



# **ECONOMIC IMPROVEMENT CORPORATION AGENDA**

## **MONDAY, NOVEMBER 13, 2023, 4:00 PM Kerrville City**

### **Hall Council Chambers 701 Main Street, Kerrville, Texas**

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Pursuant to Section 551.127, Texas Government Code, a member of the EIC will participate in this meeting from a remote location. A quorum of the EIC as well as the presiding officer will be physically present at the above-posted location, which shall be open to the public. The member participating remotely will be visible and audible to the public for all open portions of the meeting in which he participates. A member of a governmental body who participates in a meeting remotely as provided by law will be counted as present at the meeting for all purposes. All items on the agenda are eligible for possible discussion.

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#### **1. CALL TO ORDER:**

#### **2. INVOCATION:**

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

#### **4. APPROVAL OF MINUTES:**

4.A Minutes from the regular Economic Improvement Corporation (EIC) meeting held on October 16, 2023.

Attachment: [EIC MINUTES 10-16-2023.pdf](#)

#### **5. MONTHLY REPORTS:**

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

5.B Kerrville Economic Improvement Corporation (EIC) project status update including the following:

- Peterson Medical Center Campus Infrastructure Improvements
- Louise Hays Park Fitness Court
- Downtown Area Streetscape
- Downtown River Trail Extension
- Cailloux Theater Improvements
- Travis Street Pump Station Upsizing

Attachment: [20231113\\_EIC Project Status Update.pdf](#)

5.C Monthly Financial Report.

Attachment: [20231113\\_EIC Financials.pdf](#)

#### **6. PUBLIC HEARING AND POSSIBLE ACTION:**

6.A Public Hearing on Intent to undertake projects, as described in Section 505.152 of the Texas Local Government Code, including in particular but not limited to Cailloux Theater roof and heating and air conditioning systems (HVAC) replacement and improvements; Olympic Pool Facility renovations and improvements; Golf Course Facility Renovations and Improvements; Heart of the Hills Heritage Center (HHHC) renovation, upgrades and improvements; Granger MacDonald Park improvements.

6.B Discuss and take action on Resolution authorizing the issuance of up to \$20,000,000 in aggregate principal amount of 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.

Attachment: [20231113 EIC Bond Reso 8-2023.pdf](#)

6.C Consider Economic Development Project Application to The City of Kerrville, Economic Improvement Corporation (EIC), from Litecrete, Inc. (Project Mount Saddle), for the Economic Improvement Corporation to convey property it owns along the 300 block of Peterson Farm Road, such conveyance to be without any payment to the Economic Improvement Corporation.

Attachment: [Modular Capabilities Brochure 2022.pdf](#)

**7. CONSIDERATION AND POSSIBLE ACTION:**

7.A Consider a funding application from Habitat for Humanity Kerr County in an amount not to exceed \$2,260,000 in infrastructure assistance for the proposed Mariposa residential subdivision.

Attachments: [Habitat for Humanity Kerr County EIC Application.pdf](#)

[Habitat for Humanity Mariposa Overview.pdf](#)

[Habitat for Humanity House Plan and Elevations.pdf](#)

[Mariposa Infrastructure Opinion of Probable Cost.pdf](#)

[Mariposa Preliminary Plat.pdf Mariposa Site Plan.pdf](#)

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

8.A Economic Development projects: (551.071, 551.072, 551.087)

- Litecrete, Inc.
- Habitat for Humanity Kerr County, Mariposa Residential Subdivision
- Project Windridge (Lennar Homes of Texas Land and Construction, LTD)

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

**10. ITEMS FOR FUTURE AGENDAS:**

**11. ADJOURN.**



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

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**SUBJECT:** Minutes from the regular Economic Improvement Corporation (EIC) meeting held on October 16, 2023.

**AGENDA DATE OF:** November 13, **DATE SUBMITTED:** October 19, 2023

**SUBMITTED BY:** Kesha Franchina, Deputy City Secretary

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

Approve minutes from the regular Economic Improvement Corporation (EIC) meeting held on October 16, 2023.

**RECOMMENDED ACTION:**

Approve minutes from the regular Economic Improvement Corporation (EIC) meeting held on October 16, 2023.

**ATTACHMENTS:**

[\*\*EIC MINUTES 10-16-2023.pdf\*\*](#)

**CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION REGULAR MEETING – October 16, 2023**

On Monday, October 16, 2023, at 4:00 p.m., the regular meeting of the City of Kerrville, Texas Economic Improvement Corporation (EIC) was called to order by President Kim Clarkson, in the Council Chambers at City Hall, 701 Main Street, Kerrville, Texas.

**MEMBERS PRESENT:**

Kim Clarkson – President  
Gary Cochrane - Vice-President  
John Anderson - KEDC  
Celeste Hamman  
Joe Herring Jr. - Councilmember

**MEMBERS ABSENT:**

Kyle Bond - "GO Team"  
Gregg Appel, entered meeting, 4:06 p.m.

**CHIEF EXECUTIVE STAFF:**

Dalton Rice, City Manager  
Mike Hayes, City Attorney  
Michael Hornes, Deputy City Manager  
Kim Meismer, Assistant City Manager  
Kesha Franchina, Deputy City Secretary  
Julie Behrens, Director of Finance  
Trina Rodriguez, Assistant Director of Finance

**VISITORS PRESENT:** None

**1    CALL TO ORDER:** President Kim Clarkson called the meeting to order at 4:00 p.m.

**2    INVOCATION:** Vice-President Gary Cochrane led the invocation.

**3    VISITORS / CITIZENS FORUM:** None

**4    APPROVAL OF MINUTES:**

4.A Minutes from the regular Economic Improvement Corporation (EIC) meeting held on August 28, 2023.

Vice-President Cochrane motioned to approve the minutes, Celeste Hamman seconded. The motion passed 5-0.

**5    MONTHLY REPORTS:**

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

Gregg Appel entered the meeting at 4:06 p.m.

Gil Salinas and Katie Milton Jordan presented the KEDC update, and responded to questions.

President Clarkson moved to item 5.B. as the KEDC video would not uploaded.

5.B Kerrville Economic Improvement Corporation (EIC) project status update including the following:

- Airport Improvements

- Killdeer Mountain Manufacturing
- Peterson Medical Center Campus Infrastructure Improvements
- Louise Hays Park Fitness Court
- Downtown Area Streetscape
- Downtown River Trail Extension
- River Trail, Nimitz Lake
- Travis Street Pump Station Upsizing

Michael Hornes presented the EIC Project Status update, and responded to questions. The KEDC video would not upload due to the City's firewall. Katie Milton Jordan requested that Kesha Franchina send the video link to the EIC members.

#### 5.C Monthly Financial Report.

Trina Rodriguez presented the Monthly Financial Report, Sales Tax revenues bonds timetable, and the 10 Year Cash Flow Analysis, and responded to questions. Dalton Rice, Michael Hornes, and Julie Behrens responded to questions.

#### 6 **COINSIDERATION AND POSSIBLE ACTION:**

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

Michael Hornes presented the Lennar Grant Agreement, noting a change regarding the close of the property, and responded to questions.

Speakers were as follows:

- Clifton Karim, Lennar Homes
- George Baroody
- Edward Hamilton
- Pablo Brinkman

Mike Hayes responded to questions.

John Anderson motioned to approve the Lennar Grant Agreement with noted changes, seconded by Gregg Appel. The motion passed 6-0.

President Clarkson noted there was no reason to adjourn into closed Executive Session.

#### 7 **EXECUTIVE SESSION:**

7.A Economic Development projects: (551.071, 551.087)

- Lennar Homes Grant Agreement
- Project Litecrete, Inc.

#### 8 **POSSIBLE ACTION FOR ITEMS DISCUSSED IN EXECUTIVE SESSION:** None.

#### 9 **ITEMS FOR FUTURE AGENDAS:**

Michael Hornes reiterated the next meeting will be held on November 13, 2023, to include a Public Hearing for consideration of the Sales Tax Bonds not to exceed \$20,000,000.

#### 10 **ADJOURN.** President Clarkson adjourned the meeting at 4:50 p.m.

**Minutes Approved:** \_\_\_\_\_.

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Kim Clarkson, EIC President \_\_\_\_\_.

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



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

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

**AGENDA DATE OF:** November 13, **DATE SUBMITTED:** October 19, 2023

**SUBMITTED BY:** Kesha Franchina, Deputy City Secretary

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** Yes

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

**RECOMMENDED ACTION:**

Information only; no action required.

**Monthly EIC Project Status Report**

	Project Name	Description	Estimated Design Completion	Estimated Construction Completion	Comments
1	Peterson Medical Center Campus Infrastructure Improvements	Campus improvements including extension of public utilities and roadway	Private	2023	Partnership Agreement approved January 2022. Construction in progress for Surgery Center. Utility construction is substantially complete and first payment to Peterson had been paid for \$800,000.
2	Louise Hays Park Fitness Court	Collaboration between BCBSTX, National Fitness Campaign and local donors to provide quality outdoor fitness equipment in Louise Hays Park.	N/A	Complete	Equipment has been installed and staff has given feedback to the installers, a punch list of items to be completed prior to opening up the court.
3	Downtown Area Streetscape	Relocate overhead utility lines to underground; improved beautification of the garage with limestone influences, LED light upgrades and wrought iron railing.	N/A	Dec-23	Electric underground utility construction complete with removal of old infrastructure in progress. Sidewalk and ramp reconstruction complete. Installation of railing to commence December, 2023.
4	Downtown River Trail extension	River Trail extension from G Street to Tranquility Island	Complete	TBD	Design complete; easement acquisition nearly complete pending owners review and approval.
5	Cailloux Theater Improvements	Repair of HVAC and roof systems	Complete	TBD	Design 100% complete. City Council considering EIC and sales tax bond for funding.
6	Travis Street Pump Station Upsizing	Increase distribution capacity of the Travis St pump station to meet TCEQ requirements for future developments.	TBD	TBD	Presentation to City Council September 12, 2023. Design anticipated to commence November, following City Council authorization.



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

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**SUBJECT:** Monthly Financial Report.

**AGENDA DATE OF:** November 13, **DATE SUBMITTED:** October 19, 2023

**SUBMITTED BY:** Trina Rodriguez, Accounting Manager

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

**RECOMMENDED ACTION:**

Information only; no action.

**ATTACHMENTS:**

[\*20231113\\_EIC Financials.pdf\*](#)

**Economic Improvement Corporation**  
FY2023 Year End

<b>Revenues</b>	
Sales and Use Tax	\$ 5,087,982
Interest Income	313,084
Transfer in	44,273
<b>Total Revenues</b>	<b><u>5,445,340</u></b>
 <b>Expenditures</b>	
Administrative	
Supplies and Miscellaneous	50
Legal Services	600
Professional Services	203,000
Kerr Economic Development Corp.	312,500
Total Administrative	<u>516,150</u>
 Debt Service	
Debt Service - Series 2015 (KSC)	602,850
Debt Service - Series 2019 Ref (River Trail)	251,291
Debt Service - Series 2020 Ref (River Trail)	231,000
<b>Total Debt Service</b>	<b><u>1,085,141</u></b>
 Projects	
Airport Projects	86,366
Sid Peterson Memorial	800,000
Kerrville Christmas Lighting Corp Refund	24,213
Outdoor Fitness Court	100,000
River Trail Nimitz Lake	182,800
River Trail Downtown Extension	375,000
Total Projects	<u>1,568,379</u>
 <b>Total Expenditures</b>	<b><u>3,169,670</u></b>
 <b>Net Income</b>	<b><u>\$ 2,275,670</u></b>



# **Financial update for the month ended October 30, 2023**

**Economic Improvement Corporation Meeting**

**November 13, 2023**



**Economic Improvement Corporation**  
**Statement of Activities**  
Month Ended October 31, 2023

Revenues	Annual Budget	Current Period	YTD Actual	YTD Budget Estimate	Better/Worse YTD Estimate
Sales and Use Tax	\$ 5,262,270	\$ 465,726	\$ 465,726	\$ 406,949	\$ 58,777
Interest Income	161,000	44,975	44,975	7,639	37,336
Investment Maturity	2,500,000	-	-	-	-
<b>Total Revenues</b>	<b>7,923,270</b>	<b>510,701</b>	<b>510,701</b>	<b>444,588</b>	<b>96,113</b>

Expenditures	Annual Budget	Current Period	YTD Actual	YTD Budget Estimate	Better/Worse YTD Estimate
Administrative					
Supplies and Miscellaneous	650	-	-	-	-
Training	10,000	-	-	-	-
Legal Services	10,000	-	-	-	-
Professional Services	205,000	17,083	17,083	17,083	-
Kerr Economic Development Corp.	343,750	85,938	85,938	85,938	-
<b>Total Administrative</b>	<b>569,400</b>	<b>103,021</b>	<b>103,021</b>	<b>103,021</b>	<b>-</b>
Debt Service					
Debt Service - Series 2015 (KSC)	605,700	50,475	50,475	50,475	-
Debt Service - Series 2019 Ref (River Trail)	251,506	20,959	20,959	20,959	-
Debt Service - Series 2020 Ref (River Trail)	233,500	19,458	19,458	19,458	-
<b>Total Debt Service</b>	<b>1,090,706</b>	<b>90,892</b>	<b>90,892</b>	<b>90,892</b>	<b>-</b>
Investment Purchase					
Projects					
Airport Projects	9,535	-	-	-	-
Sid Peterson Memorial Hospital	800,000	-	-	-	-
Downtown Utilities/Streetscape	400,000	-	-	-	-
Downtown River Trail	500,000	125,000	125,000	125,000	-
Travis Street Pump Station Upgrades	750,000	-	-	-	-
<b>Total Projects</b>	<b>2,459,535</b>	<b>125,000</b>	<b>125,000</b>	<b>125,000</b>	<b>-</b>
<b>Total Expenditures</b>	<b>6,619,641</b>	<b>318,913</b>	<b>318,913</b>	<b>318,913</b>	<b>-</b>

Change in Net Position

\$ 1,303,629 \$ 191,788 \$ 191,788



**Economic Improvement Corporation  
Cash Flow Forecast  
As of October 31, 2023**

	<b>FY2024 Actual</b>	<b>FY2024 Estimate</b>	<b>FY2024 Projections</b>			
			<b>Nov 2023 to Dec 2023</b>	<b>Jan 2024 to Mar 2024</b>	<b>Apr 2024 to Jun 2024</b>	<b>Jul 2024 to Sep 2024</b>
<b>Beginning Cash Balance</b>	\$ 5,356,048	\$ 5,538,819	\$ 6,384,549	\$ 7,043,739	\$ 6,649,127	
<b>Revenue</b>						
Sales Tax	465,726	1,224,379	1,336,216	1,257,415	1,444,260	
Interest Income	44,975	70,000	90,000	90,000	90,000	
Investment Maturity	-	500,000	2,000,000	-	-	
<b>Total Revenue</b>	510,701	1,794,379	3,426,216	1,347,415	1,534,260	
<b>Expenditures</b>						
Administrative	-	163	163	163	163	
Supplies and Miscellaneous	-	2,500	2,500	2,500	2,500	
Legal Services	-	2,500	2,500	2,500	2,500	
Training	-	34,167	51,250	51,250	51,250	
Professional Services	17,083	-	85,938	85,938	85,938	
Kerr Economic Development Corp.	85,938	-	142,350	142,350	142,350	
<b>Total Administrative</b>	103,021	39,330				
Debt Service	90,892	181,784	272,677	272,677	272,677	
Projects	-	9,535	-	-	-	
Airport Box Hangar	-	-	-	800,000	-	
Sid Peterson Memorial Hospital	-	200,000	200,000	-	-	
Downtown Utilities/Streetscape	-	-	125,000	125,000	125,000	
Downtown River Trail	125,000	-	-	375,000	375,000	
Travis Street Pump Station Upgrades	-	-	-	-	-	
<b>Total Projects</b>	125,000	209,535	325,000	1,300,000	500,000	
Investment Purchase	-	500,000	2,000,000	-	-	
<b>Total Expenditures</b>	318,913	930,649	2,740,027	1,715,027	915,027	
Interest Receivable	9,017	18,000	27,000	27,000	27,000	
<b>Ending Cash Balance</b>	\$ 5,538,819	\$ 6,384,549	\$ 7,043,739	\$ 6,649,127	\$ 7,241,361	



# Financial Analysis

Sales Tax Revenue Analysis - FY2024					
Month	Actual		Budget		Budget vs. Actual
	FY2023	FY2024	FY2024	FY2024	
October	\$ 442,046	\$ 406,949	\$ 465,726	\$ 465,726	5.36% 14.44%

Project Analysis as of October 31, 2023				
Project Description	EIC Commitment	Disbursed Funding	Remaining Funding	
<b>Committed Projects:</b>				
Travis Street Pump Station Upgrades	\$ 750,000	\$ -	\$ 750,000	
Downtown Utilities/Streetscape	\$ 400,000	\$ -	\$ 400,000	
Downtown River Trail	\$ 1,020,280	\$ 500,000	\$ 520,280	
Sid Peterson Memorial Hospital	\$ 1,600,000	\$ 800,000	\$ 800,000	
Airport Box Hangar	\$ 132,767	\$ 123,232	\$ 9,535	
	<b>\$ 3,903,047</b>	<b>\$ 1,423,232</b>	<b>\$ 2,479,815</b>	

Cash Analysis as of October 31, 2023		
Type	Placement	Amount
Pool	EIC TexPool	\$ 5,558,819
ST Investment	FHLB Call Note-3130ATRA7	\$ 499,874
ST Investment	Fannie Mae Note-3135GOV34	\$ 992,520
ST Investment	MUFG CP-62479LC78	\$ 980,062
	<b>Total Cash and Investments</b>	<b>\$ 8,011,275</b>





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

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**SUBJECT:**

Public Hearing on Intent to undertake projects, as described in Section 505.152 of the Texas Local Government Code, including in particular but not limited to Cailloux Theater roof and heating and air conditioning systems (HVAC) replacement and improvements; Olympic Pool Facility renovations and improvements; Golf Course Facility Renovations and Improvements; Heart of the Hills Heritage Center (HHHC) renovation, upgrades and improvements; Granger MacDonald Park improvements.

**AGENDA DATE OF: DATE SUBMITTED:** August 31, 2023

**SUBMITTED BY:** Michael Hornes, Assistant City Manager

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** Yes

**Key Priority Area** F - Public Facilities and Services

**Guiding Principle** N/A

**Action Item** N/A

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**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
<u>Other Park Improvements -</u>	<u>\$800,000</u>
Total	\$20,000,000

Schedule:

08/28/23: EIC MEETING

1. Adopt Resolution Authorizing Reimbursement and Authorizing Consultants to Prepare Documents and Take Action
2. Resolution Calling for Public Hearing and Authorizing Publication of Notice to Undertake Project

08/31/23:

1. Publication of Notice to Undertake Project in *Kerrville Daily Times*

11/13/23: EIC MEETING

1. Public Hearing at EIC meeting\*
2. 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

1. City Council Resolution Authorizing the Corporation to Undertake Certain Economic Development Projects
2. 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 funding levels, project inclusion.



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

**SUBJECT:** Discuss and take action on Resolution authorizing the issuance of up to \$20,000,000 in aggregate principal amount of 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.

**AGENDA DATE OF:** November 13, 2023 **DATE SUBMITTED:** November 2, 2023

**SUBMITTED BY:** Michael Hornes, Assistant City Manager

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

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

**Kerrville 2050 Item?** Yes

**Key Priority Area** P - Parks / Open Space / River Corridor

**Guiding Principle** N/A

**Action Item** P5.2 - Explore a variety of options, including bonds, to fund park facility needs and to enhance River Trail connections

## **SUMMARY STATEMENT:**

Based on item 6A, we will now hold a public hearing to consider the resolution authorizing the issuance of up to \$20,000,000 in Sales Tax Revenue Bonds for quality of life projects.

## **RECOMMENDED ACTION:**

Approve resolution authorizing the issuance of up to \$20,000,000 in aggregate principal amount of 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.

## **ATTACHMENTS:**

[20231113 EIC Bond Reso 8-2023.pdf](#)



**RESOLUTION NO. \_\_\_\_\_**

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**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**

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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 (½ 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)<sup>1</sup> 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)<sup>2</sup> 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 items<sup>3</sup>; and*

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<sup>1</sup>The 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.

<sup>2</sup>The 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.

<sup>3</sup>The 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?*<sup>4</sup>

**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, 1995<sup>5</sup>; 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,*

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<sup>4</sup>The 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.

<sup>5</sup>On 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.

*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*

**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 60<sup>th</sup> 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 Resolution<sup>6</sup>”, 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.**

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<sup>6</sup>The 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\_\_**

<b>Mandatory Redemption Date</b>	<b>Redemption Amount (\$)</b>
August 15, 20__	
August 15, 20__	
August 15, 20__ (maturity)	

**TERM BONDS MATURING  
AUGUST 15, 20\_\_**

<b>Mandatory Redemption Date</b>	<b>Redemption Amount (\$)</b>
August 15, 20__	
August 15, 20__	
August 15, 20__ (maturity)	

**TERM BONDS MATURING  
AUGUST 15, 20\_\_**

<b>Mandatory Redemption Date</b>	<b>Redemption Amount (\$)</b>
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:

<b>MATURITY DATE (AUGUST 15)</b>	<b>PRINCIPAL INSTALLMENT (\$)</b>	<b>INTEREST RATE (%)</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

*[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 ( $\frac{1}{2}$  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 E hereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in Exhibit E 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 5701-TEB), 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 D 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.***

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President  
City of Kerrville, Texas  
Economic Improvement Corporation

ATTEST:

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Secretary  
City of Kerrville, Texas  
Economic Improvement Corporation

(ISSUER SEAL)

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## 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**

<b>MATURITY DATE (8/15)</b>	<b>PRINCIPAL AMOUNT (\$)</b>	<b>INTEREST RATE (%)</b>	<b>MATURITY DATE (8/15)</b>	<b>PRINCIPAL AMOUNT (\$)</b>	<b>INTEREST RATE (%)</b>
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 <b>AUGUST 15, 20____</b>		TERM BONDS MATURING <b>AUGUST 15, 20____</b>	
<b>Mandatory Redemption Date</b>	<b>Redemption Amount (\$)</b>	<b>Mandatory Redemption Date</b>	<b>Redemption Amount (\$)</b>
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.

