

# CITY OF KYLE

## Notice of Regular City Council Meeting



<https://www.cityofkyle.com/kyletv/kyle-10-live> OR  
Spectrum10

SPECIAL NOTE: Pursuant to the March 16, 2020 proclamation issued by Governor Abbott, this meeting will be held by videoconference in order to advance the public health goal of limiting face-to-face meetings (also called 'social distancing') to slow the spread of COVID-19. City Council members will attend the meeting via videoconferencing. This meeting can be viewed live online at <https://www.cityofkyle.com/kyletv/kyle-10-live> OR Spectrum10.

Notice is hereby given that the governing body of the City of Kyle, Texas will meet at 7:00 PM on September 1, 2020, at <https://www.cityofkyle.com/kyletv/kyle-10-live> OR Spectrum10, for the purpose of discussing the following agenda.

Posted this 28th day of August, 2020, prior to 9:00 p.m.

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

### **II. Approval of Minutes**

1. City Council 5:30 p.m. Special Meeting Minutes - August 17, 2020. ~ *Jennifer Holm, City Secretary*
2. City Council 7:00 p.m. Special Meeting Minutes - August 17, 2020. ~ *Jennifer Holm, City Secretary*
3. City Council Special Meeting Minutes - August 18, 2020. ~ *Jennifer Holm, City Secretary*
4. City Council Meeting Minutes - August 18, 2020. ~ *Jennifer Holm, City Secretary*

### **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.

5. Members of the public that wish to provide citizen comment must submit the online registration form found at: <https://www.cityofkyle.com/council/citizen-comment-sign> to attend virtually. Registration must be received by 12 p.m. on the day of the meeting.

#### **IV. Appointments**

6. Consider appointment of Tim Samford, Division Manager of Treatment Operations to replace Brian Lillibridge on the Alliance Regional Water Authority Board of Directors. ~ *Travis Mitchell, Mayor*

#### **V. Presentation**

7. Proclamation Honoring the 100th Anniversary of the Adoption of the 19th Amendment of the United States Constitution ~ *Tracy Scheel, Council Member*
8. Presentation by Buie Co. regarding Public Safety Center Bond. ~ *Dex Ellison, Council Member*
9. 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*
  - Labor Day Celebration
  - Mass Food Distribution Event
  - Neighborhood Cleanup Event
10. CIP/Road Projects and Consent Agenda Presentation. ~ *Travis Mitchell, Mayor*

#### **VI. Consent Agenda**

11. Consider and possible action regarding specific policies regarding access to wheelchair accessible vehicles related to rideshare programs, including Uber Kyle \$3.14. ~ *Jerry Hendrix, Chief of Staff*
12. Approve a Resolution adopting the 6 Creeks Public Improvement District 2020 Annual Service Plan update. ~ *Jon Snyder, City's PID Administrator, P3Works, LLC, and Paige Saenz, City Attorney*
13. Approve a Resolution adopting the Southwest Kyle Public Improvement District No. 1 2020 Annual Service Plan update. ~ *Jon Snyder, City's PID Administrator, P3Works, LLC, and Paige Saenz, City Attorney.*
14. Approve a Joint Use Agreement with Hays Consolidated Independent School District and TIRZ No. 2 regarding Hays CISD Parking Facilities. ~ *J. Scott Sellers, City Manager*
15. Approve a Resolution to record the annual review of the City's Investment Policy

as required under the Public Funds Investment Act and to document findings that no changes to the policy or investment strategies are being made in this annual review. ~ *Perwez A. Moheet, CPA, Director of Finance*

16. Agreement Between the City of Kyle (“City”), Mountain Plum, Ltd., a Texas limited partnership, Uptown at Plum Creek Phase IA, LLC, an Oklahoma limited liability company and Corridor Title Company regarding Site Development and Escrow Agreement of even date herewith by and between Mountain Plum, Purchaser and Escrow Agent, pertaining to the Property. ~ *Paige Saenz, City Attorney*
17. Approve a contract with GOSHAWK ENVIRONMENTAL CONSULTING, INC. in an amount not to exceed \$11,602.50 for a City of Kyle Spring Branch Segment Archeological Study. ~ *J. Scott Sellers, City Manager*

## **VII. Consider and Possible Action**

18. Consider authorizing the City's Director of Finance to initiate process, prepare documents, accept and select bids from underwriters, seek credit rating, and coordinate all matters necessary to refund \$4.6 million in outstanding bonds in order to achieve approximately \$360,000.00 in estimated interest cost savings for the City of Kyle. ~ *Perwez A. Moheet, CPA, Director of Finance*
19. An Amendment to the Meet and Confer Agreement between the City of Kyle and Kyle Law Enforcement Association to adopt physical fitness standards in accordance with the conditional approval of the agreement. ~ *James R. Earp, Assistant City Manager*
20. *(First Reading)* An Ordinance of the City of Kyle, Texas, amending Chapter 23 – Miscellaneous Offenses, Chapter 29 – Sign standards and permits, chapter 47 – local traffic regulations, and chapter 54 – landscaping and screening requirements of the code of ordinances; providing for property maintenance requirements and the right to inspect and abate noncompliant conditions, assessment of the city’s costs related to abatement, collection of costs, and the ability to appeal city’s determination regarding noncompliance; amending procedures related to the abatement of junk vehicles; permitting the use of certain moving signs; prohibiting the parking of trailers on public streets unless official work is being performed or a delivery is being made at the location of the parked trailer; authorizing the installation of eight (8) foot fencing to the side and rear boundaries of residential lots; providing for repeal of conflicting ordinances; providing for an effective date, savings clause and an open meetings clauses; and providing for related matters. ~ *Gary Bickford, Code Enforcement Officer*
21. A Resolution of the City of Kyle, Texas, Determining the Order of the Propositions for the 2020 Bond Election and the 2020 Charter Amendment Election; and providing for related matters. ~ *Paige Saenz, City Attorney*
22. A Resolution of the City Council of the City of Kyle Texas, renaming the swimming pool in Gregg-Clarke Park. ~ *Robert Rizo, Council Member*
  - Public Hearing

23. Consider and Possible Action to Approve a Resolution Creating an Ad Hoc Committee to Rename a portion of West Ranch to Market 150. ~ *J. Scott Sellers, City Manager*
24. *(Second Reading)* Consider and Possible Action to Approve an Ordinance Removing the Name Rebel Drive from West Ranch to Market 150. ~ *Travis Mitchell, Mayor*

## **VIII. Executive Session**

25. 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.
    - Legal disputes involving Jesse Espinoza
    - Changeable Electronic Variable Message Sign
    - 104 S. Burleson
    - Bunton Lane Development Agreement
    - Coronavirus Relief Fund
    - Anthem Electrical
    - Well Site #4
    - Rough proportionality determination for Paramount Section 1
  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 Shamrock
    - Project Cranberry
    - Project Indigo
    - 104 S. Burleson
26. 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

## 2020 0817 Special Minutes

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** City Council 5:30 p.m. Special Meeting Minutes - August 17, 2020. ~ *Jennifer Holm, City Secretary*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

- ❑ 2020 0817 DRAFT Special Council Meeting Minutes 5:30

## SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session on August 17, 2020 and due to COVID-19, members attended virtually at Spectrum 10; <https://www.cityofkyle.com/kyletv/kyle-10-live> with the following persons present:

Mayor Travis Mitchell	Glen Hurlston
Mayor Pro Tem Rick Koch	David Mendez
Council Member Dex Ellison	Gregory Miller
Council Member Tracy Scheel	
Council Member Robert Rizo	
Council Member Alex Villalobos	
Council Member Michael Tobias	
Scott Sellers, City Manager	
Paige Saenz, City Attorney	
Jerry Hendrix, Chief of Staff	
Jennifer Holm, City Secretary	
Perwez Moheet, Finance Director	
Matt Dawson, IT Director	
Samantha Armbruster, Communications Dir.	

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

Mayor Mitchell called the meeting to order at 5:31 p.m. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Koch, Council Member Ellison, Council Member Scheel, Council Member Rizo, Council Member Villalobos, and Council Member Tobias. A quorum was present.

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

1. Members of the public that wish to provide citizen comment must submit the online registration form found at: <https://www.cityofkyle.com/council/citizen-comment-sign> to attend virtually. Registration must be received by 12 p.m. on the day of the meeting.

Mayor Mitchell opened citizen comments at 5:33 p.m.

Glen Hurlston was called to speak as registered. He spoke about an investigation that took place in 2012 against Chief Barnett.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 5:36 p.m.

### **III. Executive Session**

2. 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.
  - Bond Election
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.

Mayor Mitchell read into the record, "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: Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071 - Bond Election."

The City Council convened into executive session at 5:37 p.m.

3. Take action on items discussed in Executive Session.

Mayor Mitchell moved to reconvene into open session. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

The City Council reconvened into open session at 7:36 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

#### **IV. Adjourn**

Mayor Mitchell moved to adjourn. Council Member Scheel seconded the motion. All votes aye; motion carried 7-0.

With no further business to discuss, the City Council adjourned at 7:37 p.m.

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Travis Mitchell, Mayor

Attest:

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Jennifer A. Holm, City Secretary



# CITY OF KYLE, TEXAS

## 2020 0817 Special Minutes

**Meeting Date: 9/1/2020**  
**Date time: 7:00 PM**

**Subject/Recommendation:** City Council 7:00 p.m. Special Meeting Minutes - August 17, 2020. ~ *Jennifer Holm, City Secretary*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

- ❑ 2020 0817 DRAFT Special Council Meeting Minutes 7:00

## SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session on August 17, 2020 and due to COVID-19, members attended virtually at <https://www.cityofkyle.com/kyletv/kyle-10-live>; Spectrum 10 with the following persons present:

Mayor Travis Mitchell	David Mendez
Mayor Pro Tem Rick Koch	Gregory Miller
Council Member Dex Ellison	
Council Member Tracy Scheel	
Council Member Robert Rizo	
Council Member Alex Villalobos	
Council Member Michael Tobias	
Scott Sellers, City Manager	
Paige Saenz, City Attorney	
Jerry Hendrix, Chief of Staff	
Jennifer Holm, City Secretary	
Perwez Moheet, Finance Director	
Matt Dawson, IT Director	
Samantha Armbruster, Communications Dir.	
Jeff Barnett, Chief of Police	

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

Mayor Mitchell called the meeting to order at 7:38 p.m. The Pledge of Allegiance was recited. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Koch, Council Member Ellison, Council Member Scheel, Council Member Rizo, Council Member Villalobos, and Council Member Tobias. A quorum was present.

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

1. Members of the public that wish to provide citizen comment must submit the online registration form found at: <https://www.cityofkyle.com/council/citizen-comment-sign> to attend virtually. Registration must be received by 12 p.m. on the day of the meeting.

Mayor Mitchell opened citizen comments at 7:39 p.m. With no one wishing to speak, Mayor Mitchell closed citizen comments at 7:39 p.m.

### **III. Consider and Possible Action**

2. *(Second Reading)* An Ordinance Ordering a Special Election to be held on the Question of the Adoption of Amendments to the Charter of the City of Kyle; Designating November 3, 2020 as the date of the Special Election; Prescribing the Form of the Ballot; Providing for Election Procedures; and Providing an Effective Date. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 2 for discussion. City Attorney Paige Saenz presented the item. Council moved forward to discuss and vote on the amendments individually.

Mayor Mitchell moved to amend Sec. 1.07 to add the phrase, established by the City Council. Council Member Scheel seconded the motion.

Mayor Mitchell requested a roll call vote. Mayor Mitchell voted aye; Mayor Pro Tem Koch voted aye; Council Member Ellison voted aye; Council Member Scheel voted aye; Council Member Rizo voted aye; Council Member Villalobos voted aye; and Council Member Tobias voted aye. All votes aye; motion carried 7-0.

Mayor Mitchell moved to approve amendment as outlined in Sec. 1.07. Council Member Rizo seconded the motion.

There was discussion on the motion. Mayor Mitchell asked City Attorney if the motion was appropriate concerning the document. Ms. Saenz clarified the motion was appropriately made.

Mayor Mitchell requested a roll call vote. Council Member Rizo voted aye; Council Member Villalobos voted aye; Council Member Ellison voted aye; Council Member Tobias voted aye; Mayor Pro Tem Koch voted nay; Council Member Scheel voted aye; and Mayor Mitchell voted aye. Motion carried 6-1.

Mayor Mitchell moved to Sec. 6.15 to strike the five and leave at six. Council Member Scheel seconded the motion.

Mayor Mitchell requested a roll call vote. Council Member Ellison voted nay; Mayor Mitchell voted aye; Mayor Pro Tem Koch voted aye; Council Member Rizo voted aye; Council Member Scheel voted aye; Council Member Villalobos voted aye; and Council Member Tobias voted aye. Motion carried 6-1.

Council Member Rizo moved to add language that would require seven members of Council to be present in order to pass any non-binding referendum. Mayor Mitchell seconded the motion.

There was discussion on the motion. Council Member Ellison stated time will go by and it will have to be on the November election or a special election in May. He stated that there will be pressure on special interest groups but also on the other side. He does not support the increased threshold. Council Member Ellison provided an example of this on a non-binding referendum. He stated he could understand if it was a binding referendum. For a non-binding referendum, he stated, they would have small interest groups pushing council to put it on the ballot, but it would still take the voting body to vote it in. He spoke about the interests of those in opposition as well. Council Member Rizo stated that he understands that, but he has seen similar things in other cities, and he worries that a mayor could get a 6-0 vote to make it look better. He stated this is a worst-case scenario. Council Member Ellison stated that if this were to take place, people in the community will hold council members accountable. He stated that if it were to play out, it would be terrible, but the residents would come out in this public process. Mayor Mitchell stated that he is against it, for a different reason. He spoke about a scenario where six members of council were wanting to do something and he said, what this does by adding the requirement that the seventh member be present is a requirement for a 7-0 vote because in the event that 6 members want to do something, all the 7<sup>th</sup> member has to do is leave to overthrow it. Mayor Mitchell said this would allow power to overthrow a 6-member vote. He thinks the more straight forward approach

would be to require seven members to vote unanimously. Council Member Villalobos mentioned there could be an occasion where it could be strategically planned.

Mayor Mitchell requested a roll call vote. Council Member Tobias voted aye; Council Member Scheel voted nay; Council Member Villalobos voted nay; Mayor Pro Tem Koch voted nay; Mayor Mitchell voted nay; Council Member Rizo voted aye; and Council Member Ellison voted nay. Motion failed 2-5.

Mayor Mitchell moved to approve the proposed and amended language to Section 6.15 in the Charter. Council Member Scheel seconded the motion.

Mayor Mitchell requested a roll call vote. Mayor Pro Tem Koch voted aye; Council Member Rizo voted nay; Council Member Tobias voted nay; Council Member Ellison voted aye; Council Member Villalobos voted aye; Mayor Mitchell voted aye; and Council Member Scheel voted aye. Motion carried 5-2.

Mayor Mitchell moved to approve proposed amendments to 5.06. Council Member Scheel seconded the motion.

There was discussion on the motion. Council Member Rizo asked City Attorney Paige Saenz to scroll down. Ms. Saenz presented the amendment.

Mayor Mitchell requested a roll call vote. Council Member Villalobos voted aye; Council Member Tobias voted aye; Mayor Mitchell voted aye; Council Member Scheel voted aye; Council Member Rizo voted aye; Council Member Ellison voted aye; and Mayor Pro Tem Koch voted aye. All votes aye; motion carried 7-0.

Section 7.06 discussion ensued.

Mayor Mitchell read into the record, "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, Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071 to take advice of legal counsel on language related to the amendments to the City Charter."

The City Council convened into executive session at 8:44 p.m. Council Member Scheel left the meeting at 8:58.

Mayor Mitchell moved to reconvene into open session. Council Member Villalobos seconded the motion. All votes aye; motion carried 6-0.

Council discussion continued regarding Section 7.06.

Mayor Mitchell moved to amend Section 7.06 to include in (a), "Police Department procedures and policies shall be subject to review and modification by the City Council." and adding (b), "The City of Kyle Police Department shall collaborate with a committee established by the City Council to have oversight over the development of standard operating procedures and strategies,



providing timely data sharing, and deploying resources that aim to: (1) protect all citizens, businesses, and property within the City; (2) promote transparency within the police department to the community, to also include data sharing communication in the forms of: in person briefings, news publications, and social media on a quarterly basis; and (3) reduce crime by increasing positive community engagement and promoting cooperation with all citizens through training, education, and community policing models. Annually, the Police Chief or designee shall provide the full City Council with a comprehensive report about police department operations, crime statistics, training initiatives, and other information requested by the City Council. The City Council shall adopt an ordinance implementing the terms of this subsection." Mayor Pro Tem Koch seconded the motion.

Mayor Mitchell requested a roll call vote. Mayor Mitchell voted aye; Council Member Rizo voted aye; Council Member Ellison voted aye; Council Member Tobias voted aye; Mayor Pro Tem Koch voted aye; and Council Member Villalobos voted aye. Council Member Scheel was absent for the vote. All votes aye; motion carried 6-0.

Ms. Saenz requested Council to go back to the Bond Section and then to the overall vote on the Charter Election after Section 13.11 is voted on, it would allow her more time to update the proposition language for 7.06. Mayor Mitchell acknowledged the request and brought forward 13.11 for discussion.

Mayor Mitchell moved to approve the addition of Section 13.11 Non-Substantive Changes as it is written. Council Member Villalobos seconded the motion.

Mayor Mitchell requested a roll call vote. Mayor Pro Tem Koch voted aye; Council Member Ellison voted aye; Council Member Villalobos voted aye, Mayor Mitchell voted aye; Council Member Rizo voted aye; and Council Member Tobias voted aye. Council Member Scheel was absent for the vote. All votes aye; motion carried 6-0.

Mayor Mitchell announced this item would remain open, that the vote is still needed on the entire body to be final. He said they will return to the item.

Mayor Mitchell moved to Item No. 3.

3. *(First and Final Reading)* Consideration and Possible Action to Approve an Ordinance Calling a Bond Election to be held within the City of Kyle, Texas, Making Provision for the Conduct and Giving Notice of said Election, and Containing Other Provisions Necessary and Incidental to the Purposes Hereof. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No.3 for discussion. Mr. Sellers presented the item.

Mayor Mitchell moved to approve an Ordinance Calling a Bond Election to seek voter approval to issue bonds in the amount not to exceed \$37,000,000 for a Public Safety Center in seeking voter approval to issue bonds in an amount not to exceed \$10,000,000 for parks in the city in the form provided by bond counsel. Council Member Rizo seconded the motion.

Mayor Mitchell requested a roll call vote. Council Member Rizo voted aye; Council Member Ellison voted aye; Mayor Pro Tem Koch voted aye; Council Member Villalobos voted aye;

Council Member Tobias voted aye; and Mayor Mitchell voted aye. Council Member Scheel was absent for the vote. All votes aye; motion carried 6-0.

4. Approve a Resolution to document the City's intent to reimburse for all costs incurred in association with the Public Safety Center and the Regional Sportsplex & Festival Grounds projects from proceeds of tax-exempt General Obligation bonds to be issued at a future date, if authorized by the City of Kyle voters in November 2020. ~ *Perwez A. Moheet, CPA, Director of Finance*

Mayor Mitchell brought forward Item No. 4 for discussion. Mr. Moheet presented the item.

Mayor Mitchell moved to approve a Resolution to document the City's intent to reimburse for the two bond propositions just voted upon. Council Member Tobias seconded the motion. All votes aye; motion carried 6-0.

After Item No. 4, Mayor Mitchell brought back Item No. 2 for the purpose of considering ballot language for Proposition D.

Mayor Mitchell stated each item was voted upon individually regarding the 5 different Charter Amendments. Mayor Mitchell returned to Item No. 2, ordering the November 3, 2020 election.

2. *(Second Reading)* An Ordinance Ordering a Special Election to be held on the Question of the Adoption of Amendments to the Charter of the City of Kyle; Designating November 3, 2020 as the date of the Special Election; Prescribing the Form of the Ballot; Providing for Election Procedures; and Providing an Effective Date. ~ *Travis Mitchell, Mayor*

Mayor Mitchell moved to approve an Ordinance Ordering a Special Election to be held on the Question of the Adoption of Amendments to the Charter of the City of Kyle; Designating November 3, 2020 as the date of the Special Election; Prescribing the Form of the Ballot; Providing for Election Procedures; and Providing an Effective Date. Mayor Pro Tem Koch seconded the motion.

Mayor Mitchell requested a roll call vote. Mayor Mitchell voted aye; Council Member Villalobos voted aye; Council Member Tobias voted aye; Council Member Rizo voted aye; Mayor Pro Tem Koch voted aye; and Council Member Ellison voted aye. Council Member Scheel was absent. All votes aye; motion carried 6-0.

#### **IV. Executive Session**

5. 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.

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.

There were no further executive session items.

**V. Adjourn**

Council Member Villalobos moved to adjourn. Council Member Rizo seconded the motion. All votes aye; motion carried 6-0.

With no further business to discuss, the City Council adjourned at 11:16 p.m.

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Travis Mitchell, Mayor

Attest:

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Jennifer A. Holm, City Secretary



# CITY OF KYLE, TEXAS

## 2020 0818 Special Minutes

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** City Council Special Meeting Minutes - August 18, 2020. ~ *Jennifer Holm, City Secretary*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

- ❑ 2020 0818 DRAFT Special City Council Meeting Minutes

## SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session on August 18, 2020 and due to COVID-19, some members attended virtually at <https://www.cityofkyle.com/kyletv/kyle-10-live>; Spectrum 10 with the following persons present:

Mayor Travis Mitchell  
Mayor Pro Tem Rick Koch  
Council Member Dex Ellison  
Council Member Tracy Scheel  
Council Member Robert Rizo  
Council Member Alex Villalobos  
Council Member Michael Tobias  
Scott Sellers, City Manager  
James Earp, Assistant City Manager  
Paige Saenz, City Attorney  
Jerry Hendrix, Chief of Staff  
Jennifer Holm, City Secretary  
Diana Torres, Economic Dev. Director  
Perwez Moheet, Finance Director  
Sandra Duran, HR Director  
Matt Dawson, IT Director  
Samantha Armbruster, Communications Dir.  
Howard Koontz, Community Dev. Director

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

Mayor Mitchell called the meeting to order at 5:34 p.m. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Koch, Council Member Ellison, Council Member Scheel, Council Member Rizo, Council Member Villalobos, and Council Member Tobias. A quorum was present.

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

1. Members of the public that wish to provide citizen comment have the following options:
  1. In-Person at Kyle City Hall
  2. Virtual Attendance - Submit the online registration form found at: <https://www.cityofkyle.com/council/citizen-comment-sign>. Registration must be received by 12 p.m. on the day of the meeting.

Mayor Mitchell opened citizen comments at 5:35 p.m. With no one wishing to speak, Mayor Mitchell closed citizen comments at 5:35 p.m.

### **III. Executive Session**

2. 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.
  - Legal disputes involving Jesse Espinoza
  - Prairie Lakes
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 Cranberry
  - Project Shamrock

Council Member Scheel read into the record, "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: Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071 - Jessie Espinoza, Prairie Lake. 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 Cranberry, Project Shamrock."

The City Council convened into executive session at 5:36 p.m. Council Member Villalobos arrived at 5:37 p.m. and entered executive session.

3. Take action on items discussed in Executive Session.

Mayor Mitchell moved to reconvene into open session. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

The City Council reconvened into open session at 7:11 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

#### **IV. Adjourn**

Mayor Mitchell moved to adjourn. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

With no further business to discuss, the City Council adjourned at 7:11 p.m.

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Travis Mitchell, Mayor

Attest:

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Jennifer A. Holm, City Secretary

DRAFT



# CITY OF KYLE, TEXAS

2020 0818 Minutes

**Meeting Date: 9/1/2020**  
**Date time: 7:00 PM**

**Subject/Recommendation:** City Council Meeting Minutes - August 18, 2020. ~ *Jennifer Holm, City Secretary*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

📎 2020 0818 DRAFT Council Meeting Minutes



## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on August 18, 2020 and due to COVID-19, some members attended virtually (v) at <https://www.cityofkyle.com/kyletv/kyle-10-live>; Spectrum 10 with the following persons present:

Mayor Travis Mitchell (v)	Lisa Crane (v)
Mayor Pro Tem Rick Koch (v)	Clint Nolen (v)
Council Member Dex Ellison (v)	David Cancialosi (v)
Council Member Tracy Scheel	Brett Corwin (v)
Council Member Robert Rizo (v)	Shervin Nooshin (v)
Council Member Alex Villalobos (v)	John McGinty (v)
Council Member Michael Tobias (v)	Nic Balsamo (v)
Scott Sellers, City Manager	
James Earp, Assistant City Manager (v)	
Paige Saenz, City Attorney (v)	
Jerry Hendrix, Chief of Staff (v)	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer (v)	
Kathy Roecker, SWMP Administrator (v)	
Diana Torres, Economic Dev. Director (v)	
Perwez Moheet, Finance Director	
Andy Alejandro, Accounting Manager	
Sandra Duran, HR Director (v)	
Matt Dawson, IT Director	
Samantha Armbruster, Communications Dir.	
Paul Phelan, Library Director (v)	
Mariana Espinoza, PARD Director (v)	
Howard Koontz, Community Dev. Director (v)	
Steve Clamons, GIS Analyst (v)	
Jeff Barnett, Chief of Police (v)	
Harper Wilder, Director of Public Works (v)	

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

Mayor Mitchell called the meeting to order at 7:13p.m. The Pledge of Allegiance was recited. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Koch, Council Member Ellison, Council Member Scheel, Council Member Rizo, Council Member Villalobos, and Council Member Tobias. A quorum was present.

### **II. Approval of Minutes**

1. City Council Special Meeting Minutes - August 1, 2020. ~ *Jennifer Holm, City Secretary*
2. City Council Special Meeting Minutes - August 4, 2020. ~ *Jennifer Holm, City Secretary*
3. City Council Meeting Minutes - August 4, 2020. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Mayor Mitchell moved to approve the minutes of the August 1, 2020 Special Council Meeting, August 4, 2020 Special Council Meeting and the minutes of the August 4, 2020 Council Meeting. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

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

4. Members of the public that wish to provide citizen comment have the following options:
  1. In-Person at Kyle City Hall
  2. Virtual Attendance - Submit the online registration form found at: <https://www.cityofkyle.com/council/citizen-comment-sign>. Registration must be received by 12 p.m. on the day of the meeting.

Mayor Mitchell opened citizen comments at 7:16 p.m. With no one wishing to speak, Mayor Mitchell closed citizen comments at 7:16 p.m.

### **IV. Public Hearings**

5. Conduct a public hearing on the City's Proposed Budget for Fiscal Year 2020-2021, as amended by City Council on August 1, 2020, totaling approximately \$134.2 million for all City Funds, including a tax rate of \$0.5201 per \$100 assessed valuation, a 10.0% increase in water service rates, a 10.0% increase in wastewater service rates, no change in storm drainage fees, a 2.5% increase in solid waste service charges (trash collection) per contract terms, limited changes in other fees and charges, and the addition of 22.0 new full-time positions for a total of 279.0 full-time equivalent positions. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 5 and stated this was a public hearing and the item did not require presentation. Mayor Mitchell asked Mr. Sellers if he would like to address the item. Mr. Sellers mentioned tonight's Agenda having the first reading of the ordinance's concerning the budget and tax rate and that the second reading would occur during a Special meeting on August 25<sup>th</sup>.

Mayor Mitchell opened the public hearing at 7: 17 p.m.

With no one wishing to speak, Mayor Mitchell closed the public hearing at 7:18 p.m.

6. Conduct a public hearing to obtain comments on the proposal to set the City's ad valorem tax (property tax) rate at \$0.5201 per \$100 assessed valuation for tax year 2020 (Fiscal Year 2020-2021). ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward and presented Item No. 6.

Mayor Mitchell opened the public hearing at 7:19 p.m.

The City Secretary read into the record: "This is the first of two public hearings scheduled on the City's proposed property tax rate for Fiscal Year 2020-2021. The second public hearing will be held at 7:00 p.m., on August 25, 2020 at Kyle City Hall, 100 W. Center Street, Kyle, Texas 78640. The City's property tax rates for Fiscal Year 2020-2021 are as follows: No-New-Revenue Tax Rate: \$0.5292 per \$100 Voter-Approval Tax Rate: \$0.5202 per \$100 Proposed Tax Rate:

\$0.5201 per \$100 City Council is scheduled to consider a proposal to set the property tax rate at \$0.5201 per \$100.00 of assessed taxable valuation for Fiscal Year 2020-2021. The proposed property tax rate of \$0.5201 per \$100 is \$0.0215 or 3.97% below the City's current tax rate of \$0.5416 per \$100. The City's proposed property tax rate of \$0.5201 per \$100 is also below the No-New-Revenue tax rate of \$0.5292 per \$100 and the Voter-Approval tax rate of \$0.5202 per \$100 for Fiscal Year 2020-2021. The Kyle City Council is scheduled to vote on the property tax rate later in this meeting (1st Reading of City Ordinance) and at 7:00 p.m. on August 25, 2020 (2nd Reading of City Ordinance). All Kyle taxpayers, residents, and members of the public are invited to attend and express their views at the public hearings and City Council meetings scheduled on the City's proposed property tax rates."

With no one wishing to speak, Mayor Mitchell closed the public hearing at 7:21 p.m.

#### **V. Presentation**

7. National Fajita Day Proclamation. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 7 and presented the item. No action was taken.

8. CIP/Road Projects and Consent Agenda Presentation. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 8. Mr. Barba presented the item. No action was taken.

#### **VI. Consent Agenda**

Mayor Mitchell brought forward the Consent Agenda.

9. A Resolution of the City Council of the City of Kyle, Texas accepting the Paramount Section One subdivision improvements; finding and determining that the meeting at which this Resolution is passed was noticed and is open to the Public as required by law.  
~ *Leon Barba, P.E., City Engineer*
10. Approve Plum Creek Phase 2, Section 1 - Final Plat (FP-16-015) 67.636 acres; 202 single family lots, 1 access easement, 1 amenity center, 1 drainage easement, 1 wastewater, drainage and utility easement, 1 water easement, 1 open space and 17 open space and landscape lots for property located on the northeast corner of Kohler's Crossing and Sanders. ~ *Howard J. Koontz, Director of Planning and Community Development*  
  
*Planning and Zoning Commission voted 6-0 to approve the final plat.*
11. Interlocal agreement with Hays County related to the RM 150 Project. ~ *Leon Barba, P.E., City Engineer*
12. Approve an amended contract with UBER TECHNOLOGIES, INC., to provide public transit services, including Wheelchair Access Vehicles (WAV), within the Kyle city limits. ~ *Jerry Hendrix, Chief of Staff*
13. Interlocal Agreement with Hays County regarding Emergency Cash Assistance Program.  
~ *Tracy Scheel, Council Member*

Mayor Mitchell moved to approve Consent Agenda Item Nos. 9, 10, 11, 12, and 13. Council Member Ellison seconded the motion.

There was discussion on the motion. Council Member Scheel wanted to advertise for any business wanting to apply for Item No. 13, to visit [www.haysecap.com](http://www.haysecap.com). Council Member Rizo asked what the start date will be for Item No. 12. Mr. Hendrix stated that they are working on finalizing the forward-facing collateral and should be completed at the first part of September.

All votes aye; motion carried 7-0.

## **VII. Consider and Possible Action**

14. [Application withdrawn] [Postponed 6/16/2020] An Ordinance Amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 179.33 acres of land from Agriculture 'Ag' to Single Family Residential-Attached 'R-1-A' for property located off of E. Post Road, just north of Quail Ridge Subdivision, in Hays County, Texas. (John H. Spooner Revocable Trust - Z-20-0056) ~ Howard J. Koontz, Director of Planning and Community Development

*Planning and Zoning Commission brought forth a motion to recommend approval. The motion was denied with at 3-4 vote.*

- Public Hearing

Mayor Mitchell brought forward Item No. 14 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 7:50 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 7:50 p.m.

Mayor Mitchell moved to accept the applicant's withdrawal without prejudice. Council Member Scheel seconded the motion. All votes aye; motion carried 7-0.

15. Consider approval of a Development Agreement with Kalterra Capital Partners LLC for an as yet Unnamed Subdivision/Development located on the southwest corner of Kohler's Crossing & I-35 Frontage Road. ~ Howard J. Koontz, Director of Planning and Community Development

16. [Postponed 8/4/2020] An Ordinance Amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose to assign original zoning to approximately 15.48 acres from Agriculture 'AG' to Retail Service 'RS' and to assign original zoning to approximately 12.25 acres of land from Agriculture 'AG' to Multi-Family Residential-3 'R-3-3' for property located on the southwest corner of Kohler's Crossing & I-35 Frontage Road. (LC 2012 Investments, LP, a Texas Limited Partnership (Z-20-0057) ~ Howard J. Koontz, Director of Planning and Community Development

*Planning and Zoning Commission postponed the request until July 28, 2020. Planning and Zoning Commission postponed the request until August 11, 2020.*

*Planning and Zoning Commission voted 6-0 to approve the zoning request.*

- Public Hearing

Mayor Mitchell asked if there were any objections to simultaneously discussing Item Nos. 15 and 16. There were none. Discussion ensued regarding both items. Mr. Koontz presented the items.

Mayor Mitchell opened the public hearing at 7:57 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 7:57 p.m.

Lisa Crane spoke about the property that has been in her family for several years.

Clint Nolen also spoke about the property, process, and collaboration with City Staff.

Mayor Mitchell asked if there were any objections to voting on Item Nos. 15 and 16 simultaneously. There were none.

Council Member Scheel moved to approve a Development Agreement with Kalterra Capital Partners LLC and approve an Ordinance Amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose to assign original zoning to approximately 15.48 acres from Agriculture 'AG' to Retail Service 'RS' and to assign original zoning to approximately 12.25 acres of land from Agriculture 'AG' to Multi-Family Residential-3 'R-3-3' for property located on the southwest corner of Kohler's Crossing & I-35 Frontage Road. Mayor Mitchell seconded the motion. All votes aye; motion carried 7-0.

There was discussion after the motion. Mayor Mitchell asked Paige Saenz for clarification regarding final passage of the Ordinance since first reading was absent on the item. Ms. Saenz clarified the item could be finally passed.

There were no objections to having Item No. 16 finally passed.

17. *(Second Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 16 acres of land from Retail Service District 'RS' to Mixed Use District 'MXD' and to rezone approximately 14 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' with 6.40 acres to remain as Retail Service District 'RS' for properties located on the north corner of Philomena Drive and IH-35, in Hays County, Texas. (Richard B. Schmeltekopf, Linda Hill Schmeltekopf, Laura Lynn S. and Julian Lehman - Z-20-0059) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 7-0 to recommend approval of the request.*

*City Council voted 6-0 to approve on First Reading.*

Mayor Mitchell recused himself regarding Item No. 17 and left the meeting at 8:04 p.m. Mayor Pro Tem Koch brought forward Item No. 17 for discussion. Mr. Koontz presented the item. David Cancialosi spoke about the project.

Council Member Rizo moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 16 acres of land from Retail Service District 'RS' to Mixed Use District 'MXD' and to rezone approximately 14 acres of land from

Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' with 6.40 acres to remain as Retail Service District 'RS' for properties located on the north corner of Philomena Drive and IH-35, in Hays County, Texas. Council Member Tobias seconded the motion. All votes aye; motion carried 6-0.

18. *(First Reading)* An Ordinance Amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose rezoning approximately 6.67 acres of land from PUD (Single Family Attached District 'R-1-A') to PUD (Retail Service District 'RS') & rezone approximately 8.20 acres from PUD (Single Family Attached District 'R-1-A') to a Planned Unit Development 'PUD' (Single Family Residential District 3, 'R-1-3') for property located within the 800 block of Rebel Drive, north of Gregg Clark Park, in Hays County, Texas. (Ky-TEX Properties - Z-20-0060) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 to recommend approval of the zoning change per staff's recommendation of 'CC' instead of 'RS' and add the variance request to the PUD ordinance.*

- Public Hearing

Mayor Pro Tem Koch brought forward Item No. 18 for discussion.

Mayor Pro Tem Koch opened the public hearing at 8:14 p.m. With no one wishing to speak, Mayor Pro Tem Koch closed the public hearing at 8:14 p.m. Mayor Mitchell returned to the meeting at 8:14 p.m.

Mr. Koontz presented the item. Brett Corwin spoke about the drainage for this project.

Council Member Scheel moved to approve an Ordinance Amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose rezoning approximately 6.67 acres of land from PUD (Single Family Attached District 'R-1-A') to PUD (Retail Service District 'RS') & rezone approximately 8.20 acres from PUD (Single Family Attached District 'R-1-A') to a Planned Unit Development 'PUD' (Single Family Residential District 3, 'R-1-3') for property located within the 800 block of Rebel Drive, north of Gregg Clark Park, in Hays County, Texas. Council Member Tobias seconded the motion. All votes aye, motion carried 7-0.

There were no objections to having Item No. 18 finally passed.

19. *(First Reading)* Approve an Ordinance of the City of Kyle, Texas, adopting a budget totaling \$134.2 million for all City Funds for the ensuing fiscal year beginning October 1, 2020 and ending September 30, 2021; appropriating revenue and expenditure amounts thereof for all City Funds, authorizing a 10.0 percent increase in water and wastewater service rates, no change in storm drainage fees, a 2.5 percent increase in solid waste service charges, all other fees and charges for City services, capital improvement program expenditures, addition of twenty-two (22.0) new full-time positions for a total of 279.0 full-time equivalent positions, carryover of encumbrances, all associated schedules and documents, and repealing all Ordinances in conflict herewith; and providing for an effective date. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 19 for discussion. Mr. Sellers presented the item.

Mayor Mitchell moved to approve an Ordinance of the City of Kyle, Texas, adopting a budget totaling \$134.2 million for all City Funds for the ensuing fiscal year beginning October 1, 2020 and ending September 30, 2021; appropriating revenue and expenditure amounts thereof for all City Funds, authorizing a 10.0 percent increase in water and wastewater service rates, no change in storm drainage fees, a 2.5 percent increase in solid waste service charges, all other fees and charges for City services, capital improvement program expenditures, addition of twenty-two (22.0) new full-time positions for a total of 279.0 full-time equivalent positions, carryover of encumbrances, all associated schedules and documents, and repealing all Ordinances in conflict herewith; and providing for an effective date. Council Member Villalobos seconded the motion.

Mayor Mitchell requested a roll call vote. Council Member Ellison voted aye; Council Member Tobias voted aye; Mayor Pro Tem Koch voted aye; Council Member Scheel voted aye; Mayor Mitchell voted aye; Council Member Villalobos voted aye; and Council Member Rizo voted aye. All votes aye; motion carried 7-0.

20. *(First Reading)* Approve an Ordinance of the City of Kyle, Texas, fixing the ad valorem tax (property tax) rate for Tax Year 2020 at \$0.5201 per \$100 assessed valuation and providing for the levying of ad valorem taxes for use and support of the municipal government of the City of Kyle for the fiscal year beginning October 1, 2020 and ending September 30, 2021; providing for apportioning each levy for specific purposes; and providing when ad valorem taxes shall become due and when same shall become delinquent if not paid. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 20 for discussion.

The City Secretary read into the record: “This is the first of two public hearings scheduled on the City’s proposed property tax rate for Fiscal Year 2020-2021. The second public hearing will be held at 7:00 p.m., on August 25, 2020 at Kyle City Hall, 100 W. Center Street, Kyle, Texas 78640. The City’s property tax rates for Fiscal Year 2020-2021 are as follows: No-New-Revenue Tax Rate: \$0.5292 per \$100 Voter-Approval Tax Rate: \$0.5202 per \$100 Proposed Tax Rate: \$0.5201 per \$100 City Council is scheduled to consider a proposal to set the property tax rate at \$0.5201 per \$100.00 of assessed taxable valuation for Fiscal Year 2020-2021. The proposed property tax rate of \$0.5201 per \$100 is \$0.0215 or 3.97% below the City’s current tax rate of \$0.5416 per \$100. The City’s proposed property tax rate of \$0.5201 per \$100 is also below the No-New-Revenue tax rate of \$0.5292 per \$100 and the Voter-Approval tax rate of \$0.5202 per \$100 for Fiscal Year 2020-2021. The Kyle City Council is scheduled to vote on the property tax rate later in this meeting (1st Reading of City Ordinance) and at 7:00 p.m. on August 25, 2020 (2nd Reading of City Ordinance). All Kyle taxpayers, residents, and members of the public are invited to attend and express their views at the public hearings and City Council meetings scheduled on the City’s proposed property tax rates.”

Mayor Mitchell moved to approve an Ordinance of the City of Kyle, Texas, fixing the ad valorem tax (property tax) rate for Tax Year 2020 at \$0.5201 per \$100 assessed valuation and providing for the levying of ad valorem taxes for use and support of the municipal government of the City of Kyle for the fiscal year beginning October 1, 2020 and ending September 30, 2021;

providing for apportioning each levy for specific purposes; and providing when ad valorem taxes shall become due and when same shall become delinquent if not paid. Council Member Scheel seconded the motion. All votes aye; motion carried 7-0.

21. Consider and possible action to approve a Resolution of the City of Kyle Renaming Rebel Drive to Support and Promote Community Camaraderie and Tranquility; to a Name which will be Advantageous to all Diversities; to a Propitious Title for all of the Citizens of Kyle; Holding a Public Hearing and Providing for Related Matters in accordance with the City of Kyle, Code of Ordinances, Secs. 38-332, 38-333, and 38-334. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward and presented Item No. 21.

Mayor Mitchell opened the public hearing at 8:46 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:47 p.m.

Samantha Armbruster and Steve Clamons provided information regarding name changing for streets.

Mayor Pro Tem Koch moved to approve renaming Rebel Drive to Fajita Drive. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

22. Discussion and possible action for the renaming of the swimming pool in Gregg-Clarke Park. ~ *Robert Rizo, Council Member*

Mayor Mitchell brought forward Item No. 22 for discussion and gave the floor to Council Member Rizo.

Council Member Rizo moved to rename Gregg-Clarke Park Pool after James Adkins. Council Member Villalobos seconded the motion.

There was discussion on the motion. Council Member Scheel stated that she wanted to give a thank you to the Gregg Family, and that this is in no way to take away from their generous donation, but instead is a way to honor one of its own, and the park will remain named Gregg-Clarke Park. Council Member Villalobos spoke about the tenacity of former Mayor James Adkins. He mentioned the commitment by James Adkins getting the pool put in for the City of Kyle for the enjoyment of all people. Mayor Mitchell said, the staff would bring back the Resolution at the next meeting regarding the name change.

All votes aye; motion carried 7-0.

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

23. 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*
  - Land Use Map

Mr. Sellers spoke about the Future Land Use Map. Mr. Koontz also provided some information. No action was taken.



### **IX. Executive Session**

24. 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.
  - Legal disputes involving Jesse Espinoza
  - Prairie Lakes
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 Cranberry
  - Project Shamrock

There was no Executive Session.

25. Take action on items discussed in Executive Session.

### **X. Adjourn**

Mayor Mitchell moved to adjourn. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

With no further business to discuss, the City Council adjourned at 9:39 p.m.

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Travis Mitchell, Mayor

Attest:

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Jennifer A. Holm, City Secretary



# CITY OF KYLE, TEXAS

## ARWA Board Appointment

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** Consider appointment of Tim Samford, Division Manager of Treatment Operations to replace Brian Lillibridge on the Alliance Regional Water Authority Board of Directors. ~  
*Travis Mitchell, Mayor*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## 19th Amendment

**Meeting Date: 9/1/2020**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Proclamation Honoring the 100th Anniversary of the Adoption of the 19th Amendment of the United States Constitution ~ *Tracy Scheel, Council Member*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Public Safety Center Bond

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** Presentation by Buie Co. regarding Public Safety Center Bond. ~ *Dex Ellison, Council Member*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## City Manager's Report

**Meeting Date: 9/1/2020**

**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*

- Labor Day Celebration
- Mass Food Distribution Event
- Neighborhood Cleanup Event

**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: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** CIP/Road Projects and Consent Agenda Presentation. ~ *Travis Mitchell, Mayor*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Transportation ADA Policy

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** Consider and possible action regarding specific policies regarding access to wheelchair accessible vehicles related to rideshare programs, including Uber Kyle \$3.14. ~ Jerry Hendrix, Chief of Staff

**Other Information:** These policies have been developed in partnership with City staff, Uber staff and City legal counsel. These policies are also subject to review and revision as needed to ensure full, proper and equal access to all populations.

**Legal Notes:**

**Budget Information:** N/A

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### ATTACHMENTS:

#### **Description**

- City of Kyle ADA Policies for Uber Kyle - DRAFT

## City of Kyle Transportation and Rideshare Policies

### **Purpose**

The City of Kyle ("City") continuously explores strategies and initiatives for providing cost effective transit services to all its residents and visitors. Initiatives consisting of agreements with transit and rideshare vendors and/or third-party drivers and evaluating the performance and transit service provided by them including evaluating the performance and services provided to individuals with disabilities.

### **Uber Kyle \$3.14**

Uber Kyle \$3.14 ("Program") is the City of Kyle's transportation initiative designed to offer a transportation alternative to our residents and visitors. Anyone in the City can travel on an Uber X vehicle to anywhere in Kyle's city limits for as little as \$3.14. The City picks up the next \$10 for each one-way trip. Riders are issued a monthly voucher from the City's mobile app that applies the per-trip subsidy for the rides.

The Program also includes rides for people with disabilities via the Uber WAV (Wheelchair Accessible Vehicles) program, also accessible via the Uber mobile application. The same rider cost of \$3.14, and City subsidy of up to \$10, applies to riders requesting rides on the Uber WAV platform. The City will also pay for any additional charges incurred that are specific to providing Uber WAV services to riders.

### **Accessibility**

The following are specific policies regarding access to wheelchair accessible vehicles related to rideshare programs, including Uber Kyle \$3.14.

