



ECONOMIC IMPROVEMENT CORPORATION AGENDA

MONDAY, MAY 20, 2024, 4:00 PM

Kerrville City Hall Council Chambers

701 Main Street, Kerrville, Texas

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 April 15, 2024.

Attachments:

[EIC Minutes 4-15-2024.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
- Downtown Area Streetscape
- Downtown River Trail Extension
- Scott Schreiner Golf Course Improvements
- Olympic Pool Renovations
- Cailloux Theater Improvements
- Travis Street Pump Station Upsizing

Attachments:

[20240520_EIC Project Status Update.pdf](#)

5.C Monthly Financial Report.

Attachments:

[*April 2024 financial presentation.pdf*](#)

6 CONSIDERATION AND POSSIBLE ACTION:

6.A "GO Team" process and procedures.

6.B Texas Department of Transportation (TXDOT) Alternate Routes Grant program.

6.C Economic Development Grant Agreement between Habitat for Humanity-Kerr County and the City of Kerrville, Texas Economic Improvement Corporation for installation of Public Infrastructure for the development of the Mariposa Residential Neighborhood.

Attachments:

[*20240520_EIC Grant Agreement_Habitat-Mariposa_051624.pdf*](#)

6.D Economic Development Grant Agreements between Schreiner University and the City of Kerrville, Texas Economic Improvement Corporation for the Funding for Schreiner University's Center for Talent and Workforce Development.

Attachments:

[*20240520_EIC Grant Agreement Schreiner University Center for Talent and Workforce Development.pdf*](#)

6.E Economic Development Grant Agreement between Schreiner University and the City of Kerrville, Texas Economic Improvement Corporation for Funding for Schreiner University's Athletic Facilities.

Attachments:

[*20240520_EIC Grant Agreement Schreiner University Athletic Facilities.pdf*](#)

6.F Funding application to the City of Kerrville, Texas Economic Improvement Corporation from James Avery Craftsman, Inc. for grant funding for the installation of a traffic signal on Highway 27, in an amount not to exceed \$140,000.

Attachments:

[*20240520_EIC Funding Application James Avery Craftsman reduced.pdf*](#)

6.G Funding application to the City of Kerrville, Texas Economic Improvement Corporation for Heart of the Hills Heritage Center, in an amount not to exceed \$2,000,000.

Attachments:

[*20240423_EIC Funding Application Marksman HHHC.pdf*](#)

7 EXECUTIVE SESSION:

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

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

- Economic Development Grant Agreement between Habitat for Humanity-Kerr County and the City of Kerrville, Texas Economic Improvement Corporation for installation of Public Infrastructure for the development of the Mariposa Residential Neighborhood.
- Economic Development Grant Agreements between Schreiner University and the City of Kerrville, Texas Economic Improvement Corporation for the Funding for Schreiner University's Center for Talent and Workforce Development.
- Economic Development Grant Agreement between Schreiner University and the City of Kerrville, Texas Economic Improvement Corporation for Funding for Schreiner University's Athletic Facilities.
- Funding application to the City of Kerrville, Texas Economic Improvement Corporation from James Avery Craftsman, Inc. for grant funding for the installation of a traffic signal on Highway 27, in an amount not to exceed \$140,000.
- Funding application to the City of Kerrville, Texas Economic Improvement Corporation for Heart of the Hills Heritage Center, in an amount not to exceed \$2,000,000.

8 POSSIBLE ACTION FOR ITEMS DISCUSSED IN EXECUTIVE SESSION:

9 ITEMS FOR FUTURE AGENDAS:

10 ADJOURN.



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

SUBJECT: Minutes from the regular Economic Improvement Corporation (EIC) meeting held on April 15, 2024.

AGENDA DATE OF: May 20, 2024

DATE SUBMITTED: April 17, 2024

SUBMITTED BY: Kesha Franchina, Deputy City Secretary

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Approve minutes from the regular EIC meeting held on April 15, 2024.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[*EIC Minutes 4-15-2024.pdf*](#)

**CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION
REGULAR MEETING – April 15, 2024**

On Monday, April 15, 2024, at 4:01 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
John Anderson - KEDC
Gregg Appel
Kyle Bond - “GO Team”
Beck Gipson
Celeste Hamman
Joe Herring Jr. - Councilmember

MEMBERS ABSENT: None.

CHIEF EXECUTIVE STAFF:

Dalton Rice, City Manager
Mike Hayes, City Attorney
Michael Hornes, Assistant 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 4:01 p.m.
- 2 **INVOCATION:** Gregg Appel led the invocation.
- 3 **VISITORS / CITIZENS FORUM:** No citizen speakers.

President Clarkson noted that item 8.A was removed from the agenda.

4 APPROVAL OF MINUTES:

- 4.A Minutes from the regular Economic Improvement Corporation (EIC) meeting held on March 18, 2024.

Gregg Appel motioned to approve the minutes as presented, and Kyle Bond seconded. The motion passed 7-0.

5 MONTHLY REPORTS:

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

Michael Hornes noted that Gil Salinas and Katie Milton Jordan were out of town and updates were sent via email, and responded to questions.

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

- Peterson Medical Center Campus Infrastructure Improvements
- Downtown Area Streetscape
- Downtown River Trail Extension
- Scott Schreiner Golf Course Improvements
- Olympic Pool Renovations
- Cailloux Theater Improvements
- Travis Street Pump Station Upsizing

Michael Hornes presented the EIC Project Status Updates and responded to questions.

5.C Monthly Financial Report.

Trina Rodriguez presented the Monthly Financial Report and responded to questions.

President Clarkson moved to item 7.A.

6 NOMINATE AND ELECT OFFICERS:

6.A Nominate and elect Vice-President.

President Clarkson motioned to elect Gregg Appel to Vice-President, and Beck Gipson seconded. The motion passed 7-0.

7 PUBLIC HEARING AND POSSIBLE ACTION:

7.A Consider funding agreements between the City of Kerrville, Texas, Economic Improvement Corporation and Schreiner University for 1) the initiation of Center for Talent and Workforce Development; and 2) the expansion of Schreiner Athletics through the building of facilities.

Dalton Rice presented the funding agreement, and responded to questions. Charlie McCormick, President of Schreiner University, responded to questions.

President Clarkson opened the Public Hearing at 4:28 p.m.

Speakers were as follows:

- Giana Hilliard
- Beau Cervantes
- Charlie McIlvain
- Lisa Henrie
- Richard Morris
- Larry Howard

Peggy McKay opposition letter received and placed at dais for each member for review. President Clarkson closed the Public Hearing at 4:43 p.m.

President Clarkson moved to item 6.A.

Celeste Hamman motioned to convene into closed Executive Session under 551.071 and 551.087 to discuss item 7.A, and Kyle Bond seconded. The motion passed 7-0. At 4:46 p.m., the open meeting recessed and convened into closed Executive Session.

8 CONSIDERATION AND POSSIBLE ACTION:

8.A Economic Development Grant Agreement between Habitat for Humanity-Kerr County and the City of Kerrville, Economic Improvement Corporation for the installation of Public Infrastructure for the development of the Mariposa Residential Neighborhood.

President Clarkson moved item 8.A to a future meeting. No action was taken.

9 EXECUTIVE SESSION:

9.A Schreiner University for 1) the initiation of Center for Talent and Workforce Development; and 2) the expansion of Schreiner Athletics through the building of athletic facilities (551.071, 551.087).

9.B Economic Development projects: (551.071, 551.087)

- Habitat for Humanity Kerr County, Mariposa Residential Subdivision

President Clarkson convened into open session at 5:14 p.m. President Clarkson noted opposition letter from Peggy McKay.

10 POSSIBLE ACTION FOR ITEMS DISCUSSED IN EXECUTIVE SESSION: None

Vice-President Appel motioned to approve a \$3,000,000 grant for Schreiner University payable under the following schedule: \$1.5 million in year one, and four subsequent annual payments of \$375,000 a year to total \$3,000,000; in recognition of our overall existing grant commitments, and Councilmember Herring seconded. The motion passed 7-0.

11 ITEMS FOR FUTURE AGENDAS:

President Clarkson requested information regarding the Texas Department of Transportation Alternative Route Grant.

12 ADJOURN. President Clarkson adjourned the meeting at 5:17 p.m.

MINUTES APPROVED:

Kim Clarkson, EIC President

Attest: Kesha Franchina, Deputy City Secretary



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

SUBJECT: Kerr Economic Development Corporation (KEDC) update.

AGENDA DATE OF: May 20, 2024 **DATE SUBMITTED:** March 22, 2024

SUBMITTED BY: Kesha Franchina, Deputy City Secretary

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

RECOMMENDED ACTION:

Information only; no action required.



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

SUBJECT: Kerrville Economic Improvement Corporation (EIC) project status update including the following:

- Peterson Medical Center Campus Infrastructure Improvements
- Downtown Area Streetscape
- Downtown River Trail Extension
- Scott Schreiner Golf Course Improvements
- Olympic Pool Renovations
- Cailloux Theater Improvements
- Travis Street Pump Station Upsizing

AGENDA DATE OF: May 20, 2024

DATE SUBMITTED: May 14, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

RECOMMENDED ACTION:

Information only; no action.

ATTACHMENTS:

[20240520_EIC Project Status Update.pdf](#)

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	2024	Partnership Agreement approved January 2022. Construction in progress for Surgery Center. Construction is substantially complete. First payment to Peterson had been paid for \$800,000 and request made for remaining funds.
2	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	Spring 2024	KPUB portion is complete for underground utility work. Stop signs installed, masonry and wrought iron railing installed. Landscaping is out to bid with expected completion within the second quarter of the year.
3	Downtown River Trail extension	River Trail extension from G Street to Tranquility Island	Complete	2025	Design complete; easement acquisition nearly complete pending owners review and approval.
4	Scott Schreiner Golf Course improvements	Improvements to the existing golf course	TBD	Summer 2025	EIC and City Council approvals for funding complete. Contracts for phase 1 have begun approval by City Council as of 3.26.24. Course renovations to begin in January of 2025 as a part of phase 2
5	Olympic Pool renovations	Renovations to the Olympic pool	Feb-2025	Spring 2026	EIC and City Council approvals for funding complete. Design contract with Marmon Mok executed. Design anticipated to complete February 2025 with construction completion anticipated Spring 2026.
6	Cailloux Theater Improvements	Repair of HVAC and roof systems	Complete	Fall 2025	EIC and City Council approvals for funding complete. Design continuing with construction to begin in March of 2025. Theater to close during construction.
7	Travis Street Pump Station Upsizing	Increase distribution capacity of the Travis St pump station to meet TCEQ requirements for future developments.	Sep-2024	TBD	Project approved by City Council March 26, 2024. Project is in the design phase with bid commencement anticipated for September, 2024.



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

SUBJECT: Monthly Financial Report.

AGENDA DATE OF: May 20, 2024 **DATE SUBMITTED:** March 22, 2024

SUBMITTED BY: Trina Rodriguez, Accounting Manager

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

RECOMMENDED ACTION:

Information only; no action.

ATTACHMENTS:

April 2024 financial presentation.pdf

Financial update for the month ended April 30, 2024

Economic Improvement Corporation Meeting

May 20, 2024



Economic Improvement Corporation
Statement of Activities
Month Ended April 30, 2024

	Annual Budget	Current Period	YTD Actual	YTD Budget Estimate	Better/Worse YTD Estimate
Revenues					
Sales and Use Tax	\$ 5,262,270	\$ 395,960	\$ 2,880,805	\$ 2,911,616	\$ (30,811)
Interest Income	161,000	126,566	665,772	93,671	572,101
Bond Proceeds*	20,000,000	-	20,000,000	20,000,000	-
Investment Maturity	2,500,000	-	2,471,480	2,471,480	-
Total Revenues	27,923,270	522,526	26,018,056	25,476,767	541,290
 Expenditures					
Administrative					
Supplies and Miscellaneous	650	-	25	25	-
Training	10,000	-	-	-	-
Legal Services	10,000	-	-	-	-
Professional Services	205,000	17,083	119,583	119,583	-
Kerr Economic Development Corp.	343,750	-	257,813	257,813	-
Total Administrative	569,400	17,083	377,421	377,421	-
Debt Service					
Debt Service - Series 2015 (KSC)	605,700	50,475	353,325	353,325	-
Debt Service - Series 2019 Ref (River Trail)	251,506	20,959	146,711.95	146,712	-
Debt Service - Series 2020 Ref (River Trail)	233,500	19,458	136,208.31	136,208	-
Debt Service - Series 2023 (Quality of Life)*	1,470,486	183,811	919,055	919,055	-
Total Debt Service	2,561,192	274,703	1,555,300	1,555,300	-
Investment Purchase	2,500,000	1,950,695	1,950,695	1,950,695	-
Projects					
Airport Projects	9,535	-	-	-	-
Sid Peterson Memorial Hospital	800,000	-	-	-	-
Downtown Utilities/Streetscape	400,000	40,432	265,719	265,719	-
Downtown River Trail	500,000	125,000	375,000	375,000	-
Travis Street Pump Station Upgrades	750,000	-	-	-	-
Scott Schreiner Golf Course Improvements*	4,000,000	75,074	75,074	75,074	-
Olympic Pool Improvements*	7,000,000	-	-	-	-
Cailloux Theater Roof & HVAC*	4,000,000	-	-	-	-
Schreiner University Athletics & Talent Dvlpmnt*	1,500,000	-	-	-	-
Total Projects	18,959,535	240,506	715,793	715,793	-
Total Expenditures	24,590,127	2,482,987	4,599,209	4,599,209	-

Change in Net Position

\$ 3,333,143 \$ (1,960,461) \$ 21,418,848



Economic Improvement Corporation
Cash Flow Forecast
As of April 30, 2024

	FY2024 Actual	FY2024 Estimate	FY2024 Projections	
			Oct 2023 to Apr 2024	May 2024 to Jun 2024
Beginning Cash Balance	\$ 5,360,078	\$ 26,795,845	\$ 27,209,325	\$ 27,209,325
Revenue				
Sales Tax	2,880,805	917,605	1,433,049	
Interest Income	665,772	250,000	375,000	
Bond Proceeds	20,000,000	-	-	
Investment Maturity	2,471,480	-	-	
Total Revenue	26,018,056	1,167,605	1,808,049	
Expenditures				
Administrative				
Supplies and Miscellaneous	25	163	163	
Legal Services	-	2,500	2,500	
Training	-	2,500	2,500	
Professional Services	119,583	34,167	51,250	
Kerr Economic Development Corp.	257,813	-	85,938	
Total Administrative	377,421	39,330	142,350	
Debt Service	1,555,300	549,406	824,109	
Projects				
Airport Box Hangar	-	-	9,535	
Sid Peterson Memorial Hospital	-	-	800,000	
Downtown Utilities/Streetscape	265,719	40,390	93,891	
Downtown River Trail	375,000	125,000	125,000	
Travis Street Pump Station Upgrades	-	-	375,000	
Scott Schreiner Golf Course Improvements	75,074	-	-	
Olympic Pool Improvements	-	-	-	
Cailloux Theater Roof & HVAC	-	-	-	
Schreiner University Athletics & Talent	-	-	-	
Total Projects	715,793	165,390	1,403,426	
Investment Purchase	1,950,695	-	-	
Total Expenditures	4,599,209	754,125	2,369,885	
Interest Receivable	(16,919)	-	-	
Ending Cash Balance	\$ 26,795,845	\$ 27,209,325	\$ 26,647,489	



Financial Analysis

Sales Tax Revenue Analysis - FY2024					
Month	Actual FY2023	Budget FY2024	Actual FY2024	FY2023 vs. FY2024	Budget vs. Actual
October	\$ 442,046	\$ 408,272	\$ 465,726	5.36%	14.07%
November	411,128	\$ 442,400	375,745	-8.61%	-15.07%
December	376,754	\$ 377,387	389,096	3.28%	3.10%
January	436,330	\$ 435,459	398,538	-8.66%	-8.48%
February	491,396	\$ 512,640	485,443	-1.21%	-5.31%
March	384,056	\$ 392,042	370,297	-3.58%	-5.55%
April	364,763	\$ 343,416	395,960	8.55%	15.30%
May	459,697	\$ 493,415	434,008	-5.59%	-12.04%

Project Analysis as of April 30, 2024				
Project Description		EIC Commitment	Disbursed Funding	Remaining Funding
Committed Projects:				
Airport Box Hangar		132,767	123,232	9,535
Sid Peterson Memorial Hospital		1,600,000	800,000	800,000
Downtown Utilities/Streetscape		400,000	265,719	134,281
Downtown River Trail		1,020,280	750,000	270,280
Travis Street Pump Station Upgrades		750,000	-	750,000
		\$ 3,903,047	\$ 1,938,951	\$ 1,964,096

Cash Analysis as of April 30, 2024		
Type	Placement	Amount
Pool	EIC TexPool - Cash	\$ 6,462,909
Pool	EIC TexPool - 2023 Revenue Bonds	\$ 20,332,936
ST Investment	US Treasury Note - 91282CFP1	\$ 988,214
ST Investment	MUFG Bank CP - 62479LN68	\$ 963,025
	Total Cash and Investments	\$ 28,747,084



Questions?





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

SUBJECT: "GO Team" process and procedures.

AGENDA DATE OF: May 20, 2024 **DATE SUBMITTED:** March 19, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

RECOMMENDED ACTION:

Information only; no action.



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

SUBJECT: Texas Department of Transportation (TXDOT) Alternate Routes Grant program.

AGENDA DATE OF: May 20, 2024 **DATE SUBMITTED:** April 16, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

RECOMMENDED ACTION:

Information only; no action.



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

SUBJECT: Economic Development Grant Agreement between Habitat for Humanity-Kerr County and the City of Kerrville, Texas Economic Improvement Corporation for installation of Public Infrastructure for the development of the Mariposa Residential Neighborhood.

AGENDA DATE OF: May 20, 2024

DATE SUBMITTED: April 16, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area H - Housing

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

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

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

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

On December 11, 2023, EIC approved calling a Public Hearing for the funding application from habitat for Humanity Kerr County. January 8, 2024 EIC held the public hearing and approved a funding agreement not to exceed \$2,260,000.

RECOMMENDED ACTION:

Approve the Funding Grant Agreement from Habitat for Humanity-Kerr County not to exceed \$2,260,000 for the proposed Mariposa subdivision.

ATTACHMENTS:

[*20240520_EIC Grant Agreement_Habitat-Mariposa_051624.pdf*](#)

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

This **Economic Development Grant Agreement** ("Agreement") is entered into as of the Effective Date by and between **HABITAT FOR HUMANITY - KERR COUNTY**, a Texas nonprofit corporation ("Habitat"), acting herein by and through its duly authorized Executive Director ("Officer"); and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** ("EIC"), a Type B Economic Development Corporation established pursuant to Chapters 501, 502, and 505 of the Texas Local Government Code, as amended (*i.e.*, the Development Corporation Act and hereafter referred to as "the Act"), acting by and through its duly authorized President. Habitat and EIC are sometimes collectively referred to herein as "Parties" and individually as "Party".

WITNESSETH:

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

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

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

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

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

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

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

WHEREAS, on February 13, 2024, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, EIC held a public hearing pursuant to Section 505.159 of the Act related to the proposed expenditure of 4B Revenues for the purposes provided above;

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

Article I **Definitions**

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

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

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

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

“*City*” means the City of Kerrville, Texas, a Texas home-rule city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Project” means the design and construction of the Public Improvements.

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

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

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

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

Article II Term

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

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

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

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

Article III **4B Sales Tax Grant**

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

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

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

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

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

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

3.4 Grant Limited to “Costs”. Payments made by EIC to Habitat from 4B Sales Taxes will be limited to the payments of “costs” as defined by the Act and as specified above for the Project.

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

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

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

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

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

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

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

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

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

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

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

4.6 Housing and Public Improvements.

(a) Habitat shall design and thereafter construct the Development substantially in accordance with **Exhibit A**, subject to such changes as may be made during design and approval of the Development in accordance with the Development Regulations.

(b) Habitat shall design and thereafter construct each driveway that serves an Eligible Dwelling Unit to be not less than sixteen (16) feet wide. Habitat's design and construction of the parking spaces shall comply with the Development Regulations. Habitat shall work with the City to address and alleviate potential parking concerns within the Development through establishing restrictive covenants to prohibit and/or limit on-street parking. The homeowners' association shall enforce such restrictions to the extent allowed by law.

(c) Habitat shall comply with Chapter 74, Article III of City Code of Ordinances relating to the dedication of land for park and open space uses and/or payment of a fee to City in lieu of such dedication.

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

4.7 Records. Habitat shall keep and maintain complete and accurate records relating to its costs of designing and constructing the Project for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect Habitat's records related to the Project during the term of this Agreement and for three (3) years thereafter, upon reasonable notice at Habitat's offices at the address identified in Section 11.5, below.

Article V **Sale of Project, Merger or Consolidation of Habitat**

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

5.2 Merger. In the event of any proposed merger or other consolidation of Habitat with any third party not affiliated with Habitat that results in conveyance of title to all or any portion of the Property to a new entity, not later than thirty (30) days prior to any such merger or consolidation, Habitat shall provide EIC with information and assurance reasonably acceptable to EIC regarding: (i) the surviving entity's assumption and satisfaction of the Habitat's obligations hereunder; and (ii) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity shall have the financial condition to fully satisfy Habitat's duties and responsibilities under this Agreement.

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

Article VI

Habitat's Representations and Warranties

Habitat represents and warrants as of the Effective Date:

- (a)** Habitat is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;
- (b)** Execution of this Agreement has been duly authorized by Habitat in accordance with Habitat's applicable governing documents and this Agreement is not in contravention of Habitat's governing documents, or any agreement or instrument to which Habitat is a party or by which it may be bound as of the date hereof;
- (c)** No litigation or governmental proceeding is pending, or, to the knowledge of Habitat, threatened against or affecting Habitat, which may result in a materially adverse change in Habitat's business, properties, or operations sufficient to jeopardize Habitat's legal existence or for-profit viability; and
- (d)** No written application, written statement, or correspondence submitted by Habitat to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of Habitat, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading.

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

Article VII

EIC'S Representations and Warranties

EIC represents and warrants as of the Effective Date:

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

- (c) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's directors or officers, threatened against or affecting EIC, which may result in EIC's inability to satisfy its obligations under this Agreement; and
- (d) EIC has no reasonable basis for believing that it has or will have incurred debts beyond its ability to pay as such debts mature, including but not limited to the obligations set forth in this Agreement.

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

Article VIII Suspension and Termination of EIC Performance

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

- (a) Habitat becomes insolvent;
- (b) The appointment of a receiver of Habitat, or of all or any substantial part of the Property, and the failure of such receiver to be discharged within sixty (60) days thereafter;
- (c) The adjudication of Habitat as bankrupt; or
- (d) The filing by Habitat of a petition to be adjudged as bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.

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

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

Article IX Remedies

9.1 Notice and Opportunity to Cure. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any Party, or any successor to such Party, such defaulting or breaching Party (or successor) shall upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within ninety (90) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within the said ninety (90) day period, the aggrieved Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief, enforcement by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan payments and to apply the revenues from the project in accordance with this Agreement, as required by the Act. This provision and specifically the notice and time to cure shall not apply to the obligation of Habitat found within Article IV.

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

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

Article X Repayment of Grant

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

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

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

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

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

- (2) Written confirmation that all signed documents and funds have been delivered in escrow to the title company to allow the sale to proceed to closing and funding; and
- (3) If the sales price of the Lot exceeds the then current Maximum Sales Price, confirmation from the title company that the title company will be distributing to EIC from the sale proceeds an amount equal to the amount of the Grant divided by the total of Eligible Dwelling Units; and

(d) With respect to Lots (i) on which Completion of Construction of a Eligible Dwelling Unit has occurred and (ii) closing on the initial sale of the Lot and Eligible Dwelling Unit occurs after May 1, 2034, not later than ten (10) days after receipt of written notice of the proposed closing date on the sale of a Lot, EIC will deliver to the title company handling the closing on the sale of the Lot an executed partial release of the Deed of Trust Lien with respect to such Lot, which partial release shall be held by the title company until EIC authorizes its recording, which authorization may be withheld until receipt from the title company of:

- (1) A fully signed copy of the purchaser's HUD-1 Statement (or similar form) that shows the purchase price of the Lot;
- (2) Written confirmation that all signed documents and funds have been delivered in escrow to the title company to allow the sale to proceed to closing and funding; and
- (3) Regardless of the sales price of the Lot, confirmation from the title company that the title company will be distributing to EIC from the sale proceeds an amount equal to the Grant divided by the total of Eligible Dwelling Units.

10.3 Subordination. EIC will consider subordinating its Deed of Trust lien to facilitate Habitat obtaining construction financing on a Lot, subject to the reasonable discretion of the City Manager on a case by case basis.

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

(a) The amounts of the Grant to be repaid by Habitat to EIC pursuant to Section 10.1 shall be delivered to EIC not later than thirty (30) days after the date of termination of the Agreement; and

(b) The amounts of the Grant to be repaid by Habitat upon sale of a Lot pursuant to Sections 10.2(c) and 10.2(d) shall be paid at closing on the sale of the Lot.

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

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

Article XI **General Provisions**

11.1 Severability. The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

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

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

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

11.5 Notices. All notices given with respect to this Agreement shall be in writing and shall be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers

such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For Habitat

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

For EIC

President

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

For City

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

11.6 Assignment. This Agreement is binding upon the Parties and their successors and assigns. Except as set forth in Article V, this Agreement may not be assigned by either Party without the specific prior written consent of the other, which consent will not be unreasonably withheld. If a Party consents to any valid assignment of this Agreement by the other Party, the assigning Party, no such assignment shall be effective and the assigning Party shall not be relieved of any obligations and liabilities on the part of such assigning Party under this Agreement until delivery to the other Party of the document providing for such assignment signed by the assignor and assignee in which the assignee assumes all rights and obligations of the assignee pursuant to the Agreement; provided, however, the assignor shall not be released from any liabilities accruing prior to the effective date of such assignment unless the assignee agrees to unconditionally assume all liabilities of the assignor accruing prior to the effective date of the assignment.

