

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, MARCH 11, 2014, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, MARCH 11, 2014, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION offered by Reverend Patty Edwards, Minister of Unity Church of the Hill Country.

PLEDGE OF ALLEGIANCE TO THE FLAG: led by Cadet Second Lieutenant Conner Richter of the Tivy High School Air Force Junior Reserve Officer Training Corps.

Those in attendance may stand if they wish.

1. VISITORS/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. City Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers will be limited to the first ten speakers and each speaker is limited to four minutes.

2. PRESENTATIONS:

2A. Certificate of Recognition to Heather Stebbins for serving seven years as Assistant City Attorney. (Mayor Pratt)

2B. Resolution of Commendation to Scott Rain for serving on the Main Street Advisory Board. (Mayor Pratt)

2C. Resolution of Commendation to Caroline Wilson for serving on the Main Street Advisory Board. (Mayor Pratt)

3. CONSENT AGENDA:

These items are considered routine and can be approved in one motion unless a city councilmember asks for separate consideration of an item. It is recommended that City Council approve the following items which will grant the Mayor or City Manager the authority to take all actions necessary for each approval:

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 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, March 7, 2014 at 3:00 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

3A. Minutes of the city council regular meeting held February 25, 2014, and the special joint city/county meeting held March 3, 2014. (staff)

3B. Purchase of a valve-vacuum trailer in the amount of \$59,146.00. (staff)

3C. A Resolution authorizing the abandonment and release of a water and sanitary sewer easement generally located on an undeveloped tract generally located in the 1400 block of Bandera Highway (State Highway 173); and ordering recording.

Resolution 04-2014. (staff)

END OF CONSENT AGENDA

4. CONSIDERATION AND POSSIBLE ACTION:

4A. Presentation and approval of the fiscal year 2013 City of Kerrville Comprehensive Annual Financial Report (CAFR). (staff)

4B. Economic development grant agreement between Kerrville Area Chamber of Commerce, Inc. (Kerrfest) and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$25,000.00. (staff)

4C. Economic development grant agreement between Kerrville Festival of the Arts, Inc. and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$20,000.00. (staff)

4D. Economic development grant agreement between Kerrville Folk Festival, Inc. and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$7,800.00. (staff)

4E. Economic development grant agreement between Texas Hill Country Wine & Brew Festival, Inc. and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$18,643.00. (staff)

4F. Economic development grant agreement between Kerrville's Fourth on the River, Inc. and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$23,100.00. (staff)

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 for further information.

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Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

4G. Economic development grant agreement between Historic Downtown Business Alliance, Inc. and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$5,016.00. (staff)

4H. Economic development grant agreement between High Five Events, LLC and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$18,600.00. (staff)

4J. Proposed street improvement and rehabilitation list for fiscal year 2014. (staff)

5. INFORMATION AND DISCUSSION:

5A. Presentation on the Neighborhood Improvement Program scheduled for March 29, 2014. (staff)

5B. Update on T-hangar construction project at the airport. (staff)

6. APPOINTMENT TO BOARDS AND COMMISSIONS:

6A. Appointments to the Parks and Recreation Advisory Board. (staff)

6B. Appointment to the Kerrville Public Utility Board of Directors. (staff)

7. ITEMS FOR FUTURE AGENDAS

8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

Announcement of items of community interest, including expressions of thanks, congratulations, or condolences; information regarding holiday schedules; honorary recognitions of City officials, employees, or other citizens; reminders about upcoming events sponsored by the City or other entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of the City. No action will be taken.

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 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, March 7, 2014 at 3:00 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

9. EXECUTIVE SESSION:

City Council 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, including the following matters:

Sections 551.071 and 551.072:

Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the City's bargaining position with third parties, regarding property interests related to the following:

- Appointment to the Kerrville Public Utility Board of Directors. (staff)
- Jefferson lift station
- River Trail.

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

11. ADJOURNMENT.

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 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, March 7, 2014 at 3:00 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

Agenda Item:

2A. Certificate of Recognition to Heather Stebbins for serving seven years as Assistant City Attorney. (Mayor Pratt)

CERTIFICATE OF RECOGNITION

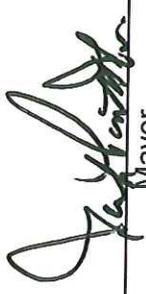
THIS CERTIFICATE IS PRESENTED
TO

HEATHER STEBBINS

PRESENTED THIS 11TH DAY OF MARCH 2014

By the City Council for the City of Kerrville, Texas in Recognition of Her 7 Years of Exemplary Service to the City of Kerrville in Her Capacity as Assistant City Attorney.

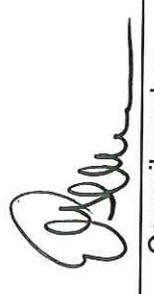




Mayor



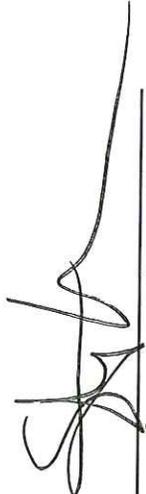
Mayor Pro Tem



Councilmember



Councilmember



Councilmember

Agenda Item:

2B. Resolution of Commendation to Scott Rain for serving on the Main Street Advisory Board. (Mayor Pratt)



City of Kerrville

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

RESOLUTION OF COMMENDATION

WHEREAS, SCOTT RAIN has served as a member of the Main Street Advisory Board with the date of service beginning January 25, 2011; and

WHEREAS, SCOTT RAIN has served faithfully and dutifully on said board;

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

That **SCOTT RAIN** be recognized for outstanding service as a member of the Main Street Advisory Board, and that on behalf of the citizens of Kerrville, as well as for ourselves individually, we wish to express our sincere appreciation for contributions to the city and the community.

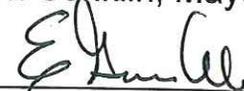
PASSED AND APPROVED, this the 11th day of MARCH, 2014.

ATTEST:


Brenda G. Craig, City Secretary


Jack Pratt, Jr., Mayor


Carson Conklin, Mayor Pro Tem


E. Gene Allen, Councilmember


Stacie Keeble, Councilmember


T. Justin MacDonald, Councilmember



Agenda Item:

2C. Resolution of Commendation to Caroline Wilson for serving on the Main Street Advisory Board. (Mayor Pratt)



City of Kerrville

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RESOLUTION OF COMMENDATION

WHEREAS, CAROLINE WILSON has served as a member of the Main Street Advisory Board with the date of service beginning September 11, 2012; and

WHEREAS, CAROLINE WILSON has served faithfully and dutifully on said board;

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

That **CAROLINE WILSON** be recognized for outstanding service as a member of the Main Street Advisory Board, and that on behalf of the citizens of Kerrville, as well as for ourselves individually, we wish to express our sincere appreciation for contributions to the city and the community.

PASSED AND APPROVED, this the 11th day of MARCH, 2014.

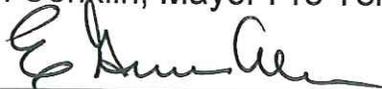
ATTEST:


Brenda G. Craig, City Secretary




Jack Pratt, Jr., Mayor


Carson Conklin, Mayor Pro Tem


E. Gene Allen, Councilmember


Stacie Keeble, Councilmember


T. Justin MacDonald, Councilmember

Agenda Item:

3A. Minutes of the city council regular meeting held February 25, 2014, and the special joint city/county meeting held March 3, 2014. (staff)

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
FEBRUARY 25, 2014

On February 25, 2014, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor Pratt in the City Hall Council Chambers at 701 Main Street. The invocation was offered by Lainie Johnson, Director of the Pregnancy Resource Center, followed by the Pledge of Allegiance led Police Officer of the Year Kristy Harris; EMS Person of the Year Roy Fausset; and Firefighter of the Year Kirk Scheel.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Carson Conklin	Mayor Pro Tem
Stacie Keeble	Councilmember
Gene Allen	Councilmember

COUNCILMEMBER ABSENT: Justin MacDonald

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Deputy City Manager
Brenda G. Craig	City Secretary
Sandra Yarbrough	Director of Finance
Robert Ojeda	Fire Chief
Ashlea Boyle	Special Projects Manager
John Young	Police Chief
Jason Lutz	City Planner

VISITORS PRESENT: List on file in city secretary's office for the required retention period.

1. VISITORS/CITIZENS FORUM: No one spoke.

2. RECOGNITIONS:

2A. Presentation of Police Officer of the Year Award to Officer Kristy Harris – Police Commendation Award.

2B. Presentation of the 2014 EMS Person of the Year Award to Paramedic/Firefighter Roy Fausset.

2C. Presentation of the 2014 Firefighter of the Year Award to Firefighter/Paramedic Kirk Scheel.

2D. Resolution of Commendation to Diana K. Martin for serving on the Library Advisory Board.

2E. Proclamation proclaiming March 4, 2014 as IHOP's National Pancake Day and Shriners Hospitals for Children Day was presented to members of the Hill Country Shriners Club.

2F. Proclamation proclaiming March 2014 as American Red Cross Month presented to James Canup with the American Red Cross.

3. CONSENT AGENDA:

Mayor Pratt removed item 3C from the consent agenda.

Mr. Conklin moved to approve consent agenda items 3A and 3B; Mr. Allen seconded the motion, and it passed 4-0:

3A. Minutes of the city council special meeting held February 5, 2014, and regular meeting held February 11, 2014.

3B. Promissory Note, Security Agreement, and Loan Agreement between the Cailloux Foundation and the City of Kerrville in the amount of \$1,279,881.00 for the purchase of a Sutphen SPH100 aerial platform firefighting ladder truck and associated equipment.

END OF CONSENT AGENDA

3C. Purchase of a Sutphen SPH 100 aerial platform firefighting ladder truck from Sutphen Corporation in the amount of \$1,127,415.00 and associated equipment purchased from various vendors at a cost of \$152,466.00; for a total cost of \$1,279,881.00.

The council expressed appreciation to the Cailloux Foundation for providing an interest free loan to the city to fund the purchase of the aerial truck.

Mr. Allen moved for approval of the purchase as stated; Mr. Conklin seconded the motion and it passed 4-0.

4. PUBLIC HEARING:

4A. Resolution No. 03-2014 granting a Conditional Use Permit (CUP) for an approximate 1.03 acres tract of land consisting of Lots 21, 22, 23, and 24, Block G, of the B.F. Cage Addition, a subdivision of the City of Kerrville, Kerr County, Texas, otherwise known as 820 Sidney Baker Street (State Highway 16) and located within the N-21 Zoning District; by permitting said property to be used for Restaurant, General; and making said permit subject to certain conditions and restrictions.

Mr. Lutz noted the applicant was seeking a CUP to allow the retail sale of alcoholic beverages for on premise consumption at 820 Sidney Baker. He noted six properties within 1,000 ft. operating restaurant general land use, and one business that served alcohol. The planning and zoning commission recommended approval.

Mr. Conklin moved for approval of Resolution No. 03-2014; Mr. Allen seconded the motion and it passed 4-0.

5. ORDINANCES, SECOND AND FINAL READING:

5A. Ordinance No. 2014-02, amending Chapter 6 "Advertising", Article II "Signs", of the City's Code of Ordinances to revise Sections 6-36 and 6-40 to authorize the use of political signs on City property being used as a polling place; amending Chapter 70 "Offenses and miscellaneous provisions" to add a new Article III "Electioneering at polling places" to provide regulations regarding the time, place, and manner of the use of such signs; containing a savings and

severability clause; providing for penalties not to exceed \$2,000.00; ordering publication; providing an effective date; and providing other matters related to the subject. Mayor Pratt read the ordinance by title only.

Mr. Hayes noted the amendment to the sign code would allow electioneering signs on city property used as a polling location in order to conform with recent state legislation. The ordinance would adopt the same practice the city staff had been enforcing in the past regarding political signs at the Cailloux Theater. There had been no changes to the ordinance since first reading.

Mr. Conklin moved for approval of Ordinance No. 2014-02 on second and final reading, as presented; Ms. Keeble seconded the motion and it passed 4-0.

Staff would begin removing non-compliant signs at the Cailloux Theater following the meeting.

5B. Ordinance No. 2014-04 amending the budget for fiscal year 2014 to account for various changes to the City's operational budget. Mayor Pratt read the ordinance by title only.

Mr. Parton noted no changes since first reading and recommended approval.

Mr. Allen moved for approval of Ordinance No. 2014-04 on second and final reading; Mr. Conklin seconded the motion and it passed 4-0.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Contract for the sale of the former City Hall property at 800 Junction Highway. Deferred to executive session.

7. INFORMATION AND DISCUSSION:

7A. Budget/economic update:

Ms. Yarbrough reported current revenues and expenditures as compared to prior year to date totals for the period ending January 31.

8. APPOINTMENT TO BOARDS AND COMMISSIONS:

8A. Appointment to the Building Board of Adjustments and Appeals.

Mr. Allen moved to appoint Michael Walker to the Architect position with term to expire August 31, 2015; Mr. Conklin seconded the motion and it passed 4-0.

9. ITEMS FOR FUTURE AGENDAS

10. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- The Facebook page that exploited a local lady as the Kerrville Dancing Lady was a form of bullying; the city was not empowered to intervene, but persons responsible should remove it.
- Mardi Gras on Main would be held Tuesday, March 4, 6-9:00 p.m. downtown, tickets were \$30.

11. EXECUTIVE SESSION:

Mr. Conklin moved for the city council to go into executive closed session under Sections 551.071 and 551.072 of the Texas Government Code; motion was seconded by Ms. Keeble and passed 4-0 to discuss the following matters:

Sections 551.071 and 551.072:

Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the City's bargaining position with third parties, regarding property interests related to the following:

- 800 Junction Highway, former city hall property
- River Trail.

At 6:37 p.m. the regular meeting recessed and council went into executive closed session at 6:40 p.m. At 7:20 p.m. the executive closed session recessed and council returned to open session at 7:21 p.m. The mayor announced that no action had been taken in executive session.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

6A. Contract for the sale of the former City Hall property at 800 Junction Highway.

Mr. Conklin moved to authorize execution of a real estate contract to sell the property at 800 Junction Highway for the amount of \$760,000; Mr. Allen seconded the motion and it passed 4-0.

ADJOURNMENT. The meeting adjourned at 7:22 p.m.

APPROVED: _____

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

MINUTES OF THE KERRVILLE CITY COUNCIL AND
KERR COUNTY COMMISSIONERS' COURT JOINT MEETING

MARCH 3, 2014

On March 3, 2014, a joint meeting of the Kerrville City Council and the Kerr County Commissioners' Court was called to order by Mayor Pratt and Interim County Judge Baldwin at 9:00 a.m. in The Union Church Building, 101 Travis Street, Kerrville, Texas.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Carson Conklin	Mayor Pro Tem
Justin MacDonald	Councilmember
Gene Allen	Councilmember

COUNCILMEMBER ABSENT:

Stacie Keeble	Councilmember
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COUNTY COMMISSIONERS PRESENT:

H. A. Baldwin	Interim County Judge
Jonathan Letz	Commissioner
Tom Moser	Commissioner
Bruce Oehler	Commissioner

COUNTY COMMISSIONERS ABSENT: None

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
John Young	Police Chief

Discussion regarding an interlocal agreement for firefighting and emergency medical services between the City of Kerrville and Kerr County:

Each county commissioner spoke and all indicated that it was in the best interest of all the citizens of the county to maintain the interlocal agreement with the city for fire/EMS.

Mr. Letz moved to continue the same contract that was due to expire October 1, 2014, for ten (10) years starting at \$1.2 million and adjusted annually based on the CPI or 3%, whichever was less; further, a team of two commissioners and two councilmembers would meet to review and make any adjustments to the existing agreement, adjustments would be forwarded to staff to incorporate into the agreement, and the final document would be submitted to both governing bodies for action. Mr. Moser seconded the motion and it passed 4-0.

The consensus of the city council was to schedule a special meeting for Thursday, March 6 at 3:00 p.m. to take action on the agreement. Prior to that meeting, the 2/2 team would meet to finalize details to the current agreement; Messrs. Moser and Baldwin would represent the county, and Messrs. Pratt and MacDonald would represent the city.

ADJOURNMENT: The meeting adjourned at 9:20 a.m.

APPROVED: _____

Jack Pratt, Jr., Mayor

ATTEST:

Brenda Craig, City Secretary

Agenda Item:

3B. Purchase of a valve-vacuum trailer in the amount of \$59,146.00. (staff)



E.H. WACHS

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ehwachs.com

Quotation

TO: C.Y. GUTHRIE
CITY OF KERRVILLE,
800 JUNCTION HWY
KERRVILLE, TX 78028

Date: 10/30/2013
Quotation Number: KR63867
Payment Terms: Net 30 Days
Shipping Terms: FOB Destination
Valid Through: 4/5/2014

Reference: BuyBoard #424-13

E.H. Wachs is pleased to offer the following quotation.

Item Number	Description	Qty	U/M	Unit Price (USD)	Disc%	Line Total (USD)
1 77-000-36	Standard LX (Gas) - VMT: Single turner valve maintenance trailer; includes Wachs 750 Ft/lb (1020 Nm) Extended Reach Valve operator, telescoping valve key and ruggedized Recon controller. A 27 HP (20 kW) gasoline powered Kohler overhead cam air cooled engine provides ample power for all contained functions, including an auxiliary HTMA Class II circuit; 10 gallon (38 L) reservoir, fan cooled heat exchanger, continuous duty rated for 8 GPM (30.3 LPM) @ 1,800 PSI (125 bar). A positive displacement blower provides 500 CFM (14.2 cmm)-11" (280mm) Hg vacuum, with spoils containment provided by a 250 (950 L) gallon tank with power hydraulic dump (rear discharge) and latching rear door. Also driven from the common power train is a 2.5 gpm (9.5 LPM) @ 3000 PSI (210 bar) pressure washer system with 3 gallon (11.4 L) anti-freeze tank and 95 gallon (360 L) water tank. Includes 2-1/2" (63.5mm), 1-1/4" (31.75mm) & 7/8" (22mm) suction wands and one each short and long wash-down guns. The LX package bundles the light bar with arrow board, 45' (14 M) auxiliary hydraulic hose reel for operation of hydraulic power tools and 24" (61cm) X 18" (46cm) X 18" (46cm) aluminum job box. Domestic destination and freight charges included. Available as a GPS upgrade for Recon is kit 79-411-00 or submeter kit 79-413-00.	1	EA	54,250.00	1.5%	53,436.25
2 11-409-00	Telescopic Valve Key - 2" AWWA (Warmer Climate). Manufactured from high-strength steel, adjustable from 3 ft (.91 M) to 8ft (2.44 M) with spring loaded pin to eliminate loss. Rated to 800 lb-ft (1,085 Nm) of torque for use with the Wachs P/2 and RS/2 valve operators and ERV 750. Weighs only 24 lbs (10.9 kg). Add the Tee Handle adapter (11-408-10) for manual functionality when machine is not in use.	1	EA	435.00		435.00

Quote Total (USD) \$53,871.25

Thank you for the opportunity to quote your application needs. If you have any questions or if I may be of any further assistance to you please do not hesitate to notify me.

