20240528_EIC Grant Agreement_Habitat-Mariposa_052324.pdf](#)
[20240213 EIC Application EIC Habitat-Humanity and Overview.pdf](#)
[20240213_House Plan Habitat-Humanity.pdf](#)
-  6.B Economic Development grant funding agreements between the City of Kerrville, Texas, Economic Improvement Corporation and Schreiner University for the initiation of Center for Talent and Workforce Development. (M Hornes)
Attachments: [20240528_EIC Grant Agreement Schreiner U Center Talent-Workforce.pdf](#)
[20240528_Schreiner_Application to EIC 03062024.pdf](#)
[20240528_SU response to_Go Team Oct_2023.pdf](#)

- 6.C Economic development grant funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and Schreiner University for the expansion of their athletic facilities. (*M Hornes*)
Attachments: [20240528_EIC Grant Agreement Schreiner U Athletic.pdf](#)
[20240528_Schreiner_Application for Center to EIC- 03062024.pdf](#)
[20240528 SU response for Center to GO Team Oct_2023.pdf](#)

- 6.D Contract between City of Kerrville, Texas, and Kerrville Convention & Visitors Bureau, Inc. for convention and tourism promotion services. (*J Behrens*) (*Guest speaker: Julie Davis, President KCVB*)
Attachment: [20240528_Contract KCVB for Convention and Tourism.pdf](#)

- 6.E Purchase of Granular Activated Carbon (GAC) from Calgon Carbon Corporation for the filtration system at the Water Treatment Plant, not to exceed \$197,000. (*D Barrera*)
Attachments: [20240528_Quote_Calgon_GAC_for_filtration system.pdf](#)
[20240528 Contract Calgon Carbon Corp -GAC WaterTreatmentPlant filtration.pdf](#)
- 6.F Appointments of Councilmembers as members and liaisons to City Boards and Commissions, to include the Economic Improvement Corporation. (*D Rice*)
Attachment: [20240514_Boards-Commissions CC worksheet.pdf](#)

7. INFORMATION & DISCUSSION:

- 7.A Financial Report for month ended April 30, 2024. (*J Behrens*)
Attachment: [20240528_Presentation Financial Report.pdf](#)

8. BOARD APPOINTMENTS:

- 8.A Appointment to the Economic Improvement Corporation. (Eligible for Executive Session 551.074) (*S McElhannon*)
- 8.B Removal of member, and appointment of member to Main Street Advisory Board. (*S McElhannon*)
9. **EXECUTIVE SESSION:** *City Council may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above if they meet the qualifications of Chapter 551 of the Texas Government Code: including Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel/officers). City Council also reserves the right to meet in executive session on the following issues:*

- 9.A Appointment to the Economic Improvement Corporation. (551.074) (*S McElhannon*)

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY.

- 11. ITEMS FOR FUTURE AGENDAS:** *City Council may suggest items or topics for future agendas.*

ADJOURN.



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Proclamation: May 2024 as Building Safety month in the City of Kerrville.
(Mayor Herring)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 17, 2024

SUBMITTED BY: Mayor Joe Herring

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:

RECOMMENDED ACTION:

Presentation; no action.



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Recognition of the City of Kerrville Human Resources department for receiving the Texas Municipal Human Resources Association (TMHRA) Human Resources Impact Award of Distinction (population 25,000 and under). (*Mayor Herring, K Meisner*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 21, 2024

SUBMITTED BY: Maya Johnson, Executive Assistant

EXHIBITS:

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:

The City of Kerrville Human Resources department was honored with the Texas Municipal Resources Association (TMHRA) Human Resources Impact Award of Distinction (population 25,000 and under) on Wednesday, May 8, 2024, by its peers of the TMHRA at the annual conference in Denton, Texas. The TMHRA's mission is to grow and enhance the professional development of their dedicated and compassionate members through effective knowledge sharing and relationship building. TMHRA offers its members a unique forum where the interests, concerns, and problems affecting Human Resources professionals can be shared and discussed.

The Human Resources Impact Award of Distinction recognizes a local government human resources department that has developed innovative programs and/or services to solve municipal human resources management problems and/or enhanced the organizational culture. This award recognizes long-term creative solutions, large or small in scope, that have shown an impact on the organization over the last 18 months.

City of Kerrville Human Resources department's Rebecca Priess implemented NeoGov, a comprehensive Human Resources software solution. The transition to NeoGov has revolutionized the way human resources functions are managed within the organization. The implementation of NeoGov has streamlined recruitment processes, improved applicant tracking, and enhanced onboarding experiences for new hires.

Implementing NeoGov for the City of Kerrville's Human Resources department are both unique and significant due to their transformative impact on human resources operations and organizational culture. The adoption of NeoGov has not only optimized human resources processes but has also empowered employees with user-friendly tools and resources. Compared to the past, where manual processes were predominant, the introduction of NeoGov represents a quantum leap in efficiency and effectiveness.

RECOMMENDED ACTION:

Presentation only.



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Recognition of the City of Kerrville Citizens' Academy participants. (*Mayor Herring*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: April 28, 2024

SUBMITTED BY: Julie Behrens , Director of Finance

EXHIBITS:

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:

The following citizens completed the City's first annual Citizens' Academy. An 8-week immersive program consisting of: presentation of information, open discussions with questions/answer sessions, along with facility tours.

Participants: Steve Bradshaw, Paul Devin, Beck Gibson, John Ibarra, Nancy Jahnig, Doug Nelson, Roger Palmer, Carrie Speich-Davis, Amy White, Patricia Zohlen, and Paul Zohlen,

The City congratulates and thanks these members of the community for their participation and engagement in this program.

RECOMMENDED ACTION:

Mayor to present recognitions.



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Consider a funding request from the Bluewood apartment developers. (*M Hornes*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED:

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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:

RECOMMENDED ACTION:

Staff recommends approval of the funding request as presented.



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Professional Services Agreement with Schaumburg & Polk, Inc. for the Galbraith Street and Quinlan Street Waterline Replacement project in the amount of \$328,655.00. (*K Burow*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 16, 2024

SUBMITTED BY: Kyle Burow, Director Engineering

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$328,655.00	\$	\$	71-

PAYMENT TO BE MADE TO: Schaumburg & Polk, Inc.

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

In January 2023, City Council authorized steps to begin the issuance of Revenue Bonds in an amount not to exceed \$12.5 million to be utilized in assisting the City's replacement, reconstruction, and upgrading of existing water and wastewater infrastructure. Some of the higher priority projects presented to City Council for the Water Distribution System were the replacement of existing cast iron water mains in Galbraith and Quinlan Streets that have received continuous maintenance, such as main breaks. The scope of this project will replace the existing 12-inch cast iron pipe water main in Galbraith Avenue, from Florence Street to Culberson Street, and the existing 10-inch cast iron pipe water main in Quinlan Street, from Stadium Tanks to Main Street, with new PVC water mains, including necessary appurtenances and services to serve the area's users. The replacement of the water main segment from 837 Quinlan Street to the Stadium Tanks adjacent to Holdsworth Drive will be bid as an additive alternate to the construction contract due to potential budget constraints.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute the professional services agreement.

ATTACHMENTS: [20240528_PSA Schaumburg-Polk for Waterline Replacement.pdf](#)

PROFESSIONAL SERVICES AGREEMENT
[FIRM: Schaumburg & Polk, Inc. | PROJECT-SERVICES: Galbraith Street
and Quinlan Street Waterline Replacement]

THIS AGREEMENT is entered into the ____ day of _____, 2024 (“Effective Date”), by and between the **City of Kerrville, Texas** (“CITY”) and **Schaumburg & Polk, Inc.** (“CONSULTANT”), and at times, collectively referred to herein as “parties.”

WHEREAS, CITY hires CONSULTANT to perform certain work and services set forth in Scope of Services, marked **Exhibit A**, and attached hereto and incorporated herein; and

WHEREAS, CONSULTANT agrees to perform said work and services as specified under Article I of this Agreement;

NOW, THEREFORE, the parties agree as follows:

I. CONSULTANT’S SERVICES

CONSULTANT shall perform and pay for all labor, tools, materials, equipment, supplies, transportation, and management necessary to perform all services set forth in **Exhibit A** and all other professional services reasonably inferable from **Exhibit A** and necessary for complete performance of CONSULTANT’s obligations under this Agreement, collectively referred to herein as “Services.” CITY may, at any time, stop CONSULTANT from performing the Services upon giving CONSULTANT written notice. To the extent of any conflict between the terms of this Agreement and **Exhibit A**, the terms of this Agreement will prevail. CONSULTANT shall diligently pursue completion of its Services, provide CITY with periodic updates as to its review of each assignment, and promptly inform CITY of any anticipated delay.

II. CONSULTANT’S RESPONSIBILITIES

A. CONSULTANT, upon its review of a general description of the work requested by CITY, has prepared and provided to CITY the specific Services required, which is attached as **Exhibit A**.

B. CONSULTANT shall use its best efforts, skill, judgment, and abilities in performing the Services in an expeditious and timely manner consistent with the applicable professional standards of care and the orderly progress of the Services. CONSULTANT shall at all times provide sufficient personnel to accomplish the Services in a timely manner. CONSULTANT shall manage the Services and coordinate other professional services as necessary for the complete performance of

CONSULTANT's obligations under this Agreement. CONSULTANT shall periodically report the status of the Services to CITY as is appropriate to keep CITY informed as to the status of the work.

C. CONSULTANT shall perform the Services in compliance with all applicable federal, state, and municipal laws and any other entity having jurisdiction over the Services. In addition, CONSULTANT shall perform the Services in a manner consistent with generally accepted standards for its profession.

D. Documents and/or other reports produced by CONSULTANT (collectively referred to herein as "Review Documents") pursuant to the Services must be reasonably accurate and free from material errors or omissions. CONSULTANT shall promptly correct any known or discovered error, omission, or other defect in the Review Documents without any additional cost or expense to CITY and notify CITY of same.

E. CONSULTANT shall designate a representative primarily responsible for its performance of the Services. The designated representative shall act on behalf of CONSULTANT with respect to all phases of the Services and shall be available as required for the benefit of the CITY. CONSULTANT shall not change the designated representative without prior written approval of CITY, which approval may not be unreasonably withheld.

III. CITY'S RESPONSIBILITIES

A. CITY has provided CONSULTANT with a description of the Services.

B. CITY shall furnish any relevant information CITY possesses, as requested by the CONSULTANT and as reasonably necessary for the completion of the Services.

C. CITY shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Services.

D. CITY designates **Kyle Burow, Director of Engineering**, who may be reached at (830) 258-1410, as its representative authorized to act on its behalf with respect to the Services. CITY may, upon notice to CONSULTANT, change such designation at any time.

IV. PAYMENT

CITY shall compensate CONSULTANT for the Services in the amount and manner described and set forth in the Rate Schedule, included in the Scope of Work attached hereto and incorporated herein as **Exhibit A**. The amount of payment shall not exceed \$328,655.00 unless additional services are requested by CITY.

V. AGREEMENT TERM

A. CONSULTANT shall commence its work immediately upon the parties' execution of this Agreement and proceed diligently with said work, except for delays beyond the reasonable control of CONSULTANT. The Agreement will terminate upon CONSULTANT's completion and City's acceptance of Services, unless sooner terminated as provided herein.

VI. DOCUMENTS

A. CONSULTANT shall submit all Review Documents together with any necessary supporting documents to CITY. All Review Documents must be professionally sealed as required by law or by CITY.

B. CONSULTANT grants CITY a royalty-free, perpetual license and right, to survive the termination of this Agreement, to all Review Documents that CONSULTANT may cover by copyright and to all designs as to which CONSULTANT may assert any rights or establish any claim under the design patent or copyright laws. This license includes CITY's right to use and reproduce these documents as necessary. Further, CONSULTANT acknowledges that CITY is subject to Chapter 552 of the Government Code, commonly known as the "Texas Public Information Act," and hereby waives and releases the CITY from any claims against CITY for providing copies of the Design Documents in compliance with that Act. CONSULTANT shall immediately furnish originals of all Design Documents to CITY.

C. CONSULTANT shall ensure that all text documents supplied to CITY as provided herein are fully compatible with MS Word.

VII. TERMINATION

A. CITY or CONSULTANT may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to the other party. In the event suspension or termination is without cause, CITY's payment to CONSULTANT, in accordance with this Agreement, will be made on the basis of the Services reasonably determined by CITY to be satisfactorily performed as of the date of suspension or termination. In addition, CITY's payment is subject to the CONSULTANT's delivery of all documents and reports reasonably required by CITY, to include Review Documents, invoices, statements, and accounts.

B. Should CITY require a modification to this Agreement, and in the event CITY and CONSULTANT fail to agree upon such modification, either CITY or CONSULTANT have the option of terminating this Agreement. Thereafter, CITY shall pay CONSULTANT in accordance with this Agreement for the Services mutually agreed

upon by CITY and CONSULTANT to be properly performed by the CONSULTANT prior to such termination date.

C. This Agreement is subject to the CITY's appropriation of funds within the budget year for which they are paid. Any payment made by CITY to CONSULTANT must be made solely from the annual budgeting and appropriations of CITY. In the event that CITY does not appropriate funds in any fiscal year, CITY will thereafter have the right to terminate this Agreement, to be effective at the end of CITY's then existing fiscal year (September 30). CITY shall provide notice of its decision on or before August 1 of any year.

VIII. INSURANCE

CONSULTANT shall provide and maintain in full force and effect during the term of this Agreement the following types of insurance and liability coverage:

A. Workers Compensation Insurance: in an amount meeting statutory requirements of the State of Texas on all CONSULTANT's employees carrying out the Services.

B. Automobile Liability Insurance: with either a combined limit of at least \$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage must include all owned, hired, and non-owned motor vehicles used in the performance of this Agreement by CONSULTANT or its employees.

C. General Liability Insurance: on a per occurrence basis with limits of liability not less than \$1,000,000 for each occurrence and for fire damage and for Bodily Injury and Property Damage, no less than \$1,000,000. At a minimum, coverage for Premises, Operations, Products, and Completed Operations shall be \$2,000,000. This coverage must protect the public or any person from injury or property damages sustained by reason of CONSULTANT or its employees providing the Services. The general aggregate must be no less than \$2,000,000.

D. Professional Liability Errors and Omissions Insurance: with limits of liability not less than \$1,000,000 per occurrence covering all work performed by CONSULTANT, its employees, subcontractors, or independent contractors. If this coverage may only be obtained on a "claims made" basis, coverage must remain in effect for at least two years after final payment with CONSULTANT continuing to furnish the CITY certificates of insurance.

E. Subcontractor: in the case of any work sublet, CONSULTANT shall require subcontractor and independent contractors working under the direction of either

CONSULTANT or a subcontractor to carry and maintain the same workers compensation and liability insurance required of CONSULTANT.

F. Qualifying Insurance: the insurance required by this Agreement must be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B" or better by the A.M. Best Companies. Except as addressed above, all policies must be written on a "per occurrence basis" and not a "claims made" form.

IX. INDEMNIFICATION FOR INJURY AND PERFORMANCE

A. CONSULTANT shall protect, indemnify, and hold harmless CITY, its officers, agents, servants, and employees, hereinafter individually and collectively referred to as "Indemnatee(s)," from and against suits, actions, claims, losses, liability, or damage of any character and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages, or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error, or omission of CONSULTANT, its officers, employees, servants, agents, or subcontractors, or anyone else under CONSULTANT's direction and control, and arising out of, resulting from, or caused by the performance or failure of performance of the Services, or from conditions created by the performance or non-performance of said work. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively negligent or liable for such damage or injury, CONSULTANT shall indemnify Indemnatee(s) as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.

B. Acceptance and approval of any work or final documents by CITY neither constitutes nor may be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents, and consultants for the accuracy or competency of their specifications or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by CITY for any defect in the Review Documents, or CONSULTANT's employees, contractor, agents, and consultants.

X. INDEMNIFICATION FOR UNEMPLOYMENT COMPENSATION

CONSULTANT agrees that it is an independent contractor and not an agent of CITY and that CONSULTANT is subject, as an employer, to all applicable Unemployment Compensation Statutes, so as to relieve CITY of any responsibility or liability from treating CONSULTANT's employees as employees of CITY for the purpose of keeping records or making reports or payments of Unemployment Compensation taxes or contributions. **CONSULTANT shall indemnify and hold CITY harmless and reimburse it for any expenses or liability incurred under said statutes in connection with employees of CONSULTANT.**

XI. INDEMNIFICATION FOR PERFORMANCE

CONSULTANT shall defend and indemnify Indemnitees against and hold CITY and the premises harmless from any and all claims, suits, or liens based upon or alleged to be based upon the non-payment of labor, tools, materials, equipment, supplies, transportation, and management costs incurred by CONSULTANT in performing the Services.

XII. DEFAULT OF CONSULTANT

In the event CONSULTANT fails to comply or becomes disabled and unable to comply with this Agreement as to the quality or character of the Services or time of performance, and the failure is not corrected within ten (10) days after written notice from CITY to CONSULTANT, CITY may, at its sole discretion, without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to CONSULTANT except for all work determined by CITY to be satisfactorily completed prior to termination. Payment for work satisfactorily completed will equal actual costs, including reasonable salaries and travel expenses of CONSULTANT to and from meetings called by CITY at which CONSULTANT is required to attend, but shall not include any loss of profit of CONSULTANT.

XIII. MISCELLANEOUS PROVISIONS

A. Entire Agreement. This Agreement supersedes all prior agreements, written or oral, between CITY and CONSULTANT and constitutes the entire and integrated Agreement and understanding between the parties with respect to the subject matter of the Agreement. This Agreement may only be amended by a written instrument signed by both parties.

B. Assignment. This Agreement is a personal service contract for the services of CONSULTANT, and CONSULTANT's interest in this Agreement, duties hereunder,

and/or fees due may not be assigned or delegated to a third party without the written consent of CITY. Sale of more than fifty percent (50%) ownership of CONSULTANT will be considered an assignment.

C. Adjustment in Services. CONSULTANT shall not make any claims for extra services, additional services, or changes in the Services without a written agreement with CITY prior to the performance of such services.

D. Applicable Law. This Agreement must be construed, interpreted, and applied in accordance with and governed by and enforced under the laws of the State of Texas without giving effect to principles of conflict of law. Venue will occur in Kerr County, Texas.

E. Waiver. A delay or omission by either party in exercising any right or power under the Agreement may not be construed as a waiver of that right or power. A waiver by either party of any term or condition of the Agreement may not be construed as a waiver of any subsequent breach of that term or condition or of any other term or condition of the Agreement. Further, neither CITY's review, approval, or acceptance of, nor payment for any of the Services may be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

F. Severability. If any provision of this Agreement is determined to be invalid or unenforceable in any respect, that determination may not affect any other provision of this Agreement, which will be interpreted as if the invalid or unenforceable provision had not been included.

G. Independent Contractor. CONSULTANT agrees that CONSULTANT is engaged as an independent contractor and that CITY has no responsibility to provide CONSULTANT or its employees with any benefits associated with employee status. CONSULTANT shall neither hold itself out as nor claim to be an officer, partner, employee, or agent of CITY.

H. Attachments. The following Attachment(s) is attached to this Agreement and is included herein for all purposes:

Exhibit A – Scope of Services

I. Execution Becomes Effective. This Agreement is effective as of the Effective Date.

J. Notices and Authority. CONSULTANT shall send all notices required under this Agreement to the City Manager at City Hall, 701 Main Street, Kerrville, Texas 78028. CONSULTANT agrees that only the City Manager, or designee (pursuant to III.D., above), has the authority to represent CITY or bind CITY under this Agreement. CITY shall send all notices required under this Agreement to the CONSULTANT at:

Schaumburg & Polk, Inc.
Allen R. Ross, P.E.
President
187 Elmhurst Drive
Suite F
Kyle, Texas 78640

K. Prohibition on contracts with companies boycotting Israel. CONSULTANT hereby verifies the following per Section 2271.002, Texas Government Code:

1. CONSULTANT does not boycott Israel; and
2. CONSULTANT will not boycott Israel during the term of the Agreement.

L. Prohibition against business with Iran, Sudan or foreign terrorist organization. CONSULTANT warrants, covenants, and represents that CONSULTANT is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

M. Prohibition on Contracts with Companies Boycotting Energy Companies. CONSULTANT hereby verifies the following per Section 2276.002, Texas Government Code:

1. CONSULTANT does not boycott energy companies; and
2. CONSULTANT will not boycott energy companies during the term of the Agreement.

N. Written Verification as to Firearm Entities. CONSULTANT hereby verifies the following per Section 2274.002, Texas Government Code:

1. CONSULTANT does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
2. CONSULTANT will not discriminate against a firearm entity or firearm trade association during the term of the Agreement.

O. Prohibition on Contracts with Companies Related to Certain Countries. Where this Agreement pertains to "critical infrastructure", as defined by Section 2274.0101, Texas Government Code, CONSULTANT verifies (1) that it is not owned by or the majority of stock or other ownership interest of the company is not held or controlled

by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or other designated countries; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other designated countries; or (2) headquartered in China, Iran, North Korea, Russia, or other designated countries.

P. Dispute Resolution. The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Within thirty (30) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Commercial Mediation Rules published by the American Arbitration Association. In the event that the dispute has not been resolved within thirty (30) days following mediation, or such longer period as the parties may agree, either party may initiate formal proceedings against the other party.

Q. Consequential Damages Waiver. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER CONSULTANT NOR CITY NOR EITHER PARTY'S SUPPLIERS, AGENTS, OFFICERS, OR DIRECTORS SHALL HAVE ANY LIABILITY REGARDLESS OF THE THEORY OF RECOVERY, INCLUDING BREACH OF CONTRACT OR NEGLIGENCE, TO THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, COST OR EXPENSE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFIT, WHETHER ACTUAL OR ANTICIPATED, LOSS OF USE, FAILURE TO REALIZE ANTICIPATED SAVINGS, LOSS OF OR DAMAGE TO DATA OR OTHER COMMERCIAL OR ECONOMIC LOSS. THIS WAIVER OF CONSEQUENTIAL DAMAGES IS MADE REGARDLESS OF WHETHER (I) EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR (II) SUCH DAMAGES MAY BE FORESEEABLE.

R. Limitation of Liability. Notwithstanding any other provision of this Agreement, CITY agrees to limit CONSULTANT's liability to CITY and to all persons having contractual relationships with CITY to the total fee or compensation received by CONSULTANT for the work under which the liability arises.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

OWNER
THE CITY OF KERRVILLE

CONSULTANT
SCHAUMBURG & POLK, INC.

BY: _____
NAME: Kimberly Meisner
TITLE: Interim City Manager

BY: _____
NAME: Allen R. Ross, P.E.
TITLE: President

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FUNDING:

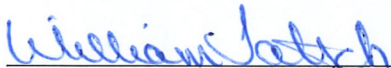
APPROVED AS TO INSURANCE:

Julie Behrens, Director of Finance

Kimberly Meisner, Asst. City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



William Tatsch, Asst. City Attorney

Stuart Barron, Executive Director for
Public Works and Engineering

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**Scope of Work
City of Kerrville
2024 Water System Improvements – Galbraith, Quinlan, & Clay
Survey, Design, Bidding & Construction Phase Services
April 2024**

Items of work specified below shall be included as Exhibit A to the Form of Agreement between Owner and Engineer for Professional Services.

General

The City of Kerrville has requested a professional services fee proposal from Schaumburg & Polk, Inc. (SPI) for specific water systems improvements identified within the City's Water and Wastewater Master Plan Update (Freese and Nichols, 2022). The water system improvements to be included in this Scope of Work consist of replacing the following three waterlines:

- Replacement of the existing 12-inch cast iron pipe (CIP) water main in Galbraith Avenue, from Florence Street to Culberson Street, with new 12-inch C900 PVC water main, with appurtenances and fittings.
- Replacement of the existing 10-inch cast iron pipe water main in Quinlan Street, from Stadium Tanks to Main Street, with new 10-inch C900 PVC water main, with appurtenances and fittings. That segment of new 10" water line from 837 Quinlan Street to the Stadium Tanks will be bid as an additive alternate to the construction contract.
- *Un-manned Aerial Vehicle (UAV, or drone) LIDAR Survey only* for the replacement of the 6-inch cast iron pipe water main in Clay Street, from Water Street to Jefferson Street with new 6-inch C900 PVC water main, with appurtenances and fittings.

BASIC SERVICES

1. Planning & Reporting

- A. Meet with Owner to determine specific requirements of project.
- B. Visit the location one time and identify any visual obstacles, constraints, survey limits and data collection needed on site, or possible construction challenges.
- C. Prepare an outline of preliminary criteria, identifying easements required, environmental reporting, permitting, survey, or special conditions that may be required.
- D. Prepare a preliminary project schedule, Opinion of Probable Construction Cost (EOPCC), and the project criteria outline; implement SPI's 30% quality assurance quality control (QA/QC) internal review, and present to the owner for review and/or comment.
- E. Revise the preliminary planning documents according to Owner's comments,

completing 30% design completion of the project.

- F. Perform general project management related tasks such as routine communication with the Owner, project status updates, quality control efforts, internal team meetings, project invoicing, project planning efforts, project schedule updates.

2. Preliminary Design

- A. Survey Data Collection - Consultant will coordinate with the Client to mobilize the survey team. Internal coordination with survey for collection of the location and depth of existing utilities, as well as existing infrastructure such as, curb, gutter, edge of pavement, and collectively the path of the project area, and ground elevations of project tie-in areas. If easements are needed, it will be the City's responsibility to secure such.
- B. Perform one site visit to verify topographic survey data and any existing visible infrastructure of significance.
- C. Evaluate Owner maps which identify existing utilities, valves, or infrastructure within the prescribed project area.
- D. Prepare a schematic design of upgrades in conformance with recommendations and criteria identified in the planning documents.
- E. Coordinate schematic design with any required utilities and regulatory agencies.
- F. Prepare updated EOPCC, schedule, and draft set of construction plans and technical specifications; implement SPI's 60% QA/QC internal review, and present to the City for review and comment.
- G. Perform general project management related tasks such as routine communication with the Owner, project status updates, quality control efforts, internal team meetings, project invoicing, project planning efforts, and project schedule updates.

3. Final Design

- A. Prepare 90% completion of construction plans, technical specifications, contractual bidding documents, and an EOPCC for the proposed improvements; implement SPI's 90% QA/QC internal review, and present to the City for review and comment.
- B. Review the design set in the field, and with the City. Revise as necessary to address any comments or questions directed by the City.
- C. Prepare final signed and sealed construction plans, technical specifications, updated opinion of construction cost, and contractual bidding documents for the proposed improvements. Recommend to Owner any further effort in any areas of risk or potential foreseeable conflict.
- D. Submit final plans and specifications to the City and respond to questions or comments.

- E. Perform general project management related tasks such as routine communication with the Owner, project status updates, quality control efforts, internal team meetings, project invoicing, project planning efforts, and project schedule updates.

4. Bidding

- A. Provide plans, specifications, and bidding documents and assist City in bidding the project via Civcastusa.com, posting the project to the online forum, uploading bid documents for interested parties to download, view, and print if desired.
- B. Provide answers to questions (or Requests for Information, RFIs) submitted by interested parties.
- C. Print and distribute plans, specifications, and bidding documents to responsive contractors.
- D. Conduct a Pre-Bid Conference including interested parties if the City so chooses, or if deemed necessary.
- E. Conduct the bid opening, evaluate, and tabulate bids, and recommend an award to the City.
- F. Perform general project management related tasks such as routine communication with the Owner, project status updates, quality control efforts, internal team meetings, project invoicing, project planning efforts, and project schedule updates.
- G. It is noted that the segment of new 10" water line from 837 Quinlan Street to the Stadium Tanks will be bid as an additive alternate to the construction contract.

5. Construction

- A. Conduct a Pre-Construction Conference prior to commencement of work at the project site(s).
- B. Receive, review, and determine the acceptability of all schedules that Contractor is required to submit to Engineer, including Progress Schedule, Schedule of Submittals, and Schedule of Values.
- C. Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the Contractor's work. Recommend and consult with the City regarding Change Orders and Work Change Directives, as appropriate, or as requested. Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit. Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.
- D. Make visits to the Site at intervals appropriate to the various stages of construction, as

Engineer deems necessary, to observe the progress and quality of the Contractor's executed Work. Scope is based on averaging 8 hours every other week for a 24-week construction phase.

- E. Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents.
- F. Process Change Orders, Work Change Directives, and pay applications and coordinate such with the City and Contractor.
- G. In company with Owner and Contractor, conduct an inspection to determine if the Work is substantially complete. If Engineer considers the Work substantially complete, Engineer shall deliver a certificate of Substantial Completion to Owner and Contractor.
- H. Conduct a final inspection to determine if the completed Work of Contractor is acceptable so that Engineer may recommend, in writing, final payment to Contractor.
- I. Engineer shall assemble and provide a final set of as-built drawings based on Contractors field plan set, Engineer's working plan set, and the Resident Representatives field set of plans. These plans will be provided to the Owner in digital format, and hardcopy if requested.
- J. Perform general project management related tasks such as routine communication with the Owner, project status updates, quality control efforts, internal team meetings, project invoicing, project planning efforts, and project schedule updates.

PROJECT DELIVERABLES

- 1. 30% Design Phase - Preliminary Project Criteria Outline, Preliminary EOPCC, Preliminary Project Schedule
- 2. 60% Design Phase – Construction Plans, Specifications, EOPCC
- 3. 90% Design Phase – Construction Plans, Specifications, EOPCC, and bidding documents
- 4. Final Signed and Sealed Plans, Specifications, EOPCC, and bidding documents for one (1) contractor/construction package
- 5. Bidding Documents and Contracts – up to 2 hardcopies of Construction Plans and Project Manual (Contracts and Specifications)
- 6. Recommendation of Award and Bid Assessments
- 7. Construction Administration documentation
- 8. Construction Record Drawings – digital files, hardcopy upon request.

RESPONSIBILITIES OF OWNER - ASSUMPTIONS

1. The Owner is responsible for any and all fees required for any permits and any bid advertising costs.
2. This proposal excludes any costs of third-party laboratory or construction materials testing.
3. The Owner is responsible for preparation of easement documentation or acquisition.
4. This proposal excludes coordination with Texas Department of Transportation.
5. This proposal excludes coordination with an environmentalist or environmental reporting.
6. This proposal excludes a Preliminary Engineering Report or Engineering Feasibility Report submittal to funding agencies.

PROFESSIONAL SERVICES FEE

The City has expressed the concern of potentially not being able to fund all of the improvements above, and has asked SPI to format this proposal accordingly. SPI shall design and provide bidding and construction administration services for one (1) project, one contract. Those portions of the project that may need to be removed from the project due to funding, may be removed via change order or may be included in the project as an “added alternative” within the bidding section. Separation of projects into more than one bidding project will require a fee adjustment.

- SPI proposes to complete the scope of services described herein for the following fee:
 - o \$328,655.00

Fee Proposal

Surveying & Data Collection	\$36,595
Preliminary Engineering Report	\$20,105
Preliminary Design Phase	\$56,300
Final Design Phase	\$110,200
Bidding Phase	\$16,695
Construction Phase	\$88,760
TOTAL FEE	\$328,655.00

PROFESSIONAL SERVICES SCHEDULE

SPI proposes to complete all services related to this project according to the schedule presented below. All mile stones are dated from the date of receiving a signed agreement for professional services from the City of Kerrville.

SCHEDULE

The Engineer proposes the following schedule:

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Furnish five (5) review copies of the 30% complete design plans to Owner.	Within 45 days of the Effective Date of the Agreement.
Owner	Submit 30% review comments to Engineer.	Within 10 days of the receipt of submittal from Engineer.
Engineer	Furnish five (5) review copies of the 60% complete design plans to Owner.	Within 100 days of the Effective Date of the Agreement.
Owner	Submit 60% review comments to Engineer.	Within 10 days of the receipt of submittal from Engineer.
Engineer	Furnish five (5) review copies of the 90% complete design plans to Owner.	Within 195 days of the Effective Date of the Agreement.
Owner	Submit 90% review comments to Engineer.	Within 10 days of the receipt of submittal from Engineer.
Engineer	Furnish five (5) review copies of the 100% complete design plans, Bidding Documents and Advertisement for Bids to Owner.	Within 215 days of the Effective Date of the Agreement.
Owner/ Engineer	Conduct the Bidding Phase, including Pre-Bid Conference, and Bid Opening	Within 245 days of the Effective Date of the Agreement.
Owner/ Engineer	Issue a Notice to Proceed to the successful Bidder.	Within 305 days of the Effective Date of the Agreement.
Engineer	Execute Construction Phase Services	Within 455 days of the Effective Date of the Agreement.
Owner/ Engineer	Issue a Certificate of Construction Completion	Within 485 days of the Effective Date of the Agreement.

Thank you for considering Schaumburg & Polk, Inc. for this project!

Schaumburg & Polk, Inc.
End of Scope of Work





**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Professional Services Contract with FORVIS, LLP for the City's Annual audit for FY2024. (*J Behrens*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 20, 2024

SUBMITTED BY: Julie Behrens , Director of Finance

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$105,760	Expenses will occur in FY2025 - not yet budgeted	To be budgeted in FY2025 \$105,760	01-0106-3111

PAYMENT TO BE MADE TO: FORVIS, LLP

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

SUMMARY STATEMENT:

In accordance with the City Charter and Local Government Code 103.001, the City must have an independent audit conducted annually, following the close of the fiscal year. FORVIS, LLP performed the most recent audit for fiscal year 2023 and has submitted an engagement letter for fiscal year 2024. Staff recommends accepting the engagement letter and finalizing the contract with FORVIS, LLP. for the fiscal year 2024 audit, which will begin in early August 2024.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute.

ATTACHMENTS:

[20240528_PSA Forvis LLP - Independent Annual Audit FY2024.pdf](#)

PROFESSIONAL SERVICES CONTRACT

This Professional Services Contract is executed this ____ day of _____ 2024 by and between the City of Kerrville, Texas, hereinafter called the City, and Forvis, LLP, hereinafter called Forvis.

WHEREAS, the City has requested the professional services of Forvis to conduct an Independent Audit; and

WHEREAS, Forvis submitted an engagement letter and fee schedule to provide such professional services;

WITNESSETH: IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

1. Forvis shall provide the City with the necessary professional services to audit all funds including those that are covered under the provisions of the Single Audit Act, a federal law that applies to entities that accept federal funds.
2. The contract shall commence on July 1, 2024 and terminate on June 30, 2025.
3. The professional accounting services shall be provided in accordance with the terms and conditions set forth in the Engagement Letter attached hereto as **Exhibit A**.
4. Forvis shall be compensated for services rendered under this contract in accordance with the following terms and conditions:

	Fiscal Year 2024
Financial Statement	\$99,760
Single Audit	\$6,000
TOTAL	\$105,760

No work shall be performed beyond the present scope of this contract without express, prior written approval by either the City Manager or the governing body of the City, as appropriate.

5. The City or Forvis shall have the right to terminate the contract upon 30 days written notice.
6. In the event of a conflict between any terms and conditions of this contract and the Exhibit, the terms and conditions of the contract shall take precedent.

7. Neither party may assign any of its rights or delegate any of its obligations under this contract, without the express written consent of the other.
8. It is agreed that the failure of any party to invoke any of the available remedies under this contract or under law in the event of one or more breaches or defaults by any party under the contract shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.
9. Each paragraph of this contract is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
10. This contract shall be interpreted according to and enforced under the laws of the State of Texas. Venue shall occur in Kerr County, Texas.
11. The contract, which includes the Exhibit, contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. This contract supersedes all prior agreements, contracts, and understandings of any kind between the parties relating to the subject matter hereof. This contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
12. Forvis hereby verifies that Forvis is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.
13. Forvis hereby verifies the following per Section 2276.002, Texas Government Code:
 - a) Forvis does not boycott energy companies; and
 - b) Forvis will not boycott energy companies during the term of the Agreement.
14. Forvis hereby verifies the following per Section 2274.002, Texas Government Code:
 - a) Forvis does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
 - b) Forvis will not discriminate against a firearm entity or firearm trade association during the term of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this professional services contract on or as of the date first written above.

CITY OF KERRVILLE, TEXAS

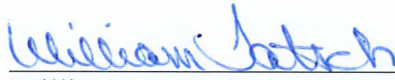
Forvis, LLP

Dalton Rice, City Manager

ATTEST:

APPROVED AS TO FORM

Shelley McElhannon, City Secretary



William L. Tatsch, Asst. City Attorney

APPROVED AS TO CONTENT AND FUNDING:

Julie Behrens, Director of Finance

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14241 Dallas Parkway, Suite 1100 / Dallas, TX 75254

P 972.702.8262 / F 972.702.0673

forvis.com

May 13, 2024

DRAFT

Honorable Mayor Judy Eychner
Members of City Council
Mr. Dalton Rice, City Manager
Ms. Julie Behrens, Director of Finance
City of Kerrville, Texas
701 Main Street
Kerrville, Texas 78028

We appreciate your selection of **FORVIS, LLP** as your service provider and are pleased to confirm the arrangements of our engagement in this contract. Within the requirements of our professional standards and any duties owed to the public, regulatory, or other authorities, our goal is to provide you an **Unmatched Client Experience**.

In addition to the terms set forth in this contract, including the detailed **Scope of Services**, our engagement is governed by the following, incorporated fully by this reference:

- HIPAA Business Associate Agreement
- Terms and Conditions Addendum
- City of Kerrville professional services contract 2024-XX dated May XX, 2024

Summary Scope of Services

As described in the attached **Scope of Services**, our services will include the following:

- City of Kerrville, Texas
- Audit Services for the year ended September 30, 2024

You agree to assume full responsibility for the substantive outcomes of the contracted services and for any other services we may provide, including any findings that may result.

You also acknowledge these services are adequate for your purposes, and you will establish and monitor the performance of these services to ensure they meet management's objectives. All decisions involving management responsibilities related to these services will be made by you, and you accept full responsibility for such decisions.

We understand you have designated a management-level individual(s) to be responsible and accountable for overseeing the performance of nonattest services, and you have determined this individual is qualified to conduct such oversight.

As required by Chapter 2271, Texas Government Code, we represent that we do not boycott Israel and will not boycott Israel through the term of this engagement. For purposes of this representation, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Engagement Fees

The fee for our services will be \$99,750 which includes administrative fee to cover certain technology and administrative costs associated with our services. The fee above is based on testing one major federal program under the Uniform Guidance. If required, additional programs (federal or state) would be at a cost of \$6,000 each.

Our pricing for this engagement and our fee structure are based upon the expectation that our invoices will be paid promptly. Payment of our invoices is due upon receipt. We will issue progress billings during the course of our engagement.

Our timely completion of services and the fees thereon depends on the assistance you provide us in accumulating information and responding to our inquiries. Inaccuracies or delays in providing this information or the responses may result in additional billings, untimely filings, or inability to meet other deadlines.

If there are changes in circumstances where these or other conditions become known and significant additional time is necessary or additional services are requested, we reserve the right to revise our fees.

Contract Agreement

Please sign and return this contract to indicate your acknowledgment of, and agreement with, the arrangements for our services including our respective responsibilities.

FORVIS, LLP

Acknowledged and agreed to as it relates to the entire contract, including the **Scope of Services, HIPAA Business Associate Agreement, and Terms and Conditions Addendum**, on behalf of the City of Kerrville, Texas.

BY _____
Dalton Rice, City Manager

DATE _____

DRAFT

BY _____
Julie Behrens, Director of Finance

DATE _____

Scope of Services – Audit Services

We will audit the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information and related disclosures, which collectively comprise the basic financial statements for the following entity:

City of Kerrville, Texas as of and for the year ended September 30, 2024

The audit has the following broad objectives:

- Obtaining reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- Expressing opinions on the financial statements
- Issuing a report on your internal control over financial reporting and compliance and other matters based on the audit of your financial statements in accordance with *Government Auditing Standards*
- Expressing an opinion on your compliance with the types of compliance requirements described in the OMB *Compliance Supplement* that could have a direct and material effect to each of your major federal award programs in accordance with the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance)
- Issuing a report on your internal control over compliance in accordance with the Uniform Guidance
- Issuing a report on your schedule of expenditures of federal awards

You have informed us that the audited financial statements are expected to be presented along with management's annual comprehensive financial report (ACFR). Management is responsible for the other information included in the ACFR. The other information comprises the introductory section, statistical section, and continuing financial disclosure tables but does not include the financial statements and our auditor's report thereon. Our opinion on the financial statements will not cover the other information, and we will not express an opinion or any form of assurance thereon. In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or whether the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

We will also express an opinion on whether the combining statements, budgetary comparison schedules, and schedule of expenditures of federal awards and related notes ("supplementary information") is fairly stated, in all material respects, in relation to the financial statements as a whole.

We will complete the auditee portion of the Form SF-SAC (Data Collection Form) through the Federal Audit Clearinghouse. We will not make the submission on your behalf. You will review a draft(s) of the submission prior to transmission and agree that you are solely responsible for approving the final draft for transmission as well as for the auditee submission and certification.

We will also provide you with the following nonattest services:

- Preparing a draft of the financial statements and related notes
- Proposing for your review and approval the adjusting entries to convert your modified accrual basis accounting records to accrual-basis accounting records including the entries related to GASB statements 68, 75, 87, and 96. Management is responsible for the propriety of the accrual adjustments
- Preparing a draft of the supplementary information, including the schedule of expenditures of federal awards and related notes

You agree to assume all management responsibilities and to oversee the nonattest services we will provide by designating an individual possessing suitable skill, knowledge, and/or experience. You acknowledge that nonattest services are not covered under *Government Auditing Standards*. You are responsible for:

- Making all management decisions and performing all management functions
- Evaluating the adequacy and results of the services performed
- Accepting responsibility for the results of such services
- Designing, implementing, and maintaining internal controls, including monitoring ongoing activities

Kevin Kemp, Partner, is responsible for supervising the engagement and authorizing the signing of the report or reports.

We will issue a written report(s) upon completion of our audit(s), addressed to the following parties:

Entity Name

City of Kerrville, Texas

Party Name

The Honorable Mayor and Members of City Council

You are responsible to distribute our reports to other officials who have legal oversight authority or those responsible for acting on audit findings and recommendations, and to others authorized to receive such reports.

The following apply for the audit services described above:

**Our
Responsibilities**

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (GAAS), the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States and the Uniform Guidance. Those standards require that we plan and perform:

- The audit of the financial statements to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by fraud or error
- The audit of compliance to obtain reasonable rather than absolute assurance about whether the entity complied with the types of compliance requirements described in the OMB Compliance Supplement that could have a direct and material effect on each major federal award program

We will exercise professional judgment and maintain professional skepticism throughout the audit.

We will identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.

We will obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We will also conclude, based on audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the entity's ability to continue as a going concern for a reasonable period of time.

We will identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the entity's compliance with compliance requirements subject to audit and performing such other procedures as the auditor considers necessary in the circumstances.

We will obtain an understanding of the entity's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance, regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that the auditor identified during the audit.

We will make reference to the audit of Kerrville Public Utility Board in our report on your financial statements.

Limitations & Fraud

Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit that is planned and conducted in accordance with GAAS will always detect a material misstatement or material noncompliance with federal award programs when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if, there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

The risk of not detecting a material misstatement or material noncompliance resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with compliance requirements is considered material if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the entity's compliance with the requirements of the federal programs as a whole.

Our understanding of internal control is not for the purpose of expressing an opinion on the effectiveness of your internal control. However, we will communicate to you in writing any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we identify during the audit.

We are available to perform additional procedures with regard to fraud detection and prevention at your request, subject to completion of our normal engagement acceptance procedures. The actual terms and fees of such an engagement would be documented in a separate contract to be signed by you and FORVIS.

Opinion

Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinion, add an emphasis-of-matter paragraph or other-matter paragraph(s) to our auditor's report, or if necessary, decline to express an opinion or withdraw from the engagement.

If we discover conditions that may prohibit us from issuing a standard report, we will notify you. In such circumstances, further arrangements may be necessary to continue our engagement.

Your Responsibilities

Management and, if applicable, those charged with governance acknowledge and understand their responsibility for the accuracy and completeness of all information provided and for the following:

- **Audit Support** – to provide us with:
 - Unrestricted access to persons within the entity or within components of the entity (including management, those charged with governance, and component auditors) from whom we determine it necessary to obtain audit evidence
 - Information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, including access to information relevant to disclosures
 - Information about events occurring or facts discovered subsequent to the date of the financial statements, of which management may become aware, that may affect the financial statements
 - Information about any known or suspected fraud affecting the entity involving management, employees with significant role in internal control, and others where fraud could have a material effect on the financials
 - Identification and provision of report copies of previous audits, attestation engagements, or other studies that directly relate to the objectives of the audit, including whether related recommendations have been implemented
 - Additional information that we may request for the purpose of the audit
- **Internal Control and Compliance** – for the:
 - Design, implementation, and maintenance of internal control relevant to compliance with laws and regulations and the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error
 - Alignment of internal control to ensure that appropriate goals and objectives are met; that management and financial information is reliable and properly reported; and that compliance with and identification of the laws, regulations, contracts, grants, or agreements (including any federal award programs) applicable to the entity's activities is achieved

- Remedy, through timely and appropriate steps, of fraud and noncompliance with provisions of laws, regulations, contracts, or other agreements reported by the auditor
- Establishment and maintenance of processes to track the status and address findings and recommendations of auditors
- **Accounting and Reporting** – for the:
 - Maintenance of adequate records, selection and application of accounting principles, and the safeguard of assets
 - Adjustment of the financial statements to correct material misstatements and confirmation to us in the representation letter that the effects of any uncorrected misstatements aggregated by us are immaterial, both individually and in the aggregate, to the financial statements taken as a whole
 - Preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America
 - Inclusion of the auditors' report in any document containing financial statements that indicates that such financial statements have been audited by us
 - Distribution of audit reports to any necessary parties

The results of our tests of compliance and internal control over financial reporting performed in connection with our audit of the financial statements may not fully meet the reasonable needs of report users. Management is responsible for obtaining audits, examinations, agreed-upon procedures, or other engagements that satisfy relevant legal, regulatory, or contractual requirements or fully meet other reasonable user needs.

**Required
Supplementary
Information**

Accounting principles generally accepted in the United States of America provide for certain required supplementary information ("RSI") to accompany the basic financial statements. We understand the following RSI will accompany the basic financial statements:

1. Management's Discussion and Analysis ("MD&A")
2. Budgetary comparison
3. Pension and Other Postemployment Benefit information

Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context.

Management is responsible for the fair presentation of the RSI. As part of our engagement, we will apply certain limited procedures to the RSI in GAAS. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements.

We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

**Supplementary
Information**

With regard to any supplementary information that we are engaged to report on:

- Management is responsible for its preparation in accordance with applicable criteria
- Management will provide certain written representations regarding the supplementary information at the conclusion of our engagement
- Management will include our report on this supplementary information in any document that contains this supplementary information and indicates we have reported on the supplementary information
- Management will make the supplementary information readily available to intended users if it is not presented with the audited financial statements

Such information is:

- Presented for the purpose of additional analysis of the financial statements
- Not a required part of the financial statements
- The responsibility of management
- Subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS

**Written
Confirmations
Required**

As part of our audit process, we will request from management and, if applicable, those charged with governance written confirmation acknowledging certain responsibilities outlined in this contract and confirming:

- The availability of this information
- Certain representations made during the audit for all periods presented
- The effects of any uncorrected misstatements, if any, resulting from errors or fraud aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole

**Peer Review
Report**

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract, upon request. If you would like a copy, please request from your engagement executive.

HIPAA Business Associate Agreement

This Business Associate Agreement ("BAA") is entered into by and between **FORVIS, LLP** (hereinafter referred to as "Business Associate") and the City (hereinafter referred to as "Covered Entity").

RECITALS

Business Associate provides services to Covered Entity under this contract (the "Contract"), and Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of such Contract, some of which may constitute Protected Health Information ("PHI").

The purpose of this BAA is to comply with all applicable federal and state laws governing the privacy of PHI. As used herein, the Privacy Rule and the Security Rule are each deemed to include the amendments thereto, collectively referred to as "HIPAA/HITECH Final Omnibus Rule," that are included in the:

- Modifications to the *Health Insurance Portability and Accountability Act of 1996* ("HIPAA") Privacy, Security, Enforcement, and Breach Notification Rules Under the *Health Information Technology for Economic and Clinical Health Act* (the "HITECH Act") and the Genetic Information Nondiscrimination Act
- Other Modifications to the HIPAA Rules
- Final Rule (the "Omnibus Rule"), 78 Fed. Reg. 5565

Notwithstanding the terms of this or any other agreement between Covered Entity and Business Associate, Business Associate shall comply with all of its statutory and regulatory obligations stated under the HIPAA/HITECH Final Omnibus Rule. The terms stated herein shall have the same definitions as provided in HIPAA.

In consideration of the mutual promises below and the exchange of information pursuant to this BAA, the parties agree as follows:

1. **Permitted Uses and Disclosures.** Except as described in the enumerated subparagraphs below, Business Associate shall not use or disclose PHI received from Covered Entity or created on behalf of Covered Entity. Exceptions:
 - 1.1. As reasonably necessary to provide the services in the Contract;
 - 1.2. As otherwise permitted or required by this BAA;
 - 1.3. As required by law; and
 - 1.4. For the proper management and administration of Business Associate's business and to disclose PHI in connection with such management and administration, and to carry out the legal responsibilities of the Business Associate, provided Business Associate obtains reasonable assurances from the recipient that the PHI shall be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the recipient, and Business Associate requires the recipient to notify it of any instances of which it is aware in which the confidentiality of the PHI has been breached.

2. **Safeguards.** Business Associate shall not use or disclose PHI other than as permitted or required by the BAA or as required by law.
 - 2.1. Business Associate shall establish and maintain appropriate safeguards and shall comply with the Security Rule with respect to electronic PHI ("ePHI") to prevent the use or disclosure of such ePHI other than as provided for by the Contract including this BAA.
 - 2.2. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).
3. **Subcontracts.** In accordance with the requirements of the Privacy Rule and the Security Rule, Business Associate shall ensure any subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.
4. **Obligations of Covered Entity.** Covered Entity shall obtain any consent or authorization that may be required by HIPAA, or applicable state law, prior to furnishing Business Associate with PHI, including ePHI. Covered Entity shall notify Business Associate of:
 - 4.1. Any limitation(s) in the Covered Entity's notice of privacy practices under 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI;
 - 4.2. Any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and
 - 4.3. Any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity. Covered Entity shall provide to Business Associate only the minimum PHI necessary to perform the services set forth in a Contract.