1. The City shall not discriminate against any qualified individual with a disability, on the basis of such disability, by excluding such individuals or denying them the benefits of its services, programs or activities, within the meaning of Title II of the ADA.
2. The City shall not exclude qualified individuals with disabilities, including individuals with mobility disabilities from participation in or deny them the benefits of the Program, or subject them to discrimination, on the basis of a disability.
3. The City shall provide Program participants with mobility disabilities, including participants who use wheelchairs, transportation options through Uber X and WAV so individuals may request and are provided with accessible transportation. The City agrees to ensure that the Program, provided through Uber, will meet the equivalent service standard with consideration that services are provided to participants with mobility disabilities. Such services will remain in effect for the remainder of the duration of the Program, which is currently planned through the end of September, 2021.
4. The City will require that Uber, or any other selected vendor or third-party drivers providing accessible transportation participating in the Program, be trained to



proficiency, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities, including individuals with mobility disabilities who use the service in a respectful and courteous way.

5. For the duration of the Program, which is contingent on authorized funding being allocated and distributed, the City agrees to ensure that it provides the equivalent geographic area of service and the equivalent hours and days of service for Program participants with disabilities, and participants with mobility disabilities, including participants who use wheelchairs, as for Program participants without disabilities. If there are any restrictions based on trip purpose, the restrictions shall be the same for Program participants with disabilities, and participants with mobility disabilities, including participants who use wheelchairs, and for Program participants without disabilities.
6. The City shall hold Uber and other third-party service providers accountable for the proper and appropriate administration of their accessibility policies. These policies shall include:
  - a. Accessibility compliance notification.
  - b. Drivers must comply with all applicable state, federal, and local laws governing the transportation of riders with disabilities. Violating those laws constitutes a breach of the parties' agreement with the City.
  - c. Accordingly, drivers are expected to accommodate riders using walkers, canes, folding wheelchairs, or other assistive devices to the maximum extent feasible.
  - d. Drivers are expected to accommodate riders requiring the use of a service animal in accordance with applicable law.
  - e. Any report of unlawful discrimination will result in the temporary deactivation of a driver's account while Uber reviews the incident. Confirmed violations of the law with respect to riders with disabilities may result in permanent loss of a driver's access to the Uber platform.
7. The City shall ensure that all promotions and advertising for the Program is accessible to residents with disabilities, including residents who use wheelchairs, in the following ways:
  - a. A post on the main page at [www.cityofkyle.com](http://www.cityofkyle.com), which announces the formal launch of the "Uber Kyle \$3.14" Program including the availability of Uber WAV as part of the Program. The post will include details of the Program and instructions for accessing Uber WAV.
  - b. Posts on the City's Twitter account (currently **@KyleGovernment**) throughout the duration of the Program that includes the information included on the City's webpage as further described in (a) above.
  - c. Post on the City's Facebook account (currently [www.facebook.com/cityofkyletx](http://www.facebook.com/cityofkyletx)) throughout the duration of the Program that includes the information included on the City's webpage as further described in (a) above.

- d. Include information about how to access wheelchair accessible rides, including Uber WAV, as part of the Program on all Program promotions and advertising.
- 8. The City shall ensure that open and accessible communication channels are readily available for all riders, including those using WAV, and that each rider expressing concerns, complaints, or other feedback are responded to within one (1) business day of the City receiving their communication. Two channels will be available:
  - a. Riders can email their concerns, complaints or general feedback to:  
[KyleUber314@cityofkyle.com](mailto:KyleUber314@cityofkyle.com)
  - b. Riders can also call a dedicated number to leave a message at xxx-xxx-xxxx.



# CITY OF KYLE, TEXAS

## Resolution Adopting 6 Creeks PID 2020 SAP Update

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** Approve a Resolution adopting the 6 Creeks Public Improvement District 2020 Annual Service Plan update. ~ *Jon Snyder, City's PID Administrator, P3Works, LLC, and Paige Saenz, City Attorney*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

- ☐ Resolution
- ☐ SAP Update 2020

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

**A RESOLUTION OF THE CITY OF KYLE, TEXAS, APPROVING THE 2020 ANNUAL SERVICE PLAN UPDATE FOR THE 6 CREEKS PUBLIC IMPROVEMENT DISTRICT; AND PROVIDING FOR RELATED MATTERS**

**Whereas**, the City of Kyle, Texas (the “City”) approved the creation of the 6 Creeks Public Improvement District (the “District”), adopted a Service and Assessment Plan (the “SAP”) for the District, and levied assessments against the property in the District;

**Whereas**, the SAP is required to be updated annually;

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

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Approval of the Annual SAP Update.** The City Council hereby approves the 2020 Service and Assessment Plan Update for the District attached hereto and incorporated herein for all purposes.

**Section 3. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution 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, *Chapt. 551, Tex. Gov't. Code*.

**PASSED AND APPROVED** this the 1<sup>st</sup> day of September, 2020.

**Attest:**

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Jennifer Holm, City Secretary

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



**6 CREEKS**  
**PUBLIC IMPROVEMENT DISTRICT**  
**2020 ANNUAL SERVICE PLAN UPDATE**

SEPTEMBER 1, 2020

## INTRODUCTION

Capitalized terms used in this Annual Service Plan Update shall have the meanings set forth in the 2019 Amended and Restated Service and Assessment Plan (the “2019 SAP”) used for the issuance of Bonds.

On June 6, 2017, the City Council passed and approved Resolution No. 1065 authorizing the creation of the Blanco River Ranch Public Improvement District in accordance with the Act, which authorization was effective upon publication as required by the Act.

On September 18, 2018, the City Council authorized the renaming of the Blanco River Ranch Public Improvement District to 6 Creeks Public Improvement District. Accordingly, the public improvement district established as Blanco River Ranch Public Improvement District is now and shall hereafter be known and referred to as 6 Creeks Public Improvement District.

On October 1, 2018, the City Council passed and approved Ordinance No. 1018 approving the Original Service and Assessment Plan and authorizing the levy of Assessments on Improvement Area #1 Assessed Property.

On May 7, 2019, the City Council passed and approved Ordinance No. 1034 approving an Amended and Restated Service and Assessment Plan which updated the Improvement Area #1 Assessment Roll for 2019. The 2019 SAP identifies the Authorized Improvements to be provided, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property for the costs of the Authorized Improvements. The City Council also adopted an Assessment Roll identifying the Assessments on each Lot, based on the method of assessment identified in the 2019 SAP.

Pursuant to the Act, the SAP must be reviewed and updated annually. This document is the Annual Service Plan Update for 2020. This Annual Service Plan Update also updates the Assessment Roll for 2020.

## LISTED EVENTS

There have not been any Listed Events in the District.

## PARCEL SUBDIVISION

- The final plat for 6 Creeks – Phase 1, Section 1 consisting of 110 residential Lots and 4 non-benefitted Lots within Hays County, was recorded in the official public records of the County on November 5, 2018. 73 units are classified as Lot Type 1, 37 units are classified as Lot Type 3, and 4 Lots are Non-Benefitted Property.
- The final plat for 6 Creeks – Phase 1, Section 3 consisting of 103 residential Lots and 4 non-benefitted Lots within Hays County, was recorded in the official public records of the County on June 14, 2019. 49 units are classified as Lot Type 2, 54 units are classified as Lot Type 4, and 4 Lots are Non-Benefitted Property.

See **Exhibit B** for the final plat for Phase 1 – Section 3.

## LOT AND HOME SALES

Per the Quarterly Report dated March 31, 2020, there are currently 213 completed Lots in Improvement Area #1. Of the 213 Lots, 152 Lots are closed to a homebuilder and 24 homes are closed to end-users. 58 homes are currently under construction.

See **Exhibit C** for homebuyer disclosures.

## OUTSTANDING ASSESSMENT

Improvement Area #1 has an outstanding Assessment of \$11,883,833.80.

## ANNUAL INSTALLMENT DUE 1/31/2021

- **Improvement Area #1 Bonds Principal and Interest** – The total principal and interest required for the Annual Installment is \$522,731.26.
- **Improvement Area #1 Bonds Additional Interest** – The Additional Interest Reserve Requirement, as defined in the Indenture, of \$412,225.00 has not been met. As such, the Additional Interest Reserve will be funded with Additional Interest on the outstanding Assessment, resulting in an Additional Interest amount due of \$37,475.00.
- **Improvement Area #1 Reimbursement Agreement Principal and Interest** – The total principal and interest required for the Annual Installment is \$352,181.20.

- **Annual Collection Costs** – The cost of administering the PID and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of outstanding Assessment remaining on the Parcel. The total Annual Collection Costs budgeted for the Annual Installment is \$37,060.00.

Due January 31, 2021	
<i>Improvement Area #1 Bonds</i>	
Principal	\$ 185,000.00
Interest	\$ 337,731.26
	<u>\$ 522,731.26</u>
Additional Interest	\$ 37,475.00
<i>Improvement Area #1 Reimbursement Agreement</i>	
Principal	\$ 86,981.20
Interest	\$ 265,200.00
	<u>\$ 352,181.20</u>
Annual Collection Costs	\$ 37,060.00
<b>Total Annual Installment</b>	<b>\$ 949,447.46</b>

See **Exhibit D** for the debt service schedule for the PID Bonds as shown in the official statement.

### PREPAYMENT OF ASSESSMENTS IN FULL

The following is a list of all Parcels or Lots that made a Prepayment in full.

Improvement Area #1		
Property ID	Lot Type	Prepayment Date
R163874	1	3/30/2020

### PARTIAL PREPAYMENT OF ASSESSMENTS

The following is a list of all Parcels or Lots that made a partial prepayment.

Improvement Area #1		
Property ID	Lot Type	Prepayment Amount
R163940	1	\$ 100.00



## BOND FUND

P3Works has reviewed the following bond accounts related to Improvement Area #1 Bonds of the 6 Creeks PID as of March 31, 2020 and each account contains the amount shown below.

Account:	3/31/2020 Balance
<b>PID Collection Account</b>	\$94,476.93
<b>Pledged Revenue Fund</b>	\$0.00
<b>Bond Fund</b>	
Capitalized Interest Account	\$172,845.60
<b>Project Fund</b>	
PID Improvements Account	\$1,014.60
PID Costs of Issuance Account	\$2.88
<b>Redemption Fund</b>	\$0.00
<b>Reserve Fund</b>	
Reserve Account	\$530,943.52
Additional Interest Reserve Account	\$5,162.07
<b>Rebate Fund</b>	\$0.00
<b>Reimbursement Fund</b>	\$0.00
<b>Administrative Fund</b>	\$1,516.09

## AUTHORIZED IMPROVEMENTS

The budget for the Authorized Improvements remains at \$9,768,198 as shown on the table below. All Improvement Area #1 Improvements have been completed and accepted by the City. In the Major Improvement Area, Street improvements have been completed and accepted by the County, and the Lift Station improvements have been completed and accepted by the City.

	Improvement Area #1		
	Budget <sup>1</sup>	Spent to Date <sup>2</sup>	Percent Complete
<i>Major Improvements</i>			
WWTP Capacity Payment	\$ 33,028	\$ -	0.00%
Lift Station & Force Main	78,837	37,704	47.82%
Offsite Water	290,023	15,133	5.22%
Old Stagecoach Road	217,517	12,874	5.92%
Parks & Trails	274,071	-	0.00%
Entry, Walls & Landscaping	680,103	43,162	6.35%
	<b>\$ 1,573,579</b>	<b>\$ 108,873</b>	<b>6.92%</b>
<i>Improvement Area #1 Improvements</i>			
Streets	\$ 2,418,456	\$ 2,209,347	91.35%
Water	1,225,821	1,100,428	89.77%
Wastewater	1,585,623	1,334,815	84.18%
Drainage	1,177,239	453,093	38.49%
Detention/WQP	1,787,480	700,510	39.19%
	<b>\$ 8,194,619</b>	<b>\$ 5,798,193</b>	<b>70.76%</b>
	<b>\$ 9,768,198</b>	<b>\$ 5,907,066</b>	<b>60.47%</b>

**Notes:**

<sup>1</sup> Not including 15% in soft costs.

<sup>2</sup> Per Quarterly Report dated March 31, 2020.

## SERVICE PLAN – FIVE YEAR BUDGET FORECAST

The Act requires the annual indebtedness and projected costs for the improvements to be reviewed and updated in the Annual Service Plan Update, and the projection shall cover a period of not less than five years.

		Improvement Area #1				
Annual Installments Due		1/31/2021	1/31/2022	1/31/2023	1/31/2024	1/31/2025
Improvement Area #1 Bonds						
Principal		\$ 185,000.00	\$ 190,000.00	\$200,000.00	\$ 210,000.00	\$ 215,000.00
Interest		\$ 337,731.26	\$ 330,562.50	\$323,200.00	\$ 315,450.00	\$ 307,312.50
	(1)	\$ 522,731.26	\$ 520,562.50	\$523,200.00	\$ 525,450.00	\$ 522,312.50
Improvement Area #1 Reimbursement Obligation						
Principal		\$ 86,981.20	\$ 92,200.07	\$ 97,732.08	\$ 103,596.00	\$ 109,811.76
Interest		\$ 265,200.00	\$ 259,981.13	\$254,449.12	\$ 248,585.20	\$ 242,369.44
	(2)	\$ 352,181.20	\$ 352,181.20	\$352,181.20	\$ 352,181.20	\$ 352,181.20
Annual Collection Costs		\$ 37,060.00	\$ 37,801.20	\$ 38,557.22	\$ 39,328.37	\$ 40,114.94
Additonal Interest Reserve		\$ 37,475.00	\$ 36,550.00	\$ 35,600.00	\$ 34,600.00	\$ 33,550.00
	(3)	\$ 74,535.00	\$ 74,351.20	\$ 74,157.22	\$ 73,928.37	\$ 73,664.94
Total Annual Installment	(4) = (1) + (2) + (3)	\$ 949,447.46	\$ 947,094.90	\$949,538.43	\$ 951,559.57	\$ 948,158.64

## EMINENT DOMAIN PREPAYMENT

If any portion of any Parcel of Assessed Property is taken from an owner as a result of eminent domain proceedings or if a transfer of any portion of any Parcel of Assessed Property is made to an entity with the authority to condemn all or a portion of the Assessed Property in lieu of or as a part of an eminent domain proceeding (a "Taking"), the portion of the Assessed Property that was taken or transferred (the "Taken Property") shall be reclassified as Non-Benefitted Property.

For the Assessed Property that is subject to the Taking as described in the preceding paragraph, the Assessment that was levied against the Assessed Property (when it was included in the Taken Property) prior to the Taking shall remain in force against the remaining Assessed Property (the Assessed Property less the Taken Property), (the "Remaining Property") following the reclassification of the Taken Property as Non-Benefitted Property, subject to an adjustment of the Assessment applicable to the Remaining Property after any required Prepayment as set forth below. The owner will remain liable to pay in Annual Installments, or payable as otherwise provided by this Service and Assessment Plan, as updated, or the PID Act, the Assessment that remains due on the Remaining Property, subject to an adjustment in the Annual Installments applicable to the Remaining Property after any required Prepayment as set forth below.

By way of illustration, if an owner owns 100 acres of Assessed Property subject to a \$100 Assessment and 10 acres is taken through a Taking, the 10 acres of Taken Property shall be reclassified as Non-Benefitted Property and the remaining 90 acres of Remaining Property shall be subject to the \$100 Assessment,

Notwithstanding the previous paragraphs in this subsection, if the owner notifies the City and the Administrator that the Taking prevents the Remaining Property from being developed for any use which could support the Estimated Buildout Value requirement, the owner shall, upon receipt of the compensation for the Taken Property, be required to prepay the amount of the Assessment required to buy down the outstanding Assessment on the Remaining Property to support the Estimated Buildout Value requirement. The owner will remain liable to pay the Annual Installments on both the Taken Property and the Remaining Property until such time that such Assessment has been prepaid in full.

Notwithstanding the previous paragraphs in this subsection, the Assessments shall not, however, be reduced to an amount less than the outstanding PID Bonds.

## **ASSESSMENT ROLL**

The list of current Lots within the PID, the corresponding total Assessments, and current Annual Installment are shown on the Assessment Roll attached hereto as **Exhibit A**. The Lots shown on the Assessment Roll will receive the bills for the 2020 Annual Installments which will be delinquent if not paid by January 31, 2021.

Due to the full and partial Prepayments, the Improvement Area #1 Annual Installment billed will not match the Improvement Area #1 Annual Installment due until PID Bonds are redeemed.

# EXHIBIT A – IMPROVEMENT AREA #1 ASSESSMENT ROLL

Property ID	Lot Type	Note	Improvement Area #1	
			Outstanding Assessment	Installment due 1/31/2021
R163837	3		\$ 38,832.75	\$ 3,094.39
R163838	3		\$ 38,832.75	\$ 3,094.39
R163839	3		\$ 38,832.75	\$ 3,094.39
R163840	3		\$ 38,832.75	\$ 3,094.39
R163841	3		\$ 38,832.75	\$ 3,094.39
R163842	3		\$ 38,832.75	\$ 3,094.39
R163843	Open Space		\$ -	\$ -
R163844	3		\$ 38,832.75	\$ 3,094.39
R163845	3		\$ 38,832.75	\$ 3,094.39
R163846	3		\$ 38,832.75	\$ 3,094.39
R163847	3		\$ 38,832.75	\$ 3,094.39
R163848	3		\$ 38,832.75	\$ 3,094.39
R163849	3		\$ 38,832.75	\$ 3,094.39
R163850	3		\$ 38,832.75	\$ 3,094.39
R163851	1		\$ 31,066.20	\$ 2,475.51
R163852	1		\$ 31,066.20	\$ 2,475.51
R163853	1		\$ 31,066.20	\$ 2,475.51
R163854	1		\$ 31,066.20	\$ 2,475.51
R163855	1		\$ 31,066.20	\$ 2,475.51
R163856	1		\$ 31,066.20	\$ 2,475.51
R163857	1		\$ 31,066.20	\$ 2,475.51
R163858	1		\$ 31,066.20	\$ 2,475.51
R163859	1		\$ 31,066.20	\$ 2,475.51
R163860	1		\$ 31,066.20	\$ 2,475.51
R163861	1		\$ 31,066.20	\$ 2,475.51
R163862	1		\$ 31,066.20	\$ 2,475.51
R163863	1		\$ 31,066.20	\$ 2,475.51
R163864	1		\$ 31,066.20	\$ 2,475.51
R163865	1		\$ 31,066.20	\$ 2,475.51
R163866	1		\$ 31,066.20	\$ 2,475.51
R163867	1		\$ 31,066.20	\$ 2,475.51
R163868	1		\$ 31,066.20	\$ 2,475.51
R163869	1		\$ 31,066.20	\$ 2,475.51
R163870	1		\$ 31,066.20	\$ 2,475.51
R163871	1		\$ 31,066.20	\$ 2,475.51
R163872	1		\$ 31,066.20	\$ 2,475.51
R163873	1		\$ 31,066.20	\$ 2,475.51
R163874	1	[a]	\$ -	\$ -
R163875	1		\$ 31,066.20	\$ 2,475.51
R163876	1		\$ 31,066.20	\$ 2,475.51

Property ID	Lot Type	Note	Improvement Area #1	
			Outstanding Assessment	Installment due 1/31/2021
R163877	1		\$ 31,066.20	\$ 2,475.51
R163878	1		\$ 31,066.20	\$ 2,475.51
R163879	1		\$ 31,066.20	\$ 2,475.51
R163880	1		\$ 31,066.20	\$ 2,475.51
R163881	1		\$ 31,066.20	\$ 2,475.51
R163882	1		\$ 31,066.20	\$ 2,475.51
R163883	1		\$ 31,066.20	\$ 2,475.51
R163884	1		\$ 31,066.20	\$ 2,475.51
R163885	1		\$ 31,066.20	\$ 2,475.51
R163886	1		\$ 31,066.20	\$ 2,475.51
R163887	1		\$ 31,066.20	\$ 2,475.51
R163888	1		\$ 31,066.20	\$ 2,475.51
R163889	1		\$ 31,066.20	\$ 2,475.51
R163890	1		\$ 31,066.20	\$ 2,475.51
R163891	1		\$ 31,066.20	\$ 2,475.51
R163892	1		\$ 31,066.20	\$ 2,475.51
R163893	1		\$ 31,066.20	\$ 2,475.51
R163894	Open Space		\$ -	\$ -
R163895	Open Space		\$ -	\$ -
R163896	3		\$ 38,832.75	\$ 3,094.39
R163897	3		\$ 38,832.75	\$ 3,094.39
R163898	3		\$ 38,832.75	\$ 3,094.39
R163899	3		\$ 38,832.75	\$ 3,094.39
R163900	3		\$ 38,832.75	\$ 3,094.39
R163901	3		\$ 38,832.75	\$ 3,094.39
R163902	3		\$ 38,832.75	\$ 3,094.39
R163903	3		\$ 38,832.75	\$ 3,094.39
R163904	3		\$ 38,832.75	\$ 3,094.39
R163905	3		\$ 38,832.75	\$ 3,094.39
R163906	3		\$ 38,832.75	\$ 3,094.39
R163907	3		\$ 38,832.75	\$ 3,094.39
R163908	3		\$ 38,832.75	\$ 3,094.39
R163909	Open Space		\$ -	\$ -
R163910	1		\$ 31,066.20	\$ 2,475.51
R163911	1		\$ 31,066.20	\$ 2,475.51
R163912	1		\$ 31,066.20	\$ 2,475.51
R163913	1		\$ 31,066.20	\$ 2,475.51
R163914	1		\$ 31,066.20	\$ 2,475.51
R163915	1		\$ 31,066.20	\$ 2,475.51
R163916	1		\$ 31,066.20	\$ 2,475.51

Property ID	Lot Type	Note	Improvement Area #1	
			Outstanding Assessment	Installment due 1/31/2021
R163917	1		\$ 31,066.20	\$ 2,475.51
R163918	1		\$ 31,066.20	\$ 2,475.51
R163919	1		\$ 31,066.20	\$ 2,475.51
R163920	1		\$ 31,066.20	\$ 2,475.51
R163921	1		\$ 31,066.20	\$ 2,475.51
R163922	1		\$ 31,066.20	\$ 2,475.51
R163923	1		\$ 31,066.20	\$ 2,475.51
R163924	1		\$ 31,066.20	\$ 2,475.51
R163925	1		\$ 31,066.20	\$ 2,475.51
R163926	1		\$ 31,066.20	\$ 2,475.51
R163927	1		\$ 31,066.20	\$ 2,475.51
R163928	3		\$ 38,832.75	\$ 3,094.39
R163929	3		\$ 38,832.75	\$ 3,094.39
R163930	3		\$ 38,832.75	\$ 3,094.39
R163931	3		\$ 38,832.75	\$ 3,094.39
R163932	3		\$ 38,832.75	\$ 3,094.39
R163933	3		\$ 38,832.75	\$ 3,094.39
R163934	3		\$ 38,832.75	\$ 3,094.39
R163935	3		\$ 38,832.75	\$ 3,094.39
R163936	3		\$ 38,832.75	\$ 3,094.39
R163937	3		\$ 38,832.75	\$ 3,094.39
R163938	3		\$ 38,832.75	\$ 3,094.39
R163939	1		\$ 31,066.20	\$ 2,475.51
R163940	1	[b]	\$ 30,966.20	\$ 2,467.54
R163941	1		\$ 31,066.20	\$ 2,475.51
R163942	1		\$ 31,066.20	\$ 2,475.51
R163943	1		\$ 31,066.20	\$ 2,475.51
R163944	1		\$ 31,066.20	\$ 2,475.51
R163945	1		\$ 31,066.20	\$ 2,475.51
R163946	1		\$ 31,066.20	\$ 2,475.51
R163947	1		\$ 31,066.20	\$ 2,475.51
R163948	1		\$ 31,066.20	\$ 2,475.51
R163949	1		\$ 31,066.20	\$ 2,475.51
R163950	1		\$ 31,066.20	\$ 2,475.51
R165442	2		\$ 34,308.96	\$ 2,733.91
R165443	2		\$ 34,308.96	\$ 2,733.91
R165444	2		\$ 34,308.96	\$ 2,733.91
R165445	2		\$ 34,308.96	\$ 2,733.91
R165446	2		\$ 34,308.96	\$ 2,733.91
R165447	2		\$ 34,308.96	\$ 2,733.91

			Improvement Area #1	
Property ID	Lot Type	Note	Outstanding Assessment	Installment due 1/31/2021
R165448	2		\$ 34,308.96	\$ 2,733.91
R165449	2		\$ 34,308.96	\$ 2,733.91
R165450	2		\$ 34,308.96	\$ 2,733.91
R165451	2		\$ 34,308.96	\$ 2,733.91
R165452	2		\$ 34,308.96	\$ 2,733.91
R165453	2		\$ 34,308.96	\$ 2,733.91
R165454	2		\$ 34,308.96	\$ 2,733.91
R165455	2		\$ 34,308.96	\$ 2,733.91
R165456	2		\$ 34,308.96	\$ 2,733.91
R165457	2		\$ 34,308.96	\$ 2,733.91
R165458	2		\$ 34,308.96	\$ 2,733.91
R165459	2		\$ 34,308.96	\$ 2,733.91
R165460	2		\$ 34,308.96	\$ 2,733.91
R165461	2		\$ 34,308.96	\$ 2,733.91
R165462	2		\$ 34,308.96	\$ 2,733.91
R165463	2		\$ 34,308.96	\$ 2,733.91
R165464	4		\$ 46,784.95	\$ 3,728.06
R165465	4		\$ 46,784.95	\$ 3,728.06
R165466	4		\$ 46,784.95	\$ 3,728.06
R165467	4		\$ 46,784.95	\$ 3,728.06
R165468	4		\$ 46,784.95	\$ 3,728.06
R165469	4		\$ 46,784.95	\$ 3,728.06
R165470	4		\$ 46,784.95	\$ 3,728.06
R165471	4		\$ 46,784.95	\$ 3,728.06
R165472	4		\$ 46,784.95	\$ 3,728.06
R165473	4		\$ 46,784.95	\$ 3,728.06
R165474	4		\$ 46,784.95	\$ 3,728.06
R165475	4		\$ 46,784.95	\$ 3,728.06
R165476	4		\$ 46,784.95	\$ 3,728.06
R165477	4		\$ 46,784.95	\$ 3,728.06
R165478	4		\$ 46,784.95	\$ 3,728.06
R165479	4		\$ 46,784.95	\$ 3,728.06
R165480	4		\$ 46,784.95	\$ 3,728.06
R165481	4		\$ 46,784.95	\$ 3,728.06
R165482	4		\$ 46,784.95	\$ 3,728.06
R165483	4		\$ 46,784.95	\$ 3,728.06
R165484	4		\$ 46,784.95	\$ 3,728.06
R165485	4		\$ 46,784.95	\$ 3,728.06
R165486	4		\$ 46,784.95	\$ 3,728.06
R165487	4		\$ 46,784.95	\$ 3,728.06

Property ID	Lot Type	Note	Improvement Area #1	
			Outstanding Assessment	Installment due 1/31/2021
R165488	4		\$ 46,784.95	\$ 3,728.06
R165489	4		\$ 46,784.95	\$ 3,728.06
R165490	4		\$ 46,784.95	\$ 3,728.06
R165491	Open Space		\$ -	\$ -
R165492	Open Space		\$ -	\$ -
R165493	2		\$ 34,308.96	\$ 2,733.91
R165494	2		\$ 34,308.96	\$ 2,733.91
R165495	2		\$ 34,308.96	\$ 2,733.91
R165496	2		\$ 34,308.96	\$ 2,733.91
R165497	2		\$ 34,308.96	\$ 2,733.91
R165498	2		\$ 34,308.96	\$ 2,733.91
R165499	2		\$ 34,308.96	\$ 2,733.91
R165500	2		\$ 34,308.96	\$ 2,733.91
R165501	2		\$ 34,308.96	\$ 2,733.91
R165502	2		\$ 34,308.96	\$ 2,733.91
R165503	4		\$ 46,784.95	\$ 3,728.06
R165504	2		\$ 34,308.96	\$ 2,733.91
R165505	4		\$ 46,784.95	\$ 3,728.06
R165506	2		\$ 34,308.96	\$ 2,733.91
R165507	2		\$ 34,308.96	\$ 2,733.91
R165508	2		\$ 34,308.96	\$ 2,733.91
R165509	2		\$ 34,308.96	\$ 2,733.91
R165510	2		\$ 34,308.96	\$ 2,733.91
R165511	2		\$ 34,308.96	\$ 2,733.91
R165512	2		\$ 34,308.96	\$ 2,733.91
R165513	2		\$ 34,308.96	\$ 2,733.91
R165514	2		\$ 34,308.96	\$ 2,733.91
R165515	2		\$ 34,308.96	\$ 2,733.91
R165516	2		\$ 34,308.96	\$ 2,733.91
R165517	2		\$ 34,308.96	\$ 2,733.91
R165518	2		\$ 34,308.96	\$ 2,733.91
R165519	2		\$ 34,308.96	\$ 2,733.91
R165520	2		\$ 34,308.96	\$ 2,733.91
R165521	2		\$ 34,308.96	\$ 2,733.91
R165522	2		\$ 34,308.96	\$ 2,733.91
R165523	4		\$ 46,784.95	\$ 3,728.06
R165524	4		\$ 46,784.95	\$ 3,728.06
R165525	4		\$ 46,784.95	\$ 3,728.06
R165526	4		\$ 46,784.95	\$ 3,728.06
R165527	4		\$ 46,784.95	\$ 3,728.06



Property ID	Lot Type	Note	Improvement Area #1	
			Outstanding Assessment	Installment due 1/31/2021
R165528	4		\$ 46,784.95	\$ 3,728.06
R165529	4		\$ 46,784.95	\$ 3,728.06
R165530	4		\$ 46,784.95	\$ 3,728.06
R165531	4		\$ 46,784.95	\$ 3,728.06
R165532	4		\$ 46,784.95	\$ 3,728.06
R165533	4		\$ 46,784.95	\$ 3,728.06
R165534	4		\$ 46,784.95	\$ 3,728.06
R165535	4		\$ 46,784.95	\$ 3,728.06
R165536	4		\$ 46,784.95	\$ 3,728.06
R165537	4		\$ 46,784.95	\$ 3,728.06
R165538	4		\$ 46,784.95	\$ 3,728.06
R165539	4		\$ 46,784.95	\$ 3,728.06
R165540	4		\$ 46,784.95	\$ 3,728.06
R165541	4		\$ 46,784.95	\$ 3,728.06
R165542	4		\$ 46,784.95	\$ 3,728.06
R165543	4		\$ 46,784.95	\$ 3,728.06
R165544	4		\$ 46,784.95	\$ 3,728.06
R165545	4		\$ 46,784.95	\$ 3,728.06
R165546	4		\$ 46,784.95	\$ 3,728.06
R165547	Open Space		\$ -	\$ -
R165548	Open Space		\$ -	\$ -
R166980	Open Space		\$ -	\$ -
R164466	Open Space		\$ -	\$ -
R169320	Open Space		\$ -	\$ -
R156027	Unplatted Property		\$ 4,015,305.86	\$ 319,959.88
<b>Total</b>			<b>\$11,883,833.80</b>	<b>\$ 946,963.98</b>

Notes:

[a] Full Prepayment

[b] Partial Prepayment

**EXHIBIT B – FINAL PLAT OF 6 CREEKS – PHASE 1, SECTION 3**





FINAL PLAT  
OF  
6 CREEKS-PHASE 1, SECTION 3



6 CREEKS-PHASE 1, SECTION 3

Civil Job No. 8141-10, Survey Job No. 50908-00

Scale: 1" = 100' (10' = 100')  
Date: 04/10/2019  
By: C. Dawson  
Check: C. Dawson  
Title: Surveyor

REVISED METERS AND BOUNDS DESCRIPTION  
FOR

A 34.361 ACRE, MORE OR LESS, TRACT OF LAND CONVEYED TO HMBR DEVELOPMENT, INC., BY INSTRUMENT RECORDED IN DOCUMENT NO. 1865899 IN THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, IN THE SAMUEL PHARRIS & LEAGUE NO. 14, ABSTRACT 380, HAYS COUNTY, TEXAS. SAID 34.361 ACRE TRACT BEING MORE FULLY DESCRIBED AS FOLLOWS, WITH BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE SOUTH CENTRAL ZONE FROM THE NORTH AMERICAN DATUM OF 1983 (NAD 83 (NAD83) EPOCH 2011.02):

COMMENCING AT A ROUND MAGNAIL AT THE SOUTHERNMOST CORNER OF SAID 188.51 ACRE TRACT;

THENCE N 40°28'18" E, ALONG AND WITH THE SOUTHEAST LINE OF SAID 188.51 ACRE TRACT, AT A DISTANCE OF 111.03 FEET PASSING THE WEST CORNER OF THE 132.56 ACRE TRACT DESCRIBED IN VOLUME 348, PAGE 246 IN SAID OFFICIAL PUBLIC RECORDS, CONTAINING A TOTAL DISTANCE OF 136.51 FEET TO A POINT FROM WHICH A TANGENT IS IRON ROD MARKED - VICINITY AT AN ANGLE OF SAID 188.51 ACRE TRACT AND SAID 132.56 ACRE TRACT BEARS N 40°29'18" E, DISTANCE OF 77.13 FEET;

THENCE N 41°30'42" W, DEPARTING THE SOUTHEAST LINE OF SAID 188.51 ACRE TRACT AND THE NORTHWEST LINE OF SAID 132.56 ACRE TRACT, OVER AND ACROSS SAID 188.51 ACRE TRACT, A DISTANCE OF 2513.18 FEET, TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT;

N 40°09'34" E, A DISTANCE OF 176.64 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

NORTHWESTERLY, ALONG A NON-TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 80.00 FEET, A CENTRAL ANGLE OF 19°50'59", A CHORD BEARING AND DISTANCE OF N 57°50'40" W, 85.19 FEET, FOR AN ARC LENGTH OF 15.15 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

S 40°09'34" W, A DISTANCE OF 100.50 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 23°43'08" W, A DISTANCE OF 177.56 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 23°35'30" E, A DISTANCE OF 170.33 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 01°10'59" E, A DISTANCE OF 164.28 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

S 01°09'57" E, A DISTANCE OF 70.00 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 43°11'52" E, A DISTANCE OF 158.26 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 34°18'30" E, A DISTANCE OF 110.00 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 43°12'59" E, A DISTANCE OF 140.46 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 51°14'18" E, A DISTANCE OF 72.36 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 45°27'27" E, A DISTANCE OF 79.77 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 24°57'09" E, A DISTANCE OF 185.86 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 04°30'09" E, A DISTANCE OF 25.00 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON THE NORTH LINE OF SAID 188.51 ACRE TRACT AND A SOUTH LINE OF THE 666.70 ACRE TRACT DESCRIBED IN DOCUMENT NO. 1705416 IN SAID OFFICIAL PUBLIC RECORDS;

THENCE NORTH-EASTERLY, ALONG AND WITH THE NORTH LINE OF SAID 188.51 ACRE TRACT AND A SOUTH LINE OF SAID 666.70 ACRE TRACT, ALONG A NON-TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 1360.00 FEET, A CENTRAL ANGLE OF 10°28'44", A CHORD BEARING AND DISTANCE OF N 81°09'16" E, 480.00 FEET, FOR AN ARC LENGTH OF 407.77 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

THENCE DEPARTING THE NORTH LINE OF SAID 188.51 ACRE TRACT AND A SOUTH LINE OF SAID 666.70 ACRE TRACT, OVER AND ACROSS SAID 188.51 ACRE TRACT THE FOLLOWING BEARINGS AND DISTANCES:

SOUTHWESTERLY, ALONG A NON-TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 80.00 FEET, A CENTRAL ANGLE OF 2°44'59", A CHORD BEARING AND DISTANCE OF S 40°09'16" E, 109.73 FEET, FOR AN ARC LENGTH OF 197.81 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

S 12°18'00" E, A DISTANCE OF 25.75 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 70°41'09" E, A DISTANCE OF 86.00 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

S 12°18'00" E, A DISTANCE OF 8.50 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTH-EASTERLY, ALONG A TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 380.00 FEET, A CENTRAL ANGLE OF 0°04'05", A CHORD BEARING AND DISTANCE OF S 10°27'30" E, 38.24 FEET, FOR AN ARC LENGTH OF 38.25 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

S 07°57'47" E, A DISTANCE OF 67.78 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTH-EASTERLY, ALONG A TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 380.00 FEET, A CENTRAL ANGLE OF 0°03'38", A CHORD BEARING AND DISTANCE OF S 10°27'30" E, 38.24 FEET, FOR AN ARC LENGTH OF 38.25 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

S 13°17'28" E, A DISTANCE OF 10.24 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTH-EASTERLY, ALONG A NON-TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 430.00 FEET, A CENTRAL ANGLE OF 3°04'57", A CHORD BEARING AND DISTANCE OF S 09°30'40" E, 233.80 FEET, FOR AN ARC LENGTH OF 236.66 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

S 09°07'47" E, A DISTANCE OF 16.19 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTH-EASTERLY, ALONG A TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 430.00 FEET, A CENTRAL ANGLE OF 3°04'57", A CHORD BEARING AND DISTANCE OF S 09°30'40" E, 233.80 FEET, FOR AN ARC LENGTH OF 236.66 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

S 09°41'24" E, A DISTANCE OF 304.55 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTH-EASTERLY, ALONG A TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 305.00 FEET, A CENTRAL ANGLE OF 0°07'03", A CHORD BEARING AND DISTANCE OF S 09°30'40" E, 153.86 FEET, FOR AN ARC LENGTH OF 153.89 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTH-EASTERLY, ALONG A REVERSE CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 19.19 FEET, A CENTRAL ANGLE OF 80°44'57", A CHORD BEARING AND DISTANCE OF S 40°12'34" E, 21.87 FEET, FOR AN ARC LENGTH OF 23.36 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

S 05°58'10" E, A DISTANCE OF 50.00 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTHWESTERLY, ALONG A NON-TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 8.00 FEET, A CENTRAL ANGLE OF 15.00 FEET, A CENTRAL ANGLE OF 80°14'30", A CHORD BEARING AND DISTANCE OF S 42°38'16" W, 21.07 FEET, FOR AN ARC LENGTH OF 23.36 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTHWESTERLY, ALONG A REVERSE CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 305.00 FEET, A CENTRAL ANGLE OF 0°04'54", A CHORD BEARING AND DISTANCE OF S 09°30'40" E, 135.76 FEET, FOR AN ARC LENGTH OF 135.79 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

S 09°09'54" W, A DISTANCE OF 157.39 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTH-EASTERLY, ALONG A TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 470.00 FEET, A CENTRAL ANGLE OF 30°41'17", A CHORD BEARING AND DISTANCE OF S 17°20'14" E, 286.17 FEET, FOR AN ARC LENGTH OF 288.49 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTH-EASTERLY, ALONG A COMPOUND CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 69.94 FEET, A CENTRAL ANGLE OF 52°43'32", A CHORD BEARING AND DISTANCE OF S 41°36'16" E, 57.73 FEET, FOR AN ARC LENGTH OF 50.82 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

SOUTHWESTERLY, ALONG A REVERSE CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 72.00 FEET, A CENTRAL ANGLE OF 27°05'52", A CHORD BEARING AND DISTANCE OF S 47°52'29" W, 100.36 FEET, FOR AN ARC LENGTH OF 34.36 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

NORTHWESTERLY, ALONG A REVERSE CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 530.00 FEET, A CENTRAL ANGLE OF 37°04'54", A CHORD BEARING AND DISTANCE OF N 10°58'32" W, 344.36 FEET, FOR AN ARC LENGTH OF 356.72 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 09°38'20" E, A DISTANCE OF 140.14 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 00°44'40" W, A DISTANCE OF 193.51 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 05°06'04" W, A DISTANCE OF 83.06 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 00°15'00" W, A DISTANCE OF 83.06 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 70°50'59" W, A DISTANCE OF 83.06 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 00°01'00" W, A DISTANCE OF 84.00 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 50°14'03" W, A DISTANCE OF 570.00 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 05°29'27" W, A DISTANCE OF 86.00 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 71°07'00" W, A DISTANCE OF 83.46 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 05°27'49" W, A DISTANCE OF 83.44 FEET TO A SET 1/2" IRON ROD WITH A YELLOW CAP MARKED PAPE-DAWSON ;

N 00°38'55" W, A DISTANCE OF 453.82 FEET TO THE POINT OF BEGINNING, AND CONTAINING 34.361 ACRES IN HAYS COUNTY, TEXAS, SAID TRACT BEING DESCRIBED IN ACCORDANCE WITH A SURVEY MADE ON THE GROUND AND A SURVEY DESCRIPTION AND MAP PREPARED UNDER JOB NUMBER 0141-08 BY PAPE-DAWSON ENGINEERS, INC.

FINAL PLAT NOTES:

1. THIS FINAL PLAT IS LOCATED ENTIRELY WITHIN HAYS COUNTY.
2. THIS PLAT FALLS WITHIN THE BOUNDARIES OF THE EDWARDS AQUIFER CONTRIBUTING ZONE WITHIN THE TRANSITION ZONE.
3. THIS PLAT IS LOCATED WITHIN THE BOUNDARY OF THE HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT.
4. A PORTION OF THIS PROPERTY IS LOCATED WITHIN A DESIGNATED 100-YEAR FLOOD PLAIN AS DELINEATED ON THE FLOOD INSURANCE RATE MAP NO. 48060202D, EFFECTIVE DATE OF SEPTEMBER 2, 2008, AS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
5. ALL STREETS SHALL BE DESIGNED IN ACCORDANCE WITH APPLICABLE HAYS COUNTY REQUIREMENTS AND APPROVED BY THE HAYS COUNTY TRANSPORTATION DEPARTMENT AND UPON ACCEPTANCE SHALL BE DEDICATED TO THE COUNTY FOR MAINTENANCE.
6. STREETS TO BE ACCESSIBLE WILL BE CONSTRUCTED WITH CURB AND GUTTER.
7. LINEAR FOOTAGE OF STREET IMPROVEMENTS 48945 L.F.
8. THIS PLAT HAS BEEN PREPARED IN ACCORDANCE WITH THE HAYS COUNTY REQUIREMENTS AS APPLICABLE TO THIS DEVELOPMENT.
9. AREAS WITHIN NEW ROAD RIGHT-OF-WAY - 6.523 ACRES.
10. ALL STREETS TO BE PUBLIC, PAVED AND MAINTAINED BY THE COUNTY.
11. NO OBJECT INCLUDING FENCING OR LANDSCAPING WHICH WOULD INTERFERE WITH CONVEYANCE OF STORM WATER SHALL BE PLACED OR ERRECTED WITHIN DRAINAGE EASEMENTS.
12. TYPICAL LANDSCAPE MAINTENANCE, CUTTING AND TRIMMING, WITHIN THE SUBDIVISION, ALL EASEMENTS, DETENTION POND, AND RIGHT-OF-WAY TO THE PLANNED TO BE THE RESPONSIBILITY OF PROPERTY OWNERS AND/OR PROPERTY AND/OR HOMEOWNERS ASSOCIATIONS.
13. SIDEWALKS, PEDESTRIAN CROSSINGS AND OTHER PUBLIC AMENITIES THAT ARE TO BE DEDICATED TO THE CITY OF KYLE SHALL MEET OR EXCEED ALL 2005 ADA STANDARDS OF ACCESSIBILITY DESIGN AND ALL CURRENT FEDERAL AND STATE LAWS REGARDING ACCESS FOR PEOPLE WITH DISABILITIES FOR TITLE II ENTITIES.
14. THIS SUBDIVISION IS WITHIN THE CITY OF KYLE, TEXAS.
15. ELECTRICITY PROVIDED BY PERSONAL ELECTRIC COMPANY.
16. THE WASTEWATER TREATMENT PLANT IS OWNED AND OPERATED BY THE CITY OF KYLE, TEXAS.
17. WASTEWATER SERVICE IS PROVIDED BY THE CITY OF KYLE, TEXAS (SEE NOTE ABOVE).
18. WATER IS PROVIDED BY THE CITY OF KYLE, TEXAS.
19. THE REQUIREMENT CONCERNING CONSTRUCTION STANDARDS FOR MAILBOXES INSTALLED WITHIN THE RIGHT-OF-WAY OF STREETS AND HIGHWAYS AND REQUIRING ALL SUCH MAILBOXES TO BE MADE OF COLLAPSIBLE MATERIALS, AS DEFINED IN THE ORDINANCE, COMMUNITY MAILBOXES SHALL HAVE A SEPARATE LIGHTSTICK LIGHT TO ILLUMINATE THE MAILBOX AREA.
20. FOR THE TWO (2), FIVE (5), TEN (10), TWENTY-FIVE (25), AND ONE HUNDRED (100) YEAR, TWENTY-FOUR (24) HOUR STORM EVENTS, POST DEVELOPED CONDITION RUNOFF RATES SHALL BE LESS THAN OR EQUAL TO THE PRE-DEVELOPED CONDITION RUNOFF RATES. PRE AND POST DEVELOPMENT RUNOFF CALCULATIONS SHALL BE INCLUDED WITH THE CONSTRUCTION DRAWINGS FOR THIS SUBDIVISION.
21. THIS SITE IS LOCATED WITHIN HAYS COUNTY ESD #9 AND #8.
22. CONSTRUCTION STANDARDS AND SPECIFICATIONS WILL BE AS AGREED TO IN THE BLANCO RIVER RANCH (PHASE ONE) RESIDENTIAL AREA DE-ANNEXATION AND DEVELOPMENT AGREEMENT APPROVED BY THE HAYS COUNTY COMMISSIONERS COURT ON MARCH 21, 2017.
23. POST CONSTRUCTION STORMWATER CONTROL MEASURES SHALL HAVE A MAINTENANCE PLAN. THE MAINTENANCE PLAN MUST BE FILED IN THE REAL PROPERTY RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED. THE OWNER OR OPERATOR OF ANY NEW DEVELOPMENT OR REDEVELOPED SITE SHALL DEVELOP AND IMPLEMENT A MAINTENANCE PLAN ADDRESSING MAINTENANCE REQUIREMENTS FOR ANY STRUCTURAL CONTROL MEASURES INSTALLED ON SITE. OPERATION AND MAINTENANCE PERFORMED SHALL BE DOCUMENTED AND RETAINED ON SITE, SUCH AS AT THE OFFICES OF THE OWNER OR OPERATOR, AND MADE AVAILABLE FOR REVIEW BY THE CITY.
24. IN ORDER TO PROMOTE SAFE USE OF ROADWAYS AND PRESERVE THE CONDITIONS OF PUBLIC ROADWAYS, NO DRIVEWAY CONSTRUCTED ON ANY LOT WITHIN THIS SUBDIVISION SHALL BE PERMITTED TO ACCESS ONTO A PUBLIC ROADWAY UNLESS (A) A PERMIT FOR USE OF THE COUNTY ROADWAY RIGHT-OF-WAY HAS BEEN ISSUED UNDER CHAPTER 781, AND (B) THE DRIVEWAY SATISFIES THE MINIMUM SPACING REQUIREMENT SET FORTH IN CHAPTER 721 OF THE HAYS COUNTY DEVELOPMENT REGULATIONS.
25. IN APPROVING THIS PLAT BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, IT IS UNDERSTOOD THAT THE BUILDING OF ALL STREETS, ROADS, AND OTHER PUBLIC THOROUGHFARES DELINEATED AND SHOWN ON THIS PLAT, AND ALL BRIDGES AND CULVERTS NECESSARY TO BE CONSTRUCTED OR PLACED IN SUCH STREETS, ROADS, OR OTHER PUBLIC THOROUGHFARES, OR IN CONNECTION THEREWITH SHALL BE THE RESPONSIBILITY OF THE OWNER AND/OR THE DEVELOPER OF THE TRACT OF LAND COVERED BY THIS PLAT IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS PRESCRIBED BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS AND THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, ASSUMES NO OBLIGATION TO BUILD THE STREETS, ROADS, OR OTHER PUBLIC THOROUGHFARES SHOWN ON THIS PLAT OR OF CONSTRUCTING ANY BRIDGES OR CULVERTS IN CONNECTION THEREWITH.
26. SIDEWALKS SHALL BE INSTALLED ON THE SUBDIVISION SIDE OF RIO BLANCO WAY, AND PAINTED CREEKWAY. THOSE SIDEWALKS NOT ABUTTING A RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL LOT SHALL BE INSTALLED WHEN THE ADJOINING STREET IS CONSTRUCTED WHERE THERE ARE DOUBLE FRONTAGE LOTS. SIDEWALKS ON THE STREET TO WHICH ACCESS IS PROHIBITED ARE ALSO REQUIRED TO BE INSTALLED WHEN THE STREETS IN THE SUBDIVISION ARE CONSTRUCTED. (AND ALSO ARTICLE V, SEC 10, KYLE CODE)
27. ALL CULVERTS WHEN REQUIRED SHALL COMPLY WITH THE CURRENT HAYS COUNTY STANDARD, PER HAYS COUNTY DEVELOPMENT REGULATIONS, CHAPTER 705, SUBCHAPTER 8.03.
28. THE MAINTENANCE OF SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNERS OR HOMEOWNERS ASSOCIATION OR THEIR SUCCESSORS AND NOT THE RESPONSIBILITY OF THE CITY OF KYLE OR HAYS COUNTY.
29. ROADWAY CLASSIFICATIONS ARE PER THE BLANCO RIVER RANCH (PHASE 1) RESIDENTIAL AREA DE-ANNEXATION AND DEVELOPMENT AGREEMENT (INSTRUMENT # 1701665).

