

AGENDA FOR REGULAR MEETING

CITY OF KERRVILLE, TEXAS

ECONOMIC IMPROVEMENT CORPORATION

MONDAY, AUGUST 25, 2014 AT 4:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

**AGENDA FOR REGULAR MEETING OF THE
CITY OF KERRVILLE, TEXAS
ECONOMIC IMPROVEMENT CORPORATION
MONDAY, AUGUST 25, 2014, 4:00 P.M.
KERRVILLE CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS**

CALL TO ORDER

INVOCATION

1. VISITORS / CITIZENS FORUM:

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

2. APPROVAL OF THE MINUTES:

2A. Minutes of the regular meeting held July 28, 2014.

3. MONTHLY REPORTS:

3A. Monthly financials for July 2014. (staff)

3B. Projects update. (staff)

River Trail and Parks projects

Cailloux Theater Expansion Project

3C. Update regarding "GO Team" activities. (staff)

4. PUBLIC HEARINGS AND POSSIBLE ACTION:

4A. Public hearing for the funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville, in an amount not to exceed \$600,000 for construction costs for the Louise Hays Park and Lehmann & Monroe Park improvement project. (staff)

4B. Public hearing for the funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Hill Country District Junior Livestock Show Association in an amount not to exceed \$35,588. (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 830-257-8000 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time August 21, 2014 at 4:00 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

5. EXECUTIVE SESSION:

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

Sections 551.071 (consultation with attorney)

3B. River Trail Project

6. 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 830-257-8000 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time August 21, 2014, at 4:00 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. Minutes of the regular meeting held July 28, 2014.

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

July 28, 2014

On Monday, July 28, 2014, the regular meeting of the directors of the City of Kerrville, Texas Economic Improvement Corporation, was called to order at 4:00 p.m. by David Wampler, President, in the Council Chambers at City Hall, at 701 Main Street, Kerrville, Texas. The invocation was offered by Mr. Early.

Members Present:

David Wampler, President
Kenneth Early, Vice President
Polly Rickert, Secretary
Gary Cochrane
Larry Howard
Stacie Keeble
Sheri Pattillo

Members Absent: None

City Executive Staff Present:

Todd Parton, City Manager
Kristine Day, Deputy City Manager
Mike Hayes, City Attorney
Cheryl Brown, Deputy City Secretary
Ashlea Boyle, Special Projects Manager
Kim Meismer, Director of General Operations
Sandra Yarbrough, Director of Finance
Brian Crenwelge, Project Manager

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

1. **VISITORS/CITIZENS FORUM:** No one spoke.

2. **APPROVAL OF THE MINUTES:**

2A. Mr. Early moved to approve the minutes for the regular meeting held June 23, 2014 and the joint meeting with the City Council held on June 24, 2014. Ms. Rickert seconded the motion, and it passed 7-0.

3. **MONTHLY REPORTS**

Monthly financials for June 2014

3A. Ms. Yarbrough reported \$267,953 revenue, and \$47,500 expenditures; leaving an ending cash balance on June 30, 2014 of \$3,300,757. She reviewed the capital projects status summary and the cash and investments fund.

3B. Capital projects update:

River trail and parks projects:

Mr. Crenwelge reported River Trail Package B: The contractor poured 2,397 linear feet of concrete at the west end of the trail, and 78 linear feet at the Rio Robles property. The work started on the park improvements project.

Package F from G Street to Kerrville-Schreiner Park: The contractor poured 1,083 linear feet of concrete beginning at Stadter property going east toward KSP. The initial site work was completed from G Street to Camp Meeting Creek. Site work began for the trail nodes.

The Cailloux Theater expansion: Peter Lewis and Associates and the City of Kerrville executed a professional services agreement for design services for the support facility. Core samples were being conducted. Plans were to be completed in September, with construction to begin in the fall.

3C. Update regarding "GO Team" activities:

Ms. Boyle reported the "GO Team" met on July 17, 2014 to consider an application from the Hill Country District Junior Livestock Show Association, Inc. in the amount of \$35,588 for improvements to the Hill Country Youth Exhibit Center.

3D. Update on the Water Reuse Feasibility Study completed by Freese & Nichols, Inc.:

Mr. Parton reported phase 1 evaluation was completed. Phase 1 will allow the City to retain approximately 105,000,000 gallons in a ground storage facility, and install a pipe system to allow the City to send the water to where it was needed. He presented a funding strategy summary for the project. He mentioned two primary additional customers that would purchase the water, which were Riverhill Golf Club and Schreiner University. At their last meeting, City Council authorized staff to work with the CIP to determine the best way to restructure the CIP to get the water reuse project built. City staff will also be looking to other "partners" who have the need to issue debt, such as KPUB, because their debt issuance goes against the City's debt cap. The City's bank qualified debt cannot exceed \$10,000,000 per year. He stated that was important, because the non-bank qualified debt issuance could possibly total 50 to 75 points in interest calculations. The plan was to design the project in 2015, with the first phase going out to bid in 2016, with construction in 2017. Payment for debt sold in one calendar year will begin in the next calendar year.

4. DISCUSSION AND POSSIBLE ACTION:

4A. Discussion and direction to staff regarding the lighting project at the Cailloux Theater: Cailloux Theater Interior Lighting Project

Ms. Boyle reported the bid opening was scheduled for July 29, 2014, with a construction window of August 25 through September 29, 2014. If the bids come in under budget, there would be approximately \$54,000 to complete the exterior lighting project. Ms. Boyle, Mr. Parton, Jeffrey Brown and Peter Lewis responded to questions from the board.

Mr. Early moved to direct staff to amend the current funding agreement for this project to exclude the exterior lighting portion, and revise the funded amount to an amount not to exceed \$150,000.00 for the interior lighting in the Cailloux Theater. Ms. Rickert seconded, and the motion passed 7-0.

4B. Funding request from the City of Kerrville in the amount of \$600,000 to cover construction costs for Louise Hays Park and Lehmann & Monroe Parks Improvement Project.

Ms. Boyle reviewed the funding request.