(SALES TAX!!!!) We collect sales tax in all but the following states: AK, DE, MT, OR and NH. If you are tax exempt please supply your identification number and certificate with your order. If your exempt number is not on file, tax will be added to your order.

Ken Redding
Utility Technical Sales Rep
815-943-4785 x2773
kredding@ehwachs.com

Please refer to our [website](#) for terms and conditions.



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Water Utility Products

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ehwachs.com

Quotation

TO: C.Y. GUTHRIE
CITY OF KERRVILLE.
800 JUNCTION HWY
KERRVILLE, TX 78028

Date: 10/30/2013
Quotation Number: KR63868
Payment Terms: Net 30 Days
Shipping Terms: FOB Harvard
Valid Through: 4/5/2014

E.H. Wachs is pleased to offer the following quotation.

Item Number	Description	Qty	U/M	Unit Price (USD)	Line Total (USD)
1	08-000-10 45 Pound Hydraulic Breaker with EZ Ride Foot and 1-1/8" hex bit capacity. This medium duty breaker operates from any HTMA Class 2 hydraulic circuit and produces 1,800 blows per minute; making it idea for cutting curbs, sidewalks and asphalt. Domestic destination and freight charges included.	1	EA	2,695.00	2,695.00
2	08-410-01 5" x 11" Asphalt Cutter for Breaker	1	EA	200.00	200.00
3	08-410-02 14" Moil Point for Breaker	1	EA	64.58	64.58
4	08-410-03 3" x 14" Long Chisel	1	EA	88.25	88.25
5	08-405-00 Breaker Mount for Valve Maintenance Trailer, requires Breaker to have either Chisel or Moil point bit installed.	1	EA	250.00	250.00
6	MISCPART TA54103-TAMPER, 3 FT HANDLE, VALVE IN HANDLE, KIDNEY SHOE	1	EA	1,976.76	1,976.76
				Quote Total (USD)	\$5,274.59

We will prepay and add shipping charges to your order, or we can ship collect via your choice of carrier service. If you have any questions please feel free to call Jan Clawson at 512-826-2355 cell or call me at 815-943-4785 x2773. Thanks.

(SALES TAX!!!!) We collect sales tax in all but the following states: AK, DE, MT, OR and NH. If you are tax exempt please supply your identification number and certificate with your order. If your exempt number is not on file, tax will be added to your order.

Please reference this quote number when placing your order. Thank You.

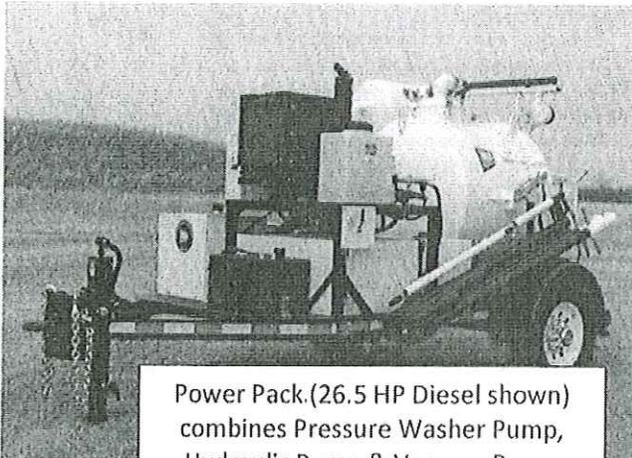
Ken Redding
Utility Technical Sales Rep
815-943-4785 x2773
kredding@ehwachs.com

Please refer to our [website](#) for terms and conditions.

Valve Maintenance Trailer

Standard LX *77-000-36 Gas & 77-000-38 Diesel*

The Standard LX VMT combines all the necessary features required for valve maintenance (hydro-excavation & valve turning) plus added all of the more common accessory features (light bar, job box, auxiliary hydraulic hose reel) on a single axle, structural steel framed trailer.

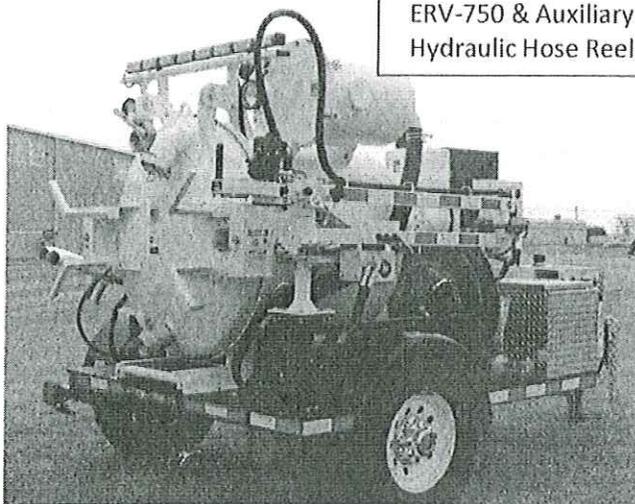


Power Pack (26.5 HP Diesel shown) combines Pressure Washer Pump, Hydraulic Pump & Vacuum Pump

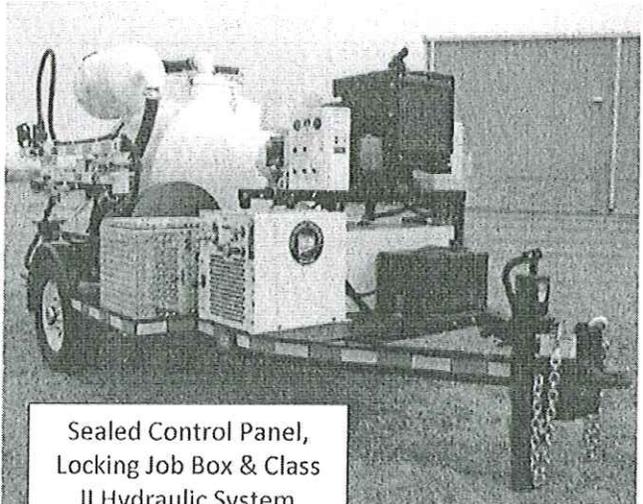


Light Bar with Service Lights

Pressure Washer Hose Reel & Wand/Pressure Washer Gun Storage



ERV-750 & Auxiliary Hydraulic Hose Reel



Sealed Control Panel, Locking Job Box & Class II Hydraulic System

Agenda Item:

3C. A Resolution authorizing the abandonment and release of a water and sanitary sewer easement generally located on an undeveloped tract generally located in the 1400 block of Bandera Highway (State Highway 173); and ordering recording. Resolution 04-2014. (staff)

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

SUBJECT: Resolution: Sanitary Sewer Abandonment – Consideration and action concerning a requested abandonment of a 20' wide 0.08 acre utility easement.

FOR AGENDA OF: Mar. 11, 2014 **DATE SUBMITTED:** Feb. 28, 2014

SUBMITTED BY: Jason Lutz  **CLEARANCES:** Dieter Werner 

EXHIBITS: Resolution and Exhibits

AGENDA MAILED TO: Lee Voelkel, 212 Clay St., Kerrville, Texas 78028

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The applicant is seeking the abandonment of a 20' wide 0.08 acre utility easement that was dedicated, via a separate instrument, to the City of Kerrville. Currently there are no public improvements located in this easement.

The applicant is seeking to final plat a lot in the 1400 block of Bandera Highway, and would like to remove this easement from the plat in order to remove any hindrances to the property that are not required or needed. The preliminary plat for this lot was approved by the Planning & Zoning Commission on January 16, 2014. The lot currently has a sewer main located on the rear of the property and a 10' utility easement has been provided along the front property line to accommodate the construction of a water main across the entire frontage of the proposed lot.

Based on the fact that easements for water and sewer have been provided in other areas of the proposed lot and no improvements are located in the easement staff recommends approval of the abandonment.

RECOMMENDED ACTION

1. Approve the abandonment, as outlined in the attached resolution.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 04 - 2014**

**A RESOLUTION AUTHORIZING THE ABANDONMENT AND RELEASE OF A
WATER AND SANITARY SEWER EASEMENT GENERALLY LOCATED ON
AN UNDEVELOPED TRACT GENERALLY LOCATED IN THE 1400 BLOCK OF
BANDERA HIGHWAY (STATE HIGHWAY 173); AND ORDERING
RECORDING**

WHEREAS, a water and sanitary sewer easement ("Easement") was previously conveyed to the City of Kerrville, Texas ("City") for property generally located in the 1400 block of Bandera Highway (State Highway 173) (the "Property"), as evidenced by the instrument recorded at Volume 1442, Page 674 of the Real Property Records of Kerr County, Texas; and

WHEREAS, the current owner of the Property has requested that the City abandon and release the Easement which impacts the Property; and

WHEREAS, City staff has affirmed that the City is neither using nor has any plans to use the Easement, as the City's wastewater main and sanitary sewer needed to serve the Property are located in other areas; and

WHEREAS, in order to avoid any future cost to the public that might be required with respect to the future maintenance of the Easement, the City Council of the City of Kerrville, Texas finds it to be in the public interest to abandon and release the Easement;

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

SECTION ONE. The City Council finds that the Easement located in the 1400 block of Bandera Highway (State Highway 173), as conveyed to the City and recorded at Volume 1442, Page 674 of the Real Property Records of Kerr County, Texas, said Easement attached as **Exhibit A**, will no longer serve a public interest and should be abandoned and released.

SECTION TWO. Based upon the findings made in Section One, above, and in accordance with the City's policy regarding the disposition of real estate, the City Council authorizes the City Manager to execute and then file and record the Abandonment and Release of Easement, as attached at **Exhibit B**, in the Real Property Records of Kerr County, Texas.

PASSED AND APPROVED ON this the _____ day of _____ A.D., 2014.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

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.

ABANDONMENT AND RELEASE OF EASEMENT

STATE OF TEXAS §
 §
COUNTY OF KERR §

WHEREAS, by instrument dated May 31, 2005, and executed by Joe B. Davis, acting for the Former Texas Rangers Foundation, Grantor, and recorded in Volume 1442, Page 674, Real Property Records, Kerr County, Texas, the undersigned City of Kerrville, Texas (“City”), obtained a water and sanitary sewer easement for the right to install, place, construct, inspect, maintain, repair, and replace water and sanitary sewer lines over, through, and upon the property described in said instrument (the “Easement”); and

WHEREAS, the current owner of the property, which includes the Easement, has requested that the City abandon the Easement, as no such water or sanitary sewer lines were ever placed within the Easement; and

WHEREAS, the City has ascertained that the water and sanitary sewer lines used to provide service for this property and the surrounding area are located within other easements and public rights-of-way located in the area and thus, the Easement is and will be unnecessary; and

WHEREAS, the City Council of the City of Kerrville, Texas, has determined that the Easement, which was obtained by the City in the instrument referred to above, is no longer necessary to the operation of the City’s water and wastewater systems and that as such, the Easement should be abandoned and released;

NOW THEREFORE, the City Council of the City of Kerrville, Texas, by Resolution No. 04-2014 duly made and adopted at its regular meeting of March 11, 2011, has abandoned and release and does hereby evidence the abandonment and release of the Easement.

EXECUTED this the _____ day of March, 2014.

CITY OF KERRVILLE, TEXAS

Todd Parton, City Manger

ATTEST:

Brenda G. Craig, City Secretary.

(signatures continue on following page)

THE STATE OF TEXAS §
 §
COUNTY OF KERR §

This instrument was acknowledged before me on this the _____ day of March, 2014, by Todd Parton, City Manager, City of Kerrville, Texas, on behalf of said City.

Notary Public in and for the State of Texas

UTILITY EASEMENT
TO CITY OF KERRVILLE

THE STATE OF TEXAS §

COUNTY OF KERR §

GRANTOR: THE FORMER TEXAS RANGERS FOUNDATION

Grantor, for and in consideration of Ten Dollar (\$10.00) together with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed by the undersigned, has granted, sold and conveyed and by these presents does grant, sell and convey to CITY OF KERRVILLE and its assigns ("Grantees") easements (the "Easements") for the installation of sanitary sewer and water purposes and for placing, constructing, inspecting, maintaining, repairing and replacing the infrastructure for water and sanitary sewer lines, facilities and purposes (collectively "Utilities", including infrastructure for such utilities) on, over, across and upon the tracts described in Exhibit "A", attached hereto and made part hereof for all purposes; TO HAVE AND TO HOLD the Easements unto Grantees and their successors and assigns, for the purposes and subject to the terms and provisions hereof.

Grantees shall have the right of ingress and egress at all times upon the Easement for the purpose of constructing, reconstructing, installing, inspecting, operating, repairing, replacing, maintaining and removing the Utilities; PROVIDED HOWEVER that no utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground except that the foregoing shall not prohibit service pedestals and above ground switch cabinets and transformers where required. Grantees shall have the right to remove from the Easements all trees, shrubs, and parts thereof and any other obstruction on said Easements that interfere with the use thereof for the purposes herein set forth. Grantees shall have the right to place new or additional wire or wires and to change the sizes thereof within the Easements. Grantee shall have the right to relocate or reconstruct the Utilities within the Easements with the same or different type structures and to place temporary structures for use in placing or repairing the Utilities within the Easements.

Grantees shall have the right to assign, license, permit or otherwise agree to the joint use or occupancy of the Easement by or to any other person or legal entity for the purposes herein set forth.

Grantor reserves the right to use the lands herein described for such uses and purposes as Grantor may determine, provided, however, that no such use of said lands by Grantor shall interfere with the exercise of the rights of Grantees herein specified.

This Easement and the terms and conditions contained herein, shall inure to the benefit of and be binding upon Grantees and Grantor, and their respective successors and assigns, until relinquished and released by written instrument executed by the named Grantees herein set forth.

57

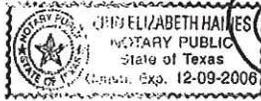
EXECUTED this 31st day of May, 2005.

GRANTOR:
THE FORMER TEXAS RANGERS FOUNDATION

By: Joe B. Davis
Name: JOE B. DAVIS
Title: President

THE STATE OF TEXAS §
COUNTY OF KERR §

This instrument was acknowledged before me on 31, May, 2005, by JOE B. DAVIS, PRESIDENT of THE FORMER TEXAS RANGERS FOUNDATION, on behalf of said foundation.



Elizabeth Haines
Notary Public, State of Texas

Return to:
Wanda Kemp Maxson ✓
106 Kenwood Cir.
Kerrville, TX 78028

FILED FOR RECORD
at 10:30 o'clock.....A.....M
JUN - 8 2005

JANNETT PIEPER
Clerk, County Court, Kerr County, Texas
Jannett Pieper Deputy

FIELD NOTES DESCRIPTION FOR A TWENTY FT. WIDE
SANITARY SEWER EASEMENT ACROSS THE FORMER TEXAS
RANGERS FOUNDATION LAND IN THE CITY OF KERRVILLE,
KERR COUNTY, TEXAS

Being all of a certain twenty (20) ft. wide strip, tract or parcel of land out of Wm. C. Francis Survey No. 146, Abstract No. 137, in the City of Kerrville, Kerr County, Texas; part of 15.00 acres conveyed to The Former Texas Rangers Foundation from Riverhill Development Corp. by a Special Warranty Deed executed the 1st day of July, 2003 and recorded in Volume 1280 at Page 350 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows (record calls shown in parentheses):

BEGINNING at a ½" iron stake set for the west corner of the herein described tract and said 15.00 acres, in the northeast right-of-way line of State Highway No. 173, a southerly corner of the land conveyed to George M. Underwood, Jr. from Riverhill Development Corp. by a Warranty Deed executed the 18th day of December, 2003 and recorded in Volume 1332 at Page 106 of the Real Property Records of Kerr County, Texas;

THENCE, with the common line between said 15.00 acres and said George M. Underwood, Jr. land, N.44°49'52"E. 173.07 ft. to a ½" iron stake set for the north corner of the herein described tract;

THENCE, upon, over and across said 15.00 acres: S.07°12'05"E. 25.37 ft. to a ½" iron stake set for the east corner of the herein described tract; and S.44°49'52" W. 159.24 ft. to a ½" iron stake set for the south corner of the herein described tract in the southwest line of said 15.00 acres, the northeast right-of-way line of said State Highway Loop No. 534;

THENCE, with the southwest line of said 15.00 acres, the northeast right-of-way line of said State Highway Loop No. 534, N.40°04'50"W. (N.40°00'10"W.) 20.08 ft. to the PLACE OF BEGINNING containing 0.08 acre of land, more or less, within these metes and bounds.

I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as stated. (Bearing basis = True north based on GPS observations)

Date surveyed: April 14 & 20, 2004

Dated this 27th day of April, 2004



Don W. Voelkel
Registered Professional Land Surveyor No. 3990



RECORDER'S NOTE
AT TIME OF RECORDATION INSTRUMENT FOUND
TO BE INADEQUATE FOR BEST PHOTOGRAPHIC
REPRODUCTION DUE TO THE DEPTH & DARKNESS OF
PRINT, COLOR OF PRINT OR INK, BACKGROUND OF
PAPER, ILLEGIBILITY, CARBON OR PHOTO COPY ETC.

Unofficial

Provisions herein which restrict the sale, rental or use of any described property because of color or race is invalid and unenforceable under Federal and THE STATE OF TEXAS) COUNTY OF KERR)

I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

RECORD Real Property
VOL. 1442 PG 677
RECORDING DATE

JUN 09 2005

JUN 09 2005



Janet Ripper
COUNTY CLERK, KERR COUNTY, TEXAS



Janet Ripper
COUNTY CLERK, KERR COUNTY, TEXAS

Agenda Item:

4A. Presentation and approval of the fiscal year 2013 City of Kerrville Comprehensive Annual Financial Report (CAFR). (staff)

Agenda Item:

4B. Economic development grant agreement between Kerrville Area Chamber of Commerce, Inc. (Kerrfest) and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$25,000.00. (staff)

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

SUBJECT: Approval of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Kerrville Area Chamber of Commerce in an amount not to exceed \$25,000 for Kerrfest

FOR AGENDA OF: March 11, 2014 **DATE SUBMITTED:** March 5, 2014

SUBMITTED BY: Ashlea Boyle  **CLEARANCES:** Todd Parton
Special Projects Manager City Manager

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

At its meeting of February 24, 2014, the Economic Improvement Corporation (EIC) held a public hearing and approved a funding agreement with the Kerrville Area Chamber of Commerce in an amount not to exceed \$25,000 for rental of grandstands for the 2014 Kerrfest event. Kerrfest will be held May 15-18, 2014 at the Hill Country Youth Event Center. Kerrfest received \$10,500 in EIC funding for the 2013 event.