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

11.8 Interpretation. Each Party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the Parties, at arm's length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(signatures begin on following page)

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

HABITAT FOR HUMANITY - KERR COUNTY

DocuSigned by:
BY: 
1BA9B438C7024BA...
**MARY CAMPANA, EXECUTIVE
DIRECTOR**

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

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

BY: _____
KIM CLARKSON, PRESIDENT

ATTEST:

Kesha Franchina, Recording Secretary

APPROVED AS TO FORM:

DocuSigned by:

96CAD2650E13A451...
Michael C. Hayes, Attorney for EIC

Exhibit A Layout of Development

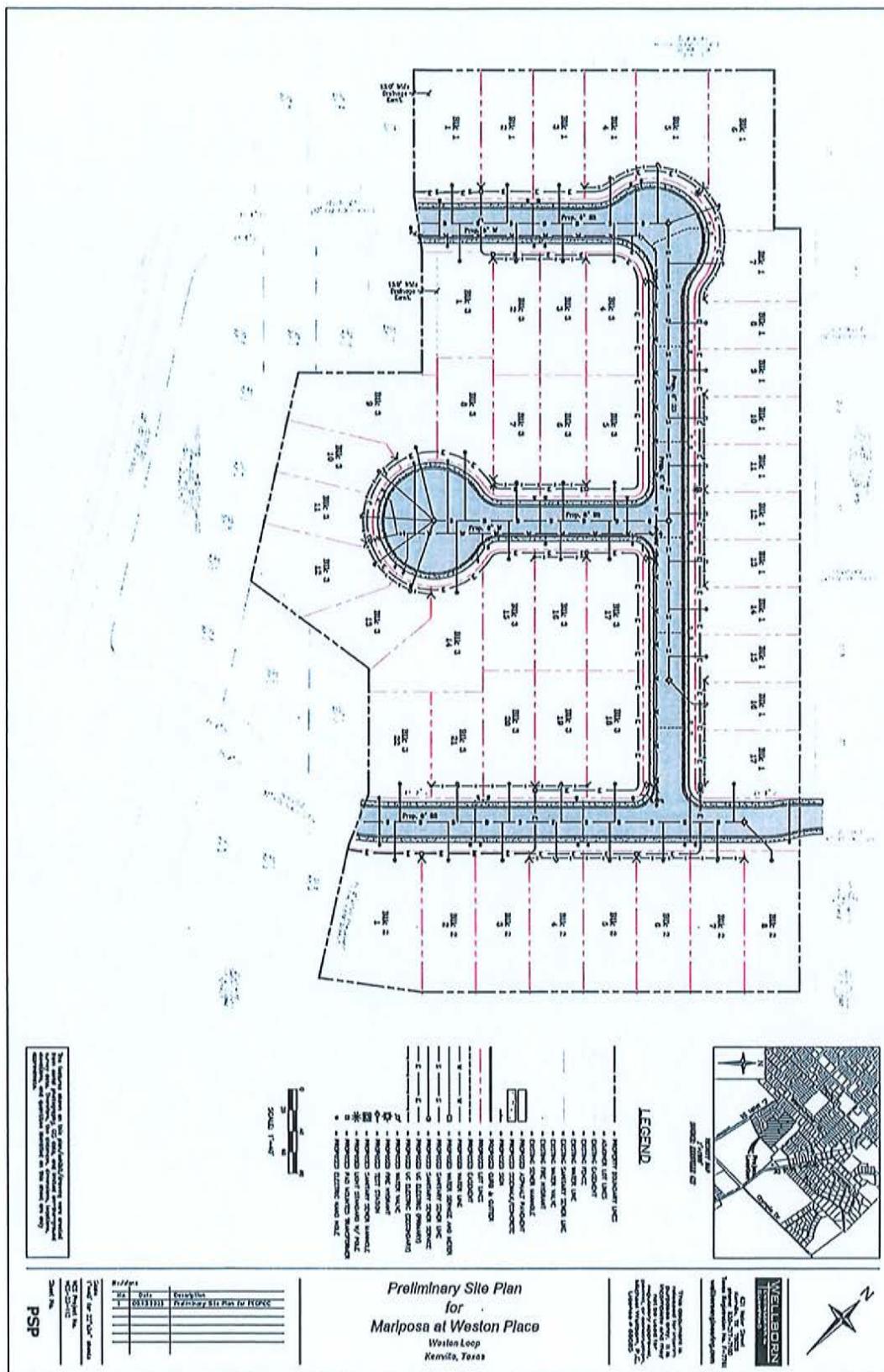


Exhibit B
Description of the Property

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

EXHIBIT B

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

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

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

Beginning at a $\frac{1}{4}$ inch diameter steel rod found marking the northwesterly corner of Lot 11, Block 1 of Weston Home place Phase I as recorded in Volume 7, Page 212, Plat Records of Kerr County, Texas said point being on the easterly line of a 0.79 acre tract dedicated to the City of Kerrville in Volume 3, Page 131 of the Deed Records of Kerr County, Texas for the westerly most corner of the herein described parcel;

Thence along the common line between said 0.79 acre tract dedicated to the City of Kerrville and the herein described parcel N 44°55'44"E 349.20 feet (N 44°56'37"E, 349.09 feet) to a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelke!" found marking the southwesterly corner of Lot 1, Block 1 of "Pinto Trails Subdivision" according to the record plat thereof filed as Document Number 12-6169 being the westerly most corner of the herein described parcel;

Thence along the southerly line of said Lot 1, Block 1, "Pinto Trails Subdivision", S 44°46'11"E, 149.89 feet (S 44°54'24"E, 150.00 feet) to a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" found marking the southeasterly corner of said Lot 1, Block 1 and an angle point in the boundary of the herein described parcel;

Thence along a portion of the easterly line of said Lot 1, Block 1, N 45°13'35"E, 25.10 feet (N 45°05'36"E, 25.00 feet) to a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" found marking a point in the southerly line of Lot 3, Block 1 of said "Pinto Trails Subdivision", for an angle point in the herein described parcel;

Thence along the southerly line of Block 1 of said "Pinto Trails Subdivision", S 44°48'16"E (S 44°54'24"E) at 600.03 feet (599.94 feet) pass a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" found marking the southeasterly corner of a 50 foot wide access and utility easement as referenced in Volume 837, Page 668, in the Official Public Records of Kerr County, Texas said point identical to the southwesterly corner of Lot 2, "Pinto Trails Subdivision Phase 2", as recorded in File Number 13-8973, in the Official Public Records of Kerr County, Texas, continuing along the southerly line of said Lot 2, in all 720.04 feet (720.66 feet) to a point of intersection with the northwesterly line of a certain 31.54 acre tract of Schreiner University according to the Warranty Deed with Vendor's Lien recorded as Document Number 12-00668, Deed Records of Kerr County, Texas said point being a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" marking the northeasterly most corner of the herein described parcel;

Thence along the said northwesterly line of the 31.54 acre tract of Schreiner University, S 44°47'19"W, 364.07 feet (S 44°56'37"W, 365.34 feet) to a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" found in a wire fence line marking an angle point in said line and an angle point in the northeasterly line of the herein described parcel;

Thence continuing along the said northwesterly line of the 31.54 acre tract of Schreiner University with the fence S 52°15'14"W, 100.98 feet (S 52°18'03"W, 100.89 feet) to a $\frac{1}{4}$ inch diameter steel rod found at the corner of a fence being the northeasterly corner of Lot 8, Block 3, of said "Weston Homeplace Phase I" for the southeasterly most corner of the herein described parcel;

Thence with the fence along the northerly line of said Lot 8, Block 3, N 31°51'34" W, 129.07 feet (N 31°50'29" W, 128.79 feet) to a $\frac{1}{2}$ inch diameter steel rod found at the northwesterly corner of said Lot 8, Block 3 at a point of intersection with the southeasterly Right-of-Way of Bow Drive, a 50 foot wide public road and an angle point in the boundary of the herein described parcel;

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

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

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

Thence along the northerly line of Lots 4, 5, 6, and 7, Block 2 of said "Weston Homeplace Phase I", N 31°54'14" W, at 20.20 feet pass a $\frac{1}{2}$ inch diameter steel rod marking the northeasterly corner of said Lot 5, in all 201.60 feet (N 31°54'14" W, 201.60 feet) to a 5/8 inch diameter steel rod with cap stamped "WES 10194410" set for the northwesterly corner of said Lot 7, Block 2 at a point of intersection with the easterly line of Lot 9, Block 2, of said "Weston Homeplace Phase I" for an angle point in the boundary of the herein described parcel;

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

Thence along the northerly line of said Lot 11, Block 2, N 44°57'33" W, 116.44 feet (N 44°57'58" W 116.45 feet) to a $\frac{1}{2}$ inch diameter steel rod with cap stamped "Voelkel" found at the northwesterly corner of said Lot 11 on the easterly Right-of-Way of Weston Loop, a 50 foot wide public road for an angle point in the boundary of the herein described parcel;

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

Thence along the northerly line of said Lot 11, Block 1, N 45°07'07" W, 119.79 feet (N 45°06'57" W, 120.00 feet) to the $\frac{1}{2}$ inch diameter steel rod marking the northwesterly corner of said Lot 11, Block 1, the Point of Beginning containing 373,042.87 square feet or 8.56 acres more or less.

Exhibit C
Preliminary Engineer's Opinion of Probable Construction Cost

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
Demolition Items					
1	Sawcut and remove existing asphalt pavement, Including all labor & materials, complete in place	65	SY	\$9.00	\$585.00
2	Sawcut and remove existing curb & gutter, including all labor & materials, complete in place	40	LF	\$10.00	\$400.00
Total Demolition					\$985.00
Paving Items					
1	2" Type D 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-psf concrete sidewalk, Including all labor & materials, complete in place	1336	SY	\$50.00	\$66,800.00
8	sidewalk ramps, Including all labor & materials, complete in place	4	EA	\$1,500.00	\$6,000.00
9	Street signs with stop sign, Including all labor & materials, complete in place	2	EA	\$750.00	\$1,500.00
Total Paving					\$499,627.00
Sanitary Sewer Items					
1	6" SDR 26 wastewater line, open cut, Including all labor & materials, complete in place	1267	LF	\$95.00	\$120,365.00
2	48" City standard wastewater manhole, less than 10-ft depths, Including all labor & materials, complete in place	5	EA	\$15,000.00	\$75,000.00
3	Core existing wastewater manhole for 11" sanitary sewer, Including all labor & materials, complete in place	2	EA	\$5,500.00	\$11,000.00
4	4" sanitary sewer service connection w/ dual cleanouts, Including all labor & materials, complete in place	47	EA	\$3,200.00	\$150,400.00
5	Testing in accordance with City requirements (TV & vacuum), Including labor & materials, complete in place	1267	LF	\$5.00	\$6,335.00
6	Trench safety	1267	LF	\$5.00	\$6,335.00
Total Sanitary Sewer					\$369,435.00

Water Items					
1	6" PVC C-900, DR-14, pressure class 200, water line, Including all labor & materials, complete in place	1033	LF	\$85.00	\$87,805.00
2	Tracer wire for 6" water line, Including all labor & materials, complete in place in accordance with City requirements	1033	LF	\$0.75	\$774.75
3	Tracer wire test station, Including all labor & materials, complete in place in accordance with City requirements	4	EA	\$300.00	\$1,200.00
4	Tie into ex. 6" water main, Including all labor & materials, complete in place	1	EA	\$4,500.00	\$4,500.00
5	Remove ex. 6" water valve, remove 12-LF of ex. 6" water main, and tie into ex. 6" water main, Including all labor & materials, complete in place	1	EA	\$4,500.00	\$4,500.00
6	6" 11.25° ductile Iron MJ bend, Including all labor & materials, complete in place	1	EA	\$550.00	\$550.00
7	6" 45° ductile Iron MJ bend, Including all labor & materials, complete in place	4	EA	\$650.00	\$2,600.00
8	6"x6" tee, Including all labor & materials, complete in place	2	EA	\$900.00	\$1,800.00
9	6" gate valve, including all labor & materials, complete in place	12	EA	\$2,750.00	\$33,000.00
10	2" blow-off valve assembly, Including all labor & materials, complete in place	1	EA	\$2,000.00	\$2,000.00
11	City Standard Fire Hydrant Assembly with 6" D.I. pipe, 6" valve, fittings, tee, and concrete pads, Including all labor & materials, complete in place	3	EA	\$7,500.00	\$22,500.00
12	1" water service with curb stop & meter box, Including all labor & materials, complete in place	13	EA	\$2,500.00	\$32,500.00
13	2" to 1" double water services with 2 curb stops & meter boxes, Including all labor & materials, complete in place	17	EA	\$3,750.00	\$63,750.00
14	Testing in accordance with City requirements (chlorination & pressure), Including labor & materials, complete in place	1033	LF	\$7.00	\$7,231.00
15	Trench safety	1033	LF	\$5.00	\$5,165.00
					Total Water \$269,875.75
Dry Utilities					
1	Trenching on-site for underground electrical and communications conduits, Including all labor & materials, complete in place	2827	LF	\$48.00	\$135,696.00
2	(2) 3" underground primary electrical main line conduits, Including all labor & materials, complete in place in accordance with utility provider and City requirements	2926	LF	\$28.00	\$81,928.00
3	(2) 3" underground secondary electrical main line conduits, Including all labor & materials, complete in place in accordance with utility provider and City requirements	1329	LF	\$28.00	\$37,212.00
4	(4) 2" underground phone & cable conduits, Including labor & materials, complete in place in accordance with utility provider and City requirements	2827	LF	\$28.00	\$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
					Total Dry Utilities \$443,571.00

Grading Material					
1	Strip site & stock pile 3" of topsoil, Including all labor & materials	1499	CY (Estimate)	\$8.00	\$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>					
Total Grading Material					\$157,204.80
Miscellaneous Items					
1	Traffic control (barricades, delineators, & signs) Including all labor & materials, complete in place	1	LS	\$5,000.00	\$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
Total Miscellaneous					\$610,820.00
TOTAL PEOPCC					\$2,351,518.55

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.

Exhibit D
Form of Deed of Trust

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

STATE OF TEXAS §
COUNTY OF KERR §

Deed of Trust to Secure Performance

Terms

Date: _____, 2024

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

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

Trustees: Michael C. Hayes

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

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

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

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

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

Other Debt: None

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

Prior Lien: None

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

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

Clauses and Covenants

A. Grantor's Obligations

Grantor agrees to—

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

B. Beneficiary's Rights

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

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

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

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

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

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

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

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

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

C. Trustee's Rights and Duties

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

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

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

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

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

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

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

d. to Grantor, any balance; and

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

D. General Provisions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**HABITAT FOR HUMANITY – KERR
COUNTY**

By: _____
Mary Campana, Executive Director

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF KERR §

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

Notary Public, State of Texas

My Commission expires: _____

EXHIBIT "A"
PROPERTY DESCRIPTION

EXHIBIT A

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

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

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

Beginning at a $\frac{1}{4}$ inch diameter steel rod found marking the northwesterly corner of Lot 11, Block 1 of Weston Home place Phase I as recorded in Volume 7, Page 212, Plat Records of Kerr County, Texas said point being on the easterly line of a 0.79 acre tract dedicated to the City of Kerrville in Volume 3, Page 131 of the Deed Records of Kerr County, Texas for the westerly most corner of the herein described parcel;

Thence along the common line between said 0.79 acre tract dedicated to the City of Kerrville and the herein described parcel N 44°55'44"E 349.20 feet (N 44°56'37"E, 349.09 feet) to a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" found marking the southwesterly corner of Lot 1, Block 1 of "Pinto Trails Subdivision" according to the record plat thereof filed as Document Number 12-6169 being the westerly most corner of the herein described parcel;

Thence along the southerly line of said Lot 1, Block 1, "Pinto Trails Subdivision", S 44°46'11"E, 149.89 feet (S 44°54'24"E, 150.00 feet) to a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" found marking the southeasterly corner of said Lot 1, Block 1 and an angle point in the boundary of the herein described parcel;

Thence along a portion of the easterly line of said Lot 1, Block 1, N 45°13'35"E, 25.10 feet (N 45°05'36"E, 25.00 feet) to a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" found marking a point in the southerly line of Lot 3, Block 1 of said "Pinto Trails Subdivision", for an angle point in the herein described parcel;

Thence along the southerly line of Block 1 of said "Pinto Trails Subdivision", S 44°48'16"E (S 44°54'24"E) at 600.03 feet (599.94 feet) pass a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" found marking the southeasterly corner of a 50 foot wide access and utility easement as referenced in Volume 837, Page 668, in the Official Public Records of Kerr County, Texas said point identical to the southwesterly corner of Lot 2, "Pinto Trails Subdivision Phase 2", as recorded in File Number 13-8973, in the Official Public Records of Kerr County, Texas, continuing along the southerly line of said Lot 2, in all 720.04 feet (720.66 feet) to a point of intersection with the northwesterly line of a certain 31.54 acre tract of Schreiner University according to the Warranty Deed with Vendor's Lien recorded as Document Number 12-00668, Deed Records of Kerr County, Texas said point being a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" marking the northeasterly most corner of the herein described parcel;

Thence along the said northwesterly line of the 31.54 acre tract of Schreiner University, S 44°47'19"W, 364.07 feet (S 44°56'37"W, 365.34 feet) to a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" found in a wire fence line marking an angle point in said line and an angle point in the northeasterly line of the herein described parcel;

Thence continuing along the said northwesterly line of the 31.54 acre tract of Schreiner University with the fence S 52°15'14"W, 100.98 feet (S 52°18'03"W, 100.89 feet) to a $\frac{1}{4}$ inch diameter steel rod found at the corner of a fence being the northeasterly corner of Lot 8, Block 3, of said "Weston Homeplace Phase I" for the southeasterly most corner of the herein described parcel;

Thence with the fence along the northerly line of said Lot 8, Block 3, N 31°51'34" W, 129.07 feet (N 31°50'29" W, 128.79 feet) to a $\frac{1}{4}$ inch diameter steel rod found at the northwesterly corner of said Lot 8, Block 3 at a point of intersection with the southeasterly Right-of-Way of Bow Drive, a 50 foot wide public road and an angle point in the boundary of the herein described parcel;

Thence crossing said Bow Drive, N 23°02'51" W, 51.32 feet (N 22°59'53" W, 51.27 feet) to a $\frac{1}{4}$ inch diameter steel rod found at the northeasterly corner of Lot 1, Block 2 of said "Weston Homeplace Phase I" marking the northwesterly Right-of-Way of said Bow Drive, an angle point in the boundary of the herein described parcel;

Thence along the northerly line of said Lot 1, Block 2 of said "Weston Homeplace Phase I", N 44°39'38" W, 119.66 feet, (N 44°38'45" W, 119.67 feet) to a $\frac{1}{4}$ inch diameter steel rod found at the northwesterly corner of said Lot 1, Block 2 for an angle point in the boundary of the herein described parcel;

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

Thence along the northerly line of Lots 4, 5, 6, and 7, Block 2 of said "Weston Homeplace Phase I", N 31°54'14" W, at 20.20 feet pass a $\frac{1}{4}$ inch diameter steel rod marking the northeasterly corner of said Lot 5, in all 201.60 feet (N 31°54'14" W, 201.60 feet) to a 5/8 inch diameter steel rod with cap stamped "WES 10194410" set for the northwesterly corner of said Lot 7, Block 2 at a point of intersection with the easterly line of Lot 9, Block 2, of said "Weston Homeplace Phase I" for an angle point in the boundary of the herein described parcel;

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

Thence along the northerly line of said Lot 11, Block 2, N 44°57'33" W, 116.44 feet (N 44°57'58" W, 116.45 feet) to a $\frac{1}{4}$ inch diameter steel rod with cap stamped "Voelkel" found at the northwesterly corner of said Lot 11 on the easterly Right-of-Way of Weston Loop, a 50 foot wide public road for an angle point in the boundary of the herein described parcel;

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

Thence along the northerly line of said Lot 11, Block 1, N 45°07'07" W, 119.79 feet (N 45°06'57" W, 120.00 feet) to the $\frac{1}{4}$ inch diameter steel rod marking the northwesterly corner of said Lot 11, Block 1, the Point of Beginning containing 373,042.87 square feet or 8.56 acres more or less.



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

SUBJECT: Economic Development Grant Agreements between Schreiner University and the City of Kerrville, Texas Economic Improvement Corporation for the Funding for Schreiner University's Center for Talent and Workforce Development.

AGENDA DATE OF: May 20, 2024

DATE SUBMITTED: May 7, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area E - Economic Development

Guiding Principle N/A

Action Item E9.1 - Promote Schreiner University and brand Kerrville as a college town

SUMMARY STATEMENT:

Schreiner University has submitted a request for funding for two projects for a total of \$3,000,000. The first one here is to help start the Center for Talent and Workforce Development with a request for \$822,428 over 3 years. After review, EIC board recommended the following schedule of payments:

Year 1: \$411,214.00

Year 2-5: \$102,804.00

Total: \$822,430.00

RECOMMENDED ACTION:

Approve the funding agreement.

ATTACHMENTS:

[*20240520_EIC Grant Agreement Schreiner University Center for Talent and Workforce Development.pdf*](#)

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
SCHREINER UNIVERSITY AND THE CITY OF KERRVILLE, TEXAS
ECONOMIC IMPROVEMENT CORPORATION FOR FUNDING
FOR SCHREINER UNIVERSITY'S
CENTER FOR TALENT AND WORKFORCE DEVELOPMENT**

This **Economic Development Grant Agreement** ("Agreement") is entered into as of the Effective Date by and between **SCHREINER UNIVERSITY**, a Texas nonprofit corporation ("Schreiner"), acting herein by and through its duly authorized President; and the **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION** ("EIC"), a Type B Economic Development Corporation established pursuant to Chapters 501, 502, and 505 of the Texas Local Government Code, as amended (*i.e.*, the Development Corporation Act and hereafter referred to as "the Act"), acting by and through its duly authorized President. Schreiner and EIC are sometimes collectively referred to herein as "Parties" and individually as "Party".

WITNESSETH:

WHEREAS, the Texas Legislature, in Chapter 501 of Act, found that:

- 1) the present and prospective right to gainful employment and the general welfare of the people of this state require as a public purpose the promotion and development of new and expanded business enterprises and of job training;
- 2) the existence, development, and expansion of business, commerce, industry, higher education, and job training are essential to the economic growth of this state and to the full employment, welfare, and prosperity of residents of this state; and
- 3) the assistance provided by corporations in promoting higher education opportunities encourages and fosters the development and diversification of the economy of this state and the elimination of unemployment and underemployment in this state;

WHEREAS, pursuant to the Act, the EIC is authorized to provide funding relating to projects which the EIC finds to be encompassed within the intent of the Legislature when passing the Act and the definition of "Projects" as that word is defined by Chapters 501 and 505 of the Act, including:

land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are for the creation or retention of primary jobs and found by the board of directors to be required or suitable for the development, retention, or expansion of primary job training facilities for use by institutions of higher education; and the

land, buildings, equipment, facilities, improvements, and expenditures found by the board of directors to be required or suitable for use for a career center, as such “projects” are defined in Sections 501.101 and 501.105 of the Act;

WHEREAS, the Act defines “primary job” in part, as a job that is available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and

WHEREAS, Schreiner is a provider of higher education in the City of Kerrville and has been in existence since 1923; and

WHEREAS, as part of its efforts to increase its enrollment and support the local economy by graduating students from vocational programs to fill “primary jobs” needed by local companies, which ultimately export their products or services to regional, statewide, national, or international markets and thereby infuse new dollars into the local economy, Schreiner proposes to launch its new Center for Talent and Workforce Development (the “Center”) using grant assistance from the EIC; and

WHEREAS, the Center is intended to build capacity within the Kerrville community and beyond to promote and staff business, industry, and manufacturing industries; and

WHEREAS, the Center will be established on the main campus of Schreiner (2100 Memorial Blvd) in a building known as the STEM-Zone, constructed in 2018, with available office and meeting space, a computer lab, and easily accessible with parking across the street; and

WHEREAS, over its first three years, the Center is expected to provide vocationally-focused training to at least 150 students across priority areas that have been identified by the Kerr Economic Development Corporation and in other areas beyond these priorities; and

WHEREAS, such training offered by the Center will make up various programs which will lead to the attainment of micro-credentials, certificates, certifications, and associate degrees; and

WHEREAS, Schreiner believes that the Center, as a new division within its set of academic programs, is key to developing current talent to fit workforce needs and a workforce that is necessary for the future and the continued economic gains experienced by this community and beyond; and

WHEREAS, as a result of the offered training and certifications, the Center will help increase the local talent pool to support regional businesses and offer help

to non-college educated workers; and

WHEREAS, Schreiner's creation of the Center will result in the creation of three full-time professional jobs; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and the *City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures* in that it will provide an "economic benefit" to the City of Kerrville and also enhance the "quality of life" within the community; and

WHEREAS, EIC finds that it will be in the public interest to enter into an agreement with Schreiner to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to Schreiner for costs related to creation and funding of the Center over its first three years; and

WHEREAS, on April 15, 2024, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, EIC held a public hearing pursuant to Section 505.159 of the Act related to the proposed expenditure of 4B Revenues for the purposes provided above;

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

ARTICLE I. **EIC'S OBLIGATIONS**

A. EIC hereby agrees to provide a grant to Schreiner in an amount up to and not to exceed Eight Hundred Twenty-Two Thousand and Four Hundred and Thirty and No/100 Dollars (\$822,430.00) ("Grant"). EIC's payment of the Grant shall be as follows for the Term of this Agreement:

- (1) Year 1 – a payment not to exceed \$411,214.00.
- (2) Year 2 through 5 – payment each year not to exceed \$102,804.00 for any one year.

For purposes of this subsection, "year" means the time period between October 1 and September 30 of the following year, with Year 1 (2024) expected to be a partial year which will not be prorated, allowing the full Year 1 payment for expenditures through September 30, 2024. In the event Schreiner's expenditures exceed the maximum allowable payment amount in any year (as described in A(1) and A(2), such expenditures will "roll over" to future years and become eligible for full reimbursement at the beginning of each such successive year.

- B. Schreiner shall use the Grant proceeds for costs related to its development and opening of the Center, to include the hiring and employment of two new full-time employees for the Center, operational costs to run the program; marketing and recruitment, furniture and supplies, professional development costs, and costs for necessary facility renovation, course development and delivery, and regional business cultivation, herein referred to collectively as the “Project”. The Project consists of developing and opening the Center, more specifically described and with an estimation of costs as found in the attached **Exhibit A**, such that the Grant makes up only partial funding for the Project.
- C. Prior to the initial payment from EIC, Schreiner must provide sufficient evidence demonstrating, in the reasonable opinion of EIC, that Schreiner has received and/or been promised funding from other entities or sources to complete the full Project as specified in **Exhibit A**.
- D. Subject to the terms and conditions set forth in I.A. above and Article II, EIC shall provide payment of the Grant to Schreiner on a quarterly basis (Jan.-March, April-June, July-Sept., Oct.-Dec.). Schreiner shall submit its request for payment along with written evidence to EIC 1) of its expenditures of allowable “costs” that it has expended to date for the Project. “Costs” are as defined by Texas Local Government Code § 501.152, with evidence of such provided by Schreiner to include contracts, invoices, receipts, bills of sale, payroll expenditures, and proof of actual payments; and 2) an updated summary of its progress in developing and initiating the Center. Schreiner may submit its payment requests to the EIC following the end of each quarter. The City Manager shall review the information and authorize payments to Schreiner within 30 days of the submission. In addition, the City Manager and/or the EIC may seek a site visit of the Center, subject to Schreiner’s reasonable approval of a mutually-available time.
- E. Payments made by EIC to Schreiner from 4B Revenues will be limited to reimbursement of expenditures made for the payment of “costs” as defined by Texas Local Government Code § 501.152.
- F. In no event will the total amount of payments made to fund the Grant exceed Eight Hundred Twenty-Two Thousand and Four Hundred and Thirty and No/100 Dollars (\$822,430.00).
- G. Schreiner specifically agrees that EIC shall only be liable to Schreiner for the actual amount of the Grant to be conveyed to Schreiner and shall not be liable to Schreiner for any other actual or consequential damages, direct or indirect, interest, attorney fees, or costs of court for any act of default by EIC under the terms of this Agreement.