5. **Reporting, Notification, and Mitigation.**
 - 5.1. Reporting. Business Associate shall notify Covered Entity of any use or disclosure of PHI not provided for by the BAA of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410, and any security incident of which it becomes aware, provided that with respect to Unsuccessful Security Incidents (as defined below), Business Associate shall report to Covered Entity any such Unsuccessful Security Incidents that are material to the protection of Covered Entity's PHI. For purposes of this Business Associate Agreement, the

term "Unsuccessful Security Incident" shall mean any security incident that does not result in any unauthorized access, use, disclosure, modification, or destruction of ePHI or any interference with system operations in Business Associate's information system.

5.2. Notification. To assist Covered Entity in fulfilling its responsibility to notify individuals and others of a breach involving Unsecured PHI as required by HIPAA and applicable state law, the notification shall include, to the greatest extent reasonably possible:

- i. Each individual whose unsecured PHI was subject to the breach; and
- ii. Any other available information Covered Entity is required to include in its legally required notification to individual(s) or others.

5.3. Mitigation. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA.

6. Term and Termination.

6.1. Term. The Term of this BAA shall be effective as of the last date signed and shall terminate without any further action of the parties upon the expiration or termination of the Contract or on the date Covered Entity terminates for cause as authorized in paragraph 6.2 of this section, whichever is sooner.

6.2. Termination for Cause. Covered Entity may terminate this BAA if Business Associate has violated a material term of the BAA and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.

6.3. Obligations of Business Associate Upon Termination. Upon termination of this BAA for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:

- i. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
- ii. Return to Covered Entity or destroy the remaining PHI that the Business Associate still maintains in any form;
- iii. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to ePHI to prevent use or disclosure of the PHI, other than as provided for in this section, for as long as Business Associate retains the PHI;
- iv. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set forth in this BAA which applied prior to termination; and

- v. Return to Covered Entity or destroy the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

6.4. Survival. The obligations of Business Associate under this section shall survive the termination of this BAA.

7. **Designated Record Set.** To the extent Business Associate maintains PHI in a Designated Record Set, Business Associate shall:

7.1. Make available PHI in a Designated Record Set to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524; and

7.2. Incorporate any amendments or corrections to PHI at the request of Covered Entity in accordance with 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526.

8. **Accounting of Disclosures.** Business Associate shall maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528.

9. **Access to Records.** Business Associate shall make its internal practices, books, and records available to the Secretary of Health and Human Services for purposes of determining compliance with the HIPAA Rules.

10. **Insurance.** Business Associate shall maintain insurance coverage in form and amount necessary to cover data loss and/or damage or the unauthorized disclosure and/or fraudulent use of data. Upon request, Business Associate shall provide Covered Entity with a certificate of insurance evidencing the coverage.

11. **Privilege.** No statutory or common law privilege, including privileges established or recognized by the attorney-client, accountant-client, or other legal privilege, shall be deemed to have been waived by virtue of this BAA.

12. **No Third-Party Beneficiaries.** Nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this BAA.

13. **Integration.** Any reference in this Agreement to a section of the HIPAA/HITECH Final Omnibus Rule, and applicable regulations, means the section as in effect as amended and for which compliance is required.

14. **General.** This BAA is governed by, and shall be construed in accordance with, the laws of the State of Texas. If any part of a provision of this BAA is found illegal or unenforceable, it shall be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this BAA shall not be affected. This BAA may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both parties. THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

FORVIS, LLP Terms and Conditions Addendum

GENERAL

1. **Overview.** This addendum describes **FORVIS LLP's** standard terms and conditions ("Terms and Conditions") applicable to Our provision of services to the Client ("You"). The Terms and Conditions are a part of the contract between You and FORVIS, LLP. For the purposes of the Terms and Conditions, any reference to "Firm," "We," "Us," or "Our" is a reference to FORVIS, LLP ("FORVIS"), and any reference to "You" or "Your" is a reference to the party or parties that have engaged Us to provide services and the party or parties ultimately responsible for payment of Our fees and costs.

BILLING, PAYMENT, & TERMINATION

2. **Billing and Payment Terms.** We will bill You for Our professional fees and costs as outlined in Our contract. Unless otherwise provided in Our contract, payment is due upon receipt of Our billing statement. Interest will be charged on any unpaid balance after 30 days at the rate of 10 percent per annum, or as allowed by law at the earliest date thereafter, and highest applicable rate if less than 10 percent. All fees, charges, and other amounts payable to FORVIS hereunder do not include any sales, use, excise, value-added, or other applicable taxes, tariffs, or duties, payment of which shall be Your sole responsibility, and do not include any applicable taxes based on FORVIS' net income or taxes arising from the employment or independent contractor relationship between FORVIS and FORVIS' personnel.

We reserve the right to suspend or terminate Our work for this engagement or any other engagement for nonpayment of fees. If Our work is suspended or terminated, You agree that We will not be responsible for Your failure to meet governmental and other deadlines, for any penalties or interest that may be assessed against You resulting from Your failure to meet such deadlines, and for any other damages (including but not limited to consequential, indirect, lost profits, or punitive damages) incurred as a result of the suspension or termination of Our services.

Our fees may increase if Our duties or responsibilities are increased by rulemaking of any regulatory body or any additional new accounting or auditing standards. Our engagement fees do not include any time for post-engagement consultation with Your personnel or third parties, consent letters and related procedures for the use of Our reports in offering documents, inquiries from regulators, or testimony or deposition regarding any subpoena. Charges for such services will be billed separately.

3. **Billing Records.** If these services are determined to be within the scope and authority of Section 1861(v)(1)(I) of the Social Security Act, We agree to make available to the Secretary of Health and Human Services, or to the U.S. Comptroller General, or any of their duly authorized representatives, such of Our books, documents, and records that are necessary to certify the nature and extent of Our services, until the expiration of four (4) years after the furnishing of these services. This contract allows access to contracts of a similar nature between subcontractors and related organizations of the subcontractor, and to their books, documents, and records.

4. **Termination.** Either party may terminate these services in good faith at any time for any reason, including Your failure to comply with the terms of Our contract or as We determine professional standards require. Both parties must agree, in writing, to any future modifications or extensions. If services are terminated, You agree to pay FORVIS for time expended to date. In addition, You will be billed costs and fees for services from other professionals, if any, as well as an administrative fee of five (5) percent to cover certain technology and administrative costs associated with Our services. Unless terminated sooner in accordance with its terms, this engagement shall terminate upon the completion of FORVIS' services hereunder.

DISPUTES & DISCLAIMERS

5. **Mediation.** Any dispute arising out of or related to this engagement will, prior to resorting to litigation, be submitted for nonbinding mediation upon written request by either party. Both parties agree to try in good faith to settle the dispute in mediation. The mediator will be selected by agreement of the parties. The mediation proceeding shall be confidential. Each party will bear its own costs in the mediation, but the fees and expenses of the mediator will be shared equally.
6. **Indemnification.** Unless disallowed by law or applicable professional standards, You agree to hold FORVIS harmless from any and all claims which arise from knowing misrepresentations to FORVIS, or the intentional withholding or concealment of information from FORVIS by Your management or any partner, principal, shareholder, officer, director, member, employee, agent, or assign of Yours. You also agree to indemnify FORVIS for any claims made against FORVIS by third parties, which arise from any wrongful actions of Your management or any partner, principal, shareholder, officer, director, member, employee, agent, or assign of Yours. The provisions of this paragraph shall apply regardless of the nature of the claim.
7. **Statute of Limitations.** You agree that any claim or legal action arising out of or related to this contract and the services provided hereunder shall be commenced no more than one (1) year from the date of delivery of the work product to You or the termination of the services described herein (whichever is earlier), regardless of any statute of limitations prescribing a longer period of time for commencing such a claim under law. This time limitation shall apply regardless of whether FORVIS performs other or subsequent services for You. A claim is understood to be a demand for money or services, demand for mediation, or the service of suit based on a breach of this contract or the acts or omissions of FORVIS in performing the services provided herein. This provision shall not apply if enforcement is disallowed by applicable law or professional standards.
8. **Limitation of Liability.** You agree that FORVIS' liability, if any, arising out of or related to this contract and the services provided hereunder, shall be limited to the amount of the fees paid by You for services rendered under this contract. This limitation shall not apply to the extent it is finally, judicially determined that the liability resulted from the intentional or

willful misconduct of FORVIS or if enforcement of this provision is disallowed by applicable law or professional standards.

9. **Waiver of Certain Damages.** In no event shall FORVIS be liable to You or a third party for any indirect, special, consequential, punitive, or exemplary damages, including but not limited to lost profits, loss of revenue, interruption, loss of use, damage to goodwill or reputation, regardless of whether You were advised of the possibility of such damages, regardless of whether such damages were reasonably foreseeable, and regardless of whether such damages arise under a theory of contract, tort, strict liability, or otherwise.
10. **Choice of Law.** You acknowledge and agree that any dispute arising out of or related to this contract shall be governed by the laws of the State of Texas, without regard to its conflict of laws principles.
11. **WAIVER OF JURY TRIAL. THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS AGREEMENT, OR ANY CLAIM, COUNTERCLAIM, OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY THE PARTIES, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE.**
12. **Severability.** In the event that any term or provision of this agreement shall be held to be invalid, void, or unenforceable, then the remainder of this agreement shall not be affected, and each such term and provision of this agreement shall be valid and enforceable to the fullest extent permitted by law.
13. **Assignment.** You acknowledge and agree that the terms and conditions of this contract shall be binding upon and inure to the parties' successors and assigns, subject to applicable laws and regulations.
14. **Disclaimer of Legal or Investment Advice.** Our services do not constitute legal or investment advice. You should seek the advice of legal counsel in such matters. Regulatory authorities may interpret circumstances differently than We do. In addition, the applicable laws, regulations, and regulators' enforcement activities may change over time.

RECORDS, WORKPAPERS, DELIVERABLES, & PROPRIETARY INFORMATION

15. **Maintenance of Records.** You agree to assume full responsibility for maintaining Your original data and records and that FORVIS has no responsibility to maintain this information. You agree You will not rely on FORVIS to provide hosting, electronic security, or backup services, *e.g.*, business continuity or disaster recovery services, to You unless separately engaged to do so. You understand that Your access to data, records, and information from FORVIS' servers, *i.e.*, FORVIS portals used to exchange information, can be terminated at any time and You will not rely on using this to host Your data and records.

16. **FORVIS Workpapers.** Our workpapers and documentation retained in any form of media for this engagement are the property of FORVIS. We can be compelled to provide information under legal process. In addition, We may be requested by regulatory or enforcement bodies (including any State Board) to make certain workpapers available to them pursuant to authority granted by law or regulation. Unless We are prohibited from doing so by law or regulation, FORVIS will inform You of any such legal process or request. You agree We have no legal responsibility to You in the event We determine We are obligated to provide such documents or information.
17. **Subpoenas or Other Legal Process.** In the event FORVIS is required to respond to any such subpoena, court order, or any government regulatory inquiry or other legal process relating to You or Your management for the production of documents and/or testimony relative to information We obtained or prepared incident to this or any other engagement in a matter in which FORVIS is not a party, You shall compensate FORVIS for all time We expend in connection with such response at normal and customary hourly rates and to reimburse Us for all out-of-pocket expenses incurred in regard to such response.
18. **Use of Deliverables and Drafts.** You agree You will not modify any deliverables or drafts prepared by Us for internal use or for distribution to third parties. You also understand that We may on occasion send You documents marked as draft and understand that those are for Your review purpose only, should not be distributed in any way, and should be destroyed as soon as possible.

Our report on any financial statements must be associated only with the financial statements that were the subject of Our engagement. You may make copies of Our report, but only if the entire financial statements (exactly as attached to Our report, including related footnotes) and any supplementary information, as appropriate, are reproduced and distributed with Our report. You agree not to reproduce or associate Our report with any other financial statements, or portions thereof, that are not the subject of Our engagement.

19. **Proprietary Information.** You acknowledge that proprietary information, documents, materials, management techniques, and other intellectual property are a material source of the services We perform and were developed prior to Our association with You. Any new forms, software, documents, or intellectual property We develop during this engagement for Your use shall belong to Us, and You shall have the limited right to use them solely within Your business. All reports, templates, manuals, forms, checklists, questionnaires, letters, agreements, and other documents which We make available to You are confidential and proprietary to Us. Neither You, nor any of Your agents, will copy, electronically store, reproduce, or make any such documents available to anyone other than Your personnel. This provision will apply to all materials whether in digital, "hard copy" format, or other medium.

REGULATORY

20. **U.S. Securities and Exchange Commission ("SEC") and other Regulatory Bodies.** Where We are providing services either for (a) an entity that is registered with the SEC, (b) an affiliate of such registrant, or (c) an entity or affiliate that is subject to rules, regulations, or standards beyond those of the American Institute of Certified Public Accountants ("AICPA"),

any term of this contract that would be prohibited by or impair Our independence under applicable law or regulation shall not apply to the extent necessary only to avoid such prohibition or impairment.

21. **Offering Document.** You may wish to include Our report(s) on financial statements in an exempt offering document. You agree that any report, including any auditor's report, or reference to Our firm, will not be included in any such offering document without notifying Us. Any agreement to perform work in connection with an exempt offering document, including providing agreement for the use of the auditor's report in the exempt offering document, will be a separate engagement.

Any exempt offering document issued by You with which We are not involved will clearly indicate that We are not involved by including a disclosure such as, "FORVIS, LLP, our independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. FORVIS, LLP also has not performed any procedures relating to this offering document."

22. **FORVIS Not a Municipal Advisor.** FORVIS is not acting as Your municipal advisor under Section 15B of the *Securities Exchange Act of 1934*, as amended. As such, FORVIS is not recommending any action to You and does not owe You a fiduciary duty with respect to any information or communications regarding municipal financial products or the issuance of municipal securities. You should discuss such matters with internal or external advisors and experts You deem appropriate before acting on any such information or material provided by FORVIS.
23. **FORVIS Not a Fiduciary.** In providing Our attest services, We are required by law and our professional standards to maintain our independence from You. We take this mandate very seriously and thus guard against impermissible relationships which may impair the very independence which You and the users of Our report require. As such, You should not place upon Us special confidence that in the performance of Our attest services We will act solely in Your interest. Therefore, You acknowledge and agree We are not in a fiduciary relationship with You and We have no fiduciary responsibilities to You in the performance of Our services described herein.

TECHNOLOGY

24. **Electronic Sites.** You agree to notify Us if You desire to place Our report(s), including any reports on Your financial statements, along with other information, such as a report by management or those charged with governance on operations, financial summaries or highlights, financial ratios, etc., on an electronic site. You recognize that We have no responsibility to review information contained in electronic sites.
25. **Electronic Signatures and Counterparts.** This contract and other documents to be delivered pursuant to this contract may be executed in one or more counterparts, each of which will be deemed to be an original copy and all of which, when taken together, will be deemed to constitute one and the same agreement or document, and will be effective when counterparts have been signed by each of the parties and delivered to the other parties. Each party agrees that the electronic signatures, whether digital or encrypted, of the

parties included in this contract are intended to authenticate this writing and to have the same force and effect as manual signatures. Delivery of a copy of this contract or any other document contemplated hereby, bearing an original manual or electronic signature by facsimile transmission (including a facsimile delivered via the internet), by electronic mail in "portable document format" (".pdf") or similar format intended to preserve the original graphic and pictorial appearance of a document, or through the use of electronic signature software, will have the same effect as physical delivery of the paper document bearing an original signature.

26. **Electronic Data Communication and Storage.** In the interest of facilitating Our services to You, We may send data over the internet, temporarily store electronic data via computer software applications hosted remotely on the internet, or utilize cloud-based storage. Your confidential electronic data may be transmitted or stored using these methods. In using these data communication and storage methods, We employ measures designed to maintain data security. We use reasonable efforts to keep such communications and electronic data secure in accordance with Our obligations under applicable laws, regulations, and professional standards.

You recognize and accept that We have no control over the unauthorized interception or breach of any communications or electronic data once it has been transmitted or if it has been subject to unauthorized access while stored, notwithstanding all reasonable security measures employed by Us. You consent to Our use of these electronic devices and applications during this engagement.

OTHER MATTERS

27. **Cooperation.** You agree to cooperate with FORVIS in the performance of FORVIS' services to You, including the provision to FORVIS of reasonable facilities and timely access to Your data, information, and personnel. You shall be responsible for the performance of Your employees and agents.
28. **Third-Party Service Providers.** FORVIS may from time to time utilize third-party service providers, including but not limited to domestic software processors or legal counsel, or disclose confidential information about You to third-party service providers in serving Your account. FORVIS maintains, however, internal policies, procedures, and safeguards to protect the confidentiality and security of Your information. In addition, FORVIS will secure confidentiality agreements with all service providers to maintain the confidentiality of Your information. If We are unable to secure an appropriate confidentiality agreement, You will be asked to consent prior to FORVIS sharing Your confidential information with the third-party service provider.
29. **Independent Contractor.** When providing services to You, We will be functioning as an independent contractor; and in no event will We or any of Our employees be an officer of You, nor will Our relationship be that of joint venturers, partners, employer and employee, principal and agent, or any similar relationship giving rise to a fiduciary duty to You. Decisions regarding management of Your business remain the responsibility of Your personnel at all times. Neither You nor FORVIS shall act or represent itself, directly or by implication,

as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

30. **Hiring of FORVIS Personnel.** We ask that You respect the employment relationship that Our personnel have with Our firm and to refrain from any employment offers to FORVIS personnel. However, if You find it necessary to make an offer of employment and if it is accepted, during the term of this engagement and for a period of 18 months after FORVIS stops providing services, You agree that We will be paid a one-time employment fee equal to 100 percent of the employee's highest annual salary. This fee will be payable prior to Our personnel commencing employment with You. Provided, however, You shall not be in violation of the nonsolicitation covenant set forth herein with respect to any position You advertise in the form of a general solicitation not delivered to or focused upon any single individual.
31. **Use of FORVIS Name.** Any time You intend to reference FORVIS' firm name in any manner in any published materials, including on an electronic site, You agree to provide Us with draft materials for review and approval before publishing or posting such information.
32. **Praxity.** FORVIS is an independent accounting firm allowed to use the name "Praxity" in relation to its practice. FORVIS is not connected, however, by ownership with any other firm using the name "Praxity." FORVIS will be solely responsible for all work carried out on Your behalf. In deciding to engage FORVIS, You acknowledge that We have not represented to You that any other firm using the name "Praxity" will in any way be responsible for Our work.
33. **Entire Agreement.** The contract, including this Terms and Conditions Addendum and any other attachments or addenda, encompasses the entire agreement between You and FORVIS and supersedes all previous understandings and agreements between the parties, whether oral or written. Any modification to the terms of this contract must be made in writing and signed by both You and FORVIS.
34. **Force Majeure.** We shall not be held responsible for any failure to fulfill Our obligations if such failure was caused by circumstances beyond Our control, including, without limitation, fire or other casualty, act of God, act of terrorism, strike or labor dispute, war or other violence, explosion, flood or other natural catastrophe, epidemic or pandemic, or any law, order, or requirement of any governmental agency or authority affecting either party, including without limitation orders incident to any such epidemic or pandemic, lockdown orders, stay-at-home orders, and curfews.



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: City Council special-called meeting minutes for May 14, 2024 (Canvass of the Election). (S McElhannon)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: April 30, 2024

SUBMITTED BY: Shelley McElhannon, City Secretary

EXHIBITS:

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:

City Council special-called meeting minutes (Canvass of the Election) May 14, 2024 at 5:00 p.m.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[20240528_Minutes CC special-called meeting 5pm Canvass.pdf](#)

**CITY COUNCIL MEETING MINUTES (CANVASS OF THE ELECTION) MAY 14, 2024
5:00 PM, CITY HALL COUNCIL CHAMBERS, 701 MAIN STREET, KERRVILLE, TX**

CALL TO ORDER: On May 14, 2024 at 5:00 p.m., the City Council special-called meeting was called to order by Mayor Judy Eychner at City Hall Council Chambers, 701 Main Street.

COUNCILMEMBERS PRESENT:

Judy Eychner, Mayor
Roman Garcia, Council Place 1
Jeff Harris, Council Place 2
Joe Herring Jr, Council Place 3/Mayor-Elect
Ken McKinney, Council-Elect Place 3
Brenda Hughes, Council Place 4/Mayor Pro Tem

COUNCILMEMBERS ABSENT:

None

CITY STAFF PRESENT:

Dalton Rice, City Manager
Mike Hayes, City Attorney
Kim Meismer, Asst City Manager
Michael Hornes, Asst City Manager
Shelley McElhannon, City Secretary

VISITOR(S) PRESENT:

Patrick Maguire, Presiding Judge 198th District Court

1. CONSENT AGENDA:

Councilmember Joe Herring, Jr. made a motion to accept the Consent Agenda items, seconded by Councilmember Jeff Harris. The motion passed 5-0.

1A. City Council workshop minutes April 23, 2024.

1B. City Council meeting minutes April 23, 2024.

END OF CONSENT AGENDA.

2. RESOLUTIONS:

2A. Resolution No. 09-2024. A Resolution canvassing the returns and declaring the results of the May 4, 2024 City General Election.

Shelley McElhannon read Resolution No. 09-2024 caption into record.

Councilmember Herring made a motion to approve Resolution No. 09-2024, seconded by Councilmember Brenda Hughes. The motion passed 5-0.

2B. Resolution No. 14-2024. A Resolution canvassing the returns and declaring the results of the May 4, 2024, City Special Election regarding amendments to the City Charter.

Shelley McElhannon read Resolution No. 14-2024 caption into record.

The following person(s) spoke:

- Nikki Caines

Mayor Eychner made a motion to approve Resolution No. 14-2024, seconded by Councilmember Harris. The motion passed 5-0.

3. COMMENDATIONS TO AND STATEMENTS BY OUT-GOING COUNCILMEMBERS:

Mayor Eychner and Councilmember Roman Garcia received commendations, and provided outgoing statements.

The following person(s) spoke:

- William Rector
- Glenn Andrews
- Mike Sigerman
- Kim Clarkson
- Mary Campana
- Celeste Hamman
- Charlie McIlvain
- Bill Blackburn
- Peggy McKay

4. STATEMENTS AND OATHS OF OFFICE GIVEN BY THE HONORABLE M. PATRICK MAGUIRE, PRESIDING JUDGE, 198TH DISTRICT COURT:

Statements and Oaths of Office given to Mayor Joe Herring, Jr., Councilmember Place 3 Kent McKinney, and Councilmember Place 4 Brenda Hughes by the Honorable M. Patrick Maguire, Presiding Judge, 198th District Court.

5. CERTIFICATES OF ELECTION SIGNED AND ISSUED BY MAYOR JOE HERRING, JR.

Certificate of Election presented to Mayor Herring, Councilmember McKinney, and Councilmember Hughes.

6. STATEMENTS BY ELECTED COUNCILMEMBERS:

Official statements issued by Mayor Herring, Councilmember McKinney, and Councilmember Hughes.

ADJOURN. The special-called meeting adjourned at 5:59 p.m.

APPROVED BY COUNCIL: _____ ATTEST:

Joe Herring, Jr., Mayor

Shelley McElhannon, City Secretary



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: City Council meeting minutes May 14, 2024. (*S McElhannon*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: April 30, 2024

SUBMITTED BY: Shelley McElhannon, City Secretary

EXHIBITS:

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:

City Council meeting minutes May 14, 2024 at 6:00 p.m.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[*20240528_Minutes CC meeting 5-14-24 6pm.pdf*](#)

**CITY COUNCIL MINUTES
REGULAR MEETING**

**KERRVILLE, TEXAS
MAY 14, 2024 6:00 PM**

On May 14, 2024 at 6:10 p.m., Mayor Joe Herring, Jr. called the Kerrville City Council meeting to order in City Hall Council Chambers, 701 Main Street.

Councilmember Jeff Harris provided the invocation and led the Pledge of Allegiance.

COUNCILMEMBERS PRESENT:

Joe Herring, Jr., Mayor
Roman Garcia, Councilmember Place 1
Jeff Harris, Councilmember Place 2
Kent McKinney, Councilmember Place 3
Brenda Hughes, Councilmember Place 4/Mayor Pro Tem

COUNCILMEMBER ABSENT:

None

CITY EXECUTIVE STAFF:

Dalton Rice, City Manager
Mike Hayes, City Attorney
Michael Hornes, Asst City Manager
Kim Meismer, Asst City Manager
Shelley McElhannon, City Secretary
Stuart Barron, Executive Director

Julie Behrens, Director of Finance
Kyle Burow, Director Engineering
Stuart Cunyus, Public Information Officer
Eric Maloney, Fire Chief
Chris McCall, Chief of Police
Drew Paxton, Director of Planning

VISITORS PRESENT: A list of the citizen speakers present during the meeting is on file in the City Secretary's Office for the required retention period.

Mayor Herring shifted 2A before item 1.

2. PRESENTATION(S):

2A. Proclamation recognizing May 19-25, 2024 as Emergency Medical Services Week in Kerrville, Texas.

Mayor Herring recognized May 19-25, 2024 as Emergency Medical Services Week, received by Fire Chief Eric Maloney and Kerrville Fire Department personnel.

1. ANNOUNCEMENTS OF COMMUNITY INTEREST:

Community announcements provided by Stuart Cunyus.

3. VISITORS FORUM:

The following person(s) spoke:

- Peggy McKay (passed when called)
- Gary Noller

4. ORDINANCE(S), FIRST READING:

4A. Ordinance No. 2024-14. An Ordinance declaring the adoption of amendments to the City of Kerrville, Texas, Charter in accordance with the adoption of Propositions A, B, C, E, G, H, and I at the Special Election held on May 4, 2024; adopting the Charter, as amended; providing an effective date; and providing other matters related to this subject.

Shelley McElhannon read Ordinance No. 2024-14 caption into record.

Mike Hayes provided information and responded to questions.

The following person(s) spoke:

- Nikki Caines
- George Baroody

Councilmember Hughes made a motion to approve Ordinance No. 2024-14 on first reading to declare the adoption of various amendments to the City Charter and to adopt a newly revised Charter, seconded by Councilmember Harris. Councilmember Roman Garcia requested to add the name of Place 1 Councilmember to the first page of the Charter, and Councilmember Hughes agreed. The motion passed 4-1 with Mayor Herring, Councilmember Harris, Councilmember Kent McKinney, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed.

5. PUBLIC HEARING AND ORDINANCES, FIRST READING:

5A. Ordinance No. 2024-12. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, otherwise known as the City's Zoning Code; by changing the zoning of the property known as 601 Lois St. from a Single Family Residential Zoning District (R-1) to a Residential Transition Zoning District (RT); and providing other matters relating to the subject.

Shelley McElhannon read Ordinance No. 2024-12 caption into record.

Drew Paxton provided information and responded to questions.

Mayor Herring opened the public hearing at 6:35 p.m.

No person spoke.

Mayor Herring closed the public hearing at 6:35 p.m.

Councilmember Hughes made a motion to approve Ordinance No. 2024-12 on first reading, seconded by Councilmember Harris. The motion passed 5-0.

5B. Ordinance No. 2024-13. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, otherwise known as the City's Zoning Code; by changing the zoning of the property known as 3600 Memorial Blvd (Kerrville VA Medical Center) from a Public and Institutional Zoning District to a Multifamily Residential Zoning District; and providing other matters relating to the subject.

Shelley McElhannon read Ordinance No. 2024-13 caption into record.

Drew Paxton provided information and responded to questions, along with the President of Texas Freedom's Path Gary Noller, and the project supporter Vicki Marsh.

Mayor Herring opened the public hearing at 6:38 p.m.

The following person(s) spoke:

- Gary Noller, President of Texas Freedom's Path
- Vicki Marsh, project supporter and resident of Freedom's Path

Mayor Herring closed the public hearing at 6:42 p.m.

Councilmember Harris made a motion to adopt Ordinance No. 2024-13 on first reading, seconded by Councilmember Kent McKinney. The motion passed 5-0.

6. PUBLIC HEARINGS AND RESOLUTIONS:

6A. Resolution No. 15-2024. A Resolution terminating a Conditional Use Permit that authorized a Short-Term Rental Unit on the property consisting of Lot 6, of Block 1, Riverside Addition; and more commonly known as 337 Guadalupe.

Shelley McElhannon read Resolution No. 15-2024 caption into record.

Drew Paxton provided information and responded to questions.

Mayor Herring opened the public hearing at 6:45 p.m.

No person spoke.

Mayor Herring closed the public hearing at 6:46 p.m.

Councilmember Harris made a motion to approve Resolution No. 15-2024, seconded by Councilmember Hughes. The motion passed 5-0.

6B. Resolution No. 16-2024. A Resolution terminating a Conditional Use Permit that authorized a Short-Term Rental Unit on the property consisting of Lot 29, of Block 2, Sendero Ridge Unit 1 Subdivision; and more commonly known as 105 Jasper Lane.

Shelley McElhannon read Resolution No. 16-2024 caption into record.

Drew Paxton provided information and responded to questions.

Mayor Herring opened the public hearing at 6:47 p.m.

No person spoke.

Mayor Herring closed the public hearing at 6:47 p.m.

Councilmember Hughes made a motion to approve Resolution No. 16-2024, seconded by Councilmember McKinney. The motion passed 5-0.

6C. Resolution No. 17-2024. A Resolution terminating a Conditional Use Permit that authorized a Short-Term Rental Unit on the property consisting of Lot H, Block 5, Pueblo Hills Subdivision; and more commonly known as 1916 Leslie Drive.

Shelley McElhannon read Resolution No. 17-2024 caption into record.

Drew Paxton provided information and responded to questions.

Mayor Herring opened the public hearing at 6:48 p.m.

No person spoke.

Mayor Herring closed the public hearing at 6:48 p.m.

Councilmember McKinney made a motion to approve Resolution No. 17-2024, seconded by Councilmember Hughes. The motion passed 5-0.

6D. Resolution No. 18-2024. A Resolution terminating a Conditional Use Permit that authorized a Short-Term Rental Unit on the property consisting of Lot F, Block 5, Pueblo Hills Subdivision, and more commonly known as 1924 Leslie Drive.

Shelley McElhannon read Resolution No. 18-2024 caption into record.

Drew Paxton provided information and responded to questions.

Mayor Herring opened the public hearing at 6:49 p.m.

No person spoke.

Mayor Herring closed the public hearing at 6:49 p.m.

Councilmember McKinney made a motion to approve Resolution No. 18-2024, seconded by Councilmember Harris. The motion passed 5-0.

6E. Resolution No. 19-2024. A Resolution terminating a Conditional Use Permit that authorized a Short-Term Rental Unit on the property consisting of Lot 10, Block 3, Starkey Manor Subdivision; and more commonly known as 604 Mockingbird Lane.

Shelley McElhannon read Resolution No. 19-2024 caption into record.

Drew Paxton provided information and responded to questions.

Mayor Herring opened the public hearing at 6:51 p.m.

No person spoke.

Mayor Herring closed the public hearing at 6:51 p.m.

Councilmember McKinney made a motion to approve Resolution No. 19-2024, seconded by Councilmember Hughes. The motion passed 5-0.

7. CONSIDERATION AND POSSIBLE ACTION:

7A. Resolution No. 21-2024. A Resolution for the release of an area from the City's Extraterritorial Jurisdiction, such property generally located East of and partially adjacent to the Kerrville-Kerr County Airport.

Shelley McElhannon read Resolution No. 21-2024 caption into record.
Drew Paxton provided information and responded to questions.

Councilmember McKinney made a motion to approve Resolution No. 21-2024, seconded by Councilmember Harris. The motion passed 5-0.

7B. Authorization to negotiate and approve a Professional Services Agreement for services necessary to update the City's Comprehensive Plan (Kerrville 2050).

Shelley McElhannon read item 7B caption into record.
Drew Paxton provided information and responded to questions.
The following person(s) spoke:

- William Rector

Councilmember Hughes made a motion to authorize the City Manager to finalize and execute a Professional Services Agreement, with it amended to include a representative from the Main Street Advisory Board and the Historical Downtown Business Association, seconded by Councilmember Harris. The motion passed 5-0.

7C. Construction Agreement with Rio Grande Valley Industrial Machine Shop & Pumps, LLC for the Wastewater Treatment Plant Clarifier #3 Rehabilitation Project in the amount of \$991,800.00.

Shelley McElhannon read item 7C caption into record.
Kyle Burow provided information and responded to questions.

Councilmember Harris made a motion to authorize the City Manager to finalize and execute a Construction Contract, seconded by Councilmember McKinney. The motion passed 5-0.

7D. Process to appoint person as a Councilmember to the position of Councilmember Place 1.

Shelley McElhannon read item 7D caption into record.
Dalton Rice and Mike Hayes provided information and responded to questions.

Mayor Herring proposed to hold a special-called meeting on Tuesday, May 21, 2024 at 5:00 p.m., with this item as the only item on the agenda; with the intention of having an appointee named at the end of the meeting. City Council provided consensus to the proposal.

7E. Appointments of Councilmembers as members and liaisons to City Boards and Commissions, to include the Economic Improvement Corporation.

Mayor Herring read item 7E caption into record.

Dalton Rice provided information and responded to questions.

City Council requested item be placed on the May 28, 2024 meeting.

8. APPOINTMENT(S):

8A. Appointment of Mayor Pro Tem.

Councilmember Herring made a motion to appoint Councilmember Hughes as Mayor Pro Tem, seconded by Councilmember Harris. The motion passed 5-0.

9. EXECUTIVE SESSION: Executive Session not called nor convened.

9A. Appointment of Mayor Pro Tem. (551.074)

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY. N/A

11. ITEM(S) FOR FUTURE AGENDAS: None

ADJOURN. The meeting adjourned at 7:17 p.m.

APPROVED BY COUNCIL: _____

APPROVED:

ATTEST:

Joe Herring Jr., Mayor

Shelley McElhannon, City Secretary



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: City Council special-called meeting minutes May 21, 2024. (*S McElhannon*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 15, 2024

SUBMITTED BY: Shelley McElhannon, City Secretary

EXHIBITS:

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:

City Council special-called meeting minutes May 21, 2024 at 5:00 p.m.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[20240528_Minutes CC special-called meeting 5-21-24.pdf](#)

CITY COUNCIL SPECIAL-CALLED MEETING MINUTES MAY 21, 2024 5:00 PM
CITY HALL COUNCIL CHAMBERS, 701 MAIN STREET, KERRVILLE, TX

CALL TO ORDER: On May 21, 2024 at 5:00 p.m., the City Council special-called meeting was called to order by Mayor Joe Herring, Jr. at City Hall Council Chambers, 701 Main Street. Councilmember Roman Garcia provided the invocation and led the Pledge of Allegiance.

COUNCILMEMBERS PRESENT:

Joe Herring Jr., Mayor
Roman Garcia, Council Place 1
Jeff Harris, Council Place 2
Ken McKinney, Council Place 3
Brenda Hughes, Council Place 4/Mayor Pro Tem

COUNCILMEMBERS ABSENT:

None

CITY STAFF PRESENT:

Dalton Rice, City Manager
Mike Hayes, City Attorney

Kim Meisner, Asst City Manager
Shelley McElhannon, City Secretary

VISITOR(S) PRESENT: A list of the citizen speakers present during the meeting is on file in the City Secretary's Office for the required retention period.

1. CONSIDERATION AND POSSIBLE ACTION:

1A. Appointment to the position of Councilmember Place 1.

The following person(s) spoke:

- Barbara Ferguson
- Helen Herd

Councilmember Kent McKinney motioned to convene Executive Session under 551.074 (personnel/officers), seconded by Councilmember Brenda Hughes. The motion passed 4-1 with Mayor Herring, Councilmember Jeff Harris, Councilmember McKinney, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed. At 5:05 p.m., the open workshop recessed and Council convened into closed Executive Session.

2. EXECUTIVE SESSION:

2A. Texas Government Code, Section 551.074 – Deliberations concerning the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: Appointment to the position of Councilmember Place 1.

At 5:41 p.m., the closed Executive Session adjourned and the open meeting reconvened. No action taken during Executive Session.

3. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY.

3A. Councilmember McKinney made a motion to appoint Delayne Sigerman as Place 1 Councilmember, seconded by Councilmember Harris.

With a motion to appoint Delayne Sigerman on the floor, Councilmember Garcia made a motion to table the appointment of Delayne Sigerman and motioned to appoint Jim Caines. Mayor Herring called for a second, with no second forthcoming. Motion to appoint Jim Caines died for lack of second.

With a motion to appoint Delayne Sigerman active on the floor, Councilmember Garcia made a motion to table the appointment of Delayne Sigerman and motioned to appoint Bob Carey. Mayor Herring called for a second, with no second forthcoming. Motion to appoint Bob Carey died for lack of second.

With a motion to appoint Delayne Sigerman active on the floor, Mayor Herring called for a vote. The motion to appoint Delayne Sigerman passed 4-1 with Mayor Herring, Councilmember Harris, Councilmember McKinney, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed.

ADJOURN. The special-called meeting adjourned at 5:45 p.m.

APPROVED BY COUNCIL: _____ ATTEST:

Joe Herring, Jr., Mayor

Shelley McElhannon, City Secretary



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT:

Ordinance No. 2024-12, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, otherwise known as the City's Zoning Code; by changing the zoning for the property known as 601 Lois St. from a Single Family Residential Zoning District (R-1) to a Residential Transition Zoning District (RT); and providing other matters relating to the subject. (*D Paxton*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 15, 2024

SUBMITTED BY: Drew Paxton, Planning Director

EXHIBITS:

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:

Proposal: An ordinance to change the zoning from R-1 Single-Family Residential to RT Residential Transition on Lot 20, Block 39, Westland; and more commonly known as 601 Lois Street. (Case No. PZ-2024-9)

The applicant requests a zoning change from R-1 Single-Family Residential to RT Residential Transition to accommodate a proposed small business at the front of the property with a residential dwelling at the rear of the property for use by the business owner. See the attached site plan. The property is adjacent on two sides to residential zoning and on two sides to commercial zoning. The applicant requests R-T Residential Transition zoning to be compatible with surrounding land uses and to provide a transition between existing commercial uses and the residential neighborhood.

Procedural Requirements: The City, in accordance with state law, mailed 20 letters on 3/21/2024 to adjacent property owners. The City published a similar notice in the Kerrville

Daily Times on 3/14/2024. In addition, a public hearing notification sign was posted on the property frontage on 3/22/24. At the time of drafting this agenda bill, no public comments had been received.

Staff Analysis and Recommendation

Consistency with the Kerrville 2050 Comprehensive Plan: The property is designated as Strategic Catalyst Area 4 (SCA 4). The place types for SCA 4 allow for community commercial throughout SCA 4 with a commercial area that maintains the distinctive character of the surrounding neighborhoods. The proposed zoning change is commercial-focused and remains a part of the existing neighborhood, consistent with SCA 4 guidelines, and serves as a transition between commercial development and the adjacent neighborhood. As such, the request to rezone the property from R-1 to RT is consistent with the K2050 Plan.

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1 Single-Family Residential

Existing Land Uses: Single-Family Residence

Direction: **North**

Current Zoning: R-1 Single-Family Residential

Existing Land Uses: Single-Family Residences

Direction: **South**

Current Zoning: C-2 Light Commercial

Existing Land Uses: Real Estate Office

Direction: **West**

Current Zoning: C-2 Light Commercial

Existing Land Uses: Small Business Complex

Direction: **East**

Current Zoning: C-2 Light Commercial (Recent zoning change from R-1A)

Existing Land Uses: Single-Family Residence and Contracting Business

Thoroughfare Plan: There is no impact on the thoroughfare system.

Traffic Impact: There should be no significant traffic impact.

Parking: To be determined and consistent with zoning regulations once a final site plan has been submitted for review and approval. The preliminary site plan provided does comply with current off-street parking requirements.

Recommendation: Based on consistency with the Kerrville 2050 Plan and compatibility with adjacent land uses, staff recommends the case for approval.

On April 4th, the Planning and Zoning Commission recommended approval with a unanimous vote.

On May 14th, the City Council unanimously approved Ordinance No. 2024-12 on first reading.

RECOMMENDED ACTION:

Approve Ordinance No. 2024-12 on second reading.

ATTACHMENTS:

[*20240528_Ord 2024-12 Zone change 601 Lois 2nd read.pdf*](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2024-12**

AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, OTHERWISE KNOWN AS THE CITY'S ZONING CODE; BY CHANGING THE ZONING FOR THE PROPERTY KNOWN AS 601 LOIS ST. FROM A SINGLE FAMILY RESIDENTIAL ZONING DISTRICT (R-1) TO A RESIDENTIAL TRANSITION ZONING DISTRICT (RT); AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on May 14, 2024, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on this Ordinance, the adoption of which will result in the change of a zoning district for the property known as 601 Lois St.; such change to result in the removal of the property from a Single Family Residential Zoning District (R-1) to placement within a Residential Transition Zoning District (RT); and

WHEREAS, on May 14, 2024, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. The Zoning Code, as found within Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* are hereby amended to designate the following described property zoned as within a Residential Transition Zoning District (RT):

Legal Description: Being Lot 20, Block 39 out of the Westland Subdivision, and within the City of Kerrville, Kerr County, Texas; said property depicted at **Exhibit A**, attached hereto and made a part hereof for all purposes.

Address: 601 Lois St., Kerrville, Texas 78028.

SECTION TWO. The City Manager is authorized and directed to amend the City's *Official Zoning Map* to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with the City's Zoning Code.

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION FIVE. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

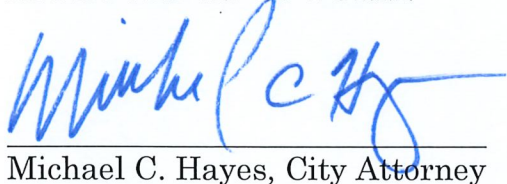
SECTION SIX. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 14 day of MAY, A.D., 2024.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ of _____, A.D., 2024.

Joe Herring Jr., Mayor

APPROVED AS TO FORM:

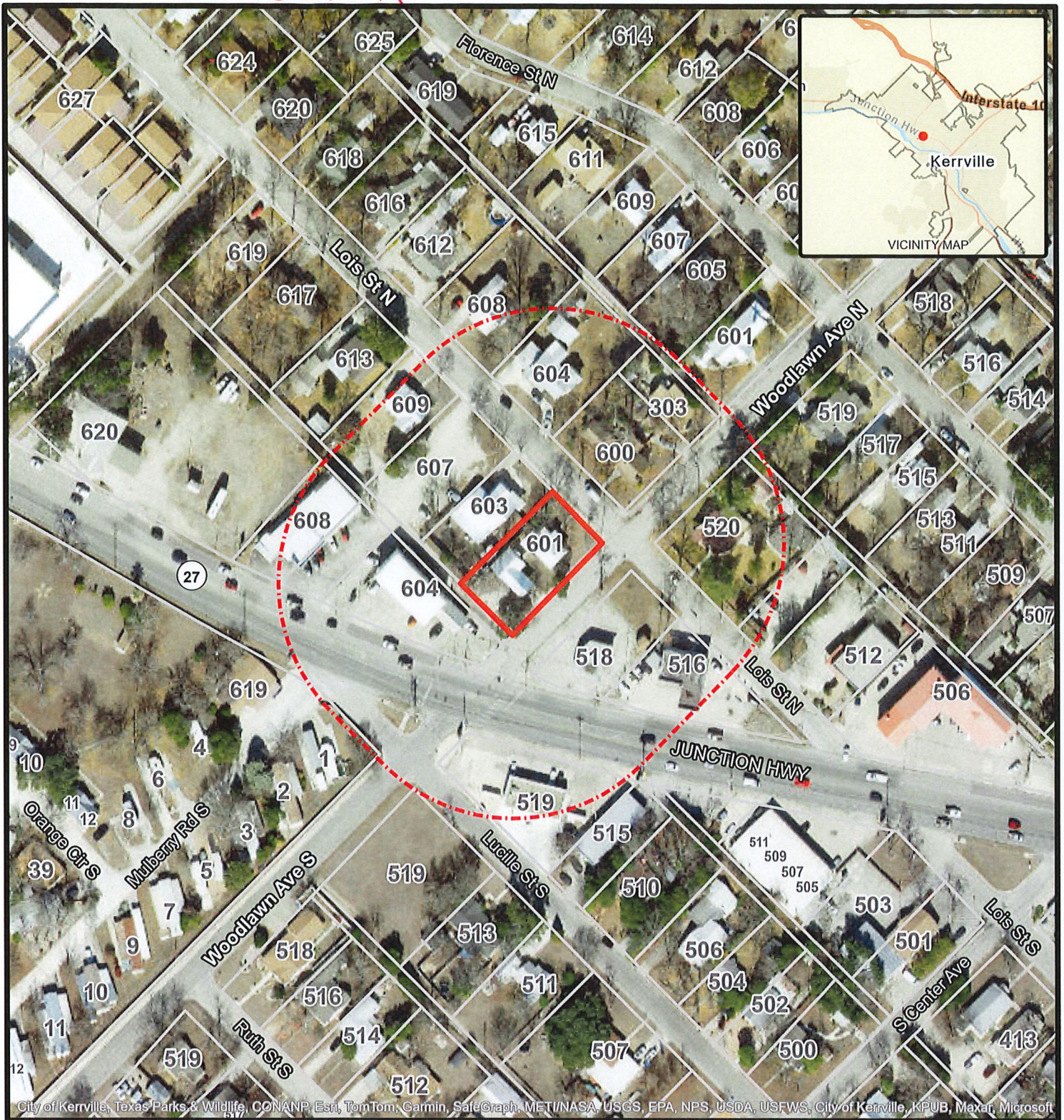


Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary

EXHIBIT A





Location Map

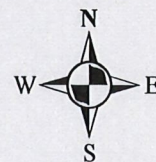
Case # PZ-2024-9

Location:

601 Lois St N

Legend

-  Subject Properties
-  200 Feet Notification Area



0 50 100 200

Scale In Feet

03/08/2024

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

PZ-2024-9

601 Lois Street Site Plan

Request for R-1 to R-T





**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT:

Ordinance No. 2024-13, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, otherwise known as the City's Zoning Code; by changing the zoning of the property known as 3600 Memorial Blvd (Kerrville VA Medical Center) from a Public and Institutional Zoning District to a Multifamily Residential Zoning District; and providing other matters relating to the subject. (*D Paxton*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 15, 2024

SUBMITTED BY: Drew Paxton, Planning Director

EXHIBITS:

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	C - Community / Neighborhood Character and Place Making
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Proposal: An ordinance to change the zoning from PI Public and Institutional to R-3 Multifamily Residential on 3.0 acres of land out of the V.A. Hospital Land off of State Hwy 27, Kerr County, Texas; and more commonly known as 3600 Memorial Blvd. (Case No. PZ-2024-10)

The applicant requests a zoning change from PI Public and Institutional to R-3 Multifamily Residential to accommodate the development of Phase II of the Freedom's Path housing development near the VA Hospital. When Phase I of this project was approved, the zoning at that time allowed for multifamily residential development. Through zoning code updates over the past several years, the VA property was rezoned to PI with does not permit multifamily residential development. As such, the zoning change is required. Due to surrounding land uses and the fact that this is Phase II of the current multifamily development, the request is consistent with zoning intent. The zoning change will allow this proposed development to move forward.

Procedural Requirements: The City, in accordance with state law, mailed 4 letters on 3/21/2024 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 3/14/2024. In addition, a public hearing notification sign was posted on the property frontage on 3/22/24. At the time of drafting this agenda bill, no public comments had been received.

Staff Analysis and Recommendation

Consistency with the Kerrville 2050 Comprehensive Plan: The property is designated as Community Commercial (CC). The place types for Community Commercial are typically retail and commercial, with secondary uses such as civic and institutional. As such, and being associated with an institutional use (The VA Hospital), as well as being Phase II of an existing development, it seems appropriate that the property be rezoned as requested from PI to R-3 and would be consistent with the K2050 Plan. This project also aligns with K2050 Guiding Principle C2: "Seek to attract a range of housing options to provide choices for people with a variety of ages, incomes, lifestyle, etc." as well as action items C2.9 & H1.11 related to Veteran Housing.

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: PI Public and Institutional

Existing Land Uses: Undeveloped Land

Direction: **North**

Current Zoning: PI Public and Institutional

Existing Land Uses: South Texas Veteran's Hospital

Direction: **South**

Current Zoning: PI Public and Institutional

Existing Land Uses: Undeveloped Land

Direction: **West**

Current Zoning: PI Public and Institutional

Existing Land Uses: Freedom's Path Apartments, Phase I

Direction: **East**

Current Zoning: PI Public and Institutional

Existing Land Uses: Solar Energy Generation Field

Thoroughfare Plan: There is no impact on the thoroughfare system.

Traffic Impact: There should be no traffic impact, however, a traffic study will be required as part of the final project development.

Parking: To be determined and consistent with zoning regulations once a final site plan has been submitted for review and approval.

Recommendation: Based on consistency with the Kerrville 2050 Plan and compatibility with adjacent land uses, staff recommends the case for approval.

On April 4th, the Planning and Zoning Commission recommended approval with a unanimous vote.

On May 14th, City Council unanimously approved Ordinance No. 2024-13 on first reading.

RECOMMENDED ACTION:

Approve Ordinance No. 2024-13 on second reading.

ATTACHMENTS:

[*20240528_Ord 2024-13 Zone change 3600 Memorial Blvd 2nd read.pdf*](#)

[*20240514_Letter in favor Noller - Freedoms Path.pdf*](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2024-13**

AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, OTHERWISE KNOWN AS THE CITY'S ZONING CODE; BY CHANGING THE ZONING OF THE PROPERTY KNOWN AS 3600 MEMORIAL BLVD (KERRVILLE VA MEDICAL CENTER) FROM A PUBLIC AND INSTITUTIONAL ZONING DISTRICT TO A MULTIFAMILY RESIDENTIAL ZONING DISTRICT; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on May 14, 2024, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on this Ordinance, the adoption of which will result in the change of a zoning district for the property known as 3600 Memorial Blvd. (State Highway 27); such change to result in the removal of the property from a Public and Institutional Zoning District (PI) to placement within a Multifamily Residential Zoning District (R-3); and

WHEREAS, on May 14, 2024, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. The Zoning Code, as found within Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* are hereby amended to designate the following described property zoned as within a Multifamily Residential Zoning District (R-3):

Address: 3600 Memorial Blvd, Kerrville, Texas 78028; and current site of the Kerrville VA Medical Center, said property depicted on the location map found at **Exhibit A**, attached hereto and made a part hereof for all purposes.

SECTION TWO. The City Manager is authorized and directed to amend the City's *Official Zoning Map* to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with the City's Zoning Code.

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance.

SECTION FOUR. The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION FIVE. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION SIX. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 14 day of MAY, A.D., 2024.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ of _____, A.D., 2024.

