

AGENDA FOR REGULAR MEETING

CITY OF KERRVILLE, TEXAS

ECONOMIC IMPROVEMENT CORPORATION

TUESDAY, JANUARY 17, 2017 AT 4:00 P.M.

KERRVILLE CITY HALL CITY COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

**AGENDA FOR REGULAR MEETING OF THE
CITY OF KERRVILLE, TEXAS
ECONOMIC IMPROVEMENT CORPORATION
TUESDAY, JANUARY 17, 2017, 4:00 P.M.
KERRVILLE CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS**

CALL TO ORDER

INVOCATION

1. VISITORS / CITIZENS FORUM:

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

2. APPROVAL OF MINUTES:

2A. Approval of minutes for the regular meeting held on November 21, 2016, and the special meeting held on December 15, 2016.

3 MONTHLY REPORTS:

3A. Monthly financials for November and December 2016. (staff)

3B. Projects update. (staff)

River Trail Update

Kerrville Sports Complex.

Streetscape Project

James Avery Craftsman, Inc. Campus Improvements

4. PUBLIC HEARINGS AND POSSIBLE ACTION:

4A. Funding Agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville, Texas in an amount not to exceed \$1,500,000 for improvements to the H-E-B Tennis Center. (staff)

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

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time January 13, 2017, at 4:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown

Deputy City Secretary, City of Kerrville, Texas

5. 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 Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code.

6. ITEMS FOR FUTURE AGENDAS

7. ANNOUNCEMENTS

8. ADJOURNMENT.

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

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time January 13, 2017, at 4:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown

Deputy City Secretary, City of Kerrville, Texas

**CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION
REGULAR MEETING** **NOVEMBER 21, 2016**

On Monday November 21, 2016, the regular meeting of the members of the City of Kerrville, Texas Economic Improvement Corporation, was called to order at 4:00 p.m. by Gary Cochrane, President, in the Council Chambers at City Hall, at 701 Main Street, Kerrville, Texas. The invocation was offered by Ms. Pattillo.

Members Present:

Gary Cochrane, President
Sheri Pattillo, Vice President
Kenneth Early
Delayne Sigerman
Paul Stafford
James Wilson

Members Absent:

Mary Ellen Summerlin

City Executive Staff Present:

Don Davis, Interim City Manager
E.A. Hoppe, Deputy City Manager
Mike Hayes, City Attorney
Cheryl Brown, Deputy City Secretary
Sandra Yarbrough, Finance Director
Ashlea Boyle, Assistant Parks Director

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

1. VISITORS/CITIZENS FORUM:

Russell Kemp, 310 Bobwhite, Kerrville, Texas, Kerrville Tennis Association, spoke in support of the proposed improvements to the Tennis Center.

2. APPROVAL OF MINUTES:

2A. Approval of minutes for the regular meeting held on October 17, 2016.

Mr. Early moved to approve the minutes. Mr. Wilson seconded, and the motion passed 6-0.

3 MONTHLY REPORTS:

3A. Monthly financials for October 2016. (staff)

Ms. Yarbrough reported a cash balance on October 31, 2016 of \$3,775,298. She reviewed the capital projects and noted a balance of \$2,090,991.

3B. Projects update. (staff)

Kerrville Sports Complex

Mr. Hoppe reported that the irrigation mains and laterals were almost complete in the middle and south soccer fields. The backstop poles and field light bases were installed. Work continued on the soccer field lights, concession building, utilities, fence posts, and electrical installation.

4. PUBLIC HEARINGS AND POSSIBLE ACTION:

4A. Funding Agreement with the City of Kerrville for Construction of Reclaimed Water Distribution Infrastructure of a maximum of \$1,500,000. (staff)

Mr. Hoppe reviewed the funding agreement.

Mr. Cochrane opened the public hearing at 4:09 p.m. No comments were heard. The public hearing was closed at 4:10 p.m.

Mr. Early moved to approve the funding agreement as presented. Ms. Pattillo seconded, and the motion passed 6-0.

4B. Funding Agreement with the City of Kerrville and Schreiner University for Construction of Reclaimed Water Distribution Infrastructure of a maximum of \$900,000. (staff)

Mr. Hoppe reviewed the funding agreement.

Mr. Cochrane opened the public hearing at 4:11 p.m. No comments were heard. The public hearing was closed at 4:11 p.m.

