



**MEETING AGENDA**  
**City Council**  
**REGULAR SESSION CITY COUNCIL**  
**September 22, 2020**

**HAL BALDWIN MUNICIPAL COMPLEX COUNCIL CHAMBERS**  
**1400 SCHERTZ PARKWAY BUILDING #4**  
**SCHERTZ, TEXAS 78154**

**CITY OF SCHERTZ CORE VALUES**

**Do the right thing**  
**Do the best you can**  
**Treat others the way you want to be treated**  
**Work cooperatively as a team**

**AGENDA**  
**"PRESENTATION OF NEW LADDER TRUCK "**  
**TO OCCUR BEFORE THE COUNCIL MEETING**  
**5:45 P.M.**  
**TUESDAY, SEPTEMBER 22, 2020, at 6:00 p.m.**

**City Council will hold its regularly scheduled meeting at 6:00 p.m., Tuesday, September 22, 2020, at the City Council Chambers. In lieu of attending the meeting in person, residents will have the opportunity to watch the meeting via live stream on the City's YouTube Channel.**

**Call to Order**

**Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas.**  
**(Mayor Pro-Tem Scott)**

**Presentations**

- Proclamation recognizing Fire Prevention Week. (Mayor/K. Long)
- Proclamation recognizing Chamber of Commerce Week. (Mayor/M. Titterington)
- Proclamation honoring Manufacturing Day. (Mayor/J. Kolbe)

## Employee Recognition

- City Management - Cyndi Simmons, Administrative Assistant. (M. Browne/S. Gonzalez)
- EMS - Mike McFerran, EMS Supply Coordinator; Madeline Keilholz, Eric Stephens, Charles Liles - EMT. (C. Kelm/J. Mabbitt/B. Hill)
- Public Works - Dominic Dominguez, and Jeremy Perez Drainage Worker 1. (C. Kelm/S. Williams/D. Letbetter)

## City Events and Announcements

- Announcements of upcoming City Events (B. James/C. Kelm/S. Gonzalez)
- Announcements and recognitions by the City Manager (M. Browne)
- Announcements and recognitions by the Mayor (R. Gutierrez)

## Hearing of Residents

**Residents who choose to watch the meeting via live stream, but who would like to participate in Residents to be Heard, should email their comments to City Secretary, Brenda Dennis, at [bdennis@schertz.com](mailto:bdennis@schertz.com) by 5:00 p.m. on Monday, September 21, 2020, SO THAT THE CITY SECRETARY MAY READ THE PUBLIC COMMENTS INTO THE RECORD UNDER THE HEARING OF RESIDENTS. In the body of the email please include your name, your address, phone number, agenda item # if applicable or subject of discussion, and your comments.**

*This time is set aside for any person who wishes to address the City Council. Each person should fill out the speaker's register prior to the meeting. Presentations should be limited to no more than 3 minutes.*

***All remarks shall be addressed to the Council as a body, and not to any individual member thereof. Any person making personal, impertinent, or slanderous remarks while addressing the Council may be requested to leave the meeting.***

*Discussion by the Council of any item not on the agenda shall be limited to statements of specific factual information given in response to any inquiry, a recitation of existing policy in response to an inquiry, and/or a proposal to place the item on a future agenda. The presiding officer, during the Hearing of Residents portion of the agenda, will call on those persons who have signed up to speak in the order they have registered.*

## Consent Agenda Items

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

1. **Minutes** – Consideration and/or action regarding the approval of the minutes of the regular meeting of September 8, 2020. (B. Dennis)
2. **Resolution No. 20-R-106** – Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing the City Manager to enter into an agreement with Ford Engineering, Inc., for design, bid, and construction phase engineering services for the Aviation Heights Water line relocation project in advance of the Construction project. (C. Kelm/S. Williams/J. Hooks)

3. **Resolution 20-R-90** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing an extension of the agreement for Management Services between the City of Schertz and the Schertz/Seguin Local Government Corporation (SSLGC) and other matters in connection therewith. (C. Kelm/S. Williams/J. Hooks)
4. **Resolution No. 20-R-109** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into an agreement for the remodel of the Kitchen and Warming Area for the Schertz Civic Center in an amount not to exceed \$154,295.00 with IM General Contractors. (C. Kelm/S. Williams/T. Buckingham)
5. **Resolution No. 20-R-110** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing the City Manager to issue a purchase order(s) for the purchase of various vehicles as part of the 2020-2021 vehicle replacement program. (C. Kelm/S. Williams/C. Hernandez)
6. **Resolution No. 20-R-111** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz Texas, authorizing an Interlocal Agreement between the City of Schertz and the Comal County District Attorney in reference to the disposition of seized property and contraband. (C. Kelm/M. Hansen)
7. **Resolution No. 20-R-112** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing a Schertz Main Street Local Flavor Economic Development Grant for 615 Main Street and related matters in connection therewith. (M. Browne/B. James)
8. **Resolution No. 20-R-105** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing EMS debt revenue adjustments, Utility Billing debt revenue adjustments and Schertz Magazine debt revenue adjustments for certain inactive outstanding receivables and other matters in connection therewith. (B. James/J. Walters)
9. **Cancellation of the November 3, 2020, and November 24, 2020, Council Meetings** - Consideration and/or action canceling the November 3, 2020, and November 24, 2020, City Council meetings due to the election and Thanksgiving week. (M. Browne/B. Dennis)
10. **Calling a Special Meeting November 16, 2020** – Consideration and/or action calling a special meeting on Monday, November 16, 2020, to canvass the results of the November 3, 2020, General Election, call a Runoff Election if necessary and possible swearing in of newly elected officials. (M. Browne/B. Dennis)
11. **Resolution No. 20-R-97** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing the City Manager to enter into Interlocal agreements for allocation of Emergency Medical Services and for mutual aid agreements. (C. Kelm/J. Mabbitt)

12. **Boards, Commissions and Committee Member Resignations/Appointments -** Consideration and/or action appointing Mr. Graham Clark McChesney Jr. for the vacant board member position on the Transportation Increment Reinvestment Zone #2 (TIRZ). (Mayor/Council)

### Discussion and Action Items

13. **Resolution No. 20-R-107 -** Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing an amended Development Agreement, Project/ Financing Plan, and Interlocal Agreement for the Tax Increment Reinvestment Zone #2 (TIRZ) #2 (Sedona/Crossvine). (M. Browne/B. James)
14. **Resolution No. 20-R-104 -** Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, supporting the use of HOT Revenues for Park Improvements. (M. Browne)

### Public Hearings

15. **Ordinance No. 20-T-32 –** Conduct a Public Hearing and consideration and/or action approving an Ordinance approving the appraisal roll; setting the tax rate; levying and assessing general and special ad valorem taxes for the use and support of the municipal government of the city of Schertz, Texas. ***Second and Final Reading*** (B. James/J. Walters)
16. **Ordinance No. 20-S-29 -** Conduct a Public Hearing and consideration and/or action on an amendment of Part III, Schertz Codes of Ordinances, Unified Development Code (UDC), Article 5, Subsection 21.5.8 Permitted Use Table, to amend permitted land uses within the Main Street Mixed Use (MSMU) zoning district. ***First Reading*** (B. James/L. Wood/E. Delgado)
17. **Ordinance No. 20-S-30 -** Conduct a public hearing, consideration and/or action on a request to rezone approximately 2.94 acres of land from Single-Family Residential/Agricultural District (R-A) and General Business District (GB) to Neighborhood Services District (NS), located northwest of the intersection between FM 1518 and Schaefer Road, City of Schertz, Bexar County, Texas, also known as DG Schertz Addition Subdivision Lot 2, Block 1. ***First Reading*** (B. James/L. Wood/M. Harrison)

### Roll Call Vote Confirmation

### Workshop

18. **Bond refinancing Opportunity -** Workshop on possible bond refinancing opportunity. (M. Browne/B. James/J. Walters/M. McLiney/A. Friedman)
19. **Workshop Discussion and Update (Ordinance 20-H-18) -** Discussion and update regarding the COVID-19 virus and our current Ordinance No. 20-H-18 Declaration of Local Disaster. (M. Browne/K. Long)



## **Roll Call Vote Confirmation**

### **Closed Session**

- 20.** The City Council will meet in closed session in accordance with Section 551.087 of the Texas Government Code, Deliberation Regarding Economic Development Negotiations, Closed Meeting. The governmental body is not required to conduct an open meeting (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect.
- Project E-063

### **Reconvene into Regular Session**

- 20A.** Take any action based on discussion held in closed session under Agenda Item 20.

## **Roll Call Vote Confirmation**

### **Requests and Announcements**

- Announcements by the City Manager.
- Requests by Mayor and Councilmembers for updates or information from staff.
- Requests by Mayor and Councilmembers that items be placed on a future City Council agenda.
- Announcements by Mayor and Councilmembers
  - City and community events attended and to be attended
  - City Council Committee and Liaison Assignments (see assignments below)
  - Continuing education events attended and to be attended
  - Recognition of actions by City employees
  - Recognition of actions by community volunteers

### **Adjournment**

## **CERTIFICATION**

I, BRENDA DENNIS, CITY SECRETARY OF THE CITY OF SCHERTZ, TEXAS, DO HEREBY CERTIFY THAT THE ABOVE AGENDA WAS PREPARED AND POSTED ON THE OFFICIAL BULLETIN BOARDS ON THIS THE 18th DAY OF SEPTEMBER 2020 AT 2:45 P.M., WHICH IS A PLACE READILY ACCESSIBLE TO THE PUBLIC AT ALL TIMES AND THAT SAID NOTICE WAS POSTED IN ACCORDANCE WITH CHAPTER 551, TEXAS GOVERNMENT CODE.

**BRENDA DENNIS**

**I CERTIFY THAT THE ATTACHED NOTICE AND AGENDA OF ITEMS TO BE CONSIDERED BY THE CITY COUNCIL WAS REMOVED BY ME FROM THE OFFICIAL BULLETIN BOARD ON \_\_\_\_ DAY OF \_\_\_\_\_, 2020. TITLE: \_\_\_\_\_**

*This facility is accessible in accordance with the Americans with Disabilities Act. Handicapped parking spaces are available. If you require special assistance or have a request for sign interpretative services or other services, please call 210-619-1030.*

**The City Council for the City of Schertz reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Open Meetings Act.**

**Closed Sessions Authorized:** This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Closed Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

#### **COUNCIL COMMITTEE AND LIAISON ASSIGNMENTS**

<b>Mayor Gutierrez</b> Audit Committee Investment Advisory Committee Main Street Committee	<b>Councilmember Scagliola – Place 5</b> Cibolo Valley Local Government Corporation - Alternate Hal Baldwin Scholarship Committee Interview Committee for Boards and Commissions - Alternate Schertz-Seguin Local Government Corporation
<b>Councilmember Davis– Place 1</b> Audit Committee Interview Committee for Boards and Commissions Main Street Committee - Chair Schertz Housing Authority Board TIRZ II Board	<b>Councilmember Scott – Place 2</b> Interview Committee for Boards and Commissions
<b>Councilmember Larson – Place 3</b> Main Street Committee – Vice Chair	<b>Councilmember Dahle – Place 4</b> Cibolo Valley Local Government Corporation Interview Committee for Boards and Commissions TIRZ II Board
<b>Councilmember Heyward – Place 6</b> Audit Committee Investment Advisory Committee Schertz Animal Services Advisory Commission	<b>Councilmember Brown – Place 7</b> Main Street Committee Schertz-Seguin Local Government Corporation - Alternate



**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** City Secretary  
**Subject:** Minutes – Consideration and/or action regarding the approval of the minutes of the regular meeting of September 8, 2020. (B. Dennis)

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**BACKGROUND**

The City Council held a Regular City Council meeting on Tuesday, September 8, 2020.

**RECOMMENDATION**

Recommend Approval.

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**Attachments**

09-08-2020 Draft minutes

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# DRAFT

## MINUTES REGULAR MEETING September 8, 2020

A Regular Meeting was held by the Schertz City Council of the City of Schertz, Texas, on September 8, 2020, at 6:00 p.m. in the Hal Baldwin Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas. The following members present to-wit:

Present: Mayor Ralph Gutierrez; Mayor Pro-Tem Rosemary Scott; Councilmember Mark Davis; Councilmember Scott Larson; Councilmember Michael Dahle; Councilmember David Scagliola; Councilmember Allison Heyward; Councilmember Tim Brown

City     City Manager Dr. Mark Browne; Assistant City Manager Brian James;  
Staff:   Assistant City Manager Charles Kelm; City Attorney Daniel Santee; City Secretary Brenda Dennis; Assistant to the City Manager Sarah Gonzalez; Deputy City Secretary Gayle Wilkinson

### **Call to Order**

Mayor Gutierrez called the regular meeting to order at 6:00 p.m.

### **Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas. (Councilmember Mark Davis)**

Mayor Gutierrez recognized Councilmember Davis who provided the opening prayer followed by the Pledges of Allegiance to the Flags of the United States and the State of Texas.

Mayor Gutierrez gave specific requests to guests and staff in reference to wearing their masks during the City Council meeting and departing the Council meeting.

### **City Events and Announcements**

- Announcements of upcoming City Events (B. James/C. Kelm/S. Gonzalez)

None at this time.

- Announcements and recognitions by the City Manager (M. Browne)

Mayor Gutierrez recognized City Manager Dr. Mark Browne who recognized Police Officer Danielle Apgar for her heroic action, along with her husband Josh a Police Officer with the City of Cibolo, of performing CPR on an unconscious man who was not breathing and saved his life. Dr. Browne commended Officer Apgar for her critical and on the spot thinking in an emergent situation.

Dr. Browne also mentioned our crew who are still deployed in California fighting the fires. They will be returning home this weekend and are doing well.

- Announcements and recognitions by the Mayor (R. Gutierrez)

None at this time.

## Hearing of Residents

**Residents who choose to watch the meeting via live stream, but who would like to participate in Residents to be Heard, should email their comments to City Secretary, Brenda Dennis, at [bdennis@schertz.com](mailto:bdennis@schertz.com) by 5:00 p.m. on Monday, September 7, 2020, SO THAT THE CITY SECRETARY MAY READ THE PUBLIC COMMENTS INTO THE RECORD UNDER THE HEARING OF RESIDENTS. In the body of the email please include your name, your address, phone number, agenda item # if applicable or subject of discussion, and your comments.**

*This time is set aside for any person who wishes to address the City Council. Each person should fill out the speaker's register prior to the meeting. Presentations should be limited to no more than 3 minutes.*

***All remarks shall be addressed to the Council as a body, and not to any individual member thereof. Any person making personal, impertinent, or slanderous remarks while addressing the Council may be requested to leave the meeting.***

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Mayor Gutierrez indicated that no one signed up to speak on the speakers form and asked City Secretary Brenda Dennis if any resident had signed up on-line to be heard.

She indicated there were two. Deputy City Secretary Gayle Wilkinson read the following:

- John Sullivan - 513 Triple Crown - Expressed his concern that City Council isn't sure where to spend funds in the event we are too conservative with our revenue forecasts. Mr. Sullivan enumerated several issues he feels would be good candidates to receive extra funds in our city and asked that we stick to the tax rate that was presented in the public hearings and put our money to smart use. He also thanked Council for their service to our community.
- Maggie Titterington - 5325 Storm King - Expressed her concern about lowering the tax rate to the "No New Revenue rate". She discussed creating and approving a budget with a loss in revenue and counting on possible monies coming in. "What happens if we don't receive those banked on monies?" She expressed her opinion to reinvest those monies into our city.

### **Consent Agenda Items**

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

The following items were read into record:

1. **Minutes** – Consideration and/or action regarding the approval of the minutes of the meeting of September 1, 2020. (B. Dennis)
2. **Boards, Commissions and Committee Member Resignations/Appointments** - Consideration and/or action accepting Mr. Bryan Jones application/appointment for the representative of the real estate, development, or building industry for the Capital Improvement Advisory Committee (CIAC). (Mayor/Council)
3. **Resolution No. 20-R-100** - Consideration and/or action approving a Resolution authorizing an agreement for Provisions of Professional Services between the City of Schertz and the City of Schertz Economic Development Corporation. (M. Browne/A. Perez)
4. **Resolution No. 20-R-99** - Consideration and/or action approving a Resolution by the City Council of the City, Texas, authorizing expenditures not to exceed \$416,267.68 with C-3 Environmental Inc., and other matters in connection therewith. (C. Kelm/S.Williams/D. Letbetter)

5. **Resolution No. 20-R-102** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing the City Manager to enter into an amended agreement with ILF N-T Owner, LP. for reimbursement for a roadway extension in the Homestead Development. (M. Browne/B. James)

Mayor Gutierrez asked Council if there were any items to be removed from Consent for separate action. No items were removed.

Moved by Councilmember Allison Heyward, seconded by Councilmember Michael Dahle to approve consent agenda items 1 through 5.

AYE: Mayor Pro-Tem Rosemary Scott, Councilmember Mark Davis, Councilmember Scott Larson, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

## Workshop

The following item was read into record:

6. **FY 2020-21 Proposed Budget and Tax Rate** - Workshop and discussion on the proposed budget and tax rate for FY 2020-21. (M. Browne/J. Walters)

Mayor Gutierrez recognized Finance Director James Walters who provided a PowerPoint presentation on the proposed budget and tax rate for FY 2020-2021. Mr. Walters recognized City Manager Dr. Mark Browne who discussed three potential options prepared by staff for setting the tax rate. Some highlights discussed in the PowerPoint are listed:

- All Funds - Expenses
- Fund Balance/Equity
- General Fund Balance Highlights
- Year End Projection Updates
- Proposed Budget Changes
- Options (3) for tax rates

The three (3) tax rate options presented are as follows:

- Proposed Rate \$0.5146 - increased likelihood of doing Elbel mid-year if revenue and expenditures allow for it. Look at lowering I&S next year for a more meaningful cut. Effectively a 1.3% increase on the tax rate.
- Lower \$0.5121 - \$97,000 less revenue - monitor expenses for budgetary changes midyear. Effectively a 0.8% increase in the tax rate.



- Lower \$0.5079 - \$260,000 less revenue - no change to budget or operations in proposed budget. Staff would monitor expenses throughout the year. Effectively a 0% increase on the tax rate.

Mayor Gutierrez opened the floor for discussion from Council. City Manager Dr. Mark Browne addressed questions from Council.

## Discussion and Action Items

The following item was read into record:

- Resolution 20-R-101** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas approving an Interlocal Agreement between the City of Schertz, Texas and the Cibolo Creek Municipal Authority (CCMA) for the decommissioning of the Waterford Lift Station and other matters in connection therewith. (C. Kelm/S. Williams/S. McClelland)

Mayor Gutierrez recognized Public Works Director Suzanne Williams who provided a PowerPoint presentation discussing an Interlocal Agreement between the City of Schertz, Texas and the Cibolo Creek Municipal Authority (CCMA) for decommissioning the Waterford Lift Station. Ms. Williams introduced Clint Ellis the General Manager of Cibolo Creek Municipal Authority (CCMA) to field technical or historical questions. Ms. Williams and Mr. Ellis answered questions from Council.

Moved by Councilmember David Scagliola, seconded by Councilmember Michael Dahle to approve Resolution No. 20-R-101.

AYE: Mayor Pro-Tem Rosemary Scott, Councilmember Mark Davis, Councilmember Scott Larson, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

The following item was read into record:

- Ordinance No. 20-T-31**— Consideration and/or action approving an Ordinance adopting a budget for the fiscal year beginning October 1, 2020, and ending September 30, 2021. *Second and Final Reading* (B. James/J. Walters)

Mayor Gutierrez recognized Finance Director James Walters who introduced

the budget with the attached change memo (included in their packet) and stated the recommendation of staff was to adopt the budget with the proposed changes as seen in their packets.

Moved by Councilmember Allison Heyward, seconded by Councilmember Tim Brown to approve Ordinance No. 20-T-31 *Second and Final Reading*.

AYE: Mayor Pro-Tem Rosemary Scott, Councilmember Mark Davis, Councilmember Scott Larson, Councilmember Michael Dahle, Councilmember Allison Heyward, Councilmember Tim Brown

NAY: Councilmember David Scagliola

Passed

The following item was read into record:

9. **Ordinance No. 20-T-32** – Conduct a Public Hearing and consideration and/or action approving an Ordinance approving the appraisal roll; setting the tax rate; levying and assessing general and special ad valorem taxes for the use and support of the municipal government of the city of Schertz, Texas. ***First Reading*** (B. James/J. Walters)

Mayor Gutierrez recognized Finance Director James Walters who discussed the different votes needed with the different options for the tax rate.

Mayor Gutierrez opened the public hearing; the following spoke:

- Dana Eldridge - 2628 Gallant Fox Dr. - Discussed needing extra space in our budget for unforeseen expenses.
- Kenneth Greenwald - 205 Westchester Dr. - Stated he didn't have a problem with adopting the proposed tax rate from staff of \$0.5146 for needed repairs.

There being no additional speakers, Mayor Gutierrez closed the Public Hearing.

Mayor Gutierrez addressed Council stating "Our city's budget and tax rate are the most important and critical decisions City Council will have to make." He continued with a few remarks on the importance of making a decision on the tax rate and urged Council to consider adopting the proposed new tax rate of 0.5121.

Mayor Gutierrez opened the floor for discussion from Council. A lengthy vigorous discussion ensued among the Councilmembers on setting a tax rate. There were five separate votes before a super majority vote could be made.

They are as follows:

Moved by Councilmember David Scagliola, seconded by Councilmember Scott Larson that the property tax rate remain by the adoption of a tax rate of \$0.5079, which is effectively a 0% increase in the tax rate.

AYE: Mayor Pro-Tem Rosemary Scott, Councilmember Scott Larson,  
Councilmember David Scagliola

NAY: Councilmember Mark Davis, Councilmember Michael Dahle,  
Councilmember Allison Heyward, Councilmember Tim Brown

Failed

Moved by Councilmember Michael Dahle, seconded by Councilmember Allison Heyward that the property tax rate be increased by the adoption of a tax rate of \$0.5121, which is effectively a 0.8% increase in the tax rate.

AYE: Councilmember Mark Davis, Councilmember Michael Dahle,  
Councilmember Allison Heyward, Councilmember Tim Brown

NAY: Mayor Pro-Tem Rosemary Scott, Councilmember Scott Larson,  
Councilmember David Scagliola

Failed

Moved by Councilmember Scott Larson, seconded by Councilmember Michael Dahle that the property tax rate be increased by the adoption of a tax rate of \$0.5096, which is effectively a .33% increase in the tax rate.

AYE: Mayor Pro-Tem Rosemary Scott, Councilmember Scott Larson,  
Councilmember Michael Dahle

NAY: Councilmember Mark Davis, Councilmember David Scagliola,  
Councilmember Allison Heyward, Councilmember Tim Brown

Failed

Moved by Councilmember Mark Davis, seconded by Councilmember Tim Brown that the property tax rate be increased by the adoption of a tax rate of \$0.5146, which is effectively a 1.3% increase in the tax rate.

AYE: Councilmember Mark Davis, Councilmember Michael Dahle,  
Councilmember Allison Heyward, Councilmember Tim Brown

NAY: Mayor Pro-Tem Rosemary Scott, Councilmember Scott Larson  
Councilmember David Scagliola

Failed

Moved by Councilmember Allison Heyward, seconded by Mayor Pro-Tem Rosemary Scott that the property tax rate be increased by the adoption of a tax rate of \$0.5121, which is effectively a 0.8% increase in the tax rate.

AYE: Mayor Pro-Tem Rosemary Scott, Councilmember Mark Davis,  
Councilmember Michael Dahle, Councilmember Allison Heyward,  
Councilmember Tim Brown

NAY: Councilmember Scott Larson, Councilmember David Scagliola  
Passed

The following item was read into record:

- 10. Resolution No. 20-R-103** – Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, of ratifying the property tax increase reflected in the Adopted Budget for FY 2020-21. (M. Browne/J. Walters)

Mayor Gutierrez recognized Finance Director James Walters who explained the local government code does require Council to take a separate action to ratify the tax increase reflected in the budget when a tax rate is passed. The language will be changed. At the rate of .5121 we will change the statement to say - this budget will raise more property taxes than last year's budget by \$777,223 or a 3.9% increase, and of that amount, \$613,162 is tax revenue to be raised from new property added to the tax roll this year. Mr. James further stated any motion would be to accept this new language replacing that in the Resolution.

Mayor Gutierrez opened the floor for Council to discuss. There was no discussion.

Moved by Councilmember Michael Dahle, seconded by Councilmember Allison Heyward to approve Resolution No. 20-R-103

AYE: Mayor Pro-Tem Rosemary Scott, Councilmember Mark Davis,  
Councilmember Michael Dahle, Councilmember Allison Heyward,  
Councilmember Tim Brown

NAY: Councilmember Scott Larson, Councilmember David Scagliola  
Passed

### **Roll Call Vote Confirmation**

Mayor Gutierrez recognized Deputy City Secretary Gayle Wilkinson who provided the roll call vote confirmation for agenda items 1-5 and 7-10.

## Workshop

The following item was read into record:

- 11. Workshop Discussion and Update (Ordinance 20-H-18)** - Discussion and update regarding the COVID-19 virus and our current Ordinance No. 20-H-18 Declaration of Local Disaster. (M. Browne/K. Long)

Mayor Gutierrez recognized Fire Chief Kade Long who provided a PowerPoint presentation with updates on COVID-19 to include EOC Activities, Daily Positivity Rates, State Data, Hospitalizations in Bexar County and the State Disaster Declaration from the Governor's office. Chief Long answered questions from Council.

Mayor Gutierrez thanked our staff for providing the information and keeping Council updated.

The following item was read into record:

- 12. National Night Out and Texas Municipal League Conference** - Discussion and consideration and/or action regarding the Cancellation of the National Night Out activities and scheduling a regular Council meeting on October 6, 2020, and scheduling a regular Council meeting on October 13, 2020, as the Texas Municipal League Conference is being held virtually this year. (Mayor/Council/M. Browne/B. Dennis)

Mayor Gutierrez recognized City Secretary Brenda Dennis who discussed the possibility of having a Council meeting on October 6, a meeting that is usually canceled for an annual National Night Out event, and October 13, a meeting that is usually canceled due to the annual Texas Municipal League (TML) Conference. Ms. Dennis asked the Council to consider these dates for possible Council meetings this year due to the cancelation of the typical annual National Night Out and considering the Texas Municipal League (TML) will be virtual this year and not held in the evenings.

Mayor Gutierrez clarified homeowners associations (HOA'S) can still continue to have their National Night Out activities as long as they are practicing social distancing. The city will not participate as a city event to be consistent with our involvement in other city events since COVID-19. However, if a member of Council is invited to one of the homeowners' association events, they may attend.

Mayor Gutierrez opened the floor for discussion from Council. Several views

were expressed with the outcome being to cancel the October 6th and October 13th as Council meetings. No motion was necessary.

### **Closed Session**

Mayor Gutierrez asked staff and guests who were not participating in the closed sessions to wait outside the chamber until they were finished.

Mayor Gutierrez recessed the regular meeting into Closed Session at 8:09 and the following items were read into record:

13. The City Council will meet in closed session in accordance with Section 551.087 of the Texas Government Code, Deliberation Regarding Economic Development Negotiations, Closed Meeting. The governmental body is not required to conduct an open meeting (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect.
  - Project E-061
14. The City Council will meet in Closed Session in accordance with Section 551.071 of the Texas Government Code to receive legal advice from its attorneys regarding a settlement offer.
  - Settlement of claims associated with the design and construction of Fire Station #3.

### **Reconvene into Regular Session**

Mayor Gutierrez reconvened into regular session at 8:28 p.m.

**13A.** Take any action based on discussions held in closed session under Agenda Item 13.

No action taken.

**14A.** Take any action based on discussions held in closed session under Agenda Item 14.

Moved by Councilmember David Scagliola, seconded by Councilmember Michael Dahle to approve the settlement agreement associated with the design and construction with Fire Station #3.

AYE: Mayor Pro-Tem Rosemary Scott, Councilmember Mark Davis, Councilmember Scott Larson, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

## **Roll Call Vote Confirmation**

Mayor Gutierrez recognized City Deputy Secretary Gayle Wilkinson who provided the roll call vote confirmation for agenda item 14.

## **Information available in City Council Packets - NO DISCUSSION TO OCCUR**

No discussion items were available.

## **Requests and Announcements**

- Announcements by the City Manager.

City Manager Dr. Mark Browne thanked Council for working with staff on the budget and tax rate. He stated Council and staff work well as a team together in working out their differences.

- Requests by Mayor and Councilmembers for updates or information from staff.

None were requested.

- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda.

Mayor Gutierrez recognized Councilmember Rosemary Scott who asked to have an update on our Parks. Assistant City Manager Brian James stated staff was planning to do an update on Parks as a joint meeting with Council in the near future.

- Announcements by Mayor and Councilmembers

- City and community events attended and to be attended
- City Council Committee and Liaison Assignments (see assignments below)
- Continuing education events attended and to be attended
- Recognition of actions by City employees
- Recognition of actions by community volunteers

Mayor Gutierrez recognized Councilmember Heyward who stated she had attended an Alamo Area Council of Governments (AACOG) Economic Webinar.

### **Adjournment**

As there was no further business, Mayor Gutierrez adjourned the meeting at 8:32 p.m.

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Ralph Gutierrez, Mayor

ATTEST:

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Brenda Dennis, City Secretary



**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** Public Works  
**Subject:** Resolution No. 20-R-106 – Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing the City Manager to enter into an agreement with Ford Engineering, Inc., for design, bid, and construction phase engineering services for the Aviation Heights Water line relocation project in advance of the Construction project. (C. Kelm/S. Williams/J. Hooks)

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**BACKGROUND**

The City of Schertz Aviation Heights area has under sized water mains that provide limited fire protection and are located in alleyways. The City of Schertz Public works has been working to upgrade and replace these smaller mains with appropriately sized lines to provide an adequate and reliable water supply with better fire protection coverage, as well as relocate these new mains in the front of the homes to increase maintenance efficiencies. Three phases are left that need to be completed in Aviation Heights. Staff desires to design these phases and prepare for construction in FY 20-21.

Ford Engineering is very familiar with this area and has designed the previous phases of waterline improvements and has experience with City utility relocation projects.

**Aviation Heights Waterline Relocation Project Budget**

Engineering	\$ 113,135.00
Construction Contingency	\$ 11,865.00
Project Total	\$ 125,000.00

Ford Engineering has a Master Professional Services Agreement with the City of Schertz that was awarded based on a competitive Request for Qualifications ("RFQ")

**GOAL**

To complete the design required for relocation of Aviation Heights water lines..

**COMMUNITY BENEFIT**

The relocation of these lines will improve the service and reliability to the residents in the Aviation Heights service area.

**SUMMARY OF RECOMMENDED ACTION**

Staff recommends that the City Council approve Resolution 20-R-106, authorizing a project agreement with Ford Engineering, Inc., for design, bid, and construction phase engineering services for water relocations in advance of the construction project.

## **FISCAL IMPACT**

Funding for the design work is available in the FY 19-20 Water Operating Budget and is included in the FY 19-20 CIP Plan

## **RECOMMENDATION**

Staff recommends the City Council approve Resolution 20-R-106, authorizing a project agreement with Ford Engineering, Inc., for design, bid, and construction phase engineering services for waterline relocations in advance of the construction project.

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### **Attachments**

Resolution 20-R-106

Ford Engineering Task Order

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**RESOLUTION NO. 20-R-106**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH FORD ENGINEERING, INC., FOR DESIGN, BID, AND CONSTRUCTION PHASE ENGINEERING SERVICES FOR THE AVIATION HEIGHTS WATER FACILITIES RELOCATION PROJECT, IN ADVANCE OF THE CONSTRUCTION PROJECT, AND OTHER MATTERS IN CONNECTION THEREWITH**

WHEREAS, the City staff of the City of Schertz (the “City”) has recommended that the City enter into an agreement for design, bid and construction phase engineering services for the Aviation Heights water facilities relocation project in advance of the construction project; and

WHEREAS, the City Council has determined that it is in the best interest of the City to contract with Ford Engineering, Inc., for the design, bid and construction phase engineering services as described in the Project Agreement attached hereto. (the “Agreement”).

WHEREAS, the City Council authorizes expenditures with Ford Engineering, Inc., for the Aviation Heights Water Relocation project not to exceed amount of \$125,000 for the 2020-2021 Fiscal Year.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to execute and deliver the Agreement with Ford Engineering, Inc., in substantially the form set forth on Attachment 1.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 22nd day of September, 2020.

CITY OF SCHERTZ, TEXAS

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Ralph Gutierrez, Mayor

ATTEST:

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Brenda Dennis, City Secretary

(CITY SEAL)

**ATTACHMENT 1**  
**PROJECT AGREEMENT**

This is Task Order  
No. \_\_\_\_\_, consisting of  
\_\_\_\_\_ pages.

## Task Order

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In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated 10-9-2019 ("Agreement"), Owner and Engineer agree as follows:

### 1. Background Data

- a. Effective Date of Task Order:
- b. Owner: City of Schertz
- c. Engineer: Ford Engineering
- d. Specific Project (title): Aviation Heights Waterline Phases 5, 6, and 7
- e. Specific Project (description): Design for replacement and upsizing of existing water mains serving the Aviation Heights area of downtown Schertz

### 2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:

as follows:

Scope of services as set out in the attached letter of proposal.

- B. Resident Project Representative (RPR) Services

Does not apply.

- C. Designing to a Construction Cost Limit

Does not apply

- D. Other Services

Engineer shall also provide the following services:

None

- E. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

### 3. Additional Services

#### A. Additional Services that may be authorized or necessary under this Task Order are:

those services (and related terms and conditions) set forth in Paragraph A2.01 of Exhibit A, as attached to the Agreement referred to above, such paragraph being hereby incorporated by reference.

### 4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B, subject to the following:

The City is to provide a geotechnical report with recommendations for street reconstruction.

### 5. Task Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule:

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Furnish 1 digital review copy of the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	Within 45 days of Owner s authorization to proceed with Preliminary Design Phase services.
Owner	Submit comments regarding Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	Within 7 days of the receipt of Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables from Engineer.
Engineer	Furnish 1 digital copy of the revised Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	Within 10 days of the receipt of Owner s comments regarding the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Furnish 1 digital copy of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Owner.	Within 30 days of Owner s authorization to proceed with Final Design Phase services.
Owner	Submit comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related	Within 7 days of the receipt of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related

	documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Engineer.	documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables from Engineer.
Engineer	Furnish 1 digital copy of the revised final Drawings and Specifications, assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Owner.	Within 10 days of the receipt of Owner's comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables

## 6. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

Description of Service	Amount	Basis of Compensation
1. Basic Services (Part 1 of Exhibit A)		
a. Final Design – Phase 5 (A1.02, A1.03)	\$1,190.00	Lump Sum
Preliminary and Final Design – Phase 6 (A1.02, A1.03)	\$37,370.00	Lump Sum
Preliminary and Final Design – Phase 7 (A1.02, A1.03)	\$34,375.00	Lump Sum
b. Bidding or Negotiating - Phase 5 (A1.04)	\$6,085.00	Lump Sum
Bidding or Negotiating – Phase 6 (A1.04)	\$4,295.00	Lump Sum
Bidding or Negotiating – Phase 7 (A1.04)	\$4,295.00	
c. Construction Phase 5 (A1.05)*	\$9,825.00	Lump Sum
Construction Phase 6 (A1.05)*	\$7,850.00	Lump Sum
Construction Phase 7 (A1.05)*	\$7,850.00	Lump Sum
TOTAL COMPENSATION (lines 1.a-c)	\$113,135.00	
2. Additional Services (Part 2 of Exhibit A)	(N/A)	Hourly rates

\*Based on a 6-month continuous construction period.

Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer's labor, overhead, profit, reimbursable expenses (if any), and Consultants' charges, if any. For lump sum items, Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total lump sum compensation amount unless approved in writing by the Owner.

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

## 7. Consultants retained as of the Effective Date of the Task Order:



8. Other Modifications to Agreement and Exhibits:

9. Attachments:

a. Letter of Proposal date 8-27-2020

10. Other Documents Incorporated by Reference:

11. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is [ ].

OWNER:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

ENGINEER:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Engineer License or Firm's  
Certificate No. (if required): \_\_\_\_\_  
State of: \_\_\_\_\_

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

E-Mail  
Address: \_\_\_\_\_

Phone: \_\_\_\_\_

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

E-Mail  
Address: \_\_\_\_\_

Phone: \_\_\_\_\_

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Task Order Form

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services Task Order Edition.  
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and American Society of Civil Engineers. All rights reserved.

**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** Public Works  
**Subject:** Resolution 20-R-90 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing an extension of the agreement for Management Services between the City of Schertz and the Schertz/Seguin Local Government Corporation (SSLGC) and other matters in connection therewith. (C. Kelm/S. Williams/J. Hooks)

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**BACKGROUND**

SSLGC, the City of Schertz, and the City of Seguin worked to make substantial changes to the Agreement for Management Services between SSLGC, the City of Schertz, and the City of Seguin. These changes are due to the continued transition of SSLGC to a single entity that functions more autonomously from the Corporation's owner cities (Schertz and Seguin). The revised agreement was presented and approved at the August 20, 2020, SSLGC monthly board meeting by the Board of Directors. After the initial SSLGC board approval, the City of Schertz' attorney recommended modifications to the agreement, including the agreement's structure, to address liability concerns related to protecting the City in regard to labor laws. Further, there are concerns that in the new agreement, Schertz is ceding too much employment authority to SSLGC while still retaining full liability for the General Manager and Assistant General Manager for which the City of Schertz is the employer of record for these two positions.

At the SSLGC monthly board meeting on September 17, 2020, the SSLGC Board of Directors rescinded their prior approval of the MSA presented and accepted an extension of the current Management Services Agreement with the City of Schertz through December 31, 2020. During this extension period, the SSLGC Executive Committee will work through further modifications to the management services agreements related to SSLGC.

Services provided under this MSA are subject to oversight by the SSLGC Board, SSLGC General Manager, and City Management.

Term of the agreement is October 1, 2020, through December 31, 2020, unless otherwise renewed or extended at the discretion of both parties

**GOAL**

To extend the Management Services Agreement.

**COMMUNITY BENEFIT**

In addition to helping ensure SSLGC maintains compliance with state/local law, through this MSA, Schertz is controlling costs which would impact tax rates and fees passed along to Schertz Residents, as well as maintaining our partnership with SSLGC

**SUMMARY OF RECOMMENDED ACTION**

Staff recommends council approve Resolution 20-R-90

**FISCAL IMPACT**

This agreement has no direct cost

**RECOMMENDATION**

Staff recommends council approve Resolution 20-R-90

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**Attachments**

20-R-90 Resolution

MSA Extension

2019 MSA Agreement

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**RESOLUTION NO. 20-R-90**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ,  
TEXAS AUTHORIZING AN EXTENSION OF THE AGREEMENT FOR  
MANAGEMENT SERVICES BETWEEN THE CITY OF SCHERTZ AND  
THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION,  
AND OTHER MATTERS IN CONNECTION THEREWITH**

WHEREAS, the City staff of the City of Schertz (the “City”) and the Schertz/Seguin Local Government (“SSLGC”) have determined that the SSLGC requires management services relating to managing the daily operations of the SSLGC; and

WHEREAS, the City Council has determined that it is in the best interest of the City to extend the contract with SSLGC pursuant to the Agreement for Management Services Between the City of Schertz and the Schertz/Seguin Local Government Corporation attached hereto as Exhibit A (the “Agreement”).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to extend and deliver the Agreement with SSLGC in substantially the form set forth on Exhibit A.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject

matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 22nd day of September, 2020.

CITY OF SCHERTZ, TEXAS

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Ralph Gutierrez, Mayor

ATTEST:

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Brenda Dennis, City Secretary

(CITY SEAL)

**EXHIBIT A**

**AGREEMENT FOR MANAGEMENT SERVICES BETWEEN THE CITY OF  
SCHERTZ AND THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION**

### **Extension of Agreement**

This Extension of Agreement is made to that Agreement for Management Services previously executed by and between the CITY OF SCHERTZ, TEXAS ("City") and The Schertz/Seguin Local Government Corporation ("Contractor").

It is mutually understood and agreed by and between the undersigned contracting parties to extend that previously executed agreement through December 31, 2020 unless otherwise renewed or extended at the extension of both parties.

All other requirements, terms, and conditions that are not hereby amended are to remain in full force and effect.

**EXECUTED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY:**

**CONTRACTOR:**

By: \_\_\_\_\_  
Name: Dr. Mark Browne  
Title: City Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDRESS FOR NOTICE:**

**CITY:**

**CONTRACTOR:**

City of Schertz  
  
Attn: Mark Browne, City Manager  
1400 Schertz Parkway  
Schertz, Texas 78154

SCHERTZ/SEGUIN LOCAL GOVERNMENT  
CORPORATION  
P.O. BOX 833  
SEGUIN, TX 78156

**AGREEMENT FOR MANAGEMENT SERVICES  
BETWEEN THE CITY OF SCHERTZ AND  
THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION**

**THE STATE OF TEXAS**

**KNOWN ALL BY THESE PRESENTS:**

**COUNTY OF GUADALUPE**

**THIS AGREEMENT**, executed the 15 day of August, 2019 by and between the City of Schertz, a municipal corporation, acting by and through its City Manager, situated in Guadalupe County, Texas (hereinafter referred to as "Schertz"), and the Schertz/Seguin Local Government Corporation (hereinafter referred to as "SSLGC") acting by and through its General Manager is as follows:

**WITNESSETH:**

**I.**

Schertz agrees to provide certain management, administrative, operational, and customer relations, to SSLGC according to the terms of this Agreement. The General Manager of SSLGC shall be an employee of Schertz but shall be assigned to SSLGC and shall be charged with the responsibility of carrying out SSLGC's operations and programs as adopted by the SSLGC Board. SSLGC agrees that the General Manager may be terminated as an employee only by Schertz, but as long as this Agreement remains in effect, Schertz shall consult with SSLGC prior to terminating the General Manager. Direct services Schertz shall perform for SSLGC pursuant to this Agreement shall include, but not limited to the following:

1. Assist the SSLGC General Manager in preparing a budget for the forthcoming year for review and approval by the SSLGC Board and City Councils of Schertz and Seguin.
2. Providing professional development and succession planning training to the General Manager to enable them to provide long term strategic leadership to SSLGC.
3. (Subject to Article IX of this Agreement) providing risk management services in accordance with the requirement of the SSLGC's bond resolutions, the water supply agreement with Schertz and the City of Seguin, the terms of this Agreement, and directives of the SSLGC Board.

Schertz's services under this agreement are subject to oversight and direction by the SSLGC Board. Schertz will procure SSLGC Board approval for all contracts and management decisions affecting SSLGC and governed by the terms of this Agreement. In performing its duties under this Agreement, Schertz shall act for the benefit of SSLGC and not of any individual in the SSLGC water project.

**II.**



SSLGC shall reimburse Schertz the cost for the management services provided to SSLGC by Schertz pursuant to this Agreement as described in the following paragraph. Such payments shall be paid on a quarterly basis and payable by the 25<sup>th</sup> day April, July, October and January.

To compensate Schertz for the costs it will incur to perform the services described in this Agreement, SSLGC will reimburse Schertz the actual expenditures incurred, not to exceed the SSLGC fiscal year 2019-2020 total budget. The SSLGC Board will establish the amount of reimbursement to be paid to Schertz for services under this Agreement for each subsequent fiscal year during SSLGC's budget process. Schertz will have the right at any time during a fiscal year to seek additional reimbursement if Schertz reasonably determines that the budgeted amount is inadequate to compensate Schertz for the costs it incurs on behalf of SSLGC in providing services under this agreement. Projected cash shortages resulting from unplanned costs related SSLGC operations and the services to be provided by Schertz under this Agreement will be brought to the immediate attention of the SSLGC Board.

The SSLGC Board or SSLGC General Manager will have the right during normal business hours upon three business days' prior written notice, to audit, examine, or reproduce any or all books and records of Schertz related to the performance of its duties under this Agreement.

In the event of the termination of this Agreement, SSLGC will be responsible for paying Schertz only the portion of the cost allocated to periods prior to the effective date of termination.

### III.

It is the express purpose of this Agreement to have Schertz, through the SSLGC General Manager, implement, administer, and carry out the duties required for the operations of the public water systems owned by SSLGC.

### IV.

Schertz acknowledges that the City of Seguin, the City of Schertz, and the Schertz/Seguin Local Government Corporation have entered into a Cost Allocation Agreement Relating to the Guadalupe Project.

### V.

Schertz acknowledges that the City of Seguin, the City of Schertz, and the Schertz/Seguin Local Government Corporation have entered into a Tri-Lateral Agreement Relating to Water Sales.

### VI.

Schertz acknowledges that the SSLGC General Manager is responsible for supervision and leadership of all SSLGC Staff. He/She will develop, with Board and Executive Committee approval, an organizational chart and lines of responsibility for all leadership positions to include but not be limited to an Operations Manager and Water Superintendent for the efficient and appropriate operations of the corporation. These positions and/or others not named here shall be filled or left

vacant by the General Manager as they see fit with the approval of the SSLGC Board and Executive Committee.

The General Manager will participate in the annual review process of all SSLGC Operations Personnel, be informed of any personnel actions and provide for the annual review of the Operations Manager, and Administrative Staff.

## VII.

The SSLGC Administrative Building at 108 W. Mountain Street, Seguin, Texas 78155, will be known as the location of the SSLGC Administrative Office and SSLGC meeting site.

## VIII.

Subject to early termination as provided in Article VII below, this Agreement shall be in effect for a period of one year commencing **OCTOBER 1, 2019** and ending **SEPTEMBER 30, 2020**, unless otherwise renewed or extended at the discretion of both parties.

## IX.

### TERMINATION:

1. This Agreement may be terminated by Schertz or SSLGC, in whole, or from time to time in part, upon ninety (90) day written notice from the terminating party to the other party. The effective date of termination shall be ninety (90) days after delivery of Notice of Termination specifying to what extent performance or work under the Agreement shall be terminated ninety (90) days after receipt by the notified party.
2. After receipt of a Notice of Termination Schertz shall:
  - a. Stop work on the date as specified in the Notice of Termination to extent possible.
  - b. Place no further orders or subcontracts except as may be necessary for completion of the work not terminated.
  - c. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination in so far as possible.
  - d. SSLGC shall pay expenses incurred through the date of termination.

## X.

It is expressly understood that Schertz and SSLGC each retain the right to pursue other avenues for development and operation of public water systems, when it is determined to be in the best interest of Schertz or SSLGC to do so, and this Agreement shall not limit either Schertz's right or SSLGC's right to pursue such interests.

**XI.**

It is the intent of the parties for SSLGC to acquire, after consultation with Schertz, insurance and other risk management programs to protect SSLGC, its property, and its participants.

To the extent permitted by law and to the extent SSLGC is protected by insurance or other risk management program, SSLGC shall defend, indemnify and hold harmless Schertz from and against claims, demands, actions, judgments, and liabilities asserted by any person other than SSLGC arising out of the performance by Schertz of its services on behalf of, and as agent of, SSLGC under this Agreement, except such claims, demands, actions, judgments, and liability arising out of the willful misconduct or gross negligence of Schertz.

**XII.**

This Agreement shall take effect on the 1<sup>st</sup> day of OCTOBER, 2019.

IN WITNESS WHEREOF, the parties have executed this Contract in the year and on the day indicated.

**SCHERTZ/SEGUIN LOCAL  
GOVERNMENT CORPORATION**  
P.O. Box 833  
Seguin, Texas 78156

**CITY OF SCHERTZ, TEXAS**  
1400 Schertz Parkway  
Schertz, Texas 78154

  
Amber Beard, General Manager

  
Mark Browne, City Manager

08/15/2019  
Date

3 Sep 2019  
Date

## CITY COUNCIL MEMORANDUM

**City Council Meeting:** September 22, 2020  
**Department:** Facility & Fleet  
**Subject:** Resolution No. 20-R-109 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into an agreement for the remodel of the Kitchen and Warming Area for the Schertz Civic Center in an amount not to exceed \$154,295.00 with IM General Contractors. (C. Kelm/S. Williams/T. Buckingham)

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### BACKGROUND

The Schertz Civic Center was built in 2006 as part of a CO bond from 2004. The facility cost \$3 million to build and is currently being used for rental space and office space for Public Affairs staff. Since it was built, there have not been any major upgrades to the Kitchen and Food Prep areas. The main rental facility includes two food prep areas – the Bluebonnet Hall Kitchen and the Grand Ballroom Warming Kitchen. Both rooms host events throughout the year and attract out-of-town conferences and conventions from across the state. The current kitchen can only provide limited services and it does not fit the need of the customers and facility, especially when it is booked for conferences and conventions. The upgrade to the Blue Bonnet Kitchen and the remodeling of the Grand Ballroom Warming Kitchen into a full kitchen facility will provide a more complete and greater level of service.

Public Works and Public Affairs worked with Purchasing to advertise an RFP to provide construction services for the upgrade of the Blue Bonnet Kitchen and the expansion of the Grand Ballroom Warming Kitchen. The Blue Bonnet Kitchen will have new commercial grade flooring, additional counter space, more efficient workflow, among other items. The Warming Kitchen will be expanded and turned into a full commercial kitchen with a range, hood, and several upgrades.

This action supports Public Affairs' mission to promote Schertz, provide a quality and fully functioning Civic Center to the City of Schertz, attract out of town guests, and is part of the expanded projects plan for FY 2019-2020.

IM General Contractors was the highest ranked proposer with a cost of \$125,254.00 for the base project and \$140,295.00 including the proposed options.

Under Section 351.101 (a)(1) Use of Tax Revenue in Texas Local Government Code, this project is qualified to use the City's HOT fund and is budgeted in the FY 19-20 budget. Once approved, the estimated timeline for the project is about 150 days, based on Civic Center room availability. Civic Center staff will work with IM General Contractors to schedule time on the room calendar of the facilities. Additionally, gas service utility work may be needed to complete the project, but staff does not anticipate high costs for this and will work with Gas Service Utility Co. separate from this scope of work to procure the service needed .

Staff is recommending awarding IM General Contractors the Base Project and all Four Options for a total project cost of \$140,295.00. Given the age of the facility and the unknown of what may be discovered during the complete upgrade, staff is adding a City controlled contingency of \$14,000 (or 10%) for a total not to exceed amount of \$154,295.00

### GOAL

To obtain authorization from City Council to enter into a contractual agreement with IM General Contractors for the remodel and expansion of the Civic Center Kitchen Facilities.

### COMMUNITY BENEFIT

Upgrading the facility and expanding its capabilities will benefit the customers of the Civic Center internally and externally and help to attract guests, increase hotel occupancies and additional rental opportunities

## **SUMMARY OF RECOMMENDED ACTION**

Staff recommends the approval of Resolution 20-R-109.

## **FISCAL IMPACT**

Approximately \$92,000 has been budgeted in the FY 19-20 budget from the Civic Center Kitchen Fees. The remaining ~\$62,000 will be funded using funds from the City's Hotel Occupancy Tax fund account.

## **RECOMMENDATION**

Staff Recommends approval of Resolution 20-R-109

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### **Attachments**

RESOLUTION 20-R-109

AGREEMENT

Evaluation Matrix

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**RESOLUTION NO. 20-R-109**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE REMODEL OF THE KITCHEN AND WARMING AREA FOR THE SCHERTZ CIVIC CENTER IN AN AMOUNT NOT TO EXCEED \$154,295.00 WITH IM GENERAL CONTRACTORS**

WHEREAS, the Schertz Civic Center was built in 2006 as a part of a CO bond from 2004 and is currently being used for rental space and office space for City staff; and

WHEREAS, the rental space includes two rooms with kitchen and/or warming areas which are the Bluebonnet Hall and the Grand Ballroom; and

WHEREAS, both rooms host events throughout the year and attract out-of-town conferences and conventions from across the state; and

WHEREAS, since the facility was built, there has not been any major upgrades to the Kitchen or Warming Areas and as such, a need has been identified to do so in an effort to provide enhanced functionality for conferences and conventions; and

WHEREAS, City staff has recommended IM General Contractors for the completion of the project based on a Request for Proposals ("RFP"); and

WHEREAS, funding for this project will come from the City's Hotel Occupancy Tax ("HOT") fund; and

WHEREAS, in Section 351.101 (a)(1) Use of Tax Revenue in Texas Local Government Code states that revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following: the acquisition of site for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities; and

WHEREAS, the City Council has determined that it is in the best interest of the City to contract with IM General Contractors for the repairs and upgrades for the Schertz Civic Center as an eligible expenditure of HOT funds that will directly enhance and promote tourism and the convention and hotel industry, pursuant to the recommendation made by City staff.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:**

Section 1. The City Council hereby authorizes purchases with IM General Contractors in the amount of One hundred forty thousand two hundred ninety-five dollars and no cents (\$140,295.00) plus a City controlled contingency in the amount of Fourteen Thousand Dollars and no cents (\$14,000.00) for a total not-to-exceed the amount of **ONE HUNDRED FIFTY-FOUR THOUSAND TWO HUNDRED NINETY-FIVE DOLLARS AND NO**

**CENTS (\$154,295.00)** during the FY 2019-2020 in substantially the form set forth on Attachment A.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 22nd day of September, 2020.

CITY OF SCHERTZ, TEXAS

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Mayor, Ralph Gutierrez

ATTEST:

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Brenda Dennis, City Secretary

(CITY SEAL)

## **ATTACHMENT A**



# CITY OF SCHERTZ

# SERVICE AGREEMENT

**THE STATE OF TEXAS       §**  
**GUADALUPE COUNTY       §**

This Service Agreement (“Agreement”) is made and entered by and between the City of Schertz, Texas, (the “City”) a Texas municipality, and IM General Contractors, LLC (“Contractor”).

**Section 1. Duration**

This Agreement shall become effective upon the date of the final signature affixed hereto and shall remain in effect until satisfactory completion of the Scope of Work unless terminated as provided for in this Agreement.

## **Section 2. Scope of Work**

- (A) Contractor shall perform the Work as more particularly described in the Scope of Work attached hereto as Exhibit “A”. The work as described in the Scope of Work constitutes the “Project”.
- (B) The Quality of Work provided under this Agreement shall be of the level of quality performed by Contractors regularly rendering this type of service.
- (C) The Contractor shall perform its Work for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.
- (D) The Contractor may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent Contractor or when it has actual notice of any defects in the reports and surveys.

### **Section 3. Compensation**

- (A) The Contractor shall be paid in the manner set forth in Exhibit “A” and as provided herein.
- (B) *Billing Period.* The Contractor may submit an invoice for payment upon completion of the described tasks. Subject to Chapter 2251, Texas Government Code (the “Prompt Payment Act”), payment is due within thirty (30) days of the City’s receipt of the Contractor’s invoice. Interest on overdue payments shall be calculated in accordance with the Prompt Payment Act.
- (C) *Reimbursable Expenses.* Any and all reimbursable expenses related to the Project shall be included in the scope of Work (Exhibit A) and accounted for in the total contract amount.

#### **Section 4. Time of Completion**

The prompt completion of the Work under the Scope of Work relates is critical to the City. Unnecessary delays in providing Work under a Scope of Work shall be grounds for dismissal of the Contractor and termination of this Agreement without any or further liability to the City other than a prorated payment for necessary, timely, and conforming work done by Contractor prior to the time of termination.

#### **Section 5. Insurance**

Before commencing work under this Agreement, Contractor shall obtain and maintain the liability insurance provided for below throughout the term of the Project plus an additional two years. Contractor shall provide evidence of such insurance to the City. Such documentation shall meet the requirements noted in Exhibit B.

Contractor shall maintain the following limits and types of insurance:

Workers Compensation Insurance: Contractor shall carry and maintain during the term of this Agreement, workers compensation and employers liability insurance meeting the requirements of the State of Texas on all the Contractor's employees carrying out the work involved in this contract.

General Liability Insurance: Contractor shall carry and maintain during the term of this Agreement, general liability insurance on a per occurrence basis with limits of liability not less than \$1,000,000 for each occurrence and for fire damage. For Bodily Injury and Property Damage, coverage shall be no less than \$1,000,000. As a minimum, coverage for Premises, Operations, Products and Completed Operations shall be \$2,000,000. This coverage shall protect the public or any person from injury or property damages sustained by reason of the Contractor or its employees carrying out the work involved in this Agreement. The general aggregate shall be no less than \$2,000,000.

Automobile Liability Insurance: Contractor shall carry and maintain during the term of this Agreement, automobile liability insurance with either a combined limit of at least \$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage shall include all owned, hired, and non-owned motor vehicles used in the performance of this contract by the Contractor or its employees.

Subcontractor: In the case of any work sublet, the Contractor shall require subcontractor and independent contractors working under the direction of either the Contractor or a subcontractor to carry and maintain the same workers compensation and liability insurance required of the Contractor.

Qualifying Insurance: The insurance required by this Agreement shall be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B+" or better by the A.M. Best Companies. All policies shall be written on a "per occurrence basis" and not a "claims made" form.

Evidence of such insurance shall be attached as Exhibit "C".

Failure of Certificate Holder to demand a certificate or other evidence of full compliance with these

insurance requirements or failure of Certificate Holder to identify a deficiency from evidence that is provided will not be construed as a waiver of Insured's obligation to maintain such insurance.

**Section 6. Miscellaneous Provisions**

- (A) *Subletting.* The Contractor shall not sublet or transfer any portion of the work under this Agreement or any Scope of Work issued pursuant to this Agreement unless specifically approved in writing by the City, which approval shall not be unreasonably withheld. Subcontractors shall comply with all provisions of this Agreement and the applicable Scope of Work. The approval or acquiescence of the City in the subletting of any work shall not relieve the Contractor of any responsibility for work done by such subcontractor.
- (B) *Compliance with Laws.* The Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts, administrative, or regulatory bodies in any matter affecting the performance of this Agreement, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish the City with satisfactory proof of compliance.
- (C) *Independent Contractor.* Contractor acknowledges that Contractor is an independent contractor of the City and is not an employee, agent, official or representative of the City. Contractor shall not represent, either expressly or through implication, that Contractor is an employee, agent, official or representative of the City. Income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Contractor.
- (D) *Non-Collusion.* Contractor represents and warrants that Contractor has not given, made, promised or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the City under this Agreement. Contractor further agrees that Contractor shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the City pursuant to this Agreement) for any of the Work performed by Contractor under or related to this Agreement. If any such gift, bonus, commission, money, or other consideration is received by or offered to Contractor, Contractor shall immediately report that fact to the City and, at the sole option of the City, the City may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to Contractor under or pursuant to this Agreement.
- (E) *Force Majeure.* If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the

other party of the occurrence of a force majeure event causing such delay and the other party shall not otherwise be aware of such force majeure event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.

(F) *Conflict of Terms.*

*Scope of work:*

In the case of any conflicts between the terms of this Agreement within the Scope of Work, this Agreement shall govern. The Scope of Work is intended to detail the technical scope of Work, fee schedule, and contract time only and shall not dictate Agreement terms.

*Other Agreements between parties:*

In the case of any conflicts between the terms of this Agreement and wording contained within any other attachment, amendment, and agreement executed between the parties in conjunction with this Agreement, this Agreement shall govern.

- (G) *Non-Boycott of Israel.* Pursuant to Section 2270.002 of the Texas Government Code, Contractor certifies that either (i) it meets an exemption criterion under Section 2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Contractor shall state any facts that make it exempt from the boycott certification as an attachment to this agreement.

Relevant definitions from the bill:

"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

**Section 7. Termination**

(A) This Agreement may be terminated:

- (1) By the mutual agreement and consent of both Contractor and City;
- (2) By either party, upon the failure of the other party to fulfill its obligations as set forth in either this Agreement or a Scope of Work issued under this Agreement;
- (3) By the City, immediately upon notice in writing to the Contractor, as consequence of the failure of Contractor to perform the Work contemplated by this Agreement in a timely or satisfactory manner;
- (4) By the City, at will and without cause upon not less than five (5) days written notice

to the Contractor.

- (B) If the City terminates this Agreement pursuant to subsection 7(A)(2) or (3), above, the Contractor shall not be entitled to any fees or reimbursable expenses other than the fees and reimbursable expenses then due and payable as of the time of termination and only then for those Work that have been timely and adequately performed by the Contractor considering the actual costs incurred by the Contractor in performing work to date of termination, the value of the work that is nonetheless usable to the City, the cost to the City of employing another Contractor to complete the work required and the time required to do so, and other factors that affect the value to the City of the work performed at time of termination. In the event of termination not the fault of the Contractor, the Contractor shall be compensated for all basic, special, and additional Work actually performed prior to termination, together with any reimbursable expenses then due.

**Section 8. Indemnification**

CONTRACTOR AGREES TO INDEMNIFY AND HOLD THE CITY OF SCHERTZ, TEXAS AND ALL OF ITS PRESENT, FUTURE AND FORMER AGENTS, EMPLOYEES, OFFICIALS AND REPRESENTATIVES HARMLESS IN THEIR OFFICIAL, INDIVIDUAL AND REPRESENTATIVE CAPACITIES FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, JUDGMENTS, LIENS AND EXPENSES (INCLUDING ATTORNEY'S FEES, WHETHER CONTRACTUAL OR STATUTORY), COSTS AND DAMAGES (WHETHER COMMON LAW OR STATUTORY), COSTS AND DAMAGES (WHETHER COMMON LAW OR STATUTORY, AND WHETHER ACTUAL, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL), OF ANY CONCEIVABLE CHARACTER, FOR INJURIES TO PERSONS (INCLUDING DEATH) OR TO PROPERTY (BOTH REAL AND PERSONAL) CREATED BY, ARISING FROM OR IN ANY MANNER RELATING TO THE WORK OR GOODS PERFORMED OR PROVIDED BY CONTRACTOR – EXPRESSLY INCLUDING THOSE ARISING THROUGH STRICT LIABILITY OR UNDER THE CONSTITUTIONS OF THE UNITED STATES.

**Section 9. Notices**

Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

**Section 10. No Assignment**

Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

**Section 11. Severability**

If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

**Section 12. Waiver**

Either City or the Contractor shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

**Section 13. Governing Law; Venue**

This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Guadalupe County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Guadalupe County, Texas.

**Section 14. Paragraph Headings; Construction**

The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

**Section 15. Binding Effect**

Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

**Section 16. Gender**

Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

**Section 17. Counterparts**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Section 18. Exhibits & Attachments**

All exhibits and attachments to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**Section 19. Entire Agreement**

It is understood and agreed that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

**Section 20. Relationship of Parties**

Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

**Section 21. Right To Audit**

City shall have the right to examine and audit the books and records of Contractor with regards to the work described in Exhibit A, or any subsequent changes, at any reasonable time. Such books and records will be maintained in accordance with generally accepted principles of accounting and will be adequate to enable determination of: (1) the substantiation and accuracy of any payments required to be made under this Agreement; and (2) compliance with the provisions of this Agreement.

**Section 22. Dispute Resolution**

In accordance with the provisions of Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute. (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute. (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

**Section 23. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire**

Contractor represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

**Certificate of Interested Parties**

Effective January 1, 2016, pursuant to House Bill 1295 passed by the 84th Texas Legislature (Section 2252.908, Texas Government Code, as amended) and formal rules released by the Texas Ethics Commission (TEC), all contracts with private business entities requiring approval by the Schertz City Council will require the on-line completion of Form 1295 "Certificate of Interested Parties." Form 1295 is also required for any and all contract amendments, extensions or renewals.

Contractors are required to complete and file electronically with the Texas Ethics Commission using the online filing application.

Please visit the State of Texas Ethics Commission website, [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm) and <https://www.ethics.state.tx.us/tec/1295-Info.htm> for more information.

IF YOU HAVE ANY QUESTIONS ABOUT COMPLIANCE, PLEASE CONSULT YOUR OWN LEGAL COUNSEL. COMPLIANCE IS THE INDIVIDUAL RESPONSIBILITY OF EACH PERSON OR AGENT OF A PERSON WHO IS SUBJECT TO THE FILING REQUIREMENT. AN OFFENSE UNDER CHAPTER 176 IS A CLASS C MISDEMEANOR.

*[The remainder of this page is intentionally left blank.]*



**EXECUTED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY:**

**CONTRACTOR:**

By: \_\_\_\_\_  
Name: Dr. Mark Browne  
Title: City Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDRESS FOR NOTICE:**

**CITY:**

**CONTRACTOR:**

City of Schertz  
Attn: Dr. Mark Brown, City Manager  
1400 Schertz Parkway  
Schertz, Texas 78154

IM General Contractors, LLC  
7681 Trainer Hale Rd  
Schertz, Texas 78154  
Attn: Michael Hunter

# Exhibit “A”

## SCOPE OF WORK

### Scope of Work

The Contractor shall provide all equipment, materials, and staff necessary to perform the scope of services further described below.

#### 1. Blue Bonnet Hall Kitchen and Utility Area

The Blue Bonnet Hall is currently outfitted with a full kitchen and adjacent utility area that is used for drink service, see attached plans. City intends to upgrade kitchen flooring and serviceability. Modifications to Blue Bonnet Hall Kitchen will include but not be limited to:

- 1.1 Replace flooring with commercial kitchen grade flooring in kitchen area and utility area
- 1.2 Demo existing mop sink in utility area and install finish floor and wall covering over area.
- 1.3 Demo wood table in utility area
- 1.4 Supply and Install five foot by two foot (5'x2') stainless steel table for drink prep area beside ice machine in utility area
- 1.5 Supply and Install seven foot by one foot (7'x1') stainless steel countertop at pass-thru window at kitchen area
- 1.6 Relocate Microwave and shelf to adjacent wall with new electric
- 1.7 Supply and Install Center Value Series UC 18-3 dishwasher (or equivalent) under drain board of kitchen dish sink. Replacing existing.
- 1.8 Maintain all existing equipment, see attached plan in Appendix Two “Pictures and Plans”

#### 2 Grand Ballroom Warming Kitchen

The Grand Ballroom Warming Kitchen is currently outfitted as a limited service kitchen, see attached plans. City intends to upgrade the warming

kitchen into a full-service kitchen. This will require incorporating the adjacent room, office 2, into the current space. Modifications to Grand Ballroom Warming Kitchen will include but not be limited to:

- 2.1 Remove ten (10) linear feet of wall from floor to above ceiling grid, to tie the two room together
  - 2.1.1 Patch ceiling grid
- 2.2 Replace ceiling tile and light fixtures with food grade equivalent
- 2.3 Replace flooring with commercial kitchen grade flooring
- 2.4 Install Fiberglass Resin Panels on all walls
- 2.5 Supply and Install Manitowoc IDT0450A ice machine with D-400 bin (or equivalent)
- 2.6 Supply and install Artic Air AF23 freezer (or equivalent)
- 2.7 Supply and Install New Imperial Range with Oven, IR-6-E wired to take 208v 3ph, range size is 36"x36"x32" (or equivalent)
- 2.8 Supply and install commercial grade range hood with vent. The hood is to vent out back wall
- 2.9 Supply and install new commercial dishwasher, Center Value Series UC 18-3 (or equivalent)
- 2.10 Relocate microwave and shelf to new location with electric (Note: Existing electric can be relocated)
- 2.11 Maintain all existing equipment, see attached plan in Appendix Two "Pictures and Plans"

### 3 General Requirements

The following requirements apply to both areas:

- 3.1 City will provide a dumpster for all trash
- 3.2 Contractor shall clean up daily
- 3.3 City will cover all permit fees

- 3.4 Contractor will be cognizant of Civic Center Guests throughout the construction process. Contractor will not be required to vacate premises but will need to manage their presence to ensure limited disruptions to guests.
- 3.5 City shall maintain ownership of all equipment to include tables, shelves, and appliances. Contractor will coordinate relocation of unused equipment with City Staff.