The 2014 event will include rodeo events, a chili cook-off, BBQ cook-off, homebrew competition, street dance with live music, carnival, and more. This is the fourth year for the event to take place and it continues to grow in attendance each year from 700-800 people in 2011 to over 3,300 people in 2013. The venue does not have spectator seating to accommodate the visitors or the growth in the event. The event seated approximately 300 people in its first two years, 700 in 2013 and will seat approximately 1,400 in 2014.

RECOMMENDED ACTION

City staff recommends consideration and approval of this funding agreement between the EIC and the Kerrville Area Chamber of Commerce in an amount not to exceed \$25,000 for Kerrfest.

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
KERRVILLE AREA CHAMBER OF COMMERCE, INC. (KACCFEST) AND
THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION**

This Agreement is entered into by and between **KERRVILLE AREA CHAMBER OF COMMERCE, INC.**, a Texas nonprofit corporation (“KACC”), acting herein by and through its duly authorized President/CEO, Harold Dean (“KACC Officer”), and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** (“EIC”), a Texas nonprofit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and codified in Chapters 501, 502, and 505 of the Texas Local Government Code, otherwise known as the Development Corporation Act of 1979 (the Act”), and acting by and through its duly authorized President, David Wampler.

WITNESSETH:

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

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:

Equipment 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, and events, including stadiums, auditoriums, parks and park facilities, exhibition facilities, and related store, restaurant, and concessions and other related improvements that enhance any of the items described by Section 505.152 of the Act; and

WHEREAS, KACC is hosting its annual Kerrfest on May 15-18, 2014, which is an event that includes rodeo events, food cook-offs, a street dance with live music, and a carnival (“Kerrfest”); and

WHEREAS, KACC has and will continue to advertise Kerrfest both locally and beyond so as to maximize the attendance of tourists at Kerrfest; and

WHEREAS, KACC has applied for a grant from EIC for funding to rent equipment, including grandstands; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and *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 KACC to provide sales tax revenues collected pursuant to the Act (“4B Revenues”) to KACC for its cost in renting equipment for use at Kerrfest; and

WHEREAS, on February 24, 2014, 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, KACC and the EIC agree as follows:

**ARTICLE I.
EIC'S OBLIGATIONS**

- A. EIC grants to KACC an amount up to \$25,000.00 ("Grant") for costs relating to equipment rental ("Equipment") for Kerrfest. The specific items that KACC intends to rent are listed on the attachment included as **Exhibit A**.
- B. Subject to the terms and conditions set forth in Article II, the Grant will be provided to KACC by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, KACC must first 1) submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval; and 2) comply with section D of Article II. Following the submission and verification thereof, EIC shall then reimburse KACC for the costs.
- C. Payments made by EIC to KACC from 4B Revenues will be limited to the payments of "costs" as defined by the Act and as specified above for the Project.
- D. In no event will the total amount of the Grant exceed \$25,000.00.

**ARTICLE II.
KACC'S OBLIGATIONS**

- A. In order to receive reimbursement from EIC, KACC must rent the Equipment for Kerrfest and may not use the Equipment for any other purpose.
- B. KACC must keep and maintain complete and accurate records relating to the costs of the Equipment, 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.
- C. KACC will only be liable to EIC for the actual amount of the Grant to be conveyed to KACC and will 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 KACC under the terms of this Agreement.
- D. KACC shall provide a written report to the EIC no later than 30 days following Kerrfest. The report must include: attendance, gross receipts, total expenses, total ticket sales, list of exhibitors, and the estimated number of attendees at Kerrfest from outside of Kerr County.

ARTICLE III.
SALE OF PROJECT, MERGER OR CONSOLIDATION OF KACC

- A. A sale of all or any of the assets of KACC will not release KACC from its duties and responsibilities to EIC under the terms of this Agreement and shall 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 KACC's proposed successor shall have the financial condition to fully satisfy KACC's duties and responsibilities hereunder and agrees to assume KACC'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 KACC with any third party not affiliated with KACC, KACC shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC regarding: (1) the surviving entity's assumption and satisfaction of the KACC's obligations hereunder; and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity has the financial condition to fully satisfy KACC's duties and responsibilities hereunder. Failure to provide such information may 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 KACC. In the event of any sale or merger involving KACC or its affiliates, the surviving entity shall assume KACC's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE IV.
KACC'S REPRESENTATIONS AND WARRANTIES

- A. KACC represents and warrants as of the date hereof:
- (1) KACC 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 KACC and this Agreement is not in contravention of KACC's governing authority or any agreement or instrument to which KACC is a party or by which it may be bound as of the date hereof;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of KACC Officer, threatened against or affecting KACC, which may result in a material adverse change in KACC's business, properties, or operations sufficient to jeopardize KACC's legal existence; and
 - (4) No written application, written statement, or correspondence submitted by KACC to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of KACC Officer, 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.

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

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

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

(1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the Act 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 EIC;

(3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and

(4) 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.

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

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

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

(1) KACC 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;

(2) The appointment of a receiver of KACC;

(3) The adjudication of KACC as bankrupt; and

(4) The filing by KACC 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.

- B. Should any of these conditions not be cured by KACC, KACC will be considered to have breached this Agreement and EIC may, at its option, with written notice to KACC, terminate this Agreement and KACC shall be obligated to refund the EIC the full amount of any Grant funding received from the EIC.

ARTICLE VII. 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 party, proceed immediately to cure or remedy such default or breach. 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, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach.
- B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article VII, 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 KACC is not entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that EIC, pursuant to a breach and failure to cure by KACC in accordance with this Agreement, is entitled to recover attorney fees, collection costs, and any other costs due to its pursuit of repayment and remedies under this Agreement.
- C. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights will not, so long as the breach or default by another party is continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor will 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 VIII. 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, 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.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement will be made or performed in Kerrville, Kerr County, Texas. Venue exists in Kerr County, Texas; and this Agreement is governed by and construed in accordance with the laws of the State of Texas.

- D. 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 an overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC
President
City of Kerrville, Texas, Economic Improvement Corporation
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

Kerrville Area Chamber of Commerce, Inc.
Harold Dean, IOM
President/CEO
Kerrville Area Chamber of Commerce
1700 Sidney Baker, Ste. 100
Kerrville, Texas 78028
president@kerrvilletx.com
Telephone: (830) 896-1155

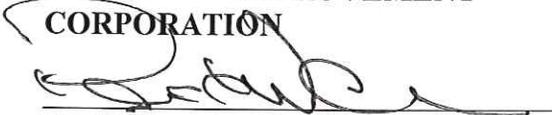
- E. Assignment. This Agreement is binding upon the parties hereto and their successors and assigns. Except as set forth in Article III, this Agreement may not be assigned by either party without the specific prior written consent of the other, which consent will not be unreasonably withheld. In the event that a party consents to any valid assignment of this Agreement by the other party hereto, the assigning party will be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement.
- F. Parties In Interest. Nothing in this Agreement entitles anyone other than KACC or EIC to any claim, cause of action, remedy, or right of any kind.
- G. Term. The term of this Agreement (the "Term") shall commence on the date that signatures of the parties are affixed to this Agreement (the "Effective Date"), and will terminate on the earlier of: (i) July 1, 2014, 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 Articles VI or VII; (iv) or at

the KACC's sole and absolute discretion, but only upon the KACC's return of all Grant funding to EIC that it has received under this Agreement. 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.

- H. 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 arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.
- I. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties or between the parties and the City of Kerrville, Texas.
- J. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination will survive termination.
- K. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

EXECUTED AND EFFECTIVE, as of the date indicated above, 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 Kerrville Area Chamber of Commerce, Inc., acting through the KACC Officer.

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



David Wampler, President

Date: _____

**KERRVILLE AREA CHAMBER
OF COMMERCE, INC.**

Harold Dean, President/CEO

Date: _____

ATTEST:

Cheryl Brown, Recording Secretary

APPROVED AS TO FORM:



Michael C. Hayes, Attorney for EIC

EXHIBIT A 59



Kerrville

KERRVILLE AREA CHAMBER OF COMMERCE

It's all right here.

November 26, 2013

Dear Economic Improvement Corporation:

Thank you for your consideration of the attached request for funding. The Kerrville Area Chamber of Commerce (KACOC) requests funding in the amount of \$25,000 for the lease of grandstands for the 2014 Kerrfest event, to be held May 15-18, 2014, at the Hill Country Youth Event Center.

The Kerrville Area Chamber of Commerce exists to strengthen and improve the greater Kerrville area business community in order to promote the economic well-being of our citizens. Kerrfest is the largest special event hosted by KACOC. Our major event sponsors last year were Wells Fargo-Bank and Crenwelge Motors. We will be hosting a Midway carnival all four days of the event. On Thursday night, we will kick off Kerrfest with a Junior rodeo. A jackpot team roping will take place Saturday morning with an estimated 100 teams. Open Pro Rodeo performances will be held Friday and Saturday nights. In addition to these rodeo events, on Friday and Saturday, we are hosting two CASI-sanctioned chili cook-offs, and on Saturday we'll have a Lone Star Barbecue Society-sanctioned BBQ cook-off and a homebrew competition. Good old fashioned street dances are planned for Friday and Saturday nights after the rodeo featuring local favorite bands. These events will draw contestants, spectators, and families from all over the state of Texas.

This is the fourth year for the event to take place. In 2011, between 700-800 people attended the event. In 2012, that number increased to 1,500+ over the four-day event. Last year, we had over 3300 people through the gates over the four-day period. The anchor of Kerrfest is the rodeo that takes place Friday and Saturday nights. Unfortunately, there is no spectator seating at the outdoor arena in order to accommodate our visitors. For the first two years, we had to bring in portable aluminum bleachers, with seating only provided for approximately 300 people. Last year, with the EIC funding, we were able to increase that seating to almost 700. In order to grow this event, and increase the economic impact and number of visitors, we feel it is imperative that we provide adequate seating.

Please refer to the attached quote for spectator grandstands. This would provide box seating for our sponsors and almost 1400 seats for spectators. Providing safe, professional-grade, adequate seating for our anchor event is absolutely essential to the continued success and reputation of Kerrfest. We have enjoyed great partnerships with the City of Kerrville, Kerr County, and the Kerrville Convention and Visitors Bureau to promote our hill country town and businesses.

Our future plans are to continue to grow the event substantially every year, and to continue to expand in to the facilities at the Hill Country Youth Event Center. We recognize the inherent need for permanent seating at the outdoor arena and are exploring several different avenues for that, including public-private partnerships.



Kerrville

KERRVILLE AREA CHAMBER OF COMMERCE

It's all right here.

We humbly request your consideration of this funding request in the amount of \$25,000. Thank you in advance.

Sincerely,

Harold Dean, IOM
President/CEO

Encl:

- a) EIC Funding Request Application
- b) 2013 Kerrfest P&L
- c) 2013 Economic Impact Analysis
- d) Star of Texas Tents and Events Proposal



Proposal

Company
Kerrville Area Chamber of Commerce
1700 Sidney Baker Ste. 100
Kerrville, TX 78028

Attn: Denny Foster

E-mail:
Office:
Fax:
Cell: (830) 796-1805

Proposal Date: 10/14/13
Withdrawn By: 11/14/13
Amended Date:

Presented By: Mary Fryer
Mobile: (210) 632-5017
Mary.Fryer@startxevents.com

Job Site:
Youth Exhibition Center
3805 State Hwy 27 E
Kerrville, TX 78028
Event Date: Friday, May 16, 2014 @ 8a-12p
Delivery: Monday, May 5th, 2014 @ 8a-12p
Strike: Monday, May 19th, 2014 @ 8a-4p

Star of Texas Events, an Austin Sales, Inc. Company is pleased to quote the following for your consideration:

Bleachers

1 – 13 Row by 180' long 6' elevated bleacher	
Approximate Gross seating 1560	
Net seating 1388	\$22,620.00
1 – 8' X 180' long deck with 19 (8'X8') VIP	
Sections w/ stairs for access to bleacher	
Seating as well as VIP sections	\$ 5,225.00
Forklift Rental	\$ 3,500.00
Delivery	\$ 1,800.00
8.25% Tax	Exempt
Estimated Total	\$33,145.00

Note: All work is quoted as work performed during normal business hours. Any work performed before or after normal business hours are subject to overtime rates

Quality People * Superior Service

Plus Applicable Taxes **Terms: 50% with Order, Balance Due Before Delivery**

Austin Sales, Inc. provides **\$2,000,000.00** General Liability and Workman's Comp. insurance

All materials will be of the best grade available and will be constructed to meet O.S.H.A. and A.N.S.I. regulations. Any alterations or deviation from the above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the proposal. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do as specified. Payment due upon receipt of invoice, unless otherwise stated.

Authorized By: _____ **Date:** _____



Proposal Addendum

Normal conditions are as follows.

1. **Rental equipment:** This proposal is subject to the terms and conditions of our standard rental or sales contract.
2. **Terms:** Terms of proposal are 50% to Secure Order, balance to be paid before delivery.
3. **Normal working hours:** This quotation is based on all work being carried out during normal working hours, Monday – Friday 7:00 am – 4:00 pm. Saturday 8:00 am - 1:00pm, excluding holidays. All work executed outside these hours will be charged at overtime rates.
4. **Fluctuation:** This proposal is based on rates in effect at the date of our initial proposal and is subject to any increases after 30 days.
5. **Extras:** Any alteration or deviation from the proposal as quoted is subject to be charged at an additional amount. No additional work will be undertaken until approval has been received in writing from an authorized agent of your company.
6. **Alterations:** Any modification or alterations to the erected structure, by anyone including the Client, will be at the sole risk of the Client, and will remove liability from Star of Texas Events
7. **Incomplete Structures:** No one except Austin Sales, Inc., employees will be allowed to perform any work on or under the structure while erection, dismantling, additions or alterations are being performed.
8. **Access & Permits:** Reasonable access for men and materials are to be provided by Client. All permits are the Client's Responsibility.
9. **Delays:** If the completion of work is delayed, interrupted, or otherwise held up or discontinued because of Weather, Accidents, or any cause whatsoever beyond our control, and is not attributable to negligence or willful failure to perform, we shall not be held liable for any loss sustained by the Client or owner. Client will be liable for any delay, interruption, or stoppage that is attributable to Client or his client.
10. **Completion and Use of Rented Items:** Client accepts responsibility for all work performed as complete and safe. Client agrees to abide by all local, state and federal laws and OSHA regulations. No open flames or smoking is permitted under any tent structure.
11. **Liability and Indemnification:** Refer to the Rental Contract or Sales Contract.
12. **Making Reservations:** Quotes and Proposals do not guarantee availability of rental equipment. Equipment will be reserved only upon receipt of a signed rental contract and a 50% deposit. Final payment is due before delivery and installation.
13. **Cancellations:** (Non-Refundable 50% Deposit) When you reserve any product from us, and pay the required deposit, we will immediately remove the items from our inventory and schedule a crew. Therefore, any cancellation received within 14 days of installation will be charged 50% of the rental contract order. If the order is cancelled within 24 hours, full payment is due.
14. **Tent Installation:** Tent installation must be done correctly for the protection of the Client, the tent, and ultimately the success of the event. Therefore, a tent may not be erected in rain, excess wind, electrical storm, or any other weather conditions that pose a danger to any property or injury to any individual. The field supervisor will make the final call on whether the job can be completed safely. Star is not responsible for any acts of God.
15. **Weather:** Client understands that tents are temporary structures and are NOT to be used as safe protection or shelter from weather conditions like, but not limited to, strong winds, lightning, rain, hail or snow. Please evacuate the tents and seek adequate shelter if any unsafe conditions arise.
16. **Damages:** Star will take every possible means to protect the client's property. Client agrees to hold harmless Austin Sales, Inc, dba Star of Texas Events from any liability for any damage incurred during delivery, setup, dismantling and removal while on Client's property. This includes, but not limited to, ruts in the grass, sprinkler systems, scratches or cracks on the installed surface, and high wind related damages. Client also understands that tents are temporary structures and may leak during heavy rain.

Terms and conditions accepted by:

Presented by:
Mary Fryer
Austin Sales, Inc.
Dba Austin Sales & Scaffold
Dba Star of Texas Events

Date
Signature

Contact & Mobile #

Date

Agenda Item:

4C. Economic development grant agreement between Kerrville Festival of the Arts, Inc. and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$20,000.00. (staff)

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

SUBJECT: Approval of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville in an amount not to exceed \$20,000 for the Kerrville Festival of the Arts event

FOR AGENDA OF: March 11, 2014 **DATE SUBMITTED:** March 5, 2014

SUBMITTED BY: Ashlea Boyle *AB* **CLEARANCES:** Todd Parton
Special Projects Manager City Manager

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *TP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

The Texas Arts and Crafts Educational Foundation recently announced the retirement of the Official Texas State Arts and Crafts Fair. Kerrville has an established reputation of hosting a major arts event during Memorial Day weekend as the fair has been held in Kerrville for over 40 years. In an effort to keep a major arts event in Kerrville on Memorial Day weekend, the City of Kerrville in conjunction with other community stakeholders such as the Kerr County Market Association and the Historic Downtown Business Alliance, are planning an event in downtown Kerrville Memorial Day weekend. Kerrville Festival of the Arts will present a juried fine art show in addition to family "fun art" events incorporating a multitude of different forms of art.

Staff received authorization at the November 12, 2013 City Council meeting to submit the funding application. The funding request of \$20,000 will include rental of items such as large tents, canopies, tables, chairs, port-a-potties, golf cart rental and other applicable event items. The event will be held on Water Street Saturday and Sunday, May 24-25, 2014 and anticipates moving to Louise Hays Park in 2015 upon completion of the park improvement project.

At its meeting of February 24, 2014, the Economic Improvement Corporation (EIC) held a public hearing and approved a funding agreement with the City of Kerrville in an amount not to exceed \$20,000 for Kerrville Festival of the Arts.

RECOMMENDED ACTION

City staff recommends consideration and approval of this funding agreement between the EIC and the City of Kerrville in an amount not to exceed \$20,000 for Kerrville Festival of the Arts.

ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
KERRVILLE FESTIVAL OF THE ARTS, INC. AND
THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

This Agreement is entered into by and between the **CITY OF KERRVILLE, TEXAS**, (“CITY”), acting herein by and through its duly authorized City Manager, Todd Parton (“CITY Officer”), and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** (“EIC”), a Texas nonprofit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and codified in Chapters 501, 502, and 505 of the Texas Local Government Code, otherwise known as the Development Corporation Act of 1979 (the Act”), and acting by and through its duly authorized President, David Wampler.

