

AGENDA FOR THE KERRVILLE CITY COUNCIL MEETING

TUESDAY, NOVEMBER 14, 2023, 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

NOVEMBER 14, 2023 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-streaming 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 begin. 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: Mayor Judy Eychner

INVOCATION AND PLEDGE OF ALLEGIANCE: Led by Councilmember Roman Garcia

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: Schreiner University Centennial.
 - 2.B Recovery Community Coalition (RCC) Annual Report, presented by the RCC Chair, Joe Piszcior.
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 Resolution No. 38-2023. A Resolution authorizing the filing of an application with the Alamo Area Council of Governments for 2024/2025 Solid Waste Pass Through Grant.
Attachment: 20231114_Reso 38-2023 AACOG 2024-2025 Solid Waste Pass Through Grant.pdf
 - 4.B Resolution No. 41-2023. A Resolution authorizing the acceptance of \$70,522.00 in grant funding from the Office of the Governor and its Edward Byrne Memorial Justice Assistance Grant program; for funding to purchase automatic license plate reader equipment for the Kerrville Police Department.

Attachments: 20231114_Reso 41-2023 Grant funding from the Office of the Governor License Plate Reader.pdf
20231114_Award Statement.pdf

 4.C Contract with EagleView Technologies, Inc. to acquire two flights of aerial imagery for the City of Kerrville for the amount of \$76,194 paid over the course of six years in payments of \$12,699.00.
Attachment: 20231114_MSA Eagleview.pdf

 4.D The 2024 Routine Airport Maintenance Program (RAMP) Grant between Texas Department of Transportation and the Kerrville-Kerr County Airport.
Attachment: 20231114_RAMP_Grant_2024_Packet_Kerrville_Airport.pdf

4.E City Council workshop minutes, October 24, 2023.
Attachment: 20231114_CC workshop minutes 10-24-23.pdf

4.F City Council meeting minutes, October 24, 2023.
Attachment: 20231114_CC meeting minutes 10-24-23.pdf

4.G City Council special-called meeting minutes, November 07, 2023.
Attachment: 20231114_Minutes special-called meeting 11-7-23 11am.pdf

END OF CONSENT AGENDA.

5. ORDINANCES, SECOND READING:

5.A Ordinance No. 2023-29, second reading. An Ordinance annexing an approximate 214.1-acre tract of land, which includes an adjacent right-of-way existing as a portion of Olympic Drive, all of which is out of the Samuel Wallace Survey No. 114, Abstract No. 348, and Samuel Wallace Survey No. 113, Abstract No. 347, into the corporate limits of the City of Kerrville, Texas; such property being located within Kerr County, Texas, and the extraterritorial jurisdiction of the City of Kerrville, Texas; and generally located adjacent to Loop 534 and north of Olympic Drive; further describing the property to be annexed; adopting a service plan for the property annexed; and establishing the zoning both for the property annexed and a contiguous tract of land located adjacent to Loop 534, and providing other matters relating to the subject.
Attachment: 20231114_Ord 2023-29 Annex-Zone 2945 Loop 534, second.pdf

5.B Ordinance No. 2023-30, second reading. An Ordinance of the City Council of the City of Kerrville, Texas, designating the Windridge Tax Increment Reinvestment Zone (TIRZ), a petition-initiated TIRZ to be named Tax Increment Reinvestment Zone Number Two, Windridge, City of Kerrville, Texas, pursuant to Chapter 311, Texas Tax Code; and generally located north of Olympic Drive and on an approximate 100.36 acre tract of undeveloped property; describing the boundaries of the Zone; creating a Board of Directors for the Zone; establishing a Tax Increment fund for the Zone; containing a findings related to the creation of the Zone; providing a date for the termination of the Zone; providing that the Zone take effect immediately upon passage of the Ordinance; providing a severability clause; and providing an effective date.
Attachment: 20231114_Ord 2023-30 Windridge TIRZ2, second.pdf

6. PUBLIC HEARINGS AND ACTION:

6.A Request for variance from distance requirement applicable to sale of alcoholic beverages per Section 10-3, Code of Ordinances; for the property addressed as 2100 E. Main Street (The Hill Winery, Schreiner University).

Attachments: 20231114_Map_The Hills Location.pdf
20231114_SU_Alcohol_Sales_Variance_Exhibit_A.pdf

7. PUBLIC HEARING AND ORDINANCES, FIRST READING:

- 7.A Ordinance No. 2023-31. An Ordinance amending Ordinance No. 2003-08, which created a Planned Development District on an approximate 798.7 acre tract of land generally located northeast of the intersection of State Highway 16 and Interstate Highway 10; said amendments to update the concept plan and the land use table included within Ordinance No. 2003-08, to combine various residential lot sizes into a single area (parcel), and to alter the layout of the golf course area and commercial areas; establishing a penalty and effective date; and providing other matters relating to the subject.

Attachments: [20231114_Ord 2023-31 Zone change PDD Hwy16 & I10.pdf](#)

[20231114_Map_of_location.pdf](#)

[20231114_Master Plan 2003 Whiskey_Springs_PDD.pdf](#)

[20231114_K2050 Catalyst Areas Whiskey Springs.pdf](#)

- 7.B Ordinance No. 2023-32. An ordinance changing the zoning of a property known as 518 and 520 Lois Street, consisting of Lots 1-3, Block 25, of the Westland Addition, and within the City of Kerrville, Kerr County, Texas; from a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A) to a Light Commercial Zoning District (C-2); and providing other matters relating to the subject.

Attachments: [20231114_Ord 2023-32 Zone Change 518 and 520 Lois St.pdf](#)

[20231114_PZ-2023-10_Current_Zoning.pdf](#)

[20231114_PZ-2023-10_K2050_Future_Land_Use.pdf](#)

[20231114_Letter opposed Miller.pdf](#)

- 7.C Ordinance No. 2023-33. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the zoning for the property known as 226 Harper Rd (FM 783); an approximate 1.71 acre tract out of the Fosgate Survey No. 120, Abstract 138; from a Single Family Residential Zoning District (R-1) to a Residential Transition Zoning District (RT); and providing other matters relating to the subject.

Attachments: [20231114_Ord 2023-33 Zone change 226 Harper Rd.pdf](#)

[20231114_Zoning Current-K2050 Future.pdf](#)

8. CONSIDERATION AND POSSIBLE ACTION:

- 8.A Resolution No. 36-2023. A Resolution approving a Resolution of the *City of Kerrville, Texas Economic Improvement Corporation* with respect to the issuance of up to \$20,000,000 in principal amount of its *Sales Tax Revenue Bonds, Series 2023*, to finance costs of certain projects being undertaken by the Corporation at the request, and for the benefit, of the City which are authorized to be financed by the Corporation pursuant to the *Development Corporation Act* (primarily Section 505.152 of the Texas Local Government Code); and approving an amendment to the Sales Tax Remittance Agreement between the Corporation and the City.

Attachment: [20231114_Reso 36-2023 EIC bond issuance DRAFT.pdf](#)

- 8.B General Event Production Contract between The CE Group, Inc. and the City of Kerrville for the Kerrville Eclipse Festival in an amount not to exceed \$193,500.00.

Attachment: [20231114_Contract Event Promotion- CE Group.pdf](#)

9. INFORMATION & DISCUSSION:

- 9.A Financial report for Fiscal Year ended September 30, 2023.

10. BOARD APPOINTMENTS:

- 10.A Appointment(s) to the Food Service Advisory Board.

11. **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 in Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073*

(deliberation regarding gifts), 551.074 (personnel/officers), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code. City Council also reserves the right to meet in executive session on the following issues:

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

13. 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: Schreiner University Centennial.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** August 15, 2023

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:

Proclamation honoring the 100th anniversary of Schreiner Institute, College and University, founded September 18, 1923 by Captain Charles Schreiner.

RECOMMENDED ACTION:

Present proclamation.



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

SUBJECT: Recovery Community Coalition (RCC) Annual Report, presented by the RCC Chair, Joe Piszczer.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** November 3, 2023

SUBMITTED BY: Eric Maloney, Fire Chief

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$0	\$0	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:

In accordance to Ordinance No. 2022-09, the Coalition shall report its conclusions, achievements, ideas, desires, and plans to City Council.

The City's staff liaison is Fire Chief Eric Maloney.

RECOMMENDED ACTION:

No action required, information only.



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

SUBJECT: Resolution No. 38-2023. A Resolution authorizing the filing of an application with the Alamo Area Council of Governments for 2024/2025 Solid Waste Pass Through Grant.

AGENDA DATE OF: November 14, 2023 **DATE SUBMITTED:** November 1, 2023

SUBMITTED BY: David Barrera, Assistant Director of Public Works

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$19,000	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area F - Public Facilities and Services

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

This resolution is to authorize staff to submit three reimbursable grant applications to the Alamo Area Council of Governments. The 2024 Grant funding is to be used for a purchase of a truck, services for a Household Hazardous Waste collection event, and services for litter collection after the eclipse event.

RECOMMENDED ACTION:

Approve Resolution No. 38-2023.

ATTACHMENTS:

[20231114_Reso 38-2023 AACOG 2024-2025 Solid Waste Pass Through Grant.pdf](#)

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 38-2023**

**A RESOLUTION AUTHORIZING THE FILING OF AN
APPLICATION WITH THE ALAMO AREA COUNCIL OF
GOVERNMENTS FOR 2024/2025 SOLID WASTE PASS
THROUGH GRANT**

WHEREAS, the Alamo Area Council of Governments (“AACOG”) is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation of AACOG’s adopted regional solid waste management plan; and

WHEREAS, the City of Kerrville is qualified to apply for grant funds; and

WHEREAS, City Council finds it to be in the public interest to authorize the filing of grant applications with AACOG that if awarded will be utilized by the City to purchase equipment and/or services to help improve the City’s solid waste management services;

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

SECTION ONE. City Council authorizes the City Manager or designee to submit applications for grant funding under the Alamo Area Council of Governments 2024/2025 Solid Waste Pass Through Grant and act on behalf of the City in all matters related to the grant applications.

SECTION TWO. If a grant(s) is awarded, City will comply with the grant requirements of AACOG, the Texas Commission on Environmental Quality and the State of Texas; the grant funds and any grant-funded equipment will be used only for those purposes specified under the grant; and, the activities will comply with and support the adopted regional and local solid waste management plans adopted for the City’s geographical area in which the activities will be performed.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2023.

ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney



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

SUBJECT: Resolution No. 41-2023. A Resolution authorizing the acceptance of \$70,522.00 in grant funding from the Office of the Governor and its Edward Byrne Memorial Justice Assistance Grant Program; for funding to purchase automatic license plate reader equipment for the Kerrville Police Department.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** October 27, 2023

SUBMITTED BY: Chris McCall, Police Chief

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 Kerrville Police Department has been awarded an Edward Byrne Memorial Justice Assistance Grant through the Officer of the Governor in the amount of \$70,522.00. These funds have been awarded to support an Automatic License Plate Reader Project. This funding will be utilized to purchase the equipment associated with this project. Approval is sought to accept these funds. There are no matching funds required from the City regarding this grant.

RECOMMENDED ACTION:

Approve Resolution No. 41-2023.

ATTACHMENTS:

[20231114_Reso 41-2023 Grant funding from the Office of the Governor License Plate Reader.pdf](#)

[20231114_Award Statement.pdf](#)

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 41-2023**

**A RESOLUTION AUTHORIZING THE ACCEPTANCE OF
\$70,522.00 IN GRANT FUNDING FROM THE OFFICE OF THE
GOVERNOR AND ITS EDWARD BYRNE MEMORIAL JUSTICE
ASSISTANCE GRANT PROGRAM; FOR FUNDING TO
PURCHASE AUTOMATIC LICENSE PLATE READER
EQUIPMENT FOR THE KERRVILLE POLICE DEPARTMENT**

WHEREAS, the City, through its Police Department ("KPD"), seeks authorization from City Council to accept grant funding from the Office of the Governor and its Edward Byrne Memorial Justice Assistance Grant Program for funding to purchase automatic license plate reader equipment for KPD, such funding in an amount not to exceed \$70,522.00; and

WHEREAS, KPD will use the grant funding for the purchase of equipment pursuant to KPD's Automatic License Plate Reader Project; and

WHEREAS, City Council finds it to be in the public interest to authorize the City to accept grant funding from the Office of the Governor for the purpose expressed above;

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

SECTION ONE. City Council authorizes the acceptance of grant funding from the Office of the Governor for funding in an amount not to exceed \$70,522.00, for purchasing automatic license plate reader equipment for KPD.

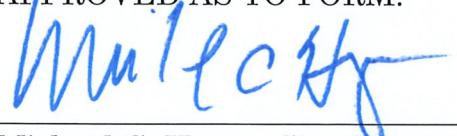
SECTION TWO. Pursuant to the grant, the City agrees to return grant funds to the Office of the Governor, in the event of loss or misuse of any grant funds.

SECTION THREE. The City designates the City Manager or designee as the City's authorized official who is given the authority to reject, alter, or terminate the grant on behalf of the City and take all other action in furtherance of the grant process.

**PASSED AND APPROVED ON this the _____ day of _____ A.D.,
2023.**

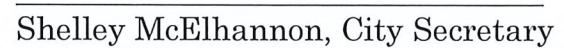
Judy Eychner, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:



Statement of Grant Award (SOGA)

The Statement of Grant Award is the official notice of award from the Office of the Governor (OOG). This Grant Agreement and all terms, conditions, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and all other State of Texas agencies and any other agencies, departments, divisions, governmental entities, public corporations, and other entities which shall be successors to each of the Parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the Parties hereto.

The approved project narrative and budget for this award are reflected in eGrants on the 'Narrative' and 'Budget/Details' tabs. By accepting the Grant Award in eGrants, the Grantee agrees to strictly comply with the requirements and obligations of this Grant Agreement including any and all applicable federal and state statutes, regulations, policies, guidelines and requirements. In instances where conflicting requirements apply to a Grantee, the more restrictive requirement applies.

The Grant Agreement includes the Statement of Grant Award; the OOG Grantee Conditions and Responsibilities; the Grant Application in eGrants; and the other identified documents in the Grant Application and Grant Award, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code, Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code, and the Texas Grant Management Standards (TxGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made, and for federal funding, the Funding Announcement or Solicitation under which the OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice, the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. The OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the Grantee.

By clicking on the 'Accept' button within the 'Accept Award' tab, the Grantee accepts the responsibility for the grant project, agrees and certifies compliance with the requirements outlined in the Grant Agreement, including all provisions incorporated herein, and agrees with the following conditions of grant funding. The grantee's funds will not be released until the grantee has satisfied the requirements of the following Condition(s) of Funding and Other Fund-Specific Requirement(s), if any, cited below:

Grant Number:	4764701	Award Amount:	\$70,522.00
Date Awarded:	10/24/2023	Grantee Cash Match:	\$0.00
Grant Period:	10/01/2023 - 09/30/2024	Grantee In Kind Match:	\$0.00
Liquidation Date:	12/29/2024	Grantee GPI:	\$0.00
Program Fund:	DJ-Edward Byrne Memorial Justice Assistance Grant Program	Total Project Cost:	\$70,522.00
Grantee Name:	Kerrville, City of		
Project Title:	ALPR Project		
Grant Manager:	Marvin Alcorn		
Unique Entity Identifier (UEI):	FUELCWMZPJ5		
CFDA:	16.738 - Edward Byrne Memorial Justice Assistance Grant Program		
Federal Awarding Agency:	U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance		
Federal Award Date:	9/16/2022		
Federal/State Award ID Number:	15PBJA-22-GG-00618-JAGX		
Total Federal Award/State Funds Appropriated:	\$14,989,265.00		
Pass Thru Entity Name:	Texas Office of the Governor – Criminal Justice Division (CJD)		
Is the Award R&D:	No		
Federal/State Award Description:	The purpose of this program is to reduce crime and improve the criminal justice system.		



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

SUBJECT: Contract with EagleView Technologies, Inc. to acquire two flights of aerial imagery for the City of Kerrville for the amount of \$76,194 paid over the course of six years in payments of \$12,699.00.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** October 19, 2023
2023

SUBMITTED BY: Charvy Tork

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$76,194	\$12,700	\$12,700	N/A

PAYMENT TO BE MADE TO: EagleView Technologies

Kerrville 2050 Item? Yes

Key Priority Area F - Public Facilities and Services

Guiding Principle N/A

Action Item F5.1 - Establish and maintain consistent communication and partnerships with Kerr County governmental entities to enhance service delivery and expand services as needed

SUMMARY STATEMENT:

The City of Kerrville last acquired 3-inch resolution aerial imagery in 2021, which is becoming out-of-date due to ongoing development in the City. The need to update City aerials presents an opportunity for the City to collaborate with partner agencies, including Kerr 9-1-1, Kerr County, Kerr Central Appraisal District (KCAD), and Kerrville Public Utility Board (KPUB), in a joint aerial imagery initiative.

This collective effort will result in the acquisition of 6-inch resolution imagery covering the entirety of Kerr County and 1-inch resolution imagery for the City of Kerrville and KPUB's service area. The difference between 1-inch and 3-inch imagery is notable: the higher resolution will provide finer detail, making it easier for city staff to assess infrastructure and land conditions with greater accuracy.

Deliverables will also include oblique imagery. Oblique imagery, captured by specialized cameras on the aircraft at various angles (40 to 45 degrees), allows the viewing of objects and structures from multiple perspectives. These angles typically include views from the

north, south, east, and west, providing a comprehensive visual analysis. Oblique imagery is a valuable resource for city staff, enabling detailed assessments of rooftops, building facades, and other elements that can be critical for planning, emergency response, and infrastructure assessment.

The advantages of the high-resolution aerial imagery and oblique imagery will empower staff to make more informed, efficient and strategic decision across various departments, contributing to the overall betterment of our community.

By partnering with other government entities and partner agencies, we are able to reduce the overall cost to the community and provide a better product. The collective initiative aligns with the City's Kerrville 2050 Plan to collaborate with other government entities for provision of services.

The City will co-own the aerials with the other four entities with full rights to the ortho-imagery. The term of the contract is for six years in the amount of \$12,699 per year. There will be a second flight in year three, which the City can opt out of and terminate the contract without any penalties if the City so desires.

RECOMMENDED ACTION:

Authorize the City Manager to enter a contract with EagleView Technologies, Inc. to acquire new aerial imagery for the City of Kerrville.

ATTACHMENTS:

[20231114_MSA Eagleview.pdf](#)



CUSTOMER NAME: Kerr Emergency 9-1-1 Network
Attn: Mark Del Toro, Executive Director

CUSTOMER ADDRESS: 819 Water Street, Suite 270
Kerrville, Texas 78028

CUSTOMER PHONE: (830) 792-5911

CUSTOMER E-MAIL: mark@kerr911.org

CUSTOMER NAME: Kerr Central Appraisal District
Attn: Sharon Constantinides, Chief Appraiser

CUSTOMER ADDRESS: 212 Oak Hollow Drive
Kerrville, TX 78028

CUSTOMER PHONE: (830) 895-5223

CUSTOMER E-MAIL: sharonc@kerrcad.org

CUSTOMER NAME: Kerrville Public Utility Board
Attn: Grover Hawkins, Engineering Representative

CUSTOMER ADDRESS: 2250 Memorial Boulevard
Kerrville, TX 78028

CUSTOMER PHONE: (830) 792-8238

CUSTOMER E-MAIL: ghawkins@kpub.com

CUSTOMER NAME: Kerr County, TX
Attn: Bruce Motheral, IT Director

CUSTOMER ADDRESS: 700 Main Street
Kerrville, TX 78028

CUSTOMER PHONE: (830) 896-9001

CUSTOMER E-MAIL: bmotheral@co.kerr.tx.us

CUSTOMER NAME: City of Kerrville, TX
Attn: Dalton Rice, City Manager

CUSTOMER ADDRESS: 701 Main Street
Kerrville, TX 78028

CUSTOMER PHONE: (830) 258-1110

CUSTOMER E-MAIL: dalton.rice@kerrvilletx.gov

MASTER SERVICES AGREEMENT

This Master Service Agreement ("Agreement") is entered into by and between the Customers identified above ("Customer") and Pictometry International Corp. dba EagleView, a corporation formed under the laws of the State of Delaware, with its principal place of business at 25 Methodist Hill Drive, Rochester, NY 14623 ("EagleView"). This Agreement is effective as of the date Customer signs the Order Form and will remain in effect during the Term, as defined below or until terminated as provided in this Agreement. In the event of a conflict between the terms of this Agreement and an Order Form, the Order Form shall prevail. Customer and EagleView may be referred to individually as "Party" and/or collectively as "Parties". EagleView shall provide the Product(s) and/or Service(s) in accordance with and subject to the conditions of this Agreement during the applicable Term as defined below.

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

1.1. "Account" means an account created for Customer by EagleView for the purpose of providing access to the Product(s) and/or Service(s).

Kerr Emergency 9-1-1 Network; Kerr Central Appraisal District; Kerrville Public Utility Board;
Kerr County, TX; City of Kerrville, TX



1.2. "Activation" means the point in time where Customer has access to an Account and the Products and/or Services are available to Customer.

1.3. "Authorized User" means: (i) any employee or elected or appointed official of the Customer authorized by Customer to use the Service; (ii) any additional users as may be defined in an Order Form (such as governmental subdivisions and their employees or elected or appointed officials if the Order Form indicates that governmental subdivisions are included) all of whom are considered to be agents of Customer for the purposes of Section 1.3; or (iii) a contractor of Customer (so long as Customer gives written notice of its intent to use such contractor to EagleView prior to being granted access to the Service and, unless EagleView expressly waives such requirement for any individual, has entered into a written agreement with EagleView authorizing such access).

1.4. "Confidential Information" means any non-public information that is identified as or would be reasonably understood to be confidential and/or proprietary as disclosed by a Party ("Discloser") to another Party ("Recipient"). Confidential Information of EagleView includes, but is not limited to: (a) the Product(s) and/or Service(s) including any related software code and Documentation; (b) the terms of this Agreement including all Order Forms and statements of work as applicable and related pricing, to the extent Customer is not required to disclose this information under a Freedom of Information Act type obligation, and (c) EagleView's roadmaps, product plans, product designs, architecture, technology and technical information, security audit reviews, business and marketing plans, and business processes, however disclosed. Confidential Information shall not include information that was (a) at the time of disclosure, through no fault of the Recipient, already known and generally available to the public; (b) at the time of disclosure to Recipient already rightfully known to the Recipient without any obligation of confidentiality; (c) disclosed to the Recipient by a third party who had the right to make the disclosure without any confidentiality restrictions; or (d) independently developed by the Recipient without access to or use of the Discloser's Confidential Information.

1.5. "Documentation" means the materials describing the features and functions of the Product(s) and/or Service(s) as may be updated from time to time by EagleView.

1.6. "Fee" means the fees charged by EagleView for the Product(s) and/or Service(s) as identified in an Order Form or an invoice issued by EagleView.

1.7. "Intellectual Property Rights" means all worldwide intellectual property rights whether registered or unregistered including copyrights, patents, patent applications, trademarks, service marks, trade secrets, and all other proprietary rights.

1.8. "Malware" means any software program or code intended to harm, destroy, interfere with, corrupt, or cause undesired effects on program files, data, or other information, executable code, or application software macros.

1.9. "Order Form" means a mutually agreeable order describing the Product(s) and/or Service(s) purchased by Customer. The Parties may enter into several Order Forms with each Order Form made part of this Agreement.

1.10. "Products and/or Services" means EagleView's proprietary products and/or services and/or content identified in an Order Form and developed and owned by EagleView, its Affiliates (its directors, officers, employees, agents, representatives, advisors, and persons or entities which are controlled by or are under common control with EagleView) and/or their licensors.

2. ACCESS AND USE OF THE PRODUCT(S) AND/OR SERVICE(S)

2.1. Access to the Product(s) and/or Service(s). Subject to Customer's compliance with the terms of this Agreement, EagleView hereby grants to Customer the right to access and use the Product(s) and/or Service(s) identified on an Order Form(s) for its internal business purpose on a limited, revocable, non-exclusive, non-transferable basis in accordance with the scope of use identified in the Order Form. Unless a different term of the license grant to a Product is set forth in an Order Form, the right to access and use the Product(s) and Service(s) for



its internal business purpose during the term of any Order Form(s) is the only right granted to Customer under this Agreement and any Order Form(s). EagleView will have no liability for any loss or damage arising from Customer's failure to comply with the terms of this Agreement. EagleView will provide Customer a primary Administrator Account for managing and granting access to its Authorized Users. Customer shall be responsible for activating Authorized Users through use of the Account. Customer and its Authorized Users are responsible for maintaining the confidentiality of all passwords.

2.2. Access Restrictions. Access by Customer and its Authorized Users to the Service is subject to the following conditions:

2.2.1. Customer shall not access the Product(s), Service(s) or Confidential Information of EagleView in a way that might adversely affect the security, stability, performance, or functions of the Service.

2.2.2. Customer will not directly or indirectly: (a) resell or sublicense the Product(s) and/or Service(s), (b) modify, disassemble, decompress, reverse compile, reverse assemble, reverse engineer, or translate any portion of the software related to the Product(s) and/or Service(s); (c) create derivative works from the Product(s) or Service(s); (d) use the Product(s) and/or Service(s) in violation of applicable law or the rights of others; (e) perform any vulnerability or penetration testing of the Service; (f) cause harm in any way to the Product(s) and/or Service(s) or cause Malware to harm the Products and/or Service(s); (g) work around the Product(s)' and/or Service(s)' technical limitations; (h) remove any proprietary notices from the Application, documentation or any other EagleView materials furnished or made available hereunder; (i) access the Application in order to build a competitive product or service; or (j) copy any features, functions or graphics of the Application.

2.2.3. Customer will not use the Product(s) and/or Service(s) in connection with any data that: (a) may create a risk of harm or loss to any person or property; (b) constitutes or contributes to a crime or tort; (c) is illegal, unlawful, harmful, pornographic, defamatory, infringing, or invasive of personal privacy or publicity rights; (d) contains any information that Customer does not have the right to use; or (e) use the Application or associated documentation or Data Products in violation of export control laws and regulations.

2.2.4. EagleView may suspend the Product(s) and/or Service(s) if EagleView determines, in its reasonable discretion, that suspension is necessary to protect Customer or the Service from operational, security, or other material risk, or if the suspension is ordered by a court or other tribunal. In such event(s), EagleView will provide notice of suspension to Customer as soon as reasonably practicable.

2.3. Account Use. Customer is responsible for maintaining and keeping confidential its Account information, including passwords, usernames, and email addresses. If Customer becomes aware of: (i) any violation of the terms of this Agreement by an Authorized User or unauthorized access to an Account, or (ii) any compromise to an Account including unauthorized access to or disclosure of any Account information, passwords, usernames or login credentials, Customer must promptly suspend such access or Authorized User and notify EagleView.

2.4. Reservation of Rights. Except for the limited rights expressly granted herein, EagleView and its Affiliates retain all right, title and interest in all Intellectual Property Rights and technology related to EagleView's proprietary Products and Services. Customer shall preserve and keep intact all EagleView copyright, patent, and/or trademark notices presented in connection with the Products and Services. Customer shall not assert any implied rights in or to any of EagleView's Intellectual Property Rights. From time to time, Customer may provide suggestions, ideas, enhancement requests, or other information on their use of the Products or Services ("Feedback"). Customer agrees that EagleView shall have all right, title, and interest to use such Feedback without any restrictions and without any payment to Customer.

3. PAYMENT

3.1. Fees. Customer shall pay the Fees within thirty (30) days of receipt of invoice. EagleView shall have the right to assess a late payment charge on any overdue amounts equal to the higher of: (i) one and one-half percent (1.5%) per month; or (ii) the rate allowed by applicable law. Additional payment terms may be set forth in the Order Form. All Fees paid pursuant to this Agreement and any applicable Order Form are non-refundable and all Product(s)



and/or Service(s) ordered pursuant to an Order Form are non-cancelable, unless expressly stated to the contrary. In the event that EagleView seeks legal recourse for the collection of any unpaid Fees from Customer, Customer shall be responsible for all of EagleView's costs of such collection action if EagleView is the prevailing party. If any Fees are overdue by more than thirty (30) days, EagleView may, without limiting its other rights and remedies, suspend the Product(s) and/or Service(s) until such amounts are paid in full, provided that, EagleView will give Customer at least ten (10) days' prior notice that its account is overdue.

3.2. Pricing Changes. EagleView shall have the option to adjust the pricing for any Products and/or Services upon any renewal or extension of an Order Form by providing one hundred and eighty (180) days' notice of such pricing change to Customer prior to the date for such renewal or extension.

3.3. Taxes. The Fees do not include any levies, duties excise, sales, use, value added or other taxes, tariffs, or duties that may apply to the Product(s) and/or Service(s) ("Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder. If EagleView has the legal obligation to collect Taxes from Customer, Customer will pay that amount to EagleView unless Customer provides EagleView with a valid tax exemption certificate authorized by the applicable taxing authority prior to billing. For clarity, EagleView is solely responsible for taxes assessable against it based on its income, property, and employees.

4. TERM AND TERMINATION

4.1. Term. The term of this Agreement will commence on the date Customer signs an Order Form under this Agreement and will end upon the expiration date of the Order Form, or upon the expiration date of any subsequent or renewal Order Form(s) ("Term"). After expiration Customer shall not have any access to content, Product(s) or Service(s). Unless either Party gives notice of its intent not to renew the Product(s) and/or Service(s) and/or Content at least ninety (90) days prior to the end of the then current Term, access to the Services will automatically renew.

4.2. Termination. Either Party may terminate this Agreement upon written notice to the other Party if: (i) the non-terminating Party materially breaches this Agreement and fails to cure such breach within thirty (30) days of delivery of written notice; or (ii) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors. EagleView may suspend the Product(s) and/or Service(s) in the event Customer is in material breach of this Agreement and such breach has not been cured within thirty (30) days' written notice to Customer. In the event of suspension due to Customer's material breach of this Agreement, Customer will remain liable for all Fees applicable to the Term that would have been paid had the Product(s) and/or Service(s) not been suspended.

4.3. Effect of Termination on Fees: EagleView Breach. In the event this Agreement is terminated by Customer for a material breach by EagleView, (a) where EagleView has fully delivered imagery to Customer, no refund of fees shall be made, or (b) where customer is accessing on-line imagery and data access and/or an application, EagleView will refund any unused prorated, prepaid fees for the Product(s) and/or Service(s).

4.4. Effect of Termination on Fees: Customer Breach. In the event this Agreement is terminated by EagleView for a material breach by Customer, Customer shall be responsible for all fees under any current Order Form(s).

4.5. Survival. Upon any expiration of the Product(s) and/or Services or termination of this Agreement, the following sections shall survive: 2.4 (Reservation of Rights), 3 (Payment), 5 (Confidentiality), 7 (Indemnification), 8 (Limitation of Liability), and 9 (General Provisions).

5. CONFIDENTIALITY

5.1. Obligations. Each Party will hold the other Party's Confidential Information in confidence with at least as much care as it holds its own Confidential Information, and neither Party will disclose any of the other Party's Confidential Information to any third party. Each Party may use the Confidential Information solely for purposes of its performance under this Agreement, and may disclose such information to its employees, subcontractors and



professional advisors only on a need-to-know basis, provided that such employees, subcontractors and professional advisors are bound by obligations of confidentiality at least as restrictive as those set forth in this Agreement.

5.2. Required Disclosure. The Recipient may disclose Confidential Information as required by court order or otherwise by law, provided that it gives the Discloser prior written notice of such disclosure (to the extent legally permitted) as well as reasonable assistance if Discloser seeks a protective order to prevent the disclosure. Any disclosure pursuant to this Section 5.2 shall be restricted to include the least amount of Confidential Information necessary to comply with the order.

6. WARRANTIES

6.1. Mutual Warranties. Each Party represents and warrants to the other Party that: (i) it is a organization duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, has all requisite power and authority to carry on its business and to own and operate its properties and assets; and (ii) the individual signing this Master Services Agreement and/or the Order Form(s) has the requisite authority to bind the party to this Agreement.

6.2. EagleView Warranty. EagleView warrants that (i) it will provide the Product(s) and/or Service(s) with commercially reasonable care and skill; and (ii) the Product(s) and/or Service(s) will conform to the then-current Documentation in all material respects. In the event of a breach of this warranty, Customer's sole and exclusive remedy shall be as described in Section 4.3 Payments Upon Termination.

6.3. Disclaimer. EXCEPT FOR EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, EAGLEVIEW MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED IN FACT OR BY OPERATION OF LAW, OR STATUTORY, AS TO ANY MATTER WHATSOEVER. EAGLEVIEW EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. EAGLEVIEW DOES NOT WARRANT THAT THE PRODUCT(S) AND/OR SERVICE(S) (INCLUDING ANY SUPPORT SERVICES) WILL BE ERROR FREE, WILL MEET CUSTOMER'S REQUIREMENTS, OR WILL BE TIMELY OR SECURE. CUSTOMER WILL NOT HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATIONS OR WARRANTY ON BEHALF OF CUSTOMER TO ANY THIRD PARTY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SERVICES AND SUPPORT SERVICES ARE PROVIDED "AS IS."

7. INDEMNIFICATION

7.1. EagleView Indemnification. EagleView will defend Customer against any claim, demand, suit or proceeding made by a third party alleging that the Product(s) and/or Service(s) infringes the intellectual property rights of such third party and will pay all costs or damages that are finally awarded by a court of competent jurisdiction (including reasonable attorneys' fees) or agreed to in a written settlement signed by EagleView. Customer will: (i) notify EagleView in writing within ten (10) calendar days of its receipt of notice of the claim, (ii) give EagleView sole control of the defense and settlement of the claim (except that EagleView will not settle any claim that results in liability or an admission of liability by Customer without Customer's prior written consent), and (iii) provide EagleView with all reasonable assistance, information, and authority necessary to perform EagleView's obligations under this paragraph. Notwithstanding the foregoing, EagleView will have no liability for any claim of infringement or misappropriation to the extent such claim arises from: (i) use of the Product(s) and/or Service(s) in combination with materials including software, hardware, or content not furnished by EagleView; or (ii) Customer's breach of this Agreement.

7.2. Remedies. In the event the Product(s) and/or Service(s) is held or is believed by EagleView to infringe or misappropriate any Intellectual Property Right of a third party, EagleView will have the option, at its expense, to: (i) replace the Product and/or Service with a non-infringing equivalent, (ii) modify the Product(s) and/or Service(s) to be non-infringing, (iii) obtain for Customer a license to continue using the Product(s) and/or Service(s); or (iv) terminate the Agreement and refund any prepaid, prorated fees for the remainder of the Term. The foregoing remedies constitute Customer's sole and exclusive remedies and EagleView's sole liability with respect to any third-party infringement claim.



8. LIMITATION OF LIABILITY

8.1. Consequential Damages. TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, DATA, PROFITS, REVENUE, OR GOODWILL, WHETHER AN ACTION IS BASED IN CONTRACT, TORT, OR OTHERWISE, REGARDLESS OF WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2. Limitation of Liability. EXCLUDING EITHER PARTY'S INDEMNIFICATION OBLIGATIONS PURSUANT TO SECTION 7, TO THE EXTENT PERMITTED BY LAW, THE AGGREGATE AND CUMULATIVE LIABILITY OF EITHER PARTY INCLUDING ALL THEIR AFFILIATES REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID OR PAYABLE BY CUSTOMER IN THE TWELVE MONTHS PRECEDING THE ACTIONS GIVING RISE TO THE CLAIM.

9. GENERAL PROVISIONS

9.1. Export Laws. The Product(s) and/or Services and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. EagleView and Customer each represent that it is not named on any U.S. government denied-party list. Customer will not permit any user to access or use any Product(s) and/or Service(s) or Content in a U.S.-embargoed country or region (including but not limited to Cuba, Iran, North Korea, Sudan, Syria, Crimea, or Russia) or in violation of any U.S. export law or regulation.

9.2. No Third-Party Beneficiaries. Except as specifically identified in this Agreement, nothing in this Agreement is intended to confer upon any person other than the parties and their respective successors or permitted assigns, any rights, remedies, obligations, or liabilities whatsoever.

9.3. Independent Contractors. Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between any of the Parties hereto. Neither Party shall have the power nor authority to control the activities or operations of the other. At all times, the status of the Parties shall be that of independent contractors.

9.4. Force Majeure. Except with respect to Customer's payment obligations for services delivered, reports delivered, or any ongoing payment obligation, each party will be excused from performance under this Agreement, will not be deemed to be in breach hereof, and will have no liability to the other party whatsoever if either party is prevented from performing any of its obligations hereunder, in whole or in part, as a result of a Force Majeure Event. A "Force Majeure Event" means an event or occurrence beyond the control of the nonperforming party, such as an act of God or of the public enemy, embargo or other act of government in either its sovereign or contractual capacity, government regulation, travel ban or request, court order, civil disturbance, terrorism, war, quarantine restriction, epidemic, virus, fire, weather, flood, accident, strike, slowdown, delay in transportation, electrical power outage, interruption or degradation in electronic communications systems, inability to obtain necessary labor, materials or manufacturing facilities, and other similar events. In the event of any delay resulting from a Force Majeure Event, any date of delivery hereunder will be extended for a period equal to the time lost because of the delay.

9.5. Security Assessment. Upon reasonable request, EagleView will assist Customer in its EagleView security risk assessments by completing forms and/or providing reports that provide Customer with generally available information relating to EagleView's security practices, policies and procedures used to protect its systems. Such information will include high level overviews of implemented security measures, such as access controls, encryption, or other means, where appropriate, and will provide details relating to how Customer's Confidential Information is disclosed, accessed, processed, and stored (as applicable).

9.6. Assignment. Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other Party's prior written consent (not to be unreasonably withheld); provided, however, either Party may assign this Agreement in its entirety (including all Order Forms), without the other Party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties, their respective successors, and permitted assigns.



9.7. Governing Law. This Agreement will be governed by the laws of the State of Customer, without regard to conflict of law principles. The Parties agree that any claims, legal proceedings, or disputes and/or litigation arising out of or in connection with this Agreement, will be brought solely in the state or federal courts located in the jurisdiction the Customer is based in, and the Parties irrevocably consent to the exclusive personal jurisdiction of such courts.

9.8. Severability & Waiver. The failure of either Party to exercise any right or the waiver by either Party of any breach, shall not prevent a subsequent exercise of such right or be deemed a waiver of any subsequent breach of the same, or any other provision of this Agreement. All waivers must be in writing and signed by the Party waiving its rights. If any section of this Agreement is held to be invalid or unenforceable, the remain sections of this Agreement will remain in force to the extent feasible.

9.9. Notices. Notwithstanding anything to the contrary in this Agreement, notices and other communications may be given or made pursuant to this Agreement via electronic mail. Notwithstanding the foregoing, any notice concerning a material breach, violation, or termination hereof must be in writing and will be delivered: (a) by certified or registered mail; or (b) by an internationally recognized express courier or overnight delivery service. All written notices or other written communications to EagleView shall be provided to the address first listed above and addressed to: ATTENTION: LEGAL DEPARTMENT. All written notices to Customer shall be sent to the address identified on the Order Form and addressed to the individual signing said Order Form, and shall be deemed to have been duly given when delivered personally, when deposited in the U.S. mail, postage prepaid, or when deposited with an overnight courier or delivery service. With respect to notices and other communications regarding EagleView's privacy policy, Support Plan, or other similar provisions, such notices shall be deemed given when posted to EagleView's website (www.eagleview.com) or e-mailed to the Customer's Account administrator(s).

9.10. Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute only one agreement. The execution and delivery of counterparts of this Agreement by electronic mail, electronic form (including execution by way of an electronic or other signature stamp), website submission, facsimile, or by original manual signature, regardless of the means or any such variation in pagination or appearance shall be binding upon the Parties executing this Agreement.

9.11. Entire Agreement. This Agreement, along with the Order Form(s) and Exhibit(s), contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the Parties relating to such subject matter. The Parties agree that any term or condition stated in a Customer purchase order is null and void. This Agreement may not be amended or modified except by mutual written agreement. In the event that any court holds any provision of this Agreement as null, void, or otherwise ineffective or invalid, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, and the remaining provisions shall remain in full force and effect. The unenforceability of any provision of this Agreement shall not affect the validity of the remaining provisions hereof. A waiver by either Party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure.

9.12. This Agreement comprises a collective purchase transaction for the benefit of the following participants:

- Kerr Emergency 9-1-1 Network
- Kerr Central Appraisal District
- Kerr County, TX
- City of Kerrville, TX
- Kerrville Public Utility Board

(each, a 'Participant' and collectively, the 'Participants'). Each Participant is required to execute this Agreement with EagleView with respect to this transaction and will be responsible for paying a portion of the total cost of the collective purchase transaction, which is set forth in the Order Form attached to this Agreement. This Agreement is contingent



upon all Participants executing this Agreement and shall not take effect for any Participant until after this contingency has been fulfilled by all Participants.

Failure by any Participant to timely pay any amount due to EagleView with respect to their respective element of the collective purchase transaction shall entitle EagleView to terminate this Agreement for all Participants with respect to the collective purchase transaction. A material breach by any Participant with respect to its respective element of the collective purchase transaction shall entitle EagleView to terminate this Agreement for Participants with respect to the collective purchase transaction.

[Signature page follows]



Kerr Emergency 9-1-1 Network

By: _____

Name: _____

Title: _____

Date: _____

Pictometry International Corp. dba EagleView

By: _____

Name: _____

Title: _____

Date: _____

Kerr Central Appraisal District

By: _____

Name: _____

Title: _____

Date: _____

Kerr County

By: _____

Name: _____

Title: _____

Date: _____

City of Kerrville

By: _____

Name: _____

Title: _____

Date: _____

Kerrville Public Utility Board

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM


William L. Tatsch, Assistant City Attorney

William L. Tatsch, Assistant City Attorney



EXHIBIT A

ORDER FORM

EFFECTIVE DATE (MONTH/DAY/YEAR): _____

TERM (DURATION): Six years

ORDER #
LC-10004364

BILL TO
Kerr Emergency 9-1-1 Network
Mark Del Toro, Executive Director
819 Water Street, Suite 270
Kerrville, TX 78028
Phone: (830) 792-5911
Email: mark@kerr911.org

SHIP TO
Kerr Emergency 9-1-1 Network
Mark Del Toro, Executive Director
819 Water Street, Suite 270
Kerrville, TX 78028
Phone: (830) 792-5911
Email: mark@kerr911.org

Kerr Central Appraisal District
Sharon Constantinides, Chief Appraiser
212 Oak Hollow
Kerrville, TX 78028
Phone: (830) 895-5223
Email: sharonc@kerrcad.org

Kerr Central Appraisal District
Sharon Constantinides, Chief Appraiser
212 Oak Hollow
Kerrville, TX 78028
Phone: (830) 895-5223
Email: sharonc@kerrcad.org

Kerrville Public Utility Board
Accounts Payable
2250 Memorial Boulevard
Kerrville, TX 78028
Phone: (830) 257-3050
Email: ap@kpub.com

Kerrville Public Utility Board
Grover Hawkins, Engineering Representative
2250 Memorial Boulevard
Kerrville, TX 78028
Phone: (830) 792-8238
Email: ghawkins@kpub.com

Kerr County, TX
Bruce Mothral, IT Director
700 Main Street
Kerrville, Texas 78028
Phone: (830) 896-9001
Email: bmothral@co.kerr.tx.us

Kerr County, TX
Bruce Mothral, IT Director
700 Main Street
Kerrville, Texas 78028
Phone: (830) 896-9001
Email: bmothral@co.kerr.tx.us

City of Kerrville, TX
Joshua Young, GIS Coordinator
701 Main Street
Kerrville, Texas 78028
Phone: (830) 258-1499
Email: Joshua.young@kerrvilletx.gov

City of Kerrville, TX
Joshua Young, GIS Coordinator
701 Main Street
Kerrville, Texas 78028
Phone: (830) 258-1499
Email: Joshua.young@kerrvilletx.gov

CUSTOMER ID	SALES REP	REFRESH FREQUENCY
A1208478	Kevin Beers	Triennial

QTY	PRODUCT NAME	PRODUCT DESCRIPTION
197	EagleView Cloud - Imagery GSD: 1in	Provides entitlement to the EagleView Platform, a secure hosted infrastructure and access to EagleView enabled workflow, analytics, and high-resolution imagery to dramatically improve efficiency for government agencies. Includes regular refreshes of ortho and oblique imagery at the GSD and frequency specified. Target

Kerr Emergency 9-1-1 Network; Kerr Central Appraisal District; Kerrville Public Utility Board;
Kerr County, TX; City of Kerrville, TX



	Refresh Frequency: 3-Year Refresh Start Year: 2024	capture season subject to weather and airspace permissions. Services term commences on date of activation.
967	EagleView Cloud - Imagery GSD: 6in Refresh Frequency: 3-Year Refresh Start Year: 2024	Provides entitlement to the EagleView Platform, a secure hosted infrastructure and access to EagleView enabled workflow, analytics, and high-resolution imagery to dramatically improve efficiency for government agencies. Includes regular refreshes of ortho and oblique imagery at the GSD and frequency specified. Target capture season subject to weather and airspace permissions. Services term commences on date of activation.
1	EagleView Cloud - Physical Delivery - Ortho	Provides an offline copy of the orthomosaic tiles and mosaics at the GSD specified in the EagleView Cloud - Imagery product once per refresh. Files to be provided in industry standard formats selectable by the customer with delivery made physically via hard drive media.
1	EagleView Cloud - Software	Provides an unlimited number of authorized users the ability to login and access the EagleView Cloud software and analytics via the web-based EagleView Cloud platform. This software provides a robust compliment of tools for engaging with imagery as well as additional project and collaboration tools, and access to mobile application. Requires the purchase of an EagleView - Imagery entitlement.
1	EagleView Cloud - Comprehensive Integration Bundle	Provides activation of integrations between the EagleView Cloud platform and compatible customer environments (including compatible CAMA providers, 911/PSAP, Cityworks, and ESRI/GIS) and via the Integrated Web Application.
1	EagleView Cloud - Authorized Subdivisions	Extends the ability for a contracting county or non-state consortium of counties the ability to authorize access to their EagleView Cloud organization to any political unit or subdivision located totally or substantially within their boundary.
1	EagleView Cloud - Early Access	Provides entitlement to imagery from counties neighboring the imagery AOI as part of EagleView Cloud. Also provides entitlement to Early Access to refreshed imagery captures which allows authorized users to use new imagery immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available incrementally as it is processed, and it will remain available until final, fully processed imagery is made available through other means.
1	EagleView Cloud - Disaster Response Program	Includes eligibility for the Disaster Response Program.
15	EagleView Cloud - Years Capture History	Includes access to historical ortho and oblique frame imagery from the EagleView archive. Quantity represents the number of calendar years of archive imagery available in EagleView Cloud.