Mr. Howard moved to approve the funding request from the City of Kerrville in the amount of \$600,000 to cover construction costs for Louise Hays Park and Lehmann & Monroe Parks Improvement Project. Ms. Keeble seconded, and the motion passed 7-0.

4C. Funding request from the Hill Country District Junior Livestock Show Association, Inc. (HCDJLSA):

Ms. Boyle reviewed the funding request.

Mr. Early moved to approve the funding request from the Hill Country District Junior Livestock Show association, Inc. Mr. Howard seconded, and the motion passed 7-0.

4D. Approval of the Fiscal Year 2015 Budget:

Mr. Parton reviewed the Fiscal Year 2015 budget with the board. He also responded to questions from the board regarding various line items in the budget.

Mr. Early moved to approve the Fiscal Year 2015 EIC budget. Mr. Howard seconded, and the motion passed 7-0.

EXECUTIVE SESSION: There was no executive session.

ANNOUNCEMENTS: None

The meeting was adjourned at 5:10 p.m.

APPROVED: _____

David Wampler, President

ATTEST:

Cheryl Brown
Deputy City Secretary

Agenda Item:

3A. Monthly financials for July 2014. (staff)

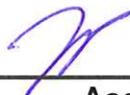
**TO BE CONSIDERED BY THE
ECONOMIC IMPROVEMENT CORPORATION,
CITY OF KERRVILLE, TEXAS**

SUBJECT: EIC Financials

AGENDA DATE: August 25, 2014 **DATE SUBMITTED:** August 18, 2014

SUBMITTED BY: Sandra Yarbrough **CLEARANCES:**
Director of Finance

EXHIBITS: Monthly Financials

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

The City of Kerrville staff will present and update the EIC on a monthly basis as to the status of the EIC's financial position.

RECOMMENDED ACTION

Recommend acceptance of the financials.

CITY OF KERRVILLE
Economic Improvement Corporation
Sales Tax Improvement Fund

Cash Balance as of July 1, 2014		\$ 3,300,757
Deposits:		
Sales Tax	\$ 222,961	
Interest Revenue	\$ 427	
	<u>\$ 223,388</u>	
Expenses:		
Office supplies	\$ 20	
Disclosure fee	\$ 3,500	
Administrative Service Fee	\$ 8,333	
Transfer for Debt Service - 2012	\$ 14,167	
Transfer - Park Improvements	\$ 25,000	
Total Expenses	<u>\$ 51,020</u>	
Revenues Over (Under) Expenditures		<u>\$ 172,369</u>
Ending Cash Balance as of July 31, 2014		<u><u>\$ 3,473,125</u></u>

City of Kerrville
Economic Improvement Corporation
Sales Tax Improvement Fund - Revenue and Expense Statement
For the month ending July 31, 2014

	Annual Budget	Current Period	Y-T-D Actual	% of Budget	Budget Balance
BEGINNING CASH BALANCE	\$ 2,598,336		\$ 2,598,336		
REVENUE:					
Sales and Use Tax	\$ 2,750,000	\$ 222,961	\$ 2,400,947	87.31%	\$ 349,053
Interest	\$ 5,000	\$ 427	\$ 3,820	76.40%	\$ 1,180
Transfer In	\$ -	\$ -	\$ 96,643	6911.00%	\$ (96,643)
TOTAL REVENUE	<u>\$ 2,755,000</u>	<u>\$ 223,388</u>	<u>\$ 2,501,410</u>	<u>90.80%</u>	<u>\$ 350,233</u>
	Annual Budget	Current Period	Y-T-D Actual & Encumbrance	% of Budget	Budget Balance
EXPENDITURES:					
Administrative					
Advertising/Supplies	\$ 500	\$ 20	\$ 110	22.00%	\$ 390
Transfer to Debt Service Fund	\$ 68,000		\$ 69,853	102.72%	\$ (1,853)
Transfer to Debt Service Fund - River Trail	\$ 170,000	\$ 14,167	\$ 141,667	83.33%	\$ 28,333
Economic Development Governing Body	\$ 60,000	\$ -	\$ 60,000	100.00%	\$ -
Annual Disclosure Fee	\$ 3,500	\$ 3,500	\$ 3,500	100.00%	\$ -
River Trail Contribution	\$ 300,000	\$ 25,000	\$ 250,000	83.33%	\$ 50,000
Administrative Services Fee	\$ 100,000	\$ 8,333	\$ 83,333	83.33%	\$ 16,667
Total Administrative	<u>\$ 702,000</u>	<u>\$ 51,020</u>	<u>\$ 608,462</u>	<u>86.68%</u>	<u>\$ 93,538</u>
Category I - Business Development					
Revolving Loan Fund	\$ 100,000	\$ -	\$ -	0.00%	\$ 100,000
ED Set Aside	\$ 250,000	\$ -	\$ -	0.00%	\$ 250,000
Fox Tank - Reimbursement Agreement	\$ -		\$ 150,000		\$ (150,000)
Unspecified	\$ 146,750	\$ -	\$ -	0.00%	\$ 146,750
Total Category I	<u>\$ 496,750</u>	<u>\$ -</u>	<u>\$ 150,000</u>	<u>100.00%</u>	<u>\$ 346,750</u>
Category II - Quality of Life					
Special Events	\$ 100,000		\$ 118,159	118.16%	\$ (18,159)
Downtown Wireless	\$ 100,000	\$ -	\$ -	0.00%	\$ 100,000
Streetscape	\$ 250,000	\$ -	\$ -	0.00%	\$ 250,000
History Center	\$ 400,000	\$ -	\$ -	0.00%	\$ 400,000
Baseball Complex	\$ 500,000	\$ -	\$ -	0.00%	\$ 500,000
Unspecified	\$ 365,000	\$ -	\$ 750,000	205.48%	\$ (385,000)
Total Category II	<u>\$ 1,715,000</u>	<u>\$ -</u>	<u>\$ 868,159</u>	<u>50.62%</u>	<u>\$ 846,841</u>
Category III - Public Infrastructure					
Village West - Water (1/2 cost)	\$ 500,000	\$ -	\$ -	0.00%	\$ 500,000
Village West - Wastewater	\$ 750,000	\$ -	\$ -	0.00%	\$ 750,000
Total Category III	<u>\$ 1,250,000</u>	<u>\$ -</u>	<u>\$ -</u>	<u>0.00%</u>	<u>\$ 1,250,000</u>
Contingency	\$ -				\$ -
TOTAL EXPENDITURES	<u>\$ 4,163,750</u>	<u>\$ 51,020</u>	<u>\$ 1,626,621</u>	<u>39.07%</u>	<u>\$ 2,537,129</u>
NET REVENUES TO EXPENDITURES	<u>\$ (1,408,749)</u>	<u>\$ 172,370</u>	<u>\$ 874,789</u>		
ENDING CASH BALANCE: July 31, 2014	Budget \$ 1,189,586		Actual \$ 3,473,125		