H. Under no circumstances shall the obligations of EIC hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, the Grant will be paid solely from lawfully available funds that have been appropriated by EIC. EIC shall have no obligation or liability to pay any installment of the Grant except as allowed by law. EIC shall not be required to pay any installment of the Grant if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.

ARTICLE II. **SCHREINER'S OBLIGATIONS**

A. Schreiner shall open and begin operating the Project on or before May 31, 2025, with full operations by May 31, 2028. Full operations means that the Schreiner has fully staffed the Center with employees, and has begun the process of placing enrolled students into full-time employment positions. Failure to complete full operations of the Project by May 31, 2028 will terminate the obligation of EIC to make any additional payments of the Grant.

B. Schreiner shall continue to receive input from regional businesses and associations concerning vocational job needs in the community, and evaluate whether Schreiner can responsibly alter or expand the vocational offerings of the Center to meet such needs.

C. Schreiner shall keep and maintain complete and accurate records relating to the costs of creating and opening the Project, separate and identifiable from its other records, for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect the records during the Term of this Agreement and for three (3) years thereafter, upon reasonable notice.

D. Following the initial payment from EIC to Schreiner, Schreiner shall make written quarterly reports concerning the status of Project and the estimated opening date of the Facilities to EIC, due on or before the 15th day after the end of each calendar quarter. In addition, and upon request from the City Manager, Schreiner shall appear before the EIC during its monthly meeting to present its report. The City Manager shall endeavor to provide EIC with at least thirty (30) days' written notice of this request. Payment requests shall also be accompanied by a report on the status of the development and initiation of the Center as of the date of each request.

E. Schreiner shall only be liable to EIC for the actual amount of the Grant to be conveyed to Schreiner and shall not be liable to EIC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or cost of court for any act of default by Schreiner under the terms of this Agreement.

ARTICLE III. REIMBURSEMENT

- A. If EIC has not previously breached its obligations under this Agreement, and on May 31, 2028 Schreiner has failed to open and begin conducting its operations and activities of the Center, then Schreiner shall repay EIC One Hundred Thousand and No/100 Dollars (\$100,000.00) ("Repayment"). The Repayment shall be made as soon as commercially practicable after the receipt of a written demand by EIC, but in no event later than thirty (30) days from the receipt of such written demand. Upon EIC's receipt of the Repayment, Schreiner shall have no further obligation under this Agreement. EIC shall have the discretion to consider relevant circumstances before demanding the Repayment and may require partial repayment in appropriate circumstances. Pursuant to the conditions precedent of this subsection, failure to reimburse EIC within thirty (30) days of Schreiner's receipt of such demand shall constitute a breach of this Agreement.
- B. Notwithstanding any other provision in this Agreement, Schreiner shall in no event be required to repay any amount in excess of the Grant monies actually received under this Agreement.

ARTICLE IV. SALE OF PROJECT, MERGER OR CONSOLIDATION OF SCHREINER

- A. A sale of all or substantially all of the assets of Schreiner or its Facilities will not release Schreiner from its duties and responsibilities to EIC under the terms of this Agreement and will not result in the assignment of this Agreement by such acquiring entity without prior written consent from EIC, which will not be unreasonably withheld; provided, that Schreiner's proposed successor shall have the financial condition to fully satisfy Schreiner's duties and responsibilities hereunder and agrees to assume Schreiner's responsibilities under this Agreement. EIC may, in its sole discretion, reasonably determine whether such proposed successor's financial condition is satisfactory.
- B. In the event of any proposed merger or other consolidation of Schreiner with any third party not affiliated with Schreiner which will result in a surviving entity other than Schreiner, Schreiner shall at least ninety (90) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC and Schreiner regarding: (1) the surviving entity's assumption and satisfaction of Schreiner's obligations hereunder and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity shall have the financial condition to fully satisfy Schreiner's duties and responsibilities hereunder.

Failure to provide such information shall be considered a breach of this Agreement.

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

ARTICLE V. SCHREINER'S REPRESENTATIONS AND WARRANTIES

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

- (1) Schreiner is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;
- (2) Execution of this Agreement has been duly authorized by Schreiner and this Agreement is not in contravention of Schreiner's corporate charter, or any agreement or instrument to which Schreiner is a party or by which it may be bound as of the date hereof;
- (3) No pending or threatened litigation or governmental proceeding against or affecting Schreiner is reasonably likely to result in a material adverse change in Schreiner's business, properties, or operations sufficient to jeopardize Schreiner's legal existence. Where any such circumstance occurs during the Term, Schreiner shall immediately notify the EIC in writing by giving a brief description of the litigation or proceeding and how it may reasonably impact this Agreement; and
- (4) No written application, written statement, or correspondence delivered by Schreiner to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading. The Application for 4B sales Tax Funds submitted by Schreiner is attached hereto as **Exhibit B** and shall be incorporated herein by reference and expressly made a part of this Agreement.

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

ARTICLE VI. **EIC'S REPRESENTATIONS AND WARRANTIES**

A. EIC represents and warrants as of the date hereof:

- (1) EIC is legally authorized to enter into this Agreement by virtue of the statute under which it is governed and by the authorities and powers vested in it as a corporation duly and properly organized under the Act;
- (2) Execution of this Agreement has been duly authorized by the Board of Directors of the EIC, and this Agreement is not in contravention of EIC's corporate charter or bylaws, or any agreement or instrument to which the EIC is a party or by which it may be bound as of the date hereof;
- (3) No pending or threatened litigation or governmental proceeding against or affecting EIC is reasonably likely to result in a material adverse change in EIC's business, properties, or operations sufficient to jeopardize EIC's legal existence. If any such circumstance occurs during the Term, EIC shall immediately notify Schreiner in writing by providing the pleadings in the litigation or filings in the proceeding; and
- (4) EIC has the capacity to fund the full dollar amount of this Grant on the payment schedule outlined in 1.A, and has no reasonable basis for believing that it has or will have incurred debts beyond its ability to pay as such debts mature, including but not limited to the obligations set forth in this Agreement.

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

ARTICLE VII. **MAJOR FORCES PREVENTING SCHREINER FROM CARRYING OUT ITS OBLIGATIONS UNDER THIS AGREEMENT**

If, by reason of force majeure, such as fire, flood, windstorm, drought, or other act of God, act of war, act of terrorism, labor strike, or economic downturn affecting Schreiner, Schreiner is reasonably unable to fulfill its obligations under this Agreement, Schreiner shall use reasonable and diligent efforts to rectify the situation to allow it to perform its obligations specified herein with all due haste. In the event that the situation cannot be rectified within six (6) months after the occurrence of the force majeure, either Party may terminate this Agreement by providing thirty (30) days advance written notice to the other without further liability hereunder except that termination under this provision shall not excuse Schreiner from any applicable reimbursement obligations under Article III of this Agreement.

ARTICLE VIII.
CONDITIONS UNDER WHICH EIC MAY SUSPEND PERFORMANCE
OF ITS OBLIGATIONS UNDER THIS AGREEMENT

Under any of the following conditions EIC may, at its option, after thirty (30) days written notice to Schreiner, suspend its further performance under this Agreement until such time as Schreiner shall have cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:

- A. Schreiner becomes insolvent. "Insolvent" is defined to mean one either has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, or is insolvent within the meaning of the federal bankruptcy law.
- B. The appointment of a receiver of Schreiner, or of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
- C. The adjudication of Schreiner as bankrupt.
- D. The filing by Schreiner of a petition to be adjudged as bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.

Should any of these conditions not be cured by Schreiner within a period of ninety (90) days following EIC's notice as required above, EIC may, at its option and immediately following written notice to Schreiner, terminate this Agreement and EIC shall have no further obligations hereunder.

ARTICLE IX.
REMEDIES

- A. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any Party hereto, or any successor to such party, such defaulting or breaching Party (or successor) shall upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within ninety (90) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within a reasonable time (but in no event later than ninety (90) days from the date of notification of such breach), the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief, enforcement by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan

payments and to apply the revenues from the project in accordance with this Agreement, as required by the Act.

- B. Upon breach of this Agreement by either Party and the failure to cure as permitted by this Article IX, the non-breaching Party shall have the sole right and discretion to either terminate this Agreement or pursue any and all remedies which may be provided by law and this Agreement. Each Party acknowledges and agrees that neither Party shall be entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that neither Party shall be liable to the other Party for any other actual or consequential damages for any act of default by such party under the terms of this Agreement.
- C. Any delay by either Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not, so long as the breach or default by the other Party shall be continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor shall any waiver in fact be made by a Party with respect to any specific default by the other Party except to the extent specifically waived in writing.

ARTICLE X. GENERAL PROVISIONS

- A. Severability. The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Approval. Unless otherwise specifically provided otherwise, EIC grants the City Manager or designee the authority to make approvals where the Agreement requires.
- D. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in Kerrville, Kerr County, Texas. Venue shall lie in Kerr County, Texas; and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof.

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

1. For EIC

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

With a copy to:
City Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

2. For Schreiner

President
Schreiner University
2100 Memorial Boulevard
Kerrville, Texas 78028

With a copy to:
Vice President for Planning & Finance
Schreiner University
2100 Memorial Boulevard
Kerrville, Texas 78028

F. Assignment. This Agreement shall be binding upon the Parties and their successors and assigns. Except as set forth in Article IV, this Agreement may not be assigned by either Party without the specific prior written consent of the other, which consent will not be unreasonably withheld. In the event that a Party consents to any valid assignment of this Agreement by the other Party hereto, the assigning party shall be relieved of any and all obligations and

liabilities on the part of such assigning party under this Agreement. Schreiner may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by Schreiner or by the parent, subsidiary or affiliate of Schreiner provided the entity assumes all of Schreiner's obligations and liabilities under this Agreement; agrees to comply with all provisions of this Agreement; has the legal, managerial, technical and financial ability to properly perform and discharge such obligations and liabilities; and such abilities are each at least as great as those of Schreiner and Schreiner provides a written guarantee of such assignee's performance in a form reasonably acceptable to EIC. EIC shall be advised in writing of such assignment and of the entity's qualifications at least sixty (60) days before such assignment occurs.

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

H. Term. The term of this Agreement (the "Term") will commence on the "Effective Date" meaning the date this Agreement bears the signatures of authorized representatives of all of the Parties, whether appearing on the same document or in identical counterparts. The Agreement will terminate on the earlier of: (i) either on December 31, 2028, or when the requirements set forth in this Agreement are completed, whichever date is later; (ii) when terminated by mutual agreement of the parties; (iii) when terminated pursuant to Article IX, Paragraph B; (iv) when terminated pursuant to Article VIII; (v) at Schreiner's sole and absolute discretion, upon Schreiner's return of all Grant funding to EIC that it has received under this Agreement; or (vi) upon Schreiner's repayment of all monies that are demanded by EIC and are in fact required to be repaid by Schreiner under Article III. Upon termination of this Agreement as specified herein, all rights, duties and obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect.

I. Interpretation. Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arm's length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.

J. Indemnity. **IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT SCHREINER, IN PERFORMING ITS OBLIGATIONS HEREUNDER, IS ACTING INDEPENDENTLY, AND EIC ASSUMES NO RESPONSIBILITY OR LIABILITY IN CONNECTION THEREWITH TO THEIR PARTIES. SCHREINER AGREES TO INDEMNIFY AND**

HOLD HARMLESS EIC, ITS OFFICERS AND AGENTS, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY SCHREINER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ANY NEGLIGENT ACT OR OMISSION OF SCHREINER, ITS OFFICER, AGENTS, ASSOCIATES OR EMPLOYEES, IN THE PERFORMANCE OF THIS AGREEMENT; AND NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF ANY GOVERNMENTAL IMMUNITY AVAILABLE TO EIC UNDER TEXAS LAW.

- K. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.
- L. Survival of Terms. All warranties and representations of the Parties, and all rights, duties, liabilities and obligations accrued prior to termination shall survive termination.
- M. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.
- N. Recitals. The recitals to this Agreement are incorporated herein.
- O. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.
- P. Employment of Undocumented Workers. During the Term of this Agreement, Schreiner agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Schreiner shall repay the Grants and any other funds received by Schreiner from EIC as of the date of such violation within one hundred twenty (120) days after the date Schreiner is notified by EIC of such violation, plus interest at the rate of four percent (4%) compounded annually from the date of violation until paid. Schreiner is not liable for a violation of this section in relation to any workers employed by a subsidiary, Affiliate, contractor, subcontractor, or franchisee of Schreiner or any other Person other than Schreiner.
- Q. Prohibition on contracts with companies boycotting Israel. Schreiner hereby verifies the following per Section 2271.002, Texas Government Code:
 - (1) Schreiner does not boycott Israel; and
 - (2) Schreiner will not boycott Israel during the Term of the Agreement.

- R. Prohibition against business with Iran, Sudan or foreign terrorist organization. Schreiner warrants, covenants, and represents that Schreiner is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.
- S. Prohibition on Contracts with Companies Boycotting Energy Companies. Schreiner hereby verifies the following per Section 2276.002, Texas Government Code:
 - (1) Schreiner does not boycott energy companies; and
 - (2) Schreiner will not boycott energy companies during the term of the Agreement.
- T. Written Verification as to Firearm Entities. Schreiner hereby verifies the following per Section 2274.002, Texas Government Code:
 - (1) Schreiner does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
 - (2) Schreiner will not discriminate against a firearm entity or firearm trade association during the Term of the Agreement.
- U. Prohibition on Contracts with Companies Related to Certain Countries. Where this Agreement pertains to “critical infrastructure”, as defined by Section 2274.0101, Texas Government Code, Schreiner verifies (1) that it is not owned by or the majority of stock or other ownership interest of Schreiner is not held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or other designated countries; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other designated countries; or (2) headquartered in China, Iran, North Korea, Russia, or other designated countries.
- V. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes.

EXECUTED AND EFFECTIVE as of the Effective Date indicated below, by the City of Kerrville, Texas, Economic Improvement Corporation, by and through its Board President, duly authorized to execute same by action of the Board, and by Schreiner, acting through President, as duly authorized.

Effective Date: May ____, 2024.

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

Kim Clarkson, President

ATTEST:

Kesha Franchina, Recording Secretary

APPROVED AS TO FORM:

— DocuSigned by:

Michael C. Hayes
9CAD2650E13A451

Michael C. Hayes, Attorney for the EIC

SCHREINER UNIVERSITY

DocuSigned by:
By: 
F2EB6495C5514AA
Dr. Charlie McCormick,
President

Exhibit A

Projects for Funding

Request 1: Center for Talent and Workforce Development

Funding Request - \$822,428 over three years

Project Overview

The first aspect of our enrollment growth project being submitted to the EIC is the launch of a Center for Talent and Workforce Development (CTWD) which will provide vocationally-focused training in its first three years to 150 workers across the priority areas identified by the Kerrville Economic Development Corporation (KerrEDC) and in areas beyond these priorities. The CTWD will offer programs leading to the attainment of micro-credentials, associate degrees, and baccalaureate degrees in both accelerated and online formats. As illustrated below, a finite – but robust – set of programmatic offerings have been identified because we have confidence the resources can be marshalled to deliver all of these experiences should start-up costs be provided by the EIC. Since funds are being requested to launch this new academic division, EIC members will notice that in year 1 the largest percentage of the operating costs is provided by the EIC, and by year 3, Schreiner is funding 90% of the operating costs and then will be responsible for 100% thereafter. So once up and running, these programmatic offerings – and many others that could be started based on business and industry needs – will fund the ongoing operations of the CTWD. The specifics and timeline of the (CTWD) are as follows and additional information can be found in Appendix A.

Part 1 Funding Request

Annual Distribution Window	EIC funding of the CTWD	Schreiner funding of the CTWD	Milestone Accomplishments for the CTWD	Annual Activities of the CTWD (see detail in Appendix A)
June 1, 2024 – May 31, 2025	\$465,607	\$51,734	2 New FT Employees: Director of the CTWD and Administrative Asst. for the CTWD	Online Degree Completion program
	90%	10%	85 unique students enrolled in the CTWD	Healthcare Certifications
				Banking Certification
				Aviation – co and dual enrollment
				Drone Licensure
				Basic Business Skills
				Vocational Nursing

Exhibit A

June 1, 2025 - May 31, 2026	\$295,226	\$295,226	1 New FT Employee: Advisor for the CTWD	All above continuing Vineyard Certifications
	50%	50%	2 Continuing FT Employees	Vineyard Certifications
			117 unique students enrolled in the CTWD	Hospitality Certifications
June 1, 2026 - May 31, 2027	\$61,595	\$554,356	3 Continuing FT Employees	All above continuing
	10%	90%	171 unique students enrolled in the CTWD	Mechatronics Certification Agricultural Certifications
June 1, 2024 - May 31, 2027	\$822,428	\$901,316	3 New and Continuing FT positions	
	48%	52%	171 unique students	
Total Cost of Project	\$1,723,743			

While the training provided through the CTWD is key to developing the current talent and workforce needs and the workforce that will be needed in the future, it does not generate enough revenue (given its low to moderate tuition price point and lack of room and board revenue) to contribute substantially to the operations of Schreiner's four-year, residential college. Community colleges typically offer these vocational programs because they are so heavily subsidized by the state; four-year, residential colleges do not have access to these funds. Independent colleges, like Schreiner, receive federal funding because their students are offered federal student loans, but these loans cannot be used for vocational programs. The only way for a four-year, residential college to offer a robust program in talent and workforce development, therefore, is to make it one component of the overall educational experience with other robust parts of the experience which help fund the operations of the talent and workforce program.

Request 2: Expansion and Enhancement of Schreiner University Athletics Complex

Funding Request - \$2,177,572 over three years

Project Overview

The second aspect of our enrollment growth strategy being presented to EIC is infrastructure expansions and enhancements to the University's athletics complex allowing Schreiner to launch new athletic offerings and thereby increase our undergraduate and residential population. For this EIC proposal, we are requesting funds to build out a new weight room and a new locker room



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

SUBJECT: Economic Development Grant Agreement between Schreiner University and the City of Kerrville, Texas Economic Improvement Corporation for Funding for Schreiner University's Athletic Facilities.

AGENDA DATE OF: May 20, 2024

DATE SUBMITTED: May 7, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area E - Economic Development

Guiding Principle N/A

Action Item E9.1 - Promote Schreiner University and brand Kerrville as a college town

SUMMARY STATEMENT:

Schreiner University has submitted a request for funding for two projects for a total of \$3,000,000. The second request is to expand their athletic facilities. After review, EIC board recommended the following schedule of payments:

Year 1: \$1,130,000.00

Year 2-5: \$272,196.00

Total: \$2,177,570.00

The facilities that Schreiner will expand include its weight room and locker room (the "Facilities"); and while the expanded Facilities are intended for use for its football program, Schreiner will use these new spaces across all of its athletic programs and constituencies that use such facilities. Schreiner believes that football is a consequential aspect of its mission, as it will increase student enrollment in the university both through the student-athletes that are added and through the expanded interest of other prospective students who view a university's football program as akin to a university's "front porch" and an important part of student life.

In order to serve these new students, both student-athletes and others, Schreiner anticipates

adding 15 new staffers to coach football but also up to 19 additional faculty in its effort to maintain its existing student-faculty ratio; and finally, as part of its athletic conference, Schreiner will endeavor to host at least 5 home football games each year, such games to include opponents who will bring their teams to Kerrville, along with fans and supporters, who will come and need to stay overnight, thereby using hotel room and local restaurants among other hospitality services.

RECOMMENDED ACTION:

Approve the funding agreement.

ATTACHMENTS:

[*20240520_EIC Grant Agreement Schreiner University Athletic Facilities.pdf*](#)

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
SCHREINER UNIVERSITY AND THE CITY OF KERRVILLE, TEXAS
ECONOMIC IMPROVEMENT CORPORATION FOR FUNDING FOR
SCHREINER UNIVERSITY'S ATHLETIC FACILITIES**

This **Economic Development Grant Agreement** ("Agreement") is entered into as of the Effective Date by and between **SCHREINER UNIVERSITY**, a Texas nonprofit corporation ("Schreiner"), acting herein by and through its duly authorized President; and the **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION** ("EIC"), a Type B Economic Development Corporation established pursuant to Chapters 501, 502, and 505 of the Texas Local Government Code, as amended (*i.e.*, the Development Corporation Act and hereafter referred to as "the Act"), acting by and through its duly authorized President. Schreiner and EIC are sometimes collectively referred to herein as "Parties" and individually as "Party".

WITNESSETH:

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

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

WHEREAS, Schreiner is a provider of higher education and has been in existence since 1923; and

WHEREAS, as part of its efforts to offer a full college experience for its students, Schreiner fields teams in 19 sports and competes in the Southern Collegiate Athletic Conference as part of Division III within the National Collegiate Athletic Association (NCAA); and

WHEREAS, Schreiner plans to expand and enhance buildings and infrastructure within its athletic complex to launch a new football program, which is expected to begin competing with a developmental team in the fall of 2025 and a NCAA Division III competitive team in the Fall of 2026; and

WHEREAS, the facilities that Schreiner will expand include its weight room

and locker room (the “Facilities”); and

WHEREAS, while the expanded Facilities are intended for use for its football program, Schreiner will use these new spaces across all of its athletic programs and constituencies that use such facilities; and

WHEREAS, Schreiner believes that football is a consequential aspect of its mission, as it will increase student enrollment in the university both through the student-athletes that are added and through the expanded interest of other prospective students who view a university’s football program as akin to a university’s “front porch” and an important part of student life; and

WHEREAS, in order to serve these new students, both student-athletes and others, Schreiner anticipates adding 15 new staffers to coach football but also up to 19 additional faculty in its effort to maintain its existing student-faculty ratio; and

WHEREAS, as part of its athletic conference, Schreiner will endeavor to host at least 5 home football games each year, such games to include opponents who will bring their teams to Kerrville, along with fans and supporters, who will come and need to stay overnight, thereby using hotel room and local restaurants among other hospitality services; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and the *City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures* in that it will enhance the “quality of life” within the community; and

WHEREAS, EIC finds that it will be in the public interest to enter into an agreement with Schreiner to provide sales tax revenues collected pursuant to the Act (“4B Revenues”) to Schreiner for costs related to the Facility; and

WHEREAS, on April 15, 2024, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, EIC held a public hearing pursuant to Section 505.159 of the Act related to the proposed expenditure of 4B Revenues for the purposes provided above;

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

ARTICLE I. **EIC’S OBLIGATIONS**

A. EIC hereby agrees to provide a grant to Schreiner in an amount up to and not to exceed Two Million One Hundred Seventy-seven Thousand and Five

Hundred and Seventy-two and No/100 Dollars (\$2,177,572.00) ("Grant"). EIC's payment of the Grant shall be as follows for the Term of this Agreement:

- (1) Year 1 – payments not to exceed \$1,088,786.00.
- (2) Year 2 through 5 – payments not to exceed \$272,196.00 for any one year.

For purposes of this subsection, "year" means the time period between June 1 and May 31 of the following year. In the event Schreiner's expenditures for the Facilities exceed the maximum allowable payment in any year (as described in A.1 and A.2), such expenditures will "roll over" to future years and become eligible for full reimbursement at the beginning of each successive year.

- B. Schreiner shall use the grant proceeds for costs related to the design and construction of the Facilities, herein referred to as the "Project". The Project consists of the construction of the Facilities, more specifically described and with an estimation of costs as found in the attached **Exhibit A**, such that the Grant makes up only partial funding for the Project.
- C. Prior to the initial payment from EIC, Schreiner must provide sufficient evidence demonstrating, in the reasonable opinion of EIC, that Schreiner has received and/or been promised funding from other entities or sources to complete the full Project as specified in **Exhibit A**.
- D. Subject to the terms and conditions set forth in Article II, EIC will administer and provide payment of the Grant to Schreiner as a reimbursement for expenditures of allowable costs on the Facilities. As a condition precedent to any payment from EIC, Schreiner shall submit written evidence of its expenditures of allowable "costs," as defined by Texas Local Government Code § 501.152, such as contracts, invoices, receipts, bills of sale, and proof of actual payment of such costs for review and approval by the EIC or its designated representative. EIC agrees to pay all undisputed amounts not later than thirty (30) days following delivery of each request from Schreiner, which shall include verification of amounts paid and work completed, and confirmation of the extent of completion of construction of the Facilities. EIC shall have access to the Facilities for any onsite inspections it desires to conduct, assuming all risks of injuries or death of any persons participating in the inspection.
- E. Payments made by EIC to Schreiner from 4B Revenues will be limited to reimbursement of expenditures made for the payment of "costs" as defined by Texas Local Government Code § 501.152.

- F. In no event will the total amount of payments made to fund the Grant exceed Two Million One Hundred Seventy-seven Thousand and Five Hundred and Seventy-two and No/100 Dollars (\$2,177,572.00).
- G. Schreiner specifically agrees that EIC shall only be liable to Schreiner for the amount of the Grant the EIC is required to convey to Schreiner and shall not be liable to Schreiner for any other actual or consequential damages, direct or indirect, interest, attorney fees, or costs of court for any act of default by EIC under the terms of this Agreement.
- H. Under no circumstances shall the obligations of EIC hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, the Grant will be paid solely from lawfully available funds that have been appropriated by EIC. EIC shall have no obligation or liability to pay any installment of the Grant except as allowed by law. EIC shall not be required to pay any installment of the Grant if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.

ARTICLE II. SCHREINER'S OBLIGATIONS

- A. Schreiner agrees to complete its construction of the Project on or before May 31, 2028. Such completion of construction means that a certificate(s) of occupancy has been issued by City for the Facilities. Failure to complete construction of the Project by this date will terminate the obligation of EIC to make any additional payments of the Grant.
- B. Schreiner shall continue to offer the use of its athletic facilities to the public for events, conferences, meetings, receptions and other activities, some uses of which may be on a fee basis. Under certain specific circumstances, Schreiner shall continue to consider waiving or reducing such fees. Such public uses and the waiver/reduction of fees policy may include the Facilities and will be undertaken according to established Schreiner University Facility Use Policies.
- C. Schreiner shall keep and maintain complete and accurate records relating to the costs of constructing the Project, separate and identifiable from its other records, for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect the records during the Term of this Agreement and for three (3) years thereafter, upon reasonable notice.
- D. Following the initial payment from EIC to Schreiner, Schreiner shall make written quarterly reports concerning the status of Project and the estimated opening date of the Facilities to EIC, due on or before the 15th day after the end of each calendar quarter. In addition, and upon request from the City

Manager, Schreiner shall appear before the EIC during its monthly meeting to present its report. The City Manager shall provide Schreiner with at least thirty (30) days written notice of this request.

E. Schreiner shall only be liable to EIC for the actual amount of the Grant to be conveyed to Schreiner and shall not be liable to EIC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or cost of court for any act of default by Schreiner under the terms of this Agreement.

ARTICLE III. REIMBURSEMENT

A. If EIC has not previously breached its obligations under this Agreement, and on May 31, 2028 Schreiner has failed to open and begin conducting its operations and activities of the Facilities, then Schreiner shall repay EIC One Hundred Thousand and No/100 Dollars (\$100,000.00) ("Repayment"). The Repayment shall be made as soon as commercially practicable after the receipt of a written demand by EIC, but in no event later than thirty (30) days from the receipt of such written demand. Upon EIC's receipt of the Repayment, Schreiner shall have no further obligation under this Agreement. EIC shall have the discretion to consider relevant circumstances before demanding the Repayment and may require partial repayment in appropriate circumstances. Pursuant to the conditions precedent of this subsection, failure to reimburse EIC within thirty (30) days of Schreiner's receipt of such demand shall constitute a breach of this Agreement.

