

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>
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 20, 2020, at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640; Spectrum 10; <https://www.cityofkyle.com/kyletv/kyle-10-live>
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 15th day of October, 2020, prior to 7:00 p.m.

I. Call Meeting to Order

1. City Council Special Meeting Minutes - October 6, 2020. ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes - October 6, 2020. ~ *Jennifer Holm, City Secretary*

II. 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.

III. Presentation

4. Update on the progress of Old Post Road. ~ *Dex Ellison, Council Member*
5. Presentation on Streets Division and projects. ~ *Harper Wilder, Director of Public Works*
6. Presentation on Marijuana Statistics. ~ *Dex Ellison, Council Member*
7. CIP/Road Projects and Consent Agenda Presentation. ~ *Travis Mitchell, Mayor*
8. Presentation regarding launch of projects module on city website. ~ *Samantha Armbruster, Director of Communications*

IV. Consent Agenda

9. Agreement Between the City of Kyle Reinvestment Zone #2 and the City of Kyle Texas for the Reimbursement of Maintenance Expenses for the Parking Structures and Associated Landscaping for the Performing Arts Center Owned by Hays Consolidated Independent School District. ~ *James R. Earp, Assistant City Manager*
10. Approve Second Addendum to the City of Kyle's Landscape Management Contract of October 1, 2020 with WLE, LLC, to increase the contract award amount by \$27,584.43 for additional grounds and parking lot maintenance services at the Hays Consolidated School District's Performing Arts Center facility. ~ *James R. Earp, Assistant City Manager*
11. Approve a two-year term renewal for the City's investment advisory services agreement with HILLTOP SECURITIES ASSET MANAGEMENT, LLC, to begin effective November 1, 2020 and end October 31, 2022. ~ *Perwez A. Moheet, CPA, Director of Finance*

V. Consider and Possible Action

12. Approve a Resolution approving the Resolution by the Board of Directors of the Alliance Regional Water Authority (ARWA) authorizing the issuance of Contract Revenue Bonds, Series 2020B in the amount of \$34,530,000.00 for the City of Kyle's share of capital costs for the regional water supply contract project.

~ James R. Earp, Assistant City Manager & Graham Moore. Executive Director of ARWA

- Public Hearing

13. Authorize award and execution of a purchase order to M.A. SMITH CONTRACTING CO., INC., Austin, Texas, lowest and most responsible bidder, in an amount not to exceed \$2,607,513.40 which includes a five (5) percent contingency for the reconstruction and widening of Windy Hill Street. ~ Leon Barba, P.E., City Engineer
14. Approve a resolution of support for the Transportation Development Credit application. ~ J. Scott Sellers, City Manager
15. (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 2.4 acres of land from Multi-Family Residential-3 'R-3-3' to Residential Condominium District 'R-1-C' for property located at 104 Creekside Trail, in Hays County, Texas. (KCW Interests 3, LLC, Whited Enterprises, LLC D/B/A Vision Partners and FHC Consolidated - Z-20-0063) ~ Howard J. Koontz, Director of Planning and Community Development

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

- Public Hearing

16. (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, to assign original zoning to approximately 2.67 acres of land from Agriculture 'AG' to Retail Service District "RS' for property located at 1805 W. RR 150, in Hays County, Texas. (Covey Fund I, LP - Z-20-0064) ~ Howard J. Koontz, Director of Planning and Community Development

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

- Public Hearing

17. Request to Consent for the Addition of Land to North Hays County Municipal Utility District No. 1. ~ J. Scott Sellers, City Manager
18. [*Postponed 10/6/2020*] Consider approval of Brohn Homes (Casetta Ranch) ROW license agreement. ~ Howard J. Koontz, Director of Planning and Community Development
19. (*Second 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.

City Council voted 6-1 to approve on First Reading.

VI. City Manager's Report

20. 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*
 - November 3 - Election Day/Council Meeting
 - Kyle Mass Food Distribution Event
 - Wastewater Averaging
 - Early Voting
 - West RM 150 Naming Committee Meeting
 - Spook-Tacular Cruise
 - Free COVID Testing

VII. Executive Session

21. 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.
 - Alexander Property
 - Coronavirus Relief Funds
 - Barton PID
 - K47
 - Low income development on Philomena
 - 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
 - Delinquent utility account at New Haven Assisted Living and Memory Care
 - Changeable Electronic Variable Message Sign
 - 104 S Burlison and Design Build Agreement
 - North Hays County Municipal Utility District No. 1
 - Agreement with LaSalle MUD
 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 Indigo
- Project Shamrock
- Project Black Stamp
- Project Cranberry
- Project Out of the Blue

22. Take action on items discussed in Executive Session.

VIII. 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 1006 Special Minutes

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: City Council Special Meeting Minutes - October 6, 2020. ~ *Jennifer Holm, City Secretary*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 2020 1006 DRAFT Special Council Meeting Minutes

SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session at Kyle City Hall on October 6, 2020 and due to COVID-19, some members attended virtually (v) at Spectrum 10; <https://www.cityofkyle.com/kyletv/kyle-10-live> with the following persons present:

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

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 5:35 p.m. Mayor Mitchell asked the city secretary to call roll.

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

Mayor Pro Tem Koch and Council Member Villalobos were absent. Mayor Pro Tem Koch arrived at 5:36 p.m.

II. Citizen Comment Period with City Council

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

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

III. Executive Session

2. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.
 1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
 - 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

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 - 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; 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 Wild Blue, Project Indigo, Project Wild Strawberry, 104 S. Burlson and Design Build Agreement.”

The City Council convened into executive session at 5:38 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 6-0.

The City Council reconvened into open session at 7:05 p.m. Mayor Mitchell announced that no action took place in Executive Session, but action would be taken now.

IV. Consider and Possible Action

4. Approve an Engagement letter for legal services with Russell Rodriguez Hyde Bullock, LLP. ~ *Paige Saenz, City Attorney*

Council Member Scheel moved to approve an Engagement letter for legal services with Russell Rodriguez Hyde Bullock, LLP. Mayor Mitchell seconded the motion. All votes aye; motion carried 6-0.

V. Adjourn

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

With no further business to discuss, the City Council adjourned at 7:07 p.m.

Travis Mitchell, Mayor

Attest:

Jennifer A. Holm, City Secretary



CITY OF KYLE, TEXAS

2020 1006 Minutes

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: City Council Meeting Minutes - October 6, 2020. ~ *Jennifer Holm, City Secretary*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ 2020 1006 DRAFT Council Meeting Minutes

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session at Kyle City Hall on October 6, 2020 and due to COVID-19, some members attended virtually (v) at Spectrum 10; <https://www.cityofkyle.com/kyletv/kyle-10-live> with the following persons present:

Mayor Travis Mitchell (v)	Tim McHutchion
Mayor Pro Tem Rick Koch (v)	Michele Christie
Council Member Dex Ellison (v)	Katie Civgin
Council Member Tracy Scheel	Chris Pangilinan
Council Member Robert Rizo	Scott Miller
Council Member Alex Villalobos (v)	Danny Gilpin
Council Member Michael Tobias (v)	Johnny McDonnell
Scott Sellers, City Manager	
James Earp, Assistant City Manager (v)	
Paige Saenz, City Attorney (v)	
Jerry Hendrix, Chief of Staff (v)	
Samantha Armbruster, Communications Dir.	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer (v)	
Kathy Roecker, SWMP Administrator (v)	
Diana Torres, Economic Dev Director (v)	
Perwez Moheet, Finance Director (v)	
Sandra Duran, HR Director (v)	
Matt Dawson, IT Director	
Paul Phelan, Library Director (v)	
Howard Koontz, Community Dev Director (v)	
Jeff Barnett, Chief of Police (v)	
Harper Wilder, Director of Public Works (v)	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 7:08 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, and Council Member Tobias. A quorum was present. Council Member Villalobos was absent. He arrived at approximately 7:50 p.m.

III. Citizen Comment Period with City Council

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

Mayor Mitchell opened citizen comments at 7:09 p.m.

Glen Hurlston was called to speak as registered. He read a transcript from an investigation from 2014 and made reference to Chief Barnett.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:13 p.m.

II. Approval of Minutes

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

Mayor Mitchell brought forward the minutes for discussion out of order after stating that Item No. 4 would be delayed.

Council Member Scheel moved to approve the minutes of the September 15, 2020 Special Council Meeting and the minutes of the September 15, 2020 Council Meeting. Council Member Rizo seconded the motion. All votes aye; motion carried 6-0.

IV. Appointments

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

Mayor Mitchell stated that Item No. 4 would be delayed. There were no objections. Mayor Mitchell then moved to Approval of the Minutes.

Mayor Mitchell brought forward Item No. 4 simultaneously during discussion of Item No. 19. See discussion under Consent Agenda.

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

Mayor Mitchell brought forward Item No. 5 for discussion. Mr. Koontz presented the item.

Tim McHutchion and Michele Christie were available for any questions. There were none.

Mayor Mitchell moved to approve nominations of Michele Christie, Megan McCall, and Tim McHutchion for reappointments to the Planning and Zoning Commission to fill expired terms. Council Member Tobias seconded the motion. All votes aye; motion carried 6-0.

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*

Mayor Mitchell brought forward Item No. 6 for discussion. Mr. Sellers presented the item.

Council Member Scheel moved to appoint Jerry Hendrix as the City of Kyle representative to the San Marcos Hays County Emergency Medical Service Board of Directors. Council Member Ellison seconded the motion.

There was discussion on the motion. Council Member Ellison stated that he is glad Mr. Sellers acknowledged Mr. Earp's long time of service on this board. Mayor Mitchell stated that this is an effort to become more streamlined. He stated his thanks to Mr. Sellers, Mr. Earp and Mr. Hendrix for their Team Kyle attitude.

All votes aye; motion carried 6-0.

V. Presentation

7. Hill Country Night Sky Month Proclamation. ~ *Robert Rizo, Council Member*

Mayor Mitchell brought forward Item No. 7 for discussion and gave the floor to Council Member Rizo who read the proclamation. No action was taken.

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

Mayor Mitchell brought forward Item No. 8 for discussion and gave the floor to Mayor Pro Tem Rick Koch who presented the item. Mr. Hendrix also provided a presentation on the program. Ms. Katie Civgin with Uber spoke about the partnership with the City of Kyle. Mr. Chris Pangilinan also spoke on behalf of Uber. Council Member Villalobos arrived at approximately 7:50 p.m. No action was taken.

9. Presentation on Wukasch Land Conceptual Plan. ~ *Scott Miller, Ranch Road Development*

Mayor Mitchell brought forward Item No. 9 for discussion. Mr. Miller presented the item. No action was taken.

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

Mayor Mitchell brought forward Item No. 10. Mr. Leon Barba presented the item. No action was taken.

VI. Consent Agenda

Mayor Mitchell brought forward the Consent Agenda and stated that Item No. 15 would be pulled and asked if there were any other items to be pulled from the Consent Agenda. Council Member Scheel requested to pull Item No. 16 and 17, and Council Member Ellison requested to pull Item No. 18. Mayor Mitchell brought forward Item Nos. 11, 12, 13, 14, and 19.

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*

Council Member Scheel moved to approve Consent Agenda Item Nos. 11, 12, 13, 14, and 19. Council Member Tobias seconded the motion. All votes aye, motion carried 7-0.

15. Consider approval of Brohn Homes (Casetta Ranch) ROW license agreement. ~ *Howard J. Koontz, Director of Planning and Community Development*

Mayor Mitchell brought forward Item No. 15.

Mayor Mitchell moved to postpone Item No. 15 until the next regularly scheduled meeting October 20, 2020. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

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*

Mayor Mitchell brought forward Item No. 16 and gave the floor to Council Member Scheel who pulled the item. Mr. Hendrix presented the item.

Council Member Scheel moved to approve Item No. 16. Council Member Villalobos seconded the motion.

There was discussion on the motion. Council Member Rizo asked how often they are operating. Mr. Hendrix stated he believes they are operating twice per week. Council Member Rizo stated that they are looking to expand to five days per week and he is working with St. Anthony's Catholic Church to see if they can accommodate the growing needs for a larger kitchen.

All votes aye; motion carried 7-0.

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*

Mayor Mitchell brought forward Item No. 17 and gave the floor to Council Member Scheel who pulled the item. She wanted to know where they polling locations are and what dates and times. Mr. Sellers stated that he could provide this information in the City Manager's Report.

Council Member Scheel moved to approve Item No. 17. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

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*

Mayor Mitchell brought forward Item No. 18 and gave the floor to Council Member Ellison.

He stated that he meant to pull Item No. 19, which has already been approved. Ms. Armbruster presented the item. Ms. Saenz presented Item Nos. 18, 19, and 4.

Council Member Scheel moved to approve Item No. 18. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

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*

Mayor Mitchell moved to reconsider the vote on Item No. 19. Council Member Rizo seconded the motion. All votes aye; motion carried 7-0.

Mayor Mitchell brought forward Item Nos. 19 and 4 simultaneously. Ms. Armbruster presented Item No. 4.

Mayor Mitchell moved to approve all 15 applicants. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

Mayor Mitchell moved to amend his motion to include approval of Item No. 19 with 15 filled in the blank. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

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*

Mayor Mitchell brought forward Item No. 20 for discussion. Mr. Earp presented the item. Mr. Johnny McDonnell with WLE spoke on this item.

Mayor Mitchell moved to approve the First Addendum to the Landscape Management Contract of October 1, 2020 with WLE, LLC. Council Member Villalobos seconded the motion. All votes aye; motion carried 7-0.

Mayor Mitchell asked whether there were any objections to having Item Nos. 17 and 18 finally passed. There were none.

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*

Mayor Mitchell brought forward Item No. 21 for discussion. Mr. Barba presented the item.

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

There were no objections to the item being finally passed.

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*

Mayor Mitchell brought forward Item No. 22 for discussion. Council Member Villalobos stated that he needs to leave for the discussion and action on this item. He left the meeting at 9:21 p.m. Chief Barnett presented the item.

Mayor Mitchell moved to approve a Funding Agreement Hays County in an amount of with \$50,000.00 for Colocation of 9-1-1 communication centers. Council Member Tobias seconded the motion. All votes aye; motion carried 6-0.

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 Barnett, Chief of Police*

Mayor Mitchell brought forward Item No. 23 for discussion. Chief Barnett presented the item. Council Member Villalobos returned to the meeting at approximately 9:25 p.m.

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

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

Mr. Sellers spoke about Free COVID Testing in Kyle; Fall Mass Food Distribution Events; Ash Pavilion soft opening, with plans for a Post-COVID formal ribbon cutting; Lowe's Distribution Center; Voting Information including dates, times and locations; Proposition A Bond Open House; and the Columbus Day Holiday. He also spoke about the upcoming TIRZ No. 2 Board Meeting on Tuesday, October 13.

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 design Build Agreement Prairie Lakes
 - 104 S. Burlison and Design Build
 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. Burlison and Design Build Agreement

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; 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. Burlison and Design Build Agreement; 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 Wild Blue and 104 S. Burlison and Design Build Agreement.”

The City Council convened into executive session at 9:40 p.m.

26. Take action on items discussed in Executive Session.

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

The City Council reconvened into open session at 11:28 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

X. Adjourn

Mayor Mitchell moved to adjourn. Mayor Pro Tem Koch seconded the motion. All votes aye, motion carried 7-0.

With no further business to discuss, the City Council adjourned at 11:28 p.m.

Travis Mitchell, Mayor

Attest:

Jennifer A. Holm, City Secretary



CITY OF KYLE, TEXAS

Old Post Road

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: Update on the progress of Old Post Road. ~ *Dex Ellison, Council Member*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Streets Division and projects

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: Presentation on Streets Division and projects. ~ *Harper Wilder, Director of Public Works*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Marijuana Statistics

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: Presentation on Marijuana Statistics. ~ *Dex Ellison, Council Member*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 9-2020 Arrest breakdown memo
- POM Monthly Stat Sheet 9-2020



Date: October 8, 2020
To: Jeff Barnett, Chief of Police
CC: Pedro Hernandez, Captain
From: Tim Griffith, Lieutenant

Re: September 2020 Monthly Arrest Statistics

At the beginning of September we began to track how often our Officers are diverting low level marijuana offenders from the court system through the use of their discretion. During September, our officers worked 2,790 incidents. During that time frame, the Kyle Police Department made 85 total arrests.

62 of those arrests were for misdemeanors, warrants and felonies that did not involve drugs in any way.

17 of those arrests involved felony drugs and of those, 6 also involved misdemeanor marijuana in addition to felony drug charges for that offender

In 6 of the arrest cases, the offenders were charged with either just marijuana possession or possession of marijuana and a class C misdemeanor such as public intoxication or possession of drug paraphernalia. Of these 6 cases, 3 of the offenders would have been eligible for Cite and Release per definition, however officers made a discretionary call to arrest the offender. I will provide the details of those cases shortly.

These numbers do not include the 15 incidents where officers used "street diversion" and no charges were filed on an offender who is released without even receiving a cite and release citation. In these cases, the officers used their discretion to not arrest offenders who are obviously not major threats to society. Often those small amounts of marijuana are destroyed, or drivers whose licenses are suspended to the point that they could be arrested are allowed to leave with a warning.

This is a summary of the 3 cases the officers properly used discretion to arrest cite and release eligible offenders:

Case 1- Officers received a call for a male subject trying to kick in the door of his ex-fiancé's residence, he ultimately gained entry and stole her wallet before officer's arrived and located the suspect. This was the second call that day involving a disturbance between these subjects. However, the female victim declined to file charges for the property offenses and there had not yet been an assault between them. The suspect did possess some marijuana and it was determined he would be arrested rather than cited and released in order to ensure the safety of the victim as the disturbances appeared to be escalating.

Case 2 – Officers located over 2 ounces of marijuana (for those that are not familiar, this is a very large quantity for a single person to possess) along with evidence that indicated the suspect was likely selling and distributing narcotics. Officers also located open alcohol containers in the vehicle and the suspect admitted to drinking several beers while driving. SFSTs were conducted and the suspect was not intoxicated at that time. Decision was made to arrest rather than cite and release due to those circumstances.

Case 3 – A citizen called in a suspicious vehicle that had been parked on the street occupied by two subjects for several hours. Officers made contact with the suspects who were sitting in a vehicle which was not running and there was a strong odor of marijuana emitting from the vehicle. A probable cause search of the vehicle led to the discovery of multiple bags of marijuana in various locations around the car. The driver of the vehicle was obviously intoxicated to the point that person's mental and physical faculties were altered, the decision to arrest was made rather than release to ensure the offender was not driving in that condition.

In summary, our officers made arrests in 3% of all the incidents to which the Kyle Police Department responded. Out of all of the arrests made, 7% were for marijuana alone and only 3 of those offenders were cite and release eligible. Our officer elected to use street diversion, in order to keep offenders out of the system, more than double the amount of times they elected to arrest for misdemeanor marijuana.

Lt. Tim Griffith
Patrol Commander



 512-268-3232  512-268-2330

111 North Front Street, Kyle, TX 78640

www.cityofkyle.com/police

Item # 6

POM Arrests						
Case #	County of Residence	Adult/Juvenile	Ethnicity / Gender	Other Charges	CFS	Other pertinent circumstances
29966	Hays	Adult	H/M	2 x POCS	Traffic	Marijuana hidden on person and discovered during search incident to arrest for POCS
30615	Hays	Adult	H/M	UCW / POCS / Fraud. Use Poss. ID Info/ Tampering Gvt. Record	Traffic	Had a hand gun, methamphetmines, over 20 different people's identifying info used for identity theft and an altered or fake ID card likely used for same purpose
29466	Travis	Juvenile	H/M	4 x POCS / 2 x Burg of Veh. / 2 x UCW / Evading	BMV	juvenile suspects in a group that were burglarizing and stealing vehicles, they evaded but did not escape, multiple drugs and weapons located
28498	Bexar	Adult	H/F	PI	Assist EMS	Marijuana on person discovered during search incident to arrest for Public Intoxication
28667	Travis	Adult	W/M	POCS	Traffic	Subject placed under arrest for Felony controlled substance and POM
30459	Bell	Adult	B/M	Drug in Correctional Facility	Traffic	Arrested for Marijuana possession then attempted to smuggle more marijuana he had concealed in his underwear into the jail
29693	Hays	Adult	B/M	none	Physical Disturbance	Male subject arrested for POM after officers responded to a disturbance where the subject tried to break down the door of his ex-fiance's residence and then stole her wallet. Female declined to file charges for the wallet which was recovered after officers arrived.
29306	Hays	Adult	H/M	PODP	Traffic	Over 2 ounces of Marijuana located along with evidence of drug sales, subject also had open alcohol containers in vehicle however was deemed not intoxicated after SFSTs
30122	Jefferson	Adult	B/M	UCW	Reckless Driver	Suspect stopped for reckless driving, had marijuana and a handgun
28973	Hays	Adult	W/F	PODP	Suspicious Activity	Suspicious vehicle called in sitting on street for several hours. Officers located marijuana in multiple places in vehicle, driver claimed all of it
29858	Lake County, Illinois	Adult x 2	W/M , W/F	POCS	Indecent Exposure	Officers responded to indecent exposure in McDonald's parking lot (couple having sex in car in parking lot) had Felony Controlled substance and Marijuana in vehicle
29367	Travis	Adult	H/M	PI	Assist Outside Agency	Officers responded to residence to locate a missing juvenile from Bexar County, person who was harboring the "runaway" showed up to the house while officers were on scene and brought an intoxicated person with them. That person was arrested for public intoxication and marijuana was located on his person



CITY OF KYLE, TEXAS

CIP/Road Projects Update

Meeting Date: 10/20/2020

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

Project Module presentation

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: Presentation regarding launch of projects module on city website. ~ *Samantha Armbruster, Director of Communications*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

HCISD Landscaping Agreement

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: Agreement Between the City of Kyle Reinvestment Zone #2 and the City of Kyle Texas for the Reimbursement of Maintenance Expenses for the Parking Structures and Associated Landscaping for the Performing Arts Center Owned by Hays Consolidated Independent School District. ~ *James R. Earp, Assistant City Manager*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- TIRZ 2 PAC Maintenance Agreement
- Exhibit A

**AGREEMENT BETWEEN THE CITY OF KYLE REINVESTMENT ZONE #2 AND
THE CITY OF KYLE TEXAS FOR THE REIMBURSEMENT OF MAINTENANCE
EXPENSES FOR THE PARKING STRUCTURES AND ASSOCIATED LANDSCAPING
FOR THE PERFORMING ARTS CENTER OWNED BY HAYS CONSOLIDATED
INDEPENDENT SCHOOL DISTRICT**

This Agreement is between the City of Kyle Reinvestment Zone #2 (the “Zone”) and the City of Kyle Texas, a home-rule municipality (the “City”) for the reimbursement of landscaping and parking facility maintenance within the boundaries of the Performing Arts Center (the “PAC”) which is owned and operated by the Hays Consolidated Independent School District (the “District”) and located wholly within the boundaries of the Zone. This agreement ("Agreement") is entered between the Zone and the City as of the ____ day of _____, 2020, for the purposes and considerations set forth herein.

RECITALS

WHEREAS, the City of Kyle is a Texas home-rule municipality organized in accordance with the laws of the State of Texas; and,

WHEREAS, the Zone was established for the investment in, and continued maintenance of, the public properties within the boundaries of the Zone as established in the authorizing actions that created the Zone; and,

WHEREAS, the Zone entered into a Joint Use agreement with the District in September of 2020 which included the joint use of the PAC parking facilities as described in that agreement and also included the responsibility of the Zone to provide maintenance for the parking facilities and landscaping associated with the PAC; and,

WHEREAS, the City has the capabilities to perform the required maintenance; and,

WHEREAS, the City must abide by public procurement law and has established purchasing rules which the Zone accepts as meeting and satisfying public procurement laws; and,

WHEREAS, the Zone wishes to authorize the City to begin maintenance duties associated with the Zone’s commitment to the District in the Joint Use agreement; and,

WHEREAS, the Zone will reimburse the City for the direct expenses attributed to the maintenance of the PAC’s parking facilities and landscaping; and,

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

WHEREAS, this Agreement is necessary to implement the Project and Financing Plan to achieve the purposes of the Zone.

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

Section 1. MAINTENANCE OF PARKING FACILITIES

- 1.1. **Parking structure repairs and striping.** The repairs that are identified by City Public Works division or requested by the District or Zone will be repaired by City personnel or via a contractor that has been duly accepted by the City through appropriate public procurement processes. City will prepare a budget, at least annually, of the expected annual cost of repairs, to be approved by the Zone. City will track all direct costs of the repair and include those in their reimbursement requests. Repairs will occur as time, personnel, weather and resources allows.
- 1.2. **Emergency Repairs.** Emergency repairs that may exceed the approved budget may occur prior to the City receiving approval of the Zone but will be included in a future amendment to the Zone budget no less than quarterly.
- 1.3. **Reimbursement for Expenses.** Once the City has completed the repairs in 1.1 and 1.2 above, the City will submit an invoice to the Zone.
 - (a) Zone agrees:
 - (i) to appropriate funds to cover the costs of appropriate maintenance and upkeep in accordance with the City's proposed budget; and
 - (ii) to reimburse said expenses timely upon receipt.
- 1.4. **Commencement of Project by City.** Once a budget is accepted by the Zone, repairs will commence no later than within thirty (30) days and continue as needed, weather permitting.

Section 2. MAINTENANCE OF LANDSCAPING

- 2.1 **Landscaping Maintenance.** The City will perform maintenance of the landscaping to include the turf, trees, ornamentals and flower beds on, in or around the PAC property and parking facilities. The target level of care is: weekly visits during the growing season, bi-weekly visits during dormancy; irrigation management and control; the use of pre and post emergent chemicals to aid in weed control; fertilization; and, the use of broad spectrum herbicides. The areas are identified in Exhibit A.
- 2.2 Reimbursement of Expenses. The City will invoice the Zone monthly for the costs associated for providing the maintenance as described in 2.1 above.
 - (a) Zone agrees:
 - (i.) to appropriate funds to cover the costs of appropriate maintenance and

- upkeep in accordance with the City's proposed budget; and
(ii.) to reimburse said expenses timely upon receipt.

Section 3. Notice and Legal

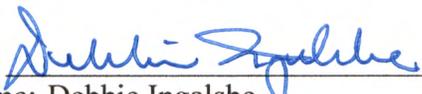
- 3.1 Notice.** Any notice required or permitted to be given under this Agreement by one party to the other shall be in writing and the same shall be deemed to have been served and given if received via email, as a minute order from a duly posted board or council meeting. All notices between and to each party should be directed to the City Manager.
- 3.2 Captions.** Captions are included solely for the purpose of convenience of reference and if there is any conflict between captions and the text of the Agreement, the text shall control.
- 3.3 Construction.** Whenever the context requires, the gender of all words herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural.
- 3.4 Reference.** Unless otherwise specified and adopted, references in this agreement to "Paragraphs" refers to the paragraphs of this Agreement.
- 3.5 Remedy For Partial Invalidity.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable for any reason, then the remainder of the Agreement shall be deemed to be valid and enforceable as if the invalid portion had not been included.
- 3.6 Applicable Law.** This Agreement shall be construed under and in accordance with the laws of the State of Texas.
- 3.7 Venue.** Any action in law or equity brought to enforce or interpret any provision of this Agreement shall be brought in a court of competent jurisdiction with venue in Hays County, Texas.
- 3.8 Other Instruments.** The parties hereto covenant and agree that they shall execute and deliver such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the intent of this Agreement.
- 3.9 Counterparts.** This Agreement may be executed in multiple originals, either of which shall be construed to be an original, by the Mayor of Kyle and the president of County Line Special Utility District.
- 3.10 Effective Date.** This Agreement shall be in full force and effect as of the date first written above.
- 3.11 Term.** This agreement is in effect from the Effective Date for a term of ninety-nine (99) years.

- 3.12 **Authorization.** All parties and officers signing this Agreement warrant to be duly authorized to execute this Agreement.
- 3.13 **Costs and Expenses.** Each party hereby agrees to pay all of its costs and expenses necessary to bring this contract into existence and to implement same.
- 3.14 **Anti-Boycott.** By entering into this agreement with the City, the Zone verifies that the Zone does not boycott Israel and will not boycott Israel during the term of the agreement.

EXECUTED IN DUPLICATE ORIGINALS effective as of the date first written above.

City of Kyle Reinvestment Zone #2

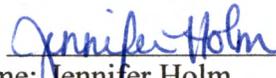
City of Kyle

By: 
Name: Debbie Ingalsbe
Title: Board President

By: _____
Name: Travis Mitchell
Title: Mayor

Attest:

Attest:

By: 
Name: Jennifer Holm
Title: City Secretary

By: _____
Name: Jennifer Holm
Title: City Secretary



Everett St

171

Kohlers Crossing

Hays CISD Performing Arts Center

241 ft

Item # 9



Everett St

171

Kohlers Crossing

Hays CISD Performing Arts Center

241 ft

Item # 9



CITY OF KYLE, TEXAS

2nd Addendum for WLE

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: Approve Second Addendum to the City of Kyle's Landscape Management Contract of October 1, 2020 with WLE, LLC, to increase the contract award amount by \$27,584.43 for additional grounds and parking lot maintenance services at the Hays Consolidated School District's Performing Arts Center facility. ~ *James R. Earp, Assistant City Manager*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

☐ WLE Addendum #2

SECOND ADDENDUM TO LANDSCAPE MANAGEMENT CONTRACT OF OCTOBER 1, 2020

THIS SECOND ADDENDUM TO THE LANDSCAPE MANGEMENT CONTRACT OF October 1, 2020 (the “First Addendum”) is made on October 9, 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 Hays CISD Performing Arts Center
2. Section V.A.1. of the Original Contract is modified to add an additional TWO THOUSAND TWO HUNDRED NINETY-EIGHT AND 70/100 DOLLARS (\$2,298.70) per month to the Fees, which shall be subject to the same upward adjustments outlined for all Fees.
3. Exhibit A of this Second Addendum shall add the maps shown thereto to Exhibit C of the Original Contract.
4. Exhibit B of this Second Addendum shall add the schedules of service attached thereto to Exhibit A of the Original Contract.
5. Number 1 through 4 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.
6. 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 15, 2020

Property Name Hays CISD Performing Arts Center
Property Location 979 Kohler's Crossing, Kyle, Tx 78640
Recipient City of Kyle
Recipient Address City of Kyle
Contact Name James R Earp
Contact Email jearp@cityofkyle.com
Contact Phone 512-262-3924
Est. Revision Number Addendum #2



Standard Services:		Per Cycle (\$)	Cycles (#)	Annual Price (\$)
Turf Maintenance				
	Turf Maintenance, 43 visits	354.97	43	15,263.71
Bed Maintenance				
	Weed Pulling and Spraying	20.98	43	901.96
	8' Canopy, Shrub and Ground Cover Trimming	79.71	12	956.50
Chemical Program				
	Turf: Pre-Emerg. (2), Fertilization (2), Post-Emerg. (2)	7,322.64	1	7,322.64
	Beds: Fertilization (2)	14.82	1	14.82
Irrigation				
	Irrigation System Checks	260.40	12	3,124.80
Total Standard Services Annual Price:				27,584.43
Add'l Service Options:				
Total Contracted Annual Amount:				27,584.43
Total Monthly Amount:				2,298.70



CITY OF KYLE, TEXAS

Term Renewal for Investment Advisory Services Agreement with Hilltop Securities Asset Management, LLC

Meeting Date: 10/20/2020
Date time: 7:00 PM

Subject/Recommendation: Approve a two-year term renewal for the City's investment advisory services agreement with HILLTOP SECURITIES ASSET MANAGEMENT, LLC, to begin effective November 1, 2020 and end October 31, 2022. ~ *Perwez A. Moheet, CPA, Director of Finance*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Renewal - Investment Advisory Services Agreement

RENEWAL AGREEMENT FOR
INVESTMENT ADVISORY SERVICES BY AND BETWEEN
THE CITY OF KYLE TEXAS
AND
HILLTOP SECURITIES ASSET MANAGEMENT, LLC.

This Renewal Investment Advisory Agreement (the “**Agreement**”) is made by and between the City of Kyle (the “**Investor**”) and Hilltop Securities Asset Management, LLC. (“**HSAM**”). This agreement shall be effective as of the date of its acceptance by the Investor, as indicated below.

1. This Agreement renews and extends the original Investment Advisory Agreement, dated as of November 1, 2014 (“**IA Agreement**”), executed by Investor and HSAM (formerly known as First Southwest Asset Management).
2. The term of the IA Agreement is hereby extended for a period of 24 months from November 1, 2020 to October 31, 2022. As consideration for the services provided by HSAM under this Agreement, HSAM will be entitled to a fee, which Investor agrees to pay in accordance with Schedule A of the original IA Agreement.
3. All written communication to the Investor shall be sent to the Investor’s address set forth below or as directed in writing to HSAM by the Investor. Any written communication from the Investor to HSAM under this Agreement must be in written form and mailed or delivered to:

Hilltop Securities Asset Management, LLC.
300 West Sixth Street, Suite 1940
Austin, Texas 78701
Attention: Mr. Scott McIntyre
Fax Number: (512) 481-2020

Any notice, statement, or other communication mailed to the other party to this Agreement in accordance with this section will be deemed to be given upon that party’s actual receipt of such notice, statement, or other communication.

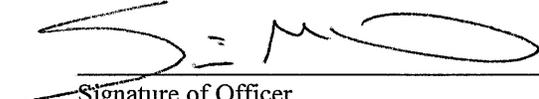
2. All other terms, provisions, conditions and obligations of the IA Agreement between Investor and HSAM shall remain in full force and effect. The IA Agreement, including any amendments and this Agreement shall be construed together as a single contractual agreement.

Executed this ___ day of _____, 2020

CITY OF KYLE

HILLTOP SECURITIES ASSET MANAGEMENT, LLC.

Signature of Investor



Signature of Officer

Print Name

Scott McIntyre

Capacity of Signatory

Managing Director

SCHEDULE A

FEE SCHEDULE AND EXPENSE ITEMS

In consideration for the services rendered by Hilltop Securities Asset Management, LLC ("FSAM") in connection with the investment of the Portfolio for the City of Kyle, Texas ("Investor"), it is understood and agreed that HSAM's fee will be charged at a fixed quarterly rate of \$7,000 per quarter (\$28,000 per year) for the term of the contract.

The fees due HSAM shall be due and payable 30 days following the conclusion of each calendar quarter. Said fee includes all costs of services related to the investment services provided under this Agreement, and all reasonable travel and business expenses related to the performance of these services. Any other fees earned by HSAM, relating to Investor transactions, shall be disclosed to the Investor.

SCHEDULE A

FEE SCHEDULE AND EXPENSE ITEMS

In consideration for the services rendered by Hilltop Securities Asset Management, LLC (“FSAM”) in connection with the investment of the Portfolio for the City of Kyle, Texas (“Investor”), it is understood and agreed that HSAM’s fee will be charged at a fixed quarterly rate of \$7,000 per quarter (\$28,000 per year) for the term of the contract.

The fees due HSAM shall be due and payable 30 days following the conclusion of each calendar quarter. Said fee includes all costs of services related to the investment services provided under this Agreement, and all reasonable travel and business expenses related to the performance of these services. Any other fees earned by HSAM, relating to Investor transactions, shall be disclosed to the Investor.



CITY OF KYLE, TEXAS

Authorize ARWA to Issue Contract Revenue Bonds Totaling \$34,530,000 For Kyle's Share of Capital Costs

Meeting Date: 10/20/2020
Date time: 7:00 PM

Subject/Recommendation: Approve a Resolution approving the Resolution by the Board of Directors of the Alliance Regional Water Authority (ARWA) authorizing the issuance of Contract Revenue Bonds, Series 2020B in the amount of \$34,530,000.00 for the City of Kyle's share of capital costs for the regional water supply contract project. ~ *James R. Earp, Assistant City Manager & Graham Moore, Executive Director of ARWA*

- Public Hearing

Other Information: Total Planned Debt Issuance for Kyle's Share of Capital Costs in ARWA Regional Water Supply Project:

-
\$81,960,000.00

-
To Date Kyle's Share of Debt Issued By ARWA:

A total of \$36,725,000 in long-term debt has been issued by ARWA for the City of Kyle's share of capital costs in the regional water supply contract project as follows:

- \$3,530,000.00 issued in 2015
 - \$8,995,000.00 issued in 2017
 - \$24,200,000.00 issued in 2019
- \$36,725,000.00 Total Debt Issued To Date

Planned Debt Issuance for Kyle's Share By ARWA:

An additional \$45,235,000 in long-term debt is planned for issuance by ARWA for the City of Kyle's share of capital costs in the regional water supply contract project as follows:

- \$34,530,000.00 issuance planned in October/November 2020
 - \$10,705,000.00 issuance planned in October/November 2021
- \$45,235,000.00 Total Debt Issuance Planned

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Presentation
- ☐ ARWA Bond Pricing & Debt Service \$34.53 Million Series 2020B 10-2-2020
- ☐ Resolution Approving ARWA Resolution
- ☐ ARWA Authorizing Resolution Kyle 10-5-20 w Exhibits
- ☐ TWDB Private Placement Memo - City of Kyle 2020B

ALLIANCE REGIONAL WATER AUTHORITY

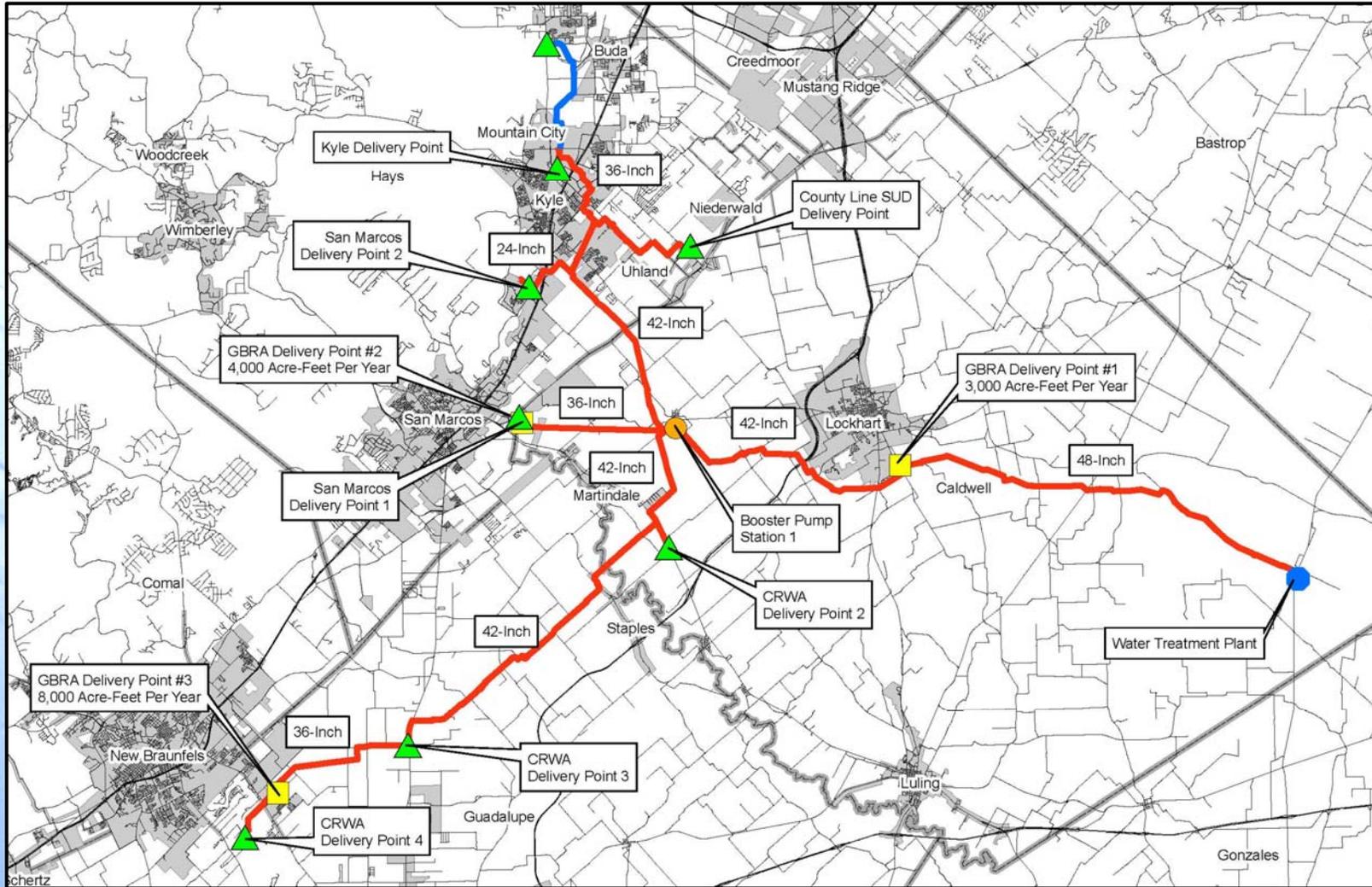
2020 FINANCING & PROJECT UPDATES

CITY OF KYLE
CITY COUNCIL MEETING
OCTOBER 20, 2020



ALLIANCE WATER

PHASE 1B OVERVIEW



PHASE 1B COMPONENTS

- Carrizo wells
- Raw water collection lines
- Water treatment plant
- Finished water transmission mains
- Booster pump stations
- Delivery to customers tanks
- Administrative building

PROJECT STATUS

- Water Leases: ✓
- Groundwater Permits: ✓
- Project Financing: ✓
- Engineering Design: **In Progress**
- Easement Acquisition: **In Progress**
- Construction: **In Progress**

Carrizo Water to be
Delivered in 2023

PROJECT CHALLENGES

- **Easement Acquisition**
 - Approximately 300 easements
- **Environmental Clearance**
 - Corps of Engineers Archaeological Approval
- **Cost Opinions**
 - Material and labor costs have been volatile
 - Result is higher estimates than originally budgeted

STATE FUNDING

- Three debt issuances coinciding with project phasing.
- TWDB SWIFT funding is issued based on the State's credit rating with an additional subsidy

	2017	2019	2020*	Total
ARWA Total	\$31.93 MM	\$85.88 MM	\$122.58MM	\$240.41 MM
KYLE Share	\$8.995 MM	\$24.20 MM	\$34.53 MM	\$67.725 MM

* Includes \$27 million more than originally projected for ARWA, which equates to \$7.61 million more for Kyle.

STATE FUNDING

- Texas Water Development Board (TWDB) managing the \$2 billion State Water Implementation Fund of Texas (SWIFT) approved by voters in November 2013.
- Same fund used by Alliance Water in 2015, 2017 & 2019

TWDB – SWIFT Rate Subsidy Information						
Debt Term (yrs)	State Subsidy	2017 Rate	2019 Rate	Budgeted 2020 Rate	Actual 2020 Rate	Interest Savings*
30	20%	2.76%	2.33%	2.65%	2.03%	\$4,763,000

* Based on \$34.53 million capital project versus budgeted rates.

TOTAL DEBT SERVICE

Total Principle & Interest Comparison Actual to Budgeted				
	2017	2019	2020*	Total
Budgeted	\$14,683,015	\$40,753,044	\$46,770,887	\$102,206,946
Actual	\$13,294,004	\$33,941,163	\$46,350,688	\$93,585,855
Difference	\$1,389,011	\$6,811,881	\$420,199	\$8,621,091

* Savings even when considering additional \$7.61 million issued above budgeted amount.



TOTAL SAVINGS

- Even while issuing more debt than expected, Alliance Water has been able to achieve annual debt service savings of \$287,000 for Kyle.

NEXT STEPS

- Approval of the Financing Agreement between Alliance Water and TWDB by mid-September stating debt service option.
- TWDB sells bonds in early-October
- **Councils to consider approval of Resolution issuing debt in October 2020**
- Alliance Water closes on loans on November 20, 2020
- 1st Payment (interest only) is made in August 2021

QUESTIONS

www.alliancewater.org

Graham Moore, P.E.
Executive Director

(512) 294-3214

gmoore@alliancewater.org

Alliance Regional Water Authority

\$34,530,000 Contract Revenue Bonds (Regional Water Supply Contract Project -
City of Kyle, Texas), Series 2020B (30-Year Low Interest - Level)
11/20/20 Closing and Final Rates Provided by the TWDB on 10/1/20

Pricing Summary

<u>Maturity</u>	<u>Type of Bond</u>	<u>Coupon</u>	<u>Yield</u>	<u>Maturity Value</u>	<u>Price</u>	<u>Dollar Price</u>
08/15/2022	Serial Coupon	0.140%	0.140%	1,010,000.00	100.000%	1,010,000.00
08/15/2023	Serial Coupon	0.170%	0.170%	1,015,000.00	100.000%	1,015,000.00
08/15/2024	Serial Coupon	0.220%	0.220%	1,015,000.00	100.000%	1,015,000.00
08/15/2025	Serial Coupon	0.270%	0.270%	1,020,000.00	100.000%	1,020,000.00
08/15/2026	Serial Coupon	0.400%	0.400%	1,020,000.00	100.000%	1,020,000.00
08/15/2027	Serial Coupon	0.530%	0.530%	1,025,000.00	100.000%	1,025,000.00
08/15/2028	Serial Coupon	0.630%	0.630%	1,030,000.00	100.000%	1,030,000.00
08/15/2029	Serial Coupon	0.760%	0.760%	1,040,000.00	100.000%	1,040,000.00
08/15/2030	Serial Coupon	0.840%	0.840%	1,045,000.00	100.000%	1,045,000.00
08/15/2031	Serial Coupon	1.110%	1.110%	1,055,000.00	100.000%	1,055,000.00
08/15/2032	Serial Coupon	1.330%	1.330%	1,065,000.00	100.000%	1,065,000.00
08/15/2033	Serial Coupon	1.510%	1.510%	1,080,000.00	100.000%	1,080,000.00
08/15/2034	Serial Coupon	1.580%	1.580%	1,100,000.00	100.000%	1,100,000.00
08/15/2035	Serial Coupon	1.660%	1.660%	1,115,000.00	100.000%	1,115,000.00
08/15/2036	Serial Coupon	1.730%	1.730%	1,135,000.00	100.000%	1,135,000.00
08/15/2037	Serial Coupon	1.780%	1.780%	1,160,000.00	100.000%	1,160,000.00
08/15/2038	Serial Coupon	1.820%	1.820%	1,185,000.00	100.000%	1,185,000.00
08/15/2039	Serial Coupon	1.860%	1.860%	1,210,000.00	100.000%	1,210,000.00
08/15/2040	Serial Coupon	1.900%	1.900%	1,240,000.00	100.000%	1,240,000.00
08/15/2041	Serial Coupon	2.340%	2.340%	1,265,000.00	100.000%	1,265,000.00
08/15/2042	Serial Coupon	2.340%	2.340%	1,295,000.00	100.000%	1,295,000.00
08/15/2043	Serial Coupon	2.340%	2.340%	1,320,000.00	100.000%	1,320,000.00
08/15/2044	Serial Coupon	2.340%	2.340%	1,345,000.00	100.000%	1,345,000.00
08/15/2045	Serial Coupon	2.340%	2.340%	1,375,000.00	100.000%	1,375,000.00
08/15/2046	Serial Coupon	2.480%	2.480%	1,405,000.00	100.000%	1,405,000.00
08/15/2047	Serial Coupon	2.480%	2.480%	1,435,000.00	100.000%	1,435,000.00
08/15/2048	Serial Coupon	2.480%	2.480%	1,470,000.00	100.000%	1,470,000.00
08/15/2049	Serial Coupon	2.480%	2.480%	1,510,000.00	100.000%	1,510,000.00
08/15/2050	Serial Coupon	2.480%	2.480%	1,545,000.00	100.000%	1,545,000.00
Total	-	-	-	\$34,530,000.00	-	\$34,530,000.00

Bid Information

Par Amount of Bonds	\$34,530,000.00
Gross Production	\$34,530,000.00
Bid (100.000%)	34,530,000.00
Total Purchase Price	\$34,530,000.00
Bond Year Dollars	\$582,652.92
Average Life	16.874 Years
Average Coupon	2.0287701%
Net Interest Cost (NIC)	2.0287701%
True Interest Cost (TIC)	1.9911282%

2020B \$34.53mm Kyle 30yr | SINGLE PURPOSE | 10/ 2/2020 | 4:16 PM

Alliance Regional Water Authority

\$34,530,000 Contract Revenue Bonds (Regional Water Supply Contract Project -
City of Kyle, Texas), Series 2020B (30-Year Low Interest - Level)
11/20/20 Closing and Final Rates Provided by the TWDB on 10/1/20

Debt Service Schedule

Part 1 of 3

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
11/20/2020	-	-	-	-	-
08/15/2021	-	-	415,086.06	415,086.06	-
09/30/2021	-	-	-	-	415,086.06
02/15/2022	-	-	281,945.25	281,945.25	-
08/15/2022	1,010,000.00	0.140%	281,945.25	1,291,945.25	-
09/30/2022	-	-	-	-	1,573,890.50
02/15/2023	-	-	281,238.25	281,238.25	-
08/15/2023	1,015,000.00	0.170%	281,238.25	1,296,238.25	-
09/30/2023	-	-	-	-	1,577,476.50
02/15/2024	-	-	280,375.50	280,375.50	-
08/15/2024	1,015,000.00	0.220%	280,375.50	1,295,375.50	-
09/30/2024	-	-	-	-	1,575,751.00
02/15/2025	-	-	279,259.00	279,259.00	-
08/15/2025	1,020,000.00	0.270%	279,259.00	1,299,259.00	-
09/30/2025	-	-	-	-	1,578,518.00
02/15/2026	-	-	277,882.00	277,882.00	-
08/15/2026	1,020,000.00	0.400%	277,882.00	1,297,882.00	-
09/30/2026	-	-	-	-	1,575,764.00
02/15/2027	-	-	275,842.00	275,842.00	-
08/15/2027	1,025,000.00	0.530%	275,842.00	1,300,842.00	-
09/30/2027	-	-	-	-	1,576,684.00
02/15/2028	-	-	273,125.75	273,125.75	-
08/15/2028	1,030,000.00	0.630%	273,125.75	1,303,125.75	-
09/30/2028	-	-	-	-	1,576,251.50
02/15/2029	-	-	269,881.25	269,881.25	-
08/15/2029	1,040,000.00	0.760%	269,881.25	1,309,881.25	-
09/30/2029	-	-	-	-	1,579,762.50
02/15/2030	-	-	265,929.25	265,929.25	-
08/15/2030	1,045,000.00	0.840%	265,929.25	1,310,929.25	-
09/30/2030	-	-	-	-	1,576,858.50
02/15/2031	-	-	261,540.25	261,540.25	-
08/15/2031	1,055,000.00	1.110%	261,540.25	1,316,540.25	-
09/30/2031	-	-	-	-	1,578,080.50
02/15/2032	-	-	255,685.00	255,685.00	-
08/15/2032	1,065,000.00	1.330%	255,685.00	1,320,685.00	-
09/30/2032	-	-	-	-	1,576,370.00
02/15/2033	-	-	248,602.75	248,602.75	-
08/15/2033	1,080,000.00	1.510%	248,602.75	1,328,602.75	-
09/30/2033	-	-	-	-	1,577,205.50
02/15/2034	-	-	240,448.75	240,448.75	-
08/15/2034	1,100,000.00	1.580%	240,448.75	1,340,448.75	-

2020B \$34.53mm Kyle 30yr | SINGLE PURPOSE | 10/ 2/2020 | 4:16 PM

Alliance Regional Water Authority

\$34,530,000 Contract Revenue Bonds (Regional Water Supply Contract Project -
City of Kyle, Texas), Series 2020B (30-Year Low Interest - Level)
11/20/20 Closing and Final Rates Provided by the TWDB on 10/1/20

Debt Service Schedule

Part 2 of 3

<u>Date</u>	<u>Principal</u>	<u>Coupon</u>	<u>Interest</u>	<u>Total P+I</u>	<u>Fiscal Total</u>
09/30/2034	-	-	-	-	1,580,897.50
02/15/2035	-	-	231,758.75	231,758.75	-
08/15/2035	1,115,000.00	1.660%	231,758.75	1,346,758.75	-
09/30/2035	-	-	-	-	1,578,517.50
02/15/2036	-	-	222,504.25	222,504.25	-
08/15/2036	1,135,000.00	1.730%	222,504.25	1,357,504.25	-
09/30/2036	-	-	-	-	1,580,008.50
02/15/2037	-	-	212,686.50	212,686.50	-
08/15/2037	1,160,000.00	1.780%	212,686.50	1,372,686.50	-
09/30/2037	-	-	-	-	1,585,373.00
02/15/2038	-	-	202,362.50	202,362.50	-
08/15/2038	1,185,000.00	1.820%	202,362.50	1,387,362.50	-
09/30/2038	-	-	-	-	1,589,725.00
02/15/2039	-	-	191,579.00	191,579.00	-
08/15/2039	1,210,000.00	1.860%	191,579.00	1,401,579.00	-
09/30/2039	-	-	-	-	1,593,158.00
02/15/2040	-	-	180,326.00	180,326.00	-
08/15/2040	1,240,000.00	1.900%	180,326.00	1,420,326.00	-
09/30/2040	-	-	-	-	1,600,652.00
02/15/2041	-	-	168,546.00	168,546.00	-
08/15/2041	1,265,000.00	2.340%	168,546.00	1,433,546.00	-
09/30/2041	-	-	-	-	1,602,092.00
02/15/2042	-	-	153,745.50	153,745.50	-
08/15/2042	1,295,000.00	2.340%	153,745.50	1,448,745.50	-
09/30/2042	-	-	-	-	1,602,491.00
02/15/2043	-	-	138,594.00	138,594.00	-
08/15/2043	1,320,000.00	2.340%	138,594.00	1,458,594.00	-
09/30/2043	-	-	-	-	1,597,188.00
02/15/2044	-	-	123,150.00	123,150.00	-
08/15/2044	1,345,000.00	2.340%	123,150.00	1,468,150.00	-
09/30/2044	-	-	-	-	1,591,300.00
02/15/2045	-	-	107,413.50	107,413.50	-
08/15/2045	1,375,000.00	2.340%	107,413.50	1,482,413.50	-
09/30/2045	-	-	-	-	1,589,827.00
02/15/2046	-	-	91,326.00	91,326.00	-
08/15/2046	1,405,000.00	2.480%	91,326.00	1,496,326.00	-
09/30/2046	-	-	-	-	1,587,652.00
02/15/2047	-	-	73,904.00	73,904.00	-
08/15/2047	1,435,000.00	2.480%	73,904.00	1,508,904.00	-
09/30/2047	-	-	-	-	1,582,808.00
02/15/2048	-	-	56,110.00	56,110.00	-

2020B \$34.53mm Kyle 30yr | SINGLE PURPOSE | 10/ 2/2020 | 4:16 PM

Alliance Regional Water Authority

\$34,530,000 Contract Revenue Bonds (Regional Water Supply Contract Project -
City of Kyle, Texas), Series 2020B (30-Year Low Interest - Level)
11/20/20 Closing and Final Rates Provided by the TWDB on 10/1/20

Debt Service Schedule

Part 3 of 3

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
08/15/2048	1,470,000.00	2.480%	56,110.00	1,526,110.00	-
09/30/2048	-	-	-	-	1,582,220.00
02/15/2049	-	-	37,882.00	37,882.00	-
08/15/2049	1,510,000.00	2.480%	37,882.00	1,547,882.00	-
09/30/2049	-	-	-	-	1,585,764.00
02/15/2050	-	-	19,158.00	19,158.00	-
08/15/2050	1,545,000.00	2.480%	19,158.00	1,564,158.00	-
09/30/2050	-	-	-	-	1,583,316.00
Total	\$34,530,000.00	-	\$11,820,688.06	\$46,350,688.06	-

Yield Statistics

Bond Year Dollars	\$582,652.92
Average Life	16.874 Years
Average Coupon	2.0287701%
DV01	47,269.30
Net Interest Cost (NIC)	2.0287701%
True Interest Cost (TIC)	1.9911282%
Bond Yield for Arbitrage Purposes	1.9911282%
All Inclusive Cost (AIC)	1.9911282%

IRS Form 8038

Net Interest Cost	2.0287701%
Weighted Average Maturity	16.874 Years

2020B \$34.53mm Kyle 30yr | SINGLE PURPOSE | 10/ 2/2020 | 4:16 PM

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

SECTION 1. RECITALS. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. Capitalized terms used herein shall have the meaning assigned in the preamble hereof or the Contract, unless otherwise defined.

SECTION 2. BOND RESOLUTION. The Bond Resolution in substantially the form attached hereto as Exhibit "A" is hereby approved with such changes as approved by the City's Authorized Representative.

