

**CITY OF KYLE, TEXAS DEPOSIT AND REIMBURSEMENT AGREEMENT
PROPOSED PUBLIC IMPROVEMENT DISTRICT
Blanco River Ranch – PID Consultants**

THIS DEPOSIT AGREEMENT (this "**Agreement**") is made and entered into as of _____, 2017 by and between the **CITY OF KYLE, TEXAS** (the "**City**"), and **BLANCO RIVER RANCH PROPERTIES LP**, a Texas limited partnership (including its Designated Successors and Assigns, the "**Owner**").

WHEREAS, the Owner has requested that the City enter into a Development Agreement and a PID Financing Agreement under which the City will, among other things, conduct proceedings pursuant to the provisions of Texas Local Government Code Chapter 372 to form a public improvement district (the "**District**"), to levy special assessments, and to issue one or more series of bonds (the "**Bonds**") to provide for the construction, acquisition, or furnishing of certain public improvements within the District; and

WHEREAS, the Owner is developing real property that would be included within the boundaries of the proposed District; and

WHEREAS, the Owner has agreed to advance moneys to be used by the City Manager of the City (the "**City Manager**") to pay costs and expenses associated with retaining the Consultants (herein defined) to assist the City with assessing the feasibility and desirability of (i) entering into a De-Annexation and Development Agreement ("**Development Agreement**"), which was approved by the City Council on March 21, 2017, and a PID Financing Agreement, (ii) forming the District, (iii) levying assessments, and (iv) issuing Bonds (the "**PID Feasibility Matters**") such advances being subject to reimbursement or credit upon the approval of the Attorney General and City Council and a successful issuance of the Bonds, or the termination or abandonment of such proceedings as provided herein; and

WHEREAS, the parties hereto wish to enter into the Agreement to define the terms and conditions under which moneys will be advanced by and reimbursed to the Owner.

NOW THEREFORE, the parties, for mutual consideration, agree as follows:

SECTION 1. ADVANCEMENT OF MONEYS. The Owner shall advance up to a maximum of \$50,000.00 (the "**Moneys**") to the City Manager as provided in Section 3 hereof, which Moneys shall be used by the City exclusively to pay costs generally described in Section 2 hereof. If the Moneys are not advanced in accordance with Section 3, the City shall not proceed with assessing the feasibility and desirability of the PID Feasibility Matters. The City will notify the Owner if the costs generally described in Section 2 exceed or are expected to exceed \$50,000.00. Upon notification by the City of the Section 2 costs exceeding \$50,000.00, City and Owner agree to modify this Agreement to increase the amount of Moneys advanced (the "**Additional Moneys**"). If the Additional Moneys are not advanced in accordance with Section 3, the City shall not proceed with assessing the feasibility and desirability of the PID Feasibility Matters.

SECTION 2. USE OF MONEYS ON DEPOSIT. The City has retained PIDWorks, LLC as assessment consultant for an amount not to exceed \$30,000; the City may engage additional consultants, including but not limited to appraisers, market study consultants, and attorneys (collectively, “**Consultants**”). The Consultants will assist the City with assessing the feasibility and desirability of the PID Feasibility Matters. The Consultants will be responsible to, and will act as consultants to, the City in connection with the PID Feasibility Matters. The City Manager will use the Moneys to pay costs and expenses of the Consultants that are associated with or incidental to the PID Feasibility Matters (collectively, “**Project Costs**”). The City agrees to provide the Owner copies of Consultant candidate proposals at least ten business days prior to approving an agreement to engage any Consultant, and to consider the Owner’s comments on any such proposals. If the Owner objects to the Consultant, the City will consider the Owner’s objection, but the City has sole discretion in the final decision to engage a Consultant. The City is not required to provide candidate proposals or consider the Owner’s comments on engagement of financial advisors or bond counsel. The scope of work and terms and conditions of the agreements for the Consultants are, or will be, set forth in agreements on file in the City Manager’s office. The City Manager may also use the Moneys for other direct City expenses relating to creation of the PID, such as statutorily required public notices. The City Manager shall maintain records of the payment of all Project Costs and keep such records on file and available for inspection and review by the Owner in the City Manager’s office. Upon request, but not more than monthly, the City agrees to provide the Owner with copies of all invoices for PID Feasibility Matters that have been paid since the last request. If the Owner objects to any portion of an invoice, the City and the Owner agree in good faith to attempt to resolve the dispute within a reasonable period of time.

SECTION 3. DEPOSITS. The Owner shall deposit with the City the amount of \$35,000.00 within five business days after this Agreement is executed and delivered by the City. Whenever the account reaches a balance below \$2,500.00, the Owner shall deposit an additional \$15,000.00 within five business days of notification by the City Manager. The City Manager shall cause all Moneys received from the Owner to be deposited into a separate account maintained by or at the direction of the City Manager and the Office of the City Director of Finance. All interest or other amounts earned on Moneys (if any) in such account shall be held in such account for the payment of Project Costs or otherwise applied as set forth in Section 4 hereof.

SECTION 4. REIMBURSEMENT. If proceedings for approval of the PID Financing Agreement or formation of the District are unsuccessful and are terminated or abandoned prior to the issuance of the Bonds, the City Manager shall transfer to the Owner all Moneys, including any interest earnings thereon, then on deposit in the account established and maintained pursuant to Section 3, exclusive of Moneys necessary to pay Project Costs or portions thereof that (i) have been actually incurred and (ii) are due and owing as of the date of such termination or abandonment.

The Owner shall have the following options upon the successful issuance of the Bonds:

- A. Contingent on the Attorney General’s and City Council approval, the Owner may direct the City to reimburse the Owner for the Moneys, and the interest thereon,

previously advanced by the Owner from the proceeds of the Bonds;

- B. The Owner may direct the City to return unexpended Moneys, and the interest thereon, to Owner; or
- C. The Owner may direct the City to do any combination of the above.

SECTION 5. RESERVED RIGHTS. This Agreement does not in any way create an obligation or commitment that the City will execute any agreements, create the District, or proceed with the issuance of the Bonds, and the City expressly reserves the right to terminate or abandon the proceedings at any time prior to the issuance of the Bonds, if in the City's sole discretion, it deems such termination or abandonment to be in the best interests of the City.

SECTION 6. BINDING EFFECT. This Agreement shall be binding on the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date above written.

EXECUTED and ACCEPTED this ____ of _____ 2017.

CITY OF KYLE, TEXAS, a municipal corporation

By: _____
Todd Webster, Mayor

Date: _____

AGREED TO and ACCEPTED this ____ of _____ 2017.

BLANCO RIVER RANCH PROPERTIES LP, a Texas limited partnership

By: _____

Name: _____

Title: _____