

**AGENDA FOR MEETING OF
THE CITY OF KERRVILLE, TEXAS
ECONOMIC IMPROVEMENT CORPORATION
Monday, May 17, 2010, 4:00 p.m.
Kerrville City Hall Council Chambers
800 Junction Highway, Kerrville, Texas**

1. CALL TO ORDER

2. INVOCATION

3. VISITORS FORUM

At this time, any person with business not scheduled on the agenda may speak to the corporation. No deliberation or action can be taken on these items because the Open Meetings Act requires an item be posted on an agenda 72 hours before the meeting. Visitors are asked to limit presentations to three minutes.

4. PRESENTATION:

4A. Welcome of new member, Gregg Appel

5. APPROVE MINUTES:

5A. April 19, 2010

6. MONTHLY REPORTS:

6A. Monthly financials for April 2010

6B. EIC construction project status

7. PUBLIC HEARING:

7A. Public Hearing for the Commercial Improvement Program

8. PUBLIC HEARING AND POSSIBLE ACTION:

8A. Possible funding agreement with the Hill Country Home Opportunity Council

8C. Possible funding agreement with the Kerr Economic Development Foundation

9. DISCUSSION:

9A. Update on Habitat for Humanity's Maude Jennings Subdivision (S. Hamilton)

9B. Update on Convention Center Review Panel (Wendele)

9C. Update on Economic Development Governing Body (Pratt)

10. EXECUTIVE SESSION:

The EIC Board reserves the right to discuss any of the above items in executive closed session 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), 551.075, 551.076 (deliberation regarding security devices) or 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

11. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

12. 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: May 13, 2010 at 3:00 p.m. and remained posted continuously for at least 72 hours proceeding the scheduled time of the meeting.

Teri Kinsey

Deputy City Secretary, City of Kerrville, Texas

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

**Regular Meeting
April 19, 2010**

On Monday, April 19, 2010, the meeting of the directors of the City of Kerrville, Texas Economic Improvement Corporation, was called to order at 4:01 p.m. by Bill Crumrine, President, in the City Hall Council Chambers, 800 Junction Highway, Kerrville, Texas.

Members Present:

Bill Crumrine, President
Jack Pratt, Vice President
Warren Ferguson
Lindsay Duff
Ed Hamilton

Members Absent:

Alan Massey

Staff Present

Todd Parton, City Manager
Mike Erwin, Director of Finance
Mindy Wendele, Director of Business Programs
Cheri Halford, Capital Projects Manager
Kevin Coleman, Director of Development Services
Teri Kinsey, Administrative Assistant to City Secretary
Sandra Yarbrough, Finance Division
Barbara Lanning, Budget Analyst

2. INVOCATION:

Given by President Bill Crumrine.

3. VISITORS FORUM:

Nobody spoke during the visitor's forum.

4. PRESENTATION:

4A. Welcome of new member, Gregg Appel

Mr. Appel was unable to attend the EIC meeting due to a prior engagement.

5. APPROVE THE MINUTES OF THE MARCH 15, 2010 MEETING:

5A. Mr. Pratt moved to approve the minutes of the March 15, 2010 meeting pending changes; Mr. Ferguson seconded; motion passed 5-0.

6. MONTHLY REPORTS:

6A. Monthly financials for March 2010

Mike Erwin presented the March 2010 financials. Mr. Ferguson moved to accept the financials as presented; Mr. Pratt seconded; motion passed 5-0.

6B. EIC construction project status

Cheri Halford presented the March 2010 construction project status report. No motion was made; the construction report was accepted by consensus.

7. PRESENTATION AND POSSIBLE ACTION:

7A. Hill Country Home Opportunity Council (Wendele/Harrison)

Parker Harrison, on behalf of the Hill Country Home Opportunity Council, presented to the Board a request for funding. Mr. Harrison gave the Board a brief

history of the HCHOC stating that it was established by Kerrville City Council as an advisory board in 1997 and later established as a 501-C3 in 2007. The purpose for the HCHOC is:

- Provide housing that is affordable to low-income and moderate income people
- Enhance the creation of new housing and rehabilitation of existing housing
- Promote and create programs to encourage owners to rehabilitate their housing to be wheelchair accessible.
- Provide housing education and ownership counseling.