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**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.**

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[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

## **PAYING AGENT/REGISTRAR AGREEMENT**

**THIS PAYING AGENT/REGISTRAR AGREEMENT**, dated as of November 15, 2023 (this "*Agreement*"), by and between the **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION** (the "*Issuer*"), and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, HOUSTON, TEXAS** (the "*Bank*"), a national bank duly organized and operating under the laws of the United States of America.

### **RECITALS**

**WHEREAS**, the Issuer has duly authorized and provided for the issuance of its **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION SALES TAX REVENUE BONDS, SERIES 2023** (the "*Securities*") in the aggregate principal amount of \$\_\_\_\_\_, such Securities to be issued in fully registered form only as to the payment of principal and interest thereon; and

**WHEREAS**, the Securities are expected to be delivered to the initial purchaser thereof or about on or about December 19, 2023; and

**WHEREAS**, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on said Securities and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

**WHEREAS**, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Securities;

**NOW, THEREFORE**, it is mutually agreed as follows:

### **ARTICLE ONE**

#### **APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR**

##### **Section 1.01. Appointment.**

The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities. As Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof, all in accordance with this Agreement and the "Resolution" (hereinafter defined).

The Issuer hereby appoints the Bank as Registrar with respect to the Securities. As Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the "Resolution."

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Securities.

### **Section 1.02. Compensation.**

As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in Schedule A attached hereto for the first year of this Agreement and thereafter the fees and amounts set forth in the Bank's current fee schedule then in effect for services as Paying Agent/Registrar for municipalities, which shall be supplied to the Issuer on or before 90 days prior to the close of the Fiscal Year of the Issuer, and shall be effective upon the first day of the following Fiscal Year. The Issuer and the Bank agree that in no event shall the aggregate fees paid to the Bank under this Agreement exceed \$100,000; therefore, this Agreement has a "value" to the Bank of less than \$100,000 for purposes of Sections 2271.002 and 2274.002, Texas Government Code.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

## **ARTICLE TWO**

### **DEFINITIONS**

#### **Section 2.01. Definitions.**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

**"Bank Office"** means the principal corporate trust office of the Bank as indicated in Section 6.03 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

**"Fiscal Year"** means the fiscal year of the Issuer, ending September 30.

**"Holder"** and **"Security Holder"** each means the Person in whose name a Security is registered in the Security Register.

**"Legal Holiday"** means a day on which the Bank is required or authorized to be closed.

**"Ordinance"** means the resolutions, orders or ordinances of the governing body of the Issuer pursuant to which the Securities are issued, certified by the Secretary or any other officer of the Issuer and delivered to the Bank, together with any pricing certificate executed pursuant thereto.

**"Person"** means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

**"Predecessor Securities"** of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Resolution).

**"Record Date"** means the last business day of the month next preceding payment.

**"Redemption Date"** when used with respect to any Bond to be redeemed means the date fixed for such redemption pursuant to the terms of the Resolution.

**"Responsible Officer"** when used with respect to the Bank means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

**"Security Register"** means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfer of the Securities.

**"Stated Maturity"** means the date specified in the Resolution the principal of a Security is scheduled to be due and payable.

## **Section 2.02. Other Definitions.**

The terms "Bank," "Issuer" and "Securities (Security)" have the meanings assigned to them in the recital paragraphs of this Agreement.

The term "Paying Agent/Registrar" refers to the Bank in the performance of the duties and functions of this Agreement.

## **ARTICLE THREE**

### **PAYING AGENT**

#### **Section 3.01. Duties of Paying Agent.**

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the principal of each

Security at its Stated Maturity, or Redemption Date to the Holder upon surrender of the Security to the Bank at the Bank Office.

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and preparing and sending checks by United States Mail, first class postage prepaid, on each payment date, to the Holders of the Securities (or their Predecessor Securities) on the respective Record Date, to the address appearing on the Security Register or by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense.

### **Section 3.02. Payment Dates.**

The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities on the dates specified in the Resolution.

### **Section 3.03. Special Payment Provisions.**

Notwithstanding the provisions of Sections 3.01 and 3.02 hereof, so long as the Holder of the Securities is the United States of America, the payment of principal of and interest on the Securities shall be made in accordance with the special provisions of the Resolution relating thereto.

## **ARTICLE FOUR**

### **REGISTRAR**

### **Section 4.01. Security Register - Transfers and Exchanges.**

The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the "Security Register") and, if the Bank Office is located outside the State of Texas, a copy of such books and records shall be kept in the State of Texas, for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. All transfers, exchanges and replacement of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the National Association of Securities Dealers, in form satisfactory to the Bank, duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be canceled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

#### **Section 4.02. Certificates.**

At any time that the Securities are not subject to a book-entry-only system of registration and transfer, the Issuer shall provide an adequate inventory of printed Securities to facilitate transfers or exchanges thereof. The Bank covenants that the inventory of printed Securities will be kept in safekeeping pending their use, and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other political subdivisions or corporations for which it serves as registrar, or that is maintained for its own securities.

#### **Section 4.03. Form of Security Register.**

The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those that the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

#### **Section 4.04. List of Security Holders.**

The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register.

#### **Section 4.05. Cancellation of Certificates.**

All certificates surrendered to the Bank, at the designated Payment/Transfer Office, for payment, redemption, transfer or replacement, shall be promptly canceled by the Bank. The Bank will provide to the Issuer, at reasonable intervals determined by it, a certificate evidencing the destruction of canceled certificates.

#### **Section 4.06. Mutilated, Destroyed, Lost or Stolen Securities.**

The Issuer hereby instructs the Bank, subject to the applicable provisions of the Resolution, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost or stolen Securities as long as the same does not result in an over-issuance.

In case any Security shall be mutilated, or destroyed, lost or stolen, the Bank, in its discretion, may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such destroyed lost or stolen Security, only after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, or destroyed, lost or stolen.

#### **Section 4.07. Transaction Information to Issuer.**

The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4.01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4.06.

#### **Section 4.08. Reporting Requirements.**

To the extent required by the Internal Revenue Code of 1986, as amended, and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto, the Bank shall report or assure that a report is made to the Holder and the Internal Revenue Service the amount of interest paid or the amount treated as interest accrued on the Security which is required to be reported by a Holder on its returns of federal income tax.

## **ARTICLE FIVE**

### **THE BANK**

#### **Section 5.01. Duties of Bank.**

The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner disclosed in the closing memorandum as prepared by the Issuer's financial advisor, bond counsel, or other agent. The Bank may act on a facsimile or email transmission of the closing memorandum acknowledged by the financial advisor, bond counsel, or the Issuer as the final closing memorandum. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

#### **Section 5.02. Reliance on Documents, Etc.**

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer executed in accordance with Section 4.01 hereof, which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document supplied by Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

#### **Section 5.03. Recitals of Issuer.**

The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

#### **Section 5.04. May Hold Securities.**

The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

#### **Section 5.05. Moneys Held by Bank.**

The Bank shall deposit any moneys received from the Issuer into a trust account to be held in a agent capacity for the payment of the Securities, with such moneys in the account that exceed the deposit insurance available to the Issuer by the Federal Deposit Insurance Corporation, to be fully collateralized with securities or obligations that are eligible under the laws of the State of Texas to secure and be pledged as collateral for trust accounts until the principal and interest on such securities have been presented for payment and paid to the owner thereof. Payments made from such trust account shall be made by check drawn on such trust account unless the owner of such Securities shall, at its own expense and risk, request such other medium of payment.

Subject to the Unclaimed Property Law of the State of Texas, any money deposited with the Bank for the payment of the principal, premium (if any), or interest on any Security and remaining unclaimed for three years after the final maturity of the Security has become due and payable will be paid by the Bank to the Issuer if the Issuer so elects, and the Holder of such Security shall hereafter look only to the Issuer for payment thereof, and all liability of the Bank with respect to such monies shall thereupon cease. If the Issuer does not elect, the Bank is directed to report and dispose of the funds in compliance with Title Six of the Texas Property Code, as amended.

#### **Section 5.06. Indemnification.**

To the extent permitted by law, the Issuer agrees to indemnify the Bank, its directors, officers and employees, and hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or

administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

**Section 5.07. Interpleader.**

The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the State and County where the administrative offices of the Issuer are located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

**Section 5.08. Reporting Requirements.**

To the extent required by the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the Bank shall report to the Holders and the Internal Revenue Service (i) the amount of "reportable payments", if any, subject to backup withholding during each year and the amount of tax withheld, if any, with respect to payments of the Securities, and (ii) the amount of interest or amount treated as interest on the Securities and required to be included in the gross income of the Holder thereof.

**Section 5.09. Certificate of Interested Parties Form 1295.** The Bank represents and warrants that it is exempt from the requirements of Section 2252.908 of the Texas Government Code, as amended, pursuant to subsection (c)(4) thereof, and, accordingly, the Bank is not required to file a Certificate of Interested Parties Form 1295 otherwise prescribed thereunder.

**Section 5.10. Legislative Contracting Requirements.**

Pursuant to Section 2252.152, Texas Government Code, neither the Bank nor any wholly-owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Bank is a company currently listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code.

This Agreement does not constitute a contract for goods or services with a value of \$100,000 or more that is to be paid wholly or partly from public funds of a governmental entity for which a written verification is required under Section 2271.002, Texas Government Code, or under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, and Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended.

## **ARTICLE SIX**

### **MISCELLANEOUS PROVISIONS**

#### **Section 6.01. Amendment.**

This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

#### **Section 6.02. Assignment.**

This Agreement may not be assigned by either party without the prior written consent of the other.

#### **Section 6.03. Notices.**

Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses set forth below:

Issuer: City of Kerrville, Texas Economic Improvement Corporation  
701 Main Street  
Kerrville, Texas 78028

Bank: U.S. Bank Trust Company, National Association  
8 Greenway Plaza, Suite 1100  
Houston, Texas 77046

#### **Section 6.04. Effect of Headings.**

The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

#### **Section 6.05. Successors and Assigns.**

All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

#### **Section 6.06. Severability.**

In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

### **Section 6.07. Benefits of Agreement.**

Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

### **Section 6.08. Entire Agreement.**

This Agreement and the Resolution constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Resolution, the Resolution shall govern.

### **Section 6.09. Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

### **Section 6.10. Termination.**

This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. Furthermore, the Bank and Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

The resigning Paying Agent/Registrar may petition any court of competent jurisdiction for the appointment of a successor Paying Agent/Registrar if an instrument of acceptance by a successor Paying Agent/Registrar has not been delivered to the resigning Paying Agent/Registrar within sixty (60) days after the giving of such notice of resignation.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

**Section 6.11 Contracts with Companies Engaged in Business with Iran, Sudan or Foreign Terrorist Organizations Prohibited (S.B. 252 85th Texas Legislature).**

The Bank represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, as amended, and posted on the following page of such officer's Internet website:

<https://comptroller.texas.gov/purchasing/publications/divestment.php>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, as amended, and to the extent such Section does not contravene applicable Texas or federal law and excludes the Bank and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

**Section 6.11. Governing Law.**

This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

(Execution Page Follows)

***IN WITNESS WHEREOF***, the parties hereto have executed this Agreement as of the day and year first above written.

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

By: \_\_\_\_\_  
President

**U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION, as Paying Agent/Registrar**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Signature Page to the Paying Agent/Registrar Agreement Relating to  
City of Kerrville, Texas Economic Improvement Corporation  
Sales Tax Revenue Bonds, Series 2023

**SCHEDULE A**

**Paying Agent/Registrar Fee Schedule Attached**

**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

## **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 Act<sup>1</sup>; 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;

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<sup>1</sup>The 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.

[The remainder of this page intentionally left blank]

***IN WITNESS WHEREOF***, the City and Corporation have caused this First Amendment to be executed this 13<sup>th</sup> day of November, 2023.

**CITY OF KERRVILLE, TEXAS**

By: \_\_\_\_\_  
Mayor

ATTEST:

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City Secretary

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

By: \_\_\_\_\_  
President

ATTEST:

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Secretary

**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**



## **MUNICIPAL BOND INSURANCE COMMITMENT**

**ISSUER:** City of Kerrville, Texas, Economic Improvement Corporation, Texas

**MEMBER:** City of Kerrville, Texas, Economic Improvement Corporation, Texas

**Effective Date:** November 02, 2023

**Expiration Date:** January 30, 2024

**BONDS:** Sales Tax Revenue Bonds, Series 2023  
in aggregate principal amount not to exceed \$20,000,000

**Insurance Payment:** 0.095% of the Total Debt Service on the Bonds

BUILD AMERICA MUTUAL ASSURANCE COMPANY (“BAM”) hereby commits, subject to the terms and conditions contained herein or added hereto, to issue its Municipal Bond Insurance Policy (the “Policy”) relating to the Bonds referenced above (the “Bonds”) issued by or on behalf of the Member. To keep this Commitment in effect after the Expiration Date set forth above, a written request for renewal must be submitted to BAM prior to such Expiration Date. BAM reserves the right to grant or deny a renewal in its sole discretion.

### **THE MUNICIPAL BOND INSURANCE POLICY SHALL BE ISSUED IF THE FOLLOWING CONDITIONS ARE SATISFIED:**

1. The documents to be executed and delivered in connection with the issuance and sale of the Bonds (collectively, the “Security Documents”), shall not contain any untrue or misleading statement of a material fact and shall not fail to state a material fact necessary in order to make the information contained therein not misleading.
2. No event shall occur which would permit any underwriter or purchaser of the Bonds, otherwise required, not to be required to underwrite or purchase the Bonds on the date scheduled for the issuance and delivery thereof (the “Closing Date”).
3. As of the Closing Date, there shall have been no material omissions or material adverse changes in, as to or affecting (i) the Member or the Bonds, including, without limitation, the security for the Bonds or (ii) any disclosure document relating to the Bonds (including any financial statements and other information included or incorporated by reference therein) (the “Official Statement”), the Security Documents to be executed and delivered with respect to the Bonds, any project to be financed with the proceeds of the Bonds (if applicable), the legal opinions to be delivered in connection with the issuance and sale of the Bonds, or any other information

submitted to BAM with respect to the issuance and sale of the Bonds, including the proposed debt service schedule of the Bonds, from information previously provided to BAM in writing.

4. The applicable Security Documents shall contain the document provisions set forth in Exhibit A hereto and shall be in form and substance acceptable to BAM. No variation shall be permitted therefrom except as specifically approved by BAM in writing prior to the Closing Date.

5. The Bonds shall contain no reference to BAM, the Policy or the insurance evidenced thereby except as may be approved in writing by BAM. BOND PROOFS SHALL BE APPROVED IN WRITING BY BAM PRIOR TO PRINTING. The Bonds shall bear a Statement of Insurance in the form found on BAM's website ([www.buildamerica.com](http://www.buildamerica.com)) and in Exhibit B hereto entitled "DOCUMENT, PRINTING AND DISCLOSURE INFORMATION FOR PUBLIC FINANCE TRANSACTIONS".

6. The Official Statement shall contain the language provided by BAM and only such other references to BAM as BAM shall supply or approve in writing, and BAM shall be provided with final drafts of any preliminary and final Official Statement at least two business days prior to printing/electronic posting. BAM SHALL BE PROVIDED WITH AN ELECTRONIC COPY OF THE OFFICIAL STATEMENT SEVEN (7) DAYS PRIOR TO CLOSING, unless BAM shall agree in writing to a shorter period.

7. BAM shall be provided with:

(a) Copies of all Security Document drafts prepared subsequent to the date of this Commitment (blacklined to reflect all revisions from previously reviewed drafts) for review and approval. Final drafts of such documents shall be provided at least three (3) business days prior to the issuance of the Policy, unless BAM shall agree in writing to a shorter period. Copies of all drafts of the Security Documents shall be delivered to the BAM contacts specified in Exhibit 1.

(b) Copies of any consulting reports, feasibility studies, rate reports, engineer's reports or similar expert reports for review and approval, along with any revisions thereto (blacklined to reflect all revisions from previously reviewed drafts). Final drafts of such documents shall be provided at least three (3) business days prior to the issuance of the Policy, unless BAM shall agree in writing to a shorter period.

(c) The amortization schedule for, and final maturity date of, the Bonds, which schedule shall be acceptable to BAM. Please be aware that BAM will only insure fixed rate Bonds.

(d) A No-Litigation Certificate or a description of any material pending litigation relating to the Member or the Bonds and any opinions BAM shall request in connection therewith.

(e) A description of any material change in the Member's financial position from and after the date of the financial statements provided to BAM.

(f) Executed copies of all Security Documents, the Official Statement and the various legal opinions delivered in connection with the issuance and sale of the Bonds (which shall be dated the Closing Date and which, except for the opinions of counsel relating to the adequacy of

disclosure, shall be addressed to BAM or accompanied by a letter of such counsel permitting BAM to rely on such opinion as if such opinion were addressed to BAM), including, without limitation, the unqualified approving opinion of bond counsel, in form and substance satisfactory to BAM. The foregoing shall be in form and substance acceptable to BAM. (For your information, the form of legal opinion, primary market disclosure certificate and officer's certificate to be delivered by BAM at Closing is attached hereto as Exhibit C.)

(g) Evidence of wire transfer in federal funds of an amount equal to the Insurance Payment, unless alternative arrangements for the payment of such amount acceptable to BAM have been made prior to the Closing Date.

8. In the event the Bonds are sold in a private placement transaction, (i) BAM shall receive a closing certificate, in form and substance acceptable to BAM, covering the matters in Paragraphs 7 (d) and (e), (ii) the Issuer shall agree to provide BAM with continuing disclosure consistent with any Continuing Disclosure Agreement for any previously issued public debt of the Issuer (irrespective of whether or not that debt remains outstanding) or enter into such other agreement for continuing disclosure acceptable to BAM and (iii) the Issuer shall provide BAM with copies of all documents and agreements, including without limitation any term sheet, side agreement and/or purchase agreement, executed or delivered in connection with the Bonds, which documents and agreements shall be in form and substance acceptable to BAM.

9. Bonds must have an underlying, long-term rating of at least:

AA-	Standard and Poor's
NR	Moody's Investors Service

10. Promptly, but in no event more than thirty (30) days after the Closing Date, BAM shall receive a link to or PDF file of, or two (2) CD-ROMs of, the final closing transcript of proceedings, or if a link or PDF file cannot be provided or a CD-ROM is not available, such other electronic form as BAM shall accept.

11. To maintain this commitment until the Expiration Date set forth above, BAM must receive a copy of the signature page of this Commitment fully executed by an authorized officer of the undersigned by the earlier of the date on which the Official Statement containing disclosure language regarding BAM is circulated and ten (10) days after the date of this Commitment.

12. Standard & Poor's Ratings Services will separately present a bill for its fees relating to the Bonds. There is no incremental Standard & Poor's fee for the BAM-Insured rating. Payment of such bill by the Member should be made directly to such rating agency. Payment of the rating fee is not a condition to the release of the Policy by BAM.

#### REPRESENTATION AND AGREEMENT BY BAM

(a) BAM is a mutual insurance corporation organized under the laws of, and domiciled in, the State of New York.

(b) BAM covenants that it will not seek to convert to a stock insurance corporation.

(c) The issuance of the Policy qualifies the Member as a member of BAM until the Bonds are no longer outstanding. As a member of BAM, the Member is entitled to certain rights and privileges as provided in BAM's charter and by-laws and as may otherwise be provided under New York law, including the right to receive dividends if and when declared by BAM's Board of Directors. No dividends have been paid to date, and BAM has no current expectation that any dividends will be paid.

(d) The Policy is non-assessable and creates no contingent mutual liability.

(e) Refundings.

If (1) the Security Documents relating to the Bonds permit a legal defeasance (such that the bonds are no longer treated as outstanding under the Security Documents), (2) refunding bonds ("Refunding Bonds") will be issued for the purpose of legally defeasing such then outstanding BAM-insured Bonds (in this context, the "Refunded Bonds") and (3) upon their issuance (A) such Refunding Bonds have a final maturity date that is not later than the final Maturity Date of the Refunded Bonds, (B) the average annual debt service on the Refunding Bonds does not exceed the average annual debt service on the Refunded Bonds, and (C) the net proceeds of such Refunding Bonds are applied solely towards the legal defeasance of the Refunded Bonds and related costs of issuance, then, if BAM is requested to, and in its sole discretion determines to, offer a municipal bond insurance policy covering the Refunding Bonds (the "Refunding Policy") BAM will credit the then available Member Surplus Contribution for the Refunded Bonds against the insurance payment then charged with respect to the Refunding Bonds (proportionate to the amount of Refunding Bonds insured by BAM). If the Security Documents are silent on the matter of a legal defeasance, BAM may, in its sole and absolute discretion, accept such certificates, opinions and reports from or on behalf of the Member in connection with the issuance of such Refunding Bonds in order to establish to its satisfaction that the Refunding Bonds will be issued to retire the outstanding Refunded Bonds and that the Refunding Bonds comply with the criteria set forth in clause (3) of the preceding sentence for the purpose of determining whether a supplemental Member Surplus Contribution is or is not required to be made at that time.