Joe Herring Jr., Mayor

ATTEST:

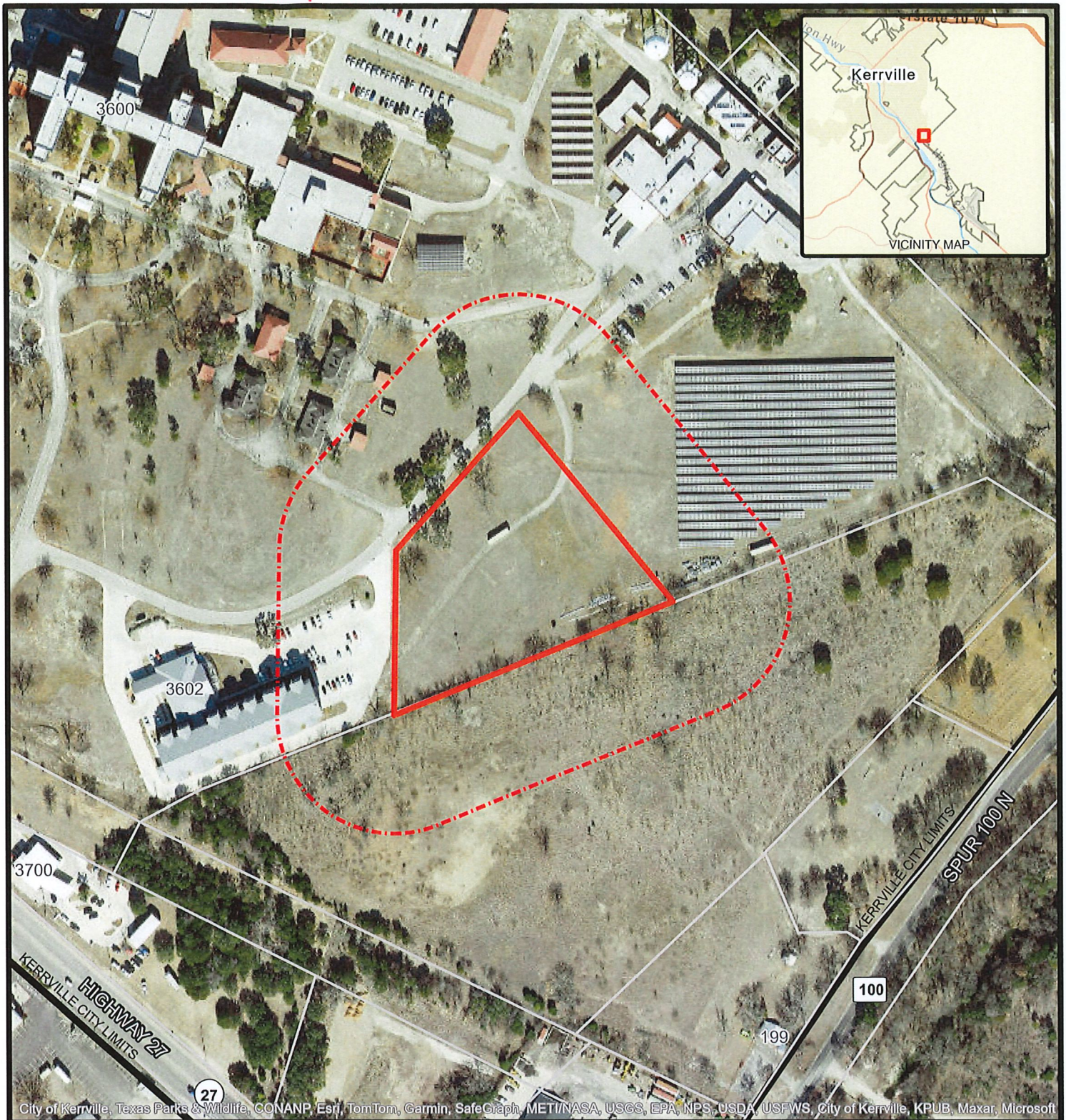
Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

EXHIBIT A





Location Map

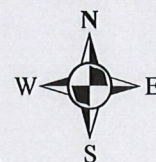
Case # PZ-2024-10

Location:

NO DATA PROVIDED BY KCAD

Legend

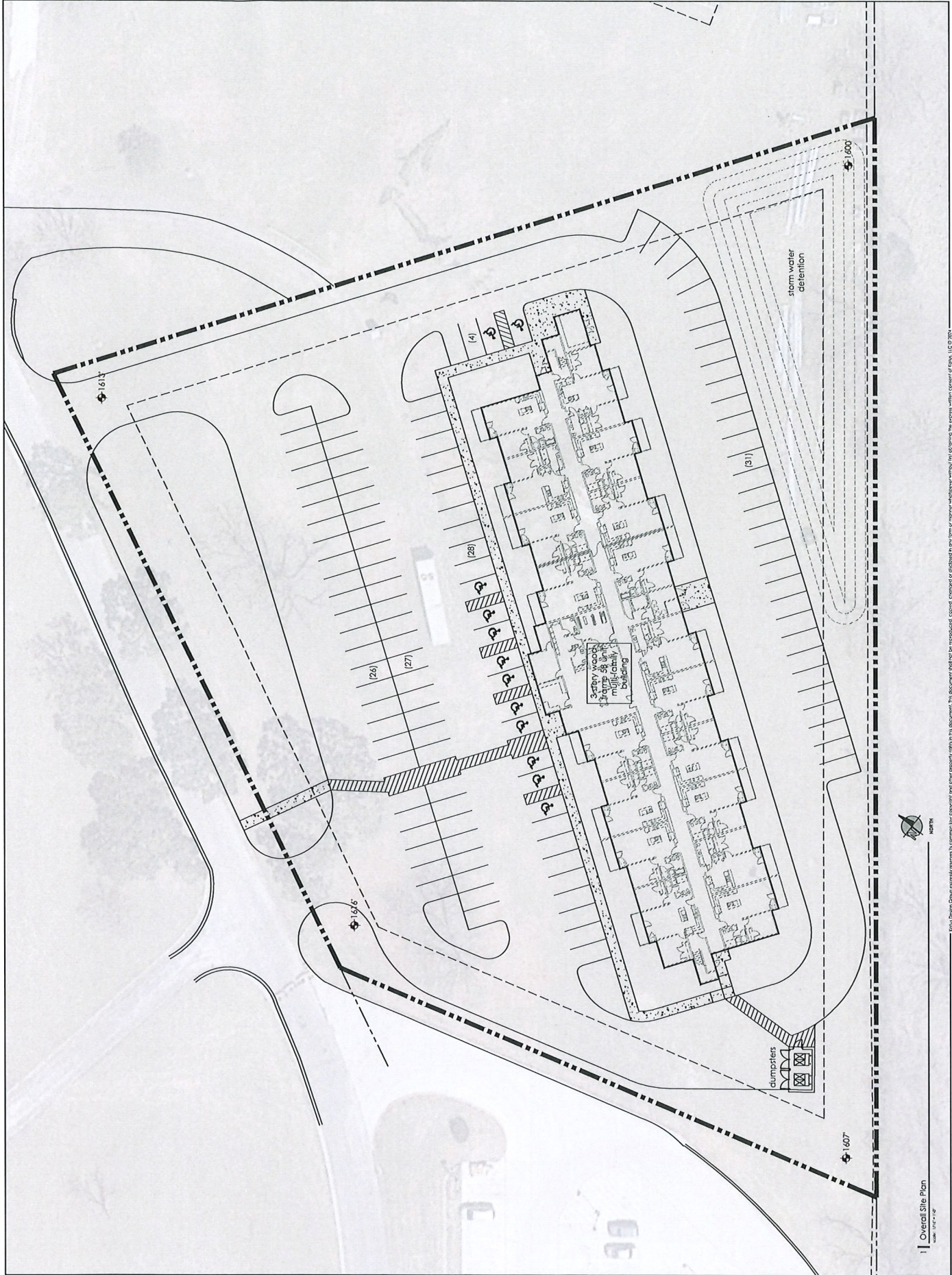
-  Subject Properties
-  200 Feet Notification Area



0 75 150 300

Scale In Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.



Overall Site Plan

scale: 1/4\"/>

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From: [Gary L. Noller](#)
To: [Steve Melander](#)
Subject: [EXTERNAL] Planning and Zoning - Freedom's Path Apartments Phase 2
Date: Monday, April 1, 2024 3:05:30 PM

Mr. Melander,

I wish to indicate my full support in favor of approval of the upcoming zoning change request for the construction of Freedom/s Path Apartments Phase 2. This housing is planned to be built on property owned by the VA in Kerrville.

Freedom's Path Apartments Phase 1 is now in its eighth year of occupancy. It is a proven success and is largely occupied by veterans who obtain health care from the VA. Additional housing of this type is in great need as there is a considerable waiting list of veterans wishing to reside at Freedom's Path.

Please let me know if I may provide additional information about my support of this housing.

Thank you for your consideration.

Gary L. Noller, Commander
American Veterans (AMVETS) Post 1000
Kerrville, Texas



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Ordinance No. 2024-14, second reading. An Ordinance declaring the adoption of amendments to the City of Kerrville, Texas, Charter in accordance with the adoption of Propositions A, B, C, E, G, H, and I at the Special Election held on May 4, 2024; adopting the Charter, as amended; providing an effective date; and providing other matters related to this subject. (*M Hayes*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 15, 2024

SUBMITTED BY: Mike Hayes, City Attorney

EXHIBITS:

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:

Pursuant to Section 12.06 of the City Charter, the Charter must undergo a review every five years. To conduct that review, City Council must appoint a Charter Review Commission ("CRC"), which it did in August 2023. The CRC completed its review of the Charter and submitted its *Report of the 2023 Kerrville Charter Review Commission* at a Council meeting on December 12, 2023. After the CRC's presentation, Council voted to accept the Report. Council considered the CRC's recommended amendments and voted to hold a Special Election. Prior to said election, Council voted to send all of the CRC's proposed amendments to the voters as propositions.

At the May 4, 2024 election, voters approved Propositions A, B, C, E, G, H, and I, which contained the amendments. At a special meeting held on May 14, 2024, Council canvassed the results of this election and the adoption of the amendments and voted to accept the results via Resolution No. 14-2024. Under state law, Council must now officially adopt the newly amended Charter.

Note: The Ordinance has the actual City Charter (which will be approved) attached.

Also, an additional attachment has been included with the red-lined version of the proposed City Charter, with such "red-lining" indicating all approved revisions.

On May 14, 2024, City Council approved Ordinance No. 2024-14 on first reading, with a 4-1 vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2024-14 on second reading to declare the adoption of various amendments to the City Charter and to adopt a newly revised Charter.

ATTACHMENTS:

[*20240528_Ord 2024-14 Charter amend 2nd read w red-line.pdf*](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2024-14**

AN ORDINANCE DECLARING THE ADOPTION OF AMENDMENTS TO THE CITY OF KERRVILLE, TEXAS, CHARTER IN ACCORDANCE WITH THE ADOPTION OF PROPOSITIONS A B, C, E, G, H, AND I AT THE SPECIAL ELECTION HELD ON MAY 4, 2024; ADOPTING THE CHARTER, AS AMENDED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THIS SUBJECT

WHEREAS, on February 25, 1942, a home-rule Charter was adopted for the City of Kerrville, Texas; and

WHEREAS, the City Charter is a document prepared by the citizens of the City providing direction to the City government on how to operate; and

WHEREAS, since 1942, the Charter has been amended ten times, with the last comprehensive review occurring in 2018-19; and

WHEREAS, Section 12.06 of the Charter requires a periodic review to help ensure that the document is current and that it properly reflects the overall directions of this community; and

WHEREAS, in August 2023, City Council appointed persons to a Charter Review Commission ("CRC") and charged it with reviewing and proposing amendments to the Kerrville City Charter; and

WHEREAS, following a series of meetings, the CRC presented its *Report of Proposed Charter Amendments* (the "Report") to City Council in December 2023 at a public meeting; and

WHEREAS, the Council reviewed the Report and after considering the CRC's proposed amendments, the Council called a Special Election for May 4, 2024 for a vote of the electors to consider the approval or rejection of various amendments to the Charter, the amendments being in the form of Propositions A through J; and

WHEREAS, at the Special Election on May 4, 2024, voters approved by majority vote Propositions A, B, C, E, G, H, and I, and voted not to approve Propositions D, F, and J, thereby amending the Charter in this manner; and

WHEREAS, at a special meeting held on May 14, 2024, which was open to the public, City Council canvassed the results of this Special Election and adopted Resolution No. 14-2024, which approved and declared the results of this election; and

WHEREAS, City Council finds it to be in the public interest to declare the adoption of the amendments to the City's Charter, and to adopt the amended Charter, in accordance with Chapter 9, Texas Local Government Code, and Section 12.07 of the Charter;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. Propositions A, B, C, E, G, H, and I, as approved during the Special Election held on May 4, 2024, and which contained amendments to the City's Charter, are declared adopted. This declaration serves as an order pursuant to Section 9.005(b) of the Texas Local Government Code. The City Secretary shall record this order in the City's official records.

SECTION TWO. In accordance with Section 12.07 of the Charter, and based upon the amendments, the Charter has been renumbered and rearranged as appropriate, and the City Council authorizes such changes.

SECTION THREE. The newly revised Charter, including the amendments resulting from the passage of Propositions A, B, C, E, G, H, and I, is attached as **Exhibit A**, made a part hereof for all purposes, and is adopted in this form by City Council.

SECTION FOUR. In accordance with Section 9.007(a) of the Texas Local Government Code and following adoption of this Ordinance, the Mayor shall certify to the Texas Secretary of State an authenticated copy of the Charter, as amended, under the City's seal showing the approval by the voters of the City.

SECTION FIVE. The City Secretary, pursuant to Section 9.008(a) of the Texas Local Government Code, shall record the revised Charter, as amended by the voters, in the City Secretary's records.

SECTION SIX. The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered therein and does not repeal any provision of said ordinances.

SECTION SEVEN. If any section, subsection, sentence, clause, or phrase of this Ordinance or any appendix thereof is, for any reason, held to be unconstitutional or invalid, such holding does not affect the validity of the remaining portions. The City Council of the City of Kerrville, Texas, declares that it would have passed this Ordinance and its exhibit and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION EIGHT. Following adoption of this Ordinance upon second reading, the amendments, and the newly revised Charter shall become effective immediately.

PASSED AND APPROVED ON FIRST READING, this the 14 day of MAY, A.D., 2024.


PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ day of _____, 2024.

Joe Herring Jr., Mayor

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

DRAFT 5/9/24 - REDLINED



CHARTER OF THE CITY OF KERRVILLE, TEXAS

D R A F T 5/9/24 - REDLINED

**CITY OF KERRVILLE
CHARTER**

MEMBERS OF THE CITY COUNCIL

**JOE HERRING, JR.
MAYOR**

**VACANT
COUNCILMEMBER, PLACE 1**

**JEFF HARRIS
COUNCILMEMBER, PLACE 2**

**KENT McKINNEY
COUNCILMEMBER, PLACE 3**

**BRENDA HUGHES
COUNCILMEMBER, PLACE 4**

SHELLEY McELHANNON, CITY SECRETARY

MAY 28, 2024

PART I CHARTER

Article I. Incorporation, Powers, and Territory

Sec. 1.01.	Establishment and Purpose of the Charter	1
Sec. 1.02.	Enumerated Powers not Exclusive.....	1
Sec. 1.03.	Boundaries.....	1
Sec. 1.04.	Annexation of Territory	2
Sec. 1.05.	Disannexation.....	2
Sec. 1.06.	Sale of Liquor Prohibited	2
Sec. 1.07.	Notice of Damage or Injury Required.....	

Article II. Governing Body

Sec. 2.01.	The City Council.....	2
Sec. 2.02.	Qualifications for Councilmembers	2
Sec. 2.03.	Term of Office	3
Sec. 2.04.	Vacancies	3
Sec. 2.05.	Compensation for Councilmembers.....	4

Article III. Procedures of the Council; Legislation

Sec. 3.01.	Canvass of Election; Meetings of the Council, Boards, and Commissions; Compliance with Open/Meetings Act	4
Sec. 3.02.	Mayor and Mayor Pro Tem	4
Sec. 3.03.	City Secretary	5
Sec. 3.04.	Council Rules.....	5
Sec. 3.05.	Quorum	5
Sec. 3.06.	Introduction and Passage of Ordinances and Resolutions	5
Sec. 3.07.	Publication of Penal Ordinances	6
Sec. 3.08.	Creation of Boards, Commissions, and Committees.....	6

Article IV. Nominations and Elections

Sec. 4.01.	Municipal Elections.....	7
Sec. 4.02.	Election of Councilmembers by Plurality, places.....	7
Sec. 4.03.	Application for Candidacy.....	7

Article V. Recall, Initiative, and Referendum

Sec. 5.01.	General Authority	7
Sec. 5.02.	Commencement of Petition; Petitioner's Committee; Affidavit	8
Sec. 5.03.	Scope of Recall	8
Sec. 5.04.	Petitions for Recall	8
Sec. 5.05.	Form and Content of Recall Petition	9
Sec. 5.06.	Recall; Petition; Procedure.....	9
Sec. 5.07.	Public Hearing for Recall	10
Sec. 5.08.	Calling of Recall Election	10
Sec. 5.09.	Ballots in Recall Election	10
Sec. 5.10.	Result of Recall Election	11
Sec. 5.11.	Initiative; Petition; Procedure	11
Sec. 5.12.	Referendum; Petition; Procedure; Effect Prior to Election.....	12
Sec. 5.13.	Form of Ballots	13
Sec. 5.14.	Ordinances Passed by Popular Vote, Repeal or Amendment.....	13
Sec. 5.15.	Voluntary Submission of Legislation by the City Council.....	13
Sec. 5.16.	Publicity for Ordinances Submitted to Voters	13

Article VI. Administrative Service

Sec. 6.01.	City Manager.....	14
Sec. 6.02.	Qualifications	14
Sec. 6.03.	Term and Removal	14
Sec. 6.04.	General Powers and Duties of the Manager	15
Sec. 6.05.	Council not to Interfere in Appointments or Removals.....	16
Sec. 6.06.	Right of Manager and Other Officers in Council.....	16
Sec. 6.07.	Administrative Departments.....	16
Sec. 6.08.	Investigations by Council or Manager	17

Article VII. City Attorney

Sec. 7.01.	City Attorney-Qualifications.....	17
------------	-----------------------------------	----

Article VIII. Financial Management

Sec. 8.01.	Development and Submission of City Budget and Budget Message	17
Sec. 8.02.	Fiscal Year.....	18
Sec. 8.03.	City Council Action on Budget.....	18
Sec. 8.04.	Budget.....	19
Sec. 8.05.	Appropriation and Revenue Ordinances	19
Sec. 8.06.	Amendments after Adoption.....	20
Sec. 8.07.	Independent Audit	21

Article IX. Municipal Court

Sec. 9.01.	Creation and Jurisdiction	21
Sec. 9.02.	Municipal Court Judge	21

Article X. Miscellaneous Provisions

Sec. 10.01.	Personal Financial Interest	24
Sec. 10.02.	Oath of Office.....	25
Sec. 10.03.	Power of the City to Enforce Ordinances	25
Sec. 10.04.	Review of Charter; Charter Review Commission	25
Sec. 10.05.	Rearrangement and Renumbering	26
Sec. 10.06.	Meaning of Words and Designations.....	26
Sec. 10.07.	Savings Clause	26

ARTICLE I. INCORPORATION, POWERS, AND TERRITORY

Section 1.01. Establishment and Purpose of the Charter.

We the people of the City of Kerrville, Texas, under the constitution and laws of the State of Texas, in order to secure the benefits of local self-government and to provide for an honest and accountable council-manager government do hereby adopt this Charter and confer upon the City the following powers, subject to the following limitations, and prescribed by the following procedures and government structure. By this action, we secure the benefits of home-rule and affirm the values of representative democracy, professional management, strong leadership, citizen participation, and regional cooperation.

Section 1.02. Enumerated Powers not Exclusive.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition, to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City of Kerrville shall have, and may exercise, all powers of local self-government, provided by the Constitution and laws of the State of Texas, as it is appropriate for this Charter to specifically enumerate. All powers of the City, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or if not prescribed therein, then in the manner provided by ordinance or resolution of the Council.

Section 1.03. Boundaries.

The boundaries of the City of Kerrville are hereby established by the official map which is on file in the City Secretary's Office at City Hall.

Section 1.04. Annexation of Territory.

Subject to state law, City Council may by ordinance annex territory lying adjacent to the City with the consent of the inhabitants in such territory or owners thereof. City Council may unilaterally annex territory but only in accordance with state law.

Section 1.05. Disannexation.

City Council by ordinance duly passed by a majority vote of all the Councilmembers, may discontinue any territory as a part of the City; the ordinance shall specify accurately the metes and bounds of the territory to be eliminated from the City and shall contain a plat designating such territory so that the same can be definitely ascertained; and when the ordinance has been duly passed, the same shall be entered upon the minutes and records of the City, and from and after the entry of such ordinance, the territory shall cease to be a part of the City, but the territory shall still be liable for its pro rata share of any debts incurred while the area was a part of the City.

Section 1.06. - Sale of Liquor Prohibited.

The City may regulate or otherwise prohibit the sale of liquor in all or part of the residential areas of the City as authorized by this charter provision and State law.

Section 1.07 Notice of Damage or Injury Required.

a. The City of Kerrville shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his or her behalf, or in the event the injury results in death, the person or persons who may have a cause or action under the law by reason of such death or injury, shall file a notice in writing with the City Manager within ninety (90) days after same has been received, stating specifically in such notice when, where and how the exact injury occurred and the full extent thereof, together with the amount of damages claimed or asserted. These notice requirements do not apply if the City has actual notice that death has occurred or that the claimant has received some injury. Further, should the claimant provide good cause for failure to comply with the notice requirements then these notice requirements shall not apply.

b. The City of Kerrville shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged or someone in his or her behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred and the full extent thereof, and the amount of damage

sustained. The City shall never be liable for any claim for damage or injury to real property caused by the negligent act or omission of its officers, servants, agents, or employees, unless the person whose real property has been injured or damaged or someone in his or her behalf, files a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred and the amount of damage claimed. These notice requirements do not apply if the City has actual notice that the claimant's property has been damaged. Further, should the claimant provide good cause for failure to comply with the notice requirements then these notice requirements shall not apply.

ARTICLE II. GOVERNING BODY

Section 2.01. The City Council.

Except as otherwise provided in this Charter, all powers of the City shall be vested in a Council of five (5) members, to be known as the Kerrville City Council. The members of the Council shall be elected from the City of Kerrville at large in a manner prescribed elsewhere in this Charter without party or partisan mark or designation. The Mayor is a member of the Council and may be referred to in this Charter as a "Councilmember."

Section 2.02. Qualifications for Councilmembers.

Each member of the City Council, in addition to having other qualifications required by law:

- a. Shall be a qualified voter of the State of Texas;
- b. Shall be at least eighteen (18) years of age;
- c. Shall be a resident of the City for at least twelve (12) consecutive months preceding the election day; provided, however, that any person who shall have been a resident for a period of not less than twelve (12) consecutive months immediately preceding the election of any territory not formerly within the corporate limits of the City, but which has been annexed under the provision of this charter, shall be eligible for said office;
- d. Shall not hold any other elected office or employment under the City government while a member of the Council, except a member of the City Council may be appointed by the City Council to represent the Council on any board, commission, committee, organization or entity in the Council's sole

discretion so long as that person's service does not extend beyond the person's term of office.

- e. At the time that a candidate's application for a place on the ballot is submitted, or thereafter, such candidate shall not be related within the second degree of affinity or third degree of consanguinity to anyone employed by the City and who holds an executive position with the City, which is defined as the head of any department or division within the City. The City Manager shall indicate such positions within his or her budget.

Section 2.03. Term of Office.

- a. The members of the City Council shall hold their offices for a term of two years and until their successors have been elected and duly qualified in accordance with this Charter. Five Councilmembers will be elected at large, two in one year for Places One and Two, and the following year, three will be elected for Places Three; Four and Mayor, respectively.
- b. No Councilmember may serve more than three (3) full terms in succession.
- c. Any Councilmember, upon filing an application to run for mayor, shall have automatically resigned his or her office effective on the day following the canvass for such election.

Section 2.04. Vacancies.

- a. The office of a Councilmember shall become vacant upon his or her death, resignation, forfeiture of office, or removal from office by any manner authorized by law.
- b. A Councilmember shall forfeit his or her office if he or she:
 - 1. ceases to possess the required qualifications for election to office;
 - 2. is convicted of a felony; or
 - 3. ceases to be a resident of the City.
- c. Every forfeiture shall be declared and enforced by the City Council.
- d. Vacancies in the City Council, including a vacancy resulting from a recall election, shall be filled by the Council for the remainder of the unexpired term. The Council shall appoint a qualified elector to fill a vacancy within forty-five (45) days after such vacancy occurs, as determined by state law. For purposes

of this section and the Charter, a “qualified elector” or “qualified voter” means a “registered voter” in accordance with state law.

Section 2.05. Compensation for Councilmembers.

Councilmembers shall serve without an established salary; however, they will be authorized to receive the sum of \$25.00 for each Council meeting in which they attend to offset the “out-of-pocket” expenses incurred. The expense fees are not to be construed as being a salary, but an authorized allowance for each regular meeting. Councilmembers may be reimbursed for other reasonable expenses directly associated with their service to the City, subject to controls established by the Council.

ARTICLE III. PROCEDURES OF THE COUNCIL; LEGISLATION

Section 3.01. Canvass of Election; Meetings of the Council, Boards, and Commissions; Compliance with Open Meetings Act.

Following each municipal election, the Council shall meet at the usual place for holding its meetings, canvass the election in accordance with state law, and the newly elected members shall assume the duties of office without party or partisan mark or designation. Council shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the City Secretary upon request of the Mayor, the City Manager, or a majority of the members of the Council. Any such notice shall state the subject or subjects that shall be considered. All meetings of the Council shall be open to the public, and the rules of the Council shall provide that the citizens of the City shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered; but the Council may by a majority vote of all the members authorize a closed meeting. Council and its boards, commissions, and committees shall comply fully with the provisions of the Texas Open Meeting Act as amended.

Section 3.02. Mayor and Mayor Pro Tem.

Following the canvass of a regular election, the Council shall choose one of its members (other than the Mayor) as Mayor Pro Tem. The Mayor shall preside at meetings of the Council and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him or her by this Charter and the ordinances of the City. He or she shall be recognized as the head of the City government for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for purposes of military law. In time of public danger or emergency, the Mayor is authorized to act in accordance with federal and state law and City policy. If a vacancy occurs in the Office of Mayor, the Council

shall appoint a successor Mayor for the remaining term, in accordance with Section 2.04. If the Mayor is absent or incapacitated such that he or she is unable to perform the duties of office, the Mayor Pro Tem shall act as Mayor for the duration of the period of such absence or disability. If the Mayor Pro Tem is also absent or disabled, then the Council shall elect a Presiding Officer to act in the place of the Mayor Pro Tem.

Section 3.03. City Secretary.

The City Manager shall appoint a City Secretary who shall perform such administrative duties as may be delegated by the City Manager.

Section 3.04. Council Rules.

The Council shall be the judge of the election and qualifications of its members, and in such cases, shall have the power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the Council in any such case shall be subject to review by the courts. The Council shall determine its own rules and order of business and keep a record of its proceedings. It shall have power to compel the attendance of absent members, may punish its members for disorderly conduct where such conduct occurs at a meeting or event involving the Council; and by vote of not less than a majority of all its members, expel from a meeting a member for disorderly conduct for the violation of its rules; but no member shall be expelled from a meeting unless notified of the charge against him or her and given an opportunity to be heard in his or her own defense. As used in this section, the definition of “disorderly conduct” has the meaning defined by the Texas Penal Code.

Section 3.05. Quorum.

Except as otherwise allowed by state law, a majority of all the members of the Council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of all the members of the Council shall be necessary to adopt any ordinance, resolution, or order; except that a vote to adjourn, or an action regarding the attendance of absent members, may be adopted by a majority of the members present. No member may be excused from voting except when such member has a conflict of interest as defined by law.

Section 3.06. Introduction and Passage of Ordinances and Resolutions.

- a. Ordinances and resolutions shall be introduced only in written form. All ordinances, except ordinances making appropriations and ordinances codifying or rearranging existing ordinances or enacting a code of ordinances, shall be confined to one subject, and the subject of all ordinances shall be clearly

expressed in the title. Ordinances making appropriations shall be confined to the subject of appropriations. No ordinance shall be passed until it has been read and voted upon in at least two regular meetings, except an emergency measure. The final reading of each ordinance shall be in full unless a written or printed copy thereof shall have been furnished to each member of the Council prior to such reading. The “yeas” and “nays” shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council. The enacting clause of all ordinances shall be, “Be it ordained by the City Council of the City of Kerrville, Kerr County, Texas.”

- b. An ordinance shall take effect upon final passage unless indicated otherwise in the ordinance.
- c. Upon its final passage, each ordinance and resolution shall be authenticated by the signatures of the Mayor or Presiding Officer and of the City Secretary, and shall be systematically recorded as provided by Ordinance.
- d. An “emergency measure” is an ordinance or resolution to provide for the immediate preservation of the public peace, property, health, or safety, in which the emergency claimed is set forth and defined in the preamble thereto. The affirmative vote of at least a majority of all members of the Council shall be required to pass any ordinance or resolution as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege, shall ever be passed as an “emergency measure.”

Section 3.07. Publication of Penal Ordinances.

Each adopted penal ordinance, or its caption and penalty, shall be published one time in a newspaper of general circulation which is published in the City. The City shall also provide notice of the adoption of the ordinance at the City’s website. Such ordinance so published in the newspaper shall take effect and be in force, from and after ten (10) days after publication thereof, unless a later time is expressly provided.

Section 3.08. Creation of Boards, Commissions, and Committees.

The City Council may create and provide for such Boards, Commissions, and/or Committees as the City Council may deem appropriate or necessary.

ARTICLE IV. NOMINATIONS AND ELECTIONS

Section 4.01. - Municipal Elections.

All City elections shall be governed, except as otherwise provided by the Charter, by the laws of the State of Texas.

Section 4.02. - Election of Councilmembers by Plurality, places.

There will be five places: One, Two, Three, Four, and Mayor. At the regular municipal election, the voters may vote for one candidate for each place listed on the ballot. The candidate for each place listed on the ballot who receives the greatest number of votes for that place cast in such election shall be declared elected; and in case of a tie vote, by lot.

Section 4.03. - Application for Candidacy.

Any person who lawfully qualifies and is a registered voter may file an application for election for a Place on the City Council. The name of such candidate and Place for which he is filing will be affixed by the City Secretary at the time of issuance of an application form. Such application must include a petition signed by not less than 100 qualified and registered voters of the City. The application and the signatures thereon as well as the affidavits of the circulators must meet the requirements of state law. All papers comprising an application must be assembled and filed with the City Secretary in accordance with state law. Signatures are not required where the application includes a filing fee of \$100.00. The City Secretary shall review the petition as required by state law and if the petition is found to be insufficient, the City Secretary shall immediately notify the person who filed it, with a written statement certifying why the petition is found to be "insufficient." Within the time authorized by state law such a petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate. If the application complies with this section and state law, the City Secretary shall place such name on the ballot. Application and petition forms must be obtained from the City Secretary, as they are promulgated by the Texas Secretary of State.

ARTICLE V. RECALL, INITIATIVE, AND REFERENDUM

Section 5.01. General Authority.

- a. **Recall.** The qualified voters of the City shall have the power to petition for recall of the Mayor or any member of the City Council
- b. **Initiative.** The qualified voters of the City shall have power to propose ordinances to the City Council. Such power shall not extend to the budget, capital program, or appropriation of money, issuance of bonds, setting of utility rates, levy of taxes, annexations, salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state law.

- c. **Referendum.** The qualified voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance. Such power shall not extend to the budget, capital program, relate to the appropriation of money, issuance of bonds, setting of utility rates, levy of taxes, annexations, salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state law.

Section 5.02. Commencement of Petition; Petitioners' Committee; Affidavit.

Any three (3) qualified voters of the City may commence recall, initiative, or referendum proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners committee and be responsible for preparing and circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and naming the Councilmember(s) to be recalled or setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered.

Section 5.03. Scope of Recall.

Each Councilmember shall be subject to recall and removal from office by the qualified voters of the City.

Section 5.04. Petitions for Recall.

Before the question of recall of a Councilmember shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the City Secretary. The petition must contain the number of valid signatures of qualified voters totaling the greater of (a) five percent (5%) of the registered voters entitled to vote at the last City election or (b) thirty-five percent (35%) of the number of persons who voted in the most recent City election. Each signer of such recall petition shall personally sign their name thereto and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month, and the year their signature was affixed.

Section 5.05. Form and Content of Recall Petition.

All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall comply with Chapter 277 of the Texas Election Code as it may be amended. The petition shall be addressed to the City Council and the content shall distinctly and specifically point to the ground(s) upon which such petition for removal is predicated. Further, said petition shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the Councilmember that warrant the charge as to give the Councilmember sought to be removed notice of the matter(s) and thing(s) with which the officer is charged. The signatures shall be verified by oath in the following form:

STATE OF TEXAS COUNTY OF KERR

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

Signature_____

Sworn and subscribed before me this ____ day of _____ 20__.
NOTARY PUBLIC, STATE OF TEXAS

My commission expires: _____

Section 5.06. Recall; Petition; Procedure.

- a. **Certificate of City Secretary.** Within thirty (30) days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within that thirty (30) day period send a copy of the certificate to the petitioners committee by certified mail or by hand delivery to a committee member.
- b. **Amendment.** If the City Secretary finds a petition insufficient for lack of the required number of valid signatures, the petitioner may file one supplementary petition by the deadline in accordance with state law and Sections 5.04 and 5.05. The City Secretary shall notify the petitioner as to the sufficiency of the

petition not later than the fifth regular business day after the date of its receipt.

- c. **Presentation to Council.** When a recall petition has been fully determined sufficient, the City Secretary shall present the petition to City Council at its next regular meeting. If a petition or amended petition is certified insufficient and the petitioners committee does not elect to amend within the time required, the City Secretary shall at the next regular Council meeting present such certificate to the Council who shall then make the final determination as to whether or not the petition is insufficient.

Section 5.07. Public Hearing for Recall.

The Councilmember whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit the Councilmember to present the facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

Section 5.08. Calling of Recall Election.

If the Councilmember whose removal is sought does not resign, then the City Council shall for the next available election date, order an election for holding such recall election. If, after the recall election date is established, the Councilmember vacates the office, the election shall be cancelled, in accordance with state law.

Section 5.09. Ballots in Recall Election.

Ballots used at recall elections shall conform to the following requirements:

- a. With respect to the Councilmember whose removal is sought, the question shall be submitted:

“Shall _____ be removed from the office of _____ by recall?”

- b. Immediately below each such question, there shall be printed the following words, one above the other, in the order indicated:

“Yes”
“No”

Section 5.10. Result of Recall Election.

- a. If a majority of the votes cast at a recall election shall be “No”, that is against the recall of the Councilmember named on the ballot, the Councilmember shall continue in office for the remainder of his/her unexpired term, subject to recall as provided herein. If a majority of the votes cast at such election be “Yes”, that is for the recall of the Councilmember named on the ballot, the Councilmember shall, regardless of any technical defects in the recall petition, be deemed removed from office upon passing of the resolution canvassing the election, and the vacancy shall be filled in accordance with Section 2.04 above. *As used in this section, “technical defects” shall mean an inadvertent or scrivener’s error in the preparation or filing of the petition.*
- b. Where a vacancy(s) occurs due to a recall election, the remaining Councilmembers, including where the remaining Councilmembers number two or less, shall appoint a qualified elector(s) for the recalled place(s), which such person(s) may serve only through the remainder of the unexpired term.
- c. A Councilmember who is recalled is not eligible for appointment to Council in the period between the recall vote and the next election or qualified for placement on the ballot for the immediately ensuing election.

Section 5.11. Initiative; Petition; Procedure.

- a. Qualified voters of the City may initiate legislation by ordinance by submitting a petition addressed to the City Council, which requests the submission of the proposed ordinance to a vote of the qualified voters of the City. The City Attorney shall review the petition for enforceability and legality. Said petition must contain the number of valid signatures totaling the greater of (a) five percent (5%) of the registered voters entitled to vote at the last City election or (b) thirty-five percent (35%) of the number of persons who voted in the most recent City election. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance. The petition, its form and content, shall be the same as for recalls as provided in Section 5.05 above. The certification of the City Secretary, and any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in Section 5.06 above.
- b. When an initiative petition has been fully determined sufficient, City Council shall at its next regular meeting consider the proposed initiative ordinance. Upon presentation to the Council, Council shall, within sixty (60) days after the date the petition was finally determined sufficient and in accordance with the procedure required in Section 5.06 above, either pass and adopt such ordinance without alteration as to meaning or effect, or call for an election, to

be held on a date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed ordinance. Unless otherwise provided by law, any election for an initiative under this Charter shall be held on the first authorized uniform election date that occurs after the seventieth (70th) calendar day after the City Council's decision to submit the ordinance to the voters.

- c. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 5.12. Referendum; Petition; Procedure; Effect Prior to Election.

- a. Qualified voters of the City may require that any ordinance, with the exception of ordinances dealing with any budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after the date the ordinance sought to be reconsidered was adopted. Said petition must contain the number of valid signatures totaling the greater of (a) five percent (5%) of the registered voters entitled to vote at the last City election, (b) thirty-five percent (35%) of the number of persons who voted in the most recent City election. The petition, its form and content, shall be the same as for recalls as provided in Section 5.05 above. The certification of the City Secretary, any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in Section 5.06 above. Council shall either repeal the referred ordinance or submit the referred ordinance to the qualified voters of the City at the next uniform election date as authorized by law.
- b. Pending the holding of such election, the ordinance shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof. Any election for a referendum under this Charter shall be held in accordance with state law on the first authorized uniform election date after the decision by the City Council.

- c. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Section 5.13. Form of Ballots.

The ballots used when voting upon initiative or referendum shall set forth their nature sufficiently to identify them and shall also set forth, upon separate lines, the words:

“For the Ordinance”

“Against the Ordinance”

Section 5.14. Ordinances Passed by Popular Vote, Repeal or Amendment.

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of six (6) months from the date said ordinance became effective. An ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended at any time in response to a referendum petition or by submission as provided by Section 5.16 below.

Section 5.15. Voluntary Submission of Legislation by the City Council.

The City Council, upon its own motion and by the affirmative vote of a majority of the full membership of the Council, may submit to popular vote at an election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, or resolution, or measure, in the same manner and with the same force and effect as provided in this Article for submission of initiative and referendum petitions, and may, at its discretion, call for an election for this purpose on an authorized uniform election date as provided by state law.

Section 5.16. Publicity for Ordinances Submitted to Voters.

The City Secretary, at least fifteen (15) days before any election at which any ordinance is to be submitted to the voters, shall have printed in a newspaper of general circulation published in the City the caption of all ordinances submitted. The full text of all ordinances shall be made available for public review in the office of the City Secretary, at the City’s library, and linked on the City’s website. The text of every ordinance shall also be displayed at the polling place in such election; but the validity of an ordinance approved by the electors shall not be questioned because of errors or irregularities in publication or display.

ARTICLE VI. ADMINISTRATIVE SERVICE

Section 6.01. City Manager.

The Council shall appoint an officer whose title shall be City Manager and who shall be chief executive and the head of the administrative branch of the City government. By written notice to City Council, the City Manager shall designate a qualified City executive to exercise the powers and perform the duties of city manager during periods of his or her temporary absence or disability. The Council may annul such designation at any time and appoint another City executive to serve until the City Manager returns to perform his or her duties. The City Council shall annually review the performance of the City Manager, and the City Manager shall receive such compensation as may be fixed by the City Council.

Section 6.02. Qualifications.

The City Manager shall be chosen by the Council solely on the basis of his or her executive and administrative qualifications with special reference to actual experience in, or his or her knowledge of, accepted practice in respect to the duties of the office as hereinafter outlined. At the time of his or her appointment, he or she need not be a resident of the City or state, but during his or her tenure of office shall reside within the City. No person elected to membership on the Council shall, subsequent to such election, be eligible for appointment as City Manager until one year has elapsed following the expiration of the term for which he or she was elected.

Section 6.03. Term and Removal.

The City Manager shall hold office subject to the provisions set forth below, at the will and pleasure of the City Council. The City Manager shall be appointed upon the affirmative vote of four-fifths (4/5) majority vote of the entire City Council. Similarly, the City Manager may be removed at the discretion of the City Council by an affirmative vote of four-fifths (4/5) majority vote of the entire City Council. If removed at any time after having served six months, the City Manager may demand a hearing at a public meeting of the City Council prior to the date on which his or her final removal shall take effect, but pending and during such hearing the City Council may suspend him or her from office. The action of the City Council in suspending or removing the City Manager shall be final, since it is the intention of this Charter to vest all authority and fix all responsibility for any such suspension or removal wholly in the City Council.

Section 6.04. General Powers and Duties of the Manager.

The City Manager shall be the chief executive officer of the City, responsible to the Council for the management of all City affairs placed in the manager's charge by or under this Charter. The City Manager shall:

- a. Appoint and suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law or this Charter. The City Manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- b. Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
- c. Attend all City Council meetings. The City Manager shall have the right to take part in discussion but shall not vote;
- d. See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- e. Prepare and submit the annual budget and capital program to the City Council, and implement the final budget approved by Council to achieve the goals of the City;
- f. Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- g. Make such other reports as the City Council may require concerning operations;
- h. Keep the City Council fully advised as to the financial condition and future needs of the City;
- i. Make recommendations to the City Council concerning the affairs of the City and facilitate the work of the City Council in developing policy;
- j. Provide staff support services for the Mayor and Councilmembers;
- k. Assist the Council to develop long-term goals for the City and strategies to implement these goals;

- l. Encourage and provide staff support for regional and intergovernmental cooperation;
- m. Promote partnerships among Council, staff, and citizens in developing public policy and building a sense of community; and
- n. Perform such other duties as are specified in this Charter or may be required by the City Council.

Section 6.05. Council not to Interfere in Appointments or Removals.

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or removal from, office by the City Manager or any of his or her subordinates; or, except as is or may be otherwise provided under the terms of this Charter, in any manner take part in the appointment or removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately. Any violation of the provisions of this section by a member of the Council shall subject him or her to whatever discipline the remaining members of the Council may under the terms of Section 3.04 see fit to impose.

Section 6.06. Right of Manager and Other Officers in Council.

The City Manager, and such department heads and other officers of the City may be designated by vote of the Council, shall be entitled to seats in the Council except at executive meetings, but shall have no vote therein. The Manager shall have the right to take part in the discussion of all matters coming before the Council, and such department heads and other officers who by designation of the Council are entitled to seats in the Council, shall be entitled to take part in all discussions of the Council relating to their respective departments and offices.

Section 6.07. Administrative Departments.

The City Manager shall have the responsibility to organize the various departments within the City as may be needed to fulfill the requirements and needs of the City, subject to the approval of the City Council.

Section 6.08. Investigations by Council or Manager.

The Council or the Manager shall have power to inquire into the conduct of any department, office or officer of the City, and to make investigations as to municipal affairs, and for that purpose only, the Council or the Manager may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence, and it shall be the duty of the City Manager to designate a police officer to serve such subpoena.

ARTICLE VII. CITY ATTORNEY

Section 7.01. City Attorney-Qualifications.

- a. The City Council shall appoint a licensed attorney of the State of Texas to be the City Attorney. The City Attorney shall review all contracts and other instruments in writing in which City Council is concerned, endorse approval of the form and correctness of such, and perform other duties of a legal nature as may be determined by City Council. The City Attorney shall receive for services such compensation as may be fixed by City Council for regular and special duties and shall hold office at the pleasure of Council. The City Attorney, or such other assistant attorneys selected by the City Attorney with the approval of City Council, shall represent the City in all legal matters, to include prosecution within municipal court.
- b. The City Council or the City Attorney, following written notice to Council, may engage legal counsel at any time it deems necessary and appropriate.
- c. At least annually, City Council shall review the performance of the City Attorney.
- d. The City Attorney shall be appointed upon the affirmative vote of four-fifths (4/5) majority vote of the entire City Council. Similarly, the City Attorney may be removed at the discretion of the City Council by an affirmative vote of four-fifths (4/5) majority vote of the entire City Council.

ARTICLE VIII. FINANCIAL MANAGEMENT

Section 8.01. Development and Submission of City Budget and Budget Message.

- a. *Development.* The City Manager shall prepare each year a budget to cover all proposed expenditures of the government of the City for the succeeding year. Such budget shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget shall also show as definitely as possible each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of these projects. The budget shall also contain funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenue available to cover the proposed budget, and the estimated rate of tax which will be required.
- b. *Accounting Practices.* The City Manager shall prepare and present the budget according to budget award guidelines currently established by the Government Finance Officers Association, or its successor organization.
- c. *Submission.* On or before the 31st day of July of each year, the City Manager shall submit to the City Council and City Secretary a budget for the ensuing fiscal year and an accompanying budget message. The full text of the proposed budget and message shall be made available for public review in the office of the City Secretary, at the City's library, and prominently linked on the City's website.

Section 8.02. Fiscal Year.

The fiscal year of the City government shall begin on the first day of October each year and shall end on the last day of September the following year. Such year shall constitute the budget year of the City government.

Section 8.03. City Council Action on Budget.

- a. **Notice and Hearing.** The City Council shall publish the general summary of the budget and a notice stating:
 1. The times and places where copies of the message and budget are available for inspection by the public, and

2. The time and place, not less than two weeks after such publication, for a public hearing(s) on the budget.
- b. **Amendment Before Adoption.** After the public hearing, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit.
- c. **Adoption.** The City Council shall adopt the budget on or before the 30th day of September of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget proposed by the City Manager shall go into effect.
- d. **“Publish” defined.** As used in this section and this article, the term “publish” refers to making the information available on the City’s website and otherwise complying with state law. In addition, the budget shall be made available in the office of the City Secretary and in the City’s library.

Section 8.04. Budget.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable for effective management and an understanding of the relationship between the budget and the City’s strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy; all proposed expenditures, and debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for income and expenditures of the current and preceding fiscal year. It shall indicate in separate sections:

- a. Proposed revenues and expenditures for current operations during the ensuing fiscal year for each City fund;
- b. Proposed goals and performance measures for each operational department; and
- c. Proposed long term financial planning in the form of a five year forecast of revenues and expenditures for the General and Water Funds and at least five years of capital project expenditures and associated financing sources;

Section 8.05. Appropriation and Revenue Ordinances.

To implement the adopted budget, the City Council shall adopt, prior to the beginning of the fiscal year.

- a. an appropriation ordinance making appropriations by department, fund, or other organizational unit and authorizing an allocation for each program or activity; and
- b. a tax levy ordinance authorizing the property tax levy or levies and setting the tax rate or rates.

Section 8.06. Amendments after Adoption.

- a. **Supplemental Appropriations.** If during or before the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.
- b. **Emergency Appropriations.** To address a public emergency affecting life, health, property, or the public peace, the City Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 3.06 above. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid or refinanced as long-term debt not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- c. **Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the manager shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce or eliminate one or more appropriations.
- d. **Transfer of Appropriations.** The City Manager may transfer appropriated funds among line items within a fund as long as the transfer results in a \$0.00 net impact to the fund.

- e. **Limitation; Effective Date.** No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 8.07. Independent Audit.

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the City government by certified public accountants, to be selected by the Council, who have no personal interest directly or indirectly in the financial affairs of the City government. The results of this audit shall be published immediately upon its completion.

ARTICLE IX. MUNICIPAL COURT

Section 9.01. Creation and Jurisdiction.

There is hereby established a Municipal Court of the City of Kerrville, Texas, which shall have such jurisdiction and powers as are given and prescribed by the laws of Texas.

Section 9.02. Municipal Court Judge.

The Municipal Judge, whether one or more, shall preside over the Municipal Court. He or she shall be appointed by the City Council and must be a qualified attorney who is duly licensed to practice law within the State of Texas. The Judge shall be appointed for a term not to exceed two (2) years, and shall hold office at the pleasure of the City Council. If for any reason the Judge shall temporarily fail to act, the Mayor or Mayor Pro Tem of the City is hereby authorized to appoint a replacement who shall act in the place of the Judge and who shall have all of the powers and discharge all of the duties of said office. During either twelve (12) month period beginning at the date of appointment, more than two (2) consecutive or six (6) total absences over and above prior approved vacation and sick leave, shall be cause for automatic removal from office by the City Council. The Judge, or anyone acting in his or her place, shall receive such compensation as may be determined by the City Council.

ARTICLE X. MISCELLANEOUS PROVISIONS

Section 10.01. Personal Financial Interest.

The City Council, as well as officers and employees of the City, shall comply with state law regarding personal, financial, or conflicting interests, including Chapter 171 of the Texas Local Government Code.

Section 10.02. Oath of Office.

Every officer of the City shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation, as provided by state law, to be filed and kept in the office of the City Secretary.

Section 10.03. Power of the City to Enforce Ordinances.

The City may enforce its ordinances by fines not exceeding limits established by state statutes and may also provide by ordinance for the commutation of such fines by labor on any public work or place in the City, but no ordinance shall provide a lesser penalty than is prescribed for a like offense by the laws of the state. Provisions may also be made by ordinance for the collections of fines imposed and executions issued in civil cases.

Section 10.04. Review of Charter; Charter Review Commission.

- a. The Charter shall be reviewed at five (5) year intervals, or sooner where the City Council believes it necessary. For each five-year review, the City Council shall appoint a Charter Review Commission of seven (7) residents of the City. The Commission shall have the following duties:
 1. Consider the operation of the City government under the Charter and determine whether any Charter sections require revision. To this end, at least one public hearing shall be held, and the Commission shall have the power to compel the attendance of any officer or employee of the City and to require the submission of any of the City records which it may deem necessary to the conduct of such hearing.
 2. Propose recommendations, if any, it deems desirable to ensure compliance with the Charter by the City government.

3. Propose amendments, if any, to the Charter to improve the effective application of the Charter to current conditions and operations.
 4. Report its finding and present its proposed amendments, if any, to the City Council.
- b. The term of office of the Charter Review Commission shall be six months but may be extended as necessary by City Council.

Section 10.05. Rearrangement and Renumbering.

The City Council shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto, as it deems appropriate, and upon the passage of such ordinance, a copy thereof certified by the City Secretary shall be forwarded to the Secretary of State for filing.

Section 10.06. Meaning of Words and Designations.

All words and designations used in this Charter are to be taken and construed in the sense in which they are understood in common language, taking into consideration the context and subject matter relative to which they are employed. The gender of the wording throughout this Charter shall always be interpreted to mean either sex. All singular words shall include the plural and all plural words shall include the singular. All references to the state law or laws of the State of Texas, however expressed in this Charter, shall mean "as presently enacted or as may be amended or superseded". The use of the word "City" in this Charter shall mean the City of Kerrville, Texas, and the use of the word "Charter" shall mean this Home Rule Charter.

