



MEETING AGENDA
City Council
REGULAR SESSION CITY COUNCIL
November 1, 2022

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

TUESDAY, NOVEMBER 1, 2022 at 6:00 p.m.

City Council will hold its regularly scheduled meeting at 6:00 p.m., Tuesday, November 1, 2022, 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.
(Councilmember Whittaker)

Presentations

- Proclamation-Municipal Court Appreciation Week-November 7th-11th, 2022
- Proclamation-International Accounting Day-November 10th, 2022

City Events and Announcements

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

Hearing of Residents

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. **Resolution 22-R-127-** A Resolution by the City Council of the City of Schertz authorizing an agreement with UBEO Services, LLC for the upgrade of multi-function printers and copiers and other matters in connection therewith. (M. Brown/J. Kurz/J. Gohlke)
2. **Resolution No. 22-R-110 -** A Resolution by the City Council of the City of Schertz, Texas authorizing an Economic Development Performance Agreement between the City of Schertz, City of Schertz Economic Development Corporation and 3009 OAC Investments, LLC. (M. Browne/ A. Perez)
3. **Resolution No. 22-R-111 -** A Resolution by the City Council of the City of Schertz, Texas authorizing an Economic Development Performance Agreement between the City of Schertz, City of Schertz Economic Development Corporation and Schertz RE Company, LLC. (M. Browne/ A. Perez)
4. **Resolution No. 22-R-104 -** A Resolution by the City Council of the City of Schertz, Texas authorizing an Economic Development Performance Agreement between the City of Schertz, City of Schertz Economic Development Corporation and Schertz Medical Building, LLC. (M. Browne/ A. Perez)

Discussion and Action Items

5. **Ordinance 22-T- 43 -** An Ordinance by the City Council of the City of Schertz, Texas authorizing an adjustment to the Fiscal Year 2022-2023 Budget to fund audio/visual improvements for Municipal Court, repealing all ordinance or parts of ordinance in conflict with this ordinance; and providing an effective date. ***First Reading*** (M.Browne/J.Walters)
6. **Resolution 22-R-128 -** Consideration and/or action approving a Resolution amending the Schertz Main Street Area Preservation Incentive Program. (B. James)

7. **Ordinance No. 22-S-41-** Consideration and/or action on a request to rezone approximately 15 acres of land from Pre-Development District (PRE) to Planned Development District (PDD), generally located approximately 2,200 feet southeast of the intersection of Lower Seguin Road and FM 1518, also known as Bexar County Property Identification Number 309997 and 309999, City of Schertz, Bexar County, Texas. ***Final Reading*** (B. James / L. Wood / E. Delgado)
8. **Resolution 22-R-129-** Consideration and/or action approving an amendment to the contract for upgrades to the Council Chambers with Bluum USA, Inc. (B. James, M. Clauser)

Closed Session

9. City Council will meet in closed session under 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-86
 - Project E-88
10. The City Council will convene in closed session pursuant to Section 551.071 of the Texas Government Code to conduct a private consultation with its attorney about pending or contemplated litigation or a settlement offer on one or more of the following matters: Green Valley Special Utility District vs. City of Schertz et al Case No. 17-CV-00819-LY (U.S. District Court, Western District of Texas, Austin Division); City of Schertz v. United States Department of Agriculture, et al., No. 19-51056 (U.S. Fifth Circuit Court of Appeals); City of Schertz, Texas v. Texas Commission on Environmental Quality, et al. No. 07-20-00167-CV (Seventh Court of Appeals, Amarillo, Texas); Green Valley Special Utility District v. the Public Utility Commission of Texas and DeAnn T. Walker; Arthur C. D’Andrea, Jr.; Shelly Botkin; in their official capacities as Commissioners of the Public Utility Commission of Texas; and John Paul Urban in his official capacity as Executive Director the Public Utility Commission of Texas; and the City of Schertz, Texas. Cause No. D-1-GN-18-000535, In the District Court of Travis County, Texas, 419th Judicial District; Application of Green Valley Special Utility District for New TPDES Permit, No. WQ0015917-001 (Texas Commission on Environmental Quality)
11. The City Council will meet in Closed Session in accordance with Section 551.074 of the Texas Government Code, Personnel Matters, to discuss the direction on an appointment of a new City Manager.
12. The City Council will meet in Closed Session under Section 551.074 of the Texas Government Code, Personnel Matters, to discuss the vacancy of the City Secretary position.

Reconvene into Regular Session

13. Take any action based on discussion held in Closed Session under Agenda Item 9.
14. Take any action based on discussions held in Closed Session under Agenda Item 10.
15. Take any action based on discussions held in Closed Session under Agenda Item 11.
16. Take any action based on discussions held in Closed Session under Agenda Item 12.

Roll Call Vote Confirmation

Information available in City Council Packets - NO DISCUSSION TO OCCUR

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 or presentations 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, SHEILA EDMONDSON, INTERIM 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 28th DAY OF OCTOBER 2022 AT 5:30 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.

SHEILA EDMONDSON

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 _____, 2022. 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

Mayor Gutierrez Audit Committee Board of Adjustments Investment Advisory Committee Main Street Committee	Councilmember Scagliola – Place 5 Animal Advisory Commission - Alternate Cibolo Valley Local Government Corporation - Alternate Hal Baldwin Scholarship Committee Interview Committee for Boards and Commissions - Alternate Schertz-Seguin Local Government Corporation
Councilmember Davis– Place 1 Interview Committee for Boards and Commissions Main Street Committee - Chair Parks & Recreation Advisory Board Schertz Housing Authority Board Transportation Safety Advisory Commission TIRZ II Board	Councilmember – Place 2 (VACANT)
Councilmember Whittaker – Place 3 Audit Committee Historical Preservation Committee Interview Committee for Boards and Commissions Library Advisory Board TIRZ II Board	Councilmember Dahle – Place 4 Cibolo Valley Local Government Corporation Interview Committee for Boards and Commissions Planning & Zoning Commission TIRZ II Board
Councilmember Heyward – Place 6 Animal Advisory Commission Audit Committee Building and Standards Commission Economic Development Corporation - Alternate Investment Advisory Committee Main Street Committee	Councilmember Brown – Place 7 Economic Development Corporation Main Street Committee Schertz-Seguin Local Government Corporation - Alternate

CITY COUNCIL MEMORANDUM

City Council Meeting: November 1, 2022
Department: Purchasing & Asset Management
Subject: Resolution 22-R-127- A Resolution by the City Council of the City of Schertz authorizing an agreement with UBEO Services, LLC for the upgrade of multi-function printers and copiers and other matters in connection therewith. (M. Brown/J. Kurz/J. Gohlke)

BACKGROUND

The City of Schertz currently utilizes UBEO as a provider for multi-function printers throughout the City. While the current agreement does not expire until May 2024, IT has identified the need for encrypted scan to email capabilities throughout the City for enhanced Cyber-Security. The machines currently in place have the capability to have an encryption module added but at significant cost to the City. UBEO is proposing a buy-out of the existing contract lease term. With this buy-out, the existing machines will be upgraded to the 2022 Model machine that has integrated encryption.

UBEO is currently a Sourcewell Purchasing Cooperative Contract Holder and the new lease agreement will be based on the terms and conditions of that Group Purchasing Cooperative Contract. Authority for such participation is granted under Texas Government Code §§ 791.001 et seq as amended. Cooperative Purchasing Services under this interlocal agreement (ILA) are extended to all Texas State, City or County Government Agencies, or any other Local Government Entity as defined in the Texas Government Code § 791.003. I

The City currently spends approximately \$120,000.00 annually on lease payments for the machines with UBEO which includes the monthly lease payment, monthly usage of around 65,000 b/w prints, and 40,000 color prints. The proposed new lease agreement will drop to approximately \$115,000.00 with the same usage.

The term of this agreement will be sixty-three (63) months. This agreement includes annual maintenance, necessary repairs, and all toner/ink required for the machine to function.

GOAL

To upgrade multi-function copiers and printers throughout the City that will allow encrypted scans from the copier to email enhancing cybersecurity protocols throughout the City.

COMMUNITY BENEFIT

Ensuring confidential and protected information remains secure will ensure Staff can adhere to cybersecurity protocols.

SUMMARY OF RECOMMENDED ACTION

Staff recommends approval of resolution 22-R-127

FISCAL IMPACT

The funds for this contract were approved as part of the 22-23 budget.

RECOMMENDATION

Staff recommends approval of resolution 22-R-127

Attachments

resolution 22-r-127

Agreement

RESOLUTION NO. 22-R-127

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS, AUTHORIZING A CONTRACT WITH UBEO BUSINESS SERVICES TO PROVIDE MANAGED PRINT EQUIPMENT AND SERVICES.

WHEREAS, the City of Schertz (the “City”) has a need to replace existing multi-function printers; and

WHEREAS, UBEO Business Services is the City’s existing service provider; and

WHEREAS, UBEO Business Services has an awarded Group Purchasing Cooperative Contract on the Sourcwell Purchasing Cooperative; and

WHEREAS, Authority for participation in Group Purchasing Cooperatives is granted under Texas Government Code §§ 791.001 et seq as amended. Cooperative Purchasing Services under this interlocal agreement (ILA) are extended to all Texas State, City or County Government Agencies, or any other Local Government Entity as defined in the Texas Government Code § 791.003

WHEREAS, City staff has determined that UBEO Business Services is qualified to provide such services for the City.

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 a contract in substantially the same form as Attachment A with UBEO Business Services for an amount not to exceed \$145,000.00 per fiscal year for a term of five (5) years.

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 1st day of November, 2022

CITY OF SCHERTZ, TEXAS

Mayor, Ralph Gutierrez

ATTEST:

Sheila Edmondson, Deputy City Secretary



MANAGE RENTAL AGREEMENT

Owner: **UBEO, LLC**

CUSTOMER INFORMATION

Bill To Full Customer Legal Name Schertz, City of			Contact Person Julie Gohlke	Installation Site Key Operator
Street Address 1400 Schertz Pkwy			Title Purchasing & Asset Manager	Title
Box/Suite/Routing			Telephone # 210-619-1163	Telephone #
City Schertz	State TX	Zip Code 78154-	Facsimile # (210) 619-1169	Facsimile #
Installation Address (if different from above) multiple			e-mail jgohlke@schertz.com	e-mail

EQUIPMENT INFORMATION

	Quantity	Make	Item	Description (or Accessories)
1	20	Konica Minolta	AA7R011	Bizhub C450i
2	12	Lexmark	47C9900	XC4352
3	1	HP	3EK11F#B1K	HP DesignJet T1600
4				
5				***Montly Payment does not include service &/or supplies for the HP DesignJet T1600
6				**Sourcewell 030321-KON
7				
8				

Payment	\$	9,367.00	Term (Months)	63
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Payment Frequency	Monthly	Image Meter Reading Frequency (QUARTERLY unless otherwise indicated)	Quarterly
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B&W Image Monthly Allowance	65,000	Excess Per Image Charge (B&W)	\$0.00590
Color Image Monthly Allowance	40,000	Excess Per Image Charge (Color)	\$0.04900
Linear Feet Monthly Allowance		Excess Per Image Charge (Linear Feet)	
xMedius Page/DID Monthly Allowance		xMedius Excess Per Page/DID Charge	

Supplies (toner and developer in colors, black, cyan, magenta and yellow) and waste toner bottles are included at no additional charge, unless otherwise indicated.
Throughput materials (paper stocks, staples, etc.) and toner and developer in colors clear, gold, silver, white, and fluorescent pink are NOT included.

BLACK Supplies Included ☐ NO

COLOR Supplies Included ☐ NO

AGREEMENT NUMBER	All amounts exclusive of applicable taxes THIS AGREEMENT CANNOT BE TERMINATED EARLY.	SALES REPRESENTATIVE Brady Wells
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Additional Terms and Conditions on Second Page. Other Agreed Upon Addendum(s) include:

<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C
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Meters	<input checked="" type="checkbox"/> Merlin <input type="checkbox"/> Fax <input type="checkbox"/> e-Mail	Meter Contact	Julie Gohlke	e-mail	jgohlke@schertz.com	Fax #
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During the term of this Agreement, Owner may substitute and/or change the tools and equipment that it uses in providing the images and other solutions being provided to Customer. In these situations, Owner will explain the changes to Customer and Customer will sign an updated schedule incorporating the changes to the equipment and related products in the Customer's possession and/or being used to provide the solution. In addition, if customer's needs and/or the available technology changes dramatically, either party may initiate discussions to revise this Agreement; provided that any such change must be mutually agreed to in a new agreement or amendment signed by authorized individuals on behalf of both Customer and Owner.

CUSTOMER ACCEPTANCE

OWNER ACCEPTANCE

By signing below customer certifies that all conditions and terms of this agreement on the first and second page have been reviewed and acknowledged. By providing a telephone number for a cellular phone or other wireless device, you are expressly consenting to receiving communications (for NON-marketing or solicitation purposes) at that number, including, but not limited to, prerecorded or artificial message calls, text messages, and calls made by an automatic telephone dialing system from Owner and its affiliates and agents. This Express Consent applies to each such telephone number that customer provides to us now or in the future and permits such calls. These calls and messages may incur access fees from your cellular provider.

Company Name: Schertz, City of	Federal Tax ID:	Owner: UBEO, LLC
By (Please Print):		By:
Signature:		Signature:
Title:	Date:	Title:
		Date:

DELIVERY AND ACCEPTANCE

The Customer hereby certifies that all the Equipment: 1) has been received, installed, and inspected, and 2) is fully operational and unconditionally accepted. All conditions and terms of this agreement have been reviewed, acknowledged and are now irrevocable and unconditional.

By (Please Print):	Title:
Signature:	Date:

UMANAGE RENTAL AGREEMENT
TERMS and CONDITIONS

1. Ownership and Use of System: Owner is the sole owner and title holder to the "System". The "System" shall mean all hardware (and, except as limited by section 10 below, software) included on the UMANAGE Rental Agreement. Customer agrees to keep the System and associated products free and clear of all liens and claims. Customer agrees that the System and associated products will be used solely for business purposes and not for consumer purposes or personal use and that the Customer's location is a business address.

2. Payment: Monthly payments will begin on the Commencement date. The Customer agrees to pay Owner the base payment which includes the minimum base image allowance when due. The Customer also agrees to pay a charge for each image in excess of the image allowance. The base payment and the charge for overages are as indicated on the first page of this Agreement. If any payment is more than ten days late, the Customer agrees to pay a fee of up to 15% or \$29 (whichever is greater) on the overdue amount, but not to exceed the maximum amount allowed by law. The Customer also agrees to pay \$35 for each check that the bank returns for insufficient funds or any other reason. At the end of the first year of this Agreement, and once each successive twelve month period thereafter, Owner may increase the base payment and the Excess Per Image charges by an amount not to exceed 6% of the then current payment and charges. The Customer's obligation to pay the base payments and its other obligations hereunder is absolute and unconditional and is not subject to cancellation, reduction, setoff or counterclaim. THIS AGREEMENT IS NON-CANCELABLE.

3. Excess Images: Customer will submit true and accurate System meter readings to Owner for the System by the end of the second workday of each billing period in any reasonable manner requested by Owner, including an automated collection system. If Customer fails to submit meter readings, Owner may estimate meters and generate invoicing based upon the estimated meter readings.

4. Term and Transition Billing: This Agreement is binding upon Customer on the date Customer signs the Agreement. The Agreement is effective on the date Customer signs the Delivery and Acceptance ("Effective Date"). The term of the Agreement begins on date designated by us after receipt of all required documentation and acceptance by us ("Commencement Date") and continues for the number of months designated as "Term" on the first page of this Agreement. Customer agrees to pay an interim base payment in the amount of 1/30 of the monthly base payment, for each day from and including the Effective Date until the day preceding the Commencement Date.

5. Upgrade and Downgrade Provision: Owner may review your image volume and, in its discretion, propose options for upgrading or downgrading to accommodate your needs.

6. Taxes and Fees: This is a net agreement. In addition to rent, the Customer agrees to pay all taxes, fees, and filing costs related to the use of the System, even billed after the end of the Agreement. Owner will file property tax returns and bill the Customer as soon as an invoice from the local jurisdiction is received. Owner has the option to estimate any taxes due for the year and bill the Customer periodically in advance on the basis of that estimate. The Customer agrees that if Owner pays any taxes or charges on the Customer's behalf, Customer will reimburse Owner for all such payments and will pay Owner a fee for collecting and administering any taxes, assessments or fees and remitting them to the appropriate authorities. The Customer will indemnify Owner on an after-tax basis against the loss of any tax benefits anticipated at the Commencement Date arising out of the Customer's acts or omissions. Owner may charge Customer a reasonable fee to cover documentation and investigation costs. Any amount charged under this agreement may include a profit.

7. UCC Filing: The Customer authorizes Owner or its assignee to sign any documents in connection with the Uniform Commercial Code ("UCC") on the Customer's behalf. The Customer authorizes Owner to insert the serial number(s) of the System in this Agreement (including any schedules) and in any filings. In order to protect our rights in the System, Customer grants the Owner a security interest in the System if this Agreement is deemed a secured transaction and Customer authorizes Owner to record a UCC-1 financing statement or similar instrument, and appoint Owner as its attorney-in-fact to execute and deliver such instrument, in order to show Owner's interest in the System.

8. Collateral Protection, Liability and Insurance: The Customer is responsible for any damage to or loss of the System and any losses or injury caused by the System. The Customer promises to keep the System fully insured against loss until the Agreement is paid in full and maintain insurance that protects Owner from liability for any damage or injury caused by the System or its use. The Customer promises to provide Owner with evidence of the insurance, showing Owner as the loss payee for the full replacement value of the System and additional insured for public liability and third party property insurance, upon request. If Customer fails to provide such evidence within 30 days after the commencement of this Agreement, Owner has the option, but not the obligation to do as provided in either (A) or (B) as follows, as determined in Owner's discretion: (A) Owner may secure property loss insurance on the System from a carrier of Owner's choosing in such forms and amounts as Owner deems reasonable to protect Owner's interests. If Owner secures insurance on the System, Customer will not be named as an insured party, Customer's interests may not be fully protected, and Customer will reimburse Owner the premium which may be higher than the premium Customer would pay if Customer obtained insurance, and which may result in a profit to Owner through an investment in reinsurance. If Customer is current in all of its obligations under the Agreement at the time of loss, any insurance proceeds received relating to insurance Owner obtains pursuant to this subsection (A) will be applied, at Owner's option, to repair or replace the System, or to pay Owner the remaining payments due or to become due under this Agreement, discounted at 2% per annum; or (B) Owner may charge Customer a monthly damage surcharge of up to .0035 of the System cost as a result of Owner's credit risk and administrative and other costs, as would be further described on a letter from Owner to Customer. We may make a profit on this program. NOTHING IN THIS PROVISION WILL RELIEVE CUSTOMER OF THE RESPONSIBILITY FOR LIABILITY INSURANCE ON THE SYSTEM. Owner may file claims and endorse insurance checks on the Customer's behalf.

9. Indemnity: After installation, Owner is not responsible for any losses or injuries caused by the use or possession of the System. Customer agrees to hold Owner harmless and reimburse Owner for loss and to defend Owner against any claim for losses or injury caused by the System. This indemnity obligation will continue after the termination of this Agreement if the loss or injury occurred during the term of the Agreement. The Customer agrees to reimburse Owner for and defend Owner against any claims, for losses or injuries caused by the System, unless such losses or injuries are caused by the gross negligence or willful misconduct of Owner. IN NO EVENT SHALL OWNER BE RESPONSIBLE FOR ANY CONSEQUENTIAL OR INDIRECT DAMAGES.

10. Maintenance and Care of Owner's System: The Customer agrees to install, use and maintain the System in accordance with the dealer specifications and use only those supplies supplied or approved by UBEQ, LLC which meet manufacturer specifications. Customer agrees to maintain the System in good working condition, eligible for manufacturer's certification, normal wear and tear excepted. Maintenance provided by UBEQ, LLC is non-cancellable for the term of the agreement for the listed System. Maintenance includes and is limited to: parts repair or replacement and associated labor, for service required as a result of normal wear and tear. Supplies (toner and developer in colors, black, cyan, magenta and yellow) and waste toner bottles are included at no additional charge. Toner usage is based on manufacturer's suggested yields. Excess usage can be billed when suggested yields are exceeded. Throughput materials (paper stocks, staples, etc.) and toner and developer in colors clear, gold, silver, white and fluorescent pink are NOT included. Work associated with Customer's Information Technologies not listed on this Agreement, including but not limited to Software, Computers, Data Files and Network is not covered by the Owner, and is billable to Customer.

Owner is not responsible for any damage to Customer's Information Technology Systems. Customer is responsible for all Software Agreements and Owner is not a party to any such licensing but will include such software as part of the Agreement. Owner does not own any software and cannot transfer any interest in it to Customer. In Accordance with this agreement, within 10 days of the expiration or earlier termination, for whatever reason, of the Agreement, Customer will deliver the System to Owner in good condition and repair, except for normal wear and tear. UBEQ, LLC agrees not to disclose any customer information to manufacturers or competitors that is not required by law.

11. Location of System: The Customer will keep the System at the location specified in this Agreement. The Customer must obtain Owner's written permission to move the System. The Customer will allow Owner or its agents to inspect the System at any reasonable time wherever it is located.

12. Assignment: THE CUSTOMER HAS NO RIGHT TO SELL, TRANSFER, ENCUMBER, SUBLET OR ASSIGN THE SYSTEM OR THIS AGREEMENT. Owner may sell, transfer or assign this Agreement without notice and if Owner does, the assignee will have the same rights and benefits Owner has and will not have to perform any of "Owner's" obligations. UBEQ, LLC will retain those obligations and Customer agrees that the rights of the assignee will not be subject to any claims, defenses or setoffs the customer may have against the Owner.

13. Warranty Disclaimer: OWNER MAKES NO WARRANTY EXPRESS OR IMPLIED, INCLUDING THAT THE SYSTEM IS FIT FOR A PARTICULAR PURPOSE OR THAT THE SYSTEM IS MERCHANTABLE. OWNER TRANSFERS TO CUSTOMER ANY WRITTEN WARRANTIES MADE BY THE VARIOUS MANUFACTURERS REPRESENTED IN THIS AGREEMENT. CUSTOMER AGREES CUSTOMER HAS SELECTED THE SUPPLIER AND EACH ITEM OF SYSTEM AND ASSOCIATED PRODUCTS BASED UPON ITS OWN JUDGMENT AND DISCLAIM ANY RELIANCE UPON ANY ORAL STATEMENTS OR REPRESENTATIONS MADE BY OWNERS. CUSTOMER WILL CONTINUE TO MAKE ALL PAYMENTS UNDER THIS AGREEMENT REGARDLESS OF ANY CLAIM OR COMPLAINT AGAINST ANY SUPPLIER, LICENSOR OR MANUFACTURER, AND FAILURE OF A SERVICE PROVIDER TO PROVIDE SERVICES WILL NOT EXCUSE CUSTOMER'S OBLIGATIONS TO OWNER UNDER THIS AGREEMENT.

14. Default and Remedies: The Customer will be in default if any of the following occurs: (i) Customer does not pay any amount under this Agreement or other sum due to Owner or any other entity, (ii) Customer breaches any other term of this Agreement or any other agreement with Owner or any material agreement with any other entity, (iii) Customer or any guarantor dies, dissolves or terminates existence; (iv) Customer makes or has made false statement or misrepresentation to Owner; (v) there has been a material adverse change in Customer or any guarantor's financial, business or operating condition; (vi) any guarantor defaults under any guaranty for this Agreement; (vii) Customer or any guarantor becomes insolvent or unable to pay its debts when due; Customer stops doing business as going concern; Customer merges, consolidates, or transfers all or substantially all of its assets; or (viii) Customer makes an assignment for the benefit of its creditors or voluntarily file or have filed against it an action under any bankruptcy proceedings. If the Customer defaults, Owner can take the following remedies: a) terminate this Agreement; b) require Customer to pay 1) all past due amounts hereunder and 2) all remaining payments for the unexpired term, discounted to present value at a 2% discount rate; c) require Customer to return the System to Owner at the Customer's expense; or d) exercise any other remedy available at law or equity. The Customer promises to pay Owner's reasonable attorney fees and any cost associated with enforcement of this Agreement. Customer also agrees to pay interest on all past due amounts, from the due date, at 1.5% per month. This action will not void the Customer's responsibility to maintain and care for the System, nor will Owner be liable for any action taken on any third party's behalf.

15. Business Agreement and Choice of Law: THE CUSTOMER AGREES THAT THIS AGREEMENT WILL BE GOVERNED UNDER THE APPLICABLE LAW OF THE STATE IN WHICH OWNER (OR, IF ASSIGNED BY OWNER, OWNER'S ASSIGNEE) MAINTAINS ITS PRINCIPAL OFFICES, AND ANY DISPUTE CONCERNING THIS AGREEMENT WILL BE ADJUDICATED IN A FEDERAL OR STATE COURT IN SUCH STATE. OWNER (AND ITS ASSIGNEE) AND CUSTOMER WAIVE THE RIGHT TO A TRIAL BY JURY IN THE EVENT OF A LAWSUIT AND WAIVE ANY RIGHT TO TRANSFER VENUE.

16. Renewal and Return of System: After the Minimum Term, as defined by the Agreement and any written extension thereof, this Agreement will automatically renew on a twelve (12) month basis unless 1) the Customer notifies Owner in writing not less than 90 days prior to the expiration of the Minimum Term or extension of its intention to return the System and 2) the Customer returns the System as provided below. Provided the Customer has given such timely notice, it shall return the System, freight and insurance prepaid, to Owner in good repair condition and working order, ordinary wear and tear excepted, in a manner and to a location designated by Owner. The Customer must pay any additional rents due until the System is received in good working condition by Owner or its agents. Customer is responsible for protecting and removing any confidential data/images stored on the System prior to its return for any reason. Customer may not terminate this Agreement early without Owner's consent.

17. Other Rights: The Customer agrees that Owner's delay, or failure to exercise any rights, does not prevent Owner from exercising them at a later time. If any part of this Agreement is found to be invalid, then it shall not invalidate any of the other parts and the agreement shall be modified to the minimum extent as permitted by law. The terms of this Agreement supersede any related Purchase order.

18. UCC-2A Provisions: Customer waives any and all rights and remedies granted to Customer under Sections 2A-508 through 2A-522 of the UCC and agrees that this Agreement, in the hands of Owner's assignee, is, or shall be treated as, an agreement of the type defined in Section 103(1)(g) of Article 2A of the UCC.

19. Entire Agreement: This Agreement represents the entire Agreement between Owner and the Customer regarding the financing of the System. Neither Owner nor the Customer will be bound by any amendment, waiver, or other change unless agreed to in writing and signed by both parties.

20. MISCELLANEOUS: Any change in any of the terms and conditions of this Agreement must be in writing and signed by Owner. Customer agrees, however, that Owner is authorized, without notice to Customer, to supply missing information or correct obvious errors in this Agreement. A fax or electronically transmitted version of Customer's signature on this Agreement when received by Owner shall be binding upon Customer as if originally signed. The parties agree that this Agreement and any related documents may be authenticated by electronic means. Customer agrees not to raise as a defense to the enforcement of this Agreement or any related documents that Customer executed or authenticated by electronic means. However, this Agreement shall be binding on Owner when signed by Owner. Both Customer and Owner agree that the version of this Agreement with Owner's original signature shall constitute the original authoritative version. Within 30 days after Owner's request, Customer will deliver all requested information (including tax returns) which Owner deems reasonably necessary to determine Customer's current financial condition and faithful performance of the terms hereof.

NON-APPROPRIATION ADDENDUM

This is an addendum ("Addendum") to and part of that certain agreement between UBEO, LLC ("we", "us", "our") and Schertz, City of ("Governmental Entity", "you", "your"), which agreement is identified in our records as agreement number 1816069 ("Agreement"). All capitalized terms used in this Addendum which are not defined herein shall have the meanings given to such terms in the Agreement.

APPLICABLE TO GOVERNMENTAL ENTITIES ONLY

You hereby represent and warrant to us that as of the date of the Agreement: (a) the individual who executed the Agreement had full power and authority to execute the Agreement on your behalf; (b) all required procedures necessary to make the Agreement a legal and binding obligation against you have been followed; (c) the Equipment will be operated and controlled by you and will be used for essential government purposes for the entire term of the Agreement; (d) that all payments due and payable for the current fiscal year are within the current budget and are within an available, unexhausted, and unencumbered appropriation; (e) you intend to pay all amounts payable under the terms of the Agreement when due, if funds are legally available to do so; (f) your obligations to remit amounts under the Agreement constitute a current expense and not a debt under applicable state law; (g) no provision of the Agreement constitutes a pledge of your tax or general revenues; and (h) you will comply with any applicable information reporting requirements of the tax code, which may include 8038-G or 8038-GC Information Returns. If funds are not appropriated to pay amounts due under the Agreement for any future fiscal period, you shall have the right to return the Equipment and terminate the Agreement on the last day of the fiscal period for which funds were available, without penalty or additional expense to you (other than the expense of returning the Equipment to the location designated by us), provided that at least thirty (30) days prior to the start of the fiscal period for which funds were not appropriated, your Chief Executive Officer (or Legal Counsel) delivers to us a certificate (or opinion) certifying that (a) you are a state or a fully constituted political subdivision or agency of the state in which you are located; (b) funds have not been appropriated for the applicable fiscal period to pay amounts due under the Agreement; (c) such non-appropriation did not result from any act or failure to act by you; and (d) you have exhausted all funds legally available for the payment of amounts due under the Agreement. You agree that this paragraph shall only apply if, and to the extent that, state law precludes you from entering into the Agreement if the Agreement constitutes a multi-year unconditional payment obligation. If and to the extent that the items financed under the Agreement is/are software, the above-referenced certificate shall also include certification that the software is no longer being used by you as of the termination date.

The undersigned, as a representative of the Governmental Entity, agrees that this Addendum is made a part of the Agreement.

GOVERNMENTAL ENTITY'S AUTHORIZED SIGNATURE

(As Stated Above)

X

SIGNATURE

PRINT NAME & TITLE

DATE

OUR SIGNATURE

UBEO of San Antonio

SIGNATURE

PRINT NAME & TITLE

DATE

GOVERNMENTAL CERTIFICATE

This certificate is to and part of that certain agreement between UBEO of San Antonio (“our”) and Schertz, City of (“Governmental Entity”), which agreement is identified in our records as agreement number 1816069 (“Agreement”). All capitalized terms used in this certificate which are not defined herein shall have the meanings given to such terms in the Agreement.