Mr. Early moved to approve the funding agreement as presented. Ms. Sigerman seconded, and the motion passed 6-0.

4C. Funding Agreement with the City of Kerrville and Southern Golf Properties for Construction of Reclaimed Water Distribution Infrastructure of a maximum of \$900,000. (staff)

Mr. Hoppe reviewed the funding agreement.

Mr. Cochrane opened the public hearing at 4:17 p.m.

George Baroody spoke against the funding agreement.

The public hearing was closed at 4:20 p.m.

Mr. Wilson moved to approve the funding agreement as presented. Mr. Stafford seconded, and the motion passed 6-0.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Application by the City of Kerrville for improvements to the Tennis Center in the amount of \$1,500,000. (staff)

Ms. Boyle presented the application.

Mayor White spoke regarding the possibility of applying for grants.

Mr. Kemp stated there were additional moneys may be available from the USTA, but they would not consider an application until the project was approved, with funding in place.

Ms. Boyle stated at the appropriate time she would investigate the availability of additional funding from outside sources.

Ms. Pattillo moved to approve the application as presented. Mr. Wilson seconded, and the motion passed 6-0.

5B. Cancellation of the regular meeting in December, and selection of a date for the regular January 2017 meeting.

Mr. Cochrane stated the regular meeting date in December fell during the holiday week, and the regular date for the January 2017 meeting was on a holiday.

Mr. Stafford moved to cancel the meeting in December, and change the meeting date for January 2017 to the 17th. Mr. Wilson seconded, and the motion passed 6-0.

EXECUTIVE SESSION:

There was no executive session.

5. ITEMS FOR FUTURE AGENDAS

Ms. Sigerman requested an update on the Streetscape Project at the January meeting.

6. ANNOUNCEMENTS

7. ADJOURNMENT.

Mr. Cochrane adjourned the meeting at 4:36 p.m.

APPROVED: _____

Gary Cochrane, President

ATTEST:

Cheryl Brown
Deputy City Secretary

ECONOMIC IMPROVEMENT CORPORATION MINUTES
KERRVILLE, TEXAS
SPORTS COMPLEX TOUR

DECEMBER 15, 2016

On December 15, 2016, 8:34 a.m. members of the Kerrville City Council, Parks and Recreation Advisory Board, and the Economic Improvement Corporation met for a tour of the Sports Complex under construction on Holdsworth Drive.

COUNCILMEMBERS PRESENT:

Glenn Andrew Councilmember
Mary Ellen Summerlin Councilmember

COUNCILMEMBER ABSENT:

Bonnie White Mayor
Stephen P. Fine Mayor Pro Tem
Gene Allen Councilmember

ECONOMIC IMPROVEMENT CORPORATION MEMBERS PRESENT:

Delayne Sigerman Kenneth Early
James Wilson Mary Ellen Summerlin

ECONOMIC IMPROVEMENT CORPORATION MEMBERS ABSENT:

Gary Cochran Sherri Patillo
Paul Stafford

PARKS AND RECREATION BOARD MEMBERS PRESENT:

Ed Wallace Bedford Mitchell

PARKS AND RECREATION BOARD MEMBERS ABSENT:

James Gardner Jacklyn Kayne
Diane McMahon Jay Munson
Bill Muse Greg Shrader

CITY CORE STAFF PRESENT:

Don Davis Interim City Manager
EA Hoppe Deputy City Manager
Brenda Craig City Secretary
Kaitlin Berry Special Projects Manager
Malcolm Matthews Director of Parks and Recreation
Ashlea Boyle Assistant Director of Parks and Recreation
Kim Meismer Director of General Services
Mike Pickard Construction Inspector
Shane Heffernan Sports Complex Manager

During the tour of the facility the boards discussed the following information as presented by Mr. Matthews:

- The facility was approximately 50% complete; the goal was to be complete by August 2017.
- The project involved ten separate contracts with oversight by Huser

Construction Company.

- KISD and Schreiner University could rent the fields for their softball programs. Both local soccer organizations would utilize the soccer fields for their programs.
- The current soccer fields at the landfill were located on 14 irrigated acres; this facility had 20 irrigated acres and additional lighting could be added in the future for night time play.
- Signalized crosswalk is expected to be installed at the Holdsworth Drive intersection.