WITNESSETH:

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

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:

Equipment 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, and events, including stadiums, auditoriums, parks and park facilities, exhibition facilities, and related store, restaurant, and concessions and other related improvements that enhance any of the items described by Section 505.152 of the Act; and

WHEREAS, CITY is hosting an annual juried fine art show and family “fun art” events incorporating a multitude of different forms of art on May 24-25, 2014 (“Festival”); and

WHEREAS, CITY will advertise the Festival both locally and beyond so as to maximize the attendance of tourists at the Festival; and

WHEREAS, CITY has applied for a grant from EIC for funding to purchase or rent equipment, including tents, canopies, tables, chairs, and golf carts; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and *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 CITY to provide sales tax revenues collected pursuant to the Act (“4B Revenues”) to CITY for its cost in renting equipment for use at the Festival; and

WHEREAS, on February 24, 2014, 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, CITY and the EIC agree as follows:

**ARTICLE I.
EIC'S OBLIGATIONS**

- A. EIC grants to CITY an amount up to \$20,000.00 ("Grant") for costs relating to equipment rental ("Equipment") for the Festival. The specific items that CITY intends to purchase or rent are listed on the attachment included as **Exhibit A**.
- B. Subject to the terms and conditions set forth in Article II, the Grant will be provided to CITY by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, CITY must first 1) submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval; and 2) comply with section D of Article II. Following the submission and verification thereof, EIC shall then reimburse CITY for the costs.
- C. Payments made by EIC to CITY from 4B Revenues will be limited to the payments of "costs" as defined by the Act and as specified above for the Project.
- D. In no event will the total amount of the Grant exceed \$20,000.00.

**ARTICLE II.
CITY'S OBLIGATIONS**

- A. In order to receive reimbursement from EIC, CITY must rent the Equipment for the Festival and may not use the Equipment for any other purpose.
- B. CITY must keep and maintain complete and accurate records relating to the costs of the Equipment, 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.
- C. CITY will only be liable to EIC for the actual amount of the Grant to be conveyed to CITY and will 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 CITY under the terms of this Agreement.
- D. CITY shall provide a written report to the EIC no later than 30 days following the Festival. The report must include: attendance, gross receipts, total expenses, total ticket sales, list of exhibitors, and the estimated number of attendees at the Festival from outside of Kerr County.

**ARTICLE III.
SALE OF PROJECT, MERGER OR CONSOLIDATION OF CITY**

- A. A sale of all or any of the assets of CITY will not release CITY from its duties and responsibilities to EIC under the terms of this Agreement and shall 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 CITY's proposed successor shall have the financial condition to fully satisfy CITY's duties and responsibilities hereunder and agrees to assume CITY'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 CITY with any third party not affiliated with CITY, CITY shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC regarding: (1) the surviving entity's assumption and satisfaction of the CITY's obligations hereunder; and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity has the financial condition to fully satisfy CITY's duties and responsibilities hereunder. Failure to provide such information may 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 CITY. In the event of any sale or merger involving CITY or its affiliates, the surviving entity shall assume CITY's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

**ARTICLE IV.
CITY'S REPRESENTATIONS AND WARRANTIES**

- A. CITY represents and warrants as of the date hereof:
- (1) CITY 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 CITY and this Agreement is not in contravention of CITY's governing authority or any agreement or instrument to which CITY is a party or by which it may be bound as of the date hereof;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of CITY Officer, threatened against or affecting CITY, which may result in a material adverse change in CITY's business, properties, or operations sufficient to jeopardize CITY's legal existence; and
 - (4) No written application, written statement, or correspondence submitted by CITY to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of CITY Officer, 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.

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

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

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

(1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the Act 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 EIC;

(3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and

(4) 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.

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

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

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

(1) CITY 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;

(2) The appointment of a receiver of CITY;

(3) The adjudication of CITY as bankrupt; and

(4) The filing by CITY 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.

- B. Should any of these conditions not be cured by CITY, CITY will be considered to have breached this Agreement and EIC may, at its option, with written notice to CITY, terminate this Agreement and CITY shall be obligated to refund the EIC the full amount of any Grant funding received from the EIC.

ARTICLE VII. 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 party, proceed immediately to cure or remedy such default or breach. 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, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach.
- B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article VII, 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 CITY is not entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that EIC, pursuant to a breach and failure to cure by CITY in accordance with this Agreement, is entitled to recover attorney fees, collection costs, and any other costs due to its pursuit of repayment and remedies under this Agreement.
- C. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights will not, so long as the breach or default by another party is continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor will 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 VIII. 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, 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.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement will be made or performed in Kerrville, Kerr County, Texas. Venue exists in Kerr County, Texas; and this Agreement is governed by and construed in accordance with the laws of the State of Texas.

- D. 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 an overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC
President
City of Kerrville, Texas, Economic Improvement Corporation
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

City of Kerrville, Texas
Ashlea Boyle
Special Projects Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028
Ashlea.boyle@kerrvilletx.gov
Telephone (830) 258-1153

- E. Assignment. This Agreement is binding upon the parties hereto and their successors and assigns. Except as set forth in Article III, 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 will be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement.
- F. Parties In Interest. Nothing in this Agreement entitles anyone other than CITY or EIC to any claim, cause of action, remedy, or right of any kind.
- G. Term. The term of this Agreement (the "Term") shall commence on the date that signatures of the parties are affixed to this Agreement (the "Effective Date"), and will terminate on the earlier of: (i) July 1, 2014, 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 Articles VI or VII; (iv) or at

the CITY's sole and absolute discretion, but only upon the CITY's return of all Grant funding to EIC that it has received under this Agreement. 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.

- H. 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 arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.
- I. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties or between the parties and the City of Kerrville, Texas.
- J. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination will survive termination.
- K. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

EXECUTED AND EFFECTIVE, as of the date indicated above, 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 Kerrville Festival of the Arts, Inc., acting through the CITY Officer.

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



David Wampler, President

Date: 3/5/2014

CITY OF KERRVILLE, TEXAS

Todd Parton, City Manager

Date: _____

ATTEST:



Cheryl Brown, Recording Secretary

APPROVED AS TO FORM:



Michael C. Hayes, Attorney for EIC

EXHIBIT *A* 59

December 2, 2013

Kerrville Festival of the Arts
P.O. Box 290454
Kerrville, Texas 78029

Economic Improvement Corporation
701 Main Street
Kerrville, Texas 78028

Dear EIC Board Members:

Please accept our application for Economic Improvement Corporation funding for a new Community Event, Kerrville Festival of the Arts. With approval of the requested funding, this event will be held in the Downtown area on Memorial Day weekend, May 24-25, 2014.

In the absence of the Texas State Arts and Crafts Fair from its traditional role that holiday weekend, it is imperative to offer the opportunity for a major Fine Arts event to continue in Kerrville. To accomplish this, a coalition of the City of Kerrville, Kerr County Market Association and the Historic Downtown Business Alliance have come together to develop this new fine arts event to maintain Kerrville's position as a fine art destination for tourists and to enhance the economic environment for our downtown businesses.

We look forward to the opportunity to present our proposal to the EIC Board of Directors.

Sincerely,


LuAnn Anderson, Executive Director
Kerr County Market Association

Kerrville Festival of the Arts 2014 Itemized EIC Request

Expenses

Tent Rental	800 blk Water	* \$	12,200.00
Vehicle Rental	1 pickup	* \$	650.00
Storage Rental	1 10x10 unit	* \$	720.00
Golf Cart Rental	2 carts	* \$	500.00
PO Box Rental	1 box	* \$	54.00
Porta Can Rental	10 units	* \$	958.00
Tables, Chairs Rental	volunteer stations	* \$	65.00
Canopies	volunteer stations	* \$	653.00
Street Banner Purchase	2 banners	* \$	1,200.00
Electrical	power to booths	* \$	3,000.00
Total expenses		\$	20,000.00

Agenda Item:

4D. Economic development grant agreement between Kerrville Folk Festival, Inc. and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$7,800.00. (staff)

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

SUBJECT: Approval of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Kerrville Folk Festival, Inc. in an amount not to exceed \$7,800 for transportation services during Memorial Day weekend

FOR AGENDA OF: March 11, 2014 **DATE SUBMITTED:** March 5, 2014

SUBMITTED BY: Ashlea Boyle *AB* **CLEARANCES:** Todd Parton
Special Projects Manager City Manager

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *TP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

At its meeting of February 24, 2014, the Economic Improvement Corporation (EIC) held a public hearing and approved a funding agreement with the Kerrville Folk Festival, Inc. in an amount not to exceed \$7,800 for event transportation during Memorial Day weekend ("Get on the Bus" campaign). The funding will cover three 28 passenger buses to be on scheduled routes between local hotels and the major events occurring Memorial Day weekend. The transportation will again be free in an effort to provide more opportunities for the public and tourists to shop local and visit the festivities / events during Memorial Day weekend. The bus stops will include locations such as local hotels, Kerrville Folk Festival, historic downtown Kerrville in addition to the Kerrville Festival of the Arts event, Kerr County Market Days, and the Hill Country Wine and Brew Festival.

Kerrville Folk Festival, Inc. received \$8,500 in EIC funding in 2013 and approximately 230 people participated in the free transportation services.

RECOMMENDED ACTION

City staff recommends consideration and approval of this funding agreement between the EIC and the Kerrville Folk Festival, Inc. in an amount not to exceed \$7,800 for transportation services during Memorial Day weekend.

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
KERRVILLE FOLK FESTIVAL, INC. AND
THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION**

This Agreement is entered into by and between **KERRVILLE FOLK FESTIVAL, INC.**, a Texas nonprofit corporation (“KFF”), acting herein by and through its duly authorized Producer, Dalis Allen (“KFF Officer”), and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** (“EIC”), a Texas nonprofit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and codified in Chapters 501, 502, and 505 of the Texas Local Government Code, otherwise known as the Development Corporation Act of 1979 (the Act”), and acting by and through its duly authorized President, David Wampler.

WITNESSETH:

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

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:

Equipment 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, and events, including stadiums, auditoriums, parks and park facilities, exhibition facilities, and related store, restaurant, and concessions and other related improvements that enhance any of the items described by Section 505.152 of the Act; and

WHEREAS, KFF is hosting its annual music festival between May 22 and June 8, 2014 (“Festival”); and

WHEREAS, KFF has and will continue to advertise the Festival both locally and beyond so as to maximize the attendance of tourists at the Festival; and

WHEREAS, KFF has applied for a grant from EIC for funding to rent equipment, including passenger busses to provide transportation during the Memorial Day Weekend for the Festival; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and *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 KFF to provide sales tax revenues collected pursuant to the Act (“4B Revenues”) to KFF for its cost in renting equipment for use at the Festival; and

WHEREAS, on February 24, 2014, 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, KFF and the EIC agree as follows:

**ARTICLE I.
EIC'S OBLIGATIONS**

- A. EIC grants to KFF an amount up to \$7,800.00 ("Grant") for costs relating to equipment rental ("Equipment") for the Festival. The specific items that KFF intends to rent are listed on the attachment included as **Exhibit A**.
- B. Subject to the terms and conditions set forth in Article II, the Grant will be provided to KFF by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, KFF must first 1) submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval; and 2) comply with section D of Article II. Following the submission and verification thereof, EIC shall then reimburse KFF for the costs.
- C. Payments made by EIC to KFF from 4B Revenues will be limited to the payments of "costs" as defined by the Act and as specified above for the Project.
- D. In no event will the total amount of the Grant exceed \$7,800.00.

**ARTICLE II.
KFF'S OBLIGATIONS**

- A. In order to receive reimbursement from EIC, KFF must rent the Equipment for the Festival and may not use the Equipment for any other purpose.
- B. KFF must keep and maintain complete and accurate records relating to the costs of the Equipment, 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.
- C. KFF will only be liable to EIC for the actual amount of the Grant to be conveyed to KFF and will 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 KFF under the terms of this Agreement.
- D. KFF shall provide a written report to the EIC no later than 30 days following the Festival. The report must include: attendance, gross receipts, total expenses, total ticket sales, list of exhibitors, and the estimated number of attendees at the Festival from outside of Kerr County.

**ARTICLE III.
SALE OF PROJECT, MERGER OR CONSOLIDATION OF KFF**

- A. A sale of all or any of the assets of KFF will not release KFF from its duties and responsibilities to EIC under the terms of this Agreement and shall 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 KFF's proposed successor shall have the financial condition to fully satisfy KFF's duties and responsibilities hereunder and agrees to assume KFF'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 KFF with any third party not affiliated with KFF, KFF shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC regarding: (1) the surviving entity's assumption and satisfaction of the KFF's obligations hereunder; and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity has the financial condition to fully satisfy KFF's duties and responsibilities hereunder. Failure to provide such information may 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 KFF. In the event of any sale or merger involving KFF or its affiliates, the surviving entity shall assume KFF's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

**ARTICLE IV.
KFF'S REPRESENTATIONS AND WARRANTIES**

- A. KFF represents and warrants as of the date hereof:
- (1) KFF 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 KFF and this Agreement is not in contravention of KFF's governing authority or any agreement or instrument to which KFF is a party or by which it may be bound as of the date hereof;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of KFF Officer, threatened against or affecting KFF, which may result in a material adverse change in KFF's business, properties, or operations sufficient to jeopardize KFF's legal existence; and
 - (4) No written application, written statement, or correspondence submitted by KFF to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of KFF Officer, 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.

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

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

- A. EIC represents and warrants as of the date hereof:
- (1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the Act 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 EIC;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and
 - (4) 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.
- B. Except as expressly set forth in this Article V, EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

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

- A. Under any of the following conditions EIC may, at its option, after fifteen (15) days written notice to KFF, suspend its further performance under this Agreement until such time as KFF has cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:
- (1) KFF 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;
 - (2) The appointment of a receiver of KFF;
 - (3) The adjudication of KFF as bankrupt; and
 - (4) The filing by KFF 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.
- B. Should any of these conditions not be cured by KFF, KFF will be considered to have breached this Agreement and EIC may, at its option, with written notice to KFF,

terminate this Agreement and KFF shall be obligated to refund the EIC the full amount of any Grant funding received from the EIC.

ARTICLE VII. 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 party, proceed immediately to cure or remedy such default or breach. 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, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach.
- B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article VII, 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 KFF is not entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that EIC, pursuant to a breach and failure to cure by KFF in accordance with this Agreement, is entitled to recover attorney fees, collection costs, and any other costs due to its pursuit of repayment and remedies under this Agreement.
- C. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights will not, so long as the breach or default by another party is continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor will 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 VIII. 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, 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.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement will be made or performed in Kerrville, Kerr County, Texas. Venue exists in Kerr County, Texas; and this Agreement is governed by and construed in accordance with the laws of the State of Texas.
- D. 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 an overnight carrier for

next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC
President
City of Kerrville, Texas, Economic Improvement Corporation
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

Kerrville Folk Festival Foundation, Inc.
Dalis Allen
Producer
Kerrville Folk Festival Foundation, Inc.
3876 Medina Hwy
Kerrville, Texas 78028
dalis@kerrville-music.com
Telephone: (830) 257-3600

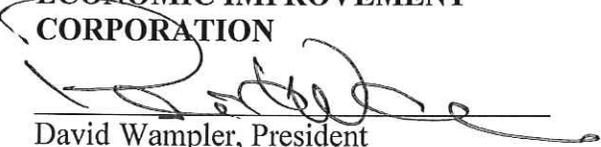
- E. Assignment. This Agreement is binding upon the parties hereto and their successors and assigns. Except as set forth in Article III, this Agreement may not be assigned by either party without the specific prior written consent of the other, which consent will not be unreasonably withheld. In the event that a party consents to any valid assignment of this Agreement by the other party hereto, the assigning party will be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement.
- F. Parties In Interest. Nothing in this Agreement entitles anyone other than KFF or EIC to any claim, cause of action, remedy, or right of any kind.
- G. Term. The term of this Agreement (the "Term") shall commence on the date that signatures of the parties are affixed to this Agreement (the "Effective Date"), and will terminate on the earlier of: (i) July 1, 2014, 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 Articles VI or VII; (iv) or at the KFF's sole and absolute discretion, but only upon the KFF's return of all Grant funding to EIC that it has received under this Agreement. 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.

- H. 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 arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.
- I. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties or between the parties and the City of Kerrville, Texas.
- J. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination will survive termination.
- K. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

EXECUTED AND EFFECTIVE, as of the date indicated above, 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 Kerrville Folk Festival, Inc., acting through the KFF Officer.

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


David Wampler, President

Date: _____

KERRVILLE FOLK FESTIVAL, INC.

Dalis Allen, Producer

Date: _____

ATTEST:


Cheryl Brown, Recording Secretary

APPROVED AS TO FORM:

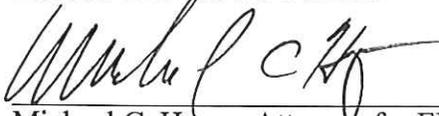
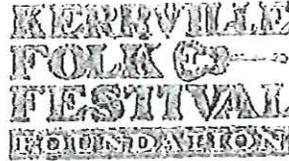
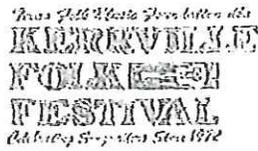

Michael C. Hayes, Attorney for EIC

EXHIBIT 6-A



P.O. Box 291463 • Kerrville, Texas 78029 • phone: (830)257-3600 • fax: (830)257-8090 • email: info@kff.org

2014 "Get on the Bus" Project

Proposed by the Kerrville Folk Festival Foundation

The Kerrville Folk Festival Foundation (formerly the Texas Folk Music Foundation), dba Kerrville Folk Festival (KFF), in a collaborative project with the Kerrville Downtown Business Association and the City of Kerrville, proposes the development of a Saturday, May 24th and Sunday, May 25th free Bus Ride service in which three buses on scheduled routes will provide transportation between local Hotels and the two major events/areas held Memorial Day weekend in Kerrville and Kerr County. This temporary addition to the Transportation Infrastructure in Kerrville would provide Public transportation designed to offer greater opportunities for tourism and sales tax revenues in Kerrville and Kerr County.

2014 brings to Kerrville and Kerr County the 43rd Kerrville Folk Festival. For the past 42 years, people from across the nation and around the world have attended KFF's yearly event. Over the last five years, KFF has provided the State of Texas and Kerr County with over \$160,359 in sales tax revenue as well as approximately \$1.9 million in Direct Economic Impact from Festival attendees each year. The development of a temporary Bus route comprised of three 28 passenger buses will offer festival attendees, local residents and visiting tourists increased opportunities to shop local stores and restaurants and attend the Memorial Day events and festivities.