SHEET 3 OF 4



FINAL PLAT  
OF  
6 CREEKS-PHASE 1, SECTION 3

**PAPE-DAWSON  
ENGINEERS**  
SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
2000 NW LOOP 410 | BOX 400000, TX 78219 | 214.875.0000  
TSPS FIRM REGISTRATION NO. 1 | TSPS FIRM REGISTRATION #180880  
DATE OF PREPARATION: April 10, 2019

THE STATE OF TEXAS §  
COUNTY OF HAYS §

KNOW ALL MEN BY THESE PRESENTS, THAT HWBR DEVELOPMENT INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, WITH ITS HOME ADDRESS AT 1011 N. LAMAR, AUSTIN, TEXAS, AS CONVEYED TO IT BY DEED DATED OCTOBER 9, 2018, RECORDED IN DOCUMENT #000891, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, DOES HEREBY SUBDIVIDE 34.361 ACRES OF LAND OUT OF THE SAMUEL PHARRAS 1/4 LEAGUE SURVEY NO. 14, ABSTRACT 300, TO BE KNOWN AS:

6 CREEKS-PHASE 1, SECTION 3

IN ACCORDANCE WITH THE PLAT SHOWN HEREON, SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED, AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF THE STREETS AND EASEMENTS SHOWN HEREON

*[Signature]*  
HWBR DEVELOPMENT, INC.  
BY BLAKE MARGES  
PRESIDENT  
1011 N. LAMAR  
AUSTIN, TEXAS 78703

THE STATE OF TEXAS §  
COUNTY OF HAYS §

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED Blake Marges KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND HE/SHE ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN SET OUT, AND AS THE ACT AND DEED OF SAID CONVEYANCE, GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS DAY OF April 16, 2019, A.D.

*[Signature]*  
NOTARY PUBLIC, STATE OF TEXAS

*[Signature]*  
PRINTED NOTARY'S NAME: Kevin R. Ayles  
MY COMMISSION EXPIRES: 5-15-22

THE STATE OF TEXAS §  
COUNTY OF HAYS §

KNOW ALL MEN BY THESE PRESENTS, THAT CLARE L. BRANSON, CONSTRUCTION LENDING OFFICER, OF AMERICAN BANK, N.A., THE LEND HOLDER OF THE TRACTS OF LAND SHOWN HEREON AND DESCRIBED IN RECORDED DOCUMENT NUMBER 1802881, OUT OF THE OFFICIAL PUBLIC RECORDS, HAYS COUNTY TEXAS, DOES HEREBY CONSENT TO THE SUBDIVISION OF SAID TRACTS OF LAND AS SHOWN HEREON, DOES FURTHER HEREBY JOIN, APPROVE, AND CONSENT TO ALL PLAT NOTE REQUIREMENTS SHOWN HEREON, AND TO THE DEDICATION TO THE PUBLIC THE USE OF THE STREETS, PUBLIC TRAILS, AND EASEMENTS SHOWN HEREON.

TO CERTIFY WHICH, WITNESS BY MY HAND THIS 16 DAY OF April, A.D. 2019

*[Signature]*  
CLARE L. BRANSON  
AMERICAN BANK, N.A.  
CONSTRUCTION LENDING OFFICER  
3500 BEE CAVES ROAD, SUITE 200  
AUSTIN, TX 78748

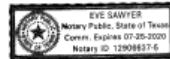
THE STATE OF TEXAS §  
COUNTY OF HAYS §

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS DAY PERSONALLY APPEARED CLARE L. BRANSON, CHIEF ACCOUNTING OFFICER, KNOWN TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 16 DAY OF April, 2019

*[Signature]*  
NOTARY PUBLIC, STATE OF TEXAS

*[Signature]*  
PRINTED NOTARY'S NAME: Eve Sawyer



THE STATE OF TEXAS §  
COUNTY OF HAYS §

INSTRUMENT OF WRITING, WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE 16 DAY OF June, 2019, A.D. AT 5:31 O'CLOCK P.M. AND DAILY RECORDED ON THE 16 DAY OF June, 2019, A.D. AT 5:31 O'CLOCK P.M. IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS IN CEN # 15070154

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY CLERK OF SAID COUNTY THE 19 DAY OF June, 2019, A.D.

*[Signature]*  
COUNTY CLERK, HAYS COUNTY, TEXAS

THIS FINAL PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KYLE, TEXAS, AND IS HEREBY APPROVED BY SUCH PLANNING AND ZONING COMMISSION

DATED THIS 11th DAY OF June, A.D. 2019

*[Signature]*  
CITY ENGINEER

THE STATE OF TEXAS §  
COUNTY OF HAYS §

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT, THAT IT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND, AND THAT ALL NECESSARY SURVEY MONUMENTS ARE CORRECTLY SET OR FOUND AS SHOWN THEREON.

*[Signature]*  
DATE: 4-10-2019  
DAVID C. SANCHEZ  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4251  
STATE OF TEXAS  
PAPE-DAWSON ENGINEERS, INC.  
TSPS FIRM REGISTRATION NO. 470  
TSPS FIRM REGISTRATION NO. 10028900  
2000 NW LOOP 410  
SAN ANTONIO, TX 78213



THE STATE OF TEXAS §  
COUNTY OF HAYS §

I, THE UNDERSIGNED, A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT.

*[Signature]*  
DATE: 5-13-19  
SHARON L. WEAVER  
REGISTERED PROFESSIONAL ENGINEER NO. 89512  
PAPE-DAWSON ENGINEERS, INC.  
TSPS FIRM REGISTRATION NO. 470  
TSPS FIRM REGISTRATION NO. 10028900  
2000 NW LOOP 410  
SAN ANTONIO, TX 78213



NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO AN INDIVIDUAL WATER SUPPLY OR A STATE-APPROVED COMMUNITY WATER SYSTEM. DUE TO DECLINING WATER SUPPLIES AND DIMINISHING WATER QUALITY, PROSPECTIVE PROPERTY OWNERS ARE CAUTIONED BY HAYS COUNTY TO QUESTION THE SELLER CONCERNING GROUNDWATER AVAILABILITY. RAINWATER COLLECTION IS ENCOURAGED AND IN SOME AREAS MAY OFFER THE BEST RENEWABLE WATER RESOURCE. NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC SEWER SYSTEM OR TO AN ON-SITE WATERSYSTEM WHICH HAS BEEN APPROVED AND PERMITTED BY HAYS COUNTY DEVELOPMENT SERVICES. NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL HAYS COUNTY DEVELOPMENT PERMIT REQUIREMENTS HAVE BEEN MET.

*[Signature]*  
TOM POPE, R.E., D.F.M.  
HAYS COUNTY FLOODPLAIN ADMINISTRATOR

*[Signature]*  
6-18-19

REVIEWED BY:

*[Signature]*  
DIRECTOR OF PUBLIC WORKS

REVIEWED BY:

*[Signature]*  
CITY ENGINEER

I, THE UNDERSIGNED, DIRECTOR OF Development Services, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL HAYS COUNTY REQUIREMENTS AS STATED IN THE INTERLOCAL COOPERATION AGREEMENT BETWEEN HAYS COUNTY AND THE CITY OF KYLE FOR SUBDIVISION REGULATION WITHIN THE EXTRAJURISDICTIONAL JURISDICTION OF THE CITY OF KYLE.

*[Signature]*  
6-18-19

SHEET 4 OF 4

6 CREEKS-PHASE 1, SECTION 3  
Civil Job No. 8141-10; Survey Job No. 50695-00

## **EXHIBIT C – HOMEBUYER DISCLOSURES**

Homebuyer Disclosures for the following Lot Types are found in this Exhibit:

- Lot Type 1
- Lot Type 2
- Lot Type 3
- Lot Type 4

[Remainder of page left intentionally blank.]

## 6 CREEKS PID - HOMEBUYER DISCLOSURE FOR LOT TYPE 1

### NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENTS TO THE CITY OF KYLE, TEXAS

#### CONCERNING THE PROPERTY AT:

---

STREET ADDRESS  
LOT TYPE 1 ASSESSMENT: \$31,066.20

As the purchaser of the real property located at the street address set forth above, you are obligated to pay assessments to the City of Kyle, Texas, for the costs of a portion of public improvements (the ***“Authorized Improvements”***) undertaken for the benefit of the property within ***“6 Creeks Public Improvement District”*** (the ***“District”***) created under Subchapter A, Chapter 372, Local Government Code, as amended.

**THE PRINCIPAL OF THE LOT TYPE 1 ASSESSMENT AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS IS \$31,066.20, WHICH MAY BE PAID IN FULL AT ANY TIME; HOWEVER, IF NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS WHICH WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, ADMINISTRATIVE EXPENSES, AND DELINQUENCY COSTS.**

An estimate of the annual installments is attached; **however, it is only an estimate and is subject to change**. The exact amount of the annual installments, including the annual installments thereof, will be approved each year by the City Council in the Annual Service Plan Update for the District. More information about the assessments, including the amounts and due dates, may be obtained from the City Secretary.

Your failure to pay any assessment, or any annual installment thereof, may result in penalties and interest being added to what you owe and could result in a lien on and the foreclosure of your property.

The undersigned purchaser acknowledges receipt of the foregoing notice prior to the effective date of a binding contract for the purchase of the real property at the street address set forth above.

IN WITNESS WHEREOF, I have signed this certificate this \_\_\_\_\_, 20\_\_.

**PURCHASER:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TEXAS

§

§

COUNTY OF \_\_\_\_\_

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_,  
known to me to be the person whose name is subscribed to the foregoing instrument, and  
acknowledged to me that he or she executed the same for the purposes therein expressed, in  
the capacity stated and as the act and deed of the above-referenced entities as an authorized  
signatory of said entities.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

STATE OF TEXAS

\_\_\_\_\_  
Notary Public, State of Texas

§

§

COUNTY OF \_\_\_\_\_

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_,  
known to me to be the person whose name is subscribed to the foregoing instrument, and  
acknowledged to me that he or she executed the same for the purposes therein expressed, in  
the capacity stated and as the act and deed of the above-referenced entities as an authorized  
signatory of said entities.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public, State of Texas



**Improvement Area #1 - Lot Type 1**

	Lot Type 1 - Improvement Area #1 Bonds			Lot Type 1 - Improvement Area #1 Reimbursement Obligation			
Installments Due	Principal	Interest [a]	Additional Interest Reserve	Principal	Interest [b]	Annual Collection Costs	Total Installment
1/31/2021	\$ 482.35	\$ 880.57	\$ 97.71	\$ 226.79	\$ 691.46	\$ 96.63	\$ 2,475.51
1/31/2022	\$ 495.39	\$ 861.88	\$ 95.30	\$ 240.39	\$ 677.85	\$ 98.56	\$ 2,469.38
1/31/2023	\$ 521.46	\$ 842.69	\$ 92.82	\$ 254.82	\$ 663.43	\$ 100.53	\$ 2,475.75
1/31/2024	\$ 547.54	\$ 822.48	\$ 90.21	\$ 270.11	\$ 648.14	\$ 102.54	\$ 2,481.02
1/31/2025	\$ 560.57	\$ 801.26	\$ 87.48	\$ 286.31	\$ 631.93	\$ 104.59	\$ 2,472.15
1/31/2026	\$ 586.65	\$ 778.14	\$ 84.67	\$ 303.49	\$ 614.76	\$ 106.68	\$ 2,474.39
1/31/2027	\$ 612.72	\$ 753.94	\$ 81.74	\$ 321.70	\$ 596.55	\$ 108.82	\$ 2,475.46
1/31/2028	\$ 638.79	\$ 728.66	\$ 78.68	\$ 341.00	\$ 577.24	\$ 110.99	\$ 2,475.38
1/31/2029	\$ 664.87	\$ 702.31	\$ 75.48	\$ 361.47	\$ 556.78	\$ 113.21	\$ 2,474.12
1/31/2030	\$ 690.94	\$ 674.89	\$ 72.16	\$ 383.15	\$ 535.10	\$ 115.48	\$ 2,471.71
1/31/2031	\$ 717.01	\$ 642.93	\$ 68.70	\$ 406.14	\$ 512.11	\$ 117.79	\$ 2,464.68
1/31/2032	\$ 756.12	\$ 609.77	\$ 65.12	\$ 430.51	\$ 487.74	\$ 120.14	\$ 2,469.40
1/31/2033	\$ 782.20	\$ 574.80	\$ 61.34	\$ 456.34	\$ 461.91	\$ 122.55	\$ 2,459.13
1/31/2034	\$ 821.31	\$ 538.62	\$ 57.43	\$ 483.72	\$ 434.53	\$ 125.00	\$ 2,460.60
1/31/2035	\$ 860.42	\$ 500.64	\$ 53.32	\$ 512.75	\$ 405.50	\$ 127.50	\$ 2,460.12
1/31/2036	\$ 899.52	\$ 460.84	\$ 49.02	\$ 543.51	\$ 374.74	\$ 130.05	\$ 2,457.68
1/31/2037	\$ 938.63	\$ 419.24	\$ 44.52	\$ 576.12	\$ 342.13	\$ 132.65	\$ 2,453.29
1/31/2038	\$ 990.78	\$ 375.83	\$ 39.83	\$ 610.69	\$ 307.56	\$ 135.30	\$ 2,459.99
1/31/2039	\$ 1,029.89	\$ 330.01	\$ 34.87	\$ 647.33	\$ 270.92	\$ 138.01	\$ 2,451.02
1/31/2040	\$ 1,082.04	\$ 282.37	\$ 29.72	\$ 686.17	\$ 232.08	\$ 140.77	\$ 2,453.15
1/31/2041	\$ 1,134.18	\$ 230.98	\$ 24.31	\$ 727.34	\$ 190.91	\$ 143.58	\$ 2,451.30
1/31/2042	\$ 1,186.33	\$ 177.10	\$ 18.64	\$ 770.98	\$ 147.27	\$ 146.45	\$ 2,446.78
1/31/2043	\$ 1,238.48	\$ 120.75	\$ 12.71	\$ 817.24	\$ 101.01	\$ 149.38	\$ 2,439.57
1/31/2044	\$ 1,303.66	\$ 61.92	\$ 6.52	\$ 866.27	\$ 51.98	\$ 152.37	\$ 2,442.72
<b>Total</b>	<b>\$ 19,541.85</b>	<b>\$ 13,172.63</b>	<b>\$ 1,422.29</b>	<b>\$ 11,524.35</b>	<b>\$ 10,513.62</b>	<b>\$ 2,939.58</b>	<b>\$ 59,114.31</b>

[a] Interest is calculated at a 4.62% rate.

[b] Interest is calculated at a 6.00% rate.

*Note: The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, reserve fund requirements, interest earnings, or other available offsets could increase or decrease the amounts shown.*

## 6 CREEKS PID - HOMEBUYER DISCLOSURE FOR LOT TYPE 2

### NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENTS TO THE CITY OF KYLE, TEXAS

#### CONCERNING THE PROPERTY AT:

---

STREET ADDRESS  
LOT TYPE 2 ASSESSMENT: \$34,308.96

As the purchaser of the real property located at the street address set forth above, you are obligated to pay assessments to the City of Kyle, Texas, for the costs of a portion of public improvements (the ***“Authorized Improvements”***) undertaken for the benefit of the property within ***“6 Creeks Public Improvement District”*** (the ***“District”***) created under Subchapter A, Chapter 372, Local Government Code, as amended.

**THE PRINCIPAL OF THE LOT TYPE 2 ASSESSMENT AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS IS \$34,308.96, WHICH MAY BE PAID IN FULL AT ANY TIME; HOWEVER, IF NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS WHICH WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, ADMINISTRATIVE EXPENSES, AND DELINQUENCY COSTS.**

An estimate of the annual installments is attached; **however, it is only an estimate and is subject to change**. The exact amount of the annual installments, including the annual installments thereof, will be approved each year by the City Council in the Annual Service Plan Update for the District. More information about the assessments, including the amounts and due dates, may be obtained from the City Secretary.

Your failure to pay any assessment, or any annual installment thereof, may result in penalties and interest being added to what you owe and could result in a lien on and the foreclosure of your property.

The undersigned purchaser acknowledges receipt of the foregoing notice prior to the effective date of a binding contract for the purchase of the real property at the street address set forth above.

IN WITNESS WHEREOF, I have signed this certificate this \_\_\_\_\_, 20\_\_.

**PURCHASER:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TEXAS §

§

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me by \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed, in the capacity stated and as the act and deed of the above-referenced entities as an authorized signatory of said entities.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

STATE OF TEXAS

\_\_\_\_\_  
Notary Public, State of Texas

§

§

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me by \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed, in the capacity stated and as the act and deed of the above-referenced entities as an authorized signatory of said entities.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

**Improvement Area #1 - Lot Type 2**

	Lot Type 2 - Improvement Area #1 Bonds				Lot Type 2 - Improvement Area #1 Reimbursement Obligation			
Installments Due	Principal	Interest [a]	Additional Interest Reserve		Principal	Interest [b]	Annual Collection Costs	Total Installment
1/31/2021	\$ 532.70	\$ 972.49	\$ 107.91		\$ 250.46	\$ 763.64	\$ 106.71	\$ 2,733.91
1/31/2022	\$ 547.10	\$ 951.85	\$ 105.24		\$ 265.49	\$ 748.61	\$ 108.85	\$ 2,727.14
1/31/2023	\$ 575.90	\$ 930.65	\$ 102.51		\$ 281.42	\$ 732.68	\$ 111.02	\$ 2,734.17
1/31/2024	\$ 604.69	\$ 908.33	\$ 99.63		\$ 298.30	\$ 715.80	\$ 113.25	\$ 2,739.99
1/31/2025	\$ 619.09	\$ 884.90	\$ 96.61		\$ 316.20	\$ 697.90	\$ 115.51	\$ 2,730.20
1/31/2026	\$ 647.88	\$ 859.36	\$ 93.51		\$ 335.17	\$ 678.93	\$ 117.82	\$ 2,732.67
1/31/2027	\$ 676.68	\$ 832.64	\$ 90.27		\$ 355.28	\$ 658.81	\$ 120.18	\$ 2,733.86
1/31/2028	\$ 705.47	\$ 804.72	\$ 86.89		\$ 376.60	\$ 637.50	\$ 122.58	\$ 2,733.76
1/31/2029	\$ 734.27	\$ 775.62	\$ 83.36		\$ 399.20	\$ 614.90	\$ 125.03	\$ 2,732.38
1/31/2030	\$ 763.06	\$ 745.33	\$ 79.69		\$ 423.15	\$ 590.95	\$ 127.53	\$ 2,729.72
1/31/2031	\$ 791.86	\$ 710.04	\$ 75.87		\$ 448.54	\$ 565.56	\$ 130.08	\$ 2,721.95
1/31/2032	\$ 835.05	\$ 673.42	\$ 71.91		\$ 475.45	\$ 538.65	\$ 132.68	\$ 2,727.16
1/31/2033	\$ 863.84	\$ 634.80	\$ 67.74		\$ 503.98	\$ 510.12	\$ 135.34	\$ 2,715.82
1/31/2034	\$ 907.04	\$ 594.85	\$ 63.42		\$ 534.21	\$ 479.88	\$ 138.05	\$ 2,717.44
1/31/2035	\$ 950.23	\$ 552.90	\$ 58.89		\$ 566.27	\$ 447.83	\$ 140.81	\$ 2,716.91
1/31/2036	\$ 993.42	\$ 508.95	\$ 54.13		\$ 600.24	\$ 413.85	\$ 143.62	\$ 2,714.22
1/31/2037	\$ 1,036.61	\$ 463.00	\$ 49.17		\$ 636.26	\$ 377.84	\$ 146.49	\$ 2,709.37
1/31/2038	\$ 1,094.20	\$ 415.06	\$ 43.98		\$ 674.43	\$ 339.66	\$ 149.42	\$ 2,716.77
1/31/2039	\$ 1,137.39	\$ 364.45	\$ 38.51		\$ 714.90	\$ 299.20	\$ 152.41	\$ 2,706.87
1/31/2040	\$ 1,194.98	\$ 311.85	\$ 32.83		\$ 757.79	\$ 256.30	\$ 155.46	\$ 2,709.21
1/31/2041	\$ 1,252.57	\$ 255.09	\$ 26.85		\$ 803.26	\$ 210.84	\$ 158.57	\$ 2,707.18
1/31/2042	\$ 1,310.16	\$ 195.59	\$ 20.59		\$ 851.46	\$ 162.64	\$ 161.74	\$ 2,702.18
1/31/2043	\$ 1,367.75	\$ 133.36	\$ 14.04		\$ 902.54	\$ 111.55	\$ 164.98	\$ 2,694.22
1/31/2044	\$ 1,439.74	\$ 68.39	\$ 7.20		\$ 956.70	\$ 57.40	\$ 168.28	\$ 2,697.70
<b>Total</b>	<b>\$ 21,581.68</b>	<b>\$ 14,547.62</b>	<b>\$ 1,570.75</b>		<b>\$ 12,727.29</b>	<b>\$ 11,611.05</b>	<b>\$ 3,246.42</b>	<b>\$ 65,284.81</b>

[a] Interest is calculated at a 4.62% rate.

[b] Interest is calculated at a 6.00% rate.

*Note: The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, reserve fund requirements, interest earnings, or other available offsets could increase or decrease the amounts shown.*

## 6 CREEKS PID - HOMEBUYER DISCLOSURE FOR LOT TYPE 3

### NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENTS TO THE CITY OF KYLE, TEXAS

#### CONCERNING THE PROPERTY AT:

---

STREET ADDRESS  
LOT TYPE 3 ASSESSMENT: \$38,832.75

As the purchaser of the real property located at the street address set forth above, you are obligated to pay assessments to the City of Kyle, Texas, for the costs of a portion of public improvements (the ***“Authorized Improvements”***) undertaken for the benefit of the property within ***“6 Creeks Public Improvement District”*** (the ***“District”***) created under Subchapter A, Chapter 372, Local Government Code, as amended.

**THE PRINCIPAL OF THE LOT TYPE 3 ASSESSMENT AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS IS \$38,832.75, WHICH MAY BE PAID IN FULL AT ANY TIME; HOWEVER, IF NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS WHICH WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, ADMINISTRATIVE EXPENSES, AND DELINQUENCY COSTS.**

An estimate of the annual installments is attached; **however, it is only an estimate and is subject to change**. The exact amount of the annual installments, including the annual installments thereof, will be approved each year by the City Council in the Annual Service Plan Update for the District. More information about the assessments, including the amounts and due dates, may be obtained from the City Secretary.

Your failure to pay any assessment, or any annual installment thereof, may result in penalties and interest being added to what you owe and could result in a lien on and the foreclosure of your property.

The undersigned purchaser acknowledges receipt of the foregoing notice prior to the effective date of a binding contract for the purchase of the real property at the street address set forth above.

IN WITNESS WHEREOF, I have signed this certificate this \_\_\_\_\_, 20\_\_.

**PURCHASER:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TEXAS §

§

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me by \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed, in the capacity stated and as the act and deed of the above-referenced entities as an authorized signatory of said entities.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

STATE OF TEXAS

\_\_\_\_\_  
Notary Public, State of Texas

§

§

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me by \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed, in the capacity stated and as the act and deed of the above-referenced entities as an authorized signatory of said entities.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

**Improvement Area #1 - Lot Type 3**

Installments Due	Lot Type 3 - Improvement Area #1 Bonds			Lot Type 3 - Improvement Area #1 Reimbursement Obligation		Annual Collection	
	Principal	Interest [a]	Additional Interest Reserve	Principal	Interest [b]	Costs	Total Installment
1/31/2021	\$ 602.94	\$ 1,100.72	\$ 122.14	\$ 283.48	\$ 864.33	\$ 120.78	\$ 3,094.39
1/31/2022	\$ 619.24	\$ 1,077.35	\$ 119.12	\$ 300.49	\$ 847.32	\$ 123.20	\$ 3,086.72
1/31/2023	\$ 651.83	\$ 1,053.36	\$ 116.03	\$ 318.52	\$ 829.29	\$ 125.66	\$ 3,094.69
1/31/2024	\$ 684.42	\$ 1,028.10	\$ 112.77	\$ 337.63	\$ 810.18	\$ 128.18	\$ 3,101.27
1/31/2025	\$ 700.72	\$ 1,001.58	\$ 109.34	\$ 357.89	\$ 789.92	\$ 130.74	\$ 3,090.19
1/31/2026	\$ 733.31	\$ 972.67	\$ 105.84	\$ 379.37	\$ 768.44	\$ 133.36	\$ 3,092.99
1/31/2027	\$ 765.90	\$ 942.42	\$ 102.17	\$ 402.13	\$ 745.68	\$ 136.02	\$ 3,094.33
1/31/2028	\$ 798.49	\$ 910.83	\$ 98.34	\$ 426.26	\$ 721.55	\$ 138.74	\$ 3,094.22
1/31/2029	\$ 831.08	\$ 877.89	\$ 94.35	\$ 451.83	\$ 695.98	\$ 141.52	\$ 3,092.66
1/31/2030	\$ 863.67	\$ 843.61	\$ 90.20	\$ 478.94	\$ 668.87	\$ 144.35	\$ 3,089.64
1/31/2031	\$ 896.27	\$ 803.67	\$ 85.88	\$ 507.68	\$ 640.13	\$ 147.24	\$ 3,080.85
1/31/2032	\$ 945.15	\$ 762.21	\$ 81.40	\$ 538.14	\$ 609.67	\$ 150.18	\$ 3,086.75
1/31/2033	\$ 977.74	\$ 718.50	\$ 76.67	\$ 570.43	\$ 577.38	\$ 153.18	\$ 3,073.91
1/31/2034	\$ 1,026.63	\$ 673.28	\$ 71.78	\$ 604.65	\$ 543.16	\$ 156.25	\$ 3,075.75
1/31/2035	\$ 1,075.52	\$ 625.80	\$ 66.65	\$ 640.93	\$ 506.88	\$ 159.37	\$ 3,075.15
1/31/2036	\$ 1,124.41	\$ 576.05	\$ 61.27	\$ 679.39	\$ 468.42	\$ 162.56	\$ 3,072.10
1/31/2037	\$ 1,173.29	\$ 524.05	\$ 55.65	\$ 720.15	\$ 427.66	\$ 165.81	\$ 3,066.61
1/31/2038	\$ 1,238.48	\$ 469.79	\$ 49.78	\$ 763.36	\$ 384.45	\$ 169.13	\$ 3,074.98
1/31/2039	\$ 1,287.36	\$ 412.51	\$ 43.59	\$ 809.16	\$ 338.65	\$ 172.51	\$ 3,063.78
1/31/2040	\$ 1,352.55	\$ 352.97	\$ 37.15	\$ 857.71	\$ 290.10	\$ 175.96	\$ 3,066.44
1/31/2041	\$ 1,417.73	\$ 288.72	\$ 30.39	\$ 909.17	\$ 238.64	\$ 179.48	\$ 3,064.13
1/31/2042	\$ 1,482.91	\$ 221.38	\$ 23.30	\$ 963.72	\$ 184.09	\$ 183.07	\$ 3,058.47
1/31/2043	\$ 1,548.10	\$ 150.94	\$ 15.89	\$ 1,021.55	\$ 126.26	\$ 186.73	\$ 3,049.46
1/31/2044	\$ 1,629.57	\$ 77.40	\$ 8.15	\$ 1,082.84	\$ 64.97	\$ 190.46	\$ 3,053.40
<b>Total</b>	<b>\$ 24,427.31</b>	<b>\$ 16,465.79</b>	<b>\$ 1,777.87</b>	<b>\$ 14,405.43</b>	<b>\$ 13,142.02</b>	<b>\$ 3,674.47</b>	<b>\$ 73,892.89</b>

[a] Interest is calculated at a 4.62% rate.

[b] Interest is calculated at a 6.00% rate.

*Note: The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, reserve fund requirements, interest earnings, or other available offsets could increase or decrease the amounts shown.*

## 6 CREEKS PID - HOMEBUYER DISCLOSURE FOR LOT TYPE 4

### NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENTS TO THE CITY OF KYLE, TEXAS

#### CONCERNING THE PROPERTY AT:

---

STREET ADDRESS  
LOT TYPE 4 ASSESSMENT: \$46,784.95

As the purchaser of the real property located at the street address set forth above, you are obligated to pay assessments to the City of Kyle, Texas, for the costs of a portion of public improvements (the ***“Authorized Improvements”***) undertaken for the benefit of the property within ***“6 Creeks Public Improvement District”*** (the ***“District”***) created under Subchapter A, Chapter 372, Local Government Code, as amended.

**THE PRINCIPAL OF THE LOT TYPE 4 ASSESSMENT AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS IS \$46,784.95, WHICH MAY BE PAID IN FULL AT ANY TIME; HOWEVER, IF NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS WHICH WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, ADMINISTRATIVE EXPENSES, AND DELINQUENCY COSTS.**

An estimate of the annual installments is attached; **however, it is only an estimate and is subject to change**. The exact amount of the annual installments, including the annual installments thereof, will be approved each year by the City Council in the Annual Service Plan Update for the District. More information about the assessments, including the amounts and due dates, may be obtained from the City Secretary.

Your failure to pay any assessment, or any annual installment thereof, may result in penalties and interest being added to what you owe and could result in a lien on and the foreclosure of your property.

The undersigned purchaser acknowledges receipt of the foregoing notice prior to the effective date of a binding contract for the purchase of the real property at the street address set forth above.



IN WITNESS WHEREOF, I have signed this certificate this \_\_\_\_\_, 20\_\_.

**PURCHASER:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TEXAS §

§

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me by \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed, in the capacity stated and as the act and deed of the above-referenced entities as an authorized signatory of said entities.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

STATE OF TEXAS

\_\_\_\_\_  
Notary Public, State of Texas

§

§

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me by \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed, in the capacity stated and as the act and deed of the above-referenced entities as an authorized signatory of said entities.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

**Improvement Area #1 - Lot Type 4**

Installments Due	Lot Type 4 - Improvement Area #1 Bonds			Lot Type 4 - Improvement Area #1 Reimbursement Obligation		Annual Collection Costs	Total Installment
	Principal	Interest [a]	Additional Interest Reserve	Principal	Interest [b]		
1/31/2021	\$ 726.41	\$ 1,326.12	\$ 147.15	\$ 341.54	\$ 1,041.32	\$ 145.52	\$ 3,728.06
1/31/2022	\$ 746.05	\$ 1,297.97	\$ 143.52	\$ 362.03	\$ 1,020.83	\$ 148.43	\$ 3,718.82
1/31/2023	\$ 785.31	\$ 1,269.06	\$ 139.79	\$ 383.75	\$ 999.11	\$ 151.40	\$ 3,728.42
1/31/2024	\$ 824.58	\$ 1,238.63	\$ 135.86	\$ 406.78	\$ 976.08	\$ 154.43	\$ 3,736.35
1/31/2025	\$ 844.21	\$ 1,206.68	\$ 131.74	\$ 431.18	\$ 951.68	\$ 157.51	\$ 3,723.00
1/31/2026	\$ 883.48	\$ 1,171.86	\$ 127.51	\$ 457.05	\$ 925.81	\$ 160.66	\$ 3,726.37
1/31/2027	\$ 922.74	\$ 1,135.41	\$ 123.10	\$ 484.48	\$ 898.38	\$ 163.88	\$ 3,727.99
1/31/2028	\$ 962.01	\$ 1,097.35	\$ 118.48	\$ 513.55	\$ 869.32	\$ 167.15	\$ 3,727.86
1/31/2029	\$ 1,001.27	\$ 1,057.67	\$ 113.67	\$ 544.36	\$ 838.50	\$ 170.50	\$ 3,725.97
1/31/2030	\$ 1,040.54	\$ 1,016.37	\$ 108.67	\$ 577.02	\$ 805.84	\$ 173.91	\$ 3,722.34
1/31/2031	\$ 1,079.80	\$ 968.24	\$ 103.46	\$ 611.64	\$ 771.22	\$ 177.39	\$ 3,711.75
1/31/2032	\$ 1,138.70	\$ 918.30	\$ 98.07	\$ 648.34	\$ 734.52	\$ 180.93	\$ 3,718.86
1/31/2033	\$ 1,177.97	\$ 865.63	\$ 92.37	\$ 687.24	\$ 695.62	\$ 184.55	\$ 3,703.39
1/31/2034	\$ 1,236.87	\$ 811.15	\$ 86.48	\$ 728.47	\$ 654.39	\$ 188.24	\$ 3,705.61
1/31/2035	\$ 1,295.76	\$ 753.95	\$ 80.30	\$ 772.18	\$ 610.68	\$ 192.01	\$ 3,704.88
1/31/2036	\$ 1,354.66	\$ 694.02	\$ 73.82	\$ 818.51	\$ 564.35	\$ 195.85	\$ 3,701.21
1/31/2037	\$ 1,413.56	\$ 631.37	\$ 67.05	\$ 867.62	\$ 515.24	\$ 199.77	\$ 3,694.60
1/31/2038	\$ 1,492.09	\$ 565.99	\$ 59.98	\$ 919.68	\$ 463.18	\$ 203.76	\$ 3,704.68
1/31/2039	\$ 1,550.99	\$ 496.98	\$ 52.52	\$ 974.86	\$ 408.00	\$ 207.84	\$ 3,691.18
1/31/2040	\$ 1,629.52	\$ 425.25	\$ 44.76	\$ 1,033.35	\$ 349.51	\$ 211.99	\$ 3,694.38
1/31/2041	\$ 1,708.05	\$ 347.84	\$ 36.62	\$ 1,095.35	\$ 287.51	\$ 216.23	\$ 3,691.60
1/31/2042	\$ 1,786.58	\$ 266.71	\$ 28.07	\$ 1,161.08	\$ 221.78	\$ 220.56	\$ 3,684.79
1/31/2043	\$ 1,865.12	\$ 181.85	\$ 19.14	\$ 1,230.74	\$ 152.12	\$ 224.97	\$ 3,673.93
1/31/2044	\$ 1,963.28	\$ 93.26	\$ 9.82	\$ 1,304.59	\$ 78.28	\$ 229.47	\$ 3,678.68
<b>Total</b>	<b>\$ 29,429.56</b>	<b>\$ 19,837.66</b>	<b>\$ 2,141.94</b>	<b>\$ 17,355.39</b>	<b>\$ 15,833.25</b>	<b>\$ 4,426.94</b>	<b>\$ 89,024.74</b>

[a] Interest is calculated at a 4.62% rate.

[b] Interest is calculated at a 6.00% rate.

*Note: The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, reserve fund requirements, interest earnings, or other available offsets could increase or decrease the amounts shown.*

## EXHIBIT D – DEBT SERVICE SCHEDULE

### DEBT SERVICE REQUIREMENTS

The following table sets forth the debt service requirements for the Series 2019 Bonds:

<u>Year Ending (September 30)</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2019	\$ -	\$ 92,876.09	\$ 92,876.09
2020	-	337,731.26	337,731.26
2021	185,000.00	337,731.26	522,731.26
2022	190,000.00	330,562.50	520,562.50
2023	200,000.00	323,200.00	523,200.00
2024	210,000.00	315,450.00	525,450.00
2025	215,000.00	307,312.50	522,312.50
2026	225,000.00	298,443.76	523,443.76
2027	235,000.00	289,162.50	524,162.50
2028	245,000.00	279,468.76	524,468.76
2029	255,000.00	269,362.50	524,362.50
2030	265,000.00	258,843.76	523,843.76
2031	275,000.00	246,587.50	521,587.50
2032	290,000.00	233,868.76	523,868.76
2033	300,000.00	220,456.26	520,456.26
2034	315,000.00	206,581.26	521,581.26
2035	330,000.00	192,012.50	522,012.50
2036	345,000.00	176,750.00	521,750.00
2037	360,000.00	160,793.76	520,793.76
2038	380,000.00	144,143.76	524,143.76
2039	395,000.00	126,568.76	521,568.76
2040	415,000.00	108,300.00	523,300.00
2041	435,000.00	88,587.50	523,587.50
2042	455,000.00	67,925.00	522,925.00
2043	475,000.00	46,312.50	521,312.50
2044	500,000.00	23,750.00	523,750.00
<b>Total</b>	<b><u>\$7,495,000.00</u></b>	<b><u>\$5,482,782.45</u></b>	<b><u>\$12,977,782.45</u></b>

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# CITY OF KYLE, TEXAS

## Resolution Adopting Southwest Kyle PID 2020 SAP Update

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** Approve a Resolution adopting the Southwest Kyle Public Improvement District No. 1 2020 Annual Service Plan update. ~ *Jon Snyder, City's PID Administrator, P3Works, LLC, and Paige Saenz, City Attorney.*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

- ☐ Resolution
- ☐ SAP Update 2020

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

**A RESOLUTION OF THE CITY OF KYLE, TEXAS, APPROVING THE 2020 ANNUAL SERVICE PLAN UPDATE FOR THE SOUTHWEST KYLE PUBLIC IMPROVEMENT DISTRICT NO. 1; AND PROVIDING FOR RELATED MATTERS**

**Whereas**, the City of Kyle, Texas (the “City”) approved the creation of the Southwest Kyle Public Improvement District No. 1 (the “District”), adopted a Service and Assessment Plan (the “SAP”) for the District, and levied assessments against the property in the District;

**Whereas**, the SAP is required to be updated annually;

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

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Approval of the Annual SAP Update.** The City Council hereby approves the 2020 Service and Assessment Plan Update for the District attached hereto and incorporated herein for all purposes.

**Section 3. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution 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, *Chapt. 551, Tex. Gov't. Code*.

**PASSED AND APPROVED** this the 1<sup>st</sup> day of September, 2020.

**Attest:**

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Jennifer Holm, City Secretary

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



SOUTHWEST KYLE  
PUBLIC IMPROVEMENT DISTRICT NO. 1  
2020 ANNUAL SERVICE PLAN UPDATE

SEPTEMBER 1, 2020

## INTRODUCTION

Capitalized terms used in this 2020 Annual Service Plan Update shall have the meanings set forth in the 2019 Service and Assessment Plan (the “2019 SAP”) used for the issuance of PID Bonds.

On November 4, 2017, the City Council passed and approved Resolution No. 1083 authorizing the creation of the District in accordance with the PID Act, which authorization was effective upon publication as required by the PID Act. The purpose of the District is to finance the Actual Costs of the Authorized Improvements for the benefit of property within the District.

On June 18, 2019, the City Council passed and approved Ordinance No. 1038 approving the 2019 SAP and authorizing the levy of Assessments on Improvement Area #1 Assessed Property. The 2019 SAP identifies the Authorized Improvements to be provided, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property for the costs of the Authorized Improvements. The City Council also adopted an Assessment Roll identifying the Assessments on each Lot, based on the method of assessment identified in the 2019 SAP.

Pursuant to the PID Act, the SAP must be reviewed and updated annually. This document is the Annual Service Plan Update for 2020. This Annual Service Plan Update also updates the Assessment Roll for 2020.

## LISTED EVENTS

There have been Listed Events in the District.

- On June 28, 2019, David Weekley Homes sent a letter of Termination along with a contract-required executed Bills Paid Affidavit to Paramount Park, Ltd and Prosperity Title Company in Austin, Texas. Paramount Park Ltd is in the process of marketing and selling the 47 Lots David Weekley Homes had under contract to another builder.

## PARCEL SUBDIVISION

There have not been any recorded plats in Improvement Area #1.

## LOT AND HOME SALES

Per the Quarterly Report dated March 31, 2020, there are currently no completed Lots. It is anticipated that Improvement Area #1 will be developed into 330 residential Lots. The Owner intends to close all Lots once platted to homebuilders.

## OUTSTANDING ASSESSMENT

Improvement Area #1 has an outstanding Assessment of \$3,300,000.00.

## ANNUAL INSTALLMENT DUE 1/31/2021

- **Principal and Interest** – The total principal and interest required for the Annual Installment is \$235,562.50.
- **Additional Interest** – The Additional Interest Reserve Requirement, as defined in the Indenture, of \$181,500.00 has not been met. As such, the Additional Interest Reserve will be funded with Additional Interest on the outstanding Assessment, resulting in a Additional Interest Reserve amount due of \$16,500.00.
- **Annual Collection Costs** – The cost of administering the District and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of outstanding Assessment remaining on the Parcel. The total Annual Collection Costs budgeted for the Annual Installment is \$30,000.00.



Improvement Area #1	
Due January 31, 2021	
Principal	\$ 80,000.00
Interest	\$ 155,562.50
Additional Interest	\$ 16,500.00
Annual Collection Costs	\$ 30,000.00
<b>Total Annual Installment</b>	<b>\$ 282,062.50</b>

See **Exhibit B** for the debt service schedule for the PID Bonds as shown in the official statement.

### PREPAYMENT OF ASSESSMENTS IN FULL

No full prepayments of Assessments have occurred within the District.

### PARTIAL PREPAYMENT OF ASSESSMENTS

No partial prepayments of Assessments have occurred within the District.

### BOND FUND

P3Works has reviewed the following PID Bond accounts related to PID Bonds of the Southwest Kyle PID No. 1 as of March 31, 2020 and each account contains the amount shown below.

Account:	3/31/2020 Balance
<b>PID Collection Account</b>	\$41.53
<b>Pledged Revenue Fund</b>	\$16,507.94
<b>Bond Fund</b>	
Capitalized Interest Account	\$79,208.99
Principal and Interest Account	\$0.00
<b>Project Fund</b>	
PID Improvements Account	\$1,892,504.83
PID Costs of Issuance Account	\$0.81
<b>Redemption Fund</b>	\$0.00
<b>Reserve Fund</b>	
Reserve Account	\$239,213.40
Additional Interest Reserve Account	\$0.00
<b>Rebate Fund</b>	\$0.00
<b>Administrative Fund</b>	\$39,843.10

## AUTHORIZED IMPROVEMENTS

The budget for the Authorized Improvements remains at \$2,700,426.00 as shown on the table below.

	Improvement Area #1	
	Budget	Spent to Date <sup>1</sup>
<i>Major Improvements [b]</i>		
Offsite Sewer	\$ 246,852	\$ 280,717
Roland Lane (Phase 1)	269,331	36,505
Parking	55,353	-
	<u>\$ 571,536</u>	<u>\$ 317,222</u>
<i>Improvement Area #1 Improvements</i>		
Opal Lane	\$ 1,127,087	\$ 90,527
Collector Street (Phase 1)	648,868	272,237
Landscaping	352,936	12,705
	<u>\$ 2,128,890</u>	<u>\$ 375,469</u>
<i>Other Reimbursable Costs</i>		
Construction Management	\$ -	\$ 27,708
Legal Fees	-	2,465
PID Application Fee	-	25,000
Expense Deposit for City	-	35,000
Legal Expenses	-	68,901
	<u>\$ -</u>	<u>\$ 159,073</u>
<b>Total</b>	<b>\$ 2,700,426</b>	<b>\$ 851,764</b>

Notes:

<sup>1</sup> As of Draw #11, dated 5/29/2020.

