



ECONOMIC DEVELOPMENT CORPORATION

NOTICE OF MEETING

AGENDA

NOVEMBER 16, 2023

6:00 P.M.

The City of Schertz Economic Development Corporation (SEDC) Board of Directors will hold a regular monthly meeting on Thursday, NOVEMBER 16, 2023, at 6:00 p.m. at the Hal Baldwin Municipal Complex, Council Chambers Conference Room, Building No. 4, 1400 Schertz Parkway, Schertz, Texas. This is an open meeting, subject to the open meeting laws of the State of Texas.

Call to Order

1. Roll call, recognition of visitors, and review of meeting instructions for effective Board interaction and public participation.
2. SEDC Board Member Oath of Office for member appointed by City Council on 11/14/2023 for a term of two years ending on 09/30/2025. (S.Edmondson)
 - Appointment: Donna Steward

Hearing of Residents

3. *This time is set aside for any person who wishes to address the Board. Presentations should be limited to no more than 3 minutes. The presiding officer will call on those persons who have signed up to speak.*

Minutes

4. Approval of the minutes for the Board of Directors Regular Monthly Meeting held on Thursday, October 26, 2023. (T.Miller)

Presentations

5. Presentation by Bryan Byrd on Titan Schertz 312 Project. (S.Wayman)

Discussion Items

6. **Resolution 2023-7** - Authorizing the amendment to the Performance Agreement Schertz 312 Phase I, Titan, Schertz 35 Business Park located on Tejas Way south of Doerr Ln. (S.Wayman)

Closed Session

7. Called in accordance with Section 551.087 of the Texas Government Code, Deliberation Regarding Economic Development Negotiations; Closed Meeting. The governmental body is not required to conduct an open meeting (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) the deliberate the offer of a financial or other incentive to a business prospect.
 - E-92
 - E-88
 - E-86

Reconvene to Regular Session

8. Take any actions based on discussion held in closed session under Agenda Item No. 7

Requests and Announcements

- Announcements by staff:
 - Service Recognition - Board President Paul Macaluso
 - Offices closed for Thanksgiving November 23-24, 2023
 - Holiday Dinner - December 7, 2023
 - Next Board Meeting - December 14, 2023
 - Lauren Shrum, Parks and Recreation Director, will present December 2023
 - John Nowak, Engineer will present on Tri-County Parkway and Lookout Rd. December 2023
 - Missions, Goals and Objectives December 2023 - Holly Malish/Ashley Ritchey
- Requests by Board Members to place items on a future SEDC Board Meeting agenda.

Adjournment

CERTIFICATION

I, Tracy Miller, Administrative Assistant, of the City of Schertz Economic Development Corporation, do hereby certify that the above agenda was posted on the official bulletin boards on this the 13th day of **November**, 2023, at 5:00 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.

Tracy Miller

Administrative Assistant- Economic
Development

I certify that the attached notice and agenda of items to be considered by the Schertz Economic Development Corporation Board of Directors was removed from the official bulletin board on ____ day of _____, 2023.
Name/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 210-619-1070.

The Economic Development Corporation Board of Directors 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.

SEDC MEMORANDUM

SEDC
Board Meeting: 11/16/2023
Department: Economic Development Corporation
Subject: Approval of the minutes for the Board of Directors Regular Monthly Meeting held on Thursday, October 26, 2023. (T.Miller)

SUBJECT:

Approval of the minutes for the Board of Directors Regular Monthly Meeting held on Thursday, October 26, 2023. (T.Miller)

Attachments

10-26-2023



ECONOMIC DEVELOPMENT CORPORATION

MINUTES

Thursday, October 26, 2023

The City of Schertz Economic Development Corporation (SEDC) Board of Directors met for a Regular Monthly Meeting on Thursday, October 26, 2023, at 6:00 p.m. at the Hal Baldwin Municipal Complex, Council Chambers Conference Room, Building No. 4, 1400 Schertz Parkway, Schertz, Texas. This was an open meeting, subject to the open meeting laws of the State of Texas.