GOVERNMENTAL CERTIFICATE

I, THE UNDERSIGNED, HEREBY CERTIFY THAT, AS OF THE DATE OF THE AGREEMENT, (A) THE INDIVIDUAL WHO EXECUTED THE AGREEMENT HAD FULL POWER AND AUTHORITY TO EXECUTE THE AGREEMENT AND (B) THE REPRESENTATIONS SET FORTH IN THE AGREEMENT ARE TRUE AND ACCURATE IN ALL MATERIAL RESPECTS.

SIGNATURE:	<div>X</div>	NAME & TITLE:	DATE:
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[MFD & Printers](#)

[Unified Communications](#)

[Administrative Software Solutions](#)

[Contact](#)



[Contract # 030321-KON](#)

[Contract # 090320-KON](#)

[Contract # 022719-KON](#)

Contract #030321-KON

Multi-Function Copiers, Printers and Equipment Applicable to Scanned Data Management
Effective Dates: April 22, 2021 - April 19, 2025

&

Contract #022719-KON

Unified Communications and Related Services, Equipment and Applications
Effective Dates: April 11, 2019 - April 11, 2023

&

Contract #090320-KON

Public Sector and Education Administration Software Solutions with Related Services
Effective Dates: October 30, 2020 - November 2, 2024

Operating as a complete solution provider to Sourcewell, Konica Minolta will provide solutions in the areas of MFD's, Production Print Products and Services, IT Services, Enterprise Content Management, Document Workflow Solutions, Specialty Products such as 3D Printers, Wide Format and Scanners, Managed Print Services, Facilities Management, Work Smart Technology, and Interactive Classroom Technology. All our products and services are offered nationwide by more than 125 direct sales locations; and by approximately 350+ Konica Minolta authorized dealers.

At Konica Minolta, we are committed to helping you give shape to ideas that ultimately will help the people you serve. By combining the contract and marketing expertise of Sourcewell with our proven abilities, we expect to greatly increase the acceptance, utilization and sales of this contract throughout the country.



Schertz, City of
1400 Schertz Pkwy
Schertz, TX 78154

Maintenance and Supplies for the equipment listed below will be included in the new Ubeo contract for App# 1816069

The images made on the equipment listed below will be included with the image allowance and access images over allowance billing on the new Ubeo contract for App# 1816069

<u>EID</u>	<u>Model</u>	<u>Serial Number</u>
A11439	bizhub C658	A79J013007556
A11431	bizhub C658	A79J013006483
A11437	bizhub C658	A79J013007231
A11436	bizhub C658	A79J013007475
A11438	bizhub C658	A79J013007169
A11444	bizhub C558	A79K011019934
A11454	bizhub C558	A79K011019818
A11455	bizhub C558	A79K011019716

NAME: _____

Title: _____

Company: Schertz, City of

Date: _____

Manufacturer	Model	Replacement
Konica Minolta Copie	bizhub C550i	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KEEP
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	Lexmark XC4352
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KM C450i
Konica Minolta Copie	bizhub C558	KEEP
Konica Minolta Copie	bizhub C558	KEEP
Konica Minolta Copie	bizhub C558	KMC450i
Konica Minolta Copie	bizhub C558	KMC450i
Konica Minolta Copie	bizhub C558	KMC450i
Konica Minolta Copie	bizhub C558	KMC450i
Konica Minolta Copie	bizhub C658	Add encrypt board
Konica Minolta Copie	bizhub C658	Add encrypt board
Konica Minolta Copie	bizhub C658	Add encrypt board
Konica Minolta Copie	bizhub C658	Add encrypt board
Konica Minolta Copie	bizhub C658	Add encrypt board
Canon Printer	imagePROGRAF TX- 3000	HP T1600
Lexmark Copier	XC4140	Lexmark XC4352
Lexmark Copier	XC4140	Lexmark XC4352
Lexmark Copier	XC4140	Lexmark XC4352
Lexmark Copier	XC4140	Lexmark XC4352
Lexmark Copier	XC4140	Lexmark XC4352
Lexmark Copier	XC4140	Lexmark XC4352
Lexmark Copier	XC4140	Lexmark XC4352
Lexmark Copier	XC4140	Lexmark XC4352
Lexmark Copier	XC4140	Lexmark XC4352
Lexmark Copier	XC4150	Lexmark XC4352

Total Current Costs
Average Monthly Volume B/W

\$9,478.70
65,062

Average Monthly Volume Color

40,209

Proposed Total Cost

\$9,367.00

Includes 65,000 B/W per month

Includes 40,000 color per month

Overages at .0059 B/W and .049 Color

Serial	EID	Address
AA7P011003307	A13489	11 Commercial Pl Schertz TX 78154-3102
A79K011018007	A11426	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011018163	A11429	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011018018	A11428	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011019875	A11432	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011019873	A11433	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011019950	A11434	30 Commercial Pl Building 1 Schertz TX 78154-1634
A79K011019927	A11435	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011019841	A11440	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011019830	A11441	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011019805	A11443	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011019886	A11430	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011019934	A11444	798 Schertz Pkwy Schertz TX 78154-1954
A79K011017561	A11424	10 Commercial Pl Ste 1 Schertz TX 78154-3101
A79K011019865	A11449	10 Commercial Pl # 1 Schertz TX 78154-3101
A79K011019883	A11450	10 Commercial Pl # 1 Schertz TX 78154-3101
A79K011019814	A11451	10 Commercial Pl # 1 Schertz TX 78154-3101
A79K011019776	A11452	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011019818	A11454	798 Schertz Pkwy Schertz TX 78154-1954
A79K011019716	A11455	798 Schertz Pkwy Schertz TX 78154-1954
A79K011019755	A11442	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011018139	A11427	1400 Schertz Pkwy Schertz TX 78154-1634
A79K011019969	A11453	10 Commercial Pl # 1 Schertz TX 78154-3101
A79K011019763	A11480	800 Community Cir Schertz TX 78154-3103
A79J013007556	A11439	1400 Schertz Pkwy Schertz TX 78154-1634
A79J013006483	A11431	1400 Schertz Pkwy Schertz TX 78154-1634
A79J013007231	A11437	1400 Schertz Pkwy Schertz TX 78154-1634
A79J013007475	A11436	1400 Schertz Pkwy Schertz TX 78154-1634
A79J013007169	A11438	1400 Schertz Pkwy Schertz TX 78154-1634
AFMN00118	A11421	1400 Schertz Pkwy Schertz TX 78154-1634
75288450F36G1	A11446	1400 Schertz Pkwy Schertz TX 78154-1634
75288500F3F58	A11447	1400 Schertz Pkwy Schertz TX 78154-1634
75288450F36GC	A11448	1400 Schertz Pkwy Schertz TX 78154-1634
75288500F3FB4	A11461	1400 Schertz Pkwy Schertz TX 78154-1634
75288500F3FBL	A11460	1400 Schertz Pkwy Schertz TX 78154-1634
75288500F3F9D	A11459	2150 Universal City Blvd Universal City TX 78148-3443
75288500F3F8T	A11457	19085 IH 35 North City is New Braunfels/78132 Schertz TX 7
75288500F3F80	A11458	19085 IH 35 North City is New Braunfels/78132 Schertz TX 7
75288500F3F9M	A11490	104 E Huebinger St Marion TX 78124
75288500F3F8P	A11479	800 Community Cir Schertz TX 78154-3103
75288420F34BX	A11999	11917 Lower Seguin Rd Schertz TX 78154

Location
Engineering Department
Purchasing Risk Mgmt/Bldg 2
City Secretary-Gayle/Bldg 2
City Manager- Jackie/Bldg 2
Planning/Zoning-Lisa/ Bldg 1
GIS/IT- Tony/ Bldg 1
Community Center - Bldg 3
Public Affairs/Civic Center-Linda
Purchasing -Gary/ Bldg 9
EMS Business- Allison/Bldg 9
Police Records
Police/CID- Esther/Bldg 6
Library Printer/Coin Op-Melissa
Parks
Fleet
PW/Sign Shop. Last bay on left side of building
Public Works, Building 2
Human Resources/Bldg 2
Library Printer/Coin Op-Melissa
Library Printer/Coin Op-Melissa
Fire Rescue 1/Bldg 8
EDC-Patty/Bldg 2
Facilities - Judy
Animal Shelter
Finance/Bldg 2
Business office building 1
Municipal Court/Bldg 1
EMS Admin/Bldg 7
Police Dept/Bldg 6
Community Center - MaryBldg 3
Customer Relations/Bldg 2
FD Radio Rm/Bldg 8
EMS 1-Radio Rm/Bldg 7
PD/Chief/Bldg 6
PD Dispatch
EMS Universal City, station 2
EMS 2/Supply Room
Fire/Rescue 2
EMS
Animal Shelter
Schertz Fire Rescue

Serial Number Change

CITY COUNCIL MEMORANDUM

City Council Meeting: November 1, 2022
Department: Economic Development Corporation
Subject: Resolution No. 22-R-110 - A Resolution by the City Council of the City of Schertz, Texas authorizing an Economic Development Performance Agreement between the City of Schertz, City of Schertz Economic Development Corporation and 3009 OAC Investments, LLC. (M. Browne/ A. Perez)

BACKGROUND

3009 OAC Investments, LLC seeks to construct a 9,900 sq. ft. office building generally located near the southeast corner of Elbel Rd and Roy Richard Dr. The development will consist of \$3,000,000 in real property investment and create 1 full time job and 40-60 general contractor positions that will use the site as a base for remote work throughout the area.

The anchor tenant will be Coldwell Banker D'Ann Harper, REALTORS® is the leading residential real estate brokerage in the South Texas and San Antonio area with 9 offices and more than 425 Sales Agents serving the local communities. The company services roughly 7,500 square miles of the central Texas real estate market including the areas of Bandera, Boerne, Fredericksburg, Kerrville, Schertz, New Braunfels, San Antonio, San Marcos and Universal City.

The project was impacted by an unexpected cost of the extension of backbone power infrastructure across Roy Richard Dr. and the inability to secure concessions from the City of Schertz to provide power to the site via overhead power lines. Typically, to manage costs in support of this type of development, the City of Schertz may provide, on a case-by-case basis, the option of waiving the requirement to provide power to the site through undergrounding of utilities. Allowing developments to secure power through overhead lines lowers and balances costs in certain instances and when appropriate. However, this site was impacted by the inability to secure easements from the Schertz Seguin Local Government Corporation (SSLGC) and GVEC. These entities could not provide easements without impacting operational standards for access to their facilities, and so the City of Schertz could not provide any further assistance to manage the cost of the extension of utilities.

GVEC estimates the total cost for the provision of power, including the extension of backbone infrastructure, to be over \$108,000 for each of the two projects seeking to invest in a similar office development along Roy Richard Dr. This includes a GVEC credit of over \$5,000 for two years of projected usage. The companion development is RE Schertz, LLC. is impacted by the same challenges and constraints for an even smaller development. While the projects are being provided separate agreements, SEDC staff reviewed the project understanding this investment would enable both projects to proceed.

GOAL

Support the continued office/retail development along Roy Richard Dr. and secure the development of 9,900 sq. ft. office building through the provision of assistance to extend backbone electrical infrastructure through a partnership between the City of Schertz and the Schertz Economic Development Corporation.

COMMUNITY BENEFIT

Provision of electrical infrastructure necessary for new office/retail development along Roy Richard Dr. This action secures a 9,900 sq. ft. office building and new taxable value of approximately \$2,000,000.

SUMMARY OF RECOMMENDED ACTION

Approval of a Chapter 380 economic development performance agreement and a one-time SEDC Infrastructure Grant with a combined value of no more than \$50,000 over a period of up to 10 years to support continued retail/office development along Roy Richard Dr and secure a 9,900 sq ft office building.

FISCAL IMPACT

Over a ten-year period, the estimated revenue to the City of Schertz is projected at approximately \$99,000. With a total maximum grant value of \$50,000 over a ten-year period, this agreement will have an estimated net fiscal impact is \$49,000.

The City of Schertz will budget annually for the estimated annual grant of \$4,950 (up to \$25,000 over 10 years) from the General Fund. Additionally, SEDC will pay a reimbursement grant of up to \$25,000 from an allocation from the SEDC Reserve Fund.

RECOMMENDATION

Staff recommends approval of City Council of Resolution 22-R-110.

Attachments

Agreement OAC Investment
Resolution 22-R-110

ECONOMIC DEVELOPMENT AGREEMENT

STATE OF TEXAS

COUNTY OF GUADALUPE

THIS AGREEMENT ("Agreement") by and between the CITY OF SCHERTZ, TEXAS, a Texas municipal corporation (the "City"), the Schertz Economic Development Corporation, a Texas Non-profit Type B Development Corporation (hereinafter referred to as "SEDC") and 3009 OAC Investments, LLC, a Texas limited liability company, its successors or assigns ("Developer"), (City, SEDC and Developer collectively referred to as the "Parties" and sometimes individually as a "Party"), is entered into upon the "Effective Date," as more clearly defined herein.

WHEREAS, by Ordinance No. 12-T-15, the City established a City of Schertz Economic Development Incentives Policy under Chapter 380, Texas Local Government Code, as amended ("Chapter 380"), and under the Development Corporation Act, Texas Local Government Code Chapters 501 and 505, as amended (the "Development Corporation Act"), to promote economic development and to stimulate business and commercial activity in the City; and

WHEREAS, in accordance with Article III, Section 52-a of the Texas Constitution, and Section 380.001 of the Texas Local Government Code ("Section 380"), the City may establish and provide for the administration of a program for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the City; provided the program created or loan or grant made is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the City; and

WHEREAS, City and the SEDC are willing to participate in enhancing, expanding, and retaining businesses within the City that are qualified economic development prospects; and

WHEREAS, Developer owns approximately 1.3 acres of real property in the City, generally described as Lot 1, Block 1 of the Blackburn Subdivision, as depicted in the attached **Exhibit "A"** (the "Property"); and

WHEREAS, Developer intends to develop the Property primarily as a commercial/retail project consisting initially of an approximately 9,900 square foot office building (the "Project," as more fully shown in the Project Site Plan attached as **Exhibit "B"** that will require significant investment, including the construction of public improvements and infrastructure; and

WHEREAS, the Property currently has an assessed value of \$497,173.00, currently generates less than \$2,550 in annual ad valorem property taxes for the City, and currently generates no sales tax for the City; and

WHEREAS, the Developer expects a total investment of approximately \$3 million for the development of the Project; and

WHEREAS, upon completion of the Project, the Property may potentially have an appraised value of over \$2,000,000; and

WHEREAS, Developer shall create and maintain a minimum one (1) full-time job and 40-60 independent contractors equivalent jobs during the entire term of this Agreement; and,

WHEREAS, the Project includes significant public infrastructure improvements, such as the construction of public roads and other traffic improvements, the construction of water, sewer and other utility infrastructure, and the construction of drainage improvements; and

WHEREAS, Section 501.103 authorizes expenditures for certain infrastructure improvement projects that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises; and

WHEREAS, Section 501.158 of the Act requires an incentive agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, Section 501.073 of the Act requires the SEDC's authorizing unit to approve all programs and expenditures.

WHEREAS, the Parties agree that the provisions of this Agreement substantially advance a legitimate interest of the City and SEDC by providing public infrastructure, expanding the tax base of the City, increasing employment, and promoting economic development.

NOW, THEREFORE, for and in consideration of the promises and the mutual agreements set forth herein, the Parties hereby agree as follows:

ARTICLE I RECITALS

1. Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

ARTICLE II AUTHORITY AND TERM

1. Authority. The City's execution of this Agreement is authorized by the Texas Constitution, Chapter 380 of the Texas Local Government Code, the City Charter and through the appropriate approval by its governing body, and constitutes a valid and binding obligation of

the City. The SEDC's execution of this Agreement is authorized by Chapters 501 and 505 of the Texas Local Government Code and through the appropriate approval by its governing body and constitutes a valid and binding obligation of the SEDC. The Parties acknowledge that the Developer is acting in reliance upon the City's and SEDC's performance of their respective obligations under this Agreement in making the decision to commit substantial resources and money to the establishment of the Project.

2. Term. This Agreement shall become enforceable upon the Effective Date, hereinafter established, and shall continue until the Expiration Date (the "Term"), unless terminated sooner in accordance with Article VII. The "Expiration Date" shall mean the earlier of:

A. The City's fulfillment of all obligations and conditions herein and the reimbursement pursuant to the City Tax Reimbursement Grant and Public Infrastructure Grant of the Maximum Grant Amount to Developer; or

B. Ten (10) years from the last day of the First Full Grant Period.

3. Purpose. The purpose of this Agreement is to formalize the agreements between the City, SEDC and Developer for the granting of public funds in the form of Infrastructure Reimbursement Grants to assist with costs associated with Developer's Project and specifically state the covenants, representations of the Parties associated with Developer's commitment to abide by the terms of this Agreement which has been approved by the Parties as complying with the specific requirements of the state law. It is expressly agreed that this Agreement constitutes a single transaction. A failure to perform any obligation by the Developer may constitute a breach of the entire Agreement and terminate any further commitments (if any) by the City and SEDC unless an alternative penalty or remedy is provided for herein.

4. Administration of Agreement. Upon the Effective Date, the City and SEDC delegate the administration and oversight of this Agreement to the Executive Director of the SEDC. All current or future administration and reporting to the State of Texas associated with Chapter 380 of the Texas Local Government Code is delegated to the City of Schertz. Any proposed amendments to the Agreement shall require the approval of the Board of Directors of the SEDC and the City Council of the City of Schertz, Texas.

ARTICLE III DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed below. All undefined terms shall retain their usual and customary meaning as ascribed by common and ordinary usage.

"City Infrastructure Grant" shall mean the City's payment to a Developer reimbursing that Developer for 50% of ad valorem taxes paid to the City of Schertz on real property and personal property and attributed to the Project above the Base Year value.

“Bankruptcy” or “Insolvency” shall mean the dissolution or termination of a Party’s existence as a going business, insolvency, appointment of receiver for any party of such Party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Base Year Value” shall mean the value of the Property as of January 1, 2022.

“Certificate of Occupancy” shall mean the signed certificate issued by the City of Schertz Inspections Division granting the Developer the right to occupy the Facility and confirming that the entire work covered by the permit and plans are in place.

“Default” shall mean failure by any Party to timely and substantially comply with any performance requirement, duty, or covenant if uncured within sixty (60) days of receiving written notice from any other Party.

“Developer” shall mean 3009 OAC Investments, LLC, a Texas limited liability Developer, and/or its successors and assigns.

“Effective Date” shall mean the date in which the Agreement is effective, which is the date the Agreement is executed by all parties.

“First Full Grant Period” shall mean the period beginning on January 1 and ending on December 31 for the year following the year in which the Project receives a certificate of occupancy and begins operation.

“Force Majeure: shall mean any contingency or cause beyond the reasonable control of a party, including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government, or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of a party), fires, explosions, floods, strikes, slowdowns, or work stoppages. It shall not include reasonably foreseeable interruptions in the material supply chain.

“Full-Time Equivalent Employee” means an employee with a regular work schedule of at least 32 hours per week.

“Grant(s)” shall collectively mean the City Infrastructure Grant and/or SEDC Infrastructure Grant to be paid to Developer as set forth herein; subject, however, at all times to the Maximum Grant Amount (as defined below).

“Grant Period” shall mean each successive one (1) calendar year period, starting with the First Grant Period.

“Maximum Grant Amount” shall mean up to \$25,000.00 in City Infrastructure Grant and up to \$25,000.00 in SEDC Infrastructure Grant for a total of no more than \$50,000.

“Payment Request” shall mean a written request from Developer(s) to the Schertz Economic Development Corporation for payment of the applicable Grant for the applicable Grant Period.

“Project” shall mean the development of the Property and associated Public Infrastructure within or adjacent to the Property. The Project shall consist of a commercial/retail development consisting of approximately 9,900 square feet of office space and public and private infrastructure. The Project shall comply generally in shape and form with the Project Site Plan, attached hereto as **Exhibit “B.”**

“Property” shall mean the real property described in **Exhibit “A,”** upon which the Project, authorized by this Agreement, shall be constructed.

“Public Infrastructure” shall mean the improvements constructed by the Developer including, but not limited to, public roads, traffic improvements, utility infrastructure, drainage facilities, and other infrastructure as may be illustrated in the Project Site Plan, attached hereto as **Exhibit “B”.**

“State of Texas” shall mean the Office of the Texas Comptroller or its successor.

ARTICLE IV ECONOMIC DEVELOPMENT INCENTIVES AND CONDITIONS

The Public Infrastructure shall be constructed by Developer, at no expense to the City, and shall comply with the requirements of this Agreement and applicable ordinances rules and regulations, of the City. The Public Infrastructure, combined with the bringing of office development to Schertz, Texas, the increased tax revenue, and other benefits potentially created by the Project, are intended to provide a catalyst to the economy of the City in numerous ways. In exchange for construction of the Public Improvements and benefit conferred upon the City, City agrees to provide Developer with the economic development incentives, which under no circumstance shall exceed the Maximum Grant Amount, as outlined below.

1. **City Infrastructure Grant.** City shall provide a public infrastructure reimbursement grant in an amount up to \$25,000.00 for verified Developer public infrastructure expenditures within the Project. City Infrastructure Grant shall be paid on an annual basis in a maximum yearly amount of Fifty Percent (50%) of the annual ad valorem taxes paid to the City.
2. **SEDC Infrastructure Grant.** SEDC shall provide a public infrastructure reimbursement grant in an amount up to \$25,000.00 for verified Developer public infrastructure expenditures within the Project. Said Infrastructure Grant shall be paid within sixty (60) days after receipt of a copy of the Certificate of Occupancy.

3. The obligation of the City and SEDC to pay any Grants shall be conditioned upon Developer's continued compliance with and satisfaction of, in all material respects, each of the applicable conditions set forth in this Agreement and Table A.

Table A

Year Ending December	Jobs Required	Minimum Property Value Required	Potential Infrastructure Grant Payment as defined in Article IV	Annual Report Due
0 -2022				
1 - 2023			SEDC Infrastructure Grant	February 15, 2024
2- 2024	1	\$2,000,000	City Infrastructure Grant	February 15, 2025
3 - 2025	1	\$2,000,000	City Infrastructure Grant	February 15, 2026
4 - 2026	1	\$2,000,000	City Infrastructure Grant	February 15, 2027
5 – 2027	1	\$2,000,000	City Infrastructure Grant	February 15, 2028
6 – 2028	1	\$2,000,000	City Infrastructure Grant	February 15, 2029
7 - 2029	1	\$2,000,000	City Infrastructure Grant	February 15, 2030
8 - 2030	1	\$2,000,000	City Infrastructure Grant	February 15, 2031
9 – 2031	1	\$2,000,000	City Infrastructure Grant	February 15, 2032
City Infrastructure Grants are continued until the Maximum Grant Amount is reached or (10) years from the last day of the First Full Grant Period as described in Article II.				

4. Required Reporting

Annual Report. The Company shall submit an Annual Certification Report (an “Annual Report”) for the preceding Calendar Year to the Executive Director of the Corporation each year not later than February 15th. The Annual Report should substantially conform to the Form of Annual Certification Report attached as Exhibit A to this Agreement. The first Annual Report will be due February 15th, 2024.

5. Additional Reports, Information and Privacy.

(a) Upon written request by City, Developer shall within a reasonable time provide additional information reasonably necessary to determine if Developer is

in compliance with this Agreement. All information required by this Agreement shall be submitted to the City Manager at the address specified for giving notice in this Agreement.

(b) All information provided by Developer to City under the required reporting section shall be deemed confidential and shall not be provided to any person outside City government and shall not be subject to public inspection in accordance with the Texas Public Information Act, pursuant to section 552.110 of the Texas Government Code. In the event a request is made for such information, City will not disclose the information unless required to do so by the Attorney General of Texas.

(c) The payment of all indebtedness and obligations incurred by Developer in connection with the development and construction of the Facility and the operation of the Facility shall be solely the obligations of Developer. City shall not be obligated to pay any indebtedness or obligations of Developer.

(d) Developer is obligated to make timely payment of Developer-owned Real Property and Personal Property Taxes during the Term of this Agreement.

ARTICLE V COVENANTS AND DUTIES

1. Developer's Covenants and Duties. Developer makes the following covenants and warranties to the City and agrees to timely and fully perform such obligations and duties of this Agreement. Any false or substantially misleading statements by Developer contained herein or failure by Developer to timely and fully perform those obligations and duties of Developer within this Agreement shall be an act of Default by the Developer after notice and opportunity to cure as provided in this Agreement. Developer is responsible for complying with the conditions provided herein.

(a) Developer is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas during the Term of this Agreement.

(b) The execution of this Agreement has been duly authorized by Developer's authorized agent, and the individual signing this Agreement is empowered to execute such Agreement and bind the entity. Said authorization, signing, and binding effect is not in material contravention of any law, rule, regulation, or of the provisions of Developer's by-laws, or of any agreement or instrument to which Developer is a party to or by which it may be bound.

(c) Developer is not a party to any Bankruptcy proceedings currently pending or contemplated, and as of the date of Developer's execution of this

Agreement Developer has not been informed of any potential involuntary Bankruptcy proceedings.

(d) To its current, actual knowledge, Developer has acquired and maintained all necessary rights, licenses, permits, and authority to carry on its business in the City and will continue to use its best efforts to maintain all necessary rights, licenses, permits, and authority.

(e) Developer shall timely and fully comply with all of the terms and conditions of this Agreement in all material respects.

(f) Developer agrees to complete, or cause to be completed, the Public Improvements described herein at its sole cost and expense, except where otherwise noted herein. Developer also agrees to obtain or cause to be obtained, all necessary permits and approvals from City and/or all other governmental agencies having jurisdiction over the construction of such Public Improvements to the Property.

(g) Developer shall be responsible for paying, or causing to be paid, to City and all other governmental agencies the cost of all applicable permit fees and licenses required for construction of the portions of the Project for which Developer is responsible. Developer may develop in accordance with the ordinances, rules, and regulations of the City in effect as of the Effective Date, unless specified otherwise in this Agreement.

(h) The cost of the Public Improvements and all other improvement expenses associated with the Project shall be funded through the use of the Developer's own capital or through credit secured solely by that Developer. Developer may use any or part of the Property for which it has an ownership interest as collateral for the construction loan or loans as required for the financing of the Project; however, no property with a lien still attached may be offered to the City for dedication.

(i) In accordance with Texas Government Code Chapter 2264.051, Developer certifies that it, and all branches, divisions or departments of the Developer do not and will not knowingly employ an undocumented worker, as that term is defined in by Texas Government Code Chapter 2264.

(j) Developer shall pay, or cause to be paid, monthly rates and charges for all utilities (such as water, electricity, and sewer services) used by Developer in regard to the development of the Project.

6. City's and SEDC's Covenants and Duties.

(a) City Grant Payments. Notwithstanding any provision herein to the contrary, the City shall not be obligated to pay any amount that exceeds the

Maximum Grant Amount attributed to the City. Grant payments shall be made from sources contemplated by this Agreement over a period not to exceed the Expiration Date, subject to timely and full satisfaction of all applicable duties and terms within this Agreement. Further, City's obligations to pay Developer shall cease upon the earlier of: (1) payment in full of the Maximum Grant Amount; (2) reaching the Agreement's Expiration Date; or (3) Default by Developer.

(b) SEDC Grant Payments. Notwithstanding any provision herein to the contrary, the SEDC shall not be obligated to pay any amount that exceeds the Maximum Grant Amount attributed to the SEDC.

7. Substantial Compliance and Default. Failure by any Party to timely and substantially comply with any performance requirement, duty, or covenant shall be considered an act of "Default" by the failing Party if uncured within sixty (60) days of receiving written notice from any other Party, subject to Force Majeure. Developer may request relief from performance of any terms of this Agreement if Developer is prevented from compliance due to Force Majeure. To obtain relief based on Force Majeure, Developer(s) shall submit a written request for consent to the City, such consent not to be unreasonably withheld, delayed, or conditioned. Failure of Developer to timely and substantially cure a Default will give the City the right to terminate this Agreement as reasonably determined by the City Council of the City of Schertz, Texas.

(a) **Construction.** All Improvements constructed on or installed, including personal property, within the Facility required by this Agreement shall be completed within 730 days from the Effective Date, and failure to comply with this section shall cause the automatic termination of this Agreement without the need for any further action by City; and, City shall have no obligation to make any Grant Payments to Developer. Enforcement of this section is subject to Force Majeure. In the event of unforeseeable third-party delays, which are not Force Majeure, and upon a reasonable showing by Developer that it has in good faith commenced and is diligently pursuing the correction, removal, or abatement of such delays by using commercially reasonable efforts, the City of Schertz City Council may consent to and excuse any such delays.

(b) **Full Time Employees.** This section shall apply in any year that the number of Full-Time Equivalent Employees falls below the number required by this Agreement. The Grant Payments shall be prorated for each Year of the Agreement in which the Developer fails to maintain the required number of Employees for that year determined as follows:

(i) **Full-Time Employees.** Starting January 1, 2025, each year the number of actual Full-Time Employees reported by Developer shall be subtracted from the required number of Full-Time Employees and if the difference is a positive number the Maximum Grant Amount shall be reduced by multiplying the difference by \$5,000.00. As an example, in reporting year 2023 if the difference between the reported Full-Time

employees and required Full-Time employees is 1, the Maximum Grant Amount shall be reduced by \$5,000.00.

(c) **Reports and Information.** Developer's failure to timely and substantially comply with the reporting requirements of this Agreement shall be a default; and, City shall be under no obligation to make any Grant Payment until compliance with such reporting requirements.

(d) **Recapture.** In the event of Default by the Developer, the City and SEDC shall as the sole and exclusive remedy for Default hereunder, after providing Company notice and an opportunity to cure, have the right to discontinue all future Grant payments and recapture all amounts previously paid under this Agreement (as applicable, the "Recaptured Amount").

(i) The Recaptured Amount shall be paid by the Developer within one hundred eighty (180) days after the date Developer is notified by the City of such Default (the "Payment Date") provided said Default was not cured. In the event the Recaptured Amount is not repaid by the applicable Payment Date, the unpaid portion thereof shall accrue interest at the rate of two percent (2.00%) per annum from the Effective Date until paid in full.