B. Notwithstanding any other provision in this Agreement, Schreiner shall in no event be required to repay any amount in excess of the Grant monies actually received under this Agreement.

ARTICLE IV. SALE OF PROJECT, MERGER OR CONSOLIDATION OF SCHREINER

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

- B. In the event of any proposed merger or other consolidation of Schreiner with any third party not affiliated with Schreiner which will result in a surviving entity other than Schreiner, Schreiner shall at least ninety (90) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC and Schreiner regarding: (1) the surviving entity's assumption and satisfaction of Schreiner's obligations hereunder and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity shall have the financial condition to fully satisfy Schreiner's duties and responsibilities hereunder. Failure to provide such information shall be considered a breach of this Agreement.
- C. Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that EIC shall have no rights to approve or disapprove any sale or merger transaction of any kind involving Schreiner or its affiliates. In the event of any sale or merger involving Schreiner or its affiliates, the surviving entity shall assume Schreiner's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE V. SCHREINER'S REPRESENTATIONS AND WARRANTIES

- A. Schreiner represents and warrants as of the date hereof:
 - (1) Schreiner is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;
 - (2) Execution of this Agreement has been duly authorized by Schreiner and this Agreement is not in contravention of Schreiner's corporate charter, or any agreement or instrument to which Schreiner is a party or by which it may be bound as of the date hereof;
 - (3) No pending or threatened litigation or governmental proceeding against or affecting Schreiner is reasonably likely to result in a material adverse change in Schreiner's business, properties, or operations sufficient to jeopardize Schreiner's legal existence. If any such circumstance occurs during the Term, Schreiner shall immediately notify the EIC in writing by providing the pleadings in the litigation or filings in the proceeding; and
 - (4) No written application, written statement, or correspondence delivered by Schreiner to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading. The

Application for 4B sales Tax Funds submitted by Schreiner is attached hereto as **Exhibit B** and shall be incorporated herein by reference and expressly made a part of this Agreement.

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

ARTICLE VI. **EIC'S REPRESENTATIONS AND WARRANTIES**

A. EIC represents and warrants as of the date hereof:

- (1) EIC is legally authorized to enter into this Agreement by virtue of the statute under which it is governed and by the authorities and powers vested in it as a corporation duly and properly organized under the Act;
- (2) Execution of this Agreement has been duly authorized by the Board of Directors of the EIC, and this Agreement is not in contravention of EIC's corporate charter or bylaws, or any agreement or instrument to which the EIC is a party or by which it may be bound as of the date hereof;
- (3) No litigation or governmental proceeding is pending or threatened against EIC which may result in EIC's inability to meet its obligations under this Agreement; and
- (4) EIC has the capacity to fund the full dollar amount of this Grant on the payment schedule outlined in 1.A, and has no reasonable basis for believing that it has or will have incurred debts beyond its ability to pay as such debts mature, including but not limited to the obligations set forth in this Agreement.

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

ARTICLE VII. **MAJOR FORCES PREVENTING SCHREINER FROM CARRYING OUT ITS OBLIGATIONS UNDER THIS AGREEMENT**

If, by reason of force majeure, such as fire, flood, windstorm, drought, or other act of God, act of war, act of terrorism, labor strike, or economic downturn affecting Schreiner, Schreiner is reasonably unable to fulfill its obligations under this Agreement, Schreiner shall use reasonable and diligent efforts to rectify the situation to allow it to perform its obligations specified herein with all due haste. In the event

that the situation cannot be rectified within twelve (12) months after the occurrence of the force majeure, either Party may terminate this Agreement by providing thirty (30) days advance written notice to the other without further liability hereunder except that termination under this provision shall not excuse Schreiner from any applicable reimbursement obligations under Article III of this Agreement.

ARTICLE VIII.
CONDITIONS UNDER WHICH EIC MAY SUSPEND PERFORMANCE
OF ITS OBLIGATIONS UNDER THIS AGREEMENT

Under any of the following conditions EIC may, at its option, after fifteen (15) days written notice to Schreiner, suspend its further performance under this Agreement until such time as Schreiner shall have cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:

- A. Schreiner becomes insolvent. "Insolvent" is defined to mean one either has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, or is insolvent within the meaning of the federal bankruptcy law.
- B. The appointment of a receiver of Schreiner, or of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
- C. The adjudication of Schreiner as bankrupt.
- D. The filing by Schreiner of a petition to be adjudged as bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.

Should any of these conditions not be cured by Schreiner within a period of ninety (90) days EIC may, at its option, with written notice to Schreiner, terminate this Agreement and Schreiner shall have no further obligations hereunder.

ARTICLE IX.
REMEDIES

- A. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any Party hereto, or any successor to such Party, such defaulting or breaching Party (or successor) shall upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within a reasonable time (but in no event later than ninety (90) days from the date of notification of such

breach), the aggrieved Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief, enforcement by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan payments and to apply the revenues from the project in accordance with this Agreement, as required by the Act.

- B. Upon breach of this Agreement by either Party and the failure to cure as permitted by this Article IX, the non-breaching Party shall have the sole right and discretion to either terminate this Agreement or pursue any and all remedies which may be provided by law and this Agreement. Each Party acknowledges and agrees that neither Party shall be entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that neither Party shall be liable to the other Party for any other actual or consequential damages for any act of default by such Party under the terms of this Agreement.
- C. Any delay by either Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not, so long as the breach or default by the other Party shall be continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor shall any waiver in fact be made by a Party with respect to any specific default by the other Party except to the extent specifically waived in writing.

ARTICLE X. GENERAL PROVISIONS

- A. Severability. The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Approval. Unless otherwise specifically provided otherwise, EIC grants the City Manager or designee the authority to make approvals where the Agreement requires.

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

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

1. For EIC

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

With a copy to:
City Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

2. For Schreiner

President
Schreiner University
2100 Memorial Boulevard
Kerrville, Texas 78028

With a copy to:
Vice President for Planning & Finance
Schreiner University
2100 Memorial Boulevard
Kerrville, Texas 78028

F. Assignment. This Agreement shall be binding upon the parties hereto and their successors and assigns. Except as set forth in Article IV, this Agreement may not be assigned by either Party without the specific prior written consent of the other, which consent will not be unreasonably withheld. In the event that a Party consents to any valid assignment of this Agreement by the other Party hereto, the assigning party shall be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement. Schreiner may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by Schreiner or by the parent, subsidiary or affiliate of Schreiner provided the entity assumes all of Schreiner's obligations and liabilities under this Agreement; agrees to comply with all provisions of this Agreement; has the legal, managerial, technical and financial ability to properly perform and discharge such obligations and liabilities; and such abilities are each at least as great as those of Schreiner and Schreiner provides a written guarantee of such assignee's performance in a form reasonably acceptable to EIC. EIC shall be advised in writing of such assignment and of the entity's qualifications at least sixty (60) days before such assignment occurs.

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

H. Term. The term of this Agreement (the "Term") will commence on (the "Effective Date"), meaning the date this Agreement bears the signatures of authorized representatives of both Parties, whether appearing on the same document or in identical counterparts. The Agreement will terminate on the earlier of: (i) either on May 31, 2028, or when the requirements set forth in this Agreement are completed, whichever date is later; (ii) when terminated by mutual agreement of the parties; (iii) when terminated pursuant to Article IX, Paragraph B; (iv) when terminated pursuant to Article VIII; (v) at Schreiner's sole and absolute discretion, upon Schreiner's return of all Grant funding to EIC that it has received under this Agreement; or, (vi) upon Schreiner's repayment of all monies that are demanded by EIC and are in fact required to be repaid by Schreiner under Article III. Upon termination of this Agreement as specified herein, all rights, duties and obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect, except as provided in K below.

I. Interpretation. Each Party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arm's length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.

J. Indemnity. IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT SCHREINER, IN PERFORMING ITS OBLIGATIONS HEREUNDER, IS ACTING INDEPENDENTLY, AND EIC ASSUMES NO RESPONSIBILITY OR LIABILITY IN CONNECTION THEREWITH. SCHREINER AGREES TO INDEMNIFY AND HOLD HARMLESS EIC, ITS OFFICERS AND AGENTS, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY SCHREINER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ANY NEGLIGENT ACT OR OMISSION OF SCHREINER, ITS OFFICER, AGENTS, ASSOCIATES OR EMPLOYEES, IN THE PERFORMANCE OF THIS AGREEMENT; AND NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF ANY GOVERNMENTAL IMMUNITY AVAILABLE TO EIC UNDER TEXAS LAW.

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

L. Survival of Terms. All warranties and representations of the Parties, and all rights, duties, liabilities and obligations accrued prior to termination, shall survive termination.

M. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

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

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

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

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

- (1) Schreiner does not boycott Israel; and
- (2) Schreiner will not boycott Israel during the Term of the Agreement.

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

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

- (1) Schreiner does not boycott energy companies; and
- (2) Schreiner will not boycott energy companies during the term of the Agreement.

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

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

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

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

EXECUTED AND EFFECTIVE, as of the Effective Date indicated below, by the City of Kerrville, Texas, Economic Improvement Corporation, by and through its Board President, duly authorized to execute same by action of the Board, and by Schreiner, acting through its duly authorized official.

Effective Date: May ____, 2024.

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

By: _____
Kim Clarkson, its President

ATTEST:

Kesha Franchina, Recording Secretary

APPROVED AS TO FORM:

DocuSigned by:

Michael C. Hayes
9CAD2650E13A451
Michael C. Hayes, Attorney for the EIC

Exhibit A

Expansion and Enhancement of Schreiner University Athletics Complex

Funding Request - \$2,177,572 over three years

Project Overview

Infrastructure expansions and enhancements to the University's athletics complex allowing Schreiner to launch new athletic offerings and thereby increase our undergraduate and residential population. For this EIC proposal, Schreiner will use the funds to build out a new weight room and a new locker room.

Exhibit A

The specifics and timeline of the athletics infrastructure project are as follows:

Part 2 Funding Request

Annual Distribution Window	EIC contributions to Athletics Infrastructure	Schreiner contributions to Athletics Infrastructure and Operations	Milestone Infrastructure Accomplishments for Athletics	Annual Activities leading to the launch of football
June 1, 2024 – May 31, 2025	\$534,393 25%	\$1,603,179 75%	Construction Documents Demolition and Set up	2 New FT Employees (Head Coach and Admin Asst)
June 1, 2025 - May 31, 2026	\$704,774 25%	\$2,114,322 75%	Construction of building Field development	2 Continuing FT Employees 3 New FT Employees (3 Asst Coaches)
				20 unique students recruited for football
June 1, 2026 – May 31, 2027	\$938,405 24%	\$2,906,517 76%	Furniture Placement Uniforms and equipment Football begins competition with 4-5 home games	5 Continuing FT Employees 5 New FT Employees (Equip Manager, Coach, Sports Info Director, Athletic Trainers)
				5 new PT Coaches
				80 unique students recruited for football
June 1, 2024 – May 31, 2027	\$2,177,572 25%	\$6,624,018 75%		
Total Cost of Project	\$8,801,590			

Athletics Master Plan

Phase 1 Phase 2 through 2028 Phase 3 through 2035

Phase 1

Phase 3

10/10/2022		TOTAL PHASED INVESTMENT		EDINGTON GYMNASIUM ADDITION		BASEBALL & SOFTBALL STADIUM (TURF)		ATHLETICS ALL SPORT FIELDHOUSE		NEW TRACK & MULTI-PURPOSE FIELD		EDINGTON RENOVATION & EXPANSION		FOOTBALL, TENNIS & WALK OF CHAMPIONS			
															PHASE 4+		
Construction Cost		\$ 78,225,712		\$ 3,000,000		\$ 450,000		\$ 15,036		\$ 8,141,712		\$ 19,232,600		\$ 8,103,000		\$ 34,231,000	
Design Contingency		\$ 3,914,286	5.0%	\$ 3,460,000		\$ 3,460,000		\$ 3,460,000		\$ 5,468,768	5.0%	\$ 961,600	5.0%	\$ 405,150	5.0%	\$ 1,611,550	5.0%
Cost of Construction		\$ 82,138,998		\$ 2,122,500		\$ 172,500		\$ 172,500		\$ 20,839,600		\$ 605,308		\$ 8,943,590		\$ 35,921,550	
Construction Contingency		\$ 4,107,110	3.0%	\$ 3,601,108		\$ 3,622,500		\$ 3,622,500		\$ 8,805,262	3.0%	\$ 207,994,008	3.0%	\$ 268,517	3.0%	\$ 1,078,277	3.0%
Total Construction Costs		\$ 84,501,118														\$ 37,000,827	
Furniture and Fixtures																	
Furniture & Equipment		\$ 155,000		\$ 25,000		\$ 25,000		\$ 25,000		\$ 50,000		\$ 50,000		\$ 15,000		\$ 25,000	
Equipment - Weights & Carts		\$ 380,000		\$ 39,000		\$ 39,000		\$ 39,000		\$ -		\$ -		\$ 380,000		\$ -	
LED		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Audio Visual Equipment		\$ 360,000		\$ 25,000		\$ 25,000		\$ 25,000		\$ 50,000		\$ 50,000		\$ 35,000		\$ 150,000	
Telephone System		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Signage		\$ 105,000		\$ 20,000		\$ 20,000		\$ 20,000		\$ 20,000		\$ 20,000		\$ 20,000		\$ 35,000	
Branding		\$ 510,000		\$ 50,000		\$ 50,000		\$ 50,000		\$ 65,000		\$ 65,000		\$ 50,000		\$ 200,000	
Existing Conditions Costs																	
Survey		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Geotech		\$ 30,000		\$ 15,000		\$ 15,000		\$ 15,000		\$ 12,000		\$ 12,000		\$ 8,000		\$ 15,000	
Existing Building Measured Drawings		\$ 44,000		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ 12,000	
Regulatory				\$ 7,500		\$ -		\$ -		\$ -		\$ -		\$ -		\$ 7,500	
City Development Plan		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
LEED Services (Excluding Crx)		\$ 22,500		\$ -		\$ -		\$ -		\$ 40,709	0.5%	\$ 96,160	0.5%	\$ 14,197	0.5%	\$ 171,155	0.5%
Regulatory Review Fees		\$ 362,735		\$ 15,000		\$ 10,000		\$ 10,000		\$ 5,000		\$ 10,000		\$ 10,000		\$ 10,000	
Utility Tap & Impact Fees		\$ 45,000		\$ 5,500		\$ 5,500		\$ 5,500		\$ 5,500		\$ 5,500		\$ 5,500		\$ 11,000	
Storm Water Management Plan		\$ 33,000		\$ 2,000		\$ 2,000		\$ 2,000		\$ 2,000		\$ 2,000		\$ 2,000		\$ 2,000	
Fire Flow Test		\$ 8,000		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Construction																	
Construction Material Testing		\$ 120,000		\$ 25,000		\$ 25,000		\$ 25,000		\$ 10,000		\$ 10,000		\$ 25,000		\$ 35,000	
Test & Balance		\$ 61,500		\$ 1,500		\$ 1,500		\$ 1,500		\$ 20,000		\$ 20,000		\$ 20,000		\$ 20,000	
Asbestos Abatement		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Utilities Costs during Construction		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Grounds Maintenance during Construction		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Marketing/Standup Costs		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Legal/Fees for lease acquisition		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Project Night & Capital Campaign Costs		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Financing - Bridge Loan		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Facility Maintenance Endowment		\$ 4,230,055	5.0%	\$ 181,125	5.0%	\$ 440,263	5.0%	\$ 440,263	5.0%	\$ 1,039,970	5.0%	\$ 460,611	5.0%	\$ 438,170	5.0%	\$ 1,851,041	5.0%
Owner Contingency		\$ 6,382,386		\$ 380,363	10.5%	\$ 748,447	8.5%	\$ 748,447	8.5%	\$ 1,559,956	7.5%	\$ 552,733	6.5%	\$ 744,889	6.5%	\$ 2,776,562	7.5%
Reimbursable Expenses		\$ -		\$ 7,500		\$ 2,500		\$ 2,500		\$ 2,500		\$ 2,500		\$ 2,500		\$ -	
Total Project Budget Estimate (Const Jan 2024)		\$ 97,465,485		\$ 4,760,488		\$ 10,338,180		\$ 10,338,180		\$ 23,808,994		\$ 10,755,258		\$ 10,194,668		\$ 42,367,085	
Total Project Budget Estimate (Const Jan 2024)		\$ 112,900,000		\$ 5,471,561	15.0%	\$ 11,888,907	15.0%	\$ 11,888,907	15.0%	\$ 27,381,493	15.0%	\$ 11,724,213	15.0%	\$ 12,662,450	15.0%	\$ 52,640,000	15.0%
Total Project Budget Estimate (Const Jan 2025)		\$ 124,562,500		\$ 5,647,252	9.0%	\$ 12,840,026	9.0%	\$ 12,840,026	9.0%	\$ 26,572,043	9.0%	\$ 12,552,020	9.0%	\$ 12,662,450	9.0%	\$ 52,640,000	9.0%

Exhibit A



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

SUBJECT: Funding application to the City of Kerrville, Texas Economic Improvement Corporation from James Avery Craftsman, Inc. for grant funding for the installation of a traffic signal on Highway 27, in an amount not to exceed \$140,000.

AGENDA DATE OF: May 20, 2024 **DATE SUBMITTED:** May 13, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$140,000	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area E - Economic Development

Guiding Principle N/A

Action Item E4.2 - Explore opportunities to capitalize on existing businesses, such as Mooney, the Airport, and James Avery

SUMMARY STATEMENT:

James Avery's manufacturing facility on Highway 27, adjacent to the airport, has significant traffic issues a few times a day. When staff is beginning their day and ending their day an officer from KPD is hired by Avery to assist with traffic control. James Avery has approached TXDoT about installing a three-way traffic signal at their entrance. TXDoT has agreed to take on the maintenance of the light, once installed, but not fund the installation. The projected cost of the installation is between \$300-350,000. James Avery is requesting funding assistance from the EIC for 40% of the cost, or \$140,000. The GO Team met on May 9th and agreed the request should move on to consideration from the full EIC board. Attached you will find James Avery's application, which includes the application itself, company overview, benefits offered and the traffic signal warrant analysis.

RECOMMENDED ACTION:

Consider funding application in an amount not to exceed \$140,000.

ATTACHMENTS:

[20240520_EIC Funding Application James Avery Craftsman reduced.pdf](#)



April 3, 2024

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

Kerrville EIC,

We appreciate the opportunity to present this application to the Kerrville Economic Improvement Corporation (the "EIC"). James Avery Craftsman, Inc. (James Avery Artisan Jewelry® or "JAC") operates a multi-shift manufacturing workshop at 5235 TX-27, Kerrville, TX 78028 ("KCC"), near the Kerrville Airport. At ~53,000 sf, KCC is the largest facility of JAC with 449 Associates.

We are seeking the approval and partnership of the EIC on a project that we believe benefits the Quality of Life for the residents of Kerrville and Kerr County and improves local infrastructure by improving highway safety along TX State Highway 27 ("SH 27"). Installation of a three-way "T" traffic light at the entry/exit to KCC will provide a marked traffic intersection for traffic flow along SH 27, an orderly exit from KCC during the shift change each day, and eliminate off-duty, law enforcement assistance to exit presently. Community, law enforcement, and James Avery Associate safety are a paramount in this request.

Please let us know if there is any additional information or questions that you may have regarding this application. You may contact Paul Zipp at paul.zipp@jamesavery.com or by phone at 830-353-4782.

Thank you for your time and consideration.

A handwritten signature in black ink, appearing to read "Paul Zipp".

Paul Zipp

James Avery Craftsman, Inc.
President & COO

Enclosures

Part E- Payroll Impact

Within 12 months of Project Completion _____ Within 24 months of Project Completion _____

\$ _____
FTE X Avg. Wage X 40 hrs X 52 wks

\$ _____
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:

Discussions were held with TxDOT who have not budget for this project. While TxDOT has green-lighted the

project, TxDOT has done so anticipating that the Company will complete the work

and donate the complete project to TxDOT for ongoing operation/maintenance.

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

Paul Zipp

Printed name

4-3-24

Date

President & COO

Title

Signature



**City of Kerrville Economic Improvement Corporation
4B Sales Tax Funding Request
Guidelines and Procedures**

Economic Improvement Corporation

Both the Economic Improvement Corporation Board of Directors (EIC) and the Kerrville City Council must approve expenditures of 4B funding. Before a project may be considered and awarded funds, the attached application must be completed and submitted to:

**City of Kerrville Economic Improvement Corporation
701 Main Street
Kerrville, Texas 78028
830.257.8000**

All actions of the EIC are subject to the Development Corporation Act of 1979, article 5190.6 Vernon's Civil Statutes, Section 4B. The EIC is a legal entity with statutory authority to spend economic development sales tax dollars. The Corporation is city-chartered and governed by a city-appointed board of directors. The EIC is a 4B Corporation and may fund "projects" focused on the creation of "primary jobs" and/or to provide an economic benefit to the City of Kerrville, as well as "Quality of Life" projects. Application approvals are subject to funding availability.

Types of Projects

The Economic Improvement Corporation will consider applications for:

1. **Direct contributions to business development;** projects should include support of retention, expansion, or recruitment, resulting in public economic benefit, and economic and demographic analyses used for policy development.
2. **Quality of Life projects;** projects which are owned by the City of Kerrville upon completion; or, where funding is requested for the construction of private (which includes non-profit) development projects, but only if the resulting facility is accessible or open to the public; both such Quality of Life projects indirectly result in economic benefits.
3. **Participation in Public Infrastructure;** necessary to facilitate private development, resulting in public economic benefit.

Guidelines and Procedures

Business Development and Participation in Public Infrastructure Projects

Application

The City of Kerrville will accept applications for projects at any time. Applications will not be considered until complete. Applicants must be available to present projects at an Economic Improvement Corporation board meeting. City owned improvements will be

included in the Capital Improvement Plan. Eligible projects can be projects within the city limits of Kerrville and within Kerr County. All projects outside the Kerrville city limits must have approval of the governing body in which the project is to be located. Applicants may be businesses, individuals, the City of Kerrville, Kerr County, or Kerr Economic Development Foundation.

"GO Team"

An executive team ("GO Team") will evaluate and recommend applications based on:

1. Compliance with legal requirements (with necessary assistance from the City Attorney)
2. Funding Availability
3. Consistency with the Comprehensive Plan, Capital Improvement Plan, Airport Master Plan and Parks Master Plan
4. Economic impact analysis results*, including a return on investment and the break-even point (as affected by the extent of developer participation), job creation impact, and impact on the tax base
5. Project status; for example, projects already under construction

The "Go Team" will consist of the City Manager, Special Projects Coordinator, and the Executive Director of the Kerrville Economic Development Corporation. Additional members of staff may be added to the "GO Team" where appropriate depending on the nature and location of the project.

Upon review of the application and support documents, the "GO Team" will make a recommendation to the Economic Improvement Corporation. The "GO Team" will then notify the applicant of the next available Economic Improvement Corporation board meeting for a project presentation.

The Economic Improvement Corporation may direct a public hearing to be scheduled and a funding agreement to be drafted. The EIC and the Kerrville City Council must both approve the funding agreement. Public infrastructure improvement projects will be placed in the Capital Improvements Plan, and when complete, the project is owned by the City of Kerrville.

Quality of Life Improvement Projects

Interested businesses, individuals, or non-profit groups are required to complete an application and provide appropriate documentation of the project. The initial response team will evaluate and recommend projects based on the following criteria:

1. Compliance with legal requirements (with necessary assistance from the City Attorney)
2. Funding Availability
3. Consistency with the Comprehensive Plan, Capital Improvement Plan, Airport Master Plan and Parks Master Plan

4. Direct or indirect economic benefit*
5. Project status; for example, projects already under construction

The Economic Improvement Corporation may direct a public hearing to be scheduled and a funding agreement to be drafted. The EIC and the Kerrville City Council must both approve the funding agreement. Public infrastructure improvement projects will be placed in the Capital Improvements Plan, and when complete, the project is owned by the City of Kerrville unless such Quality of Life project is a publicly available private project which provides access or services on a non-discriminatory basis.

The Economic Improvement Corporation's annual budget is presented to the EIC members during July each year. Upon review and approval, the EIC recommends the budget to city council for approval in September.

The City of Kerrville Economic Improvement Corporation meets monthly at the Kerrville City Hall, Council Chambers, 701 Main Street, Kerrville, Texas.

For additional information visit the City's website at www.kerrvilletx.gov or call 830.257.8000.

*Specific criteria for the economic impact analysis may be described in a separate economic development incentive policy.

**APPLICATION FOR 4B SALES TAX FUNDS
CITY OF KERRVILLE
ECONOMIC IMPROVEMENT CORPORATION**

Both the Economic Improvement Corporation Board of Directors (EIC) and the Kerrville City Council must approve all expenditures of 4B funding. Before a project may be considered and awarded any funds, the attached application must be completed and submitted to:

**City of Kerrville Economic Improvement Corporation
701 Main Street
Kerrville, Texas 78028
830.257.8000**

All actions of the EIC are subject to the Development Corporation Act of 1979, article 5190.6 Vernon's Civil Statutes, Section 4B. The EIC is a legal entity with statutory authority to spend economic development sales tax dollars. The Corporation is city-chartered and governed by a city-appointed board of directors. The EIC is a 4B Corporation and may fund "projects" focused on the creation of "primary jobs" and/or to provide an economic benefit to the City of Kerrville, as well as "Quality of Life" projects. Application approvals are subject to funding availability.

**APPLICATION
SECTION 1 - DEFINITIONS**

Clawback- That provision in a Funding Agreement, which states how and to what extent any incentive payments from public funds must be repaid if the stated Performance Standards are not met.

Current Payroll- The company's total expenditure for all employees for the month immediately preceding this application multiplied by 12.

Employee Benefit- Incentives offered to employees and paid for by the employer such as health care coverage, vacation, etc. If an employee pays 30% of the cost, or more, it should not be considered a "benefit" for purposes of this application.

Full Time Job- The employment of a person for a minimum of 35 hours per week and offering that person all those benefits adopted by company policy for Full Time Employees. Major stockholders or immediate family members should not be included in this number when considering "New Full-Time Jobs Created."

Hourly Wage- The gross amount paid to the employee for each hour worked not including the Employer's portion of FICA or FWH. Benefits should not be included in this figure, but should be listed separately under the compensation per employee section of the application.

Part-Time Job- A person working less than 35 hours per week. Major stockholders or immediate family members should not be included in this category when completing the application under New Part-Time Jobs Created.

Funding Agreement- a written document designed to protect the interest of local taxpayers by putting a businesses' job creation or capital investment commitments in writing and by linking the payment of any financial incentive to the business fulfilling its written commitments (i.e. clawbacks).

Public Capital Project- Improvements owned and maintained by the City of Kerrville included in the Capital Improvement Plan and funded by the capital budget.

SECTION II - APPLICANT INFORMATION

Submittal Date: 04 /03 /24

Company Name: James Avery Craftsman, Inc.