Mr. Harrison also informed the Board of planned projects:

- TDHCA – Texas Department of Housing and Community Affairs
- Barnett Street-Inner city renewal
- Pinto Trail-New subdivision

The funding request is specifically for the Pinto Trail Project. The HCHOC has purchased 2.25 acres for \$180,000.00 and is asking EIC for \$150,000.00 for developmental costs. This cost would cover eleven homes (affordable housing) and four rental units (seniors). The infrastructure development would include \$20,000.00 for a survey and 95% of the engineering work. Engineering and infrastructure work would not exceed \$130,000.00. Mr. Harrison reported on ongoing project support; still taking applications, helping qualify applicants for outside funding, provide mandatory home ownership counseling and education, the lots will sell for \$6,000.00 each and facilitate home building. Mr. Harrison thanked the Board and opened up the floor for questions. The board questioned:

- What would the housing normally cost
- What is the deficit per lot
- How does this qualify as economic development; how will this create jobs and add to ad valorem taxes
- Questioned why it was categorized as “Public Infrastructure” and not as “Quality of Life”
- How does HCHOC differ from Habitat for Humanity

Mr. Harrison did not have the information available in regards to the cost of housing or what the deficit per lot would be at the time of the presentation. Mr. Harrison did state that temporary jobs would be created for the contractors building the houses and that this project would provide low income housing to the area workforce. Additionally, local builders will be used for this project as they have in the past. Ms. Wendele explained that this project was tying on to public infrastructure. The total cost for the survey will be approximately \$5,500 and the total engineering cost will be around \$8,000. Ms. Wendele and Mr. Erwin will confer and adjust the budget to suite the request of the Board and have the \$150,000 categorized as “Quality of Life”. Funds will not be available until the end of June and construction is to start by the end of the year.

Mr. Pratt moved to direct staff to move \$150,000 from the Public Infrastructure category into the Quality of Life category; draft a funding agreement; schedule and publish a notice of a public hearing for this project; Mr. Ferguson seconded; motion passed 5-0.

8. DISCUSSION AND POSSIBLE ACTION:

8A. Discussion regarding member attendance requirements (Crumrine)

Mr. Crumrine reminded the Board members of their responsibility to attend EIC meetings faithfully and those members who did not attend at least 25% of the meetings in a 12 month time frame would be considered for removal by the City Council. A member whose absences are directly related to a medical or family emergency may seek consideration from the board upon which they serve to qualify such absences as excused.

Mr. Pratt moved to allow and accept the past absences of both Ed Hamilton and Alan Massey as medical emergencies and that these emergencies qualify as medically excused; Mr. Ferguson seconded; motion passed 5-0.

8B. Discussion regarding funding for Kerr Economic Development Foundation (Parton)

Mr. Parton presented to the Board balance sheets and profit & loss breakdowns for the Kerr Economic Development Foundation showing the current financial situation. Mr. Parton noted that the EIC had budgeted in \$25,000 to be allocated for the funding of KEDF and that the money had not been paid pending the restructuring of the KEDF. There is a shortage of KEDF funds and it was projected that it will only be able to sustain itself through May 2010 and it is important to keep the operation going. Mr. Parton requested that EIC direct staff to allow all or a portion of those funds to be disbursed to KEDF. It was questioned what the position of the city council was, city council wanted to look at the financials before making a decision on funding. KPUB has also agreed to contribute \$25,000 to the KEDF, so the combined amount, including the city's portion (through EIC), would be \$50,000. Members of the Board suggested the KEDF finances be reviewed on a month by month basis and other members felt the \$25,000 should be disbursed to KEDF. Mr. Parton would like to see a funding allocation made to insure the KEDF can operate until the new governing body can be set up. Mr. Pratt commented as an appointed member of the Economic Development Governing Body as to the progress of said body.

Mr. Duff moved to direct the City to pay \$12,500 to KEDF and defer the remainder; Mr. Hamilton second; motion passed 5-0.

8C. Commercial Improvement Program Draft guideline review (Hamilton/Wendele)

Ms. Wendele reviewed what city staff was asked to do from the March meeting. A draft of the guidelines and procedures was presented to the Board along with additional ideas not discussed. It was suggested by the board that "commercial corridors" should be better defined in the guidelines and procedures and the amount allotted for "sweat equity" should be lowered from \$20 to \$15. Mr. Pratt made a comment for record, "anytime we get money out and there is a foreclosure, we ought to share in the profits". Funds for this project are to be reimbursed, meaning there is no up front money in these projects. Ms. Wendele advised the Board that she did research the law pertaining to this type of grant and that the City Council would have to approve the \$100,000.