## SERVICE PLAN – FIVE YEAR BUDGET FORECAST

The Act requires the annual indebtedness and projected costs for the improvements to be reviewed and updated in the Annual Service Plan Update, and the projection shall cover a period of not less than five years.

		Improvement Area #1				
Annual Installments Due		1/31/2021	1/31/2022	1/31/2023	1/31/2024	1/31/2025
Principal		\$ 80,000.00	\$ 85,000.00	\$ 85,000.00	\$ 90,000.00	\$ 95,000.00
Interest		\$ 155,562.50	\$ 152,162.50	\$ 148,550.00	\$ 144,937.50	\$ 141,112.50
	(1)	\$ 235,562.50	\$ 237,162.50	\$ 233,550.00	\$ 234,937.50	\$ 236,112.50
Annual Collection Costs	(2)	\$ 30,000.00	\$ 30,600.00	\$ 31,212.00	\$ 31,836.24	\$ 32,472.96
Additional Interest Reserve	(3)	\$ 16,500.00	\$ 16,100.00	\$ 15,675.00	\$ 15,250.00	\$ 14,800.00
<b>Total Annual Installment</b>	<b>(4) = (1) + (2) + (3)</b>	<b>\$ 282,062.50</b>	<b>\$ 283,862.50</b>	<b>\$ 280,437.00</b>	<b>\$ 282,023.74</b>	<b>\$ 283,385.46</b>

## EMINENT DOMAIN PREPAYMENT

If any portion of any Parcel of Assessed Property is taken from an owner as a result of eminent domain proceedings or if a transfer of any portion of any Parcel of Assessed Property is made to an entity with the authority to condemn all or a portion of the Assessed Property in lieu of or as a part of an eminent domain proceeding (a **“Taking”**), the portion of the Assessed Property that was taken or transferred (the **“Taken Property”**) shall be reclassified as Non-Benefitted Property.

For the Assessed Property that is subject to the Taking as described in the preceding paragraph, the Assessment that was levied against the Assessed Property (when it was included in the Taken Property) prior to the Taking shall remain in force against the remaining Assessed Property (the Assessed Property less the Taken Property), (the **“Remaining Property”**) following the reclassification of the Taken Property as Non-Benefitted Property, subject to an adjustment of the Assessment applicable to the Remaining Property after any required Prepayment as set forth below. The owner will remain liable to pay in Annual Installments, or payable as otherwise provided by this Service and Assessment Plan, as updated, or the PID Act, the Assessment that remains due on the Remaining Property, subject to an adjustment in the Annual Installments applicable to the Remaining Property after any required Prepayment as set forth below. Notwithstanding the foregoing, if the Assessment that remains due on the Remaining Property exceeds the Maximum Assessment, the owner will be required to make a Prepayment in an amount necessary to ensure that the Assessment against the Remaining Property does not exceed the Maximum Assessment, in which case the Assessment and Annual Installments applicable to the Remaining Property will be reduced by the amount of the partial Prepayment.

In all instances the Assessment remaining on the Remaining Property shall not exceed the Maximum Assessment.

By way of illustration, if an owner owns 100 acres of Assessed Property subject to a \$100 Assessment and 10 acres is taken through a Taking, the 10 acres of Taken Property shall be reclassified as Non-Benefitted Property and the remaining 90 acres of Remaining Property shall be subject to the \$100 Assessment, (provided that this \$100 Assessment does not exceed the Maximum Assessment on the Remaining Property). If the Administrator determines that the \$100 Assessment reallocated to the Remaining Property would exceed the Maximum Assessment on the Remaining Property by \$10, then the owner shall be required to pay \$10 as a Prepayment of the Assessment against the Remaining Property and the Assessment on the Remaining Property shall be adjusted to be \$90 and the Annual Installments adjusted accordingly.

Notwithstanding the previous paragraphs in this subsection, if the owner notifies the City and the Administrator that the Taking prevents the Remaining Property from being developed for any use which could support the Estimated Buildout Value requirement, the owner shall, upon receipt of the compensation for the Taken Property, be required to prepay the amount of the Assessment required to buy down the outstanding Assessment to the Maximum Assessment on the Remaining Property to support the Estimated Buildout Value requirement. The owner will remain liable to pay the Annual Installments on both the Taken Property and the Remaining Property until such time that such Assessment has been prepaid in full.

Notwithstanding the previous paragraphs in this subsection, the Assessments shall not, however, be reduced to an amount less than the outstanding PID Bonds.

## **ASSESSMENT ROLL**

The list of current Lots within the District, the corresponding total Assessments, and current Annual Installment are shown on the Assessment Roll attached hereto as **Exhibit A**. The Lots shown on the Assessment Roll will receive the bills for the 2020 Annual Installments which will be delinquent if not paid by January 31, 2021.

## EXHIBIT A – ASSESSMENT ROLL

Property ID	Improvement Area #1 Assessments	
	Outstanding Assessment	Annual Installment Due 1/31/2021
Improvement Area #1 Initial Parcel <sup>1</sup>	\$ 3,300,000.00	\$ 282,062.50
<b>Total</b>	<b>\$ 3,300,000.00</b>	<b>\$ 282,062.50</b>

<sup>1</sup> The Improvement Area #1 Initial Parcel consists of Tax IDs R18895, R14786, R18894, R18896, and R18883. Each of the five Tax IDs contained in the Improvement Area #1 Initial Parcel will be charged 20% of the Annual Installment due 1/31/2021.

## EXHIBIT B – DEBT SERVICE SCHEDULE

### DEBT SERVICE REQUIREMENTS

The following table sets forth the debt service requirements for the Series 2019 Bonds:

<u>Year Ending (September 30)</u>	<u>Principal</u>	<u>Interest<sup>(1)</sup></u>	<u>Total</u>
2019	-	\$27,223.44	\$27,223.44
2020	-	155,562.50	155,562.50
2021	\$80,000.00	155,562.50	235,562.50
2022	85,000.00	152,162.50	237,162.50
2023	85,000.00	148,550.00	233,550.00
2024	90,000.00	144,937.50	234,937.50
2025	95,000.00	141,112.50	236,112.50
2026	100,000.00	137,075.00	237,075.00
2027	100,000.00	132,825.00	232,825.00
2028	105,000.00	128,575.00	233,575.00
2029	110,000.00	124,112.50	234,112.50
2030	115,000.00	119,437.50	234,437.50
2031	120,000.00	113,831.26	233,831.26
2032	125,000.00	107,981.26	232,981.26
2033	130,000.00	101,887.50	231,887.50
2034	140,000.00	95,550.00	235,550.00
2035	145,000.00	88,725.00	233,725.00
2036	150,000.00	81,656.26	231,656.26
2037	160,000.00	74,343.76	234,343.76
2038	165,000.00	66,543.76	231,543.76
2039	175,000.00	58,500.00	233,500.00
2040	185,000.00	49,968.76	234,968.76
2041	195,000.00	40,950.00	235,950.00
2042	205,000.00	31,443.76	236,443.76
2043	215,000.00	21,450.00	236,450.00
2044	<u>225,000.00</u>	<u>10,968.76</u>	<u>235,965.76</u>
<b>Total</b>	<b><u>\$3,300,000.00</u></b>	<b><u>\$2,510,936.02</u></b>	<b><u>\$5,810,936.02</u></b>

Includes capitalized interest payments on September 1, 2019, March 1, 2020, and September 1, 2020.

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# CITY OF KYLE, TEXAS

## Hays CISD Parking, TIRZ Joint Use Agreement

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** Approve a Joint Use Agreement with Hays Consolidated Independent School District and TIRZ No. 2 regarding Hays CISD Parking Facilities. ~ *J. Scott Sellers, City Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

- ❑ Joint Use Agreement - HCISD Parking Facilities

## **Joint Use Agreement – HCISD Parking Facilities**

This Joint Use Agreement—HCISD Parking Facilities (the “Agreement”) is entered into between the City of Kyle Reinvestment Zone Number 2 (the “Zone”), a tax increment financing zone created under Chapter 311, Texas Tax Code (the “Zone”), and Hays Consolidated Independent School District (the “District”), a public school district of the State of Texas. The Zone and the District are referred to herein together as the “Parties”.

### **Recitals**

**Whereas**, the District is the owner of that certain real property located in the Zone, in Kyle, Hays County, Texas, generally shown in **Exhibit A** (the “**Property**”);

**Whereas**, the Zone has adopted a Project and Financing Plan (the “Plan”) that addresses the development of projects within the Zone to promote economic development and creation of recreational facilities within the Zone, including trail systems and sports fields;

**Whereas**, the District benefits from increase in property values that will result from the development of the land and the projects within the Zone and the creation of recreational facilities that are available to students and families of the community;

**Whereas**, the District desires to support the success of the projects and development of the land within the Zone by entering into this Agreement to allow the development and use of the Property for public parking facilities by members of the community, persons who work in and patronize office buildings, and customers who visit the recreational facilities and businesses within the Zone;

**Whereas**, under appropriate circumstances publicly held lands and facilities should be used most efficiently to maximize use and increase recreational and economic opportunities for the community;

**Whereas**, Chapter 311, Texas Tax Code, authorizes the Board of Directors of the Zone to enter into agreements as the Board may consider necessary to implement the Plan and achieve the purposes of the Zone; and

**Whereas**, this Agreement is necessary to implement the Project and Financing Plan and to achieve the purposes of the Zone;

**NOW, THEREFORE**, in consideration of the mutual promises and agreements herein contained, the Parties hereto agree as follow:

**Section 1. Cooperative Use of Parking Facilities.** The District and the Zone hereby agree that the Zone may construct and install surface parking facilities (the “**Parking Facilities**”) and



landscaping on the Property and that the Parking Facilities may be used for parking by the general public.

## **Section 2. Construction and Repair of Parking Facilities; Landscaping.**

- (a) In consideration of the District's agreement to allow the Zone and the public to use the Property for Parking Facilities, the Zone shall be responsible for the installation, construction, maintenance, and repair, or for causing the installation, construction, maintenance, and repair of the Parking Facilities during the term of this Agreement. The Zone shall also be responsible for installing and maintaining landscaping for the Property.
- (b) If the Parties determine that it is useful and necessary to do so for the purpose of establishing a budget for ongoing maintenance, after the construction of the Parking Facilities is complete, the Parties' Representatives shall meet annually in June for the purpose of discussing and establishing a budget for the Zone's maintenance and repairs to the Parking Facilities and for Landscaping installation and/or maintenance for the next fiscal year. The proposed budget shall be presented to the Zone Board, and repairs and maintenance to the Parking Facilities for the fiscal year shall be made in accordance with the approved budget.
- (c) The Parties shall cooperate in good faith to provide for maintenance and repairs that are not addressed in the approved budget; provided that the District shall not be obligated to pay for maintenance or repair of the Parking Facilities. The financial obligations of the Zone under this Section shall be paid out of current funds.

**Section 3. Communication.** The District and the Zone shall respectively designate a contact person with whom the other party, or any authorized agent of the party, may confer regarding the terms of this Agreement (the "Representatives"). The designated Representatives of the District and the Zone shall meet at least annually, to discuss operations and scheduling of the Facility and make any necessary adjustments.

**Section 4. Term.** This Agreement will begin on September 28, 2020 and will continue for a period of twenty (20) years, and then shall be automatically renewed on an annual basis.

**Section 5. Above-Ground Parking Facilities.** The Zone may wish to construct above-ground parking facilities on the Property in the future. In such event, the parties shall consider the terms of conveyance of an appropriate property interest in the Property to the City, whether it be fee simple ownership or easement, that would best facilitate the financing, construction and ownership of such facilities by the Zone or the City, as well as other agreements related to joint use of such facilities that serve the Parties,.

**Section 6. Current Funds.** The financial obligations of the Zone shall be subject to there being funds received, appropriated, and budgeted for the purposes set forth herein.

**Section 7. No Indemnification.** It is specifically agreed that, as between the parties, each party to this Agreement shall be individually and respectively responsible for responding to, dealing with, insuring against, defending and otherwise handling and managing liability and potential liability pursuant to this Agreement; each party hereto reserves and does not waive any defense available at

law or in equity to any claim or cause of action whatsoever that may arise or result from the services provided and/or any circumstances arising under this Agreement; this Agreement shall not be interpreted nor construed to give rise to any claim or cause of action to any third party; and that neither the Zone nor the District shall be held legally liable for any claim or cause of action arising pursuant to, or out of this Agreement except as specifically provided by law.

**Section 8. Default.** Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from the other party. Upon the passage of thirty (30) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement. In the event of default, the non-defaulting party to this Agreement may pursue the remedy of specific performance or other equitable or legal remedy not inconsistent with this Agreement or applicable state law. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy.

**Section 9. Notices and Contacts.** All notices, statements, demands, requests, consents, approvals, authorizations, appointments or designations hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party. Either party may change its address or contact person by giving notice to the other party.

**Section 10. Governmental Services - Independent Contractor.** Notwithstanding any provision to the contrary herein, this Agreement is a contract for and with respect to the performance of governmental functions by governmental entities.

(a) The services provided for herein are governmental functions and the Zone and the District shall be engaged in the conduct of a governmental function while providing and or performing any service pursuant to this Agreement.

(b) The relationship of the District and the Zone shall, with respect to that part of any service or function undertaken as a result of or pursuant to this Agreement, be that of independent contractors.

**Section 11. Other Services.** Nothing in this Agreement shall be deemed to create, by implication or otherwise, any duty, responsibility or right as to either the District or the Zone except with respect to the use, maintenance, and repair of the Parking Facilities specifically set forth in this Agreement. This Agreement does not and shall not be interpreted to limit or extend any governmental or proprietary authority for or with respect to the provision of any service or the undertaking of any function or level of service except as specifically set forth herein.

**Section 12. Jurisdiction.** Nothing in this Agreement shall be deemed to extend, increase or limit the jurisdiction or authority of either the Zone or the District except as necessary to implement, perform and obtain the services and duties provided for in this Agreement. Save and except only as specifically provided in this Agreement, all governmental functions and services traditionally provided by the District, and all governmental and proprietary functions and services traditionally provided by the Zone, shall be and remain the sole responsibility of each such respective party.



**Section 13. Governmental Immunity.** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the Zone or the District nor to create any legal rights or claim on behalf of any third party. Neither the District nor the Zone waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

**Section 14. Assignment.** In the event the Zone terminates before the end of the term of this Agreement, this Agreement shall be assigned to the City of Kyle (the "City"), and the City shall be responsible for the obligations of the Zone under this Agreement from and after the date of assignment of this Agreement.

**Section 15. Amendments and Modifications.** This Agreement may not be amended or modified except by written amendment executed by the Zone and the District and authorized by their respective governing bodies.

**Section 16. Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties hereto shall be construed and enforced in accordance therewith. The parties hereto acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed on such a manner that it will, to the maximum extent practicable, be deemed to be validated and enforceable.

**Section 17. Gender, Number and Headings.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

**Section 18. Execution in Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed when all parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.

**IN WITNESS WHEREOF**, the parties have executed and attested this Agreement by their officers thereunto duly authorized, effective as of the date first written above.

**CITY OF KYLE REINVESTMENT ZONE  
NUMBER 2**

Attest:

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

ATTEST:

HAYS CONSOLIDATED

By: Vanessa V. Petrea **INDEPENDENT SCHOOL DISTRICT**  
Name: Vanessa Petrea By: Esperanza Orosco  
Title: Board Secretary Name: Esperanza Orosco  
Title: President, Board of Trustees

The City of Kyle is executing this Agreement for the purpose of consenting to assignment of the Agreement pursuant to Section 14 of this Agreement.

CITY OF KYLE, TEXAS

Attest:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



# CITY OF KYLE, TEXAS

## Annual Review of City's Investment Policy (No Changes)

Meeting Date: 9/1/2020

Date time: 7:00 PM

**Subject/Recommendation:** Approve a Resolution to record the annual review of the City's Investment Policy as required under the Public Funds Investment Act and to document findings that no changes to the policy or investment strategies are being made in this annual review. ~  
*Perwez A. Moheet, CPA, Director of Finance*

**Other Information:** The Public Funds Investment Act (PFIA) under Sec. 2256.005 (e) requires the governing body of an investment entity to review its investment policy and investment strategies not less than annually. This section of the PFIA further requires that the governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written statement so adopted shall record any changes made to the investment policy or to the investment strategies.

No changes to the City's investment policy or to the investment strategies are being recommended by City staff in this annual review.

### Legal Notes:

### Budget Information:

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### ATTACHMENTS:

#### Description

- ☐ Resolution - Investment Policy Review 2020 9-1-2020
- ☐ 2020 Investment Policy

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
KYLE, TEXAS, ADOPTING AN INVESTMENT POLICY; MAKING  
FINDINGS OF FACT; AND PROVIDING FOR RELATED  
MATTERS.**

**WHEREAS**, the Texas Public Funds Investment Act, Section 2256.005 requires that the governing body of an investment entity shall adopt by rule, order, resolution, ordinance, or as appropriate, a written Investment Policy regarding the investment of its funds and funds under its control, and,

**WHEREAS**, the Texas Public Funds Investment Act requires that the Investment Policy, including a list of authorized investments and investment strategies, must be reviewed and approved annually, and,

**WHEREAS**, the Investment Policy attached as Exhibit A to this Resolution complies with the provisions of Texas Public Funds Investment Act.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF KYLE, HAYS COUNTY, TEXAS, THAT:**

**Section 1. Findings.**

The City Council of the City of Kyle finds that:

- A. As required by the Texas Public Funds Investment Act, the City Council has reviewed the Investment Policy and related investment strategies and that the Investment Policy made part of this City Council Resolution so adopted records any changes made to the City's Investment Policy and or investment strategies.
- B. No changes to the investment policy and or to the investment strategies were found to be necessary. Accordingly, no changes were made to the investment policy and or to the investment strategies in this annual review and update.
- C. The following recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Authorization.**

The Investment Policy of the City of Kyle is hereby adopted in compliance with the requirements set forth in the Texas Public Funds Investment Act.

**Section 3. Effective Date.**

This City Council Resolution of the City of Kyle, Texas shall take effect from and after the date of its passage as authorized by the Charter of the City of Kyle.

**Section 4. Open Meetings.**

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

FINALLY PASSED AND APPROVED ON THIS THE \_\_\_\_ DAY OF SEPTEMBER 2020.

THE CITY OF KYLE, TEXAS

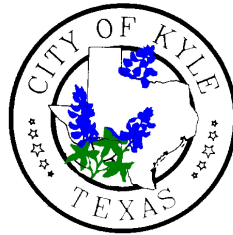
\_\_\_\_\_  
Travis Mitchell, Mayor

ATTEST:

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

# **EXHIBIT A**

## **CITY OF KYLE, TEXAS INVESTMENT POLICY**



Reviewed & Adopted:  
September \_\_, 2020



## **INVESTMENT POLICY**

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## **I. PURPOSE**

It is the policy of City of Kyle, Texas that, giving due regard to the safety and risk of investment, all available funds shall be invested in conformance with State and Federal Regulations, applicable Bond Ordinance requirements, formal Investment Policy and informal investment strategy.

Effective cash management is recognized as essential to good fiscal management. Cash management and effective investment strategy development will be pursued to take advantage of interest earnings as viable and material revenue to all City funds. The City's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with this Policy.

### **A. Formal Adoption**

This Investment Policy is authorized by the City of Kyle City Council in accordance with Chapter 2256, Texas Government Code, the Public Funds Investment Act, as amended, which requires the adoption of a formal written Investment Policy

### **B. Scope**

This Investment Policy applies to all of the investment activities of the City of Kyle, including but not limited to investment of general funds, reserve funds, interest and sinking funds and bond funds. Retirement funds are not governed by this policy. This Policy establishes guidelines for who can invest City funds, how City funds will be invested, and when and how a periodic review of investments will be made. In addition to the guidelines of this Policy, bond funds (as defined by the Internal Revenue Service) shall be managed in accordance with their governing resolution and all applicable State and Federal Law.

### **C. Review and Amendment**

This written investment policy and related fund strategies shall be reviewed annually by the City Council. Amendments must be approved and adopted by the City Council. The City Council shall adopt a written resolution stating that it has reviewed the investment policy and investment strategies.

## **II. INVESTMENT OBJECTIVES**

### **A. Safety of Principal**

The primary objective of all investment activity is the preservation of capital and the safety of principal in the overall portfolio. Each investment transaction shall seek to ensure first that capital losses are avoided, whether from security defaults or erosion of market value.

The City shall seek to control the risk of loss due to the failure of a security issuer or grantor. Such risk shall be controlled by investing only in the safest types of securities as defined in the Policy; by collateralization as required by law; and through portfolio diversification by maturity and type.

### **B. Maintenance of Adequate Liquidity**

The investment portfolio will remain sufficiently liquid to meet the cash flow requirements that might be reasonably anticipated. Liquidity shall be achieved by matching investment maturities with forecasted cash flow requirements; investing in securities with active secondary markets; maintaining

appropriate portfolio diversification; and by investing in eligible money market mutual funds and local government investment pools.

A security may be liquidated to meet unanticipated cash requirements, to redeploy cash into other investments expected to outperform current holdings, or otherwise to adjust the portfolio.

**C. Return on Investments**

The City shall invest local funds in investments that yield a competitive market rate of return while providing necessary principal protection consistent with stated objectives. For bond proceeds to which arbitrage restrictions apply, the primary objectives shall be to obtain a fair market rate and to minimize the costs associated with the investment of such funds within the constraints of the investment policy and applicable bond covenants.

**III. RESPONSIBILITY AND STANDARD OF CARE**

**A. Delegation of Authority**

The Director of Finance shall be the “Investment Officer” of the City. The Investment Officer is authorized by the City Council to cause the investment of all available funds consistent with this policy. In the absence of the Director of Finance, the City Manager shall serve as the Interim Investment Officer. The City Council may also appoint additional Investment Officer(s) by resolution. Because of the various duties and responsibilities related to managing the investment portfolio, the Director of Finance may delegate specific duties and responsibilities to other finance department employees; however, no person shall engage in an investment transaction except as provided under the terms of this policy.

**B. Standard of Care**

The standard of care used by the City shall be the “prudent investor rule” as set forth in Tex. Gov’t Code Ann. Sec. 2256.006, and shall be applied in the context of managing the overall portfolio within the applicable legal constraints. The Prudent Investor Rule states that:

“Investments shall be made with judgment and care, under circumstances then prevailing, that a person of prudence, discretion and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.”

Investment of funds shall be governed by the following investment objectives, in order of priority:

- 1) preservation and safety of principal,
- 2) liquidity, and
- 3) yield

The designated Investment Officers shall perform their duties in accordance with the adopted Investment Policy and internal procedures. In determining whether an Investment Officer has exercised prudence with respect to an investment decision, the investment of all funds over which the Investment Officer had responsibility, rather than the prudence of a single investment shall be considered. Investment Officers acting in good faith and in accordance with these policies and

procedures shall be relieved of personal liability. The designated Investment Officers shall adhere to the City of Kyle Investment Policy and Ethic Ordinance.

#### **C. Conflict of Interest**

The designated Investment Officers shall act as custodians of the public trust avoiding any transaction which might involve a conflict of interest, the appearance of a conflict of interest, or any activity which might otherwise discourage public confidence. Investment Officers shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Additionally, all Investment Officers shall file with the Texas Ethics Commission and the City a statement disclosing any personal business relationship with any business or individual seeking to sell investments to the City, or any relationship within the second degree by affinity or consanguinity to an individual seeking to sell investments to the City. For purposes of this subsection, an Investment Officer has a personal business relationship with a business organization if:

- 1) The Investment Officer owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
- 2) Funds received by the Investment Officer from the business organization exceed 10 percent of the Investment Officer's gross income for the previous year; or
- 3) The Investment Officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the Investment Officer.

#### **D. Establishment of Internal Controls**

The Director of Finance shall establish written administrative procedures for the operation of the investment program consistent with this Policy. The controls shall be designed to prevent, identify and control losses of public funds arising from deviation from this policy, fraud, employee error, misrepresentation by third-parties, or imprudent actions by employees and officers of the City.

Duties related to investment activities will be delegated so that segregation of duties will be maintained with respect to purchasing, recording, authorizing and reconciling investment accounts. All investment transactions must be authorized by the Director of Finance.

### **IV. INVESTMENT ADVISORS AND BROKER / DEALERS**

#### **A. Investment Advisors**

The Finance Director may select an Investment Advisor to advise the City in the investment of City funds and other responsibilities including but not limited to broker compliance, security selection, competitive bidding, security reporting and documentation. The Investment Advisor must be registered with the Securities and Exchange Commission (SEC) under the Investment Advisor's Act of 1940 as well as with the Texas State Securities Board.

Investment Advisors shall agree that investment advice shall at all times be given with the judgment and care, under circumstances then prevailing, which persons paid for their special prudence, discretion

and intelligence, in such matters exercise in the management of their client's affairs, not for speculation by the client or production of fee income by the advisor or broker but for investment by the client with emphasis on the probable safety of the capital while considering the probable income to be derived.

An appointed Investment Advisor shall act solely in an advisory and administrative capacity, within the guidelines of this Investment Policy and without any discretionary authority to transact business on behalf of the City.

The term of any Investment Advisor contract may not exceed two years. Any renewal or extension of the Investment Advisor contract must be made by the City Council by resolution.

Investment Advisors shall additionally prepare, at least on a quarterly basis, a comprehensive portfolio report that includes, at a minimum, the following information:

- ✓ Current portfolio status,
- ✓ Transactions and activity for the period,
- ✓ Investment maturity schedule,
- ✓ Security-type allocation,
- ✓ Income earned,
- ✓ Yield analysis (including benchmarks), and
- ✓ Book value versus market value comparison.

#### **B. Broker / Dealer Selection and Due Diligence**

The City shall establish a list of approved broker/dealers, which qualify under SEC rule 15C3-1 (uniform net capital rule) from which it will conduct security transactions. Each prospective business organization must provide current financial statements, resumes of key sales personnel and a completed broker/dealer questionnaire. The Financial condition of each qualified firm shall be reviewed annually.

In addition, business organizations eligible to transact investment business with the City shall be presented a written copy of this Investment Policy. Additionally, the qualified representative of the business organization offering to engage in an investment transaction with the City shall execute a written instrument in a form acceptable to the City and the business organization substantially to the effect that the business organization has:

- 1) Received and reviewed the investment policy of the City; and
- 2) Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the City and the organization that are not authorized by the City's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards.

The City shall not enter into an investment transaction with a business organization prior to receiving the written instrument described above.

The City Council shall, at least annually, review, revise, and adopt a list of qualified Investment Providers that are authorized to engage in investment transactions with the City.

If the City has contracted with an Investment Advisor, the advisor shall be responsible for performing financial due diligence on the City's behalf. The advisor will annually provide the City with a list of authorized Broker/Dealers as well as the written acknowledgement above.

## **V. AUTHORIZED INVESTMENTS**

### **A. Eligible Investments**

City funds governed by this Policy may be invested in:

- 1) Obligations of the United States or its agencies and instrumentalities, *excluding* mortgaged backed securities, collateralized mortgage obligations, and real estate mortgage investment conduits.
- 2) Direct obligations of the State of Texas or its agencies and instrumentalities;
- 3) Other obligations, the principal and interest on which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas or the United States or their respective agencies and instrumentalities including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the United States;
- 4) Obligations of states, agencies, counties, cities, and other political subdivisions of any State having been rated as to investment quality by a nationally recognized investment rating firm and having received a rating of not less than "A" or its equivalent;
- 5) Fully collateralized repurchase agreement having a defined termination date; placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in Texas; and secured by obligations described by a combination of cash and securities listed in 1- 4 above and pledged with a third-party selected or approved by the City; and having a market value of not less than the principal amount of the funds disbursed. The term repurchase agreement includes reverse repurchase agreements. Repurchase agreements must also be secured in accordance with State law. Each counter party to a repurchase agreement is required to sign a copy of the Security Industry and Financial Markets Association (SIFMA) Master Repurchase Agreement as approved by the City. An executed copy of this Agreement must be on file before the City will enter into any transaction with a counter party.
- 6) Certificates of deposit must be issued by a depository institution that has its main office or a branch office in the state of Texas that are:
  - Guaranteed or insured by the FDIC or its successors; or
  - Secured by obligations that are described by 1-4 above, which are intended to include all direct Federal agency or instrumentality issued mortgage backed securities, but excluding those mortgage-backed securities that have a market value of not less than the principal amount of the certificates; or
  - Secured in any other manner provided by law for deposits of the City; or

- Governed by a Depository Agreement that complies with Federal and State regulation to properly secure a pledged security interest.
- 7) Money market mutual funds regulated by the Securities & Exchange Commission, with a dollar weighted average portfolio maturity of 60 days or less that fully invest dollar-for-dollar all City's funds without sales commissions or loads and, whose investment objectives include seeking to maintain a stable net asset value of \$1 per share. The City may not invest funds under its control in an amount that exceeds 10% of the total assets of any individual money market mutual fund or exceeds 80% of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service in money market mutual funds;
- 8) Commercial paper with a stated maturity of 270 days or less from the date of issuance and rated no less than A-1 or P-1 or an equivalent rating by at least two nationally recognized rating agencies;
- 9) Local government investment pools organized and operating in compliance with the Interlocal Cooperation Act, as amended, whose obligations are exclusively of the obligations that are described by 1-7 above and whose investment philosophy and fund strategy is consistent with this policy.

To maintain eligibility to receive funds from and invest funds on behalf of the City, an investment pool must be continuously rated no lower than AAA or AAA-m, or an equivalent rating by at least one nationally recognized rating service.

In addition, an investment pool must furnish an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

- the types of investments in which money is allowed to be invested;
- the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;
- the maximum stated maturity date any investment security within the portfolio has;
- the objectives of the pool;
- the size of the pool;
- the names of the members of the advisory board of the pool and the dates their terms expire;
- the custodian bank that will safekeep the pool's assets;
- whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;
- whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;
- the name and address of the independent auditor of the pool;
- the requirements to be satisfied for the City to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool; and

- the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios.

To maintain eligibility to receive funds from and invest funds on behalf of the City under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the City:

- Investment transaction confirmations; and
- A monthly report that containing the following information:
  - ✓ the types and percentage breakdown of securities in which the pool is invested;
  - ✓ the current average dollar-weighted maturity, based on the stated maturity date, of the pool;
  - ✓ the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;
  - ✓ the book value versus the market value of the pool's portfolio, using amortized cost valuation;
  - ✓ the size of the pool;
  - ✓ the number of participants in the pool;
  - ✓ the custodian bank that is safekeeping the assets of the pool;
  - ✓ a listing of daily transaction activity of the entity participating in the pool;
  - ✓ the yield and expense ratio of the pool, including a statement regarding how yield is calculated;
  - ✓ the portfolio managers of the pool; and
  - ✓ any changes or addenda to the offering circular.

#### **B. Ineligible Investments**

The following are not authorized investments for the City:

- 1) Obligations whose payments represent the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal (IO's);
- 2) Obligations whose payments represent the principal stream of cash flow from the underlying mortgage-backed security collateral and pays no interest (PO's);
- 3) Collateralized Mortgage Obligations (CMO's) that have a stated final maturity date of greater than 10 years; and
- 4) Collateralized mortgage obligations whose interest rates are determined by an index that adjusts opposite to the changes in the market index (Inverse Floaters).



## **Downgrade Provision for Investment Ratings**

An Investment that requires a minimum rating does not qualify as an authorized investment during the period the investment does not have the minimum rating. The City shall take all prudent measures that are consistent with its Investment Policy to liquidate an investment that does not have the minimum rating. The City shall also monitor the credit ratings on securities that require minimum ratings. This may be accomplished through research, or with the assistance of investment advisors, broker dealers, banks or safekeeping agents.

## **VI. SAFEKEEPING AND COLLATERALIZATION**

### **A. Delivery versus Payment Requirement**

The purchase of individual securities shall be executed “delivery versus payment” (DVP) through the City’s Safekeeping Agent. By so doing, City’s funds are not released until the City has received, through the Safekeeping Agent, the securities purchased.

### **B. Safekeeping Agreement**

The City shall contract with a bank, or banks, for the safekeeping of securities either owned by the City as a part of its investment portfolio or as part of its depository agreements. All collateral securing bank and savings bank deposits must be held in the City’s name by a third-party banking institution acceptable to and under contract with the City, by the Federal Reserve Bank.

Evidence of perfected ownership shall be provided through monthly safekeeping statements which shall be promptly reconciled to internal investment records.

### **C. Collateralization**

Consistent with the requirements of State law, the City requires all bank and savings bank deposits to be federally insured or collateralized with eligible securities. Financial institutions serving as City’s Depositories will be required to sign a Depository Agreement with the City and the City’s safekeeping agent. The safekeeping portion of the Agreement shall define the City’s rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- 1) The Agreement must be in writing;
- 2) The Agreement has to be executed by the Depository and the City contemporaneously with the acquisition of the asset;
- 3) The Agreement must be approved by the Board of Directors or the loan committee of the Depository and a copy of the meeting minutes must be delivered to the City;
- 4) The Agreement must be part of the Depository’s “official record” continuously since its execution.

**D. Required Collateral Levels**

- 1) Certificates of Deposit  
The market value of the principal portion of collateral pledged for certificates of deposit must at all times be equal to or greater than the par value of the certificates of deposit plus accrued interest, less the applicable level of FDIC insurance.
- 2) Repurchase Agreements  
A repurchase agreement's security value shall be the par value plus accrued interest, and the security's market value must be maintained as a minimum of 102% of the principal value of the repurchase agreement.

**E. Monitoring Collateral Adequacy**

- 1) Certificates of Deposit  
The City shall require monthly reports with market values of pledged securities from all financial institutions with which the City has collateralized deposits. The Investment Officers will monitor adequacy of collateralization levels to verify market values and total collateral positions.
- 2) Repurchase Agreements  
Weekly monitoring by the Investment Officer(s) of market values of all underlying securities purchased for City repurchase transactions is required. More frequent monitoring may be necessary during periods of market volatility.

**F. Additional Collateral and Securities**

- 1) Certificates of Deposit  
If the collateral pledged for a deposit falls below the par value of the deposit, plus accrued interest and less FDIC insurance, the institution holding the deposit will be notified by the Investment Officer(s) and will be required to pledge additional securities no later than the end of the next succeeding business day.
- 2) Repurchase Agreements  
If the value of the securities underlying a repurchase agreement falls below the margin maintenance levels specified above, the Investment Officer(s) will request additional securities. If the repurchase agreement is scheduled to mature within five business days and the amount is deemed to be immaterial, then the request is not necessary.

**G. Collateral Substitution**

Collateralized deposits often require substitution of securities. Substitution is permitted if the substitution maintains a pledged value equal to or greater than the required security level. Substitution is allowable for all transactions, but should be limited, if possible, to minimize potential administrative problems and transfer expense.

## **VII. REPORTING**

### **A. Required Reports**

Investment performance will be monitored and evaluated by the Investment Officer(s). The Investment Officers will provide a quarterly comprehensive report signed by all Investment Officer(s) to the City Council. This investment report shall:

- 1) Describe in detail the investment position of the City,
- 2) Contain a summary statement, prepared in compliance with generally accepted accounting principles, of each pooled fund group that states the:
  - ✓ beginning market value for the reporting period;
  - ✓ ending market value for the period; and
  - ✓ fully accrued interest for the reporting period;
- 3) State the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;
- 4) State the maturity date of each separately invested asset that has a maturity date;
- 5) State the account or fund or pooled group fund for which each individual investment was acquired; and
- 6) State the compliance of the investment portfolio with the City's Investment Policy and strategy and the Public Funds Investment Act.

### **B. Market Pricing**

The investment portfolio will be marked to market monthly. These sources may include, but are not limited to, the City's Investment Advisor, the Wall Street Journal, Bloomberg and the City's safekeeping agent.

### **C. Compliance Audit**

The City, in conjunction with its annual financial audit, shall require a compliance audit of management controls on investments and adherence to the City's Investment Policy and strategies. If the City invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the Investment Officer(s) shall be formally reviewed at least annually by an independent auditor, and the result of the compliance audit shall be reported to the City Council.

**D. Performance Measurement**

The City will normally seek to invest its funds with an average maturity of one year or less. As a result, an appropriate benchmark to gauge relative performance shall be the one year Constant Maturity Treasury (CMT).

**E. Strategic Planning and Finance Committee**

The Strategy Planning and Finance Committee shall meet quarterly to review investment performance and strategy, serving as the investment advisory committee to the City Council.

**VIII. INVESTMENT OFFICER TRAINING**

All those designated as Investment Officers by the City Council must attend at least one training session relating to the Investment Officers' responsibilities within 12 months after taking office or assuming duties; and attend an investment training session not less than once in a two-year period that begins on the first day of the City's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities from an independent source approved by the City Council or the Strategic Planning and Finance Committee.

Training under this section must be provided by an independent source and approved by the City Council. Appropriate training shall include education in investment controls, security risks, strategy risks, market risks, and compliance with the Public Funds Investment Act.

**IX. INVESTMENT STRATEGIES**

In order to minimize risk of loss due to interest rate fluctuations, investment maturities will not exceed the anticipated cash flow requirements of the funds. Investment strategies by fund are as follows:

**A. Operating Funds**

Investment strategies for operating funds have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. The secondary objective is to create a portfolio structure which will experience minimal volatility during economic cycles. This may be accomplished by purchasing quality, short-to-medium term securities which will complement each other in a ladder structure. The dollar-weighted average maturity of 18 months or less will be calculated using the stated final maturity dates of each security and the maximum allowable maturity shall be five years.

**B. Bond Proceeds**

The investment maturity of bond proceeds (excluding reserve and debt service funds) shall generally be limited to the anticipated cash flow requirement or the "temporary period," as defined by Federal tax law. During the temporary period, which is generally three years for capital projects, bond proceeds may be invested at an unrestricted yield. After the expiration of the temporary period, bond proceeds are subject to yield restriction and shall be invested considering the anticipated cash flow requirements of the funds and market conditions to achieve compliance with the applicable regulations. The maximum maturity for all bond proceeds shall not exceed the anticipated project spending dates. Interest in excess of the allowable arbitrage earnings will be segregated and made available for necessary payments to the US Treasury.

**C. Debt Service Funds**

Investment strategies for Debt Service Funds shall be to ensure adequate funding for each consecutive debt service payment. The Investment Officers shall invest in such a manner as not to exceed an “unfunded” debt service date with the maturity of any investment. An unfunded debt service date is defined as a coupon or principal payment date that does not have cash or investment securities available to satisfy said payment.

**D. Bond Reserve Funds**

Market conditions, Bond Ordinance constraints and Arbitrage regulation compliance will be considered when formulating Reserve Fund strategy. Maturity limitation shall generally not exceed the call provisions of the Bond Ordinance and shall not exceed the final maturity of the bond issue.

**E. Other Funds**

The anticipated cash requirements of other City funds will govern the appropriate maturity mix. Appropriate portfolio strategy shall be determined based upon market conditions. Policy compliance, City financial condition, and other risk return constraints will be considered when formulating investment strategy. Maximum maturity shall not exceed five years.

## Glossary of Cash Management Terms

**Accretion** – common investment accounting entry in which the book value of securities purchased at a discount are gradually written up to the par value. The process has the effect of recording the discount as income over time.

**Accrued Interest** – Interest earned, but not yet paid, on a bond.

**Agency** – See Federal Agency

**Amortization** – common investment accounting entry in which the book value of securities purchased at a premium are gradually written down to the par value.

**Basis Point** - A unit of measurement used in the valuation of fixed-income securities equal to 1/100 of 1 percent of yield, e.g., "1/4" of 1 percent is equal to 25 basis points.

**Benchmark** – Index used to compare risk and performance to a managed portfolio.

**Bid** - The indicated price at which a buyer is willing to purchase a security or commodity.

**Book Value** – The original acquisition cost of an investment plus or minus the accrued amortization or accretion.

**Broker** – A financial firm that brings securities buyers and sellers together in return for a fee. The term “broker” is often used interchangeably with “dealer” to refer to a seller of investment securities.

**Callable Bond** - A bond issue in which all or part of its outstanding principal amount may be redeemed before maturity by the issuer under specified conditions.

**Cash Settlement** - A transaction which calls for delivery and payment of securities on the same day that the transaction is initiated.

**Collateralization** - Process by which a borrower pledges securities, property, or other deposits for the purpose of securing the repayment of a loan and/or security.

**Collateralized Mortgage Obligation (CMO)** – A derivative mortgage-backed security (MBS) created from pools of home mortgage loans. A single MBS is divided into multiple classes, each class containing a unique risk profile and security characteristics. A number of CMO classes are expressly prohibited by Texas State law.

**Commercial Paper** - An unsecured short-term promissory note issued by corporations, with maturities ranging from 1 to 270 days. Commercial paper must carry a minimum rating of A1P1 in order to be eligible under the Texas Public Funds Investment Act.

**Constant Maturity Treasury (CMT)** – A calculated average released by the Federal Reserve of all Treasury yields along a specific maturity point. This calculation is frequently used as a benchmark for conservative government portfolios.

**Coupon Rate** - The annual rate of interest received by an investor from the issuer of certain types of fixed-income securities. Also known as the "interest rate."

**Credit Risk** - The risk to an investor that an issuer will default in the payment of interest and/or principal on a security.

**Derivative** – Financial instruments whose value is derived from the movement of an underlying index or security.

**Dealer** – A dealer, as opposed to a broker, acts as a principal in all securities transactions, buying and selling for their own account. Often times, the terms “broker” and “dealer” are used interchangeably to refer to a seller of investment securities.

**Delivery Versus Payment (DVP)** - A type of securities transaction in which the purchaser pays for securities at the time of delivery either to the purchaser or his/her custodian.

**Derivative Security** - Financial instrument created from, or whose value depends upon, one or more underlying assets or indexes of asset values.

**Discount** - The amount by which the par value of a security exceeds the price paid for the security.

**Diversification** - A process of investing assets among a range of security types by sector, maturity, and quality rating.

**Dollar Weighted Average Maturity (WAM)** - The average maturity of all the securities that comprise a portfolio.

**Fair Market Rate** – A documented and verifiable rate of interest which approximates the average rate which could have been earned on similar investments at the time of the transaction.

**Federal Agency** – A debt instrument, either fully guaranteed or sponsored by the U.S. government. The typical definition of agency includes the government sponsored enterprises of Fannie Mae, Freddie Mac, the Federal Farm Credit Bank (FFCB) and the Federal Home Loan Bank (FHLB).

**Federal Deposit Insurance Corporation (FDIC)** - A federal agency that insures bank deposits, currently up to \$250,000 per account or as adjusted by FDIC. Public deposits that exceed this amount must be properly collateralized with investment securities or insured through a surety bond.

**Interest Rate** - See "Coupon Rate."

**Internal Controls** - An internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met.

**Interlocal Cooperation Act** – Law permitting joint participation by local governments providing one or more government functions within the State. This law (Section 791.001 et seq. of the Texas Government Code ("the Act")) has allowed for the creation of investment pools in Texas.

**Investment Advisors Act of 1940** - Law which requires all Investment Advisors to be registered with the SEC in order to protect the public from fraud.

**Investment Policy** - A concise and clear statement of the objectives and parameters formulated by an investor or investment manager for a portfolio of investment securities. The Texas Public Funds Investment Act requires that public entities have a written and approved investment policy.

**Investment Pool** – An entity created under the Interlocal Cooperation Act to invest public funds jointly on behalf of the entities that participate in the pool.

**Liquidity** – A liquid investment is one that can be easily and quickly converted to cash without substantial loss of value. Investment pools and money market funds, which allow for same day withdrawal of cash, are considered extremely liquid.

**Local Government Investment Pool (LGIP)** - An investment by local governments in which their money is pooled as a method for managing local funds.

**Market Risk** - The risk that the value of a security will rise or decline as a result of changes in market conditions.

**Market Value** - A security's par amount multiplied by its market price.

**Master Repurchase Agreement** – A written contract covering all future transactions between the two parties to a repurchase agreement.

**Maturity** - The date on which payment of a financial obligation is due. The final stated maturity is the date on which the issuer must retire a bond and pay the face value to the bondholder. See "Weighted Average Maturity."

**Money Market Mutual Fund** - Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repos and federal funds).

**Mortgage-Backed Security (MBS)** – Security backed by pools of home loan mortgages.

**Financial Industry Regulatory Authority (FINRA) - formerly the National Association of Securities Dealers (NASD)** - A self-regulatory organization (SRO) of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.

**Net Asset Value (NAV)** – The value of a mutual fund or investment pool at the end of the business day. NAV is calculated by adding the market value of all securities in a fund or pool, deducting expenses, and dividing by the number of shares in the fund or pool.

**Offer** - An indicated price at which market participants are willing to sell a security. Also referred to as the "Ask price."

**Par** - Face value or principal value of a bond, typically \$1,000 per bond. A security's par value is multiplied by its coupon rate to determine coupon payment amount.

**Premium** - The amount by which the price paid for a security exceeds the security's par value.

**Primary Government Securities Dealer (Primary Dealer)** – One of 21 (as of 12/2011 ) large government securities dealers who are required to submit daily reports of market activity and monthly financial statements to the New York Federal Reserve Bank. Primary Dealers are required to continually "make a market" in Treasury securities, buying or selling when asked, thereby creating a liquid secondary market for US debt obligations.

**Principal** - The face value or par value of a debt instrument. Also may refer to the amount of capital invested in a given security.



**Prudent Person Rule** - An investment standard outlining the fiduciary responsibilities of public funds investors relating to investment practices.

**Regular Way Delivery** - Securities settlement that calls for delivery and payment on the third business day following the trade date (T+3); payment on a T+1 basis is currently under consideration. Mutual funds are settled on a same day basis; government securities are settled on the next business day.

**Repurchase Agreement (repo or RP)** - An agreement by one party to sell securities at a specified price to a second party and a simultaneous agreement of the first party to repurchase the securities at a specified price or at a specified later date.

