

# CITY OF KYLE



## Notice of Regular City Council Meeting

Kyle City Hall, 100 W. Center St., Kyle,  
Texas 78640

Notice is hereby given that the governing body of the City of Kyle, Texas will meet at 7:00 PM on May 21, 2019, at Kyle City Hall, 100 W. Center St., Kyle, Texas 78640, for the purpose of discussing the following agenda.

Posted this 17th day of May, 2019, prior to 7:00 p.m.

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### **I. Call Meeting to Order**

### **II. Recognition**

1. Memorial Day Resolution. ~ *Alex Villalobos, Council Member*

### **III. Citizen Comment Period with City Council**

The City Council welcomes comments from Citizens early in the agenda of regular meetings. Those wishing to speak are encouraged to sign in before the meeting begins. Speakers may be provided with an opportunity to speak during this time period on any agenda item or any other matter concerning city business, and they must observe the three-minute time limit.

### **IV. Presentation**

2. Annual Update of the Kyle Area Youth Advisory Council (KAYAC) Presentation. ~ *Kim Hilsenbeck, Communications Manager*
3. Presentation on City of Kyle Water Quality. ~ *Tim Samford, Treatment Operations Manager*
4. Presentation on FM 150 Bypass. ~ *J. Scott Sellers, City Manager*
5. CIP/Road Projects Update. ~ *Leon Barba, P.E., City Engineer*

### **V. Consent Agenda**

6. Approve Amendment No. 1 to the contract with ESPEY CONSULTANTS,

INC., dba RPS, Austin, Texas, in the amount of \$592,263.00 increasing the total contract amount not to exceed \$865,520.00 for providing project management, data collection and investigations, preliminary and final engineering, permitting, and bid services for the Elliott Branch Phase 1 Wastewater Interceptor Project. ~ *Leon Barba, P.E., City Engineer*

7. *(Second Reading)* An Ordinance of the City of Kyle, Texas adopting building regulations and procedures promoting risk reductions of operations and development near pipelines; making findings of fact; providing definitions; providing a maximum penalty; providing severability and open meetings clauses; and providing for related matters. ~ *Paige Saenz, City Attorney*

*City Council voted 4-0 to approve on First Reading.*

8. *(First Reading)* Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2018-2019 by increasing the total appropriations for expenditures in the General Fund by \$45,000.00, increasing the amount of transfer-in from the Hotel Occupancy Fund by \$45,000.00, and decreasing the fund balance in the Hotel Occupancy Fund by \$45,000.00 in order to provide funding for live music/bands at the 2019 Kyle Pie in the Sky Festival. ~ *Perwez A. Moheet, CPA, Director of Finance*

## **VI. Consider and Possible Action**

9. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of rezoning approximately 0.1417 acres of land from Heavy Industrial 'HI' to Neighborhood Commercial 'NC' for property located at 405 S. Old Highway 81, in Hays County, Texas. (Hector Villalpando and Patricia Marquez - Z-19-0039) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 in favor of the rezoning request.*

- Public Hearing

10. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 1.02 acres of land from Agriculture 'AG' and Single Family Residential 'R-1' to Single Family Residential-3 'R-1-3' for property located at 701 Scott Street, in Hays County, Texas. (Genevieve Vaughn - Z-19-0040) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 in favor of the rezoning request.*

- Public Hearing

11. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 10.636 acres of land from Agriculture 'AG' to Residential Condominium District 'R-1-C' and approximately 108.839 acres of land to Single Family Residential-3 'R-1-3',

approximately 3.468 acres of land to Neighborhood Commercial 'NC' and approximately 4.513 to Community Commercial 'CC' for property located a 1/2 mile southeast of Lehman School at the intersection of Bunton Creek Road, and Goforth Road, in Hays County, Texas. (Robert and Karen Schlortt - Z-19-0037)  
~ Howard J. Koontz, Director of Planning and Community Development

*Planning and Zoning Commission voted 4-2 in favor of the rezoning request.*

- Public Hearing

12. Discussion and possible action to authorize the City Manager to execute an Interlocal Agreement with Hays County related to the City of Kyle Tax Reinvestment Zone No. 2. ~ *J. Scott Sellers, City Manager*
13. Consider a Resolution suspending for 45 days the effective date proposed by CenterPoint Energy Resources Corp., South Texas Division (“CenterPoint”) in its application filed on or about March 28, 2019 pursuant to section 104.301 of the Gas Utility Regulatory Act. ~ *Jerry Hendrix, Chief of Staff*
14. Discussion and direction from City Council for possibly considering a water leak adjustment policy for City's commercial water utility customers. ~ *J. Scott Sellers, City Manager*
15. A Resolution authorizing the commencement of annexation of areas within the City's extraterritorial jurisdiction, and directing the City Manager to prepare a municipal services plan for the areas proposed to be annexed and an annexation schedule. ~ *J. Scott Sellers, City Manager*
16. First Year on Us Marketing Plan. ~ *Diana Torres, Director of Economic Development*
17. *(First Reading)* An Ordinance of the City of Kyle, Texas, Establishing the Salary for the Members of the City Council Pursuant to Section 3.09 of the City Charter. ~ *Travis Mitchell, Mayor*
18. Discussion on policy and procedures regarding disciplinary action of employees to include timeliness of action. ~ *Daphne Tenorio, Council Member*

## **VII. City Manager's Report**

19. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *J. Scott Sellers, City Manager*
  - Saturday Special Called Meeting Date

## **VIII. Executive Session**

20. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary

during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.

1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
  - World Class Capital Condemnation
  - TREAD Coalition Lawsuit
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
3. Personnel matters pursuant to Section 551.074.
4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
  - Project Wolverine

21. Take action on items discussed in Executive Session.

## **IX. ADJOURN**

*At any time during the Regular City Council Meeting, the City Council may adjourn into an Executive Session, as needed, on any item listed on the agenda for which state law authorizes Executive Session to be held*

\*Per Texas Attorney General Opinion No. JC-0169; Open Meeting & Agenda Requirements, Dated January 24, 2000: The permissible responses to a general member communication at the meeting are limited by 551.042, as follows: "SEC. 551.042. Inquiry Made at Meeting. (a) If, at a meeting of a government body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by the subchapter, the notice provisions of this subchapter, do not apply to: (1) a statement of specific factual information given in response to the inquiry; or (2) a recitation of existing policy in response to the inquiry. (b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting."



# CITY OF KYLE, TEXAS

## Memorial Day Resolution

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** Memorial Day Resolution. ~ *Alex Villalobos, Council Member*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

- ☐ Memorial Day Resolution

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY OF KYLE RECOGNIZING THE ONE MILLION PLUS VETERANS OF ALL WARS WHO HAVE SACRIFICED THEIR LIVES FOR OUR FREEDOM, HONORING THESE MEN AND WOMEN ALONG WITH THE SONS, DAUGHTERS, WIVES AND OTHER FRIENDS AND FAMILY MEMBERS WHO SHARE THEIR SACRIFICE, RECOGNIZING THE KYLE/BUDA VETERANS OF FOREIGN WARS POST 12058 AND AMVET POST 115 FOR THEIR CONTRIBUTIONS AND SUPPORT OF OUR VETERANS AND THEIR FAMILIES, AND CALLING ON ALL KYLE RESIDENTS TO TAKE PAUSE ON THIS MEMORIAL DAY TO REMEMBER AND HONOR OUR VETERANS**

Whereas, since our Nation's founding, America's sons and daughters have given their lives in service to our country. From Concord and Gettysburg to Marne and Normandy, from Inchon and Khe Sanh to Baghdad and Kandahar, they departed our world as heroes and gave their lives for a cause greater than themselves.

Whereas, on Memorial Day. We pay tribute to those who have paid the ultimate price to defend the United States and the principles upon which America was founded.

Whereas, today, Americans from all backgrounds and corners of our country serve with valor, courage, and distinction in the United States Armed Forces. They stand shoulder to shoulder with the giants of our Nation's history, writing their own chapter in the American story. Many of today's warriors know what it means to lose a friend too soon, and all our service members and their families understand the true meaning of sacrifice.

Whereas, this Memorial Day, we express our deepest appreciation to the men and women in uniform who gave their last full measure of devotion so we might live in freedom. We cherish their memory and pray for the peace for which they laid down their lives. We mourn with the families and friends of those we have lost, and hope they find comfort in knowing their loved ones died with honor. We ask for God's grace to protect those fighting in distant lands, and we renew our promise to support our troops, their families, and our veterans. Their unwavering devotion inspires us all - they are the best of America.

Whereas, it is our sacred duty to preserve the legacy of these brave Americans, and it remains our charge to work for peace, freedom, and security. Let us always strive to uphold the founding principles they died defending; let their legacy continue to inspire our Nation; and let this solemn lesson of service and sacrifice be taught to future generations of Americans.

Whereas, there have been many local veterans who have paid the ultimate sacrifice.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, that in honor of all Kyle area veterans, who have paid the ultimate sacrifice, The Mayor and City Council of the City of Kyle resolve that May 27th, 2019 as "MEMORIAL DAY IN KYLE". We additionally recognize Central Texas AMVET Post 115 and the Kyle Buda VETERANS of FOREIGN WARS POST 12058 for

their efforts in recognizing our veterans who have given their lives for their country this Memorial Day of 2019.

**ATTEST:**

**THE CITY OF KYLE**

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Jennifer Vetrano, City Secretary

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Travis Mitchell, Mayor

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Dex Ellison, Mayor Pro Tem

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Tracy Scheel, Councilmember

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Robert Rizo, Councilmember

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Alex Villalobos, Councilmember

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Rick Koch, Councilmember

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Daphne Tenorio, Councilmember



# CITY OF KYLE, TEXAS

## KAYAC Presentation

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** Annual Update of the Kyle Area Youth Advisory Council (KAYAC) Presentation. ~ *Kim Hilsenbeck, Communications Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Kyle Water Quality

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** Presentation on City of Kyle Water Quality. ~ *Tim Samford, Treatment Operations Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## FM 150 Bypass

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** Presentation on FM 150 Bypass. ~ *J. Scott Sellers, City Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## CIP/Road Projects Update

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** CIP/Road Projects Update. ~ *Leon Barba, P.E., City Engineer*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Amendment No. 1, Elliott Branch WW Interceptor Project Phase 1

Meeting Date: 5/21/2019

Date time: 7:00 PM

**Subject/Recommendation:** Approve Amendment No. 1 to the contract with ESPEY CONSULTANTS, INC., dba RPS, Austin, Texas, in the amount of \$592,263.00 increasing the total contract amount not to exceed \$865,520.00 for providing project management, data collection and investigations, preliminary and final engineering, permitting, and bid services for the Elliott Branch Phase 1 Wastewater Interceptor Project. ~ *Leon Barba, P.E., City Engineer*

**Other Information:** The scope of work included in this amendment includes:

- Design approximately 1,130 feet of 8" wastewater line
- Design approximately 1,830 feet of 12" wastewater line
- Design approximately 7,400 feet of 12" reclaimed waterline
- Design approximately 1,850 feet of 8" waterline
- Design approximately 1,600 feet of 12" waterline
- Design approximately 1,150 feet of roadway and ditch reconstruction
- Extended design timeline and associated project management, subconsultant coordination, and contract administration activities
- Budget adjustments for regulatory changes and updated rates due to the extended hold the project encountered

See attached Exhibit A for a full description of Amendment 1.

**Legal Notes:** N/A

**Budget Information:** A Fiscal Note is attached.

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### ATTACHMENTS:

#### Description

- ☐ Exhibit A
- ☐ Fiscal Note



April 9, 2019

Mr. Leon Barba  
City Engineer  
City of Kyle,  
100 W. Center Street  
Kyle, Texas 78640

**Re: Elliott Branch Wastewater Interceptor Project Amendment #1**

Dear Mr. Barba:

Thank you for the opportunity to submit RPS's proposal to provide professional engineering associated with the Elliott Branch Wastewater Interceptor Southside Wastewater Improvements project. A schedule for the completion of the design phase services through permitting phase services is attached. Our proposal is based on the following information.

**Project Understanding**

The City of Kyle wishes to incorporate additional wastewater collector lines, a reclaimed water line, potable water lines, and drainage improvements, in conjunction with the Elliott Branch Wastewater Interceptor Project as set forth in Contract Amendment I.

**Project Team**

- Leon Barba, PE                      City of Kyle – City Engineer
- John Friedman, PE                RPS Project Principal
- Stephanie Blew, PE               RPS Project Manager
- Nieves Alfaro, PE                QA/QC
- Support Services:
  - Hicks & Company Environmental/Archeological Consultants (Environmental)
  - McGray and McGray Land Surveyors, Inc. (Surveying Services)
  - Fugro (Geotechnical)
  - Stateside Right of Way Services (Right-of-Entry)
  - The Rios Group, Inc. (Subsurface Utility Engineering)

**Scope of Services**

**Design Phase**

- Task 1 – Project Management
- Task 2 – Data Collection and Preliminary Investigations
- Task 3 – Preliminary Engineering (30% phase)
- Task 4 – Final Engineering (60%, 90%, and 100% Design)

**Permitting Phase**

- Task 5 – Permitting

**Deliverables** The deliverables associated with the project vary by phase and task and have been described in the body of the scope of services. Final engineering deliverables will include four (4) copies (2 full and 2 half size) plans, and two (2) copies of the Project Manual, Drainage Report and Opinion of Probable Construction

Cost (OPCC) will be provided with each submittal. It is assumed comments received will be incorporate into the next milestone submittal.

**Basis of Estimate** The estimate is based on the tasks listed above and further details in Exhibit A, attached, dated April 5, 2019. Modifications to the tasks after confirmation will be considered additional services and will require subsequent authorization from the Client.

### **Additional Services:**

Additional services not specifically defined in the scope of services will be at the direction of the Client or Client's representative and will be performed in accordance with our hourly rate sheet for this contract.

### **Exclusions**

This scope of services does not include the following:

- Fees for subconsultants not specifically identified in this proposal.
- Sidewalk design TDLR permitting, review, or inspection.
- Preparation of survey field notes and/or easement exhibits not described above or specified in the subconsultants' proposals.
- FEMA coordination, permitting, or development of CLOMR or LOMR documents.
- Preparing supporting documents for or attending City Meetings for Tree removal, variance requests, or waivers.
- Revisions for regulations and permit processes not in effect at the time of this proposal.
- Advertisement or Bid Phase Services.
- Construction Administration, Management, or Inspection Services.
- Public involvement and additional meetings beyond those specifically noted in this scope.
- Design services beyond those specifically stated in this scope, including revisions to plans after final submittal and approval.
- Any other item not specifically listed in the Scope of Services.
- Reimbursable expenses associated with any additional services provided.
- Hydrologic and Hydraulic analysis of Stream Plum-I.
- Permitting or Notification of project with the USACE.

These services, if required, and upon agreement from the Client, can be performed as an additional service. The exclusions/items not included in this scope of services are the same as original proposal unless otherwise noted.

### **Project Schedule**

RPS will commence work upon receipt of signed authorization from the Client. The attached project schedule illustrates the timeline associated with each phase of the project. We have assumed standard review times in the schedule and concurrent reviews by multiple departments/agencies. Extended review times are beyond the control of RPS. RPS will respond to comments received in a timely manner. If Client directs RPS to proceed without receipt of comments from all reviewing parties, any comments received after direction to proceed from client may be considered additional services.

### **Summary of Cost**

The summary of cost for providing the services described by task number and the method of compensation is shown below.

Task	Method of Compensation	Amount
Task 1 – Project Management	Time & Materials	\$47,093
Task 2 – Data Collection and Preliminary Investigations	Time & Materials	\$204,063
Task 3 – Preliminary Engineering	Time & Materials	\$65,775
Task 4 – Final Engineering	Time & Materials	\$238,101
Task 5 – Permitting	Time & Materials	\$10,935
Task 6 – Bid-Award-Execution	Time & Materials	\$26,296
Total Estimated Cost		\$592,263

Per the City's request, the total fee was also broken up into the different components of the project as shown in the distribution summary below.

Component	Fee
Subconsultant: Right of Entry	\$6,600.00
Subconsultant: Survey, Environmental, Geotech, & SUE	\$185,108.00
Elliott Branch Redesign	\$14,860.00
Reclaimed Water Line	\$61,235.00
Potable Water	\$41,714.00
Roadway & Ditch Improvements	\$66,964.50
Erosion & Sediment Traffic Controls	\$23,640.00
Additional Gravity Wastewater Lines	\$54,837.50
QA/QC & OPCC	\$31,050.00
Permitting	\$10,260.00
Project Management	\$47,093.00
Rate Increases	\$22,605.00
Bid Phase Services	\$26,296.00
Total	\$592,263.00

Fees were estimated on a time and material's basis using RPS' hourly rate sheet provided in Attachment B-2 to Contract Amendment I.

In closing, we appreciate the opportunity to provide this proposal and are available at your convenience to answer any questions. Feel free to contact Stephanie Blew, P.E. at any time via phone (512 328-5771) or email at [stephanie.blew@rpsgroup.com](mailto:stephanie.blew@rpsgroup.com).

Sincerely,



Doug Matthys  
Executive Director

**EXHIBIT A - CONTRACT AMENDMENT NO. 1**  
**SCOPE OF SERVICES**  
**ELLIOTT BRANCH WASTEWATER INTERCEPTOR**

**Project Description**

RPS will incorporate additional wastewater collector lines and a reclaimed waterline in conjunction with the Elliott Branch Wastewater Interceptor project as **Contract Amendment #1** to that project. The project was placed on hold in February 2015 and removed from hold in September 2017. The additional scope of services for Elliott Branch Contract Amendment #1 is for improvements in areas where construction is to occur to maximize opportunities to replace adjacent aging infrastructure, expand the reclaimed water main, and improve drainage conveyances disturbed by the utility improvements. The improvements include:

1. Design approximately 520 feet of 8" wastewater line in S. Meyer Street southwest of W. 3<sup>rd</sup> Street. (Line C)
2. Design approximately 60 feet of 8" wastewater line in W. 3<sup>rd</sup> Street southeast of S. Sledge Street. (Line F)
3. Design approximately 550 feet of 8" wastewater line in S. Sledge Street northeast of W. 3<sup>rd</sup> Street. (Line G)
4. Design approximately 780 feet of 12" wastewater line in Old State Hwy 81. (Line H)
5. Design approximately 1,050 feet of 12" wastewater line to divert the Old Town Interceptor Line at the IH 35 frontage road south and west to the Old State Hwy 81 line. (Line I)
6. Design approximately 7,400 feet of 12" reclaimed waterline parallel to the Elliott Branch Wastewater Interceptor.
7. Design approximately 1,200 feet of 8" waterline on W. 3<sup>rd</sup> Street from Scott Street to S. Sledge Street.
8. Design approximately 250 feet of 8" waterline on S. Groos Street southwest of W. 3<sup>rd</sup> Street.
9. Design approximately 1,600 feet of 12" waterline on S. Sledge Street from J. Maryes Lane to W. Second Street.
10. Design approximately 400 feet of 8" waterline behind the northern lots on Park Place.
11. Design approximately 1,050 feet of roadway and ditch reconstruction for W. 3<sup>rd</sup> Street from Sledge Street to Scott Street.
12. Design approximately 100 feet of roadway and ditch reconstruction for S. Groos Street between the W. 3<sup>rd</sup> Street intersections.
13. Extended design timeline and associated project management, subconsultant coordination, and contract administration activities.
14. Budget adjustments for regulatory changes and updated rates due to the extended hold the project encountered.

The descriptions of revisions or additions to the scope of services for Elliott Branch Contract Amendment #1 are described below as applicable to the corresponding Task number.

### **Task 1 – Project Management**

Task 1.1 (Item 13) includes additional project management efforts during the design phase for the improvements listed above. This management time is associated with the extended design phase project management efforts not included in prior contract amendments.

Task 1.2 includes eight (8) additional progress meetings not included in the original contract or prior amendments.

Task 1.3 Project Coordination – Coordinate with ROW/Easement acquisition firm, CITY, and CITY's Consultant to support easement acquisitions for the project and right of entry requests.

Task 1.4 Project Administration includes contract administration efforts for the design phase including project updates, and monthly financial reporting.

Task 1.5 Client support during extended project hold.

The corresponding fee for these additions is supplemental to the Elliott Branch Contract and reflected in Attachment B-1.

### **Task 2 – Data Collection and Preliminary Investigations**

ENGINEER will include the additional design elements for Items 1-12 into Task 2.1. The corresponding fee for these additions and revisions is supplemental to the Elliot Branch Contract and reflected in Attachment B-1.

Task 2.1 Data Collection and Initial Site Visits – ENGINEER and its subconsultants will request record data and perform site visits as outlined below.

- a) Request existing City of Kyle, and TxDOT records for as-built information within the project area.
- b) Visit the proposed project route and document field conditions with photographs. It is assumed two (2) site visit will be performed during the final design phase of the project, and access to each property will be provided by the City.
- c) Coordinate with area utility providers. Provide utilities with 60% plans and request record information. Up to four (4) meetings with utility providers are included with this task. It is assumed the City of Kyle will provide contact information for each utility company to be coordinated with.
- d) Provide utilities with 90% plans and request verification that their utilities are shown accurately. Information received will be incorporated into the 100% plans.

Task 2.3 Geotechnical Investigations and Reports – Fugro will take initial soil borings at critical areas along the additional alignments and prepare a geotechnical data report for the project in accordance with their proposal Attachment A-3. The fee spreadsheet reflects the increased effort from the Amendment 2 for current rates, as well as additional effort for Items 1-12.

Task 2.4 Surveys – McGray and McGray Land surveyors will provide tree, boundary, improvement, and topographic surveys of the proposed alignments for Items 1-12 in accordance with their proposals Attachments A-2 (Line C & G), A-5 (Line H & I), and A-6 (utilities update, ordinary high water mark information, additional survey due to alignment revisions).

Task 2.5 Environmental Assessments – Hicks and Company will walk the project alignment identifying and documenting environmental constraints in accordance with their proposal Attachment A-1. The fee spreadsheet reflects the increased effort from the original Elliott Branch contract, as well as additional effort for Items 1–12.

Task 2.6 Right of Entry – Stateside ROW will prepare and distribute right of entry requests for up to two (2) parcels in accordance with their attached proposal included as Attachment A-4.

Task 2.7 Subsurface Utility Engineering – The Rios Group, Inc. will perform level B locates for the ROW areas of the project and up to twenty (20) level A locates in accordance with their attached proposal included as attachment A-7.

**Task 2 Deliverables: The environmental assessment and geotechnical investigations reports will be included with the 60% submittal. The survey information will be incorporated with the 60% design plans.**

The corresponding fee for these additions is supplemental to the Elliott Branch Contract and reflected in Attachment B-1.

### **Task 3 – Preliminary Engineering (30% Design)**

Task 3.3 Floodplain Assessment – Map FEMA base flood elevations onto the topographic survey collected under Task 2.4. ENGINEER will also show the FEMA base flood elevations in the profile views.

Task 3.6 The ENGINEER will conduct Quality Assurance (QA)/Quality Control (QC) reviews in accordance with ENGINEER's internal QA/QC policy for the original preliminary design submittal and the updated preliminary design submittal.

Task 3.7 A preliminary design (30%) plan set was prepared using the alignment and pipe sizes proposed in the PER (12" and 15" diameter) and delivered to the City in April 2014, prior to the project being placed on hold.

The original preliminary design (30%) plan set included the following types of sheets:

- cover sheet
- general notes sheets
- key maps
- ownership, easements, & survey control sheets
- wastewater plan & profile sheets
- standard details sheets

Task 3.8 The preliminary design (30%) plans were updated when the project was restarted in October 2017. The size of the Elliot Branch line had increased to 21" and 24", with a parallel 12" diameter reclaimed water line (Item 6), and additional gravity wastewater lines (Items 1-5). The updated preliminary design plan set included the following types of sheets:

- Cover sheet
- General notes sheets
- Key maps
- Ownership, easements, survey control sheets
- Erosion & sediment control & tree protection sheets
- Wastewater plan and profile sheets
- Reclaimed water plan and profile sheets

- Standard detail sheets

Task 3.9 Adjacent Development Coordination – The ENGINEER will incorporate an additional wastewater manhole on Elliott Branch Interceptor for connection to the Opal Ranch Development. Manhole location to be provided by the City.

Task 3.10 Opinion of Probable Construction Cost - The ENGINEER prepared a preliminary opinion of probable construction cost (OPCC) with the original preliminary design 30% plan set (Task 3.7) in April of 2014, and the updated preliminary design plan set in June 2018.

**Task 3 Deliverables: Original Preliminary design plans – 3 copies of 11”x17” plans and OPCC.  
Updated Preliminary design plans – 3 copies of 11”x17” plans and OPCC.**

The corresponding fee for these additions is supplemental to the original Elliott Branch Contract and reflected in Attachment B-1.

#### **Task 4 – Final Engineering (60%, 90%, and 100% Design)**

ENGINEER will include the additional design elements and revisions into the Final Engineering submittals to be performed in the original Elliott Branch Contract.

Task 4.2 Items 1-12 will be incorporated into the Construction Plan submittals for each project milestone identified above. Additionally, the following sheets will be incorporated with the Construction plans identified in Amendment #1:

- Roadway and ditch plan and profile sheets and details
- Bypass pumping plan sheets
- Reclaimed water plan and profile sheets and details
- Waterline plan and profile sheets and details

Task 4.3 Items 1-12 will be incorporated into the Project Manual submittals for each project milestone identified above.

Task 4.4 Items 1-12 will be incorporated into the OPCC prepared with each milestone project submittal identified above.

Task 4.5 Items 1-12 will be incorporated into the QA/QC reviews for each milestone project submittal identified above.

Task 4.6 Drainage Design – The ENGINEER will delineate drainage areas and develop rational method hydrology for the design of ditches and driveway culverts along W. Third Street and S. Groos Street in accordance with Tasks 11 and 12. ENGINEER will develop a StormCAD model for the hydraulic design of the drainage elements based on the design storm identified by the City.

Task 4.7 Design Letter Report – The ENGINEER will prepare a design report for the ditch improvements along W. Third Street and S. Groos Street in Items 11 and 12.

Task 4.8 Comment Review Meetings – The ENGINEER will attend a comment review meeting approximately four (4) weeks after each milestone deliverable to receive comments and feedback from the City of Kyle. ENGINEER will populate a comment matrix based on the redlined comments received during

the meeting, and incorporate the comments with the next milestone deliverable, and provide a comment matrix with responses to each comment.

Task 4.9 Rate Update accounts for the rate adjustments to the original effort identified for the Final Engineering phase of the project.

**Task 4 Deliverables: 4 Copies (2 full and 2 half) plans, and 2 Copies of the Project Manual, Drainage Report and OPCC will be provided with each submittal. It is assumed comments received will be incorporated into the next milestone submittal.**

All the scope items will still apply under this task except for Task 4.1a, which was removed at the CITY's request. The corresponding fee for these additions and revisions is supplemental to the original Elliott Branch Contract fee and is reflected in Attachment B-1.

### **Task 5 – Permitting**

ENGINEER will include the additional design elements and revisions into the permitting task to be performed in Contract Amendment #1. It is assumed permitting will begin with the 60% design submittal. Agency review times have been estimated in the project schedule. Actual review times may vary and are beyond the control of RPS.

Task 5.1 Texas Department of Transportation (TxDOT) Utility Permit - ENGINEER will coordinate the proposed alignments and design concepts for Items 5 and 6 with TxDOT including preparation of a utility permit application, and temporary use of portions of the TxDOT right-of-way for coordination of construction activities. ENGINEER will respond to up to two (2) rounds of comments from TxDOT and attend up to two (2) meetings with TxDOT in an effort to obtain a permit for the project. Regulatory changes in effect as of the date of this proposal adopted after the original scope was prepared in September 2013 have also been included.

Task 5.2 Union Pacific Railroad (UPRR) – ENGINEER will coordinate the proposed alignments and design concepts for Item 6 including a pipeline crossing application using their on-line application process. ENGINEER will address up to one (1) round of comments from UPRR. It is assumed all permit fees will be paid directly by the City. Regulatory changes in effect as of the date of this proposal adopted match the original scope was prepared in September 2013 have also been included.

Task 5.3 Stormwater Pollution Prevention Plan (SWPPP) – ENGINEER will incorporate Items 1-12 into the SWPPP prepared for the project.

Task 5.4 Items 1-12 will be incorporated into the QA/QC reviews for each permit and plan included in Task 4.

Task 5.5 Rate Updates accounts for the additional effort required for the permitting phase of the project.

**Task 5 Deliverables: TxDOT Utility Permit Application, Union Pacific Railroad Utility Crossing Application and SWPPP in PDF format.**

The corresponding fee for these additions and revisions is supplemental to the original Elliott Branch Contract and is reflected in Attachment B-1.

## **Task 6 – Bid – Award - Execution**

ENGINEER and its subconsultants will include the bid phase services associated with original and additional design components to be performed in Contract Amendment #1. It is anticipated the City will advertise and distribute the plans and specifications to prospective bidders. The Task 6 effort includes:

Task 6.1 100% Submittal Comment Review and Response - ENGINEER will populate a comment matrix based on the redlined comments received and incorporate the comments with the plans advertised for bid or to be published as addenda, and provide a comment matrix with responses to each comment.

Task 6.2 Pre-Bid Conference – ENGINEER will prepare the advertisement for bids and provide to the City for publication. ENGINEER will prepare the pre-bid conference PowerPoint presentation and conduct the pre-bid conference with the City to discuss the project and answer questions from the potential contractors.

Task 6.3 Bid Assistance and Addenda – ENGINEER will assist the City with questions arising from suppliers, contractors and subcontractors. ENGINEER will address comments from TxDOT and the City of Kyle received after issuance of Bid documents. ENGINEER will prepare up to three (3) addenda.

Task 6.4 Bid Opening and Evaluation – ENGINEER will attend the bid opening with the City and potential contractors. ENGINEER will evaluate the contractors' proposals, qualification statements, generate bid tabulations, and provide a recommendation to the City.

The corresponding fee for these additions and revisions is supplemental to the original Elliott Branch Contract and is reflected in Attachment B-1.

**Task 6 Deliverables: Tabulated bid data, Bid Award Recommendation Letter.**

### **Services or information to be provided by the CITY:**

- Available as-built information for City owned infrastructure in the project limits.
- Sizing for the proposed infrastructure.
- Typical section for roadway reconstruction areas.
- Pressure plane limits and hydraulic grade line for use in waterline design.
- Pipe pressure class for reclaimed water line.
- Contact information for dry utilities within the project limits.
- Once right of entry is obtained, City will participate in a field walk to observe the conditions of Stream Plum-I in the vicinity of the proposed pipeline and provide input for alignment and depth considering future meander and erosion potential of the stream.
- Preparation of Easement Documents or coordination with property owners to obtain easements.
- Advertise bid project; Distribute plans; Maintain plan holder's list.
- Post Addenda to City website.
- Field locating existing water and wastewater infrastructure and services.
- Comments from each milestone deliverable will include all departments.

The services or information to be provided by the CITY are the same as original proposal unless otherwise noted above.

### **Exclusions / Items not included in this scope of services:**

- H&H analysis or sizing of the Plum-1 stream crossing of S. Sledge St.
- Sidewalk design TDLR permitting, review, or inspection.

- Edwards Aquifer Protection Plans and Permitting
- Preparation of a Pre-Construction Notification (PCN) to the USACE.
- Sale of plans or maintaining bid holder's list during Bidding.
- Significant review comments after the 90% review.

The exclusions / items not included in this scope of services are the same as original proposal unless otherwise noted above.

**Expenses:**

ENGINEER has included an estimated budget for miscellaneous expenses on Attachment B-1. Miscellaneous expenses including reproductions to be provided in accordance with Attachment B-2 the updated RPS standard rate sheet. Permit fees for TCEQ, TxDOT and UPRR have not been included and can be paid by the City directly.

If this proposal meets with your approval, please sign on the following page and return to our office.

Thank you.

To the CITY:

R. Todd Webster  
Mayor  
City of Kyle  
100 West Center Street  
Kyle, Texas 78640  
Fax: (512) 262-3987

To the ENGINEER:

Stephanie Blew, P.E.  
Sr. Project Manager  
RPS  
4801 Southwest Parkway, Parkway 2, Suite 150  
Austin, Texas 78735  
Fax: (512) 326-5659

**CITY OF KYLE, TEXAS**

**ESPEY CONSULTANTS, INC. dba RPS**

Signature \_\_\_\_\_

Signature  \_\_\_\_\_

Printed Name \_\_\_\_\_

Printed Name Doug Matthys \_\_\_\_\_

Title \_\_\_\_\_

Title Executive Director \_\_\_\_\_

Date \_\_\_\_\_

Date April 9, 2019 \_\_\_\_\_

ATTACHMENT B-1  
FEE ESTIMATE

City of Kyle  
Elliott Branch Wastewater Interceptor  
April 5, 2019

Yellow = data input  
Green, orange = calculated

Fee Breakdown - Amendment 1

				RPS Labor											Other Direct Costs (ODCs)					Subconsultants		
Task	No	Task Name	Comments	Sr. Project Manager / Principal	Sr. Project Manager	Sr. Project Engineer	Project Engineer	Engineer Staff	GIS	Sr. Designer	Planner	Admin	RPS Hours	Labor Cost	Miles	Mileage Cost	Other Misc.	Markup on ODCs	Total ODCs	Subs Fee	Markup on Subs	Total Fee
			Average Rates	\$280.00	\$230.00	\$185.00	\$140.00	\$125.00	\$100.00	\$135.00	\$135.00	\$90.00				\$0.545		0%			10%	
		BASIC SERVICES	Assumptions																			
1		Project Management	# of months/mtgs	0	78	0	102	0	0	0	0	0	180	\$46,766	\$600	\$327	\$0	\$0	\$327	\$0	\$0	\$47,093
	1.1	Project Management	18		36		36						72	\$13,320		\$0		\$0	\$0		\$0	\$13,320
	1.2	Project Progress Meetings	8		16		32						48	\$8,160	600	\$327		\$0	\$327		\$0	\$8,487
	1.3	Project Coordination			8		16						24	\$4,080		\$0		\$0	\$0		\$0	\$4,080
	1.4	Project Administration			18		18						36	\$6,660		\$0		\$0	\$0		\$0	\$6,660
	1.5	Client Support During Project Hold											0	\$14,546		\$0		\$0	\$0		\$0	\$14,546
2		Data Collection & Preliminary Invest.		0	8	0	28	0	0	10	0	0	125	\$19,465	\$0	\$0	\$0	\$0	\$0	\$165,233	\$10,118	\$204,063
	2.1	Data Collection & Initial Site Visit																				
		As-Built Coordination			2		8			8			18	\$2,660		\$0		\$0	\$0		\$0	\$2,660
		Site Visits (2)			10		10			5			25	\$4,375		\$0		\$0	\$0		\$0	\$4,375
		Utility Data Request			1		4			16												
		Utility Coordination (4 mtgs)			4		16			16			36	\$5,320		\$0		\$0	\$0		\$0	\$5,320
		Utility 90% Plan Review			1		4			16												
	2.3	Preliminary Geotechnical	see sub scope		2		4						6	\$1,020		\$0		\$0	\$0	\$12,669	\$1,267	\$14,956
	2.4	Topographic Surveys	see sub scope		2		4			8			14	\$2,100		\$0		\$0	\$0	\$77,293	\$7,729	\$87,122
	2.5	Environmental Assessment	see sub scope		2		4			2			8	\$1,290		\$0		\$0	\$0	\$7,677	\$768	\$9,735
	2.6	Right of Entry	see sub scope		2		16						18	\$2,700		\$0		\$0	\$0	\$3,545	\$355	\$6,600
	2.7	Subsurface Utility Engineering	see sub scope																			
		Level A			2		2						4	\$740		\$0		\$0	\$0	\$37,800	\$3,780	\$42,320
		Level B			2		4			8			14	\$2,100		\$0		\$0	\$0	\$26,250	\$2,625	\$30,975
3		Preliminary Engineering (30%)	# of sheets	8	40	0	129	6	0	264	0	0	447	\$65,775	0	\$0	\$0	\$0	\$0	\$0	\$0	\$65,775
	3.3	Floodplain Assessment																				
		Profile 100 Yr FEMA WSEL's			2			6		12			20	\$2,830		\$0		\$0	\$0		\$0	\$2,830
	3.8	Updated Preliminary Design Plans											0	\$0		\$0		\$0	\$0		\$0	\$0
		Key Map Reclaimed Water	2		1		4			12			17	\$2,410		\$0		\$0	\$0		\$0	\$2,410
		Erosion & Sedimant Controls & Tree Protection Plans	1				4			12			16	\$2,180		\$0		\$0	\$0		\$0	\$2,180
		Elliott Branch (21" & 24")	17		4		34			68			106	\$14,860		\$0		\$0	\$0		\$0	\$14,860
		Line C	1		1		4			8			13	\$1,870		\$0		\$0	\$0		\$0	\$1,870
		Line F	0.5		0.5		3			6			10	\$1,345		\$0		\$0	\$0		\$0	\$1,345
		Line G	1		1		4			8			13	\$1,870		\$0		\$0	\$0		\$0	\$1,870
		Line H	2		2		8			16			26	\$3,740		\$0		\$0	\$0		\$0	\$3,740
		Line I	2		2		8			16			26	\$3,740		\$0		\$0	\$0		\$0	\$3,740
		Reclaimed Water	16		8		32			64			104	\$14,960		\$0		\$0	\$0		\$0	\$14,960
		Water Details	1				2			4			6	\$820		\$0		\$0	\$0		\$0	\$820
	3.6	QA/QC & Address Comments	43.5	8	8		16			32			64	\$10,640		\$0		\$0	\$0		\$0	\$10,640
	3.9	Adjacent Development Coordination			8		4			4			16	\$2,940		\$0		\$0	\$0		\$0	\$2,940
	3.10	OPCC			2		6			2			10	\$1,570		\$0		\$0	\$0		\$0	\$1,570
													0	\$0		\$0		\$0	\$0		\$0	\$0
4		Final Engineering (60%,90%, 100%)	# of sheets	3	102	105	388	114	0	744	0	12	1,468	\$235,733	120	\$65	\$2,300	\$0	\$2,365	\$0	\$0	\$238,101
	4.2	Construction Plans																				
		60% Deliverable																				
		Key Map Reclaimed Water	2		0.5		2			2			5	\$665		\$0	\$500	\$0	\$500		\$0	\$1,165
		Key Map Water	1		0.5		1			4			6	\$795		\$0		\$0	\$0		\$0	\$795

				RPS Labor										Other Direct Costs (ODCs)					Subconsultants			
Task	No	Task Name	Comments	Sr. Project Manager / Principal	Sr. Project Manager	Sr. Project Engineer	Project Engineer	Engineer Staff	GIS	Sr. Designer	Planner	Admin	RPS Hours	Labor Cost	Miles	Mileage Cost	Other Misc.	Markup on ODCs	Total ODCs	Subs Fee	Markup on Subs	Total Fee
		Erosion & Sediment Controls & Tree Protection Plans	3		1		3			6			10	\$1,460		\$0		\$0	\$0		\$0	\$1,460
		Line C	1		0.5		2			4			7	\$935		\$0		\$0	\$0		\$0	\$935
		Line F	0.5		0.5		1			2			4	\$525		\$0		\$0	\$0		\$0	\$525
		Line G	1		0.5		2			4			7	\$935		\$0		\$0	\$0		\$0	\$935
		Line H	2		1		4			8			13	\$1,870		\$0		\$0	\$0		\$0	\$1,870
		Line I	2		1		4			8			13	\$1,870		\$0		\$0	\$0		\$0	\$1,870
		By-Pass Pumping Plan	4		2		4			8			14	\$2,100		\$0		\$0	\$0		\$0	\$2,100
		Reclaimed Water	16		8		32			64			104	\$14,960		\$0		\$0	\$0		\$0	\$14,960
		Waterline M	3		1.5		10			20			32	\$4,445		\$0		\$0	\$0		\$0	\$4,445
		Waterline N	1		0.5		3.5			6.5			11	\$1,483		\$0		\$0	\$0		\$0	\$1,483
		Waterline P	4		2		13			26.5			42	\$5,858		\$0		\$0	\$0		\$0	\$5,858
		Waterline L	1		0.5		3.5			6.5			11	\$1,483		\$0		\$0	\$0		\$0	\$1,483
		Drainage Area Map	2		0.5		4			8			13	\$1,755		\$0		\$0	\$0		\$0	\$1,755
		Drainage Calc's	2		1		2			2			5	\$780		\$0		\$0	\$0		\$0	\$780
		W. 3rd Street	3		2	1.5	16	2.5		24			46	\$6,530		\$0		\$0	\$0		\$0	\$6,530
		S. Groos Street	1		1	0.5	8	1.5		8			19	\$2,710		\$0		\$0	\$0		\$0	\$2,710
		Water Details	1		0.5		1			2			4	\$525		\$0		\$0	\$0		\$0	\$525
		Roadway Details	1		0.5		1			2			4	\$525		\$0		\$0	\$0		\$0	\$525
		Drainage Details	1		0.5		1			2			4	\$525		\$0		\$0	\$0		\$0	\$525
		Traffic Control Plans	6		3	16				32			51	\$7,970		\$0		\$0	\$0		\$0	\$7,970
		90% Deliverable																				
		Key Map Reclaimed Water	2		0.5		2			4			7	\$935		\$0	\$500	\$0	\$500		\$0	\$1,435
		Key Map Water	1		0.5		1			2			4	\$525		\$0		\$0	\$0		\$0	\$525
		Erosion & Sediment Controls & Tree Protection Plans	3		1		3			6			10	\$1,460		\$0		\$0	\$0		\$0	\$1,460
		Line C	1		0.5		2			4			7	\$935		\$0		\$0	\$0		\$0	\$935
		Line F	0.5		0.25		1.5			2.5			4	\$605		\$0		\$0	\$0		\$0	\$605
		Line G	1		0.5		2			4			7	\$935		\$0		\$0	\$0		\$0	\$935
		Line H	2		1		4			8			13	\$1,870		\$0		\$0	\$0		\$0	\$1,870
		Line I	2		1		4			8			13	\$1,870		\$0		\$0	\$0		\$0	\$1,870
		By-Pass Pumping Plan	4		2		5			10			17	\$2,510		\$0		\$0	\$0		\$0	\$2,510
		Reclaimed Water	16		4		32			64			100	\$14,040		\$0		\$0	\$0		\$0	\$14,040
		Waterline M	3		1.5		10			20			32	\$4,445		\$0		\$0	\$0		\$0	\$4,445
		Waterline N	1		0.5		3			6			10	\$1,345		\$0		\$0	\$0		\$0	\$1,345
		Waterline P	4		2		14			28			44	\$6,200		\$0		\$0	\$0		\$0	\$6,200
		Waterline L	1		0.5		3			6			10	\$1,345		\$0		\$0	\$0		\$0	\$1,345
		Drainage Area Map	2		1		4			8			13	\$1,870		\$0		\$0	\$0		\$0	\$1,870
		Drainage Calc's	2		1		1.5			3			6	\$845		\$0		\$0	\$0		\$0	\$845
		W. 3rd Street	3		3	1.5	16	3		24			48	\$6,823		\$0		\$0	\$0		\$0	\$6,823
		S. Groos Street	1		1	1	8	1.5		8			20	\$2,803		\$0		\$0	\$0		\$0	\$2,803
		Water Details	1		0.5		1			2			4	\$525		\$0		\$0	\$0		\$0	\$525
		Roadway Details	1		0.5		1			2			4	\$525		\$0		\$0	\$0		\$0	\$525
		Drainage Details	1		0.5		1			2			4	\$525		\$0		\$0	\$0		\$0	\$525
		Traffic Control Plans	6		2	12				24			38	\$5,920		\$0		\$0	\$0		\$0	\$5,920
		100% Deliverable																				
		Key Map Reclaimed Water	2		0.5		1			2			4	\$525		\$0	\$500	\$0	\$500		\$0	\$1,025
		Key Map Water	1				1			2			3	\$410		\$0		\$0	\$0		\$0	\$410
		Erosion & Sediment Controls & Tree Protection Plans	3		1		3			6			10	\$1,460		\$0		\$0	\$0		\$0	\$1,460
		Line C	1		0.5		2			4			7	\$935		\$0		\$0	\$0		\$0	\$935
		Line F					1			2			3	\$410		\$0		\$0	\$0		\$0	\$410
		Line G	1		0.5		2			4			7	\$935		\$0		\$0	\$0		\$0	\$935
		Line H	2		1		4			8			13	\$1,870		\$0		\$0	\$0		\$0	\$1,870
		Line I	2		1		4			8			13	\$1,870		\$0		\$0	\$0		\$0	\$1,870
		By-Pass Pumping Plan	4		2		4			8			14	\$2,100		\$0		\$0	\$0		\$0	\$2,100
		Reclaimed Water	16		4		16			32			52	\$7,480		\$0		\$0	\$0		\$0	\$7,480
		Waterline M	3		1		9			18			28	\$3,920		\$0		\$0	\$0		\$0	\$3,920
		Waterline N	1		0.5		3			6			10	\$1,345		\$0		\$0	\$0		\$0	\$1,345
		Waterline P	4		2		12			24			38	\$5,380		\$0		\$0	\$0		\$0	\$5,380
		Waterline L	1		0.5		3			6			10	\$1,345		\$0		\$0	\$0		\$0	\$1,345
		Drainage Area Map	2		0.5		3			6			10	\$1,345		\$0		\$0	\$0		\$0	\$1,345
		Drainage Calc's	2		0.5		1			2			4	\$525		\$0		\$0	\$0		\$0	\$525
		W. 3rd Street	3		1.5	1	12	2.5		24			41	\$5,763		\$0		\$0	\$0		\$0	\$5,763

				RPS Labor										Other Direct Costs (ODCs)					Subconsultants			
Task	No	Task Name	Comments	Sr. Project Manager / Principal	Sr. Project Manager	Sr. Project Engineer	Project Engineer	Engineer Staff	GIS	Sr. Designer	Planner	Admin	RPS Hours	Labor Cost	Miles	Mileage Cost	Other Misc.	Markup on ODCs	Total ODCs	Subs Fee		Markup on Subs
		S. Groos Street	1		0.5	0.5	4	1		8			14	\$1,973		\$0		\$0	\$0		\$0	\$1,973
		Water Details	1				1			2			3	\$340		\$0		\$0	\$0		\$0	\$340
		Roadway Details	1				1			2.0			3	\$410		\$0		\$0	\$0		\$0	\$410
		Drainage Details	1		1		1			2.0			4	\$525		\$0		\$0	\$0		\$0	\$525
		Traffic Control Plans	6		2	6				12			20	\$3,190		\$0		\$0	\$0		\$0	\$3,190
	4.3	Project Manual			4	8	16					8	36	\$5,360		\$0	\$500	\$0	\$500		\$0	\$5,860
	4.4	OPCC			3	9	18						30	\$4,875		\$0		\$0	\$0		\$0	\$4,875
	4.5	QA/QC & Address Comments											0	\$0		\$0		\$0	\$0		\$0	\$0
		60%		1	2	4	8	4		18			37	\$5,530		\$0		\$0	\$0		\$0	\$5,530
		90%		1	2	4	8	4		18			37	\$5,530		\$0		\$0	\$0		\$0	\$5,530
		100%		1	1	2	4	2		9			19	\$2,905		\$0		\$0	\$0		\$0	\$2,905
	4.6	Drainage Design			6	20		60					86	\$12,580		\$0		\$0	\$0		\$0	\$12,580
	4.7	Design Letter Report			4	12		32		16		4	68	\$9,660		\$0	\$300	\$0	\$300		\$0	\$9,960
	4.8	Comment Review Meetings	3		6	6	9						21	\$3,750	120	\$65		\$0	\$65		\$0	\$3,815
	4.9	2018 Rate Increase											979	\$21,930		\$0		\$0	\$0		\$0	\$21,930
5		Permitting		0	6	0	30	12	0	16	0	8	72	\$10,635	\$0	\$0	\$300	\$0	\$300	\$0	\$0	\$10,935
	5.1	TXDOT Utility			2		12			6		4	24	\$3,310		\$0		\$0	\$0		\$0	\$3,310
	5.2	Union Pacific Railroad			2		12			6		2	22	\$3,130		\$0		\$0	\$0		\$0	\$3,130
	5.3	SWPPP					4	8					12	\$1,560		\$0	\$300	\$0	\$300		\$0	\$1,860
	5.4	QA/QC & Address Comments			2		2	4		4		2	14	\$1,960		\$0		\$0	\$0		\$0	\$1,960
	5.5	2018 Rate Increase											53	\$675		\$0		\$0	\$0		\$0	\$675
6		Bid-Award-Execution	Quantity	0	25	0	21	64	0	56	0	22	188	\$26,230	\$120	\$65	\$0	\$0	\$65	\$0	\$0	\$26,296
	6.1	100% Submittal Comment Review & Response	1		1		2	4		8			15	\$2,090		\$0		\$0	\$0		\$0	\$2,090
	6.2	Pre-Bid Conference	1		8		3	24				3	38	\$5,530	60	\$33		\$0	\$33		\$0	\$5,563
	6.3	Bid Assistance and Addenda	3		12		12	24		48		3	99	\$14,190		\$0		\$0	\$0		\$0	\$14,190
	6.4	Bid Opening and Evaluation	1		4		4	12				16	36	\$4,420	60	\$33		\$0	\$33		\$0	\$4,453
		Total for Contract Amendment No. 1		11	234	105	677	132	0	1,034	0	20	2,212	\$379,794	720	\$392	\$2,600	\$0	\$2,992	\$165,233	\$13,321	\$592,263

1504 WEST 5<sup>TH</sup> STREET AUSTIN, TEXAS 78703 TEL: 512 / 478-0858 FAX: 512 / 474-1849

HICKS &  
COMPANY

ENVIRONMENTAL  
ARCHEOLOGICAL  
AND PLANNING  
CONSULTANTS

November 27, 2018

Stephanie Blew, P.E.  
Senior Project Manager  
RPS|Infrastructure  
4801 Southwest Parkway, Parkway 2, Suite 150  
Austin, Texas 78735

Re: Updated Scope of Services and fee estimate, City of Kyle Elliott Branch Wastewater  
Interceptor project

Dear Ms. Blew:

In response to your email request of November 21, 2018, this letter transmits an updated Scope of Services and fee estimate for the City of Kyle Elliott Branch Wastewater Interceptor project. This updated scope of services and fee estimate includes an additional investigation of a proposed culvert upgrade at the Plum-1 stream crossing at South Sledge Street. The request was to investigate potential environmental impacts of the proposed culvert upgrade 200 feet upstream and downstream of the crossing. If you have any questions, please let us know.

Thank you.



Senior Project Manager

Attachment: Updated Scope of Services and fee estimate

## **Updated Scope of Services City of Kyle Elliott Branch Wastewater Interceptor November 27, 2018**

### **General Understanding of the Project**

This document updates a Scope of Services dated June 20, 2018, in response to an email request from Stephanie Blew, P.E., of RPS|Infrastructure on November 21, 2018. The project will consist of the design and construction of a wastewater interceptor that will connect with other infrastructure associated with the City of Kyle Southside Wastewater System. Assistance from Hicks & Company Environmental/Archeological Consultants (Hicks & Company) has been requested concerning identification of any sensitive natural and cultural resources and any associated state and federal environmental permitting requirements. The originally requested environmental services involve the main wastewater line interceptor and wastewater line connections that total approximately 11,007 feet. Diameter of the interceptor line will vary from eight to 24 inches. The trench width will generally be the pipe diameter plus two feet where the reclaimed waterline (12-inch diameter) is not adjacent to the wastewater line. Where the reclaimed waterline is adjacent to the wastewater line, a trench width of nine feet will be assumed. The easement width is a permanent 30-foot easement, with a 50-foot temporary easement, unless in another utility right of way (ROW). Trench depths are expected to vary generally between six and 15 feet. Additional services requested by RPS|Infrastructure on November 21, 2018, include the investigation of a proposed culvert upgrade at the Plum-1 stream crossing at South Sledge Street.

### **General Description of Environmental Services**

Work will include a constraints level analysis of natural and cultural resources subject to regulation and management overview by federal and state resource agencies. Additionally, field surveys for archeological resources will be conducted if recommended by the Texas Historical Commission (THC). This updated Scope of Services will include the five tasks described below. Additional work that may be identified based on results of the constraints level analysis or in response to specific request(s) by RPS|Infrastructure and/or the City of Kyle is currently undetermined and will be supplemental to this Updated Scope of Services.

