

CITY OF KYLE

Notice of Regular City Council Meeting

Kyle City Hall, 100 W. Center Street, Kyle, TX 78640;
Spectrum 10; <https://www.cityofkyle.com/kyletv/kyle-10-live>



SPECIAL NOTE: Pursuant to the March 16, 2020 proclamation issued by Governor Abbott, this meeting will be held in-person and 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. Some City Council members will be present in the chamber while others 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 October 6, 2020, at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640; Spectrum 10; <https://www.cityofkyle.com/kyletv/kyle-10-live>, for the purpose of discussing the following agenda.

Posted this 2nd day of October, 2020, prior to 5:10 p.m.

I. Call Meeting to Order

II. Approval of Minutes

1. City Council Special Meeting Minutes - September 15, 2020. ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes - September 15, 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.

3. 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.

IV. Appointments

4. Selection of naming committee for West RM 150. ~ *Samantha Armbruster, Communications Director*
5. Consideration of nominations for reappointments to the Planning and Zoning Commission to fill expired terms. ~ *Howard J. Koontz, Director of Planning and Community Development*
 - Michele Christie (Seat 2) Reappointment
 - Megan McCall (Seat 4) Reappointment
 - Tim McHutchion (Seat 6) Reappointment
6. Consider and possible action to appoint Jerry Hendrix as the City of Kyle representative to the San Marcos Hays County Emergency Medical Service Board of Directors. ~ *J. Scott Sellers, City Manager*

V. Presentation

7. Hill Country Night Sky Month Proclamation. ~ *Robert Rizo, Council Member*
8. Presentation regarding launch of Uber Kyle \$3.14 program. ~ *Rick Koch, Mayor Pro Tem*
9. Presentation on Wukasch Land Conceptual Plan. ~ *Scott Miller, Ranch Road Development*
10. CIP/Road Projects and Consent Agenda Presentation. ~ *Travis Mitchell, Mayor*

VI. Consent Agenda

11. Authorize award and execution of a purchase order to SMITH CONTRACTING CO. INC., 15308 Ginger St, Austin, TX 78728, lowest and most responsible bidder, in an amount not to exceed \$3,356,564.92, which includes a five (5) percent contingency to perform all work required for the construction of the Bunton Creek Interceptor Phase 2.0 wastewater line. ~ *Leon Barba, P.E., City Engineer*
12. Approve a contract with EASTER SEALS CENTRAL TEXAS, formerly TIBH INDUSTRIES, INC., Austin, Texas, through Workquest in an amount not to exceed \$54,855.00, as the contractor for litter pick up and grass cutting on Interstate 35 using Easter Seals of Central Texas as the service provider. ~ *James*

R. Earp, Assistant City Manager

13. Authorize award and execution of a purchase order to NG PAINTING, LP, Kerrville, TX, in an amount not to exceed \$342,000.00 to perform all work required for the rehabilitation of the Well #4 Elevated Storage Tank. ~ *Leon Barba, P.E., City Engineer*
14. First Amendment to Blanco River Ranch (Phase One Residential Area) De-Annexation and Development Agreement with HMBRR Development, Inc., HMBRR, LP, and HMBRR LP #2. ~ *James R. Earp, Assistant City Manager*
15. Consider approval of Brohn Homes (Casetta Ranch) ROW license agreement. ~ *Howard J. Koontz, Director of Planning and Community Development*
16. Approve a contract with Meals on Wheels, Rural Capital Area (CCA) program to provide meal services for the elderly and veterans in the Kyle area. ~ *Jerry Hendrix, Chief of Staff*
17. *(First Reading)* A Supplemental Ordinance Approving Early Voting Locations, Dates and Times, and Election Day Voting Locations for the City of Kyle for the Special Bond Election to be held on November 3, 2020. ~ *Gregory Miller; Bickerstaff Heath Delgado Acosta LLP*
18. *(First Reading)* An Ordinance of the City of Kyle, Texas, Amending Section 2-57 of the Code of Ordinances to Allow Council to Appoint More Than Seven Members to Committees if Determined Appropriate by the City Council; and Providing for Related Matters. ~ *Paige Saenz, City Attorney*
19. A Resolution of the City of Kyle, Texas, Establishing the West RM 150 Naming Committee; Assigning its Purpose, Duties, and Meeting Requirements; and Providing for Related Matters. ~ *Paige Saenz, City Attorney*

VII. Consider and Possible Action

20. First Addendum to Landscape Management Contract of October 1, 2020 With WLE, LLC. ~ *James R. Earp, Assistant City Manager*
21. *(First Reading)* Approve an Ordinance regulating traffic, authorizing and directing the installation and erection of stop signs for traffic control at the intersection of Hiver Street/Goldenrod Street and Lehman Road in the city limits of Kyle. ~ *Leon Barba, P.E., City Engineer*
22. Consider approval of a Funding Agreement with Hays County in an amount of \$50,000.00 for Colocation of 9-1-1 communication centers. ~ *Jeff Barnett, Chief of Police*
23. Approve and Authorize the Chief of Police to Execute Two Amendments to the Interlocal Cooperation Agreements with the Austin Regional Intelligent Center for the Purpose of Adding New Partner Agencies to the Original Agreement. ~ *Jeff*

VIII. City Manager's Report

24. 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*
 - Free COVID Testing in Kyle
 - Fall Mass Food Distribution Events
 - Ash Pavilion Ribbon Cutting
 - Lowe's Distribution Center
 - Voting Info
 - Proposition A Bond Open House
 - Columbus Day Holiday

IX. 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.
 - Cause Number 19-1492; 1200 S. Old Stagecoach Road, LLC v. City of Kyle, Texas; pending in the 22nd Judicial District Court of Hays County, Texas
 - Changeable Electronic Variable Message Sign
 - Bunton Lane Development Agreement & PIDs
 - Development Standards
 - Lila Knight, Timothy A. Kay, Helen Brown-Kay, and Save Our Springs v. City of Kyle, Texas
 - Cause Number 5:20-cv-01128-FB-RBF; John David Ferrara v. Terry Jay Wallace, Jeffrey Barnett, and Edward Sandoval in the United States District Court for the Western District of Texas, San Antonio Division
 - 104 S. Burleson and Design Build Agreement
 - 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 Wild Blue
 - Project Indigo
 - Project Wild Strawberry
 - 104 S. Burleson and Design Build Agreement
26. Take action on items discussed in Executive Session.

X. 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 0915 Special Minutes

Meeting Date: 10/6/2020
Date time: 7:00 PM

Subject/Recommendation: City Council Special Meeting Minutes - September 15, 2020. ~ *Jennifer Holm, City Secretary*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ 2020 0915 DRAFT Special Minutes

SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session September 15, 2020 and due to COVID-19, all 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
Leon Barba, City Engineer
Diana Torres, Economic Dev Director
Perwez Moheet, Finance Director
Matt Dawson, IT Director
Samantha Armbruster, Communications Dir.
Mariana Espinoza, PARD Director
Howard Koontz, Community Dev Director

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 5:32 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. With no one wishing to speak, Mayor Mitchell closed citizen comments at 5:33 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.
 - Heroes Memorial Park Base Flood Elevation
 - Development Standards Rough proportionality determination for Paramount Section 1
 - Coronavirus Relief Fund and Subrecipient Agreements
 - 104 S. Burleson
 - Bunton Lane Development Agreement
 - Anthem Electrical
 - Buie Contract
 - West RM 150 Access
 - Prairie Lakes
 - Marketplace Avenue
 - Landscape Maintenance Contract
 - LDG Development
 - North Trails Property Acquisition
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 - North Trails Property Acquisition
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 Indigo
 - Project Cranberry
 - Project Shamrock
 - Project Candy Cane
 - Project Wild Blue
 - 104 S. Burleson

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 - Heroes Memorial Park Base Flood Elevation, Development Standards Rough proportionality determination for Paramount Section 1, Coronavirus Relief Fund and Subrecipient Agreements, 104 S. Burleson, Bunton Lane Development Agreement, Anthem Electrical, Buie Contract, West RM 150 Access, Prairie Lakes, Marketplace Avenue, Landscape Maintenance Contract, LDG Development, North Trails Property Acquisition. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 - North Trails Property Acquisition; and 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 Indigo, Project Cranberry, Project Shamrock, Project Candy Cane, Project Wild Blue, and 104 S. Burlison.”

The City Council convened into executive session at 5:35 p.m.

3. Take action on items discussed in Executive Session.

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

The City Council reconvened into open session at 7:02 p.m. Mayor Mitchell announced that no action took place in Executive Session, but action would be taken now.

Council Member Scheel moved to approve an Interlocal Agreement with Hays Consolidated Independent School District for administration and CRF funding under the CARES Act in an amount not to exceed \$210,500.00. Council Member Rizo seconded the motion.

There was discussion on the motion. Mr. Sellers stated that there was a request from Hays Consolidated Independent School District for a portion of the city's Coronavirus Relief Funds. Mr. Sellers explained that distribution of funds to Cities, Counties, and School districts were given separate timeframes to make expenditures from funds and the School districts had a very limited amount of time to spend their amount. He said they weren't able to make the May deadline, so they have requested the City of Kyle to sub grant a portion of our funds in the amount of \$210,500.00 to be expanded as part of their bulk order purchase program. They are leveraging our funding against the Texas Education Agency's funding, so our monies will be given to the school district and they will apply for a match. The results would allow for the equipment purchases consisting of 2000 Chromebooks and 1000 iPads for the use of residents of Kyle students. Mayor Mitchell stated that we have developed a good relationship with the school district over the last several years. He spoke about laptops needed by students of Kyle and said it sounds like a great use of funds to him, and it isn't often we get to partner with the school district. This is one of those opportunities where we get to work with our school system to make everyone's life a little better and a little easier.

All votes aye; motion carried 7-0.

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 7:07 p.m.

Travis Mitchell, Mayor

Attest:

Jennifer A. Holm, City Secretary

DRAFT



CITY OF KYLE, TEXAS

2020 0915 Minutes

Meeting Date: 10/6/2020
Date time: 7:00 PM

Subject/Recommendation: City Council Meeting Minutes - September 15, 2020. ~ *Jennifer Holm, City Secretary*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 2020 0915 DRAFT Meeting Minutes

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on September 15, 2020 and due to COVID-19, all 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	Peter Parcher
Council Member Dex Ellison	Chris Allen
Council Member Tracy Scheel	David Mendez
Council Member Robert Rizo	Hugo Elizondo, Jr.
Council Member Alex Villalobos	Shrenik Shah
Council Member Michael Tobias	Michael Mauldin
Scott Sellers, City Manager	John Hines
James Earp, Assistant City Manager	Steve Jenkins
Paige Saenz, City Attorney	Grant Jenkins
Jerry Hendrix, Chief of Staff	
Samantha Armbruster, Communications Dir.	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer	
Jeff Prato, Engineering Associate	
Diana Torres, Economic Dev Director	
Perwez Moheet, Finance Director	
Sandra Duran, HR Director	
Matt Dawson, IT Director	
Paul Phelan, Library Director	
Mariana Espinoza, PARD Director	
Howard Koontz, Community Dev Director	
Jeff Barnett, Chief of Police	
Gary Bickford, Code Enforcement Officer	
Harper Wilder, Director of Public Works	
Tim Samford, Div. Mgr. - Treatment Operations	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 7:08 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. Approval of Minutes

1. City Council Special Meeting Minutes - August 25, 2020. ~ *Jennifer Holm, City Secretary*
2. City Council Special Meeting Minutes - September 1, 2020. ~ *Jennifer Holm, City Secretary*
3. City Council Meeting Minutes - September 1, 2020. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Ellison moved to approve the minutes of the August 25, 2020 Special City Council Meeting, the minutes of the September 1, 2020 Special City Council Meeting, and the minutes of the September 1, 2020 City 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 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 7:10 p.m.

Glen Hurlston was called to speak as registered. He spoke about police officers who took their oath. He spoke about Chief Barnett, alleging wrongdoing.

Peter Parcher was called to speak as registered. He spoke about the negotiations for the fitness test for the police department. His position is that the Council should honor the agreement. He continued that virtual parades are happening due to COVID and he requested a Veteran's Parade be added to the Agenda for discussion and was told that it will not happen. He is looking forward to Propositions A & B open houses.

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

IV. Appointments

5. Consideration of nominations for appointment to the Kyle Public Library Advisory Board to fill vacancies. ~ *Paul Phelan, Library Director*
 - Jessie Ramirez
 - Henry Siller

Mayor Mitchell brought forward Item No. 5 for discussion. Mr. Phelan presented the item. He then gave the floor to Council Member Rizo who spoke about the interviews for these positions.

Council Member Rizo moved to appoint Jessie Ramirez and Henry Siller to fill the vacancies of the Kyle Public Library Advisory Board. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

6. Selection of naming committee for West RM 150. ~ *Samantha Armbruster, Communications Director*

Mayor Mitchell brought forward Item No. 6 for discussion. Ms. Armbruster presented the item. No action was taken.

V. Presentation

7. Hispanic Heritage City Council Proclamation. ~ *Alex Villalobos, Council Member*

Mayor Mitchell brought forward Item No. 7 for discussion and gave the floor to Council Member Villalobos who presented the proclamation.

Council Member Villalobos moved to approve the Hispanic Heritage City Council Proclamation. Council Member Ellison seconded the motion.

There was discussion on the motion. Council Member Ellison spoke about the Council supporting cultural awareness and celebrating our diversity and inclusion of all backgrounds represented in our City. He thanked Council Member Villalobos for bringing this forward. Council Member Rizo thanked Council Member Villalobos for bringing this forward and spoke of his plans to continue this tradition. He mentioned many Hispanic leaders during the history of this City.

All votes aye; motion carried 7-0.

8. September 11th City Council Proclamation. ~ *Robert Rizo, Council Member*

Mayor Mitchell brought forward Item No. 8 for discussion and gave the floor to Council Member Rizo who presented the proclamation.

Council Member Rizo moved to approve the September 11 City Council Proclamation. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

9. Selection of Labor Day Photo Contest Winners. ~ *Tracy Scheel, Council Member*

Mayor Mitchell brought forward Item No. 9 for discussion and gave the floor to Council Member Scheel who presented the winners. No action was taken.

10. Discussion by ReOpen Task Force regarding opening of City Hall and other operational changes. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 10 for discussion. Mr. Sellers presented the item. No action was taken.

11. Presentation on LinkedIn Learning at Kyle Public Library. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 11 for discussion and gave the floor to Council Member Ellison. Mr. Phelan also provided information regarding the item. No action was taken.

12. Presentation regarding launch of Uber Kyle \$3.14 program. ~ *Rick Koch, Mayor Pro Tem*

Mayor Mitchell brought forward Item No. 12 for discussion and gave the floor to Mayor Pro Tem Koch who stated that the item would be brought back at a later date. Mr. Hendrix also provided some information about the item. No action was taken.

13. Presentation on creation of a new division focused on the maintenance and upkeep of Kyle's rights-of-ways and green spaces. ~ *James R. Earp, Assistant City Manager*

Mayor Mitchell brought forward Item No. 13 for discussion. Mr. Earp presented the item. No action was taken.

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

Mayor Mitchell brought forward Item No. 14 for discussion. Leon Barba, City Engineer, presented the item. No action was taken.

VI. Consent Agenda

Mayor Mitchell brought forward Item Nos. 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25.

15. Waiver to the City's 100 year flood design for Heroes Memorial Park. ~ *J. Scott Sellers, City Manager*
16. Approve the conveyance of a water line easement to the City of Kyle from Mountain Plum, Ltd. ~ *Leon Barba, P.E., City Engineer*
17. A Resolution of the City Council of the City of Kyle, Texas accepting the Bunton Creek, Phase 3 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*
18. Approve a resolution authorizing the City Manager to execute separate agreements with the following five (5) firms to provide consulting services for general civil engineering projects for all city departments: CP&Y, INC., Austin, Texas, K FRIESE & ASSOCIATES, Austin, Texas, COBB, FENDLEY & ASSOCIATES, INC., San Marcos, Texas, PAPE-DAWSON ENGINEERS, INC., San Antonio, Texas, and LJA ENGINEERING, INC., Austin, Texas providing that the meeting at which this Resolution is passed is open to the public in compliance with the Open Meetings Act; providing an effective date; making findings of fact; and providing for related matters herein. ~ *Leon Barba, P.E., City Engineer*
19. Authorize the Police Department to sell surplus equipment, namely one Kawasaki Mule. ~ *Jeff Barnett, Chief of Police*
20. Authorize award and execution of a Purchase Order to NUECES POWER EQUIPMENT in an amount not to exceed \$123,060.56 for the purchase of one (1) new Hamm HD-70V V Dual Drum Roller through the BuyBoard Purchasing Cooperative for the Street Department in Public Works Department. ~ *Harper Wilder, Director of Public Works*
21. Authorize award and execution of a Purchase Order to SANTEX TRUCK CENTERS LTD., in an amount not to exceed \$161,445.00 for the purchase of one (1) new International HX620 6X4 Haul Truck through the HGAC Purchasing Cooperative for the Street Department in Public Works Department. ~ *Harper Wilder, Director of Public Works*
22. Authorize award and execution of a Purchase Order to PUMP SOLUTIONS, INC., Hutto, Texas in an amount not to exceed \$17,402.00 for the purchase and installation of one new (1) KSB 30 HP lift station pumps located at the wastewater treatment plant for the Public Works Department. ~ *Tim Samford, Division Manager Treatment Operations*

23. Authorize award and execution of a Purchase Order to DERKSEN PORTABLE BUILDINGS, Blanco, TX in an amount not to exceed \$25,548.00 for the purchase, delivery and setup of a portable building to be located at the Public Works Facility for the Public Works Department.
~ *Tim Samford, Division Manager Treatment Operations*

24. Authorize award and execution of a Purchase Order to RDO EQUIPMENT CO., Pflugerville, Texas in an amount not to exceed \$48,109.27 for the purchase of one new (1) 2020 John Deere 324G skid steer, one new (1) 2020 JRB FORKS48 through the BuyBoard Purchasing Cooperative for the Treatment Operations Department in Public Works Department. ~ *Tim Samford, Division Manager Treatment Operations*

Council Member Scheel moved to approve Consent Agenda Item Nos.15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25.

Before anyone seconded the motion, Council Member Rizo pulled Item No. 25. Council Member Scheel rescinded her motion.

Council Member Scheel moved to approve Consent Agenda Item Nos.15, 16, 17, 18, 19, 20, 21, 22, 23, and 24. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

25. Authorize the expenditure of previously approved contingency funds for the Buie contract.
~ *Robert Rizo, Council Member*

Mayor Mitchell brought forward Item No. 25 and gave the floor to Council Member Rizo, who pulled the item. Mr. Rizo stated that he wanted to address this item with Buie. Ms. Armbruster stated that no one was available to address this item. Council Member Rizo wished to table No. 25. Mayor Mitchell announced they would move on. No action was taken on Agenda Item No. 25.

VII. Consider and Possible Action

26. *(First and Final Reading)* Approve an Ordinance authorizing the issuance in a principal amount not to exceed \$4,590,000 of "City of Kyle, Texas, General Obligation Refunding Bonds, Series 2020"; the refunding of approximately \$4.6 million of certain outstanding obligations; levying a continuing direct ad valorem tax on all taxable property within the City to pay the interest on said bonds and to create a sinking fund for the redemption thereof and the assessment and collection of such taxes; the delivery of an escrow agreement; the sale of such bonds; and enacting provisions incident and related to the issuance of said bonds.
~ *Perwez A. Moheet, CPA, Director of Finance*

- Public Hearing

Mayor Mitchell brought forward Item No. 26 for discussion. Mr. Moheet presented the item.

Mayor Mitchell opened the public hearing at 8:59 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:59 p.m.

Mr. Moheet introduced Chris Allen, the City's Financial Advisor and David Mendez, the City's Bond Counsel. Mr. Allen provided information on the item.

Mayor Mitchell moved to approve an Ordinance authorizing the issuance in a principal amount not to exceed \$4,590,000 of "City of Kyle, Texas, General Obligation Refunding Bonds, Series 2020"; the refunding of approximately \$4.6 million of certain outstanding obligations; levying a continuing direct ad valorem tax on all taxable property within the City to pay the interest on said bonds and to create a sinking fund for the redemption thereof and the assessment and collection of such taxes; the delivery of an escrow agreement; the sale of such bonds; and enacting provisions incident and related to the issuance of said bonds. Council Member Scheel seconded the motion. All votes aye; motion carried 7-0.

27. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 128.58 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3' and approximately 30.27 acres of land to Residential Townhome 'R-1-T' and approximately 20.37 acres of land to Community Commercial 'CC' for property located off of E. Post Road, just north of Quail Ridge Subdivision, in Hays County, Texas. John H. Spooner Revocable Trust - Z-20-0061)
~ Howard J. Koontz, Director of Planning and Community Development

Planning and Zoning Commission voted 6-0 to recommend approval of the request.

- Public Hearing

Mayor Mitchell brought forward Item No. 27 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 9:08 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:09 p.m.

Mr. Koontz continued his presentation. Mr. Sellers also provided information on this item.

Council Member Scheel moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 128.58 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3' and approximately 30.27 acres of land to Residential Townhome 'R-1-T' and approximately 20.37 acres of land to Community Commercial 'CC' for property located off of E. Post Road, just north of Quail Ridge Subdivision, in Hays County, Texas. John H. Spooner Revocable Trust - Z-20-0061) Council Member Villalobos seconded the motion. Motion carried 6-1 with Mayor Pro Tem Koch dissenting.

28. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 4.66 acres of land from Retail Service District 'RS' to Residential Condominium District 'R-1-C' for property located on Bebee Road, just west of Dacy Lane, in Hays County, Texas. (Dacy Lane LLC - Z-20-0062) ~ Howard J. Koontz, Director of Planning and Community Development

Planning and Zoning voted 6-0 to recommend approval of the request.

- Public Hearing

Mayor Mitchell brought forward Item No. 28 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 9:27 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:27 p.m.

Mr. Koontz continued his presentation. The applicant, Hugo Elizondo, Jr. provided information regarding the project.

Mayor Mitchell moved to deny an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 4.66 acres of land from Retail Service District 'RS' to Residential Condominium District 'R-1-C' for property located on Bebee Road, just west of Dacy Lane, in Hays County, Texas. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

29. Consider a request by Shrenik Shah to not construct additional parking for Phase Two of the Kyle Parkway expansion project (SD-20-0077). ~ *Howard J. Koontz, Director of Planning and Community Development*

Mayor Mitchell brought forward Item No. 29 for discussion. Mr. Koontz presented the item.

Shrenik Shah, the applicant, and Michael Mauldin, Architect, provided information regarding the item.

Council Member Scheel moved to approve request by Shrenik Shah to not construct additional parking for Phase Two of the Kyle Parkway expansion project. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

30. (*Second Reading*) An Ordinance of the City of Kyle, Texas, Amending Chapter 23 – Miscellaneous Offenses, Chapter 29 – Sign Standards and Permits, and Chapter 47 – Local Traffic Regulations, 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; 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*

City Council voted 7-0 to approve on first reading with amendments.

Mayor Mitchell brought forward Item No. 30 for discussion. Mr. Bickford presented the item.

Council Member Rizo moved to approve an Ordinance of the City of Kyle, Texas, Amending Chapter 23 – Miscellaneous Offenses, Chapter 29 – Sign Standards and Permits, and Chapter 47 – Local Traffic Regulations, 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; Providing for repeal of conflicting ordinances; Providing for an effective date, savings clause and an open meetings clauses; and Providing for related matters. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

31. Approve award and execution of a 1-year landscape maintenance services contract with WLE, LLC in an amount of \$234,504.13 of a total contract amount of \$597,197.71 with two optional annual extensions subject to future appropriations. ~ *James R. Earp, Assistant City Manager*

Mayor Mitchell brought forward Item No. 31 for discussion. Mr. Earp presented the item.

Mayor Mitchell moved to approve award and execution of a 1-year landscape maintenance services contract with WLE, LLC in an amount of \$234,504.13 of a total contract amount of \$597,197.71 with two optional annual extensions subject to future appropriations contingent upon the Assistant City Manager having one final discussion with WLE, and if he's comfortable, he has authority to sign off, if not, he has authority to bring back to Council. Council Member Scheel seconded the motion. All votes aye; motion carried 7-0.

32. 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*

Mayor Mitchell brought forward Item No. 32 for discussion. Mr. Earp presented the item.

Council Member Villalobos moved to approve 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 as discussed, pending ratification by the law enforcement association. Council Member Rizo seconded the motion.

There was discussion on the motion. Council Member Ellison stated his appreciation for the law enforcement association. He spoke of his support for the police department. He spoke of the fundamental difference of opinion for a job that requires physical fitness. He stated that he was happy to vote for the substantial raises. He stated that he was clear at the prior Council meeting and does not know whether his points were negotiated. Council Member Villalobos stated that he thought it was clear on the language Council Member Ellison wished to exclude from the agreement. Council Member Ellison stated he was clear that he wanted "I" removed.

Mayor Mitchell requested a roll call vote. Council Member Scheel voted aye; Mayor Pro Tem Koch voted nay; Council Member Rizo voted aye; Mayor Mitchell voted aye; Council Member Ellison voted nay; Council Member Tobias voted nay; and Council Member Villalobos voted aye. Motion carried 4-3.

VIII. City Manager's Report

33. 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*
 - 2021 Legislative Agenda
 - Proposition A Bond Open Houses

- Ash Pavilion

Mayor Mitchell brought forward the City Managers Report. Mr. Sellers spoke about the 2021 Legislative Agenda, Proposition A Bond Open Houses, and Ash Pavilion.

IX. Executive Session

34. 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.
 - Heroes Memorial Park Base Flood Elevation
 - Development Standards Rough proportionality determination for Paramount Section 1
 - Coronavirus Relief Fund and Subrecipient Agreements
 - 104 S. Burlison
 - Bunton Lane Development Agreement
 - Anthem Electrical
 - Buie Contract
 - West RM 150 Access
 - Prairie Lakes
 - Marketplace Avenue
 - Landscape Maintenance Contract
 - LDG Development
 - North Trails Property Acquisition
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 - North Trails Property Acquisition.
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 Indigo
 - Project Cranberry
 - Project Shamrock
 - Project Candy Cane
 - Project Wild Blue
 - 104 S. Burlison

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 - Development Standards Rough proportionality determination for Paramount Section 1, 104 S. Burlison, Bunton Lane Development Agreement, Anthem Electrical, Prairie Lakes, Marketplace Avenue, LDG Development, North Trails Property Acquisition. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 - North Trails Property Acquisition; and 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 Indigo, Project Cranberry, Project Shamrock, Project Candy Cane, Project Wild Blue, and 104 S. Burlison.”

The City Council convened into executive session at 12:01 a.m. on September 16, 2020. Mayor Mitchell left the meeting at 2:22 a.m. Council Member Tobias left the meeting at 2:35 a.m.

35. Take action on items discussed in Executive Session.

Mayor Pro Tem Koch moved to reconvene into open session. Council Member Rizo seconded the motion. All votes aye; motion carried 5-0. Mayor Mitchell and Council Member Tobias were absent for the vote.

The City Council reconvened into open session at 2:36 a.m. Mayor Pro Tem Koch announced that no action took place in Executive Session and no action would be taken now.

X. Adjourn

Mayor Pro Tem Koch moved to adjourn. Council Member Scheel seconded the motion. All votes aye; motion carried 5-0.

With no further business to discuss, the City Council adjourned at 2:37 a.m. on September 16, 2020.

Travis Mitchell, Mayor

Attest:

Jennifer A. Holm, City Secretary



CITY OF KYLE, TEXAS

Naming Committee

Meeting Date: 10/6/2020
Date time: 7:00 PM

Subject/Recommendation: Selection of naming committee for West RM 150. ~ *Samantha Armbruster,*
Communications Director

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Planning and Zoning Commission Reappointments

Meeting Date: 10/6/2020
Date time: 7:00 PM

Subject/Recommendation: Consideration of nominations for reappointments to the Planning and Zoning Commission to fill expired terms.~ *Howard J. Koontz, Director of Planning and Community Development*

- Michele Christie (Seat 2) Reappointment
- Megan McCall (Seat 4) Reappointment
- Tim McHutchion (Seat 6) Reappointment

Other Information:

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Memo
- Email from P&Z Chair Michele Christie



CITY OF KYLE

Community Development Department



October 6, 2020

To: Kyle City Council
From: Howard J. Koontz, AICP
Re: Re-appointment for Planning Commission, seats 2, 4, and 6

Pursuant to City of Kyle policy for the appointment and re-appointment of city board and commission members, staff seeks the consideration of the Mayor and City Council to confirm the reappointment of planning commissioners Michele Christie (Seat 2, Chair), Megan McCall (Seat 4), and Tim McHutchion (Vice Chair, Seat 6).

Each of the commissioners has indicated interest in continuing on in their position for another two-year term.

Chairperson Christie is tasked with the recommendation to re-appoint seated commissioners, and in this case has done so favorably with respect to commissioners McCall and McHutchion (please see the attached).

The recommendation to re-appointment the Chair, in this case commissioner Christie, is incumbent upon the Council themselves.

From: **Michele Christie** <michelec1230@gmail.com>
Date: Mon, Sep 28, 2020 at 3:45 PM
Subject: Reappointments
To: Howard Koontz <hkoontz@cityofkyle.com>

Howard,

I spoke with Tim McHutchion and Megan McCall concerning their reappointment to the Commission. Both are agreeable to continue as Commissioners.

My recommendation to Council is to reappoint both Commissioners.

