

**AGENDA FOR REGULAR MEETING OF THE**  
**CITY OF KERRVILLE, TEXAS**  
**ECONOMIC IMPROVEMENT CORPORATION**  
**MONDAY, DECEMBER 17, 2018, 4:00 P.M.**  
**KERRVILLE CITY HALL COUNCIL CHAMBERS**  
**701 MAIN STREET, KERRVILLE, TEXAS**

**CALL TO ORDER**

**INVOCATION**

**1. VISITORS / CITIZENS FORUM:**

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

**2. APPROVAL OF MINUTES:**

2A. Approval of minutes for the regular EIC meeting held on November 26, 2018.

**3. MONTHLY REPORTS:**

3A. Monthly financials for November 2018.

3B. Projects update:

River Trail

Reuse Distribution Lines

Tennis Center Improvements

Aquatics Feasibility Study

Downtown Parking Garage Streetscape

Legion Lift Station

Multi-Year History of EIC Agreements

3C. Report from Kerr Economic Development Corporation (KEDC)

**4. PUBLIC HEARING AND POSSIBLE ACTION:**

4A. Public Hearing for consideration of Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation; the City of Kerrville, Texas; and Schreiner University; for the development and construction of an extension to the City's River Trail to connect with Schreiner University's campus.

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

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time: December 14, 2018, at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Sana Waller



Interim Deputy City Secretary, City of Kerrville, Texas

**5. CONSIDERATION AND POSSIBLE ACTION:**

5A. Discuss changing January Meeting Date due to MLK Holiday which falls on January 21<sup>st</sup>.

**6. EXECUTIVE SESSION:**

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

6A. Deliberation regarding economic development negotiations in accordance with the Texas Open Meetings Act; discussion regarding commercial or financial information received from a business prospect(s), and/or to deliberate the offer of a financial or other incentive to a business prospect(s). (Section 551.087, TX Government Code)

6B. Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation; the City of Kerrville, Texas; and Schreiner University; for the development and construction of an extension to the City's River Trail to connect with Schreiner University's campus. (Sections 551.071, 551.072 Tx. Government Code)

**7. POSSIBLE ACTION FOR ITEMS DISCUSSED IN EXECUTIVE SESSION**

**8. ITEMS FOR FUTURE AGENDAS**

**9. ANNOUNCEMENTS**

**10. ADJOURNMENT.**

**CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION**  
**REGULAR MEETING** **NOVEMBER 26, 2018**

On Monday, November 26, 2018, the regular meeting of the members of the City of Kerrville, Texas Economic Improvement Corporation, was called to order at 4:00 p.m. by Kenneth Early, President, in the Council Chambers at City Hall, at 701 Main Street, Kerrville, Texas. Mr. Cooper offered the invocation.

**Members Present:**

Kenneth Early, President  
Kent McKinney, Vice President  
Maggie Megee  
Gary Cooper  
Robert Naman  
Delayne Sigerman  
Don Barnett

**Members Absent:**

None

**City Executive Staff Present:**

Mark McDaniel, City Manager  
E.A. Hoppe, Deputy City Manager  
Mike Hayes, City Attorney  
Cheryl Brown, Interim City Secretary  
Sana Waller, Interim Deputy City Secretary  
Amy Dozier, Finance Director

**Visitors Present:** Visitor list available in the City Secretary's Office for the required retention period.

1. **VISITORS/CITIZENS FORUM:** The following person spoke: Mr. Walt Koenig of the Kerrville Chamber of Commerce introduced the new Chief Operating Officer, Gilberto Salinas, the new Chief Operating Officer for the Kerr Economic Development Foundation. Mr. Salinas gave a brief overview of his background and his goals in the new position.

2. **APPROVAL OF MINUTES:**

2A. Approval of minutes for the regular EIC meeting held on October 29, 2018.

Ms. Sigerman moved to approve the minutes. Mr. McKinney seconded the motion and the motion passed 7-0.

3. **MONTHLY REPORTS:**

3A. Monthly financials for October 2018.