#### **Task 1. Identification of Jurisdictional Waters (including wetlands) Subject to Federal Regulation under Section 404 of the Clean Water Act**

The proposed project design will be reviewed and site reconnaissance will be conducted to determine existence of jurisdictional waters of the U.S. (WOTUS) including wetlands and potential impacts requiring permitting under Section 404 of the Clean Water Act (CWA). Research will include use of National Wetlands Inventory (NWI) maps, National Hydrography Datasets (NHD) from the U.S. Geological Survey (USGS), USGS topographic maps, soil survey reports, and aerial photography as needed or required. Evaluation will include site reconnaissance following protocol of the U.S. Army

Corps of Engineers (USACE) to determine whether potential impacts would trigger requirements for a nationwide permit (NWP) and whether a pre-construction notification (PCN) to the USACE would be necessary. This updated Scope of Services does not include the preparation of a PCN to the USACE. If required, a PCN would be prepared under a supplemental scope of services and fee estimate. A segment of stream designated as Plum-1 will be investigated 200 feet upstream and downstream from its crossing at South Sledge Street. Within this stream segment, the geographical coordinates of the boundaries of any ordinary high water marks (OHWM) that define WOTUS subject to permitting by the USACE will be determined using a hand-held GPS instrument with submeter accuracy. GIS shapefiles of these boundaries will be provided to RPS|Infrastructure for use in determining potential impacts to any WOTUS from the proposed culvert upgrade. Documentation of any NWP requirements at this crossing or at any other wastewater line stream or wetland crossings will be included in a technical memorandum prepared for and submitted to RPS|Infrastructure. It is assumed that nine hours of field work would be required by each of two ecology staff to complete this task based on the current alignment configuration. Additional changes to the alignment may require updated information that would be performed under a supplemental scope of work and fee estimate.

### **Task 2. Investigation of the Potential Occurrence of Threatened or Endangered Species**

The project design will be reviewed to assure compliance with the federal Endangered Species Act (ESA). Information will be obtained and reviewed from databases maintained by the U.S. Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) to determine county occurrence and the nearest known locations of potentially occurring species that are listed as threatened or endangered candidates for listing, or species of concern. A summary list of potentially occurring species will be prepared. Habitat requirements for potentially occurring species will be investigated, including research of information contained on maps and aerial photography. Based on information obtained for potentially occurring species, range and distribution of the species, habitat requirements of the species, and field investigation, a determination will be made as to the likelihood of impacts and whether additional investigations or studies would be needed.

### **Task 3. Investigation of the Potential Occurrence of Cultural Resources**

The cultural resources scope of services will consist of coordination with the Texas Historical Commission (THC) and the City of Kyle. In addition, because of potential USACE involvement, this project may fall under guidelines of Section 106 of the National Historic Preservation Act (NHPA). If so, it is anticipated that the THC will review the final report for Section 106 compliance. Archival background research will be conducted in the THC Sites Atlas to identify previously recorded historic and archeological sites and surveys in the proposed project area. A coordination letter will be prepared, in consultation with the client, to introduce the project to the THC and to present recommendations to achieve project regulatory clearance under the Antiquities Code of Texas (ACT) and Section 106, if necessary, for the project to proceed to construction.

If a survey is recommended by the THC, Hicks & Company's principal investigator will procure an antiquities permit on behalf of the client and the City of Kyle to conduct the investigations. Following completion of any necessary investigations, a report will be prepared for review by RPS|Infrastructure and the City of Kyle detailing the results of the field work. Once approved by both, the report will be submitted to the THC for their review and comment. The report will coordinate all requirements necessary to achieve regulatory clearance including State Antiquity Landmark (SAL) and National Register of Historic Places (NRHP) eligibility recommendations for all documented sites, and avoidance

strategies for any such locales. The project assumes that RPS|Infrastructure and/or the City of Kyle will achieve right of entry to all required locations. It is assumed that 42 hours will be required in total to complete field work based on a single alignment configuration and that backhoe trenching will be required by the THC for segments of the proposed alignment. Additional changes to the alignment may require updated information that would be performed under a supplemental scope of services and fee estimate. The scope does not include any additional archeological investigations recommended by the THC subsequent to the survey and coordination of the technical reports. If recommended by the THC, these services can be arranged under a separate scope and budget.

#### **Task 4. Identification of Sensitive Environmental Features**

The potential occurrence of sensitive environmental features occurring within the project area will be investigated. These features will include streams or stream tributaries and associated streambeds, floodplains, wildlife habitat exhibiting high value, and karst features. Portions of the project lie over the Edwards Aquifer Transition Zone. Potential occurrence of karst features will be investigated by evaluating maps depicting karst zones and potential occurrence of endangered karst species. If needed or required, a Phase 1 survey of karst features, including review of existing literature and databases with a field search for karst features, and a Phase 2 detailed examination of karst features would be supplemental to this scope of work. An investigation to determine the presence of documented hazardous materials sites will be conducted by referencing state and federal databases. Results of searches of existing American Standards for Testing and Materials (ASTM) hazardous materials databases will be incorporated as an appendix to the environmental constraints technical memorandum.

#### **Task 5. Document Preparation**

The evaluations described in Tasks 1 through 4 will include the results of the determination of jurisdictional WOTUS and identification of required permits; summaries of the investigations to determine potential occurrence of threatened or endangered species; archeological resources; and sensitive environmental features. All of this documentation will be included or referenced in a technical memorandum submitted to RPS|Infrastructure.

**This Updated Scope of Work and fee estimate does not include the services listed below. If needed or required, such services would be performed under a supplemental scope of services and fee estimate.**

1. Preparation and coordination of an Individual Section 404 Permit to the USACE;
2. Preparation and coordination of a NWP PCN to the USACE;
3. Coordination with the USFWS under Sections 7 or 10 of the ESA if endangered species may be affected by the project;
4. Presence/absence surveys of threatened or endangered species;
5. Phase 1 Environmental Site Assessment (Results of a Hazardous Materials Data Search will be provided and cost of the database search is included in the attached Fee Estimate)
6. Phase 1 and Phase 2 karst surveys;
7. Tree surveys;
8. Systematic vegetation inventories; and
9. Surface or subsurface excavation to investigate contamination from hazardous materials.

**Study Area:**

The study area will include the pipeline alignment corridor defined by maps to be provided by RPS|Infrastructure and an additional 200 feet upstream and downstream of the Plum-1 crossing at South Sledge Street. GIS shapefiles of the proposed alignment will be provided by RPS|Infrastructure to allow downloading of geographical coordinates to a handheld GPS instrument prior to field investigation.

**Deliverables:**

1. Shapefiles of any identified WOTUS at the Plum-1 stream crossing at S. Sledge Street will be provided to RPS|Infrastructure for integration into the design plan to assist in determining potential impacts.
2. A technical memorandum will be prepared that will summarize results of the investigations described in Tasks 1 through 4. The technical memorandum will include an environmental constraints map, tables and figures that support summary findings, and results of a hazardous materials data search.
3. A coordination letter and a permit application and will be prepared for submission to the THC for purposes of regulatory clearance under the ACT.
4. An archeological survey report will be prepared for submission to the THC for purposes of regulatory clearance.

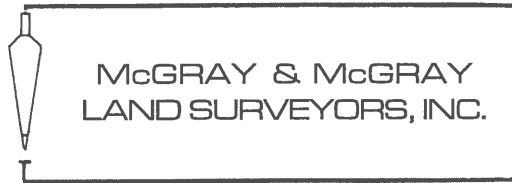
**Schedule:**

Deliverables will be submitted according to a schedule mutually acceptable to Hicks & Company and RPS|Infrastructure.

**Other Assumptions:**

1. The project will not require state or federal funding.
2. National Environmental Policy Act (NEPA) environmental documentation will not be required.
3. Design maps and plans will be provided in a GIS-compatible format by RPS|Infrastructure.
4. Rights of entry will be obtained and coordinated by RPS|Infrastructure.
5. If substantial changes occur to the interceptor alignments to require reevaluations after field investigations or a majority of baseline data collection has occurred, such reevaluations will be supplemental to this Updated Scope of Services.
6. Costs are included for estimating projected fees; billing will be based on actual rates.

HICKS & COMPANY										
UPDATED FEE ESTIMATE										
City of Kyle Elliott Branch Wastewater Interceptor										
November 27, 2018										
Labor										
	Sr. Program Manager	Sr. Env'l Scientist III	Env'l Scientist III	Env'l Scientist II	Env'l Profess. III	Env'l Profess. II	Env'l Profess. I	Env'l Staff I	Env'l Tech I	Total
Description	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours
<b>Task 1 Evaluation of Section 404 Waters of the U.S.</b>										<b>Task Totals</b>
Site reconnaissance/evaluaton		9				9				18
GIS Support					5					5
Project Mgmt, Coordination, and QC		2								2
<b>Task 2 Investigation of Endangered Species</b>										<b>\$3,028.87</b>
Habitat Assessment and Database review		6								6
GIS Support					2					2
Project Mgmt, Coordination, and QC		2								2
<b>Task 3 Investigation of Cultural Resources</b>										<b>\$1,405.30</b>
Project Management				3						3
THC Coordination				9						9
Field Survey				25		17				42
THC Report Production		1		32		10				43
GIS Support					6					6
Historic Structures Assessment					2					2
Curation				5				16		21
<b>Task 4 Identification of Sensitive Environmental Features</b>										<b>\$13,257.74</b>
Database Review and Assessment		3								3
Summarize Hazmat Data Search		2				10				12
GIS Support					2					2
Project Mgmt, Coordination, and QC		2								2
<b>Task 5 Preparation of Report</b>										<b>\$2,212.60</b>
Technical Memo Document Production	2	46					4			52
GIS Support					4					4
Project Mgmt, Coordination, and QC		2								2
<b>Total Labor Hours</b>	2	75	0	74	21	46	4	0	16	238
										238
<b>Billing Rate</b>	\$179.40	\$149.50	\$128.57	\$119.60	\$104.65	\$95.68	\$86.71	\$68.77	\$52.33	<b>\$28,204.75</b>
<b>SUBTOTAL: Labor</b>	\$ 358.80	\$ 11,212.50	\$ -	\$ 8,850.40	\$ 2,197.65	\$ 4,401.28	\$ 346.84	\$ -	\$ 837.28	\$ 28,204.75
<b>Additional Expenses</b>	Unit	Quantity		Rate						Total
Hazardous Materials Data Search	Report	1		\$1,000.00						\$ 1,000.00
Mileage	Per Mile	150		\$0.545						\$ 81.75
Site Forms	Each	2		\$90.00						\$ 180.00
Field Supplies	Day	1		\$50.00						\$ 50.00
Curation	Drawer	1		\$180.00						\$ 180.00
Backhoe and operator (if required)	Day	1		\$2,000.00						\$ 2,000.00
<b>SUBTOTAL: Additional Expenses</b>										\$ 3,491.75
<b>TOTAL COST</b>										<b>\$ 31,696.50</b>



April 2, 2019

Stephanie Blew, P.E.  
RPS Group  
4801 Southwest Pkwy  
Parkway 2, Suite 150  
Austin, TX 78735  
(512) 328-5771

VIA EMAIL  
stephanie.blew@rpsgroup.com

**RE: Second Revised Proposal for Topographic Design Surveying Services for Elliott Branch WW Interceptor, Kyle, Texas.**

Dear Ms. Blew:

We appreciate the opportunity to present you with this second revised proposal for the above referenced project. The following represents our understanding of the area to survey, scope of services, and our fee proposal.

**Area to Survey:**

- Three Areas and Area Highlighted in "Red" as shown on Exhibit "A"

**Scope of Services:**

**Survey Control:**

- We will be using the same control as used in the prior work we performed for RPS.
- Establish at least three (3) TBM's for this project.

**Design Survey (Areas 1 & 2):**

- A topographic design survey of the areas identified as 'Area 1 & Area 2' in Exhibit "A" with intervals not to exceed 50-feet, including any grade breaks.
- Cross sections of existing streets will extend 5-feet beyond each of the right-of-way lines.
- Locate and identify all above ground features within the survey limits including, fences, driveways, guardrails, signs, including visible utilities, manholes, water valves, telecom boxes, utility poles and water meters.
- Locate and identify types of existing pavement surfaces for streets, driveways, etc.

- Invert elevations and size/type of utility and drainage pipes and culverts shall be identified for all manholes and culverts within the project limits.
- Contact the City of Kyle to have them mark their underground utilities within the street right-of-way and locate their marks.
- Locate the SUE designation marks established by The Rios Group.
- Locate trees 6-inches in diameter or larger.

**Design Survey (Area 3):**

- Perform a topographic design survey of Lot 1, Blk A, Bradford Meadows Subdivision, which is the location of the existing Lift Station and identified as Area 3' in Exhibit "A", with elevation intervals not to exceed 50-feet, including any grade breaks.
- Locate and identify all above ground features within the survey limits including, fences, driveways, guardrails, signs, including visible utilities, manholes, water valves, telecom boxes, utility poles and water meters.
- Locate and identify types of existing pavement surfaces for streets, driveways, etc.
- Invert elevations and size/type of utility and drainage pipes and culverts shall be identified for all manholes and culverts within the project limits.
- Contact the City of Kyle to have them open manholes that may be bolted.
- Locate the SUE designation marks established by The Rios Group.

**Areas Highlighted in "Red":**

- Contact the City of Kyle to have them mark their underground utilities within the highlighted areas in "Red" on Exhibit "A" and locate their marks.
- Locate SUE designation marks established by The Rios Group.
- Obtain wastewater manholes with size, type, and invert information noted.

***(No Topographic Survey will be performed within the Red highlighted Area)***

**Deliverables:**

- A. Survey shall be provided in AutoCAD (.dwg) format.
- B. The units of the drawing file shall be U.S. survey feet.

**Fees:**

**Design Survey (Non-taxable):**

2 Man Crew	110 hrs @	\$150.00 /hr.=	\$ 16,500.00
Field Coordinator:	6 hrs @	\$98.00 /hr.=	\$ 588.00
Sr. Tech:	55 hrs @	\$96.00 /hr.=	\$ 5,280.00
Tech:	110 hrs @	\$82.00 /hr.=	\$ 9,020.00
RPLS:	14 hrs @	\$145.00 /hr.=	\$ 2,030.00
Project Manager:	3 hrs @	\$165.00 /hr.=	\$ 495.00
<b>TOTAL =</b>			<b>\$ 33,913.00</b>

Once we receive notice to proceed, we will visit with you to establish a schedule for this project.

Thank you for including us on this project. We look forward to the opportunity to work with you. If you think we have omitted any service you require or misinterpreted your request, please let Chris Conrad or Joe Webber know.

Sincerely,



Judith J. McGray, RPLS  
President  
TBPLS Firm #10095500

Authorized to Proceed by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

JJM:CIC:klr  
Encl.

# EXHIBIT "A"



**FUGRO USA LAND, INC.**

8613 Cross Park Drive  
Austin, Texas 78754  
Phone: 512-977-1800  
Fax: 512-973-9966

RPS Infrastructure  
4801 Southwest Parkway, Parkway 2, Suite 150  
Austin, Texas 78735

Proposal No. 04.30181020  
June 20, 2018

Attention: Ms. Stephanie Blew, P.E.

**Scope of Work and Cost Proposal  
Limited Geotechnical Engineering Services  
Elliot Branch Wastewater Interceptor Improvements  
Kyle, Texas**

Fugro USA Land, Inc. (Fugro) is pleased to present this proposed scope of work and cost proposal to RPS for providing geotechnical engineering services for the Elliot Branch Wastewater Interceptor Improvements in Kyle, Texas.

We have received an annotated proposed layout and have discussed the project with RPS. The Elliot Branch Wastewater Interceptor is approximately 9,500 lf with a 1,500 lf wastewater collector near Scott Street and will be constructed using open cut construction, except for two trenchless crossings below Interstate Highway 35 and existing Union Pacific railroad tracks, which will likely be completed using conventional jack and bore techniques. The proposed Elliot Branch alignment crosses a meandering intermittent stream in several places, and preliminarily open cut construction is being considered for these locations. The invert of the interceptor will be about 15 to 16 ft below existing ground. Pavement thickness determinations are also to be supplied for 3<sup>rd</sup> Street and Sledge Street.

According to geologic maps, the project area is located in a geologically complex and faulted area. The alignment is underlain by mapped outcrops of the Austin Group, Pecan Gap, the Leona formations and terrace deposits from the ancient flood plain of the Blanco River. The maps also indicate several north-east trending faults in the immediate vicinity of the project, some of which are likely hidden by the alluvial deposits. There may also be unmapped faults.

**Scope of Work**

The following scope of services is proposed. At this time, we see the following Tasks as part of a limited Geotechnical Scope of Services.

A member of the Fugro group of companies with offices throughout the world.

**Task 1 – Subsurface Investigation.** The limited subsurface investigation will consist of the following basic elements.

- Drilling fourteen (14) 20-ft deep pipeline borings approximately spaced as shown on the drawing provided by RPS for the interceptor;
- Drilling 3 shallow borings to a depth of 5 ft in 3<sup>rd</sup> and Sledge Streets to obtain samples for testing and pavement thickness determinations;
- Coring the bedrock continuously at the boring locations with NQ size core barrel;
- Logging the borings as they are drilled;
- Storing core in core boxes;
- Bailing open boreholes to obtain a 24-hour water level reading;
- Backfilling open boreholes with bentonite pellets and/or cement/bentonite mixture, and road patching materials; and
- Installing 2 piezometers, one at each IH-35 and Union Pacific railroad crossing. The piezometers will become the property of the City of Kyle and will also be registered with the Texas Water Development Board.

**Task 2 - Laboratory Services.** In-house laboratory services will include the following:

- Moisture Contents and Unit Dry Weight determinations.
- Sieve Analyses (No. 4, 40 and 200).
- Liquid and Plastic Limit determinations.
- Unconfined Compression Tests.
- Sulfate Content Tests.

**Task 3: Engineering and Design.** The engineering services will be directed towards compilation of a Geotechnical Data Report (GDR) for the interceptor, and a Geotechnical Design Memorandum (GDM) for the open cut sections and pavement thickness recommendations for portions of 3<sup>rd</sup> Street and Sledge Street where utility work is expected. The pavement subgrade values for the resilient modulus (MRI) to be used for pavement thickness design will be based on published empirical correlations with laboratory-determined Atterberg limits, engineering judgment and past experience with roadways in this area. A Geotechnical Baseline Report is

excluded from this scope of work. Various subtasks associated with this investigation are presented:

**Task 3.1 – Compile Geotechnical Data Report (GDR).** Compile all field and laboratory testing into a report complete with boring logs, and laboratory and test results.

**Task 3.2 –Geotechnical Design Memorandum (GDM) for Open Cut Sections.** The GDM will address pavement thickness recommendations for streets where utility work is expected, excavation potential, stable slopes for construction, groundwater conditions at the time of construction and effects on construction, and earthwork recommendations.

We anticipate preparing a 100% draft GDR consisting of the borings, laboratory data and piezometer readings upon completion of the borings and lab testing. A final GDR will be issued after resolution of any comments. Similarly, we anticipate preparing a draft 100% GDM and a final GDM upon resolution of all comments.

### **Cost Estimate**

Based on the scope of work outlined above and the attached Fee Schedule G-2017, our estimated fee is presented on Attachment 1. This cost estimate is based on the following:

1. Boring locations will be established by Fugro by measuring distances from existing site features and road intersections, or by use of a handheld GPS unit with provided latitude and longitude coordinates. Boring locations and elevations should then be established by your surveyors;
2. Piezometers installed for this geotechnical investigation will become the property of the City of Kyle and will be registered with the Texas Water Development Board;
3. Boring locations will be easily accessible with truck-mounted drilling equipment;
4. Fugro will contact DigTESS or Texas One-Call to clear utilities prior to mobilization;
5. Fugro will obtain TxDOT permits and night time drilling will not be required;
6. Samples will be discarded 30 days after report publication;
7. Right of entry, right to drill and right to limited clearing will be obtained by others;
8. A budget for limited site clearing and hauling cuttings, and hourly rate for difficult maneuvering of the drill rig is planned; and
9. Funds can be shifted between categories.



The estimated fee may be exceeded if site conditions are significantly different than anticipated or changes in work are required or requested. However, the estimated maximum fee will not be exceeded without the client's prior authorization. Required additions to the above scope of services would be invoiced in accordance with the attached fee schedule.

### Schedule

Weather and site conditions permitting, field operations will begin within one to two weeks after authorization to proceed. Field operations will start with staking of borings and notifying One-Call, which should take about one week. It is anticipated that drilling these borings will take 1 to 2 weeks to complete. A summary of our proposed schedule is presented in the table below. We will keep you verbally informed of our findings as they become available.

Activity	Schedule
Site coordination of drill rig access, TxDOT permit submittal, staking of borings, DigTess Notification	2 weeks from NTP and receipt of all permits
Drilling of Borings	1 to 2 weeks
Laboratory Testing	2 weeks
Logs and Lab Data	1 weeks
Preparation of Geotechnical Data Report	2 weeks
Preparation of Geotechnical Design Memorandum	2 weeks
<b>Total</b>	<b>10 to 11 weeks</b>

### Terms and Conditions

Fees for field work, laboratory testing, and report preparation are outlined in Schedule G-2017. Schedule 40.01 describes general contractual conditions including identification of client, on-site responsibilities and risks, warranty, invoicing procedures, and record and sample maintenance. Schedules G-2017 and 40.01 are attached to this proposal.

\* \* \*



RPS Infrastructure  
Ms. Stephanie Blew

Proposal No. 04.30181020  
Page 5 of 5

To indicate acceptance of this proposal, please have the signature block below signed by a duly authorized representative of the client, and return one copy to us for our files. Whoever signs below is identified as our Client as used throughout Schedule 40.01 attached.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. Please call us if we can be of any additional assistance.

Sincerely,

FUGRO USA LAND, INC.  
TBPE Firm Registration No. F-299

A handwritten signature in blue ink, appearing to read "Bryan E. Rose", followed by a horizontal line.

Bryan E. Rose, P.E.  
Senior Project Manager

A handwritten signature in blue ink, appearing to read "Peter H. Bush", followed by a horizontal line.

Peter H. Bush, P.E.  
Senior Vice President

PHB/BER/lt(w/g/project files/2018/P04.30181020)

Attachments:

- Attachment 1 – Cost Estimate
- Attachment 2 - Schedule 40.01
- Attachment 3 – Fee Schedule G-2017

**CLIENT:**

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Authorizing Signature

\_\_\_\_\_  
Typed Name & Title

\_\_\_\_\_  
Date



**Attachment 1**  
**Cost Estimate for Geotechnical Services**  
**Elliot Branch Wastewater Interceptor Improvements**  
**Kyle, Texas**

<b>1. Field Investigation</b>		<b>Quantity</b>	<b>Unit</b>	<b>Rate</b>	<b>Subtotal</b>
Coordination, Utility Clearance, Supervision, Staking of Borings, Field Logging, Piezometer Data Collection					
1.1	Mobilization	1	each	\$500.00	\$500.00
1.3.1	Drilling and Sampling - Soil	145	feet	\$19.00	\$2,755.00
1.6.1	Drilling and Sampling - Soft Rock	150	feet	\$27.00	\$4,050.00
1.4	Standard Penetration Tests	30	each	\$26.00	\$780.00
1.9	Hourly Charge for Drill Crew Standby Time: Access, Maneuvering, Piezometers, Patching Street Borings, etc.	10	hour	\$200.00	\$2,000.00
1.16	Plugging of Boreholes	240	feet	\$8.00	\$1,920.00
4.1	Site Clearing for Rig Access (Cost +5%)	1	allow	\$2,800.00	\$2,800.00
1.13	Traffic Control	1	day	\$2,400.00	\$2,400.00
1.9	Piezometer Installation (2 at 20 ft) with Surface Completion	8	hour	\$200.00	\$1,600.00
3.2	Senior Project Manager	5	hour	\$190.00	\$950.00
3.7	Graduate Professional	32	hour	\$105.00	\$3,360.00
3.8	Logger	50	hour	\$90.00	\$4,500.00
				<b>Subtotal</b>	<b>\$27,615.00</b>
<b>2. Laboratory Investigation</b>		<b>Quantity</b>	<b>Unit</b>	<b>Rate</b>	<b>Subtotal</b>
2.1	Moisture Contents	10	each	\$16.00	\$160.00
2.2	Atterberg Limit Determinations	10	each	\$70.00	\$700.00
2.6	Sieve Analysis	10	each	\$70.00	\$700.00
2.22	Soluble Sulfate	4	each	\$95.00	\$380.00
2.11	Unconfined Compression Tests - Soil	10	each	\$65.00	\$650.00
2.12	Unconfined Compression Tests - Rock	4	each	\$70.00	\$280.00
2.13	Unconsolidated-Undrained Triaxial Compression Test	3	each	\$75.00	\$225.00
				<b>Subtotal</b>	<b>\$3,095.00</b>
<b>3. Technical Services</b>		<b>Quantity</b>	<b>Unit</b>	<b>Rate</b>	<b>Subtotal</b>
Logging, Laboratory Assignment, Report Preparation					
3.7	Graduate Professional	10	hour	\$105.00	\$1,050.00
3.9	Drafting	10	hour	\$75.00	\$750.00
3.1	Word Processing	2	hour	\$65.00	\$130.00
				<b>Subtotal</b>	<b>\$1,930.00</b>
<b>4. Engineering Services (GDR, GDM)</b>		<b>Quantity</b>	<b>Unit</b>	<b>Rate</b>	<b>Subtotal</b>
3.2	Senior Project Manager	15	hour	\$190.00	\$2,850.00
3.4	Project Engineer	23	hour	\$150.00	\$3,450.00
3.7	Graduate Professional	10	hour	\$105.00	\$1,050.00
				<b>Subtotal</b>	<b>\$7,350.00</b>
				<b>Elliot Branch Interceptor</b>	<b>\$39,990.00</b>

**June 26, 2018**

RPS Group  
Stephanie Blew, P.E.  
Senior Project Manager  
4801 Southwest Parkway  
Parkway 2, Suite 150  
Austin, Texas 78735

Re: Proposal for securing Right of Entries (ROE) in RPS of Kyle, Texas – Elliott Branch Project and the Edward Business Park

**RIGHT OF WAY SCOPE OF SERVICES**

Stateside agrees to perform consulting services in connection with the Elliott Branch Project and the Edward Business Park.

**RIGHT OF ENTRIES**

Stateside will complete right of entry agreements for the Elliott Branch Project and the Edward Business Park parcels.

- Stateside will identify the subject property, verified by the County or its representatives.
- Stateside will request title and verify ownership of approved parcel through on line search.
- Stateside will send a request for a ROE, via mail or email, to the landowner/s:
  - Address as posted on tax documentation in the Hays County Tax Assessors Office.
  - Additional addresses as deemed appropriate or requested by landowner/s or landowner/s representative
    - Letter/s will include authorization for access (Right of Entry “ROE”) for agents and consultants of RPS, the RPS of Kyle or their assigns:
      - Stateside Agents
      - Surveyor/s
      - Appraiser/s
      - Geotechnical investigations
      - Environmental
      - Other requests, as later specified
    - Request for Contact Information
      - Name
      - Phone
      - Email
      - Address
    - Landowner Bill of Rights
    - Acknowledgement of Receipt
    - Self-Addressed Stamped Envelope

## RIGHT OF ENTRIES – (cont'd)

- If the landowner does not contact the agent within a day or two of receiving the Introductory Packet, Stateside will research contact information.
- If needed, Stateside will meet with the owner/s at the property to discuss the proposed project.
- All information is entered into the data base, logged onto the tracker and placed in an electronic and paper file for each parcel.

### **Reporting:**

Stateside will maintain office files containing copies of completed notices and forms, contacts and discussions and project status reports, as required. RPS will have access to files and will be cc'd on email correspondence. Additional exhibits will be available through RPS, if needed. Stateside will notify RPS if a landowner retains an attorney and makes that information available to Stateside.

### **Invoice:**

Stateside accounting requires invoicing on a month end basis. Payment is expected within 30 days of the date of the invoice.

### **Fees:**

#### **Right of Entry Services:**

• <b>Right of Entries - \$1500 per ROE</b>	<b>\$19,500</b>
• <b><u>Mileage – up to 1,000 miles</u></b>	<b><u>\$ 545</u></b>
	<b>\$ 20,045</b>

### **Milestone Payments:**

The fees will be submitted on a milestone basis:

- **Right of Entry**
  - Set up 20%
  - Send ROE Packet 50%
  - Receive ROE 30%

Thank you for this opportunity and we look forward to working with you and your team.

Sincerely,

**STATESIDE RIGHT OF WAY SERVICES, L.L.C.**



Diane Burkhardt Valek  
President



March 16, 2017

Mr. Wade Benton  
RPS  
4801 Southwest Parkway  
Parkway 2, Ste. 150  
Austin, TX 78735  
(512) 326-5659

VIA E-MAIL  
wade.benton@klotz.com

**RE: Proposal for Additional Design Surveying Services for the Elliot Branch Wastewater Interceptor Improvements Project in Kyle, Texas**

Dear Mr. Benton:

We appreciate the opportunity to present you with this proposal for additional design surveying services for the above referenced project. The following represents our understanding of the services being requested.

**Survey Limits:**

- The survey limits are approximately shown on the attached exhibit.

**Scope of Services:**

- Provide a 75 foot wide topographic survey (edge of pavement to 50 feet inside private property), based on NAVD 88, with reference to benchmark provided and development of one-foot interval contours. Vertical control will be established at an accuracy of 0.01 feet. The survey will also include locations of physical features that may be affected by construction, including sidewalks (type), driveways (type), roadways, railroads, fences (type), walls, signs, mail boxes, planters, sheds, rock outcroppings, manholes, cleanouts, meter boxes, valve boxes, curbs (back of curb and lip), structures, etc. Invert information will be provided for all accessible manholes.
- Surveyed features located horizontally relative to NAD 83 State plane coordinates. Horizontal control will be carried to second order accuracy.
- Tree survey of trees 8" or larger. If this needs to be 6", please let me know so we can revise our proposal.
- It is our understanding that right of entry will be obtained by the City of Kyle or a representative and that task is not included in this proposal.

**Fee:**

2 Man Crew:	28 hrs @	\$150.00 /hr.= \$	4,200.00
Field Coordinator:	1 hrs @	\$98.00 /hr.= \$	98.00
Sr. Tech:	14 hrs @	\$96.00 /hr.= \$	1,344.00
Tech:	28 hrs @	\$82.00 /hr.= \$	2,296.00
RPLS:	1 hrs @	\$145.00 /hr.= \$	145.00
Project Manager:	0.5 hrs @	\$165.00 /hr.= \$	82.50
<b>LUMP SUM FEE TOTAL= \$</b>			<b>8,165.50</b>

We can start this project immediately after receipt of notice to proceed. We estimate this project will take approximately 3 to 4 weeks to complete, weather and circumstances beyond our control permitting. If you need us to accelerate this schedule, please let us know so we can configure our staff accordingly.

Thank you for including us on this project. We look forward to the opportunity to work with you. If you think we have omitted any service you require or misinterpreted your request, please let me know.

Sincerely,



Chris Conrad, RPLS  
Vice President  
TBPLS Firm# 10095500

Authorized to Proceed by:

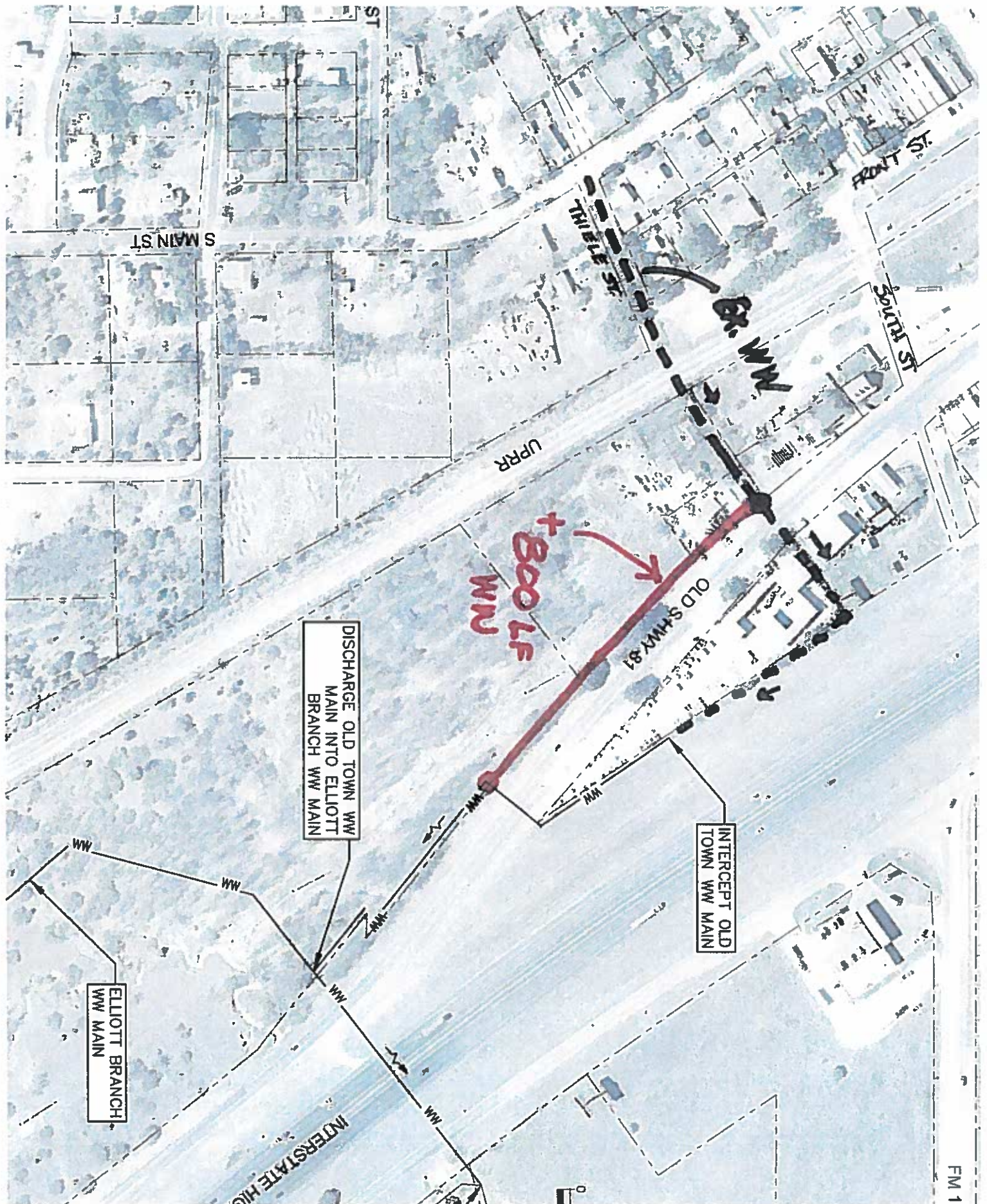
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

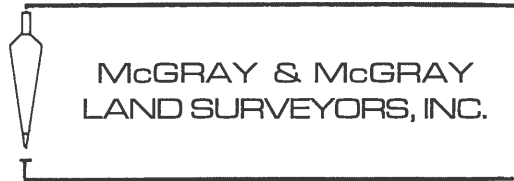
\_\_\_\_\_  
Title

CIC: klr  
encl.



April 2, 2019

Stephanie Blew, P.E.  
RPS Group  
4801 Southwest Pkwy  
Parkway 2, Suite 150  
Austin, TX 78735  
(512) 579-3340



VIA EMAIL  
stephanie.blew@rpsgroup.com

**RE: Second Revised Proposal for Additional Topographic Design Surveying Services for Elliott Branch WW Reclaim Interceptor Line, Kyle, Texas.**

Dear Ms. Blew:

We appreciate the opportunity to present you with this second revised proposal for additional services for the above referenced project. The following represents our understanding of the area to survey and scope of services. Our fee proposal follows.

**Area to Survey:**

- As shown on Exhibit "A", attached.

**Scope of Services:**

**Survey Control:**

- We will use the same control as we used previously on the Elliott Branch WW Interceptor project.
- We will also tie the vertical datum to a FEMA Benchmark.

**Topographic Design Survey (Area Highlighted in "Red" on Exhibit "A"):**

- A topographic design survey of the area highlighted in "Red" on Exhibit "A", being 50' wide and located easterly of and parallel with, the Proposed Wastewater Interceptor line. Spot elevations will not to exceed 50-foot intervals and will include any grade breaks.
- Locate and identify all above ground features within the survey limits including, fences, signs, visible utilities, manholes, water valves, telecom boxes, utility poles and water meters.
- Invert elevations and size/type of utility and drainage pipes and culverts shall be identified for all manholes and culverts within the project limits.
- Contact the City of Kyle to locate their utilities.
- Locate the utilities marked by the City of Kyle and all SUE designation marks set by The Rios Group.
- Locate of trees 8-inches in diameter or larger.

**Location of Environmental Markings (Areas Highlighted in "Yellow" on Exhibit "A"):**

- Obtain the location of pin flags set by Hicks & Co. within the areas highlighted in "Yellow" on Exhibit "A".

**Manholes along Old S. Hwy 81 & IH 35 southbound feeder road (Area Highlighted in "Green" on Exhibit "A"):**

- Obtain information for the manholes within the area highlighted in "Green" on Exhibit "A". If these manholes are bolted shut, we will contact the City of Kyle to open them to collect the invert and pipe size information.
- Locate the utilities marked by the City of Kyle and all SUE designation marks set by The Rios Group.

**Deliverables:**

- Survey shall be provided in AutoCAD (.dwg) format.
- The units of the drawing file shall be U.S. survey feet.

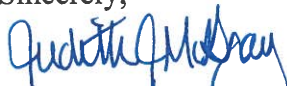
**Fees (Non-taxable):**

2 Man Crew	110 hrs @	\$150.00 /hr.= \$	16,500.00
Field Coordinator:	6 hrs @	\$98.00 /hr.= \$	588.00
Sr. Tech:	55 hrs @	\$96.00 /hr.= \$	5,280.00
Tech:	110 hrs @	\$82.00 /hr.= \$	9,020.00
Research:	8 hrs @	\$72.00 /hr.= \$	576.00
RPLS:	16 hrs @	\$145.00 /hr.= \$	2,320.00
Project Manager:	2 hrs @	\$165.00 /hr.= \$	330.00
Title Reports:		\$600.00	\$ 600.00
<b>TOTAL = \$</b>			<b>35,214.00</b>

Once we receive the notice to proceed, we will get the project scheduled.

Thank you for including us on this project. We look forward to the opportunity to work with you. If you think we have omitted any service you require or misinterpreted your request, please let Joe Webber or Chris Conrad know.

Sincerely,



Judith McGray, RPLS  
President  
TBPLS Firm #10095500

Authorized to Proceed by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

JJM:CIC:klr  
encl.

**RPS**  
A MEMBER OF THE RPS GROUP PLC  
4801 Southwest Parkway  
Parkway 2, Suite 150  
Austin, Texas 78735 (512)  
326-5659  
TRPE #F-293

March 28, 2019

Stephanie Blew, P.E.  
RPS  
4801 Southwest Parkway  
Parkway 2, Suite 150  
Austin, TX 78735  
T: 512.328.5771  
Stephanie.Blew@rpsgroup.com

**RE: Subsurface Utility Engineering  
City of Kyle Elliott Branch Wastewater Improvements**

Dear Ms. Blew:

The Rios Group, Inc. (TRG) is pleased to submit a cost proposal for Subsurface Utility Engineering (SUE) for the above referenced project. This proposal is based on information provided via email on March 25, 2019.

**Introduction**

TRG will perform SUE services for this project in general accordance with the recommended practices and procedures described in ASCE publication CI/ASCE 38-02 “Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data.” As described in the publication, four levels have been established to describe and depict the quality of subsurface utility information. The four quality levels are as follows:

- Quality Level D (QL“D”) – Information obtained from existing utility records.
- Quality Level C (QL“C”) – Surveyed data depicting visible above-ground features supplemented with QL“D” information.
- Quality Level B (QL“B”) – Two-dimensional horizontal information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as “designating,” this level incorporates QL“C” information and provides horizontal positioning of subsurface utilities to within approximately 1.0 foot.
- Quality Level A (QL“A”) – Three-dimensional horizontal and vertical information obtained through non-destructive vacuum excavation equipment to expose utilities at critical points. Also known as “locating,” this level incorporates QL“B” information and provides horizontal and vertical positioning of subsurface utilities to within approximately 0.05 feet.

**Scope of Work**

Based on information provided by RPS (Client), TRG has developed a proposed scope for SUE services on this project. This scope may be modified, with Client and TRG concurrence, during the performance of work if warranted by changing or unexpected field conditions.

The scope of this proposal includes QL“A” and QL“B” SUE services for the City of Kyle Elliott Branch Wastewater Improvements project. The limits of the SUE investigation area are highlighted in red on Exhibit B (two separate areas). TRG will attempt to designate the following utilities within these areas: chilled water, natural gas/crude oil/refined product pipelines, communication duct banks, fiber optic, cable television, telephone, and electric. Storm drain facilities will be inverted at manholes, and will be depicted as QL“C” information. Potable water, reclaimed water, and sanitary sewer facilities are not included in this scope of work. Irrigation lines and utility services lines are also excluded from this scope of work. Additionally, an inventory of overhead utilities is not included in this scope of work.

This proposal also includes **twenty (20) QL“A” SUE test holes** at locations that will be determined by the Client following a review of the QL“B” SUE data.

The survey of SUE field markings for the QL“B” SUE work is not included in this scope of work. It is assumed that the Client’s surveyor will provide TRG with surveyed field markings (at no cost to TRG) for use in preparing the final deliverables. The survey of SUE field markings for the QL“A” SUE work is included in this scope of work. It is assumed that the Client will provide the necessary survey control information.

Any necessary Right-Of-Entry (ROE) permits, including railroad ROE, will be provided by the Client prior to the start of field work.

### **TRG Procedures**

#### **QL“D” and “C” – Records Research and Surface Feature Survey**

It is the responsibility of the SUE provider to perform due-diligence with regard to records research and the acquisition of available utility records. The due-diligence provided for this project will consist of contacting the applicable One Call agency and associated utility owners/municipalities, visually inspecting the work area for evidence of utilities, and reviewing available utility record information. Additional utilities not identified through these efforts will be referred to as Unknown utilities.

#### **QL“B” – Designating**

Following a review of the project scope and available utility records with the project manager, TRG field personnel will begin designating the approximate horizontal position of known subsurface utilities within the project area. A suite of geophysical equipment that includes magnetic and electromagnetic induction will be used to designate conductive utilities. Where access is available, a sonde will be inserted into non-conductive utilities to provide a medium for transmission which can then be designated using geophysical equipment. Non-conductive utilities can also be designated using other proven methods, such as rodding and probing. TRG will make a reasonable attempt to designate Unknown utilities identified during field work; however, no guarantee is made that all Unknown utilities will be designated. Utilities will be marked and labeled to distinguish type and ownership. Field data depicting the designated utilities, as well as relevant surface features, will be produced to ensure accuracy and completeness of subsequent survey data. The TRG project manager will review the collected survey data, field data, and utility records for accuracy and completeness.

#### QL "A" – Locating

TRG will utilize non-destructive vacuum excavation equipment to excavate test holes at the requested locations. To layout the test holes, TRG will follow the *QL "B" – Designating* procedures described above. Once each utility is located, TRG will record the size, type, material, and depth. Test holes will be uniquely marked. Excavations will be backfilled by mechanical means with the appropriate material, and the original surface will be restored. If necessary, TRG can core pavement up to a depth of 12 inches. Asphalt surfaces will be repaired with an asphalt cold patch, and concrete cores will be epoxied in place, flush with the surrounding surface. TRG assumes that flowable fill will not be required when backfilling test holes and that full-section pavement repair (including sidewalks) will not be required to restore the original pavement surface. If requested, these services can be provided at an additional cost.

TRG will establish any necessary routine traffic control measures at no additional cost. However, if non-routine traffic control measures (lane closures, traffic detours, flagpersons, etc.) are required, this service will be invoiced as a direct expense. Due to the risk of damage, TRG will not attempt to probe or excavate test holes on AC water lines unless approval is obtained from the owner in advance. Additionally, excavation in rock, or to a depth greater than 18 feet, is considered beyond the scope of this proposal.

TRG has made the following assumptions with regard to the test holes on this project:

- All test holes will be accessible to truck-mounted vacuum excavation equipment.
- Right-Of-Way (ROW) permits from the City of Kyle will be required. TRG will obtain all required City permits and ensure that coordination and compliance with the City is provided.
- Designed traffic control plans will not be required.
- Non-routine traffic control measures will be required. TRG will acquire the services of a qualified Maintenance-Of-Traffic (MOT) Subcontractor, and ensure that adequate traffic control is provided.
- The coring of pavement will be required.

#### **Deliverables**

TRG will provide the following as a final deliverable to the Client:

- A utility file in CAD format depicting all designated and located utilities. The Client will provide TRG with any necessary background files for use in completing the final deliverables.
- A summary sheet of all test hole coordinate data and depth information.
- 8.5" x 11" Test Hole Data Forms for all test hole locations completed. These plans will be signed and sealed by a Professional Engineer and delivered to the Client in electronic PDF form.
- 11" x 17" SUE Plan Sheets depicting all designated and located utilities. These plans will be signed and sealed by a Professional Engineer and delivered to the Client in electronic PDF form.

### **Schedule**

TRG can mobilize within three (3) weeks of receiving Notice-To-Proceed (NTP). TRG estimates that the QL“B” SUE work can be completed in twenty (20) working days, broken down as follows:

- QL“B” field work – 10 days
- QL“B” deliverable preparation – 10 days (following receipt of survey data)

TRG estimates that the QL“A” SUE work can be completed in twenty-five (25) working days following approval of the City permits, broken down as follows:

- QL“A” field work – 10 days
- QL“A” survey and preparation of data – 5 days
- QL“A” deliverable preparation – 10 days

### **Estimated Fee**

The total estimated cost to complete the work described herein is **Sixty-Four Thousand Fifty Dollars and NO/100 (\$64,050.00)**. An itemized breakdown of cost is provided in Exhibit A. Please note that these pricings are based on an assumption of quantities, and that only actual quantities will be invoiced – up to the total Contract amount.

We look forward to working with you on this project. If there are any questions, please do not hesitate to call at 512.580.5440.

Respectfully,

**The Rios Group, Inc.**

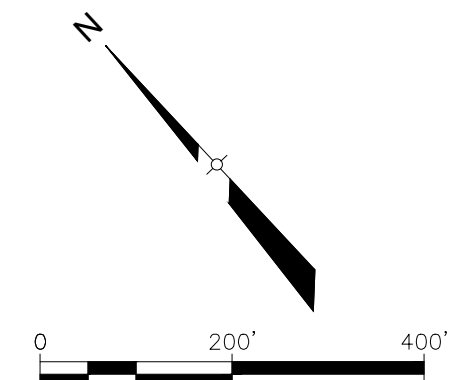


Ryan C. Chapin, P.E.  
Project Manager

**Estimate for Subsurface Utility Engineering**  
**City of Kyle**  
**Elliott Branch Wastewater Improvements**

**EXHIBIT A**

<b>Direct Expenses</b>	<i>Rate</i>	<i>Assumed Quantity</i>	<i>Unit of Measure</i>	<i>Sub-Total</i>
ROW Permits	\$ 300.00	5	EA	\$ 1,500.00
ROW Permit Acquisition	\$ 500.00	1	LS	\$ 500.00
Traffic Control (Standard)	\$ 800.00	7	DAY	\$ 5,600.00
Deliverable Preparation	\$ 2,500.00	1	LS	\$ 2,500.00
Survey (RPLS)	\$ 2,250.00	1	DAY	\$ 2,250.00
<b>Sub-Total</b>				<b>\$ 12,350.00</b>
<b>QL"B" SUE Designating</b>	<i>Rate</i>	<i>Assumed Quantity</i>	<i>Unit of Measure</i>	<i>Sub-Total</i>
Designating Crew	\$ 2,500.00	10	DAY	\$ 25,000.00
<b>Sub-Total</b>				<b>\$ 25,000.00</b>
<b>QL"A" SUE Test Holes</b>				
<b>Unit Rate - Depth</b>	<i>Rate</i>	<i>Assumed Quantity</i>	<i>Unit of Measure</i>	<i>Sub-Total</i>
0 - 4 feet	\$ 850.00	8	EA	\$ 6,800.00
4 - 8 feet	\$ 1,150.00	8	EA	\$ 9,200.00
8 - 12 feet	\$ 1,450.00	4	EA	\$ 5,800.00
12 - 18 feet	\$ 2,300.00	0	EA	\$ -
Pavement Coring	\$ 350.00	14	EA	\$ 4,900.00
Test Hole Total		20		
<b>Sub-Total</b>				<b>\$ 26,700.00</b>
<b>Total Estimated Cost</b>				<b>\$ 64,050.00</b>



City of Kyle, Texas  
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION:  
CONTACT CITY DEPARTMENT:  
CONTACT CITY STAFF:

May 21, 2019  
Engineering Services  
Leon Barba, P.E., City Engineer

SUBJECT:

Approve Amendment No. 1 to the contract with ESPEY CONSULTANTS, INC., dba RPS, Austin, Texas, in the amount of \$592,263.00 increasing the total contract amount not to exceed \$865,520.00 for providing project management, data collection and investigations, preliminary and final engineering, permitting, and bid services for the Elliott Branch Phase 1 Wastewater Interceptor Project.

CURRENT YEAR FISCAL IMPACT:

This engineering services contract amendment to ESPEY CONSULTANTS, INC., will require expenditure of funds from the approved CIP Spending Plan for FY 2018-2019 as follows:


1. City Department:	Engineering Services
2. Project Name:	Elliott Branch Wastewater Interceptor
3. Budget/Accounting Code(s):	3420-89000-573130
4. Funding Source:	Wastewater Impact Fee Fund
5. Current Appropriation:	\$ 1,518,013.96
6. Unencumbered Balance:	\$ 1,490,709.38
7. Amount of This Action:	<u>\$ ( 592,263.00 )</u>
8. Remaining Balance:	<u>\$ 898,446.38</u>

FUNDING SOURCE OF THIS ACTION:

The funding for this engineering services contract amendment will be provided from accumulated wastewater impact fees.

ADDITIONAL INFORMATION/COUNCIL ACTION:

N/A.

 5/15/2019  
Pervez A. Moheet, CPA - Date  
Director of Finance



# CITY OF KYLE, TEXAS

## Pipeline Buffer Zone

Meeting Date: 5/21/2019

Date time: 7:00 PM

**Subject/Recommendation:** *(Second Reading)* An Ordinance of the City of Kyle, Texas adopting building regulations and procedures promoting risk reductions of operations and development near pipelines; making findings of fact; providing definitions; providing a maximum penalty; providing severability and open meetings clauses; and providing for related matters. ~ *Paige Saenz, City Attorney*

*City Council voted 4-0 to approve on First Reading.*

### Other Information:

### Legal Notes:

### Budget Information:

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### ATTACHMENTS:

#### Description

- ☐ Pipeline Buffer Zone Ordinance

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS ADOPTING BUILDING REGULATIONS AND PROCEDURES PROMOTING RISK REDUCTIONS OF OPERATIONS AND DEVELOPMENT NEAR PIPELINES; MAKING FINDINGS OF FACT; PROVIDING DEFINITIONS; PROVIDING A MAXIMUM PENALTY; PROVIDING SEVERABILITY AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City Council of the City of Kyle (the “City”) recognizes the need to continue to regulate certain aspects of oil and gas pipeline activity as well as development in and around hazardous pipelines in order to preserve and protect the public health, safety, and welfare, and to preserve the quality of life and property values;

**WHEREAS**, City and Hays County have some of the fastest growing populations in the nation and the City has undertaken and exercised its authority to adopt a Comprehensive Plan to plan for the future development and urbanization of the City, including a roadway/transportation plan;

**WHEREAS**, pipeline incidents have potential for significant impact on life, property, and the environment and just as transmission pipelines pose a risk to their surroundings, so does human activity in the vicinity of pipelines. Pipelines of a certain size and operating pressure cannot be relocated or modified once constructed.