The proposed bus route begins at 10 a.m. Saturday and Sunday and runs until 1 a.m. the following morning. The route includes stops at the YO Ranch Resort Hotel, the Inn of the Hills and other local hotels as need dictates. Also on the route will be Peterson Plaza, located at 700 Water Street at the corner of Sidney Baker. There, passengers may depart and enjoy the assortment of shops and eateries offered in the Historic Downtown Kerrville area. Also accessible from Peterson Plaza is the Kerr County Market Days located on the Kerr County Courthouse grounds. Visitors and locals alike can take a leisurely stroll through Historic Downtown Kerrville to the Courthouse grounds and enjoy the skilled crafts of artisans from across the state of Texas.

Local residents, parking at the Kerrville Parking Garage and visitors of Historic Downtown Kerrville and Kerr County Market Days may then board the buses for the next scheduled stop on the route, the world renowned Kerrville Folk Festival (KFF). Located at Quiet Valley Ranch, 9 miles south of Kerrville on Hwy 16 S, KFF offers passengers the option to enjoy an afternoon and/or evening of music performed by nationally and internationally known songwriters. Return trips from KFF to Kerrville (and the local hotels) will continue throughout the evening until the last run at 1 a.m. each morning.

Upon review of received bids, the company that offers the best rate for the proposed services and schedule is Tuxedo Charters, located in Boerne, TX. Tuxedo Charter's fees for three 28 passenger buses, drivers and all costs incurred for services total \$7,800. This proposal will provide visiting tourists, local residents, or attendees of the Kerrville Folk Festival a source of free public transportation during the Memorial Day weekend and increases the potential for sales tax revenues in Kerrville and Kerr County over the Memorial Day Weekend.

Sincerely,

Dalis Allen

Dalis Allen, Producer, Kerrville Folk Festival
3876 Medina Hwy, Kerrville, TX 78028

The Kerrville Folk Music Foundation is a 501(c)(3) organization and your donation is tax deductible to the extent allowed by law.

KERRVILLE MUSIC FESTIVAL PO. BOX 291463 KERRVILLE, TEXAS 78029 PHONE (830) 257-3600 FAX (830) 257-8090 EMAIL INFO@KFF.MUSIC.COM
 Founded by Dale Gering and the Texas Folk Music Foundation (event) is a 501(c)(3) not-for-profit organization.

Agenda Item:

4E. Economic development grant agreement between Texas Hill Country Wine & Brew Festival, Inc. and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$18,643.00. (staff)

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

SUBJECT: Approval of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Texas Hill Country Wine and Brew Festival in an amount not to exceed \$18,643

FOR AGENDA OF: March 11, 2014 **DATE SUBMITTED:** March 5, 2014

SUBMITTED BY: Ashlea Boyle *aub* **CLEARANCES:** Todd Parton
Special Projects Manager City Manager

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

At its meeting of February 24, 2014, the Economic Improvement Corporation (EIC) held a public hearing and approved a funding agreement with the Texas Hill Country Wine and Brew Festival in an amount not to exceed \$18,643. This event started in 2013 and this year, it will be held at Comanche Trace during Memorial Day weekend in lieu of July. The festival will again feature Texas Wineries, Microbreweries, specialty food vendors, unique retail booths, and live music.

The funding is for rental of items such as:

- Tents
- Generators
- Fencing
- Port-a-potties
- Chairs
- Tables
- Dumpsters
- Misting Fans
- Stage
- Sound System

The Texas Hill Country Wine and Brew Festival received \$20,432 in EIC funding in 2013. The event had approximately 1,250 attendees. Event organizers anticipate up to 3,000 attendees for the 2014 event.

RECOMMENDED ACTION

City staff recommends consideration and approval of this funding agreement between the EIC and the Texas Hill Country Wine and Brew Festival in an amount not to exceed \$18,643.

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
TEXAS HILL COUNTRY WINE AND BREW FESTIVAL, INC. AND
THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION**

This Agreement is entered into by and between **TEXAS HILL COUNTRY WINE AND BREW FESTIVAL, INC.**, a Texas nonprofit corporation (“THCWBF”), acting herein by and through its duly authorized President, Trevor Hyde (“THCWBF Officer”), and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** (“EIC”), a Texas nonprofit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and codified in Chapters 501, 502, and 505 of the Texas Local Government Code, otherwise known as the Development Corporation Act of 1979 (the Act”), and acting by and through its duly authorized President, David Wampler.

WITNESSETH:

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

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:

Equipment 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, and events, including stadiums, auditoriums, parks and park facilities, exhibition facilities, and related store, restaurant, and concessions and other related improvements that enhance any of the items described by Section 505.152 of the Act; and

WHEREAS, THCWBF is hosting its 2nd Annual Texas Hill Country Wine and Brew Festival (“Festival”) to be held around Lake Comanche Trace on May 24, 2014; and

WHEREAS, THCWBF has and will continue to advertise the Festival both locally and beyond so as to maximize the attendance of tourists to the event; and

WHEREAS, THCWBF intends to distribute proceeds from the Festival to organizations that benefit the lives, education, and well-being of the citizens of Kerr County; and

WHEREAS, THCWBF has applied for a grant from EIC for funding to rent equipment, including tents, generators, and fencing for the Festival; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and *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 THCWBF to provide sales tax revenues collected pursuant to the Act (“4B Revenues”) to THCWBF for its cost in renting equipment for use at the Festival; and

WHEREAS, on February 24, 2014, 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, THCWBF and the EIC agree as follows:

**ARTICLE I.
EIC'S OBLIGATIONS**

- A. EIC grants to THCWBF an amount up \$18,643.00 ("Grant") for costs relating to equipment rental ("Equipment") for the Festival. The specific items that THCWBF intends to rent are listed on the attachment included as **Exhibit A**.
- B. Subject to the terms and conditions set forth in Article II, the Grant will be provided to THCWBF by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, THCWBF must first 1) submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval; and 2) comply with section D of Article II. Following the submission and verification thereof, EIC shall then reimburse THCWBF for the costs.
- C. Payments made by EIC to THCWBF from 4B Revenues will be limited to the payments of "costs" as defined by the Act and as specified above for the Project.
- D. In no event will the total amount of the Grant exceed \$18,643.00.

**ARTICLE II.
THCWBF'S OBLIGATIONS**

- A. In order to receive reimbursement from EIC, THCWBF must rent the Equipment for the Festival and may not use the Equipment for any other purpose.
- B. THCWBF must keep and maintain complete and accurate records relating to the costs of the Equipment, 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.
- C. THCWBF will only be liable to EIC for the actual amount of the Grant to be conveyed to THCWBF and will 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 THCWBF under the terms of this Agreement.
- D. THCWBF shall provide a written report to the EIC no later than 30 days following the Festival. The report must include: attendance, gross receipts, total expenses, total ticket sales, list of exhibitors, and the estimated number of attendees at the Festival from outside of Kerr County.

ARTICLE III.
SALE OF PROJECT, MERGER OR CONSOLIDATION OF THCWBF

- A. A sale of all or any of the assets of THCWBF will not release THCWBF from its duties and responsibilities to EIC under the terms of this Agreement and shall 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 THCWBF's proposed successor shall have the financial condition to fully satisfy THCWBF's duties and responsibilities hereunder and agrees to assume THCWBF'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 THCWBF with any third party not affiliated with THCWBF, THCWBF shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC regarding: (1) the surviving entity's assumption and satisfaction of the THCWBF's obligations hereunder; and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity has the financial condition to fully satisfy THCWBF's duties and responsibilities hereunder. Failure to provide such information may 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 THCWBF. In the event of any sale or merger involving THCWBF or its affiliates, the surviving entity shall assume THCWBF's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE IV.
THCWBF'S REPRESENTATIONS AND WARRANTIES

- A. THCWBF represents and warrants as of the date hereof:
- (1) THCWBF 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 THCWBF and this Agreement is not in contravention of THCWBF's governing authority or any agreement or instrument to which THCWBF is a party or by which it may be bound as of the date hereof;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of THCWBF Officer, threatened against or affecting THCWBF, which may result in a material adverse change in THCWBF's business, properties, or operations sufficient to jeopardize THCWBF's legal existence; and
 - (4) No written application, written statement, or correspondence submitted by THCWBF to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of THCWBF Officer, 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.

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

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

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

- (1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the Act 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 EIC;

- (3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and

- (4) 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.

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

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

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

- (1) THCWBF 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;

- (2) The appointment of a receiver of THCWBF;

- (3) The adjudication of THCWBF as bankrupt; and

- (4) The filing by THCWBF 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.

- B. Should any of these conditions not be cured by THCWBF, THCWBF will be considered to have breached this Agreement and EIC may, at its option, with written notice to THCWBF, terminate this Agreement and THCWBF shall be obligated to refund the EIC the full amount of any Grant funding received from the EIC.

ARTICLE VII. 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 party, proceed immediately to cure or remedy such default or breach. 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, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach.
- B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article VII, 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 THCWBF is not entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that EIC, pursuant to a breach and failure to cure by THCWBF in accordance with this Agreement, is entitled to recover attorney fees, collection costs, and any other costs due to its pursuit of repayment and remedies under this Agreement.
- C. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights will not, so long as the breach or default by another party is continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor will 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 VIII. 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, 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.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement will be made or performed in Kerrville, Kerr County, Texas. Venue exists in Kerr County, Texas; and this Agreement is governed by and construed in accordance with the laws of the State of Texas.

- D. 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 an overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC
President
City of Kerrville, Texas, Economic Improvement Corporation
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

Texas Hill Country Wine and Brew Festival
Trevor Hyde
President
2801 Comanche Trace Drive
Kerrville, Texas 78028
Email: thyde@comanchetrace.com
Telephone: (830) 895-8505

- E. Assignment. This Agreement is binding upon the parties hereto and their successors and assigns. Except as set forth in Article III, 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 will be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement.
- F. Parties In Interest. Nothing in this Agreement entitles anyone other than THCWBF or EIC to any claim, cause of action, remedy, or right of any kind.
- G. Term. The term of this Agreement (the "Term") shall commence on the date that signatures of the parties are affixed to this Agreement (the "Effective Date"), and will terminate on the earlier of: (i) June 1, 2014, 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 Articles VI or VII; (iv) or at the THCWBF's sole and absolute discretion, but only upon the THCWBF's return of all

Grant funding to EIC that it has received under this Agreement. 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.

- H. 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 arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.
- I. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties or between the parties and the City of Kerrville, Texas.
- J. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination will survive termination.
- K. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

EXECUTED AND EFFECTIVE, as of the date indicated above, 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 Texas Hill Country Wine and Brew Festival, Inc., acting through the THCWBF Officer.

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



David Wampler, President

Date: _____

**TEXAS HILL COUNTRY
WINE AND BREW FESTIVAL**

Trevor Hyde, President

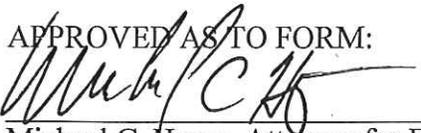
Date: _____

ATTEST:



Cheryl Brown, Recording Secretary

APPROVED AS TO FORM:



Michael C. Hayes, Attorney for EIC

EXHIBIT "A"



TEXAS HILL COUNTRY
WINE & BREW
Festival

TEXAS HILL COUNTRY WINE & BREW FESTIVAL
2801 COMANCHE TRACE DR.
KERRVILLE, TX 78028
(830) 875-8505

INFO@TEXASHILLCOUNTRYWINEANDBREWFEEST.COM
WWW.WINEANDBREWFEEST.COM

November 26, 2014

Mr. Jonas Titus, Executive Director of the Kerrville Economic Development Corporation
Kerr Economic Improvement Corporation
701 Main Street
Kerrville, TX 78028

Dear Mr. Titus,

We respectfully submit the following information to the Kerr Economic Improvement Corporation committee members for their review regarding the request from The Texas Hill Country Wine & Brew Festival.

Section IV – Project Description

Texas Hill Country Wine & Brew Fest, Inc. is a 501(C) 3 non-profit organization and will be holding the 2nd Annual Texas Hill Country Wine & Brew Festival around Lake Comanche Trace on Saturday, May 24, 2014 to help kick off the Memorial Day weekend festivities in Kerrville. The 2014 festival will feature Texas Wineries, Microbreweries, specialty food vendors, unique retail booths, and live entertainment.

The festival organizers are anticipating and planning for up to 3,000 attendees for this one day event. This estimate is based on the more than 1,000 paid attendees who attended our inaugural event in 2013. The 2013 festival was held in July, and has had an overwhelmingly positive response from attendees, vendors and sponsors of the event. This is in line with the number of attendees who attend similar festivals in our area. We expect to grow in our attendance as the Fredericksburg Food & Wine Festival – which has over 2,400 attendees annually and Becker Vineyards' 2-day Lavender Festival – which historically draws over 5,000 attendees during its two day event.

The 2014 event will be held during the Memorial Day weekend in May, which should provide pleasant weather for an outdoor event. The Wine & Brew Festival will be a wonderful, high quality event that will enhance Kerrville's other weekends' activities, and will replace the cancelled arts & craft fair which was held during this weekend for 42 years.

Kerr Economic Improvement Corporation
November 26, 2014
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General Admission will be \$35, which includes a choice of a souvenir wine or pilsner glass, a wine-bottle carrier, as well as ten tasting-tickets for ten 1 oz tastings of wine or ten 3.5 oz tastings of beer. Tickets for additional tastings will cost \$10 for 10 tickets. Admission for an adult non-alcohol patron is \$25, admission for individuals under 21 will cost \$10, and children under 6 get in free.

We are in the midst of reviewing the musical entertainment for the 2014 festival which will be chosen from several different genres. For additional entertainment, we are looking to bring back trick roper Kevin Fitzpatrick from Bandera to dazzle the crowd with his extraordinary tricks. We are also adding additional entertainment options which will enhance and continue the growth of this premier event that is designed as a family & pet friendly festival in Kerrville.

As of this early date, we have received confirmation from 95% of last year's vendors that they will return for the 2014 festival. In addition to the eight Texas Wineries that participated in the 2013 festival, additional wineries from across the State will be included at the event.

Brown Distributing Company and Ben E. Keith Co. have committed to participate in the 2014 festival showcasing Craft Breweries from Texas and across the nation.

Once again, Buzzie's Bar-B-Q of Kerrville and Chef's Kitchen have committed to participate in the 2014 festival. The festival organizers are contacting additional food vendors who will provide different varieties of food to please every attendee's palette.

Unique specialty vendors are being contacted to provide an additional spectrum to this festival. Some of the vendors who have already committed to attending the 2014 festival are: Hill Country Wine Charms and Artisan Soap, Barrel Design, Blue Bottle Studio, Gourmet Texas Pasta, Texas Hill Country Olive Company, Vela Farms, Artist Melissa Torres, Hill Country Premium Beverages, and Tara Hutch Fine Jewelry. Additional specialty vendors are being added to broaden the variety of vendors.

We will be bringing back the popular large tent with misting fans which will be set up near the entertainment stage where attendees can listen to the music, rest a while and enjoy foods from specialty food vendors. Cold bottled water will be available at no charge, and soft drinks will be available for a minimal charge.

This event will be manned almost entirely by volunteers from the Kerrville community and we expect that volunteer base to grow in 2014. In 2013, we had nearly 60 volunteers who were all wonderful ambassadors for Kerrville with an event that had approximately 50-60% of the patrons coming from 100 or more miles away, and stayed in town multiple days over the holiday weekend. There were also numerous attendees from the San Antonio and Austin area.

An added bonus the 2013 Wine & Brew Festival brought to Kerrville and to our local economy during the festival was the economic impact received from sales tax revenue and hotel & restaurant revenue.

Additionally, an attendee of the festival liked the area so much they contracted to purchase a home at Comanche Trace.

According to the National Association of Homes Builders, the estimated one-year local economic impacts of building 100 single-family homes with an average price of \$321,000 and built on a lot with an average value of \$40,000 in a typical metro area include:

- o \$21.1 million in local income (trade, services, retail, etc.)
- o \$2.2 million in taxes and other revenue for local governments, and
- o 324 local jobs.

With the average price of \$500,000 for a single-family home in Comanche Trace and an average price of \$80,000 for a lot, the economic impact for the sale/building of one home brings an estimated:

- o \$339,000 in local income (trade, services, retail, etc.)
- o \$35,420 in taxes and other revenue for local governments, and
- o 3 local jobs.

Additionally, based on the home and lot prices referenced above, the annually recurring impact for one home in Comanche Trace brings an estimated:

- o \$49,910 in local income (trade, services, retail, etc.)
- o \$12,000 in taxes and other revenue for local governments, and
- o ½ local jobs.

If you look at the economic impact of the 16 new homes currently under construction at Comanche Trace (approximately 25 new home starts in 2013 and an estimated 25 new homes scheduled to begin construction in 2014), these additional homes will add:

- o \$5,424,000 in local income (trade, services, retail, etc.)
- o \$566,720 in taxes and other revenue for local governments, and
- o 48 local jobs.

Comanche Trace, as a community of 306 homes, provides an annually recurring impact to the Kerrville area of:

- o \$15,272,460 in local income (trade, services, retail, etc.)
- o \$3,672,000 in taxes and other revenue for local governments, and
- o 153 local jobs.

As the Texas Hill Country Wine & Brew Festival continues to grow, so will the positive economic impact to the Kerrville area – and with the continued growth of Comanche Trace – we believe this is a “Win-Win” opportunity for the entire Texas Hill Country.

Kerr Economic Improvement Corporation
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The Texas Hill Country Wine & Brew Festival will provide marketing for this event through multiple venues. THCWBF will advertise the event through the Texas Wine Trail website and e-blasts, Lifestyle magazine and website, radio spots, publications in Houston, San Antonio, and Austin, the Texas Golf Association, local area Chambers of Commerce, CVB websites, Facebook and Twitter. In addition to the marketing venues listed above, wineries who are participating in this festival will also provide e-blast marketing to the members of their Wine Club. Overall, more than 500,000 e-blasts will be sent promoting this event. The festival website address is: www.wineandbrewfest.com.

Check the event website, Facebook, and Twitter pages for the latest news and updates on additional wineries, brewerles, vendors, and attractions.

Website	Facebook	Twitter
www.wineandbrewfest.com	/TexasHillCountryWineAndBrewFest	/TexasWineFest

We appreciate your consideration to this request to assist The Texas Hill Country Wine & Brew Festival and look forward to hearing from you soon.