**Reverse Repurchase Agreement (Reverse Repo)** - An agreement of one party to purchase securities at a specified price from a second party and a simultaneous agreement by the first party to resell the securities at a specified price to the second party on demand or at a specified date.

**Safekeeping** - Holding of assets (e.g., securities) by a financial institution.

**Swap** - Trading one asset for another.

**Total Return** - The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain time period. (Price Appreciation) + (Dividends paid) + (Capital gains) = Total Return

**Treasury Bills** - Short-term U.S. government non-interest bearing debt securities with maturities of no longer than one year and issued in minimum denominations of \$10,000. Auctions of three- and six-month bills are weekly, while auctions of one-year bills are monthly. The yields on these bills are monitored closely in the money markets for signs of interest rate trends.

**Treasury Notes** - Intermediate U.S. government debt securities with maturities of two- to 10-years and issued in denominations ranging from \$1,000 to \$1 million or more.

**Uniform Net Capital Rule** - SEC Rule 15C3-1 outlining capital requirements for broker/dealers.

**Volatility** - A degree of fluctuation in the price and valuation of securities.

**Yield** - The current rate of return on an investment security generally expressed as a percentage of the security's current price.

**Yield-to-call (YTC)** - The rate of return an investor earns from a bond assuming the bond is redeemed (called) prior to its nominal maturity date.

**Yield Curve** - A graphic representation that depicts the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity. A normal yield curve may be alternatively referred to as a positive yield curve.

**Yield-to-maturity** - The rate of return yielded by a debt security held to maturity when both interest payments and the investor's potential capital gain or loss are included in the calculation of return.

**Zero-coupon Securities** – Securities issued at a discount which make no periodic interest payment. The rate of return consists of a gradual accretion of the principal of the security and is payable at par upon maturity.



## CITY OF KYLE, TEXAS

### Mountain Plum, Uptown Agreement

Meeting Date: 9/1/2020

Date time: 7:00 PM

**Subject/Recommendation:** Agreement Between the City of Kyle (“City”), Mountain Plum, Ltd., a Texas limited partnership, Uptown at Plum Creek Phase 1A, LLC, an Oklahoma limited liability company and Corridor Title Company regarding Site Development and Escrow Agreement of even date herewith by and between Mountain Plum, Purchaser and Escrow Agent, pertaining to the Property. ~ *Paige Saenz, City Attorney*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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#### ATTACHMENTS:

##### **Description**

- ☐ Letter\_Agreement
- ☐ 2020.07.15 Site Development and Escrow Agreement
- ☐ 2020.07.20 Plum Creek Uptown Ph 1A - Pay App# 1 & Waiver WGI

\_\_\_\_\_, 2020

VIA EMAIL

City of Kyle  
100 West Center Street  
Kyle, Texas 78640  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_

Re: Agreement Between the City of Kyle (“**City**”), Mountain Plum, Ltd., a Texas limited partnership (“**Mountain Plum**”), Uptown at Plum Creek Phase IA, LLC, an Oklahoma limited liability company (“**Purchaser**”) and Corridor Title Company (“**Escrow Agent**”) regarding Site Development and Escrow Agreement of even date herewith (the “**Development Agreement**”) by and between Mountain Plum, Purchaser and Escrow Agent, pertaining to the Property (as defined in the Development Agreement). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such term in the Development Agreement.

Dear \_\_\_\_\_:

This letter agreement (“**Agreement**”) sets forth the agreement between the City, Mountain Plum, Purchaser and Escrow Agent with respect to the matters set forth herein.

Mountain Plum and Buyer acknowledge that the City will require that certain rights under the Development Agreement be granted to the City, as security for the construction of those portions of the Site Work required by the City in connection with the development of the Property and described in Exhibit A attached hereto (the “**Public Site Work**”), as further set forth herein. Accordingly, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the City, Mountain Plum, Purchaser and Escrow Agent hereby agree as follows:

1. Disbursement of Escrowed Funds. Mountain Plum shall deliver to the City a copy of each Draw Request related to the Public Site Work that it delivers to Buyer, simultaneously with or promptly following delivery to Buyer. Five (5) days after a Draw Request is delivered to the City, unless within such five (5) day period, (i) the City delivers to Escrow Agent a Dispute Notice (as defined below) pursuant to this Agreement or (ii) Buyer delivers to Escrow Agent a Dispute Notice pursuant to the Development Agreement, Escrow Agent shall disburse to Mountain Plum out of the Escrowed Funds the amount covered by the Draw Request (or the undisputed portion thereof) in accordance with the Development Agreement.

2. Dispute Notice. If the City, acting in good faith, reasonably believes that the disbursement of the Escrowed Funds sought by Mountain Plum pursuant to a Draw Request related to the Public Site Work is not proper, the City may give Mountain Plum and Escrow Agent a notice disputing such requested disbursement containing an explanation of the basis for such dispute and a statement of the portion of such requested disbursement that is disputed (a “Dispute Notice”) within five (5) days following its receipt of the Draw Request. For the avoidance of doubt, the parties acknowledge and agree that the City shall only have the right to deliver a Dispute Notice with respect to the Public Site Work. If a Dispute Notice is provided in accordance with the preceding sentence, Escrow Agent shall withhold the portion of the requested disbursement specified in such Dispute Notice until the City and Mountain Plum deliver a joint

notice to Escrow Agent that the dispute has been resolved, authorizing disbursement as set forth in such joint notice. All disputes regarding Dispute Notices provided by the City in accordance with this Agreement shall be resolved by Mountain Plum and the City using the Expedited Arbitration Process described in Section 3.6 of the Development Agreement; provided, however, that (i) the arbitrator will have no decision-making authority other than to select either the determination or recommendation of Mountain Plum or the City as final and conclusive after due consideration of the factors to be taken into account under the applicable provisions of the Development Agreement and this Agreement; and (ii) the costs and fees of the arbitrator will be shared equally by Mountain Plum and the City.

3. Takeover Notice. If Mountain Plum fails to timely complete any portion of the Public Site Work as and when required in the Development Agreement, the City shall have the right, but not the obligation, to notify Mountain Plum in writing of such default and of its intent to commence and/or complete the applicable outstanding Public Site Work (a "Takeover Notice"). If Mountain Plum fails to complete the applicable portion of the Public Site Work (or applicable element(s) thereof) within sixty (60) days following its receipt of the Takeover Notice or, if the applicable portion of the Public Site Work (or applicable element(s) thereof) cannot reasonably be completed within such sixty (60) day period, then such additional period of time as is reasonably necessary to complete such activities (provided that Mountain Plum commences such activities within such sixty (60)-day period and thereafter diligently pursues same to completion), then upon providing Mountain Plum at least ten (10) days prior written notice, the City may commence and thereafter complete the construction of the applicable Public Site Work in accordance with the Site Work Plans and the terms, provisions and conditions of the Development Agreement, and Mountain Plum hereby agrees to thereafter assign (or partially assign, as applicable) to the City the applicable Public Site Work and all assignable construction and other contracts pertaining thereto upon written request by the City.

If the City takes over construction of all or a portion of the Public Site Work as described in the preceding paragraph, then (i) the City shall be entitled to draw upon the Escrowed Funds for the payment of the Costs of the applicable Public Site Work in accordance with the terms, provisions and conditions of Article 3 of the Development Agreement; (ii) Escrow Agent shall deliver to Mountain Plum a copy of each Draw Request that it receives from the City promptly after receipt thereof from the City, and (iii) Mountain Plum shall have the same rights as the City to provide a Dispute Notice with respect to any such Draw Request, in accordance with the provisions of paragraph 2 above. Additionally, if the City takes over construction of all or a portion of the Public Site Work as described in the preceding paragraph, then (a) the City is hereby granted (by Mountain Plum or Buyer, as applicable) a temporary construction easement on such portions of the Property as are reasonably necessary for the construction of the applicable Public Site Work; (b) the City shall restore the surface of any portion of the Property damaged by the City's use of such temporary construction easement and shall remove any debris resulting from its use of such temporary construction easement; and (c) such temporary construction easement will automatically terminate and expire without further documentation being required upon the completion of construction of the applicable portion of the Public Site Work.

This Agreement may be executed in any number of counterparts and delivered in electronic format, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts shall constitute but one and the same agreement. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, as well as their respective successors and assigns. Each party hereby represents and warrants to the other party that such party has the requisite authority to execute this Agreement and bind such party to the terms, provisions and conditions of this Agreement.

Please execute this Agreement where indicated below to evidence your agreement to the terms of this Agreement and return such executed counterpart via email to [megan@momarkdevelopment.com](mailto:megan@momarkdevelopment.com) and [efree@goldensteves.com](mailto:efree@goldensteves.com).

Sincerely,

MOUNTAIN PLUM, LTD.,  
a Texas limited partnership

By: MP General, L.L.C.,  
a Texas limited liability company,  
its general partner

By: \_\_\_\_\_  
Richard B. Negley, Manager

By: \_\_\_\_\_  
Thomas J. Smith, Manager

By: MountainCityLand, LLC,  
a Texas limited liability company,  
its Manager

By: \_\_\_\_\_  
Laura Negley Gill, Manager

Acknowledged and agreed to this \_\_\_\_ day of \_\_\_\_\_, 2020 by:

**CITY OF KYLE, TEXAS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Acknowledged and agreed to this \_\_\_\_ day of \_\_\_\_\_, 2020 by:

**UPTOWN AT PLUM CREEK PHASE IA LLC,**  
an Oklahoma limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager

Acknowledged and agreed to this \_\_\_\_ day of \_\_\_\_\_, 2020 by:

**CORRIDOR TITLE COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



Exhibit A

Description of Public Site Work

Public Site Work to include Roadway, Water, Sewer, Drainage, Erosion & Sedimentation Control, as shown in the plans referenced below:

[see attached]

[illegible]

## SITE DEVELOPMENT AND ESCROW AGREEMENT

This Site Development and Escrow Agreement (this "Agreement") is made as of the 28<sup>th</sup> day of May, 2020 (the "Effective Date"), by and among **MOUNTAIN PLUM, LTD.**, a Texas limited partnership ("Mountain Plum"), **UPTOWN AT PLUM CREEK PHASE IA LLC**, an Oklahoma limited liability company ("Buyer"), and **CORRIDOR TITLE COMPANY** ("Escrow Agent"). Buyer and Mountain Plum are each sometimes referred to herein as a "Party" and collectively as the "Parties".

In consideration of the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, Buyer and Mountain Plum hereby recite and agree as follows:

### **ARTICLE 1.**

#### **General Provisions and Definitions**

A. Mountain Plum is the owner of a parcel of land situated in the City of Kyle, Hays County, Texas and described by metes and bounds on **Exhibit A** attached hereto (the "Mountain Plum Parcel").

B. As of the date hereof, Mountain Plum has conveyed to Buyer that certain parcel of land located adjacent to the Mountain Plum Parcel and described by metes and bounds on **Exhibit B** attached hereto (the "Buyer Parcel"). The Buyer Parcel and the Mountain Plum Parcel are each sometimes individually referred to herein as a "Parcel," and are collectively referred to herein as the "Property."

C. In connection with Buyer's acquisition and development of the Buyer Parcel, Mountain Plum and Buyer have agreed that certain Site Work (hereinafter defined) shall be completed for the benefit of the Property.

D. Following completion of the Site Work, Buyer has agreed to pursue and obtain approval (to the extent not already obtained) from the City of Kyle to record a plat of the Buyer Parcel, the current proposed form of which plat is attached hereto as **Exhibit E**, which such plat has been approved by the Parties (the "Plat"), and to record the Plat in the Real Property Records of Hays County Texas, as further provided herein.

E. Buyer has (i) agreed to pay Buyer's Site Work Share (as hereinafter defined) of the Costs (hereinafter defined) of the Site Work as hereinafter provided and (ii) escrowed the sum of Three Hundred Seventy-Seven Thousand Five Hundred Ninety-Three and 84/100ths Dollars (\$377,593.84) (the "Buyer Escrowed Funds"), representing an estimate of Buyer's Site Work Share, subject to the terms, conditions and provisions contained herein.

F. Mountain Plum has (i) agreed to pay Mountain Plum's Site Work Share of the Costs of the Site Work as hereinafter provided and (ii) escrowed the sum of One Million Five Hundred Sixty-Eight Thousand Four Hundred Twenty-One and 36/100ths Dollars (\$1,568,421.36) (the "Mountain Plum Escrowed Funds"), representing Mountain Plum's Site Work Share, subject to the terms, conditions and provisions contained herein. The Mountain Plum Escrowed Funds and Buyer Escrowed Funds shall be referred to collectively herein as the "Escrowed Funds."

F. Mountain Plum and Buyer desire to enter into this Agreement to set forth their understanding and agreement regarding the performance of the Site Work and responsibility for the Costs thereof, in accordance with this Agreement.

### **ARTICLE 2.**

#### **Site Work**

2.1 Construction of Site Work. Mountain Plum and Buyer hereby agree that Mountain Plum, through MG Advisors, LLC acting in its capacity as Mountain Plum's development manager, shall be responsible for constructing the public roads, waterlines, wastewater lines, and drainage facilities and electric facilities (collectively, the "Site Work") shown on and in accordance with the plans and specifications referenced in Exhibit C attached hereto, and incorporated herein by such reference in their entirety (the "Site Work Plans"), at its cost, subject to the right to draw from the Escrowed Funds, as provided hereinbelow. Mountain Plum shall cause the Site Work to be completed not later than three hundred sixty-five (365) days following the Effective Date, as such date may be extended on a day-for-day basis for delays caused by force majeure and delays caused by Buyer.

2.2 Site Work Share(s). Each of Mountain Plum and Buyer shall be responsible for a share (each, a "Site Work Share") of the Costs of the Site Work. Mountain Plum's Site Work Share is an amount equal to the Mountain Plum Escrowed Funds. Buyer's Site Work Share is an amount equal to all Costs of constructing the Site Work in excess of the Mountain Plum Escrowed Funds. As used herein, the term "Costs" shall mean all out-of-pocket costs and expenses incurred by Mountain Plum in connection with the design, permitting and construction of the Site Work, including, without limitation: the total actual out-of-pocket costs incurred for the construction of the Site Work; all application, permit or review fees required for the construction of the Site Work; and all fees and expenses of engineers, surveyors, and other professionals and consultants incurred in connection with the preparation and processing of the plans, permits and approvals for the construction and the supervision of the construction of the Site Work. The anticipated Costs are set forth in the budget attached hereto and made a part hereof as Exhibit D (the "Approved Budget"). In the event the Costs exceed the amount set forth in the Approved Budget, then Buyer shall be solely responsible for such increased Costs, Buyer shall deposit into escrow 110% of such additional amount and any such deposited amount shall become part of the Buyer Escrowed Funds hereunder.

2.3 Change Orders. Any changes to the Site Work requested by one or more Party(s) ("Change Orders") shall be subject to joint approval by the Parties, which approval shall not be unreasonably withheld, delayed or conditioned. Either Party shall have the right to initiate a Change Order by written request to the other Party, but such Change Order and any related Costs shall be subject to the prior written approval of the non-requesting Party, such approval not to be unreasonably withheld, conditioned or delayed, and which approval shall be given or denied within ten (10) days following receipt of such request. If the non-requesting Party shall fail to approve or deny such request within such 10-day period, then the requesting Party shall submit a second written request to the non-requesting Party. Should the non-requesting Party fail to approve or deny such request within five (5) business days following receipt of such second request, the non-requesting Party shall be deemed to have disapproved such request. All disputes shall be resolved by the Parties using the Expedited Arbitration Process (as hereinafter defined). All Change Orders shall be in writing and shall be signed by representatives of each Party following approval.

2.4 Completion of Site Work; Maintenance. The Site Work shall be deemed "completed" after the completion of all work and certification of such completion by Mountain Plum's engineer (the "Certification"). Buyer shall have five (5) days after receipt of such Certification to disapprove, in its reasonable discretion, of said Certification. Any disapproval of the Certification shall be in writing, shall set forth with particularity the grounds for disapproval, and be signed by a licensed engineer. If the Parties fail to agree that the Site Work has been completed following any such disapproval, any dispute shall be resolved by the Parties using the Expedited Arbitration Process. Following completion of the Site Work, the maintenance of the facilities installed as part of the Site Work shall be performed by Buyer in accordance with the terms and provisions of that certain Declaration of Easements between Buyer and Mountain Plum dated as of the date hereof and recorded in the Official Public Records of Hays County, Texas.

2.5 Reimbursement of Costs. Mountain Plum shall be entitled to draw upon the Escrowed Funds for the payment of the Costs of the Site Work in accordance with the terms, provisions and conditions of Article 3 hereof.

2.6 Grant of Easements for Construction of the Site Work. Mountain Plum is hereby granted a temporary construction easement on such portions of the Buyer Parcel as are reasonably necessary for the construction of the Site Work. Mountain Plum shall restore the surface of any portion of the Buyer Parcel damaged by Mountain Plum's use of the temporary easement and shall remove any debris resulting from its use of the temporary easement. Such temporary easement will automatically terminate and expire without further documentation being required upon the completion of construction of the Site Work.

2.7 Plat. Buyer hereby covenants and agrees that, within sixty (60) days following completion of the Site Work, it shall cause to be recorded the Plat in the Real Property Records of Hays County, Texas (which Plat shall include, without limitation, dedication of the public right(s) of way and utility easement(s) in the locations shown thereon), subject only to such revisions as may be approved by Mountain Plum in its sole discretion, it being acknowledged and agreed that the recordation of the Plat and dedication of the right(s) of way and easement(s) shown thereon are a material inducement to Mountain Plum to execute, deliver and perform its obligations under this Agreement. Mountain Plum will reasonably cooperate with Buyer in filing the Plat, including execution of any documents required by the City of Kyle in connection therewith, in form and substance acceptable to Mountain Plum. Buyer shall post any fiscal security or surety required by the City of Kyle or other governmental authority in order for the Plat to be recorded.

### **ARTICLE 3.** **Escrow of Funds**

3.1 Escrowed Funds. As of the date hereof, the Parties have delivered to Escrow Agent in cash the Escrowed Funds, the receipt of which Escrowed Funds by the Escrow Agent is hereby acknowledged. Escrow Agent shall hold and disburse the Escrowed Funds in accordance with the terms of this Agreement. Escrow Agent shall invest the Escrowed Funds in one or more accounts with a national bank or other institution reasonably approved by Mountain Plum. All interest earned on such funds shall become part of the Escrowed Funds.

#### 3.2 Disbursement of Escrowed Funds.

3.2.1 A portion of the Escrowed Funds equal to the then-incurred Costs shall be released to Mountain Plum by Escrow Agent in installments as construction of the Site Work progresses, no more frequently than once each month, within five (5) days following Mountain Plum's delivery to Escrow Agent of an itemized request for payment ("Draw Request") signed by the project engineer confirming that the Site Work for which payment is requested has been completed and the costs of performing such Site Work in the amount of the funds requested to be drawn have in fact been incurred; and certifying that all persons performing such Site Work or providing materials in connection with the Site Work have been paid to the date of such Draw Request or will be paid to the date of such Draw Request out of such Draw Request. Mountain Plum shall provide Buyer with copies of all Draw Requests simultaneously with submission to the Escrow Agent. Buyer shall have the right to review and approve (such approval not to be unreasonably withheld, delayed, denied or conditioned) each Draw Request prior to disbursement to Mountain Plum of the amount requested therein. Buyer shall be deemed to have approved such Draw Request unless Buyer notifies Mountain Plum and Escrow Agent in writing within five (5) days following Buyer's receipt of the Draw Request that it disputes the Draw Request as provided in Section 3.4 below. Upon approval or deemed approval of a Draw Request, and within the time period specified above, Escrow Agent shall disburse to Mountain Plum the amount reflected in the Draw Request (less ten percent (10%) retainage to be maintained by Escrow Agent and paid to Mountain Plum as a part of the final Draw Request upon final completion of the Site Work as provided below) attributable to any portion of the Site Work which is not objected to by Buyer, and retain that amount attributable to any of the construction that is disapproved by Buyer until such Draw Request is approved. Upon completion of the Site Work, Mountain Plum will submit to Escrow Agent a final Draw Request (which shall include retainage), accompanied by (i) the Certification and (ii) a final lien waiver executed by Mountain Plum's general contractor(s). Subject to Section 3.4 below, within five (5) days following approval or deemed approval of the final Draw Request, Escrow Agent shall disburse to Mountain Plum the amount set forth in the final Draw Request (including

retainage), any excess funds attributable to Buyer's Site Work Share will be returned to Buyer, and any excess funds attributable to Mountain Plum's Site Work Share will be returned to Mountain Plum.

3.2.2 Escrow Agent shall give to Buyer a copy of such Draw Request that it receives from Mountain Plum promptly after receipt thereof from Mountain Plum. Escrow Agent shall have no obligation or responsibility to determine if, in fact, Mountain Plum is entitled to any such disbursement and may assume the accuracy of the statements contained in such request, subject to Buyer's right to dispute Mountain Plum's entitlement to any disbursement as provided in Section 3.4 below. Five (5) days after the Draw Request is given to Escrow Agent by Mountain Plum, unless Buyer within such five (5) day period delivers to Escrow Agent a Dispute Notice (as defined below), Escrow Agent shall disburse to Mountain Plum out of the Escrowed Funds the amount covered by the Draw Request (or the undisputed portion thereof) in accordance with this Agreement.

3.2.3 Each of the Parties hereto waives, to the fullest extent permitted by law, any right to or claim for punitive, consequential, speculative, special, treble or exemplary damages against the other, and agrees that, in the event of a dispute between them, each shall be limited to the recovery of any actual damages sustained.

### 3.3 Escrow Agent.

3.3.1 Under this Agreement Escrow Agent is a depository only and shall have no liability for the holding, investment, disbursement, application or other disposition of any monies and/or documents received by Escrow Agent other than to comply with the specific instructions, terms and provisions expressly set forth and/or provided for in this Agreement. Escrow Agent shall not be responsible or liable in any manner for the sufficiency, correctness, genuineness or validity of any instrument deposited with it hereunder, or for the form or execution thereof, or for the identity, authority or rights of any person executing or depositing the same. In accepting any monies and/or documents delivered to Escrow Agent hereunder, it is agreed and understood that the Escrow Agent will not be called upon to construe any declaration, instrument or document deposited herewith or submitted hereunder, but only to follow the specific instructions expressly set forth and/or provided for in this Agreement.

3.3.2 Escrow Agent, as a part of the consideration for its acceptance of this escrow, shall not, in the performance of its duties under this Agreement, be liable for any error of judgment, or for any acts or omissions done by it in good faith, or for any mistake of fact or law, or for any claims, demands, causes of action, losses, liabilities, damages, costs or expenses claimed or suffered by any Party to this Agreement, except such as may arise solely and directly as a result of the Escrow Agent's own negligence or willful misconduct. Escrow Agent is hereby authorized to rely upon, and shall be protected in acting upon, any notice, request, waiver, consent, receipt, certificate, affidavit, authorization, power of attorney, trust agreement or other paper or document believed by Escrow Agent in good faith to be genuine and what it purports to be.

3.4 Dispute Notice. If a Party (the "Objecting Party"), acting in good faith, reasonably believes that the disbursement of the Escrowed Funds sought by the other Party hereto (the "Requesting Party") pursuant to a Draw Request is not proper, the Objecting Party may give the Requesting Party and Escrow Agent a notice disputing such requested disbursement containing an explanation of the basis for such dispute and a statement of the portion of such requested disbursement that is disputed (a "Dispute Notice") within five (5) days following its receipt of the Draw Request. If a Dispute Notice is given, Escrow Agent shall withhold the portion of the requested disbursement specified in such Dispute Notice until the Objecting Party and the Requesting Party deliver a joint notice to Escrow Agent that the dispute has been resolved, authorizing disbursement as set forth in such joint notice. Escrow Agent shall be entitled to interplead into a court of competent jurisdiction in Hays County, Texas the amount of any requested disbursement with respect to which any dispute exists. Mountain Plum and Buyer shall each pay one-half (1/2) of the reasonable attorneys' fees and court costs incurred by Escrow Agent in connection with such

interpleader proceeding. All disputes regarding Dispute Notices shall be resolved by the Parties using the Expedited Arbitration Process.

3.5 No Fee to Escrow Agent. No fee shall be charged by Escrow Agent. Escrow Agent may resign from its duties hereunder at any time by giving written notice of such resignation to the Parties hereto; however, Escrow Agent shall continue to serve until its successor is appointed jointly by Mountain Plum and Buyer, and such successor accepts and agrees to perform the obligations of Escrow Agent hereunder and receives the balance of the Escrowed Funds. Mountain Plum and Buyer shall have the right at any time upon mutual agreement to substitute a new Escrow Agent by giving written notice thereof to the Escrow Agent then acting.

3.6 Expedited Arbitration Process. As used herein, “Expedited Arbitration Process” means arbitration according to the then-current Expedited Procedures under the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association (“AAA”), modified as follows: (a) there will be one arbitrator who is selected utilizing the then-current AAA process and who has at least ten (10) years of relevant experience; (b) the arbitration will be conducted through document submission without a hearing; and (c) the arbitrator will issue a final decision within ten (10) days after confirmation of the appointment of the arbitrator. The arbitrator will have no decision-making authority other than to select either the determination or recommendation of Mountain Plum or Buyer as final and conclusive after due consideration of the factors to be taken into account under the applicable provisions of this Agreement. The arbitrator’s determination will be binding upon the Parties. The costs and fees of the arbitrator will be shared equally by Mountain Plum and Buyer.

#### **ARTICLE 4.** **General Provisions**

##### **4.1 Default.**

4.1.1 If any Party hereto fails to comply with any provision herein (“Defaulting Party”), then the non-defaulting party (“Non-Defaulting Party”, whether one or more) may, (i) with respect to a monetary default, upon ten (10) days’ prior written notice and opportunity to cure to the Non-Defaulting Party, proceed to cure the default (and shall have a license to do so) by the payment of money for the account of the Defaulting Party, and (ii) with respect to a non-monetary default, upon thirty (30) days’ prior written notice and opportunity to cure to the Defaulting Party, proceed to cure the default (and shall have a license to do so) by the performance of some action for the account of the Defaulting Party. The foregoing right to cure shall not be exercised if within the ten (10) day notice period and/or thirty (30) day notice period, as applicable, (i) the Defaulting Party cures the default, or (ii) with respect to a non-monetary default, if the default is curable, but cannot reasonably be cured within that time period, the Defaulting Party begins to cure such default within such time period and diligently pursues such action to completion within no more than forty-five (45) days thereafter. The thirty (30) day notice period shall not be required if, using reasonable judgment, the Non-Defaulting Party deems that an exigent emergency directly impacting health or safety exists which requires immediate attention. In the event of such an emergency, the Non-Defaulting Party shall give whatever notice to the Defaulting Party as is reasonable under the circumstances.

4.1.2 Within ten (10) days after written demand (including providing copies of invoices reflecting costs) the Defaulting Party shall reimburse the Non-Defaulting Party for any sum reasonably expended by the Non-Defaulting Party to cure the default.

4.1.3 In the event either Party shall institute any action or proceeding against another Party relating to any default hereunder, or to collect any amounts owing hereunder, the unsuccessful litigant in such action or proceeding shall reimburse the successful litigant therein for reasonable costs and

expenses incurred by the successful litigant in connection with such action or proceeding and any appeals therefrom, including reasonable attorneys' fees and court costs.

4.1.4 Except as otherwise provided herein, all remedies are cumulative and shall be deemed additional to any and all other remedies to which any Party may be entitled in law or in equity. Each Party shall also have the right to restrain by injunction any violation or threatened violation by any other Party of any of the terms, covenants, or conditions of this Agreement, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate.

4.2 Interest. Wherever and as often as one Party shall not have paid any sum payable hereunder to another Party within ten (10) days of the due date, such delinquent Party shall pay interest ("Interest") on such amount from the due date to and including the date such payment is received by the Party entitled thereto, at the lesser of (i) fifteen percent (15%) per annum or (ii) the highest rate permitted by law to be paid on such type of obligation by the Party obligated to make such payment or the Party to whom such payment is due.

4.3 Notices. All notices, demands, statements, and requests (collectively the "notice") required or permitted to be given under this Agreement must be in writing and shall be deemed to have been properly given or served as of the date hereinafter specified: (i) on the date of personal service upon the Person (as herein, meaning either an entity or a natural person) to whom the notice is addressed or if such Person is not available, the date such notice is left at the address of the Person to whom it is directed, (ii) on the date the notice is postmarked by the United States Post Office, provided it is sent prepaid, certified mail, return receipt requested, (iii) on the date the notice is delivered by a courier service (including Federal Express, Express Mail, Lone Star or similar operation) to the address of the Person to whom it is directed, provided it is sent prepaid, and (iv) on the date the notice is successfully transmitted by electronic mail with confirmation of delivery. The address of the signatories to this Agreement is set forth below:

To Buyer: Uptown at Plum Creek Phase IA LLC  
c/o Momark Development  
1711 East Cesar Chavez Street, Suite B  
Austin, Texas 78702  
Attn: Terry Mitchell and Robert V. Gass  
Email: [tmitchell@momarkdevelopment.com](mailto:tmitchell@momarkdevelopment.com)  
[bob@momarkdevelopment.com](mailto:bob@momarkdevelopment.com)

with a copy to: DuBois, Bryant & Campbell, LLP  
303 Colorado, Suite 2300  
Austin, Texas 78701  
Attention: Bill Bryant  
Telephone: (512) 457-8000  
Email: [bbryant@dbellp.com](mailto:bbryant@dbellp.com)

To Mountain Plum: Mountain Plum, Ltd.  
4040 Broadway, Suite 501  
San Antonio, Texas 78209  
Attn: Richard B. Negley and Laura Negley Gill  
Email: [lauragill.lngres@gmail.com](mailto:lauragill.lngres@gmail.com)  
[richard\\_negley@msn.com](mailto:richard_negley@msn.com)

with a copy to: Momark Development  
1711 E. Cesar Chavez, Suite B



Austin, Texas 78702  
Attn: Megan Shannon

with a copy to: Golden Steves & Gordon, LLP  
200 East Basse Rd., Suite 200  
San Antonio, Texas 78209  
Attn: Stephen L. Golden  
Email: [sgolden@goldensteves.com](mailto:sgolden@goldensteves.com)

To Escrow Agent: Corridor Title Co.  
133 West San Antonio Street, Suite 100  
San Marcos, TX 78766  
Attn: Gina Kufrovich  
Email: [gina@corridortitleco.com](mailto:gina@corridortitleco.com)

Each Party shall have the right from time to time and at any time, upon at least ten (10) days' prior written notice thereof in accordance with the provisions hereof, to change its respective address and to specify any other address within the United States of America; provided, however, notwithstanding anything herein contained to the contrary, in order for the notice of address change to be effective it must actually be delivered. Refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

4.4 Approval Rights. Unless otherwise herein provided, whenever approval is required, such approval shall not be unreasonably withheld or delayed. Unless provision is made for a specific time period, approval shall be given or withheld within ten (10) days of the receipt of the request for approval. If disapproval is not given within the required time period, the responding Party shall be deemed to have given its approval. If a Party shall disapprove, the reasons therefor shall be stated. Except with respect to an approval given by lapse of time, all approvals and disapprovals shall be in writing.

4.5 Negation of Partnership. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each Party shall be considered a separate owner, and no Party shall have the right to act as an agent for another Party, unless expressly authorized to do so herein or by separate written instrument signed by the Party to be charged.

4.6 Time. Time is of the essence of this Agreement.

4.7 Assignment; Binding Effect. Mountain Plum may assign its rights in whole or in part hereunder to any owner(s) and/or lessee(s) of all or any portion of the Mountain Plum Parcel upon written notice to Buyer and thereafter Mountain Plum shall be released of all liability hereunder. Any other attempted assignment without the prior written consent of the other Party shall be void and of no force or effect. The terms of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, legal representatives, and permitted assigns.

4.8 Enforcement. In the event of any violation or threatened violation by any Person of this Agreement, the Parties hereto and any Party shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies available at law or in equity.

4.9 Partial Invalidity. If any term, covenant or condition of this Agreement or the application of it to any Person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to Persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant or

condition of this Agreement shall be valid and shall be enforced to the extent permitted by law. This Agreement shall be governed by the laws of the State of Texas and venue for any action hereunder shall be in Hays County, Texas.

4.10 Captions. The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms contained herein.

4.11 Gender. In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

4.12 No Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Parties hereto that this Agreement shall be strictly limited to and for the purposes herein expressed. This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not specifically benefitted by the terms and provisions hereof.

4.13 Preventive Action. Mountain Plum shall have the right to take such actions as it deems necessary to prevent those persons not authorized by this Agreement to use the Mountain Plum Parcel from using the same for any purpose; provided that such actions shall not materially interfere with the easement rights granted to Buyer herein.

4.14 Term. Except as otherwise provided herein, this Agreement shall terminate upon lien free completion of the Site Work in accordance herewith and with the Site Work Plans and all permits, approvals and applicable law pertaining thereto, full reimbursement of all costs required to be reimbursed to any Party performing such Site Work to the extent any other Party owes contribution therefor in accordance with this Agreement and the recording of the Plat as provided in Section 2.7 above.

4.15 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one instrument.

4.16 No Recordation. This Agreement shall not be recorded in the real property records of Hays County, Texas nor any other public records office.

4.17 Amendment in General. The provisions of this Agreement may not be amended, modified, waived, enlarged, terminated, or otherwise changed in whole or in part except by written instrument executed by the Parties hereto.

4.18 Force Majeure. As used herein, the term "force majeure" shall mean delay in completing the obligations under this Agreement for reasons of fire, earthquake, explosion, flood, hurricane, the elements, governmental regulation of the sale of materials or supplies or the transportation thereof, war, invasion, global financial crisis, insurrection, rebellion, riots, strikes or lockouts, or inability to obtain necessary materials, goods, equipment, services, utilities or labor.

4.19 Estoppel. Each Party, within twenty (20) days of its receipt of a written request from the other Party, shall from time to time provide the requesting Party a certificate binding upon such Party stating (a) to such Party's knowledge, whether any Party to this Agreement is in default or violation of this Agreement and if so identifying such default or violation; and (b) stating whether this Agreement is in full force and effect and identifying any amendments to this Agreement as of the date of such certificate.

4.20 Further Assurances. Buyer anticipates obtaining HUD financing through Berkadia Commercial Mortgage LLC (or its affiliates) ("Berkadia"), which financing will be secured by the Buyer

Parcel. In connection with such financing, Buyer may be required to provide additional collateral, including an assignment of Buyer's rights under this Agreement, and upon request, at no cost to Mountain Plum, Mountain Plum will agree to consent to the assignment of such rights to Berkadia. Notwithstanding the foregoing, under no circumstances shall the terms, provisions and conditions of this Agreement or the rights and obligations of the Parties hereto be modified in connection with such financing or such assignment.

[Signature Pages Follow]

EXECUTED effective the date first written above.

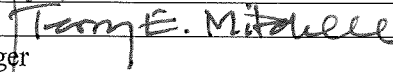
**BUYER:**

**UPTOWN AT PLUM CREEK PHASE 1A LLC,**  
an Oklahoma limited liability company

By: 

Name: \_\_\_\_\_

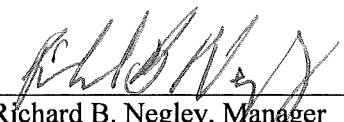
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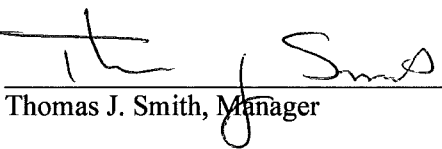


**MOUNTAIN PLUM:**


**MOUNTAIN PLUM, LTD.,**  
a Texas limited partnership

By: MP General, L.L.C., a Texas limited  
liability company, its general partner

By:   
Richard B. Negley, Manager

By:   
Thomas J. Smith, Manager

By: MountainCityLand, LLC,  
a Texas limited liability company,  
its Manager

By:   
Name: Laura Negley Gill  
Title: Manager

**ESCROW AGENT:**

**CORRIDOR TITLE COMPANY**

By: Gina Kufrovich  
Name: Gina Kufrovich  
Title: Head Escrow Officer

**EXHIBIT A**  
**MOUNTAIN PLUM PARCEL**

The following real property, SAVE AND EXCEPT the Buyer Parcel described in Exhibit B hereto:

133.892 Ac.  
M.M. McCarver Survey No. 4, A-10,  
Hays County, Texas

Job No. 5549-01-001  
FN1973(en)  
Page 1 of 11

**FIELD NOTES DESCRIPTION – UPTOWN**

DESCRIPTION OF 133.892 ACRES LAND IN THE M.M. MCCARVER SURVEY NO. 4, ABSTRACT NO. 10, HAYS COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 983.99 ACRE TRACT OF LAND DESIGNATED AS TRACT 2 AND DESCRIBED IN THE DEED WITHOUT WARRANTY TO MOUNTAIN PLUM, LTD. OF RECORD IN VOLUME 2297, PAGE 139, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND ALL OF A CERTAIN CALLED 5.207 ACRE TRACT DESCRIBED IN THE DEED TO MOUNTAIN PLUM, LTD. OF RECORD IN INSTRUMENT NO. 16029224, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 133.892 ACRES OF LAND AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., AND SHOWN ON THE ACCOMPANYING SKETCH BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2-inch iron rod with a plastic cap stamped "LAI" previously set at the intersection of the north right-of-way line of Kohlers Crossing (County Road No. 171), a variable width right-of-way, same being the north line of a called 1.171 acre tract of land designated as Parcel 3, Tract 1, and described in a deed to the City of Kyle, Texas, of record in Volume 3220, Page 508, Official Public Records of Hays County, Texas, and the west right-of-way line of Benner, a 70-foot wide right-of-way, as shown on the Plum Creek Phase II, Section 1A subdivision plat of record in Cabinet 14, Pages 225-226, Plat Records of Hays County, Texas, for the southerly southeast corner and **POINT OF BEGINNING** of the tract described herein;

**THENCE** with the north right-of-way line of said Kohlers Crossing, and the north line of the said 1.171 acre tract, with a south line of the tract described herein, the following four (4) courses and distances:

1. S 88°49'05" W, a distance of 32.70 feet to a 1/2-inch iron rod with a plastic cap stamped "LAI" previously set for an angle point,
2. S 87°37'32" W, a distance of 488.02 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point,
3. S 87°50'11" W, at a distance of 225.44 feet, passing a 1/2-inch iron rod with a plastic cap stamped "BCG" previously set for a point-on line, and continuing for a total distance of 252.78 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point, and
4. S 87°19'58" W, a distance of 27.10 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" previously set for the southerly southeast corner of a certain called 324.250 acre tract designated as Tract 1 and described in the deed to Lennar Homes of Texas Land and Construction, Ltd. of record in Instrument No. 16029226, Official Public Records of Hays County, Texas, for the southwest corner of the tract described herein;

**THENCE** with the east and south lines of the said 324.250 acre tract and the west and north lines of the tract described herein, the following seven (7) courses and distances:

1. N 00°29'00" W, a distance of 715.18 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point,
2. N 33°32'22" E, a distance of 340.44 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point,
3. N 28°43'08" E, a distance of 349.81 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point,
4. N 20°39'46" E, a distance of 412.04 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point,

Bowman Consulting | 1120 S. Capital of Texas Hwy, Building 3, Suite 220 | Austin, TX 78746 | P: 512.327.1180  
TBPE Firm No. 14309 | TBPLS Firm No. 101206 00

5. N 12°33'58" E, a distance of 413.82 feet to a ½-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point,
6. N 12°27'56" E, a distance of 448.13 feet to a ½-inch iron rod with a plastic cap stamped "BCG" previously set for a re-entrant corner, and
7. N 73°20'14" E, a distance of 4.89 feet to a calculated point for an angle point in the east line of the said 324.250 acre tract, same being the southwest corner of the said 5.207 acre tract, from which a ½-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point in a south line of the said 5.207 acre tract bears N 73°20'14" E, a distance of 708.44 feet;

**THENCE** with the east and west lines of the said 324.250 acre tract, with the northwest and northeast lines of the said 5.207 acre tract, with a northwest and northeast line of the tract described herein, the following eight (8) courses and distances:

1. N 27°58'58" E, at a distance of 0.42 feet, passing a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found, and continuing for a total distance of 4.93 feet to a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found at an angle point of the tract described herein,
2. N 45°36'55" E, a distance of 316.61 feet to a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found at an angle point,
3. N 43°07'49" E, a distance of 67.72 feet to a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found at an angle point,
4. N 60°11'22" E, a distance of 72.39 feet to a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found at an angle point,
5. N 54°50'52" E, a distance of 110.19 feet to a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found at an angle point,
6. N 44°44'47" E, a distance of 259.46 feet to a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found at an angle point,
7. N 47°53'10" E, a distance of 93.75 feet to a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found at an angle point, and
8. S 47°15'44" E, a distance of 538.63 feet to a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found at a southwest corner of the said 324.250 acre tract, same being the southeast corner of the said 5.207 acre tract, for an angle point in the north line of the tract described herein;

**THENCE** N 82°22'26" E, with a south line of the said 324.250 acre tract, with the north line of the tract described herein, a distance of 129.85 feet to a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found at the west corner of a certain called 2.581 acre tract designated as Tract 4 and described in the said deed to Lennar Homes of Texas Land and Construction of record in Instrument No. 16029226, Official Public Records of Hays County, Texas, for an angle point in the north line of the tract described herein;



**THENCE** leaving a south line of the said 324.250 acre tract, with the west and east lines of the said 2.581 acre tract, with a northeast and northwest line of the tract described herein, the following two (2) courses and distances:

1. S 47°15'44" E, a distance of 607.02 feet to a ½-inch iron rod with a plastic cap stamped "CHAPARRAL BOUNDARY" found at the south corner of the said 2.581 acre tract, for an angle point in the north line of the tract described herein, and
2. N 03°42'33" E, a distance of 476.77 feet to a ½-inch iron rod with a plastic cap stamped "BCG" previously set for the easterly southeast corner of the said 324.250 acre tract and the east corner of the said 2.581 acre tract, for a point-of-curvature in a west line of the tract described herein;

**THENCE** with an east line of the said 324.250 acre tract, with the west line of the tract described herein, with the arc of a curve to the left, having a radius of 2,264.79 feet, an arc distance of 606.17 feet, and a chord which bears N 06°03'20" W, a distance of 604.37 feet to a calculated point for the northerly northwest corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BCG" previously set for a point-of-tangency in an east line of the said 324.250 acre tract bears with the arc of a curve to the left, having a radius of 2,264.79 feet, an arc distance of 309.28 feet, and a chord which bears N 17°38'07" W, a distance of 309.04 feet;

**THENCE** N 79°43'41" E, crossing the said 983.99 acre tract, with a north line of the tract described herein, a distance of 480.94 feet to a calculated point in the west line of a certain called 0.934 acre tract, designated as Parcel 1 and described in the deed to the City of Kyle, Texas of record in Volume 4122, Page 86, Official Public Records of Hays County, Texas, being west right-of-way line of Kyle Parkway (F.M. 1626) a variable width right-of-way, for the northeast corner of tract described herein, from which a Texas Department of Transportation (TxDOT) Type 2 right-of-way monument (brass disk in concrete) found at a point-of-tangency in the west right-of-way line of said Kyle Parkway and the west line of the said 0.934 acre tract bears with the arc of a curve to the left, having a radius of 2,744.79 feet, an arc distance of 404.05 feet, and a chord which bears N 17°19'37" W, a distance of 403.69 feet;

**THENCE** with the west right-of-way line of said Kyle Parkway, with the west line of the said 0.934 acre tract, with the east line of the tract described herein, the following three (3) courses and distances:

1. with the arc of a curve to the right, having a radius of 2,744.79 feet, an arc distance of 805.93 feet, and a chord which bears S 04°41'53" E, a distance of 803.04 feet to a Texas Department of Transportation (TxDOT) Type 2 right-of-way monument (brass disk in concrete) found at a point-of-tangency,
2. S 03°42'13" W, a distance of 553.75 feet to a Texas Department of Transportation (TxDOT) Type 2 right-of-way monument (brass disk in concrete) found at an angle point, and
3. S 00°31'13" E, a distance of 269.62 feet to a calculated point in the west right-of-way line of said Kyle Parkway, same being the west line of a certain called 28.91 acre tract described in the dedication of public right-of-way to the City of Kyle, Texas of record in Volume 4122, Page 67, Official Public Records of Hays County, Texas, for the south corner of the said 0.934 acre tract, for an angle point in the east line of the tract described herein, from which a Texas Department of Transportation (TxDOT) Type 2 right-of-way monument (brass disk in concrete) found bears S 00°31' E, a distance of 1.58 feet;

**THENCE** with the west right-of-way line of said Kyle Parkway, with the west line of the said 28.91 acre tract, with the east line of the tract described herein, the following three (3) courses and distances:

1. S 03°42'29" W, a distance of 1,102.95 feet to a Texas Department of Transportation (TxDOT) Type 2 right-of-way monument (brass disk in concrete) found at a point-of-curvature,
2. with the arc of a curve to the left, having a radius of 2,964.78 feet, an arc distance of 381.54 feet, and a chord which bears S 00°01'17" W, a distance of 381.27 feet to a Texas Department of Transportation (TxDOT) Type 2 right-of-way monument (brass disk in concrete) found at a point-of-tangency, and
3. S 03°39'40" E, a distance of 61.49 feet to a calculated point for the easterly southeast corner of the tract described herein, same being the northeast corner of a certain called 4.857 acre tract described in the deed to Plum Creek Development Partners, Ltd. of record in Volume 3337, Page 390, Official Public Records of Hays County, Texas, from which a Texas Department of Transportation (TxDOT) Type 2 right-of-way monument (brass disk in concrete) found at an angle point in the west right-of-way line of said Kyle Parkway and the west line of the said 28.91 acre tract, and the east line of the said 4.857 acre tract, bears S 03°39'40" E, a distance of 286.04 feet;

**THENCE** leaving the west right-of-way line of said Kyle Parkway, crossing the said 983.99 acre tract, with the north line of the said 4.857 acre tract, with a south line of the tract described herein, the following four (4) courses and distances:

1. S 88°50'25" W, a distance of 124.99 feet to a calculated angle point,
2. N 82°24'53" W, a distance of 131.55 feet to a calculated angle point,
3. N 23°54'05" W, a distance of 85.73 feet to a calculated angle point, and
4. N 53°55'11" W, a distance of 100.89 feet to a calculated point in the southeast line of a certain called 1.2623 acre tract described in the deed to Hays Consolidated Independent School District of record in Volume 2029, Page 668, Official Public Records of Hays County, Texas, for the north corner of the said 4.857 acre tract, for a southwest corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point in the south line of the said 1.2623 acre tract and the north line of the said 4.857 acre tract bears S 58°53'16" W, a distance of 127.50 feet;

**THENCE** with the east, north, and west lines of the said 1.2623 acre tract, with the west, south, and east lines of the tract described herein, the following five (5) courses and distances:

1. N 58°53'16" E, a distance of 29.92 feet to a ½-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point,
2. N 01°06'44" W, a distance of 172.58 feet to a ½-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point,
3. N 61°06'44" W, a distance of 157.42 feet to a ½-inch iron rod with a plastic cap stamped "BCG" previously set for an angle point,

4. S 88°53'16" W, a distance of 62.13 feet to a ½-inch iron rod with a plastic cap stamped "BCG" previously set for the northwest corner of the said 1.2623 acre tract, for a re-entrant corner of the tract described herein, and
5. S 01°06'44" E, a distance of 69.54 feet to a ½-inch iron rod with a plastic cap stamped "LAI" previously set in the west line of the said 1.2623 acre tract, for the northeast corner of a certain called 0.0606 acre tract described in the deed to Hays Consolidated Independent School District of record in Volume 2857, Page 753, Official Public Records of Hays County, Texas, for a southeast corner of the tract described herein;

**THENCE** S 88°53'16" W, with the north line of the said 0.0606 acre tract, with the south line of the tract described herein, a distance of 15.00 feet to a ½-inch iron rod with a plastic cap stamped "LAI" previously set for the northwest corner of the said 0.0606 acre tract and the northeast corner of a certain called 10.00 acre tract described in the deed to Hays Consolidated Independent School District of record in Volume 2029, Page 661, Official Public Records of Hays County, Texas, for a point-on-line in the south line of the tract described herein;

**THENCE** S 88°50'25" W, with the north line of the said 10.00 acre tract, with the south line of the tract described herein, a distance of 465.45 feet to a ½-inch iron rod with a plastic cap stamped "LAI" previously set for the northern northwest corner of the said 10.00 acre tract, same being a point in the east line of a certain called 11.375 acre tract described in the deed to Plum Creek Development Partners, Ltd. of record in Volume 3311, Page 508, Official Public Records of Hays County, Texas, for a southwest corner of the tract described herein;

**THENCE** with the east, north and west lines of the said 11.375 acre tract, and the west, south and east lines of the tract described herein, the following five (5) courses and distances:

1. N 00°32'48" W, a distance of 69.99 feet to a ½-inch iron rod with a plastic cap stamped "LAI" previously set for the northeast corner of the said 11.375 acre tract, for a re-entrant corner of the tract described herein,
2. S 88°50'25" W, a distance of 360.00 feet to a ½-inch iron rod with a plastic cap stamped "LAI" previously set for the northern northwest corner of the said 11.375 acre tract, for a re-entrant corner of the tract described herein,
3. S 01°09'35" E, a distance of 70.00 feet to a ½-inch iron rod with a plastic cap stamped "LAI" previously set for a re-entrant corner of the said 11.375 acre tract, for a southeast corner of the tract described herein,
4. S 88°50'25" W, a distance of 563.86 feet to a ½-inch iron rod with a plastic cap stamped "LAI" previously set for the western northwest corner of the said 11.375 acre tract, for a re-entrant corner of the tract described herein, and
5. S 00°44'56" E, a distance of 230.40 feet to a ½-inch iron rod found in the west line of the said 11.375 acre tract, at the intersection of the north right-of-way line of Doherty, a 70-foot right-of-way, and the west right-of-way line of Benner, a 70-foot right-of-way, as shown on the Plum Creek Phase II, Section 1A subdivision plat of record in Cabinet 14, Pages 225-226, Plat Records of Hays County, Texas, for a point in the east line of the tract described herein;

133.892 Ac.  
M.M. McCarver Survey No. 4, A-10,  
Hays County, Texas

Job No. 5549-01-001  
FN1973(en)  
Page 6 of 11

**THENCE** S 00°44'56" E, with the west right-of-way line of said Benner, with an east line of the tract described herein, a distance of 447.86 feet to the **POINT OF BEGINNING** and containing 133.892 acres of land more or less.