**WHEREAS**, such large and high-pressure pipelines pose a unique and unprecedented impediment to the future development of the City and the provision of local government services;

**WHEREAS**, although concerning in virtually all communities, transmission pipelines have become an integral part of our energy infrastructure, so the City needs to take all steps to protect all development within the City, and the transmission pipelines need to be protected from activities that may impact the integrity of the pipelines; and

**WHEREAS**, the best way to balance the interests of property owners, developers, and transmission pipeline operators is to make sure that all relevant parties are aware of the plans, concerns and interests of the other parties; and

**WHEREAS**, early communication between the interested parties will assist with prudent land use permitting decisions;

**WHEREAS**, the City is a home rule city with the requisite authority to protect the public health, safety, and welfare that can affect the risks associated with increased human activity in the vicinity of transmission pipelines and it is in the public interest to have regulatory control over some aspects of pipeline installation to minimize potentially dangerous conflicts with existing buildings, roadways (current and planned) and land uses together with future infrastructure and development;

and

**WHEREAS**, the City Council seeks to adopt regulations and procedures in order to reduce the hazards and/or maintain the health, safety and welfare of the City in this potentially risky area.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:**

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

**Section 2. Building Regulations Amended.** The City Council hereby adopts regulations and procedures promoting risk reductions of operations and development near pipelines within the City to read as set forth in Exhibit “A” hereto entitled “Building Regulations and Procedures Promoting Risk Reductions of Operations and Development Near Pipelines,” attached to and incorporated in this Ordinance as though fully transcribed herein for all purposes.

**Section 3. Amendment of Ordinances.** Prior ordinances of the City dealing with or applicable to oil and gas pipelines are hereby amended to the extent of any conflict herewith, and all ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, the terms and provisions of this Ordinance shall govern.

**Section 4. Effective Date.** This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code.

**Section 5. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

**Section 6. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

**PASSED AND APPROVED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**FINALLY PASSED AND APPROVED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**ATTEST:**

**CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Jennifer Vetrano, City Secretary

\_\_\_\_\_  
Travis Mitchell, Mayor

## EXHIBIT “A”

### Chapter 8, Building Regulations, Article VII, Building Regulations and Procedures Promoting Risk Reductions of Operations and Development Near Pipelines

#### 8-250 OIL AND GAS PIPELINES - General Technical Provisions.

(1) As determined in the sole, but reasonable, discretion of the city, pipelines may not interfere with or damage existing utilities, including but not limited to: water, sewer or gas lines, storm drains, electric lines or the facilities of any public utilities located in public rights-of-way, utility easements or other city-owned property or in private residential areas.

(2) The pipeline operator shall be required to comply with all regulations regarding noise in 8-254 below.

(3) The pipeline operator shall be responsible to grade, level and restore the property affected by pipeline construction to the same surface condition, as nearly practicable, as existed before operations were first commenced within thirty (30) days after completion of the pipeline.

(4) The pipeline operator shall construct, repair and/or maintain all pipelines so as to meet or exceed the applicable minimum criteria established by the statutory or regulatory requirements of the state and federal governments for such pipeline.

(5) The city has control of roadways within the city, whether current or planned and the pipeline operator shall, unless pre-empted by state or federal law, design and build all pipelines that will be on, over, under, along, across, within, or crossing public roads within the city limits shall be a minimum depth of thirteen (13) feet from top of pipe to surface. “Planned roadways” include but are not limited to roads shown on approved preliminary plats, approved final plats, roads shown on CAMPO maps and any roadways shown on the City of Kyle’s Comprehensive Plan and/or Transportation Plan. Planned roadways may include corridors.

(6) At least sixty (60) days prior to finalization of any pipeline construction plans, the pipeline operator and/or contractor shall provide the city with the construction plans for all pipeline construction within the city to ensure that all current and future planned roadways have the pipeline designed to the above-referenced depth.

(7) At least ten (10) days prior to the commencement of any pipeline construction, the pipeline operator shall give written mailed notice to all residents, tenants and property owners that are located adjacent to the proposed pipeline. The mailing shall include the operator’s publication on pipeline safety.

(8) At the time the required pipeline records are submitted to the Railroad Commission of Texas, the pipeline operator shall provide the city the following information, including GPS information sufficient to locate the pipelines in the future, including the beginning and end points of the pipeline and sufficient points in between the pipeline route and the depth of cover information. This information shall be submitted to the city in a format compatible with the city’s own GIS system.

- a. As-built or record drawings of the pipelines. Accuracy of the record drawings shall meet the City requirements as established by the City Engineer. The scale of the record drawings shall be a minimum of one inch to 40 feet. The drawings shall also be supplied in a DFF digital file format with the location tied to at least one nearby GPS (global

positioning system) city monument. If the new pipeline length exceeds 1,000 feet within the city, the pipeline shall be tied to at least two GPS city monuments;

- b. The origin point and the destination of the pipeline;
- c. The substance to be transported;
- d. A copy of the substance material safety data sheet (MSDS);
- e. Engineering plans, drawings and/or maps with summarized specifications showing the horizontal location, covering depths and location of shutoff valves of the subject pipeline. Drawings shall show the location of other pipelines and utilities that are crossed or paralleled within 15 feet of the pipeline right-of-way;
- f. Detailed cross-section drawings for all public rights-of-ways and easement crossings on city property as permitted by the city; and
- g. A list of the names and mailing addresses of all the property owners, residents and tenants adjacent to the pipeline construction.

(9) A pipeline operator that transports gas, oil, liquids or hydrocarbons through a pipeline located in the city shall be a member in good standing with the one call system or other approved excavation monitoring system as required by state law. The pipeline operator that transports gas, oil, liquids or hydrocarbons through a pipeline shall contract for service with the selected underground utility coordinating system for a minimum of five years unless there is an agreement to change to an alternate system between the city and the pipeline operator. Said pipeline operator shall maintain such services without interruption for the life of the pipeline permit and as required under this section.

(10)

- a. At the time of permitting and each year thereafter that the pipeline remains active, each pipeline operator shall provide to the gas inspector, the fire marshal and the chief of police the names, mailing addresses and telephone numbers of at least two primary persons, officers or contacts available on a 24-hour basis and at least two alternative persons, officers or contacts to be reached in the event that the primary contacts are unavailable who:
  - 1. Can initiate appropriate actions to respond to an emergency;
  - 2. Have access to information on the location of the closest shutoff valve to any specific point in the city; and
  - 3. Can furnish the common name of the material then being carried by the pipeline.
- b. Any change in the above information must be provided to the city by contacting the city engineer prior to such change.

(11) Each pipeline operator shall file a copy of all initial or follow-up reports provided to the U.S. Department of Transportation or the Railroad Commission of Texas on unsafe pipeline conditions, pipeline emergencies or pipeline incidents within the city concurrently with the city. In addition, such pipeline operator shall file any initial or follow-up reports filed with state and federal environmental regulatory agencies pertaining to pipeline releases within the city concurrently with the city.

(12) Every pipeline operator shall be required to file with the city an annual verified report in letter form on or before June 30 of each year to cover a reporting period of the previous June 1

through May 31. Said written report shall contain a statement that the pipeline has no outstanding safety violations within the City of Kyle as determined in an inspection or audit by either the Railroad Commission of Texas and/or the U.S. Department of Transportation with regard to any pipeline operating within the city. Alternatively, if there are any safety violations as determined by the Railroad Commission of Texas and/or the U.S. Department of Transportation that have not been corrected, these shall be described to the city with an action plan to correct the safety violations. Said action plan shall include a timeline for corrective action and the individual or firm responsible for each action.

## **8-251 OIL AND GAS PIPELINES – Technical Provisions for Building Around Pipelines**

(1) In this section:

(a) **HAZARDOUS PIPELINE** means a pipeline designed for the transmission of a "hazardous liquid", as defined by Title 49, Code of Federal Regulations, Section 195.2, with an inside diameter of eight inches or more.

(b) **NEW CONSTRUCTION** means the construction after May \_\_, 2019 of a structure intended for human occupancy, and includes the construction of a new structure, the construction of an addition to an existing structure and the reconstruction of a portion of an existing structure. The term excludes an addition to or the reconstruction or replacement of a structure existing on May \_\_, 2019 used for:

- (i) single-family residential use;
- (ii) small lot single-family residential use;
- (iii) single-family attached residential use;
- (iv) duplex residential use;
- (v) two-family residential use;
- (vi) mobile home residential use; or
- (vii) in a neighborhood plan combining district:
- (viii) cottage special use;
- (ix) urban home special use; or
- (x) secondary apartment special use.

(c) **RESTRICTED PIPELINE AREA** includes an area within 25 feet of a hazardous pipeline and/or an area within a hazardous pipeline easement.

(d) **USE REQUIRING EVACUATION ASSISTANCE** includes the following uses:

- (i) congregate living;
- (ii) convalescent services;
- (iii) detention facilities;
- (iv) day care services (commercial);
- (v) hospital (general);
- (vi) hospital (limited);
- (vii) medical offices exceeding 5,000 square feet of gross floor area;
- (viii) private primary educational facilities;
- (ix) private secondary educational facilities;
- (x) public primary educational facilities;
- (xi) public secondary educational facilities; and
- (xii) retirement housing (large site).

(2) A use requiring evacuation assistance is prohibited in a structure intended for human occupancy that is located within 500 feet of a hazardous pipeline.

(a) This prohibition does not apply to a structure that is located between 200 and 500 feet of a hazardous pipeline if by resolution the Council determines, after receiving a recommendation from the fire chief that certain criteria are met.

(b) the structure incorporates a system for the early detection and notification of a pipeline leak, if the fire chief determines that an appropriate system is commercially available; and

(c) the performance-based design for occupant evacuation and the early detection and notification system are certified and sealed by an engineer registered in Texas.

(3) A person may not build new construction within 200 feet of a hazardous pipeline unless:

(a) the fire chief determines that:

(i) the new construction has a performance-based design that provides a minimum one-hour time period for occupant evacuation to a safe place in the event of a pipeline leak or a fire associated with the pipeline, in accordance with Chapter 25-12, Article 7 (Uniform Fire Code) or the 2000 edition of the National Fire Protection Association 101 Life Safety Code;

(ii) the new construction incorporates a system for the early detection and notification of a pipeline leak, if the fire chief determines that an appropriate system is commercially available; and

(iii) the performance-based design for occupant evacuation and the early detection and notification system are certified and sealed by an engineer registered in Texas; or

(b) the new construction complies with the standards for construction near a pipeline prescribed by the Fire Criteria Manual.

(4) A person may not place a structure or excavate within a restricted pipeline area.

(a) This prohibition does not apply to:

(i) the pipeline or an appurtenance;

(ii) a facility that produces, consumes, processes, or stores the product transported by the pipeline, including a power generation facility;

(iii) a public or private utility line (which may include but not be limited to water and wastewater lines, stormwater and/or drainage lines) that crosses the restricted pipeline area, including an appurtenance to the line;

(iv) a utility service connection;

(v) a road;

(vi) a surface parking lot; or

(vii) a structure or excavation that the director determines does not disturb the pipeline or impede its operation.

(b) Before a person may place a road, surface parking lot, or utility line in a restricted pipeline area, the person must deliver to the director a certification by a registered engineer stating that the proposed construction activity and structure are designed to prevent disturbing the pipeline or impeding its operation.

## **8-252 OIL AND GAS PIPELINES – Risk Reduction and Consultation**

(1) “Development Permit”, for purposes of this consultation zone requirement, means any permit for activity that involves construction, grade modification, excavation, blasting, land clearing, or the deposit of earth, rocks or other materials that places an additional load upon the soil. Construction that involves work totally within an existing building footprint, such as

residential remodeling projects, are specifically exempted from these consultation zone requirements.

(2) Consultation Zone Distance. The consultation requirement applies to development permits involving any parcel that is within 660 feet of the centerline of a transmission pipeline easement. The 660 foot consultation zone distance may be lessened for certain development activities if the distance changes are first reviewed with the pipeline operator(s) and found to be consistent with prudent pipeline operation given the local conditions, such as terrain, soil types, etc. There must be written documentation from the pipeline operator(s) showing their agreement to any lessening of the consultation zone distance for certain types of development permits. The intent of this section is to provide flexibility and to avoid unnecessary paperwork and delays in the permitting process while also making sure that all activities that may impact the integrity of a transmission pipeline are thoroughly reviewed.

(3) Consultation Zone Notification. Whenever any individual applies for a development permit within the consultation zone established for transmission pipelines, the staff at the permit counter shall notify the individual that they are within the consultation zone, explain the relevant application procedures, and provide contact information for the applicable pipeline operator(s). This same procedure shall be followed whenever an individual inquires about development regulations or zoning restrictions for property within the consultation zone.

(4) Complete Application for Development Permit within Consultation Zone. A complete application for any development permit within the designated consultation zone must include written verification from the applicant that:

- a) The applicant has contacted the pipeline operator(s) and has provided the pipeline operator(s) with documentation detailing the proposed development activity and where the activity is to take place; and
- b) The pipeline operator(s) has reviewed the documents for compatibility with continued safe operation of the transmission pipeline(s).
- c) The written verification required by this section can be in any form acceptable to the city [county], including electronic communications, so long as it is clear that the pipeline operator(s) has received and reviewed documentation showing the proposed activity and its location.

(5) Checklist. A checklist, provided by the City and submitted by an applicant for a development permit involving any parcel that is within 660 feet of the centerline of a transmission pipeline easement must reference the transmission pipeline(s) and provide information concerning any impact the activity will have upon the integrity of the transmission pipeline(s).

### **8-253 OIL AND GAS PIPELINES - City Permit Required.**

(1) Pipelines shall adhere to all standards outlined in subsection (a) above. Prior to the transport of gas, oil, liquids or hydrocarbons, the operator shall provide to the city certification from a professional engineer registered with the State of Texas that the design and installation of the pipelines meet all state and federal requirements.

(5) The pipeline operator shall backfill all trenches and compact such trenches to 95% standard density proctor in eight-inch lifts and construct the Pipeline so as to maintain a minimum depth of ten feet below the finished grade except in public rights-of-way, where minimum cover to the top of the pipe shall be at the discretion of the city based on existing or planned utilities, but at no time less than thirteen feet from top of pipe to the surface. During the backfill of any pipeline excavations in open cut sections, the pipeline operator shall bury “buried pipeline” warning tape one foot above any such pipeline to warn future excavators of the presence of a buried pipeline. The city may also require that a proposed or existing pipeline be relocated should it conflict with the proposed alignment and depth of a gravity dependent utility.

(6) The pipeline operator shall equip all portions of the pipeline within the city limits with an automated pressure monitoring system that detects leaks and shuts off any line or any section of line that develops a leak. In lieu of such system, the pipeline operator may have 24- hour pressure monitoring of the pipeline system which provides monitoring of the pipeline within the city limits.

(7) Review by the City for all proposed pipelines through private residential areas shall be required prior to the issuance of a permit for the commencement of pipeline construction.

(8) All known oil and gas pipelines, including hazardous pipelines and pipeline easements must be indicated on a plat.

(9) A pipeline permit application shall be required as follows:

a. Applications for pipeline or other activities regulated by this Section 8-251 shall be submitted to the city in a form prescribed by the city.

b. Plans submitted with each application for a pipeline permit shall be in a format approved by the city showing the dimensions and locations of the pipeline and related items or facilities, as well as all proposed lift stations, pumps or other service structures related to such pipeline and the location, type and size of all existing utilities, drainage, Right-of-way and roadway improvements. The plans must additionally show the elevation and location of all known public utilities within 15 feet of the centerline of the proposed pipeline. Any application that fails to meet these requirements will be returned as incomplete to the applicant.

c. The following information shall be provided in the application:

1. The name, business addresses and telephone numbers of the pipeline operator;
2. The names, titles and telephone numbers of the following:
  - i. The person signing the application on behalf of the pipeline operator;
  - ii. The person designated as the principal contact for the submittal; and
  - iii. The person designated as the 24 hour emergency contact.
3. The origin point and the destination of the proposed subject pipeline;
4. A text description of the general location of the proposed subject pipeline;
5. A description of the substance to be transported through the proposed subject pipeline;
6. A copy of the substance material safety data sheet (MSDS);
7. Engineering plans, drawings and/or maps with summarized specifications showing the horizontal location, covering depths and location of shutoff valves of the proposed subject pipeline. To the extent that information can be obtained, drawings shall show the location of other pipelines and utilities that will be crossed or paralleled within 15 feet of the proposed subject pipeline right-of-way;
8. A description of the consideration given to matters of public safety and the avoidance, as far as practicable, of existing habitable structures and private residential areas;

9. Detailed cross section drawings for all public street right-of-way and easement crossings;
10. The proposed method or methods to be used for the installation of the pipeline;
11. Methods to be used to prevent both internal and external corrosion;
12. A binder or certificates of all bonds and insurance; and
13. A proposed alignment strip map showing name and address of all affected property owners.

#### **8-254 OIL AND GAS PIPELINES - Noise**

(1) The pipeline operator shall submit a noise management plan detailing how the equipment used in the drilling, completion, transportation or production of a well complies with the maximum permissible noise levels of this section. The noise management plan must:

- a. Identify operation noise impacts;
- b. Provide documentation establishing the ambient noise level prior to construction of any wellhead, compressor or compression facility; and
- c. 1. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
  - i. Nature and proximity of adjacent development, location and type;
  - ii. Seasonal and prevailing weather patterns, including wind directions;
  - iii. Vegetative cover on or adjacent to the site; and
  - iv. Topography.
2. The operator shall be responsible for verifying compliance with this section and the noise management plan after the installation of the noise generation equipment.

(2) No well shall be drilled, re-drilled or any equipment operated at any location within the city in such a manner so as to create any noise which causes the exterior noise level when measured at the protected use receiver's/receptor's property line or from the closest exterior point of the protected use structure or inside the protected use structure if access to the property is granted by the receiver/receptor, that:

- a. Exceeds the ambient noise level by more than five decibels during daytime hours and more than three decibels during nighttime hours;
- b. Exceeds the ambient noise level by more than ten decibels over the daytime average ambient noise level during fracturing operations during daytime hours. No fracturing shall be allowed during nighttime hours except for flowback operations related to fracturing as provided in subsection (b)(2)c. below;
- c. Exceeds the ambient noise level by more than three decibels during flowback operations during nighttime hours;
- d. Creates pure tones where one-third octave band sound-pressure level in the band with the tone exceeds the arithmetic average of the sound-pressure levels of two contiguous one-third octave bands by five dBC for center frequencies of 500 Hertz and above, and by eight dBC for center frequencies between 160 and 400 Hertz, and by 15 dBC for center frequencies less than or equal to 125 Hertz; or
- e. Creates low-frequency outdoor noise levels that exceed the following dBC levels:

16 Hz octave band	65 dBC
31.5 Hz octave band	65 dBC

64 Hz octave band	65 dBC
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(3) The operator shall be responsible for establishing and reporting to the city a continuous 72 hour pre-drilling ambient noise level prior to the issuance of a gas well permit. The 72-hour time span shall include at least one 24-hour reading during either a Saturday or Sunday. The operator shall use the prior established ambient noise level for the installation of any new noise generation equipment unless the operator can demonstrate that the increase in the ambient noise level is not associated with drilling and production activities located either on or off-site.

(4) Adjustments to the noise standards as set forth above in subsection (b)(1)a., (b)(1)b. and (b)(1)c. of this section may be permitted intermittently in accordance with the following:

Permitted Increase (dBA)	Duration of Increase (minutes)*
10	5
15	1
20	Less than 1
* Cumulative minutes during any one hour	

(5) All workover operations shall be restricted to daytime hours.

(6) The exterior noise level generated by the drilling, redrilling or other operations of all gas wells located within 600 feet of a protected use shall be continuously monitored, to ensure compliance. The cost of such monitoring shall be borne by the operator. If a complaint is received by the city, the city shall forward to the pipeline operator who shall, within 24 hours of notice of the complaint, continuously monitor for a 72-hour period the exterior noise level generated by the drilling, redrilling or other operations to ensure compliance. At the request of the city, the operator shall monitor the exterior noise level at the source of the complaint.

(7) Acoustical blankets, sound walls, mufflers or other alternative methods as approved may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and a copy .

(8) The sound level meter used in conducting noise evaluations shall meet the American National Standard Institute's Standard for sound meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

(9) A citation may be immediately issued for failure to comply with the provisions of this section. However, if the operator is in compliance with the approved noise management plan, and a violation still occurs, the operator will be given 24 hours from notice of noncompliance to correct the violation from an identified source before a citation is issued. Additional extensions of the 24-hour period may be granted in the event that the source of the violation cannot be identified after reasonable diligence by the operator.

## **8-255 OIL AND GAS PIPELINES – Emergency Response Plans and Emergency Incident Reporting.**

(1) Each pipeline operator shall maintain written procedures to minimize the hazards resulting from an emergency. These procedures shall at a minimum provide for the following:

a. Prompt and effective response to emergencies, including but not limited to the

following:

1. Leaks or releases that can impact public health safety or welfare;
  2. Fire or explosions at or in the vicinity of a pipeline or pipeline easement;
  3. Natural disaster;
  4. Effective means to notify and communicate required and pertinent information to local fire, police and public officials during an emergency;
  5. The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency;
  6. Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment;
  7. Emergency shut down and pressure reduction of a pipeline;
  8. The safe restoration of service following an emergency or incident; and
  9. A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.
- (2) Upon discovery of a pipeline emergency or incident, any affected pipeline operator shall as soon as practical communicate to the city's 911 system the following information:
- a. A general description of the emergency or incident;
  - b. The location of the emergency or incident;
  - c. The name and telephone number of the person reporting the emergency or incident;
  - d. The name of the pipeline operator;
  - e. Whether or not any hazardous material is involved and identification of the hazardous material so involved; and
  - f. Any other information as requested by the emergency dispatcher or other such official at the time of reporting the emergency or incident.

## **8-256 OIL AND GAS PIPELINES – Pipeline Repairs and Maintenance**

(1) All repairs and maintenance of pipelines are to be performed in accordance with U.S. Department of Transportation and Railroad Commission of Texas mechanical integrity requirements.

(2) If non-emergency repairs necessitate excavation of a pipeline, the pipeline operator shall send notification to occupants of business establishments and residential dwellings located adjacent to the pipeline to be excavated at least five days prior to commencing such repairs.

(3) If above-ground non-emergency repairs that are not routine maintenance are required, the pipeline operator shall send notification to occupants of businesses and residential dwellings located within 500 feet from the centerline of the pipeline section to be repaired at least five days prior to commencing such repairs.

(4) The notice required herein shall be sent by United States regular mail, postage prepaid mailed at least five (5) business days prior to commencing any non-emergency repair; provided, however, that the pipeline operator may use hand delivery notice as an alternative, at the pipeline operator's discretion.

(5) Inspection of the interior of all regulated pipelines shall comply with United States Department of Transportation and Railroad Commission of Texas rules.

(6) A pipeline operator shall keep protected and painted all pipeline risers and all appurtenances related to pipeline construction and operations which are composed of materials which are generally protected or painted. Such operator shall repaint all such items at sufficiently

frequent intervals to maintain same in good condition. It shall be a violation of this article for any pipeline operator to permit any pipeline riser and/or appurtenances related to pipeline construction and operations to be in a state of disrepair or to have chipped, peeling or unpainted portions.

#### **8-257 OIL AND GAS PIPELINES – No Implied Grant of Use.**

Nothing in this subsection grants permission for the use of any street, public rights-of-way, utility easements or city-owned property. In the event a pipeline operator wishes to undertake any pipeline construction on, over, under, along or across any public rights-of-way, utility easements or other city-owned property, the pipeline operator shall apply for and execute a written agreement with the city governing the terms and conditions for such use; obtain all required permits and comply with any other applicable provisions of the city code.

#### **8-258 OIL AND GAS PIPELINES – No Assumption of Responsibility by City; Responsibility.**

(1) Nothing in these provisions shall be construed as an assumption by the city of any responsibility of a pipeline operator of a pipeline not owned by the city.

(2) It is the joint and several responsibility of the owner and the pipeline operator of any and all pipeline to maintain the markers in accordance with this article. The location of all new or replacement pipe and pipelines shall be marked by the owner(s) thereof or by the person installing or operating such pipelines as follows:

(a) Marker signs shall be placed at all locations where pipe or pipelines cross property boundary lines and at each side of a public street or road right-of-way which the pipe or pipeline crosses.

(b) The top of all marker signs shall be a minimum of four feet above ground level, and the support post must be sufficient to support the marker sign and shall be painted yellow or such other color as may be approved by the director of transportation and public works or his or her designee.

(c) All marker signs shall be a minimum of 12 inches square and shall be marked as “gas pipe line.”

(d) All marker signs shall contain the name of the owner and operator of the pipeline and a 24-hour local contact number.

(e) Pipelines shall be marked along their entire length with a buried metal wire and metallic flag tape.

(f) All signs shall also contain an 811 designation “Call Before You Dig” statement.

(g) The pipeline operator shall annually replace signage that has been lost, damaged or removed.

(h) All signs described herein are exempt from Chapter 29, Sign Standards and Permits.

#### **8-259 OIL AND GAS PIPELINES – Public Awareness Information.**

Annually, all pipeline operators will provide affected landowners, public official and emergency providers with appropriate public awareness information as outlined in API 1162.

#### **8-260 OIL AND GAS PIPELINES – Insurance and Bonds.**

(1) Each person must carry public liability insurance with a carrier rated “A” or better by A.M. Best in a minimum amount of \$1,000,000.00 for one person and \$5,000,000.00 for one accident and property damage insurance in the amount of \$10,000,000.00 for one accident, which shall remain in full force and effect and be carried so long as the pipeline is operated.

(2) Each pipeline operator shall provide and maintain in full force and effect during the term of its regulated pipeline permit insurance with the following minimum limits:

(a) Worker’s compensation at statutory limits.

(b) Employer’s liability insurance with the following minimum limits for bodily injury by:

(i) accident, \$1,000,000 per each accident; and

(ii) disease, \$1,000,000 per employee with a per-policy aggregate of \$1,000,000.

(c) Commercial general liability coverage, including blanket contractual liability, products and completed operations, personal injury, bodily injury, broad form property damage, operations hazard, pollution, explosion, collapse and underground hazards for \$2,000,000 per occurrence and aggregate policy limit of \$2,000,000.

(d) Automobile liability insurance (for automobiles used by the pipeline operator in the course of its performance under the pipeline permit, including employer’s non-ownership and hired auto coverage) for \$2,000,000 combined single limit per occurrence.

(e) Umbrella liability insurance following the form of the primary liability coverage described in Subsections (a) and (b) and providing coverage with minimum combined bodily injury (including death) and property damage limit of \$25,000,000 per occurrence and \$25,000,000 annual aggregate. Increased primary liability limits equivalent to the umbrella liability insurance limits specified will satisfy the umbrella liability insurance requirements.

(3) Performance bond or irrevocable letter of credit.

(a) Before issuance of a regulated pipeline permit, the pipeline operator shall submit to the gas inspector a performance bond or irrevocable letter of credit approved as to form by the city attorney in the amount of \$100,000.

(b) The performance bond is effective upon the issuance of the regulated pipeline permit and must remain in full force and effect until all work under the terms of the regulated pipeline permit has been completed.

(c) The performance bond may be amended to include other permitted regulated pipelines.

## **8-261 OIL AND GAS PIPELINES – Violations.**

(1) A person is criminally responsible for a violation of this article if the person:

(a) refuses the inspector access to an operation site or a regulated pipeline;

(b) fails to comply with an inspector’s orders; or

(c) fails to comply with any provision of this article.

(2) A person who knowingly violates any provision of this article is guilty of a separate offense for each day or portion of a day during which the violation is continued. Each offense is punishable by a fine of \$2,000. This fine shall be doubled for the second conviction of the same offense within any 24-month period and trebled for the third and subsequent convictions of the same offense within any 24-month period.



# CITY OF KYLE, TEXAS

## Budget Amendment #2: Funding for Live Music at Pie in the Sky Festival

Meeting Date: 5/21/2019

Date time: 7:00 PM

**Subject/Recommendation:** *(First Reading)* Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2018-2019 by increasing the total appropriations for expenditures in the General Fund by \$45,000.00, increasing the amount of transfer-in from the Hotel Occupancy Fund by \$45,000.00, and decreasing the fund balance in the Hotel Occupancy Fund by \$45,000.00 in order to provide funding for live music/bands at the 2019 Kyle Pie in the Sky Festival. ~ *Perwez A. Moheet, CPA, Director of Finance*

**Other Information:** On May 7, 2019, after the discussion and update on Kyle Pie in the Sky Festival (agenda item #7), City Council directed staff to bring back a budget amendment in the amount of \$45,000.00 from the fund balance of the Hotel Occupancy Tax Fund for their consideration in order to provide funding for live music/bands at the 2019 Kyle Pie in the Sky Festival.

The following documents are attached to provide complete information regarding this City Council meeting agenda item:

1. Ordinance for Budget Amendment #2
2. City Council agenda item #7 from May 7, 2019 Council meeting
3. Staff Presentation to Council on May 7, 2019

### Legal Notes:

### Budget Information:

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### ATTACHMENTS:

#### Description

- ☐ Ordinance - Budget Amendment #2
- ☐ Council Meeting Agenda Item #7 5-7-2019
- ☐ Staff Presentation to Council 5-7-2019

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING ORDINANCE NO. 1013 ADOPTED ON SEPTEMBER 4, 2018, MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019, BY INCREASING THE TOTAL APPROPRIATIONS FOR EXPENDITURES IN THE GENERAL FUND BY \$45,000.00, INCREASING THE AMOUNT OF TRANSFER-IN TO THE GENERAL FUND FROM THE HOTEL OCCUPANCY TAX FUND BY \$45,000.00 AND DECREASING THE FUND BALANCE IN THE HOTEL OCCUPANCY TAX FUND BY \$45,000.00; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLIC NOTICE PURSUANT TO THE TEXAS OPEN MEETINGS ACT; ESTABLISHING AN EFFECTIVE DATE; AND MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO.

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

**Section 1. Amendment to Approved Budget.** That the appropriations for the Fiscal Year beginning October 1, 2018 and ending September 30, 2019, for the support of the general government of the City of Kyle, Texas, is hereby amended for said term by increasing the amount of appropriations for expenditures in the General Fund by \$45,000.00, increasing the amount of transfer-in to the General Fund from the Hotel Occupancy Tax Fund by \$45,000.00 and decreasing the Fund Balance in the Hotel Occupancy Tax Fund by \$45,000.00 to provide funding for the following expenditure item:

- (A) \$45,000.00 to provide funding for live music/bands at the 2019 Kyle Pie in the Sky Festival scheduled in September 2019.

**Section 2. Approval of Amendment.** This amendment is hereby approved in all aspects and adopted as an amendment to the City budget for the Fiscal Year beginning October 1, 2018 and ending September 30, 2019.

**Section 3. Conflict.** Any and all ordinances, and parts thereof, that are in conflict herewith are hereby repealed to the extent of the conflict only.

**Section 4. Severability.** If any section, subsection, sentence, clause, phrase or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

**Section 5. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Local Government Code.

**Section 6. Effective Date.** This Ordinance shall be in full force and take effect from and after the date of its final passage and publication as required by law.

**PASSED AND APPROVED** on First Reading this \_\_\_\_ day of May 2019.

**FINALLY PASSED AND ADOPTED** on this \_\_\_\_ day of June 2019.

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Travis Mitchell, Mayor

**ATTEST:**

\_\_\_\_\_  
Jennifer Vetrano, City Secretary



## CITY OF KYLE, TEXAS

### Kyle Pie in the Sky

Meeting Date: 5/7/2019  
Date time:6:00 PM

**Subject/Recommendation:** Discussion and update on Kyle Pie in the Sky. ~ *Sarah Watson, Special Events*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

No Attachments Available

# Kyle Pie in the Sky 2019 Update



# 2018 Recap Video



# Kyle Pie in the Sky

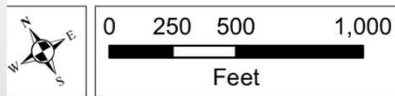
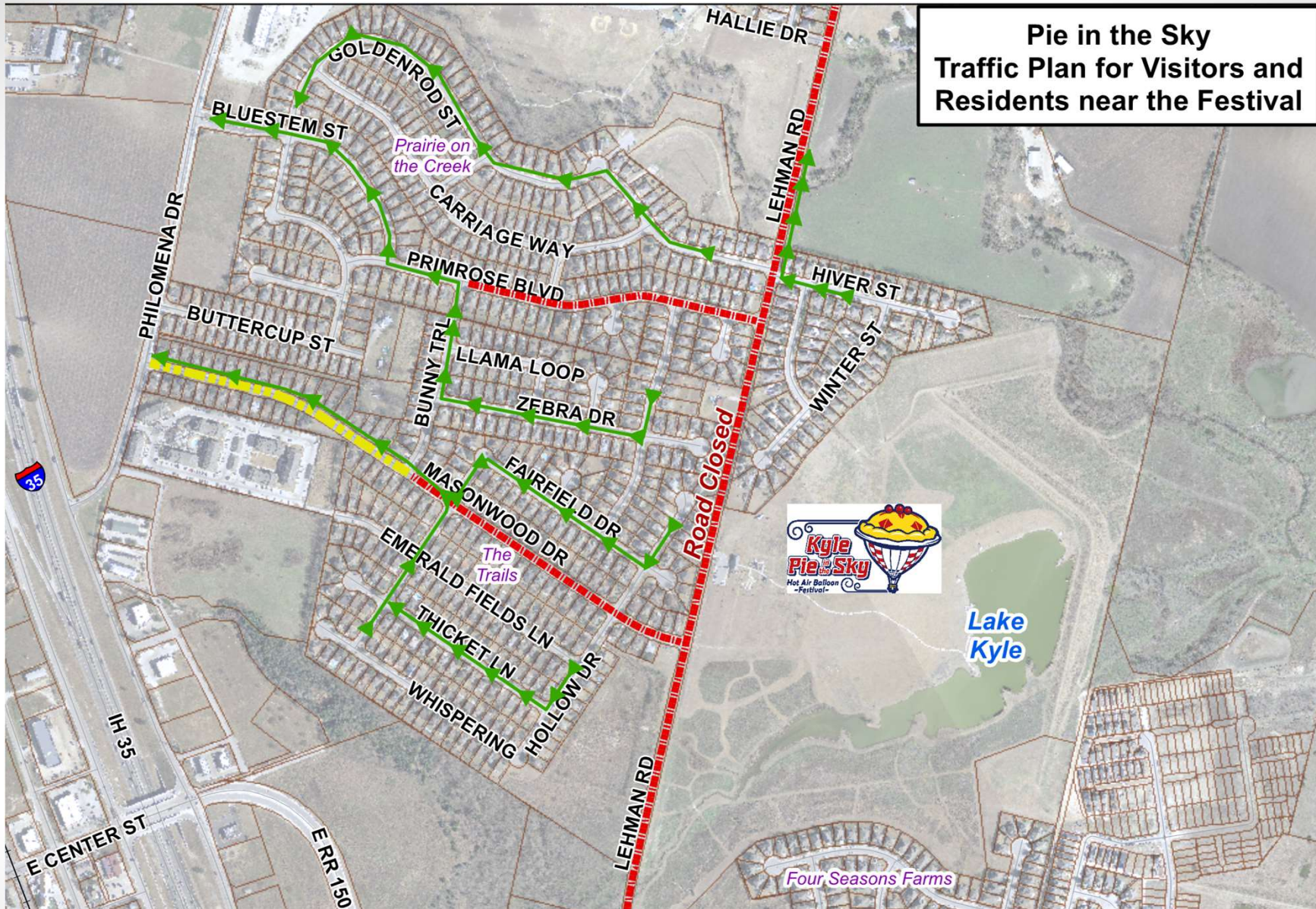
- 22,000 Attendees
- 25 Hot Air Balloons
- 40 Vendors
- Live Music
- Pie Café and Pie Mall
- Pie Eating Competitions
- Pie Baking Competitions
- Tethered Rides
- Kite Performances and Fireworks!



# Traffic and Road Plan Update



# **Pie in the Sky Traffic Plan for Visitors and Residents near the Festival**

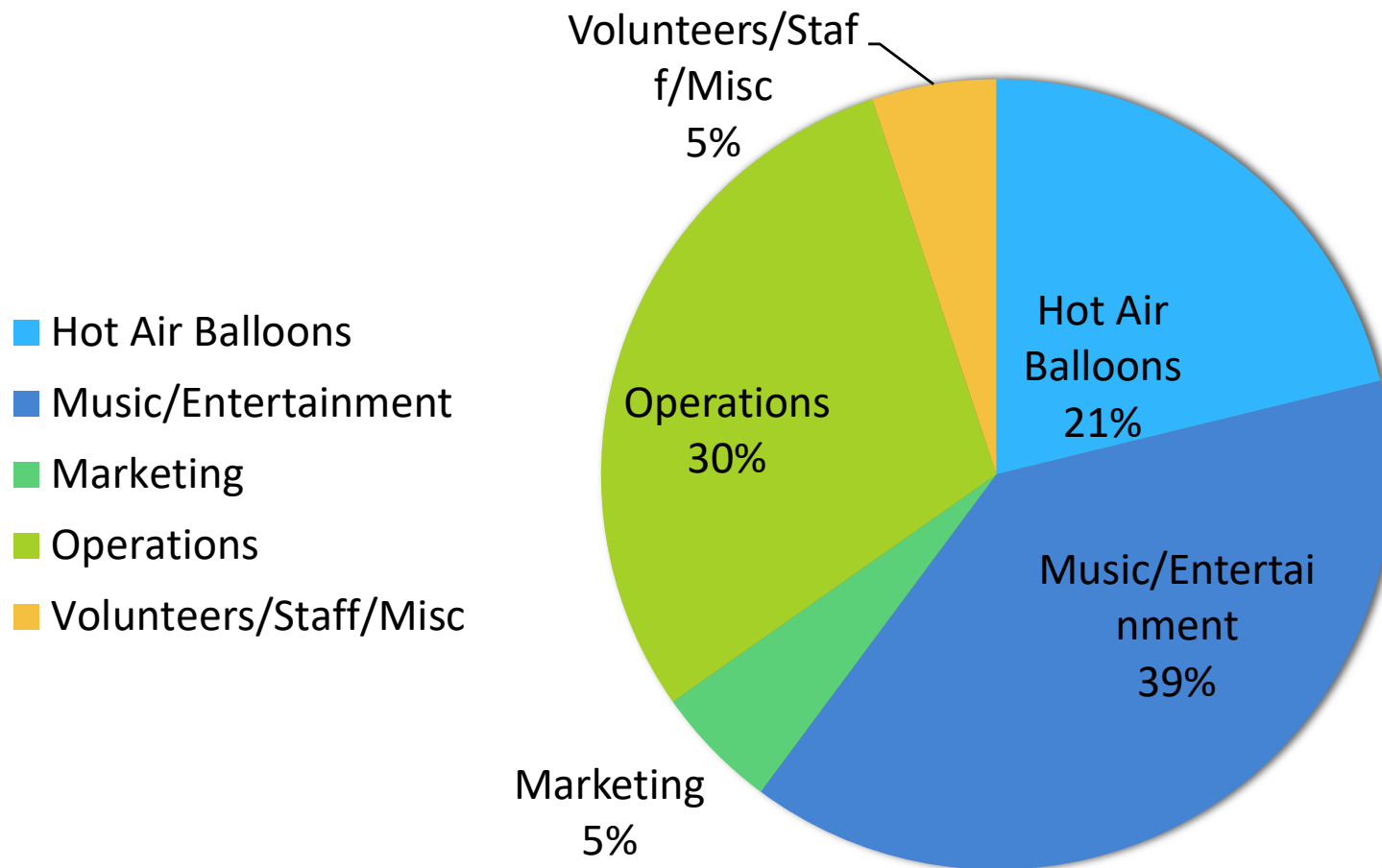


 Road Closed  
 No Parking

**Residents of The Trails and Prairie on the Creek  
will exit to Philomena Drive. Traffic From Hiver St  
must go north on Lehman Rd.** 

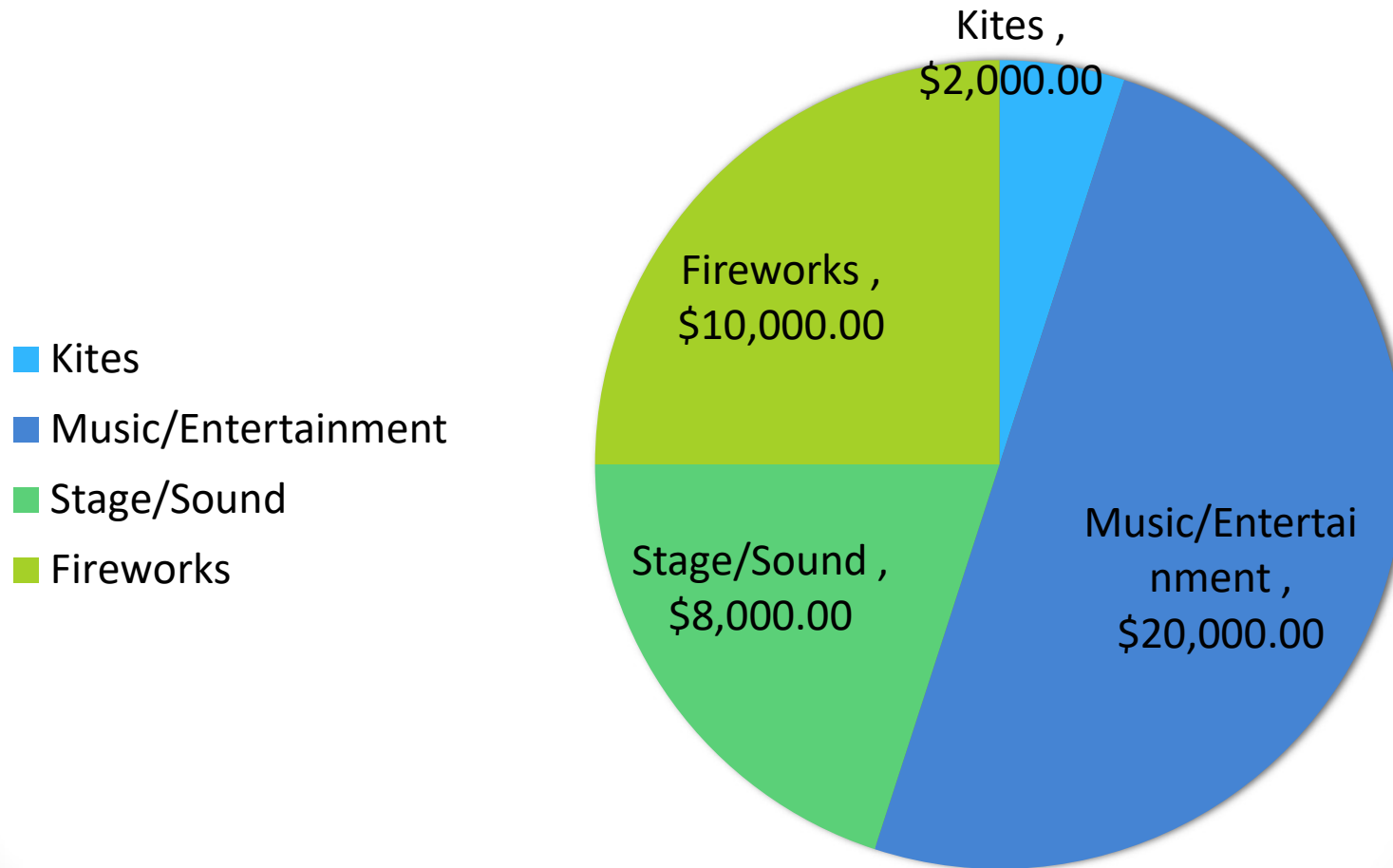
# Kyle Pie in the Sky – Expense

## FY 2018-2019



# Kyle Pie in the Sky

Budget Addition Request \$40,000



# Thank you





# CITY OF KYLE, TEXAS

Hector Villalpando and Patricia  
Marquez - Zoning (Z-19-0039)

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of rezoning approximately 0.1417 acres of land from Heavy Industrial 'HI' to Neighborhood Commercial 'NC' for property located at 405 S. Old Highway 81, in Hays County, Texas. (Hector Villalpando and Patricia Marquez - Z-19-0039) ~  
*Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 in favor of the rezoning request.*

- Public Hearing

**Other Information:** Please see attachments.

**Legal Notes:** N/A

**Budget Information:** N/A

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## ATTACHMENTS:

### **Description**

- ☐ Patricia Marquez-Hector Villalpando (Z-19-0039)\_hjk\_edits
- ☐ Ordinance with Exhibit's
- ☐ Application with Letter of Request
- ☐ Location Map

Property Location	405 S. Old Hwy 81, Kyle, TX 78640
Owner	Hector M. Villalpando & Patricia Marquez 11139 Pinehurst Dr. Austin, TX 78747
Request	Rezone 0.1417-acres from HI to NC

### Vicinity Map



## Site Description

The site is located 134 feet south of the intersection of S. Old Highway 81 and South Street. The parcel is developed as a single-family residence and is currently zoned HI (Heavy Industrial). It is bordered to the west by S. Old Highway 81 and land zoned R/S (Retail Services, Rising Phoenix Martial Arts) and A (Agriculture, single-family residence) across the highway. Northwest of the property is a parking lot used for The Railhouse and has a zoning of R/S. To the north, is a parcel owned by a church zoned HI, at the southeast intersection of S. Old Highway 81 and South Street. Further north is Pisces Seafood & Mexican Grill (zoned R/S) and a single-family residence behind it on the adjoining lot (zoned R/S). To the east and south is a parcel zoned R/S and utilized by ME Automotive Repair. Further south is Los Gomez Tire Shop zoned C/M (Construction/Manufacturing).

The applicant seeks to rezone the property from HI (Heavy Industrial) to NC (Neighborhood Commercial).



## Heavy Industrial District (HS)

Ord. No. 92, Sec. 5.11.a & 5.11.b

Sec. 5.11.a "Purpose: This district is designed to provide land areas for manufacturing and industrial activities whose generation of nuisance characteristics is ordinarily greater than those industries permitted in the LI and PI districts. The HI District regulations are designed to attract and encourage such industries, subject to minimum regulations necessary for the mutual protection of the permitted uses and the public."

Sec. 5.11.b "Permitted Uses:

- Aircraft Landing Strip, sales, service, rental and repair
- Broadcasting Towers for Radio and TV
- Concrete Products Manufacturing
- Food Processing Plants
- Lumber and Building Material Sales and Storage
- Machine Shops
- Salvage or Junk Yards, Pipe, Sheet Metal, Automobiles, Lumber, etc. (when visually screened on front, rear and all sides with a solid six (6) foot high fence).
- Storage Tanks, Liquid Petroleum, Gas and Explosives
- Tire Shop, Vulcanizing and Retreading
- Warehousing"

### **Neighborhood Commercial District (NC)**

#### Sec. 53-661 - Purpose

The neighborhood commercial district [NC] is to provide for various types of small scale, limited impact commercial, retail, personal services, and office uses located in close proximity to their primary customers. The uses of the neighborhood commercial district shall be designed in a way so as to be operated completely compatible to and harmonious with the character of surrounding residential areas.

(Ord. No. 700, § 2(Exh. A), 7-17-2012)

#### Sec. 53-665- Use

The neighborhood commercial zoning district shall allow professional offices and small businesses serving neighborhood community needs. The following uses shall be permitted:

- Second floor multi-family shall be permitted by right regardless of base zoning;
- Bed and breakfast up to five rooms;
- Retail;
- Restaurant w/o drive-thru;
- Religious assembly;
- Art gallery;
- Dance studios;
- Child care center (outdoor playground allowed);
- Fire/police station;
- Professional office;
- Barber/beauty shop;
- Convenience/grocery store w/o fuel sales;
- Nursing/retirement homes;
- Veterinarian - without outdoor boarding;
- Health and fitness center;
- Financial institution w/o drive-thru banking.

(Ord. No. 700, § 2(Exh. A), 7-17-2012)

## **Conditions of the Zoning Ordinance**

Sec. 53-1205 Amendments

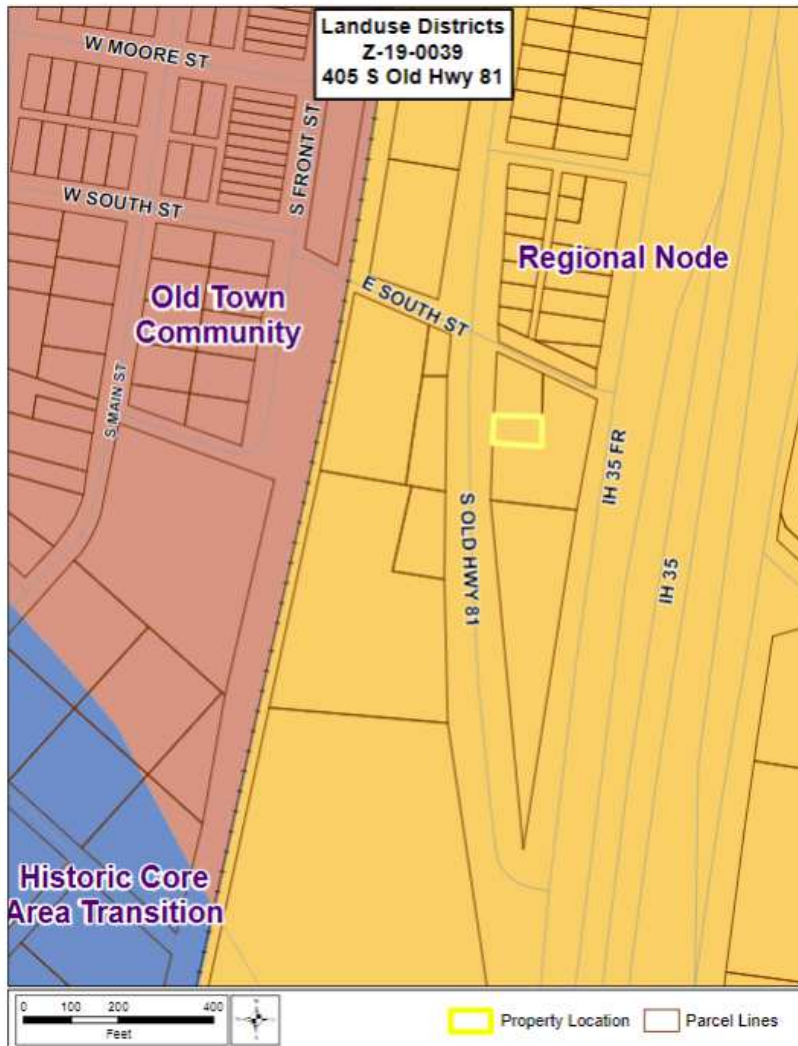
(d)

*Referral of amendment to planning and zoning commission.* Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning commission for consideration, public hearing, and recommendation to the city council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.

(e)

*Action by the planning and zoning commission.* The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public

notice and hold a public hearing as provided by state law, and shall recommend to the council such action as the planning and zoning commission deems proper...



### Comprehensive Plan Text

The subject site is in the “Regional Node”. The Neighborhood Commercial zoning designation is a recommended use within the “Regional Node”.

## **Regional Node**

### **‘CHARACTER’**

Regional Nodes should have regional scale retail and commercial activity complemented by regional scale residential uses. These Nodes should represent the character and identity of Kyle, and signal these traits to the surrounding community. Regional Nodes have a radius of approximately 1/3 of a mile so that they are walkable, but are able to contain a greater range of uses at a larger scale than those found in Local Nodes. Appropriate uses may include grocery stores, retail shopping centers, multi-family housing, and municipal services, such as libraries and recreation centers. Regional Nodes are scaled and designed as activity centers where users not only secure goods and services, but also congregate and remain for extended periods, unlike Local Nodes which are designed around quick turnaround convenience retail. The Regional Nodes located along I-35 at the northern and southern boundaries of Kyle should be designed as entryways into Kyle with elements that are symbolic of Kyle and serve to attract I-35 travelers into Kyle. Transitions between Regional Nodes and surrounding districts must be carefully constructed to avoid abrupt shifts in land uses. Trails and sidewalks should be present throughout all Regional Nodes and should connect to surrounding neighborhoods.