(f) BAM covenants that it will provide notice to the Member (as soon as reasonably possible) of a change in the rating of BAM's financial strength by Standard & Poor's Rating Services.

(g) BAM verifies that, to the extent the Policy represents a contract for goods or services within the meaning of Section 2271.002 of the Texas Government Code, as amended, and solely for purposes of Chapter 2271 of the Texas Government Code, at the time of the issuance of the Policy and for long as the Policy remains in effect, neither BAM, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, boycotts or will boycott Israel. The foregoing verification is made solely to enable the Member to comply with such Section and to the extent such Section does not contravene Federal or Texas law. The terms "boycotts Israel" and "boycott Israel" as used in this paragraph have the meanings assigned to the term "boycott Israel" in Section 808.001 of the Texas Government Code, as amended.

(h) BAM certifies that, at the time of issuance of the Policy, neither BAM, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201 or 2252.153 of the Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to enable the Member to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal or Texas law and excludes BAM and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

(i) To the extent the Policy constitutes a contract for goods or services for which a written verification statement is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislative Session), Texas Government Code, as amended, BAM hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy companies for long as the Policy remains in effect. The foregoing verification is made solely to enable the Member to comply with Section 2274.002, Texas Government Code, as amended, and to the extent such Section does not contravene applicable Federal or Texas law. As used in the foregoing verification, "boycott energy companies" shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above.

(j) To the extent the Policy constitutes a contract for goods or services for which a written verification statement is required under Section 2274.002 (as added by Senate Bill 19 in the 87<sup>th</sup> Texas Legislative Session, "SB 19"), Texas Government Code, as amended, BAM hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any,

- (1) do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and
- (2) will not discriminate for long as the Policy remains in effect against a firearm entity or firearm trade association.

The foregoing verification is made solely to enable the Member to comply with Section 2274.002, Texas Government Code, as amended, and to the extent such Section does not contravene applicable Federal or Texas law.

As used in the foregoing verification, (1) "discriminate against a firearm entity or firearm trade association" (A) means, with respect to the entity or association, to (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity

or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; and (B) does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association; (2) "firearm entity," a term defined in Section 2274.001(6), Texas Government Code (as enacted by SB 19), means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code, as enacted by SB 19, as weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by SB 19, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by SB 19, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting); and (3) "firearm trade association," a term defined in Section 2274.001(7), Texas Government Code (as enacted by SB 19), means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

(k) BAM understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with BAM within the meaning of SEC Rule 405, 17 C.F.R § 230.405, and exists to make a profit.

**BUILD AMERICA MUTUAL  
ASSURANCE COMPANY**



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Authorized Officer

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November 02, 2023

Date

**BAM's Legal Entity Identifier (LEI) # is 254900BWZ9EFP17ESA37**

## AGREED AND ACCEPTED

1. The undersigned agrees and accepts the conditions set forth above and further agrees that (i) if the Bonds (and any of the Bonds to be issued on the same date and for which BAM has issued a commitment) are insured by a policy of municipal bond insurance, such insurance shall be provided by BAM in accordance with the terms of this Commitment; (ii) it has made an independent investigation and decision as to whether to insure the payment when due of the principal of and interest on the Bonds and whether the Policy is appropriate or proper for it based upon its judgment and upon advice from such legal and financial advisers as it has deemed necessary; (iii) BAM has not made, and therefore it is not relying on, any recommendation from BAM that the Bonds be insured or that a Policy be obtained, it being understood and agreed that any communications from BAM (whether written or oral) referring to, containing information about or negotiating the terms and conditions of the Policy, and any related insurance document or the documentation governing the Bonds, do not constitute a recommendation to insure the Bonds or obtain the Policy; (iv) the undersigned acknowledges that BAM has not made any representation, warranty or undertaking, and has not given any assurance or guaranty, in each case, expressed or implied, as to its future financial strength or the rating of BAM's financial strength by the rating agency; (v) the undersigned acknowledges that a credit or claims-paying rating of BAM assigned by a Rating Agency reflects only the views of, and an explanation of the significance of any such rating may be obtained only from, the assigning Rating Agency, any such rating may change or be suspended, placed under review or withdrawn by such Rating Agency if circumstances so warrant, and BAM compensates a Rating Agency to maintain a credit or claims-paying ability rating thereon, but such payment is not in exchange for any specific rating or for a rating within any particular range; (vi) the undersigned acknowledges that BAM may in its sole and absolute discretion at any time request that a Rating Agency withdraw any rating maintained in respect of BAM; and (vii) BAM has made no representation that any dividend will be declared or paid while the Bonds are outstanding, the undersigned has no reason for expecting that any dividend will be declared or paid and the potential receipt of any dividend was not a reason for acquiring the Policy.

2. BAM may determine to designate the Bonds as GreenStar Bonds. Any such designation is based upon information obtained by BAM at the time of issuance of the Bonds and will appear on the cover of and be described under the caption "BOND INSURANCE - BAM GreenStar Bonds" in the Preliminary and Final Official Statements for the Bonds. Said designation will also be included in BAM's Credit Profiles and on BAM's website; it may also be included on lists of green bonds maintained by third parties (including, but not limited to, Bloomberg LP, ICE Data Services, the Municipal Advisory Council of Texas, and the Nasdaq Sustainable Bond Network).

3. The undersigned member hereby appoints Jeffrey Fried, General Counsel of Build America Mutual Assurance Company ("Build America"), as proxy with the power to appoint his substitute, and hereby authorizes him to represent and to cast all of the votes to which the undersigned is entitled to cast as of the record date for the annual meeting of Build America members to be held on Tuesday, April 23, 2024, or at any adjournment or postponement thereof. This proxy is solicited on behalf of the management of Build America and will empower the holder to vote on the undersigned member's behalf for the election of members of the Board of Directors and such other business as may properly come before said annual meeting. This proxy can be revoked by giving Build America written notice of revocation (by email to [generalcounsel@buildamerica.com](mailto:generalcounsel@buildamerica.com), or by

U.S. mail or private carrier to General Counsel, Build America, 200 Liberty Street, New York, NY 10281) received by Build America on or before April 19, 2024. This proxy may also be revoked if the undersigned member attends the annual meeting and chooses to vote in person.

Notwithstanding anything to the contrary set forth herein, upon issuance of the Policy, the provisions set forth under paragraphs 1, 2 and 3 above and the representations and agreements of BAM shall survive the expiration or termination of this Commitment.

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

By: \_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Date

**EXHIBIT A**

**DOCUMENT PROVISIONS**

## EXHIBIT A

### GENERAL REVENUE BOND TRANSACTION DOCUMENT PROVISIONS

**The following terms and provisions (the “Insurer Provisions”) shall be incorporated into the Security Documents. If the Insurer Provisions are attached to any of the Security Document as an exhibit, such Security Document shall include a provision that incorporates by reference the Insurer Provisions directly into the Security Documents. The Insurer Provisions shall control and supersede any conflicting or inconsistent provisions in the Security Documents.**

- 1) Notice and Other Information to be given to BAM. The [Issuer] [Obligor] will provide BAM with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Agreement and (ii) to the holders of Insured Obligations or the Trustee under the Security Documents.

The notice address of BAM is: Build America Mutual Assurance Company, 200 Liberty Street, 27<sup>th</sup> Floor, New York, NY 10281, Attention: Surveillance, Re: Policy No. \_\_\_\_\_, Telephone: (212) 235-2500, Telecopier: (212) 962-1710, Email: [notices@buildamerica.com](mailto:notices@buildamerica.com). In each case in which notice or other communication refers to an event of default or a claim on the Policy, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel at the same address and at [claims@buildamerica.com](mailto:claims@buildamerica.com) or at Telecopier: (212) 962-1524 and shall be marked to indicate “URGENT MATERIAL ENCLOSED.”

- 2) Defeasance. The investments in the defeasance escrow relating to Insured Obligation shall be limited to non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, or as otherwise maybe authorized under State law and approved by BAM.

At least (three) 3 Business Days prior to any defeasance with respect to the Insured Obligations, the Issuer shall deliver to BAM draft copies of an escrow agreement, an opinion of bond counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Insured Obligations, a verification report (a “Verification Report”) prepared by a nationally recognized independent financial analyst or firm of certified public accountants regarding the sufficiency of the escrow fund. Such opinion and Verification Report shall be addressed to BAM and shall be in form and substance satisfactory to BAM. In addition, the escrow agreement shall provide that:

- a) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a Verification Report, an opinion of bond counsel that such substitution will not adversely affect the exclusion (if interest on the Insured Obligations is excludable) from gross income of the holders of the Insured Obligations of the interest on the Insured Obligations for federal income tax purposes and the prior written consent of BAM, which consent will not be unreasonably withheld.
- b) The [Issuer] [Obligor] will not exercise any prior optional redemption of Insured Obligations secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding bonds, and (ii) as a condition to any such redemption there shall be provided to BAM a Verification Report as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following any such redemption.
- c) The [Issuer] [Obligor] shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of BAM.

3) Trustee and Paying Agent.

- a) BAM shall receive prior written notice of any name change of the trustee (the "Trustee") or, if applicable, the paying agent (the "Paying Agent") for the Insured Obligations or the resignation or removal of the Trustee or, if applicable, the Paying Agent. Any Trustee must be (A) a national banking association that is supervised by the Office of the Comptroller of the Currency and has at least \$250 million of assets, (B) a state-chartered commercial bank that is a member of the Federal Reserve System and has at least \$1 billion of assets, or (C) otherwise approved by BAM in writing.
- b) No removal, resignation or termination of the Trustee or, if applicable, the Paying Agent shall take effect until a successor, meeting the requirements above or acceptable to BAM, shall be qualified and appointed.

4) Amendments, Supplements and Consents. BAM's prior written consent is required for all amendments and supplements to the Security Documents, with the exceptions noted below. The [Issuer] [Obligor] shall send copies of any such amendments or supplements to BAM and the rating agencies which have assigned a rating to the Insured Obligations.

- a) *Consent of BAM.* Any amendments or supplements to the Security Documents shall

require the prior written consent of BAM with the exception of amendments or supplements:

- i. To cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in the transaction documents or in any supplement thereto, or
- ii. To grant or confer upon the holders of the Insured Obligations any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the holders of the Insured Obligations, or
- iii. To add to the conditions, limitations and restrictions on the issuance of bonds or other obligations under the provisions of the Security Documents other conditions, limitations and restrictions thereafter to be observed, or
- iv. To add to the covenants and agreements of the [Issuer/Obligor] in the Security Documents other covenants and agreements thereafter to be observed by the [Issuer/Obligor] or to surrender any right or power therein reserved to or conferred upon the [Issuer/Obligor].
- v. To issue additional parity debt in accordance with the requirements set forth in the Security Documents (unless otherwise specified herein).

b) *Consent of BAM in Addition to Bondholder Consent.* Whenever any Security Document requires the consent of holders of Insured Obligations, BAM's consent shall also be required. In addition, any amendment, supplement, modification to, or waiver of, any of the Security Documents that adversely affects the rights or interests of BAM shall be subject to the prior written consent of BAM.

c) *Insolvency.* Any reorganization or liquidation plan with respect to the Issuer [or Obligor] must be acceptable to BAM. The Trustee and each owner of the Insured Obligations hereby appoint BAM as their agent and attorney-in-fact with respect to the Insured Obligations and agree that BAM may at any time during the continuation of any proceeding by or against the Issuer or Obligor under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding") direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a "Claim"), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Trustee and each owner

of the Insured Obligations delegate and assign to BAM, to the fullest extent permitted by law, the rights of the Trustee and each owner of the Insured Obligations with respect to the Insured Obligations in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

- d) *Control by BAM Upon Default.* Anything in the Security Documents to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, BAM shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Insured Obligations or the Trustee or Paying Agent for the benefit of the holders of the Insured Obligations under any Security Document. No default or event of default may be waived without BAM's written consent.
- e) *BAM as Owner.* Upon the occurrence and continuance of a default or an event of default, BAM shall be deemed to be the sole owner of the Insured Obligations for all purposes under the Security Documents, including, without limitations, for purposes of exercising remedies and approving amendments.
- f) *Consent of BAM for acceleration.* BAM's prior written consent is required as a condition precedent to and in all instances of acceleration.
- g) *Grace Period for Payment Defaults.* No grace period shall be permitted for payment defaults on the Insured Obligations. No grace period for a covenant default shall exceed 30 days without the prior written consent of BAM.
- h) *Special Provisions for Insurer Default.* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in paragraphs 4(a)-(e) above to the contrary, (1) if at any time prior to or following an Insurer Default, BAM has made payment under the Policy, to the extent of such payment BAM shall be treated like any other holder of the Insured Obligations for all purposes, including giving of consents, and (2) if BAM has not made any payment under the Policy, BAM shall have no further consent rights until the particular Insurer Default is no longer continuing or BAM makes a payment under the Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph, "Insurer Default" means: (A) BAM has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) BAM shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee,

custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of BAM (including without limitation under the New York Insurance Law).

5) Loan/Lease/Financing Agreement.

- a) The security for the Insured Obligations shall include a pledge and assignment of any agreement with any underlying obligor that is a source of payment for the Insured Obligations (a “Financing Agreement”) and a default under any Financing Agreement shall constitute an Event of Default under the Security Documents. In accordance with the foregoing, any such Financing Agreement is hereby pledged and assigned to the Trustee for the benefit of the holders of the Insured Obligations.
- b) Any payments by the Obligor under the Financing Agreement that will be applied to the payment of debt service on the Insured Obligations shall be made directly to the Trustee at least fifteen (15) days prior to each debt service payment date for the Insured Obligations.

6) BAM As Third Party Beneficiary. BAM is recognized as and shall be deemed to be a third party beneficiary of the Security Documents and may enforce the provisions of the Security Documents as if it were a party thereto.

7) Payment Procedure Under the Policy.

In the event that principal and/or interest due on the Insured Obligations shall be paid by BAM pursuant to the Policy, the Insured Obligations shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the Issuer to the registered owners shall continue to exist and shall run to the benefit of BAM, and BAM shall be subrogated to the rights of such registered owners.

In the event that on the second (2<sup>nd</sup>) business day prior to any payment date on the Insured Obligations, the Paying Agent or Trustee has not received sufficient moneys to pay all principal of and interest on the Insured Obligations due on such payment date, the Paying Agent or Trustee shall immediately notify BAM or its designee on the same business day by telephone or electronic mail, of the amount of the deficiency. If any deficiency is made

up in whole or in part prior to or on the payment date, the Paying Agent or Trustee shall so notify BAM or its designee.

In addition, if the Paying Agent or Trustee has notice that any holder of the Insured Obligations has been required to disgorge payments of principal of or interest on the Insured Obligations pursuant to a final, non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such holder within the meaning of any applicable bankruptcy law, then the Paying Agent or Trustee shall notify BAM or its designee of such fact by telephone or electronic mail, or by overnight or other delivery service as to which a delivery receipt is signed by a person authorized to accept delivery on behalf of BAM.

The Paying Agent or Trustee shall irrevocably be designated, appointed, directed and authorized to act as attorney-in-fact for holders of the Insured Obligations as follows:

- a) If there is a deficiency in amounts required to pay interest and/or principal on the Insured Obligations, the Paying Agent or Trustee shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holders of the Insured Obligations in any legal proceeding related to the payment and assignment to BAM of the claims for interest on the Insured Obligations, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment from BAM with respect to the claims for interest so assigned, (iii) segregate all such payments in a separate account (the "BAM Policy Payment Account") to only be used to make scheduled payments of principal of and interest on the Insured Obligation, and (iv) disburse the same to such respective holders; and
- b) If there is a deficiency in amounts required to pay principal of the Insured Obligations, the Paying Agent or Trustee shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holder of the Insured Obligations in any legal proceeding related to the payment of such principal and an assignment to BAM of the Insured Obligations surrendered to BAM, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment therefore from BAM, (iii) segregate all such payments in the BAM Policy Payment Account to only be used to make scheduled payments of principal of and interest on the Insured Obligation, and (iv) disburse the same to such holders.

The Trustee shall designate any portion of payment of principal on Insured Obligations paid by BAM, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of

Insured Obligations registered to the then current holder, whether DTC or its nominee or otherwise, and shall issue a replacement Insured Obligation to BAM, registered in the name directed by BAM, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Trustee's failure to so designate any payment or issue any replacement Insured Obligation shall have no effect on the amount of principal or interest payable by the Issuer on any Insured Obligation or the subrogation or assignment rights of BAM.

Payments with respect to claims for interest on and principal of Insured Obligations disbursed by the Paying Agent or Trustee from proceeds of the Policy shall not be considered to discharge the obligation of the Issuer with respect to such Insured Obligations, and BAM shall become the owner of such unpaid Insured Obligations and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise. The Security Documents shall not be discharged or terminated unless all amounts due or to become due to BAM have been paid in full or duly provided for.

Irrespective of whether any such assignment is executed and delivered, the Issuer, [Obligor] and the Paying Agent and Trustee agree for the benefit of BAM that:

- a) They recognize that to the extent BAM makes payments directly or indirectly (*e.g.*, by paying through the Paying Agent or Trustee), on account of principal of or interest on the Insured Obligations, BAM will be subrogated to the rights of such holders to receive the amount of such principal and interest from the Issuer/Obligor, with interest thereon, as provided and solely from the sources stated in the Security Documents and the Insured Obligations; and
- b) They will accordingly pay to BAM the amount of such principal and interest, with interest thereon as provided in the transaction documents and the Insured Obligations, but only from the sources and in the manner provided therein for the payment of principal of and interest on the Insured Obligations to holders, and will otherwise treat BAM as the owner of such rights to the amount of such principal and interest.

8) **Additional Payments.** The [Issuer] [Obligor] agrees unconditionally that it will pay or reimburse BAM on demand any and all reasonable charges, fees, costs, losses, liabilities and expenses that BAM may pay or incur, including, but not limited to, fees and expenses of BAM's agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Security Documents ("Administrative Costs"); provided, however, that any such obligation to pay or reimburse BAM any Administrative Costs is subject to annual appropriation of the [Issuer] [Obligor] and to the extent permitted by law. For purposes of

the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of BAM spent in connection with the actions described in the preceding sentence. The [Issuer] [Obligor] agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semi-annually, from the date that payment is first due to BAM until the date BAM is paid in full.

Notwithstanding anything herein to the contrary, the [Issuer][Obligor] agrees to pay to BAM (i) a sum equal to the total of all amounts paid by BAM under the Policy ("BAM Policy Payment"); and (ii) to the extent permitted by law, interest on such BAM Policy Payments from the date paid by BAM until payment thereof in full by the [Issuer][Obligor], payable to BAM at the Late Payment Rate per annum (collectively, "BAM Reimbursement Amounts") compounded semi-annually. Notwithstanding anything to the contrary, including without limitation the post default application of revenue provisions, BAM Reimbursement Amounts shall be, and the [Issuer][Obligor] hereby covenants and agrees that the BAM Reimbursement Amounts are, payable from and secured by a lien on and pledge of the same revenues and other collateral pledged to the Insured Obligations on a parity with debt service due on the Insured Obligations.

- 9) Debt Service Reserve Fund. The prior written consent of BAM shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Debt Service Reserve Fund, if any. Amounts on deposit in the Debt Service Reserve Fund shall be applied solely to the payment of debt service due on the Insured Obligations.
- 10) Exercise of Rights by BAM. The rights granted to BAM under the Security Documents to request, consent to or direct any action are rights granted to BAM in consideration of its issuance of the Policy. Any exercise by BAM of such rights is merely an exercise of the BAM's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the holders of the Insured Obligations and such action does not evidence any position of BAM, affirmative or negative, as to whether the consent of the holders of the Insured Obligations or any other person is required in addition to the consent of BAM.
- 11) BAM shall be entitled to pay principal or interest on the Insured Obligations that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Policy) and any amounts due on the Insured Obligations as a result of acceleration of the maturity thereof in accordance with the Security Documents, whether or not BAM has received a claim upon the Policy.
- 12) So long as the Insured Obligations are outstanding or any amounts are due and payable to BAM, the [Issuer/Obligor] shall not sell, lease, transfer, encumber or otherwise dispose of the [System] or any material portion thereof, except upon obtaining the prior written

consent of BAM.

- 13) No contract shall be entered into or any action taken by which the rights of BAM or security for or source of payment of the Insured Obligations may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of BAM.
- 14) If an event of default occurs under any agreement pursuant to which any Obligation of the [Issuer/Obligor] has been incurred or issued and that permits the holder of such Obligation or trustee to accelerate the Obligation or otherwise exercise rights or remedies that are adverse to the interest of the holders of the Insured Obligations or BAM, as BAM may determine in its sole discretion, then an event of default shall be deemed to have occurred under this [Indenture] and the related Security Documents for which BAM or the Trustee, at the direction of BAM, shall be entitled to exercise all available remedies under the Security Documents, at law and in equity. For purposes of the foregoing "Obligation" shall mean any bonds, loans, certificates, installment or lease payments or similar obligations that are payable and/or secured on a parity or subordinate basis to the Insured Obligations.