Sincerely,



Trevor Hyde, President
Michael Parker, Vice President
Gena Teer, Secretary

**Texas Hill Country Wine & Brew Fest
Estimated Rental Expenses for 2014
11/19/2013**

	Proposed
Tent Rentals	4,100
Generator Rentals	300
Temporary Fencing (est. 5000')	5,800
Port-a-potties (30 @ 75.78 ea)	2,273
Chair Rentals (400 @ 2.25 ea)	900
Table Rentals (50 @ 8.00 ea)	400
Dumpster Rentals	500
Misting Fan Rentals	750
Motorola Walkie Talkies	120
Stage Rental	2,300
Sound System Rental	1,200
	<hr/>
Total Rentals	18,643

Agenda Item:

4F. Economic development grant agreement between Kerrville's Fourth on the River, Inc. and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$23,100.00. (staff)

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

SUBJECT: Approval of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and Kerrville's 4th on the River in an amount not to exceed \$23,100

FOR AGENDA OF: March 11, 2014 **DATE SUBMITTED:** March 5, 2014

SUBMITTED BY: Ashlea Boyle *ab* **CLEARANCES:** Todd Parton
Special Projects Manager City Manager

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *TP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

At its meeting of February 24, 2014, the Economic Improvement Corporation (EIC) held a public hearing and approved a funding agreement with Kerrville's 4th on the River for rented items in conjunction with hosting the Kerrville's 4th on the River event to be held on July 4, 2014 in Lehmann-Monroe Park. The event will consist of children's activities, food / beverage vendors, and live music in conjunction with the annual City fireworks display sponsored by Mamacita's. There is no admission fee associated with this event.

Kerrville's 4th on the River, a 501C3 organization, established in 2011 and has hosted the event in Louise Hays Park for the past three years. Due to the park improvements / River Trail project, the park will be unavailable to host the event thus relocating the event to Lehmann-Monroe Park. Upon completion of these projects, the event will move back to Louise Hays Park in 2015.

Kerrville's 4th on the River mission is to help the Kerrville Community in its revitalization efforts to attract and create a more vibrant downtown focusing on the Guadalupe River.

The funding is for rental of:

- Stage / Sound
- Tents
- Port-a-potties
- Fencing
- Generators

- Tables / Chairs

Kerrville's 4th on the River received \$25,000 in EIC funding in 2013. Approximately 5,000 – 7,000 attended the 2013 event.

RECOMMENDED ACTION

City staff recommends consideration and approval of this funding agreement between the EIC and Kerrville's 4th on the River in an amount not to exceed \$23,100.

ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
KERRVILLE'S FOURTH ON THE RIVER, INC. AND
THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

This Agreement is entered into by and between **KERRVILLE'S FOURTH ON THE RIVER, INC.**, a Texas nonprofit corporation ("KFOR"), acting herein by and through its duly authorized President, Ben Modisett ("KFOR Officer"), and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** ("EIC"), a Texas nonprofit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and codified in Chapters 501, 502, and 505 of the Texas Local Government Code, otherwise known as the Development Corporation Act of 1979 (the Act"), and acting by and through its duly authorized President, David Wampler.

WITNESSETH:

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

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:

Equipment 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, and events, including stadiums, auditoriums, parks and park facilities, exhibition facilities, and related store, restaurant, and concessions and other related improvements that enhance any of the items described by Section 505.152 of the Act; and

WHEREAS, KFOR is hosting its annual event in conjunction with the City's July 4th fireworks display ("Event") on July 4, 2014; and

WHEREAS, KFOR has and will continue to advertise the Event both locally and beyond so as to maximize the attendance of tourists at the Event; and

WHEREAS, KFOR has applied for a grant from EIC for funding to rent equipment, including a stage, fencing, and generators for the Event; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and *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 KFOR to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to KFOR for its cost in renting equipment for use at the Event; and

WHEREAS, on February 24, 2014, 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, KFOR and the EIC agree as follows:

**ARTICLE I.
EIC'S OBLIGATIONS**

- A. EIC grants to KFOR an amount up to \$23,100.00 ("Grant") for costs relating to equipment rental ("Equipment") for the Event. The specific items that KFOR intends to rent are listed on the attachment included as **Exhibit A**.
- B. Subject to the terms and conditions set forth in Article II, the Grant will be provided to KFOR by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, KFOR must first 1) submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval; and 2) comply with section D of Article II. Following the submission and verification thereof, EIC shall then reimburse KFOR for the costs.
- C. Payments made by EIC to KFOR from 4B Revenues will be limited to the payments of "costs" as defined by the Act and as specified above for the Project.
- D. In no event will the total amount of the Grant exceed \$23,100.00.

**ARTICLE II.
KFOR'S OBLIGATIONS**

- A. In order to receive reimbursement from EIC, KFOR must rent the Equipment for the Event and may not use the Equipment for any other purpose.
- B. KFOR must keep and maintain complete and accurate records relating to the costs of the Equipment, 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.
- C. KFOR will only be liable to EIC for the actual amount of the Grant to be conveyed to KFOR and will 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 KFOR under the terms of this Agreement.
- D. KFOR shall provide a written report to the EIC no later than 30 days following the Event. The report must include: attendance, gross receipts, total expenses, total ticket sales, list of exhibitors, and the estimated number of attendees at the Event from outside of Kerr County.

**ARTICLE III.
SALE OF PROJECT, MERGER OR CONSOLIDATION OF KFOR**

- A. A sale of all or any of the assets of KFOR will not release KFOR from its duties and responsibilities to EIC under the terms of this Agreement and shall 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 KFOR's proposed successor shall have the financial condition to fully satisfy KFOR's duties and responsibilities hereunder and agrees to assume KFOR'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 KFOR with any third party not affiliated with KFOR, KFOR shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC regarding: (1) the surviving entity's assumption and satisfaction of the KFOR's obligations hereunder; and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity has the financial condition to fully satisfy KFOR's duties and responsibilities hereunder. Failure to provide such information may 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 KFOR. In the event of any sale or merger involving KFOR or its affiliates, the surviving entity shall assume KFOR's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

**ARTICLE IV.
KFOR'S REPRESENTATIONS AND WARRANTIES**

- A. KFOR represents and warrants as of the date hereof:
- (1) KFOR 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 KFOR and this Agreement is not in contravention of KFOR's governing authority or any agreement or instrument to which KFOR is a party or by which it may be bound as of the date hereof;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of KFOR Officer, threatened against or affecting KFOR, which may result in a material adverse change in KFOR's business, properties, or operations sufficient to jeopardize KFOR's legal existence; and
 - (4) No written application, written statement, or correspondence submitted by KFOR to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of KFOR Officer, 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.

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

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

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

(1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the Act 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 EIC;

(3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and

(4) 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.

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

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

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

(1) KFOR 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;

(2) The appointment of a receiver of KFOR;

(3) The adjudication of KFOR as bankrupt; and

(4) The filing by KFOR 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.

- B. Should any of these conditions not be cured by KFOR, KFOR will be considered to have breached this Agreement and EIC may, at its option, with written notice to KFOR, terminate this Agreement and KFOR shall be obligated to refund the EIC the full amount of any Grant funding received from the EIC.

**ARTICLE VII.
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 party, proceed immediately to cure or remedy such default or breach. 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, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach.
- B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article VII, 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 KFOR is not entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that EIC, pursuant to a breach and failure to cure by KFOR in accordance with this Agreement, is entitled to recover attorney fees, collection costs, and any other costs due to its pursuit of repayment and remedies under this Agreement.
- C. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights will not, so long as the breach or default by another party is continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor will 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 VIII.
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, 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.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement will be made or performed in Kerrville, Kerr County, Texas. Venue exists in Kerr County, Texas; and this Agreement is governed by and construed in accordance with the laws of the State of Texas.

- D. 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 an overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC
President
City of Kerrville, Texas, Economic Improvement Corporation
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

Kerrville's Fourth on the River, Inc.
Benjamin Modisett
President
Kerrville's 4th on the River
P.O. Box 295081
Kerrville, Texas 78029
bmodisett@me.com
Telephone (830) 370-9316

- E. Assignment. This Agreement is binding upon the parties hereto and their successors and assigns. Except as set forth in Article III, 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 will be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement.
- F. Parties In Interest. Nothing in this Agreement entitles anyone other than KFOR or EIC to any claim, cause of action, remedy, or right of any kind.
- G. Term. The term of this Agreement (the "Term") shall commence on the date that signatures of the parties are affixed to this Agreement (the "Effective Date"), and will terminate on the earlier of: (i) September 1, 2014, 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 Articles VI or VII; (iv) or at

the KFOR's sole and absolute discretion, but only upon the KFOR's return of all Grant funding to EIC that it has received under this Agreement. 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.

- H. 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 arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.
- I. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties or between the parties and the City of Kerrville, Texas.
- J. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination will survive termination.
- K. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

EXECUTED AND EFFECTIVE, as of the date indicated above, 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 Kerrville's Fourth on the River, Inc., acting through the KFOR Officer.

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


David Wampler, President

Date: _____

**KERRVILLE'S FOURTH ON
THE RIVER, INC.**

Ben Modisett, President

Date: _____

ATTEST:


Cheryl Brown, Recording Secretary

APPROVED AS TO FORM:


Michael C. Hayes, Attorney for EIC

EXHIBIT "A" 30

RECEIVED
OCT 28 2013
BY: CUB

October 28, 2013

Dear Mr. Wampler,

Kerrville's 4th on the River is a 501(c)3 tax-exempt organization based in Kerrville, TX. The mission of Kerrville's 4th on the River is to help the Kerrville Community in its revitalization efforts to attract and create a more vibrant downtown focusing on the Guadalupe River.

Kerrville's 4th on the River was started 3 years ago and has been successful events that coincided with the City of Kerrville's fireworks presentation. You may have heard about our events, for Kerrville was one of the only communities to even have a fireworks display in 2011, and was one of the most amazing displays we have ever seen. Thanks to many generous businesses in Kerrville like Mamacitas (who has given the city a grant to fund the fireworks display for 10 years) and James Avery Craftsman (our title sponsor for the 2011 event) and HEB and Guadalupe National Bank (title sponsors in 2012) we were able to bring upwards of 20,000 people to our downtown and city park to enjoy the festivities.

I am writing this letter to ask the Kerrville Economic Improvement Corporation to assist us this year in providing a free concert in downtown Kerrville.

We will have food vendors, kid's activities, and the live music. We want our event to be very family oriented and to be as economically feasible as possible for everyone to enjoy.

As our annual attendance has grown, we are expecting to increase the advertisement and hope to get 7,500 people to the day's festivities.

For the first two years of the event we were able to fund the concert solely on donations and ticket sales, and was able to breakeven. This past year, we were able to raise enough money to put some towards next year's show, and plan to make our first grant to the Friends of the River Trail in 2014.

Our project Budget is as follows:

Stage/Sound-	\$14,500.00
Tents-	\$ 2,500.00
Port a Potties	\$ 2,000.00
Fencing	\$ 200.00
Generators	\$ 3,450.00
Tables/Chairs	\$ 700.00
Total	\$23,100.00

Thank you for your consideration.

Benjamin Modisell
Kerrville's 4th on the River
President

Agenda Item:

- 4G. Economic development grant agreement between Historic Downtown Business Alliance, Inc. and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$5,016.00. (staff)

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

SUBJECT: Approval of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Historic Downtown Business Alliance in an amount not to exceed \$5,016 for the Sock Hop on the Star event

FOR AGENDA OF: March 11, 2014 **DATE SUBMITTED:** March 5, 2014

SUBMITTED BY: Ashlea Boyle *AWB* **CLEARANCES:** Todd Parton
Special Projects Manager City Manager

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *TP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

At its meeting of February 24, 2014, the Economic Improvement Corporation (EIC) held a public hearing and approved a funding agreement with the Historic Downtown Business Alliance (HDBA) in an amount not to exceed \$5,016 for the Sock Hop on the Star event. The event will be held in downtown Kerrville on September 27, 2014. The funding is for tables, chairs, tablecloths and booth and raffle supplies.

HDBA resurrected the former Harvest Moon Dance with a new 50's theme twist that included a variety of fun oldies type booths, live music, food, classic cars and more. Approximately 450 people attended the first Sock Hop on the Star event in 2013.

RECOMMENDED ACTION

City staff recommends consideration and approval of this funding agreement between the EIC and the Historic Downtown Business Alliance in an amount not to exceed \$5,016 for the Sock Hop on the Star event.

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
HISTORIC DOWNTOWN BUSINESS ALLIANCE, INC. AND
THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION**

This Agreement is entered into by and between **HISTORIC DOWNTOWN BUSINESS ALLIANCE, INC.**, a Texas nonprofit corporation (“HDBA”), acting herein by and through its duly authorized President, Keri Wilt (“HDBA Officer”), and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** (“EIC”), a Texas nonprofit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and codified in Chapters 501, 502, and 505 of the Texas Local Government Code, otherwise known as the Development Corporation Act of 1979 (the Act”), and acting by and through its duly authorized President, David Wampler.

WITNESSETH:

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

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:

Equipment 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, and events, including stadiums, auditoriums, parks and park facilities, exhibition facilities, and related store, restaurant, and concessions and other related improvements that enhance any of the items described by Section 505.152 of the Act; and

WHEREAS, HDBA is hosting its 2nd Annual Sock Hop on the Star (“Event”) on September 27, 2014, which consists a multigenerational family event; and

WHEREAS, HDBA has and will continue to advertise the Event both locally and beyond so as to maximize the attendance of tourists at the Event; and

WHEREAS, HDBA has applied for a grant from EIC for funding to rent equipment, including tables, chairs, and booths for the Event; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and *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 HDBA to provide sales tax revenues collected pursuant to the Act (“4B Revenues”) to HDBA for its cost in renting equipment for use at the Event; and

WHEREAS, on February 24, 2014, 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, HDBA and the EIC agree as follows:

**ARTICLE I.
EIC'S OBLIGATIONS**

- A. EIC grants to HDBA an amount up to \$5,016.00 ("Grant") for costs relating to equipment rental ("Equipment") for the Event. The specific items that HDBA intends to rent are listed on the attachment included as **Exhibit A**.
- B. Subject to the terms and conditions set forth in Article II, the Grant will be provided to HDBA by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, HDBA must first 1) submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval; and 2) comply with section D of Article II. Following the submission and verification thereof, EIC shall then reimburse HDBA for the costs.
- C. Payments made by EIC to HDBA from 4B Revenues will be limited to the payments of "costs" as defined by the Act and as specified above for the Project.
- D. In no event will the total amount of the Grant exceed \$5,016.00.

**ARTICLE II.
HDBA'S OBLIGATIONS**

- A. In order to receive reimbursement from EIC, HDBA must rent the Equipment for the Event and may not use the Equipment for any other purpose.
- B. HDBA must keep and maintain complete and accurate records relating to the costs of the Equipment, 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.
- C. HDBA will only be liable to EIC for the actual amount of the Grant to be conveyed to HDBA and will 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 HDBA under the terms of this Agreement.
- D. HDBA shall provide a written report to the EIC no later than 30 days following the Event. The report must include: attendance, gross receipts, total expenses, total ticket sales, list of exhibitors, and the estimated number of attendees at the Event from outside of Kerr County.

ARTICLE III.
SALE OF PROJECT, MERGER OR CONSOLIDATION OF HDBA

- A. A sale of all or any of the assets of HDBA will not release HDBA from its duties and responsibilities to EIC under the terms of this Agreement and shall 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 HDBA's proposed successor shall have the financial condition to fully satisfy HDBA's duties and responsibilities hereunder and agrees to assume HDBA'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 HDBA with any third party not affiliated with HDBA, HDBA shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC regarding: (1) the surviving entity's assumption and satisfaction of the HDBA's obligations hereunder; and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity has the financial condition to fully satisfy HDBA's duties and responsibilities hereunder. Failure to provide such information may 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 HDBA. In the event of any sale or merger involving HDBA or its affiliates, the surviving entity shall assume HDBA's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE IV.
HDBA'S REPRESENTATIONS AND WARRANTIES

- A. HDBA represents and warrants as of the date hereof:
- (1) HDBA 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 HDBA and this Agreement is not in contravention of HDBA's governing authority or any agreement or instrument to which HDBA is a party or by which it may be bound as of the date hereof;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of HDBA Officer, threatened against or affecting HDBA, which may result in a material adverse change in HDBA's business, properties, or operations sufficient to jeopardize HDBA's legal existence; and
 - (4) No written application, written statement, or correspondence submitted by HDBA to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of HDBA Officer, 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.

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

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

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

- (1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the Act 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 EIC;

- (3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and

- (4) 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.

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

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

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

- (1) HDBA 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;

- (2) The appointment of a receiver of HDBA;

- (3) The adjudication of HDBA as bankrupt; and

- (4) The filing by HDBA 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.

- B. Should any of these conditions not be cured by HDBA, HDBA will be considered to have breached this Agreement and EIC may, at its option, with written notice to HDBA, terminate this Agreement and HDBA shall be obligated to refund the EIC the full amount of any Grant funding received from the EIC.

ARTICLE VII. 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 party, proceed immediately to cure or remedy such default or breach. 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, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach.
- B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article VII, 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 HDBA is not entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that EIC, pursuant to a breach and failure to cure by HDBA in accordance with this Agreement, is entitled to recover attorney fees, collection costs, and any other costs due to its pursuit of repayment and remedies under this Agreement.
- C. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights will not, so long as the breach or default by another party is continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor will 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 VIII. 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, 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.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement will be made or performed in Kerrville, Kerr County, Texas. Venue exists in Kerr County, Texas; and this Agreement is governed by and construed in accordance with the laws of the State of Texas.

- D. 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 an overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC
President
City of Kerrville, Texas, Economic Improvement Corporation
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

Historic Downtown Business Alliance, Inc.
Keri Wilt
President
Historic Downtown Business Alliance
P.O. Box 294443
Kerrville, Texas 78028
keri@grapejuiceonline.com
Telephone: (830) 343-7259

- E. Assignment. This Agreement is binding upon the parties hereto and their successors and assigns. Except as set forth in Article III, 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 will be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement.
- F. Parties In Interest. Nothing in this Agreement entitles anyone other than HDBA or EIC to any claim, cause of action, remedy, or right of any kind.
- G. Term. The term of this Agreement (the "Term") shall commence on the date that signatures of the parties are affixed to this Agreement (the "Effective Date"), and will terminate on the earlier of: (i) November 1, 2014, 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 Articles VI or VII; (iv) or at

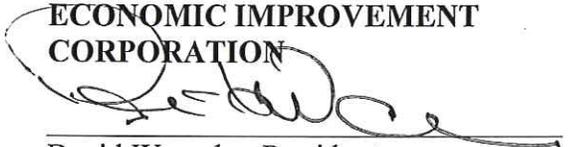
the HDBA's sole and absolute discretion, but only upon the HDBA's return of all Grant funding to EIC that it has received under this Agreement. Upon termination of this Agreement, all rights, duties, and obligations of any kind under this Agreement will automatically expire and terminate and be of no other force and effect.