Call to Order

1. Roll call, recognition of visitors, and review of meeting instructions for effective Board interaction and public participation.

Board President Paul Macaluso presided over the meeting and called it to order at 6:01 p.m.

Board of Directors Present:

Paul Macaluso, Board President
Sammi Morrill, Board Secretary/Treasurer
Bill Dixon, Board Member
Eryn McElroy, Board Member
Henry Hayes, Board Member

Staff Present:

Scott Wayman, Executive Director
Holly Malish, Deputy Director
Ashley Ritchey, Business Engagement Manager
Brian James, Deputy City Manager

Board of Directors Absent:

Jesse Hamilton, Board Vice President
Mark Moody, Board Member

Others Present:

Tim Brown, Mayor Pro-Tem, City Council EDC Liaison
Allison Heyward, Councilmember, City Council EDC Liaison
Sheree Courney, Deputy City Secretary

2. SEDC Board Member Oath of Office for member appointed by City Council on 09/05/2023 for a term of two years ending 09/30/2025. (S. Courney)
 - Appointment: Henry Hayes

Sheree Courney, Deputy City Secretary administered the Oath of Office to the new Board Member.

Hearing of Residents

3. *This time is set aside for any person who wishes to address the Board. Presentations should be limited to no more than 3 minutes. The presiding officer will call on those persons who have signed up to speak.*

No residents signed up to speak. No comments were made.

Minutes

4. Approval of the minutes for the Board of Directors Regular Monthly Meeting held on Thursday, September 28, 2023. (T. Miller)

Board President Paul Macaluso asked for a motion to approve the Minutes of the Board of Directors Regular Monthly Meeting held Thursday, September 28, 2023.

Motion by Board Member Bill Dixon, seconded by Board Member Eryn McElroy.

AYE: Board President Paul Macaluso, Board Secretary/Treasurer Sammi Morrill, Board Member Bill Dixon, Board Member Eryn McElroy, Board Member Henry Hayes.

Presentations

5. Staff briefing on SEDC monthly financial statement for the month of September 2023. (S.Wayman)

Scott Wayman, Executive Director provided a summary and overview on the SEDC Financials for the month of September 2023.

September 2023 sales tax received was \$533,948, expenses were \$22,179, a 0.4% increase over the year prior. The 12-month rolling average is 7.5% still trending up. Expenditures for September included annual subscriptions, renewals and travel. Notable expenditures include annual subscriptions for COSTAR Suite and Resimplifi, Project Tiger Impact Analysis and Promotional Items. Total Cash & Investments figure at the end of September was \$31.8 million.

Closed Session

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

• E-92

• E-88

• E-86

Start time: 6:08 p.m.

End time: 7:02 p.m.

Board President Paul Macaluso reconvened to Open Session at 7:02 p.m.

Reconvene to Regular Session

7. Take any actions based on discussion held in closed session under Agenda Item No. 6

No action was taken based on discussion in closed session.

Requests and Announcements

- Announcements by staff:
 - Office closed for Veterans Day November 10, 2023
 - Next Board Meeting - November 16, 2023
 - Office closed for Thanksgiving November 23-24, 2023
 - Holiday Dinner - December 7, 2023, RSVP by November 16, 2023
 - December Board Meeting date rescheduled to December 14, 2023
 - Lauren Shrum, Parks and Recreation Director, will present December 2023
 - Missions, Goals and Objectives Discussion - December 2023 Meeting
 - Board Member Bill Dixon's birthday
- Requests by Board Members to place items on a future SEDC Board Meeting agenda.
 - No requests by Board Members to place items on a future SEDC Board Meeting agenda.

Adjournment

Board President Paul Macaluso adjourned the meeting at 7:05 p.m.

MINUTES PASSED AND APPROVED THIS ____ DAY ____ 2023.