**BEARING BASIS:** Texas Coordinate System, South Central Zone, NAD83, Grid.

BOWMAN WORD FILE: FN1973(en)

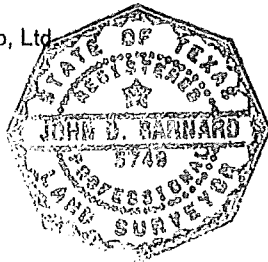
H:\Survey\\_FieldNotes\FN-1900s\FN1973(en).doc


THE STATE OF TEXAS       §  
                                     §       KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS       §

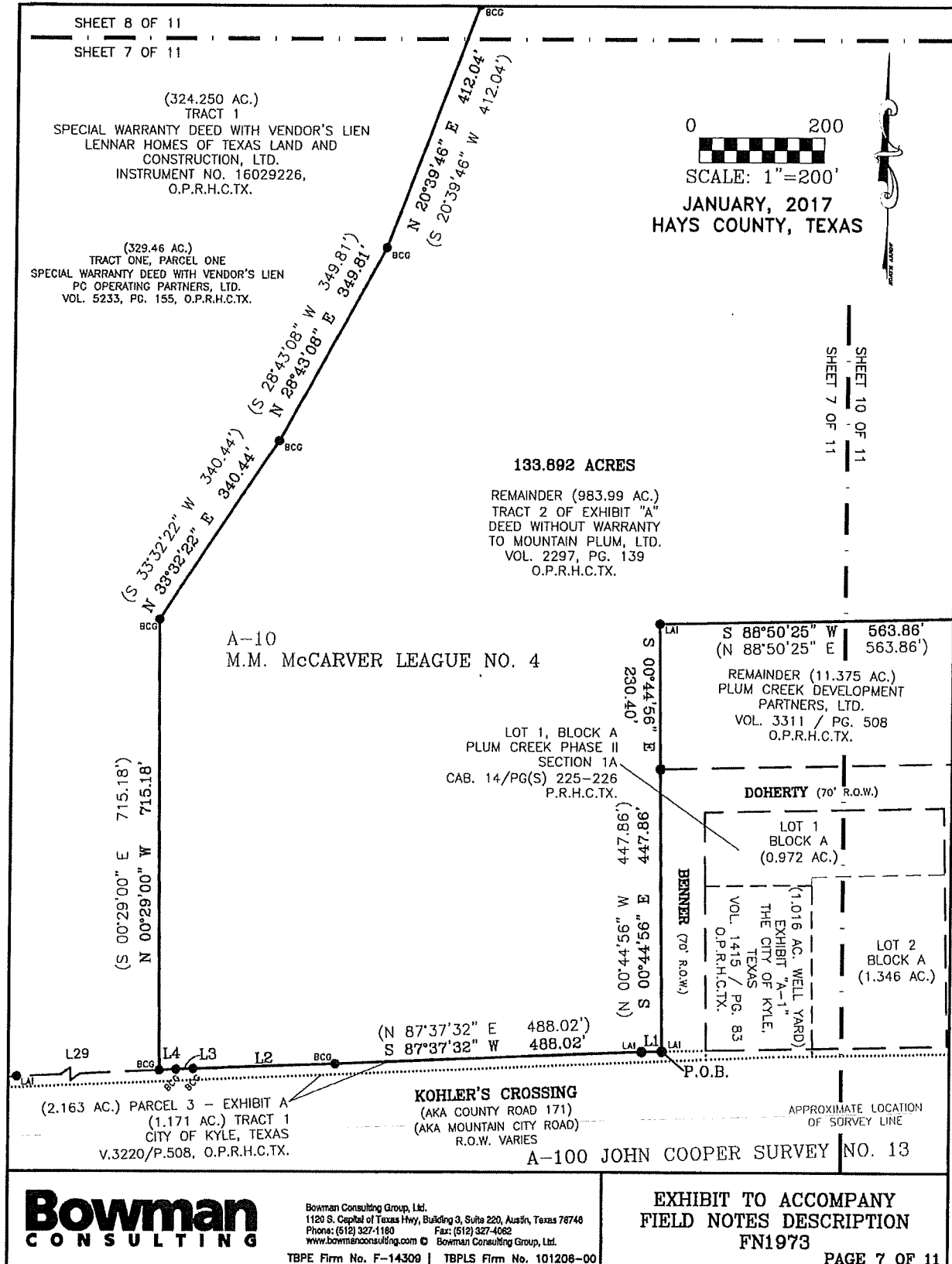
That I, John D. Barnard, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a series of surveys made on the ground during the months of July, August, and September 2014, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 26<sup>th</sup> day of January 2017 A.D.

Bowman Consulting Group, Ltd  
Austin, Texas 78746



  
John D. Barnard  
Registered Professional Land Surveyor  
No. 5749 – State of Texas



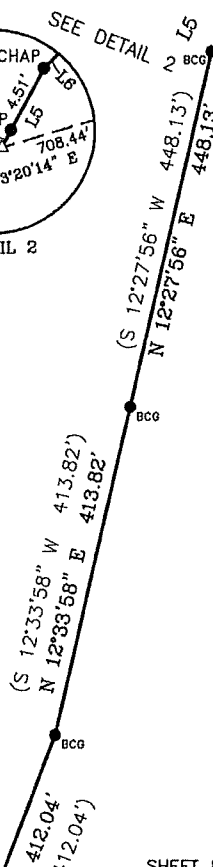
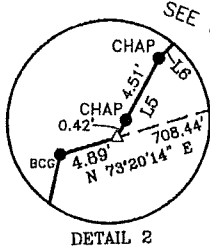
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DATE: Jan 25, 2017-3:41pm

A-10  
M.M. McCARVER LEAGUE NO. 4

(329.46 AC.)  
TRACT ONE, PARCEL ONE  
SPECIAL WARRANTY DEED WITH VENDOR'S LIEN  
PC OPERATING PARTNERS, LTD.  
VOL. 5233, PG. 155, O.P.R.H.C.TX.

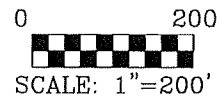
(324.250 AC.)  
TRACT 1  
SPECIAL WARRANTY DEED WITH VENDOR'S LIEN  
LENNAR HOMES OF TEXAS LAND AND  
CONSTRUCTION, LTD.  
INSTRUMENT NO. 16029226,  
O.P.R.H.C.TX.

(5.207 AC.)  
SPECIAL WARRANTY DEED  
MOUNTAIN PLUM, LTD.  
INSTRUMENT NO. 16029224,  
O.P.R.H.C.TX.



133.892 ACRES

REMAINDER (983.99 AC.)  
TRACT 2 OF EXHIBIT "A"  
DEED WITHOUT WARRANTY  
TO MOUNTAIN PLUM, LTD.  
VOL. 2297, PG. 139  
O.P.R.H.C.TX.



JANUARY, 2017  
HAYS COUNTY, TEXAS

VENDOR'S LIEN  
LAND AND

SHEET 8 OF 11  
SHEET 7 OF 11

**Bowman**  
CONSULTING

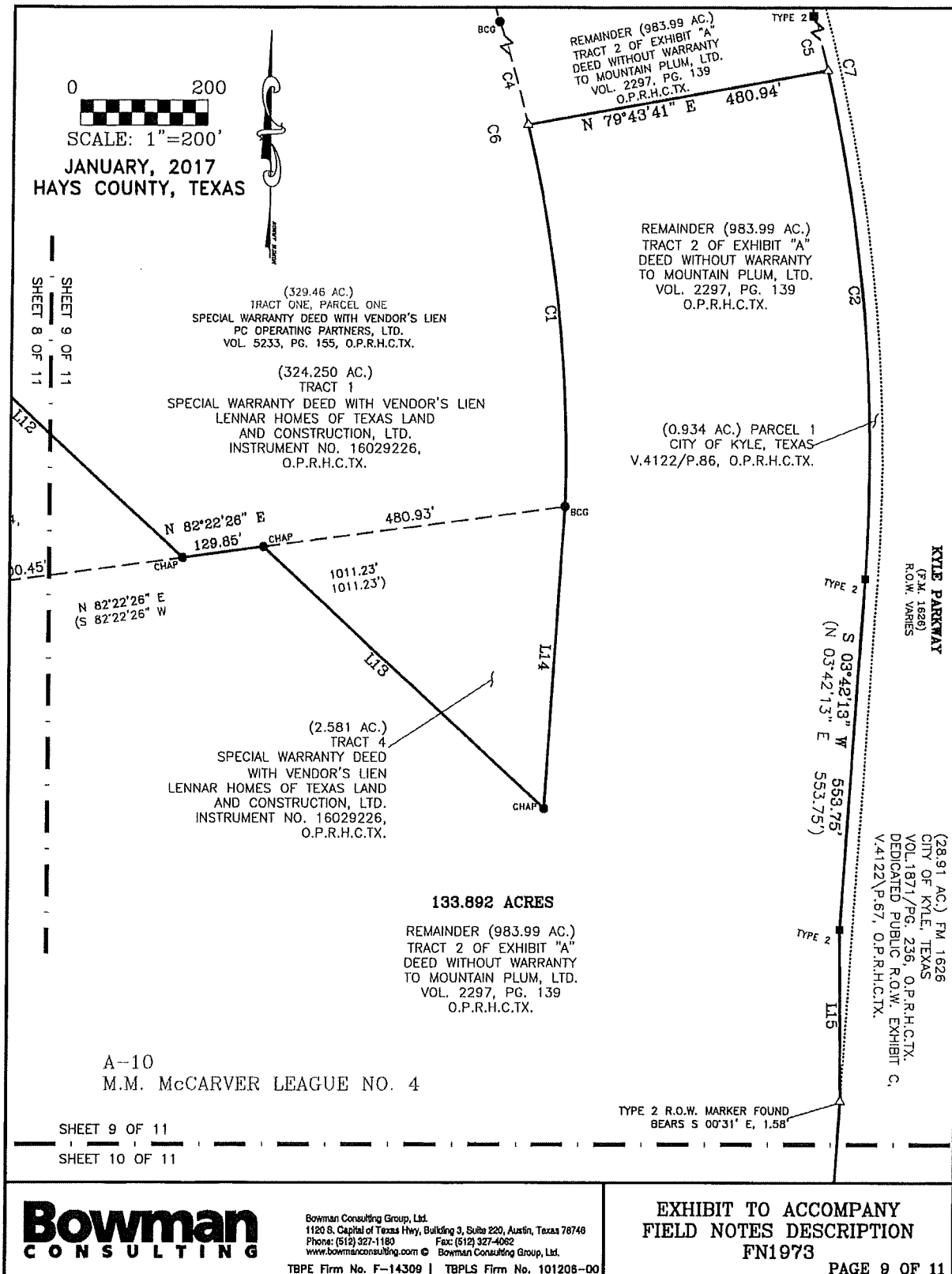
Bowman Consulting Group, Ltd.  
1120 S. Capital of Texas Hwy, Building 3, Suite 220, Austin, Texas 78746  
Phone: (512) 327-1180 Fax: (512) 327-4062  
www.bowmanconsulting.com © Bowman Consulting Group, Ltd.

TBPE Firm No. F-14309 | TBPLS Firm No. 101206-00

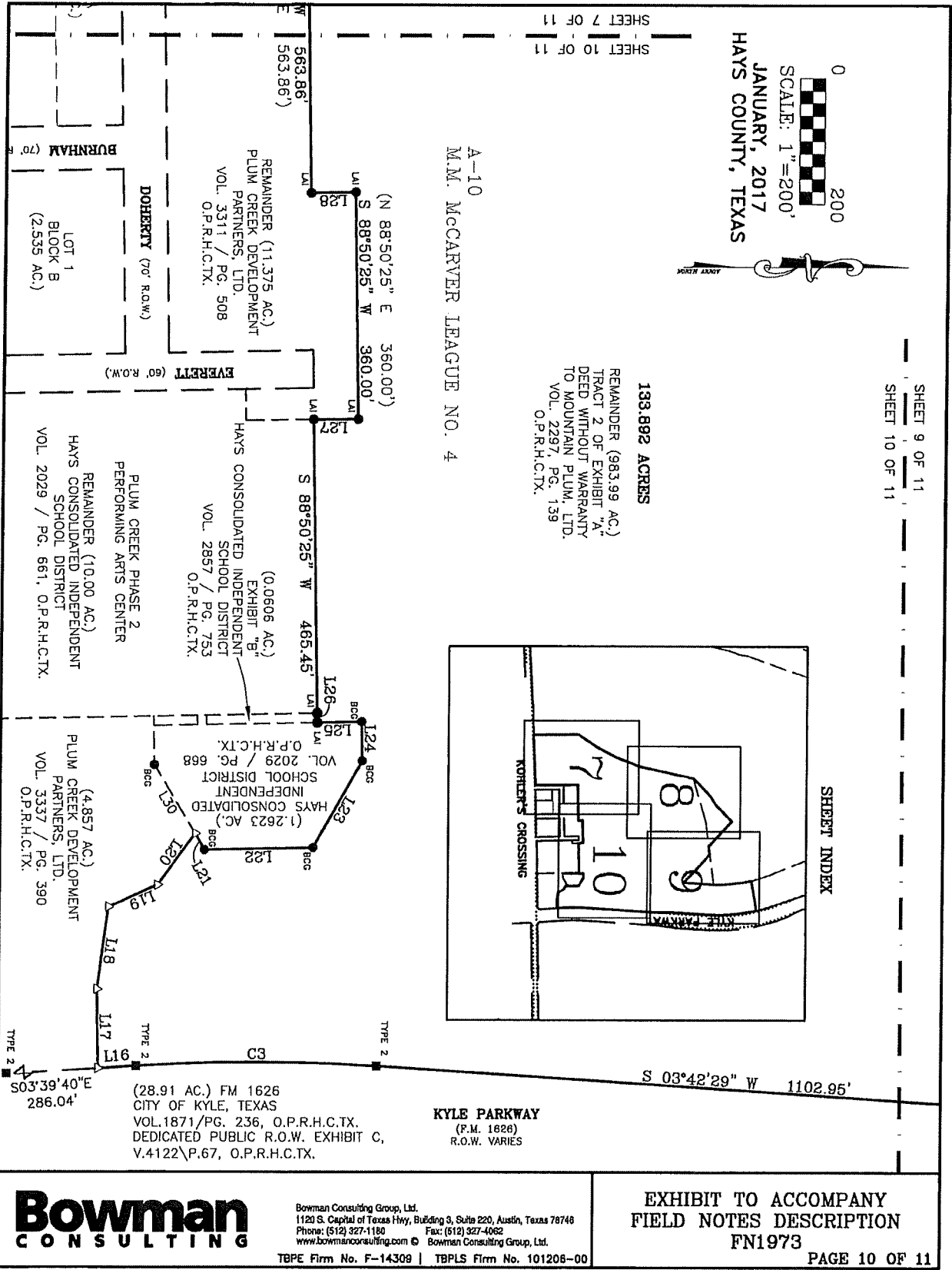
EXHIBIT TO ACCOMPANY  
FIELD NOTES DESCRIPTION  
FN1973

PAGE 8 OF 11

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 DATE: Jan 25,2017-3:41pm



LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N 88°49'05" E	32.70'
L2	N 87°50'11" E	225.44'
(L2)	(N 87°50'11" E)	(225.44')
L3	S 87°50'11" W	27.34'
L4	N 87°19'58" E	27.10'
L5	S 27°58'58" W	4.93'
L6	S 45°36'55" W	316.61'
L7	S 43°07'49" W	67.72'
L8	S 60°11'22" W	72.39'
L9	S 54°50'52" W	110.19'
L10	S 44°44'47" W	259.46'
L11	S 47°53'10" W	93.75'
L12	N 47°15'44" W	538.63'
L13	N 47°15'44" W	607.02'
L14	S 03°42'33" W	476.77'
L15	N 00°31'13" W	269.62'
L16	N 03°39'40" W	61.49'
L17	N 88°50'25" E	124.99'
(L17)	(N 88°50'25" E)	(124.99')

L18	S 82°24'53" E	131.55'
(L18)	(S 82°24'53" E)	(131.55')
L19	S 23°54'05" E	85.73'
(L19)	(S 23°54'05" E)	(85.73')
L20	S 53°55'11" E	100.89'
(L20)	(S 53°55'11" E)	(100.89')
L21	S 58°53'16" W	29.92'
L22	S 01°06'44" E	172.58'
(L22)	(S 01°06'44" E)	(172.58')
L23	S 61°06'44" E	157.42'
(L23)	(S 61°06'44" E)	(157.42')
L24	N 88°53'16" E	62.13'
(L24)	(N 88°53'16" E)	(62.13')
L25	N 01°06'44" W	69.54'
(L25)	(S 01°06'44" E)	(69.54')
L26	N 88°53'16" E	15.00'
(L26)	(N 88°53'16" E)	(15.00')
L27	N 00°32'48" W	69.99'
L28	S 01°09'35" E	70.00'
L29	S 87°19'58" W	283.45'
L30	S 58°53'16" W	127.50'

#### LEGEND

- BCG 1/2" IRON ROD W/  
PLASTIC CAP  
STAMPED "BCG"  
PREVIOUSLY SET
- LAI 1/2" IRON ROD W/  
PLASTIC CAP STAMPED  
"LAI" PREVIOUSLY SET
- CHAP 1/2" IRON ROD W/  
PLASTIC CAP STAMPED  
"CHAPARRAL BOUNDARY"  
FOUND
- (TYPE) TxDOT R.O.W. MARKER  
FOUND  
(TYPE NOTED)
- △ CALCULATED POINT
- P.O.B. POINT OF BEGINNING
- ( ) RECORD INFORMATION
- O.P.R.H.C.TX. OFFICIAL PUBLIC  
RECORDS  
OF HAYS COUNTY, TEXAS
- R.P.R.H.C.TX. REAL PROPERTY  
RECORDS OF HAYS  
COUNTY, TEXAS
- P.R.H.C.TX. PLAT RECORDS OF HAYS  
COUNTY, TEXAS
- R.O.W. RIGHT OF WAY

CURVE TABLE				
CURVE #	RADIUS	ARC DISTANCE	CHORD BEARING	CHORD DISTANCE
C1	2264.79'	606.17'	N 06°03'20" W	604.37'
C2	2744.79'	805.93'	S 04°41'53" E	803.04'
C3	2964.78'	381.54'	S 00°01'17" W	381.27'
C4	2264.79'	309.28'	N 17°38'07" W	309.04'
C5	2744.79'	404.05'	N 17°19'37" W	403.69'
C6	2264.79'	915.45'	S 09°58'04" E	909.23'
(C6)	(2264.79')	(915.45')	(S 09°58'04" E)	(909.23')
C7	2744.79'	1209.98'	N 08°54'54" W	1200.21'
(C7)	(2744.79')	(1209.98')	(N 08°54'54" W)	(1200.21')

#### NOTES:

1. BEARING BASIS IS TEXAS  
COORDINATE SYSTEM, SOUTH  
CENTRAL ZONE, NAD83, GRID.
2. DISTANCES SHOWN HEREON  
ARE BASED ON SURFACE  
MEASUREMENTS. TO CONVERT  
SURFACE DISTANCES TO GRID,  
MULTIPLY BY THE COMBINED  
SCALE FACTOR.
3. THE COMBINED SCALE  
FACTOR FOR THIS PROJECT IS  
0.999907.

**Bowman**  
CONSULTING

Bowman Consulting Group, Ltd.  
1120 S. Capital of Texas Hwy, Building 3, Suite 220, Austin, Texas 78746  
Phone: (512) 327-1180 Fax: (512) 327-4082  
www.bowmanconsulting.com © Bowman Consulting Group, Ltd.

TBPE Firm No. F-14309 | TBPLS Firm No. 101206-00

EXHIBIT TO ACCOMPANY  
FIELD NOTES DESCRIPTION  
FN1973

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FILE: P:\005549 - Plum Creek\005549-00-001 (SUR)\Survey\Ph2\Work\Field note sketches\2017\_Phase 2\_Area field notes\SK1973\_Uptown.dwg  
DATE: Jan 25 2017 3:41pm

**EXHIBIT B  
BUYER PARCEL**

[attached]

**Tract 1:**

County: Hays  
Project: Plum Creek Uptown Phase 1A  
Project No.: 30194242.00

Page 1 of 3  
November 5, 2019

**EXHIBIT "A"**

TRACT 1 - BEING 12.650 ACRES OF LAND, MORE OR LESS, BEING OUT OF AND A PART OF THE M.M. McCARVER SURVEY NO. 4, ABSTRACT NO. 10, IN THE CITY OF KYLE, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN TRACT DESCRIBED AS TRACT NO. 2 IN A DEED WITHOUT WARRANTY TO MOUNTAIN PLUM, LTD. OF RECORD IN VOLUME 2297, PAGE 139, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T.); SAID 12.650 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2-inch iron rod found at the intersection of the west right-of-way line of Benner, a public right-of-way (ROW), and the north right-of-way line of Doherty, a public ROW, both dedicated by Plum Creek Phase II, Section 1A, a subdivision of record in Cabinet 14, Pages 225-226, Plat Records of Hays County, Texas;

**THENCE**, with the west line of that certain 5.002 acre tract described as Tract Three, Parcel One in a Special Warranty Deed with Vendor's Lien to PC Operating Partners, Ltd., of record in Volume 5233, Page 198, O.P.R.H.C.T., North 00°44'59" West, a distance of 230.45 feet to a 1/2-inch iron rod found with a cap stamped "LAI", for the northwest corner of said 5.002 acre tract and North 88°50'50" East, a distance of 70.00 feet to a 1/2-inch iron rod with a cap stamped "BCG", for the **POINT OF BEGINNING** of the tract described herein;

**THENCE**, with the west line of the tract described herein, over and across a remainder of said Tract 2 described in Volume 2297, Page 139, O.P.R.H.C.T., the following five (5) courses and distances:

1. North 00°44'59" West, a distance of 531.66 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509";
2. North 00°44'59" West, a distance of 60.00 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509";
3. North 00°44'59" West, a distance of 16.24 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" at the beginning of a curve to the right;
4. 584.82 feet along the arc of said curve, with a radius of 665.00 feet, a central angle of 50°23'16", and whose chord bears, North 24°26'39" East, a distance of 566.16 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509"; and
5. North 49°38'17" East, a distance of 122.89 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" for the most northerly corner of the tract described herein;

**THENCE**, with the east line of the tract described herein, continuing over and across said Tract 2, the following nine (9) courses and distances:

1. South 40°22'42" East, a distance of 382.85 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509";

2. South 40°22'42" East, a distance of 70.00 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509";
3. South 40°22'42" East, a distance of 53.98 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" at the beginning of a curve to the right;
4. 213.14 feet along the arc of said curve, with a radius of 311.00 feet, a central angle of 39°15'58", and whose chord bears, South 20°44'43" East, a distance of 208.99 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509";
5. South 01°06'44" East, a distance of 15.53 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" for an ell corner of the tract described herein;
6. South 88°53'16" West, a distance of 284.52 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" for an ell corner of the tract described herein;
7. South 01°11'10" East, a distance of 255.81 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509";
8. South 01°11'10" East, a distance of 75.00 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509"; and
9. South 01°11'10" East, a distance of 260.52 feet to a 1/2-inch iron rod found with cap stamped "LAI" in the north line of said 5.002 acre tract;

**THENCE**, with the north line of said 5.002 acre tract and the south line of the remainder of said Tract 2, the following two (2) courses and distances:

1. South 88°50'50" West, a distance of 70.00 feet to a 1/2-inch iron rod found with cap stamped "BCG"; and
2. South 88°50'50" West, a distance of 380.50 feet to the **POINT OF BEGINNING** and containing 12.650 acres of land within these metes and bounds.

County: Hays  
Project: Plum Creek Uptown Phase 1A  
Project No.: 30194242.00

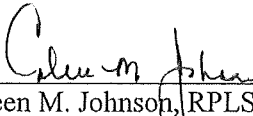
Page 3 of 3  
November 5, 2019

**NOTES:**

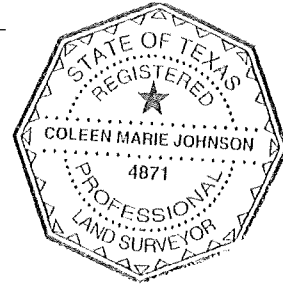
Basis of bearings is the Texas Coordinate System of 1983, Central Zone 4203 (NAD83/2011). All distances shown hereon are grid. Units: U.S. Survey Feet.

There is a survey plat of even date herewith.

I, Coleen M. Johnson, a Registered Professional Land Surveyor, do hereby certify that this description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision. The field work was completed on October 28, 2019.

  
\_\_\_\_\_  
Coleen M. Johnson, RPLS  
Registered Professional Land Surveyor  
Texas Registration No. 4871  
Wantman Group, Inc.  
2021 East 5<sup>th</sup> Street, Suite 200  
Austin, Texas 78702  
TBPELS Survey Firm Nos. 10194451 & 10194509

*Nov. 5, 2019*  
\_\_\_\_\_  
Date



**Tract 2:**

County: Hays  
Project: Plum Creek Uptown Phase 1A  
Project No.: 30194242.00

Page 1 of 2  
November 5, 2019

**EXHIBIT "A"**

TRACT 2 - BEING 1.394 ACRES OF LAND, MORE OR LESS, BEING OUT OF AND A PART OF THE M.M. McCARVER SURVEY NO. 4, ABSTRACT NO. 10, IN THE CITY OF KYLE, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN TRACT DESCRIBED AS TRACT NO. 2 IN A DEED WITHOUT WARRANTY TO MOUNTAIN PLUM, LTD. OF RECORD IN VOLUME 2297, PAGE 139, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T.); SAID 1.394 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2-inch iron rod found with a cap stamped "LAI" in the north line of that certain 5.002 acre tract of land being described as Tract 3, Parcel One in a Special Warranty Deed to PC Operating Partners, Ltd., of record in Volume 5233, Page 198, O.P.R.H.C.T.; from which point a 1/2-inch iron rod found with a cap stamped "LAI" at an interior ell corner in said north line of said 5.002 acre tract bears, North 88°50'50" East, a distance of 43.33 feet;

**THENCE**, over and across a remainder of said Tract 2, the following six (6) courses and distances:

1. North 01°11'10" West, with the east line of a proposed right-of-way, a distance of 260.52 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509";
2. North 01°11'10" West, a distance of 75.00 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509";
3. North 01°11'10" West, with said east line of a proposed right-of-way, a distance of 255.81 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509";
4. North 88°53'16" East, a distance of 284.52 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509 in the west line of a proposed right-of-way;
5. North 01°06'44" West, with said west line of a proposed right-of-way, a distance of 15.53 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509; and
6. North 88°53'16" East, over and across a proposed right-of-way, a distance of 78.00 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509 in the easterly line of said proposed right-of-way for the **POINT OF BEGINNING** and southwest corner of the tract described herein;

**THENCE**, with the west line of the tract described herein, continuing over and across the remainder of said Tract 2, with the east line of a proposed right-of-way, the following two (2) courses and distances:

1. 266.59 feet along the arc of a curve to the left, with a radius of 389.00 feet, a central angle of 39°15'58", and whose chord bears, North 20°44'43" West, a distance of 261.40 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509"; and
2. North 40°22'42" West, a distance of 53.44 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" at the intersection of two proposed rights-of-way, for the northwest corner of the tract described herein;

County: Hays  
Project: Plum Creek Uptown Phase 1A  
Project No.: 30194242.00

Page 2 of 2  
November 5, 2019

**THENCE**, with the north line of the tract described herein, continuing over and across said remainder of Tract 2 described in Volume 2297, Page 139, O.P.R.H.C.T., with the south line of a proposed right-of-way, the following two (2) courses and distances:

1. 132.26 feet along the arc of a curve to the right, with a radius of 215.00 feet, a central angle of  $35^{\circ}14'49''$ , and whose chord bears, North  $71^{\circ}13'17''$  East, a distance of 130.19 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509"; and
2. North  $88^{\circ}50'41''$  East, a distance of 68.04 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" for the northeast corner of the tract described herein;

**THENCE**, with the east line of the tract described herein, continuing over and across said Tract 2, 349.01 feet along the arc of a curve to the right, with a radius of 564.00 feet, a central angle of  $35^{\circ}27'20''$ , and whose chord bears, South  $18^{\circ}50'16''$  East, a distance of 343.47 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509", for the southeast corner of the tract described herein;

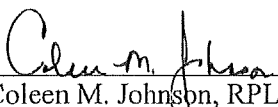
**THENCE**, with the south line of the tract described herein, continuing over and across said Tract 2, South  $88^{\circ}53'39''$  West, a distance of 175.00 feet to the **POINT OF BEGINNING** and containing 1.394 acres of land within these metes and bounds.

**NOTES:**

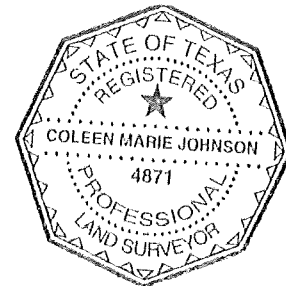
Basis of bearings is the Texas Coordinate System of 1983, Central Zone 4203 (NAD83/2011). All distances shown hereon are grid. Units: U.S. Survey Feet.

There is a survey plat of even date herewith.

I, Coleen M. Johnson, a Registered Professional Land Surveyor, do hereby certify that this description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision. The field work was completed on October 28, 2019.

  
\_\_\_\_\_  
Coleen M. Johnson, RPLS  
Registered Professional Land Surveyor  
Texas Registration No. 4871  
Wantman Group, Inc.  
2021 East 5<sup>th</sup> Street, Suite 200  
Austin, Texas 78702  
TBPELS Survey Firm Nos. 10194451 & 10194509

Nov. 5, 2019  
\_\_\_\_\_  
Date



**EXHIBIT C  
SITE WORK PLANS**

[attached]



# --CONSTRUCTION PLANS-- FOR PLUM CREEK UPTOWN PHASE 1A INFRASTRUCTURE

KOHLEERS CROSSING & KYLE PARKWAY (1626)  
KYLE, HAYS COUNTY, TEXAS 78640

NORTH HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2

**OWNER:** NORTH HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2  
1000 N. HAYS COUNTY ROAD 100  
KYLE, TEXAS 78640

**DESIGNER:** WGL  
1000 N. HAYS COUNTY ROAD 100  
KYLE, TEXAS 78640

**DATE:** 04/22/20

**PROJECT:** PLUM CREEK UPTOWN PHASE 1A INFRASTRUCTURE  
KOHLEERS CROSSING & KYLE PARKWAY (1626)  
KYLE, HAYS COUNTY, TEXAS 78640

**SHEET:** C001  
01 OF 02

NO.	DESCRIPTION	DATE	BY	CHECKED
1	DESIGN	04/22/20	WGL	WGL
2	CONSTRUCTION	04/22/20	WGL	WGL
3	AS-BUILT	04/22/20	WGL	WGL
4	REVISION	04/22/20	WGL	WGL
5	REVISION	04/22/20	WGL	WGL
6	REVISION	04/22/20	WGL	WGL
7	REVISION	04/22/20	WGL	WGL
8	REVISION	04/22/20	WGL	WGL
9	REVISION	04/22/20	WGL	WGL
10	REVISION	04/22/20	WGL	WGL

WGL  
www.wgl.com

PLUM CREEK UPTOWN PHASE 1A INFRASTRUCTURE  
KOHLEERS CROSSING & KYLE PARKWAY (1626)  
KYLE, HAYS COUNTY, TEXAS 78640

04/22/20

**EXHIBIT D  
APPROVED BUDGET**

Roadway Sub-Total	\$	441,878.00
Water Sub-Total	\$	267,335.00
Sewer Sub-Total	\$	127,015.00
Drainage Sub-Total	\$	286,235.00
Erosion and Sedimentation Control Sub-Total	\$	62,956.00
Miscellaneous Sub-Total	\$	73,481.00
Dry Utilities Sub-Total*	\$	315,452.00
<b>TOTAL BASE BID</b>	<b>\$</b>	<b>1,574,352.00</b>
Soft Costs Sub-Total	\$	214,228.00
Base Bid Contingency	10% \$	157,435.20
PEC Direct Cost Payment**	\$	-
<b>TOTAL INFRASTRUCTURE OPC</b>	<b>\$</b>	<b>1,946,015.20</b>

INITIAL ESCROW BREAKDOWN		
Seller @ \$3/PSF (\$3/PSF x 12.002 acres x 43,560 SF)	\$	1,568,421.36
Purchaser @ remainder ***	\$	377,593.84

\*AMOUNT TO BE UPDATED BY CHANGE ORDER UPON FINAL DESIGN BY PEC & TELECOM

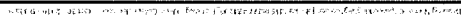
\*\*AMOUNT TO BE UPDATED BY CHANGE ORDER UPON FINAL DESIGN BY PEC

\*\*\*BUYER SOLELY RESPONSIBLE FOR INCREASED COSTS

**EXHIBIT E**  
**PLAT**

[attached]

FINAL PLAT  
PLUM CREEK UPTOWN PHASE 1A  
CITY OF KYLE, HAYS COUNTY, TEXAS



## APPLICATION AND CERTIFICATE FOR PAYMENT

TO (OWNER): Plum Creek Development Partners, Ltd.  
c/o North Hays Co. M.U.D. No. 2  
1711 E. Cesar Chavez St, Ste B  
Austin, TX 78702

PROJECT: Plum Creek Uptown Phase 1A  
Infrastructure

NUMBER:

APPLICATION NO.: 1  
PERIOD TO: 31-Jul-20  
PROJECT NO.:

DISTRIBUTION TO:

☒ OWNER

☐ ARCHITECT

☒ CONTRACTOR

☒ ENGINEER

FROM (CONTRACTOR): Joe Bland Construction, LP  
13111 Dessau Road  
Austin, Texas 78754

VIA (ARCHITECT):

CONTRACT FOR:

CONTRACT DATE:

## CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract Continuation Sheet is attached.

1. ORIGINAL CONTRACT SUM .....	\$	1,258,900.00
2. Net change by Change Orders.....	\$	-
3. CONTRACT SUM TO DATE (Line 1+/-2) .....	\$	1,258,900.00
4. TOTAL COMPLETED & STORED TO DATE.....	\$	133,513.00
5. RETAINAGE		
a. 10.00% of Completed Work	\$	13,351.30
b. _____ of Stored Material	\$	N/A
Total Retainage .....	\$	13,351.30
6. TOTAL EARNED LESS RETAINAGE .....	\$	120,161.70
(Line 4 less Line 5 Total)		
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT		
8. CURRENT PAYMENT DUE .....	\$	120,161.70
9. BALANCE TO FINISH, INCLUDING RETAINAGE .....	\$	1,138,738.30
(Line 3 less Line 6)		

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by owner		
Total approved this month		
TOTALS	\$ -	\$ -
Net change by Change Orders	\$0.00	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, and that current payment shown herein is now due.