SECTION 3. CERTIFICATES. The City's Authorized Representative is hereby authorized to sign the Approval Certificate attached hereto as Exhibit "B" reflecting the final interest rates and terms of the Bonds. The Mayor, City Secretary, City Manager and Assistant City Manager are each authorized to sign all certificates and are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Resolution and the issuance of the Bonds as requested by the City.

SECTION 4. ANNUAL AUDIT. Within 180 days after the City's fiscal year end, the City shall provide the Authority a copy of its annual audit.

SECTION 5. IMMEDIATE EFFECT. This Resolution shall take effect immediately from and after its adoption in accordance with the law.

PASSED AND APPROVED this October 20, 2020.

Travis Mitchell, Mayor
City of Kyle, Texas

ATTEST:

Jennifer Holm, City Secretary

EXHIBIT "A"
BOND RESOLUTION

EXHIBIT "B"

APPROVAL CERTIFICATE

The undersigned Authorized Representative of the City of Kyle, Texas pursuant to the resolution (the "Resolution") authorizing the issuance of obligations designated as "Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas) Series 2020B" (the "Bonds") hereby approves the following terms of the Bonds:

- (i) the total principal amount of the Bonds of \$34,530,000;
- (ii) the purchase price for the Bonds is \$34,530,000 (representing the original principal amount of the Bonds);
- (iii) the interest rates and maturity schedule for the Bonds are as set forth below:

<u>YEAR OF</u> <u>STATED</u> <u>MATURITY</u> <u>(August 15)</u>	<u>PRINCIPAL</u> <u>AMOUNTS(\$)</u>	<u>INTEREST</u> <u>RATES(%)</u>	<u>YEAR OF</u> <u>STATED</u> <u>MATURITY</u> <u>(August 15)</u>	<u>PRINCIPAL</u> <u>AMOUNTS(\$)</u>	<u>INTEREST</u> <u>RATES(%)</u>
2022	\$ 1,010,000	0.140%	2037	\$ 1,160,000	1.780%
2023	1,015,000	0.170	2038	1,185,000	1.820
2024	1,015,000	0.220	2039	1,210,000	1.860
2025	1,020,000	0.270	2040	1,240,000	1.900
2026	1,020,000	0.400	2041	1,265,000	2.340
2027	1,025,000	0.530	2042	1,295,000	2.340
2028	1,030,000	0.630	2043	1,320,000	2.340
2029	1,040,000	0.760	2044	1,345,000	2.340
2030	1,045,000	0.840	2045	1,375,000	2.340
2031	1,055,000	1.110	2046	1,405,000	2.480
2032	1,065,000	1.330	2047	1,435,000	2.480
2033	1,180,000	1.510	2048	1,470,000	2.480
2034	1,100,000	1.580	2049	1,510,000	2.480
2035	1,115,000	1.660	2050	1,545,000	2.480
2036	1,135,000	1.730			

- (iv) the Bonds are subject to redemption as set forth below:

The Bonds stated to mature on and after August 15, 2031 may be redeemed prior to their Stated Maturities, at the option of the Authority, in inverse order of maturity on February 15, 2031, or on any date thereafter, in whole or in part in an Authorized Denomination (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written notice being given by United States mail, first-class postage prepaid, to Holders of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in the Resolution.

If this Bond is subject to redemption prior to Stated Maturity and in an Authorized Denomination thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Bond to the Paying Agent/Registrar at its corporate trust office, a new Bond or Bonds of like Stated Maturity and interest rate in any authorized denominations provided in the Resolution for the then unredeemed balance of the principal sum hereof.

If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Bond is called for redemption, in whole or in part, the Authority or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Bond within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part; and

(v) the Bonds have been approved for issuance by the Texas Water Development Board and will be approved by the Texas Attorney General.

EXECUTED AND DELIVERED THIS 20th day of October, 2020.

CITY OF KYLE, TEXAS

Title: _____

RESOLUTION NO. 2020-10-28-____

A RESOLUTION BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY AUTHORIZING THE ISSUANCE OF ALLIANCE REGIONAL WATER AUTHORITY CONTRACT REVENUE BONDS (REGIONAL WATER SUPPLY CONTRACT PROJECT – CITY OF KYLE, TEXAS), SERIES 2020B; AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE AND DELIVERY OF SUCH BONDS

ADOPTED OCTOBER 28, 2020

RESOLUTION NO. 2020-10-28-___

A RESOLUTION BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY AUTHORIZING THE ISSUANCE OF ALLIANCE REGIONAL WATER AUTHORITY CONTRACT REVENUE BONDS (REGIONAL WATER SUPPLY CONTRACT PROJECT – CITY OF KYLE, TEXAS), SERIES 2020B; AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SUCH BONDS

TABLE OF CONTENTS

	Page
PREAMBLE	1
Section 1. DEFINITIONS.....	2
Section 2. AMOUNT, PURPOSE AND DESIGNATION OF THE BONDS	3
(a) Amount and Designation.....	3
(b) Purpose.....	3
Section 3. DATE, DENOMINATIONS, NUMBERS, MATURITIES, AND TERMS OF BONDS.....	3
(a) Terms of Bonds	3
(b) In General.....	3
Section 4. INTEREST.....	4
Section 5. REGISTRATION, TRANSFER, AND EXCHANGE; AUTHENTICATION	4
(a) Paying Agent/Registrar	4
(b) Registration Books	4
(c) Ownership of Bonds	5
(d) Payment of Bonds and Interest.....	5
(e) Authentication	5
(f) Transfer, Exchange or Replacement.....	5
(g) Substitute Paying Agent/Registrar	6
(h) Notice of Redemption	7
(i) Book-Entry-Only System.....	7
(j) Successor Securities Depository; Transfer Outside Book-Entry-Only System.....	8
(k) Payments to Cede & Co	8
(l) Initial Bond.....	8
Section 6. FORM OF BOND.....	9
Section 7. PLEDGE OF BOND PAYMENTS	9
(a) Pledge	9
(b) Perfection of Pledge	9
Section 8. RATES AND CHARGES.....	9
Section 9. DEBT SERVICE FUND AND PROJECT FUND	10
(a) Debt Service Fund	10
(b) Project Fund	10
Section 10. DEFICIENCIES - EXCESS BOND PAYMENTS.....	11

	(a) Deficiencies	11
	(b) Excess bond Payments	11
Section 11.	PAYMENT OF BONDS	11
Section 12.	INVESTMENTS.....	11
Section 13.	ISSUANCE OF ADDITIONAL BONDS	11
Section 14.	SPECIAL PROJECT BONDS.....	12
Section 15.	MAINTENANCE OF PROJECT - INSURANCE.....	12
Section 16.	RECORDS AND ACCOUNTS - ANNUAL AUDIT.....	13
Section 17.	SALE OR ENCUMBRANCE OF PROJECT.....	13
Section 18.	SPECIAL COVENANTS	13
	(a) Title.....	13
	(b) Liens	14
	(c) Performance.....	14
	(d) Legal Authority	14
	(e) Budget.....	14
	(f) Permits	14
Section 19.	LIMITED OBLIGATIONS OF THE AUTHORITY	15
Section 20.	DEFAULT AND REMEDIES.....	15
	(a) Events of Default.....	15
	(b) Remedies for Event of Default.....	15
	(c) Remedies Not Exclusive.....	15
Section 21.	AMENDMENT OF RESOLUTION	16
	(a) Amendments Without Consent.....	16
	(b) Amendments With Consent	17
	(c) Notice	17
	(d) Receipt of Consents.....	17
	(e) Effect of Amendments.....	18
	(f) Consent Irrevocable	18
	(g) Ownership	18
Section 22.	COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS	18
	(a) Covenants	18
	(b) Rebate Fund.....	20
	(c) Proceeds.....	20
	(d) Allocation Of, and Limitation On, Expenditures for the Project	20
	(e) Disposition of Project.....	21
	(f) Reimbursement	21
Section 23.	RESOLUTION TO CONSTITUTE A CONTRACT; EQUAL SECURITY.....	21
Section 24.	SEVERABILITY OF INVALID PROVISIONS.....	21
Section 25.	PAYMENT AND PERFORMANCE ON BUSINESS DAYS	21
Section 26.	LIMITATION OF BENEFITS WITH RESPECT TO THE RESOLUTION	22
Section 27.	CUSTODY, APPROVAL, BOND COUNSEL'S OPINION, CUSIP NUMBERS AND PREAMBLE	22
Section 28.	CONTINUING DISCLOSURE UNDERTAKING.....	22
	(a) Annual Reports.....	22

	(b) Event Notices	23
	(c) Limitations, Disclaimers, and Amendments	24
Section 29.	APPLICATION OF BOND PROCEEDS	26
Section 30.	DEFEASANCE PROVISIONS	26
Section 31.	SALE OF BONDS; USE OF PROCEEDS.....	27
	(a) Sale to the Texas Water Development Board ("Purchaser").....	27
	(b) Notice from Purchaser of Sale of Bonds	28
	(c) Proceeds.....	28
	(d) Payment of Wire Transfer	28
	(e) Escrow Fund.....	28
	(f) Investment of Bond Proceeds	28
Section 32.	FURTHER PROCEDURES	28
Section 33.	REPEAL OF CONFLICTING RESOLUTIONS	28
Section 34.	PUBLIC NOTICE.....	28
Section 35.	NO PERSONAL LIABILITY	28
Section 36.	APPROVAL OF ESCROW AGREEMENT, PAYING AGENT/ REGISTRAR AGREEMENT, BLANKET ISSUER LETTER OF REPRESENTATIONS WITH THE DEPOSITORY TRUST COMPANY AND CREDIT AGREEMENTS	29
Section 37.	ADDITIONAL COVENANTS	29
	(a) Compliance with the Purchaser's Rules and Regulations.....	29
	(b) Audits	29
	(c) Final Accounting	30
	(d) Defeasance	30
	(e) Segregation of Funds.....	30
	(f) Environmental Indemnity	30
	(g) Environmental Determination	30
	(h) Insurance	30
	(i) No Purchase of Purchaser Bonds	30
	(j) Compliance with Federal Contracting Law	30
	(k) Compliance with State Contracting Law	30
	(l) No Advance Refundings.....	30
Section 38.	APPROVAL CERTIFICATE.....	31
EXHIBIT A	DEFINITIONS.....	A-1
EXHIBIT B	FORM OF BOND.....	B-1
EXHIBIT C	FORM OF PROJECT FUND REQUISITION	C-1
EXHIBIT D	CONTINUING DISCLOSURE.....	D-1
EXHIBIT E	REGIONAL WATER SUPPLY CONTRACT	E-1
EXHIBIT F	APPROVAL CERTIFICATE	

RESOLUTION NO. RESOLUTION NO. 2020-10-28-___

A RESOLUTION BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY AUTHORIZING THE ISSUANCE OF ALLIANCE REGIONAL WATER AUTHORITY CONTRACT REVENUE BONDS (REGIONAL WATER SUPPLY CONTRACT PROJECT – CITY OF KYLE, TEXAS), SERIES 2020B; AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SUCH BONDS

WHEREAS, pursuant to Chapter 572, as amended, Texas Local Government Code, the Hays Caldwell Public Utility Agency (the "Agency") as a constituted authority and instrumentality and political subdivision of the State of Texas (the "State"), was created by the Cities of Buda ("Buda"), Kyle ("Kyle") and San Marcos, Texas ("San Marcos"), each Texas home rule municipalities, and the Canyon Regional Water Authority ("Canyon Regional"), a conservation and reclamation district and political subdivision of the State created and existing pursuant to Article XVI, Section 59 of the Texas Constitution and Chapter 670, Acts of the 71st Legislature, Regular Session, 1989, as amended (collectively, the "Sponsors" or singularly, a "Sponsor"); and

WHEREAS, the Agency and the Sponsors have entered into a "Regional Water Supply Contract" dated as of January 15, 2008, as amended by Amendment No. 1 and as may be further amended (collectively, the "Contract") pursuant to which the Agency has agreed to design, finance, construct, own, acquire, maintain and operate a water supply project in a manner that will allow the Agency to deliver water to the Sponsors on a regional basis and under which each of the Sponsors agree to pay their share of the project costs and to make payments to or on behalf of the Agency in amounts sufficient to meet all of the Agency's obligations under the Contract including those relating to a Sponsor's bonds issued to finance and refinance a Sponsor's share of the Project Costs and to own, operate and maintain the Project; and

WHEREAS, at the request of Canyon Regional and Kyle, the Agency issued two series of bonds on November 19, 2015 for such Sponsors share of the Phase 1A Project entitled: \$3,960,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (Regional Water Supply Contract Project – Canyon Regional Water Authority), Series 2015A and \$3,530,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas), Series 2015B (collectively, the "Outstanding Bonds"); and

WHEREAS, on June 15, 2017, by special act of the 85th Legislature, SB 1198 (the "Act") the Agency was converted to the Alliance Regional Water Authority (the "Authority"), a conservation and reclamation district to accomplish the purposes set forth in the Act and of Article XVI, Section 59, Texas Constitution; and

WHEREAS, by operation of the law pursuant to the Act, the Authority assumed all assets, liabilities, bonds, notes and other obligations of the Agency including all obligations pursuant to the Outstanding Bonds and the Contract; and

WHEREAS, at the request of the Sponsors the Authority issued eight series of bonds, one for each of the Sponsors' share of the Project Costs, to wit: \$9,865,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project – Canyon

ARWA\KRevBonds\Kyle\20B: Res

Regional Water Authority), Series 2017A, \$8,995,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project – City of Kyle, Texas), Series 2017B, \$11,450,000 Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of San Marcos, Texas), Series 2017C, \$1,625,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project – City of Buda, Texas), Series 2017D, \$26,530,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project – Canyon Regional Water Authority), Series 2019A, \$24,200,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project – City of Kyle, Texas), Series 2019B, \$30,800,000 Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of San Marcos, Texas), Series 2019C and \$4,370,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project – City of Buda, Texas), Series 2019D; and

WHEREAS, pursuant to the Act, the Authority is empowered to, among other powers, acquire, own, construct, operate, repair, improve, maintain or extend inside or outside its boundaries water improvements, facilities, plants, pipelines, equipment and appliances for the treatment and transportation of water and to deliver this water to the Sponsors; and

WHEREAS, the Act also authorizes the Authority acting through its Board of Directors (the "Board") to issue revenue bonds to finance such water projects, payable solely from the revenues derived from payments to be made to the Authority by one or more of the respective Sponsors for which a series of bonds are issued for the purpose of defraying such Sponsor's share of the cost of financing, acquiring, and constructing water supply facilities including the Phase 1B Improvements Water Supply Project (as hereinafter defined); and

WHEREAS, the Authority expects to issue four additional series of such revenue bonds for Canyon Regional, Kyle, San Marcos and Buda, respectively, to finance their additional share of the Phase 1B Improvements Project costs, with each series payable from and secured solely by payments made by Canyon Regional, Kyle, San Marcos and Buda, respectively, under the Contract; and

WHEREAS, Kyle has requested that the Authority issue a separate series of revenue bonds in the aggregate principal amount of \$34,530,000 pursuant to the Contract to finance their share of the Phase 1B Improvements Water Supply Project Costs (the "Bonds"); and

WHEREAS, this Resolution constitutes a Bond Resolution as that term is defined in the Contract; and

WHEREAS, the principal of the Bonds and the interest thereon are and shall be solely payable from and secured by a lien on and pledge of the portion of the Annual Payments designated as "Bond Payments" to be made by Kyle pursuant to the Contract in amounts sufficient to pay and redeem, and provide for the payment of the principal of, premium, if any, and interest on the Bonds, when due, and the fees and expenses of the Paying Agent/Registrar and Escrow Agent for the Bonds, all as required by this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY THAT:

Section 1. DEFINITIONS. In addition to the definitions set forth in the preamble of this Resolution, the terms used in this Resolution (except as may be otherwise indicated in the FORM OF BOND) and not otherwise defined herein shall have the meanings given in Exhibit "A" to this Resolution attached hereto and made a part hereof.

Section 2. AMOUNT, PURPOSE AND DESIGNATION OF THE BONDS. (a) *Amount and Designation.* The Authority's bonds issued pursuant to this Resolution shall be entitled "ALLIANCE REGIONAL WATER AUTHORITY CONTRACT REVENUE BONDS (Regional Water Supply Project – City of Kyle, Texas), Series 2020B" and are hereby authorized to be issued in the aggregate principal amount of \$34,530,000.

(b) *Purpose.* The Bonds are to be issued for the following purposes: (i) FOR DESIGNING, CONSTRUCTING, ACQUIRING, IMPROVING AND/OR EXPANDING THE PROJECT INCLUDING BUT NOT LIMITED TO THE PAYMENT OF PROJECT COSTS FOR THE PHASE 1B IMPROVEMENTS WATER SUPPLY PROJECT AND (ii) PAYING THE COSTS OF ISSUANCE OF THE BONDS.

Section 3. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF BONDS. (a) *Terms of Bonds.* The Bonds shall initially be issued, sold, and delivered hereunder as fully registered bonds, without interest coupons, numbered consecutively from R-1 upward (except the initial Bond delivered to the Attorney General of the State which shall be numbered T-1), dated the date of delivery, payable to the respective initial Registered Owners thereof in an Authorized Denomination, serially on August 15, in the years and in the principal amounts set forth below:

<u>YEAR</u> <u>OF STATED</u> <u>MATURITY</u>	<u>PRINCIPAL</u> <u>AMOUNTS (\$)</u>	<u>YEAR</u> <u>OF STATED</u> <u>MATURITY</u>	<u>PRINCIPAL</u> <u>AMOUNTS (\$)</u>
2022	\$ 1,010,000	2037	\$ 1,160,000
2023	1,015,000	2038	1,185,000
2024	1,015,000	2039	1,210,000
2025	1,020,000	2040	1,240,000
2026	1,020,000	2041	1,265,000
2027	1,025,000	2042	1,295,000
2028	1,030,000	2043	1,320,000
2029	1,040,000	2044	1,345,000
2030	1,045,000	2045	1,375,000
2031	1,055,000	2046	1,405,000
2032	1,065,000	2047	1,435,000
2033	1,080,000	2048	1,470,000
2034	1,100,000	2049	1,510,000
2035	1,115,000	2050	1,545,000
2036	1,135,000		

(b) *In General.* The Bonds (i) may and shall be redeemed prior to the respective scheduled maturity dates, (ii) may be assigned and transferred, (iii) may be exchanged for other Bonds, (iv) shall have the characteristics, (v) shall be signed, and the principal of and interest on the Bonds shall be payable, all as provided, and in the manner required or indicated, in the FORM OF BOND set forth in Exhibit "B" to this Resolution.

Section 4. INTEREST. The Bonds shall bear interest, calculated on the basis of a 360-day year composed of twelve 30-day months, from their date of delivery at the rates set forth below:

<u>YEAR</u> <u>OF STATED</u> <u>MATURITY</u>	<u>INTEREST</u> <u>RATES (%)</u>	<u>YEAR</u> <u>OF STATED</u> <u>MATURITY</u>	<u>INTEREST</u> <u>RATES (%)</u>
2022	0.140%	2037	1.780%
2023	0.170	2038	1.820
2024	0.220	2039	1.860
2025	0.270	2040	1.900
2026	0.400	2041	2.340
2027	0.530	2042	2.340
2028	0.630	2043	2.340
2029	0.760	2044	2.340
2030	0.840	2045	2.340
2031	1.110	2046	2.480
2032	1.330	2047	2.480
2033	1.510	2048	2.480
2034	1.580	2049	2.480
2035	1.660	2050	2.480
2036	1.730		

Interest shall be payable to the Registered Owner of any such Bond in the manner provided and on the dates stated in the FORM OF BOND set forth in Exhibit "B" to this Resolution.

Section 5. REGISTRATION, TRANSFER, AND EXCHANGE; AUTHENTICATION. (a) *Paying Agent/Registrar.* BOKF, NA is hereby appointed the Paying Agent/Registrar for the Bonds. The Authority Representative is authorized to enter into and carry out a Paying Agent/Registrar Agreement with the Paying Agent/Registrar with respect to the Bonds in substantially the form and substance presented to the Board in connection with the approval of this Resolution with such changes as are acceptable to the Authority Representative.

(b) *Registration Books.* The Board shall keep or cause to be kept at a designated corporate trust office of the Paying Agent/Registrar in Dallas, Texas (the "Designated Trust Office") the Registration Books and the Board hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, exchanges, and replacements under such reasonable regulations as the Board and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, exchanges, and replacements as herein provided. The Paying

Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Board shall have the right to inspect the Registration Books at the Designated Trust Office of the Paying Agent/Registrar during regular business hours, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. A copy of the Registration Books shall be maintained in the State.

(c) ***Ownership of Bonds.*** The entity or person in whose name any Bond shall be registered in the Registration Books at any time shall be deemed and treated as the absolute owner thereof for all purposes of this Resolution, whether or not such Bond shall be overdue, and, to the extent permitted by law, the Board and the Paying Agent/Registrar shall not be affected by any notice to the contrary; and payment of, or on account of, the principal of, premium, if any, and interest on any such Bond shall be made only to such Registered Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(d) ***Payment of Bonds and Interest.*** The Paying Agent/Registrar shall further act as the paying agent for paying the principal of, premium, if any, and interest on the Bonds, all as provided in this Resolution. The Paying Agent/ Registrar shall keep proper records of all payments made by the Board and the Paying Agent/Registrar with respect to the Bonds. So long as the Purchaser owns the Bonds, the Paying Agent/Registrar shall provide a copy to the Purchaser and its designated trustee of all receipts documenting debt service payments.

(e) ***Authentication.*** The Bonds initially issued and delivered pursuant to this Resolution shall be authenticated by the Paying Agent/Registrar by execution of the Paying Agent/Registrar's Authentication Certificate unless they have been approved by the Attorney General of the State and registered by the Comptroller of Public Accounts of the State, and on each substitute Bond issued in exchange for any Bond or Bonds issued under this Resolution the Paying Agent/Registrar shall execute the Paying Agent/Registrar's Authentication Certificate (the "Authentication Certificate"). The Authentication Certificate shall be in the form set forth in the FORM OF BOND in Exhibit "B" attached hereto.

(f) ***Transfer, Exchange, or Replacement.*** Each Bond issued and delivered pursuant to this Resolution, to the extent of the unpaid or unredeemed principal amount thereof, may, upon surrender of such Bond at the Designated Trust Office of the Paying Agent/Registrar, together with a written request therefor duly executed by the Registered Owner or the assignee or assignees thereof, or its or their duly authorized attorneys or representatives, with guarantee of signatures satisfactory to the Paying Agent/Registrar, may, at the option of the Registered Owner or such assignee or assignees, as appropriate, be exchanged for fully registered Bonds, without interest coupons, in the appropriate form prescribed in the FORM OF BOND set forth in Exhibit "B" to this Resolution, in any Authorized Denomination (subject to the requirement hereinafter stated that each substitute Bond shall be of the same Series and have a single stated maturity

date), as requested in writing by such Registered Owner or such assignee or assignees, in an aggregate principal amount equal to the unpaid or unredeemed principal amount of any Bond or Bonds so surrendered, and payable to the appropriate Registered Owner, assignee, or assignees, as the case may be. If a portion of any Bond shall be redeemed prior to its scheduled maturity as provided herein, a substitute Bond or Bonds having the same Series designation and maturity date, bearing interest at the same rate, and payable in the same manner, in Authorized Denominations at the request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon surrender thereof for cancellation. If any Bond or portion thereof is assigned and transferred, each Bond issued in exchange therefor shall have the same Series designation and maturity date and bear interest at the same rate and payable in the same manner as the Bond for which it is being exchanged. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond. The Paying Agent/Registrar shall exchange or replace Bonds as provided herein, and each fully registered Bond delivered in exchange for or replacement of any Bond or portion thereof as permitted or required by any provision of this Resolution shall constitute one of the Bonds for all purposes of this Resolution, and may again be exchanged or replaced. On each substitute Bond issued in exchange for or replacement of any Bond or Bonds issued under this Resolution there shall be printed an Authentication Certificate, in the form set forth in Exhibit "B" to this Resolution. An authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Authentication Certificate, and, except as provided in (e) above, no such Bond shall be deemed to be issued or outstanding unless the Authentication Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all Bonds surrendered for transfer, exchange, or replacement. No additional orders or resolutions need be passed or adopted by the Board or any other body or person so as to accomplish the foregoing transfer, exchange, or replacement of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be in typed or printed form as determined by the Authority Representative. Pursuant to Subtitle D, Texas Government Code and particularly Section 1201.063, thereof, the duty of transfer, exchange, or replacement of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the Authentication Certificate, the exchanged or replaced Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which were originally issued pursuant to this Resolution. The Board shall pay the Paying Agent/Registrar's standard or customary fees and charges, if any, for transferring, and exchanging any Bond or any portion thereof, but the one requesting any such transfer and exchange shall pay any taxes or governmental charges required to be paid with respect thereto as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, exchange, or replacement of Bonds or any portion thereof (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following interest payment date, or (ii) with respect to any Bond or portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date. To the extent possible, any new Bond issued in an exchange, replacement, or transfer of a Bond will be delivered to the Registered Owner or assignee of the Registered Owner not more than three business days after the receipt of the Bonds to be canceled and the written request as described above.

(g) ***Substitute Paying Agent/Registrar.*** The Board covenants with the Registered Owners of the Bonds that at all times while the Bonds are outstanding the Board will provide a competent and legally qualified bank, trust company, financial institution, or other Authority to act as and perform the services of Paying Agent/Registrar for the Bonds under this Resolution, and that the Paying Agent/Registrar will be one entity. The Board reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than ninety (90) days written notice to the Paying Agent/Registrar, to be effective not later than sixty (60) days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Board covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other Authority to act as Paying Agent/Registrar under this Resolution. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the Board. Upon any change in the Paying Agent/Registrar, the Board promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Resolution, and a certified copy of this Resolution shall be delivered to each Paying Agent/Registrar.

(h) ***Notice of Redemption.*** Each notice of redemption required in the FORM OF BOND shall contain a description of the Bonds to be redeemed including the complete name of the Bonds, the Series, the date of issue, the interest rate or rates, the maturity date, the CUSIP number, a reference to the certificate numbers and the amounts called of each certificate, the publication and mailing date for the notice, the date of redemption, the redemption price, the name of the Paying Agent/Registrar and the address at which the Bonds may be redeemed, including a contact person and telephone number. All redemption payments made by the Paying Agent/Registrar to the registered owners of the Bonds shall include a CUSIP number relating to each amount paid to such Registered Owner.

(i) ***Book-Entry-Only System.*** The Bonds issued in exchange for the Bonds initially issued as provided in Section 5(l) shall be issued in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co. as nominee of DTC and except as provided in subsection (f) hereof, all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Authority and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Authority and the Paying Agent/Registrar shall

have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration Books of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Resolution to the contrary, but to the extent permitted by law, the Authority and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest, with respect to such Bond, for the purposes of registering transfers with respect to such Bonds, and for all other purposes of registering transfers with respect to such Bonds, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in this Resolution, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Bond evidencing the obligation of the Authority to make payments of principal, premium, if any, and interest pursuant to the Resolution. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Resolution with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

(j) ***Successor Securities Depository; Transfer Outside Book-Entry-Only System.*** In the event the Purchaser no longer owns the Bonds or the Purchaser consents to such action, the Authority may determine to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Bonds, the Authority shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Registered Owner transferring or exchanging Bonds shall designate, in accordance with the provisions of this Resolution.

(k) ***Payments to Cede & Co.*** Notwithstanding any other provision of this Resolution to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and

all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Blanket Representation of the Authority to DTC.

(1) **Initial Bond.** The Bonds herein authorized shall be initially issued as fully registered bonds, being one bond for each maturity in the denomination of the applicable principal amount and the initial Bond shall be registered in the name of the Registered Owner. The initial Bond shall be the Bond submitted to the Office of the Attorney General of the State for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State and delivered to the Registered Owner. Immediately after the delivery of the initial Bond, the Paying Agent/Registrar shall cancel the initial Bond delivered hereunder and exchange therefor Bonds in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of DTC and except as provided in Section 5(j), all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

Section 6. FORM OF BOND. The form of the Bond, including the form of the Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State, with respect to the Bonds initially issued and delivered pursuant to this Resolution, shall be, respectively, substantially as set forth in Exhibit "B", with such appropriate variations, omissions, or insertions as are permitted or required by this Resolution.

Section 7. PLEDGE OF BOND PAYMENTS. (a) **Pledge.** The Authority hereby covenants and agrees that the Bond Payments are hereby irrevocably pledged to the payment and security of the Bonds Similarly Secured including the establishment and maintenance of the special funds or accounts created and established on the books and records of the Authority for the payment and security thereof, all as hereinafter provided; and it is hereby resolved that the Bonds Similarly Secured, and the interest thereon, shall constitute a lien on and pledge of the Bond Payments and be valid and binding without any physical delivery thereof or further act by the Authority, and the lien created hereby on the Bond Payments for the payment and security of the Bonds Similarly Secured shall be prior in right and claim as to any other indebtedness, liability, or obligation of the Authority or the Project payable pursuant to the terms of the Contract. The Authority shall deposit the Bond Payments, as collected and received, into the Debt Service Fund (hereinafter defined), to be utilized pursuant to Section 9 hereof to pay the Bonds.

(b) **Perfection of Pledge.** Chapter 1208, as amended, Texas Government Code, applies to the issuance of the Bonds Similarly Secured and the lien on and pledge of Bond Payments granted by the Authority under subsection (a) of this Section, and such pledge is therefore valid, effective, and perfected. If State law is amended at any time while the Bonds Similarly Secured are outstanding and unpaid such that the pledge of the Bond Payments granted by the Authority is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the Registered Owners of the Bonds Similarly Secured the perfection of the security interest in this pledge, the Board agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9,

as amended, Texas Business & Commerce Code and enable a filing to perfect the security interest in this pledge to occur.

Section 8. RATES AND CHARGES. For the benefit of the Registered Owners of the Bonds Similarly Secured and in addition to all provisions and covenants in the laws of the State and in this Resolution, the Contract between the Authority and the City expressly stipulates and agrees, while any of the Bonds Similarly Secured are Outstanding, the City will fix and collect such rates and charges for services to be supplied by the City's respective systems that will produce gross revenues at all times during the term of the Contract in an amount equal to pay all of the expenses of operation and maintenance of the respective systems including Annual Payments and Bond Payments under the Contract and all other amounts required by the laws and the provisions of the ordinances or resolutions authorizing the City's Outstanding System Obligations now or hereafter outstanding payable, in whole or in part, from the net revenues of the City's Systems, including the amounts required to pay all principal of and interest on the City's outstanding System bonds and other obligations. The Authority hereby expressly stipulates and agrees that it will take all appropriate action to charge rates sufficient and enforce such terms of the Contract while any Bonds Similarly Secured are Outstanding.

The Registered Owner shall never have the right to demand payment for the Bonds out of any funds raised or to be raised from taxation by the City, other Participating Entities or the Authority.

Section 9. DEBT SERVICE FUND AND PROJECT FUND. (a) *Debt Service Fund.* For purposes of providing funds to pay the principal of and interest on the Bonds Similarly Secured as the same become due and payable, the Authority agrees to maintain, at a Depository, a separate and special fund or account previously created and known as the "Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas), Debt Service Fund" (the "Debt Service Fund"). The Authority covenants that there shall be deposited into the Debt Service Fund prior to each principal and interest payment date solely from the available Bond Payments an amount equal to one hundred per cent (100%) of the amount required to fully pay the interest on and the principal of the Bonds Similarly Secured then falling due and payable.

Any accrued interest received from the Purchaser of the Bonds shall be deposited into the subaccount of the Debt Service Fund. In addition, any surplus proceeds from the sale of the Bonds, including investment income therefrom, not expended for authorized purposes shall be deposited into the Debt Service Fund, and such amounts (i.e., accrued and investment interest) so deposited shall reduce the sum otherwise required to be deposited in the Debt Service Fund from Bond Payments.

(b) *Project Fund.* The Authority hereby creates and establishes and shall maintain on the books and records of the Authority a separate fund or account to be entitled the "Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas), Project Fund" for use by the Authority for payment of the City's share of the Project Costs. The Authority shall deposit the net proceeds from the sale of the Bonds into

the Project Fund as provided in this Resolution. Funds in the Project Fund shall be requisitioned for payment of the City's share of Project Costs in accordance with a requisition in substantially the form set forth in Exhibit "C" attached hereto with such changes as approved by the Authority Representative. Upon payment of all Project Costs, any moneys remaining on deposit in the Project Fund shall be transferred to the Debt Service Fund.

In the event the Project is not completed for any reason contemplated in the Contract or otherwise or any proceeds from the Bonds are not used for completion of the Project for any reason, any Bond proceeds and earnings therein not used for completion of the Project shall be utilized to pay principal and/or interest on the Bonds so as to reduce the Bond Payment as set forth below.

Any surplus proceeds, including the investment earnings derived from the investment of monies on deposit in the Project Fund, from the Bonds remaining on deposit in the Project Fund after completing the Project and upon the completion of the final accounting as described in Section 37(c) hereof, shall be transferred to the Debt Service Fund to redeem, in inverse order of maturity, the Bonds owned by Purchaser, unless the Executive Administrator of Purchaser approves the use of such surplus proceeds to pay eligible Project Costs by funding projects that are a part of the State Water Plan.

Section 10. DEFICIENCIES - EXCESS BOND PAYMENTS. (a) *Deficiencies.* If on any occasion there shall not be sufficient Bond Payments to make the required deposits into the Debt Service Fund, then such deficiency shall be cured as soon as possible from the next available unallocated Bond Payments and such payments shall be in addition to the amounts required to be paid into these Funds or accounts during such month or months.

(b) *Excess Bond Payments* Subject to making the required deposits to the Debt Service Fund when and as required by this Resolution or any resolution authorizing the issuance of Additional Bonds, any excess Bond Payments may be used by the Authority for any lawful purpose including, but not limited to, the redemption of any Bonds Similarly Secured.

Section 11. PAYMENT OF BONDS. While any of the Bonds Similarly Secured are Outstanding, the Executive Director of the Authority or other authorized Authority official, shall cause to be transferred to the Paying Agent/Registrar therefor, from funds on deposit in the Debt Service Fund, amounts sufficient to fully pay and discharge promptly each installment of interest on and principal of the Bonds Similarly Secured as such installment accrues or matures; such transfer of funds must be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the Business Day next preceding the date a debt service payment is due on the Bonds Similarly Secured.

Section 12. INVESTMENTS. Funds held in any fund or account created, established, or maintained pursuant to this Resolution shall, at the option of the Authority, be invested in time deposits, certificates of deposit, guaranteed investment contracts, or similar contracting arrangements and/or as permitted by the provisions of the Public Funds Investment Act, as amended, Chapter 2256, Texas Government Code, or any other law, and secured (to the extent

not insured by the Federal Deposit Insurance Corporation) to the fullest extent required by the Public Funds Collateral Act, as amended, Chapter 2257, Texas Government Code. All interest and income derived from deposits and investments in any fund shall immediately be credited to, and any losses debited from, the fund from which such funds were derived. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds.

Section 13. ISSUANCE OF ADDITIONAL BONDS. In addition to the right to issue bonds of inferior lien as authorized by the laws of this State, the Authority reserves the right hereafter to issue Additional Bonds. The Additional Bonds, when issued, shall be payable from and secured by a lien on and pledge of the Bond Payments in the same manner and to the same extent as the Bonds and the Bonds Similarly Secured, and shall in all respects be of equal dignity. The Additional Bonds may be issued in one or more Series provided, however, that no Additional Bonds, shall be issued unless and until the following conditions have been met:

(i) Except for a refunding to cure a default, the Authority is not then in default as to any covenant, condition or obligation prescribed in the resolutions authorizing the issuance of the Bonds Similarly Secured or the Contract (including any amendment or supplement thereto) and the funds under the resolution authorizing the same contains the amounts then required to be therein;

(ii) The City shall have approved the resolution(s) authorizing the issuance of the Additional Bonds as to form and content and acknowledged that the payment of principal of and interest on such Additional Bonds is payable, in whole or in part, from the Bond Payments to be made to the Authority under and pursuant to the Contract;

(iii) The resolution authorizing the issuance of the Additional Bonds provides for deposits to be made to the Debt Service Fund in amounts sufficient to pay the principal of and interest on such Additional Bonds as the same become due; and

(iv) The City confirms (and counsel to the Authority opines) that the Contract is a legal, valid and binding contract then in effect pursuant to which the City is obligated to make payments to the Authority during each fiscal year (including periods when services of the Project may not be available to such contracting parties and others) in such amounts as shall be necessary to provide to the Authority sufficient funds to pay when due all principal and interest on all Bonds and Additional Bonds to be outstanding after the issuance of the proposed Additional Bonds.

The Bonds Similarly Secured may be refunded (pursuant to any law then available) upon such terms and conditions as the Board of the Authority may deem to be in the best interest of the Authority.

Section 14. SPECIAL PROJECT BONDS. The Authority further reserves the right to issue bonds in one or more installments for the purchase, construction, improvement, extension, replacement, enlargement or repair of utility facilities necessary under a contract or contracts with persons, corporations, municipal corporations, political subdivisions, or entities including

the City, such bonds to be payable from and secured by the proceeds of such contract or contracts (other than the Contract). The Authority further reserves the right to refund such bonds and secure the payment of the debt service requirements on the refunding bonds in the same manner or as otherwise permitted by the laws of the State.

Section 15. MAINTENANCE OF PROJECT - INSURANCE. The Authority covenants, agrees, and affirms its covenants that while the Bonds Similarly Secured remain outstanding it will maintain and operate the Project with all possible efficiency and maintain casualty and other insurance on the properties of the Project and its operations of a kind and in such amounts customarily carried by municipal corporations in the State engaged in a similar type of business (which may include an adequate program of self-insurance) which insurance shall also be sufficient to protect the Purchaser, as hereinafter defined; and that it will faithfully and punctually perform all duties with reference to the Project required by the laws of the State. All money received from losses under such insurance policies, other than public liability policies, shall be retained for the benefit of the Registered Owners of the Bonds Similarly Secured until and unless the proceeds are paid out in making good the loss or damage in respect of which such proceeds are received, either by replacing the property destroyed or repairing the property damaged, and adequate provision for making good such loss or damage must be made within ninety (90) days after the date of loss. The payment of premiums for all insurance policies required under the provisions hereof shall be considered Maintenance and Operating Expenses of the Project. Nothing in this Resolution shall be construed as: (i) requiring the Authority to expend any funds which are derived from sources other than the operation of the Project but nothing herein shall be construed as preventing the Authority from doing so or (ii) requiring the purchase of insurance until Facilities are constructed.

Section 16. RECORDS AND ACCOUNTS - ANNUAL AUDIT. The Authority covenants, agrees, and affirms its covenants that so long as any of the Bonds Similarly Secured remain outstanding, it will keep and maintain separate and complete records and accounts pertaining to the operations of the Project in which complete and correct entries shall be made of all transactions relating thereto as provided by applicable law. The Registered Owners of any Bonds or any duly authorized agent or agents of such Registered Owners shall have the right to inspect the Project and all properties comprising the same. The Authority further agrees that following (and in no event later than six (6) months after) the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants. Expenses incurred in making the annual audit of the operations of the Project are to be regarded as Operation and Maintenance Expenses of the Project.

Section 17. SALE OR ENCUMBRANCE OF SYSTEM. While any Bonds remain Outstanding, the Authority will not sell, dispose of or further encumber the Project or any substantial part thereof; provided, however, that this provision shall not prevent the Authority from (i) pledging the Bond Payments and Funds to Additional Bonds or Special Project Bonds as set forth in Sections 13 and 14 of this Resolution or (ii) disposing of any part of the Project which is being replaced or is deemed by the Authority to be obsolete, worn out, surplus or no longer needed for the proper operation of the Project. Any agreement pursuant to which the Authority contracts with a person, corporation, municipal corporation or political subdivision to operate the

Project or to lease and/or operate all or part of the Project shall not be considered as an encumbrance of the Project; provided, however, no such agreement shall impair the pledge and lien on the Bond Payments and Funds.

Section 18. SPECIAL COVENANTS. The Authority further covenants and agrees that: (a) **Title.** The Authority lawfully owns or will own and is or will be lawfully possessed of the lands, easements or other property rights (including leasehold interests) upon which its Project is and will be located, and has or will purchase good and indefeasible estate in such lands in fee simple, or has or will lawfully obtain any necessary easements or has or will lawfully obtain property rights (including leasehold interests to operate the Project, and it warrants that it has or will obtain and will defend, the title to all the aforesaid lands, easements and property rights for the benefit of the Registered Owners of the Bonds against the claims and demands of all persons whomsoever, that it is lawfully qualified to pledge the Bond Payments to the payment of the Bonds Similarly Secured, in the manner prescribed herein, and that it has lawfully exercised such rights.

(b) **Liens.** The Authority will from time to time and before the same become delinquent pay and discharge all taxes, assessments, and governmental charges, if any, which shall be lawfully imposed upon it, or its Project, and it will pay all lawful claims for rents, royalties, labor, materials, and supplies which if unpaid might by law become a lien or charge upon its Project, provided, however, that no such tax, assessment, or charge, and that no such claims which might be or other lien or charge, shall be required to be paid while the validity of the same shall be contested in good faith by the Authority.

(c) **Performance.** The Authority will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in the resolutions authorizing the issuance of Bonds Similarly Secured, and in each and every Bond Similarly Secured and pay from the Bond Payments the principal of and interest on every Bond Similarly Secured on the dates and in the places and manner prescribed in such resolutions and Bonds Similarly Secured; and that it will, at the times and in the manner prescribed, deposit or cause to be deposited from the Bond Payments the amounts required to be deposited into the Debt Service Fund; and the Registered Owner of the Bonds Similarly Secured may require the Authority, its officials, agents, and employees to carry out, respect, or enforce the covenants and obligations of this Resolution or any resolution authorizing the issuance of Bonds Similarly Secured including, but without limitation, the use and filing of mandamus proceedings, in any court of competent jurisdiction, against the Authority, its officials, agents, and employees.

(d) **Legal Authority.** The Authority is duly authorized under the laws of the State, including the Act, to issue the Bonds Similarly Secured; that all action on its part for the authorization and issuance of the Bonds Similarly Secured has been duly and effectively taken, and the Bonds Similarly Secured in the hands of the Registered Owners thereof are and will be valid and enforceable special obligations of the Authority in accordance with their terms payable solely from the Bond Payments.

(e) **Budget.** The Authority will prepare, adopt, and place into effect an annual budget (the "Annual Budget") for Operation and Maintenance Expenses of the Project for each Fiscal Year, including in each Annual Budget such items as are customarily and reasonably contained in a utility project budget under generally accepted accounting procedures and shall deliver such budget at least 90 days prior to adoption for review and comment by the City.

(f) **Permits.** The Authority will comply with all of the terms and conditions of any and all franchises, permits, and authorizations applicable to or necessary with respect to the Project and which have been obtained from any governmental Authority; and the Authority has or will obtain and keep in full force and effect all franchises, permits, authorizations, and other requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation, and maintenance of the Project.

Section 19. LIMITED OBLIGATIONS OF THE AUTHORITY. The Bonds Similarly Secured are limited, special obligations of the Authority payable from and equally and ratably secured solely by a lien on and pledge of the Bond Payments, and the Registered Owners thereof shall never have the right to demand payment of the principal or interest on the Bonds Similarly Secured from any funds raised or to be raised through taxation by the City or the Authority.

Section 20. DEFAULT AND REMEDIES. (a) **Events of Default.** Each of the following occurrences or events for the purpose of this Resolution is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Authority, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Resolution, and, if such default is capable of cure, the continuation thereof for a period of sixty (60) days after notice of such default is given by any Registered Owner to the Authority; or

(iii) a default by the City under the Contract.

(b) **Remedies for Event of Default.**

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the Authority, or any official, officer or employee of the Authority in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Resolution, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act

or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies. The Registered Owners are third party beneficiaries to the Contract with the ability to enforce the provisions of the Contract for such period that a default exists under the Contract.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then Outstanding.

(iii) Notwithstanding anything in this Resolution to the contrary, so long as the Purchaser continue to hold the Bonds, the Purchaser may exercise all remedies available to it in law or equity and any provision in this Resolution or the Bonds that restricts or limits the Purchaser's full exercise of these remedies shall be of no force and effect.

(c) ***Remedies Not Exclusive.***

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Resolution, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Resolution.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Resolution, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Resolution do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the Authority or the Board.

(iv) None of the members of the Board, nor any other official or officer, agent, or employee of the Authority, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Resolution, or because of any Event of Default or alleged Event of Default under this Resolution.

Section 21. AMENDMENT OF RESOLUTION. (a) ***Amendments Without Consent.*** This Resolution and the rights and obligations of the Board and of the Registered Owners of the Bonds may be modified or amended at any time without notice to or the consent of any Registered Owner of the Bonds or any Bond similarly secured, solely for any one or more of the following purposes:

(i) To add to the covenants and agreements of the Board contained in this Resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the Board in this Resolution;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Resolution, upon receipt by the Board of an opinion of counsel, that the same is needed for such purpose, and will more clearly express the intent of this Resolution;

(iii) To supplement the security for the Bonds, replace or provide additional Credit Agreement, or change the form of the Bonds or make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Bonds;

(iv) To make any changes or amendments requested by any bond rating Authority then rating or requested to rate the Bonds, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Bonds;

(v) To make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Bonds; or

(vi) To assign the Contract to a trustee.

(b) ***Amendments With Consent.*** Subject to the other provisions of this Resolution, the Registered Owners of Outstanding Bonds aggregating 51% in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in Subsection (a) of this Section, to this Resolution which may be deemed necessary or desirable by the Board; provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of all of the Outstanding Bonds, the amendment of the terms and conditions in this Resolution or in the Bonds so as to:

- (1) Make any change in the maturity of the Outstanding Bonds;
- (2) Reduce the rate of interest borne by the Outstanding Bonds;
- (3) Reduce the amount of the principal payable on the Outstanding Bonds;
- (4) Modify the terms of payment of principal of or interest on the Outstanding Bonds, or impose any conditions with respect to such payment;
- (5) Affect the rights of the owners of less than all Bonds then Outstanding; or
- (6) Change the minimum percentage of the Outstanding Principal Amount of Bonds necessary for consent to such amendment.

(c) ***Notice.*** (i) If at any time the Board shall desire to amend this Resolution other than pursuant to (a) above, the Board shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in The City of New York, New York or

the State including in the Texas Bond Reporter once during each calendar week for at least two (2) successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all owners of Bonds. Such publication is not required, however, if the Board gives or causes to be given such notice in writing to each Registered Owner of Bonds.

(d) **Receipt of Consents.** Whenever at any time not less than thirty (30) days, and within one (1) year, from the date of the first publication of said notice or other service of written notice of the proposed amendment the Board shall receive an instrument or instruments executed by all of the owners or the owners of at least 51% in Outstanding Principal Amount of Bonds, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the Board may adopt the amendatory resolution in substantially the same form.

(e) **Effect of Amendments.** Upon the adoption by the Board of any resolution to amend this Resolution pursuant to the provisions of this Section, this Resolution shall be deemed to be amended in accordance with the amendatory resolution, and the respective rights, duties, and obligations of the Board and all the owners of then Outstanding Bonds and all future Bonds shall thereafter be determined, exercised, and enforced under the resolution and this Resolution, as amended.

(f) **Consent Irrevocable.** Any consent given by any owner of Bonds pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of the first publication or other service of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Bonds during such period. Such consent may be revoked at any time after six (6) months from the date of the first publication of such notice by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Registrar and the Board, but such revocation shall not be effective if the owners of 51% in Outstanding Principal Amount of Bonds, prior to the attempted revocation, consented to and approved the amendment.

(g) **Ownership.** For the purpose of this Section, the ownership and other matters relating to all Bonds registered as to ownership shall be determined from the Registration Books kept by the Paying Agent/Registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.

Section 22. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS. (a) **Covenants.** The Authority covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Authority covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Authority, with respect to such private business use, do not, under the terms of this Order or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with --

(A) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(7) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings);

(8) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code;

(9) to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, an information statement concerning the Bonds, all under and in accordance with section 149(e) of the Code and the applicable Treasury Regulations promulgated thereunder; and

(10) the Authority will not acquire any of the Purchaser source series bonds in an amount related to the amount of Bonds acquired by the Purchaser.

(b) **Rebate Fund.** In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the Authority for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) **Proceeds.** The Authority understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations. It is the understanding of the Authority that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the Authority will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the Authority agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the Authority hereby authorizes and directs the Executive Director to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Authority, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds.

(d) **Allocation Of, and Limitation On, Expenditures for the Project.** The Authority covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 2 of this Resolution (the "Project") on its books and records in accordance with the requirements of the Internal Revenue Code. The Authority recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the Authority recognizes that in order for proceeds to be expended under the Internal Revenue Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired. The Authority agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes hereof, the Authority shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) **Disposition of Project.** The Authority covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the Authority of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Bonds. For purpose of the foregoing, the Authority may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Authority shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(f) **Reimbursement.** This Resolution is intended to satisfy the official intent requirements set forth in section 1.150-2 of the Treasury Regulations.

Section 23. RESOLUTION TO CONSTITUTE A CONTRACT; EQUAL SECURITY. In consideration of the acceptance of the Bonds, the issuance of which is authorized hereunder, by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Board and the Registered Owners from time to time of the Bonds and the pledge made in this Resolution by the Board and the covenants and agreements set forth in this Resolution to be performed by the Board shall be for the equal and proportionate benefit, security, and protection of all Registered Owners, without preference, priority, or distinction as to security or otherwise of any of the Bonds authorized hereunder over any of the others by reason of time of issuance, sale, or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this Resolution.

Section 24. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements, or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements, or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Bonds issued hereunder.

Section 25. PAYMENT AND PERFORMANCE ON BUSINESS DAYS. Except as provided to the contrary in the FORM OF BOND, whenever under the terms of this Resolution or the Bonds, the performance date of any provision hereof or thereof, including the payment of principal of or interest on the Bonds, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Bonds, need not be made on such day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the date of performance or payment.

Section 26. LIMITATION OF BENEFITS WITH RESPECT TO THE RESOLUTION. With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Resolution or the Bonds is intended or should be construed to confer upon or give to any person other than the Board, the Registered Owners, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Resolution or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Resolution and all of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the Board, the Registered Owners, and the Paying Agent/Registrar as herein and therein provided.

Section 27. CUSTODY, APPROVAL, BOND COUNSEL'S OPINION, CUSIP NUMBERS AND PREAMBLE. The Authority Representative is hereby authorized to have control of the Bonds issued hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and approval by the Attorney General of the State. The Authority Representative is hereby authorized, to the extent deemed necessary or advisable thereby, in the discretion thereof, to request that the Attorney General approve the Bonds as permitted by Chapter 1202, Texas Government Code, in which case the Authority Representative also is authorized to request the Comptroller of Public Accounts register the Bonds, and to cause an appropriate legend reflecting such approval and registration to appear on the Bonds and the substitute Bonds. The approving legal opinion of the Board's Bond Counsel and the assigned CUSIP numbers may, at the option of the Board, be printed on the Bonds and on any Bonds issued and delivered in exchange or replacement of any Bond, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Bonds. The preamble to this Resolution is hereby adopted and made a part of this Resolution for all purposes.

Section 28. CONTINUING DISCLOSURE UNDERTAKING. (a) *Annual Reports.* The Authority shall provide annually to the MSRB, (1) within six months after the end of each

fiscal year of the Authority, financial and operating data of the general type, being the information of the type described in Exhibit "D" hereto including financial statements of the Authority if audited financial statements of the Authority are then available, and (2) if not provided as part such financial information and operating data, audited financial statements of the Authority, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the generally accepted accounting principles for governmental units, or such other accounting principles as the Authority may be required to employ from time to time pursuant to state law or regulation, and in substantially the form included in the official statement, and (ii) audited, if the Authority commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such fiscal year end, then the Authority shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available.

If the Authority changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Board otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet web site or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(b) ***Event Notices.*** The Authority shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Bonds:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other events affecting the tax status of the Bonds

7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the Authority;
13. The consummation of a merger, consolidation, or acquisition involving the Authority or the sale of all or substantially all of the assets of the Authority, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material;
15. Incurrence of a Financial Obligation of the Authority, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Authority, any of which affect security holder, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Authority, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Authority in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Authority, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the Authority in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Authority, and (b) the Authority intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the same

meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The Authority shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, of any failure by the Authority to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(c) ***Limitations, Disclaimers, and Amendments.*** The Board shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Board remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the Board in any event will give notice of any deposit made in accordance with Section 30 of this Resolution that causes the Bonds no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Board undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Board's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Board does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE AUTHORITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE AUTHORITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR SPECIFIC PERFORMANCE.

No default by the Authority in observing or performing its obligations under this Section shall comprise a breach of or default under this Resolution for purposes of any other provision of this Resolution.

Should the Rule be amended to obligate the Authority to make filings with or provide notices to entities other than the MSRB, the Board of the Authority hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Authority under federal and state securities laws.

The provisions of this Section may be amended by the Authority from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Authority, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Resolution that authorizes such an amendment) of the outstanding Bonds consents to such amendment or (b) a person that is unaffiliated with the Authority (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the holders and beneficial owners of the Bonds. If the Authority so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The Authority may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

Section 29. APPLICATION OF BOND PROCEEDS. (a) Proceeds from the sale of the Bonds shall, promptly upon receipt thereof, be applied by the Authority Representative as follows:

- (i) accrued interest, if any, for the Bonds shall be deposited as provided in Section 9(a);
- (ii) an amount sufficient to accomplish the purposes of Section 2(b) shall be deposited to the Project Fund; and
- (iii) any proceeds from the sale of the Bonds remaining after the deposits provided for in clauses (i) and (ii) above, shall be applied to pay expenses arising in connection with the issuance of the Bonds.

Any sale proceeds of the Bonds remaining after making all deposits and payments provided for above shall be applied to the payment of interest on the Bonds and deposited into the Debt Service Fund.

Section 30. DEFEASANCE PROVISIONS. (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Bond") within the meaning of this Resolution, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such

due date by irrevocably depositing with or making available to the Paying Agent/Registrar or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the Authority with the Paying Agent/Registrar or an eligible trust company or commercial bank for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the Bond Payments as provided in this Resolution, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Resolution. Any money so deposited with the Paying Agent/Registrar or an eligible trust company or commercial bank as provided in this Section may at the discretion of the Authority also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the Authority.

(c) Notwithstanding any provision of any other Section of this Resolution which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Bonds and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Bonds and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the Authority shall make proper arrangements to provide and pay for such services as required by this Resolution.

(d) Notwithstanding anything elsewhere in this Resolution, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the Authority retains the right under State law to later call that Defeased Bond for redemption in accordance with the

provisions of this Resolution, the Authority may call such Defeased Bond for redemption upon complying with the provisions of State law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

Section 31. SALE OF BONDS; USE OF PROCEEDS. (a) *Sale to the Texas Water Development Board ("Purchaser").* That the Bonds are hereby sold to the Purchaser for the price of par. The Bonds have been purchased by the Purchaser pursuant to TWDB Resolution No. 17 – 079 adopted on July 20, 2017, as amended by TWDB Resolution No. 19-077 adopted on July 22, 2019, as amended by TWDB Resolution No. 20-067 adopted on July 23, 2020 (collectively, the "Purchaser Resolution"). The Bonds initially delivered shall be registered in the name of the Texas Water Development Board. The Private Placement Memorandum prepared in connection with the sale of the Bonds to the Purchaser in substantially the form attached to this Resolution is approved. The Authority has determined, based upon the advice provided by its financial advisors, that acceptance of the purchase price for the Bonds is on terms advantageous to, and in the best interests of, the Authority.

(b) *Notice from Purchaser of Sale of Bonds.* It is the intent of the parties to the sale of the Bonds that if Purchaser ever determines to sell all or a part of the Bonds, it shall notify the Authority at least 60 days prior to the sale of the Bonds of the decision to so sell the Bonds.

(c) *Proceeds.* The proceeds from the sale of the Bonds shall be used in the manner described in the letter of instructions executed by the Authority, or on behalf of the Authority by its financial advisor.

(d) *Payment by Wire Transfer.* Payment of amounts due and owing on the Bonds to the Purchaser shall be made by wire transfer, at no expense to the Purchaser, as provided in the FORM OF BOND.

(e) *Escrow Fund.* By agreeing to the purchase the Bonds, the Purchaser agrees that the Bond proceeds shall be deposited into the escrow fund established in the Escrow Agreement between the Authority and BOKF, NA.