**4 Options,** Options to be awarded at owner discretion but pricing should be included in contractor proposal

Option 1- Supply and install gas range in lieu of the electric range in the Grand Ballroom Warming Kitchen. The gas service is on the other side of the building and is 221 linear feet away. There is connecting ceiling space to run the gas line thru and would involve running the gas service to and switching out the proposed electric range with a gas range

Option 2- Replace approx. 700 sf of VCT with Vinyl Plank Flooring in the Blue Bonnet Room, match existing, including affected VCB.

Option 3 – Replace approx. 500sf of VCT with Vinyl Plank Flooring in back service area at Blue Bonnet Room, including affected VCB.

Option 4 – Replace existing flooring in Break room in Grand Ballroom area with Vinyl Plank Flooring, approx. 150SF.

**5 Professional Review and Approval**

Contractor will have the final plans and specifications reviewed, approved, stamped and sealed by a professional architect and/or engineer per state law. A copy of the stamped and sealed plans must be provided to the City for review prior to work beginning.

## **Pricing for Services**

Proposer shall include in Proposal a pricing list of all equipment and accessories offered for both a three (3) year lease term and a five (5) year lease term. Do NOT use "To Be Determined" or similar annotations for cost estimates

1.1	Blue Bonnet Hall Kitchen and Utility Area	\$14,579.00
1.2	Grand Ballroom Warming Kitchen	\$34,812.00
1.3	Project Costs	\$75,863.00

TOTAL BASE PROJECT COST	\$125,254.00
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Option 1	\$ -2,964.00
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Option 2	\$9,100.00
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Option 3	\$6,500.00
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Option 4	\$2,405.00
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TOTAL PROJECT COST W/ OPTIONS	\$140,295.00
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## **6.2 Project Schedule**

Proposer shall include in Proposal a project timeline for each aspect of the project.

Total Time Needed to Complete Project; 120 Days

# Exhibit “B”

## REQUIREMENTS FOR ALL INSURANCE DOCUMENTS

The Contractor shall comply with each and every condition contained herein. The Contractor shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the City. Any Subcontractor(s) hired by the Contractor shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City of Schertz accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

### INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Contractor shall specifically endorse applicable insurance policies as follows:

1. The City of Schertz shall be named as an additional insured with respect to General Liability and Automobile Liability on a separate endorsement.
2. A waiver of subrogation in favor of The City of Schertz shall be contained in the Workers Compensation and all liability policies and must be provided on a separate endorsement.
3. All insurance policies shall be endorsed to the effect that The City of Schertz will receive at least thirty (30) days written notice prior to cancellation or non-renewal of the insurance.
4. All insurance policies, which name The City of Schertz as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
5. **Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.**
6. All insurance policies shall be endorsed to require the insurer to immediately notify The City of Schertz of any material change in the insurance coverage.
7. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
8. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
9. Contractor may maintain reasonable and customary deductibles, subject to approval by The City of Schertz.
10. Insurance must be purchased from insurers having a minimum AmBest rating of B+.
11. All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2010/05). Coverage must be written on an occurrence form.
12. Contractual Liability must be maintained covering the Contractors obligations contained in the contract. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.
13. Upon request, Contractor shall furnish The City of Schertz with certified copies of all insurance policies.
14. A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Schertz within ten (10) business days after contract award and prior to starting any work by the successful Contractor's insurance agent of record or insurance company. Also, prior to the start of any work and at the same time that the Certificate of Insurance is issued and sent to the City of Schertz, all required endorsements identified in sections A, B, C and D, above shall be sent to the City of Schertz. The certificate of insurance and endorsements shall be sent to:

City of Schertz  
Purchasing Department  
1400 Schertz Parkway  
Schertz, TX 78154

emailed to: [purchasing@schertz.com](mailto:purchasing@schertz.com)  
Faxed to: 210-619-1169



# CERTIFICATE OF LIABILITY INSURANCE

A

DATE (MM/DD/YYYY)  
01/01/1000

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER ABC Insurance Agency 655 Main Street Tampa, FL 33333-0000	CONTACT NAME: PHONE (Add No. Ext): FAX Address: INSURER(S) AFFORDING COVERAGE INSURER A: Insurance Carrier INSURER B: Insurance Carrier INSURER C: Insurance Carrier INSURER D: Insurance Carrier INSURER E: Insurance Carrier INSURER F: Insurance Carrier	HAIG # 00000 00000 00000 00000 00000 00000
INSURED  XYZ Company 123 Apple Street Tampa, FL 22222-0000		

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:  
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	ADDITIONAL INSURED	POLICY NUMBER	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS
GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y Y	X123456	01/01/1000	01/01/1000	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMMOP AGG \$ 1,000,000
GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC					
AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS HIRE AUTOS	Y Y	123456789	01/01/1000	01/01/1000	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
UMBRELLA LIAB EXCESS LIAB	Y Y				EACH OCCURRENCE \$ AGGREGATE \$
DED RETENTION					
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICEMEMBER EXCLUDED? (Mandatory in Ill) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	01234	01/01/1000	01/01/1000	<input checked="" type="checkbox"/> NO STATUTORY LIMITS E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
Builder's Risk Professional Services	Y Y	123456	01/01/1000	01/01/1000	100% Insurable Value, replacement cost basis \$1,000,000 each claim / \$1,000,000 aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Effective January 1, 2012 must be compliant with Chapter 1811, Tex. Ins. Code (SB 426 enacted by Texas Legislature 82(7) session in 2011).

CERTIFICATE HOLDER  City of Schertz 1400 Schertz Parkway Schertz, Tx 78154 Attn: Purchasing Dept.	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE AUTHORIZED SIGNATURE REQUIRED HERE
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***(Instructions for completing and submitting a certificate to the City of Schertz)***

Complete the certificate of insurance with the information listed below:

- A) Certificate of Insurance date
- B) Producer (Insurance Agency) Information – complete name, address, telephone information, & email address.
- C) Insured's (Insurance Policy Holder) Information – complete name & address information
- D) Insurer (name/names of insurance company) **\*\***(Remember the city requires all insurance companies to be Authorized to do business in the State of Texas be rated by A.M. Best with a rating of B+ (or better) Class VI (or higher) or otherwise be acceptable to the City if not rated by A.M. Best)
- E) NAIC # (National Association of Insurance Commissioners, a # that is assigned by the State to all insurance companies)
- F) Insurer letter represents which insurance company provides which type of coverage from D
- G) General Liability Insurance Policy – must have an (x) in box. Also, "Occurrence" type policy – must have an (x) in the box (occurrence policy preferred but claims made policy can be accepted with special approval)
- H) This section shall be filled in with "Y" for yes under Additional Insured for all coverages, except for Contractor Liability and Workers' Compensation. There shall also be a "Y" for yes under all coverages for subrogation waived.
- I) Automobile Liability Insurance – must be checked for Any Auto, All Owned Autos, Hired Autos
- J) Umbrella Coverage – must be checked in this section and by occurrence whenever it is required by written contract and in accordance with the contract value.
- K) Worker's Compensation and Employers Liability Insurance – information must be completed in this section of the certificate of insurance form (if applicable).
- L) Builder's Risk Policy – for construction projects as designated by the City of Schertz.  
Professional Liability Coverage – for professional services if required by the City of Schertz.
- M) Insurance Policy #'s
- N) Insurance policy effective dates (always check for current dates)
- O) Insurance Policy limits (See Insurance Requirements Checklist)
- P) This section is to list projects, dates of projects, or location of project. Endorsements to the insurance policy(ies) must be provided separately and not in this section. The following endorsements are required by the City of Schertz.
  - (1) Adding the City of Schertz as an additional insured. The "additional insured" endorsement is not required for professional liability and workers compensation insurance; and
  - (2) Waiver of Subrogation
  - (3) Primary and Non-Contributory
  - (4) Cancellation Notice
- Q) City of Schertz's name and address information must be listed in this section
- R) Notice of cancellation, non-renewal, or material change to the insurance policy(ies) must be provided to the City of Schertz in accordance with a cancellation notice endorsement to the policy and/or per the policy provisions based on the endorsement adding the city as an additional insured. (Sec. 1811.155, Tex. Ins. Code)
- S) The certificate must be signed by the Authorized Agent in this section of the certificate form.



## **Exhibit “C”**

### **EVIDENCE OF INSURANCE**

BID/RFP# 2020-012  
 Project Name: CIVIC CENTER KITCHEN REMODEL

EVALUATION SUMMARY

Date: 9/15/2020

**INSTRUCTIONS:** Enter a number 0 through 4 for each category for each proposer. You may use 0.25 increments if necessary.

0 = Not Compliant, 1 = Poor, 2 = Fair, 3 = Good, 4 = Excellent

**You may NOT enter a number higher than 4.0. An explanation is required for a score of 0**

Criteria	Points	IM General Contractors	Spaw Glass General Contractors	Texas Plumbing Solutions
Financial Consideration (Cost Proposal)	40	\$125,254.00	\$115,127.19	\$198,000.00
		<b>36.77</b>	<b>40.00</b>	<b>23.26</b>
Proposer's Qualifications, Abilities and References	30	3.00	2.33	2.00
		<b>22.50</b>	<b>17.50</b>	<b>15.00</b>
Quality of Proposed Services	25	3.00	2.33	1.00
		<b>18.75</b>	<b>14.58</b>	<b>6.25</b>
Responsive Of Proposal	5	3.33	2.33	1.67
		<b>4.17</b>	<b>2.92</b>	<b>2.08</b>
<b>Average Total %</b>	<b>100</b>	82.18	75.00	46.59
<b>Rank</b>		<b>1.00</b>	<b>2.00</b>	<b>3.00</b>

(Lowest Price / Evaluated Price) \* Pts for Section

VENDOR	BB Hall	Grand Ballroom	Grand Total
IM General Contractors	\$14,579.00	\$34,812.00	\$125,254.00
Spaw Glass	\$27,615.00	\$57,512.19	\$85,127.19
Texas Plumbing Solutions	\$89,000.00	\$109,000.00	\$198,000.00

\*\*Excludes Kitchen Hood and Vent (Estimated cost \$30,000) Grand Total \$115,127.19

## CITY COUNCIL MEMORANDUM

**City Council Meeting:** September 22, 2020

**Department:** Facility & Fleet

**Subject:** Resolution No. 20-R-110 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing the City Manager to issue a purchase order(s) for the purchase of various vehicles as part of the 2020-2021 vehicle replacement program. (C. Kelm/S. Williams/C. Hernandez)

**BACKGROUND**

Within each fiscal budget year the Fleet Department requests to purchase vehicles to add to or replace aging vehicles to maintain a good working fleet of City owned vehicles for the 2020/2021 budget year. Below are the emergency vehicles and light duty vehicles to be purchased in FY 20-21.

DEPARTMENT	NUMBER	VEHICLE TYPE	EQUIPMENT TYPE	MAKE/MODEL	SUB-MODEL
POLICE	5	SUV		FORD/EXPLORER	POLICE INTERCEPTOR
POLICE	1	PICKUP TRUCK		FORD/F250	EXT. CAB
MOTOR POOL	1	SUV		FORD/ESCAPE	S
EMS	1	AMBULANCE		FORD/VAN	E-450/CHASSIS-CAB
EMS	1	AMBULANCE		FORD	
EMS	1	SUV or PU		FORD EXPL/F150	
UTILITY BILLING	1	PICKUP TRUCK		FORD/F150	REGULAR CAB
FIRE/RESCUE	1	PICKUP TRUCK		FORD/F150	XLT SUPER CREW
<del>DRAINAGE</del>	-	-	<del>SHREDDER</del>	<del>JOHN DEERE</del>	
FACILITIES	1	PICKUP TRUCK		FORD/F150	SUPER CREW
IT	1	SUV		FORD/ESCAPE	S
<del>DRAINAGE</del>	-	-	<del>LOADER</del>	<del>JOHN DEERE</del>	

These vehicles will be purchased from various vendors via group purchasing cooperatives and or sole source vendors.

**GOAL**

To authorize the City Manager to execute the purchase orders for the purchase of the vehicles listed above.

**COMMUNITY BENEFIT**

Having an operational Fleet will provide all departments with the necessary vehicles to perform their assigned duties within the City of Schertz.

**SUMMARY OF RECOMMENDED ACTION**

Approval of this resolution will allow the purchase of the vehicles listed above.

**FISCAL IMPACT**

The purchase of the vehicle equipment will be funded through the city's general fund and emergency medical services funds. The fiscal impact of this project will be approximately \$830,000 from various budgets with a contingency of 25% added for a total not to exceed \$1,037,500.00. These funds were approved in the FY 2020-2021 budget.

**RECOMMENDATION**

Staff recommends approval of Resolution No. 20-R-110

**Attachments**

Resolution 20-R-110  
VEHICLE LIST W/COST ESTIMATES  
QUOTES

**RESOLUTION NO. 20-R-110**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING EXPENDITURES IN AN AMOUNT NOT TO EXCEED \$1,037,500.00 FOR THE FY20-21 VEHICLE REPLACEMENT PROGRAM**

WHEREAS, Schertz Fleet Department has a need to purchase multiple vehicles as part of the Vehicle Replacement Program; and

WHEREAS, City Staff has done due diligence in researching what vehicle best fits the needs of the department, to obtain the best pricing and to provide the best quality of vehicles; and

WHEREAS, the City of Schertz has chosen various Group Purchasing Cooperative Vendors, for the purchase the vehicles; and

WHEREAS, purchases under the cooperative programs meet the requirements under Subchapter C, Chapter 791.025 of the Texas Government Code, which states that a local government that purchases goods and services under this section satisfies the requirement of the local government to seek competitive bids for the purchase of the goods and services; and

WHEREAS, the City Council has determined that it is in the best interest of the City to authorize the City Manager to issue Purchase Orders to the awarded vendors.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes expenditures in a not to exceed amount of ONE MILLION THIRTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$1,037,500.00) for the vehicle replacement program.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of

such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 22nd day of September, 2020

CITY OF SCHERTZ, TEXAS

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Ralph Gutierrez, Mayor

ATTEST:

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Brenda Dennis, City Secretary

(CITY SEAL)

EXHIBIT A

SUPPORTING DOCUMENTATION

## VEHICLES / EQUIPMENT REPLACEMENT FY 2020-2021

DEPARTMENT	NUMBER	VEHICLE TYPE	EQUIPMENT TYPE	MAKE/MODEL	SUB-MODEL	SPECIFICATIONS	ESTIMATED COST PER UNIT	EXTENDED COST
POLICE	5	SUV		FORD/EXPLORER	POLICE INTERCEPTOR	SEE QUOTE(S)	33,754.67	\$ 168,773.35
POLICE	1	PICKUP TRUCK		FORD/F250	EXT. CAB	SEE QUOTE(S)	28,624.50	\$ 28,624.50
MOTOR POOL	1	SUV		FORD/ESCAPE	S	SEE QUOTE(S)	22,143.25	\$ 22,143.25
EMS	1	AMBULANCE		FORD/VAN	E-450/CHASSIS-CAB	SEE QUOTE(S)	150,000	\$ 150,000.00
EMS	1	AMBULANCE	REMOUNT	FORD			300,000	\$ 300,000.00
EMS	1	SUV or PU		FORD EXPL/F150			35000	\$ 35,000.00
UTILITY BILLING	1	PICKUP TRUCK		FORD/F150	REGULAR CAB		28,096.00	\$ 28,096.00
FIRE/RESCUE	1	PICKUP TRUCK		FORD/F150	XLT SUPER CREW		35,695.65	\$ 35,695.65
FACILITIES	1	PICKUP TRUCK		FORD/F150	SUPER CREW	SEE QUOTE(S)	35,010.00	\$ 35,010.00
IT	1	SUV		FORD/ESCAPE	S	SEE QUOTE(S)	22,143.25	\$ 22,143.25
								\$ 825,486.00
						CONTINGENCY	25%	\$ 206,371.50
							GRAND TOTAL	\$ 1,031,857.50



## PRODUCT PRICING SUMMARY

GOODBUY 20 8F000 VEHICLES

VENDOR--Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: CITY OF SCHERTZ (MP0103)

Prepared by: GLEN ANGELLE

Contact: JERRY MCFARLAND

Phone: 409-880-9191

Email:

Email: [gangelie.cowboyfleet@gmail.com](mailto:gangelie.cowboyfleet@gmail.com)

Product Description: 2021 F-150 CREW CAB

Date: September 15, 2020

A. Bid Item: \_\_\_\_\_ A. Base Price: \$ 24,115.00

### B. Factory Options

Code	Options	Bid Price	Code	Options	Bid Price
	4X4 UPGRADE	\$ 2,995.00		EXT. RED	
	XLT UPGRADE	\$ 2,847.00			
	5.0L V8	\$ 1,995.00			
	TRAILER TOW	\$ 1,090.00			
	LONG BED				
	40/20/40 VINYL SEATS				
	REAR CAMERA				
	AM/FM/RADIO				
	AIR				
	POWER LOCKS/WINDOWS				

Total of B. Published Options: \$ 8,927.00

Published Option Discount (5%) \$ (296.60)

### C. Additional Options [not to exceed 25%] \$= 6.9 %

Options	Bid Price	Options	Bid Price
SPRAY IN BED LINER	\$ 400.00	2021 UPGRADE	\$ 1,895.00

Total of C. Unpublished Options: \$ 2,295.00

D. Floor Plan Interest (for in-stock and/or equipped vehicles): \$ -

E. Lot Insurance (for in-stock and/or equipped vehicles): \$ -

F. Contract Price Adjustment: 2 YR. REG. AND INSPECTION \$ 160.00

G. Additional Delivery Charge: 283 miles \$ 495.25

H. Subtotal: \$ 35,695.65

I. Quantity Ordered 1 x K = \$ 35,695.65

J. Trade in: \$ -

K. GOODBUY Administrative Fee (\$300 per purchase order) \$ 300.00

L. TOTAL PURCHASE PRICE INCLUDING GOODBUY FEE \$ 35,995.65





## PRODUCT PRICING SUMMARY

GOODBUY 20 8F000 VEHICLES

VENDOR--Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: CITY OF SCHERTZ (MP0103)

Prepared by: GLEN ANGELLE

Contact: JERRY MCFARLAND

Phone: 409-880-9191

Email:

Email: [gangelles.cowboyfleet@gmail.com](mailto:gangelles.cowboyfleet@gmail.com)

Product Description: 2021 F-150 CREW CAB

Date: September 15, 2020

A. Bid Item: \_\_\_\_\_ A. Base Price: \$ 24,115.00

### B. Factory Options

Code	Options	Bid Price	Code	Options	Bid Price
	4X4 UPGRADE	\$ 2,995.00		EXT. WHITE	
	101A PACKAGE	\$ 920.00			
	5.0L V8	\$ 1,995.00			
	TRAILER TOW	\$ 1,090.00			
	SHORT BED				
	40/20/40 VINYL SEATS				
	REAR CAMERA				
	AM/FM/RADIO				
	AIR				
	POWER LOCKS/WINDOWS				

Total of B. Published Options: \$ 7,000.00

Published Option Discount (5%) \$ (200.25)

### C. Additional Options [not to exceed 25%] \$= 11.1 %

Options	Bid Price	Options	Bid Price
4 CORNER LEDS/ SWITCH	\$ 695.00	2021 UPGRADE	\$ 1,895.00
BETTER BUILT TOOLBOX	\$ 450.00		
SPRAY IN BED LINER	\$ 400.00		

Total of C. Unpublished Options: \$ 3,440.00

D. Floor Plan Interest (for in-stock and/or equipped vehicles): \$ -

E. Lot Insurance (for in-stock and/or equipped vehicles): \$ -

F. Contract Price Adjustment: 2 YR. REG. AND INSPECTION \$ 160.00

G. Additional Delivery Charge: 283 miles \$ 495.25

H. Subtotal: \$ 35,010.00

I. Quantity Ordered 1 x K = \$ 35,010.00

J. Trade in: \$ -

K. GOODBUY Administrative Fee (\$300 per purchase order) \$ 300.00

L. TOTAL PURCHASE PRICE INCLUDING GOODBUY FEE \$ 35,310.00



## PRODUCT PRICING SUMMARY

**GOODBUY 20 8F000 VEHICLES**

**VENDOR--Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656**

End User: CITY OF SCHERTZ (U17)

Prepared by: GLEN ANGELLE

Contact: JERRY MCFARLAND

Phone: 409-880-9191

Email: \_\_\_\_\_

Email: gangelles.cowboyfleet@gmail.com

Product Description: 2021 F-150 REG. CAB

Date: September 15, 2020

A. Bid Item: \_\_\_\_\_

A. Base Price: \$ 21,222.00

**B. Factory Options**

Code	Options	Bid Price	Code	Options	Bid Price
	101A PACKAGE	\$ 2,280.00			
	5.0L V8	\$ 1,995.00			
	RUNNING BOARDS	\$ 250.00			
	40/20/40 VINYL SEATS				
	REAR CAMERA				
	AM/FM/RADIO				
	AIR				

Total of B. Published Options: \$ 4,525.00

Published Option Discount (5%) \$ (226.25)

**C. Additional Options [not to exceed 25%]**

\$= 7.5 %

Options	Bid Price	Options	Bid Price
4 CORNER LEDS/ SWITCH	\$ 695.00		
BETTER BUILT TOOLBOX	\$ 450.00		
HEADACHE RACK	\$ 375.00		
SPRAY IN BED LINER	\$ 400.00		

Total of C. Unpublished Options: \$ 1,920.00

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ -

E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ -

F. Contract Price Adjustment: 2 YR. REG & INSPECTION.

\$ 160.00

G. Additional Delivery Charge: 283 miles

\$ 495.25

H. Subtotal:

\$ 28,096.00

I. Quantity Ordered 1 x K =

\$ 28,096.00

J. Trade in: \_\_\_\_\_

\$ -

K. GOODBUY Administrative Fee (\$300 per purchase order)

\$ 300.00

L. TOTAL PURCHASE PRICE INCLUDING GOODBUY FEE

\$ 28,396.00



## PRODUCT PRICING SUMMARY

**GOODBUY 20- 8F000 VEHICLES**

**VENDOR--Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656**

End User: CITY OF SCHERTZ

Prepared by: GLEN ANGELLE

Contact: JERRY MCFARLAND

Phone: 409-880-9191

Email: \_\_\_\_\_

Email: gangelles.cowboyfleet@gmail.com

Product Description: 2021 FORD F-250 EXT CAB

Date: September 15, 2020

A. Bid Item: \_\_\_\_\_ A. Base Price: \$ 26,268.00

### B. Factory Options

Code	Options	Bid Price	Code	Options	Bid Price
		\$ -		EXT. WHITE	
	POWER LOCKS/WINDOWS	\$ 1,125.00			
	REAR CAMERA				
	AIR				
	6.2L V8 GAS				
	6-SPD. AUTO				
	40/20/40 VINYL SEATS				
	TRAILER TOW				
	BRAKE CONTROLLER	\$ 350.00			
	BLUE TOOTH				

Total of B. Published Options: \$ 1,475.00

Published Option Discount (5%) \$ (73.75)

### C. Additional Options [not to exceed 25%]

\$= 2.0 %

Options	Bid Price	Options	Bid Price
SPRAY IN BED LINER	\$ 400.00	2 YR. REG & INSPECTION	\$ 160.00

Total of C. Unpublished Options: \$ 560.00

D. Floor Plan Interest (for in-stock and/or equipped vehicles): \$ -

E. Lot Insurance (for in-stock and/or equipped vehicles): \$ -

F. Contract Price Adjustment: \_\_\_\_\_

G. Additional Delivery Charge: 283 miles \$ 495.25

H. Subtotal: \$ 28,324.50

I. Quantity Ordered 1 x K = \$ 28,324.50

J. Trade in: \_\_\_\_\_ \$ -

K. GOODBUY Administrative Fee (\$300 per purchase order) \$ 300.00

L. TOTAL PURCHASE PRICE INCLUDING GOODBUY FEE \$ 28,624.50

\$ 22,443.25



## PRODUCT PRICING SUMMARY

**GOODBUY 20 8F000 VEHICLES**

**VENDOR--Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656**

End User: CITY OF SCHERTZ

Prepared by: GLEN ANGELLE

Contact: JERRY MCFARLAND

Phone: 409-880-9191

Email:

Email: [gangelles.cowboyfleet@gmail.com](mailto:gangelles.cowboyfleet@gmail.com)

Product Description: 2021 FORD POLICE INTERCEPTOR SUV

Date: September 15, 2020

A. Bid Item: \_\_\_\_\_

A. Base Price: \$ 32,840.00

### B. Factory Options

Code	Options	Bid Price	Code	Options	Bid Price
	AWD POLICE INTERCEPTOR			EXT. WHITE	
	REAR AIR	\$ 610.00			
	DRS. SIDE LED SPOTLIGHT	\$ 395.00		POWER WINDOWS/LOCKS	
	KEYLESS ENTRY	\$ 340.00		CRUISE	
	KEYED ALIKE	\$ 50.00		POWER SEAT	
	WIRING GRILL,LAMP,SIREN,SPEAKER	\$ 50.00		AM/FM/CD	
	OBD-II SPLIT CONNECTION	\$ 55.00		SYNC	
	REAR TAILLAMP HOUSING	\$ 60.00			
	3.3L V6				
	10-SPD. AUTO				

Total of B. Published Options: \$ 1,560.00

Published Option Discount (5%) \$ (78.00)

### C. Additional Options [not to exceed 25%]

\$= 0.5 %

Options	Bid Price	Options	Bid Price
		2 YR. REG & INSPECTION	\$ 160.00

Total of C. Unpublished Options: \$ 160.00

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ -

E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ -

F. Contract Price Adjustment:

\$ (1,222.58)

G. Additional Delivery Charge: 283 miles

\$ 495.25

H. Subtotal:

\$ 33,754.67

I. Quantity Ordered 5 x K =

\$ 168,773.35

J. Trade in:

\$ -

K. GOODBUY Administrative Fee (\$300 per purchase order)

\$ 300.00

L. TOTAL PURCHASE PRICE INCLUDING GOODBUY FEE

\$ 169,073.35

**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** Police Department  
**Subject:** Resolution No. 20-R-111 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz Texas, authorizing an Interlocal Agreement between the City of Schertz and the Comal County District Attorney in reference to the disposition of seized property and contraband. (C. Kelm/M. Hansen)

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**BACKGROUND**

Disposition of seized property is regulated by State law, specifically Chapter 59 of the Texas Code of Criminal Procedure. The attorney representing the State (County District Attorney) is authorized by this code to enter into an agreement with a law enforcement agency to determine how such property and/or proceeds from such property will be disposed. There must be an agreement for the law enforcement agency to receive any property or proceeds. This agreement provides the manner and means that any said seized property and/or contraband and proceeds therefrom will be disposed.

**GOAL**

To enter into an inter-local agreement that will regulate and allow for the disposition of seized property and/or contraband and any proceeds therefrom.

**COMMUNITY BENEFIT**

Property and/or contraband and any proceeds therefrom may be utilized in certain strictly regulated situations to purchase law enforcement related equipment and training. This equipment and training is then achieved without the use of general fund revenues.

**SUMMARY OF RECOMMENDED ACTION**

Staff recommends approval of the attached Resolution authorizing the City Manager to enter into this agreement with the Comal County District Attorney's Office.

**FISCAL IMPACT**

There is no fiscal impact associated with this agreement.

**RECOMMENDATION**

Staff recommends approval of the attached Resolution authorizing the City Manager to enter into this agreement with the Comal County District Attorney's Office.

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**Attachments**

Resolution 20-R-111



**RESOLUTION NO. 20-R-111**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE COMAL COUNTY DISTRICT ATTORNEY, AND OTHER MATTERS IN CONNECTION THEREWITH**

WHEREAS, the 71<sup>st</sup> Legislature enacted Chapter 59 of the Texas Code of Criminal Procedure for the purpose of regulating the disposition of property seized by law enforcement officers and forfeited contraband; and

WHEREAS, the Schertz Police Department and the Prosecuting Attorney for Comal County desire to enter into an INTERLOCAL AGREEMENT regarding the disposition of said forfeited contraband and/or the proceeds therefrom; and

WHEREAS, the City staff of the City of Schertz (the “City”) has recommended that the City enter an interlocal agreement with the Comal County District Attorney; and

WHEREAS, the City Council has determined that it is in the best interest of the City to enter into an interlocal agreement with the Comal County District Attorney;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to enter into the interlocal agreement attached in Exhibit A.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject



matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

Passed and approved this 22<sup>nd</sup> day of September 2020.

CITY OF SCHERTZ, TEXAS

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Mayor, Ralph Gutierrez

ATTEST:

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City Secretary, Brenda Dennis

(CITY SEAL)



# CITY MANAGEMENT

## Coordination Sheet

<b><u>FROM:</u></b>	M. Hansen Police Department			
<b><u>DATE:</u></b> Sep 14, 2020		<b>NAME</b>	<b>INITIALS</b>	<b>DATE</b>
	<b>X</b>	Mr. Charles Kelm Assistant City Manager		
		Mr. Brian James Assistant City Manager		
		Ms. Sarah Gonzalez Assistant to the City Manager		
	<b>X</b>	Dr. Mark Browne City Manager		
<b><u>COMMENTS:</u></b>	Annual Chapter 59 Asset Forfeiture agreement with Comal County District Attorney's Office. Agreement appears to be identical to previous versions.			
<b><u>RETURN TO:</u></b>	M. Hansen Police Department			

- Revised April 24, 2019

**Sammy M. McCrary**  
Chief Felony Prosecutor

**Jacqueline H. Doyer**  
Chief Misdemeanor  
Prosecutor

**Jessica L. Frazier**  
Chief Civil Prosecutor



**JENNIFER THARP**  
Comal County Criminal District Attorney

**Assistant District Attorneys**  
Alli Assiter  
Allison Buess  
Lauren B. Cole  
Jessica Devaney  
Daniel Floyd  
Shelby Griffin  
Amanda Hood  
Henna Le Vasseur  
Kelsey Marsh  
Evan Myers  
Christopher J. Powell  
Joshua Presley  
Tillman Roots  
Kaitlyn Traeger  
Holly Weatherford  
Ashley Yarbrough

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August 19, 2020

Schertz Police Department  
Attn: Chief Michael R. Hansen  
1400 Schertz Parkway, Bldg #6  
Schertz, Texas 78154  
Via U.S. Regular Mail

Re: Interlocal Agreement for Chapter 59 Asset Forfeitures

Dear Chief Hansen,

Comal County Criminal District Attorney's Office is grateful for Schertz Police Department's cooperation and teamwork in helping our office successfully prosecute asset forfeiture cases. The funds and equipment acquired from these cases help both of our agencies to better serve Comal County's citizens and victims.

Please find enclosed an Interlocal Agreement for Chapter 59 Asset Forfeitures. Please sign in duplicate and return one original interlocal agreement:

Criminal District Attorney's Office  
Juliana A. Martinez, Chief Civil Legal Assistant  
199 Main Plaza, Ste. 2007  
New Braunfels, Texas 78130

If you should have any questions, contact me at (830) 221-1302.

Sincerely,

A blue ink signature of Jessica L. Frazier, written in a cursive style.

Jessica L. Frazier  
Chief Civil Prosecutor

Enclosure

## INTERLOCAL AGREEMENT

This INTERLOCAL AGREEMENT is made and entered into by and between the SCHERTZ POLICE DEPARTMENT (hereinafter "Law Enforcement Agency"), a Law Enforcement Agency headquartered in Guadalupe County, Texas, that conducts operations in Comal County, and the office of the Criminal District Attorney for Comal County (hereinafter "Prosecuting Attorney").

Pursuant to the provisions of Chapter 59 of the Texas Code of Criminal Procedure, as enacted by the 71<sup>st</sup> Legislature, First Called Session, 1989, and subsequent amendments thereto, regulating the disposition of property seized by law enforcement officers and forfeited contraband. Law Enforcement Agency and the Prosecuting Attorney desire to enter into a INTERLOCAL AGREEMENT regarding the disposition of said forfeited contraband and/or the proceeds therefrom.

This INTERLOCAL AGREEMENT is entered into by and between the respective parties hereto and is predicated upon the mutual consideration of the equitable sharing of the value of the contraband and the contraband itself, seized pursuant to the appropriate state statutes. Accordingly, inasmuch as said statutes require that a INTERLOCAL AGREEMENT exist between the Prosecuting Attorney and any Law Enforcement Agency in order to share property and/or the proceeds of property seized by the Law Enforcement Agency, it is the intention of Law Enforcement Agency and the Prosecuting Attorney to hereby enter into a INTERLOCAL AGREEMENT regarding the disposition of property seized by said Law Enforcement Agency.

In consideration for the services of the Prosecuting Attorney rendered to and on behalf of Law Enforcement Agency in pursuit of the forfeiture of seized contraband, Law Enforcement Agency agrees that upon the forfeiture of seized currency ("Forfeited Currency") or upon the forfeiture and sale/or of other seized property, real or personal, the following proceed sharing formulas shall apply:

1. Pre-Trial Disposition for Personal Property: Twenty-five percent (25%) of any Forfeited Currency or proceeds from sold Personal Property shall be retained by the Prosecuting Attorney to be used for any purpose permitted by law. The Prosecuting Attorney agrees that Law Enforcement Agency shall retain the remaining seventy-five percent (75%) of any Forfeited Currency or proceeds of sold Personal Property for official law enforcement purposes as permitted by law. This formula applies to default judgments, summary judgments, settlements or any other pre-trial dispositions.
2. Trial Disposition for Personal Property: Thirty percent (30%) of any Forfeited Currency or proceeds of sold Personal Property shall be retained by the Prosecuting Attorney to be used for any purpose permitted by law. The Prosecuting Attorney agrees that Law Enforcement Agency shall retain the remaining seventy percent (70%) of any Forfeited Currency or proceeds of sold Personal Property for official law enforcement purposes as permitted by law. This formula shall apply to bench or jury trial dispositions which include settlements or judgments in favor of the State occurring after a case is set for trial.

3. Pre-Trial Disposition of Real Property: Thirty percent (30%) of any proceeds from sold Real Property shall be retained by the Prosecuting Attorney to be used for any purpose permitted by law. The Prosecuting Attorney agrees that Law Enforcement Agency shall retain the remaining seventy percent (70%) of any proceeds from sold Real Property for official law enforcement purposes as permitted by law. This formula applies to default judgment, summary judgments, settlements or any other pre-trial dispositions.
4. Trial Disposition of Real Property: Forty percent (40%) of any proceeds from sold Real Property shall be retained by the Prosecuting Attorney to be used for any purpose permitted by law. The Prosecuting Attorney agrees that Law Enforcement Agency shall retain the remaining sixty percent (60%) of any proceeds from sold Real Property for official law enforcement purposes as permitted by law. This formula shall apply to bench or jury trial dispositions which include settlements or judgments in favor of the State occurring after a case is set for trial.
5. It is specifically agreed by the parties that Forfeited Currency in amounts of less than or equal to \$500.00 may be solely retained by the Prosecuting Attorney to be used for the official purposes of the office.
6. In regards to the seizure of contraband such as vehicles and other conveyances that may be of use to Law Enforcement Agency or the Prosecuting Attorney in the conduct of official business, the parties hereto shall agree in writing to allocate such property in a manner that best serves the operational interests of both parties.
7. Law Enforcement Agency shall be responsible for paying any fees associated with maintaining, towing, and storing any seized property, real or personal.

It is further specifically agreed by the parties that should special circumstances in an individual case dictate that the proceeds of the forfeited contraband be shared with other law enforcement agencies or that the award to the Prosecuting Attorney be in a proportion other than that set out in this INTERLOCAL AGREEMENT, the parties may consent in writing to a different allocation of the proceeds in that case. In the absence of a specific agreement in writing with regard to a particular case, all distribution of seized property, or the proceeds there from, shall be in accordance with this INTERLOCAL AGREEMENT.

This INTERLOCAL AGREEMENT shall be in effect from and after the 1<sup>st</sup> day of January, 2020. It is the specific intention of the parties that this INTERLOCAL AGREEMENT shall automatically be renewed on a yearly basis unless either party shall notify the other within thirty (30) days prior to the date of expiration that it intends not to renew the INTERLOCAL AGREEMENT. Either party may terminate this INTERLOCAL AGREEMENT at any time, and for any reason or for no reason, by giving written notice of the specific termination date at least thirty (30) days and no more than sixty (60) days prior to that date. In the event a forfeiture proceeding has been commenced prior to the termination date of the INTERLOCAL AGREEMENT or the notification with regard thereto, said forfeiture shall not be affected by the termination of the INTERLOCAL AGREEMENT or the notification of intended termination. This INTERLOCAL AGREEMENT revokes and supersedes any prior agreement between the parties.

It is the specific intention of the parties that this INTERLOCAL AGREEMENT shall apply to all things finally forfeited to the State pursuant to Chapter 59 of the Texas Code of Criminal Procedure from and after the effective date of this INTERLOCAL AGREEMENT. Money and property shall be considered to have been finally forfeited to the State when the forfeiture judgment has become final and no motion for new trial or appeal has been taken. Forfeiture proceedings pending on the effective date of this INTERLOCAL AGREEMENT may be covered by this INTERLOCAL AGREEMENT if the parties agree to such in writing with regard to each such pending case.

If lawful money of the United States is seized as contraband pursuant to the provisions of Chapter 59 of the Texas Code of Criminal Procedure and falls under the terms of this INTERLOCAL AGREEMENT, the Prosecuting Attorney may deposit funds in an interest-bearing account in the Comal County Treasury to be maintained until final disposition of said funds. All disbursement of forfeited funds held in such accounts shall include any interest that has accrued except as otherwise provided herein. Disbursement of funds shall be made when a final judgment has been properly executed, a certified copy of such judgment has been duly served upon each party, and all reasonable costs associated with the maintenance of said funds have deducted therefrom.

For the Office of the Prosecuting Attorney:

  
\_\_\_\_\_  
Jennifer A. Tharp, Criminal District Attorney

Date: February 24, 2020

City of Schertz:

\_\_\_\_\_  
City Manager,

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Schertz Police Department:

  
\_\_\_\_\_  
Printed Name: MICHAEL HANSEN

Date: 9-14-20



## INTERLOCAL AGREEMENT

This INTERLOCAL AGREEMENT is made and entered into by and between the SCHERTZ POLICE DEPARTMENT (hereinafter "Law Enforcement Agency"), a Law Enforcement Agency headquartered in Guadalupe County, Texas, that conducts operations in Comal County, and the office of the Criminal District Attorney for Comal County (hereinafter "Prosecuting Attorney").

Pursuant to the provisions of Chapter 59 of the Texas Code of Criminal Procedure, as enacted by the 71<sup>st</sup> Legislature, First Called Session, 1989, and subsequent amendments thereto, regulating the disposition of property seized by law enforcement officers and forfeited contraband. Law Enforcement Agency and the Prosecuting Attorney desire to enter into a INTERLOCAL AGREEMENT regarding the disposition of said forfeited contraband and/or the proceeds therefrom.

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In consideration for the services of the Prosecuting Attorney rendered to and on behalf of Law Enforcement Agency in pursuit of the forfeiture of seized contraband, Law Enforcement Agency agrees that upon the forfeiture of seized currency ("Forfeited Currency") or upon the forfeiture and sale/or of other seized property, real or personal, the following proceed sharing formulas shall apply:

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4. Trial Disposition of Real Property: Forty percent (40%) of any proceeds from sold Real Property shall be retained by the Prosecuting Attorney to be used for any purpose permitted by law. The Prosecuting Attorney agrees that Law Enforcement Agency shall retain the remaining sixty percent (60%) of any proceeds from sold Real Property for official law enforcement purposes as permitted by law. This formula shall apply to bench or jury trial dispositions which include settlements or judgments in favor of the State occurring after a case is set for trial.
5. It is specifically agreed by the parties that Forfeited Currency in amounts of less than or equal to \$500.00 may be solely retained by the Prosecuting Attorney to be used for the official purposes of the office.
6. In regards to the seizure of contraband such as vehicles and other conveyances that may be of use to Law Enforcement Agency or the Prosecuting Attorney in the conduct of official business, the parties hereto shall agree in writing to allocate such property in a manner that best serves the operational interests of both parties.
7. Law Enforcement Agency shall be responsible for paying any fees associated with maintaining, towing, and storing any seized property, real or personal.

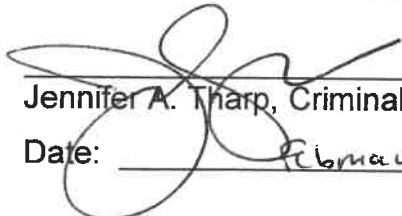
It is further specifically agreed by the parties that should special circumstances in an individual case dictate that the proceeds of the forfeited contraband be shared with other law enforcement agencies or that the award to the Prosecuting Attorney be in a proportion other than that set out in this INTERLOCAL AGREEMENT, the parties may consent in writing to a different allocation of the proceeds in that case. In the absence of a specific agreement in writing with regard to a particular case, all distribution of seized property, or the proceeds there from, shall be in accordance with this INTERLOCAL AGREEMENT.

This INTERLOCAL AGREEMENT shall be in effect from and after the 1<sup>st</sup> day of January, 2020. It is the specific intention of the parties that this INTERLOCAL AGREEMENT shall automatically be renewed on a yearly basis unless either party shall notify the other within thirty (30) days prior to the date of expiration that it intends not to renew the INTERLOCAL AGREEMENT. Either party may terminate this INTERLOCAL AGREEMENT at any time, and for any reason or for no reason, by giving written notice of the specific termination date at least thirty (30) days and no more than sixty (60) days prior to that date. In the event a forfeiture proceeding has been commenced prior to the termination date of the INTERLOCAL AGREEMENT or the notification with regard thereto, said forfeiture shall not be affected by the termination of the INTERLOCAL AGREEMENT or the notification of intended termination. This INTERLOCAL AGREEMENT revokes and supersedes any prior agreement between the parties.

It is the specific intention of the parties that this INTERLOCAL AGREEMENT shall apply to all things finally forfeited to the State pursuant to Chapter 59 of the Texas Code of Criminal Procedure from and after the effective date of this INTERLOCAL AGREEMENT. Money and property shall be considered to have been finally forfeited to the State when the forfeiture judgment has become final and no motion for new trial or appeal has been taken. Forfeiture proceedings pending on the effective date of this INTERLOCAL AGREEMENT may be covered by this INTERLOCAL AGREEMENT if the parties agree to such in writing with regard to each such pending case.

If lawful money of the United States is seized as contraband pursuant to the provisions of Chapter 59 of the Texas Code of Criminal Procedure and falls under the terms of this INTERLOCAL AGREEMENT, the Prosecuting Attorney may deposit funds in an interest-bearing account in the Comal County Treasury to be maintained until final disposition of said funds. All disbursement of forfeited funds held in such accounts shall include any interest that has accrued except as otherwise provided herein. Disbursement of funds shall be made when a final judgment has been properly executed, a certified copy of such judgment has been duly served upon each party, and all reasonable costs associated with the maintenance of said funds have deducted therefrom.

For the Office of the Prosecuting Attorney:

  
Jennifer A. Tharp, Criminal District Attorney  
Date: February 24, 2020

City of Schertz:

\_\_\_\_\_  
City Manager,

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Schertz Police Department:

  
Printed Name: MICHAEL HANSEN

Date: 9-14-20

## CITY COUNCIL MEMORANDUM

**City Council Meeting:** September 22, 2020  
**Department:** Executive Team  
**Subject:** Resolution No. 20-R-112 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing a Schertz Main Street Local Flavor Economic Development Grant for 615 Main Street and related matters in connection therewith. (M. Browne/B. James)

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### BACKGROUND

The owner of the property at 615 Main, which is the location of CIA -- Columbo Insurance Agency has applied for a Schertz Main Street Local Flavor Economic Development Grant. This is the first application for this location. With this grant, the owner is proposing to construct an awning/patio cover across the front and part of the side of the building. The owner is still in the permitting process and estimates the cost of the improvement to be up to \$18,000, though likely will be lower than that. This work would fall into the facade improvement grant category. Owners can receive Matching grants up to \$20,000 per year for this category. The maximum amount of 50% matching grant for work up to \$18,000 is \$9,000. The owner is also seeking a signage grant to improve the signage. The estimate for the signage work is \$3,500. Matching Signage grants are allowed for up to \$2,500, the 50% match for signage work costing \$3,500 would be \$1,750.

Applicants can receive no more than \$20,000 in a calendar year. With approval of this application the owner could receive up to \$10,750 in matching grants for both projects. If the documented cost of the work is less than that, the matching grant would be reduced accordingly.

### GOAL

Promote and enhance commercial activity along Main Street to promote the economic, cultural, and general welfare of the public. The area around Main Street in Schertz once served as the commercial and social hub of the community. The City seeks to improve the image of the area around Main Street through the inducement of public money to promote local economic development and stimulate business and commercial activities in the City.

### COMMUNITY BENEFIT

Encourage the attraction of small businesses that will create local charm and help develop a sense of place in and around Main Street. Promote commercial development. Stabilize and improve property values. Foster civic pride. Strengthen the economy of the City by protecting and enhancing the attractiveness of the Main Street area to residents and visitors, as well as provide support to local businesses.

### SUMMARY OF RECOMMENDED ACTION

Staff recommends approval of Resolution 20-R-112 approving a Schertz Main Street Local Flavor Economic Development Grant for up to \$10,750 subject to the applicant entering into the incentive agreement.

### FISCAL IMPACT

Up to \$10,750 for this grant.

## **RECOMMENDATION**

Approval of Resolution 20-R-112.

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### **Attachments**

Resolution 20-R-112

615 Main LF Ageement

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## **RESOLUTION NO. 20-R-112**

### **A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS APPROVING A REQUEST FOR A SCHERTZ MAIN STREET LOCAL FLAVOR ECONOMIC DEVELOPMENT GRANT FOR 615 MAIN STREET IN THE CITY OF SCHERTZ, TEXAS, AND RELATED MATTERS IN CONNECTION THEREWITH**

**WHEREAS,** The City of Schertz desires to protect, enhance, and preserve the historic resources and landmarks which represent distinctive elements of Schertz' historic, architectural, economic, cultural, and social heritage by providing property owners and incentive for protecting their property; and

**WHEREAS,** the City of Schertz desires to encourage the attraction of small businesses that will create local charm and help develop a sense of place in and around Main Street;

**WHEREAS,** the City of Schertz desires to stabilize and improve property values; and

**WHEREAS,** Foster civic pride in the beauty and accomplishments of the past, and to promote the use of the historic structures for the culture, education, and general welfare of residents; and

**WHEREAS,** Strengthen the economy of the city by protecting and enhancing the attractiveness of the Main Street area to residents and visitors, as well as provide support and stimulus to businesses.

**WHEREAS,** the City Council approved the Schertz Main Street Local Flavor Economic Development Grant;

**WHEREAS,** staff is in support of this program and recommended approval of the grant request for 615 Main Street for up to \$10,750;

**NOW THEREFORE, BE IT RESOLVED,** THAT THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby approves the Schertz Main Street Local Flavor Economic Development Grant request for 615 Main Street and 405 Main Street subject to the approved criteria of the program and execution of a funding agreement generally as outlined in Exhibit "A".

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 22<sup>nd</sup> day of September 2020.

CITY OF SCHERTZ, TEXAS

---

Ralph Gutierrez, Mayor

ATTEST:

---

Brenda Dennis, City Secretary

(CITY SEAL)

## **Exhibit A**



STATE OF TEXAS               §  
   §  
COUNTY OF BEXAR         §

SCHERTZ MAIN STREET LOCAL FLAVOR ECONOMIC DEVELOPMENT PROGRAM  
FUNDING AGREEMENT BETWEEN THE CITY OF SCHERTZ, TEXAS AND\_  
Melony A. and Michael W. Columbo, FOR EXPENDITURE OF LOCAL FLAVOR  
GRANT FUNDS

This Local Flavor Development Program Funding Agreement (AGREEMENT) is made and entered into by  
Melony A. and Michael W. Columbo and between the City of  
Schertz, Texas (CITY) and, (ENTITY).

WHEREAS, the ENTITY has developed a proposal to  
Make improvements, including adding an awning/patio cover and for new signage to 615 Main (the  
“Project”); and

WHEREAS, Section 380.001 of the Texas Local Government Code, as amended, allows the governing body of a municipality to establish and provide for the administration of one or more programs to promote state and local economic development and to stimulate business and commercial activity in the municipality; and

WHEREAS, the Schertz Main Street Local Flavor Economic Development Program is intended to encourage and expansion and attract small businesses that create local charm and help develop a sense of place in and around Main Street, promote commercial development, stabilize and improve property values, foster civic pride, and protect and enhance the attractiveness of the Main Street area to residents and visitors; and

WHEREAS, funding for the Schertz Main Street Local Flavor Economic Development Program will be provided annually through the City’s General Fund; and

WHEREAS, the Schertz Main Street Local Flavor Economic Development Program will enhance other city efforts to improve, beautify, and promote economic development in the Main Street area.

WHEREAS, the area around Main Street in Schertz once served as commercial and social hub of the community; and

WHEREAS, the City seeks to improve the image of the area around Main Street through restoration and rehabilitation of structures in the Main Street area to serve as a commercial, social, cultural and tourism hub of the City; and

WHEREAS, the City Council of the City of Schertz desires to provide funds to Melony A. and Michael W. Columbo (ENTITY).

NOW, THEREFORE, it is mutually agreed by and between the CITY and ENTITY as follows:

## GENERAL PROVISIONS

Section 1. Purpose. The purpose of this Agreement is to provide funding to the ENTITY for the project identified in the attached Exhibit "A" (the "Project"), the intent of which is to promote state and local economic development and to stimulate business and commercial activity in the municipality to encourage and expansion and attract small businesses that create local charm and help develop a sense of place in and around Main Street, promote commercial development, stabilize and improve property values, foster civic pride, and protect and enhance the attractiveness of the Main Street area to residents and visitors.

Section 2. Obligation of the ENTITY. The ENTITY shall use all of the awarded funds provided by the CITY in accordance with Chapter 351 of the Texas Tax Code, the ENTITY'S funding application, and the attached Exhibit "A".

Section 3. Reporting Requirements of the ENTITY. The ENTITY shall deliver a detailed accounting of the expenditures for the Project within thirty (30) days after completion of the Project (the "Post Event Report"). The Post Event Report shall include copies of receipts and other documents establishing the expenditures for the project. The CITY shall not make reimbursements for expenditures where no receipt or invoice is provided. Partial or incomplete reports will not be accepted.

Section 4. Authorization of Payment. Subject to the ENTITY'S satisfactory performance and compliance with the terms of this AGREEMENT, the CITY agrees to pay the ENTITY up to fifty percent (50%) of the Project. The Project is estimated to be \$18,000.00 for the patio cover/awning and \$3,500 for signage and fifty percent of which, is capped at 10,500.00 for work falling within the criteria for façade and signage grants. Payment will be made within forty-five (45) days of acceptance of the complete Post Event Report. Partial or incomplete reports will not be accepted. Only expenditures that meet Chapter 351 of the Tax Code and this AGREEMENT shall be reimbursed.

Section 5. Appeal Process. Any ENTITY wishing to appeal the decision of the CITY must present their appeal in writing within ten (10) business days of funding denial.

Section 6. Rights. The City of Schertz has the right, at any time, to inspect the books or records of the ENTITY that may relate to performance of this AGREEMENT. The CITY, at its sole expenses, has the right to conduct an audit of the ENTITY or Project.

Section 7. Term. The AGREEMENT shall become effective as of the date entered below. The AGREEMENT shall terminate one year from its effective date or once the terms have been met, whichever occurs first.

Section 8. Indemnification. The ENTITY agrees to defend, indemnify and hold harmless the CITY, its officers, agents and employees, against any and all claims, lawsuits, judgments, cause of action, 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

ENTITY's breach of any of the terms or provisions of this AGREEMENT, or by any negligent act or omission of the ENTITY, its officers, agents, servants, employees, contractors, or subcontractors, in the performance of this AGREEMENT; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence of the CITY, its officers, agents, employees or separate contractors, and in the event of joint and concurrent negligence of both the ENTITY and the CITY under Texas law and without waiving any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Both parties expressly agree that this AGREEMENT does not assign any responsibility for civil liability to the City of Schertz that may arise by virtue of this AGREEMENT.

Section 9. Termination. A party may terminate this AGREEMENT in whole or in part if the other party fails to comply with a term of the AGREEMENT, including the inability of the ENTITY to conform to any change required by federal, state or local laws or regulations; or for the convenience of either party. The terminating party shall provide written notification to the other party of the decision to terminate this AGREEMENT within thirty (30) days before the effective date of termination. A party may terminate the AGREEMENT for breach of any provision of this AGREEMENT, upon written notice of the breach and the breaching party shall have ten (10) days after receipt of the written notice in which to cure the breach to the satisfaction of the non-breaching party.

Section 10. Notice. All notices required or permitted under this AGREEMENT shall be in writing and shall be delivered in person or mailed as follows:

to the CITY at:

City of Schertz  
Attention: City Manager  
1400 Schertz Parkway  
Schertz, TX 78154  
(210) 619-1000

To Melony A. and Michael W. Columbo:  
Attention: Melony A. Columbo  
615 Main Street  
Schertz, Texas 78154

#### MISCELLANEOUS

Section 11. Entire Agreement. This AGREEMENT constitutes the entire agreement of the parties regarding the subject matter contained herein. The parties may not modify or amend this AGREEMENT, except by written agreement approved by the governing bodies of each party and duly executed by both parties.

Section 12. Approval. This AGREEMENT has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party.

Section 13. Assignment. Except as otherwise provided in this AGREEMENT, a party may not assign this AGREEMENT or subcontract the performance of services without first obtaining the written consent of the other party.

Section 14. Non-Waiver. A party's failure or delay to exercise right or remedy does not constitute a waiver of the right or remedy. An exercise of a right or remedy under this AGREEMENT does not preclude the exercise of another right or remedy. Rights and remedies under this AGREEMENT are cumulative and are not exclusive of other rights or remedies provided by law.

Section 15. Paragraph Headings. The various paragraph headings are inserted for convenience of reference only, and shall not affect the meaning or interpretation of this AGREEMENT or any section thereof.

Section 16. Attorney fees. In any lawsuit concerning this AGREEMENT, the prevailing party shall be entitled to recover reasonable attorney's fees from the nonprevailing party, plus all out-of-pocket expense such as deposition costs, telephone, calls, travel expenses, expert witness fees, court costs, and their reasonable expenses, unless otherwise prohibited by law.

Section 17. Severability. The parties agree that in the event any provision of this AGREEMENT is declared invalid by a court of competent jurisdiction that part of the AGREEMENT is severable and the decree shall not affect the remainder of the AGREEMENT. The remainder of the AGREEMENT shall be in full force and effect.

Section 18. Venue. The parties agree that all disputes that arise of this AGREEMENT are governed by the laws of the State of Texas and venue for all purposes herewith shall be in Milam County, Texas.

Section 19. Certificate of Insurance. The ENTITY agrees to provide a certificate of insurance for liability and worker's compensation insurance or letter of self-insurance on its letterhead indicating its self-insured status before any event awarded funding under this AGREEMENT. The cost of the insurance herein mentioned to be secured and maintained by the ENTITY shall be borne solely by the ENTITY.

IN WITNESS HEREOF, the CITY and ENTITY make and execute this AGREEMENT to be effective this \_\_\_\_\_day of \_\_\_\_\_, 2020.

CITY OF SCHERTZ, TEXAS

ENTITY

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Melony A. Columbo

\_\_\_\_\_  
Michael W. Columbo

ATTEST:

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City Secretary

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(Title)

## EXHIBIT A

[Describe the project to be performed]

**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** Finance  
**Subject:** Resolution No. 20-R-105 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing EMS debt revenue adjustments, Utility Billing debt revenue adjustments and Schertz Magazine debt revenue adjustments for certain inactive outstanding receivables and other matters in connection therewith. (B. James/J. Walters)

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**BACKGROUND**

In the EMS, Utility Billing, and Magazine functions, services are provided to customers up front and billing is settled later. Since services are provided before receiving payment, inevitably the City has customers that do not pay for the services provided.

When this occurs, staff reaches out to the customer to try to collect the outstanding payment including follow-up notices and phone calls to try to reach out to the customer to remind them of the outstanding balance and encourage payment. However, the longer the customer account goes without a payment the less likely that any payment will be received.

Once a customer account reaches 180 days without payment, Staff brings those accounts to the City Council to be “written off”. This process is an accounting procedure following the Generally Accepted Accounting Principles (GAAP), which lays the framework of accounting practices in the U.S. This designation means it is unlikely those outstanding balances will ever be collected. This leads to an accounting adjustment on the City’s Financial Statements to accurately show how much is still outstanding and is reasonable to expect collection.

If a customer’s account has been written off, this does not erase or forgive that debt. The city can and does collect some portion of the amount owed by those customers. This can be through the debt collection agency used by EMS or if the customer returns to the City and requests new services through the Magazine or Utility Billing.

The resolution authorizes the debt for these areas that is more than 180 days outstanding as of September 1, 2020, to be written off. These write-offs come before council quarterly and last came before council on July 7, 2020.

**Previous Write off Amount:**

February 2017:	\$621,138.97
June 2017:	\$544,944.16
September 2017:	\$510,516.01
January 2018:	\$510,637.79
March 2018:	\$433,427.15
June 2018:	\$439,627.14
September 2018:	\$521,281.82
December 2018:	\$727,307.39
March 2019:	\$564,227.77

June 2019:	\$580,155.10
September 2019:	\$586,664.65
December 2019:	\$591,829.90
March 2020:	\$616,900.00
June 2020:	\$552,157.34

## **GOAL**

To approve write-offs of bad debt in accordance with the standards laid out by GAAP.

## **COMMUNITY BENEFIT**

This will show the City's Financial Statements according to national standards and City policy.

## **SUMMARY OF RECOMMENDED ACTION**

Approve Resolution 20-R-105 to write off receivables that are older than 180 days.

## **FISCAL IMPACT**

This accounting adjustment will not affect the City's Budget or financial standing. The amount written off is estimated during the budget process and is accounted for in the revenue estimations and the bad debt expense accounts. The action taken tonight will reduce the amount shown as owed to the City by \$605,161.66 and set it equal to the amount seen as still reasonably collectible. The breakdown is as follows:

EMS - \$546,386.54

Utility Billing - \$58,775.12

Magazine - \$0.00

The amount being written off for Utility Billing is more than double the typical amount given that the City has not been doing shutoffs due to the economic impacts of the COVID Pandemic.

## **RECOMMENDATION**

Staff recommends Council approve Resolution No 20-R-105.

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### **Attachments**

Resolution 20-R-105

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## RESOLUTION NO. 20-R-105

### **A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING EMS DEBT REVENUE ADJUSTMENTS, UTILITY BILLING DEBT REVENUE ADJUSTMENTS AND SCHERTZ MAGAZINE DEBT REVENUE ADJUSTMENTS FOR CERTAIN INACTIVE OUTSTANDING RECEIVABLES AND OTHER MATTERS IN CONNECTION THEREWITH.**

WHEREAS, the City staff of the City of Schertz (the “City”) has recommended that the City maintains quarterly debt revenue adjustments for inactive outstanding accounts; and

WHEREAS, the City Council has determined that it is in the best interest of the City that all inactive outstanding accounts after 180 days nonpayment will be sent to City Council for consideration for write offs.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the write off in the amount and distribution of accounts below:

<i>Function</i>	<i>Amount</i>
EMS	\$546,386.54
Utility Billing	\$58,775.12
Magazine	\$0.00
Total	\$605,161.66

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and finding of the City Council.

Section 3. All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be

valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 22nd day of September 2020.

CITY OF SCHERTZ, TEXAS

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Mayor Ralph Gutierrez, Mayor

ATTEST:

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City Secretary, Brenda Dennis

(CITY SEAL)

**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** City Secretary  
**Subject:** Cancellation of the November 3, 2020, and November 24, 2020, Council Meetings - Consideration and/or action canceling the November 3, 2020, and November 24, 2020, City Council meetings due to the election and Thanksgiving week. (M. Browne/B. Dennis)

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**BACKGROUND**

It has been the past practice of City Council to cancel the City Council meeting on Election Night and cancel the City Council meeting during the Thanksgiving holiday.

Staff recommends Council approve the cancelation of the November 3, 2020, and the November 24, 2020, City Council meetings.

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**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** City Secretary  
**Subject:** Calling a Special Meeting November 16, 2020 – Consideration and/or action calling a special meeting on Monday, November 16, 2020, to canvass the results of the November 3, 2020, General Election, call a Runoff Election if necessary and possible swearing in of newly elected officials. (M. Browne/B. Dennis)

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**BACKGROUND**

The official canvassing period for the November 3, 2020, Election is November 6 through November 17, 2020. It has been recommended by the County Election Administrators that the City call a special meeting to canvass the results of the City of Schertz General election on Monday, November 16, 2020, at 6:00 p.m., and call a Runoff Election if necessary.

If a Runoff election is ordered, early voting will begin December 7, 2020, and end December 18, 2020. Runoff election day will be December 22nd. The canvass of the Runoff will be January 5, 2021. (These dates are subject to change. In speaking to all Counties, Guadalupe County will contract with Bexar and Comal to run our City Runoff election. If there is not a run off election needed, City Secretary will swear in the newly elected officials.

Staff recommends Council call a special meeting for Monday, November 16, 2020, to canvass the results of the November 3, 2020, General Election and swear in the newly elected officials and to also order a runoff election if necessary.

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**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** Emergency Medical Services  
**Subject:** Resolution No. 20-R-97 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing the City Manager to enter into Interlocal agreements for allocation of Emergency Medical Services and for mutual aid agreements. (C. Kelm/J. Mabbitt)

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**BACKGROUND**

Schertz Emergency Medical Services provides regional emergency medical services in a 220 square mile service area that includes the municipalities of Schertz, Cibolo, Live Oak, Marion, Santa Clara, Selma, Universal City, western Guadalupe County, Comal County ESD #6 and a small area of unincorporated Bexar County

On July 28, 2020, Council approved Resolution 20-R-77 authorizing the City Manager enter into an agreement with Guadalupe County for ambulance services. As part of the agreement, we intend to cover the unincorporated portion of the County along with the City of Seguin, City of Luling, San Marcos/Hays County EMS and Wilson County ESD#3.

The agreement is for a total of nine years (3 year initial term with two 3 year renewal terms)

**GOAL**

To secure interlocal agreements for allocation of the Guadalupe County Emergency Medical Services contract with the City of Seguin, the City of Luling, San Marcos/Hays County EMS and Wilson County Emergency Services District #3.

**COMMUNITY BENEFIT**

To continue to provide ambulance services to the unincorporated areas of Guadalupe County.

**SUMMARY OF RECOMMENDED ACTION**

Staff recommends approval of the attached resolution authorizing the City Manager to enter into interlocal agreements for allocation of Emergency Medical Services and for mutual aid agreements.

**FISCAL IMPACT**

The total contract award is \$927,934.89. Our portion of the contract will be \$309,445.88 which represents a 5% increase from the previous agreement. The EMS department also estimates additional revenue from ambulance billing of ~\$115,000 annually. Total for the contract and the estimated revenue for the City of Schertz, from ambulance billing will be ~\$424,445.88 annually.

## **RECOMMENDATION**

Staff recommends approval of Resolution No. 20-R-97 authorizing the City Manager to enter into interlocal agreements for allocation of Emergency Medical Services and for mutual aid agreements.

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### **Attachments**

Resolution 20-R-97

County Map

County Agreement

Seguin Interlocal

Luling Interlocal

SM/HC EMS Interlocal

Wilson County ESD#3 Interlocal

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**RESOLUTION NO. 20-R-97**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ,  
TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO  
INTERLOCAL AGREEMENTS FOR ALLOCATION OF  
EMERGENCY MEDICAL SERVICES AND FOR MUTUAL  
AID AGREEMENTS AND OTHER MATTERS IN CONNECTION  
THEREWITH**

WHEREAS, Schertz desires to provide emergency medical services to the unincorporated areas of Guadalupe County (the "County") and is entering into an Interlocal Agreement for Emergency Medical Services with the County to provide said services (the "County EMS Agreement") which is to be effective on the same effective date of this Agreement; and

WHEREAS, for purposes of facilitating the County EMS Agreement, Schertz desires to allocate between Schertz, Seguin, Luling, San Marcos/Hays County EMS, and Wilson County ESD #3 the coverage area, fees, personnel, equipment and other obligations of the County EMS Agreement in exchange for mutual covenants and other consideration hereinafter provided; and

WHEREAS, City Staff recommends that City Council authorizes the City Manager to enter into an interlocal agreement with the City of Seguin, the City of Luling, San Marcos/Hays County EMS and Wilson County ESD #3 for allocation of emergency medical services and for mutual aid;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS  
THAT:

Section 1. The City Council hereby authorizes the City Manager to enter into an interlocal agreement with the City of Seguin for emergency medical services and for mutual aid as set forth in Exhibit A.