- H. 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 arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.
- I. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties or between the parties and the City of Kerrville, Texas.
- J. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination will survive termination.
- K. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

EXECUTED AND EFFECTIVE, as of the date indicated above, 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 Historic Downtown Business Association, Inc., acting through the HDBA Officer.

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

**HISTORIC DOWNTOWN
BUSINESS ASSOCIATION, INC.**



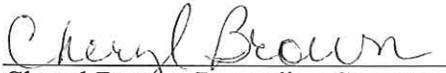
David Wampler, President

Date: 3/5/2014

Keri Wilt, President

Date: _____

ATTEST:



Cheryl Brown, Recording Secretary

APPROVED AS TO FORM:



Michael C. Hayes, Attorney for EIC

November 30, 2013

Kerr Economic Development Corporation
1700 Sidney Baker, Ste. 100
Kerrville, Texas 78028

To whom it may concern:

The Historic Downtown Business Alliance would like to request \$5,016 in funds to support their Sock Hop on the Star Event to be held in the heart of Downtown Kerrville on September 27th, 2014 from 5-11pm. The funds will be used to cover hard costs of equipment rentals, tables, chairs, table cloths, and booth and raffle supplies.

Event Purpose

- 1) To create a multi-generational family friendly community event that will drive potential customers into Downtown Kerrville.
- 2) To raise awareness of the businesses in Downtown Kerrville.
- 3) To raise funds for the Historic Downtown Business Alliance.

Event History

On September 14th, 2013 from 5 pm to 9 pm, the Historic Downtown Business Alliance hosted its 1st Annual Sock Hop on the Star. The event was free with a suggested donation of \$10 for adults and \$5 for children and included a raffle, silent auction, dancing, and various 50's inspired booths.

HDBA brought back the old tradition of the Harvest Moon Dance that took place every fall in Downtown Kerrville, but replaced it with a fun for all ages 50's street dance that was very well received in its first year.

An estimated 450 people attended and the fledgling event turned a small profit.

Growth Plan

HDBA plans to grow the event attendance and its revenue in the following ways:

- 1) By moving the event to the Saturday of the Kerrville Triathlon, HDBA hopes to provide a fun event for the athletes and their family to attend, while also reducing the amount of days that the downtown streets will need to be closed. This will expand the mostly local crowd that attended in year 1.
- 2) By charging vendors for booth space.
- 3) By soliciting additional sponsors.
- 4) By increasing the marketing budget to include Radio and additional print.
- 5) By increasing the hours of the event giving attendees more time to spend money.

Historic Downtown Business Alliance Purpose

The Historic Downtown Business Alliance is a not-for-profit organization funded by its membership and local fundraisers.

HDBA's Mission:

- o Promote a strong business climate in Historic Downtown Kerrville by developing ideas and programs to promote existing businesses and to attract new businesses;
- o Raise monies through membership dues, sponsorships, donations, grants, and fundraising activities to fund activities and advertising focused on expanding the customer base for all Downtown businesses;
- o Foster communication and a spirit of cooperation within the Downtown community.

HDBA Background

HDBA in its current format began in 2012 by a group of downtown business owners who wanted to get involved in the revitalization of downtown Kerrville and work together to drive awareness and customers into the heart of our city. The Kerrville Downtown Business Association was currently in existence, but was not making an impact. The Downtown Businesses joined the then KDBA and revised the mission and bylaws to breathe new life into the organization and Downtown Kerrville.

For a brand new organization, HDBA has quickly become involved with the city and partnering with Main Street on key downtown issues, creating new events and refreshing old ones, and working hard to promote Downtown Kerrville.

Downtown Kerrville

Why is focusing on and supporting Downtown important? A successful downtown is important because that is an indicator of community pride, economic vitality, and social capital. Therefore, when the city center suffers, the whole city suffers. Creating an inviting and vibrant city center is an asset for recruiting new residents, businesses, industry, visitors, & the like. It also keeps the current residents happy & excited to call their city home.

Thank you for your time and consideration of funding. If you have any questions, please contact me direction at 830-343-7259 or at contacthdba@downtownkerrville.com.

Sincerely,



Keri Wilt

President of the Historic Downtown Business Alliance

Kerrville, Texas
**HISTORIC
DOWNTOWN
Business Alliance**

For more information:
Email: contacthdba@downtownkerrville.com
Website: www.downtownkerrville.com/hdba

HDBA
PO. Box 29444
Kerrville, Texas 78029

Sock Hop Budget

Attendance

Sept. 14th	Sept 27th	TBD	TBD
2013	2014	2015	2016
Approx. 450	800	1000	1200

Expenses

Music

1 Band Yr One, Two + DJ in future

\$346	\$1,000	\$1,200	\$1,200
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Security

\$120 per police officer

\$360	\$480	\$600	\$720
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Booth Supplies

Tattoos, Hair Spray/Gel, Face Paint, etc.

\$370	\$300	\$500	\$700
-------	-------	-------	-------

Decorations

50's Decorations, Balloons

\$174	\$227	\$352	\$352
-------	-------	-------	-------

Rentals

Tables/Chairs/Table Cloths

Port-O-Potties

Light Poles/Generators

\$1,540	\$4,189	\$4,899	\$5,399
\$1,540	\$1,540	\$2,000	\$2,500
\$0	\$1,625	\$1,875	\$1,875
\$0	\$1,024	\$1,024	\$1,024

Raffle Supplies

Tickets and Old Time Candy for Big Givers

\$199	\$300	\$400	\$500
-------	-------	-------	-------

Marketing

Poster Printing/Social Media/ Radio/Print/Signs

\$268	\$1,000	\$1,000	\$1,000
-------	---------	---------	---------

Total Costs	\$3,257	\$7,496	\$8,951	\$9,871
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Revenue

Donations at the Door/Raffle Tickets

Silent Auction Items

Sponsorship

Vendors

General Donations Total

\$2,233	\$5,000	\$7,000	\$9,000
\$385	\$1,000	\$1,500	\$2,000
\$1,540	\$3,000	\$4,000	\$5,000
\$0	\$500	\$1,000	\$1,500
\$4,158	\$9,500	\$13,500	\$17,500

Net Profit	\$901	\$2,004	\$4,549	\$7,629
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Funding Request

% of Budget

\$5,016

67%

\$6,151

69%

\$6,951

70%



Absolute Event Management & Rentals, Inc.
 1617 Broadway
 Kerrville, TX 78028
 (830)315-0033
 sales@absoluteem.com
 www.AbsoluteEM.com

Quote

Date	Quote No.
11/26/2013	1067
Exp. Date	

Address

Keri Wilt
 HDBA

Event Date	Service	Description	Quantity	Rental Rate	Amount
11/26/2013	RT60-T	60" ROUND TABLE	20	10.00	200.00
11/26/2013	CT3042-T	30" X 42" COCKTAIL TABLE	10	10.00	100.00
11/26/2013	RTC120-L	120" ROUND BASIC POLYESTER TABLE	30	16.00	480.00
11/26/2013	WGC-CS	LINEN WHITE GARDEN CHAIR WITH PADDED SEAT	200	3.00	600.00
11/26/2013	BC90132-L	90" X 132" BASIC POLYESTER TABLE LINEN (for booth tables)	10	16.00	160.00
11/26/2013	SDEL	STANDARD DELIVERY AND PICK-UP	1	0.00	0.00T
				SubTotal	\$1,540.00
				Tax (8.25%)	\$0.00
				Total	\$1,540.00

This is only an estimate. Actual charges are subject to change until a contract is signed.
 A 50% deposit is required to secure rentals unless other arrangements have been made.

Accepted By

Accepted Date

Rentals are no longer afterthoughts; they are key elements to great events.

Agenda Item:

- 4H. Economic development grant agreement between High Five Events, LLC and the City of Kerrville, Texas Economic Improvement Corporation, in an amount not to exceed \$18,600.00. (staff)

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

SUBJECT: Approval of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and High Five Events in an amount not to exceed \$18,600 for the Kerrville Triathlon Festival

FOR AGENDA OF: March 11, 2014 **DATE SUBMITTED:** March 5, 2014

SUBMITTED BY: Ashlea Boyle *AB* **CLEARANCES:** Todd Parton
Special Projects Manager City Manager

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *TP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

At its meeting of February 24, 2014, the Economic Improvement Corporation (EIC) held a public hearing and approved a funding agreement with High Five Events in an amount not to exceed \$18,600 for the Kerrville Triathlon Festival to be held the last weekend of September 2014.

The 4th Annual Kerrville Triathlon festival consists of a sprint distance triathlon and relay, intermediate distance triathlon, half distance triathlon and relay, free kids fun run and a health and fitness exposition. This event has grown from 764 participants in 2011 to 1,264 in 2013. The event will incorporate Louise Hays Park and the River Trail upon completion of those projects, anticipated for 2015.

The funding is for:

- Traffic control barricades
- Shuttle buses
- Tents, tables, chairs, lights
- Fencing
- Port-a-potties and trash receptacles

RECOMMENDED ACTION

City staff recommends consideration and approval of this funding agreement between the EIC and High Five Events in an amount not to exceed \$18,600 for the Kerrville Triathlon Festival.

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
HIGH FIVE EVENTS, LLC AND
THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION**

This Agreement is entered into by and between **HIGH FIVE EVENTS, LLC**, a Texas limited liability company (“HFE”), acting herein by and through its duly authorized Chief Executive Officer, Dan Carroll (“HFE Officer”), and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** (“EIC”), a Texas nonprofit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and codified in Chapters 501, 502, and 505 of the Texas Local Government Code, otherwise known as the Development Corporation Act of 1979 (the Act”), and acting by and through its duly authorized President, David Wampler.

WITNESSETH:

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

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:

Equipment 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, and events, including stadiums, auditoriums, parks and park facilities, exhibition facilities, and related store, restaurant, and concessions and other related improvements that enhance any of the items described by Section 505.152 of the Act; and

WHEREAS, HFE is hosting its 4th Annual Kerrville Triathlon Festival (“Festival”) on September 26-28, 2014, which consists of a sprint distance triathlon and relay, intermediate distance triathlon, half distance triathlon and relay, free kids fun run, and a health and fitness exposition; and

WHEREAS, HFE has and will continue to advertise the Festival both locally and beyond so as to maximize the attendance of tourists to the event; and

WHEREAS, HFE has applied for a grant from EIC for funding to rent equipment, including traffic control barricades, shuttle busses, and tents for the Festival; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and *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 HFE to provide sales tax revenues collected pursuant to the Act (“4B Revenues”) to HFE for its cost in renting equipment for use at the Festival; and

WHEREAS, on February 24, 2014, 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, HFE and the EIC agree as follows:

**ARTICLE I.
EIC'S OBLIGATIONS**

- A. EIC grants to HFE an amount up to \$18,600.00 ("Grant") for costs relating to equipment rental ("Equipment") for the Festival. The specific items that HFE intends to rent are listed on the attachment included as **Exhibit A**.
- B. Subject to the terms and conditions set forth in Article II, the Grant will be provided to HFE by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, HFE must first 1) submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval; and 2) comply with section D of Article II. Following the submission and verification thereof, EIC shall then reimburse HFE for the costs.
- C. Payments made by EIC to HFE from 4B Revenues will be limited to the payments of "costs" as defined by the Act and as specified above for the Project.
- D. In no event will the total amount of the Grant exceed \$18,600.00.

**ARTICLE II.
HFE'S OBLIGATIONS**

- A. In order to receive reimbursement from EIC, HFE must rent the Equipment for the Festival and may not use the Equipment for any other purpose.
- B. HFE must keep and maintain complete and accurate records relating to the costs of the Equipment, 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.
- C. HFE will only be liable to EIC for the actual amount of the Grant to be conveyed to HFE and will 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 HFE under the terms of this Agreement.
- D. HFE shall provide a written report to the EIC no later than 30 days following the Festival. The report must include: attendance, gross receipts, total expenses, total ticket sales, list of exhibitors, and the estimated number of attendees at the Festival from outside of Kerr County.

ARTICLE III.
SALE OF PROJECT, MERGER OR CONSOLIDATION OF HFE

- A. A sale of all or any of the assets of HFE will not release HFE from its duties and responsibilities to EIC under the terms of this Agreement and shall 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 HFE's proposed successor shall have the financial condition to fully satisfy HFE's duties and responsibilities hereunder and agrees to assume HFE'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 HFE with any third party not affiliated with HFE, HFE shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC regarding: (1) the surviving entity's assumption and satisfaction of the HFE's obligations hereunder; and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity has the financial condition to fully satisfy HFE's duties and responsibilities hereunder. Failure to provide such information may 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 HFE. In the event of any sale or merger involving HFE or its affiliates, the surviving entity shall assume HFE's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE IV.
HFE'S REPRESENTATIONS AND WARRANTIES

- A. HFE represents and warrants as of the date hereof:
- (1) HFE is a Texas limited liability company existing in good standing and authorized to do business in the State of Texas;
 - (2) Execution of this Agreement has been duly authorized by HFE and this Agreement is not in contravention of HFE's governing authority or any agreement or instrument to which HFE is a party or by which it may be bound as of the date hereof;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of HFE Officer, threatened against or affecting HFE, which may result in a material adverse change in HFE's business, properties, or operations sufficient to jeopardize HFE's legal existence; and
 - (4) No written application, written statement, or correspondence submitted by HFE to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of HFE Officer, 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.

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

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

- A. EIC represents and warrants as of the date hereof:
- (1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the Act 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 EIC;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and
 - (4) 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.
- B. Except as expressly set forth in this Article V, EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

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

- A. Under any of the following conditions EIC may, at its option, after fifteen (15) days written notice to HFE, suspend its further performance under this Agreement until such time as HFE has cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:
- (1) HFE 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;
 - (2) The appointment of a receiver of HFE;
 - (3) The adjudication of HFE as bankrupt; and
 - (4) The filing by HFE 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.
- B. Should any of these conditions not be cured by HFE, HFE will be considered to have breached this Agreement and EIC may, at its option, with written notice to HFE,

terminate this Agreement and HFE shall be obligated to refund the EIC the full amount of any Grant funding received from the EIC.

ARTICLE VII. 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 party, proceed immediately to cure or remedy such default or breach. 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, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach.
- B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article VII, 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 HFE is not entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that EIC, pursuant to a breach and failure to cure by HFE in accordance with this Agreement, is entitled to recover attorney fees, collection costs, and any other costs due to its pursuit of repayment and remedies under this Agreement.
- C. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights will not, so long as the breach or default by another party is continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor will 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 VIII. 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, 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.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement will be made or performed in Kerrville, Kerr County, Texas. Venue exists in Kerr County, Texas; and this Agreement is governed by and construed in accordance with the laws of the State of Texas.
- D. 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 an overnight carrier for

next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC
President
City of Kerrville, Texas, Economic Improvement Corporation
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

High Five Events, Inc.
Dan Carroll
CEO
High Five Events
2122 Melridge Pl
Austin, Texas 78704
dan@highfiveevents.com
Telephone: (512)917-3579

- E. Assignment. This Agreement is binding upon the parties hereto and their successors and assigns. Except as set forth in Article III, 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 will be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement.
- F. Parties In Interest. Nothing in this Agreement entitles anyone other than HFE or EIC to any claim, cause of action, remedy, or right of any kind.
- G. Term. The term of this Agreement (the "Term") shall commence on the date that signatures of the parties are affixed to this Agreement (the "Effective Date"), and will terminate on the earlier of: (i) November 1, 2014, 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 Articles VI or VII; (iv) or at the HFE's sole and absolute discretion, but only upon the HFE's return of all Grant funding to EIC that it has received under this Agreement. 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.

- H. 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.
- I. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties or between the parties and the City of Kerrville, Texas.
- J. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination will survive termination.
- K. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

EXECUTED AND EFFECTIVE, as of the date indicated above, 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 High Five Events, Inc., acting through the HFE Officer.

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



David Wampler, President

Date: 3/5/2014

HIGH FIVE EVENTS, INC.

Dan Carroll, CEO

Date: _____

ATTEST:



Cheryl Brown, Recording Secretary

APPROVED AS TO FORM:



Michael C. Hayes, Attorney for EIC

EXHIBIT "A" 20



Dan Carroll
High Five Events
2122 Melridge Pl
Austin, TX 78704
512-917-3579
dan@highfiveevents.com

Kerr Economic Development Corporation (KEDC)
1700 Sidney Baker, Ste 100
Kerrville, TX 78028

November 27, 2013

To whom it may concern:

Please find included with this letter the Application for 4B Sales Tax Funds and supplemental documentation for the Kerrville Triathlon Festival, an event created and produced by High Five Events. I hope you find this event worthy of consideration based upon its positive impact to businesses that benefit from increased visitors to the Kerrville area, and for its influence on Kerrville area residents to follow a healthy lifestyle.

Our company mission is to create and produce the safest, most well organized, and most enjoyable athletic endurance events, while also growing the health and fitness community in the places where we host these events. Our goal is to continue to develop the Kerrville Triathlon into one of the premier triathlon events in the nation, while also making participating in the triathlon an annual fitness tradition for many Kerrville residents.

Please do not hesitate to contact me if you need any additional information regarding the event.

Sincerely,

A handwritten signature in cursive script that reads "Daniel P. Carroll".

Daniel P. Carroll, CEO
High Five Events



About the Kerrville Triathlon Festival

The Kerrville Triathlon Festival is held annually on the last weekend in September. The festival consists of the following events:

- Sprint Distance Triathlon & Relay, held on Saturday
- Intermediate Distance Triathlon, held on Sunday
- Half Distance Triathlon & Relay, held on Sunday
- Kids Fun Run, held on Saturday
- Health & Fitness Expo, held on Friday and Saturday

The swim portion of the event is held in the Guadalupe River, with the starting area located behind the Family Sports Center. The bike course makes 2 loops through the City of Kerrville and Kerr County before finishing on the athletic field at Notre Dame School. The multi-loop run course follows Water St and parts of the Guadalupe River Trail. The finish site of the triathlon is the parking lot adjacent to "the star" at the intersection of Water St. and Earl Garrett St.

History

In early 2010, High Five Events approached the City of Kerrville about the possibility of creating a triathlon event. The goal was to create a premier triathlon event that would attract visitors to the Kerrville area and also act as a catalyst to engage Kerr County residents in health and fitness activities. High Five Events collaborated with Kerrville Police, Kerrville Fires & EMS, Kerrville Parks and Recreation, Kerrville Public Works, Kerr County Sheriff, Texas Department of Public Safety, the Texas Department of Transportation, and various Kerrville business and community groups, and in September 2011, the inaugural Kerrville Triathlon was held. Since then, the event has been held each year on the last weekend in September.