Section 10.07. Savings Clause.

If any part of this Charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the Charter. The provisions of this Charter shall supersede all laws and ordinances not consistent herewith, insofar as the City of Kerrville is affected thereby.

ADOPTED: February 25, 1942

AMENDED: January 10, 1973

AMENDED: April 3, 1975

AMENDED: April 10, 1984

AMENDED: April 7, 1987

AMENDED: May 9, 1989

AMENDED: May 5, 1992

AMENDED: May 4, 1999

Charter

City of Kerrville, Texas

Page 25 of 28

AMENDED: May 20, 2008
AMENDED: June 10, 2014
AMENDED: January 14, 2020
AMENDED: May 28, 2024

CERTIFICATE OF SECRETARY OF STATE DATED:

March 3, 1942
April 25, 1973
February 13, 1976
May 14, 1984
April 28, 1987
January 10, 1990
October 16, 1992
May 27, 1999
June 17, 2008
June 10, 2014
February 11, 2020
June __, 2024



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Economic Development Grant Agreement between Habitat for Humanity-Kerr County and the City of Kerrville, Texas Economic Improvement Corporation for installation of Public Infrastructure for the development of the Mariposa Residential Neighborhood, such grant amount not to exceed \$2,260,000. (*M Hornes*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: February 2, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$2,260,000	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area H - Housing

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Habitat for Humanity is seeking a grant to cover the \$2.26 million infrastructure cost for their new subdivision, Mariposa. Habitat is proposing a new model called H-2 that will see the scale of their operations increase with a hybrid of traditional habitat build, utilizing volunteers and "sweat equity", mixed with a more traditional construction. 11 of the homes will be built using the traditional Habitat model and 36 using local builders and trades to create an affordable workforce product. This new model will increase the number of homes that Habitat can put out and also serve as a model for them raise funds for future Habitat projects.

Total investment in the project is just over \$16,000,000. Attached you will find the habitat application, overview of the proposal, site plan, preliminary plat and renderings of one of the home plans. All models include a 1 car garage, 3 bedrooms and 2 bathrooms and are between 1,200 and 1,400 square feet.

The GO Team met on November 8th to review the application and recommended that it move forward as is for consideration by the EIC board. Staff has reviewed the request, and EIC can afford this project, spread over 2 fiscal years.

On December 11, 2023, EIC approved calling a Public Hearing for the funding application from habitat for Humanity Kerr County. January 8, 2024 EIC held the public hearing and

approved a funding agreement not to exceed \$2,260,000.

On May 20, 2024, EIC unanimously approved the Grant Agreement with Habitat.

RECOMMENDED ACTION:

Approve the funding agreement from Habitat for Humanity Kerr County with a not to exceed \$2,260,000 for the proposed Mariposa subdivision.

ATTACHMENTS:

[*20240528_EIC Grant Agreement_Habitat-Mariposa_052324.pdf*](#)

[*20240213_EIC Application EIC Habitat-Humanity and Overview.pdf*](#)

[*20240213_House Plan Habitat-Humanity.pdf*](#)

ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN HABITAT FOR HUMANITY-KERR COUNTY AND THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION FOR INSTALLATION OF PUBLIC INFRASTRUCTURE FOR THE DEVELOPMENT OF THE MARIPOSA RESIDENTIAL NEIGHBORHOOD

This **Economic Development Grant Agreement** ("**Agreement**") is entered into as of the Effective Date by and between **HABITAT FOR HUMANITY - KERR COUNTY**, a Texas nonprofit corporation ("**Habitat**"), acting herein by and through its duly authorized Executive Director ("**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. Habitat and EIC are sometimes collectively referred to herein as "**Parties**" and individually as "**Party**".

WITNESSETH:

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 including:

Land, buildings, equipment, facilities, and improvements found by the Board to be required or suitable for the promotion of development and expansion of affordable housing, as described by 42 U.S.C. Section 12745; and

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, Habitat manages and expends funds that it receives to build and/or renovate homes that it then offers to qualified families in need; and

WHEREAS, Habitat has applied for a grant from EIC for funds necessary to develop a residential neighborhood to be known as *Mariposa* ("Mariposa"), as further described below, for the purpose of providing affordable homes to families in the community and allowing for the expansion of a workforce who resides in City's corporate limits, which is necessary for both the attraction of new businesses and employers and the retention or expansion of existing businesses and employers; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with EIC's mission and the *City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures*; and

WHEREAS, EIC finds that it is in the public interest to enter into an agreement with Habitat to provide sales tax revenues collected pursuant to the Act ("**4B Revenues**") to Habitat for costs related to the public infrastructure necessary for developing Mariposa; and

WHEREAS, on February 13, 2024, 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, Habitat and EIC agree as follows:

Article I Definitions

For purposes of this Agreement, each of the following words and phrases shall have the meaning set forth herein unless the context clearly indicates otherwise:

"*4B Sales Tax(es)*" means the one-half of one percent (0.5%) sales and use tax imposed pursuant to the Development Corporation Act, Title 12, Subt. C1, Chs. 501, 502, and 505, Texas Government Code, and collected by City for the benefit of EIC.

"*Affiliate*" means, with respect to any Person (as hereafter defined), 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, a Texas home-rule city.

"*Commencement of Construction*" means plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Public Improvements; and (ii) grading of the Property or construction of the building elements of the Public Improvements or Development has commenced.

"*Completion of Construction*" means, (i) with respect to each Eligible Dwelling

Unit, the date a certificate of occupancy or approval of the final inspection, as applicable, with respect to a Dwelling Unit has been issued by City such that the Dwelling Unit may be occupied and (ii) with respect to the Public Improvements, the Public improvements have been accepted by the City following Substantial Completion of Construction.

“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.

“Deed of Trust” means a Deed of Trust to Secure Performance in the form substantially as set forth in **Exhibit C**, conveying a first lien on the Property to Michael C. Hayes, Trustee, for the benefit of EIC in the amount of the Grant for the purpose of securing the repayment of the Grant in accordance with the provisions of this Agreement.

“Development” means the single family residential housing development to be known as *“Mariposa”* developed with an estimated 44, but no fewer than 42 Eligible Dwelling Units constructed on Lots, plus the related Public Improvements, the layout of which is depicted in **Exhibit A**. Of the Eligible Dwelling Units, Habitat plans to build ten (10) Eligible Dwelling Units within the Development in its typical collaborative, community effort. The remaining Eligible Dwelling Units will be built by a single builder.

“Development Regulations” means the Zoning Code, the Subdivision Code, and all other ordinances, regulations, building codes, policies, specifications, and standards enacted or adopted by City relating to the Development and use of real property located within City’s corporate limits and/or City’s extraterritorial jurisdiction; the construction and/or installation of public utilities and/or other public improvements; and the construction of buildings and/or other structures, whether public or private.

“Dwelling Unit” means a single-family detached dwelling, as such phrase is defined in the City’s Zoning Code, constructed on a Lot.

“Effective Date” means the later of (i) the date this Agreement bears the signatures of authorized representatives of all of the Parties, whether appearing on the same document or in identical counterparts as provided in Section 11.13, (ii) the date the Deed of Trust has been signed by Habitat in recordable form and delivered to EIC, and (iii) the date this Agreement has been authorized by City’s City Council pursuant to Section 505.158 of the Act.

“EIC Fiscal Year” means the period beginning on October 1st and ending on the immediately following September 30th.

"Eligible Dwelling Unit" means a Dwelling Unit constructed on a Lot that qualifies as Workforce Housing and title to which has been conveyed to a Person other than to Habitat or a Habitat affiliate. Whether or not a Dwelling Unit qualifies as Workforce Housing and, therefore, an Eligible Dwelling Unit, shall be based on the purchase price of the Dwelling Unit paid by the initial buyer of the Dwelling Unit from the builder of the Dwelling Unit as set forth in the buyer's signed HUD-1 Settlement Statement (or similar form) executed at the time of closing on the purchase of said Dwelling Unit.

"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, work stoppages, epidemics, or pandemics.

"Grant" means an amount not to exceed **Two Million Two-Hundred and Sixty Thousand and No/100 Dollars (\$2,260,000.00)** or a lesser amount actually paid by EIC to Habitat pursuant to this Agreement. Subject to the terms and conditions set forth in this Agreement, EIC will administer and pay the Grant to Habitat on a reimbursable basis for actual costs resulting from the work necessary to complete the Project. In addition, and to account for decreases in the estimated cost of the Project, if any, EIC will initially encumber and thereafter make payments of the Grant to the maximum amount of \$1,800,000.00 (or 80% of the Grant) and will reserve \$460,000.00 as a contingency (the "Contingency"). To the extent Habitat's actual costs for the Project exceed \$1,800,000.00, EIC will encumber and thereafter pay Habitat such portion of the Contingency as authorized by this paragraph; provided, however that EIC's total reimbursements to Habitat shall in no circumstances exceed \$2,260,000.00.

"Lot" means an undivided tract or parcel of land within the Property having access to a street, which tract or parcel is, or in the future may be, offered for sale and which is designated as a distinct and separate tract identified by a lot number on an approved subdivision plat containing all or a portion of the Property, which plat has been recorded in the Official Public Records or Plat Records of Kerr County, Texas, on or after the Effective Date.

"Person" means (i) an individual or (ii) a corporation, partnership (whether limited or general), trust, estate, unincorporated organization, association, limited liability company, or other business entity recognized and/or described in the Texas Business Organizations Code.

"Project" means the design and construction of the Public Improvements.

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

“*Public Improvements*” means the portion of the public infrastructure required to be constructed in association with the development of the Development, to include public streets and sidewalks, water and wastewater mains, drainage facilities, including a retention pond or equivalent, and others as required by the Development Regulations, which Habitat will design and construct or cause to be designed and constructed. The Public Improvements and work necessary therefor are more specifically described in **Exhibit C**, attached hereto, and titled the *Preliminary Engineer’s Opinion of Probable Construction Cost*. The Grant is intended to reimburse Habitat for its complete cost for design and construction of the Public Improvements required to be constructed in association with the Project, as defined by **Exhibit C**.

“*Substantial Completion of Construction*” means construction of the Public Improvements has been completed in accordance with the Development Regulations and the plans and specifications were approved by City prior to the commencement of construction of the Public Improvements, and such Public Improvements are eligible for acceptance by City.

“*Workforce Housing*” means a newly constructed Eligible Dwelling Unit with a sales price within the Home Ownership Value Limits for households between 80% and 120% of the Area Median Family Income (“**AMFI**”) within Kerr County, Texas, as annually established by the Texas Department of Housing and Community Affairs (“**TDHCA**”) HOME Program (Title 10, Texas Government Code, Chapter 2306), or its successor program, which is purchased from the original builder of the Eligible Dwelling Unit by a Person. If the AMFI ceases to be published by TDHCA or its successors, the Parties agree to substitute a reasonable standard for the AMFI.

Article II

Term

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

- (a) May 1, 2034;
- (b) the date of termination when terminated by mutual agreement of the Parties;
- (c) the date terminated by EIC if (i) Commencement of Construction does not occur on or before the date set forth in Section 4.4 and (ii) EIC elects to terminate this Agreement by providing notice to Habitat before Commencement of Construction actually occurs;

- (d) the date terminated by EIC if (i) Substantial Completion of Construction of the Public Improvements does not occur on or before the date set forth in Section 4.4 and (ii) EIC elects to terminate this Agreement by providing notice to Habitat before Substantial Completion of Construction actually occurs;
- (e) the date of termination when terminated pursuant to Articles VIII or IX; or
- (f) the date terminated by Habitat at Habitat's sole and absolute discretion, and not due to any other Party's default under this Agreement, upon Habitat's refund of the Grant, or a portion of the Grant, previously paid by EIC to Habitat, which obligation to refund shall survive the termination of this Agreement.

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 Sales Tax Grant

3.1 Payment of Grant. Subject to the continued satisfaction of all the terms and conditions of this Agreement by Habitat, EIC agrees to provide Habitat with an amount up to and not to exceed the Grant, in accordance with the following:

- (a) Habitat shall deliver to EIC for review and approval by EIC or its designated representative a written request for payment (each a "**Payment Request**") that sets forth the amount of the cost incurred since the previous Payment Request and be accompanied by evidence of costs incurred, such as contracts, invoices, receipts, bills of sale, and proof of actual payment of such costs. EIC agrees to pay the undisputed amounts of a Payment Request not later than thirty (30) days following delivery of the Payment Request and verification of the costs paid and work completed, which shall include on-site inspections to confirm the extent of completion of construction of the Public Improvements. Each Payment Request shall also be accompanied by a report on the status of construction of the Public Improvements as of the date of the Payment Request.
- (b) Notwithstanding anything in this Agreement to the contrary, the total amount of installments of the Grant paid by EIC during any EIC Fiscal Year shall not exceed \$1,130,000.00. The submission of a Payment

Request during an EIC Fiscal Year that results in the requested amount of Grant payments for such EIC Fiscal Year exceeding \$1,130,000 shall be carried over and paid by EIC in association with the first Payment Request submitted during the next EIC Fiscal Year.

- (c) Notwithstanding anything in this Agreement, EIC may, but shall have no obligation to, pay the Grant or any portion thereof if Habitat has failed to submit one or more Payment Requests to EIC on or before the 180th day after Completion of Construction of the Public Improvements.

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 Habitat.

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 Habitat from 4B Sales Taxes will be limited to the payments of "costs" as defined by the Act and as specified above for the Project.

Article IV

Conditions to the Economic Development Grant

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

4.2 Good Standing. Habitat shall not incur a breach or default of this Agreement beyond any applicable notice and cure period.

4.3 Development Regulations. Habitat shall comply with all Development Regulations in its development and construction of the Development.

4.4 Commencement and Substantial Completion of Construction. Subject to delays resulting from events of Force Majeure, Commencement of Construction of the Public Improvements shall commence not later than three hundred and sixty-five (365) days after the Effective Date. Subject to delays resulting

from events of Force Majeure, Substantial Completion of Construction of the Public Improvements shall occur not later than three hundred and sixty-five (365) days from the date of Commencement of Construction.

4.5 Dwelling Unit Pricing. Habitat shall develop and sell Eligible Dwelling Units within the Development in accordance with the following:

- (a) *Sales Pricing.* Habitat shall develop Lots and sell Eligible Dwelling Units within the Property at sales prices in accordance with affordability standards set forth herein for Workforce Housing. The applicable standards are those established by the Texas Department of Housing and Community Affairs (TDHCA), with the “net sales price” (defined below) of the Eligible Dwelling Units being affordable to homebuyers earning between 80 percent and 120 percent of the area median family income (“**AMFI**”) within Kerr County, Texas. As an example, for 2023, the AMFI is \$84,600 for Kerr County and the upper threshold for workforce housing within the TDHCA HOME Program is \$275,000. “Net sales price” means that any incentives or closing cost assistance that Habitat pays on behalf of a homebuyer will be credited to the sales price of the Eligible Dwelling Unit for purposes of this section. Based upon TDHCA regulations, the sales price of each Eligible Dwelling Unit may not exceed \$275,000 (“**Maximum Sales Price**”). For purposes of this Agreement, the AMFI and Maximum Sales Price of Eligible Dwelling Units shall be adjusted from time to time in the same manner as set forth in subsections (c) and (d) below, but in no circumstance shall the Maximum Sales Price decrease.
- (b) *Applicability of Pricing.* The Maximum Sales Price is only applicable to the initial sale of the Eligible Dwelling Unit.
- (c) *Increase in Maximum Sales Price – Construction Cost Adjustments.* Where construction costs beyond the reasonable control of Habitat increase prior to completion and sale of the final Eligible Dwelling Unit within the Development and Habitat believes that the Maximum Sales Price needs to be increased due to increases in the cost of construction materials beyond its reasonable control, Habitat may seek an increase in the Maximum Sales Price by providing the City Manager with specific documentation, including without limitation, specific third party cost data or invoices, to justify an increase of the Maximum Sales Price. Consideration and possible approval by the City Manager shall occur not later than the 30th day after the City Manager’s receipt of such documentation. The Maximum Sales Price may only be increased pursuant to this Section 4.5(c) once per calendar year.

(d) *Increase in Maximum Sales Price – AMFI Adjustments.* In addition to Section 4.5(c), the Maximum Sales Price of a completed Eligible Dwelling Unit shall be adjusted annually to reflect the then current AMFI and shall be effective with respect to contracts entered into after the date of any such adjustments for the sale of Lots with completed Eligible Dwelling Units. Any adjustment shall only apply prospectively and likewise, shall not effect a legally executed contract for the purchase of an Eligible Dwelling Unit.

(e) *Sales Information.* Following the initial sale of each Eligible Dwelling Unit, Habitat shall provide EIC with the following information with respect to such sale:

1. The street address, lot, and block of the Lot sold;
2. The date of closing on the sale;
3. The name(s) of the buyer;
4. A copy of the buyer's signed HUD-1 settlement statement relating to the sale of the Eligible Dwelling Unit, which HUD-1 statement shall be redacted to exclude disclosure of Social Security Numbers, Driver's License numbers, and account numbers.

4.6 Housing and Public Improvements.

- (a) Habitat shall design and thereafter construct the Development substantially in accordance with **Exhibit A**, subject to such changes as may be made during design and approval of the Development in accordance with the Development Regulations.
- (b) Habitat shall design and thereafter construct each driveway that serves an Eligible Dwelling Unit to be not less than sixteen (16) feet wide. Habitat's design and construction of the parking spaces shall comply with the Development Regulations. Habitat shall work with the City to address and alleviate potential parking concerns within the Development through establishing restrictive covenants to prohibit and/or limit on-street parking. The homeowners' association shall enforce such restrictions to the extent allowed by law.
- (c) Habitat shall comply with Chapter 74, Article III of City Code of Ordinances relating to the dedication of land for park and open space uses and/or payment of a fee to City in lieu of such dedication.

- (d) Habitat shall take all reasonable steps to protect the community from unnecessary light pollution in accordance with the City's "dark sky" standards.

4.7 Records. Habitat 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 Habitat's records related to the Project during the term of this Agreement and for three (3) years thereafter, upon reasonable notice at Habitat's offices at the address identified in Section 11.5, below.

Article V

Sale of Project, Merger or Consolidation of Habitat

5.1 Sale of Habitat Assets. A sale of all or any of the assets of Habitat that includes a sale of all or any portion of the Property shall not release Habitat from its duties and responsibilities to EIC under the terms of this Agreement and shall not result in the assignment of this Agreement to such acquiring entity without prior written consent from EIC, which will not be unreasonably withheld; provided, that Habitat's proposed successor shall have the financial condition to fully satisfy Habitat's duties and responsibilities hereunder and agrees to assume Habitat'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 Habitat with any third party not affiliated with Habitat that results in conveyance of title to all or any portion of the Property to a new entity, not later than thirty (30) days prior to any such merger or consolidation, Habitat shall provide EIC with information and assurance reasonably acceptable to EIC regarding: (i) the surviving entity's assumption and satisfaction of the Habitat'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 Habitat'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 Habitat. In the event of any sale or merger involving Habitat or its affiliates, the surviving entity shall assume Habitat's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

Article VI
Habitat's Representations and Warranties

Habitat represents and warrants as of the Effective Date:

- (a) Habitat 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 Habitat in accordance with Habitat's applicable governing documents and this Agreement is not in contravention of Habitat's governing documents, or any agreement or instrument to which Habitat 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 Habitat, threatened against or affecting Habitat, which may result in a materially adverse change in Habitat's business, properties, or operations sufficient to jeopardize Habitat's legal existence or for-profit viability; and
- (d) No written application, written statement, or correspondence submitted by Habitat to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of Habitat, 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.

Except as expressly set forth in this Article VI, Habitat 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 Effective Date:

- (a) EIC, to the best of the knowledge of its Board of Directors, is legally authorized by the Act and its governing documents to enter into this Agreement;
- (b) Execution of this Agreement has been duly authorized by EIC in accordance with EIC's applicable governing documents;

- (c) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's directors or officers, threatened against or affecting EIC, which may result in EIC's inability to satisfy 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.

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

Suspension and Termination of EIC Performance

8.1 Suspension of EIC Performance. EIC may, at its sole option and after providing not less than thirty (30) days' written notice to Habitat, suspend EIC's performance under this Agreement until such time as Habitat shall have cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:

- (a) Habitat becomes insolvent;
- (b) The appointment of a receiver of Habitat, 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 Habitat as bankrupt; or
- (d) The filing by Habitat 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.

8.2 Termination for Default. If any of the conditions described in Section 8.1 are not be cured by Habitat within ninety (90) days after the onset of the condition and the provision of the required notice, Habitat will be considered to have breached this Agreement and EIC may, at its option, following written notice to Habitat, immediately terminate this Agreement. If this Agreement is terminated in accordance with this Section 8.2, the amount of the Grant for which EIC is obligated to pay pursuant to this Agreement shall be reduced by an amount equal to the Grant divided by the actual number of Eligible Dwelling Units then multiplied by the number of Eligible Dwelling Units for which Completion of Construction has been achieved as of the date of termination (the "Reduced Grant Amount"). However, if

the amount of the Grant is greater than the amount of the Reduced Grant Amount paid to Habitat prior to the date of termination, not later than thirty (30) days after the date of termination, Habitat shall be obligated to refund to EIC an amount equal to the amount of the Grant paid to Habitat as of the date of termination less the amount of the Reduced Grant Amount.

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 ninety (90) 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 the said ninety (90) day period, 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 Habitat 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 Repayment of Grant

10.1 Repayment Terms. Habitat shall be obligated to repay some or all of the Grant to EIC if this Agreement is terminated pursuant to (i) Section 2.1, (ii)

Section 8.2, or (iii) Section 9.2 following the failure of Habitat to timely cure a default following receipt of notice subject to the following:

- (a) If such termination is prior to the Completion of Construction of any Eligible Dwelling Units on any Lot, Habitat shall repay all amounts of the Grant paid by EIC to Habitat prior to the date of termination; and
- (b) If such termination is after Completion of Construction of the Public Improvements but after Completion of Construction of some, but not all, Eligible Dwelling Units, Habitat shall repay to EIC the portion of the Grant equal to (1) the number of Eligible Dwelling Units for which Completion of Construction did not occur as of the date of termination multiplied by (2) the quotient of the Grant divided by the total number of Eligible Dwelling Units.

10.2 Lien Securing Repayment; Release: Habitat's obligation to repay the Grant or any portion thereof pursuant to Section 10.1 shall be secured by a first priority lien against the Property granted by Habitat in favor of EIC in accordance with the Deed of Trust (the "**Deed of Trust Lien**"). EIC agrees to grant a partial and/or complete release of the Deed of Trust Lien as follows:

- (a) Not later than ten (10) days after repayment in full of the Grant in accordance with Section 10.1(a), EIC will grant and deliver to Habitat a full release of the Deed of Trust Lien;
- (b) Not later than ten (10) days after repayment in full of the portion of the Grant in accordance with Section 10.1(b), EIC will grant and deliver to Habitat a full release of the Deed of Trust Lien with respect to the Lots on which Completion of Construction of a Eligible Dwelling Unit has not occurred as of the date of termination;
- (c) With respect to Lots (i) on which Completion of Construction of a Eligible Dwelling Unit has occurred on or before May 1, 2034, and (ii) closing on the initial sale of the Lot and Eligible Dwelling Unit occurs on or before May 1, 2034, not later than ten (10) days after receipt of written notice of the proposed closing date on the sale of such Lot, EIC will deliver to the title company handling the closing on the sale of the Lot an executed partial release of the Deed of Trust Lien with respect to such Lot, which partial release shall be held by the title company until EIC authorizes its recording, which authorization may be withheld until receipt from the title company of:
 - (1) A fully signed copy of the purchaser's HUD-1 Statement (or similar form) that shows the purchase price of the Lot;

- (2) Written confirmation that all signed documents and funds have been delivered in escrow to the title company to allow the sale to proceed to closing and funding; and
 - (3) If the sales price of the Lot exceeds the then current Maximum Sales Price, confirmation from the title company that the title company will be distributing to EIC from the sale proceeds an amount equal to the amount of the Grant divided by the total of Eligible Dwelling Units; and
- (d) With respect to Lots (i) on which Completion of Construction of a Eligible Dwelling Unit has occurred and (ii) closing on the initial sale of the Lot and Eligible Dwelling Unit occurs after May 1, 2034, not later than ten (10) days after receipt of written notice of the proposed closing date on the sale of a Lot, EIC will deliver to the title company handling the closing on the sale of the Lot an executed partial release of the Deed of Trust Lien with respect to such Lot, which partial release shall be held by the title company until EIC authorizes its recording, which authorization may be withheld until receipt from the title company of:
- (1) A fully signed copy of the purchaser's HUD-1 Statement (or similar form) that shows the purchase price of the Lot;
 - (2) Written confirmation that all signed documents and funds have been delivered in escrow to the title company to allow the sale to proceed to closing and funding; and
 - (3) Regardless of the sales price of the Lot, confirmation from the title company that the title company will be distributing to EIC from the sale proceeds an amount equal to the Grant divided by the total of Eligible Dwelling Units.

10.3 [INTENTIONALLY LEFT BLANK]

10.4 Deadline for Repayment. When obligated to do so, Habitat's deadline to make any repayment of the Grant, whether in whole or in part, shall be as follows:

- (a) The amounts of the Grant to be repaid by Habitat to EIC pursuant to Section 10.1 shall be delivered to EIC not later than thirty (30) days after the date of termination of the Agreement; and
- (b) The amounts of the Grant to be repaid by Habitat upon sale of a Lot pursuant to Sections 10.2(c) and 10.2(d) shall be paid at closing on the sale of the Lot.

10.5 Foreclosure of Deed of Trust Lien. In addition to such other remedies as may be available at law or pursuant to this Agreement, EIC shall have the right to proceed with non-judicial foreclosure of the Deed of Trust Lien pursuant to the Deed of Trust and applicable provisions of the Texas Property Code, as amended, if Habitat fails to repay the Grant (or portion thereof) within the time provided in Section 10.4.

10.6 Survival. The provisions of this Article X shall survive the termination of this Agreement.

Article XI General Provisions

11.1 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.

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

11.3 Approval. Unless otherwise specifically provided otherwise, EIC grants the City Manager or designee the authority to make approvals where the Agreement requires.

11.4 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.

11.5 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 Habitat

Mary Campana, Executive Director
P.O. Box 2140
Kerrville, Texas 78029-2140
Facsimile: (830) 895-7085
Email: mary.campana@habitatkerr.org

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 or designee
City of Kerrville
City Hall, 701 Main Street
Kerrville, Texas 78028
Telephone: (830) 258-1110
Facsimile: (830) 792-3850
Email: michael.hornes@kerrvilletx.gov

11.6 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. If a Party consents to any valid assignment of this Agreement by the other Party, the assigning Party, no such assignment shall be effective and the assigning Party shall not be relieved of any obligations and liabilities on the part of such assigning Party under this Agreement until delivery to the other Party of the document providing for such assignment signed by the assignor and assignee in which the assignee assumes all rights and obligations of the assignee pursuant to the Agreement; provided, however, the assignor shall not be released from any liabilities accruing prior to the effective date of such assignment unless the assignee agrees to unconditionally assume all liabilities of the assignor accruing prior to the effective date of the assignment.

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

11.8 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.

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

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

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

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

11.13 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.

11.14 Employment of Undocumented Workers. During the term of this Agreement, Habitat agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Habitat shall repay the Grant and any other funds received by Habitat from EIC as of the date of such violation within one hundred twenty (120) days after the date Habitat 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. Habitat is not liable for a violation of this section in relation to any workers employed by a subsidiary, Affiliate, contractor, subcontractor, or franchisee of Habitat or any other Person other than Habitat.

11.15 Prohibition on Contracts with Companies Boycotting Israel. Habitat hereby verifies the following in accordance with Section 2271.002, Texas Government Code:

- (a) Habitat does not boycott Israel; and
- (b) Habitat will not boycott Israel during the Term of this Agreement.

11.16 Prohibition Against Business with Iran, Sudan or Foreign Terrorist Organization. Habitat warrants, covenants, and represents that Habitat is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

11.17 Prohibition on Contracts with Companies Boycotting Energy Companies. Habitat verifies the following in accordance with Section 2276.002, Texas Government Code:

- (a) Habitat does not boycott energy companies; and
- (b) Habitat will not boycott energy companies during the Term of this Agreement.

11.18 Written Verification as to Firearm Entities. Habitat verifies the following in accordance with Section 2274.002, Texas Government Code:

- (a) Habitat does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
- (b) Habitat will not discriminate against a firearm entity or firearm trade association during the Term of this Agreement.

11.19 Prohibition on Contracts with Companies Related to Certain Countries. Where this Agreement pertains to “critical infrastructure”, as defined by Section 2274.0101, Texas Government Code, Habitat verifies (1) that it is not owned by or the majority of stock or other ownership interest of the Habitat is not held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or other designated countries; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other designated countries; or (2) headquartered in China, Iran, North Korea, Russia, or other designated countries.

11.20 Exhibits. All exhibits attached to this Agreement are incorporated herein by reference for all purposes.

(signatures begin on following page)

SIGNED AND AGREED on this ____ day of _____, 2024.

HABITAT FOR HUMANITY - KERR COUNTY

By: _____
MARY CAMPANA, EXECUTIVE
DIRECTOR

SIGNED AND AGREED on this ____ day of _____, 2024.

CITY OF KERRVILLE, TEXAS ECONOMIC
IMPROVEMENT CORPORATION

By: _____
KIM CLARKSON, PRESIDENT

ATTEST:

Kesha Franchina, Recording Secretary

APPROVED AS TO FORM:

Michael C. Hayes, Attorney for EIC

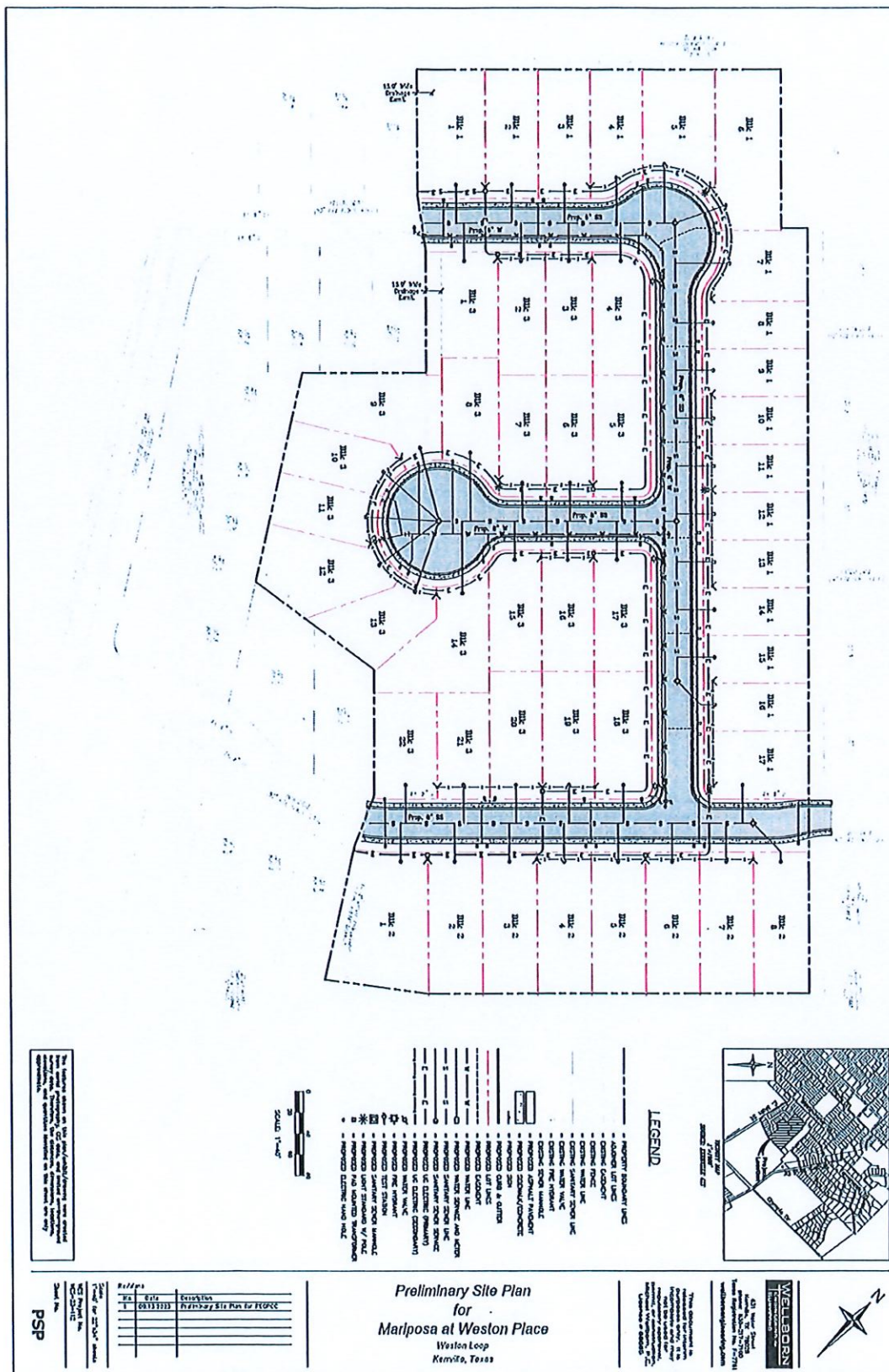


Exhibit B
Description of the Property

[Insert metes and bounds description of the boundary of the Property]

Field Note Description of a 8.56 acres
(called 8.57 acre) tract or parcel being
the exterior boundary of "Weston Homeplace Phase II"
a proposed subdivision within the City of Kerrville, Texas

Being all of a certain tract or parcel of land containing 8.56 acres (called 8.57 acres), more or less out of the Samuel Wallace Survey No. 114, Abstract No. 348 in the City of Kerrville, Kerr County, Texas; part of a 51.07 acre tract conveyed from Chas. Schreiner Bank, Independent Executor to Mary Lou Antony Arnold by a Deed of Distribution executed the 11th day of September, 1989 as recorded in Volume 522, Page 721 Real Property Records of Kerr County, Texas being more particularly described by metes and bounds as follows:

(Note: The following courses are based upon RTK/GNSS survey data gathered in NAD83 datum, Texas State Plane coordinates, S. Central Region reduced to horizontal ground distances expressed in U.S. survey feet with bearings relative to Grid North. Record or deed courses that differ from survey measurements are shown in parenthesis)

Beginning at a ½ inch diameter steel rod found marking the northwesterly corner of Lot 11, Block 1 of Weston Homeplace Phase I as recorded in Volume 7, Page 212, Plat Records of Kerr County, Texas said point being on the easterly line of a 0.79 acre tract dedicated to the City of Kerrville in Volume 3, Page 131 of the Deed Records of Kerr County, Texas for the westerly most corner of the herein described parcel;

Thence along the common line between said 0.79 acre tract dedicated to the City of Kerrville and the herein described parcel N 44°55'44"E 349.20 feet (N 44°56'37"E, 349.09 feet) to a ½ inch diameter steel rod with cap stamped "Voelkel" found marking the southwesterly corner of Lot 1, Block 1 of "Pinto Trails Subdivision" according to the record plat thereof filed as Document Number 12-6169 being the westerly most corner of the herein described parcel;

Thence along the southerly line of said Lot 1, Block 1, "Pinto Trails Subdivision", S 44°46'11"E, 149.89 feet (S 44°54'24"E, 150.00 feet) to a ½ inch diameter steel rod with cap stamped "Voelkel" found marking the southeasterly corner of said Lot 1, Block 1 and an angle point in the boundary of the herein described parcel;

Thence along a portion of the easterly line of said Lot 1, Block 1, N 45°13'35"E, 25.10 feet (N 45°05'36"E, 25.00 feet) to a ½ inch diameter steel rod with cap stamped "Voelkel" found marking a point in the southerly line of Lot 3, Block 1 of said "Pinto Trails Subdivision", for an angle point in the herein described parcel;

Thence along the southerly line of Block 1 of said "Pinto Trails Subdivision", S 44°48'16"E (S 44°54'24"E) at 600.03 feet (599.94 feet) pass a ½ inch diameter steel rod with cap stamped "Voelkel" found marking the southeasterly corner of a 50 foot wide access and utility easement as referenced in Volume 837, Page 668, in the Official Public Records of Kerr County, Texas said point identical to the southwesterly corner of Lot 2, "Pinto Trails Subdivision Phase 2", as recorded in File Number 13-8973, in the Official Public Records of Kerr County, Texas; continuing along the southerly line of said Lot 2, in all 720.04 feet (720.66 feet) to a point of intersection with the northwesterly line of a certain 31.54 acre tract of Schreiner University according to the Warranty Deed with Vendor's Lien recorded as Document Number 12-00668, Deed Records of Kerr County, Texas said point being a ½ inch diameter steel rod with cap stamped "Voelkel" marking the northeasterly most corner of the herein described parcel;

Thence along the said northwesterly line of the 31.54 acre tract of Schreiner University, S 44°47'19"W, 364.07 feet (S 44°56'37"W, 365.34 feet) to a ½ inch diameter steel rod with cap stamped "Voelkel" found in a wire fence line marking an angle point in said line and an angle point in the northeasterly line of the herein described parcel;

Thence continuing along the said northwesterly line of the 31.54 acre tract of Schreiner University with the fence S 52°15'14"W, 100.98 feet (S 52°18'03"W, 100.89 feet) to a ½ inch diameter steel rod found at the corner of a fence being the northeasterly corner of Lot 8, Block 3, of said "Weston Homeplace Phase I" for the southeasterly most corner of the herein described parcel;

Thence with the fence along the northerly line of said Lot 8, Block 3, N 31°51'34"W, 129.07 feet (N 31°50'29" W, 128.79 feet) to a ½ inch diameter steel rod found at the northwesterly corner of said Lot 8, Block 3 at a point of intersection with the southeasterly Right-of-Way of Bow Drive, a 50 foot wide public road and an angle point in the boundary of the herein described parcel;

Thence crossing said Bow Drive, N 23°02'51"W, 51.92 feet (N 22°59'53" W, 51.27 feet) to a ½ inch diameter steel rod found at the northeasterly corner of Lot 1, Block 2 of said "Weston Homeplace Phase I" marking the northwesterly Right-of-Way of said Bow Drive, an angle point in the boundary of the herein described parcel;

Thence along the northerly line of said Lot 1, Block 2 of said "Weston Homeplace Phase I", N 44°39'38"W, 119.66 feet, (N 44°38'45" W, 119.67 feet) to a ½ inch diameter steel rod found at the northwesterly corner of said Lot 1, Block 2 for an angle point in the boundary of the herein described parcel;

Thence along the northwesterly line of said Lot 1, Block 2 and Lot 2, Block 2, "Weston Homeplace Phase I", S 80°48'14"W, 140.71 feet (S 80°44'59" W, 140.83 feet) to a wood fence post found marking the southwesterly corner of said Lot 2, Block 2 at a point of intersection with the northerly line of Lot 4, Block 2 of said "Weston Homeplace Phase I", being an angle point in the boundary of the herein described parcel;

Thence along the northerly line of Lots 4, 5, 6, and 7, Block 2 of said "Weston Homeplace Phase I", N 31°54'14"W, at 20.20 feet pass a ½ inch diameter steel rod marking the northeasterly corner of said Lot 5, in all 201.60 feet (N 31°54'14" W, 201.60 feet) to a 5/8 inch diameter steel rod with cap stamped "WES 10194410" set for the northwesterly corner of said Lot 7, Block 2 at a point of intersection with the easterly line of Lot 9, Block 2, of said "Weston Homeplace Phase I" for an angle point in the boundary of the herein described parcel;

Thence along the easterly line of Lots 9, 10 and 11, of said Block 2, "Weston Homeplace Phase I", N 44°56'37"E, 119.88 feet (N 44°53'03" E, 119.88 feet) to a 5/8 inch diameter steel rod with cap stamped "WES 10194410" set for the northeasterly corner of said Lot 11, Block 2 for a reentrant corner of the herein described parcel;

Thence along the northerly line of said Lot 11, Block 2, N 44°57'33"W, 116.44 feet (N 44°57'58" W 116.45 feet) to a ½ inch diameter steel rod with cap stamped "Voelkel" found at the northwesterly corner of said Lot 11 on the easterly Right-of-Way of Weston Loop, a 50 foot wide public road for an angle point in the boundary of the herein described parcel;

Thence crossing said Weston Loop N 53°30'27"W, 50.78 feet (N 53°48'07" W, 50.58 feet) to a 5/8 inch diameter steel rod with cap stamped "6278" found marking the northeasterly corner of said Lot 11, Block 1, "Weston Homeplace Phase I" on the westerly Right-of-Way of said Weston Loop for an angle point in the boundary of the herein described parcel;

Thence along the northerly line of said Lot 11, Block 1, N 45°07'07"W, 119.79 feet (N 45°06'57" W, 120.00 feet) to the ½ inch diameter steel rod marking the northwesterly corner of said Lot 11, Block 1, the Point of Beginning containing 373,042.87 square feet or 8.56 acres more or less.

Exhibit C

Preliminary Engineer's Opinion of Probable Construction Cost

Marlposa at Weston Place (WES 23-112)

City of Kerrville, Texas

Estimate based upon Preliminary Site Plan prepared by Wellborn Engineering & Surveying on September 13, 2023

Preliminary Engineer's Opinion of Probable Construction Cost (PEOPCC)

Item #	Description	Qty.	Unit	Unit Price	Total
Demolition Items					
1	Sawcut and remove existing asphalt pavement, including all labor & materials, complete in place	65	SY	\$9.00	\$585.00
2	Sawcut and remove existing curb & gutter, including all labor & materials, complete in place	40	LF	\$10.00	\$400.00
Total Demolition					\$985.00
Paving Items					
1	2" Type D HMA, including all labor & materials, complete in place	5235	SY	\$16.00	\$83,760.00
2	Prime coat, including all labor & materials, complete in place	5235	SY	\$2.00	\$10,470.00
3	11" flex base (TxDOT Item #247, Type A, Grade 2) for pavement base to 6" past back of curb and 2' past edge of pavement where there is no curb, including all labor & materials, complete in place	6091	SY	\$20.00	\$121,820.00
4	18" select fill (4<PI<15) to 6" past back of curb and 2' past edge of pavement where there is no curb, including all labor & materials, complete in place	6091	SY	\$20.00	\$121,820.00
5	6" compacted subgrade to 6" past back of curb and 2' past edge of pavement where there is no curb, including all labor & materials, complete in place	6091	SY	\$2.00	\$12,182.00
6	Curb & gutter, including all labor & materials, complete in place	3011	LF	\$25.00	\$75,275.00
7	3,600-psi concrete sidewalk, including all labor & materials, complete in place	1336	SY	\$50.00	\$66,800.00
8	Sidewalk ramps, including all labor & materials, complete in place	4	EA	\$1,500.00	\$6,000.00
9	Street signs with stop sign, including all labor & materials, complete in place	2	EA	\$750.00	\$1,500.00
Total Paving					\$499,627.00
Sanitary Sewer Items					
1	6" SDR 26 wastewater line, open cut, including all labor & materials, complete in place	1267	LF	\$95.00	\$120,365.00
2	48" City standard wastewater manhole, less than 10-ft depths, including all labor & materials, complete in place	5	EA	\$15,000.00	\$75,000.00
3	Core existing wastewater manhole for 18" sanitary sewer, including all labor & materials, complete in place	2	EA	\$5,500.00	\$11,000.00
4	4" sanitary sewer service connection w/ dual cleanouts, including all labor & materials, complete in place	47	EA	\$3,200.00	\$150,400.00
5	Testing in accordance with City requirements (TV & vacuum), including labor & materials, complete in place	1267	LF	\$5.00	\$6,335.00
6	Trench safety	1267	LF	\$5.00	\$6,335.00
Total Sanitary Sewer					\$369,435.00

Water Items					
1	6" PVC C-900, DR-14, pressure class 200, water line, including all labor & materials, complete in place	1033	LF	\$85.00	\$87,805.00
2	Tracer wire for 6" water line, including all labor & materials, complete in place in accordance with City requirements	1033	LF	\$0.75	\$774.75
3	Tracer wire test station, including all labor & materials, complete in place in accordance with City requirements	4	EA	\$300.00	\$1,200.00
4	Tie into ex. 6" water main, including all labor & materials, complete in place	1	EA	\$4,500.00	\$4,500.00
5	Remove ex. 6" water valve, remove 12-LF of ex. 6" water main, and tie into ex. 6" water main, including all labor & materials, complete in place	1	EA	\$4,500.00	\$4,500.00
6	6" 11.25° ductile iron MJ bend, including all labor & materials, complete in place	1	EA	\$550.00	\$550.00
7	6" 45° ductile iron MJ bend, including all labor & materials, complete in place	4	EA	\$650.00	\$2,600.00
8	6"x6" tee, including all labor & materials, complete in place	2	EA	\$900.00	\$1,800.00
9	6" gate valve, including all labor & materials, complete in place	12	EA	\$2,750.00	\$33,000.00
10	2" blow-off valve assembly, including all labor & materials, complete in place	1	EA	\$2,000.00	\$2,000.00
11	City Standard Fire Hydrant Assembly with 6" D.I. pipe, 6" valve, fittings, tee, and concrete pads, including all labor & materials, complete in place	3	EA	\$7,500.00	\$22,500.00
12	1" water service with curb stop & meter box, including all labor & materials, complete in place	13	EA	\$2,500.00	\$32,500.00
13	2" to 1" double water services with 2 curb stops & meter boxes, including all labor & materials, complete in place	17	EA	\$3,750.00	\$63,750.00
14	Testing in accordance with City requirements (chlorination & pressure), including labor & materials, complete in place	1033	LF	\$7.00	\$7,231.00
15	Trench safety	1033	LF	\$5.00	\$5,165.00
				Total Water	\$269,875.75
Dry Utilities					
1	Trenching on-site for underground electrical and communications conduits, including all labor & materials, complete in place	2827	LF	\$48.00	\$135,696.00
2	(2) 3" underground primary electrical main line conduits, including all labor & materials, complete in place in accordance with utility provider and City requirements	2926	LF	\$28.00	\$81,928.00
3	(2) 3" underground secondary electrical main line conduits, including all labor & materials, complete in place in accordance with utility provider and City requirements	1329	LF	\$28.00	\$37,212.00
4	(4) 2" underground phone & cable conduits, including labor & materials, complete in place in accordance with utility provider and City requirements	2827	LF	\$23.00	\$65,021.00
5	Connect to existing underground electric, including labor & materials, complete in place in accordance with utility provider and City requirements	2	EA	\$109.00	\$218.00
6	KPUB electrical transformer pad, including labor & materials, complete in place	11	EA	\$2,444.00	\$26,884.00
7	KPUB electrical handholes w/ conduit stub outs extending 5' into each lot, including labor & materials, complete in place	25	EA	\$1,075.00	\$26,875.00
8	Installation of communication handholes, including all labor & non-provided materials, complete in place (Note handholes to be provided by communication provider)	25	EA	\$1,075.00	\$26,875.00
9	Installation of communication pull boxes, including all labor & non-provided materials, complete in place (Note pull boxes to be provided by communication provider)	11	EA	\$1,075.00	\$11,825.00
10	Street light pole, including base & conduit, labor, & materials, complete in place. Coordinate installation with K PUB.	4	EA	\$5,639.00	\$22,556.00
11	Trench safety	2827	LF	\$3.00	\$8,481.00
				Total Dry Utilities	\$443,571.00

Grading Material				
1	Strip site & stock pile 3" of topsoil, Including all labor & materials	1499	CY (Estimate)	\$8.00
2	Grading cut material to final finished grade elevation, Including all labor & equipment	430	CY (Estimate)	\$14.00
3	Grading fill material to final finished grade elevation, Including all labor & equipment	6158	CY (Estimate)	\$6.00
4	Net fill material to Import, Including all labor & equipment	5728	CY (Estimate)	\$17.85
<i>*Note that earthwork cut and fill quantities are based upon loose lifts and grading shown on the previous Civil Plans prepared July 1, 2022.</i>				
Total Grading Material				\$157,204.80
Miscellaneous Items				
1	Traffic control (barricades, delineators, & signs) Including all labor & materials, complete in place	1	LS	\$5,000.00
2	Material testing	1	LS	\$34,815.00
3	Construction staking, Including all labor & materials, complete in place	1	LS	\$20,000.00
4	Erosion control, complete in place Including SWPPP	1	LS	\$15,000.00
5	Final stabilization to file for TCEQ Notice of Termination & obtain City final acceptance	1	LS	\$20,000.00
6	Performance & payment bond (3%)	1	LS	\$52,220.00
7	City standard maintenance bond (1.5%)	1	LS	\$26,110.00
8	Insurance naming owner & engineer as additional insured	1	LS	\$2,500.00
9	Contingency (25%)	1	LS	\$435,175.00
Total Miscellaneous				\$610,820.00
TOTAL PEOPCC				\$2,351,518.55

Notes:

1. Quantities and unit prices are estimates based upon the Preliminary Site Plan prepared by Wellborn Engineering & Surveying on September 13, 2023 and are subject to change based upon survey data, geotechnical report findings, final construction documents subject to review & approval by others, material & contractor pricing subject to current market, etc.
2. This PEOPCC Form is provided as a confidential document for this project only and may not be used or distributed except for the purpose of review and consideration by the Client.

**Exhibit D
Form of Deed of Trust**

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

STATE OF TEXAS §
 §
COUNTY OF KERR §

Deed of Trust to Secure Performance

Terms

Date: _____, 2024

Grantor: Habitat for Humanity – Kerr County, a Texas non-profit corporation

Grantor's Mailing Address: P.O. Box 295081, Kerrville, Kerr County, Texas 78029-5081

Trustees: Michael C. Hayes

Trustee's Mailing Address: 701 Main Street, Kerrville, Kerr County, Texas 78028

Beneficiary: City of Kerrville, Texas, Economic Improvement Corporation, a Texas non-profit corporation

Beneficiary's Mailing Address: 701 Main Street, Kerrville, Kerr County, Texas 78028

Incentive Agreement: That certain *Economic Development Grant Agreement* between Grantor and Beneficiary dated _____, 2024.

Grant Amount: Two Million Two-Hundred and Sixty Thousand and No/100 Dollars (\$2,260,000.00)

Other Debt: None

Property (including any improvements):An approximately ____ acre tract of land situated in the _____ Survey, Abstract No. _____, City of Kerrville, Kerr County, Texas, said tract of land being more particularly described in Exhibit "A," attached hereto and incorporated herein by reference.

Prior Lien: None

Other Exceptions to Conveyance and Warranty: (i) Any and all matters affecting the state of title to the Property recorded in the appropriate public records of Kerr County, Texas, or visible or apparent from an inspection of the Property, and (ii) all zoning, building and other laws, regulations and ordinances of any and all municipal, governmental and quasi-governmental bodies and agencies having jurisdiction over the Property or any part thereof.