Section 2. The City Council hereby authorizes the City Manager to enter into an interlocal agreement with the City of Luling for emergency medical services and for mutual aid as set forth in Exhibit B.

Section 3. The City Council hereby authorizes the City Manager to enter into an interlocal agreement with San Marcos/Hays County EMS for emergency medical services and for mutual aid as set forth in Exhibit C.

Section 4. The City Council hereby authorizes the City Manager to enter into an interlocal agreement with Wilson County ESD #3 for emergency medical services and for mutual aid as set forth in Exhibit D.

Section 5. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 6. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 7. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 8. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 9. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 10. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 1st day of September 2020.

CITY OF SCHERTZ, TEXAS

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Ralph Gutierrez, Mayor

ATTEST:

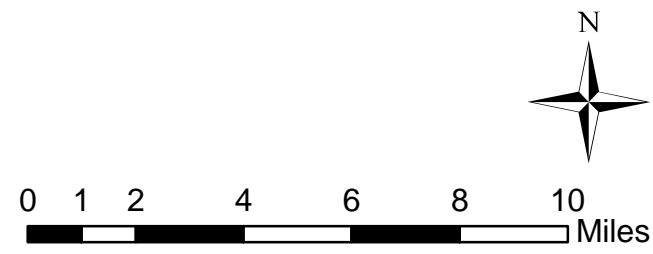
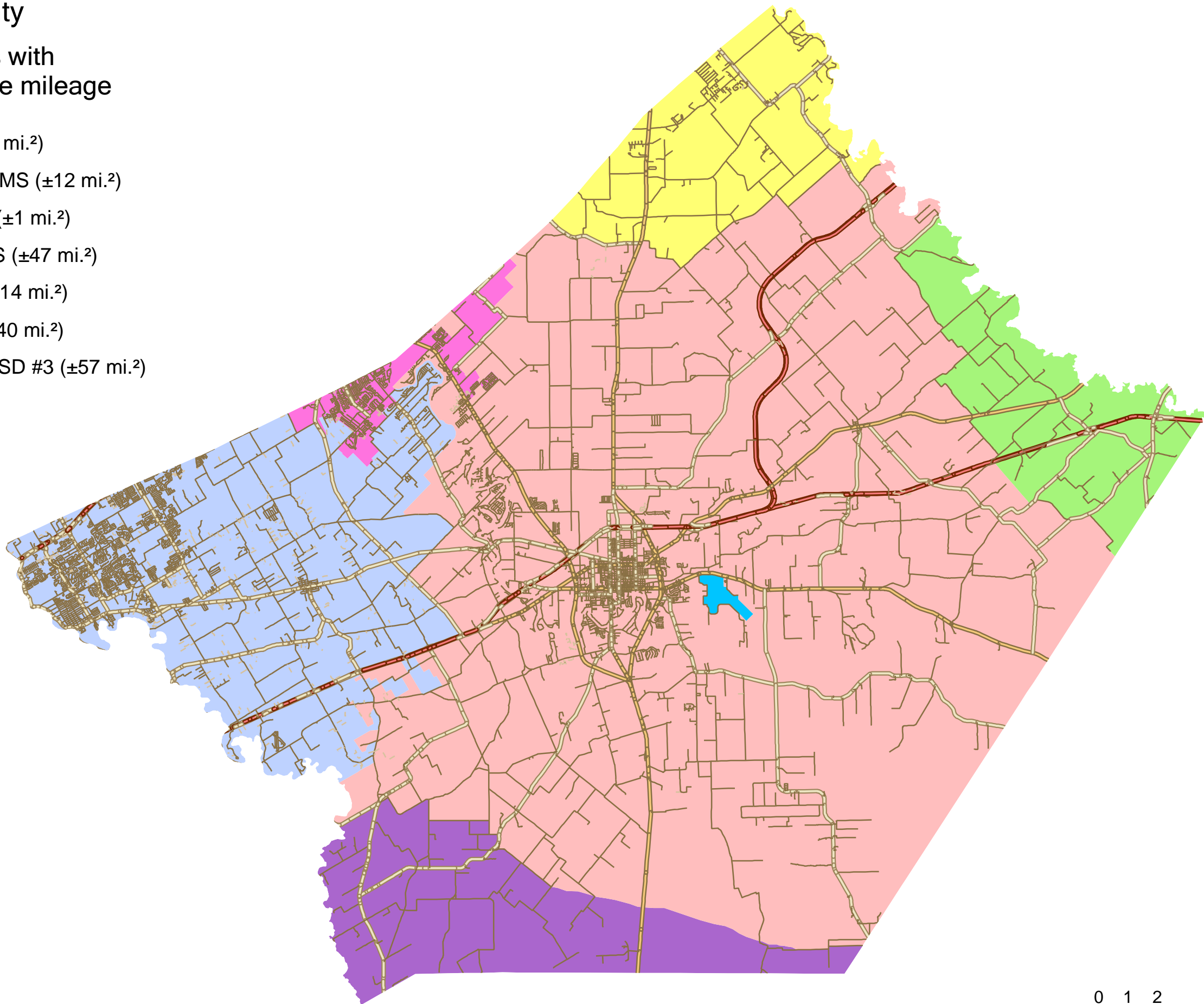
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Brenda Dennis, City Secretary



Guadalupe County  
EMS service areas with  
approximate square mileage

- Luling EMS (±43 mi.<sup>2</sup>)
- New Braunfels EMS (±12 mi.<sup>2</sup>)
- JBSA Randolph (±1 mi.<sup>2</sup>)
- San Marcos EMS (±47 mi.<sup>2</sup>)
- Schertz EMS (±114 mi.<sup>2</sup>)
- Seguin EMS (±440 mi.<sup>2</sup>)
- Wilson County ESD #3 (±57 mi.<sup>2</sup>)



## **EMERGENCY MEDICAL SERVICES INTERLOCAL AGREEMENT**

This Emergency Medical Services Agreement, effective as of October 1, 2020 (this "Agreement"), is between the City of Schertz, Texas, a political subdivision of the State of Texas (the "City"), and Guadalupe County, a political subdivision of the State of Texas (the "County").

WHEREAS, the City has an emergency medical services department known as Schertz EMS (the "Department"), which provides certain emergency services within the City and, by interlocal agreement, within other jurisdictions;

WHEREAS, the County desires to contract with the City for the provision of certain emergency medical services within the unincorporated area of the County in order to preserve and protect the health and safety of persons within the County;

WHEREAS, the City and the County have determined to enter into this Agreement relating to the provision of certain emergency medical services within the unincorporated areas of the County and to set out the terms, rights, duties, and responsibilities of the City and the County with respect thereto;

WHEREAS, the City and the County have determined that the provision of certain emergency medical services is a public purpose and within their statutory powers of government; and

WHEREAS, the City and the County are political subdivisions of the State of Texas and are authorized to execute this Agreement pursuant to the Texas Government Code Chapter 791.001, as amended;

NOW, THEREFORE, THE CITY AND THE COUNTY, ACTING BY AND THROUGH THEIR DULY AUTHORIZED OFFICERS, HEREBY COVENANT AND AGREE AS FOLLOWS:

### **Section 1. Responsibilities of the City.**

- (a) The City agrees that during the term of this Agreement the Department or its contracted designees shall respond to all calls for emergency medical assistance and emergency medical transport and advanced life support service with mobile intensive care unit capability (the "Emergency Medical Services") within the unincorporated jurisdiction of the County (the "Service Area"). The City agrees that during the Term of this Agreement the Department or its contracted designees shall respond to all requests for service on a next-available-ambulance basis regardless of call location.
- (b) The City agrees to use every effort possible to maintain an average monthly response time of thirteen (13) minutes on responses not to include cancellations, transfers, standbys or un-safe scenes in which law enforcement must make the scene safe prior to entry. Response time shall be defined as the period of time starting when a Department ambulance is notified of an emergency response and ending when an ambulance arrives on location of the emergency.

- (c) The City agrees to dedicate a minimum of thirteen (13) ambulances of its own or its contracted designees that will be strategically positioned in and/or around the County to maintain response times in accordance with this Agreement.
- (d) The City and County shall arrange for all requests for assistance to be sent directly to the Department or its contracted designees by 911-telephone transfer or by the County alerting the Department via agreed radio frequency. Such dispatch services shall be redundant and use mechanisms as provided by the Bexar Metro 911 District.
- (e) The City agrees to maintain a Medical Director for the Department and its contracted designees as required by the Texas Department of State Health Services (DSHS). Any change in Medical Director of the Department or its contracted designees shall be reported to the County Emergency Services Administrator within ten (10) business days.
- (f) The City and its contracted designees will maintain Mutual Aid agreements with multiple agencies to provide for appropriate responses during times of high call volume or multiple casualty incidents.
- (g) The City agrees to coordinate and respond with all Guadalupe County First Responders including Medical Direction, coordination of responses, re-supply of medical supplies used on emergency medical responses, responder credentialing, and a minimum of twenty (20) hours of continuing medical education annually. The City shall report any deficiencies in First Responder credentialing to the County Emergency Services Administrator as soon as possible.
- (h) The City agrees to provide for dedicated event ambulance standby and emergency personnel for standby upon request of the County Emergency Services Administrator, County Sheriff's Department, Fire Chief's or Incident Commander, at no additional charge to the County, when there is reason to believe a life threatening public emergency presently exists or is imminent in the County, which includes stand-by at fire, rescue and hazardous materials response incidents.
- (i) The City agrees to provide, a minimum of, two (2) SWAT medics to the Guadalupe County SWAT team at no additional costs to the County.
- (j) The City and Department shall observe and comply with all applicable federal, state, county and City laws, rules, ordinances, and regulations which in any manner affect the provision of the services described in this Agreement and shall perform such services in a professional manner in accordance with standard emergency medical services practice.
- (k) The City agrees to maintain insurance through the Texas Municipal League as outlined in its response to the County's Request for Proposal. Any changes in coverage by either the

City or the Texas Municipal League will be reported in writing to the County Emergency Services Administrator within ten (10) days of such change becoming effective.

- (l) The City agrees to provide the County with the Department's run statistics for responses in the Service Area. These reports shall provide the county with the number of calls, location of calls, transports, response times, and type of call (medical/trauma) in the Service Area. These reports shall be sent to the County Emergency Services Administrator each month before the 10<sup>th</sup> day of the following month. Due to patient privacy considerations, reports containing specific protected health information as defined by the Health Insurance Portability and Accountability Act of 1996 and other applicable laws shall not be made available to the County without the appropriate written consent of the patient or the patient's authorized representative or without a specific court order.
- (m) The City shall provide the County with a current list of all its contracted designees that may provide Emergency Medical Services under this Agreement.

### **Section 2. Responsibilities of the County.**

- (a) The County agrees to have the County Emergency Services Administrator determine which agencies are Guadalupe County First Responders and report any changes to the City within ten (10) calendar days.
- (b) The County agrees to conduct all Emergency Medical Services related business and customer complaints within unincorporated areas of Guadalupe County with the City only. The County agrees not to discuss any Emergency Medical Services related issues with any of the City's contracted designees without a representative of the City present. The City agrees to provide feedback regarding Emergency Medical Services issues and customer complaints within forty-eight (48) hours after receiving them from the County.
- (c) The County agrees to appoint an Emergency Medical Services Contract Administrator and to arrange for quarterly meetings to discuss any issues relating to this Agreement or any other provision of emergency medical services within unincorporated Guadalupe County.

### **Section 3. Term and Renewal.**

This Agreement shall be for a term commencing with the effective date of October 1, 2020, through and including September 30, 2023 (the "Term"). This Agreement may be extended as set forth in Section 4 and shall be renewed for additional two (2) year terms (each, a "Renewal Term") in writing no later than one hundred eighty (180) days prior to the end of the Term unless either party to this Agreement notifies the other party in writing that it wishes to terminate this Agreement. Such notice shall be provided by registered or certified mail not less than one hundred eighty (180) days prior to the end of the Initial Term or any Renewal Term.

#### **Section 4. Consideration.**

- (a) In consideration of the City's provision of the Emergency Medical Services during the Initial Term, the County agrees to pay the City \$927,934.89 annually, payable in twelve (12) equal monthly installments within thirty (30) days after satisfactory acceptance by the County of all completed services.
- (b) Amounts payable under this Agreement for any extension beyond the Term of this Agreement shall be increased based on the percentage increase for the previous twelve (12) month period in the "Medical Care" component of the Consumer Price Index (CPI), not to exceed ten (10%) percent of the annual fee for the previous year. The City agrees not to request an increase for the initial three (3) year term of the contract. After the initial three (3) year term, a price re-determination may be considered at the anniversary date of the contract. All requests for price redetermination shall be in written form, shall be submitted no later than six (6) months prior to the end of each term and shall include supporting documentation.
- (c) For any extension beyond the Term of this Agreement, the City agrees to decrease its annual fee by an agreed upon amount corresponding with the amount of land in Guadalupe County annexed by cities within Guadalupe County during the previous fiscal year.
- (d) The County agrees that, in addition to the fee payable by the County to the City pursuant to Section 4(a), the City and its contracted designees will make every attempt to bill and collect from the patient's insurance company. The City nor its contracted designees have contracts with insurance companies; therefore we will not waive the unpaid portion of the bill for any services rendered to them by the Department.

#### **Section 5. Failure to Perform.**

The City agrees to maintain response time reliability as outlined in Section 1(b). In the event that the City fails to maintain such reliability, a \$2,500 fee will be assessed per month not meeting the minimum requirements.

#### **Section 6. Termination of this Agreement.**

- (a) This Agreement shall remain in effect until Agreement expires, completion and acceptance of services or default. The County reserves the right to terminate the contract with a 90 day notice in the event the City fails to (i) meet delivery or completion schedules, or otherwise perform in accordance with the accepted proposal or (ii) breach of contract or default authorizes the County to award to another Proposer, purchase elsewhere and charge the full increase cost to the defaulting City.
- (b) If the City or County determines it no longer wants to maintain this Agreement at the end of the Term or at the end of any Renewal Term, it shall notify the other party in writing not

less than one hundred eighty (180) days prior to the end date of the current Term, subject to Sections 5 and 6(c), the City agrees to continue to provide service to the end of the current Term and the County agrees to continue payments for all services rendered.

- (c) Either party may terminate this Agreement without cause by giving not less than one hundred eighty (180) days' notice in writing to the other party. When such notice is provided, the City agrees to continue to provide service until the end of the Contract Year during which the one hundred eighty (180) day notice period ends. The County agrees to pay the full consideration due to the City through the end of the Contract Year during which the one hundred eighty (180) day notice period ends.

**Section 7. Authorization.** This Agreement has been duly authorized by the governing bodies of the City and the County.

**Section 8. Severability.** If any portion of this Agreement shall be declared illegal or held unenforceable for any reason, the remaining portions hereof shall continue in full force and effect.

**Section 9. Amendments.** This Agreement represents the complete understanding of the City and the County with respect to the matters described herein, and this Agreement may not be amended or altered without the written consent of both the County and the City.

**Section 10. Governing Law.** This Agreement shall be governed by the laws of the State of Texas.

**Section 11. Governmental Functions; Liability; No Waiver of Immunity or Defenses.** Notwithstanding any provision to the contrary herein, this Agreement is a contract for and with respect to the performance of governmental functions by governmental entities.

- (a) The services provided for herein are governmental functions, and the Parties shall be engaged in the conduct of a governmental function while providing and/or performing any service pursuant to this Agreement.
- (b) The relationship of the Parties shall, with respect to that part of any service or function undertaken as a result of or pursuant to this Agreement, be that of independent contractors.
- (c) Nothing contained herein shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship between the Parties.
- (d) Each Party shall have no liability whatsoever for the actions of, or failure to act by, any employees, agents, representatives, or assigns of the other Party in connection with the Agreement. Each Party covenants and agrees, to the extent permitted by law, that it shall be solely responsible, as between the Parties, for and with respect to any claim or cause of action arising out of or with respect to any act, omission, or failure to act by its respective employees, agents, representatives, or assigns, in connection therewith.

- (e) Each Party reserves and does not waive any defense available to it at law or in equity as to any claim or cause of action whatsoever that may arise or result from or in connection with this Agreement. This Agreement shall not be interpreted nor construed to give to any third party the right to any claim or cause of action, and neither Party shall be held legally liable for any claim or cause of action arising pursuant to or in connection with this Agreement except as specifically provided herein or by law.
- (f) Neither Party waives or relinquishes any immunity or defense on behalf of itself, its commissioners, councilmembers, officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants and agreements contained herein.

*[The remainder of this page intentionally left blank.]*

IN WITNESS WHEREOF, the undersigned have entered into this Emergency Medical Services Interlocal Agreement, effective as of the date first above written.

CITY OF SCHERTZ, TEXAS

By \_\_\_\_\_  
City Manager

GUADALUPE COUNTY, TEXAS

By \_\_\_\_\_  
Guadalupe County Judge

By \_\_\_\_\_  
Guadalupe County Commissioner Precinct 1

By \_\_\_\_\_  
Guadalupe County Commissioner Precinct 2

By \_\_\_\_\_  
Guadalupe County Commissioner Precinct 3

By \_\_\_\_\_  
Guadalupe County Commissioner Precinct 4



**INTERLOCAL AGREEMENT**  
**FOR ALLOCATION OF EMERGENCY MEDICAL SERVICES**  
**AND FOR MUTUAL AID**

STATE OF TEXAS

COUNTY OF GUADALUPE

This Interlocal Agreement for Allocation of Emergency Medical Services and for Mutual Aid (this "Agreement"), is between the City of Schertz, Texas ("Schertz"), and the City of Seguin, Texas ("Seguin"), and shall be effective as of October 1, 2020, for the term stated below. Schertz and Seguin shall hereafter collectively be referred to as "the Cities" or "the Parties."

WHEREAS, Schertz desires to provide emergency medical services to the unincorporated areas of Guadalupe County (the "County") and is entering into an Interlocal Agreement for Emergency Medical Services with the County to provide said services (the "County EMS Agreement") which is to be effective on the same effective date of this Agreement; and

WHEREAS, for purposes of facilitating the County EMS Agreement, Schertz desires to allocate between Schertz and Seguin coverage area, fees, personnel, equipment and other obligations of the County EMS Agreement in exchange for mutual covenants and other consideration hereinafter provided;

NOW, THEREFORE, the cities, acting by and through their duly authorized officers, hereby covenant and agree as follows:

**Section 1. Responsibilities of Seguin.**

- (a) During the term of this Agreement, Seguin agrees to furnish emergency medical services ("EMS") to the unincorporated areas of the County as described on the map attached hereto as Exhibit "A" ("Service Area").
- (b) Seguin shall respond to all calls for emergency medical assistance and emergency medical transport and advanced life support service with mobile intensive care unit capability (MICU) within the Service Area. Seguin's MICU units will be staffed with a minimum of one paramedic (preferably with two paramedics) at all times.
- (c) Seguin agrees that during the term of the Agreement, they shall use any available EMS resource to respond to all requests for service on a next-available-ambulance basis regardless of call location within the Seguin coverage area.
- (d) Seguin agrees to use every effort possible to maintain an average monthly response time of thirteen (13) minutes on responses not to include cancellations, transfers, standbys or un-safe scenes in which law enforcement must make the scene safe prior to entry. Response time shall be defined as the period of time starting when a Seguin ambulance is notified of

an emergency response and ending when an ambulance arrives on location of the emergency.

- (e) Schertz and the County shall arrange for all requests for assistance within the Service Area to be sent directly to Seguin by 911-telephone transfer or by the County alerting Seguin via agreed radio frequency. Such dispatch services shall be redundant and use mechanisms as provided by the Bexar Metro 911 District.
- (f) Seguin agrees to transport patients to their facilities of choice if their medical condition allows based on their policies and protocols. If the patient condition prevents this, the patient should be transported to the closest most appropriate facility.
- (g) Seguin agrees to maintain a Medical Director as required by the Texas Department of State Health Services (DSHS). Any change in Medical Director shall be reported in writing to Schertz within ten (10) business days.
- (h) Seguin will maintain Mutual Aid agreements with multiple agencies, including Schertz, to provide for appropriate responses during times of high call volume or multiple casualty incidents.
- (i) Seguin agrees to coordinate and respond with all Guadalupe County First Responders including Medical Direction, coordination of responses, and re-supplying of medical supplies used on emergency medical responses.
- (j) Seguin shall observe and comply with all applicable federal, state, county and local laws, rules, ordinances, and regulations which in any manner affect the provision of the services described in this Agreement and shall perform such services in a professional manner in accordance with standard emergency medical services practice.
- (k) Seguin agrees to maintain insurance on its equipment, vehicles, and personnel in the amounts required by the Texas Department of State Health Services for EMS Provider Licensing. Any changes in coverage will be reported in writing to Schertz within ten (10) days of such change becoming effective.
- (l) Seguin agrees to provide Schertz with Seguin's run statistics for responses in the Service Area. These reports shall provide Schertz with the number of calls, location of calls, transports, response times, and type of call (medical/trauma) in the Service Area. These reports shall be sent to Schertz each month before the 5<sup>th</sup> day of the following month. Due to patient privacy considerations, reports containing specific protected health information as defined by the Health Insurance Portability and Accountability Act of 1996 and other applicable laws shall not be made available to Schertz without the appropriate written consent of the patient or the patient's authorized representative or without a specific court order.

- (m) Seguin agrees to indemnify Schertz to the extent allowed by law for all actions of Seguin in connection with carrying out the responsibilities of Seguin under this Agreement.
- (n) It is expressly understood that in the performance of the obligations under this Agreement, each party is an independent contractor with the right to supervise, manage, control, and direct the provision of EMS calls to which it is responding.

## **Section 2. Responsibilities of Schertz.**

- (a) Schertz agrees to conduct, at a minimum, biannual meetings with all sub- contractors to discuss service level, customer service issues, and other issues as brought forward by the County Emergency Services Administrator. Any customer service issues brought to Schertz regarding service provided by Seguin will be forwarded as soon as possible to Seguin for investigation and resolution.
- (b) Schertz agrees to coordinate with the Guadalupe County Emergency Management Office on the designation of recognized County first responders and to report any changes in this designation to Seguin immediately.
- (c) Schertz agrees to involve Seguin as necessary on all EMS-related issues that occur in the Service Area covered by Seguin. This would include issues such as ambulance standbys, injury prevention activities, and community education events.
- (d) Schertz agrees to indemnify Seguin to the extent allowed by law for all actions of Schertz in connection with carrying out the responsibilities of Schertz under this Agreement.

## **Section 3. Term and Renewal.**

This Agreement shall be for a term commencing with the effective date of October 1, 2020. This Agreement shall remain in full force and effect for the full term of the County EMS Agreement (“Term”) which is three (3) years, including any extensions thereof (“Renewal Term”) provided that either Seguin or Schertz may terminate this Agreement as set forth in Section 6 of this Agreement.

## **Section 4. Consideration.**

- (a) In consideration of Seguin’s provision of the Emergency Medical Services during the Initial Term, Schertz agrees to pay Seguin \$441,787.97 annually, payable in twelve (12) equal monthly installments within fifteen (15) days of each month for each year of the Initial Term.
- (b) Schertz is in a fixed price contract with the County, and as such, during the Initial Term of this contract, there will be no provisions for the increase of fees from the County. If Schertz negotiates any extension of its agreement with the County and there is any increase or decrease of fees, Schertz shall negotiate with all sub-contractors to provide additional consideration as outlined by Schertz's agreement with the County.

- (c) Schertz retains the right to negotiate with one or more sub-contractors for the provision of EMS to the County on an annual basis with respect to territory coverage, call volume and other considerations so that Schertz may facilitate the highest levels of EMS service being provided at all times throughout all areas of the County.
- (d) Schertz agrees not to withhold monthly installments for any reason other than monthly reports not being received from Seguin in a timely manner. Alleged failure to perform shall be addressed in accordance with this Agreement but shall not be reason to withhold payments.
- (e) Schertz agrees that, in addition to the fee payable by Schertz to Seguin pursuant to Section 4(a), Seguin and its contracted designees will make every attempt to bill and collect from the patient's insurance company. In no event shall Schertz or the County be responsible for payment of such patient charges.

#### **Section 5. Failure to Perform.**

- (a) Seguin agrees to maintain response time reliability as outlined in Section 1(d). In the event that Seguin fails to maintain response time reliability as outlined in Section 1(d), Seguin will report this fact to Schertz and a meeting will be called to discuss the circumstances that led to this failure to perform.
- (b) Schertz may, at its discretion, place Seguin on a ninety (90) day remediation period. During this time, Seguin will provide reports as to the steps it is taking to correct the poor performance and the current response time reliability.
- (c) Seguin agrees to make every effort possible to fulfill their responsibilities in assisting Schertz in maintaining compliance with the County's expectations as outlined by this Agreement. If Seguin's performance or lack thereof could harm the overall viability of Schertz's agreement with the County, Schertz may, after a 90-day notice, terminate this agreement with Seguin. All monies owed for the service provided until the actual date of termination will be paid to Seguin.

#### **Section 6. Termination of this Agreement.**

- (a) This Agreement shall remain in effect until Agreement expires, completion and acceptance of services or default. Schertz reserves the right to terminate the contract with a 90 day written notice. Either party may terminate this Agreement without cause by giving not less than one hundred twenty (120) days' notice in writing to the other party. When such notice is provided, Seguin agrees to continue to provide service until the one hundred twenty (120) day notice period ends. Schertz agrees to pay the full consideration due to Seguin through the one hundred twenty (120) day notice period.

## **Section 7. Mutual Aid.**

- (a) Seguin and Schertz expressly acknowledge and agree that, in certain instances, the other party may not be able to respond to an EMS call within its allocated service area. In such instances, the parties agree to provide each other with mutual aid and to dispatch equipment and/or personnel in accordance with and subject to the terms and conditions hereinafter set forth.
- (b) The Parties agree to provide EMS to each other upon a request for assistance from the EMS Director, Fire Chief, Battalion Chief, City Manager, Assistant City Manager or other authorized individual as designated in writing by the respective City.
- (c) Although each party will endeavor to respond to all requests for assistance, nothing herein shall be construed as imposing any absolute duty or obligation upon any party to respond to any particular request for services. The provision of EMS to each party's own area of responsibility shall always remain the primary function of that party's department.
- (d) The responding party shall report with its equipment and/or personnel to the location requested by the dispatcher and shall remain there to render the assistance required. Should the responding party be dispatched to a location at which the requesting party has already arrived, the responding party agrees to work under the authority of the requesting party upon arrival at the scene.
- (e) In the event one party cannot or is unable to respond to a request for assistance, that party shall immediately notify the party requesting such assistance.
- (f) All claims for workers compensation or other benefits arising out of the performance of this Agreement shall be the sole responsibility of the party which is the general employer or supervisor of the person filing such claim.
- (g) At no time shall the employees of a responding party be considered borrowed servants or on loan to the requesting party.

**Section 8. Authorization.** This Agreement has been duly authorized by the governing bodies of Seguin and Schertz.

**Section 9. Severability.** If any portion of this Agreement shall be declared illegal or held unenforceable for any reason, the remaining portions hereof shall continue in full force and effect.

**Section 10. Amendments.** This Agreement represents the complete understanding of Seguin and Schertz with respect to the matters described herein, and this Agreement may not be amended or altered without the written consent of both parties.

**Section 11. Governing Law.** This Agreement shall be governed by the laws of the State of Texas.

**Section 12. Governmental Functions; Liability; No Waiver of Immunity or Defenses.** Notwithstanding any provision to the contrary herein, this Agreement is a contract for and with respect to the performance of governmental functions by governmental entities.

- (a) The services provided for herein are governmental functions, and the Parties shall be engaged in the conduct of a governmental function while providing and/or performing any service pursuant to this Agreement.
- (b) The relationship of the Parties shall, with respect to that part of any service or function undertaken as a result of or pursuant to this Agreement, be that of independent contractors.
- (c) Nothing contained herein shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship between the Parties.
- (d) Each Party shall have no liability whatsoever for the actions of, or failure to act by, any employees, agents, representatives, or assigns of the other Party in connection with the Agreement. Each Party covenants and agrees, to the extent permitted by law, that it shall be solely responsible, as between the Parties, for and with respect to any claim or cause of action arising out of or with respect to any act, omission, or failure to act by its respective employees, agents, representatives, or assigns, in connection therewith.
- (e) Each Party reserves and does not waive any defense available to it at law or in equity as to any claim or cause of action whatsoever that may arise or result from or in connection with this Agreement. This Agreement shall not be interpreted nor construed to give to any third party the right to any claim or cause of action, and neither Party shall be held legally liable for any claim or cause of action arising pursuant to or in connection with this Agreement except as specifically provided herein or by law.
- (f) Neither Party waives or relinquishes any immunity or defense on behalf of itself, its commissioners, councilmembers, officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants and agreements contained herein.

*[The remainder of this page intentionally left blank.]*

IN WITNESS WHEREOF, the undersigned have entered into this Emergency Medical Services Interlocal Agreement, effective as of the date first above written.

CITY OF SCHERTZ, TEXAS

By \_\_\_\_\_  
City Manager

CITY OF SEGUIN, TEXAS

By \_\_\_\_\_  
City Manager



**INTERLOCAL AGREEMENT**  
**FOR ALLOCATION OF EMERGENCY MEDICAL SERVICES**  
**AND FOR MUTUAL AID**

STATE OF TEXAS

COUNTY OF GUADALUPE

This Interlocal Agreement for Allocation of Emergency Medical Services and for Mutual Aid (this "Agreement"), is between the City of Schertz, Texas ("Schertz"), and the City of Luling, Texas ("Luling"), and shall be effective as of October 1, 2020, for the term stated below. Schertz and Luling shall hereafter collectively be referred to as "the Cities" or "the Parties."

WHEREAS, Schertz desires to provide emergency medical services to the unincorporated areas of Guadalupe County (the "County") and is entering into an Interlocal Agreement for Emergency Medical Services with the County to provide said services (the "County EMS Agreement") which is to be effective on the same effective date of this Agreement; and

WHEREAS, for purposes of facilitating the County EMS Agreement, Schertz desires to allocate between Schertz and Luling coverage area, fees, personnel, equipment and other obligations of the County EMS Agreement in exchange for mutual covenants and other consideration hereinafter provided;

NOW, THEREFORE, the cities, acting by and through their duly authorized officers, hereby covenant and agree as follows:

**Section 1. Responsibilities of Luling.**

- (a) During the term of this Agreement, Luling agrees to furnish emergency medical services ("EMS") to the unincorporated areas of the County as described on the map attached hereto as Exhibit "A" ("Service Area").
- (b) Luling shall respond to all calls for emergency medical assistance and emergency medical transport and advanced life support service with mobile intensive care unit capability (MICU) within the Service Area. Luling's MICU units will be staffed with a minimum of one paramedic (preferably with two paramedics) at all times.
- (c) Luling agrees that during the term of the Agreement, they shall use any available EMS resource to respond to all requests for service on a next-available-ambulance basis regardless of call location within the Luling coverage area.
- (d) Luling agrees to use every effort possible to maintain an average monthly response time of thirteen (13) minutes on responses not to include cancellations, transfers, standbys or unsafe scenes in which law enforcement must make the scene safe prior to entry. Response time shall be defined as the period of time starting when a Luling ambulance is notified of

an emergency response and ending when an ambulance arrives on location of the emergency.

- (e) Schertz and the County shall arrange for all requests for assistance within the Service Area to be sent directly to Luling by 911-telephone transfer or by the County alerting Luling via agreed radio frequency. Such dispatch services shall be redundant and use mechanisms as provided by the Bexar Metro 911 District.
- (f) Luling agrees to transport patients to their facilities of choice if their medical condition allows based on their policies and protocols. If the patient condition prevents this, the patient should be transported to the closest most appropriate facility.
- (g) Luling agrees to maintain a Medical Director as required by the Texas Department of State Health Services (DSHS). Any change in Medical Director shall be reported in writing to Schertz within ten (10) business days.
- (h) Luling will maintain Mutual Aid agreements with multiple agencies, including Schertz, to provide for appropriate responses during times of high call volume or multiple casualty incidents.
- (i) Luling agrees to coordinate and respond with all Guadalupe County First Responders including Medical Direction, coordination of responses, and re-supplying of medical supplies used on emergency medical responses.
- (j) Luling shall observe and comply with all applicable federal, state, county and local laws, rules, ordinances, and regulations which in any manner affect the provision of the services described in this Agreement and shall perform such services in a professional manner in accordance with standard emergency medical services practice.
- (k) Luling agrees to maintain insurance on its equipment, vehicles, and personnel in the amounts required by the Texas Department of State Health Services for EMS Provider Licensing. Any changes in coverage will be reported in writing to Schertz within ten (10) days of such change becoming effective.
- (l) Luling agrees to provide Schertz with Luling's run statistics for responses in the Service Area. These reports shall provide Schertz with the number of calls, location of calls, transports, response times, and type of call (medical/trauma) in the Service Area. These reports shall be sent to Schertz each month before the 5<sup>th</sup> day of the following month. Due to patient privacy considerations, reports containing specific protected health information as defined by the Health Insurance Portability and Accountability Act of 1996 and other applicable laws shall not be made available to Schertz without the appropriate written consent of the patient or the patient's authorized representative or without a specific court order.

- (m) Luling agrees to indemnify Schertz to the extent allowed by law for all actions of Luling in connection with carrying out the responsibilities of Luling under this Agreement.
- (n) It is expressly understood that in the performance of the obligations under this Agreement, each party is an independent contractor with the right to supervise, manage, control, and direct the provision of EMS calls to which it is responding.

## **Section 2. Responsibilities of Schertz.**

- (a) Schertz agrees to conduct, at a minimum, biannual meetings with all sub- contractors to discuss service level, customer service issues, and other issues as brought forward by the County Emergency Services Administrator. Any customer service issues brought to Schertz regarding service provided by Luling will be forwarded as soon as possible to Luling for investigation and resolution.
- (b) Schertz agrees to coordinate with the Guadalupe County Emergency Management Office on the designation of recognized County first responders and to report any changes in this designation to Luling immediately.
- (c) Schertz agrees to involve Luling as necessary on all EMS-related issues that occur in the Service Area covered by Luling. This would include issues such as ambulance standbys, injury prevention activities, and community education events.
- (d) Schertz agrees to indemnify Luling to the extent allowed by law for all actions of Schertz in connection with carrying out the responsibilities of Schertz under this Agreement.

## **Section 3. Term and Renewal.**

This Agreement shall be for a term commencing with the effective date of October 1, 2020. This Agreement shall remain in full force and effect for the full term of the County EMS Agreement (“Term”) which is three (3) years, including any extensions thereof (“Renewal Term”) provided that either Luling or Schertz may terminate this Agreement as set forth in Section 6 of this Agreement.

## **Section 4. Consideration.**

- (a) In consideration of Luling’s provision of the Emergency Medical Services during the Initial Term, Schertz agrees to pay Luling \$39,605.52 annually, payable in twelve (12) equal monthly installments within fifteen (15) days of each month for each year of the Initial Term.
- (b) Schertz is in a fixed price contract with the County, and as such, during the Initial Term of this contract, there will be no provisions for the increase of fees from the County. If Schertz negotiates any extension of its agreement with the County and there is any increase or decrease of fees, Schertz shall negotiate with all sub-contractors to provide additional consideration as outlined by Schertz's agreement with the County.

- (c) Schertz retains the right to negotiate with one or more sub-contractors for the provision of EMS to the County on an annual basis with respect to territory coverage, call volume and other considerations so that Schertz may facilitate the highest levels of EMS service being provided at all times throughout all areas of the County.
- (d) Schertz agrees not to withhold monthly installments for any reason other than monthly reports not being received from Luling in a timely manner. Alleged failure to perform shall be addressed in accordance with this Agreement but shall not be reason to withhold payments.
- (e) Schertz agrees that, in addition to the fee payable by Schertz to Luling pursuant to Section 4(a), Luling and its contracted designees will make every attempt to bill and collect from the patient's insurance company. In no event shall Schertz or the County be responsible for payment of such patient charges.

#### **Section 5. Failure to Perform.**

- (a) Luling agrees to maintain response time reliability as outlined in Section 1(d). In the event that Luling fails to maintain response time reliability as outlined in Section 1(d), Luling will report this fact to Schertz and a meeting will be called to discuss the circumstances that led to this failure to perform.
- (b) Schertz may, at its discretion, place Luling on a ninety (90) day remediation period. During this time, Luling will provide reports as to the steps it is taking to correct the poor performance and the current response time reliability.
- (c) Luling agrees to make every effort possible to fulfill their responsibilities in assisting Schertz in maintaining compliance with the County's expectations as outlined by this Agreement. If Luling's performance or lack thereof could harm the overall viability of Schertz's agreement with the County, Schertz may, after a 90-day notice, terminate this agreement with Luling. All monies owed for the service provided until the actual date of termination will be paid to Luling.

#### **Section 6. Termination of this Agreement.**

- (a) This Agreement shall remain in effect until Agreement expires, completion and acceptance of services or default. Schertz reserves the right to terminate the contract with a 90 day written notice. Either party may terminate this Agreement without cause by giving not less than one hundred twenty (120) days' notice in writing to the other party. When such notice is provided, Luling agrees to continue to provide service until the one hundred twenty (120) day notice period ends. Schertz agrees to pay the full consideration due to Luling through the one hundred twenty (120) day notice period.

## **Section 7. Mutual Aid.**

- (a) Luling and Schertz expressly acknowledge and agree that, in certain instances, the other party may not be able to respond to an EMS call within its allocated service area. In such instances, the parties agree to provide each other with mutual aid and to dispatch equipment and/or personnel in accordance with and subject to the terms and conditions hereinafter set forth.
- (b) The Parties agree to provide EMS to each other upon a request for assistance from the EMS Director, Fire Chief, Battalion Chief, City Manager, Assistant City Manager or other authorized individual as designated in writing by the respective City.
- (c) Although each party will endeavor to respond to all requests for assistance, nothing herein shall be construed as imposing any absolute duty or obligation upon any party to respond to any particular request for services. The provision of EMS to each party's own area of responsibility shall always remain the primary function of that party's department.
- (d) The responding party shall report with its equipment and/or personnel to the location requested by the dispatcher and shall remain there to render the assistance required. Should the responding party be dispatched to a location at which the requesting party has already arrived, the responding party agrees to work under the authority of the requesting party upon arrival at the scene.
- (e) In the event one party cannot or is unable to respond to a request for assistance, that party shall immediately notify the party requesting such assistance.
- (f) All claims for workers compensation or other benefits arising out of the performance of this Agreement shall be the sole responsibility of the party which is the general employer or supervisor of the person filing such claim.
- (g) At no time shall the employees of a responding party be considered borrowed servants or on loan to the requesting party.

**Section 8. Authorization.** This Agreement has been duly authorized by the governing bodies of Luling and Schertz.

**Section 9. Severability.** If any portion of this Agreement shall be declared illegal or held unenforceable for any reason, the remaining portions hereof shall continue in full force and effect.

**Section 10. Amendments.** This Agreement represents the complete understanding of Luling and Schertz with respect to the matters described herein, and this Agreement may not be amended or altered without the written consent of both parties.

**Section 11. Governing Law.** This Agreement shall be governed by the laws of the State of Texas.

**Section 12. Governmental Functions; Liability; No Waiver of Immunity or Defenses.** Notwithstanding any provision to the contrary herein, this Agreement is a contract for and with respect to the performance of governmental functions by governmental entities.

- (a) The services provided for herein are governmental functions, and the Parties shall be engaged in the conduct of a governmental function while providing and/or performing any service pursuant to this Agreement.
- (b) The relationship of the Parties shall, with respect to that part of any service or function undertaken as a result of or pursuant to this Agreement, be that of independent contractors.
- (c) Nothing contained herein shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship between the Parties.
- (d) Each Party shall have no liability whatsoever for the actions of, or failure to act by, any employees, agents, representatives, or assigns of the other Party in connection with the Agreement. Each Party covenants and agrees, to the extent permitted by law, that it shall be solely responsible, as between the Parties, for and with respect to any claim or cause of action arising out of or with respect to any act, omission, or failure to act by its respective employees, agents, representatives, or assigns, in connection therewith.
- (e) Each Party reserves and does not waive any defense available to it at law or in equity as to any claim or cause of action whatsoever that may arise or result from or in connection with this Agreement. This Agreement shall not be interpreted nor construed to give to any third party the right to any claim or cause of action, and neither Party shall be held legally liable for any claim or cause of action arising pursuant to or in connection with this Agreement except as specifically provided herein or by law.
- (f) Neither Party waives or relinquishes any immunity or defense on behalf of itself, its commissioners, councilmembers, officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants and agreements contained herein.

*[The remainder of this page intentionally left blank.]*

IN WITNESS WHEREOF, the undersigned have entered into this Emergency Medical Services Interlocal Agreement, effective as of the date first above written.

CITY OF SCHERTZ, TEXAS

By \_\_\_\_\_  
City Manager

CITY OF LULING, TEXAS

By \_\_\_\_\_  
City Manager



**INTERLOCAL AGREEMENT**  
**FOR ALLOCATION OF EMERGENCY MEDICAL SERVICES**  
**AND FOR MUTUAL AID**

STATE OF TEXAS

COUNTY OF GUADALUPE

This Interlocal Agreement for Allocation of Emergency Medical Services and for Mutual Aid (this "Agreement"), is between the City of Schertz, Texas ("Schertz"), and San Marcos/Hays County EMS ("SM/HC EMS"), and shall be effective as of October 1, 2020, for the term stated below. Schertz and SM/HC EMS shall hereafter collectively be referred to as "the Cities" or "the Parties."

WHEREAS, Schertz desires to provide emergency medical services to the unincorporated areas of Guadalupe County (the "County") and is entering into an Interlocal Agreement for Emergency Medical Services with the County to provide said services (the "County EMS Agreement") which is to be effective on the same effective date of this Agreement; and

WHEREAS, for purposes of facilitating the County EMS Agreement, Schertz desires to allocate between Schertz and SM/HC EMS coverage area, fees, personnel, equipment and other obligations of the County EMS Agreement in exchange for mutual covenants and other consideration hereinafter provided;

NOW, THEREFORE, the Cities/Parties, acting by and through their duly authorized officers, hereby covenant and agree as follows:

**Section 1. Responsibilities of SM/HC EMS.**

- (a) During the term of this Agreement, SM/HC EMS agrees to furnish emergency medical services ("EMS") to the unincorporated areas of the County as described on the map attached hereto as Exhibit "A" ("Service Area").
- (b) SM/HC EMS shall respond to all calls for emergency medical assistance and emergency medical transport and advanced life support service with mobile intensive care unit capability (MICU) within the Service Area. SM/HC EMS's MICU units will be staffed with a minimum of one paramedic (preferably with two paramedics) at all times.
- (c) SM/HC EMS agrees that during the term of the Agreement, they shall use any available EMS resource to respond to all requests for service on a next-available-ambulance basis regardless of call location within the SM/HC EMS coverage area.
- (d) SM/HC EMS agrees to use every effort possible to maintain an average monthly response time of thirteen (13) minutes on responses not to include cancellations, transfers, standbys or un-safe scenes in which law enforcement must make the scene safe prior to entry. Response time shall be defined as the period of time starting when a SM/HC EMS

ambulance is notified of an emergency response and ending when an ambulance arrives on location of the emergency.

- (e) Schertz and the County shall arrange for all requests for assistance within the Service Area to be sent directly to SM/HC EMS by 911-telephone transfer or by the County alerting SM/HC EMS via agreed radio frequency. Such dispatch services shall be redundant and use mechanisms as provided by the Bexar Metro 911 District.
- (f) SM/HC EMS agrees to transport patients to their facilities of choice if their medical condition allows based on their policies and protocols. If the patient condition prevents this, the patient should be transported to the closest most appropriate facility.
- (g) SM/HC EMS agrees to maintain a Medical Director as required by the Texas Department of State Health Services (DSHS). Any change in Medical Director shall be reported in writing to Schertz within ten (10) business days.
- (h) SM/HC EMS will maintain Mutual Aid agreements with multiple agencies, including Schertz, to provide for appropriate responses during times of high call volume or multiple casualty incidents.
- (i) SM/HC EMS agrees to coordinate and respond with all Guadalupe County First Responders including Medical Direction, coordination of responses, and re-supplying of medical supplies used on emergency medical responses.
- (j) SM/HC EMS shall observe and comply with all applicable federal, state, county and local laws, rules, ordinances, and regulations which in any manner affect the provision of the services described in this Agreement and shall perform such services in a professional manner in accordance with standard emergency medical services practice.
- (k) SM/HC EMS agrees to maintain insurance on its equipment, vehicles, and personnel in the amounts required by the Texas Department of State Health Services for EMS Provider Licensing. Any changes in coverage will be reported in writing to Schertz within ten (10) days of such change becoming effective.
- (l) SM/HC EMS agrees to provide Schertz with SM/HC EMS's run statistics for responses in the Service Area. These reports shall provide Schertz with the number of calls, location of calls, transports, response times, and type of call (medical/trauma) in the Service Area. These reports shall be sent to Schertz each month before the 5<sup>th</sup> day of the following month. Due to patient privacy considerations, reports containing specific protected health information as defined by the Health Insurance Portability and Accountability Act of 1996 and other applicable laws shall not be made available to Schertz without the appropriate written consent of the patient or the patient's authorized representative or without a specific court order.

- (m) SM/HC EMS agrees to indemnify Schertz to the extent allowed by law for all actions of SM/HC EMS in connection with carrying out the responsibilities of SM/HC EMS under this Agreement.
- (n) It is expressly understood that in the performance of the obligations under this Agreement, each party is an independent contractor with the right to supervise, manage, control, and direct the provision of EMS calls to which it is responding.

## **Section 2. Responsibilities of Schertz.**

- (a) Schertz agrees to conduct, at a minimum, biannual meetings with all sub- contractors to discuss service level, customer service issues, and other issues as brought forward by the County Emergency Services Administrator. Any customer service issues brought to Schertz regarding service provided by SM/HC EMS will be forwarded as soon as possible to SM/HC EMS for investigation and resolution.
- (b) Schertz agrees to coordinate with the Guadalupe County Emergency Management Office on the designation of recognized County first responders and to report any changes in this designation to SM/HC EMS immediately.
- (c) Schertz agrees to involve SM/HC EMS as necessary on all EMS-related issues that occur in the Service Area covered by SM/HC EMS. This would include issues such as ambulance standbys, injury prevention activities, and community education events.
- (d) Schertz agrees to indemnify SM/HC EMS to the extent allowed by law for all actions of Schertz in connection with carrying out the responsibilities of Schertz under this Agreement.

## **Section 3. Term and Renewal.**

This Agreement shall be for a term commencing with the effective date of October 1, 2020. This Agreement shall remain in full force and effect for the full term of the County EMS Agreement ("Term") which is three (3) years, including any extensions thereof ("Renewal Term") provided that either SM/HC EMS or Schertz may terminate this Agreement as set forth in Section 6 of this Agreement.

## **Section 4. Consideration.**

- (a) In consideration of SM/HC EMS's provision of the Emergency Medical Services during the Initial Term, Schertz agrees to pay SM/HC EMS \$92,936.38 annually, payable in twelve (12) equal monthly installments within fifteen (15) days of each month for each year of the Initial Term.
- (b) Schertz is in a fixed price contract with the County, and as such, during the Initial Term of this contract, there will be no provisions for the increase of fees from the County. If Schertz negotiates any extension of its agreement with the County and there is any increase or

decrease of fees, Schertz shall negotiate with all sub-contractors to provide additional consideration as outlined by Schertz's agreement with the County.

- (c) Schertz retains the right to negotiate with one or more sub-contractors for the provision of EMS to the County on an annual basis with respect to territory coverage, call volume and other considerations so that Schertz may facilitate the highest levels of EMS service being provided at all times throughout all areas of the County.
- (d) Schertz agrees not to withhold monthly installments for any reason other than monthly reports not being received from SM/HC EMS in a timely manner. Alleged failure to perform shall be addressed in accordance with this Agreement but shall not be reason to withhold payments.
- (e) Schertz agrees that, in addition to the fee payable by Schertz to SM/HC EMS pursuant to Section 4(a), SM/HC EMS and its contracted designees will make every attempt to bill and collect from the patient's insurance company. In no event shall Schertz or the County be responsible for payment of such patient charges.

#### **Section 5. Failure to Perform.**

- (a) SM/HC EMS agrees to maintain response time reliability as outlined in Section 1(d). In the event that SM/HC EMS fails to maintain response time reliability as outlined in Section 1(d), SM/HC EMS will report this fact to Schertz and a meeting will be called to discuss the circumstances that led to this failure to perform.
- (b) Schertz may, at its discretion, place SM/HC EMS on a ninety (90) day remediation period. During this time, SM/HC EMS will provide reports as to the steps it is taking to correct the poor performance and the current response time reliability.
- (c) SM/HC EMS agrees to make every effort possible to fulfill their responsibilities in assisting Schertz in maintaining compliance with the County's expectations as outlined by this Agreement. If SM/HC EMS's performance or lack thereof could harm the overall viability of Schertz's agreement with the County, Schertz may, after a 90-day notice, terminate this agreement with SM/HC EMS. All monies owed for the service provided until the actual date of termination will be paid to SM/HC EMS.

#### **Section 6. Termination of this Agreement.**

- (a) This Agreement shall remain in effect until Agreement expires, completion and acceptance of services or default. Schertz reserves the right to terminate the contract with a 90 day written notice. Either party may terminate this Agreement without cause by giving not less than one hundred twenty (120) days' notice in writing to the other party. When such notice is provided, SM/HC EMS agrees to continue to provide service until the one hundred twenty (120) day notice period ends. Schertz agrees to pay the full consideration due to SM/HC EMS through the one hundred twenty (120) day notice period.

**Section 7. Mutual Aid.**

- (a) SM/HC EMS and Schertz expressly acknowledge and agree that, in certain instances, the other party may not be able to respond to an EMS call within its allocated service area. In such instances, the parties agree to provide each other with mutual aid and to dispatch equipment and/or personnel in accordance with and subject to the terms and conditions hereinafter set forth.
- (b) The Parties agree to provide EMS to each other upon a request for assistance from the EMS Director, Fire Chief, Battalion Chief, City Manager, Assistant City Manager or other authorized individual as designated in writing by the respective City.
- (c) Although each party will endeavor to respond to all requests for assistance, nothing herein shall be construed as imposing any absolute duty or obligation upon any party to respond to any particular request for services. The provision of EMS to each party's own area of responsibility shall always remain the primary function of that party's department.
- (d) The responding party shall report with its equipment and/or personnel to the location requested by the dispatcher and shall remain there to render the assistance required. Should the responding party be dispatched to a location at which the requesting party has already arrived, the responding party agrees to work under the authority of the requesting party upon arrival at the scene.
- (e) In the event one party cannot or is unable to respond to a request for assistance, that party shall immediately notify the party requesting such assistance.
- (f) All claims for workers compensation or other benefits arising out of the performance of this Agreement shall be the sole responsibility of the party which is the general employer or supervisor of the person filing such claim.
- (g) At no time shall the employees of a responding party be considered borrowed servants or on loan to the requesting party.

**Section 8. Authorization.** This Agreement has been duly authorized by the governing bodies of SM/HC EMS and Schertz.

**Section 9. Severability.** If any portion of this Agreement shall be declared illegal or held unenforceable for any reason, the remaining portions hereof shall continue in full force and effect.

**Section 10. Amendments.** This Agreement represents the complete understanding of SM/HC EMS and Schertz with respect to the matters described herein, and this Agreement may not be amended or altered without the written consent of both parties.

**Section 11. Governing Law.** This Agreement shall be governed by the laws of the State of Texas.

**Section 12. Governmental Functions; Liability; No Waiver of Immunity or Defenses.** Notwithstanding any provision to the contrary herein, this Agreement is a contract for and with respect to the performance of governmental functions by governmental entities.

- (a) The services provided for herein are governmental functions, and the Parties shall be engaged in the conduct of a governmental function while providing and/or performing any service pursuant to this Agreement.
- (b) The relationship of the Parties shall, with respect to that part of any service or function undertaken as a result of or pursuant to this Agreement, be that of independent contractors.
- (c) Nothing contained herein shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship between the Parties.
- (d) Each Party shall have no liability whatsoever for the actions of, or failure to act by, any employees, agents, representatives, or assigns of the other Party in connection with the Agreement. Each Party covenants and agrees, to the extent permitted by law, that it shall be solely responsible, as between the Parties, for and with respect to any claim or cause of action arising out of or with respect to any act, omission, or failure to act by its respective employees, agents, representatives, or assigns, in connection therewith.
- (e) Each Party reserves and does not waive any defense available to it at law or in equity as to any claim or cause of action whatsoever that may arise or result from or in connection with this Agreement. This Agreement shall not be interpreted nor construed to give to any third party the right to any claim or cause of action, and neither Party shall be held legally liable for any claim or cause of action arising pursuant to or in connection with this Agreement except as specifically provided herein or by law.
- (f) Neither Party waives or relinquishes any immunity or defense on behalf of itself, its commissioners, councilmembers, officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants and agreements contained herein.

*[The remainder of this page intentionally left blank.]*

IN WITNESS WHEREOF, the undersigned have entered into this Emergency Medical Services Interlocal Agreement, effective as of the date first above written.

CITY OF SCHERTZ, TEXAS

By \_\_\_\_\_  
City Manager

CITY OF SM/HC EMS, TEXAS

By \_\_\_\_\_



**INTERLOCAL AGREEMENT**  
**FOR ALLOCATION OF EMERGENCY MEDICAL SERVICES**  
**AND FOR MUTUAL AID**

STATE OF TEXAS

COUNTY OF GUADALUPE

This Interlocal Agreement for Allocation of Emergency Medical Services and for Mutual Aid (this "Agreement"), is between the City of Schertz, Texas ("Schertz"), and Wilson County ESD #3 EMS ("Wilson County ESD #3"), and shall be effective as of October 1, 2020, for the term stated below. Schertz and Wilson County ESD #3 shall hereafter collectively be referred to as "the Cities" or "the Parties."

WHEREAS, Schertz desires to provide emergency medical services to the unincorporated areas of Guadalupe County (the "County") and is entering into an Interlocal Agreement for Emergency Medical Services with the County to provide said services (the "County EMS Agreement") which is to be effective on the same effective date of this Agreement; and

WHEREAS, for purposes of facilitating the County EMS Agreement, Schertz desires to allocate between Schertz and WILSON COUNTY ESD #3 coverage area, fees, personnel, equipment and other obligations of the County EMS Agreement in exchange for mutual covenants and other consideration hereinafter provided;

NOW, THEREFORE, the cities, acting by and through their duly authorized officers, hereby covenant and agree as follows:

**Section 1. Responsibilities of WILSON COUNTY ESD #3.**

- (a) During the term of this Agreement, WILSON COUNTY ESD #3 agrees to furnish emergency medical services ("EMS") to the unincorporated areas of the County as described on the map attached hereto as Exhibit "A" ("Service Area").
- (b) WILSON COUNTY ESD #3 shall respond to all calls for emergency medical assistance and emergency medical transport and advanced life support service with mobile intensive care unit capability (MICU) within the Service Area. WILSON COUNTY ESD #3's MICU units will be staffed with a minimum of one paramedic (preferably with two paramedics) at all times.
- (c) WILSON COUNTY ESD #3 agrees that during the term of the Agreement, they shall use any available EMS resource to respond to all requests for service on a next-available-ambulance basis regardless of call location within the Wilson County ESD#3 coverage area.
- (d) WILSON COUNTY ESD #3 agrees to use every effort possible to maintain an average monthly response time of thirteen (13) minutes on responses not to include cancellations,

transfers, standbys or un-safe scenes in which law enforcement must make the scene safe prior to entry. Response time shall be defined as the period of time starting when a WILSON COUNTY ESD #3 ambulance is notified of an emergency response and ending when an ambulance arrives on location of the emergency.

- (e) Schertz and the County shall arrange for all requests for assistance within the Service Area to be sent directly to WILSON COUNTY ESD #3 by 911-telephone transfer or by the County alerting WILSON COUNTY ESD #3 via agreed radio frequency. Such dispatch services shall be redundant and use mechanisms as provided by the Bexar Metro 911 District.
- (f) WILSON COUNTY ESD #3 agrees to transport patients to their facilities of choice if their medical condition allows based on their policies and protocols. If the patient condition prevents this, the patient should be transported to the closest most appropriate facility.
- (g) WILSON COUNTY ESD #3 agrees to maintain a Medical Director as required by the Texas Department of State Health Services (DSHS). Any change in Medical Director shall be reported in writing to Schertz within ten (10) business days.
- (h) WILSON COUNTY ESD #3 will maintain Mutual Aid agreements with multiple agencies, including Schertz, to provide for appropriate responses during times of high call volume or multiple casualty incidents.
- (i) WILSON COUNTY ESD #3 agrees to coordinate and respond with all Guadalupe County First Responders including Medical Direction, coordination of responses, and re-supplying of medical supplies used on emergency medical responses.
- (j) WILSON COUNTY ESD #3 shall observe and comply with all applicable federal, state, county and local laws, rules, ordinances, and regulations which in any manner affect the provision of the services described in this Agreement and shall perform such services in a professional manner in accordance with standard emergency medical services practice.
- (k) WILSON COUNTY ESD #3 agrees to maintain insurance on its equipment, vehicles, and personnel in the amounts required by the Texas Department of State Health Services for EMS Provider Licensing. Any changes in coverage will be reported in writing to Schertz within ten (10) days of such change becoming effective.
- (l) WILSON COUNTY ESD #3 agrees to provide Schertz with WILSON COUNTY ESD #3's run statistics for responses in the Service Area. These reports shall provide Schertz with the number of calls, location of calls, transports, response times, and type of call (medical/trauma) in the Service Area. These reports shall be sent to Schertz each month before the 5<sup>th</sup> day of the following month. Due to patient privacy considerations, reports containing specific protected health information as defined by the Health Insurance

Portability and Accountability Act of 1996 and other applicable laws shall not be made available to Schertz without the appropriate written consent of the patient or the patient's authorized representative or without a specific court order.

- (m) WILSON COUNTY ESD #3 agrees to indemnify Schertz to the extent allowed by law for all actions of WILSON COUNTY ESD #3 in connection with carrying out the responsibilities of WILSON COUNTY ESD #3 under this Agreement.
- (n) It is expressly understood that in the performance of the obligations under this Agreement, each party is an independent contractor with the right to supervise, manage, control, and direct the provision of EMS calls to which it is responding.

## **Section 2. Responsibilities of Schertz.**

- (a) Schertz agrees to conduct, at a minimum, biannual meetings with all sub- contractors to discuss service level, customer service issues, and other issues as brought forward by the County Emergency Services Administrator. Any customer service issues brought to Schertz regarding service provided by WILSON COUNTY ESD #3 will be forwarded as soon as possible to WILSON COUNTY ESD #3 for investigation and resolution.
- (b) Schertz agrees to coordinate with the Guadalupe County Emergency Management Office on the designation of recognized County first responders and to report any changes in this designation to WILSON COUNTY ESD #3 immediately.
- (c) Schertz agrees to involve WILSON COUNTY ESD #3 as necessary on all EMS-related issues that occur in the Service Area covered by WILSON COUNTY ESD #3. This would include issues such as ambulance standbys, injury prevention activities, and community education events.
- (d) Schertz agrees to indemnify WILSON COUNTY ESD #3 to the extent allowed by law for all actions of Schertz in connection with carrying out the responsibilities of Schertz under this Agreement.

## **Section 3. Term and Renewal.**

This Agreement shall be for a term commencing with the effective date of October 1, 2020. This Agreement shall remain in full force and effect for the full term of the County EMS Agreement ("Term") which is three (3) years, including any extensions thereof ("Renewal Term") provided that either WILSON COUNTY ESD #3 or Schertz may terminate this Agreement as set forth in Section 6 of this Agreement.

## **Section 4. Consideration.**

- (a) In consideration of WILSON COUNTY ESD #3's provision of the Emergency Medical Services during the Initial Term, Schertz agrees to pay WILSON COUNTY ESD #3

\$44,159.14 annually, payable in twelve (12) equal monthly installments within fifteen (15) days of each month for each year of the Initial Term.

- (b) Schertz is in a fixed price contract with the County, and as such, during the Initial Term of this contract, there will be no provisions for the increase of fees from the County. If Schertz negotiates any extension of its agreement with the County and there is any increase or decrease of fees, Schertz shall negotiate with all sub-contractors to provide additional consideration as outlined by Schertz's agreement with the County.
- (c) Schertz retains the right to negotiate with one or more sub-contractors for the provision of EMS to the County on an annual basis with respect to territory coverage, call volume and other considerations so that Schertz may facilitate the highest levels of EMS service being provided at all times throughout all areas of the County.
- (d) Schertz agrees not to withhold monthly installments for any reason other than monthly reports not being received from WILSON COUNTY ESD #3 in a timely manner. Alleged failure to perform shall be addressed in accordance with this Agreement but shall not be reason to withhold payments.
- (e) Schertz agrees that, in addition to the fee payable by Schertz to WILSON COUNTY ESD #3 pursuant to Section 4(a), WILSON COUNTY ESD #3 and its contracted designees will make every attempt to bill and collect from the patient's insurance company. In no event shall Schertz or the County be responsible for payment of such patient charges.

**Section 5. Failure to Perform.**

- (a) WILSON COUNTY ESD #3 agrees to maintain response time reliability as outlined in Section 1(d). In the event that WILSON COUNTY ESD #3 fails to maintain response time reliability as outlined in Section 1(d), WILSON COUNTY ESD #3 will report this fact to Schertz and a meeting will be called to discuss the circumstances that led to this failure to perform.
- (b) Schertz may, at its discretion, place WILSON COUNTY ESD #3 on a ninety (90) day remediation period. During this time, WILSON COUNTY ESD #3 will provide reports as to the steps it is taking to correct the poor performance and the current response time reliability.
- (c) WILSON COUNTY ESD #3 agrees to make every effort possible to fulfill their responsibilities in assisting Schertz in maintaining compliance with the County's expectations as outlined by this Agreement. If WILSON COUNTY ESD #3's performance or lack thereof could harm the overall viability of Schertz's agreement with the County, Schertz may, after a 90-day notice, terminate this agreement with WILSON COUNTY ESD #3. All monies owed for the service provided until the actual date of termination will be paid to WILSON COUNTY ESD #3.

## **Section 6. Termination of this Agreement.**

- (a) This Agreement shall remain in effect until Agreement expires, completion and acceptance of services or default. Schertz reserves the right to terminate the contract with a 90 day written notice. Either party may terminate this Agreement without cause by giving not less than one hundred twenty (120) days' notice in writing to the other party. When such notice is provided, WILSON COUNTY ESD #3 agrees to continue to provide service until the one hundred twenty (120) day notice period ends. Schertz agrees to pay the full consideration due to WILSON COUNTY ESD #3 through the one hundred twenty (120) day notice period.

## **Section 7. Mutual Aid.**

- (a) WILSON COUNTY ESD #3 and Schertz expressly acknowledge and agree that, in certain instances, the other party may not be able to respond to an EMS call within its allocated service area. In such instances, the parties agree to provide each other with mutual aid and to dispatch equipment and/or personnel in accordance with and subject to the terms and conditions hereinafter set forth.
- (b) The Parties agree to provide EMS to each other upon a request for assistance from the EMS Director, Fire Chief, Battalion Chief, City Manager, Assistant City Manager or other authorized individual as designated in writing by the respective City.
- (c) Although each party will endeavor to respond to all requests for assistance, nothing herein shall be construed as imposing any absolute duty or obligation upon any party to respond to any particular request for services. The provision of EMS to each party's own area of responsibility shall always remain the primary function of that party's department.
- (d) The responding party shall report with its equipment and/or personnel to the location requested by the dispatcher and shall remain there to render the assistance required. Should the responding party be dispatched to a location at which the requesting party has already arrived, the responding party agrees to work under the authority of the requesting party upon arrival at the scene.
- (e) In the event one party cannot or is unable to respond to a request for assistance, that party shall immediately notify the party requesting such assistance.
- (f) All claims for workers compensation or other benefits arising out of the performance of this Agreement shall be the sole responsibility of the party which is the general employer or supervisor of the person filing such claim.
- (g) At no time shall the employees of a responding party be considered borrowed servants or on loan to the requesting party.

**Section 8. Authorization.** This Agreement has been duly authorized by the governing bodies of WILSON COUNTY ESD #3 and Schertz.

**Section 9. Severability.** If any portion of this Agreement shall be declared illegal or held unenforceable for any reason, the remaining portions hereof shall continue in full force and effect.

**Section 10. Amendments.** This Agreement represents the complete understanding of WILSON COUNTY ESD #3 and Schertz with respect to the matters described herein, and this Agreement may not be amended or altered without the written consent of both parties.

**Section 11. Governing Law.** This Agreement shall be governed by the laws of the State of Texas.

**Section 12. Governmental Functions; Liability; No Waiver of Immunity or Defenses.** Notwithstanding any provision to the contrary herein, this Agreement is a contract for and with respect to the performance of governmental functions by governmental entities.

- (a) The services provided for herein are governmental functions, and the Parties shall be engaged in the conduct of a governmental function while providing and/or performing any service pursuant to this Agreement.
- (b) The relationship of the Parties shall, with respect to that part of any service or function undertaken as a result of or pursuant to this Agreement, be that of independent contractors.
- (c) Nothing contained herein shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship between the Parties.
- (d) Each Party shall have no liability whatsoever for the actions of, or failure to act by, any employees, agents, representatives, or assigns of the other Party in connection with the Agreement. Each Party covenants and agrees, to the extent permitted by law, that it shall be solely responsible, as between the Parties, for and with respect to any claim or cause of action arising out of or with respect to any act, omission, or failure to act by its respective employees, agents, representatives, or assigns, in connection therewith.
- (e) Each Party reserves and does not waive any defense available to it at law or in equity as to any claim or cause of action whatsoever that may arise or result from or in connection with this Agreement. This Agreement shall not be interpreted nor construed to give to any third party the right to any claim or cause of action, and neither Party shall be held legally liable for any claim or cause of action arising pursuant to or in connection with this Agreement except as specifically provided herein or by law.
- (f) Neither Party waives or relinquishes any immunity or defense on behalf of itself, its commissioners, councilmembers, officers, employees, and agents as a result of the

execution of this Agreement and the performance of the covenants and agreements contained herein.