FEES

Payable by Kerr Emergency 9-1-1 Network:

Due at Activation:	\$12,699.00
Due at First Anniversary of Activation:	\$12,699.00
Due at Second Anniversary of Activation:	\$12,699.00
Due at Third Anniversary of Activation:	\$12,699.00
Due at Fourth Anniversary of Activation:	\$12,699.00
Due at Fifth Anniversary of Activation:	\$12,699.00

Payable by Kerr Central Appraisal District:

Due at Activation:	\$12,699.00
Due at First Anniversary of Activation:	\$12,699.00
Due at Second Anniversary of Activation:	\$12,699.00
Due at Third Anniversary of Activation:	\$12,699.00
Due at Fourth Anniversary of Activation:	\$12,699.00
Due at Fifth Anniversary of Activation:	\$12,699.00

Payable by Kerr County, TX:

Due at Activation:	\$12,699.00
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Due at First Anniversary of Activation:	\$12,699.00
Due at Second Anniversary of Activation:	\$12,699.00
Due at Third Anniversary of Activation:	\$12,699.00
Due at Fourth Anniversary of Activation:	\$12,699.00
Due at Fifth Anniversary of Activation:	\$12,699.00

Payable by City of Kerrville, TX:

Due at Activation:	\$12,699.00
Due at First Anniversary of Activation:	\$12,699.00
Due at Second Anniversary of Activation:	\$12,699.00
Due at Third Anniversary of Activation:	\$12,699.00
Due at Fourth Anniversary of Activation:	\$12,699.00
Due at Fifth Anniversary of Activation:	\$12,699.00

Payable by Kerrville Public Utility Board:

Due at Activation:	\$12,699.00
Due at First Anniversary of Activation:	\$12,699.00
Due at Second Anniversary of Activation:	\$12,699.00
Due at Third Anniversary of Activation:	\$12,699.00
Due at Fourth Anniversary of Activation:	\$12,699.00
Due at Fifth Anniversary of Activation:	\$12,699.00

Non-appropriation of Funds: Notwithstanding anything herein to the contrary, in the event that the funds due for deliverables under the terms and conditions of this Agreement are not lawfully appropriated, the following provisions shall apply:

- a. Customer shall provide EagleView with written documentation of non-appropriation of funds from its funding source ninety (90) days prior to commencement of a subsequent refresh;
- b. This Agreement shall remain in full force and effect, however commencement of the subsequent refresh shall be deemed postponed until such time as funds for the subsequent refresh have been appropriated and all other sums due under the terms and conditions of this Agreement have been paid by Customer. In the event that the postponement exceeds eighteen months, EagleView reserves the right to terminate any and all obligations with respect to the postponement and all subsequent deliverables included in this Agreement; and
- c. If Customer, or any party authorized under the terms and conditions of this Agreement to use the licensed products set forth in this Order Form, is in possession of licensed products for which EagleView has not been fully compensated in accordance with the payment terms of this Agreement, Customer or such authorized party shall immediately cease use of those licensed products, purge those licensed products from all Customer and authorized party computers, and return those licensed products to EagleView.

PRODUCT PARAMETERS

Disaster Response Program (“DRP”)

Agreement includes eligibility for the DRP described below so long as the customer remains under an active services agreement and in good standing with EagleView. Imagery captured through DRP will be captured “as-is”.

A. Disaster Coverage Imagery at No Additional Charge – EagleView will, upon request of Customer and at no additional charge, provide standard quality imagery of up to 200 square miles of affected areas (as determined by EagleView) upon the occurrence of any of the following events during any period Customer is eligible for DRP:

- Hurricane: areas affected by hurricanes of Category 2 and higher.
- Tornado: areas affected by tornados rated EF4 and higher.
- Terrorist: areas affected by damage from terrorist attack.



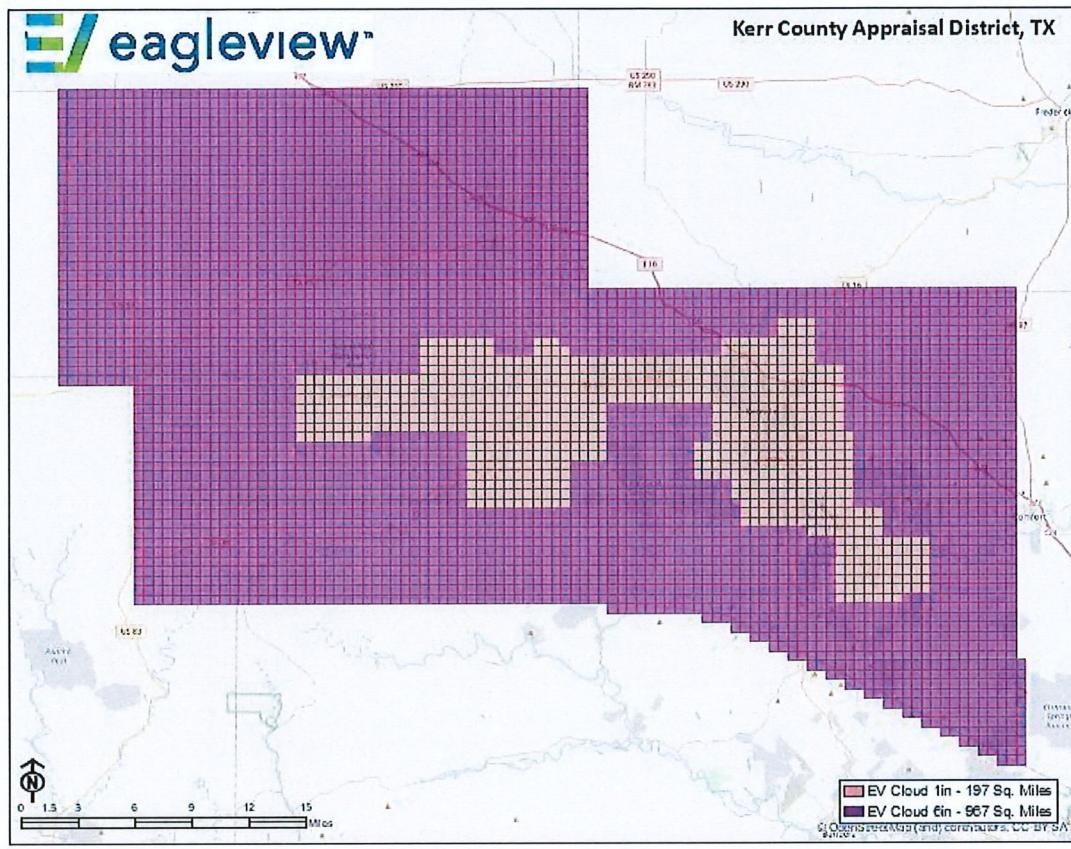
- Earthquake: areas affected by damage to critical infrastructure resulting from earthquakes measured at 6.0 or higher on the Richter scale.
- Tsunami: areas affected by damage to critical infrastructure resulting from tsunamis.

B. Discounted Rate – Coverage for areas affected by the events set forth above exceeding 200 square miles will be, subject to EagleView resource availability, offered to Customer at the then-current DRP rates. Also, coverage for areas affected by hurricanes below Category II, tornadoes below EF4 or earthquakes rated below 6.0 on the Richter scale, flooding meeting or exceeding the major flood stage, wildfires impacting population centers, or other disasters as agreed to between the customer and EagleView, will be, subject to EagleView resource availability, offered to Customer at the then current DRP rates.

Transferred Deliverables

Customer shall own the offline copies of the orthogonal imagery delivered to Customer by EagleView pursuant to this Agreement (the “Transferred Deliverables”). Customer is free to use and reproduce copies of the Transferred Deliverables in any manner without any accounting to EagleView. EagleView shall own all copies of the Transferred Deliverables, including all formats in which such copies are maintained (including, but not limited to, electronic), that remain in EagleView’s possession. EagleView is free to use, reproduce, and redistribute copies of the Transferred Deliverables in any manner without any accounting to Customer. All inventions, discoveries, improvements, technology, designs, works of authorship, patents, copyrights, technical information, data, databases, software, business information, and other information used to create the Transferred Deliverables remain the sole and exclusive property of EagleView. All oblique imagery, software, online services and online content, or other deliverables not specifically mentioned above which are produced by EagleView pursuant to this Agreement remain the sole and exclusive property of EagleView and are subject to the provisions of Section 2 of the Agreement.

AOI(S)



[Signature page follows]



This Order Form is incorporated by reference into the Master Services Agreement between Pictometry International Corp. dba EagleView and Customer.

Kerr Emergency 9-1-1 Network

By: _____

Name: _____

Title: _____

Date: _____

Kerr Central Appraisal District

By: _____

Name: _____

Title: _____

Date: _____

Kerr County

By: _____

Name: _____

Title: _____

Date: _____

City of Kerrville

By: _____

Name: _____

Title: _____

Date: _____

Kerrville Public Utility Board

By: _____

Name: _____

Title: _____

Date: _____

Pictometry International Corp. dba EagleView

By: _____

Name: _____

Title: _____

Date: _____



EXHIBIT B

SECURITY

1. Definitions.

- 1.1 "**Critical Issue**" means an issue that does, or has the potential to, compromise the confidentiality, integrity, availability, security, or privacy of Customer Confidential Information.
- 1.2 "**Security Incident**" means any (a) access to Customer's Confidential Information in the possession or control of EagleView or any Subcontractors, by an unauthorized party or by an authorized party for unauthorized purposes; (b) unauthorized use of any such Confidential Information; or (c) event involving data or information that results in a material impact to EagleView's services or to Customer.
- 1.3 "**Standards Body**" means any commercially recognized technology and or auditing standards organization, including but not limited to AICPA, ISO, ITIL, and NIST.
- 1.4 "**Subcontractor**" means a subcontractor of EagleView.

2 **Payment Card Security Compliance.** EagleView will meet the security requirements set forth in this Agreement or, alternatively, demonstrate and implement to Customer's reasonable satisfaction appropriate compensating controls.

- 2.1 To the extent applicable, EagleView will: (a) take all steps necessary to maintain its status as a PCI DSS compliant; (b) promptly notify Customer if EagleView ceases to be PCI DSS compliant, explaining the cause for non-compliance and the target date for becoming compliant; and (c) annually provide to Customer its current PCI DSS Attestation of Compliance report upon request.
- 2.2 EagleView may elect to use an alternative to PCI DSS, should a commercially accepted framework approved by major credit card processors become available.
- 2.3 If EagleView learns of any Critical Issues, EagleView will use all reasonable efforts to remediate such Critical Issues promptly.

3. **Data Security.** EagleView will:

- 3.1 Upon request, provide to Customer a report identifying where Customer Confidential Information is processed and stored, and how access is controlled. For any material changes in data center hosting, including, without limitation, outsourcing of data center hosting, such report will be accompanied by the most recent report for such data center.
- 3.2 Not allow Customer Confidential Information to be disclosed, accessed, processed, or stored outside the United States, its territories, and possessions ("U.S.") without notice to Customer, and will cooperate with Customer's security assessment of such non-U.S. based activities. EagleView will be responsible for any such non-U.S. based activities and will ensure that such non-U.S. based activities are in compliance with applicable law and this Agreement, including, without limitation, all security requirements.
- 3.3 When transmitting and storing Customer Confidential Information, encrypt such information using encryption at rest and encryption in transit that is applied to such Customer Confidential Information and maintains its protection throughout the lifecycle of such Customer Confidential Information. Use encryption keys and key management techniques that comply with security industry standards published by a Standards Body.
- 3.4 Where practicable, store Customer Confidential Information in a manner that logically or physically separates the data from other EagleView customer data.
- 3.5 Ensure that Customer Confidential Information is not stored on any portable removable media (such as USB mass storage, external hard drives, and CD/DVDs), except as necessary to support the services provided under this Agreement and provided that such Customer Confidential Information is encrypted as described in Section 3.3.
- 3.6 Remove all Customer Confidential Information from any media taken out of service and destroy or securely erase such media to make it unreadable, undecipherable, and unrecoverable by any means consistent with data destruction practices recommended by a Standards Body.
- 3.7 Conduct a security risk assessment, based upon a Standards Body framework, of all EagleView's Subcontractors. Ensure Subcontractors have and follow appropriate security processes and remediate any Critical Issues Promptly.



- 3.8 From time to time, EagleView may update its practices as described herein, but will not materially decrease the overall security of the Products and Services during the Term.
- 4. Penetration Testing.**
- 4.1 No more than once per year while this Exhibit is in effect and with no less than thirty (30) days prior written notice to EagleView, and prior written approval by EagleView, Customer will be permitted to conduct a penetration test at Customer's expense, and targeted at sites or services directed by EagleView, in order to verify that EagleView has and continues to comply with the security and data requirements set forth in this Agreement. Customer may elect to use a qualified third-party vendor to conduct such penetration test. In no event will any such test exceed ten (10) business days in duration. Upon completion of such test, Customer will provide EagleView with a copy of the results of such test.
- 5. Information Security Program.** Without limiting EagleView's obligation of confidentiality under this Agreement, EagleView will establish and maintain a written Information Security Program, together with adequate administrative, technical, and physical safeguards, to:
- 5.1 Ensure the confidentiality, integrity, and availability of all Customer Confidential Information that is accessed, processed, stored, or controlled by EagleView;
- 5.2 Take commercially reasonable efforts to protect against anticipated threats or hazards to the confidentiality, integrity, and availability of such Customer Confidential Information;
- 5.3 Maintain a vulnerability management program to protect hardware and software assets from known exploitable vulnerabilities that have an approved vendor/supplier patch or mitigation strategy;
- 5.4 Engage a third-party vendor to perform an annual penetration test. EagleView will also ensure all Critical Issues identified by such testing are remediated and retested promptly. Upon request, EagleView will provide Customer with a letter from the third-party stating that testing was performed, and all Critical Issues were addressed;
- 5.5 Protect against unauthorized access to or use of such Customer Confidential Information; and
- 5.6 Such written Information Security Program and administrative, technical, and physical safeguards must be no less rigorous than accepted industry practices (such as applicable security standards published by a Standards Body), and will ensure that all such safeguards, including the manner in which Customer Confidential Information is collected, accessed, used, stored, processed, disposed of, and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement.
- 6. Disaster Recovery and Business Continuity.** EagleView will maintain a backup of Customer Confidential Information, for an orderly and timely recovery thereof if access to or use of the services hereunder may be interrupted. EagleView will maintain a Restore Point Objective ("RPO") of one business day prior.
- 7. Security Incident Process.** EagleView will use commercially reasonable efforts to notify Customer, whose data is known to be or suspected to be impacted, of any Security Incident within 72 hours of confirming that a Security Incident has occurred. Unless otherwise agreed to in writing, EagleView will remediate the cause of such Security Incident immediately.
- 7.1 Customer is responsible for providing EagleView with updated and accurate contact information.
- 7.2 EagleView agrees to fully cooperate with Customer in responding to the Security Incident, including, without limitation, by: (a) designating an employee to serve as primary point of contact and a backup who will maintain reasonable communication with Customer; and (b) assisting with any investigation of the nature or cause of such Security Incident.
- 7.3 If Customer determines that applicable law or regulation requires notification to any person of a Security Incident, such notification will be carried out by EagleView at EagleView's cost, including any costs for credit monitoring or other mitigation services, unless otherwise directed by Customer in writing; provided, however, that in all cases Customer will have sole control over the content, timing, and method of any such notification to persons affected by a Security Incident involving Customer's Confidential Information.
- 7.4 EagleView will maintain Security Incident handling and reporting processes that ensure: (a) relevant logs or other digital records related to the Security Incident are maintained until the Security Incident is declared fully remediated; (b) all Security Incidents are appropriately logged; (c) all such logs and information are appropriately protected to ensure the integrity of such logs and information.



8. **Human Resources Security.** EagleView will: (a) unless agreed otherwise in the Agreement, perform criminal background checks covering charges and convictions of any felony or any misdemeanor involving violence, dishonesty, or breach of trust for all employees of EagleView and any Subcontractors who perform services at Customer facilities and/or access or process Customer Confidential Information and/or access Customer information systems; (b) ensure that physical and logical access for each employee of EagleView and of any Subcontractors are deactivated within twenty-four (24) hours of such employee's termination of employment or such Subcontractor's termination of engagement; and (c) provide regular security awareness training to all EagleView employees and require Subcontractors to provide such training for their employees.
9. **Facility Requirements.** EagleView will employ physical security procedures to ensure that only authorized individuals have access to corporate facilities. Such procedures will include, but not be limited to, the use of video surveillance, cardkey access, and visitor authorization and supervision processes. Surveillance records will be maintained for at least 30 days.
10. **Record Retention.** EagleView will retain Customer Confidential Information as long as EagleView is required to by applicable law.



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

SUBJECT: The 2024 Routine Airport Maintenance Program (RAMP) Grant between Texas Department of Transportation and the Kerrville-Kerr County Airport.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** November 2, 2023

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$25,000	\$25,000	\$25,000	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 N/A

SUMMARY STATEMENT:

This Routine Airport Maintenance Program (RAMP) Grant is made between the Texas Department of Transportation, and the City of Kerrville and Kerr County, Texas. This is an annual grant and a budgeted item. It is for routine airport maintenance at the Kerrville-Kerr County Municipal/Louis Schreiner Field Airport.

Here is information from the State's fact sheet on the grant:

State funding is a \$50,000 match per airport for each fiscal year. The state fiscal year begins September 1st . The local government match is 50% of actual costs plus any excess of \$100,000 total costs. (This is 50/50 cost share agreement with the County for the local match)

The program includes “lower cost” airside and landside airport improvements which will require approval and guidance from TxDOT Aviation before the project begins. These items can be more than just maintenance and may be new or additional items of work. Examples are construction of airport entrance roads; pavement of airport public parking lots; installation of security fencing, replacement of rotating beacon, etc. TxDOT will determine the eligibility of specific items. Keep in mind that airside improvements are the priority before requesting assistance with landside maintenance and improvements.

Sponsors are allowed to issue their own contracts for scope of services, or TxDOT districts

can perform services within their capabilities. TxDOT will not participate in contracts for any ineligible scope items or for costs that are unreasonable for the type of service. Sponsor force account work is NOT ELIGIBLE, but purchase of materials for construction with sponsor labor is eligible.

A Grant must be executed each state fiscal year, prior to work being performed. electronic mail, telephone, or personal contact with staff.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute the Texas Department of Transportation RAMP grant.

ATTACHMENTS:

[20231114_RAMP_Grant_2024_Packet_Kerrville_Airport.pdf](#)

**TEXAS DEPARTMENT OF TRANSPORTATION
GRANT FOR ROUTINE AIRPORT MAINTENANCE PROGRAM**

(State Assisted Airport Routine Maintenance)

TxDOT Project ID: M2415KERV

Part I - Identification of the Project

TO: The City of Kerrville and Kerr County, Texas
FROM: The State of Texas, acting through the Texas Department of Transportation

This Grant is made between the Texas Department of Transportation, (hereinafter referred to as the "State"), on behalf of the State of Texas, and the City of Kerrville and Kerr County, Texas, (hereinafter referred to as the "Sponsor").

This Grant Agreement is entered into between the State and Sponsor shown above, under the authority granted and in compliance with the provisions of the Transportation Code Chapter 21.

The project is for **airport maintenance** at the KERRVILLE - KERRVILLE MUNI/LOUIS SCHREINER FIELD Airport.

Part II - Offer of Financial Assistance

1. For the purposes of this Grant, the annual routine maintenance project cost, Amount A, is estimated as found on Attachment A, Scope of Services, attached hereto and made a part of this grant agreement.

State financial assistance granted will be used solely and exclusively for airport maintenance and other incidental items as approved by the State. Actual work to be performed under this agreement is found on Attachment A, Scope of Services. State financial assistance, Amount B, will be for ninety percent (90%) of the eligible project costs for this project or \$100,000.00, whichever is less, per fiscal year and subject to availability of state appropriations.

Scope of Services, Attachment A, of this Grant, may be amended, subject to availability of state funds, to include additional approved airport maintenance work. Scope amendments require submittal of an Amended Scope of Services, Attachment A.

Services will not be accomplished by the State until receipt of Sponsor's share of project costs.

Only work items as described in Attachment A, Scope of Services of this Grant are reimbursable under this grant.

Work shall be accomplished by August 31, 2024, unless otherwise approved by the State.

2. The State shall determine fair and eligible project costs for work scope. Sponsor's share of estimated project costs, Amount C, shall be as found on Attachment A and any amendments.

It is mutually understood and agreed that if, during the term of this agreement, the State determines that there is an overrun in the estimated annual routine maintenance costs, the State may increase the grant to cover the amount of the overrun within the above stated percentages and subject to the maximum amount of state funding.

The State will not authorize expenditures in excess of the dollar amounts identified in this Agreement and any amendments, without the consent of the Sponsor.

3. Sponsor, by accepting this Grant certifies and, upon request, shall furnish proof to the State that it has sufficient funds to meet its share of the costs. The Sponsor grants to the State the right to audit any books and records of the Sponsor to verify expended funds.

Upon execution of this Agreement and written demand by the State, the Sponsor's financial obligation (Amount C) shall be due in cash and payable in full to the State. State may request the Sponsor's financial obligation in partial payments. Should the Sponsor fail to pay their obligation, either in whole or in part, within 30 days of written demand, the State may exercise its rights under Paragraph V-3. Likewise, should the State be unwilling or unable to pay its obligation in a timely manner, the failure to pay shall be considered a breach and the Sponsor may exercise any rights and remedies it has at law or equity.

The State shall reimburse or credit the Sponsor, at the financial closure of the project, any excess funds provided by the Sponsor which exceed Sponsor's share (Amount C).

4. The Sponsor specifically agrees that it shall pay any project costs which exceed the amount of financial participation agreed to by the State. It is further agreed that the Sponsor will reimburse the State for any payment or payments made by the State which are in excess of the percentage of financial assistance (Amount B) as stated in Paragraph II-1.
5. Scope of Services may be accomplished by State contracts or through local contracts of the Sponsor as determined appropriate by the State. All locally contracted work must be approved by the State for scope and reasonable cost. Reimbursement requests for locally contracted work shall be submitted on forms provided by the State and shall include copies of the invoices for materials or services. Payment shall be made for no more than 90% of allowable charges.

The State will not participate in funding for force account work conducted by the Sponsor.

6. This Grant shall terminate upon completion of the scope of services.

Part III - Additional Requirements for Certain Equipment

1. Certain purchase, installation, and subscription costs for eligible air traffic and operations monitoring equipment (“Equipment”) are reimbursable as provided in this Part. If Grantee is seeking reimbursement for eligible Equipment costs, it must be shown in Attachment A.
2. For eligible Equipment, the State will reimburse 90% of the initial cost to purchase and install, not to exceed \$3,000.00, and 90% of the annual subscription fee for subsequent years, not to exceed \$3,000.00 per year.
3. Notwithstanding Section 2, for the one year prior to a master plan or airport layout plan update, TxDOT will reimburse up to 90% of the eligible costs, not to exceed \$5,400.00.
4. Eligibility Requirements
 - A. The Equipment must include the following items, at a minimum:
 1. Triangulation
 2. Noise abatement
 3. Aircraft tracking data for 30 days
 4. Direct installation without a third party
 5. Identification of pavement utilization by airplane design group for the entire airport
 6. 1 second and 3 foot accuracy
 7. Equal effectiveness at both towered and non-towered airports
 8. Tracking of military and government aircraft, including FAA blocked aircraft
 - B. In order for costs to be eligible for RAMP reimbursement:
 1. The Sponsor must maintain and operate the Equipment for 3 years.
 2. On at least a quarterly basis, the Sponsor must provide to the State all data produced and collected by the Equipment.
 3. To be eligible for reimbursement of the annual subscription fee after the first year, the Sponsor must participate in the Routine Airport

Maintenance Program, have an executed Grant Agreement for that year, and comply with all grant requirements.

- A. The State may conduct on-site or off-site monitoring reviews of the Equipment during the initial required 3-year term, and during any years Sponsor seeks reimbursement of subscription costs. The Sponsor shall fully cooperate with the State and provide any required documentation. The Sponsor shall grant full access to the Equipment to the State or its authorized designee for the purpose of determining compliance, including, but not limited to:
 - 1. Whether the Equipment, and its operation and maintenance, are consistent with the requirements set forth in the Grant Agreement and this First Amendment;
 - 2. Whether the Sponsor is making timely progress with installation of the Equipment, and whether its management, financial management and control systems, procurement systems and methods, and overall performance are in conformance with the requirements set forth in the Grant Agreement and this First Amendment, and are fully and accurately reflected in reports submitted to the State.
- B. Failure to maintain compliance with these requirements may result in the Sponsor having to repay grant funds to the State.

Part IV - Sponsor Responsibilities

- 1. In accepting this Grant, if applicable, the Sponsor guarantees that:
 - a. it will, in the operation of the facility, comply with all applicable state and federal laws, rules, regulations, procedures, covenants and assurances required by the State in connection with this Grant; and
 - b. the Airport or navigational facility which is the subject of this Grant shall be controlled by the Sponsor for a period of at least 20 years; and
 - c. consistent with safety and security requirements, it shall make the airport or air navigational facility available to all types, kinds and classes of aeronautical use without discrimination between such types, kinds and classes and shall provide adequate public access during the period of this Grant; and
 - d. it shall not grant or permit anyone to exercise an exclusive right for the conduct of aeronautical activity on or about an airport landing area. Aeronautical activities include, but are not limited to scheduled airline flights, charter flights, flight instruction, aircraft sales, rental and repair, sale of aviation petroleum products and aerial applications. The landing area consists of runways or landing strips,

taxiways, parking aprons, roads, airport lighting and navigational aids; and

- e. through the fence access shall be reviewed and approved by the State; and
- f. it shall not permit non-aeronautical use of airport facilities, unless noted on an approved Airport Layout Plan, without prior approval of the State/FAA. This includes but is not limited to: the process of land disposal, any changes to the aeronautical or non-aeronautical land uses of the airport, land's deeded use from non-aeronautical to aeronautical, requests of concurrent use of land, interim use of land, approval of a release from obligations from the State/FAA, any of which will require 18 months, or longer; and
- g. the Sponsor shall submit to the State annual statements of airport revenues and expenses when requested; and
- h. all fees collected for the use of the airport shall be reasonable and nondiscriminatory. The proceeds from such fees shall be used solely for the development, operation and maintenance of the airport or navigational facility; and
- i. an Airport Fund shall be established by resolution, order or ordinance in the treasury of the Sponsor, or evidence of the prior creation of an existing airport fund or a properly executed copy of the resolution, order, or ordinance creating such a fund, shall be submitted to the State. The fund may be an account as part of another fund, but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole. All fees, charges, rents, and money from any source derived from airport operations must be deposited in the Airport Fund and shall not be diverted to the general revenue fund or any other revenue fund of the Sponsor. All expenditures from the Airport Fund shall be solely for airport purposes. Sponsor shall be ineligible for a subsequent grant or loan by the State unless, prior to such subsequent approval of a grant or loan, Sponsor has complied with the requirements of this subparagraph; and
- j. the Sponsor shall operate runway lighting at least at low intensity from sunset to sunrise; and
- k. insofar as it is reasonable and within its power, Sponsor shall adopt and enforce zoning regulations to restrict the height of structures and use of land adjacent to or in the immediate vicinity of the airport to heights and activities compatible with normal airport operations as provided in Tex. Loc. Govt. Code Ann. Sections 241.001 et seq. (Vernon and Vernon Supp.). Sponsor shall also acquire and retain aviation easements or other property interests in or rights to use of land or airspace, unless sponsor can show that acquisition and retention of such interest will be impractical or will result in undue hardship to Sponsor. Sponsor shall be ineligible for a subsequent grant or loan by the State unless Sponsor has, prior to subsequent approval of a grant or loan, adopted and passed an airport hazard zoning ordinance

or order approved by the State.

1. mowing services will not be eligible for state financial assistance. Sponsor will be responsible for 100% of any mowing services.
2. The Sponsor, to the extent of its legal authority to do so, shall save harmless the State, the State's agents, employees or contractors from all claims and liability due to activities of the Sponsor, the Sponsor's agents or employees performed under this agreement. The Sponsor, to the extent of its legal authority to do so, shall also save harmless the State, the State's agents, employees or contractors from any and all expenses, including attorney fees which might be incurred by the State in litigation or otherwise resisting claim or liabilities which might be imposed on the State as the result of those activities by the Sponsor, the Sponsor's agents or employees.
3. The Sponsor's acceptance of this Offer and ratification and adoption of this Grant shall be evidenced by execution of this Grant by the Sponsor. The Grant shall comprise a contract, constituting the obligations and rights of the State of Texas and the Sponsor with respect to the accomplishment of the project and the operation and maintenance of the airport.

If it becomes unreasonable or impractical to complete the project, the State may void this agreement and release the Sponsor from any further obligation of project costs.

4. Upon entering into this Grant, Sponsor agrees to name an individual, as the Sponsor's Authorized Representative, who shall be the State's contact with regard to this project. The Representative shall receive all correspondence and documents associated with this grant and shall make or shall acquire approvals and disapprovals for this grant as required on behalf of the Sponsor, and coordinate schedule for work items as required.
5. By the acceptance of grant funds for the maintenance of eligible airport buildings, the Sponsor certifies that the buildings are owned by the Sponsor. The buildings may be leased but if the lease agreement specifies that the lessee is responsible for the upkeep and repairs of the building no state funds shall be used for that purpose.
6. Sponsor shall request reimbursement of eligible project costs on forms provided by the State. All reimbursement requests are required to include a copy of the invoices for the materials or services. The reimbursement request will be submitted no more than once a month.
7. The Sponsor's acceptance of this Agreement shall comprise a Grant Agreement, as provided by the Transportation Code, Chapter 21, constituting the contractual obligations and rights of the State of Texas and the Sponsor with respect to the accomplishment of the airport maintenance and compliance with the assurances and conditions as provided. Such Grant Agreement shall become effective upon the State's written Notice to Proceed issued following execution of this agreement.

PART V - Nomination of the Agent

1. The Sponsor designates the State as the party to receive and disburse all funds used, or to be used, in payment of the costs of the project, or in reimbursement to either of the parties for costs incurred.
2. The State shall, for all purposes in connection with the project identified above, be the Agent of the Sponsor. The Sponsor grants the State a power of attorney to act as its agent to perform the following services:
 - a. accept, receive, and deposit with the State any and all project funds granted, allowed, and paid or made available by the Sponsor, the State of Texas, or any other entity;
 - b. enter into contracts as necessary for execution of scope of services;
 - c. if State enters into a contract as Agent: exercise supervision and direction of the project work as the State reasonably finds appropriate. Where there is an irreconcilable conflict or difference of opinion, judgment, order or direction between the State and the Sponsor or any service provider, the State shall issue a written order which shall prevail and be controlling;
 - d. receive, review, approve and pay invoices and payment requests for services and materials supplied in accordance with the State approved contracts;
 - e. obtain an audit as may be required by state regulations; the State Auditor may conduct an audit or investigation of any entity receiving funds from TxDOT directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
 - f. reimburse sponsor for approved contract maintenance costs no more than once a month.

PART VI - Recitals

1. This Grant is executed for the sole benefit of the contracting parties and is not intended or executed for the direct or incidental benefit of any third party.

2. It is the intent of this grant to not supplant local funds normally utilized for airport maintenance, and that any state financial assistance offered under this grant be in addition to those local funds normally dedicated for airport maintenance.
3. This Grant is subject to the applicable provisions of the Transportation Code, Chapters 21 and 22, and the Airport Zoning Act, Tex. Loc. Govt. Code Ann. Sections 241.001 et seq. (Vernon and Vernon Supp.). Failure to comply with the terms of this Grant or with the rules and statutes shall be considered a breach of this contract and will allow the State to pursue the remedies for breach as stated below.
 - a. Of primary importance to the State is compliance with the terms and conditions of this Grant. If, however, after all reasonable attempts to require compliance have failed, the State finds that the Sponsor is unwilling and/or unable to comply with any of the terms of this Grant, the State, may pursue any of the following remedies: (1) require a refund of any financial assistance money expended pursuant to this Grant, (2) deny Sponsor's future requests for aid, (3) request the Attorney General to bring suit seeking reimbursement of any financial assistance money expended on the project pursuant to this Grant, provided however, these remedies shall not limit the State's authority to enforce its rules, regulations or orders as otherwise provided by law, (4) declare this Grant null and void, or (5) any other remedy available at law or in equity.
 - b. Venue for resolution by a court of competent jurisdiction of any dispute arising under the terms of this Grant, or for enforcement of any of the provisions of this Grant, is specifically set by Grant of the parties in Travis County, Texas.
4. The State reserves the right to amend or withdraw this Grant at any time prior to acceptance by the Sponsor. The acceptance period cannot be greater than 30 days after issuance unless extended by the State.
5. This Grant constitutes the full and total understanding of the parties concerning their rights and responsibilities in regard to this project and shall not be modified, amended, rescinded or revoked unless such modification, amendment, rescission or revocation is agreed to by both parties in writing and executed by both parties.
6. All commitments by the Sponsor and the State are subject to constitutional and statutory limitations and restrictions binding upon the Sponsor and the State (including Sections 5 and 7 of Article 11 of the Texas Constitution, if applicable) and to the availability of funds which lawfully may be applied.

Part VII - Acceptances

Sponsor

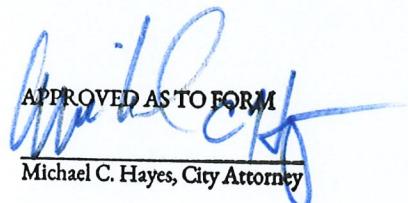
The City of Kerrville and Kerr County, Texas, does ratify and adopt all statements, representations, warranties, covenants, agreements, and all terms and conditions of this Grant.

Executed this _____ day of _____, 20____.

The City of Kerrville and Kerr County,
Texas _____ Sponsor

Sponsor Signature

Sponsor Title


APPROVED AS TO FORM
Michael C. Hayes, City Attorney

Acceptance of the State

Executed by and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs and grants heretofore approved and authorized by the Texas Transportation Commission.

STATE OF TEXAS
TEXAS DEPARTMENT OF TRANSPORTATION

By:_____

Date:_____

Attachment A
Scope of Services
TxDOT Project ID: M2415KERV

Eligible Scope Item:	Estimated Costs Amount A	State Share Amount B	Sponsor Share Amount C
GENERAL MAINTENANCE	\$111,111.11	\$100,000.00	\$11,111.11
Special Project	\$0.00	\$0.00	\$0.00
Special Project	\$0.00	\$0.00	\$0.00
Special Project	\$0.00	\$0.00	\$0.00
Special Project	\$0.00	\$0.00	\$0.00
Special Project	\$0.00	\$0.00	\$0.00
TOTAL	\$111,111.11	\$100,000.00	\$11,111.11

Accepted by: The City of Kerrville and Kerr County, Texas

Signature

Title: _____

Date: _____

GENERAL MAINTENANCE: As needed, Sponsor may contract for services/purchase materials for routine maintenance/improvement of airport pavements, signage, drainage, AWOS systems, approach aids, lighting systems, utility infrastructure, fencing, herbicide/application, sponsor owned and operated fuel systems, hangars, terminal buildings and security systems; professional services for environmental compliance, approved project design. Special projects to be determined and added by amendment.

Airport Operations Counting Systems: The purchase and installation of specified air traffic and operations monitoring equipment (“Equipment”) is eligible for reimbursement as provided in Part III

Only work items as described in Attachment A, Scope of Services of this Grant are

reimbursable under this grant.

CERTIFICATION OF AIRPORT FUND

TxDOT Project ID: M2415KERV

The City of Kerrville and Kerr County does certify that an Airport Fund has been established for the Sponsor, and that all fees, charges, rents, and money from any source derived from airport operations will be deposited for the benefit of the Airport Fund and will not be diverted for other general revenue fund expenditures or any other special fund of the Sponsor and that all expenditures from the Fund will be solely for airport purposes. The fund may be an account as part of another fund, but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole.

The City of Kerrville and Kerr
County, Texas _____ (Sponsor)

By: _____

Title: _____

Date: _____

Certification of State Single Audit Requirements

I, _____, do certify that the City of Kerrville and Kerr County will comply with all
(Designated Representative)

requirements of the State of Texas Single Audit Act if the City of Kerrville and Kerr County spends or receives more than the threshold amount in any grant funding sources during the most recently audited fiscal year. And in following those requirements, the City of Kerrville and Kerr County will submit the report to the audit division of the Texas Department of Transportation. If your entity did not meet the threshold in grant receivables or expenditures, please submit a letter indicating that your entity is not required to have a State Single Audit performed for the most recent audited fiscal year.

Signature

Title

Date

DESIGNATION OF SPONSOR'S AUTHORIZED REPRESENTATIVE

TxDOT Project ID: M2415KERV

The City of Kerrville and Kerr County designates,
MARY ROHRER, AIRPORT MANAGER (Name, Title)
as the Sponsor's authorized representative, who shall receive all correspondence and documents
associated with this grant and who shall make or shall acquire approvals and disapprovals for this
grant as required on behalf of the Sponsor.

The City of Kerrville and Kerr County,
Texas
(Sponsor)

By: _____

Title: _____

Date: _____

DESIGNATED REPRESENTATIVE

Mailing Address: 1877 Airport Loop
Kerrville, Tx 78028

Overnight Mailing Address: 1877 Airport Loop
Kerrville, Tx 78028

Telephone/Fax Number: 830-896-9399

Email address: mrohrer@KerrvilleAirport.com



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

SUBJECT: City Council workshop minutes, October 24, 2023.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** September 29, 2023

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 workshop minutes held October 24, 2023 at 4:00 p.m., City Hall.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[*20231114_CC workshop minutes 10-24-23.pdf*](#)

**CITY COUNCIL WORKSHOP MINUTES
CITY HALL COUNCIL CHAMBERS**

**OCTOBER 24, 2023 4:00 PM
701 MAIN STREET, KERRVILLE, TEXAS**

CALL TO ORDER: On October 24, 2023 at 4:00 p.m., the City Council workshop 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
Brenda Hughes, Council Place 4/Mayor Pro Tem

COUNCILMEMBERS ABSENT:

None

CITY STAFF PRESENT:

Dalton Rice, City Manager
Kim Meismer, Asst City Manager
Michael Hornes, Asst City Manager

Mike Hayes, City Attorney
Shelley McElhannon, City Secretary

VISITOR(S) PRESENT: None

1. PUBLIC COMMENT: None

Mayor Eychner made a motion to convene Executive Session under 551.071 (consultation with attorney), 551.074 (officers/personnel), and 551.087 (deliberation regarding economic development negotiations), seconded by Councilmember Brenda Hughes. The motion passed 5-0. At 4:00 p.m., the open workshop recessed and Council convened into closed Executive Session.

2. EXECUTIVE SESSION:

2A. City Attorney annual evaluation (551.074).

2B. Economic Development projects update: Litecrete Inc, Windridge (Lennar Homes of Texas Land and Construction, LTD) (551.071, 551.087).

At 6:08 p.m., the closed Executive Session adjourned and the open workshop reconvened. No action taken during Executive Session.

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

Councilmember Hughes moved to authorize the Mayor to execute a personnel action form for the City Attorney based on the discussions held by the City Council during Executive Session today, seconded by Councilmember Joe Herring, Jr. The motion passed 4-1, with Mayor Eychner, Councilmember Jeff Harris, Councilmember Herring, and Councilmember Hughes voting in favor, and Councilmember Roman Garcia opposed.

ADJOURN. The workshop adjourned at 6:08 p.m.

APPROVED BY COUNCIL: _____

ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary



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

SUBJECT: City Council meeting minutes, October 24, 2023.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** September 29, 2023

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 held October 24, 2023 at 4:00 p.m., City Hall.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[*20231114_CC meeting minutes 10-24-23.pdf*](#)

**CITY COUNCIL MINUTES
REGULAR MEETING**

**KERRVILLE, TEXAS
OCTOBER 24, 2023 6:00 PM**

On October 24, 2023 at 6:08 p.m., Mayor Judy Eychner called the Kerrville City Council meeting to order in City Hall Council Chambers, 701 Main Street. Councilmember Brenda Hughes provided the invocation and led the Pledge of Allegiance.

COUNCILMEMBERS PRESENT:

Judy Eychner, Mayor
Roman Garcia, Councilmember Place 1
Jeff Harris, Councilmember Place 2
Joe Herring, Jr., Councilmember Place 3
Brenda Hughes, Councilmember Place 4

COUNCILMEMBER ABSENT:

None

CITY EXECUTIVE STAFF:

Kim Meismer, Interim City Manager
Mike Hayes, City Attorney
Michael Hornes, Asst City Manager
Shelley McElhannon, City Secretary
Stuart Barron, Exec Director Public Works
Julie Behrens, Director of Finance

Ashlea Boyle, Director of Parks & Rec
Stuart Cunyus, Public Information Officer
Yesenia Luna, Municipal Court Coordinator
Eric Maloney, Fire Chief
Chris McCall, Police Chief
Drew Paxton, Director of Planning/Zoning

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.

Karen Guerriero, Kerrville Pets Alive!

1. ANNOUNCEMENTS OF COMMUNITY INTEREST:

Announcements of Community Interest provided by Stuart Cunyus and Mayor Eychner.

2. PRESENTATION(S):

2A. Proclamation recognizing November 6-10, 2023 as Municipal Court week.

Mayor Eychner presented a proclamation recognizing November 6-10, 2023 as Municipal Court week to Municipal Court Coordinator Yesenia Luna and personnel from the Kerrville Municipal Court including Nelton Spitzer, Judge Lucy Pearson, Rachel Ramirez, and Tracy Lewis.

2B. Kerrville Pets Alive! presentation.

Kim Meismer introduced the item and Karen Guerriero, who provided information and responded to questions.

Mayor Eychner requested the visitors forum speakers to limit comments to three minutes.

3. VISITORS FORUM:

The following person(s) spoke:

- George Baroody
- Barbara Dewell-Ferguson

4. CONSENT AGENDA:

Councilmember Roman Garcia requested to pull Consent Agenda item 4A, and made a motion to approve Consent Agenda items 4B, 4C, and 4D, seconded by Councilmember Hughes. The motion passed 5-0.

4B. Standard Rental Service Agreement with Cintas Corporation.

4C. City Council workshop minutes, October 10, 2023.

4D. City Council meeting minutes, October 10, 2023.

END OF CONSENT AGENDA.

4A. Resolution No. 37-2023. A Resolution authorizing the waiver of Parade and Park fees for the Veterans of Foreign Wars Post 1480 and the Hill Country Veterans Center pursuant to events it plans to hold on November 11, 2023 in and around the City's Louise Hays Park.

Dalton Rice presented information and responded to questions.

Councilmember Garcia made a motion to approve Resolution No. 37-2023, seconded by Councilmember Jeff Harris. The motion passed 5-0.

5. ORDINANCE(S), SECOND READING:

5A. Ordinance No. 2023-27, second reading. An Ordinance amending Chapter 58, Article III of the City's Code of Ordinances, titled "Smoking in Enclosed Public Places and Places of Employment"; to clarify various sections; revise regulations in accordance with State Law, to include the definition of a "Minor"; and to change defenses to affirmative defenses; ordering publication; and providing other matters related to the subject.

Shelley McElhannon read Ordinance No. 2023-27 caption into record.

Councilmember Hughes made a motion to approve Ordinance No. 2023-27 on second reading, seconded by Councilmember Joe Herring, Jr. The motion passed 5-0.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Interlocal Agreement for the improvement of Al Mooney Road from its intersection with Peterson Farm Road to its intersection with Memorial Boulevard (SH 27) and a portion of Peterson Farm Road from its 300 block to its intersection with Al Mooney Road.

Shelley McElhannon read item 6A caption into record.

Michael Hornes, Dalton Rice, and Mike Hayes provided information and responded to questions.

Councilmember Garcia made a motion to table the item until the next regular meeting subsequent to the County's approval the day right before, Mayor Eychner called for a second, with no second. Councilmember Harris noted that a speaker was signed up to speak, and Councilmember Garcia withdrew his motion.

The following person(s) spoke:

- Peggy McKay

Councilmember Garcia made a motion to table this item until the next regular meeting which will be right after the County's meeting to approve this and we will get that final version in front

of us the day after. Mayor Eychner called for a second, with no second forthcoming. Motion died for lack of second.

Councilmember Herring made a motion to approve the Interlocal Agreement for the improvement of Al Mooney Road with the minor changes noted previously, seconded by Councilmember Harris. The motion passed 4-1 with Mayor Eychner, Councilmember Harris, Councilmember Herring, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed.

6B. Economic Development Grant Agreement between Lennar Homes of Texas Land and Construction, Ltd., and the City of Kerrville, Texas Economic Improvement Corporation.

Shelley McElhannon read item 6B caption into record.

Michael Hornes advised Council that staff requested this item be pushed until the November 14, 2023 City Council meeting, which was accepted by Mayor Eychner.

The four citizen speakers did not speak.

- Paul Harrison
- Barbara Dewell-Ferguson
- George Baroody
- Peggy McKay

6C. An Advance Funding Agreement (AFA) with the Texas Department of Transportation for Transportation Alternatives Set-Aside (TASA) Project.

Shelley McElhannon read item 6C caption into record.

Stuart Barron provided information and responded to questions.

Councilmember Herring made a motion to authorize the City Manager and Mayor to finalize and execute any actions necessary to satisfy TXDOT requirements, seconded by Councilmember Hughes. The motion passed 5-0.

7. INFORMATION AND DISCUSSION:

7A. Annular Solar Eclipse recap.

Chief Maloney and Chief McCall provided information and responded to questions.

7B. Financial update for month-ended September 30, 2023.

Julie Behrens provided information and responded to questions.

8. BOARD APPOINTMENT(S):

8A. Ad Hoc Animal Regulations Review Committee member.

Councilmember Hughes made a motion to appoint Reagan Givens, Director of Kerr County Animal Control, seconded by Councilmember Herring. The motion passed 4-1 with Mayor Eychner, Councilmember Harris, Councilmember Herring, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed.

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

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

11. ITEM(S) FOR FUTURE AGENDAS:

- Councilmember Harris requested Drew Paxton clarify and provide truth regarding the approval of platting information by the Planning & Zoning Commission versus Stage 4 Water Conservation prohibiting new permits for water connections.
- Councilmember Harris requested Stuart Barron clarify and provide truth regarding City water wells.
- Councilmember Garcia requested a presentation and action item at the next meeting regarding obtaining the City's Water Permit with Headwaters in executive session and an open meeting item, seconded by Councilmember Harris. Consensus to add item 5-0.

ADJOURN. The meeting adjourned at 7:31 p.m.

APPROVED BY COUNCIL: _____

APPROVED:

ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary



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

SUBJECT: City Council special-called meeting minutes, November 07, 2023.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** November 6, 2023

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 held November 07, 2023 at 11:00 a.m., City Hall.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[*20231114_Minutes special-called meeting 11-7-23 11am.pdf*](#)

**CITY COUNCIL SPECIAL-CALLED MEETING MINUTES
NOVEMBER 07, 2023 11:00 AM
CITY HALL COUNCIL CHAMBERS, 701 MAIN STREET, KERRVILLE, TEXAS**

CALL TO ORDER: On November 07, 2023 at 11:00 a.m., Mayor Judy Eychner called the City Council special-called meeting to order 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
Brenda Hughes, Council Place 4/Mayor Pro Tem

COUNCILMEMBERS ABSENT:

None

CITY STAFF PRESENT:

Dalton Rice, City Manager
Kim Meismer, Asst City Manager
Michael Hornes, Asst City Manager

Mike Hayes, City Attorney
Shelley McElhannon, City Secretary
Stuart Barron, Executive Director

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.
Madison Huerta, Attorney, Lloyd Gosselink Rochelle and Townsend PC

1. PUBLIC COMMENT:

The following person(s) spoke:

- Barbara Dewell Ferguson

Mayor Eychner made a motion to convene Executive Session under 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), and 551.087 (deliberation regarding economic development negotiations), seconded by Councilmember Brenda Hughes. The motion passed 5-0. At 11:05 a.m., the open special-called meeting recessed and Council convened into closed Executive Session.

2. EXECUTIVE SESSION:

2A. Amendments by Headwater Groundwater Conservation District to its Drought Contingency Plan and its proposed groundwater permit for the City (551.071).

2B. Project Windridge (Lennar Homes) (551.071, 551.072, 551.087).

At 1:05 p.m., the closed Executive Session adjourned and the open special-called meeting reconvened. No action taken during Executive Session.

3. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION IF ANY: None

ADJOURN. The special-called meeting adjourned at 1:05 p.m.