ARTICLE VI TERMINATION

1. **Termination.** This Agreement shall terminate upon the earliest occurrence of any one or more of the following:

- (a) The written agreement of the Parties;
- (b) The Agreement's Expiration Date;
- (c) Default by Developer and termination by the City.

2. **Extension Beyond Term and Reimbursement.** In recognition of the fact that Grants are, by necessity, calculated and paid after taxes have been levied and paid to the City and, therefore, will always be paid in arrears, the Expiration Date of this Agreement will be extended until any and all Grants collected during the preceding year have been distributed by the City to Developer.

ARTICLE VII DISPUTE RESOLUTION

1. **Mediation.** If a dispute arises out of or relates to this Agreement or the breach thereof, the Parties in dispute shall first in good faith seek to resolve the dispute through negotiation between the upper management of each respective Party. If such dispute cannot be settled through negotiation, the Parties in dispute agree to try in good faith to settle the dispute by mediation under the Mediation Rules of the American Arbitration Association before resorting to

litigation, or some other dispute resolution procedure; provided that a Party may not invoke mediation unless it has provided the other Party in dispute with written notice of the dispute and has attempted in good faith to resolve such dispute through negotiation. The Parties in dispute shall notify the Party not in dispute of any scheduled mediation at least fourteen (14) days prior to the mediation. Notwithstanding the foregoing, any Party may seek immediate equitable relief, without attempting to settle a dispute through mediation, in any case where such Party is entitled to equitable relief by law, the terms of the Agreement, or otherwise. All costs of negotiation, mediation, and arbitration collectively known as alternate dispute resolution (“ADR”) shall be assessed equally between the City and the Party in dispute with each party bearing their own costs for attorneys’ fees, experts, and other costs of ADR and any ensuing litigation. Any Party not directly in dispute shall receive notice at least thirty days prior of any scheduled meditations and/or arbitrations.

2. During the Term of this Agreement, if Developer files and / or pursues an adversarial proceeding against the City or SEDC regarding this Agreement then, at the City’s and SEDC’s option, all access to the Grants to that Developer provided for hereunder may be deposited with a mutually acceptable escrow agent that will deposit such funds in an interest-bearing account until the resolution of such adversarial proceeding.

ARTICLE VIII MISCELLANEOUS

1. Binding Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. The Director of the Schertz Economic Development Corporation shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the City Council of the City of Schertz, Texas, on behalf of the City related thereto.

2. Mutual Assistance. City and Developer will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

3. Representations and Warranties. City represents and warrants to Developer that this Agreement is within their authority, and that they are duly authorized and empowered to enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction. Developer represent and warrant to the City that each individually has the requisite authority to enter into this Agreement.

Assignment. Developer shall have the right to assign all of their rights, duties, and obligations under this Agreement for all or some of the Property to a duly qualified third party upon approval by the City Council on behalf of the City. In addition, a Developer may assign its rights to receive payment under this Agreement to a lender, and upon receipt of such assignment in writing by the City, and the City’s further receipt of a written notice from such lender to pay such lender directly, the City will deliver amounts owing to such Developer hereunder to such lender (payable to such lender) until such time such lender authorizes otherwise in writing, and

City shall be entitled to rely on any such assignment, notice and/or authorization without investigation.

4. Independent Contractors.

(a) It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, Developer at no time will be acting as agents of the City or SEDC and that all consultants or contractors engaged by Developer respectively will be independent contractors of the Developer; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. The Parties hereto understand and agree that neither the City nor SEDC shall be liable for any claims that may be asserted by any third party occurring in connection with services performed by each Developer respectively under this Agreement, unless any such claims are due to the fault of the City or SEDC.

(b) By entering into this Agreement, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of sovereign or official immunity by the City with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.

(c) No employee of City, or any councilmember or agent of City, shall be personally responsible for any liability arising under or growing out of this Agreement; nor shall any board member of the SEDC.

5. Notice. Any notice required or permitted to be delivered hereunder shall be deemed delivered by actual delivery at the time of such delivery, facsimile with receipt confirmation at the time of transmission of such facsimile, or by depositing the same in the United States Mail, postage prepaid and certified with return receipt requested, at the time of such deposit, addressed to the Party at the address set forth below:

If intended for City: City of Schertz
Attention: City Manager
1400 Schertz Parkway
Schertz, TX 78154

If intended for SEDC: Schertz Economic Development Corporation
Attention: Exec. Dir. of Economic Development
1400 Schertz Parkway
Schertz, TX 78154

With a copy to:

Denton, Navarro, Rocha, Bernal, & Zech PC
Attention: T. Daniel Santee
2517 North Main Avenue
San Antonio, Texas 78212

If to Developer:

3009 OAC Investments, LLC
Attention: Nick Rispoli & Marlee Kutzer
18756 Stone Oak Pkwy Ste 102
San Antonio, TX 78258
nrispoli@cbharper.com & mkutzer@cbharper.com

With a copy to:

Langley & Banack
Attention: James Lowery
Address 745 E Mulberry Ave #700,
Address San Antonio, TX 78212

Any Party may designate a different address at any time upon written notice to the other Party.

6. Governmental Records. All invoices, records and other documents required for submission to the City pursuant to the terms of this Agreement are Governmental Records for the purposes of Texas Penal Code Section 37.10.

7. Governing Law. The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement shall be in Guadalupe County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

8. Amendment. This Agreement may be amended by mutual written agreement of the Parties, as approved by the City Council of the City of Schertz, Texas, and the SEDC Board of Directors.

9. Legal Construction. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

10. Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute,

whatever its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

11. Payment of Legal Fees. Developer commits to reimburse the City for the necessary legal fees and third-party consultant fees incurred by the City in the preparation of this Agreement and any amendment to this Agreement requested by Developer. Timely payment shall be made within 60 days of submittal of invoice to Developer by the City. Each Party shall bear its own attorney's fees in connection with any dispute resolution necessary under this Agreement.

12. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly approved amendments to this Agreement.

13. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

14. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

15. Exhibits. Any Exhibits attached hereto are incorporated by reference for all purposes.

16. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

17. Employment of Undocumented Workers. During the Term of this Agreement, each Developer agrees to not knowingly employ any undocumented workers, and, if convicted of a violation under 8 U.S.C. Section 1324a(1), that Developer shall be in Default and repay the amount of the Grants and any other funds received by that Developer from the City as of the date of such violation within one hundred twenty (120) days after the date the defaulting Developer is notified by the City of such violation, plus interest at the rate of six percent (6.00%) compounded annually from the date of the violation until paid in full. A Developer is not liable for an unknown violation of this Section by a subsidiary, affiliate, or franchisee of Developer or by a person with whom the Developer contracts, or the other Developer, provided however that identical federal law requirements provided for herein shall be included as part of any agreement or contract which each Developer enters into with any subsidiary, assignee, affiliate, or franchisee for which Grants provided herein will be used.

18. Indemnification. **DEVELOPER AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND SEDC, AND THEIR RESPECTIVE OFFICERS, AGENTS AND**

EMPLOYEES (COLLECTIVELY THE “CITY”) HARMLESS FROM AND AGAINST ANY AND ALL REASONABLE LIABILITIES, DAMAGES, CLAIMS, LAWSUITS, ADJUSTMENTS, ATTORNEY FEES, COSTS, EXPENSES AND ANY CAUSE OF ACTION THAT DIRECTLY RELATES TO THIS AGREEMENT, AS A RESULT OF ANY ACT OR OMISSION OR BREACH OR NON-PERFORMANCE BY SUCH DEVELOPER UNDER THIS AGREEMENT EXCEPT THAT THE INDEMNITY PROVIDED HEREIN SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE ACTION OR OMISSIONS OF THE CITY. DEVELOPER IS RESPONSIBLE FOR ITS OWN ACTS OR OMISSIONS UNDER THIS SECTION. THE PROVISIONS OF THIS SECTION 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.

19. Additional Instruments. City and Developer agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.

20. Estoppel Certificate. Any party hereto may request an estoppel certificate related to the Project (hereafter referred to as “Certificate”) from another party hereto so long as the Certificate is requested in connection with a bona fide business purpose. The Certificate may include, but is not limited to, statements that this Agreement is in full force and effect without default, information on Grants that have been issued and Grants that have been requested, and such other matters reasonably requested by the Party requesting the Certificate.

The remainder of this page intentionally remains blank and signature pages to follow:

Executed on this _____ day of _____ 2022.

CITY OF SCHERTZ, TEXAS

By: _____
City Manager

ATTEST:

By: _____
Interim City Secretary

APPROVED AS TO FORM:

By: _____
_____, City Attorney

Executed on this _____ day of _____ 2022.

**SCHERTZ ECONOMIC DEVELOPMENT
CORPORATION**

By: _____

ATTEST:

By: _____

Executed on this _____ day of _____, 2022

DEVELOPER

a Texas limited liability _____

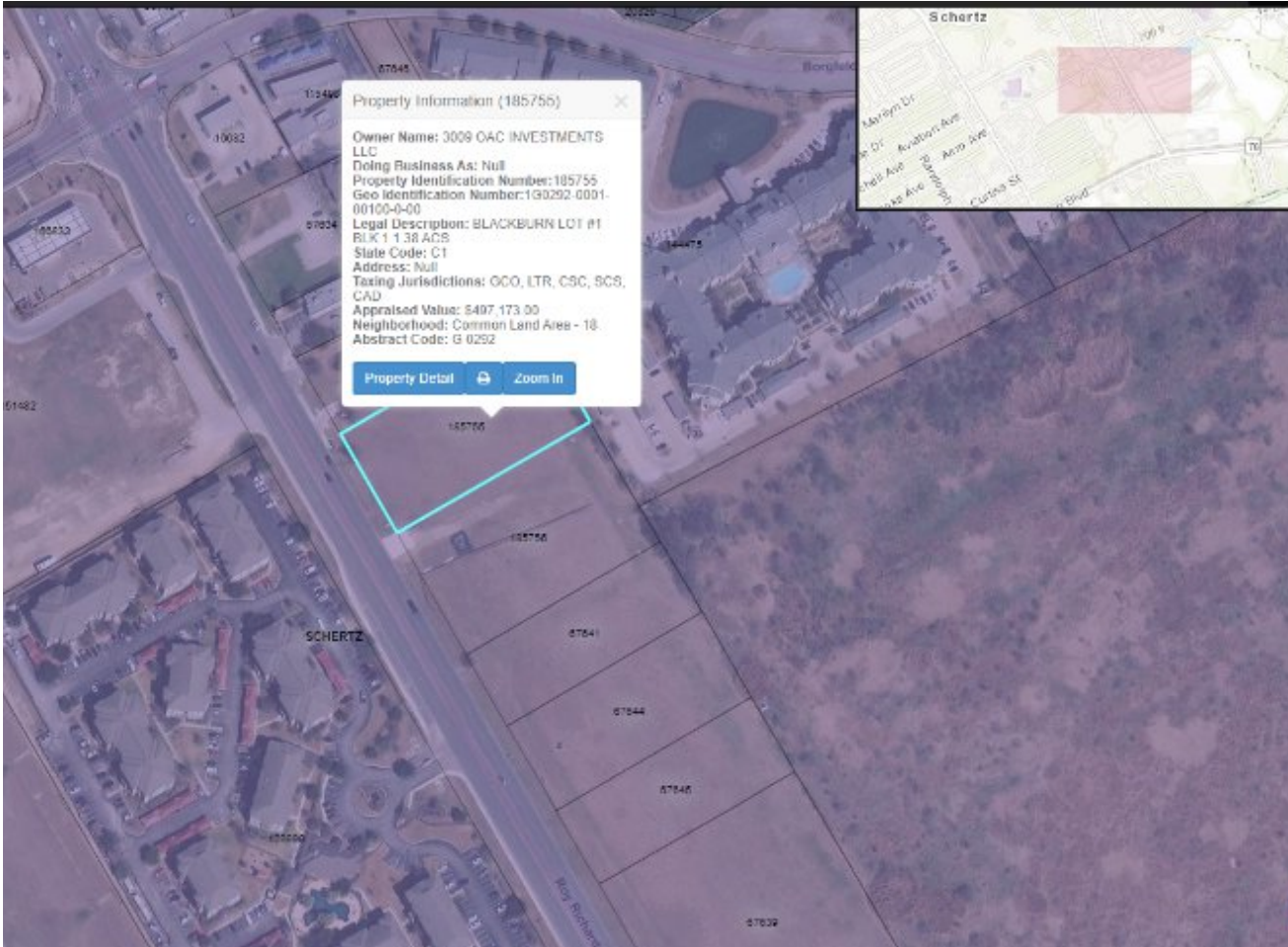
By: _____

Name: _____

Title: _____

EXHIBITS

Exhibit A: Property



RESOLUTION NO. 22-R-110

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT BETWEEN THE CITY OF SCHERTZ, CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION AND 3009 OAC INVESTMENTS, LLC; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Schertz Economic Development Corporation (“SEDC”) is a non-profit industrial development corporation duly established under the Development Corporation Act of 1979, as amended (Section 501.001 et seq. Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”);

WHEREAS, all of the powers of the corporation are vested in the SEDC Board of Directors (the “Board”) appointed by the governing body of the corporation’s authorizing unit; and

WHEREAS, the Act authorizes a development corporation to fund certain projects as defined by the Act and request development corporations enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

WHEREAS, by Ordinance No. 12-T-15, the City established a City of Schertz Economic Development Incentives Policy under Chapter 380, Texas Local Government Code, as amended (“Chapter 380”), and under the Development Corporation Act, Texas Local Government Code Chapters 501 and 505, as amended (the “Development Corporation Act”), to promote economic development and to stimulate business and commercial activity in the City; and

WHEREAS, in accordance with Article III, Section 52-a of the Texas Constitution, and Section 380.001 of the Texas Local Government Code ("Section 380"), the City may establish and provide for the administration of a program for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the City; provided the program created or loan or grant made is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the City; and

WHEREAS, City and the SEDC are willing to participate in enhancing, expanding, and retaining businesses within the City that are qualified economic development prospects; and

WHEREAS, Developer owns approximately 1.3 acres of real property in the City, generally described as Lot 1, Block 1 of the Blackburn Subdivision, as depicted in the attached **Exhibit “A”** (the “Property”); and

WHEREAS, Developer intends to develop the Property primarily as a commercial/retail project consisting initially of an approximately 9,900 square foot office building (the “Project,” as more fully shown in the Project Site Plan attached as **Exhibit “B”** that will require significant investment, including the construction of public improvements and infrastructure; and

WHEREAS, the Property currently has an assessed value of \$497,173.00, currently generates less than \$2,550 in annual ad valorem property taxes for the City, and currently generates no sales tax for the City; and

WHEREAS, the Developer expects a total investment of approximately \$3 million for the development of the Project; and

WHEREAS, upon completion of the Project, the Property may potentially have an appraised value of over \$2,000,000; and

WHEREAS, Developer shall create and maintain a minimum ten (10) full-time equivalent jobs during the entire term of this Agreement; and,

WHEREAS, the Project includes significant public infrastructure improvements, such as the construction of public roads and other traffic improvements, the construction of water, sewer and other utility infrastructure, and the construction of drainage improvements; and

WHEREAS, Section 501.103 authorizes expenditures for certain infrastructure improvement projects that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises; and

WHEREAS, Section 501.158 of the Act requires an incentive agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, Section 505.159 of the Act requires that a corporation hold at least one public hearing on the proposed project before spending money to undertake the project, the public hearing was held on August 25, 2022; and

WHEREAS, Section 501.073 of the Act requires the SEDC’s authorizing unit to approve all programs and expenditures.

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

Section 1. The City Council hereby approve the Economic Development Performance Agreement and the assistance approved by the City of Schertz Economic Development

Corporation hereto as Exhibit C and authorizes the City Manager to execute same, in substantially the same form as attached.

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 Board.

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 board 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 _____ day of _____, 2022.

CITY OF SCHERTZ TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Interim City Secretary

Exhibit A

Exhibit B

Exhibit C

CITY COUNCIL MEMORANDUM

City Council Meeting: November 1, 2022
Department: Economic Development Corporation
Subject: Resolution No. 22-R-111 - A Resolution by the City Council of the City of Schertz, Texas authorizing an Economic Development Performance Agreement between the City of Schertz, City of Schertz Economic Development Corporation and Schertz RE Company, LLC. (M. Browne/ A. Perez)

BACKGROUND

Schertz RE Company, LLC seeks to construct a 6,900 sq. ft. office building generally located near the southeast corner of Elbel Rd and Roy Richard Dr. The development will consist of \$2,500,000 in real property investment and create 10 full-time jobs.

The anchor tenant will be, HealthTexas Primary Care Doctors. For over twenty-five years HealthTexas has been providing primary care to families in San Antonio, Boerne, New Braunfels and Schertz. They were established in 1994 by a group of local primary care physicians who identified a need to combine their passion and skill to improve the health of their patients. Since then, HealthTexas has grown to include more than 65 healthcare providers in 18 primary care clinics in and around the San Antonio region.

The project was impacted by an unexpected cost of the extension of backbone power infrastructure across Roy Richard Dr. and the inability to secure concessions from the City of Schertz to provide power to the site via overhead power lines. Typically, to manage costs in support of this type of development, the City of Schertz may provide, on a case-by-case basis, the option of waiving the requirement to provide power to the site through undergrounding of utilities. Allowing developments to secure power through overhead lines lowers and balances costs in certain instances and when appropriate. However, this site was impacted by the inability to secure easements from the Schertz Seguin Local Government Corporation (SSLGC) and GVEC. These entities could not provide easements without impacting operational standards for access to their facilities, and so the City of Schertz could not provide any further assistance to manage the cost of the extension of utilities.

GVEC estimates the total cost for the provision of power, including the extension of backbone infrastructure, to be over \$108,000 for each of the two projects seeking to invest in a similar office development along Roy Richard Dr. This includes a GVEC credit of over \$5,000 for two years of projected usage. The companion development, 3009 OAC Investments, LLC, is impacted by the same challenges and constraints on their development. While the projects are being provided separate agreements, SEDC staff reviewed the project, understanding that this investment would enable both projects to proceed.

GOAL

Support the continued office/retail development along Roy Richard Dr. and secure the development of 6,900 sq. ft. office building through the provision of assistance to extend backbone electrical infrastructure through a partnership between the City of Schertz and the Schertz Economic Development Corporation.

COMMUNITY BENEFIT

Provision of electrical infrastructure necessary for new office/retail development along Roy Richard Dr. This action secures a 6,900 sq. ft. office building and new taxable value of approximately \$2,000,000.

SUMMARY OF RECOMMENDED ACTION

Approval of a Chapter 380 economic development performance agreement and a one-time SEDC Infrastructure Grant with a combined value of no more than \$50,000 over a period of up to 10 years to support continued retail/office development along Roy Richard Dr and secure a 6,900 sq ft office building.

FISCAL IMPACT

Over a ten-year period, the estimated revenue to the City of Schertz is projected at approximately \$99,000. With a total maximum grant value of up to \$50,000 over a ten-year period, the estimated fiscal impact of this agreement is \$49,000.

The City of Schertz will budget annually for the estimated annual grant of \$4,950 (up to \$25,000 over 10 years) from the General Fund. Additionally, SEDC will pay a reimbursement grant of up to \$25,000 from an allocation from the SEDC Reserve Fund.

RECOMMENDATION

Staff recommends that the City Council of Resolution 22-R-111.

Attachments

Agreement Schertz RE
Resolution 22-R-111

ECONOMIC DEVELOPMENT AGREEMENT

STATE OF TEXAS

COUNTY OF GUADALUPE

THIS AGREEMENT ("Agreement") by and between the CITY OF SCHERTZ, TEXAS, a Texas municipal corporation (the "City"), the Schertz Economic Development Corporation, a Texas Non-profit Type B Development Corporation (hereinafter referred to as "SEDC") and Schertz RE Company, LLC, a Texas limited liability company, its successors or assigns ("Developer"), (City, SEDC and Developer collectively referred to as the "Parties" and sometimes individually as a "Party"), is entered into upon the "Effective Date," as more clearly defined herein.

WHEREAS, by Ordinance No. 12-T-15, the City established a City of Schertz Economic Development Incentives Policy under Chapter 380, Texas Local Government Code, as amended ("Chapter 380"), and under the Development Corporation Act, Texas Local Government Code Chapters 501 and 505, as amended (the "Development Corporation Act"), to promote economic development and to stimulate business and commercial activity in the City; and

WHEREAS, in accordance with Article III, Section 52-a of the Texas Constitution, and Section 380.001 of the Texas Local Government Code ("Section 380"), the City may establish and provide for the administration of a program for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the City; provided the program created or loan or grant made is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the City; and

WHEREAS, City and the SEDC are willing to participate in enhancing, expanding, and retaining businesses within the City that are qualified economic development prospects; and

WHEREAS, Developer owns approximately 1.7 acres of real property in the City, generally described as Lot 2, Block 1 of the Blackburn Subdivision, as depicted in the attached **Exhibit "A"** (the "Property"); and

WHEREAS, Developer intends to develop the Property primarily as a commercial/retail project consisting initially of an approximately 6,900 square foot office building (the "Project," as more fully shown in the Project Site Plan attached as **Exhibit "B"** that will require significant investment, including the construction of public improvements and infrastructure; and

WHEREAS, the Property currently has an assessed value of \$558,041, currently generates less than \$2,850 in annual ad valorem property taxes for the City, and currently generates no sales tax for the City; and

WHEREAS, the Developer expects a total investment of approximately \$2.5 million for the development of the Project; and

WHEREAS, upon completion of the Project, the Property may potentially have an appraised value of over \$2,000,000; and

WHEREAS, Developer shall create and maintain a minimum ten (10) full-time equivalent jobs during the entire term of this Agreement; and,

WHEREAS, the Project includes significant public infrastructure improvements, such as the construction of public roads and other traffic improvements, the construction of water, sewer and other utility infrastructure, and the construction of drainage improvements; and

WHEREAS, Section 501.103 authorizes expenditures for certain infrastructure improvement projects that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises; and

WHEREAS, Section 501.158 of the Act requires an incentive agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, Section 501.073 of the Act requires the SEDC's authorizing unit to approve all programs and expenditures.

WHEREAS, the Parties agree that the provisions of this Agreement substantially advance a legitimate interest of the City and SEDC by providing public infrastructure, expanding the tax base of the City, increasing employment, and promoting economic development.

NOW, THEREFORE, for and in consideration of the promises and the mutual agreements set forth herein, the Parties hereby agree as follows:

ARTICLE I RECITALS

1. Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

ARTICLE II AUTHORITY AND TERM

1. Authority. The City's execution of this Agreement is authorized by the Texas Constitution, Chapter 380 of the Texas Local Government Code, the City Charter and through the appropriate approval by its governing body, and constitutes a valid and binding obligation of

the City. The SEDC's execution of this Agreement is authorized by Chapters 501 and 505 of the Texas Local Government Code and through the appropriate approval by its governing body, and constitutes a valid and binding obligation of the SEDC. The Parties acknowledge that the Developer is acting in reliance upon the City's and SEDC's performance of their respective obligations under this Agreement in making the decision to commit substantial resources and money to the establishment of the Project.

2. Term. This Agreement shall become enforceable upon the Effective Date, hereinafter established, and shall continue until the Expiration Date (the "Term"), unless terminated sooner in accordance with Article VII. The "Expiration Date" shall mean the earlier of:

A. The City's fulfillment of all obligations and conditions herein and the reimbursement pursuant to the City Infrastructure Grant and the SEDC Infrastructure Grant of the Maximum Grant Amount to Developer; or

B. Ten (10) years from the last day of the First Full Grant Period.

3. Purpose. The purpose of this Agreement is to formalize the agreements between the City, SEDC and Developer for the granting of public funds in the form of Infrastructure Reimbursement Grants to assist with costs associated with Developer's Project and specifically state the covenants, representations of the Parties associated with Developer's commitment to abide by the terms of this Agreement which has been approved by the Parties as complying with the specific requirements of the state law. It is expressly agreed that this Agreement constitutes a single transaction. A failure to perform any obligation by the Developer may constitute a breach of the entire Agreement and terminate any further commitments (if any) by the City and SEDC unless an alternative penalty or remedy is provided for herein.

4. Administration of Agreement. Upon the Effective Date, the City and SEDC delegate the administration and oversight of this Agreement to the Executive Director of the SEDC and any current or future reporting to the State of Texas required by Chapter 380 of the Texas Local Government Code to the City of Schertz. Any proposed amendments to the Agreement shall require the approval of the Board of Directors of the SEDC and the City Council of the City of Schertz, Texas.

ARTICLE III DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed below. All undefined terms shall retain their usual and customary meaning as ascribed by common and ordinary usage. The gender of the wording throughout this Agreement shall always be interpreted to mean either sex, and where the context requires, the plural of any word shall include the singular.

"Bankruptcy" or "Insolvency" shall mean the dissolution or termination of a Party's existence as a going business, insolvency, appointment of receiver for any party of such Party's property and such appointment is not terminated within ninety (90) days after such appointment

is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Base Year Value” shall mean the value of the Property as of January 1, 2022.

“Certificate of Occupancy” shall mean the signed certificate issued by the City of Schertz Inspections Division granting the Developer the right to occupy the Facility and confirming that the entire work covered by the permit and plans are in place.

“City Infrastructure Grant” shall mean the City’s payment to a Developer reimbursing that Developer for 50% of ad valorem taxes paid to the City of Schertz on real property and personal property and attributed to the Project above the Base Year value.

“Default” shall mean failure by any Party to timely and substantially comply with any performance requirement, duty, or covenant if uncured within sixty (60) days of receiving written notice from any other Party.

“Developer” shall mean Schertz RE Company, LLC, a Texas limited liability company, and/or its successors and assigns.

“Effective Date” shall mean the date in which the Agreement is effective, which is the date the Agreement is executed by all parties.

“First Full Grant Period” shall mean the period beginning on January 1 and ending on December 31 for the year following the year in which the Project receives a certificate of occupancy and begins operation.

“Force Majeure: shall mean any contingency or cause beyond the reasonable control of a party, including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government, or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of a party), fires, explosions, floods, strikes, slowdowns, or work stoppages. It shall not include reasonably foreseeable interruptions in the material supply chain.

“Full-Time Equivalent Employee” means an employee with a regular work schedule of at least 32 hours per week.

“Grant(s)” shall collectively mean the City Infrastructure Grant and/or SEDC Infrastructure to be paid to Developer as set forth herein; subject, however, at all times, to the Maximum Grant Amount (as defined below).

“Grant Period” shall mean each successive one (1) calendar year period, starting with the First Grant Period.

“Maximum Grant Amount” shall mean up to \$25,000.00 in City of Schertz Infrastructure Grant and up to \$25,000.00 in SEDC Infrastructure Grant for a total of no more than \$50,000.

“Payment Request” shall mean a written request from Developer(s) to the Schertz Economic Development Corporation for payment of the applicable Grant for the applicable Grant Period.

“Project” shall mean the development of the Property and associated Public Infrastructure within or adjacent to the Property. The Project shall consist of a commercial/retail development, consisting of approximately 6,900 square feet of office space and public and private infrastructure. The Project shall comply generally in shape and form with the Project Site Plan, attached hereto as **Exhibit “B.”**

“Property” shall mean the real property described in **Exhibit “A”**, upon which the Project, authorized by this Agreement, shall be constructed.

“Public Infrastructure” shall mean the improvements constructed by the Developer including, but not limited to, public roads, traffic improvements, utility infrastructure, drainage facilities, and other infrastructure as may be illustrated in the Project Site Plan, attached hereto as **Exhibit “B”**.

“State of Texas” shall mean the Office of the Texas Comptroller or its successor.

ARTICLE IV ECONOMIC DEVELOPMENT INCENTIVES AND CONDITIONS

The Public Infrastructure shall be constructed by Developer, at no expense to the City, and shall comply with the requirements of this Agreement and applicable ordinances rules and regulations, of the City. The Public Infrastructure, combined with the bringing of office development to Schertz, Texas, the increased tax revenue, and other benefits potentially created by the Project, are intended to provide a catalyst to the economy of the City in numerous ways. In exchange for construction of the Public Improvements and benefit conferred upon the City, City agrees to provide Developer with the economic development incentives, which under no circumstance shall exceed the Maximum Grant Amount, as outlined below.

1. City Infrastructure Grant.

City shall provide a public infrastructure reimbursement grant in an amount up to \$25,000.00 for verified Developer public infrastructure expenditures within the Project. City Infrastructure Grant shall be paid on an annual basis in a maximum yearly amount of Fifty Percent (50%) of the annual ad valorem taxes paid to the City.

2. SEDC Infrastructure Grant.

SEDC shall provide a public infrastructure reimbursement grant in an amount up to \$25,000.00 for verified Developer public infrastructure expenditures within the Project. Said Infrastructure Grant shall be paid within sixty (60) days after receipt of a copy of the Certificate of Occupancy.

3. The obligation of the City and SEDC to pay any Grants shall be conditioned upon Developer's continued compliance with and satisfaction of, in all material respects, each of the applicable conditions set forth in this Agreement and Table A.

Table A

Year Ending December	Jobs Required	Minimum Property Value Required	Potential Infrastructure Grant Payment as defined in Article IV	Annual Report Due
0 -2022				
1 - 2023			SEDC Infrastructure Grant	February 15, 2024
2- 2024	10	\$2,000,000	City Infrastructure Grant	February 15, 2025
3 - 2025	10	\$2,000,000	City Infrastructure Grant	February 15, 2026
4 - 2026	10	\$2,000,000	City Infrastructure Grant	February 15, 2027
5 – 2027	10	\$2,000,000	City Infrastructure Grant	February 15, 2028
6 – 2028	10	\$2,000,000	City Infrastructure Grant	February 15, 2029
7 - 2029	10	\$2,000,000	City Infrastructure Grant	February 15, 2030
8 - 2030	10	\$2,000,000	City Infrastructure Grant	February 15, 2031
9 – 2031	10	\$2,000,000	City Infrastructure Grant	February 15, 2032
City Infrastructure Grants are continued until the Maximum Grant Amount is reached or (10) years from the last day of the First Full Grant Period as described in Article II.				

4. Required Reporting

Annual Report. The Company shall submit an Annual Certification Report (an “Annual Report”) for the preceding Calendar Year to the Executive Director of the Corporation each year not later than February 15th. The Annual Report should substantially conform to the Form of Annual Certification Report attached as Exhibit C to this Agreement. The first Annual Report will be due February 15th, 2024.