*[The remainder of this page intentionally left blank.]*

IN WITNESS WHEREOF, the undersigned have entered into this Emergency Medical Services Interlocal Agreement, effective as of the date first above written.

CITY OF SCHERTZ, TEXAS

By \_\_\_\_\_  
City Manager

WILSON COUNTY ESD #3 EMS

By \_\_\_\_\_



**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020

**Department:** City Secretary

**Subject:** Boards, Commissions and Committee Member Resignations/Appointments - Consideration and/or action appointing Mr. Graham Clark McChesney Jr. for the vacant board member position on the Transportation Increment Reinvestment Zone #2 (TIRZ). (Mayor/Council)

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**BACKGROUND**

Mr. McChesney has been the president of Laura Heights Estates HOA for 7 years. Councilmember Mark Davis has spoken to Mr. McChesney and recommends him for the vacant position on the Transportation Increment Reinvestment Zone #2 (TIRZ).

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**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** City Secretary  
**Subject:** Resolution No. 20-R-107 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing an amended Development Agreement, Project/ Financing Plan, and Interlocal Agreement for the Tax Increment Reinvestment Zone #2 (TIRZ) #2 (Sedona/Crossvine). (M. Browne/B. James)

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**BACKGROUND**

The Tax Increment Reinvestment Zone #2 (TIRZ #2 Sedona/Crossvine) was created in 2006 by the City of Schertz. A TIRZ is a mechanism to jumpstart development and ultimately generate new tax revenue. It builds needed public infrastructure in areas lacking adequate development to attract businesses; encourages development, thereby increasing property values and long-term property tax collections; and reduces the cost of private development by providing reimbursement for eligible public improvements. A TIRZ uses improvements to spur development and raise property values within a zone. Then it funnels some tax collected on that increase in value into a fund that pays for the improvements.

In addition to the City of Schertz, Bexar County and the San Antonio River Authority (SARA) participate in the TIRZ.

The TIRZ #2 was created at the request of the owner/developer of the Sedona Master Planned Community. As part of the creation a Project and Finance Plan; Interlocal Agreement; and Development Agreement were approved. Only one phase of the development was constructed, the neighborhood known as Sedona off of Lower Seguin Road and Hollering Vine. With the economic downturn in the late 2000s the project was sold to the current developer, Schertz 1518, Ltd.

Initially the TIRZ included about 825 acres, was to run through 2027 and would generate a maximum reimbursement to the developer of \$45,000,000. Homes values were estimated to be between \$160,000 and \$240,000 and the average market value of those homes in 2018 was \$212,793. The value of home that have been constructed since then are conservatively estimated at between \$250,000 and \$350,000. The new average market value in 2018 of these newer homes was \$321,538.

The Project and Finance Plan details the improvements that will be made and estimates the revenue to be generated to pay for/reimburse the developer for the improvements. It also outlines the property to be included in the zone. The Interlocal Agreement between the City, Bexar County, SARA and the TIRZ outlines the terms of the TIRZ and the agreement between the entities to participate in the TIRZ (and includes the Project and Finance Plan). It also outlines the percent of increased revenue to be contributed to the TIRZ. The Development Agreement is between the participating entities and the developer outlining the obligations of the developer, Schertz 1518, Ltd. and the entities.

In 2015, as a result of the economic downturn the developer sought and the City approved Ordinance 15-R-80 amending the Development Agreement that extended the term of the TIRZ and increased the maximum contribution. This occurred also as a result of the rezoning and rebranding of

the development as The Crossvine. The rezoning significantly increased the amount of open space and transformed the nature of the development. Prior to seeking County approval, a significant issue arose with regard to land use conflicts with JBSA Randolph. A large section of the TIRZ that was zoned for large lot single family development was in the Accident Potential Zone II (APZ II) and the recently updated Joint Land Use Study (JLUS) no longer recommended large residential lots in the area. As a result, the developer let lapse an option to purchase and develop this land which then allowed the owner to enter into a conservation easement thus eliminating the land use conflict. This stalled the approval process and necessitated updating the Project and Finance Plans.

The proposed amendments increase the maximum reimbursement to \$66,000,000 as a function of the increase in the cost of improvements and revenue generated by the zone. It also increases the size of the TIRZ to approximately 948 acres. It extends the TIRZ to the end of 2041. Per these amendments, the City's contribution remains at 100%, SARA's remains at 55% and Bexar County's is proposed to increase from 58% to 89%. It also includes the maximum portion of the \$66,000,000 each entity will contribute - City of Schertz \$47,190,000; SARA \$990,000; and Bexar County \$17,820,000. Other amendments include: adjusting the developer's contribution to the Fire Station to \$500,000 and indicating the City can use any of those funds for other purposes, the developer agreeing that the tract of land on Ware Seguin Road dedicated to the City for a Fire Station can be used for any purpose. Finally, the developer is required to dedicate an additional 1 acre tract next to the current Fire Station on Lower Seguin Road to the City. Other changes have been made as outlined in the attachment, but one of note is that the developer must impose the architectural restrictions that were in the zoning but can no longer be enforced by the City due to changes in State Law.

Finally, a significant factor in increasing the term of the agreement is to account for the substantial number of exemptions in the area. In 2015 the assessed value (the part that pays property taxes) was 92% of the determined market value. As of 2019 that had declined to 76%. This means the TIRZ is not generating the anticipated revenue to be paid to the developer for the cost of improvements. By extending the term, it allows more time for the developer to potentially be reimbursed, though there is no guarantee of that.

The TIRZ Board unanimously recommended approval of the amendments at their August 21, 2020, meeting.

## **GOAL**

Provide for the continued high quality of development in the TIRZ by responding to changing economic and land use conflicts by amending the documents.

## **COMMUNITY BENEFIT**

The approval of the amendments allows for the orderly and high quality development of the area. It also provides additional land near Fire Station #3 that can be used for an expansion of City facilities and allows the tract of land owned by the City and dedicated by the developer to be used for any purpose the City desires.

## **SUMMARY OF RECOMMENDED ACTION**

Approval of Resolution 20-R-107 authorizing the amendments to the Development Agreement, Project/Financing Plan and Interlocal Agreements for TIRZ #2.

## **FISCAL IMPACT**

The amendment increases the maximum City contribution until the end of 2041 to \$47,190,000, but only if the TIRZ generates that amount of revenue.

## **RECOMMENDATION**

Approval of Resolution 20-R-107.

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### **Attachments**

Resolution 20-R-107  
Change Overview  
Project Financing Plan  
Development Agreement  
Interlocal Agreement  
Crossvine Update

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**RESOLUTION NO. 20-R-107**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN AMENDED DEVELOPMENT AGREEMENT, PROJECT/FINANCE PLAN, AND INTERLOCAL AGREEMENT FOR THE TAX INCREMENT REINVESTMENT ZONE #2 (TIRZ) #2 (SEDONA/CROSSVINE).**

WHEREAS, In October 2006 the City created the Reinvestment Zone Number Two.

WHEREAS, the national economic crisis resulted in slowed development within the City and the Reinvestment Zone Number Two.

WHEREAS, changes in land use compatibility have necessitated adjustments to the development plan to ensure compatibility with JBSA Randolph.

WHEREAS, changes in laws with regard to property tax exemptions have necessitated adjustments to the Project and Finance Plan.

WHEREAS, in recognition of a change in the development climate, and in order to continue progress of the project, the parties have agreed to amend the original development agreement to reflect a revised project as described in this Agreement and specified in a revised project and financing plans.

WHEREAS, the Parties wish to amend and restate the full terms and provisions of the original development agreement, so that from and after the effective date, this amended and restated development agreement shall negate, replace, and supersede the original development agreement.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to execute the Amended and Restated Development Agreement, Project and Finance Plan and Interlocal Agreement for Reinvestment Zone Number Two Sedona & Crossvine Development Project generally as included in Exhibit "A".

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 22<sup>nd</sup> day of September 2020.

CITY OF SCHERTZ, TEXAS

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Mayor, Ralph Gutierrez

ATTEST:

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City Secretary, Brenda Dennis

(CITY SEAL)

Exhibit "A"

**Schertz Reinvestment Zone #2**  
**Second Amended Development Agreement**  
**Amended Project and Finance Plan**  
**Amended Interlocal Agreement (collectively, the “TIRZ Documents”)**  
*Revision Summary*

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The following highlights the more significant proposed changes in the TIRZ Documents. There are a number of changes made which were intended to conform the original language in the TIRZ Documents to the reality of today. For instance, certain defined terms as well as approval procedures have been revised to correspond to the actual terminology and procedure that the Developer employs with the City Staff (e.g., planning, engineering, public works, etc.) during the acceptance and approval of public improvements. Similarly, the original plan and documents included requirements which have since been completed and fulfilled and those requirements have been acknowledged.

However, there are some more substantive changes made in the TIRZ Documents which warrant identification and discussion:

1. Language has been added regarding the maintenance and application of the Architectural Standards of The Crossvine. The Architectural Standards in The Crossvine are the foundation for the value that has been created. A further requirement has been added to the Development Agreement that each Reimbursement Request be accompanied by Developer certification that the Architectural Standards have not changed and are being universally applied and complied with.
2. Prior iterations of the TIRZ Documents required that all improvements be constructed specifically as set forth in the PDD and in the Project and Financing Plan. Some flexibility in application of these standards is necessary in development. The focus is now centered on intent and spirit rather than strict compliance. The revised TIRZ Documents embed the concept of “Substantially in Accordance”. Ultimately, the approval of plats, acceptance of improvements, etc. by the City is considered evidence that the improvements that have been constructed are “Substantially in Accordance” with the PDD and the Project Financing Plan.
3. Previous drafts of the documents focused on “Modules” or “Phases” for the purpose of submission of requests for approval, reimbursement, etc.. The revised draft contemplates submission of requests annually or upon completion of various components (individual plats) of a Module (rather than an entire Module). There are only three modules in the development area and each Module can be fairly large. For instance, the development is just now completing Module I which was composed of four separate units/plats for a total of almost 600 homes. This proposed change, as is the case with many of the others, is intended to conform the documents to the actual practice that has developed between the City and the Developer over the course of the development period.
4. The TIRZ Documents provide that the Developer’s remaining obligation for the Fire/EMS station is a cash contribution of \$500,000. This is in recognition of (i) additional land provided by the Developer for the final location of the Fire/EMS station, (ii) the infrastructure and drainage



contributions by the Developer for this location, (iii) Developer's (pending) contribution of approximately 1 acre adjacent to the Fire/EMS station for an indoor shooting range, (iv) Developer's voluntary abandonment of the development of 302 homes on 150+ acres within the APZ II area in the AICUZ, (v) the release of any restrictions on the use of the originally contributed land on Ware Seguin Road for the Fire/EMS station, and (vi) other valuable consideration.

5. Section 8.2 of the Development Agreement contained language regarding Community and Builder signs that were to be allowed and which would ultimately revert to city ownership. The referenced section is included as an addendum to this memorandum. This section has been Intentionally Deleted. The contemplated signs were never constructed or installed and this section no longer applies to any current or anticipated circumstance.
6. The revisions contemplate an increase in participation by Bexar County to 80% of ad valorem tax revenue while SARA's participation remains unchanged.
7. The revisions also provide that the TIRZ contributions into the Tax Increment Fund may be paid to a Trustee and the Trustee will then make the distributions according to direction from the Developer. This does not increase any additional obligations on the Participating Taxing Units and actually, decreases obligations. Payments are made to the Trustee and the Developer can direct where those go (for collateral for bank financing, etc.) without any obligation on the Taxing Units to make those determinations.
8. January 31 has been proposed as the date upon which payments will be made to the Developer from the Tax Increment Fund or the Trustee. The payments to be made are 13 months after the due date for each year's taxes. For the purposes of clarity and by way of example, ad valorem tax payments which were established as of January 1, 2018 and which are due from landowners by December 31, 2018, shall be paid into the Tax Increment Fund and disbursed to the Developer on or before January 31, 2020. Further, this incorporates the concept that the Participating Taxing Units only pay what has been received. Any amount due for a particular tax year which is paid subsequent to the applicable January 31 disbursement date is rolled over and paid the following year. Further, the payment by each Participating Taxing Unit into the Tax Increment Fund constitutes the agreement by the Participating Taxing Unit for the distribution to the Developer without the need for separate approval.
9. A concept which underlies the entire TIRZ concept has been more specifically addressed in the Default and Remedy section of the documents. This concept provides that if there is a default, a failure to cure, and a subsequent termination of the TIRZ Documents that the termination will only impact future reimbursement requests. Reimbursement requests that have already been approved will continue to be disbursed; however, the Developer will not be reimbursed for any request submitted after the date of default.
10. Additional property has been added to the TIRZ reimbursement area. A number of parcels are smaller parcels which were subsequently acquired by Developer and added in order to "round out" development areas and make the development more efficient. A larger parcel of residential development area was subsequently added by Developer since the original TIRZ was formed. A map reflecting the additional land is included.

11. The aggregate cap on the amount of reimbursement for public improvements has been increased to \$66 million to reflect the significant increased spending by the Developer on public improvements in the form of roads, utility infrastructure, public greenspaces and walking and hiking trails.

12. The term of the TIRZ has been extended to December 31, 2041. A number of factors have combined to make this extension of the term a necessity.

As we are all aware, the economic downturn in 2008 and continuing thereafter cast a pall on the entire development and homebuilding environment nationwide for a number of years. After the initial lots sales in 2008, Developer did not begin lot sales for 6 more years with only 14 sales in 2015.

A more realistic development approach has been pursued by Developer as compared to the original developer. While the original developer proposed sales in some years exceeding 200, 300, and in one case, 400 homes a year, the current Developer has tempered this with a much more moderate expectation of absorption.

In addition, although the anticipated future road improvements along 1518 will significantly improve traffic flow, the Developer anticipates a negative impact upon residential absorption (and most certainly commercial absorption) during the course of the construction of the 1518 roadway improvements.

Legislation which provided waivers of some or all ad valorem taxes for certain conditions (e.g., disabled veterans, etc.) has eroded tax revenue. For instance, in 2015 the Assessed Valuation was roughly 92% of the determined Market Value. However, for 2019 the Assessed Valuation had declined to 76% of Market Value. We appreciate the overwhelming reception by our military community and had anticipated that our walking trails, etc. would be appealing to this demographic. However, we didn't anticipate the erosion of tax revenue as a result of legislative grants.

Further, the long term effects of the recent economic consequences of the COVID-19 pandemic have yet to be determined. However, we have concerns that absorption and pricing may be impacted in the near term.

13. Projections by the original Developer anticipated \$438,013,003 in market value at the end of the term. The revised projections by Developer anticipate \$932,326,389 in market value at the end of the term of the TIRZ.



**Addendum**  
**Redacted Section 8.2 of the Development Agreement**

**8.2** The City herein agrees to allow exterior signs to be erected within the Property. Prior to the placement of any signs, the Developer will submit the proposed sign design and the proposed number and location of the signs to the City for approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding any other provisions of this Agreement or the PDD for the Project or Property previously approved by the City to the contrary, the City agrees to consider for approval, such approval not to be unreasonably withheld, conditioned or delayed, ten (10) Project signs to be erected by Developer, at Developer's sole cost and expense, outside of the Property boundaries, but within the boundaries of the Zone. Such signage shall at all times be constructed and maintained, in good condition and working order, and used by Developer in full compliance with the requirements of this Development Agreement and all applicable laws, statutes and regulations. Developer agrees that (i) on the tenth (10th) anniversary of the completion of construction of each sign or upon completion of seventy percent (70%) of developable acreage within the Property, whichever occurs first in time, and (ii) receipt of a written notification from the City requesting dedication of the sign to the City, Developer will (A) dedicate each such sign to the City free of charge, (B) remove all Developer signage from each such sign dedicated, and (C) assign to City any ground lease or other real property interest associated with such signs (subject to the City's assumption of all duties and obligations associated with such lease on real property interested so assigned).

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**AMENDED PROJECT PLAN**

**AND**

**FINANCING PLAN**

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**SCHERTZ REINVESTMENT**

**ZONE NUMBER TWO**

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**The Crossvine PDD**  
**(f/k/a Sedona Development Project)**  
**2020**

**Schertz 1518, Ltd.**  
**314 E. Commerce, Suite 600**  
**San Antonio, Texas 78205**

## **Schertz Reinvestment Zone Number Two Sedona Development Project -Now Known as Crossvine PDD Amended Project Plan and Financing Plan**

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### **PROJECT/TIRZ BACKGROUND**

Pursuant to an ordinance dated December 19, 2006, the City Council of the CITY OF SCHERTZ, TEXAS (the "City") designated TAX INCREMENT REINVESTMENT ZONE NUMBER TWO, CITY OF SCHERTZ, TEXAS TIRZ #2 (the "Zone") to enable the development of approximately 825 acres of land (the "Zone Project Area"). The Zone Project Area was originally planned to contain up to 2,200 residential units pursuant to the PUD plan (described below) with estimated average sales price of \$140,000 - \$240,000 per single family home. The PUD plan included approximately 130 acres of open space including public parks and trails to be collectively known as the Sedona development (the "Project"). The Project as planned would result in a primarily single-family residential development located in the southern portion of the City.

The developer of the Project is SCHERTZ 1518, LTD. (the "Developer"). The Developer entered into an "Interlocal Agreement " dated November 18, 2008 that sets forth an agreement through which the City, BEXAR COUNTY, TEXAS (the "County"), and the SAN ANTONIO RIVER AUTHORITY ("SARA") participate in the tax increment financing to help fund public infrastructure improvements to be located within the Zone Project Area. The duration of the Zone was originally stipulated to be twenty-one (21) years with the Zone being in existence through calendar year 2027.

The cost of the public infrastructure improvements and related capital costs for the Project (exclusive of financing costs or interest) was at that time estimated at \$41,195,225. The total project costs including administrative costs were estimated at \$41,801,420. The proposed public infrastructure improvements for this project included the installation of and improvements to, streets and drainage, utilities, waste water treatment facilities, sidewalks, green space, the construction of a fire station and EMS facility, sewage plant, lift station, public cemetery, the designation of a school site; and the construction of other public improvements.

The Developer agreed to pay the costs for the Public Improvements to be reimbursed by the Zone's TIF fund only to the extent that tax increment revenue from increased property values (TIRZ Incremental Value) is generated, up to a maximum reimbursement to the Developer of

\$45,000,000.

The Project was originally established as a master planned community and was approved by the City as a mixed-use Planned Unit Development ("PUD"). It was planned to function as a key component within the Schertz Southside Development Initiative and create the demographic basis which will in turn create demand for commercial and industrial developments along the City's portion of the south IH-10 corridor.

On October 5, 2006, the Developer sold two tracts comprising 87.974 acres out of the Zone property to Newmark/Lennar Central Texas, L.P. ("Lennar"). After purchasing the tracts, Lennar developed a portion of this tract into a residential area named Sedona Trails. This original developed area consisted of 170 residential lots along with the entry drive (Schnebly Drive) off Lower Seguin Road. The subdivision, including landscaping and an entry monument along Schnebly, off-site utilities, and other common area and on-site infrastructure improvements were completed by Lennar.

Lennar sold a portion of its completed lots to D. R. Horton Homes. Despite the downturn in the housing market which commenced in 2008-2009, the combined builder effort resulted in the completion and sale of all 170 houses in the subdivision by the year 2011. As of the 2018 property tax year, homes in the Sedona area were accorded a market value of \$212,793 per residence.

## **EFFECT OF CHANGE IN HOUSING MARKET**

Lennar Homes retained an undeveloped 49.406 acre tract out of the 87.974 acre tract referenced above within the Zone Project Area. This tract was adjacent to the completed Sedona Trails subdivision. Lennar originally purchased the entire 87.974 acre tract from the Developer with long-range plans to improve the property as additional single-family lots for its future homebuilding activity. Unfortunately, the housing downturn that started in 2008 along with the national economic recession forced Lennar to put its plans for developing the remainder of the tract on the back burner.

Before the 2008 downturn, it was common business practice for homebuilders to purchase developable raw land tracts such as the Sedona property for future "in-house" residential lot development. Due to the economic slowdown and overall malaise in the residential real estate market, Lennar, as well as numerous other large builders, was forced to liquidate a large portion

of their land inventories. Lennar, as well as most other national, regional and local builders returned to the historical practice of purchasing completed residential lots on an as-needed basis from owner/developers such as Schertz 1518, Ltd.

### **TRANSITION OF TIRZ PROPERTY TO CROSSVINE PDD**

On November 16, 2011, the Developer repurchased the 49.406 acre tract from Lennar. This land acquisition was an instrumental part of the Developer's decision to entirely refine the master development plan for the Zone Project Area. It had become obvious that a new approach to residential development was needed for the San Antonio market.

Working in close cooperation with the City of Schertz staff, a new master planned area was conceived. The Crossvine, a carefully thought-out Planned Development District ("PDD") was the result. Blending traditional single family residential development with a community focused pedestrian environment, The Crossvine provided a foundation for a new approach to neighborhoods. With heightened Architectural Standards, increased community gathering areas, extensive walking trails, the collaboration between City Staff and the Developer has been well received. A copy of the Crossvine Overall Completed Master Plan is included as *Exhibit 1* and *Exhibit 2* as part of this Amended Project Plan and Financing Plan.

The PDD for the Crossvine (as an amendment to the original Sedona PUD) was approved and subsequently amended by the City by way of the following ordinances:

1. Sedona Trails PDD Ordinance 12-S-01, passed January 24, 2012.
2. Crossvine PDD Ordinance 12-S-15, passed on August 21, 2012
3. Crossvine PDD Ordinance 17-S-01, passed on February 28, 2017

*Exhibit 3* depicts the resulting zoning designations for the TIRZ property.

The new Crossvine PDD Master Development Plan is based upon the designation of three land planning modules with the anticipated use of various sections of the property delineated within each module. The PDD ordinance can be amended in the future with approval of the Schertz City Council. Graphical depictions of the planning modules are attached as *Exhibits 4, 5, and 6*.

### **CROSSVINE PDD ORDINANCE No. 12-S-16**

This ordinance passed on August 21, 2012 by the City of Schertz City Council, formally (legally)



changed the name of the development from Sedona Trails PDD, as established by Ordinance 12-S-01, to Crossvine PDD. The ordinance further set forth specific designs and related standards for The Crossvine which have subsequently been modified and expanded through the subsequent referenced ordinances:

- Landscaping standards for common areas and residential lots
- Green space and public spaces
- Walking trails and sidewalks
- Public Lighting
- Transition areas between product types
- Requirement for enhanced architectural standards for residential construction
- Public Screening (Fencing/Walls)
- Private Fencing

The Sedona Trails PDD, as amended and retitled as The Crossvine PDD, includes significant obligations and commitments for improvements, open space, trail systems, and other public benefits as part of the overall development. The PDD incorporates Developer obligations for "Must-Build Roads" (*Exhibit 7*) and "Must-Build Trails" (*Exhibit 8*) which ensure that the Conceptual Master Plan will be honored and the integrity of the overall development will be maintained.

Community and Public Amenity Standards and Architectural Standards for each module must be approved by the City in order to establish and maintain the high level and quality of the improvements to be constructed in Crossvine Trails. As a result of these significant commitments on the part of the Developer, the PDD affords flexibility to the Developer to adjust future land use to more nimbly address changes in market conditions, consumer demand, and other factors.

The City and the Developer also have recognized that circumstances may arise in the future which make exceptions to the requirements or obligations of the PDD appropriate or necessary ("Special Exceptions"). A Special Exception shall be a circumstance or condition in which the Developer requests limited relief from a requirement or obligation of the PDD as a result of a change in

circumstances or other unforeseen event or site specific circumstance.

## **DESCRIPTION OF CROSSVINE PDD DEVELOPMENT MODULES**

A schedule included in this Amended Project and Financing Plan provides a "Projected Development Schedule and Projected Timing of Developer Disbursements" (See Schedule II).

The three development modules for the Crossvine PDD referenced in the schedule are described below:

### **Module I**

Module 1 consists of approximately 188.43 acres and occupies the geographical center of Crossvine. The dominant land use in Module I will be Detached Single-Family Residential, as further defined in the Crossvine PDD. While the residential living in Module I will be primarily traditional single-family housing, it will provide a unique community experience - generally unlike any competing residential option in the immediate market area.

Crossvine will include planning concepts calculated to create a pleasant, healthy environment while fostering close-knit and connected neighborhoods. The unique land plan emphasizes curving streets which group homes in clusters on short cul-de-sacs. This plan insures that there are no driveway cuts on main collector roads, encourages side-entry garage placement, and slows traffic in residential areas. Drainage swales behind many of these home clusters are part of a greenbelt system which winds throughout Crossvine. A trail network combines with the greenbelt system to provide an open pedestrian transportation network which connects and binds the community together. Drainage swales will be extensive, in some cases in excess of 200 feet wide, providing a generous greenbelt proximate to a significant number of residences in Module I.

Neighborhood pocket parks will feature playscapes and centrally located mail kiosks to encourage community interaction. Extensive landscaping will make the pocket parks and mail kiosks pleasant focal points in the midst of the community. Residents will enjoy an extensive hike and bike trail network and an amenity center featuring a community pool, pavilion, and ample spaces for public and private gatherings. Heritage Oaks Park, a 14-acre municipal park contributed by the Development and located on the western edge of Module I, will offer outdoor picnic facilities and a covered pavilion.

The predominance of traditional single-family residences in Module I will establish an underlying

foundation and demographic base which, in turn, supports the development of broader and more diverse mixed uses in Module II and Module III.

## **Module II**

Module II consists of 117.19 acres located at the northern end of the Crossvine PDD. This Module will feature mixed-use facilities as well as higher density residential options and will be the commercial and civic hub of the Crossvine development. Planned land usages include City of Schertz Emergency Services, community amenity centers, retail, office, multifamily residences, and townhome villages. This area will be the most densely populated portion of the Crossvine PDD.

Module II is located on both the north and south side of Lower Seguin Road. Module II will include the "Town Center" of Crossvine and will be a vibrant community center providing a variety of residential options, convenient and pleasant shopping, work, and public space. Module II provides a balanced mix of residences and compatible commercial enterprise. A "Main Street" feel will characterize the central boulevard of this neighborhood center and pedestrian traffic will be encouraged. Parking for the townhome villages and multifamily units will be concentrated away from the main boulevard, creating pleasant streetscapes. The housing products offered in Module II will support the lifestyle diversity that defines Crossvine.

The natural division created by Lower Seguin Road encourages separate personalities for the commercial and non-residential components of Module II. It is intended that the retail and office services located in the Town Center will appeal to and cater to a broader demographic and geographic market area beyond the Crossvine PDD. Higher density residential development will be a significant driving force for retailers and service providers to flock to Town Center.

All construction, landscaping, signage, and other features in Module II will adhere to the Crossvine Community and Public Amenity and Architectural Standards and will contribute to the tight aesthetic standards of the community. In addition to the extensive landscaping, a series of detention ponds throughout Module II will create relaxing and beautiful open spaces. This unique combination of higher density residential will spur commercial and retail services which will serve all of Crossvine, the neighboring area, as well as the commuters who frequent the area in increasing numbers as the area quickly develops.

Module II will complement Module I and Module III by providing valuable services to existing residents and by drawing new residents in search of convenience and a more urban lifestyle.

### **Module III**

Module III consists of 237.62 acres and is located in the southern portion of Crossvine. Module III is separated from Modules I and II by Woman Hollering Creek and displays the most topographical diversity of the three Modules. This area of the development will include garden homes, patio homes, multi-family, and other types of higher density residential products that will be clustered to allow for more natural open space.

This area also includes a "Village Center" to anchor the southern end of Crossvine providing neighborhood retail services for residents in Module III as well as the adjacent residents. These various land uses increase the diversity of commercial product and expand the residential options in Crossvine.

Module III offers extensive recreational open space to take advantage of this area's varied terrain. A series of detention ponds throughout the greenbelt and recreational open space will mitigate flooding and provide additional natural community amenities. With a range of greenbelt and open spaces ranging from manicured and well-tended areas to natural and wild areas, the open spaces and greenbelt areas offer a peaceful respite in the midst of a master-planned community in a dynamic and thriving city. The development wide trails network will be extensive in Module III. Meandering and gentle trails of decomposed granite will be "family-friendly" and inspire longer walks and more time together. More primitive trails will provide ample opportunities for exercise throughout the extensive open spaces of Crossvine.

All construction, landscaping, signage, and other features in Module III will adhere to the Crossvine Community and Public Amenity and Architectural Standards as they are codified and memorialized. The Developer acknowledges that these commitments to elevated standards are the foundation for the TIRZ reimbursement of Developer's expenditures related to public infrastructure; and when combined with the natural beauty of this particular Module, will enhance the overall aesthetic appeal of the Crossvine community.

As described above in the Module I, II and III detailed descriptions above, the Crossvine development will include a first-class system of public trails, greenbelts and landscaping. The

park/open space plan is depicted in *Exhibit 8*. An extensive system of trails and a continuous, well-connected network of pedestrian sidewalks is featured in the plan as shown in *Exhibit 9*.

### **AMENDMENT TO ORIGINAL PROJECT PLAN**

The economic slowdown that heightened in 2008 - 2009 precipitated a change in the typical business plan for homebuilders regarding land acquisition and lot production/purchases. The uncertainty surrounding the economic crisis and how long it would last made things even more challenging for real estate developers. While builders had changed to wanting to purchase developed lots from developers, the same builders were reluctant to commit to purchasing lots when there remained so much doubt about when there would be recovery in the home building industry. This made the decisions and commitments for developers to continue building lots even more challenging. It also provided the foundation for the Developer and the City to construct a new development plan for the Crossvine. With the support of the TIRZ, the amended Project Plan was fashioned around the new Crossvine PDD master plan that is described in detail above.

The following significant changes to the original project plan have been incorporated into the new Project Plan presented herein:

#### **A. Geographic boundary of the TIRZ:**

The following tracts will be added to Zone:

- A 13.669 acre tract described in *Exhibit 12*.
- A 40.69 acre tract described in *Exhibit 13*.
- A 1.501 acre tract described in *Exhibit 14*.
- A 1.00 acre tract described in *Exhibit 15*.
- A 57.46 acre tract described in *Exhibit 16*.
- A 6.00 acre tract described in *Exhibit 17*.

These tracts were purchased and added to the Crossvine development area and increase the TIRZ area to 947.755 acres. The exact location of the additional tracts being added is reflected in *Exhibit 3B*. The base property tax base value will increase from the original base amount of \$450,879 to \$3,028,629 to include the values of these parcels. (See Schedule III).

#### **B. Term of the TIRZ**

The impact of the 2008 - 2009 economic downturn and the continuing residual uncertainty that followed resulted in no new lots or homes being added to The Crossvine until 2015. Further, these additional lots were part of a completely reimagined Master Plan Community which has required much more significant investment on the part of the Developer. Further, the original projections indicated a number of years with home absorption exceeding 200 homes annually. Our most recent revised absorption estimates indicated that a more conservative assumption on absorption is prudent and realistic. In addition, there has been a continuing erosion of tax revenue as a result of legislatively mandated tax waivers with Assessed Valuation declining from 92% of Market Value in 2015 to 76% of Market Value in 2019. Consequently, the foregoing indicate that the TIRZ term should be extended through calendar year 2041.

### **C. Increase in TIRZ Maximum Reimbursement:**

The new Crossvine PDD land use plan combined with the resulting projected increased real estate values, support an increase in the TIRZ maximum reimbursement amount from the original level of \$45,000,000 to \$66,000,000 (an increase of 46%). Consistent with this increase, the projected market value (aggregate value of properties in the TIRZ) is expected to increase from \$434,885,503 projected in the original plan as compared to \$932,326,389 reflected in the amended plan (more than double the original captured value (See Schedule IV).

Consistent with the original Project Plan, all costs including public improvements associated with development in the TIRZ will be funded by the developer. Public funds or municipal/governmental bonds will not be utilized.

## **ECONOMIC FACTORS INDICATING THE EXPECTED SUCCESS OF CROSSVINE**

### **Texas Single-Family Housing Market**

The statistics provided by the Texas A&M Real Estate Center ("A&M REC") indicate positive trends in the Texas Single-Family Housing Market; however, they also caution that housing sales are expected to "normalize" and return to more moderate increases year over year.

1. Residential transaction sales volume has increased year over year although the Texas Housing Market slowed in 2018 as sales rose 1.7% compared with 4.1% the previous year.
2. New Home Sales in Texas, however, as reported by the NewHomesUSA index as

of the end of 2018 showed the statewide average in Texas rose to \$358,108 in November 2018.

3. Single family housing sales have been projected to increase by only 1% in 2019. Housing permits state-wide are expected to show a 2.1% increase from 2018.

4. Single Family construction permits in Texas showed 10,504 permits in 2019 (January through July) which accounted for 15% of the total permits in the United States, extending a 13 year stretch as the leader in single family construction permits. The San Antonio market issued 817 permits which was in increase of 10.9% year over year.

5. Dwindling supplies resulted in Texas' months of inventory to drop to 3.7 months of housing inventory for sale.

6. The Texas median home price posted a new record high in July reading \$240,500 with an annual rate of growth of 3.8%

Demand for new housing in Texas will be supported by the projected state population growth of 12.6% from 2010 levels to 2020 (per the U.S. Census Bureau). According to Forbes magazine, "Texas was one of the first states to emerge from the recession and it continues to attract companies on the basis of its low tax burden, predictable regulatory environment and skilled labor force. Texas has attracted a lot of attention from California companies and the State of Texas has not been shy about contrasting the business climates of the two states. California firms EBay, Google, Facebook, Electronic Arts, Indeed, and many others have both chosen Texas for large expansions in recent years."

**Grid 2**

**HomesUSA.com - Texas New Home Prices - Nov. 2018**

	COMBINED	Austin	DFW	Houston	San Antonio
Source	-	abor.com	ntreis.net	har.com	sabor.com
JAN'17-DEC'17	\$347,796	\$376,251	\$346,494	\$358,160	\$290,229
FEB'17-JAN'18	\$349,023	\$373,561	\$351,445	\$357,229	\$291,529
MAR'17-FEB'18	\$349,518	\$371,146	\$353,741	\$357,291	\$292,572
APR'17-MAR'18	\$350,201	\$369,408	\$356,108	\$357,415	\$292,866
MAY'17-APR'18	\$349,542	\$368,643	\$357,340	\$354,741	\$292,648
JUN'17-MAY'18	\$349,248	\$366,643	\$358,679	\$353,466	\$293,444
JUL'17-JUN'18	\$350,941	\$365,928	\$361,817	\$355,502	\$294,244
AUG'17-JUL'18	\$352,409	\$366,504	\$364,552	\$356,877	\$293,906
SEP'17-AUG'18	\$353,668	\$366,435	\$369,283	\$354,838	\$294,154
OCT'17-SEP'18	\$355,821	\$368,125	\$371,985	\$357,364	\$294,483
NOV'17-OCT'18	\$357,547	\$368,728	\$374,871	\$358,490	\$295,322
DEC'17-NOV'18	\$358,108	\$369,775	\$376,179	\$358,458	\$296,182

Source: HomesUSA.com



### **San Antonio Single-Family Housing Market**

An important factor affecting Crossvine is the increase in residential sales in the price range from \$250,000 to \$350,000. In 2006, 14.3% of sales fell within this range. Recent sales statistics indicate that 21.1% of sales were within this target range. This indicates that the market for houses at price points such as those planned for a significant part of Crossvine has increased by a healthy 48%. The average price of a new home in the San Antonio market as of the end of 2018 was \$296,182.

The price range increases for new homes are more dramatic as the statistics above include resales. The price distribution for new home starts in the \$250,000 to \$350,000 range has increased from 21% of the market in 2009 to 29% in 2013. This increase further indicates that the revised focus of the Crossvine PDD towards the new housing market over the \$300,000 threshold is strongly supported by market indicators.

The value of the public improvements and the overall design of The Crossvine has been reflected in the value of the homes as reflected by the Bexar County Appraisal District. The average market value of homes in The Crossvine in 2018 was \$321,538, a value significantly higher than that originally anticipated by the Developer or by the homebuilders.

### **Schertz Single-Family Housing Market**

The population in the City of Schertz has increased as summarized below:

<b>Year</b>	<b>Population</b>	<b>% Increase</b>	<b>Notes</b>
2000	18,694	NA	NA
2010	31,465	68.3%	(2010 vs. 2000)
2012	34, 883	86.5%	(2012 vs. 2000)
2017	40,092	114.4%	(2019 vs. 2000)

The rate of increase from 2010 to 2017 of 14.3% annually results in a projected population in the City of Schertz of almost 60,000 residents by 2020. This population increase will drive a healthy demand for new housing in the City of Schertz over the foreseeable future. The ideal location of the Crossvine TIRZ property at the intersection of F.M. 1518 and Lower Seguin Road with close



access to both U.S. I.H. 10 and F.M. (Loop) 1604 will result in the site specific demand for significant numbers of new residences in the subject area.

Information from the Schertz Economic Development Corporation also confirms strong demographics for the future of Schertz and The Crossvine:

- Median Home Value of \$206,631
  - Avg. Household Size of 2.78
  - Median Age of 37.3 years
  - Median Household Income of \$78,634
  - 45.1% of the residents of Schertz with a college degree
- 
- In March 2014, the Developer completed construction of the first unit of Module I of the Crossvine PDD. All of the lots in Module 1, Unit 1 and Unit 2 have been sold with average market value of the homes of \$321,538. All of the lots in Module 1, Unit 3 have been purchased by Weekley Homes and by Scott Felder Homes. The Developer has implemented an aggressive marketing program for Crossvine and has received strong expressions of interest from numerous qualified homebuilders and multi-family builders/developers for any additional lot inventory that may become available.

## **Budget Schedules. Projected Costs, and TIRZ Basis**

### **Schedule I-A and I-B:**

Schedule I-A reflects an Amended Project Budget showing the budget amounts included in the original Project Financing Plan along with a revised Project Budget. The revised budget sets forth a breakdown of TIRZ reimbursable capital costs by budget category that aggregates the TIRZ maximum total reimbursement amount of \$66,000,000. Based upon historical information available since the creation of the original budget, along with the impact of the new Crossvine PDD and corollary development plan, the categories used to delineate project costs have been modified as reflected in this schedule.

Budget categories 1 through 9 are direct construction costs to be incurred in the development of the project infrastructure. The total projected expenditures for construction and related allowable and reimbursable costs of will be \$66,000,000 (see Schedule I). The total projected expenditures for direct construction costs are \$38,830,000.00 and the total projected expenditures for ancillary costs are \$27,170,000.00. The aggregate costs of \$66,000,000 exceed the original projected budget amount of \$45,000,000.00 – an increase of 46% over the original budget. However, the projected market value is \$932,326,389 (more than double the previous estimate of value).

There is a lag between expenditures for construction and related costs and the associated reimbursement of those costs from TIRZ revenues. The developer will fund the difference as required to insure the timely completion of the Crossvine development.

Schedule I-B reflects a comparison of the original assumptions in the initial Project Financing Plan and the revised assumptions and results in the revised Project Financing Plan.

### **Schedule II:**

The Amended Project Development Schedule presents a detail of the development modules and units that are depicted in the Crossvine overall Conceptual Master Plan that is a focal point in the Crossvine PDD approved by ordinance by the City of Schertz.

This schedule presents the acreage and proposed use for each unit within the PDD. The modules, phases, tract acreages and data regarding the type and number of development units are based upon the Crossvine Phasing Plan dated April 4, 2012. Additionally, Schedule II provides a year-by-year projection of expected direct construction costs for the TIRZ property to be incurred by the

Developer.

**Schedule III:**

This is a schedule detailing the legal descriptions, acreages and tax I.D. numbers for the various tracts that were assembled to create the TIRZ zone. The TIRZ base value is the beginning ("floor") value used to compute the TIRZ incremental value. The incremental value minus the base value multiplied by the cumulative tax rate equals the annual TIRZ revenue available for payment of administrative costs to the City, County and the SARA as well as payments to the developer.

Supplemental information regarding the tracts to be added to the TIRZ by amendment are also presented as part of the schedule. The revised, post-amendment, total base value for the TIRZ would amount to \$3,029,279.00.

**Schedule IV:**

A schedule that presents the projected taxable value of TIRZ properties on an annual basis. The progressive increase in the taxable values quantifies the development of the TIRZ real estate. The projected amount of TIRZ revenues available for developer payments is also presented. A 1.5% annual inflation factor has been applied to annual developed values.

**Schedule V:**

A schedule that compares the original TIRZ development projections from 2006 and the revised development projections associated with this Amended Project Plan and Financing Plan.

## Exhibits

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<b>Exhibit 1:</b>	Overall Completed Master Plan
<b>Exhibit 2:</b>	Overall Completed Master Plan (cont.)
<b>Exhibit 3:</b>	Overall TIRZ Area (as amended)
<b>Exhibit 3B:</b>	Identification of Additional Parcels added to TIRZ Area
<b>Exhibit 4:</b>	Zoning Designation
<b>Exhibit 5:</b>	Overall Depiction of Modules 1, 2, and 3
<b>Exhibit 6:</b>	Graphical Depiction of Module 1
<b>Exhibit 7(A and B):</b>	Graphical Depiction of Module 2
<b>Exhibit 8:</b>	Graphical Depiction of Module 3
<b>Exhibit 9:</b>	Must Build Roads
<b>Exhibit 10:</b>	Must Build Trails
<b>Exhibit 11:</b>	Greenspace Plan
<b>Exhibit 12:</b>	Legal Description – 13.669 Acre Tract
<b>Exhibit 13:</b>	Legal Description – 40.69 Acre Tract
<b>Exhibit 14:</b>	Legal Description – 1.501 Acre Tract
<b>Exhibit 15:</b>	Legal Description – 1.000 Acre Tract
<b>Exhibit 16:</b>	Legal Description – 57.46 Acre Tract
<b>Exhibit 17:</b>	Legal Description – 1.00 Acre Tract

<b>Schertz Reinvestment Zone Number Two</b> <b>The Crossvine Development Project- Formerly Known as Sedona</b> <b>AMENDED PROJECT BUDGET AND FINANCING PLAN</b>		
<b>Budget Category Revised</b>	<b>Original Budget Amounts</b>	<b>Budget Amendment</b>
1. Mobilization/Land Preparation	2,061,328	2,090,000.00
2. Erosion Control		1,650,000.00
3. Streets	5,956,751	12,650,000.00
4. Drainage		3,850,000.00
5. Water	5,185,889	5,280,000.00
6. Wastewater	2,754,186	4,950,000.00
7. Treated Effluent Irrigation System		1,430,000.00
8. Electric /Gas - CPS	908,378	2,530,000.00
9. Common Area/ Green Space Improvements		4,400,000.00
10. Engineering/Geotech Testing	2,252,250	4,950,000.00
11. Sewer Plant	2,365,378	1,650,000.00
12. Lift Station/Force Main	728,949	1,870,000.00
13. FM 1518 Drainage Engineering	1,078,565	220,000.00
14. Fire Station/EMS Facility	1,200,000	1,320,000.00
15. City Platting/Permit Fees	140,250	770,000.00
16. Land Planning/Landscape Architecture/Marketing		4,620,000.00
17. Project Management	1,402,500	2,640,000.00
18. Legal Fees	331,000	990,000.00
19. Interest on Project Debt		4,950,000.00
20. Unallocated Reserve for Additional Items/Contingency		3,190,000.00
<b>Subtotal</b>	<b>26,365,424</b>	<b>66,000,000</b>
<b>Estimated Budget Categories:</b>		
Inflation (8.,16.)	760,649 (A)	-
Contingency (9., 17., 24., 28.)	6,519,492 (B)	-
Park Fees (13.)	371,250 (C)	-
Street Lights (14.)	353,100 (D)	-
Residential Common Area Cost - Combined (18.)	9,830,135 (E)	-
Park Land (23.)	524,755 (F)	-
City Admin (26.)	144,000 (G)	-
County Admin (27.)	131,195 (G)	-
<b>Budget Totals</b>	<b>45,000,000</b>	<b>66,000,000</b>
<b>Explanatory Notes - Eliminated Budget Catagories</b>		
(A) Inflationary factors are included in projected future cost.		
(B) Contingency amounts are combined under new category 20. - Unallocated Reserve for Additional Items/Contingency		
(C ) It is anticipated that park fees will be waived in lieu of improvmnts to common areas, open space, green space and park space dedication		
(D) Street lights are included in new category 8. - Electric/Gas - CPS		
(E ) Amount is allocated to new categories 9. - Common Area/Green Space Improvements , 16. - Land Planning / Landscape Architecture / Marketing and 19. - Interest on Project Debt.		
(F) Park Land Amount is included in new category 9.- See (E ) above.		
(G) City Admin and County Admin amounts are deleted from budget as said amounts are not reimburseable project cost under TIRZ guidelines.		

<b>Assumptions (Original):</b>		<b>Assumptions (2019 Revised):</b>	
Zone Duration-Years (2006-2027)	21	Zone Duration-Years (2006-2041)	33
Base Assessed Value of Site Area (2006)	\$ 450,879	Base Assessed Value of Site Area (2019)	\$ 3,028,629
Mkt Value at end of TIF (2027)	\$ 438,013,003	Mkt Value at end of term (2041)	\$ 932,326,389
Captured Value	\$ 434,885,503	Captured Value	\$ 929,297,760
Captured Rate	80%	Captured Rate (AV as % of Mkt Value) (variable)	76%
City of Schertz Tax Rate (100% of 0.4090)	\$ 0.40900	City of Schertz Tax Rate (100% of 0.51460)	\$ 0.51460
Bexar County Tax Rate (58% of 0.265594)	\$ 0.15405	Bexar County Tax Rate (80% of 0.23625)	\$ 0.18900
SARA Tax Rate (55% of 0.015951)	\$ 0.00877	SARA Tax Rate (55% of 0.0185)	\$ 0.01018
Collection Rate	99%	Collection Rate	99%
Tax Rate Growth	0%	Tax Rate Growth	0%
Appreciation Growth	2%	Appreciation Growth	2%
Estimated total TIF Revenues	\$ 33,701,032	Estimated total distributable TIF Revenues	\$ 66,000,000
Estimated total TIF Collections	\$ 33,364,022	Estimated total distributable TIF Collections	\$ 66,000,000
Total Project Costs	\$ 41,801,420	Total Project Costs	\$ 66,000,000

Module I		Acreage	Units	Use	Density
	Unit 1	54.96	121	Single Family	2.2
	Unit 2	47.68	120	Single Family	2.5
	Unit 3	45.1	118	Single Family	2.6
	Unit 4	40.69	142	Single Family	3.5
	<b>TOTAL</b>	<b>188.43</b>			
Module 2A		Acreage	Units	Use	Density
		14.17	77	Garden Home	5.4
		14.025	300	Multi Family	21.4
		3.321	30	Attached Residential	9.0
		2.555		Commercial	
		1.5		Commercial	
	<b>TOTAL</b>	<b>35.571</b>			
Module 3		Acreage	Units	Use	Density
		6.2	33	Garden Home	5.3
		14.46	300	Multi Family	20.7
		2.5		Commercial	
	Unit 1	44	139	Single Family	3.2
	Unit 2	47	123	Single Family	2.6
	Unit 3	33	101	Single Family	3.1
	Unit 4	33	98	Single Family	3.0
	<b>Total</b>	<b>184.231</b>			
Module 4		Acreage	Units	Use	Density
	Unit 1	57.46	138	Single Family	3.0
	Unit 2		73		
	<b>Total</b>	<b>57.46</b>			
Module 2B		Acreage	Units	Use	Density
		4.5		Fire/ EMS	0.0
		24.44	440	Multi Family	18.0
		46.00	138	Single Family	3.0
		14	77	Garden Home	5.5
		50.3		Commercial	
	<b>Total</b>	<b>139.24</b>			
Sedona		Acreage	Units	Use	Density
		38.568	169	Single Family	4.38
<b>Total Single Family</b>					1480
<b>Total Minus Sedona</b>					1311
<b>Total Garden Home</b>					187
<b>Total Multi Family</b>					1070
<b>Total Developed Acreage*</b>					420.71
*Remaining TIRZ Project Area is comprised of commercial, AICUZ, greenspace, flood plain, etc.					

**Schertz Reinvestment Zone #2**  
**Crossvine PDD**

### Amended Project Budget

### Schedule III

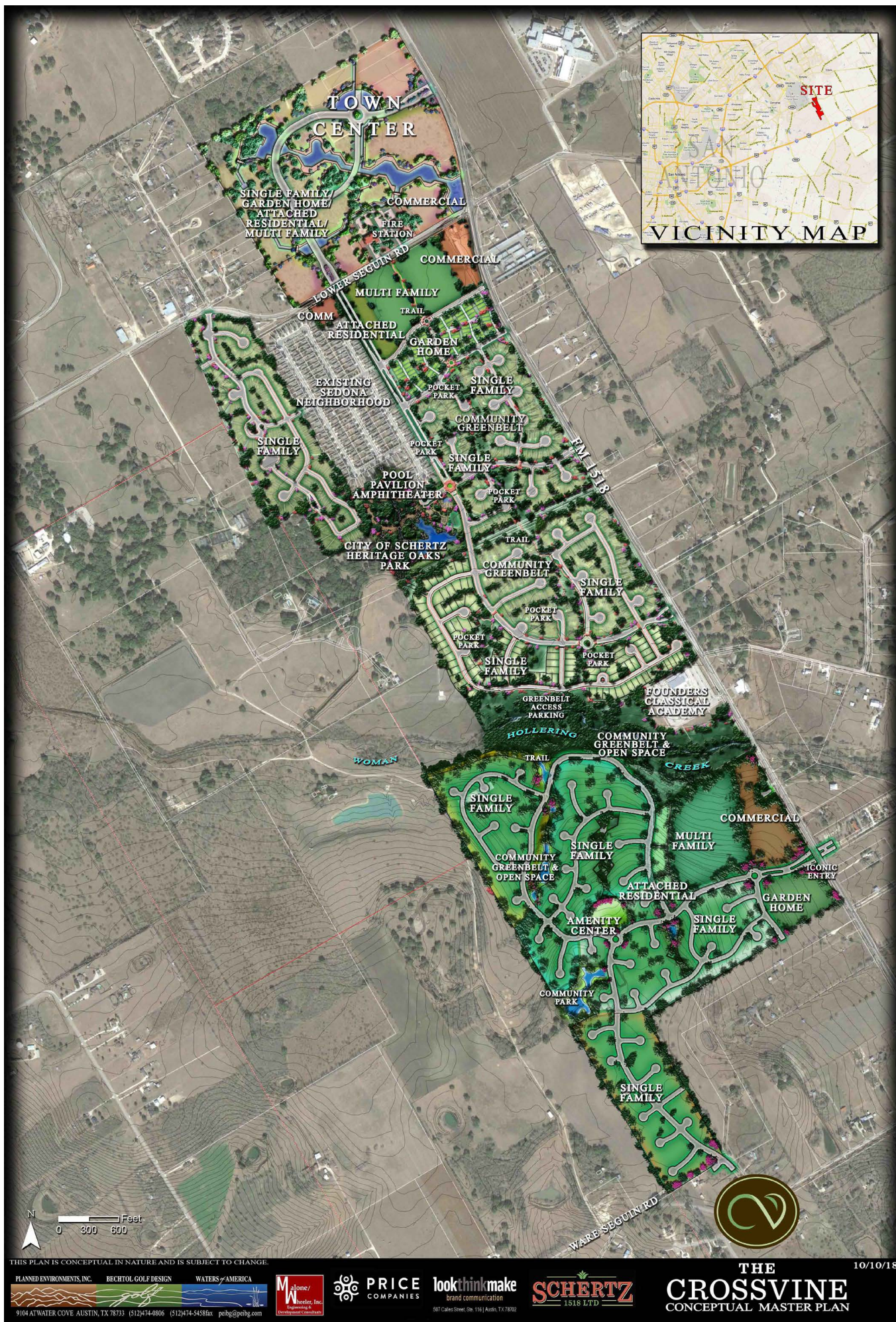
Geographic ID	Property ID	Address	Legal Description	Acreage	2006 Market Value	2006 Taxable Value	Purchase Date
<b>Original TIRZ Tracts</b>							
05058-000-0180	309917	10105 E FM 1518 N	CB 5058 P-18(23.03) P-23 (8.407) P23B (2.53) Serial#OCO385652A	34	\$ 263,646	\$ 61,902.00	7/1/2005
05058-000-0260	309935	Lower Seguin Road	CB5058 P-26 ABS 424 (formerly P4J)	35.139	\$ 197,950	\$ 2,702.00	7/1/2005
05059-000-0014	309979	8533 FM 1518	CB 5059 ABS 187 P-1C	2	\$ 127,530	\$ 127,530.00	1/31/2006
05059-000-0142	1058761	7901 FM 1518	CB 5059 P-14 ABS 187	145.427	\$ 699,236	\$ 102,207.00	7/1/2005
05059-000-0274	1050366	Lower Seguin Road	CB 5059 P-27B (4.6764), P-27 (7.158), P-28 (17.55), P-28A (13.43) abs 187	100.966	\$ 749,234	\$ 14,150.00	6/15/2005
05059-000-0275	1050367	11752 Lower Seguin Road	CB5059 P-27 ABS187	65.287	\$ 255,045	\$ 8,806.00	1/31/2006
05059-000-0276	1050368	8533 FM 1518	CB 5059 P-27A (32.246) P-1B (3.0) P-1D (5.0) P-1F (15.0) ABS 187	55.002	\$ 228,227	\$ 28,322.00	1/31/2006
16560-000-0156	619119	11380 Lower Seguin Road	NCB 16560 P-15, P-15B, P-15C, P-15E, P-13, P-13D, P-13E	77.19	\$ 120,543	\$ 7,563.00	8/18/2005
16561-000-0041	619135	12325 Lower Seguin Road	NCB 16561 LOT P-4, P-5 ABS 216 (DEANNEXED 6/19/86)	312.42	\$ 847,325	\$ 97,697.00	8/18/2005
					\$ 3,488,736	\$ 450,879.00	
<b>Tracts to be Added to TIRZ by Amendment</b>							
Geographic ID	Property ID	Address	Legal Description	Acreage	Market Value	Taxable Value	Purchase Date
05058-000-0191	309920	11975 Lower Seguin Road	CB 5058 P-19 ABS424	13.669	\$ 197,600	\$ 197,600.00	6/15/2012
05058-000-0270	1050271	11650 Lower Seguin Road	CB5058 P-27, P-27C ABS424	40.689	\$ 200,000	\$ 4,790.00	12/9/2013
05059-000-0130	310042	8591 E FM 1518	CB 5059 P-13 ABS187	1.501	\$ 100,349	\$ 83,710.00	3/27/2014
05058-000-0042	309889	9661 E FM 1518 N, SCHERTZ, TX	CB 5058 P-4B ABS 424	1.000	\$ 264,390.00	\$ 264,390.00	7/12/2018
05059-000-0221	310073	8010 E FM 1518 N SCHERTZ, TX	CB 5059 P-22A ABS 187	10.000	\$ 247,500.00	\$ 247,500.00	8/7/2017
05059-000-0226	310077	12445 WARE SEGUIN RD SCHER	CB 5059 P-22C & P-24B ABS 187	10.000	\$ 455,900.00	\$ 455,900.00	8/22/2017
05059-000-0228	310078	7789 E FM 1518 N SCHERTZ, TX	CB 5059 P-22G ABS 187 REFER:05059-000-0321	15.0000	\$ 616,340.00	\$ 616,340.00	8/31/2017
05059-000-0242	310083	WARE SEGUIN RD SCHERTZ, TX	CB 5059 P-24 ABS 187	9.9640	\$ 164,620.00	\$ 164,620.00	8/22/2017
05059-000-0310	310101	7815 E FM 1518 N SCHERTZ, TX	CB 5059 P-31 ABS 187	1.0000	\$ 206,860.00	\$ 206,860.00	5/26/2017
05059-000-0321	310104	7815 E FM 1518 N SCHERTZ, TX	CB 5059 P-32A ABS 187	4.0000	\$ 89,500.00	\$ 89,500.00	8/31/2017
05059-000-0323	310106	7815 E FM 1518 N SCHERTZ, TX	CB 5059 P-32B ABS 187	0.5000	\$ 39,470.00	\$ 39,470.00	7/25/2017
05059-000-0470	1157215	FM 1518 SCHERTZ, TX 78154	CB 5059 P-47(OUT OF P-22G) ABS 187	5.0000	\$ 146,250.00	\$ 146,250.00	5/26/2017
05059-000-0322	310105	7815 E FM 1518 N SCHERTZ, TX	CB 5059 P-32 ABS 187	2.001	\$ 60,820.00	\$ 60,820.00	10/25/2019
05058-000-0211	309923	10105 E FM 1518 N SCHERTZ, TX	CB 5058 P-21 (2.03AC) & P-23A (3.97AC) ABS 424	6.00	\$ 21,000.00	\$ 650.00	6/18/2015
<b>Total</b>				114.3240	\$ 2,789,599	\$ 2,578,400.00	
<b>Total (Original TIRZ Property + Additional TIRZ Property)</b>						\$ 3,029,279.00	



Year	Market Value	Captured Appraisal Value	TIRZ Base Value	Incremental TIRZ Value	Aggregate TIRZ Revenue	Cumulative TIRZ Revenue
2014	\$ 34,013,380	\$ 29,439,054	\$ 450,879	\$ 28,988,175	\$ 187,503	\$ 187,503
2015	\$ 43,299,300	\$ 36,430,531	\$ 450,879	\$ 35,979,652	\$ 232,421	\$ 419,924
2016	\$ 58,939,270	\$ 49,640,618	\$ 450,879	\$ 49,189,739	\$ 312,917	\$ 732,841
2017	\$ 84,476,604	\$ 68,358,605	\$ 450,879	\$ 67,907,726	\$ 432,507	\$ 1,165,347
2018	\$ 107,934,415	\$ 86,281,526	\$ 450,879	\$ 85,830,647	\$ 566,960	\$ 1,732,307
2019	\$ 119,266,784	\$ 92,981,740	\$ 450,879	\$ 92,530,861	\$ 611,014	\$ 2,343,321
2020	\$ 124,478,680	\$ 96,765,534	\$ 3,028,629	\$ 93,736,905	\$ 607,451	\$ 2,950,773
2021	\$ 188,762,896	\$ 148,297,778	\$ 3,028,629	\$ 145,269,149	\$ 972,764	\$ 3,923,537
2022	\$ 249,456,168	\$ 194,587,841	\$ 3,028,629	\$ 191,559,212	\$ 1,300,573	\$ 5,224,110
2023	\$ 314,277,766	\$ 239,121,079	\$ 3,028,629	\$ 236,092,450	\$ 1,615,512	\$ 6,839,622
2024	\$ 385,374,371	\$ 289,500,913	\$ 3,028,629	\$ 286,472,284	\$ 1,972,158	\$ 8,811,780
2025	\$ 471,629,974	\$ 348,138,421	\$ 3,028,629	\$ 345,109,792	\$ 2,387,401	\$ 11,199,181
2026	\$ 529,780,801	\$ 385,777,610	\$ 3,028,629	\$ 382,748,981	\$ 2,653,151	\$ 13,852,333
2027	\$ 576,533,558	\$ 412,381,806	\$ 3,028,629	\$ 409,353,177	\$ 2,840,140	\$ 16,692,473
2028	\$ 604,157,527	\$ 425,895,150	\$ 3,028,629	\$ 422,866,521	\$ 2,933,943	\$ 19,626,416
2029	\$ 664,226,223	\$ 468,534,468	\$ 3,028,629	\$ 465,505,839	\$ 3,235,908	\$ 22,862,324
2030	\$ 677,376,885	\$ 473,231,110	\$ 3,028,629	\$ 470,202,481	\$ 3,266,961	\$ 26,129,284
2031	\$ 734,408,906	\$ 513,076,083	\$ 3,028,629	\$ 510,047,454	\$ 3,548,837	\$ 29,678,121
2032	\$ 748,984,143	\$ 518,564,516	\$ 3,028,629	\$ 515,535,887	\$ 3,585,395	\$ 33,263,516
2033	\$ 826,280,220	\$ 574,361,571	\$ 3,028,629	\$ 571,332,942	\$ 3,980,989	\$ 37,244,505
2034	\$ 838,766,088	\$ 577,801,780	\$ 3,028,629	\$ 574,773,151	\$ 4,002,771	\$ 41,247,276
2035	\$ 851,467,936	\$ 581,228,106	\$ 3,028,629	\$ 578,199,477	\$ 4,024,374	\$ 45,271,650
2036	\$ 864,387,532	\$ 584,638,714	\$ 3,028,629	\$ 581,610,085	\$ 4,045,780	\$ 49,317,430
2037	\$ 877,526,832	\$ 588,031,784	\$ 3,028,629	\$ 585,003,155	\$ 4,066,976	\$ 53,384,406
2038	\$ 890,887,977	\$ 586,176,469	\$ 3,028,629	\$ 583,147,840	\$ 4,087,944	\$ 57,472,350
2039	\$ 904,473,277	\$ 589,450,630	\$ 3,028,629	\$ 586,422,001	\$ 4,108,671	\$ 61,581,021
2040	\$ 918,285,205	\$ 592,700,694	\$ 3,028,629	\$ 589,672,065	\$ 4,129,141	\$ 65,710,162
2041	\$ 932,326,389	\$ 595,924,857	\$ 3,028,629	\$ 592,896,228	\$ 4,149,337	\$ 69,859,500

Development Schedule, Budget, and Assumptions (Original)			Development Schedule, Budget, and Assumptions (Amended)			
Site Area Dimensions (Acres)			Site Area Dimensions (Acres)			
Residential	579.68		Residential	459.788		
Commercial Development	51.11		Commercial Development	62.855		
Cemetery	44.79		Multifamily	56.246		
School	14.02		Fire Station/EMS Facility	4.5		
Fire Station/EMS Facility	1.55		Garden Home	34.37		
Park/Open Space/Flood Plain	133.46		Park/Open Space/Flood Plain	329.996		
Total	824.61		Total	947.755		
Project Schedule			Project Schedule			
Residential Absorption			Residential Absorption			
Time Frame	Home Sales		Time Frame	Home Sales		
Year	Annual	Cumulative	Year	Annual	Cumulative	
2007	0	0	2007-2014	169	169	
2008	27	27	2015	56	225	
2009	108	135	2016	65	290	
2010	258	393	2017	66	356	
2011	377	770	2018	96	452	
2012	412	1182	2019	37	489	
2013	274	1456	2020	104	593	
2014	121	1577	2021	113	706	
2015	73	1650	2022	110	816	
			2023	168	984	
			2024	157	1141	
			2025	195	1336	
			2026	143	1479	
			2027	125	1604	
			2028	63	1667	
			Commercial Absorption			
			Time Frame		Square Feet	
			Year	Annual	Cumulative	
			2029	15,000	15,000	
			2030	10,000	25,000	
			2031	10,000	35,000	
			2032	-	35,000	
			2033	25,000	60,000	
			2034	25,000	85,000	
			2035	-	85,000	
			2036	25,000	110,000	
			2037	25,000	135,000	
			Multifamily Absorption			
			Time Frame		Units	
			Year	Annual	Cumulative	
			2029	330	330	
			2030	-	330	
			2031	300	630	
			2032	-	630	
			2033	440	1,070	







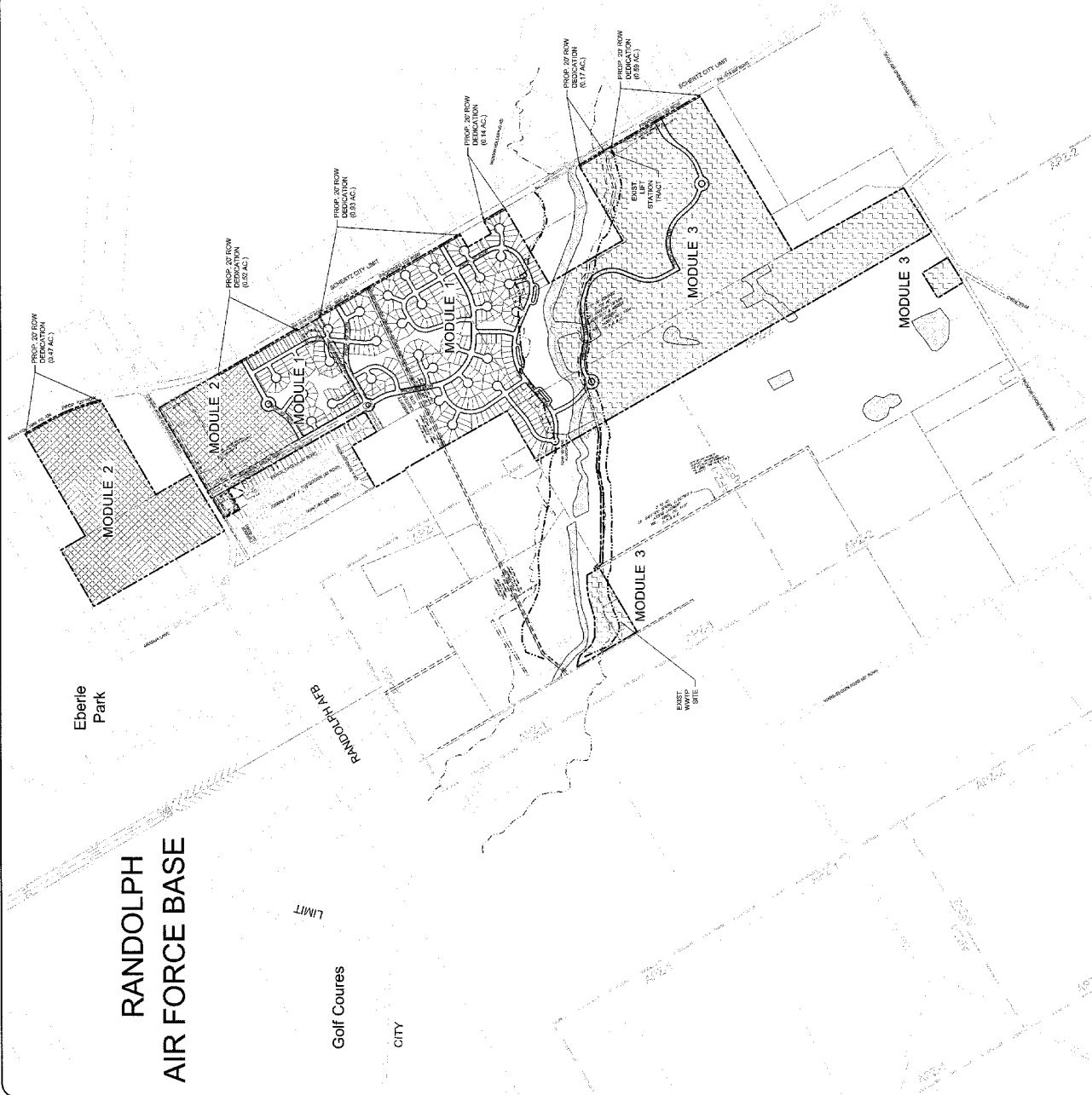
SEDONA TRAILS (PDD) MASTER PLAN  
SCHERTZ, TX.  
MASTER PLAN

**Malone/**  
**Wheeler, Inc.**  
Engineering & Development Consultants  
500 Rialto Blvd., Suite 240  
Austin, Texas 78735  
Phone: (512) 899-0601 Fax: (512) 899-0655  
irm Registration No. F-786

	ESTIMATED ACREAGE	LAND USES	ZONING	ANTICIPATED UNITS
MODULE 1	182.32	SEE	PDD	SEE
MODULE 2	107.37	PDD	PDD	PDD
MODULE 3	214.76	DOCUMENT	PDD	DOCUMENT
TOTAL	504.85		PDD	

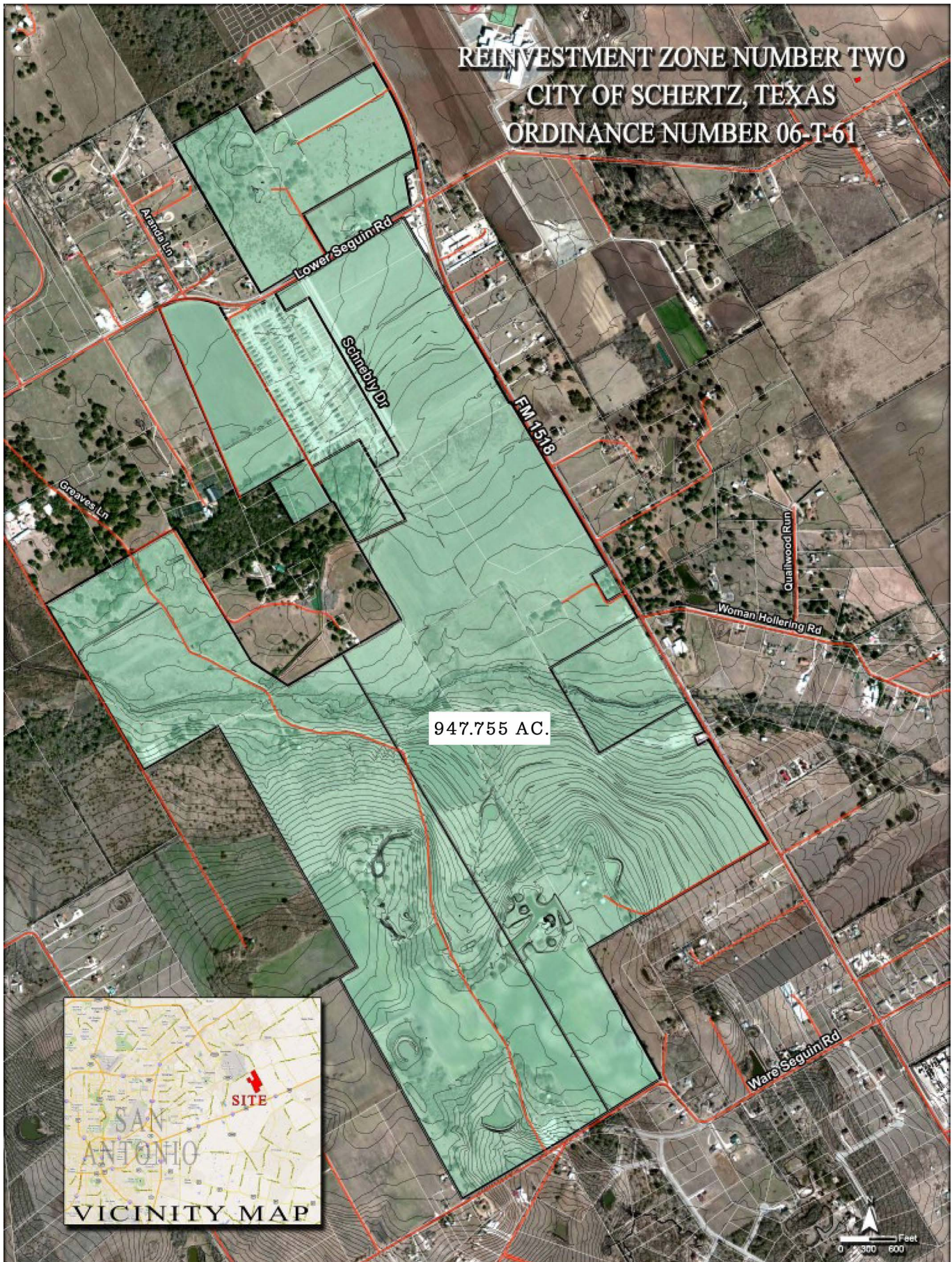
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SEDONA TRAILS (PDD) MASTER PLAN  
BEXAR, COUNTY  
SCHERTZ, TX.  
DATE OF SUBMITTAL:  
12/20/11

[illegible]



REINVESTMENT ZONE NUMBER TWO  
CITY OF SCHERTZ, TEXAS  
ORDINANCE NUMBER 06-T-61



THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO CHANGE.