ADJOURNMENT. The meeting adjourned at 9:40 a.m.

APPROVED: _____

ATTEST:

Bonnie White, Mayor

Brenda G. Craig, City Secretary

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

SUBJECT: EIC Financials ending December 31, 2016

FOR AGENDA OF: January 17, 2017 **DATE SUBMITTED:** January 10, 2017

SUBMITTED BY: Sandra G. Yarbrough
Director of Finance  **CLEARANCES:** EA Hoppe
Deputy City Manager

EXHIBITS: Monthly Financials



AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

EIC operating fund received sales tax revenue for November and December 2016 combined was \$539,465 compared to same period in prior year in the amount of \$532,487. Interest earned was \$5,312 compared to \$1,464 same period in 2015. EIC capital projects fund income for approved projects in November for \$2,250,000 as transfers in.

EIC operating fund had budgeted recurring expense with the exception of transfers out for approved projects to the EIC capital projects fund. EIC capital projects fund had streetscape project expense in November and December.

River Trail project had no expense and received \$802 interest for November and December bringing the remaining project balance available to \$974,508.

RECOMMENDED ACTION

Staff recommends acceptance of financial report.

CITY OF KERRVILLE
Economic Improvement Corporation
Sales Tax Improvement Fund - Summary
For the month ending December 31, 2016

Beginning Cash Balance (November 2016)		\$3,775,297
Income:		
Sales Tax - November	\$ 278,707	
Sales Tax - December	\$ 260,757	
Interest Revenue - November	\$ 2,838	
Interest Revenue - December	\$ 2,474	
Total Income	\$ 544,777	
Expenses:		
Administrative Service Fee - November	\$ 8,333	
Administrative Service Fee - December	\$ 8,333	
Transfer for Debt Service - November	\$ 92,753	
Transfer for Debt Service - December	\$ 92,753	
Transfer Out - Tennis Center	\$ 750,000	
Transfer Out - Reuse/Distribution Lines	\$ 1,500,000	
Total Expenses	\$ 2,452,172	
Revenues Over (Under) Expenditures		<u>\$ (1,907,396)</u>
Ending Cash Balance		<u>\$1,867,901</u>

CITY OF KERRVILLE
Economic Improvement Corporation
Sales Tax Improvement Fund - Revenue and Expense Statement
For the month ending December 31, 2016

	Annual Budget	Current Period	Y-T-D Actual	% of Budget	Budget Balance
BEGINNING CASH BALANCE	\$ 3,789,843		\$ 3,789,843		
REVENUE:					
Sales and Use Tax	\$ 3,302,505	\$ 260,757	\$ 804,271	24.35%	\$ 2,498,235
Interest	\$ 5,000	\$ 2,474	\$ 7,048	140.95%	\$ (2,048)
TOTAL REVENUE	\$ 3,307,505	\$ 263,231	\$ 811,318	24.53%	\$ 2,496,187

	Annual Budget	Current Period	Y-T-D Actual	% of Budget	Budget Balance
EXPENDITURES:					
Administrative					
Local Meetings	\$ 500			0.00%	\$ 500
Administrative Services Fee	\$ 100,000	\$ 8,333	\$ 25,000	25.00%	\$ 75,000
Economic Development Governing Body	\$ 180,000		\$ 180,000	100.00%	\$ -
Debt Service - River Trail - Series 2011A	\$ 258,456	\$ 21,455	\$ 64,364	24.90%	\$ 194,092
Debt Service - River Trail - Series 2012	\$ 252,863	\$ 21,053	\$ 63,158	24.98%	\$ 189,706
Debt Service - Athlex Complex - Series 2015	\$ 603,417	\$ 50,246	\$ 150,737	24.98%	\$ 452,680
Total Administrative	\$ 1,395,236	\$ 101,086	\$ 483,259	34.64%	\$ 911,977
Category I - Business Development					
BD Set Aside	\$ 500,000			0.00%	\$ 500,000
Total Category I	\$ 500,000	\$ -	\$ -	0.00%	\$ 500,000
Category II - Quality of Life					
Tennis Center	\$ 750,000	\$ -	\$ 750,000	100.00%	\$ -
Downtown Streetscape Enhancements:	\$ -				\$ -
Water Feature	\$ 250,000	\$ -	\$ -	0.00%	\$ 250,000
Total Category II	\$ 1,000,000	\$ -	\$ 750,000	75.00%	\$ 250,000
Category III - Public Infrastructure					
Housing	\$ 500,000	\$ -	\$ -	0.00%	\$ 500,000
Reuse Distribution Lines	\$ 1,500,000	\$ -	\$ 1,500,000	0.00%	\$ -
Total Category III	\$ 2,000,000	\$ -	\$ 1,500,000	0.00%	\$ 500,000
Contingency	\$ -	\$ -	\$ -	0.00%	\$ -
	\$ -	\$ -	\$ -		\$ -
TOTAL EXPENDITURES	\$ 4,895,236	\$ 101,086	\$ 2,733,259	55.84%	\$ 2,161,977
NET REVENUES TO EXPENDITURES	\$ (1,587,730)	\$ 162,145	\$ (1,921,941)		

