

# CITY OF KYLE

## Notice of Regular City Council Meeting

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



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

Notice is hereby given that the governing body of the City of Kyle, Texas will meet at 7:00 PM on April 6, 2021, at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640; Spectrum 10; <https://www.cityofkyle.com/kyletv/kyle-10-live>, for the purpose of discussing the following agenda.

Posted this 1st day of April, 2021, prior to 8:00 p.m.

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

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

1. City Council Special Meeting Minutes - March 16, 2021. ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes - March 16, 2021. ~ *Jennifer Holm, City Secretary*

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

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

3. Members of the public that wish to provide citizen comment have the following options:

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

#### **IV. Recognition**

4. Recognition of the Lehman Lobo Powerlifting Program - Boys and Girls State Championships 2020-2021. ~ *Michael Tobias, Council Member*

#### **V. Presentation**

5. Mayoral Proclamations. ~ *Travis Mitchell, Mayor*
  - Child Abuse Prevention and Awareness Month
  - Sexual Assault Awareness and Prevention Month
  - National Public Safety Telecommunicators Week (April 11th – April 17th)
  - National Animal Control Officer Appreciation Week (April 11th – April 17th)

#### **VI. Appointments**

6. Consider approval of a resolution confirming the reappointments of Tim Samford, James Earp, and Derrick Turley to the Alliance Regional Water Authority Board of Directors for three-year terms. ~ *Travis Mitchell, Mayor*
7. Reappointment to the Economic Development and Tourism Board. ~ *Diana Torres, Director of Economic Development*
  - Brian Ziegler, First United Bank, Financier Seat
  - Tessa Schmitzinsky, PEC, Utility Seat
  - Don Tracy, ACC, Higher Education/Workforce Development Seat
8. Consider nomination and take action for appointment to the Planning and Zoning Commission to fill two vacancies with unexpired terms. ~ *Howard J. Koontz, Director of Planning and Community Development*
  - Patricia Snidow
  - Matthew Chase

#### **VII. Consent Agenda**

9. CIP/Road Projects and Consent Agenda Presentation. ~ *Travis Mitchell, Mayor*
10. Approve Plum Creek Phase 1, Section 6F, Resub of Lot 3 (SUB-21-0166) 2.4273 acres; 4 commercial lots for property located on the southwest corner of Kohler's Crossing and Benner Road. ~ *Howard J. Koontz, Director of Planning and Community Development*



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

11. Approve Plum Creek Phase 2, Section 2 - Preliminary Plan (SUB-20-0152) 55.028 acres; 201 single family lots and 16 open space lots located within the 400 block of Kohler's Crossing. ~ *Howard J. Koontz, Director of Planning and Community Development*

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

12. Authorize award and execution of a Purchase Order to LCRA, Dallas TX, in an amount not to exceed \$17,718.63 for the purchase and installation of vehicles radios, mobile radios, and misc. associated equipment for the Public Works Department. ~ *Julie Crookston, Assistant Director Public Works*
13. Approve a resolution authorizing the city manager to execute separate agreements with MCGRAY & MCGRAY LAND SURVEYORS, INC., Austin, Texas; and BYRN & ASSOCIATES INC., San Marcos, Texas to provide surveying services for all city departments. ~ *Leon Barba, P.E., City Engineer*
14. Authorize the City Manager to apply for and accept a STEP grant in an amount no greater than \$8,100.00 from TXDOT and authorize matching funding from the Police Department's approved operating budget for FY 2020-2021 in an amount not to exceed \$1,620 to fund a STEP Grant Program for an enforcement period beginning May 24, 2021 through June 6, 2021. ~ *Jeff Barnett, Chief of Police*
15. Approve a Resolution of the City Council of the City of Kyle, Texas, authorizing the submission of an application for a 2-year grant to the Office of the Attorney General, for a full-time Victim Advocate I position; authorize funds from the Police Department's future budgets to pay for the cost of fringe benefits, equipment, and uniforms for the Victim Advocate I; authorizing the City Manager to apply for, accept, reject, alter or terminate the grant on behalf of the City Council; finding and determining that the meeting at which the resolution is passed is open to the public as required by law; providing for an effective date; and making such other findings and provisions related hereto. ~ *Jeff Barnett, Chief of Police*

## **VIII.Consider and Possible Action**

16. (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 66.245 acres of land from Agriculture 'AG' to Warehouse District 'W' for property located at 24801 IH-35, in Hays County, Texas. (FM 158 Land LTD - Z-21-0071) ~ *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. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 14.08 acres of land from Single Family-1 'R-1' to Townhome District 'R-1-T' for property located at the north corner of Live Oak Street and St. Anthony's Drive, in Hays County, Texas. (WS Live Oak Kyle, LLC - Z-21-0072) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 5-1 to recommend approval of the request.*

- Public Hearing

18. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 12.9 acres of land from Agriculture 'AG' to Mixed Use District 'MXD' for property located on the northeast corner of Philomena Drive and Bunton Creek Road, in Hays County, Texas. (Estate of Evelyn Franke, et al - Z-21-0074) ~ *Howard J. Koontz, Director of Planning and Community Development*

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

- Public Hearing

19. *[Postponed 3/16/2021] (First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, to rezone approximately 19.5 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' for property located at 5492 Kyle Center Drive, in Hays County, Texas. (DDR DB Kyle LP - Z-20-0069) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 5-1 to deny the request.*

- Public Hearing

20. Third Amendment to the Development Agreement between City of Kyle, Texas and Clayton Properties Group, Inc. DBA Brohn Homes and Amendment to the Development Agreement Between the City of Kyle and Clayton Properties Group, Inc. DBA Brohn Homes. ~ *J. Scott Sellers, City Manager*

21. *[Postponed 3/16/2021] (Second Reading)* An ordinance amending Chapter 53 (Zoning) for City of Kyle, Texas, for the purpose of assigning original zoning to approximately 29.8 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3' for property located southeast of Lehman Road and south of Lehman High School, in Hays County, Texas. (Clayton Properties Group, Inc D/B/A Brohn Homes - Z-21-0070) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 5-1 to approve the request.  
City Council voted 6-1 to approve the ordinance on first reading.*

22. Review and approve updated Communication and Social Media policy.  
~ *Samantha Armbruster, Director of Communications*
23. Presentation and update on status of a Multifamily Recycling Pilot program for apartment complexes in Kyle. ~ *Dex Ellison, Council Member*
24. A Resolution of the City of Kyle, Texas, Accepting the Petition for Annexation of 25.2 Acres, More or Less, of Land Located in Hays County, Texas; Setting an Annexation Schedule; Providing for Open Meetings and Other Related Matters. ~ *Howard J. Koontz, Director of Planning and Community Development*
25. Reconsider Direction to the Planning & Zoning Commission to Revise the CBD 1 & CBD 2 zoning codes. ~ *Travis Mitchell, Mayor*
26. Discussion and possible action regarding Board & Commission Staffing Policy.  
~ *Dex Ellison, Council Member*
27. Approval of Balcones Trail Workforce Housing Payment and Development Agreement. ~ *James R. Earp, Assistant City Manager*

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

28. 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*
  - Community Survey
  - Upcoming Budget Dates FY 2021-22
  - COVID-19 Testing and Vaccine update
  - Business Booster webinar
  - Kyle Mass Food Distribution Event

## **X. Executive Session**

29. 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.
    - City Lights and Kyle Marketplace Subdivision/Development
  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 Big Red
- Project Valkyrie
- Project EKUS
- Project SUFC
- Project Pacific Blue
- Project Apollo
- Project Apricot

30. Take action on items discussed in Executive Session.

## **XI. 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

2021 0316 Minutes

**Meeting Date: 4/6/2021**  
**Date time: 7:00 PM**

**Subject/Recommendation:** City Council Special Meeting Minutes - March 16, 2021. ~ *Jennifer Holm, City Secretary*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

- 2021 0316 DRAFT Special Council Meeting Minutes

## SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session on March 16, 2021 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  
Council Member Dex Ellison (v)  
Council Member Yvonne Flores-Cale  
Council Member Robert Rizo  
Council Member Ashlee Bradshaw  
Council Member Michael Tobias  
Scott Sellers, City Manager  
James Earp, Assistant City Manager (v)  
Paige Saenz, City Attorney (v)  
Roxie Stevens, City Attorney (v)  
Jerry Hendrix, Chief of Staff (v)  
Samantha Armbruster, Communications Dir.  
Carla Sheridan, Assistant City Secretary  
Diana Torres, Economic Dev Director (v)  
Perwez Moheet, Finance Director (v)  
Matt Dawson, IT Director  
Grant Bowling, Video Production Specialist  
Howard Koontz, Community Dev Director (v)

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

Mayor Mitchell called the meeting to order at 5:03 p.m. Mayor Mitchell asked the assistant city secretary to call roll.

Present were: Mayor Mitchell, Council Member Ellison, Council Member Flores-Cale, Council Member Bradshaw, and Council Member Tobias. A quorum was present. Mayor Pro Tem Koch was absent. Council Member Rizo was marked present at approx. 5:07 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 5:04 p.m. With no one wishing to speak, Mayor Mitchell closed citizen comments at 5:04 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.
  - Case 5:21-cv-00237-JKP-RBF John David Ferrara v. Jeffrey Blake Barnett and the City of Kyle in the United States District Court for the Western District of Texas, San Antonio Division
  - Milestone Development
  - DR Horton Development
  - Bunton Lane
  - City Lights and Kyle Marketplace Subdivision/Development
  - TML Claims
  - 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
  - Third Amendment to the Development Agreement between City of Kyle, Texas and Clayton Properties Group, Inc. DBA Brohn Homes and Amendment to the Development Agreement Between the City of Kyle and Clayton Properties Group, Inc. DBA Brohn Homes
  - An Agreement Regarding Proposed Sign Application
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 Big Red
  - Project Valkyrie

Council Member Bradshaw 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 - Case 5:21-cv-00237-JKP-RBF John David Ferrara v. Jeffrey Blake Barnett and the City of Kyle in the United States District Court for the Western District of Texas, San Antonio Division; Milestone Development; DR Horton Development; Bunton Lane; City Lights and Kyle Marketplace Subdivision/Development; TML Claims; 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; Third Amendment to the Development Agreement between City of Kyle, Texas and Clayton Properties Group, Inc. DBA Brohn Homes and Amendment to the Development Agreement Between the City of Kyle and Clayton Properties Group, Inc. DBA Brohn Homes; An Agreement Regarding Proposed Sign Application; 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 Big Red; and Project Valkyrie.”

The City Council convened into executive session at 5:06 p.m.

3. Take action on items discussed in Executive Session.

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

The City Council reconvened into open session at 7:08 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

#### **IV. Consider and Possible Action**

4. Approve a letter agreement confirming Roxy Stevens of Denton Navarro Rocha Bernal & Zech, P.C. as attorney assigned to 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. ~ *Paige Saenz, City Attorney*

Mayor Mitchell brought forward and presented Item No. 4.

Mayor Mitchell moved to approve the letter agreement confirming Roxy Stevens of Denton Navarro Rocha Bernal & Zech, P.C. as attorney assigned to 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. Council Member Rizo seconded the motion. All votes aye; motion carried 6-0.

#### **V. Adjourn**

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

With no further business to discuss, the City Council adjourned at 7:09 p.m.

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Travis Mitchell, Mayor

Attest:

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Jennifer Holm, City Secretary





# CITY OF KYLE, TEXAS

2021 0316 Minutes

Meeting Date: 4/6/2021  
Date time: 7:00 PM

**Subject/Recommendation:** City Council Meeting Minutes - March 16, 2021. ~ *Jennifer Holm, City Secretary*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

- 2021 0316 DRAFT City Council Meeting Minutes

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on March 16, 2021 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  
Mayor Pro Tem Rick Koch (v)  
Council Member Dex Ellison (v)  
Council Member Yvonne Flores-Cale  
Council Member Robert Rizo  
Council Member Ashlee Bradshaw  
Council Member Michael Tobias  
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.  
Carla Sheridan, Assistant City Secretary  
Leon Barba, City Engineer (v)  
Kathy Roecker, SWMP Administrator (v)  
Perwez Moheet, Finance Director (v)  
Matt Dawson, IT Director  
Grant Bowling, Video Production Specialist  
Paul Phelan, Library Director  
Mariana Espinoza, PARD Director (v)  
Howard Koontz, Community Dev Director (v)  
Pedro Hernandez, Police Captain  
Harper Wilder, Director of Public Works (v)  
Tim Samford, Div. Mgr. – Trmt. Operations (v)

Tyler Gatewood (v)

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

Mayor Mitchell called the meeting to order at 7:09 p.m. The Pledge of Allegiance was recited. Mayor Mitchell asked the assistant city secretary to call roll.

Present were: Mayor Mitchell, Council Member Ellison, Council Member Flores-Cale, Council Member Rizo, Council Member Bradshaw, and Council Member Tobias. A quorum was present. Mayor Pro Tem Koch was absent but arrived during Item No. 16.

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

1. City Council Special Meeting Minutes - March 2, 2021. ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes - March 2, 2021. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Ellison moved to approve the minutes of the March 2, 2021 Special Council Meeting and the minutes of the March 2, 2021 Council Meeting. Council Member Tobias seconded the motion. All votes aye; motion carried 6-0.

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

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.

Mayor Mitchell opened citizen comments at 7: 11 p.m.

Glen Hurlston was called to speak as registered. Mr. Hurlston spoke about a complaint regarding Chief Barnett.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:15 p.m.

### **IV. Presentation**

4. Texas Municipal Library Directors Association Achievement in Excellence Award.  
~ *Paul Phelan, Director of Library Services*

Mayor Mitchell brought forward Item No. 4 for discussion. Mr. Phelan presented the item. No action was taken.

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

Mayor Mitchell brought forward Item No. 5 for discussion. Mr. Barba presented the updates and consent agenda items. No action was taken.

### **V. Consent Agenda**

Mayor Mitchell brought forward the Consent Agenda.

6. Consider a Resolution suspending for 45 days the effective date proposed by CenterPoint Energy Resources Corp., South Texas Division (“CenterPoint”) in its application filed on or about March [2021] pursuant to section 104.301 of the Gas Utility Regulatory Act.  
~ *Jerry Hendrix, Chief of Staff*
7. Authorize award and execution of a Purchase Order to THE BRANDT COMPANIES, LLC., through BuyBoard purchasing cooperative contract #638-21, for an estimated amount of \$20,000.00 to investigate and repair damages in the plumbing system located underground and inside walls at the James Adkins Pool. Final repair costs may exceed the initial cost estimate. ~ *Mariana Espinoza, Director of Parks & Recreation*

8. Approve Task Order No. 1 to CP&Y, INC., Austin, Texas in the amount not to exceed \$131,210.00 for amending the City of Kyle's Wastewater Treatment Plant Discharge Permit. ~ *Leon Barba, P.E., City Engineer*
9. Approve Task Order No. 2 to CP&Y, INC., Austin, Texas, in the amount not exceed \$50,000.00 for updating the Transportation Master Plan. ~ *Leon Barba, P.E., City Engineer*
10. Approve Task Order No. 3 to CP&Y, INC., Austin, Texas in the amount not to exceed \$52,675.00 for developing the City's Risk and Resilience Assessment and Emergency Response Plan as required by S.3021 - America's Water Infrastructure Act of 2018. ~ *Leon Barba, P.E., City Engineer*
11. Approve Task Order No. 1 to K FRIESE & ASSOCIATES, INC., Austin, Texas in an amount not to exceed \$171,889.83 for providing a Preliminary Engineering Report to investigate and evaluate drainage issues located along Sledge St., Scott St., and the Hitching Post Subdivision. ~ *Leon Barba, P.E., City Engineer*
12. Approve Task Order No. 1 to PAPE-DAWSON ENGINEERS, INC., Austin, Texas in the amount not to exceed, \$48,165.00 for providing a Preliminary Engineering Report for drainage improvements in the Quail Ridge subdivision. ~ *Leon Barba, P.E., City Engineer*
13. Approve Task Order No. 1 to COBB-FENDLEY & ASSOCIATES, INC., Austin, Texas in the amount not to exceed \$88,787.25 for developing a Reclaimed Water Master Plan. ~ *Leon Barba, P.E., City Engineer*
14. Approval of Cadence McShane's Design-Building Design Proposal in the amount of \$400,000 and authorize the City Manager to execute an Addendum to the Cadence McShane Design Build Agreement for the 104 S. Burleson project. ~ *J. Scott Sellers, City Manager*

Council Member Rizo moved to approve Consent Agenda Item Nos. 6, 7, 8, 9, 10, 11, 12, 13, and 14. Council Member Bradshaw seconded the motion.

There was discussion on the motion. Council Member Tobias brought up a concern regarding Item No. 7 from a concerned citizen. He asked if any of the pool damage was due to the winter storm if this would be a part of those repairs. Ms. Espinoza said part of the inspection was to inspect and assess any damage caused by the winter storm.

All votes aye; motion carried 6-0.

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

15. *[Postponed 3/2/2021] (First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, to rezone approximately 19.5 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' for property located at 5492 Kyle Center Drive, in Hays County, Texas. (DDR DB Kyle LP - Z-20-0069) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 5-1 to deny the request.*

- Public Hearing

Mayor Mitchell brought forward Item No. 15 for discussion.

Mayor Mitchell announced there was an open public hearing on the item and he would leave the hearing open unless there were any objections. There were none.

With no one wishing to speak, Mayor Mitchell announced the hearing would stay open and postponed.

Mayor Mitchell moved to postpone the item of an Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, to rezone approximately 19.5 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' for property located at 5492 Kyle Center Drive, in Hays County, Texas. (DDR DB Kyle LP - Z-20-0069) until the next regularly scheduled meeting. Council Member Rizo seconded the motion. All votes aye; motion carried 6-0.

16. *[Postponed 3/2/2021] (Second Reading)* An ordinance amending Chapter 53 (Zoning) for City of Kyle, Texas, for the purpose of assigning original zoning to approximately 29.8 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3' for property located southeast of Lehman Road and south of Lehman High School, in Hays County, Texas. (Clayton Properties Group, Inc D/B/A Brohn Homes - Z-21-0070) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 5-1 to approve the request.*

*City Council voted 6-1 to approve the ordinance on first reading.*

Mayor Mitchell brought forward Item No. 16 for discussion and announced the item would be postponed.

Mayor Mitchell moved to postpone the Ordinance amending Chapter 53 (Zoning) for City of Kyle, Texas, for the purpose of assigning original zoning to approximately 29.8 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3' for property located southeast of Lehman Road and south of Lehman High School, in Hays County, Texas. (Clayton Properties Group, Inc D/B/A Brohn Homes - Z-21-0070) until the next regularly scheduled Council meeting. Council Member Rizo seconded the motion.

Mayor Pro Tem Koch arrived at approximately 7:47 p.m.

There was discussion after the motion. Tyler Gatewood with Brohn Homes asked why the items were being postponed. Mayor Mitchell responded they were still waiting on finalizing language on the development agreement. Mr. Sellers stated that the amended development agreement and this zoning item will come forward at the next council meeting.

All votes aye; motion carried 7-0.

17. A Resolution of the City of Kyle renaming the entirety of W RM150 to Veterans Drive and give direction to staff for signs to be installed on or near Memorial Day, 2021. ~ *Travis Mitchell, Mayor*

- Public Hearing

Mayor Mitchell brought forward and presented Item No. 17.

Mayor Mitchell opened the public hearing at 7:48 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 7:48

Mayor Mitchell moved to approve Agenda Item No. 17 and to give staff direction to use the resources we have allocated to create the program that have been discussed for assisting businesses, that have been affected, to set a time frame and communicate with businesses through medium available and what works best, and to contact all business ahead of the application to inform them.

There was discussion on the motion. Samantha Armbruster sought clarity from Council and asked if it was the will of Council to offer reimbursement by application, approval based on how many, how much is applied for and the vote of the Council. Mayor Mitchell stated it would be based on the Task Force that was initially set out so that it does not have to come before Council and would be between Samantha Armbruster and Steve Clamons to take care of that with staff support.

Council Member Bradshaw seconded the motion.

There was additional discussion on the motion. Mayor Mitchell said to be clear Ms. Armbruster was authorized to proceed forward with mailers notifying businesses. Council Member Rizo thanked everyone for their work on the renaming committee and said the committee was a group of citizens from this town who did a lot of research and who did an excellent job.

All votes aye; motion carried 7-0.

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

18. 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*
  - Great Texas River Cleanup Recap
  - TIRZ #2 Board Meeting
  - Annual Community Survey
  - Parks and Recreation Department Easter Events
  - Summer Camp Registration

Mr. Sellers spoke about the Great Texas River Cleanup Recap on March 6<sup>th</sup> and said we had a great response that included removal of almost 1,700 pounds of trash. Council Member's Ellison and Rizo thanked everyone for participating. Mr. Sellers continued his report mentioning the Annual Community Survey that is open until April 12<sup>th</sup> and encouraged everyone over 16 years of age to participate in the survey. He mentioned the Parks and Recreation Department Easter Events including the Easter Egg Basket Giveaway registration starting March 4<sup>th</sup>; April 5<sup>th</sup> photo contest deadline; and Easter Trail Hop Egg Hunt March 27<sup>th</sup> at Waterleaf Park at the Plum Creek Trail. Mr. Sellers recognized the Parks Department for their hard work regarding the effort that goes into coordinating these events. Lastly, he mentioned Summer Camp Registration and hiring information that can be found on the city website and the TIRZ #2 Board Meeting that will be virtual at 7:00 p.m. on Thursday March 25<sup>th</sup>.

### **VIII. Executive Session**

19. 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.
  - Case 5:21-cv-00237-JKP-RBF John David Ferrara v. Jeffrey Blake Barnett and the City of Kyle in the United States District Court for the Western District of Texas, San Antonio Division
  - Milestone Development
  - DR Horton Development
  - Bunton Lane
  - City Lights and Kyle Marketplace Subdivision/Development
  - TML Claims
  - 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
  - Third Amendment to the Development Agreement between City of Kyle, Texas and Clayton Properties Group, Inc. DBA Brohn Homes and Amendment to the Development Agreement Between the City of Kyle and Clayton Properties Group, Inc. DBA Brohn Homes An Agreement Regarding Proposed Sign Application
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 Big Red
  - Project Valkyrie

There was no executive session.

20. Take action on items discussed in Executive Session.

### **IX. Adjourn**

Mayor Mitchell moved to adjourn. Council Member Bradshaw seconded the motion. All votes aye; motion carried 6-1 with Mayor Mitchell dissenting.

With no further business to discuss, the City Council adjourned at 7:59 p.m.

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Travis Mitchell, Mayor

Attest:

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Jennifer Holm, City Secretary





# CITY OF KYLE, TEXAS

## Lehman Lobo Powerlifting Program

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Recognition of the Lehman Lobo Powerlifting Program - Boys and Girls State Championships 2020-2021. ~ *Michael Tobias, Council Member*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Mayoral Proclamations

**Meeting Date: 4/6/2021**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Mayoral Proclamations. ~ *Travis Mitchell, Mayor*

- Child Abuse Prevention and Awareness Month
- Sexual Assault Awareness and Prevention Month
- National Public Safety Telecommunicators Week (April 11th – April 17th)
- National Animal Control Officer Appreciation Week (April 11th – April 17th)

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## ARWA Board Appointment

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Consider approval of a resolution confirming the reappointments of Tim Samford, James Earp, and Derrick Turley to the Alliance Regional Water Authority Board of Directors for three-year terms. ~ *Travis Mitchell, Mayor*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

- ☐ Kyle Director Appt Letter Form 20210201
- ☐ ARWA Reappointments Resolution



February 1, 2021

Mayor Travis Mitchell  
City of Kyle  
100 W. Center Street  
Kyle, TX 78640

**Delivered via e-mail only to:** [tmitchell@cityofkyle.com](mailto:tmitchell@cityofkyle.com)

Re: Appointments to the Alliance Water Board of Directors

Dear Mayor Mitchell,

I am writing to request that the City of Kyle make appointment to serve on the Board of Directors (Board) of the Alliance Regional Water Authority (Alliance Water). Under the enabling act and rules of Alliance Water, San Marcos appoints five directors to the Board. Appointments must be made not earlier than April 1<sup>st</sup> and not later than April 30<sup>th</sup>. The new or re-appointed directors will take office on May 1, 2021 and will serve a three-year term.

To be eligible to serve as a director, a person must be: 1) at least 18 years of age; and 2) either a resident of the Alliance Water territory, or an employee of a Sponsor. A person who serves on the governing body of a Sponsor may serve on both the governing body and the Board.

The following positions are set to expire in April 2021 – each person is eligible for re-appointment, if the City so desires:

- Tim Samford – April 2021
- James Earp – April 2021
- Derrick Turley – April 2021

Action by a Sponsor to appoint directors must be in the form of a minute entry, ordinance or resolution approved by the Sponsor's governing body. I have enclosed a suggested resolution for making your appointment/s. **Please provide written confirmation to me of your appointment/s before May 1<sup>st</sup>, 2021.**

Let me know if you have any questions. Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. Moore', with a stylized, cursive script.

Graham Moore  
Executive Director

Enclosure

cc: Mr. Scott Sellers, Kyle City Manager ([ssellers@cityofkyle.com](mailto:ssellers@cityofkyle.com))  
Ms. Jennifer Holm, Kyle City Secretary ([jholm@cityofkyle.com](mailto:jholm@cityofkyle.com))

A handwritten signature in blue ink, appearing to read 'G. Moore', with a stylized, cursive script.

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KYLE,  
TEXAS MAKING APPOINTMENTS TO THE BOARD OF DIRECTORS  
OF THE ALLIANCE REGIONAL WATER AUTHORITY; AND  
DECLARING AN EFFECTIVE DATE**

**WHEREAS**, the City of Kyle is a member of the Alliance Regional Water Authority; and

**WHEREAS**, the City of Kyle has three representatives on the Board of Directors of the Alliance Regional Water Authority; and

**WHEREAS**, the Board of Directors of the Alliance Regional Water Authority serve three-year terms; and

**WHEREAS**, the current terms expire at the end of April 2021;

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

**Section 1.** The City Council appoints the following persons to serve on the Board of Directors of the Alliance Regional Water Authority:

- Tim Samford
- James Earp, and
- Derrick Turley

**Section 2. Open Meetings.** That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**Section 3. Effective Date.** This resolution will become effective immediately upon its passage by the Kyle City Council.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

THE CITY OF KYLE, TEXAS

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

ATTEST:

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



# CITY OF KYLE, TEXAS

## Appointment to Economic Development & Tourism Board

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Reappointment to the Economic Development and Tourism Board. ~ *Diana Torres, Director of Economic Development*

- Brian Ziegler, First United Bank, Financier Seat
- Tessa Schmitzinsky, PEC, Utility Seat
- Don Tracy, ACC, Higher Education/Workforce Development Seat

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### ATTACHMENTS:

#### **Description**

- ☐ Memo to Council- EDT Reappointment



## MEMO

**To: Kyle City Council**

**From: Diana Torres, Director of Economic Development**

**Date: 04-01-2021**

**Re: Re-appointments to EDT Board**

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Reappointments to the Economic Development & Tourism Board for the following individuals to a two-year term.

- Brian Ziegler, First United Bank, Financier Seat
- Tessa Schmitzinsky, PEC, Utility Seat
- Don Tracy, ACC, Higher Education/Workforce Development Seat





# CITY OF KYLE, TEXAS

## P&Z Appointment

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Consider nomination and take action for appointment to the Planning and Zoning Commission to fill two vacancies with unexpired terms. ~ *Howard J. Koontz, Director of Planning and Community Development*

- Patricia Snidow
- Matthew Chase

**Other Information:** See attached.

**Legal Notes:** N/A

**Budget Information:** N/A

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### ATTACHMENTS:

#### **Description**

- ☐ Snidow Application
- ☐ Snidow Resume
- ☐ Chase - Cover Sheet
- ☐ Chase - Application
- ☐ Chase - Resume



Employment Application | Submitted: 08-Dec-2020

AAA

Patricia Snidow



☎ (970) 590-0722

✉ psnidow3@gmail.com

🏠 1285 Harwell Loop  
Kyle, TX 78640  
United States

Planning & Zoning Commissioner

Job Location - Kyle, TX

Boards or Commissions - Planning and Zoning  
Commission

## Application Instructions

### Instructions

## City of Kyle Board and Commission Member Application

### **TeamKyle Core Values:**

**Knowledge, Yes-Attitude, Leading Edge and Employee Accountability**

Thank you for volunteering to be considered for serving on a City of Kyle board or commission. The boards and commissions serve various functions to help the City Council and City Staff provide the best possible service to our citizens. Please be sure to read the position description for board(s) or commission(s) you are applying for and respond to the questions below with those responsibilities in mind.

To serve as a volunteer on a board or commission, you must be:

- At least 18 years of age or older
- You must be a Citizen of the United States
- Not a current City of Kyle employee

An individual shall not be eligible for appointment to a board unless the individual meets the following qualifications on the day prior to the date of appointment:

- Have been a resident of the State of Texas and the City of Kyle for at least 12 consecutive months or have significant presence in the community
- Not be delinquent on any indebtedness to the City of Kyle

If any appointee ceases to possess any of these qualifications, such position to which the appointee was appointed shall, upon such fact being determined by the council, immediately become vacant.

REQUIRED DOCUMENTS TO BE UPLOADED:

Item # 8

- Statement of Interest
- Resume

## Statement of Interest and Resume

Please upload both documents, either separately or in a combined document upload.

- Statement of Interest
- Resume

If uploading separately, once you upload the first document you will be provided the opportunity to upload another document.

*Click on the link to open the resume file if you wish to print the formatted resume.*

### File Name

### Link

Patricia Snidow resume Nov 2020.pdf

 Preview

Download

## Admin Uploaded Files

There are no admin uploaded files for this applicant.

## Application Questions

### Personal Questions |

Question	Answer	Disqualifier?
What Board(s) and/or Commission(s) are you applying for? *	Planning and Zoning Commission	
What prompted you to apply? *	As I consider retiring in the next few years, I want to become engaged in activities that will utilize my skills and knowledge, as well as give me an opportunity to learn. I would like to be a part of the momentum this City has created around quality job creation, as well as supporting high value amenities and retaining quality of life for the families who live here. Combining form and function creates balance. I will have the required six months of residency for this appointment on January 17, 2021.	
Have you ever been employed by the City of Kyle? *	No	
Have you ever been employed by any other government body? *	Yes	
What experiences do you have that would be useful in the board or commission? *	Current employment: USDA Rural Development Innovation Center, worked w rural communities in economic and community development planning, and project development as Area Director for 15 years; prior employment in brief: Sr Bus Dev Rep	

Item # 8

	for Colorado Governors Office of Economic Dev and Int'l Trade; Exec Director, Greeley, CO Downtown Development Authority; Main Street Manager, Greeley, CO; Economic Development Director, NW Colorado Community College working with three vast rural counties.
<b>Do you possess any professional licenses? *</b>	No
<b>If yes, please list any that would be applicable to the board or commission you are applying for.</b>	This question was not answered.
<b>The City of Kyle is looking for people that share and promote our TeamKyle Core Values of Knowledge, Yes-Attitude, Leading Edge and Employee Accountability. How will you apply these core values to your service to the city? *</b>	Have spent my career working with communities helping them get to "yes" in their public process for high quality projects which may be unpopular at the time of concept.
<b>What other skills and/or experience would you like to add?</b>	Strategic Planning in development of EDA CEDs plans; SWOT analysis; worked with a wide variety of public finance tools in Colorado, including federal partners. Public facilitation, training and communications.

## Board Member Qualifications |

The following are qualifications to be able to service as a board or commission member in Kyle. Please check the box that applies:

Question	Answer	Disqualifier?
<b>Legal Resident of the United States? *</b>	Yes	
<b>At least 18 years of age? *</b>	Yes	
<b>Have been a resident of the State of Texas and the city for at least 12 consecutive months or have significant presence in the community: *</b>	No	X
<b>Are you currently delinquent on any indebtedness to the city? *</b>	No-Not Delinquent	
<b>Not currently a city employee: *</b>	No-Not a City Employee	

## Ex Officio Member Qualifications |

Additionally if interested in Ex-Officio an individual shall not be eligible for appointment as an Ex Officio Member to a board unless the individual meets the following qualifications on the day prior to the date of appointment. Please check the box that applies:

Question	Answer	Disqualifier?
<b>Currently a qualified voter of Hays County or contiguous counties: *</b>	Yes	

Have been a resident of the State of Texas and the city or Hays County or contiguous county for at least 12 consecutive months or own or employed in a business in the community. \*

No

Signature

Date

Social Security Number

Date of Birth

Application Status History

No Application Status Update History

Application Note History

No Application Note History

Application Viewed History

Date	Time	User
17-Dec-2020	9:07:26 AM	Taylor Teis
08-Jan-2021	8:08:48 AM	Taylor Teis

Assigned to User

No Assigned to User History

Emails Sent to Applicant History

Date	Sender	Template Name
08-Dec-2020	System Generated	Thank You Email - Automatically Sent

Application Forward History

No Application Forward History

**Patricia A. Snidow**  
**1285 Harwell Loop**

**Kyle, Texas 78640**

**Psnidow3@gmail.com**  
**970.590.0722 personal cell**

**Employment**      **United States Dept. of Agriculture – Rural Development**  
**May 2005 – Present**

**40 hr/wk**

**Current**  
**Role**      **Economic Development Specialist – Innovation Center – Partnerships Division**  
**National Office, Washington, D.C.**

Current Duties: Facilitate special projects working for National Office Innovation Center related to partnerships with other Federal and State agencies, and strategic engagement.

Previous projects include:

Serve on Region VIII HHS Opioid Response Team sharing information, finding collaboration among programs and assisting where needed.

Serve on Region VIII FEMA interagency partnership team since 2013 Colorado disasters.

Track and monitor MOUs within the agency, develop guidelines and best practices for MOUs.

Design and future delivery of OneRDGuarantee program training as it rolls out internally and externally; a synthesis of several loan guarantee programs from diverse divisions such as Rural Business and Community Facilities into one consistent format and application process. Developed training as a team, and led the Assessment development for all staff nationwide in order to States to access their lending authority.

Serve on sixteen-member external advisory team for the Board of Governors of the Federal Reserve as they develop a future publication on Community and Economic Development in rural areas.

Convene meetings and training conferences as requested, as part of a broad-based team bringing together multiple agencies and resources. Example: Statewide Broadband Conference, Casper, WY, Oct 2019

Designed application, guidelines, scoring criteria as well as conducted outreach and scoring for RD Rural Economic Development Initiative (REDI) as part of a team.

Gather and submit resources from partners in both government and non-profit sectors for our Innovation Matters newsletter and distribute each publication to large network of contacts.

Outreach and technical assistance for all RD programs.

Partner with OPPE, Office of Partnership and Engagement as they begin work on a new initiative around Communities of Prosperity.

***Accomplishments 2010 - 2018:***

- Work with Colorado communities who are developing a strategy or plan focused on their economy to expand their perspective to support a ready and willing workforce including housing, childcare, transportation, healthcare, mental health and a healthy vibrant community. Utilize economic data to provide guidance and

make suggestions related to best practices on how they might take a fresh look at their plans and implementation. Help communities identify primary employers as well as industry clusters in their area and educate leaders on how they impact their economy. Encourage community leaders to convene a diverse group of stakeholders to recognize and address issues. Share best practices from across the State on a variety of topics, which stimulate creative thinking and problem solving. Advise on ways to synthesize other Federal programs and initiative to benefit communities.

- Encourage partnerships and collaborative efforts to address complex challenges. Seek to bring unexpected partners to the table.
- Serve on HUD/EPA/USDA federal partners team building relationships and finding collaborative opportunities between our agencies.
- Training in Bridges Out of Poverty assists with recognizing issues and adjusting discussions to meet the needs of diverse cultures and socioeconomic sectors.
- Work with Philanthropic Foundations, regional non-profits, economic development organizations, plus local, State and Federal agency partners to leverage funding to assist communities to attain their goals.
- Build relationships and partnerships for the agency which support rural prosperity including philanthropic foundations, Club 20 (22 western counties leadership), local, State and Federal agencies. Conduct program presentations encompassing all Rural Development programs where they are relevant to each group. Example: Club 20 subcommittee groups, present program updates and relevant funding opportunities for agriculture to their Agriculture committee, business to their Business Affairs committee, etc. Provide meeting reports to State Office to improve their understanding of the hot topics and evolving needs for these areas.
- Upon request, facilitate SWOT (Strength, Weaknesses, Opportunities, and Threats) analysis discussions for Council of Governments stakeholder meetings when they are updating their US Department of Commerce, Economic Development Administration (EDA) Comprehensive Economic Development Strategy (CEDs) plan in order to bring the plan to a more comprehensive level. EDA field representative commented that the plans he has viewed which I facilitated, were the most comprehensive he had seen. Utilize existing data to assist communities to connect the dots from their data to real life experience. Spur conversation based on data sets related to socio- economics and industry clusters. Help them to determine measurable outcomes as well as to benchmark data which will be their indicators. Work closely with EDA, State of Colorado and other partners where we can leverage funds by adjusting scope of work for implementation projects. Expanded regional conversations to integrate dialogues on substance use disorder, the impact on workforce, the ripple effect on communities, as well as funding opportunities to support local efforts.
- Recently assisted Associated Governments of NW Colorado (Council of Governments, Region 11, Colorado) in their effort to develop their first CEDs document, as they seek to become an EDA Planning District. Facilitating and coaching their core team on writing goals and strategies. Facilitated regional SWOT analysis, and Asset Mapping for their plan and a Mind Map to establish their shared vision, utilizing the tools developed while working for the State of

Colorado to frame the conversation. Completed five countywide stakeholder facilitations, to gather more diverse local information, plus local best practices underway to build into the plan. Supported drafting of plan. Provided them an Action Matrix tool to better assist their goals and strategies discussion.

- Coordinated and delivered Stronger Economies Together (SET) program on a statewide basis as lead trainer. Worked in partnership with USDA National Office to streamline and improve curriculum in Phase II and III. Introduced a variety of Economic Development (ED) principles, tools and approaches to SET within CO, as well as focused training on how Community Development supports Economic Development. Provided ongoing technical assistance support to SET regions. Provided Action Matrix tool to communities to better frame their plan. Served on Peer Review Teams for SET plan evaluation reviews to determine High Quality Plans and make suggestions for improvement.
- Work across all Rural Development funding programs, as well as AMS, FNS, EDA, HUD, State of Colorado, and many federal initiatives, to find the best possible solution for community success.
- Attend conferences and conduct presentations to assist with outreach for our programs and initiatives. Attend other conferences to participate and to build relationships and partnerships which will enhance the rural prosperity of our communities. For instance, participated in the Federal Labs Regional Consortium Conference in Denver to better understand how their technology transfer might connect to rural economies. Learned administrative best practices, which then were shared with our State Office.
- Participate on State and Federal technical assistance teams with an eye toward economic development and provide suggestions: Citizens Institute for Rural Design, Limon, CO; EPA Building Blocks, Pagosa Springs, CO; Smart Growth Planning, Rifle, CO; Cool and Connected, Montrose, CO; Local Foods/Local Places, Alamosa, CO; plus various rural locations for Downtown Colorado Inc. – Downtown Assessments and Downtown Institute trainings, and Colorado Office of Economic Development Community Assessments.
- Completed RD Cooperative Conversion Guide Training and discuss with communities when appropriate.
- Support and mentor RD staff as requested. Mentor new economic developers in rural communities, plus new staff at the State of Colorado as requested.
- Serve on USDA National Office Opioid Response Task Force. Lead – Community Planning Subgroup, facilitate discussions, organize documents and submissions, and coordinate meetings and information. Developed an action matrix which was adopted by all teams. Suggested multiple initiatives personally as a team member, several of which were implemented. Encouraged team to think creatively on where we need policy adjustments to existing programs in order to align with this challenge and remove existing barriers to funding. Reach out to existing partners such as Philanthropic Foundations and new partners, such as US Health and Human Services in Region VIII and other agencies to better understand this topic and join their regional conversations. Sit in for CO State Director on her team of Housing and Infrastructure as needed and assist with their initiatives, researching and writing two of them, as well as support that team



with background information from Ms. Bryce.

■ Subsequently Detailed to DC office, July – Nov, to work on compiling initiative tools. For example, Funding Grid which spanned 17 federal agencies, plus research, interviews and best practices documentation for Community Action Guide which was published Spring 2020. Drafted the Faces of Addiction for the Action Guide from interviews in rural Listening Sessions. Reviewed the SUPPORT bill for Assistant to the Secretary and Secretary of USDA.

***Additional Duties:***

***Disaster Coordinator*** – worked with Colorado communities to rethink their strategies and outcomes after 2013 floods. Assisted Town of Lyons to strategically adjust their revolving loan fund criteria to stimulate rebuilding of their private sector businesses. Participating member: FEMA Region 8 Federal Recovery Partners team; Region 8 Regional Interagency Steering Committee; EDA El Paso County IEDC assessment team.

***RD Program Applicant Training*** – Conduct focused four-hour application training for REAP or VAPG program applicants in rural communities, plus provide technical assistance as they put together their application.

***Broadband Coordinator*** – technical assistance for DLT applicants, outreach for Broadband programs. Partner with State of Colorado on their Broadband Planning efforts. On one occasion, a DLT applicant had barriers in their application process related to wording in our Application Guide. Requested applicant outline specific language and topics which were misleading and confusing within our Guide and submitted them to National Office team to support adjustments and clarifications.

***Food Hub Coordinator*** – technical assistance to Food Hub groups who are forming or moving forward, utilizing RD programs or other resources.

***Rural Philanthropy Days*** – participate along with Philanthropic Funding partners for past 16 plus years. Most recently as presenter and trainer of non-profits for Capital Campaign Strategies and Funder Panels plus for many years conduct roundtable “speed dating” type discussions of applicant need and/or proposals. Assist potential applicants to create their scope of work which will fit into our programs. Continue relationships and provide technical assistance up to application submission to loan specialists.

Participate as a team member on Philanthropic Funder Listening Tours across rural Colorado and became known as the individual who could look at the data provided, recognize issues and anomalies in the information, correlate that data to hot topics, and make related inquiries which spurred in-depth conversations around their local challenges.

***West Area Director – starting position at Rural Development  
2005 - 2010***

Administer four offices located in Craig, Delta, Cortez and Alamosa, Colorado. Four direct reporting managers, and a total of 20 employees. Establish and

administer budget for offices and the region. Administer implementation of federal programs that are within the USDA Rural Development agency. Review program analysis to ensure program and office goals are established and met, servicing is completed timely, and delinquencies are under threshold. Build partnerships and relationships with community leaders, non- profit organizations, State and Federal agencies and private sector businesses who might utilize our programs. Deliver training and presentations to groups of interested individuals to support their access to and success in our programs. Grow name recognition for Rural Development in assigned region and grow our program delivery. Upon hiring, was told by State Director she was unsure there was enough business in Western Colorado to support staff assignment. Within two years of arrival, Western Colorado was outperforming the rest of the State.

***Relevant Past  
Employment***

**CO Governor's Office of Economic Development & International Trade  
Business Development Representative Western Colorado 40 hr/wk  
Oct 2002 – May 2005**

***Rural Economic Development.*** Served under Governor Bill Owens as State of Colorado staff, to assist rural communities in 22 western Colorado counties to access resources at state and federal levels in support of their activities in economic and community development.

Provide training to communities that seek to explore these concepts. Coordinate the Colorado Community Assessment program on a statewide basis. Develop contacts and networks of resources for the use of communities and the State. Connect with small rural communities, learn their challenges, and assist State Administration to develop public policy which would enhance their opportunities for economic prosperity. Maintain ongoing communications with superiors to keep them informed of the needs and expectations of the communities in the counties served, as well as issues that were upcoming in the region. Draft relevant speaking points for executive visits and speeches within region. Attend industry trade shows, site selector meetings, and conferences representing the State, to assist rural communities to recruit businesses to their location. Assist rural communities to access State Incentives for business development.

Developed community leader training in Economic Development, and how Community Development supports and is required, for business to thrive. Focused on items learned during International Economic Development Council (IEDC) training, regarding Infrastructure, Innovation and Entrepreneurship, Business Climate, Skilled and Reliable Workforce, as well as Marketing. Utilize this same discussion currently, to catalyze discussion when facilitating regional CEDs plans.

**Greeley Downtown Development Authority  
Executive Director 40 hr/wk**

***April 2001-October 2002***

***Downtown Redevelopment*** Pass a vote for a Special Improvement District for a \$2.6 million infrastructure project, opening pedestrian plazas to traffic and redevelopment of the district.

Funding initiative passed with a large majority in support, after many months of community relationship building and education/communications. Facilitate design guidelines for the downtown commercial district, to enhance historic architecture while encouraging private re- investment into buildings. Implement the Main Street Program, as a Colorado Main Street Community. Gain city council approval of tax increment finance (TIF) district in downtown. Improve communications and build partnerships with all sectors of the community including government, business, industry and residents to find creative solutions to downtown issues. Serve as a resource to existing business to support and enhance their success. Develop brand communication campaign to market Greeley Downtown.

**Colorado Northwestern Community College, Craig/Rangely, CO  
Director, Business & Industry Training/Economic Development  
1996-Apr 2001**

**40 hr/wk**

***Customized Training/Workforce Development/Economic Diversification.*** Design and deliver customized training, skills credentialing, and professional development. Work across three rural, remote counties. Hire and evaluate consultants, and speakers for various projects. Plan and implement community forums, conferences and programs, which promote a healthy economy and existing business development. Establish and administer budget for full department. Build partnerships between industries, agencies and communities for purposes of economic and community development in a service area of three counties. Serve as liaison between education, government, non-profits and businesses. Work in partnership with the Office of Economic Development to provide Colorado First grants and bring opportunities and resources to Western Colorado. Develop and administer occupational Craig Campus programs including Emergency Medical Technician, POST Law Enforcement Academy, and initiated new programs via strong regional partnerships including RN Nursing, Holistic Nursing and Fire Science.

***Economic Development:***

- Coordinated and led six chambers of commerce across NW Colorado to educate CO Department of Parks and Wildlife on the economic impact of the hunting economy when they proposed changes which would be detrimental to local businesses. Gathered and presented direct economic data, which was so impactful they quoted our data for years, and today conduct their own economic impact assessment of the hunting economy in rural communities.
- Gathered, aggregated and presented direct local economic impact data on the coal industry when outside special interests were attempting to undermine the local economy. Afterward, the coal industry presented this similar data year after year, to tell their story of how they support community development and

- economic development.
- Serve as one of the three-member management team to assist local elected officials to distribute a Request for Proposal and review a Best and Final Offer negotiation to bring broadband to a remote rural area via a large grant from the State of Colorado. This project was known as the Beanpole Project, which was the last mile distribution of a middle mile project stimulated by the State of Colorado.

***Starting Position:***

***Community Education Coordinator***

***Community Relations/Public Education.*** Engage the adult public in personal, professional and community development projects, programs, cultural activities, and coursework at the Craig Campus. Administer adult continuing education/professional development programs. Establish and administer operating budget for department. Analyze program performance, both quantitative and qualitative. Hire and evaluate faculty. Distance learning liaison. Coordination, layout and design of college schedule for Craig Campus. Writing and editing of *Outreach* community marketing newsletter.

## ***Community Engagement***

- **Colorado Community Revitalization Association – Board of Directors (2001 – 2005)**
- **Greeley Convention & Visitors Bureau – Board of Directors (2001 – 2002)**
- **Craig Chamber of Commerce, Board of Directors (1998 - 2001)**
  - Chair – Membership Services**
  - Committee Economic Development Committee**
- **Center of Craig Historic Renovation Project, Board of Directors (1998 - 2000)**
- **Moffat County Emergency Medical Services Council (1997 - 2001)**
- **Advocates — Crisis Support Services, Board of Directors — President (1996 - 2001)**
  - (Domestic violence, sexual assault victim advocacy)**
- **Read for Life Advisory Committee — Chair (1997 - 2000)**
- **Committee to Support Colorado NW Community College Joining CCCOES (State of Colorado Education System,) 1998 — Chair**
- **Founding Member (of 50) of the Colorado Economic Leadership Coalition -- 2002**
- **Founding Team (of 6) of Western Colorado Economic Alliance -- 2000**

- **Moffat County Land Use Trust – Presenter on Economic Impacts of Multiple Land Use and Coal Economy 2000**
- **CO HB99 1102 Beanpole Telecommunications NW Colorado Project Management Team (1998 – 1999)**

## ***Employment History***

**Colorado Northwestern Community College, Craig, CO**  
**1983 – 2000    Adjunct Faculty Instructor**

**Trapper Mine Inc., Craig, CO**  
**1989 – 1995 Assistant Director, Trapper Health Center**

**Underwater Diving Adventures, Craig, CO**  
**1985 – 1991    Co-Owner/Operator**  
 Scuba certification training, international travels and retail sales facility. Administration, day-to-day operations, budget plus instruction and sales. Organize and host group dive travel.

**Moffat County Volunteer Ambulance Service, Craig, CO**  
**1986 – 1988 Emergency Medical Technician**

**KRAI Radio, Craig, CO**  
**1983 – 1985    Marketing/Sales**

**United Mortgage — United Bank of Denver, Denver, CO**  
**Piedmont Mortgage Co., Denver, CO**  
**The Kissell Company, Denver, CO**  
**1971 – 1977 Mortgage Loan Processor/Closer**

## ***Education***

Economic Gardening – Edward Lowe Foundation  
 Chris Gibbons

Bridges Out of Poverty – Trainer Certification

IEDC Economic  
 Development Institute  
 University of Oklahoma  
 2005

OPM Western Management Development Center – Executive Assessment  
 Sept 2004

Bachelor of Science Business Administration	2004	
Regis University	Additional Coursework:	Marketing/Public Relations/ Communications Consumer Behavior

Associate of Arts Business  
Administration 1998  
Certificate Accounting Technology 1998  
Associate of Arts General Studies 1998  
Colorado Northwestern Community College — Highest Honors

Thomas Jefferson High School,  
Denver, CO Majors: English/Business

## ***Affiliations***

Club 20 (1998 – present)

Economic Development Council of Colorado  
(1998 - 2005)

Greeley Rotary (2001 – 2002)

BISnet of Community Colleges of Colorado  
(1998 - 2000)

National Council of Instructional Administrators  
(1996 – 2000)

Lifelong Education Resource Network (LERN)  
(1996 – 2000)

Phi Theta Kappa Academic Honor Society  
(1997 – 1998)

Professional Association of Diving Instructors (PADI) — Rescue Diver – qualified as  
DiveMaster

Emergency Medical Technician (1987 - 1996)

Wilderness Emergency Medical Technician (1993 - 1996)

To: Kyle City Council

From: Matthew S Chase

Date: 12/4/2020

Re: Letter of Interest – Planning and Zoning Commission

Dear Council Members,

I am writing to express my interest in the open seat with the Planning and Zoning Commission. Having been a member of the community for the last three years, I have seen how Kyle has grown leaps and bounds, and I would like to be part of this exciting time in the forging of the City's future.

I want to offer my skills, experience, and time to the City. I feel that my background, having worked for Brookfield Residential, brings experience and knowledge of how developers work and their motivations behind getting new developments into the City.

Right now is an exciting time for the City, and I would be honored to supply my support to our City's current and future residents.

Matthew (Matt) Chase



## Employment Application | Submitted: 04-Dec-2020

AAA

**Matthew Chase**

☎ (562) 522-4695  
✉ matthew.chase\_13@yahoo.com  
🏠 355 Cibolo Creek Dr  
Kyle, TX 78640  
United States

**Planning & Zoning Commissioner**

**Job Location** - Kyle, TX  
**Boards or Commissions** - Planning and Zoning  
Commission

### Application Instructions

#### Instructions

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## City of Kyle Board and Commission Member Application

### *TeamKyle Core Values:*

*Knowledge, Yes-Attitude, Leading Edge and Employee Accountability*

Thank you for volunteering to be considered for serving on a City of Kyle board or commission. The boards and commissions serve various functions to help the City Council and City Staff provide the best possible service to our citizens. Please be sure to read the position description for board(s) or commission(s) you are applying for and respond to the questions below with those responsibilities in mind.

To serve as a volunteer on a board or commission, you must be:

- At least 18 years of age or older
- You must be a Citizen of the United States
- Not a current City of Kyle employee

An individual shall not be eligible for appointment to a board unless the individual meets the following qualifications on the day prior to the date of appointment:

- Have been a resident of the State of Texas and the City of Kyle for at least 12 consecutive months or have significant presence in the community
- Not be delinquent on any indebtedness to the City of Kyle

If any appointee ceases to possess any of these qualifications, such position to which the appointee was appointed shall, upon such fact being determined by the council, immediately become vacant.

#### REQUIRED DOCUMENTS TO BE UPLOADED:

- Statement of Interest

Item # 8



- Resume

Statement of Interest and Resume

Please upload both documents, either separately or in a combined document upload.

- Statement of Interest
- Resume

If uploading separately, once you upload the first document you will be provided the opportunity to upload another document.

Click on the link to open the resume file if you wish to print the formatted resume.

File Name	Link
Chase Matthew S. - Resume.doc	<div><div>Preview</div><div>Download</div></div>
Letter of Interest.docx	<div><div>Preview</div><div>Download</div></div>

Admin Uploaded Files

There are no admin uploaded files for this applicant.

Application Questions

Personal Questions |

Question	Answer	Disqualifier?
What Board(s) and/or Commission(s) are you applying for? *	Planning and Zoning Commission	
What prompted you to apply? *	With the substantial growth occurring in the city I feel that my background and experience would benefit the city.	
Have you ever been employed by the City of Kyle? *	No	
Have you ever been employed by any other government body? *	No	
What experiences do you have that would be useful in the board or commission? *	I have over 15 years experience in community management and development. The last three years have been spent here in Texas working for Brookfield Residential.	
Do you possess any professional licenses? *	No	
If yes, please list any that would be applicable to the board or commission you are applying for.	This question was not answered.	
The City of Kyle is looking for people	With my experience and background in housing	Item # 8

that share and promote our TeamKyle Core Values of Knowledge, Yes-Attitude, Leading Edge and Employee Accountability. How will you apply these core values to your service to the city? \*

and commercial management and development I bring the knowledge. To me a Yes-Attitude means getting the job done by figuring out ways to get it done. I promote this with my employees. My motto is "yes if" not "no, because". As an executive being on the leading edge and holding employees accountable is a core responsibility. I would apply these core values by bringing that experience and background.

What other skills and/or experience would you like to add?

This question was not answered.

## Board Member Qualifications |

The following are qualifications to be able to service as a board or commission member in Kyle. Please check the box that applies:

Question	Answer	Disqualifier?
Legal Resident of the United States? *	Yes	
At least 18 years of age? *	Yes	
Have been a resident of the State of Texas and the city for at least 12 consecutive months or have significant presence in the community: *	Yes	
Are you currently delinquent on any indebtedness to the city? *	No-Not Delinquent	
Not currently a city employee: *	No-Not a City Employee	

## Ex Officio Member Qualifications |

Additionally if interested in Ex-Officio an individual shall not be eligible for appointment as an Ex Officio Member to a board unless the individual meets the following qualifications on the day prior to the date of appointment. Please check the box that applies:

Question	Answer	Disqualifier?
Currently a qualified voter of Hays County or contiguous counties: *	Yes	
Have been a resident of the State of Texas and the city or Hays County or contiguous county for at least 12 consecutive months or own or employed in a business in the community. *	Yes	

Signature

Date

Social Security Number

Date of Birth

Item # 8

Application Status History

No Application Status Update History

Application Note History

No Application Note History

Application Viewed History

Date	Time	User
08-Dec-2020	2:23:32 PM	Taylor Teis
14-Dec-2020	10:14:57 AM	Taylor Teis

Assigned to Screener History

No Assigned to Screener History

Application Email History

Date	Sender	Template Name
04-Dec-2020	System Generated	Thank You Email - Automatically Sent

Application Forward History

No Application Forward History

# Matthew S. Chase

355 Cibolo Creek Drive  
Kyle, Texas 78640

(562) 522-4695  
matthew.chase\_13@yahoo.com

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## SUMMARY

### Senior Management Executive

**Performance-driven** multifaceted leader and problem solver with over 15 years' experience in property management specifically for large scale homeowner associations ranging in size from 1,345 homes to 13,365 homes, by providing services like those customarily provided by municipalities, including management of park and recreations departments and community lifestyle personnel. Innovative and driven, focusing on maximizing results while running a lean operation focused on client experience.

**Highly skilled** in the execution of budgets and financial decision-making. Purposeful communicator comfortable speaking with everyone, from C-level Board Members to vendors.

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## SKILLS

### OPERATIONS MANAGEMENT

- Property Operation Strategist
- High Volume Unit Management
- Safety Compliance
- Site Tours and Inspections
- Vendor Management

### LEADERSHIP & COMMUNICATIONS

- Team Mentoring
- Relationship Building
- Technology Proficiency
- Project Management
- Staffing Solutions

### FINANCIAL & ADMINISTRATIVE

- Income Budgeting
- Expense Forecasting
- Accounts Payable/Receivable
- Analysis and Reporting
- Strong Negotiator

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## EXPERIENCE

### DMB Community Life, Austin, TX

#### Regional Vice President- Texas and Colorado

9/20 to Present

After successfully operating a management company within Brookfield, we decided to merge the company with DMB Community Life. In this new role, I provide executive leadership over both the Texas and Colorado divisions.

### Brookfield Residential Properties - Texas, Austin, TX

#### Director, HOA

07/2017 to 9/2020

Tasked with developing and managing homeowner associations for one of North America's largest land developers and home builders. Oversee \$20MM in annual budgets and executive leadership of a new property management and golf operations department for Brookfield Texas.

- Collaborated with developer attorney on the creation of association legal documents and incorporation
- Created a new department within the organization to allow the developer to manage their communities, saving \$250k per year in operating costs and generating net revenues of \$600k per year
- Developed a successful communication plan with the marketing department for a controversial sale of 134 homes to a single entity
- Participated in the design of new amenity centers for large scale communities totaling \$15MM in development and building costs
- Oversee five managers responsible for community management, lifestyle management, and architectural compliance within each community

**FirstService Residential California, Serrano El Dorado Hills Owners' Association, El Dorado Hills, CA**  
**Interim General Manager**

06/2016 to 07/2017

Association has a \$7MM Annual Operating Budget and \$3MM Annual Reserve Budget with 4,551 high-end market homes valued up to \$10MM with 12.5MM sq. ft. of open space management and 56 miles of roadway maintenance.

- Negotiated fiber installation to 21 gates and 90 cameras with provider paying for 75% of the installation, saving \$45k
- Developed a comprehensive staffing plan to meet the needs of the Association better
- Oversight of five department heads and indirect management of 32 staff members
- Successful defense of the Association in small claims actions brought against them
- Successfully negotiated \$300k lawsuit against the Association, reducing the claim by 90%

**FirstService Residential California, Trilogy at Glen Ivy, Corona, CA**  
**Assistant General Manager**

11/2014 to 06/2016

Collaborate alongside the Board of Directors to solve diverse issues within the active adult community. Oversee \$5MM annual operating budget and \$1MM annual reserve spending budget. Ensure smooth operation of Trilogy's 1,317-unit Association. Monitor monthly financial statements for accuracy and execute monthly Board of Director meetings. Elevate effectiveness of community through staff recruitment, performance reviews, and terminations as needed.

Sole manager of all significant construction projects, including a \$100k pool renovation, \$250k condo painting project, and a \$70k office renovation. Manage two department heads and indirectly manage 12 staff members.

- Effectively reduced budget while incurring no increase in monthly spending
- Negotiated five-year telecom contract which saved Association over \$60K
- Slashed cost of security within the community by \$5k per year without sacrificing effectiveness
- Accepted into the FirstService Residential Emerging Leaders program based on strong leadership abilities

**FirstService Residential California, SAMLARC, Rancho Santa Margarita, CA**  
**Finance Manager**

01/2013 to 11/2014

Excelled in a highly visible position entrusted with oversight of the residential community's financial affairs, including insurance contract renewals, tax returns, annual audits, monthly financial statements, and all relevant accounts.

Managed Association's delinquency and foreclosure process, which involved negotiating short sales with prospective buyers, current homeowners, and lenders. Organized Budget and Cash Flow Committees meetings, including drafting agendas, reports, and other pertinent data.