15) Definitions.

“BAM” shall mean Build America Mutual Assurance Company, or any successor thereto.

“Insured Obligations” shall mean the [bonds].

“Issuer” shall mean the [Authority].

“Late Payment Rate” means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in The City of New York, New York, as its prime or base lending rate (“Prime Rate”) (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 5%, and (ii) the then applicable highest rate of interest on the Insured Obligations and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A., ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as BAM, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to BAM shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

“Obligor” shall mean the [\_\_\_\_\_].

“Policy” shall mean the Municipal Bond Insurance Policy issued by BAM that guarantees the scheduled payment of principal of and interest on the Insured Obligations when due.

“Security Documents” shall mean the resolution, trust agreement, indenture, ordinance, loan agreement, lease agreement, bond, note, certificate and/or any additional or supplemental document executed in connection with the Insured Obligations.

**EXHIBIT B**

**DOCUMENT, PRINTING AND DISCLOSURE  
INFORMATION FOR  
PUBLIC FINANCE TRANSACTIONS**



## **BUILD AMERICA MUTUAL ASSURANCE COMPANY**

### **DOCUMENT, PRINTING AND DISCLOSURE INFORMATION FOR PUBLIC FINANCE TRANSACTIONS**

This information is intended for use by bond counsel, the underwriters, financial advisors, printers and preparers of municipal bond offerings that will be insured in whole or in part by Build America Mutual Assurance Company ("BAM").

Prior to any reference to BAM in your marketing efforts, including, but not limited to any preliminary or final Official Statement and any rating agency presentation, in respect of a BAM-insured issue, BAM must receive an executed copy of its Commitment Letter. Blacklined copies of each draft of each transaction document, preliminary and final official statements with Appendices, and bond form(s) should be delivered to BAM for review and comment with reasonable opportunity to submit any comments prior to printing or execution, but in any event not less than three business days prior to execution. Such documents shall be delivered to the BAM attorney working on the transaction. If you are uncertain of the proper person to whom to deliver the documents, please email the documents to: [documents@buildamerica.com](mailto:documents@buildamerica.com). Please identify the issuer, obligor and issue name in the subject line of the email.

BAM will deliver to Bond Counsel, at the pre-closing for any such municipal bond offering (such offering to the extent insured by BAM, the "Insured Obligations"), assuming the requirements of the Commitment Letter have been met,

- an opinion of counsel as to the validity of the policy,
- a disclosure, no default and tax certificate of BAM, the executed policy and
- other certificates, if any, required in the transaction.

Prior to closing, BAM will obtain the rating letter from Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business, relating to any Insured Obligations. Note that any questions with regards to rating agency fees should be directed to the rating agency.

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**EXHIBIT 1**

**BAM DIRECTORY**

<b><u>Name</u></b>	<b><u>Title</u></b>	<b><u>Telephone</u></b>	<b><u>Email</u></b>
<b><u>BAM ATTORNEYS</u></b>			
Eashaa Parekh	Counsel	415-858-1008	eparekh@buildamerica.com
<b><u>CLOSING COORDINATORS</u></b>			
Neah Williams		212-235-2535	nwilliams@buildamerica.com
<b><u>BAM ANALYST</u></b>			
Mohamed Zouai		212-235-2592	mzouai@buildamerica.com

**BUILD AMERICA MUTUAL ASSURANCE COMPANY**  
**(“BAM”)**  
**DISCLOSURE INFORMATION**  
**(*FOR INCLUSION IN THE OFFICIAL STATEMENT*)**

**The following are BAM’s requirements for printing the preliminary and final official statements:**

- 1. Both the preliminary and final official statements must contain the information set forth in these Exhibits and BAM must be provided with final drafts for its approval and sign off thereon at least two business days prior to the printing thereof;**
- 2. Any changes made to the BAM Disclosure Information for inclusion in the preliminary and final official statements must first be approved by BAM, and**
- 3. BAM must receive an electronic copy of the final official statement seven (7) days prior to closing, unless BAM shall have agreed to some shorter period.**

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**TO BE PRINTED ON THE COVER OF THE OFFICIAL STATEMENT:**

**The following language should be used when insuring:**

**1. THE ENTIRE ISSUE:**

The scheduled payment of principal of and interest on the Bonds when due will be guaranteed under a municipal bond insurance policy to be issued concurrently with the delivery of the Bonds by **BUILD AMERICA MUTUAL ASSURANCE COMPANY**.

**2. CAPITAL APPRECIATION BONDS:**

The scheduled payment of principal of (or, in the case of Capital Appreciation Bonds, the accreted value) and interest on the Bonds when due will be guaranteed under a municipal bond insurance policy to be issued concurrently with the delivery of the Bonds by **BUILD AMERICA MUTUAL ASSURANCE COMPANY**.

**3. PARTIAL MATURITIES (LESS THAN ENTIRE ISSUE):**

The scheduled payment of principal of and interest on the Bonds maturing on \_\_\_\_\_ of the years \_\_\_\_\_ through \_\_\_\_\_, inclusive, with CUSIP #(s) \_\_\_\_\_ (collectively, the “Insured Bonds”), when due will be guaranteed under a municipal bond insurance policy to be issued concurrently with the delivery of the Insured Bonds by **BUILD AMERICA MUTUAL ASSURANCE COMPANY**.

**4. CERTIFICATES OR NOTES:**

Change all references from the Bonds to Certificates or Notes wherever necessary, but **DO NOT** change the reference to the policy from Municipal Bond Insurance Policy.

**PRINTER'S NOTE: USE BUILD AMERICA MUTUAL ASSURANCE COMPANY  
LOGO AND INK #PMS BLUE 2736; REDS 199, 201 AND 1817.**

**THE LOGO MAY BE OBTAINED FROM BAM'S WEBSITE**

**WWW.BUILDAMERICA.COM**

**THE LOGO MAY BE OBTAINED FROM BAM'S WEBSITE  
TO BE PRINTED IN THE BODY OF THE OFFICIAL STATEMENT OR AS AN EXHIBIT**

**USE THE FOLLOWING LANGUAGE WHEN INSURING THE ENTIRE ISSUE:**

**NOTE: The language under the subheading "Bond Insurance Policy" should be modified when  
insuring Capital Appreciation Bonds, Partial Maturities  
(less than the entire issue), Certificates and/or Notes.**

## **BOND INSURANCE**

### **BOND INSURANCE POLICY**

Concurrently with the issuance of the Bonds, Build America Mutual Assurance Company ("BAM") will issue its Municipal Bond Insurance Policy for the Bonds (the "Policy"). The Policy guarantees the scheduled payment of principal of and interest on the Bonds when due as set forth in the form of the Policy included as an exhibit to this Official Statement.

The Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

### **BUILD AMERICA MUTUAL ASSURANCE COMPANY**

BAM is a New York domiciled mutual insurance corporation and is licensed to conduct financial guaranty insurance business in all fifty states of the United States and the District of Columbia. BAM provides credit enhancement products solely to issuers in the U.S. public finance markets. BAM will only insure municipal bonds, as defined in Section 6901 of the New York Insurance Law, which are most often issued by states, political subdivisions, integral parts of states or political subdivisions or entities otherwise eligible for the exclusion of income under section 115 of the U.S. Internal Revenue Code of 1986, as amended. No member of BAM is liable for the obligations of BAM.

The address of the principal executive offices of BAM is: 200 Liberty Street, 27<sup>th</sup> Floor, New York, New York 10281, its telephone number is: 212-235-2500, and its website is located at: [www.buildamerica.com](http://www.buildamerica.com).

BAM is licensed and subject to regulation as a financial guaranty insurance corporation under the laws of the State of New York and in particular Articles 41 and 69 of the New York Insurance Law.

BAM's financial strength is rated "AA/Stable" by S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC ("S&P"). An explanation of the significance of the rating and current reports may be obtained from S&P at <https://www.spglobal.com/en/>. The rating of BAM should be evaluated independently. The rating reflects S&P's current assessment of the creditworthiness of BAM and its ability to pay claims on its policies of insurance. The above rating is not a recommendation to buy, sell or hold the Bonds, and such rating is subject to revision or withdrawal at any time by S&P, including withdrawal initiated at the request of BAM in its sole discretion. Any downward revision or withdrawal of the above rating may have an adverse effect on the market price of the Bonds. BAM only guarantees scheduled principal and scheduled interest payments payable by the issuer of the Bonds on the date(s) when such amounts were initially scheduled to become due and payable (subject to and in accordance

with the terms of the Policy), and BAM does not guarantee the market price or liquidity of the Bonds, nor does it guarantee that the rating on the Bonds will not be revised or withdrawn.

#### *Capitalization of BAM*

BAM's total admitted assets, total liabilities, and total capital and surplus, as of June 30, 2023 and as prepared in accordance with statutory accounting practices prescribed or permitted by the New York State Department of Financial Services were \$486.0 million, \$204.5 million and \$281.5 million, respectively.

BAM is party to a first loss reinsurance treaty that provides first loss protection up to a maximum of 15% of the par amount outstanding for each policy issued by BAM, subject to certain limitations and restrictions.

BAM's most recent Statutory Annual Statement, which has been filed with the New York State Insurance Department and posted on BAM's website at [www.buildamerica.com](http://www.buildamerica.com), is incorporated herein by reference and may be obtained, without charge, upon request to BAM at its address provided above (Attention: Finance Department). Future financial statements will similarly be made available when published.

BAM makes no representation regarding the Bonds or the advisability of investing in the Bonds. In addition, BAM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding BAM, supplied by BAM and presented under the heading "BOND INSURANCE".

#### *Additional Information Available from BAM*

**Credit Insights Videos.** For certain BAM-insured issues, BAM produces and posts a brief Credit Insights video that provides a discussion of the obligor and some of the key factors BAM's analysts and credit committee considered when approving the credit for insurance. The Credit Insights videos are easily accessible on BAM's website at [www.buildamerica.com/videos](http://www.buildamerica.com/videos). (The preceding website address is provided for convenience of reference only. Information available at such address is not incorporated herein by reference.)

**Credit Profiles.** Prior to the pricing of bonds that BAM has been selected to insure, BAM may prepare a pre-sale Credit Profile for those bonds. These pre-sale Credit Profiles provide information about the sector designation (e.g. general obligation, sales tax); a preliminary summary of financial information and key ratios; and demographic and economic data relevant to the obligor, if available. Subsequent to closing, for any offering that includes bonds insured by BAM, any pre-sale Credit Profile will be updated and superseded by a final Credit Profile to include information about the gross par insured by CUSIP, maturity and coupon. BAM pre-sale and final Credit Profiles are easily accessible on BAM's website at [www.buildamerica.com/credit-profiles](http://www.buildamerica.com/credit-profiles). BAM will produce a Credit Profile for all bonds insured by BAM, whether or not a pre-sale Credit Profile has been prepared for such bonds. (The preceding website address is provided for convenience of reference only. Information available at such address is not incorporated herein by reference.)

**Disclaimers.** The Credit Profiles and the Credit Insights videos and the information contained therein are not recommendations to purchase, hold or sell securities or to make any investment decisions. Credit-related and other analyses and statements in the Credit Profiles and the Credit Insights videos are statements of opinion as of the date expressed, and BAM assumes no responsibility to update the content of such material. The Credit Profiles and Credit Insight videos are prepared by BAM; they have not been reviewed or approved by the issuer of or the underwriter for the Bonds, and the issuer and underwriter assume no responsibility for their content.

BAM receives compensation (an insurance premium) for the insurance that it is providing with respect to the Bonds. Neither BAM nor any affiliate of BAM has purchased, or committed to purchase, any of the Bonds, whether at the initial offering or otherwise.

**The Bond Insurance language for the Official Statement under the subheading “Bond Insurance Policy” should be replaced with the following language when insuring:**

**1. CAPITAL APPRECIATION BONDS:**

Concurrently with the issuance of the Bonds, Build America Mutual Assurance Company (“BAM”) will issue its Municipal Bond Insurance Policy for the Bonds (the “Policy”). The Policy guarantees the scheduled payment of principal of (or, in the case of Capital Appreciation Bonds, the accreted value) and interest on the Bonds when due as set forth in the form of the Policy included as an exhibit to this Official Statement.

**2. PARTIAL MATURITIES (LESS THAN THE ENTIRE ISSUE):**

Concurrently with the issuance of the Bonds, Build America Mutual Assurance Company (“BAM”) will issue its Municipal Bond Insurance Policy (the “Policy”) for the Bonds maturing on \_\_\_\_\_ of the years \_\_\_\_\_ through \_\_\_\_\_, inclusive, with CUSIP #'s \_\_\_\_\_ (collectively, the “Insured Bonds”). The Policy guarantees the scheduled payment of principal of and interest on the Insured Bonds when due as set forth in the form of the Policy included as an exhibit to this Official Statement.

**3. CERTIFICATES OR NOTES:**

Change all references from the Bonds to Certificates or Notes wherever necessary, but **DO NOT** change the reference to the policy from Municipal Bond Insurance Policy.

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**TO BE PRINTED ON THE INSIDE COVER OF OFFICIAL STATEMENT  
AS PART OF THE DISCLAIMER STATEMENT:**

Build America Mutual Assurance Company (“BAM”) makes no representation regarding the Bonds or the advisability of investing in the Bonds. In addition, BAM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding BAM, supplied by BAM and presented under the heading “Bond Insurance” and “Exhibit \_\_ - Specimen Municipal Bond Insurance Policy”.

**EXHIBIT 3**

**Specimen Municipal Bond Insurance Policy**



## MUNICIPAL BOND INSURANCE POLICY

ISSUER: [NAME OF ISSUER]

MEMBER: [NAME OF MEMBER]

BONDS: \$ \_\_\_\_\_ in aggregate principal  
amount of [NAME OF TRANSACTION]  
[and maturing on]

Policy No: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Risk Premium: \$ \_\_\_\_\_

Member Surplus Contribution: \$ \_\_\_\_\_

Total Insurance Payment: \$ \_\_\_\_\_

BUILD AMERICA MUTUAL ASSURANCE COMPANY ("BAM"), for consideration received, hereby UNCONDITIONALLY AND IRREVOCABLY agrees to pay to the trustee (the "Trustee") or paying agent (the "Paying Agent") for the Bonds named above (as set forth in the documentation providing for the issuance and securing of the Bonds), for the benefit of the Owners or, at the election of BAM, directly to each Owner, subject only to the terms of this Policy (which includes each endorsement hereto), that portion of the principal of and interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

On the later of the day on which such principal and interest becomes Due for Payment or the first Business Day following the Business Day on which BAM shall have received Notice of Nonpayment, BAM will disburse (but without duplication in the case of duplicate claims for the same Nonpayment) to or for the benefit of each Owner of the Bonds, the face amount of principal of and interest on the Bonds that is then Due for Payment but is then unpaid by reason of Nonpayment by the Issuer, but only upon receipt by BAM, in a form reasonably satisfactory to it, of (a) evidence of the Owner's right to receive payment of such principal or interest then Due for Payment and (b) evidence, including any appropriate instruments of assignment, that all of the Owner's rights with respect to payment of such principal or interest that is Due for Payment shall thereupon vest in BAM. A Notice of Nonpayment will be deemed received on a given Business Day if it is received prior to 1:00 p.m. (New York time) on such Business Day; otherwise, it will be deemed received on the next Business Day. If any Notice of Nonpayment received by BAM is incomplete, it shall be deemed not to have been received by BAM for purposes of the preceding sentence, and BAM shall promptly so advise the Trustee, Paying Agent or Owner, as appropriate, any of whom may submit an amended Notice of Nonpayment. Upon disbursement under this Policy in respect of a Bond and to the extent of such payment, BAM shall become the owner of such Bond, any appurtenant coupon to such Bond and right to receipt of payment of principal of or interest on such Bond and shall be fully subrogated to the rights of the Owner, including the Owner's right to receive payments under such Bond. Payment by BAM either to the Trustee or Paying Agent for the benefit of the Owners, or directly to the Owners, on account of any Nonpayment shall discharge the obligation of BAM under this Policy with respect to said Nonpayment.

Except to the extent expressly modified by an endorsement hereto, the following terms shall have the meanings specified for all purposes of this Policy. "Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State of New York or the Insurer's Fiscal Agent (as defined herein) are authorized or required by law or executive order to remain closed. "Due for Payment" means (a) when referring to the principal of a Bond, payable on the stated maturity date thereof or the date on which the same shall have been duly called for mandatory sinking fund redemption and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by mandatory sinking fund redemption), acceleration or other advancement of maturity (unless BAM shall elect, in its sole discretion, to pay such principal due upon such acceleration together with any accrued interest to the date of acceleration) and (b) when referring to interest on a Bond, payable on the stated date for payment of interest. "Nonpayment" means, in respect of a Bond, the failure of the Issuer to have provided sufficient funds to the Trustee or, if there is no Trustee, to the Paying Agent for payment in full of all principal and interest that is Due for Payment on such Bond. "Nonpayment" shall also include, in respect of a Bond, any payment made to an Owner by or on behalf of the Issuer of principal or interest that is Due for Payment, which payment has been recovered from such Owner pursuant to the United States Bankruptcy Code in accordance with a final, nonappealable order of a court having competent jurisdiction. "Notice" means delivery to BAM of a notice of claim and certificate, by certified mail, email or telecopy as set forth on the attached Schedule or other acceptable electronic delivery, in a form satisfactory to BAM, from and signed by an Owner, the Trustee or the Paying Agent, which notice shall specify (a) the person or entity making the claim, (b) the Policy Number, (c) the claimed amount, (d) payment instructions and (e) the date such claimed amount becomes or became Due for Payment. "Owner" means, in respect of a Bond, the person or entity who, at the time of Nonpayment, is entitled under the terms of such Bond to payment thereof, except that "Owner" shall not include the Issuer, the Member or any other person or entity whose direct or indirect obligation constitutes the underlying security for the Bonds.

BAM may appoint a fiscal agent (the "Insurer's Fiscal Agent") for purposes of this Policy by giving written notice to the Trustee, the Paying Agent, the Member and the Issuer specifying the name and notice address of the Insurer's Fiscal Agent. From and after the date of receipt of such notice by the Trustee, the Paying Agent, the Member or the Issuer (a) copies of all notices required to be delivered to BAM pursuant to this Policy shall be simultaneously delivered to the Insurer's Fiscal Agent and to BAM and shall not be deemed received until received by both and (b) all payments required to be made by BAM under this Policy may be made directly by BAM or by the Insurer's Fiscal Agent on behalf of BAM. The Insurer's Fiscal Agent is the agent of BAM only, and the Insurer's Fiscal Agent shall in no event be liable to the Trustee, Paying Agent or any Owner for any act of the Insurer's Fiscal Agent or any failure of BAM to deposit or cause to be deposited sufficient funds to make payments due under this Policy.

To the fullest extent permitted by applicable law, BAM agrees not to assert, and hereby waives, only for the benefit of each Owner, all rights (whether by counterclaim, setoff or otherwise) and defenses (including, without limitation, the defense of fraud), whether acquired by subrogation, assignment or otherwise, to the extent that such rights and defenses may be available to BAM to avoid payment of its obligations under this Policy in accordance with the express provisions of this Policy. This Policy may not be canceled or revoked.

This Policy sets forth in full the undertaking of BAM and shall not be modified, altered or affected by any other agreement or instrument, including any modification or amendment thereto. Except to the extent expressly modified by an endorsement hereto, any premium paid in respect of this Policy is nonrefundable for any reason whatsoever, including payment, or provision being made for payment, of the Bonds prior to maturity. THIS POLICY IS NOT COVERED BY THE PROPERTY/CASUALTY INSURANCE SECURITY FUND SPECIFIED IN ARTICLE 76 OF THE NEW YORK INSURANCE LAW. THIS POLICY IS ISSUED WITHOUT CONTINGENT MUTUAL LIABILITY FOR ASSESSMENT.

In witness whereof, BUILD AMERICA MUTUAL ASSURANCE COMPANY has caused this Policy to be executed on its behalf by its Authorized Officer.

BUILD AMERICA MUTUAL ASSURANCE COMPANY

By: \_\_\_\_\_  
Authorized Officer

**Notices (Unless Otherwise Specified by BAM)**

Email:

[claims@buildamerica.com](mailto:claims@buildamerica.com)

Address:

200 Liberty Street, 27th floor  
New York, New York 10281

Telecopy:

212-962-1524 (attention: Claims)

**SPECIMEN**

STATEMENT OF INSURANCE  
(Language for the Bond Form)  
*This form is not to be included in the Official Statement.*

The Bonds shall bear a Statement of Insurance in the following form.

The following language should be used when insuring

**1. THE ENTIRE ISSUE:**

Build America Mutual Assurance Company (“BAM”), New York, New York, has delivered its municipal bond insurance policy (the “Policy”) with respect to the scheduled payments due of principal of and interest on this Bond to **{insert name of paying agent or trustee}, {city or county}, {state}**, or its successor, [as paying agent for the Bonds (the “Paying Agent”)] [as trustee for the Bonds (the “Trustee”)]. Said Policy is on file and available for inspection at the principal office of the [Paying Agent] [Trustee] and a copy thereof may be obtained from BAM or the [Paying Agent] [Trustee]. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of these Bonds, the owner acknowledges and consents (i) to the subrogation and all other rights of BAM as more fully set forth in the Policy and (ii) that upon the occurrence and continuance of a default or an event of default under the [Resolution/Ordinance/Indenture] or this Bond, BAM shall be deemed to be the sole owner of the Bonds for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the owners of the Bonds or the trustee, paying agent, registrar or similar agent for the benefit of such owners under the [Resolution/Ordinance/Indenture], at law or in equity.