Mr. Hamilton moved to direct staff to call a public hearing to be scheduled; a funding agreement be drafted; minimum grant to be \$2,000; include non-profits in eligible recipients; consider multi-family housing to be commercial; in kind contributions or "sweat equity" limited to 50% of the cost and be valued at \$15 an

hour; if lesser is given a grant, they must have owner's approval and financial strength is demonstrated by the ability to fund the project so no further financial information is required in the application, Mr. Pratt second; motion passed 5-0.

Point of discussion made by Ms. Wendele after motion was passed; what category would the money be coming from? Board agreed by consensus to have money taken from the Contingency Fund. Mr. Erwin advised a budget amendment would be done.

8D. Update from Convention Center Review Panel (Ferguson)

Mr. Ferguson informed the Board that 4 proposals were received and being reviewed and evaluated. Meetings are being scheduled with each vendor and are predicted to last about one hour to an hour and a half each.

9. **EXECUTIVE SESSION:**

The EIC Board reserves the right to discuss any of the above items in executive closed session 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), 551.075, 551.076 (deliberation regarding security devices) or 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

10. **ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION**

11. **ADJOURNMENTS**

Mr. Pratt moved to adjourn the meeting; Mr. Duff seconded; motion passed 5-0. The meeting adjourned at 6:13 PM.

APPROVED: May 17, 2010

Bill Crumrine
President

Teri Kinsey
Admin. Assist. to the City Secretary

CITY OF KERRVILLE
Economic Improvement Corporation
Sales Tax Improvement Fund

Cash Balance as of April 1, 2010	\$ 1,649,685
Deposits:	
Sales Tax	160,461
Interest Revenue	1,945
	162,406
Expenses:	
Administrative Service Fee	6,250
Transfer for Debt Service	42,083
Total Expenses	48,333
Revenues Over (Under) Expenditures	114,072
Ending Cash Balance as of April 30, 2010	1,763,757

INVESTMENTS:

Investment Item	Estimated Rate
TexPool Rate	0.1662%
City's Pooled Rate	0.1700%
EIC Rate	0.3900%

City of Kerrville
Economic Improvement Corporation
Sales Tax Improvement
Revenue and Expense Statement
For the Seventh Month ending April 30, 2010

	Annual Budget	Current Period	Y-T-D Actual	% of Budget	Budget Balance
BEGINNING CASH BALANCE	1,098,201		1,098,201		
REVENUE:					
Sales and Use Tax	2,562,000	160,461	1,270,674	49.60%	1,291,326
Interest	45,000	1,945	16,478	36.62%	28,522
TOTAL REVENUE	2,607,000	162,406	1,287,152	49.37%	1,319,848
	Annual Budget	Current Period	Y-T-D Actual & Encumbrances	% of Budget	Budget Balance
EXPENDITURES:					
Administrative					
Supplies	-			-	-
Transfer to Debt Service Fund	505,000	42,083	294,583	58.33%	210,417
Kerrville Economic Development Foundation	25,000			100.00%	25,000
Administrative Services Fee	75,000	6,250	43,750	58.33%	31,250
Total Administrative	605,000	48,333	338,333	55.92%	266,667
Category I - Business Development					
KEDF/USDA Project	33,262		33,262	100.00%	0
Unspecified	1,033,738			0.00%	1,033,738
Total Category I	1,067,000	0	33,262	100.00%	1,033,738
Category II - Quality of Life					
Schreiner University Project	250,000	-	250,000	100.00%	-
Category II Unspecified	50,000			0.00%	50,000
Total Category II	300,000	-	250,000	83.33%	50,000.00
Category III - Public Infrastructure					
Unspecified Projects	1,471,038			0.00%	1,471,038
Total Category III	1,471,038	-	-	0.00%	1,471,038
Contingency	500,000			0.00%	500,000
TOTAL EXPENDITURES	3,943,038	48,333	621,595.31	15.76%	3,321,443
NET REVENUES TO EXPENDITURES	(1,336,038)	114,072	665,557		
ENDING CASH BALANCE: April 30, 2010	Budget (237,837)		Actual 1,763,757		