CITY OF KERRVILLE
Economic Improvement Corporation
SALES TAX REVENUE ANALYSIS

	Actual FY 2011	Actual 2012	FY 2012	Actual FY 2013	Approved 2014	FY 2014	Actual FY 2014	Difference Projected vs Actual	% of Projected Variance
October	\$ 184,602	\$ 219,934	\$ 219,934	\$ 226,663	\$ 227,546	\$ 227,546	\$ 241,503	\$ 13,957	5.78%
November	\$ 207,677	\$ 203,379	\$ 203,379	\$ 210,744	\$ 211,566	\$ 211,566	\$ 233,371	\$ 21,806	9.34%
December	\$ 169,550	\$ 208,227	\$ 208,227	\$ 204,782	\$ 205,583	\$ 205,583	\$ 214,424	\$ 8,841	4.12%
January	\$ 195,030	\$ 204,051	\$ 204,051	\$ 217,647	\$ 218,496	\$ 218,496	\$ 229,761	\$ 11,265	4.90%
February	\$ 241,320	\$ 264,744	\$ 264,744	\$ 284,177	\$ 285,276	\$ 285,276	\$ 296,036	\$ 10,760	3.63%
March	\$ 169,754	\$ 186,812	\$ 186,812	\$ 205,749	\$ 206,552	\$ 206,552	\$ 207,869	\$ 1,317	0.63%
April	\$ 157,729	\$ 185,835	\$ 185,835	\$ 215,800	\$ 216,643	\$ 216,643	\$ 218,030	\$ 1,387	0.64%
May	\$ 234,742	\$ 223,320	\$ 223,320	\$ 251,468	\$ 252,446	\$ 252,446	\$ 268,682	\$ 16,236	6.04%
June	\$ 186,441	\$ 195,775	\$ 195,775	\$ 234,781	\$ 235,696	\$ 235,696	\$ 267,530	\$ 31,834	11.90%
July	\$ 190,696	\$ 210,758	\$ 210,758	\$ 216,641	\$ 217,488	\$ 217,488	\$ 222,961	\$ 5,473	2.45%
August	\$ 238,491	\$ 239,007	\$ 239,007	\$ 245,964					
September	\$ 179,133	\$ 203,486	\$ 203,486	\$ 224,905					
Total	\$ 2,355,166	\$ 2,545,329	\$ 2,545,329	\$ 2,739,321	\$ 2,277,294	\$ 2,277,294	\$ 2,400,169	\$ 122,876	5.12%

CITY OF KERRVILLE
Economic Improvement Corporation
EIC Capital Projects Fund

Cash Balance as of July 1, 2014		\$	959,084
Revenues:			-
			-
Total Revenues/Transfer In	<u>\$</u>		-
Expenses:			
4th of July on the River			23,100
Shuttle Reimbursement - Memorial Day weekend			<u>7,800</u>
Total Expenses	<u>\$</u>		30,900
Revenue Over (Under) Expenditures		<u>\$</u>	<u>(30,900)</u>
Ending Cash Balance as of July 31, 2014		<u><u>\$</u></u>	<u><u>928,184</u></u>

CITY OF KERRVILLE
Economic Improvement Corporation
Sales Tax Improvement Capital Projects Fund

Project Status Summary
For the month ending July 31, 2014

YEAR(S) FUNDED	PROJECTS	Funding Agreement	Agreement Commitment	EIC Funded To Date	Non-EIC Funding	Total Funded	Project Expenses to Date	Project Balance	EIC Future Allocation Balance
2009/10	Commercial Improvement Program		\$ 100,000	\$ 100,000		\$ 100,000	\$ 20,000	\$ 80,000	
2010/11	Commercial Improvement Program		\$ 100,000	\$ 100,000		\$ 100,000	\$ -	\$ 100,000	
2011-12	Downtown Utilities		\$ 300,000	\$ 300,000		\$ 300,000	\$ 300,000	\$ -	
2012-13	Golf Course Improvements		\$ 608,141	\$ 608,141		\$ 518,568	\$ 518,568	\$ -	
2012-13	Downtown Streetscape		\$ 35,100	\$ 35,100		\$ 35,100	\$ 31,180	\$ 3,920	
2012-13	Playhouse 2000		\$ 118,000	\$ 118,000		\$ 118,000	\$ 113,469	\$ 4,532	
2012-13	Cailloux Theater Lighting		\$ 200,652	\$ 200,652		\$ 200,652	\$ 4,675	\$ 195,977	
2013-14	Cailloux Theater Expansion		\$ 500,000	\$ 500,000		\$ 500,000	\$ -	\$ 500,000	
	Special Events		\$ 118,159	\$ 118,159		\$ 118,159	\$ 74,402	\$ 43,757	
	Fox Tank		\$ 150,000	\$ 150,000		\$ 150,000	\$ 150,000	\$ -	
TOTALS			\$ 2,230,052	\$ 2,230,052		\$ 2,140,479	\$ 987,892	\$ 928,184	

Cash Balance on 7/31/2014 \$ 928,184

Fund 70 - General Capital Improvement Projects - supported by EIC			
PROJECTS	Funding Agreement	Agreement Commitment	Expense
2011-12	River Trail C2011-76	\$ 6,000,000	\$ 1,748,833
2011-12	Louise Hays Park Improvements C2011-76	\$ 2,000,000	\$ 214,643
TOTALS		\$ 8,000,000	\$ 1,963,475
			\$ 5,821,106