Paul Macaluso
Board President

Sammi Morrill
Board Secretary

SEDC MEMORANDUM

SEDC
Board Meeting: 11/16/2023
Department: Economic Development Corporation
Subject: Resolution 2023-7 - Authorizing the amendment to the Performance Agreement Schertz 312 Phase I, Titan, Schertz 35 Business Park located on Tejas Way south of Doerr Ln. (S.Wayman)

BACKGROUND

On May 7, 2018, the Schertz 312 Party and Schertz EDC entered into an agreement that was amended by that First Amendment to Economic Development Performance Agreement – Schertz 312 dated February 28, 2019, as amended by that Second Amendment to Economic Development Performance Agreement – Schertz 312 dated July 25, 2019, as amended by that Third Amendment to Economic Development Performance Agreement – Schertz 312 dated April 23, 2020, as amended by that Letter Agreement dated August 10, 2020.

For the agreement and subsequent amendments, Schertz 312 received FOUR MILLION DOLLARS (\$4,000,000) for infrastructure improvements.

COMMUNITY BENEFIT

The infrastructure will support expanded business enterprise.

FISCAL IMPACT

SUMMARY OF RECOMMENDED ACTION

Schertz EDC recommends approval of the 5th Amendment.

Attachments

Res. 2023-7

SEDC RESOLUTION 2023-7

A RESOLUTION BY THE CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION, AUTHORIZING THE FIFTH AMENDMENT TO THE ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT BETWEEN THE CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION AND WITH SCHERTZ 312; 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 powers of the corporation are vested in the SEDC Board of Directors (the “Board”) appointed by the governing body of the corporation’s authorizing unity; and

WHEREAS, the Act authorizes a development corporation to fund certain projects as defined by the Act and request 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, The Parties entered into that Economic Development Performance agreement – Schertz 312 dated May 7, 2018, amended by that First Amendment to Economic Development Performance Agreement – Schertz 312 dated February 28, 2019, as amended by that Second Amendment to Economic Development Performance Agreement – Schertz 312 dated July 25, 2019, as amended by that Third Amendment to Economic Development Performance Agreement – Schertz 312 dated April 23, 2020, as amended by that Letter Agreement dated August 10, 2020 (collectively, the “Agreement”) for the purpose of, and for such terms and conditions, as set forth therein;

WHEREAS, the Agreement provides that Schertz 312 received FOUR MILLION DOLLARS (\$4,000,000) for infrastructure; and

WHEREAS, the Parties desire to amend the Agreement; and

WHEREAS, Section 501.073 of the Act requires the SEDC’s authorizing unit to approve all programs and expenditures, City Council had previously authorized this expenditure.

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

Section 1. The Schertz Economic Development Board hereby approve the Economic Development Performance Agreement amendment and the Amended and Restated Declaration of

Restrictive Covenants attached hereto as Exhibit A and Exhibit B and authorizes the President to execute and deliver in the substantial 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_____, 2023.

CITY OF SCHERTZ ECONOMIC
DEVELOPMENT CORPORATION

Paul Macaluso, SEDC Board President

ATTEST:

Sammi Morrill, SEDC Board Secretary

EXHIBIT “A”

Fifth Amendment with Schertz 312

[see attached]

**FIFTH AMENDMENT TO ECONOMIC DEVELOPMENT PERFORMANCE
AGREEMENT
SCHERTZ 312**

THIS FIFTH AMENDMENT TO ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT – SCHERTZ 312 (“Fifth Amendment”) is entered into this ____ day of November, 2023 and between the City of Schertz Economic Development 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 (“Corporation”) created by, and for the benefit of the City of Schertz, Texas (“City”) and Schertz 312, LLC, a Texas limited liability company, its successors or assigns (“Schertz 312”), the Corporation and Schertz 312 collectively known as the “Parties” to this Agreement.