Address (City/State): 145 Avery Rd. Phone 830-353-4782

Fax 830-353-4403

<u>Kerrville</u>	<u>TX</u>	<u>78028</u>
City	State	Zip Code

Name of Company Contact on this project:

Mike VanBooven (Director of Operations) and Tom Pogue (VP Manufacturing)

Contact Address (if different from above):

Mike Va Booven 830-353-5343 & Tom Pogue 830-353-4992 Phone _____

Fax _____

City _____ State _____ Zip Code _____

Type of Business Structure: Corporation x Partnership _____ Sole Proprietorship _____

Year Business Started: Year 1954 Location Kerrville, TX

Current Employment: Permanent Full-Time 1,674 Permanent Part-Time 1,631

Average Production Wage \$19.98

Full-Time Employees receive the following benefits:

See James Avery Craftsman, Inc. Benefit Eligibility Grid FY25 & 2024 James Avery Benefit Guide

Financial Information: Five Years Annual Financials Attached X
Include: Statement of profit and loss; Balance sheet; Cash Flow Statement; IRS reporting forms, Pro forma

Annual Sales for Corporation / Company \$ 446,300,000

This Facility \$ N/A

Local Sales Tax paid Annually \$ 1,120,000

Current Payroll \$ 126,300,000

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

SECTION III- PROJECT INFORMATION

This application is for a:

Business Development ()

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

Quality of Life Improvement (x)

- Parks, Open Space ()
- Other (x) Safety of roadways, reduced traffic congestion, and reduced commute

Capital Improvements for Public Infrastructure

- Utilities ()
- Roadways (x) Safety of roadways, reduced traffic congestion, and reduced commute
- Other ()

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

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	\$ 300,000-350,000
Sq. Footage of New Building (s)	N/A
Size of Parking	N/A
Other	Three-way Traffic Signal

James Avery is seeking to share the cost of the Project with EIC support on a 60/40 split of cost.

Part B- Project Investment in Fixed Equipment

(New) \$ \$342,000-392,000 - Engineering Fee for Design, Permitting, Construction (\$42,000 not included above)
Manufacturer of Equipment TBD- Local contractor preferred; working with TxDOT to evaluate Requirements for Contractors
Anticipated Useful Life of Equipment 25+ Years
Purchase Price \$ 180,000-210,000 Installation Cost \$ 120,000-140,000
Anticipated Delivery time from Date of Order 10 months from start of Design to construction completion

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 _____
Anticipated Number within 12 months of Completion of this project _____
Anticipated Number within 24 months of Completion of this project _____
Typical Job Descriptions or Job Titles

Anticipated starting salaries of these employees: (avg.) \$ _____ /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 _____
Anticipated Number within 12 months of Completion of this project _____
Anticipated Number within 24 months of Completion of this project _____
Typical Job Descriptions or Job Titles of these employees:

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

Part E- Payroll Impact

Within 12 months of Project Completion _____ Within 24 months of Project Completion _____

\$ _____
FTE X Avg. Wage X 40 hrs X 52 wks

\$ _____
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:

Discussions were held with TxDOT who have not budget for this project. While TxDOT has green-lighted the project, TxDOT has done so anticipating that the Company will complete the work and donate the complete project to TxDOT for ongoing operation/maintenance.

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

Paul Zipp

Printed name

Date

President & COO

Title

Signature

COMPANY OVERVIEW

History of Operations

Established in 1954 in Kerrville TX JAC has grown over the last seventy years from a one-man endeavor in a garage, into a team of over 3,000 employees. JAC is headquartered in Kerrville and is vertically integrated, meaning the company designs, manufacturers, and markets its own products. Designs for JAC jewelry originate in the corporate design studio, are produced by artisans in the company's five manufacturing workshops located throughout Texas, and are sold through over 125 JAC retail stores (mostly in TX), www.jamesavery.com, and almost 300 wholesale outlets in the U.S.

JAC is a privately held family business offering a unique proprietary product line that is primarily focused on occasion, meaning, and connection. James Avery Artisan Jewelry® is widely recognized for its traditional and faith-inspired collections, contemporary new designs, and its extensive offering of keepsake charms. James Avery Artisan Jewelry® has a diverse selection of charms, bracelets, earrings, necklaces, pendants, and rings crafted in sterling silver, 14K gold, bronze, and gemstones for women and men of all ages.



To learn more about James Avery Artisan Jewelry® visit: [James Avery – About Us.](http://JamesAvery.com)

OUR MISSION

To celebrate life through the beauty of design.

OUR STORY

During the summer of 1954, James Avery started his jewelry business in a two-car garage in Kerrville, Texas with only \$250 in his pocket. He built a small workbench and purchased a few hand tools along with scraps of silver and copper. He did everything himself—all of the designing, sawing, polishing, finishing, and selling.

"Ideas, hard work, and prayer were the rule of the day." — James Avery



A humble beginning, the garage where James Avery started his business.



James Avery with his first employee, Fred Garcia (left).

Word spread and people found their way to the craftsman in the Texas Hill Country. Everyone who came to see him was greeted personally and with cordial gratitude. It was in this setting that strong and lasting customer bonds developed, the same ones on which the company would grow and build upon over the next seven decades.

In 1957, James Avery hired his first employee, Fred Garcia. That same year, the first Christian jewelry catalog was mailed featuring 39 handmade items over 16 pages. In 1965, the company incorporated as James Avery Craftsman, Inc. . Two years later, with the help of a modest bank loan, construction for the corporate headquarters began on 20 acres of land, just two blocks from the original garage.



A craftsman in the early years



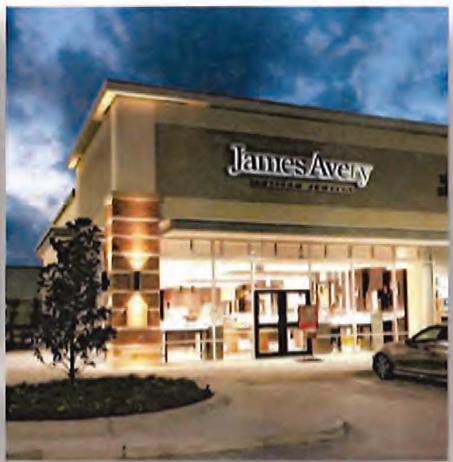
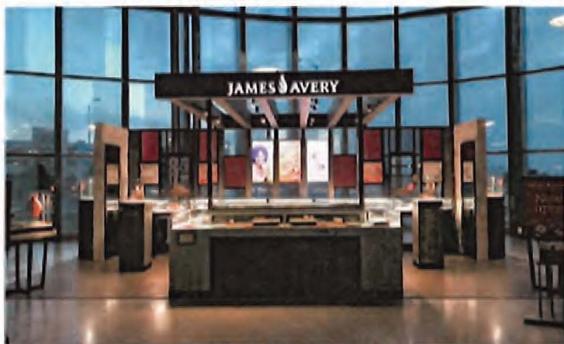
James Avery with his sons Paul (left) and Chris (right)

James Avery officially stepped down as CEO in 2007 - 53 years after he founded the company, passing the reins to his sons Chris and Paul. Paul retired in 2015 and Chris followed in September 2019, remaining as Chairman, and passing the role of CEO to the first non-Avery family member in its history, John McCullough. Representing the third Avery generation, Paul's oldest daughter, Lindsey Tognetti, is the Director of Customer Service and Brand Marketing.

One man's dream has ignited the passion of an extended team who believes in a well-crafted product, a strong set of values, and a commitment to doing all things well. Today, James Avery Artisan Jewelry® has five manufacturing workshops located in Kerrville, Hondo, Corpus Christi, and two in Comfort, Texas. The company operates more than 125 stores nationwide in 4 states including: Georgia, Louisiana, Oklahoma, and Texas. Wholesale relationships with Dillard's and Von Maur as well as locations on military bases through the Army Air Force Exchanges Services (AAFES) add 300+ retail locations across 35 states, primarily in the Southeast and Midwest regions.



James Avery – Kerrville Retail Store



Branded Wholesale in airport and Dillard's retail stores

James Avery retail store locations

OUR JEWELRY

From the beginning, James Avery strived to create jewelry with special meaning for him, and for his customers. It was also important that his designs had lasting appeal, a timelessness that would endure from one generation to the next. Guided by the design principles of meaning, simplicity, integrity, and universality, James Avery Artisan Jewelry® is designed to connect people to life events, celebrations, moments in time, and even spiritual beliefs. James Avery Artisan Jewelry® is designed for special occasions and for everyday wear, all crafted with care and attention to detail.



"I do not consider myself a jeweler as the name implies today. Rather, I like to think of myself as an artist presently concentrating in the precious metal media. I think the creative problems in designing jewelry are the same in any design field, but with the "wearability" dimension added. I strive to keep designs from being contrived, cluttered, or cute. The challenge is to keep things simple." — James Avery

OUR CRAFTSMANSHIP

From 1954 to today, James Avery Artisan Jewelry® has always had a distinctive look and feel. Dedication, hard work, and the hands of many are involved in the creation of every piece—from design and production, to finishing and engraving, and even the sales associate who interacts and creates relationships with customers. Craftsmanship has always been paramount to James Avery Artisan Jewelry® as it expresses the true meaning behind each design.



OUR SUBMISSION TO KERRVILLE EIC

Current Employment

Companywide, JAC currently employs 1,674 full-time employees, 1,631 part-time employees, and ramps up to add over 2,500 seasonal employees (retail/ direct sales, distribution, and engraving). JAC employs 667 full-time employees in Kerr County with 449 presently located at KCC.

Current Payroll

The current payroll total for employees with JAC is \$9.7 million per month, including profit sharing. Approximately, \$3.43 million per month, or 33%, is paid to Kerrville-based employees – over \$40 million annually. Benefits per EE per Month averaged almost \$2,100 for Kerrville/Kerr County. A detail of Benefits offered is summarized in **Attachment A**.

Capital Investments to-date

During its most recent fiscal year, JAC made capital expenditures totaling \$1.7 million in Kerrville/Kerr County. Additionally, JAC plans to complete ~\$5.5 million capital expenditures in Kerrville/Kerr County in the upcoming fiscal year, including an expansion of its Distribution Center operations on Harper Rd.

Description of Project – explaining nature and scope of the Project

A diagram of the proposed three-way "T" traffic light and similar intersections is provided at **Attachment C**. This proposed project is a Participation in Public Infrastructure Project with Quality of Life aspects. The project goal is Increased Safety at the T-intersection of Texas State Highway 27 ("SH 27") and James Avery Craftsman Center Driveway by the installation of traffic control signals with radar presence detection devices that would only stop traffic on SH 27 when a vehicle was detected that needed to exit from James Avery or turn left into James Avery.

The intended beneficiaries of the increased safety created by the project are the vehicle drivers exiting James Avery crossing two lanes of traffic, the vehicle drivers entering James Avery crossing two lanes of traffic, the SH 27 drivers that are travelling straight through the intersection and currently have vehicles attempting to cross two lanes of traffic in front of them. These same vehicle drivers would also be the beneficiaries of an increased quality of life in that they would be able to save time entering and exiting the James Avery plant and/or having decreased stress levels associated with being late or later in arriving home or to work and decreased stress levels when not having to be concerned that vehicles may attempt to cross traffic without enough time forcing a driver to attempt to avoid a collision on SH 27. After the project is completed, vehicles travelling on SH27 will have the comfort of knowing that an entering or exiting vehicle will wait for the light to change and will not be randomly pulling out in front of traffic. The off-duty Kerrville Police Officers and Kerr County Deputy Sheriffs that direct traffic during the end-of shift peak hour will also indirectly benefit from the increased safety in that the officers would no longer be placed in harm's way directing traffic in the middle of 3 lane SH 27. The intended beneficiary of this Participation in Public Infrastructure Project is TxDOT in that the traffic control signals and its associated equipment, including the signal poles with mast arms, the radar presence detection devices, the ground mounted controller cabinet, and any required lighting per Federal Aviation Administration ("FAA") requirements will be donated to TxDOT so that it can be maintained consistent with TxDOT standards.

Initially, in reviewing the feasibility of this project, James Avery engaged DEC, which is a part of Gannett Fleming, for traffic engineering. DEC provided a Traffic Signal Warrant Analysis Technical Memorandum (excerpts of the analysis are included at **Attachment D**), after having collected traffic volume and turning movement counts for 14 hours for all three approaches to the T-intersection on February 23, 2023. The data collected was analyzed according to nine traffic signal warrant criteria in the Texas Manual on Uniform Traffic Control Devices (Tx MUTCD). The Peak Hour signal warrant (Warrant 3) is intended for use at a location where traffic conditions are such that for at least 1 hour on an average day, the minor street has undue delay when entering or crossing the major street. It was determined that Warrant 3 (Peak Hour) is satisfied for existing traffic volumes in the PM peak at the respective intersection, thereby providing the necessary justification for the installation of a traffic control signal. It is intended that the installation not seriously disrupt progressive traffic flow on SH 27, which will have a yellow blinking light the majority of the time which would only change to red when the radar detection presence device determines that a vehicle has arrived and is waiting to turn. Example photos of the KCC exiting traffic levels at the PM peak are provided as part of **Attachment C**.

Description of Proposed Site and Improvements

The proposed site for the traffic control signals is the T-intersection of SH 27 and James Avery Craftsman Center driveway. SH 27 is a three-lane divided highway with two lanes going south towards Center Point, one lane going north into Kerrville, and a median which is a two way left turn lane. To turn right into James Avery, there is a deceleration lane which then is channelized into the main entry road of James Avery. The main entry road has one lane entering and two lanes exiting, one a dedicated left turn and one a dedicated right turn. The T-intersection of KCC driveway and SH 27 is stop controlled for the driveway and is free flowing on SH 27 in front of James Avery, with a speed limit of 65 miles per hour. The deceleration lane on southbound SH 27 leading into KCC was constructed by James Avery when the manufacturing plant was built and was donated to TxDOT at that time.

Fixed Equipment associated with Project

Hewitt Engineering will be consulting with James Avery on this Project and Kimley Horn will also be used for Design and Engineering. The proposed improvements are shown on the attached Traffic Signal Proposed Layout by Kimley Horn (**Attachment C**). They include three signal poles with mast arms of varying lengths to extend the recommended distance to hold 7 vertical signal heads, three facing northbound traffic on SH27 (including one for the left turn lane into James Avery), two facing the two southbound lanes on SH27, and two facing the two dedicated left and right turn lanes exiting James Avery, radar presence detection devices, a ground mounted controls and electrical cabinet, underground electrical utilities, and FAA required lighting. There will also be additional road striping and signal arrows per the design.

List of Eligible Improvements: All improvements included in the installation of the traffic control signals are eligible for Participation in Public Infrastructure Project because all of the improvements will be donated to TxDOT for ownership and maintenance.

List of Major Fixed Equipment:

The Major Fixed Equipment/Components consists of:

1. 3 Signal Poles with Mast Arms;
2. 7 vertical Signal Heads;
3. 1 Controls and Electrical Cabinet;
4. Radar presence detection devices;
5. FAA-approved lighting to notify planes of signal light locations

It is estimated that the cost of designs, engineering, permitting, equipment, and installation will be \$342,000 to \$392,000 (including approx.. \$42,000 in Design).

JAC is seeking to share the cost of the Project with EIC support on a 60/40 split of cost, excluding project Design costs.

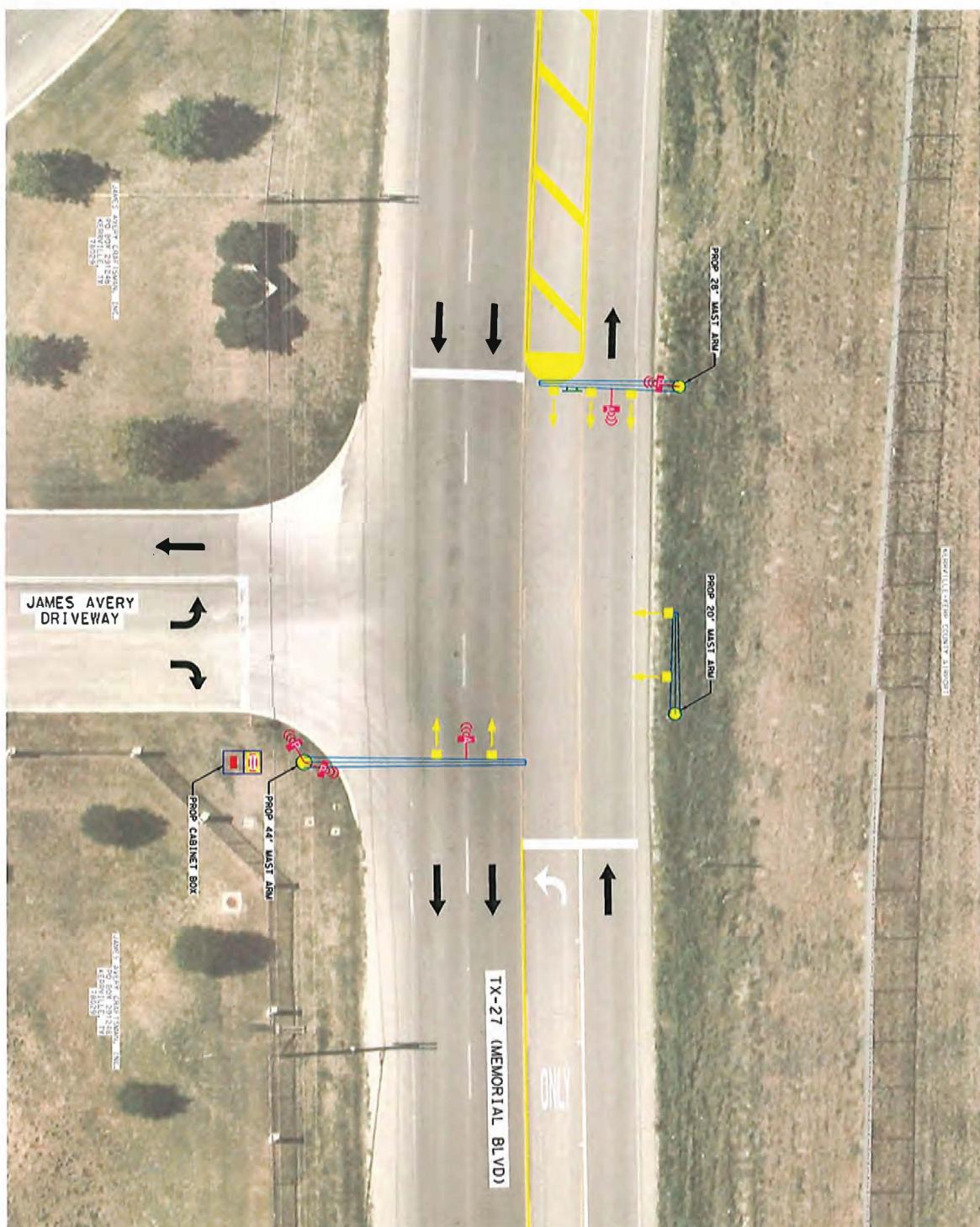
Financial Information

The Financial Information provided is all designated CONFIDENTIAL and PROPRIETARY information and intended solely for the viewing of the Kerrville Economic Development Corporation and the Kerrville City Council. This information is not intended to be or become a matter of public record. Any dissemination, copying or use of this information by or to anyone other than the designated and intended recipient is unauthorized and strictly prohibited.

See **Attachment B**. JAC has provided its summary Financial Statements for the past five fiscal years (Balance Sheet, Income Statement, Statement of Cash Flow). Tax returns can be provided, if necessary.

Financial Highlights (rounded)

Fiscal 2025 Budgeted Annual Sales	\$458,300,000
Fiscal 2024 Local Sales	\$67,400,000
Calendar 2023 Charitable Giving	\$1,200,000
Calendar 2023 Local Property Taxes	\$919,000
Calendar 2023 Local Sales Taxes	\$1,120,000



Sheet Number 01	JAMES AVERY TRAFFIC SIGNAL PREPARED FOR CITY OF KERRVILLE KERRVILLE TEXAS	TRAFFIC SIGNAL PROPOSED LAYOUT	KHA PROJECT DATE MAR 24 NAME AS SHOWN PREPARED BY KHA STAFF REVIEWED BY KHA STAFF APPROVED BY KHA STAFF	Kimley > Horn A CONSOLIDATED COMPANY KHA CONSOLIDATED COMPANY 1000 BAYLOR STREET, SUITE 1000 HOUSTON, TEXAS 77002-3030 PH: 713.658.1000 FAX: 713.658.1001 E-MAIL: HOUSTON@KHA.COM	REVISIONS No. _____ DATE _____ BY _____
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Similar Intersection Examples

Attachment C



SH 123 & FM 758, Seguin TX



FM 471 & SH 211, West Bexar County



SH 123 & Cordova Rd, Seguin TX

Please Note: Ability to provide illumination will be dependent on FAA determination on height restrictions

Attachment C
KCC – Traffic Exit at 4:30pm Shift Change



Attachment C
KCC – Traffic Exit at 4:30pm Shift Change



Attachment C
KCC – Traffic Exit at 4:30pm Shift Change



Attachment C
KCC – Traffic Exit at 4:30pm Shift Change



Attachment C
KCC – Traffic Exit at 4:30pm Shift Change



TRAFFIC SIGNAL WARRANT ANALYSIS TECHNICAL MEMORANDUM

TO: DE Corp. (DEC)
FROM: James Avery Craftsman Center Driveway Traffic Signal Warrant Analysis
SUBJECT: James Avery Craftsman Center Driveway Traffic Signal Warrant Analysis
DATE: April 17, 2023
CC: Project Record

The T-Intersection of James Avery Craftsman Center Driveway and SH 27 (Memorial Blvd.) was evaluated for traffic signal warranting conditions to determine justification for the installation of a traffic control signal. The site is located south-east of Kerrville near Kerrville-Kerr County airport in Kerr County, Texas. The proposed project location is shown in Figure A below.

The Issue: Currently, during the close of business, a police officer is present at the intersection to navigate the traffic safely.

The traffic signal warrant criteria used for this analysis is based on the Revision 2, October 2014 *Texas Manual on Uniform Traffic Control Devices* (TxMUTCD)

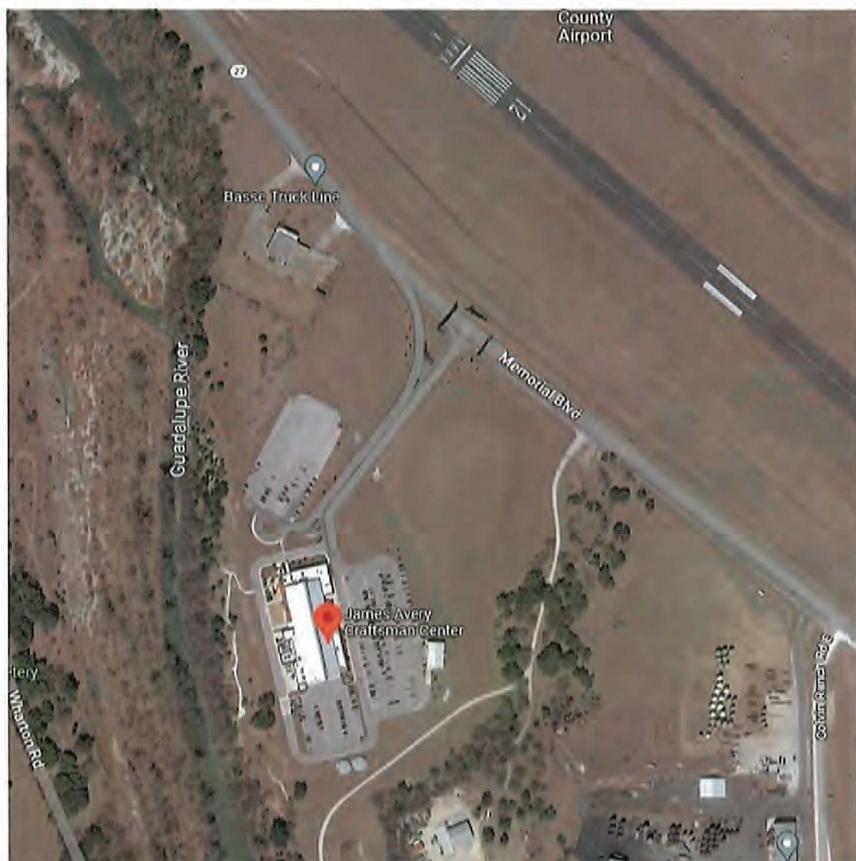


Figure A: Intersection of SH 27 at James Avery Craftman Center Driveway

Existing Conditions

SH 27 is a three-lane divided roadway classified as a Minor Arterial with two lanes going south and one lane going north near the project location. Median consists of a two way left turn lane (TWTL). The southbound right turn is channelized. The speed limit is 55 mph. Kerrville lies to the north-west and Center Point lies to the south-east of the intersection.

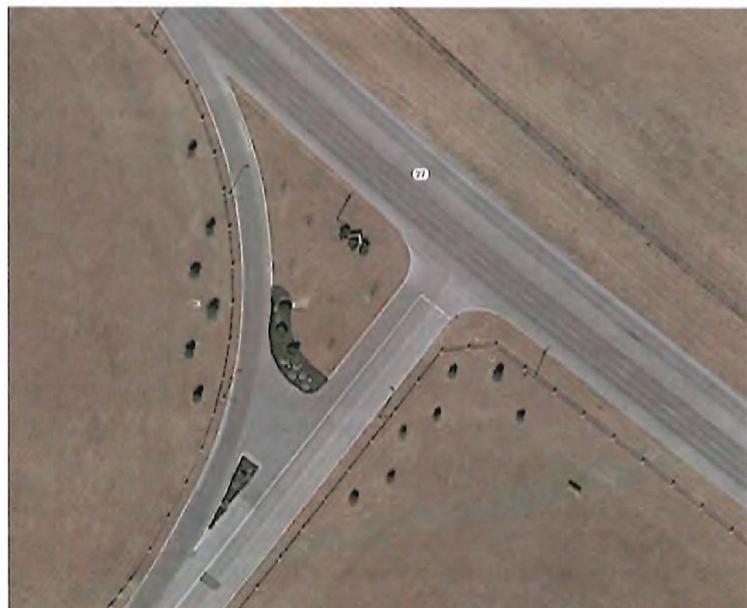


Northbound SH 27 at Site Driveway



Southbound SH 27 at Site Driveway

The T-Intersection of James Avery Craftsman Center Driveway and SH 27 is currently stop controlled for the driveway and free flow along SH 27. James Avery driveway is one way entering and dedicated left and right turn lane on the exiting (eastbound) approach.



Eastbound James Avery Driveway approach to SH 27

Traffic Survey (Intersection Approach Volumes)

Traffic volume and Turning Movement Counts (TMC's) were collected for all three approaches to the intersection from 6 AM to 8 PM on Thursday February 23, 2023. 14-hours TMC's are presented in Appendix A. Table 1 below presents the summary of the counts collected along with their ranks.