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

Cash and Investments

Ending July 31, 2014

Cash and Investment Balances by Fund			
<u>Fund</u>	<u>Fund Name</u>	<u>Balance</u>	<u>Period</u>
40	Sales Tax Improvement Fund	\$ 3,473,125	7/31/2014
43	EIC Debt Service Fund	\$ -	7/31/2014
75	EIC Projects Fund	\$ 928,184	7/31/2014
Total EIC Cash Balance		\$ 4,401,309	7/31/2014

<u>Type</u>	<u>Investment Vehicle</u>	<u>Amount</u>	<u>Interest Earned</u>	<u>Interest Earned (Annualized)</u>	<u>Period Ending</u>
Cash	Wells Fargo Checking	\$ 658,082	\$ -	0.00%	7/31/2014
ST Investment	EIC TexPool	\$ 1,623,690	\$43.14	0.03%	7/31/2014
ST Investment	EIC TexStar	\$ 1,624,823	\$44.51	0.03%	7/31/2014
HILCO FCU	CD	\$ 247,484	\$136.55	0.66%	7/31/2014
Kerr County FCU	CD	\$ 247,229	\$203.03	0.99%	7/31/2014
Total Cash & Investments		\$ 4,401,309	\$427.23	0.12%	

Agenda Item:

3B. Projects update. (staff)
River Trail and Parks projects
Cailloux Theater Expansion Project

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

SUBJECT: Projects Update

FOR AGENDA OF: August 25, 2014 **DATE SUBMITTED:** August 19, 2014

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

EXHIBITS: Project Status Reports

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *AB*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Staff will provide reports on the following projects:
River Trail and Parks Projects
Cailloux Theater Expansion (support facility)
Cailloux Theater Lighting Project

RECOMMENDED ACTION

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

EIC River Trail Update August 25, 2014

Package B River Trail:

The contractor has poured a total of 3,866 linear feet of concrete, an increase of 1,469 linear feet from last month.

Zimmerman construction has completed the finish work for one fourth of the trail and has started reseeding and irrigating.

The culverts for the bridge have been set at the Rio Robles property.

JM Lowe and Company has begun work the foundations for the small group pavilion, the restroom and pump plaza and the restrooms located near the playground at the east end of Louise Hays Park.

The City of Kerrville has completed the site work for three parking lots for the project.

Kraftsman has completed the plumbing and electrical supply conduit for the pump house and completed the site work for the spray plaza.

The KPUB solar tower has been demolished and removed by Jenske Construction.

Package F River Trail:

The contractor has poured total 2,610 linear feet of concrete, an increase of 1,527 from last month.

Work has begun on the Crossing #1 at the west end of the trail.

The initial site work has been completed from Loop 534 to Camp Meeting Creek.

The surveying has been completed all the way to end trail head at Kerrville Schreiner Park.

Work will begin on the trail section into Kerrville Schreiner Park beginning on September 8th.

Cailloux Theater Support Facility:

Peter Lewis and Associates has a professional services agreement with the City of Kerrville for design and services for the Cailloux Support Facility.

Plans should be completed in September.

Construction should begin in the fall.

Cailloux Lighting Project:

City Council awarded the project to Texas Scenic Co. Inc. for the amount of \$102,870.00 on August 12, 2014.

Contract time for the project is 120 calendar days.

Agenda Item:

3C. Update regarding "GO Team" activities. (staff)

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

SUBJECT: Update on "GO Team" activities

FOR AGENDA OF: August 25, 2014 **DATE SUBMITTED:** August 19, 2014

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

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *MP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The "GO Team" has not met since the last EIC meeting and no funding applications have been received to date.

RECOMMENDED ACTION

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

Agenda Item:

4A. Public hearing for the funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville, in an amount not to exceed \$600,000 for construction costs for the Louise Hays Park and Lehmann & Monroe Park improvement project. (staff)

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

SUBJECT: Public hearing and consideration of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation, and the City of Kerrville in an amount not to exceed \$600,000 to cover construction costs for the Louise Hays Park and Lehmann & Monroe Park Improvement Project

FOR AGENDA OF: August 25, 2014 **DATE SUBMITTED:** August 19, 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	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$600,000	\$1,715,000	\$600,000	40-800-975-02

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

On June 24, 2014 at a joint workshop, the City Council and EIC authorized staff to allocate \$600,000 in bond funds from the River Trail Project to the Louise Hays Park and Lehmann & Monroe Park Improvement Project to cover construction costs. The City Council subsequently authorized staff to submit a funding request to the EIC for this purpose.

This funding request was considered by the EIC on July 28, 2014. As per direction by the EIC, attached is a draft funding agreement between the EIC and the City of Kerrville. If approved, this funding agreement will be presented to City Council on September 9, 2014 for final consideration and approval.

RECOMMENDED ACTION

City staff recommends holding a public hearing and approval of the funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville in an amount not to exceed \$600,000 to cover construction costs for the Louise Hays Park and Lehmann & Monroe Park Improvement Project.

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS FOR IMPROVEMENTS TO THE CITY'S LOUISE HAYS AND LEHMANN & MONROE PARKS

THIS PROJECT FUNDING AGREEMENT is entered into this _____ day of _____, 2014, by and between the City of Kerrville, Texas ("City"), a Texas home rule municipality, and the City of Kerrville, Texas Economic Improvement Corporation ("EIC"), a Texas non-profit corporation established by City pursuant to Section 4B of Article 5190.6 of the Texas Revised Civil Statutes and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code (otherwise known as the Development Corporation Act of 1979 and hereafter called "the Act").