WHEREAS, The Parties entered into that Economic Development Performance Agreement – Schertz 312 dated May 7, 2018, as amended by that First Amendment to Economic Development Performance Agreement – Schertz 312 dated February 28, 2019, as amended by that Second Amendment to Economic Development Performance Agreement – Schertz 312 dated July 25, 2019, as amended by that Third Amendment to Economic Development Performance Agreement – Schertz 312 dated April 23, 2020, as amended by that Letter Agreement dated August 10, 2020 (collectively, the “Agreement”) for the purpose of, and for such terms and conditions, as set forth therein;

WHEREAS, the Parties hereto wish to amend the Agreement as more fully set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The definition of Primary Facility in Article III of the Agreement shall be replaced with the following definition of Qualifying Construction and all references to “Primary Facility” throughout the Agreement shall be replaced with “Qualifying Construction”:

“Qualifying Construction” shall mean (i) completion of construction of a single building or a campus of two or more buildings for a single user, totaling one million (1,000,000) square feet, or (ii) completion of no more than two buildings for multiple users, in each instance for industrial or other similar operations on the Northern Tract.

2. Article V, Section 3 of the Agreement shall be deleted in its entirety and replaced with the following:

“Reservation of Northern Tract. During the term of this Agreement, unless released pursuant to the provisions of Article V, Section 5 below, Schertz 312 shall reserve sufficient portions of the Northern Tract for the completion of the Qualifying Construction pursuant to Article VI, Section 1(j). Schertz 312 may develop all other portions of the Real Estate in any manner it determines in its sole discretion.”

3. Article VI, Section 1(l) of the Agreement shall be deleted in its entirety and replaced with the following:

“(l) The parties have filed of record that Declaration of Restrictive Covenants, on July 30, 2019, as Document No. 20190602616, Official Public records, Comal County, Texas (“Declaration”). Concurrent with the execution of this Fifth Amendment, the parties shall record an amended and restated Declaration in the form attached hereto as Exhibit “A”.”

4. Article VI, Section 2(c) of the Agreement is hereby amended to read as follows:

“(l) Capital Recovery Fees. Corporation shall, on behalf of Schertz 312, work with the City to determine what, if any, Capital Recovery Fees or Capital Recovery Credits are due or have been earned toward the Project, and/or future site development by the construction of the Infrastructure Improvements. Any Capital Recovery Fees or Capital Recovery Credits may be used or applied by Schertz 312 for any building or facility constructed by Schertz 312 within the Real Property during the term of the Agreement. Corporation cannot guarantee that the amount of credits applied as set forth herein will be sufficient to cover the Capital Recovery Fees assessed at the time an application for a building permit is made. Schertz 312 shall be responsible for any Capital Recovery Fees that exceed the credits applied to

the site by the Corporation. In the event there are excess Capital Recovery Fees, Schertz 312 shall not be entitled to any reimbursement of such excess.”

5. Article VII, Section 1(b) of the Agreement is deleted in its entirety and replaced with the following:

“(b) The receipt of a Certificate of Occupancy for a building that, along with all other Qualifying Construction previously completed, results in the Qualifying Construction having been completed.”

6. All terms not defined in this Fifth Amendment shall have the meaning ascribed to them in the Agreement.

7. The remaining provisions of the Agreement shall remain in full force and effect.

8. This Fifth Amendment may be executed in multiple counterparts, which collectively, will be construed as an original.

[SIGNATURE PAGE IMMEDIATELY FOLLOWING]

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment to Economic Development Performance Agreement – Schertz 312 on the date set forth above.

SCHERTZ 312, LLC
a Texas limited liability company

By: Schertz 312 Management, LLC
its Manager

By: Titan Lone Star, LLC
its Manager

By: _____
Ben F. Spencer, Manager

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

This information was acknowledged before me on this ____ day of November, 2023 by Ben F. Spencer, as Manager of Titan Lone Star, LLC, as manager of Schertz 312 Management, LLC, manager of Schertz 312, LLC, on behalf of said company.