Participation (Not including the Kids Fun Run or volunteers):

- 2011 = 764
- 2012 = 1307
- 2013 = 1264

Annually, the event has between 350-400 volunteers.

The Kids Fun Run is 100% free and open to any child under 16 years old. Each child receives a t-shirt and post run treat. In 2013, the kids run had approximately 170 participants.

Demographics

The average participant demographics for 2012 & 2013 are as follows:

- 91% of participants reside outside of Kerr and Gillespie counties.
- 80 City of Kerrville residents participated, many more volunteered.
- 16 different states were represented.

- The Kerrville CVB tracked 1041 room nights for the 2013 event.
- A conservative estimate of economic impact to Kerr County is \$750k to \$1 Million based upon visitor counts and identified spending habits during a sporting event.
- According to USA Triathlon, triathlete data shows:
 - Average Age = 38
 - Average Income = \$128,000
 - 49% report white-color jobs
 - 19% report professional jobs such as doctor, lawyer, or accountant
 - 12% are students are educational workers

Plan for Growth

The Kerrville Triathlon experienced tremendous growth in 2012 as the result of a successful event in 2011. In 2013, those participant numbers were matched, despite the temporary changes to the course due to the construction in Louise Hays Park and the River Trail.

The goal is to reach 2000 total participants for the 2015 edition of the triathlon. The event narrowly missed being selected as the location as the USA Triathlon Age Group for 2014, and it is believed that it has an excellent chance of receiving that designation for 2015. The designation will bring significant national exposure and additional participants. Furthermore, the plan is to make the new Guadalupe River Trail and the improvements to Louise Hays Park showcase features of this already great host city.

Financial Information

Since its inception, High Five Events has covered all of the expenses of the triathlon.

The cost breakdown from 2013 is below:

Traffic Control Barricades	\$	9,300
Water Safety	\$	4,700
Medical / EMS	\$	3,500
Police	\$	9,200
Security	\$	2,500
Shuttle Buses	\$	1,700
Tents, Tables, Chairs, Lights	\$	2,500
Advertising	\$	10,000
Fencing	\$	3,400
Toilets & Trash	\$	1,700
Aid Stations	\$	1,000
Awards	\$	4,000
Ice	\$	1,100
Race Numbers	\$	2,000
Shirts, Hats, etc.	\$	26,000
Timing	\$	5,000
Volunteers	\$	2,200
	\$	<u>89,800</u>

Plans for Funding

High Five Events is seeking funds to help offset the production costs of the triathlon. The savings from the offset would be used for additional advertising to increase the number of participants. High Five Events can provide a report to the KEDC showing how the funding was used to cover expenses that were directly paid back to City of Kerrville entities, businesses, and individual residents

Agenda Item:

- 4I. Proposed street improvement and rehabilitation list for fiscal year 2014.
(staff)

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

SUBJECT: Proposed Street Improvement and Rehabilitation list for FY14

FOR AGENDA OF: March 11, 2014 **DATE SUBMITTED:** March 6, 2014

SUBMITTED BY: Stuart Barron *SB* **CLEARANCES:** Kristine Ondrias *KO*
Director of Public Works Deputy City Manager

EXHIBITS: 2014 Proposed Street Improvement and Rehabilitation Map

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *M*

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$600,000.00	\$	\$600,000.00	01-861-207-01

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Kerrville's Pavement Management System, adopted in 2004, utilizes the Asphalt Institute Pavement Rating System to determine, in an objective and systematic way, street rehabilitation needs. A schedule is then developed based on construction logistics, budgetary constraints and coordination with other planned construction projects. The following streets are targeted for rehabilitation in the spring and summer of 2014 beginning as early as March, and are shown on the attached map:

Legion Area

- Agarita
- Beech
- Clara
- Hunt
- Legion – From Meeker to Loop 534
- Maple
- Meeker – From SH27 to Legion
- Mesquite
- Poplar

Leslie Area

- Mathison
- Morrow
- Thurman

- Ward

Settlement Area

- Paschal from Miller to Holdsworth
- W. Barnet from Swigert to End
- W. Davis from Swigert to Paschal
- Webster

Woodlawn Area

- Lewis from W. Water to Guadalupe
- Ruth

Riverhills Area (alternate streets)

- Country Club Lane
- Birkdale Lane
- Sand Bend

The streets are listed in order from highest level of need to a lower level of need. The lower level streets Country Club Lane, Birkdale Lane, Sand Bend are included on this list as alternatives. A street may be removed or an alternate street may be added later in the season to allow for fluctuations in the price of materials and to ensure allocated street rehabilitation funds are completely expended.

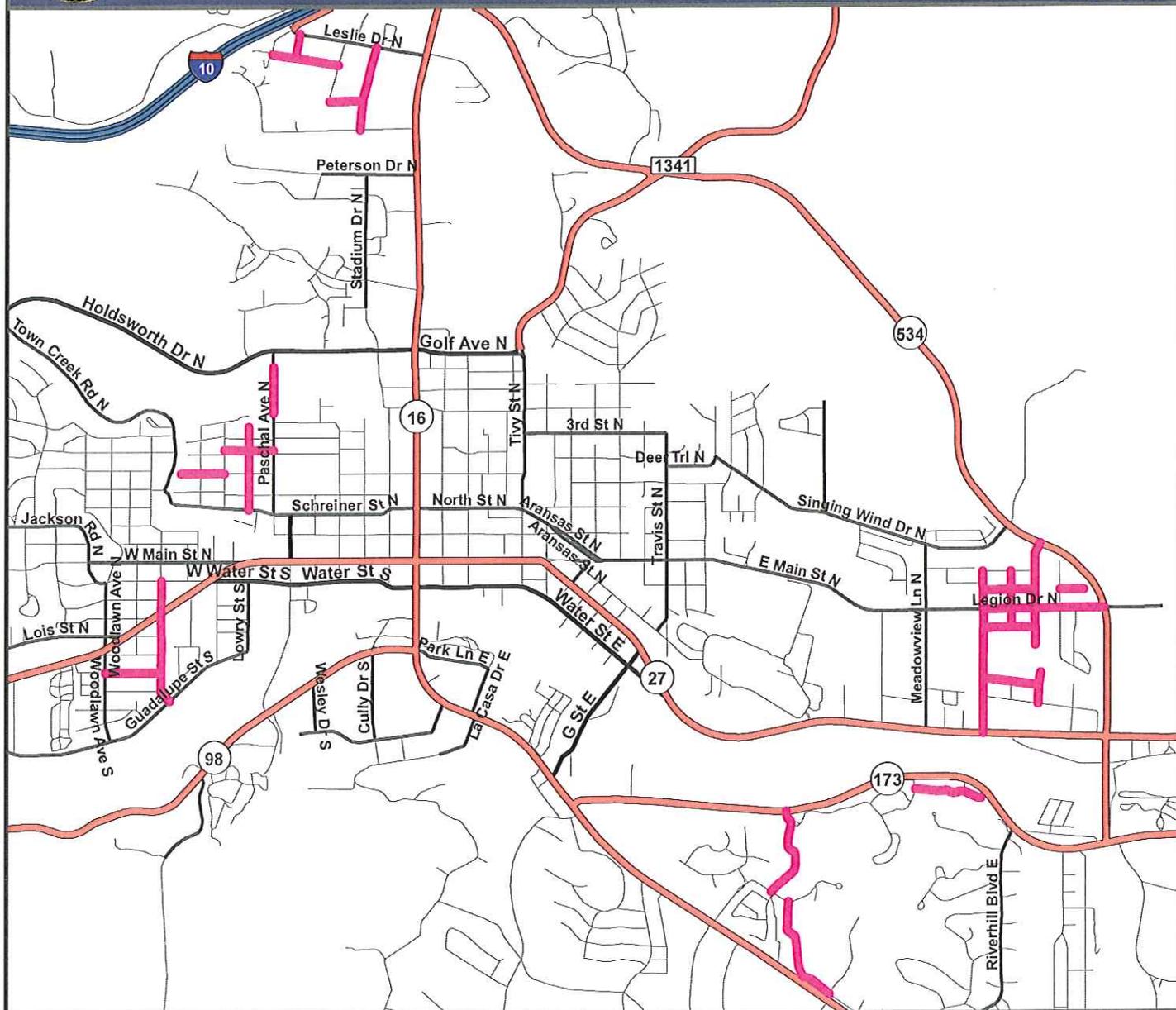
Once approved by Council, this list of streets targeted for rehabilitation in 2014 will be forwarded to franchise utility companies for review. The Utility companies will be given 15 days to notify the City of any utility conflicts. If a buried utility is determined to be in conflict with the proposed construction activities the City will allow them an additional 60 days to relocate the utility.

RECOMMENDED ACTION

The Director of Public Works recommends that council approve of the list of streets targeted for rehabilitation in 2014 as listed herein.



2014 Street Selection



Selected Streets

Agarita St N
 Beech St N
 Birkdale Ln E
 Clara St N
 Hunt St N

Legion Dr N
 N Lewis Ave N
 S Lewis Ave S
 Maple St N
 Mathison St N

Meeker Rd N
 Mesquite St N
 Morrow St N
 Paschal Ave N
 Poplar St N

Riverhill Club Ln E
 Ruth St S
 Sand Bend Dr E
 Thurman St N
 W Barnett St N

W Davis St N
 Ward St N
 Webster Ave N

-  FY14 Street Selection
-  Freeway
-  Highway

-  Minor Arterial
-  Collector
-  Local



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This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

Agenda Item:

5A. Presentation on the Neighborhood Improvement Program scheduled for March 29, 2014. (staff)

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

SUBJECT: Presentation on the Neighborhood Improvement Program scheduled for
March 29, 2014

FOR AGENDA OF: March 11, 2014 **DATE SUBMITTED:** March 6, 2014

SUBMITTED BY: Kristine Ondrias **CLEARANCES:**
Deputy City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

As part of the overall city beautification effort, the City of Kerrville has partnered with Partners in Ministry CSI Day and Schreiner University to perform a neighborhood wide clean up on March 29th. This improvement program will be an effort of several city departments including Public Works, Code Enforcement, and Police as well as the many volunteers provided by Partners in Ministry and Schreiner University. Staff will provide an overview of the program to the City Council on March 11th.

RECOMMENDED ACTION

No action required. This item is for information and discussion.

Agenda Item:

5B. Update on T-hangar construction project at the airport. (staff)

Agenda Item:

6A. Appointments to the Parks and Recreation Advisory Board. (staff)

**BUSINESS OF THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Appointments to the Parks and Recreation Advisory Board

FOR AGENDA OF: March 11, 2014

DATE SUBMITTED: March 6, 2014

SUBMITTED BY: Brenda Craig
City Secretary *BC*

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *[Signature]*

SUMMARY STATEMENT

Consider appointments to the following board:

Parks and Recreation Advisory Board: Three terms due to expire March 31, 2014:
Lisa Nye-Salladin, Susan Sander and Meg Scott-Johnson.

RECOMMENDED ACTION

Consider appointments.

PARKS AND RECREATION ADVISORY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
NYE-SALLADIN, LISA Vice-Chairperson 1015 Morningside Dr.	377-7198 (C) 896-3834 (H)	04-13-10	03-27-12	03-31-14
ALFORD, NANCY E. 2213 Singing Wind	214-663-9903 (C)	03-27-12	04-09-13	03-31-15
LENARD, CAROL 70 Apache Dr.	928-8499 (C)	04-09-13		03-31-15
LIPSCOMB, DAVID 909 Lake Drive	895-4232 (H)	04-12-11	04-09-13	03-31-15
MUSE, BILL 2956 Oak Park Dr.	928-7028 (C) 792-7355 (W)	4-09-13		03-31-15
SANDER, SUSAN 500 Josephine	370-3306 (C)	04-13-10	03-27-12	03-31-14
SCOTT-JOHNSON, MEG 438 Timber Ridge Dr.	713-724-4168 (C) 257-0022 (H)	03-27-12		03-31-14
WALLACE, ED 131 Royal Oaks	257-5272 (H) 377-0455 (C)	11-30-11	04-09-13	03-31-15
COUNCIL LIAISON:				
Gene Allen 2106 Vista Ridge Dr. 1221 Junction Highway	895-5111 (O)			
CITY STAFF:				
Kristine Ondrias Assistant City Manager	258-1106 (O)			
Malcolm Matthews Director of Parks & Recreation	258-1150 (O)			

Qualifications: A majority shall be residents of the city of Kerrville, and all shall be residents of Kerr County.

Powers and Duties: Shall constitute an advisory board to the city council and shall periodically assist city staff in procedural matters. The board shall have authority to hold hearings in the city and to consider and make recommendations to the city council in writing on any and all matters pertaining to the city's parks and recreation system.

Term of Office: Two years with a maximum of two terms. No member shall serve more than two terms without having at least one full year off between terms.

Quorum: Five
Members: Eight
Meeting Time & Place: Third Thursday, 8:15 a.m., City Council Chambers
Absences: Any member having three consecutive unexcused absences shall have his membership reviewed by the board. By majority vote, the board may recommend to the council that such member be removed from office. The council may then act upon such recommendation and either remove or retain such member.
Established by: Ordinance No. 1984-37, amended by Ordinance No. 1987-24
Code of Ordinances: Chapter 74 - Article II – Sections 74-31 through 74-38
Revised: May 29, 2013

Agenda Item:

6B. Appointment to the Kerrville Public Utility Board of Directors. (staff)

**BUSINESS OF THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Appointment to the Kerrville Public Utility Board

FOR AGENDA OF: March 11, 2014 **DATE SUBMITTED:** February 28, 2014

SUBMITTED BY: Brenda Craig *BC* **CLEARANCES:** Todd Parton
City Secretary City Manager

EXHIBITS: Board List
Letter and applications from KPUB (attached separately; also posted for executive session)

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *TP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Please consider appointment to the following board:

Kerrville Public Utility Board: One term due to expire April 21, 2014: John E. Sample.

RECOMMENDED ACTION

Consider appointment.

KERRVILLE PUBLIC UTILITY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
SAMPLE, JOHN Chairman P.O. Box 291341 355 W. Main	257-6625 (H)	04-22-09		04-21-14
GAMBLE, FRED Vice Chairman 715 Travis	257-5135 (H)	04-22-10		04-21-15
FINE, STEPHEN Secretary 1210 Virginia Dr.	257-6020 (O) 896-2934 (H)	03-28-06	04-22-11	04-21-16
STACY, PHILIP Treasurer P.O. Box 222 Hunt, TX 78024	792-1990 (O) 830-367-7007 (H)	02-28-12		04-21-17
PRATT, JACK Mayor P.O. Box 294000	895-2214 (O)	05-22-12		05-22-14
Staff McCUAN, TRACY General Manager P.O. Box 294999	257-3050 (O)			

Qualifications: Citizen of the United States of America who reside or conduct business on a full-time basis in Kerr County, Texas and who use the system for personal, residential, business and/or company use. No person who is related within the second degree of consanguinity or affinity to any member of the board of trustees shall be eligible for election as a member of the board.

Vacancies: All vacancies shall be filled by the city council from nominations of at least three persons for each position to be filled by the majority vote of the remaining members of the board of trustees. If the city council does not act upon such nominations within 30 days after submission in writing to the city council, the board of trustees by majority vote of the remaining members shall nominate three additional persons for each position to be filled. If the city council does not act upon such additional nominations within 30 days after submission of such additional nominations, the board shall be empowered to fill such vacancies by the majority vote of the remaining members of the board of trustees.

Powers: To take, have and exercise exclusive possession and control of the system, and all additions thereto, and to collect, and enforce the collection of all funds and revenues that may be or become owing or that may arise out of the operation of the system, and to disburse the same. To fix all rates for all services to be

furnished by the system, with the power to alter the same at any time or times, subject to approval of the city council of the city of Kerrville. To employ and pay the compensation of a general manager of the system, and attorneys, engineers and other professional or technical aids as may be necessary. To do any and all things necessary in reference to the installing and maintaining of a complete system of records and accounts pertaining to the system and to make monies available for the payment of revenue bonds.

- Term of Office: Five years; a person who has served as a member of the Board for an initial term shall be eligible to be re-appointed for one additional consecutive term of five years, and one only, but may serve for any number of non-consecutive terms so long as such member has not served as a member of the board for at least two years next preceding the term for which such member is appointed. A member who is appointed to the board to serve out an unexpired portion of a retired member's term shall not be considered to have served a "term" unless the unexpired portion of the term so served is two years or more. Permanent removal of residence from, or the failure to conduct business on a full-time basis in Kerr County by any member of the board shall vacate his office as a member of the board.
- Quorum: Three
- Number of Members: Five
- Meeting Time & Place: Third Thursday, 8:30 a.m., 2250 Memorial Blvd.
- Absences: Any member of the board, other than the Mayor, who shall be continuously absent from all meetings held by the board for a period of four consecutive months shall, unless he shall have been granted leave of absence by the unanimous vote of the remaining members of the board, be considered to have vacated his office as a member of the board.
- Established by: Ordinance No. 1987-45 (purchase); Resolution 1987-106 (Board);
- Revised: May 14, 2013



KERRVILLE
PUBLIC
UTILITY
BOARD

2250 Memorial Blvd. • P.O. Box 294999 • Kerrville, Texas 78029-4999 • 830-257-3050 • FAX 830-257-8078

February 20, 2014

Mr. Todd Parton
City Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028

Dear Todd,

At its Regular Monthly Meeting held yesterday, the Kerrville Public Utility Board nominated the following individuals for consideration by the Kerrville City Council for appointment to the Kerrville Public Utility Board of Trustees Position No. One:

Name	Address	In City Limits	Employment
Neva G. Pratt	116 Glen Shadows Dr. Kerrville, TX	No	Retired
Clay Robertson	1831 Lois Kerrville, TX	Yes	Escrow Officer Kerrville Title Co.
John E. Sample	333 W. Main Kerrville, TX	Yes	Self-Employed Investments

Enclosed are copies of the applications completed by each of these individuals. I have verified that each of these individuals reside in or conduct business on a full-time basis in Kerr County and use the System for personal, residential, business, and/or company use. Position No. One is currently held by John E. Sample, whose term is set to expire on April 21, 2014. Mr. Sample is currently completing his first five-year term and is eligible to serve again at this time.

I respectfully request these nominations be placed on a City Council Agenda for consideration in the near future. Please let me know if you have any questions or need additional information.

Yours truly,

Tracy L. McCuan
General Manager and CEO

TLM/lsg

Enclosures – (3) Applications