WITNESSETH:

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

WHEREAS, in May 1995, the citizens of the City, voting at an election, approved a proposition authorizing the levy of a one-half of one percent ($\frac{1}{2}\%$) sales and use tax upon the receipts at retail of taxable items pursuant to the Act (the "4B Sales Tax") to undertake projects, as defined, including but not limited to:

Expenditures required or suitable for projects related to recreational or community facilities, including land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, tourist, and public park purposes and events, including amphitheatres, parks and park facilities, open space improvements, and related automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described herein; and

WHEREAS, the City Council of the City (the "City Council") and the Board of Directors of the EIC (the "Board") have determined to undertake a project to provide improvements to the City's Louise Hays and Lehmann & Monroe Parks, to include upgrades to existing park features and the addition of new features, such as a sprayground, event plazas, pavilions, restrooms, parking areas, roadways, an amphitheater, and other related improvements (collectively, the "Improvements"), all as authorized by the Act; and

WHEREAS, the City Council and the Board find that the costs related to the Improvements to be paid from the 4B Sales Tax pursuant to this Agreement will not exceed the costs of such Improvements that are eligible to be paid from the 4B Sales Tax; and

WHEREAS, the City Council and the Board find it necessary and advisable to enter into this Agreement with respect to the Improvements in accordance Section 501.054 of the Act to set

forth the duties and responsibilities of the respective parties for the funding, acquisition, and construction of the Improvements; and

WHEREAS, the Board and the City Council find that the Improvements constitute a “project”, as authorized and defined by Section 505.152 of the Act, which will greatly enhance both the community’s health and “quality of life” by developing amenities and public space improvements; and

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

WHEREAS, the Board and the City Council find that it is in the public interest to enter into this Agreement to provide 4B Sales Tax to City for the Improvements; and

WHEREAS, on August 25, 2014, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditures of 4B Sale Tax for the Improvements;

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

1. **Findings.** The facts and findings set forth in the preamble above are hereby found to be true and correct and are adopted.
2. **“Project” Defined.** When used in this Agreement, the phrase “Project” means the project summary of the Improvements as described in **Exhibit A** attached hereto and included herein for all purposes. Said description shall not be substantively altered in any respect without the prior approval of the EIC.
3. **Agreement to Fund Project:** The EIC agrees to provide City an amount up to and not to exceed \$600,000.00 in 4B Revenues to be used for the design, bidding and/or request for proposals, acquisition, construction, and installation of the Project. The City is authorized to make payments for the herein described purposes directly from the Sales Tax Improvement Fund (Fund 40) or by making a transfer of 4B Revenues from the Sales Tax Improvement Fund (Fund 40) to one or more funds described in the City’s approved budget. Transfers shall be limited to the actual amount of the payment draws submitted by the selected contractor(s) and/or the actual costs to City related to the Project.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 2, above, shall be limited to the payment of “costs” as defined in the Act.
5. **Applicable Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The Agreement is entered into and fully performable within Kerr County, Texas. Accordingly, venue for any cause of action arising pursuant to this Agreement shall be proper only in Kerr County, Texas.

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

CITY OF KERRVILLE, TEXAS

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

By: _____
Jack Pratt, Jr., Mayor

By: _____
David Wampler, President

ATTEST:

ATTEST:

Brenda G. Craig, City Secretary

Polly Rickert, Secretary for the Corporation

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney



City of Kerrville

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

July 10, 2014

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

RE: EIC Application – Supplemental Funding – Louise Hays and Lehmann & Monroe Parks Project

EIC Members,

This letter serves as the project description for the Supplemental Funding – Louise Hays and Lehmann & Monroe Parks Project, previously funded by 4b sales tax in 2011 through the Economic Improvement Corporation (EIC) and City Council for a total of \$2 million. As an update, the *Louise Hays and Lehmann & Monroe Parks Project* is currently under construction. Discussion between the EIC and the City Council has led them to consider that, in order to complete the project scope as conceived, supplemental funds are needed to offset expenses associated with higher than expected project costs.

Nature and Scope of Project

The *Louise Hays and Lehmann & Monroe Parks Project* was funded through the EIC and City Council at the same time as the *River Trail Project* in 2011 with the intention of having it serve as a major activity center adjacent to the Guadalupe River near downtown and as an anchor to the River Trail Project. The original scope was based on a park master plan completed in 2008, which included upgrades to the existing park features and introduction of new elements, such as a sprayground, event plazas, new pavilions, new restrooms, new parking and roads, and new amphitheater.

After securing funding, the design process made adjustments from the master plan, with the most dramatic change being placement of most of the new features on the west, not east, side

of the park in order to be more visible and accessible to users. Additionally, the scale of certain elements of the project in such a wide expanse needed to be adjusted. Once these location and scale modifications were made, the utility installation, excavation / demolition, and design phases commenced. The City changed design firms, with Peter Lewis + Architects taking the lead on site planning and building design.

The City also modified its approach to general contracting after first bidding the entire project and receiving few, very high bids. Because the skills and disciplines are so varied with this project's construction, it was determined that the City, acting as its own general contractor, would be more successful in getting better prices and more bidders, especially local. With this format, the project was segmented into specific public works – trail construction, building construction, concrete and flatwork, electrical construction, and interactive fountain installation. City force expertise has / will also be used for demolition, parking / road work, park improvements, and utility service installation to save time and be more efficient with the funding available. Construction contracts for the interactive fountain / plaza, the park buildings, and the River Trail segment through the parks are all approved and moving forward. Electrical and concrete curbing and flatwork contractors are being secured and City crews are continuing to work on demolition and site work in preparation of construction and final completion.

The supplemental funding request for this project is needed to realize the improvements that will make a significant difference to this public space, both in appearance and usability. The elements of the upgraded parks - the interactive fountain and event plaza, the large pavilion renovation and adjacent plaza, the covered stage, dog park, and new roads and parking - will create enhanced use, desirable parks along the Guadalupe River, creating a destination in Kerrville. Additionally, the weaving of the River Trail through these parks, connecting all of the main park features, will further enhance the popularity of these public park spaces.

Proposed Improvements

The supplemental funding will complete the interactive fountain and plaza as envisioned, "do it right the first time" construction of the support buildings (restrooms, pump house, pavilions) which avoids lesser quality improvements that require constant attention, installation of sufficient electrical service and concrete curbs and walkways, and the site improvements needed to complete the project.