For value received and to secure Grantor's performance of the Incentive Agreement, including, but not limited to, the repayment of the Grant, Grantor conveys the Property to Trustee in trust. Grantor warrants and agrees to defend the title to the Property, subject to the Other Exceptions to Conveyance and Warranty. Upon full performance of Grantor pursuant to the Incentive Agreement including, if and when required, repayment of the Grant or portion thereof, and provided Grantor is not in default of the Incentive Agreement, this deed of trust will have no further effect, and Beneficiary will release it at Grantor's expense.

Clauses and Covenants

A. Grantor's Obligations

Grantor agrees to—

1. keep the Property in good repair and condition;
2. pay all taxes and assessments on the Property before delinquency;
3. defend title to the Property subject to the Other Exceptions to Conveyance and Warranty and preserve the lien's priority as it is established in this deed of trust;
4. obey all laws, ordinances, and restrictive covenants applicable to the Property;
5. if the lien of this deed of trust is not a first lien, pay or cause to be paid all prior lien notes and abide by or cause to be abided by all prior lien instruments; and
6. notify Beneficiary of any change of address.

B. Beneficiary's Rights

1. Beneficiary may appoint in writing a substitute trustee, succeeding to all rights and responsibilities of Trustee.

2. If the proceeds of the Grant are used to pay any debt secured by prior liens, Beneficiary is subrogated to all the rights and liens of the holders of any debt so paid.

3. Notwithstanding the terms of the Incentive Agreement to the contrary, and unless applicable law prohibits, all payments received by Beneficiary from Grantor with respect to the Incentive Agreement or this deed of trust may, at Beneficiary's discretion, be applied first to amounts payable under this deed of trust and then to amounts due and payable to Beneficiary with respect to the Incentive Agreement, to be applied to late charges, principal, or interest in the order Beneficiary in its discretion determines.

4. If Grantor fails to perform any of Grantor's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor on demand for any amounts so paid, including attorney's fees, plus interest on those amounts from the dates of payment at the rate stated in the Incentive Agreement for matured, unpaid amounts. The amount to be reimbursed will be secured by this deed of trust.

5. If there is a default by Grantor relating to the terms and conditions of the Incentive Agreement, or if Grantor fails to perform any of Grantor's obligations and the default continues for a period of not less ninety (90) days after any required notice of the default and the time allowed to cure, Beneficiary may—

a. declare the unpaid principal balance and earned interest on the Grant immediately due;

b. direct Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent will cause notice of the foreclosure sale to be given as provided by the Texas Property Code as then in effect; and

c. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Grant Amount payable under the Incentive Agreement.

6. Beneficiary may remedy any default without waiving it and may waive any default without waiving any prior or subsequent default.

C. Trustee's Rights and Duties

If directed by Beneficiary to foreclose this lien, Trustee will—

1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then in effect;

2. sell and convey all or part of the Property "AS IS" to the highest bidder for cash with a special warranty binding Grantor, subject to the Prior Lien and to the Other Exceptions to Conveyance and Warranty and without representation or warranty, express or implied, by Trustee;

3. from the proceeds of the sale, pay, in this order—

a. expenses of foreclosure, including a reasonable commission to Trustee;

b. to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid under the Incentive Agreement;

c. any amounts required by law to be paid before payment to Grantor; and

d. to Grantor, any balance; and

4. be indemnified, held harmless, and defended by Beneficiary against all costs, expenses, and liabilities incurred by Trustee for acting in the execution or enforcement of the trust created by this deed of trust, which includes all court and other costs, including attorney's fees, incurred by Trustee in defense of any action or proceeding taken against Trustee in that capacity.

D. General Provisions

1. If any of the Property is sold under this deed of trust, Grantor must immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor will become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.

2. Recitals in any trustee's deed conveying the Property will be presumed to be true.

3. Proceeding under this deed of trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.

4. This lien will remain superior to liens later created even if the time of payment of all or part of the Grant Amount is extended or part of the Property is released.

5. If any portion of the Obligation cannot be lawfully secured by this deed of trust, payments will be applied first to discharge that portion.

6. Grantor assigns to Beneficiary all amounts payable to or received by Grantor from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses incurred, including attorney's fees and court and other costs, Beneficiary will either release any remaining amounts to Grantor or apply such amounts to reduce the Grant Amount. Beneficiary will not be liable for failure to collect or to exercise diligence in collecting any such amounts. Grantor will immediately give Beneficiary notice of any actual or threatened proceedings for condemnation of all or part of the Property.

7. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the Property. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee collect rent and other income and receipts as long as Grantor is not in default with respect to the Incentive Agreement or this deed of trust. Grantor will apply all rent and other income and receipts to payment of the Grant Amount and performance of this deed of trust, but if the rent and other income and receipts exceed the amount due with respect to the Incentive Agreement and the deed of trust, Grantor may retain the excess. If Grantor defaults in payment of the Grant Amount or performance of this deed of trust, Beneficiary may terminate Grantor's license to collect rent and other income and then as Grantor's agent may rent the Property and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the Property. Beneficiary will apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Grantor's obligations with respect to the Incentive Agreement and this deed of trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph and acting under this paragraph does not waive any of Beneficiary's other rights or remedies.

8. Interest on the debt secured by this deed of trust will not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess will be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides any conflicting provisions in this and all other instruments concerning the debt.

9. In no event may this deed of trust secure payment of any debt that may not lawfully be secured by a lien on real estate or create a lien otherwise prohibited by law.

10. When the context requires, singular nouns and pronouns include the plural.

11. This deed of trust binds, benefits, and may be enforced by the successors in interest of all parties.

12. Grantor and each surety, endorser, and guarantor of the repayment of the Grant Amount pursuant to the Incentive Agreement waive all demand for payment, presentation for payment, notice of intention to accelerate maturity, notice of acceleration of maturity, protest, and notice of protest, to the extent permitted by law.

13. Grantor agrees to pay reasonable attorney's fees, trustee's fees, and court and other costs of enforcing Beneficiary's rights under this deed of trust if this deed of trust is placed in the hands of an attorney for enforcement.

14. If any provision of this deed of trust is determined to be invalid or unenforceable, the validity or enforceability of any other provision will not be affected.

15. Grantor acknowledges that this deed of trust is made pursuant to and subject to that certain Economic Development Grant Agreement dated and effective _____, 2024, between Grantor and Beneficiary ("the Incentive Agreement"), the terms of which, to the extent that they affect and govern the payment of the Grant Amount or the terms of this deed of trust, are incorporated herein by reference. Grantor further acknowledges that the Incentive Agreement is entered pursuant to the Development Corporation Act, Chapters 501-505, Texas Local Government Code (the "Act"). Grantor understands, acknowledges, and agrees that the proceeds advanced by Beneficiary will be used to pay costs for the construction of the Public Improvements (as defined in the Incentive Agreement) and constitutes a Project under the Act. Beneficiary understands and agrees that the Grant Amount shall be reduced and forgiven in accordance with the Incentive Agreement, which provisions are incorporated herein by reference.

**HABITAT FOR HUMANITY – KERR
COUNTY**

By: _____
Mary Campana, Executive Director

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF KERR §

This instrument was acknowledged before me, the undersigned authority, on _____, 2024, by Mary Campana, Executive Director of Habitat for Humanity – Kerr County, a Texas non-profit corporation, for and on behalf of said corporation.

Notary Public, State of Texas

My Commission expires: _____

EXHIBIT "A"
PROPERTY DESCRIPTION

EXHIBIT A

Field Note Description of a 8.56 acre
(called 8.57 acre) tract or parcel being
the exterior boundary of "Weston Homeplace Phase II"
a proposed subdivision within the City of Kerrville, Texas

Being all of a certain tract or parcel of land containing 8.56 acres (called 8.57 acres), more or less out of the Samuel Wallace Survey No. 114, Abstract No. 348 in the City of Kerrville, Kerr County, Texas; part of a 51.07 acre tract conveyed from Chas. Schreiner Bank, Independent Executor to Mary Lou Antony Arnold by a Deed of Distribution executed the 11th day of September, 1989 as recorded in Volume 522, Page 721 Real Property Records of Kerr County, Texas being more particularly described by metes and bounds as follows:

(Note: The following courses are based upon RTX/GNSS survey data gathered in NAD83 datum, Texas State Plane coordinates, S. Central Region reduced to horizontal ground distances expressed in U.S. survey feet with bearings relative to Grid North. Record or deed courses that differ from survey measurements are shown in parenthesis)

Beginning at a ½ inch diameter steel rod found marking the northwesterly corner of Lot 11, Block 1 of Weston Homeplace Phase I as recorded in Volume 7, Page 212, Plat Records of Kerr County, Texas said point being on the easterly line of a 0.79 acre tract dedicated to the City of Kerrville in Volume 3, Page 131 of the Deed Records of Kerr County, Texas for the westerly most corner of the herein described parcel;

Thence along the common line between said 0.79 acre tract dedicated to the City of Kerrville and the herein described parcel N 44°55'44"E 349.20 feet (N 44°56'37"E, 349.09 feet) to a ½ inch diameter steel rod with cap stamped "Voelkel" found marking the southwesterly corner of Lot 1, Block 1 of "Pinto Trails Subdivision" according to the record plat thereof filed as Document Number 12-6169 being the westerly most corner of the herein described parcel;

Thence along the southerly line of said Lot 1, Block 1, "Pinto Trails Subdivision", S 44°46'11"E, 149.89 feet (S 44°54'24"E, 150.00 feet) to a ½ inch diameter steel rod with cap stamped "Voelkel" found marking the southeasterly corner of said Lot 1, Block 1 and an angle point in the boundary of the herein described parcel;

Thence along a portion of the easterly line of said Lot 1, Block 1, N 45°13'35"E, 25.10 feet (N 45°05'36"E, 25.00 feet) to a ½ inch diameter steel rod with cap stamped "Voelkel" found marking a point in the southerly line of Lot 3, Block 1 of said "Pinto Trails Subdivision", for an angle point in the herein described parcel;

Thence along the southerly line of Block 1 of said "Pinto Trails Subdivision", S 44°48'16"E (S 44°54'24"E) at 600.03 feet (599.94 feet) pass a ½ inch diameter steel rod with cap stamped "Voelkel" found marking the southeasterly corner of a 50 foot wide access and utility easement as referenced in Volume 837, Page 668, in the Official Public Records of Kerr County, Texas said point identical to the southwesterly corner of Lot 2, "Pinto Trails Subdivision Phase 2", as recorded in File Number 13-8973, in the Official Public Records of Kerr County, Texas, continuing along the southerly line of said Lot 2, in all 720.04 feet (720.66 feet) to a point of intersection with the northwesterly line of a certain 31.54 acre tract of Schreiner University according to the Warranty Deed with Vendor's Lien recorded as Document Number 12-00668, Deed Records of Kerr County, Texas said point being a ½ inch diameter steel rod with cap stamped "Voelkel" marking the northeasterly most corner of the herein described parcel;

Thence along the said northwesterly line of the 31.54 acre tract of Schreiner University, S 44°47'19"W, 364.07 feet (S 44°56'37"W, 365.34 feet) to a ½ inch diameter steel rod with cap stamped "Voelkel" found in a wire fence line marking an angle point in said line and an angle point in the northeasterly line of the herein described parcel;

Thence continuing along the said northwesterly line of the 31.54 acre tract of Schreiner University with the fence S 52°15'14"W, 100.98 feet (S 52°18'03"W, 100.89 feet) to a ½ inch diameter steel rod found at the corner of a fence being the northeasterly corner of Lot 8, Block 3, of said "Weston Homeplace Phase I" for the southeasterly most corner of the herein described parcel;

Thence with the fence along the northerly line of said Lot 8, Block 3, N 31°51'34"W, 129.07 feet (N 31°50'29" W, 128.79 feet) to a ½ inch diameter steel rod found at the northwesterly corner of said Lot 8, Block 3 at a point of intersection with the southeasterly Right-of-Way of Bow Drive, a 50 foot wide public road and an angle point in the boundary of the herein described parcel;

Thence crossing said Bow Drive, N 23°02'51"W, 51.32 feet (N 22°59'53" W, 51.27 feet) to a ½ inch diameter steel rod found at the northeasterly corner of Lot 1, Block 2 of said "Weston Homeplace Phase I" marking the northwesterly Right-of-Way of said Bow Drive, an angle point in the boundary of the herein described parcel;

Thence along the northerly line of said Lot 1, Block 2 of said "Weston Homeplace Phase I", N 44°39'38"W, 119.66 feet, (N 44°38'45" W, 119.67 feet) to a ½ inch diameter steel rod found at the northwesterly corner of said Lot 1, Block 2 for an angle point in the boundary of the herein described parcel;

Thence along the northwesterly line of said Lot 1, Block 2 and Lot 2, Block 2, "Weston Homeplace Phase I", S 80°48'14"W, 140.71 feet (S 80°44'59" W, 140.83 feet) to a wood fence post found marking the southwesterly corner of said Lot 2, Block 2 at a point of intersection with the northerly line of Lot 4, Block 2 of said "Weston Homeplace Phase I", being an angle point in the boundary of the herein described parcel;

Thence along the northerly line of Lots 4, 5, 6, and 7, Block 2 of said "Weston Homeplace Phase I", N 31°54'14"W, at 20.20 feet pass a ½ inch diameter steel rod marking the northeasterly corner of said Lot 5, in all 201.60 feet (N 31°54'14" W, 201.60 feet) to a 5/8 inch diameter steel rod with cap stamped "WES 10194410" set for the northwesterly corner of said Lot 7, Block 2 at a point of intersection with the easterly line of Lot 9, Block 2, of said "Weston Homeplace Phase I" for an angle point in the boundary of the herein described parcel;

Thence along the easterly line of Lots 9, 10 and 11, of said Block 2, "Weston Homeplace Phase I", N 44°56'37"E, 119.88 feet (N 44°53'03" E, 119.88 feet) to a 5/8 inch diameter steel rod with cap stamped "WES 10194410" set for the northeasterly corner of said Lot 11, Block 2 for a reentrant corner of the herein described parcel;

Thence along the northerly line of said Lot 11, Block 2, N 44°57'33"W, 116.44 feet (N 44°57'58" W, 116.45 feet) to a ½ inch diameter steel rod with cap stamped "Voelkel" found at the northwesterly corner of said Lot 11 on the easterly Right-of-Way of Weston Loop, a 50 foot wide public road for an angle point in the boundary of the herein described parcel;

Thence crossing said Weston Loop N 53°30'27"W, 50.78 feet (N 53°48'07" W, 50.58 feet) to a 5/8 inch diameter steel rod with cap stamped "6278" found marking the northeasterly corner of said Lot 11, Block 1, "Weston Homeplace Phase I" on the westerly Right-of-Way of said Weston Loop for an angle point in the boundary of the herein described parcel;

Thence along the northerly line of said Lot 11, Block 1, N 45°07'07"W, 119.79 feet (N 45°06'57" W, 120.00 feet) to the ½ inch diameter steel rod marking the northwesterly corner of said Lot 11, Block 1, the Point of Beginning containing 373,042.87 square feet or 8.56 acres more or less.

SECTION II - APPLICANT INFORMATION

Submittal Date: 11/1/2023

Company Name: Habitat For Humanity KERR County

Address (City/State): 121 McBinnis Court Phone 830-792-4844

Fax 830-895-7085

Kerrville Tx 78028
City State Zip Code

Name of Company Contact on this project:

MARY CAMPANA, Executive Director

Contact Address (if different from above):

Phone _____

Same Fax _____

City State Zip Code

Type of Business Structure: Corporation ☒ Partnership ___ Sole Proprietorship ___

Year Business Started: Year 1989 Location Kerrville, TEXAS

Current Employment: Permanent Full-Time 5 Permanent Part-Time 4

Average Production Wage \$1,500 per pay period

Full-Time Employees receive the following benefits:

Health Insurance, Dental AND Vision

Financial Information: Five Years Annual Financials Attached ☒

Include: Statement of profit and loss; Balance sheet; Cash Flow Statement; IRS reporting forms, Pro forma

Annual Sales for Corporation / Company \$ 188,049 Habitat Restore Sales before expenses

This Facility \$ 0

Local Sales Tax paid Annually

\$ 12,038.47 - *Habitat Restore Sales Tax*

Current Payroll

\$ 324,213.62

Has the Company ever filed for bankruptcy protection under Chapter 7 or Chapter 11 of the Bankruptcy Statutes? No (☒) Yes () Details:

SECTION III- PROJECT INFORMATION

This application is for a:

Business Development ()

- Expansion of Existing Facility () or
- New Construction (☒)
- Other ()

Quality of Life Improvement ()

- Parks, Open Space ()
- Other ()

Capital Improvements for Public Infrastructure

- Utilities (☒)
- Roadways (☒) *INFRASTRUCTURE FOR COMMUNITY DEVELOPMENT*
- Other ()

The proposed improvements are to be located within the following taxing district(s): City of Kerrville (☒) Kerr County (☒) Kerrville ISD (☒) Ingram ISD () Center Point ISD ()

SECTION IV - PROJECT DESCRIPTION

Please attach a statement on company letterhead and signed by an officer of the company (1) fully explaining the nature and scope of the project; (2) describing the proposed site and existing improvements, if any; (3) describing all proposed improvements; and (4) providing a list of eligible improvements; (5) provide a list of major, fixed equipment along with manufacturer specifications and cost quote from the manufacturer.

Should this project be approved, the Economic Improvement Corporation may require performance criteria as a part of the funding agreement, in addition to this application. The funding agreement is between the Economic Improvement Corporation and the City

of Kerrville. Said funding agreement will outline project costs, timelines, other information may be necessary to carry out the project in an efficient manner.

SECTION V – ECONOMIC IMPACT INFORMATION

Part A- Project Investment in Improvements

Total \$ 16,117,328
Sq. Footage of New Building (s) _____
Size of Parking _____
Other _____

Part B- Project Investment in Fixed Equipment

(New)\$ _____
Manufacturer of Equipment _____
Anticipated Useful Life of Equipment _____
Purchase Price \$ _____ Installation Cost \$ _____
Anticipated Delivery time from Date of Order _____

Part C- Permanent Employment Estimates- (do not include owners, stockholders or their dependents)

Anticipated Number of New Full-Time Employees as a result of this project 0

Anticipated Number within 12 months of Completion of this project 0

Anticipated Number within 24 months of Completion of this project 0

Typical Job Descriptions or Job Titles

Project will partner with local builders, contractors, developers and trades that will create work for these companies

Anticipated starting salaries of these employees: (avg.) \$ N/A /hour

Part D- Permanent Part-Time Employment Estimates-

(do not include owners, stockholders or their dependents)

Anticipated Number of New Part-Time Employees as a result of this project 0

Anticipated Number within 12 months of Completion of this project 0

Anticipated Number within 24 months of Completion of this project 0

Typical Job Descriptions or Job Titles of these employees: _____

Anticipated starting salaries of these employees: (avg.) \$ N/A / hour

Part E- Payroll Impact

Within 12 months of Project Completion _____ Within 24 months of Project Completion _____

\$ N/A
FTE X Avg. Wage X 40 hrs X 52 wks

\$ N/A
PTE X Avg. Wage X 20 hrs X 52 wks

SECTION VI- OTHER ASSISTANCE

Has the Company applied for any State or Federal assistance on this project?

No () Yes ()

Describe:

To the best of my knowledge, the above information is an accurate description of the proposed project details.

MARY CAMPANA
Printed name

11/1/2023
Date

Executive Director
Title

Mary Campana
Signature

Mariposa Overview: EIC PARTNERSHIP

Habitat for Humanity Kerr County is seeking a meaningful and lasting \$2.26M investment from the EIC (Economic Improvement Corporation) to facilitate the scaling of its operations and provide a local collaborative solution to Kerrville's attainable housing crisis. EIC's investment in Habitat is an opportunity to make a transformative impact on the attainable housing crisis in Kerrville. This partnership will not only expand the available resources but also create a unified front against the housing crisis.

Proven Model: HFHKC is well positioned to scale our affordable housing programs and adjust our financial model to add attainable workforce housing for the growing workforce in Kerrville. Drawing from successful H-2 models implemented by other Habitat affiliates, HFHKC will replicate best practices while tailoring them to the specific requirements of Kerrville. The successful H-2 Habitat model has a track record of providing cost-effective and efficient housing solutions for communities in need.

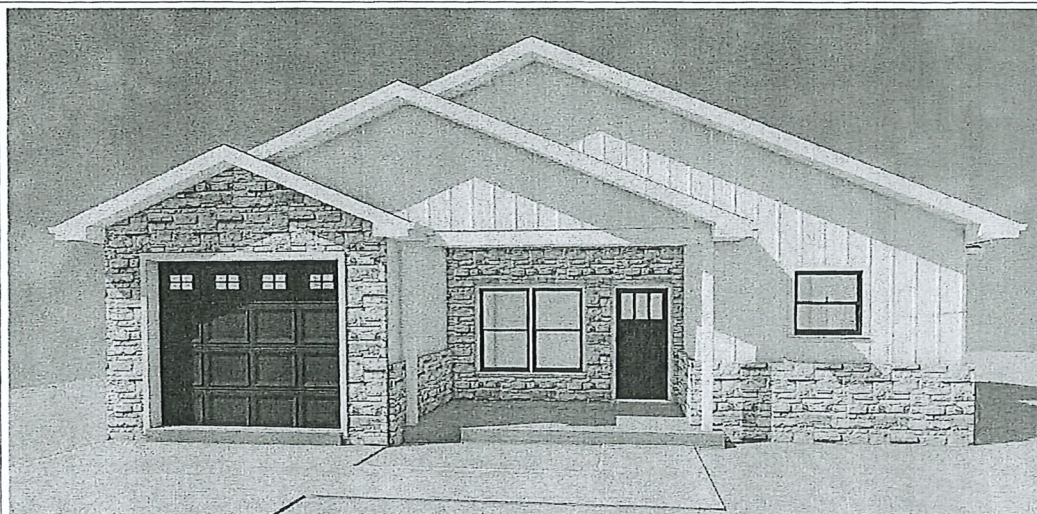
Economic Impact: EIC's investment will enable Habitat to expand its housing projects, thereby increasing the number of attainable housing units available in Kerrville. The Mariposa project is expected to generate a substantial economic impact of \$16 million* for Kerrville, not only by providing affordable housing but also by creating jobs and boosting local businesses. By scaling operations, fostering local collaboration, and prioritizing sustainability, Habitat will provide immediate relief to the community. Expanding attainable housing options will attract new businesses, improve workforce stability, and stimulate local economic development.

Habitat's Partnerships: Habitat has been partnering with local contractors and builders since 1989. We will leverage this strong community collaboration to accelerate the estimated \$9.6 million construction investment required for this community, allowing for the timely delivery of affordable homes and contain our construction costs to build an affordable product for the Kerrville workforce. These partnerships will not only broaden the pool of resources but also establish a cohesive front in the battle against the housing crisis.

Innovative Affordable Housing Mix: The Mariposa Community will feature a mix of traditional Habitat homes and workforce housing units, catering to the needs of affordable homeownership for both low- and moderate-income families. Mariposa is a hybrid Habitat community with a total of 47 homes including 11 traditional Habitat homes (60% MFI) families and 36 workforce homes (80% MFI) families.

Scalable Financial Model: The nature of (H-2) construction project dictates a different funding model than the traditional Habitat process. HFHKC will utilize 3rd party lenders (with a product suitable for low to moderate-income home buyers) to provide mortgages for our clients. Because the homes will be built and sold in phases, we expect that the proceeds from each home will provide ongoing support future Habitat projects.

****Direct of investment of \$16 million for land, development, and construction. \$16.02 million estimated property tax based upon completion.***

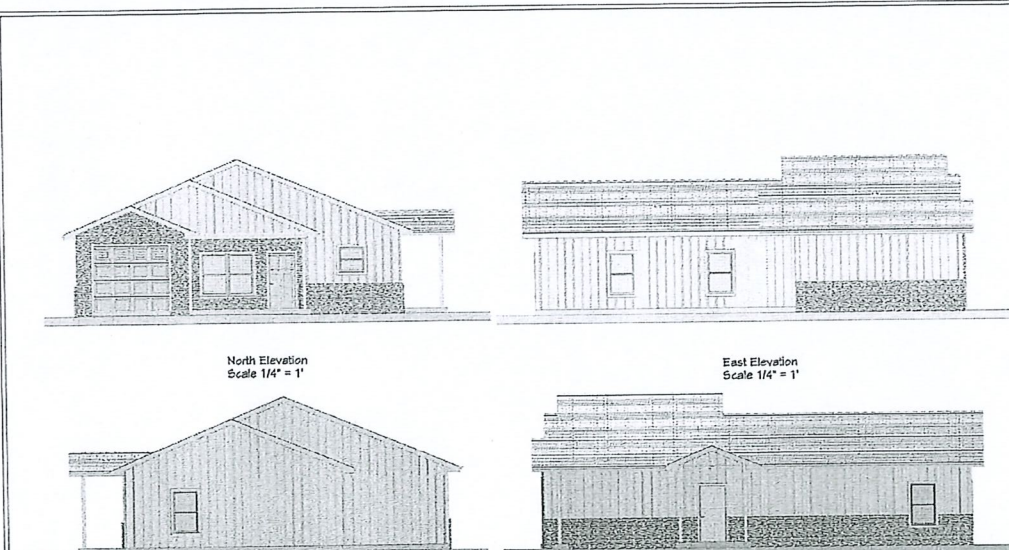


Layout Page Table	
Number	Title
1	Cover Page
2	Floor Plan - Electrical Plan
3	Elevations
4	Framing Plan
5	Roof Plan
6	Foundation Plan

Reprographics Ltd.
Reproduction of this drawing is prohibited without written permission.

Habitat for Humanity
Project #2023

DATE: 9/13/2023
SCALE: 1/4" = 1'
SHEET: 1



North Elevation
Scale 1/4" = 1'

East Elevation
Scale 1/4" = 1'

South Elevation
Scale 1/4" = 1'

West Elevation
Scale 1/4" = 1'

Reprographics Ltd.
Reproduction of this drawing is prohibited without written permission.

Habitat for Humanity
Project #2023

DATE: 9/13/2023
SCALE: 1/4" = 1'
SHEET: 3

The image displays a set of architectural drawings for a building project, including an Electrical Plan View, a Floor Plan View Dimensioned, and three elevations (Elevation 3, Elevation 4, and Elevation 6).

Electrical Plan View: This drawing shows the layout of the building's electrical system, including wiring paths, outlets, and switches. It includes a north arrow and a scale of 1" = 5' 0".

Floor Plan View Dimensioned: This drawing shows the overall layout of the building, including rooms, corridors, and exterior walls. It includes a north arrow and a scale of 1" = 5' 0".

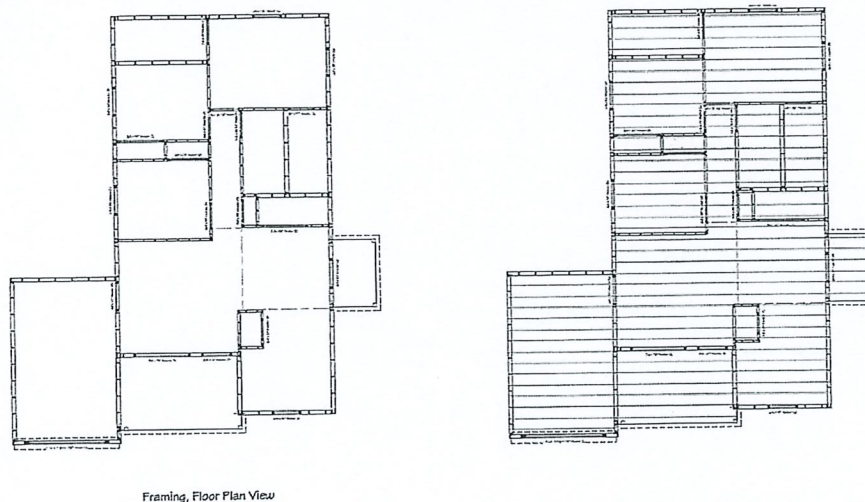
Elevation 3: This drawing shows the exterior elevation of the building, including the roofline, windows, and doors. It includes a scale of 1" = 5' 0".

Elevation 4: This drawing shows the exterior elevation of the building, including the roofline, windows, and doors. It includes a scale of 1" = 5' 0".

Elevation 6: This drawing shows the exterior elevation of the building, including the roofline, windows, and doors. It includes a scale of 1" = 5' 0".

Habitat for Humanity
4413006 Ave
Pineville, TN 37028

DATE:	9/13/2023
SCALE:	1/4" = 1'
SHEET:	2



ALL SPANS GREATER THAN 11" REFER TO MFG. LVL SPAN TABLES

Habitat for Humanity
Harrison One
Knoxville, TN 37625

DATE:
9/13/2023
SCALE:
1/4" = 1'
SHEET:
4



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Economic Development grant funding agreements between the City of Kerrville, Texas, Economic Improvement Corporation and Schreiner University for the initiation of Center for Talent and Workforce Development. (*M Hornes*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 7, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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	N/A
Action Item	E9.1 - Promote Schreiner University and brand Kerrville as a college town

SUMMARY STATEMENT:

Schreiner University has submitted a request for funding for two projects for a total of \$3,000,000. The first one here is to help start the Center for Talent and Workforce Development with a request for \$822,428 over 3 years. After review, EIC board recommended the following schedule of payments:

Year 1: \$411,214.00

Year 2-5: \$102,804.00

Total: \$822,430.00

On 5/20/24, EIC approved the Grant Funding Agreement.

RECOMMENDED ACTION:

Approve the funding agreement.

ATTACHMENTS:

[20240528_EIC Grant AAgreement Schreiner U Center Talent-Workforce.pdf](#)

[20240528_Schreiner_Application to EIC 03062024.pdf](#)

[20240528_SU response to_Go Team Oct_2023.pdf](#)

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
SCHREINER UNIVERSITY AND THE CITY OF KERRVILLE, TEXAS
ECONOMIC IMPROVEMENT CORPORATION FOR FUNDING
FOR SCHREINER UNIVERSITY'S
CENTER FOR TALENT AND WORKFORCE DEVELOPMENT**

This Economic Development Grant Agreement ("Agreement") is entered into as of the Effective Date by and between SCHREINER UNIVERSITY, a Texas nonprofit corporation ("Schreiner"), acting herein by and through its duly authorized President; 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. Schreiner and EIC are sometimes collectively referred to herein as "Parties" and individually as "Party".

WITNESSETH:

WHEREAS, the Texas Legislature, in Chapter 501 of Act, found that:

- 1) the present and prospective right to gainful employment and the general welfare of the people of this state require as a public purpose the promotion and development of new and expanded business enterprises and of job training;
- 2) the existence, development, and expansion of business, commerce, industry, higher education, and job training are essential to the economic growth of this state and to the full employment, welfare, and prosperity of residents of this state; and
- 3) the assistance provided by corporations in promoting higher education opportunities encourages and fosters the development and diversification of the economy of this state and the elimination of unemployment and underemployment in this state;

WHEREAS, pursuant to the Act, the EIC is authorized to provide funding relating to projects which the EIC finds to be encompassed within the intent of the Legislature when passing the Act and the definition of "Projects" as that word is defined by Chapters 501 and 505 of the Act, including:

land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are for the creation or retention of primary jobs and found by the board of directors to be required or suitable for the development, retention, or expansion of primary job training facilities for use by institutions of higher education; and the

land, buildings, equipment, facilities, improvements, and expenditures found by the board of directors to be required or suitable for use for a career center, as such "projects" are defined in Sections 501.101 and 501.105 of the Act;

WHEREAS, the Act defines "primary job" in part, as a job that is available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and

WHEREAS, Schreiner is a provider of higher education in the City of Kerrville and has been in existence since 1923; and

WHEREAS, as part of its efforts to increase its enrollment and support the local economy by graduating students from vocational programs to fill "primary jobs" needed by local companies, which ultimately export their products or services to regional, statewide, national, or international markets and thereby infuse new dollars into the local economy, Schreiner proposes to launch its new Center for Talent and Workforce Development (the "Center") using grant assistance from the EIC; and

WHEREAS, the Center is intended to build capacity within the Kerrville community and beyond to promote and staff business, industry, and manufacturing industries; and

WHEREAS, the Center will be established on the main campus of Schreiner (2100 Memorial Blvd) in a building known as the STEM-Zone, constructed in 2018, with available office and meeting space, a computer lab, and easily accessible with parking across the street; and

WHEREAS, over its first three years, the Center is expected to provide vocationally-focused training to at least 150 students across priority areas that have been identified by the Kerr Economic Development Corporation and in other areas beyond these priorities; and

WHEREAS, such training offered by the Center will make up various programs which will lead to the attainment of micro-credentials, certificates, certifications, and associate degrees; and

WHEREAS, Schreiner believes that the Center, as a new division within its set of academic programs, is key to developing current talent to fit workforce needs and a workforce that is necessary for the future and the continued economic gains experienced by this community and beyond; and

WHEREAS, as a result of the offered training and certifications, the Center will help increase the local talent pool to support regional businesses and offer help

to non-college educated workers; and

WHEREAS, Schreiner's creation of the Center will result in the creation of three full-time professional jobs; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and the *City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures* in that it will provide an "economic benefit" to the City of Kerrville and also enhance the "quality of life" within the community; and

WHEREAS, EIC finds that it will be in the public interest to enter into an agreement with Schreiner to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to Schreiner for costs related to creation and funding of the Center over its first three years; and

WHEREAS, on April 15, 2024, 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, Schreiner and EIC agree as follows:

ARTICLE I. EIC'S OBLIGATIONS

A. EIC hereby agrees to provide a grant to Schreiner in an amount up to and not to exceed Eight Hundred Twenty-Two Thousand and Four Hundred and Thirty and No/100 Dollars (\$822,430.00) ("Grant"). EIC's payment of the Grant shall be as follows for the Term of this Agreement:

- (1) Year 1 – a payment not to exceed \$411,214.00.
- (2) Year 2 through 5 – payment each year not to exceed \$102,804.00 for any one year.

For purposes of this subsection, "year" means the time period between October 1 and September 30 of the following year, with Year 1 (2024) expected to be a partial year which will not be prorated, allowing the full Year 1 payment for expenditures through September 30, 2024. In the event Schreiner's expenditures exceed the maximum allowable payment amount in any year (as described in A(1) and A(2), such expenditures will "roll over" to future years and become eligible for full reimbursement at the beginning of each such successive year.

- B. Schreiner shall use the Grant proceeds for costs related to its development and opening of the Center, to include the hiring and employment of two new full-time employees for the Center, operational costs to run the program; marketing and recruitment, furniture and supplies, professional development costs, and costs for necessary facility renovation, course development and delivery, and regional business cultivation, herein referred to collectively as the "Project". The Project consists of developing and opening the Center, more specifically described and with an estimation of costs as found in the attached **Exhibit A**, such that the Grant makes up only partial funding for the Project.
- C. Prior to the initial payment from EIC, Schreiner must provide sufficient evidence demonstrating, in the reasonable opinion of EIC, that Schreiner has received and/or been promised funding from other entities or sources to complete the full Project as specified in **Exhibit A**.
- D. Subject to the terms and conditions set forth in I.A. above and Article II, EIC shall provide payment of the Grant to Schreiner on a quarterly basis (Jan.-March, April-June, July-Sept., Oct.-Dec.). Schreiner shall submit its request for payment along with written evidence to EIC 1) of its expenditures of allowable "costs" that it has expended to date for the Project. "Costs" are as defined by Texas Local Government Code § 501.152, with evidence of such provided by Schreiner to include contracts, invoices, receipts, bills of sale, payroll expenditures, and proof of actual payments; and 2) an updated summary of its progress in developing and initiating the Center. Schreiner may submit its payment requests to the EIC following the end of each quarter. The City Manager shall review the information and authorize payments to Schreiner within 30 days of the submission. In addition, the City Manager and/or the EIC may seek a site visit of the Center, subject to Schreiner's reasonable approval of a mutually-available time.
- E. Payments made by EIC to Schreiner from 4B Revenues will be limited to reimbursement of expenditures made for the payment of "costs" as defined by Texas Local Government Code § 501.152.
- F. In no event will the total amount of payments made to fund the Grant exceed Eight Hundred Twenty-Two Thousand and Four Hundred and Thirty and No/100 Dollars (\$822,430.00).
- G. Schreiner specifically agrees that EIC shall only be liable to Schreiner for the actual amount of the Grant to be conveyed to Schreiner and shall not be liable to Schreiner for any other actual or consequential damages, direct or indirect, interest, attorney fees, or costs of court for any act of default by EIC under the terms of this Agreement.

- H. 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, 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.

ARTICLE II. SCHREINER'S OBLIGATIONS

- A. Schreiner shall open and begin operating the Project on or before May 31, 2025, with full operations by May 31, 2028. Full operations means that the Schreiner has fully staffed the Center with employees, and has begun the process of placing enrolled students into full-time employment positions. Failure to complete full operations of the Project by May 31, 2028 will terminate the obligation of EIC to make any additional payments of the Grant.
- B. Schreiner shall continue to receive input from regional businesses and associations concerning vocational job needs in the community, and evaluate whether Schreiner can responsibly alter or expand the vocational offerings of the Center to meet such needs.
- C. Schreiner shall keep and maintain complete and accurate records relating to the costs of creating and opening the Project, separate and identifiable from its other records, for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect the records during the Term of this Agreement and for three (3) years thereafter, upon reasonable notice.
- D. Following the initial payment from EIC to Schreiner, Schreiner shall make written quarterly reports concerning the status of Project and the estimated opening date of the Facilities to EIC, due on or before the 15th day after the end of each calendar quarter. In addition, and upon request from the City Manager, Schreiner shall appear before the EIC during its monthly meeting to present its report. The City Manager shall endeavor to provide EIC with at least thirty (30) days' written notice of this request. Payment requests shall also be accompanied by a report on the status of the development and initiation of the Center as of the date of each request.
- E. Schreiner shall only be liable to EIC for the actual amount of the Grant to be conveyed to Schreiner and shall not be liable to EIC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or cost of court for any act of default by Schreiner under the terms of this Agreement.

ARTICLE III. REIMBURSEMENT

- A. If EIC has not previously breached its obligations under this Agreement, and on May 31, 2028 Schreiner has failed to open and begin conducting its operations and activities of the Center, then Schreiner shall repay EIC One Hundred Thousand and No/100 Dollars (\$100,000.00) ("Repayment"). The Repayment shall be made as soon as commercially practicable after the receipt of a written demand by EIC, but in no event later than thirty (30) days from the receipt of such written demand. Upon EIC's receipt of the Repayment, Schreiner shall have no further obligation under this Agreement. EIC shall have the discretion to consider relevant circumstances before demanding the Repayment and may require partial repayment in appropriate circumstances. Pursuant to the conditions precedent of this subsection, failure to reimburse EIC within thirty (30) days of Schreiner's receipt of such demand shall constitute a breach of this Agreement.
- B. Notwithstanding any other provision in this Agreement, Schreiner shall in no event be required to repay any amount in excess of the Grant monies actually received under this Agreement.

ARTICLE IV. SALE OF PROJECT, MERGER OR CONSOLIDATION OF SCHREINER

- A. A sale of all or substantially all of the assets of Schreiner or its Facilities will not release Schreiner from its duties and responsibilities to EIC under the terms of this Agreement and will 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 Schreiner's proposed successor shall have the financial condition to fully satisfy Schreiner's duties and responsibilities hereunder and agrees to assume Schreiner's responsibilities under this Agreement. EIC may, in its sole discretion, reasonably determine whether such proposed successor's financial condition is satisfactory.
- B. In the event of any proposed merger or other consolidation of Schreiner with any third party not affiliated with Schreiner which will result in a surviving entity other than Schreiner, Schreiner shall at least ninety (90) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC and Schreiner regarding: (1) the surviving entity's assumption and satisfaction of Schreiner's obligations hereunder and (2) 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 Schreiner's duties and responsibilities hereunder.

Failure to provide such information shall be considered a breach of this Agreement.

- C. 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 Schreiner or its affiliates. In the event of any sale or merger involving Schreiner or its affiliates, the surviving entity shall assume Schreiner's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE V. SCHREINER'S REPRESENTATIONS AND WARRANTIES

- A. Schreiner represents and warrants as of the date hereof:
- (1) Schreiner is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;
 - (2) Execution of this Agreement has been duly authorized by Schreiner and this Agreement is not in contravention of Schreiner's corporate charter, or any agreement or instrument to which Schreiner is a party or by which it may be bound as of the date hereof;
 - (3) No pending or threatened litigation or governmental proceeding against or affecting Schreiner is reasonably likely to result in a material adverse change in Schreiner's business, properties, or operations sufficient to jeopardize Schreiner's legal existence. Where any such circumstance occurs during the Term, Schreiner shall immediately notify the EIC in writing by giving a brief description of the litigation or proceeding and how it may reasonably impact this Agreement; and
 - (4) No written application, written statement, or correspondence delivered by Schreiner to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, 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. The Application for 4B sales Tax Funds submitted by Schreiner is attached hereto as **Exhibit B** and shall be incorporated herein by reference and expressly made a part of this Agreement.
- B. Except as expressly set forth in this Article V, Schreiner makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

**ARTICLE VI.
EIC'S REPRESENTATIONS AND WARRANTIES**

- A. EIC represents and warrants as of the date hereof:
- (1) EIC 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;
 - (2) Execution of this Agreement has been duly authorized by the Board of Directors of the EIC, and this Agreement is not in contravention of EIC's corporate charter or bylaws, or any agreement or instrument to which the EIC is a party or by which it may be bound as of the date hereof;
 - (3) No pending or threatened litigation or governmental proceeding against or affecting EIC is reasonably likely to result in a material adverse change in EIC's business, properties, or operations sufficient to jeopardize EIC's legal existence. If any such circumstance occurs during the Term, EIC shall immediately notify Schreiner in writing by providing the pleadings in the litigation or filings in the proceeding; and
 - (4) EIC has the capacity to fund the full dollar amount of this Grant on the payment schedule outlined in 1.A, and 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.
- B. Except as expressly set forth in this Article VI, the EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

**ARTICLE VII.
MAJOR FORCES PREVENTING SCHREINER FROM CARRYING
OUT ITS OBLIGATIONS UNDER THIS AGREEMENT**

If, by reason of force majeure, such as fire, flood, windstorm, drought, or other act of God, act of war, act of terrorism, labor strike, or economic downturn affecting Schreiner, Schreiner is reasonably unable to fulfill its obligations under this Agreement, Schreiner shall use reasonable and diligent efforts to rectify the situation to allow it to perform its obligations specified herein with all due haste. In the event that the situation cannot be rectified within six (6) months after the occurrence of the force majeure, either Party may terminate this Agreement by providing thirty (30) days advance written notice to the other without further liability hereunder except that termination under this provision shall not excuse Schreiner from any applicable reimbursement obligations under Article III of this Agreement.

ARTICLE VIII.
CONDITIONS UNDER WHICH EIC MAY SUSPEND PERFORMANCE
OF ITS OBLIGATIONS UNDER THIS AGREEMENT

Under any of the following conditions EIC may, at its option, after thirty (30) days written notice to Schreiner, suspend its further performance under this Agreement until such time as Schreiner shall have cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:

- A. Schreiner 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 Schreiner, or of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
- C. The adjudication of Schreiner as bankrupt.
- D. The filing by Schreiner 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 these conditions not be cured by Schreiner within a period of ninety (90) days following EIC's notice as required above, EIC may, at its option and immediately following written notice to Schreiner, terminate this Agreement and EIC shall have no further obligations hereunder.

ARTICLE IX.
REMEDIES

- A. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any Party hereto, 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 ninety (90) 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.

- B. Upon breach of this Agreement by either Party and the failure to cure as permitted by this Article IX, the non-breaching Party shall have the sole right and discretion to either terminate this Agreement or pursue any and all remedies which may be provided by law and this Agreement. Each Party acknowledges and agrees that neither Party shall be entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that neither Party shall be liable to the other Party for any other actual or consequential damages for any act of default by such party under the terms of this Agreement.
- C. Any delay by either Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not, so long as the breach or default by the other 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 a Party with respect to any specific default by the other Party except to the extent specifically waived in writing.

ARTICLE X. GENERAL PROVISIONS

- A. 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.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Approval. Unless otherwise specifically provided otherwise, EIC grants the City Manager or designee the authority to make approvals where the Agreement requires.
- D. 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 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.

- E. 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:
1. For EIC
President
City of Kerrville, Texas, Economic Improvement Corporation
701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

With a copy to:
City Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850
 2. For Schreiner
President
Schreiner University
2100 Memorial Boulevard
Kerrville, Texas 78028

With a copy to:
Vice President for Planning & Finance
Schreiner University
2100 Memorial Boulevard
Kerrville, Texas 78028
- F. Assignment. This Agreement shall be binding upon the Parties and their successors and assigns. Except as set forth in Article IV, 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 hereto, the assigning party shall be relieved of any and all obligations and

liabilities on the part of such assigning party under this Agreement. Schreiner may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by Schreiner or by the parent, subsidiary or affiliate of Schreiner provided the entity assumes all of Schreiner'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 Schreiner and Schreiner 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.

- G. Parties In Interest. Nothing in this Agreement shall entitle any party other than Schreiner or EIC to any claim, cause of action, remedy or right of any kind except as expressly provided in Article IV.
- H. Term. The term of this Agreement (the "Term") will commence on the "Effective Date" meaning the date this Agreement bears the signatures of authorized representatives of all of the Parties, whether appearing on the same document or in identical counterparts. The Agreement will terminate on the earlier of: (i) either on December 31, 2028, or when the requirements set forth in this Agreement are completed, whichever date is later; (ii) when terminated by mutual agreement of the parties; (iii) when terminated pursuant to Article IX, Paragraph B; (iv) when terminated pursuant to Article VIII; (v) at Schreiner's sole and absolute discretion, upon Schreiner's return of all Grant funding to EIC that it has received under this Agreement; or (vi) upon Schreiner's repayment of all monies that are demanded by EIC and are in fact required to be repaid by Schreiner under Article III. Upon termination of this Agreement as specified herein, all rights, duties and obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect.
- I. 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.
- J. Indemnity. **IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT SCHREINER, IN PERFORMING ITS OBLIGATIONS HEREUNDER, IS ACTING INDEPENDENTLY, AND EIC ASSUMES NO RESPONSIBILITY OR LIABILITY IN CONNECTION THEREWITH TO THEIR PARTIES. SCHREINER AGREES TO INDEMNIFY AND**

HOLD HARMLESS EIC, ITS OFFICERS AND AGENTS, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY SCHREINER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ANY NEGLIGENT ACT OR OMISSION OF SCHREINER, ITS OFFICER, AGENTS, ASSOCIATES OR EMPLOYEES, IN THE PERFORMANCE OF THIS AGREEMENT; AND NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF ANY GOVERNMENTAL IMMUNITY AVAILABLE TO EIC UNDER TEXAS LAW.

- K. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.
- L. Survival of Terms. All warranties and representations of the Parties, and all rights, duties, liabilities and obligations accrued prior to termination shall survive termination.
- M. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.
- N. Recitals. The recitals to this Agreement are incorporated herein.
- O. 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.
- P. Employment of Undocumented Workers. During the Term of this Agreement, Schreiner agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Schreiner shall repay the Grants and any other funds received by Schreiner from EIC as of the date of such violation within one hundred twenty (120) days after the date Schreiner 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. Schreiner is not liable for a violation of this section in relation to any workers employed by a subsidiary, Affiliate, contractor, subcontractor, or franchisee of Schreiner or any other Person other than Schreiner.
- Q. Prohibition on contracts with companies boycotting Israel. Schreiner hereby verifies the following per Section 2271.002, Texas Government Code:
 - (1) Schreiner does not boycott Israel; and
 - (2) Schreiner will not boycott Israel during the Term of the Agreement.

- R. Prohibition against business with Iran, Sudan or foreign terrorist organization. Schreiner warrants, covenants, and represents that Schreiner is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.
- S. Prohibition on Contracts with Companies Boycotting Energy Companies. Schreiner hereby verifies the following per Section 2276.002, Texas Government Code:
- (1) Schreiner does not boycott energy companies; and
- (2) Schreiner will not boycott energy companies during the term of the Agreement.
- T. Written Verification as to Firearm Entities. Schreiner hereby verifies the following per Section 2274.002, Texas Government Code:
- (1) Schreiner does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
- (2) Schreiner will not discriminate against a firearm entity or firearm trade association during the Term of the Agreement.
- U. Prohibition on Contracts with Companies Related to Certain Countries. Where this Agreement pertains to “critical infrastructure”, as defined by Section 2274.0101, Texas Government Code, Schreiner verifies (1) that it is not owned by or the majority of stock or other ownership interest of Schreiner is not held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or other designated countries; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other designated countries; or (2) headquartered in China, Iran, North Korea, Russia, or other designated countries.
- V. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes.

EXECUTED AND EFFECTIVE as of the Effective Date indicated below, by the City of Kerrville, Texas, Economic Improvement Corporation, by and through its Board President, duly authorized to execute same by action of the Board, and by Schreiner, acting through President, as duly authorized.

Effective Date: May ____, 2024.

CITY OF KERRVILLE, TEXAS ECONOMIC
IMPROVEMENT CORPORATION

SCHREINER UNIVERSITY

Kim Clarkson, President

ATTEST:

Kesha Franchina, Recording Secretary

APPROVED AS TO FORM:

DocuSigned by:
Michael C. Hayes
9CAD2850E13A451
Michael C. Hayes, Attorney for the EIC

DocuSigned by:
Charlie McCormick
F2EB6495C5514AA...
By: Dr. Charlie McCormick,
President

Exhibit A

Projects for Funding

Request 1: Center for Talent and Workforce Development

Funding Request - \$822,428 over three years

Project Overview

The first aspect of our enrollment growth project being submitted to the EIC is the launch of a Center for Talent and Workforce Development (CTWD) which will provide vocationally-focused training in its first three years to 150 workers across the priority areas identified by the Kerrville Economic Development Corporation (KerrEDC) and in areas beyond these priorities. The CTWD will offer programs leading to the attainment of micro-credentials, associate degrees, and baccalaureate degrees in both accelerated and online formats. As illustrated below, a finite – but robust – set of programmatic offerings have been identified because we have confidence the resources can be marshalled to deliver all of these experiences should start-up costs be provided by the EIC. Since funds are being requested to launch this new academic division, EIC members will notice that in year 1 the largest percentage of the operating costs is provided by the EIC, and by year 3, Schreiner is funding 90% of the operating costs and then will be responsible for 100% thereafter. So once up and running, these programmatic offerings – and many others that could be started based on business and industry needs – will fund the ongoing operations of the CTWD. The specifics and timeline of the (CTWD) are as follows and additional information can be found in Appendix A.