- Balanced client's budget to recoup \$250K in two years by trimming payroll and vendor expenses
- Created and managed a \$9MM yearly operating budget for a 13,645-unit association
- Oversight of \$6MM reserve and \$1.5MM annual spending budget
- Liaised with Board of Director's CFO to maintain the Association's financial strength
- Collaborated with Association Investment Advisor to ensure maximum annual interest earnings

**FirstService Residential California, SAMLARC, Rancho Santa Margarita, CA**  
**Parks & Facilities Operations Coordinator**

09/2006 to 01/2013

Ensured upkeep and continuous operation of Association facilities, including parks, pools, and fields. Interacted with residents, board members, and city staff, addressing any concerns regarding homes and common areas such as landscaping and maintenance. Managed Association's security officers, lifeguards, janitorial, and maintenance workers. Collaborated with community lifestyle team to plan events and manage logistics during community events.

- Negotiated service contracts with vendors to maximize service at advantageous rates

- Created RFPs for one time and ongoing service contracts within the community
- Evaluated and reviewed Association vendors using a scorecard grading system

**Disneyland Resort, Anaheim, CA**

**Operations Lead**

06/2002 to 09/2006

Ensured smooth running of daily attraction operations, performed store management for attractions, and served as the liaison between attractions and safety departments to ensure the highest safety level was in place at all times for guests.

- Enforced DOSH guidelines on all attractions at the resort, providing training as needed
- Created evacuation and daily safety procedures using State and Federal guidelines
- Resolved challenging guest situations and managed unplanned attraction downtime

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**EDUCATION**

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**Doctor of Business Administration**, Expected Graduation 2023, University of Phoenix

**Master of Public Administration**, Graduate, University of Phoenix

**Bachelor of Science**, Management, Graduate, University of Phoenix

**Associate of Arts**, Business, Graduate, University of Phoenix

**CMCA**, Community Association Managers International Certification Board, Current

**AMS**, Community Association Institute, Current



# CITY OF KYLE, TEXAS

## CIP/Road Projects Update

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

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

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

No Attachments Available



## CITY OF KYLE, TEXAS

Plum Creek Phase 1, Section 6F,  
Resub of Lot 3 (SUB-21-0166)

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Approve Plum Creek Phase 1, Section 6F, Resub of Lot 3 (SUB-21-0166) 2.4273 acres; 4 commercial lots for property located on the southwest corner of Kohler's Crossing and Benner Road. ~ *Howard J. Koontz, Director of Planning and Community Development*

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

**Other Information:** See attached.

**Legal Notes:** N/A

**Budget Information:** N/A

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### ATTACHMENTS:

#### **Description**

☐ Plat



LEGEND	
	PROPERTY LINE
	EXISTING PROPERTY LINES
	EXISTING EASEMENTS
	1/2" IRON ROD WITH "4WARD BOUNDARY" CAP SET
	1/2" IRON ROD FOUND (UNLESS NOTED)
	MAG NAIL WITH WASHER "BCG" FOUND UNLESS NOTED
	IRON ROD WITH "BCG" CAP FOUND UNLESS NOTED
	CALCULATED POINT
	SURVEY CONTROL POINT
P.U.E.	PUBLIC UTILITY EASEMENT
VOL./PG.	VOLUME, PAGE
DOC. NO.	DOCUMENT NUMBER
R.O.W.	RIGHT-OF-WAY
P.R.H.C.T.	PLAT RECORDS, HAYS COUNTY, TEXAS
O.P.R.H.C.T.	OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS
(.....)	RECORD INFORMATION PER PLAT VOL. 19, PG. 155-156
((.....))	RECORD INFORMATION PER PLAT VOL. 17, PG. 321-322

# RESUBDIVISION LOT 3, BLOCK "A", PLUM CREEK, PHASE I, SECTION 6F City of Kyle, Hays County, Texas

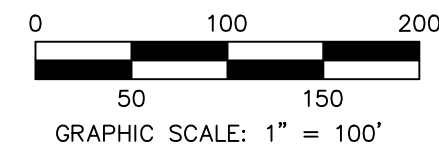
REMAINDER OF A  
CALLED 983.99 ACRES  
("TRACT 2")  
MOUNTAIN PLUM, LTD.  
VOL. 2297, PG. 139  
O.P.R.H.C.T.

JOHN COOPER  
SURVEY NO. 13  
ABSTRACT NO. 100

CALLED  
1.016 ACRES  
CITY OF KYLE  
VOL. 1415, PG 83  
O.P.R.H.C.T.

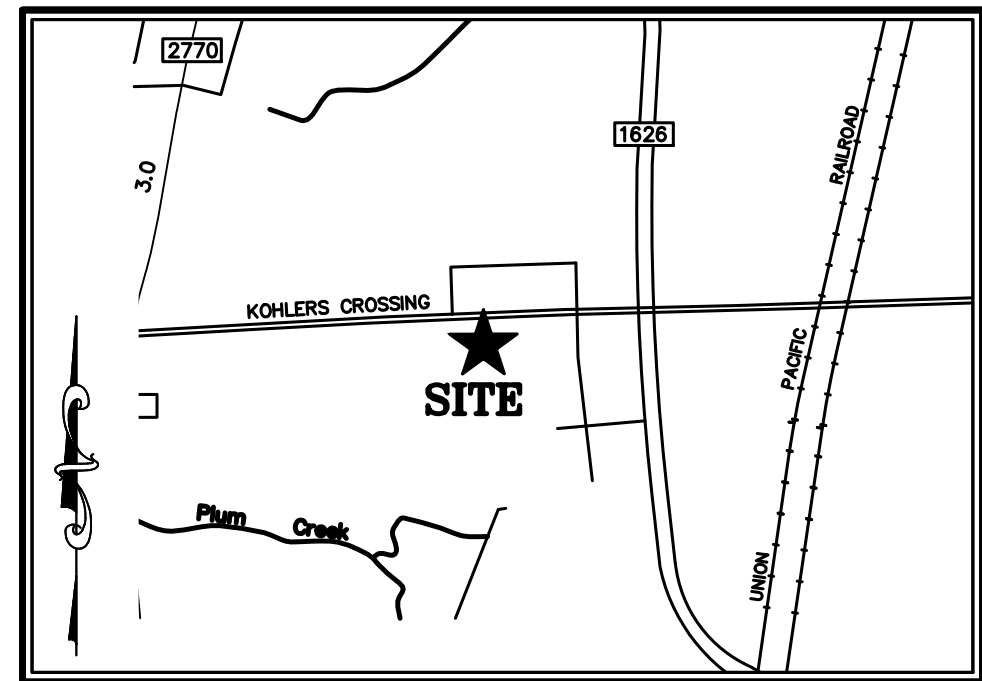
LOT 2  
BLOCK "A"  
PLUM CREEK  
SUBDIVISION  
PHASE II  
SECTION 1A  
CAB. 19 PG. 155-156  
P.R.H.C.T.

SURVEY CONTROL POINT  
GRID N: 13,923,135.09  
GRID E: 2,323,384.87  
ELEV.= 793.84'



LOT SUMMARY TABLE

LOT 3A -	0.5589 ACRES (24,347 SQ. FT.)
LOT 3B -	0.6971 ACRES (30,367 SQ. FT.)
LOT 3C -	0.3832 ACRES (16,694 SQ. FT.)
LOT 3D -	0.7881 ACRES (34,327 SQ. FT.)
TOTAL -	2.4273 ACRES (105,735 SQ. FT.)



VICINITY MAP

SCALE: 1" = 2000'

**BEARING BASIS:**  
ALL BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, GRID NORTH, SOUTH CENTRAL ZONE, (4204), NAD83, ALL DISTANCES WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.000101708356.

**SURVEY CONTROL:**  
CONTROL FOR THIS SURVEY IS BASED ON A 1/2" IRON ROD WITH "4WARD CONTROL" CAP SET, GRID COORDINATES (STATE PLANE TEXAS SOUTH CENTRAL - 4204) AND ELEVATIONS (NAVD88) SHOWN HEREON WERE COMPUTED FROM NGS O.P.U.S. SOLUTION REPORT DERIVED FROM 4WARD STATIC DATA COLLECTED OCTOBER 7, 2020.

**FLOODPLAIN NOTE:**  
THIS PROPERTY IS LOCATED WITHIN ZONE 'X'. AREAS OF MINIMAL FLOOD HAZARD, AS SHOWN ON F.I.R.M. MAP NO. 48209C0270F, HAYS COUNTY, TEXAS AND INCORPORATED AREAS, MAP REVISED SEPTEMBER 2, 2005.

THIS FLOOD STATEMENT DOES NOT IMPLY THAT THE PROPERTY AND/OR THE STRUCTURES THEREON WILL BE FREE FROM FLOODING OR FLOOD DAMAGE. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.

OWNERS: WOODBRIDGE ENTERPRISES, LLC  
ADDRESS: 4210 BENNER ROAD  
KYLE TEXAS, 78640  
PHONE: 512-298-1645

ACREAGE: 2.4273 ACRES

SURVEY: LOT 3, PLUM CREEK PHASE I, SECTION 6F

NUMBER OF LOTS AND PROPOSED USE: 4 COMMERCIAL LOTS

SURVEYOR: 4WARD LAND SURVEYING, LLC  
PHONE: 512-537-2384

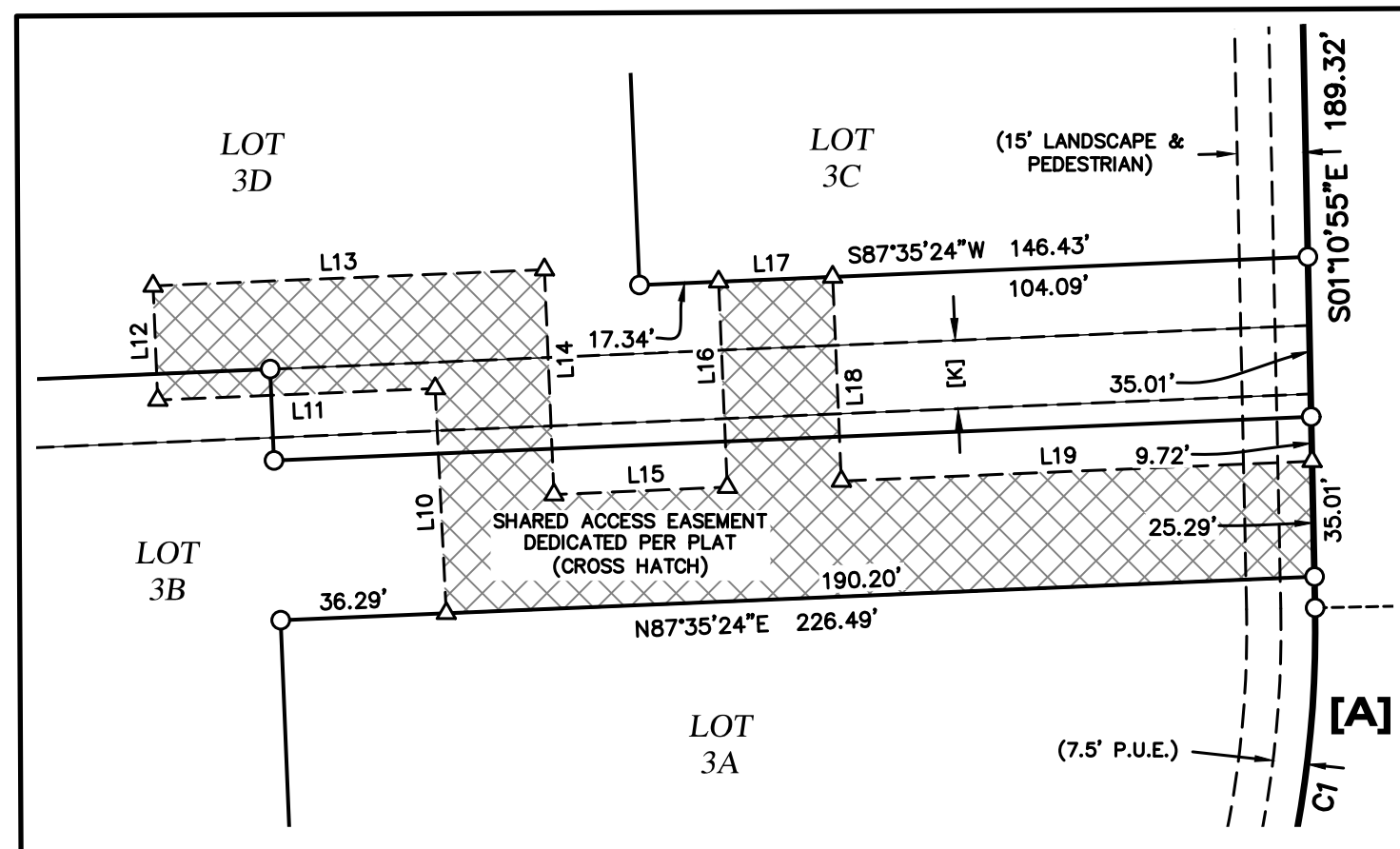
ENGINEER: MILLER GRAY, LLC  
PHONE: 512-861-5300

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N88°48'59"E	31.18'
L2	N02°22'59"W	20.00'
L3	N02°41'57"W	14.98'
L4	N88°48'56"E	70.00'
L5	N01°05'24"W	14.98'
L6	N88°40'18"E	69.76'
L7	N02°18'17"W	100.01'
L8	N87°41'43"E	2.25'
L9	S87°35'24"W	227.22'
L10	N02°49'43"W	49.26'
L11	S87°37'16"W	60.76'
L12	N02°23'48"W	25.00'
L13	N87°37'16"E	85.76'
L14	S02°24'24"E	49.28'
L15	N87°30'27"E	37.98'
L16	N02°25'40"W	44.99'
L17	N87°35'24"E	25.00'
L18	S02°25'37"E	44.72'
L19	N87°35'20"E	103.11'

CURVE TABLE					
CURVE #	RADIUS	LENGTH	DELTA	BEARING	DISTANCE
C1	240.00'	81.89'	19°32'56"	S08°35'35"W	81.49'
C2	25.00'	22.78'	52°12'28"	S44°28'42"W	22.00'
C3	59.50'	23.75'	22°52'03"	S59°09'14"W	23.59'
C4	59.50'	111.00'	106°53'22"	S05°42'30"E	95.59'

RECORD CURVE TABLE					
CURVE #	RADIUS	LENGTH	DELTA	BEARING	DISTANCE
(C1)	240.00'	81.89'	19°32'56"	S08°35'35"W	81.49'
((C1))	240.00'	81.89'	19°32'56"	S08°35'35"W	81.49'
(C2)	25.00'	22.79'	52°12'28"	S44°28'42"W	22.00'
((C2))	25.00'	22.79'	52°12'28"	S44°28'42"W	22.01'
(C3)	59.50'	23.75'	22°52'03"	S59°09'14"W	23.59'
(C4)	59.50'	110.96'	106°53'22"	S05°42'24"E	95.57'

RECORD LINE TABLE		
LINE #	DIRECTION	LENGTH
(L1)	N88°49'05"E	31.16'
((L1))	N88°49'05"E	31.32'
(L3)	N02°22'28"W	15.00'
((L4))	N88°49'05"E	70.00'
(L5)	N01°10'55"W	15.00'
(L6)	N88°49'05"E	70.00'
((L6))	N88°49'05"E	70.00'



[B]  
KOHLER'S CROSSING  
[C]  
APPROX. LIMIT  
OF SURVEY LINE  
LOT 2  
BLOCK A  
JESSE DAY SURVEY  
ABSTRACT NO. 152

[A]  
BENNER ROAD  
(70' R.O.W.)  
(VOL. 17, PG. 321-322)  
[B]  
KOHLER'S CROSSING  
COUNTY ROAD F.M. 171  
MOUNTAIN CITY ROAD  
(R.O.W. VARIES)

[C]  
CALLED 0.940 ACRES  
PARCEL NO. 1  
("TRACT 2")  
CITY OF KYLE  
VOL. 3218, PG. 860  
O.P.R.H.C.T.

[D]  
CALLED 1.252 ACRES  
PARCEL NO. 2  
("TRACT 1")  
CITY OF KYLE  
VOL. 3218, PG. 838  
O.P.R.H.C.T.

[E]  
CALLED 1.171 ACRES  
PARCEL NO. 3  
("TRACT 1")  
VOL. 3220, PG. 508  
O.P.R.H.C.T.

[F]  
CALLED 0.162 ACRES  
PARCEL NO. 3  
("TRACT 2")  
VOL. 3220, PG. 508  
O.P.R.H.C.T.

[G]  
LOT 4, BLOCK "A"  
PLUM CREEK SUBDIVISION  
LANDSCAPE & PEDESTRIAN  
EASEMENT  
PHASE I SECTION 6F  
CAB. 19 PG. 155  
P.R.H.C.T.

[H]  
CALLED 0.024 ACRES  
PLUM CREEK  
DEVELOPMENT  
PARTNERS LTD  
VOL. 2881, PG 599  
O.P.R.H.C.T.

[I]  
SIGN EASEMENT  
VOL. 19, PG. 156  
P.R.H.C.T.  
[J]  
LANDSCAPE EASEMENT  
VOL. 19, PG. 156  
P.R.H.C.T.  
[K]  
WATERLINE EASEMENT  
DOC. NO. 16014168  
[L]  
SHARED ACCESS EASEMENT  
DEDICATED PER PLAT  
(CROSS HATCH)  
SEE EASEMENT DETAIL

SHARED ACCESS  
EASEMENT DETAIL  
SCALE: 1" = 40'

Date:	2/9/2021
Project:	01097
Scale:	1" = 100'
Reviewer:	PRB
Tech:	ABW
Field Crew:	WC/JC
Survey Date:	SEP. 2020
Sheet:	1 OF 2

**4WARD**  
Land Surveying  
A Limited Liability Company  
PO Box 90876, Austin Texas 78709  
WWW.4WARDLS.COM (512) 537-2384  
TBPELS FIRM #10174300



RESUBDIVISION LOT 3, BLOCK "A", PLUM CREEK, PHASE I, SECTION 6F
City of Kyle, Hays County, Texas

STATE OF TEXAS §
CITY OF BUDA§
COUNTY OF HAYS §

KNOW ALL MEN BY THESE PRESENTS THAT ALAN SILBERG REPRESENTATIVE OF WOODBRIDGE ENTERPRISES LLC, OWNER OF LOT 3, PLUM CREEK PHASE 1, SECTION 6F, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CABINET 19, PAGES 155-156 OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS AND CONVEYED TO WOODBRIDGE ENTERPRISES LLC IN DOCUMENT NO. 16021202 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; DOES HEREBY SUBDIVIDE SAID LOT 3 ACCORDING WITH THE ATTACHED PLAT PURSUANT TO CHAPTER 212 OF THE TEXAS LOCAL GOVERNMENT CODE AND THE CITY OF KYLE CODE TO BE KNOWN AS:

RESUBDIVISION LOT 3, BLOCK "A", PLUM CREEK,
PHASE I, SECTION 6F

AND DOES HEREBY DEDICATE TO THE PUBLIC THE USE OF THE STREETS AND EASEMENTS SHOWN HEREON, SUBJECT TO ANY EASEMENTS AND/OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED.

WITNESS MY HAND, THIS THE \_\_\_\_ DAY OF \_\_\_\_, 20\_\_ A.D.

ALAN SILBERBERG
4210 BENNER ROAD
KYLE, TEXAS 78740

ALAN SILBERBERG
4210 BENNER ROAD
KYLE, TEXAS 78740

STATE OF TEXAS §
COUNTY OF HAYS §

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED ALAN SILBERBERG, REPRESENTATIVE KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT OF WRITING, AND SHE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

WITNESS MY HAND AND SEAL OF OFFICE, THIS THE \_\_\_\_ DAY OF \_\_\_\_, 20\_\_ A.D.

NOTARY PUBLIC FOR HARRIS COUNTY, TEXAS

ENGINEER CERTIFICATION:
STATE OF TEXAS §
COUNTY OF HAYS §

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

TRAVIS WILSON DATE
REGISTERED PROFESSIONAL ENGINEER NO. 97307
MILLER GRAY, LLC
TBPE FIRM NO. 16302
7320 N. MOPAC EXPRESSWAY
SUITE 203
AUSTIN, TEXAS 78731

SURVEYOR'S CERTIFICATION:
STATE OF TEXAS §
COUNTY OF HAYS §

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

PRELIMINARY. THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY
PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A
FINAL SURVEY DOCUMENT. FOR REVIEW PURPOSES ONLY.

JASON WARD, R.P.L.S. DATE
TEXAS REGISTRATION NO. 5811

GENERAL NOTES:

- 1) NO LOT IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO THE CITY OF KYLE WATER AND WASTEWATER SYSTEM.
- 2) WATER AND WASTEWATER SYSTEMS, INCLUDING METERS, SERVING THIS SUBDIVISION SHALL BE DESIGNED AND INSTALLED IN ACCORDANCE WITH THE CITY OF KYLE STANDARDS. PLANS AND SPECIFICATIONS SHALL BE SUBMITTED TO THE CITY OF KYLE UTILITY DEPARTMENT FOR REVIEW.
- 3) ALL STREETS, DRAINAGE, SIDEWALKS, WATER AND WASTEWATER LINES, AND EROSION CONTROLS SHALL BE CONSTRUCTED AND INSTALLED TO CITY OF KYLE STANDARDS.
- 4) NO BUILDING, FENCES, LANDSCAPING OR OTHER SUCH STRUCTURES ARE PERMITTED IN DRAINAGE EASEMENTS EXCEPT AS APPROVED BY CITY OF KYLE.
- 5) PROPERTY OWNERS SHALL PROVIDE FOR ACCESS TO DRAINAGE EASEMENTS AS MAY BE NECESSARY AND SHALL NOT PROHIBIT ACCESS BY GOVERNMENTAL AGENCY.
- 6) ALL DRAINAGE EASEMENTS ON PRIVATE PROPERTY SHALL BE MAINTAINED BY THE PROPERTY OWNER OR ASSIGNS.
- 7) BUILDING SETBACK LINES NOT SHOWN ON LOTS SHALL CONFORM WITH THE CITY OF KYLE ZONING ORDINANCES REQUIREMENTS.
- 8) THE OWNER OF THIS SUBDIVISION, AND OR HER SUCCESSORS AND ASSIGNS, ASSUMES RESPONSIBILITY FOR PLANS FOR CONSTRUCTION OF SUBDIVISION IMPROVEMENTS WHICH COMPLY WITH APPLICABLE CODES AND REQUIREMENTS OF THE CITY OF KYLE. THE OWNER UNDERSTANDS AND ACKNOWLEDGES THAT PLAT VACATION, REPLATTING AND/OR DEDICATION OF EASEMENTS BY SEPARATE INSTRUMENT MAY BE REQUIRED, AT THE OWNER'S SOLE EXPENSE, IF PLANS TO CONSTRUCT THIS SUBDIVISION DO NOT COMPLY WITH SUCH CODES AND REQUIREMENTS.
- 9) THE OWNER SHALL BE RESPONSIBLE FOR INSTALLATION OF TEMPORARY EROSION CONTROL, REVEGETATION AND TREE PROTECTION FOR ELECTRIC UTILITY WORK REQUIRED TO PROVIDE ELECTRIC SERVICE TO THIS PROJECT.
- 10) ANY ELECTRIC UTILITY ACTIVITY INSIDE THE SUBDIVISION SHALL BE INCLUDED UNDER THE DEVELOPMENT PERMIT. ELECTRIC SERVICE TO EACH LOT SHALL BE UNDERGROUND.
- 11) THE SUBDIVISION IS SERVED BY THE FOLLOWING UTILITIES:
WATER CITY OF KYLE
WASTEWATER CITY OF KYLE
ELECTRIC PEDERNALES ELECTRIC COMPANY
TELEPHONE VERIZON
- 12) ALL LOTS CONTAINED IN THIS SUBDIVISION AND USERS THEREOF, SHALL HAVE RECIPROCAL ACCESS FOR INGRESS AND EGRESS THROUGH ALL DRIVE LANES, FIRE LANES, AND DRIVEWAYS.
- 13) PRIOR TO CONSTRUCTION OF ANY IMPROVEMENTS ON LOTS IN THIS SUBDIVISION, SITE DEVELOPMENT PERMITS AND BUILDING PERMITS WILL BE OBTAINED FROM THE CITY OF KYLE.
- 14) REPAIRS TO SURFACE PAVING DUE TO MAINTENANCE AND/OR REPAIR OF CITY UTILITIES WITHIN PUBLIC UTILITY EASEMENTS INTERIOR TO LOTS SHALL BE THE RESPONSIBILITY OF THE LOT OWNER(S).
- 15) SIDEWALKS SHALL BE INSTALLED ON THE SUBDIVISION SIDE OF BENNER DRIVE AND KOHLER'S CROSSING.
- 16) TYPICAL LANDSCAPE MAINTENANCE, CUTTING AND TRIMMING, WITHIN THE SUBDIVISION, ALL EASEMENTS, DETENTION PONDS AND RIGHT-OF-WAYS TO THE PAVEMENT TO BE THE RESPONSIBILITY OF PROPERTY OWNERS/AND OR PROPERTY OWNERS ASSOCIATIONS.
- 18) SIDEWALKS, PEDESTRIAN CROSSINGS AND OTHER AMENITIES TO BE DEDICATED TO THE CITY OF KYLE SHALL MEET OR EXCEED ALL 2010 ADA STANDARDS OF ACCESSIBILITY DESIGN AND ALL CURRENT FEDERAL AND STATE LAWS REGARDING ACCESS FOR PEOPLE WITH DISABILITIES FOR TITLE II ENTITIES.
- 19) THIS PROPERTY IS LOCATED WITHIN THE HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT.
- 20) THE FULLY DEVELOPED, CONCENTRATED STORM WATER RUNOFF FOR THE 100 YEAR STORM AND THE 100 YEAR REGULATORY FLOODPLAIN SHALL BE CONTAINED WITHIN DRAINAGE EASEMENTS.
- 21) NO PORTION OF THIS SITE IS LOCATED WITHIN THE 100-YEAR FLOODPLAIN PER FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP PANEL NO. 48209C0270F, HAYS COUNTY, TEXAS DATED SEPTEMBER 2, 2005.
- 22) THE EMERGENCY SERVICES PROVIDER IS THE CITY OF KYLE FIRE DEPARTMENT, 150 BUNTON CREEK ROAD, KYLE, TEXAS 78640.
- 23) A SEVEN AND A HALF (7.5) FOOT PUE IS HEREBY DEDICATED ADJACENT TO ALL STREET ROW.

STATE OF TEXAS §
COUNTY OF HAYS §

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

DATED THIS \_\_\_\_ DAY OF \_\_\_\_, 20\_\_.

MICHELLE CHRISTIE, CHAIRPERSON

REVIEWED BY:
LEON BARBA, CITY ENGINEER

DATE

HARPER WILDER, DIRECTOR OF PUBLIC WORKS

DATE

STATE OF TEXAS §
COUNTY OF HAYS §

I, \_\_\_\_\_, THE CITY SECRETARY OF THE CITY OF KYLE, TEXAS, DO HEREBY CERTIFY THAT THE ABOVE FOREGOING PLAT OF RESUBDIVISION LOT 3, BLOCK "A", PLUM CREEK, PHASE I, SECTION 6F SUBDIVISION, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, ON

THE \_\_\_\_ DAY OF \_\_\_\_, 20\_\_ A.D.
SAID PLAT IS SUBJECT TO ALL REQUIREMENTS OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF KYLE, TEXAS. WITNESS MY HAND AND SEAL OF OFFICE, THIS THE

\_\_\_\_ DAY OF \_\_\_\_, 20\_\_ A.D.

CITY SECRETARY, CITY OF KYLE, TEXAS

STATE OF TEXAS §
COUNTY OF HAYS §

I, ELAINE H. CARDENAS, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT IN WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED

FOR RECORD IN MY OFFICE ON THE \_\_\_\_DAY OF \_\_\_\_, 20\_\_, AT \_\_\_\_O'CLOCK \_\_M.,
AND DULY RECORDED ON THE \_\_\_\_ DAY OF \_\_\_\_, 20\_\_ A.D., AT
\_\_\_\_O'CLOCK \_\_ M., IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS IN
VOLUME \_\_, PAGE \_\_.
WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY CLERK, THIS THE \_\_\_\_ DAY
OF \_\_\_\_, 20\_\_ A.D.

ELAINE H. CARDENAS, COUNTY CLERK
HAYS COUNTY, TEXAS

4WARD Land Surveying
A Limited Liability Company
PO Box 90876, Austin Texas 78709
WWW.4WARDLS.COM (512) 537-2384
TBPELS FIRM #10174300
Date: 2/9/2021
Project: 01097
Scale: 1" = 100'
Reviewer: PRB
Tech: ABW
Field Crew: WC/JC
Survey Date: SEP. 2020
Sheet: 2 OF 2



# CITY OF KYLE, TEXAS

## Plum Creek Phase 2, Section 2 - Preliminary Plan (SUB-20-0152)

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Approve Plum Creek Phase 2, Section 2 - Preliminary Plan (SUB-20-0152) 55.028 acres; 201 single family lots and 16 open space lots located within the 400 block of Kohler's Crossing. ~ *Howard J. Koontz, Director of Planning and Community Development*

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

**Other Information:** See attached.

**Legal Notes:** N/A

**Budget Information:** N/A

---

### ATTACHMENTS:

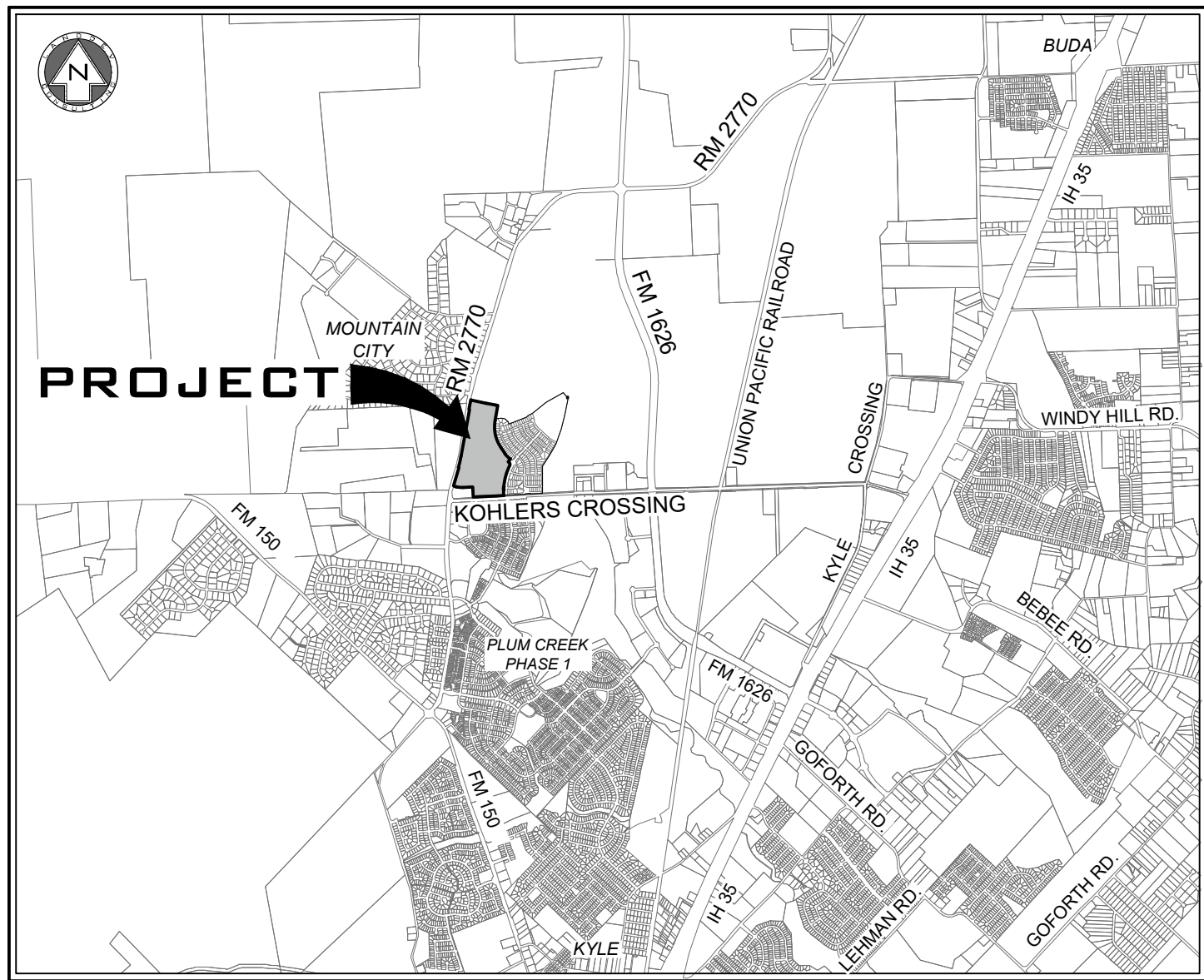
#### **Description**

☐ Preliminary Plan



PRELIMINARY PLAT  
FOR  
PLUM CREEK PHASE 2  
SECTION 2

KYLE, HAYS COUNTY, TEXAS



LOCATION MAP  
N.T.S.

THE PROPERTY OWNED BY LENNAR IN PLUM CREEK PHASE 2, IS BOUND BY ORDINANCE NO. 311 AND ADDENDUM NUMBER FIVE TO THE AGREEMENT BETWEEN THE CITY OF KYLE, PLUM CREEK DEVELOPMENT PARTNERS, LTD., AND WILLIAM NEGLEY, TRUSTEE, FOR DEVELOPMENT AND ANNEXATION OF PHASE 1 OF THE PLUM CREEK RANCH PROPERTY.

BENCHMARKS:

BENCHMARK: NAVD 88 - OPUS

BM#1: SQUARE CUT FOUND ON THE TOP OF A CONCRETE INLET, ALONG THE SOUTH LINE OF KOHLERS CROSSING, APPROXIMATELY 50' WEST OF THE INTERSECTION OF KOHLERS CROSSING AND POWELL LANE, AND APPROXIMATELY 625' EAST OF THE INTERSECTION OF KOHLERS CROSSING AND COUNTY ROAD 2770 (JACK C. HAYS TRAIL).  
ELEVATION = 797.12'

BM#2: SQUARE CUT FOUND ON THE TOP OF A CONCRETE HEADWALL ALONG THE NORTH LINE OF KOHLERS CROSSING, APPROXIMATELY 1260' WEST OF THE INTERSECTION OF KOHLERS CROSSING AND BENNER ROAD, AND APPROXIMATELY 2050' EAST OF THE INTERSECTION OF KOHLERS CROSSING AND COUNTY ROAD 2770 (JACK C. HAYS TRAIL).  
ELEVATION = 773.96'

BM#12: SET MAG NAIL WITH WASHER ON SOUTHWEST CORNER OF DRAINAGE STRUCTURE LOCATED APPROXIMATELY 1086 FEET NORTH OF KOHLERS CROSSING CENTERLINE AND APPROXIMATELY 49 FEET EAST OF JACK C HAYS TRAIL (R.M. 2770) CENTERLINE.  
ELEVATION=823.08'

BM#13: SET MAG NAIL WITH WASHER ON NORTHWEST CORNER OF DRAINAGE STRUCTURE LOCATED APPROXIMATELY 1806 FEET NORTH OF KOHLERS CROSSING CENTERLINE AND APPROXIMATELY 47 FEET EAST OF JACK C HAYS TRAIL (R.M. 2770) CENTERLINE.  
ELEVATION=823.64'

FLOOD NOTE:

A PORTION OF THIS TRACT LIES WITHIN ZONE "A" (1% ANNUAL CHANCE FLOOD, 100-YEAR FLOOD, NO BASE FLOOD ELEVATIONS DETERMINED), AND A PORTION LIES WITHIN ZONE "X" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN), AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, NATIONAL FLOOD INSURANCE PROGRAM, AS SHOWN ON MAP NO. 48209C0270F, DATED SEPTEMBER 2, 2005.

OWNER: LENNAR  
ADDRESS: 12401 RESEARCH BLVD., BUILDING 1 - SUITE 300  
AUSTIN, TEXAS 78759  
CONTACT: CHASE KOHLHOFF 512 964-5344  
ACREAGE: 55.028 ACRES  
SURVEY: M.M. McCARVER SURVEY No. 4, A-10  
NUMBER OF LOTS AND PROPOSED USE (IF MORE THAN ONE USE IS PLANNED FOR THE LOTS, PROVIDE LAND USE SUMMARY SHOWING # OF LOTS PLANNED FOR EACH USE) : 217 TOTAL LOTS (201 SINGLE FAMILY, 16 OPEN SPACE LOTS)  
SURVEYOR: LANDDEV CONSULTING, LLC.  
PHONE: 512 672-6696 CONTACT: ERNESTO NAVARRETE, R.P.L.S.  
ENGINEER: LANDDEV CONSULTING, LLC  
PHONE: 512 872-6696 CONTACT: SHERVIN NOOSHIN, P.E.  
PROJECT ZONING: PLUM CREEK R-2

OWNER / DEVELOPER:

**LENNAR**

12401 RESEARCH BLVD. BLDG. 1 - SUITE 300  
AUSTIN, TEXAS 78759  
512 964-5344  
CONTACT: CHASE KOHLHOFF

SURVEYOR / ENGINEER:

**LANDDEV**  
CONSULTING, LLC  
5508 HIGHWAY 290 WEST, SUITE 150  
AUSTIN, TX 78735  
OFFICE: 512.872.6696  
FIRM NO. 16364 / 10194101

SHEET INDEX

Sheet Number	Sheet Title
1	COVER SHEET
2	EXISTING CONDITIONS
3	STREET PLAN
4	PRELIMINARY PLAT A
5	PRELIMINARY PLAT B
6	EXISTING DRAINAGE PLAN
7	PROPOSED DRAINAGE PLAN
8	STORM SEWER PLAN A
9	STORM SEWER PLAN B
10	WATER & WASTEWATER PLAN A
11	WATER & WASTEWATER PLAN B

ALL RESPONSIBILITY FOR THE ADEQUACY OF THESE PLANS REMAINS WITH THE ENGINEER WHO PREPARED THEM. IN REVIEWING THESE PLANS. THE CITY MUST RELY ON THE ADEQUACY OF THE WORK OF THE DESIGN ENGINEER.

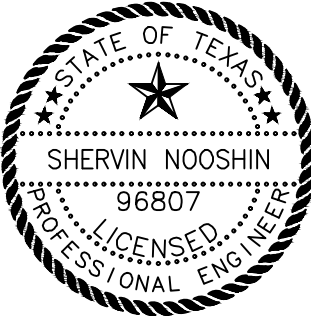
THE MAJORITY OF THE PROPERTY IS LOCATED WITHIN ZONE "X", AREAS DETERMINED TO BE OUTSIDE THE 100-YEAR FLOODPLAIN, AS SHOWN ON THE FEMA FLOOD INSURANCE RATE MAP PANEL NO. 48209C0270F, EFFECTIVE SEPTEMBER 02, 2005. A SMALL PORTION IS LOCATED WITHIN ZONE 'A', AREAS DETERMINED TO BE WITHIN THE 100 YEAR FLOODPLAIN.

*Shervin Nooshin*

02/10/2021

SHERVIN NOOSHIN, P.E. (TX P.E. #96807)

LANDDEV CONSULTING LLC  
5508 HIGHWAY 290 WEST, SUITE 150  
AUSTIN, TEXAS 78735  
512.872.6696



REVIEWED:

LEON BARBA, P.E. CITY OF KYLE ENGINEER

HARPER WILDER, DIRECTOR OF PUBLIC WORKS

APPROVED BY:

MICHELE CHRISTIE  
MADAM CHAIRPERSON, PLANNING & ZONING COMMISSION

DATE

COVER SHEET

PRELIMINARY PLAT  
PLUM CREEK PHASE 2  
SECTION 2  
KYLE, HAYS COUNTY, TEXAS

DESIGNED BY: SN

DRAWN BY: KAS

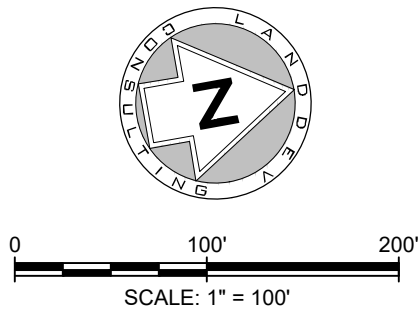
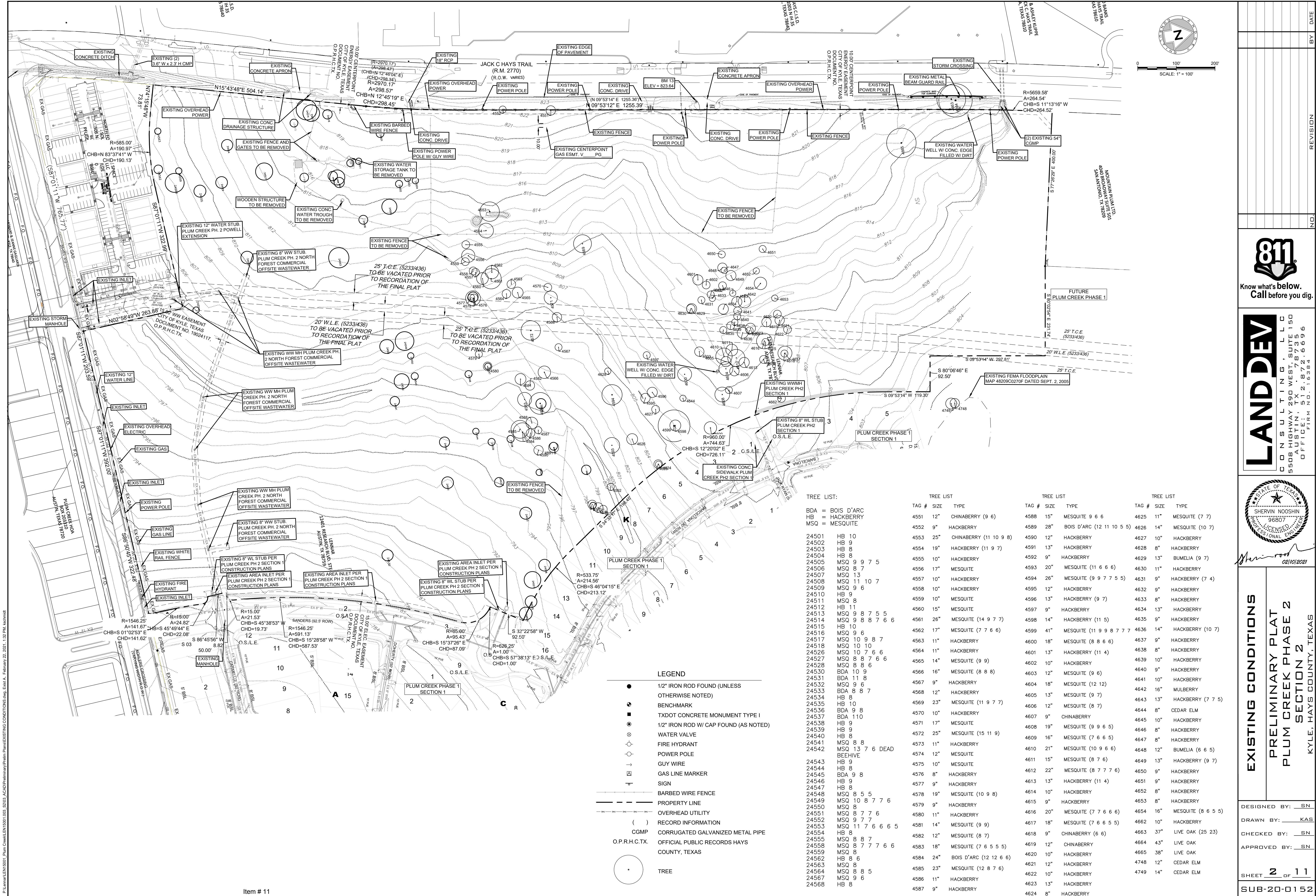
CHECKED BY: SN

APPROVED BY: SN

SHEET 1 OF 11

SUB-20-0152





- LEGEND**
- 1/2" IRON ROD FOUND (UNLESS OTHERWISE NOTED)
  - ⊙ BENCHMARK
  - ⊙ 1/2" IRON ROD W/ CAP FOUND (AS NOTED)
  - ⊙ WATER VALVE
  - ⊙ FIRE HYDRANT
  - ⊙ POWER POLE
  - ⊙ GUY WIRE
  - ⊙ GAS LINE MARKER
  - ⊙ SIGN
  - BARBED WIRE FENCE
  - PROPERTY LINE
  - OVERHEAD UTILITY
  - ( ) RECORD INFORMATION
  - CORRUGATED GALVANIZED METAL PIPE
  - OFFICIAL PUBLIC RECORDS HAYS COUNTY, TEXAS
  - TREE

**TREE LIST:**

BDA = BOIS D'ARC	
HB = HACKBERRY	
MSQ = MESQUITE	
24501 HB 10	
24502 HB 9	
24503 HB 8	
24504 HB 8	
24505 MSQ 9 9 7 5	
24506 MSQ 8 7	
24507 MSQ 13	
24508 MSQ 11 10 7	
24509 MSQ 9 6	
24510 HB 9	
24511 MSQ 8	
24512 HB 11	
24513 MSQ 9 8 7 5 5	
24514 MSQ 9 8 8 7 6 6	
24515 HB 10	
24516 MSQ 9 6	
24517 MSQ 10 9 8 7	
24518 MSQ 10 10	
24526 MSQ 10 7 6 6	
24527 MSQ 8 8 7 6 6	
24528 MSQ 8 8 6	
24530 BDA 10 9	
24531 BDA 11 8	
24532 MSQ 9 6	
24533 BDA 8 8 7	
24534 HB 8	
24535 HB 10	
24536 BDA 9 8	
24537 BDA 110	
24538 HB 9	
24539 HB 8	
24540 HB 8	
24541 MSQ 8 8	
24542 MSQ 13 7 6 DEAD BEEHIVE	
24543 HB 9	
24544 HB 8	
24545 BDA 9 8	
24546 HB 9	
24547 HB 8	
24548 MSQ 8 5 5	
24549 MSQ 10 8 7 7 6	
24550 MSQ 8	
24551 MSQ 8 7 7 6	
24552 MSQ 9 7 7	
24553 MSQ 11 7 6 6 6 5	
24554 HB 8	
24555 MSQ 8 8 7	
24558 MSQ 8 7 7 7 6 6	
24559 MSQ 8	
24562 HB 8 6	
24563 MSQ 8	
24564 MSQ 8 8 5	
24567 MSQ 9 6	
24568 HB 8	

**TREE LIST**

TAG #	SIZE	TYPE
4551	12"	CHINABERRY (9 6)
4552	9"	HACKBERRY
4553	25"	CHINABERRY (11 10 9 8)
4554	19"	HACKBERRY (11 9 7)
4555	10"	HACKBERRY
4556	17"	MESQUITE
4557	10"	HACKBERRY
4558	10"	HACKBERRY
4559	10"	MESQUITE
4560	15"	MESQUITE
4561	26"	MESQUITE (14 9 7 7)
4562	17"	MESQUITE (7 7 6 6)
4563	11"	HACKBERRY
4564	11"	HACKBERRY
4565	14"	MESQUITE (9 9)
4566	16"	MESQUITE (8 8 8)
4567	9"	HACKBERRY
4568	12"	HACKBERRY
4569	23"	MESQUITE (11 9 7 7)
4570	10"	HACKBERRY
4571	17"	MESQUITE
4572	25"	MESQUITE (15 11 9)
4573	11"	HACKBERRY
4574	12"	MESQUITE
4575	10"	MESQUITE
4576	8"	HACKBERRY
4577	9"	HACKBERRY
4578	19"	MESQUITE (10 9 8)
4579	9"	HACKBERRY
4580	11"	HACKBERRY
4581	14"	MESQUITE (9 9)
4582	12"	MESQUITE (8 7)
4583	18"	MESQUITE (7 6 5 5)
4584	24"	BOIS D'ARC (12 12 6 6)
4585	23"	MESQUITE (12 8 7 6)
4586	11"	HACKBERRY
4587	9"	HACKBERRY

**TREE LIST**

TAG #	SIZE	TYPE
4588	15"	MESQUITE 9 6 6
4589	28"	BOIS D'ARC (12 11 10 5 5)
4590	12"	HACKBERRY
4591	13"	HACKBERRY
4592	9"	HACKBERRY
4593	20"	MESQUITE (11 6 6 6)
4594	26"	MESQUITE (9 9 7 7 5 5)
4595	12"	HACKBERRY
4596	13"	HACKBERRY (9 7)
4597	9"	HACKBERRY
4598	14"	HACKBERRY (11 5)
4599	41"	MESQUITE (11 9 8 7 7 7)
4600	18"	MESQUITE (8 8 6 6)
4601	13"	HACKBERRY (11 4)
4602	10"	HACKBERRY
4603	12"	MESQUITE (9 6)
4604	18"	MESQUITE (12 12)
4605	13"	MESQUITE (9 7)
4606	12"	MESQUITE (8 7)
4607	9"	CHINABERRY
4608	19"	MESQUITE (9 9 6 5)
4609	16"	MESQUITE (7 6 6 5)
4610	21"	MESQUITE (10 9 6 6)
4611	15"	MESQUITE (8 7 6)
4612	22"	MESQUITE (8 7 7 6)
4613	13"	HACKBERRY (11 4)
4614	10"	HACKBERRY
4615	9"	HACKBERRY
4616	20"	MESQUITE (7 7 6 6 6)
4617	18"	MESQUITE (7 6 6 5 5)
4618	9"	CHINABERRY (6 6)
4619	12"	CHINABERRY
4620	10"	HACKBERRY
4621	12"	HACKBERRY
4622	10"	HACKBERRY
4623	13"	HACKBERRY
4624	8"	HACKBERRY

**TREE LIST**

TAG #	SIZE	TYPE
4625	11"	MESQUITE (7 7)
4626	14"	MESQUITE (10 7)
4627	10"	HACKBERRY
4628	8"	HACKBERRY
4629	13"	BUMELIA (9 7)
4630	11"	HACKBERRY
4631	9"	HACKBERRY (7 4)
4632	9"	HACKBERRY
4633	8"	HACKBERRY
4634	13"	HACKBERRY
4635	9"	HACKBERRY
4636	14"	HACKBERRY (10 7)
4637	9"	HACKBERRY
4638	8"	HACKBERRY
4639	10"	HACKBERRY
4640	9"	HACKBERRY
4641	10"	HACKBERRY
4642	16"	MULBERRY
4643	13"	HACKBERRY (7 7 5)
4644	8"	CEDAR ELM
4645	10"	HACKBERRY
4646	8"	HACKBERRY
4647	8"	HACKBERRY
4648	12"	BUMELIA (6 6 5)
4649	13"	HACKBERRY (9 7)
4650	9"	HACKBERRY
4651	9"	HACKBERRY
4652	8"	HACKBERRY
4653	8"	HACKBERRY
4654	16"	MESQUITE (8 6 5 5)
4662	10"	HACKBERRY
4663	37"	LIVE OAK (25 23)
4664	43"	LIVE OAK
4665	38"	LIVE OAK
4748	12"	CEDAR ELM
4749	14"	CEDAR ELM

811

Know what's below.  
Call before you dig.

LAND DEV

CONULTING, LLC  
5508 HIGHWAY 290 WEST, SUITE 150  
AUSTIN, TX 78735  
OFFICE: 512.872.6696  
FIRM NO. 16364

EXISTING CONDITIONS

PRELIMINARY PLAT  
PLUM CREEK PHASE 2  
SECTION 2

KYLE, HAYS COUNTY, TEXAS

DESIGNED BY: SN

DRAWN BY: KAS

CHECKED BY: SN

APPROVED BY: SN

SHEET 2 OF 11

SUB-20-0152

BY

DATE

REVISION

NO.

P:\Lamas\LEN15001\_Plum Creek\LEN15001\_003\_S203\_CADD\Plum Creek\Plum Creek\EXISTING CONDITIONS.dwg, E:\A\A February 22, 2021, 1:32 PM, kschmitt











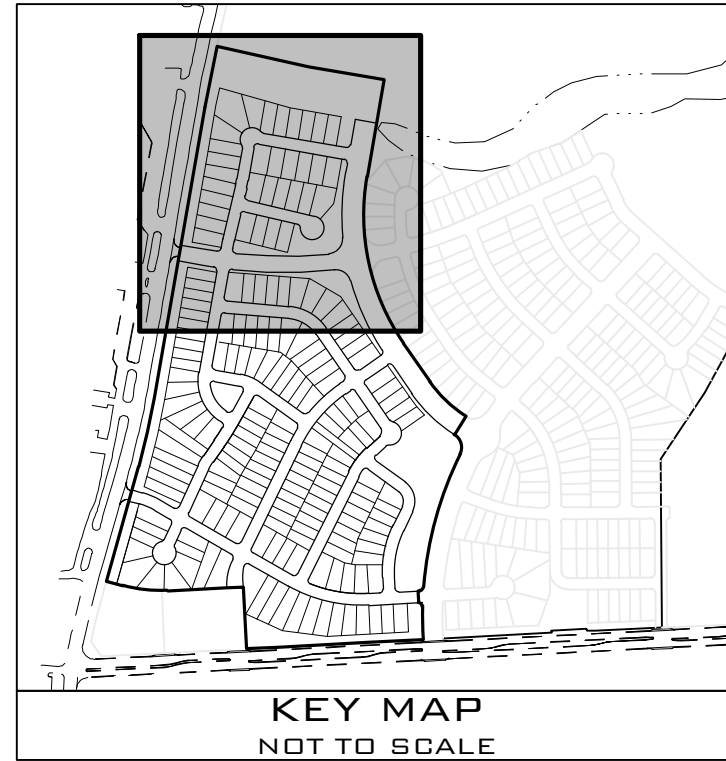
P:\Lennar\LEN15001\_Plum Creek\LEN15001\_003\_S203\_LCAD\Plum Creek\Plum Creek\PRELIMINARY PLAT.dwg, February 22, 2021, 1:34 PM, kschmidt

HAYS C.I.S.D.  
21003 N IH 35  
KYLE, TEXAS 78640

DAVID & ASHLEY KLIPPE  
4640 JACK C. HAYS TRAIL  
BUDA, TEXAS 78610

MOUNTAIN PLUM LTD.  
4040 BROADWAY SUITE 501  
SAN ANTONIO, TX 78209

LENNAR  
12401 RESEARCH BLVD. STE 300  
AUSTIN, TX 78759  
UNDER CONSTRUCTION



0 60' 120'  
SCALE: 1" = 60'

#### LEGEND

- PLUM CREEK NORTH PHASE 2
- X X EXISTING FENCE
- E EXISTING ELECTRIC LINE EXISTING
- POWER POLE
- 1/2" IRON PIN SET
- ..... SIDEWALK LOCATION
- 100 YR. FEMA FLOODPLAIN
- O.S. OPEN SPACE
- D.E. DRAINAGE EASEMENT
- P.U.E. PUBLIC UTILITY EASEMENT
- S.T.R. STREET TREE RESERVE
- L.E. LANDSCAPE EASEMENT
- PED PEDESTRIAN EASEMENT

#### PRELIMINARY PLAT NOTES

- TOTAL ACREAGE: 67.697 ACRES.
- PLAT COMPLETELY CONFORMS WITH PLUM CREEK P.U.D. ORDINANCE 311, PLUM CREEK SUBDIVISION ORDINANCE 308 AND ADDENDUM NO. 5.
- ALL OPEN SPACE / PARK / DRAINAGE EASEMENT LOTS, PEDESTRIAN EASEMENTS AND ALL LANDSCAPE EASEMENT AREAS SHOWN ON THIS PLAT SHALL BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION (HOA). IT SHALL BE THE HOA'S RESPONSIBILITY FOR KEEPING SAID LOTS, AND LANDSCAPE AND PEDESTRIAN EASEMENT AREAS NEATLY CUT, FREE OF DEBRIS AND FREE OF ALL TREE / BRUSH GROWTH.
- A 7.5 FOOT PUBLIC UTILITY EASEMENT ADJACENT TO AND PARALLEL WITH ALL LOCAL RESIDENTIAL PUBLIC STREETS SHALL BE DEDICATED AS SHOWN AND IDENTIFIED ON THE PRELIMINARY PLAT.
- DRIVEWAYS FOR LOTS 1 THROUGH 4 BLOCK A AND LOTS 20 THROUGH 25 BLOCK A SHALL CONNECT ONLY TO THE INTERNAL PLATTED ROAD AND NOT DIRECTLY TO KOHLERS CROSSING. DRIVEWAY ACCESS TO ALL LOTS FROM SIDE STREETS IS PROHIBITED UNLESS AUTHORIZED PER ADDENDUM NO. 5.
- 'NO PARKING' SIGNS TO BE INSTALLED ON ONE SIDE OF THE 28' F-LOCAL RESIDENTIAL STREETS.
- PUBLIC UTILITY INFORMATION:

- WATER: CITY OF KYLE  
100 W. CENTER STREET  
KYLE, TEXAS 78640
- WASTEWATER: CITY OF KYLE  
100 W. CENTER STREET  
KYLE, TEXAS 78640
- ELECTRIC: PEDERNALES ELECTRIC COOP  
1810 FM 150 WEST  
KYLE, TEXAS 78640
- GAS: CENTERPOINT ENERGY  
326 CHEATHAM STREET  
SAN MARCOS, TEXAS 78666
- TELEPHONE: FRONTIER COMMUNICATIONS  
6601 FM 3237  
WIMBERLEY, TEXAS 78746

#### PLUM CREEK PHASE 2 - SECTION 2

CURVE TABLE					
NUMBER	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C15	30.12'	500.00'	3.451°	S11° 42' 53"W	30.11'
C16	163.25'	185.00'	50.559°	S59° 50' 04"E	158.00'
C17	779.15'	1004.50'	44.442°	S12° 20' 02"E	759.76'
C18	29.85'	500.00'	3.420°	S11° 43' 49"W	29.84'
C19	701.78'	2005.00'	20.054°	N89° 51' 36"E	698.20'
C20	61.08'	70.00'	49.995°	N51° 33' 44"W	59.16'
C21	65.09'	41.50'	89.867°	S54° 57' 14"W	58.62'

PRELIMINARY PLAT B  
PRELIMINARY PLAT  
PLUM CREEK PHASE 2  
SECTION 2  
KYLE, HAYS COUNTY, TEXAS

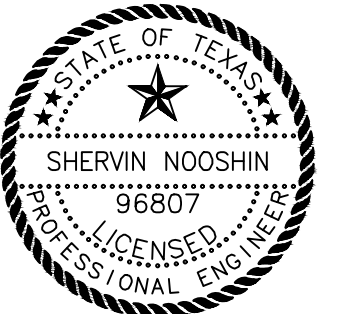
DESIGNED BY: SN  
DRAWN BY: KAS  
CHECKED BY: SN  
APPROVED BY: SN

SHEET 5 OF 11

SUB-20-0152

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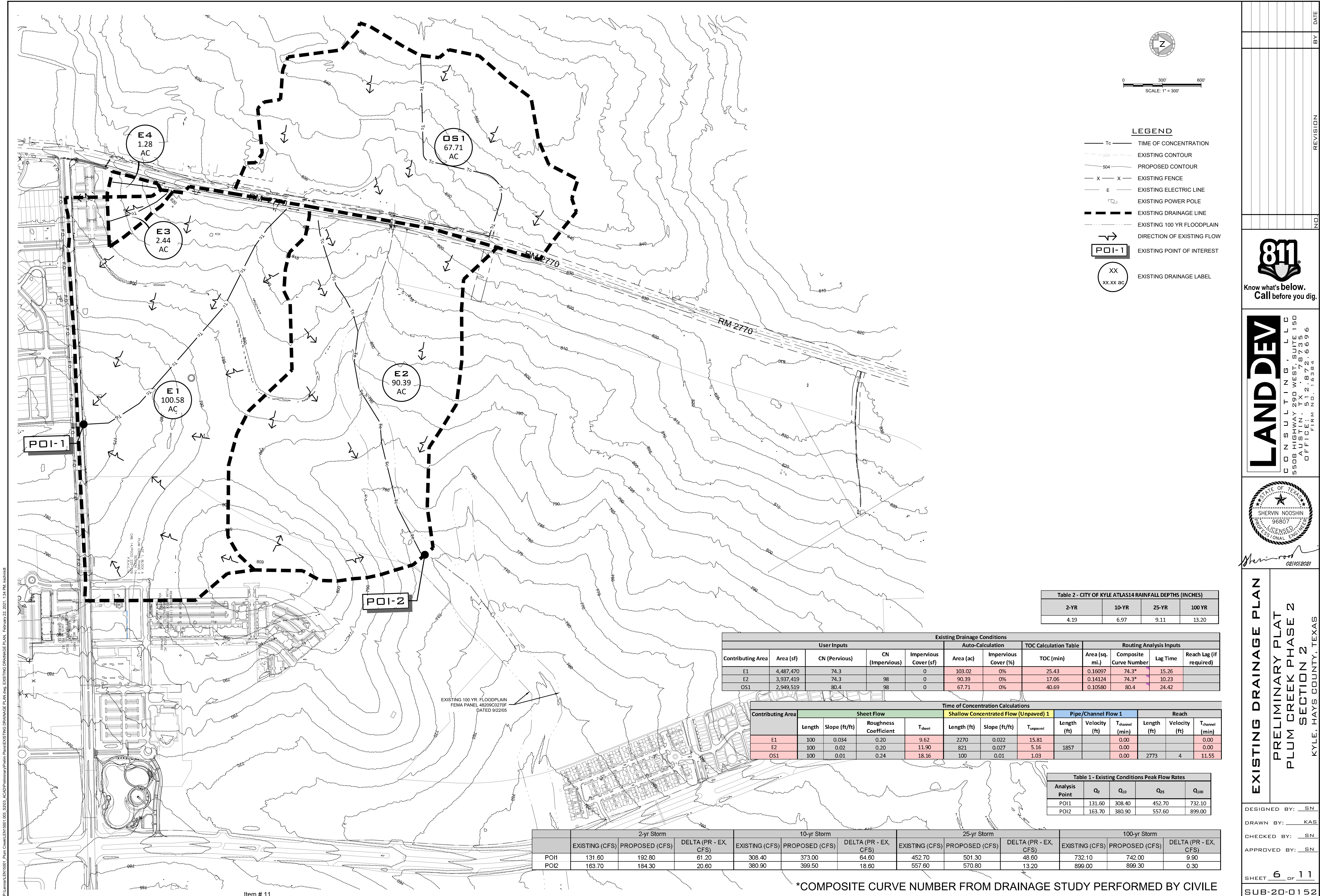
LAND DEV  
C O N S U L T I N G , L L C  
5508 HIGHWAY 290 WEST, SUITE 150  
AUSTIN, TX 78735  
OFFICE: 512.872.6696  
FIRM NO. 16364



02/10/2021



P:\Lenn\LEN000\_Plum Creek\LEN000\_000\_S200\_000\_Preliminary\Plum Creek\EXISTING DRAINAGE PLAN.dwg EXISTING DRAINAGE PLAN February 22, 2021 1:34 PM kstarnad



**LEGEND**

- Tc TIME OF CONCENTRATION
- EXISTING CONTOUR
- PROPOSED CONTOUR
- X EXISTING FENCE
- E EXISTING ELECTRIC LINE
- EXISTING POWER POLE
- EXISTING DRAINAGE LINE
- EXISTING 100 YR FLOODPLAIN
- DIRECTION OF EXISTING FLOW
- POI-1 EXISTING POINT OF INTEREST
- XX EXISTING DRAINAGE LABEL

Table 2 - CITY OF KYLE ATLAS14 RAINFALL DEPTHS (INCHES)

2-YR	10-YR	25-YR	100 YR
4.19	6.97	9.11	13.20

Existing Drainage Conditions											
User Inputs				Auto-Calculation		TOC Calculation Table	Routing Analysis Inputs				
Contributing Area	Area (sf)	CN (Pervious)	CN (Impervious)	Impervious Cover (sf)	Area (ac)	Impervious Cover (%)	TOC (min)	Area (sq. mi.)	Composite Curve Number	Lag Time	Reach Lag (if required)
E1	4,487,470	74.3		0	103.02	0%	25.43	0.16097	74.3*	15.26	
E2	3,937,419	74.3	98	0	90.39	0%	17.06	0.14124	74.3*	10.23	
OS1	2,949,519	80.4	98	0	67.71	0%	40.69	0.10580	80.4	24.42	

Contributing Area	Time of Concentration Calculations												
	Sheet Flow				Shallow Concentrated Flow (Unpaved) 1			Pipe/Channel Flow 1			Reach		
	Length	Slope (ft/ft)	Roughness Coefficient	T <sub>sheet</sub>	Length (ft)	Slope (ft/ft)	T <sub>Unpaved</sub>	Length (ft)	Velocity (ft)	T <sub>channel (min)</sub>	Length (ft)	Velocity (ft)	T <sub>channel (min)</sub>
E1	100	0.034	0.20	9.62	2270	0.022	15.81			0.00			0.00
E2	100	0.02	0.20	11.90	821	0.027	5.16	1857		0.00			0.00
OS1	100	0.01	0.24	18.16	100	0.01	1.03			0.00	2773	4	11.55

Table 1 - Existing Conditions Peak Flow Rates

Analysis Point	Q <sub>2</sub>	Q <sub>10</sub>	Q <sub>25</sub>	Q <sub>100</sub>
POI1	131.60	308.40	452.70	732.10
POI2	163.70	380.90	557.60	899.00

	2-yr Storm			10-yr Storm			25-yr Storm			100-yr Storm		
	EXISTING (CFS)	PROPOSED (CFS)	DELTA (PR - EX, CFS)	EXISTING (CFS)	PROPOSED (CFS)	DELTA (PR - EX, CFS)	EXISTING (CFS)	PROPOSED (CFS)	DELTA (PR - EX, CFS)	EXISTING (CFS)	PROPOSED (CFS)	DELTA (PR - EX, CFS)
POI1	131.60	192.80	61.20	308.40	373.00	64.60	452.70	501.30	48.60	732.10	742.00	9.90
POI2	163.70	184.30	20.60	380.90	399.50	18.60	557.60	570.80	13.20	899.00	899.30	0.30

\*COMPOSITE CURVE NUMBER FROM DRAINAGE STUDY PERFORMED BY CIVILE

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5508 HIGHWAY 290 WEST, SUITE 150  
AUSTIN, TX 78735  
OFFICE: 512.872.6696  
FIRM NO. 16364

STATE OF TEXAS  
SHERVIN NOOSHIN  
96807  
LICENSED PROFESSIONAL ENGINEER

*Sherwin Nooshin*  
02/10/2021

EXISTING DRAINAGE PLAN

PRELIMINARY PLAT  
PLUM CREEK PHASE 2  
SECTION 2

KYLE, HAYS COUNTY, TEXAS

DESIGNED BY: SN  
DRAWN BY: KAS  
CHECKED BY: SN  
APPROVED BY: SN

SHEET 6 OF 11  
SUB-20-0152

REVISION  
NO.  
BY  
DATE





**LEGEND**

- EXISTING CONTOUR
- PROPOSED CONTOUR
- FLOW ARROW
- SWALE
- TIME OF CONCENTRATION
- PROPOSED DRAINAGE BOUNDARY
- STORM DRAIN LINE
- POINT OF INTEREST
- DRAINAGE AREA LABEL

POI  
PXX  
X.XX AC.