Ms. Dozier reported that the EIC operating fund received sales tax revenue of \$284,752 for October, which was a 2.6% increase compared to October 2017. The FY2019 budget projects only a 0.6% increase over FY2018, so October's sales tax is better than budget. Interest income for the month was \$8,172. EIC's money is primarily invested in TexPool, which is earning 2.40% as of November 18, 2018. The investment is completely liquid and can be used to fund projects at any time. Expenditures for the month were \$107,682, which included budgeted transfers for debt service and the administrative service fee.

3B. Projects update:

Mr. Hoppe made the following reports:

Reuse Distribution Lines

Continuing to evaluate the damage.

River Trail

Ribbon Cutting is set for Friday, 11/30/18 at 10:00

Downtown Parking Garage Streetscape:

Bringing before Council in December or January.

Legion Lift Station:

Bids are out and contract should be awarded in January 2019.

**4. CONSIDERATION AND POSSIBLE ACTION:**

4A. Public Hearing for an Economic Development Grant Agreement between Thompson Drive Partners, LLC and the City of Kerrville Texas Economic Improvement Corporation and the City of Kerrville. Mr. Hoppe gave an overview of the work to be funded. Mr. Justin MacDonald also gave an overview and offered to answer any questions regarding the request.

Motion to fund the \$850,000 Agreement was made by Ms. Megee and seconded by Ms. Sigerman and the motion passed 6-1 with Mr. Early, Mr. McKinney, Mr. Cooper, Mr. Barnett voting for and Mr. Naman voting against the motion.

**5. CONSIDERATION AND POSSIBLE ACTION:**

5A. Presentation regarding a funding request for an expansion of the River Trail to Schreiner University. Mr. Hoppe gave an overall summary of the history and project scope that would be covered by the \$1,500,000 request and noted that it is an Action Item in the Kerrville 2050 plan. Mr. Charlie McCormick, President of Schreiner University, spoke of the advantages of joining Schreiner University to the River Trail not only to the school, but the citizens of Kerrville. Mr. Larry Howard spoke as a property owner in the affected area stating that he was very much in favor of the plan and that he had spoken with the other property owners that would be involved and said they had voiced their support as well.

5B. Amendment to the Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas for the design of and improvements to the City's H-E-B Tennis Center.

Mr. Hoppe gave a presentation of the whole project and pointed out what the additional \$250,000 funding request would be covering. He confirmed that the reason for the increase was due to the bid estimates coming in higher because of rising construction costs for the project since it was first conceptualized and budgeted for four years ago. Motion was made by Mr. Cooper to amend the existing contract to increase funding to a maximum of \$250,000. The motion was seconded by Ms. Megee and it passed 7-0.

**6. EXECUTIVE SESSION:**

Ms. Sigerman moved for EIC to go into executive closed session to discuss subject matter under Section 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code including the following matters:

Sections 551.087:

5A. Deliberation regarding economic development negotiations in accordance with the Texas Open Meetings Act, Section 551.087, discussion regarding commercial or financial information received from a business prospect(s), and/or to deliberate the offer of a financial or other incentive to a business prospect(s). (Section 551.087, TX Government Code).

At 5:18 p.m. the regular meeting recessed. EIC went to executive closed session at 5:18 p.m. At 5:48 p.m., the executive closed session recessed and EIC returned to open session at 5:48 p.m. No action was taken at executive session.

**6. POSSIBLE ACTION FOR ITEMS DISCUSSED IN EXECUTIVE SESSION:**

6A. Thompson Road Infrastructure Extension – This item was not discussed in executive session.

6B. Schreiner University Trail Expansion – Ms. Sigerman moved to direct staff to draft a funding agreement and hold a public hearing regarding the River Trail expansion to Schreiner University at the December 2019 EIC meeting. The motion was seconded by Ms. Megee and was passed with a vote of 6-1 with Mr. McKinney abstaining due to a conflict of interest.

**7. ITEMS FOR FUTURE AGENDAS:**

None

**8. ANNOUNCEMENTS:**

None

9. **ADJOURNMENT**

Mr. Early adjourned the meeting at 5:54.