APPROVED BY COUNCIL: _____

ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary



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

SUBJECT:

Ordinance No. 2023-29, second reading. An Ordinance annexing an approximate 214.1-acre tract of land, which includes an adjacent right-of-way existing as a portion of Olympic Drive, all of which is out of the Samuel Wallace Survey No. 114, Abstract No. 348, and Samuel Wallace Survey No. 113, Abstract No. 347, into the corporate limits of the City of Kerrville, Texas; such property being located within Kerr County, Texas, and the extraterritorial jurisdiction of the City of Kerrville, Texas; and generally located adjacent to Loop 534 and north of Olympic Drive; further describing the property to be annexed; adopting a service plan for the property annexed; and establishing the zoning both for the property annexed and a contiguous tract of land located adjacent to Loop 534, and providing other matters relating to the subject.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** October 13, 2023
2023

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 H - Housing

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

An Ordinance to annex into the City of Kerrville's incorporated limits a 214.1 acre tract of land situated in the Samuel Wallace Survey Number 114, Abstract No. 348, and Samuel Wallace Survey Number 113, Abstract No. 347, Kerr County, Texas, including a segment of Olympic Drive right-of-way, with a zoning classification of Agriculture (AG), Planned Development District (PDD), and General Commercial (C-3); and more commonly known as 2945 Loop 534. (Case No. PZ-2023-6)

Procedural Requirements: The City, in accordance with state law, mailed 44 letters on

5/18/2023 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 5/11/2023. Signs were also posted on the property in accordance with current zoning code.

Staff Analysis and Recommendation:

Consistency with the Kerrville 2050 Comprehensive Plan: The property is within the Strategic Catalyst Area No. 8 which is the area that “surrounds Loop 534 and is largely undeveloped. In the future it will likely serve as a link to Tivy High School.” (Kerrville 2050, 2018) Since the adoption of the Kerrville 2050 Comprehensive Plan, Hal Peterson Middle School has been constructed to the south of this property and has expanded the anchor that KISD facilities serve in the area. The SCA 8 focuses on both residential and commercial for the area and the community. This request for annexation and Residential Planned Development and commercial is consistent with the Future Land Use Plan of the Kerrville 2050 Plan.

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: None.

Existing Land Uses: Vacant

Direction: North

Current Zoning: R-1

Existing Land Uses: Residential and vacant land.

Direction: West

Current Zoning: R-1 and R-2

Existing Land Uses: Residential.

Direction: South

Current Zoning: PI and R-2

Existing Land Uses: Hal Peterson Middle School and residential.

Direction: East

Current Zoning: AG and PI

Existing Land Uses: Loop 534 and church property and vacant land (across Loop 534)

Thoroughfare Plan: There should be no impact to the thoroughfare plan as these developments are anticipated within the Thoroughfare Plan, adjacent to the Loop 534 (major arterial) and Olympic Drive (collector).

Traffic Impact: With much of the development fronting Loop 534 and the request for Planned Development District zoning, the Traffic Impact Analysis was required as a part of the application. The TIA summary is attached. Any improvements necessary for the build out of the development are required to be built/installed at the development's expense.

Parking: To be determined, per project, at the time of the building permit.

Recommendation: Based on the consistency with the Kerrville 2050 Comprehensive Plan, staff recommends the case for approval.

The Planning and Zoning Commission recommend a lower percentage of the 25' lots. The motion was to limit the 25 foot wide lots to 40% of the lot total and approve the balance of the project as proposed; the motion carried 4-0.

Lennar has since updated their concept plan and removed all 25' lots. The current plan has a combination of 35' and 45' lots.

On October 10, 2023, City Council approved Ordinance No. 2023-29 on first reading with a 4-1 vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2023-29 on second reading.

ATTACHMENTS:

[20231114_Ord 2023-29 Annex-Zone 2945 Loop 534, second.pdf](#)

DRAFT 10/4/23

CITY OF KERRVILLE, TEXAS ORDINANCE NO. 2023-29

AN ORDINANCE ANNEXING AN APPROXIMATE 214.1 ACRE TRACT OF LAND, WHICH INCLUDES AN ADJACENT RIGHT-OF-WAY EXISTING AS A PORTION OF OLYMPIC DRIVE, ALL OF WHICH IS OUT OF THE SAMUEL WALLACE SURVEY NO. 114, ABSTRACT NO. 348, AND SAMUEL WALLACE SURVEY NO. 113, ABSTRACT NO. 347, INTO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS; SUCH PROPERTY BEING LOCATED WITHIN KERR COUNTY, TEXAS, AND THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF KERRVILLE, TEXAS; AND GENERALLY LOCATED ADJACENT TO LOOP 534 AND NORTH OF OLYMPIC DRIVE; FURTHER DESCRIBING THE PROPERTY TO BE ANNEXED; ADOPTING A SERVICE PLAN FOR THE PROPERTY ANNEXED; AND ESTABLISHING THE ZONING BOTH FOR THE PROPERTY ANNEXED AND A CONTIGUOUS TRACT OF LAND LOCATED ADJACENT TO LOOP 534; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, an owner of land has requested annexation of its land by the City of Kerrville, Texas (“City”), pursuant to Local Government Code Section 43.0671; and

WHEREAS, Section 1.05 of the City’s Charter authorizes City Council to annex territory lying adjacent to the City, not inconsistent with the Constitution and Statutes of the State of Texas or the United States of America; and

WHEREAS, the land to be annexed makes up a total of approximately 214.1 acres, as more specifically described below, and includes a portion of existing public right-of-way (Olympic Drive), all of which is collectively referred to herein as “Property 1”, which is more specifically described and depicted in **Exhibit A**; and

WHEREAS, Property 1 presently lies within the extraterritorial jurisdiction of the City and adjacent to the City’s limits; and

WHEREAS, in conjunction with the approval of this Ordinance, City Council also approves a service agreement for Property 1 in accordance with Section 43.0672 of the Texas Local Government Code; and

WHEREAS, Section 60-37 of the City's Zoning Code (Chapter 60, City's Code of Ordinances) (referred to herein as "Zoning Code") creates procedures for the initial zoning of newly annexed areas; and

WHEREAS, the owner of Property 1 owns an undeveloped tract of land contiguous to Property 1 but within the City's corporate boundaries, said property which is more specifically described and depicted in **Exhibit B**, which is collectively referred to herein as "Property 2"; and

WHEREAS, Property 2, consisting of approximately _____ acres, is currently zoned as both an Agricultural District (AG) and Public and Institutional District (PI); and

WHEREAS, the owner of Property 2 seeks to rezone this property and to use a portion of it in conjunction with Property 1 for residential use as further described; with the remaining portion being rezoned as a General Commercial District (C-3); and

WHEREAS, the owner and applicant for zoning and rezoning seeks for the City to create a Planned Development (Zoning) District ("PDD") for the residential portion of its property, which consists of approximately 100.36 acres and includes portions of both Property 1 and Property 2; and

WHEREAS, per the Zoning Code, a PDD is a zoning category that allows the use of unique and innovative land use and design techniques to further the City's development goals; and

WHEREAS, a PDD allows an applicant to, in part, utilize flexible design techniques that take into account the use of adjacent properties, the needs of future occupants and users of the planned development and the emergence of new development trends, such as tiny homes; to promote the efficient use of land and public facilities and services; and, to further the vision of the City's Comprehensive Plan (Kerrville 2050); and

WHEREAS, a PDD is intended to ensure compliance with good zoning practices while allowing specific desirable departures from the strict provisions of current zoning classifications; and

WHEREAS, having provided all required public notices, held all required public hearings at which persons with an interest in the matter were provided an opportunity to be heard, and complying with other requirements in Section 43.0673 of the Texas Local Government Code, City Council finds it to be in the public interest to adopt this Ordinance annexing Property 1, to

approve a service agreement as required by state law, to establish zoning regulations for Property 1, and to rezone Property 2 in accordance with Chapter 211, Texas Local Government Code and Chapter 60 of the City's Code of Ordinances;

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

SECTION ONE. FINDINGS. City Council finds and declares the facts and recitations contained in the preamble of this Ordinance true and correct.

SECTION TWO. PETITION FOR ANNEXATION. The petition for annexation concerning Property 1 is attached as **Exhibit C**, said petition, which triggered the process specified in Subchapter C-3, Chapter 43, Texas Local Government Code, authorizing the City's annexation of Property 1.

SECTION THREE. ANNEXATION. Property 1 is annexed and incorporated into the corporate limits of the City of Kerrville, Texas, for all legal purposes. Property 1 is made up of one tract consisting of approximate 214.1 acres, which includes an existing portion of public right-of-way known as Olympic Drive, all of which is more specifically described in **Exhibit A**.

SECTION FOUR. AMENDMENT TO CITY BOUNDARY. City Council authorizes and directs the City Manager to amend the City's official boundary map in accordance with this annexation.

SECTION FIVE. AGREEMENT REGARDING SERVICES. Pursuant to Section 43.0672 of the Texas Local Government Code, the City has negotiated and hereby enters into a Service Agreement (the "Agreement") with the owner of land for the provision of services in the area. The Agreement is attached to this Ordinance as **Exhibit D**. Upon annexation of Property 1, the City shall provide Property 1 with the municipal services set forth in the Agreement pursuant to the schedule set forth therein, such services making up the City's full municipal services. The City shall have no obligation to provide services to Property 1 not listed in the Agreement.

SECTION SIX. ZONING OF PROPERTY 1; REZONING OF PROPERTY 2. Upon the adoption of this Ordinance, and in accordance with Section 60-37 of the City's Zoning Code, Chapter 60, City's Code of Ordinances ("Zoning Code"), Property 1 will be zoned and Property 2 will be rezoned as follows:

A. Planned Development District (100.36 acres). Phases IA, IB, IC, IIA, IIB, IIIC as depicted on the Concept Plan, which is attached as **Exhibit E** (“Residential Areas”) and which includes a portion of Property 2, shall be used for single-family detached dwelling purposes and in accordance with a single-family residential zoning district (“R-1 District”) pursuant to the Zoning Code. However, the following area regulations (area, width, and setbacks) apply and supersede those found within the Zoning Code applicable to single-family dwellings within an R-1 District:

<u>SINGLE-FAMILY DWELLING</u>	
Characteristic	Requirement
Minimum Lot Size	3,850 SF
Minimum Lot Width	35 Feet
Minimum Lot Depth	110 Feet
Minimum Front Setback	20 Feet
Minimum Side Setback	5 Feet
Minimum Rear Setback	10 Feet

B. General Commercial Zoning District (C-3) (29.33 acres). Commercial Areas I and II as depicted on the Concept Plan, which is attached as **Exhibit E** and consists of the remaining portion of Property 2, is rezoned as a General Commercial District (C-3) and thus, subject to those purposes, uses, and other regulations found within Section 60-51(c) of the Zoning Code.

C. Agricultural (AG) Zoning District (101.19 acres). The Agriculture Area as depicted on the Concept Plan, which is attached as **Exhibit E**, and consists in its entirety as part of Property 1, is zoned as an agricultural zoning district (AG) and thus, subject to those purposes, uses, and other regulations found within Section 60-52(f) of the Zoning Code.

D. Prohibited Uses. Any uses not specifically allowed pursuant to Sections A through C above are prohibited.

E. Concept Plan. The development and use of Property 1 and Property 2 shall be substantially in accordance with the Concept Plan attached as **Exhibit E**, hereafter referred to as the “Concept Plan”. Minor

modifications to streets, alignment of buildings, building areas and footprints, and open spaces may be made at the time of Preliminary or Final Plat approval so long as the general alignment of streets, building areas, and lot layouts are substantially maintained and the location and boundaries of the lots are not altered.

SECTION SEVEN. AMENDMENT TO ZONING MAP. The Zoning Code and the *Official Zoning Map* are amended as provided in Section Six, above.

SECTION EIGHT. PLATTING; DEVELOPMENT REGULATIONS. The development of Property 1 and Property 2 is subject to the City's Subdivision Regulations and all other applicable development regulations.

SECTION NINE. CUMULATIVE CLAUSE. The provisions of this Ordinance are to be cumulative of all 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 hereby expressly repealed to the extent of any such inconsistency or conflict.

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

SECTION ELEVEN. PENALTY. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Article 1-1-7 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

SECTION TWELVE. PUBLICATION OF ORDINANCE. In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), 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 THIRTEEN. POST ANNEXATION ACTIONS. The City Manager or designee shall provide a certified copy of this Ordinance to the Texas Secretary of State, Kerr County, and Kerr Central Appraisal District and any other entity as may be required.

PASSED AND APPROVED ON FIRST READING, this the 10 day of OCTOBER A.D., 2023.

PASSED AND APPROVED ON SECOND READING, this the _____ day of _____ A.D., 2023.

Judy Eychner, Mayor

APPROVED AS TO FORM:

ATTEST:

Michael C. Hayes, City Attorney

Shelley McElhannon, City Secretary

EXHIBIT A

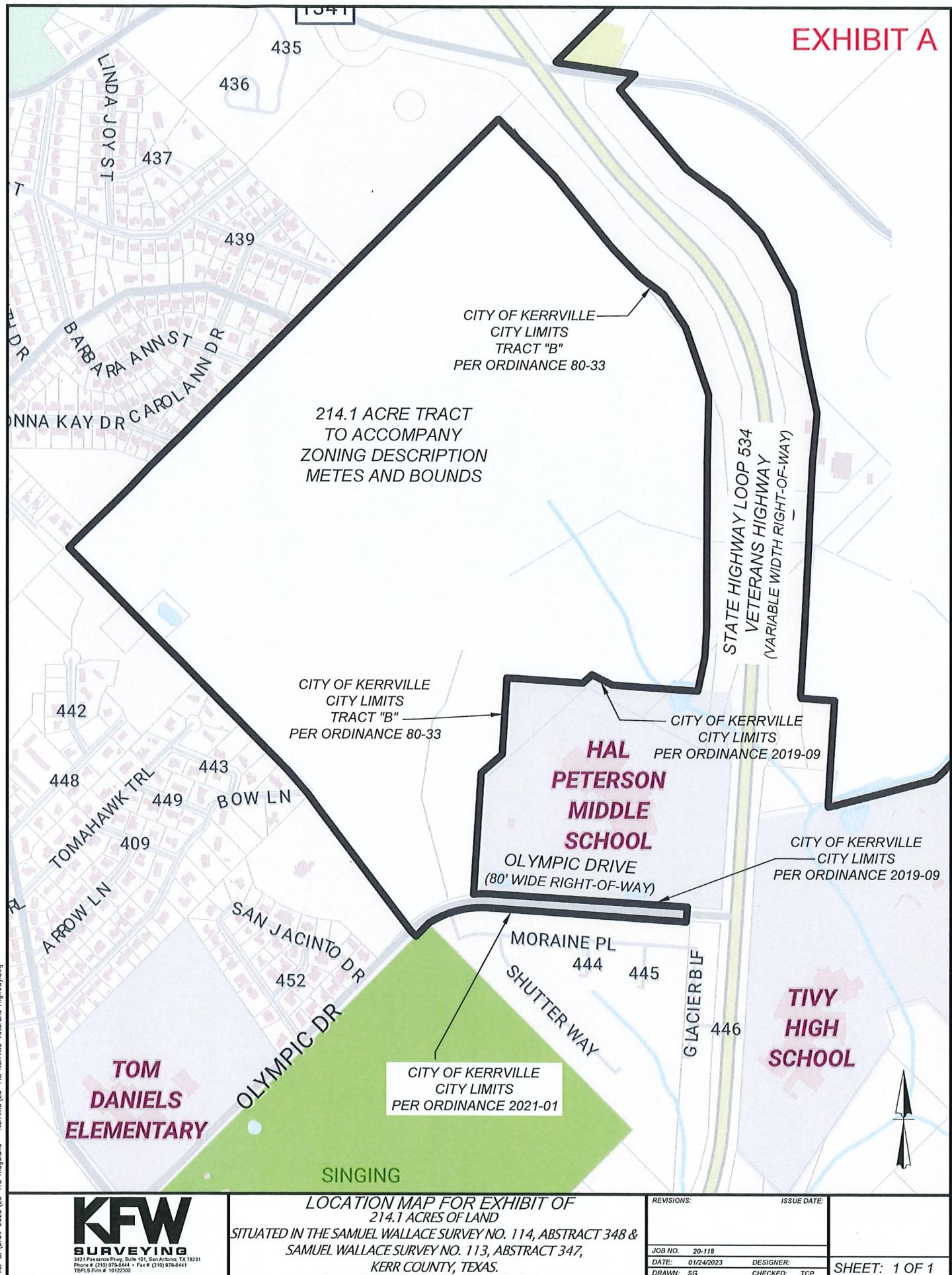
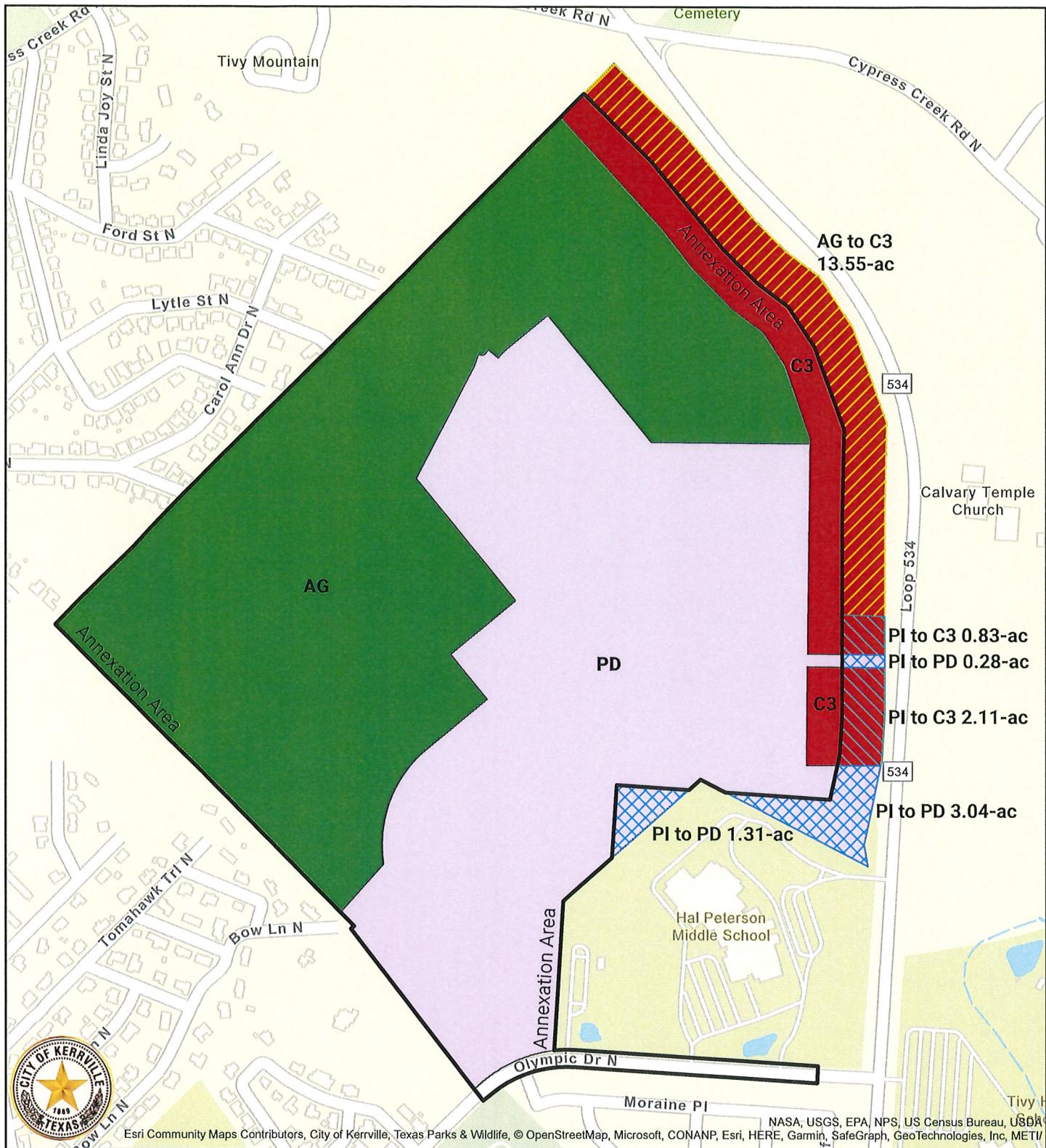


EXHIBIT B



C3 Zoning
 Existing PI to PD
 Annexation Area
 AG Zoning
 Existing AG to C3
 PD Zoning
 Existing PI to C3



0 500 1,000
US Feet

10/06/2023 08:37 AM

joyoung

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.



has joined **Colliers Engineering & Design**
TBPE FIRM #9513 / TBPLS FIRM #101223-00

ZONING DESCRIPTION FOR A 214.1 ACRE TRACT

A **214.1 acre** tract of land situated in the Samuel Wallace Survey Number 114, Abstract No. 348, and Samuel Wallace Survey Number 113, Abstract No. 347, Kerr County, Texas, and being a portion of that called 184.304 acre tract of land described as TRACT 1 and as conveyed to Schreiner University and recorded July 12, 2004 in Volume 1369, Page 551, in the Official Public Records of Kerr County, Texas (O.P.R.), and also being a portion of that called 711 acre tract of land as conveyed to Schreiner Institute and recorded November 16, 1943 in Volume 71, Page 573 in the Deed Records of Kerr County, Texas (D.R.), and also being all of that called 1.325 acre tract of land, as conveyed to City of Kerrville and recorded in Volume 123, Page 103 (D.R.), said 214.1 acre tract being more particularly described by metes and bounds as follows:

BEGINNING in the southerly right-of-way line of Olympic Drive (80' wide R.O.W. as dedicated in Volume 1077, Page 339 in the O.P.R.), being the northerly line of that called 100.00 acre tract of land as described as Tract No. 2 in Ordinance No. 70-3 and for the most southwesterly corner of the tract described herein;

THENCE: over and across Olympic Drive and along and with the southwesterly line of said 184.304 acre tract, the following five (5) courses:

1. **N 37°48'51" W**, a distance of **1013.92 feet**;
2. **N 53°36'09" E**, a distance of **19.48 feet** to the easterly corner of College Cove Addition Subdivision, as recorded in Volume 2, Page 93 of the Plat Records of said county (P.R.);
3. **N 44°40'14" W**, a distance of **919.38 feet** to the easterly corner of that called 8.3 acre tract of land, as recorded in Document Number 13-07299, O.P.R.;
4. **N 45°12'33" W**, a distance of **285.83 feet** to the southerly corner of said 1.325 acre tract of land, as recorded in Volume 123, Page 103 (D.R.);
5. **N 45°04'01" W**, along and with the southwesterly line of said 1.325 acre tract, a distance of **774.72 feet** to the northwesterly corner of said 1.325 acre tract, for the northeasterly corner of said 8.3 acre tract and to a point in the southeasterly right-of-way line of Travis Street, an apparent thirty (30) foot right-of-way and for the most westerly corner of said 184.304 acre tract;

THENCE: along and with the northwesterly line of said 184.304 acre tract, the following seven (7) courses:

1. **N 44°09'30" E**, a distance of **141.29 feet**;
2. **N 45°38'06" E**, a distance of **361.09 feet** to a point in the southeasterly line of that called 4.982 acre tract of land, as recorded in Document Number 20-07006 (O.P.R.);
3. **N 43°21'35" E**, a distance of **174.53 feet** to the southerly corner of Virgil Merrel 3rd Addition, as recorded in Volume 3, Page 16 (P.R.);
4. **N 43°45'09" E**, a distance of **206.40 feet** to an easterly terminus of Donna Kay Drive;

5. N 45°15'54" E, a distance of 267.23 feet to a point in the southeasterly line of Virgil Merrel 5th Addition, as recorded in Volume 3, Page 59 (P.R.);
6. N 45°24'39" E, a distance of 1131.99 feet to a southerly corner of that called 23.81 acre tract of land, as recorded in Volume 1837, Page 204 (O.P.R.);
7. N 45°08'52" E, a distance of 1218.57 feet to a point in the existing City Limits, and also the westerly line of that called approximately 256.67 acre tract of land as described as Tract "B" in Ordinance No. 80-33, and also being a two hundred (200) foot offset of the southwesterly right-of-way line of State Highway Loop 534, a variable width right-of-way, for the northerly corner of the tract described herein;

THENCE: along and with the existing City Limits and westerly lines of said Tract "B", being the two hundred (200) offset line of the southwesterly right-of-way line of said State Highway Loop 534 and over and across said 184.304 acre tract and said 711 acre tract, the following eleven (11) courses:

1. S 45°07'13" E, a distance of 443.83 feet;
2. S 39°25'33" E, a distance of 535.52 feet;
3. S 45°18'03" E, a distance of 224.65 feet;
4. S 53°27'54" E, a distance of 173.12 feet;
5. S 33°23'56" E, a distance of 225.38 feet;
6. S 19°53'02" E, a distance of 407.39 feet;
7. S 01°09'25" W, a distance of 402.74 feet;
8. S 00°00'53" W, a distance of 927.62 feet;
9. S 03°36'23" W, a distance of 179.09 feet;
10. S 12°03'55" W, a distance of 219.20 feet;
11. N 86°13'27" W, a distance of 490.22 feet to a point in a northerly line of that called 35.05 acre tract as described in Document No. 19-00623 in the O.P.R. and also in Ordinance No. 2019-09;

THENCE: continuing over and across said 711 acre tract and along and with the existing City Limits and the northerly line of said 35.05 acre tract and said Ordinance No. 2019-09, the following two (2) courses:

1. N 62°48'15" W, a distance of 131.09 feet;
2. S 48°37'16" W, a distance of 73.49 feet to a point in the northerly line of said Ordinance No. 80-33;

THENCE: continuing over and across said 711 acre tract, and along and with the northerly and westerly lines of said Ordinance No. 80-33, the following two (2) courses:

1. N 86°13'27" W, a distance of 337.66 feet;
2. S 03°46'33" W, a distance of 338.06 feet to a point in the northwesterly line of said 35.05 acre tract;

THENCE: along and with the northwesterly, westerly and southerly lines of said 35.05 acre tract and also said Ordinance No. 2019-09, the following two (2) courses:

1. S 48°25'49" W, a distance of 304.51 feet;
2. S 03°37'26" W, a distance of 696.17 feet to the beginning of a non-tangent curve in the northerly right-of-way line of Olympic Drive;

THENCE: along and with the northerly right-of-way line of said Olympic Drive, and the southerly lines of said 35.05 acre tract and also said Ordinance No. 2019-09, the following two (2) courses:

1. the arc of said non-tangent curve to the right a distance of **101.35 feet**, having a radius of **640.00 feet**, a delta angle of **009°04'24"**, and a chord which bears **N 89°06'32" E**, a distance of **101.24 feet**;
2. **S 86°21'23" E**, a distance of **1137.06 feet** to a point in the westerly line of said Ordinance No. 80-33;

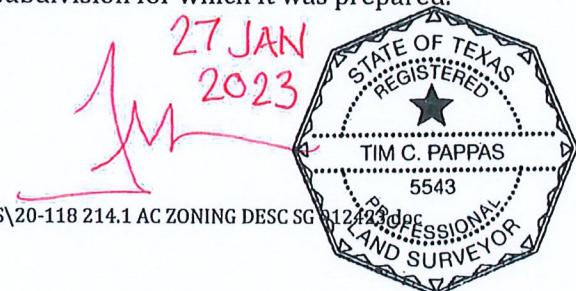
THENCE: **S 03°02'30" W**, over and across Olympic Drive, and along and with the westerly line of said Ordinance No. 80-33, a distance of **80.00 feet** to a point in the southerly right-of-way line of Olympic Drive, and the northerly line of the Ridgeland Subdivision, as recorded in File No. 23-00253 (O.P.R.), and also the northerly line of Ordinance No. 2021-01;

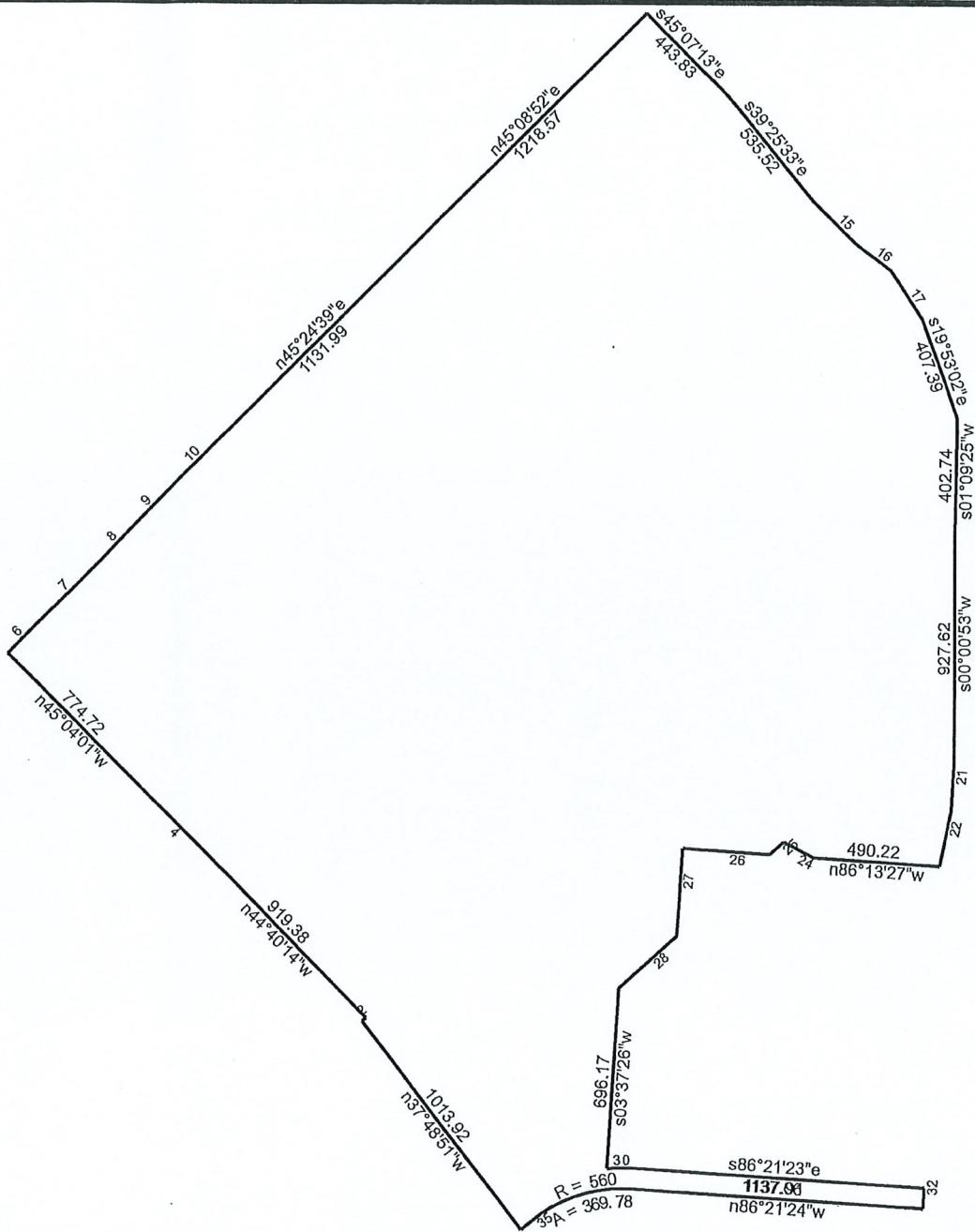
THENCE: along and with the southerly right-of-way line of Olympic Drive and the northerly line of Ridgeland Subdivision and also said Ordinance No. 2021-01, the following three (3) courses:

1. **N 86°21'24" W**, a distance of **1137.91 feet** to the beginning of a curve;
2. along said curve to the **left** a distance of **369.78 feet**, having a radius of **560.00 feet**, a delta angle of **037°50'00"**, and a chord which bears **S 74°43'45" W**, a distance of **363.10 feet**;
3. **S 52°06'19" W**, a distance of **101.22 feet** to the **POINT OF BEGINNING** and containing **214.1 acres**, more or less, in Kerr County, Texas, and being described in accordance with a survey prepared by KFW Surveying. Bearings are based on NAD83 Texas State Plane South Central Zone.

NOTE: This document was prepared under 22 TAC §663.21, and reflects the results of an on the ground survey performed by KFW Engineers and Surveying, but is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Job No.: 20-118
Prepared by: KFW Surveying
Date: January 24, 2023
File: S:\Draw 2020\20-118 Kerrville Veterans Highway\DOCS\20-118 214.1 AC ZONING DESC SG 912423 dec
2023





1/27/2023

Scale: 1 inch= 670 feet File: 214.1 AC ZONING.ndp

Tract 1: 214.0678 Acres, Closure: s27.0944w 0.04 ft. (1/383318), Perimeter=15551 ft.

01 n37.4851w 1013.92	21 s03.3623w 179.09
02 n53.3609e 19.48	22 s12.0355w 219.20
03 n44.4014w 919.38	23 n86.1327w 490.22
04 n45.1233w 285.83	24 n62.4815w 131.09
05 n45.0401w 774.72	25 s48.3716w 73.49
06 n44.0930e 141.29	26 n86.1327w 337.66
07 n45.3806e 361.09	27 s03.4633w 338.06
08 n43.2135e 174.53	28 s48.2549w 304.51
09 n43.4509e 206.40	29 s03.3726w 696.17
10 n45.1554e 267.23	30 Rt, r=640.00, delta=009.0424, arc=101.35, chord=n89.0632e 101.24
11 n45.2439e 1131.99	31 s86.2123e 1137.06
12 n45.0852e 1218.57	32 s03.0230w 80
13 s45.0713e 443.83	33 n86.2124w 1137.91
14 s39.2533e 535.52	34 Lt, r=560.00, delta=037.5000, arc=369.78, chord=s74.4345w 363.10
15 s45.1803e 224.65	35 s52.0619w 101.22
16 s53.2754e 173.12	
17 s33.2356e 225.38	
18 s19.5302e 407.39	
19 s01.0925w 402.74	
20 s00.0053w 927.62	

PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR OF THE GOVERNING BODY OF KERRVILLE, TEXAS:

The undersigned owners of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby petition your honorable Body to extend the present city limits so as to include as part of the City of Kerrville, Texas, the following described territory, to wit:

A 214.1 acre tract of land situated in the Samuel Wallace Survey Number 114, Abstract No. 348, and Samuel Wallace Survey Number 113, Abstract No. 347, Kerr County, Texas, and being a portion of that called 184.304 acre tract of land described as TRACT 1 and as conveyed to Schreiner University and recorded July 12, 2004 in Volume 1369, Page 551, in the Official Public Records of Kerr County, Texas (O.P.R), and also being all of that called 1.325 acre tract of land, as conveyed to City of Kerrville and recorded in Volume 123, Page 103 (D.R.).

We certify that the above described tract of land is contiguous and adjacent to the City of Kerrville, Texas, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

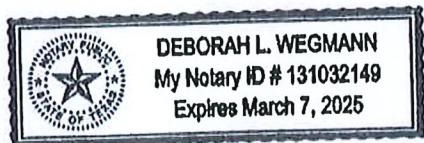
Signed: Lucien Costley

THE STATE OF TEXAS

COUNTY OF Kerr

BEFORE ME, the undersigned authority, on this day personally appeared Lucien Costley, and _____, known to me to be the persons whose names are subscribed to the foregoing instrument and each acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 8th day of May, 2023.



Deborah L. Wegmann
Notary Public in and for
Kerr County, Texas.

EXHIBIT D

SERVICES AGREEMENT

This Services Agreement (the "Agreement") is entered into between the **CITY OF KERRVILLE, TX**, a Texas Home-Rule Municipal Corporation (the "City") and **LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD**, a Texas limited partnership, acting herein by and through U.S. Home Corporation, a Delaware Corporation, its general partner, (the "Owner(s)"). City and Owner are collectively referred to as the Parties.

WHEREAS, pursuant to a lawfully submitted petition for annexation from Owner, City intends to institute annexation proceedings for a tract(s) of land described more fully hereinafter (referred to herein as the "Subject Property"); and,

WHEREAS, *Section 43.0672 of the Tex. Loc. Gov't Code* requires a written agreement for the provision of services in the area first be entered into between City and Owner of the Subject Property; and,

WHEREAS, City and Owner agree each will benefit from the City's development restrictions and zoning requirements, as well as other municipal services provided by City which are good and valuable consideration for the Owner to request annexation and for the Parties to enter into this Agreement for City to provide the listed services upon annexation and in accordance with this Agreement; and,

WHEREAS, it is found that the statutory requirements have been satisfied and City is authorized by *Chapter 43, Tex. Loc. Gov't. Code*, to annex the Subject Property into the City;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

Section 1. Property Description. The legal description of the Subject Property is as set forth in **Exhibit A**, attached hereto and incorporated herein.

Section 2. Services. City will provide the services listed and specified in **Exhibit B**, attached hereto and incorporated herein, for the Subject Property on the effective date of annexation of the Subject Property.

Section 3. Owner's Obligations. Owner shall not file for approval a subdivision plat, site plan, or related development document with City for the Subject Property or portion thereof; or construct, or allow to be constructed, any building or structure on the Subject Property or portion thereof until City has approved and adopted the ordinance annexing such property.

Section 4. Term. The term of this Agreement (the "Term") is ten (10) years from the Effective Date.

Section 5. Vested Rights Claims. This Agreement is not a permit for the purposes of Chapter 245, Texas Local Government Code.

Section 6. Authorization. All parties and officers signing this Agreement warrant to be duly authorized to execute this Agreement.

Section 7. Covenant Running with the Land. This Agreement shall run with the Subject Property, and this Agreement may be recorded in the Official Public Records of Kerr County, Texas. Owner and City acknowledge and agree that this Agreement is binding upon City and Owner and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.

Section 8. Severability. If any provision of this Agreement is held by a court of competent and final jurisdiction to be invalid or unenforceable for any reason, then the remainder of the Agreement shall be deemed to be valid and enforceable as if the invalid portion had not been included.

Section 9. Amendment and Modifications. This Agreement may be amended or modified only in a written instrument that is executed by both City and Owner after it has been authorized by the City Council.

Section 10. Gender, Number, and Headings. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

Section 11. Governmental Immunity; Defenses. Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either City or Owner, including governmental immunity, nor to create any legal rights or claims on behalf of any third party.

Section 12. Enforcement; Waiver. This Agreement may be enforced by Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

Section 13. Effect of Future Laws. No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement.

Section 14. Venue and Applicable Law. Venue for this Agreement shall be in Kerr County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas.

Section 15. Counterparts. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

Section 16. Effective Date. This Agreement shall be in full force and effect as of the date of approval of this Agreement by the City Council, from and after its execution by the parties.

Section 17. Sections to Survive Termination. This Agreement shall survive its termination to the extent necessary for the implementation of the provisions related to water service to the Subject Property by the City.

EXECUTED this ____ day of _____, 2023.

LENNAR HOMES OF TEXAS
LAND AND CONSTRUCTION, LTD

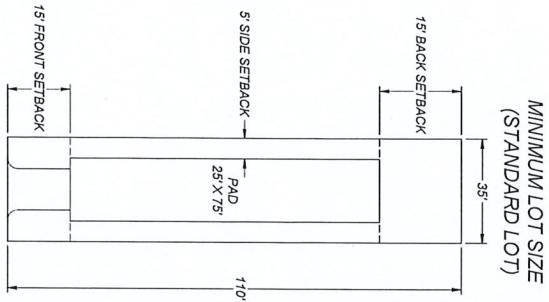
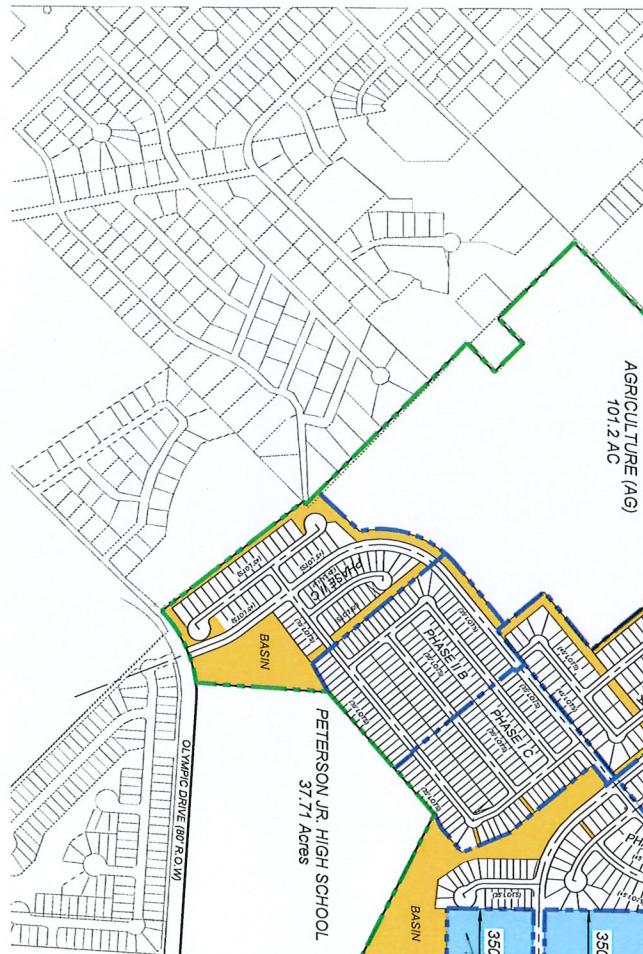
BY: U.S. Home Corporation, a Delaware Corporation, its general partner.

BY: _____
NAME: _____
TITLE: _____

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 2023, by _____, the _____, of Lennar Homes of Texas Land and Construction, LTD.

Notary Public, State of Texas



**AGRICULTURE (AG)
101.2 AC**

PETERSON JR. HIGH SCHOOL
37.71 Acres

LOOP 53.

350' 1
loop 534

—GEN

Exhibit B

A scale bar consisting of a vertical line with horizontal tick marks. The text 'SCALE: 1"=300' is written vertically to the right of the bar. The tick marks are labeled '0', '300', and '600' from top to bottom.

LOT SUMMARY		
	LOT SIZE	# OF LOTS
PHASE I A	35x110	23
PHASE I B	45x110	58
PHASE II C	35x110	50
PHASE II A	45x110	50
PHASE II B	35x110	98
PHASE II C	35x110	33
TOTAL	511 LOTS	100.3 AC.

*KERRVILLE LOOP 534 TRACT
KERRVILLE, TEXAS
ACREAGE LAYOUT EXHIBIT*

SHEET NUMBER:
1 OF 1



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

SUBJECT: Ordinance No. 2023-30, second reading. An Ordinance of the City Council of the City of Kerrville, Texas, designating the Windridge Tax Increment Reinvestment Zone (TIRZ), a petition-initiated TIRZ to be named Tax Increment Reinvestment Zone Number Two, Windridge, City of Kerrville, Texas, pursuant to Chapter 311, Texas Tax Code; and generally located north of Olympic Drive and on an approximate 100.36 acre tract of undeveloped property; describing the boundaries of the Zone; creating a Board of Directors for the Zone; establishing a Tax Increment fund for the Zone; containing a findings related to the creation of the Zone; providing a date for the termination of the Zone; providing that the Zone take effect immediately upon passage of the Ordinance; providing a severability clause; and providing an effective date.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** October 13, 2023
2023

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 H - Housing

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Consider the advisability of the creation of a Tax Increment Reinvestment Zone Number Two (TIRZ-2), City of Kerrville, Texas, within the City for tax increment financing purposes pursuant to Chapter 311, Texas Tax Code.

This TIRZ-2 will be located within the boundaries of the City and generally located north of Olympic Drive and on property adjacent to Peterson Middle School.

On October 10, 2023, City Council approved Ordinance No. 2023-30 on first reading with a 4-1 vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2023-30 on second reading.

ATTACHMENTS:

[20231114_Ord 2023-30 Windridge TIRZ2, second.pdf](#)

DRAFT 10/4/23

CITY OF KERRVILLE, TEXAS ORDINANCE NO. 2023-30

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KERRVILLE, TEXAS, DESIGNATING THE WINDRIDGE TAX INCREMENT REINVESTMENT ZONE (TIRZ), A PETITION-INITIATED TIRZ TO BE NAMED TAX INCREMENT REINVESTMENT ZONE NUMBER TWO, WINDRIDGE, CITY OF KERRVILLE, TEXAS, PURSUANT TO CHAPTER 311, TEXAS TAX CODE; AND GENERALLY LOCATED NORTH OF OLYMPIC DRIVE AND ON AN APPROXIMATE 100.36 ACRE TRACT OF UNDEVELOPED PROPERTY; DESCRIBING THE BOUNDARIES OF THE ZONE; CREATING A BOARD OF DIRECTORS FOR THE ZONE; ESTABLISHING A TAX INCREMENT FUND FOR THE ZONE; CONTAINING FINDINGS RELATED TO THE CREATION OF THE ZONE; PROVIDING A DATE FOR THE TERMINATION OF THE ZONE; PROVIDING THAT THE ZONE TAKE EFFECT IMMEDIATELY UPON PASSAGE OF THE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Kerrville, Texas (the “City”), pursuant to Chapter 311 of the Texas Tax Code as amended (known as the Tax Increment Financing Act and herein referred to as the “Act”), may designate a geographic area within the City as a tax increment reinvestment zone (“TIRZ”) if the area satisfies the requirements of the Act; and

WHEREAS, the City has previously created a TIRZ, known as Reinvestment Zone Number One, City of Kerrville, TX, that generally includes a portion of the City’s downtown area; and

WHEREAS, the Act provides that the governing body of a municipality by ordinance may designate a noncontiguous geographic area that is in the corporate limits of the municipality to be a reinvestment zone if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future; and

WHEREAS, in July 2023, Schreiner University (“SU”), as property owner, but on behalf of Lennar Homes of Texas Land and Construction, Ltd. (“Lennar”) a private, for profit company to whom SU is under contract to sell the property, petitioned the City pursuant to the provisions of Chapter 311, Texas Tax Code (see **Exhibit A**), to establish within the City a Tax Increment Reinvestment Zone

(“TIRZ”) generally located north of Olympic Drive and on an approximate 100.36 acre tract of undeveloped property adjacent to Peterson Middle School, and within Kerrville, Texas, herein referred to as the “Property”; and

WHEREAS, the name of the TIRZ will be the Reinvestment Zone Number Two, City of Kerrville, TX, (“Windridge TIRZ”); and

WHEREAS, City Council desires to promote the development of the Property, which is more specifically described in **Exhibits B and C** of this Ordinance, through the creation of the Windridge TIRZ, as a new reinvestment zone as authorized by and in accordance with the Act; and

WHEREAS, pursuant to and as required by the Act, the City has prepared a *Preliminary Reinvestment Zone Project Plan and Financing Plan for Reinvestment Zone Number Two, City of Kerrville*, attached as **Exhibit D** (hereinafter referred to as the “*Preliminary Project and Finance Plan*”) for the Windridge TIRZ to be located on the Property; and

WHEREAS, notice of the public hearing on the creation of Windridge TIRZ was published in a newspaper having general circulation in the City on September 30, 2023, which date is before the seventh (7th) day before the public hearing, held on October 10, 2023; and

WHEREAS, at the public hearing on October 10, 2023, interested persons were allowed to speak for or against the creation of the Windridge TIRZ, its boundaries, and the concept of tax increment financing; the public hearing was held in accordance with Section 311.003(c) of the Act; and

WHEREAS, evidence was received and presented at the public hearing on October 10, 2023, and in favor of the creation of the Windridge TIRZ; and

WHEREAS, after all comments and evidence, both written and oral, were received by City Council, the public hearing was closed on October 10, 2023; and

WHEREAS, the City has taken all actions required to create the Windridge TIRZ including taking all actions required by the home-rule Charter of the City, the Act, the Texas Open Meetings Act (defined herein), and all other laws applicable to the creation of the Windridge TIRZ; and

WHEREAS, the Property that comprises the Windridge TIRZ is predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impairs or arrests the sound growth of the City; and

WHEREAS, SU, who submitted the petition to the governing body of the City of Kerrville, Texas, as authorized by the Act, constitutes at least 50 percent of the appraised value of the Property according to the most recent certified appraisal roll for Kerr County, Texas; and

WHEREAS, the residential neighborhood to be developed on the Property and within the Windridge TIRZ, to be owned and developed by Lennar, will be known as the Windridge Project and will be a residential community consisting of approximately 500 to 550 mixed-income, single family homes as well as providing a community trail and open space; and

WHEREAS, City staff has examined the proposal for the Windridge Project as submitted by Lennar for the City's creation of the Windridge TIRZ and found that there is a demonstrated need for development and revitalization of the project area that would significantly benefit from a dedicated TIRZ, enhance the value of the real property in the zone and be of general benefit to the City; and

WHEREAS, the Preliminary Reinvestment Zone Financing Plan for the proposed Windridge TIRZ is for an approximate 27-year term with the City as a participating taxing entity; and

WHEREAS, the City desires to approve the payment of 75% of available City incremental ad valorem taxes generated from new improvements in the TIRZ into the Tax Increment Fund; and

WHEREAS, the proposed Windridge TIRZ designation does not financially obligate the City; and

WHEREAS, any future developer recognizes that there is no guarantee that the value of the property in the proposed Windridge TIRZ will increase, that any increases in value are dependent upon many factors which are not within the City's control, and that there is no guarantee of any tax increment, as that term is defined in the Act; and

WHEREAS, the proposed Windridge TIRZ is statutorily eligible to be designated in accordance with the Act and shall take effect immediately upon passage of this Ordinance upon its 2nd reading and terminate on October 11, 2050; and

WHEREAS, City Council shall appoint the board for the Windridge TIRZ, the names of such members as submitted by Lennar; and

WHEREAS, following creation, the board shall consider the approval of the Preliminary Project and Finance Plan, the term of the Windridge TIRZ, and to designate the Windridge TIRZ; and

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

SECTION ONE. RECITALS INCORPORATED. The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

SECTION TWO. FINDINGS. City Council, after conducting the above described hearing and having heard the evidence and testimony presented at the hearing, has made the following findings and determinations based on the evidence and testimony presented to it:

- (a) That the public hearing on creation of the proposed reinvestment zone has been properly called, held, and conducted and that notice of such hearing has been published as required by law; and
- (b) That the creation of the proposed reinvestment zone with boundaries as described and depicted in **Exhibits A** and **B** will result in benefits to the City, its residents and property owners, in general, and to the property, residents, and property owners within the reinvestment zone; and
- (c) That the proposed reinvestment zone, as defined in **Exhibits A** and **B**, meets the criteria for the creation of a reinvestment zone set forth in the Act in that:
 - 1. It is a geographic area located wholly within the City limits of the City; and
 - 2. City Council further finds and declares that the proposed reinvestment zone meets the criteria and requirements of Section 311.005 of the Act, which include that property within the zone is predominantly open and undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, and substantially impairs or arrests the sound growth of the City; and
 - 3) is in an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area

according to the most recent certified appraisal roll for the county in which the area is located.