Financial Information

The request for supplemental funds is to cover the costs to complete the scope, in the amount of \$600,000. City Council and the EIC held a joint workshop on June 24, 2014 to discuss the *River Trail and Louise Hays and Lehmann & Monroe Park Project* in detail. The City Council and EIC both authorized staff to allocate \$600,000 in bond funds from the *River Trail Project* to the park improvement project in order to fund the balance of the *Louise Hays Park and Lehmann & Monroe Park Improvements*. City Council also authorized staff to submit a funding application to the EIC for this purpose.

Status

As mentioned, construction contracts for the interactive fountain / event plaza and the buildings construction have been approved and are underway. Though separately funded, the River Trail segment through the Louise Hays Park to Kerrville-Schreiner Park is under construction and will reinforce the importance of Louise Hays and Lehmann & Monroe Parks and the trail as public spaces running along the Guadalupe River through the city. If the supplemental funding is made available for the parks improvements, the realization of the project envisioned will be completed in early 2015.

Sincerely,

Todd Parton
City Manager
City of Kerrville

Agenda Item:

4B. Public hearing for the funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Hill Country District Junior Livestock Show Association in an amount not to exceed \$35,588. (staff)

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

SUBJECT: Public hearing and consideration of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation, and the Hill Country District Junior Livestock Show Association, Inc. in an amount not to exceed \$35,588

FOR AGENDA OF: August 25, 2014 **DATE SUBMITTED:** August 19, 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: *[Signature]*

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$35,588	\$1,115,000	\$35,588	40-800-975-02

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

On July 28, 2014 the Economic Improvement Corporation considered an application from the Hill Country District Junior Livestock Show Association, Inc. (HCDJLSA) in the amount of \$35,888. This funding request is to complete the arenas and pens in the Youth Exhibition Center. The project includes 69 panels, both tall for cattle and short for sheep and goats, 37 gates, connecting posts, and rails. The arenas are portable and able to be put together and dismantled easily. The HCDJLSA has already spent \$343,361 to refit the entire facility with new pens and a new swine area. The last phase of the project is to rebuild the arenas for the sheep, goats, and cattle.

As per direction at the July 28, 2014 EIC meeting, attached is a draft funding agreement between the HCDJLSA and the EIC. If approved, this funding agreement will be presented to City Council on September 9, 2014 for final consideration and approval.

RECOMMENDED ACTION

City staff recommends holding a public hearing and approval of the funding agreement between the City of Kerrville, Texas Economic Improvement Corporation, and the Hill Country District Junior Livestock Show Association, Inc. in an amount not to exceed \$35,588 to complete the arenas and pens in the Youth Exhibition Center.

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN
HILL COUNTRY DISTRICT JUNIOR LIVESTOCK SHOW ASSOCIATION
(HCDJLSA) AND THE CITY OF KERRVILLE, TEXAS
ECONOMIC IMPROVEMENT CORPORATION (ARENA & PENS)**

This Agreement entered into by and between **HILL COUNTRY DISTRICT JUNIOR LIVESTOCK SHOW ASSOCIATION, INC.** (“HCDJLSA”), a Texas nonprofit corporation, acting herein by and through its duly authorized President, Steve Bauer (“HCDJLSA 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 (otherwise known as the Development Corporation Act of 1979 and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code) (hereafter referred to as “the Act”), 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, HCDJLSA has a lease with Kerr County that authorizes HCDJLSA to use the Hill Country Youth Exhibition Center (“Exhibition Center”) for events during specific time periods; and

WHEREAS, under the lease, which continues through 2032, HCDJLSA has the right to use the Exhibition Center for various purposes, including hosting its annual Hill Country District Junior Livestock Show; and

WHEREAS, HCDJLSA is partnering with Kerr County and private foundations in a project to improve and upgrade the Exhibition Center and to add a multi-use facility; and

WHEREAS, HCDJLSA has applied for a grant from EIC for funding to complete the arenas and pens in the Exhibition Center; 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 HCDJLSA to provide sales tax revenues collected pursuant to the Act (“4B Revenues”) to HCDJLSA for its cost to complete the arenas and pens in the Exhibition Center; and

WHEREAS, on August 25, 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, HCDJLSA and the EIC agree as follows:

**ARTICLE I.
EIC’S OBLIGATIONS**

- A. EIC hereby grants to HCDJLSA an amount up to Thirty-Five Thousand Five Hundred Eighty-eight and No/100 Dollars (\$35,588.00) (“Grant”) for costs relating to the purchase of materials, parts, and other amenities (collectively referred to herein as “Materials”) for the completion of the arenas and pens in the Exhibition Center. The specific items approved for purchase by the HCDJLSA 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 HCDJLSA by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, HCDJLSA must first submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval. Following each submission and verification thereof, which may include on-site inspections to confirm purchase and installation, EIC shall then reimburse HCDJLSA for the cost.
- C. Payments made by EIC to HCDJLSA 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 Thirty-Five Thousand Five Hundred Eighty-eight and No/100 Dollars (\$35,588.00).

**ARTICLE II.
HCDJLSA’S OBLIGATIONS**

- A. HCDJLSA must make its purchases of the Materials on or before **January 1, 2015**. Failure to make such purchases by this date will terminate the obligation of EIC to make any additional payments of the Grant.
- B. HCDJLSA must maintain ownership of all of the items and Materials purchased with the Grant and must not remove, or allow anyone else to remove, the Materials from Kerr County.
- C. HCDJLSA must keep and maintain complete and accurate records relating to the costs of the Materials, separate and identifiable from its other records, for three (3) years

following the termination of this Agreement. EIC and its representatives shall be entitled to inspect the records during the term of this Agreement and for three (3) years thereafter, upon reasonable notice.

- D. HCDJLSA will only be liable to EIC for the actual amount of the Grant to be conveyed to HCDJLSA 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 HCDJLSA under the terms of this Agreement.

ARTICLE III.