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
Kenneth Early, President

ATTEST:

\_\_\_\_\_  
Sana Waller, Interim Deputy City Secretary



**TO BE CONSIDERED BY THE EIC BOARD  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** EIC Monthly Financial Statements for the month ended November 30, 2018

**AGENDA DATE OF:** 12/17/2018

**DATE SUBMITTED:** 12/14/2018

**SUBMITTED BY:** Amy Dozier, CFO

**EXHIBITS:** Financial Reports

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
n/a	n/a	n/a	n/a

**PAYMENT TO BE MADE TO:**

**Kerrville 2050 Item?**

**Yes:** ☐

**No:** ☒

**Key Priority Area  
Guiding Principle**

**Action Item** N/A

**SUMMARY STATEMENT:**

The EIC operating fund received sales tax revenue of \$277,354 in November 2018. This is a decrease of 0.5% compared to November 2017. On a year to date basis, sales tax revenue is tracking very close to budget at 0.5% higher than budget.

Interest income for the month was \$8,145. EIC's money is invested entirely in TexPool, which is earning 2.44% as of December 12, 2018. The investment is completely liquid and can be used to fund projects at any time.

Expenditures for the month were \$1,682,682, which included budgeted transfers for debt service and the administrative service fee plus a \$1,575,000 transfer to the Project Fund for the HL Kerr agreement (\$375,000), Tennis Center (\$200,000) and Legion Lift Station (\$1,000,000). EIC authorized an additional \$250,000 for the Tennis Center improvements. \$200,000 is being transferred to the project fund in November and the remaining \$50,000 will be transferred in December.

During November, the Project Fund received the \$1,575,000 transfer noted above and transferred \$1,000,000 to the City for the Legion Lift Station project, per the agreement. The remaining \$1,000,000 for the Legion Lift Station project will be transferred to the City in October 2019.

The last page of this report is an updated 5 year forecast based on recently approved projects. This forecast shows that even when the new projects are factored in, the Project Fund will continue to accumulate funds that can be used for additional projects.

**RECOMMENDED ACTION:**

Information only; no action required.



**ECONOMIC IMPROVEMENT CORPORATION  
OPERATING FUND  
STATEMENT OF ACTIVITIES  
FOR THE MONTH ENDED NOVEMBER 30, 2018**

	Annual Budget	Current Period	Y-T-D Actual	% of Budget	Budget Balance
<b>BEGINNING CASH BALANCE</b>	\$1,242,648		\$1,242,648		
<b>REVENUES</b>					
Sales and Use Tax	3,469,051	277,354	562,107	16.2%	(2,906,944)
Interest Income	45,000	8,145	16,317	36.3%	(28,683)
<b>TOTAL REVENUES</b>	<b>3,514,051</b>	<b>285,499</b>	<b>578,423</b>	<b>16.5%</b>	<b>(2,935,628)</b>
<b>EXPENDITURES</b>					
Administrative					
Office Supplies	500	-	-	0.0%	500
Administrative Services Fee	180,000	15,000	30,000	16.7%	150,000
Kerr Economic Development Corp	140,000	-	-	0.0%	140,000
Administrative Set Aside	50,000	-	-	0.0%	50,000
Total Administrative	370,500	15,000	30,000	8.1%	340,500
Category I - Business Development					
Business Development Set Aside	500,000	-	-	0.0%	500,000
HL Kerr Agreement	-	375,000	375,000		(375,000)
Total Category I	500,000	375,000	375,000	75.0%	500,000
Category II - Quality of Life					
Quality of Life Set Aside	250,000	-	-	0.0%	250,000
Tennis Center	-	200,000	200,000		(200,000)
Debt Service - Series 2011A (River Trail)	258,506	21,542	43,084	16.7%	215,422
Debt Service - Series 2012 (River Trail)	250,330	20,861	41,722	16.7%	208,608
Debt Service - Series 2015 (Sports Complex)	603,350	50,279	100,558	16.7%	502,792
Total Category II	1,362,186	292,682	385,364	28.3%	976,822
Category III - Public Infrastructure					
Workforce Housing Set Aside	250,000	-	-	0.0%	250,000
Legion Lift Station	1,000,000	1,000,000	1,000,000	100.0%	-
Total Category III	1,250,000	1,000,000	1,000,000	80.0%	250,000
<b>TOTAL EXPENDITURES</b>	<b>3,482,686</b>	<b>1,682,682</b>	<b>1,790,364</b>	<b>51.4%</b>	<b>1,692,322</b>
<b>CHANGE IN NET POSITION</b>	<b>\$ 31,365</b>	<b>\$ (1,397,183)</b>	<b>\$ (1,211,941)</b>		
<b>ENDING CASH BALANCE</b>	<b>\$ 1,274,013</b>		<b>\$31,596</b>		