Table 2 - CITY OF KYLE ATLAS14 RAINFALL DEPTHS (INCHES)

2-YR	10-YR	25-YR	100 YR
4.19	6.97	9.11	13.20

User Inputs					Auto-Calculation		TOC Calculation Table		Routing Analysis Inputs			
Contributing Area	Area (sf)	CN (Pervious)	CN (Impervious)	Impervious Cover (sf)	Area (ac)	Impervious Cover (%)	TOC (min)	Area (sq. mi.)	Composite Curve Number	Lag Time	Reach Lag (if required)	
P1	2,079,144	74.3	98	1,240,910	47.73	60%	20.74	0.07458	88.4	12.44	0.00	
P2	660,228	74.3	98	401,979	15.16	61%	17.75	0.02368	88.7	10.65	3.10	
P3	3,219,466	74.3	98	307,212	73.91	10%	21.43	0.11548	76.6	12.86	0.00	
P4	794,476	74.3	98	343,718	18.24	43%	17.51	0.02850	84.6	10.51	2.86	
P5	1,032,028	74.3	98	20,517	23.69	2%	30.27	0.03702	74.8	18.16	1.23	
OS1	2,949,519	74.3	98	0	67.71	0%	40.69	0.10580	80.4*	24.42	11.55	
P6	659,925	74.3	98	378,414	15.15	57%	20.98	0.02367	87.9	12.59	1.93	

Contributing Area	Sheet Flow				Shallow Concentrated Flow (Unpaved)			Shallow Concentrated Flow (Paved)			Pipe/Channel Flow 1			Pipe/Channel Flow 2			Reach		
	Length	Slope (ft/ft)	Roughness Coefficient	T <sub>sheet</sub>	Length (ft)	Slope (ft/ft)	T <sub>unpaved</sub>	Length (ft)	Slope (ft/ft)	T <sub>paved</sub>	Length (ft)	Velocity (ft)	T <sub>channel</sub> (min)	Length (ft)	Velocity (ft)	T <sub>channel</sub> (min)	Length (ft)	Velocity (ft)	T <sub>channel</sub> (min)
P1	100	0.015	0.24	15.44	25	0.011	0.24	270	0.03	1.28	1358	6	3.77			0.00			0.00
P2	71	0.020	0.24	10.46	125	0.020	0.91			0.00	1179	6	3.28			0.00	1116	6	3.10
P3	100	0.024	0.2	11.06	230	0.01	2.38			0.00	1021	6	2.84	1857	6	5.16			0.00
P4	71	0.020	0.24	10.46	125	0.020	0.91			0.00	1179	6	3.28			0.00	1030	6	2.86
P5	100	0.005	0.2	20.71	1325	0.027	8.33			0.00			0.00			0.00	441	6	1.23
OS1	100	0.01	0.24	18.16	100	0.01	1.03			0.00	2387	4	9.95			0.00	2773	4	11.55
P6	100	0.02	0.24	13.76	200	0.02	1.46			0.00	1377	6	3.83			0.00	695	6	1.93

Table 2 - Proposed Conditions Peak Flow Rates

Analysis Point	Q <sub>2</sub>	Q <sub>10</sub>	Q <sub>25</sub>	Q <sub>100</sub>
POI1	192.8	373.00	501.30	742.00
POI2	184.3	399.5	570.8	899.3

	2-yr Storm			10-yr Storm			25-yr Storm			100-yr Storm		
	EXISTING (CFS)	PROPOSED (CFS)	DELTA (PR - EX, CFS)	EXISTING (CFS)	PROPOSED (CFS)	DELTA (PR - EX, CFS)	EXISTING (CFS)	PROPOSED (CFS)	DELTA (PR - EX, CFS)	EXISTING (CFS)	PROPOSED (CFS)	DELTA (PR - EX, CFS)
POI1	131.60	192.80	61.20	308.40	373.00	64.60	452.70	501.30	48.60	732.10	742.00	9.90
POI2	163.70	184.30	20.60	380.90	399.50	18.60	557.80	570.80	13.20	899.00	899.30	0.30

\*COMPOSITE CURVE NUMBER FROM DRAINAGE STUDY PERFORMED BY CIVILE

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AUSTIN, TX 78735  
OFFICE: 512.872.6696  
FIRM NO. 16364

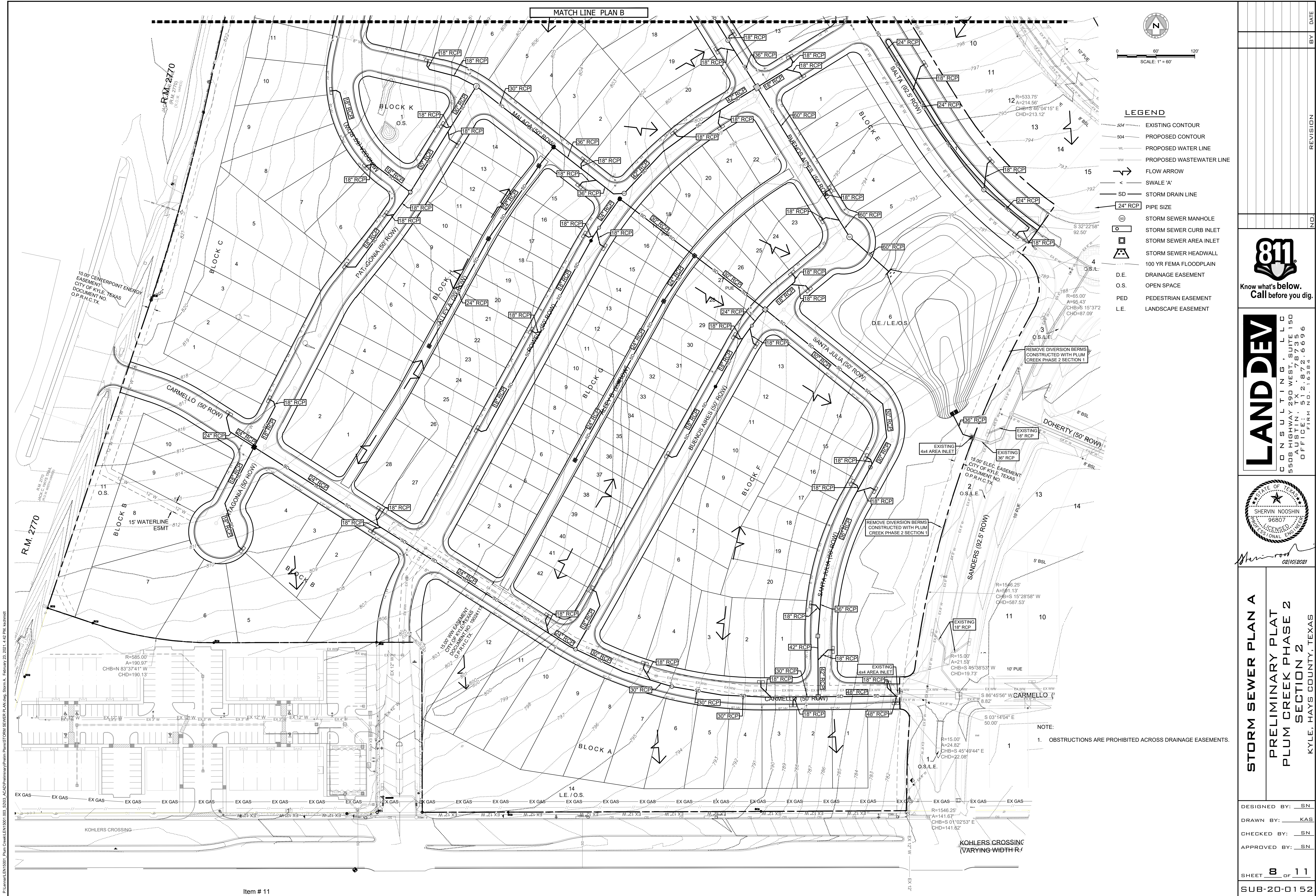
Shervin Nooshin  
02/10/2021

**PROPOSED DRAINAGE PLAN**  
**PRELIMINARY PLAT**  
**PLUM CREEK PHASE 2**  
**SECTION 2**  
KYLE, HAYS COUNTY, TEXAS

DESIGNED BY: SN  
DRAWN BY: KAS  
CHECKED BY: SN  
APPROVED BY: SN  
SHEET 7 OF 11  
SUB-20-0152

REVISION  
BY  
DATE





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FIRM NO. 163864

STATE OF TEXAS  
SHERVIN NOOSHIN  
96807  
LICENSED PROFESSIONAL ENGINEER

*Sherwin Nooshin*  
02/10/2021

STORM SEWER PLAN A

PRELIMINARY PLAT  
PLUM CREEK PHASE 2  
SECTION 2  
KYLE, HAYS COUNTY, TEXAS

DESIGNED BY: SN

DRAWN BY: KAS

CHECKED BY: SN

APPROVED BY: SN

SHEET 8 OF 11

SUB-20-0152



DAVID & ASHLEY KLIPPE  
4640 JACK C. HAYS TRAIL  
BUDA, TEXAS 78610

HAYS C.I.S.D.  
21003 N IH 35  
KYLE, TEXAS 78640

R=5659.58'  
A=264.54'  
CHB=S 11°13'16" W  
CHD=264.52'

S 77°26'29" E 400.00'

S 80°02'54" E 231.74'



0 60' 120'  
SCALE: 1" = 60'

LEGEND

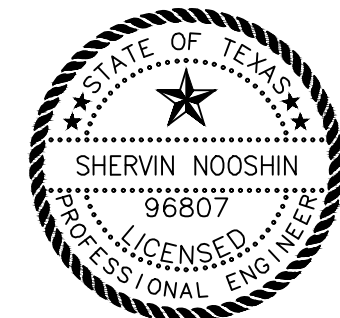
- EXISTING CONTOUR
- 504 PROPOSED CONTOUR
- WL PROPOSED WATER LINE
- WW PROPOSED WASTEWATER LINE
- FLOW ARROW
- SWALE 'A'
- SD STORM DRAIN LINE
- 24" RCP PIPE SIZE
- STORM SEWER MANHOLE
- STORM SEWER CURB INLET
- STORM SEWER AREA INLET
- STORM SEWER HEADWALL
- 100 YR FEMA FLOODPLAIN
- D.E. DRAINAGE EASEMENT
- O.S. OPEN SPACE
- PED PEDESTRIAN EASEMENT
- L.E. LANDSCAPE EASEMENT

NOTE:

- OBSTRUCTIONS ARE PROHIBITED ACROSS DRAINAGE EASEMENTS.



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02/10/2021

**STORM SEWER PLAN B**  
**PRELIMINARY PLAT**  
**PLUM CREEK PHASE 2**  
**SECTION 2**  
KYLE, HAYS COUNTY, TEXAS

DESIGNED BY: SN  
DRAWN BY: KAS  
CHECKED BY: SN  
APPROVED BY: SN

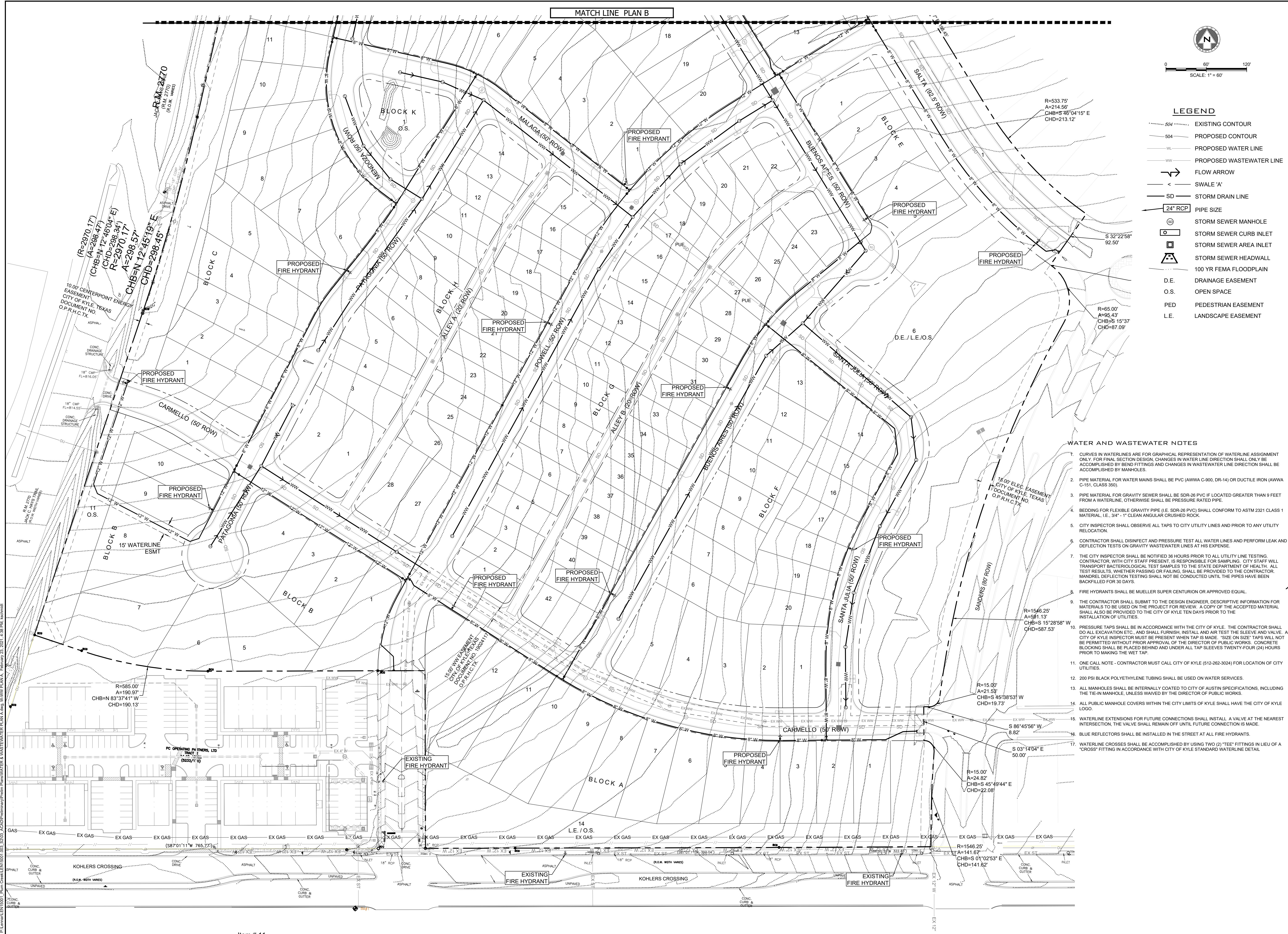
SHEET 9 OF 11

SUB-20-0152

P:\Lennar\LEN15001\_Plum Creek\LEN15001\_003\_S203\_LCAD\Primar\Plum Plumb\STORM SEWER PLAN.dwg, Storm B, February 22, 2021, 1:37 PM, kscmidt



P:\Lumina\ENR\16001\_Plum Creek\ENR\16001\_003\_S203\_ACD\PlumCreek\PlumCreekWater & Wastewater Plan A.dwg, M:\DWG\PLAN A, February 29, 2021, 4:38 PM, bshind



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FIRM NO. 16364

STATE OF TEXAS  
SHERVIN NOOSHIN  
96807  
LICENSED PROFESSIONAL ENGINEER

*Sherwin Nooshin*  
02/10/2021

**WATER & WASTEWATER**  
**PLAN A**  
**PRELIMINARY PLAT**  
**PLUM CREEK PHASE 2**  
**SECTION 2**  
KYLE, HAYS COUNTY, TEXAS

DESIGNED BY: SN  
DRAWN BY: KAS  
CHECKED BY: SN  
APPROVED BY: SN

SHEET **10** OF **11**  
SUB-20-0152



P:\Lennar\LEN15001\_Plum Creek\LEN15001.003\_S203\_LCAD\Primary\Plum Phase\Water & Wastewater Plan A.dwg, W-WW PLAN B, February 22, 2021, 1:38 PM, lachrist



FUTURE  
PLUM CREEK PHASE 1

LEGEND

- EXISTING CONTOUR
- PROPOSED CONTOUR
- PROPOSED WATER LINE
- PROPOSED WASTEWATER LINE
- FLOW ARROW
- SWALE 'A'
- STORM DRAIN LINE
- PIPE SIZE
- STORM SEWER MANHOLE
- STORM SEWER CURB INLET
- STORM SEWER AREA INLET
- STORM SEWER HEADWALL
- 100 YR FEMA FLOODPLAIN
- D.E. DRAINAGE EASEMENT
- O.S. OPEN SPACE
- PED PEDESTRIAN EASEMENT
- L.E. LANDSCAPE EASEMENT

WATER AND WASTEWATER NOTES

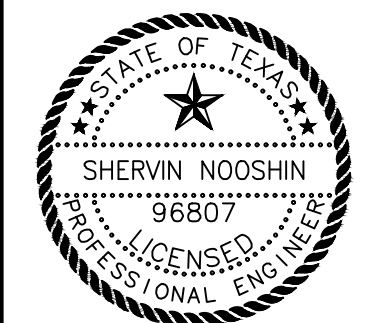
- CURVES IN WATERLINES ARE FOR GRAPHICAL REPRESENTATION OF WATERLINE ASSIGNMENT ONLY. FOR FINAL SECTION DESIGN, CHANGES IN WATER LINE DIRECTION SHALL ONLY BE ACCOMPLISHED BY BEND FITTINGS AND CHANGES IN WASTEWATER LINE DIRECTION SHALL BE ACCOMPLISHED BY MANHOLES.
- PIPE MATERIAL FOR WATER MAINS SHALL BE PVC (AWWA C-900, DR-14) OR DUCTILE IRON (AWWA C-151, CLASS 350).
- PIPE MATERIAL FOR GRAVITY SEWER SHALL BE SDR-26 PVC IF LOCATED GREATER THAN 9 FEET FROM A WATERLINE, OTHERWISE SHALL BE PRESSURE RATED PIPE.
- BEDDING FOR FLEXIBLE GRAVITY PIPE (I.E. SDR-26 PVC) SHALL CONFORM TO ASTM 2321 CLASS 1 MATERIAL, I.E., 3/4" - 1" CLEAN ANGULAR CRUSHED ROCK.
- CITY INSPECTOR SHALL OBSERVE ALL TAPS TO CITY UTILITY LINES AND PRIOR TO ANY UTILITY RELOCATION.
- CONTRACTOR SHALL DISINFECT AND PRESSURE TEST ALL WATER LINES AND PERFORM LEAK AND DEFLECTION TESTS ON GRAVITY WASTEWATER LINES AT HIS EXPENSE.
- THE CITY INSPECTOR SHALL BE NOTIFIED 36 HOURS PRIOR TO ALL UTILITY LINE TESTING. CONTRACTOR, WITH CITY STAFF PRESENT, IS RESPONSIBLE FOR SAMPLING. CITY STAFF WILL TRANSPORT BACTERIOLOGICAL TEST SAMPLES TO THE STATE DEPARTMENT OF HEALTH. ALL TEST RESULTS, WHETHER PASSING OR FAILING, SHALL BE PROVIDED TO THE CONTRACTOR. MANDREL DEFLECTION TESTING SHALL NOT BE CONDUCTED UNTIL THE PIPES HAVE BEEN BACKFILLED FOR 30 DAYS.
- FIRE HYDRANTS SHALL BE MUELLER SUPER CENTURION OR APPROVED EQUAL.
- THE CONTRACTOR SHALL SUBMIT TO THE DESIGN ENGINEER, DESCRIPTIVE INFORMATION FOR MATERIALS TO BE USED ON THE PROJECT FOR REVIEW. A COPY OF THE ACCEPTED MATERIAL SHALL ALSO BE PROVIDED TO THE CITY OF KYLE TEN DAYS PRIOR TO THE INSTALLATION OF UTILITIES.
- PRESSURE TAPS SHALL BE IN ACCORDANCE WITH THE CITY OF KYLE. THE CONTRACTOR SHALL DO ALL EXCAVATION ETC., AND SHALL FURNISH, INSTALL AND AIR TEST THE SLEEVE AND VALVE. A CITY OF KYLE INSPECTOR MUST BE PRESENT WHEN TAP IS MADE. "SIZE ON SIZE" TAPS WILL NOT BE PERMITTED WITHOUT PRIOR APPROVAL OF THE DIRECTOR OF PUBLIC WORKS. CONCRETE BLOCKING SHALL BE PLACED BEHIND AND UNDER ALL TAP SLEEVES TWENTY-FOUR (24) HOURS PRIOR TO MAKING THE WET TAP.
- ONE CALL NOTE - CONTRACTOR MUST CALL CITY OF KYLE (512-262-3024) FOR LOCATION OF CITY UTILITIES.
- 200 PSI BLACK POLYETHYLENE TUBING SHALL BE USED ON WATER SERVICES.
- ALL MANHOLES SHALL BE INTERNALLY COATED TO CITY OF AUSTIN SPECIFICATIONS, INCLUDING THE TIE-IN MANHOLE, UNLESS WAIVED BY THE DIRECTOR OF PUBLIC WORKS.
- ALL PUBLIC MANHOLE COVERS WITHIN THE CITY LIMITS OF KYLE SHALL HAVE THE CITY OF KYLE LOGO.
- WATERLINE EXTENSIONS FOR FUTURE CONNECTIONS SHALL INSTALL A VALVE AT THE NEAREST INTERSECTION, THE VALVE SHALL REMAIN OFF UNTIL FUTURE CONNECTION IS MADE.
- BLUE REFLECTORS SHALL BE INSTALLED IN THE STREET AT ALL FIRE HYDRANTS.
- WATERLINE CROSSES SHALL BE ACCOMPLISHED BY USING TWO (2) "TEE" FITTINGS IN LIEU OF A "CROSS" FITTING IN ACCORDANCE WITH CITY OF KYLE STANDARD WATERLINE DETAIL.



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AUSTIN, TX 78735  
OFFICE: 512.872.6696  
FIRM NO. 16364



02/10/2021

WATER & WASTEWATER  
PLAN B

PRELIMINARY PLAT  
PLUM CREEK PHASE 2  
SECTION 2  
KYLE, HAYS COUNTY, TEXAS

DESIGNED BY: SN  
DRAWN BY: KAS  
CHECKED BY: SN  
APPROVED BY: SN

SHEET 11 OF 11  
SUB-20-0152





# CITY OF KYLE, TEXAS

## LCRA PW Equipment

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Authorize award and execution of a Purchase Order to LCRA, Dallas TX, in an amount not to exceed \$17,718.63 for the purchase and installation of vehicles radios, mobile radios, and misc. associated equipment for the Public Works Department. ~ *Julie Crookston, Assistant Director Public Works*

### **Other Information:**

### **Legal Notes:**

**Budget Information:** Funding in the amount of \$17,718.63 is available in the FY 2020-2021 approved budget of the Public Works Department.

---

### **ATTACHMENTS:**

#### **Description**

- ☐ 20181120\_Signed\_Interlocal\_City\_of\_Kyle-LCRA
- ☐ 20201\_03 LCRA Quote

**INTERLOCAL COOPERATION AGREEMENT  
FOR MOBILE RADIO SERVICES AND EQUIPMENT  
BETWEEN CITY OF KYLE, TEXAS  
AND LOWER COLORADO RIVER AUTHORITY**

This Interlocal Cooperation Agreement ("**Agreement**") is entered into by and between, as Parties, the Lower Colorado River Authority ("**LCRA**"), a local government, being a conservation and reclamation district of the State of Texas created pursuant to Article XVI, Section 59, of the Texas Constitution, and City of Kyle, Texas ("**USER**"), a municipality and a political subdivision of the State of Texas, pursuant to the authority granted and in compliance with the provisions of the Texas Interlocal Cooperation Act (Chapter 791, Texas Government Code) to be effective for all purposes as of November 20, 2018 (the "**Effective Date**"). (LCRA and USER may also be referred to herein individually as a "**Party**" and collectively as the "**Parties.**")

**RECITALS**

WHEREAS, LCRA is authorized by law to own, operate and maintain electric generation and transmission facilities for the benefit of its customers and the general public;

WHEREAS, LCRA's electric system includes a communications network, including a regional, trunked radio system ("**Trunked Radio System**"), which has been installed for LCRA's use within LCRA's service area for purposes of communications to support its statutory purposes and in conjunction with providing electric power and energy in Texas, public safety, and emergency services;

WHEREAS, LCRA is authorized by law to license peace officers for the protection of property and the general public and the enforcement of state law and LCRA's rules and regulations;

WHEREAS, LCRA holds certain frequency licenses from the Federal Communications Commission ("**FCC**") for operation of the Trunked Radio System by dispatchable mobile radio services for public safety and business purposes and pursuant to statutes and applicable FCC rules enabling LCRA to provide community assistance and economic development;

WHEREAS, USER is authorized by law to provide public services, including law enforcement transportation services, and emergency services;

WHEREAS, the Trunked Radio System has the current capacity to serve the needs of LCRA and others requiring a Trunked Radio System for public safety, local government purposes, and other purposes in compliance with applicable FCC statutes, rules, and licenses and to provide a key communications link between public safety entities throughout the central Texas region;



WHEREAS, USER and LCRA wish to establish this Agreement allowing LCRA to provide communications equipment, facilities, and technical services required for the installation and operation, of dispatchable mobile radio equipment, as more specifically set out herein, to assist USER with deploying and maintaining radio communications for public safety operations, interlocal response to catastrophic or large-scale incidents or natural disasters, and radio communications coordination support for local, state, tribal, and federal agencies in the State;

WHEREAS, it would be a benefit to USER to receive Trunked Radio System service on a non-profit, cost-shared basis without investing the substantial capital cost required for a completely separate infrastructure and by sharing the cost of the existing and planned Trunked Radio System;

WHEREAS, LCRA has secured FCC radio licenses and, under Section 90.179 of the FCC's rules, (47 C.F.R. § 90.179), is able to share stations in order to serve eligible users throughout its electric, transmission, and water service territory; and

WHEREAS, the Parties are authorized to enter into this Agreement under Chapter 791 of the Texas Government Code, commonly referred to as the Interlocal Cooperation Act, and more particularly Section 791.025, Texas Government Code.

## **AGREEMENT**

NOW THEREFORE, in consideration of the mutual benefits received by both Parties and the public under the terms of this Agreement, the receipt of which is hereby acknowledged, the Parties agree as follows:

### **1. ACCEPTANCE; USER'S ACCESS TO TRUNKED RADIO SYSTEM**

1.1 This Agreement, including Attachments A and B, is a contract for the LCRA to provide services and equipment to USER when accepted in writing by an authorized representative of USER. It is agreed that the provision of services is made only on the terms and conditions herein. LCRA shall not be bound by the terms and conditions in USER's purchase order or elsewhere unless expressly agreed to in writing. In the absence of written acceptance of these terms, acceptance of services hereunder shall constitute an acceptance of these terms and conditions by USER.

1.2 Access to the Trunked Radio System consists of USER's right to use certain facilities and capabilities of the Trunked Radio System, as described in the Attachments, in consideration for USER's payment of the monthly service and usage fees as set out in the Radio System Pricing Schedule and Participant Information Sheet (Attachment A). Only the features and capabilities selected by USER shall be enabled. Changes or modifications to services provided hereunder may require modification of system parameters, which will be subject to additional service charges as set forth in the

Installation and Maintenance Price Sheet (Attachment B). Upon the Effective Date of this Agreement, USER's equipment will be activated following: (i) registration of the LCRA-authorized identification numbers of each USER unit, and (ii) LCRA's certification of the equipment installation and operator training.

1.3 USER expressly understands that LCRA, as an FCC licensee, will supervise USER's activities pursuant to this Agreement, and that LCRA will retain control over all aspects of the operation of the Trunked Radio System, as required of a licensee under the FCC's rules and regulations. USER expressly acknowledges that all shared transmitters must be subject to LCRA's control.

## **2. SERVICES; COST-SHARED BASIS**

2.1 USER may select from the menu of telecommunications services offered by LCRA which are set forth on the Radio System Pricing Schedule and Participant Information Sheet (Attachment A). The Radio System Pricing Schedule and Participant Information Sheet may be amended from time to time upon mutual agreement of the Parties provided that such amendments are in writing and signed by authorized representatives of USER and LCRA. USER agrees to pay for the services and features indicated on the Radio System Pricing Schedule and Participant Information Sheet and other attachments to this Agreement, including any optional features as set forth in Section 2.3 below, on a non-profit, cost-shared basis in accordance with Section 90.179 of the rules of the FCC, 47 C.F.R § 90.179. USER shall be billed in accordance with Section 3 of this Agreement.

2.2 All service fees to be paid to LCRA are intended to recover a portion of the operation and maintenance expenses and capital expenditures associated with the Trunked Radio System. Included within the expenditures shall be appropriate reserves for future expenditures on and improvements to the Trunked Radio System.

2.3 In addition to basic services, LCRA is able to procure equipment and provide installation, maintenance, and related services under this Agreement; such services shall be performed either by LCRA's personnel or through independent contractors hired by LCRA. If USER selects such services, the services will be noted on the Participant Information Sheet. The cost of equipment User has agreed to purchase shall be set forth in the respective proposal sent by LCRA to USER. .

## **3. SERVICE RATES, CHARGES AND TERMS**

3.1 LCRA shall provide the services selected by USER on the Radio System Pricing Schedule and Participant Information Sheet at the rates and charges shown on LCRA Mobile Radio Service Rate Table (Attachment A). The Radio System Pricing Schedule and Participant Information Sheet shall include: (i) USER's monthly basic service fee for use of the Trunked Radio System; (ii) rates and charges for optional services; and (iii) airtime charges.

3.2 It is agreed that LCRA may at any time revise the fees and rates included in the Radio System Pricing Schedule and Participant Information Sheet (Attachment A) by giving USER written notice of the amount of increase at least sixty (60) days in advance of the date on which the increased fees are to become effective. However, for the Initial Term of service, Service Level/Coverage Area costs for basic service in effect on the Effective Date of this Agreement shall not be increased except by mutual agreement of the Parties.

3.3 All rates, charges, and fees for services and equipment provided under this Agreement shall be paid by USER monthly. LCRA will invoice USER monthly or as agreed between the parties. Failure of LCRA to send or for USER to receive an invoice shall not relieve USER from payment of any fees due. The monthly basic service fee associated with USER's access to the system, periodic equipment maintenance, monthly usage charges, and charges for optional services shall be invoiced at the end of each monthly billing cycle. Late payments shall be subject to interest or reasonable service charges. Payment for equipment purchased or installed shall be due within 30 days after invoiced. The User acknowledges that any payments made under this Agreement are made from current revenues available to it as required by the Interlocal Cooperation Act.

#### **4. MAINTENANCE OF USER EQUIPMENT**

4.1 FCC regulations and proper operation and maintenance of the Trunked Radio System require periodic equipment testing for certain components of the Trunked Radio System. USER agrees to allow LCRA access to USER's equipment for frequency and channel maintenance checks of Trunked Radio System units at any reasonable time and place as requested by LCRA. USER shall pay LCRA for such maintenance in accordance with the Telecom Installation and Maintenance Price Sheet (Attachment B). At USER's option, USER shall have the right to engage other maintenance suppliers, subject to LCRA's approval, to maintain USER's equipment in accordance with the regulations of the FCC and the proper operation and maintenance of the Trunked Radio System. USER acknowledges that LCRA will supervise the technical aspects of USER's activities or other maintenance suppliers in accordance with Section 1.3.

#### **5. EXPANSION OF TRUNKED RADIO SYSTEM**

LCRA may, at its sole and exclusive discretion, provide services to other participants on the Trunked Radio System. The provision of radio system services to other participants and expansion of the system will not diminish the capability of USER to use the Trunked Radio System as contemplated in this Agreement. USER acknowledges and agrees that LCRA has or will expand the area covered by its Trunked Radio System. The execution of agreements with other participants may, at the sole option of LCRA, expand the area covered by the Trunked Radio System and may also result in the availability of additional services to some or all participants. USER acknowledges that



LCRA has previously entered into other Interlocal Cooperation Agreements for Mobile Radio Services and Equipment to provide telecommunication services to certain governmental entities and other utilities and intends to expand the number of users by entering into new agreements in the future.

## **6. TERM - AUTOMATIC RENEWAL**

6.1 The initial term of this Agreement shall commence on the Effective Date and shall terminate three (3) years after the Effective Date (the "**Initial Term**"), unless automatically extended as provided below. This Agreement shall automatically extend under the terms and conditions, rates, and charges then in effect for successive one (1) year periods provided that either Party may terminate this Agreement: (i) at the end of the Initial Term of this Agreement by giving to the other party written notice at least ninety (90) days prior to the end of the Initial Term or (ii) by giving to the other party written notice at least ninety (90) days prior to the end of any one (1) year extension; and, provided further, that this Agreement shall terminate automatically if the frequency authorization(s) (which may be held by LCRA) under which USER then presently operates is (are) terminated or are revoked by the FCC or otherwise.

6.2 The rates, charges, and fees due and payable by USER for any annual extension shall be the same as made during the preceding term unless LCRA notifies USER of any changes pursuant to the provisions of Section 3.2.

6.3 Funding. If USER funds are utilized to fund any part of this Agreement, LCRA understands that those USER funds for the payment for work performed by LCRA under this Agreement have been provided through USER's budget approved by its City Council (or other governing body) for the current fiscal year only. State statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. USER cannot guarantee the availability of funds, and enters into this Agreement only to the extent such funds are made available. LCRA acknowledges and agrees that it will have no recourse against USER for its failure to appropriate funds for the purposes of this Agreement in any fiscal year other than the year in which this Agreement was executed.

## **7. SERVICE INTERRUPTIONS; INTERFERENCE**

7.1 LCRA shall have the right, in cooperation with USER's needs, to plan and schedule system outages for purposes of system maintenance, equipment calibration, and similar necessities. Except for such planned outages, LCRA shall credit USER with one day of service for any service outage that exceeds four (4) hours in duration, provided that USER promptly notifies LCRA of the outage. If a service outage exceeds twenty-four (24) hours, LCRA shall credit USER a full day for each partial day of outage. Credit for outages, which shall be subject to LCRA's verification, shall appear in the monthly invoice.

7.2 In the event of an emergency, as declared by the LCRA's emergency

coordinator or LCRA's Trunked Radio System administrator, LCRA reserves the right to reallocate service priorities for the duration of the emergency.

7.3 USER agrees to refrain from any action, mode of operation, or equipment configuration that interferes with or causes signal degradation with the Trunked Radio System, and to notify LCRA of any conditions likely to cause interference.

## **8. ASSIGNMENT; SUBCONTRACT; NO THIRD-PARTY BENEFICIARIES**

8.1 This Agreement is a privilege for the personal benefit of USER and may not be assigned in whole or in part by USER to any other person or entity without the prior written consent of LCRA, and provided that no such assignment of this Agreement shall be effective unless assignee shall assume in writing the obligations of the assignor under this Agreement or enters into a new written agreement with LCRA. LCRA reserves the right to assign this Agreement or subcontract any of its obligations hereunder. This Agreement is entered into for the sole benefit of the Parties. Nothing in this Agreement shall be construed as conferring any rights, benefits, remedies, or claim upon any person or entity not a Party to this Agreement. Any assignment entered into in violation of the provisions of this Section shall be void.

## **9. COVERAGE**

9.1 USER acknowledges that one hundred percent (100%) coverage of any area at all times is improbable. Testing and experience with actual field conditions indicate adverse propagation conditions, such as short-term unpredictable meteorological effects and sky wave interference from distant stations, can interrupt service at any time. Such events are beyond the reasonable control of LCRA. Other causes beyond the reasonable control of LCRA include but are not limited to motor ignition and other electrical noise that could be minimized by corrective devices at USER's expense. Satisfactory communication performance is generally viewed as intelligible reception over rolling terrain approximately ninety percent (90%) of the time.

9.2 USER further acknowledges and agrees that LCRA is not providing a warranty of coverage and that the inability of LCRA to provide such coverage will be subject to the limitation of liability set forth in Sections 12, 13, and 14.

## **10. DEFAULT AND REMEDIES**

10.1 If USER fails to timely make any payment of any sum due or fails to perform as required by any other provision hereunder, and continues in such failure for fifteen (15) days after written notice has been sent by LCRA to USER of such breach, USER shall be deemed in default under this Agreement. If a Party should be in default and if the other Party has performed all of its material obligations hereunder, the non-defaulting Party shall deliver written notice to the defaulting Party describing such default. If the default continues for more than one month after delivery of the notice (or such time as necessary to correct the default with due diligence), the non-defaulting Party may immediately

terminate this Agreement and pursue its remedies as provided below or as otherwise provided at law or in equity.

10.2 Notwithstanding the above, LCRA shall have the right to immediately terminate USER's service at any time for USER's failure to use the Trunked Radio System in accordance with rules and regulations of the FCC or USER's failure to use the Trunked Radio System in accordance with applicable laws and regulations. In the event of termination as herein provided, all accrued and unpaid charges shall be due and payable immediately.

10.3 In the event LCRA has the right to immediately terminate either the Trunked Radio System service in its entirety or, as to USER, this Agreement, LCRA may retain all payments made hereunder, disconnect and deny USER any service provided by the Trunked Radio System or equipment identified herein, and impose a separate charge for disconnect and a separate charge for any reconnect expenses. If disconnect takes place and the equipment requires reprogramming, USER will also be subjected to additional costs for reprogramming its equipment. Each and all of the rights and remedies of LCRA hereunder are cumulative to and not in lieu of each and every other such right and remedy and every other right and remedy afforded by law and equity.

## **11. WARRANTIES**

11.1 LCRA warrants that its management and operation of the Trunked Radio System will comply with reasonable and standard industry practices. LCRA further warrants that it will operate the Trunked Radio System in compliance with all applicable statutes, laws, ordinances, rules and regulations, including, but not limited to, those of the FCC (such as frequency and eligibility requirements).

11.2 USER agrees (a) to observe and abide by all applicable statutes, laws, ordinances, rules and regulations, including but not limited to those of the FCC (such as waiver and eligibility requirements), and (b) to operate the equipment so as not to cause undue interference with any other participants using the Trunked Radio System. LCRA will provide USER with copies of the relevant FCC rules and compliance information upon request. USER recognizes that applicable FCC rules and other statutes, laws, ordinances, rules and regulations may change from time to time and that, accordingly, LCRA in its sole discretion has the right without liability to modify this Agreement to comply with any such changes. USER further warrants to LCRA that it will operate the equipment for the purposes contemplated by this Agreement, and that USER shall not re-sell service, interconnect, nor patch any equipment with another radio user or another radio system without written consent of LCRA.

11.3 No other warranties, express or implied, are given by either Party.

## **12. DISCLAIMER OF WARRANTIES; LIMITATION OF REMEDIES**

12.1 USER acknowledges and agrees that LCRA is not the manufacturer of



equipment, and LCRA hereby disclaims all representations and warranties, direct or indirect, express or implied, written or oral, in connection with the equipment or service (whether purchased or leased by USER from LCRA or another), including but not limited to any and all express and implied warranties of suitability, durability, merchantability, and fitness for a particular purpose. LCRA, to the extent permitted by law, assigns to USER any and all manufacturers' warranties relating to equipment purchased by LCRA, if any, and USER acknowledges receipt of any and all such manufacturers' warranties.

12.2 USER acknowledges and agrees that its sole and exclusive remedy in connection with any defects in any equipment, including manufacture or design, shall be against the manufacturer of the equipment under the manufacturers' warranties and that LCRA shall have no liability to USER in any event for any loss, damage, injury, or expense of any kind or nature related directly or indirectly to any equipment or service provided hereunder. Without limiting the above, LCRA shall have no liability or obligation to USER, in either contract or tort or otherwise, for special, incidental, indirect, punitive or consequential damages of any kind incurred by USER, such as, but not limited to, claims or damages for personal injury, wrongful death, loss of use, loss of anticipated profits, or other incidental or consequential damages or economic losses of any kind incurred by USER directly or indirectly resulting from or related to any equipment or service described hereunder, whether or not caused by LCRA's negligence, to the full extent same may be disclaimed by law. Any references to equipment in this paragraph shall be deemed to apply to all equipment purchased by USER or leased by USER from LCRA, if any, or another lessor. Notwithstanding the above limitations, LCRA shall be liable for the cost of restoration, repair, or replacement of any USER-owned facilities to the extent such facilities are damaged or destroyed as a direct result of a grossly negligent or willful act of LCRA.

### **13. INTERRUPTION OF SERVICE; FORCE MAJEURE**

Except for actions required by this Agreement, LCRA shall not be liable to USER or any other person for any loss or damage, regardless of cause. LCRA does not assume and shall have no liability under this Agreement for failure to provide, or delay in providing, service due directly or indirectly to causes beyond the control of LCRA or its subcontractors, including, but not restricted to, acts of God, acts of governmental entities, acts of the public enemy, strikes, or severe weather conditions. In the event of any failure or delay attributable to the fault of LCRA or its subcontractors, USER's sole remedy shall be limited to a credit for service as is more fully described in Section 7.1.

### **14. LIMITATIONS OF LIABILITY; INDEMNIFICATION**

14.1 USER understands that (a) alternative means of communication are available to USER; (b) occasional interruption or irregularities in the service may occur; and (c) any potential harm from interruptions or irregularities in the service is speculative in nature. LCRA cannot offer the service at rates which reflect its value to each user, and LCRA assumes no responsibility other than that contained in this Agreement. Accordingly, USER agrees that, except as limited by law, LCRA's sole liability for loss or



damage arising out of mistakes, omissions interruptions, delays, errors, or defects in the service or transmission of service provided by LCRA or any carrier, or for losses or damages arising out of the failure of LCRA or any carrier to maintain proper standards or maintenance and operation shall be a credit for service as set forth in Section 7.1. Notwithstanding any other provisions of this Agreement, *neither Party shall be liable to the other for any special, incidental, consequential, punitive or indirect damages or for any loss of use, revenue, or profit* suffered by the other Party, its successors or assigns, customers or affiliates in connection with any breach of obligation under this Agreement, nor as a result of premises defect, condition or use of real or personal property, interference, failure or unavailability of any equipment, facility or service to be provided by LCRA under this Agreement, or under any other circumstance.

14.2 Neither Party shall be liable for delays, nonperformance, damage or losses due to causes beyond its reasonable control, including but not limited to action of the elements, severe weather, fires, floods, sabotage, government or regulatory action including withholding of approvals, strikes, embargoes, or delays beyond the control of vendors or contractors.

14.3 USER acknowledges that the radio service provided hereunder uses radio channels to transmit voice and data communications and that the service may not be completely private. LCRA is not liable to USER for any claims, loss, damages or cost which may result from lack of privacy on the system.

14.4 **USER hereby agrees to indemnify and save LCRA harmless against claims for libel, slander, infringement or copyright from the material, in any form, transmitted over the radio system by USER or those using USER's equipment; against claims for infringement of patents arising from combining or using apparatus or systems of USER with the facilities of LCRA or any carrier; and against all other claims arising out of any act or omission of USER in connection with the facilities or service provided by LCRA.**

14.5 LCRA is not liable for any damage, accident, injury or the like occasioned by the use of radio service or the presence of equipment, including radio handsets and other devices, facsimile units, and ancillary equipment of either Party except as provided herein. LCRA is not liable for any defacement or damage to USER's motor vehicles or any personal or real property resulting from the installation or presence of radio and ancillary equipment.

14.6 The liability of LCRA in connection with the services provided is subject to the foregoing limitations, and LCRA makes no warranties of any kind, expressed or implied, as to the provision of such services.

14.7 **USER AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS LCRA, ITS OFFICERS AND EMPLOYEES, TO THE FULL EXTENT PERMITTED BY LAW FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITIES AND EXPENSES, INCLUDING LEGAL AND ATTORNEY FEES, OF ANY**



NATURE ARISING DIRECTLY OR INDIRECTLY OUT OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, CLAIMS FOR PERSONAL INJURY OR WRONGFUL DEATH TO USER (INCLUDING USER'S EMPLOYEES, OFFICERS, AGENTS OR SUBCONTRACTORS) OR OTHERS IN THE USE OR OPERATION OF ANY EQUIPMENT, PRODUCTS OR SERVICES PROVIDED BY LCRA OR USED IN CONJUNCTION WITH SUCH EQUIPMENT, PRODUCTS OR SERVICES PROVIDED BY LCRA AND ARISING OUT OF THE MANUFACTURE, PURCHASE, OPERATION, CONDITIONS, MAINTENANCE, INSTALLATION, RETURN OR USE OF THE EQUIPMENT OR SERVICE OR ARISING BY OPERATION OF LAW, WHETHER THE CLAIM IS BASED IN WHOLE OR IN PART ON NEGLIGENT ACTS OR OMISSIONS OF LCRA, ITS AGENTS OR EMPLOYEES. THIS PROVISION SHALL NOT APPLY TO DAMAGES TO FACILITIES OF USER AS PROVIDED IN PARAGRAPH 12.2.

14.8 Nothing in this Agreement is intended to waive any immunity from suit or liability to which a Party may be entitled by law, except for acts in violation of criminal laws.

## **15. NOTICES**

15.1 Any notice or demand required or permitted to be made hereunder shall be made by certified or registered mail to the addresses given on the Radio System Pricing Schedule and Participant Information Sheet (Attachment A). Either Party may from time to time designate any other address for this purpose by written notice to the other Party. All notices or demands shall be effective upon receipt and shall be deemed to be received when actually delivered by hand delivery, facsimile transmission, overnight courier, or two days after deposit in a regularly maintained receptacle of the United States Mail, registered or certified, return receipt request, postage prepaid.

## **16. NO COMMON CARRIER OFFERING**

16.1 With respect to services contemplated by this Agreement, neither USER nor LCRA shall make a common-carrier offering of communication services.

## **17. TAX CODE CONSEQUENCES.**

17.1 The relationship of the Parties shall not be treated as a partnership, joint enterprise, or other taxable entity for any purpose, including liability under the United States Internal Revenue Code (the "Code"). No provision of the Agreement shall be construed to create an association, joint venture, trust, or partnership with regard to the other Party. The Parties agree to take appropriate actions, including appropriate elections under Section 761 of the Code, to exclude the application of the partnership provisions of the Code.

17.2 Each Party shall be responsible for the payment of its own tax liabilities arising from this Agreement.

## **18. AMENDMENT; WAIVER; SEVERABILITY**

18.1 Except for revisions of the Radio System Pricing Schedule and Participant Information Sheet (Attachment A), additions of additional participants and users or the expansion provisions set forth in Section 5, amendments to or modification of this Agreement shall be in writing and signed by authorized representatives of the Parties. Lack of enforcement of any right under this Agreement by either Party shall not constitute a waiver of that right or any other in the future. The terms and conditions of this Agreement supersede other agreements, written or oral, between the Parties regarding the subject of this Agreement. Should a court of competent jurisdiction find any part of this Agreement invalid or unlawful, the remainder of this Agreement shall remain in full force and effect, consistent with the original intent of the Parties. This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

## **19. NO ORAL AGREEMENTS.**

19.1 The parties agree that this Agreement contains all representations, understandings, contracts and agreements between the Parties regarding the subject matter of this Agreement and any other writings, understandings, oral representations or contracts for radio service, if any, shall be deemed to be terminated, void and ineffective from the Effective Date of this Agreement, except for charges and fees incurred and remaining unpaid under any previous agreement.

## **20. REVIEWS**

20.1 The Parties agree to conduct periodic reviews at the request of either Party to coordinate operations and related administrative or management activities with regard to the services provided under this Agreement. The Parties may loan equipment to each other in furtherance of this Agreement, but any such equipment shall remain the property of the loaning Party and must be returned after requested within a reasonable period of time to insure non-interruption of official duties and services.

## **21. Confidentiality**

21.1 The Parties agree that they and their employees have kept and will keep confidential any and all documents or information obtained for from the other Party that is identified as confidential information ("**Confidential Information**"). Confidential Information shall include, but is not limited to, the pricing and competitive business provisions of this Agreement, as well as technical data, summaries, reports or information acquired or developed during the negotiations and performance of the MTCLA. The Parties agree that they have not and will not (a) use the Confidential Information for any purpose other than to perform their respective obligations under this Agreement or (b) reveal the Confidential Information to any persons not employed by the other receiving Party except (i) at the written direction of such the disclosing Party; (ii) in compliance with law including the Texas Public Information Act, in which event the Party required to disclose information shall promptly notify the other Party, if possible, prior to making any



disclosure and shall seek lawful protection for the confidentiality of such information; (iii) as part of its normal reporting or review procedure to its parent company, auditors, regulators and attorneys; (iv) where such information is part of the public domain; (v) where such information was previously disclosed by the other disclosing Party without any confidentiality restrictions; or (vi) to potential investors, insurers or financing entities or their agents, representatives or consultants, provided that such persons agree to be bound by the provisions of this Section 21 or by an agreement containing confidentiality provisions substantially similar to those set forth herein. This confidentiality provision shall be effective for two years after termination of the Agreement; provided, however, that the receiving Party's obligations of confidentiality with respect to trade secrets disclosed by the disclosing Party shall last indefinitely.

## **22. INTERLOCAL CERTIFICATION**


22.1 The Parties certify that (1) the services described herein and to be provided under this Agreement are necessary and essential for activities that are properly within the Parties' statutory functions; (2) the proposed arrangements serve the interests of efficient and economical administration of the Parties' authorized functions, and (3) the services, supplies, or materials contracted for are not required by Article XVI, Section 21 of the Texas Constitution to be supplied under contract given to the lowest responsible bidder.

*[signature page follows]*

Executed to be effective on the Effective Date set out in the first paragraph above.

Agreed by:


**Lower Colorado River Authority:**

By:   
Name: CLINT HARP  
Title: VP, TRANS STRATEGIC SVCS



**USER**

**City of Kyle:**

By:   
Name: Matt Dawson  
Title: Director of IT



# Proposal

## Telecommunications Work Sheet

6641 E. Ben White Blvd., Austin TX 78744  
 24 Hour Phone 1-877-627-2886 & Fax 1-512-356-6445  
 Radio Shop Phone 1-512-356-6457 & Fax 1-512-482-6299  
 Telecommunications

**Customer:** KYLE PUBLIC WORKS  
**Address:** 100 W. Center Street  
 Kyle, Texas 78640-0040

**Work Order #:** 000000005435676  
**\*Date:** 3/23/21

*Pricing is valid for 30 days from the date of this Proposal.*

**Statement of Work:** Kyle Public Works-Handheld, Mobiles Radios

**Comments:** Handheld and Mobile Radios, Radio Accessories

### Labor

TASK ID	Task Description	Hours	Rates	Line Cost
92070	900 MHz Mobiles and Accessories	4.0	250.0000	1,000.0000
92080	External Speaker & Installation	4.0	75.0000	300.0000
<b>Labor Sub Total:</b>				<b>\$1,300.00</b>

### Material

TASK ID	Item	Description	Qty	Unit Cost	Line Cost
91080	1608007704	BATTERY, P5300 Li-Polymer Model # HNPA9-LiP	15	61.4944	922.4160
91080	1608007704	BATTERY, P5300 Li-Polymer Model # HNPA9-LiP	1	61.4944	61.4944
91080		XG-15P 700/800 P25 Handheld Radio, P25 Trunking, Phase II TDMA, OTAP, Sgl. Key AES/DES/Enc. Lite, 2400 mAH Li-ion Battery, Antenna, Desk Charger, Belt Clip, UDC Cover, Lapel Mic-XR-AE6A	1	1,601.6220	1,601.6220
91080		Lapel Mic, XG-15P, XR-AE6A	10	114.4000	1,144.0000
92070	1601002030	Antenna, Larsen 890-960 MHz NMO Tessco# 60308	4	27.0902	108.3607
92070	1601002300	Coax, NMO Mounts Standard Tessco# 90942	4	10.7843	43.1373
92070	1601002360	Crimp,TNC Male for RG58 Part # RFT-1202-2 Tessco # 58794	4	1.9547	7.8188
92070	1604006144	Relay, 30 Amp Part # 140-1025, TESSCO #380913	4	3.4067	13.6268
92070	1605012750	Noise Suppressor Laird Tech15 AMP Mfg # NS1535	4	21.9735	87.8940
92070	1608007200	RADIO, M5300 OPENSKEY MOBILE 900 MHz SCAN FRONT MNT, 900P25	4	2,936.3729	11,745.4918
92070		Mileage	80	0.9500	76.0003
92070		Universal Radio Mount, #17211	4	75.0420	300.1680
92070		Speaker Pigtail Cable	4	40.9750	163.9000
92080	1612036020	Outside Speaker SPC10/4, Tessco # 12626	4	35.6741	142.6963
<b>Material Sub Total:</b>				<b>\$16,418.63</b>	

**Labor Total:** \$1,300.00

**Material Total:** \$16,418.63

**Job Total:** \$17,718.63



# Proposal

## Telecommunications Work Sheet

6641 E. Ben White Blvd., Austin TX 78744  
24 Hour Phone 1-877-627-2886 & Fax 1-512-356-6445  
Radio Shop Phone 1-512-356-6457 & Fax 1-512-482-6299  
Telecommunications

<b>Customer:</b>	<b>KYLE PUBLIC WORKS</b>	<b>Work Order #:</b>	000000005435676
<b>Address:</b>	100 W. Center Street Kyle, Texas 78640-0040	<b>*Date:</b>	3/23/21 <i>Pricing is valid for 30 days from the date of this Proposal.</i>

**Statement of Work:** Kyle Public Works-Handheld, Mobiles Radios

**Comments:** Handheld and Mobile Radios, Radio Accessories

**This is not an invoice - Do not pay**

If Proposal is accepted, work and equipment provided shall be subject to the Interlocal Cooperation Agreement for Mobile Radio Services and Equipment, or other applicable master agreement, between LCRA and Customer.



# CITY OF KYLE, TEXAS

## Approve a Resolution for Surveying Services

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Approve a resolution authorizing the city manager to execute separate agreements with MCGRAY & MCGRAY LAND SURVEYORS, INC., Austin, Texas; and BYRN & ASSOCIATES INC., San Marcos, Texas to provide surveying services for all city departments. ~ *Leon Barba, P.E., City Engineer*

**Other Information:** A Request for Qualifications (RFQ) was issued on January 27, 2021 seeking two (2) qualified firms to provide surveying services for all city departments.