SALE OF PROJECT, MERGER OR CONSOLIDATION OF HCDJLSA

- A. A sale of all or any of the assets of HCDJLSA will not release HCDJLSA 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 HCDJLSA's proposed successor shall have the financial condition to fully satisfy HCDJLSA's duties and responsibilities hereunder and agrees to assume HCDJLSA'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 HCDJLSA with any third party not affiliated with HCDJLSA, HCDJLSA 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 HCDJLSA'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 HCDJLSA'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 HCDJLSA. In the event of any sale or merger involving HCDJLSA or its affiliates, the surviving entity shall assume HCDJLSA's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE IV.

HCDJLSA'S REPRESENTATIONS AND WARRANTIES

- A. HCDJLSA represents and warrants as of the date hereof:
 - (1) HCDJLSA 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 HCDJLSA and this Agreement is not in contravention of HCDJLSA's governing authority or any agreement

or instrument to which HCDJLSA 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 HCDJLSA Officer, threatened against or affecting HCDJLSA, which may result in a material adverse change in HCDJLSA's business, properties, or operations sufficient to jeopardize HCDJLSA's legal existence; and

(4) No written application, written statement, or correspondence submitted by HCDJLSA to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of HCDJLSA 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, HCDJLSA 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 statute under which it is governed and by the authorities and powers vested in it as a corporation duly and properly organized under the Act;

(2) Execution of this Agreement has been duly authorized by 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 HCDJLSA, suspend its further performance under this Agreement until such time as HCDJLSA shall have cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:

- (1) HCDJLSA 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 HCDJLSA, or of all or any substantial part of the Property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
 - (3) The adjudication of HCDJLSA as bankrupt.
 - (4) The filing by HCDJLSA 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 HCDJLSA within ninety (90) days, HCDJLSA will be considered to have breached this Agreement and EIC may, at its option, with written notice to HCDJLSA, terminate this Agreement and HCDJLSA 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, and, in any event, within sixty (60) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within a reasonable time (but in no event later than ninety (90) days from the date of notification of such breach), the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief.
- 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 HCDJLSA 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 HCDJLSA 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 having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
- 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 shall be made or performed in Kerrville, Kerr County, Texas. Venue will lie in Kerr County, Texas; and this Agreement is governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof.
- 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 a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC

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

With a copy to:

City Manager – Todd Parton
City of Kerrville
City Hall, 701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850
Email: todd.parton@kerrvilletx.gov

For Hill Country District Junior Livestock Show Association

Steve Bauer – President

Hill Country District Junior Livestock Show Association
P.O. Box 291217
Kerrville, Texas 78028-1217
Email: [REDACTED]

- 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. HCDJLSA may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by HCDJLSA or by the parent, subsidiary, or affiliate of HCDJLSA provided the entity assumes all of HCDJLSA's obligations and liabilities under this Agreement; agrees to comply with all provisions of this Agreement; has the legal, managerial, technical, and financial ability to properly perform and discharge such obligations and liabilities; and such abilities are each at least as great as those of HCDJLSA and HCDJLSA provides a written guarantee of such assignee's performance in a form reasonably acceptable to EIC. EIC shall be advised in writing of such assignment and of the entity's qualifications at least sixty (60) days before such assignment occurs.
- F. Parties In Interest. Nothing in this Agreement entitles any party other than HCDJLSA or EIC to any claim, cause of action, remedy, or right of any.
- G. Term. The term of this Agreement (the "Term") shall commence on August 27, 2014 (the "Effective Date"), and will terminate on the earlier of: (i) either on January 1, 2015, 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 HCDJLSA's sole and absolute discretion, but only upon the HCDJLSA's return of all Grant funding to EIC that it has received under this Agreement. Upon termination of this Agreement as specified herein, all rights, duties and obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect.
- 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.
- 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 Hill Country District Junior Livestock Show Association, Inc., acting through the HCDJLSA Officer.

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

**HILL COUNTRY DISTRICT JUNIOR
LIVESTOCK SHOW ASSOCIATION,**

David Wampler, President
Date: _____

Steve Bauer, President
Date: _____

ATTEST:

Cheryl Brown, Recording Secretary

APPROVED AS TO FORM:

Michael C. Hayes, Attorney for EIC



Hill Country District Junior Livestock Show Association, Inc.

PO Box 291217

Kerrville, Texas 78029-1217

Project Description

The Hill Country District Junior Livestock Show Association (HCDJLSA) requests assistance in funding an ongoing project: the completion of the pens and arenas for use by the HCDJLSA during the annual, weeklong show, and for use by other organizations that use the facility and need pens and arenas. Specifically, the project involves the purchase of new arena panels to be used by the HCDJLSA and by any other organizations that use these facilities. This request is part of the overall plan to complete the building project and to furnish the necessary equipment for use of the facility. The ultimate goal of the improved facility is to provide a venue that attracts outside events and organizations to use the Kerr County Youth Event Center. Currently, organizations in addition to the HCDJLSA that use this facility include the Kerr County 4-H, Kerrville Independent School District, Ingram Independent School District, Center Point Independent School District, Dog Agility competitions and the Kerr County Fair Association. The improved pens and arenas have the potential to attract state and national breed associations (cattle, sheep, goats, and swine) for their annual shows and sales, regional jackpot shows and more.

The improvement of the pens and arenas is an ongoing project. To date, the Hill Country District Junior Livestock Show Association has, with the assistance of the EIC, of a local charitable foundation and with funds from the sale of old pens, spent \$ 343,361 to refit the entire facility with new pens and a new swine arena. The only remaining task is to rebuild the arenas for the sheep, goats and cattle. A bid for \$35,588 has been received for the panels necessary to construct these arenas. The bid includes 69 panels, both tall ones for cattle and shorter ones for sheep and goats, 37 gates, connecting posts and rails. (See attached bid). These arenas are fully portable and able to be put together and dismantled with ease. They will be the sole property of the HCDJLSA.

The need for new arenas is multi-fold. First and foremost, new arenas are needed to ensure the safety both of our exhibitors and their livestock and of the audience members. Not only will the new equipment be of higher quality than the old, but the cattle panels will also be much taller than the sheep and goat panels, providing an extra measure of safety for all. Secondly, a higher quality facility will provide the means to attract other organizations to use the facility for their own events whether they are shows, competitions or something completely different. Finally, the new arenas will complete the refurbishing of the equipment for the entire facility providing for higher quality both in structure and in aesthetics.

