

**AGREEMENT FOR PUBLIC IMPROVEMENT DISTRICT
FORMATION AND ADMINISTRATION SERVICES**

This Agreement for Public Improvement District Formation and Administration Services ("Agreement") is entered into this _____ day of January, 2017 by and between **PIDWorks, LLC** ("PIDWorks") the **City of Kyle**, Texas ("City") a municipal corporation and political subdivision of the state of Texas. .

RECITALS

WHEREAS, the Blanco River Ranch Interim Annexation and Development Agreement ("The Interim Development Agreement") was executed between Blanco River Ranch Properties, L.P. (the "Developer") and the City on May 4, 2016; and

WHEREAS, the Interim Development Agreement states that the City will work in good faith to create a public improvement district ("PID" or "District") pursuant to Chapter 372 of the Texas Local Government Code; and

WHEREAS, the City requires specialized services related to the formation of the PID, preparation of the Service and Assessment Plan ("Service and Assessment Plan"), bond issuance, and the administration of the District, as more fully set forth in this Agreement; and

WHEREAS, PIDWorks has the expertise to properly establish and administer the District and ensure compliance with Texas Local Government Code Chapter 372; and

WHEREAS, the City desires to retain PIDWorks to provide District formation and administration services;

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and for good and valuable consideration, PIDWorks and the City agree as follows:

ARTICLE I

TERM OF AGREEMENT

1.0 The Agreement shall be effective as of its approval by all parties, and shall be for a period of three (3) years unless terminated under Article IV and shall automatically continue on the anniversary date on a year to year basis until terminated pursuant to Article V of this Agreement.

ARTICLE II

SERVICES TO BE PROVIDED BY PIDWORKS

2.0 The scope and timing of services to be performed by PIDWorks are set forth in Exhibit A, which is attached hereto and incorporated into this Agreement by this reference.

2.1 The Services to be provided by PIDWorks under the terms of this Agreement relate only to the District.

2.2 PIDWorks agrees that its services pursuant to this Agreement shall at all times be subject to the control and supervision of the City and nothing in this Agreement shall constitute an assignment of any right or obligation of the City under any applicable contract, agreement, or law. PIDWorks shall not represent to any property owner or any other person that it or any of its employees are acting as the City or employees of the City.

2.3 No changes in the scope of services shall be made without the prior written approval of PIDWorks and the City.

2.4 PIDWorks shall supply all tools and means necessary to perform the services and production of the work product described in Exhibit A.

ARTICLE III

PAYMENT TERMS AND CONDITIONS

3.0 In consideration for the services to be performed by PIDWorks, the City agrees to pay PIDWorks the fees for all services and related costs and expenses set forth in Exhibit A. Beginning on the February 1 following the issuance of PID bonds and each February 1 thereafter, the fees shall increase by 2%.

3.1 Monthly Invoices shall be submitted to the City for work completed. City agrees to pay the amount due to PIDWorks within thirty (30) days of receipt of each invoice.

3.2 Copies of all third party invoices for expenses, materials, or services provided to PIDWorks will accompany the invoice to the City. Mileage will be billed at the then applicable IRS standard rate. PIDWorks will pass any third party cost thru to the City without markup, and will not incur any expense in excess of \$200 without written consent of the City.

3.3 The only source of payment for PIDWorks' fees and services shall be the District's administration account and/or deposits provided by the developer. The City general fund shall never be used to pay for any expenses relating to PIDWorks' administration of the District. In the event there is insufficient District funds in a given year to pay PIDWorks' fees and expenses, PIDWorks agrees to defer the fees and expenses until such time as there are sufficient District funds.

ARTICLE IV

TERMINATION OF THIS AGREEMENT

4.0 Notwithstanding any other provisions of this Agreement, either party may terminate this Agreement at any time by giving sixty (60) days written notice to the other party without penalty and without limitation of its right to seek damages. City shall pay PIDWorks, within 30 days of such termination, all of PIDWorks' fees and

expenses actually accrued or incurred to and including the date of termination, including any amount incurred or accrued in connection with work in progress.

ARTICLE V

GENERAL PROVISIONS

5.0 This Agreement supersedes any and all agreements, either oral or written between the parties hereto with respect to rendering of services by PIDWorks for the City and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party of this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party which are not embodied herein and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.

5.1 This Agreement shall be administered and interpreted under the laws of the State of Texas. This Agreement shall not be construed for or against any party by reason of who drafted the provisions set forth herein. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall remain in full force and effect. For any dispute arising out of or relating to this Agreement, the Parties hereby irrevocably consent to venue and the exclusive jurisdiction of the state courts located in Hays County, Texas.