Twenty-five (25) submittals were received in response to the RFQ prior to the February 26, 2021 (12:00 p.m.) deadline.

Staff has evaluated the proposals and based on their review; staff is recommending the firms:

McGray & McGray Land Surveyors, Inc.  
Byrn & Associates Inc.

These firms are being recommended to City Council for approval to provide surveying services for all city departments.

**Legal Notes:** N/A

**Budget Information:** N/A

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### ATTACHMENTS:

#### **Description**

- ☐ RESOL- 2021\_Surveying Services\_Rotation\_List
- ☐ 20-21 Surveying Rotation List RFQ Score Sheet

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

**A RESOLUTION OF THE CITY OF KYLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE FOLLOWING TWO FIRMS: MCGRAY & MCGRAY LAND SURVEYORS, INC., AUSTIN, TEXAS; AND BYRN & ASSOCIATES INC., SAN MARCOS, TEXAS TO PROVIDE SURVEYING SERVICES FOR ALL CITY DEPARTMENTS; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.**

WHEREAS, the City of Kyle requested qualifications from professional surveying firms to provide surveying services; and,

WHEREAS, the City desires to obtain professional surveying services from McGray & McGray Land Surveyors, Inc., Austin, Texas; and Byrn & Associates Inc., San Marcos, Texas; and

WHEREAS, McGray & McGray Land Surveyors, Inc., Austin, Texas; and Byrn & Associates Inc., San Marcos, Texas are qualified and capable of performing the surveying services proposed herein and are willing to enter into an Agreement with the City of Kyle to perform such services; and,

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

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

Section 2. Authorization. The city manager is hereby authorized to execute a professional services agreement with the two firms for surveying services.

Section 3. Effective Date. This Resolution shall take effect from and after the date of its passage as authorized by the Charter of the City of Kyle, Texas.

Section 4. Open Meetings. It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Local Government Code.

PASSED AND APPROVED this \_\_\_\_\_ day of April, 2021.

THE CITY OF KYLE, TEXAS

ATTEST:

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

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



<b>Surveying Services Rotation List</b>		
<b>K 20-21.9</b>		
<b>#</b>	<b>Firm</b>	<b>Avg. Score</b>
1	Lowe Engineers	69.3
2	KFW Surveying, LLC	63.5
3	Byrn & Associates Inc	90.3
4	Westwood Professional Services, Inc	70.8
5	Poznecki-Camarillo, LLC	70.8
6	Payne Industries	81.7
7	LWS Survey Company	65.8
8	LJA Surveying, Inc	88.7
9	McKim & Creed, Inc	72.3
10	CDS Muery	82.2
11	WGI Inc	87.3
12	Ardurra Group, Inc. (dba LNV, LLC)	87.0
13	H.A. Kuehlem	89.8
14	Surveying And Mapping, LLC (SAM)	81.3
15	Gessner Engineering	76.2
16	Doucet & Associates, Inc	80.0
17	Civil Engineering Consultants (CEC)	80.2
18	Cobb, Fendley & Associates, Inc	89.7
19	Stantec Consulting Services Inc	78.3
20	Maestas & Associates, LLC	65.5
21	Unintech Consulting Engineers, Inc	65.7
22	KMEA	69.2
23	Zamora, LLC (ZWA)	68.7
24	McGray & McGray Land Surveyors, Inc	94.3
25	Sherwood Surveying & S.U.E, LLC	77.5



# CITY OF KYLE, TEXAS

## STEP Grant

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Authorize the City Manager to apply for and accept a STEP grant in an amount no greater than \$8,100.00 from TXDOT and authorize matching funding from the Police Department's approved operating budget for FY 2020-2021 in an amount not to exceed \$1,620 to fund a STEP Grant Program for an enforcement period beginning May 24, 2021 through June 6, 2021. ~ *Jeff Barnett, Chief of Police*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

### **ATTACHMENTS:**

#### **Description**

- ❑ Request Council to Authorize TXDOT STEP CIOT Grant FY20-21



Date: March 30, 2021

To: Jeff Barnett, Chief of Police

CC: Pedro Hernandez, Captain; Tim Griffith, Lieutenant

From: Tracy Vrana, Traffic Enforcement Division

Re: **Request to Authorize the City Manager to Apply for and Accept TXDOT STEP CIOT Grant FY2020-2021**

Texas' Selective Traffic Enforcement Program (STEP) is a federally funded law enforcement grant program run by TXDOT. STEP enforcement is focused on reducing crashes, crash-related injuries and deaths across Texas. Per TXDOT's (KA) crash data analysis, certain areas of the City of Kyle require focused traffic enforcement to reduce the number of these injuries. TXDOT has determined that the Kyle PD is eligible for a STEP-CIOT (Click It Or Ticket) grant for FY20-21 to support this effort.

After careful review, the Kyle Police Traffic Enforcement Division is seeking approval to authorize the City Manager to apply for and utilize federal funds to increase traffic enforcement for an ultimate goal of reducing injury and death resulting from automobile crashes. This is a STEP grant focused on traffic enforcement for vehicle passenger restraint systems for designated zones which are, per TXDOT's KA data, determined to be hotspots for serious crashes involving those not wearing seatbelts or other restraints. Our hope is that we can reduce the number of those motorists killed or seriously injured on our roadways.

#### **Subject/Recommendation:**

Authorize the City Manager to accept a STEP Comprehensive grant in an amount no greater than \$8,100.00 from TXDOT and authorize matching funding from the Police Department's approved operating budget for FY 2021-2022 in an amount not to exceed \$1,620 to fund a STEP Grant Program for an enforcement period beginning May 24, 2021 through June 6, 2021.

#### **Other Information:**

This grant is funded at an estimated 80% from TXDOT with a required estimated 20% City match. The total estimated amount of \$7,800 will be used to fund an estimated 135 hours of traffic enforcement at an average overtime rate of \$60.00 per hour based on individual officer salaries. The Kyle Police Department will fund an estimated 20% match using fringe benefits for a total amount not to exceed \$1,560.00. A total expected benefit funding from TXDOT of 80% for the total in the amount of \$6,480.00 is calculated. Reimbursement of funds from TXDOT and data reporting will be conducted on a monthly basis. Funding for the fringe match will be pulled from the police department's operating budget.

*Sgt. T. Vrana*



512-268-3232



512-268-2330



111 North Front Street, Kyle, TX 78640



# CITY OF KYLE, TEXAS

## Victim Advocate I Position Grant

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Approve a Resolution of the City Council of the City of Kyle, Texas, authorizing the submission of an application for a 2-year grant to the Office of the Attorney General, for a full-time Victim Advocate I position; authorize funds from the Police Department's future budgets to pay for the cost of fringe benefits, equipment, and uniforms for the Victim Advocate I; authorizing the City Manager to apply for, accept, reject, alter or terminate the grant on behalf of the City Council; finding and determining that the meeting at which the resolution is passed is open to the public as required by law; providing for an effective date; and making such other findings and provisions related hereto. ~ *Jeff Barnett, Chief of Police*

### **Other Information:**

### **Legal Notes:**

**Budget Information:** All matching funds required of the City of Kyle under the grant to pay for fringe benefits, equipment, and uniforms will be budgeted and provided from the Police Department's future budgets for FY 2022 and FY 2023.

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### **ATTACHMENTS:**

#### **Description**

- ☐ Expense memo to Chief



Date: March 31, 2021

To: Chief Barnett

From: Kelly Delagarza

Re: Additional Victim Advocate

At this time, we are seeking approval to apply for a two (2) year Victim Coordinator and Liaison Grant through the Office of the Attorney General for FY 21 – 22 and FY 22 – 23. This person would have the title of Victim Advocate I and would work alongside me and would have a salary of \$45,000 a year. While the Advocate's salary would be covered by the grant, the following expenses would be requested to come from the Kyle Police Department's budget:

- Fringe Benefits	
o City-Portion of Social Security Tax	\$2790.00
o City-Portion of Medicare Tax	\$ 652.50
o City-Match for TRMS Retirement for 2021	\$5895.00
o City-Paid Medical Premium	\$8341.44
o City-Paid Dental Premium	\$ 451.68
o City-Paid Long Term & Short Term Disability	\$ 322.10
o City-Paid Vision Premium	\$ 108.00
o City-Paid Life Insurance	\$ 56.16
	Total: \$18,616.88
- Equipment	
o Desk	
o Cell Phone (phone plus service)	
o Computer	
	Total: \$3,000.00
- Uniforms	Total: \$400.00
- Training	Total: \$350.00
- New Vehicle	Total: \$20,000.00

Grand total of funds \$42,366.88

The fringe benefits, cell phone, uniforms and training are all expenses that will be repeated. The others are a one time expense.



512-268-3232



512-268-2330

111 North Front Street, Kyle, TX 78640

[www.cityofkyle.com/police](http://www.cityofkyle.com/police)

Item # 15



# CITY OF KYLE, TEXAS

FM 158 Land LTD - Zoning (Z-21-0071)

Meeting Date: 4/6/2021

Date time: 7:00 PM

**Subject/Recommendation:** *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 66.245 acres of land from Agriculture 'AG' to Warehouse District 'W' for property located at 24801 IH-35, in Hays County, Texas. (FM 158 Land LTD - Z-21-0071) ~ *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:** See attachments.

**Legal Notes:** N/A

**Budget Information:** N/A

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## **ATTACHMENTS:**

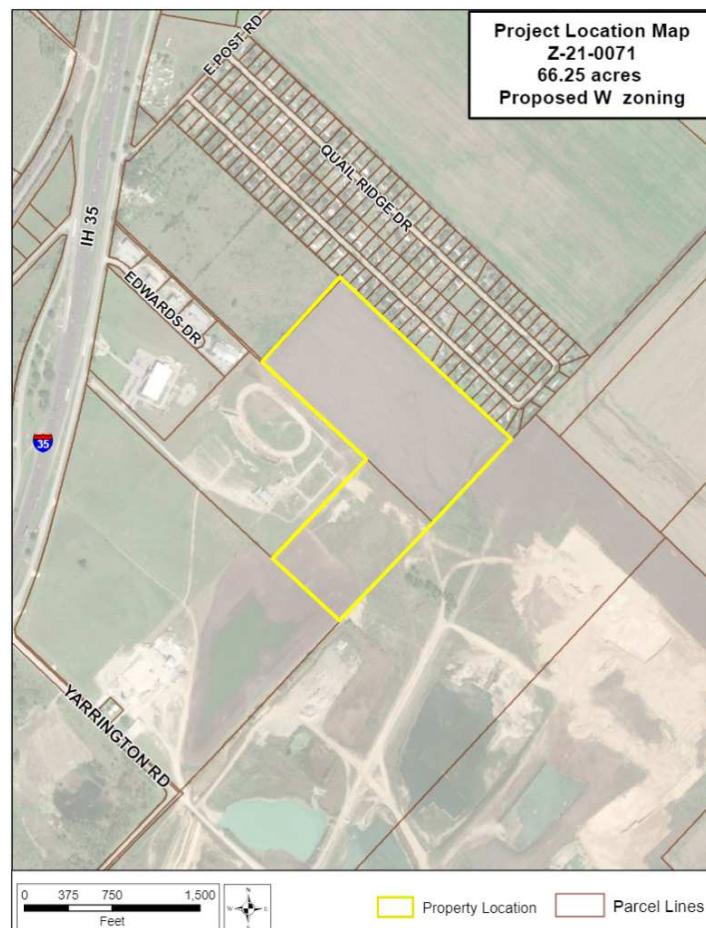
### **Description**

- ☐ Staff Report
- ☐ Ordinance with Exhibit A & B
- ☐ Landowner Authorization Letter
- ☐ Franchise Tax Account Status
- ☐ Deed
- ☐ Project Location Map
- ☐ Current Zoning Map
- ☐ Land Use Districts Map

<b>Property Location</b>	<b>Northeast and Southeast of 24801 IH-35</b>
<b>Owner</b>	<b>Edward R. Coleman FM 158 Land, Ltd. P.O. Box 5555 Austin, TX 78723</b>
<b>Agent</b>	<b>Benjamin Green, P.E. 2600 Via Fortuna, Terrace I, Ste. 300 Austin, TX 78746</b>
<b>Request</b>	<b>Rezone 66.25-Acres Agriculture “A” to Warehouse “W”</b>

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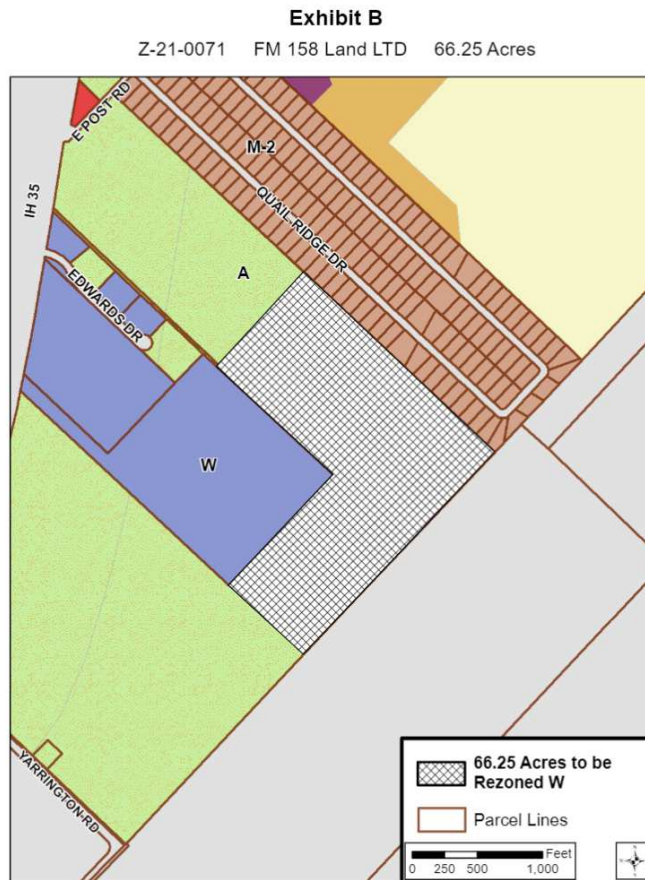
### **Vicinity Map**





## Site Description

The 66.35-acre site owned by FM 158 Land, Ltd., also known as the “Coleman Tract”, is currently vacant and zoned for Agriculture (A). To the northwest is property zoned “A” and has both a residence and shed sales business. To the north is the Quail Ridge manufactured home community (zoned M-2). The land east and southeast of the subject property is in the San Marcos ETJ, and operated as a sand quarry. To the south and southwest is land zoned “A” and largely vacant except for a City of Kyle water facility and ancillary uses to support the adjacent quarry. To the west is property zoned “W” or “Warehouse”, commonly referred to as the racetrack site. Its current user leases and sells construction heavy equipment.



## **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.

## **Requested Zoning**

### Warehouse District

#### **Sec. 53-527. - Purpose and permitted uses.**

a) The warehouse district W is designed to provide locations for outlets offering goods and services to a targeted segment of the general public as well as industrial users.

(b) The permitted uses include those that primarily serve other commercial and industrial enterprises and do not include any use listed in the construction and manufacturing district CM, in [division 19](#) of this article. No building or land shall be used, and no building hereafter shall be erected, maintained, or structurally altered, except for one or more of the uses hereinafter enumerated.

(c) Any use permitted in district CBD-1, CBD-2, RS and this district as provided in [section 53-1230](#).

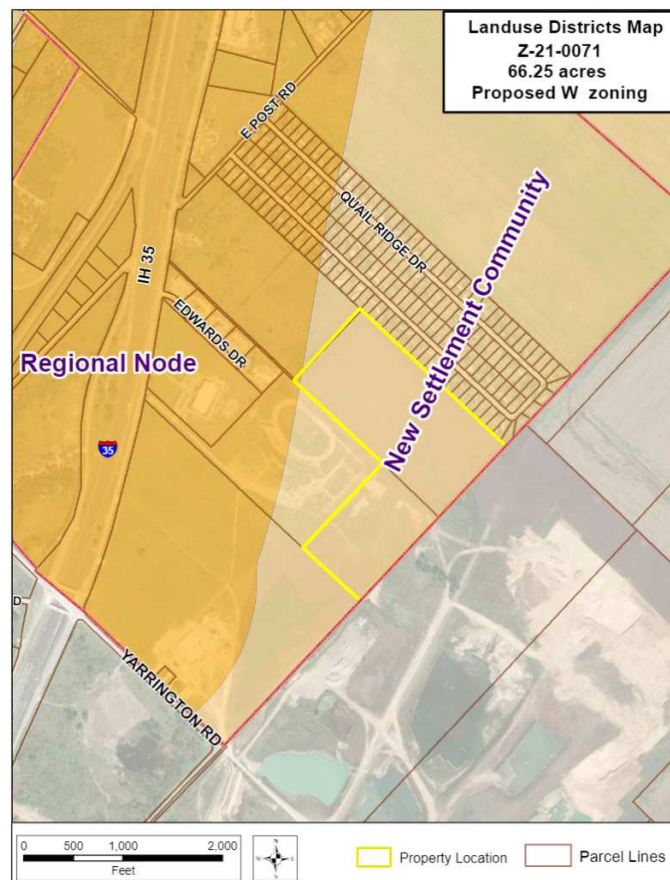
## **Conditions of the Zoning Ordinance**

### **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 almost one hundred percent located in the "New Settlement Community" District. The Warehouse or "W" zoning district is considered conditional in the "New Settlement Community" district. The western most corner is within the "Regional Node" district, albeit not applicable to the zoning conversation.

## **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**

### **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 portioning 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.

## **Analysis**

The 66.25-acre Coleman tract is currently zoned "A" and vacant. Most of the uses surrounding the property are industrial in nature, with the exception of the Quail Ridge community to the north. At time of site development, the City will require landscaping and fencing buffers between the commercial and residential areas.

From a comprehensive plan standpoint, the Warehouse zoning district can be considered, even though the New Settlement land use district places heavy emphasis on residential uses. As part of the update in 2017, the City allowed the Warehouse district to be considered for the New Settlement district, conditionally. While one is not likely to see warehouse uses west of IH-35 or along most of East FM 150, this portion of the land use district has naturally evolved with uses that are more in keeping with warehousing or light industrial (i.e. quarry, industrial vehicle sales, etc.). The Warehouse zoning district also allows for limited manufacturing uses.

This location is near to the intersection of IH-35 and Yarrington Road, an already significant intersection between the Kyle and San Marcos communities. Recently, TxDOT

finished the ramp reversal projects, upgrading the access roads to modern standards. Establishing logistics/warehouse type commercial properties in proximity to established, high-classification transportation infrastructure, can be mutually beneficial to the use and the city. As part of the development process, the facilities will follow zoning, subdivision, site development and building permit standards, including I-35 Overlay standards where appropriate.

### **Recommendation**

In conclusion, staff supports the rezoning from “A” (Agriculture) to “W” (Warehouse). At the March 23, 2021 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 in support of the request.

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### **Attachments**

- Landowner Authorization Letter
- Franchise Tax Account Status
- Location Map
- 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 66.245 ACRES OF LAND FROM AGRICULTURE 'AG' TO WAREHOUSE DISTRICT 'W' FOR PROPERTY LOCATED AT 24801 IH-35, IN HAYS COUNTY, TEXAS. (FM 158 LAND LTD – Z-21-0071); 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 66.245 acres of land from Agriculture 'AG' to Warehouse District 'W', 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 \_\_\_\_\_, 2021, 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 \_\_\_\_\_, 2021, 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 \_\_\_\_\_, 2021.

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

ATTEST:

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



## EARLY LAND SURVEYING, LLC

P.O. Box 92588, Austin, TX 78709

512-202-8631

earlysurveying.com

TBPELS Firm No. 10194487

### 66.245 ACRES HAYS COUNTY, TEXAS

A DESCRIPTION OF 66.245 ACRES (APPROXIMATELY 2,885,642 SQ. FT.) IN THE JAMES W. WILLIAMS SURVEY NO. 11, ABSTRACT NO. 473 IN HAYS COUNTY, TEXAS, BEING A PORTION OF A 46.07 ACRE TRACT AND A PORTION OF A 132.101 ACRE TRACT CONVEYED TO F.M. 158 LAND, LTD. IN A SPECIAL WARRANTY DEED DATED JUNE 9, 2005 AND RECORDED IN VOLUME 2702, PAGE 613 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 66.245 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2" iron pipe found for the easternmost corner of the said 46.07 acre tract, being the southernmost corner of Lot 41, Quail Ridge Subdivision, a subdivision of record in Volume 2, Page 337 of the Plat Records of Hays County, Texas, being also in the northwest line of a 468.288 acre tract described in Volume 2702, Page 613 of the Deed Records of Hays County, Texas;

**THENCE** South 43°22'08" West with the southeast line of the said 46.07 acre tract and the northwest line of the said 468.288 acre tract, a distance of 981.92 feet to a 5/8" rebar found for the southernmost corner of the said 46.07 acre tract, being the easternmost corner of the said 132.101 acre tract;

**THENCE** South 43°16'34" West with the southeast line of the said 132.101 acre tract and the northwest line of the said 468.288 acre tract, a distance of 1168.00 feet to a calculated point;

**THENCE** North 46°37'22" West crossing the said 132.101 acre tract, a distance of 783.94 feet 1/2" rebar in concrete found for an angle point in the northwest line of the said 132.101 acre tract, being the southernmost corner of a 38.7834 acre tract described in Volume 3303, Page 693 of the Deed Records of Hays County, Texas, from which a 1/2" rebar found in the east right-of-way line of Interstate Highway No. 35, being the northernmost corner of the said 132.101 acre tract, being the westernmost corner of the said 38.7834 acre tract, bears North 46°37'22" West, a distance of 2188.03 feet;

**THENCE** North 43°16'51" East with the northwest line of the said 132.101 acre tract and the southeast line of the said 38.7834 acre tract, a distance of 1168.05 feet to a calculated point for a northern corner of the said 132.101 acre tract, being in the southwest line of the said 46.07 acre tract, being also the easternmost corner of the said 38.7834 acre tract;

**THENCE** North 46°37'09" West with the southwest line of the said 46.07 acre tract and the northeast line of the said 38.7834 acre tract, a distance of 1222.11 feet to a calculated point, from which a 1/2" rebar found in the southwest line of the said 46.07 acre tract, being the northernmost corner of the said 38.7834 acre tract, being also the easternmost corner of Lot 5, Edwards Business Park, a subdivision of record in Volume 9, Page 197 of the Plat Records of Hays County, Texas, bears North 46°37'09" West, a distance of 146.19 feet;

**THENCE** North 43°17'48" East crossing the said 46.07 acre tract, a distance of 20.16 feet to a 1" iron pipe found for an angle point in the 46.07 acre tract;

**THENCE** North 43°17'48" East with the northwest line of the said 46.07 acre tract, a distance of 961.51 feet to a 60d nail with "Byrn" washer in post found for a northern corner of the said 46.07 acre tract, being in the southwest line of Lot 22, of said Quail Ridge Subdivision;

**THENCE** South 46°37'35" East with the northeast line of the said 46.07 acre tract and the southwest line of Lots 22-41, of said Quail Ridge Subdivision, passing a 1/2" rebar found for the southernmost corner of said Lot 27 and the westernmost corner of said Lot 28 at a distance of 565.10 feet and continuing for a total distance of 2007.19 feet to the **POINT OF BEGINNING**, containing 66.245 acres of land, more or less.

Surveyed on the ground on October 30, 2020

Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, utilizing the SmartNet North America Network.

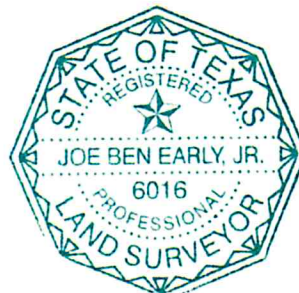
Attachments: Survey Drawing No. 1006-019-BASE



Joe Ben Early, Jr.  
Registered Professional Land Surveyor  
State of Texas No. 6016

12/29/2020

Date

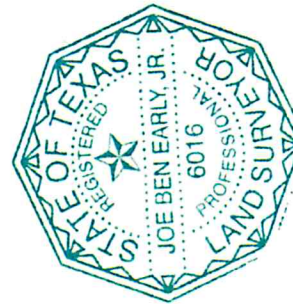




SKETCH TO ACCOMPANY A DESCRIPTION OF 66.245 ACRES (APPROXIMATELY 2,885,642 SQ. FT.) IN THE JAMES W. WILLIAMS SURVEY NO. 11, ABSTRACT NO. 473 IN HAYS COUNTY, TEXAS, BEING A PORTION OF A 46.07 ACRE TRACT AND A PORTION OF A 132.101 ACRE TRACT CONVEYED TO F.M. 158 LAND, LTD. IN A SPECIAL WARRANTY DEED DATED JUNE 9, 2005 AND RECORDED IN VOLUME 2702, PAGE 613 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS.

LEGEND

- 1/2" REBAR FOUND (OR AS NOTED)
- ⊙ 1/2" IRON PIPE FOUND (OR AS NOTED)
- ▲ 60D NAIL WITH "BYRN" WASHER IN POST FOUND
- △ CALCULATED POINT
- ( ) RECORD INFORMATION



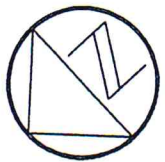
*12/29/2020*

**EARLY LAND  
SURVEYING, LLC**

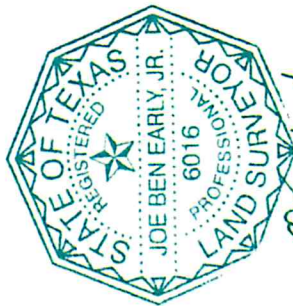
P.O. BOX 92588  
AUSTIN, TX 78709  
512-202-8631  
FIRM NO. 10194487

DATE OF SURVEY: 10/30/20  
PLOT DATE: 12/29/20  
DRAWING NO.: 1006-019-BASE  
DRAWN BY: JBE  
SHEET 1 OF 2

BEARING BASIS: THE TEXAS COORDINATE  
SYSTEM OF 1983 (NAD83), SOUTH  
CENTRAL ZONE, UTILIZING THE  
SMARTNET NORTH AMERICA NETWORK.  
  
ATTACHMENTS: METES AND BOUNDS  
DESCRIPTION 1006-019-BASE



1" = 400'



12/29/2026

QUAIL RIDGE DRIVE

QUAIL RIDGE SUBDIVISION  
(2/337)

- LOT 20
- LOT 21
- LOT 22
- LOT 23
- LOT 24
- LOT 25
- LOT 26
- LOT 27
- LOT 28
- LOT 29
- LOT 30
- LOT 31
- LOT 32
- LOT 33
- LOT 34
- LOT 35
- LOT 36
- LOT 37
- LOT 38
- LOT 39
- LOT 40
- LOT 41

S46°37'35"E 2007.19' (S45°56'38"E 2007.24')

N43°17'48"E 961.51' (N43°57'54"E 961.80')

DAVID L. MURRAY  
44.83 ACRES  
(768/865)

F.M. 158 LAND, LTD.  
46.07 ACRES  
(2702/613)

66.245 ACRES  
APPROX. 2,885,642 SQ. FT.

F.M. 158 LAND, LTD.  
46.07 ACRES  
(2702/613)

EDWARDS BUSINESS PARK

LOT 3

LOT 4

LOT 5

EDWARDS DRIVE

S43°16'17"W  
307.91'  
(S43°56'40"W  
308.00')

ROGER BEASLEY IMPORTS, INC.  
19.50 ACRES  
(3949/613)

S43°16'17"W 750.12' (S43°56'40"W 750.16')

N43°17'48"E 20.16'

N46°37'09"W 1222.11'

N46°37'09"W  
146.19'

N43°16'51"E 1168.05' (N43°51'12"E 1167.99')

F.M. 158 LAND, LTD.  
38,783.4 ACRES  
(3303/693)

F.M. 158 LAND, LTD.  
132.101 ACRES  
(2702/613)

F.M. 158 LAND, LTD.  
468,288 ACRES  
(2702/613)

S43°22'08"W 981.92' (S43°56'30"W 981.57')

S43°16'34"W 1168.00' (S43°50'56"W)

S46°37'09"E 783.84' (S46°02'29"E 784.42')

N46°37'22"W 783.94'

N46°37'22"W 2188.03' (N46°03'01"W 2188.09')

F.M. 158 LAND, LTD.  
132.101 ACRES  
(2702/613)

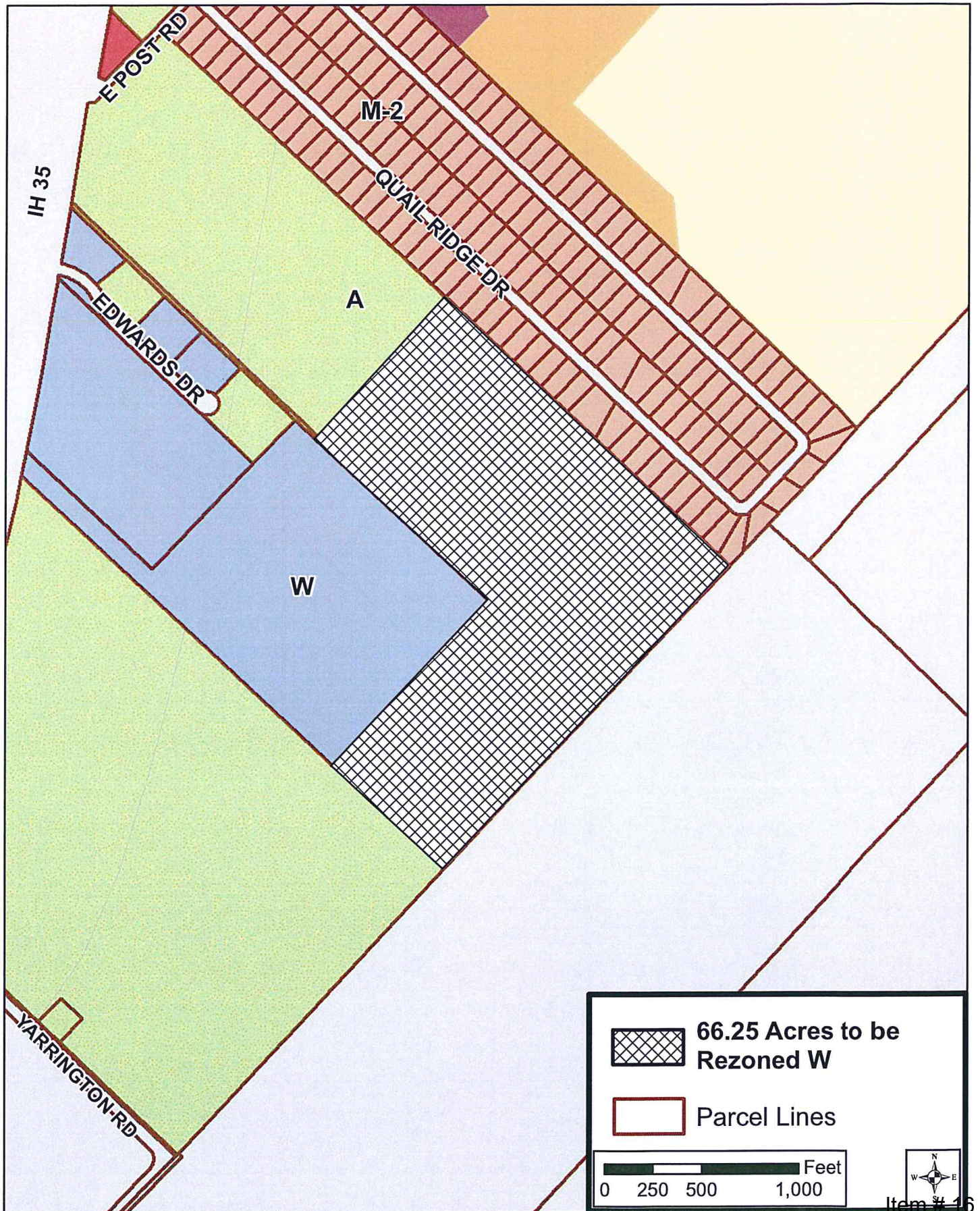
I.H. 35

DRAWING NO.:  
1006-019-BASE  
SHEET 2 OF 2



# Exhibit B

Z-21-0071    FM 158 Land LTD    66.25 Acres



# Kimley»Horn

February 12, 2021

Planning Department  
100 W. Center Street  
Kyle, TX 78640

**RE: 66.245 Acres - Zoning Change Application  
24800 Block of N IH 35, Kyle, TX 78640**

To whom it may concern:

On behalf of the Owner, FM 158 Land, LTD., please accept this letter with attachments for the referenced zoning application.

The reason for this request is to change the the parcel's base zoning from AG to Warehouse. This zoning is intended to match the adjacent +/-38-acre parcel to the west which is currently zoned Warehouse. This zoning will allow for development that conforms to the best use along the IH-35 corridor.

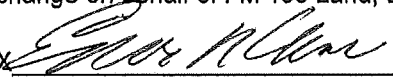
**AGENT:**

Benjamin Green, P.E.  
2600 Via Fortuna, Terrace I, Suite 300  
Austin, TX 78746  
512-646-2243  
[Ben.Green@kimley-horn.com](mailto:Ben.Green@kimley-horn.com)

**OWNER/AUTHORIZED PERSON (APPLICANT):**

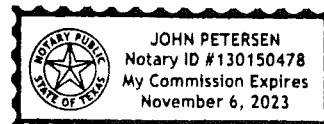
Edward R. Coleman  
FM 158 Land, Ltd.  
P.O. Box 5555  
Austin, TX 78723  
512-306-7800  
[edwardrcoleman@gmail.com](mailto:edwardrcoleman@gmail.com)

I, Edward R. Coleman, give explicit permission for my agent, Benjamin Green, to apply for this zoning change on behalf of FM 158 Land, Ltd.

x   
Edward R. Coleman

Best Regards,

KIMLEY-HORN AND ASSOCIATES, INC.



Benjamin L. Green, P.E.



## Franchise Tax Account Status

As of : 03/11/2021 13:57:20

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

F.M. 158 LAND, LTD.	
<b>Texas Taxpayer Number</b>	32035434292
<b>Mailing Address</b>	PO BOX 50324 AUSTIN, TX 78763-0324
<b>❗ Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	TX
<b>Effective SOS Registration Date</b>	03/16/2005
<b>Texas SOS File Number</b>	0800467089
<b>Registered Agent Name</b>	EDWARD R COLEMAN
<b>Registered Office Street Address</b>	PO BOX 50324 - 2705 BEE CAVE RD, #210 AUSTIN, TX 78763



## SPECIAL WARRANTY DEED

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**DATE.**

June 9<sup>th</sup>, 2005

**GRANTOR:**

EDWARD R. COLEMAN and spouse,  
HENRIETTA COLEMAN

**GRANTOR'S MAILING ADDRESS:  
(INCLUDING COUNTY):**

802 Rock Creek Drive  
Austin, Travis County, Texas 78746

**GRANTEE:**

F.M. 158 LAND, LTD., a Texas limited partnership

**GRANTEE'S MAILING ADDRESS  
(INCLUDING COUNTY):**

802 Rock Creek Drive  
Austin, Travis County, Texas 78746

**CONSIDERATION:**

Ten dollars (\$10.00) and other valuable consideration paid by Grantee, the receipt and sufficiency of which is hereby acknowledged. Grantor assigns to Grantee the casualty insurance policy on the property, all utility deposits for utility service at the property, and all funds held in escrow for payment of taxes and insurance premiums.

**PROPERTY (INCLUDING ANY IMPROVEMENTS):**

*PARCEL 1*

*TRACT 1: Being 132.101 acres of land, more or less, out of the JAMES W. WILLIAMS SURVEY NO 11, in Hays County, Texas, and being more particularly described by Exhibit "A" attached hereto.*

*SAVE AND EXCEPT the following tracts of land:*

*0.640 acre of land out of the JAMES W. WILLIAMS SURVEY NO. 11, in Hays County Texas, and being more particularly described by metes and bounds in Exhibit "D" attached hereto.*

*10 acres of land out of the JAMES W. WILLIAMS SURVEY NO. 11, in Hays County, Texas, and being more particularly described by metes and bounds in Exhibit "G" attached hereto.*



*0.603 acres of land out of the JAMES W. WILLIAMS SURVEY NO. 11, in Hays County, Texas, and being more particularly described by metes and bounds in Exhibit "H" attached hereto.*

*TRACT 2: 468.288 acres of land out of the WILLIAM HEMPHILL SURVEY, in Hays County, Texas, being all of that certain (205.005 acre) Tract of land described as "Tract IV" and all of that certain (263.325 acre) tract of land described as "Tract V" as conveyed to Craig C. Johnson and Thomas C. Johnson, III by Partition Deed recorded in Volume 1180, Pages 205-223, Hays County Public Records, and being more particularly described by metes and bounds in Exhibit "B" attached hereto.*

*SAVE AND EXCEPT the following tracts of land:*

*10 acres of land out of the WILLIAM HEMPHILL SURVEY, in Hays County, Texas, and being more particularly described by metes and bounds in Exhibit "C" attached hereto.*

*1.820 acres of land out of the WILLIAM HEMPHILL SURVEY, in Hays County, Texas, and being more particularly described by metes and bounds in Exhibit "E" attached hereto.*

*0.047 acre of land out of the WILLIAM HEMPHILL SURVEY, in Hays County, Texas, and being more particularly described by metes and bounds in Exhibit "F" attached hereto.*

*Tracts conveyed to City of Kyle by instruments recorded in Volume 1883, Page 458, and Volume 1894, Page 725, Hays County Official Public Records.*

*PARCEL 2:*

*Being 46.07 acres of land, more or less, in the JAMES W. WILLIAMS SURVEY, ABSTRACT NO. 473, Hays County, Texas, and being more particularly described by metes and bounds in Exhibit "I" attached hereto.*

#### **RESERVATION FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:**

This deed is subject to all easements, restrictions, conditions, covenants, and other instruments of record.

This conveyance is made subject to, and the Grantee herein does not assume the payment of that certain indebtedness described in and secured by a Deed of Trust and Security Agreement, dated November 5, 2003, executed by Edward R. Coleman and spouse, Henrietta Coleman in favor of Bank of Texas and recorded in Volume 2350, Page 258 of the Official Public Records of Hays County, Texas.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee all of Grantor's interest in the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors,

administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through, or under Grantor but not otherwise.

When the context requires, singular nouns and pronouns include the plural.

Grantee assumes all ad valorem taxes due on the property for the current year and all subsequent years.

By: Edward R. Coleman  
EDWARD R. COLEMAN  
Henrietta Coleman  
HENRIETTA COLEMAN

*This instrument was prepared based on information furnished by the parties, and no independent title search has been made.*

STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 9th day of June, 2005, by EDWARD R. COLEMAN and HENRIETTA COLEMAN



P. Sharon Pickel  
Notary Public - State of Texas

After recording return to:

S. CRAIG HOLLMIG, INC.  
CONSULTING ENGINEERS - SURVEYOR.

410 N. 3800TH STREET  
NEW SPARKFIELD, TEXAS 75130-3004

TEXAS SOCIETY OF PROFESSIONAL ENGINEERS  
AMERICAN SOCIETY OF CIVIL ENGINEERS

TEXAS SURVEYORS ASSOCIATION  
TELEPHONE: (214) 426-4444 - FAX: (214) 426-4444

WATER SYSTEMS - SEWER SYSTEMS - SUBDIVISIONS - LAND PLANNING - STREETS - SURVEYING

FIELD NOTES  
FOR  
A 132.101 ACRE TRACT

Being a 132.101 acre tract of land out of the James W. Williams Survey No. 11 in Hays County, Texas, and being all of a tract of land, as now found upon the ground, called 132.101 acres conveyed to Brown Distributing Co., a Texas Corporation, by Warranty Deed recorded in Volume 1258, Page 72 of the Official Public Records of Hays County, Texas, and all bearings referred to in this description are rotated to and referenced to a bearing of S 43° 51' 12" W between an iron pipe and an iron pin found along the Southeast line of the above referenced 132.101 acre tract, said 132.101 acre tract of land being more particularly described as follows:

**BEGINNING:** At an iron pipe found at the East fenced corner of the above referenced 132.101 acre tract, lying in the Northwest line of a tract, called Tract Two, called 429.06 acres, described in Volume 149, Pages 547-548 of the Deed Records of Hays County, Texas, for the East corner of this tract;

**THENCE:** Along the Southeast line of the above referenced 132.101 acre tract, the general direction of a newly built fence and said Northwest line of Tract Two, S 43° 51' 12" W 3165.21 feet to an iron pin found at fence corner lying at a turn of a road, called Hays County Road No. 159, for the South corner of the above referenced 132.101 acre tract, for the South corner of this tract;

**THENCE:** Along a Northeast line of said Hays County Road No. 159, the general direction of a newly built fence, N 45° 46' 24" W 490.13 feet, an iron pin found, N 45° 43' 16" W 494.91 feet, an iron pin found, and N 45° 48' 04" W 933.35 feet to a concrete highway monument found at the intersection of the Northeast line of Hays County Road No. 159 with the Easterly line of Interstate Highway No. 35, for a corner of the above referenced 132.101 acre tract, for a corner of this tract;

Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT A

OFFICIAL PUBLIC RECORD

Page 2: 132.101 Acre Tract

THENCE: Along the Westerly line of the above referenced 132.101 acre tract, the Easterly line of Interstate Highway No. 35, as follows:

N 10° 16' 41" W	81.92 feet, a broken concrete highway monument found
N 24° 03' 52" E	203.70 feet, an iron pin found
N 20° 57' 07" E	306.00 feet, an iron pin found
N 17° 50' 34" E	305.90 feet, an iron pin found
N 15° 25' 17" E	917.40 feet, an iron pin found
N 13° 43' 17" E	305.10 feet, an iron pin found
N 12° 13' 10" E	144.22 feet, an iron pin found at fence

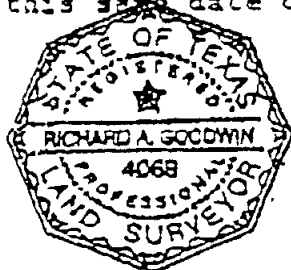
corner in same, for the Northwest corner of the above referenced tract, for the Northwest corner of this tract, said point also being the Southwest corner of a tract of 38.845 acres, previously surveyed in October, 1997;

THENCE: Along a Northeast line of the above referenced 132.101 acre tract, the Southwest line of said 38.845 acre tract, the general direction of a newly built fence, S 46° 03' 01" E 2186.09 feet to an iron pin found at fence corner, for the South corner of said 38.845 acre tract, an interior corner of the above referenced 132.101 acre tract, for an interior corner of this tract;

THENCE: Along the Southeast line of said 38.845 acre tract, the Northwest line of the above referenced 132.101 acre tract, the general direction of a newly built fence, N 43° 51' 12" E 1167.99 feet to an iron pin found at the Northeast corner of the above referenced 132.101 acre tract, the East corner of said 38.845 acre tract, for the Northeast corner of this tract;

THENCE: Along a Northeast line of the above referenced 132.101 acre tract, the Southwest line of a tract called 44.83 acres recorded in Volume 228, Page 46 of the Deed Records of Hays County, Texas, S 46° 02' 29" E 784.42 feet to the Point of Beginning and containing 132.101 acres of land, more or less.

The foregoing field notes represent the results of an on-the-ground survey made under my supervision, January 8, 1999. Reference plat prepared this same date of this 132.101 acre tract.



Richard A. Goodwin, RPLS #4068

Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

Job #98655

EXHIBIT A

Oct-21-03 01:37pm From-BANK OF TEXAS

T-300 P 011/021 Bk Vol Pg  
05016090 OPR 2702 618

Feb-11-00 03:40P...

FIELD NOTES  
FOR

## RIGHT-OF-WAY WIDENING - 0.640 ACRE

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF THE JAMES W. WILLIAMS SURVEY NO. 11 IN HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 132.101 ACRE TRACT OF LAND CONVEYED TO EDWARD R. COLEMAN CONSTRUCTION, INC. BY INSTRUMENT RECORDED IN VOLUME 1496, PAGES 638-642 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 60-d nail set at the most Southerly corner of said 132.101 acre tract, being in the Northwest line of that certain 468.288 acre tract of land described in Volume 1496, Pages 229-235 of the Official Public Records of Hays County, Texas, being in the Northerly r.o.w. line of Yarrington Road (County Road 159), for the most Southerly corner and PLACE OF BEGINNING hereof;

THENCE along the Southwest line of said 132.101 acre tract, being along the Northerly r.o.w. line of Yarrington Road for the following courses:

N 45°46'24" W for a distance of 490.13 feet to a 60-d nail set

N 45°43'16" W for a distance of 494.91 feet to a 60-d nail set

N 45°48'04" W for a distance of 953.35 feet to a 60-d nail set at a Westerly corner of said 132.101 acre tract, being at the intersection of the Northerly r.o.w. line of Yarrington Road and the Easterly r.o.w. line of Interstate Hwy No. 35;

THENCE along the Northwest line of said 132.101 acre tract, being along the Easterly r.o.w. line of Interstate Hwy No. 35, N 10°19'59" W for a distance of 25.04 feet to a 1/2 inch capped iron pin set in the proposed Northerly r.o.w. line of Yarrington Road, for a Northerly corner hereof;

THENCE along the proposed Northerly r.o.w. line of Yarrington Road, S 45°46'36" E for a distance of 1448.66 feet to a 1/2 inch capped iron pin set and S 45°49'13" E for a distance of 490.03 feet to a 1/2 inch capped iron pin set in the Southeast line of said 132.101 acre tract, being in the Northwest line of said 468.288 acre tract, for an Easterly corner hereof;

Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT D

OCT-23-2003 THU 09:58 AM

FAX NO. Doc Bk Vol Pg  
03 5410 OPR 2350 271  
T-308 P.012/021 F-317

Oct-21-03 01:38pm From-BANK OF TEXAS

100-14-000-03-000

Bk Vol Pg  
05016090 OPR 2702 619

FIELD NOTES  
FOR

RIGHT-OF-WAY WIDENING - 0.640 ACRE - Page Two

THENCE along the Southeast line of said 132.101 acre tract, being along the Northwest line of said 468.288 acre tract, S 43°50'56" W for a distance of 15.00 feet to the PLACE OF BEGINNING and containing 0.640 acre of land, more or less.

SURVEYED BY:  
ROY D. SMITH SURVEYORS, P.C.

*Roy D. Smith*  
ROY D. SMITH

REGISTERED PROFESSIONAL SURVEYOR NO. 1094  
February 10, 2000

Job No. 2333



Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT D

FIELD NOTES  
FOR

10.00 ACRES OF LAND

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF THE JAMES W. WILLIAMS SURVEY NO. 11 IN HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 132.101 ACRE TRACT OF LAND CONVEYED TO EDWARD R. COLEMAN CONSTRUCTION, INC. BY INSTRUMENT RECORDED IN VOLUME 1495, PAGES 638-642 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a ½ inch capped iron pin found at the Southwesterly corner of said 132.101 acre tract, being at the intersection of the Northerly r.o.w. line of Yarrington Road (Co. Road 159) and the Easterly r.o.w. line of Interstate Hwy No. 35;

THENCE along the Southwest line of said 132.101 acre tract, being along the Northerly r.o.w. line of Yarrington Road, S 45°46'36" E for a distance of 901.53 feet to a ½ inch capped iron pin found for the most Westerly corner and PLACE OF BEGINNING hereof;

THENCE along the Northwest line of the herein described tract, N 44°13'24" E for a distance of 1367.58 feet to a ½ inch capped iron pin set for the most Northerly corner hereof;

THENCE along the Northeast line of the herein described tract, S 45°46'36" E for a distance of 350.00 feet to a ½ inch capped iron pin set for the most Easterly corner hereof;

THENCE along the Southeast line of the herein described tract, S 44°13'24" W for a distance of 1192.58 feet to a ½ inch capped iron pin found for a Southerly corner hereof;

THENCE along the Southwesterly line of the herein described tract, N 45°46'36" W for a distance of 96.00 feet to a ½ inch capped iron pin found and S 44°13'24" W for a distance of 175.00 feet to a ½ inch capped iron pin found in the Southwest line of said 132.101 acre tract, being in the Northerly r.o.w. line of Yarrington Road;

THENCE along the Southwest line of said 132.101 acre tract, being along the Northerly r.o.w. line of Yarrington Road, N 45°46'36" W for a distance of 52.00 feet to a ½ inch capped iron pin found;

THENCE continuing along the Southwest line of the herein described tract for the following courses:

N 44°13'24" E for a distance of 175.00 feet to a ½ inch capped iron pin found

N 45°46'36" W for a distance of 150.00 feet to a ½ inch capped iron pin found

S 44°13'24" W for a distance of 175.00 feet to a ½ inch capped iron pin found in the Southwest line of said 132.101 acre tract, being in the Northerly r.o.w. line of Yarrington Road;

FIELD NOTES  
FOR

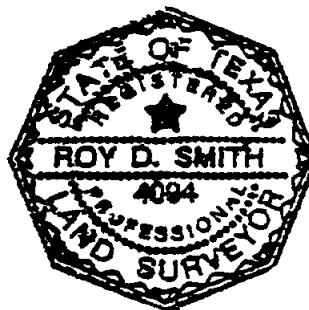
10.00 ACRES OF LAND - Page Two

THENCE along the Southwest line of said 132.101 acre tract, being along the Northerly r.o.w. line of Yarrington Road, N 45°46'36" W for a distance of 52.00 feet to the PLACE OF BEGINNING and containing 10.00 acres of land, more or less.

SURVEYED BY:  
Roy D. Smith Surveyors, P.C.

*Roy D. Smith*

ROY D. SMITH  
REGISTERED PROFESSIONAL SURVEYOR NO. 4094  
July 22, 2003



Job No. 2857

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS  
On: Nov 07, 2003 at 03:17P

Document Number: 03036325

Amount 29.00

Lee Carlisle  
County Clerk  
By  
Rebecca Hall, Deputy  
Hays County



Oct-02-01 06:18P Henrietta Coleman

Dec 03 1963 Bk Vol Pg  
02006464 OPR 1963 222 2702 622

FIELD NOTES  
FOR

0.603 ACRE OF LAND

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF THE JAMES W. WILLIAMS SURVEY NO. 11 IN HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 132.101 ACRE TRACT OF LAND CONVEYED TO EDWARD R. COLEMAN AND SPOUSE, HENRIETTA COLEMAN BY INSTRUMENT RECORDED IN DOCUMENT 00005934, VOLUME 1644, PAGES 499-507 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a 1/4 inch capped iron pin found in the Northwest line of said 132.101 acre tract, being at the intersection of the East s.e.w. line of Interstate Hwy No. 15 and the North s.e.w. line of Yarrington Road (County Road 159);

THENCE along the North s.e.w. line of Yarrington Road, S 45°46'36" E for a distance of 933.53 feet to a 1/4 inch capped iron pin set for the most Westerly corner and PLACE OF BEGINNING hereof;

THENCE along the Northwest line of the herein described tract, N 44°13'24" E for a distance of 175.00 feet to a 1/4 inch capped iron pin set for the most Northerly corner hereof;

THENCE along the Northeast line of the herein described tract, S 45°46'36" E for a distance of 130.00 feet to a 1/4 inch capped iron pin set for the most Easterly corner hereof;

THENCE along the Southeast line of the herein described tract, S 44°13'24" W for a distance of 175.00 feet to a 1/4 inch capped iron pin set in the North s.e.w. line of Yarrington Road, for the most Southerly corner hereof;

THENCE along the North s.e.w. line of Yarrington Road, N 45°46'36" W for a distance of 150.00 feet to the PLACE OF BEGINNING and containing 0.603 acres of land, more or less.

SURVEYED BY:  
Roy D. Smith Surveyors, P.C.

*Roy D. Smith*  
ROY D. SMITH  
REGISTERED PROFESSIONAL SURVEYOR  
April 3, 2001



Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE  
EXHIBIT "H"

FIELD NOTES TO  
468.288 ACRES

FIELD NOTES TO 468.288 ACRES OF LAND OUT OF THE WILLIAM HEMPHILL SURVEY IN HAYS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN (205.005 ACRE) TRACT OF LAND DESCRIBED AS "TRACT IV" AND ALL OF THAT CERTAIN (263.325 ACRE) TRACT OF LAND DESCRIBED AS "TRACT V" AS CONVEYED TO CRAIG C. JOHNSON AND THOMAS C. JOHNSON, III BY PARTITION DEED RECORDED IN VOLUME 1180 PAGES 205-223 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a capped 1/2" iron pin found in the approximate southeast line of the James W. Williams Survey, same being the Northwest line of the William Hemphill Survey, same being in the Southeast line of Lot 42, Quail Ridge Subdivision, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 2, Page 337 of the Plat Records of Hays County, Texas, at the most Northerly corner of said (205.005 acre) "Tract IV" for the most Northerly corner and PLACE OF BEGINNING hereof;

THENCE along the northeast line of said "Tract IV", the following two (2) courses:

S 45 deg. 47' 05" E a distance of 1422.55 feet to a post found;

S 45 deg. 47' 35" E for a distance of 101.48 feet to a 1/2 inch pin set for the most Easterly corner of said "Tract IV" same being the most Northerly corner of said (263.325 Acre) "Tract V", for an angle point hereof;

THENCE along the northeast line of said "Tract V", S 45 deg. 43' 57" E, for a distance of 1842.77 feet to a 1/2 inch iron pin set at an Easterly corner of the said "Tract V", for an Easterly corner hereof;

THENCE along a southeast line of said "Tract V", S 43 deg. 31' 36" N for a distance of 2002.17 feet to a 1/2 inch iron pin found at an ELL corner of said "Tract V", for an ELL corner hereof;

THENCE S 45 deg. 21' 27" E for a distance of 240.25 feet to a 1/2 inch iron pin found at the Northerly corner of a (116.550 Acre) tract of land described in Volume 1240 Pg. 582 of the Official Public Records of Hays County, Texas, same being at a corner of said "Tract V", for a corner hereof;

Recorder's Note:  
ORIGINAL DOCUMENT FILED

EXHIBIT B

Oct-21-03 01:37pm From-BANK OF TEXAS

FIELD NOTES TO  
468.288 ACRES  
Page 2 of 4

THENCE along the common dividing line of said (116.550 Acre) tract and said "Tract V", S 44 deg. 15' 36" W for a distance of 3770.26 feet to a 1/2 inch iron pin found in the northeast R.O.W. of County Road No. 159, also known as Yarrington Road, at the Southerly corner of said "Tract V", for the Southerly corner hereof;

THENCE along the northeast R.O.W. line of County Road 159, and the southwest line of said "Tract V", the following three (3) courses:

N 46 deg. 08' 44" W for a distance of 270.66 feet to a 1/2 inch iron pin found;

N 46 deg. 15' 47" W for a distance of 1639.19 feet to a 60D Nail set in paving;

N 43 deg. 34' 58" W for a distance of 124.03 feet to a 1/2 inch iron pin set for the most Westerly corner of said "Tract V", same being the most Southerly corner of said "Tract IV", for an angle point hereof;

THENCE continuing along the northeast R.O.W. line of County Road 159 and the southwest line of said "Tract IV", the following six (6) courses:

N 43 deg. 37' 07" W for a distance of 162.83 feet to a 1/2 inch iron pin set;

N 46 deg. 34' 35" W for a distance of 398.08 feet to a 1/2 inch iron pin set;

N 45 deg. 36' 34" W for a distance of 548.98 feet to a 1/2 inch iron pin set;

N 45 deg. 29' 05" W for a distance of 375.60 feet to a 1/2 inch iron pin set;

N 41 deg. 35' 26" W for a distance of 31.94 feet to a 1/2 inch iron pin set;

N 23 deg. 23' 53" W for a distance of 21.56 feet to a 1/2 inch iron pin found at fence angle in an angle of said County Road 159, for an angle point hereof;

Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

**EXHIBIT B**

Oct-21-03 01:37pm From-BANK OF TEXAS

FIELD NOTES TO  
468.288 ACRES

Page 3 of 4

THENCE continuing along the Northeast line of County Road 159, as found fenced, the following three (3) courses:

N 02 deg. 02' 39" W for a distance of 19.89 feet to a 1/2 inch iron pin found at fence angle;

N 02 deg. 32' 09" E for a distance of 17.77 feet to a 1/2 inch iron pin found at fence angle;

N 23 deg. 39' 24" E for a distance of 14.42 feet to a 1/2 inch iron pin found at fence angle in a southeast line of said County Road 159, same being in a northwest line of said "Tract IV", for an angle point hereof;

THENCE continuing along the southeast line of County Road 159, and the northwest line of said "Tract IV", the following four (4) courses:

N 43 deg. 39' 07" E for a distance of 248.85 feet to a 1/2 inch iron pin set;

N 44 deg. 14' 51" E for a distance of 434.75 feet to a 1/2 inch iron pin set;

N 44 deg. 25' 43" E for a distance of 329.84 feet to a 1/2 inch iron pin found at fence corner;

N 44 deg. 17' 39" E for a distance of 272.07 feet to a 1/2 inch iron pin found at steel corner post at an ELL corner of said County Road 159, same being at the most Southerly corner of that certain (132.101 Acre) tract of land conveyed to Brown Distributing Co. by instrument of record in Volume 1258 Page 72 of the Official Public Records of Hays County, same being at an angle point of said "Tract IV", for an angle point hereof;

THENCE along the common dividing line of said (132.101 Acre) tract and said "Tract IV", N 43 deg. 50' 56" E for a distance of 3166.05 feet to a 1/2 inch iron pin found at the most Easterly corner of said (132.101 Acre) tract, same being at the Southerly corner of that certain (44.83 Acre) tract of land described in Volume 228 Page 406 of the Deed Records of Hays County, Texas, at an angle point of said "Tract IV", for an angle point hereof;

Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT B

Item # 16

Oct-21-03 01:37pm From-BANK OF TEXAS

FIELD NOTES TO  
468.288 ACRES

Page 4 of 4

THENCE along the common dividing line of said (44.83 Acre) tract and said "Tract IV", N 43 deg. 56' 30" E for a distance of 981.57 feet to a 1/2 inch iron pin found at the Southerly corner of Lot 41, Quail Ridge Subdivision, for an angle point herof;

THENCE along the southeast line of Quail Ridge Subdivision, and the northwest line of said "Tract IV", N 43 deg. 58' 16" E for a distance of 298.66 feet to the PLACE OF BEGINNING, containing 468.288 Acres of land.

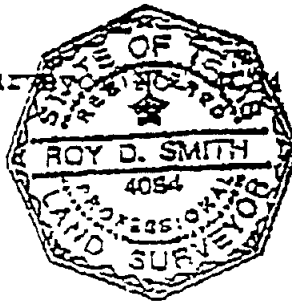
SURVEYED: January 15, 1999

ROY D. SMITH SURVEYORS, P.C.

*Roy D. Smith*  
ROY D. SMITH

Reg. Professional Land Surveyor  
1214 West 5th Street  
Austin, Texas 78703

2134.doc



Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT B

Oct-21-03 01:37pm From-BANK OF TEXAS

T-309 P.010/021 517 Pg  
05016090 DPR 2702 .627

Feb-11-00 03:42P

FIELD NOTES TO 10.00 ACRES OF LAND OUT OF THE WILLIAM HEMPHILL SURVEY IN HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 468.288 ACRE TRACT OF LAND AS CONVEYED TO EDWARD R. COLEMAN CONSTRUCTION COMPANY, INC. IN VOLUME 1496, PAGES 229 THROUGH 235 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch capped iron pin set in the North r.o.w. line of Hays County Road No. 159, also known as Yarrington Road for the Southeast corner hereof and from which the most Southeast corner of said 468.288 acre tract bears S 46°08'44" E at a distance of 135.27 feet;

THENCE along the North r.o.w. line of County Road No. 159 and the South line of the herein described tract, N 46°08'44" W for a distance of 135.49 feet to a 1/2 inch capped iron pin set;

THENCE continuing along the North r.o.w. line of said County Road No. 159 and the South line of the herein described tract, N 46°15'47" W for a distance of 1005.82 feet to a 1/2 inch capped iron pin set for the Southwest corner hereof;

THENCE along the West line of the herein described tract, N 46°04'37" E for a distance of 814.34 feet to a 1/2 inch capped iron pin set for the most Northerly corner hereof;

THENCE along the East line of the herein described tract, S 07°48'18" E for a distance of 291.46 feet to a 1/2 inch capped iron pin set;

THENCE continuing along the East line of the herein described tract, S 11°05'55" E for a distance of 196.33 feet to a 1/2 inch capped iron pin set;

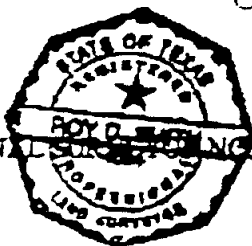
THENCE continuing along the East line of the herein described tract, S 20°03'41" E for a distance of 190.79 feet to the PLACE OF BEGINNING and containing 10.00 acres of land, more or less.