New equipment will require regular maintenance. Rental of the facility consistently brings in a small stipend to the HCDJLSA. This money is used for the maintenance of any and all equipment.

At this point in time, the goal of the HCDJLSA is to complete the arenas and pens in the Youth Exhibition Center. The organization is requesting \$ 35,588 to complete this project. To date, \$ 343,361 has been spent on the project with the grand total for the entire refurbishment being \$ 378,949. Thank you for your consideration.

History

The Hill Country District Junior Livestock Show Association will host the seventy-first annual livestock in January of 2015. The organization began in January 1944 to serve Hill Country youth involved 4-H and FFA. With a continued purpose to promote agriculture, youth are afforded hands-on experiences through their livestock projects. These experiences include breeding, selecting, feeding, grooming and record keeping. Through these experiences, youth learn life skills such as responsibility, record keeping and ultimately leadership, by mentoring younger, less experienced exhibitors. The sale following the show is the ultimate reward for months of hard work.

As a result of the association's continued success, our financial responsibility continues to increase. Around three hundred and thirty (330) businesses and individuals in the area continued to increase support as they realize the lifelong benefits to these youth. We have approximately 375 sale lots in the sale each year. Historically, eighty percent (80%) of these sale lots are youth in Kerr County and we estimate ten percent (10%) from Bandera, Edwards, Gillespie, Kendall, Kimble and Real counties. The 2014 gross sale was in excess of \$1,000,000.

Our association is an independent organization run solely by volunteers. 4-H and FFA advisors, family members, community volunteers and the elected county officials work with these youth. Our success is reflected in the number of volunteers. The majority of the volunteers share 4-H and FFA experiences from their youth with the current participants. Many of our 4-H and FFA are third and fourth generation exhibitors. With over one hundred and fifty volunteers, the Hill Country District Junior Livestock Show Association operates without a paid staff.

Another major contribution to our youth is the HCDJLS scholarship program. Each year the association funds between \$35,000 and \$45,000 in collegiate scholarships. This money is awarded to county and district exhibitors who have participated in the Hill Country District Junior Livestock Show with an emphasis on Kerr County Youth. We also award over \$20,000 in show scholarships for breeding animals, Ag Mechanics, and showmanship.

Throughout the community, the most obvious measure of the association's success is the dollars generated at the sale. For the youth, a blue ribbon, a trophy, or the start of their

college fund provides the tangible measure. While the association strives to provide an equitable reward for each exhibitor, we look beyond the tangibles.

The intangible rewards are more difficult to measure but yet have the most profound effects on the kids and ultimately the community and even our society. The Hill Country District Junior Livestock Show Association takes great pride in the real life experiences taught to these kids. The intangible rewards include friendships that last a lifetime, contacts that open doors into adulthood, teamwork with peers and family, along with responsibility, leadership and time management skills that create model students, employees and tomorrow's leaders. These exhibitors experience the excitement of winning and more often the ability to accept less than their goals with dignity. The association sees each year's project as a building block for the exhibitors. For those exhibitors who may fall short of their expectations, we emphasize the opportunity to try again. Each year's project is another opportunity to expand on what has been learned and to broaden the existing knowledge.

At the annual meeting each April, the association reviews the past year successes, re-evaluates the weakness and sets the foundation for the upcoming show. New boards are selected, new committees are formed, chairmen are selected and wheels are set into motion year after year. As the next show materializes, judges are selected, operational plans are finalized and most importantly, fundraising efforts begin once again.

On February 13th, 2012 the Kerr County approved a lease agreement with the Hill Country District Junior Livestock Show Association. The lease is a 20-year lease, with the option of an additional 10 years. The lease has been paid in full and signed by the Kerr County Judge and County Attorney. The lease secures the Hill Country Youth Event Center facility for the use of the Hill Country District Junior Livestock Show Association for the stock show and sale every January until 2032.

The Association has also been working with the Kerr County Commissioners to address the facility needs. Due to safety issues and aging facilities, the old hog barn was torn down in March of 2012 and replaced with a brand new multi-use facility funded by the county. Now Kerr County has torn down the Exhibit Hall and replacing it with a much bigger and nicer facility. The

HCDJLSA uses this facility for the annual fundraiser in September, and the livestock sale in January. We also foresee this facility being used for vendor spaces during the show a luxury we have not had the space to accommodate in the past. The board is excited to be part of this project, which will be beneficial to Kerr County as well as the City of Kerrville but we are most excited to be able to safely and efficiently house the Hill Country District Junior Livestock Show and Sale. With this new project comes new challenges and the Association is eager to find funding to be sure that our success continues for years to come.

Morgan Livestock Equipment Sales, Inc

137 Jerry Walker Rd
Bowie, TX 76230

Estimate

Date	Estimate #
6/3/2014	524

Name / Address
Hill County District Jr. Lvstk. Show P.O. Box 291217 Kerrville, Tx. 78029

			Project
Description	Qty	Cost	Total
H/S 5' Vert. Rail P-C	16	164.00	2,624.00
H/S 10' Vert. Rail P/C	33	298.00	9,834.00
H/S 5' GIF P-P	18	260.00	4,680.00
special 510 panels with 400 series clips	9	420.00	3,780.00
special 510 1/2 sheeted panels 400 series clips	25	460.00	11,500.00
HPG Classic 510-7'8" 218 lb. (410)	3	660.00	1,980.00
G4 Classic 510 173 lb. (410) sheeted bottom 2 sections & extend gate down 6"	1	750.00	750.00
connecting post 5' 2 way 180 deg. pins	31	69.00	2,139.00
connecting post 5' 3 way pins	2	82.00	164.00
H/S 10' Vert. Rail P-c	20	298.00	5,960.00
connecting post 4 way	2	110.00	220.00
Discount			43,631.00
Shipping & Handling APPROX:		-9,343.00	-9,343.00
		1,300.00	1,300.00
Total			\$35,588.00

Customer Signature _____