5.2 Neither this Agreement or any duties or obligations under this Agreement may be assigned by PIDWorks without the prior written consent of the City.

5.3 The waiver by either party of a breach or violation of any provision of this Agreement will not operate as or be construed to be a waiver of any subsequent breach thereof.

5.4 All records, reports, and other documents prepared by PIDWorks for the purposes of providing the services described in this Agreement shall be property of the City and subject to the Public Information Act. All such documents shall be made available to the City during the course of performance of this Agreement. Any reports, studies, photographs, negatives, or other documents or drawings prepared by PIDWorks in the performance of its obligations under this Agreement shall be the exclusive property of the City and all such materials shall be remitted to the City by PIDWorks upon completion, termination, or cancellation of this Agreement.

5.5 The City acknowledges PIDWorks' ownership of its software, programs, inventions, know-how, trade secrets, confidential knowledge, source code, or other proprietary information relating to products, processes, services, software, formulas, developmental or experimental work, business plans, financial information, or other subject matter ("Confidential Information") pertaining to the business of PIDWorks. This Agreement shall not in any way give rise to any requirement or obligation for PIDWorks to disclose or release any Confidential Information.

5.6 The headings and article titles of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof.

5.7 Should either party commence any legal action or proceeding against the other based upon this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees and costs.

5.8 All notices, requests, demands, and other communications which are required to be given under this agreement shall be in writing and shall be deemed to have been duly given upon the delivery by registered or certified mail, return receipt requested, postage prepaid thereon, as follows:

To PIDWorks:

Jon Snyder
PIDWorks, LLC
1808 W. 6th Street
Austin, Texas 78703

To City:

Scott Sellers, City Manager
City of Kyle
100 W. Center Street
Kyle, TX 78640

5.9 This Agreement will not be construed as creating or constituting an employer-employee relationship, a partnership, a joint-venture, or a franchise between the City and PIDWorks. Neither City or PIDWorks may bind the other in contracts with third parties or make representations on behalf of the other party.

5.10 The parties hereby warrant that the persons executing this Agreement are authorized to execute this Agreement and are authorized to obligate the respective parties to perform this Agreement. A facsimile signature on this Agreement shall be treated for all purposes as an original signature.

Executed on this _____ day of January, 2017:

PIDWorks, LLC

City of Kyle

BY: _____
Jon Snyder
Manager

BY: _____
R. Todd Webster
Mayor

EXHIBIT A
SERVICES TO BE PROVIDED

❖ **DISTRICT FORMATION SERVICES**

Billed at PIDWorks' prevailing hourly rates, which are currently as follows:

<i>Title</i>	<i>Hourly Rate</i>
<i>Managing Principal</i>	<i>\$250</i>
<i>Vice President</i>	<i>\$185</i>
<i>Associate</i>	<i>\$135</i>

**PIDWorks' hourly rates may be adjusted from time to time to reflect increased costs of labor and/or adding/reclassifying titles.*

➤ Preparation of PID Plan of Finance

PIDWorks will prepare a plan of finance for the proposed transaction, including

- bond sizing and bond phasing by improvement area,
- sources and uses of funds by improvement area,
- debt service schedules, and
- assessment allocation and associated estimated annual installment by lot type for each improvement area.

➤ Preparation of Service and Assessment Plan

- PIDWorks will prepare a complete and final Service and Assessment Plan to be adopted by City Council and included in the Official Statement for the Bonds.
- PIDWorks will ensure bond documents, including the PID financing agreement, bond indenture, and official statement are all consistent with the Service and Assessment Plan.

- Participation in Presentations to City Council or other Public Forums
 - PIDWorks will prepare and present information as requested to the City Council or any other public forum.

❖ **DISTRICT ADMINISTRATION SETUP SERVICES**

\$7,500 One Time Lump Sum Fee (following PID bond issuance)

- Prepare District Administration Manual
 - PIDWorks will review the full bond transcript and identify all requirements of the City relating to District administration and/or disclosure requirements.
 - Prepare written summary of all City administration and disclosure requirements.
 - Prepare calendar of all relevant dates and deadlines for District administration and disclosure requirements.
 - Meet with County Assessor's office to establish procedure for obtaining parcel information for assessment roll.
 - Meet with County Tax Office to establish procedure to include District assessment roll on property tax bill.
 - Meet with City representatives to finalize policies and procedures relating to District Administration.
- Database Setup
 - PIDWorks will prepare the initial District database, including parcel information, assessment roll information, amortization schedules by parcel, and District account information.
 - Prepare automated database allocation methodology based on approved District service and assessment plan.
 - Utilize District administration manual to audit initial database setup to ensure compliance with District documents.

➤ Website Setup

- Prepare website database searchable by property tax ID # for property owners, title companies, mortgage companies, or other interested parties. The search results will provide assessment information, including outstanding principal, annual installment amount, payment information, and a breakdown of the assessment installment by use (principal, interest, reserve fund accounts, administration, etc.)
- Prepare "District Information" page for website. Information will include a background of the district formation and bond issuance process, district boundary map, and description of improvements. In addition, PIDWorks will provide a link to District documents.

❖ **BASIC DISTRICT ADMINISTRATION SERVICES**

Monthly Fee = \$1,250 + \$1.00 per parcel in District (as shown on most recent assessment roll)

➤ Prepare Annual Service and Assessment Plan Update

- If possible, obtain updated construction cost estimates (or actual costs for completed facilities) for District improvements, and update service and assessment plan text and tables.
- Update service and assessment plan text and tables as necessary to account for any changes in development plan or land uses.
- Update annual District assessment roll
 - Identify parcel subdivisions, conveyance to owner's associations, changes in land use, and any other information relevant to the levy of special assessments.
 - Review maps of tax parcels to compile/audit list of parcels that are within the District for the upcoming bond year. Classify each parcel pursuant to the approved service and assessment plan.

- Identify and parcels dedicated to any property types classified as exempt by the service and assessment plan.
 - Update District database with newly subdivided parcels and property type classifications.
 - Calculate annual special assessment for each parcel. Verify the sum of annual installments for all parcels in the District is sufficient to meet the annual debt service requirement and administration expenses.
 - Present preliminary annual assessment roll to City. Upon approval by City, submit final annual assessment roll to County Tax Collector.
- Provide Public Information Request Support
- PIDWorks will respond to any calls and/or emails relating to the District. PIDWorks will only provide technical answers relating to the annual assessments or the District generally. PIDWorks will not provide any commentary on City policy relating to PIDs.
 - If the City receives a notice from a property owner alleging an error in the calculation of any matters related to the annual assessment roll for the District, PIDWorks will review and provide a written response to the City. If a calculation error occurred, PIDWorks will take corrective action as required to correct the error.
- Delinquency Management
- After the end of the annual assessment installment collection period, PIDWorks will prepare a delinquent special assessment report, which details which parcels are delinquent and the amount of delinquency.
 - PIDWorks will advise the City what action must be taken relating to delinquent parcels, if any, to remain in compliance with the District documents.

❖ **ADDITIONAL DISTRICT ADMINISTRATION SERVICES**

Billed at PIDWorks' prevailing hourly rates, which are currently as follows:

<i>Title</i>	<i>Hourly Rate</i>
<i>Managing Principal</i>	<i>\$250</i>
<i>Vice President</i>	<i>\$185</i>
<i>Associate</i>	<i>\$135</i>

**PIDWorks' hourly rates may be adjusted from time to time to reflect increased costs of labor and/or adding/reclassifying titles.*

- Continuing Disclosure Services (to be performed only if requested by City)
 - PIDWorks will prepare an annual report as required by the continuing disclosure agreements.
 - PIDWorks will request from developer the reports due pursuant to the developer disclosure agreement and disseminate these reports pursuant to the disclosure agreement.
 - Upon notification by any responsible party or if PIDWorks independently becomes aware of such knowledge, PIDWorks will prepare notices of material events covering the events enumerated in the disclosure agreements.
 - PIDWorks will disseminate the annual reports, quarterly reports from the developer, and notice of significant events to the Municipal Securities Rulemaking Board (MSRB) and any other parties required in the continuing disclosure agreement.

- Developer Payment Request Administration (to be performed only if requested by City)
 - PIDWorks will review all developer payment requests to ensure the request complies with the PID Financing Agreement, the District service and

assessment plan, and any other relevant provisions contained in the District documents.

- PIDWorks will audit the developer payment request to ensure there is proper backup documentation and that the accounting is accurate.
- PIDWorks will coordinate with the City's designated representative to ensure the improvements were built to the standards of the accepting governing body.
- PIDWorks will ensure improvements to be dedicated are free and clear of all liens and encumbrances.