CITY OF KERRVILLE
Economic Improvement Corporation
Sales Tax Debt Service Fund

Cash Balance as of April 1, 2010		\$ 200,860
Revenues:		
Transfer from Sales Tax Improvements Fund	42,083	
Total Deposits	42,083	
Expenses:		
None	0	
Total Expenses	0	
Revenues Over (Under) Expenditures:		42,083
Ending Cash Balance as of April 30, 2010		<u><u>\$ 242,943</u></u>

INVESTMENTS:

Investment Item	Estimated Rate
TexPool Rate	0.1662%
City's Pooled Rate	0.1700%
EIC Rate	0.3900%

CITY OF KERRVILLE
Economic Improvement Corporation
Sales Tax Debt Service Fund
Revenue and Expense Statement
For the Seventh Month ending April 30, 2010

	Annual Budget	Current Period	Y-T-D Actual	% of Budget	Budget Balance
BEGINNING CASH BALANCE	314,120		314,120		
REVENUE:					
Transfer from Sales Tax Improvement Fund	\$ 505,000	\$ 42,083	\$ 294,583	58.33%	\$ 210,417
Return of Equity - Park Lane Extension	\$ -		\$ 91,016	100.00%	\$ (91,016)
TOTAL REVENUE	505,000	42,083	385,599	76.36%	119,401
EXPENDITURES:					
Series 1999 Sales Tax Bond Debt Service	405,000	-	405,000	100%	0
Series 1999 Sales Tax Bond Interest Expense	92,539	-	50,775	55%	41,764
Paying Agent Fees	1,000	-	1,000	100%	0
First Southwest Continuing Disclosure Fee	-	-	-	-	-
TOTAL EXPENDITURES	498,539	-	456,775	91.62%	41,764
ENDING CASH BALANCE: April 30, 2010	Budget 320,581		Actual 242,943		

CITY OF KERRVILLE
Economic Improvement Corporation
SALES TAX REVENUE ANALYSIS

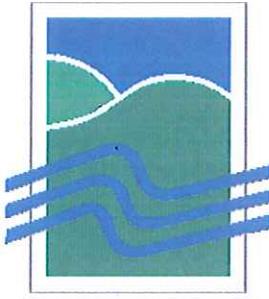
Month	Actual FY 07	Actual FY 08	Actual FY 09	Approved FY 10	Actual FY 10	FY 10 Proj v. FY 10 Actual	% of Budget Variance
October	184,785	194,330	195,050	195,831	179,735	(16,096)	-8.22%
November	204,940	219,398	218,565	219,201	188,879	(30,322)	-13.83%
December	189,001	195,398	202,043	200,130	170,981	(29,149)	-14.56%
January	184,529	187,236	190,881	193,510	170,645	(22,865)	-11.82%
February	246,363	251,426	239,208	258,118	236,837	(21,281)	-8.24%
March	165,161	194,946	200,569	193,990	163,136	(30,854)	-15.91%
April	166,504	168,423	259,861	201,624	160,461	(41,163)	-20.42%
May	233,625	234,014	228,262	242,877			
June	182,280	193,637	181,835	194,493			
July	196,384	200,625	183,253	201,857			
August	221,781	230,443	219,318	235,664			
September	228,600	213,253	189,718	224,705			
Total	2,403,953	2,483,129	2,508,562	2,562,000	1,270,674	(191,730)	-13.11%

CITY OF KERRVILLE
 ECONOMIC IMPROVEMENT CORPORATION
 EIC CAPITAL PROJECTS FUND

Cash Balance as of April 1, 2010	\$4,059,137
Revenues:	
None	\$0
Expenses:	
Services	
Special Services	
Habitat for Humanity	\$41,999
	\$41,999
Capital Outlay	
Land	
Town Creek Sewer Extension	\$5,216
Salvation Army Kroc Center	\$1,653
Buildings and Structures	
ASR #3 Well	\$29,794
Water System	
ASR #3 Well	\$64,471
Capital Outlay Total	\$101,133
Transfer Out	
ASR #3	\$969,403
Total Expenses	\$1,112,535
Revenue Over (Under) Expenditures	(\$1,112,535)
Ending Cash Balance as of April 30, 2010	\$2,946,602