### **‘INTENT’**

The primary goal of the Regional Nodes is to capture commercial opportunities necessary to close Kyle’s tax gap. To achieve this goal, these Nodes should draw upon anticipated regional growth and aggregate density to enhance value and activity levels in a concentrated and visible location. Regional Nodes should provide a mixture of uses that complements regional commercial activity, as well as encourage high density residential development. These Nodes should respond to other regional areas of growth, specifically along I-35 and FM 1626, and to growth toward Hwy 21, SH 45 and SH 130. The anchor of each Regional Node should be regional commercial uses, and Regional Nodes should have a high level of development intensity.

## **Analysis**

The property is sited in an area of Old Highway 81 that is primarily commercial in nature. The uses are often operated in homes adaptively reused for commercial purposes, those being a mix of highway commercial and light industrial uses, co-mingled with other commercial uses. Some residences still exists, but they are the minority use in the surrounding area. At some point following Ord. No. 92 in 1978, the entire block east of Old Highway 81 and south of South Street was zoned for HI (Heavy Industrial) zoning. Los Gomez Tire Shop was rezoned from HI to C/M via Ord. No. 876 on October 19, 2015 and ME Automotive was rezoned from HI to R/S in Ord. No. 627 on July 5, 2010.

The HI zoning district (generally) was established through Ord. No. 92 and with the replacement zoning ordinance of No. 438, the HI district was dissolved. This means property that currently has the HI district assigned to it can potentially operate uses spelled out in the ordinance, but a property can no longer be rezoned to HI. In 1997, the existing single-family residence was built and presumably occupied as a home. At this time, it is believed that the HI zoning was in place. It is important to note from the allowable use chart, that a residential use is not permitted in the HI zoning district. Since this time the residential use of the property was dis-established as a legal nonconformity, as the property has been vacant for some time.

The applicant requests the property to be rezoned to NC (Neighborhood Commercial) from HI. Initial discussions with staff, relating to use of the property, discovered that the HI zoning ordinance does not allow cumulative uses (unlike the City's more up to date code). The property is nearly unusable due to the HI zoning in place. Additionally, the R/S zoning district was considered as well. However, due to site constraints relating to parking ratios, lot dimensions and building setbacks, the NC zoning district is found to be more compatible.

Relating to the comprehensive plan, the parcel is located in the Regional Node. The NC zoning district is not only allowed but recommended as well. The Regional Node calls for a mix of retail and service related uses, mostly geared toward larger scale development. That being said, small scale commercial services can be incorporated as well. As this is a redevelopment property, the City of Kyle should support this request, as it complies with the comprehensive plan. With the new zoning in place, the operators will have to plat the property and receive an approved site plan (with improvements in place) for the site, prior to operating any new business.

## **Recommendation**

At the Tuesday, May 14, 2019, Planning & Zoning Commission meeting, the Commission voted 6-0 to recommend approving the zoning change. Staff asks the City Council to vote to recommend changing the zoning district from HI (Heavy Industrial) to NC (Neighborhood Commercial).

---

## **Attachments**

- Application
- Location Map
- Zoning Map
- Comprehensive Plan Map

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 0.1417 ACRES OF LAND FROM HEAVY INDUSTRIAL 'HI' TO NEIGHBORHOOD COMMERCIAL FOR PROPERTY LOCATED AT 405 S. OLD HIGHWAY 81, IN HAYS COUNTY, TEXAS. (HECTOR VILLALPANDO AND PATRICIA MARQUEZ – Z-19-0039); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to rezone approximately 0.1417 acres of land from Heavy Industrial 'HI' to Neighborhood Commercial 'NC' located at 405 S. Old Highway 81, as shown on the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Travis Mitchell, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Vetrano, City Secretary

EXHIBIT A - 1

METES & BOUNDS DESCRIPTION FOR 0.1417 ACRES OF LAND

A tract of land containing 0.1417 acres out of and part of the Z. Hinton Survey No. 12, Abstract No. 20, in Hays County, Texas, and being that same tract, called 0.14 acres, as conveyed in March of 1991 by a Special Warranty Deed from Robert C. Barton Jr. to Frank Hernandez as recorded and described in Volume 872, Page 223, of the Official Public Records of Hays County, and being more particularly described by metes and bounds as follows:

COMMENCING at  $\frac{1}{2}$ " iron rod found at the intersection of the east right-of-way of U. S. Highway No. 81 with the original State Highway No. 150 right-of-way for the northwest corner of the Jurado, Guerrero, Mata & Ortiz Trustee's Tract as described in Volume 847, Page 403, of the Official Public Records of Hays County;

THENCE leaving the original State Highway No. 150 right-of-way and following the U. S. Highway No. 81 east right-of-way with a curve to the left, a radius of 5,679.85 feet, a chord bearing of S  $00^{\circ} 10' 56''$  W and a chord distance of 107.00 feet to a  $\frac{3}{4}$ " iron pipe found for the southwest corner of the said Trustee's Tract; the northwest corner of the herein described tract and for the POINT OF BEGINNING;

THENCE N  $89^{\circ} 10' 00''$  E (bearing basis used herein), leaving the U. S. Highway No. 81 right-of-way, a distance of 101.59 feet to a  $\frac{1}{4}$ " iron pipe found in a west property line of the R & R Industrial Lift Services Tract as described in Volume 1965, Page 181, of the Official Public Records of Hays County, for the southeast corner of the said Trustee's Tract and the northeast corner of this tract;

THENCE S  $00^{\circ} 58' 00''$  E, a distance of 63.18 feet to a  $\frac{1}{4}$ " iron pipe found for the southeast corner of this tract and for an interior ell corner of the said R. & R Tract;

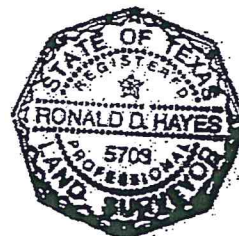
THENCE N  $87^{\circ} 59' 30''$  W, a distance of 101.95 feet to a  $\frac{1}{4}$ " iron pipe found in the east right-of-way of U. S. Highway No. 81 for the southwest corner of this tract and a northwest corner of the said R & R Tract, from which for reference, the remains of a concrete monument found for the southwest corner of the said R & R Tract bears S  $01^{\circ} 34' 15''$  E, a distance of 118.44 feet;

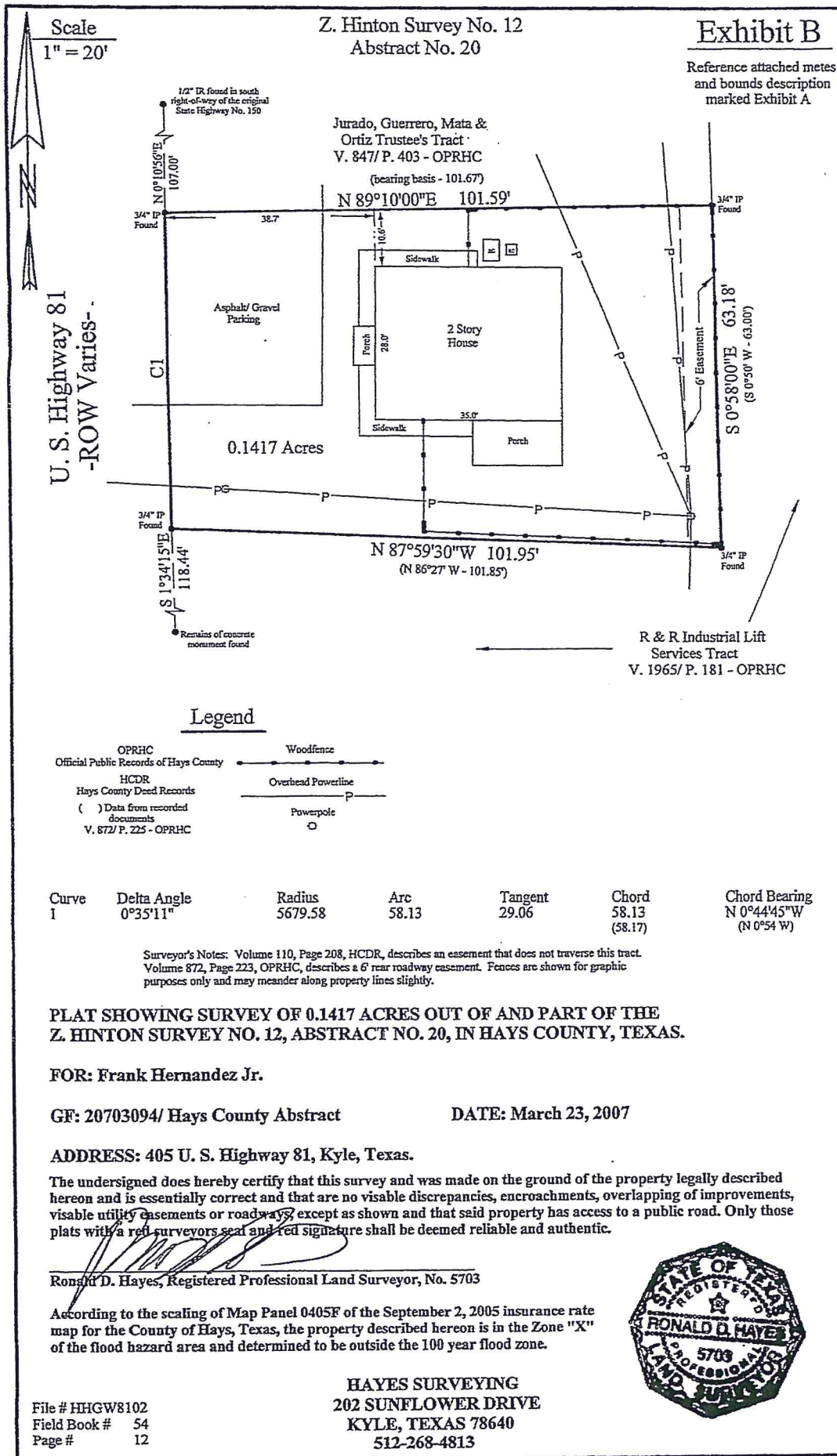
THENCE following the U. S. Highway No. 81 right-of-way along a curve to the right with a radius of 5,679.85 feet, a chord bearing of N  $00^{\circ} 44' 45''$  W and a distance of 58.13 feet to the POINT OF BEGINNING, containing 0.1417 acres.

This is to certify that this description of land represents an actual survey made on the ground under my supervision in March of 2007. Only those documents with a red surveyor's signature and an accompanying red surveyor's seal shall be deemed reliable and authentic.

Reference the attached sketch marked EXHIBIT A, File # HGHW8102.

Ronald D. Hayes, Registered Professional Land Surveyor, No. 5703





# Exhibit B

Z-19-0039

405 S Old Hwy 81

0.142 Acres



## APPLICATION & CHECKLIST – ZONING CHANGE

Zoning: Patricia Márquez – Hector Villalpando  
(Name of Owner)

(Submittal Date)

### INSTRUCTIONS:

- Fill out the following application and checklist completely prior to submission.
- Place a check mark on each line when you have complied with that item.
- Use the most current application from the City's website at [www.cityofkyle.com](http://www.cityofkyle.com) or at City Hall. City ordinances can be obtained from the City of Kyle.

### REQUIRED ITEMS FOR SUBMITTAL PACKAGE:

The following items are required to be submitted to the Planning Department in order for the Zoning Application to be accepted.

- ☐ 1. Completed application form with owner's original signature.
- ☒ 2. Letter explaining the reason for the request.
- ☐ 3. Application Fee: \$428.06, plus \$3.62 per acre or portion thereof.

Newspaper Publication Fee: \$190.21 Sign Notice Fee: \$127.00

Total Fee: \$745.78 Cash

- ☒ 4. A map or plat showing the area being proposed for rezoning.
- ☒ 5. A clear and legible copy of field notes (metes and bounds) describing the tract (when not a subdivided lot).
- ☒ 6. Certified Tax certificates: County      School      City
- ☒ 7. Copy of Deed showing current ownership.

RECEIVED  
APR 09 2019

BY: [Signature]

\*\*\* A submittal meeting is required. Please contact Debbie Guerra at (512) 262-3959 to schedule an appointment.

### 1. Zoning Request:

Current Zoning Classification: H-1A

Proposed Zoning Classification: NC

Proposed Use of the Property: Hair Salon

Acreage/Sq. Ft. of Zoning Change: 0.1417

2. **Address and Legal Description:**

**Provide certified field notes describing the property being proposed for rezoning.**

**Provide complete information on the location of the property being proposed for rezoning.**

Street Address: 405 S Old Hwy 81 Kyle TX 78640

Subdivision Name/Lot & Block Nos.: \_\_\_\_\_

Property Recording Information: ☐ Hays County  
Volume/Cabinet No. \_\_\_\_\_

Page/Slide No. \_\_\_\_\_

3. **Ownership Information:**

Name of Property Owner(s): Hector M Villalpando  
Patricia Marquez

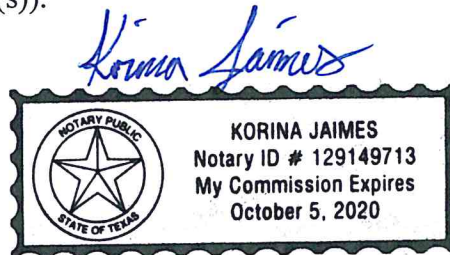
**Certified Public Notary:**

This document was acknowledged before me on the 8th day of April, 2019, by  
Hector M. Villalpando (Owner(s)).

Patricia Marquez Reyna

Notary Public State of Texas

(Seal)



(If property ownership is in the name of a partnership, corporation, joint venture, trust or other entity, please list the official name of the entity and the name of the managing partner.)

Address of Owner: 11139 Pinehurst Dr Austin TX 78747

Phone Number: (512) 848-7109

Fax Number: \_\_\_\_\_

Email Number: \_\_\_\_\_

I hereby request that my property, as described above, be considered for rezoning:

Signed: SSwartz Patricia Marquez

Date: \_\_\_\_\_

**4. Agent Information:**

If an agent is representing the owner of the property, please complete the following information:

Agent's Name: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

Agent's Phone Number: \_\_\_\_\_

Agent's Fax Number: \_\_\_\_\_

Agent's Mobile Number: \_\_\_\_\_

Agent's Email Number: \_\_\_\_\_

I hereby authorize the person named above to act as my agent in processing this application before the Planning and Zoning Commission and City Council of the City of Kyle:

Owner's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Do Not Write Below This Line  
Staff Will Complete*

Tax Certificates:      ☐ County      ☐ School      ☐ City

Certified List of Property Owners Within 200'      ☐

All Fees Paid:      ☐ Filing/Application      ☐ Mail Out Costs

Attached Map of Subject Property      ☐

Accepted for Processing By: Debbie A. Guerra      Date: 4/9/19

Date of Public Notification in Newspaper: 4/24/19

Date of Public Hearing Before Planning and Zoning Commission: 5/14/19

Date of Public Hearing Before City Council: 5/21/19

To who it may concern

The reason why we are requesting  
a rezoning my property on 405 S old Hwy 81  
Kyle, TX 78640 is because we want to  
rent it as a commercial property for example  
office, hair salon, etc. Thanks

Hector Villalpando

**Project Location**  
**Z-19-0039**  
**405 S Old Hwy 81**

400  
S OLD HWY 81

402  
S OLD HWY 81

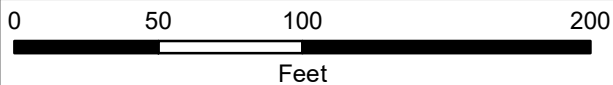
405  
S OLD HWY 81

407  
S OLD HWY 81

S OLD HWY 81

E SOUTH ST

IH 35 FR



Property Location



Parcel Lines

Item #3



# CITY OF KYLE, TEXAS

Genevieve Vaughn - Zoning (Z-19-0040)

Meeting Date: 5/21/2019

Date time: 7:00 PM

**Subject/Recommendation:** *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 1.02 acres of land from Agriculture 'AG' and Single Family Residential 'R-1' to Single Family Residential-3 'R-1-3' for property located at 701 Scott Street, in Hays County, Texas. (Genevieve Vaughn - Z-19-0040) ~ Howard J. Koontz, Director of Planning and Community Development

*Planning and Zoning Commission voted 6-0 in favor of the rezoning request.*

- Public Hearing

**Other Information:** Please see attachments.

**Legal Notes:** N/A

**Budget Information:** N/A

---

## ATTACHMENTS:

### Description

- ☐ Genevieve Vaughn (Z-19-0040)\_hjk\_edits
- ☐ Ordinance with Exhibit's
- ☐ Application with Letter of request
- ☐ Location Map

<b>Property Location</b>	<b>701 Scott Street, Kyle, Texas</b>
<b>Owner</b>	<b>Genevieve Vaughn PO Box 2285 Austin, TX 78768-2285</b>
<b>Agent</b>	<b>Daniel Oliphant 109 Algarita St. San Marcos, TX 78666</b>  <b>Anna Estrada 8806 Texas Oaks Austin, TX 78748</b>
<b>Request</b>	<b>Rezone 1.02 Acres Agriculture (A) &amp; R-1 (Single -family Residential) to Single Family Residential (R-1-3)</b>

---

### Vicinity Map



## **Site Description**

The parcel is sited three hundred and seventy (370) feet southwest of the intersection of Scott Street and Glenrio Pass (across from KB Home's Stagecoach Crossing neighborhood). It currently has a Montessori school on site, located in what was built as a single-family residence. The Montessori School of Kyle currently has two different zoning districts on the parcel. A majority of the site is zoned A (Agriculture) from when it was annexed on April 18, 2016. The remainder of the site is the R-1 zoning district, zoned on July 4, 1978 (Ord. No. 92).

To the north of the property across Scott Street is the Stagecoach Forest neighborhood zoned R-1-3 (Ord. No. 934, March 7, 2017). East of the parcel is a vacant tract zoned R-1 (Single-Family Residential Detached). South of 701 Scott Street is the Four Oaks neighborhood with a handful of single-family residential homes zoned Agriculture & R-1. To the west is the Winfield Inn tract, zoned for R/S (Retail/Services).

The applicant is requesting a zoning change to R-1-3, a residential zoning district that "...allows detached single-family residences with a minimum of 1,000 square feet of living area and permitted accessory structures on a minimum lot size of 5,540 square feet. There shall be no more than 5.5 houses per buildable acre."



## Conditions of the Zoning Ordinance

### Sec. 53-1205 Amendments

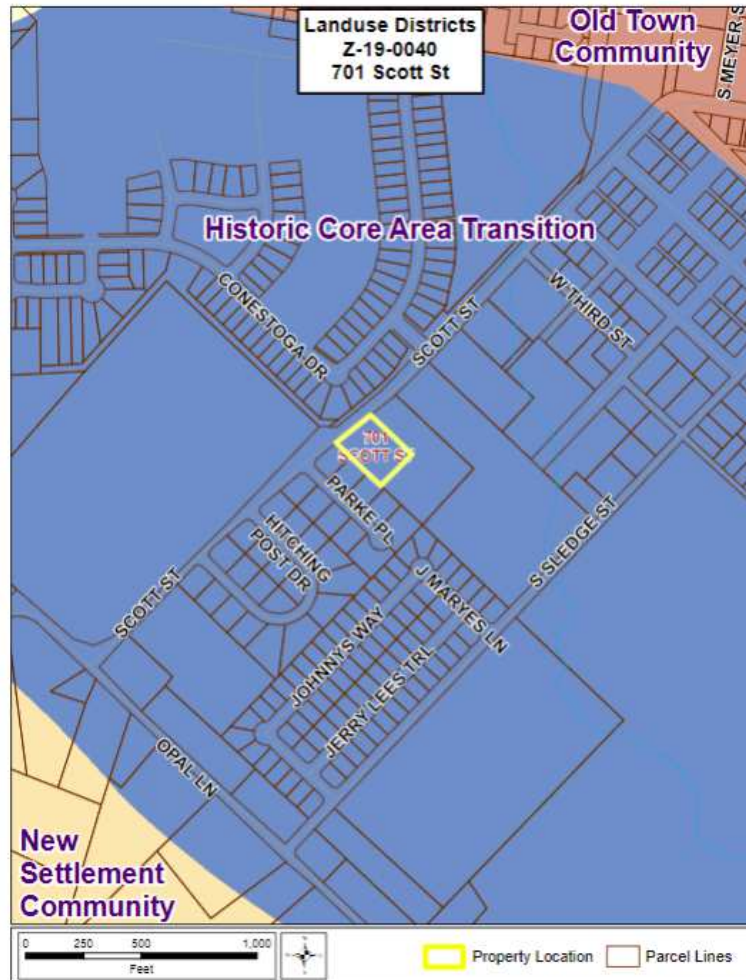
(d)

*Referral of amendment to planning and zoning commission.* Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning commission for consideration, public hearing, and recommendation to the city council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.

(e)

*Action by the planning and zoning commission.* The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public

notice and hold a public hearing as provided by state law, and shall recommend to the council such action as the planning and zoning commission deems proper...



## Comprehensive Plan Text

The subject site is located in the “Historic Core Area Transition” land use district. The R-1-3 zoning district is a recommended zoning district within the “Historic Core Area Transition” land use district.

### Historic Core Area Transition Land Use District

Recommended: R-1-1, R-1-2, **R-1-3**, R-1-A

Conditional: A, R-2, R-3-1, R-1-T, UE, NC, E, R/S, MXD

### Character:

The Historic Core Area Transition serves as a transition between the regular gridded development pattern that characterizes Downtown and the more rural patterns to the south and west, as well as newer development to the north. Significant features of this District include the intersection of Old Stagecoach Road and Center Street, the Gregg Clarke Park, Wallace Middle School, and the emerging commercial corridor along Rebel Road north from Center Street. This District is a “middle landscape” of historic residential forms that transition to more rural residential forms. The District should embody the historic character of existing uses while anticipating appropriate expansion of Old Town. Development in the Historic Core Area Transition District has historically been on a small, lot-by-lot basis, rather than on a larger, project-by-project basis. Because of this, the street serves as the organizing feature of the District. Therefore, as new development extends into the District from the Old Town District, care should be taken to ensure that the historic street pattern is preserved, as called for in ‘Kyle Connected’, the city’s Transportation Master Plan.

### Intent:

The purpose of the Historic Core Area Transition District is to accommodate the growth of residential and neighborhood commercial uses around the Old Town District, while preserving the historic rural fabric. The core of Kyle should be allowed to expand into this area as population growth increases in order to strengthen the core of the City. Land use transitions are critical in this District, as are architectural style transitions from traditional Rural Town Center/Old Town Block to curvilinear, rural residential, ensuring the shift from township to rural landscape should be maintained. This can be accomplished by transition in the built form and function from commercial uses to residential uses and finally to rural agricultural residential uses and by establishing transitions in density, decreasing outwardly from the Old Town District. Public spaces in this District should be used to preserve the character of ranch heritage, where appropriate.

## **Analysis**

The property is sited across the street from the Stagecoach Crossing neighborhood on Scott Street (370 feet southwest of Glenrio Pass). The site was originally developed as a single-family residence, but is currently operated as the Montessori School of Kyle. For

reasons unknown, the school was not required to incorporate City development regulations prior to opening the school to the public. It is important to note that a Montessori type school falls within the confines of a “public school” and would be allowed in most zoning districts (unless stated otherwise).

Within the last year, representatives from the Montessori School of Kyle approached staff to apply for a building permit for an additional detached structure. The foundation for the structure was formed and poured without a permit from the City, and the current contractor approached staff to initiate steps to bring it into legal conformance. The foundation is close enough to the corner of the lot, that the R-1-3 zoning district best fits the setback requirements. The Agriculture zoning district is too restrictive and if the school wants to make future improvements, the R-1-3 district provides more regulatory oversight than the R-1 district. Additionally, the R-1 district runs diagonally through the property and the rezoning will provide for 1 (one) zoning district, simplifying review.

Zoning	Front Setback	Side Setback	Corner Lot Side at Alley	Street Side Yard Setback	Rear Setback	Min. Lot S.F.	Min. Lot Street Width	Height Limit
R-1-3	20'	5'	10'	5'	10'	5,540	50'	35'
R-1	25'	7.5'	15'	15'	15'	5,000	50'	35'
A	40'	25'	40'	25'	25'	43,500	150'	45'

R-1-3 is a recommended zoning district in the Historic Core Area Transition District and is the closest match to the existing R-1 zoning districts in the immediate vicinity. Its minimum lot size is larger than the R-1 zoning district’s by five hundred and forty (540) square feet. Rezoning 701 Scott Street is the first step towards a code compliant (legally conforming) site. Additional steps required will be platting, site plan approval and submittal of building plans to the City; all of which are administrative functions.

## Recommendation

Staff supports the rezoning of the property from A (Agriculture) & R-1 (Single-Family Residential) to R-1-3 (Single Family Residential). At the Tuesday, May 14, 2019 Planning & Zoning Commission meeting, the Commission voted 6-0 to recommend approval of

the zoning change. Staff asks the City Council to vote favorably for the approval of the zoning change.

---

## **Attachments**

- Application
- Location map
- Surrounding Zoning Map
- Land Use Districts Map

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 1.02 ACRES OF LAND FROM AGRICULTURE 'AG' AND SINGLE FAMILY RESIDENTIAL 'R-1' TO SINGLE FAMILY RESIDENTIAL-3 'R-1-3' FOR PROPERTY LOCATED AT 701 SCOTT STREET, IN HAYS COUNTY, TEXAS. (GENEVIEVE VAUGHN – Z-19-0040); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to rezone approximately 1.02 acres of land from Agriculture 'AG' and Single Family Residential 'R-1' to Single Family Residential-3 'R-1-3' located at 701 Scott Street, as shown on the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Travis Mitchell, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Vetrano, City Secretary

EXHIBIT "A"

DESCRIPTION OF 1.23 ACRES, MORE OR LESS, OF LAND AREA IN THE Z. HINTON SURVEY, ABSTRACT NO. 220, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 8 ACRES IN A DEED FROM J.D. SCOTT ET UX TO KURT H. LENGEFELD AND ESTHER A. LENGEFELD DATED MAY 7, 1946 AND RECORDED IN VOLUME 134, PAGE 632 OF THE HAYS COUNTY DEED RECORDS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a  $\frac{1}{4}$ " iron rod set at fence corner in the southwest line of the Lengefeld 8 acre tract and northeast line of Lot 3 of Four Oaks Subdivision as recorded in Volume 1, Page 91 of the Hays County Plat Records for the south corner of this description and exterior southwest corner of that tract described as 2.54 acres in a deed from CCCO, Inc. to Ernest Kimbro dated April 11, 1997 and recorded in Volume 1311, Page 864 of the Hays County Official Public Records (said Kimbro 2.54 acre tract being a portion of the Lengefeld 8 acre tract), from which beginning point a  $\frac{1}{4}$ " iron rod found for the east corner of Lot 3 and north corner of Lot 4 of Four Oaks Subdivision bears S 45° 35' 00" E 14.76 feet;

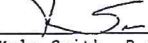
THENCE leaving the Kimbro 2.54 acre tract and the PLACE OF BEGINNING as shown on that plat numbered 25187-02-c dated January 23, 2002 as prepared for Genevieve Vaughan by Byrn & Associates, Inc. of San Marcos, Texas, with the common southwest line of the Lengefeld 8 acre tract and northeast line of Four Oaks Subdivision, N 45° 35' 00" W (this being the Bearing Basis for this description) 277.16 feet to a calculated point in the paved portion of Scott Street, a roadway used by the public with no record right-of-way dedication found, apparently being a portion of the Lengefeld 8 acre tract, for the west corner of the Lengefeld 8 acre tract and this description, pass at 85.15 feet a  $\frac{1}{4}$ " iron rod found for the north corner of Lot 3 and east corner of Lot 2, pass at 185.12 feet a  $\frac{1}{4}$ " iron rod found for the north corner of Lot 2 and east corner of Lot 1 and pass at 272.39 feet a  $\frac{1}{4}$ " iron rod set for the north corner of Lot 1 of Four Oaks Subdivision;

THENCE with the northwest line of the Lengefeld 8 acre tract, N 44° 36' 14" E 193.88 feet to a calculated point northwest of the paved portion of Scott Street for the north corner of this description;

THENCE crossing the paved portion of Scott Street and partially with the west line of the Kimbro 2.54 acre tract, being generally along a wire fence, the following two courses:

1. S 45° 31' 58" E 274.84 feet to a  $\frac{1}{4}$ " iron rod set near an 8" treated fence corner post found for the east corner of this description and interior west corner of the Kimbro 2.54 acre tract, pass at 40.00 feet a  $\frac{1}{4}$ " iron rod set for reference, and
2. S 43° 55' 04" W 193.64 feet to the PLACE OF BEGINNING.

There are contained within these metes and bounds 1.23 acres, more or less, of land area as prepared from public records and a survey made on the ground on January 23, 2002 by Byrn & Associates, Inc. of San Marcos, Texas. All  $\frac{1}{4}$ " iron rods set are capped with a plastic cap stamped "Byrn Survey".

  
Kyle Smith, R.P.L.S. #5307

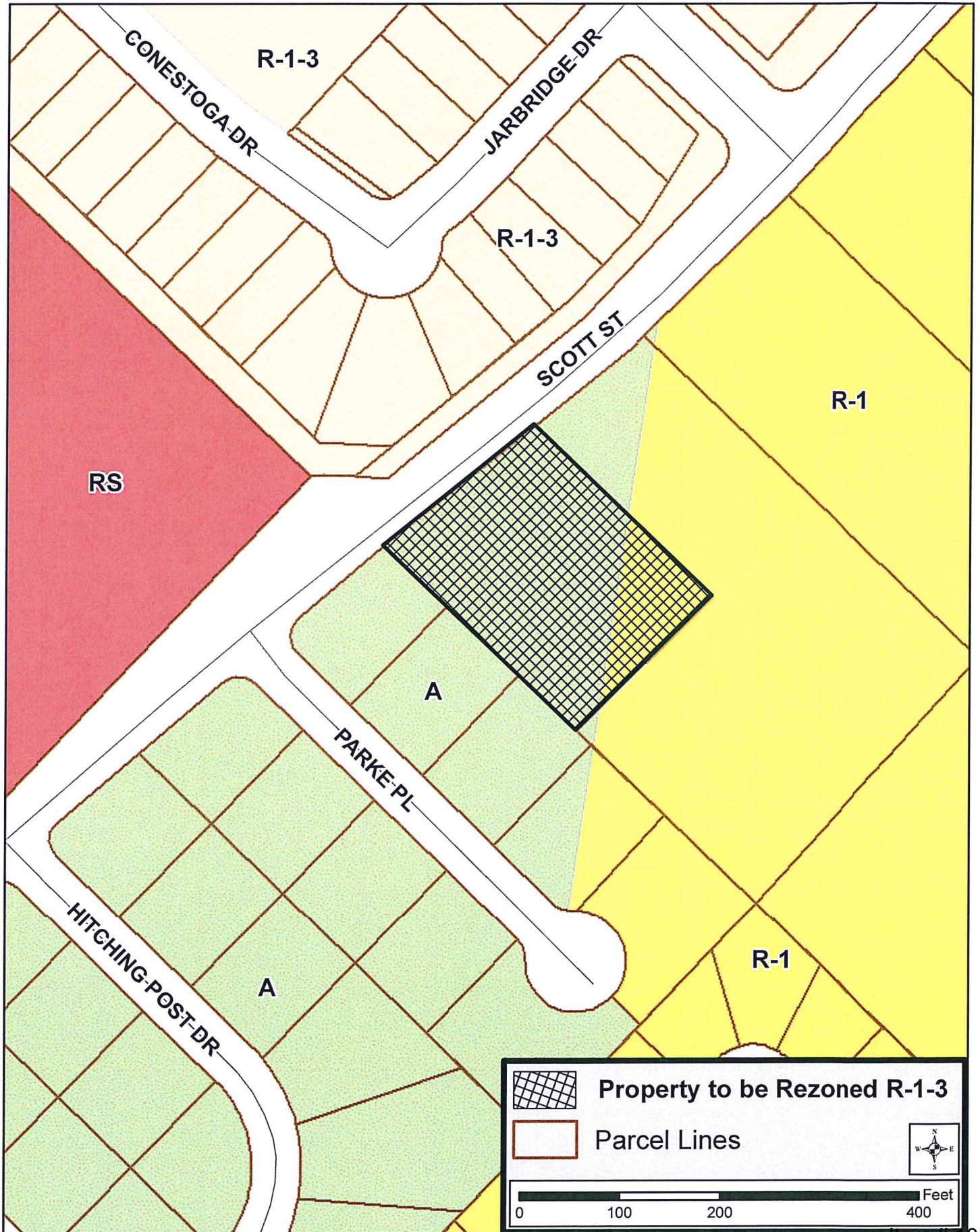
CLIENT: Vaughan, G.  
DATE: January 23, 2002  
SURVEY: Hinton, Z. A-220  
COUNTY: Hays, Texas  
JOB NO.: 25187-02  
FND1.23

# Exhibit B

Z-19-0040

701 Scott St

1.02 Acres



## APPLICATION & CHECKLIST – ZONING CHANGE

**Zoning:** Genevieve Vaughn 11/09/18  
(Name of Owner) (Submittal Date)

### INSTRUCTIONS:

- Fill out the following application and checklist completely prior to submission.
- Place a check mark on each line when you have complied with that item.
- Use the most current application from the City's website at [www.cityofkyle.com](http://www.cityofkyle.com) or at City Hall. City ordinances can be obtained from the City of Kyle.

### REQUIRED ITEMS FOR SUBMITTAL PACKAGE:

The following items are required to be submitted to the Planning Department in order for the Zoning Application to be accepted.

- ☒ 1. Completed application form with owner's original signature.
- ☒ 2. Letter explaining the reason for the request.
- ☒ 3. **Application Fee:** \$428.06, plus \$3.62 per acre or portion thereof.  
**Newspaper Publication Fee:** \$190.21 **Sign Notice Fee:** \$127.00

RECEIVED  
APR 09 2019

BY: 

**Total Fee:** \$748.96

- ☒ 4. A map or plat showing the area being proposed for rezoning.
- ☒ 5. A clear and legible copy of field notes (metes and bounds) describing the tract (when not a subdivided lot).
- ☒ 6. Certified Tax certificates: County      School      City
- ☒ 7. Copy of Deed showing current ownership.

\*\*\* A submittal meeting is required. Please contact Debbie Guerra at (512) 262-3959 to schedule an appointment.

### 1. Zoning Request:

Current Zoning Classification: Agriculture / Residential (A/R1)

Proposed Zoning Classification: R-1-3

Proposed Use of the Property: Montessori School

Acreage/Sq. Ft. of Zoning Change: 1.02 Acres

**2. Address and Legal Description:**

**Provide certified field notes describing the property being proposed for rezoning.**  
**Provide complete information on the location of the property being proposed for rezoning.**

Street Address: 701 Scott St, Kyle, TX 78640

Subdivision Name/Lot & Block Nos: Vaughn Subdivision, Lot 1, Block A

Property Recording Information: ☒ Hays County

Volume/Cabinet No. Volume 1978

Page/Slide No. Pages 193-198

**3. Ownership Information:**

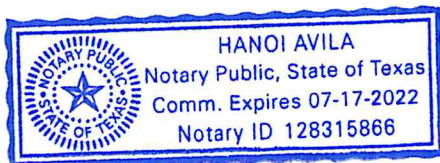
Name of Property Owner(s): Genevieve Vaughn

**Certified Public Notary:**

This document was acknowledged before me on the 5 day of November, 2018, by  
Genevieve Vaughn (Owner(s)).

[Signature]  
Notary Public State of Texas

(Seal)



(If property ownership is in the name of a partnership, corporation, joint venture, trust or other entity, please list the official name of the entity and the name of the managing partner.)

Address of Owner: PO Box 2285

Austin, TX 78768-2285

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email Number: \_\_\_\_\_

I hereby request that my property, as described above, be considered for rezoning:

**Signed:**

Genevieve Vaughn

**Date:**

11-5-18

**4. Agent Information:**

If an agent is representing the owner of the property, please complete the following information:

Agent's Name: Daniel Oliphant

Agent's Address: 109 Algarita St.  
San Marcos, TX 78666

Agent's Phone Number: 512.656.9662

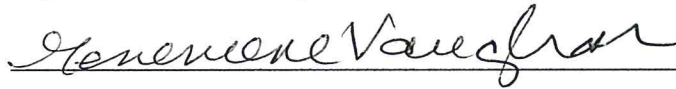
Agent's Fax Number: \_\_\_\_\_

Agent's Mobile Number: \_\_\_\_\_

Agent's Email Number: doliphant@gmail.com

I hereby authorize the person named above to act as my agent in processing this application before the Planning and Zoning Commission and City Council of the City of Kyle:

Owner's Signature:



Date: \_\_\_\_\_

**4. Agent Information:**

If an agent is representing the owner of the property, please complete the following information:

Agent's Name: Anna Estrada

Agent's Address: 8806 Texas Oaks  
Austin, TX 78748

Agent's Phone Number: 512.280.1608

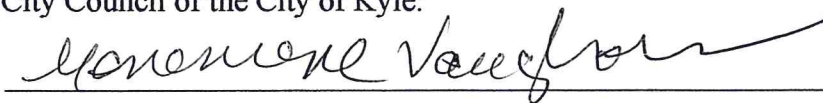
Agent's Fax Number: \_\_\_\_\_

Agent's Mobile Number: \_\_\_\_\_

Agent's Email Number: chiquieestrada@yahoo.com

I hereby authorize the person named above to act as my agent in processing this application before the Planning and Zoning Commission and City Council of the City of Kyle:

Owner's Signature:



Date: \_\_\_\_\_

*Do Not Write Below This Line  
Staff Will Complete*

Tax Certificates: ☐ County ☐ School ☐ City

Certified List of Property Owners Within 200' ☐

All Fees Paid: ☐ Filing/Application ☐ Mail Out Costs

Attached Map of Subject Property ☐

Accepted for Processing By Debbie A. Guerra Date: 4/9/19

Date of Public Notification in Newspaper: 4/24/19

Date of Public Hearing Before Planning and Zoning Commission: 5/14/19

Date of Public Hearing Before City Council: 5/21/19



Proper Residential  
Honesta Peto Group, LLC

April 9, 2019

City of Kyle  
Planning Department  
100 W. Center Street  
Kyle, TX 78640

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Letter of Intent: 701 Scott Street

To Whom It May Concern:

Honesta Peto Group, LLC is submitting this Letter of Intent on behalf of Genevieve Vaughn and Anna Estrada.

701 Scott Street (otherwise known as Lot 1, Block A, Vaughn Subdivision) is a 43,995 square foot lot and is located within the limits of the City of Kyle. The Montessori School of Kyle currently, and since 2002, uses the lot to operate a single school building, playground, driveway, and parking area. Our intent is to turn an existing slab on the property into a second school building to increase enrollment and better provide for our growing community.

The second school building will have a single classroom to enroll 19 additional children and hire 5 additional employees. They will continue to operate Monday through Friday from 7:15 a.m. to 6:00 p.m. This will require 11 total parking spaces. (8 for employees, 3 for parents picking up or visiting, and 1 ADA space under the carport.)

Daniel Oliphant of Proper Residential has been selected as general contractor, Bob Fredley of Design Concepts as architect, and Eric Ueber of MLAW will be consulted as needed for engineering.

If you have any questions about this project you can contact Daniel Oliphant of Honesta Peto Group, LLC at (512) 656-9662.

Sincerely,

Honesta Peto Group, LLC • 109 Algarita St, San Marcos, Texas 78666 • (512) 656-9662

**Project Location**  
**Z-19-0040**  
**701 Scott St**

Stagecoach  
Subdivision

SCOTT ST

701  
SCOTT ST

PARKE PL

HITCHING POST DR

JOHNNYS WAY

Bradford  
Meadows

J MARYES LN

S SLEDGE ST

0 125 250 500  
Feet



Property Location



Parcel Lines

Item # 10



# CITY OF KYLE, TEXAS

Robert and Karen Schlortt - Zoning  
(Z-19-0037)

Meeting Date: 5/21/2019

Date time: 7:00 PM

**Subject/Recommendation:** *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 10.636 acres of land from Agriculture 'AG' to Residential Condominium District 'R-1-C' and approximately 108.839 acres of land to Single Family Residential-3 'R-1-3', approximately 3.468 acres of land to Neighborhood Commercial 'NC' and approximately 4.513 to Community Commercial 'CC' for property located a 1/2 mile southeast of Lehman School at the intersection of Bunton Creek Road, and Goforth Road, in Hays County, Texas. (Robert and Karen Schlortt - Z-19-0037) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-2 in favor of the rezoning request.*

- Public Hearing

**Other Information:** Please see attachments.

**Legal Notes:** N/A

**Budget Information:** N/A

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## **ATTACHMENTS:**

### **Description**

- ☐ Robert & Karen Schlortt (Z-19-0037)\_hjk\_edits
- ☐ Ordinance with Exhibits
- ☐ Application and Letter of Request
- ☐ Zoning Exhibit
- ☐ Written Comments of Opposition
- ☐ Written Comments of Opposition, cont.
- ☐ Additional written comments of opposition
- ☐ Location Map
- ☐ PCCD Summary Letter
- ☐ PCCD Dam Site Plan

<b>Property Location</b>	<b>Northwest intersection of Bunton Creek &amp; Goforth Roads, Kyle, Texas 78640</b>
<b>Owner</b>	<b>Robert &amp; Karen Schlortt 188 Marquitos Drive Kyle, TX 78640</b>
<b>Agent</b>	<b>Aaron Neumann BGE Inc. 7330 San Pedro Ave, Ste 202 San Antonio, TX 78216</b>
<b>Request</b>	<b>Rezone 127.46-Acres A (Agriculture) to NC (Neighborhood Commercial), CC (Community Commercial), R-1-C (Residential Condominium) &amp; R-1-3 (Single-Family Residential)</b>

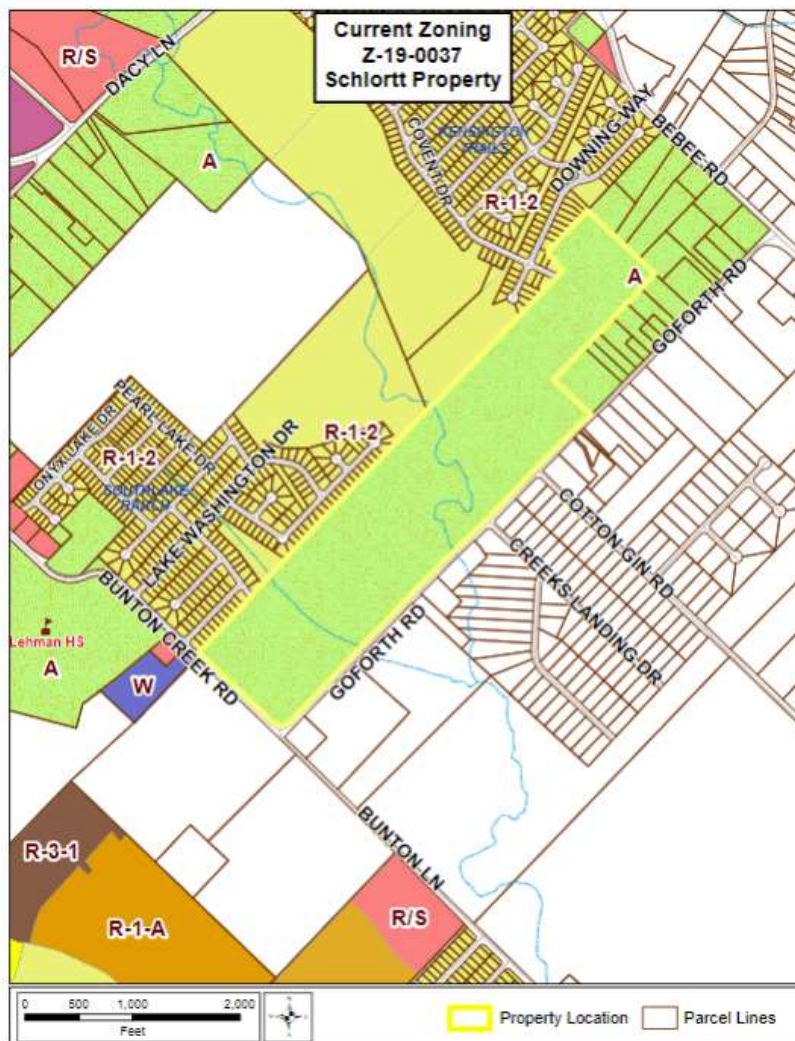
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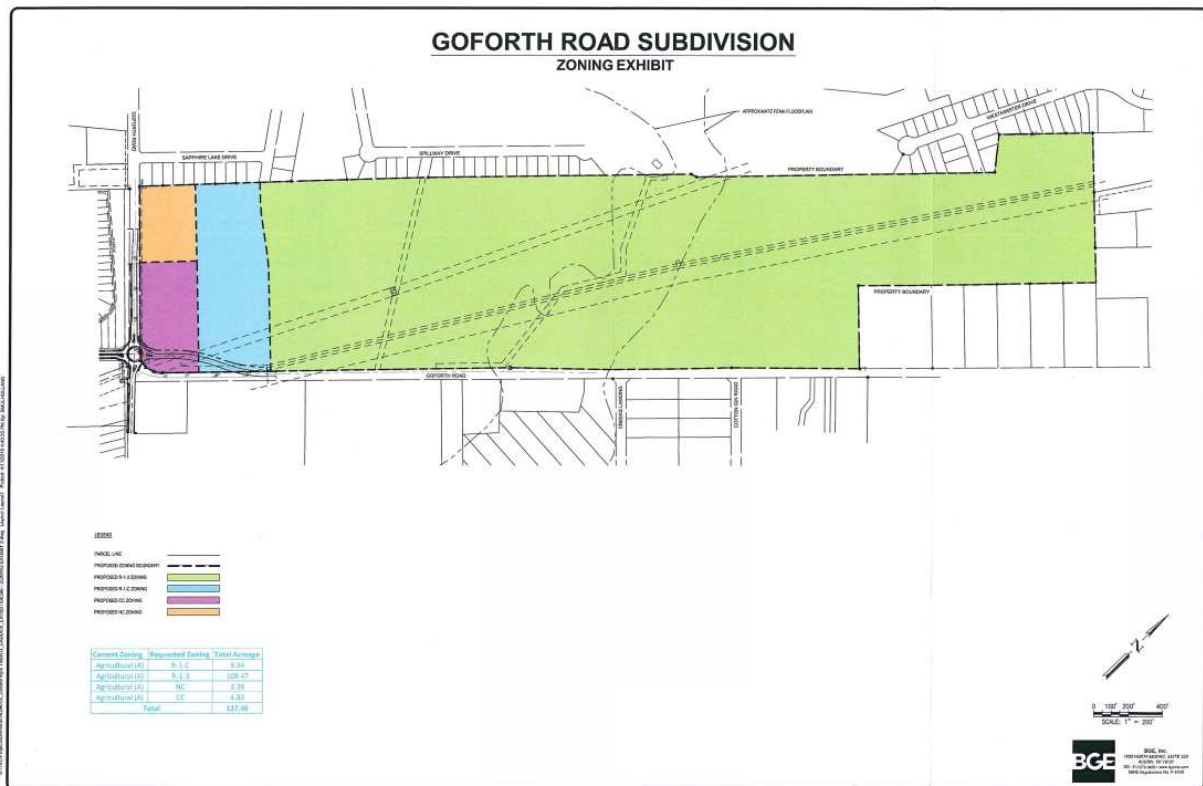
### **Vicinity Map**



## Site Description

The parcel commonly referred to as the “Schlortt Property”, consists of 127.46-acres currently zoned and used for agricultural purposes, with one homestead on site. The property was annexed into Kyle’s corporate limits as part of Ord. No. 898 on April 19, 2016. Adjacent and to the north of the parcel is the Southlake Ranch neighborhood (R-1-2 zoning), the Soil Conservation Service Site 5 Reservoir, and the Kensington Trails neighborhood (R-1-2 zoning). To the north lies low density residential and small-scale warehouse type uses (zoned “A”, Ord. No. 898). Much of the same development lies across Goforth Road to the east and southeast with a baseball complex to the south (near the PEC substation). To the southwest is currently vacant land (in the county), Lehman High School (zoned “A”), a self-storage facility (zoned “W”), and vacant land zoned R/S.





The applicant seeks to rezone the property from A (Agriculture) to the NC (Neighborhood Commercial), CC (Community Commercial), R-1-C (Residential Condominium), and R-1-3 (Single-Family Residential,) zoning categories allowing the following;

### **Neighborhood Commercial Zoning District**

#### **Sec. 53-661. – Purpose.**

The neighborhood commercial district [NC] is to provide for various types of small scale, limited impact commercial, retail, personal services, and office uses located in close proximity to their primary customers. The uses of the neighborhood commercial district shall be designed in a way so as to be operated completely compatible to and harmonious with the character of surrounding residential areas.

Front Setback (Min. Feet)	Side Setback (Min. Feet)	Side Setback to Residential District (Min. Feet)	Corner Lot Side Setback (Min. Feet)	Rear Setback (Min. Feet)	Lot Width (Min. Feet)	Max. Height
20'	5'	10'	15'	20'	50'	2 stories

### **Sec. 53-665. – Use.**

The neighborhood commercial zoning district shall allow professional offices and small businesses serving neighborhood community needs. The following uses shall be permitted:

- Second floor multi-family shall be permitted by right regardless of base zoning;
- Bed and breakfast up to five rooms;
- Retail;
- Restaurant w/o drive-thru;
- Religious assembly;
- Art gallery;
- Dance studios;
- Child care center (outdoor playground allowed);
- Fire/police station;
- Professional office;
- Barber/beauty shop;
- Convenience/grocery store w/o fuel sales;
- Nursing/retirement homes;
- Veterinarian - without outdoor boarding;
- Health and fitness center;
- Financial institution w/o drive-thru banking.

### **Community Commercial Zoning District**

### **Sec. 53-667. – Purpose.**

The purpose of the community commercial district [CC] is to provide for slightly more intense commercial uses than allowed in the neighborhood commercial zoning district. The district is established to provide areas for quality retail establishments and service facilities. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes.

Front Setback (Min. Feet)	Side Setback (Min. Feet)	Side Setback to Residential District (Min. Feet)	Corner Lot Side Setback (Min. Feet)	Rear Setback (Min. Feet)	Lot Width (Min. Feet)	Max. Height
25'	10'	15'	15'	25'	80'	3 stories

### **Sec. 53-672. – Use.**

The neighborhood commercial zoning district shall allow professional offices and small businesses serving neighborhood community needs. The following uses shall be permitted:

- Multi-family on the second floor and above shall be permitted by right regardless of base zoning;
- Bed and breakfast up to five rooms;
- Retail;
- Restaurant;
- Religious assembly;
- Art gallery;
- Child care center (outdoor playground allowed);
- Fire/police station;
- Professional office;
- Funeral home;
- Barber/beauty shop;
- Convenience/grocery store;
- Fuel station\*;
- Nursing/retirement homes;
- Veterinarian - without outdoor boarding;
- Health and fitness center;
- Restaurant with drive-thru\*;
- Financial institution w/ drive-thru banking.

### **R-1-C (Residential Condominium District)**

#### **Sec. 53-172. - Purpose and permitted use.**

The residential condominium district R-1-C allows the establishment of a residential housing in compliance with the Texas Uniform Condominium Act, V.T.C.A., Property Code ch. 82, with individual apartments or units having a minimum of 500 square feet living area, inclusive of separate sleeping, living and kitchen facilities.

#### **Sec. 53-174. - Site development regulations.**

The site development regulations set forth in this section shall be exclusively applicable to residential condominium, district R-1-C.

(1) *Density.* The maximum dwelling units per buildable acre or square footage for the R-1-C district are as follows:

- a. Lot size of 9,000 square feet for two units.

- b. Lot size of 10,000 square feet for four units.
- c. A minimum of three units and for acreage tracts, 36 units per buildable acre.

Front Setback (feet)	Side Setback (feet)	Corner lot at Side Street or Alleyway Setback (feet)	Street Side Setback (feet)	Rear Setback (feet)	Min. Lot Square Footage Area	Min. Lot Street Width (feet)	Height Limit (Feet)
(4)	(4)		15	(4)	9,000	80	45

(4) See division 6 of this article, pertaining to residential condominium district R-1-C.

### **R-1-3 (Single Family Residential District 3)**

#### **Sec. 53-101. - Purpose and permitted uses.**

The R-1-3 single-family residential 3 district allows detached single-family residences with a minimum of 1,000 square feet of living area and permitted accessory structures on a minimum lot size of 5,540 square feet. There shall be no more than 5.5 houses per buildable acre.