5. Additional Reports, Information and Privacy.

(a) Upon written request by City, Developer shall within a reasonable time provide additional information reasonably necessary to determine if Developer is

in compliance with this Agreement. All information required by this Agreement shall be submitted to the City Manager at the address specified for giving notice in this Agreement.

(b) All information provided by Developer to City under the required reporting section shall be deemed confidential and shall not be provided to any person outside City government and shall not be subject to public inspection in accordance with the Texas Public Information Act, pursuant to section 552.110 of the Texas Government Code. In the event a request is made for such information, City will not disclose the information unless required to do so by the Attorney General of Texas.

(c) The payment of all indebtedness and obligations incurred by Developer in connection with the development and construction of the Facility and the operation of the Facility shall be solely the obligations of Developer. City shall not be obligated to pay any indebtedness or obligations of Developer.

(d) Developer is obligated to make timely payment of Developer-owned Real Property and Personal Property Taxes during the Term of this Agreement.

ARTICLE V COVENANTS AND DUTIES

1. Developer's Covenants and Duties. Developer makes the following covenants and warranties to the City and agrees to timely and fully perform such obligations and duties of this Agreement. Any false or substantially misleading statements by Developer contained herein or failure by Developer to timely and fully perform those obligations and duties of Developer within this Agreement shall be an act of Default by the Developer after notice and opportunity to cure as provided in this Agreement. Developer is responsible for complying with the conditions provided herein.

(a) Developer is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas during the Term of this Agreement.

(b) The execution of this Agreement has been duly authorized by Developer's authorized agent, and the individual signing this Agreement is empowered to execute such Agreement and bind the entity. Said authorization, signing, and binding effect is not in material contravention of any law, rule, regulation, or of the provisions of Developer's by-laws, or of any agreement or instrument to which Developer is a party to or by which it may be bound.

(c) Developer is not a party to any Bankruptcy proceedings currently pending or contemplated, and as of the date of Developer's execution of this

Agreement Developer has not been informed of any potential involuntary Bankruptcy proceedings.

(d) To its current, actual knowledge, Developer has acquired and maintained all necessary rights, licenses, permits, and authority to carry on its business in the City and will continue to use its best efforts to maintain all necessary rights, licenses, permits, and authority.

(e) Developer shall timely and fully comply with all of the terms and conditions of this Agreement in all material respects.

(f) Developer agrees to complete, or cause to be completed, the Public Improvements described herein at its sole cost and expense, except where otherwise noted herein. Developer also agrees to obtain or cause to be obtained, all necessary permits and approvals from City and/or all other governmental agencies having jurisdiction over the construction of such Public Improvements to the Property.

(g) Developer shall be responsible for paying, or causing to be paid, to City and all other governmental agencies the cost of all applicable permit fees and licenses required for construction of the portions of the Project for which Developer is responsible. Developer may develop in accordance with the ordinances, rules, and regulations of the City in effect as of the Effective Date, unless specified otherwise in this Agreement.

(h) The cost of the Public Improvements and all other improvement expenses associated with the Project shall be funded through the use of the Developer's own capital or through credit secured solely by that Developer. Developer may use any or part of the Property for which it has an ownership interest as collateral for the construction loan or loans as required for the financing of the Project; however, no property with a lien still attached may be offered to the City for dedication. In the event property is dedicated to the City with a lien attached, and the Developer does not cure such lien within the period prescribed in Section 3 of this Article, Developer shall be in breach of this Agreement.

(i) In accordance with Texas Government Code Chapter 2264.051, Developer certifies that it, and all branches, divisions or departments of the Developer do not and will not knowingly employ an undocumented worker, as that term is defined in by Texas Government Code Chapter 2264.

(j) Developer shall pay, or cause to be paid, monthly rates and charges for all utilities (such as water, electricity, and sewer services) used by Developer in regard to the development of the Project.

2. City's and SEDC's Covenants and Duties.

(a) City Grant Payments. Notwithstanding any provision herein to the contrary, the City shall not be obligated to pay any amount that exceeds the Maximum Grant Amount attributed to the City. Grant payments shall be made from sources contemplated by this Agreement over a period not to exceed the Expiration Date, subject to timely and full satisfaction of all applicable duties and terms within this Agreement. Further, City's obligations to pay Developer shall cease upon the earlier of: (1) payment in full of the Maximum Grant Amount; (2) reaching the Agreement's Expiration Date; or (3) Default by Developer.

(b) SEDC Grant Payments. Notwithstanding any provision herein to the contrary, the SEDC shall not be obligated to pay any amount that exceeds the Maximum Grant Amount attributed to the SEDC.

3. Substantial Compliance and Default. Failure by any Party to timely and substantially comply with any performance requirement, duty, or covenant shall be considered an act of "Default" by the failing Party if uncured within sixty (60) days of receiving written notice from any other Party, subject to Force Majeure. Developer may request relief from performance of any terms of this Agreement if Developer is prevented from compliance due to Force Majeure. To obtain relief based on Force Majeure, Developer(s) shall submit a written request for consent to the City, such consent not to be unreasonably withheld, delayed, or conditioned. Failure of Developer to timely and substantially cure a Default will give the City the right to terminate this Agreement as reasonably determined by the City Council of the City of Schertz, Texas.

(a) **Construction.** All Improvements constructed on or installed, including personal property, within the Facility required by this Agreement shall be completed within 548 days from the Effective Date, and failure to comply with this section shall cause the automatic termination of this Agreement without the need for any further action by City; and, City shall have no obligation to make any Grant Payments to Developer. Enforcement of this section is subject to Force Majeure. In the event of unforeseeable third-party delays, which are not Force Majeure, and upon a reasonable showing by Developer that it has in good faith commenced and is diligently pursuing the correction, removal, or abatement of such delays by using commercially reasonable efforts, the City of Schertz City Council may consent to and excuse any such delays.

(b) **Full Time Employees.** This section shall apply in any year that the number of Full-Time Equivalent Employees falls below the number required by this Agreement. The Grant Payments shall be prorated for each Year of the Agreement in which the Developer fails to maintain the required number of Employees for that year determined as follows:

(i) **Full-Time Employees.** Starting January 1, 2024, each year the number of actual Full-Time Employees reported by Developer shall be subtracted from the required number of Full-Time Employees and if the

difference is a positive number the Maximum Grant Amount shall be reduced by multiplying the difference by \$1,000.00. As an example, in reporting year 2023 if the difference between the reported Full-Time employees and required Full-Time employees is 3, the Maximum Grant Amount shall be reduced by \$3,000.00.

(c) Reports and Information. Developer's failure to timely and substantially comply with the reporting requirements of this Agreement shall be a default; and, City shall be under no obligation to make any Grant Payment until compliance with such reporting requirements.

(d) Recapture. In the event of Default by the Developer, the City and SEDC shall as its sole and exclusive remedy for Default hereunder, after providing Company notice and an opportunity to cure, have the right to discontinue all future Grant payments and recapture all amounts previously paid under this Agreement (as applicable, the "Recaptured Amount").

(i) The Recaptured Amount shall be paid by the Developer within one hundred eighty (180) days after the date Developer is notified by the City of such Default (the "Payment Date") provided said Default was not cured. In the event the Recaptured Amount is not repaid by the applicable Payment Date, the unpaid portion thereof shall accrue interest at the rate of two percent (2.00%) per annum from the Effective Date until paid in full.

ARTICLE VI TERMINATION

1. **Termination.** This Agreement shall terminate upon the earliest occurrence of any one or more of the following:

- (a) The written agreement of the Parties;
- (b) The Agreement's Expiration Date;
- (c) Default by Developer and termination by the City.

2. **Extension Beyond Term and Reimbursement.** In recognition of the fact that Grants are, by necessity, calculated and paid after taxes have been levied and paid to the City and, therefore, will always be paid in arrears, the Expiration Date of this Agreement will be extended until any and all Grants collected during the preceding year have been distributed by the City to Developer.

ARTICLE VIII DISPUTE RESOLUTION

1. Mediation. If a dispute arises out of or relates to this Agreement or the breach thereof, the Parties in dispute shall first in good faith seek to resolve the dispute through negotiation between the upper management of each respective Party. If such dispute cannot be settled through negotiation, the Parties in dispute agree to try in good faith to settle the dispute by mediation under the Mediation Rules of the American Arbitration Association before resorting to litigation, or some other dispute resolution procedure; provided that a Party may not invoke mediation unless it has provided the other Party in dispute with written notice of the dispute and has attempted in good faith to resolve such dispute through negotiation. The Parties in dispute shall notify the Party not in dispute of any scheduled mediation at least fourteen (14) days prior to the mediation. Notwithstanding the foregoing, any Party may seek immediate equitable relief, without attempting to settle a dispute through mediation, in any case where such Party is entitled to equitable relief by law, the terms of the Agreement, or otherwise. All costs of negotiation, mediation, and arbitration collectively known as alternate dispute resolution (“ADR”) shall be assessed equally between the City and the Party in dispute with each party bearing their own costs for attorneys’ fees, experts, and other costs of ADR and any ensuing litigation. Any Party not directly in dispute shall receive notice at least thirty days prior of any scheduled meditations and/or arbitrations.

2. During the Term of this Agreement, if Developer files and / or pursues an adversarial proceeding against the City regarding this Agreement then, at the City’s option, all access to the Grants to that Developer provided for hereunder may be deposited with a mutually acceptable escrow agent that will deposit such funds in an interest-bearing account until the resolution of such adversarial proceeding.

ARTICLE IX MISCELLANEOUS

1. Binding Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. The Director of the Schertz Economic Development Corporation shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the City Council of the City of Schertz, Texas, on behalf of the City related thereto.

2. Mutual Assistance. City and Developer will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

3. Representations and Warranties. City represents and warrants to Developer that this Agreement is within their authority, and that they are duly authorized and empowered to enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction. Developer represent and warrant to the City that each individually has the requisite authority to enter into this Agreement.

4. Assignment. Developer shall have the right to assign all of their rights, duties, and obligations under this Agreement for all or some of the Property to a duly qualified third party upon approval by the City Council on behalf of the City. In addition, a Developer may assign its rights to receive payment under this Agreement to a lender, and upon receipt of such assignment in writing by the City, and the City's further receipt of a written notice from such lender to pay such lender directly, the City will deliver amounts owing to such Developer hereunder to such lender (payable to such lender) until such time such lender authorizes otherwise in writing, and City shall be entitled to rely on any such assignment, notice and/or authorization without investigation.

5. Independent Contractors.

(a) It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, Developer at no time will be acting as agents of the City and that all consultants or contractors engaged by Developer respectively will be independent contractors of the Developer; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. The Parties hereto understand and agree that City will not be liable for any claims that may be asserted by any third party occurring in connection with services performed by each Developer respectively under this Agreement, unless any such claims are due to the fault of the City.

(b) By entering into this Agreement, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of sovereign or official immunity by the City with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.

(c) No employee of City, or any councilmember or agent of City, shall be personally responsible for any liability arising under or growing out of this Agreement; nor shall any board member of the SEDC

6. Notice. Any notice required or permitted to be delivered hereunder shall be deemed delivered by actual delivery at the time of such delivery, facsimile with receipt confirmation at the time of transmission of such facsimile, or by depositing the same in the United States Mail, postage prepaid and certified with return receipt requested, at the time of such deposit, addressed to the Party at the address set forth below:

If intended for City: City of Schertz
Attention: City Manager
1400 Schertz Parkway
Schertz, TX 78154

If intended for SEDC: Schertz Economic Development Corporation
Attention: Exec. Dir. of Economic Development
1400 Schertz Parkway
Schertz, TX 78154

With a copy to:
Denton, Navarro, Rocha, Bernal, & Zech PC
Attention: T. Daniel Santee
2517 North Main Avenue
San Antonio, Texas 78212

If to Developer: Health Texas Medical Group of San Antonio
Attention: Jeannine Ruffner
2961 Mossrock
San Antonio, TX 78230

With a copy to:
Legal Counsel. Husch Blackwell
Attention: Hal Katz
111 Congress Ave. Suite 1400
Austin, TX 78701

Any Party may designate a different address at any time upon written notice to the other Party.

7. Governmental Records. All invoices, records and other documents required for submission to the City pursuant to the terms of this Agreement are Governmental Records for the purposes of Texas Penal Code Section 37.10.

8. Governing Law. The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement shall be in Guadalupe County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

9. Amendment. This Agreement may be amended by mutual written agreement of the Parties, as approved by the City Council of the City of Schertz, Texas, and the SEDC Board of Directors.

10. Legal Construction. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal,

valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

11. Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, whatever its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

12. Payment of Legal Fees. Developer commits to reimburse the City for the necessary legal fees and third-party consultant fees incurred by the City in the preparation of this Agreement and any amendment to this Agreement requested by Developer. Timely payment shall be made within 60 days of submittal of invoice to Developer by the City. Each Party shall bear its own attorney's fees in connection with any dispute resolution necessary under this Agreement.

13. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly approved amendments to this Agreement, as approved by the City Council of the City of Caldwell, Texas.

14. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

15. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

16. Exhibits. Any Exhibits attached hereto are incorporated by reference for all purposes.

17. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

18. Employment of Undocumented Workers. During the Term of this Agreement, each Developer agrees to not knowingly employ any undocumented workers, and, if convicted of a violation under 8 U.S.C. Section 1324a(1), that Developer shall be in Default and repay the amount of the Grants and any other funds received by that Developer from the City as of the date of such violation within one hundred twenty (120) days after the date the defaulting Developer is notified by the City of such violation, plus interest at the rate of six percent (6.00%) compounded annually from the date of the violation until paid in full. A Developer is not liable for an unknown violation of this Section by a subsidiary, affiliate, or franchisee of Developer or by a person with whom the Developer contracts, or the other Developer, provided however that

identical federal law requirements provided for herein shall be included as part of any agreement or contract which each Developer enters into with any subsidiary, assignee, affiliate, or franchisee for which Grants provided herein will be used.

19. Indemnification. **DEVELOPER AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND SEDC, AND THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY THE “CITY”) HARMLESS FROM AND AGAINST ANY AND ALL REASONABLE LIABILITIES, DAMAGES, CLAIMS, LAWSUITS, ADJUSTMENTS, ATTORNEY FEES, COSTS, EXPENSES AND ANY CAUSE OF ACTION THAT DIRECTLY RELATES TO THIS AGREEMENT, AS A RESULT OF ANY ACT OR OMISSION OR BREACH OR NON-PERFORMANCE BY SUCH DEVELOPER UNDER THIS AGREEMENT EXCEPT THAT THE INDEMNITY PROVIDED HEREIN SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE ACTION OR OMISSIONS OF THE CITY. DEVELOPER IS RESPONSIBLE FOR ITS OWN ACTS OR OMISSIONS UNDER THIS SECTION. THE PROVISIONS OF THIS SECTION 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.**

20. Additional Instruments. City and Developer agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.

21. Estoppel Certificate. Any party hereto may request an estoppel certificate related to the Project (hereafter referred to as “Certificate”) from another party hereto so long as the Certificate is requested in connection with a bona fide business purpose. The Certificate may include, but is not limited to, statements that this Agreement is in full force and effect without default, information on Grants that have been issued and Grants that have been requested, and such other matters reasonably requested by the Party requesting the Certificate.

The remainder of this page intentionally remains blank and signature pages to follow:

Executed on this _____ day of _____ 2022.

CITY OF SCHERTZ, TEXAS

By: _____
_____ City Manager

ATTEST:

By: _____
Interim City Secretary

APPROVED AS TO FORM:

By: _____
_____, City Attorney

Executed on this _____ day of _____ 2022.

**SCHERTZ ECONOMIC DEVELOPMENT
CORPORATION**

By: _____

ATTEST:

By: _____

Executed on this _____ day of _____, 2022

SCHERTZ RE CO., LLC
a Texas limited liability _____

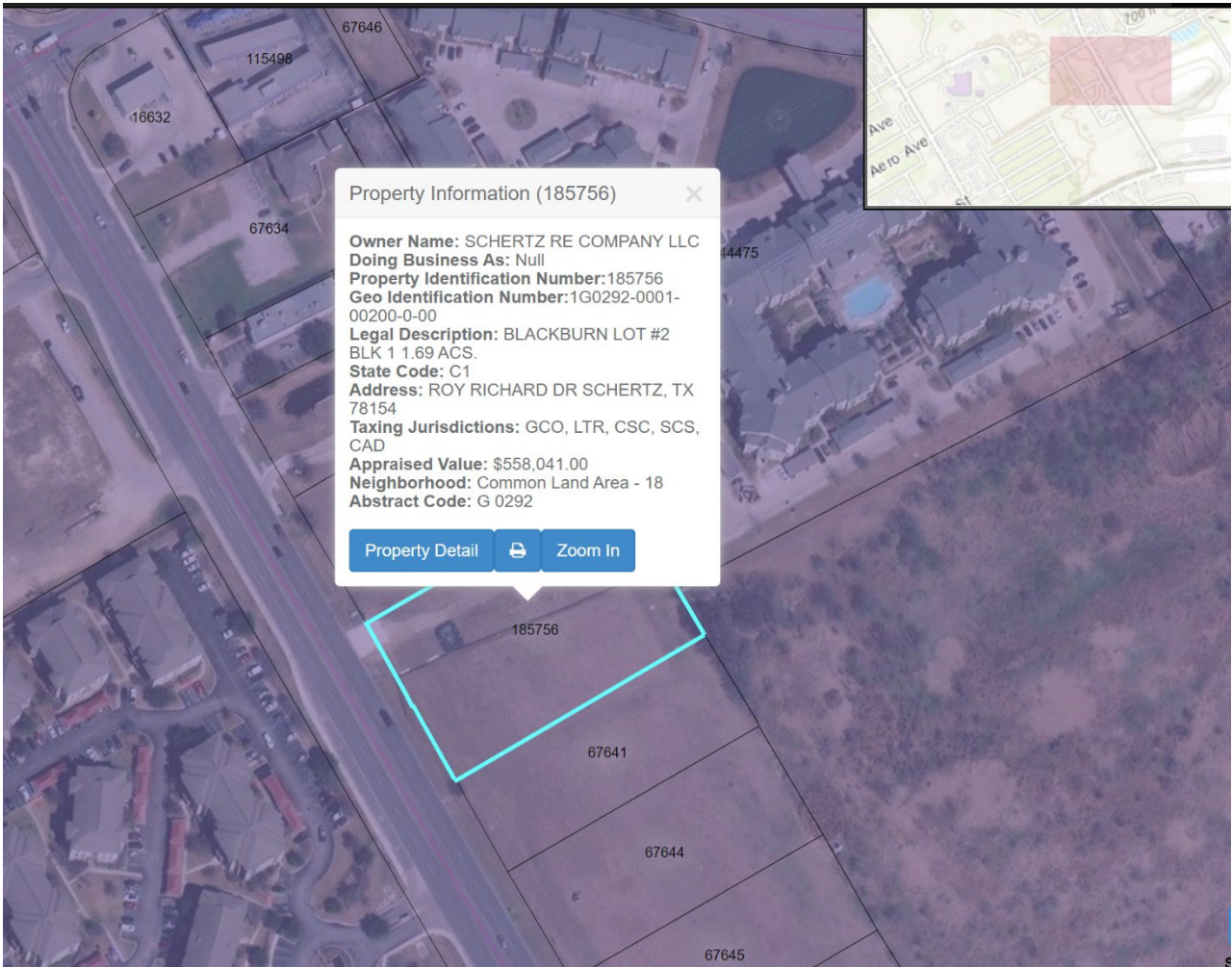
By: _____

Name: _____

Title: _____

EXHIBITS

Exhibit “A” Property



Project Site Plan

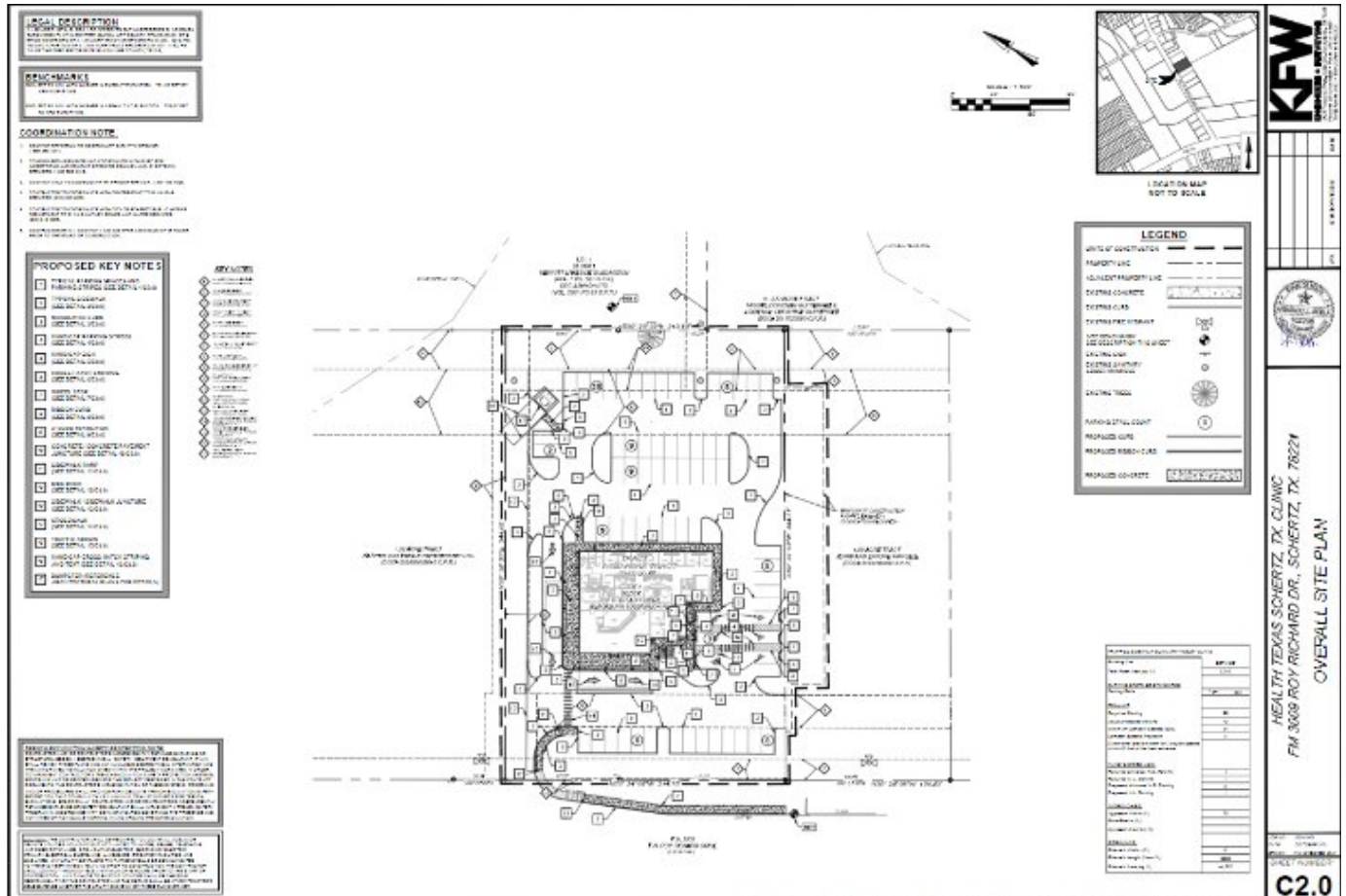


Exhibit C

SAMPLE ANNUAL CERTIFICATION REPORT FORM

[SEE ATTACHED]

Annual Certification Report

Reporting Period: January 1 to December 31, 202X

The Annual Certification Report for the Economic Development Incentive Agreement between the City of Schertz Economic Development Corporation and ENTER COMPANY NAME HERE, is due on **February 15, 202X**. Please sign and return the Annual Certification Report form with accompanying narrative.

I. Project Information

Company's legal name: _____

Project address subject to incentive: _____

Company primary contact: _____ Title: _____

Phone number: _____ E-mail address: _____

II. Reporting Information

Employment and Wage Information:

Has the Company employed undocumented workers? ☐ Yes ☐ No

What is the total number of Full-time Employees located at the Schertz facility during the calendar year? _____

Investment Information:

What is the 20__ appraised ad valorem tax value for Real Property? _____

Narrative:

A brief narrative explaining the current year's activities and/or any potential defaults has been provided? ☐ Yes ☐ No

IV. Certification

I certify that, to the best of my knowledge and belief, the information and attachments provided herein are true and accurate and in compliance with the terms of Economic Development Incentive Agreement. I further certify that the representations and warranties contained within the Agreement remain true and correct as of the date of this Certification and ENTER COMPANY NAME HERE remakes those representations and warranties as of the date hereof. I further certify that the employment and wage information provided is true and accurate to the best of my knowledge and I can provide documentation from the Texas Workforce Commission to support my claim if so requested. I understand that this Certificate is being relied upon by the SEDC in connection with the expenditure of public funds. I have the legal and express authority to sign this Certificate on behalf of Schertz RE Company, LLC

Name of Certifying Officer

Certifying Officer's Title

Phone Number

E-Mail Address

Signature of Certifying Officer

Date

STATE OF TEXAS X
COUNTY OF GUADALUPE X

This information was acknowledged before me on this _____ day of _____, _____ by [first and last name], [title] for Schertz Re Company, LLC, a Texas limited liability company, on behalf of said agency.

The Annual Certification Report is to be completed, signed and returned on or before February 15, 202x.
Please send an original to the following address:

Attention: Executive Director

**City of Schertz Economic Development Corporation
1400 Schertz Parkway, Bldg. No. 2
Schertz, TX 78154**

RESOLUTION NO. 22-R-111

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT BETWEEN THE CITY OF SCHERTZ, CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION AND SCHERTZ RE COMPANY, LLC; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Schertz Economic Development Corporation (“SEDC”) is a non-profit industrial development corporation duly established under the Development Corporation Act of 1979, as amended (Section 501.001 et seq. Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”);

WHEREAS, all of the powers of the corporation are vested in the SEDC Board of Directors (the “Board”) appointed by the governing body of the corporation’s authorizing unit; and

WHEREAS, the Act authorizes a development corporation to fund certain projects as defined by the Act and request development corporations enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

WHEREAS, by Ordinance No. 12-T-15, the City established a City of Schertz Economic Development Incentives Policy under Chapter 380, Texas Local Government Code, as amended (“Chapter 380”), and under the Development Corporation Act, Texas Local Government Code Chapters 501 and 505, as amended (the “Development Corporation Act”), to promote economic development and to stimulate business and commercial activity in the City; and

WHEREAS, in accordance with Article III, Section 52-a of the Texas Constitution, and Section 380.001 of the Texas Local Government Code ("Section 380"), the City may establish and provide for the administration of a program for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the City; provided the program created or loan or grant made is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the City; and

WHEREAS, Schertz RE Company, LLC (“Company”) owns approximately 1.7 acres of real property in the City, generally described as Lot 2, Block 1 of the Blackburn Subdivision, as depicted in the attached **Exhibit “A”** (the “Property”); and

WHEREAS, Developer intends to develop the Property primarily as a commercial/retail project consisting initially of an approximately 6,900 square foot office building (the “Project,” as more fully shown in the Project Site Plan attached as **Exhibit “B”** that will require significant investment, including the construction of public improvements and infrastructure; and

WHEREAS, the Property currently has an assessed value of \$558,041, currently generates less than \$2,850 in annual ad valorem property taxes for the City, and currently generates no sales tax for the City; and

WHEREAS, the Developer expects a total investment of approximately \$2.5 million for the development of the Project; and

WHEREAS, upon completion of the Project, the Property may potentially have an appraised value of over \$2,000,000; and

WHEREAS, Developer shall create and maintain a minimum of ten (10) full-time equivalent during the entire term of this Agreement; and

WHEREAS, the Project includes significant public infrastructure improvements, such as the construction of public roads and other traffic improvements, the construction of water, sewer and other utility infrastructure, and the construction of drainage improvements; and

WHEREAS, Section 501.103 authorizes expenditures for certain infrastructure improvement projects that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises; and

WHEREAS, Section 501.158 of the Act requires an incentive agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, Section 505.159 of the Act requires that a corporation hold at least one public hearing on the proposed project before spending money to undertake the project, the public hearing will be held on August 25, 2022; and

WHEREAS, Section 501.073 of the Act requires the SEDC's authorizing unit to approve all programs and expenditures; and

WHEREAS, the Parties agree that the provisions of this Agreement substantially advance a legitimate interest of the City and SEDC by providing public infrastructure, expanding the tax base of the City, increasing employment, and promoting economic development.

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

Section 1. The City Council hereby approve the Economic Development Performance Agreement and the assistance approved by the City of Schertz Economic Development

Corporation hereto as Exhibit C and authorizes the City Manager to execute same, in substantially the same form as attached.

Section 2. The Board hereby recommends the City Council for the City of Schertz consider approving a Resolution authorizing the expenditures contemplated herein for the reasons stated in the foregoing recitals.

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 Resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

Section 4. 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 5. This Resolution 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 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 board hereby declares that this Resolution would have been enacted without such invalid provision.

Section 7. 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 8. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this _____ day of _____, 2022.

CITY OF SCHERTZ TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Interim City Secretary

Exhibit A

Exhibit B

Exhibit C

CITY COUNCIL MEMORANDUM

City Council Meeting: November 1, 2022
Department: Economic Development Corporation
Subject: Resolution No. 22-R-104 - A Resolution by the City Council of the City of Schertz, Texas authorizing an Economic Development Performance Agreement between the City of Schertz, City of Schertz Economic Development Corporation and Schertz Medical Building, LLC. (M. Browne/ A. Perez)

BACKGROUND

The Schertz Medical Building is constructing and operating a medical office building with an ambulatory surgical center located at 17766 Verde Parkway. The project consists of a 50,000,000 sq ft, two-story medical office building supporting no less than 20 new full-time jobs, resulting in a capital investment of over \$9,000,000.

The anchor tenant will be an ambulatory surgical center operated by United Surgical Partners International (USPI) and a group of physician investors. USPI operates the largest ambulatory platform in the country and is a subsidiary of Tenet Healthcare, parent company of Baptist Health System. The group will have three operating rooms and one procedure room, and will focus initially on musculoskeletal surgeries, expanding to additional surgical specialties over time.