**ECONOMIC IMPROVEMENT CORPORATION  
PROJECT FUND  
STATEMENT OF ACTIVITIES  
FOR THE MONTH ENDED NOVEMBER 30, 2018**

	Annual Budget	Current Period	Y-T-D Actual	% of Budget	Budget Balance
<b>BEGINNING CASH BALANCE</b>	\$2,850,000		\$2,850,000		
<b>REVENUES</b>					
Transfer In - EIC Operating Fund	2,050,000	1,575,000	1,575,000	76.8%	(475,000)
<b>TOTAL REVENUES</b>	2,050,000	1,575,000	1,575,000	76.8%	(475,000)
<b>EXPENDITURES</b>					
Project Contribution					
Legion Lift Station	1,000,000	1,000,000	1,000,000	100.0%	-
<b>TOTAL EXPENDITURES</b>	1,000,000	1,000,000	1,000,000	100.0%	-
<b>CHANGE IN NET POSITION</b>	\$ 1,050,000	\$ 575,000	\$ 575,000		
<b>ENDING CASH BALANCE</b>	\$ 3,900,000		\$3,425,000		

### Sales Tax Revenue Analysis - FY2019

Month	Actual FY2017	Actual FY2018	Budget FY2019	Actual FY2019	FY2018 vs. FY2019	Budget vs. Actual
October	\$ 264,806	\$ 277,430	\$ 279,029	\$ 284,752	2.64%	2.05%
November	278,707	278,698	280,305	277,354	-0.48%	-1.05%
December	260,757	252,047	253,500			
January	273,741	273,590	275,167			
February	357,098	354,753	356,798			
March	248,560	242,127	243,523			
April	240,783	241,702	243,095			
May	308,696	324,560	326,431			
June	261,944	286,255	287,905			
July	282,792	306,165	307,930			
August	306,807	323,628	325,494			
September	275,901	288,215	289,876			
<b>YTD Total</b>	<b>\$ 3,360,592</b>	<b>\$ 3,449,171</b>	<b>\$ 3,469,051</b>	<b>\$ 562,107</b>	<b>1.07%</b>	<b>0.50%</b>

### Cash Analysis

Cash and Investment Balances by Fund		
<u>Fund</u>	<u>Fund Name</u>	<u>Balance</u>
40	Sales Tax Improvement Fund (operating fund)	\$ 31,596
75	EIC Projects Fund	3,425,000
	<b>Total Cash and Investments</b>	<b>\$ 3,456,596</b>

Cash and Investments by Type - Placement - Amount		
<u>Type</u>	<u>Investment Placement</u>	<u>Amount</u>
Short Term Investment	EIC TexPool	\$ 3,456,596
	<b>Total Cash and Investments</b>	<b>\$ 3,456,596</b>

### Project Fund Balance

Project Description	EIC Contribution	Funding Transferred to Project	Funding Transferred to EIC Project Fund
<b>Set Aside:</b>			
Business Development	\$ 100,000	\$ -	\$ 100,000
Workforce Housing	850,000	-	850,000
<b>Set Aside Total</b>	<b>950,000</b>	<b>-</b>	<b>950,000</b>
<b>Committed Projects:</b>			
Tennis Center	1,750,000	1,500,000	250,000
Legion Lift Station	2,000,000	1,000,000	1,000,000
HL Kerr Agreement	375,000	-	375,000
Thompson Drive Partners	850,000	-	850,000
<b>Committed Project Total</b>	<b>4,975,000</b>	<b>2,500,000</b>	<b>2,475,000</b>
<b>PROJECT FUND TOTAL</b>	<b>\$ 5,925,000</b>	<b>\$ 2,500,000</b>	<b>\$ 3,425,000</b>