Front Setback (feet)	Side Setback (feet)	Corner lot at Side Street or Alleyway Setback (feet)	Street Side Setback (feet)	Rear Setback (feet)	Min. Lot Square Footage Area	Min. Lot Street Width (feet)	Height Limit (Feet)
20	5	10	5	10	5,540	50	35

### **Conditions of the Zoning Ordinance**

#### **Sec. 53-1205 Amendments**

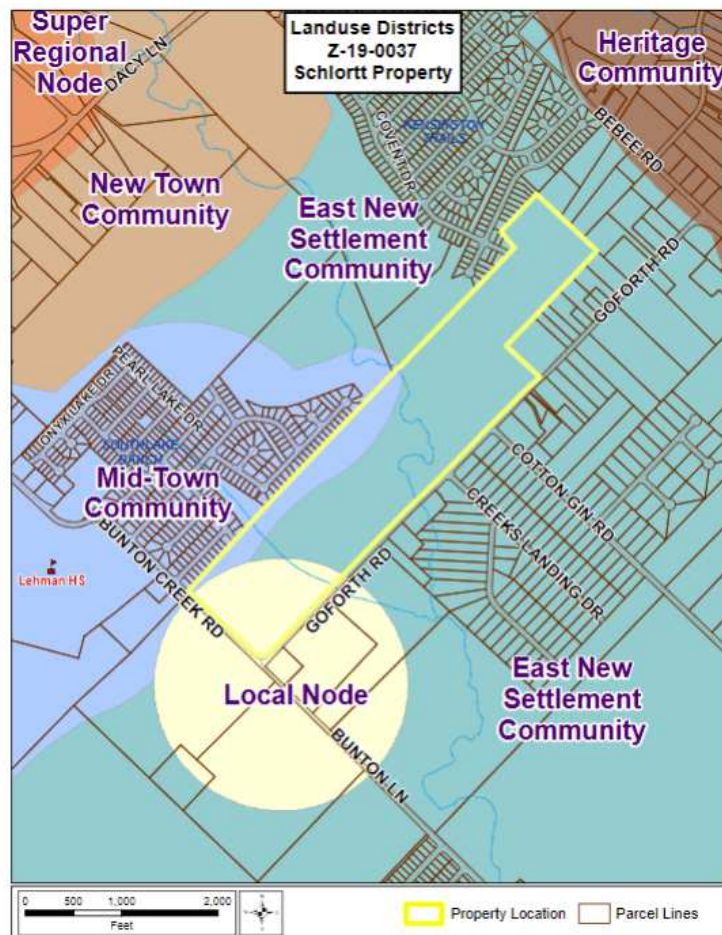
(d)

*Referral of amendment to planning and zoning commission.* Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning

commission for consideration, public hearing, and recommendation to the city council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.

(e)

*Action by the planning and zoning commission.* The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the council such action as the planning and zoning commission deems proper...



### Comprehensive Plan Text

The subject site is partially in the “Local Node” and partially in the “East Settlement” land use district. A portion is within the “Mid-Town Community” district and the boundary generally parallels the Southlake Ranch subdivision boundary. The “Mid-Town Community” boundary should follow the subdivision boundary, but its’ within the Schlortt tract. The Mid-Town Community should not be taken into account, as it’s essentially a remnant portion (of the Schlortt tract) of this specific land use district (as it relates to the parcel/over-all potential project).

### Local Node

Recommended: **R-1-C**, R-3-2, R-3-3, **CC**, **NC**, MXD

Conditional: R-1-T, R-3-1, R/S

### New Settlement

Recommended: O/I

Conditional: E, R-1-A, R-1-1, R-1-2, **R-1-3**, R-1-C, R-1-T, R-2, T/U, UE, NC, CC, MXD, R/S,  
W

### **Local Node**

#### 'Character':

Some Local Nodes occur at existing intersections, where a greater intensity of use should be fostered to take advantage of the benefits conferred by that intersection. Other Local Nodes are located at points where new corridors will create significant local intersections in the future. Local Nodes should be comprised of neighborhood-scale retail uses, small public gathering spaces, such as plazas, playgrounds, and trails, and some higher intensity residential opportunities where appropriate. Local Nodes should be designed to serve the local population living within or adjacent to the individual Node. For this reason, Local Nodes should provide goods and services that enhance convenience and, therefore, quality of life for local residents. A central gathering location should be created within each Local Node to foster a sense of community for the surrounding residents.

#### 'Intent':

The anchor of each Local Node should be service retail, and, of all the Nodes, the Local Nodes should have the lowest level of non-residential development intensity. General goods and services required on a daily basis by residents should be located in Local Nodes, including small food markets, restaurants, banks, and small shops. These Nodes should be connected to the surrounding communities with sidewalks and trails to encourage walking, minimize traffic congestion, and increase safety.

### **East Settlement**

#### 'Character'

Located in the east central region of Kyle's jurisdiction, the East Settlement District incorporates lands both inside and outside the city's corporate limits. The existing

landscapes are largely livestock and row crop agriculture, systematically being turned-over into low density single family detached ex-urban home sites. In the district it is important to preserve the current viewsheds as a reminder of Kyle's recent and legacy agricultural heritage. The secondary benefit of this rural conservation of the East Settlement, is that preservation of these lands is beneficial for stormwater management, the control of sediment and siltation in creekways, and it helps maintain local water and air quality. Development patterns should evoke an agricultural setting, with significant open spaces, native landscaping, and alternative stormwater management in the form of street-side ditches, and interconnected swales, rather than traditional curbs, gutters and concrete channels.

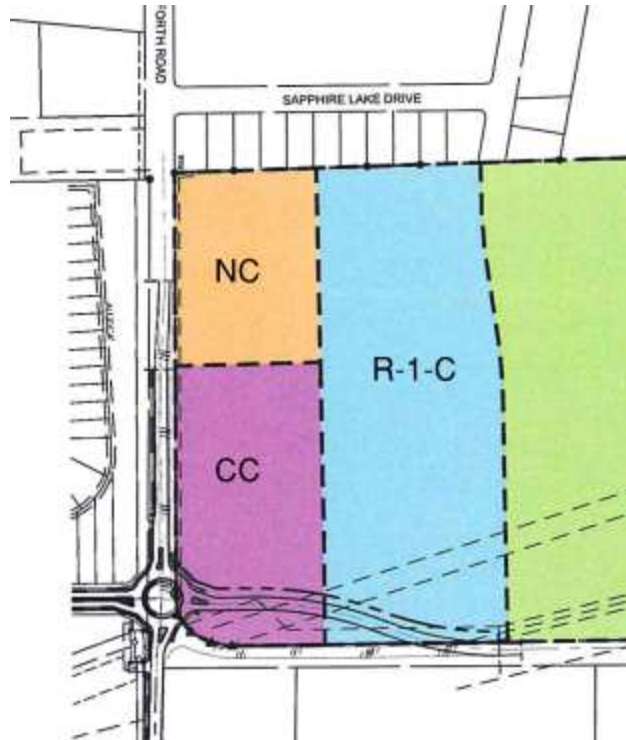
### 'Intent'

The purpose of the East Settlement District is to accommodate future growth and development that has proven successful elsewhere in Kyle, while preserving the agricultural context of this District. To this end, land development patterns should respect sensitive growth management practices, in a demonstrated effort to assimilate into the existing built infrastructure and landform patterns.

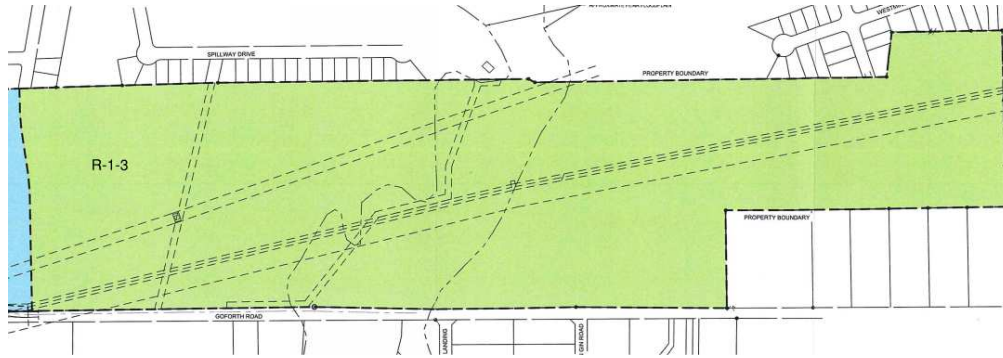
### **Analysis**

The property is unique, as it relates to geographic location, the existing, physical land patterns and the 2017 Comprehensive Plan. The site is currently at the eastern boundary of the City of Kyle and partially in the "Local Node" land use district, and most of the remainder is in the "East Settlement" district. This provides the potential for a development pattern that will be required to mesh with certain ideals of the City of Kyle. Currently the Schlortt property is used for agricultural purposes with one homestead located on site.

The Schlortt parcel is divided into three (3) distinct geographic areas. The first, is approximately 18-acres and between Bunton Creek Road and the ditch that drains the neighborhood of Southlake Ranch to the west. In developing the property, the ditch provides a "natural" break that also serves as the approximate border of the "Local Node" land use district. This area is proposed to have three (3) zoning districts: NC (Neighborhood Commercial, 3.26-acres), CC (Community Commercial, 4.8-acres) and R-1-C (Condominium Residential, 9.94-acres). The line between the R-1-C and R-1-3 zoning district will also likely serve as extension of Town Lake Bend and intersect with Goforth Road.



As the southern end of the property is in the “Local Node”, higher intensity uses are expected per the 2017 Comprehensive Plan. The NC, CC and R-1-C zoning districts are all recommended in the “Local Node”. The “CC” zoning district will be at the intersection of Bunton Creek Road and Goforth Road, as this will be a hard corner and expected to have the highest intensity of use. The “NC” zoning district is a step down (intensity of use) with further restrictions (no gas stations or restaurants with drive-thru facilities). This will function as a buffer for use and require a landscape buffer between the existing residential in Southlake Ranch and the “NC” site (at time of site development). Both the “CC” & “NC” zoning districts require structures to have higher quality architecture than the standard “RS” zoning district. The “R-1-C” zoning district allows for residential units to be owned with the land underneath to be community owned (condominium). The units can be single-family detached, single-family attached or multi-story stacked flat units.



North of the “Local Node”/”R-1-C” boundary, the remainder of the property will be zoned “R-1-3”. Geographically, this area will be divided into two (2) portions due to the reservoir’s spill way. While the spill way is not developable due to the flood plain restrictions, this area can potentially be developed without permanent, habitable structures, accessory to residential uses (and other related options).

The “R-1-3” zoning district is considered conditional in the “East Settlement” land use district. It is allowed; however, further considerations must be taken, than if it was recommended. Normally, the City of Kyle takes the position that the further one travels to the periphery of the City, the residential lot sizes should become larger or have less developmental density. This is to provide a transition to what is traditionally the larger, rural lots, not served by wastewater utilities. Goforth Road is the eastern boundary of the city limits. The request for the R-1-3 zoning district will provide lots that have a minimum lot width of 50’. This is between 5-15’ shorter than the existing lot widths of Southlake Ranch and Kensington Trails, directly adjacent. Normally, staff would not recommend smaller lots closer to the edge of the city. However, the combination of the not insignificant flood plain, multiple easements running at odd angles across the property, and close proximity to the “Local Node”, introduce conditions unique to this property, and therefore warrant further discussion with regard to this project.

Regarding proximity to the “Local Node”, especially related to higher density areas (nodes), is the transect zone concept. This helps establish a standard “ramp up” from rural development to nodal development, regarding intensity of land use. Per the diagram below the proposed zoning change would fit into the “T4-General Urban Zone”, allowing for small-lot single family homes, apartments, mixed use, and locally run shops. This zone would be where the NC, CC, & R-1-C would begin to appear, as well as the R-1-3 zoning district (in limited cases). The remainder of the parcel is designed to scale down density and intensity of type of use (R-1-3, T3 & T4 transect zones). As one travels further north, large lot single-family residential is the predominate land form (T2 & T3 transect zones).



Staff did discuss with the applicant, the idea of the R-1-2 zoning district north of the flood plain, to help match the adjoining Kensington Trails neighborhood and fortify the concept of Transect Zones. Due to the previously mention site restrictions the applicant as requested the R-1-3 zoning vs. R-1-3 & R-1-2. Easements and flood plains are not developable and as such encumber the site in what is considered a negative manner (from a developer stand point). It could be possible to provide hike & bike paths along those undevelopable areas and easements. The R-1-3 zoning district's higher density as compared to the R-1-2 district would provide a lower per unit infrastructure cost and helps support the amenity portion of the Residential Style Guide.

Compact and higher density development is fiscally prudent. Generally, as the development density increases, the less it costs to provide public service per LUE (Living Unit Equivalent), both from an installation standpoint (developer cost) and the ongoing operations and maintenance standpoint (city costs).

## Recommendation

When considering all the 2017 Comprehensive Plan, the proximity to the afore mentioned intersection and transect zones, staff supports the rezoning request. At the Tuesday, May 14, 2019 Planning & Zoning Commission meeting, the Commission voted 4-2 in favor of rezoning the property as requested. Staff asks the Planning & Zoning Commission to support a recommendation vote to approve the zoning change

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## **Attachments**

- Application
- Location Map
- Surrounding Zoning Map
- Proposed Zoning Map
- Land Use District Map

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING TO APPROXIMATELY 10.636 ACRES OF LAND FROM AGRICULTURE 'AG' TO RESIDENTIAL CONDOMINIUM DISTRICT 'R-1-C', 109.939 ACRES OF LAND TO SINGLE FAMILY RESIDENTIAL-3 'R-1-3', APPROXIMATELY 3.468 ACRES OF LAND TO NEIGHBORHOOD COMMERCIAL 'NC' AND 4.513 ACRES OF LAND TO COMMUNITY COMMERCIAL 'CC' FOR PROPERTY LOCATED APPROXIMATELY ½ MILE SOUTHEAST OF LEHMAN HIGH SCHOOL AT THE INTERSECTION OF BUNTON CREEK ROAD AND GOFORTH ROAD, IN HAYS COUNTY, TEXAS. (ROBERT AND KAREN SCHLORTT – Z-19-0037); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to assign original zoning to approximately 9.94 acres of land from Agriculture 'AG' to Residential Condominium 'R-1-C', 109.47 acres of land to Single Family Residential-3 'R-1-3', approximately 3.26 acres of land to Neighborhood Commercial and 4.80 acres of land to Community Commercial 'CC' for property located approximately ½ mile southeast of Lehman High School at the intersection on of Bunton Creek Road and Goforth Road, as shown on the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Travis Mitchell, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Vetrano, City Secretary

# Exhibit A



Current Zoning	Requested Zoning	Total Acreage
Agricultural (A)	R-1-C	10.636
Agricultural (A)	R-1-3	108.839
Agricultural (A)	NC	3.486
Agricultural (A)	CC	6.513
<b>Total</b>		<b>129.474</b>



**BGE, Inc.**  
7000 NORTH MOPAC, SUITE 330  
AUSTIN, TX 78739  
TEL. 512-678-0400 • [www.bgeinc.com](http://www.bgeinc.com)  
TSPC Registration No. F-1048

EXHIBIT A

GoForth Tract - 3.468 Acres  
Zoning Description  
Tract 1  
Job No. 6396-00

LEGAL DESCRIPTION

FIELD NOTES FOR A 3.468 ACRE TRACT OF LAND OUT OF A 127.456 ACRE TRACT OF LAND OUT OF THE JOHN STEWART SURVEY, ABSTRACT NO. 14, HAYS COUNTY, TEXAS; BEING ALL OF A CALLED 80.30 ACRE TRACT OF LAND AS CONVEYED TO ROBERT E. SCHLORTT, JR. AND WIFE, KAREN STEUBING SCHLORTT BY DEED RECORDED IN VOLUME 262, PAGE 129 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND ALL OF A CALLED 46.476 ACRE TRACT OF LAND AS CONVEYED TO ROBERT E. SCHLORTT, JR. AND WIFE, KAREN S. SCHLORTT BY WARRANTY DEED/VENDOR'S LIEN RECORDED IN VOLUME 362, PAGE 708 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 3.468 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2-inch iron rod with cap stamped "Haynie Consulting" found on the northeast right-of-way line of County Road No. 157 (a/k/a Bunton Creek Road) (width varies, no deed of record found), at the most southerly corner of SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT, a subdivision recorded in Volume 10, Page 279 of the Plat Records of Hays County, Texas, and at the most westerly corner of the above described Schlortt 80.30 acre tract, for the most westerly corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, with the southeast line of said SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT and the northwest line of said Schlortt 80.30 acre tract of land, N 42°36'07" E a distance of 325.10 feet to a point for the most northerly corner of the herein described tract;

THENCE, in southeast and southwest direction, crossing the aforementioned 127.456 acre tract, the following two (2) courses:

- 1) S 46°00'07" E a distance of 466.03 feet to a point for the most easterly corner of the herein described tract;
- 2) S 43°01'21" W a distance of 325.05 feet to a point on the aforementioned northeast right-of-way line of said Bunton Creek Road (County Road No. 157), for the most southerly corner of the herein described tract;

THENCE, coincident with the northeast right-of-way line of said Bunton Creek Road (County Road No. 157) and the southwest line of the aforementioned 127.456 acre tract, N 46°00'07" W a distance of 463.64 feet to the **POINT OF BEGINNING** and containing 3.468 acres of land, more or less.

I hereby certify that these notes were prepared from a survey made on the ground by BGE, Inc., on January 3, 2019 and are true and correct to the best of my knowledge. Bearing orientation is based on the Texas State Plane Coordinate System, NAD 83, Texas South Central Zone. An exhibit plat accompanies this description. This document was prepared under 22 TAC §663.21 and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



*[Handwritten signature]*

Dion P. Albertson RPLS No. 4963

BGE, Inc.

7330 San Pedro Ave, Suite 202

San Antonio TX 78216

Telephone: 210-581-3600

TBPLS Licensed Surveying Firm No. 10194490

5/17/19  
Date

Client: DR Horton  
Date: May 17, 2019  
Job No: 6396-00

EXHIBIT A

GoForth Tract - 4.513 Acres  
Zoning Description  
Tract 2  
Job No. 6396-00

LEGAL DESCRIPTION

FIELD NOTES FOR A 4.513 ACRE TRACT OF LAND OUT OF A 127.456 ACRE TRACT OF LAND OUT OF THE JOHN STEWART SURVEY, ABSTRACT NO. 14, HAYS COUNTY, TEXAS; BEING ALL OF A CALLED 80.30 ACRE TRACT OF LAND AS CONVEYED TO ROBERT E. SCHLORTT, JR. AND WIFE, KAREN STEUBING SCHLORTT BY DEED RECORDED IN VOLUME 262, PAGE 129 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND ALL OF A CALLED 46.476 ACRE TRACT OF LAND AS CONVEYED TO ROBERT E. SCHLORTT, JR. AND WIFE, KAREN S. SCHLORTT BY WARRANTY DEED/VENDOR'S LIEN RECORDED IN VOLUME 362, PAGE 708 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 4.513 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2-inch iron rod with cap stamped "Haynie Consulting" found on the northeast right-of-way line of County Road No. 157 (a/k/a Bunton Creek Road) (width varies, no deed of record found), at the most southerly corner of SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT, a subdivision recorded in Volume 10, Page 279 of the Plat Records of Hays County, Texas, and at the most westerly corner of the above described Schlortt 80.30 acre tract, THENCE S 46°00'07" E coincident with said right-of-way line a distance of 463.64 feet to a point for the most westerly corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, departing said right-of-way line, in northeasterly and southeasterly direction, crossing the aforementioned 127.456 acre tract, the following two (2) courses:

- 1) N 43°01'21" E a distance of 325.05 feet to a point for the most northerly corner of the herein described tract;
- 2) S 46°00'07" E a distance of 615.64 feet to a point on the northwest right-of-way line of County Road No. 157 (a/k/a Goforth Road) (width varies, no deed of record found) for the most easterly corner of the herein described tract;

THENCE, with the northwest right-of-way line of said Goforth Road (County Road No. 157) the following four (4) courses:

- 1) S 43°37'47" W a distance of 199.71 feet to a MAG nail in asphalt found for an angle point;
- 2) S 53°15'57" W a distance of 47.61 feet to a MAG nail in asphalt found for an angle point;

- 3) S 71°43'42" W a distance of 51.13 feet to a disturbed MAG nail in asphalt found for the most southerly corner of the herein described tract; and
- 4) N 83°26'07" W a distance of 49.16 feet to a MAG nail in asphalt found on the northeast right-of-way line of said Bunton Creek Road (County Road No. 157), for an angle point of the herein described tract;

THENCE, with the northeast right-of-way line of said Bunton Creek Road (County Road No. 157) and the southwest line of said Schlott 80.30 acre tract, N 49°37'24" W a distance of 50.11 feet to a 3/4-inch iron pipe found for an angle point;

THENCE, continuing with the northeast right-of-way line of said Bunton Creek Road (County Road No. 157), N 46°00'07" W a distance of 490.88 feet to the **POINT OF BEGINNING** and containing 4.513 acres of land, more or less.

I hereby certify that these notes were prepared from a survey made on the ground by BGE, Inc., on January 3, 2019 and are true and correct to the best of my knowledge. Bearing orientation is based on the Texas State Plane Coordinate System, NAD 83, Texas South Central Zone. An exhibit plat accompanies this description. This document was prepared under 22 TAC §663.21 and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



*[Handwritten signature of Dion P. Albertson]*

RPLS No. 4963

5/17/19  
Date

7330 San Pedro Ave, Suite 202  
San Antonio TX 78216  
Telephone: 210-581-3600  
TBPLS Licensed Surveying Firm No. 10194490

Client: DR Horton  
Date: May 17, 2019  
Job No: 6396-00

LEGAL DESCRIPTION

FIELD NOTES FOR A 10.636 ACRE TRACT OF LAND OUT OF A 127.456 ACRE TRACT OF LAND OUT OF THE JOHN STEWART SURVEY, ABSTRACT NO. 14, HAYS COUNTY, TEXAS; BEING ALL OF A CALLED 80.30 ACRE TRACT OF LAND AS CONVEYED TO ROBERT E. SCHLORTT, JR. AND WIFE, KAREN STEUBING SCHLORTT BY DEED RECORDED IN VOLUME 262, PAGE 129 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND ALL OF A CALLED 46.476 ACRE TRACT OF LAND AS CONVEYED TO ROBERT E. SCHLORTT, JR. AND WIFE, KAREN S. SCHLORTT BY WARRANTY DEED/VENDOR'S LIEN RECORDED IN VOLUME 362, PAGE 708 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 10.636 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2-inch iron rod with cap stamped "Haynie Consulting" found on the northeast right-of-way line of County Road No. 157 (a/k/a Bunton Creek Road) (width varies, no deed of record found); at the most southerly corner of SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT; a subdivision recorded in Volume 10, Page 279 of the Plat Records of Hays County, Texas, and at the most westerly corner of the above described Schlortt 80.30 acre tract. **THENCE**, with the southeast line of said SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT, N 42°36'07" E a distance of 325.10 feet to a point for the most westerly corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, continuing with the southeast line of said SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT, N 42°36'07" E a distance of 389.01 feet to a point for the most northerly corner of the herein described tract;

THENCE, departing said southeast line in a southeasterly direction, crossing said 127.456 acre tract the following five (5) courses;

- 1) S 46°58'39" E a distance of 90.35 feet to a point for a point of curvature
- 2) Curving to the left with a radius of 1,000.00 feet, a central angle of 07°23'55", an arc length of 129.13 feet, a chord bearing of S 50°40'36" E, and a chord distance of 129.04 feet to a point for a point of tangency;
- 3) S 54°22'34" E a distance of 181.33 feet to a point for a point of curvature
- 4) Curving to the right with a radius of 1,000.00 feet, a central angle of 07°23'55", an arc length of 129.13 feet, a chord bearing of S 50°40'36" E, and a chord distance of 129.04 feet to a point for a point of tangency and;
- 5) S 46°58'39" E a distance of 561.40 feet to a point on the northwest right-of-way line of County Road No. 157 (a/k/a Goforth Road) (width varies, no deed of record found), for the most easterly corner of the herein described tract;

THENCE, with the northwest right-of-way line of said Goforth Road (County Road No. 157)  
S 43°37'47" W a distance of 447.44 feet to a point for the most southerly corner of the herein described tract,

THENCE, departing said northwest right-of-way line and crossing said 127.456 acre tract N 46°00'07" W a distance of 1,081.67 feet to the **POINT OF BEGINNING** and containing 10.636 acres of land, more or less.

I hereby certify that these notes were prepared by a survey made on the ground by BGE, Inc., on January 3, 2019 and are true and correct to the best of my knowledge. Bearing orientation is based on the Texas State Plane Coordinate System, NAD 83, Texas South Central Zone. An exhibit plat accompanies this description. This document was prepared under 22 TAC §663.21 and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



Dion P. Albertson RPLS No. 4963

17350 San Pedro Ave, Suite 202  
San Antonio TX 78216

Telephone: 210-581-3600

TBPLS Licensed Surveying Firm No. 10194490

5/17/19  
Date

Client: DR Horton  
Date: May 17, 2019  
Job No: 6396-00

EXHIBIT A

GoForth Tract – 108.839 Acres  
Zoning Description  
Tract 4  
Job No. 6396-00

LEGAL DESCRIPTION

FIELD NOTES FOR A 108.839 ACRE TRACT OF LAND OUT OF A 127.456 ACRE TRACT OF LAND OUT OF THE JOHN STEWART SURVEY, ABSTRACT NO. 14, HAYS COUNTY, TEXAS; BEING ALL OF A CALLED 80.30 ACRE TRACT OF LAND AS CONVEYED TO ROBERT E. SCHLORTT, JR. AND WIFE, KAREN STEUBING SCHLORTT BY DEED RECORDED IN VOLUME 262, PAGE 129 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND ALL OF A CALLED 46.476 ACRE TRACT OF LAND AS CONVEYED TO ROBERT E. SCHLORTT, JR. AND WIFE, KAREN S. SCHLORTT BY WARRANTY DEED/VENDOR'S LIEN RECORDED IN VOLUME 362, PAGE 708 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 108.839 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2-inch iron rod with cap stamped "Haynie Consulting" found on the northeast right-of-way line of County Road No. 157 (a/k/a Bunton Creek Road) (width varies, no deed of record found), at the most southerly corner of SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT, a subdivision recorded in Volume 10, Page 279 of the Plat Records of Hays County, Texas, and at the most westerly corner of the above described Schlortt 80.30 acre tract. **THENCE**, with the southeast line of said SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT, N 42°36'07" E a distance of 714.11 feet to a point for the most westerly corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, continuing with the southeast line of said SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT and the northwest line of said Schlortt 80.30 acre tract, N 42°36'07" E a distance of 237.82 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

THENCE, continuing with the southeast line of said SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT and the northwest line of said Schlortt 80.30 acre tract, N 42°45'50" E a distance of 675.60 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for corner;

THENCE, with the southeast line of said SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT and partly with the northwest line of said Schlortt 80.30 acre tract and the northwest line of said Schlortt 46.476 acre tract, N 43°44'18" E a distance of 1,482.27 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set at the most easterly corner of said SOUTHLAKE RANCH, PHASE ONE AMENDED FINAL PLAT, and at the most southerly corner of a called 14.12 acre tract of land as conveyed to the City of Kyle by Special Warranty Deed recorded in Volume 2028, Page 772 of the Official Public Records of Hays County, Texas, for an angle point;

THENCE, with the northwest line of said Schlortt 46.476 acre tract and the southeast line of said City of Kyle 14.12 acre tract, N 43°11'57" E a distance of 60.52 feet to a 1/2-inch iron rod with cap stamped "Bush Surveying Inc" found for an angle point;

THENCE, continuing with the northwest line of said Schlortt 46.476 acre tract and the southeast line of said City of Kyle 14.12 acre tract, N 72°29'43" E a distance of 35.14 feet to a 1/2-inch iron rod found for an angle point;

THENCE, continuing with the northwest line of said Schlortt 46.476 acre tract and partly with the southeast line of said City of Kyle 14.12 acre tract and the southeast line of KENSINGTON TRAILS SUBDIVISION SECTION 5D FINAL PLAT, recorded in Document Number 17001547 of the Plat Records of Hays County, Texas, N 43°31'44" E a distance of 1,720.02 feet to a 1/2-inch iron rod found at an exterior corner of said KENSINGTON TRAILS SUBDIVISION SECTION 5D FINAL PLAT, and at an interior corner of said Schlortt 46.476 acre tract, for an interior corner of the herein described tract;

THENCE, with a southwest line of said Schlortt 46.476 acre tract and a northeast line of said KENSINGTON TRAILS SUBDIVISION SECTION 5D FINAL PLAT, N 39°16'55" W a distance of 219.36 feet to a 1/2-inch iron rod found at an interior corner of said KENSINGTON TRAILS SUBDIVISION SECTION 5D FINAL PLAT, and at an exterior corner of said Schlortt 46.476 acre tract, for an exterior corner of the herein described tract;

THENCE, with a northwest line of said Schlortt 46.476 acre tract and partly with a southeast line of said KENSINGTON TRAILS SUBDIVISION SECTION 5D FINAL PLAT and the southeast line of KENSINGTON TRAILS SUBDIVISION SECTION 5B AND 5C FINAL PLAT, recorded in Volume 16, Page 1 of the Plat Records of Hays County, Texas, N 43°30'02" E, pass a 1/2-inch iron rod found at the northeast corner of said KENSINGTON TRAILS SUBDIVISION SECTION 5D FINAL PLAT, and at the southeast corner of said KENSINGTON TRAILS SUBDIVISION SECTION 5B AND 5C FINAL PLAT at a distance of 189.02 feet, and continuing on for a total distance of 385.77 feet to a 1/2-inch iron rod found for an angle point;

THENCE, continuing with a northwest line of said Schlortt 46.476 acre tract and the southeast line of said KENSINGTON TRAILS SUBDIVISION SECTION 5B AND 5C FINAL PLAT, N 43°31'53" E a distance of 152.50 feet to a 1/2-inch iron rod found at the west corner of a called 2.5204 acre tract of land as conveyed to Bradley W. Odell by General Warranty Deed recorded in Document Number 18002748 of the Official Public Records of Hays County, Texas, and at the most northerly corner of said Schlortt 46.476 acre tract, for the most northerly corner of the herein described tract;

THENCE, with the northeast line of said Schlortt 46.476 acre tract and partly with the southwest line of said Odell 2.5204 acre tract, the southwest line of a called 3.9765 acre tract of land as conveyed to Claude E. Odell by General Warranty Deed recorded in Document Number 16019715 of the Official Public Records of Hays County, Texas, the southwest line of a called 1.0952 acre tract of land as conveyed to Brandon Odell by General Warranty Deed recorded in Document Number 18002769 of the Official Public Records of Hays County, Texas and a southwest line of SOUTHBEND I, a subdivision recorded in Volume 13, Page 15 of the Plat Records of Hays County, Texas, S 47°10'57" E, pass a 1/2-inch iron rod with cap stamped "Hayes RPLS 5730" found at the common south corner of said Odell 2.5204 acre tract and said Odell 3.9765 acre tract at a distance of 342.97 feet, pass a 1/2-inch iron rod found for the common south corner of said Odell 1.0952 acre tract and said SOUTHBEND I at a distance of 662.18 feet, and continuing on for a total distance of 862.78 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set at an interior corner of said SOUTHBEND I, at the most easterly corner of said Schlortt 46.476 acre tract, for the most easterly corner of the herein described tract;

THENCE, with a northwest line of said SOUTHBEND I and a southeast line of said Schlortt 46.476 acre tract the following six (6) courses:

- 1) S 43°30'36" W a distance of 190.33 feet to a 1/2-inch iron rod found for an angle point;
- 2) S 43°39'16" W a distance of 190.08 feet to a 1/2-inch iron rod found for an angle point;
- 3) S 43°27'33" W a distance of 190.33 feet to a 1/2-inch iron rod found for an angle point;
- 4) S 43°31'43" W a distance of 190.41 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;
- 5) S 43°39'43" W a distance of 190.91 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point; and
- 6) S 44°06'18" W a distance of 417.79 feet to a 1/2-inch iron rod found at the most westerly corner of said SOUTHBEND I, and at an interior corner of said Schlortt 46.476 acre tract, for an interior corner of the herein described tract;

THENCE, a southwest line of said SOUTHBEND I and a northeast line of said Schlortt 46.476 acre tract, S 46°44'56" E a distance of 478.14 feet to a 1/2-inch iron rod found on the northwest right-of-way line of County Road No. 157 (a/k/a Goforth Road) (width varies, no deed of record found), at the most southerly corner of said SOUTHBEND I, and at an exterior corner of said Schlortt 46.476 acre tract, for an exterior corner of the herein described tract, from which a 1/2-inch iron rod found for the common east corner of Lot 1 and Lot 2 of said SOUTHBEND I, bears N 44°09'26" E a distance of 418.72 feet;

THENCE, with the southeast line of said Schlortt 46.476 acre tract and said Schlortt 80.30 acre tract and the northwest right-of-way line of said Goforth Road (County Road No. 157) the following five (5) courses:

- 1) S 44°47'25" W a distance of 737.80 feet to a 1/2-inch iron rod found for an angle point;
- 2) S 43°12'07" W a distance of 300.14 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set at the most southerly corner of said Schlortt 46.476 acre tract, and at the most easterly corner of said Schlortt 80.30 acre tract, for an angle point;
- 3) S 43°50'13" W a distance of 404.32 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;
- 4) S 45°29'19" W a distance of 575.88 feet to a disturbed 3/4-inch iron pipe found for an angle point;
- 5) S 43°37'47" W a distance of 1,348.56 feet to a point for the most southerly corner of the herein described tract;

THENCE, departing said northwest right-of-way line in a northeasterly direction, crossing said 127.456 acre tract the following five (5) courses;

- 1) N 46°58'39" W a distance of 561.40 feet to a point for a point of curvature;
- 2) Curving to the left with a radius of 1,000.00 feet, a central angle of 07°23'55", an arc length of 129.13 feet, a chord bearing of N 50°40'36" W, and a chord distance of 129.04 feet to a point for a point of tangency;
- 3) N 54°22'34" W a distance of 181.33 feet to a point for a point of curvature;
- 4) Curving to the right with a radius of 1,000.00 feet, a central angle of 07°23'55", an arc length of 129.13 feet, a chord bearing of N 50°40'36" W, and a chord distance of 129.04 feet to a point for a point of tangency;
- 5) N 46°58'39" W a distance of 90.35 feet to the **POINT OF BEGINNING** and containing 108.839 acres of land, more or less.

I hereby certify that these notes were prepared from a survey made on the ground by BGE, Inc., on January 3, 2019 and are true and correct to the best of my knowledge. Bearing orientation is based on the Texas State Plane Coordinate System, NAD 83, Texas South Central Zone. An exhibit plat accompanies this description. This document was prepared under 22 TAC §663.21 and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



*[Handwritten signature in red ink]*

RPLS No. 4963

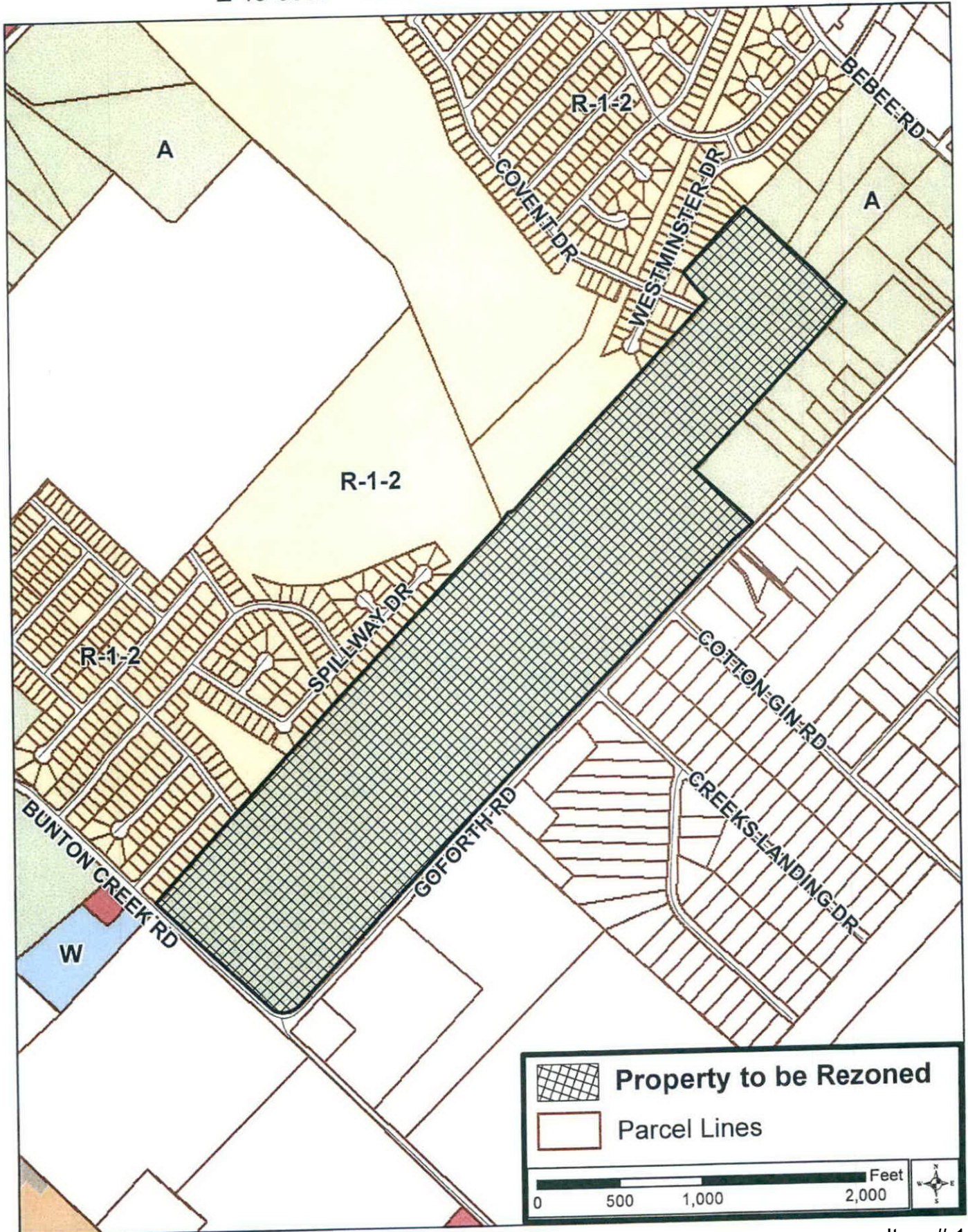
5/17/19  
Date

7350 San Pedro Ave, Suite 202  
San Antonio TX 78216  
Telephone: 210-581-3600  
TBPLS Licensed Surveying Firm No. 10194490

Client: DR Horton  
Date: May 17, 2019  
Job No: 6396-00

# Exhibit B

Z-19-0037 1901 Goforth Rd 127.46 Acres



## APPLICATION & CHECKLIST – ZONING CHANGE

**Zoning:** Robert and Karen Schlortt

Feb 20, 2019

(Name of Owner)

(Submittal Date)

**INSTRUCTIONS:**

2-19-0037

- Fill out the following application and checklist completely prior to submission.
- Place a check mark on each line when you have complied with that item.
- Use the most current application from the City's website at [www.cityofkyle.com](http://www.cityofkyle.com) or at City Hall. City ordinances can be obtained from the City of Kyle.

### REQUIRED ITEMS FOR SUBMITTAL PACKAGE:

The following items are required to be submitted to the Planning Department in order for the Zoning Application to be accepted.

1. Completed application form with owner's original signature.
2. Letter explaining the reason for the request.
3. **Application Fee:** \$428.06, plus \$3.62 per acre or portion thereof.

**Newspaper Publication Fee:** \$190.21 **Sign Notice Fee:** \$85.00

**Total Fee:** \$1,164.68

4. A map or plat showing the area being proposed for rezoning.
5. A clear and legible copy of field notes (metes and bounds) describing the tract (when not a subdivided lot).
6. Certified Tax certificates: County \_\_\_ School \_\_\_ City \_\_\_
7. Copy of Deed showing current ownership.

\*\*\* A submittal meeting is required. Please contact Debbie Guerra at (512) 262-3959 to schedule an appointment.

### 1. Zoning Request:

Current Zoning Classification: A- AGRICULTURE

Proposed Zoning Classification: R-1-C, R-1-3, NC AND CC

Proposed Use of the Property: Duplex, Single-Family Homes, Neighborhood & Community Commercial

Acreage/Sq. Ft. of Zoning Change: 127.46 ACRES

### 2. Address and Legal Description:

**Provide certified field notes describing the property being proposed for rezoning.**  
**Provide complete information on the location of the property being proposed for rezoning.**

Street Address: 1/4 mile SE from Lehman High School, at Goforth and Bunton Rd Intersection

Subdivision Name/Lot & Block Nos.: ABS 14 John Stuart Survey 117.86 Acres

Property Recording Information: ☒ Hays County  
Volume/Cabinet No. 262 and 362

Page/Slide No. 129 and 708 respectively

**3. Ownership Information:**

Name of Property Owner(s): Robert and Karen Schlott

Robert Schlott Karen Schlott

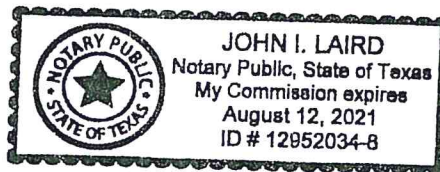
**Certified Public Notary:**

This document was acknowledged before me on the 20th day of March, 2019, by

Robert and Karen Schlott (Owner(s)).

John I. Laird  
Notary Public State of Texas

(Seal)



(If property ownership is in the name of a partnership, corporation, joint venture, trust or other entity, please list the official name of the entity and the name of the managing partner.)

Address of Owner: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email Number: \_\_\_\_\_

I hereby request that my property, as described above, be considered for rezoning:

Signed:

Robert Schlott Karen Schlott

Date:

3-20-19

**4. Agent Information:**

If an agent is representing the owner of the property, please complete the following information:

Agent's Name: AARON NEUMANN

Agent's Address: 7330 SAN PEDRO AVE, SUITE 202  
SAN ANTONIO, TEXAS 78216

Agent's Phone Number: 210-581-3600, 210-581-3643

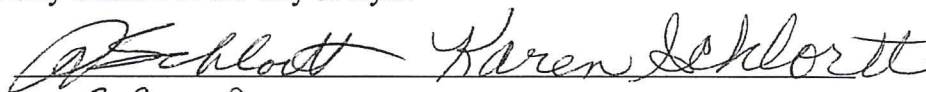
Agent's Fax Number: \_\_\_\_\_

Agent's Mobile Number: 210-452-4817

Agent's Email Number: ANEUMANN@BGEINC.COM

I hereby authorize the person named above to act as my agent in processing this application before the Planning and Zoning Commission and City Council of the City of Kyle:

Owner's Signature:

 Karen Schlott

Date:

3-20-19

*Do Not Write Below This Line  
Staff Will Complete*

Tax Certificates: ☐ County ☐ School ☐ City

Certified List of Property Owners Within 200' ☐

All Fees Paid: ☐ Filing/Application ☐ Mail Out Costs

Attached Map of Subject Property ☐

Accepted for Processing By: Debbie A. Guerra Date: 4/17/19

Date of Public Notification in Newspaper: 4/24/19

Date of Public Hearing Before Planning and Zoning Commission: 5/14/19

Date of Public Hearing Before City Council: 5/21/19



April 12, 2019

City of Kyle – Planning Department  
Mr. Howard J. Koontz, Director of Planning  
PO Box 40  
Kyle, TX 78640

Re: Goforth Road Subdivision – Zoning Request Letter

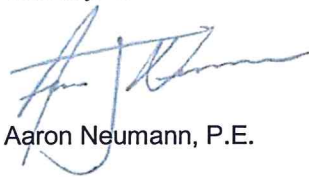
Mr. Howard J. Koontz:

The purpose of this letter is to request a zoning change for a combined single family and two-family mixed development called the Goforth Road Subdivision. The proposed development is located ¼ mile southeast from Lehman High School at the intersection of Goforth and Bunton Rd, see enclosed location map for more information. The request is to change from the current Agricultural (A) District property to Residential Condominium (R-1-C), Single Family Residential 3 (R-1-3), Neighborhood Commercial (NC), and Community Commercial (CC). Please see table below for the total acreage, lots and lots per buildable acre for our request.

Current Zoning	Requested Zoning	Total Acreage	Buildable Acreage	# of Lots	Lots per Buildable Acre
Agricultural (A)	R-1-C	9.94	9.59	34	3.5
Agricultural (A)	R-1-3	109.47	81.29	353	4.3
Agricultural (A)	NC	3.26			
Agricultural (A)	CC	4.80	-	-	-
<b>Total</b>		<b>127.46</b>			

Please see enclosed land plan and zoning exhibit for more details.

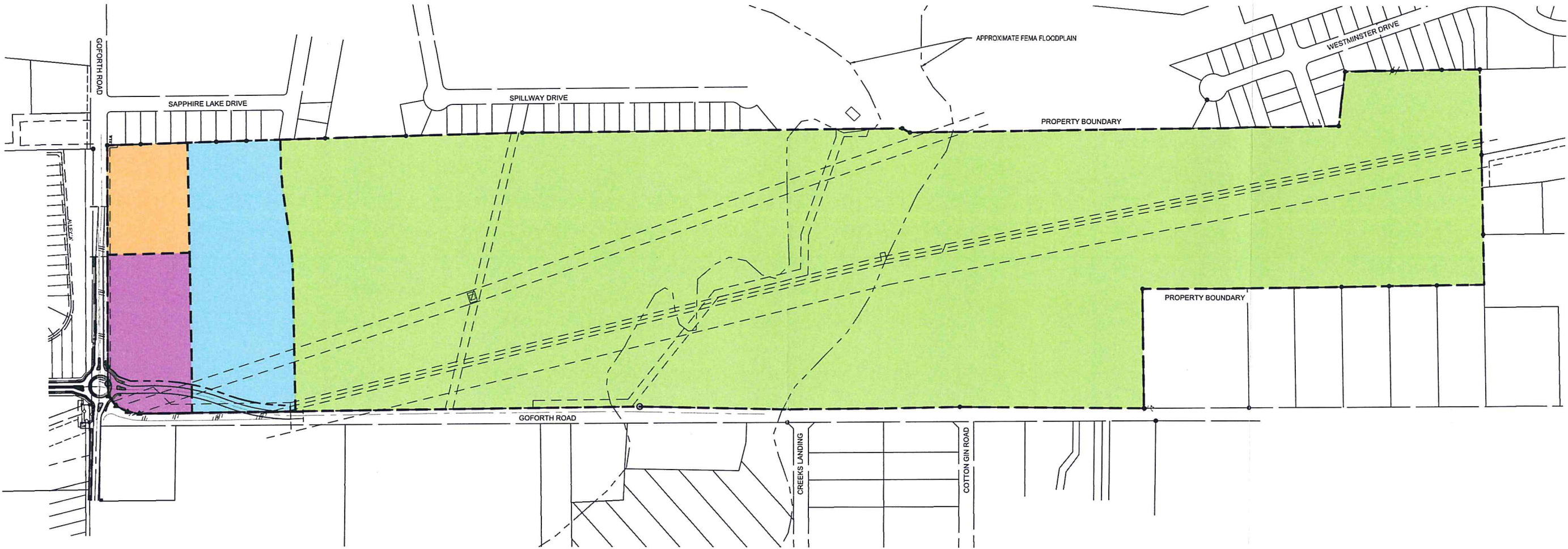
Thank you,



Aaron Neumann, P.E.

# GOFORTH ROAD SUBDIVISION

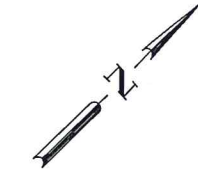
## ZONING EXHIBIT



### LEGEND

PARCEL LINE	—
PROPOSED ZONING BOUNDARY	- - -
PROPOSED R-1-3 ZONING	Green
PROPOSED R-1-C ZONING	Blue
PROPOSED CC ZONING	Purple
PROPOSED NC ZONING	Orange

Current Zoning	Requested Zoning	Total Acreage
Agricultural (A)	R-1-C	9.94
Agricultural (A)	R-1-3	109.47
Agricultural (A)	NC	3.26
Agricultural (A)	CC	4.80
Total		127.46



0 100' 200' 400'  
SCALE: 1" = 200'

.....

You may send your written comments to the Planning Department, 100 W. Center St., Kyle, Texas 78640  
(attention: Zoning File # **Z-19-0037**).

Name: Dwight Meyer Address: 100 Lago Grande Dr

☐ I am in favor, this is why \_\_\_\_\_

☒ I am not if favor, and this is why

Burton Creek Road is in very  
poor condition east of Lehman Rd. which upgrades to  
Burton Creek end of Lehman Rd. very dangerous past school

.....

You may send your written comments to the Planning Department, 100 W. Center St., Kyle, Texas 78640  
(attention: Zoning File # **Z-19-0037**).

Name: Vanessa Ferguson Address: 1164 Sapphire Lake Drive

☐ I am in favor, this is why \_\_\_\_\_

☒ I am not if favor, and this is why road is not big enough  
to handle more traffic / road congestion



# CITY OF KYLE

## Planning Department

100 W. Center Street P.O. Box 40 Kyle, Texas 78640 (512) 262-1010

### NOTICE OF PUBLIC HEARINGS ON A PROPOSED ZONING CHANGE

NOTICE IS HEREBY GIVEN TO ALL INTERESTED PERSONS, THAT:  
(Z-19-0037)

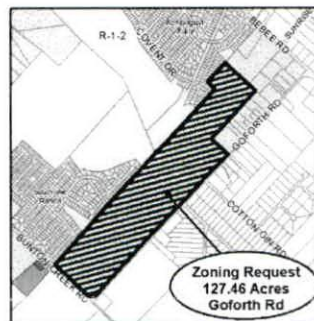
The City of Kyle shall hold a public hearing on a request by Robert and Karen Schlortt (Z-19-0037) to assign original zoning to approximately 9.94 acres of land from Agriculture 'AG' to Residential Condominium District 'R-1-C', approximately 109.47 acres of land to Single Family Residential-3 'R-1-3', approximately 3.26 acres of land to Neighborhood Commercial 'NC' and approximately 4.80 acres of land to Community Commercial 'CC' for property located approximately a ½ mile east of Lehman High School at the intersection of Bunton Creek Road and Goforth Road, in Hays County, Texas.

A public hearing will be held by the Planning and Zoning Commission on Tuesday, May 14, 2019 at 6:30 P.M.

A public hearing will be held by the Kyle City Council on Tuesday, May 21, 2019 at 7:00 P.M.

Kyle City Hall, Council Chambers  
100 W. Center Street, Kyle, Texas

Owner: Robert and Karen Schlortt  
Agent: Aaron Neumann, BGE, Inc.  
Phone: (210) 581-3600



You may send your written comments to the Planning Department, 100 W. Center St., Kyle, Texas 78640 (attention: Zoning File # Z-19-0037).

Name: FRANCISCO GONZALES Address: 264 Spillway Dr 166 TX

☐ I am in favor, this is why \_\_\_\_\_

☒ I am not in favor, and this is why This area is already woefully undermaintained after having had plans passed and promised for road improvements for years and years. The infrastructure here is not capable of supporting more housing nor will it ever be due to lack of water. The tax burden and cost of living is already out of control. STOP building and start making improvements to what is already here !!!

You may send your written comments to the Planning Department, 100 W. Center St., Kyle, Texas 78640  
(attention: Zoning File # Z-19-0037).

Name: FRANCISCO Gonzales Address: 264 Spillway Dr 166 TX

☐ I am in favor, this is why \_\_\_\_\_

☒ I am not in favor, and this is why This area is already woefully undermaintained after having had plans passed and promises for road improvements for years and years. The infrastructure here is not capable of supporting more housing nor will it ever be due to lack of water. The tax burden and cost of living is already out of control. STOP building and start making improvements to what is already here !!!