PLANNED ENVIRONMENTS, INC. BECKTOLD GOLF DESIGN WATERS-AMERICA  
901 ATWATER COVE, AUSTIN, TX 78703 (512) 674-0886 (512) 674-5683 info@peh.com



lookthinkmake  
BROAD CORPORATE DESIGN  
3877 Canyon Blvd. Suite 100, Austin, TX 78703

SCHERTZ  
1518 LTD



4/15/14



REINVESTMENT ZONE NUMBER TWO  
CITY OF SCHERTZ, TEXAS  
ORDINANCE NUMBER 06-T-61

TRACT 6

TRACT 1

TRACT 4

TRACT 2

TRACT 3

947.755 AC

TRACT 5



0 300 600 Feet

THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO CHANGE.

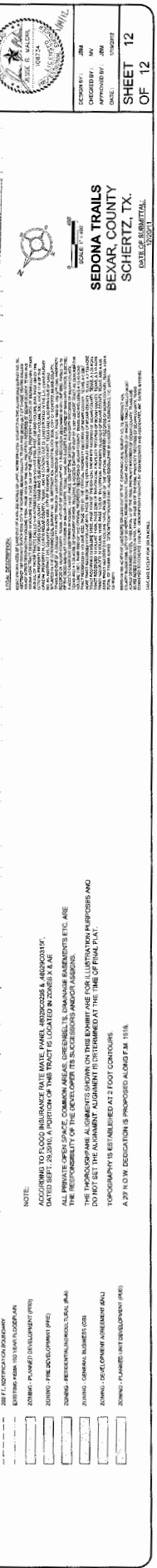
PLANNED ENVIRONMENTS, INC. | RECREATION DESIGN | WATERS OF AMERICA  
900 ATAMETER COURT, AUSTIN, TX 78703 | (512) 474-5000 | (512) 474-5000 fax | paulg@peinc.com



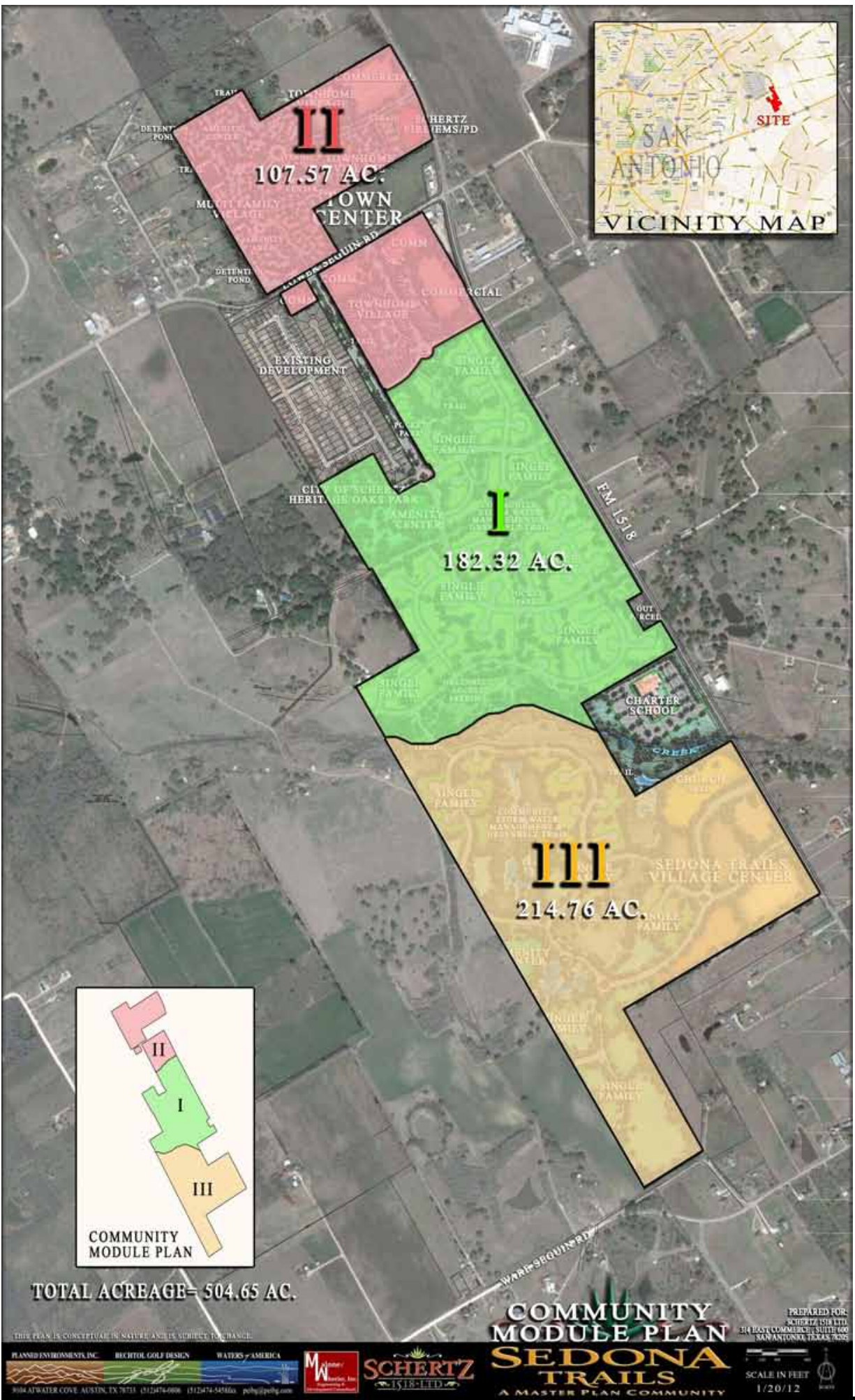
THE CROSSVINE

4/15/14





## EXHIBIT 4







# THE CROSSVINE

## MODULE 1



**PRICE** look in make  
COMPANIES

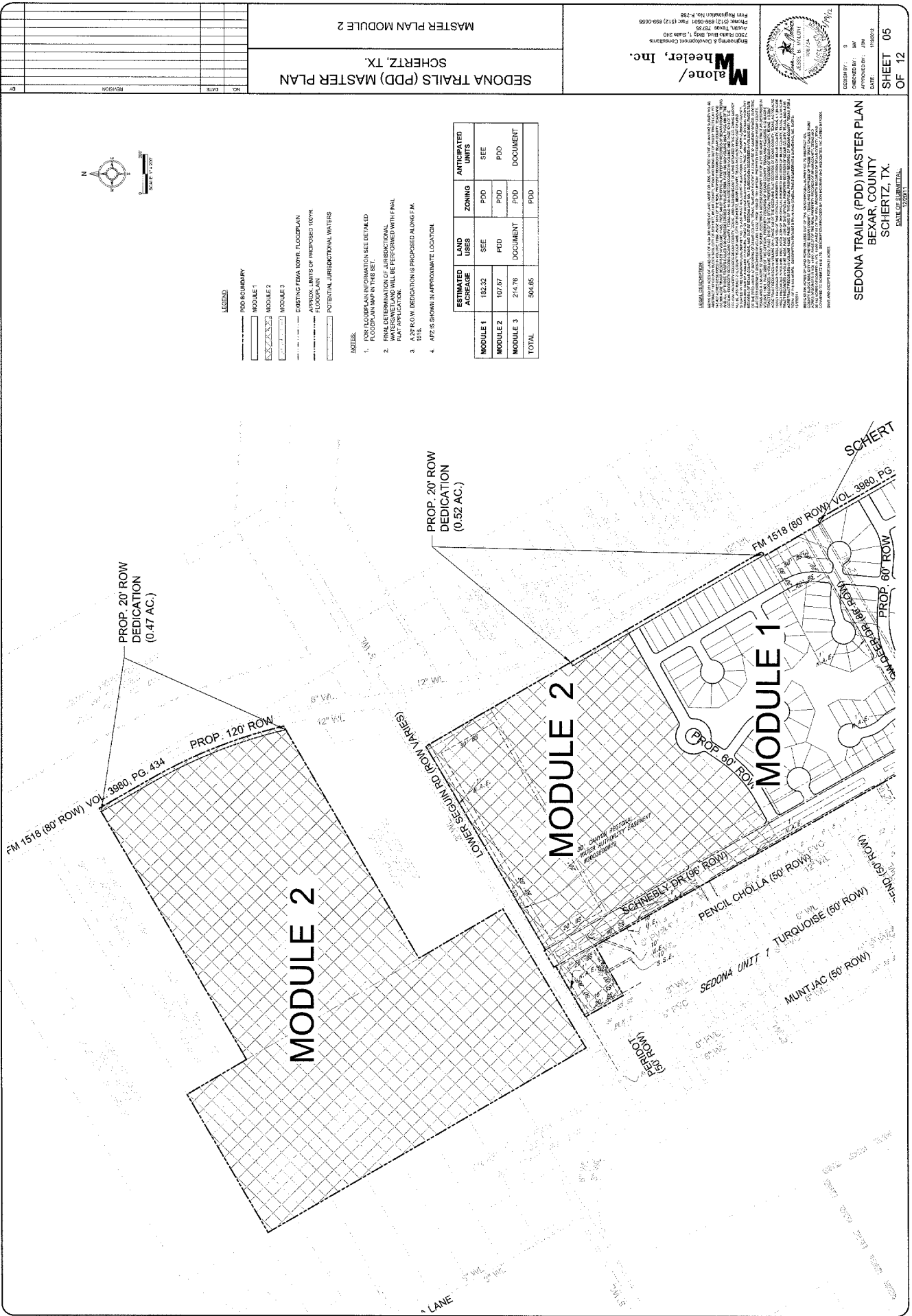


**WATER & AMERICA**  
9004 ATWATER CIRCLE AUSTIN, TX 78737 (512) 744-8805 (512) 744-8806 (512) 744-8807  
info@waterandamerica.com

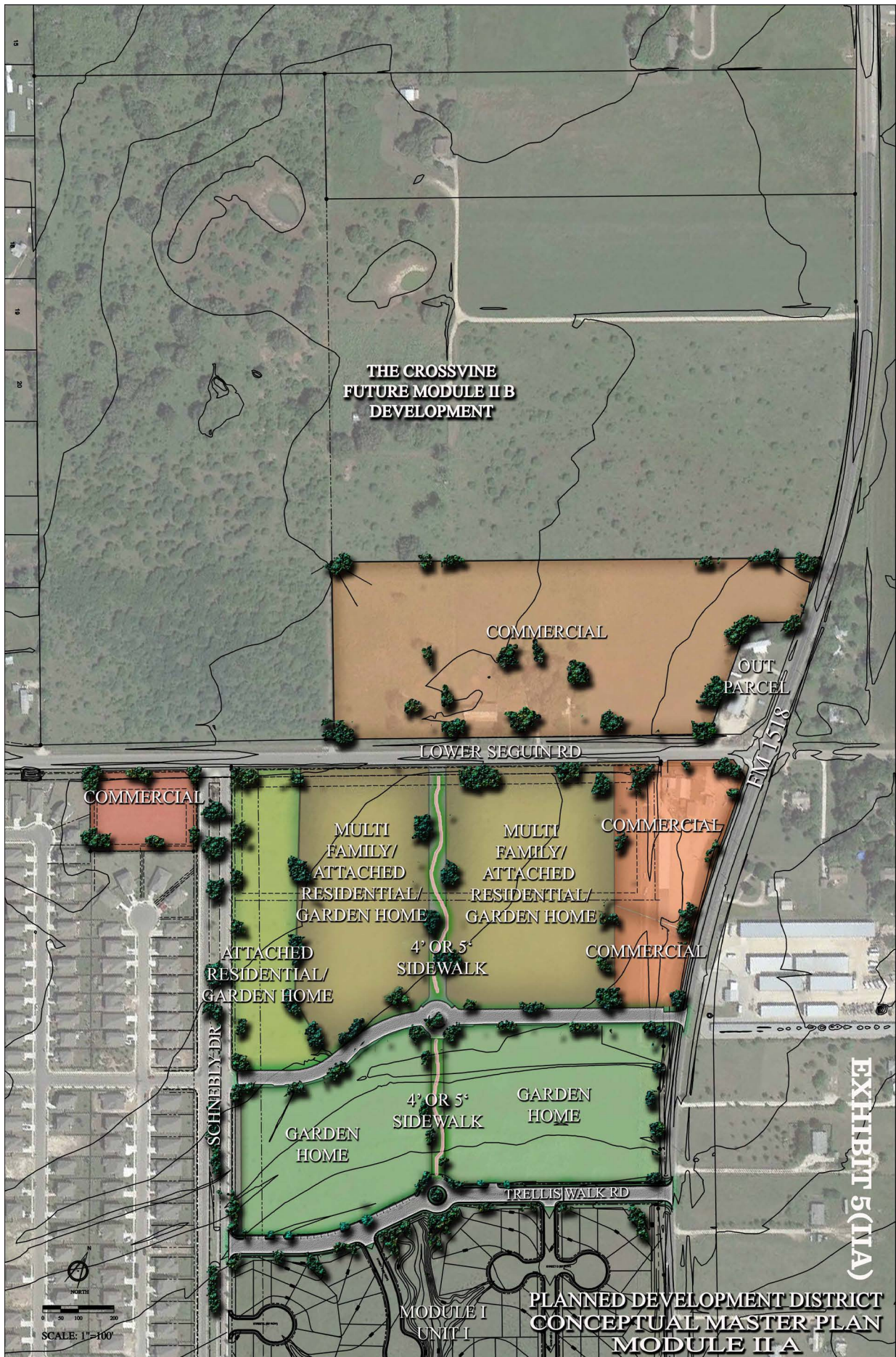
**PLANNED ENVIRONMENTS, INC.**  
ECOLOGICAL GOLF DESIGN  
9004 ATWATER CIRCLE AUSTIN, TX 78737 (512) 744-8805 (512) 744-8806 (512) 744-8807  
info@plannedenvironments.com

**WATER & AMERICA**  
9004 ATWATER CIRCLE AUSTIN, TX 78737 (512) 744-8805 (512) 744-8806 (512) 744-8807  
info@waterandamerica.com

**WATER & AMERICA**  
9004 ATWATER CIRCLE AUSTIN, TX 78737 (512) 744-8805 (512) 744-8806 (512) 744-8807  
info@waterandamerica.com







THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO CHANGE.

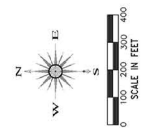
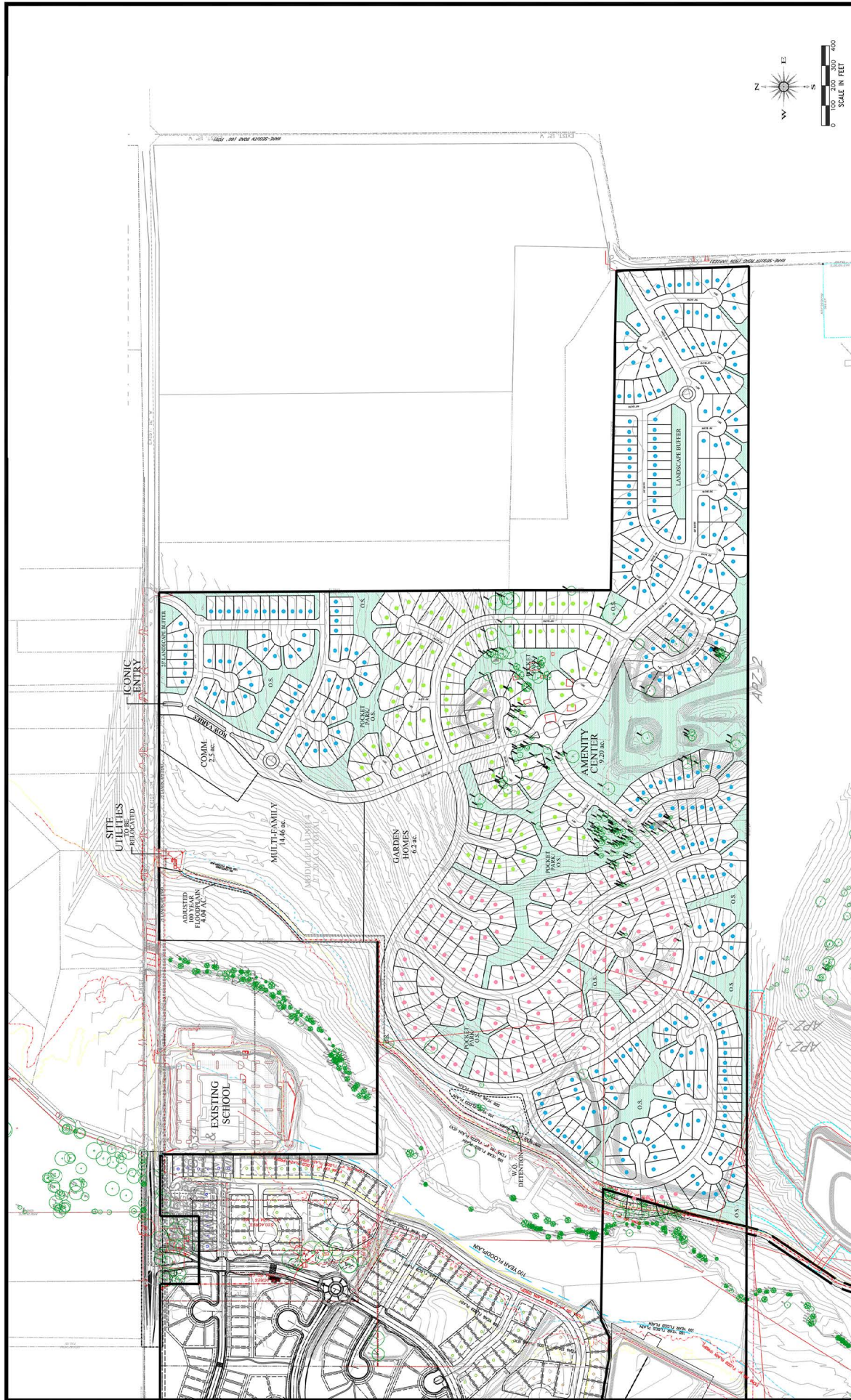
PLANNED ENVIRONMENTS, INC. RECTOR GOLF DESIGN WATERS/AMERICA

9104 ATWATER COVE, AUSTIN, TX 78733 (512) 474-0806 (512) 474-5480 fax pgh@pgh.com



THE CROSSVINE





# THE CROSSVINE

MODULE 3  
CONCEPT PLAN  
DATE: 3-4-19



**PRICE** look think make  
brand communication  
COMPANIES  
5577 Cedar Street, Suite 110 | Austin, TX 78732

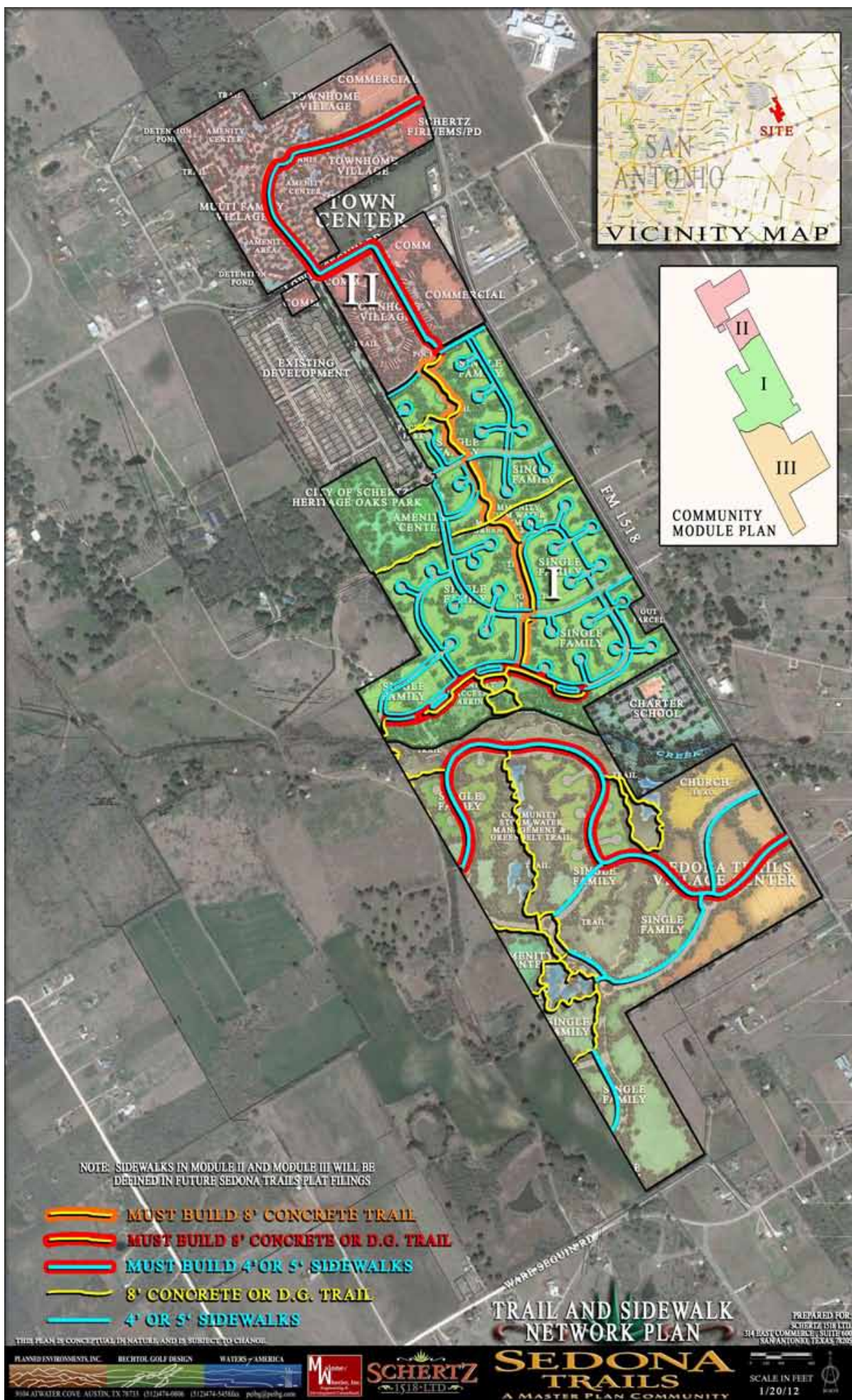


PLANNED ENVIRONMENTS, INC. BECHTOLD GOLF DESIGN WATERS OF AMERICA  
9104-A1 WATER COVE AUSTIN, TX 78733 (512) 444-0806 (512) 444-5838 ext. pech@pech.com













## **TRACT 1: 13.669 ac**

Legal Description for the 13.669 acre tract generally located at the SE corner of that portion of Module II located north of Lower Seguin and west of FM 1518 (Additional Tract 1):

A 13.669 acre tract of land, being all of that 13.52 acre tract of land which is the remaining portion of a 125.0 acre tract of land as recorded in Volume 2257, Page 56, Deed Records of Bexar County, Texas, as conveyed to Conrad J. Hillert, recorded in Volume 1412, Page 627 of the Official Public Records of Bexar County, Texas, and being out of the Jeronimo Leal Survey No. 79, Abstract No. 424, Bexar County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a found Texas Department of Transportation Concrete Monument Type 2 in the southwest right-of-way of F.M. 1518, a variable width right-of-way, and in a northeast line of the 125.0 acre tract and for the northeast corner of a 1.00 acre tract of land conveyed to Ruby J. Isaacks Newman, recorded in Volume 6505, Page 630, Deed Records of Bexar County, Texas, and for an easterly southeast corner of the 13.52 acre tract and the tract described herein;

THENCE: S 59° 30' 05" W along and with the north line of the 1.00 acre tract and a south line of the 13.52 acre tract, a distance of 143.14 feet to a found iron pipe for the northwest corner of the 1.00 acre tract and an interior corner of the 13.52 acre tract and the tract described herein;

THENCE: S 10° 18' 55" E along and with the west line of the 1.00 acre tract and an east line of the 13.52 acre tract, a distance of 334.32 feet to a set 1/2" iron rod with Blue Plastic Cap stamped "KFW Surveying" in the northwest right-of-way line of Lower Seguin Road, a variable width right-of-way, for the southwest corner of the 1.00 acre tract and the southerly southeast corner of the 13.52 acre tract and the tract described herein;

THENCE: S 60° 01' 07" W along and with the northwest right-of-way line of the Lower Seguin Road and the southeast line of the 13.52 acre tract, a distance of 1045.35 feet to a set 1/2" iron rod with Blue Plastic Cap stamped "KFW Surveying" for the southerly southeast corner of a 34.007 acre tract of land conveyed to Schertz 1518 Ltd., recorded in Volume 11492, Page 57 of the Official Public Records of Bexar County, Texas and for the southwest corner of the 13.52 acre tract and the tract described herein;



# **TRACT 1**

THENCE: N 30° 42' 46" W along and with a northeast line of the 34.007 acre tract and a southwest line of the 13.52 acre tract, a distance of 496.11 feet to a found 1/2" iron rod for an interior corner of the 34.007 acre tract and the northwest corner of the 13.52 acre tract and the tract described herein;

THENCE: N 59° 39' 08" E along and with a southeast line of the 34.007 acre tract and the northwest line of the 13.52 acre tract, a distance of 1367.10 feet to a set 1/2" iron rod with Blue Plastic Cap stamped "KFW Surveying" in the southwest right-of-way line of F.M. 1518, in a curve to the right, for an easterly southeast corner of the 34.007 acre tract and the northeast corner of the 13.52 acre tract and the tract described herein;

THENCE: along and with a southwest right-of-way line of F.M. 1518, with a curve to the right having a radius of 2825.00 feet, an arc of 197.97 feet, a delta of 4°00'55", and a chord bears S 12°24'44" E, a distance of 197.93 feet to the POINT OF BEGINNING and containing 13.669 acres, or 595,406 square feet more or less, in the City of Schertz, Bexar County, Texas, and being described in accordance with an exhibit prepared by KFW Surveying.

## TRACT 2: 40.68 ac

### *Johnson Surveying, Inc.*

*Registered Professional Land Surveyor*

#### METES AND BOUNDS DESCRIPTION

**34.689 ACRES OF LAND OUT OF THE JERONIMO LEAL SURVEY 79, ABSTRACT 424, COUNTY BLOCK 5058, BEXAR COUNTY, TEXAS, AND BEING OUT OF A 45.68 ACRE TRACT OF LAND DESCRIBED IN DEED RECORDED IN VOLUME 13319, PAGE 2202, REAL PROPERTY RECORDS, BEXAR COUNTY, TEXAS; SAID 34.689 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGINNING** AT A TXDOT DISC FOUND ON THE SOUTH RIGHT-OF-WAY LINE OF LOWER SEGUIN ROAD MARKING THE NORTHWEST CORNER OF SAID 45.68 ACRE TRACT;

**THENCE** NORTH 62 DEGREES 34 MINUTES 01 SECONDS EAST 18.13 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF LOWER SEGUIN ROAD TO A 1/2" IRON ROD FOUND WITH CAP MARKED "3959";

**THENCE** CONTINUING ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF LOWER SEGUIN ROAD AND ALONG A CURVE TO THE RIGHT HAVING THE FOLLOWING PARAMETER: RADIUS= 686.78 FEET, ARC LENGTH= 600.09 FEET, CHORD BEARING= NORTH 85 DEGREES, 14 MINUTES, 26 SECONDS EAST AND CHORD LENGTH= 581.18 FEET TO 1/2" IRON ROD FOUND;

**THENCE** SOUTH 71 DEGREES 08 MINUTES 03 SECONDS EAST 15.35 FEET CONTINUING ALONG THE SOUTH RIGHT-OF-WAY LINE OF LOWER SEGUIN ROAD TO A 1/2" IRON ROD SET WITH CAP MARKED "RPLS 5578";

**THENCE** CONTINUING ALONG THE SOUTH RIGHT-OF-WAY LINE OF LOWER SEGUIN ROAD AND ALONG A CURVE TO THE LEFT HAVING THE FOLLOWING PARAMETERS: RADIUS= 603.70 FEET, ARC LENGTH= 31.18 FEET, CHORD BEARING= SOUTH 70 DEGREES 44 MINUTES 12 SECONDS EAST AND CHORD LENGTH= 31.18 FEET TO A 1/2" IRON ROD FOUND MARKING THE NORTHEAST CORNER OF SAID 45.68 ACRE TRACT AND THIS TRACT;

**THENCE** SOUTH 29 DEGREES 56 MINUTES 57 SECONDS EAST 1916.54 FEET ALONG THE EAST LINE OF SAID 45.68 ACRE TRACT TO A 1/2" IRON ROD FOUND MARKING THE MOST EASTERLY CORNER OF THIS TRACT;

**THENCE** SOUTH 59 DEGREES 32 MINUTES 16 SECONDS WEST 841.28 FEET CROSSING SAID 45.68 ACRE TRACT TO A 1/2" IRON ROD FOUND ON THE WEST LINE OF SAID 45.68 ACRE TRACT MARKING THE MOST SOUTHERLY CORNER OF THIS TRACT;

**THENCE** NORTH 23 DEGREES 03 MINUTES 32 SECONDS WEST 2223.45 FEET ALONG THE WEST LINE OF SAID 45.68 ACRE TO THE **POINT OF BEGINNING** AND CONTAINING 34.689 ACRES OF LAND.

  
Joel Christian Johnson, R.P.L.S.

11-21-13  
Date



Basis of Bearings: Texas State Plane Coordinate System – South Central Zone (NAD 83) (CORS)

A survey drawing was prepared this date to accompany this Description

Job No.: 670-001-000

17890 Blanco Rd., Bldg. 3, Suite 306, San Antonio, TX 78232 • (210) 858-9838 • (210) 247-6138 fax

## TRACT 2

### *Johnson Surveying, Inc.*

*Registered Professional Land Surveyor*

#### METES AND BOUNDS DESCRIPTION

6.000 ACRES OF LAND OUT OF THE JERONIMO LEAL SURVEY 79, ABSTRACT 424, COUNTY BLOCK 5058, BEXAR COUNTY, TEXAS, AND BEING OUT OF A 45.68 ACRE TRACT OF LAND DESCRIBED IN DEED RECORDED IN VOLUME 13319, PAGE 2202, REAL PROPERTY RECORDS, BEXAR COUNTY, TEXAS, AND BEING A PORTION OF A CALLED 6.000 ACRE TRACT AS DESCRIBED IN DEED RECORDED IN VOLUME 11185, PAGE 1820, REAL PROPERTY RECORDS, BEXAR COUNTY, RECORDS, AND A PORTION OF A CALLED 5.000 ACRE TRACT AS DESCRIBED IN DEED RECORDED IN VOLUME 11185, PAGE 1823, REAL PROPERTY RECORDS, BEXAR COUNTY, TEXAS. SAID 6.000 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT A TXDOT DISC FOUND ON THE SOUTH RIGHT-OF-WAY LINE OF LOWER SEGUIN ROAD MARKING THE NORTHWEST CORNER OF SAID 45.68 ACRE TRACT;

**THENCE** SOUTH 23 DEGREES 03 MINUTES 32 SECONDS EAST 2223.45 FEET ALONG THE WEST LINE OF SAID 45.68 ACRE TRACT TO A 1/2" IRON ROD FOUND

**THENCE** NORTH 59 DEGREES 32 MINUTES 16 SECONDS EAST 364.93 FEET CROSSING SAID 45.68 ACRE TRACT TO A 1/2" IRON ROD SET WITH CAP MARKED "5578" SET FOR THE **POINT OF BEGINNING** OF THIS TRACT;

**THENCE** NORTH 59 DEGREES 32 MINUTES 16 SECONDS EAST 476.35 FEET CROSSING SAID 45.68 ACRE TRACT TO A 1/2" IRON ROD FOUND ON THE EAST LINE OF SAID 45.68 ACRE TRACT;

**THENCE** SOUTH 29 DEGREES 59 MINUTES 04 SECONDS EAST 548.78 FEET ALONG THE EASTERLY LINE OF SAID 45.68 ACRE TRACT TO A 1/2" IRON ROD FOUND MARKING THE MOST EASTERLY CORNER OF THIS TRACT;

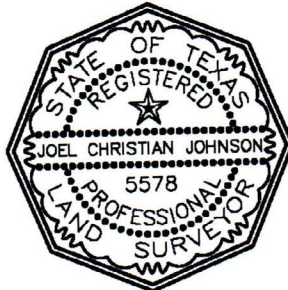
**THENCE** SOUTH 59 DEGREES 33 MINUTES 42 SECONDS WEST 385.16 FEET TO A 1/2" IRON ROD FOUND WITH CAP MARKED "4350" MARKING THE MOST EASTERLY CORNER OF SAID 5.000 ACRE TRACT;

**THENCE** SOUTH 59 DEGREES 32 MINUTES 07 SECONDS WEST 91.19 FEET TO A 1/2" IRON ROD SET WITH CAP MARKED "5578" MARKING THE MOST SOUTHERLY CORNER OF THIS TRACT;

**THENCE** NORTH 29 DEGREES 59 MINUTES 04 SECONDS WEST 548.62 FEET TO THE **POINT OF BEGINNING** AND CONTAINING 6.000 ACRES OF LAND.

  
Joel Christian Johnson, R.P.L.S.

11-21-13  
Date



Basis of Bearings: Texas State Plane Coordinate System – South Central Zone (NAD 83) (CORS)  
A survey drawing was prepared this date to accompany this Description  
Job No.: 670-001-000

17890 Blanco Rd., Bldg. 3, Suite 306, San Antonio, TX 78232 • (210) 858-9838 • (210) 247-6138 fax

**EXHIBIT 13 Cont.**

## **TRACT 3: 1.501 ac**

### **LEGAL DESCRIPTION**

The following described property:

Field notes of a 1.501 acre tract of land situated in the City of Schertz, Bexar County, Texas and being out of the Julian Diaz Survey No. 66, Abstract 187, County Block 5059, and being that same 1.5 acre tract conveyed to Bill R. Freeman and Mary Freeman, and described in deed recorded in Volume 9485, Page 534, Official Public Records of Bexar County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a 1/2" iron pin found in the Southwest line of Farm to Market Road 1518 at the east corner of said 1.5 acre tract and this tract, being a North corner of a 10.00 acre tract described in deed recorded in Volume 11918, Page 1922.

Thence S 59 degrees 38' 11" W. 192.11 feet to a 1/2" iron pin found at the South corner of said 1.5 acre tract, being an interior corner of said 10.00 acre tract.

Thence N 30 degrees 32' 15" W. 340.03 feet to a 1/2" iron pin found at the West corner of said 1.5 acre tract, being an interior corner of said 10.00 acre tract.

Thence N 59 degrees 38' 02" E. 192.42 feet to a 1/2" iron pin found in the Southwest line of Farm to Market Road 1518, being a East corner of said 10.00 acre tract and being the North corner of said 1.5 acre tract and this tract.

Thence S 30 degrees 29' 07" E. 340.04 feet along the Southwest line of Farm to Market Road 1518 to the place of beginning and containing 1.501 acres of land according to a survey made on the ground.

All 1/2" iron pins set with orange plastic cap "RPLS 4020".



# TRACT 4: 1.00 ac

## FIELD NOTES

December 7, 2017

BEING 1.000 acre of land, more or less, out of the Geronimo Leal Survey No. 79, Abstract 424, County Block 5058, City of Schertz, Bexar County, Texas and also being described as a 1 acre tract in Volume 6505, Page 630 of the Deed Records of Bexar County, Texas and being more particularly described as follows:

BEGINNING at a concrete R.O.W. marker found in the existing north R.O.W. line of Lower Seguin Road at the south end of the cut-off line from the existing west R.O.W. line of F. M. Highway 1518 for a corner of this tract and a corner of the above referenced 1 acre tract;

THENCE, S 60°36'09" W, 91.56 feet (*S 60° W, 92.5 feet-6505/630*) along said south R.O.W. line to an iron rod found in same for the southwest corner of this tract and a corner of a 13.669 acre tract described in Volume 15542, Page 551 of the Real Property Records of Bexar County, Texas;

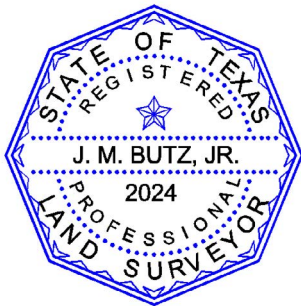
THENCE, N 09°49'00" W, 333.04 feet (*Ref. Brg. N 09°49' W, 334.5 feet-6505/630*) generally along an existing fence and the common line with said 13.669 acre tract to an iron pipe found for the northwest corner of this tract and an interior corner of said 13.669 acre tract;

THENCE, N 60°23'29" E, 143.04 feet (*N 60° E, 143.1 feet-6505/630*) generally along an existing fence and the common line with said 13.669 acre tract to a concrete R.O.W. marker found in the existing west line of F. M. Highway 1518 for the northeast corner of this tract and a corner of said 13.669 acre tract;

THENCE, along said west R.O.W. line in a southerly direction along a curve to the right and having a central angle of one°19'38," a radius of 2825.00 feet, a tangent distance of 32.73 feet, an arc length of 65.44 feet and a chord bearing and distance of S 100°7'00" E, 65.45 feet to an iron rod set for the end of this curve;

THENCE, S 09°27'11" E, (*S 09°49' E-6505/630*) 218.10 feet along said west R.O.W. line to an iron rod set in same at the north end of the cut-off line to the north line of Lower Seguin Road;

THENCE, S 25°17'49" W, 82.20 feet (*S 25°05' W, 83 feet-6505/630*) along said cut-off line to the POINT OF BEGINNING and containing 1.000 acre of land, more or less.



Note: Plat also prepared this day.

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J. M. Butz, Jr.  
Registered Professional Land Surveyor

**EXHIBIT 15**

# TRACT 5: 57.46 ac

## FIELD NOTES

September 18, 2019

BEING 2.010 acres of land, more or less, out of the Julian Diaz Survey No. 66, Abstract 187, County Block 5059, Bexar County, Texas and also being out of a 4.991 acre tract described in Volume 8354, Page 909 of the Real Property Records of Bexar County, Texas and being more particularly described as follows:

BEGINNING at an iron rod found in the common line with a 5.000 acre tract described in Volume 14514, Page 528 of the Real Property Records of Bexar County, Texas for the most southerly corner of this tract and the most southerly corner of the above reference 4.991 acre tract, said point also being the most easterly corner of a 4.000 acre tract described in Volume 8354, Page 460 of the Real Property Records of Bexar County, Texas;

THENCE, N 30°00'54" W, (N 30°20'23" W-8354/460) 119.06 feet generally along an existing wire fence and the common line with said 4.000 acre tract to an iron found in same for a corner of this tract and the most southerly corner of a 0.50 acre tract described in Volume 9392, Page 1253 of the Real Property Records of Bexar County, Texas;

THENCE, N 59°50'29" E, 170.29 feet (N 59°35'37" E, 168.32 feet-9392/1253) along the common line with said 0.50 acre tract to an iron rod found for an interior corner of this tract and the most easterly corner of said 0.50 acre tract;

THENCE, N 30°23'56" W, 129.62 feet (N 30°21'45" W, 129.45 feet-9392/1253) along the common line with said 0.50 acre tract to an iron rod found in the common line with a 9.977 acre tract described in Volume 18693, Page 578 of the Real Property Records of Bexar County, Texas for a corner of this tract and the most northerly corner of said 0.50 acre tract;

THENCE, N 59°37'47" E, (N 59°39'37" E-8354/909) 271.61 feet generally along an existing wire fence and the common line with said 9.977 acre tract to a metal fence corner post found for the most northerly corner of this tract and the most westerly corner of a 2.49 acre tract described in Volume 16138, Page 967 of the Real Property Records of Bexar County, Texas;

THENCE, S 29°54'52" E, 248.79 feet (S 30°19'18" E, 248.25 feet-16138/967) generally along an existing wire fence and the common line with said 2.49 acre tract, crossing said 4.991 acre tract to an iron rod found in the common line with a 15.00 acre tract described in Volume 18733, Page 1544 of the Real Property Records of Bexar County, Texas for the most easterly corner of this tract and the most southerly corner of said 2.49 acre tract;

THENCE, S 59°42'23" W, (S 59°40'39" W-8354/909) 251.17 feet along the common line with said 15.00 acre tract to an iron rod found for an angle point of this tract and the most northerly corner of said 5.000 acre tract;

THENCE, S 59°44'20" W, (S 59°40'39" W-8354/909) 189.42 feet along the common line with said 5.000 acre tract to the POINT OF BEGINNING and containing 2.010 acres of land, more or less.

Note: Plat also prepared this day.

J. M. Butz, Jr.  
Registered Professional Land Surveyor  
No. 2024



FN19-149

# TRACT 5

## FIELD NOTES

August 11, 2017

BEING 0.504 acre of land, more or less, out of the Julian Diaz Survey No. 66, Abstract 187, County Block 5059, Bexar County, Texas and being described as a 0.50 acre tract in Volume 9392, Page 1253 of the Real Property Records of Bexar County, Texas and being more particularly described as follows:

BEGINNING at an iron rod found in the common line with a 10.000 acre tract described in Volume 13868, Page 1327 of the Real Property Records of Bexar County, Texas for the most westerly corner of this tract and the most westerly corner of said 0.50 acre tract, said point also being the most northerly corner of a 4.000 acre tract described in Volume 8354, Page 460 of the Real Property Records of Bexar County, Texas;

THENCE, N 59°37'47" E, 169.42 feet (*N 59°35'19" E, 168.41 feet-9392/1253*) generally along an existing fence and the common line with said 10.000 acre tract to an iron rod found in same for the most northerly corner of this tract and the most northerly corner of said 0.50 acre tract, said point being S 59°37'47" E, 881.93 feet from an iron rod found in the existing southwest R.O.W. line of F. M. Highway 1518 for the most easterly corner of said 10.000 acre tract;

THENCE, S 30°23'56" E, 129.65 feet (*S 30°21'45" E, 129.45 feet-9392/1253*) along the common line with the remaining portion of a 4.991 acre tract described in Volume 8354, Page 909 of the Real Property Records of Bexar County, Texas to an iron rod found for the most easterly corner of this tract and the most easterly corner of said 0.50 acre tract;

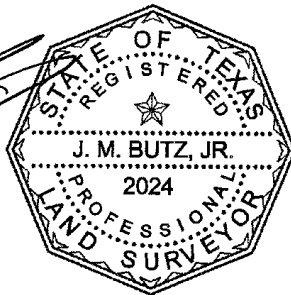
THENCE, S 59°50'29" W, 170.29 feet (*S 59°35'37" W, 168.32 feet-9392/1253*) along the common line with the remaining portion of said 4.991 acre tract to an iron rod found in the common line with said 4.000 acre tract;

THENCE, N 30°00'54" W, 129.02 feet (*N 30°24'04" W, 129.24 feet-9392/1253*) generally along an existing fence and the common line with said 4.000 acre tract to the POINT OF BEGINNING and containing 0.504 acre of land, more or less.

Note: Plat also prepared this day.

  
J. M. Butz, Jr.

Registered Professional Land Surveyor  
No. 2024



FN17-127

# TRACT 5

## FIELD NOTES

July 27, 2017

BEING 9.977 acres of land, more or less, out of the Julian Diaz Survey No. 66, Abstract 187, County Block 5059, Bexar County, Texas and also being described as a 10.00 acre tract in Volume 13868, Page 1327 of the Real Property Records of Bexar County, Texas and being more particularly described as follows:

BEGINNING at an iron rod found in the existing southwest R.O.W. line of F. M. Highway 1518 for the most easterly corner of this tract and the most easterly corner of the above referenced 10.00 acre tract, said point also being the most northerly corner of a 1.000 acre tract described in Volume 11742, Page 1697 of the Real Property Records of Bexar County, Texas;

THENCE, S 59°43'33" W, (S 59°39'04" W-13868/1327) 434.47 feet (S 59°46'11" W, 435.60 feet-11742/1697) generally along an existing fence and the common line with said 1.000 acre tract to an iron rod found for the an angle point of this tract and the most westerly corner of said 1.000 acre tract;

THENCE, S 59°37'47" W, (S 59°39'04" W-13868/1327) 616.88 feet (S 59°39'37" W, 615.98 feet-8354/909) generally along an existing fence and the common line with a 2.49 acre tract described in Volume 16138, Page 967 of the Real Property Records of Bexar County, Texas: the remaining portion of a 4.991 acre tract described in Volume 8354, Page 909 of the Real Property Records of Bexar County, Texas and the common line with a 0.500 acre tract described in Volume 10187, Page 27 of the Real Property Records of Bexar County, Texas to an iron rod found for an angle point of this tract and the most westerly corner of said 0.500 acre tract;

THENCE, S 59°37'09" W, (S 59°39'04" W-13868/1327) 698.97 feet (S 59°39'37" W, 700.04 feet-8354/460) generally along an existing fence and the common line with a 4.000 acre tract described in Volume 8354, Page 460 of the Real Property Records of Bexar County, Texas to an iron rod found for the most southerly corner of this tract and the most westerly corner of said 4.000 acre tract;

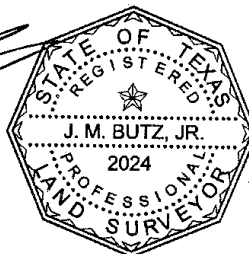
THENCE, N 28°59'16" W, 249.16 feet (N 29°00'13" W, 248.80 feet-13868/1327) generally along an existing fence and the common line with a 9.968 acre tract described in Volume 9231, Page 2119 of the Real Property Records of Bexar County, Texas to an iron rod found in the common line with a 145.427 acre tract described in Volume 11564, Page 1814 of the Real Property Records of Bexar County, Texas for the most westerly corner of this tract and the most northerly corenr of said 9.968 acre tract;

THENCE, N 59°39'37" E, 1745.68 feet (Ref. Brg. N 59°39'37" E, 1745.52 feet-13868/1327) generally along an existing fence and the common line with said 145.427 acre tract to an iron rod found in the existing southwest R.O.W. line of F. M. Highway 1518 for the most northerly corner of this tract and the most easterly corner of said 145.427 acre tract;

THENCE, S 30°03'26" E, 248.76 feet (S 30°11'36" E, 248.45 feet-13868/1327) along said southwest R.O.W. line to the POINT OF BEGINNING and containing 9.977 acres of land, more or less.

Note: Plat also prepared this day.

J. M. Butz, Jr.  
Registered Professional Land Surveyor  
No. 2024



FN17-124

**EXHIBIT 16 Cont.**



# TRACT 5

## FIELD NOTES

August 11, 2017

BEING 14.994 acres of land, more or less, out of the Julian Diaz Survey No. 66, Abstract 187, County Block 5059, Bexar County, Texas and being comprised of a 10.000 acre tract described in Volume 1638, Page 193 of the Real Property Records of Bexar County, Texas and 4.994 acres out of a 10.000 acre tract described in Volume 1599, Page 315 of the Real Property Records of Bexar County, Texas and being more particularly described as follows:

BEGINNING at an iron rod found in the existing southwest R.O.W. line of F. M. Highway 1518 for the most northerly corner of this tract and the most northerly corner of said 10.000 acre tract described in Volume 1599, Page 315, said point also being the most easterly corner of a 2.49 acre tract described in Volume 16138, Page 967 of the Real Property Records of Bexar County, Texas;

THENCE, S 30°05'54" E, (*S 30°16'00" E-1599/315*) along said southwest R.O.W. line passing the most easterly corner of said 10.000 acre tract described in Volume 1599, Page 315 at 247.71 feet and continuing a total distance of 494.33 feet to an iron rod found in same for the most easterly corner of this tract and the most easterly corner of said 10.000 acre tract described in Volume 1638, Page 193;

THENCE, S 59°42'25" W, 1767.14 feet (*S 59°39'37" W, 1766.07 feet-1638/193*) generally along an existing fence and the common line with a 10.000 acre tract described in Volume 1839, Page 504 of the Real Property Records of Bexar County, Texas; Lot 1, Block 2 of Boenig Subdivision as recorded in Volume 8600, Page 159 of the Deed and Plat Records of Bexar County, Texas and a 14.199 acre tract described in Volume 17653, Page 2384 of the Real Property Records of Bexar County, Texas to an iron rod found in the common line with a 10.000 acre tract described in Volume 10054, Page 1692 of the Real Property Records of Bexar County, Texas for the most southerly corner of this tract and the most southerly corner of said 10.000 acre tract described in Volume 1638, Page 193;

THENCE, N 28°58'19" W, 246.78 feet (*N 29°06'11" W, 247.05 feet-1638/193*) generally along an existing fence and the common line with said 10.000 acre tract described in Volume 10054, Page 1692 to an iron rod set for the most westerly corner of this tract and the most westerly corner of said 10.000 acre tract described in Volume 1638, Page 193, and also being the most southerly corner of a 5.000 acre tract described in Volume 14514, Page 528 of the Real Property Records of Bexar County, Texas;

THENCE, N 59°44'23" E, 795.24 feet (*N 59°39'37" E, 794.80 feet-14514/528*) along the common line with said 5.000 acre tract to an iron rod set for a corner of this tract and a corner of said 5.000 acre tract and the beginning of a curve to the right;

THENCE, along the common line with said 5.000 acre tract in a northeasterly direction and having a central angle of 141°03'36" , a radius of 50.00 feet (*50.00 feet-14514/528*), a tangent distance of 141.43 feet, an arc length of 123.10 feet (*122.17 feet-14514/528*) and chord bearing and distance of N 39°37'07" E, 94.28 feet (*N 39°39'27" E, 93.97 feet-14514/528*) to an iron rod set for the end of this curve and the beginning of a curve to the left;

## TRACT 5

Page 2 (14.994 acres)

THENCE, along the common line with said 5.000 acre tract in an easterly direction and having a central of  $49^{\circ}55'25''$ , a radius of 20.00 feet, (*20.00 feet-14514/528*) a tangent distance of 9.31 feet, an arc length of 17.43 feet, (*17.45 feet-14514/528*) and a chord bearing an distance of  $N 84^{\circ}41'46'' E$ , 16.88 feet (*N 84^{\circ}39'12'' E*, *16.90 feet-14514/528*) to an iron rod found for the end of this curve and a corner of this tract and a corner of said 5.000 acre tract, said point also being a corner of a 50' Ingress-Egress Easement described in Volume 14514, Page 528 of the Real Property Records of Bexar County, Texas;

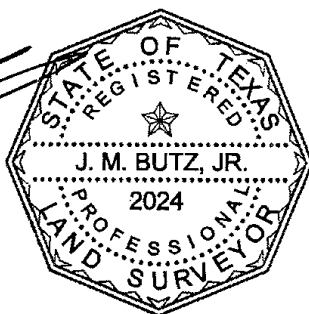
THENCE,  $N 30^{\circ}17'43'' W$ , 222.81 feet (*N 30^{\circ}20'57'' W*, *220.70 feet-14514/528*) along the common line with said 5.000 acre tract to an iron rod found in the common line with a 4.991 acre tract described in Volume 8354, Page 909 of the Real Property Records of Bexar County, Texas for a corner of this tract and the most northerly corner of said 5.000 acre tract;

THENCE,  $N 59^{\circ}42'23'' E$ , (*N 59^{\circ}39'37'' E-1599/315*) 864.04 feet generally along an existing fence and the common line with said 4.991 acre tract and said 2.49 acre tract to the POINT OF BEGINNING and containing 14.994 acres of land, more or less.

Note: Plat also prepared this day

  
J. M. Butz, Jr.

Registered Professional Land Surveyor  
No. 2024



FN17-126.1

# TRACT 5

## FIELD NOTES

August 11, 2017

BEING 3.987 acres of land, more or less, out of the Julian Diaz Survey No. 66, Abstract 187, County Block 5059, Bexar County, Texas and being described as a 4.000 acre tract in Volume 8354, Page 460 of the Real Property Records of Bexar County, Texas and being more particularly described as follows:

BEGINNING at an iron rod found in the common line with a 10.000 acre tract described in Volume 13868, Page 1327 of the Real Property Records of Bexar County, Texas for the most northerly corner of this tract and the most northerly corner of the above referenced 4.000 acre tract, said point also being the most westerly corner of a 0.50 acre tract described in Volume 9392, Page 1253 of the Real Property Records of Bexar County, Texas;

THENCE, S 30°00'54" E, (S 30°20'23" E-8354/460) generally along an existing fence and the common line with said 0.50 acre tract passing an iron rod found at 129.02 feet (129.24 feet-9392/1253) and continuing along the common line with the remaining portion of a 4.991 acre tract described in Volume 8354, Page 909 of the Real Property Records of Bexar County, Texas a total distance of 248.09 feet (248.10 feet-8354/460) to an iron rod found in the common line with a 5.000 acre tract described in Volume 14514, Page 528 of the Real Property Records of Bexar County, Texas for the most easterly corner of this tract and the most easterly corner of said 4.000 acre tract;

THENCE, S 59°42'15" W, 703.95 feet (S 59°42'11" W, 706.03 feet-8354/460) along the common line with said 5.000 acre tract to an iron rod found in the common line with a 10.000 acre tract described in Volume 10054, Page 1692 of the Real Property Records of Bexar County, Texas for the most southerly corner of this tract and the most southerly corner of said 4.000 acre tract;

THENCE, N 28°51'36" W, 247.13 feet (N 28°57'15" W, 247.65 feet-8354/460) generally along an existing fence and the common line with said 10.000 acre tract and a 9.968 acre tract described in Volume 9231, Page 2119 of the Real Property Records of Bexar County, Texas to an iron rod found in same for the most westerly corner of this tract and the most westerly corner of said 4.000 acre tract, said point also being the most southerly corner of said 10.000 acre tract described in Volume 13868, Page 1327;

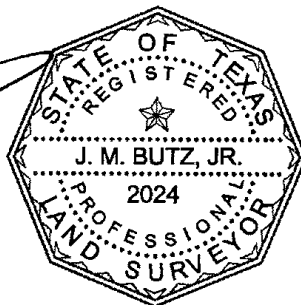
THENCE, N 59°37'09" E, 698.97 feet (N 59°39'37" E, 700.04 feet-8354/460) generally along an existing fence and the common line with said 10.000 acre tract to the POINT OF BEGINNING and containing 3.987 acres of land, more or less.

Note: Plat also prepared this day.

J. M. Butz, Jr.

Registered Professional Land Surveyor

No. 2024



FN17-126.2

**EXHIBIT 16 Cont.**

# TRACT 5

## STATE OF TEXAS COUNTY OF BEXAR

Field note description of a 5.01 acre tract of land out of the Julian Diaz Survey No. 66, Abstract No. 187, County Block 5059 in Bexar County, Texas. Said 5.01 acre tract of land being the same land as described in a Corrective Foreclosure Sale Deed to U.S. Bank, N.A. as Trustee for the Registered Holders of Structured Asset Securities Corporation Mortgage Pass-through Certificates, Series 2007-TC1, recorded in Volume 14514, Page 528 of the Official Public Records of Bexar County, Texas. Said 5.01 acre tract of land also being out of a called 10.0 acre tract of land as described in a Deed to Salustiano A. Pino, recorded in Volume 1599, Page 315 of the Official Public Records of Bexar County, Texas. Said 5.01 acre tract of land being more particularly described by metes and bounds as follows:

**COMMENCING** at a one half inch iron rod found on the southwest right-of-way line of F.M. Highway 1518 (80' ROW), for the north corner of a called 10.0 acre tract of land as described in a deed to Roy B. Juarez and wife Edna M. Juarez, recorded in Volume 1839, Page 504 of the Deed Records of Bexar County, Texas.

**THENCE** along the southwest right-of-way line of F.M. Highway 1518, North 30° 32' 00" West, a distance of 247.59 feet to a "x" found in concrete in the center of a fifty-foot wide ingress and egress easement and being the east corner of a called 10.000 acre tract of land as described in a deed to Salustiano A. Pino, recorded in Volume 1599, Page 315 of the Deed Records of Bexar County, Texas, and North 30° 32' 00" West, a distance of 247.65 feet to a "x" found for the north corner of the aforesaid 10.000 acre tract of land.

**THENCE** along the northwest line of the aforesaid 10.000 acre tract of land, South 59° 13' 49" West, a distance of 663.70 feet to a one half inch iron rod found for the north corner and point of **BEGINNING** of the herein described 5.01 acre tract of land.

**THENCE** cutting into the aforesaid 10.000 acre tract of land, **South 30° 48' 21" East**, a distance of **222.73** feet, (record being South 30° 20' 57" East, a distance of 220.70 feet) to a one half inch iron rod found for the east corner of this tract and being the P.C. of a curve to the right.

**THENCE** with said curve to the right (whose radius is 20.00 feet, central angle is 49° 59' 06" and whose chord bears South 84° 11' 48" West, a distance of 16.90 feet) an arc distance of 17.45 feet to a one half inch iron rod set for the P.R.C. of a curve to the left.

**THENCE** with said curve to the left (whose radius is 50.00 feet, central angle is 139° 44' 10" and whose chord bears South 39° 19' 16" West, a distance of 93.89 feet) an arc distance of 121.94 feet to a one half inch iron rod set for the end of the curve and being on the southeast line of the aforesaid 10.000 acre tract of land.

**THENCE** with the southeast line of the aforesaid 10.000 acre tract, **South 59° 13' 31" West**, a distance of **795.26 feet**, (record being South 59° 39' 37" West, a distance of 794.80 feet) to a one half inch iron rod found for the south corner of this tract, same being the south corner of the aforesaid 10.000 acre tract of land.

**THENCE** with the southwest line of this tract and the northeast line of a tract of land as conveyed to Jennifer Varelans, recorded in Volume 10054, Page 1692 of the Official Public Records of Bexar County, Texas, **North 29° 23' 43" West**, a distance of **248.54** feet (record being North 29° 06' 10" West, a distance of 245.77 feet) to a one half inch iron rod found for the west corner of this tract and the south corner of a tract of land as conveyed to Salustiano A Pino, recorded in Volume 8354, Page 460 of the Official Public Records of Bexar County, Texas.

**THENCE** with the northwest line of this tract and the southeast line of the Salustiano A. Pino tract, **North 59° 17' 02" East**, a distance of **892.76** feet (record being North 59° 39' 37" East, a distance of 893.07 feet) to a the **POINT OF BEGINNING**.

# TRACT 5

## STATE OF TEXAS COUNTY OF BEXAR

Field note description of a non-exclusive ingress and egress easement over a 1.18 acre tract of land out of the Julian Diaz Survey No. 66, Abstract No. 187, County Block 5059 in Bexar County, Texas. Said ingress and egress easement being the same easement as described in a Corrective Foreclosure Sale Deed to U.S. Bank, N.A. as Trustee for the Registered Holders of Structured Asset Securities Corporation Mortgage Pass-through Certificates, Series 2007-TC1, recorded in Volume 14514, Page 528 of the Official Public Records of Bexar County, Texas. Said ingress and egress easement being partially out of a called 10.0 acre tract of land as described in a Deed to Salustiano A. Pino, recorded in Volume 1599, Page 315 of the Official Public Records of Bexar County, Texas. Said ingress and egress easement being more particularly described by metes and bounds as follows:

**COMMENCING** at a one half inch iron rod found on the southwest right-of-way line of F.M. Highway 1518 (80' ROW), for the north corner of a called 10.0 acre tract of land as described in a deed to Roy B. Juarez and wife Edna M. Juarez, recorded in Volume 1839, Page 504 of the Deed Records of Bexar County, Texas.

**THENCE** along the southwest right-of-way line of F.M. Highway 1518, **North 30° 32' 00" West**, a distance of **247.59** feet to a point for the center of a fifty foot wide ingress and egress easement and being the point of **BEGINNING** of the herein described ingress and egress easement.

**Thence** continuing along the southwest right-of-way line of F.M. Highway 1518, **North 30° 32' 00" West**, a distance of **25.32** feet to a point for the north corner of this ingress and egress easement.

**THENCE** along the northwest line of this ingress and egress easement, **South 59° 12' 13" West**, a distance of **862.65** feet to a point for the P.C. of a curve to the right.

**THENCE** with said curve to the right (whose radius is 20.00 feet, central angle is 49° 59' 06" and whose chord bears South 84° 11' 48" West, a distance of 16.90 feet) an arc distance of 17.45 feet to a one half inch iron rod set for the P.R.C. of a curve to the left.

**THENCE** with said curve to the left (whose radius is 50.00 feet, central angle is 139° 44' 10" and whose chord bears South 39° 19' 16" West, a distance of 93.89 feet) an arc distance of 121.94 feet to a one half inch iron rod set for the P.C.C. of the curve and being on the southeast line of the aforesaid 10.000 acre tract of land.

**THENCE** continuing with said curve to the left (whose radius is 50.00 feet, central angle is 140° 15' 24" and whose chord bears North 79° 19' 28" East, a distance of 94.05 feet) an arc distance of 122.40 feet to a point for the P.R.C. of a curve to the right.

**THENCE** with said curve to the right (whose radius is 20.00 feet, central angle is 49° 59' 26" and whose chord bears North 84° 11' 29" East, a distance of 16.90 feet) an arc distance of 17.45 feet to a point for the P.T. of the curve.