- (d) The total appraised value of all taxable real property in the proposed reinvestment zone according to the most recent appraisal rolls of the City, together with the total appraised value of taxable real property in all other existing reinvestment zones within the City, if any, according to the most recent appraisal rolls of the City, does not exceed 50 percent of the current total appraised value of taxable real property within the City and in the industrial districts created by the City, if any; and
- (e) The improvements in the proposed reinvestment zone will significantly enhance the value of all taxable real property in the proposed reinvestment zone and will be of general benefit to the City; and
- (f) The development or redevelopment of the property within the proposed reinvestment zone will not occur solely through private investment in the reasonable foreseeable future.

SECTION THREE. DESIGNATION AND NAME OF THE ZONE.

Pursuant to the authority of, and in accordance with the requirements of the Act, City Council hereby designates the area described and depicted in **Exhibits A** and **B** hereto as a tax increment reinvestment zone. The name assigned to the zone for identification is “Reinvestment Zone Number Two, City of Kerrville, Texas” (Windridge TIRZ #2), hereinafter referred to as the “Zone”.

SECTION FOUR. REIMBURSEMENT OF EXPENSES. The Public Infrastructure Improvements and related capital costs for the Windridge Project is privately funded and eligible expenses will be reimbursed by the Tax Increment Reinvestment Zone (TIRZ) and will not impact the City’s General fund.

SECTION FIVE. FUNDING. Funding for projects through the Windridge TIRZ #2 will be subject to future City Council approval for the duration of this designation. The future taxes collected on the captured taxable value of parcels within the newly designated Windridge TIRZ will be deposited in Fund Windridge TIRZ #2 to be used for eligible expenses within the TIRZ boundary.

SECTION SIX. APPROVAL OF ALLOCATIONS. The financial allocations in this Ordinance are subject to approval by the City Manager or designee. The City Manager or designee may correct allocations to specific accounts as necessary to carry out the purposes of this Ordinance.

SECTION SEVEN. BOARD OF DIRECTORS. A board of directors for the Zone (“Board”) is hereby created. The Board shall consist of seven (7) members.

Lennar may select each of the Board members and following submission of their names to City Council, Council shall appoint Lennar's selections to the Board. Each Board member shall be eligible to serve under the Act. The number of directors on the Board shall not exceed seven (7). The Board shall make recommendations to City Council concerning the administration, management, and operation of the Zone. The Board shall prepare and adopt a project plan and a reinvestment zone financing plan for the Zone and submit such plans to City Council for its approval. The Board shall perform all duties imposed upon it by Chapter 311 of the Texas Tax Code and all other applicable laws. Notwithstanding anything to the contrary herein, the Board, pursuant to Section 311.010 of the Act, is not authorized to (i) issues bonds; (ii) impose taxes or fees; (iii) exercise the power of eminent domain; or (iv) give final approval to the Zone's project plan and financing plan.

SECTION EIGHT. DURATION OF THE ZONE. The Zone shall take effect immediately upon the passage and approval of this Ordinance, consistent with Section 311.004(a)(3) of the Act, and termination of the Zone shall occur upon any of the following: (i) on September 11, 2050; (ii) at an earlier time designated by subsequent ordinance; (iii) at such time, subsequent to the issuance of tax increment bonds, if any, that all project costs, tax increment bonds, notes, and other obligations of the Zone, and the interest thereon, have been paid in full, in accordance with Section 311.017 of the Act.

SECTION NINE. TAX INCREMENT BASE AND TAX INCREMENT. A tax increment fund for the Zone (the "TIF Fund") is hereby established. The TIF Fund may be divided into additional accounts and sub-accounts authorized by resolution or ordinance of City Council. The TIF Fund shall consist of (i) the percentage of the tax increment, as defined by Section 311.012(a) of the Act, that each taxing unit which levies real property taxes in the Zone, other than the City, has elected to dedicate to the TIF Fund under an agreement with the City authorized by Section 311.013(f) of the Act, plus (ii) one-hundred percent (100%) of the City's available portion of the tax increment, as defined by section 311.012(a) of the Act, subject to any binding agreement executed at any time by the City that pledges a portion of such tax increment or an amount of other legally available funds whose calculation is based on receipt of any portion of such tax increment. The TIF Fund shall be maintained in an account at the depository bank of the City and shall be secured in the manner prescribed by law for Texas cities. In addition, all revenues from (i) the sale of any obligations hereafter issued by the City and secured in whole or in part from the tax increments; (ii) the sale of any property acquired as part of a tax increment financing plan adopted by the Board; and (iii) other revenues dedicated to and used in the Zone shall be deposited into the TIF Fund. Prior to the termination of the Zone, money shall be disbursed from the Tax Increment Fund only to pay project costs, as defined by the Texas Tax Code, for the Zone, to satisfy the claims of holders of tax increments bonds or notes issued for the Zone, or to pay

obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section 311.010(b) of the Act.

SECTION TEN. TAX INCREMENT FUND FOR TIRZ NUMBER TWO.

There is hereby created and established a "Tax Increment Fund Number Two" for the Zone which may be divided into such subaccounts as may be authorized by subsequent ordinance, into which all tax increments of the City, as such increments are described in the final project plan and reinvestment zone financing plan and may include administration costs, less any of the amounts not required to be paid into the Tax Increment Fund Number Two pursuant to the Act, are to be deposited. The Tax Increment Fund Number Two and any subaccounts are to be maintained in an account at the affiliated depository bank of the City and shall be secured in the manner prescribed by law for funds of Texas cities. In addition, all revenues to be dedicated to and used in the Zone shall be deposited into such fund or subaccount from which money will be disbursed to pay project costs, plus interest, for the Zone.

SECTION ELEVEN. FINANCIAL IMPACT OF TIRZ NUMBER TWO.

This action designates a Tax Increment Reinvestment Zone, however does not, in any way, financially obligate the City. The assumptions of the anticipated costs and revenues are outlined in the Preliminary Finance Plan, as referenced in Section Twelve. The City will be financially obliged upon the approval by City Council of Final Project and Finance Plans and upon execution of related Development Agreements, Interlocal Agreements, or other legal documents.

SECTION TWELVE. APPROVAL OF PRELIMINARY FINANCE PLAN FOR TIRZ NUMBER TWO. In accordance with the Act, City staff has prepared, and City Council hereby finds that the plan is economically feasible, and approves, the Preliminary Finance Plan, which is attached as **Exhibit C**.

SECTION THIRTEEN. SEVERABILITY CLAUSE. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION FOURTEEN. OPEN MEETINGS. It is hereby found, determined, and declared that sufficient written notice of the date, hour, place, and subject of the meetings of City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public

at the City Hall of the City for the time required by law preceding its meeting, as required by Chapter 551 of the Texas Government Code, and that the meetings were open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

SECTION FIFTEEN. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law and the City Charter.

PASSED AND APPROVED ON FIRST READING, this 10 day of OCTOBER, 2023.

PASSED AND APPROVED ON SECOND AND FINAL READING, this _____ day of _____, 2023.

Judy Eychner, Mayor

APPROVED AS TO FORM:

ATTEST:

Michael C. Hayes, City Attorney

Shelley McElhannon, City Secretary

EXHIBIT A
PETITION

PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR OF THE GOVERNING BODY OF KERRVILLE, TEXAS:

The undersigned owners of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby petition your honorable Body to extend the present city limits so as to include as part of the City of Kerrville, Texas, the following described territory, to wit:

A 214.1 acre tract of land situated in the Samuel Wallace Survey Number 114, Abstract No. 348, and Samuel Wallace Survey Number 113, Abstract No. 347, Kerr County, Texas, and being a portion of that called 184.304 acre tract of land described as TRACT 1 and as conveyed to Schreiner University and recorded July 12, 2004 in Volume 1369, Page 551, in the Official Public Records of Kerr County, Texas (O.P.R), and also being all of that called 1.325 acre tract of land, as conveyed to City of Kerrville and recorded in Volume 123, Page 103 (D.R.).

We certify that the above described tract of land is contiguous and adjacent to the City of Kerrville, Texas, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

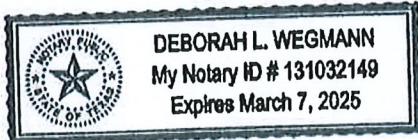
Signed: Lucien Costley

THE STATE OF TEXAS

COUNTY OF Kerr

BEFORE ME, the undersigned authority, on this day personally appeared Lucien Costley, _____, and _____, known to me to be the persons whose names are subscribed to the foregoing instrument and each acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 8th day of May, 2023.



Deborah L Wegmann
Notary Public in and for
Kerr County, Texas.

EXHIBIT B
BOUNDARY DESCRIPTION



EXHIBIT B

has joined **Colliers Engineering & Design**
TBPE FIRM #9513 / TBPLS FIRM #101223-00

**ZONING DESCRIPTION FOR
A 100.36 ACRE TRACT**

A **100.36** acre tract of land situated in the Samuel Wallace Survey Number 114, Abstract No. 348, and Samuel Wallace Survey Number 113, Abstract No. 347, Kerr County, Texas, and being a portion of that called 184.304 acre tract of land described as TRACT 1 and as conveyed to Schreiner University and recorded July 12, 2004 in Volume 1369, Page 551, in the Official Public Records of Kerr County, Texas (O.P.R.), and also being a portion of that called 711 acre tract of land as conveyed to Schreiner Institute and recorded November 16, 1943 in Volume 71, Page 573 in the Deed Records of Kerr County, Texas (D.R.) said 100.36 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a found $\frac{1}{2}$ " iron rod in the northerly right-of-way line of Olympic Drive (80' wide right-of-way) as dedicated in Volume 1077, Page 339 in the O.P.R.), for a southeasterly corner of that called 8.89 acre tract conveyed to S. Hendricks and Sharon McClure Revocable Living Trust and recorded in Document Number 17-02066, and for the most southwesterly corner of the tract described herein;

THENCE: N $37^{\circ}48'51''$ W, along and with the northeasterly line of said 8.89 acre tract and the southwesterly line of said TRACT 1, a distance of **945.92 feet** to a found $\frac{1}{2}$ " iron rod for the southeasterly corner of College Cove Addition Subdivision as recorded in Volume 2, Page 93, Plat Records of Kerr County, Texas (P.R.), for the most northerly corner of said 8.89 acre tract;

THENCE: along and with the northeasterly line of said College Cove Addition and the southwesterly line of said TRACT 1, the following two (2) courses:

1. N $53^{\circ}36'09''$ E, a distance of **19.48 feet** to a calculated point
2. N $44^{\circ}40'14''$ W, a distance of **90.44 feet** to a calculated point for the most westerly corner of the tract herein described,

THENCE: over and across said TRACT 1 and said 711 acre tract, the following twenty (20) courses:

1. N $42^{\circ}11'36''$ E, a distance of **302.23 feet** to a calculated point;
2. the arc of said non-tangent curve to the **right** a distance of **577.47 feet**, having a radius of **560.00 feet**, a delta angle of **062 $^{\circ}25'38''$** , and a chord which bears N $19^{\circ}24'26''$ E, a distance of **549.32 feet** to a to a calculated point;
3. N $50^{\circ}37'15''$ E, a distance of **393.59 feet** to a calculated point;
4. N $39^{\circ}22'45''$ W, a distance of **270.00 feet** to a calculated point;
5. N $50^{\circ}37'15''$ E, a distance of **394.41 feet** to a calculated point;
6. N $39^{\circ}22'45''$ W, a distance of **736.25 feet** to a calculated point;
7. N $27^{\circ}41'31''$ E, a distance of **587.96 feet** to a calculated point;
8. N $17^{\circ}57'41''$ E, a distance of **60.00 feet** to a calculated point;
9. S $71^{\circ}21'16''$ E, a distance of **10.27 feet** to a calculated point;

10. the arc of said non-tangent curve to the **right** a distance of **25.39 feet**, having a radius of **20.33 feet**, a delta angle of **071°33'45"**, and a chord which bears **N 72°51'52" E**, a distance of **23.77 feet** to a calculated point;
11. **N 37°55'52" E**, a distance of **23.00 feet** to a calculated point;
12. **S 50°32'11" E**, a distance of **60.00 feet** to a calculated point;
13. the arc of said non-tangent curve to the **right** a distance of **46.21 feet**, having a radius of **370.00 feet**, a delta angle of **007°09'19"**, and a chord which bears **N 43°02'28" E**, a distance of **46.18 feet** to a calculated point;
14. **N 50°46'02" E**, a distance of **260.73 feet** to a calculated point;
15. **S 39°22'45" E**, a distance of **763.40 feet** to a calculated point;
16. **S 89°37'54" E**, a distance of **196.74 feet** to a calculated point;
17. **S 89°37'54" E**, a distance of **545.55 feet** to a calculated point for the most easterly corner of the tract herein described;
18. **S 01°41'23" W**, a distance of **30.15 feet** to a calculated point;
19. **S 00°39'13" W**, a distance of **948.93 feet** to a calculated point;
20. **S 89°30'49" E**, a distance of **363.36 feet** to a calculated point in the northwesterly right-of-way of State Highway Loop 534;

THENCE: S 00°00'02" E along and with the northwesterly right-of-way of State Highway Loop 534, a distance of **60.00 feet** to a calculated point;

THENCE: over and across said 711 acre tract, the following three (3) courses:

1. **N 89°30'49" W**, a distance of **363.62 feet** to a calculated point;
2. **S 00°30'18" W**, a distance of **457.56 feet** to a calculated point;
3. **S 89°29'42" E**, a distance of **348.83 feet** to a calculated point in the northwesterly right-of-way of State Highway Loop 534;

THENCE: along and with the northwesterly right-of-way of State Highway Loop 534, the following (2) courses:

1. **S 12°03'55" W**, a distance of **374.60 feet** to a found TXDOT Type I monument;
2. **S 10°16'05" E**, a distance of **102.58 feet** to a found iron rod for a northeasterly corner of that called 35.05 acre tract of land as conveyed to Kerrville Independent School District and recorded January 25, 2019 in Document No. 19-00623 in the O.P.R.;

THENCE: along and with the northerly lines of said 35.05 acre tract, the following three (3) courses:

1. **N 62°48'40" W**, a distance of **881.63 feet** to a found **½" iron rod**;
2. **S 48°36'49" W**, a distance of **855.68 feet** to a found **½" iron rod**;
3. **S 03°36'49" W**, a distance of **697.79 feet** to a TXDOT Type II monument found in the northerly right-of-way of Olympic Drive and for the beginning of a non-tangent curve;

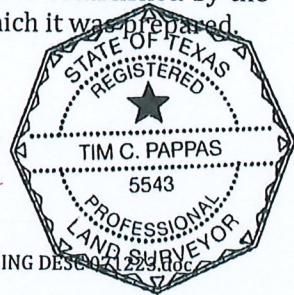
THENCE: along and with the northerly right-of-way of Olympic Drive, with the arc of said non-tangent curve to the **left** a distance of **425.20 feet**, having a radius of **640.00 feet**, a delta angle of **038°03'58"**, and a chord which bears **S 64°09'25" W**, a distance of **417.43 feet** to the **POINT OF BEGINNING** and containing **100.36 acres** more or less, and being described in accordance with a

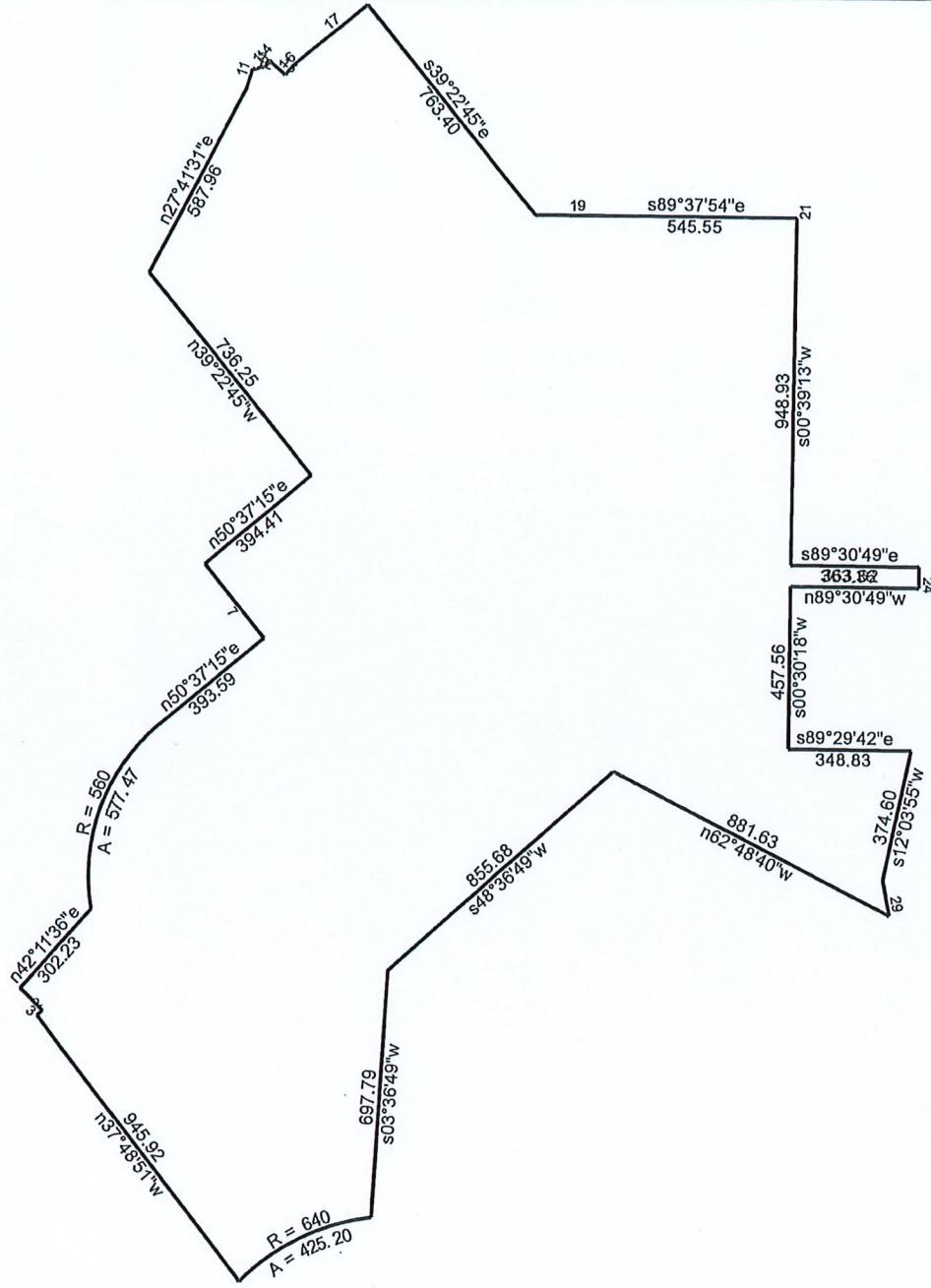
survey prepared by CED Surveying. Bearings are based on NAD83 Texas State Plane South Central Zone.

NOTE: This document was prepared under 22 TAC §663.21, and reflects the results of an on the ground survey performed by CED Engineers and Surveying, but is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Job No.: 20-118
Prepared by: KFW Surveying
Date: July 31, 2023
File: S:\Draw 2020\20-118 Kerrville Veterans Highway\DOCS\20-118 100.36 AC ZONING DES

1 AUG
2023





8/1/2023

Scale: 1 inch= 515 feet

File: 100.3158 AC.ndp

Job 20-118

Tract 1: 100.3158 Acres, Closure: s40.0544w 0.03 ft. (1/446603), Perimeter=12219 ft.

- 01 n37.4851w 945.92 ✓
- 02 n53.3609e 19.48 ✓
- 03 n44.4014w 90.44 ✓
- 04 n42.1136e 302.23 ✓
- 05 Rt, r=560.00, arc=577.47, chord=n19.2426e 549.32 ✓
- 06 n50.3715e 393.59 ✓
- 07 n39.2245w 270.00 ✓
- 08 n50.3715e 394.41 ✓
- 09 n39.2245w 736.25 ✓
- 10 n27.4131e 587.96 ✓
- 11 n17.5741e 60.00 ✓
- 12 s71.2116e 10.27 ✓
- 13 Rt, r=20.33, arc=25.39, chord=n72.5152e 23.77 ✓
- 14 s37.5552e 23.00 ✓
- 15 s50.3211e 60.00 ✓
- 16 Rt, r=370.00, arc=46.21, chord=n43.0228e 46.18 ✓
- 17 n50.4602e 260.73 ✓
- 18 s39.2245e 763.40 ✓
- 19 s89.3754e 196.74 ✓
- 20 s89.3754e 545.55 ✓
- 21 s01.4123w 30.15 ✓
- 22 s00.3913w 948.93 ✓
- 23 s89.3049e 363.36 ✓
- 24 s00.0002e 60.00 ✓
- 25 n89.3049w 363.62 ✓
- 26 s00.3018w 457.56 ✓
- 27 s89.2942e 348.83 ✓
- 28 s12.0355w 374.60 ✓
- 29 s10.1605e 102.58 ✓
- 30 n62.4840w 881.63 ✓
- 31 s48.3649w 855.68 ✓
- 32 s03.3649w 697.79 ✓
- 33 Lt, r=640.00, arc=425.20, chord=s64.0925w 417.42

EXHIBIT C
BOUNDARY MAP

Exhibit C

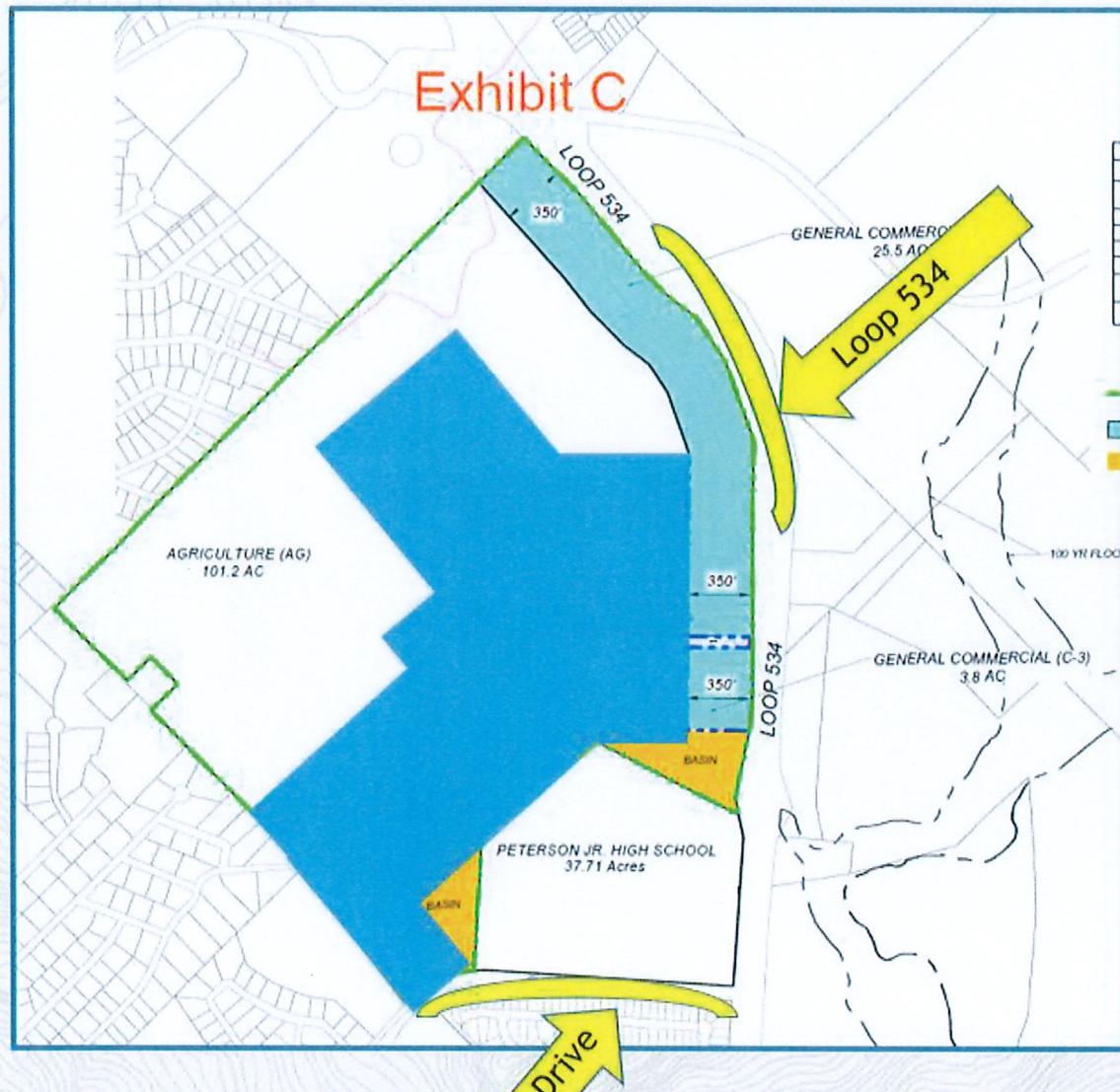


EXHIBIT D
PRELIMINARY PROJECT PLAN AND FINANCE PLAN



Preliminary Project and Finance Plan

Tax Increment Reinvestment Zone #2

City of Kerrville, Texas

OVERVIEW

- TIRZ Concept
- TIRZ Creation Process
- Proposed TIRZ #2
- Next Steps
- Questions

TAX INCREMENT REINVESTMENT ZONES (TIRZ)

- Tax Increment Financing (TIF) is a tool that incentivizes economic development within a Tax Increment Reinvestment Zone (TIRZ).
- Governed by Tax Code, Chapter 311
- Approximately 313 TIRZs have been created in the state of Texas
- Cities, alone or in partnership with other taxing units, can use this tool to pay for improvements in a zone so it will attract new development, facilitate investment, and bring excitement and energy to a designated area.

TAX INCREMENT REINVESTMENT ZONES (TIRZ)

- Taxing entities contribute ad valorem taxes received from incremental value increases on property within the TIRZ.
- A TIRZ can pay for:
 - cost of public works;
 - public improvements;
 - economic development programs (including public-private partnerships for attainable housing; or
 - other projects benefiting the zone

TIRZ INCREMENT

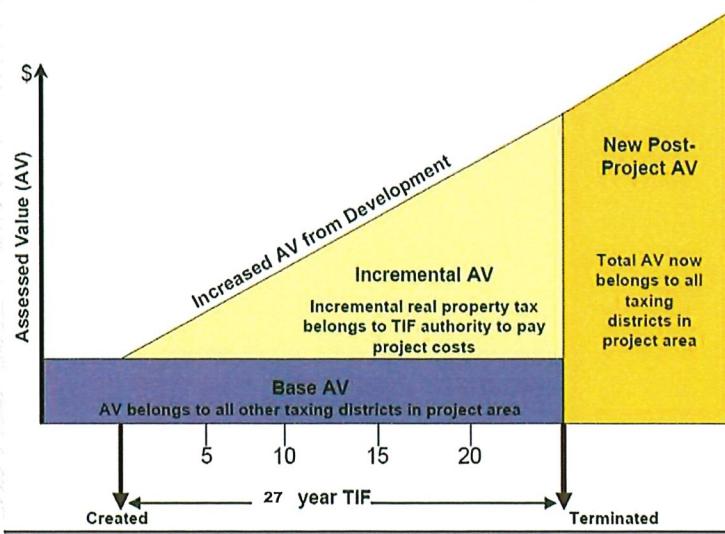
Two ways to create new tax increment:

1. New construction/investment; and/or
2. Annual appreciation of real property (i.e. "organic growth")



TAX INCREMENT REINVESTMENT ZONES (TIRZ)

TIF Assessed Value (AV) Over Project Life



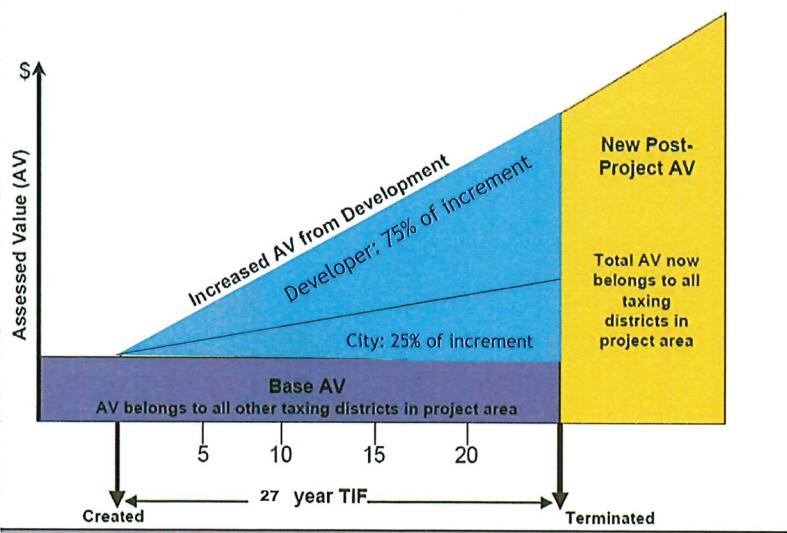
Taxing entity retained percentages are negotiated and can vary depending on purpose of TIRZ

TIRZ CREATION

- Chapter 311 outlines the various procedures for creating and amending a TIF. Two main documents:
 1. Creation of ordinance; and
 2. TIF Project and Financing Plan
- Ordinance establishes four key elements:
 - Boundary;
 - Term;
 - TIF Board; and
 - Preliminary Project and Financing Plan
- Upon TIF creation the Final Project and Financing Plan is approved by the TIF Board and then the City Council by separate ordinance

PROPOSED DISTRIBUTION TIRZ #2

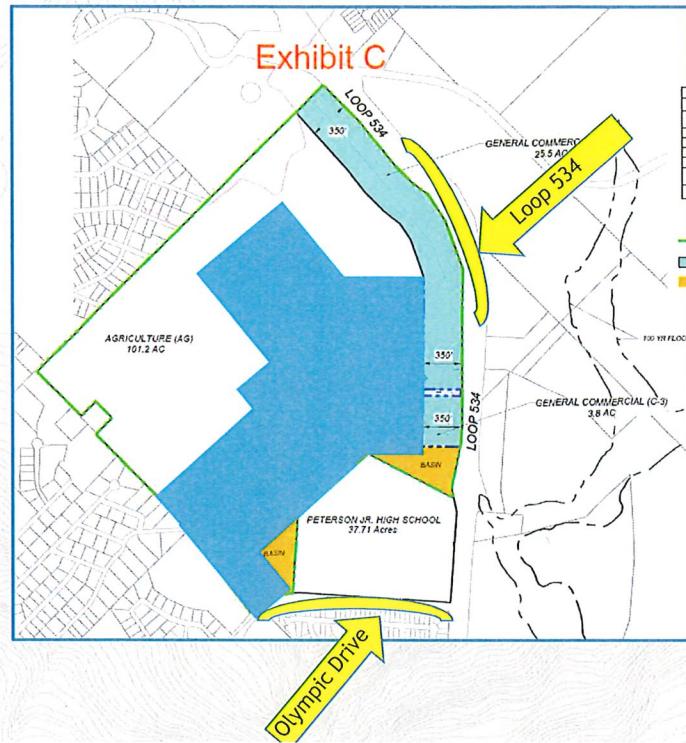
TIF Assessed Value (AV) Over Project Life



Taxing entity retained percentages are negotiated and can vary depending on purpose of TIRZ

TIRZ #2 - OVERVIEW

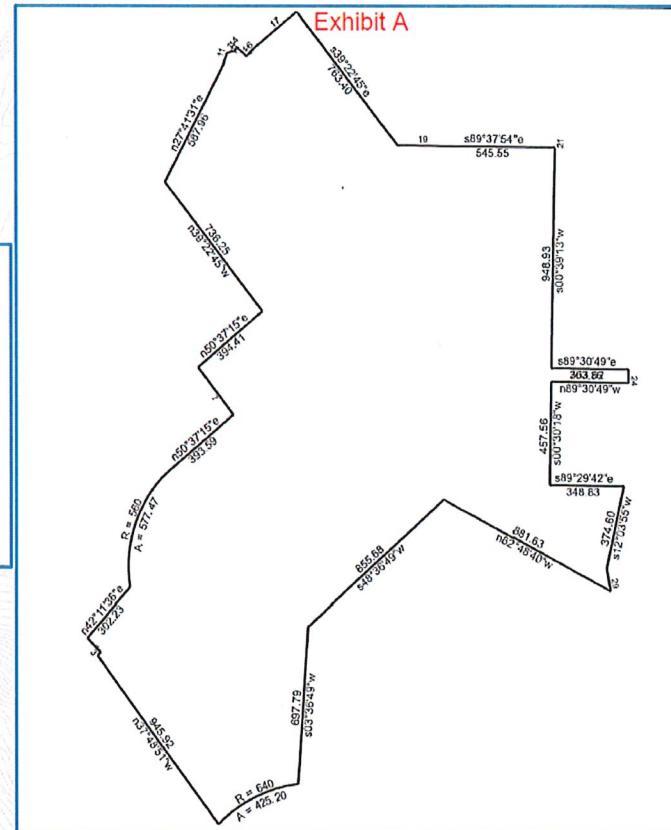
- The goal of Tax Increment Reinvestment Zone #2 (TIRZ #2) is to partially reimburse developer for infrastructure costs related to a new housing development. Development will be heavily focused on the construction of affordable housing.
 - Includes approximately 100 acres located north of Olympic Drive
 - Base Year - Tax Year 2023 (after annexation value)
 - 27 year term
 - City participation 75%



TIRZ #2 - BOUNDARIES

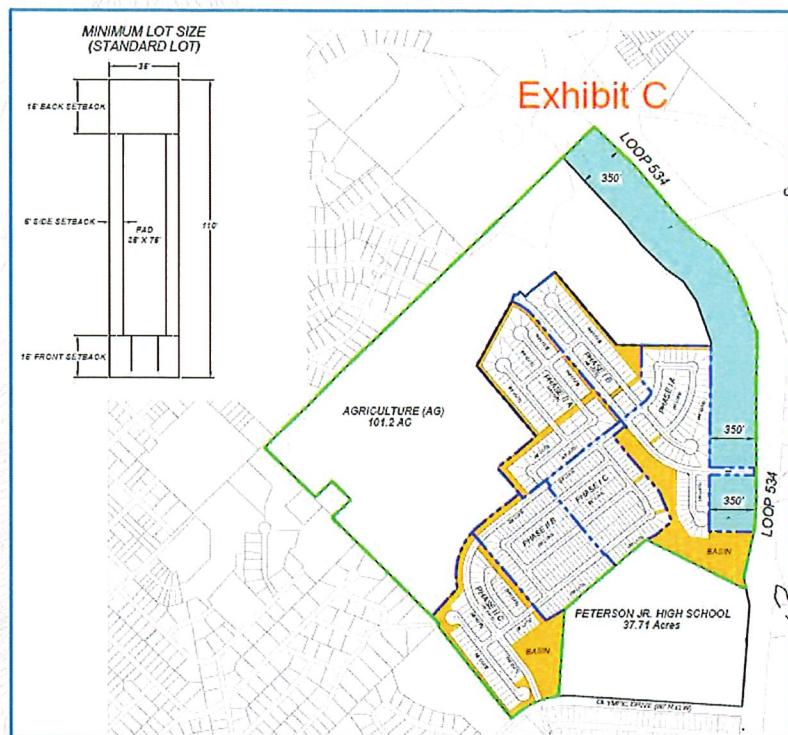
Tract 1: 100.3158 Acres, Closure: s40.0544w 0.03 ft, (1/416603), Perimeter=12219 ft.

01 n37.4851w 945.92 ✓	20 s89.3754a 545.55 ✓
02 n53.3609a 19.48 ✓	21 s01.4123w 30.15 ✓
03 n14.4014w 90.44 ✓	22 s00.3913w 948.93 ✓
04 n42.1135e 302.33 ✓	23 s89.3049a 353.38 ✓
05 RL_r=60.00, arc=577.47, chord=n10.2426e 549.32 ✓	24 s00.0002a 60.00 ✓
06 n50.3715e 393.59 ✓	25 n89.3049w 363.62 ✓
07 n39.2245w 270.00 ✓	26 s00.3018w 457.75 ✓
08 n36.3715e 394.41 ✓	27 s89.2912b 349.83 ✓
09 n39.2245w 736.25 ✓	28 s12.0355w 374.60 ✓
10 n27.4131e 587.96 ✓	29 s10.1650w 102.58 ✓
11 n17.5741e 60.00 ✓	30 n82.4804w 881.63 ✓
12 s71.2116a 10.27 ✓	31 s48.3649w 855.68 ✓
13 RL_r=20.33, arc=25.39, chord=n72.5152e 23.77 ✓	32 s03.3649w 897.79 ✓
14 n37.5552e 23.00 ✓	33 Lt_r=84.00, arc=425.20, chord=s64.0925w 417.42
15 s50.3211a 0.00 ✓	
16 RL_r=37.00, arc=46.21, chord=n43.0225e 46.18 ✓	
17 n50.4502e 260.73 ✓	
18 s89.2245e 763.40 ✓	
19 s89.3754e 196.74 ✓	



TIRZ #2 - PROPOSED DEVELOPMENT

- TIRZ #2 will promote the creation of attainable housing in alignment with the Kerrville 2050 Comprehensive Plan
- Lennar Homes is committed to the construction of 500 single family residences
 - Minimum lot size 35'
 - Majority of homes not to exceed pricing limits set by HUD and TDHCA
 - Current limit in Kerr County \$275,000



TIRZ #2 - PRELIMINARY FINANCING PLAN



City of Kerrville TIRZ

75% of TIRZ tax collections to Developer / 25% of TIRZ tax collections to City

Scenario	Scenario Description	Estimated Base Home Value ⁽¹⁾	Home value to Assessed Value ⁽³⁾	Annual Assessed Valuation Growth ⁽⁴⁾	Projected Cumulative Revenues in 2052		Incremental Difference Over Base	
					Developer (75%)	City (25%)	Developer	City
1	Base Case ⁽¹⁾	\$285,000	95%	1%	\$12,238,098	\$4,079,356	\$0	\$0
2	Base Case with no exemptions applied to home value	\$285,000	100%	1%	\$12,882,209	\$4,294,070	\$644,110	\$214,703
3	Base Case with Annual AV Growth increased to 3%	\$285,000	95%	3%	\$15,608,568	\$5,202,856	\$3,370,470	\$1,123,490
4	Base Case with Increased Estimated Base Home Value	\$313,500	95%	1%	\$13,461,908	\$4,457,303	\$1,223,810	\$407,937

(1) Assumes the tax rate remains constant throughout the life of the TIRZ. Assumes a total of 550 homes built over 8 years with 72 built per year.

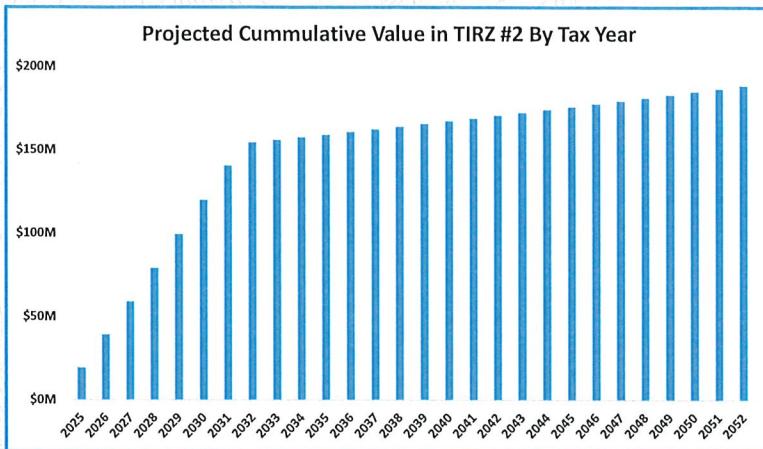
(2) Estimated average base selling price of Lennar homes built within the TIRZ.

(3) Represents the percentage of home value not subject to exemptions such as the Over 65 and Disabled Veterans, which reduce the taxable value of properties.

(4) Represents the annual growth rate of the taxable assessed valuation within the TIRZ.

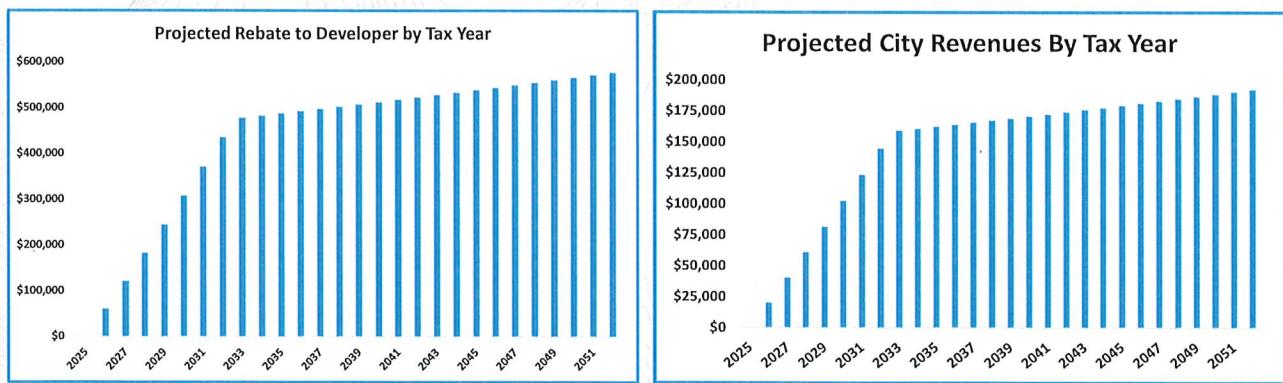
PRELIMINARY / SUBJECT TO CHANGE - For discussion purposes only.