Part 1: Funding Request

Annual Distribution Window	EIC funding of the CTWD	Schreiner funding of the CTWD	Milestone Accomplishments for the CTWD	Annual Activities of the CTWD (see detail in Appendix A)
June 1, 2024 – May 31, 2025	\$465,607 90%	\$51,734 10%	2 New FT Employees: Director of the CTWD and Administrative Asst. for the CTWD 85 unique students enrolled in the CTWD	Online Degree Completion program Healthcare Certifications Banking Certification Aviation – co and dual enrollment Drone Licensure Basic Business Skills Vocational Nursing

Exhibit A

June 1, 2025 - May 31, 2026	\$295,226	\$295,226	1 New FT Employee: Advisor for the CTWD	All above continuing Vineyard Certifications
	50%	50%	2 Continuing FT Employees	Hospitality Certifications
			117 unique students enrolled in the CTWD	
June 1, 2026 – May 31, 2027	\$61,595	\$554,356	3 Continuing FT Employees	All above continuing
	10%	90%	171 unique students enrolled in the CTWD	Mechatronics Certification Agricultural Certifications
June 1, 2024 – May 31, 2027	\$822,428	\$901,316	3 New and Continuing FT positions	
	48%	52%	171 unique students	
Total Cost of Project		\$1,723,743		

While the training provided through the CTWD is key to developing the current talent and workforce needs and the workforce that will be needed in the future, it does not generate enough revenue (given its low to moderate tuition price point and lack of room and board revenue) to contribute substantially to the operations of Schreiner's four-year, residential college. Community colleges typically offer these vocational programs because they are so heavily subsidized by the state; four-year, residential colleges do not have access to these funds. Independent colleges, like Schreiner, receive federal funding because their students are offered federal student loans, but these loans cannot be used for vocational programs. The only way for a four-year, residential college to offer a robust program in talent and workforce development, therefore, is to make it one component of the overall educational experience with other robust parts of the experience which help fund the operations of the talent and workforce program.

Request 2: Expansion and Enhancement of Schreiner University Athletics Complex
Funding Request - \$2,177,572 over three years

Project Overview

The second aspect of our enrollment growth strategy being presented to EIC is infrastructure expansions and enhancements to the University's athletics complex allowing Schreiner to launch new athletic offerings and thereby increase our undergraduate and residential population. For this EIC proposal, we are requesting funds to build out a new weight room and a new locker room

City Of Kerrville
Economic Improvement Corporation
March 8, 2024



To the Members of the Economic Improvement Corporation:

Schreiner as a Growing Institution

Schreiner University is one of Kerrville's largest primary employers with over 750 employees and directly accounting for more than 4% of Kerr County's employment.¹ It has only been in the last 20 years that Schreiner has grown, nearly doubling its enrollment since the late 1990s. Schreiner has targeted an enrollment of over 2,000 students by 2028. Enrollment growth is a necessary component if Schreiner is to flourish since this growth enables expansion in the variety of academic programs available to students, provides critical mass for student activities, and achieves economies of scale in the University's operations. Successful and sustainable growth is only possible with **balanced growth**, including growth in both niche programs and high-volume programs.

Schreiner's work in growing enrollment has already created 29 full-time positions and one part-time position along with over \$5.4 million of additional expenditures. Achievement of the remainder of the enrollment growth plan calls for an addition 38 full-time and 35 part-time positions to be added along with an additional \$119 million of expenditures.

We are requesting funding for two projects as a part of one balanced growth initiative: the launch of a Center for Talent and Workforce Development and the expansion and enhancement of the University's athletics complex to support several athletic programs, including the launch of NCAA Division III football.

Funding Request Summary

1) Request to Support a Center for Talent and Workforce Development

Project: Initiation of Center for Talent and Workforce Development

¹ 750 employees / 18690 Kerr County Employment (Schreiner Data, BLS QCEW)

Workforce Training and Certifications including:

- Drone Certification
- Vocational Nursing
- Condensed Curriculum International (various healthcare certifications)
- Agriculture Certifications (TBD)
- Field Operations Management Certification
- Vineyard Management and Operations Certification
- Craft Beverage Management Certification
- Mechatronics Certification

Benefits to Kerrville Community:

- Increased talent pool to support regional businesses
- Benefits accrue to non-college educated workers
- 150 workforce participants in the first three years
- Direct jobs created: 3
- Indirect employment effects: varied depending on retention and expansion of existing industries

Three-year project cost: \$1,723,743

Requested EIC contribution: \$822,428 over three years

2) Request to Support Expansion of Schreiner Athletics

Project: Build out of Schreiner Athletics facilities to support initiation of football program

Activity supported by project

- Enrollment growth of 80 students (24% student growth)
- Initiation of football program to include five home games a year played at Antler Stadium
- Potential increase of 300+ visitors per year for each home game (visiting team, their friends, and their families and home team friends and families)

Benefits to Kerrville Community

- Additional community activities and pride
- Visitor activity counterbalancing leisure and hospitality seasonality
- Increased exposure and confirmation of Kerrville as sporting hub of Hill Country
- Contribution to branding Kerrville as a college town
- Direct employment effect: 34 jobs

Three-year project cost: \$8,801,590

Requested EIC Contribution: \$2,177,572 over three years

Nature and Scope of the Project

The pandemic was an inflection point for many colleges and universities. Since it began, college and university enrollments dropped by 8% across the nation (see <https://fortune.com/2023/03/09/american-skipping-college-huge-numbers-pandemic-turned-them-off-education/>) and some 37 public and nonprofit colleges have announced their closure or merger since March 2020 (see <https://www.bestcolleges.com/research/closed-colleges-list-statistics-major-closures/>). This, of course, is devastating to the students who were enrolled at the school, the faculty and staff who work there, the alumni whose identity is connected to the school, and the communities in which these schools are situated. Rather than let these challenges simply wash over us, too, Schreiner University decided the pandemic was a moment to “coil the spring” – to ride out the immediate storm but to aggressively prepare for springing forward as soon as the dilemma had passed. And so, while the campus was closed to outsiders and we were requiring temperature checks to attend class, we also were huddling in meeting rooms, writing grants, master planning, designing curricula, imagining a more beautiful and functional campus, and recruiting faculty and staff to champion our enrollment growth initiative.

But we cannot not feel satisfied with the initial progress of our return to enrollment growth. We must be even more aggressive in our growth and development over the next five years and beyond. A growth initiative in a complex organization such as Schreiner cannot be achieved by pulling a single lever; it is achieved by pulling multiple levers at the same time and in rapid succession. Our levers include: offering the right curricular and co-curricular programs; retaining students through graduation; raising awareness of Schreiner through the launch of Centers of Distinction; building out the campus so that it is safe, functional, and beautiful; processing of new and enrolled students; and securing endowment funds to make college accessible to students. There is no one action that results in strategic and intentional enrollment growth.

Enrollment Growth Plan

Since the pandemic, we have pulled these levers, and we will continue to pull these levers in order to achieve a more prosperous financial position. Our current enrollment growth plan illustrates the various activities that we have accomplished from 2020 through today, as well as the projected activities we anticipate happening through 2028 (Phase 1 of the Enrollment Growth Plan). Our enrollment growth plan goes well beyond 2028, but for the purpose of this funding request, we are exclusively focusing on our work between 2020 and 2028.

Here is the outline of our multipronged enrollment growth plan to recruit students and keep them through graduation, highlighting the number of new jobs and anticipated new jobs and the actual expenditures and the anticipated new expenditures that will accompany this plan:

Table A: Programmatic Offerings and Centers of Distinction

Illustrating new programs and positions as part of Schreiner's enrollment growth strategy.

	Additional Positions <u>2020-2024</u>	Future Positions <u>2024-2028</u>
<u>Offerings</u>		
Engineering (Mechanical and Civil)	3 (3 FT, 0 PT)	6 (1 FT, 5 PT)
Criminal Justice	1 (1 FT, 0 PT)	0 (0 FT, 0 PT)
Computer Science (Game Design, Cybersecurity)	1 (1 FT, 0 PT)	1 (1 FT, 0 PT)
Banking	1 (1 FT, 0 PT)	1 (0 FT, 1 PT)
Nursing (Master of Science)	0 (0 FT, 0 PT)	11 (1 FT, 10 PT)
Aviation	1 (1 FT, 0 PT)	13 (3 FT, 10 PT)
Ag & Natural Resource Management	0 (0 FT, 0 PT)	4 (4 FT, 0 PT)
Music	2 (2 FT, 0 PT)	0 (0 FT, 0 PT)
Academic Support	3 (3 FT, 0 PT)	0 (0 FT, 0 PT)
Club Sports	1 (1 FT, 0 PT)	0 (0 FT, 0 PT)
<i>Athletics (Football)</i>	<i>0 (0 FT, 0 PT)</i>	<i>15 (10 FT, 5 PT)</i>
Athletics Support	2 (2 FT, 0 PT)	0 (0 FT, 0 PT)
<u>Centers of Distinction</u>		
Texas Center	3 (3 FT, 0 PT)	1 (1 FT, 0 PT)
Schreiner Institute	4 (3 FT, 1 PT)	0 (0 FT, 0 PT)
Center for Talent and Workforce Development	0 (0 FT, 0 PT)	3 (3 FT, 0 PT)
Total Positions	22 (21 FT, 1 PT)	55 (24 FT, 31 PT)
Total Expenditure (Personnel, Operating, Capital)	\$3.3M+	\$44.1M+

Table B: Student Support Focused Programs

Illustrating the expansion of student support focused programs to facilitate enrollment growth, increase student success, and maintain the service necessary to provide the Schreiner experience to additional students.

	Additional Positions <u>2020-2024</u>	Future Positions <u>2024-2028</u>
<u>Program</u>		
First Year Experience	1 (1 FT, 0 PT)	0 (0 FT, 0 PT)
Online Learning Support	1 (1 FT, 0 PT)	0 (0 FT, 0 PT)
Hispanic Serving Institution STEM Support	2 (2 FT, 0 PT)	0 (0 FT, 0 PT)
Title V Academic Support	0 (0 FT, 0 PT)	7 (3 FT, 4 PT)
Admissions Counselors	1 (1 FT, 0 PT)	2 (2 FT, 0 PT)
Financial Services Counselors	1 (1 FT, 0 PT)	2 (2 FT, 0 PT)
Registrar's Operations	1 (1 FT, 0 PT)	1 (1 FT, 0 PT)
Student Services Staff	0 (0 FT, 0 PT)	2 (2 FT, 0 PT)
Operations (Security and Grounds)	0 (0 FT, 0 PT)	4 (4 FT, 0 PT)

Total Positions	7 (7 FT, 0 PT)	18 (14 FT, 4 PT)
Total Expenditure (Personnel, Operating, Capital)	\$0.7M+	\$8.7M+

Table C: Infrastructure Projects

Illustrating the planned infrastructure investment to support enrollment growth including the expansion of athletics facilities to support an increase in student athletes corresponding to an increase in student enrollment.

<u>Program</u>	<u>Expenditures 2020-2024</u>	<u>Expenditures 2024-2028</u>
<i>Upgraded Athletics Complex</i>	-	<i>\$61.7M</i>
The Hill at Schreiner (Vineyard and Garden)	\$0.7M	\$1.7M
Auxiliary Services	\$0.2M	\$1.6M
Demolition and Renovation	\$0.4M	\$0.9M
Construction (Trailhead and Pool Improvements)	\$0.07M	\$0.2M
Landscaping and Security	\$0.01M	\$0.15M
Total Expenditure (Capital)	\$1.4M	\$66.3M

Enrollment Growth Impact

To the extent that Schreiner thrives, Kerrville will thrive too. Consider the economic impact of Schreiner on the local community from a recent economic impact study conducted by The Independent Colleges and Universities of Texas.



Source: *The Economic Impact of the Independent Colleges and Universities of Texas report, 2021*

Schreiner University

Early estimates from Schreiner’s Institutional Research Office are that, should we achieve our enrollment growth plans, Schreiner’s local economic impact will increase \$15,000,000 annually through 2028. The significance of this impact alone is important for the EIC. Equally important – perhaps most important – for the EIC is the number of new jobs at Schreiner that will be generated through our enrollment growth. Already, we have seen an increase of 28 new FT positions and 1 new PT position. By 2028, there will be an additional 38 new FT and 35 new PT positions.

Though 97.48% of the total cost of our enrollment growth initiative is funded directly by Schreiner, we are bringing two aspects of this initiative to EIC for funding consideration because they directly align with the priorities of KerrEDC, directly align with the priorities of the Kerrville 2050 plan, and directly relate to the charter of the EIC which is to fund programs focused on the “**creation of ‘primary jobs’ and/or to provide an economic benefit to the City of Kerrville**, as well as ‘Quality of Life’ projects.”

The following illustrates these three priorities and how Schreiner’s work is best aligned with either activities or programs currently in place or through future work.

1. Directly align with the priorities of KerrEDC

KEDC's Priority Areas	Schreiner's New Center for Talent and Workforce Development	Schreiner's Traditional Academic Program
Aviation and Aerospace	Drone Certification	Aviation Studies Major
Medical and Health	Vocational Nursing	Online RN to BSN
	Condensed Curriculum International (various healthcare certifications)	Bachelor of Science in Nursing
		Master of Science in Nursing (to begin Spring 2024)
Craft Agriculture	Agricultural Certifications (TBD)	Agricultural Sciences (to begin Fall 2024)
	Viticulture Certification	
Advanced Manufacturing	Mechatronics Certification	Engineering Major: Mechanical and Civil Tracks
		Computer Science Major
Remote Workers	N/A	N/A

2. Directly align with the priorities of the Kerrville 2050 plan

Kerrville 2050 Plan's Priorities	Schreiner's Traditional Academic Program
E 4.2 Explore Opportunities to Capitalize on Existing Businesses	Alignment with Schreiner University's Launch of a new Center for Talent and Workforce Development
E 8.8 Promote the Craft Agriculture Industry	
E 9.2 Formal Program to Advance Economic Development	
E 9.4 Identify Higher Education Needs	
E 9.5 Enhance Mentorship and Internship Programs	
E 9.6 Support Trade-Related Training and Certification	
E 9.8 Maintain a list of certification classes offered by area schools/institutions	
E 12.1 Promote the growth and expansion of the hospital and medical industry	
E 12.2 Support medical education at Schreiner	
E 12.5 Support health care education and training programs	
E 7.3 Greatly Increase the City's Exposure as the Hub of the Hill Country and promote Kerrville as . . . C) Center of Sports and Recreation	Alignment with Schreiner University's Launch of NCAA Division III Football
E 8.2 Target Tourism that is Specific to the Current and Growing Industries Being Experienced by Kerrville	
E 8.7 Kerrville as The Sports Destination of the Hill Country	
E 9.1 Brand Kerrville as a College Town	
E 9.3 Support Schreiner's Expansion of Programs	
E 11.4 Attracting campus-oriented retail and entertainment/recreation activities to Schreiner area	
C 1.1 Create more youth recreational activities	

3. Directly relate to the charter of the EIC: To fund programs focused on the “creation of ‘primary jobs’ and/or to provide an economic benefit to the City of Kerrville, as well as ‘Quality of Life’ projects.”

Schreiner's EIC proposal focusing on enrollment growth (1) builds the capacity of the Kerrville community to promote and staff business, industry, and manufacturing enterprises through the Center for Talent and Workforce Development, and (2) it requests funds for construction of new facilities on campus that will lead to new jobs and significant economic benefit to Kerrville by attracting additional on-campus students, securing more overnight visitors to Kerrville, and inviting the wider community to enjoy additional recreational activities on campus.

Projects for Funding

Request 1: Center for Talent and Workforce Development

Funding Request - \$822,428 over three years

Project Overview

The first aspect of our enrollment growth project being submitted to the EIC is the launch of a Center for Talent and Workforce Development (CTWD) which will provide vocationally-focused training in its first three years to 150 workers across the priority areas identified by the Kerrville Economic Development Corporation (KerrEDC) and in areas beyond these priorities. The CTWD will offer programs leading to the attainment of micro-credentials, associate degrees, and baccalaureate degrees in both accelerated and online formats. As illustrated below, a finite – but robust – set of programmatic offerings have been identified because we have confidence the resources can be marshalled to deliver all of these experiences should start-up costs be provided by the EIC. Since funds are being requested to launch this new academic division, EIC members will notice that in year 1 the largest percentage of the operating costs is provided by the EIC, and by year 3, Schreiner is funding 90% of the operating costs and then will be responsible for 100% thereafter. So once up and running, these programmatic offerings – and many others that could be started based on business and industry needs – will fund the ongoing operations of the CTWD. The specifics and timeline of the (CTWD) are as follows and additional information can be found in Appendix A.

Part 1 Funding Request

Annual Distribution Window	EIC funding of the CTWD	Schreiner funding of the CTWD	Milestone Accomplishments for the CTWD	Annual Activities of the CTWD (see detail in Appendix A)
June 1, 2024 – May 31, 2025	\$465,607	\$51,734	2 New FT Employees: Director of the CTWD and Administrative Asst. for the CTWD	Online Degree Completion program
	90%	10%	85 unique students enrolled in the CTWD	Healthcare Certifications
				Banking Certification
				Aviation – co and dual enrollment
				Drone Licensure
				Basic Business Skills
				Vocational Nursing

June 1, 2025 - May 31, 2026	\$295,226	\$295,226	1 New FT Employee: Advisor for the CTWD	All above continuing Vineyard Certifications
	50%	50%	2 Continuing FT Employees	Hospitality Certifications
			117 unique students enrolled in the CTWD	
June 1, 2026 – May 31, 2027	\$61,595	\$554,356	3 Continuing FT Employees	All above continuing
	10%	90%	171 unique students enrolled in the CTWD	Mechatronics Certification
				Agricultural Certifications
June 1, 2024 – May 31, 2027	\$822,428	\$901,316	3 New and Continuing FT positions	
	48%	52%	171 unique students	
Total Cost of Project	\$1,723,743			

While the training provided through the CTWD is key to developing the current talent and workforce needs and the workforce that will be needed in the future, it does not generate enough revenue (given its low to moderate tuition price point and lack of room and board revenue) to contribute substantially to the operations of Schreiner’s four-year, residential college. Community colleges typically offer these vocational programs because they are so heavily subsidized by the state; four-year, residential colleges do not have access to these funds. Independent colleges, like Schreiner, receive federal funding because their students are offered federal student loans, but these loans cannot be used for vocational programs. The only way for a four-year, residential college to offer a robust program in talent and workforce development, therefore, is to make it one component of the overall educational experience with other robust parts of the experience which help fund the operations of the talent and workforce program.

Request 2: Expansion and Enhancement of Schreiner University Athletics Complex
Funding Request - \$2,177,572 over three years

Project Overview

The second aspect of our enrollment growth strategy being presented to EIC is infrastructure expansions and enhancements to the University’s athletics complex allowing Schreiner to launch new athletic offerings and thereby increase our undergraduate and residential population. For this EIC proposal, we are requesting funds to build out a new weight room and a new locker room

– note that no EIC funds are being use for personnel and/or operating expenses. These spaces will be used across all the University’s athletic programs and by the various constituencies (internal and external) that use Schreiner’s athletic facilities, but they are absolutely necessary if Schreiner is to start football. Some may consider football inconsequential to – and even disconnected from – the enrollment growth of the University, but it is important to remember that over 51% of Schreiner undergraduate students are participants in one of our NCAA or Varsity programs. To the extent these athletic offerings are robust, Schreiner’s enrollment will grow.

The addition of football should be important to the EIC because, of all the new athletic programs we are developing, football will be the most significant engine for job creation at the University and economic impact in Kerrville. It will accomplish this because it will have the greatest impact on the University’s enrollment, be the program requiring the largest investment in new employees at Schreiner because of how many new students it will bring to campus, and bring the largest number of visitors to Kerrville, many of whom will stay overnight in local hotels, eat in local restaurants, and shop in local stores. **There is no single program we could create that will have a more significant economic impact on the Kerrville community than the launch of football.**

Football – alone – is expected to recruit at least 90 new students to Schreiner University its first full year and many more thereafter (See Appendix B) . Not only will 15 new staff be hired to coach and manage these athletes, new faculty and staff will be hired to teach these students. Using current student to faculty and student to staff ratios, Schreiner anticipates hiring an additional 19 faculty and staff to work with these additional students in areas on campus like academic advising, financial services, and a variety of other operations departments on campus.

Schreiner anticipates hosting at least five (5) football home games each year once the team starts competitive play in fall 2025 with several hundred visitors expected to attend the game. Our conference includes football schools in Abilene, Seguin, Sherman, Arkansas, and Louisiana. All of these teams and visitors would need to spend at least one night in Kerrville when we play them here, contributing to Kerrville’s 4B sales tax.

The specifics and timeline of the athletics infrastructure project are as follows:

Part 2 Funding Request

Annual Distribution Window	EIC contributions to Athletics Infrastructure	Schreiner contributions to Athletics Infrastructure and Operations	Milestone Infrastructure Accomplishments for Athletics	Annual Activities leading to the launch of football
June 1, 2024 – May 31, 2025	\$534,393 25%	\$1,603,179 75%	Construction Documents Demolition and Set up	2 New FT Employees (Head Coach and Admin Asst)
June 1, 2025 - May 31, 2026	\$704,774 25%	\$2,114,322 75%	Construction of building Field development	2 Continuing FT Employees 3 New FT Employees (3 Asst Coaches)
				20 unique students recruited for football
June 1, 2026 – May 31, 2027	\$938,405 24%	\$2,906,517 76%	Furniture Placement Uniforms and equipment	5 Continuing FT Employees 5 New FT Employees (Equip Manager, Coach, Sports Info Director, Athletic Trainers)
			Football begins competition with 4-5 home games	5 new PT Coaches
				80 unique students recruited for football
June 1, 2024 – May 31, 2027	\$2,177,572 25%	\$6,624,018 75%		
Total Cost of Project		\$8,801,590		

It is also important to note that \$8.8M represents both the capital needs and operational needs for the athletics infrastructure project to be realized. For construction alone, Schreiner has worked with architectural firm, Marmon Mok, to assist with the master planning exercise. This lengthy process developed a plan to phase our athletics infrastructure work through 2035. The following page illustrates the multi-phased construction plan through 2035.

For Phase 1, however, we focus exclusively on the new locker room, weight room, and practice fields on campus.

Athletics Master Plan

Phase 1



Phase 2



Phase 3



Phase 1

Phase 2 through 2028

Phase 3 through 2035

10/10/2022	TOTAL PHASED INVESTMENT	EDINGTON GYMNASIUM ADDITION	BASEBALL & SOFTBALL STADIUM (TURF)	ATHLETICS ALL SPORT FIELDHOUSE	NEW TRACK & MULTI-PURPOSE FIELD	EDINGTON RENOVATION & EXPANSION	FOOTBALL, TENNIS & WALK OF CHAMPIONS
	TOTAL	UN-PHASED	PHASE 1A	PHASE 1B	PHASE 2	PHASE 3	PHASE 4+
Construction Cost	\$ 78,225,712	\$ 3,000,000	\$ 8,141,712	\$ 19,232,000	\$ 8,518,000	\$ 8,103,000	\$ 34,231,000
Design Contingency	\$ 3,911,286 5.0%	\$ 450,000 15.0%	\$ 407,086 5.0%	\$ 961,600 5.0%	\$ 425,900 5.0%	\$ 405,150 5.0%	\$ 1,711,550 5.0%
Cost of Construction	\$ 82,136,998	\$ 3,450,000	\$ 8,548,798	\$ 20,193,600	\$ 8,943,900	\$ 8,508,150	\$ 35,942,550
Construction Contingency	\$ 2,464,110 3.2%	\$ 172,500 5.0%	\$ 256,464 3.0%	\$ 605,808 3.0%	\$ 268,317 3.0%	\$ 255,245 3.0%	\$ 1,078,277 3.0%
Total Construction Costs	\$ 84,601,108	\$ 3,622,500	\$ 8,805,262	\$ 20,799,408	\$ 9,212,217	\$ 8,763,395	\$ 37,020,827
FFE and Branding & Graphics							
Furniture & Equipment	\$ 155,000	\$ 25,000	\$ 15,000	\$ 50,000	\$ 15,000	\$ 25,000	\$ 50,000
Equipment - Weights & Cardio	\$ 380,000	\$ 380,000	\$ -	\$ -	\$ 380,000	\$ -	\$ -
TBD	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Audio Visual Equipment	\$ 360,000	\$ 25,000	\$ 50,000	\$ 75,000	\$ 50,000	\$ 35,000	\$ 150,000
Telephone System	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Signage	\$ 105,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 10,000	\$ 20,000	\$ 35,000
Branding	\$ 510,000	\$ 50,000	\$ 150,000	\$ 85,000	\$ 25,000	\$ 50,000	\$ 200,000
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Existing Conditions Costs							
Survey	\$ 30,000	\$ 15,000	\$ 15,000	\$ -	\$ -	\$ -	\$ 15,000
Geotech	\$ 44,000	\$ -	\$ 12,000	\$ 12,000	\$ -	\$ 8,000	\$ 12,000
Existing Building Measured Drawings	\$ 7,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,500
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Regulatory							
City Development Plat	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
LEED Services (Excluding Cx)	\$ 22,500	\$ -	\$ -	\$ 7,500	\$ 7,500	\$ 7,500	\$ -
Regulatory Review Fees	\$ 362,735	\$ 15,000 0.5%	\$ 40,709 0.5%	\$ 96,160 0.5%	\$ 14,197 0.2%	\$ 40,515 0.5%	\$ 171,155 0.5%
Utility Tap & Impact Fees	\$ 45,000	\$ 10,000	\$ 5,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000
Storm Water Management Plan	\$ 33,000	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 11,000
Fire Flow Test	\$ 8,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ -	\$ 2,000	\$ 2,000
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction							
Construction Material Testing	\$ 120,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 10,000	\$ 25,000	\$ 35,000
Test & Balance	\$ 61,500	\$ 1,500	\$ 1,500	\$ 20,000	\$ -	\$ 20,000	\$ 20,000
Asbestos Abatement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Utility Costs during Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Grounds Maintenance during Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Marketing/Start-up Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Legal Fees for lease acquisition	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Mgmt & Capital Campaign Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Financing - Bridge Loan	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Facility Maintenance Endowment	\$ - 0.0%	\$ - 0.0%	\$ - 0.0%	\$ - 0.0%	\$ - 0.0%	\$ - 0.0%	\$ - 0.0%
Owner Contingency	\$ 4,230,055 5.0%	\$ 181,125 5.0%	\$ 440,263 5.0%	\$ 1,039,970 5.0%	\$ 460,611 5.0%	\$ 438,170 5.0%	\$ 1,851,041 5.0%
A/E Basic Services Fees	\$ 6,382,586	\$ 380,363 10.5%	\$ 748,447 8.5%	\$ 1,559,956 7.5%	\$ 552,733 6.0%	\$ 744,889 8.5%	\$ 2,776,562 7.5%
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Reimbursable Expenses	\$ 7,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Project Budget Estimate (Const Jan 2023)	\$ 97,465,485	\$ 4,760,488	\$ 10,338,180	\$ 23,809,994	\$ 10,755,258	\$ 10,194,968	\$ 42,367,085
Total Project Budget Estimate (Const Jan 2024)	\$ 112,085,307 15.0%	\$ 5,474,561 15.0%	\$ 11,888,907 15.0%	\$ 27,381,493 15.0%	\$ 12,368,546 15.0%	\$ 11,724,213 15.0%	\$ 48,722,148 15.0%
Total Project Budget Estimate (Const Jan 2025)	\$ 121,052,132 8.0%	\$ 5,912,525 8.0%	\$ 12,840,020 8.0%	\$ 29,572,013 8.0%	\$ 13,358,030 8.0%	\$ 12,662,150 8.0%	\$ 52,619,919 8.0%

[\$5,912,525] [

\$55,770,063

] [

\$65,282,069

]

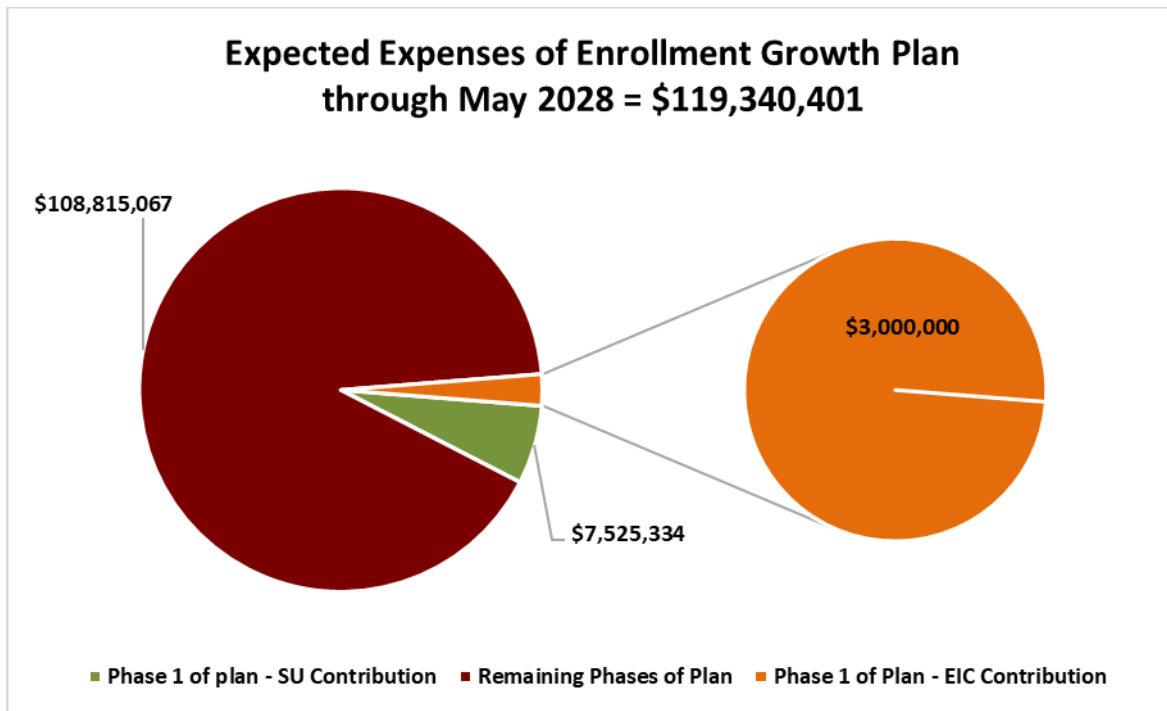
Thus, these two funding requests from EIC total \$3,000,000 over 3 years. The following illustrates the two projects and the funding necessary for the next three fiscal years from June 2024 through May 2027.

Total Funding Request

Annual EIC Distribution Window	EIC funding	Schreiner funding	Annual Project Funding
June 1, 2024 – May 31, 2025	\$1,000,000	\$1,654,913	\$2,654,913
CTWD	\$465,607	\$51,734	\$517,341
Athletic Infrastructure	\$534,393	\$1,603,179	\$ 2,137,572
June 1, 2025 - May 31, 2026	\$1,000,000	\$2,409,548	\$3,409,548
CTWD	\$295,226	\$295,226	\$590,452
Athletic Infrastructure	\$704,774	\$2,114,322	\$2,819,096
June 1, 2026 – May 31, 2027	\$1,000,000	\$3,460,873	\$4,460,873
CTWD	\$ 61,595	\$ 554,356	\$615,951
Athletic Infrastructure	\$938,405	\$2,906,517	\$3,844,922
June 1, 2024 – May 31, 2027	\$3,000,000	\$7,525,334	\$10,525,334
CTWD	\$ 822,428	\$901,316	\$1,723,744
Athletic Infrastructure	\$2,177,572	\$6,624,018	\$8,801,590
Total Investment	\$3,000,000	\$7,525,334	

As noted in the following figure, the EIC contribution for the Phase 1 of the Enrollment Growth Plan is equivalent to 2.51% of the overall enrollment growth plan through 2035. For Phase 1 specifically, the \$3,000,000 request funds two foundational projects that will support the ongoing enrollment growth plan for Schreiner and accounts for 28.5% of funding.

Schreiner is responsible for over \$7.5M to fund Phase 1 of the enrollment growth plan.



Proposed Site and Existing Improvement

The CTWD will be established on the main campus of Schreiner University (2100 Memorial Blvd) in a building known as the STEM-Zone (see location on the map in Appendix C). This is a space that was constructed in 2018. It has available office space, meeting space, and a computer lab. It is easily accessible with parking across the street from the building. This will be the primary intake location for prospective students and employers to engage with staff from the CTWD. As necessary, classes may be held in other areas of campus (e.g., vineyard management will take place at the demonstration vineyard on the Hill at Schreiner University across Main Street from the main campus).

Infrastructure enhancements to athletics will take place in Edington Gymnasium (see location on the map in Appendix D and enhancements in Appendix E). Edington Gym was constructed in 1980 to serve as the campus's primary athletic court, hosting basketball, volleyball, and recreational activities. After the Event Center was constructed in 2014, Edington Gym became a secondary court on campus where basketball (men's and women's) and volleyball could practice if the Event Center was being used for other purposes and as an additional court for tournaments sponsored regionally.

Over the years, some improvements have been made to the locker rooms in Edington and storage space was added. None of the renovations made structural changes to the building. Five years

ago, three offices – which were previously locker rooms for officials – were added. A few years later, a large air handler for the building was replaced.

Today, the building serves as a practice space for men's and women's wrestling, as a campus recreation space, and as a community space. Over the summer, the building has hosted a three-day weekend Hill Country Basketball Tournament. Axis Club Volleyball has used the space several times a week when it is in season for practice and games, and they generally have had two tournaments in the building per season. Additionally, a variety of external summer camps have used the space for activities that benefit from being in a conditioned space.

Proposed Improvements

The CTWD will utilize renovated space. Regular costs associated with setting up of offices and learning spaces – furniture, technology, etc. – are identified in year one and two. By year three, all staff should be in position and all learning spaces established. As new opportunities emerge through the CTWD that require new learning spaces, the Center itself will be expected to pay for these new or renovated spaces.

For football to be launched at Schreiner, an infrastructure project must be accomplished:

1) the creation of a new weight room that will not be exclusive to athletes but will be primarily for athlete development and, therefore, contain appropriate equipment. An existing building on campus – the Edington Gym – will be renovated to house this weight room.

and

2) additional modifications to Edington Gymnasium that will provide a locker room large enough to house a football team, additional storage space, and new offices for coaches and athletic training. See Appendix E for visual renderings of this space. Our master planning work with architects estimate this portion of the enrollment growth plan as a \$5.9M project.

Respectfully submitted,



Charlie McCormick, Ph.D.
President
March 8, 2024

**City Of Kerrville
Economic Improvement Corporation
4B Sales Tax Funding Request
July 7, 2023**

**Addendum 1
October 6, 2023**



To the Members of the Economic Improvement Corporation:

Schreiner University (Schreiner) supplements its previous EIC Funding Request dated July 7, 2023 with this Addendum 1.

Schreiner will commit in writing to pay wages that are at least equal to the prevailing wage in Kerr County for the applicable occupations for the three employment positions described at the top of page 10 of the July 7, 2023, Funding Request relating to the creation of the Center for Talent and Workforce Development (CTWD). Schreiner will also continue its previous practice of consulting with local business in Kerr County concerning job training needs which Schreiner may be able to offer through the CTWD, thereby assisting local business in the "promotion of development and expansion of business enterprises and other enterprises."

With this clarification, we look forward to learning of the Go Team's decision on Schreiner's funding request intended to benefit our overall local economy.

Submitted Respectfully,

A handwritten signature in dark ink, appearing to read 'Charlie McCormick'.

Charlie McCormick, Ph.D.
President
October 6, 2023



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Economic development grant funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and Schreiner University for the expansion of their athletic facilities. (*M Hornes*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 7, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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	N/A
Action Item	E9.1 - Promote Schreiner University and brand Kerrville as a college town

SUMMARY STATEMENT:

Schreiner University has submitted a request for funding for two projects for a total of \$3,000,000. The second request here is to expand their athletic. After review, EIC board recommended the following schedule of payments:

Year 1: \$1,130,000.00

Year 2-5: \$272,196.00

Total: \$2,177,570.00

The facilities that Schreiner will expand include its weight room and locker room (the "Facilities"); and while the expanded Facilities are intended for use for its football program, Schreiner will use these new spaces across all of its athletic programs and constituencies that use such facilities. Schreiner believes that football is a consequential aspect of its mission, as it will increase student enrollment in the university both through the student-athletes that are added and through the expanded interest of other prospective students who view a university's football program as akin to a university's "front porch" and an important part of student life.

In order to serve these new students, both student-athletes and others, Schreiner anticipates adding 15 new staffers to coach football but also up to 19 additional faculty in its effort to maintain its existing student-faculty ratio; and finally, as part of its athletic conference, Schreiner will endeavor to host at least 5 home football games each year, such games to include opponents who will bring their teams to Kerrville, along with fans and supporters, who will come and need to stay overnight, thereby using hotel room and local restaurants among other hospitality services.

On May 20, 2024, EIC approved the Grant Funding Agreement.

RECOMMENDED ACTION:

Approve the funding agreement.

ATTACHMENTS:

[*20240528_EIC Grant Agreement Schreiner U Athletic.pdf*](#)

[*20240528_Schreiner_Application for Center to EIC- 03062024.pdf*](#)

[*20240528 SU response for Center to GO Team Oct_2023.pdf*](#)

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
SCHREINER UNIVERSITY AND THE CITY OF KERRVILLE, TEXAS
ECONOMIC IMPROVEMENT CORPORATION FOR FUNDING FOR
SCHREINER UNIVERSITY'S ATHLETIC FACILITIES**

This Economic Development Grant Agreement ("Agreement") is entered into as of the Effective Date by and between SCHREINER UNIVERSITY, a Texas nonprofit corporation ("Schreiner"), acting herein by and through its duly authorized President; 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. Schreiner and EIC are sometimes collectively referred to herein as "Parties" and individually as "Party".

WITNESSETH:

WHEREAS, pursuant to the Act, the EIC is authorized to provide funding relating to projects which the EIC finds to be encompassed within the definition of "Projects" as that word is defined by Chapters 501 and 505 of the Act, including:

Expenditures required or suitable for use for professional and amateur (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 those items described by 505.152 of the Act; and

WHEREAS, Schreiner is a provider of higher education and has been in existence since 1923; and

WHEREAS, as part of its efforts to offer a full college experience for its students, Schreiner fields teams in 19 sports and competes in the Southern Collegiate Athletic Conference as part of Division III within the National Collegiate Athletic Association (NCAA); and

WHEREAS, Schreiner plans to expand and enhance buildings and infrastructure within its athletic complex to launch a new football program, which is expected to begin competing with a developmental team in the fall of 2025 and a NCAA Division III competitive team in the Fall of 2026; and

WHEREAS, the facilities that Schreiner will expand include its weight room

and locker room (the "Facilities"); and

WHEREAS, while the expanded Facilities are intended for use for its football program, Schreiner will use these new spaces across all of its athletic programs and constituencies that use such facilities; and

WHEREAS, Schreiner believes that football is a consequential aspect of its mission, as it will increase student enrollment in the university both through the student-athletes that are added and through the expanded interest of other prospective students who view a university's football program as akin to a university's "front porch" and an important part of student life; and

WHEREAS, in order to serve these new students, both student-athletes and others, Schreiner anticipates adding 15 new staffers to coach football but also up to 19 additional faculty in its effort to maintain its existing student-faculty ratio; and

WHEREAS, as part of its athletic conference, Schreiner will endeavor to host at least 5 home football games each year, such games to include opponents who will bring their teams to Kerrville, along with fans and supporters, who will come and need to stay overnight, thereby using hotel room and local restaurants among other hospitality services; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and the *City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures* in that it will enhance the "quality of life" within the community; and

WHEREAS, EIC finds that it will be in the public interest to enter into an agreement with Schreiner to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to Schreiner for costs related to the Facility; and

WHEREAS, on April 15, 2024, 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, Schreiner and EIC agree as follows:

ARTICLE I. EIC'S OBLIGATIONS

- A. EIC hereby agrees to provide a grant to Schreiner in an amount up to and not to exceed Two Million One Hundred Seventy-seven Thousand and Five

Hundred and Seventy-two and No/100 Dollars (\$2,177,572.00) ("Grant"). EIC's payment of the Grant shall be as follows for the Term of this Agreement:

- (1) Year 1 – payments not to exceed \$1,088,786.00.
- (2) Year 2 through 5 – payments not to exceed \$272,196.00 for any one year.

For purposes of this subsection, "year" means the time period between June 1 and May 31 of the following year. In the event Schreiner's expenditures for the Facilities exceed the maximum allowable payment in any year (as described in A.1 and A.2), such expenditures will "roll over" to future years and become eligible for full reimbursement at the beginning of each successive year.

- B. Schreiner shall use the grant proceeds for costs related to the design and construction of the Facilities, herein referred to as the "Project". The Project consists of the construction of the Facilities, more specifically described and with an estimation of costs as found in the attached **Exhibit A**, such that the Grant makes up only partial funding for the Project.
- C. Prior to the initial payment from EIC, Schreiner must provide sufficient evidence demonstrating, in the reasonable opinion of EIC, that Schreiner has received and/or been promised funding from other entities or sources to complete the full Project as specified in **Exhibit A**.
- D. Subject to the terms and conditions set forth in Article II, EIC will administer and provide payment of the Grant to Schreiner as a reimbursement for expenditures of allowable costs on the Facilities. As a condition precedent to any payment from EIC, Schreiner shall submit written evidence of its expenditures of allowable "costs," as defined by Texas Local Government Code § 501.152, such as contracts, invoices, receipts, bills of sale, and proof of actual payment of such costs for review and approval by the EIC or its designated representative. EIC agrees to pay all undisputed amounts not later than thirty (30) days following delivery of each request from Schreiner, which shall include verification of amounts paid and work completed, and confirmation of the extent of completion of construction of the Facilities. EIC shall have access to the Facilities for any onsite inspections it desires to conduct, assuming all risks of injuries or death of any persons participating in the inspection.
- E. Payments made by EIC to Schreiner from 4B Revenues will be limited to reimbursement of expenditures made for the payment of "costs" as defined by Texas Local Government Code § 501.152.

- F. In no event will the total amount of payments made to fund the Grant exceed Two Million One Hundred Seventy-seven Thousand and Five Hundred and Seventy-two and No/100 Dollars (\$2,177,572.00).
- G. Schreiner specifically agrees that EIC shall only be liable to Schreiner for the amount of the Grant the EIC is required to convey to Schreiner and shall not be liable to Schreiner for any other actual or consequential damages, direct or indirect, interest, attorney fees, or costs of court for any act of default by EIC under the terms of this Agreement.
- H. 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, 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.

ARTICLE II. SCHREINER'S OBLIGATIONS

- A. Schreiner agrees to complete its construction of the Project on or before May 31, 2028. Such completion of construction means that a certificate(s) of occupancy has been issued by City for the Facilities. Failure to complete construction of the Project by this date will terminate the obligation of EIC to make any additional payments of the Grant.
- B. Schreiner shall continue to offer the use of its athletic facilities to the public for events, conferences, meetings, receptions and other activities, some uses of which may be on a fee basis. Under certain specific circumstances, Schreiner shall continue to consider waiving or reducing such fees. Such public uses and the waiver/reduction of fees policy may include the Facilities and will be undertaken according to established Schreiner University Facility Use Policies.
- C. Schreiner shall keep and maintain complete and accurate records relating to the costs of constructing the Project, separate and identifiable from its other records, for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect the records during the Term of this Agreement and for three (3) years thereafter, upon reasonable notice.
- D. Following the initial payment from EIC to Schreiner, Schreiner shall make written quarterly reports concerning the status of Project and the estimated opening date of the Facilities to EIC, due on or before the 15th day after the end of each calendar quarter. In addition, and upon request from the City

Manager, Schreiner shall appear before the EIC during its monthly meeting to present its report. The City Manager shall provide Schreiner with at least thirty (30) days written notice of this request.

- E. Schreiner shall only be liable to EIC for the actual amount of the Grant to be conveyed to Schreiner and shall not be liable to EIC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or cost of court for any act of default by Schreiner under the terms of this Agreement.

ARTICLE III. REIMBURSEMENT

- A. If EIC has not previously breached its obligations under this Agreement, and on May 31, 2028 Schreiner has failed to open and begin conducting its operations and activities of the Facilities, then Schreiner shall repay EIC One Hundred Thousand and No/100 Dollars (\$100,000.00) ("Repayment"). The Repayment shall be made as soon as commercially practicable after the receipt of a written demand by EIC, but in no event later than thirty (30) days from the receipt of such written demand. Upon EIC's receipt of the Repayment, Schreiner shall have no further obligation under this Agreement. EIC shall have the discretion to consider relevant circumstances before demanding the Repayment and may require partial repayment in appropriate circumstances. Pursuant to the conditions precedent of this subsection, failure to reimburse EIC within thirty (30) days of Schreiner's receipt of such demand shall constitute a breach of this Agreement.
- B. Notwithstanding any other provision in this Agreement, Schreiner shall in no event be required to repay any amount in excess of the Grant monies actually received under this Agreement.

ARTICLE IV. SALE OF PROJECT, MERGER OR CONSOLIDATION OF SCHREINER

- A. A sale of all or substantially all of the assets of Schreiner or its Facilities will not release Schreiner from its duties and responsibilities to EIC under the terms of this Agreement and will 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 Schreiner's proposed successor shall have the financial condition to fully satisfy Schreiner's duties and responsibilities hereunder and agrees to assume Schreiner's responsibilities under this Agreement. EIC may, in its sole discretion, reasonably determine whether such proposed successor's financial condition is satisfactory.

- B. In the event of any proposed merger or other consolidation of Schreiner with any third party not affiliated with Schreiner which will result in a surviving entity other than Schreiner, Schreiner shall at least ninety (90) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC and Schreiner regarding: (1) the surviving entity's assumption and satisfaction of Schreiner's obligations hereunder and (2) 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 Schreiner's duties and responsibilities hereunder. Failure to provide such information shall be considered a breach of this Agreement.
- C. 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 Schreiner or its affiliates. In the event of any sale or merger involving Schreiner or its affiliates, the surviving entity shall assume Schreiner's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE V. SCHREINER'S REPRESENTATIONS AND WARRANTIES

- A. Schreiner represents and warrants as of the date hereof:
- (1) Schreiner is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;
 - (2) Execution of this Agreement has been duly authorized by Schreiner and this Agreement is not in contravention of Schreiner's corporate charter, or any agreement or instrument to which Schreiner is a party or by which it may be bound as of the date hereof;
 - (3) No pending or threatened litigation or governmental proceeding against or affecting Schreiner is reasonably likely to result in a material adverse change in Schreiner's business, properties, or operations sufficient to jeopardize Schreiner's legal existence. If any such circumstance occurs during the Term, Schreiner shall immediately notify the EIC in writing by providing the pleadings in the litigation or filings in the proceeding; and
 - (4) No written application, written statement, or correspondence delivered by Schreiner to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, 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. The

Application for 4B sales Tax Funds submitted by Schreiner is attached hereto as **Exhibit B** and shall be incorporated herein by reference and expressly made a part of this Agreement.

- B. Except as expressly set forth in this Article V, Schreiner makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

ARTICLE VI. EIC'S REPRESENTATIONS AND WARRANTIES

- A. EIC represents and warrants as of the date hereof:
- (1) EIC 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;
 - (2) Execution of this Agreement has been duly authorized by the Board of Directors of the EIC, and this Agreement is not in contravention of EIC's corporate charter or bylaws, or any agreement or instrument to which the EIC is a party or by which it may be bound as of the date hereof;
 - (3) No litigation or governmental proceeding is pending or threatened against EIC which may result in EIC's inability to meet its obligations under this Agreement; and
 - (4) EIC has the capacity to fund the full dollar amount of this Grant on the payment schedule outlined in 1.A, and 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.
- B. Except as expressly set forth in this Article VI, the EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

ARTICLE VII. MAJOR FORCES PREVENTING SCHREINER FROM CARRYING OUT ITS OBLIGATIONS UNDER THIS AGREEMENT

If, by reason of force majeure, such as fire, flood, windstorm, drought, or other act of God, act of war, act of terrorism, labor strike, or economic downturn affecting Schreiner, Schreiner is reasonably unable to fulfill its obligations under this Agreement, Schreiner shall use reasonable and diligent efforts to rectify the situation to allow it to perform its obligations specified herein with all due haste. In the event

that the situation cannot be rectified within twelve (12) months after the occurrence of the force majeure, either Party may terminate this Agreement by providing thirty (30) days advance written notice to the other without further liability hereunder except that termination under this provision shall not excuse Schreiner from any applicable reimbursement obligations under Article III of this Agreement.

ARTICLE VIII. CONDITIONS UNDER WHICH EIC MAY SUSPEND PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT

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

- A. Schreiner 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 Schreiner, or of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
- C. The adjudication of Schreiner as bankrupt.
- D. The filing by Schreiner 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 these conditions not be cured by Schreiner within a period of ninety (90) days EIC may, at its option, with written notice to Schreiner, terminate this Agreement and Schreiner shall have no further obligations hereunder.

ARTICLE IX. REMEDIES

- A. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any Party hereto, 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.

- B. Upon breach of this Agreement by either Party and the failure to cure as permitted by this Article IX, the non-breaching Party shall have the sole right and discretion to either terminate this Agreement or pursue any and all remedies which may be provided by law and this Agreement. Each Party acknowledges and agrees that neither Party shall be entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that neither Party shall be liable to the other Party for any other actual or consequential damages for any act of default by such Party under the terms of this Agreement.
- C. Any delay by either Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not, so long as the breach or default by the other 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 a Party with respect to any specific default by the other Party except to the extent specifically waived in writing.

ARTICLE X. GENERAL PROVISIONS

- A. 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.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Approval. Unless otherwise specifically provided otherwise, EIC grants the City Manager or designee the authority to make approvals where the Agreement requires.

- D. 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 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.
- E. 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:

1. For EIC

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

With a copy to:
City Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

2. For Schreiner

President
Schreiner University
2100 Memorial Boulevard
Kerrville, Texas 78028

With a copy to:
Vice President for Planning & Finance
Schreiner University
2100 Memorial Boulevard
Kerrville, Texas 78028

- F. Assignment. This Agreement shall be binding upon the parties hereto and their successors and assigns. Except as set forth in Article IV, 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 hereto, the assigning party shall be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement. Schreiner may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by Schreiner or by the parent, subsidiary or affiliate of Schreiner provided the entity assumes all of Schreiner'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 Schreiner and Schreiner 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.
- G. Parties In Interest. Nothing in this Agreement shall entitle any party other than Schreiner or EIC to any claim, cause of action, remedy or right of any kind except as expressly provided in Article IV.
- H. Term. The term of this Agreement (the "Term") will commence on (the "Effective Date"), meaning the date this Agreement bears the signatures of authorized representatives of both Parties, whether appearing on the same document or in identical counterparts. The Agreement will terminate on the earlier of: (i) either on May 31, 2028, or when the requirements set forth in this Agreement are completed, whichever date is later; (ii) when terminated by mutual agreement of the parties; (iii) when terminated pursuant to Article IX, Paragraph B; (iv) when terminated pursuant to Article VIII; (v) at Schreiner's sole and absolute discretion, upon Schreiner's return of all Grant funding to EIC that it has received under this Agreement; or, (vi) upon Schreiner's repayment of all monies that are demanded by EIC and are in fact required to be repaid by Schreiner under Article III. Upon termination of this Agreement as specified herein, all rights, duties and obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect, except as provided in K below.
- I. 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.