In July of 2021, the Schertz Economic Development Corporation Board of Directors approved an initial economic development performance agreement with the project to fund up to \$30,000 for a culvert to provide access to the rear of the property. The project proceeded with construction, however, at the request of the developer, the SEDC held the project to confirm no amendments were needed in response to the developer communicating there may potentially no longer be a need for the culvert. In the course of the project development, the developer requested assistance with unexpected costs around the extension of power and wastewater infrastructure as well as costs driven by updates to roadway impact fees not forecasted as part of the development.

In August 2022, the SEDC Board of Directors voted to convert the original agreement to a reimbursement for investments in wastewater and power infrastructure as outlined in the agreement up to the same amount as was previously approved (\$30,000). This action honored the original agreement amount that helped to support initiation of the project. Additionally, the substantial positive next fiscal impact of the project supported advancing the project for funding from the SEDC Reserve Fund.

In summary, this project represents an exception to incentive policy guidelines in support of an exceptional medical office project. Generally, projects are not funded if the project has begun construction. The project has begun construction, and the SEDC has agreed to convert the use of dollars approved by the SEDC Board in July 2021 from a culvert reimbursement for uses associated with power and wastewater. This flexibility is being provided in response to new operational standards associated with overhead power lines enacted in the past year and a half impacting developments that were ongoing in the industrial park as well as increases in roadway impact fees.

GOAL

To grow the Schertz economy through Projects that focus on the creation/retention of Primary Jobs and Infrastructure Improvements and/or support the Quality of Life for residents of the City of Schertz through access to more and better healthcare options.

COMMUNITY BENEFIT

This Performance Agreement supports development of 50,000 square foot of surgical/office space and a capital investment of \$9,784,585 and up to 20 full time jobs. The City of Schertz will enjoy a greater level of medical services, additional tax revenue, and continued momentum of diversified office space development.

SUMMARY OF RECOMMENDED ACTION

Approval of funding for a Schertz Economic Development Performance Agreement providing for an infrastructure reimbursement grant for qualifying costs up to \$30,000 in support of a 50,000 sq ft, two-story medical office building located at 17766 Verde Parkway.

FISCAL IMPACT

Over a ten-year period, the estimated revenue to the City of Schertz is projected at approximately \$297,000. With a total maximum reimbursement value of \$30,000, this agreement will have an estimated fiscal impact of \$260,000. The Schertz Economic Development Corporation (SEDC) will pay a reimbursement grant of up to \$30,000 from an allocation from the SEDC Reserve Fund.

RECOMMENDATION

Staff recommends approval of Resolution 22-R-104.

Attachments

Agreement Schertz Medical Bldg
SEDC Resolution 2022-11
Resolution No. 22-R-104

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

Schertz Medical Building LLC.

This Economic Development Incentive Agreement ("Agreement") is entered into to be effective as of _____, 2022 by and between the Schertz Economic Development Corporation, located in Guadalupe County, Texas (hereinafter called "Corporation"), a Texas non-profit industrial development corporation under the Development Corporation Act and governed by TEX. LOC. GOV. CODE chapters 501, 502 and 505 and the Texas Non-Profit Corporation Act and Schertz Medical Building, LLC, a limited liability company authorized to do business in Texas (hereinafter called "Company"), otherwise known as the "Parties" to this Agreement.

RECITALS

WHEREAS, the Development Corporation Act of 1979, as amended (Section 501.001 et seq, Texas Local Government Code, formerly the Development Corporation Act of 1979) (the "Act") authorizes a development corporation to fund certain projects as defined by the Act and requires development corporations to enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

WHEREAS, Section 501.158 of the Act requires an incentive agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, Company desires to construct and operate a medical office building with an ambulatory surgical center that would be located at 17766 Verde Parkway, Schertz, Guadalupe County, Texas 78154; and

WHEREAS, Company's Project is expected to result in the creation of 20 new full-time jobs while the project will directly involve a capital investment of \$9,784,585 for land, and construction of the minimum of a 50,000 square foot, two-story Facility; and

WHEREAS, Corporation intends to provide an Infrastructure Reimbursement Grant of not more than \$30,000.00 for qualifying costs, payable upon Company receiving a Certificate of Occupancy for the new Facility and written approval from the City of Schertz regarding completion of construction of improvement depicted and situated as represented in Attachment A and any other documentation required by the terms of this Agreement; and

WHEREAS, the location of the Company's new medical facility, as proposed, will increase available medical office space in Schertz as well as provide greater access and traffic flow in the immediate area of the facility while also creating new jobs and increased employment, promoting and developing expanded business enterprises, increased development, increased real property value and tax revenue for the City of Schertz, and will have both a direct and indirect positive overall improvement/stimulus in the local and state economy;

WHEREAS, the Corporation desires to offer incentives to Company to enable Company to construct its Facility and expand the workforce pursuant to this Agreement in substantial conformity with the City of Schertz Economic Development Incentive Policy and the Act; and

WHEREAS, the Parties are executing and entering into this Agreement to set forth certain terms and obligations of the Parties with respect to such matters; and

WHEREAS, the Parties recognize that all agreements of the Parties hereto and all terms and provisions hereof are subject to the laws of the State of Texas and all rules, regulations and interpretations of any agency or subdivision thereof at any time governing the subject matters hereof; and

WHEREAS, the Parties agree that all conditions precedent for this Agreement to become a binding agreement have occurred and been complied with, including all requirements pursuant to the Texas Open Meetings Act and all public notices and hearings; if any, have been conducted in accordance with Texas law; and

WHEREAS, on the Effective Date, the commitments contained in this Agreement shall become legally binding obligations of the Parties.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and agreements described and contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and further described herein, the Parties agree as follows:

ARTICLE I RECITALS

1. Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

ARTICLE II AUTHORITY AND TERM

1. Authority. The Corporation's execution of this Agreement is authorized by the Act and constitutes a valid and binding obligation of the Corporation. The Corporation acknowledges that Company is acting in reliance upon the Corporation's performance of its obligations under this Agreement in making the decision to commit substantial resources and money to the establishment of the Project, hereinafter established.

2. Term. This Agreement shall become enforceable upon the Effective Date, hereinafter established, and shall continue until the Expiration Date, hereinafter established, unless terminated sooner or extended by mutual agreement of the Parties in the manner provided for herein.

3. Purpose. The purpose of this Agreement is to formalize the agreements between the Company and the Corporation for the granting of funds in the form of an Infrastructure

Reimbursement Grant to assist with costs associated with Company's Project and specifically state the covenants, representations of the Parties, and the incentives associated with Company's commitment to abide by the provisions of the Act and to abide by the terms of this Agreement which has been approved by the Corporation and the Company as complying with the specific requirements of the Act. It is expressly agreed that this Agreement constitutes a single transaction. A failure to perform any obligation by the Company may constitute a breach of the entire Agreement and terminate any further commitments (if any) by the Corporation unless an alternative penalty or remedy is provided for herein.

4. Administration of Agreement. Upon the Effective Date, the Corporation delegates the administration and oversight of this Agreement to the Executive Director of the Corporation. Any proposed amendments to the Agreement shall require the approval of the Board of Directors of the Corporation.

ARTICLE III

DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed below. All undefined terms shall retain their usual and customary meaning as ascribed by common and ordinary usage.

"Bankruptcy" shall mean the dissolution or termination of a Party's existence as a going business, insolvency, appointment of receiver for any party of such Party's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

"Certificate of Occupancy" shall mean the signed certificate issued by the City of Schertz Inspections Division granting the Company the right to occupy the Facility and confirming that the entire work covered by the permit and plans are in place.

"Default" shall mean failure by any Party to timely and substantially comply with any performance requirement, duty, or covenant if uncured within sixty (60) days of receiving written notice from any other Party.

"Effective Date" shall be the date of the last signature authorizing this agreement.

"Expiration Date" shall mean the earlier of:

1. April 15, 2024; or
2. The date of termination, provided for under Article VII of this Agreement.

"Facility" shall mean the minimum 50,000 square foot, two-story medical office building located at 17766 Verde Parkway, Schertz, Guadalupe County, Texas 78154.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a party, including, without limitation, acts of God or the public enemy, war riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of a party), fires, explosions or floods, strikes, slowdowns or work stoppages.

“Grant” shall mean the \$30,000.00 Infrastructure Reimbursement Grant cash payment from Corporation to Company.

“Project” shall mean the purchase of five acres of land, and construction of a minimum of 50,000 square foot medical office building with an ambulatory surgical center and associated infrastructure located at 17766 Verde Parkway, Schertz, Guadalupe County, Texas 78154.

“Project Reimbursements” shall mean all design, engineering and construction costs up to \$30,000.00 associated with design and construction of improvements depicted and situated as represented in Attachment A.

ARTICLE IV ECONOMIC DEVELOPMENT GRANT TERMS AND CONDITIONS

1. Grant.

Subject to the satisfaction of all the terms and conditions of this Agreement and the obligation of Company to repay the Grant pursuant to Article V hereof, the Corporation agrees to provide Company with a Grant in the amount not to exceed thirty thousand dollars and no cents (\$30,000.00). The Grant shall be paid within sixty (60) days after receipt of the Annual Report certifying the creation of 20 new full-time jobs and approximately \$9,784,585 in investment; and a copy of the Certificate of Occupancy for the Facility and approval of the City of Schertz regarding completion of construction of improvements as represented in Attachment A. Company must further provide documentation reflecting total actual costs of improvements to the site that are eligible as Project Reimbursements. Acceptable documentation includes bill of sale, executed contracts, or estimated values submitted as required by permitting process and proof of payment for such improvements. The Infrastructure Reimbursement Grant shall be in the amount qualifying as Project Reimbursements, up to and not exceeding the maximum set forth above and shall be payable by Corporation no sooner than the 60th day after receipt of the supporting documentation stated herein.

2. Current Revenue. The funds distributed hereunder shall be paid solely from lawfully available funds of the Corporation. Under no circumstances shall the obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. None of the obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

3. Confidentiality. The Corporation agrees to the extent allowed by law, to keep all tax information and documentation received, pursuant to this Agreement hereof, confidential. In

the event a request is made for such information pursuant to the Texas Public Information Act or the Open Records Act or the Freedom of Information Act, Corporation will not disclose the information unless required to do so by the Attorney General of Texas under the provisions of the applicable statutes.

4. Conditions Precedent. The obligation of the Corporation to pay funds in the form of a Grant shall be conditioned upon Company successfully obtaining a Certificate of Occupancy from the City of Schertz and receiving written approval from the City of Schertz for the completion of construction of improvements depicted and situated as represented in Attachment A and the continued compliance with and satisfaction of each of the conditions set forth in this Agreement.

5. Annual Report. The Company, if required, shall submit an Annual Report (an "Annual Report") for the preceding Calendar Year to the Executive Director of the Corporation each year not later than February 15th. The Annual Report should substantially conform to the Annual Report Form attached as Exhibit B to this Agreement. The first Annual Report will be due February 15th, 2023

ARTICLE V COVENANTS AND DUTIES

1. Company's Covenants and Duties. Company makes the covenants and warranties to the Corporation and agrees to timely and fully perform the obligations and duties contained in Article IV of this Agreement. Any false or substantially misleading statements contained herein or failure to timely and fully perform those obligations and duties within this Agreement shall be an act of Default by the Company.

(a) Company is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas and the United States of America during any term of this Agreement and shall timely and fully comply with all of the terms and conditions of this Agreement to commence and complete the Project in accordance with the Agreement.

(b) The execution of this Agreement has been duly authorized by Company's authorized agent, and the individual signing this Agreement is empowered to execute such Agreement and bind the entity. Said authorization, signing, and binding effect is not in contravention of any law, rule, regulation, or of the provisions of Company's by-laws, or of any agreement or instrument to which Company is a party to or by which it may be bound.

(c) Company is not a party to any Bankruptcy proceedings currently pending or contemplated, and Company has not been informed of any potential involuntary Bankruptcy proceedings.

(d) To its current, actual knowledge, and subject to the Certificate of Occupancy (or other approvals and permits to be obtained under subpart (f) immediately below), Company has acquired and maintained all necessary rights, licenses, permits, and authority to carry on its business in the City of Schertz and will continue to use its best efforts to maintain all necessary rights, licenses, permits, and authority.

(e) Company agrees to obtain or cause to be obtained, all necessary permits and approvals from City of Schertz and/or all other governmental agencies having jurisdiction over the construction of any improvements to the Facility and shall be responsible for paying, or causing to be paid, to City of Schertz and all other governmental agencies the cost of all applicable permit fees and licenses required for construction of the Project.

(f) Company shall cooperate with the Corporation in providing all necessary information to assist them in complying with this Agreement.

(g) During the term of this Agreement, Company agrees to not knowingly employ any undocumented workers as part of the Project, and, if convicted of a violation under 8 U.S.C. Section 1324a(1), Company shall be in Default (subject to the remedies in Article V above). Company is not liable for an unknown violation of this Section by a subsidiary, affiliate, or franchisee of Company or by a person with whom Company contracts provided however that identical federal law requirements provided for herein shall be included as part of any agreement or contract which Company enters into with any subsidiary, assignee, affiliate, or franchisee for which Grant provided herein will be used.

(h) Maintain and prepare financial statements in accordance with generally accepted accounting principles in the United States of America as established by the Financial Accounting Standards Board and permit Corporation to visit, examine, audit, inspect, and make and take away copies or reproductions of Company's book of accounts and other records at mutually agreed upon times (provided, Corporation shall pay the reasonable fees and disbursements of any accountants or other agents of Corporation, selected by Corporation, for the foregoing purposes). Unless written notice of another location is given to Corporation, Company's books and records will be located at 750 E. Mulberry Avenue, Suite 305, San Antonio, Bexar County, Texas 78212.

2. Corporation's Covenants and Duties. The Corporation is obligated to pay Company's Infrastructure Reimbursement as set forth in Article IV, (1).

3. Substantial Compliance and Default. Failure by any Party to timely and substantially comply with any performance requirement, duty, or covenant shall be considered an act of Default if uncured within sixty (60) days of receiving written notice from any other Party. Failure of Company to timely and substantially cure a default will give the Corporation the right to terminate this Agreement, as reasonably determined by the Board of Directors of the Corporation.

4. Recapture. In the event of Default by the Company, the Corporation shall as its sole and exclusive remedy for Default hereunder, after providing Company notice and an opportunity to cure, have the right to discontinue all future Grant payments and recapture all amounts previously paid under this Agreement (as applicable, the "Recaptured Amount").

The Recaptured Amount shall be paid by the Company within one hundred twenty (120) days after the date Company is notified by the Corporation of such Default (the "Payment Date") provided said Default was not cured. In the event the Recaptured Amount is not repaid by the applicable

Payment Date, the unpaid portion thereof shall accrue interest at the rate of two percent (2.00%) per annum from the Effective Date until paid in full.

ARTICLE VI TERMINATION

1. Termination. This Agreement shall terminate upon the earliest occurrence of any one or more of the following:

- (a) The written agreement of the Parties;
- (b) The Agreement's Expiration Date;
- (c) Default by Company (at the option of the Corporation).

ARTICLE VII DISPUTE RESOLUTION

1. Mediation. If a dispute arises out of or relates to this Agreement or the breach thereof, the Parties shall first in good faith seek to resolve the dispute through negotiation between the upper management of each respective Party. If such dispute cannot be settled through negotiation, the Parties agree to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, San Antonio, Texas, before resorting to litigation; provided that a Party may not invoke mediation unless it has provided the other Party with written notice of the dispute and has attempted in good faith to resolve such dispute through negotiation. Notwithstanding the foregoing, any Party may seek immediate equitable relief, without attempting to settle a dispute through mediation, in any case where such Party is entitled to equitable relief by law, the terms of the Agreement, or otherwise. All costs of negotiation and mediation collectively known as alternate dispute resolution ("ADR") shall be assessed equally between the Parties with each party bearing their own costs for attorneys' fees, experts, and other costs of ADR and any ensuing litigation.

2. During the term of this Agreement, if Company files and/or pursues an adversarial proceeding against the Corporation regarding this Agreement without first engaging in good faith mediation of the dispute, then, at the Corporation's option, all access to the funds provided for hereunder may be deposited with a mutually acceptable escrow agent that will deposit such funds in an interest-bearing account until the resolution of such adversarial proceeding.

3. Under no circumstances will the funds received under this Agreement be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding regarding this Agreement against either the Corporation or the City of Schertz.

ARTICLE VIII MISCELLANEOUS

1. Binding Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. The Executive Director of the Corporation shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the Corporation, on behalf of the

Parties related thereto. Notwithstanding any other provision of this Agreement to the contrary, performance of either Party under this Agreement is specifically contingent on Company obtaining a Certificate of Occupancy and from the City of Schertz and reaching the target job creation milestone the Facility under the terms of this Agreement.

2. Mutual Assistance. The Parties will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

3. Representations and Warranties. The Corporation represents and warrants to Company that this Agreement is within their authority, and that they are duly authorized and empowered to enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction. Company represents and warrants to the Corporation that it has the requisite authority to enter into this Agreement.

4. Assignment. Company shall have the right to assign all of its rights, duties, and obligations under this Agreement to a duly qualified third party with prior written approval of the Corporation. Any assignment provided for herein shall not serve to enlarge or diminish the obligations and requirements of this Agreement, nor shall they relieve Company of any liability to the Corporation including any required indemnity in the event that any Assignee hereof shall at any time be in Default of the terms of this Agreement. The Corporation may demand and receive adequate assurance of performance including the deposit or provision of financial security by any proposed Assignee prior to its approval of an assignment.

5. Independent Contractors.

(a) It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, Company at no time will be acting as an agent of the Corporation and that all consultants or contractors engaged by Company respectively will be independent contractors of Company; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed the Parties hereto understand and agree that the Corporation will not be liable for any claims that may be asserted by any third party occurring in connection with services performed by Company respectively under this Agreement, unless any such claims are due to the fault of the Corporation.

(b) By entering into this Agreement, except as specifically set forth herein, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of sovereign or official immunity by the Corporation with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.

(c) No employee of the Corporation, or any board member, or agent of the Corporation, shall be personally responsible for any liability arising under or growing out of this Agreement.

6. Notice. Any notice required or permitted to be delivered hereunder shall be deemed delivered by actual delivery, or on the first business day after depositing the same in the hands of

a reputable overnight courier (such as United States Postal Service, FedEx or UPS) and addressed to the Party at the address set forth below:

If intended for SEDC: Schertz Economic Development Corporation
Attention: Exec. Dir. of Economic Development
1400 Schertz Parkway
Schertz, TX 78154

With a copy to:
Denton, Navarro, Rocha, & Bernal, PC
Attention: T. Daniel Santee
2517 North Main Avenue
San Antonio, TX 78212

If to the Company: Schertz Medical Building, LLC
Attention: Matthew Bradley
750 E. Mulberry Avenue
Suite 305
San Antonio, TX 78212

Any Party may designate a different address at any time upon written notice to the other Parties.

7. Governmental Records. All invoices, records and other documents required for submission to the City pursuant to the terms of this Agreement are Governmental Records for the purposes of Texas Penal Code Section 37.10.

8. Governing Law. The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement (subject to the dispute resolution mechanisms of Article VIII above) shall be in the Courts of Guadalupe County. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

9. Amendment. This Agreement may be amended by mutual written agreement of the Parties, as approved by the Board of Directors of the Corporation.

10. Legal Construction. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

11. Payment of Legal Fees. Each Party shall bear its own attorney's fees in connection with the negotiation of this Agreement.

12. Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, whatever its

meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

13. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly approved amendments to this Agreement, as approved by the Board of Directors of the Corporation.

14. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

15. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

16. Exhibits. Any Exhibits attached hereto are incorporated by reference for all purposes.

17. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

18. Indemnification.

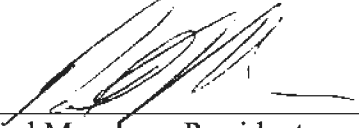
COMPANY AGREES TO DEFEND, INDEMNIFY AND HOLD THE CORPORATION AND CITY, AND THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL REASONABLE LIABILITIES, DAMAGES, CLAIMS, LAWSUITS, JUDGMENTS, ATTORNEY FEES, COSTS, EXPENSES AND ANY CAUSE OF ACTION THAT DIRECTLY RELATES TO ANY OF THE FOLLOWING: ANY CLAIMS OR DEMANDS BY THE STATE OF TEXAS THAT THE CORPORATION HAS BEEN ERRONEOUSLY OR OVER-PAID SALES AND USE TAX FOR ANY PERIOD DURING THE TERM OF THIS AGREEMENT AS A RESULT OF THE FAILURE OF COMPANY TO MAINTAIN A PLACE OF BUSINESS AT THE PROPERTY OR IN THE CITY OF SCHERTZ, OR AS A RESULT OF ANY ACT OR OMISSION OR BREACH OR NON-PERFORMANCE BY COMPANY UNDER THIS AGREEMENT EXCEPT THAT THE INDEMNITY PROVIDED HEREIN SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE ACTION OR OMISSIONS OF THE CORPORATION OR CITY. THE PROVISIONS OF THIS SECTION 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. IT BEING THE INTENTION OF THE PARTIES THAT COMPANY SHALL BE RESPONSIBLE FOR THE REPAYMENT OF ANY ANNUAL GRANTS PAID TO COMPANY HEREIN THAT INCLUDES CITY SALES TAX RECEIPTS THAT THE STATE OF TEXAS HAS DETERMINED WAS ERRONEOUSLY PAID, DISTRIBUTED OR ALLOCATED TO THE CORPORATION.

19. Additional Instruments. The Parties agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.

20. Force Majeure. Whenever a period of time is herein prescribed for action to be taken by the Company, the Company shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to causes of any kind whatsoever which are caused by Force Majeure.

Executed on this 25 day of August 2022.

**SCHERTZ ECONOMIC DEVELOPMENT
CORPORATION**

By: 
Paul Macaluso, President

ATTEST:

By: 
Sammi Morrill, Secretary

Executed on this _____ day of _____, 2022

COMPANY

SCHERTZ MEDICAL BUILDING LLC

a Texas limited liability company

By: Schertz Manager, LLC, a Texas limited liability company

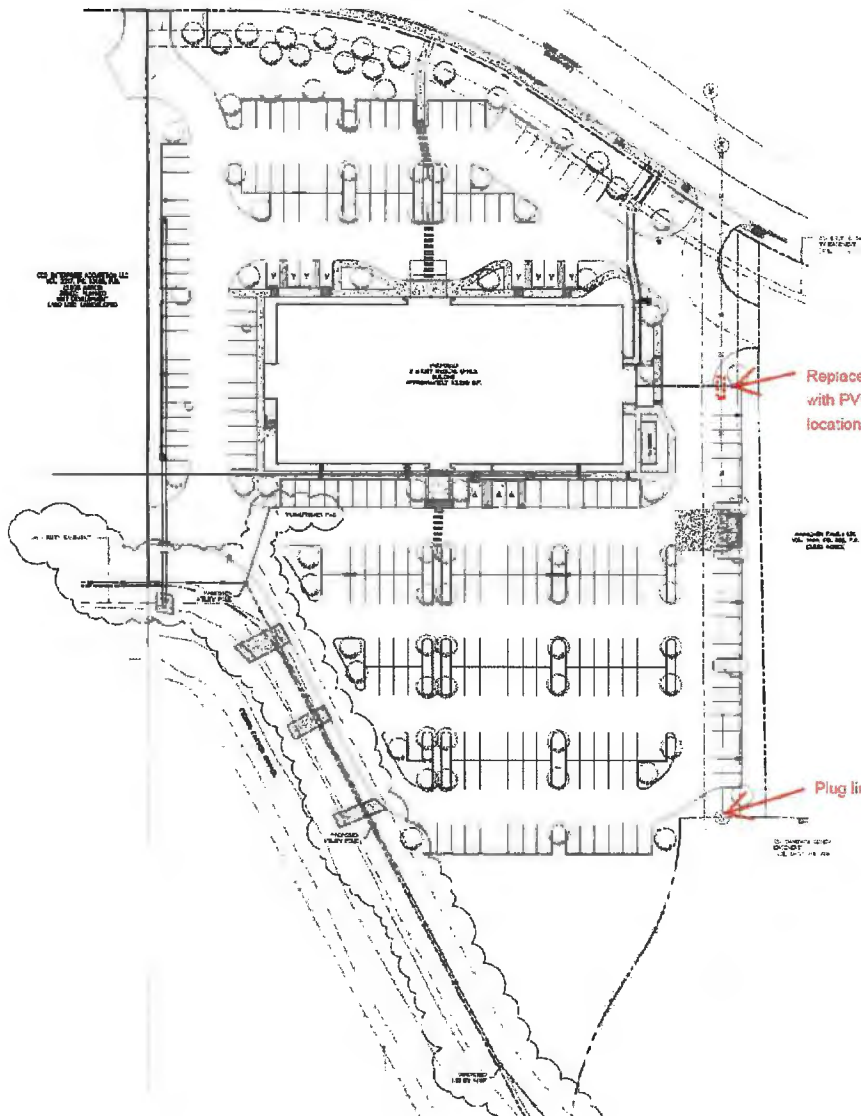
Its: Manager

By: _____

Name: Matthew Bradley

Title: Vice President

Attachment A



SCALE: 1" = 40'

Legend

PS	EXISTING FIRE HYDRANT
DS	EXISTING SANITARY SEWER MANHOLE
SL	EXISTING SANITARY SEWER LINE
W	EXISTING WATER MAIN
DN	EXISTING DRAIN
---	SITE PROPERTY LINE
---	ADJACENT PROPERTY LINE
---	EXISTING EASEMENT
---	PROPOSED WATER LINE
---	PROPOSED FIRE LINE
---	PROPOSED SANITARY SEWER LINE
---	PROPOSED STORM DRAIN LINE
S	PROPOSED SANITARY SEWER MANHOLE
F	PROPOSED FIRE HYDRANT
Y	PROPOSED EUC

NOTE

THIS PROJECT FALLS UNDER THE JURISDICTION OF THE CITY OF SHERBORN. THE CITY OF SHERBORN SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION AND UNIFIED DEVELOPMENT CODE SHALL TAKE PRECEDENCE SHOULD ANY CONFLICTS ARISE BETWEEN THESE PLANS AND SAID DOCUMENTS.

ESTIMATED DATE OF CONSTRUCTION
NOVEMBER 2021

NOTE:
EXISTING AND PROPOSED VEGETATION IN ALL DISTURBED AREAS.

PROJECT LIMITS NOT WITHIN FLOODPLAIN.

Sherborn Medical Building, LLC
Matthew Buckley
100 East Main Street
Sherborn, MA 01901
Tel: 508.351.1111
Fax: 508.351.1112
www.sherbornmedical.com

Architect
WSD Architects
100 East Main Street
Sherborn, MA 01901
Tel: 508.351.1111
Fax: 508.351.1112
www.wsdarchitects.com

Civil
CSC
100 East Main Street
Sherborn, MA 01901
Tel: 508.351.1111
Fax: 508.351.1112
www.csc-engineers.com

Landscape Architect
J.L. Landscaping, Inc.
100 East Main Street
Sherborn, MA 01901
Tel: 508.351.1111
Fax: 508.351.1112
www.jllandscaping.com

Structural
Russo & Bialek, Structural Engineers
100 East Main Street
Sherborn, MA 01901
Tel: 508.351.1111
Fax: 508.351.1112
www.russoandbialek.com

MEP
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Exhibit B

SAMPLE ANNUAL CERTIFICATION REPORT FORM

[SEE ATTACHED]

Annual Certification Report

Reporting Period: January 1 to December 31, 2022

The Annual Certification Report for the Economic Development Incentive Agreement between the City of Schertz Economic Development Corporation and Schertz Medical Building LLC, is due on **February 15, 2023**. Please sign and return the Annual Certification Report form with accompanying narrative.

I. PROJECT INFORMATION

Project Information:

Company's legal name: _____

Project address subject to incentive: _____

Company primary contact: _____ Title: _____

Phone number: _____ E-mail address: _____

II. REPORTING INFORMATION

Employment and Wage Information:

Has the Company employed undocumented workers? ☐ Yes ☐ No

What is the total number of Full-time Employees located at the Schertz facility during the calendar year? _____

Investment Information:

What is the 20__ appraised ad valorem tax value for Real Property? _____

Narrative:

A brief narrative explaining the current year's activities and/or any potential defaults has been provided? ☐ Yes ☐ No

IV. CERTIFICATION

I certify that, to the best of my knowledge and belief, the information and attachments provided herein are true and accurate and in compliance with the terms of Economic Development Incentive Agreement.

I further certify that the representations and warranties contained within the Agreement remain true and correct as of the date of this Certification, and Schertz Medical Building LLC remakes those representations and warranties as of the date hereof.

I further certify that the employment and wage information provided is true and accurate to the best of my knowledge and I can provide documentation from the Texas Workforce Commission to support my claim if so requested.

I understand that this Certificate is being relied upon by the SEDC in connection with the expenditure of public funds.

I have the legal and express authority to sign this Certificate on behalf of Schertz Medical Building LLC

Name of Certifying Officer

Certifying Officer's Title

Phone Number

E-Mail Address

Signature of Certifying Officer

Date

STATE OF TEXAS X
COUNTY OF GUADALUPE X

This information was acknowledged before me on this _____ day of _____, _____ by [first and last name], [title] for Schertz Medical Building LLC, a Texas limited liability company, on behalf of said agency.