**2. CAPITAL APPRECIATION BONDS:**

Build America Mutual Assurance Company (“BAM”), New York, New York, has delivered its municipal bond insurance policy (the “Policy”) with respect to the scheduled payments due of principal of (or, in the case of Capital Appreciation Bonds, the accreted value) and interest on this Bond to **{insert name of paying agent or trustee}, {city or county}, {state}**, or its successor, as [paying agent for the Bonds (the “Paying Agent”)] as trustee for the Bonds (the “Trustee”)]. Said Policy is on file and available for inspection at the principal office of the [Paying Agent] [Trustee] and a copy thereof may be obtained from BAM or the [Paying Agent] [Trustee]. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of these Bonds, the owner acknowledges and consents (i) to the subrogation and all other rights of BAM as more fully set forth in the Policy and (ii) that upon the occurrence and continuance of a default or an event of default under the [Resolution/Ordinance/Indenture] or this Bond, BAM shall be deemed to be the sole

owner of the Bonds for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the owners of the Bonds or the trustee, paying agent, registrar or similar agent for the benefit of such owners under the [Resolution/Ordinance/Indenture], at law or in equity.

**3. PARTIAL MATURITIES (LESS THAN ENTIRE ISSUE):**

Build America Mutual Assurance Company ("BAM"), New York, New York, has delivered its municipal bond insurance policy (the "Policy") with respect to the scheduled payments due of principal of and interest on this Bonds maturing on \_\_\_\_\_ of the years \_\_\_\_\_ through \_\_\_\_\_, inclusive (the "Insured Bonds"), to **{insert name of paying agent or trustee}, {city or county}, {state}**, or its successor, [as paying agent for the Bonds (the "Paying Agent")] [as trustee for the Bonds (the "Trustee")]. Said Policy is on file and available for inspection at the principal office of the [Paying Agent] [Trustee] and a copy thereof may be obtained from BAM or the [Paying Agent] [Trustee]. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of these Bonds, the owner acknowledges and consents (i) to the subrogation and all other rights of BAM as more fully set forth in the Policy and (ii) that upon the occurrence and continuance of a default or an event of default under the [Resolution/Ordinance/Indenture] or this Bond, BAM shall be deemed to be the sole owner of the Bonds for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the owners of the Bonds or the trustee, paying agent, registrar or similar agent for the benefit of such owners under the [Resolution/Ordinance/Indenture], at law or in equity.

**4. CERTIFICATES OR NOTES:**

Change all references from the Bonds to Certificates or Notes wherever necessary, but **DO NOT** change the reference to the policy from Municipal Bond Insurance Policy.

**PROCEDURES FOR PREMIUM PAYMENT  
TO BAM**

***This form is not to be included in the Official Statement.***

BAM's issuance of its municipal bond insurance policy at bond closing is contingent upon payment and receipt of the premium. NO POLICY MAY BE RELEASED UNTIL PAYMENT OF SUCH AMOUNT HAS BEEN CONFIRMED. Set forth below are the procedures to be followed for confirming the amount of the premium to be paid and for paying such amount:

**Upon determination of the final debt service schedule, email or fax such schedule to the appropriate BAM Underwriter**

Mohamed Zouai  
Phone No.: 212-235-2592  
Email: mzouai@buildamerica.com

**Confirm with the individual in our underwriting department that you are in agreement with respect to par and premium on the transaction prior to the closing date.**

Payment Date:      Date of Delivery of the Insured Bonds.

Method of Payment: Wire transfer of Federal Funds.

**Wire Transfer Instructions:**

**Bank:** First Republic Bank  
**ABA#:** 321081669  
**Acct. Name:** Build America Mutual Assurance Company  
**Account No.:** 80001613703  
**Policy No.:** @@POLICY\_NO@@ - **(Include in OBI Field)**

**CONFIRMATION OF PREMIUM**

BAM will accept as confirmation of the premium payment a wire transfer number and the name of the sending bank, to be communicated to the Closing Coordinator on the closing date:

Deneica Glenn	(212) 235-2552
Yanique Graham	(212) 235-2569
Patrice James	(212) 235-2559
Claudette Littlejohn	(212) 235-2572
Robert Metcalfe	(212) 235-2551
Nolan Miller	(212) 235-2511
Neah Williams	(212) 235-2535

**EXHIBIT C**

**BAM LEGAL OPINION AND CERTIFICATE**

[CLOSING DATE]

[ADDRESSEES (ISSUER, UNDERWRITER AND TRUSTEE)]

Re: Municipal Bond Insurance Policy No. [POLICY NO.] With Respect to  
\$\_\_\_\_ [Name of Issuer] (the "Issuer")  
\_\_\_\_ Bonds, Series \_\_\_\_ (the "Bonds")

Ladies and Gentlemen:

I am Counsel of Build America Mutual Assurance Company, a New York mutual insurance company ("BAM"). You have requested my opinion in such capacity as to the matters set forth below in connection with the issuance by BAM of its above-referenced policy (the "Policy"). In that regard, and for purposes of this opinion, I have examined such corporate records, documents and proceedings as I have deemed necessary and appropriate.

Based upon the foregoing, I am of the opinion that:

1. BAM is a mutual insurance company duly organized and validly existing under the laws of the State of New York and authorized to transact financial guaranty insurance business therein.
2. The Policy has been duly authorized, executed and delivered by BAM.
3. The Policy constitutes the valid and binding obligation of BAM, enforceable in accordance with its terms, subject, as to the enforcement of remedies, to bankruptcy, insolvency, reorganization, rehabilitation, moratorium and other similar laws affecting the enforceability of creditors' rights generally applicable in the event of the bankruptcy or insolvency of BAM and to the application of general principles of equity.
4. The issuance of the Policy qualifies [the Issuer] as a member of BAM until [the Bonds] are no longer outstanding. As a member of BAM, [the Issuer] is entitled to certain rights and privileges as provided in BAM's charter and by-laws and as may otherwise be provided under New York law. The Policy is non-assessable and creates no contingent mutual liability.

In addition, please be advised that I have reviewed the description of the Policy under the caption "BOND INSURANCE" in the official statement relating to the above-referenced Bonds dated [DATE] (the "Official Statement"). There has not come to my attention any information which would cause me to believe that the description of the Policy referred to above, as of the date of the Official Statement or as of the date of

this opinion, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Please be advised that I express no opinion with respect to any information contained in, or omitted from, "the Official Statement".

I am a member of the Bar of the State of New York, and do not express any opinion as to any law other than the laws of the State of New York.

This letter and the legal opinions herein are intended for the information solely of the addressees hereof and solely for the purposes of the transactions described in the Official Statement and are not to be relied upon by any other person or entity (including, without limitation, any person or entity that acquires bonds from an addressee of this letter.) I do not undertake to advise you of matters that may come to my attention subsequent to the date hereof that may affect the conclusions expressed herein.

Very truly yours,

**DISCLOSURE, NO DEFAULT AND TAX CERTIFICATE OF  
BUILD AMERICA MUTUAL ASSURANCE COMPANY**

The undersigned hereby certifies on behalf of BUILD AMERICA MUTUAL ASSURANCE COMPANY ("BAM"), in connection with the issuance by BAM of its Policy No. [POLICY NO.] (the "Policy") in respect of the [\$AMOUNT] [NAME OF TRANSACTION] (the "Bonds") that:

- (i) The information set forth under the caption "BOND INSURANCE-BUILD AMERICA MUTUAL ASSURANCE COMPANY" in the official statement dated [DATE], relating to the Bonds (the "Official Statement") is true and correct;
- (ii) BAM is not currently in default nor has BAM ever been in default under any policy or obligation guaranteeing the payment of principal of or interest on an obligation;
- (iii) The Policy is an unconditional and recourse obligation of BAM (enforceable by or on behalf of the holders of the Bonds) to pay the scheduled principal of and interest on the Bonds when due in the event of Nonpayment by the Issuer (as set forth in the Policy);
- (iv) The insurance payment (inclusive of the sum of the Risk Premium and the Member Surplus Contribution) (the "Insurance Payment") is solely a charge for the transfer of credit risk and was determined in arm's length negotiations and is required to be paid to BAM as a condition to the issuance of the Policy;
- (v) BAM will, for federal income tax purposes, treat the Insurance Payment as solely in consideration for the insurance risk it assumes in the Policy and not as consideration for an investment in BAM or its assets;
- (vi) No portion of such Insurance Payment represents an indirect payment of costs of issuance, including rating agency fees, other than fees paid by BAM to maintain its rating, which, together with all other overhead expenses of BAM, are taken into account in the formulation of its rate structure, or for the provision of additional services by BAM, or represents a direct or indirect payment for any goods or services provided to the Issuer (including the right to receive a dividend), or the direct or indirect payment for a cost, risk or other element that is not customarily borne by insurers of tax-exempt bonds (in transactions in which the guarantor has no involvement other than as a guarantor);
- (vii) BAM is not providing any services in connection with the Bonds other than providing the Policy, and except for the Insurance Payment, BAM will not use any portion of the Bond proceeds;
- (viii) Except for payments under the Policy in the case of Nonpayment by the Issuer, there is no obligation to pay any amount of principal or interest on the Bonds by BAM;
- (ix) (a) BAM has not paid any dividends to date, (b) BAM's Board of Directors has resolved that BAM's priorities for surplus, as it accumulates, will be to preserve capital strength and claims paying resources for the benefit of its members and secondarily to

return value by reducing premiums charged for its insurance, and (c) BAM has no current expectation that any dividends will be paid;

(x) BAM does not expect that a claim or any other payment will be made on or with respect to the Policy or by BAM to the Issuer; and

(xi) Neither the Issuer nor any other Obligor is entitled to a refund of the Insurance Payment for the Policy in the event a Bond is retired before the final maturity date.

BAM makes no representation as to the nature of the interest to be paid on the Bonds or the treatment of the Policy under Section 1.148-4(f) of the Income Tax Regulations.

BUILD AMERICA MUTUAL  
ASSURANCE COMPANY

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Authorized Officer

Dated: [CLOSING DATE]

**Primary Market Disclosure Certificate  
[Bond Description] (the "Insured Bonds")**

For the benefit of \_\_\_\_\_ (the "Issuer"), and acknowledging that the Issuer will be relying on the contents hereof in addressing certain tax and disclosure items and for other matters, Build America Mutual Assurance Company ("Build America") makes the following representations and warranties as of the date hereof:

1. Neither Build America nor any affiliate of Build America has purchased, or has committed to purchase, any of the Insured Bonds, whether at the initial offering or otherwise;
2. Neither Build America nor any affiliate of Build America has entered into any agreement or understanding regarding the purchase or sale of the Insured Bonds, except for the insurance policies that Build America has provided regarding payments due under the Insured Bonds and the documentation associated with said insurance policies.

For the purposes of this certificate, "affiliate of Build America" means a person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, Build America.

[dated as of the closing date]

Build America Mutual Assurance Company

By

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Authorized Officer



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

**SUBJECT:** Consider Economic Development Project Application to The City of Kerrville, Economic Improvement Corporation (EIC), from Litecrete, Inc. (Project Mount Saddle), for the Economic Improvement Corporation to convey property it owns along the 300 block of Peterson Farm Road, such conveyance to be without any payment to the Economic Improvement Corporation.

**AGENDA DATE OF:** November 13, **DATE SUBMITTED:** October 30, 2023

**SUBMITTED BY:** Kesha Franchina, Deputy City Secretary

**EXHIBITS:**

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

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

**Kerrville 2050 Item?** Yes

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

### **SUMMARY STATEMENT:**

Project Mount Saddle, or Litecrete, has been working on their due diligence on the 86 acre EIC property since March of this year. They have completed that process and are hoping to finalize the property transaction and begin ordering equipment for the facility. Agreements are in the works with the City and the County to upgrade Al Mooney Road, and a portion of Peterson Farms Road to accommodate additional traffic. The City has already approved the Interlocal agreement and the County will consider it at the November 13 Commissioner's Court, prior to the EIC meeting.

The 86 acres were originally purchased by EIC to be gifted to a U.S. Department of Agriculture's Insects Laboratory, which means Kerrville would have benefited from the jobs, but not property taxes or sales tax revenues. Project Mount Saddle will be placing a roughly \$35 million investment in the property as well as generating a substantial amount of sales tax at full build out. Based on the projected sales, by year three they will be generating sales

between \$25-30 million. In addition, they will be creating jobs which pay above average county wages in the production of their advanced construction materials. The official term for the material is Autoclaved Aerated Concrete, which is an ultra-lightweight concrete used for structural purposes in both the commercial and residential sectors.

A part of the requirement in the agreement is that Litecrete will establish Kerrville as their sales office. In addition to the manufacturing, the group has discussed building a Customer Service Center to showcase their product and possibly a training facility. Attached to this agenda will be a brochure of their product offering.

**RECOMMENDED ACTION:**

Approve the Economic Development Project Application to The City of Kerrville, Economic Improvement Corporation (EIC), from Litecrete, Inc. (Project Mount Saddle), for the Economic Improvement Corporation to convey property it owns along the 300 block of Peterson Farm Road.

**ATTACHMENTS:**

*[Modular Capabilities Brochure 2022.pdf](#)*



# HIGH-PERFORMANCE BUILDING SOLUTIONS FOR THE REAL WORLD

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Autoclaved Aerated Concrete (AAC) + Modular Building Systems





## The Catherine

Austin, TX



## Our Promise To You

### **Building Innovative Solutions**

We help project teams employ high-performance building systems that deliver superior performance and resiliency at a competitive cost of construction.



## Champions Of High-Performance Building Systems

The Modular team is an authority in Hebel® autoclaved aerated concrete (AAC) and high-performance modular building systems. We focus on helping project teams successfully design and construct better performing, more resilient, and cost-effective buildings using innovative solutions.



### Solution Development

Applying building science to develop high-performance building materials and assemblies.



### Education & Training

Classroom and field instruction in design, engineering, and construction of AAC building systems.



### Design & Engineering Support

Full project support from pre-design evaluation and budgeting to final delegated engineering plans.



### Logistics & Delivery

Pre-construction planning and material delivery coordination at the jobsite.



### Construction Support

Remote and on-site technical support during all phases of construction.



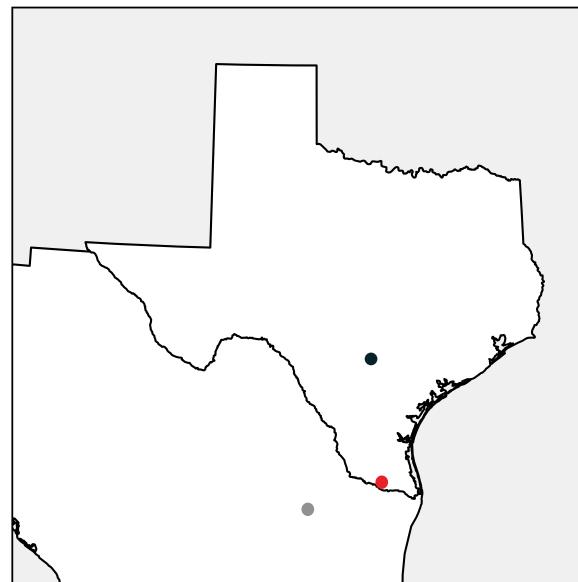
## Leading Global AAC Brand

Hebel is an established global leader of autoclaved aerated concrete building products with over 28 years of proven success in North America. Hebel AAC products sold in the United States are manufactured under license in Monterrey, Mexico.

- In production for 80+ years
- Implemented in the United States for 28+ years
- Recognized by building code in 30 countries
- Manufactured in 91 plants worldwide



Hebel is a trademark  
of Xella Group Germany



● Modular Sales Office  
San Antonio, TX

● Modular Inventory Yard  
Pharr, TX

● Hebel Manufacturing  
Monterrey, MX

# High-Performance

Provides the best fire, sound, and energy efficient performance.

## 01 Fire

Non-combustible material and 18 UL-listed assemblies with up to 4-hour load-bearing fire rating.

## 02 Sound

Over 30 evaluated wall and floor assemblies with sound reduction ratings up to STC-68.

## 03 Energy

Integrated insulation and mass wall with performance up to 230% of energy code.

# Resilient

Builds structures that are robust, long-lasting, and safe.

## 01 Moisture

Does not rot or decay and resistant to mold and mildew growth.

## 02 Windstorm

Meets highest windstorm code including Texas, Florida, and Miami-Dade.

## 03 Pests

Impervious to burrowing and destruction by insects and rodents.

# Cost-Effective

Increases performance and lowers total cost of ownership.

## 01 Simpler Construction

Fewer trades, materials and installation steps lowers construction costs.

## 02 Faster Schedule

Additional savings from faster schedule and lower risk of delays.

## 03 Operating Savings

Lower long-term energy, maintenance, repair, and insurance costs.



**Yaupon by Agave**

New Braunfels, TX

# AUTOCLAVED AERATED CONCRETE

## Ultra-Lightweight Cellular Concrete

SPECIFICATIONS	AAC-4	AAC-6
Nominal Dry Bulk Density (lb/ft <sup>3</sup> )	31	37
Min. Compressive Strength (psi)	580	870
Thermal Conductivity (K)	0.9124	0.9811
Thermal Resistance Per Inch (R)	1.09	1.02



**79%**

lighter than  
standard concrete

## MANUFACTURING PROCESS

01

Ingredients are mixed and poured into a mold

02

Concrete mixture reacts chemically and expands to double original volume

03

The raw concrete slab is cut into individual blocks and panels

04

Unfinished products are placed in an autoclave and cured with heat and steam

05

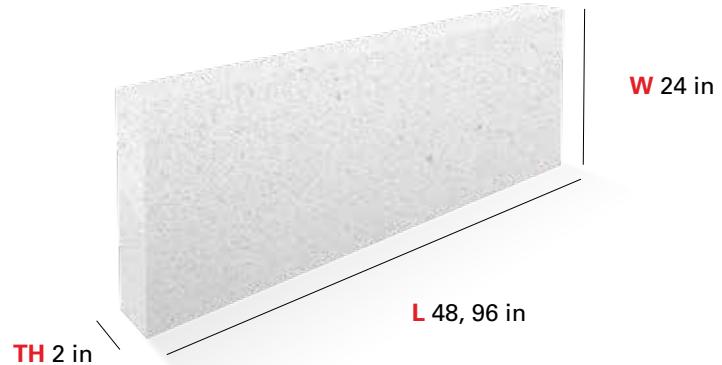
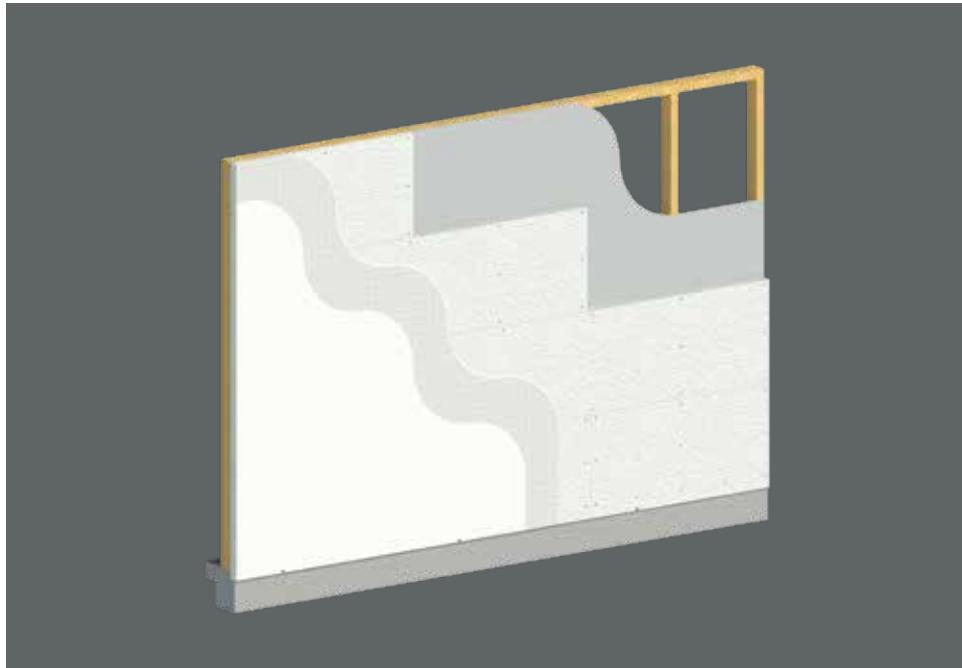
Finished products are packaged for delivery

Applications		Power Panel	Power Floor	Wall Panel	Floor & Roof Panel	Structural Wall Panel	Hebel Metal	Masonry	Fence Panel
COMMERCIAL	Exterior Walls	●		●		●	●	●	
	Interior Walls					●	●	●	
	Elevated Floor		●		●				
	Roofs				●				
RESIDENTIAL	Exterior Walls	●						●	
	Interior Walls							●	
	Elevated Floor		●		●				
	Roofs				●				
INDUSTRIAL	Exterior Walls	●		●		●		●	
	Interior Walls							●	
	Elevated Floor		●		●				
	Roofs				●				
OTHER	Stairs & Elevator Shafts					●		●	
	Fire-rated Assemblies	●	●	●	●	●		●	
	Fencing & Sound Barriers								●
	Parking Structures			●					

# HEBEL POWER PANEL

## Resilient Insulated Cladding for Framed Walls

Hebel Power Panel upgrades standard wood and metal framed buildings with a tough and insulated exterior cladding. This panel is highly resistant to fire, moisture, pests, as well as damage from impact.