SURVEYED BY:  
ROY D. SMITH SURVEYORS, P.C.

Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

*Roy D. Smith*  
ROY D. SMITH

REGISTERED PROFESSIONAL SURVEYOR NO. 4094  
February 8, 2000



**EXHIBIT C**

Oct-21-03 01:38pm From-BANK OF TEXAS

T-308 P.013/021 Pg  
05016090 OPR 2702 - 628Feb-11-00 03:41P.  
Feb-11-00 03:41P.FIELD NOTES  
FOR

## RIGHT-OF-WAY WIDENING - 1.820 ACRES

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF THE WILLIAM HEMPHILL SURVEY IN HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 468.288 ACRE TRACT OF LAND CONVEYED TO EDWARD R. COLEMAN CONSTRUCTION COMPANY, INC. BY INSTRUMENT RECORDED IN VOLUME 1496, PAGES 229-235 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a 1/4 inch iron pin found at the most Southerly corner of said 468.288 acre tract, being in the Northerly r.o.w. line of Yarrington Road (County Road 159):

THENCE along the Southwest line of said 468.288 acre tract, being along the Northerly r.o.w. line of Yarrington Road, N 46°08'44" W for a distance of 270.66 feet to a 1/4 inch iron pin found and N 46°15'47" W for a distance of 1005.82 feet to a 1/4 inch capped iron pin set for the most Southerly corner and PLACE OF BEGINNING hereof.

THENCE continuing along the Southwest line and along the Northwest line of said 468.288 acre tract, being along the Northerly r.o.w. line of Yarrington Road for the following courses:

N 46°15'47" W for a distance of 633.37 feet to a 60-d nail set

N 43°34'58" W for a distance of 124.03 feet to a 60-d nail set

N 43°37'07" W for a distance of 162.83 feet to a 60-d nail set

N 46°34'35" W for a distance of 398.08 feet to a 60-d nail set

N 45°36'34" W for a distance of 548.98 feet to a 60-d nail set

N 45°29'05" W for a distance of 375.60 feet to a 60-d nail set

N 41°35'26" W for a distance of 31.94 feet to a 60-d nail set

N 33°23'53" W for a distance of 21.56 feet to a 60-d nail set

N 02°02'39" W for a distance of 13.89 feet to a 60-d nail set

N 02°32'09" E for a distance of 17.77 feet to a 60-d nail set

EXHIBIT E

Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

Oct-21-02 01:38pm From-BANK OF TEXAS

Feb-11-00 03:41P.

FIELD NOTES  
FOR

RIGHT-OF-WAY WIDENING - 1.820 ACRES - Page Two

N 23°39'24" E for a distance of 14.42 feet to a 60-d nail set

N 43°39'07" E for a distance of 248.85 feet to a 60-d nail set

N 44°14'51" E for a distance of 434.75 feet to a 60-d nail set

N 44°25'43" E for a distance of 329.84 feet to a 60-d nail set

N 44°17'39" E for a distance of 272.07 feet to a 60-d nail set at the most  
Southerly corner of that certain 132.101 acre tract of land described in Volume  
1495, Pages 638-642 of the Official Public Records of Tarrant County, Texas;

THENCE continuing along the Northwest line of said 468.288 acre tract, being along the  
Southeast line of said 132.101 acre tract, N 43°50'56" E for a distance of 15.00 feet to a  
1/2 inch capped iron pin set for the most Northerly corner hereof;

THENCE S 45°49'13" E for a distance of 23.01 feet to a 1/2 inch capped iron pin set in  
the proposed Northerly r.o.w. line of Yarrington Road;

THENCE along the proposed Northerly r.o.w. line of Yarrington Road for the following  
courses:

S 44°32'30" W for a distance of 617.00 feet to a 1/2 inch capped iron pin set

S 43°58'52" W for a distance of 645.77 feet to a 1/2 inch capped iron pin set

S 06°59'51" E for a distance of 106.78 feet to a 1/2 inch capped iron pin set

S 45°45'38" E for a distance of 902.31 feet to a 1/2 inch capped iron pin set

S 45°13'45" E for a distance of 678.92 feet to a 1/2 inch capped iron pin set

S 45°24'28" E for a distance of 639.53 feet to a 1/2 inch capped iron pin set for the  
Southeasterly corner hereof;

Recorders Note:  
OFFICIAL JUDGMENT ILLUSIBLE

EXHIBIT E



OCT-23-2003 THU 09:59 AM

FAX NO. Doc Bk Vol P. Pg  
07 6410 OPR 2350 282

Oct-21-03 01:38pm From-BANK OF TEXAS

T-309 P.015/021 F-517  
Bk Vol. Pg  
05016090 OPR 2702 630

Feb-11-00 03:41P.

FIELD NOTES  
FOR

RIGHT-OF-WAY WIDENING - 1.820 ACRES - Page Three

THENCE S 46°04'37" W for a distance of 13.24 feet to the PLACE OF BEGINNING  
and containing 1.820 acres of land, more or less.

SURVEYED BY:  
ROYD D. SMITH SURVEYORS, P.C.

*Roy D. Smith*  
ROYD D. SMITH

REGISTERED PROFESSIONAL SURVEYOR - NO. 4094  
February 10, 2000



Job No. 2333

Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT E

Oct-27-03 01:38am From-BANK OF TEXAS

T-308 P 018/021 F-517  
Bk Vol Pg  
05016090 OPR 2702 631

Feb-11-00 03:42P

FIELD NOTES  
FOR

## RIGHT-OF-WAY WIDENING - 0.047 ACRE

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF THE WILLIAM HEMPHILL SURVEY IN HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 468.288 ACRE TRACT OF LAND CONVEYED TO EDWARD R. COLEMAN CONSTRUCTION COMPANY, INC. BY INSTRUMENT RECORDED IN VOLUME 1496, PAGES 229-235 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½ inch iron pin found at the most Southerly corner of said 468.288 acre tract, being along the Northerly r.o.w. line of Yarrington Road (County Road 139) for the most Southerly corner and PLACE OF BEGINNING hereof;

THENCE along the Southwest line of said 468.288 acre tract, being along the Northerly r.o.w. line of Yarrington Road, N 46°08'44" W for a distance of 135.17 feet to a 60-d nail set for a Westerly corner hereof;

THENCE N 20°03'41" W for a distance of 30.87 feet to a ½ inch capped iron pin set in the proposed Northerly r.o.w. line of Yarrington Road, for the most Northerly corner hereof;

THENCE along the proposed Northerly r.o.w. line of Yarrington Road, S 46°14'19" E for a distance of 163.00 feet to a ½ inch capped iron pin set in the Southeast line of said 468.288 acre tract, for the most Easterly corner hereof;

THENCE along the Southeast line of said 468.288 acre tract, S 44°15'36" W for a distance of 13.84 feet to the PLACE OF BEGINNING and containing 0.047 acre of land, more or less.

SURVEYED BY:  
ROY D. SMITH SURVEYORS, P.C.

*Roy D. Smith*  
ROY D. SMITH

REGISTERED PROFESSIONAL SURVEYOR 4094  
February 10, 2000

Job No. 2333



FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS  
On: Nov 07, 2003 at 04:12P

Document Number: 03036410

Amount 59.00

Lee Carlisle  
County Clerk  
By  
Patricia Lackey, Deputy  
Hays County

EXHIBIT F

Recorder's Note:  
ORIGINAL DOCUMENT ILLEGIBLE

Oct-21-03 01:39pm From-BANK OF TEXAS

T-308 P.019/021 F-517  
05016090 OPR Bk Vol Pg  
2702 632

DESCRIPTION OF 46.07 ACRES, MORE OR LESS, OF LAND AREA IN THE JAMES W. WILLIAMS SURVEY ABSTRACT NO. 473, HAYS COUNTY TEXAS, BEING ALL OF THAT TRACT DESCRIBED AS 46.07 ACRES IN A DEED FROM LEROY P. HILL AND WINNIE HILL TO HAYS COUNTY LIVESTOCK EXPOSITION, INC. DATED MAY 21, 1999 AND RECORDED AS DOCUMENT NO. 9912163 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 4" iron rod set in 1996 for the common northerly west corner of the Hays County Livestock Exposition (HCLZ) 46.07 acre tract and the southerly west corner of that 44.83 acre tract described in a deed from Eva Murray to David L. Murray dated January 31, 1989 and recorded in Volume 768, Page 355 of the Hays County Real Property Records, from which a TMCOT concrete monument found at the intersection of the east right-of-way line of Interstate Highway No. 35 and the southeast right-of-way line of Hays County Road No. 140 bears N 10° 19' 32" E 464.74 feet;

THENCE leaving the PLACE OF BEGINNING as shown on that plat numbered 24106-02-2-c dated January 17, 2002 as prepared for Hays County Livestock Exposition by Byrn & Associates, Inc. of San Marcos, Texas, with the common southwest line of the Murray 44.83 acre tract and northeast line of the HCLZ 46.07 acre tract, as fenced and used upon the ground, the following two courses:

1. S 46° 02' 54" E 857.94 feet to a 4" cedar fence post at a three-way fence corner, and
2. S 45° 55' 31" E 888.51 feet to a 1 1/2" iron pipe found at a fence corner for the south corner of the Murray 44.83 acre tract and an interior corner of the HCLZ 46.07 acre tract;

THENCE with the southeast line of the Murray 44.83 acre tract and a northwest line of the HCLZ 46.07 acre tract, as fenced and used upon the ground, N 43° 57' 54" E 961.80 feet to an 8" cedar fence corner post in the southwest line of Quail Ridge Subdivision recorded in Volume 2, Page 137 of the Hays County Plat Records for, the easterly north corner of the HCLZ 46.07 acre tract;

THENCE with the remains of a fence for the common southwest line of Quail Ridge Subdivision and the northeast line of the HCLZ 46.07 acre tract, S 45° 56' 38" E 1007.24 feet to a 60d nail found at the base of a leaning 3/4" iron pipe found for the east corner of the HCLZ 46.07 acre tract, the south corner of Lot 41, Quail Ridge Subdivision, and being in a northwest line of that 468.288 acre tract described as Exhibit A in a deed from Edward R. Coleman Construction, Inc. to Edward R. Coleman et ux dated March 10, 2000 and recorded in Volume 1644, Page 499 of the Hays County Official Public Records, pass at 1054 feet the approximate centerline of an electric transmission line and the approximate centerline of that 100 foot wide electric easement described in a deed from Will Mill, et ux to L.C.R.A. dated May 8, 1951 and recorded in Volume 150.

Oct-21-03 01:39pm From-BANK OF TEXAS

T-309 P.020/021 Bk F-617 Pg  
05016090 OPR 2702 633

Page 27 of the Hays County Deed Records.

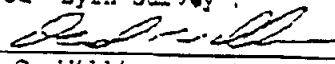
THENCE leaving Lot 41, Quail Ridge Subdivision with the common northwest line of the Coleman 468.288 acre tract and southeast line of the HCLZ 46.07 acre tract, S 44° 01' 08" W 381.46 feet to a 1" iron pipe found for the south corner of the HCLZ 46.07 acre tract and the east corner of that 132.101 acre tract described as Exhibit A in the deed to Edward R. Coleman, pass at 871 feet the approximate location of the Texas-New Mexico pipeline and that pipeline easement described in a deed from C.B. Donaldson to The Texas Pipeline Co. dated October, 1930 and recorded in Volume 103, Page 634 of the Hays County Deed Records;

THENCE leaving the Coleman 468.288 acre tract with the southwest line of the HCLZ 46.07 acre tract being partially with the northeast line of the Coleman 132.101 acre tract, N 45° 58' 00" W (this being the Bearing Basis for this description) 1006.43 feet to a 1/2" iron pipe found in the northeast line of that tract described as "Tract One - 38.845 acres" in a deed from Brian Callaway and James Lynch to S. Callaway, Inc. dated February 27, 1999 and recorded in Volume 1387, Page 424 of the Hays County Official Public Records...pass at 131.5 feet the approximate location of the Texas-New Mexico pipeline and pass at 701.5 feet the approximate centerline of an electric transmission line and the approximate centerline of the aforementioned 100 foot wide LCRA electric easement, and pass at 784.22 feet the north corner of the Coleman 132.101 acre tract and east corner of the Callaway 38.845 acre Tract One,

THENCE continuing with the southwest line of the HCLZ 46.07 acre tract being partially with the northeast line of the Callaway 38.845 acre Tract One and with fence remains, N 45° 59' 01" W 1732.75 feet to a 1/2" iron rod set in 1996 in the east right-of-way line of Interstate Highway No. 35 for the southerly west corner of the HCLZ 46.07 acre tract and being the north corner of the Lot 1 of Edwards Business Park recorded in Volume 9, Page 197 of the Hays County Plat Records, from which a TXDOT concrete monument bears S 10° 19' 32" W 971.94 feet, pass on this course at 146.18 feet the north corner of the Callaway 38.845 acre Tract One and east corner of Lot 5 of Edwards Business Park;

THENCE with the common east line of Interstate Highway No. 35 and the east line of the HCLZ 46.07 acre tract, N 10° 19' 32" E 24.52 feet to the PLACE OF BEGINNING.

There are contained within these metes and bounds 46.07 feet, more or less, of land area as prepared from public records and a survey made on the ground on September 10, 1996 and January 17, 2002 by Byrn & Associates, Inc. of San Marcos, Texas. All 1/2" iron rod set are capped with a plastic cap stamped "Byrn Survey".

  
David C. Williamson, R 2.2.5 #4190

CLIENT: Hays County Livestock Exposition, Inc.  
DATE: January 17, 2002  
SURVEY: Williams, James W. A-473  
COUNTY: Hays, Texas  
JOB NO: 24106-02-2  
PND46 07

Recorder's Note:

ORIGINAL DOCUMENT ILLEGIBLE

Page 2 of 2

EXHIBIT "I"

Item # 16

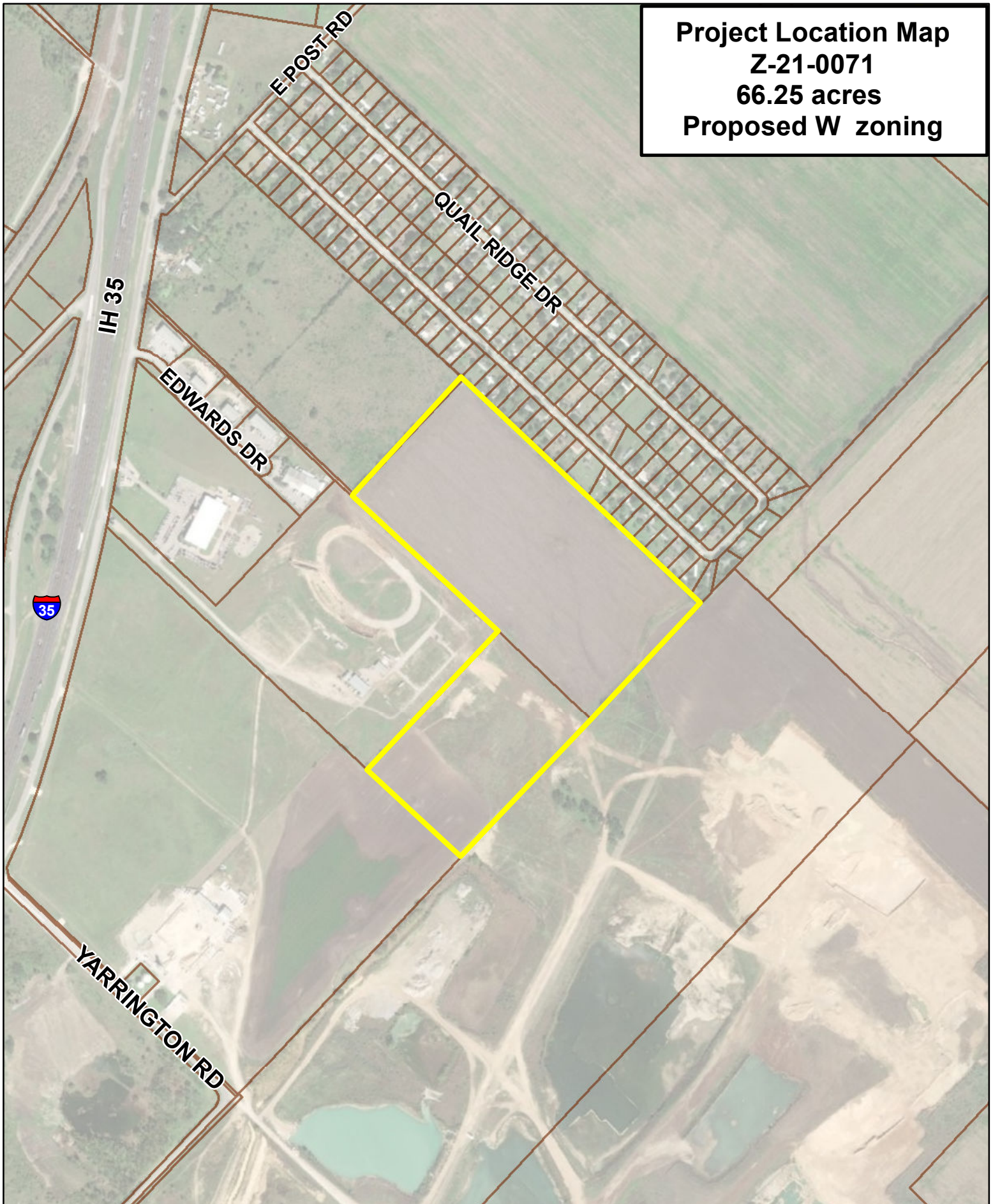


Bk Vol Pg  
05016090 DPR 2702 634

Filed for Record in:  
Hays County  
On: Jun 09, 2005 at 12:28P  
Document Number: 05016090  
Amount: 56.00  
Receipt Number - 126350  
By:  
Rebecca Hall, Deputy

Lee Carlisle, County Clerk  
Hays County

**Project Location Map**  
**Z-21-0071**  
**66.25 acres**  
**Proposed W zoning**



0 375 750 1,500  
Feet



Property Location

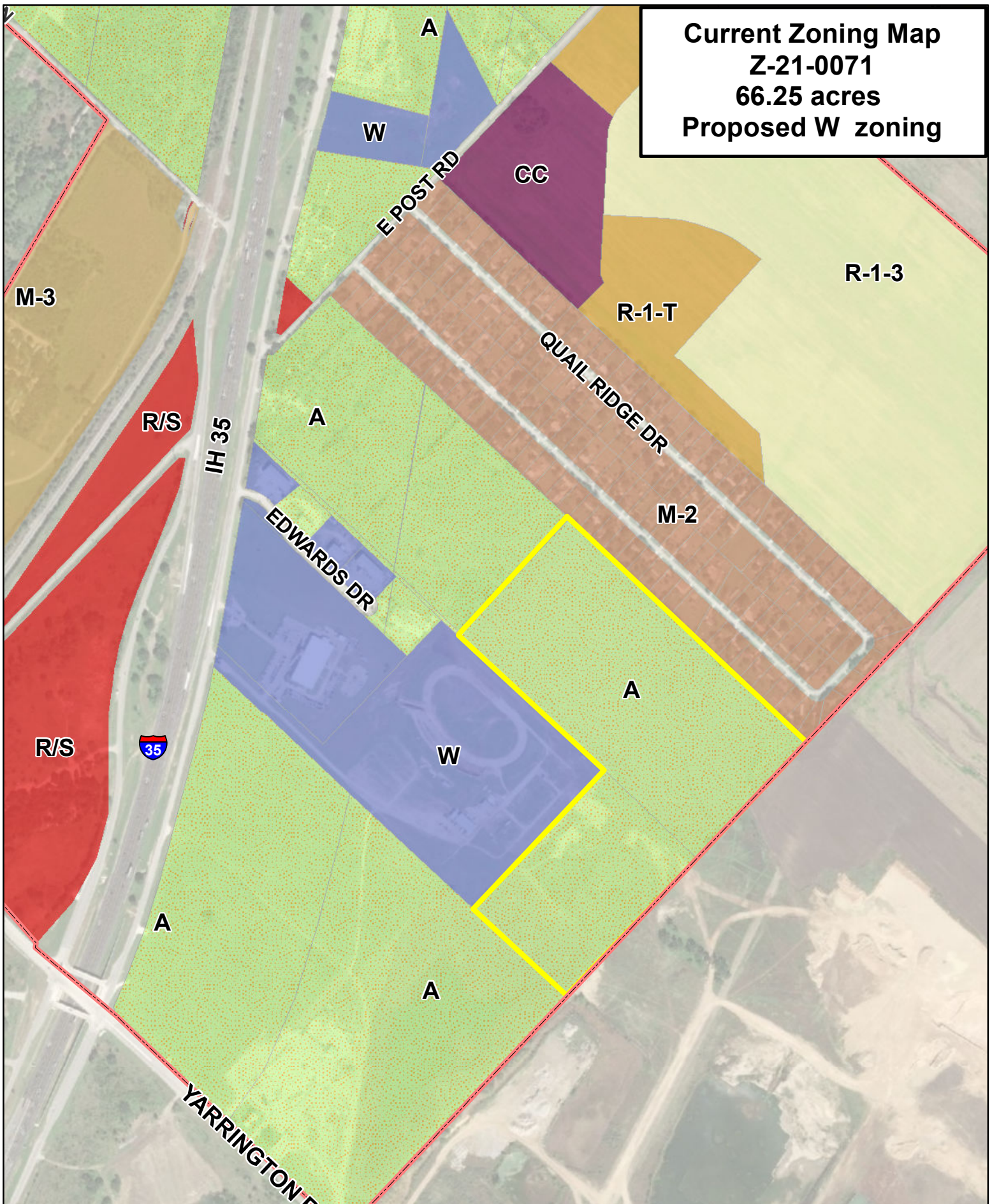


Parcel Lines

Item # 16



**Current Zoning Map**  
**Z-21-0071**  
**66.25 acres**  
**Proposed W zoning**



0 375 750 1,500  
Feet



 Property Location

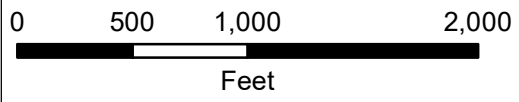
Item # 16



Landuse Districts Map  
Z-21-0071  
66.25 acres  
Proposed W zoning

Regional Node

New Settlement Community



Property Location



Parcel Lines





# CITY OF KYLE, TEXAS

## WS Live Oak Kyle, LLC - Zoning (Z-21-0072)

**Meeting Date: 4/6/2021**

**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 14.08 acres of land from Single Family-1 'R-1' to Townhome District 'R-1-T' for property located at the north corner of Live Oak Street and St. Anthony's Drive, in Hays County, Texas. (WS Live Oak Kyle, LLC - Z-21-0072) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 5-1 to recommend approval of the request.*

- Public Hearing

**Other Information:** See attached.

**Legal Notes:** N/A

**Budget Information:** N/A

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### **ATTACHMENTS:**

#### **Description**

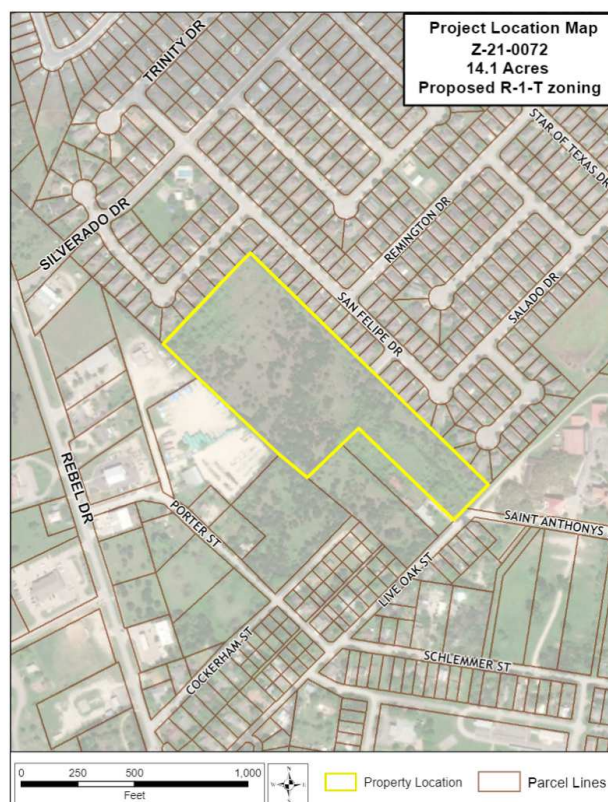
- ☐ Staff Report
- ☐ Ordinance with Exhibit A & B
- ☐ Landowner Authorization Letter
- ☐ Franchise Tax Account Status
- ☐ Deed
- ☐ Project Location Map
- ☐ Current Zoning Map
- ☐ Land Use Districts Map
- ☐ Letters of Opposition
- ☐ Letter of Opposition

---

Property Location	Northwest of the intersection of Saint Anthony Drive and Live Oak Street
Owner	Dan Slovak WS Live Oak Kyle, LLC 2206 Hazelfine Lane Austin, TX 78744
Agent	Amar Gulhane 3016 Paseo De Charros Cedar Park, TX 78641 amar@ramendu.com
Request	Rezone 14.1-Acres (R-1) Single Family Residential & 14.1-Acres (R-1-T) Townhomes

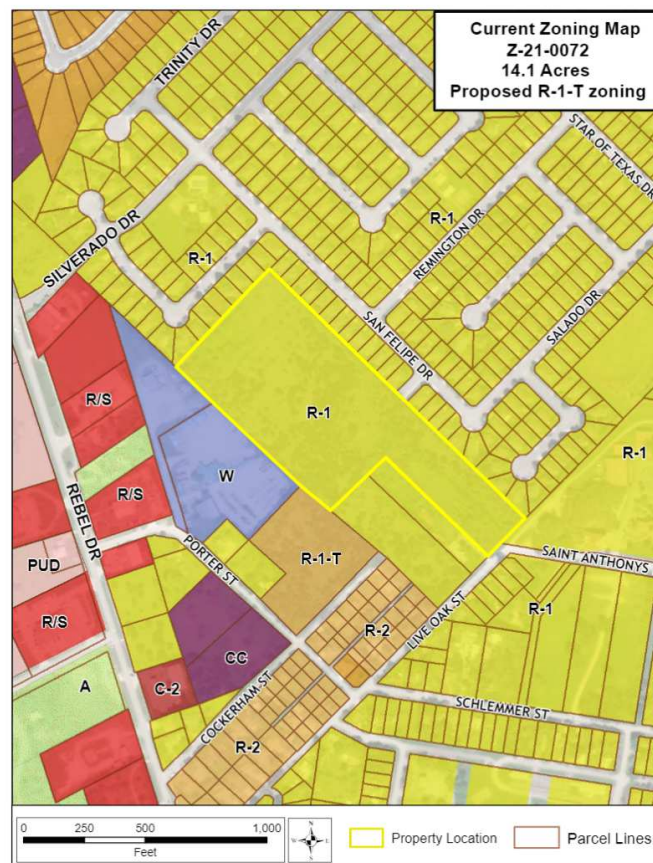
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**VICINITY MAP**



**SITE DESCRIPTION**

The applicant is requesting the property to be rezoned to R-1-T and used as townhomes.



## Existing Zoning

### **R-1 (Single Family Residential, Ord. No. 92)**

#### 5.2 District R-1: Single Family Residential

- 5.2.a. Purpose: This district includes lands which are sub-divided into tracts for residential purposes. The district is designed to protect these areas from the undesirable encroachment of nonresidential uses, dense residential development and other similar uses not compatible with the character of one-family detached home type land use, and provided with necessary services and facilities. Mobile homes are excluded from this district.

## Proposed Zoning

### **Residential Townhouse District R-1-T**

#### 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.

## **CONDITIONS OF THE ZONING ORDINANCE**

#### Sec. 53-1205 Amendments

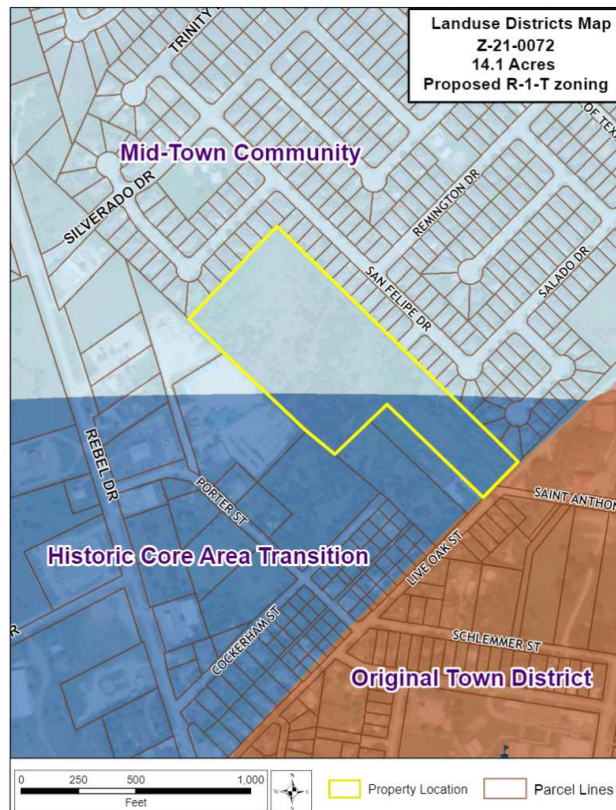
(d)

*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 “Mid-Town Community District”. The remainder of the property is within the “Historic Core Area Transition” District. R-1-T zoning is conditional in both districts.

#### 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

### Historic Core Area Transition District

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

Conditional: A, R-2, R-3-1, **R-1-T**, UE, NC, E, RS, MXD

### 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.

### HISTORIC CORE AREA TRANSITION LAND USE DISTRICT

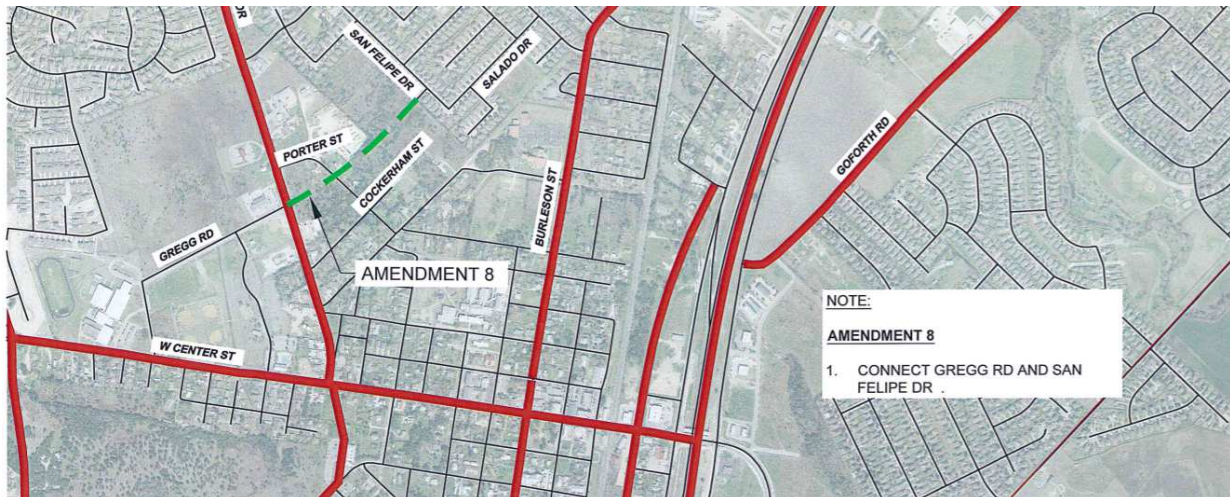
Character: The Historic Core Area Transition serves as a transition between the regular gridded development pattern that characterizes Downtown and the more rural patterns to the south and west, as well as newer development to the north. Significant features of this District include the intersection of Old Stagecoach Road and Center Street, the Gregg Clarke Park, Wallace Middle School, and the emerging commercial corridor along Rebel Road north from Center Street. This District is a “middle landscape” of historic residential

forms that transition to more rural residential forms. The District should embody the historic character of existing uses while anticipating appropriate expansion of Old Town. Development in the Historic Core Area Transition District has historically been on a small, lot-by-lot basis, rather than on a larger, project-by-project basis. Because of this, the street serves as the organizing feature of the District. Therefore, as new development extends into the District from the Old Town District, care should be taken to ensure that the historic street pattern is preserved, as called for in 'Kyle Connected', the city's Transportation Master Plan.

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

## **ANALYSIS**

The 14-acre site (zoned R-1) is sited between the Silverado neighborhood, Saint Anthony's Catholic Church, and a mix of single-family residential uses & townhome zoning. The parcel is currently vacant, and largely overgrown with nuisance vegetation. Historically the lot has been intermittently used as an illegal dump site for bulky solid waste like construction and landscape debris. The lot takes access from Live Oak Street and Monterra Drive (Silverado neighborhood). Any project on this site will also be required to build the extension of Monterra Drive to the southwest, within in the bounds of the parcel. This will be a road extension that will eventually align with the intersection of W FM 150 and Gregg Drive. This extension will serve the Live Oak tract and another access point for the Silverado neighborhood.



The R-1-T district is a zoning district allowing townhomes. Per Kyle’s Zoning Ordinance, a “townhome” is a minimum of 4-attached single family homes (side by side). They are not “stacked flats”, which is multifamily (apartments). The applicant is requesting this zoning as an alternative to traditional low-density single family housing.

R-1 = 6 residential units per buildable acre, maximum

R-1-T = 10 residential units per buildable acre, maximum

The allowable increase in density is an important aspect of this request. There are significant costs to upgrading the offsite wastewater line (along Saint Anthony’s Drive) that services this parcel. The existing wastewater line does not perform adequately, and the developer will be required to upgrade the line to service both their property and adjacent properties along the line. This will benefit both existing and future residents of Kyle, and also eliminate a capital improvement project from the city’s responsibility. The additional living units per acre can contribute more to the overall costs of installing the required wastewater infrastructure, reducing the burden on the price of the individual units.

From a comprehensive plan perspective, the site is in both the “Historic Core Area Transition” and “Mid-Town” land use districts. The R-1-T zoning district is considered conditionally in both (conditional upon infrastructure). While the land use districts generally show where certain zoning districts should be, the boundaries frequently cut through the middle of properties. This is a “gray area” for boundary demising lines. While a majority of the property is within the boundaries of the “Mid-Town” district, the existing surrounding “grid” street network lends itself better to the “Historic Core Area Transition” district, and not the intended curvilinear street networks in more suburban or rural neighborhoods. This site is still very much “Central Kyle”, and the historic, grid pattern of streets should be continued, as well as higher density



residential. From a residential building aspect, a city should strive to diversify its housing stock. The R-1-T district is a great “in between” residential product, for those residents wanting to no longer live in rental, multi-family accommodations and instead build personal equity by purchasing property fee simple. In many cases, townhomes offer a price that is less than a typical single family detached product, due to smaller size and economy of scale. This allows a family starting out to incrementally move up to larger homes, when appropriate.

### **RECOMMENDATION**

City staff has reviewed the application and believes the proposed R-1-T district is appropriate. At the March 23, 2021 Planning & Zoning Commission meeting, the Commission voted 5-1 to recommend approval of the zoning request. Staff asks the Mayor & Council to vote to approve the rezoning.

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### **Attachments**

- Landowner Authorization Letter
- Franchise Tax Account Status
- Location map
- Surrounding Zoning Map
- Land Use Districts Map

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

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 14.08 ACRES OF LAND FROM SINGLE FAMILY RESIDENTIAL-1 'R-1' TO TOWNHOME DISTRICT 'R-1-T' FOR PROPERTY LOCATED AT THE NORTH CORNER OF THE INTERSECTION OF LIVE OAK ST. AND ST. ANTHONY'S DRIVE, IN HAYS COUNTY, TEXAS. (WS LIVE OAK KYLE, LLC – Z-21-0072); 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 14.08 acres of land Single Family Residential-1 'R-1' to Townhome District 'R-1-T', 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 \_\_\_\_\_, 2021, 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 \_\_\_\_\_, 2021, 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 \_\_\_\_\_, 2021.

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

ATTEST:

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



**“EXHIBIT A”**

A DESCRIPTION OF A 14.083 ACRE TRACT OF LAND, LOCATED IN THE J. PHARASS SURVEY, ABSTRACT No. 361, OF HAYS COUNTY, TEXAS. SAID 14.083 ACRE TRACT, BEING ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND DESCRIBED AS CONTAINING 13 &  $\frac{3}{4}$  ACRES IN A GENERAL WARRANTY DEED, DATED OCTOBER 19, 1999, FROM MACK AGUIRRE TO WILLIAM C. AGUIRRE, RECORDED AS DOCUMENT No. 9924796 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, ALSO ALL OF THAT CERTAIN SAVE AND EXCEPT TRACT OR PARCEL OF LAND DESCRIBED AS ONE ACRE OF LAND 115 BY 379 FEET OUT OF THE S.E. CORNER OF THE 14  $\frac{3}{4}$  ACRE TRACT DESCRIBED IN A DEED, DATED DECEMBER 19, 1928, FROM MARY HANCOCK, BESSIE CLAYTON, FRED CLAYTON, CORAL LAWSON, U.L. LAWSON, EUGENE LAWSON, LOWELL LAWSON, ALBERT LAWSON, AND NOVELLA BRADLEY TO JUAN MARTINEZ, RECORDED IN VOLUME 97, PAGE 329 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS . SAID 14.083 ACRE TRACT, AS SHOWN ON THE ATTACHED SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1” iron pipe (Grid Coordinates = N 13,910,798.59, E 2,323,011.44) found monumenting the northwest right-of-way of Live Oak Street, a variable width right-of-way, the east corner of lot 1, block 2 of the W.R. Simcock Addition, a subdivision plat of record in Volume S, Page 163 of the Deed Records of Hays County, Texas, and the south corner of that certain tract or parcel of land described as containing 3.06 acres (Tract 2) in a General Warranty Deed, dated April 8, 2013, from Jefferson W. Barton and wife, Cyndy Slovak-Barton to Aden Rangel, recorded in Volume 4603, Page 717 of the Official Public Records of Hays County, Texas, from which a  $\frac{1}{2}$  inch iron rod found monumenting the west corner of lot 1, Kimbro Addition II, a subdivision plat of record in Volume 2, Page 379 of the Plat Records of Hays County, Texas, bears S 42° 42’ 55” E, a distance of 40.20 feet;

**THENCE**, N 46° 17’ 25” W, departing the northwest right-of-way of said Live Oak Street, with the northeast line of said W.R. Simcock Addition, and the southwest line of said 3.06 acre tract, a distance of 334.55 feet to an iron rod with aluminum cap stamped “PRO TECH ENG 2219” found monumenting the northern most right-of-way corner of Cockerham Street, a right-of-way 40 feet in width, the east corner of that certain tract or parcel of land described as containing 3.67 acres (Tract 2) in a Constable’s Tax Deed, dated March 9, 2004, from Lupe Cruz, Constable of Hays County to Alan Dale Lowden and Wife, Sharon Lanette Lowden, recorded in Volume 2425, Pg. 182 of the Official Public Records of Hays County, Texas, and the southwest line of said 3.06 acre tract;

**THENCE**, N 46° 35’ 38” W, continuing with the southwest line of said 3.06 acre tract, and the northeast line of said 3.67 acre tract, a distance of 259.58 feet to a  $\frac{1}{2}$  inch iron rod with cap stamped “GEOMATICS 5516” set for the west corner of said 3.06 acre tract, the northeast line of said 3.67 acre tract, and the **POINT OF BEGINNING** (Grid Coordinates = N 13,911,208.10, E 2,322,581.07) of the herein described tract;

**THENCE**, N 46° 35’ 38” W, continuing with the northeast line of said 3.67 acre tract, the northeast line of that certain tract or parcel of land described as containing 4.422 acres (Tract I) in a Special Warranty Deed, dated March 24, 2015, from Dale Lowden and Lanette Lowden to H.D. Supply Waterworks, Ltd., recorded in Volume 5176, Page 664 of the Official Public Records of Hays County, Texas, a distance of 655.16 feet to a  $\frac{1}{2}$  inch iron rod with cap stamped “BUSH SURVEYING” found monumenting the north corner of said 3.67 acre tract, and the northern most east corner of that certain tract or parcel of land described as containing 2.378 acres in a Warranty Deed with Vendor’s Lien, dated August 25, 1999, from Dale Lowden Excavating, Inc. to Blake Brown and Ramona Brown, recorded as Document No. 9920360 of the Official Public Records of Hays County, Texas;



**THENCE**, N 46° 09' 22" W, with the northeast line of said 2.378 acre tract, a distance of 214.19 feet to an iron rod with cap stamped "RDS RPLS 4094" found monumenting the south corner of lot 8, block C, Silverado At Plum Creek, Section 1A, a subdivision plat of record in Volume 10, Page 183 of the Plat Records of Hays County, Texas, and the northeast line of said 2.378 acre tract;

**THENCE**, N 43° 29' 22" E, with the southeast line of lots 8 through 10, block C, of said Silverado at Plum Creek, Section 1A, and lots 11 through 14, block C, Silverado at Plum Creek, Section 1B, a subdivision plat of record in Volume 10, Page 185 of the Plat Records of Hays County, Texas, a distance of 500.23 feet to an iron rod with cap stamped "RDS RPLS 4094" found monumenting an angle point in said southeast line;

**THENCE**, N 45° 57' 47" E, with the southeast line of lots 14 and 15, block C, of said Silverado at Plum Creek, Section 1B, a distance of 56.56 feet to an iron rod with cap stamped "RDS RPLS 4049" found monumenting the west corner of lot 17, block C, of said Silverado at Plum Creek, Section 1B, and the southeast line of said lot 15;

**THENCE**, 45°47'24" E, with the southwest line of lots 17 through 26, block C, of said Silverado at Plum Creek, Section 1B, and lots 27 through 29, block C, Silverado at Plum Creek, Section 3A, a subdivision of record in Volume 11, Page 128 of the Plat Records of Hays County, Texas, a distance of 723.23 feet to an iron rod with cap stamped "RDS RPLS 4094" found monumenting the south corner of said lot 29 and the west corner of Monterra Drive, a right-of-way 60 feet in width;

**THENCE**, S 45° 45' 25" E, with the southwest right-of-way of said Monterra Drive, a distance of 59.70 feet to an iron rod with cap stamped "RDS RPLS 4049" found monumenting the west corner of lot 1, block L, of said Silverado at Plum Creek, Section 3A, and the south corner of said Monterra Drive;

**THENCE**, S 45° 36' 57" E, with the southwest line of lots 1 through 5, block L, of said Silverado at Plum Creek, Section 3A, a distance of 255.53 feet to an iron rod found monumenting an angle point in said southwest line;

**THENCE**, S 45° 49' 45" E, with the southwest line of lots 5, 6, 17, and 18, block L, of said Silverado at Plum Creek, Section 3A, a passing distance of 50.07 feet, 0.55 feet perpendicular and northeast of line, an iron rod with cap stamped "RPLS 1868" found monumenting the north corner of said one acre 115 by 379 feet, from which an iron rod with cap stamped "RPLS 1868" found monumenting the west corner of said one acre tract 115 by 379 feet, bears S 44° 27' 30" W, a distance of 115.34 feet, in all a total distance of 226.78 feet to an iron rod with cap stamped "RDS RPLS 4094" found monumenting an angle point in said southwest line;

**THENCE**, S 45° 08' 13" E, with the southwest line of lot 18 and 19, block L, of said Silverado at Plum Creek, Section 3A, a distance of 202.10 feet to a 60D nail in and old fence post found monumenting the south corner of said lot 19, the east corner of said one acre tract 115 by 379 feet, the northwest line of that certain tract or parcel of land described as containing 15-2/15 acres in a deed, dated June 21, 1958, from R.H. Teasley and Myrtle Teasley to Louis J. Reicher, Bishop of Austin, recorded in Volume 174, Page 401 of the Deed Records of Hays County, Texas, and the southeast line of the J. Pharass Survey, Abstract No. 361;

**THENCE**, S 44° 22' 21" W, with the northwest line of said 15-2/15 acres, the southeast line of said one acre tract 115 by 379 feet, and the southeast line of the J. Pharass Survey, a passing distance of 114.96 feet to an iron rod with cap stamped "RPLS 1868" found monumenting the south corner of said one acre tract 115 by 379 feet, continuing with the northeast line of said 15-2/15 acres, and the southeast line of said J. Pharrass Survey, a passing distance of 141.85 feet to the west corner of said 15-2/15 acre tract, the north

corner of that certain tract or parcel of land described as containing 1.46 acres of land in a Street Deed, dated September 14, 1998, from John McCarthy, Bishop of the Catholic Diocese of Austin to the City of Kyle, Texas, recorded in Volume 1456, Page 789 of the Official Public Records of Hays County, Texas, continuing with the southeast line of said J. Pharass Survey, the northwest line of said 1.46 acre tract, and the northwest right-of-way of said Live Oak Street, in all a total distance of 215 .62 feet to a ¾ inch iron rod found monumenting the east corner of that certain tract or parcel of land described as containing 1.298 acres in a General Warranty Deed, dated April 15, 2013, from Tracy Forester to Richard Giberson, recorded in Volume 4621, Page 732 of the Official Public Records of Hays County, Texas, and the northwest right-of-way of said Live Oak Street, from which said 1 " iron pipe, point of commencement, bears S 43° 59' 29" W, a distance of 321.02 feet;

**THENCE**, N 46° 26' 50" W, departing the northwest line of said Live Oak Street, with the northeast line of said 1.298 acres, a distance of 588.81 feet to an iron rod with cap stamped "RPLS 1868" found monumenting the north corner of said 1.298 acre tract;

**THENCE**, S 44° 56' 25" W, with the northwest line of said 1.298 acres, and the northwest line of said 3.06 acres, a distance of 320.86 feet to the POINT OF BEGINNING, and containing 14.083 acres of land, more or less. Survey plat accompanies and is a part of this description.

THE STATE OF TEXAS


KNOW ALL MEN BY THESE PRESENT:

COUNTY OF TRAVIS

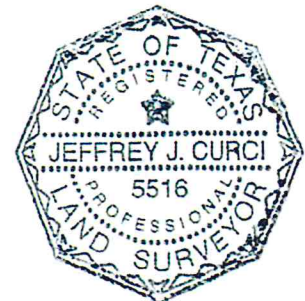
That I, Jeffrey J. Curci, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the parcel of land described herein is based upon a survey performed upon the ground under my direct supervision during the months of June-July 2015.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this 6<sup>th</sup> day of July 2015 A.D.

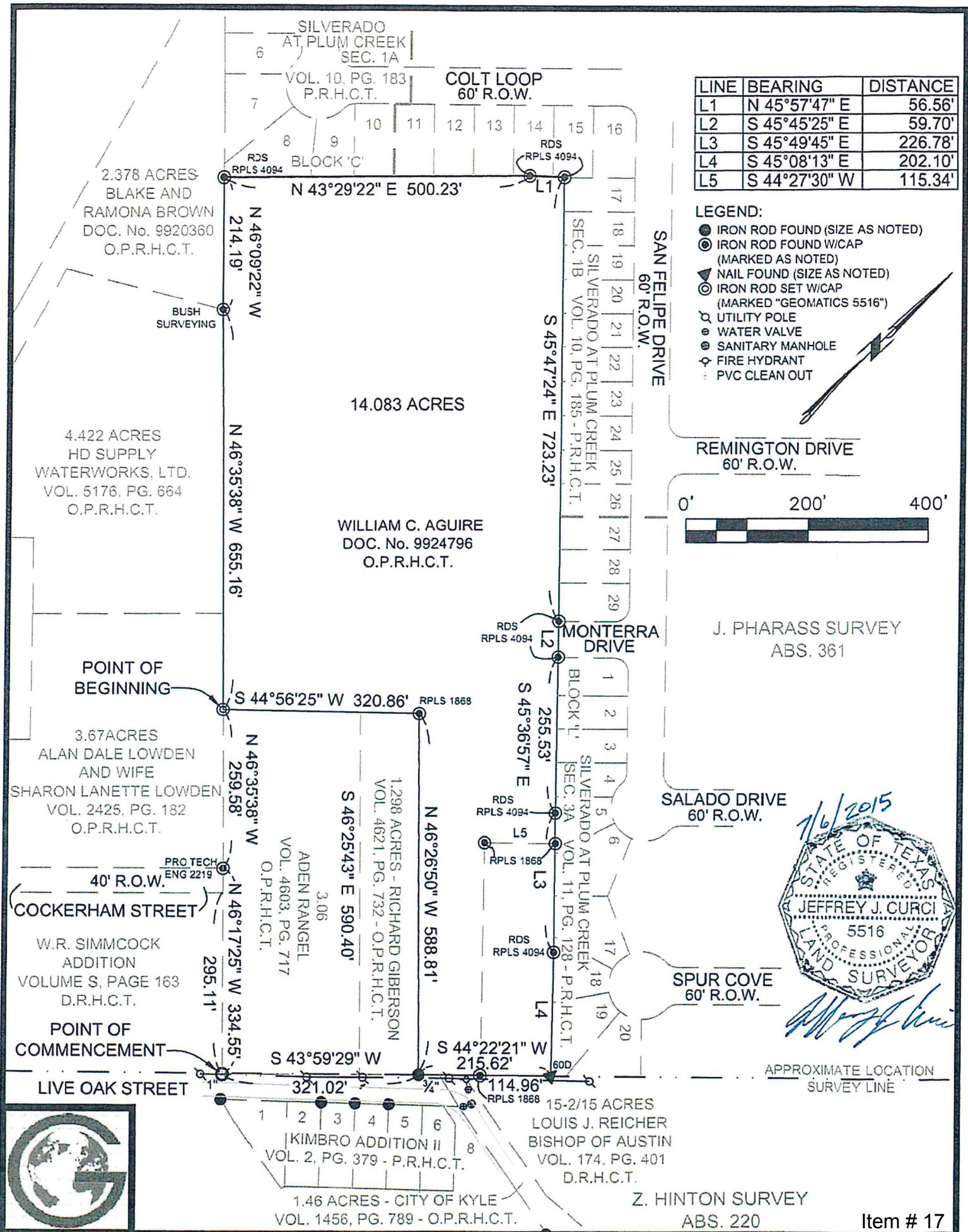
GEOMATICS SURVEYING AND MAPPING INC.  
7500 Amanda Ellis Way  
Austin, Texas 78749

  
Jeffrey J. Curci  
Registered Professional Land Surveyor  
No. 5516 – State of Texas

Bearing Basis: Texas State Plane Coordinates, South Central Zone (4204), NAD 83(2011)







LINE	BEARING	DISTANCE
L1	N 45°57'47" E	56.56'
L2	S 45°45'25" E	59.70'
L3	S 45°49'45" E	226.78'
L4	S 45°08'13" E	202.10'
L5	S 44°27'30" W	115.34'

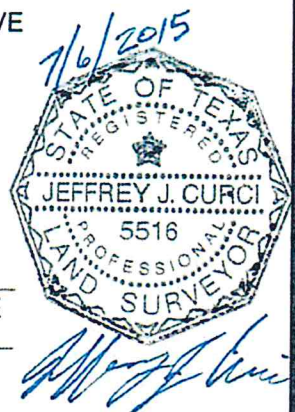
- LEGEND:
- IRON ROD FOUND (SIZE AS NOTED)
  - ⊙ IRON ROD FOUND W/CAP (MARKED AS NOTED)
  - ▲ NAIL FOUND (SIZE AS NOTED)
  - ⊙ IRON ROD SET W/CAP (MARKED "GEOMATICS 5516")
  - ⊕ UTILITY POLE
  - ⊙ WATER VALVE
  - ⊙ SANITARY MANHOLE
  - ⊕ FIRE HYDRANT
  - ⊙ PVC CLEAN OUT

REMINGTON DRIVE  
60' R.O.W.



J. PHARASS SURVEY  
ABS. 361

SALADO DRIVE  
60' R.O.W.



SPUR COVE  
60' R.O.W.

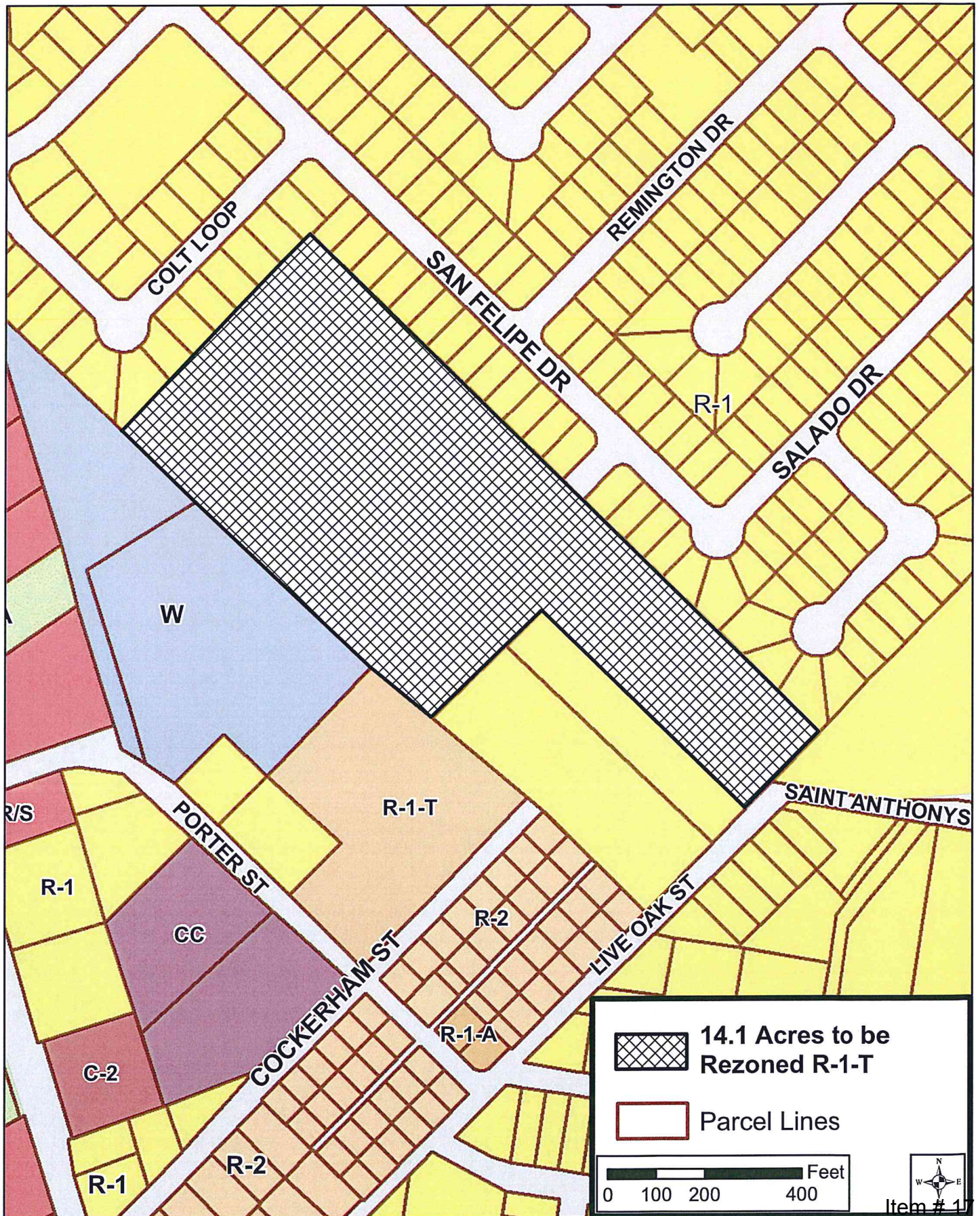
APPROXIMATE LOCATION  
SURVEY LINE





## Exhibit B

Z-21-0072 Live Oak St 14.1 Acres





February 23, 2021

Debbie A Guerra  
Planning Technician  
City of Kyle  
100 West Center Street  
Kyle, Texas 78640

RE: Re-zoning for Live Oak St. Kyle TX  
Summary and Owner Authorization Letter for Agent Representation

The Live Oak St. Kyle, legal address "ABS 361 John Pharass Survey 14.083 AC" is land in Hays County, TX.  
This application is a request for review and approval for "R-1-T" zoning.

The applicant information is the following:

Dan Slovak  
Ws Live Oak Kyle LLC  
2206 Hazelfine Ln  
Austin, TX- 78744-1206

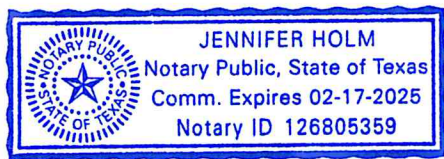
As the owner of "Live Oak St, Kyle TX" property, I hereby grant "Amar Gulhane" the right to act as authorized agent on rezoning application associated with the property. The agent will act in presenting documents, communication with county and city staff.  
Please contact me if you have any questions.

Respectfully,  
Ws Live Oak Kyle LLC

  
Dan Slovak  
Owner

Before me, the undersigned authority, on this day personally appeared Dan Slovak, known to me to be the person whose name is subscribed to the forgoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed, in the capacity therein stated.

Given under my hand and seal of office this 23 day of February, 2021



(Personalized Seal)

  
Notary Public's Signature

**Current Owner of Property**

<b>WS LIVE OAK KYLE, LLC</b>	
<b>Texas Taxpayer Number</b>	32057879689
<b>Mailing Address</b>	6704 MENCHACA RD UNIT 41 AUSTIN, TX 78745-4944
<b>? Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	TX
<b>Effective SOS Registration Date</b>	07/24/2015
<b>Texas SOS File Number</b>	0802259474
<b>Registered Agent Name</b>	TYLER WILLIAMS
<b>Registered Office Street Address</b>	6704 MANCHACA RD #41 AUSTIN, TX 78745

**Amar Gulhane's Business**

<b>MANJAL KYLE LLC</b>	
<b>Texas Taxpayer Number</b>	32077617556
<b>Mailing Address</b>	3016 PASEO DE CHARROS CEDAR PARK, TX 78641-2747
<b>? Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	TX
<b>Effective SOS Registration Date</b>	01/31/2021
<b>Texas SOS File Number</b>	0803919801
<b>Registered Agent Name</b>	AMAR GULHANE
<b>Registered Office Street Address</b>	3016 PASEO DE CHARROS CEDAR PARK, TX 78641

\*\*\*\* Electronically Filed Document \*\*\*\*

Hays County Texas  
Liz Q. Gonzalez  
County Clerk

Document Number: 2015-15036224  
Recorded As : ELECTRONIC RECORDING

Recorded On: November 12, 2015  
Recorded At: 11:31:30 am  
Number of Pages: 8  
Book-VI/Pg: Bk-OPR VI-5373 Pg-394  
Recording Fee: \$50.00

Parties:

Direct- AQUIRRE WILLIAM C  
Indirect- WS LIVE OAK KYLE LLC

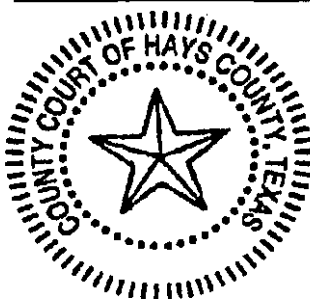
Receipt Number: 413697  
Processed By: Rachel Hatmaker

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\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

---



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Liz Q. Gonzalez*

Liz Q. Gonzalez, County Clerk



## **GENERAL WARRANTY DEED WITH VENDOR'S LIEN**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**DATE:** November 6, 2015

**Grantor:** William C. Aguirre, Francisco A. Castilleja, Jr. and Hilda Yvonne Castilleja f/k/a Yvonne Cruz

**Address:** PO Box 2168 Kyle, Texas 78640

**Grantee:** WS Live Oak Kyle, LLC

**Address:** 6704 Manchaca Road #41 Austin, Texas 78745

### **CONSIDERATION:**

Ten Dollars (\$10.00) and other valuable consideration paid by the Grantee, receipt of which is hereby acknowledged, and a note of even date that is in the principal amount of Three Hundred Twelve Thousand and No/100 Dollars (\$312,000.00) and is executed by WS Live Oak Kyle, LLC payable to the order of Crockett National Bank. This note is secured by a vendor's lien retained in favor of Crockett National Bank in this deed and by a Deed of Trust of even date from Grantee to Todd E. Huckabee, Trustee.

**PROPERTY (including any improvements):**

**See Exhibit A Attached Hereto**

### **RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:**


This conveyance is made and accepted subject to all restrictions, covenants, conditions, rights-of-way, assessments, outstanding royalty and mineral reservations and easements, if any, affecting the above described property that are valid, existing and properly of record and subject, further, to taxes for the year 2016 and subsequent years.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in anywise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, successors and assigns to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

The vendor's lien against and superior title to the property are retained until each note described is fully paid according to its terms, at which time this deed shall become absolute.