Notary Public, State of Texas

Notary's typed or printed name

My commission expires _____

The Annual Certification Report is to be completed, signed and returned on or before February 15, 2023.
Please send an original to the following address:

**Attention: Executive Director
City of Schertz Economic Development Corporation
1400 Schertz Parkway, Bldg. No. 2
Schertz, TX 78154**

SEDC RESOLUTION NO. 2022-11

A RESOLUTION BY THE CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION, TEXAS AUTHORIZING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT BETWEEN THE CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION AND SCHERTZ MEDICAL BUILDING, LLC; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Schertz Economic Development Corporation (“SEDC”) is a non-profit industrial development corporation duly established under the Development Corporation Act of 1979, as amended (Section 501.001 et seq. Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”);

WHEREAS, all of the powers of the corporation are vested in the SEDC Board of Directors (the “Board”) appointed by the governing body of the corporation’s authorizing unit; and

WHEREAS, the Act authorizes a development corporation to fund certain projects as defined by the Act and request development corporations enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

WHEREAS, Schertz Medical Building, LLC (“Company”) desires to construct and operate a medical office building with an ambulatory surgical center that would be located at 17766 Verde Parkway, Schertz, Guadalupe County, Texas 78154; and

WHEREAS, Company’s Project is expected to result in the creation of 20 new full-time jobs while the project will directly involve a capital investment of \$9,784,585 for land, and construction of the minimum of 50,000 square foot, two-story Facility; and

WHEREAS, Corporation intends to provide an Infrastructure Reimbursement Grant of not more than \$30,000.00 for qualifying costs, payable upon Company receiving a Certificate of Occupancy for the new Facility and written approval from the City of Schertz regarding completion of construction of improvement depicted and situated as represented in Attachment A and any other documentation required by the terms of this Agreement; and

WHEREAS, the location of the Company’s new medical facility, as proposed, will increase available medical office space in Schertz as well as provide greater access and traffic flow in the immediate area of the facility while also creating new jobs and increased employment, promoting and developing expanded business enterprises, increased development, increased real property value and tax revenue for the City of Schertz, and will have both a direct and indirect positive overall improvement/stimulus in the local and state economy;

WHEREAS, the Corporation desires to offer incentives to Company to enable Company

to construct its Facility and expand the workforce pursuant to this Agreement in substantial conformity with the City of Schertz Economic Development Incentive Policy and the Act; and

WHEREAS, Section 501.103 authorizes expenditures for certain infrastructure improvement projects that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises; and

WHEREAS, Section 501.158 of the Act requires an incentive agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, Section 505.159 of the Act requires that a corporation hold at least one public hearing on the proposed project before spending money to undertake the project, the public hearing was held on August 25, 2022; and

WHEREAS, Section 501.073 of the Act requires the SEDC's authorizing unit to approve all programs and expenditures.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION THAT:

Section 1. Subject to the authorization of funds by the City of Schertz City Council, the Board hereby approve the Economic Development Performance Agreement attached hereto as Exhibit A and authorizes the President to execute same in substantially the same form as attached.

Section 2. The Board hereby recommends the City Council for the City of Schertz consider approving a Resolution authorizing the expenditures contemplated herein for the reasons stated in the foregoing recitals.

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 Resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

Section 4. 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 5. This Resolution 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 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

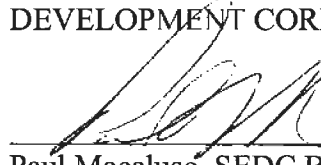
such provision to other persons and circumstances shall nevertheless be valid, and the board hereby declares that this Resolution would have been enacted without such invalid provision.

Section 7. 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 8. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

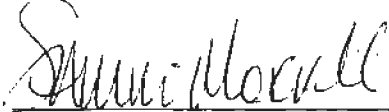
PASSED AND ADOPTED, this 25th day of August 2022.

CITY OF SCHERTZ ECONOMIC
DEVELOPMENT CORPORATION



Paul Macaluso, SEDC Board President

ATTEST:



Sammi Morrill, SEDC Board Secretary

Exhibit A

**ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT
SCHERTZ MEDICAL BUILDING, LLC**

[SEE ATTACHED]

RESOLUTION NO. 22-R-104

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT BETWEEN THE CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION AND SCHERTZ MEDICAL BUILDING, LLC; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Schertz, Texas (the “City”) has previously adopted guidelines and regulations for community development and established the Schertz Economic Development Corporation to accomplish said public purpose; and,

WHEREAS, the City of Schertz Economic Development Corporation (“SEDC”) is a non-profit industrial development corporation duly established under the Development Corporation Act of 1979, as amended (Section 501.001 et seq. Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”);

WHEREAS, all of the powers of the corporation are vested in the SEDC Board of Directors (the “Board”) appointed by the governing body of the corporation’s authorizing unit; and

WHEREAS, the Act authorizes a development corporation to fund certain projects as defined by the Act and request development corporations enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

WHEREAS, Schertz Medical Building, LLC (“Company”) desires to construct and operate a medical office building with an ambulatory surgical center that would be located at 17766 Verde Parkway, Schertz, Guadalupe County, Texas 78154; and

WHEREAS, Company’s Project is expected to result in the creation of 20 new full-time jobs while the project will directly involve a capital investment of \$9,784,585 for land, and construction of the minimum of 50,000 square foot, two-story Facility; and

WHEREAS, Corporation intends to provide an Infrastructure Reimbursement Grant of not more than \$30,000.00 for qualifying costs, payable upon Company receiving a Certificate of Occupancy for the new Facility and written approval from the City of Schertz regarding completion of construction of improvement depicted and situated as represented in Attachment A and any other documentation required by the terms of this Agreement; and

WHEREAS, the location of the Company’s new medical facility, as proposed, will increase available medical office space in Schertz as well as provide greater access and traffic flow in the immediate area of the facility while also creating new jobs and increased

employment, promoting and developing expanded business enterprises, increased development, increased real property value and tax revenue for the City of Schertz, and will have both a direct and indirect positive overall improvement/stimulus in the local and state economy;

WHEREAS, the Corporation desires to offer incentives to Company to enable Company to construct its Facility and expand the workforce pursuant to this Agreement in substantial conformity with the City of Schertz Economic Development Incentive Policy and the Act; and

WHEREAS, Section 501.103 authorizes expenditures for certain infrastructure improvement projects that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises; and

WHEREAS, Section 501.158 of the Act requires an incentive agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, Section 505.159 of the Act requires that a corporation hold at least one public hearing on the proposed project before spending money to undertake the project, the public hearing was held on August 25, 2022; and

WHEREAS, Section 501.073 of the Act requires the SEDC's authorizing unit to approve all programs and expenditures.

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

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 Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 2. The City Council hereby authorizes the SEDC to offer incentives to Company in substantial conformity with the City of Schertz Economic Development Incentive Policy and applicable state law, and further authorizes the execution of the Agreement attached as Exhibit A.

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.

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

PASSED AND ADOPTED on this ____-day of _____2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, Interim City Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: November 1, 2022
Department: Finance
Subject: Ordinance 22-T- 43 - An Ordinance by the City Council of the City of Schertz, Texas authorizing an adjustment to the Fiscal Year 2022-2023 Budget to fund audio/visual improvements for Municipal Court, repealing all ordinance or parts of ordinance in conflict with this ordinance; and providing an effective date. *First Reading* (M.Browne/J.Walters)

BACKGROUND

On September 13, 2022, Council adopted a budget for FY 2022-23 with ordinance 22-T-30. That adoption included \$12,740 of expenditures out of the restricted Court Technology Fund. These funds can be used in accordance with Texas Code of Criminal Procedure art 102.0172, which includes technological enhancements for the courtroom.

The increase in personnel with the FY 2022-23 Budget will cause additional space requirements for building 1. During COVID, the Council Chambers were used successfully to hold municipal court with the required spacing requirements. Staff is proposing to use the current courtroom for additional office space and move municipal court to the Council Chambers, until further notice.

Plans have been in place to update the Council Chamber Audio/Visual system and is ready to move forward. With court moving to the Council Chambers, additional enhancements are needed. While the current set up was usable during COVID, court is requesting a few additional features that were in the old courtroom.

These additional expenditures would fall under appropriate usage of the Court Technology funds. Council adopted a budget to use \$12,740 throughout the year as needs arise, but the requested upgrades are \$23,433. This adjustment would allocate the remaining \$10,693 needed to complete the Court audio/visual upgrades to the Council Chambers.

GOAL

To authorize funding to provide additional audio/visual upgrades to the Council Chambers to use the facility for municipal court.

COMMUNITY BENEFIT

Keep existing court functions when holding court in the Council Chambers.

SUMMARY OF RECOMMENDED ACTION

Approval of Budget Adjustment Ord 22-T-43 to provide funding for audio/visual upgrades to the Council Chambers to be used as a municipal courtroom.

FISCAL IMPACT

The current balance of the Court Technology Fund is \$510,635. This adjustment would reduce that balance by \$10,963 to \$499,671.

RECOMMENDATION

Staff recommends approval of ordinance 22-T-43.

Attachments

Ordinance 22-T-43

ORDINANCE NO. 22-T-43

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN ADJUSTMENT TO THE FISCAL YEAR 2022-2023 BUDGET TO FUND AUDIO/VISUAL IMPROVEMENTS FOR MUNICIPAL COURT, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, pursuant to Ordinance 22-T-30, the City of Schertz (the “City”) adopted the budget for the City for the fiscal year 2022-2023 (the “Budget”), which provides funding for the City’s operations throughout the 2022-2023 fiscal year; and

WHEREAS, the City needs to authorized budget amounts of \$10,963.00 for additional upgrades to the Council Chambers Audio/Visual system to better hold municipal court in the chambers; and

WHEREAS, City staff recommends that the City Council of the City adjust the Budget and approve the ordinance; and

WHEREAS, the City Council of the City has determined that it is in the best interest of the City to adjust the Budget for additional audio/visual upgrades as more fully set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:

Section 1. The City shall increase the budget by \$10.963.00 for audio/visual upgrades to the Council Chambers to better hold municipal court sessions. Funding will come from the Court Technology Fund.

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. 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 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED, APPROVED ON NOVEMBER 1, 2022 ON THIS FIRST READING and

PASSED, APPROVED AND ADOPTED ON FINAL READING, DECEMBER 6, 2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, Interim City Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: November 1, 2022
Department: Executive Team
Subject: Resolution 22-R-128 - Consideration and/or action approving a Resolution amending the Schertz Main Street Area Preservation Incentive Program. (B. James)

BACKGROUND

At the October 25, 2022 City Council meeting, Councilman Davis requested a discussion and possible action item regarding the boundaries of the Schertz Main Street Area Incentive Program, generally referred to as the Main Street Historic Grant. To be eligible for the program, structures must be at least 50 years old, not be delinquent on City taxes or fees and located within the boundaries of the Main Street Incentive Area. Generally this area includes properties the front on Main Street, between Schertz Parkway and Aviation Boulevard. The Schertz Historical Preservation Committee has a Landmark Property Designation program to recognize historic structures in the community. The Committee has granted this status to approximately 30 properties and approximately 8 of those are in the Main Street Incentive Area. It is staff's understanding that Council may want to consider amending the program to allow properties that have received Landmark Property Designations that are within the City limits but not in the Main Street Area to be eligible. Staff has drafted the attached resolution as such.

GOAL

Promote the history and culture of the City of Schertz to tourists and residents.

COMMUNITY BENEFIT

Recognize and preserve historic structures in the City.

SUMMARY OF RECOMMENDED ACTION

Approval of the resolution allowing structures within the City that have received a Landmark Property Designation to be eligible for the Preservation Incentive program even if not located within the Main Street Area.

FISCAL IMPACT

This action in and of itself will have no fiscal impact, as individual grants must still be approved by City Council. This action would make approximately 20 additional properties eligible.

RECOMMENDATION

Approval of Resolution 22-R-128

Attachments

Res 22 R 128

Amended Preservation Grant

Grant Area Map

RESOLUTION NO. 22-R-128

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING THE SCHERTZ MAIN STREET AREA PRESERVATION INCENTIVE PROGRAM 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 program is intended 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 not only the Main Street area to residents and visitors, as well as provide support and stimulus to businesses, but also the surrounding areas of the City; and

WHEREAS, given the aims of the Comprehensive Plan as it relates to preserving the City's history and in particular the desire to foster commercial development that serves tourists and residents; and

WHEREAS, the City of Schertz is recommending amendment to the program to better achieve the aims outlined above;

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

Section 1. The City Council hereby amends the Schertz Main Street Area Preservation Incentive Program as outlined in Exhibit "A" – Schertz Main Street Area Incentive Program Summary and authorizing the City Manager and City Attorney to amend the grant agreement accordingly.

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 1st day of November, 2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, Interim City Secretary

(CITY SEAL)

Schertz Main Street Area
Preservation Incentive Program
City of Schertz

Section 1.1 Purpose

The City of Schertz finds that promoting the enhancement and perpetuation of structures of historical importance and significance are necessary to promote the economic, cultural, educational and general welfare of the public. The area around Main Street in Schertz once served as commercial and social hub of the community. The City seeks to improve the image of the area around Main Street through historic restoration and rehabilitation of structures in the Main Street area to serve as a commercial, social, cultural and tourism hub of the City. The program is intended to:

- a) 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;
- b) Stabilize and improve property values;
- c) 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;
- d) 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.

In order to facilitate the preservation of historic structures to promote the economic vitality of the Main Street area as a tourist destination, the City of Schertz is offering incentives that will serve to improve existing properties and businesses within this area.

Section 1.2 Administration

The program will be administered by the City of Schertz Building Inspections Division.

Section 1.3 Eligibility Criteria

All of the following eligibility criteria must be met:

- a) Structures must have been constructed more than 50 years prior to the date of application.
- b) Property must be located within the Main Street Incentive Area or have received a Schertz Historic Preservation Committee Landmark Property Designation. See attached map.
- c) All taxes and government fees must be current on the property.

Section 1.4 Types of Grant Assistance

Funding for this program is generated by the Hotel Occupancy Tax (HOT) funds.

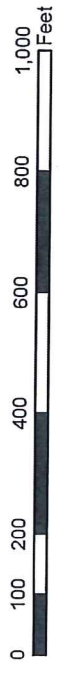
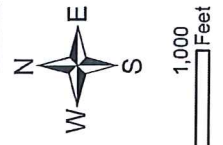
- a) Program assistance is available to owners of structures used for commercial purposes who make verified exterior improvements (however limited to comprehensive maintenance and rehabilitation painting, roof, windows, foundation, façade restoration including replacing windows, wall repairs, brick re-pointing, replacing and exposing transom windows; and improvements necessary to stabilize a structure) consistent with applicable codes, or who make verified interior improvements to upgrade interior systems to current building codes (however limited to sanitary sewer lines, fire, HVAC, insulation, electrical, plumbing, or a combination of interior or exterior improvements) and which are approved in advance by the Schertz Historical Preservation Committee and City Council. Grants are available with a cap of \$20,000 per property.
- b) Program assistance is available to owners of structures used for residential who make verified exterior improvements to the roof, foundation, and wall repairs including brick re-pointing. Grants are available with a cap of \$20,000 per property.
- c) Grants will not be provided for work already completed or which is begun prior to approval of the grant application.
- d) Funds will be provided on a 50/50 matching basis. In kind contributions may be counted toward the match requirement.

Section 1.5 Grant Application Procedures

At the start of the fiscal year, the city will promote the amount of funding available. Applications will be received throughout the fiscal year, subject to the availability of funds.

- a) Property owner submit an application along with any required supporting documentation (i.e. drawings, total project cost estimate, photographs, contractor bids, tax certificates, etc.). Applications will be reviewed by the Building Inspections Staff for completeness.
- b) After submittal of a grant request, a preliminary site visit will be made by the Building Inspections Staff along with the Chairperson of the Schertz Historical Preservation Committee.
- c) Applications will be reviewed and evaluated by the Schertz Historical Preservation Committee. The Committee will evaluate the application based on the Secretary of the Interior's Standards for Rehabilitation. The Committee's recommendation will be forwarded to the City Council for review and approval.
- d) City Council will decide which entities qualify for assistance based on the architectural value of their proposed projects to the City of Schertz, the compatibility of the proposed projects with the Main Street Area, and the cost effectiveness of the proposed project in relation to the proposed amount of the grant.
- e) The property owner and City will execute a Grant Agreement detailing the obligations of the grantee, the method and timing of reimbursement, and outlining the scope of work eligible for reimbursement.


- f) Work must be completed within one year from the date of execution of the Grant Agreement, however; the Historical Preservation Committee may grant an extension of up to one year.

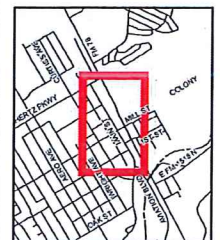


City of Schertz

Schertz Main Street Area

Preservation Incentive Program

 Main Street Incentive Area



CITY COUNCIL MEMORANDUM

City Council Meeting: November 1, 2022
Department: City Secretary
Subject: Ordinance No. 22-S-41- Consideration and/or action on a request to rezone approximately 15 acres of land from Pre-Development District (PRE) to Planned Development District (PDD), generally located approximately 2,200 feet southeast of the intersection of Lower Seguin Road and FM 1518, also known as Bexar County Property Identification Number 309997 and 309999, City of Schertz, Bexar County, Texas. *Final Reading* (B. James / L. Wood / E. Delgado)

BACKGROUND

Owner: Karen Dahle

Applicant: Ashley Farrimond/ Killen, Griffen & Farrimond

The applicant has requested to rezone approximately 15 acres of land from Pre-Development District (PRE) to Planned Development District (PDD) with a base zoning of Apartment/Multi-Family Residential (R4).

The proposed development will include approximately 300 multi-family apartment units and will consist of eight (8) three (3) story buildings with options ranging from 1 bedroom to 4 bedroom units. The applicant will be working to preserve the natural landscape as there are several large existing trees on site. The proposed development will also include outdoor/indoor recreational space, a resort style pool, clubhouse with a fitness center, business center, and children's activity room.

Twenty-three (23) public hearing notices were mailed to the surrounding property owners on September 2, 2022, with a public hearing notice published in the "San Antonio Express", on September 21, 2022, prior to the City Council public hearing. At the time of this report, staff has received twenty-nine (29) responses opposed, two (2) responses in favor, and one (1) response who did not indicate in favor or opposed of the requested rezoning.

If a proposed zoning change is protested in writing and signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed zoning change or zoning map amendment and extending 200 feet from that area, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths ($\frac{3}{4}$) of all members of the City Council according to LGC, Local Government Code § 211.006(d). The opposition responses received accounts for 32.2% of the property within 200-feet and triggers the $\frac{3}{4}$ vote of the City Council. While staff notifies all property owner within 200 feet of a case, per the UDC, only those properties within the city are counted as part of the protest.

GOAL

The goal is to rezone approximately 15 acres of land to Planned Development District (PDD).

COMMUNITY BENEFIT

The community benefit is to promote safe, orderly, efficient development and bring about the City's vision of future growth.

SUMMARY OF RECOMMENDED ACTION

The applicant is proposing to zone change approximately 15 acres of land from Pre-Development District (PRE) to Planned Development District (PDD), with a base zoning of Apartment/Multi-Family Residential (R4).

The development will be striving to maintain the natural landscape and preserve as many of the existing trees on the property. The site will include 300 units with 1 bedroom to 4 bedroom options. The site will be providing amenities to the residents living there such as outdoor/indoor recreational spaces, pool, fitness center and a children's activity room. Also, the property will be providing a 20-foot landscape buffer around the entire development with 1 tree per 20 linear feet and will be providing a 6-foot tall metal fence around the perimeter of the entire property.

The table below illustrates the dimensional requirements for the development which are also viewable in the Planned Development District narrative.

Code	Classification	Minimum Lot Size			Minimum, Yard Setback			Min. Off-Street Parking	Misc. Requirements	
		Area sf	Width ft	Depth ft	Front ft	Side ft	Rear ft	Parking	Max. Height	Max. Cover
R-4	Apartment / Multi-Family	10,000	100	100	25	10	20	1.6 spaces per unit & measured at 10' by 18'	45	75%

The Comprehensive Land Use Plan (CLUP), through the Future Land Use Plan and the South Schertz Sector Plan, designates this subject property as Mixed Use Neighborhood Center.

- Comprehensive Plan Goals and Objectives: The land use designation of Mixed Use Neighborhood Center is intended to accommodate a mixture of retail, restaurant, office, and multi-family residential uses.
- Impact of Infrastructure: The property will be serviced by the City of Schertz for water and sewer through 8-inch lines.
- Impact of Public Facilities/Services: The proposed zone change would have minimal impact to the public services, such as schools, fire, police and parks.
- Compatibility with Existing and Potential Adjacent Land Uses: This property is surrounded by residential neighborhoods and the Comprehensive Land Use Plan designates the property as Mixed Use Neighborhood Center to provide a mixture of housing and neighborhood commercial services. The proposed rezoning to Planned Development District (PDD) with a base zoning of Apartment/Multi-Family (R4) is compatible with the existing and potential land uses surrounding the subject tract.

FISCAL IMPACT

None.

RECOMMENDATION

The property has the land use designation under the Schertz Sector Plan for Southern Schertz as Mixed Use Neighborhood Center. The Mixed Use Neighborhood Center land use designation encourages the mixture of commercial and residential type developments. This would include retail, restaurant, office and multi-family residential uses. The proposed rezoning to Planned Development District (PDD), with a base zoning of Apartment/Multi-Family Residential District (R4) conforms to the Comprehensive Land Use Plan designation. Given that the adjacent properties to the north, east and south are all residentially used, the proposed rezoning would act as a buffer to these properties from FM 1518. The property will be working to maintain the natural landscape and existing trees that are on site as well as providing amenities to the residents/guest that will live here. Staff is recommending approval of the FM 1518 Apartments Planned Development District as presented.

The Planning and Zoning Commission held a public hearing on September 14, 2022, where they made a recommendation to the City Council with a vote of 6-0 to approve the requested rezoning.

Attachments

Ord.22-S-41

Exhibit A: Metes and Bounds

Exhibit B: Zoning Exhibit

Exhibit C: PDD Narrative

Aerial Map

Public Hearing Notice Map

Public Hearing Notice Responses

ORDINANCE NO. 22-S-41

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING THE OFFICIAL ZONING MAP BY REZONING APPROXIMATELY 15 ACRES OF LAND TO PLANNED DEVELOPMENT DISTRICT (PDD), GENERALLY LOCATED 2,200 FEET SOUTHEAST OF THE INTERSECTION OF LOWER SEGUIN ROAD AND FM 1518, ALSO KNOWN AS BEXAR COUNTY PROPERTY IDENTIFICATION NUMBERS 309997 AND 309999, BEXAR COUNTY, TEXAS.

WHEREAS, an application to rezone approximately 15 acres of land to Planned Development District (PDD), generally located approximately 2,200 feet southeast of the intersection of Lower Seguin Road and FM 1518, also known as Bexar County Property Identification Number 309997 and 309999, 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 September 14, 2022, 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 October 11, 2022, 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 and Exhibit B, is hereby zoned Planned Development District (PDD).

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 11th day of October 2022.

PASSED, APPROVED AND ADOPTED on final reading the 1st day of November 2022.

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, Interim City Secretary

(seal)

Field Notes for a Tract of Land
Containing 14.687 acres (639,766.78 square feet)

A 14.687 acre (639,766.78 square feet) tract of land in the City of Schertz, Bexar County, Texas, situated in the Julian Diaz Survey No. 66, Abstract 187, County Block No. 5059, being a portion of a 10.000 acre tract as conveyed to Karen L. Dahle and spouse, Michael H. Dahle by Warranty Deed with Vendor's Lien as recorded in Volume 10257, Page 210 and a portion of a 5.095 acre tract as conveyed to Karen L. Dahle, a married person, by Warranty Deed with Vendor's Lien as recorded in Volume 10337, Page 840, both of the Official Public Records of Bexar County, Texas. Said 14.687 acre (639,766.78 square feet) tract of land being more particularly described as follows:

Beginning at a found 1/2" iron rod with a yellow plastic cap stamped "PAPE DAWSON", having Texas State Plane Coordinates of N:13,736,183.57, E:2,209,469.56, on the northeasterly right of way line of East F.M. 1518 North, an 80-foot wide right of way, being the west corner of a 0.7227 of an acre tract as conveyed to Joe Pawlik, Jr. and wife, Beverly L. Pawlik by Warranty Deed with Vendor's Lien as recorded in Volume 7461, Page 94, of the Official Public Records of Bexar County, Texas, being a south corner of the herein described tract;

Thence, with the northeasterly right of way line of said East F.M. 1518 North, being a southwesterly boundary of the remainder of said 5.095 acre tract and said 10.000 acre tract, North 30 degrees 27 minutes 18 seconds West, a distance of 872.37 feet to a found 5/8" iron rod, being the south corner of Lot 1, as shown on plat of Fey Subdivision as recorded in Volume 9539, Page 43, as conveyed to Hector Peterson by General Warranty Gift Deed as recorded in Document Number 20170091718, both of the Official Public Records of Bexar County, Texas, and being both the west corner of said 10.000 acre tract and of the herein described tract;

Thence, leaving the northeasterly right of way line of said East F.M. 1518 North, with the southeasterly boundary of said Lot 1, being the northwesterly boundary of said 10.000 acre tract, North 59 degrees 47 minutes 23 seconds East, a distance of 670.55 feet to a found 5/8" iron rod on the southwesterly boundary of a 40.556 acre tract as conveyed to Lloyd R. Fairley by Warranty Deed with Vendor's Lien as recorded in Volume 8666, Page 492, of the Official Public Records of Bexar County, Texas, being the east corner of said Lot 1, being both the north corner of said 10.000 acre tract and of the herein described tract;

Thence, with the southwesterly boundary of said 40.556 acre tract, being the northeasterly boundary of said 10.00 acre tract, the following two (2) courses:

South 30 degrees 32 minutes 03 seconds East, a distance of 69.89 feet to a set 1/2" iron with an orange plastic cap stamped "MTR ENG", being an angle point in the herein described tract;

South 30 degrees 26 minutes 11 seconds East, a distance of 938.61 feet to a set 1/2" iron with an orange plastic cap stamped "MTR ENG", being the north corner of a 3.245 acre tract as conveyed to Brandon McGarrell, a married man, by General Warranty Deed as recorded in Document Number 20180075657 of the Official Public Records of Bexar County, Texas, being both the east corner of said 10.000 acre tract and of the herein described tract;

Thence, leaving the southwesterly boundary of said 40.556 acre tract, with the northwesterly boundary of said 3.245 acre tract, South 61 degrees 37 minutes 43 seconds West, passing the most southerly south corner of said 10.000 acre tract, being the east corner of said 5.095 acre tract, and continuing said course for a total distance of 415.77 feet to a found 5/8" iron rod, being the east corner of said 0.7227 acre tract, being both the most southerly south corner of said 5.095 acre tract and of the herein described tract;

Thence, leaving the northwesterly boundary of said 3.245 acre tract, with the northeasterly and northwesterly boundary of said 0.7227 acre tract, being a southwesterly and a southeasterly boundary of said 5.095 acre tract, the following two (2) courses:

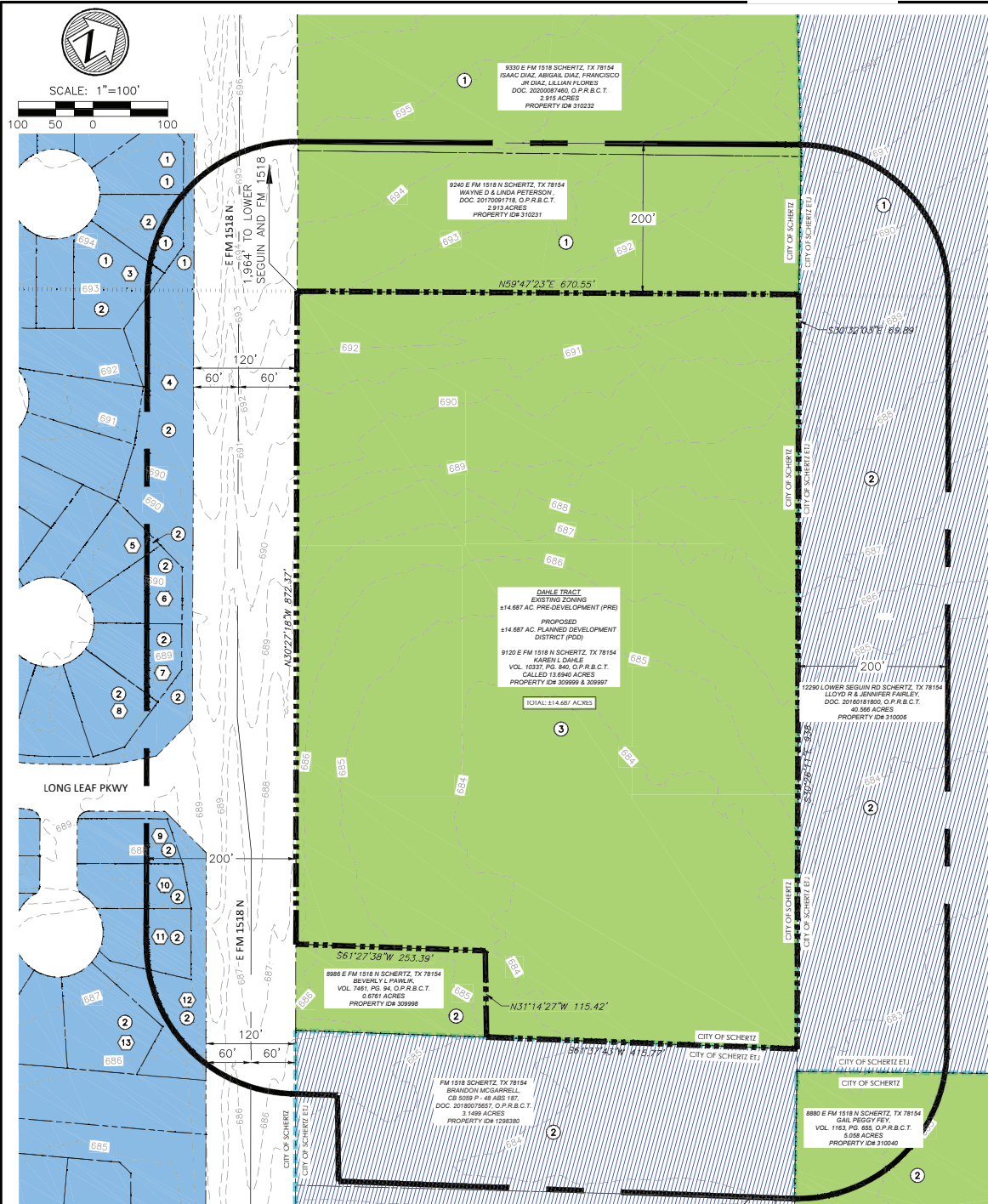
North 31 degrees 14 minutes 27 seconds West, a distance of 115.42 feet to a found 3/8" iron rod, being the north corner of said 0.7227 acre tract, being both an interior corner of said 5.095 acre tract and of the herein described tract;

South 61 degrees 27 minutes 38 seconds West, a distance of 253.39 feet to the **Point of Beginning**, containing 14.687 acres (639,766.78 square feet) of land.

Note: Basis of bearings and coordinates cited were established from the State Plane Coordinate System, North American Datum of 1983, Texas South Central Zone. A Survey of even date was prepared for this description.