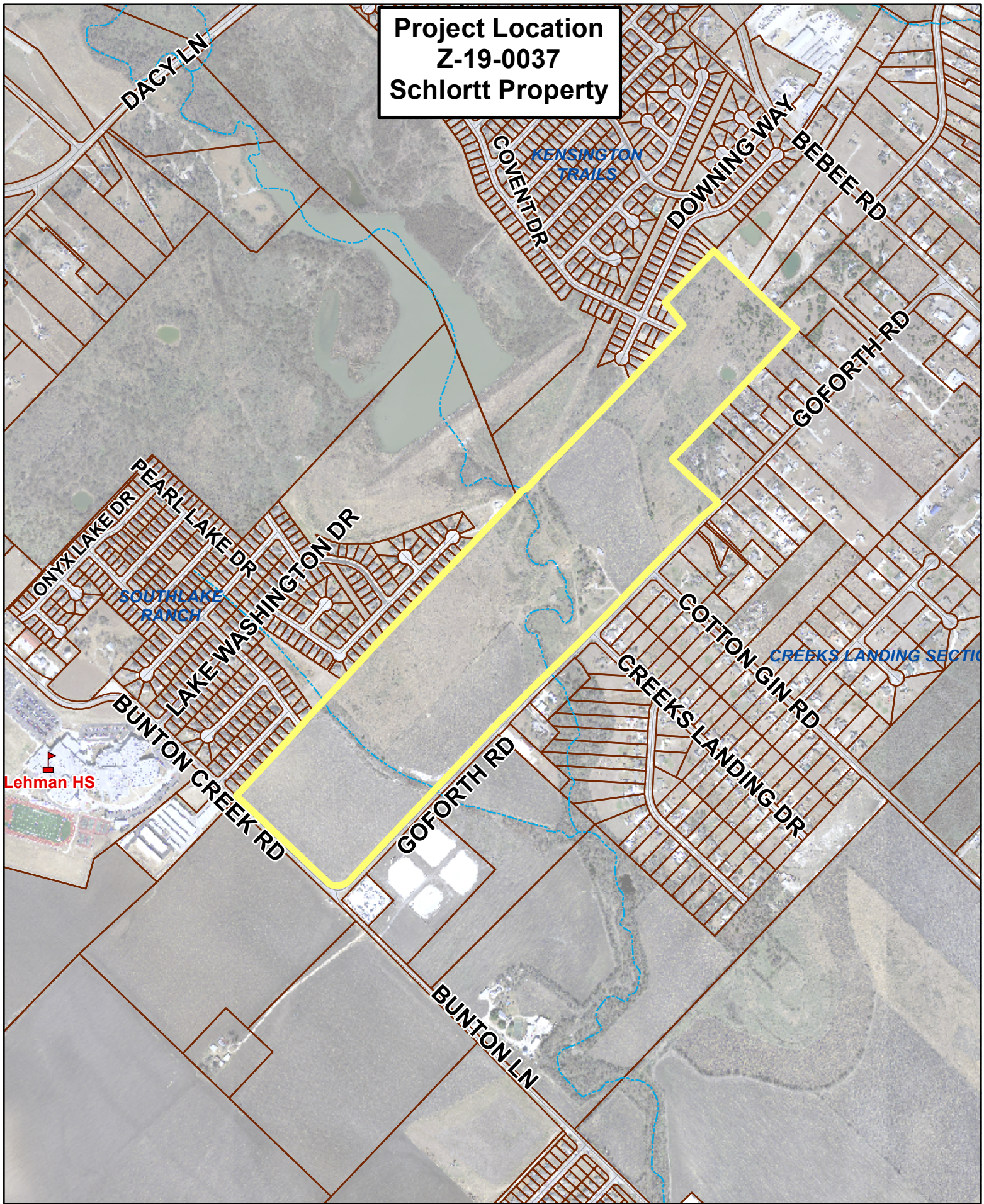
You may send your written comments to the Planning Department, 100 W. Center St., Kyle, Texas 78640  
(attention: Zoning File # Z-19-0037).

Name: Art Walby Address: 308 Spillway Drive

☐ I am in favor, this is why \_\_\_\_\_

☒ I am not in favor, and this is why This is a single family home area. I don't like the Condo / Apartment zone. Please don't approve that portion.

**Project Location**  
**Z-19-0037**  
**Schlortt Property**



0 500 1,000 2,000  
Feet



 Property Location  Parcel Lines

Item # 1



# Plum Creek Conservation District

## Directors:

JAMES A. HOLT, JR., President, *Kyle*  
PETER REINECKE, Vice President, *Luling*  
LUCY KNIGHT, Secretary-Treasurer, *Lockhart*  
BEN TWIDWELL, *Luling*  
FRED ROTHIERT, *Kyle*  
TOM OWEN, *Lockhart*

## Staff:

DANIEL MEYER  
*Executive Manager*  
KAREN BASSETT  
*Secretary*  
MATT SHAW, *Staff Member*  
ALAN BURKLUND, *Staff Member*

May 17, 2019

William Atkinson  
City Planner  
City of Kyle  
100 W. Center Street  
Kyle, Texas 78640

Dear Mr. Atkinson:

This letter is in response to an email I received (attached) on May 15<sup>th</sup>, 2019, inquiring about the structural integrity of Plum Creek Conservation District's site No. 5 dam.

Site No. 5 was built in 1963 for the purpose of flood control as ascribed in Senate Bill 289 under the provisions of sec 59, Article XVI of the Texas Constitution . Due to the rapid development of the City of Kyle many of our dams including site 5 were designated as "high hazard". This classification is not based on the condition of the dam, but rather on whether there could be potential loss of human life or property damage if the dam were to fail. The Texas Commission of Environmental Quality (TCEQ) requires "high hazard" dam owners of existing dams to meet minimum hydrological requirements that are based on the Probable Maximum Flood.



In 2013, site 5 was rehabilitated, in part, to comply with these TCEQ standards. The dam was raised approximately 1.5 ft. and widened on its downstream embankment.

See the attached as built plans.

In 2018 TCEQ inspected site No 5 and in summary "the dam was found to be in overall good condition". Please see the attached inspection report for further details.

Please be mindful that the context of this letter only pertains to the general condition of site 5 and is not intended as a comprehensive evaluation of site 5.

Sincerely yours,

Daniel Meyer  
Executive Manager  
Plum Creek Conservation District

**daniel.meyer@pccd.org**

---

**From:** info@pccd.org  
**Sent:** Wednesday, May 15, 2019 7:38 AM  
**To:** daniel.meyer@pccd.org  
**Subject:** FW: Site 5 Reservior

Forward from William Atkinson.  
KB

---

**From:** William Atkinson [<mailto:watkinson@cityofkyle.com>]  
**Sent:** Wednesday, May 15, 2019 8:31 AM  
**To:** [info@pccd.org](mailto:info@pccd.org)  
**Subject:** Site 5 Reservior

Daniel,

Mario Perez (our flood plain manager), gave me your name.

We're in the process of rezoning the Schlortt Property (R11545), and there was significant concern relating to the structural stability of the dam for Site 5. Can you provide the most up to date report on the site? The developer wants to build a single-family subdivision on the site, flanking the flood plain.

Also, do you have any enforceable build restrictions for development near spillways or flood plain?

Thanks,

**William Atkinson**

City Planner  
City of Kyle  
512-233-1144  
100 W. Center Street  
Kyle, Texas 78640



FLOODWATER RETARDING STRUCTURE SITE NO. 5 REHABILITATION

PLUM CREEK WATERSHED

HAYS COUNTY, TEXAS

DRAINAGE AREA 3,546 ACRES  
TOTAL STORAGE 2,246 AC. FT.  
HEIGHT OF DAM 42 FEET

SPONSORED BY

CALDWELL-TRAVIS SOIL AND WATER CONSERVATION DISTRICT  
HAYS COUNTY SOIL AND WATER CONSERVATION DISTRICT  
PLUM CREEK CONSERVATION DISTRICT

COOPERATING WITH

NATURAL RESOURCES CONSERVATION SERVICE  
OF THE  
U.S. DEPARTMENT OF AGRICULTURE

2009

CONSTRUCTION DRAWINGS APPROVED  
ENGINEERING JOB CLASS VII



M&E Consultants  
Soil & Water Engineering Solutions  
F-4324



*William H. Erion P.E.*  
WILLIAM H. ERION  
TEXAS REG. P.E. NO. 84920

CONSTRUCTION DRAWINGS APPROVED

*John W. Mueller*  
STATE CONSERVATION ENGINEER, N.R.C.S.  
TEMPLE, TEXAS

12-8-2009  
DATE

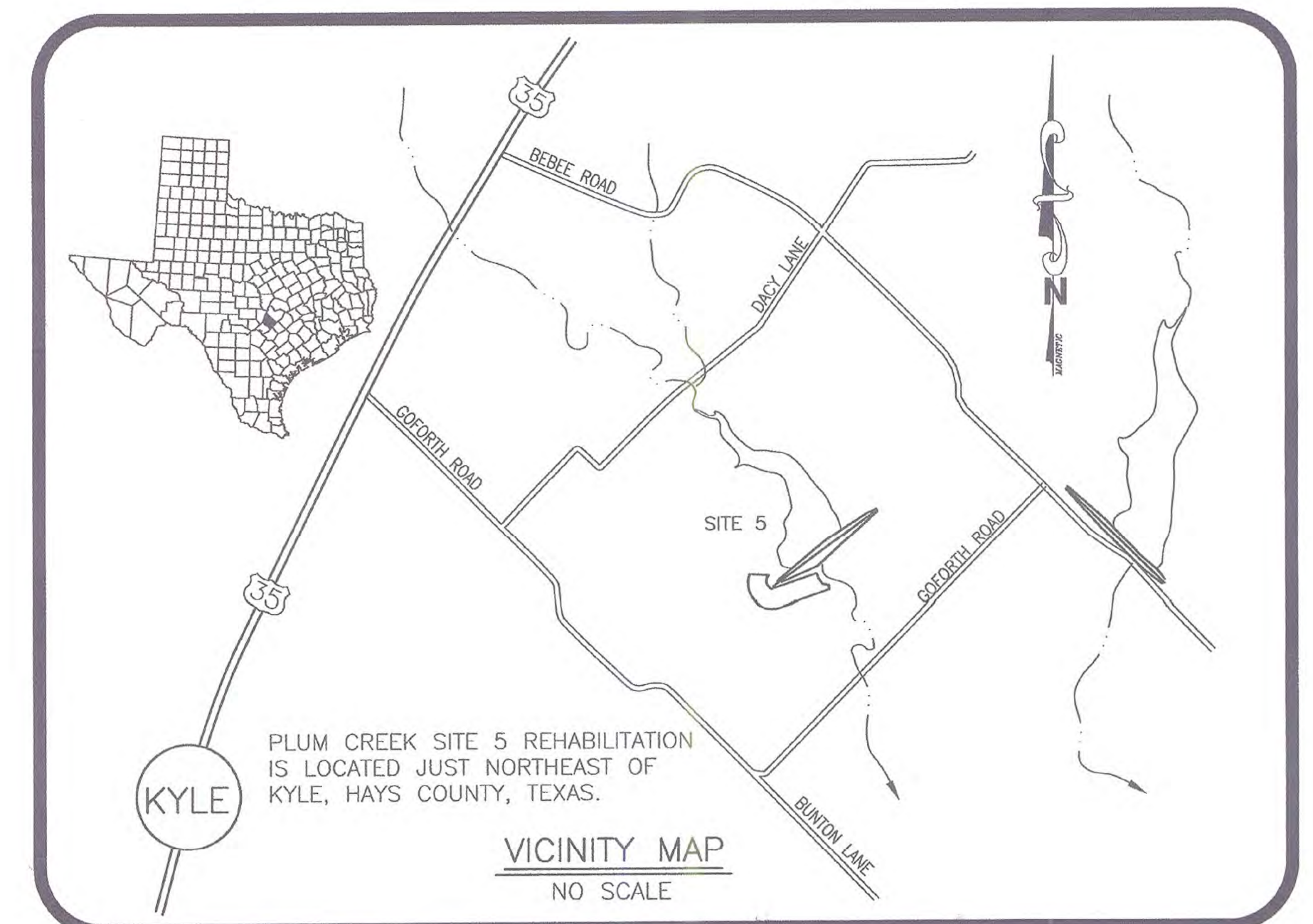
1/5/10  
DATE

AS BUILT PLANS

CONTRACT NO. AG-7442-C-11-0069  
CONTRACTOR FUEL TANK MAINTENANCE CO. LLC  
CONSTRUCTION COMMENCED 10-4-2011  
GOV. REPRESENTATIVE JOHN HREBIAK  
GOV. INSPECTOR ADAM RANGEL  
BID PRICE \$1,119,554.00  
FINAL PRICE \$1,118,956.00  
CONSTRUCTION COMPLETED 10-10-2012

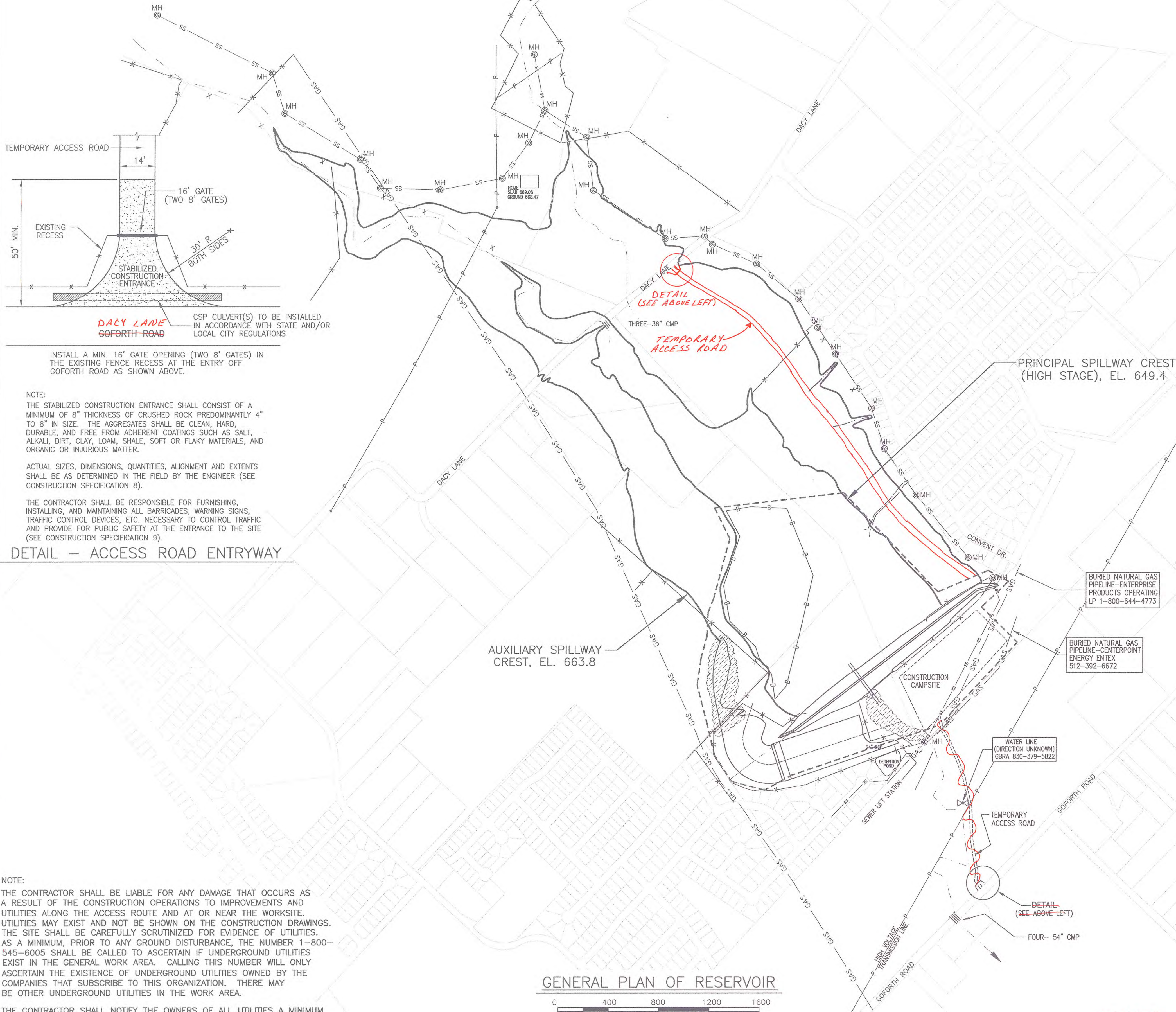
INDEX OF DRAWINGS

SHEET NO.	TITLE
1	GENERAL PLAN OF RESERVOIR
2	PLAN OF EMBANKMENT AND SPILLWAYS
3	TYPICAL SECTION-EMBANKMENT AND AUXILIARY SPILLWAY FLARE
4-5	EMBANKMENT CROSS SECTIONS
6	PLAN-PRINCIPAL SPILLWAY NO. 1 AND 2
7	SECTIONS-PRINCIPAL SPILLWAY NO. 1 AND 2
8	CROSS SECTIONS-PRINCIPAL SPILLWAY NO. 1 AND 2
9	OUTLET CHANNEL-PLAN
10	FOUNDATION TRENCH DRAIN-PLAN AND PROFILE
11	FOUNDATION TRENCH DRAIN-DETAILS
12	PIPE DETAIL
13	PRINCIPAL SPILLWAY NO. 2-INLET
14	STEEL PLACEMENT-PRINCIPAL SPILLWAY NO. 2 INLET
15	PRINCIPAL SPILLWAY NO. 1-IMPACT BASIN
16-18	PRINCIPAL SPILLWAY NO. 1 STEEL PLACEMENT-IMPACT BASIN
19	PRINCIPAL SPILLWAY NO. 1 STEEL SCHEDULE-IMPACT BASIN
20	PRINCIPAL SPILLWAY NO. 2-IMPACT BASIN
21-23	PRINCIPAL SPILLWAY NO. 2 STEEL PLACEMENT-IMPACT BASIN
24	PRINCIPAL SPILLWAY NO. 2 STEEL SCHEDULE-IMPACT BASIN
25	IMPACT BASIN DRAINAGE SYSTEM DETAILS
26	IMPACT BASIN-SAFETY FENCES
27	PRINCIPAL SPILLWAY NO. 1-TRASHRACK DETAILS
28	FENCE DETAILS
29-31	PLAN AND PROFILES FOR GEOLOGIC INVESTIGATIONS
32	STORM WATER POLLUTION PREVENTION PLAN AND VEGETATION MAP



VICINITY MAP  
NO SCALE

DRAWING NO. FN: PLUMS-COV  
TX-EN-0557



ELEVATION	SURFACE ACRES	CAPACITY	
		AC. FT.	INCHES
649	65.5	427.0	2.09
651	81.1	573.6	2.17
653	97.1	751.8	2.89
655	113.5	962.4	3.76
657	130.8	1206.7	4.80
659	150.0	1487.5	6.06
661	170.1	1807.6	7.58
663	193.4	2171.1	8.45
665	211.1	2575.6	9.32
667	230.8	3017.5	11.27
669	251.6	3499.9	13.44
671	274.0	4025.5	15.83
673	297.0	4596.5	15.83
DRAINAGE AREA, ACRES		3,546	
TOP OF DAM (EFFECTIVE), EL.		671.2	
AUXILIARY SPILLWAY CREST, EL.		663.8	
PRINCIPAL SPILLWAY CREST (HIGH STAGE), EL.		649.4	
PRINCIPAL SPILLWAY CREST (LOW STAGE), EL.		645.1	
SEDIMENT CAPACITY, ACRE FEET		204.5	
FLOODWATER CAPACITY, ACRE FEET		2,042	
MAXIMUM AUXILIARY SPILLWAY CAPACITY, CUBIC FEET/SECOND		16,526	
PRINCIPAL SPILLWAY CAPACITY @ EL. 663.8, CFS		185	

INSTALL A MIN. 16' GATE OPENING (TWO 8' GATES) IN THE EXISTING FENCE RECESS AT THE ENTRY OFF GOFORTH ROAD AS SHOWN ABOVE.

NOTE:  
THE STABILIZED CONSTRUCTION ENTRANCE SHALL CONSIST OF A MINIMUM OF 8" THICKNESS OF CRUSHED ROCK PREDOMINANTLY 4" TO 8" IN SIZE. THE AGGREGATES SHALL BE CLEAN, HARD, DURABLE, AND FREE FROM ADHERENT COATINGS SUCH AS SALT, ALKALI, DIRT, CLAY, LOAM, SHALE, SOFT OR FLAKY MATERIALS, AND ORGANIC OR INJURIOUS MATTER.

ACTUAL SIZES, DIMENSIONS, QUANTITIES, ALIGNMENT AND EXTENTS SHALL BE AS DETERMINED IN THE FIELD BY THE ENGINEER (SEE CONSTRUCTION SPECIFICATION 8).

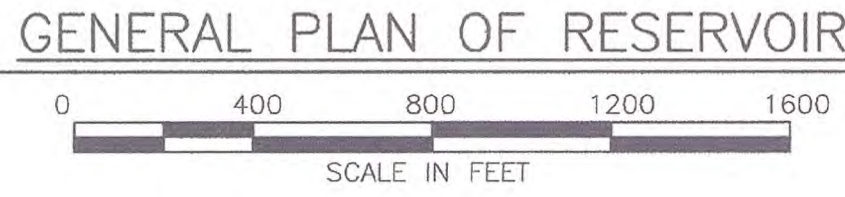
THE CONTRACTOR SHALL BE RESPONSIBLE FOR FURNISHING, INSTALLING, AND MAINTAINING ALL BARRICADES, WARNING SIGNS, TRAFFIC CONTROL DEVICES, ETC. NECESSARY TO CONTROL TRAFFIC AND PROVIDE FOR PUBLIC SAFETY AT THE ENTRANCE TO THE SITE (SEE CONSTRUCTION SPECIFICATION 9).

DETAIL — ACCESS ROAD ENTRYWAY

NOTE:  
THE CONTRACTOR SHALL BE LIABLE FOR ANY DAMAGE THAT OCCURS AS A RESULT OF THE CONSTRUCTION OPERATIONS TO IMPROVEMENTS AND UTILITIES ALONG THE ACCESS ROUTE AND AT OR NEAR THE WORKSITE. UTILITIES MAY EXIST AND NOT BE SHOWN ON THE CONSTRUCTION DRAWINGS. THE SITE SHALL BE CAREFULLY SCRUTINIZED FOR EVIDENCE OF UTILITIES. AS A MINIMUM, PRIOR TO ANY GROUND DISTURBANCE, THE NUMBER 1-800-545-6005 SHALL BE CALLED TO ASCERTAIN IF UNDERGROUND UTILITIES EXIST IN THE GENERAL WORK AREA. CALLING THIS NUMBER WILL ONLY ASCERTAIN THE EXISTENCE OF UNDERGROUND UTILITIES OWNED BY THE COMPANIES THAT SUBSCRIBE TO THIS ORGANIZATION. THERE MAY BE OTHER UNDERGROUND UTILITIES IN THE WORK AREA.

THE CONTRACTOR SHALL NOTIFY THE OWNERS OF ALL UTILITIES A MINIMUM OF (10) DAYS IN ADVANCE OF INTENT TO PERFORM WORK IN THE VICINITY OF THE AFFECTED UTILITY. THE NOTICE SHALL BE IN WRITING AND A COPY SHALL BE FURNISHED TO THE CONTRACTING OFFICER.

- LEGEND
- APPROX. LIMITS OF WORK
  - X- EXISTING FENCE
  - B- APPROX. LIMITS OF BORROW AREA
  - P- OVERHEAD POWER LINE
  - MH SS SANITARY SEWER
  - Areas to be Cleared



"As Built Plans"  
Completion Date 10-10-2016  
54

NRC  
Natural Resources Conservation Service  
U.S. Department of Agriculture

DESIGNED BY: WILLIAM H. ERION  
DRAWN BY: CP  
CHECKED BY: LDM  
FILE NAME: PLUM5-GP  
DATE PLOTTED: 11/09

GENERAL PLAN OF RESERVOIR  
FLOODWATER RETARDING STRUCTURE NO. 5 REHAB  
PLUM CREEK WATERSHED  
IN  
HAYS COUNTY, TEXAS

REVISIONS      DATE

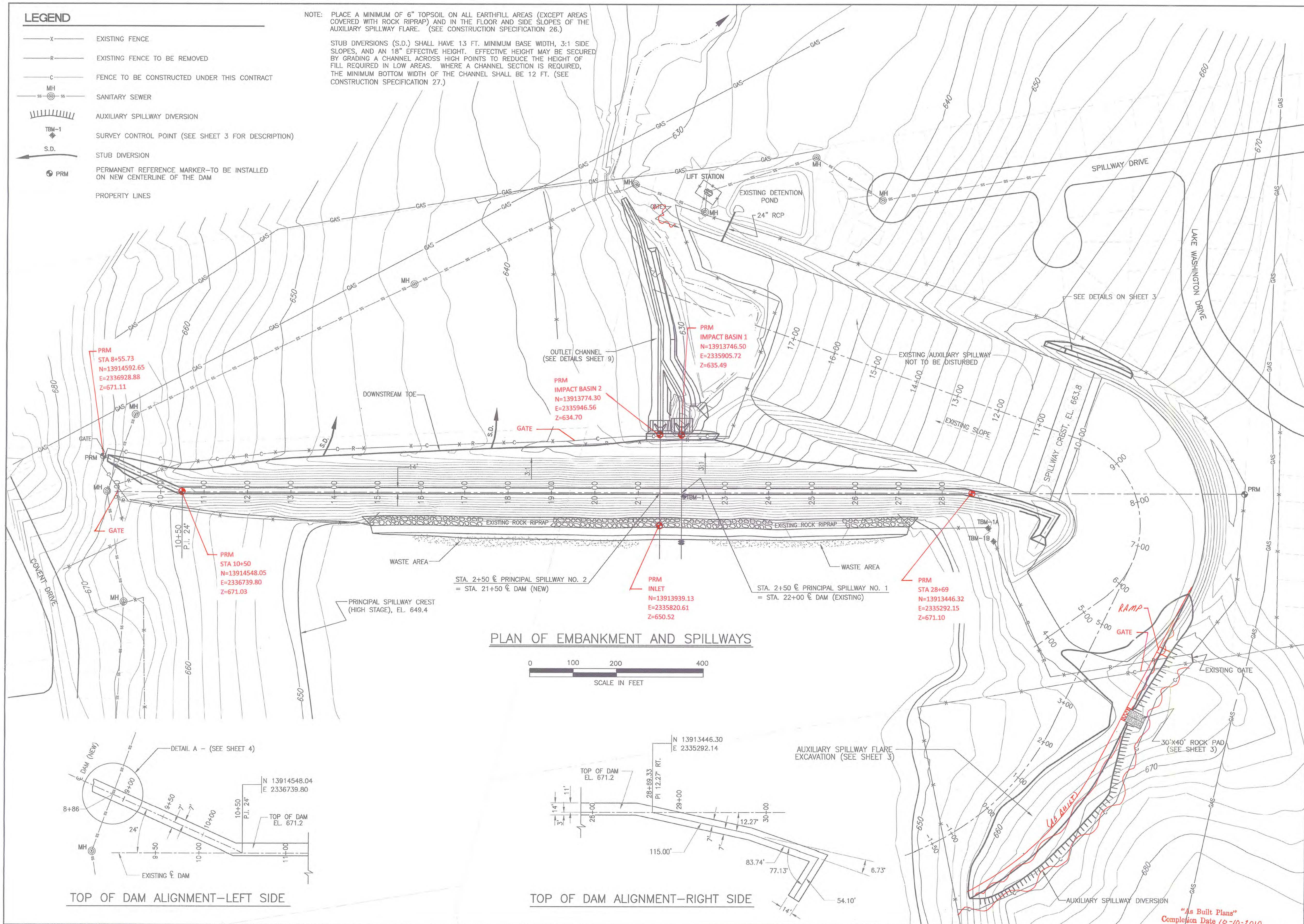
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DRAWING NO.  
TX-EN-0557

SHEET  
**1**

	EXISTING FENCE
	EXISTING FENCE TO BE REMOVED
	FENCE TO BE CONSTRUCTED UNDER THIS CONTRACT
	SANITARY SEWER
	AUXILIARY SPILLWAY DIVERSION
	SURVEY CONTROL POINT (SEE SHEET 3 FOR DESCRIPTION)
	STUB DIVERSION
	PERMANENT REFERENCE MARKER—TO BE INSTALLED ON NEW CENTERLINE OF THE DAM
	PROPERTY LINES

STUB DIVERSIONS (S.D.) SHALL HAVE 13 FT. MINIMUM BASE WIDTH, 3:1 SIDE SLOPES, AND AN 18" EFFECTIVE HEIGHT. EFFECTIVE HEIGHT MAY BE SECURED BY GRADING A CHANNEL ACROSS HIGH POINTS TO REDUCE THE HEIGHT OF FILL REQUIRED IN LOW AREAS. WHERE A CHANNEL SECTION IS REQUIRED, THE MINIMUM BOTTOM WIDTH OF THE CHANNEL SHALL BE 12 FT. (SEE CONSTRUCTION SPECIFICATION 27.)



DESIGNED BY: WILLIAM H. ERION  
DRAWN BY: CP  
CHECKED BY: LDM  
FILE NAME: PLUM5-PLAN  
DATE PLOTTED: 11/09

**PLAN OF EMBANKMENT AND SPILLWAYS**  
FLOODWATER RETARDING STRUCTURE NO. 5 REHAB  
PLUM CREEK WATERSHED  
IN



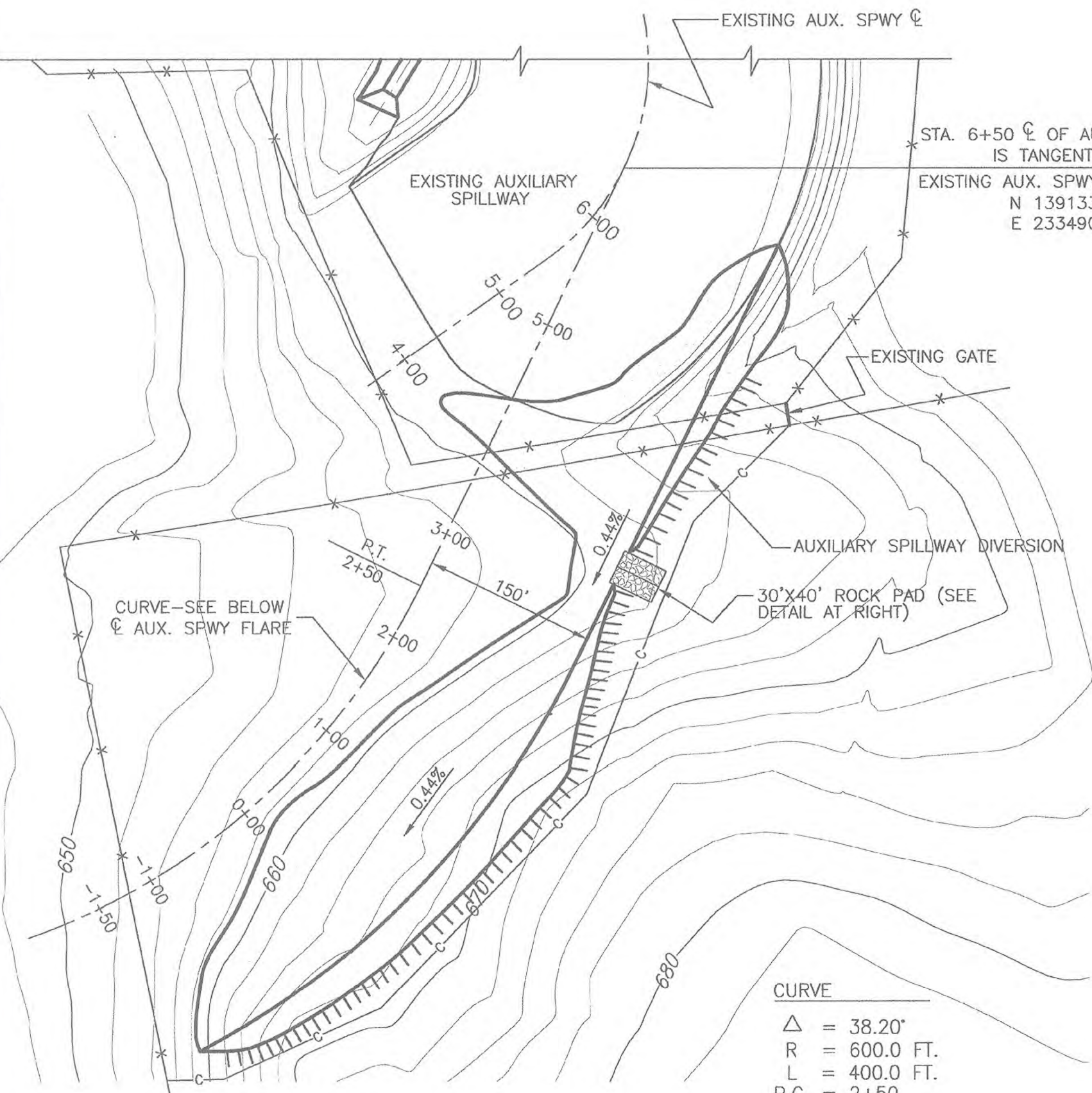
**NRCS**  
Natural Resources Conservation  
U.S. Department of Agriculture

REVISIONS	DATE
DRAWING NO.	
TX-EN-0557	
SHEET	

2

SURVEY CONTROL POINTS	
NUMBER	DESCRIPTION
TBM-1	1/2" REBAR WITH RED M&E CAP SET ON UPSTREAM SLOPE OF DAM ON APPROX. CENTERLINE OF PRINCIPAL SPILLWAY NO. 1 N 13913854.52 E 2335815.50 ELEVATION-669.52
TBM-1A	1/2" REBAR WITH RED M&E CAP SET 6" FROM 2 1/2" BRACE POST OF SPILLWAY FENCE AT GAP. N 13913486.26 E 2335214.26 ELEVATION-657.69
TBM-1B	1/2" REBAR WITH RED M&E CAP SET 6" FROM 2 1/2" BRACE POST OF SPILLWAY FENCE AT GAP. N 13913502.91 E 2335185.87 ELEVATION-659.08

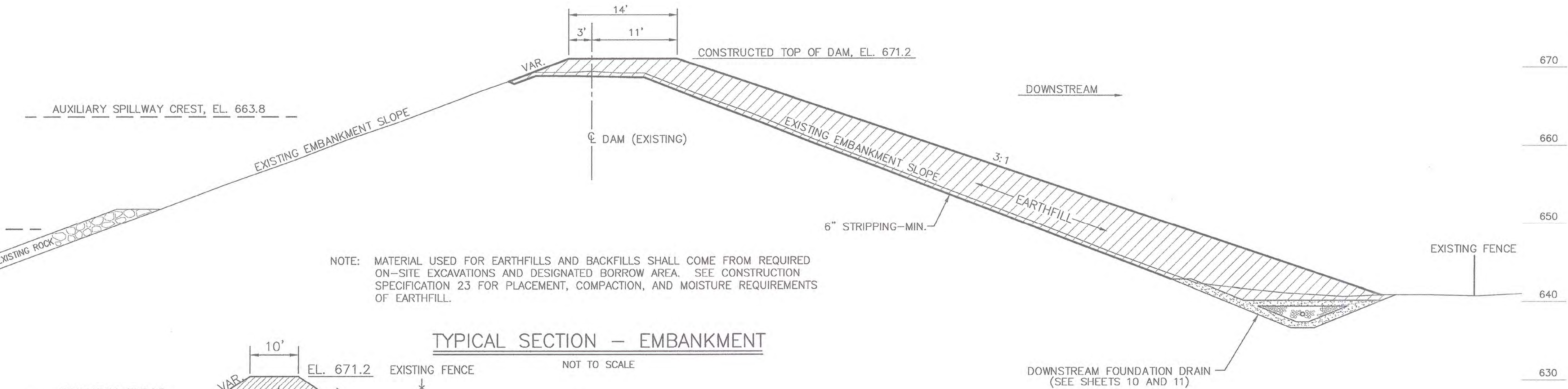
FROM SHEET 2



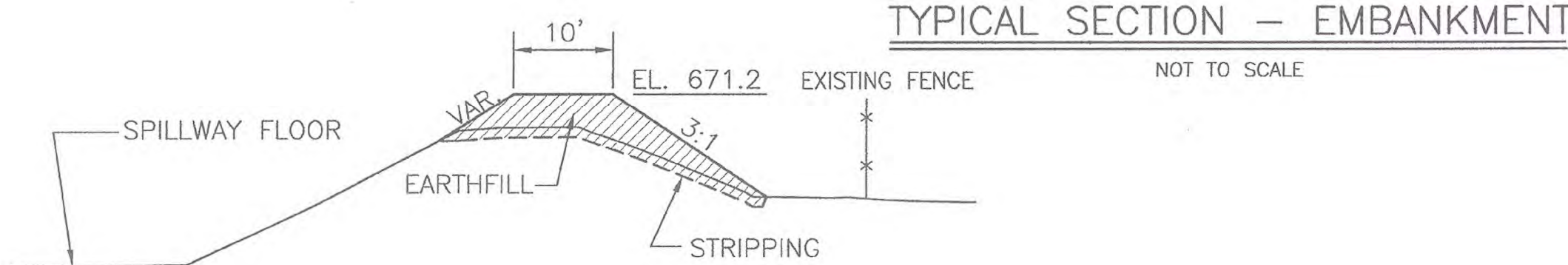
EXCAVATE THE FOREBAY OF THE EXISTING AUXILIARY SPILLWAY BY FLARING OUT THE RIGHT SIDE TO THE APPROXIMATE LIMITS SHOWN AND DETAILED. THE FINAL LIMITS, ELEVATIONS, AND GRADES OF THE FLARE SHALL BE AS STAKED IN THE FIELD. OVER EXCAVATE THE FLARE 6" FOR THE PLACEMENT OF TOPSOIL. (SEE CONSTRUCTION SPECIFICATION 21.)

### PLAN-AUXILIARY SPILLWAY FLARE

CURVE  
 $\Delta = 38.20^\circ$   
 $R = 600.0$  FT.  
 $L = 400.0$  FT.  
 $P.C. = 2+50$   
 $P.T. = -1+50$

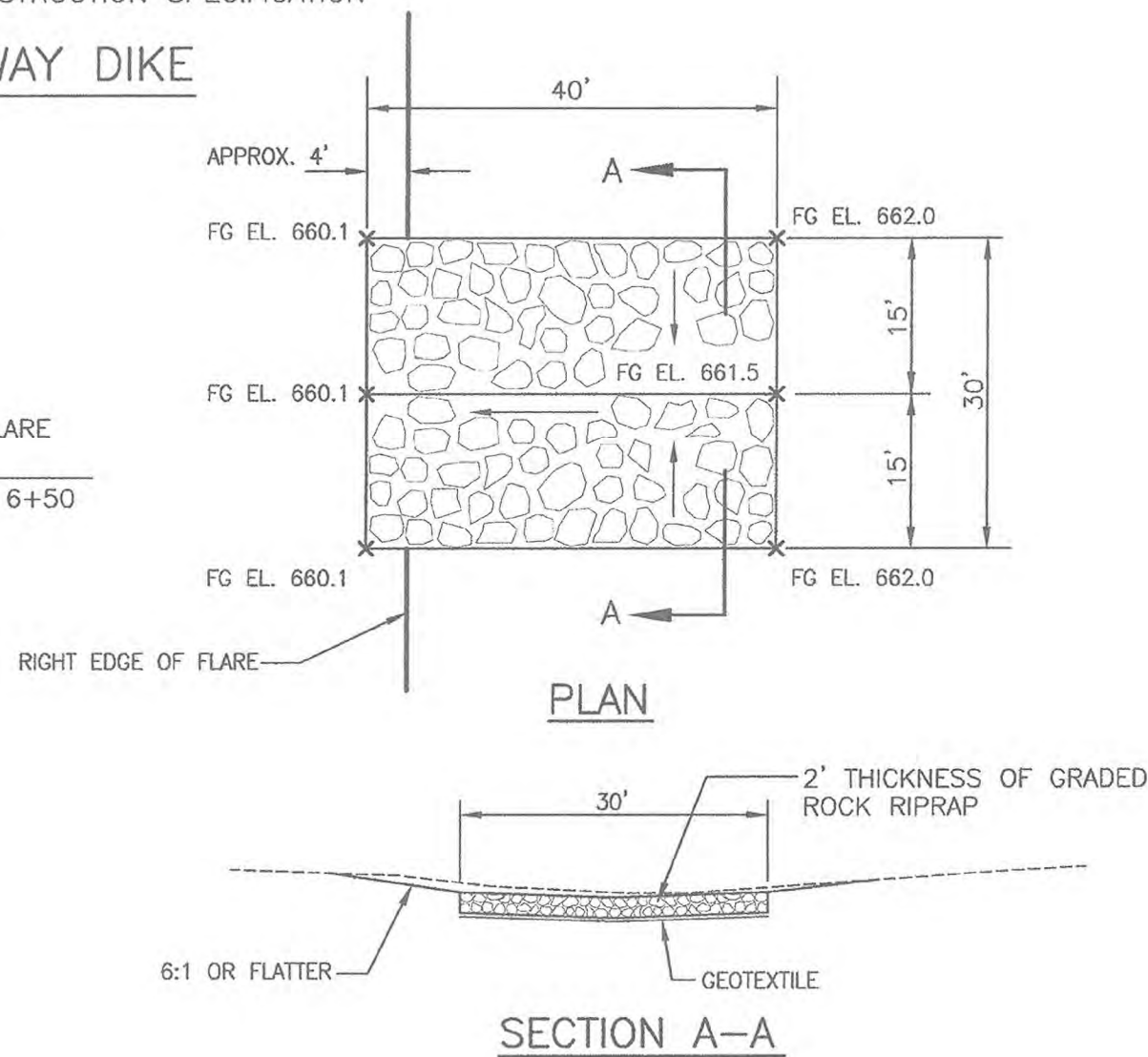


NOTE: MATERIAL USED FOR EARTHFILLS AND BACKFILLS SHALL COME FROM REQUIRED ON-SITE EXCAVATIONS AND DESIGNATED BORROW AREA. SEE CONSTRUCTION SPECIFICATION 23 FOR PLACEMENT, COMPACTION, AND MOISTURE REQUIREMENTS OF EARTHFILL.



RECONSTRUCT THE EXISTING RIGHT SIDE AUXILIARY SPILLWAY DIKE FROM APPROX. STA. 9+50 TO STA. 11+00 TO THE LIMITS SHOWN. TRANSITION UNIFORMLY FROM STA. 11+00 TO THE EXISTING DIKE AT APPROX. STA. 11+50. MATERIALS FORMING DIKE AND TRANSITIONAL AREA SHALL BE PLACED AND PAID FOR AS "EARTHFILL". (SEE CONSTRUCTION SPECIFICATION 23.)

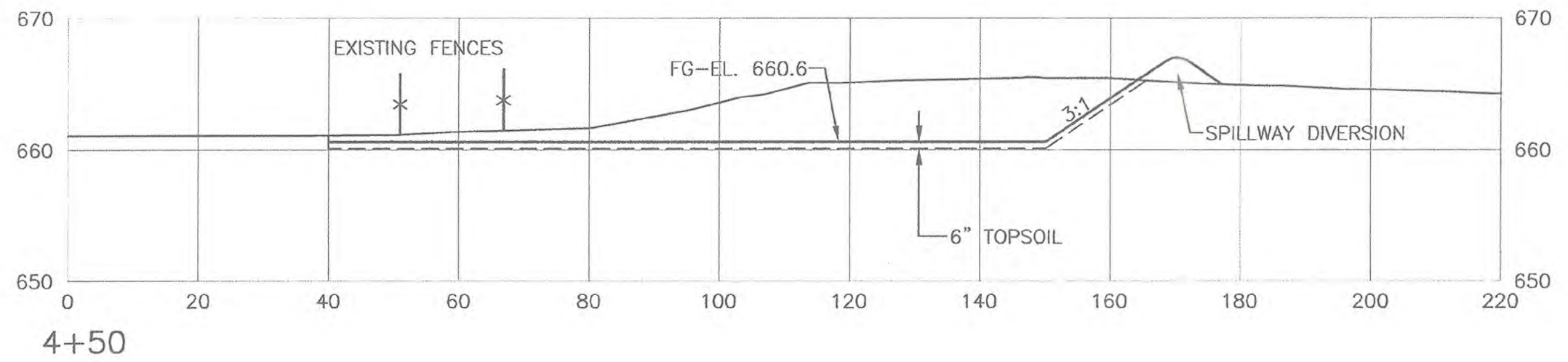
### DETAIL-AUXILIARY SPILLWAY DIKE



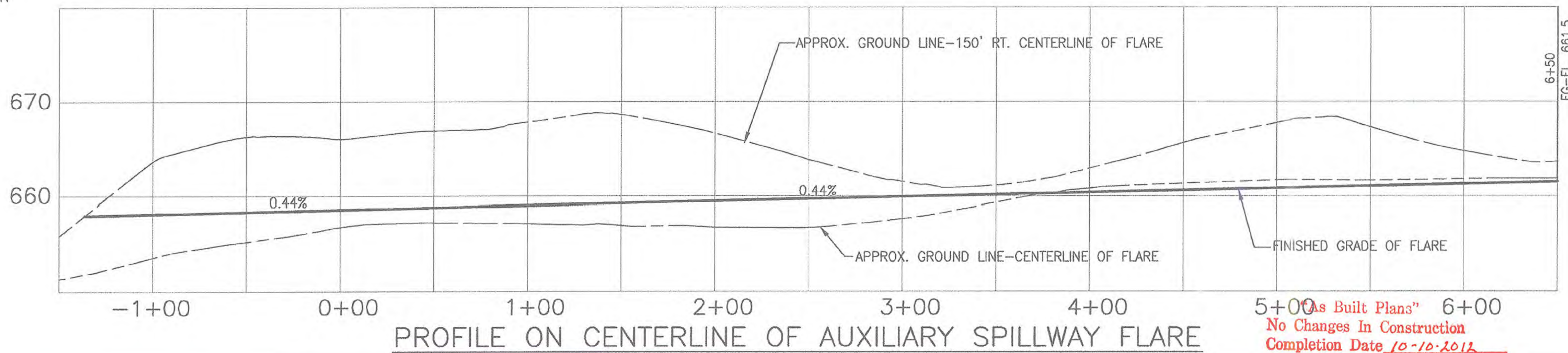
CONSTRUCT A ROCK PAD TO THE APPROX. LIMITS AND ELEVATIONS SHOWN. LOCATE THE ROCK PAD AT THE LOW POINT IN THE PROFILE FOR THE RIGHT SIDE OF THE AUXILIARY SPILLWAY FLARE (APPROX. STA. 3+40). FINAL LOCATION, LIMITS, AND ELEVATIONS SHALL BE AS STAKED IN THE FIELD. (SEE CONSTRUCTION SPECIFICATIONS 21, 61, AND 95.)

### ROCK PAD-DETAILS

QUANTITIES  
 ROCK RIPRAP.....147 TONS  
 GEOTEXTILE.....133 SQ. YDS.  
 NOTE: SEE SHEET 9 FOR GRADATION OF ROCK RIPRAP.



### SECTIONS ON FLARE



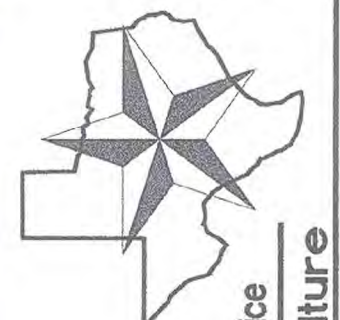
### PROFILE ON CENTERLINE OF AUXILIARY SPILLWAY FLARE

As Built Plans  
 No Changes in Construction  
 Completion Date 10-10-2012



DESIGNED BY: WILLIAM H. ERION  
 DRAWN BY: CP  
 CHECKED BY: LDM  
 FILE NAME: PLUMS-DETAILS  
 DATE PLOTTED: 11/09

TYPICAL SECTION-EMBANKMENT AND  
 AUXILIARY SPILLWAY FLARE  
 FLOODWATER RETARDING STRUCTURE NO. 5 REHAB  
 IN  
 PLUM CREEK WATERSHED  
 HAYS COUNTY, TEXAS



NRCS  
 Natural Resources Conservation Service  
 U.S. Department of Agriculture

REVISIONS DATE

DRAWING NO.  
 TX-EN-0557

SHEET

3



# CITY OF KYLE, TEXAS

## TIRZ No. 2 ILA with Hays County

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** Discussion and possible action to authorize the City Manager to execute an Interlocal Agreement with Hays County related to the City of Kyle Tax Reinvestment Zone No. 2.  
~ *J. Scott Sellers, City Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

▣ ILA

**Interlocal Agreement  
Regarding the City of Kyle Tax Increment Reinvestment Zone Number Two**

**THIS INTERLOCAL AGREEMENT** regarding the City of Kyle Tax Increment Reinvestment Zone Number Two (this "Agreement") is made and entered into by and between the City of Kyle, Texas, a home rule municipality (the "City"), and Hays County, a political subdivision of the State of Texas (the "County") under the authority of Texas Government Code Chapter 791 and Chapter 311 of the Texas Tax Code for the participation of the City and the County in **Tax Increment Reinvestment Zone Number Two**, City of Kyle, Texas, ("TIRZ 2"), TIRZ 2 created by the City pursuant to Chapter 311 of the Texas Tax Code.

**RECITALS:**

**WHEREAS**, in accordance with the provisions of the Tax Increment Financing Act, Chapter 311, Texas Tax Code, as amended (the "Act"), the City Council of the City, pursuant to Ordinance No. 1022 (the "Zone No. 2 Ordinance") adopted on December 18, 2018, created, established, and designated TIRZ 2 under the Act, attached as Exhibit "AA"; and

**WHEREAS**, in the Ordinance, the City found that the designation of TIRZ 2 would encourage the development of property in and around TIRZ 2; and

**WHEREAS**, in the Ordinance, the City contributed fifty percent (50%) of its Tax Revenue for TIRZ 2; and

**WHEREAS**, in consideration of the County's contribution of a fifty percent (50%) portion of its Tax Revenue for the TIRZ, the County shall have the authority to appoint two members to the TIRZ 2 board; and

**WHEREAS**, the TIRZ project plan includes transportation and other projects that benefit the County and its residents; and

**WHEREAS**, in consideration of special benefit to the County created by the TIRZ 2 projects, including transportation and capital improvements for public use, the County is authorized to appropriate funding under this Agreement; and

**WHEREAS**, pursuant to the Hays County Zones Policy, the County's contribution of a TIRZ Payment equal to fifty percent (50%) of its own increment in TIRZ 2 would greatly enhance the implementation of the TIRZ 2 projects by the City; and

**WHEREAS**, both the City and the County will benefit from the development and improvements paid with the Tax Increment Funds in accordance with the documents creating TIRZ 2; and

**WHEREAS**, pursuant to Chapter 791 of the Texas Government Code, the City and the County are entering into this Agreement to set forth the conditions governing the contribution of the Tax Increment by the City and current, annually-appropriated funds by the County to TIRZ 2, and the City finds that this Agreement is necessary for the implementation of the Project Plans for TIRZ 2.

**NOW THEREFORE**, the City and the County, in consideration of the terms, conditions, and covenants contained herein, hereby agree as follows:

**Section 1. Incorporation of Recitals.** The Parties hereby agree that the recitals set forth above form the basis upon which they have entered into this Agreement.

**Section 2. Definitions.**

In addition to any terms defined in the body of this Agreement, the following terms shall have the definitions ascribed to them as follows:

- A. Act** means the Tax Increment Financing Act, as amended and as codified as Chapter 311 of the Texas Tax Code.
- B. Captured Appraised Value** in a given year means the total appraised value, less any applicable exemptions, of all TIRZ real property taxable by the City or the County for that Tax Year less the Tax Increment Base defined in Section (G) below.
- C. Project Plan** means the project plans for TIRZ 2 attached to this Agreement and included in Exhibit "AA" as adopted by the TIRZ Board and the City of Kyle, along with amendments to this plan that are adopted by the Board of Directors of TIRZ 2, and approved by the City Council of the City of Kyle from time to time. The Project Plan includes maps of all property in the TIRZ, including all non-taxable property.
- D. Tax Increment** means the amount of property taxes levied and collected by the City or County for that year on the captured appraised value of real property taxable by the City or County and located in TIRZ 2.
- E. City Tax Increment** will be that amount paid by the City into the Tax Increment Funds.
- F. County TIRZ Payment** will be that amount of current, annually-appropriated funds paid by the County into the Tax Increment Funds.
- G. Tax Increment Base** means the total appraised value as of January 1, 2018, of all real property taxable by the City or the County, as applicable, and located in the TIRZ. Each Party to this Agreement shall be responsible for establishing its own Tax Increment Base.