Crockett National Bank, at Grantee's request, has paid in cash to Grantor that portion of the purchase price of the Property that is evidenced by the note. The vendor's lien against the title to the Property is retained for the benefit of Crockett National Bank and is transferred to Crockett National Bank without recourse against Grantor.

When the context requires, singular nouns and pronouns include the plural.

  
 William C. Aguirre

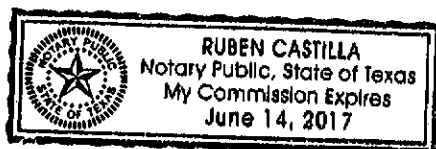
  
 Francisco A. Castilleja, Jr.

  
 Hilda Yvonne Castilleja fka Yvonne Cruz

# Acknowledgement

State of Texas  
County of Travis

This instrument was acknowledged before me on the 6<sup>th</sup> day of November, 2015, by William C. Aguirre, Francisco A. Castilleja, Jr. and Hilda Yvonne Castilleja f/k/a Yvonne Cruz.



  
Notary Public, State of Texas

After Recording Return To:

Law Offices of T. Alan Ceshker  
13413 Galleria Circle, Suite 120  
Austin, Texas 78738  
(512) 961-7848  
(512) 961-7849 (fax)



**EXHIBIT "A"**

**A DESCRIPTION OF A 14.083 ACRE TRACT OF LAND, LOCATED IN THE J. PHARASS SURVEY, ABSTRACT No. 361, OF HAYS COUNTY, TEXAS. SAID 14.083 ACRE TRACT, BEING ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND DESCRIBED AS CONTAINING 13 &  $\frac{3}{4}$  ACRES IN A GENERAL WARRANTY DEED, DATED OCTOBER 19, 1999, FROM MACK AGUIRRE TO WILLIAM C. AGUIRRE, RECORDED AS DOCUMENT No. 9924796 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, ALSO ALL OF THAT CERTAIN SAVE AND EXCEPT TRACT OR PARCEL OF LAND DESCRIBED AS ONE ACRE OF LAND 115 BY 379 FEET OUT OF THE S.E. CORNER OF THE 14  $\frac{3}{4}$  ACRE TRACT DESCRIBED IN A DEED, DATED DECEMBER 19, 1928, FROM MARY HANCOCK, BESSIE CLAYTON, FRED CLAYTON, CORAL LAWSON, U.L. LAWSON, EUGENE LAWSON, LOWELL LAWSON, ALBERT LAWSON, AND NOVELLA BRADLEY TO JUAN MARTINEZ, RECORDED IN VOLUME 97, PAGE 329 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS . SAID 14.083 ACRE TRACT, AS SHOWN ON THE ATTACHED SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**COMMENCING at a 1" iron pipe (Grid Coordinates = N 13,910,798.59, E 2,323,011.44) found monumenting the northwest right-of-way of Live Oak Street, a variable width right-of-way, the east corner of Lot 1, Block 2 of the W.R. Simcock Addition, a subdivision plat of record in Volume S, Page 163 of the Deed Records of Hays County, Texas, and the south corner of that certain tract or parcel of land described as containing 3.06 acres (Tract 2) in a General Warranty Deed, dated April 8, 2013, from Jefferson W. Barton and wife, Cyndy Slovak-Barton to Aden Rangel, recorded in Volume 4603, Page 717 of the Official Public Records of Hays County, Texas, from which a  $\frac{1}{2}$  inch iron rod found monumenting the west corner of Lot 1, Kimbro Addition II, a subdivision plat of record in Volume 2, Page 379 of the Plat Records of Hays County, Texas, bears S 42° 42' 55" E, a distance of 40.20 feet;**

**THENCE, N 46° 17' 25" W, departing the northwest right-of-way of said Live Oak Street, with the northeast line of said W.R. Simcock Addition, and the southwest line of said 3.06 acre tract, a distance of 334.55 feet to an iron rod with aluminum cap stamped "PRO TECH ENG 2219" found monumenting the northern most right-of-way corner of Cockerham Street, a right-of-way 40 feet in width, the east corner of that certain tract or parcel of land described as containing 3.67 acres (Tract 2) in a Constable's Tax Deed, dated March 9, 2004, from Lupe Cruz, Constable of Hays County to Alan Dale Lowden and Wife, Sharon Lanette Lowden, recorded in Volume 2425, Pg. 182 of the Official Public Records of Hays County, Texas, and the southwest line of said 3.06 acre tract;**

**THENCE, N 46° 35' 38" W, continuing with the southwest line of said 3.06 acre tract, and the northeast line of said 3.67 acre tract, a distance of 259.58 feet to a  $\frac{1}{2}$  inch iron rod with**

cap stamped "GEOMATICS 5516" set for the west corner of said 3.06 acre tract, the northeast line of said 3.67 acre tract, and the POINT OF BEGINNING (Grid Coordinates = N 13,911,208.10, E 2,322,581.07) of the herein described tract;

THENCE, N 46° 35' 38" W, continuing with the northeast line of said 3.67 acre tract, the northeast line of that certain tract or parcel of land described as containing 4.422 acres (Tract I) in a Special Warranty Deed, dated March 24, 2015, from Dale Lowden and Lanette Lowden to H.D. Supply Waterworks, Ltd., recorded in Volume 5176, Page 664 of the Official Public Records of Hays County, Texas, a distance of 655.16 feet to a ½ inch iron rod with cap stamped "BUSH SURVEYING" found monumenting the north corner of said 3.67 acre tract, and the northern most east corner of that certain tract or parcel of land described as containing 2.378 acres in a Warranty Deed with Vendor's Lien, dated August 25, 1999, from Dale Lowden Excavating, Inc. to Blake Brown and Ramona Brown, recorded as Document No. 9920360 of the Official Public Records of Hays County, Texas;

THENCE, N 46° 09' 22" W, with the northeast line of said 2.378 acre tract, a distance of 214.19 feet to an iron rod with cap stamped "RDS RPLS 4094" found monumenting the south corner of Lot 8, Block C, Silverado At Plum Creek, Section 1A, a subdivision plat of record in Volume 10, Page 183 of the Plat Records of Hays County, Texas, and the northeast line of said 2.378 acre tract;

THENCE, N 43° 29' 22" E, with the southeast line of Lots 8 through 10, Block C, of said Silverado at Plum Creek, Section 1A, and Lots 11 through 14, Block C, Silverado at Plum Creek, Section 1B, a subdivision plat of record in Volume 10, Page 185 of the Plat Records of Hays County, Texas, a distance of 500.23 feet to an iron rod with cap stamped "RDS RPLS 4094" found monumenting an angle point in said southeast line;

THENCE, N 45° 57' 47" E, with the southeast line of lots 14 and 15, block C, of said Silverado at Plum Creek, Section 1B, a distance of 56.56 feet to an iron rod with cap stamped "RDS RPLS 4049" found monumenting the west corner of Lot 17, Block C, of said Silverado at Plum Creek, Section 1B, and the southeast line of said lot 15;

THENCE, 45°47'24" E, with the southwest line of Lots 17 through 26, Block C, of said Silverado at Plum Creek, Section 1B, and Lots 27 through 29, Block C, Silverado at Plum Creek, Section 3A, a subdivision of record in Volume 11, Page 128 of the Plat Records of Hays County, Texas, a distance of 723.23 feet to an iron rod with cap stamped "RDS RPLS 4094" found monumenting the south corner of said lot 29 and the west corner of Monterra Drive, a right-of-way 60 feet in width;

THENCE, S 45° 45' 25" E, with the southwest right-of-way of said Monterra Drive, a distance of 59.70 feet to an iron rod with cap stamped "RDS RPLS 4049" found monumenting the west corner of Lot 1, Block L, of said Silverado at Plum Creek, Section 3A, and the south corner of said Monterra Drive;

**THENCE, S 45° 36' 57" E, with the southwest line of Lots 1 through 5, Block L, of said Silverado at Plum Creek, Section 3A, a distance of 255.53 feet to an iron rod found monumenting an angle point in said southwest line;**

**THENCE, S 45° 49' 45" E, with the southwest line of Lots 5, 6, 17, and 18, Block L, of said Silverado at Plum Creek, Section 3A, a passing distance of 50.07 feet, 0.55 feet perpendicular and northeast of line, an iron rod with cap stamped "RPLS 1868" found monumenting the north corner of said one acre 115 by 379 feet, from which an iron rod with cap stamped "RPLS 1868" found monumenting the west corner of said one acre tract 115 by 379 feet, bears S 44° 27' 30" W, a distance of 115.34 feet, in all a total distance of 226.78 feet to an iron rod with cap stamped "RDS RPLS 4094" found monumenting an angle point in said southwest line;**

**THENCE, S 45° 08' 13" E, with the southwest line of Lot 18 and 19, Block L, of said Silverado at Plum Creek, Section 3A, a distance of 202.10 feet to a 60D nail in and old fence post found monumenting the south corner of said Lot 19, the east corner of said one acre tract 115 by 379 feet, the northwest line of that certain tract or parcel of land described as containing 15-2/15 acres in a deed, dated June 21, 1958, from R.H. Teasley and Myrtle Teasley to Louis J. Reicher, Bishop of Austin, recorded in Volume 174, Page 401 of the Deed Records of Hays County, Texas, and the southeast line of the J. Pharass Survey, Abstract No. 361;**

**THENCE, S 44° 22' 21" W, with the northwest line of said 15-2/15 acres, the southeast line of said one acre tract 115 by 379 feet, and the southeast line of the J. Pharass Survey, a passing distance of 114.96 feet to an iron rod with cap stamped "RPLS 1868" found monumenting the south corner of said one acre tract 115 by 379 feet, continuing with the northeast line of said 15-2/15 acres, and the southeast line of said J. Pharrass Survey, a passing distance of 141.85 feet to the west corner of said 15-2/15 acre tract, the north corner of that certain tract or parcel of land described as containing 1.46 acres of land in a Street Deed, dated September 14, 1998, from John McCarthy, Bishop of the Catholic Diocese of Austin to the City of Kyle, Texas, recorded in Volume 1456, Page 789 of the Official Public Records of Hays County, Texas, continuing with the southeast line of said J. Pharass Survey, the northwest line of said 1.46 acre tract, and the northwest right-of-way of said Live Oak Street, in all a total distance of 215 .62 feet to a ¾ inch iron rod found monumenting the east corner of that certain tract or parcel of land described as containing 1.298 acres in a General Warranty Deed, dated April 15, 2013, from Tracy Forester to Richard Giberson, recorded in Volume 4621, Page 732 of the Official Public Records of Hays County, Texas, and the northwest right-of-way of said Live Oak Street, from which said 1 " iron pipe, point of commencement, bears S 43° 59' 29" W, a distance of 321.02 feet;**

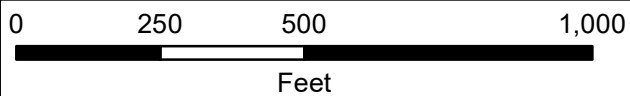
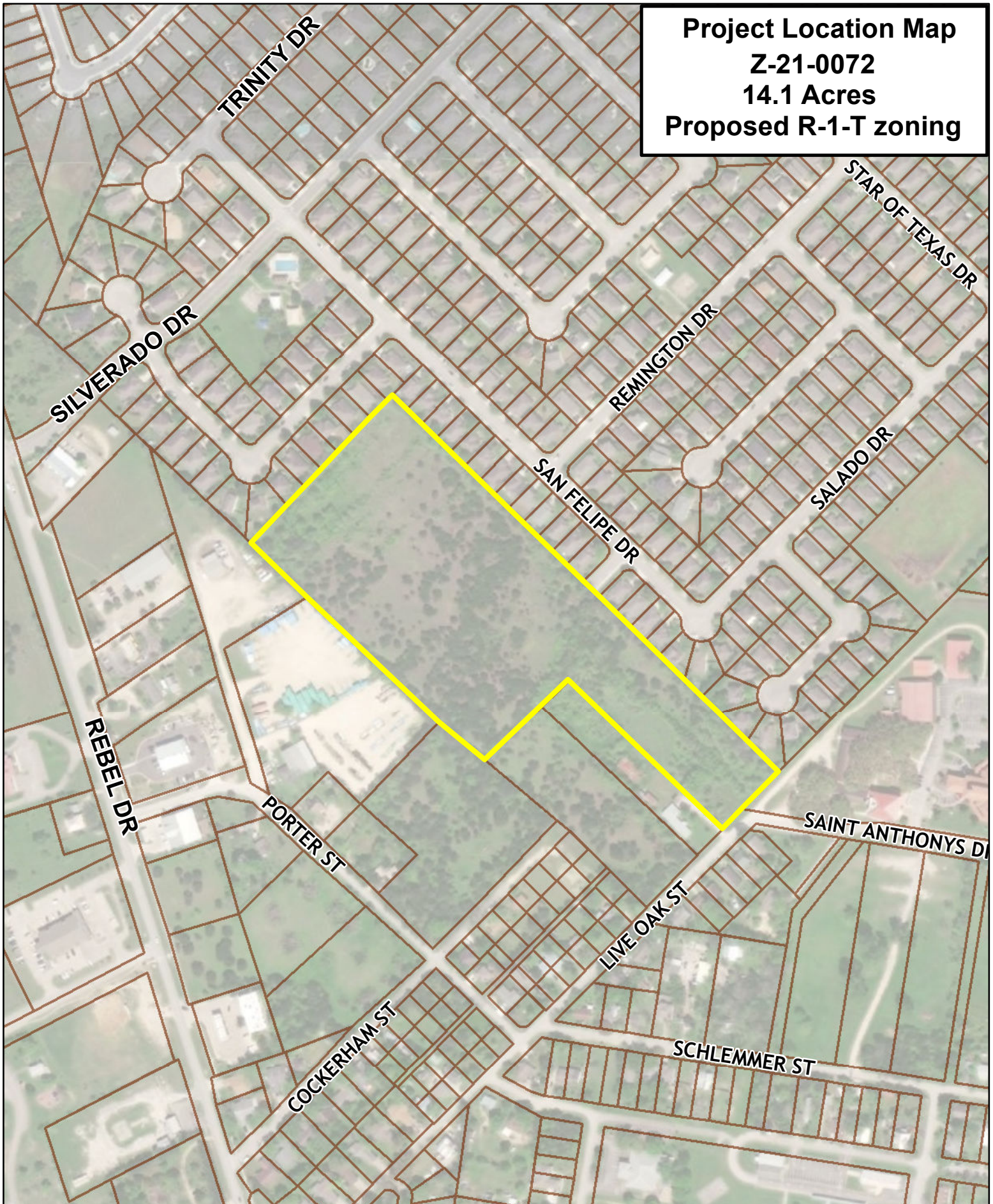
**THENCE, N 46° 26' 50" W, departing the northwest line of said Live Oak Street, with the northeast line of said 1.298 acres, a distance of 588.81 feet to an iron rod with cap stamped**

**“RPLS 1868” found monumenting the north corner of said 1.298 acre tract;**

**THENCE, S 44° 56’ 25” W, with the northwest line of said 1.298 acres, and the northwest line of said 3.06 acres, a distance of 320.86 feet to the POINT OF BEGINNING, and containing 14.083 acres of land, more or less.**



**Project Location Map**  
**Z-21-0072**  
**14.1 Acres**  
**Proposed R-1-T zoning**



Property Location

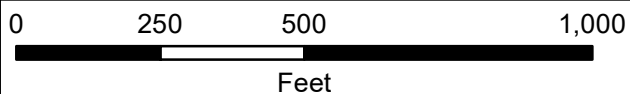
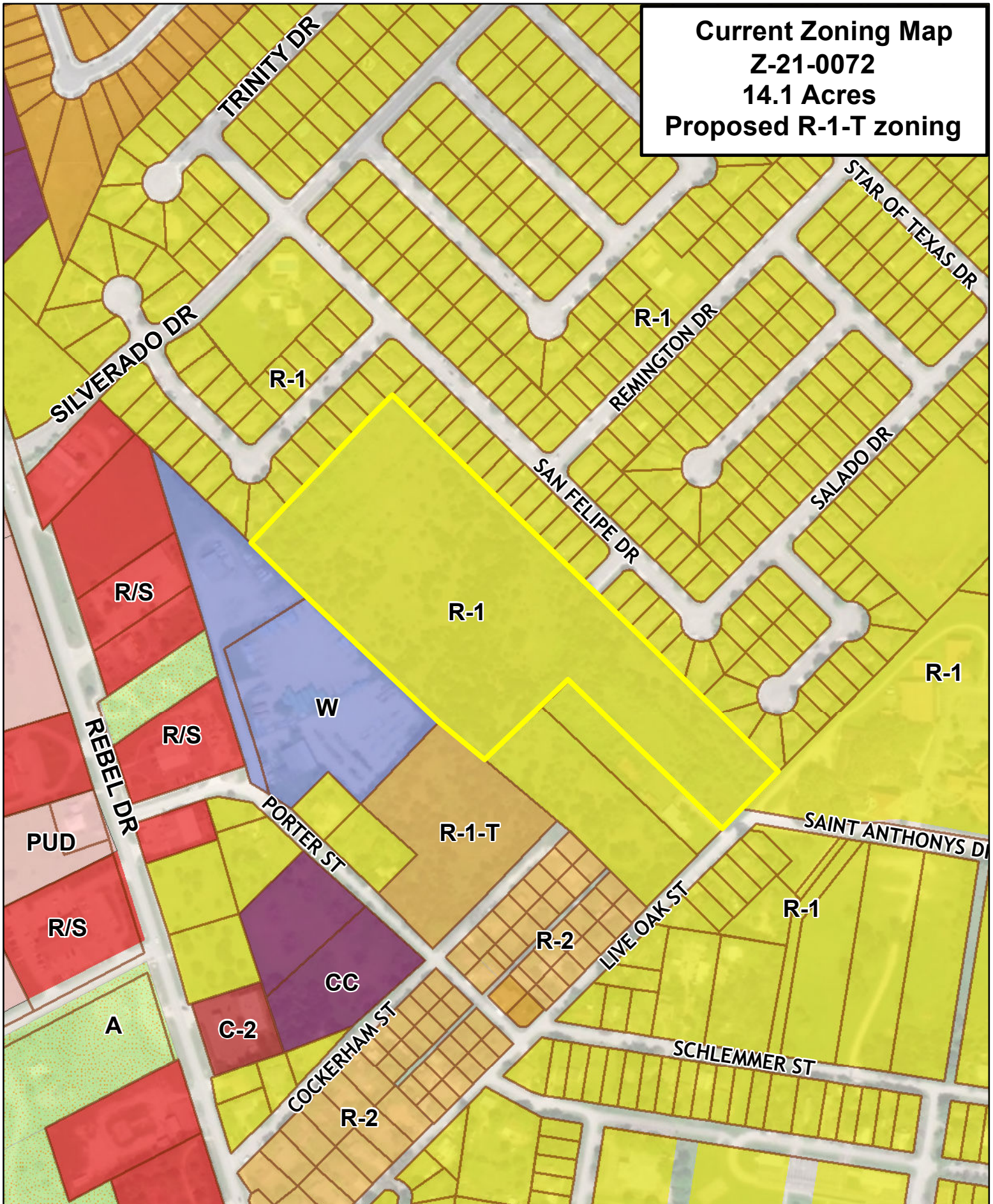


Parcel Lines

Item # 17



Current Zoning Map  
Z-21-0072  
14.1 Acres  
Proposed R-1-T zoning



Property Location

Parcel Lines

Item # 17

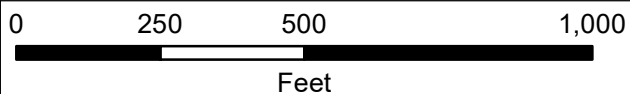


Landuse Districts Map  
Z-21-0072  
14.1 Acres  
Proposed R-1-T zoning

Mid-Town Community

Historic Core Area Transition

Original Town District



Property Location



Parcel Lines

Item # 17



Name: Kevin Villaalba Address: 120 Colt Loop, Kyle, Tx.  
78640

- I am not in favor, and this is why The last time this was proposed  
there were no plans to show exactly what was  
going to be built (townhome is very general).  
Second, the last time this was proposed, there  
was no infrastructure to support the new  
buildings (i.e., roads, water, sewer, etc.). Has  
any of this changed?

Name: Judy Mc Lary Address: 706 Pine Oak

- ✧ I am not in favor, and this is why We live in a quiet one story home area where  
owls hoot and with an occasional opossum, racoon and deer.  
Townhouses would cut down the trees and destroy it.



\*\*\*\*\*

You may send your written comments to the Planning Department, 100 W. Center St., Kyle, Texas 78640  
(attention: Zoning File # **Z-21-0072**).

Name: REBECCA CURRY MAYFIELD Address: 710 LIVE OAK

☐ I am in favor, this is why \_\_\_\_\_

☐ I am not if favor, and this is why NOT FOR TOWN HOMES - HIGH TRAFFIC

ALREADY DUE TO CHURCH AND WANT TO KEEP NEIGHBORHOOD  
FEEL - MAYBE GREENBELT OR PEDESTRIAN PARK FOR OUR  
OLD TOWN RYLE AREA.



# CITY OF KYLE, TEXAS

Estate of Evelyn Franke, et al (Z-21-0074)

Meeting Date: 4/6/2021

Date time: 7:00 PM

**Subject/Recommendation:** *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 12.9 acres of land from Agriculture 'AG' to Mixed Use District 'MXD' for property located on the northeast corner of Philomena Drive and Bunton Creek Road, in Hays County, Texas. (Estate of Evelyn Franke, et al - Z-21-0074) ~ *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:** See attached.

**Legal Notes:** N/A

**Budget Information:** N/A

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## ATTACHMENTS:

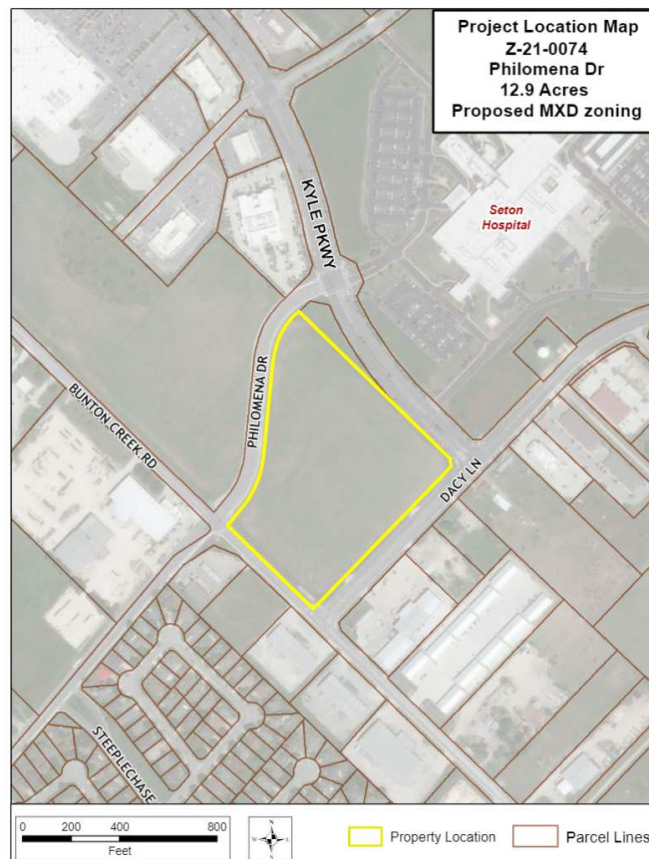
### **Description**

- ☐ Staff Report
- ☐ Ordinance with Exhibit A & B
- ☐ Landowner Authorization Letter
- ☐ Franchise Tax Account Status
- ☐ Project Location Map
- ☐ Current Zoning Map
- ☐ Land Use Districts Map
- ☐ Deed
- ☐ Deed
- ☐ Deed
- ☐ Deed
- ☐ Deed
- ☐ Deed
- ☐ Deed
- ☐ Deed

<b>Property Location</b>	<b>Northeast Corner of Philomena Drive and Bunton Creek Road</b>
<b>Owner</b>	<b>Estate of Evelyn Franke, et al 1259 N. Old Stagecoach Road Kyle, Texas 78640</b>
<b>Agent</b>	<b>Evan Voight - on behalf of Gardner Capital Investments Fund, LLC 2501 N. Harwood Street Dallas TX, 75201</b>
<b>Request</b>	<b>Rezone 12.893-Acres "A" (Agriculture) to "MXD" (Vertical Mixed Use)</b>

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### **Vicinity Map**

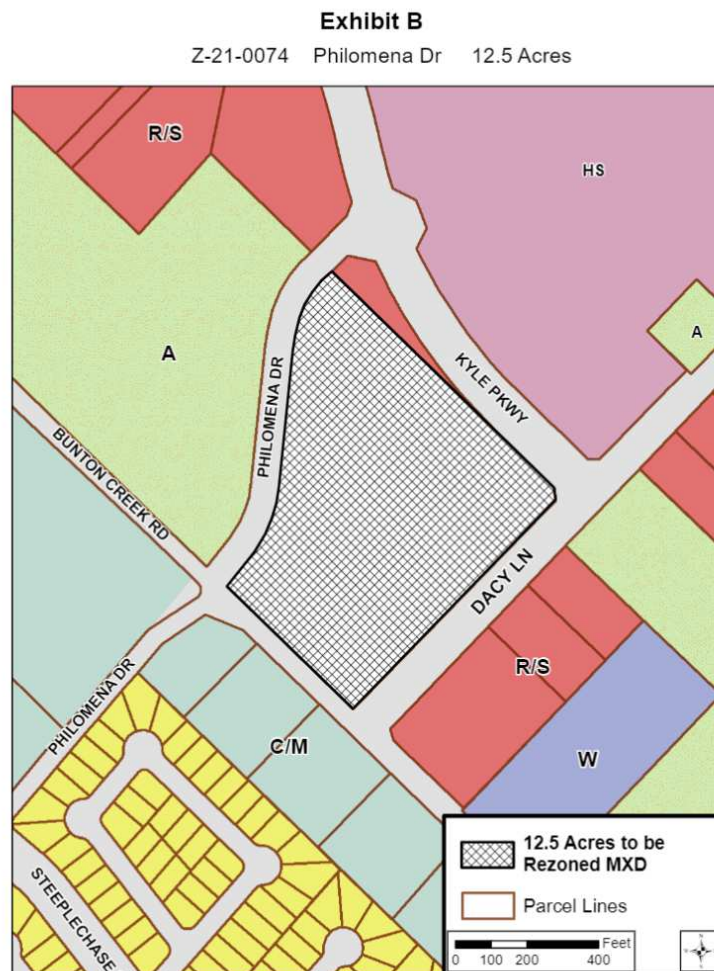




## Site Description

The site is an undeveloped lot on the northwest corner of Dacy Lane and Bunton Creek Road. It is also bounded on the west by the Philomena Drive extension, and on the north by Kyle Parkway. The parcel is located between the Bread Basket convenience store at the intersection of Philomena and Bunton Creek. All those parcels to the southwest, across Bunton Creek are zoned C/M (Construction/Manufacturing district). Lands to the northwest (across the Philomena extension) are zoned A (Agriculture district), and the land to the southeast (across Dacy Lane) is zoned R/S (Retail Services district). To the northwest, a portion of the area within the development block, but off the subject site itself, is also zoned R/S, and across Kyle Parkway can be found HS zoning, the Hospital Services district.

## Zoning Map



## **Existing Zoning**

### **A (Agriculture)**

#### **Sec. 53-36.**

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.

## **Requested Zoning**

### **Mixed Use Zoning District (MXD)**

#### **Sec. 53-674. - Purpose and findings**

The mixed-use district (MXD) is generally intended to further and promote the tenants of the cities' master plans and comprehensive plan. The district is a commercial zoning classification that requires a vertical mix of commercial and residential uses within the same building(s) on multiple floors. The district is intended to accommodate a physical pattern of development often found in high traffic activity areas, along major streets and especially at intersections of major thoroughfares, and in neighborhood commercial areas of older cities. The district, where appropriately located, will accommodate mixed-use buildings with activity center retail, service, and other commercial uses on the ground and lower floor(s), and residential units above those nonresidential space(s); as well as encourage development that exhibits the physical design characteristics of pedestrian-oriented, store front-style shopping; and promote the health and well-being of residents by encouraging physical activity and greater social interaction.

## **Conditions of the Zoning Ordinance**

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

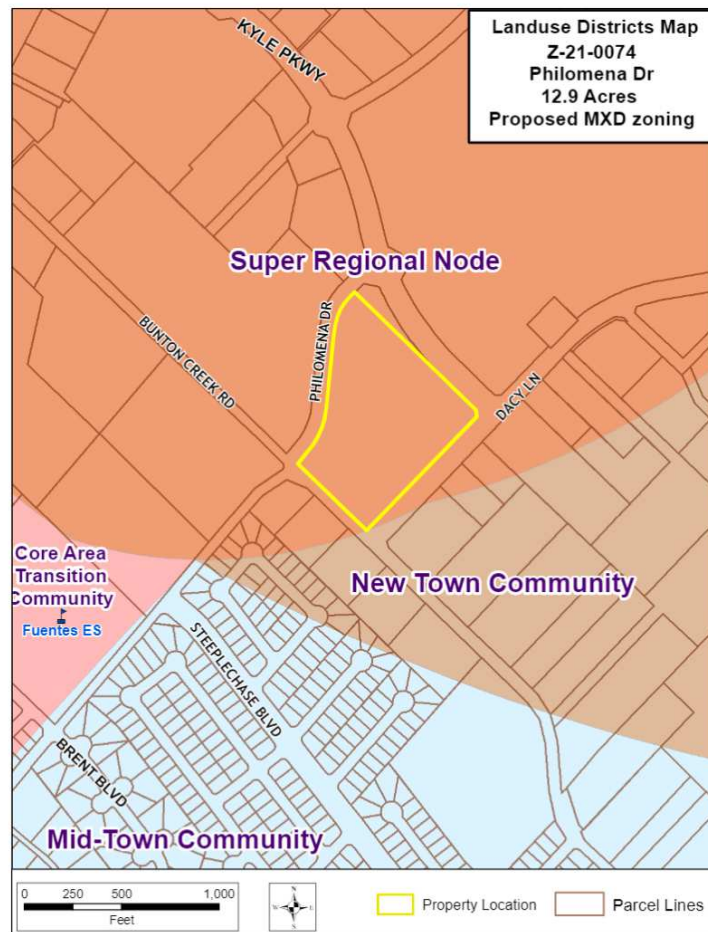
#### **(d)**

*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 within the “Super Regional Node”. The “MXD” zoning district is a recommended district in the “Super Regional Node”.

Recommended: E, HS, R-3-2, R-3-3, R/S, **MXD**, O/I



Conditional: ----

## **Super Regional Node**

'Character': The Super Regional Node should contain large-scale institutional, commercial, retail, and where appropriate, high density multifamily land uses to create the highest classification activity center in Kyle. The Seton Medical Center should serve as the key distinguishing employment component, serving as the primary institutional use in the district upon which support enterprises can base their business locations. The Super Regional Node is in the early stages of development, and care should be taken to ensure that as development processes, it is in keeping with the character and intent outlined below for this Node. Seton Hospital serves as a regional attractor and, in large part, alongside destination retail and business services, defines the Super Regional Node. Associated health providers and goods and service providers should be attracted to this area and encouraged to create a diverse commercial and employment center. The aggregation of commercial square footage in this Node creates a significant commercial destination that will be visible to regional travelers along the I-35 corridor. This proximity to highway infrastructure results in the rare instance of a district primarily designed to be automobile oriented, with patrons arriving and inter-locating primarily by car. The commercial focus of this Node should be on acting as an economic activity center, generating much needed real estate, sales and hotel occupancy tax revenue for the city while fulfilling the retail and service needs of patrons from a targeted distance of no less than 10-15 mile away. Additionally, ancillary entertainment uses, such as movie theaters or bowling alleys, may be appropriate in this Node. This Node should serve as a destination for Kyle, attracting people due to the hospital and/or commercial offerings, and encouraging them to extend their stay due to unique and diverse uses and connections to other areas of Kyle.

'Intent': The purpose of the Super Regional Node is to capture employment opportunities and create a commercial destination within Kyle. Situated at the intersection of I-35 and Texas State Highway 1626, these high classification roadways are best suited to bring in out-of-region patrons with the least impact to Kyle's local street network. This Node should take advantage of the medical center and of I-35 traffic to increase Kyle's competitiveness in the surrounding region. Existing employment opportunities should be referenced when targeting complimentary commercial uses and opportunities for increased value capture. Due to the concentration and diversity of uses in this Node, appropriate land use transitions to adjacent Communities is critical. The anchor of the Super Regional Node should be employment and they daytime population created by those positions, and the Super Regional Node should have the highest level of development intensity of all Nodes.

## **Analysis**

The subject property is located on approximately 12.9-acres, zoned “A” (Agriculture). This site is currently undeveloped and used for agricultural purposes.

The site is entirely within the Super Regional Node, a district within the City of Kyle’s comprehensive plan that envisions dense urban development and a high level of activity (both commercial and residential). As stated in the “Character” portion of the text, “the Super Regional Node should contain large-scale institutional, commercial, retail, and where appropriate, high density multifamily land uses to create the highest classification activity center in Kyle”. The Mixed Use (MXD) zoning district is a mix of the highest density multifamily and commercial zoning districts the City of Kyle has to offer. The ground floor is required to be commercial, with up to 30 units per buildable acre of residential above the ground floor. The MXD zoning district fits into the Super Regional node activity center, from an intensity of use, and is expected to thrive in this portion of the City.

The MXD zoning district is intentionally designed to facilitate a vertical mix of uses, in one building. As previously stated, no residential uses, or those uses directly accessory to associated residential uses, is allowed on the ground floor. Requiring commercial on the ground floor is key, as it helps create and amenitize a pedestrian friendly shopping experience. Residents of the project will also help patronize the commercial spaces. Additionally, street parking is critical to the design of the site, as it allows customers to park adjacent to the store fronts, walk the block to window shop and help sustain associated businesses. Vertical mixed-use developments thrive in urban settings, and this development will be one of the first, large scale projects in the City of Kyle (Uptown at Plum Creek the other).

As previously stated, this site is entirely surrounded by city streets, creating significant vehicular connectivity. This will help provide sufficient customers to the ground floor commercial, in addition to the residents on site. The existing street network is in good condition. From a site development perspective, the project will also create a sidewalk network to help attract pedestrian customers from adjacent, developed areas (Steeplechase neighborhood). From a utilities perspective, water and wastewater is available and has sufficient capacity to serve the site. There is also ample access to employment nearby, with Seton Hospital adjacent to the north and retail outlets located surrounding the I-35/1626 intersection.

## **Recommendation**

The site has sufficient utilities, road infrastructure, helps create a vibrant, urban project and supports the Comprehensive Plan. At the March 23, 2021 Planning & Zoning Commission meeting, the Commission voted 6-0 recommending approval of the zoning

request. City staff supports the rezoning to MXD and asks the Mayor & Council to vote to approve the rezoning request.

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## **Attachments**

- Landowner Authorization Form
- Franchise Tax Account Status
- Location Map
- Current 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 12.9 ACRES OF LAND FROM AGRICULTURE 'AG' TO MIXED USE DISTRICT 'MXD' FOR PROPERTY LOCATED ON THE NORTHEAST CORNER OF PHILOMENA DRIVE AND BUNTON CREEK ROAD, IN HAYS COUNTY, TEXAS. (ESTATE OF EVELYN FRANKE, ET AL – Z-21-0074); 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 12.9 acres of land from Agriculture 'AG' to Mixed Use District 'MXD', 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 \_\_\_\_\_, 2021, 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 \_\_\_\_\_, 2021, 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 \_\_\_\_\_, 2021.

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

ATTEST:

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





SPOT ON SURVEYING

*Land Surveying & Mapping*

## EXHIBIT "A"

### FIELD NOTES-METES AND BOUNDS DESCRIPTION

BEING 12.893 ACRES OF LAND, MORE OR LESS OUT OF THE JOHN M. GREEN SURVEY NO. 21, ABSTRACT NO. 200, SAID 12.893 ACRES BEING A PORTION OF LOTS 15, 16, 19, 20, 21, 25, 26, 27, 28, 40, 41, 42, 43, 44, 45, 46, 47 AND 48, A PORTION OF REBEL DRIVE AND FIELDCREST DRIVE AND ALL OF LOTS 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 AND 39, WOOD RIDGE SUBDIVISION, BEING A SUBDIVISION IN THE CITY OF KYLE, COUNTY OF HAYS, STATE OF TEXAS PER MAP OR PLAT RECORDED IN VOLUME 1, PAGE 271, PLAT RECORDS, HAYS COUNTY, TEXAS, (P.R.H.C.TX.), SAID PLAT BEING VACATED PER VACATION OF SUBDIVISION PLAT RECORDED AS INSTRUMENT NO. 16024639, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, (O.P.R.H.C.TX.), SAID TRACT BEING CONVEYED TO EVELYNE B. FRANKE, ROBIE LYNN GREGG ROBINSON, AUDREY ELAINE GREGG OSWALT, AUBREY W. GREGG, JR., AND MARY EVELYN GREGG KINSALA BY AGREEMENT AS TO INTEREST IN REAL PROPERTY RECORDED AS DOCUMENT NO. 90032469, IN VOLUME 3792, PAGE 125, O.P.R.H.C.TX., AND LATER CONVEYED TO MKK ASSOCIATES, L.P. BY MARY GREGG KINSALA, AS TRACT TWO IN SPECIAL WARRANTY CONTRIBUTION DEED RECORDED AS DOCUMENT NO. 2009-90032521 IN VOLUME 3792, PAGE 446, O.P.R.H.C.TX., SAID 12.893 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a found iron rod with cap stamped "BURY & PARTNERS", said point being accepted as the common Southeasterly corner of Lot 2 of Amending Plat of the RePlat of Lot 1B, Block "A", of the SCC Bunton Creek Subdivision, Replat of Lot 6A, Block "A", in the City of Kyle, Hays County, Texas, according to the map or plat recorded as Document No. 17011827, (P.R.H.C.TX.), and the most Westerly corner of Lot 2B, Block "A", SCC Bunton Creek Subdivision, Replat of Lot 6A, Block "A" to Establish Lot 1B and 2B SCC Bunton Creek Subdivision, according to the map or plat recorded in Volume 17, Page 54, (P.R.H.C.TX.), also being accepted as the most Northerly corner of said Wood Ridge Subdivision;

**THENCE** S45° 45' 45" E, 467.55 feet with the common Southwesterly limits of said Lot 2B, also being the Southwesterly limits of Seton Hays County Subdivision, a subdivision in the City of Kyle, County of Hays, State of Texas, per map or plat recorded in Volume 14, Page 255, (P.R.H.C.TX.), and the Northeasterly limits of said Wood Ridge Subdivision to a set 5/8" iron rod with cap stamped "SPOT ON SURVEYING", said point being set at the Northeasterly limits of that 1.902 acre tract of land called Philomena Drive conveyed to the City of Kyle for Public Right of Way (ROW), 90 feet wide, by Special Warranty Deed recorded as Instrument No. 16023063, (O.P.R.H.C.TX.), for the most Northerly corner and the **TRUE POINT OF BEGINNING** hereof;

**THENCE** S 45° 45' 45" E, 879.92 feet continuing with the common Southwesterly limits of said Seton Hays County Subdivision and the Northeasterly limits of said Wood Ridge Subdivision, to a (SIRC), said point being set at the most Northerly corner of that 0.963 acre tract of land called C.R. 205 a.k.a. Dacy Lane conveyed to the County of Hays, for (ROW) purposes, 100 feet wide, by General Warranty Deed, recorded as Document No. 2010-10023353, in Volume 3952, Page 419, (O.P.R.H.C.TX.), for the Northeasterly corner hereof, passing at 625.78 feet pass a found mag nail with washer stamped "BURY & PARTNERS", said point being accepted as the most Southerly corner of Lot 1, Block D, of said Seton Hays County Subdivision, also being accepted as a point of curvature in the Southwesterly (ROW) limits of Kyle Parkway, 120 feet wide, as shown on said Seton Hays County Subdivision;



**THENCE** Southerly with the (ROW) limits of said 0.963 acre tract (Dacy Lane ROW) limits the following two (2) courses:

1. S 01° 26' 28" E, 36.92 feet to a found 1/2" iron rod;
2. S 43° 47' 05" W, 769.82 feet, to a (SIRC), said point being set at the most Easterly corner of that 1.791 acre tract of land called Bunton Road, a.k.a. Goforth Road, conveyed to the City of Kyle for (ROW), 90 feet wide, by Special Warranty Deed recorded as Document No. 2015-15035237, in Volume 5366, Page 727, (O.P.R.H.C.TX.), for the most Southerly corner hereof;

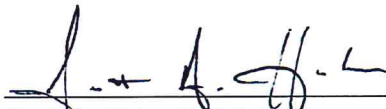
**THENCE** N 46° 02' 44" W, 515.66 feet, leaving said Dacy Lane, with the common Northeasterly (ROW) limits of said Goforth/Bunton Road and the Southwesterly limits of said Wood Ridge to a (S.I.R.C.), said point being set at the most Southerly limits of said Philomena Drive, 1.902 acre tract, for the most Westerly corner hereof;

**THENCE** leaving the Northeasterly limits of said Goforth/Bunton Road, with the Easterly (ROW) limits of said Philomena Drive and the Westerly limits of the herein described tract, the following four (4) courses:

1. N 43° 45' 28" E, 37.32 feet to a (S.I.R.C.), said point being the beginning of a curve concave Westerly, having a radius of 378.00 feet;
2. Northerly with said curve to the left through a central angle of 38° 16' 01" an arc length of 252.46 feet to a (S.I.R.C.), for the end of said curve, having a chord bearing and distance of N 24° 37' 27" E, 247.79 feet to said point;
3. N 05° 29' 27" E, 402.36 feet to a (S.I.R.C.), said point being the beginning of a curve concave Easterly, having a radius of 288.00 feet;
4. Northeasterly with said curve to the right through a central angle of 45° 23' 42" an arc length of 228.18 feet to the **POINT OF BEGINNING** hereof, having a chord bearing and distance of N 28° 11' 18" E, 222.26 feet to said point, containing a calculated area of 561,611.51 square feet or 12.893 acres of land, more or less.

SAID FIELD NOTES BEING DESCRIBED IN ACCORDANCE WITH A SURVEY MADE ON THE GROUND BY ME OR UNDER MY DIRECTION, TO BE USED WITH SURVEY SKETCH PREPARED BY SPOT ON SURVEYING, INC. ATTACHED HERETO AND MADE A PART HEREOF.

ALL BEARINGS ARE BASED ON NAD 83 TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE. ALL DISTANCES SHOWN ARE SURFACE OR GROUND DISTANCES.

  
\_\_\_\_\_  
Scott A. Hahn, RPLS 6375

Spot On Surveying, INC. – TX Firm No.:10193894  
614 Jerrys Ln., Buda TX. 78610  
(512)523-8092  
SOS J/N: 0048-20-016

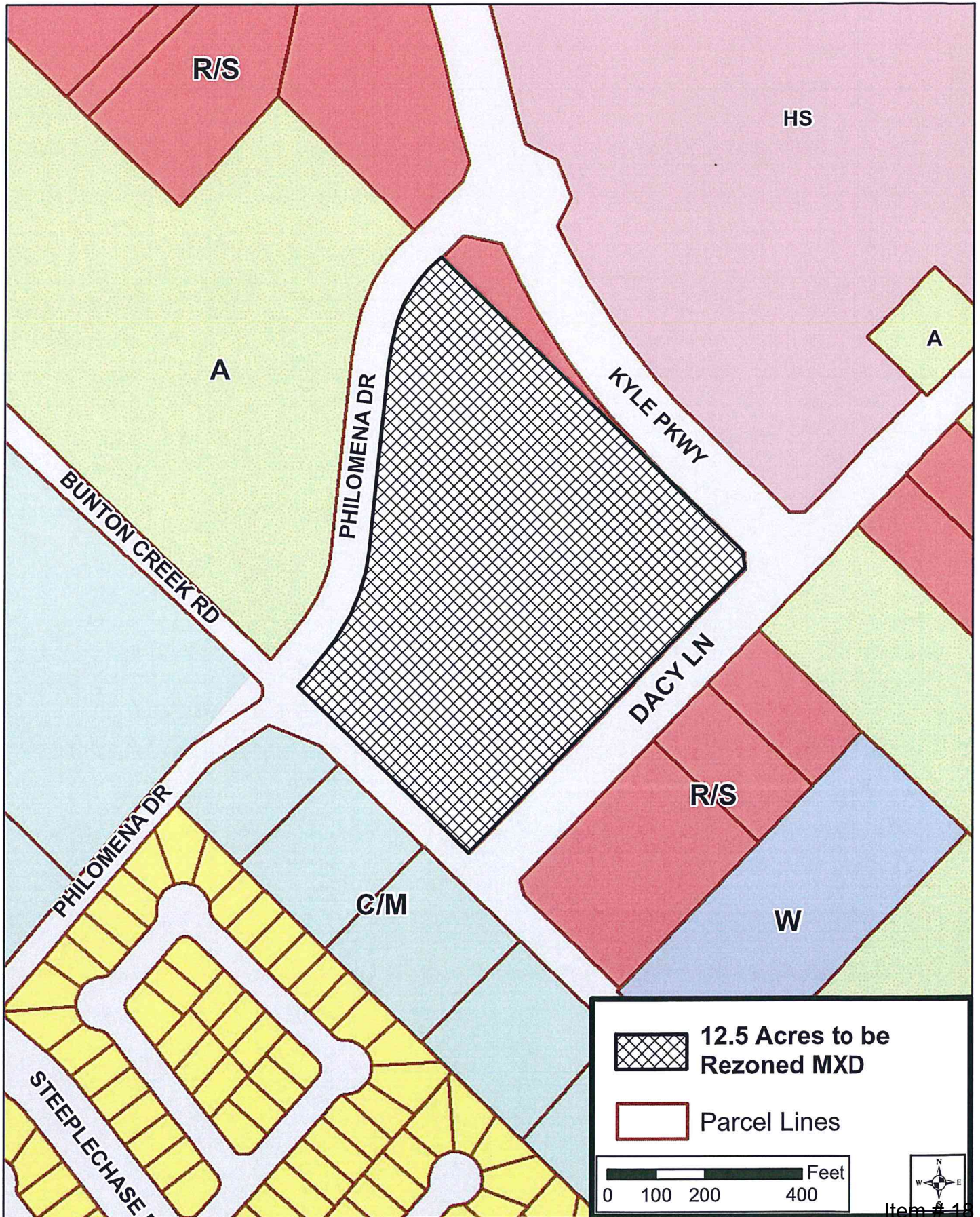
January 21, 2021

\_\_\_\_\_  
Date



# Exhibit B

Z-21-0074 Philomena Dr 12.5 Acres





February 22, 2021

Debbie A Guerra  
Planning Technician  
City of Kyle  
100 West Center Street  
Kyle, Texas 78740

RE: Request Change in Zoning  
Summary and Owner Authorization for Agent Representation  
NE Corner of Philomena Dr & Bunton Creek Rd (CR 130), Kyle, Texas 78640

We are requesting a zoning change from its existing Agricultural (AG) zoning designation to Mixed-Use Zoning District (MXD) zoning for the land located approximately at the NE corner of Philomena Drive and Bunton Creek Road, Kyle, Texas 78640. This change will allow for a more dense, vertical mixed-use development on the 12.893-acre site.

The applicant information is the following:

Estate of Evelyn Franke et al

Members of Estate

Don S. Franke, Independent Co-Executor of Estate of Evelyn Franke

Mary Gregg Kinsala, Agent for MKK Associates, a TX limited partnership,  
GAWLS Ltd., a TX limited partnership,  
CR Two Investments, Ltd., a TX limited partnership,  
Clifton Oswalt as Trustee of the Clifton Oswalt Trust, and  
Evelyn Nicholson as Trustee of the Evelyn Nicholson Trust

1259 N Old Stagecoach Rd, Kyle, Texas 78460  
(p) (512) 924-6966  
(email) [crobinson@robinsonrealtyservices.com](mailto:crobinson@robinsonrealtyservices.com) or [ekathry@aol.com](mailto:ekathry@aol.com)

As the owner of the site, I hereby grant Gardner Capital Investments Fund, LLC the right to act as the Authorized Agent on development applications associated with this property. The agents may act in the preparation of documents, communication with county staff, and presentation to county boards and commissions, conditioned, however, to contract requirements that rezoning not to be finalized until sale to Gardner Capital Investment Fund, LLC is finalized. Agent's Information is listed as follows:

*Gardner Capital Investments Fund, LLC*  
2501 N Harwood St. Dallas, Texas 75201  
(p) (314)561.5901  
(email) [michael@gardnercapital.com](mailto:michael@gardnercapital.com)

[signature page to follow]



[signature page from letter request]

Respectfully,

Signature:

*Don S. Franke*

Don S. Franke, Independent Co-Executor of Estate of Evelyn Franke  
As to the undivided one-third interest in the property

Date:

February 25, 2021

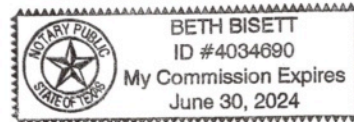
**Certified Public Notary:**

This document was acknowledged before me on the 25 day of February 2021 by  
Don S. Franke (Owner).

*Beth Bisett*

Notary Public State of Texas

(Seal)



Signature:

*Mary Gregg Kinsala*

Mary Gregg Kinsala, Agent for MKK Associates, TX limited partnership,  
GAWLS Ltd., a TX limited partnership,  
CR Two Investments, Ltd., a TX limited partnership,  
Clifton Oswalt as Trustee of the Clifton Oswalt Trust, and  
Evelyn Nicholson as Trustee of the Evelyn Nicholson Trust

Date:

25 FEB 2021

**Certified Public Notary:**

This document was acknowledged before me on the 25<sup>th</sup> day of FEBRUARY, 2021 by  
MARY GREGG KINSALA (Owner).

*Leslie Karole O'Pry*

Notary Public State of Texas

(Seal)



---

**RE: Franchise Tax Account Status**

Evan Voight <evan@alderbach.com>

Thu 3/11/2021 2:34 PM

To: William Atkinson <watkinson@cityofkyle.com>

Cc: Debbie Guerra <dguerra@cityofkyle.com>; citrinedev@gmail.com <citrinedev@gmail.com>

 1 attachments (11 KB)

EIN-Gardner Capital Investment Fund, LLC.pdf;

Hi Will,

According to my contact at Gardner Capital this is a Missouri entity which hasn't applied for a foreign license in Texas. Legally, they don't believe it's required to enter into a land contract or purchase land. I attached the EIN for the entity for your reference. Please advise how you'd like us to proceed.

Thanks,

Evan Voight

Alderbach Development, LLC

(c) 317.413.0041

[evan@alderbach.com](mailto:evan@alderbach.com)



ALDERBACH DEVELOPMENT, LLC

---

**From:** William Atkinson <watkinson@cityofkyle.com>

**Sent:** Wednesday, March 10, 2021 1:08 PM

**To:** Evan Voight <evan@alderbach.com>

**Cc:** Debbie Guerra <dguerra@cityofkyle.com>

**Subject:** Franchise Tax Account Status

Evan,

Please upload the appropriate Franchise Tax Account Status for Gardner Capital to Energov as well.

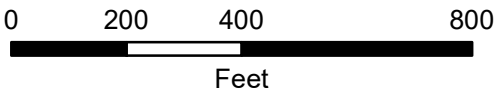
<https://mycpa.cpa.state.tx.us/coa/>

[Taxable Entity Search](#)

Use the 11-digit Comptroller's Taxpayer Number or the 9-digit Federal Employer's Identification Number.

[mycpa.cpa.state.tx.us](https://mycpa.cpa.state.tx.us)

**Project Location Map**  
**Z-21-0074**  
**Philomena Dr**  
**12.9 Acres**  
**Proposed MXD zoning**



Property Location

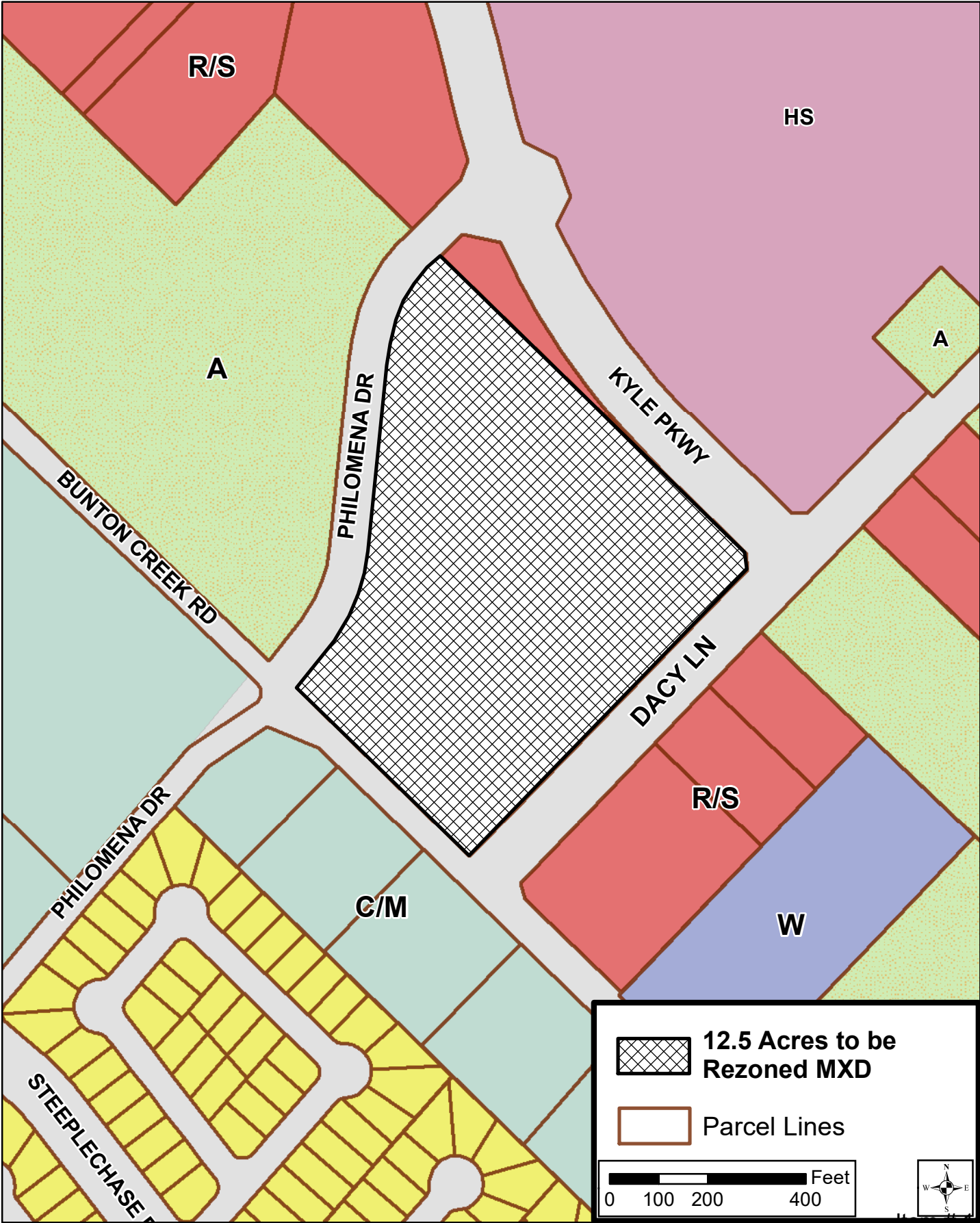


Parcel Lines



# Exhibit B

Z-21-0074 Philomena Dr 12.5 Acres



Landuse Districts Map  
Z-21-0074  
Philomena Dr  
12.9 Acres  
Proposed MXD zoning

**Super Regional Node**

**New Town Community**

**Core Area  
Transition  
Community**

Fuentes ES

**Mid-Town Community**

KYLE PKWY

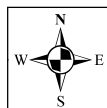
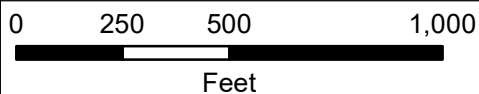
BUNTON CREEK RD

PHILOMENA DR

DACY LN

STEEPLECHASE BLVD

BRENT BLVD



Property Location



Parcel Lines

Item # 18

\*\*\*\* **Electronically Filed Document** \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

---

**Document Number: 2009-90032521**  
**Recorded As : ELECTRONIC RECORDING**

**Recorded On: December 21, 2009**  
**Recorded At: 08:31:15 am**  
**Number of Pages: 7**  
**Book-VI/Pg: Bk-OPR VI-3792 Pg-446**  
**Recording Fee: \$36.00**

**Parties:**

**Direct- KINSALA MARY GREGG**  
**Indirect- MKK ASSOCIATES LP**

**Receipt Number: 235397**  
**Processed By: Christina Rodriguez**

---

\*\*\*\*\* **THIS PAGE IS PART OF THE INSTRUMENT** \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Linda C. Fritsche*

Linda C. Fritsche, County Clerk



**SPECIAL WARRANTY CONTRIBUTION DEED**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

STATE OF TEXAS                   §  
    §       KNOWN ALL PERSONS BY THESE PRESENTS  
 COUNTY OF HAYS               §

That **Mary Gregg Kinsala**, an individual residing in Hays County, Texas ("Grantor"), is the sole and separate property of Grantor and Grantor owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **MKK Associates, L.P.**, a Texas limited partnership ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out his undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of his interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hayes County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 18th day of December, 2009.

GRANTOR:

Mary Gregg Kinsala  
Mary Gregg Kinsala

GRANTEE:

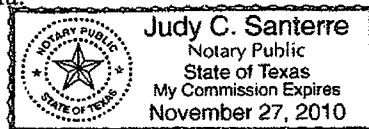
MKK Associates, L.P.  
a Texas limited partnership

By: MKK Management, LLC,  
a Texas limited liability company,  
General Partner

By: Mary Gregg Kinsala  
Mary Gregg Kinsala, President

STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

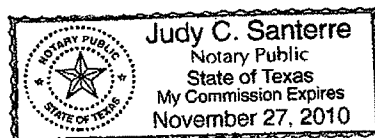
The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Mary Gregg Kinsala.



Judy C. Santerre  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Mary Gregg Kinsala, the President of MKK Management, LLC, a limited liability company, the General Partner of MKK Associates, L.P., a Texas limited partnership, for and on behalf of said limited liability company and limited partnership.



Judy C. Santerre  
Notary Public, State of Texas

## **EXHIBIT A**

### **Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

#### **SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

(4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways

## **EXHIBIT B**

### **Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records



and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

### **EXHIBIT C**

#### **Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

(1) Warranty Deed dated October 25, 2004, to RH of Texas Limited Partnership, and recorded in Volume 2567, Page 514, of the Official Public Records of Hays County, Texas;

(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey

Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres); and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.

#### **EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

WHEN RECORDED RETURN TO:

E. Clark Lutz  
Graves, Dougherty, Hearon & Moody, P.C.  
P.O. Box 98  
Austin, Texas 78767

GRANTEE'S ADDRESS:

MKK Associates, L.P.  
1301 N. Old Stagecoach Road  
Kyle, Texas 78640



\*\*\*\* Electronically Filed Document \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

---

Document Number: 2009-90032469  
Recorded As : ELECTRONIC RECORDING

Recorded On: December 18, 2009  
Recorded At: 01:45:03 pm  
Number of Pages: 5  
Book-VI/Pg: Bk-OPR VI-3792 Pg-124  
Recording Fee: \$29.25

Parties:

Direct- GREGG AUBREY WJR  
Indirect- GREGG AUBREY WJR

Receipt Number: 235342  
Processed By: Christina Rodriguez

---

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

Linda C. Fritsche, County Clerk

**AGREEMENT AS TO INTEREST IN REAL PROPERTY**

STATE OF TEXAS                   §  
  §       **KNOW ALL MEN BY THESE PRESENTS:**  
COUNTY OF HAYS               §

This AGREEMENT dated the 17th day of December, 2009, by and between, EVELYN B. FRANKE, a *feme sole*, ROBIE LYNN GREGG ROBINSON, AUDREY ELAINE GREGG OSWALT, AUBREY W. GREGG, JR., and MARY EVELYN GREGG KINSALA of the County of Hays, State of Texas, hereinafter referred to as Owners, as follows:

**RECITALS:**

1.     **WHEREAS**, Owners are the joint owners of approximately 37.234 acres of land, more or less, located in Hays County, Texas, being two tracts of land, as follows:

Tract 1:       Being 10.274 acres of land, more or less, out of the John Jones Survey and the Walter M. Green Survey, Hays County, Texas and being a portion of that 47.52 acre tract of land formerly conveyed by W. A. Word to Aurel W. Franke as described in Warranty Deed dated November 1, 1962 recorded in Vol. 194 at Page 423, Hays County Deed Records.