**THENCE** with the southeast line of this ingress and egress easement, **North 59° 12' 13" East**, a distance of **862.41** feet to a point on the southwest right-of-way line of F.M. Highway 1518.

**THENCE** along the southwest right-of-way line of F.M. 1518, **North 30° 32' 00" West**, a distance of **24.67** feet to the **POINT OF BEGINNING**.

# TRACT 5

## FIELD NOTES

August 11, 2017

BEING 20.003 acres of land, more or less, out of the Julian Diaz Survey No. 66, Abstract 187, County Block 5059, Bexar County, Texas and being comprised of a 9.968 acre tract described in Volume 9231, Page 2119 and a 10.000 acre tract described in Volume 10054, Page 1692, both in the Real Property Records of Bexar County, Texas and being more particularly described as follows:

BEGINNING at an iron rod found in the existing northeast R.O.W. line of Ware-Seguin Road for the most southerly corner of this tract and the most southerly corner of the above referenced 10.000 acre tract, said point also being the most westerly corner of Lot 2 of the Boenig Subdivision, Unit 1 as recorded in Volume 7800, Page 85 of the Deed and Plat Records of Bexar County, Texas;

THENCE, N 40°41'55" W, 85.28 feet (*N 40°48'00" W, 85.28 feet-10054/1692*) along said northeast R.O.W. line to an iron rod set in same for an angle point of this tract;

THENCE, N 33°11'23" W, 30.62 feet (*N 28°54'23" W, 30.64 feet-10054/1692*) along said northeast R.O.W. line to an iron rod set for an interior corner of this tract, and the common corner with said 9.968 acre tract;

THENCE, S 58°29'07" W, 30.44 feet (*S 58°27'31" W, 30.41 feet-9231/2119*) along the northwest R.O.W. line of said Ware-Seguin Road to an iron rod set for a corner of this tract and the southerly corner of said 9.968 acre tract;

THENCE, N 28°56'17" W, 1598.70 feet (*N 29°06'10" W, 1598.01 feet-9231/2119*) generally along an existing fence and the common line with a 91.288 acre tract described in Volume 11601, Page 2280 of the Real Property Records of Bexar County, Texas to an iron rod found for the most westerly corner of this tract and the most westerly corner of said 9.968 acre tract;

THENCE, N 59°59'10" E, 509.96 feet (*N 59°39'37" E, 509.12 feet-9231/2119*) generally along an existing fence and the common line with a 145.276 acre tract described in Volume 11564, Page 1814 of the Real Property Records of Bexar County, Texas to an iron rod found for the most northerly corner of this tract and the most northerly corner of said 9.968 acre tract, said point also being the most westerly corner of a 10.000 acre tract described in Volume 13868, Page 1327 of the Real Property Records of Bexar County, Texas;

THENCE, S 28°59'16" E, 249.16 feet (*S 28°00'13" E, 248.80 feet-13868/1327*) generally along an existing fence and the common line with said 10.000 acre tract to an iron rod found for an angle point of this tract and the most southerly corner of said 10.000 acre tract;

THENCE, S 28°51'36" E, 247.12 feet (*S 28°57'15" E, 247.65 feet-8354/460*) generally along an existing fence and the common line with a 4.000 acre tract described in Volume 8354, Page 460 of the Real Property Records of Bexar County, Texas to an iron rod found for an angle point of this tract and the most southerly corner of said 4.000 acre tract;

## TRACT 5

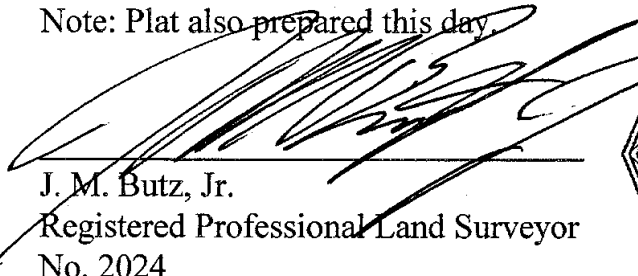
Page 2 (20.003 acre tract)

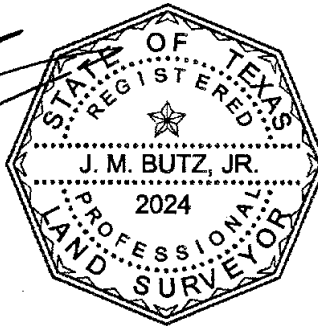
THENCE, S 28°58'19" E, (*S 29°06'10" E-10054/1692*) 494.53 feet generally along an existing fence and the common line with a 5.000 acre tract described in Volume 14514, Page 528 of the Real Property Records of Bexar County, Texas and a 10.000 acre tract described in Volume 1638, Page 193 of the Real Property Records of Bexar County, Texas to an iron rod found for an angle point of this tract and the most southerly corner of said 10.000 acre tract;

THENCE, S 29°02'59" E, (*S 29°06'10" E-10054/1692*) 730.22 feet generally along an existing fence and the common line with a 14.199 acre tract described in Volume 17653, Page 2384 of the Real Property Records of Bexar County, Texas to an iron rod found for the most easterly corner of this tract and the most easterly corner of the 10.00 acre tract described in Volume 10054, Page 1692 of the Real Property Records of Bexar County, Texas, said point also being the most northerly corner of said Lot 2 of the Boenig Subdivision, Unit 1;

THENCE, S 61°04'30" W, 461.40 feet (*S 61°58'25" W, 461.71 feet-10054/1692*) generally along an existing fence and the common line with said Lot 2 to the POINT OF BEGINNING and containing 20.003 acres of land, more or less.

Note: Plat also prepared this day.

  
J. M. Butz, Jr.  
Registered Professional Land Surveyor  
No. 2024



FN17-125

## **TRACT 6: 6.00 ac**

Being a total of 6.0 acres, more or less, out of the Geronimo Leal Survey No. 79, Abstract 424, County Block 5058, Bexar County, Texas, and being the sum of both (a) the 6.0 acres, more or less, described in the Warranty Deed dated December 27, 1983 and recorded in Volume 3004, Page 2010, Real Property Records of Bexar County, Texas, and

(b) the 6.0 acres, more or less, described in the Warranty Deed dated February 27, 1984 and recorded in Volume 3044, Page 0290, Real Property Records of Bexar County, Texas, SAVE AND EXCEPT that 6.0 acres, more or less, conveyed to Wells Fargo Bank, N.A. pursuant to that Substitute Trustee's Deed dated January 5, 2010 and recorded in Volume 14350, Page 367, Real Property Records of Bexar County, Texas (the "Property")



**SECOND AMENDED AND RESTATED  
DEVELOPMENT AGREEMENT**

**FOR**

**REINVESTMENT ZONE NUMBER TWO  
CITY OF SCHERTZ, TEXAS**

**SEDONA & THE CROSSVINE DEVELOPMENT PROJECT**

\_\_\_\_\_, 2020

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- B. Approved “PDD”: Zoning Master Plan and Master Development Plans for Sedona and The Crossvine

## **SECOND AMENDED AND RESTATED DEVELOPMENT AGREEMENT**

This SECOND AMENDED and RESTATED DEVELOPMENT AGREEMENT (this “Agreement”) dated as of \_\_\_\_\_, 2020 (the “Effective Date”) is among the CITY OF SCHERTZ, TEXAS, a Texas home rule municipality (the “City”); BEXAR COUNTY, TEXAS, a political subdivision of the State of Texas, acting through its County Judge (The “County”); REINVESTMENT ZONE NUMBER TWO, CITY OF SCHERTZ, TEXAS, a tax increment reinvestment zone (the “Zone”), acting by and through its duly authorized Board of Directors (the “Zone Board”); and SCHERTZ 1518, LTD., a Texas limited partnership (the “Developer”) (all entities referenced collectively referred to as the “Parties” and sometimes individually as a “Party”).

### **RECITALS**

**WHEREAS**, both the City and the County recognize the importance of their continued role in economic development;

**WHEREAS**, by Ordinance No. 06-T-61, dated December 19, 2006, the City (i) created the Zone in accordance with the Act (as defined in Section 1.1) to encourage development, community revitalization and infrastructure improvements in the Zone which would not otherwise occur solely through private investment in the reasonably foreseeable future, and (ii) created the Zone Board;

**WHEREAS**, the Act authorizes the expenditure of funds derived within a reinvestment zone, whether from bond proceeds or other funds, for the payment of expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by a municipality establishing a reinvestment zone, for costs of public works or public improvements in the zone, plus other costs incidental to those expenditures and obligations, consistent with the project plan of the reinvestment zone, which expenditures and monetary obligations constitute project costs, as defined in the Act (the “Project Costs”);

**WHEREAS**, on October 27, 2008, by Resolution, the Zone Board adopted a Final Project Plan and Reinvestment Zone Financing Plan (the “Project and Financing Plan”) providing for improvement of the Zone;

**WHEREAS**, the City approved the Project and Financing Plan for the Zone by Ordinance No. 08-T-50, on November 4, 2008, the terms and exhibits of which are to be incorporated herein where referenced;

**WHEREAS**, pursuant to Section 311.010(b) of the Act and City Ordinance No. 06-T-61, dated December 19, 2006, the Zone Board has been granted the authority to enter into such agreements the Zone Board considers necessary or convenient to implement the Project and Financing Plan and to achieve the purposes of developing the Zone;

**WHEREAS**, pursuant to said authority above and a resolution dated November 3, 2008, the Zone Board entered into a binding agreement with the City, the County, and the Developer for Developer to develop the Zone, as specified in the Project and Financing Plan; and

**WHEREAS**, the City, by Resolution No. 08-R-50, on November 4, 2008, authorized the Mayor, the City Manager, or a designated representative to execute a Development Agreement, which was ultimately entered into by the Parties on November 19, 2008 (the “Original Development Agreement”); and

**WHEREAS**, the Parties recognize that the national economic crisis resulted in slowed development within the City from 2007-2014, specifically within the Zone, which directly impacted the length of time needed to complete the Project within the Zone as proposed in the Original Development Agreement; and

**WHEREAS**, in recognition of a change in the development climate, and in order to continue progress of the Project, the Parties agreed to amend the Original Development Agreement to reflect a revised Project, which amendments were reflected in an Amended and Restated Development Agreement (“First Amended Development Agreement”) approved and adopted by the City via Resolution No. 15-R-80 on September 15, 2015, which approval included a revised Project and Financing Plan; and

**WHEREAS**, 151.16 acres of property within the Zone is located within the Air Installation Compatible Use Zone, Accident Potential Zone II (the “AICUZ Development Area”) and was originally zoned and available for development of two lots per acre for a total planned development in the AICUZ Development Area of 302 lots;

**WHEREAS**, at the request of the City, and Joint Base San Antonio the Developer voluntarily agreed not to develop the AICUZ Development Area and it has since been permanently dedicated to a conservation easement;

**WHEREAS**, the Parties recognize that there continue to be economic forces and realities that require the Developer to be flexible and to modify the original Project plans in order to maintain the project’s viability and its importance to the City as a collaborative development, and in recognition of the need for continued flexibility, the Parties have agreed to amend the First Amended Development Agreement; and

**WHEREAS**, the Parties acknowledge that Developer has submitted Reimbursement Request #7 reflecting reimbursable expenditures in the Current Approved Reimbursement Amount which has been approved by the Board; and, the Board has acknowledged that all conditions, requirements, and contingencies associated with the reimbursement of the Current Approved Reimbursement Amount have been satisfied by the Developer;

**WHEREAS**, the Parties acknowledge that the total sum of \$2,000,000.00 in Tax Increment Funds has been distributed to Developer as of the date hereof under the terms of the Development Agreement;

**WHEREAS**, the Parties do hereby wish to amend and restate in full the terms and provisions of the First Amended Development Agreement, so that from and after the Effective Date, this Second Amended and Restated Development Agreement shall negate, replace and supersede the Original Development Agreement; and

**WHEREAS**, the City, by Resolution No. \_\_\_\_\_, on \_\_\_\_\_, 2020, authorized the Mayor, the City Manager, or a designated representative to execute this Agreement on behalf of the City and to bind it to the terms and conditions herein;

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, obligations, and benefits contained in this Agreement, the City, the County, the Zone Board, and the Developer hereby agree as follows:

## **I. DEFINITIONS**

**1.1** As used in this Agreement, the following terms shall have the meanings indicated unless a different meaning is specifically provided herein or the context otherwise requires:

“Acknowledgement of Completion” shall mean written acknowledgement by the City that the Developer has issued its Letter of Final Completion, in which the City agrees that the specific Phase of the Public Improvements (as defined herein) has reached Completion and that the City has accepted the dedication thereof. For the purposes hereof, the Acknowledgement of Completion may be denominated by separate titles or names and need not be titled as Acknowledgement of Completion.

“Act” shall mean the Tax Increment Financing Act, Chapter 311, Texas Tax Code, as amended.

“Architectural Standards” shall mean those standards and requirements for Public Improvements, landscaping, fencing and screening, residential and commercial construction, building materials (including extent and location on improvements), entry features, green spaces and common areas, Must Build Trails and Roads, and similar elements which are established in or required by the PDD.

“Authority” means the San Antonio River Authority, a Texas river authority.

“Captured Appraised Value” shall mean the total appraised value of property in the Zone as of January 1 of any year less the Tax Increment Base (as defined herein).

“Letter of Final Completion” shall mean a written notice to the City from the Developer that a specific Phase of the Public Improvements was constructed as specified in and Substantially in Accordance with the Project and Financing Plan and in this Agreement, and that such Phase of the Public Improvements complies with all the City codes and published standards for the particular types of improvements in question.

“City Council” shall mean the City Council of the City.

“City Manager” shall mean the City Manager of the City or his designee.

“Completion” shall mean completing the construction of the Phase of the Public Improvements Substantially in Accordance with the Project and Financing Plan and with this Agreement so that particular Public Improvements can be used and maintained for their intended purposes, as certified by the City’s architect, engineer, or other City official having responsibility for inspecting and certifying such improvements.

“Construction Schedule” shall mean the timetable, as it may be amended by the Developer, for constructing the Public Improvements which, among other things, sets forth the projected time periods for the Completion of the Phases.

“Contract Progress Payment Request” shall mean a request from the Developer for reimbursement due to Developer for successfully completing work on all or a specified portion of a Phase of the Public Improvements in the Zone, accompanied by customary documentation including the name and address of the entity or entities that performed the work, a copy of the invoice from such entity or entities, a description of the contract pursuant to which the payment is made, the amount of such payment, the original amount of the contract or contracts, total payments made to date on such contract or contracts, an estimate of remaining work to be completed on the specific improvement, the cost of such work, all customary lien and/or subcontractor releases, and a statement from an independent architect or engineer stating that they have inspected the work, that it was completed in the percentage or amount shown in the invoice and that the Public Improvements were constructed Substantially in Accordance with the approved Project and Financing Plan. The Contract Progress Payment Request may alternately be titled “Sedona-Schertz TIRZ #2 Reimbursement Invoice # \_\_” (or similar) and may also include all other reimbursable amounts permitted under this Agreement and under the Act.

“Current Approved Reimbursement Amount” shall mean, as of the date hereof, the sum of \$35,267,464.52 which is the amount of the most recent Contract Progress Payment Request (denominated as Sedona-Schertz TIRZ #2 Reimbursement Invoice #7) which has been approved by the Zone Board. The Current Approved Reimbursement Amount shall further mean, the amount approved by the Zone Board pursuant to any further and additional Contract Progress Payment Requests as they are submitted and approved from time to time.

“Effective Date” shall mean the date upon which the last of the Parties has duly executed the Agreement.

“Fair Minimum Wage Rate” shall mean a full-time wage rate that exceeds the poverty level for a family of four, as determined annually by the U.S. Department of Health and Human Services.

“Interlocal Agreement” shall mean the Amended and Restated Interlocal Agreement of even date herewith by and among the City, the County, the Authority and the Zone providing for Tax Increment revenue contribution for the Zone.

“Maximum Total Reimbursement” shall have the meaning set forth in Section 3.4.

“Module” or “Modules” shall mean the separate and distinct phases of the construction of the Public Improvements Substantially in Accordance with the Project and Financing Plan, attached hereto as “**Exhibit A**,” and may also herein be referred to as “Unit” or “Units.” For the purposes hereof and for further clarification, references to Module or Modules or to Unit or Units may also refer to separate individual segments or components of each Module or Unit and need not encompass an entire Module or Unit.

“Planned Development District” or “PDD” shall mean the Zoning Master Plan and Master Development Plans approved by City ordinance for that certain area of the Property described therein, and which is subject to revision, also by City ordinance, attached hereto as “**Exhibit B**”.

“Project” shall mean the Sedona mixed-use development proposed in the Original Development Agreement and the proposed The Crossvine mixed-use development on the Property which may include residential subdivisions, public parks, a fire station/EMS facility, commercial development, multi-family development, a school site, and all of the Phases of the design, construction, assembly, installation, and implementation of the Public Improvements in the Zone as more specifically detailed in the Project and Financing Plan and in this Agreement, as either may be amended from time to time.

“Project and Financing Plan” shall mean the “Final Project Plan and Reinvestment Zone Financing Plan” for the Zone attached hereto as “**Exhibit A**”, as amended from the Final Project Plan and Reinvestment Zone Financing Plan dated September 15, 2015 which was attached to the First Amended Development Agreement (the “First Amended Project and Financing Plan”), as amended from the Final Project Plan and Reinvestment Zone Financing Plan approved on October 27, 2008 (the “Original Project and Financing Plan”), and as further amended from time to time by the Zone Board and the City.

“Property” shall mean the approximately 947.755 acres that will be developed under the Project, more particularly described in the Project and Financing Plan.

“Public Improvements” shall mean streets and turn lanes, sidewalks, crosswalks, walking trails, streetlights, water, wastewater, and electrical utilities (including but not limited to lines and similar facilities), drainage improvements, and other area-wide public improvements including, but not limited to, drainage improvements, sewer plant improvements, sewer force main, parkland improvements, landscaping, and all other public improvements to be constructed by the Developer in the Zone in accordance with the Act, the Project and Financing Plan, and this Agreement, as any may be amended from time to time.

“Substantially in Accordance with the Project and Financing Plan” shall mean construction and development of Public Improvements substantially similar to the description set forth in the Project and Financing Plan (including Construction Schedules or similar additional reporting requirements) and as subsequently approved, developed, and accepted by the City in accordance and compliance with the terms, conditions, standards, and requirements of the PDD and which does not materially diminish the utility or intended use of the Public Improvements or the Architectural Standards of the Project.



“Tax Increment” shall mean the aggregate amount of property taxes levied each year on the Captured Appraised Value by all Taxing Units.

“Tax Increment Base” shall mean the taxable value of all real property within the Zone at the time the Zone was initially created.

“Tax Increment Fund” shall mean the “Reinvestment Zone Number Two, City of Schertz, Texas Tax Increment Fund” created by the City within its treasury for the benefit of the Zone, including any subaccount therein, into which all Tax Increments shall be deposited upon collection by the City, the County, and/or the Authority.

“Taxing Unit” shall mean each of the City, the County, the Authority, and any other taxing unit (as defined in the Act) which participates in the Zone.

“Zone” shall mean Reinvestment Zone Number Two, City of Schertz, Texas.

**1.2** Singular and Plural: Words used herein in the singular, where the context so permits, also includes the plural and vice versa, unless otherwise specified.

## **II. REPRESENTATIONS**

**2.1** The City represents to the Developer that as of the date hereof the City is a home rule municipality located in Bexar, Comal, and Guadalupe Counties, Texas, and has authority to carry out the obligations described in this Agreement.

**2.2** The City and the Zone Board represent to other Taxing Units and to the Developer that as of the date hereof the Zone is a tax increment reinvestment zone established by the City in Ordinance No. 06-T-61 adopted on December 19, 2006 and amended by Ordinance No. \_\_\_\_\_ adopted on \_\_\_\_\_, 2020, pursuant to and following all applicable procedural requirements in the Act; and that the Zone Board, as established in said Ordinances, has authority to carry out the obligations described in this Agreement.

**2.3** The Developer represents to the City and the Zone Board that it is a limited partnership organized in the State of Texas by and through its general partner, MTR-Schertz 1518 Management Company, LLC, a Texas limited liability company, that it has the authority to enter into this Agreement and to perform the requirements of this Agreement; that entering into this Agreement and the performance of the requirements hereunder will not cause a default or breach of any other obligations of the Developer; that its performance under this Agreement shall not violate any applicable judgment, order, law or regulation; that its performance under this Agreement shall not result in the creation of any claim against the City, the County or the Zone for money or performance, any lien, charge, encumbrance, or security interest upon any asset of the City, the County or the Zone; and that it owns land representing more than fifty percent (50%) of the appraised value of the Property included within the boundaries of the Zone.

**2.4** The City, the County, the Zone Board, and the Developer represent to each other that the execution, delivery, and performance of this Agreement on their part does not require consent or approval of any person that has not been previously obtained.

**2.5** The City, the County, the Zone Board, and the Developer represent that they understand and agree that neither the City nor the Zone Board shall issue any tax increment revenue bonds to cover any costs directly or indirectly related to the Developer's improvements in the Zone under this Agreement without an amendment to this Agreement, the Project and Financing Plan, and the Interlocal Agreement, such amendments to be approved by all applicable participating Taxing Units. The offer of such an amendment is in the sole discretion of the City which is under no obligation to issue bonds.

**2.6** The City, the County, the Zone Board, and the Developer represent to each other that to the extent such funds are available, the City and the Zone Board shall only use Tax Increment funds as compensation to Developer for designing and constructing the Public Improvements required to be constructed Substantially in Accordance with the Project and Financing Plan and this Agreement.

**2.7** The Developer represents to the Zone Board, the City and the County that it fully understands that any contributions made by the Developer in anticipation of reimbursement shall not be, nor construed to be, financial obligations of any Taxing Unit or the Zone nor shall such contributions ever become obligations of the general fund of any Taxing Unit. The Developer shall bear all risks associated with reimbursement, including, but not limited to: insufficient amounts or incorrect estimates of anticipated reimbursement, change in tax rates or tax collections, changes in state law or interpretations thereof, changes in market or economic conditions impacting the Project, changes in building and development code requirements, changes in City or County policy, unanticipated effects covered under legal doctrine of *force majeure*, and /or other unanticipated factors.

**2.8** The Developer represents to the Zone Board, the City and the County that, as of the date hereof, (i) there does not exist on the Property any environmental condition or any other matter on or connected with the Property that would cause the imposition on the City, the County or the Zone of environmental liabilities if such environmental condition or other matter were disclosed to any governmental authority, and (ii) no hazardous materials have been dumped, landfilled, stored, located or disposed of on the Property in violation of any applicable laws.

**2.9** The Developer represents to the Zone Board, the City and the County that all of the work done on the Public Improvements shall be contracted by Developer and that neither the Developer nor its employees, representatives or agents will directly perform any work on the Public Improvements to be reimbursed under this Development Agreement that would be considered as work normally covered under Workers' Compensation insurance.

### **III. THE PROJECT**

**3.1** The Project to be undertaken by Developer on the Property shall be as defined in Section 1.1, including but not limited to the Public Improvements shown in the Project and Financing Plan.

**3.2** The Developer shall construct the Public Improvements Substantially in Accordance with the Project and Financing Plan and according to Article IV of this Agreement. Public Improvements to be reimbursed with Tax Increment collections shall be constructed by Developer in compliance with all applicable laws, including Sections 212, 252 and 271 of the Texas Local Government Code, as if the City were constructing the Public Improvements.

**3.3** The Project is intended to be funded by the Developer's advancement of funds which are anticipated to be reimbursed from Tax Increment collections, to the extent available, as provided in the Project and Financing Plan.

**3.4** Notwithstanding the foregoing, the City, the County, the Zone Board, and the Developer acknowledge and agree that the City shall use Tax Increment collections to reimburse the Developer up to the maximum total payment of Sixty-Six Million and No/100 Dollars (\$66,000,000) (the "Maximum Total Reimbursement") as full compensation for the Public Improvements required to be constructed or acquired by the Developer Substantially in Accordance with the Project and Financing Plan and this Agreement, which amount shall include a maximum total payment of up to \$17,820,000 from the County. The maximum amount to be reimbursed for each Public Improvement shall be the actual costs of that Public Improvement (plus any finance or interest cost, if applicable), as ultimately determined by the Zone Board. The Parties hereto agree that neither the City nor the Zone Board can guarantee that the Tax Increment shall be sufficient to completely reimburse the Developer for its actual costs (inclusive of finance costs and interest), but that the Tax Increment shall constitute the only source of compensation to Developer from the Taxing Units and the Zone Board for the construction of Public Improvements for the Project.

**3.5** It is hereby acknowledged by the Zone Board that (i) the Developer has submitted Reimbursement Requests #1-#7, (ii) the Zone Board has approved Sedona-Schertz TIRZ #2 Reimbursement Request #7 in the aggregate amount of the Current Approved Reimbursement Amount; and (iii) the Zone Board has acknowledged that all conditions, requirements, and contingencies associated with the reimbursement of the Current Approved Reimbursement Amount set forth in this Agreement have been satisfied by the Developer.

### **IV. DUTIES AND OBLIGATIONS OF DEVELOPER**

**4.1** The Developer shall comply with all applicable provisions of the Act.

**4.2** The Developer shall construct, or cause to be constructed, the Project on the Property.

**4.3** The Developer agrees to advance all amounts required to complete, or cause to be completed, the Public Improvements. The Developer further agrees to provide, or cause to be provided, all materials, labor, and services for completing the Project.

**4.4** The Developer agrees, when required in connection with the Public Improvements or the Project, to obtain or cause to be obtained all necessary permits and approvals from the City and/or all other governmental agencies having jurisdiction over the construction of the improvements in the Zone. The Developer shall be responsible for paying, or causing to be paid, to the City and all other governmental agencies the cost of all applicable permit fees and licenses required for construction of the Project.

**4.5** The City and the Developer agree that the Public Improvements shall be constructed in Phases, or Modules, as development of the Project occurs in accordance with the approved PDD, as amended. The Developer agrees to cause the Project to be constructed substantially in accordance with the Modules set forth in the approved PDD, as amended. The Developer agrees to cause the Project to comply with the Architectural Standards. City and Developer acknowledge that the time frames provided in the Construction Schedule, the Project and Financing Plan, and the PDD are estimates only.

a. The Developer agrees to supervise all Modules of construction on the Project. Any unit or separate area within a Module, once begun, must be completed and cannot be abandoned.

b. The Developer shall not commence any construction on a new Unit within a Module without preparing a revised Construction Schedule for that Phase which shall be provided to the Zone Board upon request.

c. The Developer may change the sequence of and/or acceleration of and/or the delay of the commencement or completion dates of all or any Phase of the construction without prior notice to or consent by the City.

d. The Developer shall, prior to beginning construction on any Module of the Public Improvements, obtain or cause to be obtained, by any contractors or subcontractors, payment and performance bonds in amounts sufficient to cover completion of the Public Improvements for such Module, and all insurance coverage specified in Article X herein.

**4.6** If Completion of the Project is delayed by reason of war, civil commotion, acts of God, inclement weather, governmental restrictions, regulations, fire or other casualty, court injunction, condemnation proceedings, interference by third parties, or any circumstances reasonably beyond the Developer's control, then and in the event, the period of each such delay will be added to extend the Construction Schedule and the Modules for the Developer's performance under this Agreement.

**4.7** The Developer shall issue or cause to be issued a Letter of Final Completion to the City for items brought to completion by the Developer in constructing the Public Improvements.

Individual Letter(s) of Final Completion may be issued for individual Units or Modules or for individual development areas therein at the election of the Developer.

**4.8** The Developer (or its designee) shall maintain the Public Improvements until they are dedicated and accepted by the City in accordance with Article V. After such acceptance and the expiration of the warranty period described in Section 5.4, maintenance of the Public Improvements shall be the sole responsibility of the City. Any cost of maintenance shall be reimbursable under the TIRZ

**4.9** The Developer shall provide nonmonetary aid and assistance to the City, the County and the Zone Board as they may reasonably request in order to facilitate the goals of this Agreement, such assistance to include providing reasonably requested documentation, entering into reasonably required agreements, and executing certificates or other documentation that may be required by the City, the County or the Zone Board.

**4.10** The Developer shall cooperate with the City, the County and the Zone Board in providing all necessary information to the City, the County and the Zone Board in order to assist the City, the County and the Zone Board in determining Developer's compliance with this Agreement. The Developer further agrees to provide periodic written reports of construction progress to the City, the County and the Zone Board and the other Taxing Units annually and within thirty (30) days after a request from the City, the County, the Zone Board or the other Taxing Units.

## **V. CONVEYANCE OF CERTAIN PROPERTY TO THE CITY**

**5.1** The Developer shall dedicate or convey the Public Improvements to the City.

**5.2** Upon (i) the Completion of each Phase of the Project, (ii) the Developer's receipt from the City of an Acknowledgement of Completion therefor, and (iii) the payment therefor by the Zone Board, the Developer shall deliver or cause to be delivered to the City a duly executed and acknowledged Deed of Dedication (the "Deed") and/or appropriate easements for all Public Improvements, in a form acceptable to the City in its sole discretion. Deeds shall dedicate to the City the real property covered by such Deeds, together with all improvements thereon and appurtenances thereto and all easements and rights-of-way over property owned by the Developer or other private parties and required to access, operate, and maintain Public Improvements. All such dedications shall be free and clear of all liens, encumbrances, covenants, restrictions and other matters, except for those approved of in writing by the City. Provided, further, upon mutual agreement by the City and by Developer, Developer may deliver the Deed (and appropriate easements) for the Public Improvements to the City prior to payment therefor by the Zone Board.

**5.3** The Parties will cooperate to secure permissible sales tax exemptions to the extent available.

**5.4** The Developer shall also provide or cause to be provided a one year warranty acceptable to the City from the date of transfer upon all Public Improvements, and the Developer

shall assign to the City all warranties and other contract rights of the Developer concerning the design, acquisition, construction, installation, and inspection of the Public Improvements.

## **VI. STANDARDS FOR CERTAIN PUBLIC IMPROVEMENTS**

**6.1** As part of the consideration for the creation of the Zone and entering into this Agreement, the Developer has agreed to construct the improvements Substantially in Accordance with the Project and Financing Plan, “**Exhibit A**” herein. The Developer further agrees to the following regarding certain public improvements:

a. Fire Station. The Developer was responsible, under the Original Development Agreement and First Amended Development Agreement for contributions regarding the construction of a fire station (the “Fire Station”), including cash and land contributions. The Parties acknowledge that Developer originally made a dedication and contribution of a tract of land located on Ware Seguin Road to the City to be used for a fire station (“Original Contributed Land”). Subsequently, the City determined that a location on Lower Seguin Road was more appropriate for such use and the Developer entered into a transaction with the City and has conveyed 5.012 acres to the City for construction of fire station and emergency services facility. (the “New Fire Station”). To the extent necessary, the Developer hereby consents to the use by the City of the Original Contributed Land for any purpose the City may determine in the future, including the subsequent sale of the Original Contributed Land by the City with no development restrictions by Developer. The Developer has subsequently entered into a Contract for the contribution to the City of one-acre of land adjacent to the New Fire Station to be used for the construction of an indoor shooting range by the City and by Randolph Air Force Base (the “Shooting Range Land”). After the Developer’s contributions and transfers of the New Fire Station, the Shooting Range Land, the agreement not to develop land situated in the AICUZ and other valuable consideration to and for the benefit of the City, the Developer remains responsible for a contribution to the City in the amount of Five-Hundred Thousand dollars (\$500,000.00) to be paid in full before December 31, 2020, which amount may be satisfied by applying said amount as a credit against any reimbursement amounts due to Developer pursuant to this Agreement.

b. Existing Wastewater. As agreed to and recognized by the Parties, the Developer has constructed a 65,000 gallon-per-day wastewater treatment plant (hereinafter “Wastewater Plant”) and conveyed title of the underlying real property upon which the Wastewater Plant is constructed to the City, while maintaining ownership of the Wastewater Plant. City acknowledges that the Wastewater Plant was constructed, and will be expanded, for the purpose of servicing only the Project, and hereby agrees that Developer will continue to receive sole utilization rights to the existing and expanded Wastewater Plant service capacity, exclusive of all other developments and/or users. Additionally, City agrees to grant to Developer access over, under and across the real property upon all of that tract or parcel of land previously conveyed to the City by Developer and upon which the Wastewater

Plant is located for the use, operation, maintenance, repair, construction, reconstruction, expansion of the Wastewater Plant and ingress and egress to and from the Wastewater Plant, so long as, Developer continues to own, in whole or in part, the Wastewater Plant.

c. FM 1518 Drainage Upgrade/Woman Hollering Creek Bridge. The Parties herein agree and recognize that the Texas Department of Transportation, has constructed and is constructing certain roadway improvements to FM 1518 over Woman Hollering Creek (the “Bridge Improvements”). The Parties agree that any and all responsibilities Developer had toward completion of the Bridge Improvements pursuant to prior iterations of this Agreement have been satisfied and that all costs expended by Developer toward those Bridge Improvements, including but not limited to engineering or consultation cost, remain reimbursable Project Costs under this Agreement.

d. “Must Build” Roads. The Developer hereby agrees to cause to be constructed all “Must Build” Roads and Trails as those improvements are designated in the Planned Development District Master Plans (the “PDD”), which is subject to change and may be revised by City Ordinance. The parties acknowledge that (i) the Must Build Roads and Trails in Module 1 have been constructed, and (ii) the exact location of Must Build Roads and Trails in the remaining Modules may vary depending upon topography and final land plans and that flexibility in the exact location of the Must Build Roads and Trails is required. The parties agree that the City’s acceptance and approval of the location of roads and trails pursuant to an approved Preliminary Plat shall constitute an acceptance and acknowledgement that the Must Build Roads and Trails are in compliance with the PDD.

e. Open Space/Parkland. The Parties herein agree that the Developer has set aside and dedicated to the City certain areas of real property as open space, parkland, and a trail network as depicted in the approved PDD, as amended, which is subject to change and may be revised by City Ordinance or as may otherwise be modified by the City. Developer agrees to provide an easement to the public for access to the trail network, “pocket parks,” and greenbelt system created by Developer. Such easement will not include access to the Amenities Center areas owned by the Home Owners Associations within the Project, including the pool areas, as those areas are labeled in the approved PDD or as they are ultimately constructed after approval by the City. The City hereby agrees that Developer has satisfied the City’s Land Dedication requirements through the total parkland dedicated and access easements described herein, and shall not be responsible for any parkland dedication fees or Park Development Fees, including any future parkland, open space, or related development fees, nor shall Developer be responsible for the Two Hundred and Twenty-Five and No/100 Dollars (\$225.00) per developed lot contribution referenced in Sec. 8.4 of the Original Development Agreement.

## **VII. DUTIES AND OBLIGATIONS OF CITY, ZONE BOARD AND OTHER TAXING UNITS**

**7.1** Neither the City nor the Zone Board shall be obligated to sell or issue any bonds to pay or reimburse the Developer or any third party for Public Improvements or any other improvements to the Zone performed under the Project and Financing Plan or under this Agreement.

**7.2** To the extent that such funds are available, the City and the Zone Board shall use only available Tax Increment Funds to pay the Developer up to the amount of the Maximum Total Reimbursement as full reimbursement for designing, constructing, installing, maintaining and implementing the Public Improvements required under the Project and Financing Plan and this Agreement. Notwithstanding any other provisions of this Agreement or the PDD for the Project or Property previously approved by the City to the contrary, the City agrees that its obligation to the Developer is separate from obligations due other developers who may construct within the Zone. As long as the Developer pays its tax obligation as required and in a timely manner, to the extent that the funds of the Zone are insufficient to meet every obligation of the City to all developers within the Zone, the Developer will receive first priority in payment and be paid in full for all of Developer's Reimbursements before City or Zone may satisfy any obligations to other developers. Amongst those areas within the Property that may have improvements for which reimbursement requests are made, the areas outside of the AICUZ areas will take first priority in payment.

**7.3** The City shall issue, or cause to be issued upon request and in response to a Letter of Final Completion, an Acknowledgment of Completion of items satisfactorily brought to Completion by the Developer in constructing the Public Improvements. An Acknowledgement of Completion may be issued for any Module or portion of a Module.

**7.4** The City and the Zone Board shall not unreasonably withhold, delay or condition approval on requests from the Developer on matters under this Agreement.

**7.5** Each of the Taxing Units agrees to contribute the Tax Increment designated in the Project and Financing Plan from their ad valorem property taxes within the Zone to the Tax Increment Fund pursuant to the Interlocal Agreement. In the event there is a conflict between the Parties in regard to the amount of the Tax Increment owed by any one Participating Taxing Unit (as defined in the Interlocal Agreement), the Parties agree that the Participating Taxing Unit whose Tax Increment is disputed will contribute that portion which is undisputed to the Tax Increment Fund. Thereafter the Participating Taxing Unit whose Tax Increment is disputed will be responsible for reasonably determining which tax collections will be apportioned for purposes of determining its Tax Increment. The annual Total Appraised Value of all real property taxable by each Participating Taxing Unit located in the Zone shall be determined through an independent third-party verification obtained from the Bexar County Appraisal District. Each Participating Taxing Unit will verify taxes levied and collected in regard to the property contained within the Zone.



**7.6** Upon the request of Developer, the Zone Board and each of the Participating Tax Units agree that the contributions from each Participating Taxing Unit into the Tax Increment Fund may be paid to a Trustee to take receipt of such funds on behalf of and for the benefit of Developer pursuant to a Trust Indenture. The payment of contributions by each of the Participating Tax Units to such Trustee shall not increase, change, amend, or modify the obligations of the parties hereunder.

**7.7** Pursuant to the Interlocal Agreement (as such may be amended from time to time), the Zone Board and each of the Participating Tax Units have agreed that their contributions shall be paid into the Tax Increment Fund (or to the Trustee, as applicable) no later than the 31<sup>st</sup> day of January of each calendar year for tax payments from the preceding tax year (the “PTU Payment Date”). For the purposes of clarity and by way of example, ad valorem tax payments which are due from landowners by December 31, 2018, shall be paid into the Tax Increment Fund by the Participating Tax Units on or before January 31, 2020. The obligations of the Participating Tax Units to pay their contributions into the Tax Increment Fund (or to the Trustee, as applicable) shall be limited to those tax payments which have actually been received by each Participating Tax Units. To the extent that a Participating Tax Unit shall receive tax payments after the PTU Payment Date (a “Delinquent Payment”), such Participating Tax Unit shall make its required contribution associated with such Delinquent Payment to the Tax Increment Fund on or before the next succeeding PTU Payment Date. The Zone Board agrees that distribution of contributions from the Tax Increment Fund (or from the Trust, as applicable) shall be made no later than thirty (30) days after the PTU Payment Date. The contribution by each Participating Tax Unit of their respective obligations to the Tax Increment Fund (or to the Trustee for the benefit of the Trust, if applicable) shall constitute the authority for the Tax Increment Fund (or the Trustee, if applicable) to distribute the contributions to the Developer or, if the contributions are made to the Trustee, to such parties as the Developer may direct.

## **VIII. FURTHER AGREEMENTS REGARDING THE PROJECT**

**8.1** Intentionally deleted.

**8.2** Intentionally Deleted.

**8.3** The City acknowledges and agrees that fire flow is currently adequate for all proposed development within the Property and that the Developer will not be required to construct any facilities for additional fire flow, including but not limited to a new elevated water tank.

**8.4** Intentionally Deleted.

**8.5** The City and the Zone Board acknowledge that initial completion of the Wastewater Plant did not occur prior to wastewater discharge from housing units, and that completion of proposed expansion and upgrades to the Wastewater Plant may not occur prior to wastewater discharge from other housing units. In the event that housing units constructed within the Property discharge wastewater prior to the Wastewater Plant’s completion or prior to the Wastewater Plant’s expansion, the City agrees to the “pump and haul” (method of wastewater disposal that generally involves a truck/mechanism that pumps waste out of a system and hauls

away the waste to dispose of it) of wastewater from the lift station (or other appropriate site) to the City's sewage treatment plant or to other reasonable alternative treatment plant approved by the City. To the extent that the City or other responsible party does not assume the responsibility and obligation for "pump and haul" costs, any such costs paid by Developer shall be eligible for reimbursement under this Agreement.

**8.6** Intentionally deleted.

## **IX. COMPENSATION TO DEVELOPER**

**9.1** In the event that the Developer complies with all of the requirements for reimbursement set forth herein, the Developer shall receive up to the Maximum Total Reimbursement as full compensation for the construction of the Project and the conveyance of the Public Improvements to the City. The sole source of the funds to compensate the Developer for satisfactorily completing the Project shall be derived from the Tax Increment collections.

**9.2** Tax Increment collections shall be paid to the Developer (or to the Trustee, as applicable) only after (i) the Zone Board's receipt and approval of Contract Progress Payment Requests from Developer in excess of the tax increment collections previously paid to Developer, (ii) previous issuance by the City of Acknowledgement(s) of Completion for Phases (or portions thereof) for which Contract Progress Payment Requests have been submitted and approved, (iii) the conveyance of the Public Improvements to the City which have been completed and for which reimbursement is being made, and (iv) upon written request from the Zone Board, a written representation from the Developer that the Architectural Standards have not been amended, changed or modified, and that they have been consistently enforced and complied with. The amount of such payments shall be based upon the Contract Progress Payment Requests received from the Developer and approved by the Zone Board.

**9.3** The approval by the Zone Board of Contract Progress Payment Request(s) shall be prima facie evidence that, as of the date of such approval, (i) that all conditions, obligations, duties, and requirements of Developer under this Agreement have been satisfied, (ii) that there are no Defaults at that time, and (iii) there is no condition which, with the passage of time, giving of notice, or both, would constitute a Default.

**9.4** If Tax Increment funds do not exist in an amount sufficient to make reimbursement payments in full when the payments are due to the Developer under this Agreement, partial payments shall be made to the Developer and the remainder shall be paid if, as, and when Tax Increment funds become available. No fees, costs, expenses, or penalties shall be paid to the Developer on any late payment.

**9.5** If any payment to the Developer is held invalid, ineligible, illegal, or unenforceable under present or future federal, state or local laws, then and in that event it is the intention of the Parties hereto that such invalid, ineligible, illegal or unenforceable payment shall be repaid in full by Developer and redistributed to the Taxing Units pro rata and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable payment was never contained herein.

## **X. INSURANCE**

**10.1** Subject to the Developer's right to maintain reasonable deductibles in such amounts as are approved by the City, the Developer shall obtain and maintain and/or cause its contractors who do work on the Project to obtain and maintain in full force and effect during all Public Improvement construction required by the Project and Financing Plan and this Agreement, at no expense to any Taxing Unit, insurance coverage as specified below written on an occurrence basis (per occurrence), by companies authorized and admitted to do business in the State of Texas and rated "A-" or better by A.M. Best Company and otherwise acceptable to the City and the Zone Board, in the following types and amounts:

	<u>Type</u>	<u>Amount</u>
(a)	Professional Liability (Claims Made Form) [Developer and all contractors]	\$1,000,000
(b)	Comprehensive General Liability (including Broad Form Coverage, Contractual Liability, Bodily and Personal [Developer and all contractors]	Combined limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate or its equivalent in umbrella or excess liability coverage
(c)	Automobile Liability (any auto, including employer's non-owned and hired auto coverage)	\$1,000,000 combined single limit per occurrence.
(d)	Workers' Compensation and Employer's Liability [Contractors only]	Statutory \$500,000/\$500,000/\$500,000

**10.2** The City and the Zone Board shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the City and the Zone Board as set forth in Section 10.1 above, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties hereto or the underwriter of any such policies). Upon such request by the City or the Zone Board, the Developer shall exercise reasonable efforts to accomplish such changes in policy coverage and shall pay all costs thereof. The County shall be entitled, upon request and without expense, to receive copies of the policies and endorsements and any revisions and modifications thereto.

**10.3** The Developer agrees that, with respect to the above-required insurance, all insurance contracts and Certificate(s) of Insurance shall contain the following required provisions:

- a. Name the City, the County and the Zone Board and its officers, employees, and elected representative as additional insureds;

- b. Provide for an endorsement that the “other insurance” clause shall not apply to the City, the County or the Zone Board where the City, the County or the Zone Board is an additional insured shown on the policy;
- c. Worker’ compensation and Employers’ General Liability Policy shall provide a waiver of subrogation in favor of the city, the County and the Zone Board; and
- d. Such insurance may not be reduced or cancelled without at least thirty (30) days prior written notice to the City, the County and the Zone Board.

**10.4** The Developer agrees that with respect to Workers’ Compensation and Employer’s General Liability Policy, the following apply:

a. Definitions:

“Certificate of Coverage”: A copy of a certificate of insurance, showing required coverage for the duration of the Project.

“Duration of the Project” includes the time from the beginning of the work on the Project until the work on the Project has been completed and accepted by the City.

“Persons providing services on the project” (“subcontractor” in §406.096 of the Texas Labor Code): includes all persons or entities performing all or part of the services the Developer has undertaken to perform on the Project, regardless of whether that person contracted directly with the Developer and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the Project. “Services” include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to the Project. “Services” does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- b. The Developer must provide a Certificate of Coverage to the City and the County. If the coverage period shown on the Developer’s current Certificate of Coverage ends during the duration of the Project, the Developer must, prior to the end of the coverage period, file a new Certificate of Coverage with the City and the County showing that coverage has been extended.
- c. The Developer shall obtain from each person providing services on the Project, and provide to the City and the County:

- (1) A Certificate of Coverage, prior to that person beginning work on the Project, so the City and the County will have on file Certificates of Coverage showing coverage for all persons providing services on the Project; and
  - (2) No later than seven (7) days after receipt by the Developer, a new Certificate of Coverage showing extension of coverage, if the coverage period shown on the current Certificate of Coverage ends during the duration of the Project.
- d. The Developer shall retain all required Certificates of Coverage for the duration of the Project and for one year thereafter.
- e. The Developer shall notify the City and the County in writing by certified mail or personal delivery, within ten (10) days after the Developer knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.
- f. The Developer shall post on each Project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission (the "Commission"), informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- g. The Developer shall contractually require each person with whom it contracts to provide services on the Project to:
- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the Project, for the duration of the Project;
  - (2) provide to the Developer, prior to that person beginning work on the Project, a Certificate of Coverage showing that coverage is being provided for all employees of the person providing services on the Project, for the duration of the Project;
  - (3) provide the Developer, prior to the end of the coverage period, a new Certificate of Coverage showing extension of coverage, if the coverage period shown on the current Certificate of Coverage ends during the duration of the Project;
  - (4) obtain from each other person with whom it contracts, and provide to the Developer:
    - (a) a Certificate of Coverage, prior to the other person beginning work on the Project; and

- (b) a new Certificate of Coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current Certificate of Coverage ends during the duration of the Project;
  - (5) retain all required Certificates of Coverage on file for the duration of the Project and for one year thereafter;
  - (6) notify the City and the County in writing by certified mail or personal delivery, within ten (1) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
  - (7) contractually require each person with whom it contracts to perform as required by this Subsection 10.4(g), with the Certificates of Coverage to be provided to the person for whom they are providing services.
- h. By signing this Agreement or providing or causing to be provided a Certificate of Coverage, the Developer is representing to the City, the County and the Zone Board that, although the Developer may contract for the development of any portion of the Project, neither the Developer nor any of the Developer's employees, representatives or agents will directly provide services on the Project, and that all of Developer's contractors will be covered by workers' compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Developer to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- i. The Developer's failure to comply with any of these provisions is a breach of this Agreement by the Developer which entitles the City to declare this Agreement void if the Developer does not remedy the breach within ten (10) days after receipt of notice of breach from the City, and allows the County to take action pursuant to Section 11.2.

**10.5** The Developer shall notify the City, the County and the Zone Board in the event of any notice of cancellation, non-renewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, or ten (10) days' notice for cancellation due to non-payment of premiums, which notice must be accompanied by a replacement Certificate of Coverage. All notices shall be given to the City and the zone Board at the following address:

City of Schertz, Texas  
1400 Schertz Parkway  
Schertz, Texas 78154  
Attn: City Manager

and to the County at the following address

Department of Community Investment  
233 N. Pecos, Suite 590  
San Antonio, Texas 78207  
Attn: Executive Director

**10.6** If the Developer fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, the City or the Zone Board may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due to the Developer under this Agreement; however, procuring of said insurance by the City or the Zone Board is an alternative to other remedies the City or the Zone Board may have, and is not the exclusive remedy for failure of the Developer to maintain said insurance or secure such endorsements.

**10.7** Nothing herein contained shall be construed as limiting in any way the extent to which the Developer may be held responsible for payments of damages to persons or property resulting from the Developer's or its subcontractors' performance of the work covered under this Agreement.

## **XI. DEFAULT AND REMEDIES**

**11.1** The occurrence of any of the following shall be an "Event of Default" by the Developer or a "Developer Default":

- a. the failure of the Developer to perform or observe any of the obligations, covenants or agreements to be performed or observed by the Developer under this Agreement and the continuation of such failure for a period of sixty (60) days (or shorter period if permitted by another provision of this Agreement) after notice from the City, the County or the Zone Board of such failure; provided however, if such default is incapable of effective cure during such cure period, then, in that event, Developer shall not be in default if Developer undertakes to cure such default during such cure period and diligently prosecutes the cure to completion;
- b. the breach by the Developer of any of its representations hereunder; and/or
- c. if the Developer files a voluntary petition in bankruptcy or insolvency or for reorganization or arrangement under the Bankruptcy Code of the United States (the "Bankruptcy Code") or under any insolvency act of any state, or voluntarily takes advantage of any such law or act by answer or otherwise or is dissolved or admits its bankruptcy or insolvency or an inability to satisfy its creditors or makes a general assignment for the benefit of creditors; or if all or substantially all of the assets of the Developer are attached, seized, subjected to a writ or distress warrant or are levied upon, or come in to the possession of any receiver, trustee, custodian, or assignee for the benefit of creditors, and such proceeding or action is not vacated,

stayed, dismissed, set aside or otherwise remedied within ninety (90) days after the occurrence thereof; or if the Developer shall assign or attempt to assign this Agreement in a manner prohibited by this Agreement.

**11.2** Upon the occurrence of an Event of Default hereunder, and after the expiration of any applicable cure period and subject to Section 11.3 below, the City may terminate this Agreement, the County may terminate its participation in the Zone, and/or the City, the County and the Zone Board may collectively or severally seek such remedies as may be available at law or in equity.

**11.3** In the event that the City and or Zone Board terminates this Agreement pursuant to Section 11.2 above, the maximum reimbursement to Developer shall be capped at the Current Approved Reimbursement Amount (the “Default Reimbursement Cap”). The Taxing Entities shall continue to make the contributions called for hereunder up to the amount of the Default Reimbursement Cap and those provisions of this Agreement which govern the receipt and distribution of contributions shall be deemed to remain in effect until the contributions made by the Participating Tax Units are equal to the Default Reimbursement Cap. Thereafter the obligations of the Participating Tax Units to make any contributions shall cease and the obligations of the parties hereunder shall terminate as if this Agreement had expired according to its terms. Notwithstanding anything to the contrary set forth in this Section 11.3, nothing herein shall limit any additional remedies that the City, the County and the Zone Board may have available at law or in equity.

**11.4** The City, the County or the Zone Board shall collectively or severally be entitled to seek injunctive relief prohibiting or mandating action by the Developer, including specific performance, in accordance with this Agreement, or declaratory relief with respect to any matter under this Agreement. The Parties hereby agree and irrevocably stipulate that (i) the rights of the Parties to injunctive relief pursuant to this Agreement shall not constitute a “claim” pursuant to Section 101(5) of the Bankruptcy Code and shall not be subject to discharge or restraint of any nature in any bankruptcy proceeding, and (ii) this Agreement is not an “executory contract” as contemplated by Section 365 of the Bankruptcy Code.

**11.5** The rights provided to the City, the County and the Zone Board in Section 11.2, 11.3, and 11.4 of this Agreement shall be in addition to and cumulative of all other rights and remedies available to such Parties upon an Event of Default by the Developer, and the City, the County and the Zone Board shall have the right to pursue all such other or additional remedies, whether the same be remedies at law and/or equitable remedies.

**11.6** Failure by City, County, or Zone Board to timely and substantially comply with any performance requirement, duty, or obligation specified herein shall be considered an act of Default if uncured within sixty (60) days of receiving written notice from the other Party.

## **XII. ADDITIONAL COUNTY REMEDIES**

**12.1** If (i) the City sends notice as provided for herein, or (ii) the County determines that the Developer has abandoned the Project, or materially failed to perform any other obligation,



covenant, condition or agreement pursuant to the Project and Financing Plan or any other term of this Agreement including an Event of Default as described herein which impairs the utility of the Public Improvements, or (iii) the Developer, its principal or participant, initiates, pursues or otherwise engages in litigation or any type of adversarial proceeding related to the Zone and against or involving the County (other than a proceeding to enforce its rights under this Agreement), the County may terminate its participation in the Zone. A principal or participant includes the Developer and the Developer's partners, affiliates, sponsors, payroll employees, or relatives of the first degree of consanguinity. Prior to terminating its participation in the Zone, the County shall provide written notice to the Developer, the City and the Zone Board (with a copy to any other Taxing Unit still contributing to the Zone) stating its intent to terminate its participation in the Zone and detailing its objection(s) or concern(s). If the objection and/or concern as set out in the notice is not resolved within ninety (90) calendar days from the date of such notice, County's participation in the Zone shall automatically terminate effective as of the date such notice is sent and the County will send the Developer a second notice stating that payment is due pursuant to Section 12.2. The County may extend the ninety (90) day cure period under this Agreement in its own discretion.

**12.2** If the County terminates its participation in the Zone under Section 12.1, Developer shall repay the County the following amounts: 1) if the breach occurs during a construction Phase, the Developer shall repay County an amount equal to the County TIF funds utilized to reimburse Developer for costs incurred during that specific Phase, or 2) if the breach occurs after all construction Phases are completed, the Developer shall repay County an amount equal to the funds the County paid into the TIF Fund during the twelve months preceding the date notice of breach is sent pursuant to Section 12.1.

**12.3** Funds which become due and owing under this provision shall be paid to the County within ninety (90) calendar days after Developer receives the second notice from the County under Section 12.1. The County shall look only to the Developer and to the TIF Fund (but only to the extent of any Tax Increment in the TIF Fund that has been contributed by the County) for any reimbursement, contractual claim, damages, or payment of any type. Under no circumstances shall the available Tax Increment funds received under this Agreement ever be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding regarding this Agreement against the County.

### **XIII. INDEMNIFICATION**

**13.1** THE DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS THE CITY (AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES THEREOF), THE ZONE BOARD (AND THE OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES OF THE ZONE BOARD), AND ALL OTHER TAXING UNITS PARTICIPATING IN THE ZONE (AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES OF THESE ENTITIES), INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF

ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON THE CITY, THE ZONE BOARD, AND/OR UPON ANY OF THE TAXING UNITS PARTICIPATING IN THE ZONE DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO THE DEVELOPER'S NEGLIGENCE, WILLFUL MISCONDUCT OR CRIMINAL CONDUCT IN ITS ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY SUCH ACTS OR OMISSIONS OF THE DEVELOPER, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANTS, OR CONTRACTORS OR SUBCONTRACTORS OF THE DEVELOPER, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY, THE ZONE BOARD, AND/OR THE OTHER TAXING ENTITIES PARTICIPATING IN THE ZONE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. THE DEVELOPER SHALL PROMPTLY ADVISE THE CITY, THE ZONE BOARD, AND THE OTHER TAXING UNITS PARTICIPATING IN THE ZONE IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY, THE ZONE BOARD, AND/OR ANY OTHER TAXING UNITS PARTICIPATING IN THE ZONE KNOWN TO THE DEVELOPER RELATED TO OR ARISING OUT OF THE DEVELOPER'S ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT DEVELOPER'S COST TO THE EXTENT REQUIRED UNDER THE INDEMNITY IN THIS SECTION. THE CITY, THE ZONE BOARD, AND/OR ANY OTHER TAXING UNITS PARTICIPATING IN THE ZONE SHALL HAVE THE RIGHT, AT THEIR OPTION AND AT THEIR OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING THE DEVELOPER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

**13.2** IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE DEVELOPER TO INDEMNIFY, PROTECT AND HOLD HARMLESS THE CITY, THE ZONE BOARD, AND THE OTHER TAXING UNITS PARTICIPATING IN THE ZONE FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE AND/OR NEGLIGENCE OF THE OTHER TAXING UNITS PARTICIPATING IN THE ZONE; HOWEVER, THE INDEMNITY PROVIDED FOR IN THIS SECTION SHALL APPLY ONLY WHEN THE NEGLIGENT ACT OF THE CITY, THE ZONE BOARD, OR OF ANY OTHER TAXING UNITS PARTICIPATING IN THE ZONE IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE, AND SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF THE CITY, THE ZONE BOARD, OR OF ANY OTHER TAXING UNITS PARTICIPATING IN THE ZONE IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE. THE DEVELOPER FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE AND ON BEHALF OF THE CITY (AND IN THE NAME OF THE CITY), THE ZONE BOARD (AND IN THE NAME OF THE ZONE BOARD), AND

ANY OTHER TAXING UNITS PARTICIPATING IN THE ZONE (AND IN THE NAME OF ANY OTHER TAXING UNITS PARTICIPATING IN THE ZONE) ANY CLAIM OR LITIGATION BROUGHT AGAINST THE CITY (AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTOR AND REPRESENTATIVES), THE ZONE BOARD (AND ITS OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES), AND/OR ANY OTHER TAXING UNITS PARTICIPATING IN THE ZONE (AND THEIR OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES), IN CONNECTION WITH ANY SUCH INJURY, DEATH, OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS SET FORTH ABOVE.

**13.3** The Developer shall also require each of its contractors and subcontractors working on this Project to indemnify the City, the County, the Zone Board, and all other Taxing Units participating in the Zone, and their respective officials and employees from and against any and all claims, losses, damages, causes of actions, suits and liabilities arising out of their actions related to the performance of this Agreement, utilizing the same indemnification language contained herein, in its entirety. The Developer shall provide proof of such further indemnity upon request of the City, the County, the Zone Board, or the other Taxing Units.

**13.4** Upon the assertion of any claim or litigation requiring indemnification pursuant to Section 13.1 and 13.2, the Developer shall assume and take exclusive control of the defense, negotiation, and/or settlement of such claim; however, if the representation of all Parties by the Developer would be inappropriate due to actual or potential conflicts of interest between them, then the Developer shall not assume such defense. In the event of a conflict of interest or dispute, as determined by the City, the County, the Zone Board or the other Taxing Units, the City, the County, the Zone Board, and all other Taxing Units participating in the Zone, and their respective officials and employees shall have the right to select counsel, with the reasonable cost of such counsel paid by the Developer. The Parties acknowledge that, with respect to claims for which insurance is available, the rights of the Parties to select counsel for the defense of such claims shall be subject to such approval rights as the insurance company providing coverage may have.

#### **XIV. INSPECTIONS AND EXAMINATION OF RECORDS**

**14.1** The Developer shall allow the City, the County and/or the Zone Board reasonable access to the Project site for inspections during and upon completion of construction of the Project upon twenty-four (24) hour notice, and upon reasonable notice, but in no case less than seventy-two (72) hours' notice, to documents and records necessary for the City, the County and/or the Zone Board to assess the Developer's compliance with this Agreement.

**14.2** The City and the County each reserves the right to conduct reasonable examinations, during regular business hours and following seven (7) days' notice to the Zone Board and the Developer by the City or the County, of the books and records related to this Agreement (including such items as contracts, paper, correspondence, copy, books, accounts, billings and other information related to the performance of the Zone Board and/or the Developer's services hereunder) no matter where books and records are located. The City and the County also reserve the right to perform any and all additional audit reviews and tests relating to the Zone Board and/or the Developer's services, provided that such audit review or test is related to those

services performed by the Zone Board and/or the Developer for the City. These examinations shall be conducted at the offices maintained by the City and/or the Developer.

**14.3** All applicable records and accounts of the Zone Board and/or the Developer, together with all supporting documentation, shall be preserved by the Zone Board and/or Developer throughout the term of this Agreement and for twelve (12) months after the termination of this Agreement, with copies then transferred to the City, at the Developer's expense, for retention. During this time, the records will be accessible by the County, and the City may require that any or all of such records and accounts be submitted for audit to the City or to a certified public accountant selected by the City. In the event the Zone Board and/or the Developer fails to furnish the City or the County any documentation required or requested hereunder within thirty (30) days following the written request for same, then the Zone Board and/or the Developer shall be in default of this Agreement.

**14.4** Should the City or County discover errors in internal controls or in record keeping associated with this Agreement, the Zone Board and/or the Developer shall correct such discrepancies either upon discovery or within a reasonable period of time, not to exceed sixty (60) days after discovery and notification by the City to the Zone Board and/or the Developer of such discrepancies and any overcharges shall be immediately refunded to the Tax Increment Fund together with interest of seven percent (7%) per annum from the date of overpayment to the date of refund. The Zone Board and/or the Developer shall inform the City and County in writing of the action taken to correct such audit discrepancies.

## **XV. ASSIGNMENT AND SUBCONTRACTING**

**15.1** All covenants and agreements contained herein by the City, the County, the Zone Board, and/or the Developer shall bind their successors and assigns and shall inure to the benefit of the other Parties, their successors and assigns.

**15.2** The city, the County and/or the Zone Board may assign their rights and obligations under this Agreement to any governmental entity without prior consent of the Developer.

**15.3** The Developer may sell or transfer its rights and obligations under this Agreement only with written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed, as evidenced by the passage of an ordinance, with approval from the Zone Board (with approval not being unreasonably withheld, conditioned, or delayed) when a qualified purchaser or assignee specifically agrees to assume all of the obligations of the Developer under this Agreement. In the event that a prospective assignee proposes to only assume a portion of the obligations of the Developer under this Agreement (e.g., limited to (i) a portion of the Project Area, (ii) a certain product type, etc.), then, in that event the Zone Board may approve or deny such request in its sole and absolute discretion and the Zone Board may also require that such prospective assignee enter into a separate development agreement with such additional requirements, conditions, and obligations as the Zone Board may elect in its sole and absolute discretion. Such purchaser or assignee must be qualified from a financial and experience

standpoint and shall be subject to the prior written approval by Zone Board. Notwithstanding the above, this section shall not prevent the Developer from assigning proceeds receivable by it under this Agreement to (i) a lending institution in order to obtain financing for the Project, or (ii) to a Trustee as set forth in Section 7.6 above. In no event, however, shall the City or any other Taxing Unit be obligated in any way to the Developer's lender or be obligated to approve any proposed successor to the Developer; except that the City, as administrator of the TIF fund, will honor an assignment of proceeds from the Developer to its lender directing to whom such proceeds will be paid, or to a Trustee as otherwise contemplated herein.

**15.4** Any work or services subcontracted herein shall be subcontracted only by written contract or agreement and, unless the City grants specific waiver in writing with a copy of such waiver to County, shall be subject by its terms, insofar as any obligation of the City is concerned, to each and every provision of this Agreement. Compliance by the Developer's subcontractors with this Agreement shall be the sole responsibility of the Developer, except that City shall require that Developer's subcontractors meet the minimum requirements pursuant to any applicable federal, state, or local law.

**15.5** The City, the County and/or Zone Board shall in no event be obligated to any third party, including any subcontractor or consultant of the Developer, for performance of work or services under this Agreement.

**15.6** Each transfer or assignment to which there has been consent, pursuant to Section 15.3, shall be by instrument in writing, in a form reasonably satisfactory to the City, and shall be executed by the transferee or assignee who shall agree in writing for the benefit of the City to be bound by and to perform the terms, covenants and conditions of this Agreement. Four (4) executed copies of such written instrument shall be delivered to the City. Failure to first obtain in writing the City's consent, or failure to comply with the provisions herein contained, shall operate to prevent any such transfer or assignment from becoming effective, and such attempted improper transfer of assignment shall be a Developer Default hereunder.

**15.7** The receipt by the City of services from an assignee of the Developer shall not be deemed a waiver of the covenant in this Agreement against assignment or an acceptance of the assignee as the Developer or a release of the Developer from further observance or performance by the Developer of the covenants contained in this Agreement. No provision of this Agreement shall be deemed to have been waived by the City unless such waiver is in writing, and approved by City Council in the form of a duly adopted ordinance.

## **XVI. INDEPENDENT CONTRACTORS**

**16.1** It is expressly understood and agreed by all Parties hereto that, in performing their services hereunder, the Zone Board and the Developer at all times shall be acting as independent contractors contracted by the City. Any consultants or subcontractors engaged by either the Zone Board or by the Developer respectively, shall be deemed independent contractors of the party who engaged such consultant or subcontractor (i.e., the Zone Board and/or the Developer). The Parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with services performed by the Zone Board and/or by

the Developer respectively, under this Agreement unless any such claims are due to the fault of the City.

**16.2** The Parties hereto further understand and agree that no Party hereto has the authority to bind the other party hereto or to hold out to third Parties that it has the authority to bind the other party to this Agreement and nothing herein shall be deemed or construed by the Parties hereto, or by any third party as creating the relationship of principal and agent, partners, joint ventures or any other similar such relationship between the parties.

**16.3** All personnel supplied or used by the Developer in the performance of this Agreement shall be deemed employees or subcontractors of the Developer and shall not be considered employees, agents or subcontractors of the City, the Zone Board, or of any other Taxing Unit participating in the Zone for any purpose whatsoever. The Developer shall be solely responsible for the compensation of all such personnel.

## **XVII. EMPLOYMENT PRACTICES**

**17.1** The Developer agrees that it will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin or disability and will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability.

**17.2** The Developer shall ensure that wages paid on work done on Public Improvements are not less than the minimum wages required by federal and state statutes to persons employed conducting the work, including but not limited to, Chapter 2258 of the Texas Government Code. The Developer shall also ensure that, for Public Improvements being reimbursed from the TIF fund by Tax Increment contributed from the County, the wages paid shall meet or exceed the Fair Minimum Wage Rate.