- H. **Tax Increment Fund (TIF)** means that fund created by the City pursuant to Section 311.014 of the Act and the Ordinance, which will be maintained by the City, and into which all revenues of the TIRZ will be deposited, including deposits of Tax Increment by the City and by such other taxing units with jurisdiction over real property in the TIRZ that may enter into agreements for such contributions, including the County's TIRZ Payment.
- I. **TIRZ Boards** mean the governing board of directors of the TIRZ appointed in accordance with Section 311.009 of the Act, the Ordinance, and this Agreement.
- J. **TIRZ** means the Tax Increment Reinvestment Zone Number Two, approved by City of Kyle Ordinance No. 1022.
- K. Terms other than those defined above shall: (1) have their meanings as given in Chapter 311, Texas Tax Code; or (2) if not so defined, their usual and ordinary meanings.
- L. References to state statutes shall include amendments to those statutes that are duly enacted from time to time.

### **Section 3. Obligations of the County**

- A. **County TIRZ Payment.** The County agrees to pay current, annually-appropriated funds to the City for deposit into the Tax Increment funds created by the City for TIRZ 2 (the "Tax Increment Funds") fifty percent (50%) of the tax increment attributed to the captured appraised value of the County in the TIRZ. The County's obligation to make these payments will accrue only after taxes on the captured appraised value are collected by the County. Payments shall be due on May 1 of each year during the term of the Agreement. No interest or penalty will be charged to the County for any payments made by the County based on collections that occur after this due date. The County may offset against future payments to the Tax Increment any portion of payments to the City under this Agreement that the County subsequently refunds to taxpayers pursuant to the provision of the Texas Tax Code.
- B. **Limitations on Payments.** The County is not obligated to make payments under this Agreement: (1) unless and until taxes on the captured appraised value are actually collected by the County; or (2) in any amount greater than taxes actually collected on the County's captured appraised value. Likewise, if funds are not appropriated by the Hays County Commissioners Court during any annual budgetary cycle, then the County's obligations to make a County TIRZ Payment under this Agreement shall be waived for that Fiscal Year. Any funds already contributed to the Tax Increment Funds under this Agreement shall remain available for TIRZ expenditures, subject to the other terms and limitations of this Agreement.

**C. The Project**

**Boundary and Projects.** The boundaries of the TIRZ are and shall be those described in City of Kyle Ordinance No. 1022. The projects of the TIRZ are and shall be those described in City of Kyle Ordinance No. 1022, as adopted upon recommendation of the Board of Directors of the TIRZ (the "Board") and approved by the City Council of the City and in accordance with the *Tax Increment Reinvestment Zone Number Two*, ("Project Plans") and attached as Exhibit "AA". The County is not obligated to make payments based on the addition of property or projects to the TIRZ. County funds will only be used for those projects adopted by the TIRZ Board and the City Council as attached to this Agreement unless a written amendment changes those projects or boundaries and is approved by both the County and the City. No project expenditures of County monies provided under this Agreement shall be authorized without an affirmative vote of the Board, with the County representatives present for the vote and with the County representatives unanimously agreeing with a proposed expenditure. In the event that the County representatives do not unanimously agree with a proposed expenditure, County monies provided under this Agreement may not be utilized for that expenditure unless and until a subsequent vote of the Hays County Commissioners Court approves of that expenditure.

**D. Development in the Zone.** Property within the boundaries of the TIRZ shall be developed as closely as possible in conformity with the Final Plan. As stated above, County funds will only be used for projects that have been approved by the County members of the TIRZ Board or by the County Commissioners Court.

**E. County Appointment to the Board of Directors of TIRZ Number One, Town Center TIRZ.** The TIRZ Board shall consist of nine (9) voting members. The Commissioners Court of the County shall each have the unequivocal right to appoint two (2) qualified voting members during the period that the TIF created under this Agreement contains funds. The City Council shall have the right to appoint seven (7) qualified voting members during the length of the TIRZ as established by Ordinance 1022. Members of the TIRZ Board shall meet the qualifications set forth in Section 311.009 of the Texas Tax Code. Failure of the Commissioners Court to appoint a person to the TIRZ Board shall not be deemed a waiver of the County's right to make an appointment at a later date. The Commissioners Court will make best faith efforts to appoint a qualified person to serve on the Board of Directors, and to fill vacancies in the positions as needed.

**Section 4. Obligations of the City.**

**A. Use of County Payments.** The City agrees to use payments made by the County under this Agreement solely to fund Project Costs as defined in Chapter 311 of the Texas Tax Code and as allowed by the Hays County TIRZ Policy.

**B. Notice to County of Amendments to Project Plan.** The City agrees to provide the County with

written notice of any proposed amendments to the Project Plan at least fourteen (14) days prior to their submission to the City Council for approval. The City agrees to work with the TIRZ Board to implement the Project Plan.

- C. **Disposition of Tax Increments.** Upon termination of the TIRZ, and after all obligations of the TIRZ have been paid, the City agrees to pay to the County, within sixty (60) days of the termination, all monies remaining in the Tax Increment Funds that represent the County's pro rata amount of participation authorized under this Agreement.
- D. **Annual Reports / Right to Audit.** The City agrees to provide to the County an annual report regarding the TIRZ as required under Texas Tax Code Section 311.016. Additionally, the County shall have the right to audit the books and records of the TIRZ upon providing at least 10 days' written notice to the City. Such an audit shall occur between 9 a.m. and 5 p.m. on business days.

#### **Section 5. Term and Termination.**

The term of this Agreement, unless extended by mutual agreement of the County and the City, shall commence upon execution by the last party and shall last for: (1) twenty (20) years; or (2) the date all Project Costs have been paid or reimbursed unless earlier terminated by the parties hereto. Nothing in this Agreement limits the authority of the County or City to extend the term of this Agreement. Upon termination of this Agreement, the obligation of the County to make payments to the City shall end; however, the County's TIRZ Board appointment powers and any refund obligations of the City shall survive the termination.

The City may terminate the TIRZ pursuant to the provisions of Section 311.017 of the Texas Tax Code.

#### **Section 5. Miscellaneous.**

- A. **Administration.** This Agreement and the Tax Increment Funds shall be administered by the City Manager or his/her designees or consultants. The City shall maintain a separate account for the Tax Increment Funds at a depository selected by the City, which Tax Increment Fund shall be secured in the manner prescribed by law for funds of Texas cities. The City shall not charge an administration fee against County TIRZ Payments for oversight of the Tax Increment Fund. The Tax Increment Fund shall be an account into which the City shall deposit the County TIRZ Payment, the City Increment (as defined in the TIRZ Ordinance and Project Plan), and all accrued interest earned on the fund. The County shall participate in the oversight of the Tax Increment Fund through its representation on the Board of Directors on which they will appoint two (2) out of nine (9) members. Pursuant to the Hays County TIRZ Policy adopted on February 7, 2017, no more than ten percent of the County Increment will be used for the payment of administrative, legal, consulting, or other professional expenses, except engineering and architectural fees directly related to the specific projects in which the County will participate.

- B. Notice.** Whenever this Agreement requires or permits any consent, approval, notice, request, proposal, or demand from one party to another, the consent, approval, notice, request, proposal, or demand must be in writing to be effective and shall be delivered to the party intended to receive it at the addresses shown below (or to such other addresses as the parties may request, in writing, from time to time).

**If intended for the City, to:**

Scott Sellers  
City Manager  
City of Kyle

\_\_\_\_\_  
Kyle, TX 7\_\_\_\_\_

**If intended for the County, to:**

Hays County Judge  
Hays County Courthouse  
111 E. San Antonio St., Ste. 300  
San Marcos, Texas 78666

**With Copy to:**

General Counsel  
Hays County Courthouse  
111 E. San Antonio St., Ste. 202  
San Marcos, Texas 78666

- C. Non-Assignability:** Neither the City, the County, nor the TIRZ shall assign any interest in this Agreement without the prior written consent of the other parties.
- D. Non Discrimination:** No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any of the operations or funding of the TIRZ on the grounds of race, color, national origin, age, sex, religion, or other protected status.
- E. Binding on the Parties and Non-Waiver:** This Agreement shall not be considered fully executed or binding on the City and/or the County until this Agreement has been approved and accepted by the City Council and the Hays County Commissioners Court at a properly called and noticed meeting of each respective body. After such approval and acceptance, the City and the County shall deliver to each other a certified copy of a Resolution as evidence of the authority to execute and bind the City and the County to the covenants, terms and provisions of this Agreement. The failure of either Party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that Party's right to insist upon appropriate performance or to assert any such right on any future occasion.
- F. Third Parties:** The provisions and conditions of this Agreement are solely for the benefit for

the City and the County, and are not intended to create any rights, contractual or otherwise, to any other person or entity. The relationship of the City and the County under this Agreement shall not be construed or interpreted to be a joint enterprise or joint venture. The Parties agree that each Party is an independent contractor.

**G. Controlling Law:** Venue and Jurisdiction shall be exclusively in Hays County, Texas and under the laws of the State of Texas.

**H. Entirety of Agreement:** This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and the County as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

i. Attachments. The attachments enumerated and denominated below are hereby made a part of this Agreement, and constitute promised performance by the Parties in accordance with the terms of this Agreement.

ii. Exhibit "AA" Ordinance No. 1022, which includes TIRZ Project and Financing Plans

iii. Amendments. Notwithstanding anything to the contrary herein, this Agreement shall not be amended unless executed in writing by both parties and approved by the City Council and the Commissioners Court in open meetings held in accordance with Chapter 551 of the Texas Government Code.

**EXECUTED** and **EFFECTIVE** on the last date signed by the duly authorized officials, below.

**CITY OF KYLE**

\_\_\_\_\_  
Travis Mitchell, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Date

**COUNTY**

\_\_\_\_\_  
Judge Ruben Becerra, County Judge

\_\_\_\_\_  
Date

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Date



**EXHIBIT "AA"**  
**ZONE NO. 2 ORDINANCE**

**EXHIBIT “AA”**

ZONE NO. 2 ORDINANCE

**ORDINANCE NO. 1022**

**AN ORDINANCE DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN CITY OF KYLE, TEXAS AS REINVESTMENT ZONE NUMBER TWO, CITY OF KYLE, TEXAS, FOR TAX INCREMENT FINANCING PURPOSES PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; CREATING A BOARD OF DIRECTORS FOR SUCH ZONE; CONTAINING FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECT; AND PROVIDING A SEVERABILITY CLAUSE**

**WHEREAS**, pursuant to Chapter 311 of the Texas Tax Code, as amended (“Act”) a City may designate a contiguous geographic area within such City as a reinvestment zone if the area satisfies the requirements of certain sections of the Act;

**WHEREAS**, the City of Kyle, Texas (the “City”) has prepared a preliminary reinvestment zone financing plan, which is attached hereto as Exhibit C, which provides that City ad valorem taxes are to be deposited into the tax increment fund, and that ad valorem taxes of other taxing units may be utilized in the financing of the proposed reinvestment zone;

**WHEREAS**, a notice of the public hearing by the City Council on the creation of the proposed reinvestment zone was published on November 7, 2018, in the Hays Free Press a newspaper of general circulation in the City of Kyle and the City’s newspaper of record;

**WHEREAS**, at the public hearing held on November 20, 2018, interested persons were invited to speak for or against the creation of the proposed reinvestment zone, its boundaries, the concept of tax increment financing; and owners of property in the proposed reinvestment zone were given a reasonable opportunity to protest the inclusion of their property in the proposed reinvestment zone;

**WHEREAS**, evidence was received and presented at the meeting at which the public hearing was held in favor of the creation of the proposed reinvestment zone under the provisions of the Act;

**WHEREAS**, the City of Kyle has provided all information, presented all necessary information and facts regarding the proposed reinvestment zone, given all notices and completed all other things required by Chapter 311, Texas Tax Code, as condition to the creation of the proposed reinvestment zone;

**WHEREAS**, the total area within the proposed zone is approximately 1,480 acres, excluding property that is publicly owned;

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

## **SECTION 1. FINDINGS**

- (a)** That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.
- (b)** That the City Council finds and declares that the creation of the Tax Increment Reinvestment Zone Number Two, City of Kyle (also referred to herein as the “Tax Increment Reinvestment Zone” and the “Tax Increment Reinvestment Zone Number Two”) will significantly enhance the value of all the taxable real property in the reinvestment zone and will be of general benefit to the City and its taxpayers.
- (c)** That the City Council finds and declares that the creation of the Tax Increment Reinvestment Zone will stimulate economic growth and significantly accelerate economic development activities within the reinvestment zone resulting in the creation of businesses, employment, housing, and enhanced tax revenues for the City.
- (d)** That the City Council further finds and declares that the Tax Increment Reinvestment Zone meets the criteria and requirements of Section 311.005(a)(2) of the Act because the reinvestment zone currently contains: (1) substantial areas that are predominantly open and underdeveloped; and (2) lack of essential public infrastructure to promote development of property as an urban, town center and to attract new businesses and commercial activity to the proposed zone for the purpose of increasing real property tax base for all taxing units within the zone and increasing job opportunities for residents of the City and the region; each of which cause conditions that substantially impair and arrest the sound growth of the City.
- (e)** That the City Council, pursuant to the requirements of the Act, further finds and declares that:
  - (1)** The proposed Tax Increment Reinvestment Zone Number Two is a contiguous geographic area located wholly within the corporate limits of the City of Kyle;
  - (2)** Less than thirty (30) percent of all properties in the proposed Tax Increment Reinvestment Zone Number Two, excluding property that is publicly owned, is used for residential purposes.
  - (3)** The appraised value of taxable real property in the proposed Tax Increment Reinvestment Zone Number Two and existing reinvestment zone currently does not exceed fifty percent (50.0%) of the total appraised value of taxable real property in the City and in the industrial districts created by the City.

- (4) Accelerated development and or redevelopment in the proposed Tax Increment Reinvestment Zone would not occur through private investment in the foreseeable future.

## **SECTION 2. DESIGNATION OF REINVESTMENT ZONE**

That the City, acting under the provisions of Chapter 311, Texas Tax Code, including Section 311.005 (a), does hereby designate as a Tax Increment Reinvestment Zone Number Two, City of Kyle, and create and designate said reinvestment zone over the area described in Exhibit “A” and depicted in the map attached hereto as Exhibit “B” to stimulate economic development and the development of the designated area.

The reinvestment zone shall hereafter be named for identification and reporting purposes as Tax Increment Reinvestment Zone Number 2, City of Kyle, Texas, (may also be referred to as TIRZ Number 2). The City Council specifically declares that the Tax Increment Reinvestment Zone Number 2 is designated pursuant to Section 311.005(a)(2) of the Texas Tax Code as declared in the Findings section of this Ordinance.

## **SECTION 3. BOARD OF DIRECTORS**

The Tax Increment Reinvestment Zone Number 2 shall be governed by a nine (9) person Board of Directors (the “Board”). The City Council shall appoint seven (7) members of the Board to be appointed to Places 1, 2, 3, 4, 5, 6, and 7. Two (2) members of the Board may be appointed by the Hays County Commissioners Court to Places 8 and 9 or the County may waive the appointment of the Board members. If the County waives the appointment of Board members, the Places 8 and 9 go away. The City Council may choose to appoint currently serving members of the Kyle City Council to the Board of Directors.

- (a) Qualifications. Each member of the Board shall be a qualified voter of the City, or a person at least eighteen (18) years of age who must be a resident of Hays County or county adjacent to Hays County or own real property in the reinvestment zone.
- (b) Terms of Office.
- (1) If the City Council chooses to appoint currently serving members of the Kyle City Council to the Board of Directors, then the Council members shall serve the same term as their elected term on the City Council. The two Hays County Commissioners shall serve a two-year term on the Board of Directors.
- (2) If the City Council chooses to appoint other than currently serving members of the Kyle City Council to the Board of Directors, then the term of each initial Director shall be as set forth in this subsection. Places 2, 4, and 6 of the initial Directors shall serve an initial term of one (1) year, and Places 1, 3, 5, and 7 of the initial Directors shall serve an initial term of (2) years. The term of each subsequent director shall be for two (2) years. If the County appoints members other than members of the County

Commissioners Court, Place 8 shall serve an initial term of one (1) year and Place 9 will serve an initial term of two (2) years. The term of each subsequent director shall be for two (2) years. Vacancies shall be filled for the remainder of the unexpired term, by appointment made by the governing body that appointed the Director who served in the vacated position.

- (3) Officers. The City Council shall annually appoint a member of the Board to serve as chairman of the Board for a one-year term beginning January 1<sup>st</sup> and ending December 31<sup>st</sup>. The Board may elect a Vice Chairman to serve in the absence of the Chairman, and other officers as it deems appropriate.
- (4) Meeting of Directors. The Board shall hold its meetings at the Kyle City Hall currently located at 100 West Center Street, Kyle, Texas 78640, or at such other place designated from time to time by the Board. The Board shall conduct all its meetings in accordance with the requirements of the Act and the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended. Meetings of the Board shall be held at such times as shall be designated, from time to time, by the Board, or whenever called by the Chairman, the Vice Chairman in the absence of the Chairman, or upon advice of or request by the Mayor. Notice of meetings need not be given to each of the Directors but public notice of each meeting shall be given in the manner prescribed by law. A majority of the Board of Directors fixed by this Ordinance shall constitute a quorum for Board meetings. The act of a majority of the Directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law.
- (5) Authority. The Board shall have the authority specifically given to the Board in Chapter 311, Texas Tax Code. Any powers and duties that may be delegated to the Board are not delegated at this time. The Board shall have such other authority, as may be lawfully delegated by the City Council, as is delegated by the City Council acting by a formal, written Resolution or Ordinance. Action by the Board that is expressly or impliedly provided in Chapter 311, or by other state law, to be subject to approval by the City Council, shall not be effective until approved in writing by the City Council.
- (6) Duties. The Board shall perform each duty and obligation required to be performed by the Board, by Chapter 311, any project or plan approved by the City Council, and each such duty and obligation lawfully imposed on the Board by the City Council consistent with Chapter 311.
- (7) Plan. The Board of Directors shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. The Board of Directors shall prepare or cause to be prepared and adopt a project plan and a reinvestment zone financing plan for the reinvestment zone as described in Section 311.011 of the Act and shall submit such plans to the City Council for its approval. The City hereby delegates to the Board of Directors all powers necessary to prepare the

project plan and reinvestment zone financing plan, subject to approval by the City Council.

#### **SECTION 4. DURATION OF REINVESTMENT ZONE**

The duration of the reinvestment zone is not to exceed a period of twenty (20) calendar years. The Zone shall take effect immediately upon passage of this ordinance. Termination of the operation of the reinvestment zone shall occur on December 31, 2037 (with the final year's tax to be collected by September 30, 2038), or at an earlier time as designated by City Council. The City shall have the right, through a subsequent City Ordinance, to terminate the Zone prior to the expiration date if all of the project costs have been paid in full. If upon expiration of the term of the Zone, project costs have not been paid, neither the City nor the County shall have any obligation to pay the shortfall.

#### **SECTION 5. TAX INCREMENT BASE**

That the Tax Increment Base of the City or any other taxing unit participating in the Tax Increment Reinvestment Zone Number 2 for the reinvestment zone is the total appraised value of all real property taxable by the City or other taxing unit participating in the reinvestment zone and located in the reinvestment zone, determined as of January 1, 2018 (property tax year 2018), the tax year in which the reinvestment zone was made effective as a reinvestment zone (the "Tax Increment Base").

#### **SECTION 6. TAX INCREMENT FUND**

A Tax Increment Reinvestment Zone Fund is hereby created and established for the Tax Increment Reinvestment Zone Number 2 which may be divided into subaccounts as authorized by subsequent Ordinances. All tax increment revenues, as defined below, shall be deposited in the Tax Increment Fund. The Tax Increment Fund and any subaccounts shall be maintained at the depository bank of the City of Kyle and shall be secured in the manner prescribed by law for funds of Texas cities.

The annual tax increment shall equal the property taxes assessed, levied, and collected by the City and any other taxing unit participating in the reinvestment zone for that year on the captured appraised value in compliance with the requirements of Sections 5, 6 and Exhibit C of this Ordinance and as defined by the Act, of real property located in reinvestment zone that is taxable by the City or any other taxing unit participating in the reinvestment zone, less any amounts that are to be allocated from the tax increment pursuant to the Act.

All revenues from the sale of any tax increment bonds, notes or other obligations hereafter issued for the benefit of the reinvestment zone by the City, if any; revenues from the sale of property acquired as part of the project plan and reinvestment zone financing plan, if any; and other revenues to be used in the reinvestment zone shall be deposited into the Tax Increment Fund.

Prior to the termination of the reinvestment zone, money shall be disbursed from the Tax Increment Fund only to pay for project costs, as defined by the Texas Tax Code, for the reinvestment zone, to

satisfy the claims of holders of tax increment bonds or notes issued for the reinvestment zone, to pay obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section 311.010 (b) of the Texas Tax Code, or to pay the incremental costs of providing municipal services incurred as a result of the creation of the zone or the development or redevelopment of land in the zone, regardless of whether the costs of those services are identified in the project plan or the financing plan.

## **SECTION 7. EXHIBITS**

The following exhibits are referred to in this Ordinance and are attached herewith:

- Exhibit A: Boundary Description
- Exhibit B: Boundary Map
- Exhibit C: Preliminary Project Plan and Financing Plan
- Exhibit D: Captured Assessed Taxable Value Assumptions
- Exhibit E: 2018 Base Assessed Taxable Valuations
- Exhibit F: Notice of Public Hearing
- Exhibit G: Term Sheet Approved by City Council for Development of the Uptown Area of Plum Creek

## **SECTION 8. SEVERABILITY**

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person to set circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or regulations connected herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

## **Section 9. EFFECTIVE DATE**

This Ordinance shall take effect immediately from and after its passage.

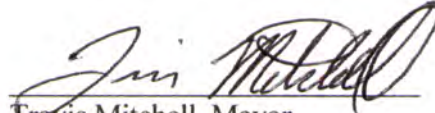
## **Section 10. OPEN MEETINGS**

It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

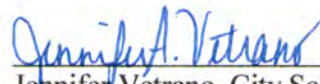
**PASSED AND APPROVED** on 1st reading this 4th day of December, 2018.

**PASSED AND FINALLY APPROVED** on 2nd reading this 18th day of December, 2018.

**CITY OF KYLE, TEXAS**

  
Travis Mitchell, Mayor

**ATTEST:**

  
Jennifer Vetrano, City Secretary

## **EXHIBIT A**

### **Boundary Description Tax Increment Reinvestment Zone Number 2**

THIS IS A DESCRIPTION OF A TRACT OF LAND CONTAINING APPROXIMATELY 1482.9 ACRES OUT OF THE JESSE DAY SURVEYS ABSTRACTS NOS. 152 AND 159, THE JOHN KING SURVEY NO. 20, THE MORTON MCCARVER SURVEY ABSTRACT NO. 10, THE THOMAS G. ALLEN SURVEY NO. 26, THE HENRY LOLLER SURVEY NO. 19, ABSTRACT 290 AND THE JOHN COOPER SURVEY NO. 13 IN HAYS COUNTY, TEXAS, TO BE USED FOR POLITICAL MEANS. THIS WAS NOT SURVEYED ON THE GROUND AND IS A BOUNDS DESCRIPTION ONLY ASSEMBLED FROM THE BEST AVAILABLE EVIDENCE INCLUDING DEED RESEARCH AND APPRAISAL DISTRICT MAPS. REFERENCES TO ALL DOCUMENTS OF RECORD REFER TO THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS. THIS TYPE OF DESCRIPTION IS ALLOWED UNDER THE TEXAS ADMINISTRATIVE CODE, PART 29, CHAPTER 663, SUBCHAPTER B, RULE 663.21 AND IS FURTHER DESCRIBED AS FOLLOWS:

BEGINNING at the southwest corner of the intersection of FM 2770 and S FM 1626, same being the most northerly corner of the 142.38 acre parcel described in four tracts in a Special Warranty Deed to Texas Lehigh Cement Company recorded in Book 609 Page 843 of the Official Public Records of Hays County, Texas (Tax Parcel Nos. R 11247, R148425, and R148426);

THENCE, with the southerly right-of-way line of FM 2770, in a westerly direction to the Kyle city limits as it crosses tract 2 of the 142.38 acre parcel owned by Texas Lehigh Cement Company;

THENCE, with the Kyle city limit line, through the afore-mentioned Texas Lehigh Cement parcel to the intersection with a 51.48 acre tract, the same being more particularly described in Special Warranty Deed with Vendors Lien to Lennar Homes of Texas Land & Construction LTD recorded in Document Number 16029226 of the Official Public Records of Hays County, Texas (Tax Parcel No. R146069);

THENCE, continuing along the Kyle city limits with the western boundary of the Lennar Homes of Texas Land & Construction LTD tract, through a 308 acre tract and a 10.87 acre, the same being more particularly described in Special Warranty Deed with Vendors Lien to Lennar Homes of Texas Land & Construction LTD recorded in Document Number 16029226 of the Official Public Records of Hays County, Texas (Tax Parcel Nos. R146068 and R151283);

THENCE, along western right-of-way line FM 2770 and the northern right-of-way of Kohlers Crossing, also being the western and southern boundary of the 3.55 acre tract of Lot 1, Block A of Plum Creek Phase 2 Northwest Business Park;

THENCE, continuing along the north right-of-way of Kohlers Crossing, also being the southern boundary of the Lennar Homes of Texas Land & Construction LTD 308 acre and 10.87 acre tracts;

THENCE, crossing the Kohlers Crossing right-of-way at the northwestern corner of the 14.066 acre tract, being more particularly described as Lot 2 Block A of Plum Creek Phase 1 Section 6F, and continuing along the western and southern boundary of said tract;

THENCE, across the southern end of the right-of-way of Benner and the southern boundary of Lots 1 and 2, Block A of Plum Creek Phase 1 Section 12A;

THENCE, along the southwestern boundary of Lot 2, Block A of Plum Creek Phase 1 Section 12B;

THENCE, along the western boundary of Lot 1, Block A of Plum Creek Phase 1 Section 11J;

THENCE, along the western boundary of Lot 1, Block A of Plum Creek Phase 1 Section 11F;

THENCE, along the western boundary of Lot 1, Block A of Plum Creek Phase 1 Section 11E-2;

THENCE, along the southwestern boundary of Lot 1, Block A of Plum Creek Phase 1 Section 11E-1;

THENCE, crossing the Sampson Rd right-of-way and continuing along the southwestern boundary of Lot 1, Block A of Plum Creek Phase 1 Section 11D;

THENCE, along the southwestern boundary of Lot 2, Block A of Plum Creek Phase 1 Section 11C, turning north along the eastern boundary of said lot also being the western right-of-way of the Union Pacific Railroad;

THENCE, crossing the FM 1626 right-of-way and the Railroad right-of-way to the southern corner and southeastern boundary of the 0.04 acre parcel being more particularly described as Tract 19 in the Deed Without Warranty to Mountain Plum LTD in Book 2047 Page 133 of the Official Public Records of Hays County, Texas (Tax Parcel No. R134955);

THENCE, continuing along the southeastern border of the 105.188 acre tract being a portion of that 1062.87 acre tract more particularly described in Book 2047, Page 133 of the Official Public Records of Hays County, Texas (Tax Parcel Nos. R13837, R134155, and R134161);

THENCE, along the southeastern boundary of the Marketplace Ave right-of-way as described in the subdivision plat Plum Creek Phase 1 Lot 1 Block A Business Park;

THENCE, along the southeastern boundary of the 69.725 acre tract being more particularly described in the Deed Without Warranty to Mountain Plum LTD in Book 2047 Page 133 of the Official Public Records of Hays County, Texas (Tax Parcel Nos. R12691, R13408, R13851, R134156, and R134159);

THENCE, continuing along the southern and eastern borders of the lots described in Majestic Industrial Park with the east boundary also being the western right-of-way line of Kyle Crossing, and continuing along the northern boundary of lots 1 and 3 of Majestic Industrial Park, being the same as the southern boundary of Kohlers Crossing right-of-way;

THENCE, continuing along the southern right-of-way of Kohlers Crossing also being the northern boundaries of the afore-mentioned 69.725 acre parcel, Plum Creek Phase 1 Lot 1 Block A Business Park, and the afore-mentioned 105.188 acre parcel, crossing the Union Pacific railroad right-of-way to the northeast corner of Lot 1 Block A of Plum Creek Phase 1 Section 8;

THENCE, north along the western boundary of the Union Pacific Railroad right-of-way to the Kyle city limit line;

THENCE, leaving the railroad right-of-way, following the eastern and northern boundaries of the Kyle city limit line to the point where it intersects the 75 acre parcel being more particularly described in the Deed Without Warranty to Texas-Lehigh Cement Company in Book 609 Page 843 of the Official Public Records of Hays County, Texas (Tax Parcel Nos. R11237 and R127405);

THENCE, following the southern boundary of said 75 acre parcel westward to its intersection with the S FM 1626 right-of-way;

THENCE, crossing the FM 1626 right-of-way and following the western line of said right-of-way in a northerly direction to the BEGINNING for a total of 1482.9 acres, more or less.

~~THENCE, north along the western boundary of the Union Pacific Railroad right-of-way to the Kyle city limit line in the northeastern corner of the 146.736 acre tract being more particularly described in (need a deed reference, owner Mountain Plum LTD) (Tax Parcel No R109017 and R11227);~~

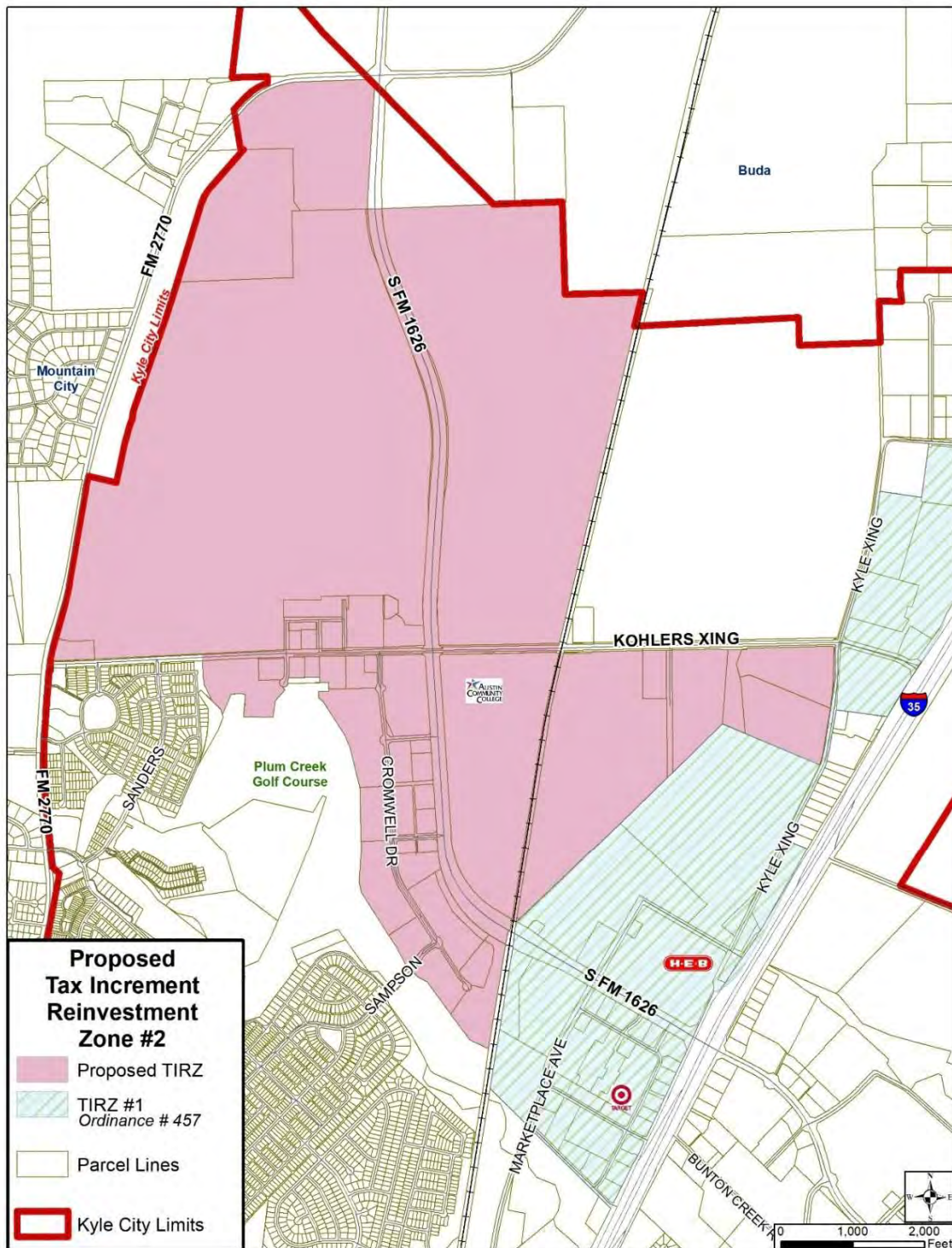
~~THENCE, leaving the railroad right-of-way, following the eastern and northern boundaries of the 146.736 acre parcel, crossing the FM 1626 right-of-way and following the western line of said right-of-way in a northerly direction to the BEGINNING for a total of 1482.9 acres, more or less.~~

The following is a list of Hays Central Appraisal District parcel ID numbers included in the TIRZ:

R102948, R102949, R111489, R11209, R11227, R124075, R124076, R124475, R12691, R127266, R127663, R130335, R130336, R130419, R130421, R130423, R130425, R132398, R132399, R132402, R132408, R13408, R134152, R134153, R134155, R134156, R134159, R134161, R135553, R137936, R138187, R138188, R138189, R138268, R138269, R138270, R138271, R138272, R138273, R138274, R138275, R13837, R13851, R140150, R143792, R144234, R144235, R144236, R144843, R144849, R146068, R146069, R147859, R147860, R147908, R148425, R148426, R151122, R151279, R151283, R151597, R151601, R151602, R151603, R152394, R152412, R155405, R155406, R156298, R156516, R88923, R109017, R11227, R124024, R124066, R124067, R124068, R124069, R124070, R124071, R127267, R130339, R130340, R156457, R156458, R156516, R88919, R88923, R134740. In the event of a conflict between this Exhibit and Exhibit B, Exhibit B shall control.

## EXHIBIT B

### Boundary Map of Tax Increment Reinvestment Zone Number 2



## **EXHIBIT C**

### **Preliminary Project Plan and Financing Plan Tax Increment Reinvestment Zone Number 2**

#### **Introduction**

The City Council intends to exercise any authority allowed and necessary to carry out its responsibilities under Chapter 311 including the authority to:

- (1) Cause project plans to be prepared, approve and implement the plans, and achieve the purpose of the plan;
- (2) Acquire real property to implement project plans;
- (3) Enter into agreements, including agreements with bondholders, determined by City Council to be necessary to implement project plans and to achieve their purposes; and
- (4) Acquire, construct, reconstruct, or install public works, facilities or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, or parking facilities.

No tax increment revenues shall be used to pay for and or expended for private property improvements. The tax increment revenues shall only be expended for public improvements owned by the Tax Increment Reinvestment Zone Number 2 or by the City of Kyle. As such, all facilities and infrastructure improvements eligible for funding from accumulated tax increment revenue in the Tax Increment Fund shall be located on land owned by the City of Kyle, public rights-of-way and/or public easements.

This plan is economically feasible based on the analysis of estimated captured value in Exhibit D and D-1.

The duration of the Zone is twenty (20) years, subject to early termination as provided in this City Ordinance, creating the Zone.

#### **Public Improvements:**

If it is authorized by the City Council and approved by the Board of Directors, the types of public facilities and infrastructure improvements that are eligible for funding from accumulated tax increment revenue in the Tax Increment Fund may include the following:

- a. Streetscapes, landscaping, roadway, transportation, roundabouts, underground waste receptacles and other applicable associated improvements;
- b. Public art including water features
- c. Parks, plazas and other public realm spaces dedicated exclusively for public gatherings, community events, and community celebrations;

- d. Safe pedestrian crossings including pavement lit crosswalks and underpasses;
- e. Under-the-road pedestrian crossings;
- f. Public parking/parking garages;
- g. Public buildings and other applicable facilities;
- h. Wayfinding and Signage;
- i. Safety and human comfort improvements including shade structures and lighting;
- j. Ambiance and space making lighting such as tree lights, free hanging strung lights;
- k. Trails connecting to Uptown to other areas within Plum Creek and adjacent developments;
- l. Improvements deemed appropriate by the TIRZ Board to promote economic development within Plum Creek; and
- m. Other improvements that is permissible under Chapter 311 of the Texas Tax Code and approved by the City Council and the Board of Directors.

It is important to note that the Tax Increment Reinvestment Zone Number 2 is not required or obligated to pay for any of the projects listed above. All eligible public facilities and infrastructure improvements must be authorized by the City Council and approved by the Board of Directors to be eligible for cost reimbursement from the Tax Increments Fund.

#### **Tax Rate for Calculation of Tax Increment Revenue**

The annual tax increment revenue from property taxes levied by the City and any other taxing unit participating in the reinvestment zone for that year on the captured appraised value shall be based on and calculated using the total ad valorem tax rate for each participating taxing entity; to include both the operations and maintenance (M&O) tax rate component and the interest and sinking fund (I&S) tax rate component.

#### **Tax Increment Revenue Contribution Rate**

The annual tax increment revenue from property taxes levied by the City of Kyle in the Tax Increment Reinvestment Zone Number 2 and by all other participating taxing units shall be based and calculated using only fifty percent (50.0%) of the captured appraised value for that year.

#### **Method of Financing Projects**

It is the City Council's intent and expressed requirement that this Tax Increment Reinvestment Zone Number 2 created under this City Ordinance shall administer and manage the use of all accumulated tax increment revenues only on a cost reimbursement basis. Accordingly, only actual tax increment revenues received and accumulated in the Tax Increment Fund shall be used to reimburse the developer for eligible and authorized facilities and infrastructure as authorized by the City Council and the Board of Directors.

Furthermore, it is the City Council's intent and expressed requirement that only actual increment tax revenues generated based on the amount of actual captured taxable values within the Tax Increment Reinvestment Zone Number 2 as calculated pursuant to this Plan shall be the source for funding eligible facilities and infrastructure as identified and described in the Project Plan and Financing Plan attached.

This Plan includes provisions for funding eligible public facilities and infrastructure as identified and described herein based on the following funding options:

1. Application of only actual tax increment revenues received as contributions to the reinvestment zone from the City of Kyle and all other participating taxing units and only if such revenues are available free and clear of any encumbrances or obligations in the Tax Increment Fund as established for the Tax Increment Reinvestment Zone Number 2.
2. Application of debt proceeds, only if (i) the debt issuance is authorized by City Council and an exception is approved by the City Council in the form of an amendment to this Ordinance and (ii) only if the actual captured taxable appraised values within the reinvestment zone (total tax base less the tax increment base determined in Section 5 of this Ordinance ) as certified by the Hays County Appraisal District can generate sufficient actual annual tax increment revenues pursuant to this Plan to cover one-hundred percent (100.0%) of the total amount of annual debt service payments, fees, and other administrative charges that will be due each year on the outstanding debt obligations.

#### **Restrictions on the Issuance of Debt Obligations**

Under this Plan, the issuance of debt to finance eligible facilities and infrastructure is strictly prohibited. The City Council, at its sole discretion, may amend this Ordinance in the future to allow for the issuance of debt to finance eligible facilities and infrastructure.

If such an amendment is passed by City Council to allow for the issuance of debt, the amended Ordinance shall mandate that the Board of Directors must obtain City Council's prior authorization for the issuance of any type of debt obligations by the Tax Increment Reinvestment Zone Number 2. The amended Ordinance must further mandate that the City Council restricts the issuance of any debt by the Board of the Tax Increment Reinvestment Zone Number 2 until such time as the amount of actual captured taxable values within the reinvestment zone (total tax base less the tax increment base determined in Section 5 of this Ordinance ) as certified by the Hays County Appraisal District can generate adequate and sufficient annual increment tax revenues pursuant to this Plan to cover one-hundred percent (100.0%) of the total amount of annual debt service payments, fees, and other administrative charges that will be due each year on the outstanding debt obligations.

Prior to the City Council authorizing the issuance of debt obligations by the Tax Increment Reinvestment Zone Number 2, the City's Financial Advisor shall be required to prepare and present to City Council an independent analysis and assessment which shall include, at a minimum, (i)

actual captured taxable values within the reinvestment zone per certified valuations from Hays Appraisal District, (ii) annual increment tax revenue generated pursuant to this Plan, (iii) determine maximum amount of debt obligations that can be supported based on the actual captured taxable values as adjusted for the City's tax levy participation rate in this Plan, (iv) determine the annual debt service requirements including fees and other administrative charges, (v) determine if the amount of actual captured taxable values within the reinvestment zone can generate adequate and sufficient annual increment tax revenues pursuant to this Plan to cover one-hundred percent (100.0%) of the total amount of annual debt service payments, fees, and other administrative charges that will be due each year on the outstanding debt obligations, and (vi) based on the analysis, provide a recommendation to City Council whether it is financially viable and prudent to issue any amount of debt obligations and if viable, to recommend the maximum amount of the debt issuance.

All debt obligations, if authorized by the City Council under an amended Plan, shall only be secured by the actual captured taxable appraised values in the reinvestment zone and payable from actual increment tax revenues available free and clear of any encumbrances or obligations in the Tax Increment Fund as established for the Tax Increment Reinvestment Zone Number 2.

Current Total Appraised Value of Taxable Real Property in the Zone and Estimated Captured Appraised Value of the Zone during each year of existence is provided in Exhibits D, D-1, E, E-1, and E-2.

## **EXHIBIT D**

### **Captured Assessed Taxable Value Assumptions Tax Increment Reinvestment Zone Number 2**

<u>Year</u>	<u>Site/Tract Description</u>	<u>Primary Use</u>	<u>Value Added to Tax Roll on Jan 1st/Year</u>	<u>Estimated Incremental Taxable Value Added</u>	<u>Estimated Cumulative Taxable Value Added</u>
	Base Year - 12/31/2018				
1	Estimates Provided by Momark 10-3-2018	All Tracts Within Proposed TIRZ Boundary	2019	\$ -	
2	Excludes Adjustments for Inflation	Industrial, office, retail, SF, MF, & Other	2020	\$ 116,525,000	\$ 116,525,000
3			2021	\$ 161,050,000	\$ 277,575,000
4			2022	\$ 71,400,000	\$ 348,975,000
5			2023	\$ 99,050,000	\$ 448,025,000
6			2024	\$ 76,050,000	\$ 524,075,000
7			2025	\$ 112,750,000	\$ 636,825,000
8			2026	\$ 72,750,000	\$ 709,575,000
9			2027	\$ 92,750,000	\$ 802,325,000
10			2028	\$ 72,750,000	\$ 875,075,000
11			2029	\$ 89,375,000	\$ 964,450,000
12			2030	\$ 41,000,000	\$ 1,005,450,000
13			2031	\$ 41,000,000	\$ 1,046,450,000
14			2032	\$ 41,000,000	\$ 1,087,450,000
15			2033	\$ 41,000,000	\$ 1,128,450,000
16			2034	\$ 41,000,000	\$ 1,169,450,000
17			2035	\$ -	\$ 1,169,450,000
18			2036	\$ -	\$ 1,169,450,000
19			2037	\$ -	\$ 1,169,450,000
20			2038	\$ -	\$ 1,169,450,000
21			2039	\$ -	\$ 1,169,450,000
22			2040	\$ -	\$ 1,169,450,000
23			2041	\$ -	\$ 1,169,450,000
24			2042	\$ -	\$ 1,169,450,000
25			2043	\$ -	\$ 1,169,450,000
26			2044	\$ -	\$ 1,169,450,000
27			2045	\$ -	\$ 1,169,450,000
28			2046	\$ -	\$ 1,169,450,000
29			2047	\$ -	\$ 1,169,450,000
30			2048	\$ -	\$ 1,169,450,000
				<u>\$ 1,169,450,000</u>	

## **EXHIBIT D-1**

### **Captured Assessed Value & Tax Increment Assumptions Tax Increment Reinvestment Zone Number 2**

Year	Tax Year	Projected Captured Taxable Value	City's 2018 Tax Rate	County's 2018 Tax Rate	Projected Tax Increment Revenue		
					City's Share 50%	County's Share 50%	Projected Total
1	2019						
2	2020	\$ 116,525,000	\$ 0.5416	\$ 0.3899	\$ 315,550	\$ 227,165	\$ 542,715
3	2021	\$ 277,575,000	\$ 0.5416	\$ 0.3899	\$ 751,673	\$ 541,132	\$ 1,292,806
4	2022	\$ 348,975,000	\$ 0.5416	\$ 0.3899	\$ 945,024	\$ 680,327	\$ 1,625,351
5	2023	\$ 448,025,000	\$ 0.5416	\$ 0.3899	\$ 1,213,252	\$ 873,425	\$ 2,086,676
6	2024	\$ 524,075,000	\$ 0.5416	\$ 0.3899	\$ 1,419,195	\$ 1,021,684	\$ 2,440,879
7	2025	\$ 636,825,000	\$ 0.5416	\$ 0.3899	\$ 1,724,522	\$ 1,241,490	\$ 2,966,012
8	2026	\$ 709,575,000	\$ 0.5416	\$ 0.3899	\$ 1,921,529	\$ 1,383,316	\$ 3,304,846
9	2027	\$ 802,325,000	\$ 0.5416	\$ 0.3899	\$ 2,172,696	\$ 1,564,133	\$ 3,736,829
10	2028	\$ 875,075,000	\$ 0.5416	\$ 0.3899	\$ 2,369,703	\$ 1,705,959	\$ 4,075,662
11	2029	\$ 964,450,000	\$ 0.5416	\$ 0.3899	\$ 2,611,731	\$ 1,880,195	\$ 4,491,926
12	2030	\$ 1,005,450,000	\$ 0.5416	\$ 0.3899	\$ 2,722,759	\$ 1,960,125	\$ 4,682,883
13	2031	\$ 1,046,450,000	\$ 0.5416	\$ 0.3899	\$ 2,833,787	\$ 2,040,054	\$ 4,873,841
14	2032	\$ 1,087,450,000	\$ 0.5416	\$ 0.3899	\$ 2,944,815	\$ 2,119,984	\$ 5,064,798
15	2033	\$ 1,128,450,000	\$ 0.5416	\$ 0.3899	\$ 3,055,843	\$ 2,199,913	\$ 5,255,756
16	2034	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
17	2035	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
18	2036	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
19	2037	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
20	2038	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
21	2039	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
22	2040	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
23	2041	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
24	2042	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
25	2043	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
26	2044	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
27	2045	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
28	2046	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
29	2047	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
30	2048	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713

## EXHIBIT E

### 2018 Base Assessed Taxable Valuations Tax Increment Reinvestment Zone Number 2

<u>Item #</u>	<u>Date AV Verified</u>	<u>Parcel Tax ID#</u>	<u>2018 Base Taxable AV</u>	<u>2018 Base Cumulative AV</u>
1	10/23/2018	R102948	\$ -	\$ -
2	10/23/2018	R102949	\$ -	\$ -
3	10/23/2018	R111489	\$ 290.00	\$ 290.00
4	10/23/2018	R11209	\$ 15,200.00	\$ 15,490.00
5	10/23/2018	R124075	\$ 50.00	\$ 15,540.00
6	10/23/2018	R124076	\$ -	\$ 15,540.00
7	10/23/2018	R124475	\$ 99,770.00	\$ 115,310.00
8	10/23/2018	R12691	\$ 2,150.00	\$ 117,460.00
9	10/23/2018	R127266	\$ 3,539,550.00	\$ 3,657,010.00
10	10/23/2018	R127663	\$ 4,860.00	\$ 3,661,870.00
11	10/23/2018	R130335	\$ 170,710.00	\$ 3,832,580.00
12	10/23/2018	R130336	\$ 280,850.00	\$ 4,113,430.00
13	10/23/2018	R130419	\$ 1,831,314.00	\$ 5,944,744.00
14	10/23/2018	R130421	\$ 2,114,628.00	\$ 8,059,372.00
15	10/23/2018	R130423	\$ 937,993.00	\$ 8,997,365.00
16	10/23/2018	R130425	\$ 1,244,440.00	\$ 10,241,805.00
17	10/23/2018	R132398	\$ 848,240.00	\$ 11,090,045.00
18	10/23/2018	R132399	\$ 1,498,720.00	\$ 12,588,765.00
19	10/23/2018	R132402	\$ 2,710.00	\$ 12,591,475.00
20	10/23/2018	R132408	\$ 24,700,000.00	\$ 37,291,475.00
21	10/23/2018	R13408	\$ 1,620.00	\$ 37,293,095.00
22	10/23/2018	R134152	\$ 1,590.00	\$ 37,294,685.00
23	10/23/2018	R134153	\$ 710.00	\$ 37,295,395.00
24	10/23/2018	R134155	\$ 920.00	\$ 37,296,315.00
25	10/23/2018	R134156	\$ 1,050.00	\$ 37,297,365.00
26	10/23/2018	R134159	\$ 1,710.00	\$ 37,299,075.00
27	10/23/2018	R134161	\$ 7,460.00	\$ 37,306,535.00
28	10/23/2018	R135553	\$ -	\$ 37,306,535.00
29	10/23/2018	R137936	\$ 4,863,000.00	\$ 42,169,535.00
30	10/23/2018	R138187	\$ 2,280,960.00	\$ 44,450,495.00
31	10/23/2018	R138188	\$ 9,340.00	\$ 44,459,835.00
32	10/23/2018	R138189	\$ 1,710.00	\$ 44,461,545.00

## **EXHIBIT E-1**

### **2018 Base Assessed Taxable Valuations Tax Increment Reinvestment Zone Number 2**

<b>Item #</b>	<b>Date AV Verified</b>	<b>Parcel Tax ID#</b>	<b>2018 Base Taxable AV</b>	<b>2018 Base Cumulative AV</b>
33	10/23/2018	R138268	\$ 339,562.00	\$ 44,801,107.00
34	10/23/2018	R138269	\$ 339,562.00	\$ 45,140,669.00
35	10/23/2018	R138270	\$ 339,562.00	\$ 45,480,231.00
36	10/23/2018	R138271	\$ 339,562.00	\$ 45,819,793.00
37	10/23/2018	R138272	\$ 339,562.00	\$ 46,159,355.00
38	10/23/2018	R138273	\$ 339,562.00	\$ 46,498,917.00
39	10/23/2018	R138274	\$ 339,562.00	\$ 46,838,479.00
40	10/23/2018	R138275	\$ 339,562.00	\$ 47,178,041.00
41	10/23/2018	R13837	\$ 4,780.00	\$ 47,182,821.00
42	10/23/2018	R13851	\$ 550.00	\$ 47,183,371.00
43	10/23/2018	R140150	\$ 24,250,000.00	\$ 71,433,371.00
44	10/23/2018	R143792	\$ 18,369,830.00	\$ 89,803,201.00
45	10/23/2018	R144234	\$ 500.00	\$ 89,803,701.00
46	10/23/2018	R144235	\$ 500.00	\$ 89,804,201.00
47	10/24/2018	R144236	\$ 3,278,616.00	\$ 93,082,817.00
48	10/24/2018	R144843	\$ 94,870.00	\$ 93,177,687.00
49	10/24/2018	R144849	\$ 40.00	\$ 93,177,727.00
50	10/24/2018	R146068	\$ 35,230.00	\$ 93,212,957.00
51	10/24/2018	R146069	\$ 5,220.00	\$ 93,218,177.00
52	10/24/2018	R147859	\$ 690.00	\$ 93,218,867.00
53	10/24/2018	R147860	\$ 2,587,684.00	\$ 95,806,551.00
54	10/24/2018	R147908	\$ 1,890.00	\$ 95,808,441.00
55	10/24/2018	R148425	\$ 1,900.00	\$ 95,810,341.00
56	10/24/2018	R148426	\$ 390.00	\$ 95,810,731.00
57	10/24/2018	R151122	\$ 530.00	\$ 95,811,261.00
58	10/24/2018	R151279	\$ 260.00	\$ 95,811,521.00
59	10/24/2018	R151283	\$ 1,100.00	\$ 95,812,621.00
60	10/24/2018	R151597	\$ -	\$ 95,812,621.00
61	10/24/2018	R151601	\$ 24,931,760.00	\$ 120,744,381.00
62	10/24/2018	R151602	\$ 1,059,220.00	\$ 121,803,601.00
63	10/24/2018	R151603	\$ 130.00	\$ 121,803,731.00
64	10/24/2018	R152394	\$ 6,169,860.00	\$ 127,973,591.00

**EXHIBIT E-2**

**2018 Base Assessed Taxable Valuations  
Tax Increment Reinvestment Zone Number 2**

<u>Item #</u>	<u>Date AV Verified</u>	<u>Parcel Tax ID#</u>	<u>2018 Base Taxable AV</u>	<u>2018 Base Cumulative AV</u>
65	10/24/2018	R152412	\$ 8,558,750.00	\$ 136,532,341.00
66	10/24/2018	R155405	\$ 850,920.00	\$ 137,383,261.00
67	10/24/2018	R155406	\$ 360.00	\$ 137,383,621.00
68	10/24/2018	R156298	\$ 156,820.00	\$ 137,540,441.00
69	10/24/2018	R156516	\$ 149,940.00	\$ 137,690,381.00
70	10/24/2018	R88923	\$ 1,262,130.00	\$ 138,952,511.00
71	2018 Total Base Assessed Valuation:		<u>\$138,952,511.00</u>	

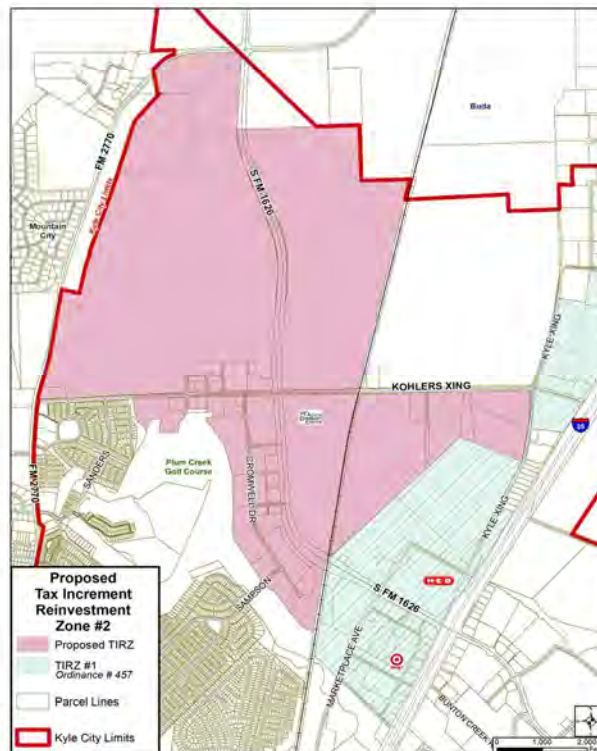
## **EXHIBIT F**

### **CITY OF KYLE, TEXAS NOTICE OF PUBLIC HEARING ON THE CREATION OF TAX INCREMENT REINVESTMENT ZONE NUMBER TWO**

NOTICE IS HEREBY GIVEN that the City Council of the City of Kyle, Texas will hold a Public Hearing on Tuesday, November 20, 2018, at 7:00 p.m. at the Kyle City Hall, located at 100 W. Center Street, Kyle, Texas 78640, for the purpose of receiving comments on the proposed creation of Tax Increment Reinvestment Zone Number Two under the provisions of Chapter 311 of the Texas Tax Code.