- J. Indemnity. IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT SCHREINER, IN PERFORMING ITS OBLIGATIONS HEREUNDER, IS ACTING INDEPENDENTLY, AND EIC ASSUMES NO RESPONSIBILITY OR LIABILITY IN CONNECTION THEREWITH. SCHREINER AGREES TO INDEMNIFY AND HOLD HARMLESS EIC, ITS OFFICERS AND AGENTS, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY SCHREINER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ANY NEGLIGENT ACT OR OMISSION OF SCHREINER, ITS OFFICER, AGENTS, ASSOCIATES OR EMPLOYEES, IN THE PERFORMANCE OF THIS AGREEMENT; AND NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF ANY GOVERNMENTAL IMMUNITY AVAILABLE TO EIC UNDER TEXAS LAW.
- K. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.
- L. Survival of Terms. All warranties and representations of the Parties, and all rights, duties, liabilities and obligations accrued prior to termination, shall survive termination.
- M. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.
- N. Recitals. The recitals to this Agreement are incorporated herein.
- O. 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.
- P. Employment of Undocumented Workers. During the Term of this Agreement, Schreiner agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Schreiner shall repay the Grant and any other funds received by Schreiner from EIC as of the date of such violation within one hundred twenty (120) days after the date Schreiner 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. Schreiner is not liable for a violation of this section in relation to any workers employed by a subsidiary, Affiliate, contractor, subcontractor, or franchisee of Schreiner or any other Person other than Schreiner.

Q. Prohibition on contracts with companies boycotting Israel. Schreiner hereby verifies the following per Section 2271.002, Texas Government Code:

(1) Schreiner does not boycott Israel; and

(2) Schreiner will not boycott Israel during the Term of the Agreement.

R. Prohibition against business with Iran, Sudan or foreign terrorist organization. Schreiner warrants, covenants, and represents that Schreiner is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

S. Prohibition on Contracts with Companies Boycotting Energy Companies. Schreiner hereby verifies the following per Section 2276.002, Texas Government Code:

(1) Schreiner does not boycott energy companies; and

(2) Schreiner will not boycott energy companies during the term of the Agreement.

T. Written Verification as to Firearm Entities. Schreiner hereby verifies the following per Section 2274.002, Texas Government Code:

(1) Schreiner does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and

(2) Schreiner will not discriminate against a firearm entity or firearm trade association during the Term of the Agreement.

U. Prohibition on Contracts with Companies Related to Certain Countries. Where this Agreement pertains to "critical infrastructure", as defined by Section 2274.0101, Texas Government Code, Schreiner verifies (1) that it is not owned by or the majority of stock or other ownership interest of Schreiner is not held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or other designated countries; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other designated countries; or (2) headquartered in China, Iran, North Korea, Russia, or other designated countries.

V. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes.

EXECUTED AND EFFECTIVE, as of the Effective Date indicated below, by the City of Kerrville, Texas, Economic Improvement Corporation, by and through its Board President, duly authorized to execute same by action of the Board, and by Schreiner, acting through its duly authorized official.

Effective Date: May ____, 2024.

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

SCHREINER UNIVERSITY

By: _____
Kim Clarkson, its President

DocuSigned by:
By: Charlie McCormick
F2EB8495C5514AA...
Dr. Charlie McCormick,
President

ATTEST:

Kesha Franchina, Recording Secretary

APPROVED AS TO FORM:

DocuSigned by:
Michael C. Hayes
9CAD2650E13A451...
Michael C. Hayes, Attorney for the EIC

Exhibit A

Expansion and Enhancement of Schreiner University Athletics Complex

Funding Request - \$2,177,572 over three years

Project Overview

Infrastructure expansions and enhancements to the University's athletics complex allowing Schreiner to launch new athletic offerings and thereby increase our undergraduate and residential population. For this EIC proposal, Schreiner will use the funds to build out a new weight room and a new locker room.

Exhibit A

The specifics and timeline of the athletics infrastructure project are as follows:

Part 2 Funding Request

Annual Distribution Window	EIC contributions to Athletics Infrastructure	Schreiner contributions to Athletics Infrastructure and Operations	Milestone Infrastructure Accomplishments for Athletics	Annual Activities leading to the launch of football
June 1, 2024 – May 31, 2025	\$534,393 25%	\$1,603,179 75%	Construction Documents Demolition and Set up	2 New FT Employees (Head Coach and Admin Asst)
June 1, 2025 - May 31, 2026	\$704,774 25%	\$2,114,322 75%	Construction of building Field development	2 Continuing FT Employees 3 New FT Employees (3 Asst Coaches) 20 unique students recruited for football
June 1, 2026 – May 31, 2027	\$938,405 24%	\$2,906,517 76%	Furniture Placement Uniforms and equipment Football begins competition with 4-5 home games	5 Continuing FT Employees 5 New FT Employees (Equip Manager, Coach, Sports Info Director, Athletic Trainers) 5 new PT Coaches 80 unique students recruited for football
June 1, 2024 – May 31, 2027	\$2,177,572 25%	\$6,624,018 75%		
Total Cost of Project		\$8,801,590		

Exhibit A

Athletics Master Plan

Phase 1

Phase 2 through 2028

Phase 3 through 2035

Phase 1

Phase 2

Phase 3

	TOTAL PHASED INVESTMENT	EDINGTON GYMNASIUM ADDITION	BASBALL & SOFTBALL STADIUM (TUBS)	ATHLETICS ALL-SPORT BEDHOUSE	NEW TRACK & MULTI-PURPOSE FIELD	EDINGTON RENOVATION & EXPANSION	FOOTBALL TENNIS & WALK OF CHAMPIONS
		UNPHASED	PHASE 1A	PHASE 1B	PHASE 2	PHASE 3	PHASE 4*
Construction Cost	\$ 78,225,712	\$ 3,000,000	\$ 8,141,712	\$ 15,232,000	\$ 8,518,000	\$ 8,103,000	\$ 34,231,000
Design Contingency	\$ 3,911,285	\$ 450,000	\$ 407,086	\$ 961,600	\$ 425,900	\$ 405,150	\$ 1,711,550
Cost of Construction	\$ 82,136,998	\$ 3,450,000	\$ 8,548,798	\$ 20,193,600	\$ 8,943,900	\$ 8,508,150	\$ 35,942,550
Construction Contingency	\$ 2,464,110	\$ 172,500	\$ 256,464	\$ 605,808	\$ 268,317	\$ 255,245	\$ 1,078,277
Total Construction Costs	\$ 84,601,108	\$ 3,622,500	\$ 8,805,262	\$ 20,799,408	\$ 9,212,217	\$ 8,763,395	\$ 37,020,827
FTE and Staining & Graphics							
Furniture & Equipment	\$ 155,000	\$ 25,000	\$ 15,000	\$ 50,000		\$ 25,000	\$ 50,000
Equipment - Weights & Cardio	\$ 380,000	\$ 380,000	\$ -	\$ -	\$ 380,000	\$ -	\$ -
TBD							
Audio Visual Equipment	\$ 360,000	\$ 25,000	\$ 50,000	\$ 75,000	\$ 50,000	\$ 35,000	\$ 150,000
Telephone System	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Signage	\$ 105,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 10,000	\$ 20,000	\$ 35,000
Branding	\$ 510,000	\$ 50,000	\$ 150,000	\$ 85,000	\$ 25,000	\$ 50,000	\$ 200,000
Existing Conditions Costs							
Survey	\$ 30,000	\$ 15,000	\$ 15,000	\$ -	\$ -	\$ -	\$ -
Geotech	\$ 44,000	\$ -	\$ 12,000	\$ 12,000	\$ -	\$ 8,000	\$ 15,000
Existing Building Measured Drawings	\$ 7,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,500
Regulatory							
City Development Plat	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
LEED Services (Excluding Cx)	\$ 22,500	\$ -	\$ -	\$ 7,500	\$ 7,500	\$ 7,500	\$ -
Regulatory Review Fees	\$ 362,735	\$ 15,000	\$ 40,709	\$ 96,160	\$ 14,197	\$ 40,515	\$ 171,155
Utility Tap & Impact Fees	\$ 45,000	\$ 10,000	\$ 5,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000
Storm Water Management Plan	\$ 33,000	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 11,000
Fire Flow Test	\$ 8,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ -	\$ 2,000	\$ 2,000
Construction							
Construction Material Testing	\$ 120,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 10,000	\$ 25,000	\$ 35,000
Test & Balance	\$ 81,500	\$ 1,500	\$ 1,500	\$ 20,000	\$ -	\$ 20,000	\$ 20,000
Asbestos Abatement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Utility Costs during Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Grounds Maintenance during Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Marketing/Startup Costs							
Legal Fees for lease acquisition	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Mgmt & Capital Campaign Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Franchise - Bridge Loan	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Franchise - Insurance Endowment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Contingency	\$ 4,230,045	\$ 131,125	\$ 440,263	\$ 1,039,970	\$ 460,811	\$ 438,170	\$ 1,851,041
AFE Basic Services Fees	\$ 6,382,586	\$ 380,363	\$ 748,447	\$ 1,559,959	\$ 552,733	\$ 744,889	\$ 2,176,562
Reimbursable Expenses	\$ 7,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ -	\$ -
Total Project Budget Estimate (Const. Jan 2023)	\$ 97,465,485	\$ 4,760,488	\$ 10,338,780	\$ 23,809,964	\$ 10,755,258	\$ 10,194,968	\$ 42,367,085
Total Project Budget Estimate (Const. Jan 2024)	\$ 112,085,307	\$ 5,474,587	\$ 11,888,907	\$ 27,391,493	\$ 12,388,546	\$ 11,724,213	\$ 48,722,148
Total Project Budget Estimate (Const. Jan 2025)	\$ 121,052,132	\$ 5,912,525	\$ 12,840,020	\$ 29,572,013	\$ 13,358,030	\$ 12,662,150	\$ 52,519,919

[\$5,912,525]

\$55,770,063

[\$65,282,069]

City Of Kerrville
Economic Improvement Corporation
March 8, 2024



To the Members of the Economic Improvement Corporation:

Schreiner as a Growing Institution

Schreiner University is one of Kerrville's largest primary employers with over 750 employees and directly accounting for more than 4% of Kerr County's employment.¹ It has only been in the last 20 years that Schreiner has grown, nearly doubling its enrollment since the late 1990s. Schreiner has targeted an enrollment of over 2,000 students by 2028. Enrollment growth is a necessary component if Schreiner is to flourish since this growth enables expansion in the variety of academic programs available to students, provides critical mass for student activities, and achieves economies of scale in the University's operations. Successful and sustainable growth is only possible with **balanced growth**, including growth in both niche programs and high-volume programs.

Schreiner's work in growing enrollment has already created 29 full-time positions and one part-time position along with over \$5.4 million of additional expenditures. Achievement of the remainder of the enrollment growth plan calls for an addition 38 full-time and 35 part-time positions to be added along with an additional \$119 million of expenditures.

We are requesting funding for two projects as a part of one balanced growth initiative: the launch of a Center for Talent and Workforce Development and the expansion and enhancement of the University's athletics complex to support several athletic programs, including the launch of NCAA Division III football.

Funding Request Summary

1) Request to Support a Center for Talent and Workforce Development

Project: Initiation of Center for Talent and Workforce Development

¹ 750 employees / 18690 Kerr County Employment (Schreiner Data, BLS QCEW)

Workforce Training and Certifications including:

- Drone Certification
- Vocational Nursing
- Condensed Curriculum International (various healthcare certifications)
- Agriculture Certifications (TBD)
- Field Operations Management Certification
- Vineyard Management and Operations Certification
- Craft Beverage Management Certification
- Mechatronics Certification

Benefits to Kerrville Community:

- Increased talent pool to support regional businesses
- Benefits accrue to non-college educated workers
- 150 workforce participants in the first three years
- Direct jobs created: 3
- Indirect employment effects: varied depending on retention and expansion of existing industries

Three-year project cost: \$1,723,743

Requested EIC contribution: \$822,428 over three years

2) Request to Support Expansion of Schreiner Athletics

Project: Build out of Schreiner Athletics facilities to support initiation of football program

Activity supported by project

- Enrollment growth of 80 students (24% student growth)
- Initiation of football program to include five home games a year played at Antler Stadium
- Potential increase of 300+ visitors per year for each home game (visiting team, their friends, and their families and home team friends and families)

Benefits to Kerrville Community

- Additional community activities and pride
- Visitor activity counterbalancing leisure and hospitality seasonality
- Increased exposure and confirmation of Kerrville as sporting hub of Hill Country
- Contribution to branding Kerrville as a college town
- Direct employment effect: 34 jobs

Three-year project cost: \$8,801,590

Requested EIC Contribution: \$2,177,572 over three years

Nature and Scope of the Project

The pandemic was an inflection point for many colleges and universities. Since it began, college and university enrollments dropped by 8% across the nation (see <https://fortune.com/2023/03/09/american-skipping-college-huge-numbers-pandemic-turned-them-off-education/>) and some 37 public and nonprofit colleges have announced their closure or merger since March 2020 (see <https://www.bestcolleges.com/research/closed-colleges-list-statistics-major-closures/>). This, of course, is devastating to the students who were enrolled at the school, the faculty and staff who work there, the alumni whose identity is connected to the school, and the communities in which these schools are situated. Rather than let these challenges simply wash over us, too, Schreiner University decided the pandemic was a moment to “coil the spring” – to ride out the immediate storm but to aggressively prepare for springing forward as soon as the dilemma had passed. And so, while the campus was closed to outsiders and we were requiring temperature checks to attend class, we also were huddling in meeting rooms, writing grants, master planning, designing curricula, imagining a more beautiful and functional campus, and recruiting faculty and staff to champion our enrollment growth initiative.

But we cannot not feel satisfied with the initial progress of our return to enrollment growth. We must be even more aggressive in our growth and development over the next five years and beyond. A growth initiative in a complex organization such as Schreiner cannot be achieved by pulling a single lever; it is achieved by pulling multiple levers at the same time and in rapid succession. Our levers include: offering the right curricular and co-curricular programs; retaining students through graduation; raising awareness of Schreiner through the launch of Centers of Distinction; building out the campus so that it is safe, functional, and beautiful; processing of new and enrolled students; and securing endowment funds to make college accessible to students. There is no one action that results in strategic and intentional enrollment growth.

Enrollment Growth Plan

Since the pandemic, we have pulled these levers, and we will continue to pull these levers in order to achieve a more prosperous financial position. Our current enrollment growth plan illustrates the various activities that we have accomplished from 2020 through today, as well as the projected activities we anticipate happening through 2028 (Phase 1 of the Enrollment Growth Plan). Our enrollment growth plan goes well beyond 2028, but for the purpose of this funding request, we are exclusively focusing on our work between 2020 and 2028.

Here is the outline of our multipronged enrollment growth plan to recruit students and keep them through graduation, highlighting the number of new jobs and anticipated new jobs and the actual expenditures and the anticipated new expenditures that will accompany this plan:

Table A: Programmatic Offerings and Centers of Distinction

Illustrating new programs and positions as part of Schreiner's enrollment growth strategy.

	Additional Positions <u>2020-2024</u>	Future Positions <u>2024-2028</u>
<u>Offerings</u>		
Engineering (Mechanical and Civil)	3 (3 FT, 0 PT)	6 (1 FT, 5 PT)
Criminal Justice	1 (1 FT, 0 PT)	0 (0 FT, 0 PT)
Computer Science (Game Design, Cybersecurity)	1 (1 FT, 0 PT)	1 (1 FT, 0 PT)
Banking	1 (1 FT, 0 PT)	1 (0 FT, 1 PT)
Nursing (Master of Science)	0 (0 FT, 0 PT)	11 (1 FT, 10 PT)
Aviation	1 (1 FT, 0 PT)	13 (3 FT, 10 PT)
Ag & Natural Resource Management	0 (0 FT, 0 PT)	4 (4 FT, 0 PT)
Music	2 (2 FT, 0 PT)	0 (0 FT, 0 PT)
Academic Support	3 (3 FT, 0 PT)	0 (0 FT, 0 PT)
Club Sports	1 (1 FT, 0 PT)	0 (0 FT, 0 PT)
<i>Athletics (Football)</i>	<i>0 (0 FT, 0 PT)</i>	<i>15 (10 FT, 5 PT)</i>
Athletics Support	2 (2 FT, 0 PT)	0 (0 FT, 0 PT)
<u>Centers of Distinction</u>		
Texas Center	3 (3 FT, 0 PT)	1 (1 FT, 0 PT)
Schreiner Institute	4 (3 FT, 1 PT)	0 (0 FT, 0 PT)
Center for Talent and Workforce Development	0 (0 FT, 0 PT)	3 (3 FT, 0 PT)
Total Positions	22 (21 FT, 1 PT)	55 (24 FT, 31 PT)
Total Expenditure (Personnel, Operating, Capital)	\$3.3M+	\$44.1M+

Table B: Student Support Focused Programs

Illustrating the expansion of student support focused programs to facilitate enrollment growth, increase student success, and maintain the service necessary to provide the Schreiner experience to additional students.

	Additional Positions <u>2020-2024</u>	Future Positions <u>2024-2028</u>
<u>Program</u>		
First Year Experience	1 (1 FT, 0 PT)	0 (0 FT, 0 PT)
Online Learning Support	1 (1 FT, 0 PT)	0 (0 FT, 0 PT)
Hispanic Serving Institution STEM Support	2 (2 FT, 0 PT)	0 (0 FT, 0 PT)
Title V Academic Support	0 (0 FT, 0 PT)	7 (3 FT, 4 PT)
Admissions Counselors	1 (1 FT, 0 PT)	2 (2 FT, 0 PT)
Financial Services Counselors	1 (1 FT, 0 PT)	2 (2 FT, 0 PT)
Registrar's Operations	1 (1 FT, 0 PT)	1 (1 FT, 0 PT)
Student Services Staff	0 (0 FT, 0 PT)	2 (2 FT, 0 PT)
Operations (Security and Grounds)	0 (0 FT, 0 PT)	4 (4 FT, 0 PT)

Total Positions	7 (7 FT, 0 PT)	18 (14 FT, 4 PT)
Total Expenditure (Personnel, Operating, Capital)	\$0.7M+	\$8.7M+

Table C: Infrastructure Projects

Illustrating the planned infrastructure investment to support enrollment growth including the expansion of athletics facilities to support an increase in student athletes corresponding to an increase in student enrollment.

<u>Program</u>	<u>Expenditures 2020-2024</u>	<u>Expenditures 2024-2028</u>
<i>Upgraded Athletics Complex</i>	-	<i>\$61.7M</i>
The Hill at Schreiner (Vineyard and Garden)	\$0.7M	\$1.7M
Auxiliary Services	\$0.2M	\$1.6M
Demolition and Renovation	\$0.4M	\$0.9M
Construction (Trailhead and Pool Improvements)	\$0.07M	\$0.2M
Landscaping and Security	\$0.01M	\$0.15M
Total Expenditure (Capital)	\$1.4M	\$66.3M

Enrollment Growth Impact

To the extent that Schreiner thrives, Kerrville will thrive too. Consider the economic impact of Schreiner on the local community from a recent economic impact study conducted by The Independent Colleges and Universities of Texas.



Source: *The Economic Impact of the Independent Colleges and Universities of Texas report, 2021*

Schreiner University

Early estimates from Schreiner’s Institutional Research Office are that, should we achieve our enrollment growth plans, Schreiner’s local economic impact will increase \$15,000,000 annually through 2028. The significance of this impact alone is important for the EIC. Equally important – perhaps most important – for the EIC is the number of new jobs at Schreiner that will be generated through our enrollment growth. Already, we have seen an increase of 28 new FT positions and 1 new PT position. By 2028, there will be an additional 38 new FT and 35 new PT positions.

Though 97.48% of the total cost of our enrollment growth initiative is funded directly by Schreiner, we are bringing two aspects of this initiative to EIC for funding consideration because they directly align with the priorities of KerrEDC, directly align with the priorities of the Kerrville 2050 plan, and directly relate to the charter of the EIC which is to fund programs focused on the “**creation of ‘primary jobs’ and/or to provide an economic benefit to the City of Kerrville**, as well as ‘Quality of Life’ projects.”

The following illustrates these three priorities and how Schreiner’s work is best aligned with either activities or programs currently in place or through future work.

1. Directly align with the priorities of KerrEDC

KEDC's Priority Areas	Schreiner's New Center for Talent and Workforce Development	Schreiner's Traditional Academic Program
Aviation and Aerospace	Drone Certification	Aviation Studies Major
Medical and Health	Vocational Nursing	Online RN to BSN
	Condensed Curriculum International (various healthcare certifications)	Bachelor of Science in Nursing
		Master of Science in Nursing (to begin Spring 2024)
Craft Agriculture	Agricultural Certifications (TBD)	Agricultural Sciences (to begin Fall 2024)
	Viticulture Certification	
Advanced Manufacturing	Mechatronics Certification	Engineering Major: Mechanical and Civil Tracks
		Computer Science Major
Remote Workers	N/A	N/A

2. Directly align with the priorities of the Kerrville 2050 plan

Kerrville 2050 Plan's Priorities	Schreiner's Traditional Academic Program
E 4.2 Explore Opportunities to Capitalize on Existing Businesses	Alignment with Schreiner University's Launch of a new Center for Talent and Workforce Development
E 8.8 Promote the Craft Agriculture Industry	
E 9.2 Formal Program to Advance Economic Development	
E 9.4 Identify Higher Education Needs	
E 9.5 Enhance Mentorship and Internship Programs	
E 9.6 Support Trade-Related Training and Certification	
E 9.8 Maintain a list of certification classes offered by area schools/institutions	
E 12.1 Promote the growth and expansion of the hospital and medical industry	
E 12.2 Support medical education at Schreiner	
E 12.5 Support health care education and training programs	
E 7.3 Greatly Increase the City's Exposure as the Hub of the Hill Country and promote Kerrville as . . . C) Center of Sports and Recreation	Alignment with Schreiner University's Launch of NCAA Division III Football
E 8.2 Target Tourism that is Specific to the Current and Growing Industries Being Experienced by Kerrville	
E 8.7 Kerrville as The Sports Destination of the Hill Country	
E 9.1 Brand Kerrville as a College Town	
E 9.3 Support Schreiner's Expansion of Programs	
E 11.4 Attracting campus-oriented retail and entertainment/recreation activities to Schreiner area	
C 1.1 Create more youth recreational activities	

3. Directly relate to the charter of the EIC: To fund programs focused on the “creation of ‘primary jobs’ and/or to provide an economic benefit to the City of Kerrville, as well as ‘Quality of Life’ projects.”

Schreiner's EIC proposal focusing on enrollment growth (1) builds the capacity of the Kerrville community to promote and staff business, industry, and manufacturing enterprises through the Center for Talent and Workforce Development, and (2) it requests funds for construction of new facilities on campus that will lead to new jobs and significant economic benefit to Kerrville by attracting additional on-campus students, securing more overnight visitors to Kerrville, and inviting the wider community to enjoy additional recreational activities on campus.

Projects for Funding

Request 1: Center for Talent and Workforce Development

Funding Request - \$822,428 over three years

Project Overview

The first aspect of our enrollment growth project being submitted to the EIC is the launch of a Center for Talent and Workforce Development (CTWD) which will provide vocationally-focused training in its first three years to 150 workers across the priority areas identified by the Kerrville Economic Development Corporation (KerrEDC) and in areas beyond these priorities. The CTWD will offer programs leading to the attainment of micro-credentials, associate degrees, and baccalaureate degrees in both accelerated and online formats. As illustrated below, a finite – but robust – set of programmatic offerings have been identified because we have confidence the resources can be marshalled to deliver all of these experiences should start-up costs be provided by the EIC. Since funds are being requested to launch this new academic division, EIC members will notice that in year 1 the largest percentage of the operating costs is provided by the EIC, and by year 3, Schreiner is funding 90% of the operating costs and then will be responsible for 100% thereafter. So once up and running, these programmatic offerings – and many others that could be started based on business and industry needs – will fund the ongoing operations of the CTWD. The specifics and timeline of the (CTWD) are as follows and additional information can be found in Appendix A.

Part 1 Funding Request

Annual Distribution Window	EIC funding of the CTWD	Schreiner funding of the CTWD	Milestone Accomplishments for the CTWD	Annual Activities of the CTWD (see detail in Appendix A)
June 1, 2024 – May 31, 2025	\$465,607	\$51,734	2 New FT Employees: Director of the CTWD and Administrative Asst. for the CTWD	Online Degree Completion program
	90%	10%	85 unique students enrolled in the CTWD	Healthcare Certifications
				Banking Certification
				Aviation – co and dual enrollment
				Drone Licensure
				Basic Business Skills
				Vocational Nursing

June 1, 2025 - May 31, 2026	\$295,226	\$295,226	1 New FT Employee: Advisor for the CTWD	All above continuing Vineyard Certifications
	50%	50%	2 Continuing FT Employees	Hospitality Certifications
			117 unique students enrolled in the CTWD	
June 1, 2026 – May 31, 2027	\$61,595	\$554,356	3 Continuing FT Employees	All above continuing
	10%	90%	171 unique students enrolled in the CTWD	Mechatronics Certification
				Agricultural Certifications
June 1, 2024 – May 31, 2027	\$822,428	\$901,316	3 New and Continuing FT positions	
	48%	52%	171 unique students	
Total Cost of Project	\$1,723,743			

While the training provided through the CTWD is key to developing the current talent and workforce needs and the workforce that will be needed in the future, it does not generate enough revenue (given its low to moderate tuition price point and lack of room and board revenue) to contribute substantially to the operations of Schreiner’s four-year, residential college. Community colleges typically offer these vocational programs because they are so heavily subsidized by the state; four-year, residential colleges do not have access to these funds. Independent colleges, like Schreiner, receive federal funding because their students are offered federal student loans, but these loans cannot be used for vocational programs. The only way for a four-year, residential college to offer a robust program in talent and workforce development, therefore, is to make it one component of the overall educational experience with other robust parts of the experience which help fund the operations of the talent and workforce program.

Request 2: Expansion and Enhancement of Schreiner University Athletics Complex
Funding Request - \$2,177,572 over three years

Project Overview

The second aspect of our enrollment growth strategy being presented to EIC is infrastructure expansions and enhancements to the University’s athletics complex allowing Schreiner to launch new athletic offerings and thereby increase our undergraduate and residential population. For this EIC proposal, we are requesting funds to build out a new weight room and a new locker room

– note that no EIC funds are being use for personnel and/or operating expenses. These spaces will be used across all the University’s athletic programs and by the various constituencies (internal and external) that use Schreiner’s athletic facilities, but they are absolutely necessary if Schreiner is to start football. Some may consider football inconsequential to – and even disconnected from – the enrollment growth of the University, but it is important to remember that over 51% of Schreiner undergraduate students are participants in one of our NCAA or Varsity programs. To the extent these athletic offerings are robust, Schreiner’s enrollment will grow.

The addition of football should be important to the EIC because, of all the new athletic programs we are developing, football will be the most significant engine for job creation at the University and economic impact in Kerrville. It will accomplish this because it will have the greatest impact on the University’s enrollment, be the program requiring the largest investment in new employees at Schreiner because of how many new students it will bring to campus, and bring the largest number of visitors to Kerrville, many of whom will stay overnight in local hotels, eat in local restaurants, and shop in local stores. **There is no single program we could create that will have a more significant economic impact on the Kerrville community than the launch of football.**

Football – alone – is expected to recruit at least 90 new students to Schreiner University its first full year and many more thereafter (See Appendix B) . Not only will 15 new staff be hired to coach and manage these athletes, new faculty and staff will be hired to teach these students. Using current student to faculty and student to staff ratios, Schreiner anticipates hiring an additional 19 faculty and staff to work with these additional students in areas on campus like academic advising, financial services, and a variety of other operations departments on campus.

Schreiner anticipates hosting at least five (5) football home games each year once the team starts competitive play in fall 2025 with several hundred visitors expected to attend the game. Our conference includes football schools in Abilene, Seguin, Sherman, Arkansas, and Louisiana. All of these teams and visitors would need to spend at least one night in Kerrville when we play them here, contributing to Kerrville’s 4B sales tax.

The specifics and timeline of the athletics infrastructure project are as follows:

Part 2 Funding Request

Annual Distribution Window	EIC contributions to Athletics Infrastructure	Schreiner contributions to Athletics Infrastructure and Operations	Milestone Infrastructure Accomplishments for Athletics	Annual Activities leading to the launch of football
June 1, 2024 – May 31, 2025	\$534,393 25%	\$1,603,179 75%	Construction Documents Demolition and Set up	2 New FT Employees (Head Coach and Admin Asst)
June 1, 2025 - May 31, 2026	\$704,774 25%	\$2,114,322 75%	Construction of building Field development	2 Continuing FT Employees 3 New FT Employees (3 Asst Coaches)
				20 unique students recruited for football
June 1, 2026 – May 31, 2027	\$938,405 24%	\$2,906,517 76%	Furniture Placement Uniforms and equipment	5 Continuing FT Employees 5 New FT Employees (Equip Manager, Coach, Sports Info Director, Athletic Trainers)
			Football begins competition with 4-5 home games	5 new PT Coaches
				80 unique students recruited for football
June 1, 2024 – May 31, 2027	\$2,177,572 25%	\$6,624,018 75%		
Total Cost of Project	\$8,801,590			

It is also important to note that \$8.8M represents both the capital needs and operational needs for the athletics infrastructure project to be realized. For construction alone, Schreiner has worked with architectural firm, Marmon Mok, to assist with the master planning exercise. This lengthy process developed a plan to phase our athletics infrastructure work through 2035. The following page illustrates the multi-phased construction plan through 2035.

For Phase 1, however, we focus exclusively on the new locker room, weight room, and practice fields on campus.

Athletics Master Plan

Phase 1



Phase 2



Phase 3



Phase 1

Phase 2 through 2028

Phase 3 through 2035

10/10/2022	TOTAL PHASED INVESTMENT	EDINGTON GYMNASIUM ADDITION	BASEBALL & SOFTBALL STADIUM (TURF)	ATHLETICS ALL SPORT FIELDHOUSE	NEW TRACK & MULTI-PURPOSE FIELD	EDINGTON RENOVATION & EXPANSION	FOOTBALL, TENNIS & WALK OF CHAMPIONS
	TOTAL	UN-PHASED	PHASE 1A	PHASE 1B	PHASE 2	PHASE 3	PHASE 4+
Construction Cost	\$ 78,225,712	\$ 3,000,000	\$ 8,141,712	\$ 19,232,000	\$ 8,518,000	\$ 8,103,000	\$ 34,231,000
Design Contingency	\$ 3,911,286 5.0%	\$ 450,000 15.0%	\$ 407,086 5.0%	\$ 961,600 5.0%	\$ 425,900 5.0%	\$ 405,150 5.0%	\$ 1,711,550 5.0%
Cost of Construction	\$ 82,136,998	\$ 3,450,000	\$ 8,548,798	\$ 20,193,600	\$ 8,943,900	\$ 8,508,150	\$ 35,942,550
Construction Contingency	\$ 2,464,110 3.2%	\$ 172,500 5.0%	\$ 256,464 3.0%	\$ 605,808 3.0%	\$ 268,317 3.0%	\$ 255,245 3.0%	\$ 1,078,277 3.0%
Total Construction Costs	\$ 84,601,108	\$ 3,622,500	\$ 8,805,262	\$ 20,799,408	\$ 9,212,217	\$ 8,763,395	\$ 37,020,827
FFE and Branding & Graphics							
Furniture & Equipment	\$ 155,000	\$ 25,000	\$ 15,000	\$ 50,000	\$ 15,000	\$ 25,000	\$ 50,000
Equipment - Weights & Cardio	\$ 380,000	\$ 380,000	\$ -	\$ -	\$ 380,000	\$ -	\$ -
TBD	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Audio Visual Equipment	\$ 360,000	\$ 25,000	\$ 50,000	\$ 75,000	\$ 50,000	\$ 35,000	\$ 150,000
Telephone System	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Signage	\$ 105,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 10,000	\$ 20,000	\$ 35,000
Branding	\$ 510,000	\$ 50,000	\$ 150,000	\$ 85,000	\$ 25,000	\$ 50,000	\$ 200,000
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Existing Conditions Costs							
Survey	\$ 30,000	\$ 15,000	\$ 15,000	\$ -	\$ -	\$ -	\$ 15,000
Geotech	\$ 44,000	\$ -	\$ 12,000	\$ 12,000	\$ -	\$ 8,000	\$ 12,000
Existing Building Measured Drawings	\$ 7,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,500
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Regulatory							
City Development Plat	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
LEED Services (Excluding Cx)	\$ 22,500	\$ -	\$ -	\$ 7,500	\$ 7,500	\$ 7,500	\$ -
Regulatory Review Fees	\$ 362,735	\$ 15,000 0.5%	\$ 40,709 0.5%	\$ 96,160 0.5%	\$ 14,197 0.2%	\$ 40,515 0.5%	\$ 171,155 0.5%
Utility Tap & Impact Fees	\$ 45,000	\$ 10,000	\$ 5,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000
Storm Water Management Plan	\$ 33,000	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 11,000
Fire Flow Test	\$ 8,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ -	\$ 2,000	\$ 2,000
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction							
Construction Material Testing	\$ 120,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 10,000	\$ 25,000	\$ 35,000
Test & Balance	\$ 61,500	\$ 1,500	\$ 1,500	\$ 20,000	\$ -	\$ 20,000	\$ 20,000
Asbestos Abatement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Utility Costs during Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Grounds Maintenance during Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Marketing/Start-up Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Legal Fees for lease acquisition	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Mgmt & Capital Campaign Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Financing - Bridge Loan	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Facility Maintenance Endowment	\$ - 0.0%	\$ - 0.0%	\$ - 0.0%	\$ - 0.0%	\$ - 0.0%	\$ - 0.0%	\$ - 0.0%
Owner Contingency	\$ 4,230,055 5.0%	\$ 181,125 5.0%	\$ 440,263 5.0%	\$ 1,039,970 5.0%	\$ 460,611 5.0%	\$ 438,170 5.0%	\$ 1,851,041 5.0%
A/E Basic Services Fees	\$ 6,382,586	\$ 380,363 10.5%	\$ 748,447 8.5%	\$ 1,559,956 7.5%	\$ 552,733 6.0%	\$ 744,889 8.5%	\$ 2,776,562 7.5%
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Reimbursable Expenses	\$ 7,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Project Budget Estimate (Const Jan 2023)	\$ 97,465,485	\$ 4,760,488	\$ 10,338,180	\$ 23,809,994	\$ 10,755,258	\$ 10,194,968	\$ 42,367,085
Total Project Budget Estimate (Const Jan 2024)	\$ 112,085,307 15.0%	\$ 5,474,561 15.0%	\$ 11,888,907 15.0%	\$ 27,381,493 15.0%	\$ 12,368,546 15.0%	\$ 11,724,213 15.0%	\$ 48,722,148 15.0%
Total Project Budget Estimate (Const Jan 2025)	\$ 121,052,132 8.0%	\$ 5,912,525 8.0%	\$ 12,840,020 8.0%	\$ 29,572,013 8.0%	\$ 13,358,030 8.0%	\$ 12,662,150 8.0%	\$ 52,619,919 8.0%

[\$5,912,525] [

\$55,770,063

] [

\$65,282,069

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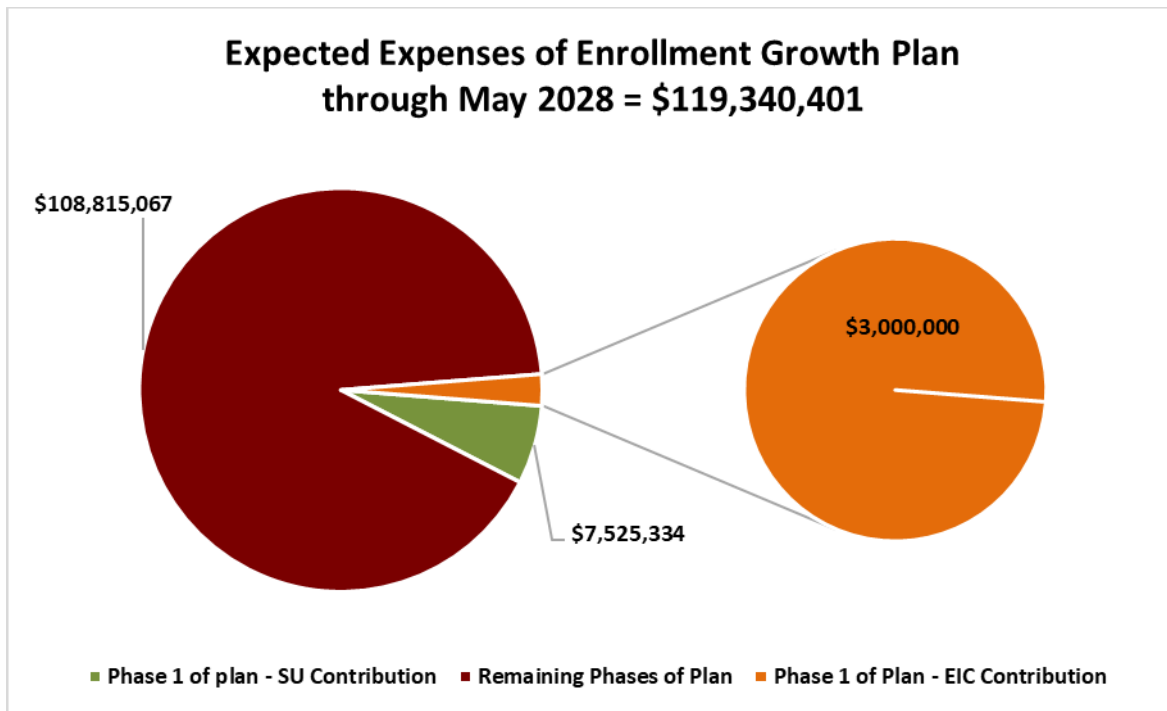
Thus, these two funding requests from EIC total \$3,000,000 over 3 years. The following illustrates the two projects and the funding necessary for the next three fiscal years from June 2024 through May 2027.

Total Funding Request

Annual EIC Distribution Window	EIC funding	Schreiner funding	Annual Project Funding
June 1, 2024 – May 31, 2025	\$1,000,000	\$1,654,913	\$2,654,913
CTWD	\$465,607	\$51,734	\$517,341
Athletic Infrastructure	\$534,393	\$1,603,179	\$ 2,137,572
June 1, 2025 - May 31, 2026	\$1,000,000	\$2,409,548	\$3,409,548
CTWD	\$295,226	\$295,226	\$590,452
Athletic Infrastructure	\$704,774	\$2,114,322	\$2,819,096
June 1, 2026 – May 31, 2027	\$1,000,000	\$3,460,873	\$4,460,873
CTWD	\$ 61,595	\$ 554,356	\$615,951
Athletic Infrastructure	\$938,405	\$2,906,517	\$3,844,922
June 1, 2024 – May 31, 2027	\$3,000,000	\$7,525,334	\$10,525,334
CTWD	\$ 822,428	\$901,316	\$1,723,744
Athletic Infrastructure	\$2,177,572	\$6,624,018	\$8,801,590
Total Investment	\$3,000,000	\$7,525,334	

As noted in the following figure, the EIC contribution for the Phase 1 of the Enrollment Growth Plan is equivalent to 2.51% of the overall enrollment growth plan through 2035. For Phase 1 specifically, the \$3,000,000 request funds two foundational projects that will support the ongoing enrollment growth plan for Schreiner and accounts for 28.5% of funding.

Schreiner is responsible for over \$7.5M to fund Phase 1 of the enrollment growth plan.



Proposed Site and Existing Improvement

The CTWD will be established on the main campus of Schreiner University (2100 Memorial Blvd) in a building known as the STEM-Zone (see location on the map in Appendix C). This is a space that was constructed in 2018. It has available office space, meeting space, and a computer lab. It is easily accessible with parking across the street from the building. This will be the primary intake location for prospective students and employers to engage with staff from the CTWD. As necessary, classes may be held in other areas of campus (e.g., vineyard management will take place at the demonstration vineyard on the Hill at Schreiner University across Main Street from the main campus).

Infrastructure enhancements to athletics will take place in Edington Gymnasium (see location on the map in Appendix D and enhancements in Appendix E). Edington Gym was constructed in 1980 to serve as the campus's primary athletic court, hosting basketball, volleyball, and recreational activities. After the Event Center was constructed in 2014, Edington Gym became a secondary court on campus where basketball (men's and women's) and volleyball could practice if the Event Center was being used for other purposes and as an additional court for tournaments sponsored regionally.

Over the years, some improvements have been made to the locker rooms in Edington and storage space was added. None of the renovations made structural changes to the building. Five years

ago, three offices – which were previously locker rooms for officials – were added. A few years later, a large air handler for the building was replaced.

Today, the building serves as a practice space for men's and women's wrestling, as a campus recreation space, and as a community space. Over the summer, the building has hosted a three-day weekend Hill Country Basketball Tournament. Axis Club Volleyball has used the space several times a week when it is in season for practice and games, and they generally have had two tournaments in the building per season. Additionally, a variety of external summer camps have used the space for activities that benefit from being in a conditioned space.

Proposed Improvements

The CTWD will utilize renovated space. Regular costs associated with setting up of offices and learning spaces – furniture, technology, etc. – are identified in year one and two. By year three, all staff should be in position and all learning spaces established. As new opportunities emerge through the CTWD that require new learning spaces, the Center itself will be expected to pay for these new or renovated spaces.

For football to be launched at Schreiner, an infrastructure project must be accomplished:

1) the creation of a new weight room that will not be exclusive to athletes but will be primarily for athlete development and, therefore, contain appropriate equipment. An existing building on campus – the Edington Gym – will be renovated to house this weight room.

and

2) additional modifications to Edington Gymnasium that will provide a locker room large enough to house a football team, additional storage space, and new offices for coaches and athletic training. See Appendix E for visual renderings of this space. Our master planning work with architects estimate this portion of the enrollment growth plan as a \$5.9M project.

Respectfully submitted,



Charlie McCormick, Ph.D.
President
March 8, 2024

**City Of Kerrville
Economic Improvement Corporation
4B Sales Tax Funding Request
July 7, 2023**

**Addendum 1
October 6, 2023**



To the Members of the Economic Improvement Corporation:

Schreiner University (Schreiner) supplements its previous EIC Funding Request dated July 7, 2023 with this Addendum 1.

Schreiner will commit in writing to pay wages that are at least equal to the prevailing wage in Kerr County for the applicable occupations for the three employment positions described at the top of page 10 of the July 7, 2023, Funding Request relating to the creation of the Center for Talent and Workforce Development (CTWD). Schreiner will also continue its previous practice of consulting with local business in Kerr County concerning job training needs which Schreiner may be able to offer through the CTWD, thereby assisting local business in the "promotion of development and expansion of business enterprises and other enterprises."

With this clarification, we look forward to learning of the Go Team's decision on Schreiner's funding request intended to benefit our overall local economy.

Submitted Respectfully,

A handwritten signature in dark ink, appearing to read 'Charlie McCormick'.

Charlie McCormick, Ph.D.
President
October 6, 2023



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Contract between City of Kerrville, Texas, and Kerrville Convention & Visitors Bureau, Inc. for convention and tourism promotion services. (*J Behrens*) (*Guest speaker: Julie Davis, President KCVB*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 28, 2024

SUBMITTED BY: Julie Behrens , Director of Finance

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
Based upon FY2025 Budget Appropriations	N/A	N/A	20-2000-3310

PAYMENT TO BE MADE TO: Kerrville Convention & Visitor's Bureau

Kerrville 2050 Item?	Yes
Key Priority Area	E - Economic Development
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

The City has had a long-lasting relationship with the Kerrville Convention & Visitor's Bureau (CVB). The function of this relationship is for the CVB to promote tourism through a variety of mechanisms in order to increase the number of visitors in Kerrville. The CVB works closely with City Admin, the City of Kerrville's Parks and Recreation Department, local hoteliers, museums, performing art centers and others to promote events and the City as a whole. The current contract was initiated in 2013 and will terminate on 9/30/2024. The CVB submits a budget to the City annually for consideration by Council, as outlined within the contract. Funding for CVB is provided through hotel occupancy taxes collected by the City.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute contract.

ATTACHMENTS:

[20240528_Contract KCVB for Convention and Tourism.pdf](#)

**CONTRACT BETWEEN CITY OF KERRVILLE, TEXAS AND
KERRVILLE CONVENTION & VISITORS BUREAU, INC.
FOR CONVENTION AND TOURISM PROMOTION SERVICES**

This agreement ("Contract") is made and entered into by the City of Kerrville, Texas, a municipal corporation, hereinafter referred to as "City," and the Kerrville Convention & Visitors Bureau, Inc., a Texas non-profit corporation, hereinafter referred to as "CVB," each acting by and through its authorized officials.

For and in consideration of the agreements hereto contained, the City and CVB hereby covenant and agree as follows:

**ARTICLE 1
CVB COVENANTS**

In consideration of City's agreement to pay monies to CVB from its hotel occupancy tax revenues collected by City in accordance with Chapter 352 of the Texas Tax Code, as hereinafter provided, CVB agrees to undertake activities for the promotion of tourism and the convention and hotel industry through advertising and conducting promotional programs to attract tourists and convention delegates to Kerrville, in accordance with this Contract.

Specifically, but without limitation, CVB covenants and agrees as follows:

1.1 To promote the lease and use of the Kathleen C. Cailloux City Center for the Performing Arts and other public facilities on dates available in such facilities.

1.2 To conduct coordinated state, regional and national advertising, publicity and promotion campaigns emphasizing the attractions offered in the City to meetings, groups, and visitors.

1.3 To participate in market places such as convention and travel industry tradeshow, conventions and marketing events where destination marketers meet with meeting planners, tour operators, group leaders, niche travel planners, event planners, travel counselors and consumers or attract visitors, conventions, meetings, exhibits, selected trade, sports, and consumer shows, and other events to City and/or areas in the vicinity of the City.

1.4 To cause to be printed and distributed in adequate quantities visitor literature of substantive quality and material to all Texas Department of Transportation Tourist Information Centers, as well as Visitor Information Centers located in places of public accommodation, and any other locations considered desirable, including the Convention & Visitors Bureau Information Center and other

visitors information centers located within City's incorporated limits that are owned and/or operated by City or CVB.

1.5 To maintain a website, social media platforms, and other digital resources to promote the City as a tourist destination.

1.6 To participate in appropriate tourism agencies and convention associations such as the Texas Economic Development and Tourism Office of the State of Texas, and the Texas Society of Association Executives as well as other agencies in order to assure that favorable publicity about the City may be continued and expanded.

1.7 To provide staffing and facilities for registration assistance and serves, including information relative to central housing, publicity material, and attendance mailings to associations, organizations, or groups convening or holding meetings in the City; and to coordinate with the appropriate City departments and facilities, local hotels, restaurants, and entertainment facilities, and to strive to provide an environment in which a visiting group or organization enjoys a coordinated and productive visit to the City.

1.8 To prepare, publish, and update during the term of this Contract and any renewals thereof, collateral materials providing specific information on hotels and motels located in the City, and to distribute said collateral materials to association executives and planners of meetings.

1.9 To expend funds in each fiscal year in accordance with the fiscal year budget approved, in writing, by the City Council.

1.10 To continue its separate bank account for deposit and expenditure of all funds paid by the City hereunder so as to avoid any commingling with other CVB funds.

1.11 To continue operating and maintaining an accounting system that will allow for the City to be able to trace funds and review the financial status of CVB.

1.12 To have its financial records related to the receipt and expenditure of Hotel Occupancy Tax revenues paid to CVB pursuant to this Contract reviewed at the end of each fiscal year by an independent certified public accountant who will furnish an audited financial report to the City.

1.13 To permit officials or representatives as authorized by the City Council to review CVB's financial records at any time.

1.14 To retain with the City Secretary current, up-to-date bylaws of the CVB.

1.15 To prepare and submit a report at least quarterly of the previous quarter's expenditures and a narrative report to the City, within thirty (30) days of the end of each quarter, which report shall include adequate information to indicate the degree to which performance metrics for the current fiscal year as established by mutual agreement of the City Council and the CVB Board have been achieved.

1.16 To cause the Executive Director of CVB to appear from time to time at the request of the City Council to discuss the CVB program.

1.17 To perform all other covenants provided elsewhere in this Contract.

ARTICLE 2 ANNUAL PERFORMANCE

2.1 The City Council and the CVB Board shall meet at least once annually on or before July 31. The meeting will be open to the public in accordance with state law. At this annual meeting, the CVB Board shall provide a report to the City Council that will include, but not be limited to, the following information:

- a) Review of information that indicates the achievement of established benchmarks for the prior fiscal year and for year to date for the current fiscal year;
- b) Identification of key trends and issues; and
- c) Priorities and objectives for the next fiscal year.

2.2 At the annual meeting, the CVB Board will provide a strategic plan to the City Council for the coming fiscal year. The strategic plan shall include, but not be limited to, the following information:

- a) Priorities for the next fiscal year;
- b) Goals and objectives for the next fiscal year;
- c) A media plan for the next fiscal year; and
- d) Performance metrics to be used to evaluate the effectiveness of the CVB projects and programs proposed for the next fiscal year.

2.3 No later than June 15th, the CVB will also submit a proposed budget to the City for the upcoming fiscal year for City Council consideration. It is recognized that the budget is a financial plan for the CVB and that the CVB Board may amend the budget from time to time. In no event shall a budget amendment obligate the City Council to allocate additional funds than those Council has already approved.

2.4 In no event will any hotel occupancy tax funds be used in a manner inconsistent with Texas Tax Code §351.101.

ARTICLE 3 PAYMENT AND USE OF FUNDS

3.1 In consideration of the professional services to be performed by CVB under the terms of this Contract for any particular, applicable fiscal year covered hereby, the City shall pay to CVB the annual sum budgeted for this purpose for that fiscal year, with payments to be made in four equal installments on or before the following dates within that specific fiscal year:

- a) November 10
- b) February 10
- c) May 10
- d) August 10

3.2 The City shall make payments under this Contract solely from current or accumulated hotel occupancy tax revenues collected by City in accordance with Chapter 351 of the Texas Tax Code. If the hotel occupancy tax revenues actually collected by the City during any City fiscal year are actually below the estimated revenues to be collected during such fiscal year, then City shall have the right to reduce the above-described payments to CVB by the same percentage that such tax revenues actually collected were less than the estimate of tax revenues to be received.