### Applications:

Single-family, Multi-family, Assisted Living,  
Student Housing, Office, Retail, Hospitality

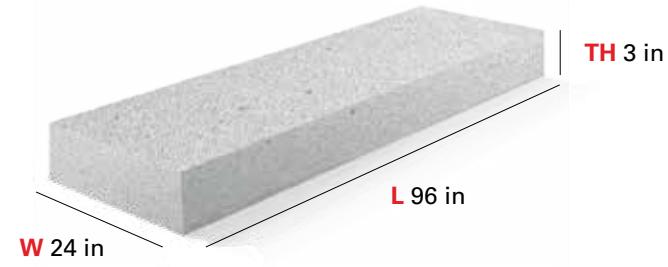
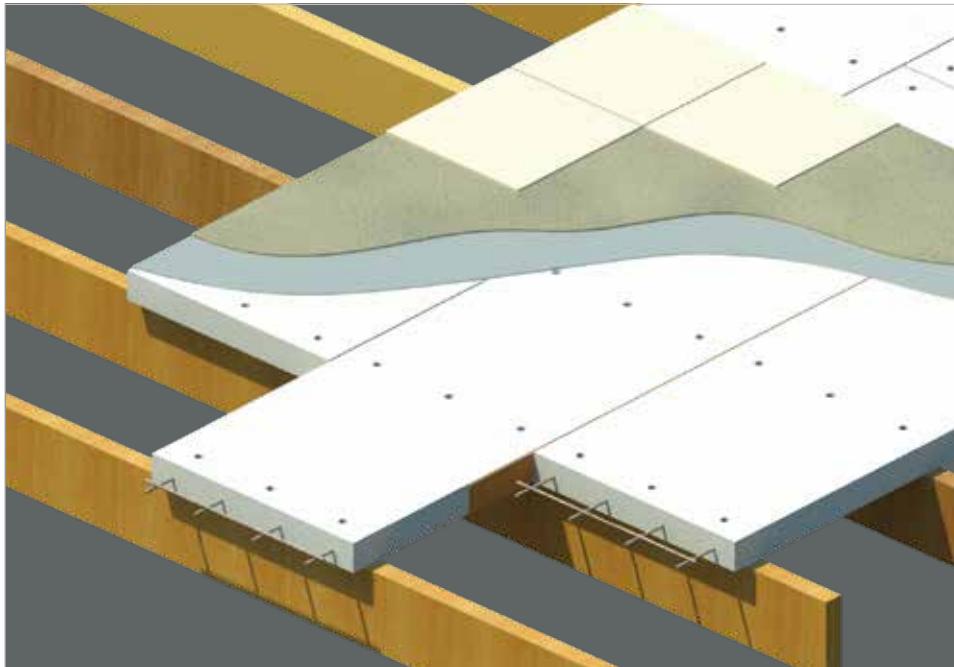


**Tres Lagos**  
McAllen, TX

# HEBEL POWER FLOOR

## Lightweight, Rigid, and Resilient Floor Decking

Hebel Power Floor significantly improves durability and occupant experience over conventional wood decking at a fraction of the cost of other precast or cast-in-place concrete floor systems.



### Applications:

Single-family, Multi-family, Assisted Living,  
Student Housing, Hospitality

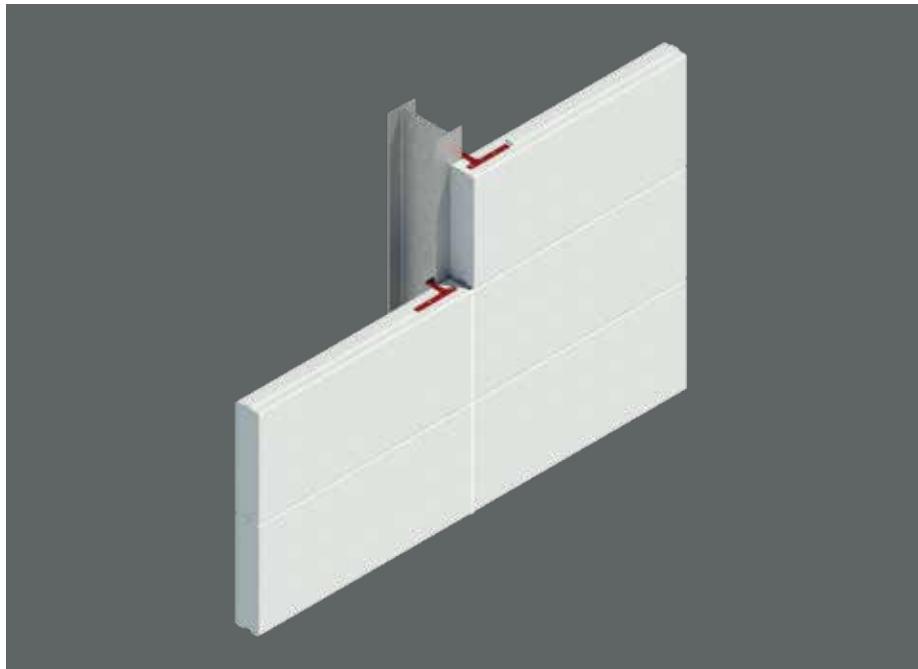


**Yaupon by Agave**  
New Braunfels, TX

# HEBEL WALL PANEL

## Lightweight Insulated Wall Enclosure

Hebel Wall Panel is a high-performance, quick-to-install, economical system for enclosing and insulating steel or concrete framed buildings.



### Applications:

Warehouse, Industrial, Flex, Retail,  
Government, Office, Parking Garage

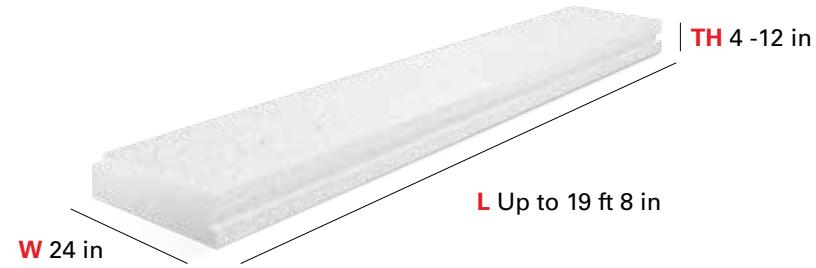
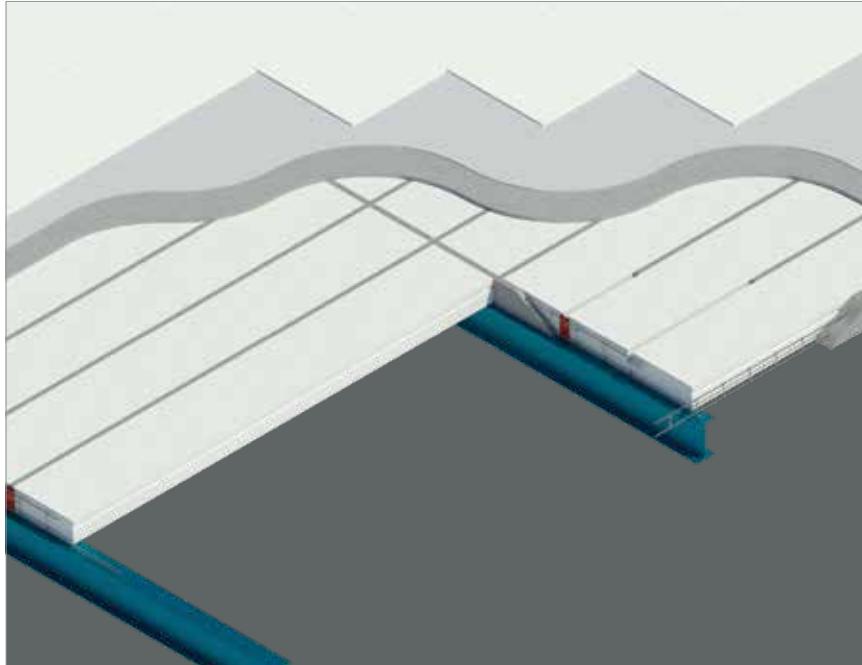


**Palmer Event Center**  
Austin, TX

# HEBEL FLOOR AND ROOF PANEL

## Lightweight Structural Floor and Roof

Hebel Floor and Roof Panels are lightweight load-bearing concrete decking for intermediate spans up to 19'-8" that can be supported on wood, cold-formed steel, structural steel, or concrete frame systems.



### Applications:

Office, Hospitality, Multi-Family, Industrial,  
Retail, Single-Family, Student Housing

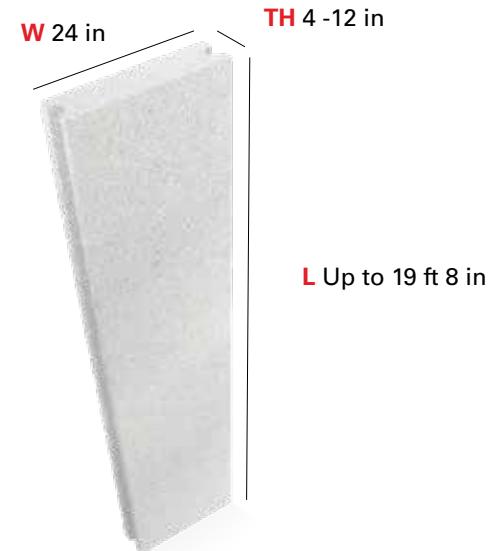
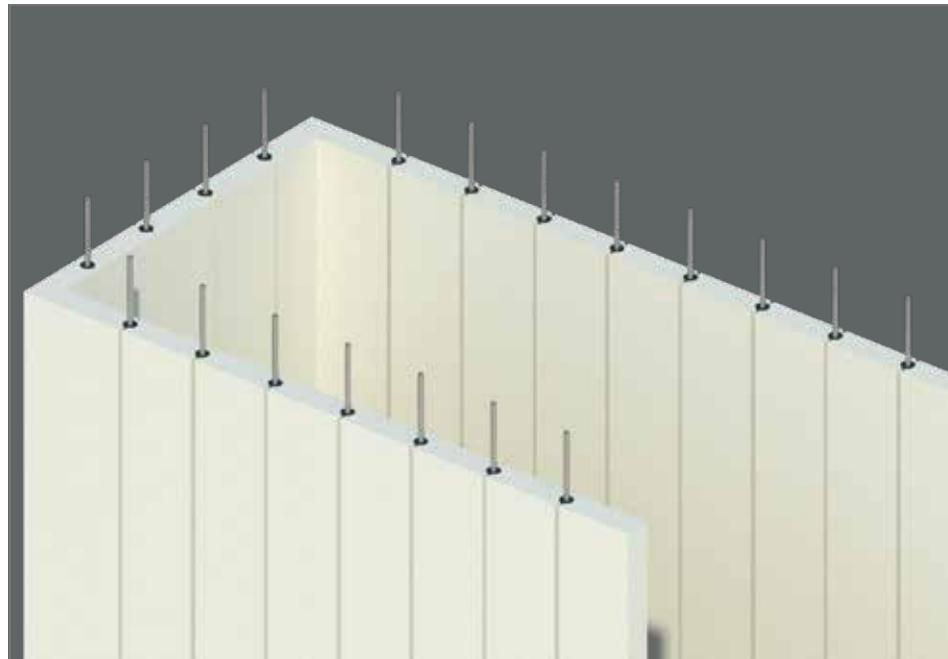


**Waterfront Apartments**  
Galveston, TX

# HEBEL STRUCTURAL WALL PANEL

## Vertical Load-Bearing Insulated Wall

Hebel Structural Wall Panel is a load-bearing precast wall that provides structure, enclosure, and insulation in one system.



Applications:

Office, Hospitality, Multi-Family, Industrial, Retail



**Bicentennial Crossing**  
McAllen, TX

# HEBEL METAL

## Prefabricated Modular Interior + Exterior Walls

Hebel Metal is prefabricated load-bearing cold-formed steel interior and exterior wall modules with integrated insulation and finishes that significantly accelerate installation for larger building projects.



**H** Up to 11 ft

**W** Up to 24 ft

### Applications:

Warehouse, Industrial, Office, Hospitality

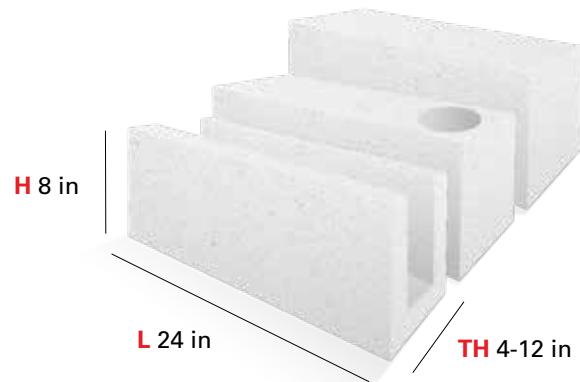
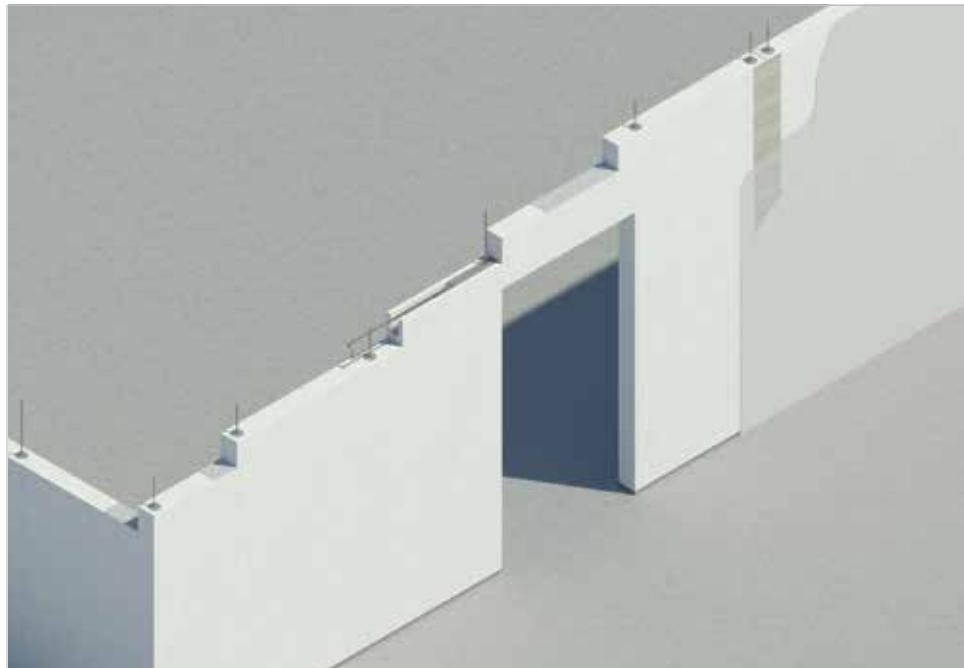


**Embassy Suites**  
Round Rock, TX

# HEBEL MASONRY

## High-Performance Building Envelope + Structure

Hebel Masonry is reinforced masonry that provides building enclosure, insulation, and structure in a single integrated solution.



### Applications:

Retail, Single-Family, Multi-Family,  
Medical, Fire/Sound Wall

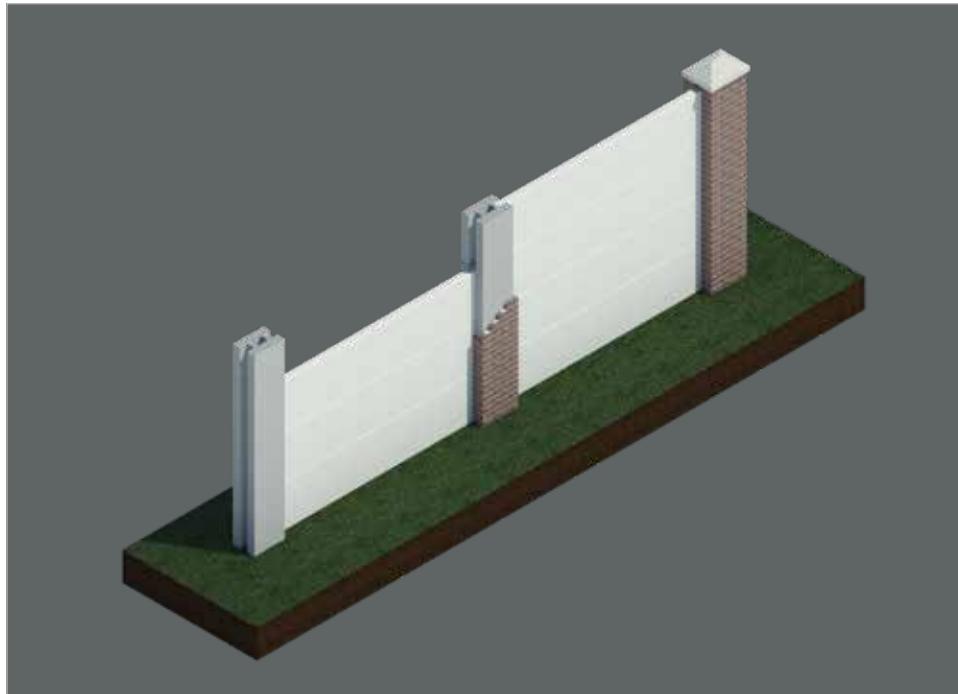


**HEB Curbside**  
Spring, TX

# HEBEL FENCE PANEL

## Lightweight Concrete Fence Panel + Sound Barrier

Hebel Fence Panel is a lightweight precast concrete panel for constructing privacy, screen fences and sound barriers for neighborhoods and highways.



### Applications:

Single-Family, Multi-Family, Hospitality, Utilities, Sub-division, Roadways



**Sienna Village**  
Houston, TX

# HOSPITALITY



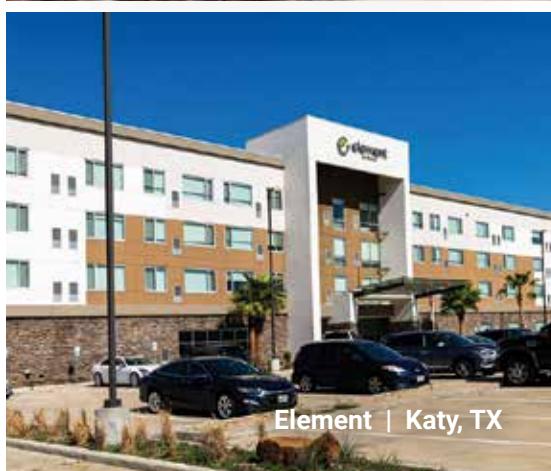
Embassy Suites | McAllen, TX



Courtyard | South Padre Island, TX



Hilton Convention Center | Austin, TX



Element | Katy, TX



Home2 Suites | McAllen, TX

# COMMERCIAL



H-E-B Curbside Addition | Leander, TX



Costco | Willowbrook, TX



Bicentennial Crossing | McAllen, TX



Texas Orthodontic Specialists | Houston, TX

# CIVIC & GOVERNMENT



Austin Convention Center | Austin, TX



Texas DPS | Edinburg, TX



TDCJ | McAllen, TX



Palmer Event Center | Austin, TX

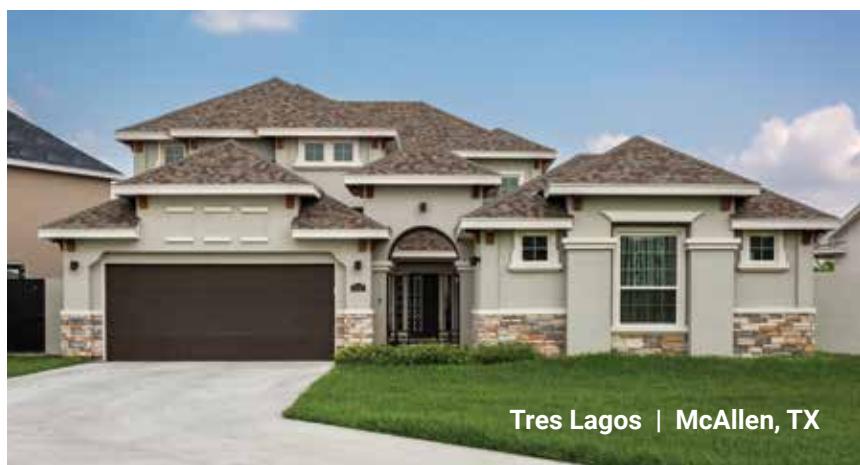
# RESIDENTIAL



**The Catherine** | Austin, TX



**Waterfront Apartments** | Galveston, TX



**Tres Lagos** | McAllen, TX



**Seaside Drive** | Galveston, TX



# SPECIFICATIONS

SPECIFICATIONS	AAC-4	AAC-6
Nominal Dry Bulk Density (lb/ft <sup>3</sup> )	31	37
Min. Compressive Strength (psi)	580	870
Thermal Conductivity (K)	0.9124	0.9811
Thermal Resistance Per Inch (R)	1.09	1.02

AAC	R-VALUES		STC		
	IN	AAC-4	AAC-6	AAC-4	AAC-6
2		2.16	2.01	33	34
3		3.24	3.01	36	37
4		4.31	4.01	41	42
5		5.39	5.02	43	44
6		6.47	6.02	44	46
7		7.55	7.02*	45	47
8		8.63*	8.03*	47	48
10		10.79*	10.03*	49	51
12		12.94*	12.04*	51	53

\* Thermal Mass Wall



# TESTING AND STANDARDS

TESTING	RESULTS
<b>ASTM E119 (UL/ANSI 263)</b> - Fire Tests of Building Construction and Materials	Up to 4-hour fire resistance rating
<b>ASTM E136</b> - Standard Test Method for Behavior of Material in a Vertical Tube Furnace at 750°F	Pass (non-combustible)
<b>ASTM C518</b> - Standard Test Method for Steady State Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus	AAC-4: $K=0.9124 \text{ Btu in/ft}^2 \text{ h}^\circ\text{F}$ AAC-6: $K=0.9811 \text{ Btu in/ft}^2 \text{ h}^\circ\text{F}$
<b>ASTM E90</b> - Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements	Materials: STC 33-53 Assemblies: Up to STC 68

DESIGN STANDARDS	
Hebel Masonry	IAPMO UES: ER405 - Reinforced Panels & Masonry American Concrete Institute ACI-530 The Masonry Society TMS 402 American Society of Civil Engineers ASCE 5
Reinforced Panels	IAPMO UES ER405 - Reinforced Panels & Masonry IAPMO UES ER350 - Hebel Power Floor IAPMO UES ER381 - Hebel Power Panel American Concrete Institute ACI 526R



**Austin Convention Center**  
Austin, TX

# LAB TESTED AND CODE APPROVED

## Certifications & Listings



Demonstrating conformance with standards and codes.