Stephanie L. James, R.P.L.S.
Registered Professional Land Surveyor
No. 5950
Date: 2021-12-16 Job No. 21213
VB



LEGEND

- SUBJECT PROPERTY BOUNDARY
- - - ADJACENT PROPERTY BOUNDARY
- 200' NOTIFICATION LINE
- EXISTING CONTOUR
- SCHERTZ CITY LIMITS
- CHANGE IN LAND USE BOUNDARY
- O.P.R.B.C.T. OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS

ZONING LEGEND

- DEVELOPMENT AGREEMENT (DELAYED ANNEXATION)
- PRE-DEVELOPMENT
- PLANNED DEVELOPMENT DISTRICT

LAND USE TABLE

- 1 MIXED USE NEIGHBORHOOD
- 2 ESTATE NEIGHBORHOOD
- 3 MIXED USE NEIGHBORHOOD CENTER

PROPERTY INFORMATION

1	12015 ROCKROOT SCHERTZ, TX 78154 ADRIAN A PEREZ THE CROSSVINE MODULE 1, UNIT 1 DOC. 20170017048, O.P.R.B.C.T. 0.2022 ACRES PROPERTY ID# 1211017	9	8914 SAGES STEM SCHERTZ, TX 78154 DAVID L & JENNIFER M PUGH, THE CROSSVINE MODULE 1, UNIT 1 DOC. 20180246917, O.P.R.B.C.T. 0.1799 ACRES PROPERTY ID# 1210898
2	12014 ROCKROOT SCHERTZ, TX 78154 THOMAS LEE & LUCIA ECKHOFF THE CROSSVINE MODULE 1, UNIT 1 DOC. 20170011491, O.P.R.B.C.T. 0.2019 ACRES PROPERTY ID# 1211018	10	8910 SAGES STEM SCHERTZ, TX 78154 WALTER DOUGLAS & ANGELA DENISE SHERROD, THE CROSSVINE MODULE 1, UNIT 1 DOC. 20180087473, O.P.R.B.C.T. 0.1928 ACRES PROPERTY ID# 1210899
3	12010 ROCKROOT SCHERTZ, TX 78154 LAURENCE J & JOUNG HWA TYLER, THE CROSSVINE MODULE 1, UNIT 1 DOC. 20180048737, O.P.R.B.C.T. 0.2709 ACRES PROPERTY ID# 1211019	11	8908 SAGES STEM SCHERTZ, TX 78154 JINBONG U & ELIZABETH S ESKUSAKA, THE CROSSVINE MODULE 1, UNIT 1 DOC. 20170038179, O.P.R.B.C.T. 0.2206 ACRES PROPERTY ID# 1210900
4	314 E COMMERCE ST STE 600 SAN ANTONIO, TX 78205 CROSSVINE MASTER COMMUNITY INC. THE CROSSVINE MODULE 1, UNIT 1 DOC. 20160208068, O.P.R.B.C.T. 1.573 ACRES PROPERTY ID# 1211040	12	314 E COMMERCE ST STE 600 SAN ANTONIO, TX 78205 CROSSVINE MASTER COMMUNITY INC. THE CROSSVINE MODULE 1, UNIT 1 DOC. 20160208068, O.P.R.B.C.T. 0.4346 ACRES PROPERTY ID# 1210927
5	12017 VIGNETTE SCHERTZ, TX 78154 STEVEN MAURICE HARRIS THE CROSSVINE MODULE 1, UNIT 1 DOC. 20200117378, O.P.R.B.C.T. 0.1734 ACRES PROPERTY ID# 1211030	13	8902 SAGE STEM NEW BRAINFIELDS, TX 78132 EMILY KATE & GUERRA ERICK MEUTH THE CROSSVINE MODULE 1, UNIT 1 DOC. 20210283612, O.P.R.B.C.T. 0.3184 ACRES PROPERTY ID# 1210901
6	12021 VIGNETTE SCHERTZ, TX 78154 JUAN ALBERTO & JENNIFER BELARDO RAMOS, THE CROSSVINE MODULE 1, UNIT 1 DOC. 20210305543, O.P.R.B.C.T. 0.2131 ACRES PROPERTY ID# 1211031		
7	12025 VIGNETTE SCHERTZ, TX 78154 RONNA & ERIC POOLE, THE CROSSVINE MODULE 1, UNIT 1 DOC. 20210305551, O.P.R.B.C.T. 0.2098 ACRES PROPERTY ID# 1211032		
8	12024 VIGNETTE SCHERTZ, TX 78154 DOHNA L WIM WILEY, THE CROSSVINE MODULE 1, UNIT 1 DOC. 20170044603, O.P.R.B.C.T. 0.224 ACRES PROPERTY ID# 1211033		

FM 1518 SCHERTZ MULTIFAMILY TRACT ZONING TABLE		
CONDITION	ZONING	AREA (AC.)
EXISTING	PRE	14.687
PROPOSED	PDD	14.687

OWNER INFORMATION
KAREN L DAHLE
9120 E FM 1518 N
SCHERTZ, TX 78154

APPLICANT
RAYMOND TARRIN JR., P.C. DFM, LEED AP
MOY TARRIN RAMIREZ ENGINEERS, LLC
12770 CHAMARRON PATH, SUITE 100
SAN ANTONIO, TEXAS 78249
PH: (210) 698-5051

SURVEYOR
STEPHANIE L JAMES, RPLS
MOY TARRIN RAMIREZ ENGINEERS, LLC
12770 CHAMARRON PATH, SUITE 100
SAN ANTONIO, TEXAS 78249
PH: (210) 698-5051

NOTE:

1. NO PORTION OF THIS PROPERTY IF LOCATED WITHIN THE 100-YEAR (1% CHANCE) FLOODPLAIN AS ACCORDING TO FEMA FIRM PANEL #48187C0240F

MIR
Moy Tarrin Ramirez Engineers, LLC
TIMBLE ENGINEERING F-5297 / SURVEYING F-1013500
12770 CHAMARRON PATH, SUITE 100
SAN ANTONIO, TEXAS 78249
TEL: (210) 698-5051
FAX: (210) 698-5051

DRAWING NAME:
ZONING EXHIBIT

PROJECT NAME:
F.M. 1518 SCHERTZ MULTIFAMILY

PROJECT NO.: 21213 **DATE:** AUGUST 9, 2022 **SCALE:** 1"=100'

A 14.687 ACRE (639,766.78 SQUARE FEET) TRACT OF LAND IN THE CITY OF SCHERTZ, BEXAR COUNTY, TEXAS, SITUATED IN THE JULIAN DIAZ SURVEY NO. 66, ABSTRACT 187, COUNTY BLOCK NO. 3059, BEING A PORTION OF A 10,000 ACRE TRACT AS CONVEYED TO KAREN L. DAHLE AND SPOUSE, MICHAEL M. DAHLE BY WARRANTY DEED WITH VENDOR'S LIEN AS RECORDED IN VOLUME 10257, PAGE 210 AND A PORTION OF A 5,095 ACRE TRACT AS CONVEYED TO KAREN L. DAHLE, A MARRIED PERSON, BY WARRANTY DEED WITH VENDOR'S LIEN AS RECORDED IN VOLUME 10337, PAGE 840, BOTH OF THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS.

1518 Apartments

Planned Development District
Schertz, Texas

1518 Apartments Planned Development District

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1518 Apartments Planned Development District

As population in the Schertz area continues to grow, the demand for housing in the Schertz community continues to rise. It is critical to have alternative housing options to traditional single-family development for existing and future City residents. The 1518 Apartments will provide much needed housing in the Schertz community. The project location is further described in the attached Exhibit “A”.

I. Planned Development District (“PDD”)

The City of Schertz (“City”) has adopted zoning and site design requirements for specific zoning classifications and uses, as set forth in the Schertz Unified Development Code (“UDC”). Recognizing that not all development may be able to adhere to the strict regulations and design standards set forth in a particular zoning classification, the City created the Planned Development District (“PDD”) as an alternative approach to conventional land development.

PDD zoning encourages and promotes creative and innovative project design that would otherwise not be possible under the regulations of typical Schertz zoning districts. In exchange for allowing flexibility under the PDD, the City is granted more control and certainty over what is actually constructed on a site. Through the PDD, permitted uses and design standards can be better defined.

The PDD Plan (attached as Exhibit “B”) and this written document define the use and project design for the 1518 Apartments PDD. This document outlines the specific UDC articles and sections that are to be amended or modified pursuant to the City ordinance specific to this PDD. Development within the Property is subject to general development plan review and approval by the City, as required by the UDC.

II. 1518 Apartments

a. The Property

The PDD project area includes approximately 14.69 acres (the “Property”) located on FM 1518 within the City of Schertz municipal boundaries. The Property is further described in the attached Exhibit “A”.

b. The Project

The Project will consist of approximately 300 units (20.4 units per acre), as further shown on the PDD Plan in Exhibit “B”. The development includes eight (8), three (3) story buildings varying in the number of units, as well as amenities to serve the apartment community. There will be one (1), two (2), three (3), and four (4) bedroom units, creating housing opportunities for a wide variety of individuals at varying stages of life.

The natural landscape is an amenity to the Project. The site has been designed thoughtfully to preserve existing trees on the Property. The Project also includes outdoor open/recreational space for the tenants to enjoy, as well as a resort-style pool. The community will include a club house with a fitness center, business center, children's activity room, laundry facilities, and other common areas for the community to use. A multi-use path designed in accordance with City and TxDOT standards will be constructed on FM 1518, pending coordination and approval from TxDOT, and there will be significant landscaping throughout the Property.

III. PDD Standards

The Project will be developed in accordance with the standards set forth in this PDD and on the attached PPD Plan. If this document and the PDD Plan are silent, then UDC standards shall control. In the event of a conflict between the PDD and the UDC, the PDD and PDD Plan shall control.

- A. Zoning Districts (UDC Article 5)** – Unless excepted from herein, the Project shall comply with the City's "R-4" Apartment/Multi-Family Residential District standards. The following Table shall replace Table 21.5.7.A as it applies to the Project:

Table One – Dimensional Requirements

		Minimum Lot Size			Minimum, Yard Setback			Minimum Off-Street Parking Spaces	Misc. Requirements	
Code	Classification	Area sf	Width ft	Depth ft	Front ft	Side ft	Rear ft	Parking	Max . Ht.	Max. Cover
R-4	Apartment/Multi-Family	10,000	100	100	25	10	20	(see parking standards in the PDD)	45	75%

The following standards are applicable to the PDD:

- A. The Project will be developed in one (1) phase.
- B. Project unit count is approximately 300 (20.4 units per acre), however this unit count may increase by up to 10% for a maximum of 22.4 units per acre.
- C. Minimum of 1.6 parking spaces per unit.
- D. Site Plan approval required.
- E. Swimming pools count toward the maximum impervious cover limitations, unless the swimming pool is equipped with a water overflow device appropriate for such pool, and only if it drains into any pervious surface, in which case the water surface shall be excluded.
- F. No variances may be permitted to exceed the maximum impervious cover limitations.
- G. The Project shall comply with the standards of UDC 21.14.3, except for:
 - The front building setback shall be a minimum of 25 feet
 - The Project does not include any head-on parking facing public right-of-way and therefore a land berm wall or vegetative hedge barrier is not required. The Project will provide a minimum 20-foot-wide landscape buffer adjacent to FM 1518, as well as the side and rear Property lines. Plantings within the buffer will comply with UDC Section 21.9.3 standards (1 tree per 20 feet).
- H. The PDD includes buildings fronting on FM 1518, and therefore no masonry screening wall is required.

B. Design Standards (UDC Article 9)

1) Lot (Section 21.9.3)

The lot size and dimensions will conform to the minimum requirements recognized in “Table One – Dimensional Requirements” of this PDD.

2) Fence (Section 21.9.8)

The PDD will include a six-foot (6') metal fence around the perimeter of the entire Property.

C. Parking (UDC Article 10)

1) Size of Parking Spaces (Section 21.10.3)

- A. Each standard off-street surface parking space shall measure not less than ten (10) feet by eighteen (18) feet (10'x18'), exclusive of access drives and aisles, and shall be of usable shape and condition.
- B. *Wheel stops.* Wheel stops shall be required where a parking space is adjacent to a sidewalk/pedestrian area. They are not required adjacent to landscaped areas.

2) Schedule of Off-Street Parking Requirements (Section 21.10.4)

- A. Off-street parking shall be provided in sufficient quantities to provide the following ratio of vehicle spaces for the uses specified in the districts designated:

Table Two – Schedule of Off-Street Parking Requirements	
<i>Use Type</i>	<i>Parking Requirement</i>
Multi-Family	1.6 parking spaces per unit (minimum)

D. Signs (UDC Article 11)

1) Monument Signs (Section 21.11.11)

- A. *General.* Unless otherwise specifically provided, the regulations set forth in this section shall be applicable to all monument signs that are allowed under this Article.
- B. *Maximum Height.* The maximum height of a monument sign shall be six feet (6').
- C. *Maximum Area.* The maximum area of a monument sign shall not exceed fifty (50) square feet.
- D. *Number of Signs.* The maximum number of monument signs shall be limited to two (2) per lot per street frontage.
- E. *Minimum Setback.* The minimum setback of all monument signs shall be fifteen feet (15') from any property line.
- F. *Material Requirements.* All monument sign bases shall be constructed of masonry material consisting of brick, stone or split face concrete block. The monument sign structure must be constructed or covered with the same masonry material as the principal building or shall be constructed of brick, stone or split face concrete block. Sculpted aluminum sign panels will be allowed. All sign text and graphic elements shall be limited to a minimum of six inches (6") from the outer limits of the sign structure.
- G. *Illumination.* Monument signs shall only be illuminated utilizing internal lighting for sculpted aluminum panels or a ground lighting source where the light itself

and supporting sign structure are not visible from public right-of-way.

- H. *Driveway Entrances.* Freestanding non-residential street address signs at driveway entrances are limited to one (1) monument sign per driveway entrance not to exceed twelve (12) square feet in area, and three feet in height.

2) Subdivision Entry Signs (UDC Section 21.11.15)

For clarity, this UDC Section 21.11.15 shall not apply to the Project. Signage for the Project will conform to the monument signage requirements in this PDD.

E. Adjustments to Planned Development District (PDD) Plan (UDC Section 21.5.10)

Per UDC Section 21.5.10, the City Manager or his/her designee may permit an applicant to make minor amendments to the PDD Plan without the necessity of amending the ordinance that established the PDD. As the Project design and engineering is refined, there it may be necessary to alter building orientation or shift buildings in location. The list of minor amendments included in Section 21.5.10 is further defined to allow buildings to shift in location up to twenty feet (20'). Building sizes can increase or decrease up to fifteen percent (15%) of what is shown on the PDD Plan, provided that the setbacks shown on the PDD Plan and the requirements of Table One – Dimensional Standards are satisfied.

Field Notes for a Tract of Land
Containing 14.687 acres (639,766.78 square feet)

A 14.687 acre (639,766.78 square feet) tract of land in the City of Schertz, Bexar County, Texas, situated in the Julian Diaz Survey No. 66, Abstract 187, County Block No. 5059, being a portion of a 10.000 acre tract as conveyed to Karen L. Dahle and spouse, Michael H. Dahle by Warranty Deed with Vendor's Lien as recorded in Volume 10257, Page 210 and a portion of a 5.095 acre tract as conveyed to Karen L. Dahle, a married person, by Warranty Deed with Vendor's Lien as recorded in Volume 10337, Page 840, both of the Official Public Records of Bexar County, Texas. Said 14.687 acre (639,766.78 square feet) tract of land being more particularly described as follows:

Beginning at a found 1/2" iron rod with a yellow plastic cap stamped "PAPE DAWSON", having Texas State Plane Coordinates of N:13,736,183.57, E:2,209,469.56, on the northeasterly right of way line of East F.M. 1518 North, an 80-foot wide right of way, being the west corner of a 0.7227 of an acre tract as conveyed to Joe Pawlik, Jr. and wife, Beverly L. Pawlik by Warranty Deed with Vendor's Lien as recorded in Volume 7461, Page 94, of the Official Public Records of Bexar County, Texas, being a south corner of the herein described tract;

Thence, with the northeasterly right of way line of said East F.M. 1518 North, being a southwesterly boundary of the remainder of said 5.095 acre tract and said 10.000 acre tract, North 30 degrees 27 minutes 18 seconds West, a distance of 872.37 feet to a found 5/8" iron rod, being the south corner of Lot 1, as shown on plat of Fey Subdivision as recorded in Volume 9539, Page 43, as conveyed to Hector Peterson by General Warranty Gift Deed as recorded in Document Number 20170091718, both of the Official Public Records of Bexar County, Texas, and being both the west corner of said 10.000 acre tract and of the herein described tract;

Thence, leaving the northeasterly right of way line of said East F.M. 1518 North, with the southeasterly boundary of said Lot 1, being the northwesterly boundary of said 10.000 acre tract, North 59 degrees 47 minutes 23 seconds East, a distance of 670.55 feet to a found 5/8" iron rod on the southwesterly boundary of a 40.556 acre tract as conveyed to Lloyd R. Fairley by Warranty Deed with Vendor's Lien as recorded in Volume 8666, Page 492, of the Official Public Records of Bexar County, Texas, being the east corner of said Lot 1, being both the north corner of said 10.000 acre tract and of the herein described tract;

Thence, with the southwesterly boundary of said 40.556 acre tract, being the northeasterly boundary of said 10.00 acre tract, the following two (2) courses:

South 30 degrees 32 minutes 03 seconds East, a distance of 69.89 feet to a set 1/2" iron with an orange plastic cap stamped "MTR ENG", being an angle point in the herein described tract;

South 30 degrees 26 minutes 11 seconds East, a distance of 938.61 feet to a set 1/2" iron with an orange plastic cap stamped "MTR ENG", being the north corner of a 3.245 acre tract as conveyed to Brandon McGarrell, a married man, by General Warranty Deed as recorded in Document Number 20180075657 of the Official Public Records of Bexar County, Texas, being both the east corner of said 10.000 acre tract and of the herein described tract;

Thence, leaving the southwesterly boundary of said 40.556 acre tract, with the northwesterly boundary of said 3.245 acre tract, South 61 degrees 37 minutes 43 seconds West, passing the most southerly south corner of said 10.000 acre tract, being the east corner of said 5.095 acre tract, and continuing said course for a total distance of 415.77 feet to a found 5/8" iron rod, being the east corner of said 0.7227 acre tract, being both the most southerly south corner of said 5.095 acre tract and of the herein described tract;

Thence, leaving the northwesterly boundary of said 3.245 acre tract, with the northeasterly and northwesterly boundary of said 0.7227 acre tract, being a southwesterly and a southeasterly boundary of said 5.095 acre tract, the following two (2) courses:

North 31 degrees 14 minutes 27 seconds West, a distance of 115.42 feet to a found 3/8" iron rod, being the north corner of said 0.7227 acre tract, being both an interior corner of said 5.095 acre tract and of the herein described tract;

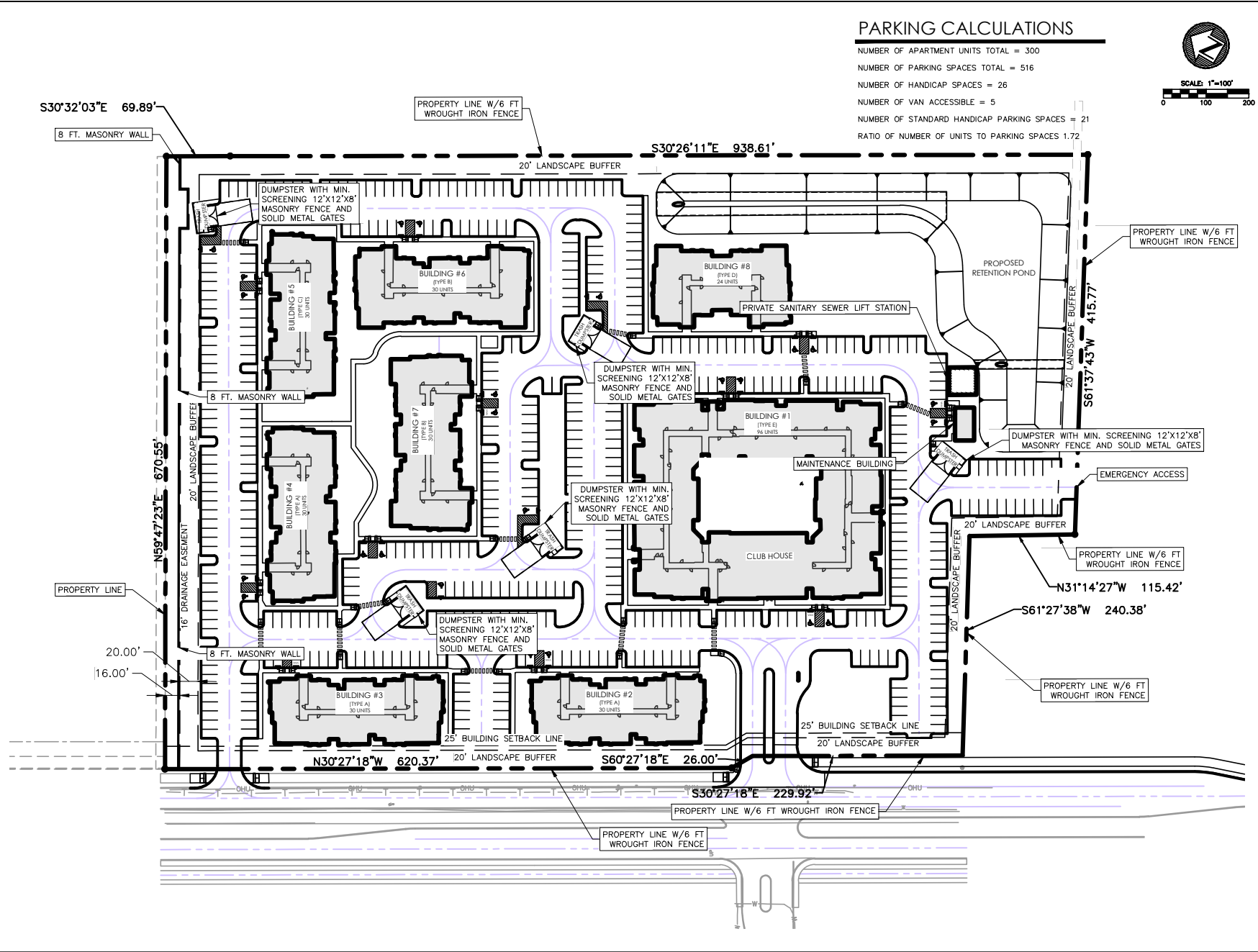
South 61 degrees 27 minutes 38 seconds West, a distance of 253.39 feet to the **Point of Beginning**, containing 14.687 acres (639,766.78 square feet) of land.

Note: Basis of bearings and coordinates cited were established from the State Plane Coordinate System, North American Datum of 1983, Texas South Central Zone. A Survey of even date was prepared for this description.



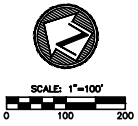


Stephanie L. James, R.P.L.S.
Registered Professional Land Surveyor
No. 5950
Date: 2021-12-16 Job No. 21213
VB



PARKING CALCULATIONS

NUMBER OF APARTMENT UNITS TOTAL = 300
NUMBER OF PARKING SPACES TOTAL = 516
NUMBER OF HANDICAP SPACES = 26
NUMBER OF VAN ACCESSIBLE = 5
NUMBER OF STANDARD HANDICAP PARKING SPACES = 21
RATIO OF NUMBER OF UNITS TO PARKING SPACES 1.72



alta
ALTA ARCHITECTS
723 SOUTH FLORES STREET
SAN ANTONIO, TEXAS
210.349.1163

MIR
Moy Tarin Ramirez Engineers, LLC
ENGINEERS • ARCHITECTS • PLANNERS
10000 DUTCHMAN BOULEVARD, SUITE 100
DALLAS, TEXAS 75241
TEL: (214) 498-8888
FAX: (214) 498-8888

the
NRP
group

1518 APARTMENTS
SCHERTZ, TEXAS
CONCEPTUAL SITE PLAN

Issue/Revisions		
#	DESCRIPTION	DATE
Sheet Title		
Date		
AUGUST 30, 2022		
Project Number	Drawn By	Checked By
21213	AR	RT
Sheet Number		

CSP-1



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

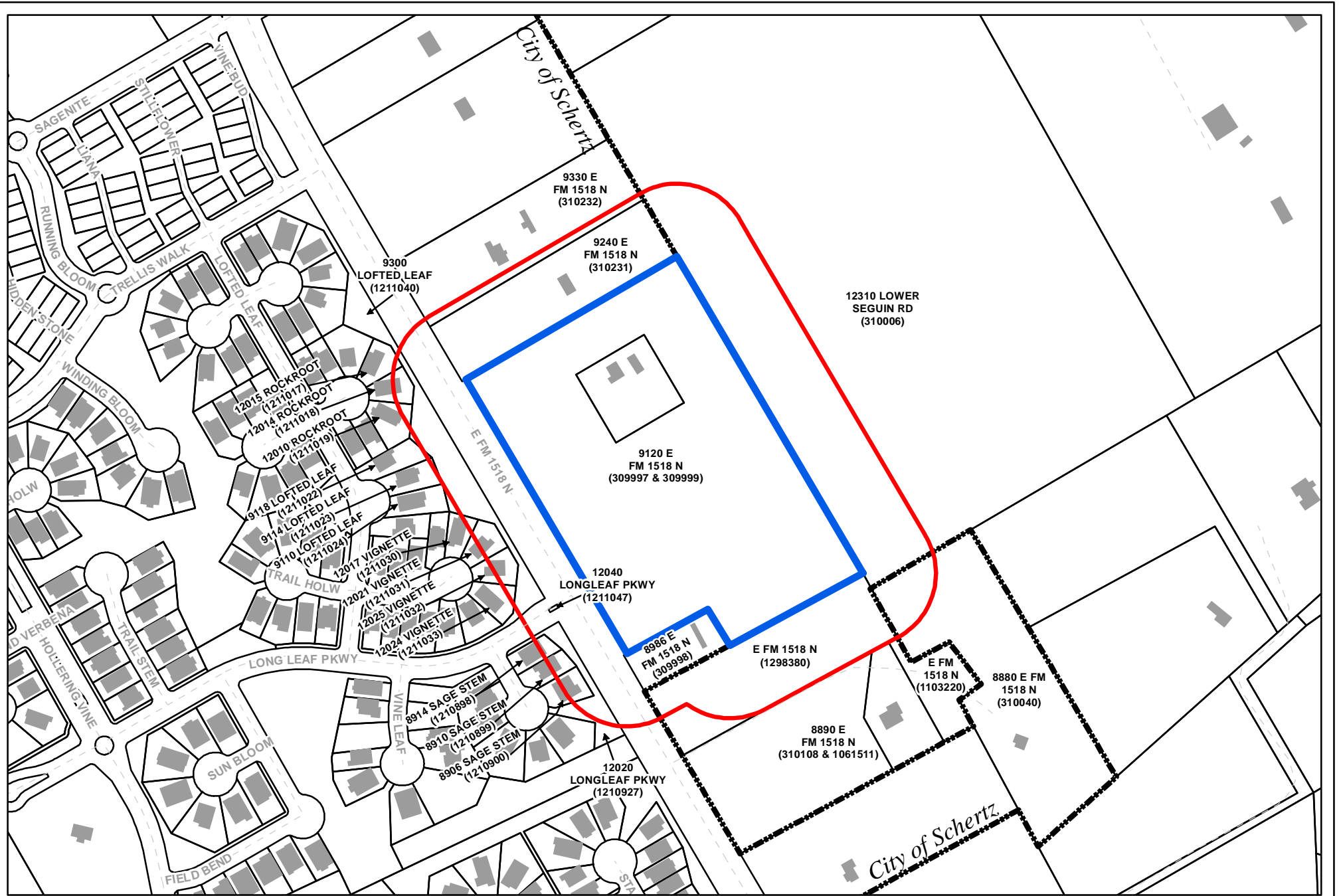


F.M. 1518 SCHERTZ MULTIFAMILY
CB 5059 P-3 (13.617 AC) &
P-36 (1.077 AC) ABS 187

- | | | | | | | |
|--|---|--|---|---|---|---|
| <ul style="list-style-type: none"><all other values>HighwaysMajor RoadsMinor RoadsOther Cities | <ul style="list-style-type: none"><all other values>FreewayPrincipal ArterialPlanned Principal ArterialSecondary Arterial | <ul style="list-style-type: none">Planned Secondary ArterialSecondary Rural ArterialPlanned Secondary Rural ArterialResidential CollectorPlanned Residential Collector | <ul style="list-style-type: none">Commercial Collector BPlanned Commercial Collector BCommercial Collector APlanned Commercial Collector A | <ul style="list-style-type: none">1"2"3"4"6"8"10"12"16"18"20"24"30"36" | <ul style="list-style-type: none">Schertz GravitySchertz PressureNeighboring GravityPrivate Pressure | <ul style="list-style-type: none">HydrantManholes200' BufferSchertz Municipal BoundaryCounty Boundaries |
|--|---|--|---|---|---|---|

1 Inch = 200 Feet

0 50 100 200 300 400 500 Feet



Last Update: June 7, 2022

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."

City of Schertz

FM 1518 Schertz Multifamily (PLPDD20220056)



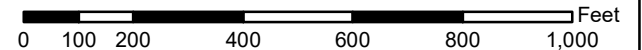
Project Area



City Limit Boundary



200' Buffer



Megan Harrison

From: Karen Dahle
Sent: Wednesday, September 7, 2022 6:14 PM
To: Megan Harrison
Subject: PLPDD20220056

Megan,

Please mark my notice of hearing as IN FAVOR for this request to rezone.

Thank you.

Karen Dahle - electronic signature

Schertz, Texas 78154

Date signed 09/07/2022

Sent from Yahoo Mail on Android

NOTICE OF PUBLIC HEARING

September 2, 2022

Dear Property Owner,

The Schertz Planning and Zoning Commission will conduct a public hearing on **Wednesday, September 14, 2022**, 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:

PLPDD20220056 – A request to rezone approximately 15 acres of land from Pre-Development District (PRE) to Planned Development District (PDD), generally located approximately 2,200 feet southeast of the intersection of Lower Seguin Road and FM 1518, also known as Bexar County Property Identification Number 309997 and 309999, City of Schertz, Bexar County, Texas.

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 1400 Schertz Parkway, Building #1, or email 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 **PLPDD20220056**

COMMENTS: There is a need for this and the proposed location is a good one.