ENDING CASH BALANCE	Budget	Actual
	\$ 2,202,112	\$ 1,867,901

CITY OF KERRVILLE
Economic Improvement Corporation
Sales Tax Revenue Analysis - FY16
For the month ending December 31, 2016

Revenue Month	Actual FY 2014	Actual FY 2015	Actual FY 2016	Budgeted FY 2017	Actual FY 2017	FY2016 vs FY2017	Budget vs Actual
October	\$ 241,503	\$ 238,933	\$ 227,707	\$ 254,516	\$ 264,806	16.29%	4.04%
November	\$ 234,150	\$ 257,654	\$ 277,653	\$ 274,458	\$ 278,707	0.38%	1.55%
December	\$ 214,424	\$ 251,851	\$ 254,834	\$ 268,276	\$ 260,757	2.32%	-2.80%
January	\$ 229,761	\$ 245,845	\$ 255,848				#DIV/0!
February	\$ 296,036	\$ 335,071	\$ 347,778				#DIV/0!
March	\$ 207,869	\$ 223,251	\$ 223,790				#DIV/0!
April	\$ 218,030	\$ 227,065	\$ 237,432				#DIV/0!
May	\$ 268,682	\$ 273,281	\$ 307,046				#DIV/0!
June	\$ 267,530	\$ 255,511	\$ 243,070				#DIV/0!
July	\$ 222,961	\$ 238,328	\$ 249,278				#DIV/0!
August	\$ 266,321	\$ 297,274	\$ 290,011				#DIV/0!
September	\$ 238,926	\$ 256,246	\$ 259,227				#DIV/0!
YTD Total	\$ 2,906,194	\$ 3,100,310	\$ 3,173,673	\$ 797,250	\$ 804,271	5.80%	0.88%

CITY OF KERRVILLE
Economic Improvement Corporation
Capital Projects Fund - Summary
For the month ending December 31, 2016

Beginning Cash Balance (November 2016)		\$ 2,090,991
Income:		
Transfer In - Tennis Center - November	\$	750,000
Transfer In - Reuse/Distribution - November	\$	1,500,000
Total Income:	\$	<u>2,250,000</u>
Expenses:		
Streetscape/Parking Garage - November	\$	1,309
Streetscape/Parking Garage - December	\$	1,972
Total Expenses:	\$	<u>3,280</u>
Revenues Over (Under) Expenditures		<u>\$ 2,246,720</u>
Ending Cash Balance		<u><u>\$ 4,337,711</u></u>

CITY OF KERRVILLE
Economic Improvement Corporation
Project Status Summary
For the month ending December 31, 2016

Fiscal Years	Projects	Agreement Commitment	EIC Funded To Date	Total Funded	Expenses to Date	Project Balance
2012-13	Downtown Streetscape	\$ 35,100	\$ 35,100	\$ 35,100	\$ 34,609	\$ 491
2014-15	James Avery	\$ 1,220,000	\$ 1,220,000	\$ 1,220,000	\$ 609,500	\$ 610,500
2014-15	ED Set Aside	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000		\$ 1,000,000
2015-16	Olympic Pool	\$ 100,000	\$ 100,000	\$ 100,000		\$ 100,000
2015-16	Parking Garage	\$ 160,000	\$ 160,000	\$ 160,000	\$ 3,281	\$ 156,719
2015-16	Planter Boxes	\$ 20,000	\$ 20,000	\$ 20,000		\$ 20,000
2015-16	Street Furniture	\$ 100,000	\$ 100,000	\$ 100,000		\$ 100,000
2015-16	Housing	\$ 100,000	\$ 100,000	\$ 100,000		\$ 100,000
2016-17	Tennis Center	\$ 1,500,000	\$ 750,000	\$ 750,000		\$ 750,000
2016-17	Distribution Lines	\$ 3,000,000	\$ 1,500,000	\$ 1,500,000		\$ 1,500,000
TOTALS		\$ 8,710,100	\$ 3,480,100	\$ 3,743,574	\$ 2,043,067	\$ 4,337,711