Non-hazardous materials and components.



Classified fire-rated floor and wall assemblies.



Listed QPL-90 noise barriers for highway infrastructure.



Environmental Product Declaration (EPD) Reports.



Windstorm insurance product evaluation listing MA-05.

## Design Standards



Specifications for AAC masonry and reinforced panels.



Building code requirements for masonry structures.



Building code requirements for masonry structures.

## Research & Testing



Governing standards for manufacturing and quality control.

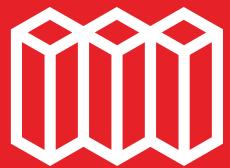


Structural testing and evaluation that led to inclusion in IBC.



Structural testing of Power Floor and Power Panel.

Modular Sales Office  
833 Isom Road  
San Antonio, TX 78216  
[sales@mcsupply.com](mailto:sales@mcsupply.com)  
726-336-9006  
[www.mcsply.com](http://www.mcsply.com)





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

**SUBJECT:** Consider a funding application from Habitat for Humanity Kerr County in an amount not to exceed \$2,260,000 in infrastructure assistance for the proposed Mariposa residential subdivision.

**AGENDA DATE OF:** November 13, **DATE SUBMITTED:** November 9, 2023

**SUBMITTED BY:** Michael Hornes, Assistant City Manager

### EXHIBITS:

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

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

**Kerrville 2050 Item?** Yes

**Key Priority Area** H - Housing

**Guiding Principle** N/A

**Action Item** N/A

### SUMMARY STATEMENT:

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

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

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

**RECOMMENDED ACTION:**

Consider calling a public hearing for the funding application from Habitat for Humanity Kerr County in an amount not to exceed \$2,260,000 in infrastructure assistance for the proposed Mariposa subdivision.

**ATTACHMENTS:**

*Habitat for Humanity Kerr County EIC Application.pdf*  
*Habitat for Humanity Mariposa Overview.pdf*  
*Habitat for Humanity House Plan and Elevations.pdf*  
*Mariposa Infrastructure Opinion of Probable Cost.pdf*  
*Mariposa Preliminary Plat.pdf*  
*Mariposa Site Plan.pdf*

## SECTION II - APPLICANT INFORMATION

Submittal Date: 11/11/2023

Company Name:

Habitat For Humanity Kerr County

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

Fax 830-895-7085

KERRVILLE

TX

78028

City State Zip Code

Name of Company Contact on this project:

MARY CAMPANA, Executive Director

Contact Address (if different from above):

Phone \_\_\_\_\_

SAME

Fax \_\_\_\_\_

City

State

Zip Code

Type of Business Structure: Corporation  Partnership  Sole Proprietorship

Year Business Started: Year 1989 Location KERRVILLE, TEXAS

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

Average Production Wage \$1,500 per PAY PERIOD

Full-Time Employees receive the following benefits:

Health INSURANCE, Dental AND Vision

Financial Information: Five Years Annual Financials Attached

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

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

This Facility \$ 0 Before expenses

Local Sales Tax paid Annually

*Habitat*  
\$ 12,038.47 - RESTORE SALES TAX

Current Payroll

\$ 324,213.62

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

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### SECTION III- PROJECT INFORMATION

This application is for a:

Business Development

- Expansion of Existing Facility  or
- New Construction
- Other

Quality of Life Improvement

- Parks, Open Space
- Other

Capital Improvements for Public Infrastructure

- Utilities
- Roadways  *INFRASTRUCTURE FOR COMMUNITY DEVELOPMENT*
- Other

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

### SECTION IV - PROJECT DESCRIPTION

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

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

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

## SECTION V – ECONOMIC IMPACT INFORMATION

### Part A- Project Investment in Improvements

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

---

### Part B- Project Investment in Fixed Equipment

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

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

Anticipated Number of New Full-Time Employees as a result of this project 0

Anticipated Number within 12 months of Completion of this project 0

Anticipated Number within 24 months of Completion of this project 0

Typical Job Descriptions or Job Titles

Project will partner with Royal Builders Contractors, Developers and trades that will create work for these companies

Anticipated starting salaries of these employees: (avg.) \$ N/A /hour

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

Anticipated Number of New Part-Time Employees as a result of this project 0

Anticipated Number within 12 months of Completion of this project 0

Anticipated Number within 24 months of Completion of this project 0

Typical Job Descriptions or Job Titles of these employees:

Anticipated starting salaries of these employees: (avg.) \$ N/A / hour

---

**Part E- Payroll Impact**

Within 12 months of Project Completion \_\_\_\_\_ Within 24 months of Project Completion \_\_\_\_\_

\$ \_\_\_\_\_ *N/A*

FTE X Avg. Wage X 40 hrs X 52 wks

\$ \_\_\_\_\_ *N/A*

PTE X Avg. Wage X 20 hrs X 52 wks

**SECTION VI- OTHER ASSISTANCE**

Has the Company applied for any State or Federal assistance on this project?

No ( ) Yes ( )

Describe:

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---

---

To the best of my knowledge, the above information is an accurate description of the proposed project details.

*MARY CAMPANIA*

Printed name

*Executive Director*

Title

*Mary Campania*

Signature

*11/1/2023*

Date

## Mariposa Overview: EIC PARTNERSHIP

Habitat for Humanity Kerr County is seeking a meaningful and lasting \$2.26M investment from the EIC (Economic Improvement Corporation) to facilitate the scaling of its operations and provide a local collaborative solution to Kerrville's attainable housing crisis. EIC's investment in Habitat is an opportunity to make a transformative impact on the attainable housing crisis in Kerrville. This partnership will not only expand the available resources but also create a unified front against the housing crisis.

**Proven Model:** HFHKC is well positioned to scale our affordable housing programs and adjust our financial model to add attainable workforce housing for the growing workforce in Kerrville. Drawing from successful H-2 models implemented by other Habitat affiliates, HFHKC will replicate best practices while tailoring them to the specific requirements of Kerrville. The successful H-2 Habitat model has a track record of providing cost-effective and efficient housing solutions for communities in need.

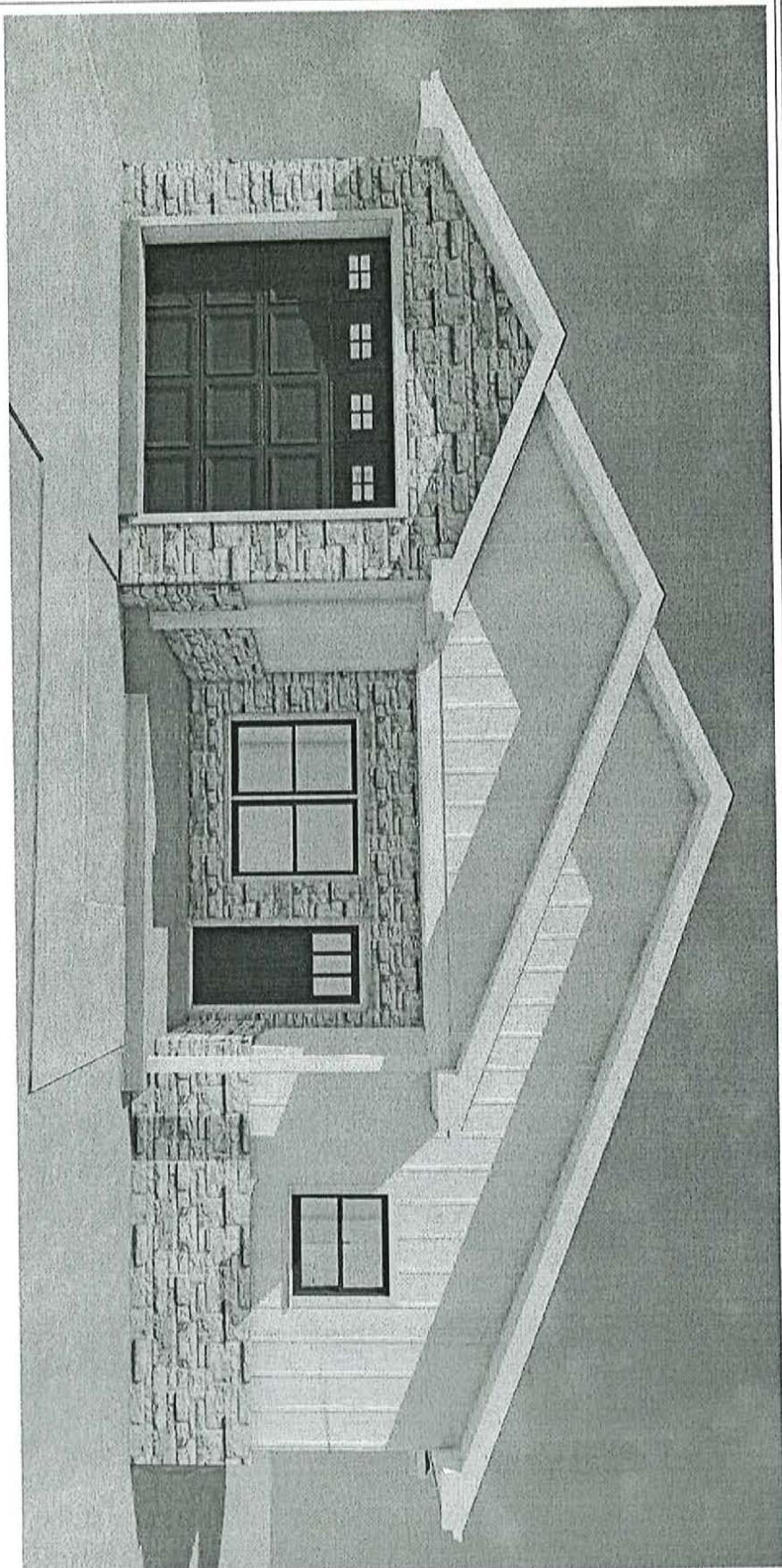
**Economic Impact:** EIC's investment will enable Habitat to expand its housing projects, thereby increasing the number of attainable housing units available in Kerrville. The Mariposa project is expected to generate a substantial economic impact of \$16 million\* for Kerrville, not only by providing affordable housing but also by creating jobs and boosting local businesses. By scaling operations, fostering local collaboration, and prioritizing sustainability, Habitat will provide immediate relief to the community. Expanding attainable housing options will attract new businesses, improve workforce stability, and stimulate local economic development.

**Habitat's Partnerships:** Habitat has been partnering with local contractors and builders since 1989. We will leverage this strong community collaboration to accelerate the estimated \$9.6 million construction investment required for this community, allowing for the timely delivery of affordable homes and contain our construction costs to build an affordable product for the Kerrville workforce. These partnerships will not only broaden the pool of resources but also establish a cohesive front in the battle against the housing crisis.

**Innovative Affordable Housing Mix:** The Mariposa Community will feature a mix of traditional Habitat homes and workforce housing units, catering to the needs of affordable homeownership for both low- and moderate-income families. Mariposa is a hybrid Habitat community with a total of 47 homes including 11 traditional Habitat homes (60% MFI) families and 36 workforce homes (80% MFI) families.

**Scalable Financial Model:** The nature of (H-2) construction project dictates a different funding model than the traditional Habitat process. HFHKC will utilize 3<sup>rd</sup> party lenders (with a product suitable for low to moderate-income home buyers) to provide mortgages for our clients. Because the homes will be built and sold in phases, we expect that the proceeds from each home will provide ongoing support future Habitat projects.

*\*Direct of investment of \$16 million for land, development, and construction. \$16.02 million estimated property tax based upon completion.*



Layout Page Table	
Number	Title
1	Cover Page
2	Floor Plan - Electrical Plan
3	Elevations
4	Framing Plan
5	Roof Plan
6	Foundation Plan

Habitat for Humanity

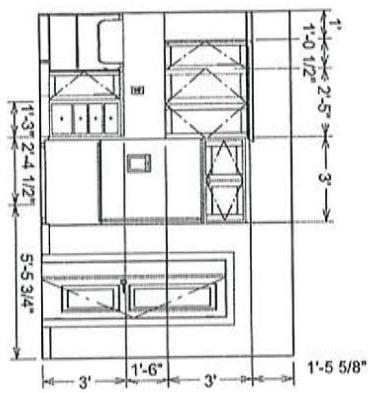
Hillopsis One  
Kerrville, TX 78028

1

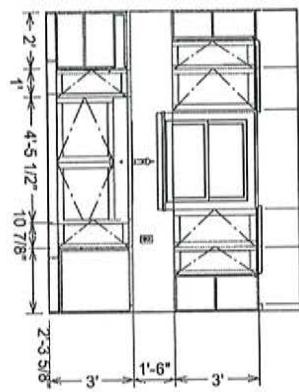
DATE:  
9/13/2023  
SCALE:  
1/4" = 1'  
SHEET:

Hill Country  
**Regraphics**   
Serving the Construction Industry

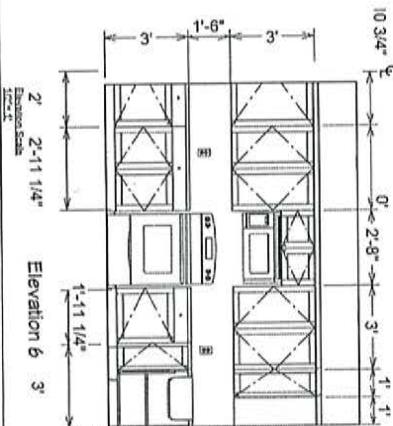
ELECTRICAL - DATA - AUDIO LEGEND	
SYMBOL	DESCRIPTION
	Color Filter
	Vertical Microphone, Vertical Microphone
	Stereo Microphone, Headset Microphone, Stereo Microphone
	Headset Microphone, Headset Microphone, Headset Microphone
	Directional Up Microphone
	Fluorescent Lamp/Fluorescent Light
	Daylight Photopile
	100% Brightness Display, Full Brightness Display, GRIN
	Speaker, Single Path, Dynamic Range, Stereo
	Speaker, Double Path, Stereo
	Switch, Direction, Timer
	Analog Video, Control Panel, Switch
	Speaker, Casing Mount, Slim Mount
	Headset, Dual, Dual + TPU, TPU
	Reference Jack
	Antenna
	Thermocouple
	Direct Control, Direct Soft Button
	Silence Detection, Calling Microphone, Dual Microphone
	Directional Bi-Directional Pencil



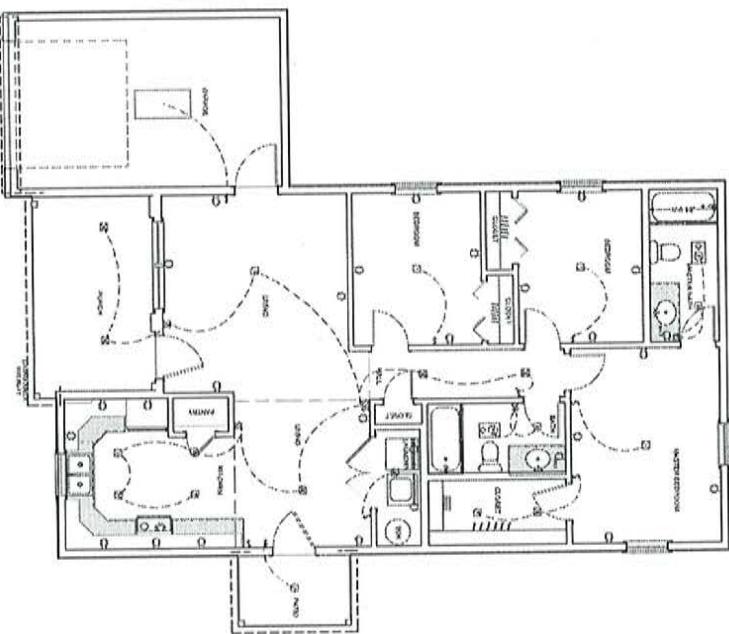
### Electrical Plan View



### Elevation T



### **Floor Plan View Dimensioned**



This architectural floor plan illustrates the layout of a house with the following dimensions and room details:

- Overall Dimensions:** The main structure is 48' wide by 50' deep, with a side extension of 12'-11" and a rear extension of 9'-10" x 50'.
- Rooms and Features:**
  - Living Room:** 16'2" wide by 20'4" deep.
  - Family Room:** 11'8" wide by 12'4" deep, featuring a fireplace.
  - Kitchen:** 10'0" wide by 12'4" deep, equipped with a range, oven, and sink.
  - Breakfast Room:** 8'0" wide by 10'0" deep.
  - Central Hall:** 12'0" wide by 12'0" deep.
  - Bedrooms:**
    - Bedroom 1: 12'0" wide by 12'0" deep.
    - Bedroom 2: 12'0" wide by 12'0" deep.
    - Bedroom 3: 12'0" wide by 12'0" deep.
    - Bedroom 4: 12'0" wide by 12'0" deep.
  - Bathrooms:**
    - Full Bath: 8'0" wide by 8'0" deep.
    - Hall Bath: 4'0" wide by 8'0" deep.
  - Other:**
    - Storage: 12'0" wide by 12'0" deep.
    - Laundry: 8'0" wide by 8'0" deep.
    - Porches: Various porches and patios are shown, including a rear porch, a side porch, and a front porch.

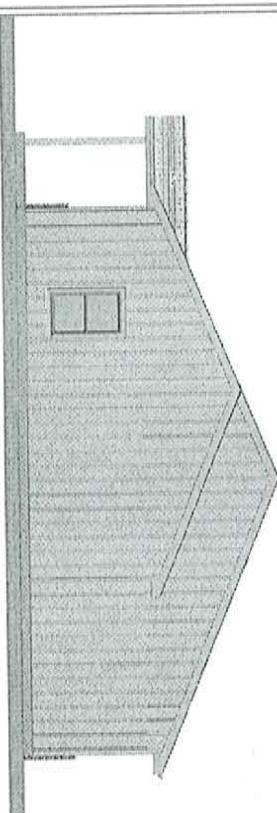
Habitat for Humanity

Мироза Ото

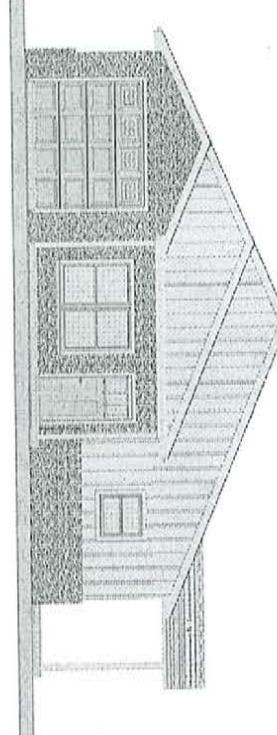
**Hill Country  
Reprographics**   
Carrying the Construction Industry

DATE: 13/2023  
TIME: 14" = 1" 00  
MEET: 2

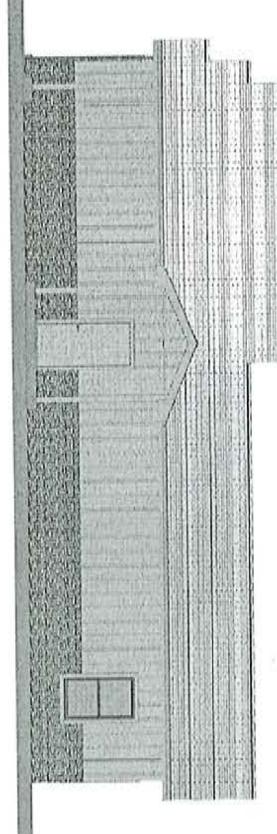
South Elevation  
Scale 1/4" = 1'



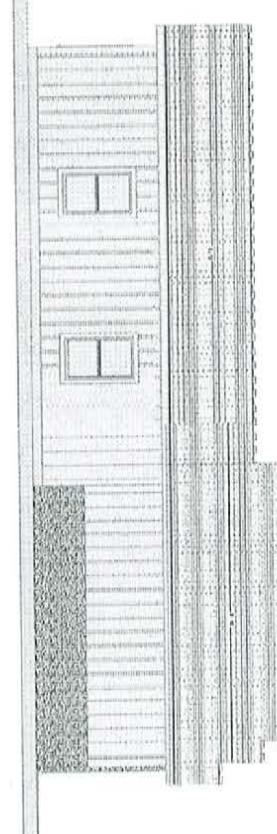
North Elevation  
Scale 1/4" = 1'



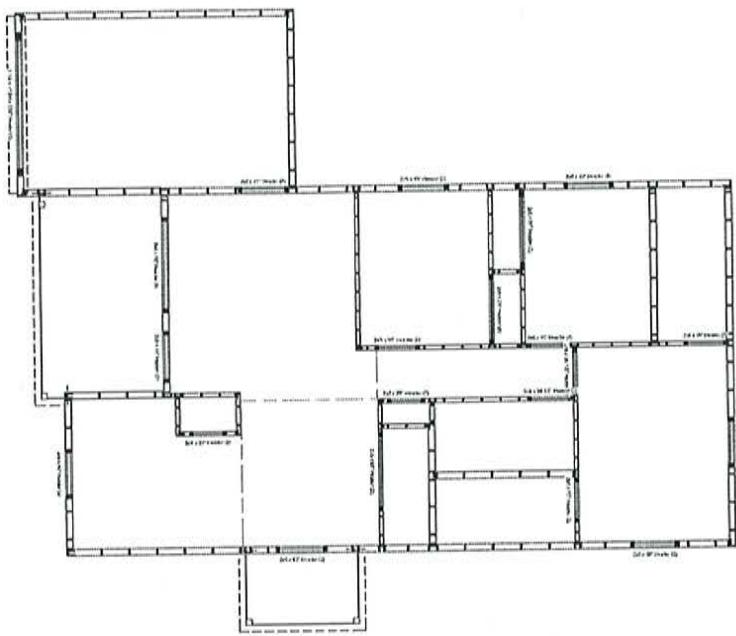
West Elevation  
Scale 1/4" = 1'



East Elevation  
Scale 1/4" = 1'



### Framing, Floor Plan View



ALL DOOR AND WINDOW  
HEADERS @ 6'-3" A.F.F.