Tract 2:       Being 26.96 acres of land, more or less, being Lots 1 through 48 of the Woodridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Book 1, Page 271 of the Hays County Real Property Records.

together with all improvements, rights and appurtenances belonging or pertaining thereto (the "Property");

2.     **WHEREAS**, a portion of the title to the Property is being currently shown in the Official Public Records of Hays County, Texas, as being in A.W. GREGG, who is now deceased;

3.     **WHEREAS**, Owners desire to declare and confirm their agreement as to the proportionate undivided interest of each owner in the Property;

4.     **WHEREAS**, each Owner owns, occupies, and claims property other than the Property as the respective homestead of such Owner. The undivided interest of each of the Owners in the Property is the sole and separate property and estate of each respective Owner.

**NOW, THEREFORE**, for and in consideration of confirming the property interests described herein and other and other valuable consideration, the Owners hereto agree as follows:

1.     **THAT** Owners' respective undivided interests in the Property are as follows:

EVELYN B. FRANKE  
P. O. Box 236  
Kyle, Texas 78640

undivided 1/3rd interest

ROBIE LYNN GREGG ROBINSON  
1251 N. Old Stagecoach Rd.  
Kyle, Texas 78640

undivided 1/6th interest

AUDREY ELAINE GREGG OSWALT  
P. O. Box 726  
Kyle, Texas 78640-0726

undivided 1/6th interest

AUBREY W. GREGG, JR.  
1259 N. Old Stagecoach Rd.  
Kyle, Texas 78640

undivided 1/6th interest

MARY EVELYN GREGG KINSALA  
P. O. Box 1600  
Kyle, Texas 78640

undivided 1/6th interest

2. That it is the intention of the Owners that the Property described as Tract 1 and Tract 2 herein consist of all of the Owners' interest in the remainder of the property originally described in deed recorded in Volume 194, Page 423 of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Agreement and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.

This Agreement may be executed in multiple original counterparts and each of such counterparts with the respective acknowledgments, shall, for all purposes, be deemed to be an original, and, as such, be binding upon each person or party executing any counterpart, and the combined executed signature pages of the counterparts, when attached to one original counterpart, shall constitute the fully executed Agreement.

*[Signature Page Follows]*



EXECUTED this 9th day of December, 2009.

Evelyn B. Franke

EVELYN B. FRANKE

Robie Lynn Gregg Robinson

ROBIE LYNN GREGG ROBINSON

Audrey Elaine Gregg Gloswalt

AUDREY ELAINE GREGG GLOSWALT

Aubrey W. Gregg, Jr.

AUBREY W. GREGG, JR.

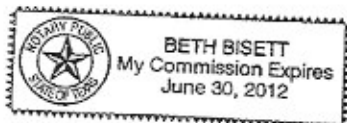
Mary Evelyn Gregg Kinsala

MARY EVELYN GREGG KINSALA

THE STATE OF TEXAS

COUNTY OF HAYS

This instrument was acknowledged before me on the 9th day of December, 2009 by EVELYN B. FRANKE.



Beth Bisett

Notary Public, State of Texas

STATE OF TEXAS §

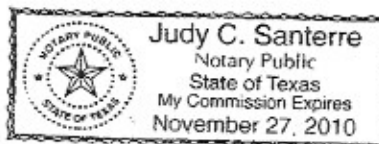
§

COUNTY OF HAYS §

This instrument was acknowledged before me on the 18th day of December, 2009, by ROBIE LYNN GREGG ROBINSON.

Judy C. Santerre

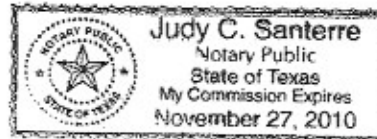
Notary Public, State of Texas



STATE OF TEXAS §  
§  
COUNTY OF HAYS §

This instrument was acknowledged before me on the 18th day of December, 2009, by AUDREY ELAINE GREGG OSWALT.

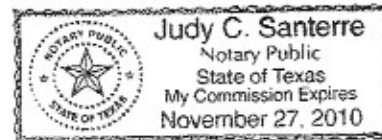
Judy C. Santerre  
Notary Public, State of Texas



STATE OF TEXAS §  
§  
COUNTY OF HAYS §

This instrument was acknowledged before me on the 18th day of December, 2009, by AUBREY W. GREGG, JR.

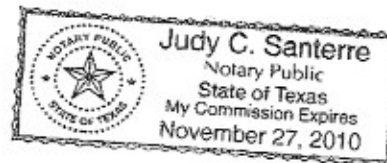
Judy C. Santerre  
Notary Public, State of Texas



STATE OF TEXAS §  
§  
COUNTY OF HAYS §

This instrument was acknowledged before me on the 18th day of December, 2009, by MARY EVELYN GREGG KINSALA.

Judy C. Santerre  
Notary Public, State of Texas



**AMENDED AND RESTATED  
LIMITED AGENCY AGREEMENT**

This Limited Agency Agreement (this "Agreement") is entered into by and among Mary Gregg Kinsala ("Agent"), Kathryn Kinsala ("Co-Agent"), GAWLS Ltd., a Texas limited partnership, CR TWO Investments, Ltd., a Texas limited partnership, MKK Associates LP, a Texas limited partnership, Clifton Oswalt as Trustee of the Clifton Oswalt Trust, and Evelyn Nicholson as Trustee of the Evelyn Nicholson Trust (collectively, "Principals") on this 2<sup>nd</sup> day of August, 2020 (the "Effective Date").

**RECITALS:**

WHEREAS, the Agent and Principals, entered into that certain Limited Agency Agreement (the "Original Agreement"), effective as of August 2, 2019, under which Agent was appointed to perform the Agent Duties (as defined herein) until August 2, 2020; and

WHEREAS, Principals desire to amend and restate the Original Agreement in order to extend the duration of Agent's appointment and appoint a co-agent to serve if Agent is medically unable to carry out the Agent Duties.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein, the parties hereto agree to amend and restate the Original Agreement in its entirety as follows:

1. Agency.

(a) Principals hereby appoint Agent, and Agent hereby agrees, to carry out the Agent Duties (as defined below), subject to the terms, conditions and limitations set forth in this Agreement. Agent is hereby granted a power of attorney to perform on Principals' behalf the Agent Duties. This power of attorney is not affected by the subsequent disability, bankruptcy or incapacity of Principals.

(b) Principals hereby delegate as the duties of the Agent the negotiation and execution of listing agreements, contracts, addenda, and other documents routinely involved in the sale of property or entering into agricultural leases regarding those certain tracts of real property as described on Exhibits A and B attached hereto (the "Properties") SAVE AND EXCEPT the ability or duty to sign a conveyance or deed of any of the Properties, subject to the terms, conditions and limitations set forth in this Agreement (the "Agent Duties"). Agent shall have the following powers with respect to the Agent Duties:

(i) To manage the process of hiring independent brokers or realtors on an as-needed project basis for the listing and sale of the Properties.

(ii) To negotiate and enter into contracts, letters of intent, or other documentation, on behalf of Principals, pertaining to the sale of any of the Properties.

(iii) To negotiate and enter into contracts, leases or other



documentation, on behalf of the Principals, pertaining to agricultural leases of the Properties.

(iv) Agent may obtain assistance of accountants, appraisers, attorneys, technical experts, and other advisors for carrying out its duties hereunder.

(c) In carrying out the Agent Duties, Agent is authorized:

(i) To execute any instrument necessary to carry out the purposes of this Agreement;

(ii) To employ the professional services of accountants, attorneys, appraisers, managers, technical experts or real estate consultants and/or experts, and to delegate its duties hereunder to such third parties, subject to Agent's supervision and control.

(d) Notwithstanding anything to the contrary herein, Agent shall not, without prior written consent of the Principals or any Principal, as applicable to the ownership of the Properties:

(i) Execute any deed or other conveyance conveying any of Principals' interest in the Properties;

(ii) Lease or rent any Properties other than agricultural leases; or

(iii) Mortgage or otherwise encumber all or any part of the Properties or incur any indebtedness for borrowed money on behalf of Principals.

2. Income, Expenses. Agent shall not receive or collect any revenues from the Properties in Agent's accounts. Agent shall not pay any expenses in connection with collection of such revenue or the preservation of the Properties from Agent's accounts. The revenues from and expenses of the Properties shall be collected and paid directly to and from Principals' accounts, as applicable.

3. Term; Revocation:

(a) Unless otherwise revoked or terminated as addressed herein, this Agreement shall automatically terminate and be of no further force or effect on the date that is three (3) years from the Effective Date.

(b) This Agreement may be revoked, in whole or in part, at any time delivering to Agent a written revocation instrument signed by the Principals or any individual Principal as to their ownership in the Properties. The revocation instrument shall state whether the revocation is in full or in part, and if in part, shall specify the Agent Duties as to which this Agreement is partially revoked.



(c) Upon receipt of notice of revocation, the Agent's powers and duties as to the Agent Duties covered by the revocation instrument shall cease, and Agent shall convey and deliver all such Principal's property to the applicable Principal, and Agent shall execute and deliver any instruments necessary remove Agent from all accounts, contracts or contact lists related to the Agent Duties.

4. Resignation. Agent shall have the right to resign, effective as of the date of such resignation, by giving written notice to that effect to the Principals (or any individual Principal as to their applicable ownership in the Properties). Upon delivery of such notice of resignation, the Agent's powers and duties as to the Agent Duties covered by the resignation shall cease, and Agent shall convey and deliver all such Principal's property to the applicable Principal, and Agent shall execute and deliver any instruments necessary remove Agent from all accounts, contracts or contact lists related to the Agent Duties.

5. Third Parties Dealing With Agent.

(a) Any third parties dealing with Agent shall conclusively presume that this Agreement is in effect, unrevoked and unterminated by any of the events provided for in Section 3 above, and shall not be put on inquiry as to the continued existence of this Agreement, except by (a) actual written notice from Agent, Principals, or other source, or (b) constructive notice by instrument filed in the Public Records of Hays County, Texas.

(b) The purpose of this Section 5 is to avoid inconvenience and any expense to Principals by virtue of third parties requiring Principals' ratifications of this Agreement from time to time by virtue of the revocation and termination provisions in Section 3.

6. Co-Agent. Principals hereby appoint Kathryn Kinsala, and she hereby agrees, to serve as "Agent" subject to the terms, conditions and limitations set forth in this Agreement, in the event that Mary Gregg Kinsala becomes legally disabled or is otherwise medically unable to act (a "Medical Disability"). In accordance with the foregoing, the parties hereby agree that Co-Agent shall be deemed the Agent for any and all purposes under this Agreement in the event of any such Medical Disability. Any third party dealing with Co-Agent shall conclusively presume that Co-Agent is the Agent for purposes of this Agreement based solely on Co-Agent's representation of such.

7. Compliance with Laws. Agent shall comply with all laws, rules and ordinances of the United States and any applicable state or other governmental agency while performing the Agent Duties.

8. Binding Effect; Assignment. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns; provided, that Agent may not assign or otherwise transfer this Agreement, or any rights or obligations hereunder (including any of the Agent Duties), without the prior written consent of the Principals.

9. Notice of Agreement. A copy of this Agreement may be provided to any third party dealing with Agent in connection with the Agent Duties.

10. Counterparts. This Agreement may be executed electronically and in multiple counterparts, each of which shall be deemed an original and together shall constitute the same document.

11. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Texas without regard to conflicts of law provisions. The venue for any dispute, arising out of or related to this Agreement, shall be the state or federal courts located in Hays County, Texas.

12. No Waiver. No waiver, express or implied, by any party of any breach of any term, condition, or obligation of this Agreement shall be construed as a waiver of any subsequent breach of any term, condition or obligation of this Agreement of the same or similar nature.

13. Complete Understanding; Modification. This Agreement constitutes the complete and exclusive understanding and agreement of the parties hereto and supersedes all prior understandings and agreements, whether written or oral, with respect to the subject matter hereof. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by the parties hereto.

*[Signature Page Follows.]*

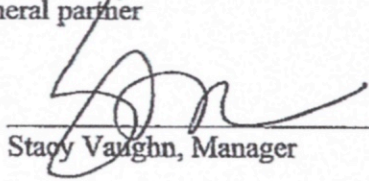


IN WITNESS WHEREOF, I have hereunto set my hand this the 24<sup>th</sup> day of July, 2020.

**PRINCIPALS:**

GAWLS Ltd., a Texas limited partnership

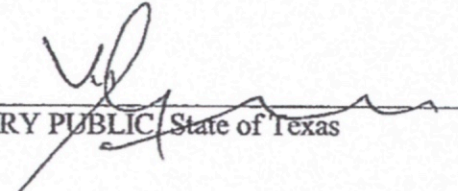
By: GAWLS Management LLC,  
its general partner

By:   
Stacy Vaughn, Manager

STATE OF TEXAS           §  
                                     §  
COUNTY OF Williamson §

This instrument was acknowledged before me by Stacy Vaughn in her capacity as Manager of GAWLS Management LLC, the general partner of GAWLS Ltd., on this the 24<sup>th</sup> day of July, 2020.



  
NOTARY PUBLIC State of Texas

IN WITNESS WHEREOF, I have hereunto set my hand this the 23<sup>rd</sup> day of July, 2020.

CR TWO Investments, Ltd., a Texas limited partnership

By: CR TWO Management, LLC,  
its general partner

By: [Signature]  
Robin Robinson, Manager

STATE OF TEXAS           §  
                                     §  
COUNTY OF HAYS       §

This instrument was acknowledged before me by Robin Robinson in her capacity as Manager of CR TWO Management, LLC, the general partner of CR TWO Investments, Ltd., on this the 23<sup>rd</sup> day of July, 2020.

[Signature]  
NOTARY PUBLIC, State of Texas





IN WITNESS WHEREOF, I have hereunto set my hand this the 23<sup>RD</sup> day of JULY, 2020.

MKK Associates LP, a Texas limited partnership

By: MKK Management LLC,  
its general partner

By: Mary Gregg Kinsala, Manager  
Mary Gregg Kinsala, Manager

STATE OF TEXAS

COUNTY OF HAYS

§  
§  
§

This instrument was acknowledged before me by Mary Gregg Kinsala in her capacity as Manager of MKK Management LLC, the general partner of MKK Associates LP on this the 23<sup>RD</sup> day of JULY, 2020.

Leslie Karole O'Pry  
NOTARY PUBLIC, State of Texas



IN WITNESS WHEREOF, I have hereunto set my hand this the 24<sup>th</sup> day of JULY, 2020.

Clifton Oswalt Trust

By:   
Clifton Oswalt, Trustee

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS     §

This instrument was acknowledged before me by Clifton Oswalt in his capacity as trustee of the Clifton Oswalt Trust on this the 24<sup>th</sup> day of JULY, 2020.

  
NOTARY PUBLIC, State of Texas



IN WITNESS WHEREOF, I have hereunto set my hand this the 24<sup>th</sup> day of JULY, 2020.

Evelyn Nicholson Trust

By: Evelyn Nicholson  
Evelyn Nicholson, Trustee

STATE OF TEXAS

COUNTY OF HAYS

§  
§  
§

This instrument was acknowledged before me by Evelyn Nicholson in her capacity as trustee of the Evelyn Nicholson Trust on this the 24<sup>th</sup> day of JULY, 2020.

Leslie Karole O'Pry  
NOTARY PUBLIC, State of Texas



IN WITNESS WHEREOF, I have hereunto set my hand this the 23<sup>RD</sup> day of JULY, 2020.

AGENT:

Mary Gregg Kinsala  
Mary Gregg Kinsala

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS     §

This instrument was acknowledged before me by Mary Gregg Kinsala, an individual, on this the 23<sup>RD</sup> day of JULY, 2020.

Leslie Karole O'Pry  
NOTARY PUBLIC, State of Texas





IN WITNESS WHEREOF, I have hereunto set my hand this the 23<sup>rd</sup> day of JULY, 2020.

CO-AGENT:

Kathryn Kinsala  
Kathryn Kinsala

STATE OF TEXAS           §  
                                     §  
COUNTY OF HAYS       §

This instrument was acknowledged before me by Kathryn Kinsala, an individual, on this the 23<sup>rd</sup> day of JULY, 2020.

Leslie Karole O'Pry  
NOTARY PUBLIC, State of Texas



## **EXHIBIT A**

### **Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A.W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

#### **SAVE AND EXCEPT THEREFROM**

- (1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,
- (2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,
- (3) any portion of said tracts that is within areas used, claimed or held as a public roadway,
- (4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas, and
- (5) that certain tract of land stated to contain 0.739 acres conveyed to Hays County in Deed dated December 17, 2010, and recorded at Document No. 2010-10035140 of the Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.

## **EXHIBIT B**

### **Tract Two Land**

All of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J.M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

SAVE and EXCEPT that certain tract of land stated to contain 0.963 acres conveyed to Hays County by General Warranty Deed dated July 7, 2010 and recorded at Document No. 2010-10023353 of the Official Public Records of Hays County, Texas.

SAVE and EXCEPT that certain tract of land stated to contain 1.902 acres conveyed to the City of Kyle by Special Warranty Deed dated July 14, 2016 and recorded s Instrument No. 16023063 of the Official Public Records of Hays County, Texas.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

\*\*\*\* Electronically Filed Document \*\*\*\*

Hays County Texas  
Liz Q. Gonzalez  
County Clerk

Document Number: 2012-12036985  
Recorded As : ELECTRONIC RECORDING

Recorded On: December 27, 2012  
Recorded At: 11:06:31 am  
Number of Pages: 7  
Book-VI/Pg: Bk-OPR VI-4515 Pg-533  
Recording Fee: \$36.00

Parties:

Direct- OSWALT AUDREY E  
Indirect- OSWALT CLIFTON

Receipt Number: 323501  
Processed By: Christina Rodriguez

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\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

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I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Liz Q. Gonzalez*

Liz Q. Gonzalez, County Clerk



**SPECIAL WARRANTY DEED**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

STATE OF TEXAS	§	
	§	KNOWN ALL PERSONS BY THESE PRESENTS
COUNTY OF HAYS	§	

That **Audrey E. Oswalt**, an individual residing in Hays County, Texas ("Grantor"), owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **Evelyn E. Nicholson and Clifton Oswalt**, as co-trustees of the **2005 Irrevocable Trust For Family of Audrey E. Oswalt** ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out her undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of her interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hays County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 19<sup>th</sup> day of December, 2012.

SIGNATURE AND ACKNOWLEDGEMENT PAGE

GRANTOR:

Audrey E. Oswalt  
Audrey E. Oswalt

GRANTEE:

The 2005 Irrevocable Trust For Family  
Of Audrey E. Oswalt

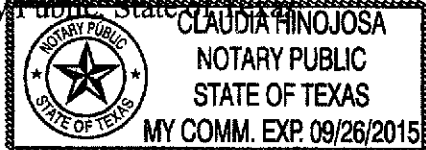
By: Evelyn E. Nicholson  
Evelyn E. Nicholson, Co-trustee

By: Clifton Oswalt  
Clifton Oswalt, Co-trustee

STATE OF TEXAS §

COUNTY OF ~~TRAVIS~~ §  
HAYS


The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2012, by  
Audrey E. Oswalt.

Claudia Hinojosa  
Notary Public, State of Texas  


STATE OF TEXAS §

COUNTY OF ~~TRAVIS~~ §  
HAYS

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2012, by  
Evelyn E. Nicholson and Clifton Oswalt, as co-trustees of the 2005 Irrevocable Trust For Family  
of Audrey E. Oswalt.

 CLAUDIA HINOJOSA  
NOTARY PUBLIC  
STATE OF TEXAS  
MY COMM. EXP. 09/26/2015

Claudia Hinojosa  
Notary Public, State of Texas

## **EXHIBIT A**

### **Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

#### **SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

(4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas, and

(5) that certain tract of land stated to contain 0.739 acres conveyed to Hays County in Deed dated December 17, 2010, and recorded at Document No. 2010-10035140 of the Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.

## **EXHIBIT B**

### **Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

SAVE and EXCEPT that certain tract of land stated to contain 0.963 acres conveyed to Hays County by General Warranty Deed dated July 7, 2010 and recorded at Document No. 2010-10023353 of the Official Public Records of Hays County, Texas.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

## **EXHIBIT C**

### **Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to



A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

(1) Warranty Deed dated October 25, 2004, to RH of Texas Limited Partnership, and recorded in Volume 2567, Page 514, of the Official Public Records of Hays County, Texas;

(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres);

and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.

**EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

**GRANTEE'S ADDRESS:**

Evelyn E. Nicholson and Clifton Oswalt, as  
 Trustees of the 2005 Irrevocable Trust For  
 Family of Audrey E. Oswalt  
 P.O. Box 726  
 Kyle, Texas 78640

**WHEN RECORDED RETURN TO:**

E. Clark Lutz  
 Graves, Dougherty, Hearon & Moody, P.C.  
 P.O. Box 98  
 Austin, Texas 78767

**SPECIAL WARRANTY DEED**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

STATE OF TEXAS

§

KNOWN ALL PERSONS BY THESE PRESENTS

§

COUNTY OF HAYS

§

That **Audrey E. Oswalt**, an individual residing in Hays County, Texas ("Grantor"), owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **Evelyn E. Nicholson and Clifton Oswalt**, as co-trustees of the 2005 Irrevocable Trust For Family of Audrey E. Oswalt ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out her undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of her interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hayes County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 19<sup>th</sup> day of December, 2012.

SIGNATURE AND ACKNOWLEDGEMENT PAGE

GRANTOR:

Audrey E. Oswalt  
Audrey E. Oswalt

GRANTEE:

The 2005 Irrevocable Trust For Family  
Of Audrey E. Oswalt

By: Evelyn E. Nicholson  
Evelyn E. Nicholson, Co-trustee

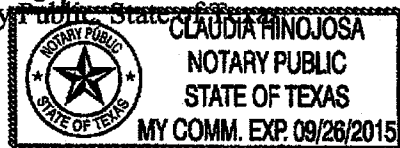
By: Clifton Oswalt  
Clifton Oswalt, Co-trustee

STATE OF TEXAS §

COUNTY OF ~~TRAVIS~~ §  
HAYS §

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2012, by  
Audrey E. Oswalt.

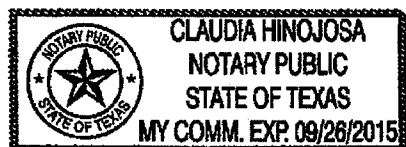
Hinojosa  
Notary Public, State of Texas



STATE OF TEXAS §

COUNTY OF ~~TRAVIS~~ §  
HAYS §

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2012, by  
Evelyn E. Nicholson and Clifton Oswalt, as co-trustees of the 2005 Irrevocable Trust For Family  
of Audrey E. Oswalt.



Hinojosa  
Notary Public, State of Texas



**EXHIBIT A**

**Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

**SAVE AND EXCEPT THERE FROM**

- (1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,
- (2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,
- (3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and
- (4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas, and
- (5) that certain tract of land stated to contain 0.739 acres conveyed to Hays County in Deed dated December 17, 2010, and recorded at Document No. 2010-10035140 of the Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.

**EXHIBIT B**

**Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

SAVE and EXCEPT that certain tract of land stated to contain 0.963 acres conveyed to Hays County by General Warranty Deed dated July 7, 2010 and recorded at Document No. 2010-10023353 of the Official Public Records of Hays County, Texas.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

**EXHIBIT C**

**Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to

A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

(1) Warranty Deed dated October 25, 2004, to RH of Texas Limited Partnership, and recorded in Volume 2567, Page 514, of the Official Public Records of Hays County, Texas;

(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres);

and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.

**EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

**GRANTEE'S ADDRESS:**

Evelyn E. Nicholson and Clifton Oswalt, as  
Trustees of the 2005 Irrevocable Trust For  
Family of Audrey E. Oswalt  
P.O. Box 726  
Kyle, Texas 78640

**WHEN RECORDED RETURN TO:**

E. Clark Lutz  
Graves, Dougherty, Hearon & Moody, P.C.  
P.O. Box 98  
Austin, Texas 78767



\*\*\*\* Electronically Filed Document \*\*\*\*

Hays County Texas  
Liz Q. Gonzalez  
County Clerk

Document Number: 2012-12036985  
Recorded As : ELECTRONIC RECORDING

Recorded On: December 27, 2012  
Recorded At: 11:06:31 am  
Number of Pages: 7  
Book-VI/Pg: Bk-OPR VI-4515 Pg-533  
Recording Fee: \$36.00

Parties:

Direct- OSWALT AUDREY E  
Indirect- OSWALT CLIFTON

Receipt Number: 323501  
Processed By: Christina Rodriguez

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\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

---



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Liz Q. Gonzalez*

Liz Q. Gonzalez, County Clerk

\*\*\*\* Electronically Filed Document \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

---

Document Number: 2009-90032522  
Recorded As : ELECTRONIC RECORDING

Recorded On: December 21, 2009  
Recorded At: 08:32:11 am  
Number of Pages: 7  
Book-VI/Pg: Bk-OPR VI-3792 Pg-453  
Recording Fee: \$36.00

Parties:

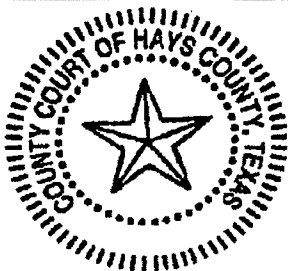
Direct- GREGG A:WJR  
Indirect- GAWLS LTD

Receipt Number: 235398  
Processed By: Christina Rodriguez

---

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Linda C. Fritsche*

Linda C. Fritsche, County Clerk

**SPECIAL WARRANTY CONTRIBUTION DEED**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

STATE OF TEXAS           §  
                                   §           KNOWN ALL PERSONS BY THESE PRESENTS  
 COUNTY OF HAYS       §

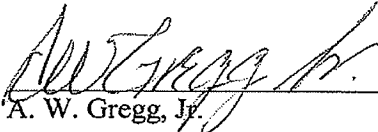
That **A. W. Gregg, Jr.**, an individual residing in Hays County, Texas ("Grantor"), is the sole and separate property of Grantor and Grantor owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **GAWLS, LTD.**, a Texas limited partnership ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out his undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of his interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hayes County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 18th day of December, 2009.

SIGNATURE AND ACKNOWLEDGEMENT PAGE

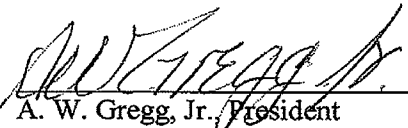
GRANTOR:

  
A. W. Gregg, Jr.

GRANTEE:

GAWLS, LTD,  
a Texas limited partnership

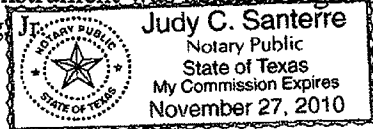
By: GAWLS Management, LLC,  
a Texas limited liability company,  
General Partner

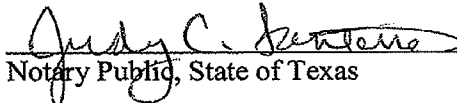
By:   
A. W. Gregg, Jr., President

STATE OF TEXAS §

§  
COUNTY OF TRAVIS §

The foregoing instrument was acknowledged before me this 18th day of December, 2009,  
by A. W. Gregg, Jr.

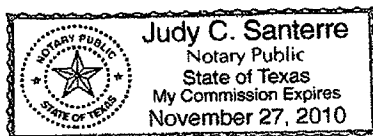


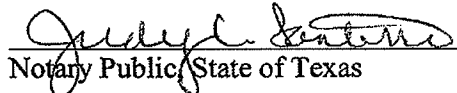
  
Notary Public, State of Texas

STATE OF TEXAS §

§  
COUNTY OF TRAVIS §

The foregoing instrument was acknowledged before me this 18th day of December, 2009,  
by A. W. Gregg, Jr., the President of GAWLS Management, LLC, a limited liability company, the  
General Partner of GAWLS, LTD., a Texas limited partnership, for and on behalf of said limited  
liability company and limited partnership.



  
Notary Public, State of Texas



## **EXHIBIT A**

### **Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

#### **SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

(4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.

## **EXHIBIT B**

### **Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records

and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

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### **EXHIBIT C**

#### **Tract Three Land**

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LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

(1) Warranty Deed dated October 25, 2004, to RH of Texas Limited Partnership, and recorded in Volume 2567, Page 514, of the Official Public Records of Hays County, Texas;

(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey

Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres); and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.

#### **EXHIBIT E**

##### **Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

WHEN RECORDED RETURN TO:

E. Clark Lutz  
Graves, Dougherty, Hearon & Moody, P.C.  
P.O. Box 98  
Austin, Texas 78767

GRANTEE'S ADDRESS:

GAWLS, LTD.  
1259 N. Old Stagecoach Road  
Kyle, Texas 78640



\*\*\*\* Electronically Filed Document \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

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Document Number: 2009-90032523  
Recorded As : ELECTRONIC RECORDING

Recorded On: December 21, 2009  
Recorded At: 08:32:58 am  
Number of Pages: 7  
Book-VI/Pg: Bk-OPR VI-3792 Pg-460  
Recording Fee: \$36.00

Parties:

Direct- ROBINSON ROBIE LYNN  
Indirect- CR TWO INVESTMENTS LTD

Receipt Number: 235399  
Processed By: Christina Rodriguez

---

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

---



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Linda C. Fritsche*

Linda C. Fritsche, County Clerk

**SPECIAL WARRANTY CONTRIBUTION DEED**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

STATE OF TEXAS           §  
                                   §       KNOWN ALL PERSONS BY THESE PRESENTS  
 COUNTY OF HAYS       §

That **Robie Lynn Robinson**, an individual residing in Hays County, Texas ("Grantor"), is the sole and separate property of Grantor and Grantor owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **CR Two Investments, Ltd.**, a Texas limited partnership ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out his undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of his interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hayes County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 18th day of December, 2009.

GRANTOR:

Robie Lynn Robinson  
Robie Lynn Robinson

GRANTEE:

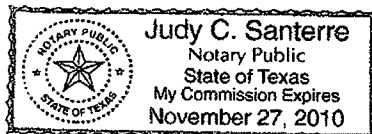
CR Two Investments, Ltd.  
a Texas limited partnership

By: CR Two Management, LLC,  
a Texas limited liability company,  
General Partner

By: Robie Lynn Robinson  
Robie Lynn Robinson, President

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS     §

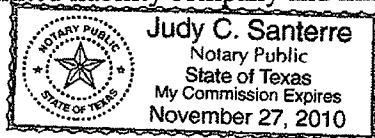
The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Robie Lynn Robinson.



Judy C. Santerre  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS     §

The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Robie Lynn Robinson, the President of CR Two Management, LLC, a limited liability company, the General Partner of CR Two Investments, Ltd., a Texas limited partnership, for and on behalf of said limited liability company and limited partnership.



Judy C. Santerre  
Notary Public, State of Texas

**EXHIBIT A**

**Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

**SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

(4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.

**EXHIBIT B**

**Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Special



Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

### **EXHIBIT C**

#### **Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

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It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres); and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.

#### **EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

WHEN RECORDED RETURN TO:

E. Clark Lutz  
Graves, Dougherty, Hearon & Moody, P.C.  
P.O. Box 98  
Austin, Texas 78767

GRANTEE'S ADDRESS:

CR Two Investments, Ltd.  
1251 N. Old Stagecoach Road  
Kyle, Texas 78640

\*\*\*\* **Electronically Filed Document** \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

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**Document Number: 2009-90032521**  
**Recorded As : ELECTRONIC RECORDING**

**Recorded On: December 21, 2009**  
**Recorded At: 08:31:15 am**  
**Number of Pages: 7**  
**Book-VI/Pg: Bk-OPR VI-3792 Pg-446**  
**Recording Fee: \$36.00**

**Parties:**

**Direct- KINSALA MARY GREGG**  
**Indirect- MKK ASSOCIATES LP**

**Receipt Number: 235397**  
**Processed By: Christina Rodriguez**

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\*\*\*\*\* **THIS PAGE IS PART OF THE INSTRUMENT** \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Linda C. Fritsche*

Linda C. Fritsche, County Clerk



**SPECIAL WARRANTY CONTRIBUTION DEED**

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STATE OF TEXAS           §  
                                   §       KNOWN ALL PERSONS BY THESE PRESENTS  
 COUNTY OF HAYS       §

That **Mary Gregg Kinsala**, an individual residing in Hays County, Texas ("Grantor"), is the sole and separate property of Grantor and Grantor owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **MKK Associates, L.P.**, a Texas limited partnership ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out his undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of his interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hayes County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 18th day of December, 2009.

GRANTOR:

Mary Gregg Kinsala  
Mary Gregg Kinsala

GRANTEE:

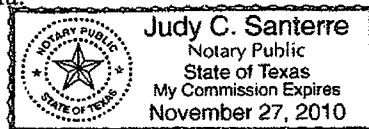
MKK Associates, L.P.  
a Texas limited partnership

By: MKK Management, LLC,  
a Texas limited liability company,  
General Partner

By: Mary Gregg Kinsala  
Mary Gregg Kinsala, President

STATE OF TEXAS       §  
                                 §  
COUNTY OF TRAVIS   §

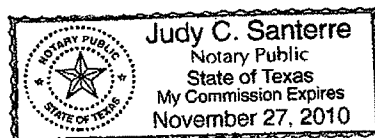
The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Mary Gregg Kinsala.



Judy C. Santerre  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                 §  
COUNTY OF TRAVIS   §

The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Mary Gregg Kinsala, the President of MKK Management, LLC, a limited liability company, the General Partner of MKK Associates, L.P., a Texas limited partnership, for and on behalf of said limited liability company and limited partnership.



Judy C. Santerre  
Notary Public, State of Texas

## **EXHIBIT A**

### **Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

#### **SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

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It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways

## **EXHIBIT B**

### **Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records

and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

### **EXHIBIT C**

#### **Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

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(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

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Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

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#### **EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

WHEN RECORDED RETURN TO:

E. Clark Lutz  
Graves, Dougherty, Hearon & Moody, P.C.  
P.O. Box 98  
Austin, Texas 78767

GRANTEE'S ADDRESS:

MKK Associates, L.P.  
1301 N. Old Stagecoach Road  
Kyle, Texas 78640



# CITY OF KYLE, TEXAS

DDR DB Kyle LP - Zoning (Z-20-0069)

Meeting Date: 4/6/2021

Date time: 7:00 PM

**Subject/Recommendation:** *[Postponed 3/16/2021] (First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, to rezone approximately 19.5 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' for property located at 5492 Kyle Center Drive, in Hays County, Texas. (DDR DB Kyle LP - Z-20-0069) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 5-1 to deny the request.*

- Public Hearing

**Other Information:** See attachments.

**Legal Notes:** N/A

**Budget Information:** N/A

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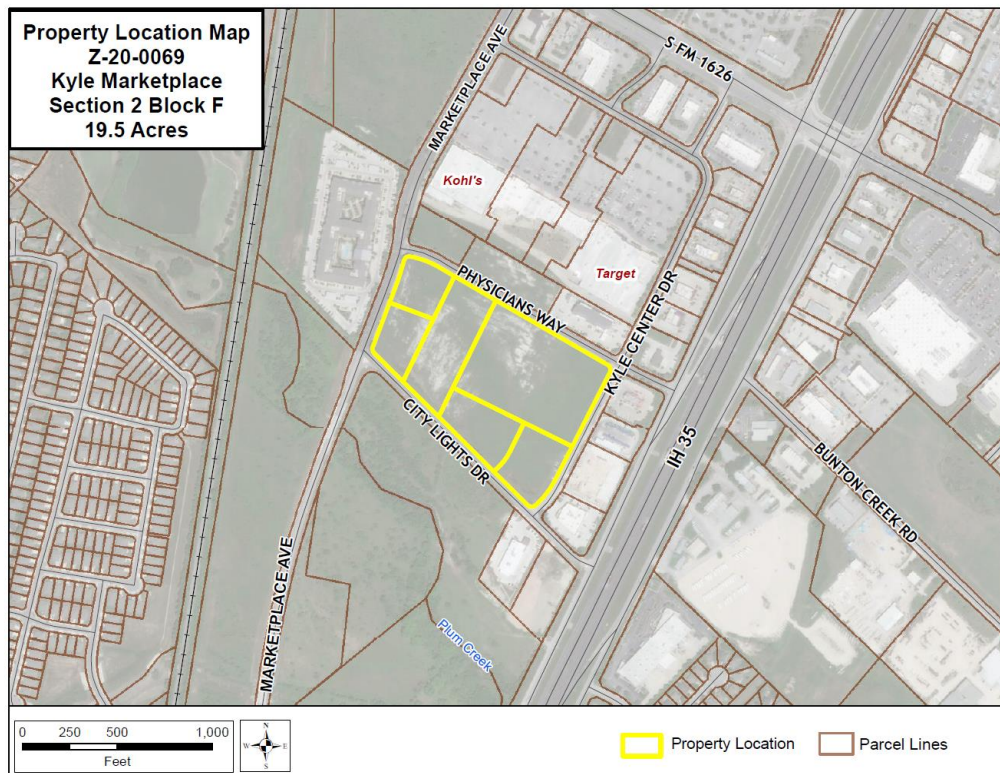
## **ATTACHMENTS:**

### **Description**

- ☐ Staff Memo
- ☐ Zoning Ordinance
- ☐ Zoning Exhibits
- ☐ Request Letter
- ☐ Application
- ☐ Location Map
- ☐ Current Zoning Map
- ☐ Land Use Districts Map
- ☐ Letter in favor of request
- ☐ Letter of Opposition

Property Location	Kyle Marketplace Section 2, Lots 1, 1B, 1C, 2, 3, & 4, Block F
Owner	DDR DB Kyle LP. Michael S. Owendoff, Deputy General Counsel 3300 Enterprise Pkwy Beechwood, OH 44122
Agent	Travis Sawvell 1703 W. 5 <sup>th</sup> , Ste. 850 Austin, TX 78750
Request	Rezone 19.4681-Acres "RS" (Retail Services) to "R-3-3" (Apartments Residential 3)

### Vicinity Map

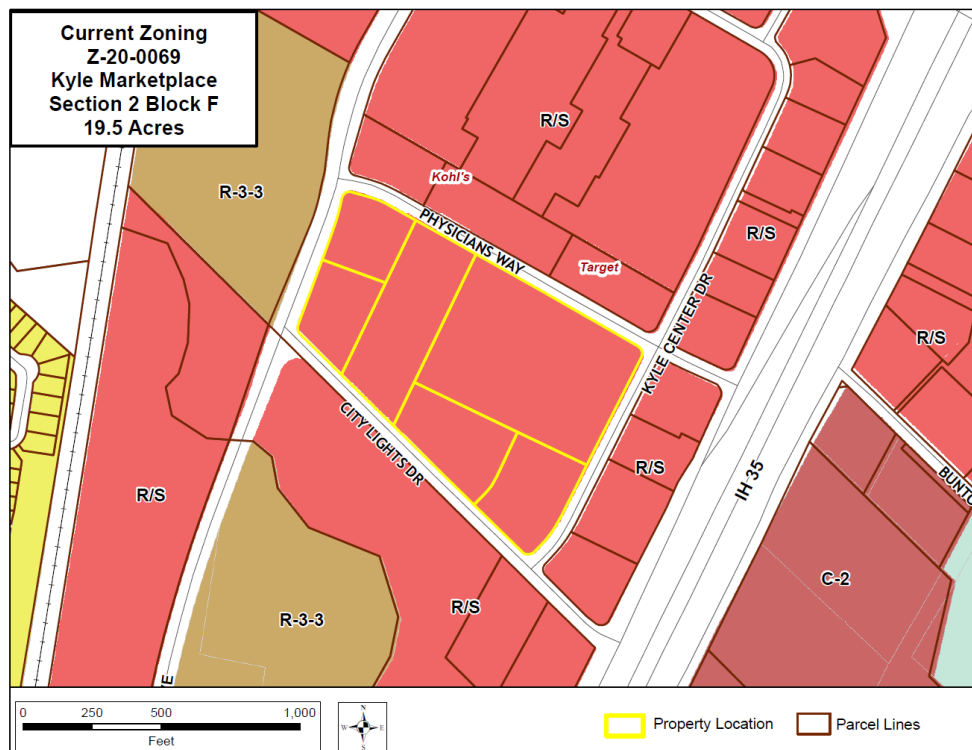




## **SITE DESCRIPTION**

The site is located on an undeveloped pad site, surrounded on four sides by public streets (Marketplace Ave., Kyle Center Dr., Physicians Way, City Lights Dr.). The parcel is generally behind the Target/Kohl's shopping center, with the Comfort Suites hotel between the shopping center and the pad site. To the east of the block, are Chicken Express, Rapid Express Car Wash, a two-story office and Kyle ER. To the south lie Caliber Collision and a future fuel station and strip center (under construction). To southwest lies undeveloped land, zoned "RS". To the west is undeveloped land zoned "RS" (across Marketplace Ave.). To the west and northwest lies the Oaks of Marketplace apartment complex (zoned R-3-3).

### **Current Zoning Map**



## **Existing Zoning**

## RS (Retail Services District)

### **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.

### **Requested Zoning**

## R-3-3 (Apartments 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.

## CONDITIONS OF THE ZONING ORDINANCE

### Sec. 53-1205 Amendments

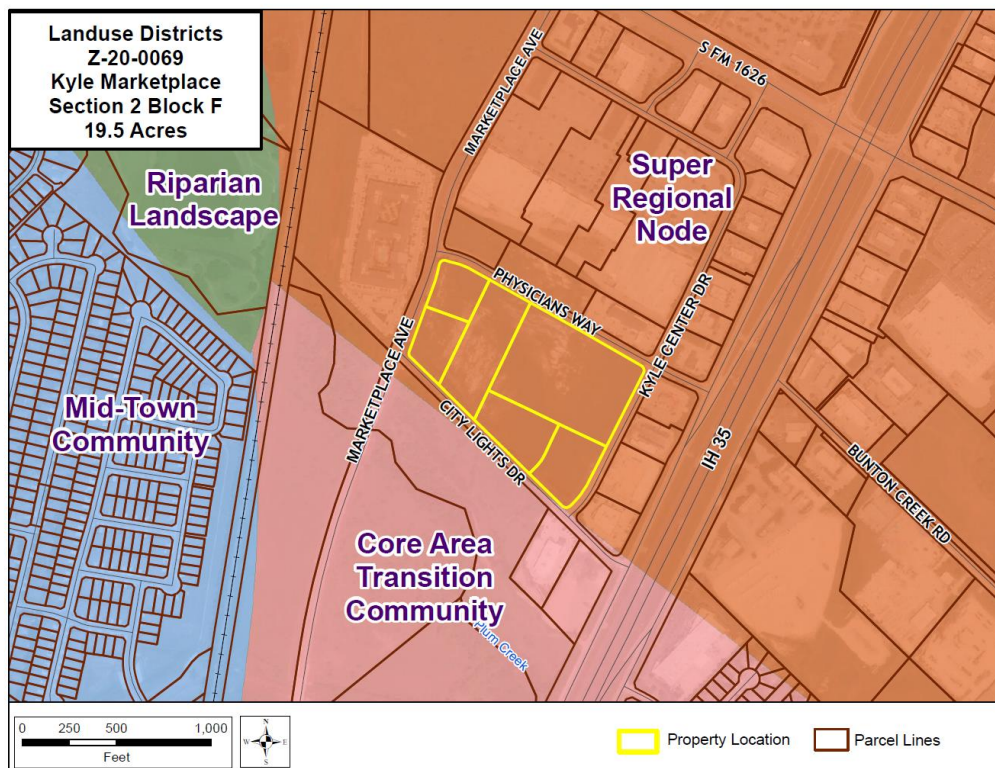
(d)

*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 within the “Super Regional Node”. The “R-3-3” zoning district is a recommended district in the “Super Regional Node”.

Recommended: E, HS, R-3-2, **R-3-3**, R/S, MXD, O/I

Conditional: ----

## **Super Regional Node**

'Character': The Super Regional Node should contain large-scale institutional, commercial, retail, and where appropriate, high density multifamily land uses to create the highest classification activity center in Kyle. The Seton Medical Center should serve as the key distinguishing employment component, serving as the primary institutional use in the district upon which support enterprises can base their business locations. The Super Regional Node is in the early stages of development, and care should be taken to ensure that as development processes, it is in keeping with the character and intent outlined below for this Node. Seton Hospital serves as a regional attractor and, in large part, alongside destination retail and business services, defines the Super Regional Node. Associated health providers and goods and service providers should be attracted to this area and encouraged to create a diverse commercial and employment center. The aggregation of commercial square footage in this Node creates a significant commercial destination that will be visible to regional travelers along the I-35 corridor. This proximity to highway infrastructure results in the rare instance of a district primarily designed to be automobile oriented, with patrons arriving and inter-locating primarily by car. The commercial focus of this Node should be on acting as an economic activity center, generating much needed real estate, sales and hotel occupancy tax revenue for the city while fulfilling the retail and service needs of patrons from a targeted distance of no less than 10-15 mile away. Additionally, ancillary entertainment uses, such as movie theaters or bowling alleys, may be appropriate in this Node. This Node should serve as a destination for Kyle, attracting people due to the hospital and/or commercial offerings, and encouraging them to extend their stay due to unique and diverse uses and connections to other areas of Kyle.

'Intent': The purpose of the Super Regional Node is to capture employment opportunities and create a commercial destination within Kyle. Situated at the intersection of I-35 and Texas State Highway 1626, these high classification roadways are best suited to bring in out-of-region patrons with the least impact to Kyle's local street network. This Node should take advantage of the medical center and of I-35 traffic to increase Kyle's competitiveness in the surrounding region. Existing employment opportunities should be referenced when targeting complimentary commercial uses and opportunities for increased value capture. Due to the concentration and diversity of uses in this Node, appropriate land use transitions to adjacent Communities is critical. The anchor of the Super Regional Node should be employment and they daytime population created by those positions, and the Super Regional Node should have the highest level of development intensity of all Nodes.

## **ANALYSIS**



The subject property is located on approximately 19.5-acres, south (behind) of the Target/Kohl's shopping center. It is bounded on four sides by existing streets and has water and wastewater services available to it. The site is currently zoned "RS" (Retail Services), and the "R-3-3" (Apartments Residential 3) is recommended per the "Super Regional Node" land use district.

The 19.5-acre parcel has been vacant for some time. The pad site has never been developed and being setback from both southbound IH-35 and FM 1626, the 19.5-acre site is partially hidden from both of those thoroughfares. This site, however, has received significant interest for multi-family, residential development. In several instances, planning staff has met with potential developers to develop the site with a high-density, mixed-use activity center use in mind.

The R-3-3 district allows for up to 28 residential units per buildable acre, in structures of a maximum of 3-stories and 45-feet in height. Theoretically, this property could develop 546 dwelling units, while in reality building setbacks, surface parking lots and drive aisles, and utility corridors and easements will ultimately mean fewer dwellings will actually be built. That stated, other than vertical mixed-use (MXD zoning), this is the City of Kyle's highest density multifamily zoning category. One item of note is the developer and the City Council are drafting a development agreement to further refine the R-3-3 zoning district. It will mostly relate to building façade requirements and building setbacks. The intent is to make it more of an urban style project.

## **PLANNING COMMISSION**

At the January 12, 2021 Planning & Zoning Commission meeting, the Commission heard this application and held a Public Hearing. One commenter sent in a letter in support of the project; the other commenter, Mike Rubsam (former chair of the P&Z Commission), voice opposition to the project, due to his preference for this area to remain a high-activity area that features vertical mixed-use projects with longer periods of activity and operation that will benefit both Kyle residents and out-of-town patrons. After discussion among the remaining commissioners, most of whom voiced opposition to the idea of this project being developed as solely an apartment complex, the Commission voted 5-1 to **recommend denial** of the rezoning request (Commissioner McCall was the sole dissenting vote). Reasons cited include both a preference for vertical mixed use (MXD zoning) or keep it as retail (RS zoning). The Commission largely believes that the City has an overabundance of multifamily and would like ground floor commercial to activate the streetscapes.

## **RECOMMENDATION**

Because the site has sufficient utilities and road infrastructure, city staff supports the rezoning to R-3-3. City staff asks the Mayor & Council to vote to approve the zoning amendment.

---

## **Attachments**

- Application
- Location Map
- Current Zoning Map
- Land Use Districts Map

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

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE TO REZONE APPROXIMATELY 19.5 ACRES OF LAND FROM RETAILSERVICE DISTRICT 'RS' TO MULTI-FAMILY RESIDENTIAL-3 'R-3-3' FOR PROPERTY LOCATED AT 5492 KYLE CENTER DRIVE, IN HAYS COUNTY, TEXAS. (DDR DB KYLE LP- Z-20-0069); 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 BYLAW.

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 19.5 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3', 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 on, 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; provided that the zoning change to R-3-3 shall not go into effect until the Land described in Exhibit A is acquired by Central Southwest Texas Development, LLC or its assigns (the "Developer"). In the event that the Property is not acquired by the Developer by November 1, 2021, this Ordinance shall expire, and the zoning for the Property shall be RS.

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 \_\_\_\_\_, 2021, 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 \_\_\_\_\_, 2021, 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 \_\_\_\_\_, 2021.

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

ATTEST:

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

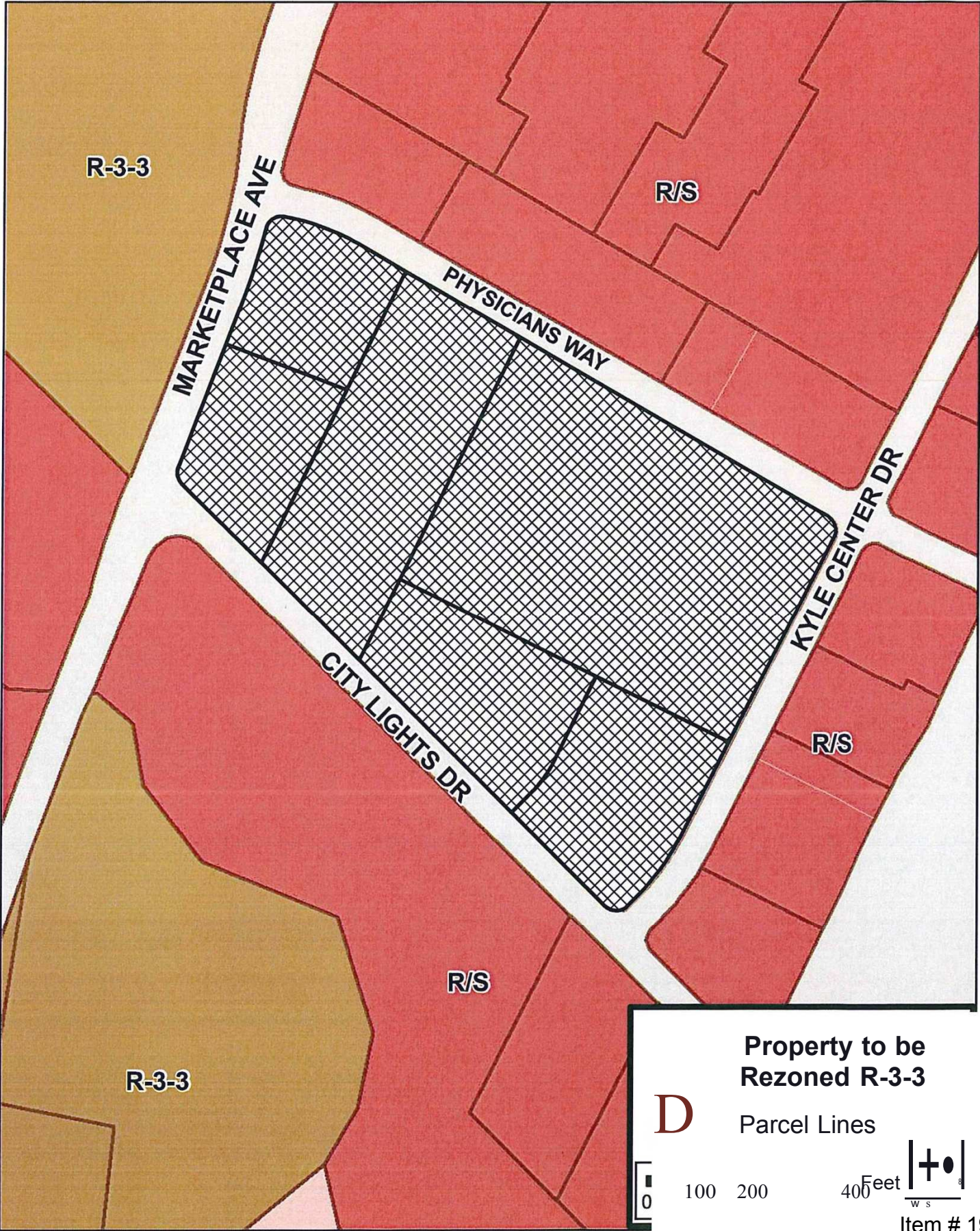


## **"EXHIBIT A"**

KYLE MARKETPLACE SECTION 2, LOTS 1, 1B, 1C, 2, 3 & 4, BLOCK F

**Exhibit B**

Z-20-0069    Physicians Way at Kyle Center Dr    19.5 Acres





# Exhibit C

## The Land

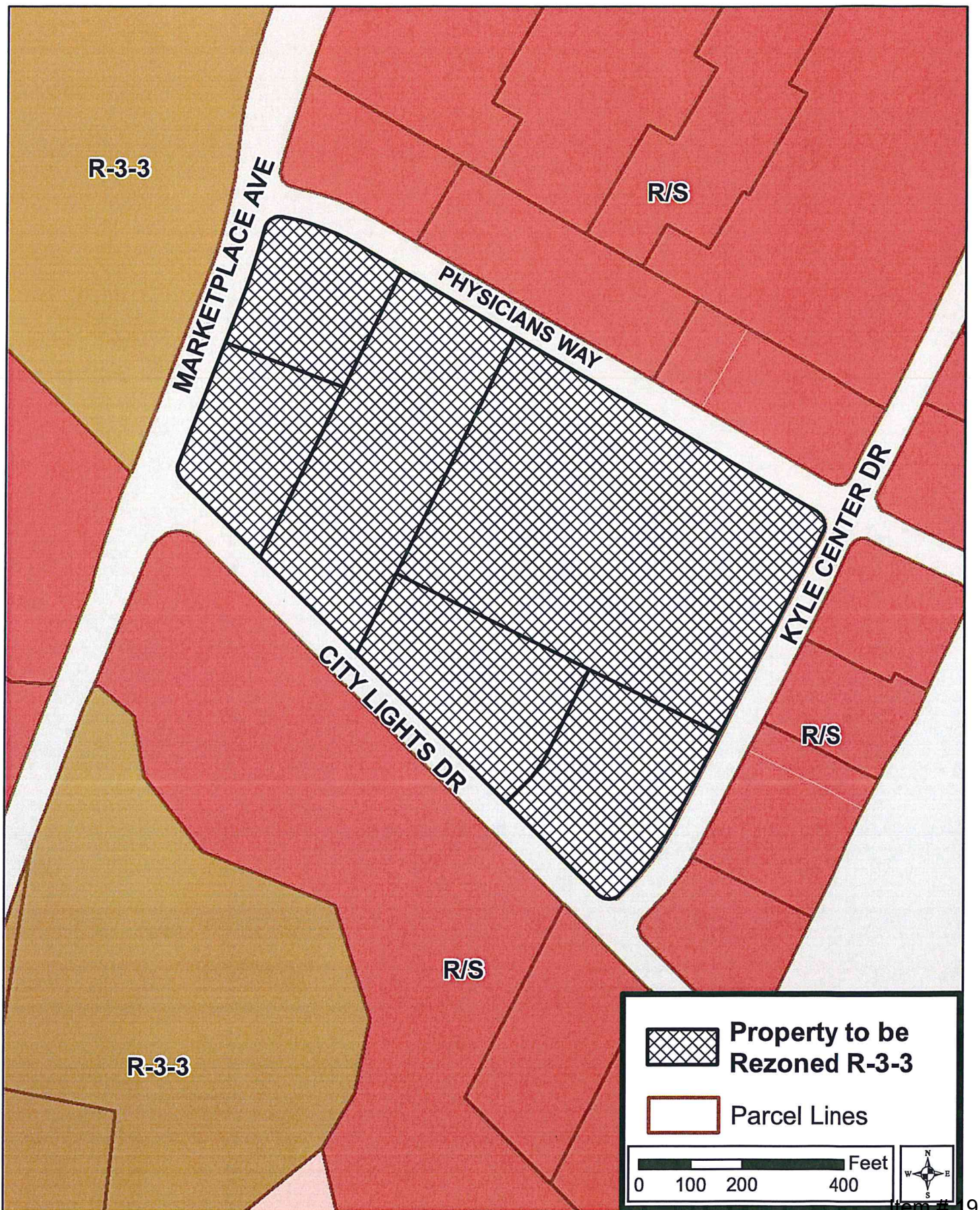
**“EXHIBIT A”**

KYLE MARKETPLACE SECTION 2, LOTS 1, 1B, 1C, 2, 3 & 4, BLOCK F



## Exhibit B

Z-20-0069    Physicians Way at Kyle Center Dr    19.5 Acres







To whom it may concern,

Central Southwest Development (CSW) is seeking the rezoning of Kyle Marketplace Section 2, LOT 1, 1B, 1C, 2, 3, & 4, BLOCK F, consisting of 19.4861 AC, as shown in Exhibit A. CSW has come to this conclusion after actively marketing the property for over 16 months for users that are allowable with the current zoning of RS. Unfortunately, the land no longer lends itself to that zoning and therefor the request is for the land to be rezoned to allow multi-family (R-3-3).

Sincerely,

A handwritten signature in black ink, appearing to read "Rob O'Farrell", written in a cursive style.

Robert O'Farrell

President



D: 512.368.7025

[rofarrell@cswdevelopment.com](mailto:rofarrell@cswdevelopment.com)

[www.cswdevelopment.com](http://www.cswdevelopment.com)



## APPLICATION & CHECKLIST – ZONING CHANGE

Zoning: DDR DB KYLE LP  
(Name of Owner)

11/30/2020  
(Submittal Date)

### INSTRUCTIONS:

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

### REQUIRED ITEMS FOR SUBMITTAL PACKAGE:

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

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

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

Total Fee: \$815.81

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

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

### 1. Zoning Request:

Current Zoning Classification: RS – Retail Services

Proposed Zoning Classification: R-3-3

Proposed Use of the Property: Multi-Family

Acreage/Sq. Ft. of Zoning Change: 19.4861 AC



**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: \_\_\_\_\_

Subdivision Name/Lot & Block Nos.: Kyle Marketplace Section 2, LOT1, 1B, 1C, 2, 3, 4, Block F

Property Recording Information: ☐ Hays County

Volume/Cabinet No. \_\_\_\_\_

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

**3. Ownership Information:**

Name of Property Owner(s): DDR DB KYLE LP

By DDR Kyle Holdings LLC, its General Partner

**Certified Public Notary:**

This document was acknowledged before me on the 30th day of November, 2020, by  
DDR Kyle Holdings LLC, the General Partner of DDR DB Kyle LP (Owner).