Michele Christie



CITY OF KYLE, TEXAS

SM HC EMS Board

Meeting Date: 10/6/2020

Date time:7:00 PM

Subject/Recommendation: Consider and possible action to appoint Jerry Hendrix as the City of Kyle representative to the San Marcos Hays County Emergency Medical Service Board of Directors.
~ *J. Scott Sellers, City Manager*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Night Sky Proclamation

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: Hill Country Night Sky Month Proclamation. ~ *Robert Rizo, Council Member*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Uber Kyle

Meeting Date: 10/6/2020
Date time: 7:00 PM

Subject/Recommendation: Presentation regarding launch of Uber Kyle \$3.14 program. ~ *Rick Koch, Mayor Pro Tem*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Wukasch Land Plan

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: Presentation on Wukasch Land Conceptual Plan. ~ *Scott Miller, Ranch Road Development*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Wukasch Lotting C_11x17

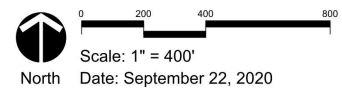


Lot Summary		
Product Type	Yield	Mix
65ft. Residential	345 units	100.00%
	345 units	



SEC Planning, LLC
 Land Planning + Landscape Architecture + Community Branding
 AUSTIN, TEXAS
 (512) 248-7003
 www.secplanning.com • info@secplanning.com

LOTING PLAN C
WUKASCH TRACT
 KYLE, TEXAS



SHEET FILE: V:\200119-RRDL\Cadfiles\PLANNING\Lotting\Lotting C.dwg
 Base mapping compiled from best available information. All data should be considered as preliminary, in need of verification, and subject to change. This land plan is conceptual in nature and does not represent any regulatory approval. Plan is subject to change.



CITY OF KYLE, TEXAS

CIP/Road Projects Update

Meeting Date: 10/6/2020

Date time: 7:00 PM

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

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Authorize award and execution of a purchase order to SMITH CONTRACTING CO. INC. to perform all work required for the construction of Phase 2 of the Bunton Creek Interceptor

Meeting Date: 10/6/2020
Date time:7:00 PM

Subject/Recommendation: Authorize award and execution of a purchase order to SMITH CONTRACTING CO. INC., 15308 Ginger St, Austin, TX 78728, lowest and most responsible bidder, in an amount not to exceed \$3,356,564.92, which includes a five (5) percent contingency to perform all work required for the construction of the Bunton Creek Interceptor Phase 2.0 wastewater line. ~ *Leon Barba, P.E., City Engineer*

Other Information: Seventeen (17) bids were opened on September 23, 2020 for the construction of the Bunton Creek Interceptor Phase 2.0 wastewater line. The contractor bids ranged from \$3,196,728.50 to \$7,823,993.89. The project limit is between the Bunton Creek Village lift station and the Wastewater Treatment Plant (WWTP). The scope of work includes:

- 5,520 LF – 42” PVC pipe
- 2,076 LF – 36” PVC pipe
- 7,599 LF – 36” PVC pipe
- Five (5) – 5’ dia MH
- Thirteen (13) - 6’ dia MH
- Four (4) bores under Gas line and Plum Creek

Legal Notes: N/A

Budget Information: A Fiscal Note is attached.

ATTACHMENTS:

Description

- Bunton Creek Interceptor project Detailed Bid Summary 9-25-2020
- Location Map

CITY OF KYLE BID TAB

Project Name: Bunton Creek Interceptor Phase 2.0

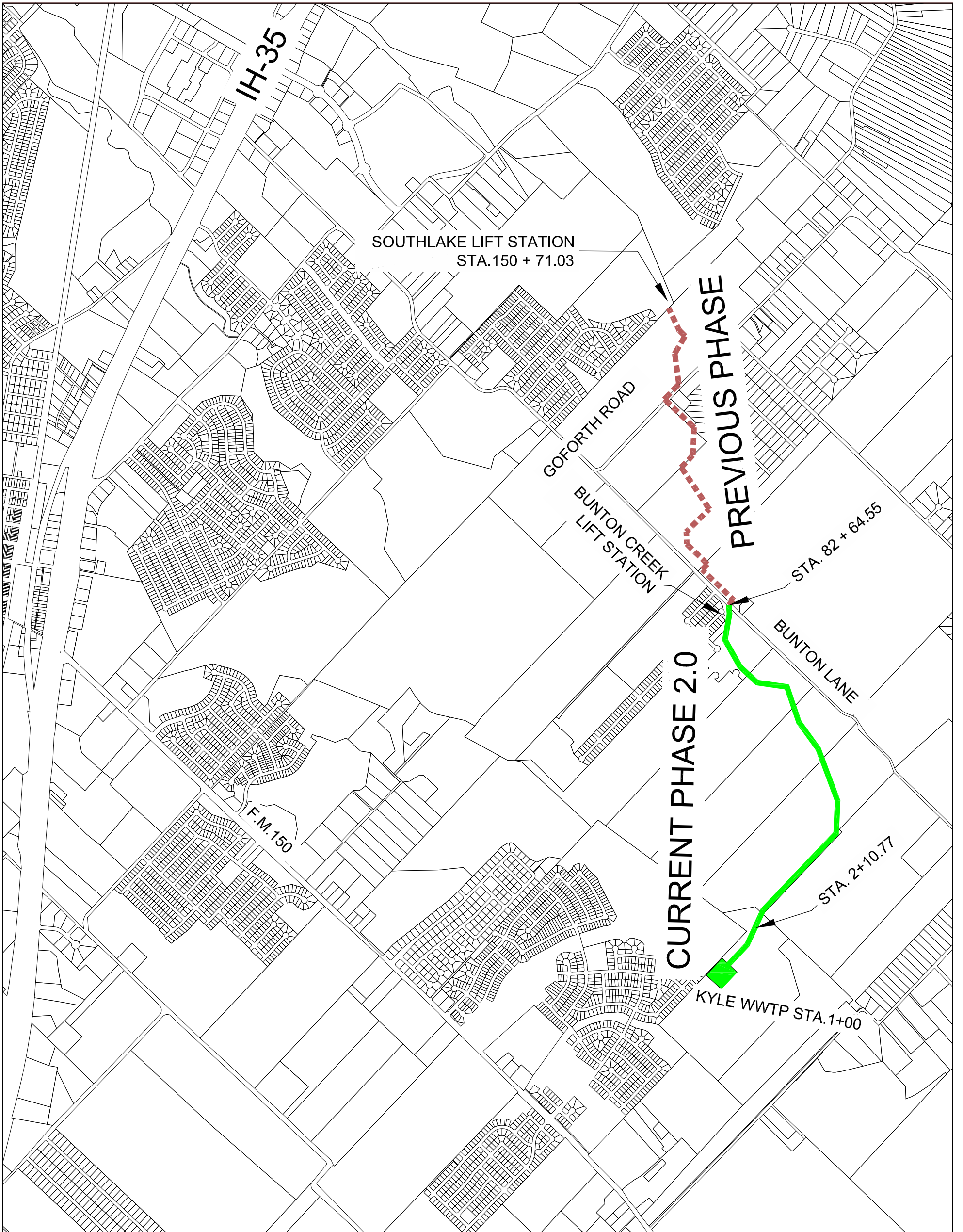
Bid Opening Date: September 23, 2020, Time : 10:00 AM

Location: Kyle Public Works Bldg. 520 E Ranch Road 150, Kyle Texas 78640

Project Sponsor: City of Kyle

Project Manager: Keshav R Gnawali

NO.	BIDDER	BID AMOUNT	Addendums Recognized	Bonds Included
1	Smith Contracting Co., Inc.	\$ 3,196,728.50	Y	Y
2	Excel Aircraft LLC	\$ 3,463,520.00	Y	Y
3	Cash Construction Company, Inc	\$ 3,703,325.00	Y	Y
4	Mountain Cascade of Texas, LLC	\$ 3,247,701.00	Y	Y
5	Austin Underground, Inc	\$ 3,706,248.00	Y	Y
6	S.J. Louis Construction of Texas LTD.	\$ 3,959,870.35	Y	Y
7	QRO MEX Construction Company, Inc	\$ 4,331,277.00	Y	Y
8	Atlas Construction, Corp	\$ 4,397,881.50	Y	Y
9	Texas Sterling Construction Co	\$ 3,721,516.20	Y	Y
10	Underground Water Solutions, Co	\$ 3,995,583.00	Y	Y
11	Santa Clara Construction, LTD	\$ 3,557,512.00	Y	Y
12	Skyblue Utilities, Inc	\$ 7,823,993.89	Y	Y
13	Aaron Concrete Contractors, LP	\$ 5,535,082.00	Y	Y
14	Construction Services, Inc	\$ 3,245,000.00	Y	Y
15	Patin Construction, LLC	\$ 3,300,358.00	Y	Y
16	D Guerra Construction, LLC	\$ 3,533,330.00	Y	Y
17	Spiess Construction Co., Inc	\$ 4,095,752.00	Y	Y





CITY OF KYLE, TEXAS

Easter Seals - for Litter Pick Up & Mowing (FY 2020-2021)

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: Approve a contract with EASTER SEALS CENTRAL TEXAS, formerly TIBH INDUSTRIES, INC., Austin, Texas, through Workquest in an amount not to exceed \$54,855.00, as the contractor for litter pick up and grass cutting on Interstate 35 using Easter Seals of Central Texas as the service provider. ~ *James R. Earp, Assistant City Manager*

Other Information:

Legal Notes:

Budget Information: A Fiscal Note is attached.

ATTACHMENTS:

Description

- ☐ Easter Seals Agreement

STATE USE CONTRACT BETWEEN
CITY OF KYLE, TEXAS, AND EASTER SEALS CENTRAL TEXAS
THROUGH WORKQUEST, FORMERLY KNOWN AS TIBH INDUSTRIES, INC

This Contract for vegetation and litter control is entered into by and between the City of Kyle, Texas, hereafter “City” and Easter Seals-Central Texas, Austin, Texas, hereafter “Contractor”, based upon negotiated price and specifications and certifies by WorkQuest, formerly known as TIBH Industries, Inc, as a contract under the provisions of Chapter 122 of the Human Resources Code.

AGREEMENT

In consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

ARTICLE 1. CONTRACTING PARTIES

City: City of Kyle Texas, Parks and Recreation Department, 700 Lehman Rd, Kyle, Texas 78640

Contractor: Easter Seals – Central Texas, 315 East St Elmo, Austin, Texas 78745

Certifying Party: WorkQuest (formerly known as TIBH Industries, Inc) 1011 East 53 ½ Street, Austin, Texas 78751

ARTICLE 2. CONTRACT PERIOD

The contract period for this agreement begins October 1, 2020 and will end on September 30, 2021.

ARTICLE 3. SERVICES AND SCHEDULE TO BE PERFORMED

The Contractor will perform the following services:

MONTHS OF YEAR	SERVICES TO BE PERFORMED	COSTS
October	Litter pick up of IH-35 within City Limits	\$ 2,775.00
November	Mowing & litter pick up of IH-35 within city limits	\$ 9,960.00
December	Litter pick up of IH-35 within City Limits	\$ 2,775.00
January	Litter pick up of IH-35 within City Limits	\$ 2,775.00
February	Mowing & litter pick up of IH-35 within city limits	\$ 9,960.00
March	Litter pick up of IH-35 within City Limits	\$ 2,775.00
April	Litter pick up of IH-35 within City Limits	\$ 2,775.00
May	Litter pick up of IH-35 within City Limits	\$ 2,775.00
June	Litter pick up of IH-35 within City Limits	\$ 2,775.00
July	Litter pick up of IH-35 within City Limits (TxDOT to mow)	\$ 2,775.00
August	Litter pick up of IH-35 within City Limits	\$ 2,775.00
September	Mowing & litter pick up of IH-35 within city limits	\$ 9,960.00
FY 2020	Total amount of Contract	\$ 54,855.00

The Contractor will observe all safety requirements established by the Texas Department of Transportation during the litter pick up process. In addition, the Contractor will haul all trash to the City's facility located at Public Works yard on RM-150 East. And will provide all necessary equipment to accomplish its services. In those months that require mowing and trimming, the Contractor will strive to maintain a uniform height of approximately 4 ½ inches.

ARTICLE 4. CONTRACT AMOUNT

The total amount to be paid by the City to the Contractor for services under this contract will be the annual sum of \$ 54,378.00, in accordance with Article 3 above.

ARTICLE 5. PAYMENT FOR SERVICES

The City will pay WorkQuest as assignee and servicing agent of the Contractor's interest in the payment under this contract (as directed) for goods and services received. Upon receipt of a proper invoice or voucher submitted by WorkQuest, such payment will be made within thirty (30) calendar days from receipt of same.

Payment by the City to WorkQuest as assignee to the Contractor will be based upon bills presented monthly, with billing based upon the actual performance of the specified work by location.

ARTICLE 6. TERMINATION

This Contract may be terminated under one of the following conditions:

- a) By mutual agreement and consent of both parties.
- b) By the City giving written notice to the Contractor and the Certifying Party as a consequence of failure by the Contractor to satisfactorily perform the services and obligations set forth in this agreement, with proper allowances being made for circumstances beyond the control of the Contractor.
- c) By either party upon thirty (30) calendar days written notice to the other.

ARTICLE 7. REMEDIES

Violation or breach of contract by the Contractor will be grounds for termination of this Agreement, and any increased costs arising from the Contractor's default, breach of contract, or violation of terms will be paid by the Contractor. This Agreement will not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and will be cumulative.

ARTICLE 8. SUBLETTING

The Contractor will not sublet or transfer any portion of its responsibilities and obligations under the Agreement unless specifically authorized to do so in writing by the City.

ARTICLE 9. SUCCESSORS AND ASSIGNS

The Contractor will not assign or otherwise transfer its rights or obligations under this Agreement except with the prior written consent of the City.

ARTICLE 10. LEGAL CONSTRUCTION

In the event that any one or more of the provisions contained in the Agreement will for any reason be held to be invalid, illegal, or unenforceable in any respect, such as invalidity, illegality, or unenforceability will not affect any other provisions thereof and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

ARTICLE 11. GOVERNING LAWS AND VENUE

This Agreement will be construed under and in accordance with the laws of the State of Texas. Any legal actions regarding the parties' obligations and any matters whatsoever arising from this Agreement will be filed and maintained in Hays County, Texas.

ARTICLE 12. PRIOR AGREEMENTS SUPERSEDED

This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting to this subject matter.

ARTICLE 13. FUNDING OUT

As applicable to this Agreement, the Contractor understands that funds for the payment for work performed by the Contractor under this Agreement have been provided through the City's budget approved by the City Council for the current fiscal year only. State statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. The City cannot guarantee the availability of funds and enters into this Agreement only to the extent such funds are made available. The Contractor acknowledges and agrees that it will have no recourse against the City for its failure to appropriate funds for the purposes for this Agreement in any fiscal year other than the year in which this Agreement was executed. The fiscal year for the City extends from October 1st of each calendar year to September 30th of the following calendar year.

ARTICLE 14. INSURANCE AND INDEMNITY

The Contractor will hold harmless, indemnify and defend the City and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional acts, errors or omissions of the Contractor, its officers, employees or agents. This will include, but not limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the City in favor of any party, including the amounts of any damages or awards resulting from claims, demands and causes of action for personal injuries, death or damages to property.

The Contractor will procure and maintain, at its expense, insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Contractor or its agents, subcontractors, or employee. Before commencing the work, the Contractor will furnish to the City a certificate or certificates in a form satisfactory to the City showing that the Contractor has complied with this paragraph. All certificates will provide that the policy will not be changed or cancelled until at least thirty (30) calendar days written notice will have been given to the City. Commercial general liability insurance and motor vehicle insurance will be written with the City of Kyle, Kyle, Texas, as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City. The kinds and amounts of insurance required are as follows:

Worker's Compensation Insurance: In accordance with the provisions of the Workers' Compensation Act of the State of Texas.

Liability Insurance: (1) Commercial general liability insurance with a combined single limit of \$1,000,000 for each occurrence and \$1,000,000 in the aggregate; and (2) motor vehicle liability insurance in the amount not less than \$1,000,000 for injuries to any one person, \$1,000,000 on account of any one accident, and in an amount of not less than \$1,000,000 for property damage.

The stated limits of insurance required by this Paragraph are minimum only and it will be the Contractor's responsibility to determine what limits are adequate. These limits may be met by basic policy limits or any combination of basic limits and umbrella limits. The City's acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Contractor from compliance with these requirements.

ARTICLE 15. NOTICE TO PARTIES

Notice to be effective under this contract must be in writing and received by the party against whom it is to operate. Notice is received by a party as follows: (1) when it is delivered to the party personally; (2) on the date shown on the return receipt if mailed by registered or certified mail, return receipt requested, to the party's address specified in this Article 15 and signed on behalf of the party; or (3) three business days after its deposit in the USPS mail, with first-class postage affixed, addressed to party's address specified in this Article 15. Any party may change its address by providing notice of such change in accordance with the requirements of this Article 15.

The City's address is as follows:

Chance Padier, Parks and Grounds Maintenance Manager

City of Kyle Parks and Recreation Department

700 Lehman Rd, Kyle, Texas 78640

The Contractor's address is as follows:

Richard Fogelson, Senior Director of Paid Job Training

Easter Seals Central Texas

8505 Cross Park, Austin, Texas 78754

The Certifying Party's address is as follows:

Abby Monk, Regional Marketing Manager

WorkQuest

1011 East 53 ½ Street, Austin, Texas 78751

ARTICLE 16. MISCELLANEOUS

Each individual signing this contract on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

This Agreement represents the entire Agreement of the parties, and an amendment to it is not effective for any purpose unless in writing and signed by all parties.

This contract is binding on and insures to the benefit of the parties' successors in interest.

IN WITNESS WHEREOF, the parties have signed duplicate originals of this agreement as follows:

THE UNDERSIGNED PARTIES do hereby certify that (1) the services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected parties of Local and State Government, and (2) the services , goods on contract are not supplied by Section 21 of Article XVI of the Constitution of the State of Texas to be supplied under contract given to the lowest responsible bidder.

The undersigned signatory for the City hereby represents and warrants that he or she is an officer of the organization for which he or she has executed this contract, and that such officer has full and complete authority to enter into this contract on behalf of the City, and the City has legal authority to perform the activities provided for herein.

CITY OF KYLE: Parks & Recreation Department

By _____

Print _____

Title _____ Date _____

The undersigned signatory for the Contractor hereby represents and warrants that he o she is an officer of the organization for which he or she has executed this contract, and that such officer has full and complete authority to enter into this contract on behalf of the Contractor, and the Contractor has legal authority to perform the activities provided for herein.

CONTRACTOR: Easter Seals Central Texas

By _____

Print _____

Title _____ Date _____

The undersigned signatory for the Certifying Party hereby represents and warrants that he or she is an officer of the organization for which he or she has executed this contract, and that such officer has full and complete authority to enter into this contract on behalf of the Certifying Party, and the Certifying Party has legal authority to perform the activities provided for herein.

CERTIFYING PARTY: WorkQuest

By _____

Print _____

Title _____ Date _____



CITY OF KYLE, TEXAS

Well #4 Elevated Storage Tank Rehabilitation Contract

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: Authorize award and execution of a purchase order to NG PAINTING, LP, Kerrville, TX, in an amount not to exceed \$342,000.00 to perform all work required for the rehabilitation of the Well #4 Elevated Storage Tank. ~ *Leon Barba, P.E., City Engineer*

Other Information: Ten bids were received on September 23, 2020 for the rehabilitation of the Well #4 Elevated Storage Tank Rehabilitation. The total bids ranged from \$342,000.00 to \$668,000.00.

Based on the bid submitted and experience, staff recommends award of this contract to NG PAINTING, LP.

Legal Notes: N/A

Budget Information: A Fiscal Note is attached.

ATTACHMENTS:

Description

- Engineer's Recommendation Letter
- Bid Summary

September 29, 2020

Mr. Leon Barba, P.E.
City Engineer
City of Kyle
Public Works Department
520 E. RR 150
Kyle, TX 78640

VIA EMAIL

Re: Well #4 EST Rehabilitation Project - Rebid
LJA Job: 2173-2002

Dear Mr. Barba:

The City of Kyle received 10 bids on the Well #4 EST Rehabilitation Project - Rebid on September 23, 2020 at 2:00 p.m. After review of the bidder information, and bid tabulations, LJA Engineering, Inc. recommends award of the Well #4 EST Rehabilitation Project – Rebid for base bid plus additive alternate 01 to **NG Painting, LP**, in the amount not to exceed of **\$342,000.00**.

Please find enclosed a copy of the bid tabulation.

Should you have any questions or need any additional information, please do not hesitate to call.

Sincerely,

Sincerely,



Stuart Cowell, PE
Project Engineer

Enclosure. Bidtab

Project Name:	Well #4 EST Rehabilitation Project - Rebid	Bid Date & Time:	Wednesday, September 23, 2020, 2:00 pm
Job # :	2173-2002	Eng Estimated Cost:	\$517,913.00
No.	Contractor Name	Total Base Bid + Alternate 01 Amount	
1	NG Painting, LP	\$342,000.00	
2	Tank Pro, Inc.	\$366,558.00	
3	Cherokee Painting & Sandblasting, Inc.	\$367,350.00	
4	Maguire Iron, Inc.	\$369,900.00	
5	Viking Painting, LLC	\$379,700.00	
6	D&M Tank, LLC	\$438,100.00	
7	Classic Protective Coatings, Inc.	\$443,998.00	
8	Tankez Coatings, Inc.	\$471,000.00	
9	Gulf States Protective Coatings, Inc.	\$494,350.00	
10	TMI Coatings, Inc.	\$668,000.00	



CITY OF KYLE, TEXAS

1st Amendment to BRR De-Annex and DA

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: First Amendment to Blanco River Ranch (Phase One Residential Area) De-Annexation and Development Agreement with HMBRR Development, Inc., HMBRR, LP, and HMBRR LP #2. ~ *James R. Earp, Assistant City Manager*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- First Amendment to BRR De-Annexation and Development Agreement

**FIRST AMENDMENT TO BLANCO RIVER RANCH
(Phase One Residential Area)
DE-ANNEXATION AND DEVELOPMENT AGREEMENT**

This First Amendment to Blanco River Ranch (Phase One Residential Area) De-Annexation and Development Agreement (this "Amendment") is entered into effective as of _____, 2020 (the "Effective Date"), between the City of Kyle, Texas, a Texas home-rule city (the "City"), HMBRR Development, Inc., a Texas Corporation ("HMBRR Inc."), HMBRR, LP, a Texas limited partnership ("LP #1"), and HMBRR LP #2, a Texas limited partnership ("LP #2") (individually "Assignee" and collectively, the "Assignees"). The City and the Assignees are sometimes hereinafter referred to singularly as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, the City and Blanco River Ranch Properties, LP, entered into the Blanco River Ranch (Phase One Residential Area) De-Annexation and Development Agreement (the "Development Agreement") relating to 858.7 acres in Hays County, Texas (the "Property"), effective as of May 6, 2016, and recorded as Document No. 17018505, Official Public Records of Hays County, Texas;

WHEREAS, Section 12.05(b) of the Development Agreement provides that Blanco River Ranch Properties, LP, may assign its rights and obligations under the Development Agreement to Hanna/Magee LP #1 ("Hanna/Magee"), a Texas limited partnership, or to an entity controlling, controlled by or under common control with Hanna/Magee;

WHEREAS, HMBRR Inc., HMBRR, LP, and HMBRR LP #2 are entities controlling, controlled by, or under common control with Hanna/Magee;

WHEREAS, on September 20, 2017, Blanco River Ranch Properties, LP, assigned all of its rights and obligations under the Development Agreement to the Assignees in the Assignment and Assumption of Rights and Obligations Under Blanco River Ranch (Phase One Residential Area) De-Annexation and Development Agreement (the "Assignment"), recorded as Document No. 17034183, Official Public Records of Hays County, Texas, and a copy of the executed Assignment was provided to the City;

WHEREAS, subsequent to the Assignment, the Assignees are properly considered the Owner of the Property, pursuant to the terms of the Development Agreement;

WHEREAS, on July 8, 2020, the City and Owner, along with several additional parties, entered into the FM150 Water Facilities Service, Financing, and Construction Agreement (the "Water Facilities Construction Agreement"), effective as of July 7, 2020, relating to the construction of water facilities relating to the provision of water service to the Property; and

WHEREAS, the City and the Owner desire to amend certain provisions of the Development Agreement to clarify issues relating to the construction of certain water and wastewater facilities and update the notice provisions, as more particularly set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Development Agreement as follows:

AGREEMENT

1. Section 3.04 of the Development Agreement, pertaining to Inspections, is hereby amended to read as follows:

Following City approval of each plat of a portion of the Property and prior to the commencement of construction, Owner will give written notice to the Director of Public Works in order to allow the City to assign an inspector. Within the City's incorporated city limits, the City will inspect street, water and wastewater, and drainage Public Improvements and collect related inspection fees. Within the City's ETJ, the City will inspect water and wastewater Public Improvements only and collect related inspection fees. City will inspect drainage infrastructure in the City's ETJ, as necessary. Owner shall not be liable or required to reimburse the City for inspection costs relating to the City's inspection of street and drainage Public Improvements in the City's ETJ.

2. Section 5.03 of the Development Agreement, pertaining to Permanent Water Service, is hereby amended to read as follows and Exhibit "O" is formally integrated into and made part of the Development Agreement:

(a) The City and Owner have entered into a Water Facilities Construction Agreement with several participants, including Kyle 150 LP ("Kyle 150"), to construct a ground storage tank and an elevated storage tank (collectively, the "Anthem Storage Tanks") to serve the Property. The Water Facilities Construction Agreement also provides that, in connection with the construction of the Anthem Storage Tanks, a water line from the Anthem Storage Tanks to the Point of Delivery with the City's Water System along FM 150 (the "FM 150 Water Main"), and a water line from the Anthem Storage Tanks to a Point of Delivery on the Property (the "Water Return Line") will be constructed, all as depicted on Exhibit L. On behalf of the participants, Kyle 150 has or will bid and award the necessary contracts relating to the construction of facilities, shall work with the City to facilitate all payments to the contractors pursuant to the contracts, and convey such facilities to the City upon completion and inspection. The Water Facilities Construction Agreement is attached as **Exhibit "O"**.

(b) Provided that Kyle 150 completes the construction of the Anthem Storage Tanks, the FM 150 Water Main, and the Water Return Line (collectively, the "Anthem Shared Water Facilities") as contemplated in the Water Facilities Construction Agreement, Owner agrees to pay its pro-rata share of the cost of the Anthem Storage Tanks, and the Water Return Line, as established in the Water Facilities Construction Agreement (the "Phase One Cost Share"), subject to Owner's right to reimbursement as provided in Section 7.05, below. If Kyle 150 fails to complete the construction of the facilities contemplated in the Water Facilities Construction Agreement, the City will have the right, but not the obligation to assume the construction contracts and complete the projects contemplated in the Water Facilities Construction Agreement.

(c) The City confirms that by satisfying its obligations under the Water Facilities Construction Agreement, Owner shall be entitled to receive water service from the City to the Property (in an aggregate amount not to exceed 2,100 LUEs) as contemplated under Section 4.01 of the Water Facilities Construction Agreement and, except for internal water infrastructure, shall not be required to finance or construct any additional facilities relating to the provision of water service to the Property.

(d) If the Anthem Shared Water Facilities are not completed as provided in Subsections (a) and (b) by January 1, 2022, the City shall determine whether or not it will assume any construction contracts as provided in Sections 1.08 and 2.12 of the Water Facilities Construction Agreement. If the City does not elect to assume the applicable construction contracts to complete the necessary water facilities, Owner may proceed with the design and construction of alternative facilities consisting of a 12-inch water line to be constructed in the FM 150 right-of-way from a point of connection to the City's existing 12-inch water line at the intersection of FM 150 and Old Stagecoach Road to a booster pump station to be constructed at the location depicted on the Water Facilities Plan (the "Alternative Facilities"). The proposed booster pump station will include a connection to allow the future extension of the 12-inch water line to the west and the water line will also be extended to the south, to the site of a future, approximately 580,978 gallon ground or elevated storage tank to be constructed at the location depicted on the Water Facilities Plan. If these Alternate Facilities are designed and constructed by Owner, the City agrees that Owner's costs will be reimbursed to Owner as provided in Section 7.05, below.

(e) If Kyle 150 fails to perform and the City decides not to assume any construction contract(s) entered into pursuant to the Water Facilities Construction Agreement relating to additional storage facilities to serve the Property, the Owner may proceed to design and construct an alternative storage facility (the "Alternative Required Water Storage Facility") consisting of an elevated or ground storage tank designed to

hold approximately 300,000 gallons. If the Alternative Required Water Storage Facility is designed and constructed by Owner, the City agrees that Owner's costs will be reimbursed to Owner as provided in Section 7.05, below.

3. Section 5.04 of the Development Agreement, pertaining to Initial Wastewater Service, is hereby amended to read as follows:

The City agrees to provide 680 LUEs of initial wastewater through the City's existing 8-inch gravity main located in Old Stagecoach Road (the "Gravity Main") as depicted on the Wastewater Facilities Plan, subject to Owner's construction of any required Internal Facilities and the Connecting Facilities to the gravity main. No additional facilities will be required for this initial 680 LUEs of wastewater service. The City confirms that 680 LUEs of capacity are available to serve the Property through the Gravity Main and agrees to reserve 680 LUEs in the Gravity Main for Customers within the Property. If for any reason the City cannot provide 680 LUE's of capacity in the Gravity Main, the City will provide pump-and-haul wastewater service as needed for connections within the Property until the Elliot Branch Interceptor is completed and placed into service. Pump-and-haul service will be provided by the City contracting to have all wastewater that is delivered from Customers within the Property to the Phase One Lift Station pumped from the Phase One Lift Station wet well and transported off the Property for treatment and disposal. All costs associated with this pump-and-haul service will be borne by the City; however, the Customers within the Property receiving wastewater service through the pump-and-haul program will be required to pay all usual and customary City wastewater service fees and rates.

4. Section 5.05 of the Development Agreement, pertaining to Permanent Wastewater Service, is hereby amended to read as follows:

To provide wastewater service in excess of 680 LUEs, the City agrees to complete the construction of an appropriately sized gravity interceptor along Elliot Branch as depicted on the Wastewater Facilities Plan (the "Elliot Branch Interceptor") on or before June 30, 2022. In order to connect to the Elliot Branch Interceptor, Owner has constructed a lift station sufficient to serve 1,814 LUEs (the "Phase One Lift Station") as depicted on the Wastewater Facilities Plan and agrees to construct a six-inch force main from the Phase One Lift Station to the Elliot Branch Interceptor as depicted on the Wastewater Facilities Plan. Owner confirms that the Phase One Lift Station was constructed on a site that is sufficient to accommodate the expansion of the Phase One Lift Station to serve up to an additional 2,200 LUEs in the future. The City acknowledges that Owner is relying on the City's timely completion of the design of, easement acquisition for, and construction of the Elliot Branch Interceptor in order to make permanent wastewater service in excess of 680 LUEs available as and when required for Customers within Phase One and/or for the development of the Property. Accordingly, the City agrees

that, if the Elliot Branch Interceptor is not complete and available to provide wastewater service to the Property on or before June 30, 2022, the City will provide pump-and-haul wastewater service as needed for connections within the Property until the Elliot Branch Interceptor is completed and placed into service. Pump-and-haul service will be provided by the City contracting to have all wastewater that is delivered from Customers within the Property to the Phase One Lift Station pumped from the Phase One Lift Station wet well and transported off the Property for treatment and disposal. All costs associated with this pump-and-haul service will be borne by the City; however, the Customers within the Property receiving wastewater service through the pump-and-haul program will be required to pay all usual and customary City wastewater service fees and rates.

5. Section 6.11 of the Development Agreement, pertaining to Common Lot Rock Wall Replacement, is hereby created to read as follows:

Section 6.11 **Common Lot Rock Wall Replacement**. In the event the City is required to undertake any repairs on water or wastewater lines at locations where such lines are located underneath a 6-foot rock or masonry wall constructed by the Owner, the City shall remove the portion of the wall as necessary for the repair. The City shall not be responsible for the repair or replacement of such wall; repair or replacement of the wall shall be the responsibility of either the Owner or the home owners association.

6. Section 7.02 of the Development Agreement, pertaining to Impact Fees, is hereby amended to read as follows:

Section 7.01 hereof notwithstanding, for the first 300 lots platted out of the Property, the water and wastewater Impact Fees will be those fees in effect as of the Vesting Date, \$2,216 per LUE for wastewater and \$2,115 for water, as provided in this Section. Owner pre-purchased 300 wastewater Impact Fees vested at the amount of \$2,216 per LUE, totaling \$664,800, on March 28, 2018, and agrees to purchase 400 additional wastewater Impact Fees within 30 days of the execution of this Amendment at the amount of \$2,826 per LUE, with such fees corresponding to the next 400 platted lots on the Property. After the water and wastewater Impact Fees described in the preceding sentences of this Section are applied by Owner, the Impact Fees payable for the remainder of Phase One will be adjusted to the City's Impact Fees in effect at the time of City approval of each subsequent final plat out of the Property and will be payable by the homebuilders at the time of the City's issuance of each residential building permit for lots within those platted sections, as required by Section

7.01. The Impact Fees prepaid by Owner under this Section will not be eligible for reimbursement out of PID bonds.

7. Section 7.05 of the Development Agreement, pertaining to City's Allocation of Net PID Bond Proceeds is hereby amended to read as follows:

The City will be entitled to receive 10% of the net proceeds of the PID bonds issued by the City for Public Improvements benefitting Phase One (the "*City Allocation*") either in the form of a payment at the time of funding of such bond issue or, if Owner advances costs of water and wastewater treatment plant Public Improvements including costs for the Phase One Cost Share of the Anthem Storage Tanks, the FM 150 Water Main, the Water Return Line, the Alternative Facilities, and/or the Alternative Required Water Storage Facility, as defined in Section 5.03, as provided below in this Section 7.05, through Owner's advancing costs of or completion and conveyance of such Public Improvements to the City at no cost to the City.

(a) The City agrees to defer the City Allocation that would otherwise be payable to the City out of the proceeds of the first issuance of PID bonds (the "*Deferred Initial Allocation*") and, accordingly, no portion of the proceeds of that first bond issuance will be paid to the City; however, at the time of second issuance of PID bonds, the City will, subject to subsection (b), below, receive the City Allocation payable out of the proceeds of those bonds, plus an amount equal to the Deferred Initial Allocation, subject to Subsection (c), below.

(b) At the time of the second issuance of PID bonds, the City will be entitled to receive a City Allocation of \$1,500,000 in City Allocations for use by the City for water treatment and wastewater treatment plant Project Improvements.

(c) After the City has received \$1,500,000 in City Allocations, the City Allocation(s) out of the next PID Bond issuance or issuances will be paid to Owner to reimburse Owner for the Phase One Cost Share of the Anthem Storage Tanks, the FM 150 Water Line, and the Water Return Line, if advanced by Owner as provided in Section 5.03(b), and, if applicable: the Alternative Facilities described in Section 5.03(d) and, if required, the Alternative Required Water Storage Facility described in Section 5.03(e).

(d) After Owner has been reimbursed for the Phase One Cost Share of the Anthem Storage Tanks, the FM 150 Water Line, and the Water Return Line, the Alternative Required Water Storage Facility, and the Alternative Facilities, the City will utilize the next City Allocation(s) paid to the City for reimbursement of the City's costs of construction of the Elliot Branch Interceptor and, thereafter, for the reconstruction of Old Stagecoach Road as a two lane road with bike lane within existing right of

way from FM 2770 to the roundabout at the entrance of Phase One and for related intersection improvement.

(e) After the City's completion of the Old Stagecoach Road improvements described in (d), above, additional City Allocations may be utilized by the City for any other public purpose. If, however, the County funds the reconstruction of Old Stagecoach Road as described in Subsection (d), then the portion of the City Allocation that would otherwise have been utilized for that reconstruction may be utilized by the City for any other public purpose.

8. Section 12.05(b) of the Development Agreement, pertaining to Owner Assignment of Agreement, is hereby amended to add the following language:

The City expressly approves and consents to any assignment of rights and obligations under this Agreement held by Hanna/Magee, or by an entity controlling, controlled by or under common control of Hanna/Magee, to any other entity controlling, controlled by or under common control of Hanna/Magee. Upon request of the City, Hanna/Magee shall provide written evidence of any such assignment.

9. Section 12.06 of the Development Agreement, pertaining to Notice, is hereby amended to read as follows:

Any notice given under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the Party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the Party to be notified and with all charges prepaid; (iii) by personally delivering it to the Party; or (iv) by facsimile or email with confirming copy sent by one of the other described methods of notice set forth above. Notice by United States mail will be effective on the earlier of the date of receipt or three days after the date of mailing. Notice given in any other manner will be effective only when received. For purposes of notice, the addresses of the Parties will, until changed by notice as provided in this Section, be as follows:

City:

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

With a copy to:

The Knight Law Firm

Attn: Paige H. Saenz, City Attorney
223 West Anderson Lane
Suite A-105
Austin, TX 78752

Owner:

Hanna/Magee LP#1
Attn: Jay Hanna
1011 North Lamar Blvd.
Austin, Texas 78703

10. **Exhibit “D”** of the Development Agreement, pertaining to Development Standards and Project Approvals, including exceptions and variances, is hereby replaced by the attached Exhibit “D”.

11. **Exhibit “L”** of the Development Agreement, pertaining to the Water Facilities Plan, is hereby replaced by the attached Exhibit “L”.

12. **Exhibit “M”** of the Development Agreement, pertaining to the Wastewater Facilities Plan, is hereby replaced by the attached Exhibit “M”.

13. **Exhibit “O”** is hereby by integrated as an exhibit to the Development Agreement.

14. Capitalized terms not defined in this Amendment have the meanings ascribed thereto in the Development Agreement.

15. Except as specifically amended herein, all provisions of the Development Agreement are hereby acknowledged and ratified by the Parties hereto to be in full force and effect.

[EXECUTION PAGES TO FOLLOW]

CITY:

City of Kyle, Texas, a municipal corporation

By: _____

Date: _____

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on the ____ day of _____, 2020 by _____, _____ of the **City of Kyle**, Texas, a municipal corporation, on behalf of said corporation.

Notary Public, State of Texas

OWNER:

HMBRR, Inc.:

HMBRR DEVELOPMENT, INC., a Texas Corporation

By: _____

Date: _____

LP #1:

HMBRR, LP, a Texas limited partnership

By: Hanna/Magee GP #1, a Texas corporation, General Partner

By: _____

Date: _____

LP #2:

HMBRR LP #2, a Texas limited partnership

By: Hanna/Magee GP #1, a Texas corporation, General Partner

By: _____

Date: _____

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on the ____ day of _____, 2020 by _____ as _____ of **HMBRR Development, Inc.**, a Texas corporation, and _____ of Hanna/Magee GP #1, Inc., a Texas corporation that is General Partner of **HMBRR, LP**, a Texas limited partnership and of **HMBRR LP #2**, a Texas limited partnership, on behalf of said limited partnerships.

Notary Public, State of Texas

EXHIBIT “D”
BLANCO RIVER RANCH
LAND USE AND DEVELOPMENT
STANDARDS

1. Table A: Land Use Chart:

Single-Family and Garden Homes/Cluster

USE	Lot Width*	Minimum Lot Size	Minimum Living Area SF	Total Lots/Units		Min/Max %
Single-Family	50	5500	1200	540	Lots	max
Single-Family	55	5750	1200	460	Lots	max
Single-Family	60	7200	1500	600	Lots	max
Single-Family	70-80	9000	2000	350	Lots	min
Garden Homes/Cluster			1000	150	Units	max
Total				210	0	100%

*Lot Width measured at front Building Line; non-single family or common areas lots not subject to Table A.

2. Site Area = 858.7 Acres
3. Single-family lot width distribution will be in accordance with Table A.
4. **Exhibit “C”** - Concept Plan: This plan illustrates the proposed general layout of Phase One.
5. Phase One will be limited to 2,100 single-family lots and garden homes/cluster units.
6. Impervious Cover on each lot will be limited to 60% of the lot area.
7. Phase One will contain a minimum of 100 acres of parkland, amenity center lots, trail corridors and open space.
8. A 6-foot decorative masonry wall will be built along the rear or sides of homes backing or siding to collector roads (roads without lots fronting on them) within a 25-foot landscaped parkway (10-feet of right-of-way with a 15-foot Wall and Landscape Easement/Lot).
9. Over three miles of joint use 8-foot and 10-foot concrete trails within 10-foot to 20-foot Trail Corridor/ROW/Easement will be provided within Phase One as shown on **Exhibit “J”**. Additional native trails (not ADA compliant) will be provided within open space and floodplain areas, as shown conceptually on **Exhibit “J”**, subject to topographic and drainage constraints.
10. No homes will front on collector roads and all street-facing sides of homes abutting

collector roads will be 100% masonry, excluding doors, windows, etc. Masonry will be defined as natural stone, brick and/or stucco. The stucco percentage of any structure will not exceed 50%.

11. **Garage Placement:** For lots less than 60 feet wide (or less than 70 feet wide on corner lots), residential street-facing garages will be located no closer to the street than five feet in front of the dwelling or roof of a covered porch, with such dwelling or porch structure being not less than seven feet wide for all portions of the structure adjacent to the garage. For all other lots, residential street-facing garages will be located no closer to the street than the dwelling. The minimum front building setback will be 20 feet from the property line (25 feet for street-facing garages). For purposes of this provision on garage placement, lot width will be determined based on the width of the lot at the front building setback line of the lot for all lot sizes. Measurement of corner lots will be ten feet wider to account for a 15-foot street side setback.

12. All building fronts will have a minimum of three architectural features. The following are examples of the types of architectural features that will be utilized: horizontal off-sets, recesses or projections; porches; breezeways; porte-cocheres; courtyards; awnings; canopies; alcoves; recessed entries; ornamental cornices; display or other ornamental windows; vertical "elevation" off-sets; peaked roof forms; arches; outdoor patios; architectural details such as tile work or moldings integrated into the façade; integrated planters or wing walls; accent materials; and varied roof heights.

13. **Building Setback Table:**

Interior Lot Width	Corner Lot Width	Side Yard Setback	Rear Yard Setback *	Front Garage Setback	Minimum Front Setback	Street Building Setback	Side Street Setback
50	60	5	15	25	20	15	20
60	70	5	20	25	20	15	20
70	80	5	20	25	20	15	20
80+	90	7.5	20	25	20	15	20

*Open and Covered Porches may encroach up to 10 feet into the rear yard setbacks. Additionally, any lot located within a curved street that is larger will be considered the same lot size as similar lot sizes in the vicinity.

14. The street lighting plan for Phase One will require minimum spacing of 500 feet along all collector and public streets. Decorative street lighting will be permitted but not required. The design of any decorative street lighting will be subject to approval by the City. Any decorative street lighting will be maintained by the homeowners association for Phase One. All street lighting will utilize energy-efficient LED light fixtures.

15. Decorative street signs will be permitted. Any decorative street signs will be subject to approval by the City.

16. The first primary subdivision signage will be located at the main entry to Phase One at the intersection of Old Stagecoach Road and the Spine Road and may include a maximum of 250 square feet of signage or graphics. The second primary subdivision signage will be located at the intersection of Old Stagecoach Road and Three Forks Drive and will be stone or masonry and such sign may be a maximum of 200 square feet in size, with a maximum of 30 square feet of signage or graphics. Tertiary entrance signs will be stone or masonry and each sign may be a maximum of 100 square feet in size, with a maximum of 30 square feet of signage or graphics.
17. Marketing signage/Burma Shave signs will be allowed within Blanco River Ranch within rights-of-way of the Spine Road and collector roads. Marketing signage, as updated and modified from time to time, will be consistent throughout Blanco River Ranch. The approximate size and quantity of permitted marketing signs is shown on **EXHIBIT "I"**.
18. Section 41-136(C) - Lot Width depth to average lot width ratio of the City's Subdivision Ordinance is waived. Lot width will be measured at the front building line.
19. Section 41-137(D) of the Subdivision Ordinance will be amended with respect to Phase One as follows: Offset intersection spacing along collector, local and residential streets will be a minimum of 125 feet measured from roadway street centerline to roadway centerline. Such intersection spacing along arterials will be a minimum of 180 feet.
20. Flag lots will be permitted within Phase One. Flag lots will be a minimum of 20 feet at the right-of-way intersection and substantially perpendicular to the right-of-way.
21. Block lengths may generally not exceed 1,000 feet within Phase One; however, block lengths that exceed this criteria will be permitted when the block includes creeks, natural drainage ways, open space and steep topography.
22. Cul-de-sac maximum lengths may not exceed 800 feet measured from the center of the turnaround to centerline of the connecting road and a maximum of 30 units may be serviced from each cul-de-sac; however, cul-de-sac lengths that exceed this criteria for cul-de-sac lengths and serviced units when the land serviced by the cul-de-sac is restricted by creeks, natural drainage ways, steep topography and external property boundaries. In such cases, the maximum number of units served may not exceed 50 units.

23. Phase One Roadway Cross Sections:

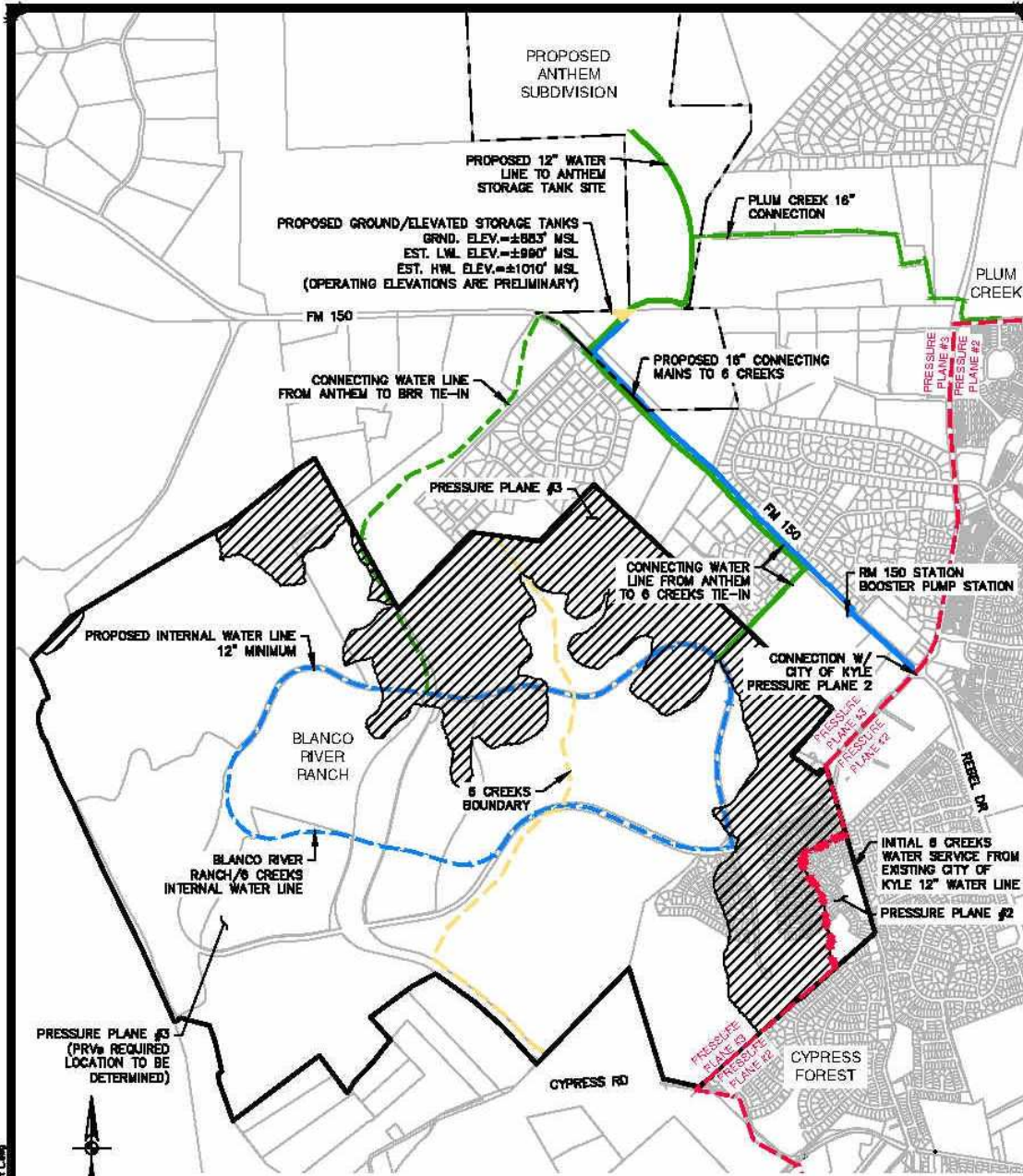
Standard Category	Pavement Width (in Feet)	Right-of-Way Width (in Feet)
Residential Lane	30' FOC-FOC	50'
Residential Collector (W/ Bike Lanes)	37' FOC-FOC	60'
Undivided Arterial (Internal Loop w/ Bike Lanes)	61' FOC-FOC	85'
Divided Arterial (Internal Loop w/ Bike Lanes)	2 at 32' FOC - FOC	114'
Major Thoroughfare (FM 150)	To be Determined	Varies - 120' Minimum

24. Site and Architectural components for garden home/cluster site(s):

- A. Maximum Number of Detached Units: 150 Units
- B. Access Drives: Driveway access from collector roads to residential units is prohibited. Internal private drives will be a minimum of 26 feet wide, with curb and gutter measured from face of curb to face of curb.
- C. Residential Setbacks: Front building setbacks will be a minimum of 15 feet from back of curb. Side building separation will be a minimum of 10 feet. When the rear of one unit is immediately adjacent to the side of another unit, the minimum setback will be 10 feet. Rear building separation, when the rear yards of two units are immediately adjacent to one another, will be a minimum of 20 feet. Patios (covered or uncovered), decks and eave overhang are not included in the determination of rear building separation. A minimum of seven foot clear zone between building roof lines will be provided.
- D. Sidewalks: A four foot sidewalk is required along all public streets. No sidewalks are required along internal private drives.
- E. Units may have single-car garages with driveways at least 18 feet long and nine feet wide. Garages will be setback at least 20 feet from the back of curb. Garages may be flush with the primary façade as long as primary façade is located 20 feet from the back of curb. Porches will be considered part of the primary façade as long as they are a minimum of seven feet wide and six feet deep).
- F. Lighting: Street lighting is required along all public streets, but is optional along interior private drives within Phase One.
- G. Minimum landscape requirements for garden homes/cluster residential structures will be two two-inch caliper significant trees such as oak, elm, pecan, walnut, hickory, cherry, cypress, redbud and any rare species, with diameter measured 18 inches above finished grade immediately after planting; three one-gallon shrubs; three five-gallon shrubs; and turf grass or an alternative material as defined in this section from the front property line to the front two corners of the structure and a minimum coverage area extending three feet from the slab/foundation to protect against water runoff from the roof dripline. If lawn grass is not used in this area, rain gutter systems will be required. One three-

and-one-half inch caliper tree may be substituted for two two-inch trees, if the tree is planted in the front yard. Existing trees and shrubs that are retained in healthy condition will be counted toward fulfillment of these requirements.

EXHIBIT "L"



NOT-TO-SCALE

JOB NO. 6141-00
 DATE FEBRUARY 2020
 DESIGNER JH
 CHECKED DRAWN AC
 SHEET 1 of 1

EXHIBIT "L"

HAYS COUNTY, TEXAS

WATER FACILITIES PLAN

PAPE-DAWSON ENGINEERS

BAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS
 8000 NW LOOP 410 | BAN ANTONIO, TX 78219 | 210.472.9608
 TYPE FIRM REGISTRATION #470 | TYPE B FIRM REGISTRATION #1008600

EXHIBIT "M"

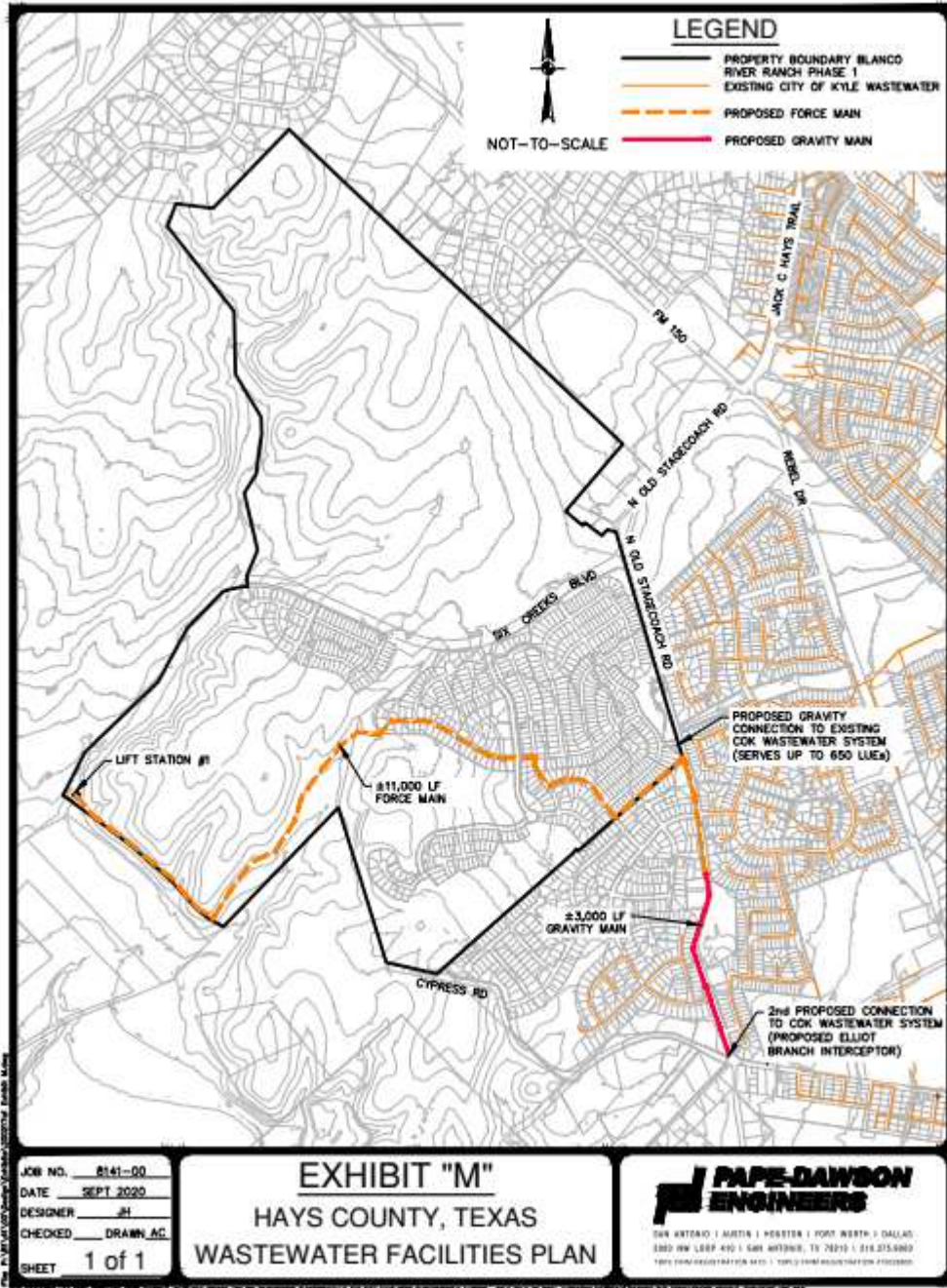


EXHIBIT "O"

FM 150 WATER FACILITIES SERVICE, FINANCING, AND CONSTRUCTION AGREEMENT

This Agreement is between Anthem Municipal Utility District ("*Anthem MUD*"); Kyle 150, LP ("*Kyle 150*"), a Texas Limited Partnership; HMBRR Development, Inc., a Texas Corporation ("*HMBRR*"), the City of Kyle, a Texas home rule municipality (the "*City*"), Kyle Mortgage Investors, LLC, a limited liability company ("*Kyle 57*"), David Beseda ("*Beseda*"), and Covey Fund I, LP, a Texas limited partnership ("*the Covey Fund*") (HMBRR, Kyle 57, Beseda, and the Covey Fund are sometimes referred to in this Agreement as "*Water Return Line Users*"). The City, Anthem MUD, Kyle 150, and the Water Return Line Users are sometimes referred to herein individually as a "*Party*" and collectively as the "*Parties*".

RECITALS

A. Kyle 150 is the owner of that certain approximately 422 acre parcel of real property located in the extra-territorial jurisdiction of the City of Mountain City and within the Anthem MUD boundaries which it proposes to develop as a master-planned, single-family residential subdivision consisting of approximately 1650 single-family homes and related improvements (the "*Anthem Tract*"). The Anthem Tract is depicted on the map of the affected properties attached hereto and incorporated herein as **Exhibit "A"** (the "*Property Map*") and more particularly described on **Exhibit "A-1"**.

B. Anthem MUD is a municipal utility district duly formed and validly existing under the laws of the State of Texas to provide retail water and wastewater service to the Anthem Tract. Anthem MUD has agreed to reimburse Kyle 150 for a portion of the costs to construct water and wastewater facilities necessary to serve the Anthem Tract, including without limitation the water facilities contemplated in this Agreement.

C. HMBRR is the owner of that certain approximately 890 acre parcel of real property located in the extra-territorial jurisdiction of the City, which it proposes to develop as a master-planned, residential development consisting of approximately 2100 residential units and related amenities and improvements (the "*6 Creeks Tract*"). The 6 Creeks Tract is depicted on the Property Map and more particularly described on **Exhibit "A-2"**.

D. The Covey Fund is the owner of that certain approximately 10 acre parcel of real property located in the City, which is currently used for agricultural purposes but may be developed for future commercial uses (the "*the Covey Fund Tract*"). The Covey Fund Tract is depicted on the Property Map and more particularly described on **Exhibit "A-3"**.

E. Beseda is the owner of that certain approximately 4.84 acre parcel of real property located in the City, which is currently used for agricultural purposes but may be developed for future commercial uses (the "*Beseda Tract*"). The Beseda Tract is depicted on the Property Map and more particularly described on **Exhibit "A-4"**.

F. Kyle 57 is the owner of that certain approximately 57 acre parcel of real property located in the City, which is currently used for agricultural purposes but may be developed for future residential uses (the "*Kyle 57 Tract*"). The Kyle 57 Tract is depicted on the Property Map and more particularly described on **Exhibit "A-5"**.

G. In addition to acting on its own behalf as utility provider, the City is also entering this Agreement on behalf of Blanco River Ranch Properties, L.P., the owner of



1307 acre parcel of real property located in the City, and/or its Extra-Territorial Jurisdiction, which such owner proposes to develop as master-planned, residential and commercial development consisting of approximately 1400 residential units and related amenities and improvements (the "*Blanco River Ranch Tract*"). The Blanco River Ranch Tract is depicted on the Property Map and more particularly described on **Exhibit "A-6"**.

H. In addition to acting on its own behalf as utility provider, the City is also entering this Agreement on behalf of Lennar, the owner of 890 acre parcel of real property located in the extra-territorial jurisdiction of the City, which such owner proposes to develop as master-planned, residential development consisting of residential units and related amenities and improvements (the "*Plum Creek North Tract*"). The Plum Creek North Tract is depicted on the Property Map and more particularly described on Exhibit "**A-7**".

I. The City entered into a Retail Water and Wastewater Services Agreement (the "*Anthem Contract*") dated September 20, 2016 with Mountain City 150, LP ("MC 150") pursuant to which MC 150 agreed to pay its pro rata share in constructing an elevated water storage tank with a combined capacity of 2.039 million gallons (the "*Anthem Storage Tank*"). The Anthem Contract provides that, in connection with the construction of the Anthem Storage Tank, MC 150 agreed to construct: (i) a water force main and related appurtenances from the site of the Anthem Storage Tank to the main entryway into the residential development to be located on the Anthem Tract (the "*Anthem Water Main*"); (ii) a water force main and related pump stations and appurtenances from the Anthem Tract's proposed main entryway along FM 150 to a point of connection with the City's water system (the "*FM 150 Water Main*"), noted as the Point of Entry on the water facilities plan attached hereto as **Exhibit "B"** (the "*Water Facilities Plan*"); and, (iii) a one hundred thousand (100,000) gallon Ground Storage Tank, purely at the cost and benefit of Anthem.

J. MC 150 assigned the Anthem Contract to Anthem MUD in November 2016 and Anthem MUD has assumed all obligations of MC 150 in the Anthem Contract. MC 150 was subsequently dissolved, and Kyle 150 is the successor development entity for the Anthem Project.

K. The City entered into a De-annexation and Development Agreement (the "*6 Creeks Agreement*") dated May 16, 2017 with Blanco River Ranch Properties, LP, or its successors and assigns. On September 20, 2017, Blanco River Ranch Properties properly assigned its rights under the 6 Creeks Agreement to HMBRR. The 6 Creeks Agreement provides, among other things, that HMBRR shall (i) advance and pay a pro-rata share of the costs to construct the Anthem Storage Tank, (ii) construct a return line ("*Water Return Line*") from the Anthem Storage Tank to a delivery point noted on the Water Facilities Plan, and (iii) negotiate in good faith with the City if the City requests the oversizing of any utility facilities to be constructed pursuant to the 6 Creeks Agreement.

L. The original plan set forth in the Anthem Contract for the Anthem Storage Tank called for the construction of a combined 2.039 million gallon elevated storage tank

and a 100,000 gallon ground storage tank. The City has determined that the original plan in the Anthem Contract should be modified, based on modeling to accommodate functional need, so that a 800,000 gallon elevated storage tank ("*Anthem Elevated Storage Tank*" or the "*EST*") and a 500,000 gallon ground storage tank ("*Anthem Ground Storage Tank*") to be constructed on the site designated on the Water Facilities Plan. On the site of the Anthem Ground Storage Tank, additional property may be conveyed to the City for the site of an optional future 500,000 gallon ground storage tank expansion ("*Additional Ground Storage Tank*").

M. Subsequent to the execution of the Anthem Contract and the 6 Creeks Agreement, the City determined that the properties owned by Kyle 57, Beseda, and the Covey Fund would benefit from an oversized Water Return Line and capacity in the Anthem Ground Storage Tank and Anthem Elevated Storage Tank. Kyle 57, Beseda, and the Covey Fund are each agreeable to paying their pro-rata share of the Water Return Line the Anthem Ground Storage Tank and the Anthem Elevated Storage Tank, subject to the terms and conditions of this Agreement.

N. The Parties recognize that the FM 150 Water Main and the majority of the Water Return Line can be constructed in the same utility easement running alongside of FM 150, as depicted in the Water Facilities Plan, and that economies of scale exist to provide for costs savings for all Parties if the FM 150 Water Main and the Water Return Line are constructed concurrently.

O. Pursuant to the Anthem Contract, Anthem MUD or Kyle 150 on behalf of Anthem MUD is required to construct a 100,000 gallon ground storage tank within the timeframe required set forth in the Anthem Contract.

P. Anthem MUD has designed the FM 150 Water Main, the Anthem Ground Storage Tank, the Water Return Line and all other necessary, appropriate and related facilities. Henceforth the FM 150 Water Main, the Anthem Ground Storage Tank and the Water Return Line are known as the "*FM 150 Water Facilities*" or the "*Project*". Anthem MUD bid the Project, and the Project is in the process of being constructed in accordance with all applicable rules and regulations. The City has approved the plans specifications for the construction of the Project (the "*Approved Plans*").

Q. Construction of the Additional Ground Storage Tank will require there to be additional capacity in the Anthem Elevated Storage Tank to comply with all regulatory rules.

R. The City desires to cause the Anthem Elevated Storage Tank to be designed with an alternative design of 1 million gallons and to provide for cost participation in the oversized design and construction of the expanded facility. The 800,000 gallon tank will serve the parties to this Agreement. The alternative design will provide the City the option to participate in the cost of oversizing the Anthem Elevated Storage Tank from 800,000 gallons to 1 million gallons, and use the added capacity in the Anthem Elevated Storage Tank to accommodate the future construction of the Additional Ground Storage Tank.

S. The City has contracted with the owner of the Plum Creek North Tract to pay for its respective pro-rata share of the Anthem Elevated Storage Tank, and the City will make payment on behalf of such owner for such pro-rata share.

T. The City has anticipated the need of the Blanco River Ranch Tract, and while there is not a finalized development agreement for said property, there is an interim development agreement between the City and the owner of the Blanco River Ranch Tract, in place serving as a reasonable planning tool. The City has agreed to pay for such owner's pro-rata share of the Anthem Elevated Storage Tank. The City intends to recover such costs paid on behalf of such owner along with any other reasonable charges during their first phase of development of the Blanco River Ranch Tract.

U. This Agreement sets forth the Parties agreements regarding the financing and construction of the FM 150 Water Facilities, payment for the design, permitting, and construction of the FM 150 Water Facilities, and the Parties respective rights and obligations relating to the FM 150 Water Facilities. This Agreement further sets forth the agreements regarding the design, financing, and construction of the EST.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

Article I. FM 150 Water Facilities

1.01. Project Schedule, Budget, and Participation Percentages.

(a) The Parties agree to cooperate with Anthem MUD's efforts to complete the construction of the FM 150 Water Facilities in accordance with the schedule attached as **Exhibit "C"** (the "*Project Schedule*"). The Project is underway and Anthem MUD will ensure construction of the Project is completed in accordance with this Agreement and the Project Schedule.

(b) The initial budget for the Project (the "*Project Budget*") is attached as **Exhibit "D"**. The Project Budget will be updated as provided in this Agreement.

(c) The allocated shares of the costs of each component of the Project for Kyle 150 on behalf of Anthem MUD, the City (on behalf of the owners of the Blanco River Ranch Tract and Plum Creek North Tract), and each of the Water Return Line Users are set forth on the attached **Exhibit "E"** (the "*Participation Percentages*").

1.02. Project Management and Project Engineer. Kyle 150 on behalf of Anthem MUD will serve as project manager for the Project. Atwell, LLC will serve as the project engineer for the Project (the "*Project Engineer*").

1.03. Easements. All necessary utility easements to construct the FM 150 Water Main and the Water Return Line have been or will be made available to Kyle 150 prior to construction on the Project.

1.04. **Plan Preparation and Approval.** Kyle 150, on behalf of Anthem MUD, has caused the Approved Plans for the Project to be prepared by the Project Engineer sufficient to provide water service to the Water Return Line Users as required in this Agreement and in accordance with (i) the Anthem Contract; (ii) this Agreement; (iii) the Project Schedule; (iv) all applicable federal, State, and City laws, rules and regulations, including environmental regulations, that are applicable to the Project; and (v) good engineering and design practices. The Parties agree that the FM 150 Water Main and the Water Return Line are to be constructed concurrently. The Project Engineer has submitted the Approved Plans for the Project to the City and the Water Return Line Users and the City and the Water Return Line Users have approved such plans and specifications. The City warrants and represents that the Project and the Approved Plans meet all of its applicable legal requirements, and that the FM 150 Water Facilities once constructed in accordance with the Approved Plans are sufficient to provide water service to the Water Return Line Users as required by this Agreement without any further off-site improvements being required.

1.05. **Bidding and Contract Requirements.**

(a) The Project Engineer has advertised the Project for bid in the name of Kyle 150 on behalf of Anthem MUD in accordance with the legal requirements applicable to municipal utility districts, including Chapters 49 and 54, Texas Water Code, based on the design, plans and specifications approved by the Parties. At the time of the Effective Date of this Agreement, construction on the Project has commenced.

(b) The Project Engineer, at the request of any Party, will provide a copy of the bids and bid tabulation to such Party, as well as the award of the contract.

(c) The construction contract(s) for the Project includes the following provisions:

(1) That the contractor(s) will comply with the requirements of Section 5(e) related to insurance;

(2) That a minimum of Ten percent (10%) retainage shall be withheld from each payment made to the contractor(s);

(3) That the contractor(s) will be liable for all damage or injury to persons or property directly resulting from the activities of the contractor, and contractor's employees, agents, and subcontractors, in coming upon or performing work on the Project sites;

(4) That the contractor will indemnify the Parties from any liability arising out of claims arising due to contractor's activities within the Project work sites; and

(5) Any other provisions required to be included in the contract(s) under this Agreement.



(d) The contractor(s) for the Project will be required to post payment and performance bonds with the City in the contract amount, and to carry commercial general liability insurance written on a "per-occurrence" basis in a minimum amount of \$1,000,000 combined single limit per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate, and both Kyle 150 and Anthem MUD will be named as additional insureds or beneficiaries, as appropriate, of such insurance and bonds. If the insurance of the contractor is cancelled, the contractor(s) will be required to promptly notify Kyle 150 and to obtain and provide proof of replacement insurance, meeting the requirements specified above, prior to continuing its work.

(e) Kyle 150, on behalf of Anthem MUD, has executed the construction contract(s) for the Project and, upon request, will deliver a copy of the contract to the Parties. Kyle 150 agrees to comply with all of the terms, conditions and covenants of the construction contract(s).

1.06. Construction; Inspection and Financing.

(a) Kyle 150, on behalf of Anthem MUD will cause the contractor(s) for the Project to continue with construction and to complete construction in accordance with the Project Schedule, the Anthem Contract, this Agreement, the Project Budget and the Approved Plans, after the Effective Date of this Agreement. The Project will be constructed in conformity with the Approved Plans, in a good and workmanlike manner, and all material used in such construction will be substantially free from defects and fit for its intended purpose. The Project Engineer will inspect the construction and provide Kyle 150 on behalf of Anthem MUD and the Parties with monthly construction status reports. Upon request, the Parties or a designee of a Party may accompany the Project Engineer to inspect construction on the Project.

(b) The Project Engineer will monitor and confirm the percentage of completion of the Project existing from time to time and deliver written notice to the Parties of the percentage of completion.

(c) Kyle 150, on behalf of Anthem MUD, shall receive all pay applications from the contractor(s) relating to the Project ("*Pay Applications*"). In order to obtain any progress payment payable to the contractor, Kyle 150 must:

(1) Cause the Project Engineer to prepare a statement of the percentage of construction of the Project completed to the date of the Contractor's Pay Application (the "*Completion Percentage*") and state that the pay application has been approved by the Project Engineer and Anthem MUD (the "*Approved Pay Application*");

(2) Obtain the Project Engineer's certification of the amount of the Approved Pay Application payable by each of the Water Return Line Users and the portion of the contract price remaining to be paid by the City and Kyle 150 on behalf of Anthem MUD to complete the payment of the Approved Pay Application (the "*Certification*"); and

(3) Obtain an affidavit signed by the contractor(s), in the form of a conditional waiver and release of lien upon progress payment, in a form reasonably acceptable to the Parties, including affirmation of payment of all subcontractors and vendors supplying labor and or materials for the Project ("*Waiver and Release*"). The Approved Pay Application, the Certification, and the Waiver and Release shall be delivered to the Parties no later than 20 days after delivery of a Pay Application. Pay Applications may not be submitted more frequently than monthly.

(d) Within 30 days of the receipt of the Approved Pay Application, Certification and Waiver and Release, the Parties must each fund their share of the Approved Pay Application as provided in this Agreement, less retainage and any other amounts allowed to be withheld under the construction contract(s), in accordance with State law. Each Party will make payment for its share of the Approved Pay Application directly to Kyle 150 by check, mailed to the applicable address in Section 4.03 of this Agreement, or by any alternative format approved by Kyle 150. Kyle 150 shall promptly and timely pay all outstanding amounts for Approved Pay Applications, including the pro rata share of Kyle 150.

(e) Failure of a Party to fund a payment contemplated in this Agreement shall not relieve Kyle 150 of its obligation to make timely payments to the contractor(s) for Approved Pay Applications for the Project.

(f) If a Party fails to timely make a required payment for an approved Pay Application, unless such payment has been properly disputed pursuant to the provisions of this Agreement, Kyle 150 on behalf of Anthem MUD may require said Party to pay the Party's remaining pro rata share of the Project to an escrow agent to be held in escrow pursuant to escrow agreement reasonably acceptable to Kyle 150 on behalf of Anthem MUD and such Party (the "*Payment for Remaining Pro Rata Share*"), as calculated by the Project Engineer, in accordance with the updated Project Budget and Participation Percentages. A Payment for Remaining Pro Rata Share will be made within thirty (30) days of notice by Kyle 150 and shall be held by the escrow agent and utilized to make payments on Approved Pay Applications as they are requested by the contractor(s).

(g) If a Party fails to timely make a required payment and, after notice from Kyle 150, fails to make a Payment for Remaining Pro Rata Share, such inaction will be considered a default under this Agreement and written notice of such default shall be provided to the City.

(h) The Parties may dispute a Pay Application by giving written notice to Kyle 150 and the Project Engineer of the amount of the Pay Application disputed and the specific basis for the dispute within twenty (20) days of receipt of the Pay Application; provided that a dispute will only be permitted if any of the Parties, in good faith, allege that the work covered by the Pay Application has not been completed in accordance with the applicable construction contract or the terms of this Agreement, or if there is a default by the contractor under the construction contract in question, and if the disputing Party

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has paid any amount that is not in dispute. Failure to dispute a Pay Application in a timely and proper manner as described herein, waives the right to dispute.

(i) The Parties shall cooperate to resolve any dispute permitted under this Section 1.06 promptly in order to avoid a default under the construction contract or this Agreement.

(j) The Parties agree that change orders that increase the original contract price under the construction contract(s) for the Project by a cumulative amount of \$50,000 or less do not require approval. All change orders that increase the original contract price under the construction contract for the Project by more than \$50,000 in the aggregate must be approved by the City Council unless the change order is required by an emergency. The Parties will not unreasonably condition, withhold or delay their approval of any proposed change order. If any change order amends the contract price, the Project Engineer will promptly update the budget and provide a copy of the update to the Parties.

1.07. **Completion.** Upon final City inspection, the City shall approve the construction if completed in compliance with the approved plans. After City approval, Anthem MUD or Kyle 150 on behalf of Anthem MUD will convey the Project to the City and will also assign all contract rights, warranties, guarantees, assurances of performance, and bonds related to the Project to the City, including any maintenance bonds required by the City at the time of acceptance. Anthem MUD or Kyle 150 on behalf of Anthem MUD shall furnish evidence of the conveyance of facilities to the City contained in the Project to the Water Return Line Users promptly upon request. The City agrees to accept the Project for ownership, operation and maintenance upon such final completion, inspection and approval. The Parties intend that all costs of the Project incurred by Kyle 150, or any other Party to the Agreement, will be eligible for reimbursement from a water district or public improvement district, as applicable and as provided by state law. The Parties acknowledge and agree that only Kyle 150 has any right to reimbursement from Anthem MUD. The Parties each acknowledge and agree that any monies spent on improvements related to water service for the Parties' projects are not subject to reimbursement or purchase by Anthem MUD.

1.08. **Default and Termination.**

(a) If Kyle 150 defaults under this Agreement, the Parties shall have the ability individually or collectively to pursue any and all valid remedies at law or in equity, including specific performance, in a court of competent jurisdiction. Kyle 150 will be in default under this Agreement upon the occurrence of one or more of the following events (an "Event of Default"):

(1) Kyle 150 fails to commence or complete design and permitting of the Project in accordance with this Agreement; or fails to commence, diligently pursue or complete construction or fails to achieve completion of the Project in accordance with this Agreement, and fails to cure such failure within fifteen (15) days of receipt of written notice from any of the Water Return Line Users to do so; or



(2) Kyle 150 fails to perform any other obligation under this Agreement in the time and manner specified by this Agreement and fails to cure such failure within fifteen (15) days of receipt of written notice from any of the Water Return Line Users to do so.

(b) The City will have the right, but not the obligation, to assume the construction contract(s) and to complete the Project in the event of a default by Kyle 150 under this Agreement. If Kyle 150 defaults under this Agreement and the City elects to assume the construction contract(s), Kyle 150 shall cooperate with the City, including assignment of the construction contract(s), if necessary. To the extent the City assumes the construction contract(s), the City shall be obligated to perform all of the duties and obligations and shall have all of the rights of Kyle 150 under this Agreement.

Article II. Elevated Storage Tank

2.01. Project Schedule, Budget, and Participation Percentages. Anthem MUD, Kyle 150, HMBRR, Kyle 57, Beseda, the Covey Fund, and the City (the “*EST Parties*”) agree to cooperate to complete the construction of the Anthem Elevated Storage Tank and all related facilities and appurtenances (the “*EST Project*”) in accordance with the schedule attached as **Exhibit “F”** (the “*EST Project Schedule*”). The EST Parties’ allocated shares of the costs of the EST Project are set forth in **Exhibit E**. The preliminary budget for the EST Project is reflected in attached **Exhibit D** and will be updated as provided in this Agreement.

2.02. EST Project Defined. The EST Project is further defined as the design, construction, and completion of the Anthem Elevated Storage Tank, in accordance with construction plans approved by the City, good engineering practices, and applicable local, state, and federal regulations, to be located on the property designated in **Exhibit B**. The EST Project will be designed as an 800,000 gallon elevated storage tank, and alternatively as a 1 million gallon elevated storage tank as provided in this Agreement.

2.03. Easements. The EST Parties will grant the City any easements needed for the construction and operation of the EST Project upon request by the City in a form acceptable to the City.

2.04. Design. Kyle 150, on behalf of Anthem MUD, will cause the EST Project to be designed in accordance with the EST Project Schedule. The EST Parties will share in the costs to design the EST Project, which is estimated to be \$324,000.00 (the “*EST Design Costs*”) according to the Participation Percentages set forth in **Exhibit E**. The EST Parties shall pay for the EST Design Costs in accordance with the following schedule:

(1) Within 30 days of Kyle 150’s delivery of written notice to the EST Parties, the EST Parties will deposit 25% of their respective portion of the EST Design Costs with the Kyle 150.



(2) Within 30 days of Kyle 150's delivery of written notice to the EST Parties that the EST Design Plans are 50% complete, the EST Parties will deposit an additional 25% of their respective portions of the EST Design Costs with Kyle 150.

(3) Within 30 days of the Kyle 150's delivery of written notice to the EST Parties that the EST Design Plans are complete, and have been approved by the City and any other governmental entities with jurisdiction over the construction of the EST Project, the EST Parties will deposit the final 50% of their respective portion of the EST Design Costs with Kyle 150.

(4) Kyle 150 shall use the EST Design Costs payments solely for the purpose of paying the consultant for designing the EST Project.

(5) If a EST Party fails to pay any installment of the EST Design Costs when due, Kyle 150 will deliver written notice to the EST Party of such failure and, if the EST Party does not deliver that installment of the EST Design Costs within 30 days of the date of the City's notice, the City may withhold further development approvals until the installment in question is delivered to the City.

2.05. **Bidding the EST Project.** Atwell, LLC will serve as the EST Project Engineer for the EST Project. The EST Project Engineer will advertise the EST Project for bid in the name of Kyle 150 on behalf of Anthem MUD in accordance with the legal requirements applicable to municipal utility districts including Chapters 49 and 54, *Texas Water Code*, and in accordance with the legal requirements applicable to the City including Local Government Code Chapter 252, based on the design, plans and specifications approved by the City. The bid advertisement or notice must be published within a time frame that allows for construction of the EST Project to commence by March 1, 2021.

(a) The EST Project Engineer will provide the City engineer and the City's purchasing agent with: (i) prior written notice of the dates for publication of the notice to bidders and the opening of the bids received in response to the notice; and (ii) a copy of the published bid notice.

(b) The bid documents will specifically include notice to the bidders of the requirement to submit a primary bid proposal for an 800,000 gallon elevated storage tank; the requirement to submit an alternative bid proposal for a 1,000,000 gallon elevated storage tank; the EST Project Schedule, including any liquidated damages imposed for non-compliance with the EST Project Schedule; and the requirement that the EST Parties will be jointly funding the cost of the EST Project as provided in this Agreement. The bid documents will also require that the bid prices for the EST Project be separately itemized. Should the City elect to oversize the Anthem Elevated Storage Tank, the City's cost share would be the incremental difference between the two bids.

(c) The EST Project Engineer will coordinate the receipt and opening of the bids, will provide a copy of the bids and bid tabulation to the EST Parties, City engineer and the City's purchasing agent for review, and will recommend, with the concurrence of

the City engineer, awarding the contract or contracts for the EST Project to the lowest responsible bidder or bidders.

(d) The City will notify the Project Engineer within thirty days of the date of the bid opening of the City's election to participate in the oversizing of the EST Project, and in such event, Kyle 150, LP on behalf of Anthem MUD shall enter into a contract for the construction of a 1 million gallon Anthem Elevated Storage Tank with the selected bidder. If the City declines to oversize the elevated storage tank, Kyle 150, LP on behalf of Anthem MUD shall enter into a contract for the construction of an 800,000 gallon Anthem Elevated Storage Tank with the selected bidder instead.

2.06. **Contract Terms.** The construction contract(s) for the EST Project will include the following provisions:

(a) That the EST Parties will each pay a share of the costs under the contract based on the Participation Percentages described in **Exhibit E** of this Agreement;

(b) That the contractor will comply with the requirements of Section 1.05(d) related to insurance;

(c) That a minimum of ten percent (10%) retainage shall be withheld from each payment made to the contractor; and

(d) That the contractor will be liable for all damage or injury to persons or property directly resulting from the activities of the contractor, and contractor's employees, agents, and subcontractors, in coming upon or performing work on the EST Project site;

(e) That the contractor will indemnify the EST Parties from any liability arising out of claims arising due to contractor's activities within the Anthem Elevated Storage Tank work site.

2.07. **Initial/Supplemental Construction Deposits, Refunds.** Within 15 days of the EST Project Engineer's delivery of notice of the recommended contract award(s), which will be accompanied by an updated budget based on the approved bid price(s), each EST Party will deliver to the City funds in the amount of 110% of its Participation Percentage of the revised cost of the EST Project as shown on the updated budget to secure its obligation to make payment when due under the construction contract(s) for the EST Project (the "*Construction Deposit*"). The Construction Deposit will be held by the City in a separate account, in trust for the EST Parties, and will be used solely to pay sums coming due under the EST Construction Contract. After construction of the EST is complete and the City has inspected and accepted the EST, the EST Project Engineer and the City shall work together to determine a final accounting of the EST Project. The final accounting shall be delivered to the EST Parties and the City will refund any funds remaining in the Construction Deposit to the EST Parties, based upon the pro rata contributions of the EST Parties and participant percentages included in Exhibit "E".

To the extent the Project Engineer determines that the anticipated costs of the EST Project have exceeded or will exceed the funds in the Construction Deposit, the Project Engineer will estimate the pro rata share of each EST Party relating to the cost

overruns. After approval of the estimated cost overruns by the City, the Project Engineer will provide notice to each EST Party and each EST Party will deliver to the City funds in the amount of its Participation Percentage of the estimated cost overruns within 30 days.

2.08. Insurance and Payment and Performance Bonds. The contractor(s) for the EST Project will be required to post payment and performance bonds with the City in the contract amount, and to carry commercial general liability insurance written on a "per-occurrence" basis in a minimum amount of \$1,000,000 combined single limit per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate, Kyle 150, LP and Anthem MUD will be named as additional insureds or beneficiaries, as appropriate, of such insurance and bonds. If the insurance of the contractor(s) for the EST Project is cancelled, the contractor will be required to promptly notify the EST Parties and the City and to obtain and provide proof of replacement insurance, meeting the requirements specified above, prior to continuing its work within the EST Project site.

2.09. Contract Execution. The EST Project Engineer will execute the construction contract for the EST Project and, upon execution, will promptly deliver a copy of the contract to the EST Parties. Each construction contract will provide that the City (or its designee) will have the right, but not the obligation, to assume the construction contract and to complete the EST Project in the event of a default by the EST Parties under this Agreement, including a failure by Kyle 150 to commence, pursue or complete the construction of the EST Project in accordance with the EST Project Schedule, as provided in **Exhibit F** of this agreement.

2.10. Construction Reports, Pay Applications, Change Orders.

(a) The EST Project will be constructed in strict conformity with the approved plans, in a good and workmanlike manner, and all material used in such construction will be substantially free from defects and fit for its intended purpose. The EST Project Engineer will inspect the construction and provide the Parties with monthly construction status reports.

(b) The EST Project Engineer will monitor and confirm the percentage of completion of the EST Project existing from time to time and deliver written notice to the EST Parties of the percentage of completion and any corresponding percentage payment to be made by the City pursuant to Article II of this agreement.

(c) The EST Project Engineer shall receive all pay applications from the contractor relating to the EST Project ("*EST Pay Applications*"). In order to obtain any progress payment payable to the contractor, Kyle 150 must:

(1) cause the Project Engineer to prepare a statement of the percentage of construction of the EST Project completed to the date of the Contractor's Pay Application (the "*EST Completion Percentage*") and state that the pay application has been approved by the Project Engineer and Kyle 150 (the "*Approved EST Pay Application*");



(2) obtain the EST Project Engineer's certification of the amount of the Approved Pay Application attributable to each of the EST Parties and payable from the Construction Deposit and the portion of the contract price remaining that is attributable to each EST Party (the "*EST Certification*"); and

(3) obtain an affidavit signed by the contractor, in the form of a conditional waiver and release of lien upon progress payment, including affirmation of payment of all subcontractors and vendors supplying labor and or materials for the Project ("*EST Waiver and Release*").

The Approved EST Pay Application, the EST Certification, and the EST Waiver and Release shall be delivered to the Parties no later than 20 days after delivery of a Pay Application. Pay Applications may not be submitted more frequently than monthly.

(d) Within 30 days of the receipt of the Approved EST Pay Application, Certification and Waiver and Release, the City shall release payment from the Construction Deposit, less retainage, unless a Party has timely and properly objected to an EST Pay Application. The City shall promptly and timely pay all outstanding amounts for Approved EST Pay Applications, including the pro rata share of Kyle 150.

(e) A EST Party may dispute a EST Pay Application by giving written notice to the City, and the EST Project Engineer of the amount of the EST Pay Application disputed and the specific basis for the dispute within 15 days of receipt of the EST Pay Application; provided that a dispute will only be permitted if any of the EST Parties, in good faith, allege that the work covered by the EST Pay Application has not been completed in accordance with the applicable construction contract or if there is a default by the contractor under the construction contract in question, and any of the EST Parties shall pay any amount that is not in dispute.

(f) The EST Parties shall cooperate to resolve any dispute permitted under this Section promptly in order to avoid a default under the construction contract or this Agreement.

(g) Any change orders over \$50,000 or that increases the overall project cost by \$50,000 will be subject to approval by the City before work contemplated by the change order begins unless the change order is required by an emergency. The City will not unreasonably condition, withhold or delay its approval of any proposed change order. If any change order changes the contract price, the EST Project Engineer will promptly update the budget and provide a copy of the update to the City, Anthem MUD and Kyle 150. Anything to the contrary contained in this Subsection notwithstanding, the City's share of the original contract price under any construction contract for the EST Project may not be increased by change orders by more than 25% without City Council Approval.

2.11. Completion. Upon final City inspection and approval, Anthem MUD or Kyle 150 on behalf of Anthem MUD will convey the EST Project to the City and will also assign all contract rights, warranties, guarantees, assurances of performance, and bonds related to the EST Project to the City, including any maintenance bonds required by the City at the time of acceptance.

2.12. Default and Termination.

(a) If Kyle 150 defaults under Article II of this Agreement, the City will have the right, but not obligation, to assume the construction contract or contracts for the EST Project and proceed with the construction of the EST Project in accordance with the EST Project Schedule. In such case, the City will have the right to utilize the Construction Deposit to complete the EST Project. Kyle 150, or the remaining Parties if applicable, will be in default under this Agreement upon the occurrence of one or more of the following events (an "Event of Default"):

(1) Kyle 150 causes the EST Project to fail to commence or complete design; commence, diligently pursue or complete construction or to achieve completion in accordance with the EST Project Schedule and fails to cure such failure within 15 days of receipt of written notice from the City to do so; or

(2) An EST Party fails to post a Construction Deposit when required under this Agreement and fails to cure such failure within five days of receipt of written notice from the City to do so; or

(3) An EST Party fails to perform any other obligation under this Agreement in the time and manner specified by this Agreement and fails to cure such failure within 15 days of receipt of written notice from the City to do so.

(b) At any time following an Event of Default, the City may notify the EST Parties that the City intends to assume and perform Kyle 150's outstanding obligations under this Agreement for construction of the EST Project. If the City gives notice that the City intends to perform Kyle 150's outstanding obligations under this Agreement for the construction of the EST Project following an Event of Default, then the City may assume the construction contract or contract(s) and use the Construction Deposit to pay for the costs of construction of the Project (the "*Performance Rights*"). The City will further have the right to assign its Performance Rights to an owner or purchaser of land in the area that is intended to receive service through the Project (the "*Service Area*").

(c) If the City does not elect to exercise its Performance Rights, the City agrees that it will, upon the request of an EST Party or an assignee of an EST Party that is an owner or purchaser of land in the Service Area, assign its Performance Rights to the requesting EST Party or assignee of an EST Party. In such event, the assignee will assume the City's Performance Rights and the EST Parties agree that the assignee may assume the construction contract or contracts for and with respect to the design, permitting and construction of the EST Project and will have the right to make applications to the City for and to receive funding from the Construction Deposit held by the City, as provided in Section 2.07, to make payments as contemplated in Section 2.10.



Article III. Provision of Water Services

3.01 Service Commitment.

(a) Subject to the terms and conditions of this Agreement, including the payment of all applicable fees and charges as set forth below, the City agrees to provide water service to customers within the Covey Tract, Beseda Tract and Kyle 57 Tract (the "FM 150 Properties") in a quantity set forth in **Exhibit D** for such tracts (the "Service Commitment"). The quantity of water service made available to any connection within those tracts will be determined according to meter size in accordance with the City's rules, regulations, and policies.

(b) The City's obligation to serve each of the FM 150 Properties is expressly contingent on the respective owners of their respective tracts (including successors and assigns) being compliant with their obligations under this Agreement and with City's rules, regulations, and policies.

(c) City shall have no obligation to provide water service to any portion of the FM 150 Properties until all of the following condition precedents have been satisfied:

(1) the lands to be furnished water service have received final subdivision plat approval by all governmental entities;

(2) with jurisdiction, and recorded for the phase of development within the respective tract to be furnished water service;

(3) City has received all necessary governmental approvals for the provision of services to the respective tract;

(4) the internal water facilities required to provide service the respective have been completed in accordance with plans and specifications approved by City, are operational, and have been conveyed to and accepted by City;

(5) all easements and other real property interests in the respective tract required to be conveyed to City under this Agreement have been dedicated to City; and

(6) all required fees and charges have been paid to City.

(d) Notwithstanding anything in Section 3.01(c) above to the contrary, the City hereby acknowledges and agrees that the living unit equivalents ("LUEs") of water service capacity allocated to the FM 150 Properties in the Service Commitment is hereby capacity that is reserved to the owners of such tracts and may not be allocated or committed to any other owner, property or water service customer so long as this Agreement remains and full force and effect.

3.02 Service Commitment to HMBRR. The City confirms that by satisfying its obligations under this Agreement, HMBRR shall be entitled to receive water service



from the City to the 6 Creeks Tract (in an aggregate amount not to exceed 2,100 LUEs) as contemplated under Section 4.01 of the 6 Creeks Agreement and, except for internal water infrastructure, shall not be required to finance or construct any additional facilities relating to the provision of water service to the 6 Creeks Tract.

Article IV. Miscellaneous

4.01. **Force Majeure.** For purposes of this Agreement, "Force Majeure" means acts of God, including lightning, earthquakes, fires, hurricanes, storms, or floods; pandemics or epidemics; orders of the government of the United States, the State of Texas or any other governmental authority with jurisdiction over the Project or the EST Project; delays caused by a third party utility provider, to the extent the approval or cooperation of said third party utility providers is required for the Project or the EST Project, or delays in governmental or regulatory approvals required for the Project or the EST Project beyond the time periods provided for such approvals in the Project Schedule or EST Project Schedule that are not within the control of the party claiming the inability and could not have been avoided by the exercise of due diligence. If a Party is rendered unable by Force Majeure to carry out any of its obligations under this Agreement, whether in whole or in part, then the obligations of that Party, to the extent affected by the Force Majeure, will be suspended during the continuance of the inability only and the Party in question must resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of any event of Force Majeure relied upon to suspend performance, the party whose obligations are affected must give written notice that includes the details of the Force Majeure to the other Parties. If this written notice is not given within 15 days after the alleged event of Force Majeure, then no extension of time will be allowed. The cause of the delay, as far as possible, must be remedied with all reasonable diligence.

4.02. **Future Effect.** The provisions of this Agreement will be binding upon and inure to the benefit of the parties, their respective successors and assigns.

4.03. **Notices.** Any notice given under this Agreement must be in writing and may be given:

- (1) by depositing it in the United States mail, certified, with return receipt requested, addressed to the Party to be notified and with all charges prepaid;
- (2) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the Party to be notified and with all charges prepaid;
- (3) by personally delivering it to the Party; or
- (4) by facsimile or email with confirming copy sent by one of the other described methods of notice set forth above.



Notice by United States mail will be effective on the earlier of the date of receipt or three days after the date of mailing. Notice given in any other manner will be effective only when received.

For purposes of notice, the addresses of the Parties are as follows until otherwise provided:

Kyle 150:	Clark Wilson 5312 Park Hollow Lane Austin TX, 78746	Anthem MUD Winstead PC, Attn: Judy McAngus 401 Congress, Suite 2100 Austin, TX 78701
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Water Return Line Users:	
HMBRR Development	HMBRR Development c/o Hanna/Magee Co. Attn: Jay Hanna 1011 North Lamar Blvd. Austin, Texas 78703

Kyle 57	Milestone Community Builders, LLC Attn: Garrett Martin 9111 Jollyville Road, Suite 111 Austin, TX 78759	Kyle Mortgage Investors, LLC Attn: Linda Pastel 10800 Wilshire Blvd, Suite 2101 Los Angeles, CA 90024
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David Beseda	David Beseda 2310 Portofino Ridge Austin, Texas 78735
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The Covey Fund I, LP	Attn: Brett Findley, Principal 2205 N. Lamar, Blvd, Suite 113 Austin, Texas 78705
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City of Kyle	Attn: City Manager 100 W. Center Street Kyle, Texas 78640
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4.04. **Construction.** This Agreement will be construed under and in accordance with the laws of the State of Texas and all obligations hereunder are performable in Hays County, Texas. If any of the provisions of this Agreement are, for any reason, held to be invalid, illegal, or unenforceable, that invalidity, illegality or unenforceability will not affect the remainder of this Agreement, which will continue in full force and effect.

4.05. **Enforcement.** In addition to any other remedies available at law or in equity, the provisions of this Agreement will be enforceable by action for specific performance. If either party brings suit for the breach of any covenant, condition or agreement contained herein, then, in addition to any other remedies to which a party may

otherwise be entitled, the prevailing party will be entitled to recover all reasonable attorney's fees and expenses incurred in connection with that suit.

4.06. **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the Project, and no oral statements or prior written agreement not specifically incorporated therein or herein will be of any force and effect. No modification of this Agreement will be binding on a party hereto unless set forth in a written document, executed by such parties or a duly authorized agent, officer or representative thereof. All of the parties have participated in the negotiation and drafting of this Agreement; therefore, in the event of any ambiguity, the provisions of this Agreement will not be construed for or against any party.

4.07. **Assignment.**

(a) This Agreement may be assigned by the agreement of all Parties. Any assignment will be in writing, specifically set forth the assigned rights and obligations, and be executed by the proposed assignee. Consent to any proposed assignment will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the rights and obligations of HMBRR, Kyle 57, the Covey Fund and Beseda in Article I and Article II of this Agreement may be assigned or transferred to any subsequent purchaser or owner of their respective tracts without the consent of any other Party hereto being required.

(b) If a Party assigns its rights and obligations hereunder as to a portion of property, then the rights and obligations of any assignee and the Party will be severable, and the Party will not be liable for the nonperformance of the assignee and vice versa.

4.08. **Exhibits.** The following exhibits are attached to this Agreement and incorporated herein for all purposes:

Exhibit A:	Property Map and Property Descriptions (Exhibits A-1 through A-7)
Exhibit B:	FM 150 Water Facilities Plan
Exhibit C:	FM 150 Water Facilities Project Schedule
Exhibit D:	FM 150 Water Facilities & Elevated Storage Tank Project Budget
Exhibit E:	FM 150 Water Facilities & Elevated Storage Tank Participation Percentages
Exhibit F:	EST Project Schedule
Exhibit G:	EST Project Budget

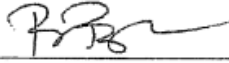
4.09. **Authority for Execution.** All Parties hereby certify, represent, and warrant that, to the extent applicable, the execution of this Agreement has been duly authorized and adopted in conformity with the constituent documents of each person or entity executing on behalf of the Party.

4.10. **No Third-Party Beneficiary.** This Agreement is solely for the benefit of the Parties, and the Parties do not intend by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit upon or enforceable rights under this Agreement or otherwise upon anyone other than Kyle 150, the District, and the Water Return Line Users.

4.11. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument.

Executed on the date or dates indicated below, to be effective as of July 16, 2020.

Anthem Municipal Utility District:

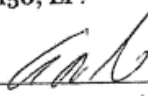
By: 

Name: Brandon Brydson

Title: President

Date: 7/3/2020

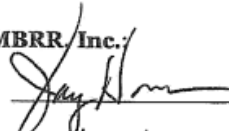
Kyle 150, LP:

By:  Kyle 150, GP LLC

Name: Clark Wiken

Title: manager

Date: 7-3-2020

HMBRR, Inc.
By: 
Name: JAY HANNA
Title: V.P.
Date: 7-8-2020

Kyle 57:

By: **KYLE MORTGAGE INVESTORS, LLC**
a Colorado limited liability company

DocuSigned by:
Name: Linda Pastel
6614492244944E1

Printed Name: Linda Pastel

Title: Managing Partner

Date: 7/16/2020 | 3:26 PM CDT

David Beseda:

By: 

Name: DAVID BESEDA

Title: OWNER

Date: 7/6/20

The Cover Fund I, LP:

By: Cover Fund I, LP

Name: BRETT FINDLEY

Title: MANAGER

Date: 7/6/2020

City of Kyle, Texas

By: 

Name: Travis Mitchell

Title: Mayor

Date: 7/10/2020

EXHIBIT "A"

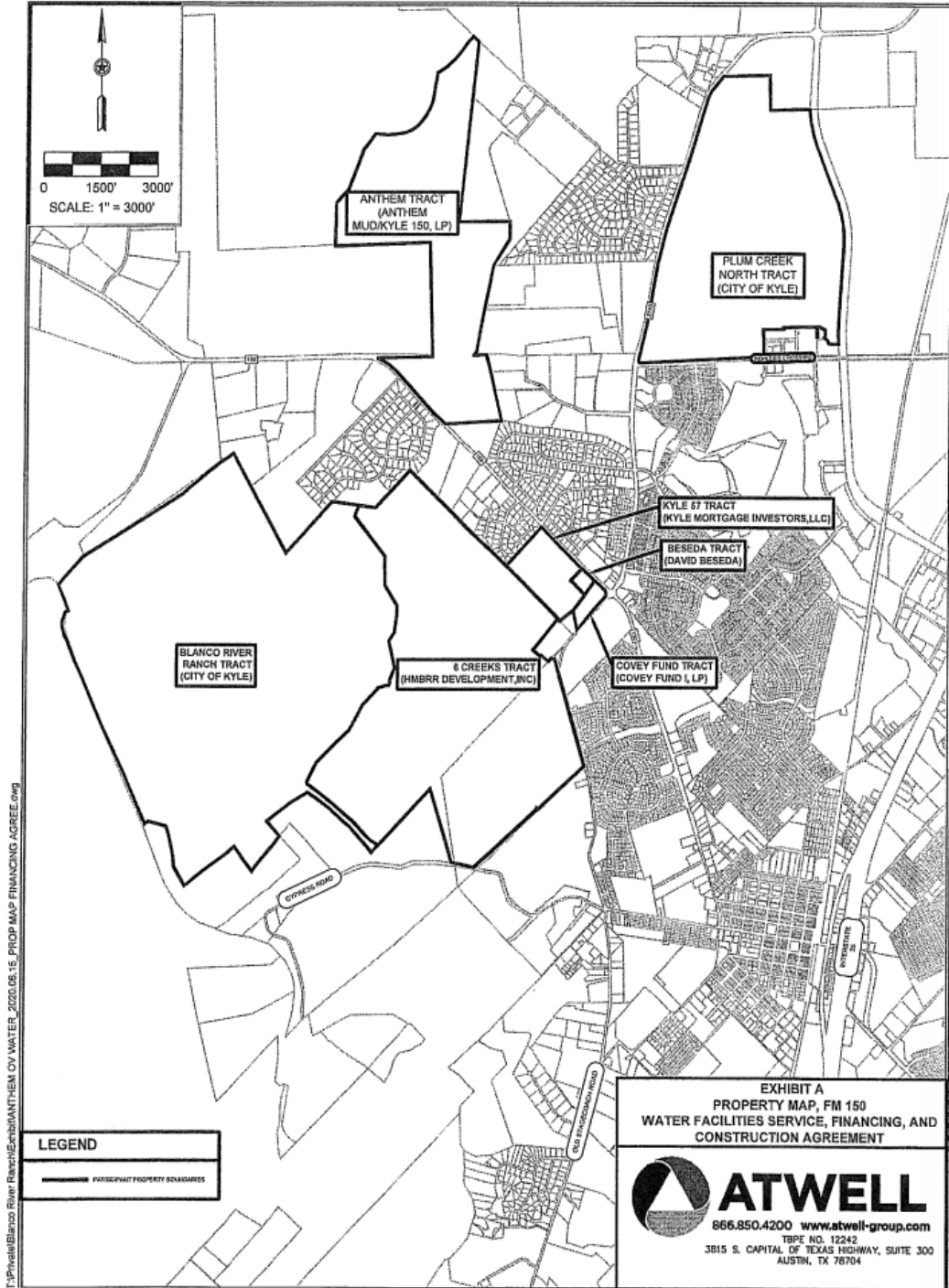


Exhibit "A-1"

"Anthem" Kyle 150, L.P.

EXHIBIT A-1
PROPERTY DESCRIPTION
412.992 ACRES

BEING 412.992 ACRES OF LAND LOCATED IN THE ANDREW DUNN LEAGUE, ABSTRACT NO. 4, THE JOHN COOPER SURVEY NO. 13, ABSTRACT NO. 100 AND THE JESSE DAY SURVEY, ABSTRACT 152 IN HAYS COUNTY, TEXAS AND BEING A REMAINDER OF THE SAME LAND CONVEYED TO MOUNTAIN CITY-150, L.P., CALLED TRACT 1, A 599.25 ACRE TRACT AND TRACT 2 A CALLED 73.693 ACRE TRACT AS DESCRIBED IN VOLUME 5272, PAGE 475 AND A CALLED 857 SQUARE FOOT TRACT 3 AND A 0.308 ACRE TRACT 4 AS DESCRIBED IN VOLUME 5272, PAGE 490 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 412.992 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½-inch iron rod located on the northwesterly right of way line of RM 150, an 80 foot wide public right of way, for the southwest corner of said 73.693 acre Tract 2, same being the northwest corner of a called 17.95 acre tract described in a deed to Robert and Linda Rosebrock recorded in Volume 1126, Page 236 of the Hays County Deed Records;

THENCE, with the northwest right of way line of said RM 150 the following courses and distances:

1. N45°54'47"W, 312.73 feet with the westerly line of said 73.693 acre tract to a Texas Department of Transportation Type 1 Concrete Monument;
2. N44°00'03"W, 1476.41 feet to a Texas Department of Transportation Type 1 Concrete Monument found at the beginning of a curve to the left;
3. with the arc of said curve to the left, passing the most southerly southwest corner of said 599.25 acre tract, a found 3/8-inch iron rod at an arc distance of 39.42 feet, passing the southerly corner of a 875 square foot and 0.308 acre tract described in a deed to Mountain City – 150, L.P. in Volume 5272, Page 490 and continuing for an arc distance of 568.29 feet, having a radius of 1185.90 feet, a central angle of 27°27'23" and a chord bearing and distance of N57°43'45"W, 562.87 feet to a ½-inch iron rod with cap stamped "AST" set for corner on said northwesterly right of way line, same being on the southerly line of a called 581.00 acre tract described in a deed to M I W L S, LP and being a re-entrant corner and most westerly south corner of the herein described tract;

THENCE, leaving the northwesterly right of way line of RM 150 and with the common line of said 581.00 acre tract and said 599.25 acre tract the following courses and distances:

1. N88°36'39"E, 1422.09 feet to a ½-inch iron pipe found for an angle point in said line;
2. N88°38'02"E, 25.14 feet to a Mag Nail in concrete for an interior ell corner of the herein described tract;
3. N01°42'12"W, 2818.15 feet to a found 8-inch diameter Cedar Fence Post for an interior ell corner of the herein described tract;

4. S87°57'12"W, 2442.13 feet to a found 8-inch diameter Cedar Fence Post for an exterior ell corner of the herein described tract, same being the southeast corner of said 752.05 acre tract;

THENCE, with the westerly line of said 599.25 acre tract, same being the easterly line of said 752.05 acre tract, N01°27'27"E, 1085.94 feet to a ½-inch iron rod with cap stamped "AST" found;

THENCE, leaving said westerly line and crossing said 599.25 acre tract, same being the south line of a called 250.097 acres to the City of Austin in Document No. 19010061 of the Official Public Records of Hays County, Texas the following courses and distances:

1. N42°57'57"E, 440.38 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
2. N20°52'40"E, 1067.39 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
3. N37°09'29"E, 492.15 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
4. S85°09'20"E, 319.53 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
5. N84°25'47"E, 294.59 feet to a ½-inch iron rod with cap stamped "AST" found for corner to the beginning of a curve to the left;
6. with the arc of a non-tangent curve to the left, 511.24 feet, having a radius of 871.82 feet, a central angle of 33°35'56" and a chord bearing and distance of N68°19'13"E, 503.95 feet to a ½-inch iron rod with cap stamped "AST" found for corner and a point of compound curvature;
7. with a compound curve to the left, 763.84 feet, having a radius of 1431.82 feet, a central angle of 30°33'56" and a chord bearing and distance of N32°21'48"E, 754.81 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
8. N08°59'58"E, 277.34 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
9. N09°56'17"E, 409.55 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
10. with the arc of a non-tangent curve to the left, 835.46 feet, having a radius of 2082.16 feet, a central angle of 22°59'23" and a chord bearing and distance of N48°50'55"E, 829.87 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
11. N37°50'06"E, 277.44 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
12. N45°32'16"E, 192.35 feet to a ½-inch iron rod with cap stamped "AST" found for corner on the southwesterly line of a called 1974.77 acre tract described in a deed as Tract 6, and recorded in Volume 3533, Page 150 of said deed records and being on the northeasterly line of said 599.25 acre tract;

THENCE, with said southwesterly line, same being the northeasterly line of said 599.25 acre tract, S47°09'20"E, 189.32 feet to a 5-inch diameter Cedar fence post found with 3 mag nails and shiner at the north corner of Tract 4, Indian Creek Ranch Subdivision as recorded in Volume 6, Page 59 of the Hays County Plat Records;

THENCE, leaving the southwesterly line of said 1974.77 acre tract, and with easterly line of said 599.25 acre tract the following courses and distances:

1. With the westerly line of said Indian Creek Ranch Tract 4, S06°08'47"W, 1374.75 feet to a ½-inch iron pipe found at the southwest corner of said tract 4, same being the northwest corner of Tract 2 of said Indian Creek Ranch and angle point in said easterly line;
2. With the westerly line of said Tract 2, S06°09'17"W, 2965.57 feet to a ½-inch iron rod with cap stamped "AST" found for corner;

THENCE, leaving said westerly line of said Tract 2 of Indian Creek Ranch, crossing said 599.25 acre tract the following courses and distances:

1. N 83°51'07" W a distance of 98.94' to a ½-inch iron rod with cap stamped "AST" found for corner;
2. S 06°08'54" W a distance of 281.11 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
3. N 89°15'50" E a distance of 1221.70 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
4. S 00°29'01" E a distance of 271.28 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
5. S 32°42'55" W a distance of 611.20 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
6. S 87°44'24" W a distance of 57.88 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
7. S 11°37'37" W a distance of 411.37 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
8. S 78°22'23" E a distance of 199.18 feet to a ½-inch iron rod with cap stamped "AST" found for corner in the west line of Hays Consolidated Independent School District;

THENCE, with the said west line of Hays Consolidated Independent School District, and with easterly line of said 599.25 acre tract the following courses and distances:

1. S11°36'28"W, 359.03 feet to an iron rod with cap stamped "McMillan" for an angle point in said line;
2. S10°09'51"W, 395.16 feet to an iron rod with cap stamped "McMillan" for an angle point in said line;
3. S10°11'50"W, 101.83 feet to an iron rod with cap stamped "McMillan" for an angle point in said line;
4. S10°09'55"W, 625.50 feet to an iron rod with cap stamped "McMillan" for an angle point in said line;
5. S12°41'22"W, 447.62 feet to a Nail in a 6-inch fence corner post for an angle point in said line;
6. S42°49'53"W, 93.56 feet to a 30-inch Live Oak tree for an angle point in said line;
7. S00°59'19"W, 13.67 feet to an iron rod with cap stamped RPLS 4542 at the southwest corner of said School District tract and the southeast corner of said 599.25 acre tract and being a point on the northerly line of said 73.693 acre Tract 2;

THENCE, with the northerly line of said 73.693 acre tract, N88°39'49"E, passing a ½-inch iron rod at 243.73 feet and continuing for a total distance of 325.41 feet to a ½-inch iron rod on the southerly line of said School District tract and being the northwest corner of Lot 6, Century Acres, a subdivision of record in Volume 6, Page 53 of the Hays County Plat Records;

THENCE, with said easterly line of said 73.693 acre tract and with the westerly line of said Lot 6 and 7 of said Century Acres and the easterly line of said Lot 2B and 2C Resubdivision of Lot 2B of the Resubdivision of Lot 2 Century Acres of record in Document No. 17040812 of the Hays County Official Public Records,

S13°28'59"E, 1658.91 feet to a ½-inch iron pipe found for the southeast corner of said 73.693 acre tract, same being the southwest corner of said Lot 2B and the common northerly corner of Lots 8 and 9 of Meadow Woods Section Two, a subdivision of record in Volume 3, Page 188 of said Plat Records, same being the northeast corner of said 17.95 acre tract;

THENCE, with the northerly line of said 17.95 acre tract, same being the southerly line of said 73.693 acre tract, S88°38'38"W, passing an iron rod with cap stamped "McMillan" at 103.02 feet and continuing for a total distance of 1505.09 feet to the **POINT OF BEGINNING** and containing, 412.992 acres of land, more or less.

Exhibit "A-2"

HMBRR – "6 Creeks Tract"

Blanco River Ranch
858.70 acres

PROPERTY DESCRIPTION EXHIBIT A

BEING 858.70 ACRES OF LAND LOCATED IN THE SAMUEL PHARASS ¼ LEAGUE NO. 14, ABSTRACT 360, AND THE CALEB W. BAKER SURVEY, ABSTRACT 31 HAYS COUNTY, TEXAS AND BEING A PORTION OF TRACT I, A CALLED 1,971.29 ACRE TRACT AND ALL OF TRACT II, A CALLED 195.14 ACRE TRACT AS DESCRIBED IN A DEED FROM THE STATE OF TEXAS TO BLANCO RIVER RANCH, LP AND RECORDED IN VOLUME 5230, PAGE 583 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 858.70 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS WITH ALL BEARING REFERENCED TO THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE.

BEGINNING at an iron rod with aluminum cap stamped "Kent McMillian" found marking the most northerly corner of a called 311.56 acre tract described in a deed to Robert Nance recorded in Volume 4459, Page 137 of said Deed Records, same being the northwest corner of a called 195.14 acre tract described in the aforementioned deed to Blanco River Ranch as Tract II and being on the southeasterly line of said 1,971.29 acre Tract I;

THENCE, with the southerly line of said 1,971.29 acre tract, same being the northeasterly line of said 311.56 acre tract S43°59'58"W, 1916.27 feet to a ½-inch iron rod with cap stamped "AST" set on the northerly line of proposed RM 150;

THENCE, leaving said southerly line and crossing said 1,941.29 acre tract with the proposed northerly line of RM 150 the following courses and distances:

1. N65°08'51"W, 49.48 feet to a ½-inch iron rod with cap stamped "AST" set at the beginning of a curve to the right;
2. with a curve to the right, 381.25 feet, having a radius of 925.00 feet, a central angle of 23°36'54" and a chord bearing and distance of N53°30'43"W, 378.55 feet to a ½-inch iron rod with cap stamped "AST" set for point of tangency;
3. N41°42'16"W, 336.00 feet to a ½-inch iron rod with cap stamped "AST" set at the beginning of a curve to the left;
4. with the arc of said curve to the left, 151.93 feet, having a radius of 1100.00 feet, a central angle of 07°54'48" and a chord bearing and distance of N45°39'41"W, 151.81 feet to a ½-inch iron rod with cap stamped "AST" set for point of tangency;
5. N49°37'05"W, 572.43 feet to a ½-inch iron rod with cap stamped "AST" set for an angle point in said line;
6. N51°37'01"W, 75.00 feet to a ½-inch iron rod with cap stamped "AST" set for an angle point in said line;
7. N53°36'58"W, 749.01 feet to a ½-inch iron rod with cap stamped "AST" set at the beginning of a curve to the left;

8. with the arc of said curve to the left, 93.33 feet, having a radius of 1025.00 feet, a central angle of 05°13'01" and a chord bearing and distance of N56°13'28"W, 93.30 feet to a ½-inch iron rod with cap stamped "AST" set for the most westerly southwest corner of the herein described tract;

THENCE leaving said proposed right of way line and with a dry creek, the following courses and distances:

1. N26°31'11"E, 563.37 feet to a calculated point;
2. N46°09'29"E, 1179.39 feet to a calculated point;
3. N28°22'57"E, 708.36 feet to a calculated point;
4. N44°16'34"E, 582.28 feet to a calculated point at the beginning of a curve to the right;
5. with a curve to the right, 297.90 feet, having a radius of 1184.66 feet, a central angle of 14°24'28" and a chord bearing and distance of N77°54'54"E, 297.12 feet to a calculated point;
6. N04°51'54"W, 125.14 feet to a calculated point;
7. N23°10'37"E, 321.60 feet to a calculated point;
8. N13°08'23"W, 681.62 feet to a calculated point;
9. N31°45'00"E, 255.79 feet to a calculated point;
10. N08°23'37"E, 473.49 feet to a calculated point;
11. N02°33'01"W, 195.07 feet to a calculated point;
12. N30°53'10"W, 576.14 feet to a calculated point;
13. N01°26'31"W, 729.89 feet to a calculated point;
14. N38°05'39"W, 1250.80 feet to a calculated point;
15. N20°33'26"E, 282.73 feet a ½-inch iron rod with cap stamped "AST" set for the most westerly northwest corner of the herein described tract on the northerly line of said 1,971.29 acre tract, same being on the southerly line of Park Land Lot 23 of Arroyo Ranch, Section One, a subdivision of record in Volume 10, Page 180 of the Hays County Official Public Records;

THENCE, with the northerly line of said 1,971.29 acre tract, S82°42'45"E, 432.46 feet to a point located in the centerline of the remains of an old stone fence corner for an angle point in the north line of the herein described tract, from which a ½"-inch iron rod bears S88°19'W, 37.5 feet;

THENCE, continuing with said northerly line, N43°55'32"E, 1271.63 feet to a 2-inch metal fence post at the most northerly northwest corner of said 1,971.29 acre tract and being the common corners of Lots 12, 13 and 19, Block D of said Arroyo Ranch Section One subdivision;

THENCE, with the easterly line of said 1,971.29 acre tract the following courses and distances:

1. S46°19'30"E, at 185.02 feet passing the south line of said Arroyo Ranch subdivision and north line of a 20.3 acre tract described in a deed to F. Javier, Jr et al and recorded in Volume 2813, Page 359 of said Official Public Records and continuing for a total distance of 887.68 feet to a found ½-inch iron rod for the south corner of said Javier tract, same being the westerly corner of

- a 21.15 acre tract described in a deed to Nancy L. Russell and Randall W. Russell and recorded in Volume 4385, Page 135 of said Official Public Records;
2. S46°48'04"E, 579.01 feet to a found ½-inch iron rod for the south corner of Russell and being the westerly corner of Quail Meadows Subdivision as recorded in Volume 7, Page 47 of the Hays County Plat Records;
 3. With the southwesterly line of said subdivision, S46°06'19"E, 409.08 feet to ½-inch iron rod for angle point;
 4. S47°09'10"E, 405.41 feet to ½-inch iron rod for angle point;
 5. S47°52'54"E, 295.90 feet to ½-inch iron rod for angle point;
 6. S47°18'52"E, 296.88 feet to ½-inch iron rod for angle point;
 7. S47°21'24"E, 132.10 feet to ½-inch iron rod for angle point;
 8. S47°07'34"E, 179.01 feet to ½-inch iron rod for angle point;
 9. S46°55'27"E, 248.69 feet to ½-inch iron rod for most southerly corner of said subdivision and the westerly corner of a called 57.26 acre tract described in a deed to Kyle Mortgage Investors, LLC and recorded in Volume 3416, Page 789 of said Official Public Records;
 10. S45°43'31"E, 436.59 feet to a fence post for angle point;
 11. S46°32'55"E, 1447.00 feet to an iron rod with aluminum cap stamped "Kent McMillian" at an interior ell corner of said 1,971.29 acre tract;
 12. Continuing with the easterly line of said 1,971.29 acre tract, S40°23'35"W, 1023.40 feet to a ½-inch iron rod found at the westerly corner of a called 1.259 acre tract described in a deed to Robin Robinson and recorded in Volume 5358, Page 587 of said Official Public Records;
 13. S50°23'48"E, 255.70 feet to a fence post for angle point;
 14. N40°43'43"E, 42.89 feet to a ½-inch iron rod with cap stamped "AST" set;
 15. S52°09'40"E, at 85.22 feet passing a ½-inch iron rod found at the westerly corner of a called 0.72 acre tract described in a deed to Robin and Gale Robinson and recorded in Volume 4689, Page 363 of said Official Public Records and continuing for a total distance of 244.62 feet to a ½-inch iron rod with cap stamped "AST" set;
 16. N43°53'50"E, 92.19 feet to a ½-inch iron rod with cap stamped "AST" set;
 17. S78°26'49"E, 101.27 feet ½-inch iron rod found on the westerly right of way line of N. Old Stagecoach Road (width varies);

THENCE, with said westerly right of way line the following course and distances:

1. S16°21'49"E, 511.37 feet to a ½-inch iron rod with cap stamped "AST";
2. S16°20'38"E, 1420.21 feet to a 60d nail found next to a cedar fence post and
3. S16°48'53"E, 800.20 feet to a ½-inch iron rod with cap stamped "AST" set for the most easterly southeast corner of this tract;

THENCE, leaving said westerly right of way line and with fence along the southeasterly line of said 195.14 acre tract, S36°01'23"W, 42.36 feet to a cedar fence post;

THENCE, continuing with said southeasterly line, same being the northwesterly line of a called 132.59 acre tract described in a deed to Felder CND, LLC and recorded in Volume 5224, Page 246 of the Hays County Official Public Records the following courses and distances:

1. S48°36'08"W, 1583.50 feet to a cedar fence post;
2. N49°26'16"W, 34.23 feet to a cedar fence post;
3. S25°40'41"W, 39.42 feet to an iron rod with cap stamped "Vickrey";
4. S48°29'40"W, 2127.73 feet to a cedar fence post with "Mag Nail" on the northerly right of way line of Cypress Road (aka Limekiln Road) (width undetermined) at the southeast corner of said 195.14 acre tract from which an iron rod with aluminum cap stamped "Kent McMillian" bears S21°57'46"W, 50.84 feet;

THENCE, with said northerly right of way line, N77°16'32"W, 599.91 feet to a cedar fence post on the easterly line of said 311.56 acre tract;

THENCE, with fence and the easterly line of said 311.56 acre and westerly line of said 195.14 acre tract the following courses and distances:

1. N16°48'19"W, 270.65 feet to a calculated angle point in said line and;
2. N17°13'44"W, 1607.95 feet to the POINT OF BEGINNING and containing 858.70 acres of land, more or less.

SURVEYOR'S STATEMENT

I hereby state that the included field note description was prepared from an actual survey made on the ground under my supervision and is true and correct, to the best of knowledge and belief.

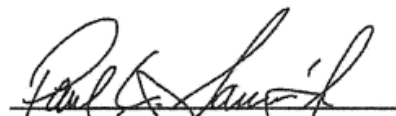

Paul C. Sauve, Jr., RPLS #2518
Austin Spatial Technologies, LLC
December 5, 2016



Exhibit "A-4"

David Beseda
2310 Portofino Ridge
Austin, TX 78735
Travis County
Hays County Document Number 17041944

Being 4.847 acres of land, more or less, situated in the SAMUEL PHARASS SAURVEY, ABSTRACT NO. 360, Hays County, Texas, and being a portion of that certain 62.10 acre tract described in Correction Warranty Deed recorded in Volume 2671, Page 863, Official Public Records, Hays County, Texas.

Exhibit "A-5"

Kyle Mortgage Investors LLC
10800 Wilshire Boulevard, Unit 2101
Los Angeles, CA 90024
Hays County Document Volume 2805 Page 659

Being 57.260 acres of land out of the SAMUEL PHARASS SAURVEY, ABSTRACT NO. 360,
Hays County, Texas,

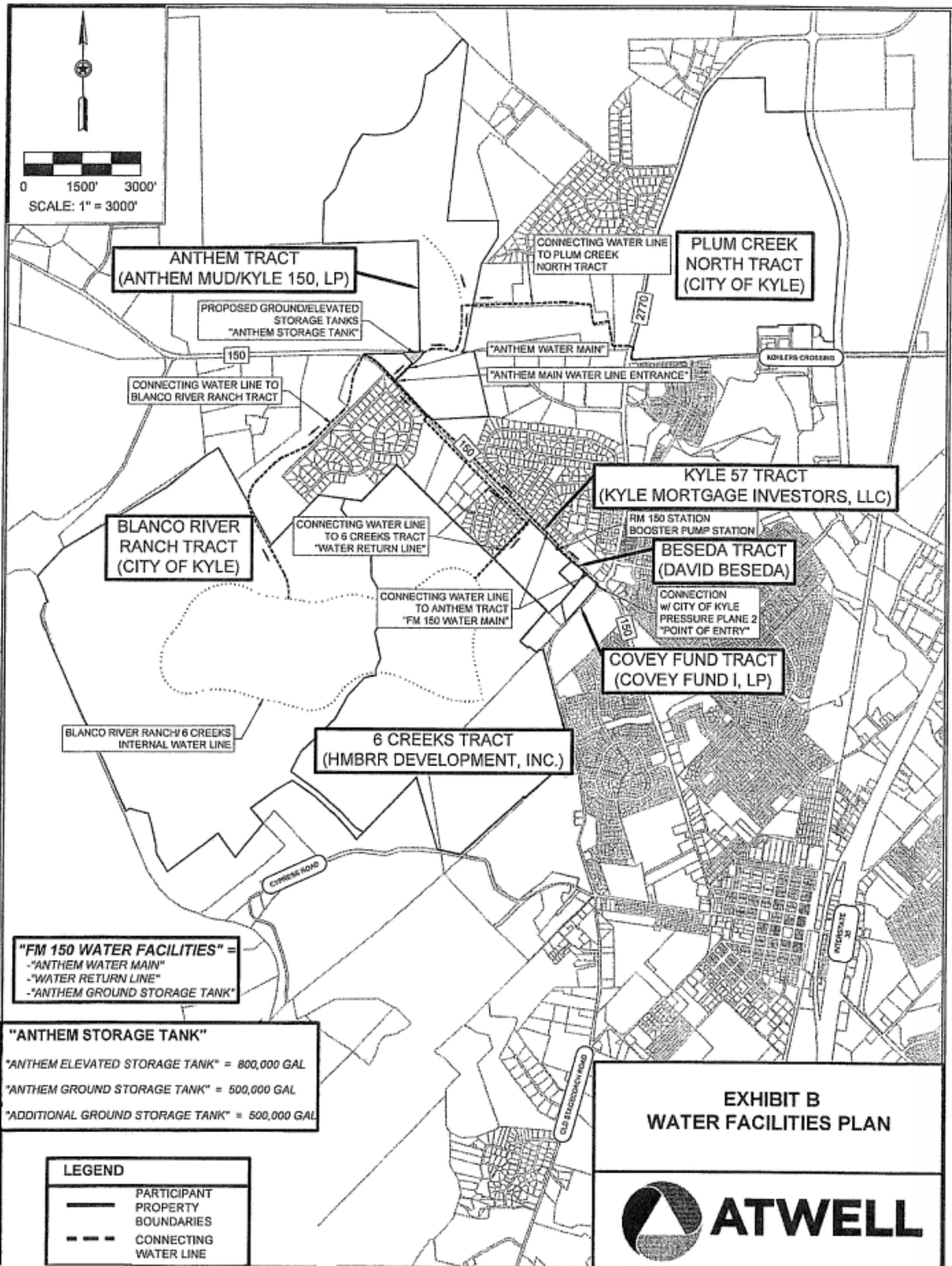


Exhibit "C"

FM 150 Water Facilities Project Schedule

- Water Line System including 12" feed line to Anthem, 16" distribution return line to 6 Creeks and all internal Anthem Phase 1A water lines estimated completion January 2021
- RM 150 Pump Station estimated completion date January 2021
- Hoover Drive Pump Station and initial ground storage tank estimated completion Date February 2021

Exhibit D

FM 150 Water Facilities & Elevated Storage Tank
Project Budget

	Maximum LUE Allocations	Anthem	6 Creeks	Kyle 57	Findley	Besada	(City of Kyle) Plum Creek North	(City of Kyle) Blanco River Ranch Tract
		1,650	1,000	240	100	50	1,400	2,100
Engineer	Atmos							
Contractor	CCCarbon							
FM 150 Station	\$2,821,078							
EIC Improvements	\$22,994	\$45,041	\$37,297	\$6,551	\$2,730	\$1,365	\$0	\$0
Water Improvements	\$2,021,789	\$11,841	\$7,237	\$1,737	\$24	\$582	\$0	\$0
Mobilization and Traffic Control	\$22,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Pump Station and Trunk Line	\$979,880	\$979,880	\$0	\$0	\$0	\$0	\$0	\$0
Return Line	\$1,009,509	\$0	\$76,353	\$174,375	\$72,055	\$76,328	\$0	\$0
Site Improvements	\$99,305	\$65,909	\$15,289	\$3,782	\$5,192	\$1,189	\$1,009	\$0
Mobilization and Demobilization	\$65,909	\$44,303	\$14,205	\$0	\$0	\$0	\$0	\$0
Site Work	\$33,396	\$21,606	\$1,084	\$3,782	\$5,192	\$1,189	\$1,009	\$0
Electric Improvements	\$68,000	\$0	\$48,821	\$13,741	\$4,892	\$2,666	\$0	\$0
Return Line Engineering	\$40,000	\$0	\$16,777	\$6,905	\$2,878	\$1,430	\$0	\$0
Engineering for Common Infrastructure and Agreement	\$28,000	\$0	\$14,388	\$3,453	\$1,439	\$719	\$0	\$0
Return Line Staking	\$10,000	\$0	\$7,656	\$3,383	\$505	\$252	\$0	\$0
Return Line Testing	\$28,000	\$0	\$14,388	\$3,453	\$1,439	\$719	\$0	\$0
Sub Total	\$2,021,789	\$1,743,446	\$485,347	\$113,483	\$68,535	\$46,347	\$0	\$0
10% Contingency	\$283,108	\$174,345	\$78,247	\$18,779	\$7,823	\$3,912	\$0	\$0
Total	\$2,304,897	\$1,917,791	\$563,594	\$132,262	\$76,358	\$50,259	\$0	\$0
Hoover Drive	\$3,760,031							
Anthem Initial 100,000 gallon tank	\$11,111	\$11,111	\$0	\$0	\$0	\$0	\$0	\$0
Remaining Ground Storage Tank	\$526,884	\$100,308	\$87,224	\$20,924	\$8,732	\$4,361	\$122,114	\$183,171
800,000 gallon Elevated Storage Tank	\$1,900,050	\$392,735	\$314,570	\$75,497	\$41,457	\$11,728	\$440,297	\$640,596
EIC Improvements	\$36,841	\$37,131	\$0	\$1,352	\$563	\$282	\$801	\$28,516
Site Improvements	\$487,470	\$61,630	\$0	\$6,880	\$2,887	\$1,433	\$45,864	\$68,398
Pump Station Water Improvements	\$777,779	\$293,891	\$0	\$28,542	\$11,853	\$1,946	\$190,282	\$285,423
Electric Improvements	\$278,000	\$75,283	\$0	\$8,404	\$3,500	\$1,751	\$56,024	\$84,037
Elevated Storage Tank Engineering Design	\$124,000	\$61,689	\$59,842	\$12,474	\$3,354	\$2,482	\$75,699	\$112,448
Engineering CA	\$25,000	\$8,219	\$0	\$917	\$382	\$191	\$6,116	\$9,174
Staking	\$10,000	\$6,575	\$0	\$734	\$306	\$153	\$4,891	\$7,331
Testing	\$15,000	\$4,831	\$0	\$550	\$229	\$115	\$1,820	\$2,730
Sub Total	\$376,903	\$165,303	\$455,430	\$116,684	\$65,285	\$32,643	\$953,473	\$1,430,209
10% Contingency	\$376,903	\$165,303	\$455,430	\$116,684	\$65,285	\$32,643	\$953,473	\$1,430,209
Total	\$4,529,835	\$1,157,091	\$485,815	\$270,845	\$118,185	\$65,593	\$1,019,842	\$1,559,703
Phase 1A Water Improvements	\$28,000	\$0	\$13,381	\$1,212	\$1,399	\$689	\$0	\$0
10% Contingency	\$1,800	\$0	\$1,212	\$211	\$138	\$67	\$0	\$0
	\$29,800	\$0	\$14,593	\$1,423	\$1,537	\$756	\$0	\$0
Subtotals	\$7,807,581	\$3,074,882	\$1,473,929	\$405,640	\$169,017	\$84,508	\$1,039,842	\$1,559,763

Exhibit E

FM 150 Water Facilities & Elevated Storage Tank
Participation Percentages

	Anthem	6 Creeks	Kyle 57	Findley	Beseda	Lennar	BRR
RM 150 Return line Participation	0%	72%	17%	7%	4%	0%	0%
Common RM 150 Pump Station and Transmission Main Participation	54%	33%	8%	3%	2%	0%	0%
RM 150 Pump Station Site Work	100%	0%	0%	0%	0%	0%	0%
Elevated and Ground Storage Tank Participation	19%	17%	4%	2%	1%	23%	35%
Hoover Drive Participation	33%	0%	4%	2%	1%	24%	37%

Exhibit F

EST Project Schedule

- Project Design Completion 1st Quarter 2021
- Design Review and Permitting 3rd Quarter 2021
- Bidding and Contract Award November 2021
- Complete Construction 4th Quarter 2022

Exhibit G

Estimated 800,000 gallon EST Project Budget



CITY OF KYLE, TEXAS

Cassetta Ranch ROW license agreement

Meeting Date: 10/6/2020
Date time: 7:00 PM

Subject/Recommendation: Consider approval of Brohn Homes (Casetta Ranch) ROW license agreement.
~ Howard J. Koontz, Director of Planning and Community Development

Other Information: Please see attachments.

Legal Notes:

Budget Information: N/A

ATTACHMENTS:

Description

- Assignment & Assumption of License Agreement
- License Agreement with H.O.A.

5. Successors and Assigns. This Assignment will be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

6. Execution. To facilitate execution, this Assignment may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signatures of all parties be contained in any one counterpart hereof. Additionally, the parties hereto hereby covenant and agree that, for purposes of facilitating the execution of this instrument: (a) the signature pages taken from separate individually executed counterparts of this instrument may be combined to form multiple fully executed counterparts; and (b) a facsimile signature shall be deemed to be an original signature for all purposes. All executed counterparts of this instrument shall be deemed to be originals, but all such counterparts, when taken together, shall constitute one and the same agreement.

[SIGNATURE PAGE(S) FOLLOWS]

ASSIGNOR:

CLAYTON PROPERTIES GROUP, INC.,
a Tennessee corporation doing business in Texas as
BROHN HOMES

By: _____
Adam B. Boenig, Vice President

Date: _____

ASSIGNEE:

CASSETTA RANCH RESIDENTIAL COMMUNITY,
INC., a Texas non-profit corporation

By: _____
Tyler Gatewood, President

Date: _____

Address: c/o Preferred Association Management
Company
Attn: _____
P.O. Box 200145
Austin, Texas 78720

THE CITY:

CITY OF KYLE, TEXAS

By: _____
Travis Mitchell, Mayor

Date: _____

EXHIBIT "A"

LICENSE

[attached]

LICENSE AGREEMENT

The City of Kyle, Texas a municipal corporation and political subdivision of the State of Texas situated in Hays County, Texas (“the City” or “Licensor”), and Clayton Properties Group, Inc., a Tennessee corporation doing business in Texas as Brohn Homes (“Licensee”) enter into this License Agreement (“Agreement”) on this the ____ day of _____, 2020, upon the terms and conditions set forth below.

I. PURPOSE OF LICENSE AGREEMENT. The City grants to Licensee permission to use the licensed property for the following purposes only:

Construction, installation, and maintenance of landscaping improvements, including but not limited to shrubs, trees, irrigation, and grass, for the Casetta Ranch Phase 1 Subdivision (the “Subdivision”) located in the rights-of-way within the Subdivision and the rights-of-way for Goforth Road and Bunton Lane adjacent to the Subdivision, Kyle, Hays County, Texas; hereinafter referred to as the “Improvements”. The locations of the rights-of-way containing the Improvements are more particularly shown in Exhibit “A” attached hereto and incorporated herein for all purposes.

The above-described properties, hereinafter referred to as the “licensed property”, are further shown in Exhibit “A” attached to this Agreement and incorporated by reference for all purposes.

The City makes this grant solely to the extent of its right, title and interest in the licensed property, without any express or implied warranties.

Licensee agrees that: (A) the construction of the Improvements permitted by this Agreement shall be done in compliance with all applicable City, County, State and/or Federal laws, ordinances, regulations and policies now existing or later adopted; (B) that all construction and installation of the Improvements will be completed in a timely manner without delay; (C) the Licensee will construct the Improvements according to plans filed with the City. Any changes in construction plans must be approved by the City; and (D) any Improvements located in the City’s right-of-way shall be subject to City approval prior to placement and installation. Any provision herein to the contrary notwithstanding, Licensee shall be liable for, and shall indemnify and hold the City harmless from all damages, causes of action, and claims arising out of or in connection with Licensee’s installation, operation, maintenance or removal of the Improvements permitted under this Agreement.

II. FEE. No annual fee shall be due in connection with this Agreement.

III. THE CITY’S RIGHTS TO LICENSED PROPERTY. This Agreement is expressly subject and subordinate to the present and future right of the City, its successors, assigns, lessees, grantees, and Licensees, to construct, install, establish, maintain, use, operate, and renew any public utilities facilities, franchised public utilities, rights-of-way, roadways, or streets on, beneath, or above the surface of the licensed property.

Said uses of the licensed property by the City are permitted even though such use may substantially

interfere with or destroy Licensee's use of the licensed property, or the Improvements. In case of a declared emergency, damage to or destruction of Licensee's property shall be at no charge, cost, claim, or liability to the City, its agents, contractors, officers, or employees.

Notwithstanding any provisions in this Agreement to the contrary, the City retains the right to enter upon the licensed property, at any time without notice, assuming no obligation to Licensee, to remove any of the licensed Improvements or alterations thereof whenever such removal is deemed necessary for: (a) exercising the City's rights or duties with respect to the licensed property; (b) protecting persons or property; or (c) the public health or safety with respect to the licensed property.

IV. INSURANCE. Licensee shall, at its sole expense, provide a commercial general liability insurance policy, written by a company acceptable to the City and licensed to do business in Texas, with a combined single limit of not less than \$600,000.00, which coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. Such insurance coverage shall include the City as an additional-insured. This insurance coverage shall cover all perils arising from the activities of Licensee, its officers, employees, agents, or contractors, relative to this Agreement, or otherwise within the public right-of-way and property within the licensed property. Licensee shall be responsible for any deductibles stated in the policy. A certificate of insurance evidencing such coverage shall be delivered to the City Secretary of the City within thirty (30) days of the effective date of this Agreement.

Licensee shall not cause any insurance to be canceled nor permit any insurance to lapse. All insurance certificates shall include a clause to the effect that the policy shall not be canceled, reduced, restricted or otherwise limited until forty-five (45) days after the City has received written notice as evidenced by a return receipt of registered or certified mail.

V. INDEMNIFICATION. Licensee shall indemnify, defend, and hold harmless the City and its officers, agents and employees against all claims, suits, demands, judgments, expenses, including attorney's fees, or other liability for personal injury, death, or damage to any person or property which arises from or is in any manner caused by the Licensee's construction or maintenance of the Improvements or use of the licensed property. This indemnification provision, however shall not apply to any claims, suits, damage, costs, losses, or expenses arising solely from the negligent or willful acts of the City; provided that for the purposes of the foregoing, the City's act of entering into this Agreement shall not be deemed to be a "negligent or willful act."

VI. CONDITIONS.

- A. Licensee's Responsibilities. Licensee will be responsible for any damage to or repair of the Improvements. Further, Licensee shall reimburse the City for all costs of replacing or repairing any property of the City or of others which was damaged or destroyed as a result of activities under this Agreement by, or on behalf of, Licensee.
- B. Maintenance. Licensee shall maintain the licensed property and the Improvements in good condition and making any necessary repairs to the Improvements at its expense.
- C. Modification of Improvements. Licensee agrees that modification of the Improvements shall

be at Licensee's expense. Licensee shall obtain the proper permits prior to any modification of the Improvements. Any such modification shall be at Licensee's sole discretion, except where otherwise provided by this Agreement. This Agreement, until its expiration or revocation, shall run as a covenant with the land, and the terms and conditions of this Agreement shall be binding on the grantees, successors and assigns of Licensee. Licensee shall cause any immediate successors-in-interest to have actual notice of this Agreement.

- D. Default. In the event that Licensee fails to maintain the licensed property or otherwise comply with the terms or conditions as set forth herein, then the City shall give Licensee written notice thereof, by registered or certified mail, return receipt requested, to the address set forth below. Licensee shall have thirty (30) days from the date of receipt of such notice to take action to remedy the failure complained of, and, if Licensee does not satisfactorily remedy the same within the thirty (30) day period, the City may terminate this Agreement.

Licensee Address

Clayton Properties Group, Inc. dba Brohn Homes
Attention: Adam B. Boenig
6720 Vaught Ranch Road, Suite 200
Austin, Texas 78730

Licensor Address

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

VII. COMMENCEMENT AND TERMINATION. This Agreement shall begin with the effective date and continue thereafter for so long as Licensee is constructing or maintaining the Improvements as set forth herein. If Licensee abandons construction or maintenance of all or any part of the Improvements or licensed property as set forth in this Agreement, then this Agreement, shall expire and terminate following thirty (30) days written notice to the Licensee if such abandonment has not been remedied by the Licensee within such period. The City shall thereafter have the same complete title to the licensed property so abandoned as though this Agreement had never been made and shall have the right to enter the licensed property and terminate the rights of Licensee, its successors and assigns hereunder. All installations of Licensee not removed shall be deemed property of the City as of the time abandoned.

VIII. TERMINATION.

- A. Termination by Licensee. This Agreement may be terminated by Licensee by delivering written notice of termination to the City not later than thirty (30) days before the effective date of termination. If Licensee so terminates, then it shall remove all installations, other than the Improvements, that it made from the licensed property within the thirty (30) day notice period at its sole cost and expense. Failure to do so shall constitute a breach of this Agreement.
- B. Termination by City. Subject to prior written notification to Licensee or its successor-in-interest, this Agreement is revocable by the City if:
1. The licensed Improvements, or a portion of them, interfere with the City's right-of-way;

2. Use of the right-of-way area becomes necessary for a public purpose;
3. The licensed Improvements, or a portion of them, constitute a danger to the public which the City deems not to be remediable by alteration or maintenance of such Improvements;
4. Despite thirty (30) days written notice to Licensee, maintenance or alteration necessary to alleviate a danger to the public has not been made; or
5. Licensee fails to comply with the terms and conditions of this Agreement including, but not limited to any insurance or license fee requirements specified herein.

IX. EMINENT DOMAIN. If eminent domain is exerted on the licensed property by paramount authority, then the City will, to the extent permitted by law, cooperate with Licensee to effect the removal of Licensee's affected installations and Improvements thereon, at Licensee's sole expense. Licensee shall be entitled to retain all monies paid by the condemning authority to Licensee for Licensee's installations taken, if any.

X. INTERPRETATION. Although drawn by the City, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

XI. APPLICATION OF LAW. This Agreement shall be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

XII. VENUE. Venue for all lawsuits concerning this Agreement will be in the Hays County, Texas.

XIII. COVENANT RUNNING WITH LAND; WAIVER OF DEFAULT. This Agreement and all of the covenants herein shall run with the land; therefore, the conditions set forth herein shall inure to and bind each party's successors and assigns. Either party may waive any default of the other at any time, without affecting or impairing any right arising from any subsequent or other default.

XIV. ASSIGNMENT; HOMEOWNER'S ASSOCIATION.

- A. Licensee shall not assign, sublet or transfer its interest in this Agreement without the written consent of the City, which consent shall not be unreasonably withheld.
- B. The City Manager may approve an assignment, sublease, or transfer of interest in this Agreement to a home owner's association for the Subdivision (the "HOA") that meets the requirements of this paragraph. The HOA must have been legally established; maintenance obligations for the Improvements must have been assigned to the HOA; and the HOA must have a binding, continuing responsibility for the maintenance and operation of the Improvements and shall establish adequate funding for such maintenance and operation.

The HOA's maintenance obligation shall be noted on the plat for the Subdivision and in the restrictive covenants filed of record for the Subdivision in a form that is acceptable to the City. The restrictive covenants shall provide for periodic assessments sufficient to fund the maintenance and operation of the Improvements, shall give the City the authority to judicially enforce the covenants requiring adequate assessments to be made and collected and the streets to be maintained and repaired; and shall provide for the City to recover any attorney's fees and expenses incurred in judicial enforcement; provided that nothing herein shall obligate the City to maintain and repair the Improvements. This Agreement may not be assigned, sublet, or transferred until the Licensee or the HOA submits proof to the City of compliance with this paragraph and the insurance requirements under this Agreement. Subject to compliance with this paragraph and the insurance requirements set forth herein, if any, Licensee shall furnish to the City a copy of any such assignment or transfer of any of Licensee's rights in this Agreement, including the name, address, and contact person of the assignee, along with the date of assignment or transfer.

ACCEPTED, this the ____ day of _____, 2020.

LICENSOR:

CITY OF KYLE, TEXAS

By: _____

Name: Travis Mitchell

Title: Mayor

LICENSEE:

CLAYTON PROPERTIES GROUP, INC.

a Tennessee corporation doing business
in Texas as **BROHN HOMES**

By: _____

Name: Adam B. Boenig

Title: Vice President

THE STATE OF TEXAS §
COUNTY OF HAYS §

This instrument was acknowledged before me on this the ____ day of _____, 2020,
by Travis Mitchell, Mayor for the City of Kyle, Texas, on behalf of the City.

Notary Public - State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2020, by Adam B. Boenig, Vice President of Clayton Properties Group, Inc., a Tennessee corporation doing business in Texas as Brohn Homes, on behalf of said entity.

Notary Public - State of Texas



CITY OF KYLE, TEXAS

Meals on Wheels Contract

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: Approve a contract with Meals on Wheels, Rural Capital Area (CCA) program to provide meal services for the elderly and veterans in the Kyle area. ~ *Jerry Hendrix, Chief of Staff*

Other Information: This contract updates the existing contract to allow for service to be provided out of the Krug Activity Center.

Legal Notes:

Budget Information: N/A

ATTACHMENTS:

Description

- CONTRACT FOR SERVICES OR CONTRIBUTIONS - MOWsCity of Kyle DRAFT

CONTRACT FOR SERVICES OR CONTRIBUTIONS

The undersigned **CONTRACTOR (City of Kyle)** hereby agrees to furnish to the **AGENCY (Meals on Wheels)** the services described below under the terms, conditions, prices stated herein.

Description of Services:

To provide space for the operation of the Meals on Wheels, Rural Capital Area (CCA) program for the elderly and veterans in the Kyle area.

Building: Krug Activity Center
Location: 101 S. Burluson, Kyle, TX 78640
Hours: 9:00 a.m. to 12:00 noon, Monday-Friday

Space: Kitchen to include Refrigerator/Freezer, sink, stove, storage area/office for file cabinet and restroom

Period: Service to begin upon execution of this contract and end upon 60 days written notice by either party. Notification will be via e-mail to kjfranke@ccaction.com.

Special Conditions: The Agency shall:

- 1) Provide general public liability and products liability for CCA and list Contractor as additional insured on policy
- 2) Provide a site manager for the Senior Nutrition Program. Only Home Delivered Meals will be prepared and delivered.
- 3) Maintain the space in proper order and fashion by sweeping daily, spot mopping, weekly mopping, cleaning tables, removal of trash, cleaning range and proper storage of supplies, and providing for sanitization of spaces after each use.
- 4) Provide paper products, cleaning supplies, garbage bags and tissue for AGENCY's volunteers.
- 5) Shall be responsible for any damages that occur because of the AGENCY's activities.
- 6) Provide cell phone to Senior Nutrition Program Staff.
- 7) Notify Contractor's representative (Director of Parks and Recreation) within 24 hours of any problems or incidents.
- 8) All building keys will be returned at the end of contract period.
- 9) No door locks, keys or padlocks will be changed or added without permission of contractor's representative.
- 10) Have contact information clearly visible in the building.
- 11) Ensure that all food products left in the building are labeled and dated.

The Agency shall not:

- 1) Serve any meals on-site, all meals will be for home delivery.
- 2) Post any signs on the outside of the building.
- 3) Serve or consume any alcoholic beverages on the city property.
- 4) Use tobacco products on the contractor's property.
- 5) Use the facility for personal sale of items or goods.

CONTRACTOR

City of Kyle
Krug Activity Center
101 S. Burleson
Kyle, TX. 78640

AGENCY

Combined Community Action, Inc.
165 W. Austin St.
Giddings, TX 78942

Signature of person authorized to sign

CCA Executive Director

Date

Date



CITY OF KYLE, TEXAS

Supp Ord Polling Places for Bond Election

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* A Supplemental Ordinance Approving Early Voting Locations, Dates and Times, and Election Day Voting Locations for the City of Kyle for the Special Bond Election to be held on November 3, 2020. ~ *Gregory Miller, Bickerstaff Heath Delgado Acosta LLP*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Supplemental Ordinance Establishing EV and ED Polling Places (01270969x7A30F)
- Certificate for Ordinance - Supplemental Bond Election Ordinance - Kyle 2020 (01279297x7A30F)

ORDINANCE NO. _____
**SUPPLEMENTAL ORDINANCE APPROVING EARLY VOTING
LOCATIONS, DATES AND TIMES, AND ELECTION DAY VOTING
LOCATIONS FOR THE CITY OF KYLE FOR THE SPECIAL BOND
ELECTION TO BE HELD ON NOVEMBER 3, 2020**

WHEREAS, the City Council of the City of Kyle, Texas (the “City Council”) and (the “City”), at the meeting held August 17, 2020, ordered a special bond election to be held on November 3, 2020 (the “Bond Election”) to issue bonds of said City; and

WHEREAS, the City Council has the authority pursuant to Chapter 85, Texas Election Code to designate early voting locations, dates, and times for the City; and

WHEREAS, the City Council has authority pursuant to Chapter 43, Texas Election Code to designate the election day polling locations for the City; and

WHEREAS, it is now necessary for the City Council to supplement the Ordinance Calling the Bond Election for the City, approved by the City Council at a meeting held on August 17, 2020 to approve early voting and election day voting locations and dates and hours of early voting by personal appearance as the governing body of the entity calling the Election; and

WHEREAS, the City Council finds that the early voting and election day voting locations and the dates and hours for early voting are in the public interest.

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

Section 1. Preamble Incorporation. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as part of the judgment and findings of the City Council.

Section 2. Approval of Early Voting Polling Places, Dates and Times and Election Day Polling Places. The City Council hereby establishes the early voting dates, times and locations, and election day polling locations for the City’s Bond Election as set out in Exhibit “A” to this Ordinance, which is incorporated herein by reference for all purposes.

Section 3. Notice of Meeting. The City Council officially finds, determines, recites and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted on a bulletin board located at a place convenient to the public at City Hall for at least 72 hours preceding the scheduled time of the meeting, that notice of such meeting was given to all news media who have consented to pay any and all expenses incurred by the City in connection with providing such notice; both as required by the Open Meetings Law, Chapter 551, Texas Government Code as amended; and that such meeting was open to the public, as required by law at all times during which this Ordinance and the subject matter thereof was discussed, considered and formally acted upon. Pursuant to the March 16, 2020 proclamation

issued by Governor Abbott, this meeting may 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. Some Council members may attend the meeting via videoconferencing. This meeting can be viewed live online at <https://www.cityofkyle.com/kyletv/kyle-10-live> or Spectrum10.

Section 4. Necessary Actions. The Mayor and the City Secretary, in consultation with the City Attorney and bond counsel, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Code and the Federal Voting Rights Act in carrying out and conducting the Election, whether or not expressly authorized herein, including making changes or additions to polling places or procedures to the extent required or desirable or as may become necessary due to circumstances arising after the date of this Ordinance.

Section 5. Inconsistent Provisions. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordered herein.

Section 6. Governing Law. This Ordinance shall be construed and enforced in accordance with the Ordinances and Resolutions of Kyle, Texas, and the laws of the State of Texas and the United States of America.

Section 7. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 8. Authorization to Execute. The Mayor is authorized to execute, and the City Secretary is authorized to attest this Ordinance on behalf of the City Council; and the Mayor is authorized to do all other things legal and necessary in connection with the holding and consummation of the Election.

Section 9. Effective Date. This Ordinance is effective immediately upon its passage and approval.

PASSED AND APPROVED this the ____ day of October, 2020.

[Signature page follows]

Travis Mitchell, Mayor
City of Kyle, Texas

ATTEST:

Jennifer Holm, City Secretary
City of Kyle, Texas

[CITY SEAL]

EXHIBIT A

**Vote Center Locations for Early Voting and Election Day
November 3, 2020 Special Bond Election**

Early Voting: October 13th, 2020 – October 30th, 2020

Tuesday, October 13th – Friday, October 16th 10 AM – 7PM
 Saturday, October 17th 7 AM – 7 PM
 Sunday, October 18th 1 PM – 6 PM

Monday, October 19th – Friday, October 23rd 10 AM – 7 PM
 Saturday, October 24th 7 AM – 7 PM
 Sunday, October 25th 1 PM – 6 PM

Monday, October 26th – Friday, October 30th 7 AM – 7PM

Election Day: November 3rd, 2020

Tuesday, November 3rd 7 AM – 7 PM

Jennifer Anderson, Elections Administrator: (512) 393-7310

Early Voting	Election Day	<u>San Marcos</u>	
	✓	Calvary Baptist Church	1906 North Interstate 35 Frontage Road
	✓	Centro Cultural Hispano	211 Lee Street
	✓	Dunbar Center	801 Martin Luther King Drive
	✓	First Baptist Church San Marcos	325 West McCarty Lane
✓	✓	Hays County Government Center	712 South Stagecoach Trail, Northwest Conference Rooms
✓	✓	Hays County Transportation – Yarrington Building	2171 Yarrington Road
✓	✓	Live Oak Health Partners (formerly County Health Department)	401 Broadway Street #C
	✓	Promiseland Church	1650 Lime Kiln Road
	✓	San Marcos Activity Center	501 East Hopkins Street
	✓	San Marcos Fire Station #5	100 Carlson Circle
	✓	San Marcos Housing Authority/CM Allen Homes	820 Sturgeon Drive, San Marcos
	✓	Sinai Pentecostal Church	208 Laredo Street
	✓	South Hays Fire Station #12	8301 Ranch Road 12
	✓	Stone Brook Seniors Community	300 South Stagecoach Trail
✓	✓	Texas State University Performing Arts Center	405 Moon Street

		<u>Buda</u>	
✓	✓	Buda City Hall	405 East Loop Street, Building 100
	✓	Buda Elementary Upper Campus	300 San Marcos Street
	✓	Hays Hills Baptist Church	1401 North FM 1626
	✓	McCormick Middle School	5700 Dacy Lane
	✓	Southern Hills Church of Christ	3740 FM 967
		<u>Kyle and Umland</u>	
	✓	Chapa Middle School	3311 Dacy Lane
✓	✓	HCISD Admin – Arnold Transportation Building (formerly the bus barn)	21003 Interstate 35 Frontage Road
	✓	Hays County Precinct 2 Office	5458 FM 2770
✓	✓	Kyle City Hall	100 West Center Street
✓	✓	Live Oak Academy High School	4820 Jack C. Hays Trail
	✓	Tobias Elementary School	1005 FM 150
	✓	Umland Elementary School	2331 High Road (Umland)
	✓	Wallace Middle School	1500 West Center Street
		<u>Dripping Springs and Austin</u>	
	✓	Belterra Centre	151 [688] Trinity Hills Drive (Austin)
✓	✓	Dripping Springs Ranch Park	1042 Event Center Drive (Dripping Springs)
✓	✓	Hays County Precinct 4 Office	195 Roger Hanks Parkway (Dripping Springs)
	✓	North Hays County Fire/Rescue Station #2 – Driftwood Battalion	15850 FM 1826 (Austin)
		<u>Wimberley</u>	
	✓	Cypress Creek Church	211 Stillwater
✓	✓	Scudder Primary School	400 Green Acres Drive
	✓	VFW Post #6441	401 Jacobs Well Road
✓	✓	Wimberley Community Center	14068 Ranch Road 12

CERTIFICATE OF ORDINANCE

**THE STATE OF TEXAS §
COUNTY OF HAYS §
CITY OF KYLE §**

I, the undersigned City Secretary of said City, hereby certify as follows:

1. The City Council of said City (the "City Council") convened in a Regular Meeting on October 6, 2020, at the City Council Chambers, City Hall, 100 W. Center Street, Kyle, Texas, and the roll was called of the duly constituted officers and members of said City Council, to-wit:

Travis Mitchell	Mayor
Rick Koch	Council Member District 5/Mayor Pro Tem
Dex Ellison	Council Member District 1
Tracy Scheel	Council Member District 2
Robert Rizo	Council Member District 3
Alex Villalobos	Council Member District 4
Michael Tobias	Council Member District 6

and all of said persons were present, except for the following:_____;
thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written Ordinance entitled

SUPPLEMENTAL ORDINANCE APPROVING EARLY VOTING LOCATIONS, DATES AND TIMES, AND ELECTION DAY VOTING LOCATIONS FOR THE CITY OF KYLE FOR THE SPECIAL BOND ELECTION TO BE HELD ON NOVEMBER 3, 2020

(the "Ordinance") was duly introduced for the consideration of said City Council and read in full. It was then duly moved and seconded that said Ordinance be passed; and, after due discussion, said motion, carrying with it the passage of said Ordinance, prevailed and carried by the following vote:

AYES: ___
NOES: ___
ABSTENTIONS: ___

2. A true, full and correct copy of the aforesaid Ordinance passed at the meeting described in the above and foregoing paragraph is attached to and follows this Certificate; said Ordinance has been fully recorded in the official minutes of said City Council; the above and foregoing paragraph is a true, full and correct excerpt from said minutes of said meeting pertaining to the passage of said Ordinance; the persons named in the above and foregoing paragraph, at the time of said meeting and the passage of said Ordinance, were the duly chosen, qualified and acting officers and members of said City Council as indicated therein; each of said officers and members was duly and sufficiently notified officially and personally in advance, of the time, place and purpose of the aforesaid meeting and that said Ordinance would be introduced and considered for passage at said meeting, and each of said officers and members consented in advance to the holding of said meeting for such purpose; and said meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this _____ of October, 2020.

City Secretary
City of Kyle, Texas

[CITY SEAL]



CITY OF KYLE, TEXAS

Number of Committee Members

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* An Ordinance of the City of Kyle, Texas, Amending Section 2-57 of the Code of Ordinances to Allow Council to Appoint More Than Seven Members to Committees if Determined Appropriate by the City Council; and Providing for Related Matters. ~ *Paige Saenz, City Attorney*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Committees Membership Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING SECTION 2-57 OF THE CODE OF ORDINANCES TO ALLOW COUNCIL TO APPOINT MORE THAN SEVEN MEMBERS TO COMMITTEES IF DETERMINED APPROPRIATE BY THE CITY COUNCIL; AND PROVIDING FOR RELATED MATTERS.

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

Section 1. Committee Membership. Section 2-57 of the City of Kyle Code of Ordinances (the "Code") is hereby amended in its entirety to read as follows:

Sec. 2-57. - Membership; quorum.

The council shall generally appoint no more than seven persons as regular members to serve on a committee, unless the council determines that appointment of more regular members is appropriate for the committee. A committee shall continue to meet and perform its duties with less than seven regular members if it has at a regular meeting enough members present to constitute a quorum. A quorum shall be the greater of four members or half of the committee membership. Each committee shall determine a chairperson and vice-chairperson at the first meeting of the committee.

Section 2. Amendment of Conflicting Ordinances. Section 2-57 of the Code is hereby amended as provided in this Ordinance. 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 3. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Tex. Gov't. Code.

PASSED AND APPROVED on this the _____ day of _____, 2020.

FINALLY PASSED AND APPROVED on this the _____ day of _____, 2020.

ATTEST:

THE CITY OF KYLE, TEXAS

Jennifer Holm, City Secretary

Travis Mitchell, Mayor



CITY OF KYLE, TEXAS

West RM 150 Naming Committee

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: A Resolution of the City of Kyle, Texas, Establishing the West RM 150 Naming Committee; Assigning its Purpose, Duties, and Meeting Requirements; and Providing for Related Matters. ~ *Paige Saenz, City Attorney*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Road.Renaming.Committee.9.20

RESOLUTION NO. _____

AN RESOLUTION OF THE CITY OF KYLE, TEXAS, ESTABLISHING THE WEST RM 150 NAMING COMMITTEE; ASSIGNING ITS PURPOSE, DUTIES, AND MEETING REQUIREMENTS; AND PROVIDING FOR RELATED MATTERS.

Whereas, the City Council of the City of Kyle, Texas (the “City”) desires to establish an ad hoc committee to be known as the West RM 150 Naming Committee to study and make recommendations to the City Council on the naming of West RM 150;

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

Section 1. West RM 150 Naming Committee Established.

- (a) The West RM 150 Naming Committee is hereby established. The Committee shall consider options for the renaming of West RM 150 and make recommendations to the City Council on the naming of West RM 150.
- (b) The Committee shall be made up of _____ members and shall meet at such times determined appropriate by the Committee and in compliance with Section 2-63 of the Code of Ordinances (the “Code”).
- (c) The Committee shall be subject to the requirements of Chapter 2 (Administration), Article III (Boards, Committees and Commissions), Division 1 (Generally), Subdivision 2 (Committees) of the Code.

Section 2. Open Meetings. That 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 on this the _____ day of _____, 2020.

ATTEST:

THE CITY OF KYLE, TEXAS

Jennifer Holm, City Secretary

Travis Mitchell, Mayor



CITY OF KYLE, TEXAS

WLE Addendum

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: First Addendum to Landscape Management Contract of October 1, 2020 With WLE, LLC. ~ *James R. Earp, Assistant City Manager*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Addendum #1

FIRST ADDENDUM TO LANDSCAPE MANAGEMENT CONTRACT OF OCTOBER 1, 2020

THIS FIRST ADDENDUM TO THE LANDSCAPE MANGEMENT CONTRACT OF October 1, 2020 (the “First Addendum”) is made on October 5, 2020 (the “Effective Date”) by and between WLE LLC (“WLE”) located at 10122 Bradshaw Road Austin, TX 78747 and The City of Kyle, a Texas municipality (hereinafter referred to as “Client”), located at 100 W. Center Street Kyle, Texas 78640.

WHEREAS, WLE provides landscaping services to Client, per the executed Landscape Management Contract of October 1, 2020 (the “Original Contract”);

AND WHEREAS, Client desires to issue a change order to change the Premises contemplated in the Original Contract, which are shown on the map attached hereto as Exhibit A (“New Service Areas”).

NOW THEREFORE, in consideration of the promises and other good and valuable considerations set forth, the Parties agree to modify the Original Contract as follows:

1. Section I.A. of the Original Contract is hereby modified to do the following to the Premises:
 - a. ADD Dacy from Bunton to Bebee;
 - b. ADD Bunton from I-35 to Lehman;
 - c. ADD 1626 North from Kohlers to FM 2770; and
 - d. DELETE Kohler’s Crossing.

2. Section V.A.1. of the Original Contract is modified in its entirety to the following Fee Schedule:

Month 1	\$21,326.17	Month 13	\$22,392.48	Month 25	\$23,512.11
Month 2	\$21,326.17	Month 14	\$22,392.48	Month 26	\$23,512.11
Month 3	\$21,326.17	Month 15	\$22,392.48	Month 27	\$23,512.11
Month 4	\$21,326.17	Month 16	\$22,392.48	Month 28	\$23,512.11
Month 5	\$21,326.17	Month 17	\$22,392.48	Month 29	\$23,512.11
Month 6	\$21,326.17	Month 18	\$22,392.48	Month 30	\$23,512.11
Month 7	\$21,326.17	Month 19	\$22,392.48	Month 31	\$23,512.11
Month 8	\$21,326.17	Month 20	\$22,392.48	Month 32	\$23,512.11
Month 9	\$21,326.17	Month 21	\$22,392.48	Month 33	\$23,512.11
Month 10	\$21,326.17	Month 22	\$22,392.48	Month 34	\$23,512.11
Month 11	\$21,326.17	Month 23	\$22,392.48	Month 35	\$23,512.11
Month 12	\$21,326.17	Month 24	\$22,392.48	Month 36	\$23,512.11

- a.

3. Section V.F. of the Original Contract is modified to:
 - a. The total sum of this Contract shall be considered the Fees plus the Optional Improvements Fees for a grand total of ONE MILLION NINETY-SIX THOUSAND THREE HUNDRED SIXTY-SIX AND 24/100 DOLLARS (\$1,096,366.24), the “Contract Sum”, subject to Section II.A, III, and V.E of the Original Contract. Any increases or decreases to the Contract Sum must be agreed to in writing by the Parties.

4. Exhibit A of this First Addendum shall add the maps shown thereto to Exhibit C of the Original Contract.

5. Exhibit B of this First Addendum shall add the schedules of service attached thereto to Exhibit A of the Original Contract.

6. Number 1 through 5 above represent the entire modification to the Original Contract and all other provisions of such shall remain in full force and effect for the Term, as defined in the Original Contract.

7. Section V.E.2 of the Original Contract is deleted in its entirety.

8. To the extent this Contract constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, WLE represents that neither

WLE nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of WLE (i) boycotts Israel or (ii) will boycott Israel through the term of this Contract. The terms “boycotts Israel” and “boycott Israel” as used in this paragraph have the meanings assigned to the term “boycott Israel” in Section 808.001 of the Texas Government Code, as amended.

[Signature Page to Follow]

IN WITNESS WHEREOF the parties hereto have duly executed this Addendum as of the Effective Date.

CLIENT: The City of Kyle

Signature

Printed

Print Title

Date Signed

WLE: WLE LLC

Signature

Printed

Print Title

Date Signed

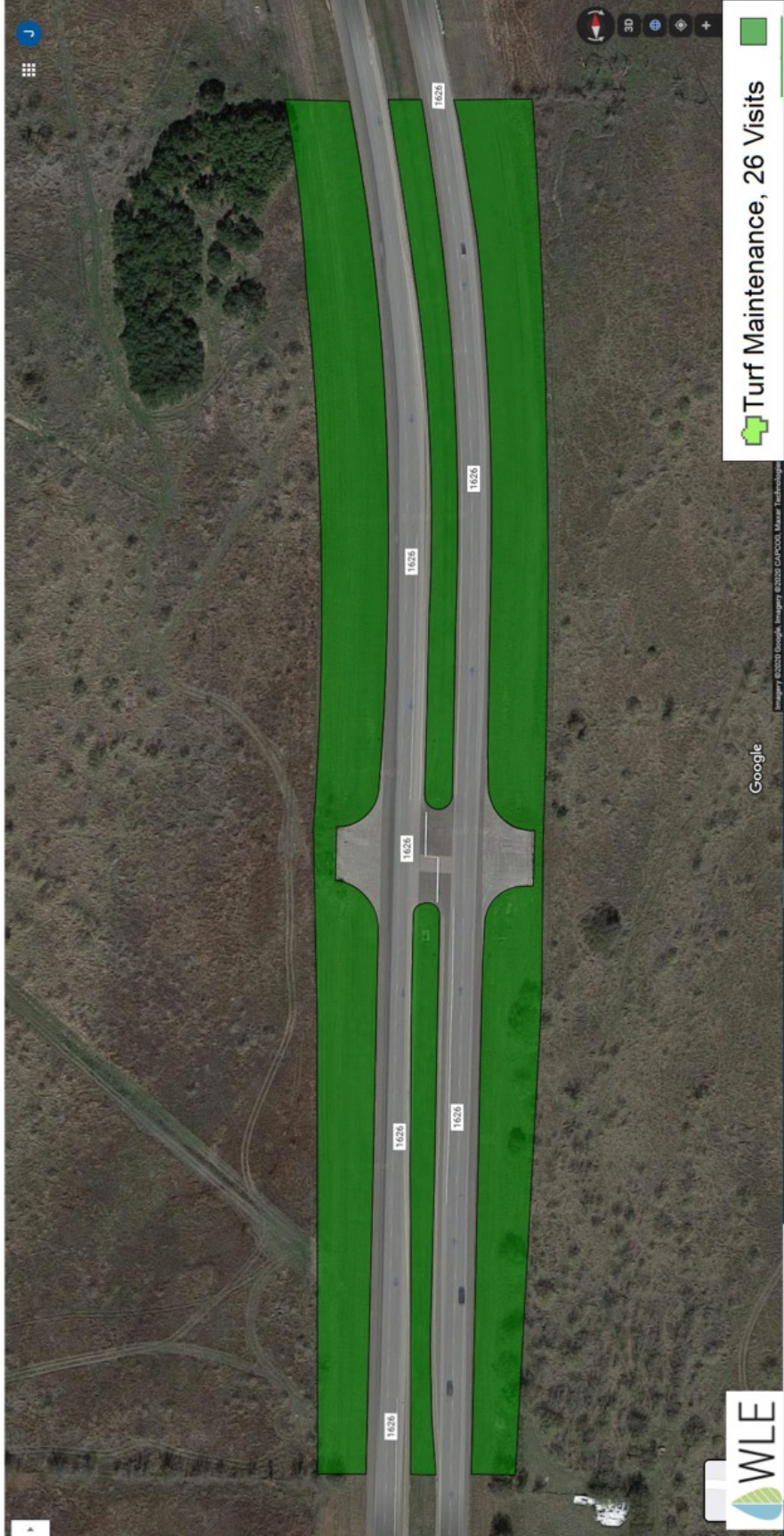


Exhibit A
New Service Areas







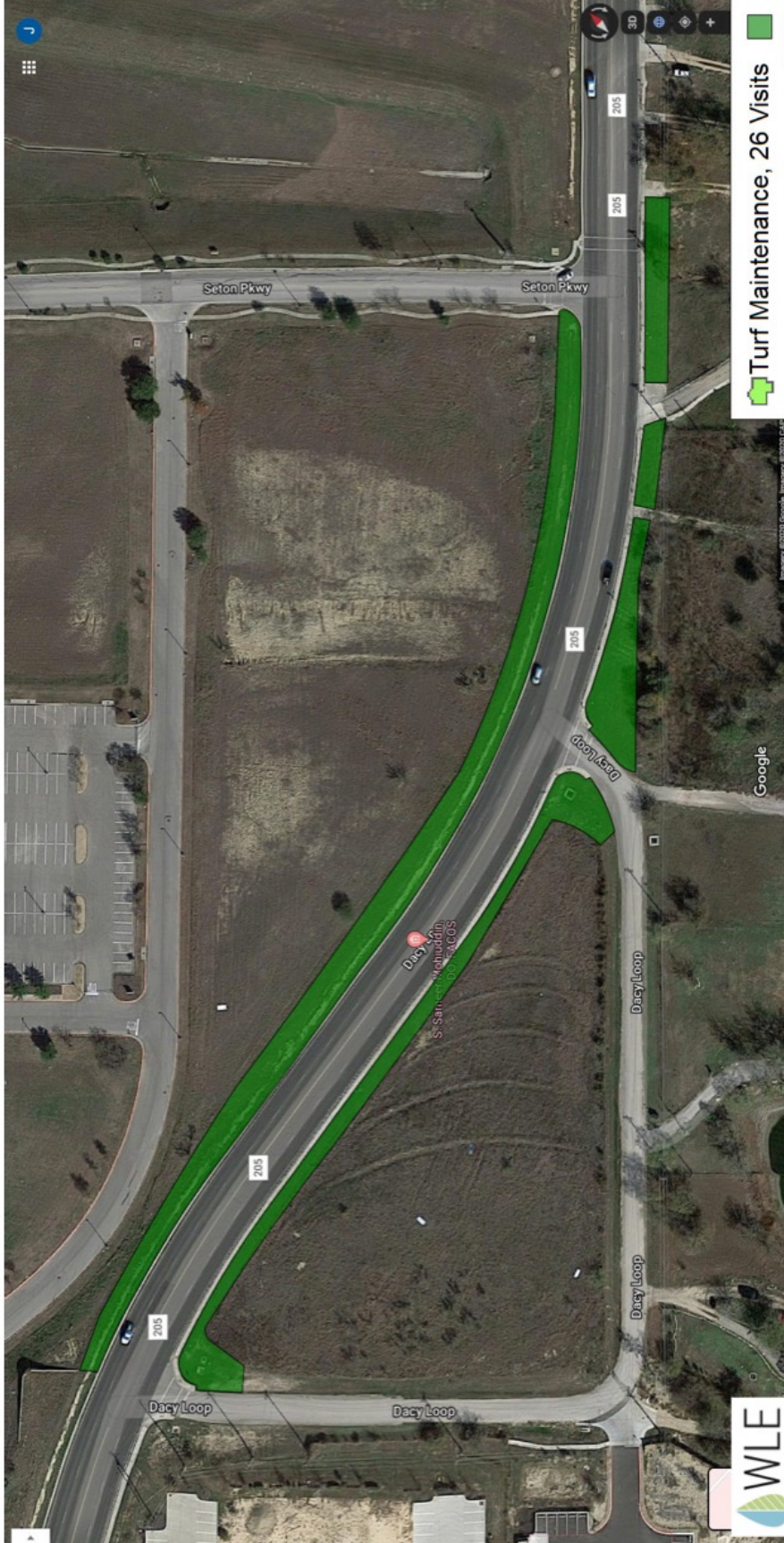


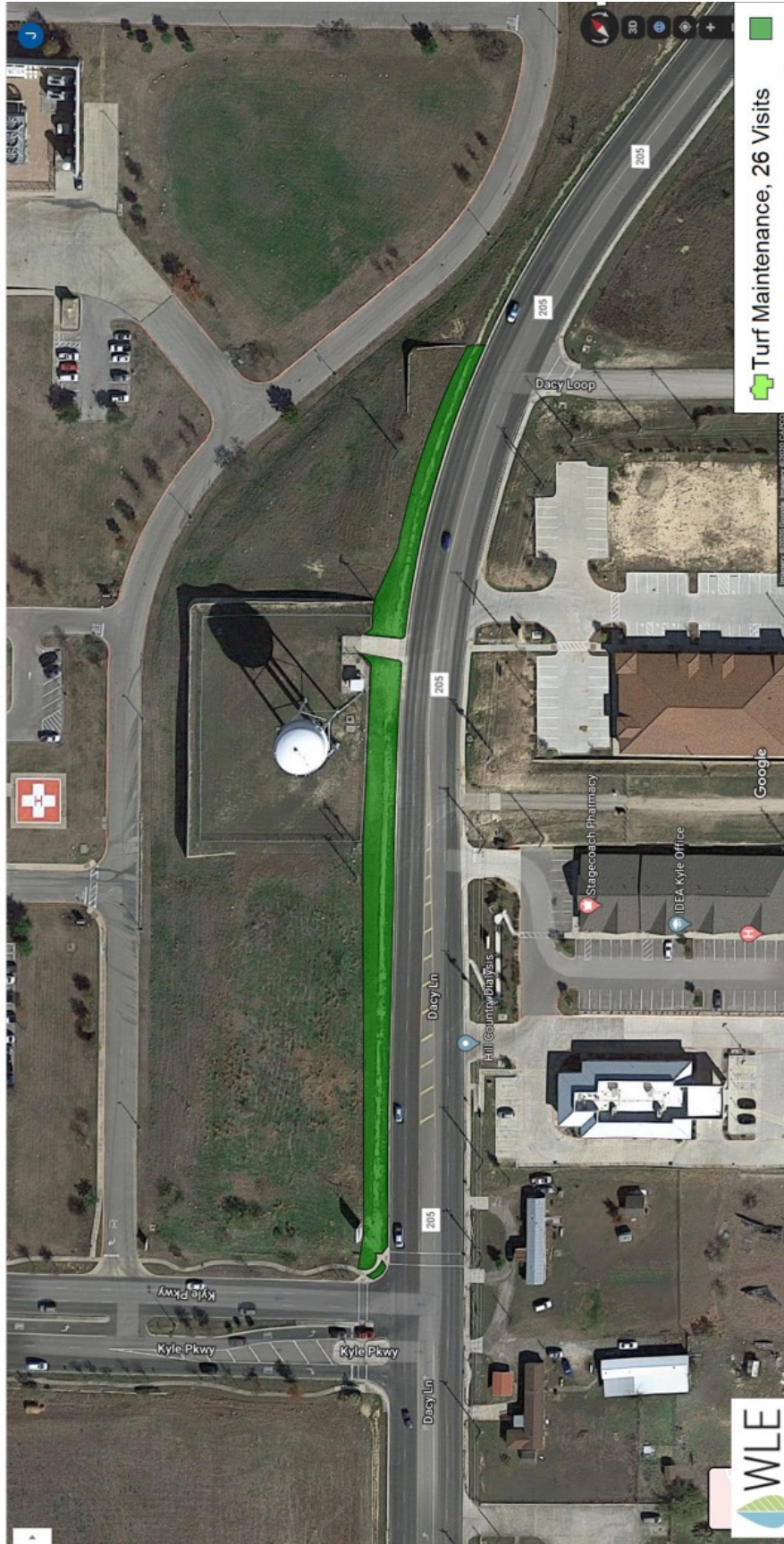












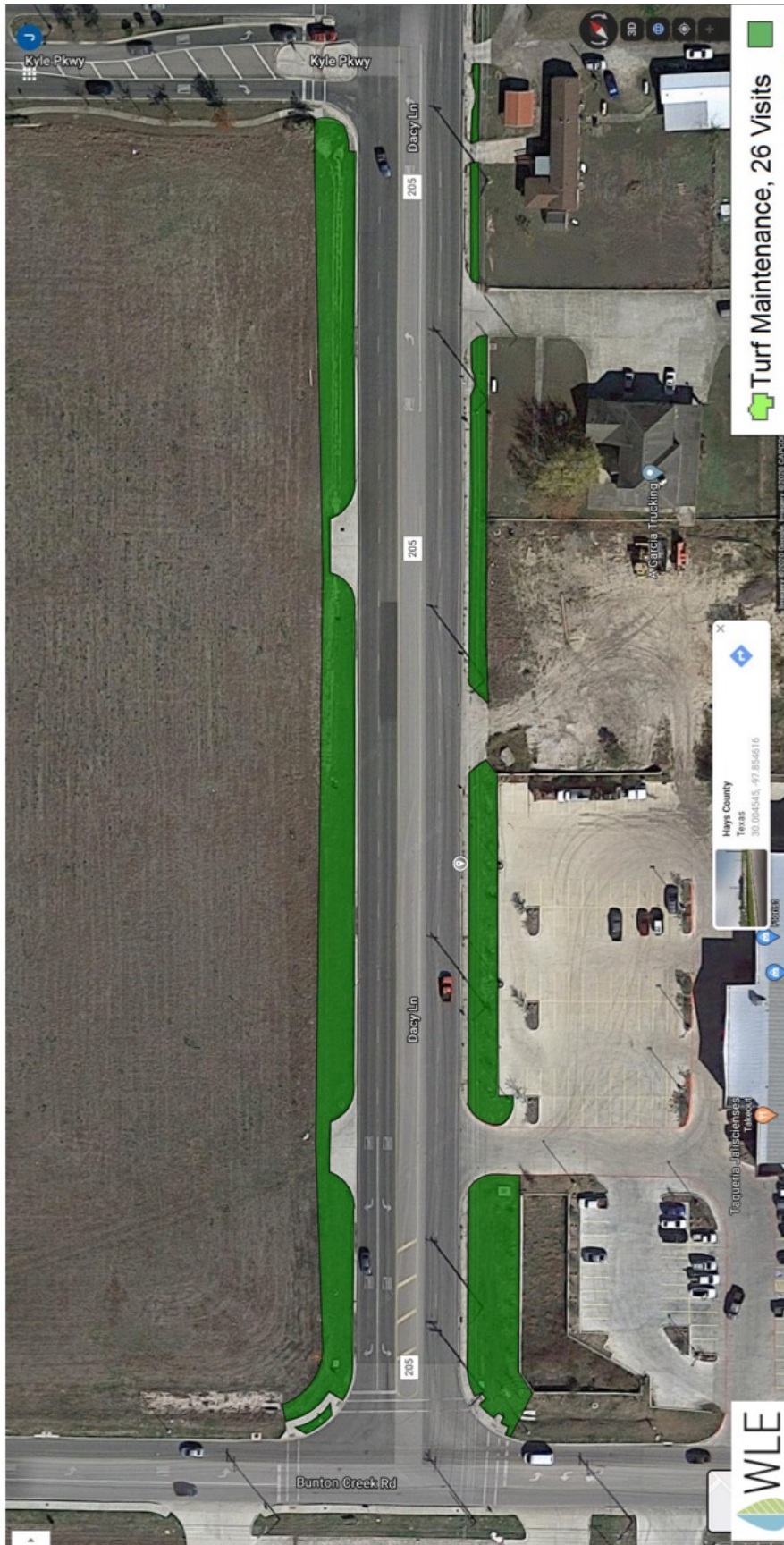










EXHIBIT B: ADDITIONAL SCHEDULES OF SERVICE

Landscape Management Pricing

Contract Start Date: October 1, 2020

Property Name Bunton Creek Road
Property Location Bunton Creek Rd. - Kyle, Tx.
Recipient City of Kyle
Recipient Address 100 W. Center St. - Kyle, Tx. 78640
Contact Name Jerry Hendrix
Contact Email Contact Email
Contact Phone 512-262-3921
Est. Revision Number Original



Standard Services:		Per Cycle (\$)	Cycles (#)	Annual Price (\$)
Turf Maintenance	Turf Maintenance, 26 Visits	284.51	26	7,397.26
Chemical Program	Turf: Pre-Emerg. (2), Fertilization (2), Post-Emerg. (2)	5,445.30	1	5,445.30
Total Standard Services Annual Price:				12,842.56
Add'l Service Options:				
Total Additional Services Annual Price:				-
Total Contracted Annual Amount:				12,842.56
Total Monthly Amount:				1,070.21

Landscape Management Pricing

Contract Start Date: October 1, 2020

Property Name 1626 North
Property Location 1626 North - Kyle, Tx
Recipient City of Kyle
Recipient Address 100 W. Center St. - Kyle, Tx 78640
Contact Name Jerry Hendrix
Contact Email Contact Email
Contact Phone 512-262-3921
Est. Revision Number Original



Standard Services:		Per Cycle (\$)	Cycles (#)	Annual Price (\$)
Turf Maintenance	Turf Maintenance, 26 Visits	2,146.47	26	55,808.22
Bed Maintenance	Weed Pulling and Spraying	2.39	26	62.03
	8' Canopy, Shrub and Ground Cover Trimming	9.07	12	108.79
Chemical Program	Turf: Pre-Emerg. (2), Fertilization (2), Post-Emerg. (2)	34,736.40	1	34,736.40
	Beds: Fertilization (2)	10.36	1	10.36
Total Standard Services Annual Price:				90,725.80

Add'l Service Options:

Seasonal Flowers	Spring Change Out	3 flats	<input checked="" type="checkbox"/>	94.19	1	94.19
	Summer Change Out	3 flats	<input type="checkbox"/>	94.19	1	94.19
	Fall Change Out	3 flats	<input checked="" type="checkbox"/>	94.19	1	94.19
Mulch	Mulch Beds & Tree Wells - Spring	3 bags	<input checked="" type="checkbox"/>	24.00	1	24.00
	Mulch Beds & Tree Wells - Fall	3 bags	<input checked="" type="checkbox"/>	24.00	1	24.00
Total Additional Services Annual Price:				236.38		
Total Contracted Annual Amount:				90,962.18		
Total Monthly Amount:				7,580.18		

Landscape Management Pricing

Contract Start Date: October 1, 2020

Property Name FM 2770
Property Location FM 2770 - Kyle, Tx
Recipient City of Kyle
Recipient Address 100 W. Center St. - Kyle, Tx 78640
Contact Name Jerry Hendrix
Contact Email Contact Email
Contact Phone 512-262-3921
Est. Revision Number Original



Standard Services:		Per Cycle (\$)	Cycles (#)	Annual Price (\$)
Turf Maintenance	Turf Maintenance, 26 Visits	367.31	26	9,550.06
Chemical Program	Turf: Pre-Emerg. (1), Fertilization (1), Post-Emerg. (1)	3,510.78	1	3,510.78
Total Standard Services Annual Price:				13,060.84
Add'l Service Options:				
Total Additional Services Annual Price:				-
Total Contracted Annual Amount:				13,060.84
Total Monthly Amount:				1,088.40



CITY OF KYLE, TEXAS

Installation of STOP signs at Hiver
Street/Goldenrod Street and
Lehman Road

Meeting Date: 10/6/2020
Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* Approve an Ordinance regulating traffic, authorizing and directing the installation and erection of stop signs for traffic control at the intersection of Hiver Street/Goldenrod Street and Lehman Road in the city limits of Kyle. ~ *Leon Barba, P.E., City Engineer*

Other Information:

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Ordinance
- Engineer's Memo
- Location Map

ORDINANCE NO. _____

AN ORDINANCE REGULATING TRAFFIC, AUTHORIZING AND DIRECTING THE INSTALLATION AND ERECTION OF STOP SIGNS FOR TRAFFIC CONTROL AT THE INTERSECTION OF HIVER STREET / GOLDENROD STREET AND LEHMAN ROAD IN THE CITY LIMITS OF KYLE; REPEALING ANY ORDINANCE OR RESOLUTION IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the regulation of traffic, motor vehicles and conveyances upon all public streets, roadway and right-of-ways within the City limits of the City of Kyle (the “City”) is essential and necessary to protect the traveling public and to preserve and protect the public safety of the City; and

WHEREAS, the: City Engineer, Director of Public Works, Chief of Police and City Council have reviewed the situation and issues that are the subject matter of this Ordinance; and

WHEREAS, the City Council of the City find that the safety and welfare of the citizens of the City requires that stop signs be provided at such points within the City;

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

SECTION 1: Findings. The recitals are hereby found to be true and correct and are hereby incorporated as part of this Ordinance.

SECTION 2: That all vehicles proceeding along the following streets shall come to a full stop immediately before reaching the intersections hereinafter set forth;

- **AT THE INTERSECTION OF HIVER STREET / GOLDENROD STREET AND LEHMAN ROAD**

SECTION 3: That at each place designated in Section 2 of this ordinance, for vehicles to stop in proceeding along the street, there shall be placed a sign, either in the surface of the street or at the side thereof, directing traffic to stop at such point, and no provisions of this ordinance for which signs are required shall be enforceable against an alleged violator, if at the time and place of the alleged violation the sign herein required is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

SECTION 4: That it shall be unlawful for the operator of any vehicle to disobey the instructions of the stop sign placed in accordance with the provisions of this ordinance.

SECTION 5: That it shall be unlawful for any person to willfully deface, injure, move, remove, obstruct or interfere with any stop sign under the provisions of this ordinance.

SECTION 6: Any person violating any provisions of this Ordinance shall be subject to the penalty provided in Section 1-14 of the Code of Ordinances.

SECTION 7. Conflicting Ordinances or Resolutions. All resolutions or ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby REPEALED to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other resolution, code or ordinance of the City, or parts thereof, the terms and provisions of this ordinance shall govern.

SECTION 8. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

SECTION 9. Effective Date. This ordinance shall be effective from and after its approval and passage in accordance with the Texas Local Government Code and the city charter.

PASSED AND APPROVED on first reading this ___ day of _____, 2020
FINALLY PASSED AND APPROVED on this ___ day of _____, 2020.

THE CITY OF KYLE, TEXAS

Travis Mitchell, Mayor

ATTEST:

Jennifer A. Holm, City Secretary



CITY OF KYLE

100 W. Center St.
Office (512) 262-3958

Kyle, Texas 78640
Fax (512) 262-3915

MEMORANDUM

TO: Scott Sellers, City Manager

FROM: Jeff Prato, P.E., Engineer

DATE: September 24, 2020

SUBJECT: Multi-way Stop Investigation – Hiver St. / Goldenrod St. and Lehman Rd.

Lehman Rd. runs in a generally northeast and southwest direction starting at FM 150 and ending at Bunton Creek Rd. The distance between the described intersection from these two points are approximately 4,600 feet and 3,900 feet, respectively.

Staff from the Kyle Police Department, the Public Works Department, and the Engineering Department visited the subject intersection to observe the existing conditions. The recent widening of Lehman Road has created a sight distance obstruction due to a privacy fence being at the corner of Hiver St. and Lehman Rd. Vehicles turning left or right from Hiver St. onto Lehman Rd. must encroach into intersection to make a safe maneuver. Additionally, the intersection of Hiver St. and Goldenrod St. are offset from each other tying into Lehman Rd.

Based on staff observation, Guideline E (Optional Criterion 3 & 4) of the TMUTCD is met:

Criterion 3 - Locations where a road user, after stopping, cannot see conflicting traffic and is not able to negotiate the intersection unless conflicting cross traffic is also required to stop; and

Criterion 4 - An intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where multi-way stop control would improve traffic operational characteristics of the intersection.

Please let me know if you need any additional information.

Jeff Prato

Xc: Harper Wilder, Director of Public Works
Jeff Barnett, Chief of Police



950

960

970

980

990

981

991

441

451

461

Goldenrod St

Lehman Rd

111

123

135

147

159

Lehman Rd

Hiver St

118

124

Primrose Blvd

101

Item # 21

20 ft



CITY OF KYLE, TEXAS

Hays County CECC Funding Agreement

Meeting Date: 10/6/2020

Date time:7:00 PM

Subject/Recommendation: Consider approval of a Funding Agreement with Hays County in an amount of \$50,000.00 for Colocation of 9-1-1 communication centers. ~ *Jeff Barnett, Chief of Police*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 8.25.2020 - Item #40 - Funding Agreement-KYLE(License.Contribution) (Fully executed)

FUNDING AGREEMENT

This Funding Agreement (the “Agreement”) is made and entered into to be effective as of _____, 2020 between Hays County, a political subdivision of the State of Texas (the “County”), 712 South Stagecoach Trail, Suite 2057, San Marcos, Texas, 78666 and The City of Kyle, a Texas Municipality, (the “City”) in an effort to collocate the various 9-1-1 communication centers in Hays County, Texas. County and City may be referred to, collectively, as the “Parties.”

RECITALS

WHEREAS, the County and the City recognized the need to achieve a higher level of success by improving the effectiveness of the County’s 9-11 emergency services to the citizens and visitors of Hays County by combining County 9-1-1 communication centers; and

WHEREAS, on or about December 4, 2012, in order to improve this effectiveness of the County’s 9-1-1 emergency services, the County and the City entered into a funding agreement for the development and construction of a new, co-located 9-1-1 emergency communications center; and

WHEREAS, as part of the planning and development related to a new co-located 9-1-1 emergency communications center, the Parties agreed to the setup of Tyler New World Computer Aided Dispatch (CAD) system;

WHEREAS, the City agreed to contribute, *pro rata*, toward the annual cost of the Tyler New World CAD Maintenance Agreement starting in Fiscal Year 2021.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and obligations of the Parties in this Agreement, the County and City agree as follows:

ARTICLE 1 PURPOSE

The purpose of this Agreement is to set forth the terms and conditions under which the City will help provide funding in an amount not to exceed Fifty-Thousand United States Dollars (\$50,000 USD) to the County for partial payment of Tyler New World CAD Maintenance Agreement for ongoing maintenance and licenses of the CAD system in the co-located 9-1-1 emergency communications center for Fiscal Year 2021.

ARTICLE 2 OBLIGATIONS AND FUNDING FROM THE CITY

2.1 The City shall pay to the County a sum not to exceed Fifty-Thousand United States

Dollars (\$50,000USD) in current funds, as the City's portion of the annual Tyler New World CAD Maintenance Agreement for Fiscal Year 2020.

2.2 The City's eleven percent (11%) share is calculated by the percentage of total 9-1-1 emergency calls for service in Hays County received by the Kyle Police Department.

2.3 Said monies shall be paid out of current funds, shall be payable in cash, and shall not be the subject of any claim of offset or credit by the City.

2.4 The Fifty-Thousand United States Dollars (\$50,000USD) payment is due to Hays County within thirty (30) days after the beginning of Fiscal Year 2021.

ARTICLE 3 OBLIGATIONS OF THE COUNTY

3.1 The County agrees to utilize the funds it receives under this Agreement to pay for expenses related to Tyler New World CAD Maintenance Agreement

ARTICLE 4 TERM AND TIME OF PERFORMANCE

The effective date of this agreement shall be the date last executed by the Parties, below (the "Effective Date"). The term of the Agreement shall continue from the Effective Date until the completion of the work described in Exhibit "A." The obligations of the Parties shall continue during the Term.

ARTICLE 5 SUCCESSORS AND ASSIGNS

The County and the City, respectively, bind themselves, their successors, assigns and legal representatives to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all covenants of this Agreement. The City shall not assign any interest in this Agreement without the written consent of the County.

ARTICLE 6 NOTICE

Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests, or communications related to non-compliance issues required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to the County:

Hays County
Attn: County Judge
111 E. San Antonio, Suite 300
San Marcos, Texas 78666

If to the City:

City of Kyle
Attn: _____

Kyle, Texas 78640

**ARTICLE 7
MISCELLANEOUS**

7.1 Entire Agreement. This Agreement represents the entire and integrated agreement between the County and the City and supersedes all prior negotiations, representations or arguments either written or oral.

7.2 Lawful Authority. The execution and performance of this Agreement by the County and the City have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of the County and the City in accordance with its terms.

7.3 Amendments. No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing and dated subsequent to the date hereof and duly executed by the parties hereto.

7.4 Indemnification. It is understood and agreed between the Parties that the County and the City, in executing this Agreement, and in performing their respective obligations, are acting independently, and not in any form of partnership or joint venture. **THE COUNTY ASSUMES NO RESPONSIBILITIES OR LIABILITIES TO ANY THIRD PARTIES IN CONNECTION WITH THIS AGREEMENT, AND THE CITY AGREES TO INDEMNIFY, DEFEND AND HOLD THE COUNTY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FROM ANY SUCH LIABILITIES**

7.5 Construction. The captions and headings contained in this Agreement are solely for convenient reference and will not be deemed to affect the meaning or interpretation of any provision or paragraph hereof. All references in this Agreement to any particular gender are for convenience only and will be construed and interpreted to be of the appropriate gender. For the purposes of this Agreement, the term “will” is mandatory. Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing such provision, and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.

7.6 Conflict with Applicable Law. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, ordinance or administrative executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have not legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

7.7 No Waiver. No waiver by the County of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

7.8 Public Information Act. Hays County is governed by the Texas Public Information Act, Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this Agreement may be subject to release under this Act.

7.9 Additional Documents. The City and the County covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

7.10 Compliance with Laws. In performing this Agreement, the City will comply with all local, state and federal laws.

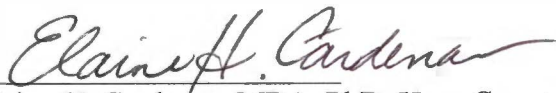
7.11 Counterparts. This Agreement has been executed by the parties in multiple originals or counterparts each having full force and effect.

This Funding Agreement is hereby EXECUTED on this 25th day of August, 2020.

County of Hays:

By: 
Ruben Becerra Hays County Judge

ATTEST:


Elaine H. Cardenas, MBA, PhD, Hays County Clerk



The City of Kyle

By: _____

Name:
Title:



CITY OF KYLE, TEXAS

Amendments to the Interlocal Cooperation Agreements with the Austin Regional Intelligent Center

Meeting Date: 10/6/2020

Date time: 7:00 PM

Subject/Recommendation: Approve and Authorize the Chief of Police to Execute Two Amendments to the Interlocal Cooperation Agreements with the Austin Regional Intelligent Center for the Purpose of Adding New Partner Agencies to the Original Agreement. ~ *Jeff Barnett, Chief of Police*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Amendment Three Sustainment of Funding ARIC 2020
- Amendment Three ARIC 2020

**AMENDMENT THREE TO INTERLOCAL COOPERATION AGREEMENT FOR
SUSTAINMENT FUNDING FOR THE
AUSTIN REGIONAL INTELLIGENCE CENTER (ARIC)**

This Amendment Three to the Interlocal Cooperation Agreement for Sustainment Funding for the Austin Regional Intelligence Center (ARIC) is made and entered by and between the following parties:

City of Austin on behalf of its Police Department,
Austin Independent School District on behalf of its Police Department,
City of Georgetown on behalf of its Police Department,
Hays County on behalf of its Sheriff's Office,
City of Pflugerville on behalf of its Police Department,
City of Round Rock on behalf of its Police Department,
City of San Marcos on behalf of its Police Department,
Travis County on behalf of its Sheriff's Office,
University of Texas on behalf of its Police Department, and
Williamson County on behalf of its Sheriff's Office.
Austin Community College on behalf of its Police Department,
Texas State University on behalf of its Police Department,
City of Cedar Park on behalf of its Police Department,
Pflugerville Independent School District on behalf of its Police Department,
City of Kyle on behalf of its Police Department, and
City of Buda on behalf of its Police Department.
City of Sunset Valley on behalf of its Police Department,
City of Manor on behalf of its Police Department,
City of Bastrop on behalf of its Police Department.
(Collectively referred to as the "Current Partner Agencies" in this Amendment)

And

City of Lakeway on behalf of its Police Department,
City of West Lake Hills on behalf of its Police Department,

City of Bee Cave on behalf of its Police Department,
Hutto Independent School District on behalf of its Police Department,
City of Elgin on behalf of its Police Department.
(Collectively referred to as the “New Partner Agencies” in this Amendment).

Collectively, the Current Partner Agencies and the New Partner Agencies are referred to as “Partner Agencies.”

RECITALS

The ARIC is a collaborative effort of public safety agencies in Hays, Travis and Williamson Counties. Current Partner Agencies work together to provide resources, expertise, and information to the Center. ARIC focuses on regional public safety data analysis. The mission of ARIC is to maximize the ability to detect, prevent, apprehend, and respond to criminal and terrorist activity.

During the summer and fall of 2010, each of the original 10 Partner Agencies’ governing bodies (“Original Partner Agencies”) approved an interlocal cooperation agreement that established and outlined the intent of the Original Partner Agencies to centralize efforts and co-locate certain intelligence operations (Original ARIC Agreement). Further, the Original ARIC Agreement established a framework for the organization of the ARIC. The Original ARIC Agreement set out a common understanding of the policies and procedures that the ARIC currently follows in providing criminal intelligence and coordination of law enforcement service to the citizens in the Austin- Round Rock metropolitan area.

During the summer and fall of 2012, each of the Original Partner Agencies’ governing bodies approved a second interlocal cooperation agreement that established a funding mechanism to sustain the operations of ARIC (ARIC Sustainment Funding Agreement).

Section XIII of the Original ARIC Agreement and section seven of the ARIC Sustainment Funding Agreement permit those agreements to be amended to add additional partner agencies. Upon approval of an amendment adding a new partner agency or agencies by the Partner Agencies’ governing bodies, each New Partner Agency must execute a Counterpart

Original ARIC Agreement and a Counterpart ARIC Sustainment Funding Agreement.

The purpose of this Amendment Three to the ARIC Sustainment Funding Agreement is to add the New Partner Agencies to the ARIC Sustainment Funding Agreement.

Legal authority for amending and entering into these agreements by the Current Partner Agencies and New Partner Agencies is found in the Interlocal Cooperation Act, Texas Government Code Chapter 791 and the Interagency Cooperation Act, Texas Government Code Chapter 771.

NOW, THEREFORE, the Current Partner Agencies agree to amend the ARIC Sustainment Funding Agreement, and the New Partner Agencies each agree to execute Counterpart ARIC Sustainment Funding Agreements and amend that agreement as follows:

AMENDMENT TO ARIC SUSTAINMENT FUNDING AGREEMENT

1.0 LIST OF PARTIES

The list of parties at the beginning of the ARIC Sustainment Funding Agreement is deleted and the following is substituted in its place:

This Interlocal Cooperation Agreement (the Agreement) is made and entered by and between City of Austin through its Police Department, Austin Independent School District through its Police Department, City of Georgetown through its Police Department, Hays County through its Sheriff's Office, City of Pflugerville through its Police Department, City of Round Rock through its Police Department, City of San Marcos through its Police Department, Travis County through its Sheriff's Office, University of Texas through its Police Department, Williamson County through its Sheriff's Office, Austin Community College through its Police Department, Texas State University through its Police Department, City of Cedar Park through its Police Department, Pflugerville Independent School District through its Police Department, City of Kyle through its Police Department, City of Buda through its Police Department, City of Sunset Valley through its Police Department, City of Manor through its Police Department, City of Bastrop through its Police Department, City of Lakeway through its Police Department, City of West Lake Hills through its Police Department, City of Bee Cave through its Police Department, Hutto Independent School District through its Police Department, and the City of Elgin through its Police Department.

2.0 EFFECTIVE DATE OF THIS AMENDMENT.

This Amendment is effective when it has been approved by the governing body of each and every Partner Agency and executed by their authorized representatives.

CITY OF AUSTIN on behalf of its POLICE DEPARTMENT

By: *Rfu* Date: *06/03/2020*
Assistant City Manager

AUSTIN INDEPENDENT SCHOOL DISTRICT on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF GEORGETOWN on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

HAYS COUNTY on behalf of the HAYS COUNTY SHERIFF'S OFFICE

By: _____ Date: _____

CITY OF ROUND ROCK on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF SAN MARCOS on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

TRAVIS COUNTY on behalf of the TRAVIS COUNTY SHERIFF'S OFFICE

By: _____ Date: _____

UNIVERSITY OF TEXAS on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

WILLIAMSON COUNTY on behalf of WILLIAMSON COUNTY SHERIFF'S OFFICE

By: _____ Date: _____

CITY OF PFLUGERVILLE on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

AUSTIN COMMUNITY COLLEGE on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

TEXAS STATE UNIVERSITY on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF CEDAR PARK on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

PFLUGERVILLE INDEPENDENT SCHOOL DISTRICT on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF KYLE on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF BUDA on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF SUNSET VALLEY on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF MANOR on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF BASTROP on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF LAKEWAY on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF WEST LAKE HILLS on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF BEE CAVE on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

HUTTO INDEPENDENT SCHOOL DISTRICT on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF ELGIN on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

AMENDMENT THREE TO INTERLOCAL COOPERATION AGREEMENT
FOR THE
AUSTIN REGIONAL INTELLIGENCE CENTER (ARIC)

This Amendment Three to the Interlocal Cooperation Agreement for the Austin Regional Intelligence Center (ARIC) is made and entered by and between the following parties:

City of Austin on behalf of its Police Department,
Austin Independent School District on behalf of its Police Department,
City of Georgetown on behalf of its Police Department,
Hays County through Hays County Sheriff's Office,
City of Pflugerville on behalf of its Police Department,
City of Round Rock on behalf of its Police Department,
City of San Marcos on behalf of its Police Department,
Travis County through Travis County Sheriff's Office,
University of Texas on behalf of its Police Department,
Williamson County through Williamson County Sheriff Office,
Austin Community College on behalf of its Police Department
Texas State University on behalf of its Police Department,
City of Cedar Park on behalf of its Police Department,
Pflugerville Independent School District on behalf of its Police Department,
City of Kyle through its Police Department, and
City of Buda on behalf of its Police Department.
City of Sunset Valley on behalf of its Police Department,
City of Manor on behalf of its Police Department,
City of Bastrop on behalf of its Police Department.
(Collectively referred to as the "Current Partner Agencies" in this Amendment).

And

The City of Lakeway on behalf of its Police Department
The City of West Lake Hills on behalf of its Police Department
The City of Bee Cave on behalf of its Police Department
Hutto Independent School District on behalf of its Police Department

The City of Elgin on behalf of its Police Department
(Collectively referred to as the “New Partner Agencies” in this Amendment).

Collectively, the Current Partner Agencies and the New Partner Agencies are referred to as “Partner Agencies.”

RECITALS

ARIC is a collaborative effort of public safety agencies in Hays, Travis, Williamson, and Bastrop Counties. Partner Agencies work together to provide resources, expertise, and information to the ARIC. ARIC focuses on regional public safety data analysis. The mission of ARIC is to maximize the ability to detect, prevent, apprehend, and respond to criminal and terrorist activity.

During the summer and fall of 2010, each of the original 10 Partner Agencies’ governing bodies (“Original Partner Agencies”) approved an interlocal cooperation agreement that established and outlined the intent of the Original Partner Agencies to centralize efforts and co-locate certain intelligence operations (Original ARIC Agreement). Further, the Original ARIC Agreement established a framework for the organization of the ARIC. The Original ARIC Agreement set out a common understanding of the policies and procedures that the ARIC currently follows in providing criminal intelligence and coordination of law enforcement service to the citizens in the Austin Round Rock metropolitan area.

During the summer and fall of 2012, each of the Original Partner Agencies’ governing bodies approved a second Interlocal Cooperation Agreement that established a funding mechanism to sustain the operations of ARIC (ARIC Sustainment Funding Agreement).

Section XIII of the Original ARIC Agreement and section seven of the ARIC Sustainment Funding Agreement permit these agreements to be amended to add additional partner agencies. Upon approval of an amendment adding a new partner agency or agencies by the Partner Agencies’ governing bodies, each New Partner Agency must execute a Counterpart Original ARIC Agreement and a Counterpart ARIC Sustainment Funding Agreement.

The purpose of this Amendment Three to the Original ARIC Agreement is to add the New Partner Agencies to the Original ARIC Agreement.

Legal authority for amending and entering into these Agreements by the Current Partner Agencies and New Partner Agencies is found in the Interlocal Cooperation Act, Texas Government Code Chapter 791 and the Interagency Cooperation Act, Texas Government Code Chapter 771.

NOW, THEREFORE, the Current Partner Agencies agree to amend the Original ARIC Agreement, and the New Partner Agencies each agree to execute Counterpart Original ARIC Agreements and amend that agreement, as follows:

AMENDMENT TO ORIGINAL ARIC AGREEMENT

1.0 LIST OF PARTIES

The list of parties at the beginning of the Original ARIC Agreement is deleted and the following is substituted in its place:

This Interlocal Cooperation Agreement (the Agreement) is made and entered by and between City of Austin through its Police Department, Austin Independent School District through its Police Department, City of Georgetown through its Police Department, Hays County through its Sheriff's Office, City of Pflugerville through its Police Department, City of Round Rock through its Police Department, City of San Marcos through its Police Department, Travis County through its Sheriff's Office, University of Texas through its Police Department, Williamson County through its Sheriff's Office, Austin Community College through its Police Department, Texas State University through its Police Department, City of Cedar Park through its Police Department, Pflugerville Independent School District through its Police Department, City of Kyle through its Police Department, City of Buda through its Police Department, City of Sunset Valley through its Police Department, City of Manor through its Police Department, City of Bastrop through its Police Department, City of Lakeway through its Police Department, City of West Lake Hills through its Police Department, City of Bee Cave through its Police Department, Hutto Independent School District through its Police Department, and the City of Elgin through its Police Department.

2.0 XX NOTICE

Section XX (Notice) of the Original ARIC Agreement is amended by adding subsection G to read as follows:

G. Notices pursuant to this Interlocal Agreement after this amendment becomes effective, shall also be delivered or sent to:

City of Lakeway

City of West Lake Hills

City of Bee Cave

Hutto ISD

City of Elgin

3.0 EFFECTIVE DATE OF THIS AMENDMENT

This Amendment is effective when it has been approved by the governing body of each and every Partner Agency and executed by their authorized representatives.

CITY OF AUSTIN on behalf of its POLICE DEPARTMENT

By: *R. J. ...*

Date: *06/03/2020*

Assistant City Manager

AUSTIN INDEPENDENT SCHOOL DISTRICT on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF GEORGETOWN on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

HAYS COUNTY on behalf of the HAYS COUNTY SHERIFF'S OFFICE

By: _____ Date: _____

CITY OF ROUND ROCK on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF SAN MARCOS on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

TRAVIS COUNTY on behalf of the TRAVIS COUNTY SHERIFF'S OFFICE

By: _____ Date: _____

UNIVERSITY OF TEXAS on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

WILLIAMSON COUNTY on behalf of WILLIAMSON COUNTY SHERIFF'S OFFICE

By: _____ Date: _____

CITY OF PFLUGERVILLE on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

AUSTIN COMMUNITY COLLEGE on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

TEXAS STATE UNIVERSITY on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF CEDAR PARK on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

PFLUGERVILLE INDEPENDENT SCHOOL DISTRICT on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF KYLE on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF BUDA on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF SUNSET VALLEY on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF MANOR on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF BASTROP on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF LAKEWAY on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF WEST LAKE HILLS on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF BEE CAVE on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

HUTTO INDEPENDENT SCHOOL DISTRICT on behalf of its POLICE DEPARTMENT

By: _____ Date: _____

CITY OF ELGIN on behalf of its POLICE DEPARTMENT

By: _____ Date: _____



CITY OF KYLE, TEXAS

City Manager's Report

Meeting Date: 10/6/2020

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*

- Free COVID Testing in Kyle
- Fall Mass Food Distribution Events
- Ash Pavilion Ribbon Cutting
- Lowe's Distribution Center
- Voting Info
- Proposition A Bond Open House
- Columbus Day Holiday

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Executive Session - Convene

Meeting Date: 10/6/2020

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.
 - o Cause Number 19-1492; 1200 S. Old Stagecoach Road, LLC v. City of Kyle, Texas; pending in the 22nd Judicial District Court of Hays County, Texas
 - o Changeable Electronic Variable Message Sign
 - o Bunton Lane Development Agreement & PIDs
 - o Development Standards
 - o Lila Knight, Timothy A. Kay, Helen Brown-Kay, and Save Our Springs v. City of Kyle, Texas
 - o Cause Number 5:20-cv-01128-FB-RBF; John David Ferrara v. Terry Jay Wallace, Jeffrey Barnett, and Edward Sandoval in the United States District Court for the Western District of Texas, San Antonio Division
 - o 104 S. Burleson and Design Build Agreement
 - o 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.
 - o Project Wild Blue
 - o Project Indigo
 - o Project Wild Strawberry
 - o 104 S. Burleson and Design Build Agreement

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Reconvene

Meeting Date: 10/6/2020
Date time: 7:00 PM

Subject/Recommendation: Take action on items discussed in Executive Session.

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available