**BOND MATURITY SCHEDULE
 EIC - SALES TAX REVENUE BONDS
 SERIES 1999
 \$5,350,000**

Year Ending Sep 30	Principal	Interest	Total	Balance of Principal
2000	\$160,000	\$336,050	\$496,050	\$5,190,000
2001	275,000	\$330,206	\$605,206	4,915,000
2002	290,000	\$324,044	\$614,044	4,625,000
2003	300,000	\$317,669	\$617,669	4,325,000
2004	315,000	\$310,975	\$625,975	4,010,000
2005	330,000	\$304,293	\$634,293	3,680,000
2006	340,000	\$297,323	\$637,323	3,340,000
2007	355,000	\$289,868	\$644,868	2,985,000
2008	370,000	\$282,005	\$652,005	2,615,000
2009	390,000	\$273,620	\$663,620	2,225,000
2010	405,000	\$264,609	\$669,609	1,820,000
2011	425,000	\$254,940	\$679,940	1,395,000
2012	445,000	\$244,636	\$689,636	950,000
2013	465,000	\$234,121	\$699,121	485,000
2014	485,000	\$222,845	\$707,845	0
Total	\$5,350,000	\$4,287,204	\$9,637,204	



City of Kerrville
CIP Manager
800 Junction Highway
Kerrville, Texas 78028-5069
830.792.8314 (O)
830.792.3850 (F)
cheri.halford@kerrvilletx.gov

MEMORANDUM

TO: EIC Board

FROM: Cheri Halford, CIP Manager

CC: Mike Wellborn, P.E., Director of Engineering

DATE: May 12, 2010

SUBJECT: EIC Construction Project Status for end of April 2010

Sales Tax Improvement Fund 40:

Town Creek Sewer Extension (\$592,657) – Construction is complete. Staff is working with Master Naturalists on re-vegetation efforts along Town Creek. The project will be closed in June 2010.

Harper Highway Utility Extension (\$2,850,000.00) –The project consists of extending water and sewer mains from Morris Road north along Town Creek and Harper Highway to the James Avery Craftsmen Campus. Bids were opened on May 11, 2010. Nelson Lewis, Inc. is the apparent low bidder with a total base bid of \$2,464,084.40. Additive alternate 1 is a pavement repair substitution method that will be offset against a line item in the base bid in the amount of \$159,825.00; and Additive Alternate 2 in the amount of \$51,500.00 is to upgrade a 10" line to a 12" line

Salvation Army KROC Center Infrastructure, Site Preparation, Grading and Drainage Improvements (\$500,000.00) – Project consists of construction of retaining walls, side walks, walking trails, fencing, replacement of sanitary sewer and other associated improvements related to the Salvation Army KROC Center including site preparation, grading and drainage. The construction contract was awarded to Yantis Construction at the May 12, 2009 city council meeting in the amount of \$1,119,735.75. Construction began May 28, 2009 and is scheduled for 180 working days. Working on final check list in preparation of walkthrough.



**City of Kerrville Economic Improvement Corporation
4B Sales Tax Funding Request
for the
Commercial Improvement Program**

Guidelines and Procedures

Economic Improvement Corporation

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

**City of Kerrville Economic Improvement Corporation
800 Junction Hwy.
Kerrville, Texas 78028
830.257.8000**

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

Commercial Improvement Program

The Economic Improvement Corporation encourages existing businesses to be successful by making improvements to their commercial buildings. The Commercial Improvement Program (CIP) offers to reimburse 20% of the cost of an improvement project up to \$10,000.00. \$100,000.00 has been set aside for the CIP in the FY10 budget. All future program disbursements are subject to funding availability.

Potential projects to be considered could include but are not limited to interior remodel, improved signage and façade improvements. If the structure needs to be razed, up to 40% of the cost could be reimbursed.

Candidate buildings for the Commercial Improvement Program should be located in commercial corridors within the city limits of Kerrville and any commercial corridor located in Kerr County in a highly visible location.