## **XVIII. TAXES**

The Developer shall pay, on or before their respective due dates to the appropriate collecting authority, all federal, state, and local taxes and fees which are now or may hereafter be levied upon the Property or use of the Property (which implies personalty and realty), or upon the Developer or upon the business conducted on the Property, or upon any of the Developer's property used in connection therewith, including employment taxes; and shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by the Developer. A material failure, as determined by the City, to comply with the foregoing provisions shall constitute, at the City's discretion, grounds for termination of this Agreement in accordance with Article XI of this Agreement by the City. If the County determines that Developer has failed to comply with the foregoing provisions, such failure shall constitute, at the County's discretion, grounds for terminating County's participation in the Zone in accordance with Section 11.2.

## **XIX. NOTICE**

**19.1** All notices, demands, and requests required hereunder shall be in writing and shall be deemed to have been properly delivered and received (i) as of the date of delivery to the addressees set forth below if personally delivered or delivered by facsimile machine, with confirmation of delivery (in the event a facsimile is sent after 5:00p.m. Schertz time, it shall be deemed to have been received on the next day); (ii) three (3) business days after deposit in a regularly maintained receptacle for the United States mail, certified mail, return receipt requested and postage prepaid; or (iii) one (1) business day after deposit with Federal Express or comparable overnight delivery system for overnight delivery with all costs prepaid. All notices, demands and requests hereunder shall be addressed as follows:

**If to the City:**

City of Schertz, Texas  
1400 Schertz Parkway  
Schertz, Texas 78154  
Attn: City Manager  
Fax: 210/659-3204

**With a copy to:**

Denton, Navarro, Rocha, Bernal, Hyde & Zech, PC  
2517 North Main Ave.  
San Antonio, Texas 78212  
Attn: Habib H. Erkan  
Fax: 210/225-4481

**If to the County:**

County Judge  
Bexar County Courthouse  
100 Dolorosa Street, #120  
San Antonio, Texas 78205  
Fax: 210/335-2926

**With a copy to:**

District Attorney, Civil Division  
Bexar County Courthouse  
100 Dolorosa Street, #120  
San Antonio, Texas 78205  
Fax: 210/335-6755

**and to:**

Executive Director  
Department of Community Investment  
233 N. Pecos, Suite 590  
San Antonio, Texas 78207  
Fax: 210/335-6755

**If to the Developer:**

Schertz 1518 Ltd.  
314 East Commerce, Suite 600  
San Antonio, Texas 78205  
Attn: Chris Price  
Phone: 210/226.6843

**With a copy to:**

Brown & Ortiz, PC  
112 E. Pecan, Suite 1360  
San Antonio, Texas 78205  
Attn: James McKnight  
Fax: 210/299-4731

**If to the Zone:**

Reinvestment Zone Number Two,  
City of Schertz, Texas

**With a copy to:**

Denton Navarro Rocha Bernal & Zech, PC  
2517 North Main Ave.

1400 Schertz Parkway  
Schertz, Texas 78154  
Attn: City Manager  
Fax: 210/659-3204

San Antonio, Texas 78212  
Attn: Habib H. Erkan  
Fax: 210/225-4481

**19.2** Each Party may change its address by written notice in accordance with this Article. Any communication delivered by facsimile transmission shall be deemed delivered when receipt of such transmission is acknowledged. Any communication so delivered in person shall be deemed received when receipted for or actually received by an officer of the Party to whom the communication is properly addressed.

## **XX. CHANGES AND AMENDMENTS**

**20.1** Except when the terms of this Agreement expressly provide otherwise, any alterations, additions, deletions or waivers to the terms hereof shall be by amendment in writing executed by the City, the County, the Zone Board and the Developer.

**20.2** It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable to the Zone Board's and the Developer's services hereunder may occur during the terms of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

## **XXI. MISCELLANEOUS**

**21.1 Effective Date and Term.** This Agreement shall become effective from the Effective Date for a period terminating on the earlier of (i) the date the Developer receives the final payment due pursuant to the terms of this Agreement for completing all Phases of the Project; or (ii) the date of a termination by default pursuant to Article XI (subject to the continuing obligations of the Zone under Sections 11.2 and 11.3 set forth above to make payments associated with previously approved Contract Progress Payment Requests); provided that all existing warranties on the Project shall survive termination of this Agreement pursuant to the terms and subject to the limitations contained in Section 21.8; or (iii) expiration of the Zone as provided for in the Interlocal Agreement. It is acknowledged by the parties hereto the Interlocal Agreement provides for the expiration of the Zone on December 31, 2041. For the purposes hereof, the expiration of the Zone shall mean that Developer may and shall receive the final contributions from the Participating Tax Units associated with ad valorem tax payments for the tax year of 2041 (which will occur after the expiration of the Zone).

**21.2 Parties' Representations.** This Agreement has been jointly negotiated by the City, the County, the Zone Board, and the Developer and shall not be construed against a Party hereto because that Party may have primarily assumed responsibility for the drafting of this Agreement.



**21.3 Legal Authority.** The City, the County, the Zone Board, and the Developer, as signers of this Agreement, represent, warrant, assure and guarantee that they have full legal authority to execute this Agreement on behalf of the City, the County, the Zone, and/or the Developer, respectively, and to bind the City, the County, the Zone, and/or Developer to all of the terms, conditions, provisions and obligations herein contained.

**21.4 Entire Agreement.** This written Agreement embodies the final and entire agreement among the Parties hereto as to the subject matter hereof and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that if there is a conflict between an exhibit and a provision of this Agreement, the provision of this Agreement shall prevail over the exhibit.

**21.5 Changes and Amendments.** Except when the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by the City, the County, the Zone Board and the Developer.

**21.6 Non-Waiver.** No course of dealing on the part of the City, the County, the Zone Board or the Developer nor any failure or delay by the City, the County, the Zone Board or the Developer in exercising any right, power, or privilege under this Agreement shall operate as a waiver of any right, power or privilege owing under this Agreement.

**21.7 Severability.** If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter or ordinances of the City, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

**21.8 Survival.** Each and every indemnification obligation, warranty, representation, covenant and agreement of the Developer, the City, the County and the Zone Board contained herein shall survive the execution, delivery and termination of this Agreement for a period of two (2) years from and after the date of termination of this Agreement, and shall not be merged into any document executed and delivered, but shall expressly survive and be binding thereafter on the Developer, the City, the County and the Zone Board, respectively. No inspections or examinations of the Project or the books, records, or information relative thereto by the City, the County or the Zone Board shall diminish or otherwise affect the Developer's indemnification obligations, representations, warranties, covenants and agreements relative thereto, and the City, the County or the Zone Board may continue to rely thereon.

**21.9 Venue and Governing Law.** THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. ANY

LEGAL ACTION OR PROCEEDING BROUGHT OR MAINTAINED, DIRECTLY OR INDIRECTLY, AS A RESULT OF THIS AGREEMENT SHALL BE HEARD AND DETERMINED IN BEXAR COUNTY, TEXAS.

**21.10 Recitals.** The Recitals are herein incorporated for all purposes.

**21.11 Captions.** All captions used herein are only for the convenience of reference and shall not be construed to have any effect or meaning as to the agreement between the Parties hereto.

**21.12 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

**21.13 Effectiveness of Agreement.** The City, the County, the Zone Board, and the Developer agree that this Agreement shall have no force or effect unless and until the applicable Interlocal Agreement for the Project is executed between the City, the County, the Authority, and the Zone.

**21.14 Enforcement by County.** In any provision of this Agreement where the County is not specifically named, the County is deemed by the other Parties to be a third party beneficiary of this Agreement with the ability to enforce this Agreement on the same terms and conditions as the City; provided, the County may not enforce an exclusive right of City if the City has affirmatively chosen not to enforce such right. In addition to enforcement rights equal to that of the City, it is the understanding and intent of the Parties to this Agreement that the County's right, as an independent Taxing Unit, to terminate its participation hereunder as provided herein and/or recapture funds as described herein, is not dependent on the consent, approval, or endorsement, of any other party or Taxing Unit.

**21.15 Attorney's Fees.** Each Party to this Agreement shall bear its own costs, including, but not limited to, attorneys' fees, for any action at law or in equity brought to enforce or interpret any provision of this Agreement. Notwithstanding the foregoing, nothing contained in this Section shall impact or otherwise affect the indemnity provisions contained in Sections 13.1 and 13.2 hereinabove.

IN WITNESS THEREOF, the Parties hereto have caused this instrument to be duly executed and dated effective as of the Effective Date.

*[Signatures of Parties on following page]*



**DEVELOPER**

SCHERTZ 1518 LTD., a Texas  
limited partnership  
By: MTR-Schertz 1518  
Management Company, LLC, a Texas  
limited liability company, its general partner

\_\_\_\_\_  
Christopher K. Price, President

**CITY**

CITY OF SCHERTZ, TEXAS

\_\_\_\_\_  
Mark Browne  
City Manager

APPROVED AS TO FORM

\_\_\_\_\_  
City Attorney

**ZONE BOARD**

REINVESTMENT ZONE NUMBER TWO,  
CITY OF SCHERTZ, TEXAS

\_\_\_\_\_  
Chris Price  
Chairperson

*[Signatures continued on next page]*

COUNTY  
BEXAR COUNTY, TEXAS

APPROVED AS TO FINANCIAL CONTENT  
BY BEXAR COUNTY, TEXAS

\_\_\_\_\_  
Nelson W. Wolff  
County Judge

\_\_\_\_\_, Budget Officer and  
Executive Director of Planning and  
Resource Management

ATTEST/SEAL

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
County Auditor

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Bexar County Criminal District Attorney

By: \_\_\_\_\_

\_\_\_\_\_  
Assistant Criminal District Attorney

**EXHIBIT A**  
**PROJECT AND FINANCING PLAN: REINVESTMENT ZONE #2 (SEDONA AND THE**  
**CROSSVINE)**

**EXHIBIT B**  
**APPROVED “PDD”: ZONING MASTER PLAN AND MASTER DEVELOPMENT**  
**PLANS FOR SEDONA AND THE CROSSVINE**

## AMENDED AND RESTATED INTERLOCAL AGREEMENT

### I. PARTIES

A. THIS AMENDED AND RESTATED INTERLOCAL AGREEMENT (this “Agreement”) is made as of \_\_\_\_\_, 2020 (the “Effective Date”) among the **CITY OF SCHERTZ, TEXAS**, a Texas home rule municipality (the “City”), acting through its City Manager pursuant to Resolution No. \_\_\_\_\_, passed and approved by the City Council of the City on \_\_\_\_\_, 2020; **BEXAR COUNTY, TEXAS**, a political subdivision of the State of Texas, acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on \_\_\_\_\_, 2020 (the “County”); **SAN ANTONIO RIVER AUTHORITY**, a Texas river authority, acting through its executive director pursuant to a resolution of its Board of Directors dated \_\_\_\_\_, 2020 (the “Authority”); and **REINVESTMENT ZONE NUMBER TWO, CITY OF SCHERTZ, TEXAS**, a reinvestment zone created by the City pursuant to Chapter 311 of the Texas Tax Code (the “Zone”), acting through its duly authorized Board of Directors (the “Zone Board”) pursuant to a resolution dated \_\_\_\_\_, 2020. The City, the County, the Authority, and the Zone may be referred to singularly as a “Party” or collectively as “Parties”. This Agreement is made pursuant to Chapter 311 of the Texas Tax Code (as may be amended from time to time, the “Code”) for the participation of the parties in the CROSSVINE DEVELOPMENT PROJECT (the “Project”).

B. The initial addresses of the Parties are listed below. Each Party may designate a different address by giving the other Parties at least ten (10) days prior written notice.

#### CITY

City Manager  
City of Schertz  
1400 Schertz Parkway  
Schertz, Texas 78154

#### COUNTY

County Judge  
Bexar County Courthouse  
100 Dolorosa Street, #1.20  
San Antonio, Texas 78205

#### AUTHORITY

General Manager  
San Antonio River Authority  
100 East Guenther Street  
San Antonio, Texas 78204

#### ZONE

Chair, Reinvestment Zone Number Two  
City of Schertz, Texas  
c/o City of Schertz  
1400 Schertz Parkway  
Schertz, Texas 78154

### II. DEFINITIONS

A. As used in this Agreement, the following terms shall have the meanings set out below:

1. “Administrative Costs” means reasonable costs directly incurred by a “Participating Taxing Entity” (as hereinafter defined) related to its agreement to participate in the



development and administration of the Zone, as described in this Agreement. These costs include, but are not limited to, reasonable costs and expenses for legal review and financial analysis related to the Zone incurred prior to entering into this Agreement, as well as any such costs and expenses incurred after this Agreement becomes effective.

2. “Captured Appraised Value” means the captured appraised value of the Zone, as defined by Section 311.012(b) of the Code.

3. “Construction Schedule” means the schedule contained in the “Development Agreement” (as hereinafter defined) incorporated into this document in its entirety by reference, for the construction of all components of the Project, which may be amended from time to time by the Developer, the County, the Zone Board and City.

4. “Developer” means Schertz 1518 Ltd., a Texas limited partnership.

5. “Development Agreement” means the Development Agreement of even date herewith by and among the City, the County, the Zone and the Developer as more fully described in Section V(D), and as the same may be amended from time to time.

6. “Participating Taxing Unit” or “Participating Taxing Units” means, singularly, a taxing unit as defined by Section 311.002(4) of the Code, that is participating in the Zone, and collectively, all taxing units participating in the Zone which includes the City, the County, and the Authority. The County, as a Participating Tax Unit, shall not include the Bexar County Flood Control District or the Bexar County Hospital d/b/ University Health System.

7. “Project Costs” means the items set forth and described in Section 311.002(1) of the Code, which are included in the amended Project and Financing Plan for the Project. The Project Costs include public infrastructure improvements and related capital costs including streets, drainage, utilities, platting fees, architect, legal and engineering fees, sidewalks, landscaping, rights-of-way, and area-wide public improvements, maintenance costs paid by Developer, and administrative costs. The total reimbursable Project Costs for public improvements (exclusive of financing costs or interests but including administrative costs) shall in no case exceed SIXTY-SIX MILLION and NO/100 Dollars (\$66,000,000.00) in the aggregate for the life of the Zone.

8. “Project and Financing Plan” means the amended Final Project Plan and Reinvestment Zone Financing Plan for the Zone, completed in accordance with Section 311.011 of the Code and attached hereto as **Exhibit “B”** as adopted by the Zone Board on \_\_\_\_\_, 2020 and approved by the City pursuant to Ordinance No. \_\_\_\_\_ on \_\_\_\_\_, 2020.

9. “Tax Increment” means the total amount of ad valorem taxes levied and collected each year by a Participating Taxing Unit on the Captured Appraised Value of taxable real property in the Zone. Further, with respect to the County, this term means the total amount of ad valorem taxes levied and collected only on behalf of the County each year for maintenance and operations purposes.

10. “Tax Increment Base” means the total appraised value of all real property taxable by a Participating Taxing Unit and located in the Zone as of January 1, 2006, the year in which the Zone was originally designated and the appraised value of any real property taxable by a Participating Tax Unit and added to the Zone after January 1, 2006 as of the date of its acquisition by Developer.

11. “Tax Increment Fund” means the tax increment fund originally created by the City via Ordinance No. 06-T-61 on December 19, 2006, and amended by Ordinance No. \_\_\_\_\_ on \_\_\_\_\_, 2020, pursuant to Section 311.014 of the Code for the deposit of Tax Increments for the Zone, entitled “Reinvestment Zone Number Two, City of Schertz, Texas Tax Increment Fund”.

12. “Tax Increment Payment” means the amount of the Tax Increment that a Participating Taxing Unit agrees to deposit annually into the Tax Increment Fund in accordance with this Agreement and the Project and Financing Plan.

13. The “Zone” means Reinvestment Zone Number Two, City of Schertz, Texas, originally created by the City to encompass the boundaries of the Project on December 19, 2006, by Ordinance No. 06-T-61, and amended by Ordinance No. \_\_\_\_\_ on \_\_\_\_\_, 2020, a copy of which is attached as **Exhibit “A”** hereto.

14. “Zone Board” consists of the individuals appointed to serve on the Board of Directors for the Zone pursuant to Section 311.0091(c) of the Code, Ordinance No. \_\_\_\_\_, and the Bylaws of the Zone Board.

B. Any other term to which meaning is expressly given in this Agreement, shall have such meaning.

### **III. BACKGROUND**

A. By Resolution No. 05-R-20, passed and approved by the City on December 6, 2005, the City expressed its intent to create a tax increment reinvestment zone to support the revitalization activities commonly known as the Sedona Development Project, pursuant to Chapter 311 of the Code. On December 19, 2006, the City Council of the City passed and approved Ordinance No. 06-T-61, which originally created the Zone.

B. The Zone Board adopted the original Project and Financing Plan on October 27, 2008. The City approved the Project and Financing Plan on November 4, 2008. The Tax Increment Fund was originally authorized by City Ordinance No. 06-T-61.

C. Soon after the commencement of the Zone and the Project therein, there occurred a national economic crisis that was particularly devastating to the real estate and home-building industry. Control of the Project transferred to new ownership, who worked with the City to redesign the entire outlook and scope of the Project. Following a revised Planned Development District (“PDD”) for the Project in 2011, Developer sought to amend the scope of the original Zone

by expanding the property boundary, the length of the approved Zone, and the maximum amount of reimbursable Project Costs for public improvements. On \_\_\_\_\_, 2020, the City adopted Ordinance No. \_\_\_\_\_, which amended and expanded the original Zone.

D. There are approximately 151.16 acres of property within the Zone located within the Air Installation Compatible Use Zone, Accident Potential Zone II (the “AICUZ Development Area”) that was originally zoned and available for development of two (2) lots per acre for a total planned development in the AICUZ Development Area of 302 lots. As part of amending the Project, and at the request of the City and Joint Base San Antonio, the Developer voluntarily agreed not to develop the AICUZ Development Area and it has since been permanently dedicated as a conservation easement.

E. The Zone Board adopted an amended Project and Financing Plan on \_\_\_\_\_, 2020, to reflect the amended and expanded scope of the Project, and the City adopted the such Plan on \_\_\_\_\_, 2020, via Ordinance No. \_\_\_\_\_.

F. The Parties agree that no tax-supported public debt instrument will be issued by a Participating Taxing Unit or the Zone to finance any costs or improvements on the Project.

G. Intentionally Deleted.

H. Under this Agreement, the Participating Taxing Units agree, pursuant to Section 311.013(f) of the Code, to participate in the Zone, and to deposit their respective Tax Increment Payments into the Tax Increment Fund, in accordance with the terms, and in consideration for the agreements set forth herein and in the Project and Financing Plan.

#### **IV. RIGHTS AND OBLIGATIONS OF PARTICIPATING TAXING UNITS**

##### **A. Tax Increment Participation by Participating Taxing Units**

1. Subject to the limitations set out in this Agreement, each Participating Taxing Unit agrees to continue participation in the Zone by contributing to the Tax Increment Fund in the following percentages of their respective Tax Increments each year during the term of this Agreement:

City: One hundred percent (100%) up to a maximum of Forty-Seven Million, One Hundred Ninety Thousand Dollars (\$47,190,000) (“City Cap”)

County: Fifty-eight percent (58%) of the maintenance and operation portion of the County’s general fund tax through tax year 2019; thereafter, starting in tax year 2020, Eighty percent (80%) of the maintenance and operation portion of the County’s general fund tax, in total, up to a maximum of Seventeen Million, Eight Hundred Twenty Thousand Dollars (\$17,820,000) (“County Cap”)

Authority: Fifty-five percent (55%) up to a maximum of Nine Hundred Ninety Thousand Dollars (\$990,000) (“Authority Cap”)

The Participating Taxing Units' combined total Tax Increment Payment to the Tax Increment Fund over the term of the Zone shall not exceed SIXTY-SIX MILLION and NO/100 Dollars (\$66,000,000) in the aggregate ("Maximum Total Contribution").

2. The Parties agree that the Participating Taxing Units' contribution to the Tax Increment Fund has been used and shall continue to be used to fund public infrastructure improvements to support the development and revitalization efforts in the Zone, including related Project Costs associated with the Project. The Participating Taxing Units' contributions to the Tax Increment Fund shall end when the Tax Increment Fund has reimbursed the Developer for the Maximum Total Contribution provided for herein, when the Participating Taxing Units have made contributions, as specified in the Project and Financing Plan, from taxes imposed through the end of calendar year 2041, or pursuant to Section VI of this Agreement, whichever occurs first. Notwithstanding anything herein to the contrary, the total City Tax Increment Payments to the Tax Increment Fund shall not exceed the City Cap, the total County Tax Increment Payments to the Tax Increment Fund shall not exceed the County Cap, and the total Authority Tax Increment Payments to the Tax Increment Fund shall not exceed the Authority Cap. The Participating Taxing Units shall pay over to the Zone the Tax Increment collected for and allocable to the calendar year 2041 in subsequent calendar years as provided herein, in the Amended Development Agreement, and in the Amended Project Financing Plan.

## **B. Tax Increment Payment**

1. Each Participating Taxing Unit's obligation to contribute its Tax Increment Payment to the Tax Increment Fund, as provided in Section IV(A)(1) of this Agreement, shall accrue as each Participating Taxing Unit collects its Tax Increment. The Parties agree that all real property taxes collected each year by each Participating Taxing Unit that are attributable to real property in the Zone shall first constitute taxes on the Tax Increment Base, and after the total amount of taxes on the Tax Increment Base have been collected shall then constitute the Tax Increment. Each Participating Taxing Unit agrees to deposit its Tax Increment Payments to the Tax Increment Fund no later than the thirtieth (30<sup>th</sup>) day of January (or the first business day thereafter) of each calendar year for tax payments from the preceding calendar year, commencing on the first of such dates after the Effective Date. Each Participating Taxing Unit will deposit its Tax Increment Payment from the 2020 tax year, if any, as soon as reasonably practical following the Effective Date, as well as any remaining Tax Increment Payment from the 2019 tax year that remained unpaid prior to the Effective Date. The Parties agree that the Participating Taxing Units' obligation to deposit Tax Increment Payments after December 31, 2041, shall only be for taxes collected and received after such date that are attributable to the time period during which the Participating Taxing Units agreed to participate. Under no circumstances shall the Participating Taxing Unit be required to participate in the Zone Board or the Zone after December 31, 2041, except to the extent of making deposits as provided in the preceding sentence.

2. At least two weeks before the deposits are due to the Tax Increment Fund (i.e. by January 16<sup>th</sup> of each applicable year), the Zone Board will make all reasonable efforts to provide the Participating Taxing Units with an updated fact sheet that describes what portion of the Project has been completed to date, a schedule of what portion of the Project is anticipated to be completed

in the following year and a current roster of the Zone Board members, including the term of each Zone Board member, the entity that appointed each Zone Board member, and the date for the next Zone Board meeting, if known. The updated fact sheet may also include a statement of Tax Increment Fund activity, including a summary of the requests for reimbursements that have been submitted to the Zone Board by the Developer, Zone Board approved reimbursement payments, payments not approved by the Zone Board, the outstanding balance of approved but unpaid payments due to the Developer, and, when the Maximum Total Contribution has been reached, the prorated balance due to each Participating Taxing Unit from funds remaining in the Tax Increment Fund, if any, according to the distribution specified in Section 311.014(d) of the Code. These reporting requirements are in addition to, and do not take the place of, the annual report required to be made to the Participating Taxing Units under Section 311.016 of the Code.

3. In the event there is a conflict between the Parties in regard to the amount of the Tax Increment owed by any one Participating Taxing Unit, the Parties agree that the Participating Taxing Unit whose Tax Increment is disputed will make a reasonable determination as to the amount of Tax Increment owed by it under this Agreement and that Participating Taxing Unit will be responsible for reasonably determining which tax collections will be apportioned for purposes of determining its Tax Increment. The annual Total Appraised Value of all real property taxable by each Participating Taxing Unit located in the Zone shall be determined through an independent third-party verification obtained from the Bexar County Appraisal District. Each Participating Taxing Unit will verify taxes levied and collected in regard to the property contained within the Zone.

4. The Parties expressly agree that the Participating Taxing Units shall not owe any penalty or interest on Tax Increments that have been levied, but not received. In addition, no Participating Taxing Unit shall be obligated to contribute its Tax Increment Payment from any non-Tax Increment revenue sources.

5. Except for contributing its respective Tax Increment Payments to the Tax Increment Fund as set out in this Agreement, the Participating Taxing Units shall not have any obligation or responsibility for any costs or expenses associated with the development of the Zone or the implementation of the Project and Financing Plan, including, without limitation, any obligation to pay or repay any debt issued by another Participating Taxing Unit, the Zone, or the Zone Board relating to the Zone or any costs associated with the operation of the Zone, the Project, or any other projects relating thereto.

6. Any and all costs incurred by the Developer are not, and shall never become, general obligations or debt of any Participating Taxing Unit. The eligible public improvement infrastructure costs incurred by the Developer shall be payable solely from the Tax Increment Fund in the manner and priority provided in this Agreement to the extent that Tax Increment becomes available. The Parties agree and understand that under no circumstance shall repayment of the eligible costs exceed the Maximum Total Contribution. The Participating Taxing Units are not obligated above and beyond what is actually collected as Tax Increment. There shall also be no recourse against any Participating Taxing Unit, any public official, the Zone, or the Zone Board if all or part of the Developer contributions or costs are not reimbursed. It is recognized by the Zone Board, the Participating Taxing Units, and the Developer that the Project and Financing Plan does

not forecast sufficient Tax Increment revenues to reimburse the Developer for all of its estimated contributions or costs inclusive of financing costs and interest.

7. The County acknowledges its obligation under this Agreement and the Development Agreement to contribute its Tax Increment Payment. However, the County shall not be obligated to continue to deposit its Tax Increment Payment to the Tax Increment Fund in the event that a Participating Taxing Unit other than the County discontinues its required contribution (except as otherwise agreed to in this Agreement) or fails to contribute its agreed-to percentage contribution to the Tax Increment Fund during the term of this Agreement unless the discontinuance is in compliance with and authorized by a written amendment to this Agreement.

### **C. Financing of Project Costs**

Each Participating Taxing Unit shall participate in the payment of Project Costs only to the extent described herein. The City and the Zone Board shall be entitled to enter into any other agreements to pay Project Costs and other reasonable expenses from the Tax Increments paid into the Tax Increment Fund by the City without the consent of any other Participating Taxing Unit, but will provide written notice of such agreement(s) to each Participating Taxing Unit (and copies of such agreements, upon request). However, except as provided herein, neither the Zone Board nor the City shall ever use any Tax Increment Payments contributed by a Participating Taxing Unit, to make payments on bonds, obligations, or other debt instruments without the prior written authorization by and consent of the Participating Taxing Unit.

### **D. Disbursement of Funds in the Tax Increment Fund**

1. Each Taxing Unit agrees that the City shall administer the Tax Increment Fund on behalf of the Zone Board. No funds shall be disbursed from the Tax Increment Fund without the prior written approval of the Zone Board and the City Manager of the City. Notwithstanding the above, the Zone Board and the City shall release to the County any Tax Increment in the Tax Increment Fund that has been contributed by the County upon the County's demand to reclaim funds pursuant to Article VI of this Agreement and Article XII of the Development Agreement.

2. The Parties recognize that the Participating Taxing Units and the Zone Board may, to the extent funds are available in the Tax Increment Fund and to the extent allowed by law, use such funds to reimburse each Participating Taxing Unit for its Administrative Costs if a Participating Taxing Unit includes an invoice detailing its Administrative costs with its request to the Zone Board for reimbursement. If it is determined during the term of this Agreement that reimbursement of Administrative Costs is not allowed under law, the Parties agree that the Zone Board shall set the amount each Participating Taxing Unit may withhold as Administrative Costs from their respective Tax Increment Payment based on the best evidence available to the Zone Board to make such projections including, but not limited to, invoices reflecting Administrative Costs incurred by the Participating Taxing Unit and historical data of actual Administrative Costs of the Project incurred by the Participating Taxing Unit.

3. The Parties recognize that, in addition to Project Costs and any other allowable costs, the City and the Zone Board have represented that they may use funds in the Tax Increment

Fund to pay expenditures in the following order or priority of payment: (i) to reimburse eligible initial startup Administrative Costs incurred by each Participating Taxing Unit until such amounts have been paid in full; (ii) to reimburse the City for its financial and legal advisor fees until the full amount has been paid, provided that this portion of the reimbursement must come only from Tax Increment contributed by the City; (iii) pursuant to Section VI(B) of this Agreement; (iv) to pay all other ongoing Administrative Costs of the Participating Taxing Units, except that if there are insufficient funds for the full reimbursement of Administrative Costs to each Participating Taxing Unit, then the Administrative Costs of each Participating Taxing Unit shall be reimbursed on a pro rata basis based on each participating Taxing Unit's level of participation in the Zone; and (v) to reimburse the Developer for public improvements, including financing costs, as provided in the Development Agreement referred to in Section V(D) and in the Project and Financing Plan to the extent that funds in the Tax Increment Fund are available for this purpose. The foregoing notwithstanding, no funds will be paid from the Tax Increment Fund to a Participating Taxing Unit for its financial or legal services in any dispute arising under this Agreement with another Participating Taxing Unit or Participating Taxing Units.

#### **E. School District**

1. The Participating Taxing Units understand that the Project is located in the Schertz-Cibolo-Universal City Independent School District and that the Schertz-Cibolo-Universal City Independent School District will not participate in the Zone or any Tax Increment Payments.

#### **F. Management of Zone**

1. The City is the only Participating Taxing Unit with any responsibility for managing or administering the Zone. The Participating Tax Units, during the term of this Agreement, may inspect the Project site and review Project plans and drawings at times and intervals which will not interfere with ongoing operations. The City shall keep the other Participating Taxing Units informed of Zone Board meetings and amendments to documents relating to the Zone (including the Project and Financing Plan).

2. The Zone Board, as of the Effective Date, shall be composed of eleven (11) members, as provided under Section 311.0091(c) of the Code. The Participating Taxing Units shall appoint the following number of members to the Zone Board: the City, six (6); the County, two (2); and the Authority, one (1). The State Senator and State Representative for the area in which the Zone is located, or their delegates, are also members of the Zone Board.

#### **G. Expansion of Zone**

The obligation of the Participating Taxing Units to participate in the Zone is limited to the description of the Zone in the Project and Financing Plan and Ordinance Nos. \_\_\_\_\_ and \_\_\_\_\_ attached hereto. The Participating Taxing Units' participation shall not extend to the Tax Increment on any additional real property added to the Zone by the City unless the Participating Taxing Units approve such participation in writing.

### **V. ADDITIONAL REPRESENTATIONS AND AGREEMENTS**

#### **A. Zone Designation**

The City represents that its designation of the Zone met the criteria of Section 311.005(a) of the Code upon its original creation and that the Zone has continued to remain in compliance with the Code up to the Effective Date.

#### **B. Project and Financing Plan**

The Participating Taxing Units acknowledge that they were permitted to review the amended Project and Financing Plan before City Council considered it for City approval. The Parties agree an amendment to the Project and Financing Plan shall not apply to the Participating Taxing Units unless all Participating Taxing Units approve the amendment as provided herein if such amendment to the Project and Financing Plan has the effect of directly or indirectly: 1) increasing the agreed percentage to be contributed by the Participating Taxing Units to the Tax Increment Fund; or 2) exceeding the City Cap, the County Cap or the Authority Cap.

#### **C. Access to Financial Information**

1. Each Party shall have reasonable access to financial information and audit reports regarding the operation of the Zone, contribution of Tax Increment Payments to the Tax Increment Fund, and expenditures from the Tax Increment Fund for Project Costs. In addition, the City agrees, during the term of this Agreement, to prepare and deliver an annual report to the Participating Taxing Units in accordance with Section 311.016 of the Code.

2. The Zone Board shall conduct or cause to be conducted an annual audit, a copy of which shall be provided to each Participating Taxing Unit.

#### **D. Development Agreement**

The City, the County, the Zone and the Developer have entered into a written Development Agreement (the "Development Agreement") related to the Project and the development of the Zone, a copy of which is attached hereto and incorporated herein as **Exhibit "C"**. The City hereby represents that it will enforce the provisions of the Development Agreement, as required, including, to the extent contained in the Development Agreement, the Developer's compliance with (i) all applicable building codes and ordinances, including but not limited to the terms and requirements of the PDD governing the Zone, flood, subdivision, building, electrical, plumbing, fire, and life safety codes and ordinances, as amended; (ii) all applicable federal, state, and local laws, rules, regulations, statutes, ordinances, orders, and codes, as amended; and (iii) the same competitive bidding procedures that would be required of the City if it were awarding contracts for constructing the public infrastructure improvements. The City, the County, and the Zone Board agree to provide all Participating Taxing Units with a copy of any notice of default that is delivered or sent to any party under the Development Agreement within five (5) business days after receipt of the notice by the City, the County, or the Zone Board.



## **VI. TERM AND TERMINATION**

### **A. Agreement Term and Termination**

This Agreement shall become effective as of the Effective Date, and shall remain in effect until December 31, 2041, unless earlier terminated as provided herein (the “Agreement Term”). Provided, however, the Zone shall remain in place and effective until such time as the tax disbursements associated with the 2041 tax year have been made.

### **B. Early Termination**

1. Neither the City nor the Zone Board shall take any action to terminate the Zone earlier than the duration of the Zone as specified herein, except that they may terminate the Zone if the Developer (a) ceases to undertake said improvements as set out in the Development Agreement, or (b) fails for two (2) full years or more to (i) cause construction activities to commence on any new homes in the Project (but only if Developer has not previously completed 750 homes in the Project); or (ii) make any public infrastructure improvements that qualify as Project Costs, as defined in Section 311.002(1) of the Code (but only if the Developer has not previously made all of the public improvements characterized as “Development-Wide Public Improvements” as set forth and required in the Project and Financing Plan).

2. Pursuant to Article XI of the Development Agreement, the City may terminate the Zone for any of the uncured default conditions listed in the Development Agreement. The termination of the Development Agreement also terminates this Agreement.

3. After giving any required notice, with subsequent failure to cure as provided for below, the County may terminate its participation in the Zone and shall not be required to deposit any further Tax Increment Payment into the Tax increment Fund as required by this Agreement if: (1) a Party breaches a term, covenant, condition or representation contained in this Agreement; (2) the County determines that a breach of a term, covenant, condition or representation contained in the Development Agreement has occurred, including an “Event of Default” as defined therein; (3) the City and/or Zone Board declares that a breach of a term, covenant, condition or representation contained in the Development Agreement has occurred, including an “Event of Default” as defined therein; (4) pursuant to Section IV(B)(7) of this Agreement; or (5) a party to this Agreement or the Development Agreement initiates, pursues or otherwise engages in litigation or any type of adversarial proceeding related to the Zone and against or involving the County. Prior to terminating its participation in the Zone, the County shall provide written notice to the Developer, the Zone Board and any other Participating Taxing Unit still contributing Tax increment Payments, stating its intent to terminate its participating in the Zone and detailing its objection(s) or concern(s). If the objection and/or concern as set out in the County’s notice is not resolved within ninety (90) business days from the date of such notice, then the County may terminate its participation in the Zone. All Parties acknowledge that the County may seek repayment from the Developer of Tax Increment contributed by the County pursuant to Article XII of the Development Agreement, and in the amounts set forth therein, in the event of an uncured Developer breach or, to the extent any County Tax Increment remains in the Tax Increment Fund, from the Tax Increment Fund.

### **C. Disposition of Tax Increments**

Upon expiration or termination of the Zone, any money remaining in the Tax Increment Fund shall be paid to the Participating Taxing Units on a pro rata basis in accordance with Section 311.014(d) of the Code.

## **VII. MISCELLANEOUS**

### **A. Incorporation of Exhibits**

The exhibits attached hereto are incorporated into this Agreement for all purposes.

### **B. Understanding**

Any and all costs incurred by the Developer are not, and shall never, become general obligations or debts of any Participating Taxing Entity. The eligible public improvement infrastructure costs incurred by Developer shall be payable solely from the Tax Increment Fund in the manner and priority provided in this Agreement and only to the extent that tax increment funds become available. The Parties agree and understand that under no circumstance shall the eligible costs reimbursed exceed the Maximum Total Contribution. The Parties further agree that the City's contribution to the Tax Increment Fund shall not exceed the City Cap, the County's contribution to the Tax Increment Fund shall not exceed the County Cap, and the Authority's contribution to the Tax Increment Fund shall not exceed the Authority Cap. No Participating Taxing Entity shall be obligated above and beyond what is actually collected as tax increment funds. The City and the Board each represent that the Developer understands and agrees that the Project Plan does not forecast sufficient tax revenues in the Tax Increment Fund to reimburse the Developer for all its estimated contributions or costs.

### **C. Entire Agreement**

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties as to the subject matter hereof. There are no other agreements, assurances, conditions, covenants (express or implied), or other terms with respect to the covenants, whether written or verbal, antecedent or contemporaneous, with the execution hereof.

### **D. Written Amendment**

This Agreement may be changed or amended only by a written instrument authorized and duly executed on behalf of each Party.

### **E. Severability**

1. In the event any term, covenant, or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant, or condition herein contained, provided that such invalidity does not materially prejudice

any Party hereto in its respective rights and obligations contained in the valid terms, covenants, or conditions hereof.

2. In the event any term, covenant, or condition shall be held invalid and said invalidity substantially impairs a material right of the County, then the County shall have no further obligation to contribute any future Tax Increment Payments to the Tax Increment Fund. In such situation, the Parties hereto agree that the Tax Increment Fund shall not refund any prior Tax Increment Payments from the County under this provision of this Agreement.

#### **F. Non-Waiver**

Failure of any Party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

#### **G. Successors**

This Agreement shall bind and benefit the Parties and their legal successors. This Agreement does not create any personal liability on the part of any trustee, officer, employee, elected official, or agent of any Party to this Agreement.

#### **H. Assignment**

Except for the City's right to assign and delegate this Agreement and the performance of obligations to the Zone Board, no Party shall assign this Agreement at law or otherwise without the prior written consent of the other Parties, and no Party shall delegate any portion of its performance under this Agreement without the prior written consent of the other Parties.

#### **I. No Waiver of Immunity**

No Party waives or relinquishes any immunity or defense on behalf of itself, its trustees, officers, employees, and agents as a result of its execution of this Agreement and performance or non-performance of the covenants contained herein.

#### **J. Attorney's Fees**

Each Party shall bear its own costs, including, but not limited to, attorneys' fees, for any action at law or in equity brought to enforce or interpret the provisions of this Agreement.

#### **K. Notices**

All notices required or permitted hereunder shall be in writing and shall be deemed delivered the earlier of (i) when actually received; or (ii) on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail,

return receipt requested) addressed to the respective other Party at the address prescribed in Section I(B) of this Agreement, or at such other address as the one Party may have theretofore prescribed by notice to the other Parties in accordance with Section I(B). Copies of any notices shall be sent to the following:

FOR CITY OR ZONE

Denton, Navarro, Rocha, Bernal & Zech  
2517 N. Main Ave.  
San Antonio, Texas 78212  
Attn: Daniel Santee

FOR COUNTY

Bexar County Criminal District  
Attorney's Office-Civil Section  
Criminal Justice Center  
300 Dolorosa Street  
San Antonio, Texas 78205  
Re: Crossvine TIRZ

FOR AUTHORITY

Allison Elder  
100 E. Guenther  
San Antonio, Texas 78204

**L. Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same instrument.

*[ Signatures of Parties on Next Page ]*

**IN WITNESS HEREOF**, THE CITY OF SCHERTZ, TEXAS; BEXAR COUNTY, TEXAS; SAN ANTONIO RIVER AUTHORITY; and REINVESTMENT ZONE NUMBER TWO, CITY OF SCHERTZ, TEXAS have entered this Agreement in multiple originals as of the Effective Date.

CITY OF SCHERTZ, TEXAS

SAN ANTONIO RIVER AUTHORITY

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Mark Browne  
City Manager

---

Suzanne B. Scott  
General Manager

**APPROVED AS TO FORM:**

---

Daniel Santee  
City Attorney

**REINVESTMENT ZONE NUMBER TWO  
CITY OF SCHERTZ, TEXAS**

---

Chair, Board of Directors

*[ Signatures continued on next page]*

**COUNTY**  
BEXAR COUNTY, TEXAS

APPROVED AS TO FINANCIAL CONSENT  
BY BEXAR COUNTY, TEXAS

\_\_\_\_\_  
Nelson W. Wolff  
County Judge

\_\_\_\_\_, Budget Officer and  
Executive Director of Planning and  
Resource Management

ATTEST/SEAL

\_\_\_\_\_  
Lucy Adame-Clark  
County Clerk

\_\_\_\_\_  
County Auditor

APPROVED AS TO LEGAL FORM

Joe Gonzales  
Bexar County Criminal District Attorney

By: \_\_\_\_\_  
Assistant Criminal District Attorney

**EXHIBIT A**

Zone Designation Ordinance

[ *See attached City of Schertz Ordinance No. \_\_\_\_\_* ]

DRAFT

## **EXHIBIT B**

### **Project and Financing Plan**

*[ See attached amended Final Project Plan and Reinvestment Zone  
Financing Plan for Reinvestment Zone Number Two, City of Schertz, Texas]*

DRAFT

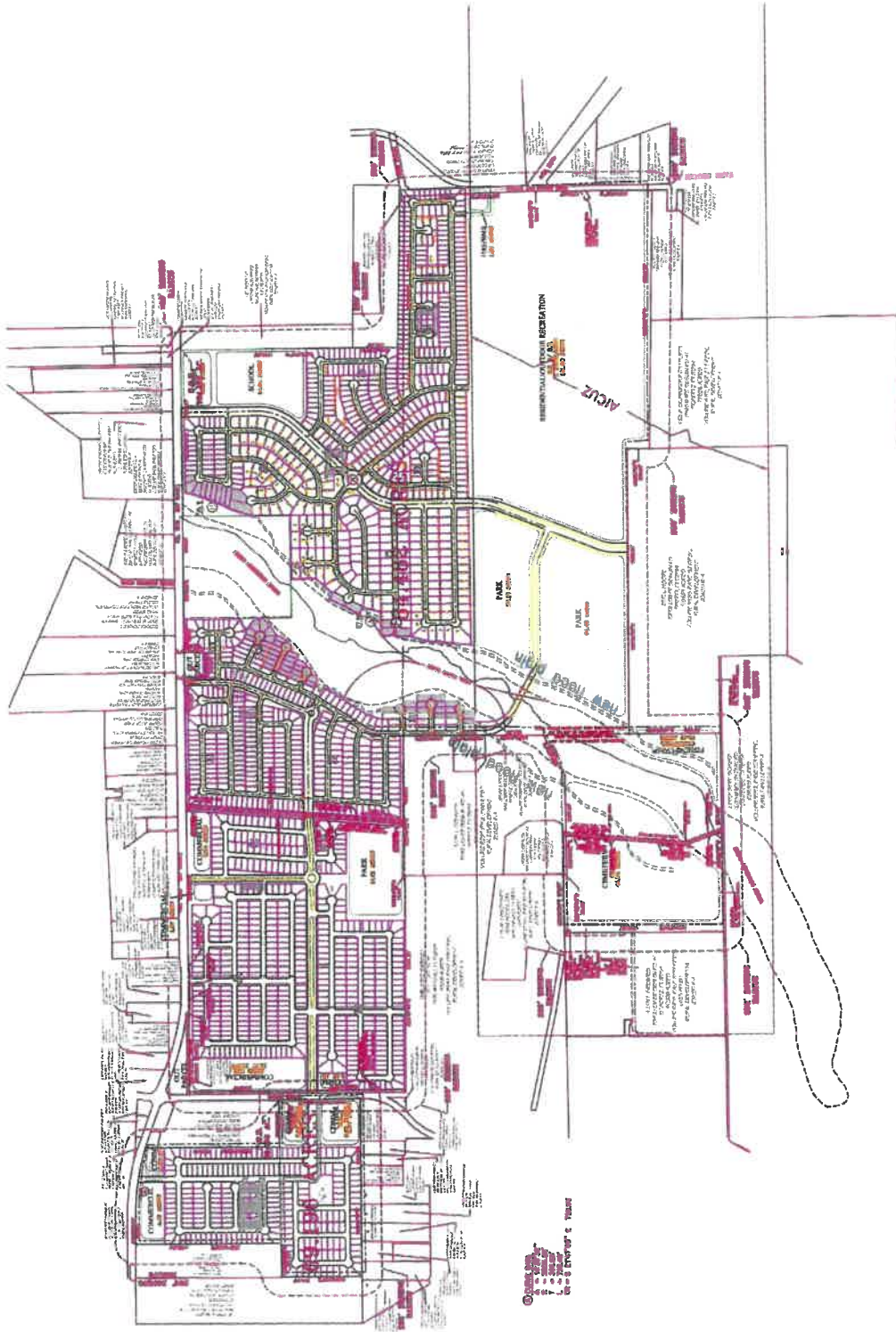




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VINCENT GERARD & ASSOCIATES  
 LAND PLANNING & LANDSCAPE DESIGN  
 1715 CAPITAL OF TEXAS HWY SOUTH, STE. 307  
 DALLAS, TEXAS 75241  
 (512) 292-2993 • FAX: (512) 292-4811 • vgerard@vga.com

SEDONA LOTS 1687 05-16-07 00 Xref's



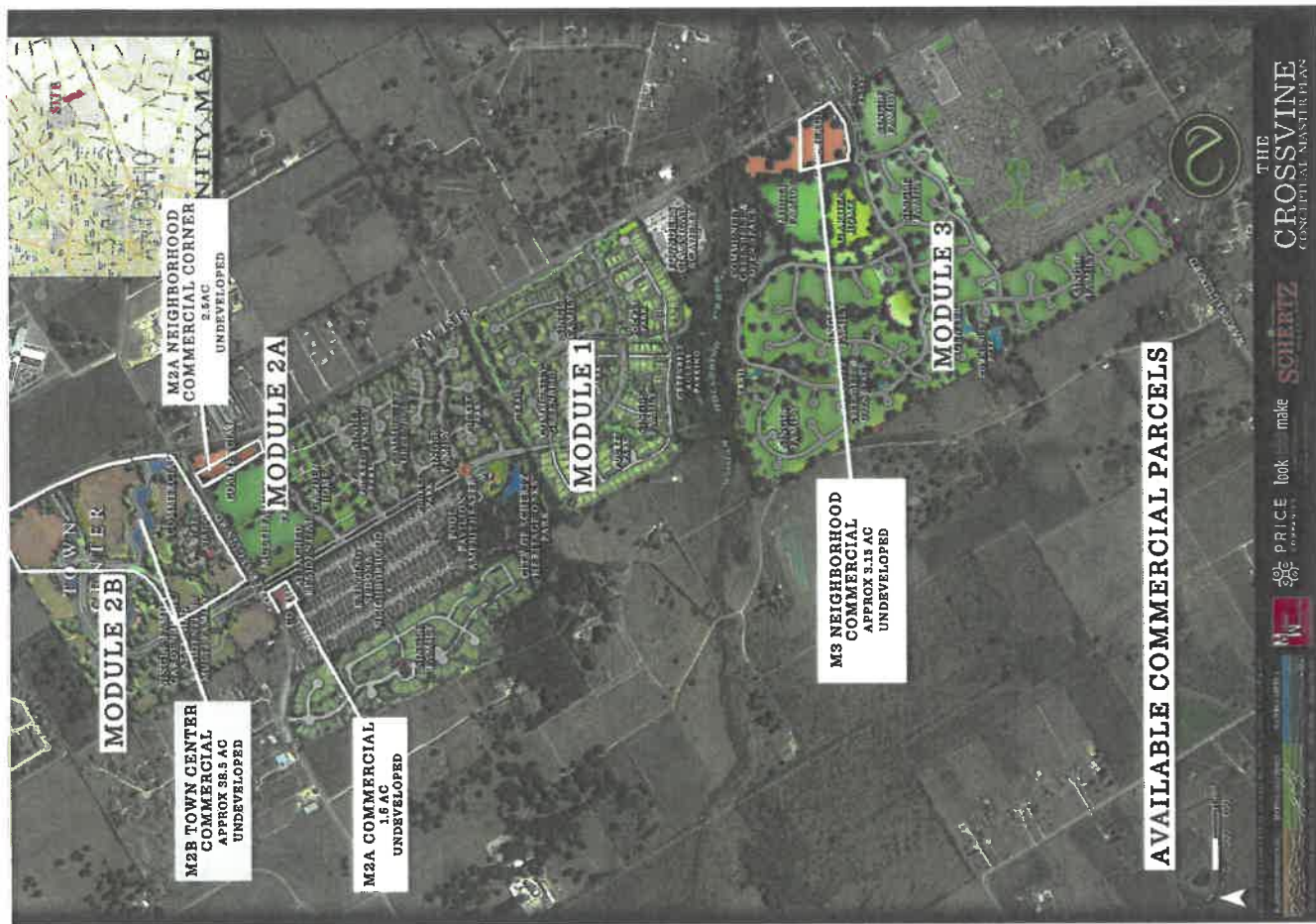
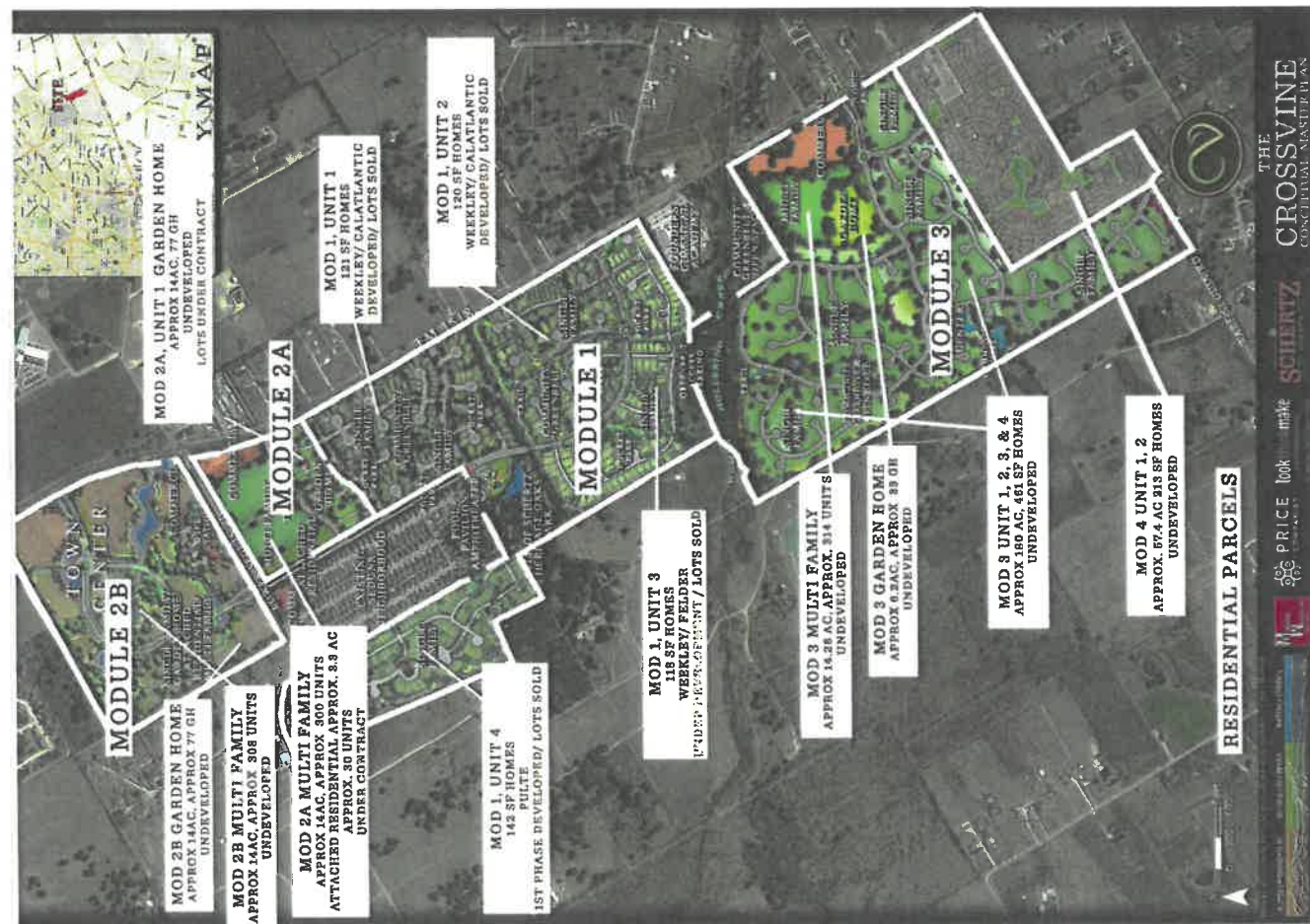


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CONCEPT MASTERPLAN

PRICE look make **SCHREIBER**





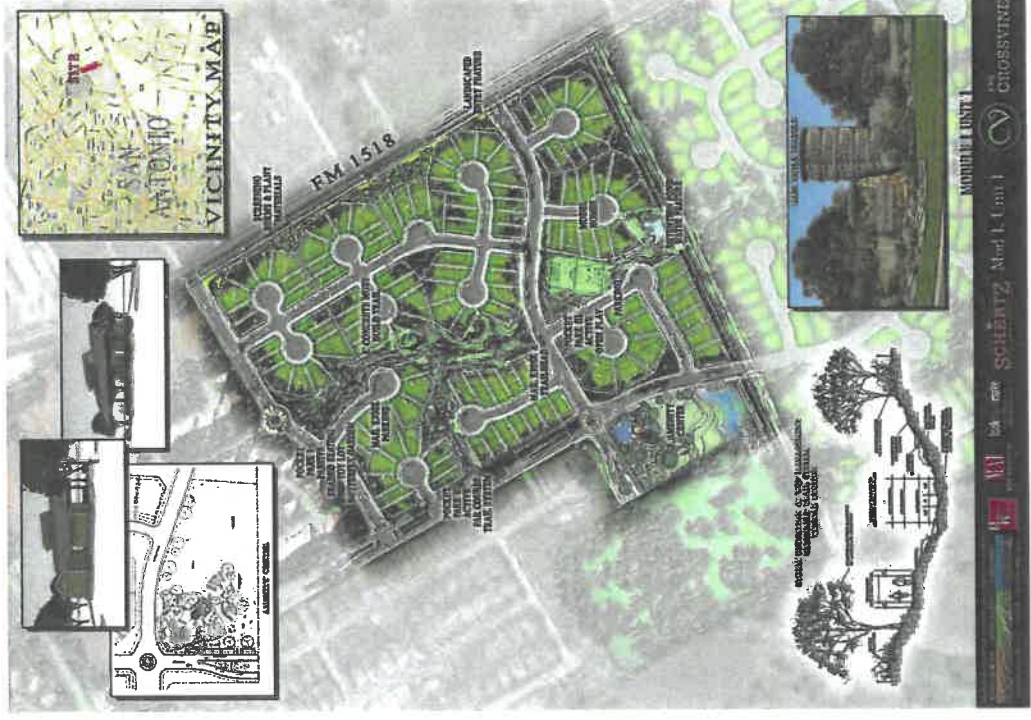






## Module 1, Unit 1 - Completed

- 121 lots, consisting of 50, 60, and 70ft lots,
- David Weekley sales: \$337,000 average price
- CalAtlantic sales: \$382,000 average price
- Amenities: Pocket parks, Mail kiosk, Lending Library, Amphitheater, Greenbelt, Trail system
- New entrance feature on FM 1518
- Off-site improvements: 2 detentions ponds completed
- Model home park





## Unit 1 Photos





## Module 1, Unit 2 - Completed

- 120 lots, consisting of 50, 60, and 70ft lots
- David Weekley sales: 60 at \$356,305 average price
- Cal Atlantic sales: 55 at \$329,095 average price
- Scott Felder sales: 5 at \$388,000 average price
- Amenities: Pocket parks with playground equipment, 2 Mail kiosks, Lending Library, Greenbelt, Trail system
- Entrance feature on FM 1518
- Off-site improvements: 2 detentions ponds completed
- No model home park



## Module 1, Unit 2 Photos





## Module 1, Unit 3 Update- Phase A complete; Phase B near completion

- 118 lots, consisting of 50, 60, and 70ft lots
- Civil contractor failed to meet the terms of their contract and they were ultimately fired; a new contractor will complete Phase B
- 78 lots in Phase A were delivered in June 2019, over one year after projected delivery date
- 40 lots in Phase B will be delivered by next week
- 46 lot sales to date
- David Weekley average sales price \$418,805
- Scott Felder average sales price \$415,560
- Amenities: Pocket parks, Woman Hollering Creek Greenbelt, Trail system, Bocci ball/ games park; Community gardens, Sidewalk connectivity to charter school



## Module 1, Unit 3 Photos



## Module 1, Unit 4 Update

- 142 lots, consisting of 75 50-foot lots in Phase A and 67 50-foot lots in Phase B
- Pulte Homes is the builder in Unit 4
- Phase A was complete in mid 2017 and all 75 lots were sold by 2019
- Phase B was complete in mid 2019 and 18 lots have been sold to date
- \$308,350 average sales price
- Amenities: Pocket parks, Mail kiosk, Lending Library, Greenbelt, Trail system, bridge connectivity to Heritage Oaks Park
- New entrance feature on Lower Seguin Road
- Model home park

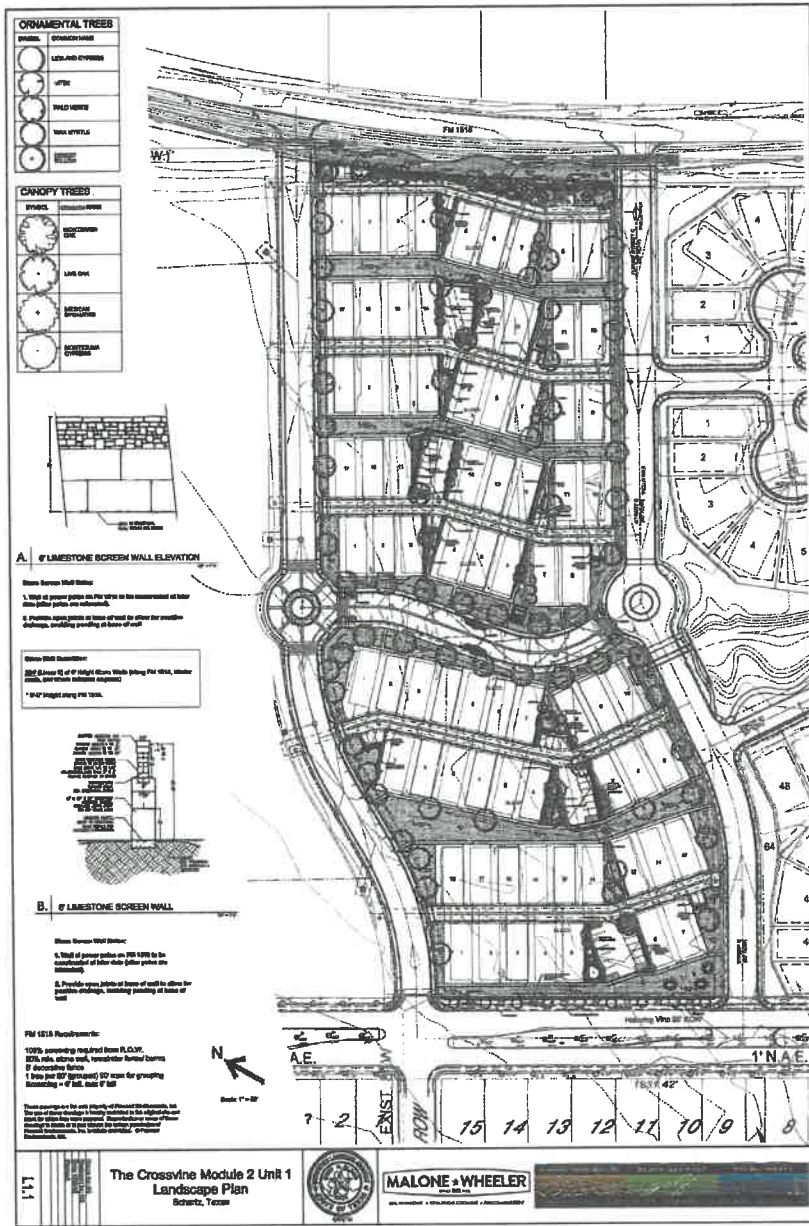




## Module 1, Unit 4 Photos



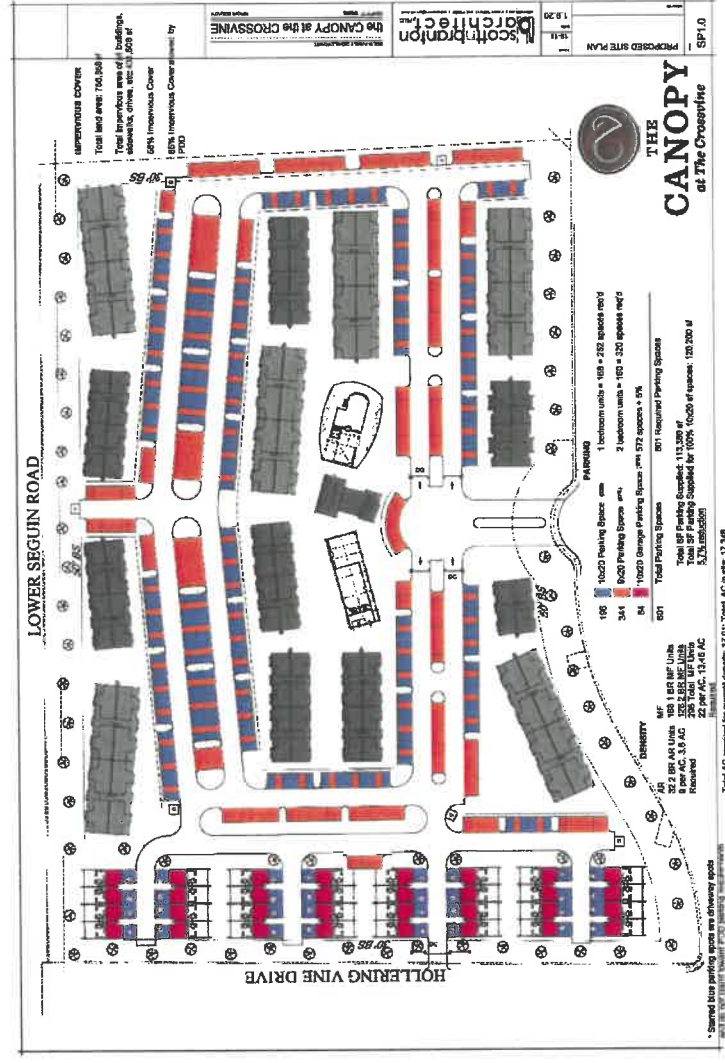
# Garden Home Update, Module 2A, Unit 1



- 77 40ft x 88ft lots; smaller homes fronting on shared central greenbelts
- This is a lifestyle product that is currently missing from the Schertz market
- City status: The Garden Home zoning ordinance and final plat have been approved; We are currently working on financing needed to begin construction
- Contracted builders: David Weekley Homes, Scott Felder Homes
- Disposition strategy: we will develop and deliver padded lots, per market demand
- The publicly-bid civil construction contract has been awarded
- Timing: anticipated to begin construction September 2020 with first lot takedowns Q1 2021

## Multi-Family Update/ Attached Residential Update, Module 2A

- This property is currently under contract for approx. 296 class-A apartments and 32 class-A attached residential townhomes
- Buyer is currently completing site plan for submittal to the City; Engineering and architectural construction documents are being prepared
- Buyer is budgeting \$100k+ per door for construction cost (\$35M total budget)
- A pool, gym, trail connectivity to the rest of The Crossvine, and office is planned for the development
- Construction anticipated to commence early 2021





## Town Center Update, Module 2B

- FM 1518 improvements: \$5M City bond for road improvements leveraged to \$19M with TxDot and regional partnerships; TxDot will let construction contracts in 2022 and begin construction in 2023
- The City of Schertz purchased the 4.97 acre Fire/ EMS site for \$517,392 in 2017
- We are working with the City, TxDot, and CPS on a regional drainage/ detention/ electrical plan with participation by all entities
- Independent living, assisted living, and medical office usages will be moved from southern Town Center to this area
- Town Center will be a place for neighborhood services, specialty retail, no big box stores, small grocery concept, daycare
- Town Center may also include more Garden Home or single-family residences



## City of Schertz Fire Station #3

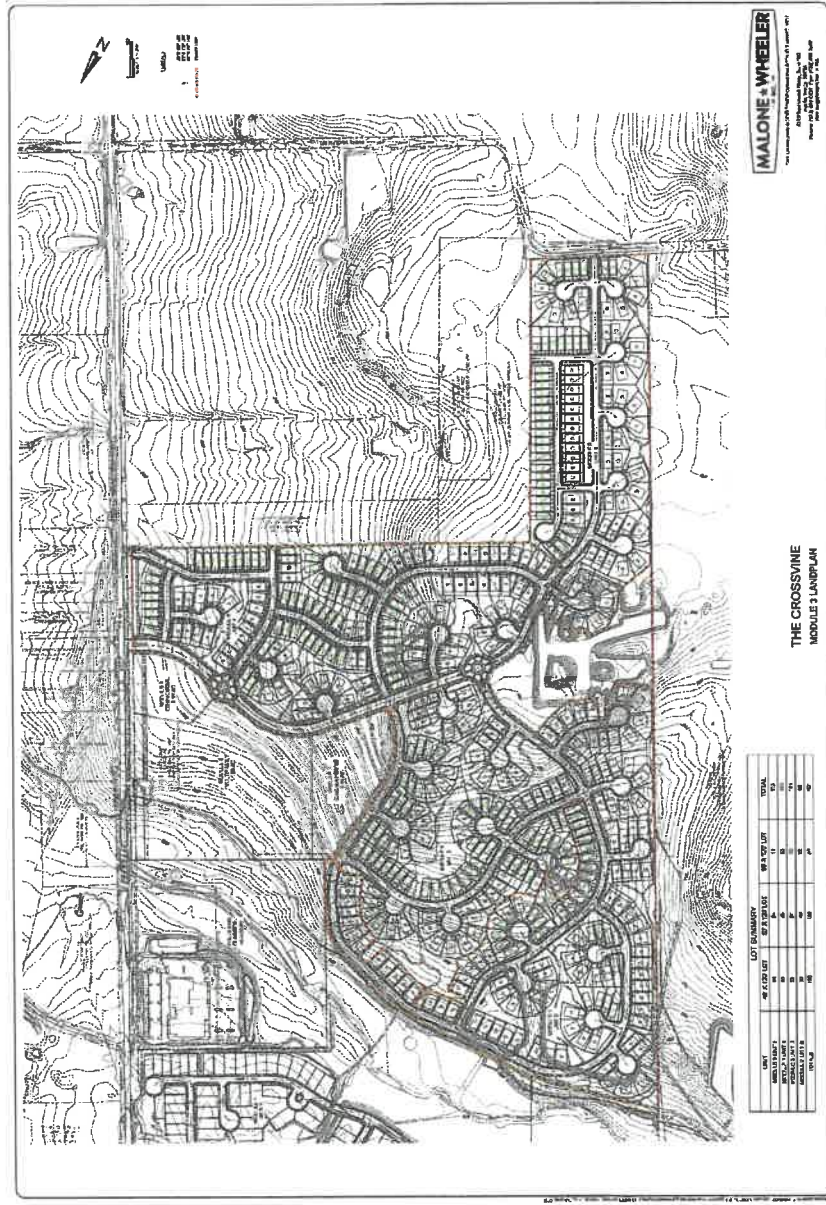
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- The Crossvine sold 5.3 acres to City of Schertz for \$571,391.54 in 12/17
- The complete Fire Station #3 celebrated its grand opening November 9<sup>th</sup>, 2018
- The fire station will be integrated into The Crossvine Town Center through trail connectivity
- The station's community room is available to residents of the surrounding communities for events and meetings



## Module 3

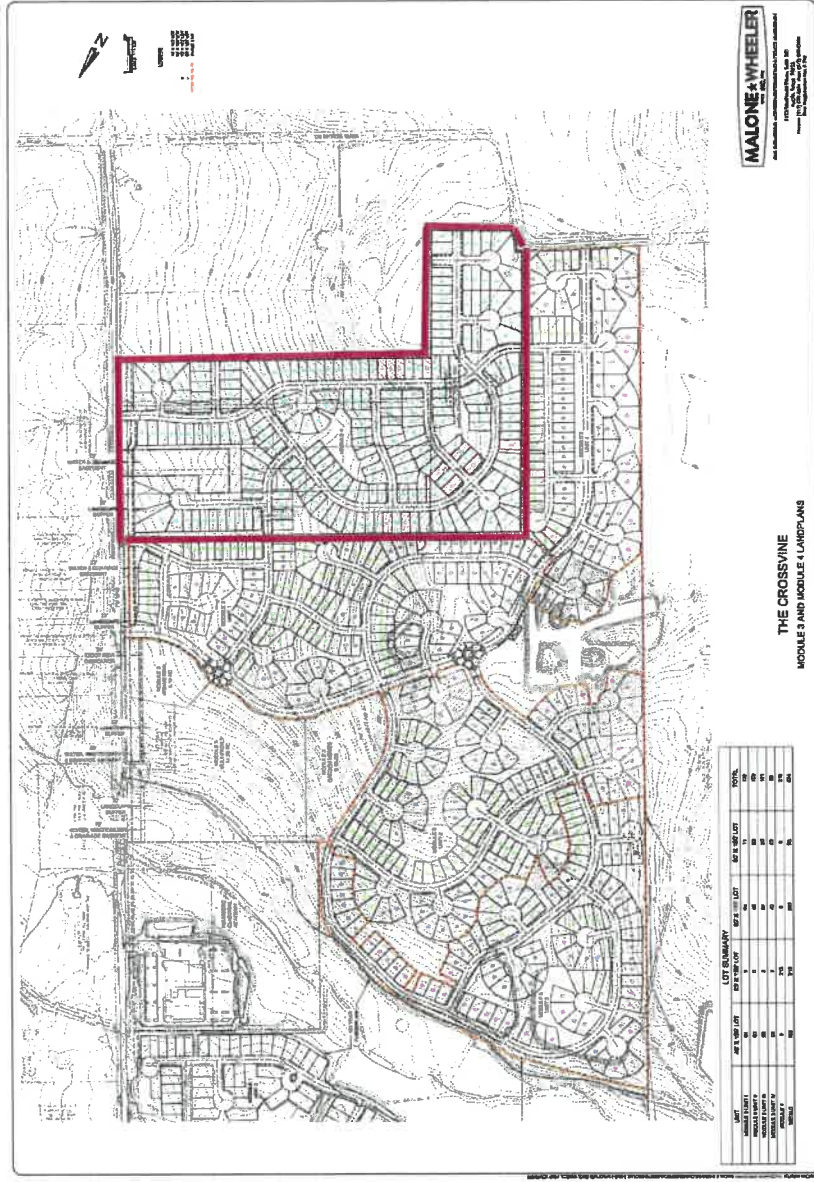
- We have completed the conceptual master plan for the 181 acres of undeveloped land south of Woman Hollering Creek
- It will be a continuation of the single family, garden home, multi-family, attached residential, and commercial uses found north of the creek
- Draft civil construction plans for M3 Unit 1, with 139 single family lots, has been submitted to the City for initial review
- We plan to begin construction on M3 Unit 1 in Q1 2021
- M3, Unit 2: 123 lots
- M3, Unit 3: 101 lots
- M3, Unit 4: 98 lots
- A second Amenity Center, serving the entire development, will be constructed with M3 Unit 2





## Module 4

- Module 4 consists of 57.46 ac being added to The Crossvine
- It will be a continuation of the single family uses found north of the creek and will include trail connectivity, open greenspace, and pocket parks
- Module 4 will consist of approx. 213 single family lots including a new entrance off FM 1518
- We plan to begin construction on M4 Unit 1 in Q2 2021





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**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** Executive Team  
**Subject:** Resolution No. 20-R-104 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, supporting the use of HOT Revenues for Park Improvements. (M. Browne)

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**BACKGROUND**

Presently State law provides nine specific uses for HOT revenues including funding for tourist promotion, arts promotion, historic preservation and signage for tourists. Our City parks such as Pickrell Park are often used by visitors. However, State law does not allow HOT revenues to be used to support improvements to parks.