CONTRACTOR: JOE BLAND CONSTRUCTION, LP  
Andrew Batten

By: Andrew Batten Date: 20-Jul-20

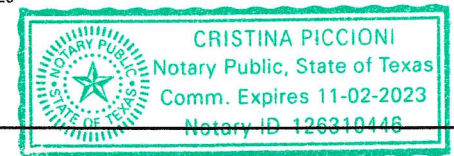
State of: Texas

County of: Travis

Subscribed and sworn to before me on July 20, 2020

Notary Public:

Crishmal Piccioni



## CERTIFICATE FOR PAYMENT

AMOUNTED CERTIFIED ..... \$ 120,161.70

By: [Signature] Date: 07/28/2020  
Engineer

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Plum Creek Development Partners, Ltd.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
North Hays Co. M.U.D. No. 2

ITEM No.	DESCRIPTION OF WORK	SCHEDULED VALUE				WORK COMPLETED				TOTAL COMPLETED AND STORED TO DATE		% COMPLETE
						FROM PREVIOUS APPLICATIONS		THIS PERIOD				
		U/M	QTY	PRICE	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	QTY	AMOUNT	
	ROADWAY											
110S-A	Street Excavation (ROW)*	C.Y.	2117	\$ 18.75	\$ 39,686.00		\$ -	1,906.00	\$ 35,738.00	1,906.00	\$ 35,738.00	90%
132S-A	Embankment (ROW)	C.Y.	381	\$ 1.00	\$ 381.00		\$ -	381.00	\$ 381.00	381.00	\$ 381.00	100%
340S-B	Hot Mix Asphaltic Concrete Pavement, 3 inches, Type D	S.Y.	6510	\$ 15.50	\$ 100,905.00		\$ -		\$ -	0.00	\$ -	0%
210S-A	Flexible Base (16" Compacted Depth)	C.Y.	3078	\$ 30.00	\$ 92,347.00		\$ -		\$ -	0.00	\$ -	0%
203S-A	Lime Treated Subgrade, (8 in. Thick)	S.Y.	6926	\$ 8.50	\$ 58,867.00		\$ -		\$ -	0.00	\$ -	0%
203S	Lime Treatment for Materials in Place	TON	166	\$ 167.00	\$ 27,722.00		\$ -		\$ -	0.00	\$ -	0%
430S-A	P.C. Concrete Curb & Gutter	L.F.	3098	\$ 14.00	\$ 43,372.00		\$ -		\$ -	0.00	\$ -	0%
360S-A	Reinforced Concrete Pavement, 8"	S.Y.	517	\$ 55.00	\$ 28,433.00		\$ -		\$ -	0.00	\$ -	0%
210S-A	Flexible Base (8" Compacted Depth)	C.Y.	115	\$ 32.99	\$ 3,794.00		\$ -		\$ -	0.00	\$ -	0%
203S-A	Lime Treated Subgrade, (8 in. Thick)	S.Y.	517	\$ 8.50	\$ 4,395.00		\$ -		\$ -	0.00	\$ -	0%
203S	Lime Treatment for Materials in Place	TON	12	\$ 190.00	\$ 2,358.00		\$ -		\$ -	0.00	\$ -	0%
803S-1	Street-End Barricade (Type III)	EA.	3	\$ 1,100.00	\$ 3,300.00		\$ -		\$ -	0.00	\$ -	0%
803-MO	Traffic Control	MO	1	\$ 3,200.00	\$ 3,200.00		\$ -		\$ -	0.00	\$ -	0%
TX-DOT DMS-8300	Street Name Sign	EA.	2	\$ 55.00	\$ 110.00		\$ -		\$ -	0.00	\$ -	0%
TX-DOT SMD (TWT) - 08	Wedge Anchor Steel System	EA.	1	\$ 1.50	\$ 2.00		\$ -		\$ -	0.00	\$ -	0%
432S-3A	Curb Ramps at T-Type Intersections	EA.	10	\$ 1,450.00	\$ 14,500.00		\$ -		\$ -	0.00	\$ -	0%
824S	R1-1 Stop Sign (30")(High Density)	EA.	2	\$ 380.00	\$ 760.00		\$ -		\$ -	0.00	\$ -	0%
824S	R7-1R No Parking Any Time Sign (12"x18")	EA.	5	\$ 310.00	\$ 1,550.00		\$ -		\$ -	0.00	\$ -	0%
824S	R7-1L No Parking Any Time Sign (12"x18")	EA.	6	\$ 310.00	\$ 1,860.00		\$ -		\$ -	0.00	\$ -	0%
824S	R7-8 Reserved Handicap Parking Sign (12"x18")	EA.	7	\$ 310.00	\$ 2,170.00		\$ -		\$ -	0.00	\$ -	0%
824S	R1-3P "All-Way" Sign (18"x6")	EA.	1	\$ 55.00	\$ 55.00		\$ -		\$ -	0.00	\$ -	0%
824S	W4-4P "Cross Traffic Does Not Stop" Sign (24"x12")	EA.	1	\$ 55.00	\$ 55.00		\$ -		\$ -	0.00	\$ -	0%
871S-A	Reflectorized Type I Thermoplastic Pavement Markings 24 inches in width, 90 mils in thickness, white in color	L.F.	280	\$ 19.00	\$ 5,320.00		\$ -		\$ -	0.00	\$ -	0%
871S-A	Reflectorized Type I Thermoplastic Pavement Markings 4 inches in width, 90 mils in thickness, white in color	L.F.	750	\$ 1.25	\$ 938.00		\$ -		\$ -	0.00	\$ -	0%
871S-A	Reflectorized Type I Thermoplastic Pavement Markings 4 inches in width, 90 mils in thickness, yellow in color	L.F.	3406	\$ 1.25	\$ 4,258.00		\$ -		\$ -	0.00	\$ -	0%
871S-D	Reflectorized Type I Thermoplastic Pavement Markings (Sym.)	EA.	7	\$ 220.00	\$ 1,540.00		\$ -		\$ -	0.00	\$ -	0%
	SUBTOTAL				\$ 441,878.00		\$ -		\$ 36,119.00		\$ 36,119.00	8%
	WATER											
509S-1	Trench Excavation Safety Protective Systems	L.F.	3049	\$ 1.50	\$ 4,574.00		\$ -		\$ -	0.00	\$ -	0%
510-BW	Connecting New 12" Service to Existing 12" Service	EA.	1	\$ 1,300.00	\$ 1,300.00		\$ -		\$ -	0.00	\$ -	0%
12" DIA. 510-BW	Connecting New 8" Service to Existing 8" Service	EA.	2	\$ 1,550.00	\$ 3,100.00		\$ -		\$ -	0.00	\$ -	0%
8" DIA. 510-AWRJ	6" Ductile Iron Pipe	L.F.	194	\$ 40.00	\$ 7,760.00		\$ -		\$ -	0.00	\$ -	0%
6" DIA. 510-AWRJ 8"	8" PVC (C-900) Waterline (Restrained)	L.F.	2036	\$ 32.00	\$ 65,152.00		\$ -		\$ -	0.00	\$ -	0%
DIA. 510-AWRJ 12"	12" Ductile Iron Pipe	L.F.	819	\$ 60.00	\$ 49,140.00		\$ -		\$ -	0.00	\$ -	0%
DIA. COK DT-1	6" Resilient Wedge Gate Valve	EA.	10	\$ 1,650.00	\$ 16,500.00		\$ -		\$ -	0.00	\$ -	0%
COK DT-1	8" Resilient Wedge Gate Valve	EA.	20	\$ 2,120.00	\$ 42,400.00		\$ -		\$ -	0.00	\$ -	0%
COK DT-1	12" Resilient Wedge Gate Valve	EA.	4	\$ 3,050.00	\$ 12,200.00		\$ -		\$ -	0.00	\$ -	0%
511S-A	Combo valve, Air Release, 1 inch Diameter	EA.	2	\$ 3,875.00	\$ 7,750.00		\$ -		\$ -	0.00	\$ -	0%
COK DT-1	Fire Hydrant Assembly	EA.	10	\$ 3,800.00	\$ 38,000.00		\$ -		\$ -	0.00	\$ -	0%
510-KW	Ductile Iron Fittings	TONS	2	\$ 7,900.00	\$ 15,800.00		\$ -		\$ -	0.00	\$ -	0%
COK (SUB)	Hydrostatic Testing/ Chlorination	L.F.	3049	\$ 1.20	\$ 3,659.00		\$ -		\$ -	0.00	\$ -	0%
	SUBTOTAL				\$ 267,335.00		\$ -		\$ -		\$ -	0%

SEWER												
509S-1	Trench Excavation Safety Protective Systems	L.F.	1602	\$ 1.20	\$ 1,923.00		\$ -	656.00	\$ 787.00	656.00	\$ 787.00	41%
510-AWW 8" DIA.	8" PVC Gravity Sanitary Sewer Pipe (SDR 26, ASTM D2241)	L.F.	1602	\$ 32.00	\$ 51,264.00		\$ -	656.00	\$ 20,992.00	656.00	\$ 20,992.00	41%
COK DT-2	Standard Precast Watertight Drop Manhole, 4' Dia. (all depths)	EA.	1	\$ 6,600.00	\$ 6,600.00		\$ -	1.00	\$ 6,600.00	1.00	\$ 6,600.00	100%
COK DT-2	Standard Precast Watertight Manhole w/Pre-cast Base & Bolted cover, 4' Dia. (all depths)	EA.	4	\$ 6,200.00	\$ 24,800.00		\$ -	2.00	\$ 12,400.00	2.00	\$ 12,400.00	50%
COK DT-2	Standard Precast Watertight Vented Mahole w/CIP Base & Bolted Cover, 4' Dia. (all depths)	EA.	1	\$ 6,500.00	\$ 6,500.00		\$ -		\$ -	0.00	\$ -	0%
COK DT-2	Standard Precast Watertight Vented Manhole w/CIP Base & Bolted Cover, 5' Dia. (all depths)	EA.	3	\$ 10,000.00	\$ 30,000.00		\$ -		\$ -	0.00	\$ -	0%
506S- CNWW	Connection to Existing Manhole	EA.	1	\$ 1,800.00	\$ 1,800.00		\$ -		\$ -	0.00	\$ -	0%
COK DT-2	Two-Way Cleanout	EA.	3	\$ 735.00	\$ 2,205.00		\$ -	1.00	\$ 735.00	1.00	\$ 735.00	33%
510-VIDEO	Post Sewer Main Television Inspection (8"-18")	L.F.	1602	\$ 1.20	\$ 1,923.00		\$ -		\$ -	0.00	\$ -	0%
SUBTOTAL					\$ 127,015.00		\$ -		\$ 41,514.00		\$ 41,514.00	33%
DRAINAGE												
120S-B	Channel Excavation & Backfill (B-Street)*	C.Y.	2342	\$ 9.00	\$ 21,082.00		\$ -	1,757.00	\$ 15,813.00	1,757.00	\$ 15,813.00	75%
120S-B	Channel Excavation & Backfill (Burnham)*	C.Y.	1403	\$ 9.50	\$ 13,327.00		\$ -	1,053.00	\$ 10,004.00	1,053.00	\$ 10,004.00	75%
509S-1	Trench Excavation Safety Protective System	L.F.	1301	\$ 1.00	\$ 1,301.00		\$ -		\$ -	0.00	\$ -	0%
506 CNSW	Connection to Existing Storm Line	EA.	1	\$ 800.00	\$ 800.00		\$ -		\$ -	0.00	\$ -	0%
510-AR 18" DIA.	Reinforced Concrete Pipe (Class III)(18" Dia.)	L.F.	302	\$ 50.00	\$ 15,100.00		\$ -		\$ -	0.00	\$ -	0%
510-AR 24" DIA.	Reinforced Concrete Pipe (Class III)(24" Dia.)	L.F.	418	\$ 60.00	\$ 25,096.00		\$ -		\$ -	0.00	\$ -	0%
510-AR 36" DIA.	Reinforced Concrete Pipe (Class III)(36" Dia.)	L.F.	580	\$ 110.00	\$ 63,829.00		\$ -		\$ -	0.00	\$ -	0%
506 M	Standard Pre-cast Manhole w/Pre-cast Base, 4' Dia.	EA.	2	\$ 4,000.00	\$ 8,000.00		\$ -		\$ -	0.00	\$ -	0%
506 M	Standard Pre-cast Manhole w/Pre-cast Base, 5' Dia.	EA.	5	\$ 4,400.00	\$ 22,000.00		\$ -		\$ -	0.00	\$ -	0%
506 M	Standard Pre-cast Manhole w/Pre-cast Base, 6' Dia.	EA.	3	\$ 5,100.00	\$ 15,300.00		\$ -		\$ -	0.00	\$ -	0%
CoK Cover	City of Kyle 23 3/8" Tri-Fish storm drain inlet.	EA.	10	\$ 750.00	\$ 7,500.00		\$ -		\$ -	0.00	\$ -	0%
506S J	Junction Box 6'x6'	EA.	1	\$ 7,700.00	\$ 7,700.00		\$ -		\$ -	0.00	\$ -	0%
506S J	Junction Box 8'x8'	EA.	1	\$ 11,300.00	\$ 11,300.00		\$ -		\$ -	0.00	\$ -	0%
508S-I10R	10' Curb Inlet (Type II)	EA.	10	\$ 4,200.00	\$ 42,000.00		\$ -		\$ -	0.00	\$ -	0%
508S-9	4 Sided Area Inlet (4'x4' with concrete apron)	EA.	5	\$ 3,500.00	\$ 17,500.00		\$ -		\$ -	0.00	\$ -	0%
508S-H	Concrete Headwall, Type C, 36" Dia. Pipe	EA.	2	\$ 6,600.00	\$ 13,200.00		\$ -		\$ -	0.00	\$ -	0%
591S-A	Dry Rock Riprap	C.Y.	8	\$ 150.00	\$ 1,200.00		\$ -		\$ -	0.00	\$ -	0%
SUBTOTAL					\$ 286,235.00		\$ -		\$ 25,817.00		\$ 25,817.00	9%
EROSION & SEDIMENTATION CONTROL												
632S	Storm Inlet Sediment Trap	EA.	18	\$ 78.00	\$ 1,404.00		\$ -		\$ -	0.00	\$ -	0%
639S	Rock Berm	L.F.	276	\$ 22.00	\$ 6,072.00		\$ -		\$ -	0.00	\$ -	0%
641S	Stabilized Construction Entrance	EA.	1	\$ 950.00	\$ 950.00		\$ -	1.00	\$ 950.00	1.00	\$ 950.00	100%
642S	Silt Fence for Erosion Control	L.F.	6460	\$ 1.90	\$ 12,274.00		\$ -	6,460.00	\$ 12,274.00	6,460.00	\$ 12,274.00	100%
SUP	Revegetation	A.C.	5	\$ 8,000.00	\$ 42,256.00		\$ -		\$ -	0.00	\$ -	0%
SUBTOTAL					\$ 62,956.00		\$ -		\$ 13,224.00		\$ 13,224.00	21%
MISCELLANEOUS												
102S-C	Clearing and Grubbing (ROW)	A.C.	6.0	\$ 433.00	\$ 2,598.00		\$ -	6.00	\$ 2,598.00	6.00	\$ 2,598.00	100%
102S-C	Clearing and Grubbing Utility/Drainage Areas (Outside of ROW)	A.C.	2	\$ 532.00	\$ 1,064.00		\$ -	2	\$ 1,064.00	2.00	\$ 1,064.00	100%
102S-C	Clearing and Grubbing (Lots)	A.C.	7	\$ 551.00	\$ 3,857.00		\$ -	7	\$ 3,857.00	7.00	\$ 3,857.00	100%
700S-TM	Total Mobilization Payment	L.S.	1	\$ 55,000.00	\$ 55,000.00		\$ -		\$ -	0.00	\$ -	0%
SUP	Stockpile Spoils On Site (ROW)	C.Y.	1736	\$ 2.00	\$ 3,472.00		\$ -	1,476	\$ 2,952.00	1,476.00	\$ 2,952.00	85%
SUP	Stockpile Spoils On Site (Drainage Areas)	C.Y.	3745	\$ 2.00	\$ 7,490.00		\$ -	3,184	\$ 6,368.00	3,184.00	\$ 6,368.00	85%
SUBTOTAL					\$ 73,481.00		\$ -		\$ 16,839.00		\$ 16,839.00	23%



Base Contract Total		\$ 1,258,900.00		\$ -		\$ 133,513.00		\$ 133,513.00	11%
Change Order Total		\$ -		\$ -		\$ -		\$ -	#DIV/0!
TOTAL CONTRACT		\$ 1,258,900.00		\$ -		\$ 133,513.00		\$ 133,513.00	11%

**CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT**

Project: Plum Creek Uptown Phase 1A Infrastructure

Job No. 879

On receipt by the signer of this document of a check from **Plum Creek Development Partners, Ltd.** in the sum of **\$120,161.70** payable to Joe Bland Construction, L.P. and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of **North Hays County M.U.D. No. 2**, located at: **Buda, Texas** to the following extent: **PA# 1**

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to **Plum Creek Development Partners, Ltd.** as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

Date: 7/20/2020

Joe Bland Construction, L.P.

By 

By \_\_\_\_\_

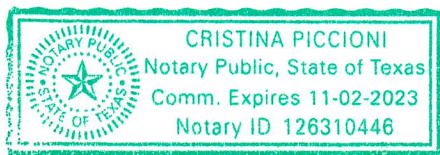
Andrew Batten, Project Manager


STATE OF TEXAS §

§

COUNTY OF TRAVIS §

Before me, the undersigned Notary Public in and for the State of Texas, on this day personally appeared **Andrew Batten**, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed such instrument for the purposes therein expressed, and in the capacity therein stated as the act and deed of such business entity.





Name: Cristina Piccioni

Notary Public, State of Texas

My commission expires: 11/2/2023



# CITY OF KYLE, TEXAS

## Goshawk Spring Branch Archeological Study

**Meeting Date: 9/1/2020**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Approve a contract with GOSHAWK ENVIRONMENTAL CONSULTING, INC. in an amount not to exceed \$11,602.50 for a City of Kyle Spring Branch Segment Archeological Study. ~ *J. Scott Sellers, City Manager*

### **Other Information:**

### **Legal Notes:**

### **Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

- ☐ Recommendation Letter Archaeological Studies
- ☐ Goshawk Proposal- SPI Spring Branch Segment Plum Creek Trail
- ☐ Ama Terrra - SPI\_COK\_Trail\_Survey Proposal
- ☐ SWCA - Spring Branch Plum Creek Trail proposal

August 27, 2020

Mr. Scott Sellers  
City Manager  
**City of Kyle**  
100 W. Center St.  
Kyle, TX 78640

**Re: RT19009 City of Kyle Spring Branch Segment Archeological Study**

Mr. Sellers,

As you are aware, Texas Parks & Wildlife has additional requirements of the TxDOT archaeological study including deeper testing for Holocene-age deposits that may extend to three feet or more within the project area. A previous study conducted by TxDOT seems to indicate that the test area is north of Patton Path, between the fence line and the channel. The study area is approximately 1,400 feet in length.

Schaumburg & Polk, Inc. solicited proposals for the archaeological services necessary to fulfill the additional requirements. A total of three proposals were received. A summary of the received proposals is below:

Proposer	Negative Findings Cost	One New Archeological Site Cost	Total Negative + New Site Cost
Goshawk Environmental Consultants, Inc.	\$6,363	\$5,240	\$11,603
AmaTerra Environmental, Inc.	\$12,808	\$806	\$13,614
SWCA Environmental Consultants	\$8,750	Not provided	\$8,750

All consultants who submitted proposals are qualified to perform the work.

Goshawk Environmental Consultants, Inc. submitted the lowest cost proposal. Their proposal includes a contingency for documenting an undiscovered archaeological resource and reporting and curating the resource to the appropriate authorities.

Please note that all proposals are predicated upon the City of Kyle providing a backhoe and operator to excavate trenches approximately six feet in depth under the direction of the archaeological service provider. The backhoe and operator should be available for up to three consecutive days. The service provider will coordinate this activity directly with the City of Kyle.

August 27, 2020

Based on these proposals, it is the recommendation of Schaumburg & Polk, Inc. that the City of Kyle award a contract to Goshawk Environmental Consulting, Inc. for a time and materials contract in the amount of Not to Exceed \$11,602.50.

Contact information for Goshawk Environmental Consulting, Inc. is as follows:

Mr. Zane Homesley  
P.O. Box 151525  
Austin, TX 78715  
Phone: (512) 203-0484  
ZHomesley@goshawkenv.com

Sincerely,

**Schaumburg & Polk, Inc.**



Allen R. Ross, P.E.  
President

Attachments: Original Proposals





20 July 2020

Mr. Allen Ross, P.E.  
Schaumburg & Polk, Inc.  
320 S. Broadway Avenue, Suite 200  
Tyler, Texas 75702

**Re:** Proposal-Cultural Resources Survey - Spring Branch Segment of Plum Creek Trail  
Kyle, Hays County, Texas

Dear Mr. Ross,

In response to your request for proposals, Goshawk Environmental Consulting, Inc. (Goshawk) is pleased to submit this proposal for cultural resource services pertaining to the Spring Branch Segment of Plum Creek Trail in Kyle, Hays County, Texas. This proposal will provide a breakdown of cost estimates for labor and project expenses for cultural resources survey of the approximately 1,400-foot segment of trail.

### Introduction

Based on a thorough analysis of the project area and review of the provided Archaeological Background Study, a research design has been developed from which our cost estimates were derived. This research design exceeds the minimum standards for archeological survey and testing recommended by the Council of Texas Archeologists (CTA) and the Texas Historical Commission (THC). The research design also meets the recommendations made for this project by the Texas Parks and Wildlife Department (TPWD).

\*Customarily, Goshawk prefers to work on a time and materials basis and has included billing rates of key personnel below.

### *Billing rates of Key Personnel*

Key Personnel	Billing Rate (Per Hour)
Principal	\$130
Principal Investigator	\$105
Project Archeologist	\$85
Cultural Resources (CR) Specialist 2	\$65
Editing	\$75
Administrative	\$60

### Proposed Bid

The itemized bid below represents time spent for consultation with THC, pedestrian archeological survey and mechanical testing (trenching) of the 1,400-foot trail segment. The bid includes 100-percent pedestrian survey and the monitoring and recording of two mechanically excavated trenches,



as well as writing and editing of a report suitable for review by the THC and Texas Department of Transportation (TxDOT), the reviewing agencies for this project. The bid does not include excessive agency negotiations, heavy equipment rental, operator wages, or potential recording, testing and data recovery of documented cultural resource sites. This proposal works on the assumption that the City of Kyle will provide the necessary heavy equipment and operator. This proposal also assumes the results of survey and testing will be negative. In the event that cultural resources requiring recording are located, additional costs not included in this proposal may be incurred. Any such costs will result in a supplementary proposal and scope of work. These costs would include additional time for field personal, additional time for report writing and curation, and fees associated with archaeological site recording and curation.

### Project Timeline

Once a contract is awarded, project planning and archival research will be initiated. A TAC permit will be obtained and the archeological survey will be conducted as soon as access to the property is granted and the provided equipment and operator are available. Reporting is anticipated to require up to two weeks to complete, after which, a draft report of findings will be submitted to THC for review and concurrence. The typical timeframe for THC review is 30 days. A finalized, printed report of findings and THC reviewer concurrence will be provided to Schaumburg and Polk, Inc. In addition, the required 12 copies of the report will be printed for distribution to approved repositories.

### Project Costs

#### Project Planning and Permit Requisition

Key Personnel	Billing Rate (Per Hour)	Hours	Total
Principal Investigator	\$105	2	\$210
Project Archeologist	\$85	2	\$170
Total			\$380

#### Field Survey Labor

Key Personnel	Billing Rate (Per Hour)	Hours	Total
Principal Investigator	\$105	8	\$840
Project Archaeologist	\$85	8	\$680
CR Specialist 2	\$65	8	\$520
Total			\$2,040

#### Mileage and Expenses

Expense Item	Cost	Miles	Total
Mileage	\$0.575 (per mile)	48 miles	\$27.60
Field Supplies			\$100
Total			127.60



### *Laboratory Analysis, Data Entry, and Curation Preparation*

Key Personnel	Billing Rate	Hours	Total
Principal Investigator	\$105	0	\$0
Project Archeologist	\$85	1	\$85
CR Specialist 2	\$65	8	\$520
TARL Curation Fees	\$460	N/A	\$460
Total			\$1,065

### *Document Preparation*

Key Personnel	Billing Rate	Hours	Total
Principal Investigator	\$105	8	\$840
Project Archeologist	\$85	16	\$1,360
CR Specialist 2	\$65	2	\$130
Editing	\$75	4	\$300
Accounting	\$60	2	\$120
Total			\$2,750

Planning and Consultation with THC- \$380

Field Survey Labor- \$2,040

Mileage and Expenses- \$127.60

Laboratory Analysis, Data Entry, and Curation Preparation- \$1,065

Document Preparation- \$2,750

**Project Total:** Complete Investigation and Report for a Negative Survey - **\$6,362.60**

### **Positive Survey Contingency Estimate**

While the cost of recording, reporting on, and curating materials from an archaeological site will vary depending on the age, nature, and context of an archaeological site, the following represents the approximate added costs of a positive survey locating one archaeological site typical of this area. These costs are in addition to the above costs of a negative survey. Please note that depending on the nature of any archaeological site(s) located, adjustments to the proposed project may be required by reviewing agencies. In this event, additional cultural resources investigations, the cost of which is not included in this contingency estimate, may be required. Further, if an archaeological site is located during the work, an updated proposal tailored to the type and amount of additional work needed will be provided. Goshawk works on a time and materials basis.





*Additional Field Survey Labor Estimate for Positive Survey Findings*

Key Personnel	Billing Rate (Per Hour)	Hours	Total
Principal Investigator	\$105	4	\$420
Project Archaeologist	\$85	8	\$680
CR Specialist 2	\$65	8	\$520
Total			\$1,620

*Additional Laboratory Analysis and Curation Preparation Estimate for Positive Survey Findings*

Key Personnel	Billing Rate	Hours	Total
Principal Investigator	\$105	0	\$0
Project Archeologist	\$85	4	\$340
CR Specialist 2	\$65	8	\$520
TARL Curation Fees	\$460	N/A	\$460
Total			\$1,320

*Additional Document Preparation Estimate for Positive Report Findings*

Key Personnel	Billing Rate	Hours	Total
Principal Investigator	\$105	4	\$420
Project Archeologist	\$85	16	\$1,360
CR Specialist 2	\$65	8	\$520
Total			\$2,300

Additional Field Survey Labor Estimate- \$1,620

Laboratory Analysis, Data Entry, and Curation Preparation- \$1,320

Document Preparation- \$2,300

**Positive Survey Contingency Estimate Total: \$5,240 additional, \$11,602.60 total.**

I hope you find the preceding responsive to your requests. As stated above, Goshawk invoices for its services on a time and material basis. Please feel free to contact me by phone at (737)-888-1136 or by email at [sevans@goshawkenv.com](mailto:sevans@goshawkenv.com) for any questions, clarifications, or further requests for information.

Sincerely,



Steven R. Evans  
 Project Archaeologist  
 Goshawk Environmental Consulting, Inc.



**Scope of Work for  
Archaeological Survey Along 1400 Linear  
Feet of the City of Kyle's Proposed RT19009  
Spring Branch Segment of Plum Creek Trail,  
Hays County, Texas**

AmaTerra Environmental, Inc. (AmaTerra) is pleased to submit this proposal to Schaumburg & Polk, Inc (SPI) to conduct archeological survey for 1400 linear feet of the City of Kyle's proposed RT19009 Spring Branch Segment of Plum Creek Trail (the Project) in Hays County, The Project will require Texas Department of Transportation (TxDOT) oversight and as well as compliance with the Antiquities Code of Texas (ACT). The Project footprint has not been surveyed previously. In addition, the limits of construction are confined to landforms that do not appear to have evidence of modern disturbance. Finally, the Project is located on alluvial deposits with deep Holocene soils that may preserve deeply-buried archeological resources. Accordingly, an intensive survey with backhoe trenching is required to fully assess project-related cultural resource impacts for Section 106 and ACT compliance. This scope of work includes all cultural resource-related work needed to evaluate the project's impacts to cultural resources for Section 106 of the National Historic Preservation Act (NRHP) and ACT compliance.

***Scope of Work –***

***Pre-Field Preparation and Permit Application***

Under this task, AmaTerra will prepare an Antiquities Permit application per the requirements of the ACT. This permit application package will include a summary of the known resources in the vicinity, the proposed field methodology, and an application form. This application package will be submitted to SPI and the City of Kyle for review. Upon approval and receipt of the cities signature, the application will be submitted to TxDOT for their review and upon approval submitted to the THC for their review and eventual permit issuance.

***Cultural Resource and Archeological Field Survey***

Once a permit has been issued and schedule allows, AmaTerra staff archeologists will travel to the survey area to conduct an archeological survey in accordance with TxDOT's survey standards and the THC's minimum standards for linear surveys (pedestrian inspection supplemented with backhoe trenches and shovel tests). Two days of backhoe trenching have been included to excavate the needed exploratory trenches and, if necessary, excavate column samples if artifacts and/or features are observed. Observations will be recorded through notes, photographs, field forms, and with hand-held GPS. Any archeological sites observed within the survey corridor will be documented in accordance with THC standards. All cultural resource field information and findings will be compiled into an existing project GIS file.

***Draft Reporting***

Subsequent to field investigations, AmaTerra will prepare TexSite form(s) for any archeological site(s) recorded. AmaTerra will prepare a comprehensive report that details project components, field methods and observations, recorded sites (if any), and regulatory recommendations for the

bank stabilization effort. A draft will be electronically submitted to SPI and the City of Kyle for review and comment, then (upon revision/approval) submitted to TxDOT and THC for their review under the ACT and Section 106.

### ***Curation and Final Report Preparation***

Upon THC approval (typically 30 days after receipt), AmaTerra will prepare final reports in accordance with the Antiquities Permit requirements and the scope provided and submit all photographs, notes and forms to an approved curatorial facility for permanent curation.

### ***Assumptions***

- The project will take place on land owned and/or easements managed by a public agency; therefore an Antiquities Permit will be required.
- All cultural resource surveys in the proposed project area which are subject to Section 106 (33 CFR Part 800) of the National Historic Preservation Act (NHPA) will be conducted in accordance with 33 CFR Part 325, Appendix C (Processing Department of Army Permits: Procedures for the Protection of Historic Properties; Final Rule 1990; with current Interim Guidance Document dated June 24, 2002). As well as following TxDOT and THC survey standards and guidelines.
- AmaTerra assumes the project's impact footprint measures approximately 1400 linear feet.
- AmaTerra assumes archeological survey will meet or exceed the state minimum standards for intensive area survey.
- AmaTerra assumes archeological survey will be completed in a single mobilization.
- AmaTerra assumes up to one newly-recorded archeological site will be documented through the course of survey.
- AmaTerra assumes that the City of Kyle will provide a backhoe and backhoe operator for two days.
- AmaTerra assumes two days of backhoe trenching will be required to fully assess project-related impacts. If additional trenching is required it will be done under a separate cost and scope.
  - In accordance with the State's newly-revised survey standards, if artifacts or features are observed within a backhoe trench, a column sample must be excavated.
- AmaTerra assumes 100% right of entry at the time of field investigations (no repeat, partial field visits) with all access to private property coordinated by others prior to initiating fieldwork.

### ***Summary of Costs***

AmaTerra proposes a maximum total project budget of **\$13,614.00**. This work will be invoiced monthly on a time and materials basis. A detailed budget breakdown is provided on the following page.

AmaTerra Environmental, Inc.								
Cost Proposal								
SPI-City of Kyle Spring Branch Segment of Plum Creek Trail - Cultural Resource Services								
Last Updated 8/20/2020								
LABOR	Antiquities Permit Application	Field Survey	Draft Report	Final Report, Curation, and Project Closeout	Mgmt	Total Hours	Rate	Extension
Principal					1	1	\$232.00	\$232.00
Program Director	1				2	3	\$164.00	\$492.00
Archeologist VI/Sr. Principal Investigator			1	1	1	3	\$136.00	\$408.00
Archeologist V/Principal Investigator	2	1	8	4	2	17	\$101.00	\$1,717.00
Archeologist III/Field Director	8	16	24	24		72	\$86.00	\$6,192.00
Archeologist II/Crew Chief		16		4		20	\$77.00	\$1,540.00
GIS Technician	4		8	2		14	\$70.00	\$980.00
Clerical	2	1	4	2		9	\$61.00	\$549.00
Administrative					6	6	\$88.00	\$528.00
<i>Direct Labor Total</i>	17	34	45	37	12	145		<b>\$12,638.00</b>
<b>EXPENSES</b>								
Mileage		120				120	\$0.575	\$69.00
Site Trinomial Fee			1			1	\$96.00	\$96.00
Document Curation (1/8 Drawer) at TARL				1		1	\$500.00	\$500.00
Expendable Field Supplies		2				2	\$25.00	\$50.00
Copies (Black and White)	100	40	200	200	20	560	\$0.10	\$56.00
Copies (Color)	25	10	75	75	20	205	\$1.00	\$205.00
<i>Expenses Subtotal</i>								<b>\$976.00</b>
<b>TOTAL</b>								<b>\$13,614.00</b>

August 20, 2020  
AmaTerra Environmental, Inc.



ENVIRONMENTAL CONSULTANTS

Sound Science. Creative Solutions.®

4407 Monterey Oaks Boulevard  
Building 1, Suite 110  
Austin, Texas 78749  
Tel 512.476.0891 Fax 512.476.0893  
www.swca.com

August 24, 2020

Allen R. Ross, P.E.  
Schaumburg & Polk, Inc.  
320 S. Broadway Avenue, Suite 200  
Tyler, Texas 75702

E-mail: [aross@spi-eng.com](mailto:aross@spi-eng.com)  
Phone: 903-595-3913

**RE: PROPOSAL FOR CULTURAL RESOURCES INVESTIGATIONS FOR SPRING BRANCH SEGMENT OF THE PLUM CREEK TRAIL, CITY OF KYLE**

Dear Mr. Ross:

SWCA Environmental Consultants (SWCA) is pleased to submit this proposal for environmental services related to the proposed Spring Branch Segment of the Plum Creek Trail, Kyle, Texas. It is SWCA's understanding that the 1.5-mile-long trail crosses lands controlled by the City of Kyle, a political subdivision of the state of Texas. As a result, the project is subject to the Antiquities Code of Texas (ACT) and the accompanying Rules of Practice and Procedure, which protects archaeological sites and historic buildings on public land. Additionally, if the project involves Federal Highway Administration (FHWA) right-of-way, the project may require compliance with Section 106 of the National Historic Preservation Act (NHPA). The scope of services below is designed to comply with both the ACT and Section 106.

Our scope of work is designed according to a previous review and recommendations by the Texas Department of Transportation to meet requirements of the ACT. Our scope of services includes a background review, the preparation of an Antiquities Permit application for submittal to the THC, mechanical backhoe excavation on public lands, the production of a report of the results for review by the THC, and curation of the project materials in an approved facility.

Enclosed is a scope of work, schedule of completion, cost estimate, and SWCA's rate schedule. We appreciate the opportunity to assist you on this project and look forward to responding to any questions that you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read "Yelacic", written over a faint, larger signature.

David Yelacic, RPA  
Geoarchaeologist-Principal Investigator  
[david.yelacic@swca.com](mailto:david.yelacic@swca.com)  
Tel: 210-877-2847

## SPRING BRANCH SEGMENT OF PLUM CREEK TRAIL

### INTRODUCTION

On behalf of the City of Kyle, SWCA is pleased to present the following proposal for cultural resources services for the proposed Spring Branch Segment of the Plum Creek Trail in Kyle, Texas. Because the project is controlled by a subdivision of the State of Texas (City of Kyle), the project is subject to the Antiquities Code of Texas (ACT) and the accompanying Rules of Practice and Procedure, which protects archaeological sites and historic buildings on public land. Further, SWCA understands that the project may involve Federal Highway Administration (FHWA) funding, and if so, then the project would require compliance with Section 106 of the National Historic Preservation Act (NHPA).

SWCA understands that the proposed project involves the construction of an overall approximately 1.5-mile-long segment of 10-foot-wide pedestrian trail. The proposed depth of impacts for the project are unknown at this time but are not expected to exceed 6 feet (1.8 meters). An archaeological background study was conducted by the Texas Department of Transportation (TxDOT) for the project.<sup>1</sup> This study identified a specific approximately 1,400-foot-long stretch of proposed trailway with increased potential for intact deeply buried resources, whereas the remainder of the proposed alignment had been previously disturbed by creek channelization. This 1,400-foot-long portion of alignment was recommended for field-based archaeological investigations.

Based on TxDOT recommendations, SWCA presents a scope of work, including an abbreviated background review, Antiquities Permit application, mechanical prospection, reporting, and curation; a schedule of completion; a cost estimate with assumptions; and SWCA's standard rate schedule.

### SCOPE

#### TASK 1: BACKGROUND REVIEW AND ANTIQUITIES PERMIT APPLICATION

SWCA will first conduct a background archaeological literature and records search of the project area. For this research, an SWCA archaeologist will search site files, records, and map files housed at the Texas Archaeological Research Laboratory and the THC Library. Additionally, an SWCA archaeologist will search the Texas Archeological Sites Atlas online database for any previously recorded surveys and historic or prehistoric archaeological sites located in or near the project area. Because the project involves lands owned or controlled by the City of Kyle, archaeological field investigations will require a Texas Antiquities Permit. SWCA's Principal Investigator will prepare the permit application and submit it to the client for review and signatures. Once complete, SWCA will submit the application with all pertinent project documentation to the THC, the permitting and reviewing agency. SWCA will incorporate the results of the background review in the permit application.

#### TASK 2: CULTURAL RESOURCES SURVEY

SWCA proposes to conduct mechanical prospection/deep testing along the recommended approximately 1,400 feet of alignment identified by TxDOT. The level of effort will follow state Minimum Survey Standards and will be of sufficient intensity to determine the nature, extent, and, if possible, potential significance of any cultural resources located within the proposed project area.

The field assessment of the project area will consist of a suite of three to four backhoe trenches spanning the targeted 1,400-foot-long portion of proposed trailway, and should resources be discovered, then additional mechanical excavation may be warranted. Trench placement will be determined on the level of disturbance and the preservation potential for archaeological sites as determined by an SWCA archaeologist. Backhoe trenches will be excavated to a

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<sup>1</sup> Anderson, Jennifer and Antonio Padilla. 2019. *Archeological Background Study of Spring Branch Segment of Plum Creek Trail, CSJ 2222-20-009, Hays County, Austin District*. Texas Department of Transportation, Austin, Texas.

depth sufficient to determine the presence/absence of buried cultural materials and allow the complete recording of all features and geomorphic information to depths of project impacts or sediment incapable of containing intact cultural resources. Generally, trenches will be four to five feet (1.2 to 1.5 meters [m]) deep or more, 23 feet (7 m) in length, and 2.5 feet (0.75 m) wide. All trenching will be monitored by an experienced archaeologist while excavations are underway. A second archaeologist will screen or trowel through sediment samples at a rate of one five-gallon bucket from every third backhoe bucket. Once the trench is excavated, SWCA archaeologists will scrape down both walls of the trench, examining the profiles for artifacts, features, or other cultural manifestations. Each trench will be documented by field notes, stratigraphic descriptions, photographs, and GPS unit. Features encountered during trenching will be mapped and photographed.

All work will be performed in accordance with the U.S. Occupational Safety and Health Administration (OSHA; 29 CFR Part 1926). When necessary to assess the potential for buried deposits up to eight feet (2.44 m) below surface, backdirt from the backhoe bucket will be sifted and selectively screened to assess presence or absence of cultural materials. The entire process will be thoroughly documented and photographed. Upon completion of excavation, all trenches will be backfilled, leveled, and returned, as much as possible, to their original state.

Any discovered archaeological sites will be defined and recorded following standard federal and state guidelines. All recorded sites will be mapped in detail with a GPS unit and plotted on U.S. Geological Survey 7.5-minute topographic quadrangle maps with a GPS unit and appropriate project maps for planning purposes. SWCA is proposing a non-collection survey. Artifacts will be tabulated, analyzed, and documented in the field, but not collected. Temporally diagnostic artifacts will be described in detail and photographed in the field, then reburied. This policy will eliminate curation costs once the fieldwork is concluded.

### **TASK 3: REPORTING**

Upon completion of field work, SWCA will prepare a report that will conform to the Council of Texas Archeologists and THC guidelines and standards. The report will document previous investigations in the area, background cultural settings, the methodology used in the investigations, the presence and condition of any previously recorded sites revealed in the records review, the general nature and extent of cultural resources encountered during the archaeological survey, recommendations on the need for any further work, and the potential significance of the cultural resources in regards to future development and eligibility as State Antiquities Landmarks.

A draft digital copy of the report will be submitted to the City of Kyle for review and comment. Subsequent to client review, a final draft report will be submitted to the agencies for review and concurrence. Each agency has up to 30 days to review the document. For federal undertakings reviewed under Section 106 of the NHPA, both the lead federal agency and the THC review the document.

### **TASK 4: CURATION AND PERMIT CLOSEOUT**

Once the agencies have approved the draft report, SWCA will also furnish two electronic copies of the final report on a tagged PDF formatted CD to the THC, complete an Abstracts in Texas Contract Archeology Summary form and abstract text on-line, and furnish nine hard copies of the report (without site information) to university-based libraries and archaeological research facilities around the state.

## **ASSUMPTIONS**

In preparing the scope and cost estimate for this project, SWCA assumes the following:

- Based on previous recommendations from TxDOT (Anderson and Padilla 2019), SWCA assumes some systematic deep test investigations would be required for this project.
- Mechanical Prospection will be completed by a team of two archaeologists in one (1) day and in one (1) mobilization. If factors outside of SWCA's control, including land access restrictions, design changes, inclement weather, or unsafe project conditions, affect the project schedule, SWCA will consult with the Client to discuss a change order.



- Based on known site densities in the area, SWCA assumes that up to one archaeological site will be newly identified during the survey. If additional sites are encountered, SWCA will contact the client to negotiate a Change Order.
- The cost does not include Phase II archaeological testing (in cases where impacts from construction are unavoidable and potentially significant archeological deposits are present).
- SWCA is not responsible for repairing surfaces or damaged buried utilities that may be encountered over the course of excavation. The client is responsible for marking public utilities.

## SCHEDULE

**Table 1. SWCA's Estimated Timeline**

TASK	ESTIMATED TIMELINE
Task 1: Background Review and Antiquities Permit Application	Complete within 7 days of notice-to-proceed
Task 2: Cultural Resources Survey	Initiate within 7 days of acquiring antiquities permit
Task 3: Reporting-Curation	Complete draft report within three weeks of completion of fieldwork; submit draft to THC for review within one week of draft acceptance from City of Georgetown; THC has up to 30 days for review; address any comments from THC within one week of receipt; complete curation within two months of project concurrence from the THC

Total Time to Completion from NTP:

Three to four months

## COST

SWCA can complete the scope of work described above for the project in Kyle, Hays County, Texas for a **time-and-material, cost not to exceed \$8,750.00**. Costs are based on the assumptions and scope of work listed above and adhere to SWCA's 2020 rate schedule (attached). Invoices would be delivered monthly.

**Table 2. SWCA's Estimated Cost**

TASK	ESTIMATED COST
Task 1: Background Review and Antiquities Permit Application	\$1,388
Task 2: Cultural Resources Survey	\$3,016
Task 3: Reporting	\$3,219
Task 3: Curation-Permit Closeout	\$1,127
Total Cost:	\$8,750



## 2020 LABOR CATEGORIES AND BILLING RATES

### Principals & Project Management Staff

Project Manager III.....	\$89.00	Project Manager IX.....	\$153.00
Project Manager IV.....	\$99.00	Project Manager X.....	\$171.00
Project Manager V.....	\$109.00	Project Manager XI.....	\$187.00
Project Manager VI.....	\$119.00	Project Manager XII.....	\$205.00
Project Manager VII.....	\$131.00	Principal-in-Charge.....	\$285-398
Project Manager VIII.....	\$142.00		

### Consulting Services

Cultural Resources		Air Quality	
Environmental Resources		Graphics / Media Production	
Paleontology		GIS / CADD Resources	
Scientific Resources		Technical Writing / Editing	
Planning Resources		Principal Investigator	
Information Technology			
Specialist I.....	\$67.00	Specialist IX.....	\$153.00
Specialist II.....	\$79.00	Specialist X.....	\$171.00
Specialist III.....	\$89.00	Specialist XI.....	\$187.00
Specialist IV.....	\$99.00	Specialist XII.....	\$205.00
Specialist V.....	\$109.00	Subject Matter Expert.....	\$210-324
Specialist VI.....	\$119.00		
Specialist VII.....	\$131.00	Technician I.....	\$47.00
Specialist VIII.....	\$142.00	Technician II.....	\$55.00

### Administrative

Administrative I.....	\$42.00	Administrative V.....	\$89.00
Administrative II.....	\$53.00	Administrative VI.....	\$101.00
Administrative III.....	\$66.00	Administrative VII.....	\$113.00
Administrative IV.....	\$77.00	Administrative VIII.....	\$125.00

Direct expenses are subject to a 15% administrative markup and subcontractor expenses are subject to a 20% administrative markup. These rates do not apply to depositions or testimonies at administrative hearings and trials. Such activities fall under our Expert Witness rates, which vary by state.

A communication/data fee is invoiced at a rate of 3% of labor to cover such expenses (i.e.: cell phones, data plans, faxes, etc.).

Overtime is invoiced at 1.2 times standard rates.

Per Diem is billed at the GSA rate in place at the time of billing. Mileage is billed at the IRS mileage rate in place at the time of billing.



# CITY OF KYLE, TEXAS

## Authorization to Refund \$4.6 Million in Outstanding Bonds

Meeting Date: 9/1/2020  
Date time: 7:00 PM

**Subject/Recommendation:** Consider authorizing the City's Director of Finance to initiate process, prepare documents, accept and select bids from underwriters, seek credit rating, and coordinate all matters necessary to refund \$4.6 million in outstanding bonds in order to achieve approximately \$360,000.00 in estimated interest cost savings for the City of Kyle. ~  
*Perwez A. Moheet, CPA, Director of Finance*

**Other Information:** This City Council action is to authorize the City's Director of Finance to initiate process, prepare documents, accept bids from select underwriters, seek credit rating from Standard & Poor's Global Rating Agency, select underwriter and trustee for the transaction, and coordinate all appropriate steps necessary with the City's bond counsel and financial advisor for the refunding of \$4.6 million in outstanding bonds.

It is estimated that this refunding transaction will result in approximately \$360,000.00 in interest cost savings to the City of Kyle.

The following outstanding bonds are planned for refunding:

- General Obligation Refunding Bonds, Series 2009: \$ 485,000.00
- Combination Tax & Revenue Certificates of Obligation: \$2,770,000.00
- General Obligation Refunding Bonds, Series 2011: \$1,335,000.00
- Total Outstanding Bonds Refunded: \$4,590,000.00

Based on tentative schedule, staff plans to request City Council's authorization on September 18, 2020 for the actual issuance and sale of the refunding bonds, approval of all bond documents, and closing of the bond transaction.

### Legal Notes:

### Budget Information:

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### ATTACHMENTS:

#### Description

- Preliminary Analysis - GO Refunding Series 2020

## SOURCES AND USES OF FUNDS

City of Kyle, Texas  
General Obligation Refunding Bonds, Series 2020  
Market Rates as of August 20, 2020  
Preliminary; for discussion purposes only.

Dated Date 10/14/2020  
Delivery Date 10/14/2020

## Sources:

## Bond Proceeds:

Par Amount	4,275,000.00
Net Premium	526,755.65
	<hr/>
	4,801,755.65

## Uses:

## Refunding Escrow Deposits:

Cash Deposit	4,629,620.46
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## Delivery Date Expenses:

Cost of Issuance	135,000.00
Underwriter's Discount	<hr/> 34,200.00
	169,200.00

## Other Uses of Funds:

Additional Proceeds	2,935.19
	<hr/>
	4,801,755.65

Note: Preliminary; for discussion purposes only.

## SUMMARY OF REFUNDING RESULTS

City of Kyle, Texas  
General Obligation Refunding Bonds, Series 2020  
Market Rates as of August 20, 2020  
Preliminary; for discussion purposes only.

Dated Date	10/14/2020
Delivery Date	10/14/2020
Arbitrage yield	0.980977%
Escrow yield	0.000000%
Value of Negative Arbitrage	
 Bond Par Amount	 4,275,000.00
True Interest Cost	1.156877%
Net Interest Cost	1.261698%
All-In TIC	1.871250%
Average Coupon	3.937631%
Average Life	4.306
 Par amount of refunded bonds	 4,590,000.00
Average coupon of refunded bonds	3.705397%
Average life of refunded bonds	4.370
 Net PV Savings	 333,019.44
Percentage savings of refunded bonds	7.255325%

Note: Preliminary; for discussion purposes only.

## SAVINGS

City of Kyle, Texas  
General Obligation Refunding Bonds, Series 2020  
Market Rates as of August 20, 2020  
Preliminary; for discussion purposes only.

Date	Prior Debt Service	Refunding Debt Service	Savings
09/30/2021	795,283.76	757,494.86	37,788.90
09/30/2022	800,003.76	755,875.00	44,128.76
09/30/2023	803,783.76	762,225.00	41,558.76
09/30/2024	805,628.76	762,300.00	43,328.76
09/30/2025	445,593.13	411,500.00	34,093.13
09/30/2026	338,842.50	310,200.00	28,642.50
09/30/2027	338,622.50	305,000.00	33,622.50
09/30/2028	342,747.50	309,600.00	33,147.50
09/30/2029	346,005.00	313,600.00	32,405.00
09/30/2030	343,365.00	312,000.00	31,365.00
	5,359,875.67	4,999,794.86	360,080.81

### Savings Summary

PV of savings from cash flow	330,084.25
Plus: Refunding funds on hand	2,935.19
Net PV Savings	333,019.44

Note: Preliminary; for discussion purposes only.

# BOND SUMMARY STATISTICS

City of Kyle, Texas  
General Obligation Refunding Bonds, Series 2020  
Market Rates as of August 20, 2020  
Preliminary; for discussion purposes only.

Dated Date	10/14/2020
Delivery Date	10/14/2020
First Coupon	02/15/2021
Last Maturity	08/15/2030
Arbitrage Yield	0.980977%
True Interest Cost (TIC)	1.156877%
Net Interest Cost (NIC)	1.261698%
All-In TIC	1.871250%
Average Coupon	3.937631%
Average Life (years)	4.306
Duration of Issue (years)	4.079
Par Amount	4,275,000.00
Bond Proceeds	4,801,755.65
Total Interest	724,794.86
Net Interest	232,239.21
Total Debt Service	4,999,794.86
Maximum Annual Debt Service	762,300.00
Average Annual Debt Service	508,310.12
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	8.000000
Total Underwriter's Discount	8.000000
Bid Price	111.521770

Bond Component	Par Value	Price	Average Coupon	Average Life
Bond Component	4,275,000.00	112.322	3.938%	4.306
	4,275,000.00			4.306

	TIC	All-In TIC	Arbitrage Yield
Par Value	4,275,000.00	4,275,000.00	4,275,000.00
+ Accrued Interest			
+ Premium (Discount)	526,755.65	526,755.65	526,755.65
- Underwriter's Discount	(34,200.00)	(34,200.00)	
- Cost of Issuance Expense		(135,000.00)	
- Other Amounts			
Target Value	4,767,555.65	4,632,555.65	4,801,755.65
Target Date	10/14/2020	10/14/2020	10/14/2020
Yield	1.156877%	1.871250%	0.980977%

Note: Preliminary; for discussion purposes only.

# BOND PRICING

City of Kyle, Texas  
General Obligation Refunding Bonds, Series 2020  
Market Rates as of August 20, 2020  
Preliminary; for discussion purposes only.