**City of Kerrville**  
**Economic Improvement Corporation**  
**Five Year Forecast**  
**As of December 17, 2018**

	FY19 Projected	FY20 Projected	FY21 Projected	FY22 Projected	FY23 Projected
<b>EIC OPERATING FUND</b>					
<b>BEGINNING CASH BALANCE</b>	<b>\$1,242,648</b>	<b>\$24,014</b>	<b>\$24,980</b>	<b>\$26,795</b>	<b>\$26,796</b>
<b>REVENUES:</b>					
Sales and Use Tax	3,469,052	3,538,433	3,609,201	3,681,386	3,755,014
Interest and Miscellaneous	45,000	45,000	45,000	45,000	45,000
<b>TOTAL REVENUE</b>	<b>3,514,052</b>	<b>3,583,433</b>	<b>3,654,201</b>	<b>3,726,386</b>	<b>3,800,014</b>
<b>EXPENDITURES:</b>					
<b>Administrative</b>					
Supplies and Miscellaneous	500	500	500	500	500
KEDC	140,000	180,000	180,000	180,000	180,000
Administrative Services Fee	180,000	185,000	190,000	195,000	200,000
<b>Total Administrative</b>	<b>320,500</b>	<b>365,500</b>	<b>370,500</b>	<b>375,500</b>	<b>380,500</b>
<b>Debt Service</b>					
Debt Service - Series 2011A (River Trail)	258,506	259,756	260,906	257,006	260,390
Debt Service - Series 2012 (River Trail)	250,330	251,630	247,830	254,030	249,030
Debt Service - Series 2015 (KSC)	603,350	605,580	603,150	604,850	602,825
<b>Total Debt Service</b>	<b>1,112,186</b>	<b>1,116,966</b>	<b>1,111,886</b>	<b>1,115,886</b>	<b>1,112,245</b>
<b>Transfer to Project Fund</b>	<b>3,300,000</b>	<b>2,100,000</b>	<b>2,170,000</b>	<b>2,235,000</b>	<b>2,300,000</b>
<b>TOTAL EXPENDITURES</b>	<b>4,732,686</b>	<b>3,582,466</b>	<b>3,652,386</b>	<b>3,726,386</b>	<b>3,792,745</b>
<b>NET REVENUES TO EXPENDITURES</b>	<b>(1,218,635)</b>	<b>966</b>	<b>1,815</b>	<b>-</b>	<b>7,270</b>
<b>ENDING CASH BALANCE</b>	<b>\$24,014</b>	<b>\$24,980</b>	<b>\$26,795</b>	<b>\$26,796</b>	<b>\$34,065</b>
<b>EIC PROJECT FUND</b>					
<b>BEGINNING PROJECT CASH BALANCE</b>	<b>\$2,850,000</b>	<b>\$2,925,000</b>	<b>\$3,275,000</b>	<b>\$5,445,000</b>	<b>\$7,680,000</b>
<b>REVENUES:</b>					
Transfer In from EIC Operating	3,300,000	2,100,000	2,170,000	2,235,000	2,300,000
<b>TOTAL REVENUE</b>	<b>3,300,000</b>	<b>2,100,000</b>	<b>2,170,000</b>	<b>2,235,000</b>	<b>2,300,000</b>
<b>EXPENDITURES:</b>					
<b>Projects:</b>					
Legion Lift Station	1,000,000	1,000,000	-	-	-
Tennis Center	250,000	-	-	-	-
HL Kerr Agreement	375,000	-	-	-	-
Thompson Drive Agreement	850,000	-	-	-	-
River Trail to Schreiner University	750,000	750,000	-	-	-
<b>TOTAL EXPENDITURES</b>	<b>3,225,000</b>	<b>1,750,000</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>NET REVENUES TO EXPENDITURES</b>	<b>\$75,000</b>	<b>\$350,000</b>	<b>\$2,170,000</b>	<b>\$2,235,000</b>	<b>\$2,300,000</b>
<b>ENDING PROJECT CASH BALANCE</b>	<b>\$2,925,000</b>	<b>\$3,275,000</b>	<b>\$5,445,000</b>	<b>\$7,680,000</b>	<b>\$9,980,000</b>
<b>SET ASIDE BALANCES</b>					
Administrative	50,000	50,000	50,000	50,000	50,000
Business Development	2,025,000	2,125,000	2,625,000	3,125,000	3,625,000
Quality of Life	-	-	-	150,000	650,000
Workforce Housing	850,000	1,100,000	1,350,000	1,600,000	1,850,000
Unallocated	-	-	1,420,000	2,755,000	3,805,000

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

**SUBJECT:** Public Hearing for consideration of Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation; the City of Kerrville, Texas; and Schreiner University; for the development and construction of an extension to the City's River Trail to connect with Schreiner University's campus.