NAME: Chris Domingue
(PLEASE PRINT)

SIGNATURE



STREET ADDRESS: 8710 Luckside Schertz Tx 78154

DATE: Sept 14, 2022

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Sincerely,



Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☐ neutral to ☐ the request for PLPDD20220056

COMMENTS: Traffic is dangerous

NAME: Gary Dester Jr SIGNATURE 
(PLEASE PRINT)

STREET ADDRESS: 8516 Vinepost Schertz, TX 78154

DATE: 9/8/2022

NOTICE OF PUBLIC HEARING

September 2, 2022

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Sincerely,

Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **PLPDD20220056****COMMENTS:** I am opposed to this land grab for multi-unit housing. Extra traffic and lower housing values.**NAME:** Joshua Patterson
(PLEASE PRINT)**SIGNATURE** **STREET ADDRESS:** 11972 Trailing Creek, Schertz, TX 78154**DATE:** 9/14/2022

NOTICE OF PUBLIC HEARING

September 2, 2022

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Sincerely,


Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **PLPDD20220056**

COMMENTS: _____

NAME: Belia Burnett

(PLEASE PRINT)

SIGNATURE STREET ADDRESS: 8748 StackstoneDATE: 14 SEPT 2022

NOTICE OF PUBLIC HEARING

September 2, 2022

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Sincerely,

Megan Harrison
Planner

Reply Form

I am in favor of ☐ opposed to ☒ neutral to ☐ the request for **PLPDD20220056**COMMENTS High Density Community → wrong time, wrong place
overwhelm infrastructure, schools, etcNAME Dusty + Linda Cole SIGNATURE [Signature]
(PLEASE PRINT)STREET ADDRESS 11931 Hollering Pass. Schertz TX 78154DATE 14 Sept 2022

NOTICE OF PUBLIC HEARING

September 2, 2022

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Sincerely,

Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **PLPDD20220056**

COMMENTS:

NAME: FRANCES MARTINEZ SIGNATURE: 
(PLEASE PRINT)STREET ADDRESS: 8406 CREEK POCKETDATE: 14 SEPT 22

NOTICE OF PUBLIC HEARING

September 2, 2022

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Sincerely,

Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **PLPDD20220056**COMMENTS: See belowNAME: Beth Schumacher SIGNATURE 
(PLEASE PRINT)STREET ADDRESS: 3142 Turquoise, Shertz
TX 78154DATE: 9/14/2022

This change does not serve the neighboring communities, not the community who would be living in the planned development. I am strongly opposed to this.

Pugh, David L. & Jennifer

SCHERTZ

COMMUNITY
SERVICE
OPPORTUNITY

PLANNING & COMMUNITY
DEVELOPMENT

NOTICE OF PUBLIC HEARING

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Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for PLPDD20220056

COMMENTS: Too close to hwy and could effect home values

NAME: Jennifer Pugh SIGNATURE Jennifer Pugh
(PLEASE PRINT)

STREET ADDRESS: 8914 Sage Stem Schertz, TX 78154

DATE: 7 Sep 2022

NOTICE OF PUBLIC HEARING

September 2, 2022

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Sincerely,



Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **PLPDD20220056**

COMMENTS: _____

NAME: Adrian A. Perez SIGNATURE 
(PLEASE PRINT)

STREET ADDRESS: 12015 Rockroot, Schertz TX 78154

DATE: 09/14/2022

NOTICE OF PUBLIC HEARING

September 2, 2022

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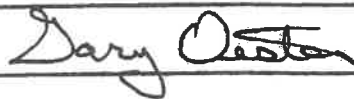
Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **PLPDD20220056**

COMMENTS: _____

NAME: Gary Oester SR.
(PLEASE PRINT)

SIGNATURE



STREET ADDRESS: 5900 Vine Leaf Schertz TX 78154

DATE: 9/9/22

NOTICE OF PUBLIC HEARING

September 2, 2022

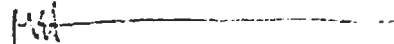
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Sincerely,



Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for PLPDD20220056

COMMENTS: _____

NAME: LEA DESTEN SIGNATURE Lea Desten
(PLEASE PRINT)

STREET ADDRESS: 8900 VINE LEAF, SCHERTZ TX 78154

DATE: 9/9/22

NOTICE OF PUBLIC HEARING

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Reply Form

I am: In favor of ☐ opposed to ☒ neutral to ☐ the request for PLPDD20220056

COMMENTS: Allows non-property owners to vote for laws that affect property taxes.

NAME: Derek Messer SIGNATURE: 
(PLEASE PRINT)

STREET ADDRESS: 11705 Hollersing Pass, Schertz TX, 78154

DATE: 9/12/2022

NOTICE OF PUBLIC HEARING

September 2, 2022

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Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for PLPDD20220056

COMMENTS: Traffic is already hard exiting at Hollering Vine / 1578

NAME: Jackie DeStor SIGNATURE Jackie DeStor
(PLEASE PRINT)

STREET ADDRESS: 8516 Vine post Schertz TX 78154

DATE: 9/9/2022



COMMUNITY
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Sincerely,

Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for PLPDD20220056

COMMENTS: Inadequate infrastructure (roads, lack of public transportation, schools, etc), violation of right to quiet

NAME: Nicole Oester
(PLEASE PRINT)

SIGNATURE Nicole

STREET ADDRESS: 11705 Hollering Pass Schertz, TX 78154

DATE: 09/12/2022

enjoyment
(lack of
garages in
complex)
tenants who
don't pay
property tax
directly so
shouldn't have
say in
property tax
related issues
(as opposed to home owners)

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Sincerely,


Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for PLPDD20220056

COMMENTS: Does not support increase in traffic

NAME: Eric & Ronna Poole SIGNATURE [Signature]
(PLEASE PRINT)

STREET ADDRESS: 12035 Vignette

DATE: 9-7-22



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OPPORTUNITY

PLANNING & COMMUNITY
DEVELOPMENT

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Sincerely,

Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **PLPDD20220056**

COMMENTS: This will impact value of houses for crossvine

NAME: Josh Imhoff SIGNATURE
(PLEASE PRINT)

STREET ADDRESS: 9110 Cofed Leaf

DATE: 09-09-22

NOTICE OF PUBLIC HEARING

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Sincerely,


Megan Harrison
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for PLPDD20220056

COMMENTS: See Attached

NAME: Lloyd Fairley SIGNATURE: 
(PLEASE PRINT)

STREET ADDRESS: 4085 Weil Rd Marion TX 78124

DATE: 9-13-2022

September 13, 2022

To: Planning and Zoning Commission of Schertz

From: Lloyd Fairley 12290 Lower Seguin Rd

RE: PLPDD20220056

I have owned and operated the property at 12290 Lower Seguin for over 20 years as a high-quality horse hay producing farm. My property borders the East side of the properties that are in consideration of a zoning change.

I responded to this survey in January of this year with a favorable vote of this rezoning. I have since changed my position to **not** be in favor of this zoning change.

I do not believe that transitioning a small portion of the area into Planned Development District is appropriate for the surrounding properties. Development almost always relates to an increase in activity and usage that impacts other neighboring properties with noise, runoff, garbage, and privacy.

Plats seldom take into consideration how the project will interact with the surrounding property uses unless the city already has policy in place that requires the developer to include solutions.

It has been my experience and observation that the city of Schertz does not look out for the indigenous property owners, especially with respect to runoff and drainage, property setbacks, and barriers for noise and garbage. These are all major concerns for me and my crop.

Garbage blowing in from neighboring properties will contaminate the hay crop and even a small piece of plastic or balloon can kill livestock from ingestion.

Drainage seems to be an assumed right-of-way that always puts the farmer at a disadvantage to development. In a recent case, drainage from a new subdivision is expected to go through my dad's property based on some inadequate information used by engineers. In reality the drainage has not passed through that area for over 20 years. Unplanned drainage routing damages crops and jeopardizes harvesting.

Drainage retention design is not good enough for areas with flat topography and requires a thorough design from source to waterway extending through all affected properties.

Drainage in this area of the city is a development constraint identified by the Schertz Sector Plan of 2013. (See Attached)

Runoff is another big concern that I have for future development around my property. Runoff from developed properties, especially residential complexes will contain a variety of chemicals that will contaminate or destroy my hay crop. Parking lot and dumpster effluent are always big sources for toxic runoff. Pesticides used in landscaping and pest control are hazardous to the crop and potentially deadly to the livestock that consume my product.

For example: Atrazine is a chemical used for residential and commercial landscaping without restriction. A small plot of grass at an apartment complex will typically have as much as 400% more Atrazine applied than what I am allowed to use by the state on 40 acres! In addition, Atrazine has not been used on our farms for the last 18 years due to its proven developmental and reproductive toxicity. For this reason, countries all over the world have banned Atrazine.

90% of the hay grown on my property is consumed by horses and it is a fact that horses exposed to trace amounts of Atrazine have miscarriages.

I would like to see that Schertz require audits of sewer and runoff effluents in accordance with TCEQ standards.

I do not support this zoning change primarily on the basis that Schertz is not prepared to transition these properties into a Planned Development District and conserve the agricultural and property rights of the surrounding residents. More Planning is needed.

Respectfully,

Lloyd Fairley

Planning and Zoning Chairman for Santa Clara TX

Attachment

B. Constraints

The constraints for South Schertz are derived from its relative development infancy compared to the other areas of Schertz. Without a history of development, South Schertz has a significant lack of infrastructure including sewer, water and streets. It also is constrained by the relatively flat topography that could lead to flooding of property including limiting transportation access at low water crossings during flood events. These constraints will be alleviated and addressed to some degree through capital improvements as development occurs. South Schertz's current lack of connectivity with the rest of the city is a constraint that will need to be addressed at a city-wide and regional scale. Currently, FM 78 railroad tracks and Cibolo Creek are all major barriers to much needed connectivity between South Schertz and the rest of Schertz. FM 1518 is the only current accessible route into South Schertz, and better connectivity across the above barriers can only happen at a significant cost.

Megan Harrison

From: Emily Lawson
Sent: Wednesday, September 14, 2022 4:41 PM
To: Megan Harrison
Subject: 1518 apartments

Hello,

I am a resident of The Crossvine neighborhood and wanted my voice to be heard in regards to the proposed apartments being discussed in tonight's meeting.

Myself and my family vehemently OPPOSE these apartments for many reasons, but will name a few:

- The road cannot handle existing traffic and the project to widen it has not even started.
- 18 wheelers are often getting stuck in the ditch at the lower seguin intersection (it just happened on September 12), which causes school traffic to be a nightmare (there are three schools on 1518 and very few traffic lights, which already creates massive traffic problems), adding high density housing will only add to this problem.
- apartments are already planned for in the crossvine, why is another complex needed?
- low income apartments are incredibly stupid in this part of schertz where there is NOTHING within walking distance (i.e. grocery stores, public transportation, doctors, etc).
- the city needs more single family properties - where residents are paying property taxes, not more corporations getting tax breaks to build hud apartments that will be dilapidated in 5 years.

I hope you consider my input, these apartments are a terrible idea. Re-zoning is a terrible idea, and the change in land use was a terrible idea. This property should be sold as-is, without changing anything.

Thank you,
Whaley & Emily Lawson
11812 field bend

Sent from my iPad

Megan Harrison

From: April Johnson
Sent: Wednesday, September 14, 2022 4:33 PM
To: Megan Harrison
Subject: 9/14 Council Meeting

Hello,

I am writing in regards to the proposal of low income apartments being built across from The Crossive and the meeting tonight. Unfortunately I am unable to attend to voice my concerns but as a resident I wanted to make it clear that I am opposed to this and I do hope the council takes into consideration that many other residents in our community are also opposed.

Thank you,
April Johnson
12041 Garden Shoot
Schertz, TX 78154

Megan Harrison

From: Clirissa
Sent: Wednesday, September 14, 2022 4:35 PM
To: Megan Harrison
Subject: Planning Request PLPDD20220056

Good Evening Megan,

I am Clirissa Hughes, a new homeowner in The Crossvine community and unable to make the meeting tonight. I did not receive a notice in the mail but the information was provided to the community. I would like to say that I am opposed to the proposed apartments being built on 1518. I literally would be able to see them out my back window and I feel there is another location that should be considered for this plan. My address is 8920 Vine Leaf. Thank you for your time and have a good evening.

Megan Harrison

From: daniel garner
Sent: Monday, September 12, 2022 8:33 AM
To: Megan Harrison
Subject: Re: Lower seguin

12020 Garden Shoot, Schertz, TX 78154. Thank you.

On Mon, Sep 12, 2022, 8:31 AM Megan Harrison <MHarrison@schertz.com> wrote:

Mr. Garner,

Please keep this email as confirmation that I have received your email. Could you please provide your address for the record?

Thank you,

Megan Harrison

Planner

City of Schertz

1400 Schertz Parkway

Schertz, TX 78154

Office: 210-619-1781

Schertz.com

From: daniel garner
Sent: Saturday, September 10, 2022 4:19 PM
To: Megan Harrison <MHarrison@schertz.com>
Subject: Lower seguin

Please fix the road and make it wider. The road as it can not handle the traffic as is let alone if we plan to attract business or ad apartments. Apartments to me make no sense in this location. Apartments are normally near highly dense areas close to food and services. Another key factor for fixing the road is it location next to a military institution. The amount of large vehicles going in and out and the blind turn from the base has caused more accidents than I could count. It could potentially cause a back up in the need of an emergency where military needs to quickly enter or exit the base. Thank you for your time. Have a great day.

Megan Harrison

From: Jennifer Cooper
Sent: Wednesday, September 14, 2022 2:13 PM
To: Megan Harrison
Subject: Crossvine Resident- 1518 Housing Project

Good afternoon. We are emailing you in regards to our concerns of the possibility of low income housing apartments being built across our Subdivision. We are submitting are opposition in writing of the proposed housing.

Our first concern is the crime that we all know what comes with low income housing and this alone is a huge concern of our safety. The safety of my family and neighbors.

The second concern is traffic,. Our roads are not equipped to handle the amount of traffic this would bring to our area. In the event of an emergency, we would all be stuck with no where to evacuate to.

We are all in favor for commercial retail/shops that would greatly benefit the convenience and need that this will bring to our community.

Why would low income housing be considered for a remote area like ours? They is no transportation offered out here, minimal opportunities for employment, no access to immediate needs for commodities i.e..grocery stores, gas stations etc.

We strongly believe that this development would not benefit anyone and strongly opposed!

Thank you for your time,

Chris and Jennifer Cooper
Crossvine Resident

Sent from my T-Mobile 5G Device

Megan Harrison

From: Todd Welch
Sent: Wednesday, September 14, 2022 12:26 PM
To: Megan Harrison
Subject: PLPDD20220056 opposed

Good afternoon. I appreciate you answering questions this morning. We wanted to put in writing ,via email, our opposition to the proposition as well as some of our concerns for the Commission to consider. We are concerned with many aspects of the land across 1518 being used for an apartment complex. The first concern is the amount of traffic on 1518. It isn't only the delay in getting to places, but if there were an emergency that required citizens to evacuate we could easily be locked in place. The second concern is safety. We do not have a police station close by. In researching what happens in areas with affordable housing, crime does increase. We have had a recent increase in crime in our neighborhood as it is. Why would an affordable housing complex be put out this way when there are minimal opportunities for employment and/or places to have immediate needs (i.e. grocery stores) met in this immediate area. The property values in this neighborhood are high. The safety of this neighborhood was one of the main things that attracted us to building our home. What will these apartments do to the value of our home and the crime rate? It doesn't feel like the concerns of this community have been heard at all. We can't be there tonight to voice our concerns or I would be. We don't think this development is good for our community at all and are highly opposed! I also know many neighbors who feel this way.

Sincerely,
Todd & Stephanie Welch

Crossvine Resident
8520 Vinepost

Megan Harrison

From: Josh
Sent: Friday, September 9, 2022 4:41 PM
To: Megan Harrison
Subject: Opposing PLPDD20220056

Hello Megan,

I am responding to the notice of public hearing for PLPDD20220056 – the request to rezone approximately 15 acres of land from Pre-Development District (PRE) to Planned Development District (PDD) Generally located approximately 2,200 feet southeast of the intersection of Lower Seguin Road and FM 1518, also known as Bexar County Property Identification Number 309997 and 309999, City of Schertz, Bexar County, Texas.

I am opposed to the request of PLPDD20220056.

When the property was rezoned for mixed use in early 2021 we were informed the intention of the rezoning was for The NRP Group to construct an apartment complex across the street from our community. I do not believe that a 300 unit apartment complex in the area identified will be a positive addition to our community. My main concerns are the impact to my property value, increased traffic congestion, light pollution, and additional noise from increased traffic and goings on at the apartment complex.

We already intend on moving away from Crossvine when new home finishes in Garden Ridge due to wanting more land but the expansion coming to this area was another reason. Although certainly would want to avoid a major decrease in value when its time to sell our house. If a apartment building goes in across the street, I think you'll see mass exodus of people wanting to leave here to where there is somewhere quieter like this area use to be, or the value will have to drop because it just won't be worth the headache of being so close to Garden homes, crossvines apartments, and this other monster apartment complex across the street.

I hope this isnt passed for the sake of value of our home before moving and for the folks that consider Crossvine their forever home.

Thanks,

Josh

Megan Harrison

From: THOMAS ECKHOFF
Sent: Tuesday, September 13, 2022 9:21 AM
To: Megan Harrison
Subject: PLPDD20220056

Planning and Zoning Commission, We opposed this rezoning just like last time you sent this out. We move out here for peace and quite now you are hiding 1518 and wants to add even more to our backyard. Thanks for your time

The Eckhoff
12014 Rockroot

Imholte, Nancy & Joshua

Megan Harrison

From: Nancy Imholte
Sent: Thursday, September 8, 2022 9:39 PM
To: Megan Harrison
Subject: PLPDD20220056

Ms. Harrison,

I am responding to the notice of public hearing for PLPDD20220056 – the request to rezone approximately 15 acres of land from Pre-Development District (PRE) to Planned Development District (PDD) Generally located approximately 2,200 feet southeast of the intersection of Lower Seguin Road and FM 1518, also known as Bexar County Property Identification Number 309997 and 309999, City of Schertz, Bexar County, Texas.

I am opposed to the request of PLPDD20220056.

When the property was rezoned for mixed use in early 2021 we were informed the intention of the rezoning was for The NRP Group to construct an apartment complex across the street from our community. I do not believe that a 300 unit apartment complex in the area identified will be a positive addition to our community. My main concerns are the impact to my property value, increased traffic congestion, light pollution, and additional noise from increased traffic and goings on at the apartment complex.

My house is located across from where the secondary exit from the apartment complex is drawn. People who move this far of 1604 typically are not wanting to look at an apartment complex from their back yard. This will directly impact the aesthetic and value of my home because it is so close to the apartments.

Cross traffic to get on to 1518 in the morning from the Crossvine Community is already overcrowded and prone to backups. Even with the road upgrades to convert 1518 to a divided highway there will still be traffic delays trying to exit or enter the Crossvine or the apartment complex. The Crossvine Community is still adding houses and another subdivision is being added up 1518 toward 10, therefore I believe the infrastructure will struggle to support the intended growth.

The lighting for safety reasons around the apartment complex will also diminish the tranquility of our neighborhood. The path and street lights in the Crossvine are very sparse and it adds to the country feel and calm of our neighborhood. If the complex is built I would hope they would have dark sky limitations as well.

We already have increased traffic; the road noise from an additional 300 units across the street will be constant. Also there is inherently more noise from an apartment complex with the increased number in a smaller space.

There was a lot of opposition on the community FaceBook page which I believe Jill Whitaker tried to address when the property was merely being rezoned. I would prefer another subdivision go in across the street before an apartment complex. This mainly being because I know the people in my neighborhood treat their properties as homes. Apartments are often temporary stops and easily given up for lower rent or a shorter commute, so the way you care for those places that you have no sense of permanency for or ownership of is very different. **If this was your property, your neighborhood, would you want this to be constructed across from your home?**

It is my sincere hope that this does not pass and another use for the property is determined.

Sincerely,

Nancy Imholte

CORTEZ, JUAN M II

Megan Harrison

From: Johnny Cortez
Sent: Friday, September 9, 2022 10:23 AM
To: Megan Harrison
Subject: PLPDD20220056

Good morning,

My name is Juan Cortez and I am a resident of the cross one community. I wanted to reach out to you this morning to express my opposition to rezoning Property Identification Number 309997 and 309999, City of Schertz, Bexar County, Texas. Please let me know if anything else is needed for my vote to be taken into consideration. Thanks

Johnny Cortez

Megan Harrison

From: Christi
Sent: Wednesday, September 14, 2022 5:50 PM
To: Megan Harrison
Subject: PPD on 1518

I am currently living on the property at 9240 E FM 1518. This proposed development will directly, and negatively affect me and my family. We oppose. I'm worried for my children's safety. How will child predators be screened and prevented from living a whopping 200' from my small children? The Dahls have never liked us, ever. It's been bad blood since they moved in. They had issues with my in laws who no longer live here. I feel like this is a personal attack on my family. And I'm sure that's exactly what it is because no true "rancher" would sell land to build 300 apartments. 1518 is already a nightmare with high speed passing and traffic. There is no need to add 300 more cars on this road. We already have garden homes going across the street by Crossvine and more apartments going by Woman Hollering. We're killing this small town that most of us have lived our entire life. It's sad that the country roads are turning into subdivisions. We fully oppose this proposal. We cannot make it to the meeting due to work so hopefully this falls in the right hands at the right time.

Thank you

Sent from the all new AOL app for Android

Megan Harrison

From: Carla Hall
Sent: Wednesday, September 14, 2022 5:06 PM
To: Megan Harrison
Subject: Proposed apartments in Crossvine neighborhood

Good evening,

My name is Carla Hall and I live in the Crossvine/Sedona community. I just recently heard about the proposed apartments that are to be voted on and wanted to express my concern at the lack of infrastructure in place to handle 100s more families. Especially at the light of Lower Seguin and 1518.

This intersection already has massive back-ups due to no designated turn lanes, semi-trucks that get wedged into the ditch trying to get to I-10 and massive pot holes that constantly need to be filled in.

Just recently, on a school day, it took my family and I 5 light rotations to get through the intersection. Even if every apartment had only 1 vehicle, that is 100s of additional vehicles going through the intersection on a daily basis, at peak times. This concern is valid for the patio homes that are already planned and going under contract in the same area.

Please consider this before voting to approve. If after 1518 can get widened, and Lower Seguin fixed with proper lanes to accommodate semi-trucks, then it might be an appropriate place and time for additional housing.

Thank you kindly,

Carla Hall

my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

Megan Harrison

From: Amy Watson
Sent: Wednesday, September 14, 2022 5:07 PM
To: Megan Harrison
Subject: 9/14 Public Hearing - Resident Form

Hi Megan,

My family lives at 8740 Stackstone, located in the Crossvine neighborhood. We are unable to attend tonight's public hearing regarding item #PLPDD20220056. Please find our completed form opposing this request below.

Thank you so much,
Amy Watson
8740 Stackstone

Megan Harrison

From: The Vicians
Sent: Wednesday, September 14, 2022 4:59 PM
To: planning@schertz.com; Megan Harrison
Subject: PLPDD20220056 comment -- opposed

We are opposed to the proposed apartment project as it will bring congestion to the area and add multi-family units under the flight path from Randolph.

Todd and Susan Vician
8926 Green Grant
Schertz, TX 78154

Sent from [Mail](#) for Windows

CITY COUNCIL MEMORANDUM

City Council Meeting: November 1, 2022
Department: Information Technology
Subject: Resolution 22-R-129- Consideration and/or action approving an amendment to the contract for upgrades to the Council Chambers with Bluum USA, Inc. (B. James, M. Clauser)

BACKGROUND

During FY 2021-2022 Council approved a contract with Bluum, USA Inc. (at that time Bluum, USA Inc. was called Trox) to upgrade the audiovisual system in the Council Chambers. In the interim while waiting for supply chain issues to be resolved, staff has determined that the City could dramatically improve the efficient use of Building 1 (City Hall) by relocating the regular Municipal Court sessions to the Council Chambers, provided certain changes in security and system programming changes were in place. This move would allow the City to re-allocate the space currently used by Court for use by other departments facing space shortages. Municipal Court Staff will still office out of Building 1. Court and IT staff members reviewed these additional requirements with the AV and access control contractors. They have submitted proposals totaling \$23,433.00 to cover the proposed changes to the approved plan.

GOAL

Provide for more efficient use of City space and provide additional office space in a cost effective manner.

COMMUNITY BENEFIT

More efficient use of City resources. Provide additional office space at a relatively low cost.

SUMMARY OF RECOMMENDED ACTION

Approval of the resolution authorizing an amendment to the contract with Bluum USA, Inc. for additional upgrades to Council Chambers in order to hold Municipal Court in that location.

FISCAL IMPACT

\$24,433.00 that is being funded from the Court Technology Fund the budget adjustment is scheduled for consideration on this same agenda with the second reading on December 6, 2022. In order to move ahead with the contract now, staff will use contingency funds and replace them with the Court Technology funds if the budget item is approved on December 6, 2022.

RECOMMENDATION

Approval of Resolution 22-R-129.

Attachments

Res22 R 129 CC Audio
Exhibit A

RESOLUTION NO. 22-R-129

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN AMENDMENT TO THE CONTRACT WITH BLUUM USA, INC OF SAN ANTONIO, TEXAS, TO INCREASE THE MAXIMUM AMOUNT BY \$23,433.00, FOR ADDITIONAL WORK RELATED TO THE SCHERTZ COUNCIL CHAMBERS AV UPGRADE TO SUPPORT THE ACTIVITIES OF THE CITY'S MUNICIPAL COURT, AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City Council approved Resolution 22-R-22 authorizing a contract in the amount of \$451,686.00 with Bluum USA, Inc. of San Antonio, Texas, relating to the engineering and deployment of the Schertz Council Chambers Audio Visual Systems Upgrade; and

WHEREAS in order to provide more efficient use of city facilities staff determined that moving certain activities related to the city's municipal court to the council chambers facilities would provide additional space for use by various departments with minimal investments; and

WHEREAS, the City Council has determined that it is in the best interest of the City to amend the agreement with Bluum, USA, Inc of San Antonio, Texas to increase the maximum amount by not more than \$23,433.

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 amend the contract with Bluum, USA, Inc of San Antonio, Texas, as proposed in Exhibit "A" to add the amount of \$23,433.00.

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 1st day of November, 2022.

CITY OF SCHERTZ, TEXAS

Mayor, Ralph Gutierrez

ATTEST:

Acting City Secretary, Sheila Edmonson

(CITY SEAL)

EXHIBIT “A”



Bluum USA, Inc.

4675 E. Cotton Center Blvd. Suite 155
Phoenix, AZ 85040

Quote Number: QUO-55202-111253
Created On: 9/28/2022

SCHERTZ, CITY OF

Contact: Bryan Jackson
Email: bjackson@schertz.com
1400 SHERTZ PKWY
SCHERTZ, Texas, 78154

Andrew Luther

Email: andrew.luther@bluum.com
17361 Bell North Drive, Suite 105
Schertz, TX, 78154, United States

COUNCIL CHAMBERS - COURT ADDITIONS CO # 1

Terms: Net 30

FOB: Destination

Customer #: 55202

Expires: 10/28/2022

Item	Description	Sell Price	Qty	Ext.Price
1	LTU LTULC200 MEDIA PROCESSOR LUMENS	\$2,625.00	1	\$2,625.00
2	RDL RDLDDBRN31 WALLMNT 4X4 MIC/LINE DANTE POE PRG BLK RDL	\$635.00	1	\$635.00
3	RDL RDLCP2B DOUBLE COVER PLATE - BLACK RDL	\$14.00	2	\$28.00
4	RDL RDLDDBBN2M WALL M/L DANTE 2X2 2XLR I/O TBLK BLK RDL	\$565.00	1	\$565.00
5	CEI CEITS1070BS 10.1IN TABLETOP TOUCH SCREEN BLK SMOOTH CRESTRON	\$1,850.00	1	\$1,850.00
6	BIT INOUCAM USB 3.0 Camera to HDMI Converter INOGENI	\$579.00	1	\$579.00
7	MID MIDPD915R RACKMOUNT PWR-9OUTLET-15A- BASIC SURGE MIDDLE ATLANTIC	\$120.00	1	\$120.00
8	MID MIDRFRERRK16 RFR EMC REAR RAIL 16SP MIDDLE ATLANTIC	\$67.00	1	\$67.00
9	MID MIDD2LK 2SP ANOD DRAWER W/LOCK MIDDLE ATLANTIC	\$215.00	1	\$215.00
10	MID MIDUQFP4RA ULTRA-QUIET FAN PNL 4FAN MIDDLE ATLANTIC	\$355.00	1	\$355.00
11	SUM SUMINSTALL ADD ADDITIONAL FUNCTIONALITY FOR COURT USAGE - AV SUMMIT SYSTEMS	\$4,455.00	1	\$4,455.00



Bluum USA, Inc.

4675 E. Cotton Center Blvd. Suite 155
Phoenix, AZ 85040

Quote Number: QUO-55202-111253

Created On: 9/28/2022

Item	Description	Sell Price	Qty	Ext.Price
12	JLA JLAELECTRIC JLA ELECTRIC & DATA ADDITIONS TO INCLUDE- <ul style="list-style-type: none">• All work is per the walk-through conducted with Bluum, JLA Communications, and the City of Schertz IT team.• Includes the installation, termination, testing, and labeling of (24) category 6 network cables and outlets.• Includes the installation, termination, testing, and labeling of (1) OM3 plenum-rated fiber optic cable.• Includes the removal of all category 5 network cables expected to get replaced with category 6 cable.• Includes the provision of (48) category 6 patch cables which will be handed over to the city's IT team.• Includes the installation of (1) 120V receptacle in Conference Room.• Includes boxes, hardware, cable supports, and raceway required for a complete installation.• Includes a JLA Communications 1- year installation and workmanship warranty. JLA COMMUNICATIONS	\$11,350.00	1	\$11,350.00
13	HNS HNSSCHERTZCO1 (1) Base cabinet - with single door, lock, finish to match existing area, counter top, delivered, and installed HANSON GROUP	\$589.00	1	\$589.00

Subtotal \$23,433.00
Total \$23,433.00
Plus Applicable Tax

Thank You,



ANDREW LUTHER

Account Executive

O:

C:

E: andrew.luther@bluum.com

bluum.com

NOTE: My new email is andrew.luther@bluum.com
Please update my contact information.