TIRZ #2 - PRELIMINARY FINANCING PLAN



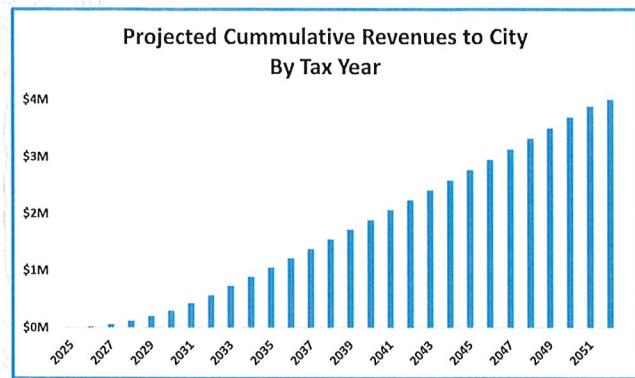
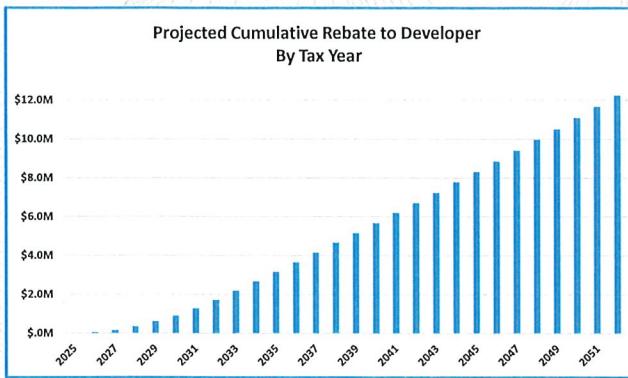
- Assumptions:
 - Tax Year 2023 (FY2024) is base year
 - Property annexed in FY2024
 - Property value (undeveloped) will not be included in the TIRZ rebate
 - Actual housing development will be included in TIRZ increment (from KCAD roll)

TIRZ #2 - PRELIMINARY FINANCING PLAN



- Assumptions:
 - Infrastructure in FY2024 & FY2025
 - Construction of homes FY2025 & FY2026
 - First housing units on tax roll FY2026
 - Full development by FY3032-FY3033
 - Increase to developer after build out will increase only due to growth in value
 - Rebate projected to begin FY2026 at \$60K and end FY2053 at \$577K
 - Cumulative rebate projected to total \$12.3M

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TIRZ #2 - PRELIMINARY FINANCING PLAN

Projected Developer Tax Revenues						
FYE 9/30	Taxable Assessed Valuation ⁽¹⁾	City M&O Tax Rate				
		Growth Rate	Incremental Growth in Assessed Value	\$0.418500 Proj Revs ⁽²⁾	75% Assessed Value	Total Projected Revenues
2025	\$ -	-	\$ -	\$ -	\$ -	\$ -
2026	19,494,000	100.00%	19,494,000	60,269	60,269	60,269
2027	39,182,940	101.000%	19,688,940	121,141	121,141	181,410
2028	59,068,769	50.751%	19,885,829	182,621	182,621	364,031
2029	79,153,457	34.002%	20,084,688	244,716	244,716	608,747
2030	99,438,992	25.628%	20,285,535	307,432	307,432	916,179
2031	119,927,382	20.604%	20,488,390	370,776	370,776	1,286,955
2032	140,620,655	17.255%	20,693,274	434,752	434,752	1,721,708
2033	154,481,362	9.857%	13,860,707	477,605	477,605	2,199,313
2034	156,028,176	1.000%	1,544,814	482,381	482,381	2,681,694
2035	157,586,437	1.000%	1,560,262	487,205	487,205	3,168,899
2036	159,162,303	1.000%	1,575,864	492,077	492,077	3,660,976
2037	160,753,925	1.000%	1,591,623	496,998	496,998	4,157,974
2038	162,361,464	1.000%	1,607,539	501,968	501,968	4,659,942
2039	163,985,079	1.000%	1,623,615	506,988	506,988	5,166,930
2040	165,624,929	1.000%	1,639,851	512,057	512,057	5,678,987
2041	167,281,179	1.000%	1,656,249	517,178	517,178	6,196,165
2042	168,953,990	1.000%	1,672,812	522,350	522,350	6,718,515
2043	170,643,530	1.000%	1,689,540	527,573	527,573	7,246,088
2044	172,349,966	1.000%	1,705,435	532,849	532,849	7,778,937
2045	174,073,465	1.000%	1,723,500	538,177	538,177	8,317,115
2046	175,814,200	1.000%	1,740,735	543,559	543,559	8,860,674
2047	177,572,342	1.000%	1,758,142	548,995	548,995	9,409,669
2048	179,348,056	1.000%	1,775,723	554,485	554,485	9,964,153
2049	181,141,546	1.000%	1,793,481	560,030	560,030	10,524,183
2050	182,952,962	1.000%	1,811,415	565,630	565,630	11,089,813
2051	184,782,491	1.000%	1,829,530	571,286	571,286	11,661,099
2052	186,630,316	1.000%	1,847,825	576,999	576,999	12,238,098

Projected City Tax Revenues						
FYE 9/30	Taxable Assessed Valuation ⁽¹⁾	City M&O Tax Rate				
		Growth Rate	Incremental Growth in Assessed Value	\$0.418500 Proj Revs ⁽²⁾	75% Assessed Value	Total Projected Revenues
2025	\$ -	-	\$ -	\$ -	\$ -	\$ -
2026	19,494,000	101.000%	19,688,940	20,090	20,090	20,090
2027	39,182,940	101.000%	19,885,829	40,380	40,380	60,470
2028	59,068,769	50.751%	20,084,688	60,874	60,874	121,344
2029	79,153,457	34.002%	20,084,688	81,572	81,572	202,916
2030	99,438,992	25.628%	20,285,535	102,477	102,477	305,393
2031	119,927,382	20.604%	20,488,390	123,592	123,592	428,985
2032	140,620,655	17.255%	20,693,274	144,917	144,917	573,903
2033	154,481,362	9.857%	13,860,707	159,202	159,202	733,104
2034	156,028,176	1.000%	1,544,814	160,794	160,794	1,722,310
2035	157,586,437	1.000%	1,560,262	162,402	162,402	1,056,300
2036	159,162,303	1.000%	1,575,864	164,026	164,026	1,220,325
2037	160,753,925	1.000%	1,591,623	165,666	165,666	1,385,991
2038	162,361,464	1.000%	1,607,539	167,323	167,323	1,553,314
2039	163,985,079	0.000%	1,623,615	168,996	168,996	1,722,310
2040	165,624,929	1.000%	1,639,851	170,686	170,686	1,892,996
2041	167,281,179	1.000%	1,656,249	172,393	172,393	2,065,388
2042	168,953,990	1.000%	1,672,812	174,117	174,117	2,239,505
2043	170,643,530	1.000%	1,689,540	175,858	175,858	2,415,363
2044	172,349,966	1.000%	1,705,435	177,616	177,616	2,592,979
2045	174,073,465	1.000%	1,723,500	179,392	179,392	2,772,372
2046	175,814,200	1.000%	1,740,735	181,186	181,186	2,953,558
2047	177,572,342	1.000%	1,758,142	182,998	182,998	3,136,556
2048	179,348,065	1.000%	1,775,723	184,828	184,828	3,321,384
2049	181,141,546	1.000%	1,793,481	186,677	186,677	3,508,061
2050	182,952,962	1.000%	1,811,415	188,543	188,543	3,696,604
2051	184,782,491	1.000%	1,829,530	190,429	190,429	3,887,033
2052	186,630,316	1.000%	1,847,825	192,333	192,333	4,079,366

Footnotes:

(1) Taxable Assessed Values Provided by Developer.

(2) Does not calculate Impact of No New Tax Revenues.

(3) Estimated Collection Rate at: 98.5%

Footnotes:

(1) Taxable Assessed Values Provided by Developer.

(2) Does not calculate Impact of No New Tax Revenues.

(3) Estimated Collection Rate at: 98.5%

NEXT STEPS FOR CREATION

- City Council Consider Creation Ordinance
 - First Reading and Public Hearing (October 10th)
 - Second Reading (October 26th)
- Creation ordinance establishes four key elements:
 - Boundary;
 - Term;
 - City Participation
 - TIF Board; and
 - Preliminary Project and Financing Plan
- Upon TIF creation the Final Project and Financing Plan is approved by the TIF Board and then the City Council by separate ordinance called the Project and Financing Plan Ordinance.

QUESTIONS



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

SUBJECT: Request for variance from distance requirement applicable to sale of alcoholic beverages per Section 10-3, Code of Ordinances; for the property addressed as 2100 E. Main Street (The Hill Winery, Schreiner University).

AGENDA DATE OF: November 14, **DATE SUBMITTED:** November 3, 2023
2023

SUBMITTED BY: Drew Paxton, Planning Director

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:

An applicant (The Hill Winery, 2100 E. Main St.) seeks a variance to the distance requirement applicable to the sale of alcoholic beverages (see Sec. 10-3, City Code). Applicant seeks to lessen the distance requirement from an existing "public and private school."

This request comes from one of Schreiner University's partners to open a winery and tasting room on Schreiner University's campus. This is a separate parcel from the main campus and is within 300 feet of both Schreiner University (a private school) and Tom Daniels Elementary (a public school). As per section 10-3 of the City of Kerrville's Code of Ordinances, the applicant is required to obtain a variance from the City Council before approval of a TABC license.

Access to the winery and tasting room will be from East Main Street, near Schreiner's campus and the opposite side of the property from Tom Daniels Elementary.

Section 10-3

(g) Variances to distance requirement. A property owner may apply to City Council for a variance from the distance limitations provided by this section. The property owner must file a request for variance on a form provided by the city, pay the applicable fee, and specify the grounds supporting the variance as specified below. Upon submission of an

administratively complete application, the city manager or designee shall then place the variance application on a meeting agenda. City council may allow a variance to this section if it determines that the enforcement of the regulation in a particular circumstance:

- (1) Is not in the best interests of the public;
- (2) Constitutes waste or inefficient use of land or other resources;
- (3) Creates an undue hardship on the applicant for a permit or license;
- (4) Does not serve its intended purpose;
- (5) Is not effective or necessary; or
- (6) For any other reason the city council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

After a public hearing, the City Council may grant a variance according to the criteria listed above in Section 10-3(g).

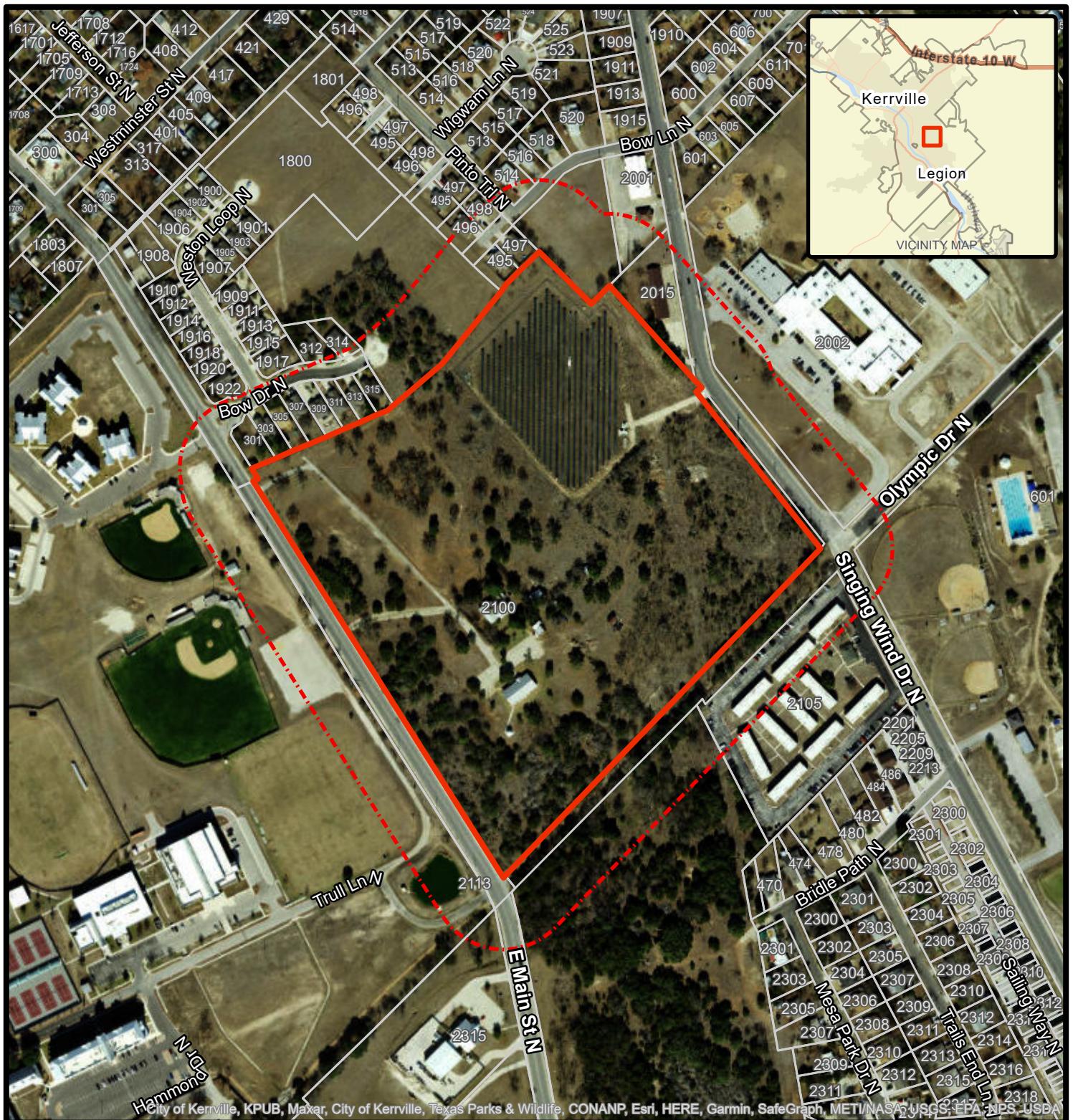
RECOMMENDED ACTION:

Grant a variance by Council to allow the license at the location within 300 feet of an elementary school.

ATTACHMENTS:

[20231114_Map_The Hills Location.pdf](#)

[20231114_SU_Alcohol_Sales_Variance_Exhibit_A.pdf](#)



Location Map

Case # 2023-042

Location:

2100 E Main St N

Legend

- Subject Properties
- 200 Feet Notification Area



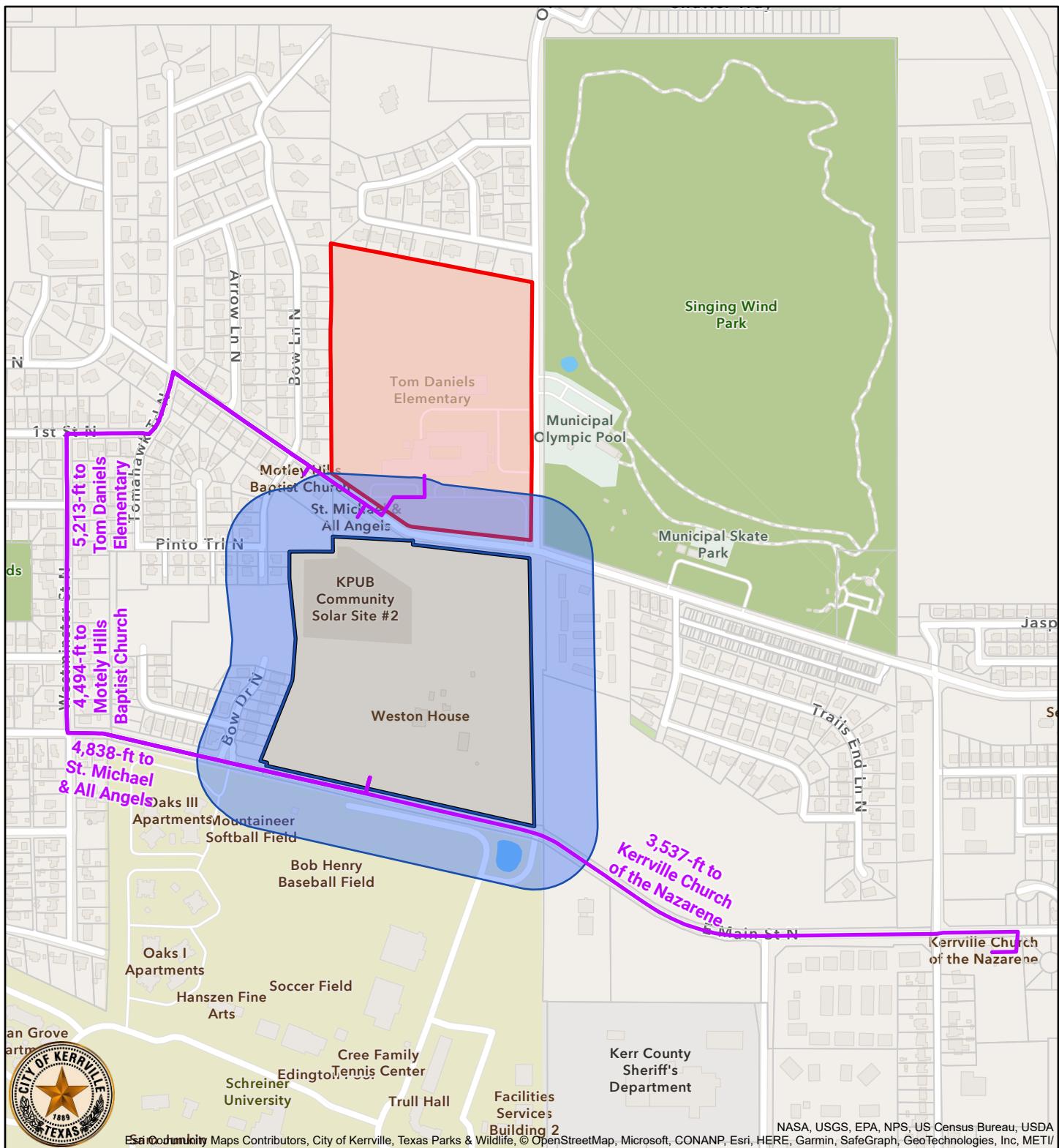
0 125 250 500

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.

10/25/2023

EXHIBIT A



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It does not represent an on-the-ground survey and represents only approximate relative locations.



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

SUBJECT:

Ordinance No. 2023-31. An Ordinance amending Ordinance No. 2003-08, which created a Planned Development District on an approximate 798.7 acre tract of land generally located northeast of the intersection of State Highway 16 and Interstate Highway 10; said amendments to update the concept plan and the land use table included within Ordinance No. 2003-08, to combine various residential lot sizes into a single area (parcel), and to alter the layout of the golf course area and commercial areas; establishing a penalty and effective date; and providing other matters relating to the subject.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** October 26, 2023
2023

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 H - Housing

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Proposal: Amend the Planned Development District (Zoning) District Ordinance 2003-08 ("PDD") by re-arranging several commercial areas and varying residential lot sizes from the original PDD Concept Plan. The amendments also modernize some of the development requirements to align with the current zoning code, as described below.

Procedural Requirements: The City, in accordance with state law, mailed 27 letters on 9/21/2023 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 9/14/2023. In addition, public hearing notification signs were posted on the property frontage on 9/22/23. At the time of drafting this agenda bill, no written public comments have been received.

Staff Analysis and Recommendation

Consistency with the Kerrville 2050 Comprehensive Plan: A portion of the property and surrounding area are within Strategic Catalyst Area #6 (see attached map), which focuses on the Interstate Highway 10 and State Highway 16 intersection.

"This area, bisected by Interstate 10, features a number of amenities close to the exit ramps, particularly regional and community-serving commercial businesses. Expansive residential and industrial uses are notably present in the northwestern quadrant of the area.

Defining Characteristics: SCA 6 is centered around the I-10/SH 16 intersection. This corridor functions as the premiere gateway to the community for visitors. Quinlin Creek is located here and unique topography is present on all sides.

Allowable Place Types: Rural Living, Neighborhood Residential, Preservation Residential, Transitional Residential, Regional Commercial, Agriculture and Outdoor Tourism

Place Type Distinctions: Regional Commercial place types are suitable close to the primary intersection. Transitional Residential housing is appropriate close to major roadways while Preservation Residential, Neighborhood Residential, and Rural Living place types are more suited to topographically challenging areas. Maintenance of the iconic hills and creeks is paramount." (Kerrville 2050, pg. 66)

The existing PDD is generally consistent with the Future Land Use Plan and the goals contained within the Kerrville 2050 Plan. Since the proposed PDD amendments do not make any substantive changes to the allowable land uses or the land use layout on the concept plan, the request is consistent with the Kerrville 2050 Plan.

Summary: As stated, the proposed amendments are largely consistent with the previously approved PDD. The overall density of the development is commensurate with the original concept plan. The number of residential units matches the original concept plan. The new concept plan blends the various residential lot sizes throughout the development rather than isolating each lot size in individual blocks as the previous plan proposed. The golf course design is more aligned with the actual topography. The applicant has redesigned some of the golf course holes. The commercial site boundaries have been adjusted to fit the amended golf course payout, although the overall acreage of the commercial is similar. The new concept plan includes a minor addition of 4.43 acres (Parcel 14) for commercial use, set within the neighborhood. A portion of the large one acre lots have been removed and replaced with more traditional sized lots and multi-family, however, the total number of residential units (438) remains the same.

The land use table has been updated from the previous zoning code reference to the current zoning code. The setbacks and screening requirements have also been updated to the current code standards, for example, the larger residential lots will now have a 25 foot front setback instead of 45 feet. The signage standards also reference the current sign code with the exception that the hotel site is allowed one off-premise sign on the nearby commercial site that will not count against the commercial site's signage (Parcel 1.2 or Parcel 2). As per the proposed PDD, the developer must bring a final sign package back to the Planning and Zoning Commission for final approval.

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: PDD (Zoning) Ordinance 2003-08 (attached)

Existing Land Uses: Vacant land

Direction: North

Current Zoning: N/A (outside City's limits)

Existing Land Uses: Residential

Direction: South

Current Zoning: N/A (outside City's limits)

Existing Land Uses: I-10 and vacant land

Direction: East

Current Zoning: N/A (outside City's limits)

Existing Land Uses: Vacant land

Direction: West

Current Zoning: PDD Zoning Ordinance 20-05

Existing Land Uses: USDA Facility

Thoroughfare Plan: The property has access to Highway 16, Fredericksburg Road, a principal arterial.

Traffic Impact: To be determined upon subdivision (plat) approval.

Parking: To be determined upon development and building plan application.

Recommendation: Based on the consistency with the Kerrville 2050 Plan and the similar density and land uses from the original PDD, staff recommends approval of the amendments specified within Ordinance No. 2023-31, which will amend Ordinance No. 2003-08.

On October 5th, the Planning and Zoning Commission recommended the zoning amendments for approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2023-31 on first reading.

ATTACHMENTS:

[20231114_Ord 2023-31 Zone change PDD Hwy16 & I10.pdf](#)
[20231114_Map_of_location.pdf](#)
[20231114_Master Plan 2003 Whiskey_Springs_PDD.pdf](#)
[20231114_K2050 Catalyst Areas Whiskey Springs.pdf](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2023-31**

**AN ORDINANCE AMENDING ORDINANCE NO. 2003-08, WHICH
CREATED A PLANNED DEVELOPMENT DISTRICT ON AN
APPROXIMATE 798.7 ACRE TRACT OF LAND GENERALLY
LOCATED NORTHEAST OF THE INTERSECTION OF STATE
HIGHWAY 16 AND INTERSTATE HIGHWAY 10; SAID
AMENDMENTS TO UPDATE THE CONCEPT PLAN AND THE
LAND USE TABLE INCLUDED WITHIN ORDINANCE NO. 2003-
08, TO COMBINE VARIOUS RESIDENTIAL LOT SIZES INTO A
SINGLE AREA (PARCEL), AND TO ALTER THE LAYOUT OF
THE GOLF COURSE AREA AND COMMERCIAL AREAS;
ESTABLISHING A PENALTY AND EFFECTIVE DATE; AND
PROVIDING OTHER MATTERS RELATING TO THE SUBJECT**

WHEREAS, on March 25, 2003, City Council approved Ordinance No. 2003-08 to create a Planned Development (Zoning) District ("PDD") on an approximate 798.7 acre tract of land, generally located northeast of the intersection of State Highway 16 and Interstate Highway 10 (the "Property"), to allow for a mixed use development with both residential and commercial uses, to include both a hotel and golf course, such development subject to a concept plan and land use table applicable to the PDD; and

WHEREAS, a representative of the owner of the Property has requested that the City Council amend the PDD to in part, update the concept plan and land use table to align with the City's current Zoning Code (Ch. 60, Code of Ordinances); and

WHEREAS, the Planning and Zoning Commission and City Council, in compliance with the laws of the State of Texas and the ordinances of the City of Kerrville, have given requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, City Council, in the exercise of its legislative discretion, has concluded that the Zoning Code should be amended as provided herein;

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

SECTION ONE. Ordinance No. 2003-08 is amended as follows with deletions indicated by red, strikeout (~~deleted~~) and additions indicated by blue, underline (addition) as follows:

"SECTION TWO.

- A. **Planned Development District Areas:** The Planned Development District shall be generally divided into ~~18~~ 17 areas for purposes of establishing the use and development regulations for each tract, said divisions being substantially as shown on **Exhibit "B,"** attached hereto and incorporated herein by reference. References in this Ordinance to **"Area #R", "Area #C", "Parcel #"** or other specified areas, shall mean those enumerated area as indicated on **Exhibit "B."**
- B. **Residential Area Development Regulations:** ~~Areas 1R, 2R, 3A R, 3B R, 3C R, 4R, 5R, 6A R, 6B R, and 6C R~~ Parcels 4, 7-13, 15, and 17 (sometimes collectively referred to herein as "the Residential Areas") shall be developed in accordance with the following regulations:
1. **Permitted and Conditional Uses:** The Residential Areas may only be developed and used for the following purposes:
 - a. All of the Residential Areas may be developed with Dwellings, Single Family Detached and/or zero-lot line Dwellings. All residential areas may have a mix of lot sizes in accordance with the Concept Plan.
 - b. ~~Areas 1R and 2R may be developed with zero-lot line Dwellings, Single Family Detached~~ Parcel 8 may include multi-family residential pursuant to the Concept Plan.
 - c. ~~Areas 6A R, 6B R, and 6C R~~ All lots 1 acre or more may be developed with Dwellings, Single Family Detached with one attached or detached apartment subject to the following conditions:
 - i. The apartment may not be larger than one-half the floor area of the main house, excluding the area of any garage or carport attached to the apartment;
 - ii. The property shall be developed with three (3) or more off-street parking spaces; and
 - iii. The apartment shall comply with the provisions of Paragraph B.2, below, as if it were the main structure and not an accessory building.
 - d. Property within the Residential Areas may be developed with an Elementary School ~~upon approval of a Conditional~~

~~Use Permit pursuant to Art. 11 I-13 of the Code of Ordinances.~~

- e. ~~Notwithstanding the prohibitions of Article 11 I-4 (g.) of the Code of Ordinances, pedestrian Pedestrian~~ and golf cart access to the Golf Course Area may emanate from and cross properties developed in the Residential Areas.

2. **Lot Area, Lot Width, Building Height, and Setback Regulations:** No lot in the Residential Areas shall exceed 4.5 acres in area unless such lot is developed in such a manner as to be served by public water and sanitary sewer. The minimum lot area, minimum lot width, maximum building height, and minimum building setback for properties located in the Residential Areas shall be in accordance with the following table:

Development Standard	<u>All Residential Areas</u>			
	1R & 2R	3A-R, 3B-R, 3C-R & 4R	5R	6A-R, 6B-R, & 6C-R
Minimum Lot Area (square feet)	4,000	13,500	20,000	43,560
Minimum Lot Width (linear feet)	Zero-lot line development = 40 Not zero-lot line development = 50	80	100	150
Maximum Building Height (linear feet)	40	50	50	50
Front Yard Setback (linear feet)	First Floor = 15 Above First Floor = 20	30-25	35-25	45-25
Front Yard Setback of garage entry (linear feet)	Front entry garage = 20 Side entry garage = 15	30-25	35-25	45-25
Rear Yard Setback (linear feet)	15	30-25	35-25	35-25
Side Yard Setback-not a corner lot or zero lot line development (linear feet)	5	15-5	15-5	17-5
Side Yard Setback- corner lot other than zero lot line development (linear feet)	15	25	25	25

Side Yard Setback for non-zero lot line side of zero lot line development (linear feet)	Corner lot = 10	N/A	N/A	N/A
	Not corner lot = 15			

⋮

4. **Landscaping:** Landscaping of properties in the Residential Areas shall comply all landscaping regulations for residential properties adopted by the City and in effect at the time of filing of the application for a building permit for the property being developed and shall comply with the following regulations:

- a. Planting materials planted within the Commercial Areas as described in Exhibit “B”, shall be on the list of recommended plants set forth in the most recent edition of Recommended Plants for the Kerrville Area published by the City at the time of planting; provided, however, no variety of St. Augustine Grass (*Stenotaphrum secundatum* (Walter) Kuntze) may be planted at any location within the property described in Exhibit “B”, above, after the effective date of this Ordinance.
 - b. Landscaping shall be waterwise or xeriscape landscaping.
 - c. Lots less than 1 acre in size shall be limited to 50% turf grass. Lots 1 acre or more in size shall be limited to 30% turf grass.
 - d. Preservation of the native landscape is encouraged.
- ⋮

- C. **Commercial Area Development Regulations:** Areas 1C, 2C, 3A-C, 3B-C and 4C Parcels 1.1, 1.2, 2, 3, 5, 6, 14 (sometimes collectively referred to herein as “the Commercial Areas”) shall be developed in accordance with the following regulations:
- ⋮

2. **Special Height Regulations:** Notwithstanding Paragraph C.1., above, buildings constructed in Area 4C Parcels 5 and 6 and used for hotel or

professional office purposes may be constructed with a maximum height of 75 feet.

3. **Setback Regulations:** The Commercial Areas shall be developed with the following minimum building setbacks:

- a. Front Yard Setback = ~~50~~ 25 feet.
- b. Rear Yard Setback = 10 feet.
- c. Side Yard Setback (not a corner lot) = ~~10~~ 5 feet.
- d. Side Yard Setback (corner lot) = ~~50~~ 15 feet.

⋮

7. **Development Site Plan Required:** ~~No building permit shall be issued for property in the Commercial Areas unless and until the City's Planning and Zoning Commission and the City Council have approved a development site plan for the property for which such permit is sought in accordance with Art. 11 I 15(e.)(9) of the Code of Ordinances. In addition to the elements required by Art. 11 I 15(e.)(9), the development site plan shall include both a detailed landscape plan that meets the standards of the provisions herein and is prepared by a licensed landscape architect and a detailed irrigation plan which complies with all state and local laws and regulations and is prepared by a licensed irrigator. Each development site plan shall be adopted as and shall constitute an amendment to this Ordinance.~~

8. **Permitted and Conditional Uses:** The uses that are permitted as a matter of right or permitted upon issuance of a conditional use permit in the Commercial Areas are indicated by the letters "P" and "C", respectively, in the following table: Land Use Table as listed for the C-3 (zoning) district. In addition, Parcels 5 and 6 shall be limited to a Hotel, Conference Center, and associated uses.

NOTE: *The table following this subsection in Ord. 2003-08 is deleted.*

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12. **Screening of Property:** The owner or developer of property located in the Commercial Areas ~~to be developed with uses in Use Categories 3 through 9, inclusive, as defined in Article 11 I 17(a.) of the Code of Ordinances,~~ shall construct and maintain a screening wall or fence along the boundary of the property that is consistent with Section 60-51(c)(6) of the Code of Ordinances.

- a. abutting property located in the Residential Areas; or
- b. abutting property which is developed with a use in a more restrictive use category, regardless of whether:
 - i. the property being developed and the abutting property are in the same or different zoning districts; or
 - ii. the less restrictive use will occur in a newly constructed building or in an existing building previously used for purposes in a more restrictive use category; or
 - iii. developed with a use in a less restrictive use category than the abutting property and the owner or developer desires to expand such less restrictive use by more than fifty percent of the building or storage area on the property.

13. ~~Type of Screening Required:~~ For purposes of Paragraph C.12., above, the following table will determine whether Type "A" or Type "B" Screening shall be constructed when screening is required:

NOTE: *The table following this subsection in Ord. 2003-08 is deleted.*

14. ~~Type "A" and Type "B" Screening Defined:~~ For purposes of Paragraph C.13. above, the phrases "Type 'A' Screening" and "Type 'B' Screening" shall have the same meaning as set forth in Article 11-I-18 of the Code of Ordinances.

15. ~~Screening on Site Plan:~~ In the event of a conflict between the location and/or construction of screening on an approved development site plan and screening that would otherwise be required by operation of Paragraphs C.12. and C.13. above, the screening requirements set forth on the approved development site plan shall be controlling.

⋮

D. Golf Course Area:

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2. Ancillary Uses:

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- b. A pro shop shall be constructed in the Clubhouse Area, either as a separate building or as part of the clubhouse, subject to the following:
- i. ~~The pro shop shall be constructed concurrently with the construction of the golf course.~~
 - ii. ~~Play on the golf course may not commence until a certificate of occupancy has been obtained from the City for the pro shop.~~
 - iii. If built as a separate structure, the construction of the pro shop shall comply with the building standards set forth in Paragraph F., below.
 - iv. The pro shop may ~~not~~ be operated from a temporary structure, ~~manufactured home, modular/industrialized home, trailer, or any facility or structure of any construction~~ located on property not within the Clubhouse Area. Any temporary structure shall be subject to all the City's building and development codes for temporary structures and must receive a permit from the City.
- ⋮

5. **Outdoor Lighting:** Outdoor lights installed in the Golf Course Area shall comply with Chapter 26, Article X of the Code of Ordinances and shall be located, shielded, and aimed so as not to allow an unshielded light or illumination source to cause glare or direct light to be viewed from any street or adjacent properties. Outdoor lights for golf course driving ranges shall not be used during the period beginning at 10:00 p.m. and ending at 6:00 a.m. the following morning.
- ⋮

7. **Golf Course and Landscaped areas:** All landscaped areas, including the golf course, shall not be irrigated with potable water.

78. **Landscaping Requirements:** The landscaping in the Clubhouse Area of the Golf Course Area shall comply with the following:

- a. Planting materials planted within the Commercial Areas as described in Exhibit "B", shall be on the list of recommended plants set forth in the most recent edition of Recommended Plants for the

Kerrville Area published by the City at the time of planting; provided, however, no variety of St. Augustine Grass (Stenotaphrum secundatum (Walter) Kuntze) may be planted at any location within the property described in Exhibit "B", above, after the effective date of this Ordinance.

- b. Landscaping shall be waterwise or xeriscape landscaping.
 - ac. A landscaped edge not less than 25 feet wide, exclusive of street rights-of-way, shall be planted along every street within the Clubhouse Area.

89. **Setback Regulations:** Except for storage and materials buildings as set forth in Paragraph D.3., above, the Golf Course Area shall be developed with the following minimum building setbacks:

- a. Front Yard Setback = 50 25 feet.
 - b. Rear Yard Setback = 10 feet.
 - c. Side Yard Setback (not a corner lot) = 10 5 feet.
 - d. Side Yard Setback (corner lot) = 50 15 feet.

11. No building permit shall be issued for property in the Golf Course Area unless and until the City's Planning and Zoning Commission and the City Council have approved a development site plan for the property for which such permit is sought in accordance with Art. 11-1-15(e.)(9) of the Code of Ordinances. In addition to the elements required by Art. 11-1-15(e.)(9), the development site plan shall include a detailed landscape plan and a detailed irrigation plan that meets the standards of the provisions herein, prepared by a licensed landscape architect and a licensed irrigator. Each development site plan shall be adopted as and shall constitute an amendment to this Ordinance.

- D. Hotel Area:** The area marked “**HCC**” Parcels 5 and 6 on **Exhibit “B,”** hereto (hereafter called the “Hotel Area”) may be developed for purpose of operating a hotel and conference center subject to the following:

 - 1. Development Site Plan Required:** No building permit shall be issued for property in the Hotel Area unless and until the City’s Planning and Zoning Commission and City Council have approved a development site plan for

~~the property for which such permit is sought in accordance with Art. 11-I-15(e.)(9) of the Code of Ordinances. In addition to the elements required by Art. 11-I-15(e.)(9), the development site plan shall include both a detailed landscape plan that meets the standards of the provisions herein and is prepared by a licensed landscape architect and a detailed irrigation plan which complies with all state and local laws and regulations and is prepared by a licensed irrigator. Each development site plan shall be adopted as and shall constitute an amendment to this Ordinance.~~

5. **Minimum Hotel Size and Amenities:** The hotel constructed in the Hotel Area shall comply with the following minimum requirements:

- c. The following amenities shall be provided and available to guests of the hotel and conference center:
- iv. ~~Multimedia equipment shall be available on-site to multiple parties to include audio amplification, video (all formats), data (including dial-up), telephone conferencing, and projection devices (including, but not limited to, overhead, photographic slides, and personal computer projection systems) with large projection screens.~~

H. **Signs:** The design, installation, location, operation, and maintenance of signs installed in the Commercial Areas, Golf Course Area, and Hotel Area shall comply with the City's ordinances regulating signs existing at the time of installation, ~~except as follows:~~

NOTE: *All subsections following this subsection in Ord. 2003-08 (H.1. – 4) is deleted.*

I. ~~Sign Plan: In the event of a conflict between a sign plan approved by the City Council in the same manner as an amendment to this Ordinance and Section H., above, and/or the City's current sign regulations, the provisions of the approved sign plan shall prevail unless otherwise expressly stated in the ordinance or~~

~~resolution approving said sign plan. A sign plan may be approved concurrently with or separately from the development site plan.~~

J1. **Open Space Area:** The area marked “OS” on **Exhibit “B,”** hereto (hereafter referred to as “Open Space Area”) may be used for passive recreational uses such as hike/bike trails, picnic area, nature conservancy, birding trails, or other similar and related activities. Construction within the Open Space Area shall comply with the following:

1. Hike/bike trails:

c. if developed with lighting, lights shall comply with Chapter 26 of the Code of Ordinances and be low intensity and located, shielded, and aimed so as not to allow an unshielded light or illumination source to cause glare or direct light to be viewed from any street or adjacent properties.

KJ. **Determination of Height:** For purposes of this Ordinance, when determining the height of a building, the height of the highest point of any roof mounted structure or equipment, water cooling towers, gables, and communication dishes, towers, or antennae shall be included in the determination, except to the extent that regulation of the location and height of communication dishes, towers, or antennae are preempted by federal law or regulation. To the extent that this Paragraph **KJ**, conflicts with ~~Art. 11-1-3(a.)(47)~~ Chapter 60 of the Code of Ordinances, this paragraph shall control.

LK. **Attached Site Plan:** The site plan attached to this Ordinance shall be used solely for the purpose of setting forth the boundaries of the various land use areas described in this Ordinance. The inclusion of **Exhibit “B”** as part of this Ordinance shall not constitute, nor be construed as constituting, approval of the lot layout, street locations, street lengths, or general circulation plan shown on **Exhibit “B”**. Furthermore, the inclusion of **Exhibit “B”** as part of this Ordinance shall not constitute, not be construed as constituting, the approval of any waiver or variance to any provision of ~~Title 10, Chapter IV~~ Chapter 82 of the Code of Ordinances.

M. References to Present Zoning Code Regulations: All references within this Ordinance to Article 11-11, *et al* of the City's Code of Ordinances may be found at Exhibit "C" which is attached hereto and incorporated herein for all purposes."

SECTION TWO. Except as amended by this Ordinance, the provisions of Ordinance No. 2003-08 remain in full force and effect.

SECTION THREE. The City Manager or designee is authorized to create a new document that integrates the amendments and new wording from this Ordinance with Ordinance 2003-08, which may include renumbering, relettering, and reformatting where appropriate.

SECTION FOUR. 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 herein; provided however, to the extent of any irreconcilable conflict with the provisions of this Ordinance and other ordinances of the City governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

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

SECTION SIX. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7, Chapter 1 of the Code of Ordinances of the City of Kerrville, Texas.

SECTION SEVEN. In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), 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.

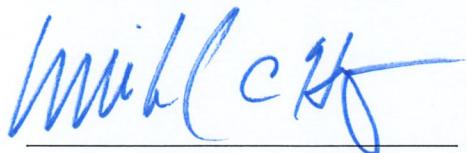
SECTION EIGHT. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07b. of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the ____ day of _____, A.D., 2023.

PASSED AND APPROVED ON SECOND AND FINAL READING, this
the ____ day of _____, A.D., 2023.

Judy Eychner, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary

MASTER PLAN



EXHIBIT B

PROPERTY SUMMARY

AREA	DESIGNATION	LOT COUNT	ACRES
1.1	COMMERCIAL	—	9.99
1.2	RESIDENTIAL	368	11.41
2	COMMERCIAL	—	18.05
3	COMMERCIAL	—	14.92
4	RESIDENTIAL	63	24.61
5	HOTEL	—	2.30
6	HOTEL	—	21.45
7	RESIDENTIAL	41	18.81
8	RESIDENTIAL	84	12.82
9	RESIDENTIAL	68	33.72
10	RESIDENTIAL	32	34.07
11	RESIDENTIAL	58	99.07
12	RESIDENTIAL	33	22.69
13	RESIDENTIAL	15	8.76
14	COMMERCIAL	—	4.43
15	RESIDENTIAL	17	6.48
16	RESIDENTIAL	10	8.55
17	RESIDENTIAL	17	8.64
TOTAL		800.08	

LOT SIZE SUMMARY

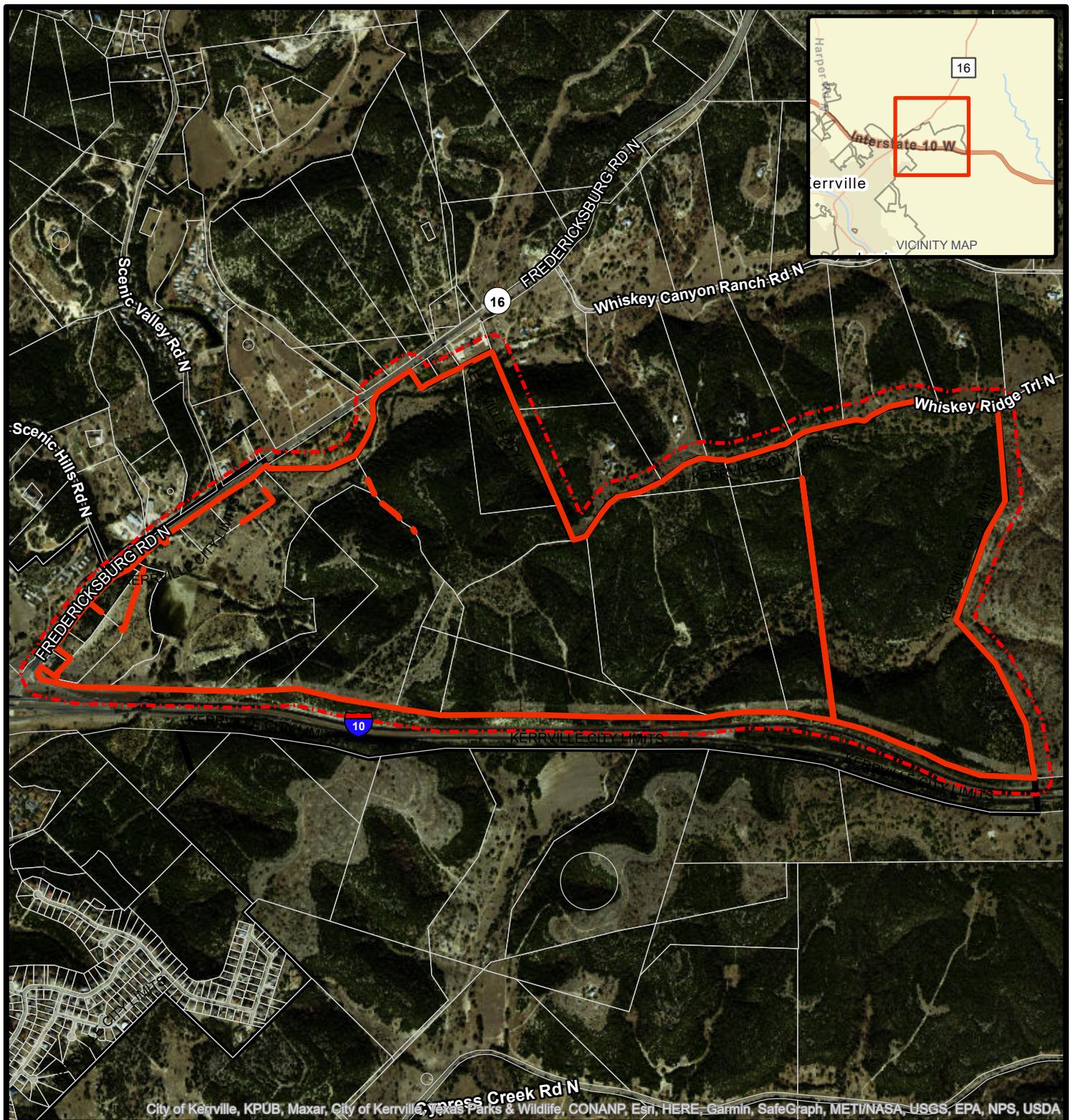
LOT SIZE	LOT COUNT	FOUNDERS	1/2 ACRES	1 ACRE	2 ACRES +	LOT TOTAL	MULTI-FAMILY
10' LOTS	10 LOTS	217 LOTS (INCLUDES CABINS)	64 LOTS	35 LOTS	42 LOTS	388 LOTS	70 UNITS

WHISKEY SPRINGS
SIGNATURE DESIGN
KERRVILLE, TEXAS
 MAP DATE: JULY 26, 2023



WILLIAM DALE BEDDO

EXHIBIT B



Location Map

Case # PZ-2023-12

Location:

Whiskey Springs

Legend

- Subject Properties
- 200 Feet Notification Area



0 1,000 2,000

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.



WHISKEY SPRINGS

KERRVILLE, TEXAS

ENTERED FEB 17 2006

Feb 17 2003
FEB 17 2003

Strategic Catalyst Area 6

This area, bisected by Interstate 10, features a number of amenities close to the exit ramps, particularly regional and community-serving commercial businesses. Expansive residential and industrial uses are notably present in the northwestern quadrant of the area.

Defining Characteristics: SCA 6 is centered around the I-10/SH 16 intersection. This corridor functions as the premiere gateway to the community for visitors. Quinlin Creek is located here and unique topography is present on all sides.

Allowable Place Types: Rural Living, Neighborhood Residential, Preservation Residential, Transitional Residential, Regional Commercial, Agriculture and Outdoor Tourism

Place Type Distinctions: Regional Commercial place types are suitable close to the primary intersection. Transitional Residential housing is appropriate close to major roadways while Preservation Residential, Neighborhood Residential, and Rural Living place types are more suited to topographically challenging areas. Maintenance of the iconic hills and creeks is paramount.

Size: 449 acres

Developable Sites: 198 acres

Residents: 331

Jobs: 273

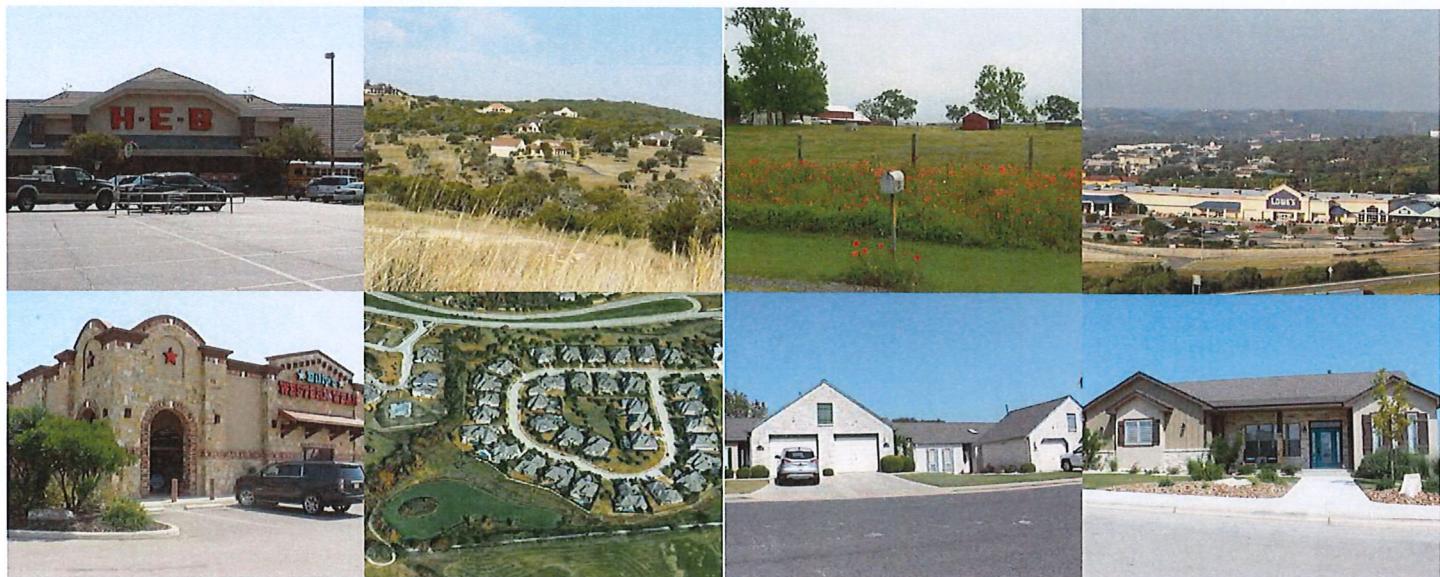
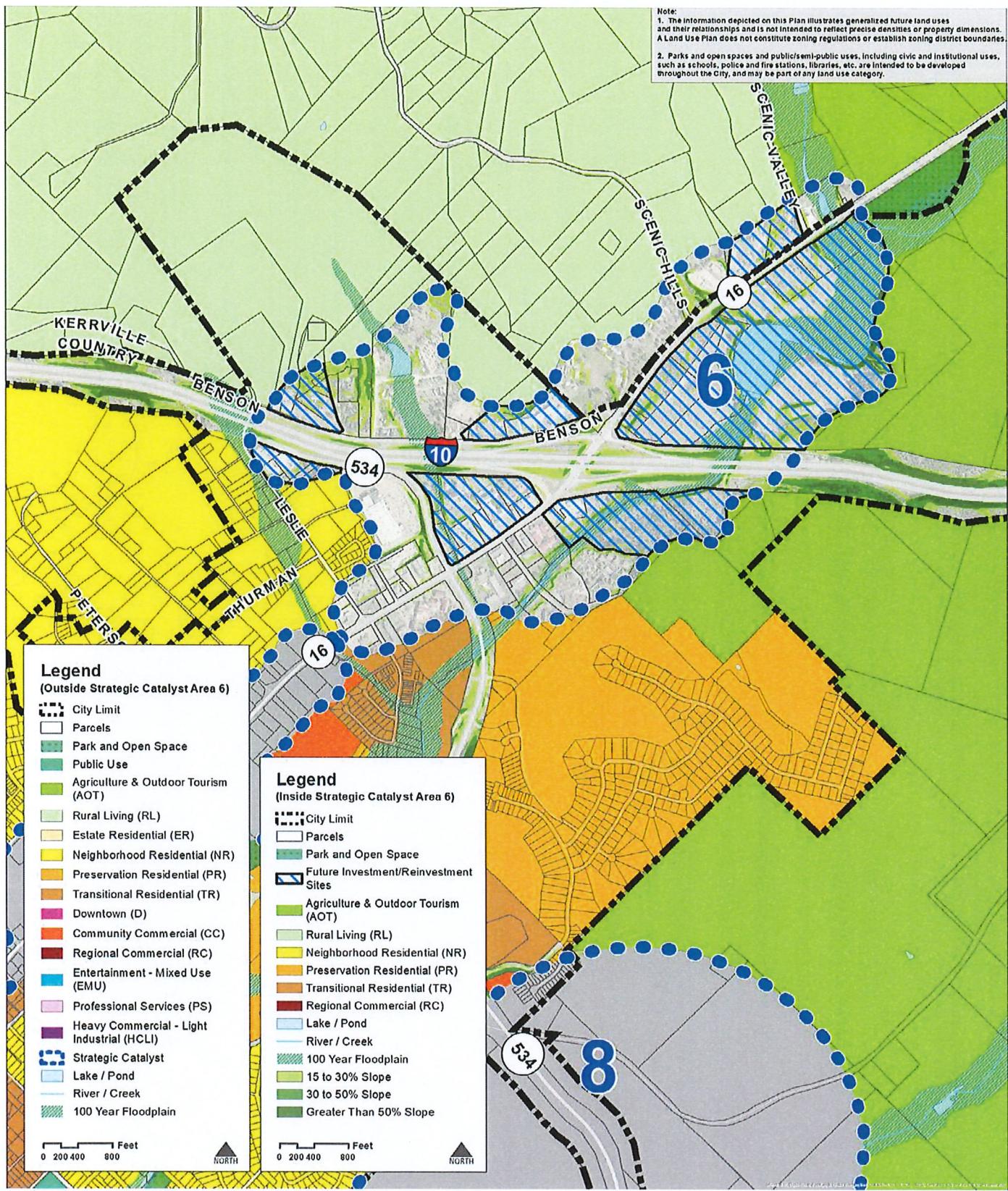


Figure 13: Strategic Catalyst Area 6





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

SUBJECT:

Ordinance No. 2023-32. An ordinance changing the zoning of a property known as 518 and 520 Lois Street, consisting of Lots 1-3, Block 25, of the Westland Addition, and within the City of Kerrville, Kerr County, Texas; from a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A) to a Light Commercial Zoning District (C-2); and providing other matters relating to the subject.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** October 26, 2023
2023

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-1A to C-2 on Lots 1-3, Block 25, Westland; and more commonly known as 518 and 520 Lois St. (Case No. PZ-2023-10).

This property has historically been used as the location for a general contractor business, including office and garage. The current zoning of R-1A does not support this commercial use so the current use is considered nonconforming. Applicant would like to build a new storage building to support the existing business. In order for the issuance of a building permit to occur, the property needs to be rezoned so that it is no longer nonconforming and can support the existing contractor business, including the addition of a new storage building. By rezoning to C-2, a general building contractor business would be allowed with a Conditional Use Permit, and a building permit could be issued for the storage building.

Procedural Requirements: The City, in accordance with state law, mailed 26 letters on

9/21/2023 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 9/14/2023. In addition, public hearing notification signs were posted on the property frontage on 9/22/23. At the time of drafting this agenda bill, no public comments have 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 allowable place types for SCA 4 are Community Commercial, Regional Commercial and Heavy Commercial/Light Industrial. As such, and based on the existing surrounding commercial zoning, the request for C-2 Light Commercial zoning is consistent with the K2050 Plan.

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1A Single-Family Residential w/Accessory Dwelling Unit

Existing Land Uses: Residential

Direction: North

Current Zoning: R-1A Single-Family Residential w/Accessory Dwelling Unit

Existing Land Uses: Residential

Direction: South

Current Zoning: C-2 Light Commercial / Junction Hwy

Existing Land Uses: Commercial

Direction: West

Current Zoning: R-1 Single Family Residential

Existing Land Uses: Residential

Direction: East

Current Zoning: C-1 Neighborhood Commercial

Existing Land Uses: Veterinary Hospital

Thoroughfare Plan: There should be no impact on the thoroughfare system.

Traffic Impact: No traffic impact is anticipated.

Parking: To be determined and consistent with zoning regulations.

Recommendation: Based on the consistency with the Kerrville 2050 Plan, adjacent land

uses, and the fact that this has historically been a general contractor business, staff recommends the case for approval.

On October 5th, the Planning and Zoning Commission recommended approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2023-32.

ATTACHMENTS:

[*20231114_Ord 2023-32 Zone Change 518 and 520 Lois St.pdf*](#)

[*20231114_PZ-2023-10_Current_Zoning.pdf*](#)

[*20231114_PZ-2023-10_K2050_Future_Land_Use.pdf*](#)

[*20231114_Letter opposed Miller.pdf*](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2023-32**

**AN ORDINANCE CHANGING THE ZONING OF A PROPERTY
KNOWN AS 518 AND 520 LOIS STREET, CONSISTING OF LOTS
1-3, BLOCK 25, OF THE WESTLAND ADDITION, AND WITHIN
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS; FROM A
SINGLE-FAMILY RESIDENTIAL WITH ACCESSORY
DWELLING UNIT ZONING DISTRICT (R-1A) TO A LIGHT
COMMERCIAL ZONING DISTRICT (C-2); 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 November 14, 2023, 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 located at 518 and 520 Lois Street; such change to result in the removal of the property from a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A) to placement within a Light Commercial Zoning District (C-2); and

WHEREAS, on November 14, 2023, 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, Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* are amended to designate the following described property zoned as within a Light Commercial Zoning District (C-2):

**Legal Description: Being Lots 1-3, Block 25 of the
Westland Addition, a subdivision within the City of
Kerrville, Kerr County, Texas; said property
depicted at Exhibit A, attached hereto and made a
part hereof for all purposes, and hereafter referred
to as the “Property.”**

Address: 518 and 520 Lois Street, Kerrville, TX 78028.

SECTION TWO. The City Manager or designee 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 _____ day of _____, A.D., 2023.

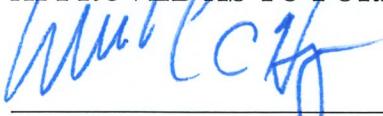
PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ of _____, A.D., 2023.

ATTEST:

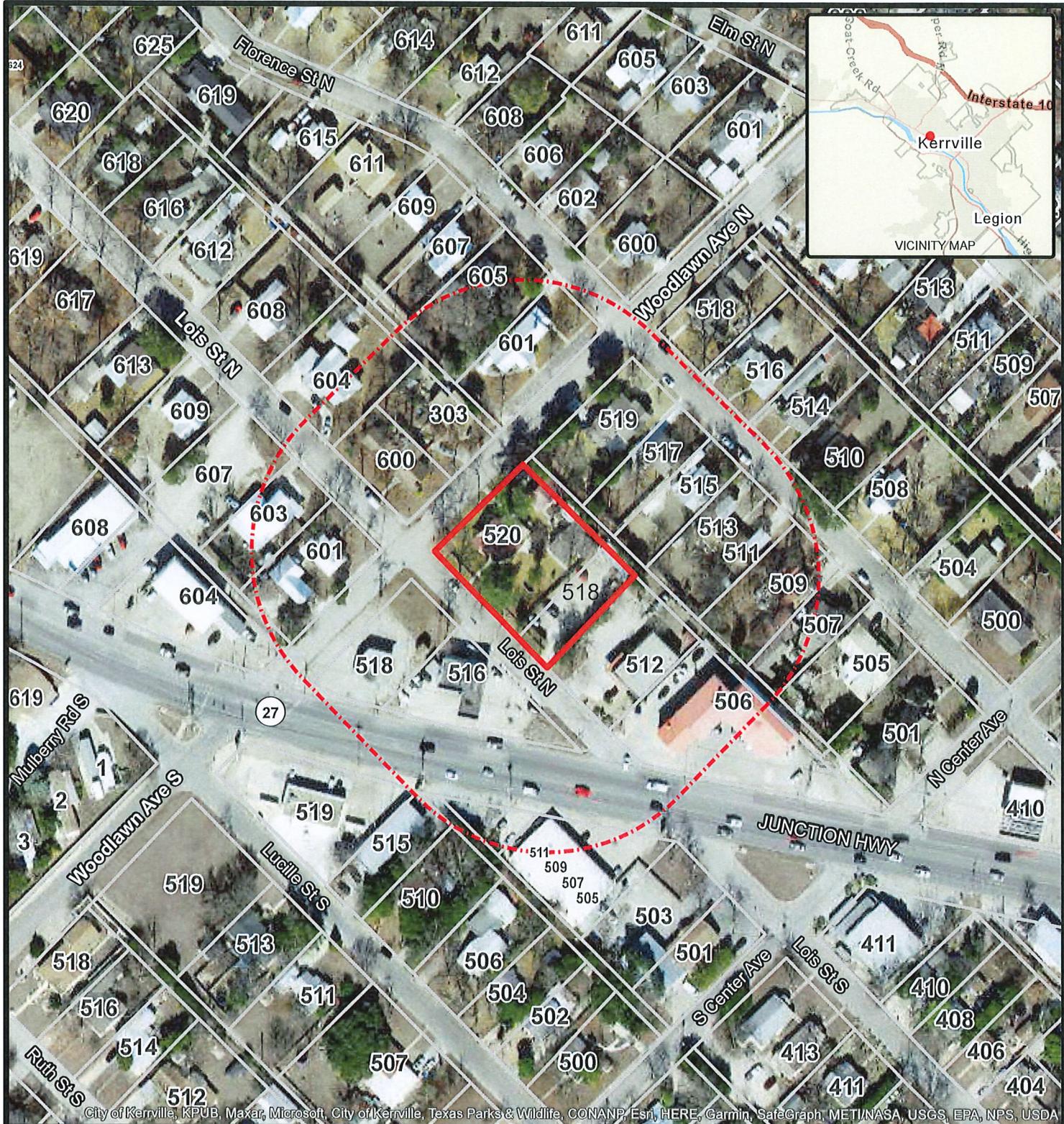
Judy Eychner, Mayor

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney



City of Kerrville, KPUB, Maxar, Microsoft, City of Kerrville, Texas Parks & Wildlife, CONANP, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA

Location Map

Case #PZ-2023-10 and PZ-2023-11

Location:

518 and 520 Lois Street

Legend

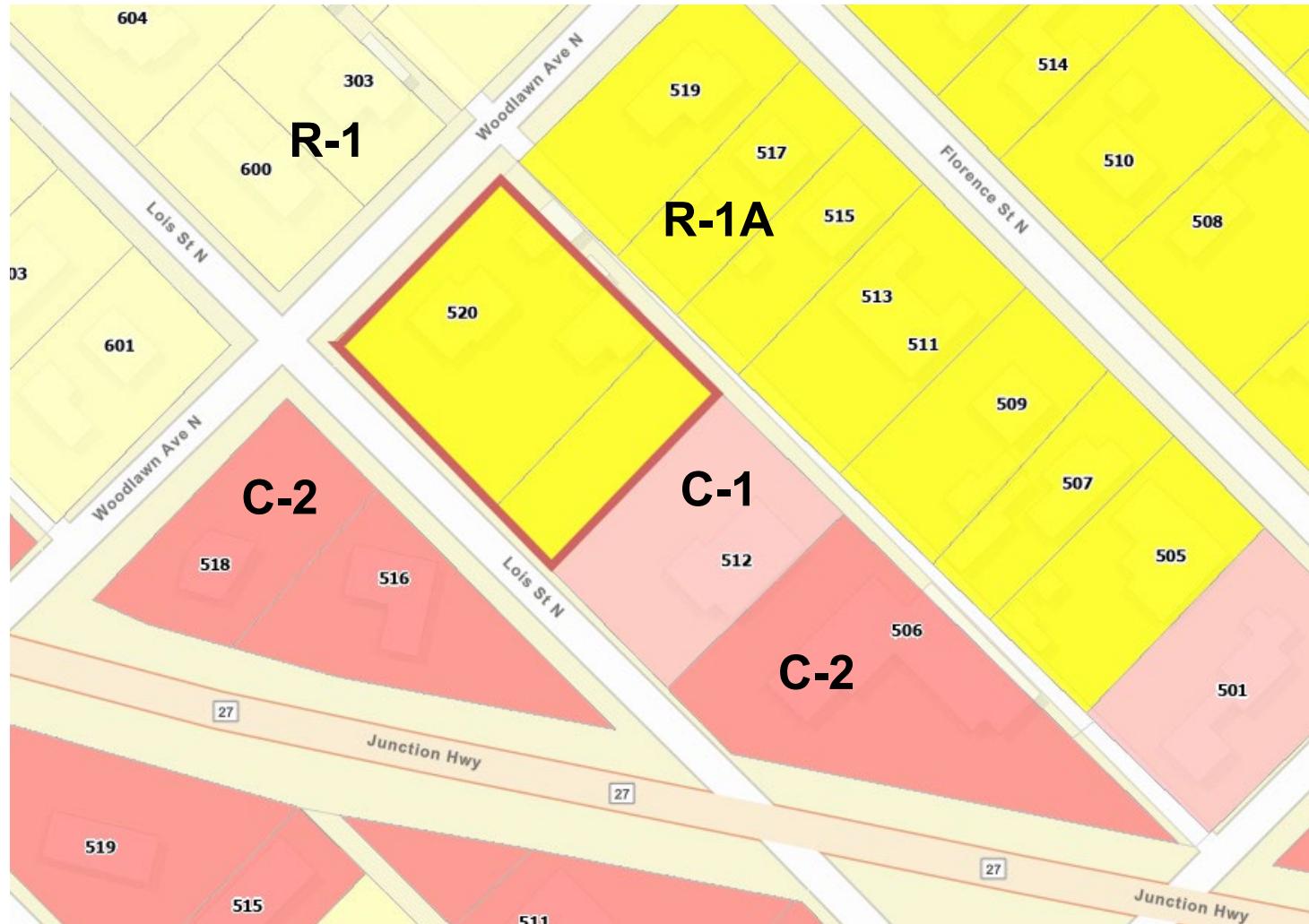
- Subject Properties
- 200 Feet Notification Area



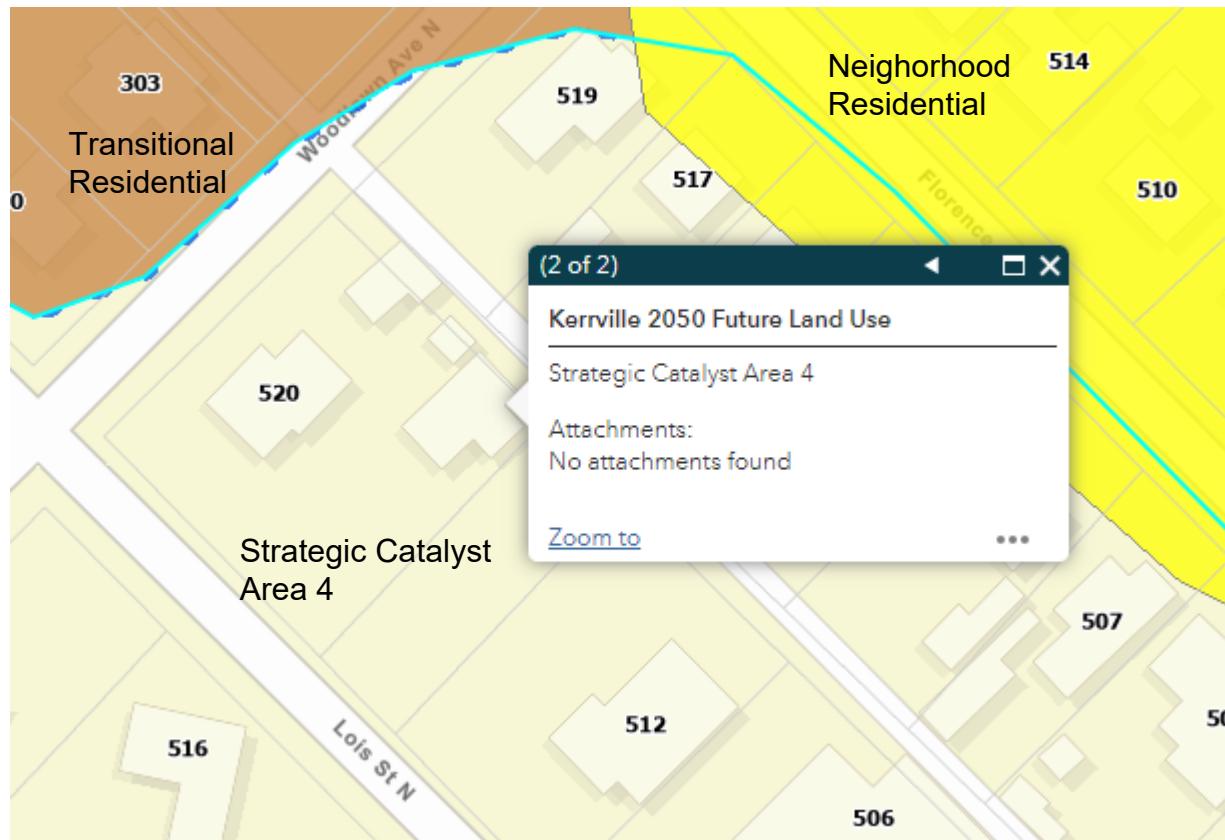
0 50 100 200

Scale In Feet

Current Zoning



K2050 Future Land Use Strategic Catalyst Area 4



From: [Lynn Miller](#)
To: Planning Division
Subject: [EXTERNAL] Planning and Zoning Commission Public Hearing, 10/5/2023 4:00 pm, Case PZ-2023-10 and PZ-2023-11 (zones R-1A to C-2 on Lots 1-3, Block 25, Westland)
Date: Wednesday, October 4, 2023 9:28:56 AM

To Drew Paxton, AICP, Director of Planning & Development

My name is Lynn Miller. I am the owner of the property at 519 Florence St, Kerrville, TX 78028. I am not able to attend tomorrow's hearing per the subject line as I am having surgery in Austin.

I am vehemently opposed to the change in zoning requested from a residential zone to a commercial/residential zone.

I bought this property in 2017 in good faith in this residential zone and have spent a significant amount of money improving it in preparation for retirement. I retired in April of this year.

I was told that the builder pursuing the zone change is seeking to build/expand his garage 40 feet in order to accommodate equipment used in his business located just across the alley next door to me. I was told he cannot expand his garage without changing the zoning.

This change is not benign. I fear it will eventually open up the opportunity for this builder and others to the commercial re-development of my fairly quiet residential neighborhood.

This will have an adversely negative impact on the value of my property and hurt me financially. It will definitely change the nature of the neighborhood negatively. In addition, there are more than a dozen residential properties that will also be affected in the same manner.

It is wrong for one person to change a nice residential neighborhood and impact the people living in it in order to accommodate expansion of one business.

Kindly take these concerns into consideration. Thank you.

Sincerely,

Lynn Miller



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

SUBJECT:

Ordinance No. 2023-33. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the zoning for the property known as 226 Harper Rd (FM 783); an approximate 1.71 acre tract out of the Fosgate Survey No. 120, Abstract 138; from a Single Family Residential Zoning District (R-1) to a Residential Transition Zoning District (RT); and providing other matters relating to the subject.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** October 26, 2023
2023

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 to RT on 1.71 acres of land out of the Fosgate Survey No. 120, Abstract 138; and more commonly known as 226 Harper Rd N. (Case No. PZ-2023-13)

The applicant is requesting a zoning change from R-1 Single-Family Residential to RT Residential Transition to accommodate a business office use. There is currently RT zoning in close proximity to this property and a boarding home located next door. The property also fronts Harper Road, identified as a primary arterial in the thoroughfare plan, which lends itself to a business office use.

Procedural Requirements: The City, in accordance with state law, mailed 20 letters on 9/21/2023 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 9/14/2023. In addition, a public hearing notification sign was posted on the

property frontage on 9/22/23. 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 Neighborhood Residential (NR). The place types for NR allows small amounts of neighborhood-serving retail and office in carefully chosen locations. Because a boarding home and RT zoning currently exist adjacent to this property, and because the property is fronting a primary arterial (Harper Road), the request for RT zoning appears to be consistent with the K2050 Plan.

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1 Single-Family Residential

Existing Land Uses: Residential

Direction: North

Current Zoning: R-1 Single-Family Residential

Existing Land Uses: Residential

Direction: South

Current Zoning: R-1 Single-Family Residential / RT Residential Transition

Existing Land Uses: Boarding Home / Professional Office

Direction: West

Current Zoning: R-1 Single-Family Residential

Existing Land Uses: Residential

Direction: East

Current Zoning: R-2 Medium Density Residential / Harper Road

Existing Land Uses: Residential

Thoroughfare Plan: There should be no impact on the thoroughfare system. This property is fronting Harper Road, a primary arterial.

Traffic Impact: No traffic impact is anticipated.

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, adjacent land uses, frontage on a primary arterial, and the fact that the underlying zoning still remains residential, staff recommends the case for approval.

On October 5th, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2023-33.

ATTACHMENTS:

20231114_Ord 2023-33 Zone change 226 Harper Rd.pdf

20231114_Zoning Current-K2050 Future.pdf

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2023-33**

**AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF
ORDINANCES, CITY OF KERRVILLE, TEXAS; BY CHANGING
THE ZONING FOR THE PROPERTY KNOWN AS 226 HARPER
RD (FM 783); AN APPROXIMATE 1.71 ACRE TRACT OUT OF
THE FOSGATE SURVEY NO. 120, ABSTRACT 138; 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 November 14, 2023, 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 226 Harper Road (FM 783); 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 November 14, 2023, 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 for the City of Kerrville, Texas, 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 a 1.71 acre tract, more or less, out of the Fosgate Survey No. 120, Abstract 138, 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: 226 Harper Road (FM 783), Kerrville, Texas 78028.

SECTION TWO. The City Manager or designee 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.

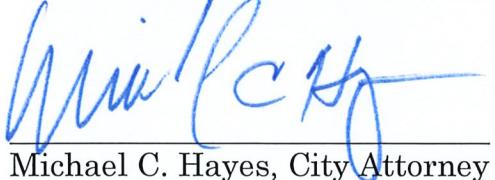
SECTION SIX. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the _____ day of _____, A.D., 2023.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ of _____, A.D., 2023.

Judy Eychner, Mayor

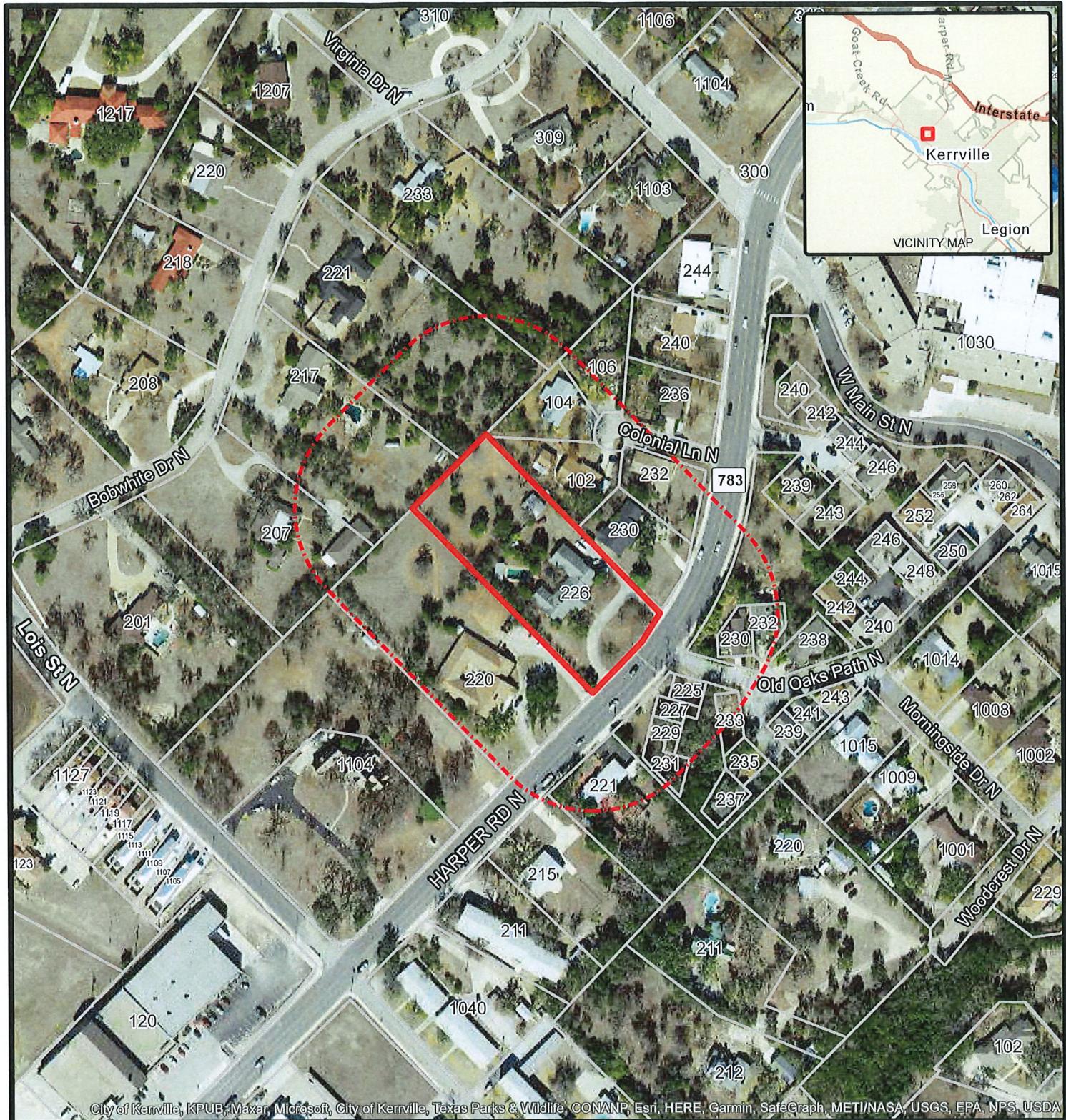
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

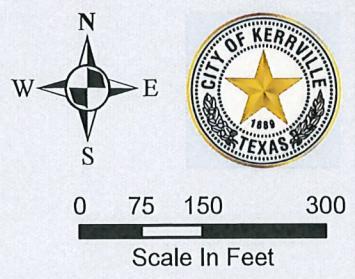
Case # PZ-2023-13

Location:

226 Harper Rd N

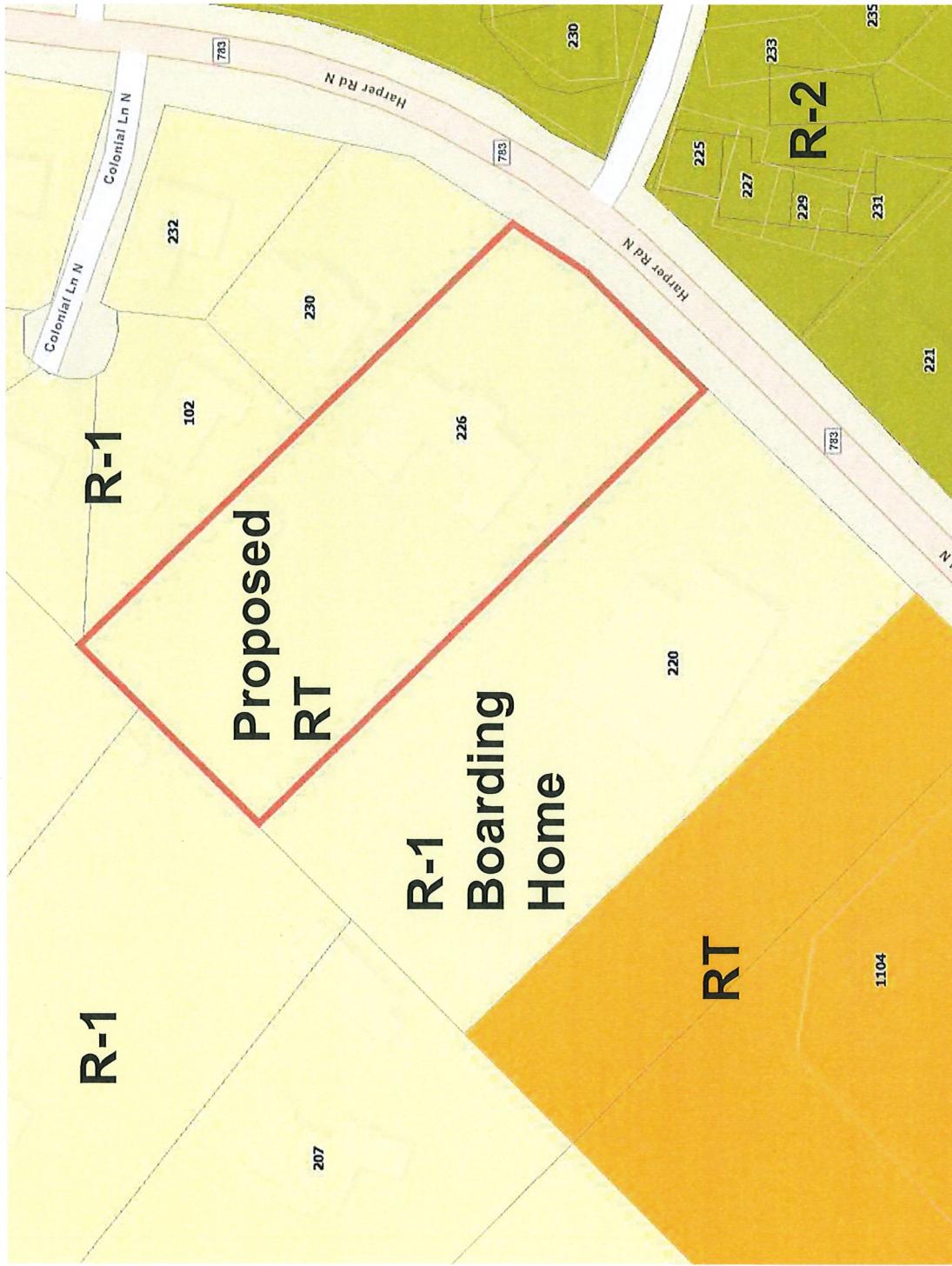
Legend

-  Subject Properties
 -  200 Feet Notification Area



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.

Current Zoning



K2050 Plan Future Zoning

Neighborhood Residential (NR)

Allows: Small amounts of neighborhood-serving retail and office in carefully chosen locations.





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

SUBJECT: Resolution No. 36-2023. A Resolution approving a Resolution of the *City of Kerrville, Texas Economic Improvement Corporation* with respect to the issuance of up to \$20,000,000 in principal amount of its *Sales Tax Revenue Bonds, Series 2023*, to finance costs of certain projects being undertaken by the Corporation at the request, and for the benefit, of the City which are authorized to be financed by the Corporation pursuant to the *Development Corporation Act* (primarily Section 505.152 of the Texas Local Government Code); and approving an amendment to the Sales Tax Remittance Agreement between the Corporation and the City.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** November 2, 2023

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?	Yes
Key Priority Area	C - Community / Neighborhood Character and Place Making
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

On August 28, 2023 the EIC members voted to approve the Council requested application in consideration of a sale tax revenue bond in an amount not to exceed \$20,000,000 to fund several quality of life projects within the City of Kerrville. These projects include the Scott Schreiner Golf Course, the Olympic Pool, the Cailloux Theater, and the A.C. Schreiner House (to be operated by the Heart of the Hills Heritage Center), the Granger MacDonald Park (to be operated and maintained by the Upper Guadalupe River Center, Inc.). Lastly, the City is requesting \$800,000 in funds for park improvements throughout our system for new playground and shade structures as funding permits.

The breakdown of the requested funds are below:

Cailloux Theater = \$4,000,000

Scott Schreiner Golf Course = \$4,000,000

Olympic Pool = \$7,000,000

A.C. Schreiner House = \$2,000,000
Granger MacDonald Park = \$2,200,000
Other Park Improvements = \$800,000
Total \$20,000,000

Schedule:

08/28/23: EIC MEETING Adopt Resolution Authorizing Reimbursement and Authorizing Consultants to Prepare Documents and Take Action Resolution, Calling for Public Hearing and Authorizing Publication of Notice to Undertake Project

08/31/23: Publication of Notice to Undertake Project in Kerrville Daily Times

11/13/23: EIC MEETING Public Hearing at EIC meeting* EIC Approves Resolution Authorizing Issuance, Sale and Delivery of the Bonds and Approving Project and Sales Tax Remittance Agreement.

11/14/23: CITY COUNCIL MEETING City Council Resolution Authorizing the Corporation to Undertake Certain Economic Development Projects City Council Resolution Authorizing Corporation's Issuance of Bonds and Project and Sales Tax Remittance Agreement.

11/30/23: Bond Counsel files Transcript of Proceedings with Texas Attorney General's Public Finance Division for Review

12/19/23: Closing *At least 60 days after the notice is published per State Law At the August 22nd City Council meeting, a question came up about why EIC should fund quality of life projects and I would like to include the following in the agenda bill, which comes from the resolution authorizing and approving the creation of the EIC in 1995. This comes from the third whereas clause: Whereas, as a result of such examination many recommendations were made to the City Council regarding economic development objectives and infrastructure improvements including street and drainage improvements, water and sewer system improvements, public safety improvements and park improvements, with the primary objective of enhancing the quality of life and the business opportunities for the citizens of the City.

RECOMMENDED ACTION:

Approve Resolution No. 36-2023.

ATTACHMENTS:

[20231114_Reso 36-2023 EIC bond issuance DRAFT.pdf](#)

D R A F T 11/8/23

RESOLUTION NO. 36-2023

A RESOLUTION APPROVING A RESOLUTION OF THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION WITH RESPECT TO THE ISSUANCE OF UP TO \$20,000,000 IN PRINCIPAL AMOUNT OF ITS SALES TAX REVENUE BONDS, SERIES 2023, TO FINANCE COSTS OF CERTAIN PROJECTS BEING UNDERTAKEN BY THE CORPORATION AT THE REQUEST, AND FOR THE BENEFIT, OF THE CITY WHICH ARE AUTHORIZED TO BE FINANCED BY THE CORPORATION PURSUANT TO THE DEVELOPMENT CORPORATION ACT (PRIMARILY SECTION 505.152 OF THE TEXAS LOCAL GOVERNMENT CODE); AND APPROVING AN AMENDMENT TO THE SALES TAX REMITTANCE AGREEMENT BETWEEN THE CORPORATION AND THE CITY

WHEREAS, the City Council of the City of Kerrville, Texas (the “City”) called an election for the purpose of receiving authority to levy a sales and use tax for the benefit of an industrial development corporation created under authority of the Development Corporation Act of 1979, Article 5190.6, V.A.T.C.S., as amended (the “Original Act”), all pursuant to the provisions of Section 4B of the Original Act; and

WHEREAS, at such election held on May 6, 1995, a majority of the citizens of the City voting at said election approved a Proposition (the “1995 Election Proposition”) which authorized the City to levy a sales and use tax on the receipts at retail of taxable items within the City at a rate of one-half of one percent (1/2 of 1%) pursuant to the provisions of Section 4B of the Original Act (the “Sales Tax”) *“to be used at the discretion of the board of directors of the non-profit corporation created by the City Council pursuant to Section 4B for purposes as permitted by Section 4B including financing the acquisition, construction and/or equipping, and/or the maintenance and operating costs of any “Project” (as defined in Section 4B), including specifically any of the following:*

- (1) *land, buildings, equipment, facilities, and improvements included in the definition of the term “Project” under Section 2 of Article 5190.6, Vernon’s Texas Civil Statutes, as amended, including (a)*¹ *land,*

¹The types of projects described in subclause (a) of this clause (1) from the 1995 Election Proposition are generally and currently described in Section 501.101 of the Texas Local Government Code (“Section 501.101”); however, there have been statutory changes since the 1995 election that differ from such projects authorized by the voters. (For example, Section 501.101 currently includes a requirement that the projects authorized thereunder must be *“for the creation or retention of primary jobs.”* A requirement that projects must be *“for the creation or retention primary jobs”* was not in the predecessor to Section 501.101 when the 1995 Election Proposition was drafted and approved by the voters.) To the extent the types of projects described in Section 501.101 are more limited than the types of projects described in subclause (a) of this clause (1) from the 1995 Election Proposition, Section 501.101 will

buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of development and expansion of manufacturing and industrial facilities, transportation facilities (including but not limited to airports, ports, mass commuting facilities, and parking facilities), sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, facilities for the furnishing of water to the general public, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, and facilities which are related to any of the foregoing, and (b)² in “blighted or economically depressed areas” or “development areas” of the City, land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of commercial development and expansion or for use by commercial enterprises;

(2) land, buildings, equipment, facilities, and improvements found by the board of directors of the corporation to be 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, learning centers, parks and park facilities, open space improvements, municipal buildings, 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 items³; and

(3) land, building, equipment, facilities, and improvements found by the board of directors of the corporation to promote or develop new or expanded business enterprises, including a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements including improvements to the municipal water and sewer systems, as well as any improvements or facilities that are related to any

control.

²The types of projects described in subclause (b) of this clause (1) from the 1995 Election Proposition no longer appear anywhere in the successor to the Original Act (i.e., Chapters 501 - 505, Texas Local Government Code - defined herein as the “Act”); accordingly, such projects currently are no longer permitted to be financed pursuant to the 1995 Election Proposition.

³The types of projects described in this clause (2) from the 1995 Election Proposition are generally and currently described in Section 505.152 of the Texas Local Government Code (“Section 505.152”); however, there have been statutory changes since the 1995 election that differ from such projects authorized by the voters. (For example, Section 505.152 currently does not include the term “learning centers” and the general term “municipal buildings” as types of projects that can be financed using proceeds of the Sales Tax.) To the extent the types of projects described in Section 505.152 are more limited than the types of projects described in clause (2) from the 1995 Election Proposition, Section 505.152 will control.

*of those projects and any other project that the board in its discretion determines promotes or develops new or expanded business enterprises?*⁴

WHEREAS, pursuant to the provisions of the Original Act, the City created the City of Kerrville, Texas Economic Improvement Corporation (the “Corporation”), a nonstock, nonprofit industrial development corporation created to act on behalf of the City to satisfy the public purposes set forth in Section 4B of the Original Act; and

WHEREAS, the City Council of the City levied the Sales Tax for the benefit of the Corporation, and such tax began to be collected in the City on October 1, 1995⁵; and

WHEREAS, subsequent to the creation of the Corporation, the Original Act was codified by the Legislature and is now found in Chapters 501 - 505 of the Texas Local Government Code (the “Act”); and

WHEREAS, Section 4B of the Original Act is now found primarily in Chapter 505, Texas Local Government Code, and Chapters 501, 502 and 505, Texas Local Government Code, are the primary provisions in Texas law under which the Corporation generally is governed; and

WHEREAS, Section 505.152 of the Act states that the term “project” includes

land, buildings, equipment, facilities, and improvements found by the board of directors 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 this section

⁴The types of projects described in this clause (3) from the 1995 Election Proposition are generally and currently described in Section 505.155 of the of the Texas Local Government Code (“Section 505.155”); however, there have been statutory changes since the 1995 election that differ from such projects authorized by the voters. (For example, Section 505.155 currently includes a requirement that the projects authorized thereunder must “create or retain primary jobs.” A requirement for projects to “create or retain primary jobs” was not in the predecessor to Section 505.155 when the 1995 Election Proposition was drafted and approved by the voters.) To the extent the types of projects described in Section 505.155 are more limited than the types of projects described in clause (3) from the 1995 Election Proposition, Section 505.155 will control.

⁵On April 20, 1999, the Corporation issued and delivered \$5,350,000 in principal amount of its *City of Kerrville, Texas Economic Improvement Corporation Sales Tax Revenue Bonds, Series 1999* to finance certain projects pursuant to the Original Act (the “Series 1999 Bonds”). The Series 1999 Bonds have been fully paid, are no longer outstanding, and are the only obligations issued or incurred by the Corporation prior to the approval of this Resolution which were secured, in whole or in part, with proceeds of the Sales Tax.

WHEREAS, the bonds authorized by the “Bond Resolution” (defined below) of the Corporation are being issued for the purpose of financing “costs” (as defined in Section 501.152 of the Act) of “projects” as described in Section 505.152 of the Act, including, in particular, but not limited to, Cailloux Theater roof and HVAC replacement and improvements, Olympic Pool facility renovations and improvements, golf course facility renovations and improvements, Granger MacDonald Park upgrades and improvements, and Heart of the Hills Heritage Center renovation, upgrades and improvements (collectively, the “Projects”); and

WHEREAS, Section 505.160 of the Act provides that “[a] Type B corporation may undertake a project under this chapter unless, not later than the 60th day after the date notice of the specific project or general type of project is first published, the governing body of the authorizing municipality receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the specific project or general type of project is undertaken”; and

WHEREAS, the Corporation caused a notice of its intention to undertake the Projects to be published on August 31, 2023, in the *Kerrville Daily Times*, and neither the Corporation nor the City received a petition prior to the expiration of the 60th day after the date of publication of such notice from more than 10 percent of the registered voters of the City requesting that an election be held before the Projects are undertaken by the Corporation, all in compliance with Section 505.160 of the Act; and

WHEREAS, Section 505.159(a) of the Act provides that “a Type B corporation shall hold at least one public hearing on a proposed project before spending money to undertake the project”; and

WHEREAS, the Corporation held a public hearing on the Projects on November 13, 2023, which satisfied the requirement set forth in Section 505.159(a) of the Act; and

WHEREAS, in order to provide for the timely transfer by the City to the Corporation of the proceeds of the Sales Tax, as required by the Act (now found in Section 505.301 thereof), the City and the Corporation entered into a *Sales Tax Remittance Agreement*, dated as of March 1, 1999 (the “Sales Tax Remittance Agreement”); and

WHEREAS, upon recommendation of Bond Counsel to the Corporation and the City, the City Council of the City determines that it is necessary and appropriate to approve a “First Amendment to Sales Tax Remittance Agreement” to clarify that the terms of the Sales Tax Remittance Agreement are to apply to all bonds that may be issued by the Corporation (including the “Bonds” defined in the following recital), not just the Series 1999 Bonds that were being issued by the Corporation at the time the Sales Tax Remittance Agreement was initially approved, executed, and delivered; and

WHEREAS, on November 13, 2023, the Board of Directors of the Corporation adopted a “*Resolution Authorizing the Issuance of Up to \$20,000,000 in Aggregate Principal Amount of City of Kerrville, Texas Economic Improvement Corporation Sales Tax Revenue Bonds, Series 2023; Authorizing the Sale Thereof Pursuant to a Negotiated Underwriting; Delegating Authority to Certain Officials to Approve All Final Terms with Respect to the Sale of the Bonds and Other Related Matters; Approving and Authorizing the Execution of All Instruments and Procedures Related Thereto Including a Purchase Contract and a Paying Agent/Registrar Agreement; and Approving Other Matters in Connection with the Issuance of the Bonds,*” in the form attached hereto as **Exhibit A** (the “Bond Resolution”), for the purpose of authorizing the issuance of up to \$20,000,000 in principal amount of the Corporation’s SALES TAX REVENUE BONDS, SERIES 2023 (the “Bonds”) to finance costs of the Projects, and authorizing other related matters; and

WHEREAS, Section 501.204 of the Act provides that the Corporation “*may not deliver bonds, including refunding bonds, unless the governing body of the corporation’s authorizing unit adopts a resolution, not earlier than the 60th day before the date the bonds are delivered, specifically approving the corporation’s resolution providing for the issuance of the bonds*”; and

WHEREAS, Article V of the Corporation’s Articles of Incorporation provides that “[t]he Corporation may not issue any bonds pursuant to the provisions of the Act without first receiving the written approval of the governing body of the City”; and

WHEREAS, it is deemed necessary and advisable that this Resolution be adopted by the City Council of the City in order to satisfy the requirements of Section 501.204 of the Act and Article V of the Corporation’s Articles of Incorporation; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code;

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

SECTION ONE. APPROVAL OF PROJECTS. The Projects are hereby approved and authorized to be undertaken by the Corporation.

SECTION TWO. APPROVAL OF THE BOND RESOLUTION AND THE BONDS. The Bond Resolution, in substantially the form and substance as attached to this Resolution as **Exhibit A** and made a part hereof for all purposes, is hereby approved, and the Bonds may be issued by the Corporation pursuant thereto for the purpose of financing costs of the Projects.

SECTION THREE. APPROVAL OF FIRST AMENDMENT TO SALES TAX REMITTANCE AGREEMENT. The *First Amendment to Sales Tax Remittance Agreement* in substantially the form attached hereto as **Exhibit B** is hereby approved. The Mayor, the City Manager, and the Assistant City Manager of the City are each hereby authorized to approve such First Amendment in final form and to execute such First Amendment on behalf of the City, and the City Secretary of the City is hereby authorized to attest such First Amendment, if required.

SECTION FOUR. EXECUTION OF DOCUMENTS; NO LIABILITY OF THE CITY. The City Council of the City hereby authorizes the Mayor, the City Manager, the Assistant City Manager, the Director of Finance, and the City Secretary of the City to execute on behalf of the City all other documents deemed necessary in connection with the issuance of the Bonds and the *First Amendment to Sales Tax Remittance Agreement* approved by this Resolution. The City shall have no liability for the payment of the Bonds nor shall any of its assets be pledged to the payment of the Bonds.

SECTION FIVE. INCORPORATION OF RECITALS. The findings and preambles set forth in this Resolution are hereby incorporated into this Resolution and made a part hereof for all purposes.

SECTION SIX. EFFECTIVE DATE. This Resolution shall become effective immediately upon passage.

[The remainder of this page intentionally left blank]

**PASSED AND APPROVED ON this the _____ day of
A.D., 2023.**

Judy Eychner, Mayor

APPROVED AS TO FORM:

ATTEST:

Michael C. Hayes, City Attorney

Shelley McElhannon, City Secretary

(City Seal)

EXHIBIT A

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$20,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF *CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION SALES TAX REVENUE BONDS, SERIES 2023*; AUTHORIZING THE SALE THEREOF PURSUANT TO A NEGOTIATED UNDERWRITING; DELEGATING AUTHORITY TO CERTAIN OFFICIALS TO APPROVE ALL FINAL TERMS WITH RESPECT TO THE SALE OF THE BONDS AND OTHER RELATED MATTERS; APPROVING AND AUTHORIZING THE EXECUTION OF ALL INSTRUMENTS AND PROCEDURES RELATED THERETO INCLUDING A PURCHASE CONTRACT, A PAYING AGENT/REGISTRAR AGREEMENT, AND AN AMENDMENT TO THE SALES TAX REMITTANCE AGREEMENT BETWEEN THE CITY AND THE CORPORATION; AND APPROVING OTHER MATTERS IN CONNECTION WITH THE ISSUANCE OF THE BONDS

Date of Approval: November 13, 2023

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RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$20,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF *CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION SALES TAX REVENUE BONDS, SERIES 2023*; AUTHORIZING THE SALE THEREOF PURSUANT TO A NEGOTIATED UNDERWRITING; DELEGATING AUTHORITY TO CERTAIN OFFICIALS TO APPROVE ALL FINAL TERMS WITH RESPECT TO THE SALE OF THE BONDS AND OTHER RELATED MATTERS; APPROVING AND AUTHORIZING THE EXECUTION OF ALL INSTRUMENTS AND PROCEDURES RELATED THERETO INCLUDING A PURCHASE CONTRACT, A PAYING AGENT/REGISTRAR AGREEMENT, AND AN AMENDMENT TO THE SALES TAX REMITTANCE AGREEMENT BETWEEN THE CITY AND THE CORPORATION; AND APPROVING OTHER MATTERS IN CONNECTION WITH THE ISSUANCE OF THE BONDS

THE STATE OF TEXAS §
COUNTY OF KERR §
CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION §

WHEREAS, the City Council of the **CITY OF KERRVILLE, TEXAS** (the “*City*”) called an election for the purpose of receiving authority to levy a sales and use tax for the benefit of an industrial development corporation created under authority of the Development Corporation Act of 1979, Article 5190.6, V.A.T.C.S., as amended (the “*Original Act*”), all pursuant to the provisions of Section 4B of the Original Act; and

WHEREAS, at such election held on May 6, 1995, a majority of the citizens of the City voting at said election approved a Proposition (the “*1995 Election Proposition*”) which authorized the City to levy a sales and use tax on the receipts at retail of taxable items within the City at a rate of one-half of one percent (2 of 1%) pursuant to the provisions of Section 4B of the Original Act (the “*Sales Tax*”) “*to be used at the discretion of the board of directors of the non-profit corporation created by the City Council pursuant to Section 4B for purposes as permitted by Section 4B including financing the acquisition, construction and/or equipping, and/or the maintenance and operating costs of any “Project” (as defined in Section 4B), including specifically any of the following:*

(1) land, buildings, equipment, facilities, and improvements included in the definition of the term “Project” under Section 2 of Article 5190.6, Vernon’s Texas

Civil Statutes, as amended, including (a)⁶ land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of development and expansion of manufacturing and industrial facilities, transportation facilities (including but not limited to airports, ports, mass commuting facilities, and parking facilities), sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, facilities for the furnishing of water to the general public, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, and facilities which are related to any of the foregoing, and (b)⁷ in “blighted or economically depressed areas” or “development areas” of the City, land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of commercial development and expansion or for use by commercial enterprises;

(2) land, buildings, equipment, facilities, and improvements found by the board of directors of the corporation to be 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, learning centers, parks and park facilities, open space improvements, municipal buildings, 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 items⁸; and

⁶The types of projects described in subclause (a) of this clause (1) from the 1995 Election Proposition are generally and currently described in Section 501.101 of the Texas Local Government Code (“**Section 501.101**”); however, there have been statutory changes since the 1995 election that differ from such projects authorized by the voters. (For example, Section 501.101 currently includes a requirement that the projects authorized thereunder must be “*for the creation or retention of primary jobs*.” A requirement that projects must be “*for the creation or retention primary jobs*” was not in the predecessor to Section 501.101 when the 1995 Election Proposition was drafted and approved by the voters.) To the extent the types of projects described in Section 501.101 are more limited than the types of projects described in subclause (a) of this clause (1) from the 1995 Election Proposition, Section 501.101 will control.

⁷The types of projects described in subclause (b) of this clause (1) from the 1995 Election Proposition no longer appear anywhere in the successor to the Original Act (i.e., Chapters 501 - 505, Texas Local Government Code - defined herein as the “Act”); accordingly, such projects currently are no longer permitted to be financed pursuant to the 1995 Election Proposition.

⁸The types of projects described in this clause (2) from the 1995 Election Proposition are generally and currently described in Section 505.152 of the Texas Local Government Code (“**Section 505.152**”); however, there have been statutory changes since the 1995 election that differ from such projects authorized by the voters. (For example, Section 505.152 currently does not include the term “learning centers” and the general term “municipal buildings” as types of projects that can be financed using proceeds of the Sales Tax.) To the extent the types of projects described in Section 505.152 are more limited than the types of projects described in clause (2) from the 1995 Election Proposition, Section 505.152 will control.

*(3) land, building, equipment, facilities, and improvements found by the board of directors of the corporation to promote or develop new or expanded business enterprises, including a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements including improvements to the municipal water and sewer systems, as well as any improvements or facilities that are related to any of those projects and any other project that the board in its discretion determines promotes or develops new or expanded business enterprises?*⁹

WHEREAS, pursuant to the provisions of the Original Act, the City created the **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION** (the “**Issuer**”), a nonstock, nonprofit industrial development corporation created to act on behalf of the City to satisfy the public purposes set forth in Section 4B of the Original Act; and

WHEREAS, the City Council of the City levied the Sales Tax for the benefit of the Issuer, and such tax began to be collected in the City on October 1, 1995¹⁰; and

WHEREAS, subsequent to the creation of the Issuer, the Original Act was codified by the Legislature and is now found in Chapters 501 - 505 of the Texas Local Government Code (the “**Act**”); and

WHEREAS, Section 4B of the Original Act is now found primarily in Chapter 505, Texas Local Government Code, Chapters 501, 502 and 505, Texas Local Government Code, are the primary provisions in Texas law under which the Issuer generally is governed, and the Issuer is considered a “Type B corporation” as defined in Section 501.002(16) of the Act; and

WHEREAS, Section 505.152 of the Act states that the term “project” includes

land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for use for professional and amateur sports, including children’s sports, athletic, entertainment, tourist, convention, and public

⁹The types of projects described in this clause (3) from the 1995 Election Proposition are generally and currently described in Section 505.155 of the of the Texas Local Government Code (“**Section 505.155**”); however, there have been statutory changes since the 1995 election that differ from such projects authorized by the voters. (For example, Section 505.155 currently includes a requirement that the projects authorized thereunder must “create or retain primary jobs.” A requirement for projects to “create or retain primary jobs” was not in the predecessor to Section 505.155 when the 1995 Election Proposition was drafted and approved by the voters.) To the extent the types of projects described in Section 505.155 are more limited than the types of projects described in clause (3) from the 1995 Election Proposition, Section 505.155 will control.

¹⁰On April 20, 1999, the Issuer issued and delivered \$5,350,000 in principal amount of its *City of Kerrville, Texas Economic Improvement Corporation Sales Tax Revenue Bonds, Series 1999* to finance certain projects pursuant to the Original Act (the “**Series 1999 Bonds**”). The Series 1999 Bonds have been fully paid, are no longer outstanding, and are the only obligations issued or incurred by the Issuer prior to the approval of this Resolution which were secured, in whole or in part, with proceeds of the Sales Tax.

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 this section

WHEREAS, the bonds authorized by this Resolution are being issued for the purpose of financing “costs” (as defined in Section 501.152 of the Act) of “projects” as described in Section 505.152 of the Act, including, in particular, but not limited to, Cailloux Theater roof and HVAC replacement and improvements, Olympic Pool facility renovations and improvements, golf course facility renovations and improvements, Granger MacDonald Park upgrades and improvements, and Heart of the Hills Heritage Center renovation, upgrades and improvements (collectively, the “**Projects**”); and

WHEREAS, Section 505.160 of the Act provides that “[a] Type B corporation may undertake a project under this chapter unless, not later than the 60th day after the date notice of the specific project or general type of project is first published, the governing body of the authorizing municipality receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the specific project or general type of project is undertaken”; and

WHEREAS, the Issuer caused a notice of its intention to undertake the Projects to be published on August 31, 2023, in the *Kerrville Daily Times*, and neither the Issuer nor the City received a petition prior to the expiration of the 60th day after the date of publication of such notice from more than 10 percent of the registered voters of the City requesting that an election be held before the Projects are undertaken by the Issuer, all in compliance with Section 505.160 of the Act; and

WHEREAS, Section 505.159(a) of the Act provides that “a Type B corporation shall hold at least one public hearing on a proposed project before spending money to undertake the project”; and

WHEREAS, the Issuer held a public hearing on the Projects on November 13, 2023 (immediately prior to the adoption of this Resolution), which satisfied the requirement set forth in Section 505.159(a) of the Act; and

WHEREAS, in relation to the Issuer’s Series 1999 Bonds, and in accordance with the predecessor to Section 505.301 of the Act, the City and Issuer entered into that certain *Sales Tax Remittance Agreement*, dated as of March 1, 1999 (the “**Original Sales Tax Remittance Agreement**”), which is still in force and effect and whereby the City’s obligation to timely transfer to the Issuer the proceeds of the Sales Tax was memorialized; and

WHEREAS, Section 2.3 of the Original Sales Tax Remittance Agreement currently provides that “. . . such [Sales Tax] revenues shall be made available to the Corporation from time to time as hereinafter provided in this Agreement or as required by the Bond Resolution¹¹”, and Section 2.4 of the Sales Tax Remittance Agreement currently provides that “. . . the moneys in deposit in the Revenue Fund are to be used in a manner consistent with the terms and conditions of the Bond Resolution”; and

WHEREAS, upon recommendation of Bond Counsel to the Issuer and the City, the Board of Directors of the Issuer determines that it is necessary and appropriate to approve a “First Amendment to Sales Tax Remittance Agreement” to clarify that the terms of the Sales Tax Remittance Agreement are to apply to all bonds that may be issued by the Corporation (including the “Bonds” being authorized by this Resolution), not just the Series 1999 Bonds that were being issued by the Corporation at the time the Sales Tax Remittance Agreement was initially approved, executed, and delivered; and

WHEREAS, the Board of Directors now deems it necessary to authorize the issuance of a series of bonds for the purpose of financing costs of the Projects, and, in compliance with Section 505.152 of the Act, the Board of Directors hereby finds that the Projects are required or suitable for use for purposes authorized under Section 505.152 of the Act, including, but not limited to, amateur sports (including children’s sports), athletic, entertainment, tourist, convention, and public park purposes and events, including ball parks, auditoriums, concert halls, parks and park facilities, and exhibition facilities; and

WHEREAS, the Issuer now desires to delegate to a “Designated Officer” (as defined in Section 1(a) below) the authority, individually or collectively, to approve all final terms of the bonds authorized to be issued by this Resolution and to effect the sale of such bonds; and

WHEREAS, the bonds hereinafter authorized and designated are to be issued and delivered pursuant to the Act, including but not limited to Sections 501.006, 501.201, 505.104 and 505.302 thereof; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code;

THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION THAT:

SECTION 1. AMOUNT AND PURPOSE OF THE BONDS.

¹¹The term “Bond Resolution” is defined in the Original Sales Tax Remittance Agreement to mean only the resolution of the Issuer authorizing the issuance of the Series 1999 Bonds.

(a) Authorization to Issue Sales Tax Revenue Bonds. Sales tax revenue bonds of the Issuer are hereby authorized to be issued and delivered in the aggregate principal amount as designated by the President, Vice President and/or the Treasurer of the Issuer (each a “**Designated Officer**”) pursuant to the provisions of Section 1(b) of this Resolution **FOR THE PURPOSE OF FINANCING “COSTS” (AS DEFINED IN SECTION 501.152 OF THE ACT) OF “PROJECTS” (AS DESCRIBED IN SECTION 505.152 OF THE ACT), INCLUDING, IN PARTICULAR, BUT NOT LIMITED TO, CAILLOUX THEATER ROOF AND HVAC REPLACEMENT AND IMPROVEMENTS, OLYMPIC POOL FACILITY RENOVATIONS AND IMPROVEMENTS, GOLF COURSE FACILITY RENOVATIONS AND IMPROVEMENTS, GRANGER MACDONALD PARK UPGRADES AND IMPROVEMENTS, AND HEART OF THE HILLS HERITAGE CENTER RENOVATION, UPGRADES AND IMPROVEMENTS.**

(b) Delegation of Final Terms. Each Designated Officer, acting individually or in combination with another Designated Officer, is hereby authorized, appointed, and designated as an officer of the Issuer authorized to act on behalf of the Issuer to effect the sale of the Bonds and establish the terms and details related to the issuance and sale of the Bonds including determining the method of sale (either through a negotiated underwriting, a competitive sale, or a private placement following the receipt of bids), the total aggregate principal amount of Bonds to be issued (but in no event to exceed \$20,000,000 in aggregate principal amount), the price at which the Bonds will be sold, the date of the Bonds, the aggregate principal amount of each maturity thereof, the due date of each maturity (but in no event later than *August 15, 2043*), the rate of interest to be borne on the principal amount of each such maturity (but in no event to exceed a true interest cost rate for all of the Bonds of 5.50% per annum), the interest payment periods, the dates, price and terms upon and at which the Bonds shall be subject to any mandatory sinking fund redemption provisions for any maturity, and all other matters relating to the issuance, sale and delivery of the Bonds. Each Designated Officer, acting individually or in combination with another Designated Officer for and on behalf of the Issuer, is further authorized to (i) complete and attach Exhibit A of this Resolution, (ii) revise and complete the FORM OF BOND set forth in Section 5 of this Resolution, with the final terms of the Bonds approved pursuant to the authority granted herein, and (iii) enter into, execute and carry out a Purchase Contract to purchase the Bonds (in the form approved by Bond Counsel for the Issuer) with the Underwriter of the Bonds named in Section 27 hereof.

(c) Determination Required by Section 1201.022(a)(3), Texas Government Code. In satisfaction of Section 1201.022(a)(3), Texas Government Code, the Board of Directors hereby determines that the delegation of the authority to each Designated Officer to approve the final terms of the Bonds set forth in this Resolution is, and the decisions made by a Designated Officer pursuant to such delegated authority and incorporated in Exhibit A will be, in the Issuer’s best interests, and each Designated Officer is hereby authorized to make and include in Exhibit A an appropriate finding to that effect.

(d) Expiration of Delegation Authority. The authority delegated to a Designated Officer pursuant to Sections 1(b) above shall expire on May 12, 2024.

SECTION 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF BONDS. Each Bond issued pursuant to this Resolution shall be designated **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION SALES TAX REVENUE BOND, SERIES 2023**, and initially there shall be issued, sold and delivered hereunder one fully registered bond, numbered T-1 (the “**Initial Bond**”), without interest coupons, dated as of the date determined by a Designated Officer and set forth in Exhibit A, and payable on the dates and in the principal amounts determined by a Designated Officer and set forth in Exhibit A, with Bonds issued and delivered in substitution for the Initial Bond being in the denomination of \$5,000 or any integral multiple thereof, being numbered consecutively from R-1 upward, and being payable to the initial registered owner designated in Section 27 hereof, or to the registered assignee or assignees of said Bonds or any portion or portions thereof (the “**Registered Owner**”).

SECTION 3. INTEREST. The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BOND set forth in this Resolution to their respective dates of maturity at the rates per annum determined by a Designated Officer as set forth in Exhibit A attached hereto. Said interest shall be payable in the manner provided and on the dates stated in the FORM OF BOND set forth in this Resolution.

SECTION 4. CHARACTERISTICS OF THE BONDS.

(a) Registration and Transfer. The Issuer shall keep or cause to be kept at the designated office of a bank, including a commercial bank, or a trust company organized under the laws of the State of Texas, that is selected by a Designated Officer to serve as the paying agent/registrar for the Bonds, which shall be identified in Exhibit A attached hereto (the “**Paying Agent/Registrar**”), books or records for the registration of the transfer and exchange of the Bonds (the “**Registration Books**”), and the Issuer hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the Issuer and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided. Attached hereto as Exhibit B is a copy of the Paying Agent/Registrar Agreement between the Issuer and the Paying Agent/Registrar which is hereby approved in substantially final form, and the President, Vice President and Secretary of the Issuer are hereby authorized to execute the Paying Agent/Registrar Agreement and approve any changes in the final form thereof.

The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. To the extent possible and under reasonable circumstances, all transfers of Bonds shall be made within three business days after

request and presentation thereof. The Issuer shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, exchange and delivery of a substitute Bond or Bonds shall be paid as provided in the FORM OF BOND set forth in this Resolution. Registration of assignments, transfers and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Resolution. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

Except as provided in (c) below, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Paying Agent/Registrar's Authentication Certificate, and no such Bond shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for transfer and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the Issuer or any other body or person so as to accomplish the foregoing transfer and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be of type composition printed on paper with lithographed or steel engraved borders of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, and particularly Subchapter D and Section 1201.067 thereof, the duty of transfer and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the transferred and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Resolution, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) Payment of Principal and Interest. The Issuer hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Resolution. The Paying Agent/ Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Bonds.

(c) In General. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the registered owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the Issuer at least 45 days prior to any such redemption date), (iii) may be transferred and assigned, (iv) may be exchanged for other Bonds, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Bonds shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Resolution. The Initial Bond is not required to be, and shall not be, authenticated by the Paying Agent/ Registrar, but on each substitute Bond issued in exchange for

the Initial Bond issued under this Resolution the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF BOND. In lieu of the executed Paying Agent/Registrar's Authentication Certificate described above, the Initial Bond delivered on the closing date (as further described in subparagraph (i) below) shall have attached thereto the Comptroller's Registration Certificate substantially in the form set forth in the FORM OF BOND below, manually executed by the Comptroller of Public Accounts of the State of Texas or by his duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the Issuer, and has been registered by the Comptroller.

(d) Substitute Paying Agent/Registrar. The Issuer covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the Issuer will provide a competent and legally qualified bank, trust company, financial institution, or other entity to act as and perform the services of Paying Agent/Registrar for the Bonds under this Resolution, and that the Paying Agent/Registrar will be one entity and shall be an entity registered with the Securities and Exchange Commission. The Issuer reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 120 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Issuer covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Resolution. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the Issuer. Upon any change in the Paying Agent/Registrar, the Issuer promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Resolution, and a certified copy of this Resolution shall be delivered to each Paying Agent/Registrar.

(e) Delivery of Initial Bond. On the closing date, one Initial Bond representing the entire principal amount of the Bonds, payable in stated installments to the initial registered owner named in Section 27 of this Resolution or its designee, executed by manual or facsimile signature of the President or Vice President and the Secretary of the Issuer, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to the initial purchaser or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to the initial registered owner or its designee one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all of the Bonds for such maturity.

SECTION 5. FORM OF BONDS. The form of the Bonds, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas (to appear only on the Initial Bond) shall be, respectively, substantially as follows, with such appropriate variations, omissions, or insertions as are permitted or required by this Resolution:

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FORM OF BOND

R- _____

PRINCIPAL
AMOUNT

\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS

**CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION
SALES TAX REVENUE BOND, SERIES 2023**

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>CUSIP NO.</u>
_____ %	August 15, 20____	November 15, 2023	_____

REGISTERED OWNER:

PRINCIPAL AMOUNT: **DOLLARS**

ON THE MATURITY DATE SPECIFIED ABOVE, THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION (the “*Issuer*”), being a nonstock, nonprofit industrial development corporation organized and existing under the laws of the State of Texas, including particularly the Development Corporation Act (which was originally enacted as Article 5190.6, V.A.T.C.S., and was subsequently codified and now appears - as it relates to the Issuer - in Chapters 501, 502, and 505 of the Texas Local Government Code) (collectively, the “*Act*”), and acting on behalf of the *City of Kerrville, Texas* (the “*City*”), hereby promises to pay to the registered owner set forth above or to the assignee or assignees thereof (either being hereinafter called the “**Registered Owner**”) the Principal Amount set forth above, and to pay interest thereon (calculated on the basis of a 360-day year composed of twelve 30-day months) from the date of initial delivery of the Series of Bonds of which this Bond is a part (as shown on the records of the Paying Agent/Registrar, defined below) to the Maturity Date specified above, or the date of redemption prior to maturity, at the Interest Rate per annum specified above with interest being payable on August 15, 2024, and semiannually on each February 15 and August 15 thereafter; except that if the date of authentication of this Bond is later than any Record Date but on or before the next following interest payment date, such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date (hereinafter defined) but on or before the next following interest payment date, in which case such Principal Amount shall bear interest from such next following interest payment date.

THE PRINCIPAL OF AND INTEREST ON THIS BOND are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity or upon the date fixed for its redemption prior to maturity, at the designated corporate trust office of **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, Houston, Texas, which is

the “**Paying Agent/Registrar**” for this Bond. The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on the interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Issuer required by the resolution authorizing the issuance of the Bonds (the “**Resolution**”) to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at the address of the Registered Owner, as it appeared on the last business day of the month next preceding such date (the “**Record Date**”) on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. Any accrued interest due upon the redemption of this Bond prior to maturity as provided herein shall be paid to the Registered Owner at the principal corporate trust office of the Paying Agent/Registrar upon presentation and surrender of this Bond for redemption and payment at the principal corporate trust office of the Paying Agent/Registrar (unless the redemption date is a regularly scheduled interest payment date, in which case accrued interest on such redeemed Bond shall be payable in the regular manner described above). The Issuer covenants with the Registered Owner of this Bond that on or before each principal payment date, interest payment date, and accrued interest payment date for this Bond, it will make available to the Paying Agent/Registrar, from the “Debt Service Fund” created by the Resolution, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a “**Special Record Date**”) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the special record date by the United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

IF THE DATE FOR THE PAYMENT of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND IS ONE OF A SERIES OF BONDS dated as of November 15, 2023, authorized in accordance with the Constitution and laws of the State of Texas, including particularly the Act, in the original principal amount of \$ _____ **FOR THE PURPOSE OF FINANCING “COSTS” (AS DEFINED IN SECTION 501.152 OF THE ACT) OF “PROJECTS” (AS DESCRIBED IN SECTION 505.152 OF THE ACT), INCLUDING, IN PARTICULAR, BUT NOT LIMITED TO, CAILLOUX THEATER ROOF AND HVAC**

REPLACEMENT AND IMPROVEMENTS, OLYMPIC POOL FACILITY RENOVATIONS AND IMPROVEMENTS, GOLF COURSE FACILITY RENOVATIONS AND IMPROVEMENTS, GRANGER MACDONALD PARK UPGRADES AND IMPROVEMENTS, AND HEART OF THE HILLS HERITAGE CENTER RENOVATION, UPGRADES AND IMPROVEMENTS.

ON AUGUST 15, 20__, OR ON ANY DATE THEREAFTER, the Bonds scheduled to mature on and after August 15, 20__, may be redeemed prior to their scheduled maturities, at the option of the Issuer, with funds derived from any available and lawful source, as a whole or in part (provided that a portion of a Bond may be redeemed only in an integral multiple of \$5,000), at the redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the Issuer shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot Bonds, or portions thereof, within such maturity or maturities and in such principal amounts, for redemption.

THE BONDS MATURING on August 15 in the years 20__, 20__, and 20__ (collectively, the “***Term Bonds***”) are subject to mandatory redemption prior to maturity in part by lot, at a price equal to the principal amount thereof plus accrued interest to the date of redemption, on the dates and in the respective principal amounts shown below:

**TERM BONDS MATURING
AUGUST 15, 20__**

Mandatory Redemption Date	Redemption Amount (\$)	Mandatory Redemption Date	Redemption Amount (\$)
August 15, 20__		August 15, 20__	
August 15, 20__		August 15, 20__	
August 15, 20__ (maturity)		August 15, 20__ (maturity)	

**TERM BONDS MATURING
AUGUST 15, 20__**

Mandatory Redemption Date	Redemption Amount (\$)
August 15, 20__	
August 15, 20__	
August 15, 20__ (maturity)	

The principal amount of the Term Bonds required to be redeemed pursuant to the operation of such mandatory redemption requirements may be reduced, at the option of the Issuer, by the principal amount of any such Term Bonds which, prior to the date of the mailing of notice of such mandatory redemption, (i) shall have been acquired by the Issuer and delivered to the Paying Agent/Registrar for cancellation, (ii) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the Issuer, or (iii) shall have been redeemed pursuant to the optional redemption provisions described in the preceding paragraph and not theretofore credited against a mandatory redemption requirement.

AT LEAST 30 DAYS PRIOR to the date fixed for redemption, notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first class postage prepaid, to the registered owner of each Bond to be redeemed at its address as it appeared on the day such notice is mailed. The failure to send, mail, or receive such notice in writing, or any defect therein, or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of Bonds, and the publication of notice as described above shall be the only notice actually required in connection with or as a prerequisite to the redemption of any Bonds. The notice with respect to an optional redemption of Bonds may state (1) that it is conditioned upon the deposit of moneys, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar no later than the redemption date, or (2) that the Issuer retains the right to rescind such notice at any time prior to the scheduled redemption date if the Issuer delivers a certificate of an authorized representative to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and optional redemption shall be of no effect if such moneys are not so deposited or if the notice is so rescinded. By the date fixed for any such redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds which are to be so redeemed, plus accrued interest thereon to the date fixed for redemption. If such notice of redemption is given and if due provision for such payment is made, all as provided above, the Bonds which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the registered owner thereof to receive the redemption price plus accrued interest from the Paying Agent/Registrar out of the funds provided for such payment.

ALL BONDS OF THIS SERIES are issuable solely as fully registered Bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Resolution, this Bond, or any unredeemed portion hereof, may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred and exchanged for a like aggregate principal amount of fully registered Bonds, without interest coupons, payable to the appropriate registered owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate registered owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Resolution. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together

with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be transferred and registered. The form of Assignment printed or endorsed on this Bond shall be executed by the Registered Owner or its duly authorized attorney or representative to evidence the assignment hereof. The Issuer shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such transfer, but the one requesting such transfer shall pay any taxes or other governmental charges required to be paid with respect thereto. The Paying Agent/Registrar shall not be required to make transfers of registration of this Bond or any portion hereof (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or, (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date. The Registered Owner of this Bond shall be deemed and treated by the Issuer and the Paying Agent/Registrar as the absolute owner hereof for all purposes, including payment and discharge of liability upon this Bond to the extent of such payment, and the Issuer and the Paying Agent/Registrar shall not be affected by any notice to the contrary.

IN THE EVENT ANY PAYING AGENT/REGISTRAR for the Bonds is changed by the Issuer, resigns, or otherwise ceases to act as such, the Issuer has covenanted in the Resolution that it promptly will appoint a competent and legally qualified substitute therefor, and promptly will cause written notice thereof to be mailed to the registered owners of the Bonds.

BY BECOMING THE REGISTERED OWNER OF THIS BOND, the Registered Owner thereby acknowledges all of the terms and provisions of the Resolution, agrees to be bound by such terms and provisions, acknowledges that the Resolution is duly recorded and available for inspection in the official minutes and records of the governing body of the Issuer, and agrees that the terms and provisions of this Bond and the Resolution constitute a contract between the Registered Owner hereof and the Issuer.

THE ISSUER HAS RESERVED THE RIGHT, subject to the restrictions stated, and adopted by reference, in the Resolution, to issue additional parity revenue bonds which also may be made payable from, and secured by a first lien on and pledge of, the "Pledged Revenues" (as defined in the Resolution).

IT IS HEREBY CERTIFIED, RECITED, AND COVENANTED that this Bond has been duly and validly authorized, issued, sold, and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the authorization, issuance, and delivery of this Bond have been performed, existed, and been done in accordance with law; that this Bond is a special obligation of the Issuer; that neither the State of Texas, the City, nor any political corporation, subdivision, or agency of the State of Texas, nor any member of the Board of Directors of the Issuer, either individually or collectively, shall be obligated to pay the principal of or the interest on this Bond and neither the faith and credit nor the taxing power (except as described below) of the State of Texas, the City, or any other political corporation,

subdivision, or agency of the State of Texas is pledged to the payment of the principal of or the interest on this Bond; that the principal of and interest on this Bond, together with other outstanding "Parity Obligations" (as defined in the Resolution) are secured by and payable from a first lien on and pledge of the revenues defined in the Resolution as the "Pledged Revenues", which include the proceeds of a one-half of one percent sales and use tax levied for the benefit of the Issuer by the City pursuant to Chapter 505 of the Act; and that the Registered Owner hereof shall not have the right to demand payment of the principal of or interest on this Bond from any tax proceeds in excess of the aforesaid sales and use tax proceeds levied for the benefit of the Issuer by the City pursuant to Chapter 505 of the Act, or from any other source other than the Pledged Revenues.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be signed with the manual or facsimile signature of the President or Vice President of the Issuer and countersigned with the manual or facsimile signature of the Secretary of the Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Bond.

(signature)
Secretary

(signature)
[Vice] President

(SEAL)

**FORM OF REGISTRATION CERTIFICATE OF THE
COMPTROLLER OF PUBLIC ACCOUNTS:**

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

(COMPTROLLER'S SEAL)

Comptroller of Public Accounts
of the State of Texas

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Bond is not accompanied by an executed Registration Certificate of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Resolution described in the text of this Bond; and that this Bond has been issued in exchange for a Bond which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

**U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION
HOUSTON, TEXAS**
Paying Agent/Registrar

By _____
Authorized Representative

FORM OF ASSIGNMENT

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

/ _____ /
(Assignee's Social Security or _____ (Please print or typewrite name and address, including
Taxpayer Identification Number) _____ zip code of Transferee)
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints
_____, attorney to register the transfer of the within Bond on the books kept for registration thereof, with
full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed
by a member firm of the New York Stock
Exchange or a commercial bank or trust
company.

NOTICE: The signature above must
correspond with the name of the Registered
Owner as it appears upon the front of this
Bond in every particular, without alteration
or enlargement or any change whatsoever.

INITIAL BOND INSERTIONS

The Initial Bond shall be in the form set forth above except that:

- (A) The Initial Bond shall be numbered “T-1”.
- (B) Immediately under the name of the Bond, the headings “INTEREST RATE” and “MATURITY DATE” shall be completed with the words “As shown below” and “CUSIP NO. _____” shall be deleted.
- (C) The first paragraph shall be deleted and the following shall be inserted:

“ON THE RESPECTIVE MATURITY DATES specified below, the ***CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION*** (the “*Issuer*”), being a nonstock, nonprofit industrial development corporation organized and existing under the laws of the State of Texas, including particularly the Development Corporation Act (which was originally enacted as Article 5190.6, V.A.T.C.S., and was subsequently codified and now appears - as it relates to the Issuer - in Chapters 501, 502, and 505 of the Texas Local Government Code) (collectively, the “*Act*”), and acting on behalf of the *City of Kerrville, Texas* (the “*City*”), hereby promises to pay to the registered owner specified above, or registered assigns (hereinafter called the “*Registered Owner*”), the respective Principal Installments specified below, and to pay interest thereon (calculated on the basis of a 360-day year composed of twelve 30-day months) from the date of initial delivery of the Series of Bonds of which this Bond is a part (as shown on the records of the Paying Agent/Registrar, defined below) at the respective Interest Rates per annum specified below, payable on August 15, 2024, and semiannually on each February 15 and August 15 thereafter to the respective Maturity Dates specified below, or the date of redemption prior to maturity. The respective Maturity Dates, Principal Installments and Interest Rates for this Bond are set forth in the following schedule:

MATURITY DATE (AUGUST 15)	PRINCIPAL INSTALLMENT (\$)	INTEREST RATE (%)
_____	_____	_____
_____	_____	_____
_____	_____	_____

[Insert principal and interest information from Exhibit A]

SECTION 6. DEFINITIONS. In addition to the capitalized terms defined in the recitals above, as used in this Resolution the following terms shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

“*Act*” shall mean the Development Corporation Act, which was originally enacted as Article 5190.6, V.A.T.C.S., and was subsequently codified and now appears - as it relates to the Issuer - in Chapters 501, 502, and 505 of the Texas Local Government Code, as amended.

“*Additional Obligations*” shall mean those obligations hereafter issued by the Issuer pursuant to Section 19 of this Resolution.

“*Annual Debt Service Requirements*” means, as of the date of calculation, the principal of and interest on all Parity Obligations coming due in an applicable Fiscal Year.

“*Board*” shall mean the Board of Directors of the Issuer.

“*Bonds*” shall mean the **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION SALES TAX REVENUE BONDS, SERIES 2023**, in the aggregate principal amount of \$ _____, authorized to be issued by this Resolution.

“*City*” shall mean the **CITY OF KERRVILLE, TEXAS**.

“*Code*” shall mean the Internal Revenue Code of 1986, as amended.

“*Comptroller*” shall mean the Comptroller of Public Accounts of the State of Texas, and any successor official or officer thereto.

“*Cost*” shall mean with respect to the Projects, the cost of acquisition, construction, reconstruction, improvement, and expansion of the Projects as provided in the Act, including, without limitation, the cost of the acquisition of all land, rights-of-way, property rights, easements, and interests, the cost of all machinery and equipment, financing charges, interest prior to and during construction, and for one year after completion of construction whether or not capitalized, necessary reserve funds, cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving, and expanding the Projects, administrative expense, and such other expense as may be necessary or incident to the acquisition, construction, reconstruction, improvement, and expansion thereof, the placing of the same in operation, and the financing or refinancing of the Projects.

“*Credit Facility*” shall mean a policy of municipal bond insurance, a surety bond or a bank letter or line of credit issued by a Credit Facility Provider, if any, to cause the amount on deposit in the Reserve Fund to satisfy the Required Reserve Amount.

Credit Facility Provider means (i) with respect to any Credit Facility consisting of a policy of municipal bond insurance or a surety bond, any issuer of policies of insurance insuring the timely payment of debt service on governmental obligations such as the Parity Obligations and provided that a nationally recognized rating agency having an outstanding rating on the Parity Obligations would rate such Parity Obligations fully insured by a standard policy issued by that issuer in its highest rating category for such obligations; and (ii) with respect to any Credit Facility consisting of a letter or line of credit, any bank, provided that a nationally recognized rating agency having an outstanding rating on the Parity Obligations would rate the Parity Obligations in its highest rating category for such obligations if the letter or line of credit proposed to be issued by such bank secured the timely payment of the entire principal amount of the Parity Obligations and the interest thereon.

Fiscal Year shall mean the fiscal year of the Issuer, being the twelve month period beginning October 1 of each year.

Investment Act shall mean the Public Funds Investment Act, Chapter 2256, Texas Government Code.

Issuer shall mean the *City of Kerrville, Texas Economic Improvement Corporation*

Parity Obligations shall mean, collectively, the Bonds and any Additional Obligations.

Paying Agent/Registrar shall mean the financial institution so designated in accordance with the provisions of Section 4 of this Resolution.

Pledged Revenues shall mean the gross revenues received by the Issuer from the Sales Tax plus any interest earnings thereon, less any amounts due or owing to the Comptroller as charges for collection or retention by the Comptroller for refunds and to redeem dishonored checks and drafts, to the extent such charges and retention are authorized or required by law.

Projects shall mean the “Projects” described and defined in the recitals of this Resolution.

Sales Tax shall mean the one-half of one percent sales and use tax levied by the City within the boundaries of the City as they now or hereafter exist, together with any increases in the aforesaid rate if provided and authorized by the laws of the State of Texas, specifically the Act, and collected for the benefit of the Issuer, all in accordance with the Act, including particularly Chapter 505 thereof.

Sales Tax Remittance Agreement shall mean the *Sales Tax Remittance Agreement* between the City and the Issuer, dated as of March 1, 1999, as amended by the *First Amendment to Sales Tax Remittance Agreement*, dated as of November 13, 2023, authorized pursuant to Section 12 of this Resolution, and as may be further amended in the future by the City and the Issuer.

SECTION 7. PLEDGE AND SECURITY INTEREST.

(a) Pledge. The Parity Obligations, and any interest payable thereon, are and shall be secured by and payable from a first lien on and pledge of the Pledged Revenues; and the Pledged Revenues are further pledged to the establishment and maintenance of the Debt Service Fund and the Reserve Fund as hereinafter provided. The Parity Obligations are and will be secured by and payable only from the Pledged Revenues, and are not secured by or payable from a mortgage or deed of trust on any real, personal or mixed properties constituting a project financed or refinanced with proceeds of any Parity Obligations.

(b) Security Interest. Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the Pledged Revenues granted by the Issuer under Section 7(a) of this Resolution, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the Pledged Revenues granted by the Issuer under Section 7(a) of this Resolution is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the Issuer agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

SECTION 8. REVENUE FUND. There has been created and established, and shall continue to be maintained, on the books of the Issuer, and accounted for separate and apart from all other funds of the Issuer, a special fund entitled the "*City of Kerrville, Texas Economic Improvement Corporation Sales Tax Revenue Fund*" (hereinafter called the "**Revenue Fund**"). All Pledged Revenues shall be credited to the Revenue Fund immediately upon receipt. Monies in said Fund shall be maintained at an official depository bank of the City.

SECTION 9. DEBT SERVICE FUND. For the sole purpose of paying the principal of and interest on the Parity Obligations, as the same come due, there is hereby created and established, and shall be maintained, on the books of the Issuer a separate fund entitled the "*City of Kerrville, Texas Economic Improvement Corporation Sales Tax Revenue Bonds Debt Service Fund*" (hereinafter called the "**Debt Service Fund**"). Monies in said Fund shall be maintained at an official depository bank of the City.

SECTION 10. RESERVE FUND. There is hereby created and established, and shall be maintained, on the books of the Issuer a separate fund entitled the "*City of Kerrville, Texas Economic Improvement Corporation Sales Tax Revenue Bonds Reserve Fund*" (hereinafter called the "**Reserve Fund**"). As further described in Section 16(a) hereof, no amounts are required to be held on deposit in the Reserve Fund unless the amount of Pledged Revenues collected for the benefit of the Issuer during each of the two most recently completed Fiscal Years is less than 1.75 times the maximum Annual Debt Service Requirements for all Parity Obligations. Monies in said Fund, if any, shall be maintained at an official depository bank of the City.

SECTION 11. CONSTRUCTION FUND. (a) There shall be created and established on the books of the Issuer a separate fund entitled the “*City of Kerrville, Texas Economic Improvement Corporation Series 2023 Construction Fund*” (hereinafter called the “**Construction Fund**”). The Construction Fund shall be held by an official depository bank of the City and shall be subject to and charged with a lien in favor of the registered owners of the Bonds until said monies on deposit therein are paid out as herein provided. The proceeds from the sale of the Bonds, other than any accrued interest and capitalized interest, if any (which shall be deposited to the credit of the Debt Service Fund), shall be credited to the Construction Fund. All interest and profits from investments made with moneys in the Construction Fund shall remain on deposit in the Construction Fund and as a part thereof unless the President, Vice President, or Treasurer of the Issuer directs that all or a portion of such interest earnings are to be deposited to the Debt Service Fund. All funds on deposit in the Construction Fund shall be deposited into the Debt Service Fund upon completion of the Projects (i.e. until the Projects are finally completed).

(b) Money in the Construction Fund shall be subject to disbursement by the Issuer for payment of any Costs of the Projects; however, no proceeds shall be used to pay any maintenance or operating costs of the Projects. Such disbursements shall be made only for valid Costs of the Projects.

SECTION 12. TRANSFER OF SALES TAX REVENUES. (a) The Issuer hereby approves the *First Amendment to Sales Tax Remittance Agreement* in substantially the form attached hereto as Exhibit C, to reflect that the funds on deposit in the Revenue Fund are to be used in a manner consistent with the terms and conditions of this Resolution and any future resolutions of the Issuer authorizing the issuance of Additional Obligations.

(b) Pursuant to the provisions of the Sales Tax Remittance Agreement, the City has agreed to do any and all things necessary to accomplish the transfer of the Sales Tax collected for the benefit of the Issuer to the Revenue Fund on a monthly basis. The Sales Tax Remittance Agreement shall govern matters with respect to the collection of sales taxes from the Comptroller, credits and refunds due and owing to the Comptroller, and other matters with respect to the collection and transfer of the Sales Tax. The City shall maintain the proceeds from the collection of the Sales Tax in an account to be maintained at an official depository bank of the City.

(c) The President, Vice President, Secretary, and Treasurer of the Issuer are hereby ordered to do any and all things necessary including mandamus, and any action at law or in equity to accomplish the transfer of monies to the Debt Service Fund in ample time to pay the principal of and interest on the Parity Obligations.

SECTION 13. DEPOSITS OF PLEDGED REVENUES; INVESTMENTS. (a) The Pledged Revenues shall be deposited in the Debt Service Fund and the Reserve Fund, or shall be used to reimburse a Credit Facility Provider in the event a Credit Facility has been drawn upon to pay debt service requirements on any Parity Obligations, when and as required by this Resolution.

(b) Money in any Fund established by this Resolution may, at the option of the Board, be invested in eligible investment securities as described in the Investment Act; provided that all such deposits and investments shall have a par value (or market value when less than par) exclusive of accrued interest at all times at least equal to the amount of money credited to such Funds, and shall be made in such manner that the money required to be expended from any Fund will be available at the proper time or times. Money in the Reserve Fund shall not be invested in securities maturing later than five years from the date such investment is made. Such investments shall be valued in terms of current market value as of the last day of each year, except that direct obligations of the United States (State and Local Government Series) in book-entry form shall be continuously valued at their par or face principal amount. Such investments shall be sold promptly when necessary to prevent any default in connection with the Parity Obligations.

SECTION 14. FUNDS SECURED. Money in all Funds created by this Resolution, to the extent not invested, shall be secured in the manner prescribed by law for securing funds of the City.

SECTION 15. DEBT SERVICE FUND REQUIREMENTS. (a) Promptly after the delivery of the Bonds the Issuer shall cause to be deposited to the credit of the Debt Service Fund any accrued interest and any capitalized interest received from the sale and delivery of the Bonds, and any such deposit shall be used to pay the interest next coming due on the Bonds.

(b) The Issuer shall transfer or cause to be transferred Pledged Revenues on deposit in the Revenue Fund, and deposit to the credit of the Debt Service Fund the amounts, and at the times, as follows:

(1) Such amounts, in substantially equal monthly installments, deposited on or before the last business day of each month hereafter, as will be sufficient, together with other amounts, if any, then on hand in the Debt Service Fund and available for such purpose, to pay the interest scheduled to accrue and come due on the Bonds on the next succeeding interest payment date.

(2) Such amounts, in substantially equal monthly installments deposited on or before the last business day of each month hereafter, as will be sufficient, together with other amounts, if any, then on hand in the Debt Service Fund and available for such purpose, to pay the principal scheduled to mature and come due on the Bonds on the next succeeding principal payment date.

SECTION 16. RESERVE FUND REQUIREMENTS.

(a) No Funds Initially Deposited to or Maintained in Reserve Fund. No funds shall be required to be deposited and maintained in the Reserve Fund as long as the amount of Pledged Revenues collected for the benefit of the Issuer during each of the two most recently completed Fiscal Years has been greater than 1.75 times the maximum Annual Debt Service Requirements for all Parity Obligations. In the event, however, that the amount of Pledged Revenues collected

for the benefit of the Issuer during each of the two most recently completed Fiscal Years is less than 1.75 times the maximum Annual Debt Service Requirements for all Parity Obligations, the Issuer shall, subject and subordinate to making the required deposits to the credit of the Debt Service Fund, transfer or cause to be transferred Pledged Revenues on deposit in the Revenue Fund, and deposit to the credit of the Reserve Fund, an amount equal to 1/24th of such deficiency and continue such deposits until the earlier of such time as (i) the Reserve Fund contains the maximum Annual Debt Service Requirements of the outstanding Parity Obligations (the “**Required Reserve Amount**”), or (ii) the Pledged Revenues in each of the two most recently completed Fiscal Years is equal to not less than 1.75 times the maximum Annual Debt Service Requirements of all outstanding Parity Obligations.

(b) Use of Funds. Funds on deposit in the Reserve Fund shall be used to (i) pay the principal of and interest on the Parity Obligations at any time when there is not sufficient money available in the Debt Service Fund for such purpose, (ii) pay the principal of or interest on the last maturing Parity Obligations, or (iii) pay Reimbursement Obligations to restore the amount available to be drawn under a Reserve Fund Credit Facility to its original amount. If the amount on deposit in the Reserve Fund consists of cash and investments and a Reserve Fund Credit Facility, all cash and investments in such account shall be liquidated and withdrawn prior to drawing on the Reserve Fund Credit Facility. If more than one Reserve Fund Credit Facility is maintained in an account of the Reserve Fund, any withdrawals on such Reserve Fund Credit Facilities shall be pro rata.

(c) Right to Withdraw Excess Funds in Series 2023 Account. In the event the amount on deposit in the Reserve Fund exceeds the Required Reserve Amount, the Issuer may withdraw such excess amount from the Reserve Fund and deposit such amount into the Revenue Fund or use it for other lawful purposes.

(d) Use of Credit Facility. The Issuer may, in lieu of depositing cash or investments in the Reserve Fund, obtain a Credit Facility in order to cause the amount on deposit therein to equal the Required Reserve Amount. The Credit Facility must (i) be issued for the benefit of all owners of the Parity Obligations, (ii) provide coverage, together with other cash and investments on deposit in the Reserve Fund, for the full amount of the Required Reserve Amount applicable to the series of Parity Obligations for which such Credit Facility was obtained, (iii) upon the demand of the owners or the Paying Agent/Registrar on behalf of the owners, provide for the withdrawal or disbursement of such amounts at the same times as would otherwise be permitted to be withdrawn for the Debt Service Fund, and (iv) be in form and substance approved by nationally recognized bond counsel. If the amount on deposit in the Reserve Fund consists of cash and investments and one or more Credit Facilities, as provided in this subsection, all cash and investments shall be liquidated and withdrawn prior to drawing on any Credit Facility, and all Credit Facility Providers shall be fully reimbursed in accordance with the provisions of the respective Credit Facility (including draws, expenses and accrued interest) prior to restoring any cash balance to the Reserve Fund. If more than one Credit Facility is on deposit in the Reserve Fund, any withdrawals on such Credit Facilities shall be made on a pro rata basis. Should the Issuer be obligated to repay or reimburse a Credit Facility Provider to replenish or restore the full

amount of the coverage provided by a Credit Facility, on or before the last business day of each month following a withdrawal on a Credit Facility, the Issuer shall cause approximately equal monthly deposits to be made from Pledged Revenues to the Credit Facility Provider in order to restore the full coverage under such Credit Facility within a period of not greater than 12 months following the month during which a withdrawal was first made on such Credit Facility.

SECTION 17. DEFICIENCIES; EXCESS PLEDGED REVENUES. (a) If on any occasion there shall not be sufficient Pledged Revenues to make the required deposits into the Debt Service Fund and the Reserve Fund, then such deficiency shall be made up as soon as possible from the next available Pledged Revenues, or from any other sources available for such purpose.

(b) Subject to making the required deposits to the credit of the Debt Service Fund and the Reserve Fund when and as required by this Resolution, or any resolution authorizing the issuance of Additional Obligations, the excess Pledged Revenues may be used by the Issuer for any lawful purpose not inconsistent with the Act.

SECTION 18. PAYMENT. On or before August 15, 2024, and semiannually on or before each February 15 and August 15 thereafter while any of the Parity Obligations are outstanding and unpaid, the Issuer shall make available to the paying agents therefor, out of the Debt Service Fund, and the Reserve Fund (if necessary), money sufficient to pay such interest on and such principal of the Parity Obligations as shall become due on such dates, respectively, at maturity or by redemption prior to maturity. The aforesaid paying agents shall destroy all paid Parity Obligations, and furnish the Issuer with an appropriate certificate of cancellation or destruction.

SECTION 19. ADDITIONAL BONDS. (a) The Issuer shall have the right and power at any time and from time to time and in one or more series or issues, to authorize, issue and deliver additional parity revenue bonds (herein called "*Additional Obligations*"), in accordance with law, in any amounts, for purposes of financing or refinancing projects under the provisions of the Act, or for the purpose of refunding any Parity Obligations or other obligations of the Issuer incurred in connection with the financing of projects under the provisions of the Act. Such Additional Obligations, if and when authorized, issued and delivered in accordance with this Resolution, shall be secured by and made payable equally and ratably on a parity with the Parity Obligations then outstanding from a first lien on and pledge of the Pledged Revenues.

(b) The Debt Service Fund and the Reserve Fund established by this Resolution shall secure and be used to pay all Parity Obligations in accordance with the terms of this Resolution. However, each resolution under which Additional Obligations are issued shall provide and require that, in addition to the amounts required by the provisions of this Resolution and the provisions of any other resolution or resolutions authorizing Additional Obligations to be deposited to the credit of the Debt Service Fund, the Issuer shall deposit to the credit of the Debt Service Fund at least such amounts as are required for the payment of all principal and interest on said Additional Obligations then being issued, as the same come due; and that the aggregate amount to be accumulated and maintained in the Reserve Fund shall be increased (if and to the extent necessary,

and subject to the provisions of Section 16(a) hereof relating to certain times during which no amounts are required to be on deposit in the Reserve Fund) to an amount not less than the maximum annual principal and interest requirements of all Parity Obligations which will be outstanding after the issuance and delivery of the then proposed Additional Obligations; and that the required additional amount, if any, shall be so accumulated by the deposit in the Reserve Fund of all or any part of said required additional amount in cash immediately after the delivery of the then proposed Additional Obligations, or, at the option of the Issuer, by the deposit of said required additional amount (or any balance of said required additional amount not deposited in cash as permitted above) in monthly installments, made on or before the last business day of each month following the delivery of the then proposed Additional Obligations, of not less than 1/60th of said required additional amount (or 1/60th of the balance of said required additional amount not deposited in cash as permitted above).

(c) All calculations of maximum annual principal and interest requirement made pursuant to this Section shall be made as of and from the date of the Additional Obligations then proposed to be issued.

(d) No installment, series or issue of Additional Obligations shall be issued or delivered unless:

(i) The President, Vice President, or Treasurer of the Issuer signs a written certificate to the effect that the Issuer is not in default as to any covenant, condition or obligation in connection with all outstanding Parity Obligations, and the resolutions authorizing same, and that the Debt Service Fund and the Reserve Fund each contains the amount then required to be therein;

(ii) The chief financial officer of the Issuer or the City signs a written certificate to the effect that, during either the next preceding year, or any twelve consecutive calendar month period ending not more than ninety days prior to the date of the then proposed Additional Obligations, the Pledged Revenues were, in his or her opinion, at least equal to 1.50 times the maximum annual principal and interest requirements (computed on a Fiscal Year basis) of all Parity Obligations to be outstanding after the issuance of then proposed Additional Obligations;

(iii) The respective governing bodies of the Issuer and the City by official action approves the issuance of the Bonds, as required by the Act; and

(iii) The Issuer receives the written consent of a Credit Facility Provider in the event a Credit Facility provided by such Credit Facility Provider has been drawn upon and such Credit Facility Provider has not been fully reimbursed for costs related to such withdrawal.

The foregoing notwithstanding, the Issuer may issue Additional Obligations, all or a portion of the proceeds of which are to be used to refund all of the outstanding Parity Obligations, without the necessity of satisfying the provisions of clause (ii) of this subsection.

(e) Any installment, series or issue of Additional Obligations may be issued in such a manner that such Additional Obligations would qualify as obligations described by Section 103(a) of the Code, without regard as to whether any other obligations of the Issuer then outstanding were so issued.

SECTION 20. GENERAL COVENANTS. The Issuer further covenants and agrees that in accordance with and to the extent required or permitted by law:

(a) Performance. It will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Resolution, each resolution authorizing the issuance of Additional Obligations, and in each and every Parity Obligation; it will promptly pay or cause to be paid the principal of and interest on every Parity Obligation, on the dates and in the places and manner prescribed in such resolutions and Parity Obligations; and it will, at the times and in the manner prescribed, deposited or cause to be deposited the amounts required to be deposited into the Debt Service Fund and the Reserve Fund; and any registered owner of the Parity Obligations may require the Issuer, its officials and employees to carry out, respect or enforce the covenants and obligations of this Resolution, or any resolution authorizing the issuance of Additional Obligations, by all legal and equitable means, including specifically, but without limitation, the use and filing of mandamus proceedings, in any court of competent jurisdiction, against the Issuer, its officials and employees, or by the appointment of a receiver in equity.

(b) Legal Authority. It is a duly created and existing industrial development corporation, and is duly authorized under the laws of the State of Texas, including the Act, to create and issue the Parity Obligations; that all action on its part for the creation and issuance of the Parity Obligations has been duly and effectively taken, and that the Parity Obligations in the hands of the registered owners thereof are and will be valid and enforceable special obligations of the Issuer in accordance with their terms.

(c) Further Encumbrance. It, while the Parity Obligations are outstanding and unpaid, will not additionally encumber the Pledged Revenues in any manner, except as permitted in this Resolution in connection with Additional Obligations, unless said encumbrance is made junior and subordinate in all respects to the liens, pledges, covenants and agreements of this Resolution; but the right of the Issuer to issue revenue bonds payable from a subordinate lien on the Pledged Revenues, in accordance with the provisions of the Act, is specifically recognized and retained.

(d) Collection of Sales Tax. For so long as any Parity Obligations remain outstanding, the Issuer covenants and agrees that it will take all steps necessary in any action at law or in equity to cause the Sales Tax, at its current rate (2 of 1%) or at a higher rate if legally permitted, to be levied and collected continuously throughout the boundaries of the City, as such boundaries may be changed from time to time, in the manner and to the maximum extent legally permitted; and to

cause no reduction, abatement or exemption in the Sales Tax until all the Bonds have been paid in full or until they are lawfully defeased in accordance with this Resolution. The Issuer further covenants and agrees that, if, subsequent to the issuance of any Parity Obligations, the City is authorized by applicable law to impose and levy the Sales Tax on any items or transactions that are not subject to the Sales Tax on the date this Resolution was adopted, then the Issuer will use its best efforts to cause the City to take such action as may be required by applicable law to subject such items or transactions to the Sales Tax.

(e) Records. It will keep proper books of record and account in which full, true and correct entries will be made of all dealings, activities and transactions relating to the Projects, the Pledged Revenues and the Funds created or maintained pursuant to this Resolution, and all books, documents and vouchers relating thereto shall at all reasonable times be made available for inspection upon request of any bondholders.

SECTION 21. DEFEASANCE OF PARITY OBLIGATIONS. (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a “*Defeased Bond*”) within the meaning of this Resolution, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the “*Future Escrow Agreement*”) for such payment (1) lawful money of the United States of America sufficient to make such payment and/or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Bonds shall have become due and payable. Thereafter, the Issuer will have no further responsibility with respect to amounts available to the Paying Agent/Registrar for the payment of such Defeased Parity Obligation, including any insufficiency therein caused by the failure of the escrow agent under such Future Escrow Agreement to receive payment when due on the Defeasance Securities. At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes or revenues herein levied and pledged as provided in this Resolution, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Resolution to the contrary, it is hereby provided that any determination not to redeem Defeased Bonds that is made in conjunction with the payment arrangements specified in subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Issuer expressly reserves the right to call the Defeased Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Bonds immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Issuer be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Bonds and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Bonds may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsection (a)(i) or (ii) of this Section. All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Bonds, with respect to which such money has been so deposited, shall be remitted to the Issuer or deposited as directed in writing by the Issuer.

(c) The term "**Defeasance Securities**" means (i) direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of the purchase thereof are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date on the date the governing body of the Issuer adopts or approves the proceedings authorizing the financial arrangements are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, and (iv) any other then authorized securities or obligations under applicable state law that may be used to defease obligations such as the Parity Obligations.

(d) Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the Issuer shall make proper arrangements to provide and pay for such services as required by this Resolution.

(e) In the event that the Issuer elects to defease less than all of the principal amount of Bonds of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Bonds by such random method as it deems fair and appropriate.

(f) Notwithstanding the foregoing, no defeasance shall be deemed to occur until all costs (including draws, expenses and accrued interest) due to a Credit Facility Provider for a draw on a Credit Facility have been paid in full.

SECTION 22. RESOLUTION A CONTRACT; AMENDMENTS. (a) This Resolution shall constitute a contract with the registered owners of the Parity Obligations, binding on the Issuer and its successors and assigns, and shall not be amended or repealed by the Issuer as long as any Parity Obligations remain outstanding except as permitted in this Section.

(b) The Issuer may, with notice to each Credit Facility Provider but without the consent of or notice to any registered owners, amend, change, or modify this Resolution (i) as may be required by the provisions hereof, (ii) as may be required for the purpose of curing any ambiguity, inconsistency, or formal defect or omission herein, or (iii) in connection with any other change (other than any change described in clauses (i) through (iv) of the first sentence in subsection (c) below) with respect to which the Issuer receives written confirmation from each rating agency then maintaining a rating on the Parity Obligations at the request of the Issuer that such amendment would not cause such rating agency to withdraw or reduce its then current rating on the Parity Obligations.

(c) In addition, the Issuer may, with the written consent of each Credit Facility Provider and the registered owners of at least a majority in aggregate principal amount of the Parity Obligations then outstanding affected thereby, amend, change, modify, or rescind any provisions of this Resolution; provided that without the consent of all of the registered owners affected, no such amendment, change, modification, or rescission shall (i) extend the time or times of payment of the principal of and interest on the Parity Obligations, reduce the principal amount thereof or the rate of interest thereof, (ii) give any preference to any Parity Obligations over any other Parity Obligation, (i) extend any waiver of default to subsequent defaults, or (iv) reduce the aggregate principal amount of Parity Obligations required for consent to any such amendment, change, modification, or rescission.

(d) Whenever the Issuer shall desire to make any amendment or addition to or rescission of this Resolution requiring consent of each Credit Facility Provider and/or the registered owners of the Parity Obligations, the Issuer shall cause notice of the amendment, addition, or rescission to be sent by first class mail, postage prepaid, to (i) each Credit Facility Provider, and (ii) the registered owners (if the registered owners of all Parity Obligations or at least a majority in aggregate principal amount of the Parity Obligations are required to consent) at the respective addresses shown on the Registration Books. Whenever at any time within one year after the date of the giving of such notice, the Issuer shall receive an instrument or instruments in writing executed by each Credit Facility Provider and the registered owners of all or a majority (as the case may be) in aggregate principal amount of the Parity Obligations then outstanding affected by any such amendment, addition, or rescission requiring the consent of the registered owners, which instrument or instruments shall refer to the proposed amendment, addition, or rescission described in such notice and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the Issuer may adopt such amendment, addition, or rescission in substantially such form, except as herein provided.

(e) No Registered Owner may thereafter object to the adoption of any amendment, addition, or rescission which is accomplished pursuant to and in accordance with the provisions of this Section, or to any of the provisions thereof, and such amendment, addition, or rescission shall be fully effective for all purposes.

SECTION 23. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS.

(a) *Replacement Bonds.* In the event any outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new bond of the same principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) *Application for Replacement Bonds.* Application for replacement of damaged, mutilated, lost, stolen, or destroyed Bonds shall be made by the registered owner thereof to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Bond, the registered owner applying for a replacement bond shall furnish to the Issuer and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Bond, the registered owner shall furnish to the Issuer and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) *No Default Occurred.* Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the Issuer may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) *Charge for Issuing Replacement Bonds.* Prior to the issuance of any replacement bond, the Paying Agent/Registrar shall charge the registered owner of such Bond with all legal, printing, and other expenses in connection therewith. Every replacement bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen, or destroyed shall constitute a contractual obligation of the Issuer whether or not the lost, stolen, or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Resolution equally and proportionately with any and all other Bonds duly issued under this Resolution.

(e) *Authority for Issuing Replacement Bonds.* In accordance with Chapter 1201, Texas Government Code, as amended, this Section shall constitute authority for the issuance of any such replacement bond without necessity of further action by the governing body of the Issuer or any other body or person, and the duty of the replacement of such bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 4 of this Resolution, for Bonds issued in conversion and exchange for other Bonds.

SECTION 24. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND BOND INSURANCE, IF OBTAINED. The President of the Issuer is hereby authorized to have control of each Bond issued hereunder and all necessary records and proceedings pertaining to each Bond pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of each Bond said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate on each Bond, and the seal of said Comptroller shall be impressed, or placed in facsimile, on each Bond. The approving legal opinion of the Issuer's Bond Counsel and the assigned CUSIP numbers may, at the option of the Issuer, be printed on each Bond or on any Bonds issued and delivered in conversion of and exchange or replacement of any Bond, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Bonds. In addition, the printer of the Bonds is hereby directed to print on the Bonds the form of bond counsel's opinion relating thereto, and is hereby authorized to print on the Bonds an appropriate statement of insurance supplied by a municipal bond insurance company providing insurance, if any, covering all or any part of the Bonds.

SECTION 25. COMPLIANCE WITH RULE 15c2-12.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“**EMMA**” means the Electronic Municipal Market Access system being established by the MSRB.

“**Financial Obligation**” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“**MSRB**” means the Municipal Securities Rulemaking Board.

“**Rule**” means SEC Rule 15c2-12, as amended from time to time.

“**SEC**” means the United States Securities and Exchange Commission.

(b) Annual Reports. The Issuer shall provide annually to the MSRB through EMMA financial information and operating data with respect to the Issuer of the general type included in the final Official Statement authorized by this Resolution, being the information described in Exhibit D hereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in Exhibit D hereto, or such other accounting principles

as the Issuer may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the Issuer commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the Issuer shall provide (1) unaudited financial statements for such fiscal year within such required time, and (2) audited financial statements for the applicable fiscal year to the MSRB through EMMA when and if the audit report on such statements become available.

If the Issuer changes its fiscal year, it will notify the MSRB through EMMA of the date of the new fiscal year end prior to the next date by which the Issuer otherwise would be required to provide financial information and operating data pursuant to this paragraph (b).

The financial information and operating data to be provided pursuant to this paragraph (b) may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB through EMMA or filed with the SEC.

(c) Event Notices.

The Issuer shall file notice of the following events with respect to the Bonds to the MSRB through EMMA in a timely manner and not more than 10 business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701BTEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of the holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;

10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the Issuer;
13. The consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material;
15. Incurrence of a Financial Obligation of the Issuer, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Issuer, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Issuer, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph 12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Issuer in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Issuer, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the Issuer in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer, and (b) the Issuer intends the words used in the immediately preceding paragraphs 15 and 16 and the definition of Financial Obligation in this Section to mean a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

The Issuer shall file notice with the MSRB, in a timely manner, of any failure by the Issuer to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such subsection.

(d) Limitations, Disclaimers, and Amendments. The Issuer shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Issuer remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the Issuer in any event will give notice of any deposit made in accordance with Section 21 of this Resolution that causes Bonds no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Issuer undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Issuer’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Issuer does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE ISSUER BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE ISSUER, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Issuer in observing or performing its obligations under this Section shall comprise a breach of or default under this Resolution for purposes of any other provision of this Resolution.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Issuer under federal and state securities laws.

The provisions of this Section may be amended by the Issuer from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Issuer, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Resolution that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Issuer (such as nationally recognized bond counsel) determined that such amendment will not materially impair

the interest of the holders and beneficial owners of the Bonds. The Issuer may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds. If the Issuer so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided.

(e) Format, Identifying Information, and Incorporation by Reference. All financial information, operating data, financial statements, and notices required by this Section to be provided to the MSRB shall be provided in an electronic format and be accompanied by identifying information prescribed by the MSRB.

Financial information and operating data to be provided pursuant to subsection (b) of this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public on the MSRB=s Internet Web site or filed with the SEC.

SECTION 26. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS.

(a) Covenants. The Issuer covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the “*Code*”), the interest on which is not includable in the “gross income” of the holder for purposes of federal income taxation. In furtherance thereof, the Issuer covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any “private business use,” as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds of the Bonds or the projects financed therewith are so used, such amounts, whether or not received by the Issuer, with respect to such private business use, do not, under the terms of this Resolution or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the “private business use” described in subsection (1) hereof exceeds five percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of five percent is used for a “private business use” which is “related” and not “disproportionate,” within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Bonds being treated as “private activity bonds” within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Bonds being “federally guaranteed” within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with --

(A) proceeds of the Bonds invested for a reasonable temporary period of three years or less until such proceeds are needed for the purpose for which the Bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(7) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);

(8) to refrain from using the proceeds of the Bonds or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Bonds in contravention of the requirements of section 149(d) of the Code (relating to advance refundings); and

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the “Excess Earnings,” within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) *Rebate Fund.* In order to facilitate compliance with the above covenant (8), a “**Rebate Fund**” is hereby established by the Issuer for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) *Proceeds.* The Issuer understands that the term “proceeds” includes “disposition proceeds” as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Bonds. It is the understanding of the Issuer that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the Issuer will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the Issuer hereby authorizes and directs the President, Vice President, Secretary, and Treasurer of the Issuer to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Issuer, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds.

(d) *Allocation of, and Limitation on, Expenditures for the Projects.* The Issuer covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Resolution (collectively referred to herein as the “**Projects**”) on its books and records in accordance with the requirements of the Code. The Issuer recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the respective Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the Issuer recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired. The Issuer agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) *Disposition of Projects.* The Issuer covenants that the property constituting the Projects financed or refinanced with the proceeds of the Bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the Issuer of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Bonds. For purpose of the foregoing, the Issuer may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(f) *Written Procedures.* Unless superseded by another action of the Board of Directors, the Board of Directors hereby adopts and establishes the instructions attached hereto as Exhibit E as the Issuer's written procedures to ensure compliance with the covenants contained herein regarding private business use, remedial actions, arbitrage and rebate.

SECTION 27. SALE OF BONDS. The Bonds authorized hereunder are hereby authorized to be sold and shall be delivered to **RAYMOND JAMES & ASSOCIATES, INC.**, as the Representative of the underwriters (collectively, the "**Underwriters**") at a price determined by a Designated Officer and as set forth in Exhibit A attached hereto, pursuant to the terms and provisions of a Purchase Contract in the form approved by a Designated Officer, which each Designated Officer is individually hereby authorized and directed to execute and deliver. The Issuer will initially deliver to the initial purchaser the Initial Bond described in Section 2 hereof, which shall be registered in the name of the name of **RAYMOND JAMES & ASSOCIATES, INC.**

SECTION 28. APPROVAL OF OFFICIAL STATEMENT. Each Designated Officer is hereby authorized to approve the form and content of an Official Statement relating to the Bonds and any addenda, supplement, or amendment thereto, and to approve the distribution of the Official Statement in the reoffering of the Bonds by the initial purchaser in final form, with such changes therein or additions thereto as the officer of the Issuer executing the same may deem advisable, such determination to be conclusively evidenced by his or her execution thereof. The preparation, distribution and use of a Preliminary Official Statement for the Bonds is also hereby approved.

SECTION 29. AUTHORITY AND APPROVAL FOR OFFICERS TO EXECUTE DOCUMENTS AND APPROVE CHANGES. The President, Vice President, Secretary, and Treasurer of the Issuer are hereby authorized to execute, deliver, attest and affix the seal of the Issuer to all documents and instruments necessary and appropriate in connection with the issuance, sale and delivery of the Bonds, including, without limitation, the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Bonds, the President, Vice President, Secretary, and Treasurer of the Issuer, and Bond Counsel to the Issuer, are hereby authorized and directed to approve any technical changes or corrections to this Resolution or to any instruments authorized and approved by this Resolution necessary in order to (i) correct any ambiguity or

mistake or properly or more completely document the transactions contemplated and approved by this Resolution and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy any requirements of the provider of a municipal bond insurance policy, if any, or (iii) obtain the approval of the Bonds by the Attorney General's office. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 30. INTERESTED PARTIES. Nothing in this Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Issuer and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Resolution contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer and the registered owners of the Bonds.

SECTION 31. REMEDIES IN EVENT OF DEFAULT. In addition to all the rights and remedies provided by the laws of the State of Texas, it is specifically covenanted and agreed particularly that in the event the Issuer (i) defaults in the payment of the principal, premium, if any, or interest on the Bonds, (ii) defaults in the deposits and credits required to be made to the Debt Service Fund, or (iii) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Resolution and the continuation thereof for 30 days after the Issuer has received written notice of such defaults, the Holders of any of the Bonds shall be entitled to seek a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the Issuer and other officers of the Issuer to observe and perform any covenant, condition or obligation prescribed in this Resolution. Notwithstanding the foregoing, the Insurer shall have the right to direct all remedies upon an event of default, and the Insurer shall be recognized as the registered owner of the Bonds for the purposes of exercising all rights and privileges available to the Bondholders.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. The specific remedy herein provided shall be cumulative of all other existing remedies, and the specification of such remedy shall not be deemed to be exclusive.

SECTION 32. INCORPORATION OF RECITALS. The findings and preambles set forth in this Resolution are hereby incorporated into this Resolution and made a part hereof for all purposes.

SECTION 33. EFFECTIVE DATE. Pursuant to the provisions of Section 1201.028, Texas Government Code, this Resolution shall become effective immediately after it is approved by the Board of Directors.

Section 34. BOND INSURANCE. The Issuer approves the insurance of the Bonds by Build America Mutual Assurance Company and the payment of such premium and covenants to comply with all of the terms of the insurance commitment, a copy of which is attached hereto as Exhibit F and is hereby adopted by this Resolution.

[The remainder of this page intentionally left blank.]

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION AT A REGULAR MEETING ON NOVEMBER 13, 2023, AT WHICH MEETING A QUORUM WAS PRESENT.

President
City of Kerrville, Texas
Economic Improvement Corporation

ATTEST:

Secretary
City of Kerrville, Texas
Economic Improvement Corporation

(ISSUER SEAL)

** ** ** ** **

EXHIBIT A

FORM OF APPROVAL CERTIFICATE

CERTIFICATE APPROVING THE FINAL TERMS OF THE BONDS

I, the _____ of the **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION** (the "*Issuer*"), pursuant to authority granted by the Board of Directors of the Issuer in Section 1(b) of a resolution approved by the Board of Directors on November 13, 2023, relating to the issuance of the Bonds defined below (the "*Resolution*"), hereby certify as follows:

1. **GENERAL.** This Certificate is given in connection with the issuance by the Issuer of the **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION SALES TAX REVENUE BONDS, SERIES 2023** (the "*Bonds*") which, pursuant to the Resolution, have been authorized by the Board of Directors.

2. **DEFINITIONS.** All capitalized terms used in this Certificate which are not otherwise defined herein shall have the same meanings as set forth in the Resolution.

3. **DATED DATE AND AGGREGATE PRINCIPAL AMOUNT.** The Bonds shall be dated November 15, 2023, and shall be issued in the aggregate principal amount of \$_____.

4. **PRINCIPAL AMOUNTS AND INTEREST RATES.** The Bonds shall (i) mature on **August 15** in each of the years and in the respective principal amounts, and (ii) bear interest from the date of initial delivery of the Bonds to the initial purchaser named in paragraph 8 hereof to their respective date of maturity or prior redemption at the respective interest rates, all as set forth below:

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION SALES TAX REVENUE BONDS, SERIES 2023

MATURITY DATE (8/15)	PRINCIPAL AMOUNT (\$)	INTEREST RATE (%)	MATURITY DATE (8/15)	PRINCIPAL AMOUNT (\$)	INTEREST RATE (%)
2024			2034		
2025			2035		
2026			2036		
2027			2037		
2028			2038		
2029			2039		
2030			2040		
2031			2041		
2032			2042		
2033			2043		

The true interest cost rate on the Bonds is equal to _____ %, which is less than the maximum true interest cost rate of _____ % approved by the Board of Directors in the Resolution.

5. **INTEREST ON BONDS.** As provided in Section 3 of the Resolution and in the FORM OF BOND contained in Section 5 of the Resolution, interest on the Bonds shall be payable on each February 15 and August 15, commencing on _____ 15, 2024, until stated maturity or prior redemption.

6. **OPTIONAL REDEMPTION.** The Bonds maturing on and after August 15, 20____, may be redeemed prior to their scheduled maturities, at the option of the Issuer on August 15, 20____, or on any date thereafter at the redemption price equal to par plus accrued interest to the date fixed for redemption.

7. **MANDATORY SINKING FUND REDEMPTION.** The Bonds maturing on August 15 in the years 20____ and 20____ (collectively, the "*Term Bonds*") are subject to mandatory redemption prior to maturity in part by lot, at a price equal to the principal amount thereof plus accrued interest to the date of redemption, on the dates and in the respective principal amounts shown below:

TERM BONDS MATURING AUGUST 15, 20____		TERM BONDS MATURING AUGUST 15, 20____	
Mandatory Redemption Date	Redemption Amount (\$)	Mandatory Redemption Date	Redemption Amount (\$)
August 15, 20____		August 15, 20____	
August 15, 20____		August 15, 20____	
August 15, 20____		August 15, 20____	
August 15, 20____		August 15, 20____	

8. **INITIAL PURCHASERS AND PURCHASE PRICE.** The following firms have been selected to serve as the Underwriters of the Bonds:

RAYMOND JAMES & ASSOCIATES, INC.
(the "Senior Managing Underwriter")

FHN FINANCIAL CAPITAL MARKETS

The Bonds shall be sold to the Underwriters as the initial purchasers thereof pursuant to a negotiated underwriting and shall be purchased at a price equal to \$_____ (which amount is equal to par, less Underwriters' discount of \$_____), and no accrued interest. The Initial Bond shall be registered in the name of **RAYMOND JAMES & ASSOCIATES, INC.**

9. **SELECTION OF PAYING AGENT/REGISTRAR.** **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, HOUSTON, TEXAS**, has been selected to serve as the initial Paying Agent/Registrar for the Bonds.

10. **DETERMINATION REQUIRED BY SECTION 1201.022(A)(3), TEXAS GOVERNMENT CODE.** In satisfaction of Section 1201.022(a)(3), Texas Government Code, as authorized by Section 1(c) of the Resolution, and upon consultation with the Issuer's Financial Advisor, the undersigned hereby determines that the final terms of the Bonds as set forth in this Certificate are in the Issuer's best interests.

[The remainder of this page intentionally left blank]

***APPROVED BY THE [PRESIDENT/VICE PRESIDENT] OF THE CITY OF
KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION ON THE DAY
OF , 2023 IN ACCORDANCE WITH SECTION 1(b) OF THE RESOLUTION.***

[President/Vice President]
City of Kerrville, Texas
Economic Improvement Corporation

Signature Page to Certificate Approving Final Terms of the
City of Kerrville, Texas Economic Improvement Corporation Sales Tax Revenue Bonds, Series
2023

EXHIBIT B

FORM OF PAYING AGENT/REGISTRAR AGREEMENT

THE PAYING AGENT/REGISTRAR AGREEMENT IS OMITTED AT THIS POINT
AS IT APPEARS IN EXECUTED FORM ELSEWHERE IN THIS TRANSCRIPT

EXHIBIT C

**FORM OF
FIRST AMENDMENT TO SALES TAX REMITTANCE AGREEMENT**

THE FIRST AMENDMENT TO SALES TAX REMITTANCE IS OMITTED AT THIS POINT
AS IT APPEARS IN EXECUTED FORM ELSEWHERE IN THIS TRANSCRIPT

EXHIBIT D

WRITTEN PROCEDURES RELATING TO CONTINUING COMPLIANCE WITH FEDERAL TAX COVENANTS

A. Arbitrage. With respect to the investment and expenditure of the proceeds of the Bonds, the Issuer's chief financial officer (the "***Responsible Person***"), which currently is the Treasurer of the Issuer, will:

- (i) instruct the appropriate person or persons that the construction, renovation or acquisition of the facilities must proceed with due diligence and that binding contracts for the expenditure of at least 5% of the proceeds of the Bonds will be entered into within six months of the date of delivery of the Bonds (the "***Issue Date***");
- (ii) monitor that at least 85% of the proceeds of the Bonds to be used for the construction, renovation or acquisition of any facilities are expended within three years of the Issue Date;
- (iii) restrict the yield of the investments to the yield on the Bonds after three years of the Issue Date;
- (iv) monitor all amounts deposited into a sinking fund or funds (e.g., the Debt Service Fund), to assure that the maximum amount invested at a yield higher than the yield on the Bonds does not exceed an amount equal to the debt service on the Bonds in the succeeding 12-month period plus a carryover amount equal to one-twelfth of the principal and interest payable on the Bonds for the immediately preceding 12-month period;
- (v) ensure that no more than 50% of the proceeds of the Bonds are invested in an investment with a guaranteed yield for four years or more;
- (vi) maintain any official action of the Issuer (such as a reimbursement resolution) stating its intent to reimburse with the proceeds of the Bonds any amount expended prior to the Issue Date for the acquisition, renovation or construction of the facilities;
- (vii) ensure that the applicable information return (e.g., IRS Form 8038, 8038-G, 8038-GC, or any successor forms) is timely filed with the IRS; and
- (viii) assure that, unless excepted from rebate and yield restriction under section 148(f) of the Code, excess investment earnings are computed and paid to the U.S. government at such time and in such manner as directed by the IRS (A) at least every five years after the Issue Date and (B) within 30 days after the date the Bonds are retired.

B. Private Business Use. With respect to the use of the facilities financed or refinanced with the proceeds of the Bonds the Responsible Person will:

- (i) monitor the date on which the facilities are substantially complete and available to be used for the purpose intended;
- (ii) monitor whether, at any time the Bonds are Outstanding, any person, other than the Issuer or the City, the employees of the City, the agents of the Issuer or the City, or members of the general public has any contractual right (such as a lease, purchase, management or other service agreement) with respect to any portion of the facilities;
- (iii) monitor whether, at any time the Bonds are Outstanding, any person, other than the Issuer or the City, the employees of the City, the agents of the Issuer or the City, or members of the general public has a right to use the output of the facilities (e.g., water, gas, electricity);
- (iv) monitor whether, at any time the Bonds are Outstanding, any person, other than the Issuer or the City, the employees of the City, the agents of the Issuer or the City, or members of the general public has a right to use the facilities to conduct or to direct the conduct of research;
- (v) determine whether, at any time the Bonds are Outstanding, any person, other than the Issuer or the City, has a naming right for the facilities or any other contractual right granting an intangible benefit;
- (vi) determine whether, at any time the Bonds are Outstanding, the facilities are sold or otherwise disposed of; and
- (vii) take such action as is necessary to remediate any failure to maintain compliance with the covenants contained in the Resolution related to the public use of the facilities.

C. Record Retention. The Responsible Person will maintain or cause to be maintained all records relating to the investment and expenditure of the proceeds of the Bonds and the use of the facilities financed or refinanced thereby for a period ending three years after the complete extinguishment of the Bonds. If any portion of the Bonds is refunded with the proceeds of another series of tax-exempt obligations, such records shall be maintained until the three years after the refunding obligations are completely extinguished. Such records can be maintained in paper or electronic format.

D. Responsible Person. The Responsible Person shall receive appropriate training

regarding Issuer's and the City's accounting system, contract intake system, facilities management and other systems necessary to track the investment and expenditure of the proceeds and the use of the facilities financed or refinanced with the proceeds of the Bonds. The foregoing notwithstanding, the Responsible Person is authorized and instructed to retain such experienced advisors and agents as may be necessary to carry out the purposes of these instructions.

EXHIBIT E

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 25 of this Resolution.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the Issuer to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

1. The annual audited financial statements of the Issuer or the unaudited financial statements of the Issuer in the event audited financial statements are not completed within twelve (12) months after the end of any fiscal year.
2. All quantitative financial information and operating data with respect to the Issuer of the general type included in the Official Statement under Tables 1 through 5 within six (6) months after the end of any fiscal year.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in paragraph 1 above.

EXHIBIT F

INSURANCE COMMITMENT

EXHIBIT B

*The First Amendment to Sales Tax Remittance Agreement is omitted at this point
as it appears in executed form elsewhere in this Transcript of Proceedings*

FIRST AMENDMENT TO SALES TAX REMITTANCE AGREEMENT

This **FIRST AMENDMENT TO SALES TAX REMITTANCE AGREEMENT** (this "*First Amendment*") is dated and effective as of November 13, 2023 (the "*Amendment Effective Date*"), by and between the **CITY OF KERRVILLE, TEXAS** (the "*City*") and the **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION** (the "*Corporation*"). The City and the Corporation are sometimes hereafter referred to individually as a "Party" or collectively as the "Parties."

Reference is made to that certain **SALES TAX REMITTANCE AGREEMENT**, dated as of March 1, 1999, by and between the City and the Corporation (the "*Sales Tax Remittance Agreement*"). All capitalized terms used in this First Amendment that are not otherwise defined herein shall have the same meaning as set forth in the Sales Tax Remittance Agreement.

RECITALS

WHEREAS, in relation to the issuance of the Corporation's *Sales Tax Revenue Bonds, Series 1999* (the "*Series 2019 Bonds*"), the Parties previously entered into the Sales Tax Remittance Agreement to evidence the duties and responsibilities of the respective Parties with respect to the collection, remittance, and transfer of revenues derived from the Economic Development Sales Tax levied by the City for the benefit of the Corporation in accordance with the Act¹²; and

WHEREAS, the Series 1999 Bonds (which are no longer outstanding) were issued pursuant to a resolution approved by the Board of Directors of the Corporation on March 9, 1999, which is defined in the Sales Tax Remittance Agreement as the "Bond Resolution"; and

WHEREAS, Section 2.3 of the Sales Tax Remittance Agreement currently provides that ". . . such [Economic Development Sales Tax] revenues shall be made available to the Corporation from time to time as hereinafter provided in this Agreement or as required by the Bond Resolution", and Section 2.4 of the Sales Tax Remittance Agreement provides that ". . . the moneys in deposit in the Revenue Fund are to be used in a manner consistent with the terms and conditions of the Bond Resolution"; and

WHEREAS, the Parties desire that the Sales Tax Remittance Agreement be amended in order to clarify that the terms of the Sales Tax Remittance Agreement are to apply to all bonds that may be issued by the Corporation pursuant to the Act, not just the Series 1999 Bonds that were being issued by the Corporation at the time the Sales Tax Remittance Agreement was initially approved, executed, and delivered;

¹²The Act, as described and defined in the Sales Tax Remittance Agreement, has been amended several times by the Texas Legislature since the execution of such Agreement and is now found, as it relates to the Corporation, in Chapters 501, 502, and 505, Texas Local Government Code.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing, the mutual promises and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Amendment to Section 2.3 of the Sales Tax Remittance Agreement. Section 2.3 of the Sales Tax Remittance Agreement is hereby amended, effective as of the Amendment Effective Date, to read in its entirety as follows:

SECTION 2.3. Transfers to Revenue Fund. The revenues received by the City from the Comptroller from the charge and levy of the Economic Development Sales Tax and deposited with the Depository shall be immediately credited by the City to the Revenue Fund, and such revenues shall be made available to the Corporation from time to time as hereinafter provided in this Agreement or as required by resolutions of the Corporation authorizing the issuance of bonds by the Corporation which are then outstanding.

2. Amendment to Section 2.4 of the Sales Tax Remittance Agreement. Section 2.4 of the Sales Tax Remittance Agreement is hereby amended, effective as of the Amendment Effective Date, to read in its entirety as follows:

SECTION 2.4. Use of Moneys by Corporation. The Corporation agrees to use the moneys on deposit in the Revenue Fund in a manner consistent with authority granted in the Act and with the terms and conditions of all resolutions authorizing the issuance of bonds by the Corporation which are then outstanding.

3. Representations and Warranties. Each Party represents and warrants to the other Party that the execution and delivery of this First Amendment and each Party's performance of its obligations under the Sales Tax Remittance Agreement, as amended hereby, (i) are within such Party's power, (ii) have been duly authorized by all necessary action, (iii) have been approved by all necessary governmental authorities (if any such approval shall be required), and (iv) do not and will not contravene or conflict with (a) any applicable law, or (b) any agreement binding upon such Party; and

4. Binding Effect. This First Amendment is binding upon and will inure to the benefit of each of the Parties and its respective successors and permitted assigns.

5. Headings. Section headings in this First Amendment are included herein for convenience and reference only and shall not constitute a part of this First Amendment for any other purpose.

6. Effect of Prior Agreements; Sales Tax Remittance Agreement Remains in Force. The Sales Tax Remittance Agreement, as amended hereby, supersedes any arrangement or agreement between the Parties made prior to the Amendment Effective Date that concerned the provisions set forth herein. The Sales Tax Remittance Agreement, as amended hereby, contains the full and complete agreement of the Parties relating to the duties and responsibilities of the

Parties with respect to the collection, remittance and transfer of such sales and use tax revenues as set forth therein. Except as affected by this First Amendment, the Sales Tax Remittance Agreement is unchanged and continues in full force and effect.

7. Counterparts. This First Amendment may be executed in counterparts, with each counterpart being deemed to be an original instrument, but all such counterparts together constituting but one agreement. Execution of a copy of this First Amendment which has been telecopied, faxed or transmitted by other electronic transmission device, and/or following execution thereof returned by any such device, shall be deemed to be effective and constitute an original instrument.

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IN WITNESS WHEREOF, the City and Corporation have caused this First Amendment to be executed this 13th day of November, 2023.

CITY OF KERRVILLE, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

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

By: _____
President

ATTEST:

Secretary



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

SUBJECT: General Event Production Contract between The CE Group, Inc. and the City of Kerrville for the Kerrville Eclipse Festival in an amount not to exceed \$193,500.00.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** November 2, 2023

SUBMITTED BY: Ashlea Boyle, Director Parks & Recreation

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$193,500	N/A	N/A	N/A

PAYMENT TO BE MADE TO: The CE Group, Inc. 200 East Grayson, Suite 114 San Antonio, TX 78215-1269

Kerrville 2050 Item? Yes

Key Priority Area P - Parks / Open Space / River Corridor

Guiding Principle N/A

Action Item P8.3 - Enhance park programming for public gatherings/events

SUMMARY STATEMENT:

Attached is a contract with The CE Group to produce the Kerrville Eclipse Festival. The event will be held on April 8, 2024, in Louise Hays Park to celebrate the Total Solar Eclipse. This free festival brings community members and visitors to Kerrville together to enjoy activities and outdoor entertainment, such as live music, NASA live broadcast, eclipse education, kids activities, food and drinks, and more. The event aims to provide a viewing location for the eclipse and an attempt to reduce traffic congestion directly following the eclipse.

To best utilize resources, the 2024 Kerrville River Festival's budget will be allocated towards the Kerrville Eclipse Festival, resulting in the City providing one major festival instead of two. The City does not have the budget or capacity to produce two significant events. The Kerrville River Festival will return in 2025.

The Kerrville Eclipse Festival is budgeted through the Hotel/Motel Occupancy Tax Fund. The contract is in an amount not to exceed \$193,500. This is considered a professional services agreement and is not subject to competitive bidding requirements pursuant to the purchasing policy. Staff recommends authorization of the City Manager to finalize and execute this contract as presented.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute the contract.

ATTACHMENTS:

[20231114_Contract Event Promotion- CE Group.pdf](#)

GENERAL EVENT PROMOTION CONTRACT
CE Group, Inc. / 2024 Kerrville Eclipse Festival

THIS EVENT PROMOTION CONTRACT, entered into this _____ day of _____, 2023, by and between the **City of Kerrville, Texas**, hereinafter referred to as the "City", and **The CE Group, Inc.**, with its mailing address being 200 East Grayson, Suite 114, San Antonio, Texas 78215-1269, hereinafter referred to as the "Planner," is made for the following considerations:

WITNESSETH:

WHEREAS, the City is planning to host its 2024 Kerrville Eclipse Festival in Louise Hays Park on April 8, 2024; and

WHEREAS, the City would like to retain the services of the Planner to procure and schedule entertainment; provide and assemble stage, sound, and lighting infrastructure; and assist with marketing and promotion of the 2024 Kerrville Eclipse Festival;

NOW, THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereof, as well as to the citizens of the City of Kerrville, Texas, the parties have agreed and do hereby agree as follows:

ARTICLE I

In consideration of Planner retaining and scheduling entertainment, organizing and setting up stage, sound, and lighting equipment for the entertainment, and assisting with the marketing and promotion of the 2024 Kerrville Eclipse Festival (the "Event"), City agrees to pay Planner no more than **_____ AND NO/100 DOLLARS (\$_____,000.00)**, which Planner may use for the following purposes:

- A. Locating, scheduling, paying and transporting artists, performers, and any other entertainment retained for the Event;
- B. Renting and assembling stages and rigging, as necessary, for the retained and scheduled artists, performers, and other entertainment;
- C. Renting and assembling lighting equipment, as necessary, for the retained and scheduled artists, performers, and other entertainment;
- D. Renting and assembling sound equipment, as necessary, for the retained and scheduled artists, performers, and other entertainment;
- E. Marketing and promoting the Event; and
- F. Such other purposes as may be authorized by the City in writing.

ARTICLE II

Planner agrees to do the following:

- A. Source and provide options to the City for entertainment and creative elements for the Event;
- B. Provide options for staffing of the Event to allow City sufficient information from which to determine the number of workers it must provide for the Event;
- C. Once City approves entertainment and creative elements, Planner agrees to hire and manage vendors for sound, lights, audio-visual, stage, and rigging equipment, as Planner determines is necessary for the entertainment and creative elements approved for each Event;
- D. Once City approves entertainment and creative elements, Planner agrees to hire and manage the approved artists and entertainers for the Event;
- E. Work with the City to formulate a marketing and promotional plan for the Event;
- F. Provide City with invoices for Event services with as required by Article IV; below;
- G. Comply with all laws, ordinances, rules and regulations governing the Planner's performance under this Contract;

ARTICLE III

City agrees to do the following:

- A. Choose among the options provided by the Planner for entertainment and creative elements for the Event and provide its choices to Planner in writing;
- B. Provide payment in compliance with the fee summary of the scope of services attached hereto as Exhibit "A" pursuant to Article IV below;
- C. Provide staffing for the overall Event apart from any portion of the Event that fall within Planner's responsibility as detailed in Article II;
- D. Retain creative control over the Event, including the right to control the manner, means, and details of the performance of services by Planner at the Event;
- E. Promote and market the Event, subject to Planner's ideas and input;

ARTICLE IV

City agrees to pay expenses as contemplated by the fee summary of Exhibit "A." Planner agrees to provide City with a monthly list of the upcoming fees that require payment so the City can determine whether it will pay those fees itself or reimburse Planner pursuant to the fee summary in Exhibit "A." For any fees the City has to reimburse to Planner, Planner shall provide City monthly invoices including

requests for reimbursement. Planner shall deliver all invoices to the City within three weeks after the Event.

ARTICLE V

The Event shall be held in Louise Hays Park. The location of any sound, lights, audio-visual, stage, and rigging equipment for the artists and entertainment shall be proposed to and approved by the City at least four (4) weeks before the Event.

ARTICLE VI

The City and the Planner shall each designate a contact person who will be authorized to make decisions on behalf of their respective party.

The City designates Rosa Ledesma, Recreation Manager, 2385 Bandera Highway, Kerrville, Texas 78028, (830) 258-1153, to serve as its contact person under this agreement.

The Planner designates Grecia Garza, Controller, 200 East Grayson, Suite 114, San Antonio, Texas 78215, (210) 822-5001, to serve as its contact person under this Agreement.

ARTICLE VII

- A. PLANNER AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF KERRVILLE, TEXAS AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGES, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OR OMISSION OF THE PLANNER OR ANY OF PLANNER'S OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS IN THE EXECUTION, SUPERVISION, AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THEIR PERFORMANCE OF THIS AGREEMENT.
- B. PLANNER AGREES THAT IT WILL INDEMNIFY AND SAVE THE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND SUPPLIERS OF MATERIAL, EQUIPMENT, POWER TOOLS, ALL SUPPLIES INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS AGREEMENT.
When City so requests, Planner shall furnish satisfactory evidence that all

obligations of the nature hereinabove designated have been paid, discharged or waived.

ARTICLE VIII

Planner shall carry insurance in the following types and amounts for the duration of this Agreement and furnish copies of policies, policy declaration pages and all policy endorsements as evidence thereof to City:

- a. To the extent required by Texas Labor Code §406.096, Planner certifies by its signature below that it has in effect workers' compensation insurance to cover Planner's employees;
- b. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$500,000. The policy must provide contractual liability coverage for liability assumed under this contract, products and completed operations coverage, independent contractor's coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of the City.

Planner shall not commence work under this Agreement until it has obtained all required insurance. Planner shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this Agreement or the six-month period following completion, in the case of a claims-made policy. All policies shall include a clause to the effect that the policy may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after City has received written notice of such cancellation or change.

ARTICLE IX

This Agreement does not create any joint venture, partnership, or agency relationship between City and Planner, it being the intent of the Parties that Planner shall at all times be and operate hereunder as an independent contractor. Planner shall have exclusive control of, and the exclusive right to control the details of the work to be performed hereunder and all personnel performing same, and shall be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, subcontractors, program participants, volunteers, licensees, and invitees. In no event shall any person participating in or performing any of Planner's duties or responsibilities hereunder be considered an officer, agent, servant, or employee of the City.

ARTICLE X

Unless either party is in default of the terms of this Agreement, this Agreement cannot be canceled except by mutual written consent of both parties or for acts or occurrences the affect performance pursuant to Force Majeure. If either party is in default of any terms of this Agreement, however, the non-defaulting party may cancel Event Planner Contract

City of Kerrville, Texas and The CE Group, Inc.

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this Agreement upon 30 days' notice to the defaulting party. If the City is the non-defaulting party, City's payment to Planner 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.

ARTICLE XI

- A. This contract may not be assigned in any way without the specific, written consent of the City.
- B. This Contract shall be governed by and construed in accordance with the Laws of the State of Texas. Venue for any suits arising from or related to this contract shall be in Kerr County, Texas.
- C. In the event of conflict between the provisions of any attachments or exhibits to this Contract and the provisions of this Contract, the provisions of this Contract shall prevail.
- D. Each person signing below represents that he or she is duly authorized to execute this Agreement on behalf of the party indicated below by his or her name and agrees on behalf of such party that such party will be bound by the terms of this Agreement.
- E. Prohibition on contracts with companies boycotting Israel. Planner hereby verifies the following per Section 2271.002, Texas Government Code:
 - a. Planner does not boycott Israel; and
 - b. Planner will not boycott Israel during the term of the Agreement.
- F. Prohibition against business with Iran, Sudan or foreign terrorist organization. Planner warrants, covenants, and represents that Planner is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.
- G. Prohibition on Contracts with Companies Boycotting Energy Companies. Planner hereby verifies the following per Section 2276.002, Texas Government Code:
 - a. Planner does not boycott energy companies; and
 - b. Planner will not boycott energy companies during the term of the Agreement.
- H. Written Verification as to Firearm Entities. Planner hereby verifies the following per Section 2274.002, Texas Government Code:

- a. Planner does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
 - b. Planner will not discriminate against a firearm entity or firearm trade association during the term of the Agreement.
- I. 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.

SIGNED AND AGREED by City and Planner on the dates indicated below.

OWNER: City of Kerrville, Texas

By: _____
Dalton Rice, City Manager
Date: _____

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

William L. Tatsch, Assistant City Attorney

PLANNER: CE Group, Inc.
By: _____
Grecia Garza, Controller
Date: _____

APPROVED AS TO FUNDING

Julie Behrens, Director of Finance

APPROVED AS TO CONTENT:

Ashlea Boyle
Director of Parks & Recreation



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

SUBJECT: Financial report for Fiscal Year ended September 30, 2023.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** November 2, 2023

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:

N/A



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

SUBJECT: Appointment(s) to the Food Service Advisory Board.

AGENDA DATE OF: November 14, **DATE SUBMITTED:** October 6, 2023

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 vacancies will exist November 30, 2023.

Three applications have been received: Michael Clark, Chad Portie, Larry Wray (eligible for reappointment).

Interview team is Place 1 Councilmember Garcia and Place 4 Councilmember Hughes.

Staff Liaison is Daryl Poe.

RECOMMENDED ACTION:

Appoint member(s).