**AGENDA DATE:** December 17, 2018    **DATE SUBMITTED:** December 14, 2018

**SUBMITTED BY:** E.A. Hoppe  
Deputy City Manager

**EXHIBITS:** Project Funding Agreement

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
<b>\$1,500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>N/A</b>

**PAYMENT TO BE MADE TO:**    **City of Kerrville, TX**

**SUMMARY STATEMENT**

Schreiner University is proposing EIC funding assistance for the construction of a 1+ mile extension of the Kerrville River Trail to connect their campus to the main trail system along the Guadalupe River. The university feels that this asset will help them better market the school and community to prospective students and employees as they look to nearly double their enrollment from 1,312 in FY18 to 2,381 in FY24. The University estimates that each student has an approximate \$52,000+ economic impact to the community, with an overall *current* economic impact of \$63 million annually (anticipated to be \$132 million by 2024). The increase in enrollment will also bring forth an anticipated 60+ new faculty and staff hiring additions, with an average wage of \$54,000+.

**PROJECT HISTORY**

Summer 2018:            City receives EIC application from Schreiner University and a GO Team meeting is conducted to review the application.

October 2018:            A subsequent GO Team meeting is conducted.

October 29, 2018:        EIC conducted an Executive Session discussion to review the status of the funding request and various potential deal points. EIC provided direction to City staff to schedule a presentation from Schreiner University regarding the funding request, to be held on November 26<sup>th</sup>, 2018.

Nov. 26, 2018:            EIC received a presentation from Schreiner University regarding the funding request, further discussed in Executive Session and directed

Dec. 17, 2018: staff to develop a project funding agreement and post notice for a Public Hearing to be held on December 17<sup>th</sup>, 2018.  
Public Hearing scheduled.

### **FUNDING AGREEMENT SUMMARY**

#### **EIC will:**

- Provide \$1,500,000 in funding for the trail extension project, in two equal installments (one in this Fiscal Year and one in the next Fiscal Year)

#### **City of Kerrville will:**

- Design and engineer project; acquire necessary easements; construct River Trail extension to Schreiner campus

#### **Schreiner University will:**

- Provide recreation easements for construction of the river trail extension
- Provide easements for parking at the trail head
- Construct a perimeter Campus Trail, with public access, that connects to the river trail extension, on or before the opening of the river trail extension
- Provide \$50,000 in direct funding support
- Provide 365 day public access (pedestrian and vehicular) to the trail head from the Park St/Travis St. intersection and campus entrance
- Construct publicly accessible restrooms near the trailhead/Robbins Lewis Pavilion within two years of the River Trail extension opening
- Maintain staff and faculty employment levels at least at current levels

### **RECOMMENDED ACTION**

Conduct Public Hearing and consider Project Funding Agreement.

# DRAFT 12/14/18

## PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION; THE CITY OF KERRVILLE, TEXAS; AND SCHREINER UNIVERSITY; FOR THE DEVELOPMENT AND CONSTRUCTION OF AN EXTENSION TO THE CITY'S RIVER TRAIL TO CONNECT WITH SCHREINER UNIVERSITY'S CAMPUS

THIS PROJECT FUNDING AGREEMENT (the "Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the **City of Kerrville, Texas Economic Improvement Corporation** ("EIC"), a Texas non-profit corporation established by City pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code; otherwise known as the Development Corporation Act of 1979 ("the Act"); the **City of Kerrville, Texas** ("City"), a Texas home-rule municipality; and **Schreiner University**, a Texas nonprofit corporation ("Schreiner"). EIC, City, and Schreiner may sometimes be collectively referred to herein as "Parties" and individually as "Party".