(f) *Investment of Bond Proceeds.* Proceeds from the sale of the Bonds shall be held at a depository or other properly chartered and authorized institution in accordance with Chapter 2256, Texas Government Code, and Chapter 2257, Texas Government Code.

Section 32. FURTHER PROCEDURES. The Authority Representative and all other officers, employees, and agents of the Board, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and on behalf of the Board all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Resolution, the Bonds, the sale

and delivery of the Bonds and fixing all details in connection therewith. The Authority Representative is authorized to sign this Resolution.

Section 33. REPEAL OF CONFLICTING RESOLUTIONS. All resolutions and all parts of any resolutions which are in conflict or inconsistent with this Resolution are hereby repealed and shall be of no further force or effect to the extent of such conflict or inconsistency.

Section 34. PUBLIC NOTICE. It is hereby found and determined that each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting at which this Resolution was adopted; that this Resolution would be introduced and considered for adoption at said meeting; and that 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.

Section 35. NO PERSONAL LIABILITY. No covenant or agreement contained in the Bonds, this Resolution or any corollary instrument shall be deemed to be the covenant or agreement of any member of the Board or the City or any officer, agent, employee or representative of the Board or the City in their individual capacity, and neither the directors, officers, agents, employees or representatives of the Board or the City nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

Section 36. APPROVAL OF ESCROW AGREEMENT, PAYING AGENT/REGISTRAR AGREEMENT, BLANKET ISSUER LETTER OF REPRESENTATIONS WITH THE DEPOSITORY TRUST COMPANY AND CREDIT AGREEMENTS. (a) The Escrow Agreement by and between the Authority and BOKF, NA, as Escrow Agent ("Escrow Agreement") in substantially the form and substance submitted to the Board is hereby approved, and the Authority Representative is hereby authorized to complete, amend, modify, and execute the Escrow Agreement, as necessary.

(b) The Paying Agent/Registrar Agreement by and between the Authority and BOKF, NA ("Paying Agent Agreement"), in substantially the form and substance submitted to the Board is hereby approved and the Authority Representative is hereby authorized and directed to complete, amend, modify, and execute the Paying Agent Agreement, as necessary.

(c) The Blanket Issuer Letter of Representations with the Depository Trust Company has been previously executed by the Authority Representative and is hereby authorized to be utilized in connection with the Bonds.

(d) To the extent permitted by law, the Authority reserves the right to enter into Credit Agreements in connection with the Bonds, upon the written opinion of the Authority Representative that such Credit Agreements are in the best interest of the Authority given the

market conditions at the time. The Credit Agreements will constitute a Credit Agreement as defined in this Resolution. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute (i) debt secured by a pledge of the Bond Payments on parity with the Bonds Similarly Secured (ii) debt secured by an inferior lien secured by a pledge of the Bond Payments subordinate to the Bonds Similarly Secured or (iii) partially parity and partially inferior lien.

Section 37. ADDITIONAL COVENANTS. In connection with the sale of the Bonds to the Purchaser, the Authority covenants as follows:

(a) ***Compliance with the Texas Water Development Board's Rules and Regulations.*** The Authority covenants to comply with the rules and regulations of the Purchaser, and to maintain insurance on the Project in such amount as may be required by Purchaser, as further addressed in subsection (h) of this Section.

(b) ***Audits.*** For so long as the State owns any of the Bonds, the Authority shall mail a copy of the audit required by this Resolution to the Purchaser. In addition, monthly operating statements for the Project shall be maintained by the Authority and made available, on request, to the Purchaser as long as the State owns any of the Bonds, and the monthly operating statement shall be in such detail as requested by the Development Fund Manager of the Purchaser until this requirement is waived thereby. The Authority shall also provide, or cause to be provided, a copy of the City's audit within 180 days after the City's fiscal year end.

(c) ***Final Accounting.*** Within 60 days of Project completion, the Authority shall render a final accounting to the Purchaser in reference to the total cost incurred by the Authority for the Project which were financed by the issuance of the Bonds, together with a copy of "as built" plans of such Project.

(d) ***Defeasance.*** Should the Authority exercise its right under this Resolution to effect the defeasance of the Bonds, the Authority agrees that it will provide the Purchaser with 30 days written notice of any such defeasance.

(e) ***Segregation of Funds.*** The Authority covenants that proceeds of the Bonds shall remain separate and distinct from other sources of funding from the date of the Purchaser commitment through costing and final disbursement.

(f) ***Environmental Indemnity.*** Proceeds from the Bonds shall not be used by the Authority when sampling, testing, removing, or disposing of contaminated soils and/or media at the Project site. To the extent permitted by law, the Authority agrees to indemnify, hold harmless, and protect the Purchaser from any and all claims, causes of action, or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment, and disposition of any contaminated sewage sludge, contaminated sediments, and/or contaminated media that may be generated by the Authority, its contractors, consultants, agents, officials, and employees as a result of activities relating to the project funded with proceeds of the Bonds.

(g) ***Environmental Determination.*** In connection with the Project financed with the Bonds, the Authority agrees to implement any environmental determination issued by the Executive Administrator of Purchaser to satisfy the environmental review requirements set forth in 31 Texas Administrative Code 371.

(h) ***Insurance.*** The Authority agrees that it will maintain insurance on the Project in an amount sufficient to protect Purchaser's interest in the project financed with the proceeds of the Bonds. The Authority may self-insure in respect to satisfying this covenant.

(i) ***No Purchase of Purchaser Bonds.*** The Authority agrees that it, nor any related party to the Authority, will not purchase, as an investment or otherwise, bonds issued by Purchaser including, without limitation, bonds issued by Purchaser, the proceeds of which were used by Purchaser to purchase the Bonds.

(j) ***Compliance with Federal Contracting Laws.*** The Authority acknowledges that it has a legal obligation to comply with any applicable requirements of federal law relating to contracting with disadvantaged business enterprises.

(k) ***Compliance with State Contracting Laws.*** The Authority acknowledges that it has a legal obligation to comply with any applicable requirements of State law relating to contracting with historically underutilized businesses and will report to the Purchaser the amounts of Project funds, if any, that are used to compensate historically underutilized businesses that work on the Project in accordance with 31 TAC § 363.1312.

(l) ***No Advance Refunding.*** The Authority will not use proceeds of the Bonds to advance refund any outstanding bonds.

Section 38. APPROVAL CERTIFICATE. Pursuant to Section 3.1 of the Contract, the City has authorized the execution of an approval certificate attached hereto as Exhibit "F" which evidences the approval of the terms and provisions of the Bonds as set forth herein by the City.

PASSED AND ADOPTED this October 28, 2020.

ALLIANCE REGIONAL WATER AUTHORITY

Authority Representative

EXHIBIT A

DEFINITIONS

As used in this Resolution, the following terms and expressions shall have the meanings set forth below, unless the text in this Resolution specifically indicates otherwise.

The term *Additional Bonds* shall mean the obligations issued in accordance with the terms and conditions prescribed in Section 13 hereof.

The term *Annual Payments* shall have the meaning given in each Contract.

The term *Authorized Denominations* shall mean shall mean the denomination of \$5,000 or any integral multiple thereof.

The term *Authority* shall mean Alliance Regional Water Authority and any other public Authority succeeding to the powers, rights, privileges and functions of the Authority and, when appropriate, the Board of the Authority.

The term *Authority Representative* shall mean the Chair, Vice Chair or the Executive Director of the Authority or such other person authorized by the Board to act as an Authority Representative.

The term *Average Annual Debt Service Requirements* shall mean that average amount which, at the time of computation, will be required to pay the Debt Service Requirements on all outstanding Bonds Similarly Secured when due (either at Stated Maturity or mandatory redemption) and derived by dividing the total of such Debt Service Requirement by the number of Fiscal Years then remaining before Stated Maturity of such Bonds Similarly Secured. For purposes of this definition, a fractional period of a Fiscal Year shall be treated as an entire Fiscal Year. Capitalized interest payments provided from Bond proceeds shall be excluded in making the aforementioned computation.

The term *Board* shall mean the Board of Directors of the Authority.

The term *Bond Payments* shall mean the payments defined as "Bond Payments" within the Contract that the Authority expects to receive from the City of Kyle, Texas pursuant to the terms of the Contract.

The term *Bonds* shall mean and include collectively the Bonds issued and delivered and all substitute Bonds exchanged therefor, as well as all other substitute bonds and replacement bonds issued pursuant hereto, and the term *Bond* shall mean any of the Bonds.

The term *Bonds Similarly Secured* shall mean the Series 2015 Bonds, the Series 2017 Bonds, Series 2019 Bonds and the Bonds issued pursuant to this Resolution and any Additional Bonds hereafter issued by the Authority or bonds issued to refund any of the foregoing if issued

in a manner that provides that the refunding bonds are payable from and equally and ratably secured by a lien on and pledge of the Bond Payments.

The term *Business Day* shall mean any day which is not a Saturday, Sunday, legal holiday, or a day on which banking institutions in The City of New York, New York or in the city where the Designated Trust Office of the Paying Agent/Registrar is located are authorized by law or executive order to close.

The term *Certified Public Accountant* shall mean an independent certified public accountant or firm of independent certified public accountants.

The term *City* shall mean the City of Kyle, Texas.

The term *City System* shall mean and includes the existing combined waterworks and/or wastewater disposal system of the City, together with all future extensions, improvements, enlargements, and additions thereto, including, to the extent permitted by law, storm sewer and drainage and/or reclaimed water systems which are integrated with the waterworks or wastewater disposal system, and all replacements thereof. Provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term *City System* shall not include any waterworks or wastewater facilities which are declared by the City not to be a part of the City System, and which are hereafter acquired or constructed by the City with the proceeds from the issuance of "Special Facilities Bonds," which are hereby defined as being special revenue obligations of the City which are not secured by or payable from the net revenues of the City System, but which are secured by and are payable solely from special contract revenues, or payments received from the City or any other legal entity, or any combination thereof, in connection with such facilities; and such revenues or payments shall not be considered as or constitute gross revenues of the City System, unless and to the extent otherwise provided in the ordinance or ordinances authorizing the issuance of such *Special Facilities Bonds*.

The term *City Utility Bonds* shall mean the bonds, notes or other obligations issued by the City secured by a lien on and pledge of the net revenues of the City System or any part thereof regardless of lien priority including such bonds, notes or other obligations now or hereafter outstanding.

The term *Closing Date* shall mean the date of physical delivery of the Initial Bond issued pursuant to this Resolution for the payment in full by the Purchaser.

The term *Completion Date* shall mean when the Facilities have been substantially complete, the date specified in a certificate of the Authority and Project Engineer that the Project is substantially completed and ready to be placed in service.

The term *Contract* shall mean the Regional Water Supply Contract dated as of January 9, 2008, together with amendments and supplements thereto including Amendment No. 1 (which by the term of such instrument is designated as a supplement or amendment to such Contract)

between the Authority and each Participating Entity, conformed copies of the Contract being attached hereto as Exhibit "E" for the purposes of identification.

The term *Credit Agreement* shall mean an Insurance Policy, a surety bond (including any supporting Insurance Agreement), a letter or line of credit or other type of enhancement issued in support of any Bonds or Additional Bonds by a Credit Agreement Provider at the request of the Authority.

The term *Credit Agreement Provider* shall mean (i) with respect to any Credit Agreement consisting of a policy of municipal bond insurance or a surety bond, an issuer of policies of insurance insuring the timely payment of scheduled debt service on governmental obligations such as any Series of Bonds or Additional Bonds, provided that a Rating Authority having an outstanding rating on the Bonds or Additional Bonds would rate the Bonds or Additional Bonds upon delivery of the Bonds or Additional Bonds fully insured by a standard policy issued by the issuer in its highest generic rating category for such obligations; and (ii) with respect to any Credit Agreement consisting of a letter or line of credit, any financial institution, provided that a Rating Authority having an outstanding rating on the Bonds or Additional Bonds would rate the Bonds or Additional Bonds in one of its two highest generic rating categories for such obligations if the letter or line of credit proposed to be issued by such financial institution secured the timely payment of the entire principal amount of a series of Bonds or Additional Bonds and the interest thereon.

The term *Debt Service Fund* shall mean the special fund or account created and established by the provisions of Section 9(a) of this Resolution.

The term *Debt Service Requirements* shall mean as of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the Authority as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming, in the case of obligations without a fixed numerical rate, that such obligations bear interest calculated by (a) either (i) an interest rate equal to the average rate borne by such Bonds (or by comparable debt in the event that such Bonds have not been outstanding during the preceding 24 months) for any 24 month period ending within 30 days prior to the date of calculation, (ii) if the Bonds bear interest at tax-exempt rates, an interest rate equal to the 24 month average of the Index (as most recently published in The Bond Buyer), unless such index is no longer published in The Bond Buyer, in which case the index to be used in its place shall be that index which the Authority Representative determines most closely replicates such index as set forth in a certificate of a Authority Representative, (iii) if the Bonds bear interest at taxable rates, the index which the Authority Representative determines is an accepted market index for taxable rates, (iv) that interest rate which, in the judgment of the Authority Representative, based, to the extent possible, upon an accepted market index which corresponds with the provisions of the subject Bonds, is the average rate anticipated to be in effect with respect to such Bonds or (v) that interest rate which, in the judgment of the Authority Representative, based upon the interest rate methodology in the applicable Credit Agreement if calculating payments under a Credit Agreement, is the average rate anticipated to be in effect; and (b) that the debt service of such

bonds is amortized such that annual debt service is substantially level over the remaining stated life of such bonds, and further assuming in the case of obligations required to be redeemed or prepaid as to principal prior to Stated Maturity, the principal amounts thereof will be redeemed prior to Stated Maturity in accordance with the mandatory redemption provisions applicable thereto.

The term *Defeasance Securities* shall mean (i) Federal Securities, (ii) noncallable obligations of an Authority or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the Authority or instrumentality and that, on the date the Board adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) non-callable obligations of a state or an Authority or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the Board adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent, or (iv) any additional securities and obligations hereafter authorized by the laws of the State as eligible for use to accomplish the discharge of obligations such as the Bonds.

The term *Depository* shall mean an official depository bank of the Authority.

The term *Designated Trust Office* shall have the meaning ascribed to said term in Section 5(b) of this Resolution.

The term *Engineering Report* shall mean the "Final Report of the Plumbing Plan," prepared by Lockwood, Andrews & Newnan, Inc., dated September 21, 2007, as such report may be amended, modified and changed and superseded with the approval of the Authority and Sponsors, at any time prior to the execution of construction contracts for the Project or as modified and changed by change orders issued after the execution of such construction contracts; provided, however, no such change orders shall adversely affect any of the Sponsors without the consent of the Sponsors.

The term *Facilities* shall mean the facilities, wells, diversion structures, treatment plants, storage tanks, capacity rights, lines, booster pumps, and other appurtenances sufficient to produce, divert, treat and deliver the water to which the Sponsors are entitled under the Contract and any improvements, additions, or extensions to such Facilities hereafter acquired or constructed to deliver water between such places.

The term *Federal Securities* shall mean direct, non-callable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).

The term *Financial Obligation* shall mean (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or

planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities (as defined in the Securities and Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

The term *Fiscal Year* shall mean the twelve month accounting period used by the Authority in connection with the operation of the Project, currently ending on September 30th of each year, which may be any twelve consecutive month period established by the Authority, but in no event may the Fiscal Year be changed more than one time in any three calendar year period.

The term *Fitch* shall mean Fitch Ratings, Inc., its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating Authority, Fitch shall be deemed to refer to any other nationally recognized securities rating Authority designated by the Authority.

The term *Funds* shall mean the Debt Service Fund and Project Fund created and held pursuant to this Resolution.

The term *Government Securities* shall mean (i) direct non-callable obligations of the United States, including obligations that are unconditionally guaranteed by, the United States of America; (ii) non-callable obligations of an Authority or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the Authority or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent; (iii) non-callable obligations of a state or an Authority or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent; or (iv) any additional securities and obligations hereafter authorized by the laws of the State as eligible for use to accomplish the discharge of obligations such as the Bonds.

The term *Interest Payment Date* shall mean the date semiannual interest is payable on the Bonds, while any of the Bonds remain Outstanding as set forth in the FORM OF BOND.

The term *IRS Code* shall mean the Internal Revenue Code of 1986, as amended.

The term *Land Interests* shall mean the easements, right-of-way, and other interests in real property necessary for the acquisition, construction, and operation of the Facilities and the Water Rights for the Project.

The term *MSRB* means the Municipal Securities Rulemaking Board.

The term *Maturity* shall mean the date on which the principal of a Bond becomes due and payable as therein and herein provided, whether at Stated Maturity, by redemption or otherwise.

The term *Moody's* shall mean Moody's Investors Service, Inc., its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating Authority, Moody's shall be deemed to refer to any other nationally recognized securities rating Authority designated by the Authority.

The term *Operation and Maintenance Expenses* shall mean all direct costs and expenses incurred by the Authority for its operation and maintenance, including but not limited to, the operation and maintenance of the Project, including (for greater certainty but without limiting the generality of the foregoing) amounts payable under any contract with any person, including, but not limited to any federal, state, or local Authority for the right to produce, withdraw or divert and use water, any contribution or payment in lieu of taxes or any fee or charge by any government authority relating to the Authority's production, withdrawal or diversion of or sale of treated water hereunder, the costs of utilities, supervision, engineering, accounting, auditing, legal services, insurance premiums, supplies, services, and administration of the Project, Overhead Expenses, any required costs of mitigation and land management incidental to Project operation, and costs of operating, repairing, maintaining, and replacing equipment for proper operation and maintenance of the Project. The term "Operation and Maintenance Expenses" does not include depreciation charges or such portion of the above described costs to the extent such costs are paid pursuant to an agreement other than the Contract.

The term *Outstanding* shall mean when used in this Resolution with respect to Bonds means, as of the date of determination, all Bonds of any series issued and delivered pursuant to this Resolution, except:

(1) those Bonds canceled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds for which payment has been duly provided by the Authority in accordance with the provisions of Section 30 of this Resolution by the irrevocable deposit with the Paying Agent/Registrar, or an authorized escrow agent, of money or Government Securities, or both, in the amount necessary to fully pay the principal of, premium, if any, and interest thereon to maturity or redemption, as the case may be, provided that, if such Bonds are to be redeemed, notice of redemption thereof shall have been duly given pursuant to this Resolution or irrevocably provided to be given to the satisfaction of the Paying Agent/Registrar, or waived; and

(3) those Bonds that have been mutilated, destroyed, lost, or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 5(f) of this Resolution.

The term *Overhead Expenses* shall mean the Authority's reasonable and necessary costs and expenses incurred at any time directly related to the issuance and servicing of the Bonds, the

acquisition of Land Interests required for the Project, the design, permitting, financing, acquisition, construction, and ownership of the Project and any other activities required of or involving the Authority in connection with or attributable to the Project or the Bonds, including, but not limited to: (i) per diem and reimbursable expenses incurred by the Directors of the Authority for special meetings of the Authority's Board related to the Project; (ii) services of the professional, technical skilled and unskilled persons and firms engaged by or associated with the Authority, other than Authority staff personnel, together with their reimbursable expenses paid or required to be paid by the Authority; (iii) salaries of the Authority's staff attributable to the Project or the Bonds based on time expended, as documented or reasonably estimated by the President, Board of the Authority; (iv) the costs of preparing applications for and obtaining all approvals and authorizations required for the Project or the Bonds from the regulatory authorities having jurisdiction; (v) the cost of property casualty and public liability insurance incurred prior to the Completion Date; including any insurance deductible charged to or required to be paid by the Authority; provided that if the Authority is unable to obtain such insurance on an occurrence basis, then any expense incurred by the Authority from and after the Completion Date for casualty and public liability insurance, including any insurance deductible, shall be paid by the Sponsors; (vi) all costs incurred in litigation involving or relating to the Project; and (vii) any and all other costs and expenses, including out-of-pocket expenses, incurred by the Authority attributable to the Project or the Bonds, whether enumerated above or not, and whether or not included in the definition or as a part of Project Costs.

The terms *Paying Agent/Registrar*, *Paying Agent* or *Registrar* shall mean the agent appointed pursuant to Section 5 of this Resolution or any successor to such agent.

The term *Participating Entities* shall mean with respect to the Contract, Cities of Buda, Kyle and San Marcos and Canyon Regional Water Authority.

The term *Phase 1A Project* shall mean the design and construction of facilities to interconnect the Cities of Kyle and Buda water systems. The Project will use the Phase 1A Project facilities to deliver Carrizo water into the Buda system. Facilities include a possible water pump section, pumps, ground storage tank, chlorine treatment system, yard piping necessary to receive and pump water, fee simple purchase of property for the pump station and new transmission pipeline.

The term *Phase 1B Improvements Project* shall include design, construction and equipment of multiple wells drilled and installed; the primary collection line from the well field to the treatment plant along with the individual collection lines; a sand filter water treatment plant including filters, disinfection equipment, high service pump station, and clearwell storage; plant construction in phases with Phase 1B expected to provide a treatment capacity of approximately 5 MGD, with an ultimate plant buildout of approximately 35 MGD; and transmission mains from the water treatment plant to the Project's Phase 1A infrastructure all as further set forth in the Authority's application to the Texas Water Development Board.

The term *Project* shall mean, collectively, the Land Interests and the Facilities as described in the recitals to the Contract and in the Engineering Report.

The term *Project Costs* shall mean and includes, without limitation, the following costs incurred for the Project by or on behalf of the Authority or the Sponsors: (i) the cost of acquisition of the Land Interests, including appraisals, closing costs and title insurance policies; (ii) the cost of acquisition, construction, repair, replacement, improvement or decommissioning of the Facilities, and any structure, item of equipment, or other item, used for, or in connection with, the Project; (iii) the cost of site preparation of the Land Interests, including demolition or removal of structures and improvements as necessary or incident to accomplishing the Project; (iv) the cost of engineering, legal, architectural or other related services; (v) the preparation cost of plans, specifications, studies, surveys, cost estimates, and other expenses necessary or incident to planning, providing, or financing the Project; (vi) the cost of machinery, equipment, furnishings, and facilities necessary or incident to placing the Project in operation; (vii) finance charges and interest before, during, and after construction as permitted by the laws of the State; (viii) costs incurred in connection with financing the project, including, without limitation: (1) financing, legal, accounting, financial advisory, rating Authority, and auditing fees, expenses and disbursements; (2) the cost of printing, engraving, and reproduction services; and (3) the cost of a trustee's or paying agent's initial or acceptance fee and subsequent fees; (ix) all costs, fees and expenses of litigation of all kinds; (x) the cost of property casualty and public liability insurance; (xi) the fees and costs of the underwriters as the anticipated Purchaser of the Bonds; (xii) reimbursement of the costs previously incurred by the Sponsors with respect to the Project; and (xiii) other costs generally recognized as a part of Project construction costs.

The term *Project Engineer* shall mean such engineer or engineering firm selected by the Authority.

The term *Purchaser* shall mean the initial purchaser of the Bonds, the Texas Water Development Board.

The term *Record Date* shall mean the Business Day of each month as set forth in the FORM OF BOND.

The term *Registration Books* shall mean the books or records relating to the registration, payment and transfer or exchange of the Bonds maintained by the Paying Agent/Registrar pursuant to Section 5 of this Resolution.

The term *Registered Owner* shall mean the entity or person in whose names any of the Bonds are registered in the Registration Books.

The term *Resolution* shall mean this resolution adopted by the Board of the Authority on October 28, 2020.

The term *Rule* shall mean SEC Rule 15c2-12, as amended from time to time.

The term *SEC* means the United States Securities and Exchange Commission.

The term *Series* shall mean any designated Series of Bonds issued pursuant to this Resolution.

The term *Series 2015 Bonds* shall mean the Hays Caldwell Public Utility Agency Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas), Series 2015B.

The term *Series 2017 Bonds* shall mean the Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas), Series 2017B.

The term *Series 2019 Bonds* shall mean the Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas), Series 2019B.

The term *Special Project Bonds* shall mean obligations which the Authority expressly reserves the right to issue in Section 14 of this Resolution.

The term *State* shall mean the State of Texas.

The term *Stated Maturity* shall mean, when used with respect to the Bonds, the scheduled maturity or mandatory sinking fund redemption date of a series of the Bonds.

The term *Water Rights* shall mean the right to produce, withdraw or divert water, and transport the water from the location where it is produced, withdrawn, or diverted into Caldwell County, Guadalupe County, Hays County, and the surrounding counties. "Water Rights" are a component of "Land Interests."

EXHIBIT B

FORM OF BOND

**REGISTERED
NO.** _____

**REGISTERED
PRINCIPAL AMOUNT**
\$ _____

**UNITED STATES OF AMERICA
STATE OF TEXAS
ALLIANCE REGIONAL WATER AUTHORITY
CONTRACT REVENUE BONDS
(REGIONAL WATER SUPPLY CONTRACT PROJECT – CITY OF KYLE, TEXAS)
SERIES 2020B**

BOND DATE: **STATED**
MATURITY: **INTEREST RATE:** **CUSIP NO.:**

November 20, 2020

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ **DOLLARS**

The Alliance Regional Water Authority (the "Authority"), a conservation and reclamation district of the State of Texas (the "State"), created by the cities of Buda, Kyle and San Marcos, Texas and the Canyon Regional Water Authority, a conservation and reclamation district and political subdivision of the State created and existing pursuant to Article XVI, Section 59 of the Texas Constitution and existing under the laws of the State, for value received, hereby promises to pay to the order of the Registered Owner specified above, or the registered assigns thereof, on the Stated Maturity date specified above, the Principal Amount specified above (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid principal amount hereof from the Bond Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to the earlier of redemption or Stated Maturity, at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on August 15 and February 15 of each year commencing August 15, 2021.

Principal and premium, if any, of the Bond shall be payable to the Registered Owner hereof (the "Holder") upon presentation and surrender, at a corporate trust office of the Paying Agent/Registrar executing the registration certificate appearing hereon or a successor thereof. Interest shall be payable to the Holder of this Bond (or one or more Predecessor Bonds, as defined in the Resolution hereinafter referenced) whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is

the last Business Day of the month next preceding each interest payment date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. The foregoing notwithstanding, so long as the Texas Water Development Board is the registered owner of 100% in aggregate principal amount of the Bonds then outstanding, payment of principal and interest on the Bonds shall be made thereto by wire transfer, at no expense to the Texas Water Development Board. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the Authority and the securities depository.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$34,530,000 (the "Bonds") pursuant to a resolution adopted by the governing body of the Authority (the "Resolution"), (i) FOR CONSTRUCTING, ACQUIRING, IMPROVING AND/OR EXPANDING THE PROJECT INCLUDING BUT NOT LIMITED TO THE PHASE 1B IMPROVEMENTS WATER SUPPLY PROJECT AND (ii) PAYING THE COSTS OF ISSUANCE OF THE BONDS.

The principal amount of a Term Bond required to be redeemed pursuant to the operation of such mandatory redemption provisions shall be reduced, at the option of the Authority, by the principal amount of any Term Bonds of such Stated Maturity which, at least 50 days prior to the mandatory redemption date (1) shall have been defeased or acquired by the Authority and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the Authority with money in the Debt Service Fund, or (3) shall have been redeemed pursuant to the optional redemption provisions set forth below and not theretofore credited against a mandatory redemption requirement.

The Bonds stated to mature on and after August 15, 2031 may be redeemed prior to their Stated Maturities, at the option of the Authority, in inverse order of maturity on February 15, 2031, or on any date thereafter, in whole or in part in an Authorized Denomination (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written notice being given by United States mail, first-class postage prepaid, to Holders of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in the Resolution. If this Bond is subject to redemption prior to Stated Maturity and in an Authorized Denomination thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Bond to the Paying Agent/Registrar at its corporate trust office, a new Bond or Bonds of like Stated Maturity and interest rate in any authorized denominations provided in the Resolution for the then unredeemed balance of the principal sum hereof.

If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond

(or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Bond is called for redemption, in whole or in part, the Authority or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Bond within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.

The Bonds of this series are special obligations of the Authority payable from and equally and ratably secured solely by a lien on and pledge of the Bond Payments received by the Authority from the City pursuant to the provisions of the Contract. In the Resolution, the Authority reserves and retains the right to issue Additional Bonds, without limitation as to principal amount but subject to any terms, conditions, or restrictions set forth in the Resolution or as may be applicable thereto under law or otherwise. The Bonds do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the Authority or System, except with respect to the Bond Payments.

The Holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Reference is hereby made to the Resolution, copies of which are on file in the corporate trust office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by his acceptance hereof hereby assents, for definitions of terms; the description and nature of the Special Payments pledged for the payment of the Bonds; the terms and conditions under which the Authority may issue Additional Bonds; the terms and conditions relating to the transfer or exchange of the Bonds; the conditions upon which the Resolution may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the Authority and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be redeemed or discharged at or prior to the Stated Maturity thereof, and deemed to be no longer Outstanding thereunder; and for the other terms and provisions specified in the Resolution. Capitalized terms used herein have the same meanings assigned in the Resolution.

This Bond, subject to certain limitations contained in the Resolution, may be transferred on the Registration Books upon presentation and surrender at a corporate trust office of the Paying Agent/Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by the Holder hereof, or his duly authorized agent, and thereupon one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The Authority and the Paying Agent/Registrar, and any agent of either, shall treat the Holder hereof whose name appears on the Security Register (i) on the Record Date as the owner hereof for purposes of receiving payment of interest hereon, (ii) on the date of surrender of this

Bond as the owner hereof for purposes of receiving payment of principal hereof at its Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner hereof for all other purposes, and neither the Authority nor the Paying Agent/Registrar, or any such agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Authority. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date" - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, covenanted, and represented that all acts, conditions, and things required to be performed, exist, and be done precedent to the issuance of this Bond in order to render the same a legal, valid, and binding special obligation of the Authority have been performed, exist, and have been done, in regular and due time, form, and manner, as required by law, and that issuance of the Bonds does not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by a lien on and pledge of the Bond Payments and as otherwise provided in this Resolution. In case any provision in this Bond or any application thereof shall be deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Resolution shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the Board of the Authority has caused this Bond to be duly signed with the manual or facsimile signature of the Chair or Vice Chair of the Board of the Authority and countersigned with the manual or facsimile signature of the Secretary of the Board of the Authority.

ALLIANCE REGIONAL WATER
AUTHORITY

Chair [Vice Chair], Board

ATTESTED:

Secretary, Board

C. Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Bond Only.

**REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS**

**OFFICE OF THE COMPTROLLER OF
PUBLIC ACCOUNTS
THE STATE OF TEXAS**

§
§
§
§

REGISTER NO. _____

I HEREBY CERTIFY that this Bond has been examined and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
Of the State of Texas

D. Form of Certificate of Paying Agent/Registrar to Appear on Definitive Bonds Only.

This Bond has been duly issued under the provisions of the within-mentioned Resolution; the Bond or Bonds of the above-entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

Registered this date: _____

BOKF, NA
as Paying Agent/Registrar

By: _____
Authorized Signature

E. Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): _____

(Social Security or other identifying number): _____

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

Signature guaranteed:

F. The Initial Bond of each series shall be in the form set forth in paragraph B of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

- i) immediately under the name of the Bond(s) the headings "Interest Rate" and "Stated Maturity" shall both be completed "as shown below";
- ii) the first two paragraphs shall read as follows:

Registered Owner: _____

Principal Amount: _____

The Alliance Regional Water Authority (the "Authority"), a conservation and reclamation district of the State of Texas, with its principal office located in San Marcos, Texas, for value received, hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, the Principal Amount specified above on the 15th day of August in each of the years and in principal amounts and bearing interest at per annum rates in accordance with the following schedule:

Year of
Stated Maturity

Principal
Amounts (\$)

Interest
Rates (%)

(Information to be inserted from Sections 3 and 4).

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount hereof from the Bond Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to Stated Maturity or prior redemption, at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15, commencing August 15, 2021 (the "Interest Payment Date").

Principal and premium, if any, of this Bond shall be payable to the Registered Owner hereof (the Holder), upon its presentation and surrender, at a corporate trust office of BOKF, NA, Dallas, Texas (the "Paying Agent/Registrar"). Interest shall be payable to the Holder of this Bond whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the last Business Day of the month next preceding each interest payment date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder hereof.

EXHIBIT C

FORM OF PROJECT FUND REQUISITION

PROJECT FUND REQUISITION

DATE: _____

Alliance Regional Water Authority hereby makes this requisition pursuant to "A Resolution by the Board of the Alliance Regional Water Authority Authorizing the Issuance of Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas), Series 2020B; and Resolving Other Matters Incident and Relating to the Issuance, Payment, Security, Sale, and Delivery of Such Bonds" adopted by the Board of the Authority on October 28, 2020. The undersigned hereby authorizes disbursement from the Project Fund to pay Project Costs for the purposes and in the amounts as follows:

<u>Name of Payee</u>	<u>Nature of Disbursement</u>	<u>Amount</u>
----------------------	-------------------------------	---------------

EXHIBIT D

CONTINUING DISCLOSURE

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 28 of this Resolution.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City of Kyle, Texas to be provided annually in accordance with such Section 28 are audited financial statements of the City of Kyle, Texas.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to above.

EXHIBIT E

REGIONAL WATER SUPPLY CONTRACT

RESOLUTION NO. 20080109-001

A RESOLUTION OF THE HAYS CALDWELL PUBLIC UTILITY AGENCY BOARD OF DIRECTORS APPROVING A REVISED REGIONAL WATER SUPPLY CONTRACT BETWEEN THE AGENCY AND THE CANYON REGIONAL WATER AUTHORITY, THE CITY OF BUDA, THE CITY OF KYLE, AND THE CITY OF SAN MARCOS, AND DECLARING AN EFFECTIVE DATE

RECITALS:

1. The Hays Caldwell Public Utility Agency (the "Agency") was formed by the Canyon Regional Water Authority, the City of Buda, the City of Kyle, and the City of San Marcos (the "Sponsoring Public Entities") for the purpose of developing a water supply project (the "Project") in the Carrizo-Wilcox Aquifer.

2. The Agency's bond counsel and financial advisors have recommended that the Agency enter into a water supply contract with the Sponsoring Public Entities to serve as the primary mechanism for financing Agency activities and the development of the Project, and to serve as the basis for issuance of debt obligations by the Agency.

3. The Agency Board of Directors (the "Agency Board"), at its meeting on September 26, 2007, approved a Regional Water Supply Contract. Since that time, the Agency's financial advisors suggested that the Agency and Sponsoring Public Entities consider revising the contract to allow the Agency to issue bonds in four separate series, one for each Sponsor. This would allow each Sponsor to structure its portion of the debt in a manner best suited to its circumstances. On November 14, 2007, the Executive Committee of the Agency Board recommended that the contract be revised to provide for the issuance of Agency bonds in separate series for each Sponsor. At its meeting on December 12, 2007, the Agency Board directed the Agency's bond attorneys and general counsel to draft the needed revisions to the contract

4. The Agency's bond attorneys and general counsel have revised the Regional Water Supply Contract to provide for the issuance of Agency bonds in separate series for each Sponsor, and the Agency Board wishes to approve the Regional Water Supply Contract as revised.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE HAYS CALDWELL PUBLIC UTILITY AGENCY:

SECTION 1. The attached Regional Water Supply Contract, as revised, between the Agency and the Canyon Regional Water Authority, the City of Buda, the City of Kyle, and the City of San Marcos is approved.

SECTION 2. The Chair of the Agency's Board of Directors, Susan Narvaiz, is authorized to execute the attached contract on behalf of the Agency.

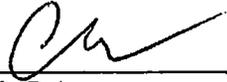
SECTION 3. This Resolution shall be in full force and effect immediately upon its passage.

ADOPTED: January 9, 2008

ATTEST:



Susan Narvaiz
Chair, Board of Directors



Chris Betz
Secretary, Board of Directors

REGIONAL WATER SUPPLY CONTRACT

THIS REGIONAL WATER SUPPLY CONTRACT (the "Contract") is dated and entered into as of the 9th day of January, 2008, by and among the Hays Caldwell Public Utility Agency (the "Agency"), a non-profit constituted authority and instrumentality and political subdivision of the State of Texas (the "State"), created and existing under the laws of the State, including Chapter 422 as amended, Texas Local Government Code, and the City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas, municipalities and political subdivisions of the State, and the Canyon Regional Water Authority, a conservation and reclamation district and political subdivision of the State of Texas, created and existing pursuant to Article XVI, Section 59 of the Texas Constitution and the laws of the State. The City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas, and the Canyon Regional Water Authority are referred to in this Contract collectively as the "Sponsoring Public Entities" and singularly each as a "Sponsoring Public Entity."

RECITALS

WHEREAS, Chapter 422 of the Texas Local Government Code, as amended (the "Act") authorizes public entities to create a public utility agency to plan, finance, construct, own, operate, or maintain facilities necessary for the conservation, storage, transportation, treatment, or distribution of water and wastewater, including plant sites, rights-of-way, and property, equipment, or rights of any kind useful in connection with the conservation, storage, transportation, treatment, or distribution of water and wastewater; and

WHEREAS, the City Councils of the City of Buda, Texas, the City of Kyle, Texas, and the City of San Marcos, Texas and the Board of Trustees of the Canyon Regional Water Authority (collectively, the "Governing Bodies") have collectively determined to authorize and approve the creation of the Agency as their constituted authority and instrumentality to accomplish the specific public purpose to plan, finance, construct, acquire, own, operate, or maintain facilities necessary for the conservation, storage, transportation, treatment, or distribution of water and wastewater, including plant sites, rights-of-way, and property, equipment, or rights of any kind useful in connection with the conservation, storage, transportation, treatment, or distribution of water and wastewater, pursuant to the provisions of the Act, and other applicable law; and

WHEREAS, the Sponsoring Public Entities, pursuant to the Act and other applicable law, have authorized the creation of the Agency for the purposes set forth in the Agency's Bylaws, including the issuance of bonds to finance the costs of the Project, as hereinafter defined; and

WHEREAS, the Agency intends to own, design, construct, acquire, maintain, and operate the Project in a manner that will allow the Agency to deliver its water to the Sponsoring Public Entities and other potential purchasers on a regional basis; and

WHEREAS, the Sponsoring Public Entities and the Agency, exercising their mutual authority and furthering their mutual and urgent interests, wish to enter into this Contract in order

to most efficiently and quickly obtain the capability to deliver the water to the Sponsoring Public Entities; and

WHEREAS, it is necessary that facilities, wells, storage tanks, lines, booster pumps, treatment facilities, and other appurtenances sufficient to deliver the water to which the Sponsoring Public Entities are entitled under this Contract and additional water which the Sponsoring Public Entities may acquire (the "Facilities") be constructed and that the easements, rights-of-way, and other interests in land necessary for the production, withdrawal or diversion of and the acquisition, construction, maintenance, and operation of the Facilities (collectively, the "Land Interests") be purchased (the "Land Interests" and the "Facilities," together the "Project"); and

WHEREAS, it is expected by the Agency and the Sponsoring Public Entities that as soon as practicable after the execution of this Contract the Agency will issue its Bonds (as hereinafter defined) in series for each Sponsoring Public Entity requesting financing through the Agency, payable from and secured solely by payments under this Contract to be made by such Sponsoring Public Entity for which the series of Bonds are issued for the acquisition and construction of the Project; and

WHEREAS, the Agency, to the best of its ability, shall in general do or cause to be done all such things as may be required for the proper acquisition, construction and operation of the Project; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the sufficiency of which are hereby acknowledged, and upon and subject to the terms and conditions hereinafter set forth, the Sponsoring Public Entities and the Agency mutually undertake, promise, and agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATIONS

Section 1.1 Definitions. In addition to the terms defined above, the following terms shall have the meanings assigned to them below wherever they are used in this Contract, unless the context clearly requires otherwise:

(a) "Accountant" means a nationally recognized independent certified public accountant, or an independent firm of certified public accountants, selected by the Agency.

(b) "Additional Bonds" means one or more series of additional Bonds which are issued by the Agency to finance the completion of the Project pursuant to Section 2.9 hereof or for any other lawful purpose.

(c) "Agency" means the Hays Caldwell Public Utility Agency and its lawful successors and assigns.

(d) "Annual Payment Amounts" means the amount of money, constituting the Operation and Maintenance Expenses, Overhead Expenses and, to the extent the Agency issues a series of Bonds on behalf of a Sponsoring Public Entity, the Bond Payment, to be paid to the Agency by each Sponsoring Public Entity, on a several and not a joint basis as described in

Section 3.1, Section 3.5, and Section 5.2 hereof from the revenues of the Sponsoring Public Entities' Systems as an operating and maintenance expense of the Sponsoring Public Entities' Systems (or any other lawfully available revenues of the Sponsoring Public Entities), at the times and in the amounts required by Sections 3.5 and 5.2 of this Contract.

(e) "Approval Certificate" means the certificate or certificates, if any, of the Chair, Board of Directors or Authorized Representative of the Agency approving certain terms of a series of Bonds.

(f) "Authorized Representative" means any person at the time delegated authority to act on behalf of a Sponsoring Public Entity or the Agency, as the case may be, and designated as such in a written certificate, containing a specimen signature of such person, which, for a Sponsoring Public Entity shall be the City Manager, City Administrator, or General Manager, as appropriate, of the Sponsoring Public Entity or such other officers or employees of the Sponsoring Public Entity authorized to act on behalf of the Sponsoring Public Entity during the respective City Manager's, City Administrator's, or General Manager's absence or incapacity, and for the Agency shall be the Chair, Board of Directors of the Agency or such other officer or employee of the Agency authorized to act on behalf of the Agency during the absence or incapacity of the Chair, Board of Directors, unless a party notifies the other parties in writing of a change in its Authorized Representative.

(g) "Bond Payment(s)" means the amount of money to be paid to the Agency by a Sponsoring Public Entity, for the debt service or to fund or replenish any debt service reserve fund or other special or contingency fund on one or more series of Bonds issued for that respective Sponsoring Public Entity, from the revenues of such Sponsoring Public Entity's System as an operating and maintenance expense of the System at the times and in the amounts required by Sections 3.5 and 5.2 of this Contract. A Sponsoring Public Entity is responsible for paying debt service on only the series of Bonds issued for that Sponsoring Public Entity.

(h) "Bond Resolution" means any resolution and/or trust indenture of the Agency, authorizing the issuance of and securing a series of Bonds and all amendments and supplements thereto and including the Approval Certificate, if any, authorized by such resolution to establish certain of the terms of the Bonds authorized by such resolution. Since separate series of Bonds will be issued for each Sponsoring Public Entity requesting financing, any reference in this Contract means the Bond Resolution related to the Sponsoring Public Entity for which such series of Bonds were issued.

(i) "Bonds" means all bonds, notes, or other obligations hereafter issued by the Agency in multiple series with a separate series for each Sponsoring Public Entity requesting financing the proceeds of which are used to pay Project Costs (including any Additional Bonds) or to refund any Bonds or to refund any such refunding Bonds.

(j) "Claim," as used in Section 8.13 of this Contract, means claims, demands, and expenses, including reasonable attorney's fees.

(k) "Code" means the Internal Revenue Code of 1986, and any amendments thereto, as in force and effect on the date of delivery of any series of Bonds.

(l) "Completion Date" means such term as it is defined in Section 2.9 of this Contract.

(m) "Credit Agreement" means any bond insurance policy or other credit agreement, as defined in and authorized by the provisions of Chapter 1371, as amended, Texas Government Code, which the Agency enters into relating to its obligations with respect to the Bonds.

(n) "Delivery Point" means the place, whether one or more, to which the Agency will deliver water to each Sponsoring Public Entity pursuant to this Contract.

(o) "Engineer of Record" means the Engineer of Record for a Sponsoring Public Entity so designated by the governing body of the Sponsoring Public Entity with notice to the Agency.

(p) "Engineering Report" means the "Final Report of the Plumbing Plan," prepared by Lockwood, Andrews & Newnam, Inc., dated September 21, 2007, as such report may be amended, modified and changed and superseded with the approval of the Agency and Sponsoring Public Entities, at any time prior to the execution of construction contracts for the Project or as modified and changed by change orders issued after the execution of such construction contracts; provided, however, no such change orders shall adversely affect any of the Sponsoring Public Entities without the consent of the Sponsoring Public Entities.

(q) "Fiscal Year" means the Sponsoring Public Entities' fiscal years, which currently begin on October 1 of each year, as they may be changed from time to time with notice to the Agency.

(r) "Force Majeure" means such term as it is defined in Section 8.3 of this Contract.

(s) "Facilities" means the facilities, wells, diversion structures, treatment plants, storage tanks, capacity rights, lines, booster pumps, and other appurtenances sufficient to produce, divert, treat and deliver the water to which the Sponsoring Public Entities are entitled under this Contract and any improvements, additions, or extensions to such Facilities hereafter acquired or constructed to deliver water between such places.

(t) "Land Interests" means the easements, right-of-way, and other interests in real property necessary for the acquisition, construction, and operation of the Facilities and the Water Rights for the Project.

(u) "MSRB" means the Municipal Securities Rulemaking Board and any successor to its duties.

(v) "NRMSIR" means each person whom the SEC or its staff has determined to be a nationally recognized municipal securities information repository within the meaning of the Rule from time to time.

(w) "Operation and Maintenance Expenses" means all direct costs and expenses incurred by the Agency for its operation and maintenance, including but not limited to, the operation and maintenance of the Project, including (for greater certainty but without limiting the generality of the foregoing) amounts payable under any contract with any person, including, but not limited to any federal, state, or local agency for the right to produce, withdraw or divert and use water, any contribution or payment in lieu of taxes or any fee or charge by any government authority relating to the Agency's production, withdrawal or diversion of or sale of treated water hereunder, the costs of utilities, supervision, engineering, accounting, auditing, legal services, insurance premiums, supplies, services, and administration of the Project, Overhead Expenses, any required costs of mitigation and land management incidental to Project operation, and costs

of operating, repairing, maintaining, and replacing equipment for proper operation and maintenance of the Project. The term "Operation and Maintenance Expenses" does not include depreciation charges or such portion of the above-described costs to the extent such costs are paid pursuant to an agreement other than this Contract.

(x) "Overhead Expenses" means the Agency's reasonable and necessary costs and expenses incurred at any time directly related to the issuance and servicing of the Bonds, the acquisition of Land Interests required for the Project, the design, permitting, financing, acquisition, construction, and ownership of the Project and any other activities required of or involving the Agency in connection with or attributable to the Project or the Bonds, including, but not limited to: (i) per diem and reimbursable expenses incurred by the Directors of the Agency for special meetings of the Agency's Board of Directors related to the Project; (ii) services of the professional, technical skilled and unskilled persons and firms engaged by or associated with the Agency, other than Agency staff personnel, together with their reimbursable expenses paid or required to be paid by the Agency; (iii) salaries of the Agency's staff attributable to the Project or the Bonds based on time expended, as documented or reasonably estimated by the President, Board of Directors of the Agency; (iv) the costs of preparing applications for and obtaining all approvals and authorizations required for the Project or the Bonds from the regulatory authorities having jurisdiction; (v) the cost of property casualty and public liability insurance incurred prior to the Completion Date; including any insurance deductible charged to or required to be paid by the Agency; provided that if the Agency is unable to obtain such insurance on an occurrence basis, then any expense incurred by the Agency from and after the Completion Date for casualty and public liability insurance, including any insurance deductible, shall be paid by the Sponsoring Public Entities; (vi) all costs incurred in litigation involving or relating to the Project; and (vii) any and all other costs and expenses, including out-of-pocket expenses, incurred by the Agency attributable to the Project or the Bonds, whether enumerated above or not, and whether or not included in the definition or as a part of Project Costs.

(y) "Permitted Liens" means: (i) minor irregularities, charges, liens, encumbrances, defects, easements, licenses, rights-of-way, servitudes, restrictions, mineral rights, and clouds on title which, in the opinion of counsel to the Agency, a copy of which shall be forwarded to each of the Sponsoring Public Entities, do not materially impair the use of the Project for the purposes for which it is designed; (ii) easements for roads (as used in this Contract, the term "roads" shall include, without limitation, streets, curbs, gutters, drains, ditches, sewers, conduits, canals, mains, aqueducts, aerators, connections, ramps, docks, viaducts, alleys, driveways, parking areas, walkways, and trackage), utilities (which for purposes of this Contract shall include, without limitation, water, sewer, electricity, gas, telephone, pipeline, railroad, and other collection, transportation, light, heat, power, and communication systems) and similar easements and other easements, rights-of-way, rights of flowage, flooding, diversion or outfall, licenses, restrictions, and obligations relating to the operation of the Project which, in the opinion of counsel to the Agency, a copy of which shall be forwarded to each of the Sponsoring Public Entities, do not materially impair the use of the Project for the purposes for which it is designed; (iii) rights of the United States or any state or political subdivision thereof, or other public or governmental authority or agency or any other entity vested with the power of eminent domain to take or control property or to terminate any right, power, franchise, grant, license, or permit previously in force.

(z) "Plans and Specifications" means the plans and specifications prepared for the Project by the Project Engineer, as the same may be revised from time to time in accordance with this Contract.

(aa) "Project" means, collectively, the Land Interests and the Facilities as described in the recitals to this Contract and in the Engineering Report, and as those terms are defined in this Section.

(bb) "Project Costs" means and includes, without limitation, the following costs incurred for the Project by or on behalf of the Agency or the Sponsoring Public Entities: (i) the cost of acquisition of the Land Interests, including appraisals, closing costs and title insurance policies; (ii) the cost of acquisition, construction, repair, replacement, improvement or decommissioning of the Facilities, and any structure, item of equipment, or other item, used for, or in connection with, the Project; (iii) the cost of site preparation of the Land Interests, including demolition or removal of structures and improvements as necessary or incident to accomplishing the Project; (iv) the cost of engineering, legal, architectural or other related services; (v) the preparation cost of plans, specifications, studies, surveys, cost estimates, and other expenses necessary or incident to planning, providing, or financing the Project; (vi) the cost of machinery, equipment, furnishings, and facilities necessary or incident to placing the Project in operation; (vii) finance charges and interest before, during, and after construction as permitted by the laws of the State; (viii) costs incurred in connection with financing the project, including, without limitation: (1) financing, legal, accounting, financial advisory, rating agency, and auditing fees, expenses and disbursements; (2) the cost of printing, engraving, and reproduction services; and (3) the cost of a trustee's or paying agent's initial or acceptance fee and subsequent fees; (ix) all costs, fees and expenses of litigation of all kinds; (x) the cost of property casualty and public liability insurance; (xi) the fees and costs of the underwriters as the anticipated purchasers of the Bonds; (xii) reimbursement of the costs previously incurred by the Sponsoring Public Entities with respect to the Project; and (xiii) other costs generally recognized as a part of Project construction costs.

(cc) "Project Engineer" means such engineering firm or firms as may be selected by the Agency.

(dd) "Prudent Utility Practice" means any of the practices, methods, and acts, in the exercise of reasonable judgment, in the light of the facts, including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the public utility industry prior thereto, known at the time the decision was made, that would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. It is recognized that Prudent Utility Practice is not intended to be limited to the optimum practice, method, or act at the exclusion of all others, but rather is a spectrum of possible practices, methods, or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. In the case of any facility included in a Sponsoring Public Entity's System which is owned in common with one or more other entities, the term "Prudent Utility Practice," as applied to such facility, shall have the meaning set forth in the agreement governing the operation of such facility.

(ce) "Rule" means SEC Rule 15c2-12, as amended from time to time.

(ff) "Sale and Offering Documents" means any official notice of sale, official bid form, preliminary official statement, official statement, or other offering document for a series of Bonds.

(gg) "SEC" means the United States Securities and Exchange Commission and any successor to its duties.

(hh) "SID" means any entity designated by the State or an authorized department, officer, or agency thereof as, and determined by the SEC or its staff to be, a state information depository within the meaning of the Rule from time to time.

(ii) "Sponsoring Public Entities" means collectively the City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas and Canyon Regional Water Authority. "Sponsoring Public Entity" means respectively, the City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas or the Canyon Regional Water Authority.

(jj) "Sponsoring Public Entities' Systems" or "Systems" means collectively the Sponsoring Public Entity's System of all of the Sponsoring Public Entities.

(kk) "Sponsoring Public Entity's System" or "System" means and includes the existing combined waterworks and wastewater disposal system of each of the Sponsoring Public Entities, together with all future extensions, improvements, enlargements, and additions thereto, including, to the extent permitted by law, storm sewer and drainage and/or reclaimed water systems which are integrated with the waterworks or wastewater disposal system, and all replacements thereof. Provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the terms "Sponsoring Public Entity's System" or "System" shall not include any waterworks or wastewater facilities which are declared by the respective Sponsoring Public Entity not to be a part of that Sponsoring Public Entity's System, and which are hereafter acquired or constructed by that Sponsoring Public Entity with the proceeds from the issuance of "Special Facilities Bonds," which are hereby defined as being special revenue obligations of that Sponsoring Public Entity which are not secured by or payable from the net revenues of that Sponsoring Public Entity's System, but which are secured by and are payable solely from special contract revenues, or payments received from that Sponsoring Public Entity or any other legal entity, or any combination thereof, in connection with such facilities; and such revenues or payments shall not be considered as or constitute gross revenues of that Sponsoring Public Entity's System, unless and to the extent otherwise provided in the ordinance or ordinances authorizing the issuance of such "Special Facilities Bonds".

(ll) "Sponsoring Public Entity's Utility Bonds" or "Utility Bonds" means the bonds, notes and other obligations of a Sponsoring Public Entity outstanding from time to time secured by a lien on and pledge of the net revenues of that Sponsoring Public Entity's System or any part thereof, regardless of lien priority.

(mm) "State" means the State of Texas.

(nn) "TCEQ" means the Texas Commission on Environmental Quality or its successors or assigns.

(oo) "Trustee" means any trustee named under a trust indenture or the paying agent/registrant named in a paying agent/registrant agreement entered into by the Agency securing the payment of a series of Bonds and authorized by a Bond Resolution.

(pp) "TWDB" means the Texas Water Development Board or any successor entity thereto.

(qq) "TWDB Program" means TWDB's State Participation Account as authorized pursuant to Article III, Sections 49-d, 49-d-2, and 49-d-8 of the Texas Constitution and Chapter 16, Subchapters E and F, Texas Water Code or other applicable TWDB program.

(rr) "Water Rights" means the right to produce, withdraw or divert water, and transport the water from the location where it is produced, withdrawn, or diverted into Caldwell County, Guadalupe County, Hays County, and the surrounding counties. "Water Rights" are a component of "Land Interests".

Section 1.2 **Interpretation.** The table of contents and caption headings of this Contract are for reference purposes only and shall not affect its interpretation in any respect. Unless the context otherwise requires, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa. This Contract and all the terms and provisions shall be liberally construed to effectuate the purpose set forth herein and to sustain the validity of this Contract.

ARTICLE II

ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.1 **General.** Subject to the remaining terms and provisions of this Contract, the Agency agrees to issue the Bonds and to acquire and construct the Project as generally described in the Engineering Report. It is estimated that the Project will be placed in operation on or before December 31, 2018, or as soon thereafter as practicable. The Authorized Representative of the Agency hereby represents that he is not aware of any reason that the Project, as contemplated, cannot be completed on or before December 31, 2018. It is expressly understood and agreed that any obligations on the part of the Agency to finance, acquire, construct, and complete the Project and to provide the water to the Sponsoring Public Entities shall be (i) conditioned upon the Agency's ability to obtain all necessary permits, Land Interests, material, labor, and equipment, and upon the ability of the Agency to finance the cost of the Project through the actual sale of the Bonds, including any Bonds needed to complete the Project, and (ii) subject to all present and future valid laws, orders, rules, and regulations of the United States of America, the State, and any regulatory body having jurisdiction. The Project shall be acquired and constructed by the Agency with all reasonable dispatch, and the Agency will diligently pursue such acquisition and construction in order that it may be completed as soon as practicable, delays incident to events of Force Majeure only excepted; but if for any reason there should be delays in or the entire failure of such acquisition, construction, and improvement, there shall be no diminution in or postponement of the Annual Payment Amounts to be made by the Sponsoring Public Entities hereunder and no resulting liability on the part of the Agency; provided, however, that the Sponsoring Public Entities retain the right to pursue any legal remedy to the extent that delays in the Project are the result of negligence on the part of the Agency.

Section 2.2 **Location of Project; Acquisition of Land Interests.** The Facilities will be constructed and located on, across, within, and through the Land Interests. The Agency (or one or more of the Sponsoring Public Entities acting on behalf of the Agency) shall, as soon as possible after the delivery of this Contract, and subject to the receipt of the Bond proceeds or

funds from one or more of the Sponsoring Public Entities, undertake the acquisition of the Land Interests. The Agency shall be responsible for ensuring that proper filings of each such portion of the Land Interests are made in the deed records of the appropriate counties to ensure that all interested parties have proper notice of the Agency's interests in the Land Interests. As each deed, easement, or other evidence of an interest in real property comprising a portion of the Land Interests is acquired by the Agency, a copy of such instrument, together with evidence of its filing in the deed records of the counties in which such portion lies, shall, upon the written request of a Sponsoring Public Entity, be given to that Sponsoring Public Entity.

The Agency shall acquire a title insurance policy or a title opinion showing good and indefeasible title with respect to each Land Interest acquired. A copy of each such title insurance policy or title opinion shall be retained in the Agency's official records.

Section 2.3 **Construction.** The Agency shall, as soon as possible, and in accordance with the Engineering Report, undertake to make, execute, deliver, and prosecute all contracts, orders, receipts, writings, and instructions with or to other persons, and in general do or cause to be done all such other things, as may be required for the proper acquisition and construction of the Facilities.

Section 2.4 **Selection of Project Engineer; Plans and Specifications; Bidding.** The Agency shall cause the Project Engineer to complete the Plans and Specifications and the other materials to be used in construction of the Facilities and to perform such other engineering tasks as shall be necessary for construction of the Facilities. The bid documents may include appropriate alternatives to assure the most advantageous price consistent with expeditious completion. The specifications for the Project may include as an owner cost any or all insurance coverages either required by law or deemed necessary or advisable by the Agency. Upon obtaining the approval of the Board of Directors of the Agency of the Plans and Specifications and bid documents, the Agency, through its Project Engineer, will promptly advertise for bids for the Project to the extent and as required by law. The Agency may break the construction of the Facilities into several contracts or phases as it determines is best for the timely acquisition and construction of the Facilities. After the receipt of bids, the Agency shall identify the lowest responsible bidder(s) and award the contract(s). If all bids are rejected, bids will again be solicited, following the procedure outlined above in this Section, until such time as bids satisfactory to the Agency have been received. The Agency shall not be obligated to award a construction contract unless the proceeds from the Bonds are available to pay the contract(s).

Section 2.5 **Alternative Method for Construction Procurement.** If authorized under applicable laws, the Agency may procure the design and construction services for the Facilities using an alternative procurement method, such as design-build or construction manager-at-risk. If so authorized, and if the Agency Board of Directors approves the use of an alternative procurement method, the Agency shall proceed to select the contractor and contract for the design and construction of the Facilities in compliance with all applicable laws.

Section 2.6 **Liens.** Neither the Sponsoring Public Entities nor the Agency will create or permit or suffer to exist any lien, encumbrance, or charge upon the Project or any interest therein at any time, except Permitted Liens.

Section 2.7 **Revisions of Plans.** The Plans and Specifications may be revised prior to the Completion Date.

Section 2.8 **Approvals.** Unless otherwise required by law, each consent, approval, or other official action required of the Sponsoring Public Entities or the Agency by any provision of this Contract shall be deemed in compliance with this Contract when written evidence of such action, signed by the respective Authorized Representative, is delivered to the party who is to receive evidence of such action. All contracts to be entered into by the Agency shall be authorized by the Agency's Board of Directors. The Sponsoring Public Entities will cooperate with the Agency in the design, financing, acquisition, and construction of the Project and, following the adoption of the Bond Resolution by the Agency's Board of Directors, will not take any action or fail to take any action (including, without limitation, any exercise or denial of its consent or approval of any action proposed to be taken by the Agency or any of its agents hereunder), if taking or failing to take such action, respectively, would unreasonably delay or obstruct the completion of the Project by the Agency.

Section 2.9 **Completion.**

(a) Except as otherwise provided in subsection (b) of this Section, when the Facilities have been substantially completed, the Agency shall deliver to the Sponsoring Public Entities a certificate of the Agency and the Project Engineer stating that, as of a specified date, the Project has been substantially completed and is ready to be placed in service (the date specified in such certificate being herein called the "Completion Date").

(b) The Sponsoring Public Entities and the Agency acknowledge that the proceeds of the initial series of Bonds will be insufficient to complete the acquisition and construction of the Project, and accordingly agree to use their best efforts to issue Additional Bonds, or to secure financing pursuant to the TWDB Program or a similar State or Federal Program (e.g., the USEPA Revolving Fund), in an amount sufficient to complete the Project.

Section 2.10 **Title to Water.** Title to the water shall be in the Agency until it passes through the meter or meters installed pursuant to this Contract at or near the Delivery Point, following which it shall be in the respective Sponsoring Public Entities that take delivery of the water at that point. Each of the parties hereto hereby agrees, with respect to water to which the party has title, to save and hold each other party hereto harmless from all claims, demands and causes of action which may be asserted by anyone on account of the transportation and delivery of the water while title to the water is in such party.

Section 2.11 **Access to Property of Sponsoring Public Entities.** Should any facilities, pipelines, or appurtenances owned by the Agency be installed in any street, alley, or public way within the boundaries of any of the Sponsoring Public Entities, as same are now constituted or as may hereafter be revised, the respective Sponsoring Public Entity hereby grants to the Agency the right, privilege and franchise of using such streets, alleys and public ways for the purposes of maintaining, operating, laying, repairing, or removing such facilities, pipelines, and appurtenances, subject to compliance by the Agency with the franchise and right-of-way management ordinances and other applicable laws and regulations of the respective Sponsoring Public Entity, and the payment of applicable franchise or right-of-way use fees.

Section 2.12 **Easements.** Each of the Sponsoring Public Entities hereby agrees to grant to the Agency such easements as may be reasonably necessary for the purposes of placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocated, and removing Facilities upon, over, across and through the property of the respective Sponsoring Public Entity and giving to the Agency, and its successors and assigns, all of the rights and benefits necessary

or appropriate for the full enjoyment and use of the easement, including but without limiting the same to, the free right of ingress and egress to and from the property of the respective Sponsoring Public Entity.

Section 2.13 **Cross-Utilization of Lines.**

(a) Each Sponsoring Public Entity acknowledges that it may be necessary for the Agency to use excess capacity in transmission lines of the Sponsoring Public Entity to transport treated water to another Sponsoring Public Entity or other entity on a temporary or long-term basis. The Sponsoring Public Entity with the transmission lines hereby agrees to permit the Agency to so utilize the lines in accordance with this section and with Section 2.11 and Section 2.12. In such case, the Agency will execute an agreement with the Sponsoring Public Entity with the transmission lines describing their respective rights and obligations. This agreement may include, among other matters, the payment of reasonable fees for the Agency's use of the lines, conditions placed by the Sponsoring Public Entity on the use of its lines (including any improvements needed to facilitate Agency use of the lines), provision for cessation of Agency use of a line if the Sponsoring Public Entity determines that there is no excess capacity in the line, and any special requirements with respect to pressure or other matters relating to the lines.

(b) The Agency will furnish, install, operate, and maintain meters at the point of exit from the Sponsoring Public Entity's transmission lines to maintain accurate measurements of the quantity of water being delivered by the Agency to another Sponsoring Public Entity or other entity through the lines. Such meters shall be subject to inspection and examination by both the Sponsoring Public Entity with the transmission lines and the Agency in accordance with the provisions of Section 4.2.

(c) In the event that repairs are required to be made to any lines or appurtenances of a Sponsoring Public Entity which the Agency utilizes for the transmission of treated water to another Sponsoring Public Entity or other entity, the Agency shall participate in the cost of such repairs as may be agreed from time to time.

(d) Nothing in this Contract will prohibit two Sponsoring Public Entities from entering into an agreement related to the use by one Sponsoring Public Entity of the transmission lines of the other Sponsoring Public Entity.

Section 2.14 **Points of Delivery.** The Project will include the Facilities and Land Interests required to deliver water to the Point of Delivery for each Sponsoring Public Entity at the location depicted in the Engineering Report. However, the Project will include improvements to the transmission lines of a Sponsoring Public Entity needed to facilitate Agency use of the lines under Section 2.13 only to the extent provided for in the agreement entered into by the Agency and the Sponsoring Public Entity under that section. After completion of the Project, each Sponsoring Public Entity shall have the sole responsibility, at its own cost and expense, for providing additional pipelines and other facilities required for transporting its share of the water from the Project to new or additional Points of Delivery, but additional or alternative points of delivery will be allowed only with the consent of the Sponsoring Public Entities.

Section 2.15 **Quantity.** The Sponsoring Public Entities' proportionate share of the treated water produced by the Project is as follows:

City of Buda, Texas	5.60%
City of Kyle, Texas	20.50%
City of San Marcos, Texas	39.70%
Canyon Regional Water Authority	34.20%

Section 2.16 Other Contracts. The Agency shall not enter into contracts with persons or entities other than the Sponsoring Public Entities for the supply of water without the prior consent of all of the Sponsoring Public Entities, and any Sponsoring Public Entity may withhold its consent. Before offering to supply any quantity of water to an entity other than the Sponsoring Public Entities, the Agency shall first offer the water to the Sponsoring Public Entities, and confirm that none of the Sponsoring Public Entities wishes to contract with the Agency for the water. The sale of water by a Sponsoring Public Entity to a retail customer which, in turn, provides water through submeters to tenants is permitted.

Section 2.17 Quality. The water to be delivered by the Agency and received by the Sponsoring Public Entities shall be from sources identified generally in the Engineering Report and treated using the Facilities and equipment described generally in the Engineering Report. Each of the Sponsoring Public Entities has satisfied itself that such water is suitable for its needs. With respect to groundwater supply sources, the Agency and each of the Sponsoring Public Entities shall cooperate, each within its legal powers, in preventing possible pollution and contamination of the formation from which the water is obtained.

Section 2.18 Operation. The Agency covenants to operate the Project in accordance with Prudent Utility Practices and in accordance with applicable regulatory requirements. With respect to groundwater supply sources, the Agency and the Sponsoring Public Entities agree that the Agency shall endeavor to operate groundwater wells in a manner that avoids overdrafting of the formation from which the water is obtained, and they also agree that the Agency shall endeavor to reasonably mitigate the effects of operation of Agency groundwater wells on existing wells in the vicinity.

Section 2.19 Excess Capacity. In the event the Project is constructed so that there is excess capacity in all or any portion of the Facilities, such excess capacity shall be owned by the Agency. Any such excess capacity may be used only with the written consent of the Agency Board of Directors, which may include conditions deemed appropriate by the Board.

ARTICLE III

FINANCING OF THE PROJECT

Section 3.1 Issuance of Bonds.

(a) The Agency's acquisition and construction of the Project and improvements to the Project will be financed by (i) receipt of cash from a Sponsoring Public Entity, (ii) the Agency through the issuance of one or more series or issues of its Bonds by the Agency for a Sponsoring Public Entity, which Bonds are payable from and secured, in part, by an assignment of the Annual Payment Amounts made under this Contract by the designated Sponsoring Public Entity for which such series of Bonds are issued or (iii) any combination of (i) and (ii). It is expressly understood and agreed by the Agency and the Sponsoring Public Entities that any Bonds issued by the Agency shall be issued as separate series of each Sponsoring Public Entity requesting financing by the Agency. Each Sponsoring Public Entity shall be responsible solely for the Bond

Payments on its series of Bonds. No Sponsoring Public Entity shall have any liability or responsibility for any Bond Payments on a series of Bonds issued for another Sponsoring Public Entity. In consideration of the covenants and agreements set forth in this Contract, and to enable the Agency to issue the Bonds to carry out the intents and purposes hereof, this Contract is executed to assure the issuance of the Bonds and to provide for and ensure the due and punctual payment to the Agency or to the Trustee by each Sponsoring Public Entity for which the Agency has issued a series of Bonds, of amounts not less than the Annual Payment Amounts on a series of Bonds issued for a particular Sponsoring Public Entity. Each of the Sponsoring Public Entities hereby agrees to make, or cause to be made, its respective Annual Payment Amount, as and when due, for the benefit of the owners of the Bonds, as provided in the Bonds and the Bond Resolution.

(b) The proceeds from the sale of the Bonds, together with any cash received from a Sponsoring Public Entity, will be used for the payment of the Project Costs. The Bonds will be issued by the Agency in the amount anticipated to be required to acquire and construct the Project, including payment of all Project Costs advanced by one or more of the Sponsoring Public Entities and incurred by the Agency prior to the date of issuance of the Bonds, and to fund, to the extent deemed advisable by the Agency, a debt service reserve fund and interest on the Bonds during construction and for up to one year after the Completion Date. However, each Sponsoring Public Entity reserves the right to pay cash to the Agency for its share of the Project Costs rather than have the Agency issue Bonds on its behalf.

(c)

(i) Each Bond Resolution of the Agency shall specify the maximum principal amount of the Bonds to be issued thereunder. The Bonds shall mature not more than forty (40) years from the date of such Bonds and shall bear interest at not to exceed the maximum legal rate then permitted by law, and the Bond Resolution may create and provide for the maintenance of a revenue fund, an interest and sinking fund, a debt service reserve fund, and any other funds deemed prudent by the Agency, all in the manner and amounts as provided in such Bond Resolution.

(ii) Prior to the final adoption of a Bond Resolution or any amendment of a Bond Resolution by the Agency's Board of Directors or the execution of an Approval Certificate by the Agency, a substantially final copy of the proposed Bond Resolution for the applicable Sponsoring Public Entity, the Approval Certificate, if any, any Credit Agreements and the Sale and Offering Documents shall be presented to the applicable Sponsoring Public Entity for review and approval.

(iii) Upon approval by the Sponsoring Public Entity for which the Agency issues a series of Bonds of (i) a Bond Resolution hereafter adopted by the Agency for the applicable Sponsoring Public Entity, including any Credit Agreements, (ii) any amendments to any Bond Resolution, (iii) an Approval Certificate authorized by a Bond Resolution, and (iv) the Sale and Offering Documents, and the delivery to the Agency of a certification signed by the Authorized Representative of the respective Sponsoring Public Entity to the effect that the Bond Resolution, including any Approval Certificate, and the Sale and

Offering Documents comply with this Contract, then upon the adoption and approval of the Bond Resolution and the Approval Certificate, if any, in such final form by the Agency's Board of Directors or Authorized Representative, as the case may be, and the issuance and delivery of the Bonds to the purchaser thereof, the Bond Resolution shall for all purposes be considered approved by the respective Sponsoring Public Entity and deemed to be in compliance with this Contract in all respects, and the Bonds issued thereunder will constitute Bonds as defined in this Contract for all purposes. Any owner of Bonds is entitled to rely fully and unconditionally on any such approval.

(iv) All covenants and provisions in the Bond Resolution affecting, or purporting to bind, a Sponsoring Public Entity, shall, upon the delivery of the Bonds, become absolute, unconditional, valid, and binding covenants and obligations of the Sponsoring Public Entities so long as the Bonds and interest thereon are outstanding and unpaid, and may be enforced as provided in this Contract and the Bond Resolution. Particularly, the obligation of the respective Sponsoring Public Entity to make, promptly when due, all payments specified in this Contract shall be absolute and unconditional, and said obligation may be enforced as provided in this Contract. In addition, subject to the approval of the affected Sponsoring Public Entity, the Agency may enter into Credit Agreements for the purpose of achieving the lowest financing costs for the Project.

Section 3.2 **Proceeds of Bonds and Cash Contribution.** Subject to the terms and provisions of this Contract, the proceeds of the Bonds shall be used by the Agency for the purpose of financing and funding the Agency's acquisition and construction of the Project as provided in Section 3.1 and improvements to the Project. The Agency shall use its best efforts to issue its Bonds, in one or more separate series for each Sponsoring Public Entity requesting financing, in amounts which will be sufficient, together with any cash contributions, to accomplish such purpose. The proceeds of the Bonds shall be deposited in a construction fund established pursuant to the terms of each Bond Resolution. A trust indenture may be entered into between the Agency and a corporate trustee for the purpose of securing the payment of the Bonds. The trust indenture or the Bond Resolution, as appropriate, will establish procedures for the payment of Project Costs out of the construction fund. It is anticipated that a series of Bonds will be issued pursuant to a Bond Resolution and that a paying agent/registrars agreement will be executed between the Agency and the Trustee concerning the payment procedures with respect to such series of Bonds.

Any cash contribution made by a Sponsoring Public Entity for its share of Project Costs shall be deposited into a subaccount of the construction fund of the Agency: (i) prior to the pricing of any series of Bonds for a Sponsoring Public Entity or (ii) simultaneous with the delivery of the proceeds of any series of Bonds so long as sufficient evidence is provided to the Agency and other Sponsoring Public Entities prior to the pricing of the Bonds that their cash contribution will be available at the closing of the Bonds.

Section 3.3 **Refunding of Bonds.** The Agency reserves the right to issue refunding bonds in accordance with the laws of the State and will provide notice to each applicable Sponsoring Public Entity of the redetermined Annual Payment Amounts in accordance with Section 5.2 of this Contract.

Section 3.4 **Redemption of Bonds.** The Agency, in its sole discretion or upon the written request of a Sponsoring Public Entity (and provided that the affected series of Bonds for such Sponsoring Public Entity are subject to redemption or prepayment prior to maturity at the option of the Agency, and provided that such request is received in sufficient time prior to the date upon which such redemption or prepayment is proposed), forthwith shall take or cause to be taken all action that may be necessary under the applicable redemption provisions of such series of Bonds to redeem the Bonds or any part thereof, to the full extent of funds that are either made available for such purpose by the applicable Sponsoring Public Entity or already on deposit under the Bond Resolution and available for such purpose. The redemption of any outstanding Bonds prior to maturity at any time shall not relieve the applicable Sponsoring Public Entity of their absolute and unconditional obligation to pay each remaining Annual Payment Amount with respect to any outstanding Bonds, as specified in the Bond Resolution.

Section 3.5 **Debt Service on Bonds and Other Bond Funding Requirements.** The parties acknowledge and agree that payments to be made under this Contract will be the primary source available to the Agency to provide the money necessary for the Agency to meet its obligations with respect to a series of Bonds and any Credit Agreements. Each Sponsoring Public Entity therefore agrees to pay the Bond Payments related to the series of Bonds issued for such Sponsoring Public Entity, as outlined in subsections (a) through (c) below, in full when due as provided in this Contract. Bond Payments shall be due by the close of business on the business day prior to each date on which any of the following payments or deposits shall be due and shall be in an amount equal to all such payments and deposits due on such date:

(a) debt service on its related series of Bonds and related payments and deposits, as follows:

(i) principal of, redemption premium, if any, and interest on, its related series of Bonds, less interest to be paid out of Bond proceeds or from other sources if permitted by any Bond Resolution, and the redemption price of any Bonds to be redeemed prior to maturity when and as provided in any Bond Resolution plus the fees, expenses, and, to the extent permitted by law, indemnities of the Trustee, if any, for the Bonds, and those of the paying agent/registrar for paying the principal of and interest on the Bonds and for authenticating, registering, and transferring Bonds on the registration books; and

(ii) deposits required to be made to any special, contingency, or reserve fund by the provisions of any Bond Resolution; and

(iii) any deposit in addition thereto required to restore any deficiency in any of such funds by the provisions of any Bond Resolution,

(b) amounts payable by the Agency under a Credit Agreement; and

(c) the fees, expenses, and indemnities (to the extent permitted by law) of the remarketing agent, rate setting agent, authentication agent, arbitrage rebate compliance firm, and tender agent, if any, for the Bonds.

Section 3.6 **Billing.** The Agency will render bills to each of the Sponsoring Public Entities not more than once each month, commencing in April, 2008, for the current payments required by this Contract. Except as otherwise provided in this Contract, the monthly bill for each Sponsoring Public Entity shall be one-twelfth (1/12) of the amount of that Sponsoring

Public Entity's Annual Payment Amount for the current fiscal year of the Agency. The Agency shall, until further notice, render such bills on or before the 5th day of each month and such bills shall be due and payable on the 26th day of each month or twenty-one (21) days after such bill is deposited into the United States mail, properly stamped and addressed to each Sponsoring Public Entity, whichever is later, and thereafter, to the extent permitted by law, interest shall accrue thereon at the rate of ten per cent (10%) per annum until paid in full. The Agency may, however, from time to time by sixty (60) days' written notice, change the date by which it shall render bills, and all bills shall thereafter be due and payable twenty-one (21) days after such dates as herein provided. Each Sponsoring Public Entity shall make all payments in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and shall make payment to the Agency at its office in Hays County, Texas or at such other place as the Agency may from time to time designate by sixty (60) days' written notice.

Section 3.7 **Delinquency in Payment.** If a Sponsoring Public Entity fails to pay any bills when due and payable, the Agency may give written notice of such delinquency to the Sponsoring Public Entity and if all bills due and unpaid, including interest thereon, are not paid within forty-five (45) days after delivery of such notice, then the Sponsoring Public Entity agrees that the Agency shall be authorized, as its option, to institute suit for collection thereof and to collect any amounts due and unpaid, together with interest thereon and reasonable attorneys' fees, and the Sponsoring Public Entity further agrees that the Agency may, as its option, discontinue providing water to the Sponsoring Public Entity until all amounts due and unpaid are paid in full with interest as herein specified. Any such discontinuation of service shall not, however, relieve the Sponsoring Public Entity of its unconditional obligations to make the payments required by this Contract.

Section 3.8 **Agency's Rights Assigned to Trustee.** The Sponsoring Public Entities are advised and recognize that as security for payment of a series of Bonds issued for a Sponsoring Public Entity, the Agency may assign to the Trustee, pursuant to one or more trust indentures (or paying agent/registrar agreements) to be authorized by the Bond Resolution, the Agency's rights under this Contract, including the right to receive payments due from the Sponsoring Public Entities hereunder (but not the right to receive payments, if any, under Section 8.13 hereof). The Sponsoring Public Entities herewith assent to such assignment and will make the payments due from them hereunder directly to the Trustee without defense or set-off by reason of any dispute between one or more of the Sponsoring Public Entities and the Agency or the Trustee. All rights against the Sponsoring Public Entities arising under this Contract or the Bond Resolution and assigned to the Trustee may be enforced by the Trustee, or the owners of the Bonds, to the extent provided in the Bond Resolution, and the Trustee, or the owners of the Bonds, shall be entitled to bring any suit, action, or proceeding against the Sponsoring Public Entities, to the extent provided in the Bond Resolution, for the enforcement of this Contract, and it shall not be necessary in any such suit, action, or proceeding to make the Agency a party thereto.

Section 3.9 **Tax-Exempt Bonds.** The parties hereto understand and agree that the Agency will use its best efforts to provide for, but will not be liable for a failure to produce, the lowest overall debt service cost for any series of Bonds to be issued for the Project. In connection therewith, the parties understand that the Agency intends to issue Bonds the interest on which is excludable from the gross income of the owners thereof for federal income tax

purposes, except that the parties recognize the series of Bonds issued for the Canyon Regional Water Authority will likely be taxable pursuant to the provisions of the Code. The parties hereto acknowledge their understanding that the federal income tax laws impose certain restrictions on the use and investment of proceeds of such tax-exempt bonds and on the use of the property financed therewith and the output produced therefrom. Accordingly, the parties agree and covenant that if any series of Bonds are offered to investors with the understanding that the interest will be exempt from federal income taxation, then the parties, their assigns and agents, will take such action to assure, and refrain from such action which will adversely affect, the treatment of such Bonds as obligations described in section 103 of the Code. Should any party fail to comply with such covenant, the effect of which being that the Bonds no longer qualify as obligations described in the Code, such defaulting party shall be liable for all costs resulting from the loss of the tax-exempt status of the Bonds. The parties hereby agree and covenant to comply with all of the representations and covenants relating to such exemption which are set out in any Bond Resolution. The parties further agree and covenant that in the event any series of Bonds issued are to be tax-exempt, they will modify such agreements, make such filings, restrict the yield on investments, and take such other action necessary to fulfill the applicable provisions of the Code. For these purposes, the parties may rely on the respective opinion of any firm of nationally-recognized bond attorneys selected by them. In the event that a conflict arises in the opinions of the respective firms of the parties, the parties will identify a different firm that is mutually acceptable to all parties in order to resolve the conflict of opinion.

Section 3.10 **Payment to Rebate Fund.** In the event that tax-exempt Bonds are issued as provided in Section 3.9, the Agency hereby covenants and agrees to make the determinations and to pay any deficiency into a rebate fund, at the times and as described in the Bond Resolution to comply with the provisions of section 148(f)(2) of the Code. In any event, if the amount of cash held in the rebate fund shall be insufficient to permit the Trustee to make payment to the United States of America of any amount due on any date under section 148(f)(2) of the Code, each of the Sponsoring Public Entity forthwith shall pay the amount of such insufficiency for the series of Bonds issued for such Sponsoring Public Entity on such date to the Trustee in immediately available funds for such purpose. The obligations of the Sponsoring Public Entities under this Section 3.10 are direct obligations of each Sponsoring Public Entity, acting under the authorization of, and on behalf of, the Agency and the Agency shall have no further obligation or duty with respect to the rebate fund.

Section 3.11 **Sponsoring Public Entities' Obligations.** In the event the Project is not completed for any of the reasons contemplated herein or otherwise, or any proceeds from issuance of a series of Bonds are not used for completion of the Project for any reason, any Bond proceeds and earnings thereon for such series not used for completion of the Project shall be utilized to satisfy amounts due and owing on the related series of Bonds as described in the Bond Resolution, and herein, so as to reduce the Annual Payment Amounts which would otherwise be due hereunder, or be applied for the benefit of the Sponsoring Public Entity for which a series of Bonds are being issued as provided in the Bond Resolution. Each of the Sponsoring Public Entities has covenanted absolutely and unconditionally, in accordance with all other terms of this Contract, to make payment of the Annual Payment Amounts, as provided herein, in consideration for such application of the money as well as the other covenants and obligations of the Agency and others set forth or contemplated herein.

Section 3.12 **Interest on Money.** All legally available money respecting a series of Bonds shall be invested in the manner set forth in the Bond Resolution. Any interest earnings on the Bond proceeds may be used to pay principal of and interest on the related series of Bonds or for the payment of any Project Costs or other costs related to the Project approved by the Sponsoring Public Entity for which such Bonds were issued, subject to Section 3.9.

Section 3.13 **Sale and Offering Documents.** At the request of the Agency, each of the Sponsoring Public Entities for which a series of Bonds are being issued shall provide to the Agency current and historical information concerning such Sponsoring Public Entity's System, the financial conditions, results, and prospects of the Sponsoring Public Entity, and such other information concerning such Sponsoring Public Entity as the Agency shall deem advisable for inclusion in the Sale and Offering Documents for the series of Bonds of to be issued for such Sponsoring Public Entity, and shall certify to the Agency and the underwriters of any offering of Bonds to be made by means of such Sale and Offering Documents when and if the Sponsoring Public Entity deems such Sale and Offering Documents to be complete and final for purposes of the Rule. Each of the Sponsoring Public Entities represents and warrants that all statements concerning it (including, without limitation, its financial condition, results, and prospects, its System, and any demographic and economic information concerning the area served by its System) that are contained in any Sale and Offering Document approved by the Sponsoring Public Entities pursuant to Section 3.1 hereof shall be true in all material respects and shall not omit to state any material fact necessary to make the statements made in such Sale and Offering Document, in the light of the circumstances in which they are made, not misleading.

Section 3.14 **Right of Sponsoring Public Entities to Prepay.** Each of the Sponsoring Public Entities shall have the right at any time to prepay all or any portion of the Annual Payment Amounts. Subject to the provisions of Section 3.9, such prepaid Annual Payment Amounts shall be used and invested by the Agency as directed by the Sponsoring Public Entity which paid (i) as a credit against future Annual Payment Amount obligations of such Sponsoring Public Entity, (ii) to redeem Bonds issued for such Sponsoring Public Entity pursuant to the provisions of Section 3.4, or (iii) to provide for the defeasance of the Bonds pursuant to the provisions of the Bond Resolution. Any such prepayment will not cause a termination of this Contract until all other amounts owed or to be incurred by the Agency or any other person under the provisions of the Bond Resolution (including the charge for water pursuant to Section 8.5 hereof) have been paid in full or waived by such person.

ARTICLE IV

METERING AND MEASUREMENT

Section 4.1 **Unit of Measurement.** The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure.

Section 4.2 **Measuring Equipment.**

(a) The Agency shall furnish, install, operate and maintain at its own expense for each Delivery Point the necessary electronic or other equipment and devices of standard type for measuring properly the quantity of water delivered under this Contract. Such meter or meters and other equipment so installed shall remain the property of the Agency. The Sponsoring Public Entities shall have access to such metering equipment at all reasonable times, but the reading, calibration, and adjustment thereof shall be done only by the employees or agents of the

Agency. For the purpose of this Contract the original record or reading of the meter or meters shall be the journal or other record book of Agency in its office in which the records of the employees or agents of the Agency who take readings are or may be transcribed. Upon written request of a Sponsoring Public Entity, the Agency will give the Sponsoring Public Entity a copy of such journal or record book, or permit the Sponsoring Public Entity to have access to the same in the office of the Agency during reasonable business hours.

(b) The Agency shall calibrate its meters periodically, but at least once each year. Each Sponsoring Public Entity shall be entitled to have a representative present during each calibration, and the parties shall jointly observe any needed adjustments which are made to the meters. If the check meters hereinafter provided for have been installed, the same shall also be calibrated by the Sponsoring Public Entities in the presence of a representative of the Agency, and the parties shall jointly observe any needed adjustment. If the Sponsoring Public Entities in writing request the Agency to calibrate its meters, and the Agency gives the Sponsoring Public Entities notice of the time when the calibration is to be made, and a representative of any Sponsoring Public Entity is not present at the time set, the Agency may proceed with calibration and adjustment in the absence of a representative of that Sponsoring Public Entity.

(c) If any party at any time observes a variation of one percent (1%) or more between the delivery meter or meters and the check meter or meters (if any such check meter or meters are installed), such party will promptly notify the other parties, and the parties hereto shall then cooperate to procure an immediate calibration test and joint observation of any adjustment, and the said delivery and check meter or meters shall then be tested and adjusted to accuracy. Each party shall give the other parties forty-eight (48) hours' notice of the time of all tests of meters so that the other parties may conveniently have a representative present.

(d) If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (½) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered during the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise the amount of water delivered during such period may be estimated (i) by correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation, or (ii) by estimating the quantity of delivery by deliveries during the preceding periods under similar conditions when the meter or meters were registering accurately.

(e) One or more of the Sponsoring Public Entities may, at their option and their own expense, install and operate a check meter to check each delivery meter installed by the Agency, but the measurement of water for the purpose of this Contract shall be solely by the Agency's meters, except in the cases hereinabove specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Agency. The reading, calibration and adjustment thereof, however, shall be made only by the respective Sponsoring Public Entity or Entities,

except during any period when a check meter may be used under the provisions hereof for measuring the amount of water delivered, in which case the reading, calibration and adjustment thereof shall be made by the Agency with like effect as if such check meter or meters had been furnished or installed by the Agency.

ARTICLE V

ANNUAL PAYMENT AMOUNTS, SPONSORING PUBLIC ENTITY COVENANTS

Section 5.1 **Annual Estimate of Annual Payment Amounts.** Not less than ninety (90) days prior to the beginning of each Fiscal Year, the Agency shall furnish to the Agency Board of Directors, and to each of the Sponsoring Public Entities, a proposed budget that includes an estimate of the Annual Payment Amounts for that Fiscal Year from each Sponsoring Public Entity, and a schedule of the monthly payments required to be paid by each Sponsoring Public Entity in such Fiscal Year. The Annual Payment Amount for each Sponsoring Public Entity shall include the Entity's Bond Payment and the anticipated proportionate share of the Operation and Maintenance Expenses and Overhead Expenses of the Agency. The Agency Board shall review the proposed budget, and after making any adjustments which are reasonable and necessary, shall approve the budget not later than ten (10) days before the beginning of the Fiscal Year. The Agency Board shall ensure that each approved budget includes appropriate amounts for making of all Bond Payments by the Agency.

Section 5.2 **Payments by the Sponsoring Public Entities.**

(a) Each of the Sponsoring Public Entities hereby agrees that it will make payment of its Bond Payment, to the extent the Agency issues a series of Bonds for such Sponsoring Public Entity, and its proportionate share of the Operation and Maintenance Expenses and Overhead Expenses to the Agency, or to the Trustee on behalf of the Agency, as provided in the Bond Resolution, and in accordance with the procedures established in Section 3.6 hereof. If a Sponsoring Public Entity at any time disputes the amount to be paid by it to the Agency, such Sponsoring Public Entity shall nevertheless promptly make such payment or payments, but if it is subsequently determined by agreement or court decision that such disputed payments made by the Sponsoring Public Entity should have been less, or more, the Agency shall promptly revise the charges for such Sponsoring Public Entity in such manner that the Sponsoring Public Entity will recover its overpayment or the Agency will recover the amount due it. The Agency shall pursue all legal remedies against the Sponsoring Public Entities to enforce and protect the rights of the Agency and the owners of the Bonds, and the Sponsoring Public Entities shall not be relieved of the liability to the Agency for the payment of all amounts which are due by them hereunder.

(b) Except to the extent otherwise provided by the Bond Resolution, all amounts due under this Contract shall be paid and are due in Hays County, Texas, which is the County in which the principal administrative offices of the Agency are located.

(c) The Agency shall redetermine the estimate and schedule of Annual Payment Amounts due in any Fiscal Year at any time during such Fiscal Year, as and to the extent deemed necessary or advisable by the Agency to accurately forecast the Annual Payment Amounts and the dates of payments to be made by each of the Sponsoring Public Entities, if (i) the Agency issues Bonds to complete the Project or to refund any Bonds or enters into, amends, or terminates a Credit Agreement, (ii) actual interest rates on any variable interest rate Bonds differ from those

projected by the Agency, or (iii) any other event occurs which results in an increase or decrease in the Annual Payment Amounts required to be made by the Sponsoring Public Entities in such Fiscal Year.

(d) If, during any Fiscal Year, the Annual Payment Amount is redetermined in any manner as provided or required in this Section, the Agency will promptly furnish each of the Sponsoring Public Entities with an updated schedule of payments reflecting such redetermination.

(e) Notwithstanding anything herein to the contrary, no failure of the Agency to estimate, and no mistake by the Agency in any estimate of, the amount of or schedule for payments due from the Sponsoring Public Entities in any Fiscal Year shall relieve the Sponsoring Public Entities from (or defer) their absolute and unconditional obligation to pay all Annual Payment Amounts in full when due.

(f) The Agency shall, to the extent permitted by law, suspend the delivery of services or water from the Project to any Sponsoring Public Entity which remains delinquent in any payments due under the preceding paragraphs for a period of thirty (30) days, and shall not resume delivery of services or water while such Sponsoring Public Entity is so delinquent. The Agency also retains the right to charge a reconnection fee or other appropriate charges prior to commencing utility service to the delinquent Sponsoring Public Entity. It is further provided and agreed that if any Sponsoring Public Entity should remain delinquent in any payments due hereunder for a period of one hundred twenty days, and if such delinquency continues during any period thereafter, such Sponsoring Public Entity's proportionate share specified in Section 2.15 shall be deemed to have been zero percent during all periods of such delinquency, for the purpose of calculating and redetermining the percentage of Operation and Maintenance Expenses and Overhead Expenses to be paid by the non-delinquent Sponsoring Public Entities and the Agency, and the Agency shall redetermine such percentage of Operation and Maintenance Expenses and Overhead Expenses on that basis in such event so that the non-delinquent Sponsoring Public Entity and the Agency collectively shall be required to pay all of the Operation and Maintenance Expenses and Overhead Expenses. However, the Agency shall pursue all legal remedies against any such delinquent Sponsoring Public Entity to enforce and protect the rights of the Agency and the other Sponsoring Public Entities, and any non-delinquent Sponsoring Public Entity may also pursue remedies against the delinquent Sponsoring Public Entity in coordination with the Agency. The delinquent Sponsoring Public Entity shall not be relieved of the liability to the Agency for the payment of all Operation and Maintenance Expenses and Overhead Expenses which would have been due hereunder had no default occurred or the percentage had not been redetermined as provided in this Section. If any amount of Operation and Maintenance Expenses and Overhead Expenses due and owing the Agency by any Sponsoring Public Entity is placed with an attorney for collection, such Sponsoring Public Entity shall pay to the Agency, and to the non-delinquent Sponsoring Public Entities, as appropriate, all attorneys' fees, in addition to all other payments provided for herein, including interest. In the event the Agency redetermines the percentages of the Operation and Maintenance Expenses and Overhead Expenses to be made by the non-delinquent Sponsoring Public Entities under this subsection then the Agency shall also redetermine each non-delinquent Sponsoring Public Entity's pro rata share of treated water from the Project for the period of the delinquency, and the non-delinquent Sponsoring Public Entities shall be entitled to use of their respective redetermined shares during the period of delinquency.

Section 5.3 **Source of Payment.**

(a) Each of the Sponsoring Public Entities represents and covenants that all payments to be made by them under this Contract shall constitute reasonable and necessary "operating expenses," as defined in Chapter 1502, as amended, Texas Government Code, of its System, but only to the extent of the Annual Payment Amount. A Sponsoring Public Entity shall not be obligated to make its payments under this Contract from any source other than the gross revenues of its System. Each of the Sponsoring Public Entities further represents that its Governing Body has determined that the services to be provided by the Project are absolutely necessary and essential to provide water to that Sponsoring Public Entity.

(b) Each of the Sponsoring Public Entities agrees throughout the term of this Contract to fix and collect such rates and charges for services to be supplied by its System as will produce gross revenues at all times during the term of this Contract in an amount at least equal to (i) all of the expenses of operation and maintenance of the Sponsoring Public Entity's System, including specifically its payments under this Contract and (ii) all other amounts as required by law and the provisions of the ordinances or resolutions authorizing the Sponsoring Public Entity's Utility Bonds or other obligations now or hereafter outstanding payable, in whole or in part, from the net revenues of the Sponsoring Public Entity's System, including the amounts required to pay all principal of and interest on such Sponsoring Public Entity's Utility Bonds and other obligations.

(c) No ad valorem tax revenues of any of the Sponsoring Public Entities shall be pledged to the payment of any amounts to be paid by the Sponsoring Public Entities to the Agency under this Contract, nor shall the Agency have the right to demand payment of any amounts to be paid by the Sponsoring Public Entities under this Contract be paid from funds raised or to be raised from ad valorem taxation from the Sponsoring Public Entities. The obligations under this Contract shall never be construed to be a debt or pecuniary obligation of any of the Sponsoring Public Entities of such kind as to require any of the Sponsoring Public Entities to levy and collect an ad valorem tax to discharge their obligations.

Section 5.4 **Agency's Operation and Maintenance Expenses and Overhead Expenses.** To the extent not paid out of the proceeds of the Bonds, or otherwise, each of the Sponsoring Public Entities shall pay and reimburse the Agency for all of its proportionate share of Operation and Maintenance Expenses and Overhead Expenses incurred by the Agency throughout the term of this Contract within thirty (30) days of receipt of documentation therefor from the Agency. The Sponsoring Public Entities also agree, with the consent of the Agency, to enter into an interlocal agreement among themselves and with the Agency to provide for, among other matters, an annual adjustment of the Operation and Maintenance Expenses and Overhead Expenses paid by each Sponsoring Public Entity based upon certain formulas and taking into account the quantity of water actually utilized by each Sponsoring Public Entity.

Section 5.5 **Annual Budgeting by the Sponsoring Public Entities.** Each Sponsoring Public Entity shall make provision in its annual budgets and shall appropriate an amount sufficient, at a minimum, for the payment of all amounts required to be paid by the Sponsoring Public Entity from the sources specified under this Contract.

Section 5.6 **Revenue Sources Pledged.** Each of the Sponsoring Public Entities hereby pledges the gross revenues of its System to the payment of its obligations under this Contract, and recognizes that the Agency will, and authorizes the Agency to, pledge the Annual Payment Amounts owing to the Agency by the Sponsoring Public Entities under this Contract to

the payment of the Bonds and Credit Agreements. The Agency agrees to make the payments for the Bonds and Credit Agreements when and as required by the Bond Resolution, the Credit Agreements, and this Contract, from and to the extent of capitalized interest, proceeds of the Bonds not expended for the Project, and payments made by the Sponsoring Public Entities.

Section 5.7. General Covenants. Each Sponsoring Public Entity further represents, covenants and agrees that in accordance with and to the extent permitted by law:

(a) **Performance.** It will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in each ordinance or resolution authorizing the issuance of its Sponsoring Public Entity's Utility Bonds; and it will, at the time and in the manner prescribed, deposit or cause to be deposited the amounts required to be deposited into the fund and accounts created by said ordinances, but only from and to the extent of the sources of funds and after satisfaction of all prior obligations described therein.

(b) **Sponsoring Public Entities' Legal Agency.** It is a duly created and existing municipality of the State, or a conservation and reclamation district and political subdivision of the State, as applicable, and is duly authorized under the laws of the State to enter into this Contract, and that all action on its part for the execution and delivery of this Contract has been duly and effectively taken; and that this Contract is a valid and enforceable special obligation of the Sponsoring Public Entities in accordance with its terms.

(c) **Acquisition and Construction; Operation and Maintenance.** (1) It shall use its best efforts in accordance with Prudent Utility Practice to acquire and construct, or cause to be acquired and constructed, any capital improvements to its System needed for it to secure delivery of its proportionate share of treated water from the Project at the agreed Delivery Points, which shall mean and include any capital extensions, improvements, and betterments, in accordance with the plans and specifications therefor, as modified from time to time with due diligence and in a sound and economical manner; and (2) it shall at all times use its best efforts to operate or cause to be operated its System properly and in an efficient manner, consistent with Prudent Utility Practice, and shall use its best efforts to maintain, preserve, reconstruct and keep the same or cause the same to be so maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time make, or use its best efforts to cause to be made, all necessary and proper repairs, replacement, and renewals so that at all times the operation of its System may be properly and advantageously conducted.

(d) **Title.** It has or will obtain lawful title, whether such title is in fee or lesser interest, to the lands, buildings, structures, and facilities constituting its System; it will defend the title to all the aforesaid lands, buildings, structures, and facilities, and every part thereof, for the benefit of the Agency and the owners of the Bonds, against the claims and demands of all persons whomsoever; and it is lawfully qualified to pledge the gross revenues of its System to the payment of the payments required by this Contract in the manner prescribed herein, and has lawfully exercised such rights.

(e) **Liens.** It will from time to time, and before the same become delinquent, pay and discharge all taxes, assessments, and governmental charges, if any, which shall be lawfully imposed upon its System; it will pay all lawful claims for rents, royalties, labor, materials, and supplies which if unpaid might by law become a lien or charge thereon, the lien of which would be prior to or interfere with the liens hereof, so that the priority of the lien granted hereunder

shall be fully preserved in the manner provided herein; and it will not create or suffer to be created any mechanic's, laborer's, materialman's, or other lien or charge which might or could be prior to the liens hereof, or do or suffer any matter or thing whereby the lien hereof might or could be impaired; provided however, that no such tax, assessment, or charge, and no such claims which might be used as the basis of a mechanic's, laborer's, materialman's, or other lien or charge, shall be required to be paid so long as the validity of the same shall be contested in good faith by the Sponsoring Public Entity.

(f) Books, Records, and Accounts. It shall keep proper books, records, and accounts separate and apart from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to its System, the Bonds, and the Sponsoring Public Entities, and it shall cause said books and accounts to be audited annually as of the close of each Fiscal Year by the Accountant. At the request of the Agency, the Sponsoring Public Entity shall allow the Agency to audit such books, records, and accounts at any reasonable time and from time to time.

(g) Insurance.

(i) Except as otherwise permitted in clause (ii) below, it shall cause to be insured such parts of its System as would usually be insured by public entities operating like properties, with a responsible insurance company or companies, against risks, accidents, or casualties against which and to the extent insurance is usually carried by public entities operating like properties, including, to the extent reasonably obtainable, fire and extended coverage insurance, insurance against damage by floods, and use and occupancy insurance. Public liability and property damage insurance shall also be carried unless the legal counsel for the Sponsoring Public Entity gives a written opinion to the effect that the Sponsoring Public Entity is not liable for claims which would be protected by such insurance. At any time while any contractor engaged in construction work shall be fully responsible therefor, the Sponsoring Public Entities shall not be required to carry insurance on the work being constructed if the contractor is required to carry appropriate insurance. All such policies shall be open to the inspection of the Agency at all reasonable times.

(ii) In lieu of obtaining policies for insurance as provided above, the Sponsoring Public Entities may self-insure against risks, accidents, claims, or casualties described in clause (i) above.

(iii) The annual audit hereinafter required shall contain a section commenting on whether or not the Sponsoring Public Entity has complied with the requirements of this Section with respect to the maintenance of insurance, and listing the areas of insurance for which the Sponsoring Public Entity is self-insuring, all policies carried, and whether or not all insurance premiums upon the insurance policies to which reference is hereinbefore made have been paid.

(h) Audits. After the close of each Fiscal Year while this Contract is in effect, it shall cause an audit to be made of the books and accounts relating to its System and of the revenues and expenses of its System by the Accountant. As soon as practicable after the close of each such Fiscal Year, and when said audit has been completed and made available to the Sponsoring Public Entity, a copy of such audit for the preceding Fiscal Year shall be mailed to the Agency.

Such annual audit reports shall be open to the inspection of the Agency, its agents and representatives, the Trustee, and the owners of the Bonds at all reasonable times at the Agency's office.

(i) Governmental Agencies. It will comply with all of the terms and conditions of any and all franchises, permits, and authorizations applicable to or necessary with respect to its System, and which have been obtained from any governmental agency; and the Sponsoring Public Entities have or will obtain and keep in full force and effect all franchises, permits, authorizations, and other requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation, and maintenance of its Sponsoring Public Entity's System.

(j) No Competition. To the extent it legally may, it will not grant any franchise or permit for the acquisition, construction, or operation of any competing facilities which might be used as a substitute for its System's facilities, and, to the extent that it legally may, each Sponsoring Public Entity will prohibit any such competing facilities.

(k) Rights of Inspection. The Agency, the Trustee, and the owners of 10% or more in principal amount of the Bonds of any series shall have the right at all reasonable times to inspect its System and all records, accounts, and data of the Sponsoring Public Entity relating thereto, and upon request the Sponsoring Public Entity shall furnish to the Agency, the Trustee, and such owners of Bonds such financial statements, reports, and other information relating to the Sponsoring Public Entity and its System as any such person may from time to time reasonably request.

(l) Sale, Lease, or Disposal of Property by the Sponsoring Public Entities. A Sponsoring Public Entity shall not sell, lease, mortgage, demolish, remove, or otherwise dispose of any part of its System, except as follows:

(i) To the extent permitted by law, a Sponsoring Public Entity may sell or exchange at any time and from time to time any property or facilities constituting a part of its System only if (a) it shall determine such property or facilities are not useful in the operation of its System, (b) the proceeds of such sale are \$250,000 or less, or it shall have received a certificate executed by the Sponsoring Public Entity's Engineer of Record and Authorized Representative stating, in their opinion, that the fair market value of the property or facilities exchanged is \$250,000 or less, (c) if such proceeds or fair market value exceeds \$250,000, it shall have received a certificate executed by the Sponsoring Public Entity's Engineer of Record and Authorized Representative stating, in their opinion, that the sale or exchange of such property or facilities will not impair the ability of the Sponsoring Public Entity to comply during the current or any future year with the provisions of Section 5.3(b) of this Contract, or (d) the sale or exchange will not adversely affect the excludability of interest on the Bonds from the gross income of the owners thereof. The proceeds of any such sale or exchange not used to acquire other property necessary or desirable for the safe or efficient operation of the Sponsoring Public Entity's System shall forthwith, at the option of the Sponsoring Public Entity, be used as provided in the ordinances of the Sponsoring Public Entity authorizing its Utility Bonds.

(ii) To the extent permitted by law, the Sponsoring Public Entity may lease or make contracts or grant licenses for the operation of, or make

arrangements for the use of, or grant easements or other rights with respect to, any part of its System, provided that any such lease, contract, license, arrangement, easement or right (i) does not impede the operation by the Sponsoring Public Entity of the System, (ii) does not in any manner impair or adversely affect the rights or security of the Agency under this Contract; and provided, further, that if the depreciated cost of the property to be covered by any such lease, contract, license, arrangement, easement, or other right is in excess of \$500,000, the Sponsoring Public Entity shall have received a certificate executed by the Sponsoring Public Entity's Engineer of Record and Authorized Representative that the action of the Sponsoring Public Entity with respect thereto does not result in a breach of the conditions under this subsection (2), and (iii) does not adversely affect the excludability of interest on the Bonds from the gross income of the owners thereof. Any payments received by the Sponsoring Public Entity under or in connection with any such lease, contract, license, arrangement, easement or right in respect of the Sponsoring Public Entity's System or any part thereof shall constitute gross revenues of the System.

ARTICLE VI
CONTINUING DISCLOSURE

Section 6.1 **Annual Reports.**

(a) Following the issuance of Bonds of any series by the Agency for the benefit of the appropriate Sponsoring Public Entity, the offer or sale of which is not exempt from the Rule and, until the Sponsoring Public Entities are no longer obligated, contingently or otherwise, to pay the Annual Payment Amounts in respect of the Bonds of such series, each Sponsoring Public Entity undertakes to and shall provide annually to each NRMSIR and any SID, within six months after the end of each Fiscal Year, (1) financial information and operating data of the general type included in the Sale and Offering Documents for the Bonds of such series, as specified in the Sponsoring Public Entities' approval of such Sale and Offering Documents pursuant to Section 3.1 hereof and (2) audited general purpose financial statements of the Sponsoring Public Entity, if then available. Any financial statements so to be provided shall be (1) prepared in accordance with generally accepted accounting principles for governmental agencies or such other accounting principles as the Sponsoring Public Entity may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the Sponsoring Public Entity commissions an audit of such statements and the audit is completed within the period during which it must be provided. If the audit of such financial statements is not complete within such period, then the Sponsoring Public Entity shall provide unaudited financial statements within the required period, and shall provide audited financial statements for the applicable Fiscal Year to each NRMSIR and any SID, when and if the audit report on such statements become available.

(b) If a Sponsoring Public Entity changes its Fiscal Year, it will notify the Trustee, each NRMSIR, and any SID in writing of the change (and of the date of the new Fiscal Year end) prior to the next date by which the Sponsoring Public Entity otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be incorporated by specific

reference to any document or specific part thereby (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC. Copies of such information and operating data shall be furnished to the Agency at the same time the information and data are furnished to any NRMSIR or SID.

Section 6.2 **Material Event Notices.** (a) The following are the events with respect to the Bonds which the Agency must agree to disclose in a timely manner pursuant to the Rule, if “material” under applicable federal securities laws and regulations promulgated thereunder.

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) Modifications to rights of holders of the Bonds;
- (8) Bond calls;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds; and
- (11) Rating changes.

(b) A Sponsoring Public Entity shall, promptly after obtaining actual knowledge of the occurrence of any of the events enumerated in (a) above with respect to such Sponsoring Public Entity, notify the Agency of such event and provide all information in the format required to satisfy the requirements of the Rule. Further, the Sponsoring Public Entity shall provide, in a timely manner, notice of any failure by the Sponsoring Public Entity to provide audited financial statements, financial information, and operating data in accordance with Section 6.1 hereof to each NRMSIR and each SID.

Section 6.3 **Limitations, Disclaimers, and Amendments.**

(a) Each Sponsoring Public Entity shall be obligated to observe and perform the covenants specified in this Article in respect of its Bonds of any series for so long as, but only for so long as, the Sponsoring Public Entity remains an “obligated person” with respect to the Bonds of such series within the meaning of the Rule, except that a Sponsoring Public Entity in any event will give notice of any deposit made in accordance with the Bond Resolution that causes Bonds of such series no longer to be outstanding.

(b) The provisions of this Article are for the sole benefit of (and may be enforced by) the owners and beneficial owners of the Bonds of such Sponsoring Public Entity, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Sponsoring Public Entities undertake to provide only the financial information, operating data, financial statements, and notices which they have expressly agreed to provide pursuant to this Article and they do not hereby undertake to provide any other information that may be relevant or material to a complete presentation of their respective financial results, condition, or prospects, nor do they hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The Sponsoring Public Entities make no representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

(c) UNDER NO CIRCUMSTANCES SHALL ANY SPONSORING PUBLIC ENTITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE SPONSORING PUBLIC ENTITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(d) No default by a Sponsoring Public Entity in observing or performing its obligations under this Article shall comprise a breach of or default under this Contract for purposes of any other provision of this Contract.

(e) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the Agency or the Sponsoring Public Entities under federal and state securities laws.

(f) The provisions of this Article may be amended by the Agency and the appropriate Sponsoring Public Entities from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Agency or the appropriate Sponsoring Public Entities, but only if (1) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds of the applicable series in the primary offering of the Bonds of such series in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances, and (2) either (a) the owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Contract that authorizes such an amendment) of the outstanding Bonds of each such series affected consent to such amendment or (b) an entity that is unaffiliated with the Agency or the appropriate Sponsoring Public Entities (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the owners and beneficial owners of the Bonds of such series and is permitted by the terms of the Article. If the Agency and the appropriate Sponsoring Public Entities so amend the provisions of this Article in connection with the financial or operating data which the Sponsoring Public Entities are required to disclose under Section 6.1 hereof, the appropriate Sponsoring Public Entities shall provide a notice of such amendment to be filed in accordance with Section 6.2(b) hereof; together with an explanation, in narrative form, of the reason for the amendment and the impact of any change in the type of financial information or operating data to be so provided. The Agency and the

appropriate Sponsoring Public Entities may also amend or repeal the provisions of this Article if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

ARTICLE VII

COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

Section 7.1 **Compliance with Federal, State and Local Laws.** In addition to the provisions of Section 8.8 hereof, this Contract is subject to all applicable federal and State laws and any applicable permits, ordinances, rules, orders and regulations of any local, state or federal government authority having or asserting jurisdiction. The Contract is specifically subject to the rules of the TCEQ, and the Agency shall have the right to terminate this Contract with respect to a Sponsoring Public Entity upon the Sponsoring Public Entity's non-compliance with the rules promulgated by the TCEQ. Pursuant to those rules the parties will comply with all of the applicable requirements in Section 7.2 hereof.

Section 7.2 **Recordkeeping and Reporting.** The Sponsoring Public Entities and the Agency shall maintain records relating to the Agency on site for a period of five (5) years.

- (a) Records to be maintained by the Agency include:
 - (i) copies of notifications made to the TCEQ concerning water projects;
 - (ii) as applicable, copies of contracts made with each water user;
 - (iii) records of volume of water delivered to each water user per delivery; and
 - (iv) water quality analyses.
- (b) Records to be maintained by each Sponsoring Public Entity include:
 - (i) records of volume of water delivered to the Sponsoring Public Entity by the Agency;
 - (ii) records of water quality analysis of the Sponsoring Public Entity's distribution system;
 - (iii) calibration records for any check meters (as described in Section 4.2(e) above) owned, maintained, or controlled by the Sponsoring Public Entity; and
 - (iv) maintenance records pertinent to each Agency delivery point to the Sponsoring Public Entity.
- (c) The Agency shall report to the TCEQ on a monthly basis the following information on forms furnished by the Executive Director of the TCEQ:
 - (i) volume of water delivered to each Sponsoring Public Entity.

(ii) quality of water delivered to the Sponsoring Public Entities reported as a monthly average for each quality criteria except those listed as "not to exceed," which shall be reported as individual analyses.

Such reports are due to the TCEQ by the 20th day of the month following the reporting period.

The foregoing requirements of this Article VII shall be amended as necessary to comply with the rules of the TCEQ.

All costs of compliance with the rules of the TCEQ shall be paid by the Agency, but such costs shall be considered an Operation and Maintenance Expense.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.1 **Participation by the Parties.** Each party represents to the other parties that it is empowered by law to participate in the acquisition, construction, and financing of the Project, and to execute this Contract and other agreements and documents as are or may hereafter be required to accomplish the same; and that its participation in the Project and execution of this Contract have been duly authorized by action of its Governing Body at a meeting conducted in accordance with the Texas Open Meetings Act, as amended, Chapter 551, Texas Government Code. Each party agrees to furnish to the other parties such documentation or evidence of its authority to so participate and execute this Contract and other agreements and documents as the other parties may reasonably request, and to take and perform such other and further actions and execute such other agreements and documents as may be reasonably required to carry out the provisions of this Contract.

Section 8.2 **Insurance.**

(a) The Agency agrees to carry public liability insurance and environmental pollution insurance on the Project for purposes and in amounts which ordinarily would be carried by a privately owned utility company owning and operating such facilities, except that the Agency shall not be required to carry liability insurance except to insure itself against risk of loss due to claims for which it can, in the opinion of the Agency's legal counsel, be potentially liable considering relevant governmental immunities of the Sponsoring Public Entities and the Agency. The Agency shall also carry property casualty insurance in the amount of the replacement value of all improvements and personal property connected with the Project (less a deductible comparable to the deductible on the Sponsoring Public Entities' property insurance for their respective properties generally). All premiums for such insurance shall constitute an expense of the Project but may be paid out of the proceeds of the Bonds to the extent that such proceeds are available. In the event the Agency is required to pay a deductible with respect to a claim under any such policy, the amount of such deductible shall constitute an expense and shall be paid by the Sponsoring Public Entities.

(b) The Agency shall require the contractor or contractors employed for construction of the Project to carry insurance and bond coverages throughout the construction period in at least the following amounts: (1) workers' compensation: State law limits; (2) general liability (including contractual liability) and automobile liability: one million dollars (\$1,000,000) per

person and two million dollars (\$2,000,000) per occurrence for bodily injury, and one million dollars (\$1,000,000) for property damage; (3) builder's risk: full replacement value of improvements; (4) performance and payment bond: full value of contract; (5) cost overrun insurance; and (6) timely completion insurance. The Agency shall secure from the contractor or contractors a certified copy of such effective policy of insurance, and original bonds, prior to commencement of construction, and the Agency shall furnish a copy of the policy and bonds to a Sponsoring Public Entity upon request. Such insurance policies shall name the Agency and the Sponsoring Public Entities as additional insureds, and the Agency shall require the contractor to provide a certificate of insurance to the Agency showing the required coverages, and providing that the policies may not be canceled, changed, or not renewed until the Agency has been given thirty (30) days prior written notice of such event.

(c) The insurance required by this section may be modified by written agreement of the Sponsoring Public Entities and the Agency, in accordance with good business practice. Any questions about the scope of coverage required hereunder shall be resolved by written agreement between the Sponsoring Public Entities and the Agency. The parties can agree to substitute an owner controlled insurance program for any of the above specified insurance requirements.

Section 8.3 **Force Majeure.** If by reason of Force Majeure any party hereto shall be rendered unable wholly or in part to carry out its obligations under this Contract, other than the obligation of each of the Sponsoring Public Entities to make the payments required under Sections 3.5, and 5.2 of this Contract, then if such party shall give notice and full particulars of such Force Majeure in writing to the other parties within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, blue northers, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, inability on the part of the Agency to deliver water for any reason, or any other causes not reasonably within the control of the party claiming such inability.

Section 8.4 **Unconditional Obligation to Make Payment.** Recognizing the fact that the Sponsoring Public Entities urgently require the facilities and services of the Project, and that such facilities and services are essential and necessary for actual use and for standby utility system purposes, and recognizing the fact that the payments to be received from each of the Sponsoring Public Entities will be the primary source of funds available to the Agency and the Trustee to pay the Bonds and other Project Costs, and recognizing the fact that purchasers of the Bonds will rely on the obligation of the Sponsoring Public Entities to pay the Annual Payment Amounts with respect to their series of Bonds in accordance with the provisions of this Contract, each of the Sponsoring Public Entities hereby waives all rights of set-off, recoupment, counterclaim; suspension, deferment, reduction, and amendment against the Agency, the Trustee, and any other direct or indirect recipients of payments with respect to making the Annual Payment Amounts. Each of the Sponsoring Public Entities agrees that it shall make its appropriate Annual Payment Amounts even if no Bonds are issued for its benefit by the Agency

and, if any Bonds are issued, it shall be unconditionally obligated to pay the Annual Payment Amounts as provided and determined by this Contract, regardless of whether or not the Agency actually acquires, constructs, or completes the Project, or breaches any obligation on the Agency's part hereunder, and whether or not the Sponsoring Public Entity actually uses the Project, whether due to Force Majeure or any other reason whatsoever, regardless of any other provisions of this Contract, or any other contract or agreement between any of the parties hereto. This covenant by each of the Sponsoring Public Entities shall be for the benefit of and enforceable by the owners of the Bonds and/or by the Agency.

By entering into this Contract and performing their obligations under any Section of this Contract, the Sponsoring Public Entities do not release any persons from or waive any claims against such persons that the Sponsoring Public Entities may have resulting from actions by such persons contrary to that person's legal obligations.

Section 8.5 **Term of Contract.** This Contract shall be effective from and after its date, and this Contract shall continue in force and effect until the principal of and interest on all Bonds shall have been paid or provision for the payment of all of the Bonds has been made in accordance with the terms of each Bond Resolution and thereafter continue in force and effect during the entire useful life of the Project. When the principal of and interest on all Bonds shall have been paid or provision for the payment of all of the Bonds has been made in accordance with the terms of the Bond Resolution and all amounts owed to the Agency, the Trustee, or any other person hereunder have been paid, all money held by the Trustee or the Agency pursuant to the terms of the Bond Resolution shall be paid to the Agency. Upon the termination of this Contract, the Agency will charge each of the Sponsoring Public Entities a unit based charge (or other published rate) for water delivered to the Sponsoring Public Entities in accordance with the Agency's then existing rate schedule.

Section 8.6 **Modification.** No change, amendment, or modification of this Contract shall be made or be effective which will affect adversely the prompt payment when due of all money required to be paid by each of the Sponsoring Public Entities under the terms of this Contract, and no such change, amendment, or modification shall be made or be effective which would cause a violation of any provisions of any Bond Resolution.

Section 8.7 **Addresses and Notice.** Unless otherwise provided herein, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to the other parties must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by prepaid telegram when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated herein, from and after the expiration of three days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the Agency:

Chair, Board of Directors

Hays Caldwell Public Utility Agency
121 West Center Street
Kyle, Texas 78640

If to one or more of the Sponsoring Public Entities:

City Administrator
City of Buda, Texas
121 North Main Street
Buda, Texas 78610

City Manager
City of Kyle, Texas
100 West Center Street
Kyle, Texas 78640

City Manager
City of San Marcos, Texas
630 East Hopkins
San Marcos, Texas 78666

General Manager
Canyon Regional Water Authority
850 Lakeside Pass Drive
New Braunfels, Texas 78130

The Agency and each Sponsoring Public Entity shall have the right from time to time and at any time to change its respective address and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other parties.

Section 8.8 **State or Federal Laws, Rules, Orders, or Regulations.** This Contract is subject to all applicable federal and State laws and any applicable permits, ordinances, rules, orders, and regulations of any local, state, or federal governmental authority having or asserting jurisdiction but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum having jurisdiction. Each of the parties represents to the other parties that, to the best of its knowledge, no provisions of any applicable federal, State, or local law, including any Home Rule Charter of a Sponsoring Public Entity, nor any permit, ordinance, rule, order, or regulation of any party will limit or restrict its ability to carry out its respective obligations under or contemplated by this Contract.

Section 8.9 **Severability.** The parties hereto specifically agree that in case any one or more of the sections, subsections, provisions, clauses, or words of this Contract or the application of such sections, subsections, provisions, clauses, or words to any situation or circumstance should be, or should be held to be, for any reason, invalid or unconstitutional, under the laws or constitutions of the State or the United States of America, or in contravention of any such laws or constitutions, such invalidity, unconstitutionality, or contravention shall not affect any other sections, subsections, provisions, clauses, or words of this Contract or the

application of such actions, subsections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Contract shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, subsection, provision, clause, or word had not been included herein, and the rights and obligations of the parties hereto shall be construed and remain in force accordingly.

Section 8.10 Remedies Upon Default. It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination) existing at law or in equity may be availed of by any party hereto and shall be cumulative. Recognizing that failure in the performance of the Sponsoring Public Entities' obligations hereunder could not be adequately compensated in money damages alone, each of the Sponsoring Public Entities agrees in the event of any default on its part that the Agency and the owners of the Bonds as third-party beneficiaries shall have available to them the remedies of mandamus and specific performance in addition to any other legal or equitable remedies (other than termination) which may also be available to them. Notwithstanding anything to the contrary contained in this Contract, any right or remedy or any default hereunder, except the right of the Agency to receive the Annual Payment Amounts and the provision of Section 3.9 hereof, which shall never be determined to be waived, shall be deemed to be conclusively waived unless asserted by a proper proceeding at law or in equity within two (2) years plus one (1) day after the occurrence of such default. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto or of the performance by any other party of any duty or obligation hereunder shall be deemed a waiver thereof in the future, nor shall any such waiver or waivers be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, character or description, under any circumstances.

Section 8.11 Venue. All amounts due under this Contract, including, but not limited to, payments due under this Contract or damages for the breach of this Contract, shall be paid and be due in Hays County, Texas, which is the County in which the principal administrative offices of the Agency are located. It is specifically agreed among the parties to this Contract that Hays County, Texas, is the place of performance of this Contract; and in the event that any legal proceeding is brought to enforce this Contract or any provision hereof, the same shall be brought in Hays County, Texas.

Section 8.12 Statutory Authority. In entering into this Contract and performing all duties and obligations hereunder, the Sponsoring Public Entities and the Agency exercise their authority under and in accordance with the State Constitution and laws including, but not limited to, the Act; Chapter 1502, as amended, Texas Government Code; any Home Rule Charter of a Sponsoring Public Entity; Chapter 1371, as amended, Texas Government Code; and all other laws which may authorize this Contract, all of which provisions and laws, cited or not cited herein, shall cumulatively provide the authority for this Contract.

Section 8.13 Indemnification. FOR SO LONG AS THE BONDS ARE OUTSTANDING AND UNPAID, AND ALSO WITH RESPECT TO ANY CLAIM THAT MAY ARISE OUT OF THE OFFER AND SALE OF THE BONDS OF ANY SERIES OR THE ALLEGED MISSTATEMENT OR OMISSION OF A MATERIAL FACT IN OR FROM ANY SALE AND OFFERING DOCUMENT RELATING TO ANY OF THE SPONSORING PUBLIC ENTITIES USED IN CONNECTION THEREWITH, TO THE EXTENT PERMITTED BY LAW, EACH OF THE SPONSORING PUBLIC ENTITIES AGREES TO INDEMNIFY AND SAVE AND HOLD HARMLESS THE AGENCY, AND THE OTHER

SPONSORING PUBLIC ENTITIES, THEIR OFFICERS, DIRECTORS, AGENTS, FINANCIAL ADVISORS, ATTORNEYS, AND EMPLOYEES, AND THE UNDERWRITERS OF ANY SUCH OFFERING AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS, AND ALL PERSONS WHO CONTROL THE SAME WITHIN THE MEANING OF THE FEDERAL SECURITIES LAWS, FROM AND AGAINST ALL CLAIMS THAT MAY ARISE AS A RESULT OF ANY UNDERTAKING, ACT, OR OMISSION, WHETHER NEGLIGENT OR NOT, WHICH IS DONE OR OMITTED TO BE DONE BY THAT SPONSORING PUBLIC ENTITY OR ANY OF ITS OFFICERS, COUNCIL MEMBERS, AGENTS, ATTORNEYS, OR EMPLOYEES, RELATING TO THE PROJECT OR PROVIDING INFORMATION FOR INCLUSION IN THE SALE AND OFFERING DOCUMENTS. IF ANY SUCH CLAIM IS BROUGHT AGAINST ANY SUCH INDEMNIFIED PERSON, THE INDEMNIFYING SPONSORING PUBLIC ENTITY SHALL PAY ALL COSTS INCURRED BY SUCH PERSON IN DEFENDING AGAINST THE CLAIM, AND (SUBJECT TO APPLICABLE RULES OF ATTORNEY CONDUCT) MAY CONTROL THE DEFENSE OF SUCH CLAIM.

Section 8.14 **Contract not for Benefit of Third Parties.** This Contract is made for the exclusive benefit of the Sponsoring Public Entities, the Agency, the Trustee, the owners of the Bonds, the parties to any Credit Agreements, the underwriters of any offering of and remarketing agent and tender agent, if any, for any Bonds, and their respective successors and assigns herein permitted, and not for any third party or parties other than the Agency (including its officers, directors, employees, agents, and attorneys), the Trustee, the owners of the Bonds, the Sponsoring Public Entities, and the parties to any Credit Agreements, the underwriters of any offering of and remarketing agent and tender agent, if any, for any Bonds, the other persons indemnified by Section 8.13 hereof, and their respective successors and assigns herein permitted, any rights or remedies under or by reason of this Contract.

Section 8.15 **Succession and Assignment.** This Contract is binding on and inures to the benefit of the parties hereto and their respective successors, representatives, and assigns. This Contract may not be assigned by any party hereto without (i) complying with any provisions relating to the right of the parties to assign this Contract contained in the Bond Resolution and (ii) prior written notice to and approval by the other parties, which consent may be withheld without cause. The provisions of this Section do not affect the assignment of the Agency's rights under this Contract to the Trustee pursuant to Section 3.8.

Section 8.16 **Incorporation of Preamble Recitals.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Contract for all purposes and are adopted as a part of the judgment and findings of the Agency and the Sponsoring Public Entities.

Section 8.17 **Independent Contractor.** As among the parties, the Agency shall be solely responsible for the operation of the Project to produce, withdraw, or divert and treat water and to transport the water to the Sponsoring Public Entities pursuant to this Contract (except to the extent the Agency and a Sponsoring Public Entity enter into agreements for the Sponsoring Public Entity to operate parts of the Project); and the Agency shall be an independent contractor in the operation of the Project.

Section 8.18 **Financing Statement.** To the extent required by law, each of the Sponsoring Public Entities agrees it shall execute, at the request of the Agency or the Trustee, a

financing statement in a form satisfactory to the Agency or the Trustee and meeting the requirements of the Texas Uniform Commercial Code to perfect any security interest created hereby. To the extent required by law, each Sponsoring Public Entity further agrees to execute such continuation statements or other documents as may be necessary to maintain any such security interest.

Section 8.19 **Entire Agreement.** This Contract constitutes the entire agreement among the parties with respect to the matters described herein.

Section 8.20 **Applicable Law.** This Contract shall be governed by and construed in accordance with the laws of the State, and the obligations, rights, and remedies of the parties hereunder shall be determined in accordance with such laws without reference to the laws of any other state or jurisdiction, except for applicable federal laws, rules, and regulations.

Section 8.21 **Counterparts.** This Contract may be executed in counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

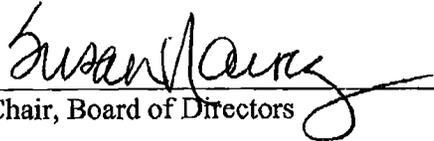
Section 8.22 **Reservation of Rights to Utilize the Texas Water Development Board's State Participation Account Program.** The Sponsoring Public Entities and the Agency hereby agree that the Agency may file an application with the TWDB to seek financial assistance pursuant to the TWDB Program. To the extent the Agency utilizes the TWDB Program to access funds to complete the Project, the TWDB Program's rules and regulations require that the TWDB take an undivided ownership interest in up to 50% of the infrastructure improvements comprising the Project. This undivided ownership interest is represented by a master agreement and other documents to be executed between the Agency and the TWDB to effectuate the Agency's financial participation in the TWDB Program. Under the TWDB Program, the Agency will be obligated (and the Sponsoring Public Entities will be obligated to pay the Annual Payment Amounts to reflect this financial obligation) to make lease or other rental payments to the TWDB to repay the TWDB's financial assistance which enabled the Agency to construct the Project in a manner in which excess capacity in the Project was implemented on a regional basis.

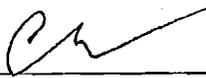
[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective Governing Bodies have caused this Contract to be duly executed as of the day and year first above written.

HAYS CALDWELL PUBLIC UTILITY AGENCY

Attest:

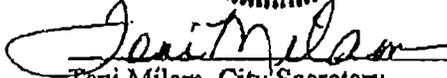
By: 
Chair, Board of Directors

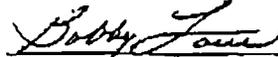
By: 
Secretary, Board of Directors

ADOPTED on January 15, 2008.



Attest:


Toni Milan, City Secretary


Bobby Lane, Mayor Pro Tem

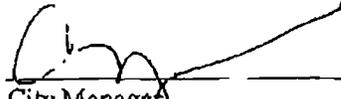
CITY OF KYLE, TEXAS

By: *Miguel S. Sosa*
Mayor

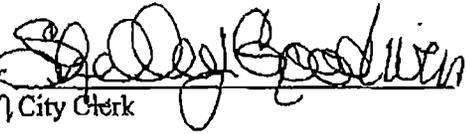
Attest:

By: *Amelia Sanchez*
City Secretary

CITY OF SAN MARCOS, TEXAS

By: 
City Manager

Attest:

By: 
City Clerk

CANYON REGIONAL WATER AUTHORITY

By: Melvin E. Stray
President, Board of Trustees

Attest:

By: Mary Speed
Secretary, Board of Trustees

RESOLUTION NO. 20090923-002

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE HAYS CALDWELL PUBLIC UTILITY AGENCY APPROVING AMENDMENT NO. 1 TO THE REGIONAL WATER SUPPLY CONTRACT BETWEEN THE HAYS CALDWELL PUBLIC UTILITY AGENCY AND THE CANYON REGIONAL WATER AUTHORITY, THE CITY OF BUDA, THE CITY OF KYLE, AND THE CITY OF SAN MARCOS; AND DECLARING AN EFFECTIVE DATE

RECITALS:

1. The Hays Caldwell Public Utility Agency (the "Agency") was formed by the Canyon Regional Water Authority, the City of Buda, the City of Kyle, and the City of San Marcos (the "Sponsoring Public Entities") for the purpose of developing a water supply project (the "Project") in the Carrizo and Wilcox aquifers.

2. The Agency and the Sponsoring Public Entities entered into a Regional Water Supply Contract (the "Contract") as of January 1, 2008 to serve as the primary mechanism for financing Agency activities and the development of the Project, and to serve as the basis for issuance of future debt obligations by the Agency.

3. The Agency and the Sponsoring Public Entities have agreed to amend the Contract to a) expressly state the intended capacity of the Project, and provide for phasing of construction of the Facilities, b) describe the Sponsoring Public Entities' respective shares of Project capacity in acre-feet as well as percentage terms, c) adjust the shares of Project capacity and costs based on updated levels of participation from the Sponsoring Public Entities, d) allow the Sponsoring Public Entities to decide their shares in each phase of the Project at the time bonds are sold for that phase of the Project, e) require prior approval of all parties for any excess capacity in the Project, and f) expressly state that the Agency's acquisition of groundwater rights will be accomplished through cash payments from the Sponsors, and these amendments are all incorporated in the attached Amendment No. 1 to the Regional Water Supply Contract.

4. The Agency's bond counsel, Carol Polumbo and Jeff Kuhn, have reviewed and approved this amendment.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE HAYS CALDWELL PUBLIC UTILITY AGENCY:

SECTION 1. The attached Amendment No. 1 to the Regional Water Supply Contract between the Agency and the Canyon Regional Water Authority, the City of Buda, the City of Kyle, and the City of San Marcos is approved.

SECTION 2. Susan Narvaiz, Chair of the Agency Board of Directors, is authorized to execute the attached Amendment No. 1 to the Regional Water Supply Contract on behalf of the Agency.

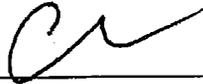
SECTION 3. This Resolution is in full force and effect immediately upon its passage.

ADOPTED on September 23, 2009.

ATTEST:



Susan Narvaiz
Chair, Board of Directors



Chris Betz, Secretary
Secretary, Board of Directors

**AMENDMENT NO. 1 TO
REGIONAL WATER SUPPLY CONTRACT**

This is Amendment No. 1 to the Regional Water Supply Contract (the "Contract") by and among the Hays Caldwell Public Utility Agency (the "Agency"), and the City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas, and the Canyon Regional Water Authority. The Contract was dated and effective as of January 1, 2008. This Amendment is dated and effective as of October 31, 2009. The City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas, and the Canyon Regional Water Authority are referred to in this Amendment collectively as the "Sponsoring Public Entities" and singularly each as a "Sponsoring Public Entity".

RECITALS:

1. The Sponsoring Public Entities formed the Agency as a public utility agency pursuant to Chapter 572 of the Local Government Code, and executed the Contract in order to jointly plan, finance, construct, own, operate, or maintain facilities necessary for the conservation, storage, transportation, treatment, or distribution of water and wastewater, including plant sites, rights-of-way, and property, equipment, or rights of any kind useful in connection with the conservation, storage, transportation, treatment, or distribution of water and wastewater.

2. The Sponsoring Public Entities have decided to postpone the issuance of Bonds by the Agency, and they are financing the activities of the Agency through cash contributions until the time the Agency issues Bonds.

3. The Sponsoring Public Entities wish to revise the Contract to describe the Project more definitively, to modify the scope of the Project and the shares in the capacity of the Project to which each of them is entitled, to allow for future modifications to the scope and phasing of the Project, and to make other clarifying revisions to the Contract.

AMENDMENT:

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the sufficiency of which are hereby acknowledged, and upon and subject to the terms and conditions hereinafter set forth, the Sponsoring Public Entities and the Agency mutually undertake, promise, and agree that the Contract is amended as follows:

1. **Section 2.1 of the Agreement is amended as follows** (underlining indicates added text; ~~overstrike~~ indicates deleted text):

Section 2.1. General; Project Description.

(a) The Project will have a total capacity of 33,212 acre-feet/year. The Facilities will be constructed in two phases as described in the Engineering Report, the first phase having a capacity of 15,000 acre-feet/year, and the second phase having a capacity of 18,212 acre-feet/year. Prior to the issuance of Bonds by the Agency for each phase of construction of the Facilities, the Parties may, by written amendment to this Contract approved by all of the Parties, agree to revise the total capacity of the Project.

the phasing of the Project, or the capacity of each phase of the Project. After the Agency issues Bonds in connection with a phase of the construction of the Facilities, any revision to the capacity of that phase of the Facilities will be limited by, and subject to, the terms and provisions of the Bonds issued for that phase of the Facilities.

(b) Subject to the remaining terms and provisions of this Contract, the Agency agrees to issue the Bonds and to acquire and construct the Project as generally described in the Engineering Report. It is estimated that the first phase of the Project will be placed in operation on or before December 31, 2018, or as soon thereafter as practicable. The Authorized Representative of the Agency hereby represents that he is not aware of any reason that the first phase of the Project, as contemplated, cannot be completed on or before December 31, 2018. It is expressly understood and agreed that any obligations on the part of the Agency to finance, acquire, construct, and complete the Project and to provide the water to the Sponsoring Public Entities shall be (i) conditioned upon the Agency's ability to obtain all necessary permits, Land Interests, material, labor, and equipment, and upon the ability of the Agency to finance the cost of the Project through the actual sale of the Bonds, including any Bonds needed to complete the Project, and (ii) subject to all present and future valid laws, orders, rules, and regulations of the United States of America, the State, and any regulatory body having jurisdiction. The Project shall be acquired and constructed by the Agency with all reasonable dispatch, and the Agency will diligently pursue such acquisition and construction in order that it may be completed as soon as practicable, delays incident to events of Force Majeure only excepted; but if for any reason there should be delays in or the entire failure of such acquisition, construction, and improvement, there shall be no diminution in or postponement of the Annual Payment Amounts to be made by the Sponsoring Public Entities hereunder and no resulting liability on the part of the Agency; provided, however, that the Sponsoring Public Entities retain the right to pursue any legal remedy to the extent that delays in the Project are the result of negligence on the part of the Agency.

(c) The provisions of this Article II shall apply to each phase of the construction of the Facilities.

2. Section 2.15 of the Agreement is amended as follows (underlining indicates added text; ~~overstrike~~ indicates deleted text):

Section 2.15. Shares of Treated Water and Project Cost Quantity. The Sponsoring Public Entities' proportionate shares of the Project Costs and of the treated water produced by each phase of the Facilities constructed for the Project will be based on the capacity for each Sponsoring Public Entity out of the total Project capacity. The proportionate shares of Project Costs and treated water produced, and the capacity for each Sponsoring Public Entity out of the total Project capacity, are ~~is~~-as follows:

<u>Sponsoring Public Entity</u>	<u>Project Share of Project Costs and Treated Water</u>	<u>Acre-feet/year out of Total Project Capacity</u>
City of Buda, Texas	5.60 <u>5.08%</u>	<u>1,687</u>
City of Kyle, Texas	20.50 <u>28.17%</u>	<u>9,355</u>

City of San Marcos, Texas	39.70 <u>35.86%</u>	<u>11,910</u>
Canyon Regional Water Authority	34.20 <u>30.89%</u>	<u>10,260</u>

Prior to the issuance of Bonds by the Agency for each phase of construction of the Facilities, the Parties may, by written amendment to this Contract approved by all of the Parties, agree to revise the proportionate shares of the treated water to be produced by, and the proportionate shares of Project Costs for, that phase of the Facilities. After the Agency issues Bonds in connection with a phase of construction of the Facilities, any revision to the proportionate shares of the treated water to be produced by, and the proportionate shares of Project Costs for, that phase of the Facilities will be limited by, and subject to, the terms and provisions of the Bonds issued for that phase of the Facilities.

3. Section 2.19 of the Agreement is amended as follows (underlining indicates added text; overstrike indicates deleted text):

Section 2.19. Excess Capacity. With prior approval of all of the Parties, the Agency may acquire Water Rights and Land Interests, and may construct the Facilities, so that the capacity of the Project exceeds the total Project capacity as stated in Section 2.1(a). In the event the Project is constructed so that there is excess capacity in all or any portion of the Facilities, such excess capacity shall be owned by the Agency. Any such excess capacity may be used only with the written consent of the Agency Board of Directors, which may include conditions deemed appropriate by the Board.

4. Section 3.1 of the Agreement is amended as follows (underlining indicates added text; overstrike indicates deleted text):

Section 3.1. Issuance of Bonds.

(a) The Agency's acquisition of the Water Rights for the Project will be financed by the receipt of cash contributions from the Sponsoring Public Entities (which, as to a particular Sponsoring Public Entity, may be proceeds of a loan, bonds or other debt issued by that entity). The Agency's acquisition of other Land Interests needed for the Project, and the Agency's acquisition and construction of each phase of the Facilities ~~Project~~ and any other substantial improvements to the ~~Facilities Project~~ will be financed by (i) receipt of cash from a Sponsoring Public Entity, (ii) the Agency through the issuance of one or more series or issues of its Bonds by the Agency for a Sponsoring Public Entity, which Bonds are payable from and secured, in part, by an assignment of the Annual Payment Amounts made under this Contract by the designated Sponsoring Public Entity for which such series of Bonds are issued or (iii) any combination of (i) and (ii). It is expressly understood and agreed by the Agency and the Sponsoring Public Entities that any Bonds issued by the Agency shall be issued as separate series of each Sponsoring Public Entity requesting financing by the Agency. Each Sponsoring Public Entity shall be responsible solely for the Bond Payments on its series of Bonds. No Sponsoring Public Entity shall have any liability or responsibility for any Bond Payments on a series of Bonds issued for another Sponsoring Public Entity. In consideration of the covenants and agreements set forth in this Contract, and to enable the Agency to issue the Bonds to carry out the intents and purposes hereof, this Contract is executed to assure the

issuance of the Bonds and to provide for and ensure the due and punctual payment to the Agency or to the Trustee by each Sponsoring Public Entity for which the Agency has issued a series of Bonds, of amounts not less than the Annual Payment Amounts on a series of Bonds issued for a particular Sponsoring Public Entity. Each of the Sponsoring Public Entities hereby agrees to make, or cause to be made, its respective Annual Payment Amount, as and when due, for the benefit of the owners of the Bonds, as provided in the Bonds and the Bond Resolution.

(b) The proceeds from the sale of the Bonds, together with any cash received from a Sponsoring Public Entity, will be used for the payment of the Project Costs. The Bonds will be issued by the Agency in the amount anticipated to be required to acquire and construct the Project, including payment of all Project Costs advanced by one or more of the Sponsoring Public Entities and incurred by the Agency prior to the date of issuance of the Bonds, and to fund, to the extent deemed advisable by the Agency, a debt service reserve fund and interest on the Bonds during construction and for up to one year after the Completion Date. However, each Sponsoring Public Entity reserves the right to pay cash to the Agency for its share of the Project Costs rather than have the Agency issue Bonds on its behalf.

(c)

(i) Each Bond Resolution of the Agency shall specify the maximum principal amount of the Bonds to be issued thereunder. The Bonds shall mature not more than forty (40) years from the date of such Bonds and shall bear interest at not to exceed the maximum legal rate then permitted by law, and the Bond Resolution may create and provide for the maintenance of a revenue fund, an interest and sinking fund, a debt service reserve fund, and any other funds deemed prudent by the Agency, all in the manner and amounts as provided in such Bond Resolution.

(ii) Prior to the final adoption of a Bond Resolution or any amendment of a Bond Resolution by the Agency's Board of Directors or the execution of an Approval Certificate by the Agency, a substantially final copy of the proposed Bond Resolution for the applicable Sponsoring Public Entity, the Approval Certificate, if any, any Credit Agreements and the Sale and Offering Documents shall be presented to the applicable Sponsoring Public Entity for review and approval.

(iii) Upon approval by the Sponsoring Public Entity for which the Agency issues a series of Bonds of (i) a Bond Resolution hereafter adopted by the Agency for the applicable Sponsoring Public Entity, including any Credit Agreements, (ii) any amendments to any Bond Resolution, (iii) an Approval Certificate authorized by a Bond Resolution, and (iv) the Sale and Offering Documents, and the delivery to the Agency of a certification signed by the Authorized Representative of the respective Sponsoring Public Entity to the effect that the Bond Resolution, including any Approval Certificate, and the Sale and Offering Documents comply with this Contract, then upon the adoption and approval of the Bond Resolution and the Approval Certificate, if any, in such final form by the Agency's Board of Directors or Authorized Representative, as the

case may be, and the issuance and delivery of the Bonds to the purchaser thereof, the Bond Resolution shall for all purposes be considered approved by the respective Sponsoring Public Entity and deemed to be in compliance with this Contract in all respects, and the Bonds issued thereunder will constitute Bonds as defined in this Contract for all purposes. Any owner of Bonds is entitled to rely fully and unconditionally on any such approval.

(iv) All covenants and provisions in the Bond Resolution affecting, or purporting to bind, a Sponsoring Public Entity, shall, upon the delivery of the Bonds, become absolute, unconditional, valid, and binding covenants and obligations of the Sponsoring Public Entities so long as the Bonds and interest thereon are outstanding and unpaid, and may be enforced as provided in this Contract and the Bond Resolution. Particularly, the obligation of the respective Sponsoring Public Entity to make, promptly when due, all payments specified in this Contract shall be absolute and unconditional, and said obligation may be enforced as provided in this Contract. In addition, subject to the approval of the affected Sponsoring Public Entity, the Agency may enter into Credit Agreements for the purpose of achieving the lowest financing costs for the Project.

(d) The provisions of this Article III shall apply to the Bonds issued by the Agency with respect to each phase of the construction of the Facilities.

5. Defined Terms. All terms that are defined in the Contract will have those same definitions in this Amendment.

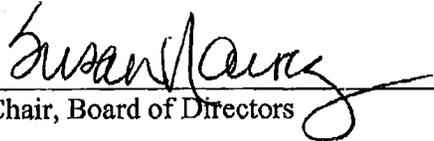
6. Remaining Provisions. All other provisions of the Contract remain in full force and effect.

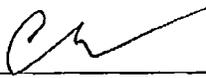
[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective Governing Bodies have caused this Contract to be duly executed as of the day and year first above written.

HAYS CALDWELL PUBLIC UTILITY AGENCY

Attest:

By: 
Chair, Board of Directors

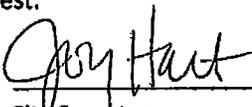
By: 
Secretary, Board of Directors

CITY OF BUDA, TEXAS

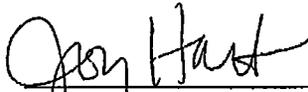
By: 
City Manager

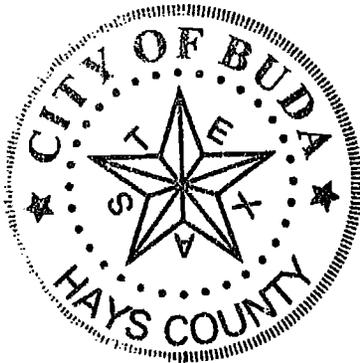
****Original Missing -- Executed pursuant to City Council action on September 15, 2009. Effective Date October 31, 2009.**

Attest:

By: 
City Secretary

I hereby certify that this agreement was passed by a majority of the City Council of the City of Buda on September 15, 2009, and further certify that the City has operated under the terms of this agreement since that date.


Joy Hart, City Secretary



CITY OF KYLE, TEXAS

By:  _____
Mayor

Attest:

By:  _____
City Secretary

CITY OF SAN MARCOS, TEXAS

By: *Eric Anderson*
City Manager

Attest:

By: *Sherry Mathern*
City Clerk

CANYON REGIONAL WATER AUTHORITY

By: Melvin E. Strey
President, Board of Trustees

Attest:

By: Mark Spas
Secretary, Board of Trustees

EXHIBIT F

APPROVAL CERTIFICATE

The undersigned Authorized Representative of the City of Kyle, Texas pursuant to the resolution (the "Resolution") authorizing the issuance of obligations designated as "Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas) Series 2020B" (the "Bonds") hereby approves the following terms of the Bonds:

- (i) the total principal amount of the Bonds of \$34,530,000;
- (ii) the purchase price for the Bonds is \$34,530,000 (representing the original principal amount of the Bonds);
- (iii) the interest rates and maturity schedule for the Bonds are as set forth below:

<u>YEAR OF</u> <u>STATED</u> <u>MATURITY</u> <u>(August 15)</u>	<u>PRINCIPAL</u> <u>AMOUNTS(\$)</u>	<u>INTEREST</u> <u>RATES(%)</u>	<u>YEAR OF</u> <u>STATED</u> <u>MATURITY</u> <u>(August 15)</u>	<u>PRINCIPAL</u> <u>AMOUNTS(\$)</u>	<u>INTEREST</u> <u>RATES(%)</u>
2022	\$ 1,010,000	0.140%	2037	\$ 1,160,000	1.780%
2023	1,015,000	0.170	2038	1,185,000	1.820
2024	1,015,000	0.220	2039	1,210,000	1.860
2025	1,020,000	0.270	2040	1,240,000	1.900
2026	1,020,000	0.400	2041	1,265,000	2.340
2027	1,025,000	0.530	2042	1,295,000	2.340
2028	1,030,000	0.630	2043	1,320,000	2.340
2029	1,040,000	0.760	2044	1,345,000	2.340
2030	1,045,000	0.840	2045	1,375,000	2.340
2031	1,055,000	1.110	2046	1,405,000	2.480
2032	1,065,000	1.330	2047	1,435,000	2.480
2033	1,180,000	1.510	2048	1,470,000	2.480
2034	1,100,000	1.580	2049	1,510,000	2.480
2035	1,115,000	1.660	2050	1,545,000	2.480
2036	1,135,000	1.730			

- (iv) the Bonds are subject to redemption as set forth below:

The Bonds stated to mature on and after August 15, 2031 may be redeemed prior to their Stated Maturities, at the option of the Authority, in inverse order of maturity on February 15, 2031, or on any date thereafter, in whole or in part in an Authorized Denomination (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written notice being given by United States mail, first-class postage prepaid, to Holders of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in

the Resolution. If this Bond is subject to redemption prior to Stated Maturity and in an Authorized Denomination thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Bond to the Paying Agent/Registrar at its corporate trust office, a new Bond or Bonds of like Stated Maturity and interest rate in any authorized denominations provided in the Resolution for the then unredeemed balance of the principal sum hereof.

If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Bond is called for redemption, in whole or in part, the Authority or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Bond within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part; and

(v) the Bonds have been approved for issuance by the Texas Water Development Board and will be approved by the Texas Attorney General.

EXECUTED AND DELIVERED THIS 20th day of October, 2020.

CITY OF KYLE, TEXAS

Title: _____

PRIVATE PLACEMENT MEMORANDUM DATED NOVEMBER 20, 2020

NEW ISSUE BOOK-ENTRY-ONLY

On the date of initial delivery of the Obligations (defined below), Issuer Bond Counsel (defined on page 2) will render its opinion substantially in the form attached in "APPENDIX C – FORM OF OPINION OF BOND COUNSEL."

\$34,530,000
ALLIANCE REGIONAL WATER AUTHORITY
CONTRACT REVENUE BONDS (REGIONAL WATER SUPPLY CONTRACT
PROJECT-CITY OF KYLE, TEXAS), SERIES 2020B
(THE "OBLIGATIONS")

Dated: November 20, 2020

Due: August 15

Interest accrues from the Delivery Date shown below

Interest Date: Interest on the Obligations will be payable on August 15 and February 15 each year, commencing August 15, 2021 (each an "Interest Payment Date"). The Obligations will bear interest at the rates per annum set forth in "APPENDIX A – MATURITY SCHEDULE."

Record Date: The last business day of the calendar month next preceding each Interest Payment Date.

Date Interest Accrues: Each Bond shall bear interest from the Delivery Date thereof or the most recent Interest Payment Date to which interest has been paid or provided for at the rate set forth, such interest payable semiannually on August 15 and February 15 of each year until the earliest of maturity or prior redemption, commencing on August 15, 2021.

Redemption: The Bonds having stated maturities on and after August 15, 2031, in whole or in part, and if less than in whole, in inverse order of the maturities outstanding at the time of such redemption, before their respective scheduled maturity dates, on February 15, 2031, or on any date thereafter, at a price equal to the principal amount of the Bonds called for redemption plus accrued interest to the date of redemption. See "THE OBLIGATIONS – Redemption Provisions" herein.

Authorized Denominations: The Obligations are being issued as fully registered bonds in denominations of \$5,000, or any integral multiple thereof.

Paying Agent/Registrar/Registrar: The paying agent ("Paying Agent/Registrar/Registrar") for the Obligations is BOKF, NA, Dallas, Texas.

Book-Entry-Only System: Upon initial issuance, the ownership of the Obligations will be registered in the registration books of the Issuer kept by the Paying Agent/Registrar, in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC") to which principal, redemption premium, if any, and interest payments on the Obligations will be made. The purchasers of the Obligations will not receive physical delivery of bond certificates. Principal of, interest, and premium if any, on the Obligations will be payable at the designated office of the Paying Agent/Registrar in Dallas, Texas as the same become due and payable.

Issuer: Alliance Regional Water Authority

Official Action: Resolution dated October 28, 2019.

Purpose: See "APPENDIX B – OFFICIAL ACTION."

Security for the Obligations: See APPENDIX B – OFFICIAL ACTION."

Ratings: See "OTHER INFORMATION – Ratings"

Delivery Date: November 20, 2020.

See "APPENDIX A – MATURITY SCHEDULE" for Principal Amounts, Maturities, Interest Rates, Prices or Yields, and Initial CUSIP Numbers

BOARD OF DIRECTORS

<u>Directors/Board Members</u>	<u>District</u>
Chris Betz Chair	Canyon Regional Water Authority
Jane Hughson Vice Chair	City of San Marcos
James Earp Secretary	City of Kyle
Blake Neffendorf Treasurer	City of Buda
Tom Taggart Board Member	City of San Marcos
Mark Rockeymoore Board Member	City of San Marcos
Tim Samford Board Member	City of Kyle
Tracy Scheel Board Member	City of Kyle
Melissa Neel Board Member	City of San Marcos
Jon Clack Board Member	City of San Marcos
Pat Allen Board Member	Canyon Regional Water Authority
Humberto Ramos Board Member	Canyon Regional Water Authority
Mike Taylor Board Member	Canyon Regional Water Authority

ADMINISTRATIVE STAFF

<u>Name</u>	<u>Position</u>
Graham Moore, P.E.	Executive Director

CONSULTANTS AND ADVISORS

Auditors	Atchley & Associates LLP Austin, Texas
Bond Counsel	McCall, Parkhurst & Horton L.L.P. Austin, Texas
Financial Advisor	Specialized Public Finance Inc. Austin, Texas

TABLE OF CONTENTS

	Page
INTRODUCTION	1
THE OBLIGATIONS.....	1
General Description	1
Purpose	1
Authority for Issuance	1
Security for the Obligations	1
Redemption Provisions	1
Book-Entry-Only System.....	1
TAX MATTERS	2
Opinion	2
OTHER INFORMATION	2
Settlement of Purchase of Obligations.....	2
Forward-Looking Statements.....	3
Ratings	3
LITIGATION	3
General.....	3
The Issuer.....	3
CONTINUING DISCLOSURE OF INFORMATION.....	3
Compliance with Prior Undertakings.....	3
MISCELLANEOUS	3
ADDITIONAL INFORMATION	4
APPENDIX A MATURITY SCHEDULE	
APPENDIX B FORM OF OFFICIAL ACTION	
APPENDIX C FORM OF OPINION OF BOND COUNSEL	

PRIVATE PLACEMENT MEMORANDUM
relating to

\$34,530,000

ALLIANCE REGIONAL WATER AUTHORITY
CONTRACT REVENUE BONDS (REGIONAL WATER SUPPLY CONTRACT
PROJECT-CITY OF KYLE, TEXAS), SERIES 2020B
(the “Obligations”)

INTRODUCTION

This Private Placement Memorandum, including the cover page and appendices, contains brief descriptions of the Issuer, provides certain information with respect to the issuance by the Issuer, and summaries of certain provisions of the “Obligations” pursuant to the Official Action. Except as otherwise set forth herein, capitalized terms used but not defined in this Private Placement Memorandum have the meanings assigned to them in the Official Action. See “APPENDIX B – FORM OF OFFICIAL ACTION” attached hereto.

APPENDIX A contains the maturity schedule for the Obligations. APPENDIX B contains the Official Action and a description of the purpose for the proceeds of the Obligations. APPENDIX C contains a copy of the proposed opinion of Bond Counsel with respect to the Obligations. The summaries of the documents contained in the forepart of this Private Placement Memorandum are not complete or definitive, and every statement made in this Private Placement Memorandum concerning any provision of any document is qualified by reference to such document in its entirety.

THE OBLIGATIONS

General Description

The Obligations are being issued in the aggregate principal amount set forth in APPENDIX A of this Private Placement Memorandum and will mature and be subject to redemption prior to maturity as described therein. The Obligations are being issued as fully registered bonds in denominations of **\$5,000**, or any integral multiple thereof. The Obligations will be dated November 20, 2020 and will mature on the dates referenced thereon, and will bear interest at the rates per annum set forth in “APPENDIX A – MATURITY SCHEDULE.”

Interest on the Obligations is payable semiannually on each Interest Payment Date, and will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Principal of and the redemption price with respect to the Obligations will be payable to the Owners upon presentation and surrender at the designated office of the Paying Agent/Registrar.

Purpose

See “APPENDIX B – FORM OF OFFICIAL ACTION.”

Authority for Issuance

The Obligations are issued pursuant to the Constitution and the general laws of the State of Texas, including the Texas Special District Local Laws Code, Chapter 11010 (the “Act”); and the Official Action adopted by the Issuer.

Security for the Obligations

See “APPENDIX B – FORM OF OFFICIAL ACTION.”

Redemption Provisions

The Bonds having stated maturities on and after August 15, 2031, in whole or in part, and if less than in whole, in inverse order of the maturities outstanding at the time of such redemption, before their respective scheduled

maturity dates, on February 15, 2031, or on any date thereafter, at a price equal to the principal amount of the Bonds called for redemption plus accrued interest to the date of redemption.

Book-Entry-Only System

The information in this caption concerning The Depository Trust Company, New York, New York (“DTC”) and DTC’s book entry system has been obtained from DTC and the Issuer makes no representation or warranty nor takes any responsibility for the accuracy or completeness of such information.

DTC will act as securities depository for the Obligations. The Obligations will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for each maturity of the Obligations and deposited with DTC. See “APPENDIX B – FORM OF OFFICIAL ACTION.”

DTC is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instrument (from over 100 countries) that DTC’s participants (the “Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions, in deposited securities, through electronic computerized book entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearance Corporation, and Fixed Income Clearance Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of “AA+.” The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

TAX MATTERS

Opinion

Bond Counsel will deliver its opinion on the date of delivery of the Obligations substantially in the form as attached in “APPENDIX C – FORM OF OPINION OF BOND COUNSEL.”

OTHER INFORMATION

Settlement of Purchase of Obligations

The Texas Water Development Board (the “Board”) and the Issuer intend for the delivery of the Obligations to be facilitated through the book-entry-only system of DTC. See “THE OBLIGATIONS – Book-Entry-Only System.” In connection with the delivery of the Obligations, a settlement agent may be used to effect the delivery of the Obligations. If such a settlement agent is used, such settlement agent (i) is being used solely to facilitate book-entry delivery of the Obligations, (ii) will be acting solely as a “Clearing DTC Participant” and not as an “underwriter” (each as defined in Section 2(a)(1) of the U.S. Securities Act of 1933, as amended, (iii) is not acting as a fiduciary or municipal advisor to the Board or the Issuer with regard to the Obligations and, accordingly, has no fiduciary duty to either the Board or the Issuer under federal or state securities laws, and therefore is not required by federal or state law to act in the best interests of the Board or the Issuer, (iv) in providing information to either the Board or the Issuer, is not providing “advice” within the meaning of Section 15B of the Securities Exchange Act of 1934, as amended, and that the information provided has not been relied on by either the Board or the Issuer in the issuance of the Obligations and (v) has not provided any legal, accounting, regulatory or tax advice to the Issuer.

Forward-Looking Statements

The statements contained in this Private Placement Memorandum, including the cover page, appendices, and any other information or documents provided by the Issuer, that are not purely historical, are forward-looking statements, including statements regarding the Issuer's expectations, hopes, intentions, or strategies regarding the future. Holders and beneficial owners of the Obligations have placed reliance on forward-looking statements. All forward-looking statements included in this Private Placement Memorandum are based on information available to the Issuer on the date hereof. It is important to note that the Issuer's actual results could differ materially from those in such forward-looking statements.

Ratings

No application has been made to any ratings agency or municipal bond insurance company for qualification of the Obligations for ratings or municipal bond insurance, respectively.

LITIGATION

General

On the date of delivery of the Obligations to the initial purchasers thereof, the Issuer will execute and deliver a certificate to the effect that, except as disclosed herein, no litigation of any nature has been filed or is pending, as of that date, to restrain or enjoin the issuance or delivery of the Obligations or which would affect the provisions made for their payment or security or in any manner questioning the validity of the Obligations.

The Issuer

There is no litigation, proceeding, inquiry, or investigation pending by or before any court or other governmental authority or entity (or, to the best knowledge of the Issuer, threatened) that adversely affects the power, authority or obligation of the Issuer to deliver the Obligations, the security for, or the validity of, the Obligations or the financial condition of the Issuer.

CONTINUING DISCLOSURE OF INFORMATION

In the Official Action, the Issuer has made the following agreement for the benefit of the holders and beneficial owners of the Obligations. The Issuer is required to observe the agreement for so long as it remains obligated to advance funds to pay the Obligations. Under the agreement, the Issuer will be obligated to provide certain updated financial information and operating data, and timely notice of specified material events, to the Municipal Securities Rulemaking Board through the Electronic Municipal Market Access System. See "APPENDIX B – FORM OF OFFICIAL ACTION."

Compliance with Prior Undertakings

During the last five years, the Issuer has complied in all material respects with all continuing disclosure agreements made by it in accordance with the Rule.

MISCELLANEOUS

Any statements made in this Private Placement Memorandum involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized. Neither this Private Placement Memorandum nor any statement that may have been made verbally or in writing is to be construed as a contract with the owners of the Obligations.

The information contained above is neither guaranteed as to accuracy or completeness nor to be construed as a representation by the Issuer. The information and expressions of opinion herein are subject to change without notice and neither the delivery of this Private Placement Memorandum nor any sale made hereunder is to create, under any circumstances, any implication that there has been no change in the affairs of the Issuer from the date hereof.

The Private Placement Memorandum is submitted in connection with the sale of the securities referred to herein to the Texas Water Development Board on the Delivery Date and may not be reproduced or used, as a whole or in part, for any other purpose.

ADDITIONAL INFORMATION

The Private Placement Memorandum speaks only as of its date and the information contained herein is subject to change. Descriptions of the Obligations and the Official Action and any other agreements and documents contained herein constitute summaries of certain provisions thereof and do not purport to be complete.

APPENDIX A

MATURITY SCHEDULE

August 15 Maturity	Principal Amount	Rate	Initial Yield	CUSIP Numbers
2022	\$ 1,010,000	0.140%	0.140%	
2023	1,015,000	0.170%	0.170%	
2024	1,015,000	0.220%	0.220%	
2025	1,020,000	0.270%	0.270%	
2026	1,020,000	0.400%	0.400%	
2027	1,025,000	0.530%	0.530%	
2028	1,030,000	0.630%	0.630%	
2029	1,040,000	0.760%	0.760%	
2030	1,045,000	0.840%	0.840%	
2031	1,055,000	1.110%	1.110%	
2032	1,065,000	1.330%	1.330%	
2033	1,080,000	1.510%	1.510%	
2034	1,100,000	1.580%	1.580%	
2035	1,115,000	1.660%	1.660%	
2036	1,135,000	1.730%	1.730%	
2037	1,160,000	1.780%	1.780%	
2038	1,185,000	1.820%	1.820%	
2039	1,210,000	1.860%	1.860%	
2040	1,240,000	1.900%	1.900%	
2041	1,265,000	2.340%	2.340%	
2042	1,295,000	2.340%	2.340%	
2043	1,320,000	2.340%	2.340%	
2044	1,345,000	2.340%	2.340%	
2045	1,375,000	2.340%	2.340%	
2046	1,405,000	2.480%	2.480%	
2047	1,435,000	2.480%	2.480%	
2048	1,470,000	2.480%	2.480%	
2049	1,510,000	2.480%	2.480%	
2050	1,545,000	2.480%	2.480%	

APPENDIX B

FORM OF OFFICIAL ACTION

APPENDIX C

FORM OF OPINION OF BOND COUNSEL



CITY OF KYLE, TEXAS

Windy Hill Street and Drainage Improvements Award

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: Authorize award and execution of a purchase order to M.A. SMITH CONTRACTING CO., INC., Austin, Texas, lowest and most responsible bidder, in an amount not to exceed \$2,607,513.40 which includes a five (5) percent contingency for the reconstruction and widening of Windy Hill Street. ~ *Leon Barba, P.E., City Engineer*

Other Information: Eight bids were opened on September 30, 2020 for the Reconstruction and Widening of Windy Hill Street from approximately 500 ft west of Cherrywood to Park Street. The contractor bids varied in cost from \$2,483,346.10 to \$3,471,229.48. The scope of work included the construction of a new 47' width roadway, structure improvements, grading, base, pavement, curb and gutter, pedestrian improvements, safety light, signing and markings for approximately 0.47 mile of roadway.

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Letter of Recommendation
- Reference # 1
- Reference # 2

October, 13 2020

Windy Hill Road Reconstruction, Culvert Replacement and Drainage Improvements
 LJA Project No.: 2173-2001
 GLO# 19-280-000-B779

Jo Ann Garcia
 Project Manager
 City of Kyle
 Public Works
 100 West Center Street
 Kyle, TX 78640

Dear Mrs. Garcia,

The City of Kyle received 8 bids on the Windy Hill Road project on September 30th, 2020. The bids were opened electronically with CivCast. LJA Engineering, Inc. has reviewed the bids received and has compiled the following summary:

	Contractor	Bid Bond Information	Qualifications Statement	Addenda Acknowledged	Base Bid
1	Aaron Concrete Contractors	YES	YES	YES	\$ 3,471,229.48
2	Capital Excavation Company	YES	YES	YES	\$ 2,710,366.60
3	Chasco Constructors	YES	YES	YES	\$ 2,764,499.00
4	Clearfield Construction	YES	YES	YES	\$ 3,282,025.10
5	Cox Commercial Construction	YES	YES	YES	\$ 2,813,084.81
6	Jordan Foster Construction, LLC	YES	No	YES	\$ 2,600,563.31
7	Patin Construction	YES	YES	YES	\$ 3,255,956.35
8	Smith Contracting Co., Inc.	YES	YES	YES	\$ 2,483,346.10

After review of the bid tabulations, LJA Engineering, Inc. recommends award of the Windy Hill Road project to **Smith Contracting Co., Inc.** We recommend them based on the low bid and after receiving positive recommendations from two references. If you have any questions or comments, please don't hesitate contact me at 512-439-4760 or e-mail me at zryan@lja.com.

Sincerely,



Zach Ryan, P.E.
 Senior Project Manager
 7500 Rialto Blvd. Bldg II Ste 100
 Austin, Tx. 78735

From: Kenneth Crawford <kenneth.crawford@ci.buda.tx.us>
Sent: Friday, October 9, 2020 12:05 PM
To: Alan McCarthy <amccarthy@lja.com>
Subject: RE: Smith Contracting Reference check

Alan,

Generally speaking: Outstanding results and highly oriented to quality workmanship.

From a project management perspective, I do not have any “cons” with working with the entire Smith Contracting Team.

Pros:

- On time/schedule delivery.
- Responsive to owner changes and implementation of same
- Overcame weather delays without extending duration

I started working in the position after the project was well underway and demo was complete. One of my takeaways from this project is the coordination with any/all property owners with irrigation in the right of way. Typically, that is their risk since it is in the right of way, but that is a double edged sword to the contractor and the municipality. Property owners and the municipality desire curb appeal and have restrictions of water overspray into the street. Get with owners prior to demolition to afford them the opportunity to remove their irrigation – the reinstallation will be the property owner’s responsibility, but could easily be executed in conjunction with the finish work (prior to sod or erosion control measures).....just my thought.

Be sure to have the project superintendent verify all TAS requirements are met as the Work is being done. We did and still had items to “fix” to be fully compliant...had we not, it might have been worse!

I am attaching a few images of the work as it progressed.

Hopefully, this helps in your decision making. Personally, I was happy to work with them and would recommend them again in the future.

Cheers,
Kenny

Kenny Crawford
City of Buda
Project Manager
C: 254.368.3085
E: Kenneth.crawford@ci.buda.tx.us

From: Alan McCarthy <amccarthy@lja.com>
Sent: Friday, October 9, 2020 10:48 AM
To: Kenneth Crawford <kenneth.crawford@ci.buda.tx.us>
Subject: Smith Contracting Reference check

Hello Kenneth,

Smith Contracting was a bidder on a City of Kyle street reconstruction project and they listed you as a reference.

Can you let us know how their performance was on the Old Goforth Road project?

Thanks,

Alan McCarthy
Project Manager

LJA Engineering

● 7500 Rialto Boulevard, Building II, Suite 100
Austin, TX 78735
Direct: 512.439.4733
Cell: 512.680.9285
amccarthy@lja.com
www.lja.com

From: Vij, Rohit <RVij@sanmarcostx.gov>
Sent: Friday, October 9, 2020 1:30 PM
To: Alan McCarthy <amccarthy@lja.com>
Subject: RAlan McCarthy <amccarthy@lja.com>E: [EXTERNAL] Smith Contracting Reference check

Overall Smith Contracting performance was good for Mill St Reconstruction project. Please see specific area evaluation below:

Project Outcome: Excellent
Contractor Staff: Very good
Project Schedule: Fair (Project was delayed by various reasons including Contractor response to certain tasks)
Project Budget: Very Good (Project was completed within the proposed budget including CO)
Contractor/City Staff Relationship: Excellent (worked very well during construction)

From: Alan McCarthy <amccarthy@lja.com>
Sent: Friday, October 9, 2020 1:23 PM
To: Vij, Rohit <RVij@sanmarcostx.gov>
Subject: RE: [EXTERNAL] Smith Contracting Reference check

Rohit,

Could you provide an overall feedback that includes all of the topics you listed?

Thanks,

Alan McCarthy
Project Manager

LJA Engineering

From: Vij, Rohit <RVij@sanmarcostx.gov>
Sent: Friday, October 9, 2020 1:15 PM
To: Alan McCarthy <amccarthy@lja.com>
Subject: RE: [EXTERNAL] Smith Contracting Reference check

I can certainly provide feedback on Smith Contracting performance (Mill St project), however I would like to know in which areas you want their performance evaluated i.e. project outcome, contractor staff, schedule, budget, contractor/city staff relationship during construction etc.

Thanks



Rohit Vij, M.Sc., P.E., PMP

Senior Engineer | Capital Improvements/Engineering
630 E Hopkins, San Marcos, TX 78666
512.393.8133

From: Alan McCarthy <amccarthy@lja.com>
Sent: Friday, October 9, 2020 10:46 AM
To: Vij, Rohit <RVij@sanmarcostx.gov>
Subject: [EXTERNAL] Smith Contracting Reference check

Hello Rohit,

Smith Contracting was a bidder on a City of Kyle street reconstruction project and they listed you as a reference.

Can you let us know how their performance was on the Mill Street project?

Thanks,

Alan McCarthy
Project Manager

LJA Engineering

• 7500 Rialto Boulevard, Building II, Suite 100
Austin, TX 78735
Direct: 512.439.4733
Cell: 512.680.9285
amccarthy@lja.com
www.lja.com



CITY OF KYLE, TEXAS

Transportation Development Credit App

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: Approve a resolution of support for the Transportation Development Credit application.
~ J. Scott Sellers, City Manager

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Kyle Resolution
- Hays County Memo
- Hays County Resolution

RESOLUTION NO. _____

WHEREAS, the Capital Area Metropolitan Planning Organization (CAMPO) awarded the Kyle Center Street Union Pacific Railroad Siding Relocation Project funding during the 2018 Project Call process; and

WHEREAS, Hays County has assumed project development from the City of Kyle and is moving forward with project development; and

WHEREAS, the project award will require a significant local match participation for which available funding from the County and City is insufficient; and

WHEREAS, both CAMPO and the Texas Department of Transportation support the County submitting an application to CAMPO for Transportation Development Credits which will provide the local match participation;

WHEREAS, the City of Kyle will be a co-sponsor in the Transportation Development Credit application; and

WHEREAS, submitting the application with a successful outcome will assure that the full project award will be available for construction and other eligible project costs;

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

- (a) That the City Council of the City of Kyle does hereby support the Hays County Transportation Development Credit application to the Capital Area Metropolitan Planning Organization as a co-sponsor for the Kyle Center Street Union Pacific Railroad Siding Relocation Project.

PASSED AND APPROVED this ___ day of _____, 2020.

Attest:

THE CITY OF KYLE, TEXAS

Jennifer Vetrano, City Secretary

Travis Mitchell, Mayor

20201020CAMPOKyleSidingTDCApplicationSupport_KyleresolutionCLEAN.docx

DRAFT

Hays County Commissioner Mark Jones



5458 FM 2770
Kyle, Texas 78640
E-mail: mark.jones@co.hays.tx.us

Phone: (512) 262-2091

Contact: Jennifer Scott

Memo

To: Scott Sellers, Kyle City Manager
Leon Barba, P.E., Kyle City Engineer

From: Mark Jones, Hays County Commissioner Precinct 2

cc: Mark Kennedy, Hays County General Counsel
Jerry Borcharding, Hays County Transportation Director
Michael J. Weaver, Maria C. Castanon, P.E., HNTB Corporation
Will Conley

Date: September 22, 2020

Re: Kyle Center Street UPRR Siding Relocation – City of Kyle Participation

As a follow-up to numerous discussions with you, the City's representative, Will Conley, TxDOT and CAMPO, I wanted to provide an update on the recent funding option presented by TxDOT and CAMPO for the local participation match for the project, and the County's thoughts regarding the City's financial participation. As previously discussed, CAMPO and TxDOT have determined that with the original project grant award of \$15,209,034 (100% Federal dollars), the local participation match for this project would be \$3,802,258. That local match would need to be a cash match, in addition to any dollars already expended by the City and dollars currently being expended by the County for engineering, right-of-way acquisition and utility coordination (and program management). That initial approach presented the County and the City with an impossible funding scenario if the original CAMPO Board award of \$15,209,034 were to remain intact.

In recent discussions and coordination with TxDOT and CAMPO, the possibility to utilize Transportation Development Credits (TDC's) for the local match has been brought forward. Both TxDOT and CAMPO are supportive of the County and City pursuing this funding option. The TDC's would be used as "soft cost" local match for the project. In this scenario, the original \$15,209,034 award would be fully available for construction. The City and the County would be responsible for demonstrating an investment in the transportation system equal to the \$3,802,258. The County's investment in the Road Bond Program should amply demonstrate that level of investment. The TDC process requires an application and the County and the City would be co-sponsors for the application.

In the TDC funding scenario, the Advance Funding Agreement would not be executed until after the TDC application is approved and the updated funding scenario is included in the Spring 2021 TIP/STIP update cycle. Under this funding scenario, dollars for activities currently underway would not be eligible for reimbursement with CAMPO funds. The County would need to obtain confirmation from TxDOT and CAMPO if dollars associated with those activities would become eligible if expended only after the TIP/STIP update cycle in the Spring. If reimbursable in the future, the County would need to decide if we want to continue expending non-eligible dollars or slow the project down until the Spring.

The County has already expended over half of the County’s \$1.5 million 2016 Road Bond Program commitment. The Interlocal Agreement the County would enter into with the City would memorialize the City’s future financial participation. The County would like the City to keep its original funding participation of \$1.23 million as proposed in the City’s application to CAMPO. The County is open to including a provision in the Interlocal Agreement wherein the City would fund the City’s participation over three (3) years, beginning in Fiscal Year 2022.

I think that this funding scenario is the best one that would allow the County to retain the entire original award for construction and have the \$3,802,258 local match funded through the TDC program. As laid out in the following table, several costs are to be determined or anticipated to increase, such as utility relocation and right-of-way acquisition, and the award amount would amply address unexpected increases in construction.

The County would prepare the TDC application and need a resolution of support and participation commitment from the City, which the County can draft. As we move forward with the application, we’ll let you know if we need anything else for the application.

Please let me know if you have any questions or if you would like to meet to discuss.

ESTIMATED PROJECT COSTS	
Engineering	\$1,360,000
ROW*	\$2,468,378
Utility Relocation (placeholder – unknown)	\$600,000
Construction**	\$11,487,533
TOTAL ESTIMATED PROJECT COSTS***	\$15,915,911

* UPRR will provide (anticipated increased) estimate

** Includes contingency, assumes UPRR forces complete work

***Does not include State Direct or Indirect Costs

A Resolution of the Hays County Commissioners' Court
Supporting the Submittal of a Transportation Development Credit Application to the Capital
Area Metropolitan Planning Organization for the Kyle Center Street Union Pacific
Railroad Siding Relocation Project

STATE OF TEXAS §
 §
COUNTY OF HAYS §

WHEREAS, the Capital Area Metropolitan Planning Organization (CAMPO) awarded the Kyle Center Street Union Pacific Railroad Siding Relocation Project funding during the 2018 Project Call process; and

WHEREAS, Hays County has assumed project development from the City of Kyle and is moving forward with project development; and

WHEREAS, the project award will require a significant local match participation; and

WHEREAS, both CAMPO and the Texas Department of Transportation support the County submitting an application to CAMPO for Transportation Development Credits which will provide the local match participation;

WHEREAS, the City of Kyle will be a co-sponsor in the Transportation Development Credit application; and

WHEREAS, Hays County submitting the application with a successful outcome will assure that the full project award will be available for construction and other eligible project costs;

NOW, THEREFORE, BE IT RESOLVED by the Hays County Commissioners' Court:

- (a) That the Commissioners Court of Hays County does hereby support submitting a Transportation Development Credit application to the Capital Area Metropolitan Planning Organization for the Kyle Center Street Union Pacific Railroad Siding Relocation Project.

RESOLVED, ORDERED, AND DECLARED this ____ day of _____, 2020.

Ruben Becerra
Hays County Judge

Debbie Gonzales Ingalsbe
Commissioner, Pct. 1

Mark Jones
Commissioner, Pct. 2

Lon Shell
Commissioner, Pct. 3

Walt Smith
Commissioner, Pct. 4

ATTEST:

Elaine H. Cárdenas
Hays County Clerk

20201013CAMPOKyleSidingTDCApplicationSupport_resolutionHaysCountyCLEAN.docx



CITY OF KYLE, TEXAS

KCW Interests 3, LLC, Whited Enterprises, LLC D/B/A Vision Partners and FHC Consolidated - Zoning (Z-20-0063)

Meeting Date: 10/20/2020
Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 2.4 acres of land from Multi-Family Residential-3 'R-3-3' to Residential Condominium District 'R-1-C' for property located at 104 Creekside Trail, in Hays County, Texas. (KCW Interests 3, LLC, Whited Enterprises, LLC D/B/A Vision Partners and FHC Consolidated - Z-20-0063) ~
Howard J. Koontz, Director of Planning and Community Development

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

- Public Hearing

Other Information: Please see attachments.

Legal Notes: N/A

Budget Information: N/A

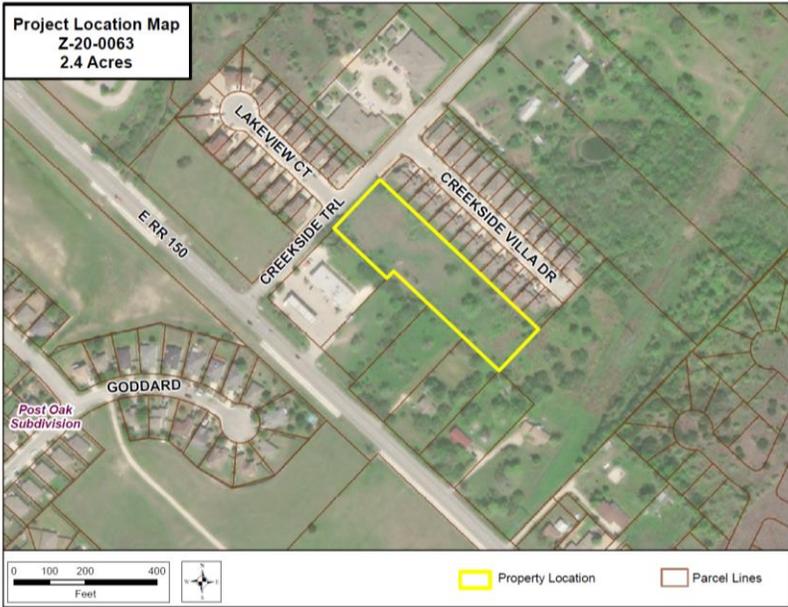
ATTACHMENTS:

Description

- Staff Memo
- Ordinance with Exhibit's A & B
- Project Location Map
- Current Zoning Map
- Land Use Districts Map

Property Location	Lot 2B of The Hill Replat of Lots 1 & 2, Creekside Trail Kyle, Texas 78640
Owner	KCW Interests 3, LLC & FHC Consolidated 19809 Lakehurst Loop Spicewood, TX 78669
Agent	Kelley Whited (member/owner)
Request	Rezone 2.36 Acres R-3-3 (Apartments Residential 3) to R-1-C (Residential Condominium District)

Vicinity Map



Site Description

The site is located on one parcel, zoned for R-3-3 (Apartments Residential 3) and totaling 2.36 acres. The location is currently undeveloped, or considered a green field. To the north of the property are homes with zoning of R-1-T (Townhomes, Creekside Villa Drive). Northeast of the property is approximately 2.20 acres zoned for R-3-1 (Apartment Residential 1). To the east and southeast, lies property zoned for Retail/Services (R/S) and Agriculture (A). Immediately south are parcel zone for (R/S, Fuel and Convenience Store) and to the west, properties are zoned (R/S) and (R-1-T, Townhomes at Lakeview Court).

To the northwest lies a parcel zoned for (R/S) and is used as a senior assisted living facility. The proposed multifamily parcel (R-3-3) encompasses 2.36 acres.

The applicant seeks to rezone the property from “R-3-3” (Apartment Residential 3) to “R-1-C” (Residential Condominium District).

Current Zoning



R-3-3 (Apartment Residential 3)

Sec. 53-292. – Purpose and Permitted uses.

The multifamily residential district R-3-3 permits typical apartment development with buildings not exceeding three stories, nor more than 28 units per buildable acre, and with apartments or units having a minimum living area of 500 square feet; provided that not more than 25 percent of the units in any such apartment development or project shall have less than 750 square feet of living area.

Requested Zoning

R-1-C (Residential Condominium District, R-1-C)

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

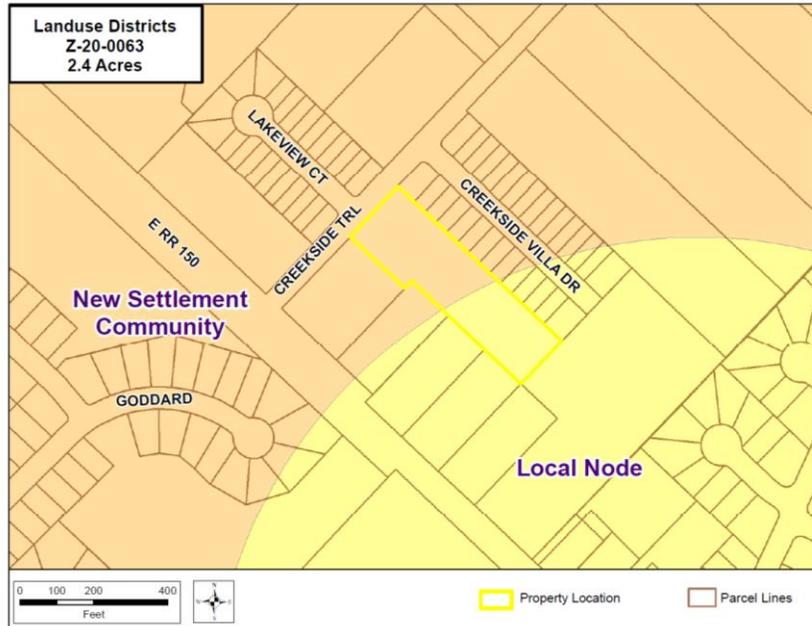
The residential condominium district R-1-C allows the establishment of a residential housing in compliance with the Texas Uniform Condominium Act, V.T.C.A., Property Code ch. 82, with individual apartments or units having a minimum of 500 square feet living area, inclusive of separate sleeping, living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

(Ord. No. 438, § 29(a), 11-24-2003)

Conditions of the Zoning Ordinance

Sec. 53-1205 Amendments

- (d) *Referral of amendment to planning and zoning commission.* Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning commission for consideration, public hearing, and recommendation to the city council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.
- (e) *Action by the planning and zoning commission.* The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the council such action as the planning and zoning commission deems proper...



Comprehensive Plan Text

The subject site is located in both the “New Settlement Community” District and the “Local Node” District. The R-1-C zoning district is recommended conditionally in the “New Town Community” District and recommended in the Local Node.

Current Land Use Chart

New Settlement Community

Recommended Zoning Categories: O/I

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

Local Node

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

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

Local Node

‘Character’:

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

Intent':

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

Analysis

The property requesting to be rezoned is sited in an area that is likely to develop from low intensity residential (Agriculture zoning) into a higher intensity area of commercial and residential activity, with the future growth along E FM 150 and Creekside Trail. The project associated with the requested zoning is roughly 300 feet north of the intersection of E FM 150 and Creekside Trail. The parcel is situated between the Speed In Food Mart and the existing townhome development on Creekside Villa Drive. Additionally, the City of Kyle shows Creekside Trail to be improved and extended across Plum Creek (to the north) in the future.

City of Kyle, Texas Mayor & Council Meeting – April 17, 2018 Per the 2017 Comprehensive Plan, the R-1-C zoning district is a recommended use in the Local Node. The site requesting to be rezoned straddles the Local Node and the New Settlement Community. Approximately half (1.18 acres) of the 2.36-acre site is inside the boundaries of the Local Node. This is important, because while the New Settlement Community does have a provision for condominium development, and there are times where this use would be appropriate. When reviewing the Comprehensive Plan staff also, when appropriate, considers the idea of a “fuzzy line” or rough boundary, relating to land use districts. The Local Node shown on the Comprehensive Plan is offset and to the east of the intersection

of Creekside Trail and E FM 150, when it should be centered on the intersection (current development proves this idea).

Another idea to consider, especially related to higher density areas (nodes), is the transect zone concept. This helps establish a standard “ramp up” from rural development to nodal development, regarding intensity of land use. Per the diagram below the proposed zoning change would fit into the “T4-General Urban Zone”, allowing for small-lot single family homes, apartments, mixed use, and locally run shops. This zone would also be where townhome development would begin to appear (Creekside Villa Drive & Lakeview Court). Currently, Creekside Trail is mostly somewhere between T2 & T3 zones (mostly 2 to 5-acre parcels, with a handful of 5+ acre parcels) and the T4 zone within 1,000 feet of the main intersection. This distance for the specific development pattern (T4 zone) on Creekside Trail is consistent with the range of the Local Node (1/4 to 1/6 of a mile).



Additionally, while condominium development typically has higher densities per acre generally, the limited acreage (2.36 acres) is really a small amount of land relating to this type of development. Typically, condominiums are built by larger scale developers, looking for larger tracts. The smaller size of the tract might indicate a developer who wants to hold onto the project for a substantial amount of time, to generate appropriate return on investment. This also suggests that the developer will place a higher priority on design and maintenance of the project, ensuring upkeep and maintaining property values.

As a side note, the amount of vehicular traffic generated and wastewater use per current infrastructure will not add likely be a significant burden on existing infrastructure, given the small geographical size of the parcel. Furthermore, compact and higher density development is, to a higher degree fiscally prudent, as opposed to single-family residential. Higher density development requires less public utilities to be installed/maintained and generally property tax revenue exceeds utility maintenance costs.

Recommendation

In conclusion, staff supports the rezoning from “R-3-3” (Apartment Residential 3) to R-1-C (Residential Condominium District) for the Dacy Village Lot 4 as requested. At the October 13, 2020 Planning & Zoning Commission meeting, the Commission voted 6-0 to recommend approval of the request. Staff asks the Mayor & Council to consider the request favorably and vote accordingly.

Attachments

- Application
- Location Map
- Existing Zoning Map
- Land Use Districts Map

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 2.4 ACRES OF LAND FROM MULTI-FAMILY RESIDENTIAL-3 'R-1-3' TO RESIDENTIAL CONDOMINIUM DISTRICT 'R-1-C' FOR PROPERTY LOCATED 104 CREEKSIDE TRAIL, IN HAYS COUNTY, TEXAS. (KCW INTERESTS 3, LLC, WHITED ENTERPRISES, LLC D/B/A VISION PARTNERS AND FHC CONSOLIDATED – Z-20-0063); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to rezone approximately 2.4 acres of land from Multi-Residential-3 'R-3-3' to Residential Condominium District 'R-1-C', as shown on the property location map labeled Exhibit B.

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

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

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

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

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the _____ day of _____, 2020, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the _____ day of _____, 2020, at which a quorum

was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this _____ day of _____, 2020.

Travis Mitchell, Mayor

ATTEST:

Jennifer Holm, City Secretary

'EXHIBIT A'

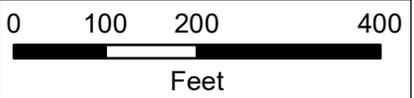
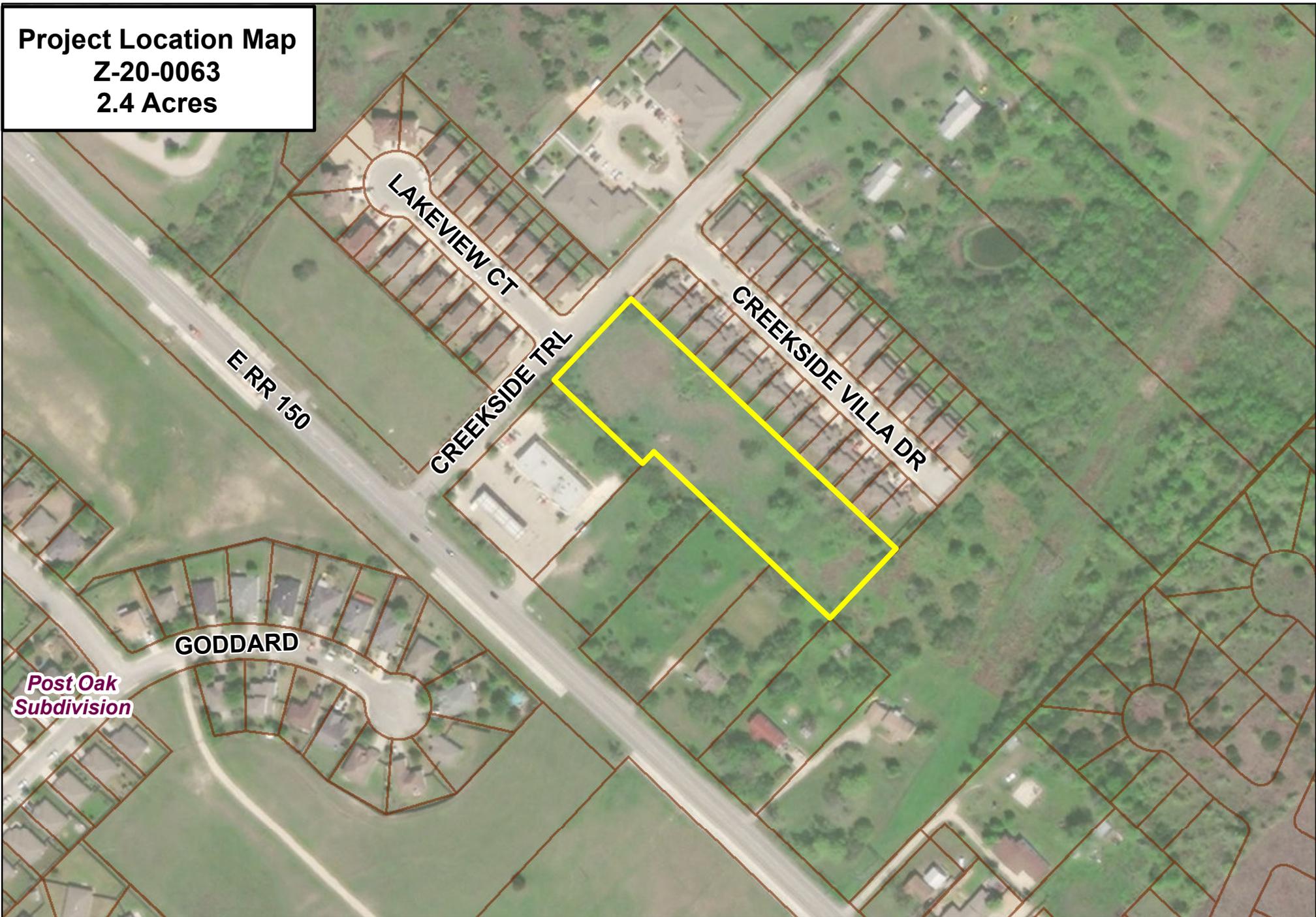
THE HILL REPLAT OF LOTS 1 AND 2

Exhibit B

Z-20-0063 104 Creekside Trl 2.4 Acres



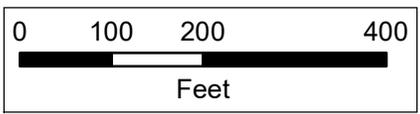
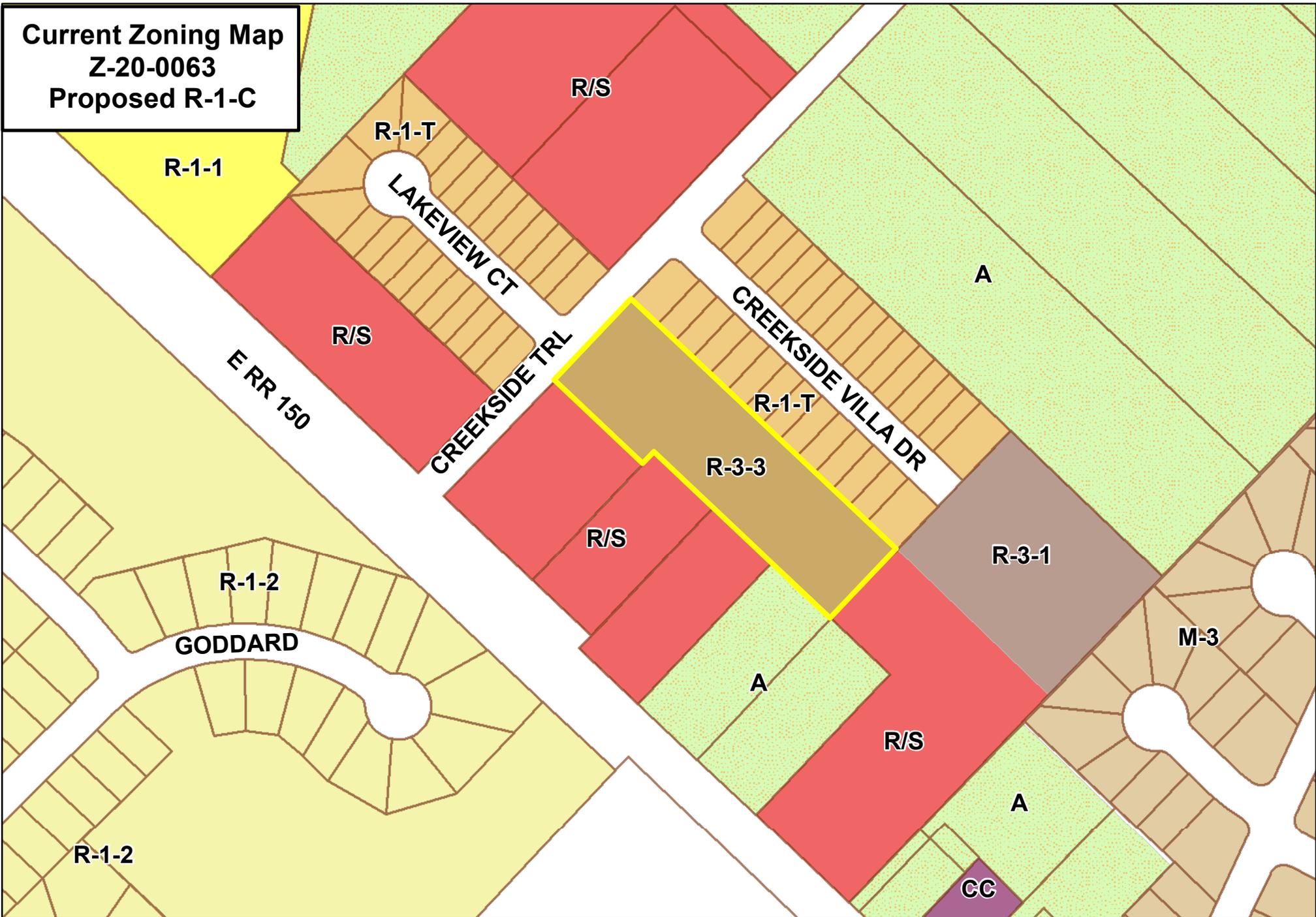
Project Location Map
Z-20-0063
2.4 Acres



 Property Location
Item # 15

 Parcel Lines

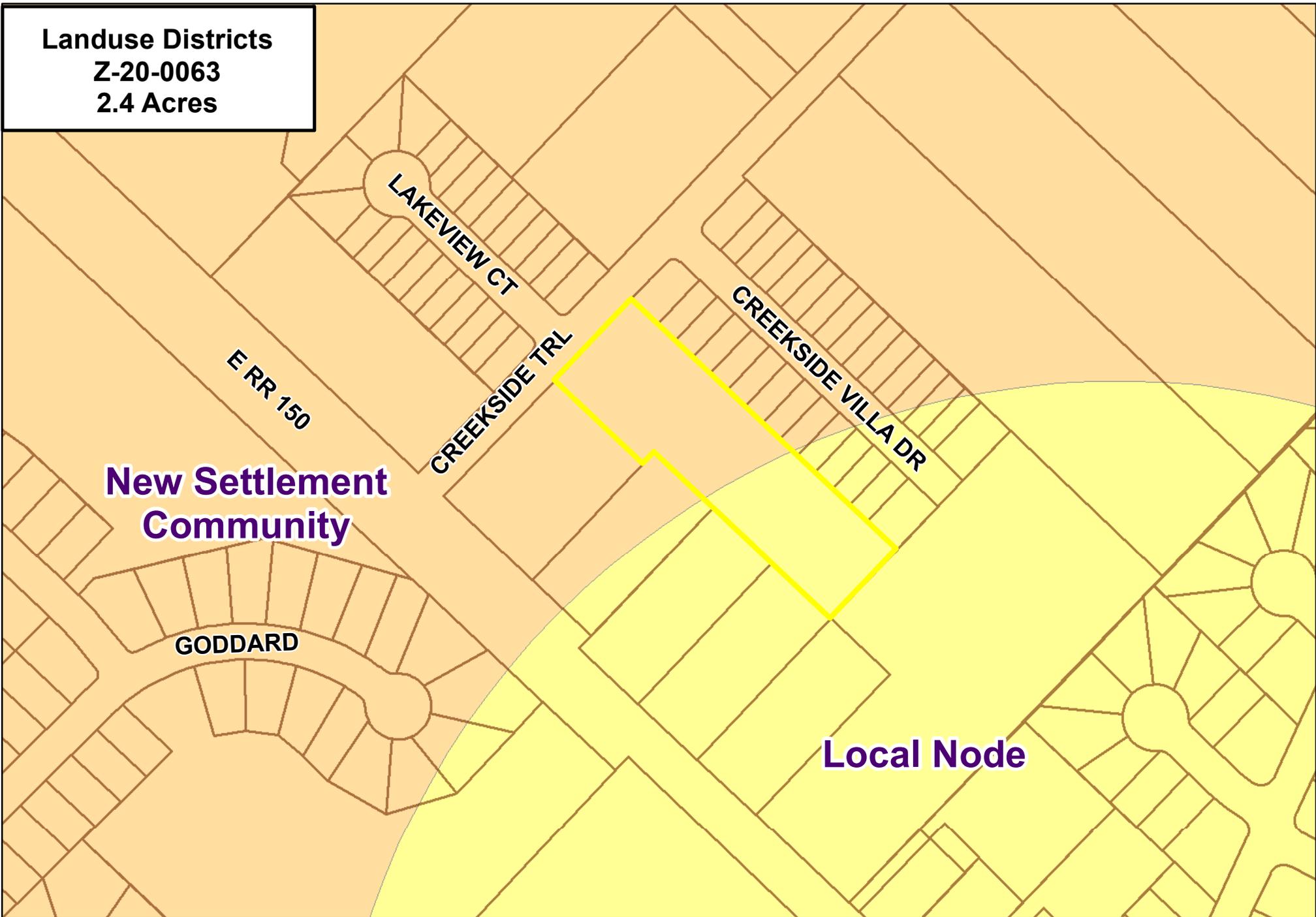
**Current Zoning Map
Z-20-0063
Proposed R-1-C**



 Property Location
Item # 15

 Parcel Lines

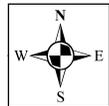
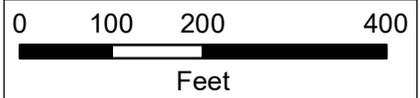
Landuse Districts
Z-20-0063
2.4 Acres



**New Settlement
Community**

GODDARD

Local Node



 Property Location
Item # 15

 Parcel Lines



CITY OF KYLE, TEXAS

Covey Fund I, LP - Zoning (Z-20-0064)

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, to assign original zoning to approximately 2.67 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located at 1805 W. RR 150, in Hays County, Texas. (Covey Fund I, LP - Z-20-0064) ~ *Howard J. Koontz, Director of Planning and Community Development*

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

- Public Hearing

Other Information: Please see attachments.

Legal Notes: N/A

Budget Information: N/A

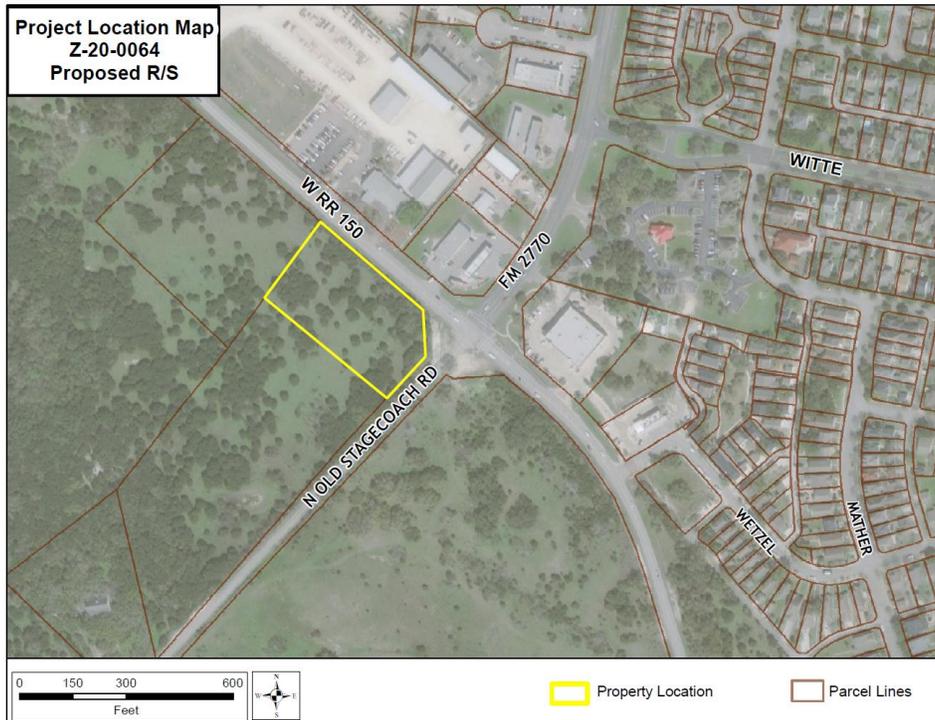
ATTACHMENTS:

Description

- Staff Memo
- Ordinance with Exhibit's A & B
- Request Letter
- Project Location Map
- Land Use Districts Map
- Current Zoning Map

Property Location	1691 N. Old Stagecoach Rd, Kyle, Texas
Owner	Covey Fund I LP 2205 N. Lamar Blvd Unit 113 Austin, TX 78705
Agent	Connor Overby Atwell LLC 3815 S. Capital of Texas Hwy Ste. 300 Austin, TX 78704
Request	Rezone 2.67-Acres, Agriculture (A) to Retail Services (RS)

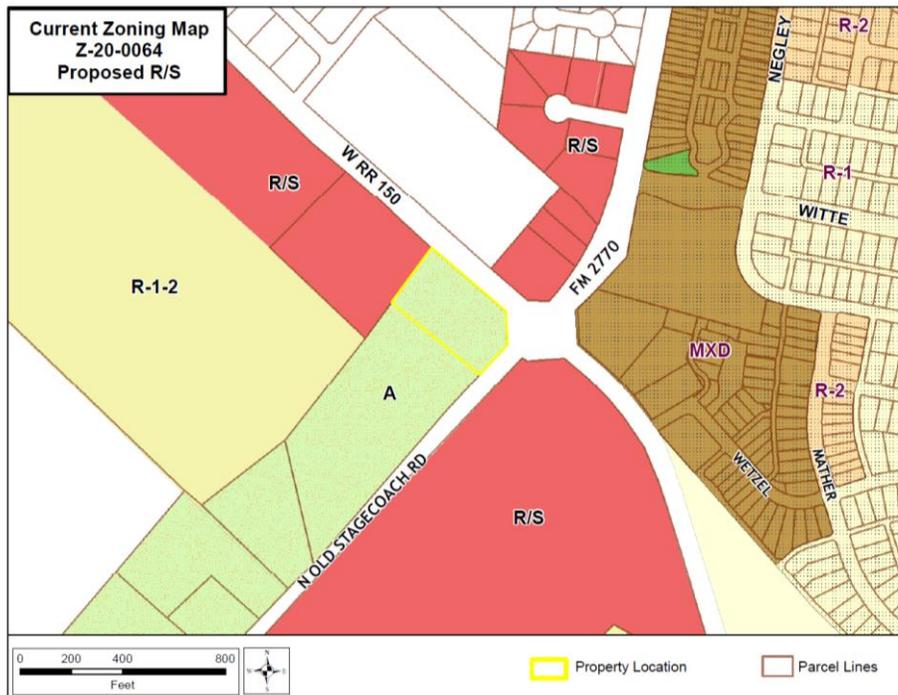
VICINITY MAP



SITE DESCRIPTION

The parcel is generally at the west corner of the W FM 150 & FM 2770 intersection. The site is currently vacant (undeveloped) and zoned A (Agriculture). To the northwest is vacant land zoned RS. To the northeast and across W FM 150 is the local office for PEC (in the ETJ/no zoning), and a fuel station/convenience store (zoned RS). To the east, across the intersection is a Walgreens (zoned PC MXD). To the south, across N. Old Stagecoach Road, is vacant land zoned RS. To the southwest is vacant land zoned A (Agriculture).

The applicant is requesting the property to be partially rezoned. The overall 9.993-acres is currently zoned for Agriculture. The applicant is proposing a rezoning of the hard corner of W FM 150 and FM 2770, to RS (Retail Services) 2.67-acres.



Existing

A (Agriculture) - allows farming, ranching, pasturage, detached single-family residences and related accessory structures, on a minimum one acre tract. Parks, playgrounds, greenbelts and other public recreational facilities, owned and/or operated by the municipality or other public agency are permitted.

Proposed

RS (Retail Services) - General highway retail (broad amount of uses associated with RS, but compatible with surrounding development).

Retail & Services District R/S

Sec. 53-480. - Purpose and permitted uses.

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas, e.g., clothing, prescription drugs, furniture, toys, hardware, electronics, pet supply, variety, department, video rental and antique stores, art studio or gallery, hobby shops and florist shops., and the retail sale of goods and products (in the following listed use areas) to which value has been added on site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed, and the following: Any use permitted in CBD-1 or CBD-2 and RS districts as provided in section 53-1230.

CONDITIONS OF THE ZONING ORDINANCE

Sec. 53-1205 Amendments

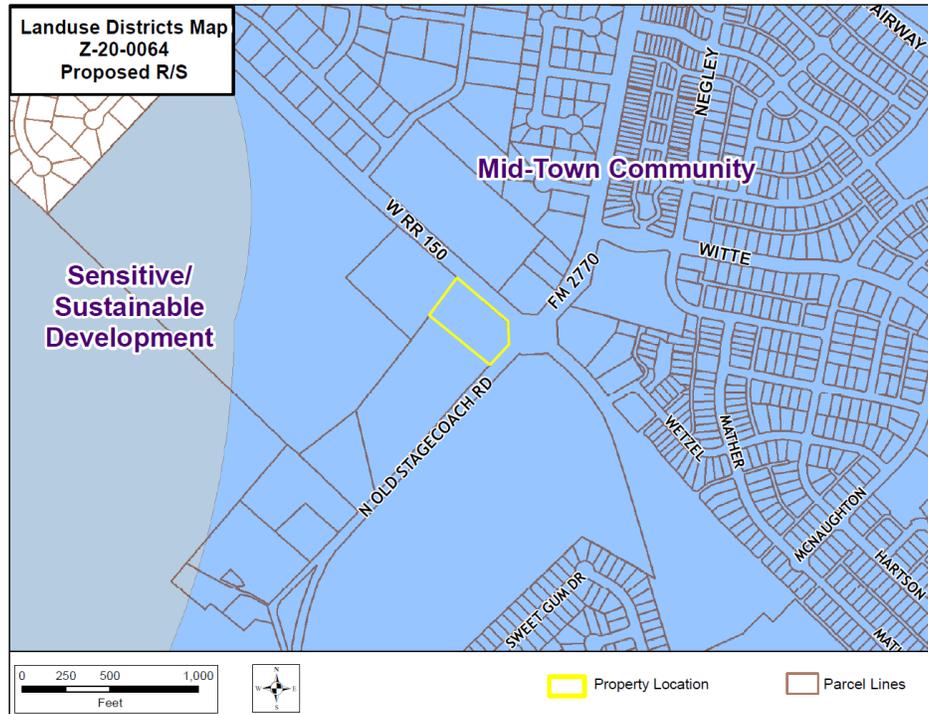
(d)

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

(e)

Action by the planning and zoning commission. The planning and zoning commission shall cause such study and review to be made as advisable and

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



COMPREHENSIVE PLAN TEXT

The subject site is located in the “Mid-Town Community District”.

Mid-Town Community District

Recommended: R-1-1, R-1-2, R-1-3, NC

Conditional: E, R-1-A, R-1-T, R-3-1, R-3-2, CC, **R/S**, MXD, O/I

MID-TOWN COMMUNITY LAND USE DISTRICT

Character: The Mid-Town District contains sites of recent residential development in Kyle and will continue to predominantly feature residential uses. Those residential uses in this District are organized around the curvilinear streets of suburban neighborhood design, rather than the regular, rectilinear grid that

characterizes the Old Town District. The Plum Creek waterway flows through and adjacent to the Mid-Town District, offering opportunities for recreation and a responsibility for environmental conservation. This District has a neighborhood-oriented form built around shared spaces such as streets, yards, porches and common areas. Neighborhood legibility and continuity is enhanced through these shared spaces. Distinctive landscape forms, including creekways, vistas, and rolling hills, give identity to this District and should be preserved, protected, and incorporated into development plans.

Intent: The purpose of the Mid-Town District is to maximize the value capture of new residential development in Kyle. This District enjoys unusual proximity to amenities, such as open space, Downtown, commercial nodes, and transit options. The area is therefore well-positioned to define an economic and lifestyle pattern that is unique to Kyle. New development should accommodate low- to mid-density detached residential uses within the unique landscape forms that are present in the District. Higher density residential, attached residential, and non-residential projects like employment and retail sales should be considered based on their proximity to higher classification streets, higher capacity water and waste water availability, and likelihood of compatibility of adjacent uses. Legibility of neighborhood identity, definition, and transportation should be improved within the Mid-Town District through such elements as trails, sidewalks, signage, and interconnected shared spaces.

ANALYSIS

The 2.67-acre site sits on the western corner of the intersection of W FM 150 and FM 2770. The site is near what is the existing edge of developed land within the northwestern portion of the City of Kyle. Most of this area is low density, rural, single-family residential, serviced by septic tank facilities, with the occasional commercial facility. To the southeast is higher density commercial and residential (Plum Creek), due to wastewater availability.

The applicant for the 2.67-acre parcel is requesting the RS zoning district. The RS zoning district is conditional in the Mid-Town land use district, as a majority of the uses existing/expected are single family residential. Secondly, smaller scale retail can be considered, especially those uses servicing the surrounding residential uses.

Currently, wastewater is unavailable to the tract. However, an agreement exists between the Blanco River Ranch, Kyle 57, Anthem Development, among other entities. The agreement will help provide much needed water service improvements and wastewater availability to this portion of Kyle. Additionally, this parcel is on the hard corner of two major roads and is appropriate for auto-centric uses that are typical of suburban surroundings.

Staff has reviewed the application and believes the RS zoning district is appropriate for the 2.67-acre site. At the October 13, 2020 Planning & Zoning Meeting, the Commission vote 6-0 to recommend approval of the request. Staff asks the Mayor & Council to vote to approve the zoning district, as presented.

Attachments

- Application
- Letter of Explanation
- Location map
- Surrounding Zoning Map
- Land Use Districts Map

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING TO APPROXIMATELY 2.67 ACRES OF LAND FROM AGRICULTURE 'AG' TO RETAIL SERVICE DISTRICT 'RS', IN HAYS COUNTY, TEXAS. (COVEY FUND I, LP – Z-20-0064); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to assign original zoning to approximately 2.67 acres of land from Agriculture 'AG' to Retail Service District 'RS', as shown on the property location map labeled Exhibit B.

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

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

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

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

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the _____ day of _____, 2020, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the _____ day of _____, 2020, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this _____ day of _____, 2020.

Travis Mitchell, Mayor

ATTEST:

Jennifer Holm, City Secretary

'EXHIBIT A'

PROPERTY DESCRIPTION

BEING 2.67 ACRES OF LAND LOCATED IN THE SAMUEL PHARASS SURVEY, ABSTRACT 360 IN HAYS COUNTY, TEXAS AND BEING A PORTION OF A CALLED 10.00 ACRE TRACT DESCRIBED IN A IN VOLUME 4141, PAGE 697, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T), SAID 2.67 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS WITH ALL BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE NAD83 4204.

BEGINNING at an iron rod capped stamped "Byrn" found in the southwesterly line of RM 150 for the east corner of a called 4.847 acre tract, describe in Document No. 17041944 O.P.R.H.C.T., and the north corner of said 10.00 acres, said point being the north corner of the herein described tract;

THENCE, with said southwesterly line of RM 150, the following courses and distances, to the northeast corner of said 10.00 acres, and of the herein described tract;

1. S 43°47'08" W, a distance of 159.35 feet to a calculated point;
2. S 02°57'33" E, a distance of 136.78 feet to an iron rod with capped stamped "Byrn" found in the northwest line of Old Stagecoach Road for the east corner of said 10.00 acre tract and of herein described tract;

THENCE, with said northwest line of Old Stagecoach Road, S 43°47'08" W, a distance of 159.35 feet to a calculated point;

THENCE, crossing said 10.00 acre tract, N 50°23'28" W, a distance of 446.03 feet to a calculated point in the north line of said 10.00 acre tract, also being in the south line of a called 4.847 acre tract recorded in Document No. 17041944, Official Public Records of Hays County, Texas;

THENCE, with the southeast line of said 4.847 acres, and said northwest line of said 10.00 acre tract, N 35°57'23" E, a distance of 264.99 feet to the **POINT OF BEGINNING** and containing 2.67 acres of land, more or less.

SURVEYOR'S STATEMENT

This survey was prepared from record information for zoning purposes only. No on-the-ground survey was performed.



Robert J. Gertson
Registered Professional Land Surveyor
No. 6367 – State of Texas
Atwell, LLC
3815 S. Capital of Texas Hwy, Ste 300
Austin, TX 78704
September 16, 2020

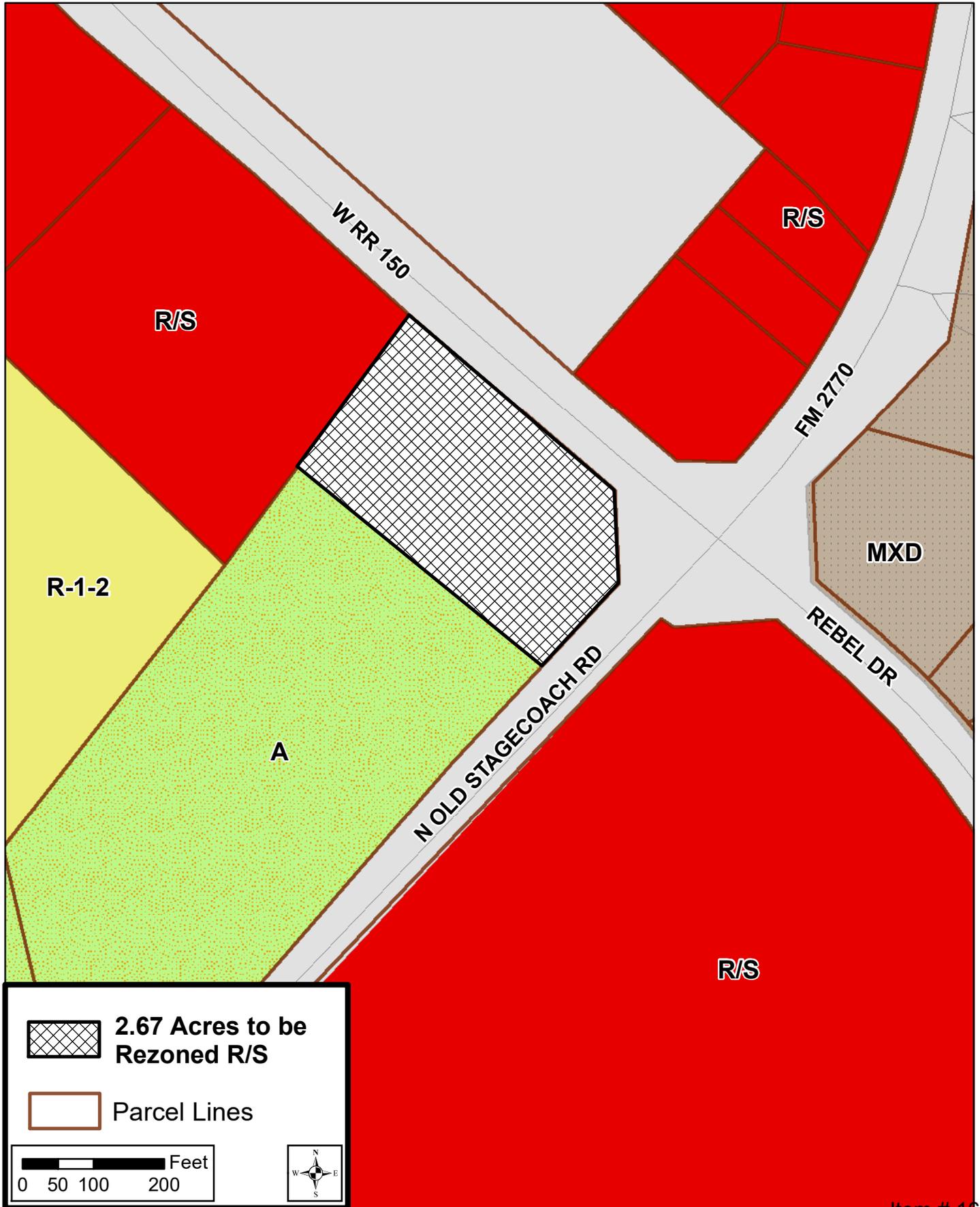


Exhibit B

Z-20-0064

1805 W RR 150

2.67 Acres





September 8, 2020

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

Re: Zoning Change Request

City of Kyle:

Per the requirements of the City of Kyle, please accept this letter as our written request to have the referenced land located within the city limits changed from Agricultural zoning to Retail Services (R/S) zoning.

The subject property is located at 1691 Old Stagecoach Road, on the Southwest corner of RM 150 and N. Old Stagecoach Road in Kyle, Texas, and has been identified by city officials as a future retail/services development opportunity. We share the city's vision for this land and have enjoyed a healthy business relationship on the acquisition and delivery of wet utilities.

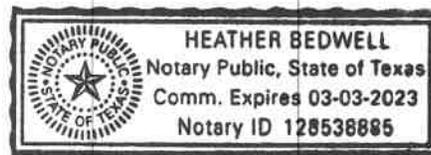
Should the City of Kyle have any questions or concerns regarding this request please do not hesitate to contact me.

Sincerely,

Brett Findley
Principal, Duncan Findley Group, LLC
General Partner, Covey Fund I, LP

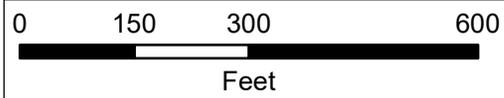
2205 N. Lamar Blvd
Suite 113
Austin, Texas 78705

Brett@duncanfindley.com



Heather Bedwell
9.8.2020

Project Location Map
Z-20-0064
Proposed R/S



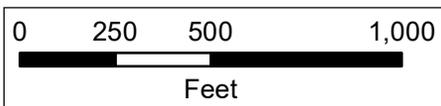
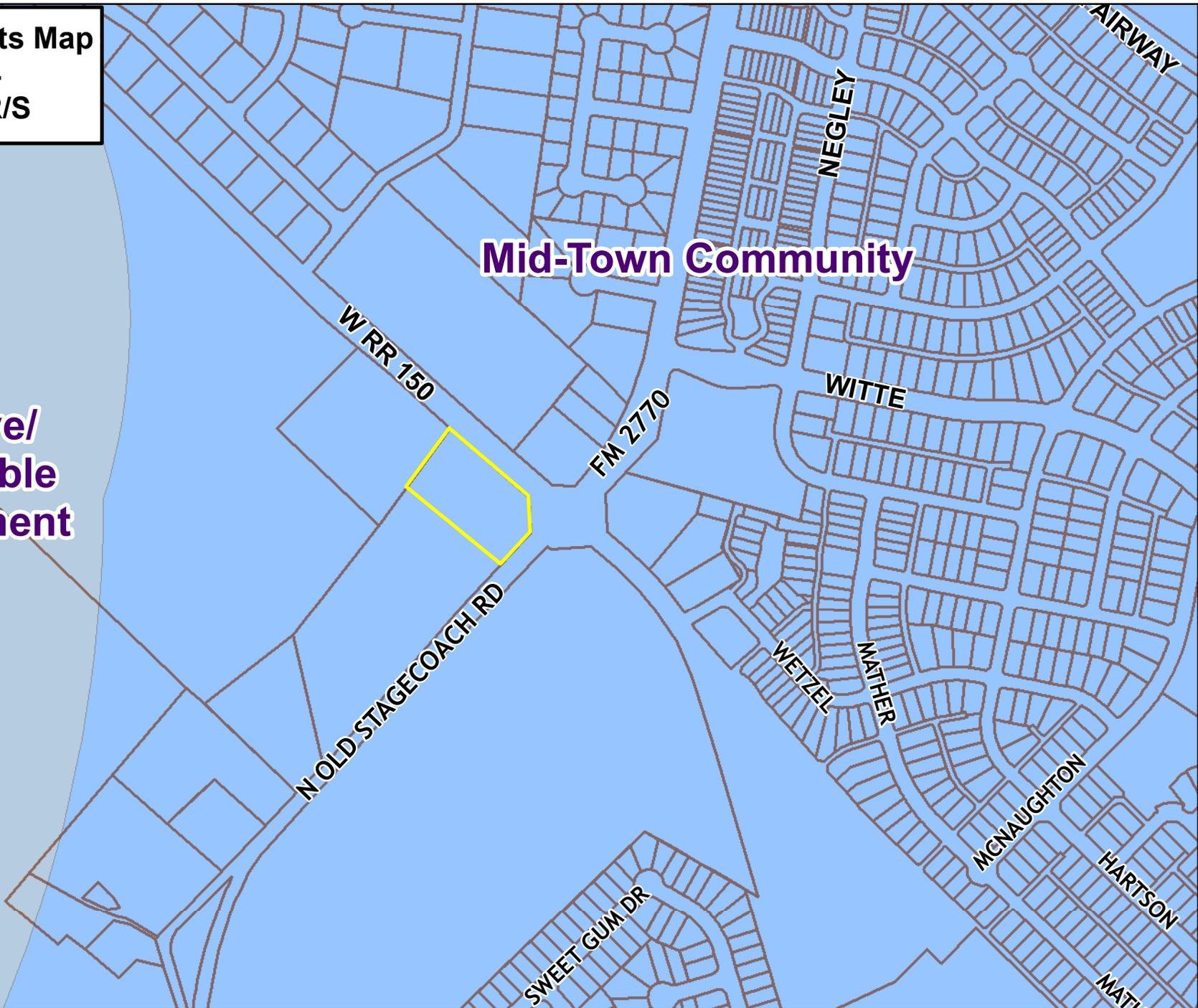
 Property Location
Item # 16

 Parcel Lines

Landuse Districts Map
Z-20-0064
Proposed R/S

Mid-Town Community

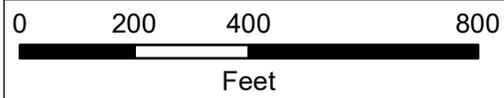
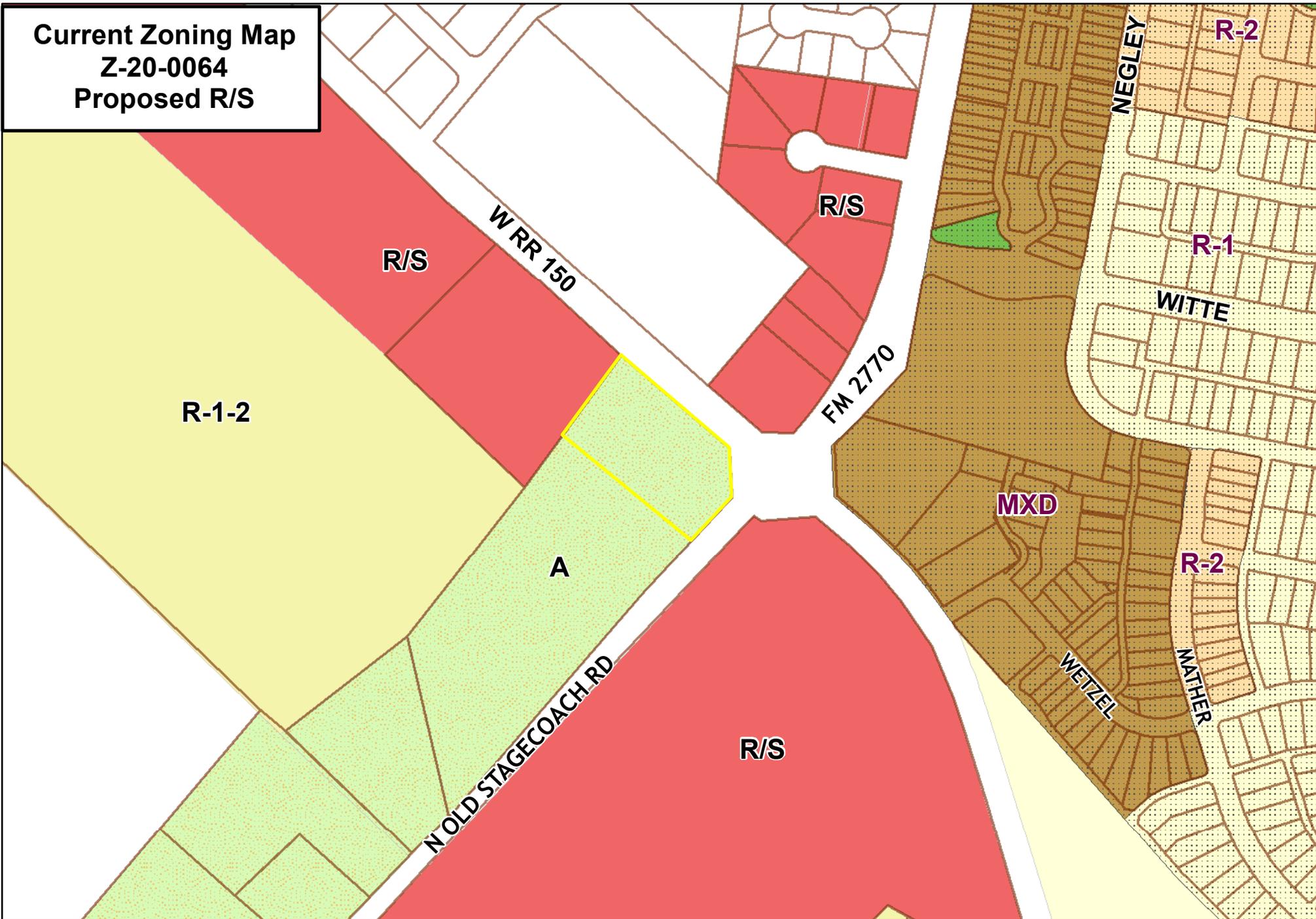
**Sensitive/
Sustainable
Development**



 Property Location
Item # 16

 Parcel Lines

**Current Zoning Map
Z-20-0064
Proposed R/S**



 Property Location
Item # 16

 Parcel Lines



CITY OF KYLE, TEXAS

NHMUD NO. 1 - Dennis and
Deborah Lake

Meeting Date: 10/20/2020

Date time: 7:00 PM

Subject/Recommendation: Request to Consent for the Addition of Land to North Hays County Municipal Utility District No. 1. ~ *J. Scott Sellers, City Manager*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Request For Consent To The Addition Of Land to North Hays County MUD No. 1 - Lake - 10-13-2020
- 2019-09-10 2019.200.023 2355 Windy Hill Rd. Kyle Hays Co. TX - ALTA R1

**REQUEST FOR CONSENT TO THE ADDITION OF LAND TO NORTH HAYS
COUNTY MUNICIPAL UTILITY DISTRICT NO. 1**

THE STATE OF TEXAS §
 §
COUNTY OF HAYS §

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF KYLE,
TEXAS:

The undersigned **Dennis Lake and Deborah Lake** (collectively, the "Landowners"), holders of title to the land hereinafter described, as indicated by the tax rolls of Hays County, Texas, and acting pursuant to the provisions of Chapter 49, Texas Water Code, and Chapter 42, Texas Local Government Code, respectfully request the City Council of the City of Kyle, Texas, for its written consent to the inclusion of land into North Hays County Municipal Utility District No. 1 (the "District") by annexation pursuant to the provisions of Section 49.301, Texas Water Code, and Section 42.0425, Texas Local Government Code; and would respectfully show the following:

I.

The land to be included in the District (the "Property") contains approximately 25.53 acres more particularly described on Exhibit "A". The Property is located in the extraterritorial jurisdiction of the City of Kyle, Texas.

II.

Landowners are the owners of title to the Property as indicated by the tax rolls in Hays County, Texas. By execution below, Landowners certify that there are no liens against any of the Property.

III.

Landowners seek annexation of the Property into the District so that the District will make retail wastewater services available to and within the Property. There is a necessity for the inclusion of the Property within the District because the District's current policy is to not provide, or make available, retail wastewater service to lands outside the corporate boundaries of the District. The District currently owns and operates wastewater facilities located in an easement within the Property that have sufficient capacity and are capable of furnishing service to the Property.

IV.

WHEREFORE, the Landowners respectfully pray that this request be heard and that your Honorable Body duly pass and approve an ordinance or resolution granting the consent to the inclusion of the Property described herein into the District.

[The remainder of this page intentionally left blank.]

RESPECTFULLY SUBMITTED, this 13th day of October, 2020.

Dennis Lake
Dennis Lake

Deborah Lake
Deborah Lake

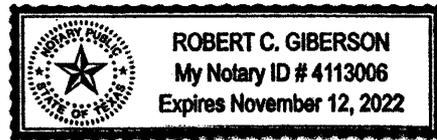
THE STATE OF TEXAS §

COUNTY OF HAYS §

This instrument was acknowledged before me on the 13th day of October, 2020, by Dennis Lake.

Robert C. Giberson
Notary Public, State of Texas

(SEAL)



THE STATE OF TEXAS §

COUNTY OF HAYS §

This instrument was acknowledged before me on the 13th day of October, 2020, by Dennis Lake.

Robert C. Giberson
Notary Public, State of Texas

(SEAL)

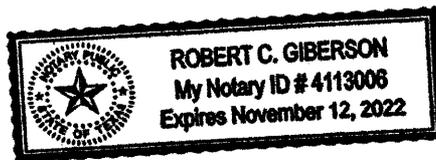


Exhibit "A"

Property Description

EXHIBIT "A"

FIELD NOTES to that 25.53 acre tract situated in the Jesse B. Eaves Survey, Abstract No. 166, being comprised of a portion of the called Tract One and the called Tract Two in a General Warranty Deed to Dennis Ray Lake and Deborah S. Lake, as recorded in Volume 302, Page 169, of the Deed Records of Hays County, Texas (D.R.H.C.T.), a tract described in a General Warranty Deed to Dennis Ray Lake, as recorded in Volume 265, Page 494, said D.R.H.C.T., a portion of a tract described in a Deed to Dennis Ray Lake, as recorded in Volume 262, Page 588, said D.R.H.C.T., a tract described in a Warranty Deed to Dennis Ray Lake, as recorded under Instrument No. 18040708, of the Official Public Records of Hays County, Texas (O.P.R.H.C.T.), and a portion of a tract described in a Warranty Deed with Vendor's Lien to Dennis Ray Lake and Deborah S. Lake, as recorded in Volume 375, Page 438, said D.R.H.C.T.; said 25.53 acre tract being more fully described as follows:

BEGINNING at a 1/2-inch capped rebar stamped "RPLS 4532" found at the west corner of a called 0.248 acre tract described in a Deed to Hays County for the widening of County Road 131 (a/k/a Windy Hill Road), as recorded in Volume 1182, Page 584, said D.R.H.C.T., on the southwest line of said Tract One described in Volume 302, Page 169, and the east corner of Lot 1, Block A, *EL CIPRES SUBDIVISION*, as recorded under Instrument No. 18018163, O.P.R.H.C.T.;

THENCE NORTH 45°43'48" WEST along the southwest lines of said Tract One and Tract Two described in Volume 302, Page 169, at a distance of 694.73 pass a 1/2-inch rebar found at a northeast corner of a called 6.6422 acre tract described in a Warranty Deed with Vendor's Lien to Randall Luke Condit and Christy Walters Condit, as recorded under Instrument No. 17011564, O.P.R.H.C.T., and continuing along the common lines of said Condit tract, said Tract Two described in Volume 302, Page 169 and said Lake tract described under Instrument No. 18040708, a total distance of 1,525.75 feet to a 1/2 inch capped rebar stamped "JPH Land Surveying" set at the common corner of said Condit Tract and said Lake tract described under Instrument No. 18040708;

THENCE NORTH 05°10'14" WEST along the west line of said Lake tract described under Instrument No. 18040708, a distance of 428.95 feet to a 60D nail in wood post found in the south line of Lot 58, Block I, *SHADOW CREEK PHASE ONE, SECTION TWO*, as recorded in Volume 12, Page 241 of the Plat Records of Hays County, Texas (P.R.H.C.T.);

THENCE NORTH 89°00'03" EAST along the north lines of said Lake tracts described under Instrument No. 18040708 and Volume 375, Page 438, a distance of 808.12 feet to a 1/2-inch rebar found;

THENCE SOUTH 45°45'22" EAST along the common line of said Lake tract described in Volume 375, Page 438 and Block E, *SHADOW CREEK PHASE SIX, SECTION ONE*, as recorded in Volume 19, Page 206, P.R.H.C.T, a distance of 558.24 feet to a 1/2-inch capped rebar stamped "RPLS 4907" found at the common corner of said Lake tract described in Volume 375, Page 438, and a tract described in a General Warranty Deed to Jisha and Deats Properties, LLC, as recorded under Instrument No. 18027512, O.P.R.H.C.T.;

THENCE along the common line of said Lake tract described in Volume 375, Page 438 and said Jisha and Deats Properties tract, the following bearings and distances:

1. SOUTH 37°49'02" WEST a distance of 371.04 feet to a 1/2-inch capped rebar stamped "RPLS 4907" found;
2. SOUTH 45°44'12" EAST a distance of 684.18 feet to a 1/2-inch capped rebar stamped "RPLS 4532" found at the north corner of said 0.248 acre tract (County Road 131);

THENCE SOUTH 44° 24' 54" WEST along the north line of said 0.248 acre tract (County Road 131), a distance of 484.67 feet, to the **POINT OF BEGINNING** enclosing 25.53 acres;

Drafter: RDG 2019/07/15
Revision:
Revision:
Revision:

DESCRIPTION: (Written to combine Tracts 1, 2, 3, 4, 5 & 6)
[CLICK HERE FOR DESCRIPTION IN WORD FORMAT](#)

FIELD NOTES to that 25.53 acre tract situated in the Jesse B. Eaves Survey, Abstract No. 166, being comprised of a portion of the called Tract One and the called Tract Two in a General Warranty Deed to Dennis Ray Lake and Deborah S. Lake, as recorded in Volume 302, Page 169, of the Deed Records of Hays County, Texas (D.R.H.C.T.), a tract described in a General Warranty Deed to Dennis Ray Lake, as recorded in Volume 265, Page 494, said D.R.H.C.T., a portion of a tract described in a Deed to Dennis Ray Lake, as recorded in Volume 262, Page 588, said D.R.H.C.T., a tract described in a Warranty Deed to Dennis Ray Lake, as recorded under Instrument No. 18040708, of the Official Public Records of Hays County, Texas (O.P.R.H.C.T.), and a portion of a tract described in a Warranty Deed with Vendor's Lien to Dennis Ray Lake and Deborah S. Lake, as recorded in Volume 375, Page 438, said D.R.H.C.T.; said 25.53 acre tract being more fully described as follows:

BEGINNING at a 1/2-inch capped rebar stamped "RPLS 4532" found at the west corner of a called 0.248 acre tract described in a Deed to Hays County for the widening of County Road 131 (a/k/a Windy Hill Road), as recorded in Volume 1182, Page 584, said D.R.H.C.T., on the southwest line of said Tract One described in Volume 302, Page 169, and the east corner of Lot 1, Block A, *EL CIPRES SUBDIVISION*, as recorded under Instrument No. 18018163, O.P.R.H.C.T.;

THENCE NORTH 45°43'48" WEST along the southwest lines of said Tract One and Tract Two described in Volume 302, Page 169, at a distance of 694.73 pass a 1/2-inch rebar found at a northeast corner of a called 6.642 acre tract described in a Warranty Deed with Vendor's Lien to Randall Luke Condit and Christy Walters Condit, as recorded under Instrument No. 17011564, O.P.R.H.C.T., and continuing along the common lines of said Condit tract, said Tract Two described in Volume 302, Page 169, and said Lake tract described under Instrument No. 18040708; a total distance of 1,525.75 feet to a 1/2 inch capped rebar stamped "JPH Land Surveying" set at the common corner of said Condit Tract and said Lake tract described under Instrument No. 18040708;

THENCE NORTH 05°10'14" WEST along the west line of said Lake tract described under Instrument No. 18040708, a distance of 428.95 feet to a 60D nail in wood post found in the south line of Lot 58, Block 1, *SHADOW CREEK PHASE ONE, SECTION TWO*, as recorded in Volume 12, Page 241 of the Plat Records of Hays County, Texas (P.R.H.C.T.);

THENCE NORTH 89°00'03" EAST along the north lines of said Lake tracts described under Instrument No. 18040708 and Volume 375, Page 438, a distance of 808.12 feet to a 1/2-inch rebar found;

THENCE SOUTH 45°45'22" EAST along the common line of said Lake tract described in Volume 375, Page 438 and Block E, *SHADOW CREEK PHASE SIX, SECTION ONE*, as recorded in Volume 19, Page 206, P.R.H.C.T., a distance of 558.24 feet to a 1/2-inch capped rebar stamped "RPLS 4907" found at the common corner of said Lake tract described in Volume 375, Page 438, and a tract described in a General Warranty Deed to Jisha and Deats Properties, LLC, as recorded under Instrument No. 18027512, O.P.R.H.C.T.;

THENCE along the common line of said Lake tract described in Volume 375, Page 438 and said Jisha and Deats Properties tract, the following bearings and distances:

1. SOUTH 37°49'02" WEST a distance of 371.04 feet to a 1/2-inch capped rebar stamped "RPLS 4907" found;
2. SOUTH 45°44'12" EAST a distance of 684.18 feet to a 1/2-inch capped rebar stamped "RPLS 4532" found at the north corner of said 0.248 acre tract (County Road 131);

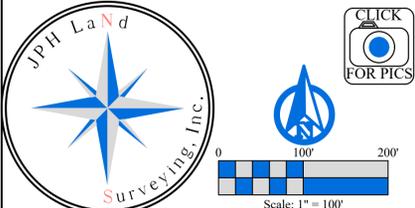
THENCE SOUTH 44° 24' 54" WEST along the north line of said 0.248 acre tract (County Road 131), a distance of 484.67 feet, to the **POINT OF BEGINNING** enclosing 25.53 acres;

- LEGEND OF SYMBOLS**
- air conditioner
 - borehole
 - cable tv
 - electric meter
 - fence or handrail
 - fire dept. connection
 - fire hydrant
 - fire line
 - guard rail
 - grease trap
 - bollard
 - grate inlet
 - gas meter
 - gas line
 - utility pole anchor
 - irrigation valve
 - landscape or tree line
 - landscape electric box
 - landscape light
 - light pole
 - mailbox
 - monitoring well
 - overhead utility lines
 - pool equipment
 - road sign
 - roof drain
 - silt fence
 - spot elevation
 - sanitary sewer manhole
 - sanitary sewer pipe
 - storm water manhole
 - storm water pipe
 - telephone manhole
 - tank fill lid
 - telephone riser
 - traffic signal pole
 - unknown manhole
 - utility clean out
 - utility cabinet
 - utility vault
 - utility markings (line color)
 - color of markings
 - utility pole with riser
 - utility sign
 - water shutoff
 - water valve
 - water manhole
 - water meter
 - well
 - water line
 - one-foot contour lines
 - tree trunk (with canopy)
 - caliper inches at breast height
 - ornamental tree
 - multiple trunks

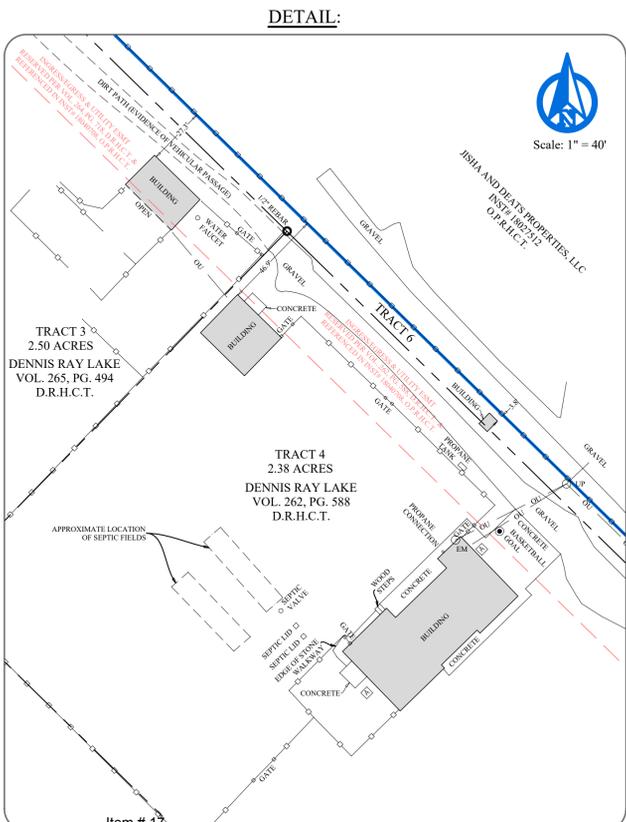
UTILITY WARNING
811 or other similar utility locate requests (DIG-TESS) may be ignored or result in an incomplete response, in which case utilities may not have been marked, or not completely marked, at the time the fieldwork was performed for this survey. Therefore, other utilities may exist which are not shown on this survey. With regard to Table A, item 11 *(if addressed), source information from plans and markings have been combined with observed evidence of utilities pursuant to Section 5.E.IV. To develop a view of the underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. Where additional or more detailed information is required, excavation and/or a private utility locate request may be necessary.

MONUMENTS / DATUMS / BEARING BASIS
Monuments are found if not marked MNS or CRS.
CRS 1/2" rebar stamped "JPH Land Surveying" set
MNS Mag nail & washer stamped "JPH Land Surveying" set
TBM Site benchmark (see vicinity map for general location)
Vertex or common point (not a monument)
Coordinate values, if shown, are US S/F/T, TxCS, '83, SCZ
Elevations, if shown, are NAVD'88
Bearings are based on grid north (TxCS, '83, SCZ)
TYPE I TxDOT Right of Way tapered concrete monument.
TYPE II TxDOT Right of Way bronze cap in concrete.
TYPE III TxDOT Right of Way aluminum cap.

LEGEND OF ABBREVIATIONS
US S/F/T United States Survey Feet
TxCS, '83, SCZ Texas Coordinate System of 1983, South Central Zone
NAVD'88 North American Vertical Datum of 1988
P.R.H.C.T. Plat Records of Hays County, Texas
O.P.R.H.C.T. Official Public Records of Hays County, Texas
D.R.H.C.T. Deed Records of Hays County, Texas
VOL/Pg/INST# Volume/Page/Instrument Number
POB/POC Point of Beginning/Point of Commencing
ESMT/BL Easement/Building Line
R.O.W. Right-of-way
L.C.R.A. Lower Colorado River Authority
RCP Reinforced concrete pipe
CMP Corrugated metal pipe
() Called Bearing and Distance



JPH Job/Drawing No. (see below)
2019.200.023 2355 Windy Hill Rd., Kyle, Hays Co., TX-ALTA.dwg
© 2019 JPH Land Surveying, Inc. - All Rights Reserved
1516 E. Palm Valley Blvd., Ste. A4, Round Rock, Texas 78664
Telephone (817) 431-4971 www.jphlandsurveying.com
TBPLS Firm #10019500 #10194073 #10193867
DFW | Austin | Abilene



RECORD DESCRIPTION:

- TRACT 1:** Being all of that certain tract or parcel of land situated in the Jesse B. Eaves Survey, Abstract 166, Hays County, Texas, said tract being called Tract One more particularly described by metes and bounds in the deed recorded in Volume 302, Page 169 of the Deed Records of Hays County, Texas; SAVE AND EXCEPT therefrom any portion thereof conveyed to Hays County by deed recorded in Volume 1182, Page 584 of the Official Public Records of Hays County, Texas.
- TRACT 2:** Being all of that certain tract or parcel of land situated in the Jesse B. Eaves Survey, Abstract 166, Hays County, Texas, said tract being called Tract Two more particularly described by metes and bounds in the deed recorded in Volume 302, Page 169 of the Deed Records of Hays County, Texas.
- TRACT 3:** Being all of that certain tract or parcel of land situated in the Jesse B. Eaves Survey, Abstract 166, Hays County, Texas, said tract being more particularly described by metes and bounds in the deed recorded in Volume 265, Page 494 of the Deed Records of Hays County, Texas.
- TRACT 4:** Being all of that certain tract or parcel of land situated in the Jesse B. Eaves Survey, Abstract 166, Hays County, Texas, said tract being more particularly described by metes and bounds in the deed recorded in Volume 262, Page 588 of the Deed Records of Hays County, Texas; SAVE AND EXCEPT therefrom any portion thereof conveyed to Hays County by deed recorded in Volume 1182, Page 584 of the Official Public Records of Hays County, Texas.
- TRACT 5:** Being all of that certain tract or parcel of land situated in the Jesse B. Eaves Survey, Abstract 166, Hays County, Texas, said tract being more particularly described by metes and bounds in the deed recorded under Document No. 18040708 of the Official Public Records of Hays County, Texas.
- TRACT 6:** Being all of that certain tract or parcel of land situated in the Jesse B. Eaves Survey, Abstract 166, Hays County, Texas, said tract being more particularly described by metes and bounds in the deed recorded in Volume 375, Page 438 of the Deed Records of Hays County, Texas; SAVE AND EXCEPT therefrom any portion thereof conveyed to Hays County by deed recorded in Volume 1182, Page 584 of the Official Public Records of Hays County, Texas.

FLOOD ZONE CLASSIFICATION

This property lies within ZONE(S) A AND X (unshaded) of the Flood Insurance Rate Map for Hays County, Texas and Incorporated Areas, map no. 48209C0291F & 48209C0291F, dated 2005/09/02, via scaled map location and graphic plotting and/or the National Flood Hazard Layer (NFHL) Web Map Service (WMS) at <http://hazards.fema.gov>.

SURVEYOR'S NOTES:

1. Subject property's record description's error of closure:
Tract 1: 0.0687', Tract 2: 0.0568', Tract 3: 0.0568', Tract 4: 0.0690', Tract 5: 0.1613', Tract 6: 0.0049'
2. FEMA hazard flood zone limits line work shown hereon is based on the FEMA Flood Map Service Center GIS data obtained in July 15, 2019.
3. No clearly identifiable, designated parking areas or parking spaces were observed on the site.
4. The site surface is natural ground/dirt, unless noted otherwise.

TITLE COMMITMENT NOTES:

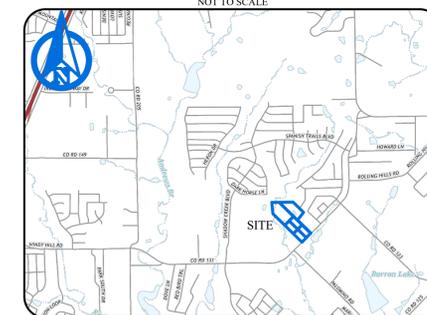
This survey was performed with the benefit of a title commitment provided by Old Republic National Title Insurance Company, GF# 201901457, effective June 17, 2019, and issued July 1, 2019. Complete copies of the record description of the property, any record easements benefiting the property, the record easements or servitudes and covenants affecting the property ("Record Documents"), documents of record referred to in the Record Documents, and any other documents containing desired information affecting the property being surveyed and to which the survey shall make reference were not provided to this surveyor for notation on the survey except for those items listed within Schedule B of said commitment. Therefore, easements, agreements, or other documents, either recorded, or unrecorded may exist that affect the subject property that are not shown on this survey.

The following Schedule B items were addressed according to the Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys Section 6(c)(ii).

Schedule B Exception #	Description	Label Grid Location (see edge of sheet for grid location)	Shown on map (see grid location)						
Recording Information									
10.a	An undivided one-fourth interest in all oil, gas and other minerals, together with all rights relating thereto, express or implied, reserved in Deed Vol. 123, Pg. 209, D.R.H.C.T.			X				X	
10.b(1)	Electric and telephone easement granted to L.C.R.A. Vol. 148, Pg. 265, D.R.H.C.T.	G5	2, 3 & 6						
10.b(2)	Amendment to Easement Vol. 147, Pg. 51, D.R.H.C.T.	H3						X	***
10.b(3)	Assignment of Easements and Conveyance of Electric Facilities Vol. 1913, Pg. 390, D.R.H.C.T.	G5	2, 3 & 6						
10.c(1)	Telephone, power lines and appurtenances easement Vol. 156, Pg. 222, D.R.H.C.T.			X				1, 2, 3, 4 & 5	6
10.c(2)	Partial Release Vol. 291, Pg. 227, D.R.H.C.T.			X				6	
10.d	An undivided one-half of one-eighth royalty interest in all oil, gas and other minerals, together with all rights relating thereto, express or implied, reserved in Deed Vol. 174, Pg. 630, D.R.H.C.T.			X				X	
10.e	Communication easement Vol. 185, Pg. 222, D.R.H.C.T.			X				X	
10.f	The terms, conditions and stipulations of that certain Oil, Gas and/or Mineral Lease Vol. 206, Pg. 29, D.R.H.C.T.			X					X
10.g	Pipe line and appurtenances easement Vol. 206, Pg. 579, D.R.H.C.T.			X				X	
10.h*	Water pipe line easement Vol. 229, Pg. 579, D.R.H.C.T.			X				X*	
10.i*	Water pipe line easement Vol. 229, Pg. 106, D.R.H.C.T.			X				6*	
10.j*	Water pipe line easement Vol. 229, Pg. 217, D.R.H.C.T.			X				X*	
10.k	Ingress, egress and utility easement Vol. 262, Pg. 588, D.R.H.C.T.	I5	4						
10.l	Ingress, egress and utility easement Vol. 264, Pg. 718, D.R.H.C.T.	G3	3						
10.m**	Water meter easement Vol. 459, Pg. 654, D.R.H.C.T.			X				6**	
10.n	Buried communication cable easement Vol. 1030, Pg. 159, D.R.H.C.T.	I6						X	
10.o***	Water line easement Vol. 1201, Pg. 287, D.R.H.C.T.			X				6***	
10.p***	Water line easement Vol. 1277, Pg. 563, D.R.H.C.T.			X				1 & 2***	
10.q	Electric utility easement Vol. 1277, Pg. 563, D.R.H.C.T.	I6	1, 4 & 6						
10.r	Ingress, egress and utility easement INST# 18040708, O.P.R.H.C.T.	I5 & G3	3 & 4						
10.s	Wastewater easement INST# 1804149, O.P.R.H.C.T.	I13 & H1	6						
10.t	The terms, conditions and stipulations of that certain Wastewater Property Commitment INST# 1804151, O.P.R.H.C.T.			X				X	

* Document states easement shall not exceed 10' in width along centerline of pipe. Said pipeline was not observed. Barring excavation of these pipes by others, this easement cannot be accurately located.
** Document states easement shall not exceed 15' in width along centerline of pipe. Said pipeline was not observed. Barring excavation of these pipes by others, this easement cannot be accurately located.
*** Document states easement shall not exceed 20' in width along centerline of pipe. Said pipeline was not observed. Barring excavation of these pipes by others, this easement cannot be accurately located.
**** Amendment to easement appears to modify certain language of that L.C.R.A. easement recorded in Vol. 148, Pg. 265, over the "grantor's property". That portion of the said L.C.R.A. easement located on the "grantor's property" is shown at grid location H3, which touches Tract 6.

VICINITY MAP



ALTA / NSPS LAND TITLE SURVEY
25.53 ACRES
SITUATED IN THE
JESSE B. EAVES SURVEY NO. 5
ABSTRACT NO. 166
EXTRA-TERRITORIAL JURISDICTION OF KYLE
HAYS COUNTY, TEXAS
ADDRESS: 2355 WINDY HILL ROAD (PER APPRAISAL DISTRICT)

To: Amplitude Acquisitions, LLC, a Texas limited liability company
Old Republic National Title Insurance Company
Heritage Title Company of Austin, Inc.

This is to certify that this map or plan and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 8, 9 & 13 of Table A thereof. The fieldwork was completed on July 16, 2019.

Cole Stevey
Registered Professional
Land Surveyor No. 6731
cole@jphs.com
Date: July 23, 2019
Revision: September 10, 2019 - Revise exception 10.b(2)





CITY OF KYLE, TEXAS

Cassetta Ranch ROW license agreement

Meeting Date: 10/20/2020
Date time: 7:00 PM

Subject/Recommendation: *[Postponed 10/6/2020]* Consider approval of Brohn Homes (Cassetta 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.

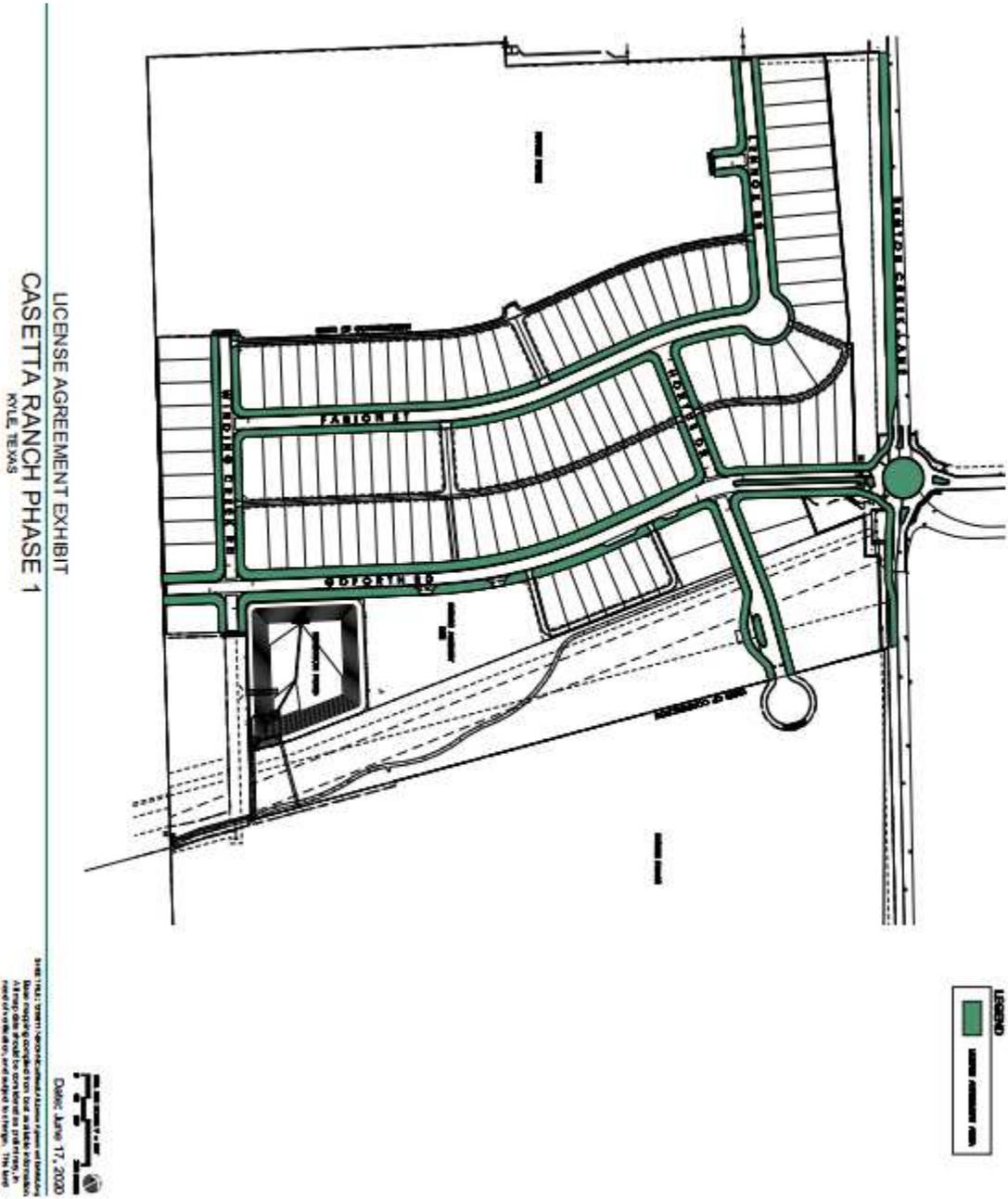
Notary Public - State of Texas

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

Exhibit "A"





CITY OF KYLE, TEXAS

Meeting Date: 10/20/2020

Date time: 7:00 PM

John H. Spooner (Z-20-0061)

Subject/Recommendation: *(Second 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. City Council voted 6-1 to approve on First Reading.

Other Information: See attachments.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Memo
- Ordinance with Exhibits
- Application
- Letter of Opposition
- Project Location Map
- Land Use Districts Map
- Proposed Zoning Map
- Waterstone Phase 1 Exhibit

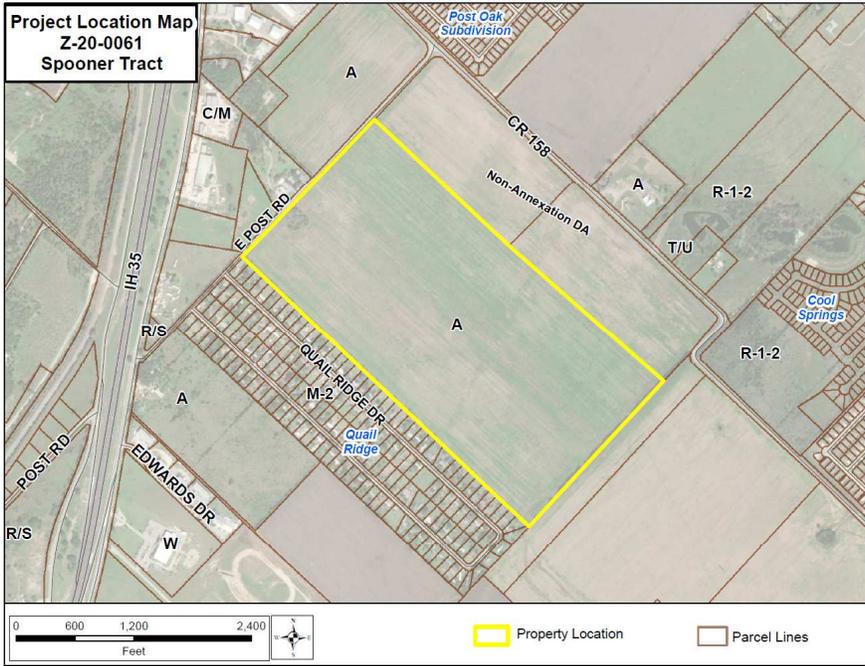
Property Location E. Post Road, north of Quail Ridge Subdivision, Kyle, TX 78640

Owner John H. Spooner Revocable Trust
324 43rd Street
Des Moines, IA 50312

Agent John Hines, P.E.
Dannenbaum Engineering
512-427-3237

Request Rezone 179.33-Acres A (Agriculture) to 128.58-Acres R-1-3 (Single Family Detached Residential), 30.27-Acres R-1-T (Residential Townhouse District), 20.37-Acres CC (Community Commercial)

Vicinity Map

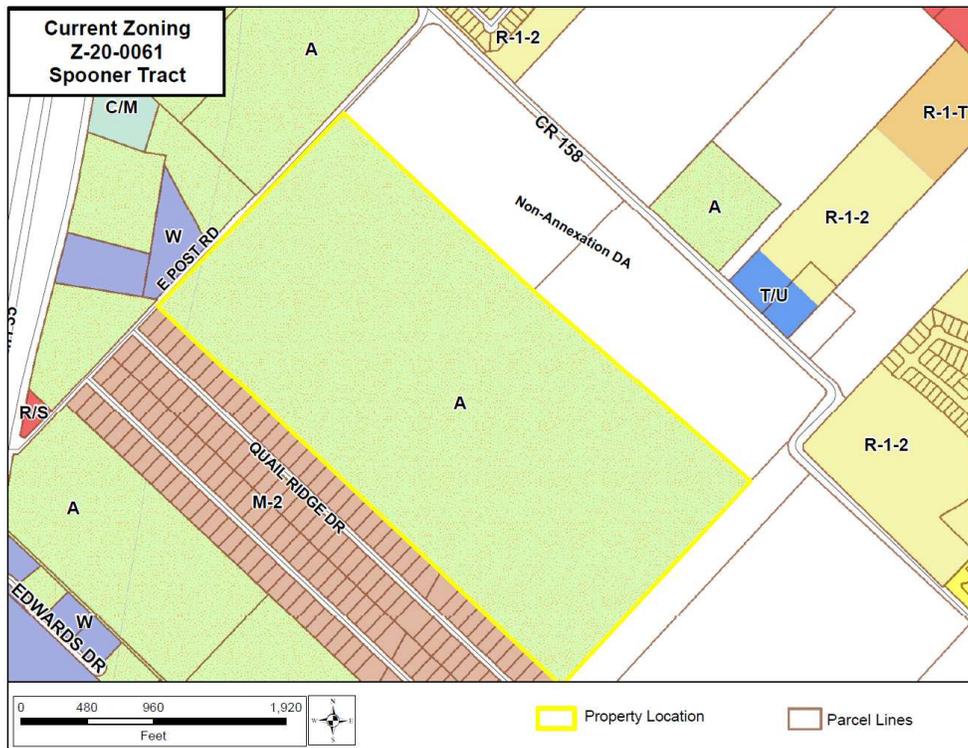


Site Description

The site, also known as the “Spooner Tract” is an undeveloped parcel zoned Agriculture (A). It is currently used for agricultural purposes, typically row crops. To the north is

vacant land, utilized for agriculture and zoned “A” (across E. Post Road). The land adjacent to and north of the parcel is in the City of Kyle’s extra-territorial jurisdiction (ETJ), and is used for agricultural purposes. To the east and southeast, is land in the San Marcos ETJ. The site is proposed to be developed with a regionally dense residential subdivision, taking access from a boulevard that will be constructed through the Spooner Tract. To the south is the Quail Ridge community, zoned M-2. It allows for manufactured homes on fee simple lots/public streets. To the west are properties zoned Warehouse (vacant) and Agriculture (auto body shop and residence).

The applicant seeks to rezone the property from “A” (Agriculture) to “CC” (Community Commercial), “R-1-T” (Residential Townhouse District) and “R-1-3” (Single Family Detached Residential).



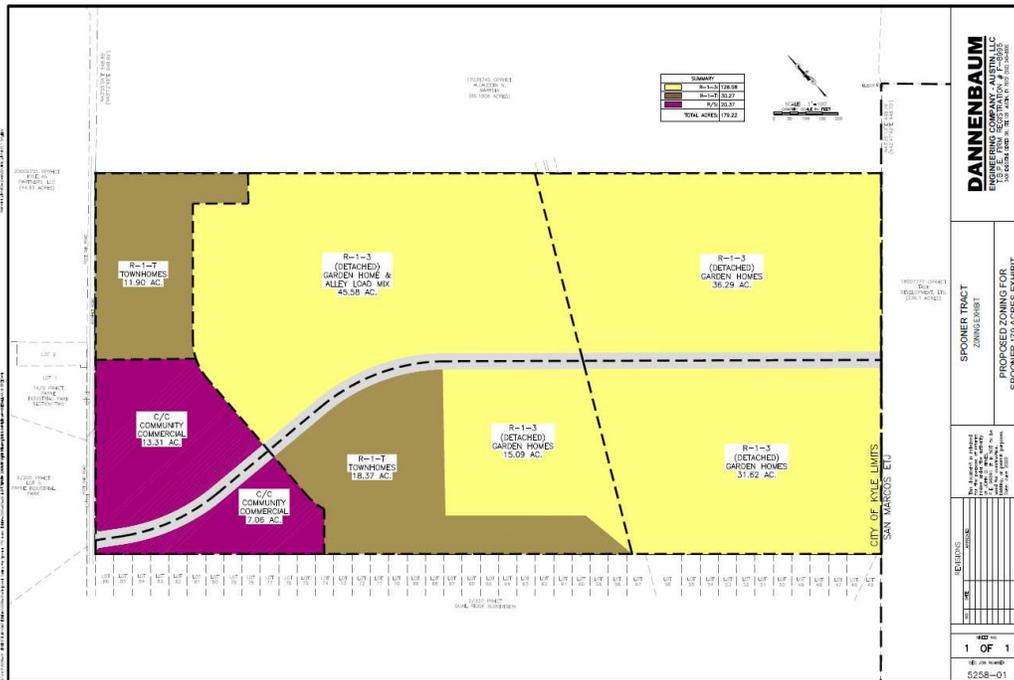
Current Zoning

A (Agriculture)

Sec. 53-36. - Agricultural district A.

The permitted uses in the agricultural district A allow farming, ranching, pasturage, detached single-family residences and related accessory structures, on a minimum one acre tract. Parks, playgrounds, greenbelts and other public recreational facilities, owned and/or operated by the municipality or other public agency are permitted.

(Ord. No. 438, § 23, 11-24-2003)



Requested Zoning

R-1-3 - Single-Family Attached District R-1-3

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

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

([Ord. No. 928](#), § 1(Exh. A), 1-17-2017)

R-1-T – Residential Townhouse District

Sec. 53-140. - Purpose and permitted uses.

The residential townhouse district R-1-T allows attached single-family structures containing four or more dwelling units with a minimum of 1,000 square feet of living area per unit and permitted accessory structures. The single-family residences authorized in this zoning district are those generally referred to as townhouses. There shall be no more than ten units per buildable acre of land within the associated boundary of the premises of the townhouse site.

(Ord. No. 438, § 28(a), 11-24-2003; [Ord. No. 928](#), § 1(Exh. A), 1-17-2017)

CC – Community Commercial District

Sec. 53-667. – Purpose

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

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

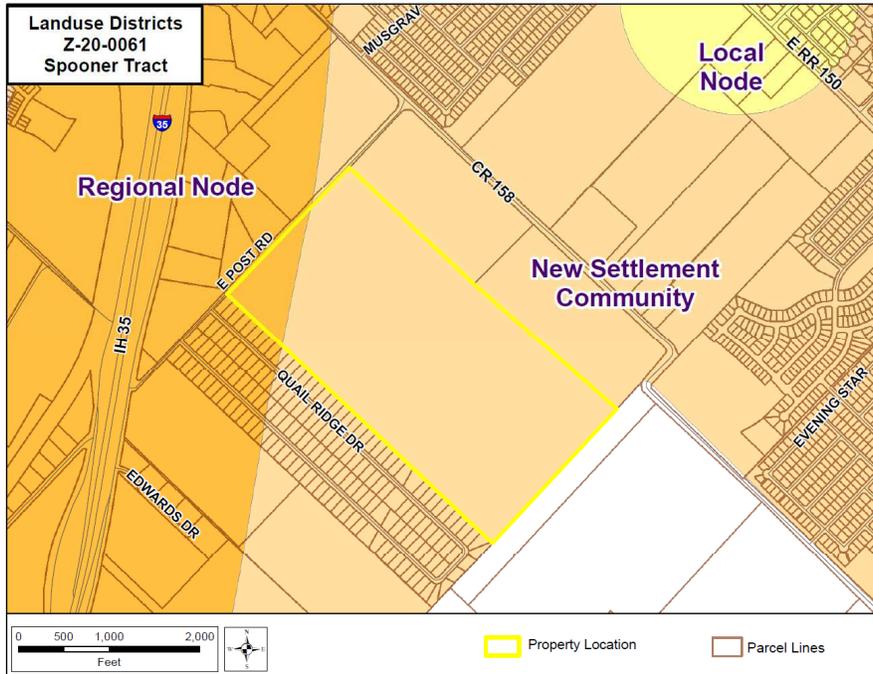
Land Use District	Front Setback (feet)	Side Setback (feet)	Corner Lot at Alleyway Setback (feet)	Street Side Yard setback (feet)	Rear Setback (feet)	Min. Lot Square Footage Area	Min. Lot Street Line Width (feet)	Height Limit (feet)
-------------------	----------------------	---------------------	---------------------------------------	---------------------------------	---------------------	------------------------------	-----------------------------------	---------------------

R-1-3	20	5	10	5	10	5,540	50	35
R-1-T	Varies, Sec. 53- 143	0, 15	15	15	Varies, Sec. 53- 143	880	22	35
CC	25	10	15'	Side Setback to Residential 15	25'	8,000	80	3 stories

Conditions of the Zoning Ordinance

Sec. 53-1205 Amendments

- (d) *Referral of amendment to planning and zoning commission.* Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning commission for consideration, public hearing, and recommendation to the city council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.
- (e) *Action by the planning and zoning commission.* The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the council such action as the planning and zoning commission deems proper...



Comprehensive Plan Text

The subject site is primarily located in the “New Settlement Community” District. The CC, R-1-T & R-1-3 zoning districts are considered conditionally in the “New Settlement Community” District. The remainder of the property (west corner) is within the “Regional Node”. The CC zoning district is recommended and the R-1-T zoning district is not considered in the “Regional Node”.

Current Land Use Chart

New Settlement Community

Recommended Zoning Categories: O/I

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

Regional Node

Recommended Zoning Categories: R-1-C, R-3-2, R-3-3, **CC**, NC, R/S, MXD

Conditional Zoning Categories: CBD-1, CBD-2, E, HS, R-3-1, O/I

New Settlement Community

'Character': The New Settlement District is comprised primarily of farm fields, and new residential developments that are being carved out of former farm fields in an area that stretches across the city's southern-most region, from Old Stagecoach Road on the west, across I-35 to the east, to the western border of the Plum Creek Riparian Landscape. The character of the district is as diverse as the district is expansive, as the New Settlement District spans the largest portion of the southern region of Kyle. For this reason, owing to such a diverse cross-section of Kyle's landscape, the character of the district is defined more by the function of the streets and neighborhoods that serve any particular block being examined, and less by the multiple landforms characteristic of the region as a whole. Northwest to southeast roadway patterns are strong, while northeast to southwest connections are lacking. Traditional residential enclaves predominate in the New Settlement District, aggregated in neighborhoods of unique housing forms. Some landscapes are bisected by I-35, others are permeated by feeder creeks and tributaries which should require heightened standards for physical development going forward. The region is dominated by legacy agricultural lands which feature old growth stands of trees and sparse one-family residences. However, there are areas experiencing significant development pressures to fulfill the current need for single family residential, and with few barriers to development, the region is growing in popularity for new housing, held back in the western region by the large portion of the district being under-served by public waste water utilities. Private and public spaces are clearly separate, with the public domain defined by shared neighborhood amenities and private domain defined by privatized landscapes. Acreage tracts abound in the Districts, some of which are uniquely suited for high turnover, high density retail and service uses by their location close to available roadways and wet utilities. Other properties are not yet ripe for development for their location along under-performing roadways, or from being so far removed from sewer and/or sufficient water supply. Public space is not encroached on by private functions. The New Settlement District has a lower density and intensity of development than the adjacent Mid-Town District, and the open character of the landscape removed from the interstate corridor should evoke the agricultural heritage of the District. Physical and visual partitioning and division of land should be avoided where possible in this district.

'Intent': The flat land and large parcel size in the New Settlement District result in a high level of development potential, which is beginning to be realized through market-driven demand for new housing stock. The city of Kyle should seek to capitalize on this

“developability”, while emphasizing community amenities, enhancing the neighborhood lifestyle through shared spaces, and improving connectivity within and without the District. The unique water features, such as creekways and detention/retention facilities, in the New Settlement District should be utilized as form-giving elements and corridors for connections. Future development will occur along the roadways best suited for access, and in the best proximity to the emerging water and waste water infrastructure expansion planned for in the city’s capital improvement plan. Use patterns should be established that compliment residential development and facilitate beneficial land use transitions. In this way, the New Settlement District should serve as a transition between the higher intensity of use within the core Districts and the low intensity of use of the Farm District.

Regional Node

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

‘Intent’: The primary goal of the Regional Nodes is to capture commercial opportunities necessary to close Kyle’s tax gap. To achieve this goal, these Nodes should draw down upon anticipated regional growth and aggregate density to enhance value and activity levels in a concentrated and visible location. Regional Nodes should provide a mixture of uses that compliments regional commercial activity, as well as encourage high density residential development. These Nodes should respond to other regional areas of growth,

specifically along I-35 and FM 1626, and to grow toward Hwy 21, SH 45 and SH 130. The anchor of each Regional Node should be regional commercial uses, and Regional Nodes should have a high level of development intensity.

Analysis

The Spooner tract is approximately 179.33-acres and currently zoned “A”. All but the western corner (about 12.6-acres) is within the “New Settlement Community” land use district. The 12.6-acres is in the “Regional Node” land use district. Per the September 3rd, 2019 update to the comprehensive plan, the CC, R-1-T & R-1-3 zoning district continues to be considered in a conditional manner (New Settlement Community). The CC zoning district is recommended in the “Regional Node” land use district, due to the expectation of a higher use intensity. The R-1-T zoning district is not typically considered in the “Regional Node”.

In discussion with the applicant, the R-1-T, R-1-3 & CC zoning districts might be considered appropriate for the Spooner tract. This is due to a number of discussion points.

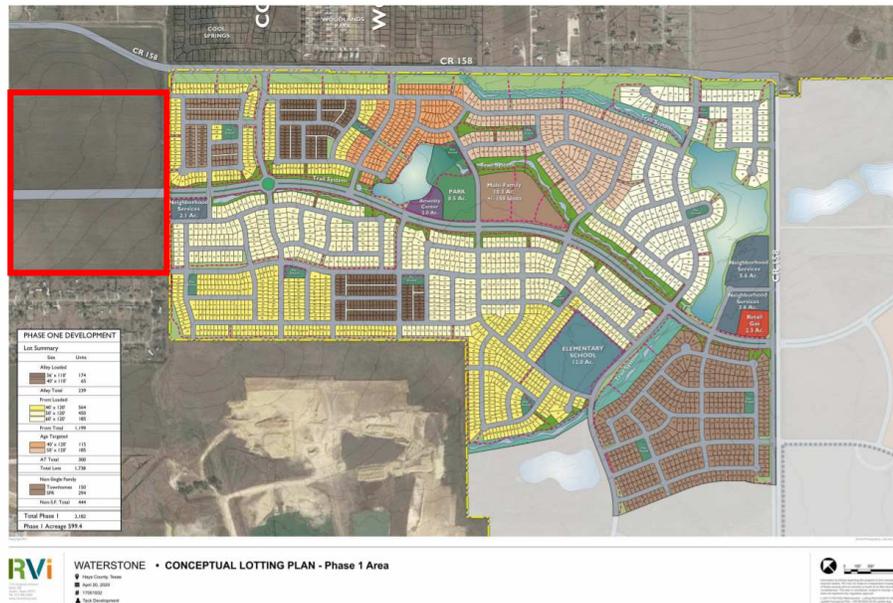
- Proximity to IH-35 and Waterstone development.
- Adequate road network to and from the site.
- Adequate wastewater availability.

Proximity to IH-35 and Waterstone development

In the “New Settlement Community” land use district, staff typically recommends lower density, single family residential, zoning districts. These are usually R-1-1 (80’ wide), R-1-2 (65’ wide) and R-1-3 (50’ wide). These recommendations are largely due to existing land use patterns around the proposed project and also based on the “wedding cake” pattern of development. Essentially, this part of the city is primarily made up of R-1-2 & R-1-1 zoning districts (flanking E FM 150), and one should incorporate larger lots/lower density the closer one is to the city limit border.

However, in the case of the Spooner tract, the western edge of the property is actually in the “Regional Node” requiring higher density/intensity of use (12-acres). The CC and R-1-T districts are appropriate in this vicinity of the tract (as requested). Additionally, between IH-35 and E. Post Road, all the land will likely develop in a commercial manner. This follows the intensity of use, if not higher density. The remainder of the property will be between what should be higher density development and the Waterstone development (La Salle MUD, San Marcos ETJ). The portion of the Waterstone

development next to the Spooner tract will have similar lot widths (36'-50') and similar lot area (3,960 sq. ft. – 6,000 sq. ft.). R-1-3 requires a minimum of 50' of width and a minimum of 5,540 sq. ft. of lot area.

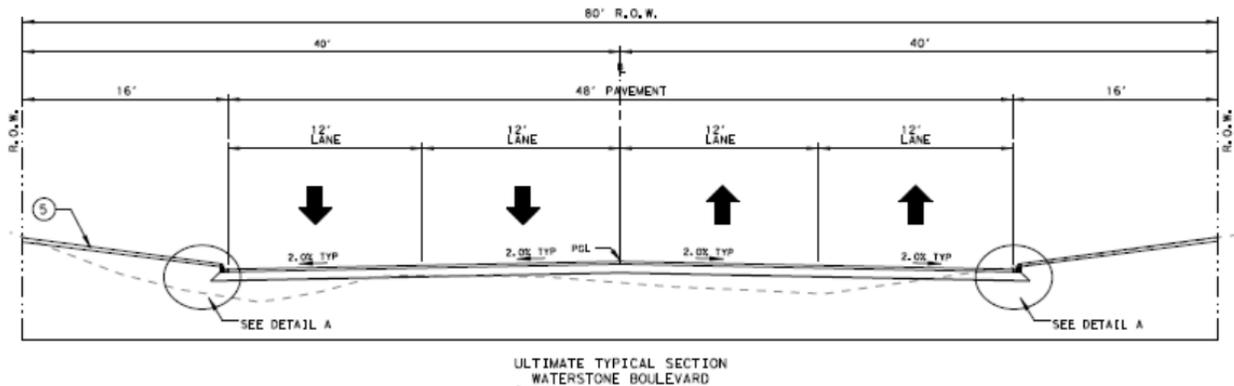


Waterstone Development – Phase 1 (Spooner Tract at west property line)

Adequate Road Network To and From The Site

Existing roads to the Spooner tract are insufficient to meet the demand of the potential increase in vehicular traffic. E. Post Road and CR 158 are rural county level roads with barely 20' of pavement width. They were adequate for rural traffic 10-20 years ago. The development is expected to be between 4.5-6 residences per buildable acre, there will be approximately 800 homes in this project.

Though the existing E. Post Road and CR 158 are not adequate for a significant increase in vehicular traffic, the Waterstone development will be building an east/west boulevard through the Spooner tract. It will start at the northbound IH-35 access road and continue through the Waterstone development. This route will act as the main thoroughfare to IH-35 for both the Spooner tract and the Waterstone Boulevard. Waterstone Boulevard will be a 4-lane road, capable of carrying the additional vehicular traffic generated by this development. At the subdivision stage of the project, staff and the developer will coordinate appropriate improvements/road fees for nearby existing roads. Additionally, per the City of Kyle Transportation Master Plan, CR 158 will be a 3-lane road (increasing vehicular traffic capacity). Residents of the Spooner tract will also be able to travel through the Waterstone development to access CR 158, Yarrington Road, E FM 150, etc.



Adequate Wastewater Availability

Per the City of Kyle’s Southside Wastewater project, the western 84-acres of the Spooner tract will receive wastewater. The Southside Wastewater project shows the 84-acres to be served with adequate wastewater. The remainder of the tract will also be serviced by the City of Kyle, flowing to the Waterstone development to the east.

Alley Loaded Residential Design

Per the Residential Style Guide, all single family and two family residential subdivisions are required to be alley loaded (take vehicular access from back of lot), if they are less than 50-feet wide. Staff will work with the developer and encourage them to build a portion of the project as an alley loaded design. Additionally, the project will go through the Residential Style Guide public hearing process, to ensure adequate amenities (street trees, pocket parks, trails, etc.).

Regional Node Land Use District

As previously stated, approximately 12-acres of the tract are in the “Regional Node” land use district. This constitutes 7% of the overall land area of the subject site. The CC zoning district is recommended in the “Regional Node”. The R-1-T zoning district is not considered in the “Regional Node”; however, the boundaries listed in the future land use map are provided for reference, and the actual transition from one district to an adjacent district should be determined on the ground from an in-person observation. In this case, the 12-acres are more akin to the neighboring 93% of development site than they are to the regional node to the west. For that reason, staff has no objection to recommending rezoning the portion of the tract in the “Regional Node” to CC, with a smaller portion being R-1-T. As previously stated, the R-1-T district will create an appropriate buffer between the CC and R-1-3 districts.

Recommendation

In conclusion, staff supports the rezoning from “A” (Agriculture) to R-1-3 (Single Family Detached Residential), R-1-T (Residential Townhouse District) and CC (Community Commercial District) as requested for the Spooner Tract. At the September 8, 2020 Planning & Zoning Commission meeting, the Commission voted 6-0 to recommend approval of the rezoning request. Staff asks the Mayor and Council to consider the request favorably and vote in support of the request.

Attachments

- Application
- Location Map
- Land Use Districts Map
- Waterstone Phase 1 Exhibit

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING TO APPROXIMATELY 128.058 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); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to assign original zoning to approximately 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, as shown on the property location map labeled Exhibit B.