6" WALLS  
3-2X6 W/ 1/2" PW SPACERS

4" WALLS  
2-2X5 W/ 1/2" PW SPACER

4" WALLS  
2-2X8 W/ PW SPACER

### FRAMING NOTES:

PROVIDE DOUBLE JSTS. UNDER ALL WALLS RUNNING PARALLEL  
TO JOISTS.

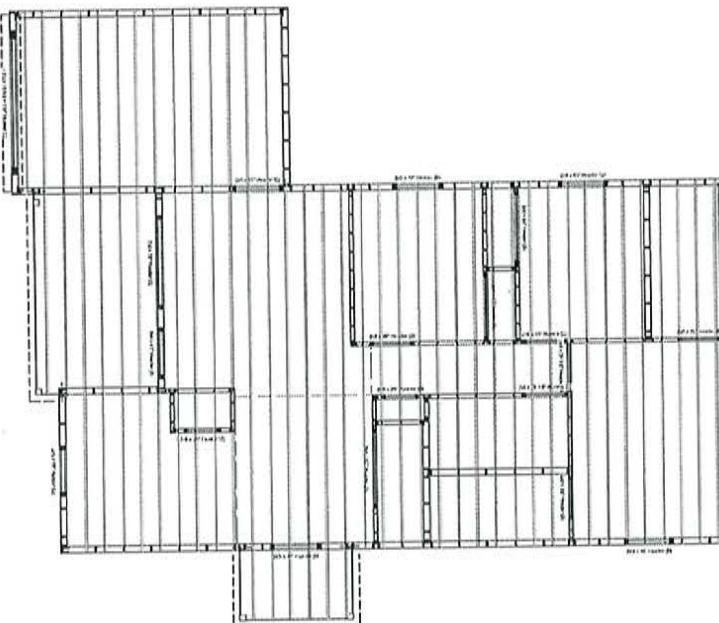
PROVIDE POSITIVE VENTILATION AT EA. END OF EA. RAFTER  
SPACE AT VAULTED CEILING AREAS.

PROVIDE FIRE BLOCKING, DRAFT STOPS AND FIRE STOPS AS PER  
I.B.C. SEC. R502.12.

PROVIDE POSITIVE CONNECTIONS AT EACH END OF ALL POSTS AND  
COLUMNS TO RESIST LATERAL DISPLACEMENT.

### Framing, Ceiling Plan View

Headers will be 2X6s doubled for 2X4 walls and tripled for 2X6 walls



### HEADER SIZES

DEAD LOAD = 20 PSF #2 SPRUCE, PINE OR FIR  
ONE STORY STRUCTURE

HEADER SIZE MAXIMUM SPAN NUMBER OF JACK STUDS

2X4 BOX 30" 1

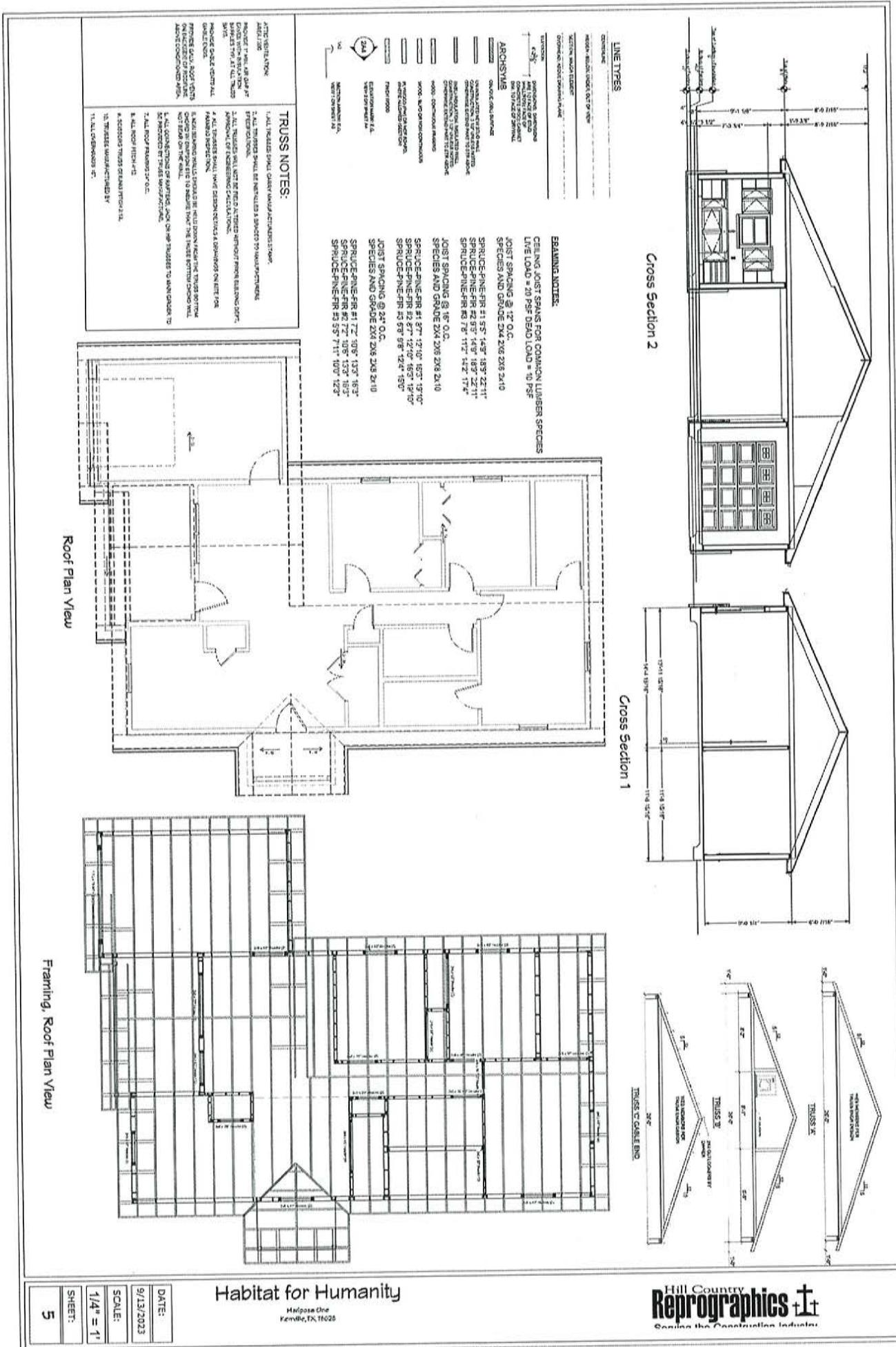
2X6 BOX 40" 2

2X8 BOX 50" 2

2X10 BOX 62" 2

2X12 BOX 71" 2

ALL SPANS GREATER THAN T1" REFER TO MFG. LVL SPAN TABLES



FOUNDATION NOTES:

SLOPE CRAWLSPACE TO DRAIN. MAXIMUM SLOPE IS 2 HORIZ. 1 VERT. BETWEEN FOOTINGS A REQUIRED TO MAINTAIN REQUIRED DEPTH BELOW FINISH GRADES.

CONCRETE STRENGTH, 3,000 PSI AT 28 DAYS FOR ALL SLABS. (FOUNDATION DESIGN BASED ON 2,500 PSI). 3,000 PSI AT 28 DAYS FOR ALL OTHER CONDITION.

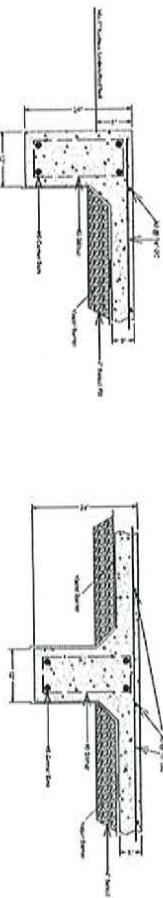
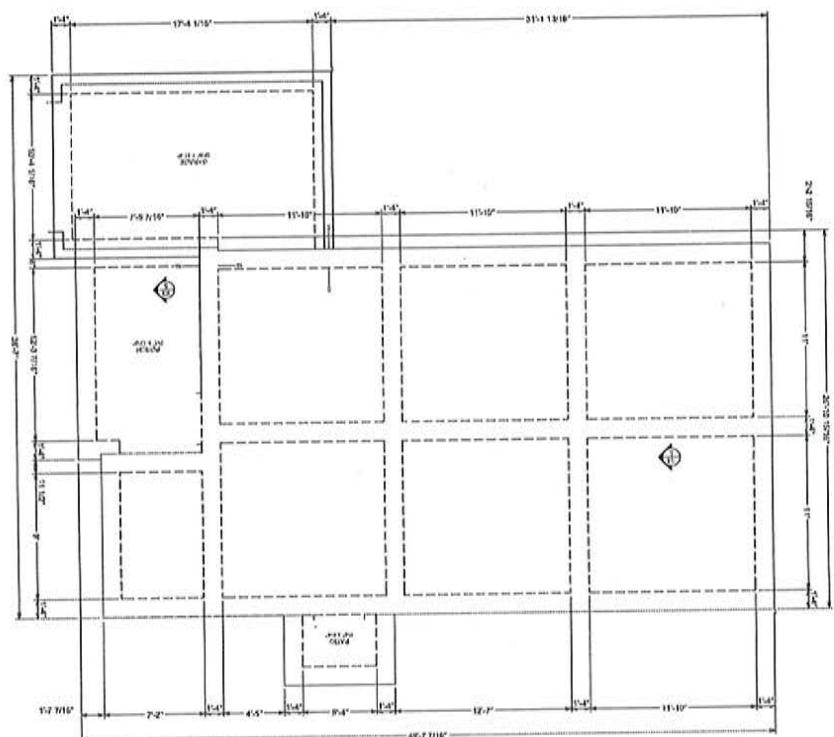
MAXIMUM SLUMP, 4" CONCRETE EXPANSION ANCHORS SHALL BE SIMPSON WEDGE-ALL STUD ANCHORS OR ENGINEER APPROVED EQUAL. USE ASTM A-615 GRADE 60 DEFORMED REINFORCING BARS UNLESS NOTED OTHERWISE.

CONCRETE EXPANSION ANCHORS SHALL BE SIMPSON WEDGE-ALL STUD ANCHORS OR ENGINEER APPROVED EQUAL. EPOXY TO BE SIMPSON SET ADHESIVE OR APPROVED EQUAL. INFILTRATION, ALL OPENINGS IN THE EXT. BLDG. ENVELOPE SHALL BE SEALED AGAINST AIR INFILTRATION. THE FOLLOWING AREAS MUST BE SEALED.

- JOINTS AROUND WINDOW AND DOOR FRAMES.
- JOINTS BETWEEN WALL, CANTY AND WINDOW/WDR. FME.
- JOINTS BETWEEN WALL AND FOUNDATION
- JOINTS BETWEEN WALL PANELS
- UTILITY PENETRATIONS THROUGH EXTERIOR WALLS

NOTICE

- LIMIT OF DRAFTER'S LIABILITY NOT TO EXCEED THE TOTAL PRICE PAID FOR SERVICES.
- DRAFTER IS RESPONSIBLE FOR FURNISHING A PDF-FORMATTED FILE OF ORIGINAL SET OF DRAWINGS. ALL COPIES ARE TO BE PRODUCED FROM THIS FILE AND ARE THE RESPONSIBILITY OF THE BUILDER AND OR CLIENT TO PRODUCE.
- ANY USE OF THESE PLANS BOTH IN PART OR AS A WHOLE CONSTITUTE THAT THE GENERAL CONTRACTOR, AND CLIENT (PROPERTY OWNER) AGREE TO, AND WILL ABIDE BY THE TERMS IN THIS NOTICE, AND IN THE GENERAL NOTES LOCATED WITHIN THESE PLANS.
- BY USING THESE PLANS, YOU, THE GENERAL CONTRACTOR, AND PROPERTY OWNER, AGREE TO PAY, IN FULL, ANY AND ALL FEES INCURRED DURING THE PRODUCTION OF THESE PLANS. YOU, THE PROPERTY OWNER, AGREE THAT ANY OUTSTANDING BALANCE INCURRED, MAY BE SUBJECT TO ALIEN BEING FILED AGAINST THE PROPERTY, TO INCLUDE, BUT NOT LIMITED TO, LEGAL FEES, PROCESSING FEES, AND LATE FEES, WHERE THE CONSTRUCTION OF THE PLANS HAS OCCURRED AND OR IS OCCURRING.



Habitat for Humanity

Mariposa One  
Kerrville, TX 78023

Hill Country  
**Reprographics**   
Leading the Construction Industry

DATE:	
9/13/2023	
SCALE:	114" = 1'
SHEET:	

**Mariposa at Weston Place (WES 23-112)****City of Kerrville, Texas****Estimate based upon Preliminary Site Plan prepared by Wellborn Engineering & Surveying on September 13, 2023****Preliminary Engineer's Opinion of Probable Construction Cost (PEOPCC)**

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

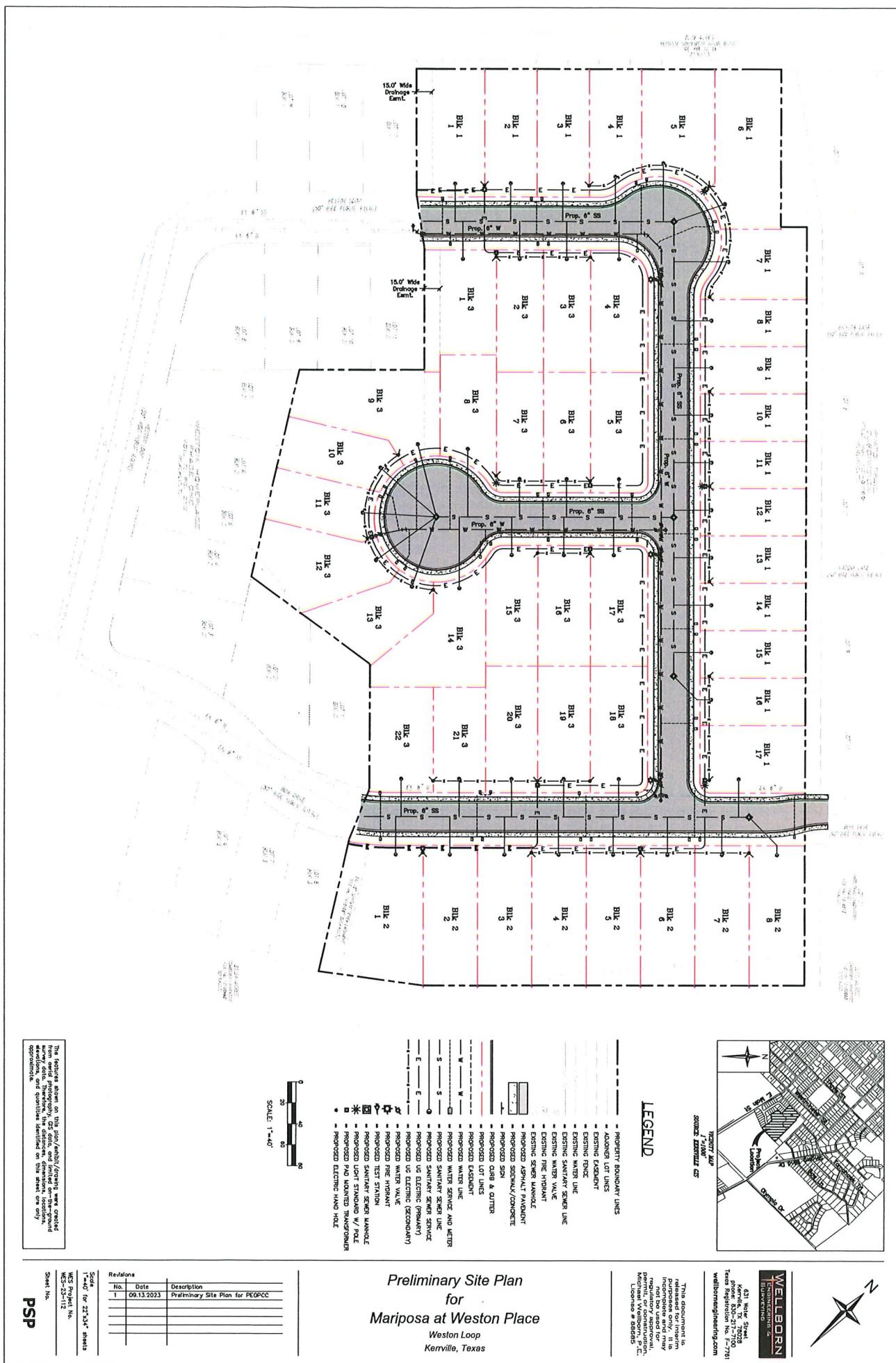
Water Items					
1	6" PVC C-900, DR-14, pressure class 200, water line, including all labor & materials, complete in place	1033	LF	\$85.00	\$87,805.00
2	Tracer wire for 6" water line, including all labor & materials, complete in place in accordance with City requirements	1033	LF	\$0.75	\$774.75
3	Tracer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

<b>Grading Material</b>					
1	Strip site & stock pile 3" of topsoil, including all labor & materials	1499	CY (Estimate)	\$8.00	\$11,992.00
2	Grading cut material to final finished grade elevation, including all labor & equipment	430	CY (Estimate)	\$14.00	\$6,020.00
3	Grading fill material to final finished grade elevation, including all labor & equipment	6158	CY (Estimate)	\$6.00	\$36,948.00
4	Net fill material to import, including all labor & equipment	5728	CY (Estimate)	\$17.85	\$102,244.80
<i>*Note that earthwork cut and fill quantities are based upon loose lifts and grading shown on the previous Civil Plans prepared July 1, 2022.</i>					
<b>Total Grading Material      \$157,204.80</b>					
<b>Miscellaneous Items</b>					
1	Traffic control (barricades, delineators, & signs) including all labor & materials, complete in place	1	LS	\$5,000.00	\$5,000.00
2	Material testing	1	LS	\$34,815.00	\$34,815.00
3	Construction staking, including all labor & materials, complete in place	1	LS	\$20,000.00	\$20,000.00
4	Erosion control, complete in place including SWPPP	1	LS	\$15,000.00	\$15,000.00
5	Final stabilization to file for TCEQ Notice of Termination & obtain City final acceptance	1	LS	\$20,000.00	\$20,000.00
6	Performance & payment bond (3%)	1	LS	\$52,220.00	\$52,220.00
7	City standard maintenance bond (1.5%)	1	LS	\$26,110.00	\$26,110.00
8	Insurance naming owner & engineer as additional insured	1	LS	\$2,500.00	\$2,500.00
9	Contingency (25%)	1	LS	\$435,175.00	\$435,175.00
<b>Total Miscellaneous      \$610,820.00</b>					
<b>TOTAL PEOPCC      \$2,351,518.55</b>					

**Notes:**

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





The features shown on this plan/exhibit/drawing were created from aerial photography, GS data, and limited on-the-ground survey data. Therefore, the dimensions, locations, elevations, and quantities identified on this sheet are only approximate.

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Revisions		
No.	Date	Description
1	09.13.2023	Preliminary Site Plan for PEOPCC

*Preliminary Site Plan  
for  
Mariposa at Weston Place  
Weston, Texas*

*Weston Loop  
Kerrville, Texas*

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