The general benefit to the City and its taxpayers of the Tax Increment Reinvestment Zone Number Two will be to increase the value of taxable properties through the development of new public and private improvements within the reinvestment zone.

The proposed Tax Increment Reinvestment Zone Number Two is comprised of approximately 1,480 acres located west of IH-35 and east of FM 2770 within Kyle city limits as depicted in the proposed boundary map below:



The legal description, boundary map, draft project and finance plan, and the draft creation Ordinance are available for public inspection in the City Secretary's office at 100 W. Center Street, Kyle, Texas 78640.

All Kyle residents and interested persons are invited to attend the public hearing to provide their comments to City Council on the proposed creation of Tax Increment Reinvestment Zone Number Two.

## **EXHIBIT G**

### **TERM SHEET AS APPROVED BY CITY COUNCIL FOR DEVELOPMENT OF THE UPTOWN AREA OF PLUM CREEK**

The Term Sheet, as attached hereto, outlines the conditions under which the City Council of the City of Kyle considered and created the Tax Increment Reinvestment Zone Number 2 in Kyle, Texas.

The purpose of this Term Sheet is to provide the City Manager with specific principles and parameters to negotiate a Development Agreement and/or Reimbursement Agreement between the City and the developer containing the terms and conditions outlined in the approved Term Sheet and other acceptable terms that would serve as the guiding document for all items related to the use, look, and feel of the development of the Uptown Area of Plum Creek, including all public improvements.

This Term Sheet was discussed and considered by City Council, at a public meeting held on November 20, 2018.

## **OUTLINE OF PROPOSED TERMS OF PLUM CREEK TIRZ**

***As an overall goal, the purpose of these Proposed Terms is to obtain approval of the creation of a Tax Increment Reinvestment Zone ("TIRZ") covering the undeveloped land in Plum Creek for the purposes outlined below. By creating the TIRZ now, the contemplated \$100 million in expected improvements in 2019 will be captured in the TIRZ to further the goals stated below.***

***Plum Creek and the City contemplate that these terms set forth below will be incorporated into a TIRZ Development Agreement between the owners of the Uptown area of Plum Creek and the City of Kyle ("City"), in addition to other such terms and conditions as are appropriate and acceptable.***

### ***DRAFT VISION STATEMENT***

*The Uptown TIRZ aims to serve the City and its residents with a first-class town center that improves the quality of life, connects people, and becomes a destination for Kyle residents and the region.*

### **Our Draft Mutual Goals**

- 1. Build a quality town center and the remainder of Plum Creek as a desirable destination for employment, housing, recreation, and entertainment.*
- 2. Assist Kyle by establishing a substantial tax base that will benefit all residents of Kyle.*
- 3. Establish the town center as a mechanism to attract quality employment and residential development.*
- 4. Create capital improvements that promotes walkability and recreation.*
- 5. Develop higher quality aesthetics, safety, human comfort, accessibility, and amenities within the public realm.*

Plum Creek understands that the City is considering the creation of a Tax Increment Reinvestment Zone (TIRZ) with all powers allowed to it by state law and its associated governing body (the "TIRZ Board") within Plum Creek for the purpose of enhancing public improvements to achieve the above-stated Mutual Goals. The funding of these improvements would likely be through Tax Increment Financing (TIF) based reimbursable tax revenues. If done correctly, the development of Plum Creek will likely be quicker and more robust than without the TIRZ, which will help to achieve the above goals.

This term sheet outlines the conditions under which the City will consider creating a TIRZ within Plum Creek. After a public hearing to receive input from Kyle residents regarding the TIRZ, assuming these terms and others as deemed appropriate, the City Council may vote to create a TIRZ. After approval of that ordinance, the Plum Creek developers and the City would negotiate a Development Agreement containing these terms, and other acceptable terms that would serve as the guiding document for all items related to use, look, feel, and public environment.

The TIRZ would be established with a Sunset Clause of twenty (20) years from its creation.

*Here is a Summary of the Proposed TIRZ terms:*

1. Attached as Exhibit A is a conceptual map of Uptown (approximately 38 acres) for the purposes of conversation. The area shaded in red, approximately 38 acres in size, is the “Mixed Use Area”. The area shaded in blue is the “Secondary Retail Area”. The remaining area of Uptown is the “Urban Residential Area”. This plan has not been approved or endorsed by the City at this time, but generally includes the items of note contained within the terms. As with any plan, the market will dictate which phases of Uptown get built in what order and how fast. A “Strategic Plan” will be generated as part of the Development Agreement terms, that will outline the intended development for the upcoming five years. The Strategic Plan will be updated every two years.
2. No TIRZ money will be spent for private property improvements. Any TIRZ funds will only be expended for public improvements owned by the TIRZ or by the City of Kyle or a non-profit affiliate. The developer is already required to build certain base infrastructure as a part of the development process, therefore the amount that is eligible to be paid for by the TIRZ is the incremental difference from the base to that of the upgrades, as determined by utilizing ‘add-alternate’ bidding procedures. In the event there is not an alternate bid available the TIRZ board will use its best judgement in authorizing reimbursement values. It is understood that certain items such as art would be wholly reimbursable as city code does not currently require its installation. All TIRZ improvements will be located on land owned by the City of Kyle, public rights-of-way and/or public easements. If TIRZ funds are used, the Developer must commit to certain level of adjacent development in full accordance with sections 5 through 9 below. The public improvements may include (but only as approved by the TIRZ Board appointed by the City Council):
  - a. Streetscapes, landscaping, roadway, transportation, roundabouts, underground waste receptacles and other applicable associated improvements;

- b. Public art, water features; 1% of TIRZ funds dedicated to art. The Uptown developer will promote public art in the Mixed Use Area, and other appropriate areas within Uptown.
  - c. Parks, plazas and other public realm spaces could include a variety of uses as well as gatherings, events, and celebration;
  - d. Trails connecting to Uptown to other areas within Plum Creek and adjacent developments;
  - e. Safe pedestrian crossings such as pavement-lit crosswalks and underpasses;
  - f. Under-the-road pedestrian crossings;
  - g. Public parking/parking garages;
  - h. Public buildings and other applicable facilities;
  - i. Wayfinding and signage;
  - j. Safety and human comfort improvements including shade structures and lighting;
  - k. Ambiance and space making lighting such as tree lights, free hanging strung lights;
  - l. Improvements deemed appropriate by the TIRZ Board to promote economic development within Plum Creek;
  - m. And, any other improvement that is permissible by applicable TIRZ law and approved by the TIRZ Board.
3. All TIRZ improvements shall be approved by TIRZ Board appointed by the Kyle City Council. TIRZ funded improvements will commit the Developer to areas adjacent to the improvement being developed in accordance with the terms of this agreement.
  4. All of Uptown shall be designed as an urban village, with a variety of housing and other uses to create a desirable urban environment – a destination for Kyle and surrounding area residents that appropriately balances office, retail, dining, entertainment and housing.
  5. Parking garages shall be encouraged (and built wherever financially feasible) and must accommodate mixed-use parking as well as employees, but not allow for inventory storage. The City and Plum Creek acknowledge that current market conditions do not

allow for parking garages, however, the parties seek to have structured parking when and where financially feasible. Parking garages, if constructed, shall be wrapped urban product with mixed use if in the Mixed Use Area, or as much as practicable in the Secondary Retail Area or with multifamily if in the Urban Residential Area. Street level parking may be used where appropriate. In the beginning phases, parking lots will be allowed so long as at the time of site review of a ground level parking lot, there is a plan in place for when and how the space will transition to structured parking, if that becomes financially feasible.

6. Plum Creek and the City want true mixed-use in the Mixed Use Area of Uptown. To accomplish this Plum Creek and the City shall negotiate and execute a restrictive covenant covering the Mixed Use Area to accommodate the uses and design controls necessary for the TIRZ funding. No TIRZ funding shall occur without compliance with this restrictive covenant. Within that Mixed Use Area, the City and Plum Creek desire:
  - a. Architecture that shall be timeless, and the primary facade material shall be brick, stone, metal and glass. Other accent elements of the façade from other quality materials shall be permitted, consistent with good design. Design criteria and guidelines shall be approved by City and will include the use of city approved materials, colors, and enhance the overall Kyle branding.
  - b. Vertical mixed use shall be required in the Mixed Use Area, however, on a case by case basis, City may approve the use single-story buildings when appropriate such as:
    - i. Free standing restaurants around the pond at the northwest corner of Kohlers Crossing and Kyle Parkway (1626).
    - ii. In certain cases, beyond the primary east-west retail avenue of the Mixed Use Area, a single-story lifestyle retail district may be appropriate. The Domain Northside (Austin’s most successful lifestyle urban center) has a showcase retail district full of shops and restaurants – the Rock Rose District. That district contains some single-story structures and is the center of the majority of retail and entertainment activity in the Domain Northside. Here are some images:





Any single-story retail – if any is approved by the City as part of the approval of the Strategic Plan implementing the TIRZ – would only be approved by consent of the City, as part of the overall mixed-use plan for the Mixed Use Area, and then only if it makes good design sense to enhance the overall mixed-use experience.

- c. The Mixed Use Area shall seek true mixed-use retail that generates pedestrian activity and circulation, with uses that provide for walkable pedestrian activities, and are clustered to primary mixed use corridors to prevent fragmentation.
  - i. Bottom, or street level floors shall be reserved for restaurants, retail shops, entertainment and active uses – other service retail such as cell phone stores and the like shall be limited to the second floor or higher.
  - ii. Acceptable ground floor uses include:
    - 1. Retail
    - 2. Retail service establishments that generate significant foot traffic
    - 3. Restaurants, dining options and bars that serve food
    - 4. Food or entertainment incubator space
    - 5. Entertainment

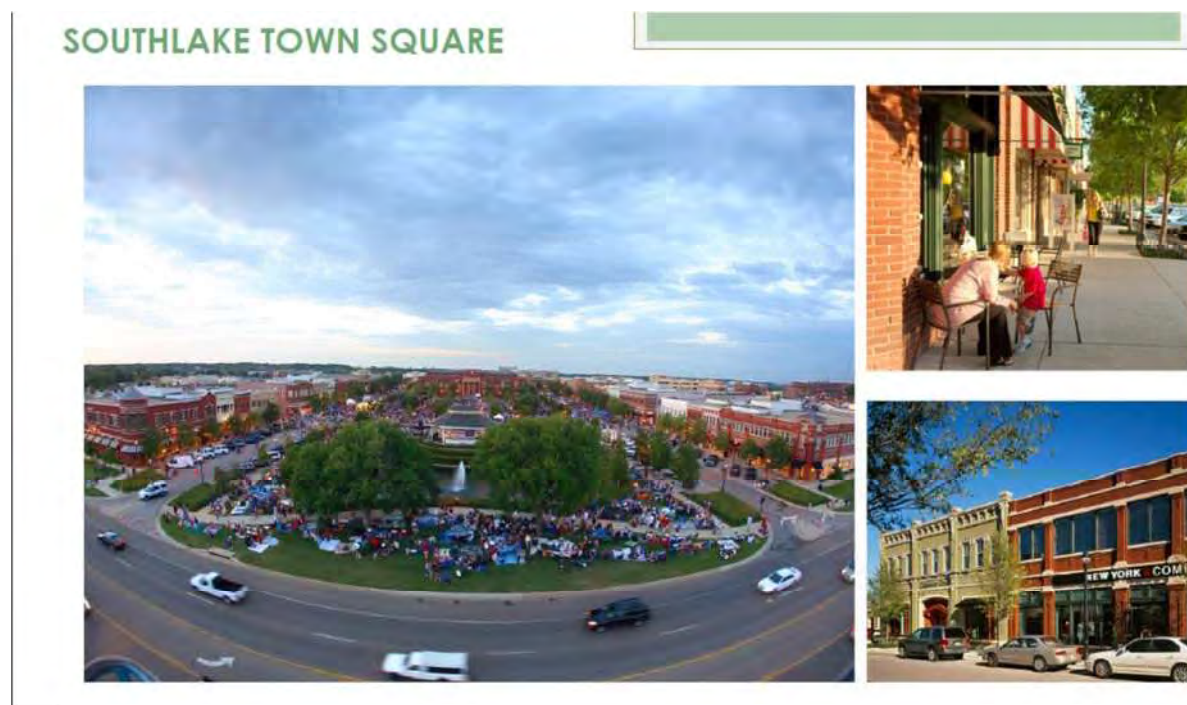
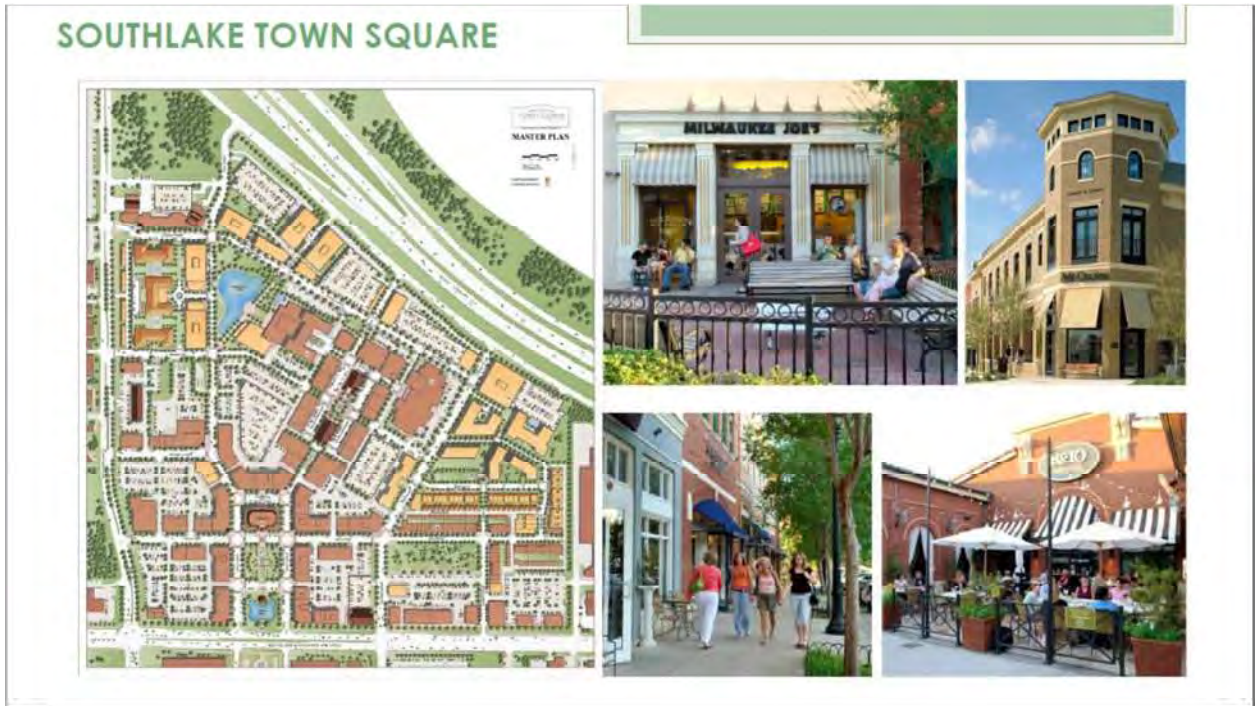
6. Not more than two, small bank lobbies (ie lobby access on the ground floor and basic teller atm access with remaining offices and services located above the first floor) may occupy ground floor retail, but not at an intersection of two streets (i.e., mid-block only).
- iii. Acceptable second floor or higher uses could include:
    1. All uses above, plus:
    2. Bars where more than 50% of revenues are alcohol sales
    3. Retail or Service that do not generate significant foot traffic
    4. Professional Services
    5. Office space
    6. Office incubator space
    7. Activated roof/green roof space
    8. Residential
  - iv. All restaurants along the primary retail street in the Mixed Use Area will incorporate shade – either in the form of a shaded front patio seating and/or a shaded activated roof seating area and/or other approved shade design.
  - v. First floor uses will commit to standardized operating hours as a minimum to support the lifestyle retail strategy of staying open as long as practicable, with a goal of 9:00 p.m.
  - vi. The vision statement seeks to prohibit uses that do not promote pedestrian activity or would detract from the Urban Uptown environment. Such uses are listed in Exhibit B, but will likely expand upon more careful consideration and negotiation with Plum Creek and the City. Exhibit B will serve as a model for the use restriction table for new PUD zoning for the Uptown Urban district.
- d. The Secondary Retail Area, is an area that would have likely been residential, but has been identified by the City and Developer as a possible location to expand the footprint of the Mixed Use Area beyond what would normally be justified by the size of the development. The Developer is open to this desire and will commit to developing the area identified in Exhibit A as the ‘Secondary Retail Area’ last, giving the market time to see if the Mixed Use Area could stretch up North Cromwell. If the Developer desires to use TIRZ funds for improvements up North Cromwell in the Secondary Retail Area, then the Developer will commit to having this area as an expanded Mixed Use Area. Corner retail only would not suffice for the use of TIRZ funds, but this area may make sense to incorporate some of the single story lifestyle users such as referenced in Section 6.B.ii above. The Developer feels that if either or both of the following items were to occur, it would dramatically increase the likelihood of this conversion from residential to an expanded Mixed Use Area:

- i. Develop the soccer fields on the northern terminus of Cromwell into a right sized regional soccer complex that is programmed and able to attract users from the region and beyond year-round, thereby creating synergy on North Cromwell. This may require partnering between the Plum Creek Residential Owner and the Developer to reallocate the detention area into a regional detention structure east of Kyle Parkway. Should this happen, funds should not be double-dipped from both the TIRZ and any future Residential PID. This should not be interpreted as a prohibition for both the TIRZ and any future Residential PID to participate in the improvements, just that the same improvements can't be counted twice, once for each district.
  - ii. The placement of a convention center with hotel in the Secondary Retail Area.
- e. Developer shall include public art, sculptures, water features, fountains and landscaped and structured shade.
- f. The Urban Uptown district shall be in a commercial property owners' association. The owner(s) of the Uptown development shall be responsible for, among other things (either directly through a management company or through the property owners' association) and such obligation formalized through a License and Use agreement with the City and other methods to ensure that the association levies sufficient assessments to pay for the maintenance obligations:
  - i. common area and open space maintenance, irrigation, upkeep and beautification
  - ii. maintenance of public art
  - iii. upkeep of fountains, shade structures
  - iv. replacement of all landscaping that dies or underperforms and hardscapes with like materials in a timely fashion unless the same species or material cannot be used.
  - v. pedestrian canopy trees and sidewalks
  - vi. pedestrian scaled lighting, ambiance lighting, holiday lighting, tree lighting and all decorative poles and signs
  - vii. cleaning of sidewalks
  - viii. street litter and organic pickup
- g. All streets with funding by the TIRZ in Uptown will have city approved designs, including right-of-way widths, cross sections showing the pedestrian and bicycle improvements, hardscapes and landscaping.
  - i. Design shall include the main thoroughfares terminating in a vista or view shed highlighting a city facility, park, public art or prominent element such as an architectural piece or water feature, as approved.

- ii. All streets within Uptown will be pedestrian-oriented, promoting walkability and, where applicable, bicycle use. Some streets will be limited to pedestrian use only (i.e. pedestrian boulevards, plazas) and will be cobblestone, brick, paving or other City-approved landscape material.
  - iii. In addition, within the Mixed Use Area, the street designs will show public landscaping improvements and public art in accordance with City-approved landscaping and public art criteria.
  - iv. Pedestrian design shall enhance access from beyond the Uptown district, including pulling from other corners of Kyle Parkway and Kohlers, including specific consideration for pedestrian tie ins with ACC and Area 9/10.
  - v. All roads and pedestrian ways will have planted and irrigated canopy trees. The Uptown Urban district will only include trees from an approved tree species list.
  - vi. Main thoroughfares will have street trees wired for lights, and all street trees will be lit/wrapped with string lights during the applicable holidays.
  - vii. Modern roundabouts that accommodate pedestrian traffic will be favored over four-way intersections for main thoroughfares in the Uptown district, where applicable, and as approved.
7. TIRZ money may be expended only if the tax value supporting the TIRZ expenditure exists – no future tax value shall be used to support any TIRZ expenditures. As determined by the TIRZ board, expenditures may be expended in several ways:
- a. The developer may expend the funds needed to create the approved TIRZ improvements and be reimbursed by the TIRZ according to applicable law.
  - b. The TIRZ may elect at its discretion to fund appropriate planning, design, and engineering work;
  - c. The TIRZ may elect at its discretion to fund directly approved TIRZ improvements that have been properly bid according to applicable law.
8. Pursuant to an existing agreement between the City and Plum Creek, 17 acres shall be dedicated within Plum Creek for public use which may include: convention center (convertible space to sports/theatre/concert) with attached hotel, municipal facilities, children’s library, incubator space (food, tech, arts), sports venue, entertainment venues, central town square park, river concept, parking structures, museums, performing art

centers, entrepreneur centers, municipal facilities, stadiums, zoos, carousel/Ferris wheel, music venues and enhanced public activated streetscapes.

9. The following graphical examples are found to be mostly in adherence to these terms and should serve as examples of the type of look and feel both parties plan to accomplish:



## SOUTHLAKE TOWN SQUARE



## FIREWHEEL TOWN CENTER



## WEST VILLAGE







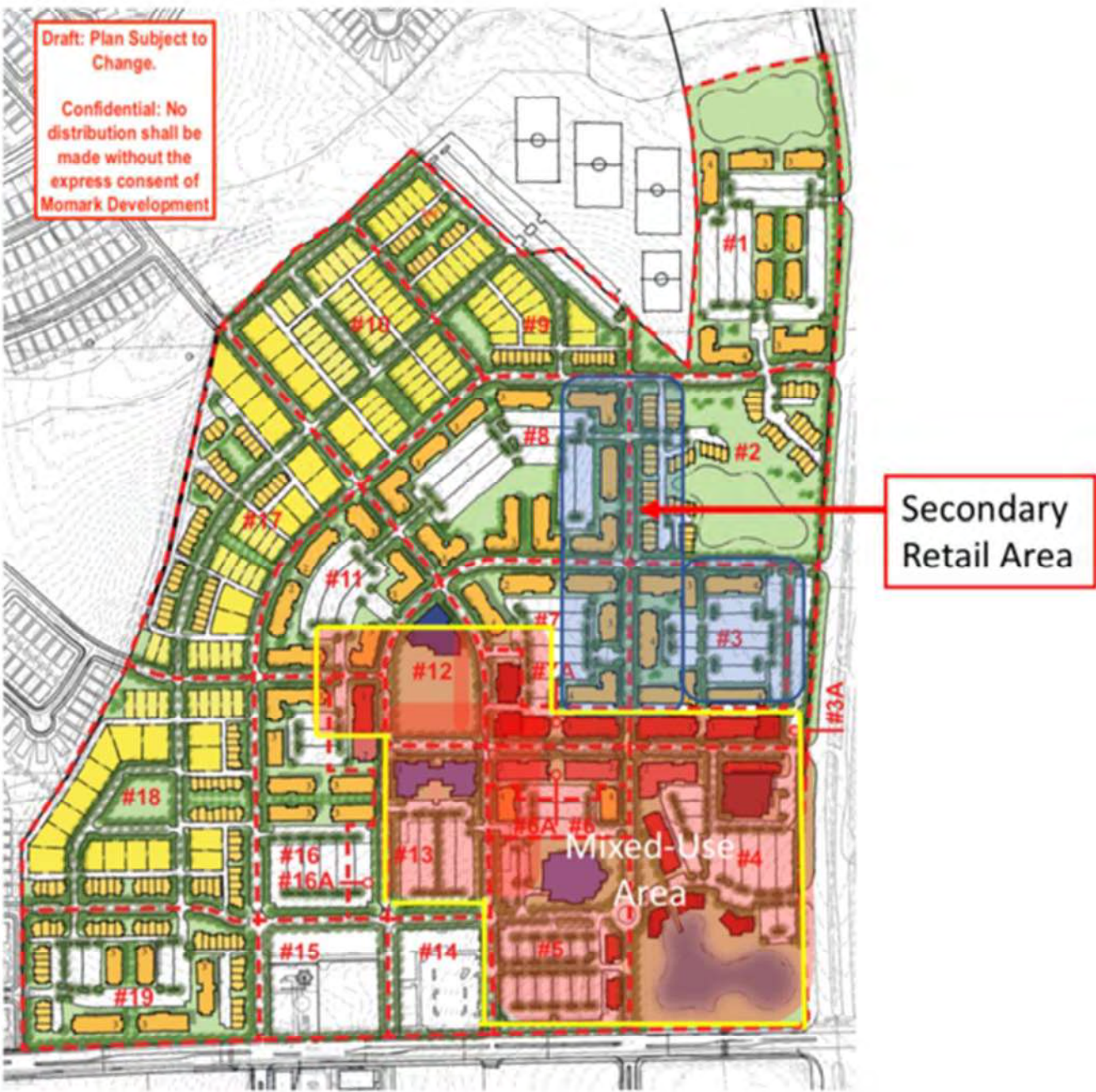






Exhibit A

CONCEPTUAL PLAN



## EXHIBIT B PROHIBITED USES

Prohibited uses: Adult entertainment; Auto body repair shops; Automotive car wash; Automotive parts stores; Automotive service centers; Bank lobbies/bank branches (except as permitted above; Boat sales establishments; Building, electrical, or plumbing contractors; Building material sales with outdoor storage; Equipment rental, sales, or service (including heavy equipment, farm equipment, bulldozers, backhoes forklifts, cranes, etc.); Emissions inspection stations;; Funeral homes or mausoleums; Heavy equipment and farm equipment sales and service, and truck rental; Lawnmower repair shops; Liquor stores (except as may be permitted in the Development Agreement); Log-splitting and storage lots; Manufactured homes; Mattress stores, Mobile home or mobile building leasing or sales lots; Machine or welding shops; Mini-warehouse facilities; New and used automobile sales and/or rental with outside storage of inventory; Pawn shops; Pest control businesses that store toxic chemicals on site; Payday Loans; Recovered materials processing; Motels that provide outside entries to individual units; Outdoor sales except via vendor permits; Outdoor storage of inventory; Self-service laundries that are principal uses; Self-storage; Tattoo parlors; Taxidermists; Yard trimmings composting; Veterinarians or animal services with overnight boarding.



# CITY OF KYLE, TEXAS

## CenterPoint GRIP

Meeting Date: 5/21/2019

Date time: 7:00 PM

**Subject/Recommendation:** Consider a Resolution suspending for 45 days the effective date proposed by CenterPoint Energy Resources Corp., South Texas Division (“CenterPoint”) in its application filed on or about March 28, 2019 pursuant to section 104.301 of the Gas Utility Regulatory Act. ~ *Jerry Hendrix, Chief of Staff*

**Other Information:** The Texas Gas Reliability Infrastructure Program (GRIP) is an interim rate adjustment allowed by Texas Statute (Texas Utilities Code §104.301) that allows utilities to recover their costs related to additional invested capital without filing a full rate case.

The costs of the infrastructure investments is spread across all customers in the South Texas Division service area. This service area includes 84 cities and includes Kyle, Buda, San Marcos, and Austin. A complete list of cities in the Houston region is included in the attached FAQ.

The current customer charge for residential customers is \$19.00 per month. The rate increase for residential customers will be \$2.04 per month, raising the residential customer charge to \$21.04 per month. The rate increases for each customer class are included in the attached FAQ.

For the City of Kyle, the January 2019 counts are as follows:

- 8,860 Residential
- 472 Commercial
- 3 General Service-Large Volume

### Legal Notes:

### Budget Information:

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### ATTACHMENTS:

#### Description

- ☐ CenterPoint GRIP Suspension Resolution
- ☐ CenterPoint GRIP Notification Letter
- ☐ CenterPoint GRIP FAQ

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION BY THE CITY OF KYLE, TEXAS, ("CITY") RESPONDING TO THE APPLICATION OF CENTERPOINT ENERGY RESOURCES CORP., SOUTH TEXAS DIVISION, TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM; SUSPENDING THE EFFECTIVE DATE OF THIS RATE APPLICATION FOR FORTY-FIVE DAYS; DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS, WHEREAS**, on or about March 38, 2019 CenterPoint Energy Resources Corp., South Texas Division ("CenterPoint") filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program ("GRIP"), which if approved, results in an increase in the monthly customer charges; and

**WHEREAS**, pursuant to Texas Utilities Code Section 103.001, the City of Kyle is a regulatory authority having exclusive original jurisdiction over the rates, operations and services of a gas distribution utility in the City limits of the City of Kyle; and

**WHEREAS**, pursuant to Chapter 51, Section 51.001 of the Local Government Code, the City of Kyle may adopt a resolution that is necessary or proper for carrying out a power granted by law to the municipality; and

**WHEREAS**, CenterPoint Energy Resources Corp., is a gas distribution utility operating within the City of Kyle, Texas; and

**WHEREAS**, pursuant to Texas Utilities Code Section 104.301, the City may act to suspend the implementation of the proposed adjustment for up to 45 days;

**WHEREAS**, the effective date proposed by CenterPoint is May 27, 2019 but a suspension by the City will mean that the rate increase cannot go into effect prior to July 11, 2019.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS THAT**

**A. FINDINGS OF FACT**

The foregoing recitals are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein and such recitals, as findings of fact, are hereby approved.

**B. PROPER NOTICE & MEETING**

It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

**C. EFFECTIVE DATE**

This resolution shall become effective from and after its passage.

**D. COPY OF RESOLUTION TO CENTERPOINT ENERGY RESOURCES CORP.**

Within 10 days after passage, a copy of this Resolution shall be sent Mr. Keith Wall, Director of Regulatory Affairs, CenterPoint Energy, P.O. Box 2628, Houston, Texas 77252-2628.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2019, by a vote of \_\_\_\_\_ (ayes) to \_\_\_\_\_ (nays) to \_\_\_\_\_ (abstentions) of the City Council of the City of Kyle, Texas. by the City of Kyle, Texas.

By: \_\_\_\_\_  
Travis Mitchell, Mayor

**ATTEST:**

By: \_\_\_\_\_  
Jennifer Vetrano, City Secretary

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Paige Saenz, City Attorney



March 28, 2019

CenterPoint Energy  
1111 Louisiana Street  
Houston, TX 77002-5231  
P.O. Box 2628  
Houston, TX 77252-2628

Mayor and City Council  
City of Kyle  
Kyle, Texas

Re: CenterPoint Energy 2019 Annual GRIP Adjustment for the South Texas Division

Dear Madam or Sir:

CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint" or the "Company"), files the enclosed tariffs and supporting documents, including a CD of the electronic files, with the City of Kyle ("City") consistent with Section 7.7101 of the Railroad Commission of Texas ("Commission") Gas Services Division Rules and Section 104.301 of the Texas Utilities Code to establish the annual gas reliability infrastructure program ("GRIP") interim rate adjustment ("IRA") for the Company's South Texas Division, which includes the City. The proposed IRA will affect rates for natural gas service customers located in the City. Simultaneously with this filing, CenterPoint makes the same GRIP filing with the Commission for customers located in the City's environs and cities of the South Texas Division that have ceded original jurisdiction to the Commission.

CenterPoint consistently supplies its customers in the South Texas Division with safe and dependable natural gas service by prudently investing in additions and upgrades to its delivery system. The Company will continue to prudently invest in its infrastructure in order to improve its natural gas service to its customers and to anticipate and meet their needs under all operating conditions. The GRIP program enables a gas utility such as CenterPoint to begin recovery of its incremental capital investment in the system, subject to a prudence review in its next rate case. This reduces regulator lag and incentivizes needed investment. Consistent with Section 104.301 of the Texas Utilities Code and Commission precedent, the City's review of this GRIP filing is limited to a ministerial review to ensure compliance with the GRIP statute.

Pursuant to applicable law, the proposed IRA will become effective on May 27, 2019, unless the City suspends that date for a period of no longer than forty-five (45) days. The approved IRA will be applied to the monthly customer charge and will remain in effect until superseded by the earlier of (1) the effective date of the Company's next annual GRIP adjustment for the South Texas Division; or (2) the issuance of a final order in a rate setting proceeding for the South Texas Division.

As detailed in the attached schedules and supporting material, the Company invested \$37,256,789 in its South Texas Division system between October 1, 2017 and December 31, 2018, and the applicable IRA is:

<b>Rate Schedule</b>	<b>Current Customer Charge</b>	<b>Proposed 2019 Interim Rate Adjustment</b>	<b>Adjusted Charge</b>	<b>Increase Per Bill</b>
R-2097-I-GRIP 2019; R-2097-U-GRIP 2019 Residential	\$19.00 per customer per month	\$2.04 per customer per month	\$21.04 per customer per month	\$2.04 per customer per month
GSS-2097-I-GRIP 2019; GSS-2097-U-GRIP 2019 General Service Small	\$25.00 per customer per month	\$4.16 per customer per month	\$29.16 per customer per month	\$4.16 per customer per month
GSLV-628-I-GRIP 2019; GSLV-628-U-GRIP 2019 General Service Large Volume	\$99.50 per customer per month	\$27.20 per customer per month	\$126.70 per customer per month	\$27.20 per customer per month

Along with and in support of the proposed IRA, CenterPoint includes the following:

- (a) An earnings monitoring report showing the Company's earnings for the South Texas Division during the 2018 calendar year (under the "Earnings Monitoring Report" section of the enclosed filing).
- (b) An Interim Rate Adjustment Application containing accounting schedules and project reports for the GRIP Adjustment Period including a description of (i) the projects undertaken during the GRIP Adjustment Period (ii) the investment to provide utility service in the South Texas Division, which were both completed and placed in service during the GRIP Adjustment Period, (iii) the Company's prior utility investments in the South Texas Division that were either retired or abandoned during the GRIP Adjustment Period, and (iv) the cost, need and customers benefited by those investments and retirements located in IRAs 12, 13, 14 and 15 which are voluminous and are being provided in electronic format only on CD.
- (c) The Company's calculations of the GRIP Adjustment amount to go into effect on the later of the Planned Effective Date or the end of any suspension period imposed (under the "Interim Rate Adjustment Application" section of the enclosed filing).
- (d) Affidavits by Kristie Colvin, Brian K. Gower and Tal R. Centers, Jr. (under the "Affidavits" section of the enclosed filing).

Ms. Colvin's affidavit verifies (i) that the South Texas Division's books and records are kept in accordance with the rules of the Commission and (ii) that the reports enclosed accurately reflect the South Texas Division's books and records related to the information in those reports.

- Mr. Gower's affidavit verifies the notice of the GRIP filing through customer bill inserts.
- Mr. Centers' affidavit concerns the reimbursement of relocation expenses.

In addition, the source documentation and workpapers supporting the data and calculations contained in the foregoing reports is maintained in CenterPoint's electronic databases which are available for review. To schedule an opportunity to review the electronic databases or any hard copy project files related to the new investment or retirements, please contact me at (713) 207-5946.

Notice of this proceeding will be provided to affected customers in the South Texas Division by bill insert or by separate mailing within 45 days after the date of this filing in accordance with the applicable law.

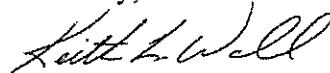
Please accept for filing the above-mentioned tariffs, filing package and enclosures and return the enclosed copy of this letter with your file mark thereon to acknowledge such filings for our records.

Although only the incorporated tariffs are applicable to the City, for administrative ease, the Company has included in its filing package both incorporated and unincorporated tariffs.

In some instances, the Company has added columns and changed formulas in the IRA forms in order to present accurate information. A list of the changes is being provided.

Please do not hesitate to contact us with any questions you may have regarding this filing.

Sincerely,



Keith L. Wall  
Director of Regulatory Affairs

Attachments

cc: Mr. Tal Centers  
Mr. Sam Chang  
Ms. Gracy Rodriguez

DELIVERED TO:

\_\_\_\_\_, \_\_\_\_\_ of  
NAME OFFICE (Mayor, City Secretary, etc.)

the City of Kyle on this \_\_\_\_ day of March 2019.

\_\_\_\_\_  
SIGNATURE

### List of Changes to IRA Forms

Item	Changes	Tabs Affected
1	Adjustments columns have been added	IRA-7, IRA-10, IRA-16, IRA-17, IRA-18, IRA-19
2	The allocation factor has been hardcoded to reflect the current year's allocation factor instead of linking to the prior year's allocation factor	IRA-10
3	Changed the Allocation Factor column to link to IRA-10 instead of IRA-9	IRA-11
4	Changed the formulas for the columns to take the differences between IRA-10 and IRA-9	IRA-11



## South Texas Division GRIP filing

### FAQs

#### **What is a Gas Reliability Infrastructure Program (GRIP) filing?**

- An interim rate adjustment allowed by Texas Statute (Texas Utilities Code §104.301) that allows utilities to recover their costs related to additional invested capital without filing a full rate case.

#### **Who can make GRIP filings?**

- A gas utility with newly invested capital not already included in existing rate base can make an initial GRIP filing but only if the gas utility has filed a rate case within the preceding two years. Thereafter, an annual GRIP filing occurs. A full rate case must be filed no later than five and one-half (5 ½) years after the implementation of the initial interim rate adjustment.

#### **When was CenterPoint Energy's most recent rate case?**

- CenterPoint filed its last rate case for the South Texas Gas Division (GUD No. 10038) on December 3, 2010, and the final decision was rendered on April 18, 2011.

#### **When was the Company's most recent GRIP filing?**

- CenterPoint made its sixth GRIP filing for the South Texas Gas Division on March 30, 2017.

#### **How is the adjustment amount calculated?**

- The GRIP filing adjustment is intended to capture the cost of net incremental investment over that investment included in the last rate case; or since the most recent GRIP filing.
- Costs included are return (profit) on that investment, depreciation expense, and certain taxes. Factors used to calculate costs must be the same as those reflected in the final order, ordinance or settlement agreement approving current rates.

#### **What is required of the utility?**

- The new tariff or rate schedule must be filed with the appropriate regulatory authority (City and/or Railroad Commission) 60 days before the proposed implementation date.
- Notice to all affected customers must be provided within 45 days of filing with the regulatory authority.
- In each annual GRIP filing, the utility must provide the following information:
  - Annual Project Reports describing all new investments and retired plant.
  - The need for, the cost of, and the customers benefitted by the new investment.
  - An annual earnings monitoring report showing earnings in the past year.
- The adjustment must be recalculated annually.

**What is the role of the regulatory authority?**

- Within 60 days after the filing, the regulatory authority may suspend implementation of the proposed adjustment for up to 45 days.
- Once the interim increase in rates has been reviewed as part of a full rate case, the regulatory authority may order CNP to refund any amounts collected if the investment is found to be unnecessary or imprudent.
- The regulatory authority may open an inquiry under Texas Utilities Code §104.151 and set new rates if the current rates are found to be unreasonable.

**Who is CenterPoint Energy?**

- CenterPoint Energy provides natural gas distribution service to approximately 3.4 million residential, commercial and industrial customers in the states of Arkansas, Louisiana, Minnesota, Mississippi, Oklahoma and Texas. CenterPoint Energy serves approximately 142,000 customers in its South Texas Division that will be impacted by this filing.

**Customers in what cities will be affected by the Company's filing?**

- This filing is for the entire South Texas Division including the environs customers. We are filing with the cities below:

Agua Dulce	Giddings	Orange Grove	Yorktown
Alice	Gregory	Point Comfort	
Aransas Pass	Hondo	Port Lavaca	
Austin	Ingleside	Portland	
Bastrop	Ingleside on the Bay	Poteet	
Bishop	Jourdanton	Poth	
Buda	Karnes City	Premont	
Cibolo	Kingsville	Refugio	
Converse	Kyle	Runge	
Driscoll	LaCoste	Sandy Oaks	
Edna	La Grange	Schulenberg	
Elgin	Laredo	Seadrift	
Falls City	Marion	Smithville	
Freer	Mathis	Taft	
Ganado	Niederwald	Universal City	
Garden Ridge	Odem	Victoria	

- The cities below have given up original jurisdiction. These cities will be included as part of the rate filing made with the Railroad Commission:

Beeville	Kenedy	San Marcos
Eagle Lake	New Braunfels	Schertz
El Campo	Nordheim	Seguin
Floresville	Palacios	Selma
Goliad	Pleasanton	Sinton
Hallettsville	San Diego	Weimar

- The filing with the Railroad Commission will include the unincorporated areas below:

Banquete	Hebbronville	Pettus
Blessing	Inez	Placedo
Bloomington	Lolita	Skidmore
Bruni	Louise	Tuleta
Campbellton	McQueeney	Vanderbilt
D'Hanis	Mirando City	
Edroy	Oilton	

**What customers are affected and how?**

- The total increase of \$3,793,032 has been allocated among customer groups in the same manner as the current rates established in GUD No. 10038. The proposed effective date is May 29, 2017. Once it goes into effect, the GRIP interim rate adjustment will increase the customer charge that is applicable to customers served under the indicated sales service rate schedules within the South Texas Division as follows:

<b>Rate Schedules</b>	<b>Current Customer Charge</b>	<b>Proposed 2017 Interim Adjustment</b>	<b>Proposed Customer Charge</b>	<b>Increase to Each Bill</b>
R-2085-GRIP 2017 Residential	\$21.20 per customer per month	\$2.04 per customer per month	\$23.24 per customer per month	\$2.04 per customer per month
GSS-2085-GRIP 2017 General Service Small	\$34.74 per customer per month	\$4.13 per customer per month	\$38.87 per customer per month	\$4.13 per customer per month
GSLV-616-GRIP 2017 General Service Large Volume	\$188.15 per customer per month	\$25.06 per customer per month	\$213.21 per customer per month	\$25.06 per customer per month



# CITY OF KYLE, TEXAS

## Water Leak Adjustment Policy Consideration for Commercial Customers

**Meeting Date: 5/21/2019**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Discussion and direction from City Council for possibly considering a water leak adjustment policy for City's commercial water utility customers. ~ *J. Scott Sellers, City Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Annexation Resolution

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** A Resolution authorizing the commencement of annexation of areas within the City's extraterritorial jurisdiction, and directing the City Manager to prepare a municipal services plan for the areas proposed to be annexed and an annexation schedule. ~ *J. Scott Sellers, City Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

☐ Annexation Potential 2019 Draft

# City of Kyle

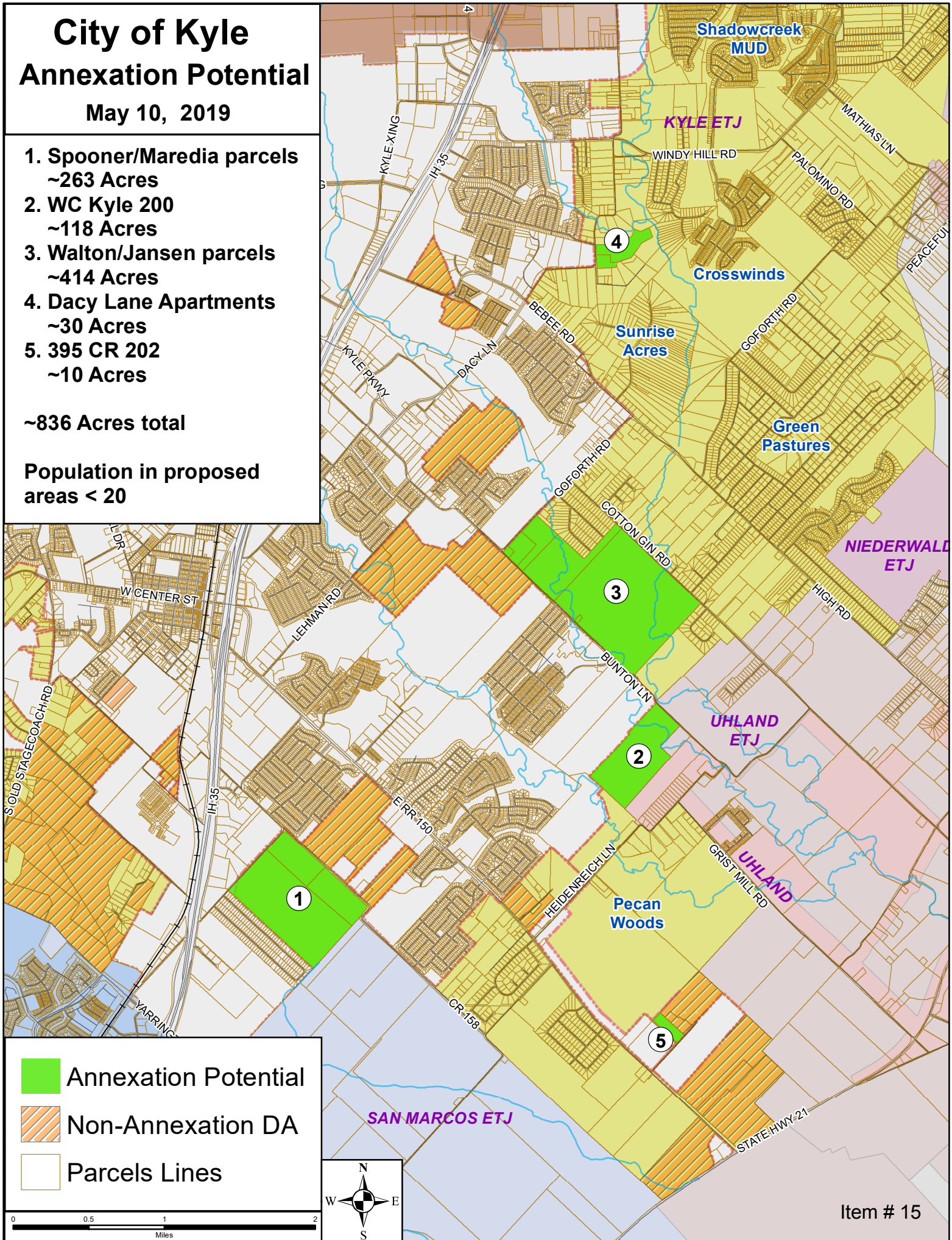
## Annexation Potential

May 10, 2019

1. Spooner/Maredia parcels  
~263 Acres
2. WC Kyle 200  
~118 Acres
3. Walton/Jansen parcels  
~414 Acres
4. Dacy Lane Apartments  
~30 Acres
5. 395 CR 202  
~10 Acres

~836 Acres total

Population in proposed  
areas < 20





# CITY OF KYLE, TEXAS

## First Year on Us Marketing Plan

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** First Year on Us Marketing Plan. ~ *Diana Torres, Director of Economic Development*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Council Compensation

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** *(First Reading)* An Ordinance of the City of Kyle, Texas, Establishing the Salary for the Members of the City Council Pursuant to Section 3.09 of the City Charter. ~ *Travis Mitchell, Mayor*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

- ☐ Council Compensation Ordinance

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ESTABLISHING  
THE SALARY FOR THE MEMBERS OF THE CITY COUNCIL  
PURSUANT TO SECTION 3.09 OF THE CITY CHARTER**

**WHEREAS**, Section 3.09 of the City Charter provides a process whereby the City Council may establish a salary for the members of Council;

**WHEREAS**, pursuant to the City Charter, the City Council appointed a committee that made recommendations regarding the salary to be paid to members of the City Council; and

**WHEREAS**, the City Council held two public hearings regarding the Committee's recommendations;

**NOW, THEREFORE**, be it ordained by the City Council of the City of Kyle, Texas that:

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**Section 2. Council Salary Established.** The City Council hereby establishes a salary of \$1300 per month for the Mayor and \$1000 per month for City Councilmembers. Pursuant to Section 3.09 of the City Charter, a member of the council that is absent from one or more meetings in a calendar month shall forfeit an amount for each absence that is proportionate to the number of council meetings held in that month.

**Section 3. Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

**PASSED AND APPROVED** on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**PASSED AND FINALLY ADOPTED** on second reading this the \_\_\_\_ day of \_\_\_\_\_, 2019.

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Travis Mitchell, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer A. Vetrano, City Secretary



# CITY OF KYLE, TEXAS

## HR Discussion

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** Discussion on policy and procedures regarding disciplinary action of employees to include timeliness of action. ~ *Daphne Tenorio, Council Member*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## City Manager's Report

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *J. Scott Sellers, City Manager*

- Saturday Special Called Meeting Date

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Executive Session

Meeting Date: 5/21/2019

Date time: 7:00 PM

**Subject/Recommendation:** Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.

1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
  - World Class Capital Condemnation
  - TREAD Coalition Lawsuit
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
3. Personnel matters pursuant to Section 551.074.
4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
  - Project Wolverine

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Reconvene

**Meeting Date: 5/21/2019**

**Date time: 7:00 PM**

**Subject/Recommendation:** Take action on items discussed in Executive Session.

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

No Attachments Available