3.3 If any of the agreements herein made by the CVB are violated, the City is authorized to refuse to make any further payments until the condition on which the complaint is based is corrected to the satisfaction of the City Council.

3.4 CVB agrees to utilize the funds for the benefit of the City solely for the purposes permitted in Texas Tax Code §351.101, as amended. CVB shall provide all materials, personnel, facilities, and supervision with such funds.

3.5 All expenditures from funds provided hereunder shall be made in accordance with the budget submitted and approved by the City Council each year. It is understood and agreed that, upon the acceptance of funds hereunder, a fiduciary duty is created on CVB with respect to the expenditures of such funds.

3.6 City shall have the right to perform an audit and inspection of CVB's business records related to the expenditures of monies hereunder, at such reasonable times and intervals as City may request. The cost of the audit shall be paid by City unless such audit discloses a discrepancy of three percent (3%) or more in any report or information furnished City or any failure to follow the budget adopted pursuant to Article 2 of this Contract, in which case CVB will pay the cost of such audit. Such

audit will be performed by auditors selected by City. CVB shall make its books and records available for inspection by City or any representatives of City who may make copies thereof.

ARTICLE 4 TERMS AND APPROPRIATIONS

4.1 The term of this Contract shall be for a period of five (5) years, commencing October 1, 2024, and ending September 30, 2029, unless this Contract shall have been sooner terminated or extended in accordance with other provisions contained herein.

4.2 This Contract may be extended for two additional three (3)-year terms as follows. Should either party fail to notify the other in writing by September 30 of the year immediately preceding the last year of the existing Contract term of the desire to terminate the Contract at the end of the term, the Contract shall automatically renew.

4.3 This Contract is subject to annual funding by the City Council. In the event no funds or insufficient funds are appropriated and budgeted in any fiscal year for payments to CVB pursuant to this Contract, City shall notify CVB of such occurrence, and this Contract may be terminated by City of CVB effective as of the last day of the year for which appropriations were available, without penalty or expense to City of any kind whatsoever, except as specifically set forth in this Contract.

4.4 City may terminate this Contract at any time, with or without cause, upon twelve months' prior written notice as provided herein.

4.5 In the event of termination of this Contract by City prior to the end of the term described in Section 4.1, above, City shall pay CVB for services rendered prior to such termination date and for contractual obligations entered into by CVB prior to receipt of notification of early termination from City. Furthermore, CVB agrees to use its best efforts to terminate contracts signed by CVB prior to receiving notice of early termination from City; provided, however, in the event CVB cannot terminate such contracts, City shall have no obligation to pay for or take assignment of contracts signed by CVB after receiving notification of early termination from City.

4.6 CVB shall not sign any contract that is funded by monies paid by City to CVB pursuant to this Contract that has a term exceeding one year or which has a termination date subsequent to the last day of the final year in which the contract is in effect unless:

- a) The contract contains a non-appropriations clause substantially similar to the provisions of Section 4.3, above, and that is approved by the City Attorney; or
- b) All payments for said contract are required to be made by CVB during the fiscal year in which the contract was entered, notwithstanding performance of all other obligations under the contract may occur in a subsequent fiscal year; or
- c) The contract has been reviewed and approved by the City Council or its designee.

4.7 Notwithstanding Section 4.6, above, in no case shall CVB execute contracts to be paid with funds provided by City pursuant to this Contract:

- a) After receiving notice of early termination of this Contract; or
- b) Which require the performance of any obligations by any party after Section 30 of the final year of the Contract.

ARTICLE 5 INDEPENDENT CONTACTOR

5.1 The relationship of CVB to City shall be that of independent contractor as to all services performed hereunder and not as an officer, agent, servant or employee of City. CVB shall have exclusive control of its operations hereunder, and the persons performing same, and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, and subcontractors. The doctrine of *respondent superior* shall not apply as between City and CVB, its officers, agents, servants, employees, contractors and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between City and CVB.

5.2 CVB agrees to assume and does hereby assume all responsibility and liability for damages sustained by persons or property, whether real or asserted, by or from the carrying on of work or in the performance of services performed and to be performed hereunder. **CVB CONVENANTS AND AGREES TO, AND DOES HEREBY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY AND ALL ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL SUITS, ACTIONS, CLAIMS, AND EXPENSES OF ANY CHARACTER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR INCURRED ON ACCOUNT OF ANY INJURIES OR DAMAGES, WHETHER REAL OR ASSERTED, SUSTAINED BY ANY PERSON OR PROPERTY BY OR IN**

**CONSEQUENCE OF ANY NEGLIGENT ACT, OMISSION OR CONDUCT OF
CVB, ITS AGENTS, SERVANTS, EMPLOYEES, OR CONTRACTORS.**

**ARTICLE 6
MISCELLANEOUS**

6.1 This written instrument constitutes the entire agreement of the parties hereto concerning the subject matter hereof, and any prior or contemporaneous oral or written agreement that purposes to vary from the terms hereof shall be void.

6.2 This Contract shall be subject to all valid rules, regulations and laws applicable thereto, as promulgated by the United States of America, the State of Texas or any other governmental body or agency having lawful jurisdiction and supersedes all contracts that may be in existence.

6.3 CVB shall not assign this Contract or any interest therein without the prior written approval or the City Council.

6.4 This Contract may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Contract.

6.5 Neither City nor CVB shall be required to perform any term, condition, or covenant in this Contract so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods and any other cause not reasonably within the control of City or CVB, except as herein provided, and which by the exercise of the diligence City or CVB is unable, wholly or in part, to prevent or overcome.

6.6 The waiver by City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

6.7 Notices to City and CVB shall be hand delivered, mailed by first class mail, postage pre-paid, or delivered electronically to the following:

If to City: City Manager
701 Main Street
Kerrville, Texas 78028
Email Address: dalton.rice@kerrvilletx.gov
Email Address: julie.behrens@kerrvilletx.gov

If to CVB: President/Chief Executive Officer
2108 Sidney Baker Street
Kerrville, Texas 78028
Email Address: julie@kerrvilletexascvb.com

The parties hereto may change the address to which notice may be sent by sending written notice of such change of address to the other party. A notice mailed in accordance with this section shall be deemed to have been delivered five calendar days after delivery of the notice to an office or receptacle of the United States Postal Service.

6.8 The obligations of the parties to this Contract are performable in Kerr County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Kerr County, Texas.

6.9 This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

6.10 This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

IN WITNESS THEREOF, the parties hereto, acting under authority of their governing body and board of directors, have caused this Contract to be duly executed as of the _____ day of _____ 2024, A.D.

CITY OF KERRVILLE, TEXAS

KERRVILLE CONVENTION &
VISITORS BUREAU, INC.

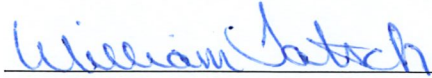
Dalton Rice, City Manager

Julie Davis, President/Chief Executive
Officer

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM



William L. Tatsch , Asst. City Attorney

APPROVED AS TO CONTENT

Julie Behrens, Director of Finance

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**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Purchase of Granular Activated Carbon (GAC) from Calgon Carbon Corporation for the filtration system at the Water Treatment Plant, not to exceed \$197,000. (*D Barrera*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 20, 2024

SUBMITTED BY: David Barrera, Assistant Director of Public Works

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$197,000.00	\$328,000.00	\$186,689.00	02-0202-2500

PAYMENT TO BE MADE TO: Calgon Carbon Company

Kerrville 2050 Item? Yes

Key Priority Area W - Water / Waste-Water / Drainage

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

On September 1, 2022, an agreement was executed that outlined the purchase of GAC through 2025. This media is used for the filtration system and assists with enhancing water quality in the system. The filtration system utilizes four vessels that house the media. It is recommended to replace two vessels annually based on the current usage.

RECOMMENDED ACTION:

Authorize staff to purchase GAC, per agreement.

ATTACHMENTS:

[20240528_Quote_Calgon_GAC_for_filtration system.pdf](#)

[20240528 Contract Calgon Carbon Corp -GAC WaterTreatmentPlant filtration.pdf](#)



CALGON CARBON CORPORATION
ACTIVATED CARBON SCOPE OF SUPPLY FOR Kerrville, TX WTP

Contact: Jeff Renaud	Email: jeff.renaud@kerrvilletx.gov
Project: 2022-Model 1240 Exchange-Vessel 1&2	Date: 7/25/2022
Location: Kerrville, TX	Title: Quote #10768

GAC Volume: 80,000lbs
GAC Turnkey Exchange Pricing: 2022/2023 \$186,689 all inclusive *Pricing beginning 1/1/2024-12/31/2026 subject to calendar year adjustments as supported by PPI detailed.

ITEMS INCLUDED:

- Product: Filtrasorb 400
- Quantity: 80,000 lbs
- Scope: Empty and Exchange (2) Model 1240 vessels 1 vessel at a time. Remove 80,000lbs of spent GAC from Vessels and replace with 80,000lbs virgin F400.
- All related labor and equipment (trucks, hoppers, hoses, etc), except utilities detailed below

ITEMS NOT INCLUDED IN THIS OFFER:

- Owner to provide clean water source for movement of GAC to and from filter via eduction
- Drain access for excess water from carbon transfer (water will be gray with carbon fines)
- Disinfection (if necessary) not included
- Any applicable taxes not included

SPECIFICATIONS:

- Pricing is based on supply contract through 2026: Pricing detailed herein will be established pricing through 12/31/2023 to include an 80,000lb exchange in 2022 for \$186,689 and an extension of current pricing for an 80,000lb exchange in 2023 at same pricing (\$186,689/all-inclusive exchange) Pricing January 1, 2024, through December 31, 2026 will be based upon base pricing of \$186,689 as detailed and/or allowed for an annual increase as supported by PPI indices detailed in accompanying attachment(s). Increase if required would initiate at the beginning of each calendar year beginning 1/1/2024 through 12/31/2026.
- To Summarize:

- 2022 Pricing unchanged from quote from January 2022 at \$186,689 for all-inclusive 80,000lb exchange of Filtrasorb 400 to be conducted in 2022.
- 2023: Pricing to stay same at \$186,689 for all inclusive 80,000lb exchange of Filtrasorb 400 through 12/31/2023.
- 2024: Pricing 1/1/2024-12/31/2024 would utilize current pricing in both 2022 and 2023 (\$186,689/80K exchange) as base cost but subject to increase as supported in PPI index upon review.
- 2025: Pricing would utilize adjusted 2024 pricing as base price but could be subject to increase as supported in PPI index upon review through 12/31/2025.
- 2026: Pricing would utilize adjusted 2025 pricing as base price but could be subject to increase as supported in PPI index upon review through 12/31/2026.

SPECIAL TERMS AND CONDITIONS:

1. Unless otherwise noted, or until other Terms and Conditions are provided, this Offer is made only under Calgon Carbon Corporation's General Terms and Conditions for Purchase. PO Submission should include comment of acceptance to Calgon Carbon's Terms and Conditions.
2. Pricing provided is exclusive of any Sales Tax.
3. Scope of Supply/Pricing does not include any Payment or Performance Bonds. Costs for any such Bond (if necessary or requested by the Purchaser) will be added to the quoted pricing.
4. Upon acknowledgement of any Purchase Order, the Buyer will be requested to complete a Credit Application and provide Tax Exemption Documentation.
5. The quoted price of \$186,689/80,000lb exchange is valid until 12/31/2023 from the date of this Scope of Supply document (
6. Pricing is 2022 product provision of contract to extend through 2026. Expected 80,000lb exchanges annually through 2026.

Schedule:

Schedule:

1. Delivery: 8+ weeks after receipt of approved purchase order and after carbon acceptance testing has been completed
2. Completion: Changeout will take approximately 2-3 days on site

For Information or to Place an Order, Contact:

Dan Iorio

Calgon Carbon Corporation

Regional Sales Manager-Midwest, NA

Dan.Iorio@Kuraray.com

(618) 612-3112

**CALGON CARBON CORPORATION
CARBON SUPPLY AGREEMENT**

This Carbon Supply and Custom Reactivation Agreement (this "Agreement") is entered into as of July 25, 2022 (the "Effective Date") by and between The City of Kerrville, TX, a municipal corporation, located at 701 Main Street-Kerrville, TX 78028 ("Customer") and Calgon Carbon Corporation, a Delaware corporation, located at 3000 GSK Drive, Moon Township, PA 15108 ("CCC").

In consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. CCC will supply domestic virgin carbon ("Filtrisorb 400"), for water treatment objectives at Customer's site(s). Product specifications are contained in Exhibit I.
2. This Agreement shall be in effect from the Effective Date for a period to extend through 12/31/2026 (the "Initial Term"). Thereafter, this Agreement may be renewed by mutual written agreement of the parties for successive one (1) year periods (each, a "Renewal Term" and, together with the Initial Term, the "Term"), unless terminated by either party upon sixty (60) days written notice.
 1. Renewal Terms or continuation of this Agreement is dependent upon the availability of funding. The Customer's payment obligations are payable only and solely from funds appropriated and available for this Agreement. The absence of appropriated or other lawfully available funds shall render the Agreement null and void to the extent funds are not Appropriated but the Customer will pay CCC for all services rendered prior to Agreement termination. The Customer shall provide CCC written notice of the failure of the Customer to make an adequate Appropriation for any fiscal year to pay the amounts due under the Agreement, or the reduction of any Appropriation to an amount insufficient to permit the Customer to pay its obligations under the Agreement. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the Customer.
 2. Customer shall have the right to terminate the Agreement, in whole or in part, without cause any time upon sixty (60) calendar days' prior written notice. Upon receipt of a notice of termination, CCC shall promptly cease all further work pursuant to the Agreement, with such exceptions, if any, specified in the notice of termination. The Customer shall pay CCC, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
- (2) During the Initial Term, the fees in Exhibit I shall apply. The fees in this Agreement are based on CCC performing the responsibilities as described in Exhibit II during normal working hours and under reasonable order processing conditions. Rush shipments (less than 3 days notice) will be subject to a 15% surcharge.
- (3) The fees are exclusive of any taxes, tariff, and duties of any kind which either party may be required to pay with respect to the sale of the Product, and Customer shall be responsible for the payment of all taxes, tariffs and duties related hereto, except for income taxes imposed on CCC. Sales tax will be added to the price based upon the Product destination unless tax exemption or direct pay documentation is provided. Product will be billed for at the time of delivery and payment terms shall be net thirty (30) days, or net forty-five (45) days if paid by Electronic Funds Transfer (EFT). A late payment fee of 1.25% per month, or the highest lawful rate, whichever is less, will apply to all amounts past due, and will be prorated per day. Any agreed upon retainage may only be applied on the final invoice. Customer agrees that CCC, at its discretion, may accelerate and make due and payable all remaining payments if Customer shall fail to perform any of its obligations hereunder, including without limitation Customer's failure to pay any amount when due, subject to any applicable cure periods provided for herein.
- (4) At the request of the Customer, technical assistance will be provided by CCC in an effort to aid in the optimization of results for the Customer's specific application. Such assistance will be provided upon such terms as may be mutually agreed upon by both parties. An additional fee may apply.
- (5) CCC warrants that the Product shall, at the time of delivery, conform to CCC's then-applicable specifications

Contract No. 2022-88

for such Product. CCC shall correct (by replacement of Product or reperformance of services) any failure to conform to the foregoing warranty of which it is notified in writing within ninety (90) days from delivery. Any Product removed in connection with such replacement may be reactivated or disposed of at CCC's sole discretion. THE OBLIGATIONS CREATED BY THIS WARRANTY TO REPAIR OR REPLACE DEFECTIVE PRODUCT OR TO PROVIDE CORRECTIVE SERVICES SHALL BE THE SOLE REMEDY OF CUSTOMER IN THE EVENT OF DEFECTIVE PRODUCT OR SERVICES. THERE ARE NO WARRANTIES MADE WITH REGARD TO THE PRODUCT OTHER THAN THOSE CONTAINED IN THIS SECTION. ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

7. Notwithstanding any provision to the contrary herein, the parties hereto agree that in no event shall CCC or its contractors or suppliers of any tier be liable to Customer for any indirect, special, consequential, incidental or punitive damages, or lost profits, as a result of a breach of any provision of this Agreement or for any other claim of any kind arising out of or relating to this Agreement, whether in contract, in tort or otherwise. Notwithstanding any provision to the contrary herein, for all losses, damages, liabilities or expenses (including attorney's fees and costs), whether for indemnity or negligence, including errors, omissions or other acts, or willful misconduct, or based in contract, warranty (including any costs and fees for repairing, replacing or re-performing services or curing a breach hereof), or for any other cause of action (individually, a "Claim"; collectively, "Claims"), CCC's liability, including the liability of its insurers, employees, agents, directors, and officers and all other persons for whom CCC is legally responsible, shall not, to the maximum extent permitted by law, exceed in the cumulative aggregate with respect to all Claims arising out of or related to this Agreement, the lesser of (a) the total amount of compensation paid to CCC hereunder, and (b) One Million Dollars (\$1,000,000). All Claims of whatsoever nature shall be deemed waived unless made in writing within ninety (90) days of the occurrence giving rise to the Claim. Moreover, any failure of Customer to notify CCC of unsatisfactory operation or any improper or unauthorized installation, maintenance, use, repair, or adjustment shall relieve CCC of any further responsibilities hereunder.

8. Notwithstanding any provision to the contrary herein, CCC shall have no liability to Customer or its affiliates, and shall have the right to suspend performance (including, without limitation, shipments) hereunder, in the event of war, riot, terrorism, accident, explosion, sabotage, flood, acts of God, fire, court order, strike, labor disturbance, work stoppage, national defense requirements, act of governmental authority, extraordinary failure of equipment or apparatus, inability to obtain electricity or other type of energy, raw material, labor, equipment or transportation, or other causes beyond CCC's reasonable control. It is understood and agreed that settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of CCC and that nothing in this Agreement shall require the settlement of strikes, lockouts and labor disputes when such course is inadvisable in the sole discretion of CCC.

9. Customer acknowledges that the Product and related technology are subject to U.S. export controls and economic sanctions laws and regulations, including the Export Administration Regulations and regulations promulgated by the U.S. Department of the Treasury Office of Foreign Assets Control. Customer represents and warrants that it is in compliance with and agrees to comply with all such applicable export control and economic sanctions laws and regulations.

10. Other than in the performance of the terms of this Agreement, neither Customer nor its agents, employees, or subcontractors shall use or disclose to any person or entity any confidential information of CCC (whether written, oral, electronic or other form) that is obtained or otherwise prepared or discovered in connection with this Agreement. Customer agrees that all pricing, discounts, design drawings and technical information that CCC provides to Customer are the confidential and proprietary information of CCC, whether or not otherwise identified as such. The obligations under this section continue perpetually and survive the termination or expiration of the Agreement. The provisions of this section relating to use and disclosure shall not apply to any information that: (a) is or becomes generally available to the public other than as a result of a disclosure by Customer under this Agreement; (b) becomes available to Customer from a source other than CCC without breach of any obligation of confidentiality; (c) was independently developed by Customer without violation of CCC's rights and without reference to the confidential information, as evidenced by written records, maintained in the ordinary course of business by Customer; (d) is used or disclosed with the prior written approval of CCC; (e) is information previously known to Customer as evidenced by written records maintained by Customer in the ordinary course of business, and not otherwise subject to any confidentiality restrictions; or (f) Customer becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoenas, investigative demands or similar process) to disclose. The burden of proof that the information resides within one of the exceptions set forth above shall be on the Customer. If Customer becomes legally compelled (by oral questions, interrogatories, requests for

Contract No.
2022-88

information or documents, subpoenas, investigative demands or similar process) to disclose any of the confidential information, Customer shall provide CCC with prompt written notice so that CCC may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. If such protective order or other remedy is not obtained, or if CCC waives compliance with the provisions of this Agreement, Customer shall furnish only that portion of the confidential information which Customer is legally required to disclose and shall exercise its reasonable efforts to obtain reliable assurance that confidential treatment shall be accorded the confidential information. Customer shall not undertake any qualitative or quantitative analysis, reverse engineering or replication of any of CCC's products, samples or prototypes without CCC's specific written authorization.

11. CCC may cancel this Agreement if any of the following occurs: (a) Customer becomes insolvent; (b) Customer ceases to conduct its operations in the normal course of business; (c) Customer is unable to meet its obligations as they mature, or admit in writing such inability or fails to provide adequate assurances of its ability to perform its obligations hereunder; (d) Customer files a voluntary petition in bankruptcy; (e) Customer suffers the filing of an involuntary petition in bankruptcy and the same is not dismissed within thirty (30) days after filing; (f) a receiver, custodian or trustee is appointed for Customer or for a substantial part of its property; (g) Customer fails to make payment on the terms and within the time specified in this Agreement, or breaches any other obligations under this Agreement; or (h) Customer executes an assignment for the benefit of its creditors. In the event of such cancellation, CCC shall have all rights and remedies set forth in the Uniform Commercial Code of any applicable jurisdiction and all other remedies available at law or in equity.

12. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Texas, without regard to its conflict of law principles. The UN Convention on Contracts for the International Sale of Goods shall not apply to the transactions represented hereby. The parties consent and submit to the exclusive jurisdiction and service of process of any state or federal court located in Kerr County, Texas. Terms used in this Agreement which are not defined herein and which are defined by the Uniform Commercial Code of the State of Texas shall have the meanings contained therein.

13. Neither party may assign this Agreement, including without limitation any of its rights or obligations hereunder, without the express written consent of the other party hereto; provided that CCC may, without Customer's consent, assign this Agreement, including without limitation any of its rights or obligations hereunder, to any of its parents, subsidiaries or affiliates or to any third party which merges with CCC or acquires all or substantially all of its business and assets or a substantial part of its assets or business relating to the Product or services. CCC may use subcontractors to fulfill its obligations pursuant to this Agreement.

14. In the event of any legal proceeding between CCC and Customer relating to this Agreement, neither party may claim the right to a trial by jury, and both parties waive any right they may have under applicable law or otherwise to a trial by jury.

15. In the event that any one or more provisions (or portions thereof) contained herein shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions (or portions thereof) contained herein shall remain in full force and effect, unless the revision materially changes the bargain.

16. CCC's failure to enforce, or CCC's waiver of a breach of, any provision contained herein shall not constitute a waiver of any other breach or of such provision.

17. This Agreement supersedes any prior agreement and all amendments thereto, either written or oral, between Customer and CCC regarding the subject matter hereof. This Agreement constitutes the entire agreement between CCC and Customer and may not be modified except by a writing signed by the authorized representatives of each of the parties. CCC shall be obligated to perform only in accordance with the terms of this Agreement and any terms and conditions contained in any purchase order which are different from, conflict with or add to the provisions of this Agreement shall be deemed to materially alter them and are hereby objected to and rejected by CCC.

Contract No. 2022-88

18. Prohibition on Contracts with Companies Boycotting Israel. CCC hereby verifies the following per Section 2271.002, Texas Government Code:

1. CCC does not boycott Israel; and
2. CCC will not boycott Israel during the term of the Agreement.

19. Prohibition Against Business with Iran, Sudan, or Foreign Terrorist Organization. CCC warrants, covenants, and represents that CCC is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

20. Prohibition on Contracts with Companies Boycotting Energy Companies. CCC hereby verifies the following per Section 2274.002, Texas Government Code:

1. CCC does not boycott energy companies; and
2. CCC will not boycott energy companies during the term of the Agreement

21. Written Verification as to Firearm Entities. CCC hereby verifies the following per Section 2274.002, Texas Government Code:

1. CCC does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
2. CCC does not discriminate against a firearm entity or firearm trade association during the term of the Agreement.

City of Kerrville, TX

DocuSigned by:

By: E. H. Hoppe IV
Name: E. H. Hoppe IV
Title: City Manager
Date: 9/1/2022

CALGON CARBON CORPORATION

DocuSigned by:

By: Jeremy Jones
Name: Jeremy Jones
Title: DWS Project Manager
Date: 9/1/2022

Accepted for Form
Electronic Signature
Not for Filing
Legal Council

ATTEST:
DocuSigned by:

Shelley McElhannon
Shelley McElhannon, City Secretary

APPROVED AS TO CONTENT:

Stuart Barron
Stuart Barron, Executive Director for
Public Works and Engineering

APPROVED AS TO FORM:

William L. Tatsch
William L. Tatsch, Asst. City Attorney

APPROVED AS TO FUNDING:

Julie Behrens
Julie Behrens, Director of Finance

Contract No. 2022-88

Adjustment Mechanism

Virgin GAC:

The fees payable pursuant hereto will be adjusted on the first day of February of each calendar year by the annual percentage change in the following three price indices, in the proportion indicated next to each index:

- 1) U.S. Department of Labor PPI for All Other Basic Organic Chemicals Manufacturing: Miscellaneous end-use chemicals and chemical products, excluding urea (PCU325199325199T) @ 40% weight
- 2) U.S. Department of Labor CPI for Urban Wage Earners for the U.S. City Average (CWUR0000SA0) @ 40% weight
- 3) Transportation: U.S. Department of Labor PPI by Commodity for Transportation Services: Truck Transportation of Freight (WPU3012) @ 20% weight

The percent adjustment shall be calculated by taking the percent difference for each index during the twelve month period from (1/1/2024) through (12/31/2024) of the last completed calendar year as compared to the twelve month period from (1/1/2023) through (12/31/2023) of the calendar year immediately preceding the last completed calendar year. These percentages will then be averaged per the proportions shown above for calculating the final percent adjustment to which all virgin GAC will be subject. This will occur annually beginning 1/1/2024 and evaluated for 2025 and 2026 in same manner. Pricing will be communicated Q4 of year prior to pricing adjustment if applicable.

Initial Fee Limit: Regardless of any annual fee adjustment calculation, fees covered by this Agreement will at no time be reduced below the Initial Fee (\$186,689/80,000lb exchange).

The percent adjustment shall be calculated by taking the percent difference for each index during the twelve month period from (month and date) through (month and date) of the last completed calendar year as compared to the twelve month period from (month and date) through (month and date) of the calendar year immediately preceding the last completed calendar year. These percentages will then be averaged per the proportions shown above for calculating the final percent adjustment to which all reactivated carbon will be subject.

Initial Fee Limit: Regardless of any annual fee adjustment calculation, fees covered by this Agreement will at no time be reduced below the Initial Fee.

This price shall also be adjusted on an annual basis, using the following indices in the proportion indicated next to each index (note: Annual and Initial Fee Limits apply here as for Virgin GAC above):

- 1) U.S. Department of Labor PPI for All Other Basic Organic Chemicals Manufacturing: Miscellaneous end-use chemicals and chemical products, excluding urea (PCU325199325199T) @ 40% weight
- 2) U.S. Department of Labor CPI for Urban Wage Earners for the U.S. City Average (CWUR0000SA0) @ 40% weight
- 3) Transportation: U.S. Department of Labor PPI by Commodity for Transportation Services: Truck Transportation of Freight (WPU3012) @ 20% weight

Contract No. 2022-88

EXHIBIT I

PRODUCT SPECIFICATIONS

1. Domestic Virgin Carbon
 - a. Filtrasorb 400
 - b. Base Price of \$186,689 from contract through 12/31/2023.
 - c. Pricing subject to PPI indices beginning 1/1/2024 through 12/31/2026 with PPI pricing implementations beginning first day of calendar year 2024, 2025, and 2026.
 - d. Expected exchange frequency annually of 80,000lbs-Two pressure vessels
2. CCC will provide a Certificate of Analysis to Customer with each purchase.

Contract No. 2022-88

**EXHIBIT II-ATTACHMENT 1
RESPONSIBILITIES OF CALGON CARBON**

1. Initial Spent GAC removal or GAC delivery will begin as estimated in the month of September 2022.
2. CCC will return the Spent GAC to one of its reactivation facilities according to an NSF-approved procedure.
3. CCC will provide the necessary eductors and hoses to facilitate the exchange of the spent GAC.
4. CCC will supply supervision during the initial fill and backwash of the filters/vessels during each exchange operation.
6. CCC will analyze a representative sample of the GAC on a periodic basis for iodine number, ash, apparent density, mesh size, and any other parameters felt appropriate for the particular application.
7. CCC shall maintain insurance set forth on the Insurance Certificate Exhibit II-Attachment 4 hereto.

Contract No. 2022-88

EXHIBIT II-ATTACHMENT 2

RESPONSIBILITIES OF CUSTOMER

1. Customer will provide necessary labor and other equipment (other than eduction systems) that may be required to remove the Spent GAC from the filters/pressure vessels and to install the Virgin GAC in the filters/pressure vessels.
2. Customer will provide the necessary water, electricity, and suitable drainage to accomplish the transfer of the Spent and React GAC.
3. If a spill occurs into the source water supply for Customer, then Customer will notify CCC of the occurrence and the type of chemicals spilled, if known by Customer.

If it is then determined by Customer that the GAC was contaminated by the spill, Customer can then request CCC to remove and replace the GAC. CCC will take the Spent GAC back for thermal reactivation subject to spent carbon acceptance. The cost of this special reactivation service shall require an additional fee. If the fouled GAC can not be reactivated, CCC shall supply replacement virgin GAC at the price stated in Section 3 of the Agreement. Should Customer declare the Spent GAC hazardous, Customer then agrees to arrange and pay for the additional cost of removing, handling, and disposing of a hazardous material.
4. If during the term of the Agreement the GAC becomes fouled by inorganic precipitates, such as calcium carbonate or iron oxide, Customer shall have the option to clean the GAC or request CCC to remove and, if possible, reactivate the fouled GAC. If Customer chooses to clean the GAC, the cost of cleaning the GAC will be the responsibility of Customer. If Customer chooses to have CCC remove and reactivate the GAC, CCC will take the Spent GAC back for thermal reactivation subject to spent carbon acceptance. The cost of this special reactivation service shall be in addition to the base monthly fee. If the fouled GAC can not be reactivated, CCC shall supply replacement virgin GAC at the price stated in Section 3 of the Agreement.
5. Customer will provide clear access to the site for delivery and installation of the Virgin GAC and Spent GAC removal.
6. Customer will provide all plant modifications, pre and post treatments and sterilization of the filters/pressure vessels as may be required.
7. Customer will confirm the volume of GAC in each filter in the following manner:
Customer will measure and mark the top of the filter bed prior to removing any GAC. After the removal of the GAC, the Customer will then mark and measure from the top of the support media to the initial line. With these measurements, as well as the dimensions of the filter, the Customer will be able to calculate the volume of GAC being returned.

Contract No. 2022-88

EXHIBIT II-ATTACHMENT 3

CRITERIA FOR RETURN FOR REACTIVATION OF
NON-RCRA SPENT GRANULAR ACTIVATED CARBON (GAC)

The following ACCEPTANCE CRITERIA must be met for return for reactivation:

<u>Characteristic/Property</u>	<u>Limits of Acceptability</u>
Size	Greater than or equal to 12x40 mesh
pH Range	Greater than 2.0 and less than 12.5
Ignitable (per RTM-10)	Not Acceptable
Dioxins (by testing, court decree or definition)	Not Acceptable
Polychlorinated Biphenyls (PCBs)	Not Acceptable
1,2-Dibromo-3-chloropropane (DBCP)	Not Acceptable
Radioactivity	Not to exceed Background Level
Sodium	Maximum of 0.1 wt. %
Halogenated/Aromatic Volatiles	Maximum of 2000 ug/g (Blue Lake plant only) (SW 846 - Methods 8010/8020)

Note 1 : Spent GAC to be exchanged shall be free of any foreign debris (rock, wood, metal, etc.) or extraneous impurities, free of oil and grease, easily wetted by water, and free flowing.

Contract No. 2022-88

EXHIBIT II-ATTACHMENT 4
CERTIFICATE OF INSURANCE

Contract No. 2022-88



CERTIFICATE OF LIABILITY INSURANCE

6/1/2023

DATE (MM/DD/YYYY)

5/26/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies Three City Place Drive, Suite 900 St. Louis MO 63141-7081 (314) 432-0500	CONTACT NAME: _____ PHONE (A/C, No, Ext): _____ E-MAIL: _____ ADDRESS: _____ FAX (A/C, No): _____														
INSURED 1450884 Calgon Carbon Corporation 3000 GSK Drive Moon Township PA 15108	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Zurich American Insurance Company</td> <td>16535</td> </tr> <tr> <td>INSURER B: American Guarantee and Liab. Ins. Co.</td> <td>26247</td> </tr> <tr> <td>INSURER C: Berkley Assurance Company</td> <td>39462</td> </tr> <tr> <td>INSURER D: Interstate Fire & Casualty Company</td> <td>22829</td> </tr> <tr> <td>INSURER E: American Zurich Insurance Company</td> <td>40142</td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Zurich American Insurance Company	16535	INSURER B: American Guarantee and Liab. Ins. Co.	26247	INSURER C: Berkley Assurance Company	39462	INSURER D: Interstate Fire & Casualty Company	22829	INSURER E: American Zurich Insurance Company	40142	INSURER F:	
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INSURER E: American Zurich Insurance Company	40142														
INSURER F:															

COVERAGES CALCA

CERTIFICATE NUMBER: 16591512

REVISION NUMBER: XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____	N	N	GLO 0111179 04	6/1/2021	6/1/2022	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ XXXXXXXX PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	BAP 0111180 04	6/1/2021	6/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTIONS \$	N	N	AUC 3275984-01	6/1/2021	6/1/2022	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ XXXXXXXX
E A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC 0111177 04 (Ded) WC 0111178 04 (Retro)	6/1/2021 6/1/2021	6/1/2022 6/1/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C D	Professional Liability Pollution Legal Liability	N	N	PCAB-5014619-0621 USL01645421	6/1/2021 6/1/2021	6/1/2022 6/1/2024	\$5,000,000 per claim/aggregate \$10,000,000 per incident/\$15,000,000 agg

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Evidence of Coverage.

CERTIFICATE HOLDER

16591512
 Calgon Carbon Corporation
 3000 GSK Drive
 Moon Township PA 15108

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Appointments of Councilmembers as members and liaisons to City Boards and Commissions, to include the Economic Improvement Corporation. (*D Rice*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 8, 2024

SUBMITTED BY: Dalton Rice, City Manager

EXHIBITS:

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:

RECOMMENDED ACTION:

Discussion, appointment.

ATTACHMENTS:

[20240514_Boards-Commissions CC worksheet.pdf](#)

CITY COUNCIL BOARDS & COMMISSIONS WORKSHEET – May 2024

Board Name:

Airport Planning Committee
EIC
KEDC
KPUB
Playhouse 2000

Councilmembers:

Roman Garcia and Judy Eychner (currently) – members
Joe Herring, Jr – voting member
Judy Eychner – member
Judy Eychner – member
Brenda Hughes – voting member

Boards with Council Interview Team:

Airport	Mayor	Place 2
BBAA	Place 1	Place 2
EIC	Mayor	Place 3
Food	Place 1	Place 4
Library	Place 3	Place 4
Main Street	Mayor	Place 1
Parks	Place 2	Place 3
P&Z	Place 2	Place 4
RCC	Place 1	Place 3
Senior Services	Place 2	Place 3
TIRZ	Mayor	Place 1
ZBA	Mayor	Place 4

Board Name:

Board of Adjustments & Appeals
EIC
Food Service Advisory Board
Library
KAYLA
Main Street
Parks & Recreation Advisory Board
P&Z
Recovery Community Coalition
Senior Services
TIRZ
Zoning Board of Adjustments

Staff Liaison:

Drew Paxton
Michael Hornes, Kim Meisner
Daryle Poe
Danielle Brigati
Megan Folkerts
Megan Folkerts
Ashlea Boyle
Drew Paxton
Fire Chief Eric Maloney
Kim Meisner
Michael Hornes, Kim Meisner, Megan Folkerts
Drew Paxton

Meeting Schedule:

Airport
EIC
Food
Library
Parks & Recreation
Planning & Zoning Commission
Recovery Community Coalition
Zoning Board of Adjustment

Fourth Wednesday of each month @ 8:30 a.m.
Third Monday of each month @ 4:00 p.m. Ca
Called as needed, third Tuesday @ 3:00 p.m.
Quarterly, third Tuesday (1, 4, 7, 10) @ 3:00 p.m.
Quarterly, third Thursday (3, 6, 9, 12) @ 4:30 p.m.
First Thursday of each month @ 4:00 p.m.
Fourth Monday of each month @ 4:00 p.m.
At the call of the chairperson



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Financial Report for month ended April 30, 2024. (*J Behrens*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: May 15, 2024

SUBMITTED BY: Julie Behrens , Director of Finance

EXHIBITS:

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:

RECOMMENDED ACTION:

NA

ATTACHMENTS:

[20240528_Presentation Financial Report.pdf](#)

2024

FINANCIAL REPORT MONTH ENDING APRIL 30, 2024

CITY COUNCIL MEETING MAY 28, 2024



GENERAL FUND

GENERAL FUND - BUDGET SUMMARY APRIL 30, 2024

	FY2024 Original Budget	FY2024 Current Budget	FY2024 YTD Budget Estimate	FY2024 YTD Actual	Better/Worse Than Estimated
REVENUES					
Property Tax	11,957,339	11,957,339	11,502,960	11,853,364	350,404
Sales Tax	10,523,261	10,523,261	5,787,794	5,762,077	(25,716)
Franchise Fees	2,233,534	2,233,534	982,755	857,325	(125,430)
Total Taxes	24,714,134	24,714,134	18,273,509	18,472,766	199,258
Permits and Fees	235,610	235,610	149,377	119,538	(29,839)
Intergovernmental Revenue	1,872,507	1,872,507	1,303,265	1,402,946	99,681
Service Revenue	5,621,288	5,621,288	2,979,283	3,140,430	161,147
Recreation Revenue	1,876,551	1,876,551	1,000,202	948,511	(51,691)
Fines and Forfeitures	429,500	429,500	252,546	205,953	(46,593)
Grant & Donation Revenue	44,902	44,902	25,818	14,653	(11,166)
Interest and Miscellaneous	432,724	932,724	596,943	651,078	54,134
Operating Transfer In	2,411,858	2,411,858	1,406,917	1,406,917	-
TOTAL REVENUES	\$ 37,639,074	\$ 38,139,074	\$ 25,987,860	\$ 26,362,791	\$ 374,931
EXPENDITURES					
Personnel	26,841,827	27,152,445	15,884,181	15,597,098	287,083
Supplies	1,865,153	1,864,153	1,043,926	1,028,697	15,228
Maintenance	4,098,039	4,098,039	1,926,078	1,745,471	180,607
Services	3,082,478	3,067,278	1,871,040	1,883,909	(12,870)
Other Expenses	703,193	701,993	484,375	289,275	195,100
Capital Outlay	-	-	-	-	-
Operating Transfers Out	1,048,384	1,810,160	1,456,667	1,456,667	-
TOTAL EXPENDITURES	\$ 37,639,074	\$ 38,694,069	\$ 22,666,266	\$ 22,001,118	\$ 665,148

Revenues:

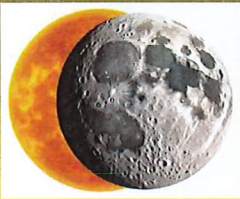
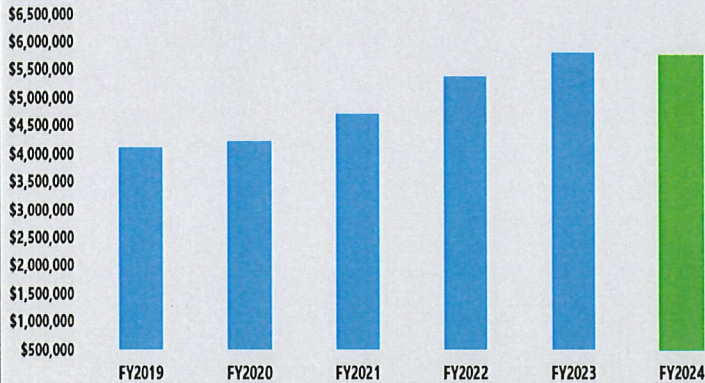
- Taxes and Franchise fees are \$350K better than budget estimate
 - Property Taxes - 99% collected (includes Prior Years)
 - Sales Tax is \$26K behind budget estimate (more detail in coming slides)
 - Franchise Fees \$125K behind budget estimate
- Other Revenues
 - Intergovernmental better than budget – variance related to actual KISD-KPD expenses for SRO Program
 - Service Revenue \$161K better than budget estimate
 - Primarily due to EMS
 - Recreation Revenue \$52K behind budget estimate
 - Interest Income averaging 5% - budgeted at 3%

Expenses:

- Personnel \$287K better than budget estimate
 - Includes salaries, overtime, benefits, training, travel
- Maintenance \$181K better than budget estimate
 - Street Paving season is going to be kicking off in the upcoming months
- Services \$13K behind budget estimate
 - Property Tax Services are a little higher due to the collection rate (expense based on dollars collected)
 - Liability Insurance higher than budgeted
- Other \$195K better than estimate but contingency is in this category and is difficult to predict until closer to year-end

GENERAL FUND- SALES TAX

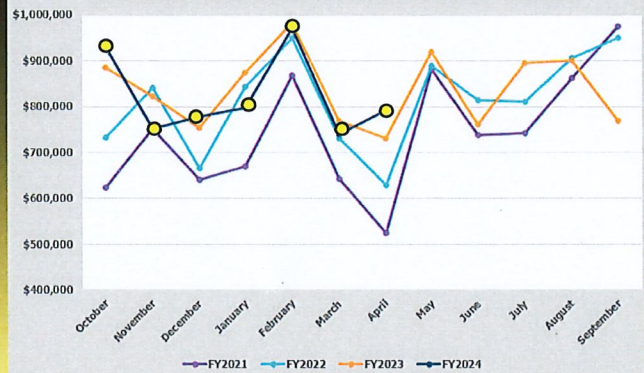
HISTORICAL SALES TAX REVENUE COMPARISONS
YEAR-TO-DATE THROUGH APRIL



SALES TAX HISTORICAL INFORMATION

- FY2024 is budgeted slightly less than FY2023 based on trends and other economic factors
- Graph on left illustrates YTD revenues with FY2024 a little behind FY2023
- \$26K behind budget estimate
 - FY2024 through April:
 - 40% higher than FY2019
 - 22% higher than FY2021
- The graph on the bottom right illustrates a historical view of monthly sales tax

HISTORICAL SALES TAX REVENUE MONTHLY TRENDS



WATER FUND

WATER FUND - BUDGET SUMMARY APRIL 30, 2024

	FY2024 Original Budget	FY2024 Current Budget	FY2024 YTD Budget Estimate	FY2024 YTD Actual	Better/Worse Than Estimated
REVENUES					
Water	7,550,971	7,550,971	3,828,342	3,375,163	(453,179)
Sewer	6,856,655	6,856,655	3,963,147	3,976,282	13,135
Reuse	175,000	175,000	63,683	79,059	15,377
Waste Disposal	350,000	350,000	199,500	171,050	(28,450)
Interest & Misc	139,500	274,500	162,861	202,907	40,046
Taps & Meters / Other Fees	471,800	471,800	234,721	263,816	29,095
Total Revenue	\$ 15,543,926	\$ 15,678,926	\$ 8,452,253	\$ 8,068,277	\$ (383,976)
EXPENDITURES					
Personnel	4,431,141	4,476,066	2,461,836	2,435,339	26,498
Supplies	911,280	911,280	467,487	439,051	28,436
Maintenance	1,197,068	1,164,271	654,320	373,108	281,212
Services	1,096,981	1,056,981	604,593	682,160	(77,567)
Other Expenses	338,292	378,292	226,975	64,338	162,637
Capital	144,980	177,778	99,556	92,662	6,893
Operating Transfers Out	7,424,183	7,424,183	4,466,190	4,466,190	-
TOTAL EXPENDITURES	\$ 15,543,926	\$ 15,588,851	\$ 8,980,957	\$ 8,552,848	\$ 428,109

Revenues:

- Water \$443K behind budget estimate
- Sewer \$13K better than budget estimate
- Reuse \$15K better than budget estimate
- Interest Income averaging 5% - budgeted @ 3%

Expenses:

- Personnel \$26K better than budget, partially due to vacancies
- Supplies better than estimate by \$28K
- Maintenance \$281K better than budget estimate.
 - Holding where we can on some purchases - watching revenue performance
 - Large GAC expense hitting maintenance in June
- Services behind estimate by \$78K
- Other \$163K better than estimate but contingency is in this category and is difficult to predict until closer to year-end

DEVELOPMENT SERVICES FUND

DEVELOPMENT SERVICES FUND - BUDGET SUMMARY APRIL 30, 2024

	FY2024 Original Budget	FY2024 Current Budget	FY2024 YTD Budget Estimate	FY2024 YTD Actual	Better/Worse Than Estimated
REVENUES					
Permits & Fees	926,648	926,648	500,390	338,126	(162,264)
Interest & Misc	5,000	5,000	2,900	1,981	(919)
Transfers-In	247,980	259,756	156,431	156,431	-
Total Revenue	\$ 1,179,628	\$ 1,191,404	\$ 659,721	\$ 496,538	\$ (163,183)
EXPENDITURES					
Personnel	1,056,458	1,068,368	622,858	621,058	1,801
Supplies	13,180	12,966	7,261	6,211	1,050
Maintenance	41,694	41,694	19,596	19,337	259
Services	63,443	63,443	40,603	41,627	(1,023)
Other Expenses	4,854	4,934	2,862	2,488	374
TOTAL EXPENDITURES	\$ 1,179,628	\$ 1,191,405	\$ 693,181	\$ 690,720	\$ 2,460

- Permits and Fees \$162K behind budget estimate
 - During Stage 4 Water Restrictions no commercial projects were allowed to pull a permit. There were no major commercial project submittals during this time.
 - Inflation may also be affecting number of permits
 - Several large projects kicking off but no timeline

HOTEL OCCUPANCY TAX

HOTEL OCCUPANCY TAX FUND - BUDGET SUMMARY APRIL 30, 2024

	FY2024 Original Budget	FY2024 Current Budget	FY2024 YTD Budget Estimate	FY2024 YTD Actual	Better/Worse Than Estimated
REVENUES					
Taxes	1,719,032	1,719,032	909,368	904,437	(4,931)
Merchandise Sales & Other	25,000	87,126	74,057	201,528	127,471
Eclipse Sponsors/Donations	40,000	40,000	35,200	94,950	59,750
CAP Grant	100,000	100,000	150,000	150,000	-
Interest & Misc	35,086	35,086	20,350	62,115	41,766
Total Revenue	\$ 1,919,117	\$ 1,981,243	\$ 1,188,974	\$ 1,413,031	\$ 224,056
EXPENDITURES					
Maintenance	-	-	2,969	2,969	-
Services (including CVB)	1,432,602	1,432,602	816,583	810,126	6,457
Other (including events)	454,500	1,014,500	405,800	396,510	9,290
Transfers	85,000	1,085,001	49,583	49,583	-
	\$ 1,972,102	\$ 3,532,103	\$ 1,274,936	\$ 1,259,188	\$ 15,748

Revenue overall \$224K better than budget estimate

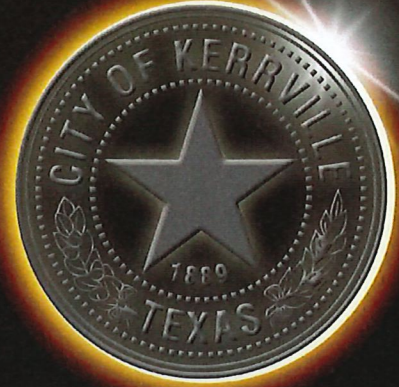
- Occupancy Tax 5K behind budget estimate
 - Contains \$60K in audit payments

Eclipse Update

- Revenues (merchandise, parking, vendor spaces, sponsorships) much higher than anticipated
- Expenses are tracking less than anticipated due to scale back plan implemented with the onset of questionable weather and slower than expected influx of guests
- More information regarding financials in months to come
 - HOT has 1-month lag
 - Sales Tax has 2-month lag
 - Few outstanding payables remaining

2024

QUESTIONS?



LOOKING UP





**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Appointment to the Economic Improvement Corporation. (Eligible for Executive Session 551.074) (*S McElhannon*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: April 15, 2024

SUBMITTED BY: Shelley McElhannon, City Secretary

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$0	\$0	\$0	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:

Three terms end May 31, 2024.

Six applications have been received: Kyle Bond (eligible for reappointment), Darby Campbell, Beck Gipson (eligible for reappointment), Gilberto Paiz, James (Kyle) Reeves, John Sawyer. Interview Team: Mayor Herring and Councilmember Hughes. Staff Liaison: Michael Hornes.

RECOMMENDED ACTION:

Appoint member(s).



**TO BE CONSIDERED BY THE CITY
COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Removal of member, and appointment of member to Main Street Advisory Board. (*S McElhannon*)

AGENDA DATE OF: May 28, 2024

DATE SUBMITTED: April 22, 2024

SUBMITTED BY: Megan Folkerts, Senior Management Analyst

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$0	\$0	\$0	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:

Removal of Board member: In the City Board Rules and Procedures revised 9/26/2017; Section 2. **Appointment/Removal Process.** Item 2.8 **Removal of Member.**

Board members have no vested right or property interest in a board membership and the City Council may at any time remove any member or any board by a majority vote.

Section 3. **Responsibilities of Board Members.** Item 3.2. **Attendance.**

Prior to an appointment to a board, an applicant should familiarize himself/herself with the board's meeting schedule. In order to be fully aware of issues before the board, it is imperative that members are faithful in their attendance at meetings. Any member who is absent from twenty-five percent (25%) of the board's regular meetings during the calendar year, or who is absent from any three (3) consecutive regular meetings, may be considered for removal by the City Council. The staff member must report a member's non-attendance to the City Council in writing, and the City Secretary shall notify the board member in writing that their non-attendance has been reported. However, a member whose absences are directly related to a medical or family emergency may seek consideration from the board upon which they serve to qualify such absences as excused.

Staff liaison Megan Folkerts advises that member Travis Lindner has not attended six of the seven meetings held since being appointed to the board in September 2023, and recommends City Council consider the removal of Travis Lindner from the Main Street Advisory Board.

Through email and USPS, the City Secretary's Office has notified Travis Lindner of board attendance requirements and City Council notification of absences. No response received from Travis Lindner.

Appointment of Board member: If member Travis Lindner is removed, then a vacancy will occur in the MSAB.

Five applications received: George Eychner, Brian Hardin, Maggie Megee, Jimmy Mullins, and William Rector.

The interview team is Councilmember Hughes and Mayor Herring. Megan Folkers is staff liaison.

RECOMMENDED ACTION:

Staff recommends removal of Travis Lindner from the Main Street Advisory Board, and appoint a new member(s).