The following guidelines would apply and are subject to City Council approval:

1. Grants to be made to improve or demolish an existing commercial structure in Kerr County.
2. Grant limited to reimbursement of 20% of improvement cost or 40% of demolition cost up to a maximum of a \$10,000 grant.
3. Grant to be funded as a reimbursement of a percentage of the actual cost after completion.
4. Applicants buying materials locally and using local labor will be given priority.
5. Project to be completed within 90 days from the date the grant is awarded.
6. Conflict of interest rules apply.
7. Considered a pilot program and reserve the right to reject any proposal.
8. Successful applicants agree to appropriate publicity upon completion of a project.

Application

The City of Kerrville will accept applications for projects at any time. Applications will not be considered until complete. Applicants must be available to present projects at an Economic Improvement Corporation board meeting. Eligible projects can be projects within the city limits of Kerrville and within Kerr County. All projects outside the Kerrville city limits must have approval of the governing body in which the project is to be located. Applicants may be businesses, individuals, the City of Kerrville, Kerr County, or Kerr Economic Development Foundation.

Initial Response Team

An initial response team (IRT) will evaluate and recommend applications based on:

1. Compliance with legal requirements (with necessary assistance from the City Attorney)
2. Funding Availability
3. Economic impact analysis results*, including a return on investment and the break even point (as affected by the extent of developer participation), job creation impact, and impact on the tax base
4. Verification of all documents, reports, statements
5. Project status; for example, projects already under construction

The initial response team will consist of the City Manager, Director of Business Programs, and the President of the Kerr Economic Development Foundation. Additional members of staff may be added to the initial response team where appropriate depending on the nature and location of the project.

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

The Economic Improvement Corporation may direct a public hearing to be scheduled and a funding agreement to be drafted. The EIC and the Kerrville City Council must both approve the funding agreement.

04.06.10



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

**Commercial Improvement Program
Application**

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

**City of Kerrville Economic Improvement Corporation
800 Junction Hwy.
Kerrville, Texas 78028
830.257.8000**

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

APPLICATION

SECTION I - APPLICANT INFORMATION

Submittal Date: _____

Company Information

Company Name/Organization:

Address (City/State): _____

Telephone: _____ E-mail: _____

SECTION IV - PROJECT DESCRIPTION

Please attach a statement on company letterhead and signed by an officer of the company (1) fully explaining the nature and scope of the project; (2) describing the proposed site and existing improvements, or if; (3) the project is a demolition provide a description of the project .

Should this project be approved, the Economic Improvement Corporation may require performance criteria as a part of the funding agreement, in addition to this application. The funding agreement is between the Economic Improvement Corporation and the City of Kerrville. Said funding agreement will outline project costs, timelines, other information may be necessary to carry out the project in an efficient manner.

Estimated cost of the project: \$ _____

Amount of 'sweat equity' hours at \$15.00 per hour _____

State date _____

Grant requires completion in 90 days from the approval date. Project can be started as soon as application is made but there is no guarantee it will be approved.

Current use of the property and/or proposed use _____

Property zoned for _____

Plan to purchase materials locally and use local labor. Yes ___ No ___

I understand the grant will be funded as a reimbursement after the project is completed and will be based on a percentage of the actual cost, which is 40% of demolition projects or 20% of renovation projects.

The above information is true and correct to the best of my knowledge.

Printed name

Date

Signature

For additional information visit the City's website at www.kerrvilletx.gov or call 830.792.8343.

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN HILL COUNTRY
HOME OPPORTUNITY COUNCIL AND THE CITY OF KERRVILLE, TEXAS
ECONOMIC IMPROVEMENT CORPORATION**

This Agreement entered into by and between Hill Country Home Opportunity Council, Kerr County, Texas, a Texas nonprofit corporation ("HCHOC"), acting herein by and through its duly authorized Representative, Parker Harrison ("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, hereafter referred to as "the Act"), acting by and through its duly authorized President, Bill Crumrine.

WITNESSETH:

WHEREAS, EIC was formed to administer the sales and use tax approved by the citizens of Kerrville, Texas, in May 1995 and collected for projects including but not limited to:

Land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are required or suitable for the promotion of development and expansion of affordable housing, as defined by 42 U.S.C. Section 12745.