Notary Public, State of New Mexico

EXHIBIT “B”

Amended and Restated Declaration of Restrictive Covenants

[see attached]

THE STATE OF TEXAS §
 §
COUNTY OF COMAL §

AMENDED AND RESTATED
DECLARATION OF RESTRICTIVE
COVENANTS

Subject to the terms and conditions of the Performance Agreement, this Declaration of Restrictive Covenants (hereafter “Amended and Restated Declaration”) is made as of this day of _____, 2023, by SCHERTZ 312, LLC, a Texas limited liability company (hereafter Declarant”) in connection with the following:

Recitals:

WHEREAS, Declarant is the owner of the Northern Tract;

WHEREAS, Declarant has entered into a Performance Agreement with Corporation;

WHEREAS, the Performance Agreement imposed certain conditions on Declarant’s right to receive certain incentives from Corporation;

WHEREAS, in satisfaction of the requirement set forth in Section 3 of the Fifth Amendment to the Performance Agreement, Declarant and Corporation agree that this Amended and Restated Declaration replaces in its entirety that Declaration of Restrictive Covenants, recorded on July 30, 2019, as Document No. 201906026176, Official Public records, Comal County, Texas, for a deed restriction on the Northern Tract that would ensure the construction of a Qualifying Construction.

NOW THEREFORE, in consideration of the mutual covenants and agreements, and other valuable consideration, it is declared that the Property, shall be held, sold and conveyed subject to the following restrictions, covenants and conditions:

A. Definitions:

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

1. **“Corporation”** shall mean the CITY OF SCHERTZ ECONOMIC DEVELOPMENT CORPORATION, located in Guadalupe County, Texas, 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.

2. **“Code”** shall mean the Unified Development Code of the City in effect as of the date this

Northern Tract Declaration of Restrictive Covenants

Declaration is recorded.

3. **“Declarant”** shall mean SCHERTZ 312, LLC.
4. **“Northern Tract”** shall mean that certain tract of real property, located in Comal County, Texas and legally described on **Exhibit “A”** attached hereto and made a part hereof.
5. **“Performance Agreement”** shall mean that certain Agreement by and between Declarant and Corporation, dated May 7, 2018, as there after amended.
6. **“Qualifying Construction”** shall mean (i) the completion of construction of a single building, or two or more buildings for a single campus user, totaling one million (1,000,000) square feet, or (ii) completion of construction of any other building(s) that have a similar contemplated economic benefit as reasonably determined by the Corporation, for industrial or other similar operations on the Northern Tract.

B. Restrictions.

It is hereby declared that the Northern Tract is reserved for the construction and operation of a Qualifying Construction; and, the use of the Northern Tract is restricted to such Qualifying Construction.

C. Enforcement.

1. Standing to Enforce. This Amended and Restated Declaration may be enforced by the Declarant or the Corporation in any manner authored by law or equity.
2. Attorney’s Fees. Upon a finding by a Court of competent jurisdiction that a violation of this Amended and Restated Declaration has occurred, the Party enforcing this Amended and Restated Declaration shall be entitled to recover reasonable expenses, including attorneys’ fees and costs.

D. General Provisions

1. Failure to enforce this Amended and Restated Declaration shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound.
2. Declarant agrees that invalidation of this Amended and Restated Declaration by judgment or court order shall in no way effect any other provision, and all other provisions shall remain in full force and effect.
3. Declarant agrees that this Amended and Restated Declaration these are for the purpose of protecting the value and desirability of the Northern Tract. Consequently, this Amended and Restated Declaration shall run with the Northern Tract and shall be binding on all parties having any right, title or interest in the Northern Tract, in whole or part, and their heirs, successors, and assigns.

Northern Tract Declaration of Restrictive Covenants

4. Declarant agrees that the covenants, conditions, and restrictions of this Amended and Restated Declaration shall be effective for a term of fifteen (15) years from the Effective Date of the Performance Agreement, or the date of termination as provided under Article VII of the Performance Agreement. Upon termination, , Owner and Corporation shall jointly execute an instrument for recordation in the Comal County Public Records evidencing such termination. The covenants, conditions and restrictions of this Declaration may be amended or terminated by an instrument signed by both the Declarant, its successors and assigns, and the Corporation, its successors and assigns.