Cash Balance on 12/31/2016 \$ 4,337,711

General Capital Improvement Projects - supported by EIC

Fiscal Years	Projects	Agreement Commitment	Total Funded	Expense To Date	To Balance
2011-12	River Trail	\$ 6,000,000	\$ 5,999,152	\$ 5,023,644	\$ 975,508
2011-12	Louise Hays/Lehmann Monroe parks	\$ 2,600,000	\$ 2,600,000	\$ 2,600,000	\$ (0)
Funding Agreement - C2011-76Totals		\$ 8,600,000	\$ 8,599,152	\$ 7,623,643	\$ 975,507

Notes:

6/24/14 - Project adjustments - \$600,000.00 moved from River Trail project to Louise Hays/Lehman Monroe park improvements per EIC and City Council meetings - additional funding to replenish River Trail project to be requested by city staff from EIC at future EIC meeting.

9/22/14 - Project replenished - \$600,000.00 approved at EIC meeting related to Louise Hays/Lehman Monroe park improvements (see note above) reported on 9/30/14 financial report at October 2014 meeting.

Cash and Investments

For the month ending December 31, 2016

Cash and Investment Balances by Fund			
<u>City G/L Fund</u>	<u>Fund Name</u>	<u>Balance</u>	<u>Period</u>
40	Sales Tax Improvement Fund (operating fund)	\$ 1,867,901	12/31/2016
75	EIC Projects Fund (capital projects fund)	\$ 4,337,711	12/31/2016
Total Cash and Investments		\$ 6,205,613	12/31/2016

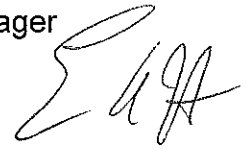
Cash and Investments by Type - Placement - Amount					
<u>Type</u>	<u>Investment Placement</u>	<u>Amount</u>	<u>Interest Earned</u>	<u>Interest Earned (Annualized)</u>	<u>Period Ending</u>
Cash	Wells Fargo Checking	\$ 2,438,972	\$ -	0.00%	12/31/2016
ST Investment	EIC TexPool	\$ 3,266,641	\$ 2,259.04	0.83%	12/31/2016
Pioneer Bank	CD	\$ 250,000	\$ 215.19	1.03%	12/31/2016
Texas Hill Co Bank	CD	\$ 250,000	\$ -	0.00%	12/31/2016
Total Cash and Investments		\$ 6,205,613	\$ 2,474.23	0.48%	12/31/2016

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

SUBJECT: Projects Update

AGENDA DATE: January 17, 2017 **DATE SUBMITTED:** January 13, 2017

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



EXHIBITS: Project Status Reports

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Staff will provide reports on the following projects:

- River Trail Project – Lowry Park
- Kerrville Sports Complex
- Streetscape
- James Avery Craftsman, Inc. Campus Improvements

RECOMMENDED ACTION

This report is for informational purposes only. No action required.

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

SUBJECT: Funding Agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville, Texas in an amount not to exceed \$1,500,000 for improvements to the H-E-B Tennis Center

AGENDA DATE: January 17, 2017 **DATE SUBMITTED:** January 13, 2017

SUBMITTED BY: Ashlea Boyle **CLEARANCES:** E.A. Hoppe
Assistant Parks Director Deputy City Manager



EXHIBITS:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Attached is a Funding Agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville, Texas for improvements to the City's H-E-B Tennis Center.

RECOMMENDED ACTION

Staff recommends approval of the Funding Agreement.