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Premium (-Discount)
Bond Component:						
	02/15/2021	95,000	3.000%	0.538%	100.825	783.75
	08/15/2021	525,000	4.000%	0.530%	102.890	15,172.50
	02/15/2022	95,000	3.000%	0.590%	103.202	3,041.90
	08/15/2022	520,000	4.000%	0.590%	106.217	32,328.40
	02/15/2023	95,000	3.000%	0.650%	105.439	5,167.05
	08/15/2023	550,000	4.000%	0.650%	109.398	51,689.00
	02/15/2024	100,000	3.000%	0.710%	107.536	7,536.00
	08/15/2024	570,000	4.000%	0.710%	112.427	70,833.90
	02/15/2025	100,000	3.000%	0.790%	109.401	9,401.00
	08/15/2025	245,000	4.000%	0.790%	115.200	37,240.00
	08/15/2026	255,000	4.000%	0.920%	117.461	44,525.55
	08/15/2027	260,000	4.000%	1.040%	119.482	50,653.20
	08/15/2028	275,000	4.000%	1.150%	121.296	58,564.00
	08/15/2029	290,000	4.000%	1.250%	122.936	66,514.40
	08/15/2030	300,000	4.000%	1.340%	124.435	73,305.00
4,275,000						526,755.65

Dated Date	10/14/2020	
Delivery Date	10/14/2020	
First Coupon	02/15/2021	
Par Amount	4,275,000.00	
Premium	526,755.65	
Production	4,801,755.65	112.321770%
Underwriter's Discount	(34,200.00)	(0.800000%)
Purchase Price	4,767,555.65	111.521770%
Accrued Interest		
Net Proceeds	4,767,555.65	

Note: Preliminary; for discussion purposes only.

# BOND DEBT SERVICE

City of Kyle, Texas  
General Obligation Refunding Bonds, Series 2020  
Market Rates as of August 20, 2020  
Preliminary; for discussion purposes only.

Dated Date 10/14/2020  
Delivery Date 10/14/2020

Period Ending	Principal	Interest	Debt Service
09/30/2021	620,000	137,494.86	757,494.86
09/30/2022	615,000	140,875.00	755,875.00
09/30/2023	645,000	117,225.00	762,225.00
09/30/2024	670,000	92,300.00	762,300.00
09/30/2025	345,000	66,500.00	411,500.00
09/30/2026	255,000	55,200.00	310,200.00
09/30/2027	260,000	45,000.00	305,000.00
09/30/2028	275,000	34,600.00	309,600.00
09/30/2029	290,000	23,600.00	313,600.00
09/30/2030	300,000	12,000.00	312,000.00
	4,275,000	724,794.86	4,999,794.86

Note: Preliminary; for discussion purposes only.



# SUMMARY OF BONDS REFUNDED

City of Kyle, Texas  
General Obligation Refunding Bonds, Series 2020  
Market Rates as of August 20, 2020  
Preliminary; for discussion purposes only.

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
GO Ref Bds Ser 2009, 2009GO:					
BOND	02/15/2021	4.000%	85,626.00	11/13/2020	100.000
	02/15/2022	4.000%	90,383.00	11/13/2020	100.000
	02/15/2023	4.000%	90,383.00	11/13/2020	100.000
	02/15/2024	4.000%	95,140.00	11/13/2020	100.000
	02/15/2025	4.125%	99,897.00	11/13/2020	100.000
			461,429.00		
GO Ref Bds Ser 2009 Utility Debt, 2009U:					
BOND	02/15/2021	4.000%	4,374.00	11/13/2020	100.000
	02/15/2022	4.000%	4,617.00	11/13/2020	100.000
	02/15/2023	4.000%	4,617.00	11/13/2020	100.000
	02/15/2024	4.000%	4,860.00	11/13/2020	100.000
	02/15/2025	4.125%	5,103.00	11/13/2020	100.000
			23,571.00		
Comb Tax & Rev C/O Ser 2010, 2010:					
BOND	08/15/2021	3.100%	230,000.00	11/13/2020	100.000
	08/15/2022	3.200%	235,000.00	11/13/2020	100.000
	08/15/2023	3.350%	250,000.00	11/13/2020	100.000
	08/15/2024	3.450%	260,000.00	11/13/2020	100.000
	08/15/2025	3.550%	270,000.00	11/13/2020	100.000
	08/15/2026	3.650%	280,000.00	11/13/2020	100.000
	08/15/2027	3.750%	290,000.00	11/13/2020	100.000
	08/15/2028	3.850%	305,000.00	11/13/2020	100.000
	08/15/2029	3.950%	320,000.00	11/13/2020	100.000
	08/15/2030	4.050%	330,000.00	11/13/2020	100.000
			2,770,000.00		
GO Ref Bds Ser 2011, 2011:					
BOND	08/15/2021	3.000%	315,000.00	11/13/2020	100.000
	08/15/2022	3.000%	330,000.00	11/13/2020	100.000
	08/15/2023	3.200%	340,000.00	11/13/2020	100.000
	08/15/2024	3.400%	350,000.00	11/13/2020	100.000
			1,335,000.00		
			4,590,000.00		

Note: Preliminary; for discussion purposes only.

# ESCROW REQUIREMENTS

City of Kyle, Texas  
 General Obligation Refunding Bonds, Series 2020  
 Market Rates as of August 20, 2020  
 Preliminary; for discussion purposes only.

Period Ending	Interest	Principal Redeemed	Total
11/13/2020	39,620.46	4,590,000.00	4,629,620.46
	39,620.46	4,590,000.00	4,629,620.46

Note: Preliminary; for discussion purposes only.

## ESCROW COST

City of Kyle, Texas  
General Obligation Refunding Bonds, Series 2020  
Market Rates as of August 20, 2020  
Preliminary; for discussion purposes only.

Purchase Date	Cost of Securities	Cash Deposit	Total Escrow Cost
10/14/2020		4,629,620.46	4,629,620.46
	0	4,629,620.46	4,629,620.46

Note: Preliminary; for discussion purposes only.

# ESCROW SUFFICIENCY

City of Kyle, Texas  
 General Obligation Refunding Bonds, Series 2020  
 Market Rates as of August 20, 2020  
 Preliminary; for discussion purposes only.

Date	Escrow Requirement	Net Escrow Receipts	Excess Receipts	Excess Balance
10/14/2020		4,629,620.46	4,629,620.46	4,629,620.46
11/13/2020	4,629,620.46		(4,629,620.46)	
	4,629,620.46	4,629,620.46	0.00	

Note: Preliminary; for discussion purposes only.



# CITY OF KYLE, TEXAS

## Civil Service Agreement Amendment

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** An Amendment to the Meet and Confer Agreement between the City of Kyle and Kyle Law Enforcement Association to adopt physical fitness standards in accordance with the conditional approval of the agreement. ~ *James R. Earp, Assistant City Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

▢ PT Standard M&C Language Draft\_Cleary Edits (1)

## Physical Fitness

The Department has determined that physical fitness is a key component of success as a licensed peace officer and each individual should be supported and encouraged to maintain minimum physical fitness. The Department will utilize the testing standards developed by the Texas Department of Safety, as they may be amended from time to time.

### **I. PROCEDURES:**

- a. The Department will provide instructors who are tasked with conducting the physical fitness test and are available for one on one training with any officer who requests assistance throughout the year.
- b. Annually, the Department will schedule and direct all sworn officers to perform the physical fitness test.
- c. Prior to test performance, the instructor will provide instruction and direction for proper test performance. Upon request, the instructor will demonstrate proper performance and use of assessment tool. An instructor will collect and document the officer's age, weight, and gender for scoring purposes.
- d. Sworn members will be given multiple options to chose from for completing the assessment, all of which will have been previously vetted by, and adopted by, the Texas Department of Public Safety.
- e. During the test, the instructor will monitor performance of the officer testing to evaluate effort and to ensure that the officer testing is giving their best effort in accordance with accepted thresholds and standards as adopted by the Texas Department of Public Safety as a benchmark  
Instructors will provide encouragement and guidance to increase effort if the officer cannot maintain the minimum standard.
- f. Scores collected by the instructors will be submitted to the Chief of Police, or his designee, for validation.
- g. Testing:
  - i. The Physical Fitness requirements will be rolled out in two phases. The initial phase covered by this agreement is designed to collect information and to begin the journey to successfully passing the minimum requirements.
  - ii. There is no passing or failing score for the initial test. The score provided to the officer, and collected by the instructor, will be used to establish a baseline for testing is subsequent years.
  - iii. The officer will not receive any negative consequences for failing to meet any portion of the testing process during the initial rollout phase.
  - iv. Phase II of the program will be adopted as a part of the next Meet and Confer agreement which will include corrective measures and consequences/incentives based on the performance of the test.
- h. Medical Exemptions:
  - i. Medical waivers are available for those who may have a temporary medical condition that prevents them from performing the physical fitness test.
  - ii. If a medical condition exists that prevents an officer from completing the physical fitness test, the officer may receive a 90-day medical waiver after submitting a

waiver form completed by their doctor to Human Resources. Human Resources will advise command staff that a medical waiver has been submitted that officer.

i. Support

- i. In addition to staff being trained as instructors, City will provide a secure, appropriate location for officers to exercise and practice for the assessment. The space should include, at minimum:
  1. Showers
  2. Appropriate Equipment
  3. Climate control



# CITY OF KYLE, TEXAS

## Ordinance Code Enforcement Amendments

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** *(First Reading)* An Ordinance of the City of Kyle, Texas, amending Chapter 23 – Miscellaneous Offenses, Chapter 29 – Sign standards and permits, chapter 47 – local traffic regulations, and chapter 54 – landscaping and screening requirements of the code of ordinances; providing for property maintenance requirements and the right to inspect and abate noncompliant conditions, assessment of the city’s costs related to abatement, collection of costs, and the ability to appeal city’s determination regarding noncompliance; amending procedures related to the abatement of junk vehicles; permitting the use of certain moving signs; prohibiting the parking of trailers on public streets unless official work is being performed or a delivery is being made at the location of the parked trailer; authorizing the installation of eight (8) foot fencing to the side and rear boundaries of residential lots; providing for repeal of conflicting ordinances; providing for an effective date, savings clause and an open meetings clauses; and providing for related matters. ~ *Gary Bickford, Code Enforcement Officer*

**Other Information:** A redline version of the Ordinance showing suggested changes and comments will be available.

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

- ☐ Ordinance Code Enforcement
- ☐ Redline Version Ordinance Code Enforcement



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

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING CHAPTER 23 – MISCELLANEOUS OFFENSES, CHAPTER 29 – SIGN STANDARDS AND PERMITS, CHAPTER 47 – LOCAL TRAFFIC REGULATIONS, AND CHAPTER 54 – LANDSCAPING AND SCREENING REQUIREMENTS OF THE CODE OF ORDINANCES; PROVIDING FOR PROPERTY MAINTENANCE REQUIREMENTS AND THE RIGHT TO INSPECT AND ABATE NONCOMPLIANT CONDITIONS, ASSESSMENT OF THE CITY’S COSTS RELATED TO ABATEMENT, COLLECTION OF COSTS, AND THE ABILITY TO APPEAL CITY’S DETERMINATION REGARDING NONCOMPLIANCE; AMENDING PROCEDURES RELATED TO THE ABATEMENT OF JUNK VEHICLES; PERMITTING THE USE OF CERTAIN MOVING SIGNS; PROHIBITING THE PARKING OF TRAILERS ON PUBLIC STREETS UNLESS OFFICIAL WORK IS BEING PERFORMED OR A DELIVERY IS BEING MADE AT THE LOCATION OF THE PARKED TRAILER; AUTHORIZING THE INSTALLATION OF EIGHT (8) FOOT FENCING TO THE SIDE AND REAR BOUNDARIES OF RESIDENTIAL LOTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE, SAVINGS CLAUSE AND AN OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the City of Kyle (the “City”) has an extensive regulation adopted and codified in its Code of Ordinances;

**Whereas**, on occasion, it is necessary to review and amend certain regulations contained in the City’s Code of Ordinances or to enact new regulations to the Code of Ordinances to better reflect the needs and changes within the City;

**Whereas**, amendments to the City’s Code of Ordinances can help facilitate and assist City staff with proper, consistent and more efficient enforcement of adopted regulations and better address concerns, requests or complaints of members of the community; and

**Whereas**, the City finds it is necessary for the benefit, health and welfare of its citizens to have regulations contained in the Code of Ordinances reviewed, amended, enacted and available that provide the City with the ability to better regulate, prevent and enforce issues and concerns occurring within the City;

**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. Amendment of Section 23-118 - Right to inspect.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article V – Nuisances, Division 2 – Weeds and Offensive Conditions on Private Property, Section 23-118 is hereby amended in its entirety to read as follows:

**Sec. 23-118. – Right to Inspect.**

The City Manager or their designee, Building Official, Code Enforcement Officer or any duly sworn peace officer shall be authorized to inspect any property within the city, at any reasonable time, subject, however, to the restrictions against such inspection and entry of private residence for health inspection as are provided for in the laws of the state.

**Section 3. Amendment of Section 23-119 - Violations; notice; failure to abate.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article V – Nuisances, Division 2 – Weeds and Offensive Conditions on Private Property, Section 23-119 is hereby amended in its entirety to read as follows:

**Sec. 23-119. - Violations; notice; failure to abate.**

- (a) In the event the officer charged with enforcement of this article shall determine that a situation exists which immediately affects the health, safety and well-being of the general public and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.
- (b) In the event the officer charged with enforcement of this article shall determine that a situation constitutes a threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the city council may, at a regular session or at any emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and orders such action as may be required to protect the public health, safety and welfare. In such event, the city may prosecute an action in any court of competent jurisdiction to recover its costs.
- (c) In the event any owner or occupant shall fail to refuse to remedy any of the conditions prohibited by section 23-116 within seven (7) days after notice to abate the prohibited condition(s), the city may do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made, to the owners of the property by placing a

lien on the property, whereupon such charge shall be a personal liability of such owner to the city. Such notice shall be in writing and:

- (1) served upon such owner and occupant in person by an officer or employee of the city;
- (2) or may be by letter addressed to such owner at the owner's address as recorded in the records of the appraisal district in which the property is located and occupants at their mailing address.

If personal service cannot be had, or the owner and occupant's address is unknown, then notice may be given by:

- (3) publishing a brief summary of such order at least once in the official newspaper of the city addressed "Sanitary Improvements, To Whom it may Concern," and such publication shall be deemed sufficient notice;
- (4) by posting the notice on or near the front door of each building on the property to which the violation relates; or
- (5) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

(d) In the event that a violation of this article is occurring and is not observed by a Code Enforcement Officer, Police Officer, or designee charged in the enforcement of this chapter, a Citizen Complaint Form can be completed by the complainant serving as the affiant.

- (1) The Citizen Complaint Form is to be completed voluntarily, truthfully, and accurately by the complainant, signed and then submitted to Municipal Court.
- (2) The Complainant shall agree to testify if the case proceeds to trial in Municipal Court.
- (3) Any evidence of the violation such as photographs, audio or video recordings, or supporting documents shall be provided to Municipal Court along with the Citizen Complaint Form.

**Section 4. Amendment of Section 23-120 - Assessment of city's abatement cost; collections of costs; appeals.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article V – Nuisances, Division 2 – Weeds and Offensive Conditions on Private Property, Section 23-120 is hereby amended in its entirety to read as follows:

**Sec. 23-120. - Assessment of city's abatement cost; collections of costs; appeals.**

In addition to the remedy provided in section 23-119 and cumulative thereto, the city manager or their designee, after giving the owner or occupant of the property seven (7) days' notice as required in section 23-119 (c), may cause any of the work or improvements mentioned in sections 23-116, 23-117 and 23-119 to be done at the expense of the city, on the account of the owner of the property on which such work or improvements are done, and cause all of the actual cost to the city to be assessed on the real estate or lot on account of which such expenses occurred; provided that the owner of any such real estate may appeal to the city council from the order of the city manager or designee by filing a written statement with the city manager or designee within ten (10) days after receipt of the notice provided for in section 23-119(c), stating that such real estate complied with and abated the prohibited condition(s) provided in section 23-116 before the expiration of the seven (7) day period. The city council shall set a date, within thirty (30) days from the date of the requested appeal, for hearing upon such appeal to determine whether the real estate complied with the provisions of section 23-116 before the expiration of such seven (7) day period. The authority of the city manager or designee to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending, but if it shall be determined by the city council that the seven (7) day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such abatement work was performed.

**Section 5. Amendment of Section 23-265 – Procedures for abatement.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article VIII – Junked, Wrecked, Abandoned Vehicles, Division 3 – Junked Vehicles, Section 23-265 is hereby amended in its entirety to read as follows:

**Sec. 23-265. - Procedures for abatement.**

- (a) The police department, when desiring to remove and dispose of junked vehicles from private property, public property or public rights-of-way, shall comply with the applicable procedures in this section.

- (b) A written notice stating the nature of the public nuisance on private property and that it must be removed and abated within ten (10) days after the date on which the notice was personally delivered or mailed, and further stating that any request for a hearing must be made before the expiration of said ten (10) day period, shall be mailed, by certified mail with a five (5) day return receipt requested, to the last known registered owner of the junked vehicle, any lienholder of record and the owner or the occupant of the private premises whereupon such public nuisance exists. If the nuisance is located on a public right-of-way, notice shall be sent to the owner or the occupant of the property adjacent to the right-of-way. If the notice is returned undelivered by the United States Post Office, official action to abate such nuisance shall be continued to a date not earlier than the 11<sup>th</sup> day after the date of the return.
- (c) If the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided, in addition to any other procedure authorized by this article, a complaint may also be filed in municipal court for the violation of maintaining a public nuisance; provided that such notice shall not be a requirement for any such complaint being filed in municipal court.
- (d) Once a vehicle has been removed under the provisions of this section, it shall not be reconstructed or made operable.
- (e) The vehicle must be removed or otherwise brought into compliance or a hearing with municipal court requested. If requested, the hearing will be held not earlier than the 11<sup>th</sup> day after the date of the service of the notice before the chief of police or their designee. If a hearing is requested by a person for whom notice is required under V.T.C.A., Transportation Code § 683.075(a)(3), the hearing shall be held not earlier than the 11<sup>th</sup> day after the date of the service of notice. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicle's:
- (1) Description;
  - (2) Vehicle identification number; and
  - (3) License plate number.
- (f) Should the chief of police or designee find that such vehicle is a public nuisance as defined herein, he shall request an order from

the municipal court judge seeking abatement of such public nuisance. The Court order shall require the removal of the vehicle or part thereof from the public or private property or public right-of-way where it is situated, and such order shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available. Any aggrieved city officer, owner or lienholder may appeal any such decision of the chief of police or designee to the Municipal Court.

- (g) The procedures set out in this section shall not apply to:
  - (1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
  - (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or
  - (3) An antique and special interest vehicle stored by a collector on his property; provided that the vehicle and outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.
- (h) The administration of the procedures of this section shall be carried out by regularly salaried, fulltime employees of the city, except that the removal of vehicles or parts thereof from property may be accomplished by any other duly authorized person, including authorized wrecker service operators acting at the direction of the city.

**Section 6. Amendment of Section 29-9 – Prohibited Signs.** The City Code of Ordinances, Chapter 29 – Sign Standards and Permits, Section 29-9 – Prohibited Signs, Part 1, is hereby amended in its entirety to read as follows:

**Sec. 29-9. - Prohibited signs.**

The following signs are prohibited from installation, construction, repair, alteration, location or relocation within the city, except as otherwise permitted in this chapter:

- (1) Signs with flashing lights or revolving beacon lights. For purposes of this ordinance, an electronically controlled changeable-copy sign is not considered a flashing sign unless it directly falls under the definition of “flashing” as defined in this chapter.

**Section 7. Amendment of Section 47-39 – Parking other than noncommercial vehicles in residential areas.** The City Code of Ordinances, Chapter 47 – Local Traffic Regulations, Article II – Parking, Division – Noncommercial Vehicles, Section 47-39 is hereby amended in its entirety to read as follows:

**Sec. 47-39. - Parking other than noncommercial vehicles in residential areas.**

- (a) Except as provided in subsection (a)(1), (2), or (3) of this section, no person shall park or leave standing any trailers, utility trailers, recreational vehicles, campers, boats, watercraft, snowmobiles, OHVs, structures, equipment, or apparatuses on a city street, road or public right-of-way within a residential district in the city. This does not apply to trash, recycling, compost receptacles used or regulated by the city or other contracted disposal service when placed overnight. Exceptions to paragraph(a) are granted for the following:
  - (1) Actively loading or unloading the recreational vehicle, trailer, utility trailer, camper, or boat.
  - (2) Structures, equipment, and apparatuses may be left standing on the right-of-way temporarily for purposes such as loading/unloading and movement onto private property, and:
    - a. Not to exceed 24 hours regardless of whether the property is moved to a different location within the public right-of-way.
    - b. Remains contiguous/abutted to the curb of the residence (not further than 18 inches).
    - c. Does not obstruct traffic or create any safety hazards to motorists, pedestrians, etc.
    - d. Reoccurrence of the specific property left on the public right-of-way does not exceed once per 30 days.

- e. It shall not be a defense that the trailers, utility trailers, campers, boats, snowmobiles, OHVs, or other recreational vehicles, have been moved to a different location within the public right-of-way.
- (b) No person shall park or leave standing any trailers, utility trailers, campers, boats, snowmobiles, OHVs, other recreational vehicles, structures, equipment, or apparatuses within the city limits in such a manner to impede a safe traffic flow.
- (c) It shall be prima facie evidence that any property left in the public right-of-way is abandoned if it is not a motor vehicle or trailer as defined in this division.
- (d) Structures, equipment and apparatuses will be considered abandoned property if not removed after 48 hours. The city maintains the authority to remove such property and may do so if said property is not removed within 48 hours. If said structures, equipment or apparatuses are obstructing traffic or creating a hazard, it shall be removed immediately. If said structure, equipment and apparatuses are not properly registered, an order shall be submitted to municipal court for the disposition of the property.
- (e) The entirety of this division shall not apply to city, state, county or contracted individuals or companies by the same while performing services of official capacity, i.e. vehicles being used to provide any municipal service such as the installation, repair or maintenance of any public street, asset or property, collection of garbage, grounds keeping, etc.; and vehicles being used to install, repair or maintain any public service or utility such as telephone, electricity, cable television, gas, water or sewer lines.
- (f) All costs associated with property removal shall be borne by the owner, operator, person in control of the property or other person responsible for the property.

**Section 8. Amendment of Section 54-11 – Screening.** The City Code of Ordinances, Chapter 54 – Landscaping and Screening Requirements, Section 54-11 – Screening, Part (b)(3) Privacy fences, section b. is hereby amended in its entirety to read as follows:

- b. Fences up to ten (10) feet in height, but not less than six (6) feet, shall be allowed for impeding access to hazardous and sensitive facilities including, but not limited to, electrical substations, wireless telecommunication facilities, public utility facilities and substations, swimming pools, correctional facilities, and chemical



or equipment storage yards, where the slope of a line drawn perpendicular to the fence line averages twenty (20) percent or more on either side of the fence over a distance no less than fifteen (15) feet, or where the fence forms a continuous perimeter around a subdivision. All lots zoned for one- or two-family residential use, or used for one- or two-family residential use, that share a common property boundary inside the parent boundary of a subdivision, may provide screening along those common property boundaries of the side and rear yards with vegetative screening and/or fences of no more than eight (8) feet in height.

**Section 9. Amendment of Ordinances.** The City Code of Ordinances, Chapters 23, 29, 47 and 54 is hereby amended to the extent of any conflict or inconsistency herewith only 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 10. Savings Clause.** All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting public nuisances, enforcement, abatement, parking, signs and screening that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 11. 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 12. 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 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 \_\_\_\_\_, 2020.

**FINALLY PASSED AND APPROVED** on this \_\_\_\_ day of \_\_\_\_\_, 2020.

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

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

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

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

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING CHAPTER 23 – MISCELLANEOUS OFFENSES, CHAPTER 29 – SIGN STANDARDS AND PERMITS, CHAPTER 47 – LOCAL TRAFFIC REGULATIONS, AND CHAPTER 54 – LANDSCAPING AND SCREENING REQUIREMENTS OF THE CODE OF ORDINANCES; PROVIDING FOR PROPERTY MAINTENANCE REQUIREMENTS AND THE RIGHT TO INSPECT AND ABATE NONCOMPLIANT CONDITIONS, ASSESSMENT OF THE CITY’S COSTS RELATED TO ABATEMENT, COLLECTION OF COSTS, AND THE ABILITY TO APPEAL CITY’S DETERMINATION REGARDING NONCOMPLIANCE; AMENDING PROCEDURES RELATED TO THE ABATEMENT OF JUNK VEHICLES; PERMITTING THE USE OF CERTAIN MOVING SIGNS; PROHIBITING THE PARKING OF TRAILERS ON PUBLIC STREETS UNLESS OFFICIAL WORK IS BEING PERFORMED OR A DELIVERY IS BEING MADE AT THE LOCATION OF THE PARKED TRAILER; AUTHORIZING THE INSTALLATION OF EIGHT (8) FOOT FENCING TO THE SIDE AND REAR BOUNDARIES OF RESIDENTIAL LOTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE, SAVINGS CLAUSE AND AN OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the City of Kyle (the “City”) has an extensive regulation adopted and codified in its Code of Ordinances;

**Whereas**, on occasion, it is necessary to review and amend certain regulations contained in the City’s Code of Ordinances or to enact new regulations to the Code of Ordinances to better reflect the needs and changes within the City;

**Whereas**, amendments to the City’s Code of Ordinances can help facilitate and assist City staff with proper, consistent and more efficient enforcement of adopted regulations and better address concerns, requests or complaints of members of the community; and

**Whereas**, the City finds it is necessary for the benefit, health and welfare of its citizens to have regulations contained in the Code of Ordinances reviewed, amended, enacted and available that provide the City with the ability to better regulate, prevent and enforce issues and concerns occurring within the City;

**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. Amendment of Section 23-118 - Right to inspect.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article V – Nuisances, Division 2 – Weeds and Offensive Conditions on Private Property, Section 23-118 is hereby amended in its entirety to read as follows:

**Sec. 23-118. – Right to Inspect.**

The City Manager **or their designee, Building Official, Code Enforcement Officer or any duly sworn peace officer** shall be authorized to inspect any property within the city, at any reasonable time, subject, however, to the restrictions against such inspection and entry of private residence for health inspection as are provided for in the laws of the state.

**Section 3. Amendment of Section 23-119 - Violations; notice; failure to abate.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article V – Nuisances, Division 2 – Weeds and Offensive Conditions on Private Property, Section 23-119 is hereby amended in its entirety to read as follows:

**Sec. 23-119. - Violations; notice; failure to abate.**

- (a) In the event the officer charged with enforcement of this article shall determine that a situation exists which immediately affects the health, safety and well-being of the general public and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.
- (b) In the event the officer charged with enforcement of this article shall determine that a situation constitutes a threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the city council may, at a regular session or at any emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and orders such action as may be required to protect the public health, safety and welfare. In such event, the city may prosecute an action in any court of competent jurisdiction to recover its costs.
- (c) In the event any owner or occupant shall fail to refuse to remedy any of the conditions prohibited by section 23-116 within seven (7) days after notice to abate the prohibited condition(s), the city may do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made, to the owners of the property by placing a

lien on the property, whereupon such charge shall be a personal liability of such owner to the city. Such notice shall be in writing and:

- (1) served upon such owner and occupant in person by an officer or employee of the city;
- (2) or may be by letter addressed to such owner at the owner's address as recorded in the records of the appraisal district in which the property is located and occupants at their mailing address.

If personal service cannot be had, or the owner and occupant's address is unknown, then notice may be given by:

- (3) publishing a brief summary of such order at least once in the official newspaper of the city addressed "Sanitary Improvements, To Whom it may Concern," and such publication shall be deemed sufficient notice;
- (4) by posting the notice on or near the front door of each building on the property to which the violation relates;  
or
- (5) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

- (d) In the event that a violation of this article is occurring and is not observed by a Code Enforcement Officer, Police Officer, or designee charged in the enforcement of this chapter, a Citizen Complaint Form can be completed by the complainant serving as the affiant.

- (1) The Citizen Complaint Form is to be completed voluntarily, truthfully, and accurately by the complainant, signed and then submitted to Municipal Court.
- (2) The Complainant shall agree to testify if the case proceeds to trial in Municipal Court.
- (3) Any evidence of the violation such as photographs, audio or video recordings, or supporting documents shall be provided to Municipal Court along with the Citizen Complaint Form.

**Section 4. Amendment of Section 23-120 - Assessment of city's abatement cost; collections of costs; appeals.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article V – Nuisances, Division 2 – Weeds and Offensive Conditions on Private Property, Section 23-120 is hereby amended in its entirety to read as follows:

**Sec. 23-120. - Assessment of city's abatement cost; collections of costs; appeals.**

In addition to the remedy provided in section 23-119 and cumulative thereto, the city manager **or their designee**, after giving the owner or occupant of the property seven (7) days' notice as required in section 23-119 (c), may cause any of the work or improvements mentioned in sections 23-116, 23-117 and 23-119 to be done at the expense of the city, on the account of the owner of the property on which such work or improvements are done, and cause all of the actual cost to the city to be assessed on the real estate or lot on account of which such expenses occurred; provided that the owner of any such real estate may appeal to the **city council** from the order of the city manager **or designee** by filing a written statement with the city manager **or designee** within ten (10) days after receipt of the notice provided for in section 23-119(c), stating that such real estate complied with and abated the prohibited condition(s) provided in section 23-116 before the expiration of the seven (7) day period. The city council shall set a date, within thirty (30) days from the date of the requested appeal, for hearing upon such appeal to determine whether the real estate complied with the provisions of section 23-116 before the expiration of such seven (7) day period. The authority of the city manager or designee to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending, but if it shall be determined by the city council that the seven (7) day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such abatement work was performed.

**Commented [JU1]:** Do we want City Council to have to mess with this? Could it be appealed to an administrative hearing officer, i.e. associate municipal court judge? Any associated code violations filed in the municipal court should be heard by the presiding judge or vice versa... just not the same judge serving as the administrative hearing officer/judge.

**Section 5. Amendment of Section 23-265 – Procedures for abatement.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article VIII – Junked, Wrecked, Abandoned Vehicles, Division 3 – Junked Vehicles, Section 23-265 is hereby amended in its entirety to read as follows:

**Sec. 23-265. - Procedures for abatement.**

- (a) The police department, when desiring to remove and dispose of junked vehicles from private property, public property or public rights-of-way, shall comply with the applicable procedures in this section.

- (b) A written notice stating the nature of the public nuisance on private property and that it must be removed and abated within ten (10) days after the date on which the notice was personally delivered or mailed, and further stating that any request for a hearing must be made before the expiration of said ten (10) day period, shall be mailed, by certified mail with a five (5) day return receipt requested, to the last known registered owner of the junked vehicle, any lienholder of record and the owner or the occupant of the private premises whereupon such public nuisance exists. If the nuisance is located on a public right-of-way, notice shall be sent to the owner or the occupant of the property adjacent to the right-of-way. If the notice is returned undelivered by the United States Post Office, official action to abate such nuisance shall be continued to a date not earlier than the 11<sup>th</sup> day after the date of the return.
- (c) If the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided, in addition to any other procedure authorized by this article, a complaint may also be filed in municipal court for the violation of maintaining a public nuisance; provided that such notice shall not be a requirement for any such complaint being filed in municipal court.
- (d) Once a vehicle has been removed under the provisions of this section, it shall not be reconstructed or made operable.
- (e) The vehicle must be removed or otherwise brought into compliance or a hearing with municipal court requested. If requested, the hearing will be held not earlier than the 11<sup>th</sup> day after the date of the service of the notice before the **chief of police or their designee**. If a hearing is requested by a person for whom notice is required under V.T.C.A., Transportation Code § 683.075(a)(3), the hearing shall be held not earlier than the 11<sup>th</sup> day after the date of the service of notice. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicle's:
- (1) Description;
  - (2) Vehicle identification number; and
  - (3) License plate number.
- (f) Should the **chief of police or designee** find that such vehicle is a public nuisance as defined herein, **he shall request an order from**

**Commented [JU2]:** Similar comment here. Do we want the Chief to have to mess with this? I suppose "designee" opens it up to someone else hearing the appeal but perhaps an administrative hearings officer would be the person better suited to hear the appeal?

**Commented [JU3]:** See comment above

the municipal court judge seeking abatement of such public nuisance. The Court order shall require the removal of the vehicle or part thereof from the public or private property or public right-of-way where it is situated, and such order shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available. Any aggrieved city officer, owner or lienholder may appeal any such decision of the chief of police or designee to the Municipal Court.

- (g) The procedures set out in this section shall not apply to:
- (1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
  - (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or
  - (3) An antique and special interest vehicle stored by a collector on his property; provided that the vehicle and outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.
- (h) The administration of the procedures of this section shall be carried out by regularly salaried, fulltime employees of the city, except that the removal of vehicles or parts thereof from property may be accomplished by any other duly authorized person, including authorized wrecker service operators acting at the direction of the city.

**Section 6. Amendment of Section 29-9 – Prohibited Signs.** The City Code of Ordinances, Chapter 29 – Sign Standards and Permits, Section 29-9 – Prohibited Signs, Part 1, is hereby amended in its entirety to read as follows:

**Sec. 29-9. - Prohibited signs.**

The following signs are prohibited from installation, construction, repair, alteration, location or relocation within the city, except as otherwise permitted in this chapter:

- (1) Signs with flashing lights or revolving beacon lights. For purposes of this ordinance, an electronically controlled changeable-copy sign is not considered a flashing sign unless it directly falls under the definition of “flashing” as defined in this chapter.

**Section 7. Amendment of Section 47-39 – Parking other than noncommercial vehicles in residential areas.** The City Code of Ordinances, Chapter 47 – Local Traffic Regulations, Article II – Parking, Division – Noncommercial Vehicles, Section 47-39 is hereby amended in its entirety to read as follows:

**Sec. 47-39. - Parking other than noncommercial vehicles in residential areas.**

- (a) Except as provided in subsection (a)(1), (2), or (3) of this section, no person shall park or leave standing any trailers, utility trailers, recreational vehicles, campers, boats, watercraft, snowmobiles, OHVs, structures, equipment, or apparatuses on a city street, road or public right-of-way within a residential district in the city. This does not apply to trash, recycling, compost receptacles used or regulated by the city or other contracted disposal service when placed overnight. Exceptions to paragraph(a) are granted for the following:
  - (1) Actively loading or unloading the recreational vehicle, trailer, utility trailer, camper, or boat.
  - (2) Structures, equipment, and apparatuses may be left standing on the right-of-way temporarily for purposes such as loading/unloading and movement onto private property, and:
    - a. Not to exceed 24 hours regardless of whether the property is moved to a different location within the public right-of-way.
    - b. Remains contiguous/abutted to the curb of the residence (not further than 18 inches).
    - c. Does not obstruct traffic or create any safety hazards to motorists, pedestrians, etc.
    - d. Reoccurrence of the specific property left on the public right-of-way does not exceed once per 30 days.



- e. It shall not be a defense that the trailers, utility trailers, campers, boats, snowmobiles, OHVs, or other recreational vehicles, have been moved to a different location within the public right-of-way.
- (b) No person shall park or leave standing any trailers, utility trailers, campers, boats, snowmobiles, OHVs, other recreational vehicles, structures, equipment, or apparatuses within the city limits in such a manner to impede a safe traffic flow.
- (c) It shall be prima facie evidence that any property left in the public right-of-way is abandoned if it is not a motor vehicle or trailer as defined in this division.
- (d) Structures, equipment and apparatuses will be considered abandoned property if not removed after 48 hours. The city maintains the authority to remove such property and may do so if said property is not removed within 48 hours. If said structures, equipment or apparatuses are obstructing traffic or creating a hazard, it shall be removed immediately. If said structure, equipment and apparatuses are not properly registered, an order shall be submitted to municipal court for the disposition of the property.
- (e) The entirety of this division shall not apply to city, state, county or contracted individuals or companies by the same while performing services of official capacity, i.e. vehicles being used to provide any municipal service such as the installation, repair or maintenance of any public street, asset or property, collection of garbage, grounds keeping, etc.; and vehicles being used to install, repair or maintain any public service or utility such as telephone, electricity, cable television, gas, water or sewer lines.
- (f) All costs associated with property removal shall be borne by the owner, operator, person in control of the property or other person responsible for the property.

**Section 8. Amendment of Section 54-11 – Screening.** The City Code of Ordinances, Chapter 54 – Landscaping and Screening Requirements, Section 54-11 – Screening, Part (b)(3) Privacy fences, section b. is hereby amended in its entirety to read as follows:

- b. Fences up to ten (10) feet in height, but not less than six (6) feet, shall be allowed for impeding access to hazardous and sensitive facilities including, but not limited to, electrical substations, wireless telecommunication facilities, public utility facilities and substations, swimming pools, correctional facilities, and chemical

or equipment storage yards, where the slope of a line drawn perpendicular to the fence line averages twenty (20) percent or more on either side of the fence over a distance no less than fifteen (15) feet, or where the fence forms a continuous perimeter around a subdivision. All lots zoned for one- or two-family residential use, or used for one- or two-family residential use, that share a common property boundary inside the parent boundary of a subdivision, may provide screening along those common property boundaries of the side and rear yards with vegetative screening and/or fences of no more than **eight (8) feet** in height.

**Section 9. Amendment of Ordinances.** The City Code of Ordinances, Chapters 23, 29, 47 and 54 is hereby amended to the extent of any conflict or inconsistency herewith only 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 10. Savings Clause.** All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting public nuisances, enforcement, abatement, parking, signs and screening that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 11. 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 12. 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 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 \_\_\_\_\_, 2020.

**FINALLY PASSED AND APPROVED** on this \_\_\_\_ day of \_\_\_\_\_, 2020.

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

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

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



# CITY OF KYLE, TEXAS

## Election Proposition Order

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** A Resolution of the City of Kyle, Texas, Determining the Order of the Propositions for the 2020 Bond Election and the 2020 Charter Amendment Election; and providing for related matters. ~ *Paige Saenz, City Attorney*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

☐ Resolution.Ballot.Prop.Order.2020

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

**A RESOLUTION OF THE CITY OF KYLE, TEXAS, DETERMINING THE ORDER OF THE PROPOSITIONS FOR THE 2020 BOND ELECTION AND THE 2020 CHARTER AMENDMENT ELECTION; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, by Ordinance No. 1108 (the “Bond Election Ordinance”), the City Council called a bond election setting forth two propositions for consideration by the voters (the “Bond Election”);

**WHEREAS**, by Ordinance No. 1107 (the “Charter Election Ordinance”), the City Council called a special election on the question of adoption of amendments to the City Charter (the “Charter Election”);

**WHEREAS**, Section 52.095, Texas Election Code, provides that the City Council determines the order in which the propositions are to appear on the ballot; and

**WHEREAS**, the City Council desires that the propositions for the Charter Election be identified by letters that are distinct from the propositions for the Bond Election to avoid confusion by the voters;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KYLE, HAYS COUNTY, TEXAS, THAT:**

**Section 1. Findings.** The following recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Order of Ballot Propositions.** The propositions for the Bond Election shall appear on the ballot before the propositions for the Charter Election. The propositions for the Bond Election shall be in the order as stated in the Bond Election Ordinance. The propositions for the Charter Election shall appear in the order as stated in the Charter Election Ordinance, provided that they shall be re-lettered as propositions C through G.

**Section 3. Open Meetings.** It is hereby officially found and determined that the meeting at which this Resolution 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, Texas Local Government Code.

**FINALLY PASSED AND APPROVED on this the 1<sup>st</sup> day of September, 2020.**

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Jennifer Holm, City Secretary

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



# CITY OF KYLE, TEXAS

## Resolution renaming Kyle Pool

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** A Resolution of the City Council of the City of Kyle Texas, renaming the swimming pool in Gregg-Clarke Park. ~ *Robert Rizo, Council Member*

- Public Hearing

**Other Information:** [https://library.municode.com/tx/kyle/codes/code\\_of\\_ordinances?nodeId=PTIICOR\\_CH38STSIOTPUPL\\_ARTVIINAPUPL](https://library.municode.com/tx/kyle/codes/code_of_ordinances?nodeId=PTIICOR_CH38STSIOTPUPL_ARTVIINAPUPL)

**Legal Notes:**

**Budget Information:**

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### ATTACHMENTS:

#### **Description**

- ☐ Resolution\_DRAFT\_Kyle Pool Renamed in honor of James Adkins

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

**A RESOLUTION OF THE CITY OF KYLE RENAMING KYLE PUBLIC SWIMMING POOL IN HONOR OF FORMER MAYOR JAMES ADKINS; HOLDING A PUBLIC HEARING AND PROVIDING FOR RELATED MATTERS IN ACCORDANCE WITH THE CITY OF KYLE, CODE OF ORDINANCES, SECS. 38-332, 38-333, and 38-334**

**WHEREAS**, the City of Kyle, Texas, a Texas home rule municipality, (herein the "City") has a public pool at Gregg-Clarke Park; and

**WHEREAS**, James Adkins served as mayor for three terms from 1997 to 2005; and

**WHEREAS**, James Adkins was the first African American mayor in Hays County; and

**WHEREAS**, James Adkins served as mayor during a period of exponential commercial and residential growth for the City of Kyle; and

**WHEREAS**, the Mayor & Council unanimously agree to changing the name of said pool from Kyle Public Swimming Pool to a name in honor of former mayor James Adkins; and

**WHEREAS**, the City Council has authority under Section 38-332 of the City's Code of Ordinances to name and rename public places; and

**WHEREAS**, names should be appropriate to the particular public place by reflecting native wildlife, history, flora, fauna, geographic area, natural or geological features, or honoring individuals or families significant to Kyle as determined by council; and

**WHEREAS**, James Adkins passed away in 2016 and the Mayor & Council seek to honor the life and service of James Adkins to the Kyle Community.

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

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Name Change.** The Kyle Public Swimming Pool located at Gregg-Clarke Park is hereby renamed to James Adkins Public Swimming Pool. The City Manager is hereby directed to take such actions as are reasonably necessary to ensure signs are posted reflecting the new name.

**Section 3.** That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND ADOPTED this 18<sup>th</sup> day of, August 2020.

THE CITY OF KYLE, TEXAS

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Travis Mitchell, Mayor

ATTEST:

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Jennifer Holm, City Secretary

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# CITY OF KYLE, TEXAS

## Creation of road renaming committee

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** Consider and Possible Action to Approve a Resolution Creating an Ad Hoc Committee to Rename a portion of West Ranch to Market 150. ~ *J. Scott Sellers, City Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

- ☐ Resolution for Adhoc Renaming Committee

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

**A RESOLUTION OF THE CITY OF KYLE, TEXAS ESTABLISHING AN ADHOC COMMITTEE FOR THE PURPOSE OF RENAMING A PORTION OF WEST RANCH TO MARKET ROAD 150; APPOINTING MEMBERS; DEFINING ROLES AND TERMS; AND RELATED MATTERS**

**WHEREAS**, The City of Kyle is a home-rule municipality with all powers enabled to it by the State Legislature under Chapter 51 of the Local Government Code; and,

**WHEREAS**, The City Council is the elected ruling body of the City of Kyle; and,

**WHEREAS**, The City Council has shown the desire to rename a portion of West Ranch to Market Road; and,

**WHEREAS**, The City of Kyle has identified the need for a committee to explore, plan, solicit public input and recommend possible names for the mentioned road; and,

**WHEREAS**, The City of Kyle has established all permanent and adhoc committees by ordinance and wishes for this committee to serve in a temporary capacity;

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

- 1) The City hereby forms an Adhoc Renaming Committee, to explore, plan and recommend possible names for a portion of West Farm to Market Road 150.
- 2) The committee shall be comprised of seven citizen members and 2 staff liaisons, with no requirements that the members be appointed by district, or at large. All members shall have an equal vote, the Chair and Vice Chair of the committee can either be appointed directly by council, or absent this, voted on by members at the first regular meeting.
- 3) The committee shall endeavor to explore, plan and recommend possible names for a portion of West Farm to Market Road 150 in the City of Kyle, and make regular reports to the City Council as to their progress.
- 4) The term of this committee shall expire upon the completion of its work, or Dec 31, 2020 whichever is sooner.
- 5) The findings of fact, recitations, and provisions set out in the preamble of this Resolution are adopted and made a part of the body of this Resolution, as fully as if the same were set forth herein.

**PASSED AND APPROVED THIS 1st day of September, 2020,**

**THE CITY OF KYLE, TEXAS**

**ATTEST:**

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

\_\_\_\_\_  
Jennifer Holm, City Secretary



# CITY OF KYLE, TEXAS

## 2nd Reading of Rebel Dr.

**Meeting Date: 9/1/2020**

**Date time: 7:00 PM**

**Subject/Recommendation:** *(Second Reading)* Consider and Possible Action to Approve an Ordinance Removing the Name Rebel Drive from West Ranch to Market 150. ~ *Travis Mitchell, Mayor*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

- ☐ Removal of Street Name Ordinance

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

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, REMOVING THE NAME OF REBEL ROAD FROM RM 150 WITHIN THE CITY OF KYLE; DELAYING THE IMPLEMENTATION OF THIS ORDINANCE; AND PROVIDING A FOR RELATED MATTERS.**

**WHEREAS**, the City of Kyle, Texas, a Texas home rule municipality, (herein the “City”) desires to remove the name Rebel Drive from the portions of RM 150 running through the City;

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

**Section 1.     Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2.     Roadway Name Removal.** The name Rebel Drive is removed from the portions of RM 150 located within the city limits of the City of Kyle (the “Road”). The implementation this ordinance shall be delayed until such time that the City Council adopts a new name for the Road.

**Section 3.     Effective Date.** This Ordinance shall be in force and effect from and after its passage on the date shown below.

**PASSED ON FIRST READING** this the 25<sup>th</sup> day of August, 2020.

**PASSED AND FINALLY APPROVED** this the 1<sup>st</sup> day of September, 2020.

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Jennifer Holm, City Secretary

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



# CITY OF KYLE, TEXAS

## Executive Session-Convene

**Meeting Date: 9/1/2020**

**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.
  - Legal disputes involving Jesse Espinoza
  - Changeable Electronic Variable Message Sign
  - 104 S. Burleson
  - Bunton Lane Development Agreement
  - Coronavirus Relief Fund
  - Anthem Electrical
  - Well Site #4
  - Rough proportionality determination for Paramount Section 1
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 Shamrock
  - Project Cranberry
  - Project Indigo
  - 104 S. Burleson

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Reconvene

**Meeting Date: 9/1/2020**  
**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