5. This Declaration shall be liberally construed to effectuate its purpose of providing certain protections for the Corporation in order to ensure the Northern Tract , and the uses thereon, are compatible with the existing industrial use in the immediate area.

6. The notice addresses for Corporation and Declarant, as set forth in the Performance Agreement, are as follows:

CORPORATION: City of Schertz Economic Development Corporation
Attn: Exec. Dir. of Economic Development
1400 Schertz Parkway
Schertz, TX 78154

With a copy to: Denton, Navarro, Rocha, Bernal, & Zech, PC
Attn: Charles E. Zech
2517 North Main Avenue
San Antonio, TX 78212

DECLARANT: Schertz 312, LLC
Attention: Joe Iannacone
4903 Woodrow Ave., Bldg. A
Austin, TX 78756

With a copy to: Aimeé González, Esq.
6300 Riverside Plaza Ln., NW, Suite 200
Albuquerque, NM 87120

7. This Amended and Restated Declaration is intended solely to satisfy the requirements of the Performance Agreement. It is not the intent of the Declarant that this Amended and Restated Declaration modify or amend the Performance Agreement. In the event of a conflict between any term of this Amended and Restated Declaration and the Performance Agreement, the Performance Agreement shall prevail.

(Signature Pages Immediately Following)

Northern Tract Declaration of Restrictive Covenants

To be effective on the date first set forth above.

DECLARANT:

SCHERTZ 312, LLC
a Texas Limited Liability Company

By: Schertz 312 Management, LLC
its Manager

By: Titan Lone Star, LLC
its Manager

By: _____
Ben F. Spencer, Manager

STATE OF NEW MEXICO

§

§

COUNTY OF BERNALILLO

§

This information was acknowledged before me on this day of November, 2023 by Ben F. Spencer, as Manager of Titan Lone Star, LLC, as manager of Schertz 312 Management, LLC, as manager of Schertz 312, LLC, on behalf of said company.

Notary Public, State of New Mexico

Northern Tract Declaration of Restrictive Covenants

APPROVED:

CITY OF SCHERTZ ECONOMIC
DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____

STATE OF TEXAS

§
§
§

COUNTY OF _____

This information was acknowledged before me on this _____ day of November, 2023 by _____, as President of the City of Schertz Economic Development Corporation, a Texas non-profit industrial development corporation, on behalf of said agency.

Notary Public, State of Texas

AFTER RECORDING, RETURN TO:
City of Schertz Economic Development Corporation
Attn: Exec. Dir. of Economic Development
1400 Schertz Parkway
Schertz, TX 78154

EXHIBIT "A"

TO THE AMENDED AND RESTATED DECLARATION OF THE RESTRICTIVE COVENANTS

Northern Tract Legal Description

74.616 acres of land located in the George M. Dolson Survey No. 96, Abstract No. 120 and the Vincente Micheli Survey No. 114, Abstract No. 383, City of Schertz, Comal County, Texas and being a portion of that certain 17.717 acres conveyed to Schertz 312, LLC, as described in Document No. 201806024952, Official Public Records of Comal County, Texas; a portion of that certain 30.204 acres conveyed to Schertz 312, LLC, as described in Document No. 201806024954, Official Public Records of Comal County, Texas; a portion of that 38.449 acres conveyed to Schertz 312, LLC, as described in Document No. 201806024969, Official Public Records of Comal County, Texas; a portion of that certain 83.514 acres conveyed to Schertz 312, LLC, as described in Document No. 201806024955, Official Public Records of Comal County, Texas; said 74.616 acres being Lot 5, as shown on the Proposed plat of Park North Subdivision {not yet of record} and being more particularly described as follows:

COMMENCING, at a found ½ inch iron rod located in the southeasterly right of way line of the Missouri Pacific Railroad and marking the most northerly corner of the said 17.717 acres, same being the most westerly corner of Royal Manufacturing Subdivision, according to the map or plat thereof recorded in Volume 15, Page 224, Plat Records of Comal County, Texas;

THENCE, South 67deg 33' 52" West, along the southeasterly right of way line of the Missouri Pacific Railroad, a distance of 113.85 feet, to a set ½ inch iron rod with "CUDE" cap, for the POINT OF BEGINNING of the herein described tract of land;

THENCE, South 30deg 30' 25" East, into the said 17. 717 acres, a distance of 825.48 feet, to a set ½ inch iron rod with "CUDE" cap located in the northwesterly right of way line of Proposed Alamo Parkway as shown on the Proposed plat of Park North Subdivision (not yet of record);

THENCE, into and across the said 17.717 acres, the 30.204 acres, the 38.449 acres and the 83.514 acres and along the northwesterly right of way line of said proposed Alamo Parkway, the following courses:

Southerly, along the arc of a curve to the left having a radius of 235.00 feet, a central angle of 19deg 03' 21", an arc length of 78.16 feet and a chord bearing: S 25deg 52' 00" W, 77.80 feet, to a set ½" inch iron rod with "CUDE" cap;

South 16deg 20' 20" West, a distance of 409.11 feet, to a set ½ inch iron rod with "CUDE" cap;

Southwesterly, along the arc of a curve to the right having a radius of 165.00 feet, a central angle of 43deg 23' 10", an arc length of 124.94 feet and a chord bearing: S 38deg 01' 55" W, 121.98 feet, to a set ½ inch iron rod with "CUDE" cap;

South 59deg 43' 30" West, a distance of 1977.86 feet, to a set ½ inch iron rod with "CUDE" cap;

Southwesterly, along the arc of a curve to the right having a radius of 65.00 feet, a central angle of 12deg 35' 00", an arc length of 14.27 feet and a chord bearing: S 66deg 01' 00" W, 14.25 feet, to a set ½ inch iron rod with "CUDE" cap;

Northern Tract Declaration of Restrictive Covenants

South 72deg 18' 30" West, a distance of 67.56 feet, to a set½ inch iron rod with "CUDE" cap;

Southwesterly, along the arc of a curve to the left having a radius of 135.00 feet, a central angle of 12deg 30' 00", an arc length of 29.45 feet and a chord bearing: S 66deg 03' 30" W, 29.39 feet, to a set½ inch iron rod with "CUDE" cap;

South 59deg 48' 30" West, a distance of 5.31 feet, to a set½ inch iron rod with "CUDE" cap located in the southwesterly line of the aforementioned 83.514 acres and further being located in the City Limit Line for the City of Schertz, Texas;

THENCE, North 30deg 26' 09 West, along the said City Limit Line, a distance of 1307.53 feet, to a set½ inch iron rod with "CUDE" cap located in the southeasterly right of way line of the Missouri Pacific Railroad;

THENCE, along the southeasterly right of way line of the said Missouri Pacific Railroad, the following courses:

North 60deg 06' 45" East, a distance of 653.09 feet, to a found½ inch iron rod;

North 60deg 05' 13" East, a distance of 494.85 feet, to a found½ inch iron rod;

North 60deg 55' 11" East, a distance of 179.77 feet, to a found ½ inch iron rod;

Northeasterly, along the arc of a curve to the right having a radius of 5679.58 feet, a central angle of 06deg 04' 33", an arc length of 602.29 feet and a chord bearing: N 63deg 05' 06" E, 602.01 feet, to a found½ inch iron rod;

North 67deg 15' 54" East, a distance of 472.65 feet, to a found½ inch iron rod;

North 67deg 33' 52" East, a distance of 172.50 feet, to the POINT OF BEGINNING and containing 74.616 acres of land, more or less.

Basis of bearings is the Texas State Plane Coordinate System, South Central Zone (4204), NAO 83 (93).