### WITNESSETH:

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

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

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



# DRAFT 12/14/18

**WHEREAS**, Schreiner is an independent liberal arts college offering a variety of four-year and master degrees; and

**WHEREAS**, Schreiner currently enrolls 1,312 students, with the goal of trying to nearly double its enrollment by 2024; and

**WHEREAS**, along with increased enrollment, Schreiner also anticipates corresponding increases in faculty and staff; and

**WHEREAS**, Schreiner is estimated to have on average a \$63 million economic annual impact to the Kerrville community each year; and

**WHEREAS**, Schreiner and the City, as documented within the its *Kerrville 2050* Comprehensive Plan, continue seeking ways with which to integrate Schreiner students and its campus into the City and to make its campus more accessible to and/or a part of community parks, amenities, and other places; and

**WHEREAS**, the parties believe that one way to accomplish such integration is to connect Schreiner's campus to the Kerrville River Trail, through an extension between the G Street area, continuing the trail along the Guadalupe River, and connecting it to Schreiner's campus and future campus perimeter trail system ("Campus Trail"); and

**WHEREAS**, Schreiner believes that quality of life amenities, such as the River Trail and its extension to campus, will help Schreiner better recruit students to achieve its enrollment goals; and

**WHEREAS**, as part of this extension, Schreiner has agreed to connect the River Trail to the Campus Trail and promote and authorize the public's use of such trail; and

**WHEREAS**, extending the River Trail in this manner will connect and make the River Trail accessible to neighborhoods surrounding Schreiner's campus; and

**WHEREAS**, City will design and construct the extension of the River Trail (the "Project"); and

**WHEREAS**, Schreiner will contribute \$50,000 toward the Project, convey required easements to City, and make specific improvements to its Campus Trail, to include the construction of public restrooms at a future date; and

**WHEREAS**, the Project is estimated to cost \$1,500,000.00; and



# DRAFT 12/14/18

**WHEREAS**, the City seeks grant funding from the EIC in the amount of \$1,500,000.00, for the City to use in designing, bidding, managing, and constructing the Project; and

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

**WHEREAS**, more specifically, EIC finds that the Project includes equipment, facilities, and improvements to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, and tourist purposes and events, and other related improvements that enhance any of the items described here; and

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

**WHEREAS**, on December 17, 2018, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

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

1. **"Project" Defined:** When used in this Agreement, the phrase "Project" means the project summary and approximate cost itemization, to date, as specified in **Exhibit A**, attached hereto, and included herein for all purposes. City will manage the funding it receives from EIC and the design, acquisition of property interests, bidding, management, and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC. In addition, City shall provide periodic reports to the EIC with respect to the Project, timing, and costs.
2. **Agreement to Fund Project:** EIC agrees to provide City an amount up to and not to exceed \$1,500,000.00 in 4B Revenues for the Project. EIC will provide the funding in two equal installments of \$750,000.00 each, with the first installment to be made on or before September 30, 2019, and the second installment to be made on or before March 31, 2020.

# DRAFT 12/14/18

3. **Payments Authorized:** City is authorized to make payments for the Project directly from the General Capital Projects Fund.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of “costs” as defined in the Act.
5. **City’s Acquisition of Property:** Prior to bidding, City must receive the necessary property interests (e.g., recreation trail easements) from intervening owners to authorize its construction, management, and the public’s use of the River Trail. Should City fail to accomplish any such acquisition(s), City shall report this event to EIC.
6. **Project’s Timeline:** City shall begin design work on the Project on or before October 1, 2019. Thereafter, construction activities will occur on or before January 1, 2020. Should such activities not occur by these dates, EIC may elect to terminate this Agreement.
7. **Conditions Under which City may Suspend Performance of its Obligations under this Agreement:** under any of the following conditions, the City may, at its option, after at least fifteen (15) days written notice to Schreiner, suspend further performance under this Agreement until such time as Schreiner shall have cured the condition(s) and so notified the City, 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 the 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.

# DRAFT 12/14/18

e. Should any of these conditions not be cured by Schreiner within ninety (90) days, Schreiner will be considered to have breached this Agreement and City may, at its option, with written notice to Schreiner, terminate this Agreement.