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

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

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

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

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the _____ day of _____, 2020, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the _____ day of _____, 2020, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this _____ day of _____, 2020.

Travis Mitchell, Mayor

ATTEST:

Jennifer Holm, City Secretary

A DESCRIPTION OF 20.379 ACRES IN THE JAMES W. WILLIAMS SURVEY NO. 11, ABSTRACT 473, HAYS COUNTY, TEXAS, BEING A PORTION OF A CALLED 134.5 ACRE TRACT OF LAND CONVEYED TO JOHN H. SPOONER IN VOLUME 2490, PAGE 806 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (OPRHCT); SAID 20.379 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod found in the southeast right-of-way-line of E Post Road (right-of-way width varies) at the west corner of said 134.5 acre tract, same being the north corner of Lot 86, Quail Ridge Subdivision, recorded in Volume 2, Page 337 of the Plat Records of Hays County, Texas (PRHCT);

THENCE, with the northwest line of said 134.5 acre tract, same being the southeast right-of-way line of E Post Road, **N43°16'11"E**, a distance of **988.90** feet to a calculated point, from which a 1/2-inch iron rod with "RPLS 4046" cap found at the north corner of a called 44.83 acre tract of land conveyed to John H. Spooner in Volume 2490, Page 806 (OPRHCT), same being the west corner of a called 85.1806 acre tract of land conveyed to Allaudin N. Maredia in Document No. 17039745 (OPRHCT), bears **N43°16'11"E**, a distance of 958.25 feet;

THENCE, crossing said 134.5 tract, the following five (5) courses and distances:

- 1) **S47°21'20"E**, a distance of **511.90** feet to a calculated point;
- 2) With a curve to the left, having a radius of **300.04** feet, a delta angle of **21°57'40"**, an arc length of **115.00** feet, and a chord which bears **S13°43'14"W**, a distance of **114.30** feet to a calculated point;
- 3) **S02°44'24"W**, a distance of **782.58** feet to a calculated point;
- 4) With a curve to the left, having a radius of **300.04** feet, a delta angle of **22°04'08"**, an arc length of **115.57** feet, and a chord which bears **S08°17'40"E**, a distance of **114.85** feet to a calculated point;
- 5) **S43°15'48"W**, a distance of **228.70** feet to a calculated point in the southwest line of said 134.5 acre tract, same being the northeast line of Lot 74, Quail Ridge Subdivision, from which a 1/2-inch iron rod found at the south corner of said 134.5 acre tract, same being the east corner of Lot 45, Quail Ridge Subdivision, also being in the northwest line of a called 236.1 acre tract of land conveyed to Tack Development, Ltd. in Document No. 18007777 (OPRHCT), bears **S46°44'12"E**, a distance of 2,843.98 feet;

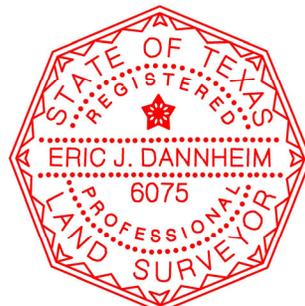
THENCE, with the southwest line of said 134.5 acre tract, same being the northeast line of Quail Ridge Subdivision, **N46°44'12"W**, a distance of **1166.79** feet to the **POINT OF BEGINNING** hereof, and containing 20.379 acres, more or less.

Surveyed on the ground May 1, 2020. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from SmartNet. Attachments: drawing 1960-001-C-C

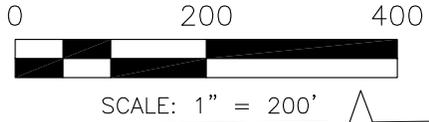


8/27/20

Eric J. Dannheim, RPLS
State of Texas #6075



CURVE	DELTA	RADIUS	ARC	BEARING	CHORD
C1	21°57'40"	300.04'	115.00'	S13°43'14"W	114.30'
C2	22°04'08"	300.04'	115.57'	S08°17'40"E	114.85'



17039745 OPRHCT
ALLAUDDIN N.
MARELIA
(85.1806 ACRES)

2940/806 OPRHCT
JOHN H. SPOONER
(44.83 ACRES)

2940/806 OPRHCT
JOHN H. SPOONER
(134.5 ACRES)

BEARINGS, DISTANCES AND AREAS IN PARENTHESIS ARE FROM RECORD INFORMATION.

ATTACHMENTS: METES AND BOUNDS DESCRIPTION 1960-001-C-C

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), SOUTH CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM SMARTNET.

DATE OF SURVEY: 5/01/2020

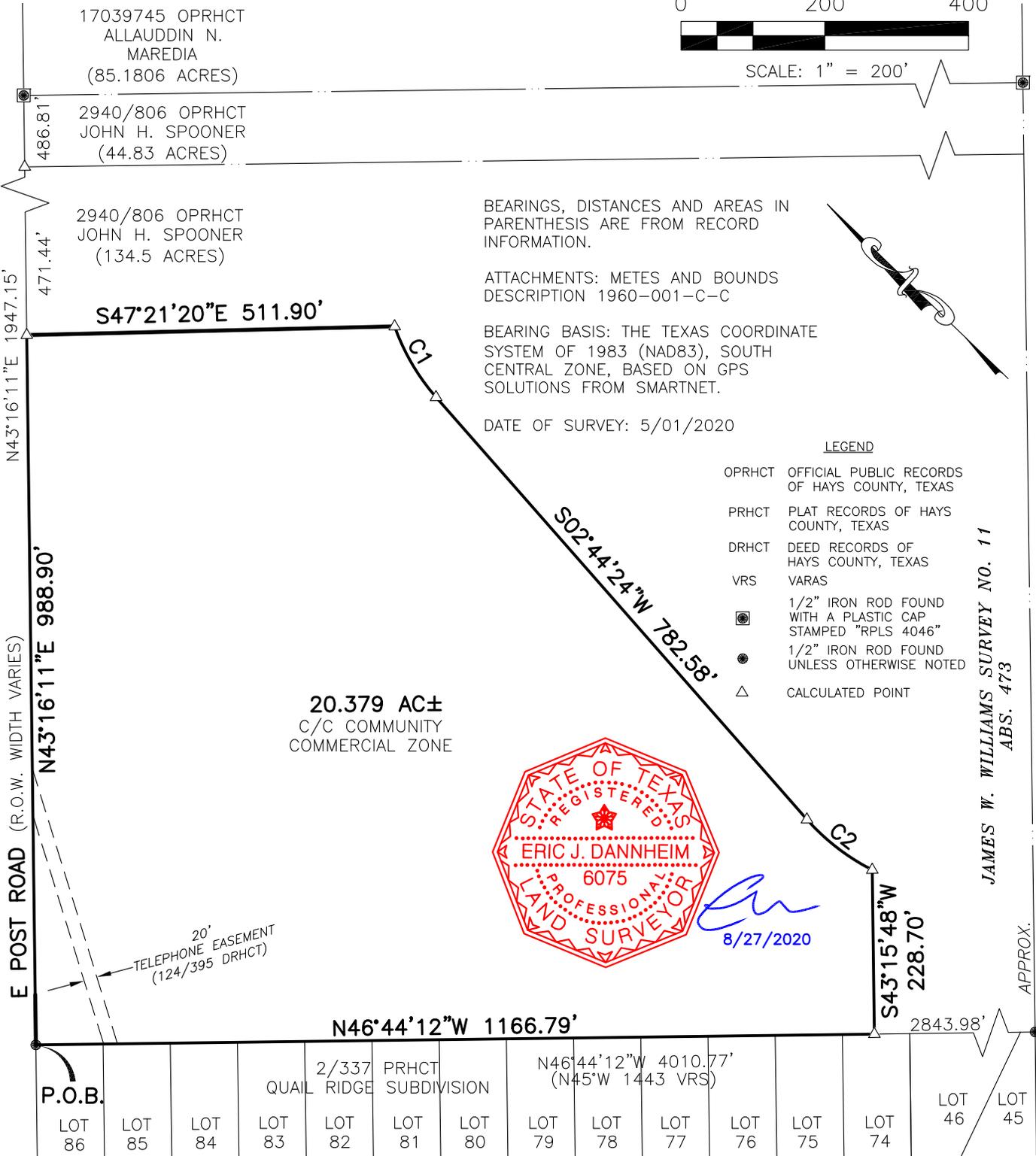
LEGEND

- OPRHCT OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS
- PRHCT PLAT RECORDS OF HAYS COUNTY, TEXAS
- DRHCT DEED RECORDS OF HAYS COUNTY, TEXAS
- VRS VARAS
- 1/2" IRON ROD FOUND WITH A PLASTIC CAP STAMPED "RPLS 4046"
- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
- △ CALCULATED POINT

1800777 OPRHCT
TACK DEVELOPMENT, LTD.
(236.1 ACRES)

JAMES W. WILLIAMS SURVEY NO. 11
ABS. 473

WILLIAM HEMPHILL SURVEY NO. 4
ABS. 221



P.O.B.		QUAIL RIDGE		2/337 PRHCT SUBDIVISION		N46°44'12"W 4010.77' (N45°W 1443 VRS)		LOT 79		LOT 78		LOT 77		LOT 76		LOT 75		LOT 74		LOT 46		LOT 45	
LOT 86	LOT 85	LOT 84	LOT 83	LOT 82	LOT 81	LOT 80	LOT 79	LOT 78	LOT 77	LOT 76	LOT 75	LOT 74	LOT 46	LOT 45									

ADDRESS:
6605 E. POST ROAD KYLE, TX 78640

DWG NO.: 1960-001-C-C

CLIENT: SANDERA LAND CO.

DATE: 8/27/2020

FIELD CREW: DV/BJ

OFFICE: RM/ED

FB/PG: 9/16

SKETCH TO ACCOMPANY A DESCRIPTION OF 20.379 ACRES IN THE JAMES W. WILLIAMS SURVEY NO. 11, ABSTRACT 473, HAYS COUNTY, TEXAS, BEING A PORTION OF A CALLED 134.5 ACRE TRACT OF LAND CONVEYED TO JOHN H. SPOONER IN VOLUME 2490, PAGE 806 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

302 W. Hopkins, Ste. 1A, San Marcos, TX 78666
Firm No. 10194453 (979) 567-4500

A DESCRIPTION OF 128.625 ACRES IN THE JAMES W. WILLIAMS SURVEY NO. 11, ABSTRACT 473, HAYS COUNTY, TEXAS, BEING A PORTION OF A CALLED 134.5 ACRE TRACT OF LAND AND A PORTION OF A CALLED 44.83 ACRE TRACT OF LAND, BOTH CONVEYED TO JOHN H. SPOONER IN VOLUME 2490, PAGE 806 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (OPRHCT); SAID 128.625 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod found at the south corner of said 134.5 acre tract, same being the east corner of Lot 45, Quail Ridge Subdivision, recorded in Volume 2, Page 337 of the Plat Records of Hays County, Texas (PRHCT), also being in the northwest line of a called 236.1 acre tract of land conveyed to Tack Development, Ltd. in Document No. 18007777 (OPRHCT);

THENCE, with the southwest line of said 134.5 acre tract, same being the northeast line of Quail Ridge Subdivision, **N46°44'12"W**, a distance of **1271.49** feet to a calculated point in the southwest line of said 134.5 acre tract and the northeast line of Lot 57, Quail Ridge Subdivision, from which a 1/2-inch iron rod found in the southeast right-of-way-line of E Post Road (right-of-way width varies) at the west corner of said 134.5 acre tract, same being the north corner of Lot 86, Quail Ridge Subdivision, bears **N46°44'12"W**, a distance of **2739.28** feet;

THENCE, crossing said 134.5 tract and said 44.83 acre tract, the following ten (10) courses and distances:

- 1) **N07°22'21"W**, a distance of **307.49** feet to a calculated point;
- 2) **N46°44'12"W**, a distance of **716.26** feet to a calculated point;
- 3) **N42°08'33"E**, a distance of **786.47** feet to a calculated point;
- 4) With a curve to the left, having a radius of **1000.78** feet, a delta angle of **38°38'31"**, an arc length of **674.95** feet, and a chord which bears **N67°15'12"W**, a distance of **662.24** feet to a calculated point;
- 5) **N86°34'23"W**, a distance of **347.23** feet to a calculated point;
- 6) **N02°44'24"E**, a distance of **484.34** feet to a calculated point;
- 7) With a curve to the right, having a radius of **300.04** feet, a delta angle of **40°31'47"**, an arc length of **212.24** feet, and a chord which bears **N23°00'18"E**, a distance of **207.84** feet to a calculated point;
- 8) **N43°16'11"E**, a distance of **702.17** feet to a calculated point;
- 9) **S46°44'17"E**, a distance of **283.36** feet to a calculated point;
- 10) **N42°38'40"E**, a distance of **155.03** feet to a calculated point in the northeast line of said 44.83 acre tract, same being the southwest line of a called 85.1806 acre tract of land conveyed to Allauddin N. Maredia in Document No. 17039745 (OPRHCT), from which a 1/2-inch iron rod with "RPLS 4046" cap found in the southeast right-of-way line of E Post Road, at the north corner of said 44.83 acre tract, same being the west corner of said 85.1806 acre tract, bears **N46°44'17"W**, a distance of **777.92** feet;

THENCE, with the northeast line of said 44.83 acre tract, same being the southwest line of said 85.1806 acre tract, **S46°44'17"E**, a distance of **3232.45** feet to a 1/2-inch iron rod with "RPLS 4046" cap found at the east corner of said 44.83 acre tract, same being the south corner of said 85.1806 acre tract, also being in the northwest line of said 236.1 acre tract;

THENCE, with the southeast line of said 44.83 acre tract, same being the northwest line of said 236.1 acre tract, **S43°15'29"W**, at a distance of 486.81 feet passing a calculated point for the south corner of said 44.83 acre tract, same being the east corner of said 134.5 acre tract, and continuing with the common line of said 134.5 acre tract and said 236.1 acre tract, for a total distance of **1947.24** feet to the **POINT OF BEGINNING** hereof, and containing 128.625 acres, more or less.

Surveyed on the ground May 1, 2020. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from SmartNet. Attachments: drawing 1960-001-R-1-3

8/27/20

Eric J. Dannheim, RPLS
State of Texas #6075



17039745 OPRHCT
ALLAUDDIN N. MAREIDIA
(85.1806 ACRES)

PAGE 4

2940/806 OPRHCT
JOHN H. SPOONER
(44.83 ACRES)

PAGE 5

2940/806 OPRHCT
JOHN H. SPOONER
(134.5 ACRES)

128.625 AC±

E POST ROAD (R.O.W. WIDTH VARIES)

PAGE 2

PAGE 3

P.O.B.

2/337 PRHCT
QUAIL RIDGE SUBDIVISION

18007777 OPRHCT TACK DEVELOPMENT, LTD.
(236.1 ACRES)

Item # 19

ADDRESS:

6605 E. POST
ROAD KYLE, TX 78640

DWG NO.: 1980-001-R-1-3

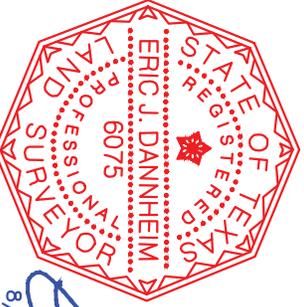
CLIENT: SANDERA LAND CO.

DATE: 8/27/2020

FIELD CREW: DV/BJ

OFFICE: RM/ED

FB/Pg: 9/16



8/27/2020

SKETCH TO ACCOMPANY A DESCRIPTION OF 128.625
ACRES IN THE JAMES W. WILLIAMS SURVEY NO. 11,
ABSTRACT 473, HAYS COUNTY, TEXAS, BEING A
PORTION OF A CALLED 134.5 ACRE TRACT OF LAND
AND A PORTION OF A CALLED 44.83 ACRE TRACT
OF LAND, BOTH CONVEYED TO JOHN H. SPOONER,
IN VOLUME 2490, PAGE 806 OF THE OFFICIAL
PUBLIC RECORDS OF HAYS COUNTY, TEXAS.



SCALE: 1" = 400'

PAGE 1 OF 5



302 W. Hopkins, Ste. 1A, San Marcos, TX 78666
Firm No. 10194453 (979) 567-4500

E POST ROAD (R.O.W. WIDTH VARIES)

128.625 AC±
R-1-3
(DETACHED)
GARDEN HOME & ALLEY
LOAD MIX

JAMES W. WILLIAMS
SURVEY NO. 11
ABS. 473

Item # 19

- OPRCHT OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS
- PRHCT PLAT RECORDS OF HAYS COUNTY, TEXAS
- DRHCT DEED RECORDS OF HAYS COUNTY, TEXAS
- VARS VARAS
- 1/2" IRON ROD FOUND WITH A PLASTIC CAP STAMPED "RPLS 4046"
- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
- CALCULATED POINT
- ▲

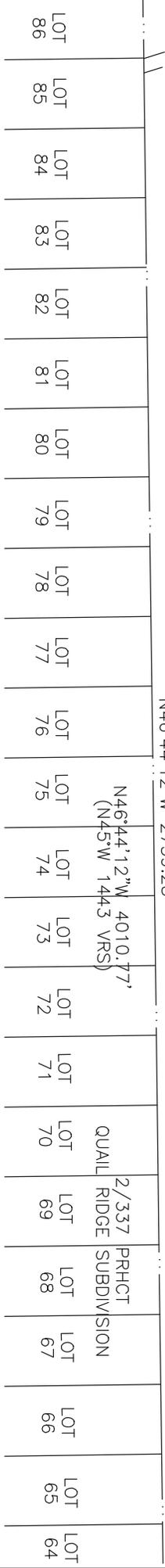
2940/806 OPRCHT
JOHN H. SPOONER
(134.5 ACRES)

BEARINGS, DISTANCES AND AREAS IN PARENTHESIS ARE FROM RECORD INFORMATION.
ATTACHMENTS: METES AND BOUNDS DESCRIPTION 1960-001-R-1-T_1
BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), SOUTH CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM SMARTNET.
DATE OF SURVEY: 5/01/2020

CURVE	DELTA	RADIUS	ARC	BEARING	CHORD
C1	38°38'31"	1000.78'	674.95'	N67°15'12"W	662.24'
C2	40°31'47"	300.04'	212.24'	N23°00'18"E	207.84'

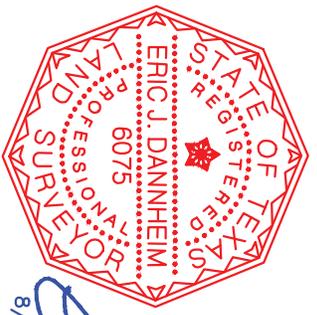
N46°44'12"W 2739.28'

N46°44'12"W
716.26'



ADDRESS:
6605 E. POST
ROAD KYLE, TX 78640

DWG NO.: 1980-001-R-1-3
CLIENT: SANDERA LAND CO.
DATE: 8/27/2020
FIELD CREW: DV/BJ
OFFICE: RM/ED
FB/Pg: 9/16



Eric J. Dannheim
8/27/2020



SCALE: 1" = 200'
PAGE 2 OF 5

302 W. Hopkins, Ste. 1A, San Marcos, TX 78666
Firm No. 10194453

PAYNE
INDUSTRIES

100' L.C.R.A. TRANSMISSION
LINE EASEMENT
(150/120 DRHCT)

30' WATER PIPELINE EASEMENT
(2671/737 OPRHCT)
(2940/806 OPRHCT)

128.625 ACRES
R-1-3
(DETACHED)
GARDEN HOME & ALLEY
LOAD MIX

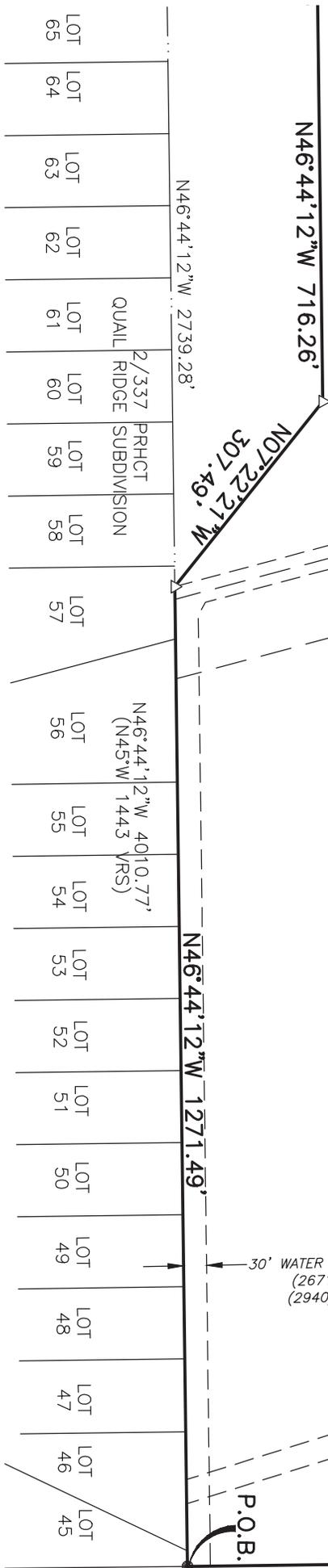
2940/806 OPRHCT
JOHN H. SPOONER
(134.5 ACRES)

30' LO-YACA
GATHERING COMPANY
EASEMENT
(231/490 DRHCT)

JAMES W. WILLIAMS
SURVEY NO. 11
ABS. 473

S43°15'29"W 1460.43'

WILLIAM HEMPHILL
SURVEY NO. 4
ABS. 221



18007777 OPRHCT TACK DEVELOPMENT, LTD.
(236.1 ACRES)

APPROX. SURVEY LINE

ADDRESS:
6605 E. POST
ROAD KYLE, TX 78640

DWG NO.: 1980-001-R-1-3

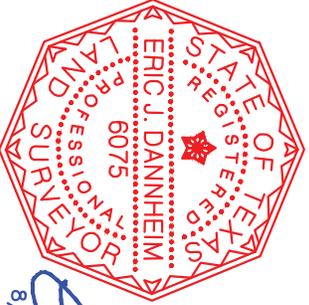
CLIENT: SANDERA LAND CO.

DATE: 8/27/2020

FIELD CREW: DV/BJ

OFFICE: RM/ED

FB/Pg: 9/16



[Signature]
8/27/2020



SCALE: 1" = 200'
PAGE 3 OF 5

PAYNE
INDUSTRIES

302 W. Hopkins, Ste. 1A, San Marcos, TX 78666
Firm No. 10194453 (979) 567-4500

LINE	BEARING	DISTANCE
L1	N42°38'40"E	155.03'

17039745 OPRHCT
 ALLAUDDIN N.
 MAREDA
 (85.1806 ACRES)

(S45°E 1443 VRS)
 S46°44'17"E 4010.37'

Item # 19

777.92'

S46°44'17"E 3232.45'

N43°16'11"E 486.81'
 (N45°E 175-1/4 VRS)

E POST ROAD (R.O.W. WIDTH VARIES)

S46°44'17"E
 283.36'

L1

N43°16'11"E 702.17'

C2

128.625 AC±
 R-1-3
 (DETACHED)
 GARDEN HOME & ALLEY
 LOAD MIX

2940/806 OPRHCT
 JOHN H. SPOONER
 (44.83 ACRES)

2940/806 OPRHCT
 JOHN H. SPOONER
 (134.5 ACRES)

C1

JAMES W. WILLIAMS
 SURVEY NO. 11
 ABS. 473

ADDRESS:
 6605 E. POST
 ROAD KYLE, TX 78640

DWG NO.: 1960-001-R-1-3
 CLIENT: SANDERA LAND CO.
 DATE: 8/27/2020
 FIELD CREW: DV/BJ
 OFFICE: RM/ED
 FB/Pg: 9/16



[Signature]
 8/27/2020



PAGE 4 OF 5

PAYNE
 INDUSTRIES

302 W. Hopkins, Ste. 1A, San Marcos, TX 78666
 Firm No. 10194453 (979) 567-4500

(S45°E 144.3 VRS)
S46°44'17"E 4010.37'

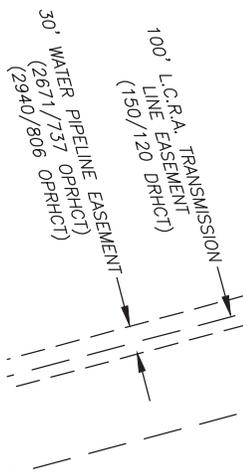
17039745 OPRHCT
ALLAUDDIN, N.
MAREDA
(85.1806 ACRES)

S46°44'17"E 3232.45'

2940/806 OPRHCT
JOHN H. SPOONER
(44.83 ACRES)

2940/806 OPRHCT
JOHN H. SPOONER
(134.5 ACRES)

128.625 AC
R-1-3
(DETACHED)
GARDEN HOME & ALLEY
LOAD MIX



(S45°W 175-1/4 VRS)
S43°15'29"W 486.81'

18007777 OPRHCT
TACK DEVELOPMENT, LTD.
(236.1 ACRES)

S43°15'29"W 1947.24'

S43°15'29"W 1460.43'

WILLIAM HEMPHILL
SURVEY NO. 4
ABS. 221

JAMES W. WILLIAMS
SURVEY NO. 11
ABS. 473

ADDRESS:
6605 E. POST
ROAD KYLE, TX 78640
DWG NO.: 1960-001-R-1-3
CLIENT: SANDERA LAND CO.
DATE: 8/27/2020
FIELD CREW: DV/BJ
OFFICE: RM/ED
FB/Pg: 9/16



Eric J. Dannheim
8/27/2020



SCALE: 1" = 200'

PAGE 5 OF 5



302 W. Hopkins, Ste. 1A, San Marcos, TX 78666
Firm No. 10194453
(979) 567-4500

Item # 19

A DESCRIPTION OF 11.903 IN THE JAMES W. WILLIAMS SURVEY NO. 11, ABSTRACT 473, HAYS COUNTY, TEXAS, BEING A PORTION OF A CALLED 134.5 ACRE TRACT OF LAND AND A PORTION OF A CALLED 44.83 ACRE TRACT OF LAND, BOTH CONVEYED TO JOHN H. SPOONER, IN VOLUME 2490, PAGE 806 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (OPRHCT); SAID 11.903 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod with "RPLS 4046" cap found in the southeast right-of-way line of E Post road (right-of-way width varies) at the north corner of said 44.83 acre tract, same being the west corner of a called 85.1806 acre tract of land conveyed to Allauddin N. Mareidia in Document No. 17039745 (OPRHCT);

THENCE, with the northeast line of said 44.83 acre tract, same being the southwest line of said 85.1806 acre tract, **S46°44'17"E**, a distance of **777.92** feet to a calculated point, from which a 1/2-inch iron rod with "RPLS 4046" cap found at the east corner of said 44.83 acre tract, same being the south corner of said 85.1806 acre tract, bears **S46°44'17"E**, a distance of 3232.45 feet;

THENCE, crossing said 134.5 tract, and said 44.83 acre tract, the following five (5) courses and distances:

- 1) **S42°38'40"W**, a distance of **155.03** feet to a calculated point;
- 2) **N46°44'17"W**, a distance of **283.36** feet to a calculated point;
- 3) **S43°16'11"W**, a distance of **702.17** feet to a calculated point;
- 4) With a curve to the left, having a radius of **300.04** feet, a delta angle of **18°34'07"**, an arc length of **97.24** feet, and a chord which bears **S33°59'08"W**, a distance of **96.81** feet to a calculated point;
- 5) **N47°21'20"W**, a distance of **511.90** feet to a calculated point in the southeast right-of-way-line of E Post Road, same being the northwest line of said 134.5 acre tract, from which a 1/2-inch iron rod found at the west corner of said 134.5 acre tract, same being the north corner of Lot 86, Quail Ridge Subdivision, recorded in Volume 2, Page 337 of the Plat Records of Hays County, Texas (PRHCT), bears **S43°16'11"W**, a distance of 988.90 feet;

THENCE, with the northwest line of said 134.5 acre tract, same being the southeast right-of-way line of E Post Road, **N43°16'11"E**, at a distance of 471.44 feet passing a calculated point for the north corner of said 134.5 acre tract, same being the west corner of said 44.83 acre tract, and continuing with the common line of E Post Road and said 44.83 acre tract, for a total distance of **958.25** feet **POINT OF BEGINNING** hereof, and containing 11.903 acres, more or less.

Surveyed on the ground May 1, 2020. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from SmartNet. Attachments: drawing 1960-001-R-1-T_1



8/27/20

Eric J. Dannheim, RPLS
State of Texas #6075



17039745 OPRHCT
 ALLAUDDIN N.
 MAREDA
 (85.1806 ACRES)

(S45°E 1443 VRS)
 S46°44'17"E 4010.37'

P.O.B.

S46°44'17"E 777.92'

3232.45'

486.81'
 (175-1/4 VRS)

11.903 AC±
 R-1-T
 TOWNHOMES

N46°44'17"W
 283.36'

2940/806 OPRHCT
 JOHN H. SPOONER
 (44.83 ACRES)

2940/806 OPRHCT
 JOHN H. SPOONER
 (134.5 ACRES)

18007777 OPRHCT
 TACK
 DEVELOPMENT, LTD.
 (236.1 ACRES)

E POST ROAD
 (R.O.W. WIDTH VARIES)

N43°16'11"E 958.25'

471.44'

S43°16'11"W 702.17'

N47°21'20"W 511.90'

LINE	BEARING	DISTANCE
L1	S42°38'40"W	155.03'

LEGEND

- OPRHCT OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS
- PRHCT PLAT RECORDS OF HAYS COUNTY, TEXAS
- VRS VARAS
- 1/2" IRON ROD FOUND WITH A PLASTIC CAP STAMPED "RPLS 4046"
- 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
- △ CALCULATED POINT

BEARINGS, DISTANCES AND AREAS IN PARENTHESIS ARE FROM RECORD INFORMATION.

ATTACHMENTS: METES AND BOUNDS DESCRIPTION 1960-001-R-1-T_1

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), SOUTH CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM SMARTNET.

DATE OF SURVEY: 5/01/2020



LOT 86	LOT 85	LOT 84	LOT 83	LOT 82	LOT 81	LOT 80	LOT 79	LOT 78	LOT 77
2/337 PRHCT QUAIL RIDGE SUBDIVISION									

CURVE	DELTA	RADIUS	ARC	BEARING	CHORD
C1	18°34'07"	300.04'	97.24'	S33°59'08"W	96.81'



Eric J. Dannheim 8/27/2020

SKETCH TO ACCOMPANY A DESCRIPTION OF 11.903 ACRES IN THE JAMES W. WILLIAMS SURVEY NO. 11, ABSTRACT 473, HAYS COUNTY, TEXAS, BEING A PORTION OF A CALLED 134.5 ACRE TRACT OF LAND AND A PORTION OF A CALLED 44.83 ACRE TRACT OF LAND, BOTH CONVEYED TO JOHN H. SPOONER, IN VOLUME 2490, PAGE 806 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

ADDRESS:
 6605 E. POST ROAD KYLE, TX 78640

DWG NO.: 1960-001-R-1-T_1

CLIENT: SANDERA LAND CO.

DATE: 8/27/2020

FIELD CREW: DV/BJ

OFFICE: RM/ED

FB/PG: 9/16

Item # 19

302 W. Hopkins, Ste. 1A, San Marcos, TX 78666
 Firm No. 10194533 (979) 567-4500

A DESCRIPTION OF 18.372 ACRES IN THE JAMES W. WILLIAMS SURVEY NO. 11, ABSTRACT 473, HAYS COUNTY, TEXAS, BEING A PORTION OF A CALLED 134.5 ACRE TRACT OF LAND CONVEYED TO JOHN H. SPOONER IN VOLUME 2490, PAGE 806 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (OPRHCT); SAID 18.372 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point on the southwest line of said 134.5 acre tract, same being the northeast line of Lot 74, Quail Ridge Subdivision, recorded in Volume 2, Page 337 of the Plat Records of Hays County, Texas (PRHCT), from which a 1/2-inch iron rod found in the southeast right-of-way line of E Post Road (right-of-way width varies) at the west corner of said 134.5 acre tract, same being the north corner of Lot 86, Quail Ridge Subdivision bears N46°44'12"W, a distance of 1166.79 feet;

THENCE, crossing said 134.5 tract, the following eight (8) courses and distances:

- 1) N43°15'48"E, a distance of 228.70 feet to a calculated point;
- 2) With a curve to the right, having a radius of 300.04 feet, a delta angle of 22°04'08", an arc length of 115.57 feet, and a chord which bears N08°17'40"W, a distance of 114.85 feet to a calculated point;
- 3) N02°44'24"E, a distance of 298.24 feet to a calculated point;
- 4) S86°34'23"E, a distance of 347.23 feet to a calculated point;
- 5) With a curve to the right, having a radius of 1000.78 feet, a delta angle of 38°38'31", an arc length of 674.95 feet, and a chord which bears S67°15'12"E, a distance of 662.24 feet to a calculated point;
- 6) S42°08'33"W, a distance of 786.47 feet to a calculated point;
- 7) S46°44'12"E, a distance of 716.26 feet to a calculated point;
- 8) S07°22'21"E, a distance of 307.49 feet to a calculated point in the southwest line of said 134.5 acre tract, same being the northeast line of Lot 57, Quail Ridge Subdivision, from which a 1/2-inch iron rod found at the south corner of said 134.5 acre tract, same being the east corner of Lot 45, Quail Ridge Subdivision, also being in the northwest line of a called 236.1 acre tract of land conveyed to Tack Development, Ltd. in Document No. 18007777 (OPRHCT), bears S46°44'12"E, a distance of 1271.49 feet;

THENCE, with the southwest line of said 134.5 acre tract, same being the northeast line of Quail Ridge Subdivision, N46°44'12"W, a distance of 1572.49 feet to the **POINT OF BEGINNING** hereof, and containing 18.372 acres, more or less.

Surveyed on the ground May 1, 2020. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from SmartNet. Attachments: drawing 1960-001-R-1-T_2



8/27/20

Eric J. Dannheim, RPLS
State of Texas #6075



MATCHLINE PAGE 1
 MATCHLINE PAGE 2

ADDRESS:
 6605 E. POST
 ROAD KYLE, TX 78640

DWG NO.: 1960-001-R-1-T-2

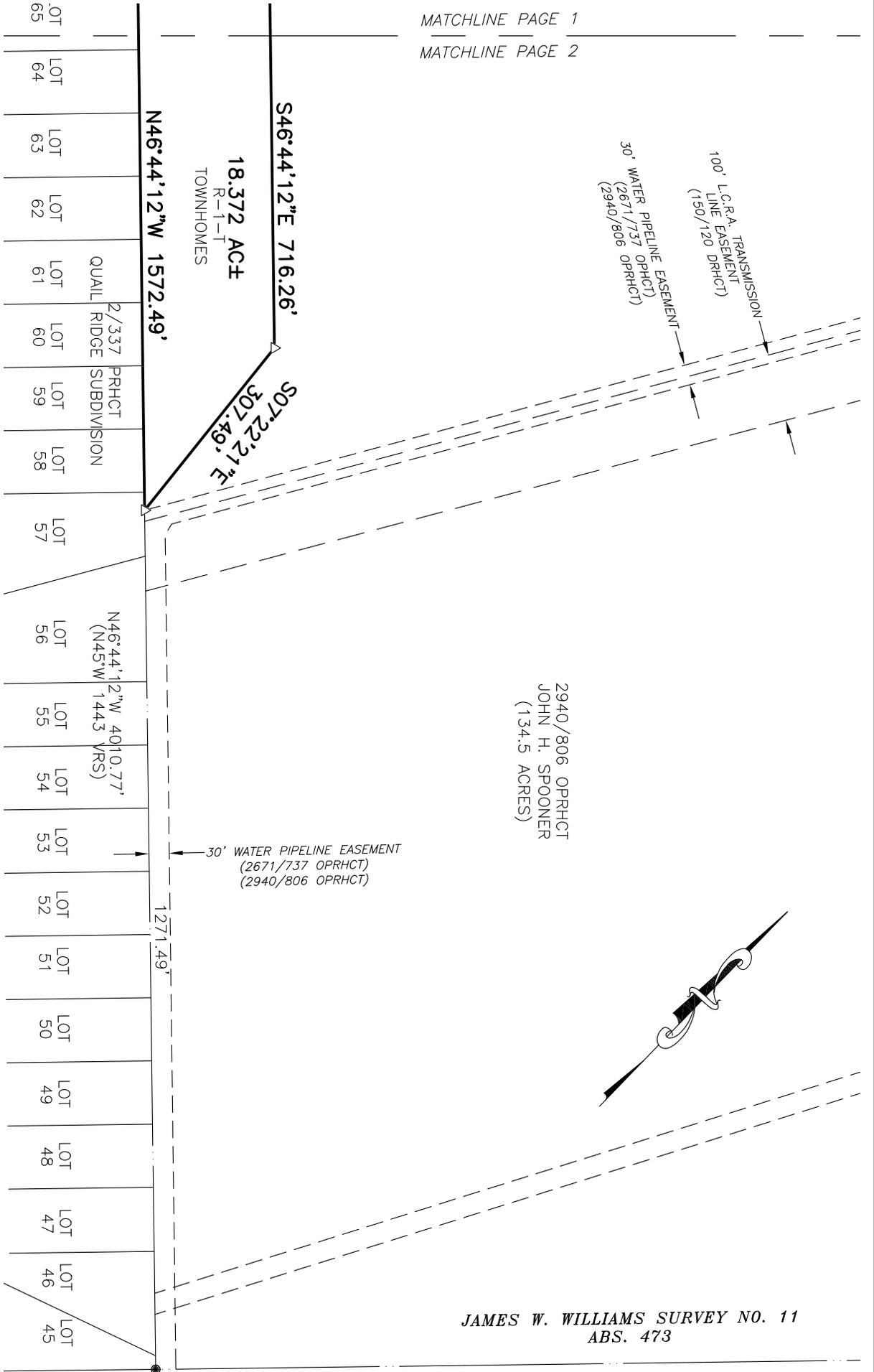
CLIENT: SANDERA LAND CO.

DATE: 8/27/2020

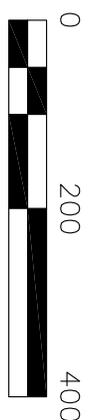
FIELD CREW: DV/BJ

OFFICE: RM/ED

FB/PG: 9/16



[Signature]
 8/27/2020



SCALE: 1" = 200'

PAGE 2 OF 2

PAYNE
 INDUSTRIES

302 W. Hopkins, Ste. 1A, San Marcos, TX 78666
 Firm No. 10194453 (979) 567-4500

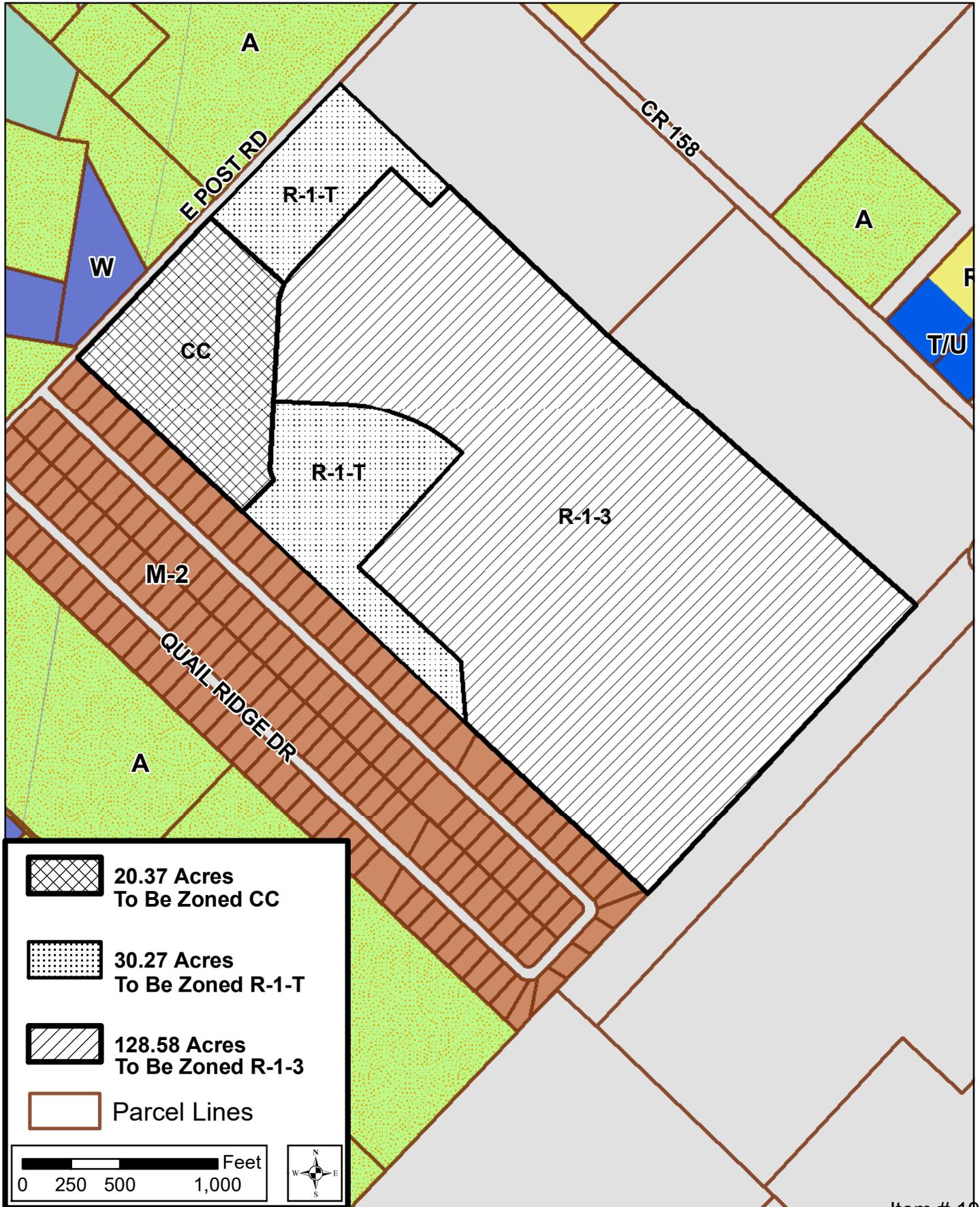
18007777 OPRHCT TACK DEVELOPMENT, LTD.
 (236.1 ACRES)

JAMES W. WILLIAMS SURVEY NO. 11
 ABS. 473

WILLIAM HEMPHILL SURVEY NO. 4
 ABS. 221 **Item # 19**

Exhibit B

Z-20-0061 E Post Rd 179.22 Acres



2. **Address and Legal Description:**

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

Street Address: Old Post Rd (east side of I.35)

Subdivision Name/Lot & Block Nos.: _____

Property Recording Information: Hays County
Volume/Cabinet No. 2940

Page/Slide No. 806

3. **Ownership Information:**

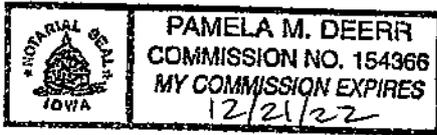
Name of Property Owner(s): John H. Spooner Revocable Trust

Certified Public Notary:

This document was acknowledged before me on the 6th day of August, 2020, by
James Spooner (Owner(s)).

Notary Public State of ~~Texas~~ Iowa

(Seal)



Pamela M. Deerr

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

Address of Owner: 324 4th St
Des Moines, IA 50312

Phone Number: _____

Fax Number: _____

Email Number: _____

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

Signed: John H. Spooner Managing Trust by [Signature]

Date: 6 Aug 20

4. Agent Information:

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

Agent's Name: _____

Agent's Address: _____

Agent's Phone Number: _____

Agent's Fax Number: _____

Agent's Mobile Number: _____

Agent's Email Number: _____

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

Owner's Signature: _____

Date: _____

August 7, 2020

Mr. Howard J. Koontz, AICP
Director, Planning & Community Development
City of Kyle
100 Center Street
Kyle, Texas 78640

Re: Letter of Request for Zoning Change

Dear Mr. Koontz:

Please find the attached application for Zoning Change of the approximate 179.33 acres of land, more or less, in two parcels out of the James W. Williams 1/3 League Survey Abstract No. 473, identified as Hays Central Appraisal District R18884 and R18885; referenced on Item 4 and attached herein (referred to as the "Property"). The Property is within the incorporated limits of the City of Kyle, following the recent annexation under City Ordinance No. 1065 and recorded as document number 20002402 on 01/21/20 (attached).

The purpose for this request is to convert the Temporary Agricultural District A identified in Section 7 of the above referenced annexation Ordinance into **Permanent Zoning of R-1-3, R-1-T, and Community Commercial (CC)** as depicted in the accompanying zoning exhibit. The property is generally divided into 13 acres under the Regional Node district and the remainder, 166 acres in the New Settlement district following the City's Comprehensive Plan.

Regional Node (13 acres): Proposed Zoning of CC is a Recommended Use
New Settlement (166 acres): R-1-3, R-1-T, and CC are Conditional Uses

Based on review of the adjacent residential developments, both existing and proposed, as well as market evaluation of increased demand for diverse residential products that fit within the City's planning for the area, we request your consideration in the attached zoning application.

For additional information, you may reach me at Steve@stephenmjenkinsinc.com.

Sincerely,

Sandera Land Company



Stephen M. Jenkins

You may send your written comments to the Planning Department, 100 W. Center St., Kyle, Texas 78640
(attention: Zoning File # Z-20-0061).

live@ 296 Ferrule Dr. Kyle, TX

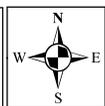
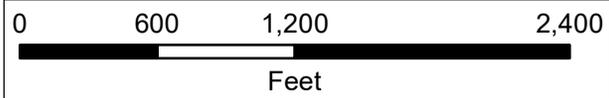
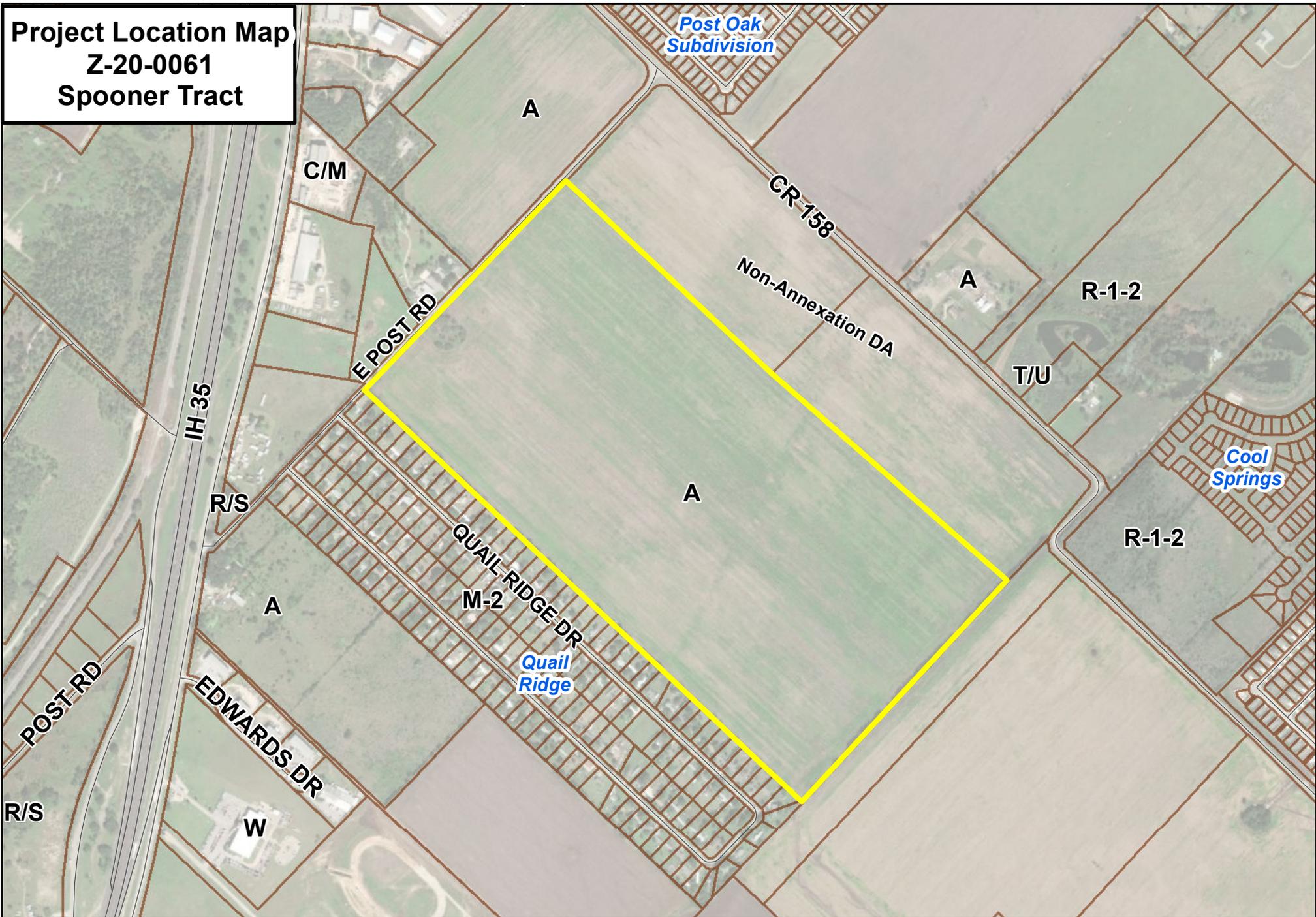
Name: MARIA EBERLE

Address: ~~the~~ ^{own} 201 Quail Ridge Dr. Kyle, TX

I am in favor, this is why _____

I am not in favor, and this is why: that field has a 100yr. flood plain running thru it to the back end of Q.R., thru 201 Q.R.. My property floods everytime it rains hard. Been lucky so far with water not reaching house. Have dug a hole in the back corner to help slow water down & help it go around & not through the middle of the property. Building in the field will ~~probably~~ probably make the flow of water worse for our property. I say please don't. I know it'll get worse for us. Thank-you.

Project Location Map
Z-20-0061
Spooner Tract



 Property Location
Item # 19

 Parcel Lines

Landuse Districts
Z-20-0061
Spooner Tract

Local
Node

Regional Node

New Settlement
Community

MUSGRAV

E RR-150

CR-158

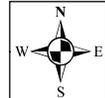
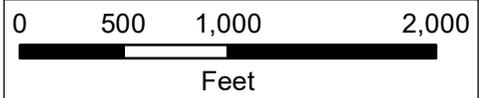
E POST RD

IH 35

QUAIL RIDGE DR

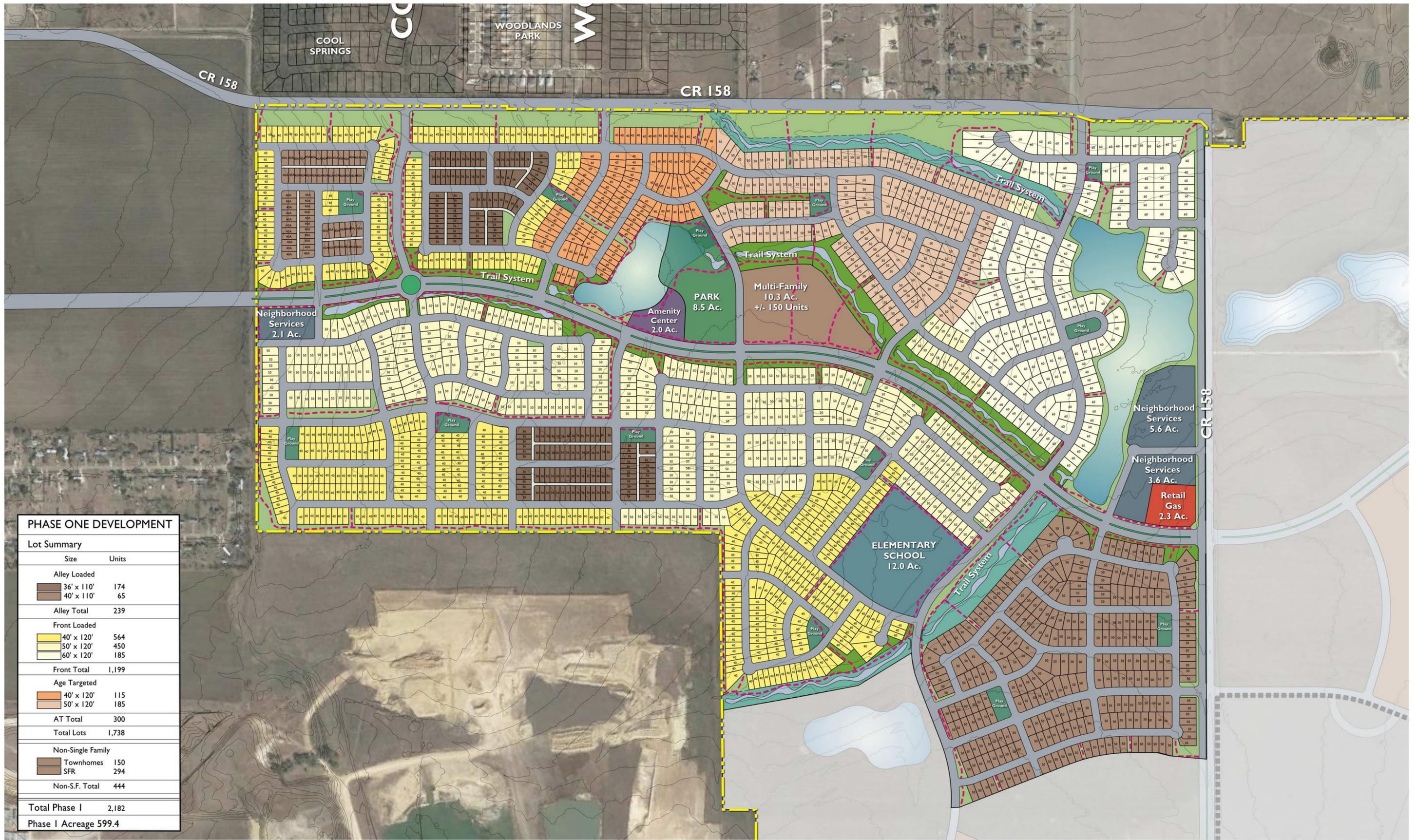
EVENING STAR

EDWARDS DR



Property Location
Item # 19

Parcel Lines



PHASE ONE DEVELOPMENT	
Lot Summary	
Size	Units
Alley Loaded	
36' x 110'	174
40' x 110'	65
Alley Total	239
Front Loaded	
40' x 120'	564
50' x 120'	450
60' x 120'	185
Front Total	1,199
Age Targeted	
40' x 120'	115
50' x 120'	185
AT Total	300
Total Lots	1,738
Non-Single Family	
Townhomes	150
SFR	294
Non-S.F. Total	444
Total Phase I	2,182
Phase I Acreage	599.4

Copyright RVI

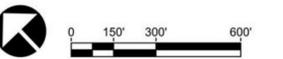
Aerial Photography: January 18, 2018



WATERSTONE • CONCEPTUAL LOTTING PLAN - Phase 1 Area

- 📍 Hays County, Texas
- 📅 April 20, 2020
- 🏠 17001932
- 👤 Tack Development

712 Congress Avenue
Suite 300
Austin, Texas 78701
Tel: 512.480.0032
www.rviplanning.com



Information furnished regarding this property is from sources deemed reliable. RVI has not made an independent investigation of these sources and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.
L:\2017\17001932 Waterstone - Lotting Plans\2020-04 lotting update\Conceptual Plan - CR158 2020-04-20 update.dwg



CITY OF KYLE, TEXAS

City Manager's Report

Meeting Date: 10/20/2020

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*

- November 3 - Election Day/Council Meeting
- Kyle Mass Food Distribution Event
- Wastewater Averaging
- Early Voting
- West RM 150 Naming Committee Meeting
- Spook-Tacular Cruise
- Free COVID Testing

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Meeting Date: 10/20/2020

Date time: 7:00 PM

Executive Session - Convene

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 Alexander Property
 - o Coronavirus Relief Funds
 - o Barton PID
 - o K47
 - o Low income development on Philomena
 - 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 Delinquent utility account at New Haven Assisted Living and Memory Care
 - o Changeable Electronic Variable Message Sign
 - o 104 S Burlison and Design Build Agreement
 - o North Hays County Municipal Utility District No. 1
 - o Agreement with LaSalle MUD
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 Indigo
 - o Project Shamrock
 - o Project Black Stamp
 - o Project Cranberry
 - o Project Out of the Blue

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Reconvene

Meeting Date: 10/20/2020

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