WHEREAS, pursuant to Section 4B of the Act, the EIC is authorized to provide funding to construct projects which the EIC finds to be encompassed within the definition of "Projects" as that word is defined by Section 2 and Section 4B of the Act; and

WHEREAS, HCHOC manages and expends funds donated to HCHOC to build or renovate homes and offering them to qualified families in need; and

WHEREAS, HCHOC has applied for a grant from EIC for funds necessary to develop the Pinto Trail Property for the purpose of providing affordable homes to deserving families in Kerrville; and

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

WHEREAS, EIC finds that it will be in the public interest to enter into an agreement with HCHOC to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to HCHOC for costs related to developing the Pinto Trail Property; and

WHEREAS, on May 17, 2010, 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 4B(n) 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, HCHOC and EIC agree as follows:

**ARTICLE I.
EIC'S OBLIGATIONS**

- A. EIC hereby grants HCHOC One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) ("Grant") for costs related to the design and construction of public improvements for the Pinto Trail Property, a residential subdivision made up of single family units. Such public improvements consist of the following:
- (1) public streets;
 - (2) water and wastewater mains; and
 - (3) drainage facilities, including a retention pond.
- B. Subject to the terms and conditions set forth in Article II, the Grant shall be provided to HCHOC by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, HCHOC 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 the construction and development of the Project, EIC shall then reimburse HCHOC for the cost.
- C. Payments made by EIC to HCHOC from 4B Revenues shall be limited to the payments of "costs" as defined by the Act.
- D. In no event shall the total amount of the Grant exceed One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00).
- E. HCHOC specifically agrees that EIC shall only be liable to HCHOC for the actual amount of the Grant to be conveyed to HCHOC and shall not be liable to HCHOC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or costs of court for any act of default by EIC under the terms of this Agreement.

**ARTICLE II.
HCHOC'S OBLIGATIONS**

- A. HCHOC agrees to complete the Project on or before May 31, 2011. Failure to complete the Project by this date shall terminate the obligation of EIC to make any additional payments of the Grant.
- B. HCHOC shall keep and maintain complete and accurate records relating to the costs of the Project, separate and identifiable from its other records, for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect the records during the term of this Agreement and for three (3) years thereafter, upon reasonable notice.
- C. Following the initial payment from EIC to the Foundation, HCHOC shall make written quarterly reports to EIC, or before the last day of the calendar quarter. Said reports, at a

minimum, shall include information on the status of the Project and the estimated opening date of the Project.

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

**ARTICLE III.
REIMBURSEMENT**

- A. If, on May 31, 2011, HCHOC has failed to complete the Project, then HCHOC shall repay EIC One Hundred Thousand and No/100 Dollars (\$100,000.00). The repayment shall be made as soon as commercially practicable after the receipt of a written demand by EIC, but in no event later than thirty (30) days from the receipt of such written demand. Upon repayment thereof, HCHOC shall have no further obligation under this Agreement. EIC shall have the discretion to consider relevant circumstances before demanding repayment and may require partial repayment in appropriate circumstances. Failure to reimburse EIC within thirty (30) days of HCHOC's receipt of such demand shall constitute a breach of this Agreement.
- B. Notwithstanding any other provision in this Agreement, HCHOC shall in no event be required to repay any amount in excess of the Grant monies actually received under this Agreement.

**ARTICLE IV.
MERGER, CONSOLIDATION OR CHANGE IN MANAGEMENT OF
HCHOC OR CONVEYANCE OF
PINTO TRAIL PROPERTY**

- A. A sale of all or substantially all of the assets of HCHOC, including the Pinto Trail Property, shall not release HCHOC 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.
- B. In the event of any proposed merger, consolidation, or change in the management of HCHOC with any third party not affiliated with HCHOC, HCHOC 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 HCHOC's duties and responsibilities hereunder and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity shall have the financial condition to fully satisfy HCHOC's duties and responsibilities hereunder. Failure to provide such information shall be considered a breach of this Agreement.
- C. Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that EIC shall have no rights to approve or disapprove any sale or merger transaction

of any kind involving HCHOC. In the event of any sale or merger involving HCHOC, the surviving entity shall assume HCHOC's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

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

- A. HCHOC represents and warrants as of the date hereof:
- (1) HCHOC 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 HCHOC and this Agreement is not in contravention of HCHOC's articles of incorporation or bylaws, or any agreement or instrument to which HCHOC 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 the Officer, threatened against or affecting HCHOC, which may result in a material adverse change in HCHOC's business, properties, or operations sufficient to jeopardize HCHOC's legal existence; and
 - (4) No written application, written statement, or correspondence delivered by HCHOC to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of the 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 V, HCHOC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

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

- A. EIC represents and warrants as of the date hereof:
- (1) EIC, 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 VI, the EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

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

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

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

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

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

Should any of these conditions not be cured by HCHOC within a period of three (3) months, EIC may, at its option, with written notice to HCHOC, terminate this Agreement and HCHOC shall have no further obligations hereunder.