Time	Hourly Approach Volumes					Rank
	EB Total	NB Total	SB Total	Total (all direction)	Rank	
6:00 AM	3	227	173	403	13	
7:00 AM	18	622	470	1110	2	
8:00 AM	6	356	237	599	7	
9:00 AM	3	290	229	522	12	
10:00 AM	5	288	242	535	11	
11:00 AM	8	292	273	573	9	
12:00 PM	63	286	294	643	5	
1:00 PM	9	272	315	596	8	
2:00 PM	9	286	323	618	6	
3:00 PM	12	334	372	718	4	
4:00 PM	243	383	557	1183	1	
5:00 PM	13	339	449	801	3	
6:00 PM	2	227	315	544	10	
7:00 PM	7	124	192	323	14	

Traffic Signal Warrant Requirements

Chapter 4C of the of the TxMUTCD defines the requirements and criteria for the evaluation of an intersection for the installation and operation of a traffic control signal. It states that "an engineering study of traffic conditions, pedestrian characteristics, and physical characteristics of the location shall be performed to determine whether installation of a traffic control signal is justified at a particular location." The investigation for the need of a traffic control signal shall include an analysis of the applicable factors contained in the following traffic signal warrants and other factors related to the existing operation and safety at the study intersection.

- Warrant 1 - Eight-Hour Vehicular Volume**
- Warrant 2 - Four-Hour Vehicular Volume**
- Warrant 3 - Peak Hour**
- Warrant 4 - Pedestrian Volume**
- Warrant 5 - School Crossing**
- Warrant 6 - Coordinated Signal System**
- Warrant 7 - Crash Experience**
- Warrant 8 - Roadway Network**
- Warrant 9 - Intersection near a Grade Crossing**

A traffic control signal should NOT be installed unless an engineering study indicates that the installation of traffic signal will improve the overall safety and operation of the intersection and that the installation will not seriously disrupt progressive traffic flow.

Traffic Signal Warrants

The 2011 Texas Manual on Uniform Traffic Control Devices (TMUTCD) specifies nine warrants for justification of the installation of a traffic control signal. An intersection satisfying any one warrant could be considered eligible for a traffic signal control device, however the satisfaction of a traffic signal warrant or warrants shall not in itself require the installation of a traffic control signal. The following is a brief explanation of each of the warrants.

Traffic Signal Warrant 1- Eight Hour Vehicular Volume The installation of a traffic signal may be warranted for an intersection with a large volume of opposing traffic for at least 8 hours of an average day. These high traffic volume hours do not have to be consecutive, and the minimum required volumes vary based on number of lanes on the intersecting streets. The TMUTCD has established two

conditions to analyze under this warrant. Condition A analyzes the minimum vehicular volume and Condition B analyzes the interruption of Continuous Traffic. Table 4C-1 located on the Warrant 1 worksheet displays the criteria for both conditions.

Traffic Signal Warrant 2 - Four Hour Vehicular Volume The Installation of a traffic signal may be warranted for an intersection with a large volume of opposing traffic for at least 4 hours of an average day. This warrant is similar to Traffic Signal Warrant 1, however, this warrant correlates the volume of the minor and major-street approaches through the use of plotted curves (a higher volume on a major street allows for a lower volume on a minor street). These curves are shown on Table 4C-1 located on the Warrant 2 worksheet.

Traffic Signal Warrant 3 - Peak Hour The installation of a traffic signal may be warranted at a location where for a minimum of 1 hour a day the minor approach suffers undue delay when entering or crossing the major street. This warrant is applied only in unusual cases such as office complexes, manufacturing plants, industrial complexes, or high-occupancy vehicle facilities that attract or discharge large numbers of vehicles over a short time. The TMUTCD has established two conditions to analyze under this warrant and are shown on the Warrant 3 worksheet.

Traffic Signal Warrant 4 - Pedestrian Volume The Pedestrian Warrant is intended for application where the traffic volume on a major street is so heavy that pedestrians experience excessive delay in crossing the major street. This signal warrant shall not be applied at locations where the distance to the nearest traffic control signal along the major street is less than 300 ft unless the proposed traffic control signal will not restrict the progressive movement of traffic. If this warrant is met and a traffic control signal is justified by an engineering study, the traffic control signal shall be equipped with pedestrian signal heads complying with the provisions set forth in Chapter 4E.

Traffic Signal Warrant 5 - School Crossing The School Crossing Warrant is intended for application where the fact that school children cross the major street is the principal reason to consider installing a traffic control signal. The TMUTCD establishes that a signal is warranted when an engineering study demonstrates that the frequency and adequacy of gaps in the vehicular stream as related to the number and size of groups of school children at an established school crossing across the major street shows that the number of adequate gaps in the traffic stream during the period when the school children are using the crossing is less than the number of minutes in the same period and there are a minimum of 20 school children during the highest crossing hour.

Traffic Signal Warrant 6 - Coordinated Signal System Progressive movement in a coordinated signal system sometimes necessitates installing traffic control signals at intersections where they would not otherwise be needed in order to maintain proper platooning of vehicles. A signal may be warranted on a one-way street or a street that has traffic predominantly in one direction where the adjacent traffic control signals are so far apart that they do not provide the necessary vehicular platooning. It may also be warranted on a two-way street where the adjacent traffic control signals do not provide the necessary vehicular platooning and the proposed and adjacent traffic control signals would collectively provide a progressive operation.

Traffic Signal Warrant 7 - Crash Experience The Crash Experience Warrant conditions are intended for application where the severity and frequency of crashes are the principal reasons to consider installing a traffic control signal. The TMUCTD requires that all three of the following criteria be met to warrant a traffic signal.

1. Adequate trials of alternative with satisfactory observance and enforcement has failed to reduce the crash frequency.
2. There have been five or more accidents of types susceptible to correction by traffic signals within a 12-month period, each crash involving personal injury or property damage exceeding the applicable requirements for a reportable crash.
3. For each of any 8 hours of an average day, the vehicles per hour given in both of the 80 percent columns of Condition A in Table 4C-1 or the vph in both of the 80 percent columns of Condition B in Table 4C-1 exists on the major street and the higher-volume minor street approach.

Traffic Signal Warrant 8 - Roadway Network installing a traffic control signal at some intersections might be justified to encourage concentration and organization of traffic flow on a roadway network. The need for a traffic control signal shall be considered if an engineering study finds that the common intersection of two or more major routes meets one or both of the following criteria: The intersection has a total existing, or immediately projected, entering volume of at least 1,000 vehicles per hour during the peak hour of a typical weekday and has 5-year projected traffic volumes, based on an engineering study, that meet one or more of Warrants 1, 2, and 3 during an average weekday; or (2) the intersection has a total existing or immediately projected entering volume of at least 1,000 vehicles per hour for each of any 5 hours of a normal business day (Saturday or Sunday).

Traffic Signal Warrant 9 - Intersection Near a Grade Crossing The Intersection Near a Grade Crossing signal warrant is intended for use at a location where none of the conditions described in the other eight traffic signal warrants are met, but the proximity to the

intersection of a grade crossing on an intersection approach controlled by a STOP or YIELD sign is the principal reason to consider installing a traffic control signal. This signal warrant should be applied only after adequate consideration has been given to other alternatives or after a trial of an alternative has failed to alleviate the safety concerns associated with the grade crossing.

Traffic Signal Warrant Analysis

Traffic Signal Warrant 1 - Eight Hour Vehicular Volume

The minimum Vehicular Volume, Condition A, is intended for application at locations where a large volume of intersecting traffic is the principal reason to consider installing a traffic control signal. The Interruption of Continuous Traffic, Condition B, is intended for application at locations where Condition A is not satisfied and where the traffic volume on a major street is so heavy that traffic on a minor intersecting street suffers excessive delay or conflict in entering or crossing the major street.

In analyzing Signal Warrant 1, the minimum hourly volume (70% Factor) criteria was used in the evaluation of this signal warrant based on a 70% reduction factor for speeds above 40mph on the major street. The number of lanes for moving traffic on each approach was two (2) for the major and minor street. No right-turn traffic volume was removed from the minor street approaches.

The need for a traffic control signal shall be considered if an engineering study finds that one of the following conditions exists for each of any 8 hours of an average day: For condition A, a minimum traffic volume of 420 vehicles for the major street and 140 vehicles for the minor street is required for eight hours to meet this warrant. The major street meets the criteria for the 12 highest hours and the minor street meets the criteria for the 1 highest hour. Condition A is not satisfied. For Condition B, a minimum traffic volume of 630 vehicles for the major street and 70 vehicles for the minor street is required for eight hours to meet this warrant. The major street meets the criteria for the 4 highest hours and the minor street meets the criteria for the highest 1 hours. Condition B is not satisfied.

Warrant 1 is NOT satisfied.

Traffic Signal Warrant 2 - Four Hour Vehicular Volume

The Four-Hour Vehicular Volume signal warrant conditions are intended to be applied where the volume of intersecting traffic is the principal reason to consider installing a traffic signal.

The need for a traffic control signal shall be considered if an engineering study finds that, for each of any four (4) hours of an average day, the plotted points representing the vehicles per hour on the major street and corresponding vehicles per hour on the higher volume minor street approach all fall above the applicable curve in Figure 4C-1. The lower threshold volume using the 70% Factor volume criteria for the minor street approach with two (2) approach lane is 80 vehicles per hour. All four points representing the four highest traffic volume hours did not fall above the curve.

Figure 4C-2 was utilized based on a 70% reduction factor for speeds above 40mph on the major street. Only one point out of the four highest traffic volume hours fell above the curve.

Warrant 2 is NOT satisfied.

Traffic Signal Warrant 3 – Peak Hour

The Peak Hour signal warrant is intended for use at a location where traffic conditions are such that for a minimum of 1 hour of an average day, the minor-street suffers undue delay when entering or crossing the major street.

Figure 4C-4 was utilized based on a 70% reduction factor for speeds above 40mph on the major street. In the AM peak, the major street volume is 1092 vph (67+555+179+291) and the minor street volume is 18 vph (15+3). In the PM peak, the major street volume is 940 vph (352+31+445+112) and the minor street volume is 243 vph (57+186).

Warrant 3 is satisfied for existing traffic volumes in the PM peak.

Traffic Signal Warrant 4 – Pedestrian Volume

The Pedestrian Volume signal warrant is intended for application where the traffic volume on a major street is so heavy that pedestrians experience excessive delay in crossing the major street.

The need for a traffic control signal at an intersection or midblock crossing shall be considered if an engineering study finds that both of the following criteria are met: A. For each of any 4 hours of an average day, the plotted points representing the vehicles per hour on the major street (total of both approaches) and the corresponding pedestrians per hour crossing the major street (total of all crossings) all fall above the curve in Figure 4C-6; or B. For 1 hour (any four consecutive 15-minute periods) of an average day, the plotted point representing the vehicles per hour on the major street (total of both approaches) and the corresponding pedestrians per hour crossing the major street (total of all crossings) falls above the curve in Figure 4C-8. For this study, heavy pedestrian volumes were not observed or recorded at the study intersection during the peak hour.

Warrant 4 is NOT satisfied.

Traffic Signal Warrant 5 – School Crossing

The School Crossing signal warrant is intended for application where the fact that school children cross the major street is the principal reason to consider installing a traffic control signal.

The need for a traffic control signal shall be considered when an engineering study of the frequency and adequacy of gaps in the vehicular traffic stream as related to the number and size of groups of school children at an established school crossing across the major street shows that the number of adequate gaps in the traffic stream during the period when the children are using the crossing is less than the number of minutes in the same period (see Section 7A.03) and there are a minimum of 20 students during the highest crossing hour. The study intersection is not within the vicinity of a school crossing. Therefore, the minimum requirements were not met.

Warrant 5 is NOT satisfied.

Traffic Signal Warrant 6 – Coordinated Signal System

Progressive movement in a coordinated signal system sometimes necessitates installing traffic control signals at intersections where they would otherwise be needed in order to maintain proper platooning of vehicles.

The need for a traffic control signal shall be considered when an engineering study finds that one of the following criteria is met: A. On a one-way street or a street that has traffic predominantly in one direction, the adjacent traffic control signals are so far apart that they do not provide necessary degree of vehicular platooning or B. On a two-way street, adjacent traffic control signals do not provide the necessary degree of platooning and the proposed and adjacent traffic control signals will collectively provide a progressive operation. The coordinated traffic signal system signal warrant should not be applied where the resultant spacing of traffic control signals would be less than 1,000 feet.

Warrant 6 is NOT satisfied.

Traffic Signal Warrant 7 – Crash Experience

The Crash Experience signal warrant conditions are intended for application where the severity and frequency of crashes are the principal reasons to consider installing a traffic control signal.

The need for a traffic control signal shall be considered if an engineering study finds that all of the following criteria is met: A. Adequate trail of alternatives with satisfactory observance and enforcement has failed to reduce the crash frequency, B. Five or more reported crashes, of types susceptible to correction by a traffic control signal, have occurred within a 12-month period, each crash involving personal injury or property damage apparently exceeding the applicable requirements for a reportable crash; and C. For each of any 8 hours of an average day, the vehicles per hour (vph) given in both of the 80 percent columns of Condition A in Table 4C-1 (see Section 4C.02), or the vph in both of the 80 percent columns of Condition B in Table 4C-1 exists on the major street and the higher-volume minor-street approach, respectively, to the intersection, or the volume of pedestrian traffic is not less than 80 percent of the requirements specified in the Pedestrian Volume warrant. These major-street and minor-street volumes shall be for the same 8 hours. On the minor street, the higher volume shall not be required to be on the same approach during each of the 8 hours.

As per the CRIS database, zero (0) crashes were found at the intersection from 2018-2022. Currently, there are no noted safety issues at the intersection. There appears to be adequate sight distance, and no geometric issues that would be correctable with the

Installation of a traffic control signal at the intersection.

Warrant 7 is NOT satisfied.

Traffic Signal Warrant 8 – Roadway Network

The need for a traffic control signal shall be considered if an engineering study finds that the common intersection of two or more major routes meets one or both of the following criteria:

A. The intersection has a total existing, or immediately projected, entering volume of at least 1,000 vehicles per hour during the peak hour of a typical weekday and has 5-year projected traffic volumes, based on an engineering study, that meet one or more of Warrants 1,2, and 3 during an average weekday; or B. The intersection has a total existing or immediately projected entering volume of at least 1,000 vehicles per hour for each of any 5 hours of a normal business day (Saturday or Sunday).

Warrant 8 is NOT satisfied.

Traffic Signal Warrant 9 – Intersection Near a Grade Crossing

The Intersection Near a Grade Crossing signal warrant is intended for use at a location where none of the conditions described in the other eight traffic signal warrants are met, but the proximity to the intersection of a grade crossing on an intersection approach controlled by a STOP or YIELD sign is the principal reason to consider installing a traffic control signal. The study intersection is not within the vicinity of a grade crossing.

Warrant 9 is NOT satisfied.

Signal warrant analysis worksheet is presented in Appendix B.

Conclusions

Warrant 3 (Peak Hour) criteria states that the installation of a traffic signal may be warranted at a location where for a minimum of 1 hour a day the minor approach suffers undue delay when entering or crossing the major street. In the PM peak, warrant 3 is met as the major street volume is 940 vph and the minor street volume is 243 vph as shown in Appendix B, Figure 4.

The intersection of SH 27 and James Avery Driveway meets the minimum criteria for the installation of a traffic signal.

Prepared by:



04/17/2023

Richard P. Ibarra, P.E., PTOE
Dannenbaum Engineering Corporation
TBPE F-392

APPENDIX B
TRAFFIC SIGNAL WARRANT ANALYSIS



Traffic Survey - Count Analysis

2011 TMUTCD Warrants

Form TFF-TSCA
(Rev. 11/21)
Page 1 of 8

County: Kerr

District: San Antonio

City: Kerrville

Population: 53,161 (2021)

Survey Date: 02/23/2023 Counts

	Route #	Name	Control	Section	85% Speed
Major	SH 27	Memorial Blvd.	0142	05	55 MPH
Minor	N.A.	James Avery Craftman Center Driveway	N.A.	N.A.	15 MPH

Eight Highest Hours: Include the same 8 hours for the Major and Minor St. volumes.

Time Ends	Major St. - Both App.		Minor St. - Hi. Vol. App.	
	Veh. Total	Ped. Total	Veh. Total	Ped. Total
AM PEAK	1092	0	18	0
PM PEAK	940	0	243	0

Comments:
Warrant 3 is met for existing traffic volumes in the PM peak.

Warrant 1. Eight Hour Vehicular Volume

Yes No Meets 70%^c (major-street speed exceeds 40 mph or population less than 10,000) or 100%^a (regardless of speed) of Condition A.
- or -

Yes No Meets 70%^c (major-street speed exceeds 40 mph or population less than 10,000) or 100%^a (regardless of speed) of Condition B.
- or -

Yes No Meets 80%^b of Conditions A and B.
- or -

Yes No Meets 56%^d of Conditions A and B (major-street speed exceeds 40 mph or population less than 10,000).

Condition A - Minimum Vehicle Volume

Number of Lanes		Vehicles per hour on Major St. (Total of both Approaches)					Vehicles per hour on higher-volume Minor St. approach (One Direction Only)				
Major Street	Minor Street	Required				70%	Required				70%
		100% ^a	80% ^b	70% ^c	56% ^d		100% ^a	80% ^b	70% ^c	56% ^d	
1	1	500	400	350	280		150	120	105	84	
2 or more	1	600	480	420	336		150	120	105	84	
2 or more	2 or more	600	480	420	336		200	160	140	112	
1	2 or more	500	400	350	280		200	160	140	112	

Condition B - Interruption of Continuous Traffic

Number of Lanes		Vehicles per hour on Major St. (Total of both Approaches)					Vehicles per hour on higher-volume Minor St. approach (One Direction Only)				
Major Street	Minor Street	Required				70%	Required				70%
		100% ^a	80% ^b	70% ^c	56% ^d		100% ^a	80% ^b	70% ^c	56% ^d	
1	1	750	600	525	420		75	60	53	42	
2 or more	1	900	720	630	504		75	60	53	42	
2 or more	2 or more	900	720	630	504		100	80	70	56	
1	2 or more	750	600	525	420		100	80	70	56	

^a Basic minimum hourly volume.

^b Used for combination of Conditions A and B after adequate trial of other remedial measures.

^c May be used when the major-street speed exceeds 40 mph or in a community with a population less than 10,000.

^d May be used for combination of Conditions A and B after adequate trial of other remedial measures when major street exceeds 40 mph or in an isolated community with a population of less than 10,000.

Warrant 2. Four Hour Volumes

Yes No Meets each of 4 Highest Hours (Warrant 2 - see Figure 1 and Figure 2).



Figure 1. Four-hour volume warrant. (Warrant 2.)

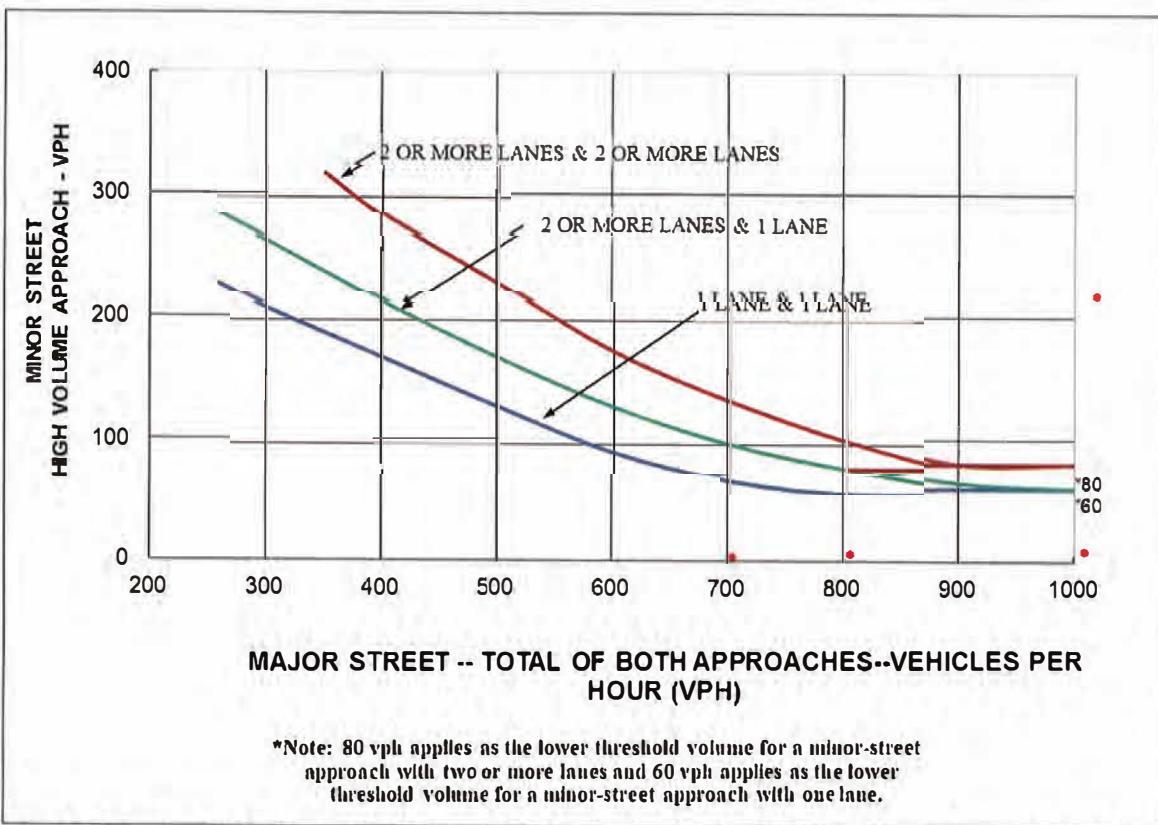


Figure 2. Four-hour volume warrant (70% Factor) (community less than 10,000 population or above 40 MPH on major street). (Warrant 2.)

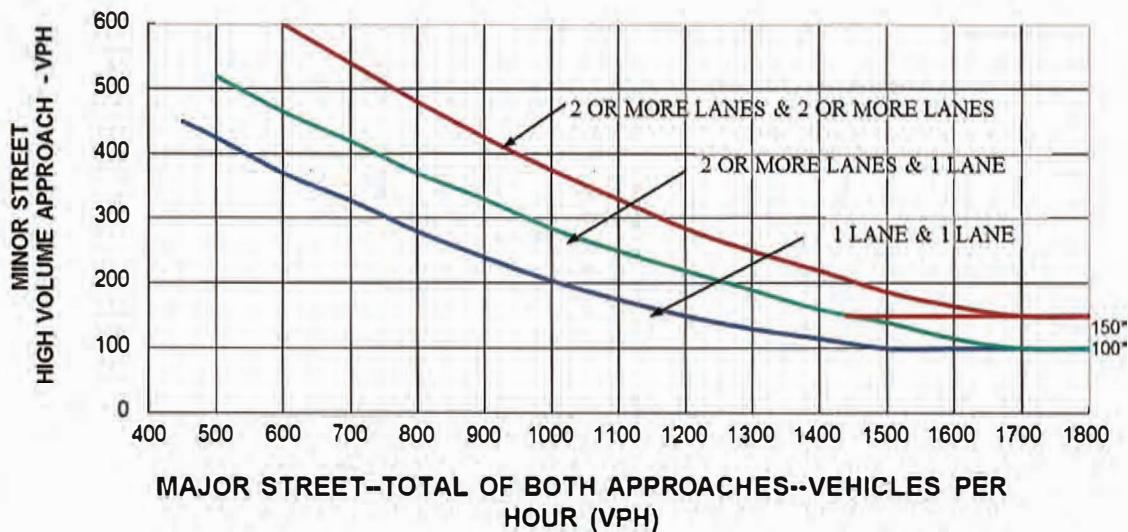
Warrant 3. Peak Hour

Yes No Are all of the following conditions true for the same 1 hour (any four consecutive 15 minute periods)?

1. The total stopped time delay experienced by the traffic on one minor street approach (one direction only) controlled by a stop sign equals or exceeds 4 vehicle-hours for a one-lane approach or 5 vehicle-hours for a two-lane approach, *and*
2. The volume on the same minor street approach (one direction only) equals or exceeds 100 vph for one moving lane of traffic or 150 vph for two moving lanes, *and*
3. The total entering volume serviced during the hour equals or exceeds 650 vph for intersections with three approaches or 800 vph for intersections with four (or more) approaches.

- **or -**

Yes No Meets one High Hour (Warrant 3 - see Figure 3 and Figure 4).



*Note: 150 vph applies as the lower threshold volume for a minor-street approach with two or more lanes and 100 vph applies as the lower threshold volume for a minor-street approach with one lane.

Figure 3. Peak hour volume warrant. (Warrant 3.)

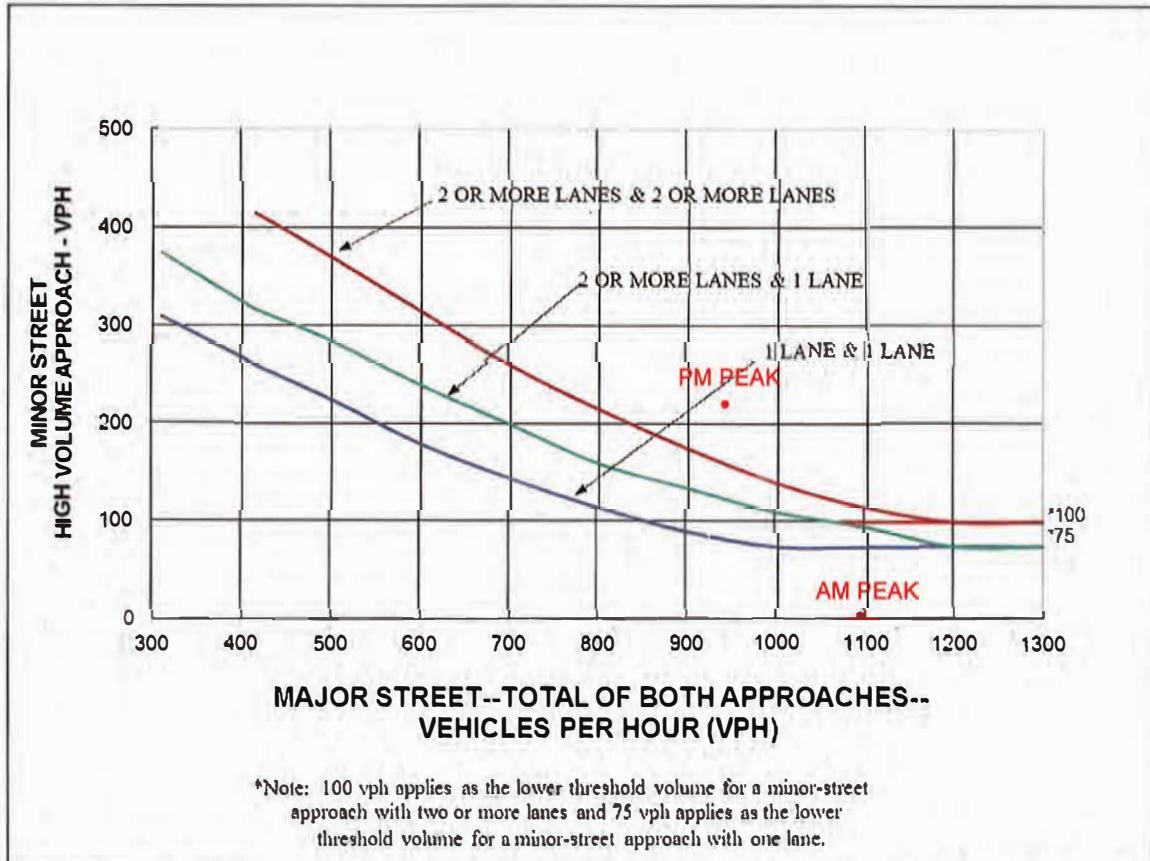


Figure 4. Peak hour volume warrant (70% Factor) (community less than 10,000 population or above 40 MPH on major street). (Warrant 3.)