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS FOR IMPROVEMENTS TO THE CITY'S H-E-B TENNIS CENTER

THIS PROJECT FUNDING AGREEMENT is entered into this _____ day of _____, 2017, by and between the City of Kerrville, Texas (“City”), a Texas home rule municipality, and the City of Kerrville, Texas Economic Improvement Corporation (“EIC”), a Texas non-profit corporation established by City pursuant to Section 4B of Article 5190.6 of the Texas Revised Civil Statutes and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code, otherwise known as the Development Corporation Act of 1979 (“the Act”).

WITNESSETH:

WHEREAS, pursuant to Chapter 505 of the Act, EIC is authorized to construct, or to provide funding to construct, projects which the EIC finds to be encompassed by the definition of “Projects”, as that word is defined in Chapters 501 and 505 of the Act; and

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

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

WHEREAS, the City Council of the City (the “City Council”) and the Board of Directors of the EIC (the “Board”) have determined to undertake a project to provide improvements to the City’s H-E-B Tennis Center (“Center”), to include improving walking paths, ADA access, lighting, parking, seating areas, irrigation, landscaping, signage, and drainage; the resurfacing of tennis courts; remodeling buildings; and other related improvements (collectively, the “Improvements”), all as authorized by the Act; and

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

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

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

WHEREAS, on November 21, 2016, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

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

1. **“Project” Defined.** When used in this Agreement, the phrase “Project” means the project summary and estimate specified in **Exhibit A** attached hereto and included herein for all purposes. City will manage the funding it receives from EIC and the bidding and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC.
2. **Agreement to Fund Project:** The EIC agrees to provide City an amount up to and not to exceed \$1,500,000.00 in 4B Revenues to be used for the design, bidding and/or request for proposals, acquisition, construction, and installation of the Project.
3. **Payments Authorized:** City is authorized to make payments for the herein described purposes directly from the Sales Tax Improvement Fund (Fund 40) or by making a transfer of 4B Revenues from the Sales Tax Improvement Fund (Fund 40) to one or more funds described in the City’s approved budget.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, shall be limited to the payment of “costs” as defined in the Act.
5. **Project Timeline:** The City shall begin design activities for the Project on or before _____, 2017. Should such activities not occur, EIC may elect to cancel and withhold its pledge of funds for the Project.
6. **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 will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
7. **Amendment:** This Agreement may be amended only by written amendment signed by the parties.
8. **Notices:** All notices given with respect to this Agreement must be in writing and will be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested

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

For EIC

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

For City

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

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

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

CITY OF KERRVILLE, TEXAS

CITY OF KERRVILLE, TEXAS
IMPROVEMENT CORPORATION

ECONOMIC

By: _____
Bonnie White, Mayor

By: _____
Gary Cochrane, President

ATTEST:

ATTEST:

Brenda G. Craig, City Secretary

Cheryl Brown, Secretary for the EIC

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney



City of Kerrville

701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

Exhibit A: PROJECT DESCRIPTION

The project consists of design/engineering process and subsequent physical improvements to the City of Kerrville's H-E-B Tennis Center located at 801 Tennis Drive. The original complex was built in 1978 with six courts. Improvements consisting of an additional eight lit courts, trail, and playground were completed in 1993. The current facility now consists of a total of 14 lighted courts.

In mid-2016, the original battery of asphalt courts were resurfaced and re-striped to seal cracks. This repair was a temporary solution with no guarantee on life expectancy, with the knowledge that the courts would eventually need to be overlaid with a concrete cap. Striping for junior courts and pickleball was also added at that time to support programming needs.

If funded, the City intends to hire a consulting firm that will facilitate a design/engineering process. This process will engage various tennis-related community stakeholders (KTA, KISD, Schreiner University, etc.) in a planning and design process for the future of the facility. That input will culminate in construction engineering documents that will be utilized to bid and construct the identified improvements.

Staff has identified the following minimum infrastructure improvements, but additional elements may be identified by the stakeholders during the design process:

- Improving path of travel and ADA access to areas such as the pavilion, practice area, pro shop, lower parking, and observation areas
- Resurfacing all post tension concrete courts
- Evaluate the newly resurfaced asphalt courts in regards to upgrading to post tension concrete courts
- Address drainage and parking issues
- Address irrigation and landscaping
- Address lighting
- Address signage, fencing, windscreens, and net equipment
- Address the existing playground
- Evaluation/renovation of the existing buildings