**ARTICLE IX.
REMEDIES**

- A. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any party hereto, or any successor to such party, such defaulting or breaching party (or successor) shall upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within a reasonable time (but in no event later than ninety (90) days from the date of notification of such breach), the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief, enforcement by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan payments and to apply the revenues from the project in accordance with this Agreement, as required by the Act.

- B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article IX, the non-breaching party shall have the sole right and discretion to either terminate this Agreement or pursue any and all remedies which may be provided by law and this Agreement. Each party acknowledges and agrees that no party hereunder shall be entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that no party hereunder shall be liable to the other party for any other actual or consequential damages for any act of default by such party under the terms of this Agreement.

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

**ARTICLE X.
GENERAL PROVISIONS**

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

- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.

- C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in Kerrville, Kerr County, Texas. Venue

shall lie in Kerr County, Texas; and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof.

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

1. For EIC

President – Bill Crumrine
City of Kerrville, Texas, Economic Improvement Corporation
800 Junction Highway
Kerrville, Texas 78028
Facsimile: (830) 792-3850

With a copy to:

Mindy Wendele
Director of Business Programs
City of Kerrville
800 Junction Highways
Kerrville, Texas 78028
Facsimile: (830) 792-3850

2. For HCHOC

Parker Harrison
Hill Country Home Opportunity Council
P.O. Box 293071
Kerrville, Texas 78029
Facsimile: (830) 895-0911

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

HCHOC may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by HCHOC or by the parent, subsidiary or affiliate of HCHOC provided

the entity assumes all of HCHOC'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 HCHOC and HCHOC 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 shall entitle any party other than HCHOC or EIC to any claim, cause of action, remedy or right of any kind except as expressly provided in Article IV.
- G. Term. The term of this Agreement (the "Term") shall commence on May 17, 2010 (the "Effective Date"), and shall terminate on the earlier of: (i) May 31, 2011, or when the requirements set forth in this Agreement are completed; (ii) when terminated by mutual agreement of the parties; (iii) when terminated pursuant to Article IX, Paragraph B; (iv) when terminated pursuant to Article VIII; (v) at HCHOC's and absolute discretion, upon HCHOC's return of all Grant funding to EIC that it has received under this Agreement; (vi) upon HCHOC's repayment of all monies that are demanded by EIC and are in fact required to be repaid by HCHOC under Article III; or, (vii) upon a termination of this Agreement by EIC pursuant to Article VIII. 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 shall 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. Indemnity. **IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT HCHOC, IN PERFORMING ITS OBLIGATIONS HEREUNDER, IS ACTING INDEPENDENTLY, AND EIC ASSUMES NO RESPONSIBILITY OR LIABILITY IN CONNECTION THEREWITH TO THEIR PARTIES. HCHOC AGREES TO INDEMNIFY AND HOLD HARMLESS EIC, ITS OFFICERS AND AGENTS, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY THE FOUNDATION'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ANY NEGLIGENT ACT OR OMISSION OF THE FOUNDATION, ITS OFFICER, AGENTS, ASSOCIATES OR EMPLOYEES, IN THE PERFORMANCE OF THIS AGREEMENT; AND NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF ANY GOVERNMENTAL IMMUNITY AVAILABLE TO EIC UNDER TEXAS LAW.**

- J. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.
- K. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination shall survive termination.
- L. 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 HCHOC, Kerr County, Texas, acting through its duly authorized official.

CITY OF KERRVILLE, TEXAS ECONOMIC
IMPROVEMENT CORPORATION

HCHOC
KERR COUNTY, TEXAS

Bill Crumrine, President

By: _____
Parker Harrison, President of HCHOC

ATTEST:

Secretary to Corporation

APPROVED AS TO FORM:

DRAFT

Michael C. Hayes, City Attorney