Warrant 4. Four Hour Pedestrian Volume

Yes No Meets each of 4 Highest Hours (Warrant 4 - see Figure 5 and Figure 6.)

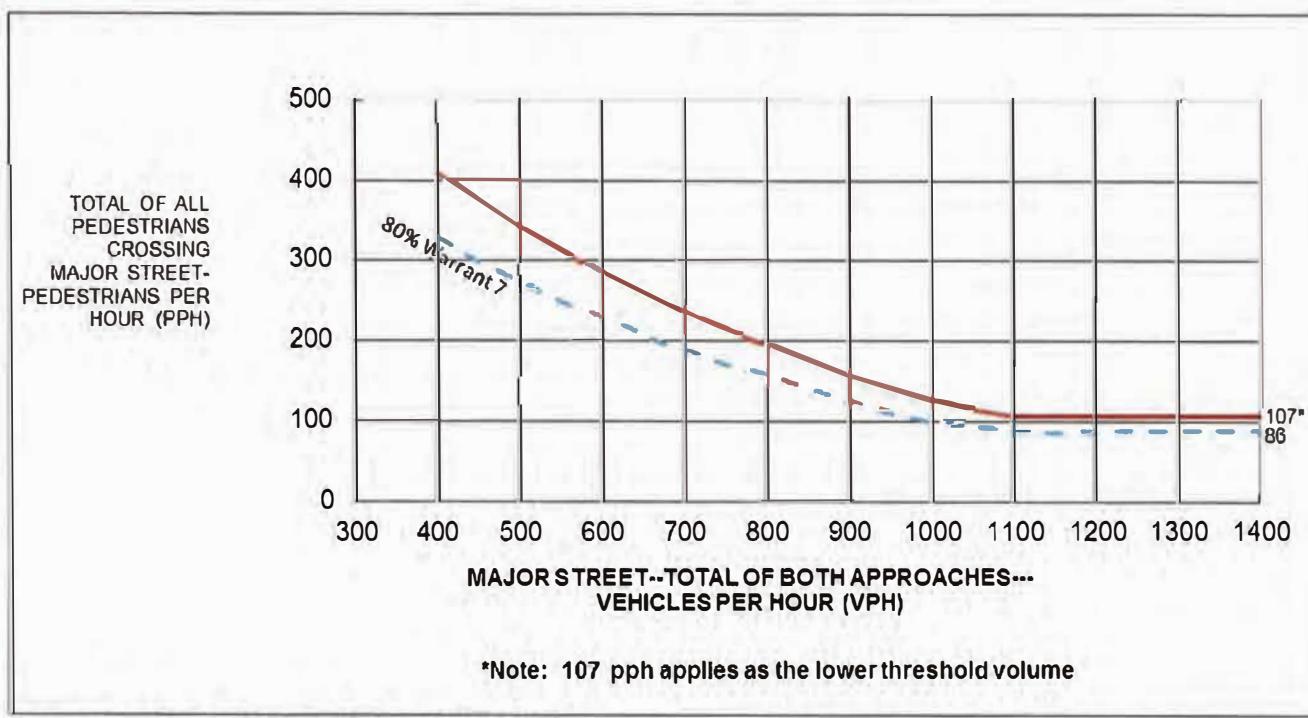


Figure 5. Four hour pedestrian warrant. (Warrant 4.)

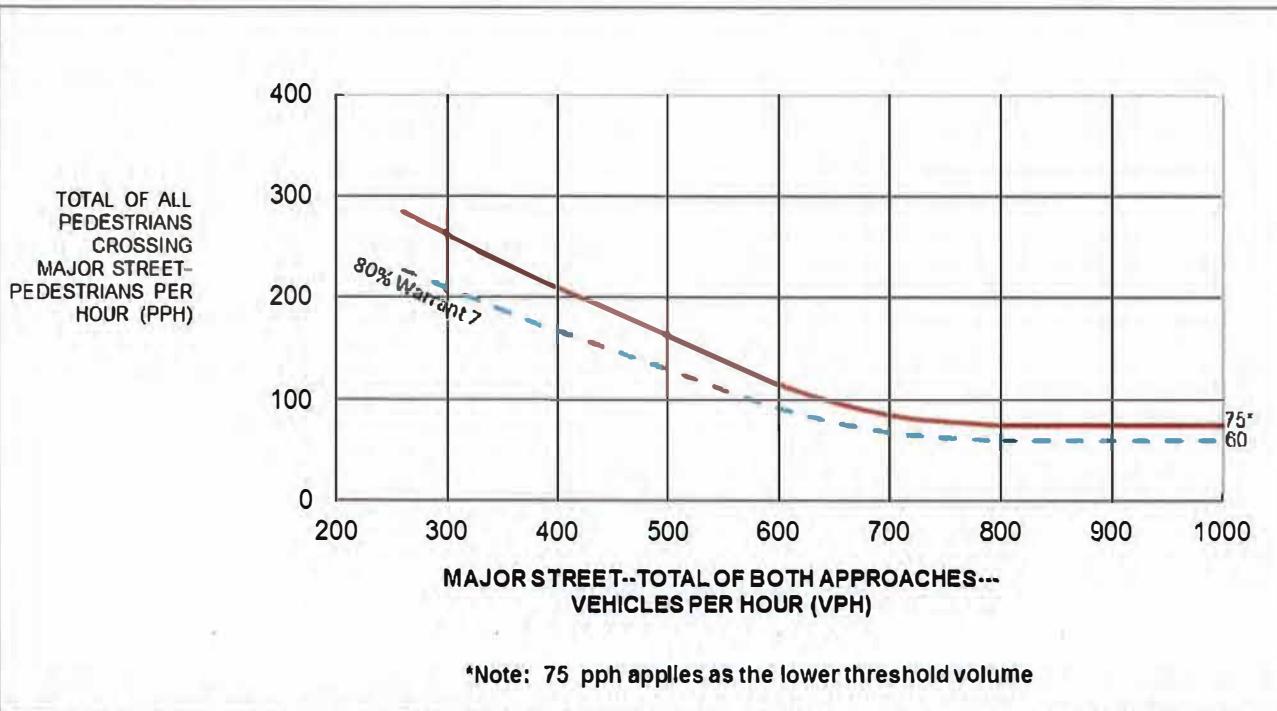


Figure 6. Four hour pedestrian warrant (70% Factor). (community less than 10,000 population or above 35 MPH on major street). (Warrant 4.)

Warrant 4. Peak Hour Pedestrian Volumes

Yes No Meets Peak Hour Pedestrian (Warrant 4 - see Figure 7 and Figure 8.)

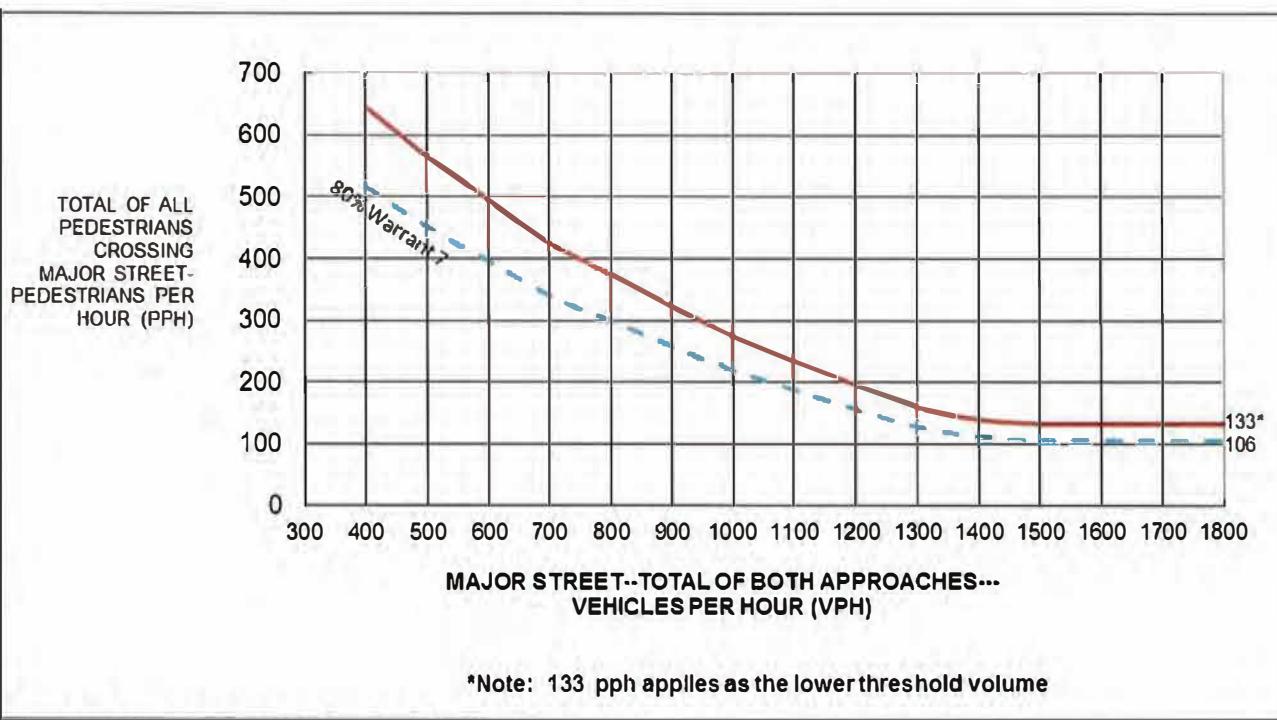
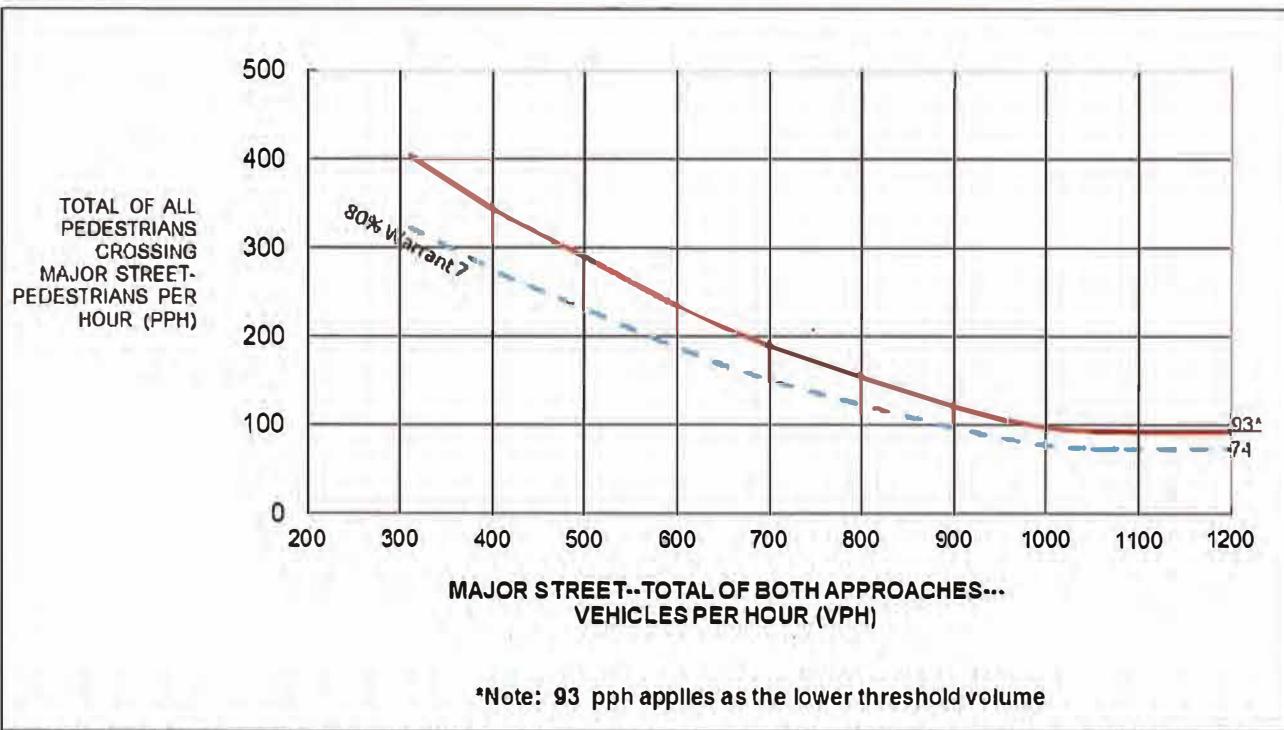


Figure 7. Four hour pedestrian warrant (Warrant 4.)



*Note: 93 pph applies as the lower threshold volume

Figure 8. Peak hour pedestrian warrant (70% Factor). (community less than 10,000 population or above 40 MPH on major street). (Warrant 4.)

Warrant 5. School Crossing

Yes No Is the number of adequate gaps in traffic stream during the period when the children are using the crossing less than the number of minutes in the same period?
- and -

Yes No Are there a minimum of 20 students during the highest crossing hour?
- and -

Yes No Is the nearest signal on the major street located more than 300 feet away?
(This warrant may be applied if the proposed signal is less than 300 feet and does not restrict the progressive movement of traffic.)

Warrant 6. Coordinated Signal System

Yes No On a one-way street or a street with traffic predominantly in one direction, are the adjacent signals far enough apart that the necessary degree of vehicle platooning does not occur?
- or -

Yes No On a two-way street, are the adjacent signals far enough apart that the necessary degree of vehicle platooning does not occur and would the proposed and adjacent traffic control signal provide a progressive operation?

Warrant 7. Crash Experience

Yes No Is one of the following conditions met?:

- 80% of Condition A or Condition B in Warrant 1
- 56% of Conditions A or B in Warrant 1 (major-street speed exceeding 40 mph or population less than 10,000)
- 80% or more of Warrant 4

- and -

Yes No Have there been 5 or more reported crashes susceptible to correction by a traffic signal in 12 months?

Warrant 8. Roadway Network

Yes No Is the total existing, or immediately projected, entering volume on all approaches greater than 1000 vehicles for each of any 5 hours of a Saturday and/or Sunday.
- or -
 Yes No Is the total existing, or immediately projected, entering volume greater than 1000 vehicles for the peak hour of a typical weekday, and do the 5 year projected traffic volumes meet one or more of Warrants 1, 2, and 3 during an average weekday?

Check applicable characteristics of each route (only 1 needs to be checked):

Major Street Minor Street

Yes No It is part of street or highway system that serves as the principal roadway network for through traffic flow.
 Yes No It includes rural or suburban highways outside, entering, or traversing a city.
 Yes No It appears as a major route on an official plan such as a major street plan in an urban area traffic and transportation study.
 Yes No It connects areas of principal traffic generation.
 Yes No It has surface street freeway or expressway ramp terminals.

Warrant 9. Intersection Near a Grade Crossing (One Approach Lane at the Track Crossing)

Yes No Meets one High Hour (Warrant 9 - see Figure 9.)

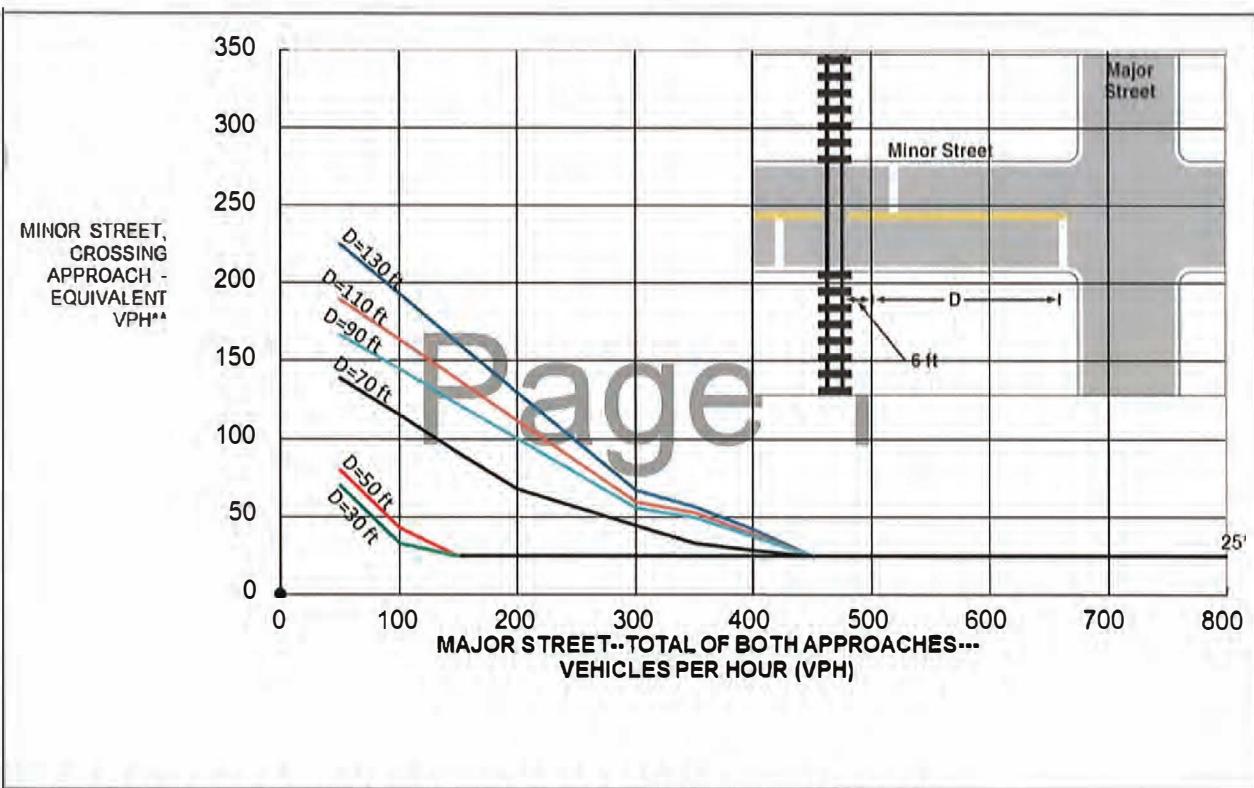


Figure 9. Railroad Grade Crossing (One Approach Lane at the Track Crossing) (Warrant 9.)

Warrant 9. Intersection Near a Grade Crossing (Two or More Approach Lanes at the Track Crossing)

Yes No Meets one High Hour (Warrant 9 - see Figure 10.)

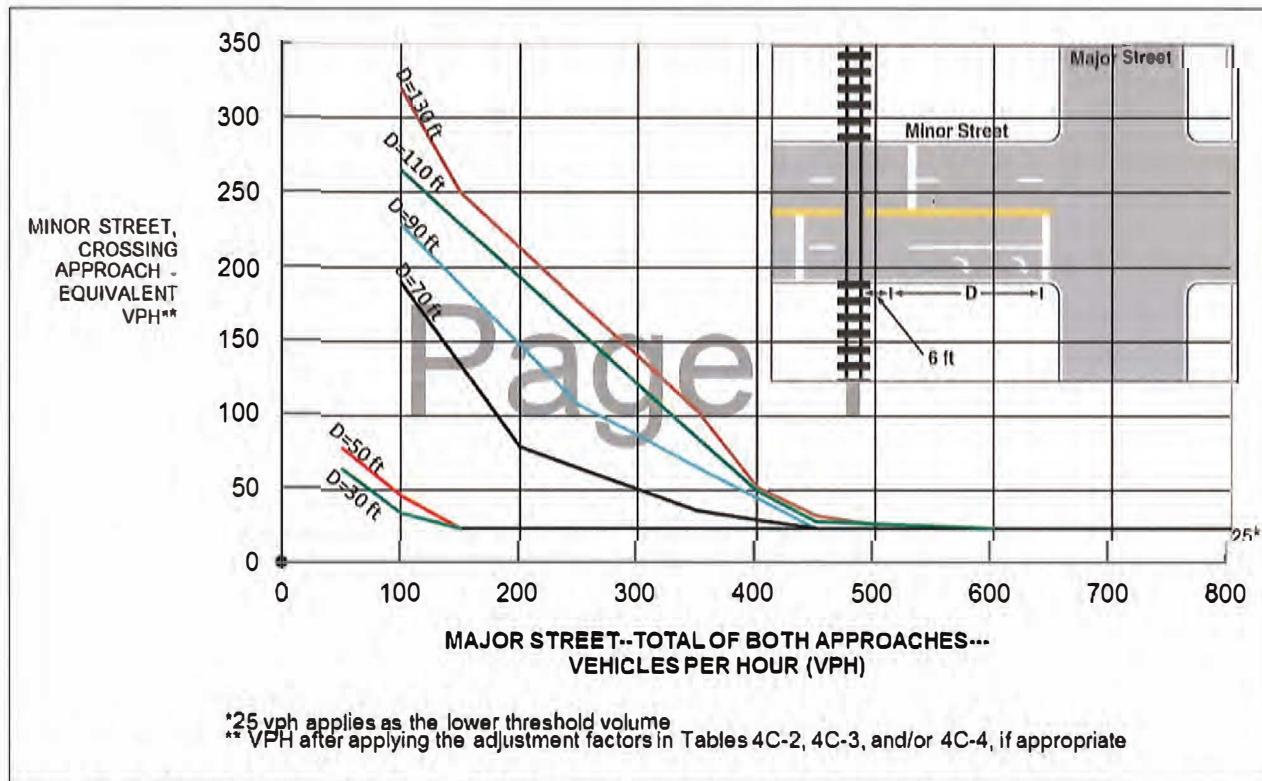


Figure 10. Railroad Grade Crossing (Two or More Approach Lanes at the Track Crossing) (Warrant 9.)

Table 4C-2. Warrant 9, Adjustment Factor for Daily Frequency of Rail Traffic

Rail Traffic per Day	Adjustment Factor
1	0.87
2	0.81
3 to 5	1.00
6 to 8	1.18
9 to 11	1.25
12 or more	1.33

Table 4C-3. Warrant 9, Adjustment Factor for Percentage of High-Occupancy Buses

% of High-Occupancy Buses ¹ on Minor-Street Approach	Adjustment Factor
0%	1.00
2%	1.09
4%	1.19
8% or more	1.32

¹ A high-occupancy bus is defined as a bus occupied by at least 20 people.

Table 4C-4. Warrant 9, Adjustment Factor for Percentage of Tractor-Trailer Trucks

% of Tractor-Trailer Trucks on Minor-Street Approach	Adjustment Factor	
	D less than 70 feet	D of 70 feet or more
0% to 2.5%	0.50	0.50
2.6% to 7.5%	0.75	0.75
7.6% to 12.5%	1.00	1.00
12.6% to 17.5%	2.30	1.15
17.6% to 22.5%	2.70	1.35
22.6% to 27.5%	3.28	1.61
More than 27.5%	4.18	2.09

Remarks:



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

SUBJECT: Funding application to the City of Kerrville, Texas Economic Improvement Corporation for Heart of the Hills Heritage Center, in an amount not to exceed \$2,000,000.

AGENDA DATE OF: May 20, 2024

DATE SUBMITTED: May 12, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area D - Downtown Revitalization

Guiding Principle N/A

Action Item D2.7 - Consider funding a Downtown heritage center

SUMMARY STATEMENT:

The original budget for the A.C. Schreiner house renovations was \$3,600,000, with \$3,250,000 put into the budget for construction with \$350,000 held back for contingency. After 30% design was complete with by the Marksmen team it was discovered that this budget had severe limitations to the full use of the building. After extensive discussion with the Heart of the Hills Heritage Center (tenant) the option to utilize the entire building was recommended and City Council approved, the construction budget increased to \$5,304,000. EIC approved bond funding for \$20,000,000 with the intention of using \$2,000,000 of those funds to cover this funding gap. Marksmen is progressing along with the 60% construction documents and it is now time to finalize the agreement with EIC and the City Council.

This is a four part process.

City Council approved staff to approach EIC at the April 23rd meeting, EIC to consider calling a public hearing at the May 20th meeting (this meeting), EIC holding the public hearing at the June 17th meeting and finally City Council ratifying the agreement between EIC and the City at the June 25th City Council meeting.

This will allow the City time to move forward with a design build amendment and Guaranteed Maximum Price (GMP) not long after ratification of the EIC/CC agreement.

RECOMMENDED ACTION:

Consider calling a public hearing for the Heart of the Hills Heritage Center for \$2,000,000.

ATTACHMENTS:

[*20240423_EIC Funding Application Marksman HHHC.pdf*](#)



MARKSMEN
GENERAL CONTRACTORS

A.C. SCHREINER HOUSE & GROUNDS SD BUDGET & PHASE II PRE-CONSTRUCTION

Proposal for The City of Kerrville

Revised January 5, 2024

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PURPOSE

RELATIONSHIP

EXCELLENCE

CULTIVATION

INTEGRITY

SERVICE

EXECUTION

CORE VALUES

PROPOSAL SUMMARY

OWNER INFORMATION

Owner:	City of Kerrville	Project:	A.C. Schreiner House & Grounds
Address:	701 Main Street Kerrville, TX 78028	Address:	529 Water Street Kerrville, TX 78028
Primary Contact:	Kim Meismer	Alt. Contact:	Michael Hornes
Phone:	(830) 258-1140	Phone:	
E-Mail:	Kim.meismer@kerrvilletx.gov	Email:	Michael.hornes@kerrvilletx.gov

DESIGN TEAM & PLANS

Architect:	Fisher Heck Architects	Date of Plans:	10/31/2023	Revision #:	N/A
MEP Engineer:	Skye MEP	Date of Plans:	10/31/2023	Revision #:	N/A
Civil Engineer:	N/A	Date of Plans:	N/A	Revision #:	N/A
Structural Engineer:	Alpha Consulting Engineers	Date of Plans:	10/31/2023	Revision #:	N/A
Geo-Tech Engineer:	Rock Engineering	Date of Plans:	10/31/2023	Revision #:	N/A



SCOPE OF WORK

DIVISION DETAILS

DIV	DESCRIPTION	PRICE
DIV 01	GENERAL CONDITIONS (INCLUDING INSURANCE, SOFTWARE, DUES & GC FEE)	\$880,000
	Personnel (Project Manager, Site Superintendent, Administration, etc.)	
	Fuel	
	Project Trailer / Office	
	Water & Ice For Job Site	
	Office Supplies	
	Document Reproduction	
	Submittal Courier / Postage	
	Construction Photographs	
	Job Site Signage	
	As-Built Drawings	
	Flash Drives for Final Documents / O&M Manuals	
	Surveyor / Engineering For Layout of Site Improvements	
	Final Property Survey	
	Port-A-Can Toilet Rental	
	Temporary Electrical Connection For Office Trailer & Construction	
	Daily Cleanup	
	Dumpster Rental / Trash Haul Off	
	Safety & First Aid	
	Safety Inspections	
	Fire Extinguishers	
	Floor Protection	
	Temporary Construction Fencing	
	KnoxBox For Fire Dept Access (#4400)	
	AIA Pay Applications & Closeout Documents	
	Architect Construction Admin Fees	
	Engineer's Construction Admin Fees	
	Builders Risk Insurance	
	GL, WC, Cyber, Etc, Insurance	
	Software & Dues	
	GC Fee	



DIV	DESCRIPTION	PRICE
DIV 03 DEMOLITION		\$103,000
Basement		
Shelving		
Stair Components as Required (Landing To Remain)		
Plumbing Fixtures / Equipment		
HVAC Equipment		
Electrical Fixtures / Equipment		
Asbestos Abatement		
1st Floor-Interior		
Window For Elevator Access		
Wall For Elevator Access		
Interior Windows		
Interior Doors		
Interior Walls		
Ceiling Fur Downs		
Ceiling		
Exterior "Front Door"		
Appliances		
Millwork / Cabinets & Counter tops		
Stairs in NW Corner (Basement Access To Remain)		
Flooring		
Plumbing Fixtures		
Electrical Fixtures		
2nd Floor-Interior		
Window For Elevator Access		
Wall For Elevator Access		
Interior Doors		
Interior Walls		
Ceiling Fur Downs		
Ceiling		
Interior Faux Columns		
Appliances		
Millwork / Cabinets & Counter tops		
Stairs in NW Corner		
Flooring		
Plumbing Fixtures		
Electrical Fixtures		



GENERAL INFORMATION • SCOPE OF WORK

DIV	DESCRIPTION	PRICE
	3rd Floor-Interior	
	Window For Elevator Access	
	Wall For Elevator Access	
	Interior Doors	
	Interior Walls	
	Millwork / Cabinets & Counter tops	
	Flooring	
	Plumbing Fixtures	
	Electrical Fixtures	
	Exterior	
	Wood Framed Stairs at NW Corner	
	Sun room / Porch Structure & Foundation / Footings	
	Sidewalk From Water Street to Porte-Cochere	
DIV 03	CONCRETE	\$155,000
	Footings In Crawl Space	
	(26) Hand Dug 2' x 2' x 2'	
	Elevator Pit / Foundation	
	9'-4" x 7'-9 3/4" x 4'-10" Deep	
	Sidewalk / Flatwork	
	Approx. 900 SF	
DIV 05	METALS	\$77,000
	Elevator Structural Steel	
	Columns, Beams, Roof "B" Deck, Bracing, Etc.	
DIV 06	WOODS, PLASTICS & COMPOSITES	\$141,000
	Millwork	
	Warming Kitchen & Storage Room Base Cabinets (20 LF)	
	Storage Room Wall Cabinets (10 LF)	
	3 rd Floor Restroom Sink Base Cabinet	
	Solid Surface Counter tops (23 LF)	
	Roof Blocking For New Roof at Elevator Shaft	
	Exterior Wood Repair & Restoration	
	Cornice	
	Paneled Walls	
	Siding	
	Doors	
	Porches	
	Railings	
	Balustrades	



GENERAL INFORMATION • SCOPE OF WORK

DIV	DESCRIPTION	PRICE
DIV 07	THERMAL & MOISTURE PROTECTION	\$111,000
	Elevator Shaft Roofing	
	TPO Roof System	
	2 nd Floor Balcony “Roofing”	
	TPO Roof System	
	Main Roof TPO Patch & Repair as Needed	
	Flashings For New Through Roof Vents	
	Gutters & Downspouts	
	Elevator Exterior Door Canopy Roofing	
	24 Ga. Standing Seam	
	Misc Interior Caulking / Joint Sealants	
DIV 08	OPENINGS	\$502,000
	Window Refinishing	
	Remove Sash & Install Temporary Boarding	
	Scrape & Sand To Sound & Tight	
	Restoration of Sash, Frame & Trim as Required	
	Replace Cracked or Broken Glass	
	Remove Glass, Back Glaze & New Exterior Glazing	
	Hardware Restoration & Reinstall	
	Double Hung Windows To Be Historically Accurate With Sash Cord, Pullies, Lifts & Locks	
	Prime & Paint	
	Reinstall of Sash (Sealed Shut)	
	Furnish & Install Low-E Film To Interior Side of Glass	
	Interior Doors	
	Restoration of Doors & Frames as Needed	
	Hardware Restoration, Mortising & Re-Install	
	New Hardware ONLY as Required	
	Exterior Doors	
	Replace “Non-Historic” Back Door With New To Match Existing Historic	
	Hardware Restoration, Mortising & Re-Install	
	Restoration of Doors & Frames as Needed	
DIV 09	FINISHES	\$632,000
	Exterior Plaster Repair & Restoration	
	Match Plaster Where Missing	
	Crack Seal Restoration	
	Chimney Tuck Pointing & Analysis of Water Shed Mortar Wash	
	Analysis of Existing Plaster For Additional Repair Beyond Obvious	
	Stucco / Plaster of New Elevator Shaft To Match Existing	



GENERAL INFORMATION • SCOPE OF WORK

DIV	DESCRIPTION	PRICE
	Prime & Paint Complete Exterior	
	1 st Floor Framing Reinforcing	
	In Crawl Space	
	2 nd Floor Framing Replacement	
	Near Southeast Front Entrance	
	New Framing / Infill of Gyp Board Walls & Ceilings as Needed	
	Prime & Paint Complete Interior	
	Wood Flooring Restoration	
	1 st & 2 nd Floor Refinishing	
	Treads & Riser Refinishing	
	Encaustic Tile Restoration	
	Strip Existing Finish	
	Grout Infill as Required	
	Clean & Install New Finish	
	Ceramic Tile	
	New Restroom Floors	
	Restroom Wet Wall 48" Wainscot	
DIV 10	SPECIALTIES	\$53,000
	Restroom Accessories	
	(5) Paper Towel Dispensers With Waste Receptacles	
	(5) Toilet Paper Dispensers	
	(5) Soap Dispensers	
	(5) Mirrors	
	(5) 36" SS Grab Bars	
	(5) 24" SS Grab Bars	
	(2) Diaper Changing Station	
	Signage	
	(5) Restroom Door Signs	
	(12) Misc. Room Signs	
	(3) Fire Extinguishers & Cabinets	
	(2) Folding Partitions	
DIV 11	EQUIPMENT	\$8,000
	Warming Kitchen Appliances Allowance	
DIV 14	CONVEYING EQUIPMENT	\$154,000
	Schindler Elevator	
	4 Stop Elevator (Exterior Access is 4 th Stop)	
	3300 Machine Room-Less Traction Elevator	
	2,100 lb. Capacity	
	5'-9" x 4'-4" Approx. Inside Cab Dimensions	



GENERAL INFORMATION • SCOPE OF WORK

DIV	DESCRIPTION	PRICE
DIV 21	FIRE SUPPRESSION	\$259,000
	Survey & Design	
	Dry Pipe Double Interlock (Electric / Pneumatic) Pre-Action Fire Sprinkler System	
	Throughout: Basement, 1 st Floor, 2 nd Floor, 3 rd Floor & Attic Space	
DIV 22	PLUMBING	\$122,000
	Make Safe For Demo Sub-Contractor	
	Water Piping	
	Sewer Piping	
	Electric Water Heater With Circulation Pump	
	Fixture Package	
	Elevator Sump Pump & Piping	
DIV 23	HVAC	\$457,000
	Make Safe For Demo Sub-Contractor	
	Floor Mounted Radiators & Associated Piping	
	Electric Wall Heater	
	Ductwork, Diffusers & Supports	
	Fan & Coil Unit, Condensing Unit & Associated Piping	
	Electric Heaters In Basement	
	VRF Units & Wall Mounted Thermostats	
	VRF Branch Controllers	
	Heat Recovery Unit	
	HVAC Commissioning	
DIV 26	ELECTRICAL	\$603,000
	Make Safe For Demo Sub-Contractor	
	Gear Package	
	Lighting Package	
	Fixture Package	
	Backup Generator For Elevator	
	Minimal Site Lighting (Wall Packs & 2 Light Bollards / Poles)	
	Lighting Commissioning	
DIV 27	COMMUNICATIONS	\$60,000
	Structured Cabling	
	Cat 6 Cabling	
	MDF	
	Plywood Backboards, Wall Mount Rack, Wire Management & Patch Panels	
	Label & Test	
DIV 28	ELECTRONIC SAFETY & SECURITY	\$110,000
	Fire Alarm System	
	Security Alarm Allowance	
	Including Minimal Security Cameras	



GENERAL INFORMATION • SCOPE OF WORK

DIV	DESCRIPTION	PRICE
DIV 31 EARTHWORK		\$36,000
SWPPP		
Concrete Washout Pit		
Silt Fence		
Earthwork		
Elevator Pit Excavation & Building Pad		
New Sidewalk Sub-Grade Prep / Pad		
DIV 32 EXTERIOR IMPROVEMENTS		\$81,500
Fencing (South Property Line to Carriage House)		
To Prevent Visitors From Falling or Getting To River		
~185 LF Wrought Iron Fence		
Landscape Allowance		
Irrigation Allowance		
To Repair Damaged Areas Around House Only		
DIV 33 UTILITIES		\$100,000
Fire Line, Riser & Tie In		
Cap Existing Sewer Line & Extend New Sewer Line To New Tie In Point At House		
New Domestic Water Line From Street To House		
ALLOW ALLOWANCES		\$175,000
Design Contingency		
To Cover Construction Costs of Any Changes in Remaining Design		
Construction Contingency		
To Cover Construction Costs of Any Unforeseen Conditions		
SUB SUB-TOTAL		\$4,819,500
ALLOW INFLATION FACTOR ALLOWANCE		\$83,500
TOTAL "SD" BUDGET FOR THE ABOVE SCOPE OF WORK		\$4,903,000

DESIGN DETAILS

PHASE	DESCRIPTION	PRICE
PHASE I	Design Fees (Existing Contract)	\$175,200
PHASE II	Design Fees (Remaining Design & Pre-Construction Fees)	\$225,800
TOTAL	SD Budget (Including design, pre-construction, & construction)	\$5,304,000



EXCLUSIONS

- City or municipal impact fees
- Building permits or plan review fees
- Utility company impact fees or usage billings
- Temporary utilities
- 3rd party inspections or testing
- Exhibit design or fixtures
- Site / project security
- Unforeseen utility conditions / piping, etc.
- Existing metal roofing work / repairs
- Tree trimming or arborist
- Carriage house work of any kind
- Railing or fencing modification of existing
- Lead based paint abatement
- Exterior building or monument signage
- Window treatments or blinds
- It/av equipment (routers, switches, access points, etc)
- Traffic controls or street repairs
- Transformer pad
- Masonry work
- Landscape / irrigation outside of what is listed above
- Gutters & downspouts
- Exterior building / landscape lighting
- Driveways or approaches
- River embankment improvements / shoring
- Any other labor or materials not specifically listed

QUALIFICATIONS

- The budget, design & the feasibility of this project are dependent on essential provisions by the Authority Having Jurisdiction (AHJ) as granted by the Building Code Official & the Fire Marshal allowing for “Group B Occupancy” per the code compliance report prepared by Fisher Heck Architects dated October 31, 2023.
- The projected occupant load is 141 occupants due to structural limitations.
- Budget is based on drawings identified above. Assumptions were still made at this time due to lack of details / information.
- Owner responsible for any and all utility usage billing (electricity, water, sewer, etc.)
- Marksmen GC field staff will schedule and be present for all inspections.
- General Conditions is based on estimated construction time of 14 months. (To be confirmed at GMP)
- Lead based paint was identified, however, it is not anticipated to be disturbed.

ADDITIONAL BUDGET CONSIDERATIONS

Not included in SD Budget

- Make Windows Operable (Includes New Weatherstripping) ADD \$495 (Per Window)
- Materials Testing (By Owner) ADD ~\$7,500
- Exhibit Designer & Exhibits (By Owner) Unknown Value
- Owner Provided Furniture & Equipment Unknown Value
- Exhibit Specific Lighting (By Owner) Unknown Value



ESTIMATED PRE-CONSTRUCTION & DESIGN SCHEDULE

DATE	MILESTONE
10/31/2023	100% Schematic Design Drawings (30% Completion) Issued
11/7/2023	SD Budget Package Submitted to City of Kerrville
11/7/2023	SD Budget Review Meeting with City of Kerrville at Kerrville City Hall
12/12/2023	City of Kerrville City Council Meeting
12/13/2023	Execution of Design / Preconstruction Phase 2 Amendment
12/13/2023	60% Design Development Kick-Off Meeting (Design Team & MGC Only)
1/18/2024	Design Review Meeting with City of Kerrville & HHHC at Kerrville City Hall
1/25/2024	100% Design Development Drawings (60% Completion) Issued
2/7/2024	DD Budget Review with City of Kerrville at Kerrville City Hall
2/8/2024	90% Construction Documents Begin
2/12/2024	Preliminary Plan Review with City of Kerrville Code Official & Kerr County Fire Marshal
3/12/2024	Construction Documents Review & Coordination (Design Team & MGC)
3/19/2024	Design Review Meeting with City of Kerrville & HHHC at Kerrville City Hall
3/29/2024	100% Construction Documents Issued For Permitting
4/12/2024	GMP Submitted
4/19/2024	Notice To Proceed Construction & Execution of Construction Phase Amendment
4/29/2024	Construction Mobilization
5/3/2024	Construction Permits Issued
7/3/2025	Construction Substantial Completion



RECOMMENDED EARLY RELEASE PACKAGES

- Laydown & Limits of Construction With Temporary Fencing:
 - › SWPPP
 - › Temporary Fencing
- Selective Demolition & Asbestos Abatement:
 - › Drywall, Doors, Etc.
- Site Safety Fencing:
 - › Fence at Back of Property to Prevent Visitors From River
- Exterior Renovations:
 - › Windows / Wood Repair
 - › Critical Path For Entire Project
 - › Roofing on Porch
 - › Prevent Further Structural Degradation
- Structural Modifications:
 - › Concrete Footings in Crawl Space
 - › Wood Framing Reinforcing
- Elevator Purchase:
 - › Elevator Shop Drawings & Coordination Drawings
 - › Estimated Lead Time For Elevator Once Shop Drawings Approved =
- Elevator Shaft & Foundation:
 - › Excavation & Foundation
 - › Structural Steel Shop Drawings & Fabrication

NOTE: The benefit of pursuing early release packages is to lock in pricing in volatile market conditions along with allowing long lead time items to begin. The longest lead time item is the exterior & window restoration. Any early start for these scopes of work will result in approximately a one-to-one overall schedule reduction.



PHASE II DESIGN & PRE-CONSTRUCTION PROPOSAL

SCOPE	FIRM	AMOUNT
Architectural Programming, Coordination, Design, Etc.	Fisher Heck Architects	\$ 99,000
M.E.P. Coordination, Design, Etc.	Skye MEP	\$ 48,000
Structural Coordination, Design, Etc.	Alpha Consulting Engineers	\$ 11,000
IT/AV Coordination, Design, Etc.	2 Post Technology, LLC	\$ 12,000
Civil Engineering, Surveying, Coordination, Design, Etc.	Wellborn Engineers & Surveying	\$ 7,000
Preconstruction Services	Marksmen General Contractors	\$ 28,000
SUB-TOTAL		\$ 205,000
Design Contingency (If Needed)		
Consultant Reimbursables (Meetings, Document Reproduction, Etc.)	To Be Determined	\$ 10,000
Additional Consultants / Design Changes	To Be Determined	\$ 10,800
Contingency Total		\$ 20,800
PHASE 2 DESIGN & PRECONSTRUCTION TOTAL		\$ 225,800

PHASE 2 DESIGN & PRECONSTRUCTION PROPOSAL QUALIFICATIONS

- Additional Consultants or Design Changes contingency only to be used after discussion between the Design-Build Team & the Owner & the Owner has issued written approval to proceed.
- Consultant Reimbursables will be billed on an as needed basis.
- We have included (3) meetings with the City of Kerrville. If additional meetings are required (Virtual or in person) they will be billed at a rate of \$1,200 per meeting.

PHASE 2 DESIGN & PRECONSTRUCTION DELIVERABLES

Architectural Drawing Checklist

60% Design—Design Development

- Code Analysis—Finalized, indicating building classifications, occupancy, interpretations, and special requirements. Accessible routes shall be identified that meet TAS requirements.
- Index, Symbols, and General Information: Refine index of drawings, drawing symbols, and abbreviations.
- Site Plan – Demolition—Refinement indicating extent of demolition.
- New Construction Site Plan – Refinement to illustrate building, parking lot layout, site features, adjacent structures, and access to site. Relationship of all proposed work to existing site and/or building features illustrated and notated.
- Demolition Floor Plan – Refinement indicating, room titles and numbers, and updated notations.



- Refinement of New Construction Floor Plans indicating developed dimensions, room titles and numbers, door swings, furniture layouts, equipment layout, and fire-rated walls.
- Reflected Ceiling Plans—Refinement indicating lighting and special ceiling features.
- Roof Plans – Refinement of indicating overall dimensions and slopes. Exterior elevations indicating all openings, dimensions, special features, etc.
- Exterior Elevations—Features illustrated in enlarged plans, elevations, and details as needed to convey design.
- Building Sections – Refinement including extent of insulation and room titles and numbers.
- Wall Sections – Develop wall sections for each material and construction condition.
- Interior or exterior features illustrated in enlarged plans, elevations, and details as needed to convey design.
- Door schedule, finish schedule, and partition types to be developed.
- Specifications written to match the scope of work.
- Finish material selections finalized.

90% Design—Construction Documents

- Code Analysis—Finalized, indicating building classifications, occupancy, interpretations, and special requirements. Accessible routes shall be identified that meet TAS requirements.
- Index, Symbols, and General Information: Refine index of drawings, drawing symbols, and abbreviations.
- Site Plan – Demolition—Refinement indicating extent of demolition.
- New Construction Site Plan – Refinement to illustrate building, parking lot layout, site features, adjacent structures, and access to site. Relationship of all proposed work to existing site and/or building features illustrated and notated.
- Demolition Floor Plan – Refinement indicating, room titles and numbers, and updated notations.
- Floor Plan—New Construction—Develop dimensions, and refine as needed.
- Reflected Ceiling Plans—Refinement indicating lighting and special ceiling features.
- Ceiling Details – Include special conditions.
- Roof Plans – Refinement of indicating overall dimensions and slopes. Exterior elevations indicating all openings, dimensions, special features, etc.
- Exterior Elevations—Refine as needed to convey design.
- Building Sections – Refinement including extent of insulation and room titles and numbers.
- Wall Sections – Refine wall sections.
- Plan Details – Include special conditions.
- Section Details – Include details for special conditions.
- Refine Door schedule, finish schedule to include all approved finishes, and partition types to be finalized.
- Door and Window Details – Include special conditions.
- Millwork Sections – Include special conditions.
- Specifications written to match the scope of work.



Structural Drawing Checklist

60% Design—Design Development

- Structural Notes: Refinement of special inspections requirements, outline specifications, and finalized code analysis.
- Structural Foundation Design: Develop dimensions for new construction and coordinate accuracy with architectural drawings.
- Structural Framing System: Sized roof framing members, developed dimensions of new construction, indicating column spacing, column sizes, beam sizes, and floor framing.
- Building sections showing floor elevations and typical sectional details.
- Structural design for special features.
- Calculations for live loads of floor, roof, wind, impact, vibration and other special requirements.

90% Design—Construction Documents

- Structural Notes: Refinement of special inspections requirements, outline specifications, and finalized code analysis.
- Structural Foundation Design: Refine dimensions for new construction and coordinate accuracy with architectural drawings.
- Structural Framing System: Refine framing as required.
- Building sections showing floor elevations and typical sectional details.
- Refine all special features.

MEP Drawing Checklist

60% Design—Design Development

- MEP Site Plan – Demolition – Refine existing and demolished utilities and site requirements. Include property line, easements, scale, graphic scale, and north arrow.
- MEP Site Plan – New Construction—Refine existing and proposed utilities, underground and overhead with sizes, valves, boxes, cleanouts, access ways, and manholes indicated.
- Floor Plan – Mechanical Demolition—Refine demolition of equipment layout.
- Floor Plan – Electrical Demolition—Refine electrical and data rooms, and demolition of existing equipment, conduit, and devices. Include scale, graphic scale, and north arrow.
- Floor Plan – Plumbing Demolition—Refine demolition of existing equipment, fixtures, and piping layout. Include scale, graphic scale, and north arrow.
- Floor Plan – Mechanical New Construction – Refine HVAC equipment (air handlers, pumps, compressors, etc. shown to scale with clearances indicated including coil pull space for A/C units, medium pressure ductwork shown in double line format, placement of single/dual terminal units, and thermostats. Show major taps, splits, and duct sizes.
- Mechanical Schedules—Refine equipment schedules for air handling units, condensers, and air devices, and include exhaust fans, and other required equipment schedules.
- Power Plan – Refine power plans identifying circuits.
- Lighting Plan – Refine lighting and identify circuits.
- Riser Diagram: Rough, one-line or riser diagram.
- Schedules: Typical capacities and sizes with preliminary equipment and lighting schedules, and load analysis. Provide panel schedules.



- Floor Plan – Plumbing New Construction–At a scale consistent with, and coordinated with the architectural floor plans, refine plumbing fixtures, and add floor and roof drains, including special devices, soil, waste and vent piping and main supply taps and piping sized.
- Plumbing Schedules–Refined equipment schedules indicating proposed flow rates, capacities, selections.
- Plumbing Riser Diagrams – Showing all fixtures and piping.
- Specifications included on Drawings to match the scope of work.

90% Design–Construction Documents

- MEP Site Plan – Demolition – Refine existing and demolished utilities and site requirements. Include property line, easements, scale, graphic scale, and north arrow.
- MEP Site Plan – New Construction–Refine existing and proposed utilities, underground and overhead with sizes, valves, boxes, cleanouts, access ways, and manholes indicated.
- Floor Plan – Mechanical Demolition–Refine demolition of equipment layout.
- Floor Plan – Electrical Demolition–Refine electrical and data rooms, and demolition of existing equipment, conduit, and devices. Include scale, graphic scale, and north arrow.
- Floor Plan – Plumbing Demolition–Refine demolition of existing equipment, fixtures, and piping layout. Include scale, graphic scale, and north arrow.
- Floor Plan – Mechanical New Construction – Refine HVAC equipment (air handlers, pumps, compressors, etc. shown to scale with clearances indicated including coil pull space for A/C units, medium pressure ductwork shown in double line format, placement of single/dual terminal units, and thermostats. Show major taps, splits, and duct sizes.
- Mechanical Schedules–Refine equipment schedules for air handling units, condensers, and air devices, and include exhaust fans, and other required equipment schedules.
- Power Plan – Refine power plans identifying circuits.
- Lighting Plan – Refine lighting and identify circuits.
- Riser Diagram: Rough, one-line or riser diagram.
- Schedules: Typical capacities and sizes with preliminary equipment and lighting schedules, and load analysis. Provide panel schedules.
- Floor Plan – Plumbing New Construction–At a scale consistent with, and coordinated with the architectural floor plans, refine plumbing fixtures, and add floor and roof drains, including special devices, soil, waste and vent piping and main supply taps and piping sized.
- Plumbing Schedules–Refined equipment schedules indicating proposed flow rates, capacities, selections.
- Plumbing Riser Diagrams – Showing all fixtures and piping.
- Specifications included on Drawings to match the scope of work.



IT/AV Drawing Checklist

60% Design—Design Development

- General Notes—Refine notes related to both conduit and cabling.
- Floor Plan—IT/Data—Refine data and telephone outlet locations, providing sizing and path of conduit from IT/Data room, scale and graphic scale.
- IT Details Provide rack elevations and details.
- Specifications included on Drawings to match the scope of work.

90% Design—Construction Documents

- General Notes—Refine notes related to both conduit and cabling.
- Floor Plan—IT/Data—Refine data and telephone outlet locations, providing sizing and path of conduit from IT/Data room, scale and graphic scale.
- IT Details Refine rack elevations and details.
- Specifications included on Drawings to match the scope of work.

Civil Drawing Checklist

60% Design—Design Development

- Site Survey of Existing Conditions.
- Existing Conditions and Demolition Plan—Refine existing and demolished utilities and site requirements. Include property line, easements, scale, graphic scale, and north arrow.
- New Construction Site Plan – Refine drawings as needed for new buildings, additions, and renovations, parking lot layout, site features, pedestrian paving, adjacent structures, new fire hydrants, and access to site. Relationship of all proposed work to existing site and/or building features illustrated. Include scale, graphic scale, and north arrow.
- Grading Plan – For disturbed areas only (New ADA sidewalk, Utility tie-ins, etc.)
- Utility Plan – Identify all new and proposed utilities related to fire, sewer, and domestic water lines.
- Specifications included on Drawings to match the scope of work.

90% Design—Construction Documents

- Existing Conditions and Demolition Plan—Refine existing and demolished utilities and site requirements. Include property line, easements, scale, graphic scale, and north arrow.
- New Construction Site Plan—Refine drawings as needed for new buildings, additions, and renovations, parking lot layout, site features, pedestrian paving, adjacent structures, new fire hydrants, and access to site. Relationship of all proposed work to existing site and/or building features illustrated. Include scale, graphic scale, and north arrow.
- Grading and Drainage Plan – Refine and finalize drainage with grading spot elevations. Refine single line stormwater utility piping and grates.
- Utility Plan – Refine all new utilities related to fire, stormwater, and domestic water lines.
- Specifications included on Drawings to match the scope of work.



Misc. Deliverables Checklist

- Meeting Agendas & Minutes – MGC to coordinate and issue all meeting agendas & minutes.
- Budget & Cost Management – MGC to issue budgets & cost management solutions to align scope of work to budget. This also includes contingency updates & allocation throughout the remaining design process. A budget update will be completed at the end of 60% Design (Design Development) & a GMP will be completed at the end of 90% Design (Construction Documents)
- Schedule—MGC to issue a master schedule for Preconstruction / Design phase as well as Construction.
- Constructability Review & Feasibility—MGC to continue working alongside consultants to ensure constructability & feasibility of the project.
- Quality Management & Design Review—MGC to continue working with consultants and owners to ensure quality throughout the design & construction.



ID	RISK DESCRIPTION	PROBABILITY	IMPACT	PRIORITY	MITIGATION STRATEGIES	OWNER	STATUS
1	Structural weakness may be uncovered during restoration						
2	Historical integrity may be compromised						
3	Delays due to obtaining permits for work on a historical building						
4	Potential for exceeding budget due to unforeseen restoration complexities						
5	Weather-related delays affecting construction						
6	Difficulty sourcing period-accurate materials						
7	Damage to existing historical elements during construction						
8	Public opposition or litigation from historical preservation societies						
9	Accessibility requirements may conflict with historical preservation guidelines						
10	Exhibit designer - design inputs						
11	Owner provided furniture layout / requirements						
12	Warming Kitchen equipment / layout						
13	Storage Spaces / layout						
14	Asbestos Abatement						
15	Elevator Size - EMS Access for stretcher						
16	Civil Engineer On Board						
17	Final Fire Sprinkler Design with FM						
18							
19							
20							

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