## 8. Schreiner's Representations, Warranties, and Performance:

a. Schreiner represents and warrants as of the date hereof:

(i) Schreiner is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;

(ii) Execution of this Agreement has been duly authorized by Schreiner and this Agreement is not in contravention of Schreiner's governing authority or any agreement or instrument to which Schreiner is a party or by which it may be bound as of the date hereof;

(iii) No litigation or governmental proceeding is pending, or, to the knowledge of Schreiner, threatened against or affecting Schreiner, which may result in a material adverse change in Schreiner's business; properties, to include Schreiner's Property; or operations sufficient to jeopardize Schreiner's legal existence;

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

(v) Following completion of the Project, Schreiner shall meet or exceed the same number of employees that it presently employs through December 31, 2024; and

(vi) Schreiner shall do the following:

a) Pay the City \$50,000.00 on or before September 30, 2019, which City shall use for Project costs;



# DRAFT 12/14/18

- b) Convey recreation trail, access, and parking easements for the public's use to City as part of the Project as specified within **Exhibit A**;
- c) Construct and install its Campus Trail as depicted in **Exhibit B** on or before the opening of the Project, which the parties estimate to be on or before December 31, 2020;
- d) Promote and allow, in conjunction with the River Trail, for 365 days per year public access to the Campus Trail, including the trailhead and parking area for pedestrians and vehicles; and
- e) Provide public restrooms that are connected to the Campus Trail System in the general vicinity of the Robbins Lewis Pavilion located on Campus; such restrooms i) to be constructed within two years of the completion of the Project and opening of the River Trail extension; and, ii) to consist of a similar quality as the restrooms located at the trailhead within Kerrville Schreiner Park, as depicted in **Exhibit C**.

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

- 8. **Reimbursement:** Should Schreiner fail to comply with its performance requirements under this Agreement, Schreiner shall pay EIC One Hundred Thousand and No/100 Dollars (\$100,000.00) as a penalty. Schreiner shall make such payment 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 payment, Schreiner shall have no further obligation under this Agreement. EIC shall have the discretion to consider relevant circumstances before demanding payment and may require partial payment in appropriate circumstances. Failure to reimburse EIC within thirty (30) days of Schreiner's receipt of such demand shall constitute a breach of this Agreement.
- 9. **Severability:** The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having

# DRAFT 12/14/18

competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

10. **Amendment:** This Agreement may be amended only by written amendment signed by the parties.
11. **Notices:** All notices given with respect to this Agreement must be in writing and will be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

**For EIC**

President

City of Kerrville, Texas, Economic Improvement Corporation

City Hall, 701 Main Street

Kerrville, Texas 78028

Facsimile: (830) 792-3850

**For City**

City Manager, City of Kerrville

City Hall, 701 Main Street

Kerrville, Texas 78028

Facsimile: (830) 792-3850

**Schreiner University**

Bill Muse

Vice President for Administration and Finance

# DRAFT 12/14/18

Schreiner University  
2100 Memorial Boulevard  
Kerrville, Texas 78028  
Facsimile: (830) 792-7207

12. **Applicable Law:** This Agreement is governed by and construed in accordance with the laws of the State of Texas. The Agreement is entered into and fully performable within Kerr County, Texas. Accordingly, venue for any cause of action arising pursuant to this Agreement is proper only in Kerr County, Texas.
13. **Interpretation:** Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement will therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arm's length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.
14. **No Joint Venture:** Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between any or all of the parties.
15. **Parties In Interest:** Nothing in this Agreement shall entitle any party other than EIC, City, or Schreiner to any claim, cause of action, remedy, or right of any term of this Agreement.
16. **Survival of Terms:** All rights, duties, liabilities, and obligations accrued prior to termination will survive termination.
17. **Entire Agreement:** This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

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

CITY OF KERRVILLE, TEXAS

CITY OF KERRVILLE, TEXAS ECONOMIC  
IMPROVEMENT CORPORATION

By: \_\_\_\_\_  
Bill Blackburn, Mayor

By: \_\_\_\_\_  
Kenneth Early, President

# DRAFT 12/14/18

ATTEST:

ATTEST:

\_\_\_\_\_  
Cheryl Brown, Interim City Secretary

\_\_\_\_\_  
Sana Waller, Secretary for the EIC

APPROVED AS TO FORM:

**SCHREINER UNIVERSITY**

\_\_\_\_\_  
Michael C. Hayes, City Attorney

By: \_\_\_\_\_  
Bill Muse, Vice President for Administration  
and Finance