If the attached resolution was approved, it would be sent to the TML for inclusion in their priorities for the 2021 legislative session. Cities such as Fredericksburg, and Granbury have adopted this Resolution. It is expected that many other cities will support our efforts if approved by Council.

With recent changes in State law limiting the ability of municipalities to increase property taxes, it will also be more difficult to fund park improvements with property taxes. Cities need other revenue options available in order to improve municipal park facilities. HOT revenues would offer us an additional option for funding these improvements.

It should be noted that during the current COVID-19 pandemic the use of our parks and trails by local citizens have increased significantly. The public seems to have a new appreciation for our parks system particularly our walking trails. When revenues decline (such as during a pandemic) many cities consider reductions in funding park improvements rather than reductions to other city services such as Police and Fire. The availability of this option for funding park improvements would help the City to fund parks improvements during times when revenue could be or is declining.

Additionally, the Johnie McDow Sports Complex in Schertz and the Schertz Soccer Complex bring in hundreds of visitors each year. Our youth sports association has received some HOT funds for tournament fees in the past, but we have not made any improvements to those facilities with the HOT funds because the requirements to do so have been so strict and require a heavy burden of proof that the value of the improvement you do is relative to the amount of visitors that come in to that facility. The ability to spend HOT funds on our sports and athletic facilities would be a tremendous addition to the City.

**GOAL**

Approve Resolution No. 20-R-104 supporting the use of HOT Revenues for park improvements to provide additional funding for the improvement of our city parks.

**COMMUNITY BENEFIT**

The improvement of our city parks.

**SUMMARY OF RECOMMENDED ACTION**

To approve Resolution No. 20-R-104 supporting the use of HOT Revenues for Park Improvements.

**FISCAL IMPACT**

The City would be able to expend its HOT funds on parks and recreation facilities to improve maintenance and attract more visitors.

**RECOMMENDATION**

To approve Resolution No. 20-R-104 supporting the use of HOT Revenues for Park Improvements.

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**Attachments**

Resolution 20-R-104

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## **RESOLUTION 20-R-104**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS, SUPPORTING THE PASSAGE OF LEGISLATION DURING THE 87TH REGULAR SESSION OF THE TEXAS LEGISLATURE (2021), TO ALLOW FOR THE EXPENDITURE OF MUNICIPAL HOTEL OCCUPANCY TAX REVENUE BY THE CITY FOR CONSTRUCTION OF IMPROVEMENTS IN MUNICIPAL PARKS.**

WHEREAS, the City of Schertz ("City") has adopted a municipal hotel occupancy tax ordinance in order to raise revenue for the promotion of tourism and the hotel and lodging industry in the City; and

WHEREAS, the City has determined that the City parks are popular attractions visited year-round by a significant number of visitors to the City and surrounding area; and

WHEREAS, the City parks are utilized for multiple large annual events and festivals that are attended by a significant number of visitors to the City and surrounding area; and

WHEREAS, the City parks are in need of additional improvements and amenities as the current demand for certain City park facilities and amenities frequently exceeds the operating capacity of said improvements and amenities, due to the large attendance at annual festivals, events, and related activities held at City parks and would benefit from connectivity and additional public facilities; and

WHEREAS, the City's tourism and hotel and lodging industries would benefit from the expenditure of municipal hotel tax revenue on construction of improvements and connectivity to the City parks, visitors frequently visit the City parks, and improvements to the City parks will increase the quality and number of amenities available at said City parks for use and enjoyment by tourists and visitors to the City and surrounding area; and

WHEREAS, the City's tourism and hotel and lodging industries would benefit from the expenditure of municipal hotel tax revenue on construction of trails and sidewalks that connect city parks to lodging establishments and other tourist attractions, which will increase the use and enjoyment by tourists and visitors of lodging establishments, parks, tourist attractions, and related public facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:



Section 1. That the City Council adopts the findings and recitals set forth in the preamble of this Resolution.

Section 2. That the City Council supports the passage of legislation during the 87th Regular Session of the Texas Legislature (2021), that would allow for the expenditure of municipal hotel occupancy tax revenue by the City of Schertz, Texas, for construction of improvements in municipal parks and trails/sidewalks that connect parks, lodging establishments, and other tourist attractions, and related public facilities..

PASSED AND APPROVED this 22nd day of September 2020.

---

Mayor, Ralph Gutierrez

ATTEST:

---

City Secretary, Brenda Dennis

**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020

**Department:** Finance

**Subject:** Ordinance No. 20-T-32 – Conduct a Public Hearing and consideration and/or action approving an Ordinance approving the appraisal roll; setting the tax rate; levying and assessing general and special ad valorem taxes for the use and support of the municipal government of the city of Schertz, Texas. *Second and Final Reading (B. James/J. Walters)*

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**BACKGROUND**

At the September 8, 2020, regular session, the City Council, by record vote, established a proposed tax rate of \$0.5121, per \$100 of value, with the M&O rate at \$0.3470 and the I&S portion of \$0.1651. The proposed rate is under the voter-approval rate.

In accordance with Chapter 26.05(d) of the State's Property Tax Code, a governing body must hold a public hearing on the tax rate if the proposed tax rate exceeds the lower of the No-New-Revenue or Voter-Approval Tax Rate. In this case the hearing was required as the proposed rate does exceed the No-New-Revenue rate.

The required public hearing will be held on September 22, 2020, regular session of City Council.

During the tax rate adoption process Council can approve a lower rate, however they will not be able to approve a rate higher than this without republishing the notices and holding additional public hearings.

Per Sec 26.05(b) of the Tax Code, the tax rate can only be adopted with more than 60% of the votes in favor of the proposed tax rate. Since Schertz has 7 voting councilmembers, 5 members must vote in favor of the tax rate for it to pass.

**GOAL**

To adopt a tax rate in compliance with state statutes and the City Charter.

**COMMUNITY BENEFIT**

The programs funded by this tax rate will provide additional benefits and service levels to the community.

**SUMMARY OF RECOMMENDED ACTION**

Staff recommends adoption of the tax rate of \$0.5121

**FISCAL IMPACT**

The proposed maximum rate maintains quality service to residents and businesses and provides growth in service offerings based on input staff received from Citizens and Council from Retreats, Community Meetings, Citizen Survey, and elections. The current property tax rate is \$0.5146 per \$100 valuation. The proposed maximum tax rate will be \$0.5121 per \$100 valuation. The M&O portion of the property tax rate will decrease to \$0.3470 from \$0.3496 per \$100 valuation. The I&S portion will increase to \$0.1651 from \$0.1650 per \$100 valuation.

## **RECOMMENDATION**

Staff recommends that the City Council approve Ordinance No. 20-T-32 approving the Fiscal Year 2020-21 Proposed Tax Rate on second and final reading.

## **THE MOTION MUST BE:**

**“I move that the property tax rate be increased by the adoption of a tax rate of (\$0.5121), which is effectively a (0.8%) increase in the tax rate.”**

If a different tax rate is made in the motion, the percentage must be calculated over the effective rate of \$0.5079.

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## **Attachments**

Ordinance 20-T-32

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## **ORDINANCE NO. 20-T-32**

**AN ORDINANCE APPROVING THE APPRAISAL ROLL; SETTING THE TAX RATE; LEVYING AND ASSESSING GENERAL AND SPECIAL AD VALOREM TAXES FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF SCHERTZ, TEXAS; APPORTIONING THE LEVIES FOR SPECIFIC PURPOSES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Manager of the City of Schertz submitted a tax rate proposal to the City Council prior to the beginning of the fiscal year, and in said tax rate proposal set forth the estimated necessary tax rate required to provide adequate revenues for the general use and support of the Municipal Government of the City of Schertz Texas; and

**WHEREAS**, the City Council finds that all provisions pertaining to the adoption of an ad valorem tax rate have been in all things complied with; and

**WHEREAS**, a Public hearing was held by the City Council of the City of Schertz on the 1<sup>st</sup> Day of September and on the 22nd day of September 2020; and

**WHEREAS**, after a full and final consideration, the City Council is of the opinion the tax rate and ad valorem tax appraisal roll should be approved and adopted; and

**WHEREAS**, the taxes have been levied in accordance with the adopted 2020-21 budget as required by state law;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS, THAT:**

### **SECTION 1.**

The ad valorem tax appraisal roll and effective tax rate information as presented by the tax assessor for the tax year 2020, be and is hereby in all things approved and adopted.

### **SECTION 2.**

This tax rate will raise more taxes for Maintenance and Operations than last year's tax rate.

### **SECTION 3.**

The tax rate will effectively be raised by 0.8% and will raise taxes for maintenance and operations on a \$100,000 home by approximately \$4.20.

### **SECTION 4.**

There is hereby levied and assessed and there shall be collected for the tax year 2020 for the general use and support of the Municipal Government of the City of Schertz, Texas a total ad valorem tax of Fifty-One Twenty-One Cents (\$0.5121) on each One Hundred Dollars (\$100.00) of valuation of property – real and personal – within the corporate limits of the City of Schertz, Texas, subject to taxation. The assessment ratio shall be One Hundred percent (100%).

#### **SECTION 5.**

The City Council of the City of Schertz, Texas, does hereby levy or adopt the tax rate on \$100.00 valuation for this city for tax year 2020 as follows:

1. 0.3470 for the purpose of maintenance and operation
1. 0.1651 for the payment of principal and interest on debt
2. 0.5121 total tax rate

#### **SECTION 6.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of the ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 7.**

This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

#### **SECTION 8.**

Ad valorem taxes for the year are due and payable on October 1, 2020 and shall become delinquent after January 31, 2021. A delinquent tax shall incur all penalty and interest authorized by state law, Section 33.01 of the Property Tax Code. Taxes that remain delinquent on and after July 1, 2021, incur an additional penalty of 15% of the amount of the taxes, penalty and interest due, such additional penalty to defray the cost of collection as authorized in Section 6.30 of the Property Tax Code. The City shall have available all rights and remedies provided by law for the enforcement of the collection of taxes levied under this ordinance.

#### **SECTION 9.**

Taxes are payable at the office of the counties of Comal, Bexar and Guadalupe.

**PASSED AND APPROVED ON FIRST READING THIS 8th DAY OF SEPTEMBER 2020.**

**PASSED AND APPROVED ON SECOND READING THIS 22nd DAY OF SEPTEMBER 2020.**

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Ralph Gutierrez, Mayor

ATTEST:

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Brenda Dennis, City Secretary

**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** Planning & Community Development  
**Subject:** Ordinance No. 20-S-29 - Conduct a Public Hearing and consideration and/or action on an amendment of Part III, Schertz Codes of Ordinances, Unified Development Code (UDC), Article 5, Subsection 21.5.8 Permitted Use Table, to amend permitted land uses within the Main Street Mixed Use (MSMU) zoning district.  
*First Reading (B. James/L. Wood/E. Delgado)*

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**BACKGROUND**

As stated in the UDC, City Council from time to time, on its own motion, or at the recommendation of City Staff make amendments to change or modify the text of any portion of the UDC to establish and maintain sound stable and desirable development. It is generally considered good practice to periodically review and update the development regulations due to changing conditions, community goals and State and Federal regulations. Based on changes in development it has becomes necessary to update the UDC.

On June 10, 2020, a zone change request for 603 Main Street was heard by the Planning and Zoning Commission in order to allow the existing structure to be used as a restaurant. The original zone change request was to zone this property as General Business. However, the Planning and Zoning Commission made a recommendation to the City Council to zone change the property to Neighborhood Services. The Neighborhood Services zoning district would allow the restaurant land use, but would limit the other land uses allowed by right in General Business that are not desired along Main Street. This zone change request sparked the conversation of why the restaurant and tavern land uses are not allowed by right within the Main Street Mixed Use zoning district. A potential UDC amendment to create a 'Main Street Mixed Use 2 (MSMU II)' zoning district, which would allow these land uses, was discussed as a potential solution to this dilemma.

On June 16, 2020, the Main Street Committee had a conversation about creating the new 'MSMU II' zoning district. However, based on conversations at this committee meeting it was deemed more appropriate to complete a UDC amendment to allow the restaurant and tavern land uses by right in the existing Main Street Mixed Use zoning district.

On June 23, 2020, the zone change request for 603 Main Street was heard by the City Council. During this City Council meeting the results of the June 16, 2020, Main Street Committee meeting were discussed, and Staff ensure City Council that a UDC amendment to allow the restaurant and tavern land uses by right in the existing Main Street Mixed Use zoning district would be brought for consideration in the upcoming months.

This proposed UDC amendment is directly in line with what was discussed with the Main Street Committee and at City Council.

On August 13, 2020, seven public hearing notices were mailed to the existing property owners on Main Street that are current zoned Main Street Mixed Use (MSMU). At the time of this report, staff has received a response from one property owner which represents four (4) properties in favor of the

proposed amendment. This property owner represents 619 Main, 700 Main, 704 Exchange, and 603 Main Street. On August 26, 2020, the Planning and Zoning Commission conducted a public hearing in relation to this proposed UDC amendment. A public hearing notice was published in the "San Antonio Express" on September 2, 2020 for the public hearing to be held at City Council.

### **Proposed Amendments:**

The proposed UDC Amendment includes updating the permitted land uses within the Main Street Mixed Use Zoning District. This UDC Amendment includes changes to two of the land uses within the Permitted Use Table, Section 21.5.8 specifically for the Main Street Mixed Use (MSMU) zoning district.

Land Uses	Main Street Mixed Use (MSMU) Zoning District
Restaurant or Cafeteria	Currently requires the approval of a Specific Use Permit <b>Proposed amendment to allow by right.</b>
Tavern	Currently not allowed within MSMU. <b>Proposed amendment to allow by right.</b>

### **GOAL**

To amend the UDC to review and update the development regulations due to changing conditions, community goals and State and Federal regulations as well as establish and maintain sound stable and desirable development.

### **COMMUNITY BENEFIT**

It is the City's desire to promote safe, orderly, efficient development and ensure compliance with the City's vision of future growth.

### **SUMMARY OF RECOMMENDED ACTION**

Review and approve Ordinance 20-S-29 amending the Unified Development Code (UDC), Article 5, Section 21.5.8 Permitted Use Table, specifically for "Restaurant or Cafeteria" and "Tavern" for the Main Street Mixed Use (MSMU) zoning district.

### **FISCAL IMPACT**

None.

### **RECOMMENDATION**

Utilizing the current UDC and Permitted Use Table, in order to develop a restaurant by right on Main Street, the properties would need to be zoned Office & Professional, Neighborhood Services, General Business, General Business-2, or Manufacturing Light District. In order to develop a tavern (bar) by right on Main Street, the properties would need to be zoned General Business or General Business 2 District. Although property owners along Main Street could request to be zoned one of the previously mentioned zoning district in order to develop a restaurant or bar, the approval of such could have negative impacts to Main Street based on the additional land uses permitted by right in the aforementioned zoning districts. By updating the UDC's permitted uses for Main Street Mixed Use it allows property owners the ability to develop a restaurant or tavern by right if a MSMU zone change is



approved, while ensuring other uses that are undesirable on Main Street are not inadvertently allowed by zoning to a more intense district.

Based on the previous discussions with the Planning and Zoning Commission, the Main Street Committee, and the City Council the proposed UDC amendment will allow the desired land uses of restaurant and tavern by right within Main Street Mixed Use zoned properties without allowing additional undesired land uses to be developed along Main Street. Staff recommends approval of the amendments to the Unified Development Code (UDC), Article 5, Section 21.5.8 Permitted Use Table.

The Planning and Zoning Commission offered a recommendation of approval with a vote of 4-3.

- Commissioner Evans voted nay on a statement that the discussion was not complete and that the P&Z was not ready to make a decision.
- Commissioner Platt voted nay based on his desire to require a Specific Use Permit for the Tavern land use.
- Commissioner Haynes voted nay based on wanting more information on why the land use "Church, Temple, Synagogue, Mosque, or Other Place of Worship" requires a Specific Use Permit, but this amendment would allow "Restaurant or Cafeteria" and "Tavern" by right.

Staff recommends approval of Ordinance 20-S-29 an amendment to the Unified Development Code (UDC), Article 5, Section 21.5.8 Permitted Use Table, specifically to allow "Restaurant or Cafeteria" and "Tavern" by right within the Main Street Mixed Use (MSMU) zoning district.

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### **Attachments**

Ordinance 20-S-29

Notification Map

Public Hearing Notice Responses

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## **ORDINANCE NO. 20-S-29**

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING PART III, SCHERTZ CODE OF ORDINANCES, THE UNIFIED DEVELOPMENT CODE (UDC) ARTICLE 5, SECTION 21.5.8 PERMITTED USE TABLE; SPECIFICALLY FOR THE MAIN STREET MIXED USE (MSMU) ZONING DISTRICT; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, pursuant to Ordinance No. 10-S-06, the City of Schertz, Texas (the “City”) adopted as Amended and Restated Unified Development Code on April 13, 2010, as further amended (the “Current UDC”); and

**WHEREAS**, City Staff has reviewed the Current UDC and have recommended certain revision and updates to, and reorganization of, the Current UDC;

**WHEREAS**, on August 26, 2020 the Planning and Zoning Commission conducted a public hearing and thereafter recommended approval; and

**WHEREAS**, on September 22, 2020 the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the proposed amendments are appropriate and in the interest of the public safety, health and welfare;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS: THAT:**

Section 1. The current UDC is hereby amended as set forth on Exhibit A hereto.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Approved on first reading the 22<sup>nd</sup> day of September, 2020.

PASSED, APPROVED AND ADOPTED on final reading the 27<sup>th</sup> day of October, 2020.

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Ralph Gutierrez, Mayor

ATTEST:

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Brenda Dennis, City Secretary  
(SEAL OF THE CITY)

Exhibit A

Unified Development Code  
Article 5 Section 21.5.8 Permitted Use Table

See Attached

**Changes to Permitted Use Table for the Main Street Mixed Use (MSMU) zoning district:**

<b>MSMU</b>	<b>Permitted Uses</b>
<b>S P</b>	Restaurant or Cafeteria
<b>P</b>	Tavern

**Proposed Full Permitted Use Table for Main Street Mixed Use:**

<b>MSMU</b>	<b>Permitted Uses</b>
<b>P</b>	Accessory Building, Residential
	Agricultural/Field Crops
	Airport, Heliport or Landing Field
	Alcohol Package Sales
	Antenna and/or Antenna Support Structure, Commercial
<b>P</b>	Antique Shop
	Appliances, Furniture and Home Furnishings Store
<b>P</b>	Art Gallery/Library/Museum
	Assisted Care or Living Facility
	Athletic Stadium, Private
	Athletic Stadium, Public
	Automobile Parking Structure/Garage
	Automobile Parts Sales
	Automobile Repairs & Service, Major
	Automobile Repairs & Service, Minor
	Automobile Sales
<b>P</b>	Bakery
<b>P</b>	Bank, Saving and Loan, Credit Union
<b>P</b>	Beauty Salon/Barber Shop
<b>P</b>	Bed and Breakfast Inn
<b>P</b>	Book Store
	Bottling Works
	Building Material and Hardware Sales
	Cabinet or Upholstery Shop
	Car Wash, Automated
	Car Wash, Self Serve
	Cemetery or Mausoleum
<b>S</b>	Church, Temple, Synagogue, Mosque, or Other Place of Worship
	Civic/Convention Center
	College, University, Trade, or Private Boarding School
	Commercial Amusement, Indoor
	Commercial Amusement, Outdoor
	Community Center
	Concrete/Asphalt Batching Plant
	Convenience Store w/o Gas Pumps
	Convenience Store w/ Gas Pumps

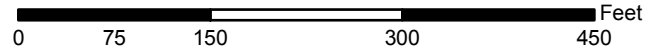
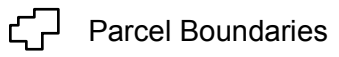
	Dance Hall/Night Club
<b>P</b>	Day Care Center
	Department Store
	Dry Cleaning, Major
<b>P</b>	Dry Cleaning, Minor
	Family or Group Home
<b>P</b>	Farmers Market
	Flea Market, Inside
	Flea Market, Outside
<b>P</b>	Florist
	Fraternity, Sorority, Civic Club or Lodge
<b>P</b>	Furniture Sales
	Gasoline Station/Fuel Pumps
	Gated Community
	General Manufacturing/Industrial Use
	Golf Course and/or Country Club
<b>P</b>	Governmental Facilities
<b>P</b>	Gymnastics/Dance Studio
	Hazardous Waste
<b>P</b>	Health/Fitness Center
	Heavy Equipment Sales, Service or Rental
	Home Improvement Center
	Hospital
	Hotel/Motel
	Household Appliance Service and Repair
<b>S</b>	In-Home Day Care
	Landfill
	Laundromat
	Livestock
<b>P</b>	Locksmith/Security System Company
<b>P</b>	Medical, Dental or Professional Office/Clinic
	Mini-Warehouse/Public Storage
	Manufactured/Mobile Homes
	Manufacturing
	Mortuary/Funeral Home
	Multi-Family Apartment Dwelling
	Municipal Uses Operated by the City of Schertz
<b>P</b>	Museum
	Nursery, Major
	Nursery, Minor
	Office Showroom
	Office-Warehouse/Distribution Center
	One-Family Dwelling Attached
<b>P</b>	One-Family Dwelling Detached
<b>P</b>	Packaging/Mailing Store
<b>P</b>	Park/Playground/Similar Public Site

	Pawn Shop
	Pet Store
<b>P</b>	Pharmacy
	Portable Building Sales
<b>P</b>	Post Office
	Print Shop, Major
<b>P</b>	Print Shop, Minor
	Private Club
	Railroad/Bus Passenger Station
	Recreational Vehicle Park
	Recreational Vehicle Sales and Service
	Recycling Collection Center
	Recycling Collection Point
	Recycling Facility
	Rehabilitation Care Facility
	Restaurant, Drive-In
<b>S P</b>	Restaurant or Cafeteria
<b>P</b>	Retail Stores and Shops
<b>P</b>	School, Public or Private
	Sexually Oriented Business (See Ordinance No. 02-L-16)
	Stable, Commercial
	Storage or Wholesale Warehouse
	Tattoo Parlors/Studios
<b>P</b>	Tavern
	Taxidermist
	Theater, Outdoor
	Theater, Indoor
	Tool Rental
	Trailer/Manufactured Homes Sales
	Truck Sales, Heavy Equipment
	Truck Terminal
	Two-Family Dwelling
	Veterinarian Clinic/Kennel, Indoor
	Veterinarian Clinic/Kennel, Outdoor
	Welding/Machine Shop
	Wrecking or Salvage Yard
<b>S</b>	New and Unlisted Uses



# City of Schertz

## MAIN STREET MIXED USE PROPERTIES



Last Update: August 11, 2020  
 City of Schertz, GIS Specialist: Bill Gardner, gis@schertz.com (210) 619-1185  
 "The City of Schertz provides this Geographic Information System product "as is" without any express or implied warranty of any kind including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. In no event shall the City of Schertz be liable for any special, indirect or consequential damages or any damages whatsoever arising out of or in connection with the use of or performance of these materials. Information published in this product could include technical inaccuracies or typographical errors. Periodical changes may be made and information may be added to the information herein. The City of Schertz may make improvements and/or changes in the product(s) described herein at any time."



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**From:** Nick Marquez  
**Sent:** Monday, August 24, 2020 1:13 AM  
**To:** Emily Delgado  
**Subject:** MSMU Amendment Changes

Emily,

I'm in favor of the proposed changes to the UDC as mentioned in the notice of public hearing letters. I represent 619 Main, 700 Main, 704 Exchange, and 603 Main St.

Nick

--

Nick Marquez

## CITY COUNCIL MEMORANDUM

**City Council Meeting:** September 22, 2020  
**Department:** Planning & Community Development  
**Subject:** Ordinance No. 20-S-30 - Conduct a public hearing, consideration and/or action on a request to rezone approximately 2.94 acres of land from Single-Family Residential/Agricultural District (R-A) and General Business District (GB) to Neighborhood Services District (NS), located northwest of the intersection between FM 1518 and Schaefer Road, City of Schertz, Bexar County, Texas, also known as DG Schertz Addition Subdivision Lot 2, Block 1. *First Reading* (B. James/L. Wood/M. Harrison)

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### BACKGROUND

The applicant is proposing to rezone approximately 2.94 acres of land from Single Family Residential/Agricultural District (R-A) and General Business District (GB) to Neighborhood Services District (NS).

The property is located northwest of the intersection between FM 1518 and Schaefer Road.

The public hearing notice was published in the San Antonio Express news on September 2, 2020. Fourteen (14) public hearing notices were mailed out to the neighboring residents within the 200-foot buffer of the subject property on August 14, 2020. At the time of this report Staff has received zero (0) responses in favor of the request and one (1) response opposed to the zoning request.

The following resident spoke at the August 26, 2020 Planning and Zoning Commission Public Hearing:

- Luis Sanchez- 11649 Cypress Barn
  - Questioned what the proposed development on the site will be.

### GOAL

The proposed rezone is for approximately 2.94 acres of land from Single Family Residential / Agricultural District (RA) and General Business District (GB) to Neighborhood Services District (NS) located at the northwest corner of FM 1518 and Schaefer Road.

### COMMUNITY BENEFIT

It is the City's desire to promote safe, orderly, efficient development and ensure compliance with the City's vision of future growth.

### SUMMARY OF RECOMMENDED ACTION

The Comprehensive Land Use Plan (CLUP), through the Future Land Use Plan and the Southern Schertz Sector Plan, designates the subject property as *Mixed Use Neighborhood*. The Sector Plan describes *Mixed Use Neighborhood* as a mixture of complementary land uses such as residential and limited commercial development to accommodate the basic, every-day service needs of the surrounding residents. The objective of the *Mixed-Use Neighborhood* future land use designation is to accommodate the development of walkable neighborhoods that utilize a variety of quality residential

housing types, as well as providing needed neighborhood commercial services. The Neighborhood Services District (NS) meets the goals and objectives of the *Mixed-Use Neighborhood* future land use designation by permitting low intensity commercial businesses in order to support the surrounding residential neighborhoods.

- **Comprehensive Land Plan Goals and Objectives:** The proposed rezoning of the property to Neighborhood Services District (NS) is in conformance with the goals and objectives of the Comprehensive Plan; the proposed zone change supports the low intensity commercial objectives of the *Mixed Use Neighborhood* future land use designation.
- **Impact on Infrastructure:** The proposed rezoning should have a minimal impact on the existing water system. Currently, there is an 8" waterline within Schaefer Road and a 12" waterline adjacent to FM1518. The subject property does not currently have sanitary sewer infrastructure; however, a waiver (WA2019-001) was approved for the DG Schertz Addition subdivision in 2019 allowing the property owners to forego immediate connection to a public wastewater system and utilize an On-Site Sewage Facility (OSSF) permitted through Bexar County.
- **Impact on Public Facilities/Services:** The proposed rezoning should have a minimal impact on public services, such as schools, fire, police, parks and sanitation services.
- **Compatibility with Existing and Potential Adjacent Land Uses:** The subject property is currently surrounded by a variety of land uses and two roads identified on the Schertz Master Thoroughfare Plan (MTP). The subject property is immediately adjacent to single-family residential homes, a daycare center, and a future retail store, and is also bordered by FM 1518, a principal arterial roadway on the MTP, and Schaefer Road, a residential collector on the Schertz MTP. The Neighborhood Services zoning district is intended to provide low intensity commercial services to adjoining neighborhoods; therefore, the proposed zone change is compatible with the adjacent land uses. The proposed zone change would be beneficial to the development of entire northwest corner of the intersection between FM 1518 and Schaefer Road by consolidating the three incongruous zoning districts on the existing hard corner into one commercial zoning under the Neighborhood Services District (NS). This will allow for a more unified approach to the development of a major intersection in Southern Schertz.

The location of the subject property at the intersection between two roadways identified on the Schertz MDP is also an ideal location for a low intensity commercial zoning district. The proposed zone change will not only bring lower intensity retail to benefit the surrounding residents but will also unify the development on the hard corner under one zoning district, providing a unified goal for the commercial development of the intersection. Neighborhood Services allows for lower intensity commercial development that is suitable to service the surrounding residential neighborhoods. The proposed zone change to Neighborhood Services District is compatible with the Comprehensive Land Use Plan designation of *Mixed-Use Neighborhood* and is also ideal given the subject property's location at an intersection of a principal arterial and a residential collector roadway. The proposed zone change also is complimentary to the existing Neighborhood Services District at the hard corner of FM 1518 and Schaefer. With all of this in mind the staff recommends approval of the zone change as submitted.

## **FISCAL IMPACT**

None

## **RECOMMENDATION**

The Planning and Zoning Commission conducted the public hearing on August 26, 2020, and offered a recommendation of approval by a unanimous vote.

Based on the goals and objectives of the Comprehensive Land Use Plan, the existing land use conditions, Neighborhood Services is the most appropriate zoning district for this property. Staff recommends approval of the proposed rezoning as submitted.

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### **Attachments**

Aerial Map

Ord. 20-S-30

Zoning Exhibit- Exhibit A

Metes & Bounds

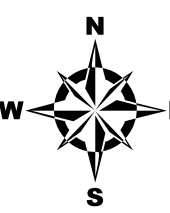
Public Notification 200ft buffer

Public Hearing Notice Responses

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# SCHERTZ

COMMUNITY • SERVICE • OPPORTUNITY

DG SCHERTZ ADDITION  
BLOCK 1, LOT 2

<all other values>	<all other values>	Planned Secondary Arterial	Commercial Collector B	1"	8"	20"	Schertz Gravity	Hydrant	200' Buffer
Highways	Freeway	Secondary Rural Arterial	Planned Commercial Collector B	2"	10"	24"	Schertz Pressure	Manholes	Schertz Municipal Boundary
Major Roads	Principal Arterial	Planned Secondary Rural Arterial	Commercial Collector A	3"	12"	30"	Neighboring Gravity	County Boundaries	
Minor Roads	Planned Principal Arterial	Residential Collector	Planned Commercial Collector A	4"	16"	36"	Private Pressure		
Other Cities	Secondary Arterial	Planned Residential Collector		6"	18"				

1 Inch = 150 Feet

0 50 100 200 300 400 500 Feet



## **ORDINANCE NO. 20-S-30**

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING THE OFFICIAL ZONING MAP BY REZONING APPROXIMATELY 2.94 ACRES OF LAND FROM SINGLE-FAMILY RESIDENTIAL / AGRICULTURAL DISTRICT (R-A) AND GENERAL BUSINESS (GB) TO NEIGHBORHOOD SERVICES DISTRICT (NS), LOCATED NORTHWEST OF THE INTERSECTION BETWEEN FM 1518 AND SCHAEFER ROAD, CITY OF SCHERTZ, BEXAR COUNTY, TEXAS, ALSO KNOWN AS DG SCHERTZ ADDITION SUBDIVISION LOT 2, BLOCK 1.**

**WHEREAS**, an application to rezone approximately 2.94 acres of land located northwest of the intersection between FM 1518 and Schaefer Road, and more specifically described in the Exhibit A attached herein (herein, the “Property”) has been filed with the City; and

**WHEREAS**, the City’s Unified Development Code Section 21.5.4.D. provides for certain criteria to be considered by the Planning and Zoning Commission in making recommendations to City Council and by City Council in considering final action on a requested zone change (the “Criteria”); and

**WHEREAS**, on August 26, 2020, the Planning and Zoning Commission conducted a public hearing and, after considering the Criteria, made a recommendation to City Council to approve the requested rezoning; and

**WHEREAS**, on September 22, 2020, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the requested zoning be approved as provided for herein.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:  
THAT:**

Section 1. The Property as shown and more particularly described in the attached Exhibit A, is hereby zoned Neighborhood Services District (NS).

Section 2. The Official Zoning Map of the City of Schertz, described and referred to in Article 2 of the Unified Development Code, shall be revised to reflect the above amendment.

Section 3. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 4. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 5. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 6. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 9. This Ordinance shall be cumulative of all other ordinances of the City of Schertz, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Schertz except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Approved on first reading the 22<sup>nd</sup> day of September 22, 2020.

PASSED, APPROVED AND ADOPTED on final reading the 27<sup>th</sup> day of October, 2020.

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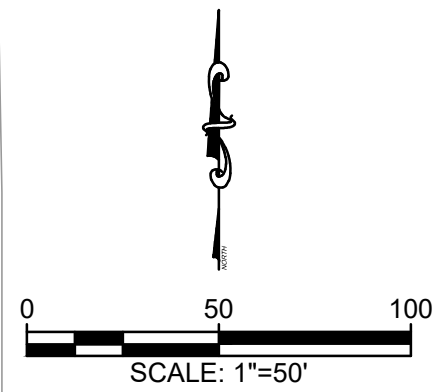
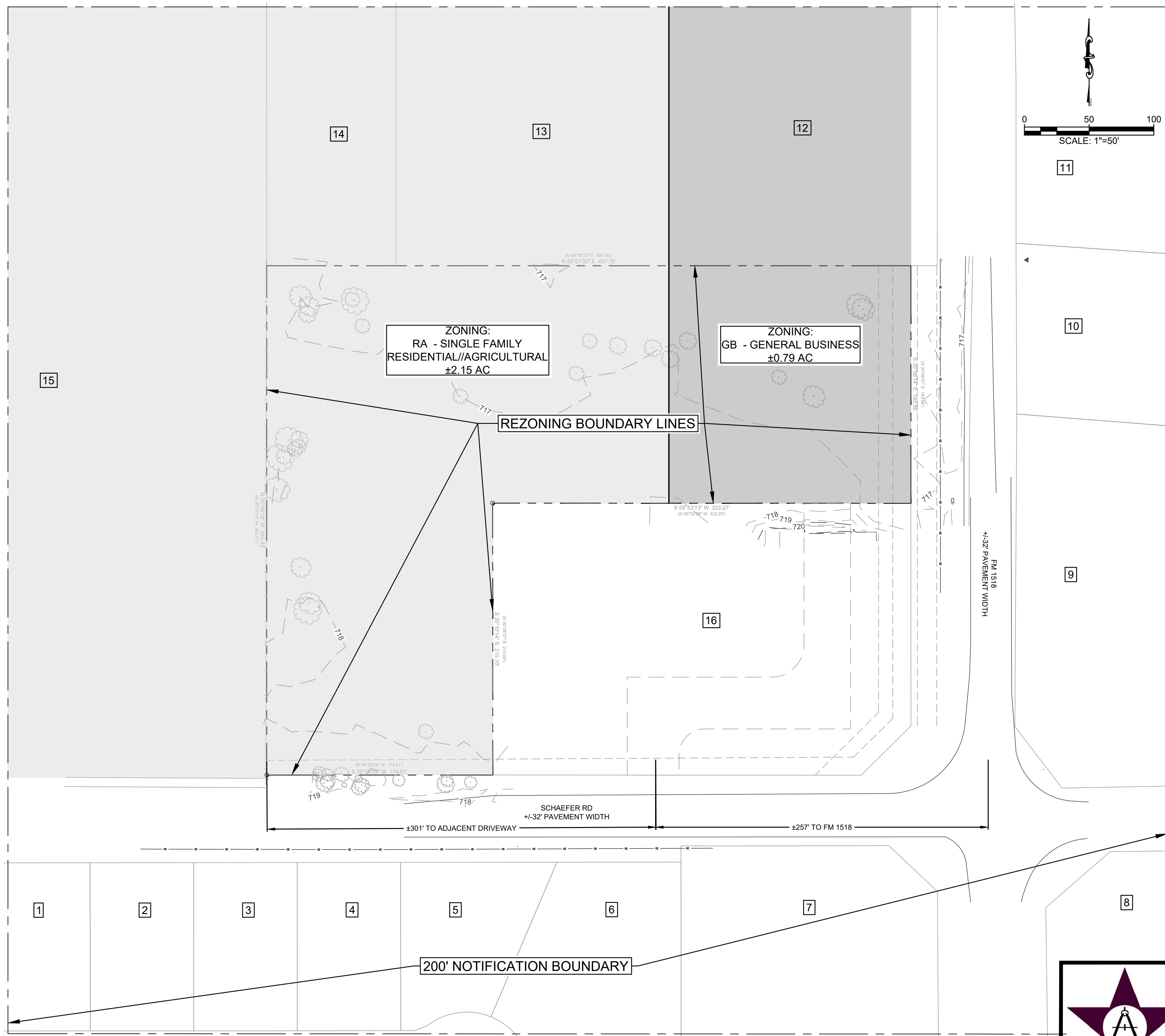
Ralph Gutierrez, Mayor

ATTEST:

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Brenda Dennis, City Secretary  
(SEAL OF THE CITY)

Date: Aug 13, 2020, 9:41am User ID: dlynch  
File: S:\Active Projects\2020\7020MCGAR001 - Civil Engineering Services for McGarrell Orthodontics\dwg\Exhibits\ZONING EXHIBIT 18x24.dwg



VICINITY MAP  
SCALE: 1"=5,000'

LEGEND:

- — — — — EXIST LOT LINE  
- - - - - EXIST CONTOUR  
- - - - - EXIST PROPERTY BOUNDARY

ADJACENT PROPERTY INFORMATION TABLE							
PLAN #	PROPERTY I.D.	OWNER NAME	ADDRESS	USE	ZONING	SUBDIVISION NAME	RECORDING INFORMATION
1	1185743	SANCHEZ LUIS G & JUANITA M	1166 CYPRESS BARN SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL	R-6	WILLOW GROVE ESTATES	VOL. 18654, PG. 3483 DEED # 20140070033
2	1185742	ISAAC TODD JERMANIE & ANAGRA R THOMASON-ISAAC	11701 CYPRESS BARN SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL	R-6	WILLOW GROVE ESTATES	VOL. 18513, PG. 1657 DEED # 2010050285
3	1185741	DENISE TERESA TORRES REV TRST DENISE T TORRES TRST E	11705 CYPRESS BARN SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL	R-6	WILLOW GROVE ESTATES	DEED # 2018018464
4	1185740	BROWN GERRICK & CHRISTINA	11709 CYPRESS BARN SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL	R-6	WILLOW GROVE ESTATES	VOL. 18275, PG. 428 DEED # 20160202827
5	1185739	DOOSOR JAMES E & PATRIZIA E	11711 CYPRESS BARN SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL	R-6	WILLOW GROVE ESTATES	VOL. 18655, PG. 491 DEED # 20140198434
6	1185738	TIENDA JUAN CARLOS	11715 CYPRESS BARN SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL	R-6	WILLOW GROVE ESTATES	VOL. 18708, PG. 0532 DEED # 20140091571
7	1185649	FRED DEVELOPMENT, LLC	2031 BITTERS RD STE 1200 SAN ANTONIO, TX 78216	VACANT LAND	GB	CB 5058 P-3C ABS 459	VOL. 12244, PG. 103, O P R BEXAR COUNTY
8	308822	BYLEY BENNIE R & MATTIE	11906 SCHAEFER RD SCHERTZ, TX 78154	STORAGE YARD	GB	CB 5057 P-1G ABS 61	
9	308418	MCGARRELL BRANDON	10938 E FM 1518 N SCHERTZ, TX 78154	RESIDENTIAL	GB	GD APPR GEOM30 RUR AC(3C)	VOL. 18820, PG. 1279 DEED # 20140138407
10	308420	JOROGADA ENTERPRISES INC	10745 LISA MDWS SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL/AGRICULTURE	R-6	GD APPR GEOM30 RUR AC(3C)	VOL. 17629, PG. 2174 DEED # 20150250421
11	308421	SAUNDERSON GARY G & PAMELA S	10755 LISA MDWS SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL/AGRICULTURE	R-6	GD APPR GEOM30 RUR AC(3C)	VOL. 1789, PG. 1852, DEED # 20
12	1298665	SPANLEY PROPERTIES I, LLC	1298665	DAY CARE CENTER	GB	CB 5054 P-111 ABS 464	DEED # 20180240459
13	308372	SPANLEY PROPERTIES II, LLC	10725 E FM 1518 N SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL/AGRICULTURE	R-6	GD APPR GEOM30 RUR AC(3C)	VOL. 18044, PG. 1346 DEED # 20180240459
14	1176443	CRAIG THOMAS W & CRAIG DONALD W	11885 SCHAEFER RD SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL/AGRICULTURE	R-6	GD APPR GEOM30 RUR AC(3C)	VOL. 13946, PG. 0137, DEED # 2008006962
15	308605	RIVERA ANACLETO & MARIA E	11875 SCHAEFER RD SCHERTZ, TX 78154	SINGLE FAMILY - RESIDENTIAL/AGRICULTURE	R-6	GD APPR GEOM30 RUR AC(3C)	
16	308371	ESTATE OF RAMIREZ ANTONIA A	11787 SCHAEFER RD SCHERTZ, TX 78154	RETAIL STORE	NS	DG SCHERTZ ADDITION, LOT 1, BLOCK 1	VOL. 20001, PG. 1842

OWNER: BRANDON MCGARRELL  
MCGARRELL ORTHODONTICS  
6051 FM RD 3009  
SCHERTZ, TX 78154  
PHONE 210-314-2091  
EMAIL BSMCGAO@GMAIL.COM

SURVEYOR: PHILLIP W. CORNETT, RPLS  
JOHN COWAN & ASSOCIATES, INC.  
10147 CR 135  
FLINT, TX 75762  
PHONE 903-581-2238  
EMAIL PCORNETT@JCOWANINC.COM

ENGINEER: BLAKE ALLISON, PE  
M&S ENGINEERING  
FIRM F-1394  
376 LANDA ST.  
NEW BRAUNFELS, TEXAS 78130  
PHONE 830.629.2988  
EMAIL BALLISON@MSENGR.COM

SUBMITTAL DATE:

REVISION DATE:

PROPERTY INFO DG SCHERTZ ADDITION, LOT 2, BLOCK 1;

ORIGINAL SURVEY: GENOVERA MALPAX SURVEY, A-464

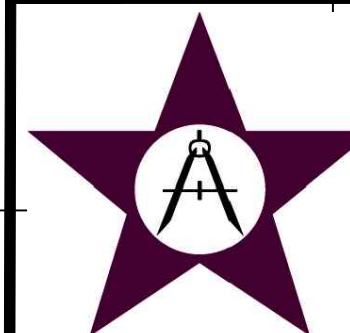
FEMA FLOODPLAIN: THERE IS NO ENCROACHMENT OF THE 100 YEAR FLOOD PLAIN AS SHOWN ON FIRM PANEL 48029C0295F, DATED SEPTEMBER 29, 2010.

NEW STREETS: NO NEW STREETS ARE PLANNED

TOTAL GROSS ACREAGE 2.94 AC

EXISTING ZONING GENERAL BUSINESS (GB) = +/- 0.79 AC RESIDENTIAL AGRICULTURAL (RA) = +/- 2.15 AC

REZONING DESIGNATION NEIGHBORHOOD SERVICES (NB) = 2.94 AC



**M&S ENGINEERING**  
CIVIL | ELECTRICAL | STRUCTURAL | MEP

TEXAS PROFESSIONAL ENGINEERING FIRM # F-1394  
WWW.MSENGR.COM | (830) 228-5446

CITY PROJECT NUMBER:





FN NO. 20MS027  
JUNE 10, 2020

**FIELDNOTE DESCRIPTION  
LOT 2, BLOCK 1  
DG SCHERTZ ADDITION  
2.938 ACRES**

BEING A 2.938 ACRE TRACT OF LAND SITUATED IN THE GENOVERA MALPAZ SURVEY, ABSTRACT NO. 464, BEXAR COUNTY, TEXAS, BEING ALL OF LOT 2 OF DG SCHERTZ ADDITION, FINAL PLAT RECORDED IN VOLUME 20001, PAGE 1843, PLAT RECORDS, BEXAR COUNTY, TEXAS, SAID 2.938 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT A SET ½" IRON ROD STAMPED SHERWOOD SURVEYING WITH YELLOW PLASTIC CAP SITUATED ON THE NORTHWESTERLY LINE OF SCHAFER ROAD FOR THE MOST SOUTHERLY CORNER OF SAID LOT 2, AND THE MOST SOUTHERLY CORNER OF THE HEREIN DESCRIBED TRACT, FROM WHICH A FOUND IRON ROD STAMPED "TX LANDMARK SURVEYING" BEARS S 30°08'18" E, A DISTANCE OF 2.78 FEET FOR THE EASTERLY CORNER OF LOT 1 OF CRAIG'S FARM SUBDIVISION RECORDED IN VOLUME 9641, PAGE 143, PLAT RECORDS, BEXAR COUNTY, TEXAS;

**THENCE**, ALONG THE COMMON NORTHEASTERLY LINE OF SAID LOT 1, CRAIG'S FARM SUBDIVISION WITH THE SOUTHWESTERLY LINE OF SAID LOT 2, DG SCHERTZ ADDITION, N 30°08'18" W, A DISTANCE OF 393.43 FEET TO A ½" IRON ROD FOUND FOR THE SOUTHERLY CORNER OF THAT CERTAIN 4.6373 ACRE TRACT (SAVE AND EXCEPT 2.073 ACRES) DESCRIBED IN DOC. NO. 20180242459, OFFICIAL PUBLIC RECORDS, BEXAR COUNTY, TEXAS, FOR THE WESTERLY CORNER OF SAID LOT 2, FOR THE WESTERLY CORNER OF THIS TRACT;

**THENCE**, N 59°51'32" E, WITH THE SOUTHEASTERLY LINE OF SAID 4.6373 ACRE TRACT AND THE REMAINDER OF A CALLED 4.673 ACRE TRACT DESCRIBED IN VOLUME 12094, PAGE 84, OFFICIAL PUBLIC RECORDS, BEXAR COUNTY, TEXAS, COMMON WITH THE NORTHEASTERLY LINE OF SAID LOT 2, A DISTANCE OF 497.76 FEET TO A FOUND IRON ROD STAMPED "PAPE DAWSON" SITUATED ON THE SOUTHWESTERLY LINE OF FM 1518 FOR THE MOST NORTHERLY CORNER OF SAID LOT 2, FOR THE NORTHERLY CORNER OF THE HEREIN DESCRIBED TRACT;

**THENCE**, S 30°08'14" E, ALONG THE COMMON NORTHEASTERLY LINE OF SAID LOT 2 WITH THE SOUTHWESTERLY LINE OF SAID FM 1518, A DISTANCE OF 183.56 FEET TO A FOUND IRON ROD WITH CAP "J COWAN & ASSOC." FOR THE MOST EASTERLY CORNER OF SAID LOT 2, SAME BEING THE NORTHERLY CORNER OF LOT 1, BLOCK 1 OF SAID DG SCHERTZ ADDITION, FOR THE MOST EASTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

**THENCE**, S 59°53'13" W, DEPARTING THE SOUTHWESTERLY LINE OF FM 1518, COMMON WITH THE NORTHWESTERLY LINE OF SAID LOT 1, SAME BEING THE SOUTHEASTERLY LINE OF SAID LOT 2, A DISTANCE OF 323.27 FEET TO A SET ½" IRON ROD STAMPED SHERWOOD SURVEYING WITH YELLOW PLASTIC CAP FOR AN INTERIOR CORNER OF SAID LOT 2, SAME BEING THE WESTERLY CORNER OF SAID LOT 1, FOR AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;



# SHERWOOD SURVEYING & S.U.E.

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**THENCE**, S 30°10'14" E, ALONG A COMMON NORTHEASTERLY LINE OF SAID LOT 2 WITH THE SOUTHWESTERLY LINE OF SAID LOT 1, A DISTANCE OF 210.10 FEET TO A FOUND IRON ROD WITH CAP "J COWAN & ASSOC." SITUATED ON THE NORTHWESTERLY LINE OF SCHAFER ROAD FOR THE SOUTHERLY CORNER OF SAID LOT 1, SAME BEING AN EASTERLY CORNER OF SAID LOT 2, FOR AN EASTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

**THENCE**, S 59°53'05" W, ALONG THE NORTHWESTERLY LINE OF SCHAFER ROAD, A DISTANCE OF 174.61 FEET TO THE **POINT OF BEGINNING**, CONTAINING AN AREA OF 2.938 ACRES OF LAND, MORE OR LESS.

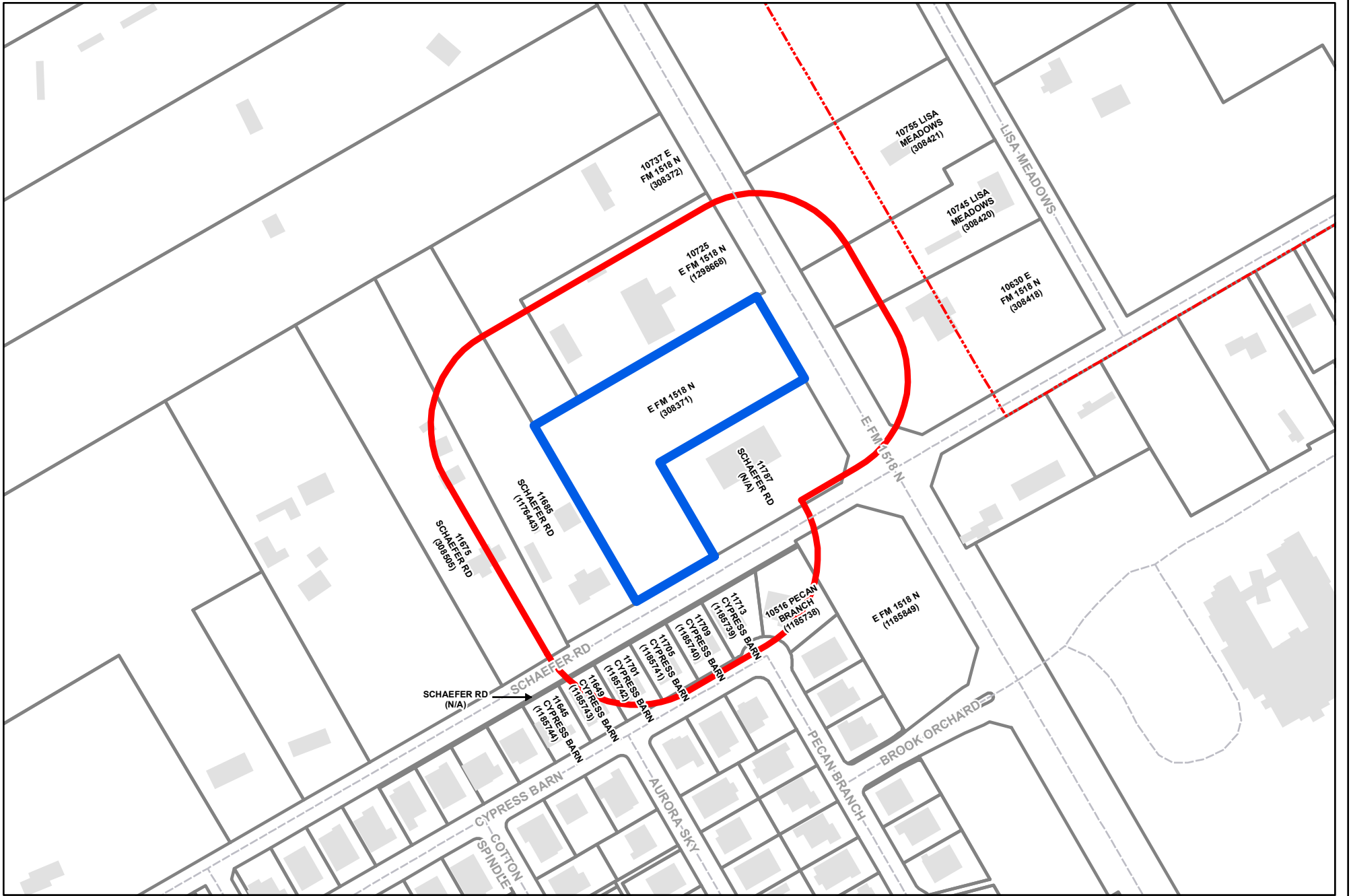
A SURVEY EXHIBIT WAS PREPARED ON THIS SAME DATE. BASIS OF BEARING IS NAD 83 TEXAS STATE PLANE COORDINATES, SOUTH CENTRAL ZONE.

I, RICHARD A. GOODWIN, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED FROM A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

SHERWOOD SURVEYING, LLC  
P.O. BOX 970  
SPRING BRANCH, TEXAS 78070  
TBPELS FIRM #10044200

RICHARD A. GOODWIN      DATE 6-10-2020  
R.P.L.S. #4069 STATE OF TEXAS







# City of Schertz

## DG SCHERTZ ADDITION

### BLOCK 1, LOT 2

 200' Notification Buffer  
 Parcel Boundaries



**From:** Tom Craig ·  
**Sent:** Friday, August 21, 2020 11:32 AM  
**To:** Megan Harrison <MHarrison@schertz.com>  
**Subject:** ZC2020-008

I am opposed to the lot facing Schaefer Rd. to be rezoned from R-A to NS.

The part of the lot facing fm1518 could be zoned NS due to its proximity to a major road.

It appears that the lot facing Schaefer Rd. would make a nice residential lot. I prefer being next to a residential lot rather than a commercial lot.

Tom Craig

†Blessings†

## NOTICE OF PUBLIC HEARING

August 14, 2020

Dear Property Owner,

The Schertz Planning and Zoning Commission will conduct a public hearing on **Wednesday, August 26, 2020 at 6:00 p.m.** located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make recommendation on the following item:

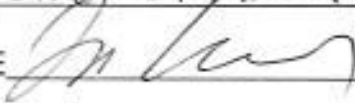
**ZC2020-008** – A request to rezone approximately 2.94 acres of land from Single-Family Residential/Agricultural District (R-A) and General Business District (GB) to Neighborhood Services District (NS), located northwest of the intersection between FM 1518 and Schaefer Road, City of Schertz, Bexar County, Texas, also known as DG Schertz Addition Lot 2, Block 1.

The Planning and Zoning Commission would like to hear how you feel about this request and invites you to attend the public hearing. *This form is used to calculate the percentage of landowners that support and oppose the request.* You may return the reply form below prior to the first public hearing date by mail or personal delivery to Megan Harrison, Planner, 1400 Schertz Parkway, Schertz, Texas 78154, by fax (210) 619-1789, or by e-mail [mharrison@schertz.com](mailto:mharrison@schertz.com). If you have any questions please feel free to call Megan Harrison, Planner directly at (210) 619-1781.

Sincerely,

Megan Harrison  
Planner

## Reply Form

I am: ☒ in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-008COMMENTS: TreeLine Should Stay in Place and be R-A ZoneNAME: Thomas Craig SIGNATURE   
(PLEASE PRINT)STREET ADDRESS: 11685 Schaefer Rd.DATE: 8.21.20

LOT Facing FM1518 / LOT Facing Schaefer Rd.  
Should be NS Zone / Should Remain R-A.

**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** Finance  
**Subject:** Bond refinancing Opportunity - Workshop on possible bond refinancing opportunity. (M. Browne/B. James/J. Walters/M. McLiney/A. Friedman)

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**BACKGROUND**

Presentation by SAMCO Capital Markets, the City's Financial Advisor, on a potential refinancing opportunity for the bond series 2011.

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**CITY COUNCIL MEMORANDUM**

**City Council Meeting:** September 22, 2020  
**Department:** City Secretary  
**Subject:** Workshop Discussion and Update (Ordinance 20-H-18) - Discussion and update regarding the COVID-19 virus and our current Ordinance No. 20-H-18 Declaration of Local Disaster. (M. Browne/K. Long)

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**BACKGROUND**

Staff will provide Council with an update regarding the COVID-19 Virus. Discussion will include the recent Executive Order 29 relating to the use of face coverings.

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**Attachments**

Revised 20-H-18

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## **Ordinance No. 20-H-18**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SCHERTZ TO SUPERSEDE ORDINANCE 20-H-15; EXTENDING A DECLARATION OF LOCAL DISASTER; RESTRICTING CERTAIN ACTIVITIES; ESTABLISHING PENALTIES FOR VIOLATIONS. PROVIDING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY; FIRST AND FINAL READING**

**WHEREAS**, in December 2019 a novel coronavirus, now designated COVID-19, was detected in Wuhan City, Hubei Province, China. Symptoms of COVID-19 include fever, cough, and shortness of breath. Outcomes have ranged from mild to severe illness, and in some cases death; and

**WHEREAS**, on January 20, 2020, the World Health Organization (WHO) Director General declared the outbreak of COVID-19 as a Public Health Emergency of International Concern (PHEIC), advising countries to prepare for the containment, detection, isolation and case management, contact tracing and prevention of onward spread of the disease; and

**WHEREAS**, on March 13, 2020, President Trump declared a state of emergency due to COVID- 19; and

**WHEREAS**, President Trump has invoked the Stafford Act, which will allow state and local governments to access federal disaster relief funds; and

**WHEREAS**, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying that COVID-19 poses an imminent threat of disaster for counties in the state of Texas; and

**WHEREAS**, the Texas Department of State Health Services has now determined that, as of March 19, 2020, COVID- 19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

**WHEREAS**, to date, there have been 48,693 confirmed positive cases in Texas; and

**WHEREAS**, the crisis that is now a pandemic has infected 4,805,430 people around the world resulting in 318,554 deaths, with 1,537,830 cases confirmed in the United States; and

**WHEREAS**, on March 31, 2020 Governor Abbott issued GA-14 superseding local authority invoked under Chapter 418 of the Government Code, and Chapter 81 and 122 of the Health and Safety Code where local order conflict with GA-14 or any previous order of the Governor related to the pandemic;

**WHEREAS**, also on April 17, 2020, Governor Abbott issued Executive Order GA-16 to replace Executive Order GA- 14, and while Executive Order GA- 16 generally continued through April 30, 2020, the same social-distancing restrictions and other obligations for Texans according to federal guidelines, it offered a safe, strategic first step to Open Texas, including permitting retail pick-up and delivery services; and



**WHEREAS**, Texas must continue to protect lives while restoring livelihoods, both of which can be achieved with the expert advice of medical professionals and business leaders and the continued gradual reopening of Texas pursuant to GA-18- GA-23 and subsequent orders of the Governor; and

**WHEREAS**, pursuant to the Texas Disaster Act of 1975, the Mayor is designated as the Emergency Management Director of the City of Schertz, and may exercise the powers granted by the governor on an appropriate local scale; and

**WHEREAS**, Ralph Gutierrez, the Mayor of the City of Schertz previously determined and declared that extraordinary and immediate measures must be taken to respond quickly, prevent and alleviate the suffering of people exposed to and those infected with the virus, as well as those that could potentially be impacted by COVID-19;

**WHEREAS**, a declaration of local disaster and public health emergency includes the ability to reduce the possibility of exposure to disease, control the risk, promote health, compel persons to undergo additional health measures that prevent or control the spread of disease, including isolation, surveillance, quarantine, or placement of persons under public health observation, including the provision of temporary housing or emergency shelters for persons misplaced or evacuated and request assistance from the governor of state resources.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:**

- Section 1. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.
- Section 2. That the local state of disaster and public health emergency originally declared by Mayor Ralph Gutierrez for the City of Schertz, Texas, pursuant to §418.108(a) of the Texas Government Code and renewed and extended to May 26, 2020 at 11:59 p.m. by City Council Ordinance 20-H-15 pursuant to §418.108(b) of the Government Code, including all rules and regulations, is hereby further amended and extended until the Disaster Declaration put in place by Governor Abbott for the State of Texas expires.
- Section 3. Pursuant to §418.108(c) of the Government Code, this declaration of a local state of disaster and public health emergency shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
- Section 4. Pursuant to §418.108(d) of the Government Code, this declaration of a local state of disaster and public health emergency activates the City of Schertz, Texas, emergency management plan.
- Section 5. All ordinances or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters herein except those portions deemed to conflict with any emergency orders of Governor Abbott.

- Section 6. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- Section 7. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.
- Section 8. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code, as amended.
- Section 9. Should Governor Abbott lift the statewide disaster declaration and orders now in place prior to the date of expiration stated herein, this ordinance shall no longer be subject to enforcement by the City and shall be repealed by the City Council at the first legally posted meeting thereafter.
- Section 10. Any peace officer or other person with lawful authority is further authorized to enforce the provisions of this Ordinance or the orders of the Governor in accordance with the authority granted under the Texas Disaster Act of 1975, as applicable, which allows a fine not to exceed \$1000.00 and confinement not to exceed 180 days pursuant to Government Code 418.173.
- Section 11. This Ordinance shall be in force and effect from its first and final passage, and any publication required by law.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ TEXAS  
THIS ORDINANCE WAS PASSED, ON FIRST AND FINAL READING, THE 23<sup>rd</sup> DAY  
OF JUNE 2020.**

CITY OF SCHERTZ, TEXAS

By: \_\_\_\_\_

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary