CITY ATTORNEY EMPLOYMENT AGREEMENT

This City Attorney Employment Agreement (the "Agreement") is entered into as of February 5, 2024 (the "Effective Date") by and between the City of Kyle, Texas, a Texas home rule municipal corporation, and its authorized governing body, the City Council (the "City") and Aimee Alcorn-Reed ("Alcorn-Reed"). The City and Alcorn-Reed are referred to collectively as the "Parties."

WITNESSETH

WHEREAS, the City desires to appoint Aimee Alcorn-Reed, as City Attorney ("Attorney") of the City of Kyle, Texas, as provided by the City Charter of the City of Kyle, Texas ("Charter")' and

WHEREAS, it is the desire of the Council of the City of Kyle ("Council") to provide certain benefits, establish certain conditions of employment, and to set certain working conditions for the City Attorney; and

WHEREAS, Alcorn-Reed desires to accept the appointment as City Attorney under the terms outlined herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, which is expressly recognized and acknowledged by the Parties to this Agreement, the Parties agree as follows:

SECTION I
DUTIES AND AUTHORITY

A. The City hereby agrees to appoint Alcorn-Reed as City Attorney to perform the functions and duties specified in the Charter and to perform such other duties and functions as the Council shall from time to time assign, assuming she is willing and able to perform such duties.

B. Further, Alcorn-Reed shall comply with (collectively "Applicable Laws and Authorities") state and federal law, the City's Charter, all City policies, rules, regulations, and ordinances as they exist or may hereinafter be amended, and all lawful Council directives.

C. Except to the extent prohibited by or in material conflict with Applicable Laws and Authorities, Alcorn-Reed or Alcorn-Reed's designee shall attend, and shall be permitted to attend, all meetings of the Council, both public and closed, with the exception of those closed meetings devoted to the consideration of any action or lack of action on this Agreement, or any amendment thereto, Alcorn-Reed's evaluation, or to consider any issues regarding Alcorn-Reed's actions or performance. By majority vote, the Council may permit Alcorn-Reed to attend said otherwise-excepted meetings.

SECTION II
TERM

A. The term of this Agreement shall be indefinite and the Agreement shall be and remain in full force and effect until terminated by Alcorn-Reed or by the Council as herein provided (the "Term").

B. Alcorn-Reed shall serve at the will and pleasure of the Council and nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Council, or Alcorn-Reed, to terminate the services of Alcorn-Reed at any time, with or without cause, subject only to applicable provisions of the City personnel policies and the provisions set forth hereinafter in the section of this Agreement titled "Termination and Severance Pay."

SECTION III
RESIDENCY

Alcorn-Reed agrees to maintain residency within the city limits of the City of Kyle, Texas during Employee's tenure as City Attorney and will relocate Alcorn-Reed's previous residence to the City of Kyle, Texas within six months from the Effective Date of this Agreement.

SECTION IV
PERFORMANCE EVALUATION AND REVIEW

The City Manager shall provide Alcorn-Reed with an annual performance evaluation and review each year Alcorn-Reed is employed by the City as City Attorney. Any review and evaluation shall be in accordance with specific criteria developed jointly by the City Manager and Alcorn-Reed, in consultation with the City Council. Such criteria may be revised by the City Manager, from time to time, with notice of any such revision provided to Alcorn-Reed. Any discussion of Alcorn-Reed's evaluation or review of Alcorn-Reed with the City Council shall be conducted only in closed Executive Session, unless otherwise requested by Alcorn-Reed. Alcorn-Reed shall be provided a copy of any written statement or findings of the City Manager, the City Council, or any of its members and shall have an adequate opportunity to discuss Alcorn-Reed's evaluations with the City Manager and City Council, in Executive Session or in Open Session, if Alcorn-Reed so requests. Any written evaluation or statement concerning Alcorn-Reed's performance shall be placed in Alcorn-Reed's personnel file along with any written response by Alcorn-Reed. In effecting the provisions of this Section, the City and Alcorn-Reed mutually agree to abide by the provisions of applicable laws concerning personnel matters and rights of Alcorn-Reed and of the City.

SECTION V
HOURS OF WORK

A. Alcorn-Reed is an exempt employee who is expected to engage in the hours of work that are necessary to fulfill the obligations of the position, must be available at all times, except

when on leave approved in accordance with City policy, and must devote a great deal of time outside the normal office hours to the business of the City.

B. Alcorn-Reed acknowledges the proper performance of the duties of the City Attorney of the City will require Alcorn-Reed to generally observe normal business hours, that most work weeks involve a minimum of forty (40) hours, and will also often require the performance of necessary services outside of normal business hours. Alcorn-Reed agrees to devote such additional time as is necessary for the full and proper performance of Alcorn-Reed's duties and that the compensation herein provided includes compensation for the performance of all such services.

SECTION VI
OUTSIDE EMPLOYMENT AND INVESTMENTS

A. Alcorn-Reed will devote full time and effort to the performance of the duties of the City Attorney of the City, and shall remain in the exclusive employment of the City during the term of this Agreement; provided that Alcorn-Reed may seek Council's prior approval to accept outside professional employment provided it will not in any way limit the performance of, or Alcorn-Reed's availability for the performance of, Alcorn-Reed's duties hereunder and provided that it complies with the City's Code of Ethics.

B. Alcorn-Reed shall not, during the Term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of the City, except for stock ownership in a company whose capital stock is publicly held and regularly traded on any stock exchange, without the prior written approval of the Council. For and during the Term of the Agreement, Alcorn-Reed shall, except for a personal residence or residential property acquired or held for future use as the Alcorn-Reed's personal residence, not invest in any other real estate or property improvements within the City, without the prior written consent of the Council.

SECTION VII
SALARY

A. The City agrees to pay Alcorn-Reed an annual base salary of One Hundred Ninety Thousand and 00/100s Dollars ($190,000.00), payable in equal installments on the same schedule other employees of the City are paid and shall be paid net of any applicable withholding or deductions. The Parties agree that stating the salary in annual terms is for convenience only, and does not in any way imply a specific term of employment.

B. The City further agrees to review the base salary and other benefits of Alcorn-Reed at least annually through a formal evaluation, and consideration shall be given to adjust Alcorn-Reed's compensation in conjunction with such performance evaluation.

C. Alcorn-Reed may receive cost of living salary increases, if any, that are received by other City employees.

D. This agreement shall be automatically amended to reflect any salary adjustments provided in accordance with this Agreement and the City's personnel policy.

SECTION VIII
DISABILITY AND RETIREMENT BENEFITS

A. Alcorn-Reed shall be covered and governed by the same retirement system as are all other employees. Retirement contributions shall be paid as required by the retirement system's plan documents.

B. Alcorn-Reed shall be eligible for the same disability plan as all other employees of the City. In the event of a disability, Alcorn-Reed shall be entitled to the use of accrued leave benefits pursuant to City policy in the same manner as other employees of the City.

C. In the event of Alcorn-Reed's death or in the event Alcorn-Reed is permanently disabled or is otherwise unable to perform her duties with or without reasonable accommodation because of sickness, accident, injury, mental incapacity, or health for a period of four (4) successive weeks beyond any leave available under the Family Medical Leave Act, if any, the City shall have the option to terminate this Agreement, without being subject to the severance pay requirements of the section of this Agreement titled "Termination and Severance Pay."

SECTION IX
INSURANCE

A. The City agrees to pay the premiums for medical, dental, and vision insurance for Alcorn-Reed pursuant to the group health care plan provided by the City for its full-time employees.

B. Alcorn-Reed shall be eligible for life insurance from the City. The multiple, type of policy, and policy terms will be pursuant to the same policies and conditions as are available to other full-time employees of the City.

SECTION X
MONTHLY ALLOWANCES

A. Alcorn-Reed's duties require exclusive and unrestricted use of a vehicle. The City agrees to pay to Alcorn-Reed, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of Six Thousand Dollars ($6,000.00) per year, payable per pay period same as all other applicable employees of the City, as a vehicle allowance. Alcorn-Reed shall acquire and maintain a vehicle during the term of this Agreement, which shall be available for Alcorn-Reed's exclusive and unrestricted use in performance of her duties hereunder. Alcorn-Reed shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses, including gasoline, attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle.

B. Alcorn-Reed is responsible for payment of any taxes on these benefits that may apply now or throughout the duration of this Agreement.

SECTION IX
LEAVE BENEFITS

A. The City agrees that reasonable time off be permitted, such as is customary for exempt employees, so long as the time off does not interfere with the normal conduct of the office of the City Attorney. Provided, however, the Council shall have the right to review Alcorn-Reed's use of time off, and abuse of such use shall be grounds for discipline, up to and including termination.

B. On the Effective Date of this Agreement, Alcorn-Reed's leave accrual banks will be credited with eighty (80) hours of vacation leave (the "Credited Leave"); provided that notwithstanding anything contained herein to the contrary, Alcorn-Reed shall not be paid out the Credited Leave if Alcorn-Reed resigns from employment with the City within one year of the Effective Date of this Agreement.

C. Except as otherwise stated herein, all other provisions of the rules and regulations of the City applicable to fringe benefits, holidays, leave, and working conditions as they now exist or hereafter may be amended, shall also apply to Alcorn-Reed as they apply to all other full-time employees of the City.

SECTION XII
DUES, SUBSCRIPTIONS, AND PROFESSIONAL DEVELOPMENT

A. The City encourages Alcorn-Reed to participate in professional associations and agrees to budget and pay for all professional dues and subscriptions which are reasonably necessary for her participation in national, regional, state, and local associations and organizations and which are necessary and desirable for her continued professional development participation, growth and advancement and for the good of the City unless otherwise budgeted, shall be specifically determined in advance by the City Manager. Any expense incurred by Alcorn-Reed in violation of this paragraph shall be at Alcorn-Reed's expense, and Alcorn-Reed shall immediately reimburse the City for any such unauthorized expense.

B. The City agrees to budget and to pay for reasonable travel and related expenses permitted under the City's travel policy for reasonable professional and official travel, meetings and occasions reasonably necessary to continue the professional development of Alcorn-Reed limited to the Texas Municipal League and Texas City Attorney's Association, and such other governmental groups and committees of which Alcorn-Reed serves as a member. All other travel, unless otherwise previously budgeted, shall be approved in advance by the City Manager. Any expense incurred by Alcorn-Reed in violation of this paragraph shall be at Alcorn-Reed's expense, and Alcorn-Reed shall immediately reimburse the City for any such unauthorized expense. Alcorn-Reed is not required to obtain prior approval for non-overnight travel and expenses otherwise budgeted; provided however, Alcorn-Reed

account to the City Council for such non-overnight travel and or related expenses exceeding $100.00 at the first regular Council meeting immediately following the month in which such expenses were incurred.

C. The City agrees to budget and pay for the travel and related expenses as permitted under City's travel policy expenses of Alcorn-Reed for short courses, institutes and seminars that are reasonably necessary for this professional development and for the good of the City. Any expense incurred by Alcorn-Reed in violation of this paragraph shall be at Alcorn-Reed expense, and Alcorn-Reed shall immediately reimburse the City for any such unauthorized expense.

SECTION XIII
BUSINESS EXPENSES

Certain expenses of a non-personal and job-related nature will necessarily be incurred by Alcorn-Reed in the performance of Alcorn-Reed's duties. The City will pay or reimburse such business expenses upon receipt or proof of such expenditures in accordance with relevant City policy.

SECTION XIV
INDEMNIFICATION

To the extent it may be permitted to do by applicable law, including, but not limited to Texas Civil Practice & Remedies Code Chapter 102, the City does hereby agree to defend, hold harmless, and indemnify Employee from any and all demands, claims, suits, actions, judgments, expenses and attorneys' fees incurred in any legal proceedings brought against Alcorn-Reed in Alcorn-Reed's individual or official capacity as an employee and as City Attorney, providing the incident(s), which is (are) the basis of any such demand, claim, suits, actions, judgments, expenses, and attorneys' fees, arose or does (do) arise in the future from an act or omission of Alcorn-Reed, as an employee of the City, acting within the course and scope of Alcorn-Reed's employment with the City; excluding, however, any such demand, claim, suits, actions, judgments, expenses, and attorneys' fees for those claims or any causes of action where it is determined that Alcorn-Reed committed official misconduct, violated the Texas Disciplinary Rules of Professional Conduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence, or acted in bad faith; and excluding any costs, fees, expenses, or damages that would be recoverable or payable under an insurance contract, held either by the City or by Alcorn-Reed. The selection of Alcorn-Reed's legal counsel shall be with the mutual agreement of Alcorn-Reed and the City if such legal counsel is not also City's legal counsel. A legal defense may be provided through insurance coverage, in which case Alcorn-Reed's right to agree to legal counsel provided for Alcorn-Reed will depend on the terms of the applicable insurance contract. To the extent this Section exceeds the authority provided and limitations imposed by Texas Civil Practice & Remedies Code, Chapter 102, it shall be construed and modified accordingly. The provisions of this Section shall survive the termination, expiration, or other end of this Agreement and/or Alcorn-Reed's employment with the City.

SECTION XV
TERMINATION AND SEVERANCE PAY

A. Alcorn-Reed serves at the will and pleasure of the Council, and Alcorn-Reed's employment may be terminated by the Council at any time for any reason.

B. In the event Alcorn-Reed is terminated by the Council and Alcorn-Reed is then willing and able to perform all the duties of the City Attorney under this Agreement, then, provided Alcorn-Reed executes a general release and separation agreement in a form acceptable to Alcorn-Reed and the Council, the City agrees to pay Alcorn-Reed a lump sum severance payment equal to (1) twelve (12) months' full compensation (base salary); and (2) and the value of all accrued leave accrued by Alcorn-Reed prior to the termination on the same basis and pursuant to the City's policies as any other full-time employee of the City. The lump sum severance payment described herein shall be paid within thirty (30) days of Alcorn-Reed's execution of the general release and separation agreement.

C. The City will not be obligated to pay the severance set forth in paragraph B of this Section if:

1. Alcorn-Reed is terminated for conduct constituting gross negligence; acts of dishonesty or breach of professional or ethical duties; misappropriation of City assets; misuse of public funds or other City property; material breach of this Agreement; or an intentional violation of the City's Personnel Policies; or

2. Alcorn-Reed is terminated for willful breach, disregard, or habitual neglect of duties or failure to follow directions of the City Manager or the Council that have been formally communicated to Alcorn-Reed. As used in this paragraph, the term "willful breach" shall mean the intentional doing of some act with the knowledge that it is contrary to or in violation of formally communicated directions of the City Manager or the Council, save and except for directions, which Alcorn-Reed reasonably believes would require her to violate a law, ordinance or regulation from a governmental body or agency; and as used in this paragraph, the terms "disregard or habitual neglect of duties" shall mean regular neglect of, disregard of, ignoring of or overlooking of duties of the job for which Alcorn-Reed is hired;

3. Alcorn-Reed is terminated for misconduct involving an act of moral turpitude or of illegality, as determined by Council. As used in this paragraph the term "moral turpitude" shall mean an act of baseness, vileness, or depravity in the private and social duties which a person owes to another person in society and contrary to accepted and customary actions; and as used in this paragraph, the term "illegality" shall mean any action by Alcorn-Reed determined by Council to be in violation of any criminal or civil statute, law, charter, regulation or ordinance of any governmental body or agency, save and except for class "C" misdemeanors under Texas State law, whether or not criminal charges are filed;

4. Alcorn-Reed voluntarily resigns or retires from the position of City Attorney.

5. The Agreement is terminated due to Alcorn-Reed's death or disability, as provided for under Section VIII, paragraph C.

D. In the event the Council, during the term of this Agreement, materially reduces the salary or other financial benefits of Alcorn-Reed in a greater percentage than an applicable across-the-board reduction for all employees of the City, or in the event the City refuses, following written notice, to comply with any other provision benefiting Alcorn-Reed herein, or Alcorn-Reed resigns following a suggestion by the Council that Alcorn-Reed resign, then in that event, Alcorn-Reed may, at Alcorn-Reed's option, be deemed to have been terminated as of the date of such reduction, or as of the date Alcorn-Reed resigns at the Council's suggestion; provided that, notice having first been given, the suspension of Alcorn-Reed with pay pending the investigation and resolution of any charges against Alcorn-Reed described in paragraph C of this Section shall not constitute a termination, or a reduction under this Section. The Council shall be deemed to have suggested the resignation of Alcorn-Reed when at least five members of the Council affirmatively vote to suggest that Alcorn-Reed resign.

E. If Alcorn-Reed terminates this Agreement by voluntary resignation or retirement from the position of City Attorney, Alcorn-Reed shall give 30 days' notice in advance unless the Council agrees otherwise. In the event of resignation or retirement, Alcorn-Reed will be entitled to compensation for accrued leave, and other benefits on the same basis as any other full-time employee of the City, except that Credited Leave will not be paid out within the first year.

SECTION XVI
NOTICES

All notices, demands, and other writings may be delivered by either party hereto to the other by United States Mail, or by a reliable commercial courier at the following address:

City: City Manager
City of Kyle
100 W. Center Street
Kyle, Texas 78640

Alcorn-Reed: Aimee Alcorn-Reed
Address on file with the City's Human Resources Department.

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service, or three (3) days after the date the notice is deposited in the United States Mail or with a commercial courier.

SECTION XVII
GENERAL PROVISIONS

A. **Section Headings.** All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

B. **Governing Law.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of Texas without regard to its conflict of laws provisions. Venue shall lie exclusively in Hays County, Texas.

C. **Mediation.** The parties shall, in good faith, attempt to settle any controversy or claim by any party hereto arising out of or relating to this Agreement by mediation in accordance with the laws and rules of the State of Texas. Such mediation shall be held within thirty (30) days after demand therefor by any party. If one party fails or refuses to mediate within such thirty (30) day period, the other party may proceed to enforce such party's rights in a court of competent jurisdiction.

D. **Severability.** In the event any one or more of the sections, provisions, or clauses contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

E. **Entire Agreement.** This Agreement incorporates all the agreements, covenants and understandings between the City and Alcorn-Reed concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No other prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

F. **Amendment.** This Agreement shall not be modified or amended except by a written instrument executed by Alcorn-Reed and the duly authorized representative of the Council.

G. **Counterparts.** This Agreement may be executed in duplicate original counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one in the same instrument.

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IN WITNESS WHEREOF, the City and Alcorn-Reed have executed this Agreement effective as of the date first written above.

ALCORN-REED

_____ _____

Aimee Alcorn-Reed, City Attorney Date

CITY OF KYLE

_____ _____

Travis Mitchell, Mayor Date
On behalf of the City of Kyle
And Members of the City Council

ATTEST:

_____

Jennifer Kirkland, City Secretary (City Seal)