Elizabeth A. Berry  
Notary Public State of Ohio

(Seal)

ELIZABETH A. BERRY  
Notary Public, State of Ohio, Geauga Co.  
My Commission Expires 4/18/23

(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: 3300 Enterprise Pkwy

Beachwood, OH 44122

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

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

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

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

Signed: Michael S. Owendoff

Date: Nov. 30, 2020 Michael S. Owendoff, Deputy General Counsel

**4. Agent Information:**

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

Agent's Name: Travis Sawvell

Agent's Address: 1703 W. 5<sup>th</sup>, Suite 850, Austin, TX 78750

Agent's Phone Number: (512) 368-7086

Agent's Fax Number: (737)346-3555

Agent's Mobile Number: (512) 810-8154

Agent's Email Number: travis.sawvell@am.ill.com

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

Owner's Signature: Michael S. Owendoff

Date: Nov. 30, 2020 Michael S. Owendoff, Deputy General Counsel

*Do Not Write Below This Line  
Staff Will Complete*

Tax Certificates:    ☐ County    ☐ School    ☐ City

Certified List of Property Owners Within 200"    ☐

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

Attached Map of Subject Property    ☐

Accepted for Processing By: \_\_\_\_\_ Date: \_\_\_\_\_

Date of Public Notification in Newspaper: \_\_\_\_\_

Date of Public Hearing Before Planning and Zoning Commission: \_\_\_\_\_

Date of Public Hearing Before City Council: \_\_\_\_\_

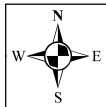
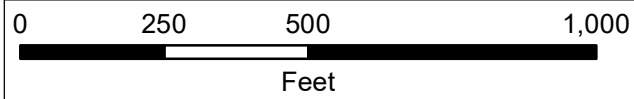
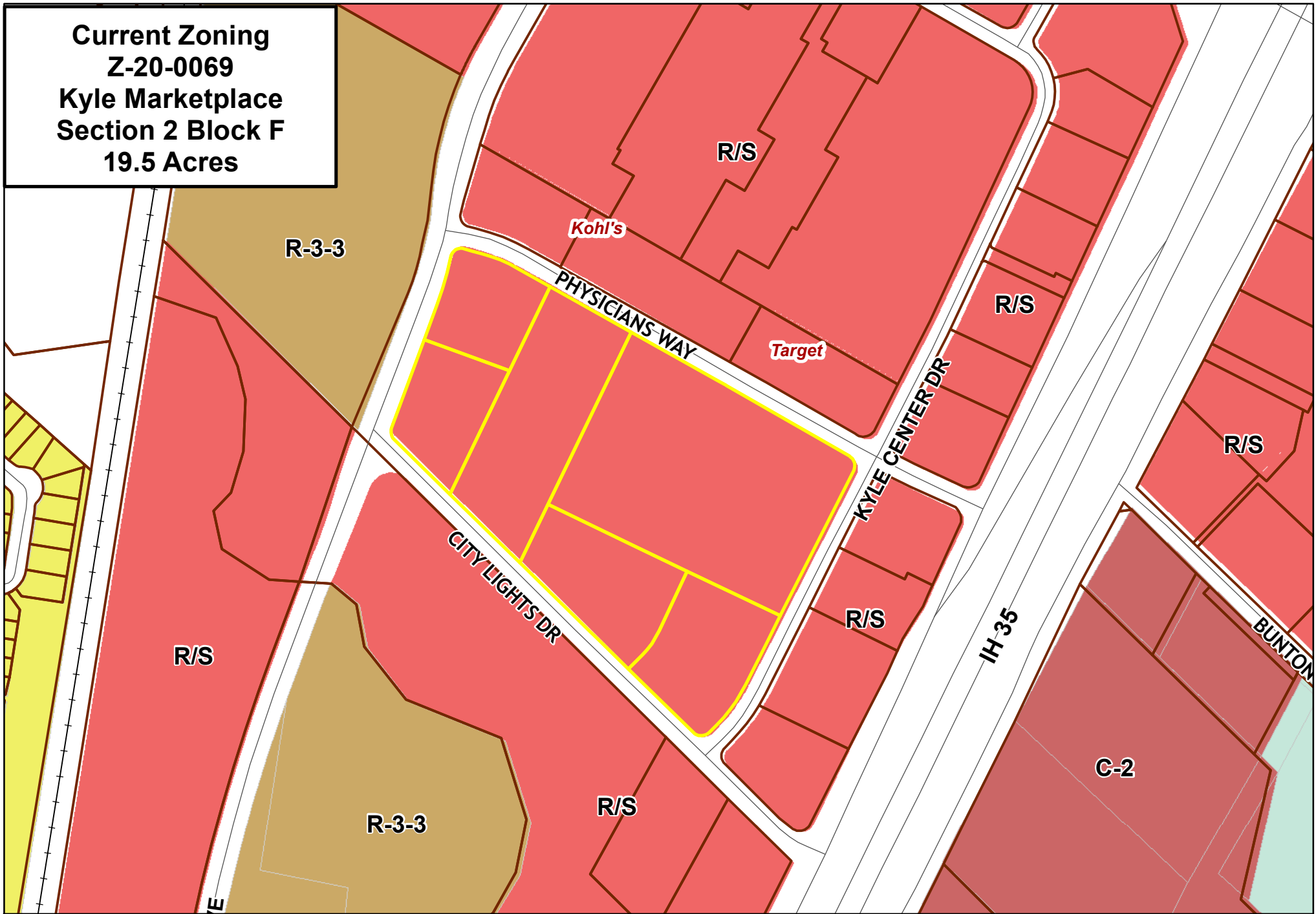


**Proposed Rezoning**  
**Kyle Marketplace Section 2,**  
**LOT 1, 1B, 1C, 2, 3, 4,**  
**Block F**





**Current Zoning**  
**Z-20-0069**  
**Kyle Marketplace**  
**Section 2 Block F**  
**19.5 Acres**



 Property Location  
Item # 19

 Parcel Lines

Landuse Districts  
Z-20-0069  
Kyle Marketplace  
Section 2 Block F  
19.5 Acres

Riparian  
Landscape

Super  
Regional  
Node

Mid-Town  
Community

Core Area  
Transition  
Community

MARKETPLACE AVE

S FM 1626

PHYSICIANS WAY

KYLE CENTER DR

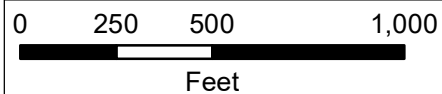
MARKETPLACE AVE

CITY LIGHTS DR

IH 35

BUNTON CREEK RD

Plum Creek



Property Location  
Item # 19



Parcel Lines





# CITY OF KYLE

## Planning Department

100 W. Center Street, Kyle, Texas 78640 (512) 262-1010

### NOTICE OF PUBLIC HEARINGS ON A PROPOSED ZONING CHANGE (Z-20-0069)

#### NOTICE IS HEREBY GIVEN TO ALL INTERESTED PERSONS

The City of Kyle shall hold a public hearing on a request by DDR DB Kyle LP (Z-20-0069) to rezone approximately 19.5 acres of land from Retail Service District 'RS' to Multi-Family Residential-3 'R-3-3' for property located at 5492 Kyle Center Drive, in Hays County, Texas.

A public hearing will be held by the Planning and Zoning Commission on **Tuesday, January 12, 2021 at 6:30 P.M.**

A public hearing will be held by the Kyle City Council on **Tuesday, January 19, 2021 at 7:00 P.M.**

This is planned as a virtual meeting taking place at [www.cityofkyle/kyletv/kyle10-live](http://www.cityofkyle/kyletv/kyle10-live). Should the COVID-19 disaster be repealed between the date of this notice and the date of the public hearing, the location will be at Kyle City Hall, 100 W. Center Street, Kyle, Texas, 78640. Please check the agenda for the proper location.

Owner: DDR DB Kyle LP - Agent: Robert O'Farrell, CSW Development (512) 368-7025



You may send your written comments to the Planning Department, 100 W. Center St., Kyle, Texas 78640

(attention: Zoning File # **Z-20-0069**)

Name: Ahmed H. Jefferally Address: 5537 Kyle Center Drive  
Kyle TX 78640

☒ I am in favor, this is why It would be a  
Great addition to the Area.

☐ I am not if favor, and this is why \_\_\_\_\_

My name is Mike Rubsam, I serve on the Kyle Ethics Commission and served 4 terms as a P&Z Commissioner for the city beginning in 2007 when Kyle was commencing it's accelerated growth spurt.

I was on the Commission when the final plat and zoning was assigned to that very large tract of land bounded by the railroad, 1626, I35 and just north of Plum Creek. We all gave it a lot of thought and decided to set it aside for future RS zone development as Kyle's population continued to grow. Well, it is still growing and that area is the logical spot for new retail business to locate.

It is true that extending Marketplace through the western region of that area did change things a bit and I'm glad to have it there but can we please confine the expansion of new apartments to the west side of Marketplace Ave. and maintain RS zoning for the property east of Marketplace?

This was the original vision for that tract of land and I see no reason to change it while our city is still growing and new retail development space will continue to be in demand. Please keep the new apartment development land west of Marketplace Avenue.





# CITY OF KYLE, TEXAS

## Clayton Brohn Homes Development Agreement Amendment

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Third Amendment to the Development Agreement between City of Kyle, Texas and Clayton Properties Group, Inc. DBA Brohn Homes and Amendment to the Development Agreement Between the City of Kyle and Clayton Properties Group, Inc. DBA Brohn Homes. ~ *J. Scott Sellers, City Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

### **ATTACHMENTS:**

#### **Description**

- ☐ ver.4.97.Acres.Third.Amendment.Casetta Ranch DA.3.21
- ☐ ver.4.Thirty.Acres.Amendment.Casetta Ranch DA.3.21

STATE OF TEXAS           §  
                                     §  
COUNTY OF HAYS       §

**THIRD AMENDMENT TO THE DEVELOPMENT AGREEMENT  
BETWEEN CITY OF KYLE, TEXAS AND CLAYTON PROPERTIES GROUP, INC.  
DBA BROHN HOMES**

This Third Amendment to the Development Agreement (“Amendment”) is by and between the City of Kyle, Texas, a home rule city situated in Hays County, Texas (the “City”) and Clayton Properties Group, Inc. d/b/a Brohn Homes (“Developer”). The term “Parties” or “Party” means the City and the Developer collectively or singularly.

**RECITALS**

WHEREAS, Developer and the City entered into that certain Amendment to the Development Agreement between the City of Kyle, Texas and Clayton Properties Group, Inc. DBA Brohn Homes dated effective \_\_\_\_\_ (the “Original Agreement”) amended by two subsequent amendments;

WHEREAS, the Original Agreement, as amended, is referred to herein as the “Agreement”);

WHEREAS, the Agreement addresses development of that certain 97.646 acre tract, more or less, which is further described in the Original Agreement;

WHEREAS, the Developer and the City desire to enter into this Amendment to address the conditions for release of building permits prior to completion and acceptance of the Intersection Improvements and to address construction or funding of certain subdivision infrastructure as provided herein;

**NOW, THEREFORE**, for and in consideration of the above stated recitals, which are made a part of this Agreement, the benefits described below, plus the mutual promises expressed herein, the sufficiency of which is hereby acknowledged by the Parties, the Parties hereby contract, covenant and agree as follows:

**ARTICLE 1  
AMENDMENT**

**1.01    Release of Building Permits; Subdivision Infrastructure.**

(a). The Developer shall deposit Seventeen Thousand Six Hundred Thirty-Two Dollars and Fifty Cents (\$17,632.50) (the “Deposit”) into escrow with the City for the construction of a sidewalk along Bunton Lane that fronts Bunton Road (the “Sidewalk”). The City shall only use the Deposit for the construction of the Sidewalk. The Deposit shall be made to the City within ninety (90) days of the Effective Date of this Amendment.

(b). The Developer shall immediately replace the standup curb that is part of the Intersection Improvements with roll curb and by pouring a 9.5' mountable stamped concrete apron

behind the curb in accordance with updated plans and specifications approved by the City and substantially similar to that set forth in Exhibit A attached hereto and incorporated herein for all purposes. Such work shall be done without reimbursement from the City for the cost of said improvements.

(c) Building permits for Phase 1 of the Project will be issued before the Phase 1 subdivision improvements have been completed and accepted by the City; provided that the permit application satisfies all other requirements set forth in City regulations for approval of building permits. No certificates of occupancy will be issued until the all of the subdivision infrastructure for Phase 1 of the Project, including the improvements described in Section 1.01(b), have been completed by the Developer and accepted by the City. All Phase 1 subdivision improvements, including the improvements described in Section 1.01(b), shall be completed and accepted by the City within sixty (60) days of the Effective Date of this Amendment (the “Deadline”). If said infrastructure is not completed by the Deadline, issuance of building permits for Phase 1 shall be suspended until said infrastructure is complete and accepted by the City.

## **ARTICLE 2 MISCELLANEOUS**

**2.01. Definitions.** Words and phrases used in this Amendment shall, if defined in the Agreement and not specifically modified by this Amendment, shall have the definition and meaning as provided in the Agreement. When used in this Amendment, the term “Agreement” shall mean the Original Agreement, as amended by this Amendment.

### **2.02. Miscellaneous.**

- (a) Entire Agreement. This Amendment, together with the Agreement, set forth the entire understanding of the parties and supersedes all prior agreements and understandings, whether written or oral, with respect to the subject matter hereof.
- (b) Binding Effect. The terms and provisions hereof shall be binding upon the Developer and its successors and assigns.
- (c) Effect of Amendment. The Parties agree that, except as modified hereby, the Agreement remains valid, binding, and in full force and effect. If there is any conflict or inconsistency between this Amendment and the Agreement, this Amendment will control and modify the Agreement.
- (d) Counterparts. This Amendment may be executed in any number of counterparts, including, without limitation, facsimile counterparts, with the same effect as if the parties had signed the same document, and all counterparts will constitute one and the same agreement.
- (e) Anti-Boycott Provision. In accordance with Chapter 2270, Texas Government Code, the City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it: (a) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this contract on behalf of the company verifies that Developer does not boycott Israel and will not boycott Israel during the term of this Amendment.

SIGNED and executed this \_\_ day of \_\_\_\_\_, 2021.

Clayton Properties Group Inc. (dba – Brohn Homes)

By: \_\_\_\_\_  
Adam Boenig, Vice President

CITY OF KYLE, TEXAS

By: \_\_\_\_\_  
Travis Mitchell, Mayor

ATTEST:

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

THE STATE OF TEXAS     §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 2021, by  
Adam Boenig, Vice President of Clayton Properties Group Inc (dba Brohn Homes).

\_\_\_\_\_  
Notary Public in and for the State of Texas



STATE OF TEXAS           §  
  §  
COUNTY OF HAYS       §

**AMENDMENT TO THE DEVELOPMENT AGREEMENT  
BETWEEN CITY OF KYLE, TEXAS AND CLAYTON PROPERTIES GROUP, INC.  
DBA BROHN HOMES**

This Amendment to the Development Agreement (“Amendment”) is by and between the City of Kyle, Texas, a home rule city situated in Hays County, Texas (the “City”) and Clayton Properties Group, Inc. d/b/a Brohn Homes (“Developer”). The term “Parties” or “Party” means the City and the Developer collectively or singularly.

**RECITALS**

WHEREAS, Developer and the City entered into that certain Amendment to the Development Agreement between the City of Kyle, Texas and Clayton Properties Group, Inc. DBA Brohn Homes dated effective \_\_\_\_\_ (the “Original Agreement”);

WERHEAS, the Original Agreement addresses development of that certain 30 acre tract, more or less, which is further described in the Original Agreement; and

WHEREAS, the Developer and the City desire to enter into this Amendment to address the construction fencing along the boundary of the Property which abuts the Hays Consolidated Independent School District (“HCISD”) property;

**NOW, THEREFORE**, for and in consideration of the above stated recitals, which are made a part of this Agreement, the benefits described below, plus the mutual promises expressed herein, the sufficiency of which is hereby acknowledged by the Parties, the Parties hereby contract, covenant and agree as follows:

**ARTICLE 1  
AMENDMENT**

**1.01    Amendment to Fencing Requirements.** Section 2.08 of the Original Agreement is hereby amended in its entirety to read as follows:

**2.08    Fencing.** (a). Owner shall construct and the Owner, or a properly formed property owners association, will maintain, repair or replace at minimum a six foot (6’) tall decorative metal fence along parkland, open space and drainage facilities that are fenced. This does not include the portion of a back yard fence that may front one of these public improvements or places, but refers to any fencing put in place for benefit of parkland, open space or drainage facilities. In no case shall these fences be dedicated or conveyed to the City. Developer shall assign to a property and/or property owners association the obligation to maintain, repair or replace said fence as required by the Code.

(b) The Owner shall design and construct a 6’ masonry fence along the western boundary of the Property that abuts the HCISD property. The Owner or homeowner’s association

for the Project shall maintain the fence. The fence shall be shown on the construction plans for the Project and installed during construction of subdivision infrastructure for the Project and shall be subject to a maintenance easement or other authorization that allows the Owner or HOA access to maintain the fence.

## ARTICLE 2 MISCELLANEOUS

**2.01. Definitions.** Words and phrases used in this Amendment shall, if defined in the Agreement and not specifically modified by this Amendment, shall have the definition and meaning as provided in the Agreement. When used in this Amendment, the term “Agreement” shall mean the Original Agreement, as amended by this Amendment.

### **2.02. Miscellaneous.**

- (a) Entire Agreement. This Amendment, together with the Agreement, set forth the entire understanding of the parties and supersedes all prior agreements and understandings, whether written or oral, with respect to the subject matter hereof.
- (b) Binding Effect. The terms and provisions hereof shall be binding upon the Developer and its successors and assigns.
- (c) Effect of Amendment. The Parties agree that, except as modified hereby, the Agreement remains valid, binding, and in full force and effect. If there is any conflict or inconsistency between this Amendment and the Agreement, this Amendment will control and modify the Agreement.
- (d) Counterparts. This Amendment may be executed in any number of counterparts, including, without limitation, facsimile counterparts, with the same effect as if the parties had signed the same document, and all counterparts will constitute one and the same agreement.
- (e) Anti-Boycott Provision. In accordance with Chapter 2270, Texas Government Code, the City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it: (a) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this contract on behalf of the company verifies that Developer does not boycott Israel and will not boycott Israel during the term of this Amendment.

SIGNED and executed this \_\_ day of \_\_\_\_\_, 2021.

Clayton Properties Group Inc. (dba – Brohn Homes)

By: \_\_\_\_\_  
Adam Boenig, Vice President

CITY OF KYLE, TEXAS

By: \_\_\_\_\_  
Travis Mitchell, Mayor

ATTEST:

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

THE STATE OF TEXAS     §  
                                     §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 2021, by  
Adam Boenig, Vice President of Clayton Properties Group Inc (dba Brohn Homes).

\_\_\_\_\_  
Notary Public in and for the State of Texas







# CITY OF KYLE, TEXAS

Clayton Properties Group, Inc  
D/B/A Brohn Homes - Zoning (Z-  
21-0070)

Meeting Date: 4/6/2021  
Date time: 7:00 PM

**Subject/Recommendation:** *[Postponed 3/16/2021] (Second Reading)* An ordinance amending Chapter 53 (Zoning) for City of Kyle, Texas, for the purpose of assigning original zoning to approximately 29.8 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3' for property located southeast of Lehman Road and south of Lehman High School, in Hays County, Texas. (Clayton Properties Group, Inc D/B/A Brohn Homes - Z-21-0070)  
~ Howard J. Koontz, Director of Planning and Community Development

*Planning and Zoning Commission voted 5-1 to approve the request.  
City Council voted 6-1 to approve the ordinance on first reading.*

**Other Information:** Please see the attachments.

**Legal Notes:** N/A

**Budget Information:** N/A

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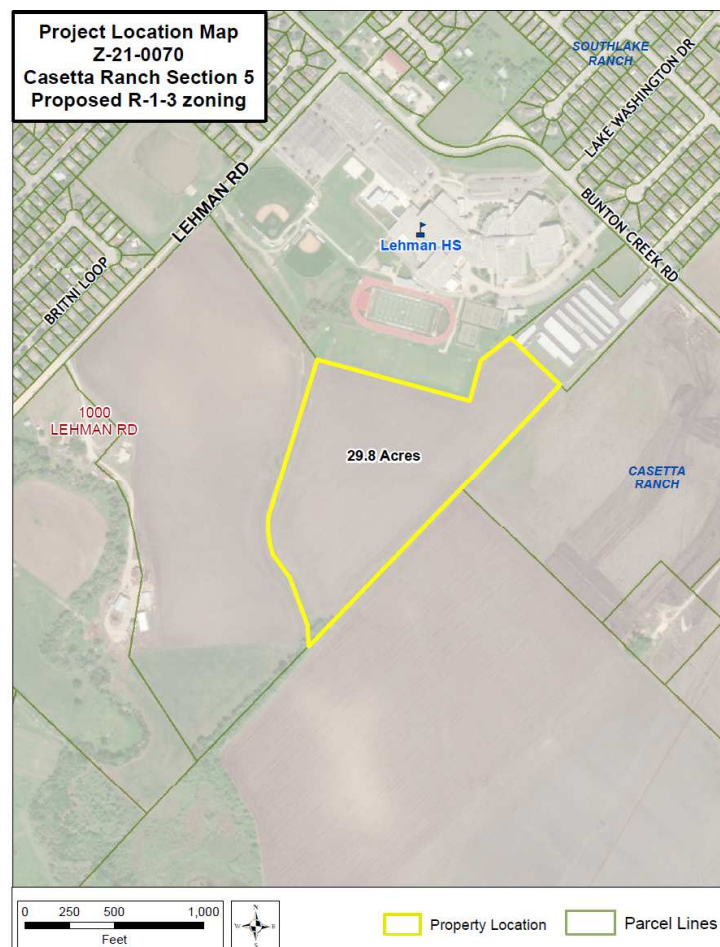
## ATTACHMENTS:

### **Description**

- ☐ Z-21-0070 (Cassetta Ranch Phase 5)\_MC
- ☐ Ordinance with Exhibit's A & B
- ☐ Application
- ☐ Plan Detail Report Summary
- ☐ Legal Description
- ☐ Deed
- ☐ Letter of Request
- ☐ Development Agreement
- ☐ Project Location Map
- ☐ Current Zoning Map
- ☐ Land Use Districts Map

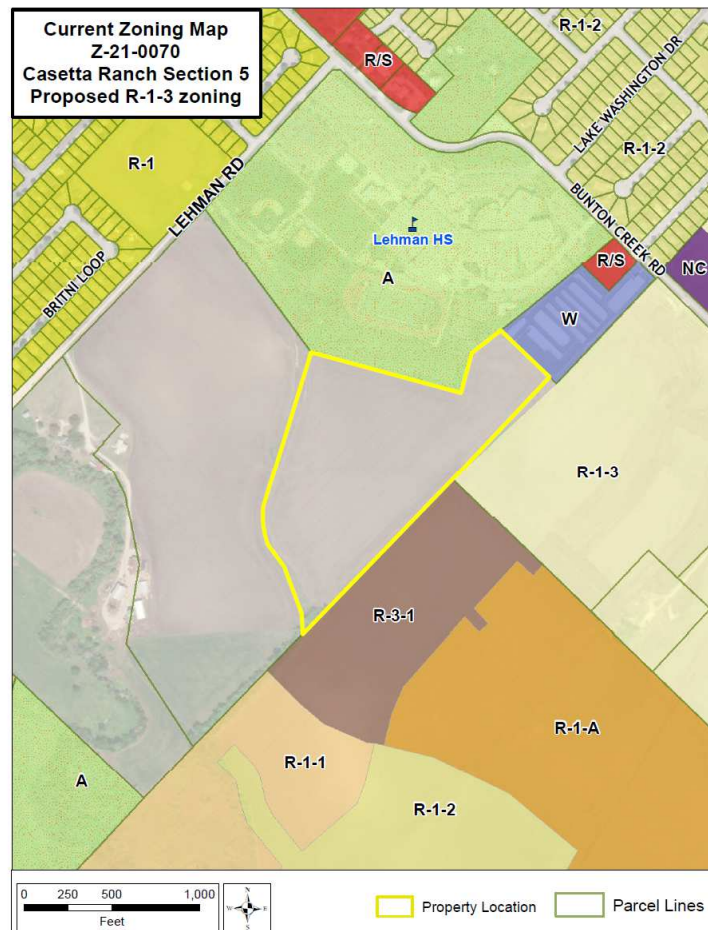
<b>Property Location</b>	<b>Southeast of Lehman Road, South of Lehman High School, Kyle, Texas 78640</b>
<b>Owner</b>	<b>Clayton Properties Group/Brohn Homes 6720 Vaught Ranch Rd, Ste. 200 Austin, TX 78730</b>
<b>Agent</b>	<b>Adam Berry 101 W. Louis Henna Blvd, Ste. 400 Austin, TX 78728</b>
<b>Request</b>	<b>Rezone 29.792-Acres A (Agriculture) to R-1-3 (Single Family Residential 3).</b>

### Vicinity Map



## Site Description

The 29.292-acre parcel is located southeast of Lehman Road and directly south of Lehman High School. The site is undeveloped, was last used for agriculture purposes and recently zoned Agriculture. To the north is Lehman High School (Agriculture zoning) and to the northeast is Safe-N-Sound Storage (Warehouse zoning). To the east is the Cassetta Ranch project zoned R-1-3 (Phases 1-4). To the south is property owned by the Walton Group and zoned R-3-1 and undeveloped (multifamily - 5-12 units per buildable acre). To the west and northwest is land owned by "Jansen Equipment LLC", and utilized for agriculture (not in the city's limits).



The applicant seeks to rezone the property from A (Agriculture) to the R-1-3 (Single-Family Residential), a zoning category that allows the following:

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

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

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

*[\*Per the "Development Agreement Between City of Kyle, Texas and Clayton Properties Group, Inc. D/B/A Brohn Homes (11/19/19)" the lot sizes are allowed to be reduced for alley loaded design. -Staff]*

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

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

#### Sec. 53-1205 Amendments

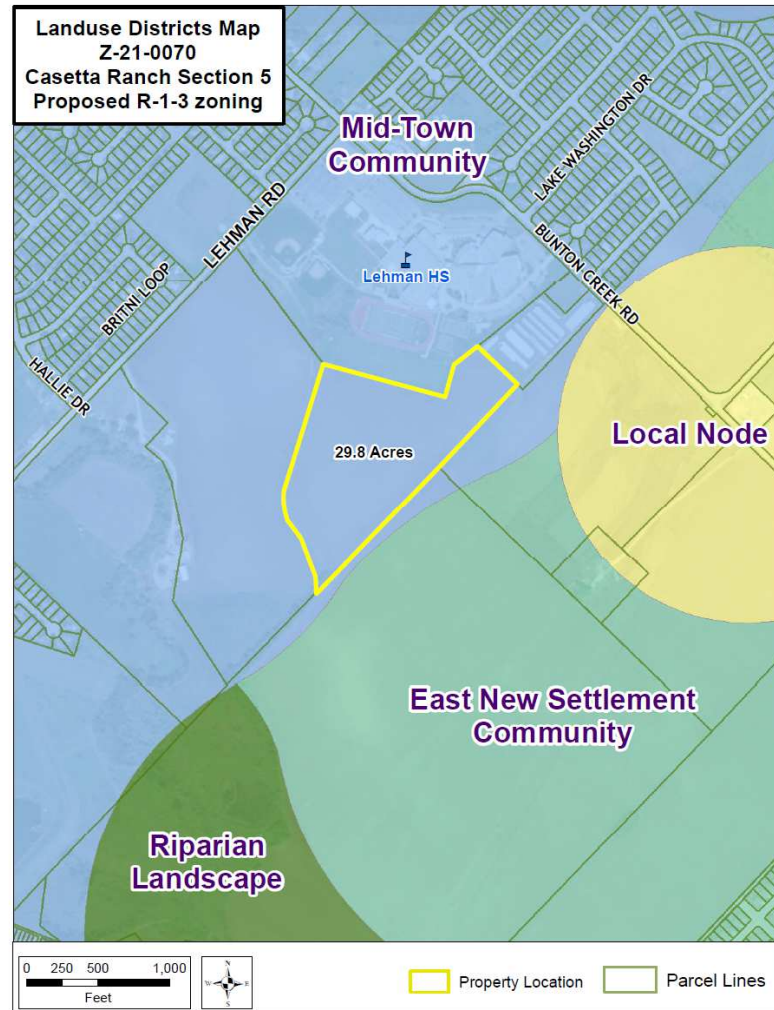
(d)

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

(e)

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





## Comprehensive Plan Text

### COMPREHENSIVE PLAN TEXT

The subject site is located in the “Mid-Town Community District”. The “R-1-3” zoning district is recommended per the comprehensive plan.

#### 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 site to be rezoned is largely surrounded by undeveloped agricultural fields to the west and south. Lehman High School is to the north, and Cassetta Ranch is to the northeast. The parcel was in the City's ETJ until it was annexed per the associated development agreement (see development agreement in back up material). It's currently zoned "A" or "Agriculture", and per the terms of the development agreement will be rezoned to "R-1-3" (single family residential). Per state law and the terms of the development agreement, the standard process for zoning is to be followed.

When constructed, the site will have vehicular access through Phase 2 of Cassetta Ranch (west corner of property). A portion of Grist Mill Road will also traverse this parcel, eventually connecting to Lehman Road to the west. Grist Mill Road will continue to the east, through the Walton Group property (unbuilt), and eventually

connecting to the existing section of Grist Mill Road in the Bunton Creek neighborhood. Water and wastewater will be served by the City of Kyle, and the project will have to follow requirements for the Residential Style Guide.

## **Recommendation**

At the February 9, 2021 Planning & Zoning Commission meeting, the Commission vote 5-1 to recommend approval of the request. As this rezoning request follows the process required in the development agreement, and state law, staff asks the Mayor & Council to support a vote to approve the zoning change.

---

## **Attachments**

- Application
- Location Map
- Surrounding Zoning Map
- Land Use District Map
- Development Agreement

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

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING TO APPROXIMATELY 29.8 ACRES OF LAND FROM AGRICULTURE 'AG' TO SINGLE FAMILY RESIDENTIAL-3 'R-1-3' FOR PROPERTY LOCATED SOUTHEAST OF LEHMAN ROAD AND SOUTH OF LEHMAN HIGH SCHOOL, IN HAYS COUNTY, TEXAS. (CLAYTON PROPERTIES GROUP, INC., DBA BROHN HOMES – Z-21-0070); 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 29.8 acres of land from Agriculture 'AG' to Single Family Residential-3 'R-1-3', 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 \_\_\_\_\_, 2021, 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 \_\_\_\_\_, 2021, 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 \_\_\_\_\_, 2021.

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

ATTEST:

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

Exhibit "A"

## Land



www.payne-llc.com  
 (817) 541-9153

A DESCRIPTION OF 29.792 ACRES OUT OF THE JOHN JONES SURVEY, ABSTRACT NO. 263, IN HAYS COUNTY TEXAS, BEING A PORTION OF A CALLED 83.3633 ACRE TRACT OF LAND CONVEYED TO JANSEN EQUIPMENT, INC. IN VOLUME 4335, PAGE 867 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (OPRHCT), AND BEING A PORTION OF A CALLED 105.744 ACRE TRACT OF LAND CONVEYED TO THEODORE H. LEHMAN AND HAZEL L. LEHMAN IN VOLUME 195, PAGE 93 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS (DRHCT); SAID 29.792 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2-inch iron rod found within said 83.3633 acre tract, at the west corner of Lot 2, Brod Subdivision, a subdivision recorded in Volume 16, Page 156 of the Plat Records of Hays County, Texas (PRHCT), and being in the southeast line of Lot 1, Block A, Lehman High School Subdivision, a subdivision recorded in Volume 12, Page 324 (PRHCT), for the northernmost corner hereof;

**THENCE**, crossing said 83.3633 acre tract with the southwest line of said Lot 2, S46°27'15"E, a distance of 384.09 feet to a Mag nail with "Payne 6064" washer set in the concrete footer of a concrete drainage structure, in the southeast line of said 83.3633 acre tract, for the easternmost corner hereof, same being an angle point in the northwest line of a called 97.646 acre tract of land conveyed to Clayton Properties Group, Inc., a Tennessee Corporation doing business in Texas as Brohn Homes, in Document No. 19010347 (OPRHCT), from which a 1/2-inch iron rod found for another angle point in the northwest line of said 97.646 acre tract, same being the south corner of said Lot 2, bears S46°27'15"E, a distance of 52.28 feet;

**THENCE**, with the northwest line of said 97.646 acre tract, same being the southeast line of said 83.3633 acre tract, S43°22'22"W, a distance of 799.16 feet to a 1/2-inch iron rod found for the west corner of said 97.646 acre tract, same being the westerly north corner of a called 324.14 acre tract of land conveyed to Walton Texas, LP in Volume 4399, Page 768 (OPRHCT);

**THENCE**, with the northwest line of said 324.14 acre tract, in part being the southeast line of said 83.3633 acre tract and in part being the southeast line of said 105.744 acre tract, S43°57'38"W, a distance of 1235.00 feet to a 1/2-inch iron rod with "Payne 6064" cap set in the southeast line of said 105.744 acre tract, for the southernmost corner hereof, from which a fence post found bears S43°57'38"W a distance of 848.14 feet, and S44°18'49"W a distance of 448.66 feet;

**THENCE**, crossing said 105.744 acre tract and said 83.3633 acre tract, the following five (5) courses and distances:


- 1) N02°21'48"W, a distance of 117.39 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 2) N20°40'58"W, a distance of 286.73 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 3) N36°14'04"W, a distance of 156.71 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 4) With a curve to the right, having a radius of 461.85 feet, a delta angle of 27°35'18", an arc length of 222.39 feet, and a chord which bears N06°42'07"W, a distance of 220.24 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 5) N17°14'42"E, a distance of 919.34 feet to a 1/2-inch iron rod found within said 83.3633 acre tract, at an angle point in the southwest line of said Lot 1, for the northwest corner hereof, from which a 1/2-inch iron rod with "Chaparral" cap found for the west corner of said Lot 1 bears N36°42'55"W, a distance of 1017.46 feet;

Payne Industries, LLC | 302 W. Hopkins, Suite 111 | San Marcos, TX 78666 | 512.749.2878

**THENCE**, continuing across said 83.3633 acre tract with the south line of said Lot 1, the following three (3) courses and distances:

- 1) **S75°00'47"E**, a distance of **883.03** feet to a 1/2-inch iron rod with "Chaparral" cap found;
- 2) **N15°03'42"E**, a distance of **233.76** feet to a 1/2-inch iron rod with "Chaparral" cap found;
- 3) **N52°15'15"E**, a distance of **209.77** feet to the **POINT OF BEGINNING** hereof, and containing 29.792 acres, more or less.

Surveyed on the ground August 21, 2019. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from SmartNet. Attachments: drawing 1850-001-T1

  
8/29/19  
Eric J. Dannheim, RPLS  
State of Texas #6075

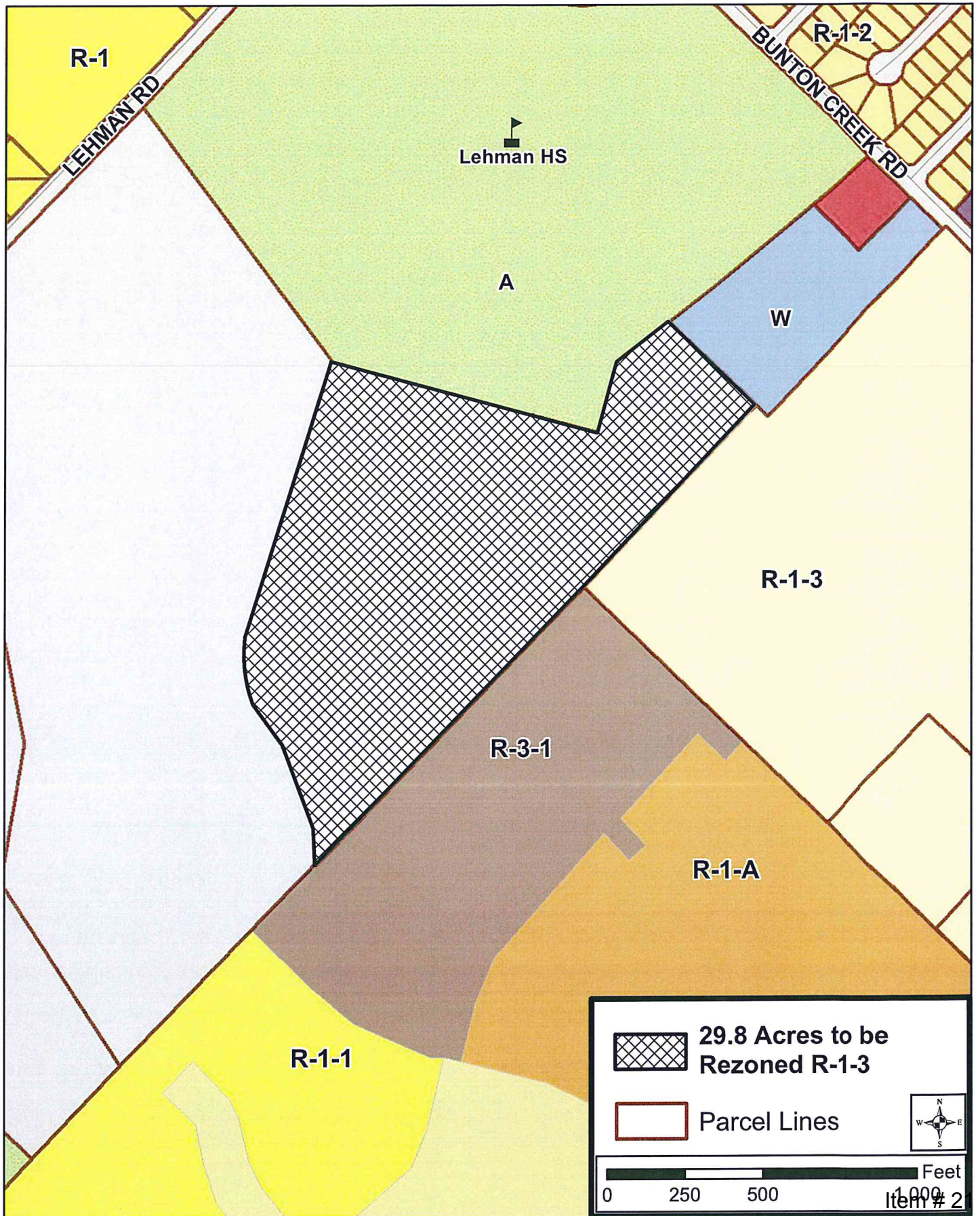


Payne Industries, LLC | Page 2 of 2



# Exhibit B

Z-21-0070 Casetta Ranch Section 5 29.8 Acres





## APPLICATION & CHECKLIST – ZONING CHANGE

**Zoning:** Clayton Properties Group, Inc., dba Brohn Homes

(Name of Owner)

(Submittal Date)

### INSTRUCTIONS:

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

### REQUIRED ITEMS FOR SUBMITTAL PACKAGE:

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

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

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

**Total Fee:** \$853.12

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

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

### 1. Zoning Request:

Current Zoning Classification: Development Agreement

Proposed Zoning Classification: R-1-3

Proposed Use of the Property: Single family Subdivision

Acreage/Sq. Ft. of Zoning Change: 29.792 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: Lehman Rd, Kyle, TX 78640

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

Property Recording Information: ☒ Hays County

Volume/Cabinet No. deed doc. no. 20023441

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

3. **Ownership Information:**

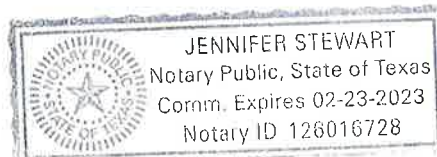
Name of Property Owner(s): Clayton Properties Group, Inc., doing business as Brohn Homes  
Adam Boenig, Vice President

**Certified Public Notary:**

This document was acknowledged before me on the 8 day of January, 2021 by  
Adam Boenig, Vice President (Owner(s)).

[Signature]  
Notary Public State of Texas

(Seal)



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

Address of Owner: 6720 Vaught Ranch Rd, Suite 200

Austin, TX 78730

Phone Number: 512-551-1670

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

Email Number: tylerg@brohnhomes.com

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

Signed: [Signature]

Date: 1-8-21

**4. Agent Information:**

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

Agent's Name: Adam Berry

Agent's Address: 101 West Louis Henna Blvd, Suite 400  
Austin, TX 78728

Agent's Phone Number: 980-221-1553

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

Agent's Mobile Number: 512-507-4361

Agent's Email Number: aberry@bgeinc.com

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

Owner's Signature: 

Date: 1-8-21



## PLAN DETAILED REPORT Z-21-0070 FOR CITY OF KYLE, TX

<b>Plan Type:</b> Zoning	<b>Project:</b> Casetta Ranch	<b>App Date:</b> 01/11/2021
<b>Work Class:</b> Zoning	<b>District:</b> KYLE	<b>Exp Date:</b> NOT AVAILABLE
<b>Status:</b> In Review	<b>Square Feet:</b> 0.00	<b>Complete Date:</b> NOT COMPLETED
<b>Description:</b> CLAYTON PROPERTIES GROUP, INC DBA BROHN HOMES - CASSETTA RANCH 5	<b>Valuation:</b> \$0.00	<b>Assigned To:</b> Debbie Guerra

15751-R70300	Main	<b>Address:</b> 1000 Lehman Rd Kyle,
--------------	------	---

<b>Owner/Builder</b> Adam Boenig 6720 Vaught Ranch, Ste 200 Rd Austin, TX 78730	<b>Applicant</b> Adam Berry W 101 Louis Henna Blvd Suite: Ste 400 Austin, TX 78728	<b>Owner/Builder</b> Tyler Gatewood 6720 Vaught Ranch, Ste. 200 Rd Austin, TX 78730
---	--	---

Business: 512-551-1670	Business: 980-221-1553 Mobile: 512-507-4361	Business: 512-551-1670
------------------------	--	------------------------

<b>Note</b>	<b>Created By</b>	<b>Date and Time Created</b>
1. Zoning change per development agreement recorded as doc. #20030094	Debbie Guerra	01/13/2021

Invoice No.	Fee	Fee Amount	Amount Paid
INV-00014914	Zoning Change Application Fee	\$428.06	\$428.06
	Site Signage	\$127.00	\$127.00
	Zoning Change Fee - Per Acre	\$107.85	\$107.85
	Newspaper Publication Fee	\$190.21	\$190.21
	Total for Invoice INV-00014914	\$853.12	\$853.12
	<b>Grand Total for Plan</b>	<b>\$853.12</b>	<b>\$853.12</b>

<b>Condition</b>	<b>Comments</b>	<b>Date Created</b>	<b>Satisfied</b>
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Exhibit "A"

## Land



www.payne-ind.com  
TBP: 5-10194453

A DESCRIPTION OF 29.792 ACRES OUT OF THE JOHN JONES SURVEY, ABSTRACT NO. 263, IN HAYS COUNTY TEXAS, BEING A PORTION OF A CALLED 83.3633 ACRE TRACT OF LAND CONVEYED TO JANSEN EQUIPMENT, INC. IN VOLUME 4335, PAGE 867 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (OPRHCT), AND BEING A PORTION OF A CALLED 105.744 ACRE TRACT OF LAND CONVEYED TO THEODORE H. LEHMAN AND HAZEL L. LEHMAN IN VOLUME 195, PAGE 93 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS (DRHCT); SAID 29.792 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2-inch iron rod found within said 83.3633 acre tract, at the west corner of Lot 2, Brod Subdivision, a subdivision recorded in Volume 16, Page 156 of the Plat Records of Hays County, Texas (PRHCT), and being in the southeast line of Lot 1, Block A, Lehman High School Subdivision, a subdivision recorded in Volume 12, Page 324 (PRHCT), for the northernmost corner hereof;

**THENCE**, crossing said 83.3633 acre tract with the southwest line of said Lot 2, S46°27'15"E, a distance of 384.09 feet to a Mag nail with "Payne 6064" washer set in the concrete footer of a concrete drainage structure, in the southeast line of said 83.3633 acre tract, for the easternmost corner hereof, same being an angle point in the northwest line of a called 97.646 acre tract of land conveyed to Clayton Properties Group, Inc., a Tennessee Corporation doing business in Texas as Brohn Homes, in Document No. 19010347 (OPRHCT), from which a 1/2-inch iron rod found for another angle point in the northwest line of said 97.646 acre tract, same being the south corner of said Lot 2, bears S46°27'15"E, a distance of 52.28 feet;

**THENCE**, with the northwest line of said 97.646 acre tract, same being the southeast line of said 83.3633 acre tract, S43°22'22"W, a distance of 799.16 feet to a 1/2-inch iron rod found for the west corner of said 97.646 acre tract, same being the westerly north corner of a called 324.14 acre tract of land conveyed to Walton Texas, LP in Volume 4399, Page 768 (OPRHCT);

**THENCE**, with the northwest line of said 342.14 acre tract, in part being the southeast line of said 83.3633 acre tract and in part being the southeast line of said 105.744 acre tract, S43°57'38"W, a distance of 1235.00 feet to a 1/2-inch iron rod with "Payne 6064" cap set in the southeast line of said 105.744 acre tract, for the southernmost corner hereof, from which a fence post found bears S43°57'38"W a distance of 848.14 feet, and S44°18'49"W a distance of 448.66 feet;

**THENCE**, crossing said 105.744 acre tract and said 83.3633 acre tract, the following five (5) courses and distances:

- 1) N02°21'48"W, a distance of 117.39 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 2) N20°40'58"W, a distance of 286.73 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 3) N36°14'04"W, a distance of 156.71 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 4) With a curve to the right, having a radius of 461.85 feet, a delta angle of 27°35'18", an arc length of 222.39 feet, and a chord which bears N06°42'07"W, a distance of 220.24 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 5) N17°14'42"E, a distance of 919.34 feet to a 1/2-inch iron rod found within said 83.3633 acre tract, at an angle point in the southwest line of said Lot 1, for the northwest corner hereof, from which a 1/2-inch iron rod with "Chaparral" cap found for the west corner of said Lot 1 bears N36°42'55"W, a distance of 1017.46 feet;

Payne Industries, LLC | 302 W. Hopkins, Suite 1A | San Marcos, TX 78666 | 512.749.2878

**THENCE**, continuing across said 83.3633 acre tract with the south line of said Lot 1, the following three (3) courses and distances:

- 1) **S75°00'47"E**, a distance of **883.03** feet to a 1/2-inch iron rod with "Chaparral" cap found;
- 2) **N15°03'42"E**, a distance of **233.76** feet to a 1/2-inch iron rod with "Chaparral" cap found;
- 3) **N52°15'15"E**, a distance of **209.77** feet to the **POINT OF BEGINNING** hereof, and containing 29.792 acres, more or less.

Surveyed on the ground August 21, 2019. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from SmartNet. Attachments: drawing 1850-001-T1



8/29/19

Eric J. Dannheim, RPLS  
State of Texas #6075



Payne Industries, LLC | Page 2 of 2

15/ITC/1932341-com/IB

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**SPECIAL WARRANTY DEED**

THE STATE OF TEXAS     §  
                                      §  
COUNTY OF HAYS       §

KNOW ALL PERSONS BY THESE PRESENTS: THAT

JANSEN EQUIPMENT, INC., a Texas corporation (collectively, "Grantor"), for the and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration paid to it by CLAYTON PROPERTIES GROUP, INC., a Tennessee corporation doing business in Texas as BROHN HOMES ("Grantee"), whose mailing address is 6720 Vaught Ranch Road, Suite 200, Austin, Texas 78730, the receipt and sufficiency of which consideration is hereby acknowledged and confessed, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY, unto Grantee, as Grantee's sole and separate property, and subject to all of the reservations, exceptions and other matters set forth or referred to in this deed, the following described property:

- (1) That certain real property in Hays County, Texas, which is described on Exhibit "A" attached to and incorporated in this deed by reference, together with all oil, gas, and other minerals in or under the surface thereof, and all executory leasing rights with respect thereto (the "Land");
- (2) All of Grantor's right, title and interest in and to all utility lines, utility facilities, utility improvements, street and drainage improvements, and other improvements of any kind or nature located in, on, or under the Land (all of the foregoing being referred to in this deed collectively as the "Improvements"); and
- (3) All of Grantor's right, title and interest in and to all appurtenances benefiting or pertaining to the Land and/or the Improvements, including, without limitation, all of Grantor's right, title and interest in and to all streets, alleys, rights-of-way, or easements adjacent to or benefiting the Land, and all strips or pieces of land abutting, bounding, or adjacent to the Land (all of the foregoing being referred to in this deed collectively as the "Appurtenances").

The Land, Improvements and Appurtenances are collectively referred to in this deed as the "Property."

**TO HAVE AND TO HOLD** the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, and Grantee's successors or assigns, forever; and, subject to all of the matters set forth or referred to in this deed, Grantor does hereby bind itself and its successors to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through, or under Grantor, but not otherwise; provided, however that this conveyance is made by Grantor and accepted by Grantee subject to: (a) all of the title exceptions revealed in or by the recorded documents and other matters listed on Exhibit "B" attached to and incorporated in this deed by reference, to the extent the same are valid, subsisting, and affect the Property; and (b) all

standby fees, taxes and assessments by any taxing authority for the current and all subsequent years, and all liens securing the payment of any of the foregoing.

[SIGNATURE PAGE FOLLOWS]

Unofficial Copy



EXECUTED AND DELIVERED the 12 day of June, 2020.

JANSEN EQUIPMENT, INC.,  
a Texas corporation

By: James P. Jansen  
James P. Jansen, President

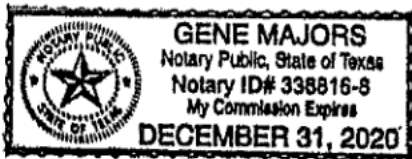
THE STATE OF TEXAS

COUNTY OF HAYS

This instrument was acknowledged before me this 12 day of June, 2020 by James P. Jansen, President of Jansen Equipment, Inc., a Texas corporation, on behalf of said corporation.

(SEAL)

Gene Majors  
Notary Public Signature



(W0944393.1)

Exhibit "A"

## Land



www.payne-ind.com  
TBP: 5-10194453

A DESCRIPTION OF 29.792 ACRES OUT OF THE JOHN JONES SURVEY, ABSTRACT NO. 263, IN HAYS COUNTY TEXAS, BEING A PORTION OF A CALLED 83.3633 ACRE TRACT OF LAND CONVEYED TO JANSEN EQUIPMENT, INC. IN VOLUME 4335, PAGE 867 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (OPRHCT), AND BEING A PORTION OF A CALLED 105.744 ACRE TRACT OF LAND CONVEYED TO THEODORE H. LEHMAN AND HAZEL L. LEHMAN IN VOLUME 195, PAGE 93 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS (DRHCT); SAID 29.792 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2-inch iron rod found within said 83.3633 acre tract, at the west corner of Lot 2, Brod Subdivision, a subdivision recorded in Volume 16, Page 156 of the Plat Records of Hays County, Texas (PRHCT), and being in the southeast line of Lot 1, Block A, Lehman High School Subdivision, a subdivision recorded in Volume 12, Page 324 (PRHCT), for the northernmost corner hereof;

**THENCE**, crossing said 83.3633 acre tract with the southwest line of said Lot 2, S46°27'15"E, a distance of 384.09 feet to a Mag nail with "Payne 6064" washer set in the concrete footer of a concrete drainage structure, in the southeast line of said 83.3633 acre tract, for the easternmost corner hereof, same being an angle point in the northwest line of a called 97.646 acre tract of land conveyed to Clayton Properties Group, Inc., a Tennessee Corporation doing business in Texas as Brohn Homes, in Document No. 19010347 (OPRHCT), from which a 1/2-inch iron rod found for another angle point in the northwest line of said 97.646 acre tract, same being the south corner of said Lot 2, bears S46°27'15"E, a distance of 52.28 feet;

**THENCE**, with the northwest line of said 97.646 acre tract, same being the southeast line of said 83.3633 acre tract, S43°22'22"W, a distance of 799.16 feet to a 1/2-inch iron rod found for the west corner of said 97.646 acre tract, same being the westerly north corner of a called 324.14 acre tract of land conveyed to Walton Texas, LP in Volume 4399, Page 768 (OPRHCT);

**THENCE**, with the northwest line of said 342.14 acre tract, in part being the southeast line of said 83.3633 acre tract and in part being the southeast line of said 105.744 acre tract, S43°57'38"W, a distance of 1235.00 feet to a 1/2-inch iron rod with "Payne 6064" cap set in the southeast line of said 105.744 acre tract, for the southernmost corner hereof, from which a fence post found bears S43°57'38"W a distance of 848.14 feet, and S44°18'49"W a distance of 448.66 feet;

**THENCE**, crossing said 105.744 acre tract and said 83.3633 acre tract, the following five (5) courses and distances:

- 1) N02°21'48"W, a distance of 117.39 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 2) N20°40'58"W, a distance of 286.73 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 3) N36°14'04"W, a distance of 156.71 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 4) With a curve to the right, having a radius of 461.85 feet, a delta angle of 27°35'18", an arc length of 222.39 feet, and a chord which bears N06°42'07"W, a distance of 220.24 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 5) N17°14'42"E, a distance of 919.34 feet to a 1/2-inch iron rod found within said 83.3633 acre tract, at an angle point in the southwest line of said Lot 1, for the northwest corner hereof, from which a 1/2-inch iron rod with "Chaparral" cap found for the west corner of said Lot 1 bears N36°42'55"W, a distance of 1017.46 feet;

Payne Industries, LLC | 302 W. Hopkins, Suite 1A | San Marcos, TX 78666 | 512.749.2878

**THENCE**, continuing across said 83.3633 acre tract with the south line of said Lot 1, the following three (3) courses and distances:

- 1) **S75°00'47"E**, a distance of **883.03** feet to a 1/2-inch iron rod with "Chaparral" cap found;
- 2) **N15°03'42"E**, a distance of **233.76** feet to a 1/2-inch iron rod with "Chaparral" cap found;
- 3) **N52°15'15"E**, a distance of **209.77** feet to the **POINT OF BEGINNING** hereof, and containing 29.792 acres, more or less.

Surveyed on the ground August 21, 2019. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from SmartNet. Attachments: drawing 1850-001-T1



8/29/19

Eric J. Dannheim, RPLS  
State of Texas #6075



Payne Industries, L.L.C. | Page 2 of 2

Exhibit "B"

Permitted Exceptions

1. Easement:  
Recorded: Volume 229, Page 172, Deed Records, Hays County, Texas.  
To: Goforth Water Supply Corporation  
Purpose: water pipeline (blanket type)
2. Terms, conditions and stipulations as set forth in that certain Addendum to the Amended and Restated Development Agreement recorded in Document No. 18036141, Official Public Records, Hays County, Texas.
3. Inclusion within the Plum Creek Conservation District.
4. Inclusion within the Plum Creek Underground Water District.
5. Encroachment or protrusion of the boundary line of the adjacent 105.744 acre tract onto or over the most westerly property lot line as reflected on survey prepared by Eric J. Dannheim, R.P.L.S. No. 6075, dated 8/29/19.



**THE STATE OF TEXAS  
COUNTY OF HAYS**

I hereby certify that this instrument was FILED on the  
date and the time stamped hereon by me and was duly  
RECORDED in the Records of Hays County, Texas.

20023441 DEED  
06/16/2020 12:18:14 PM Total Fees: \$46.00

Elaine H. Cárdenas, MBA, PhD, County Clerk  
Hays County, Texas

*Elaine H. Cárdenas*





January 8, 2021

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

Re: Zoning Request - 29.792 Acres – Clayton Properties Group, Inc. dba Brohn Homes

City of Kyle Planning Department,

Clayton Properties Group, Inc. dba Brohn Homes (Brohn) owns 29.792 acres located south of Lehman High School and west of the current Casetta Ranch subdivision off Bunton Lane.

This letter shall serve to request the zoning of all the property referenced herewith. The proposed change is to zone the Property to R-1-3 in compliance with and subject to the Development Agreement between City of Kyle, Texas and Clayton Properties Group, Inc. dba Brohn Homes, approved by the City Council and entered into on June 16, 2020. The Development Agreement is recorded in the Hays County Public Records as document # 20030094.

Brohn requests the Zoning Change Application be processed for approval under the terms of the Development Agreement.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Adam Boenig', with a large, stylized flourish extending from the end.

Adam Boenig  
Vice President  
Clayton Properties Group Inc. (dba Brohn Homes)

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS     §

**DEVELOPMENT AGREEMENT  
BETWEEN CITY OF KYLE, TEXAS AND CLAYTON PROPERTIES GROUP, INC.  
DBA BROHN HOMES**

This Development Agreement ("Agreement") is by and between the City of Kyle, Texas, a home rule city situated in Hays County, Texas (the "City") and Clayton Properties Group, Inc. d/b/a Brohn Homes ("Developer"). The term "Parties" or "Party" means the City and the Developer collectively or singularly.

**RECITALS**

WHEREAS, Developer has or will purchase a parcel of real property (the "Property" or "Parcel") in Hays County, Texas, which is more particularly described in the attached Exhibit "A";

WHEREAS, on May 5, 2015, the City and the Lehman Family Trust, owner of the Property, entered into that one certain Amended and Restated Section 212.172 Texas Local Government Code Development Agreement recorded in the Official Public Records of Hays County, Texas ("Prior Agreement") attached as Exhibit "B";

WHEREAS, the City is located in a rapidly growing metropolitan area for which new construction and land development can positively or negatively impact the future character and finances of the City;

WHEREAS, the City finds development agreements to promote master-planned communities are an appropriate way of establishing land use controls, providing for the construction of appropriate and necessary utility and roadway infrastructure, encouraging orderly economic growth, protecting the environment, and promoting the welfare of present and future citizens of the area;

WHEREAS, the Parties agree that the extension of centralized utilities to new development provides superior environmental protections to those available from individual water wells and septic systems;

WHEREAS, the City council has found that the development of the Property in compliance with this Agreement will serve a public purpose and benefit the economy of the City and the best interests and welfare of the public; and,

WHEREAS, for the above reasons Developer and the City desire to enter into this agreement.

**NOW, THEREFORE**, for and in consideration of the above stated recitals, which are made a part of this Agreement, the benefits described below, plus the mutual promises expressed

herein, the sufficiency of which is hereby acknowledged by the Parties, the Parties hereby contract, covenant and agree as follows:

## **ARTICLE 1 PURPOSE, AUTHORITY, TERM AND BENEFITS**

**1.01 Purpose.** This Agreement modifies, and amends any Prior Agreement as agreed upon herein by the Parties.

**1.02 Authority.** Authority for Developer and the City to enter into this Agreement exists under the City Charter of the City, Article III, Section 52-a of the Texas Constitution; Chapter 212, Subchapter G, Tex. Local Government Code, ("Subchapter G"), Chapter 395 of the Tex. Local Government Code; and such other statutes as may be applicable.

**1.03 Project Defined.** The Project established by the Agreement includes a master-planned residential subdivision that will include single family lots, amenity/park area(s) with recreational facilities. The Project includes the subdivision of the Property and Subdivision Infrastructure (defined below) to be dedicated and conveyed to the City, and other infrastructure adequate for the development of the Project consistent with this Agreement (the "Project"). The Project may include multiple phases for platting and construction purposes.

**1.04 Benefits.**

(a) The City desires to enter into this Agreement to provide additional control to the development standards for the Property, to allow potential purchasers, or owners, of the Property to submit preliminary plan and final plat applications to the City for review, and to assess the development viability of the Property without requiring or causing the annexation of the Property except as provided for under ARTICLE 5 of this Agreement.

(b) This Agreement provides: (i) for the submittal and review of preliminary plans and final plats for the Property without submitting a request for voluntary annexation of the Property; (ii) alternative standards under certain City ordinances for the benefit of the Property but only as allowed under Section 212.172 of the Tex. Local Government Code; and (iii) the City's commitment to provide water and wastewater service to Property based on the Concept Plan. The City's execution of this Agreement constitutes a valid and binding obligation of the City under State Law. Developer's execution of this Agreement constitutes a valid and binding obligation of the Developer.

**1.05 Term.** The term of this Agreement will commence on the Effective Date and continue fifteen (15) years from the Effective date ("Term" or "Initial Term"). After the Initial Term, this Agreement may be extended for five successive five-year periods upon written agreement signed by Developer and the City; provided that the total term of the agreement, including the Initial Term and extensions, does not exceed 45 (forty-five) years.

**1.06 Control of Development.** Developer intends to develop the Property in a manner which results in enhancing the tax base of the City. Notwithstanding any provision of the Code of Ordinances or uncoded ordinances of the City (the "Code") to the contrary, the timing and



sequencing of the development of the Property will be based on market demand and conditions and will be completed as and when Developer determines it to be economically feasible.

## **ARTICLE 2**

### **DEVELOPMENT STANDARDS AND REVIEW PROCEDURES**

**2.01 Generally.** Except as provided in this Agreement, all development applications and development of the Property will comply with the Code, as if the Property were inside the corporate limits of the City. The preceding sentence controls even if the Property has not been annexed by the City. If there is any conflict between the terms of this Agreement and the Code, the specific terms of this Agreement will control.

**2.02 Residential.** The Parties agree that the Property shall be subject to and developed pursuant to the ordinances, rules, regulations, use and development standards as if subject to the City's R-1-3 zoning district, except as otherwise provided for herein. Notwithstanding the requirements in Chart 1 in Chapter 53 of the Code, the Project will be allowed;

(a) Lots in the Project may be Alley Loaded Lots with thirty-five (35') foot and/or forty (40') foot widths.

(b) Lots in the Project may be Front Load Lots with fifty (50') foot, sixty (60') foot and/or greater widths. Lots with widths less than fifty (50') feet must be alley loaded.

No lots will be less than thirty-five feet (35') in width and any such lot shall be alley loaded, and the maximum number of thirty-five foot (35') wide single family residential lots allowed to be subdivided on the Property will be no greater than fifteen percent (15%) of the total number of single family residential lots shown on the preliminary plan approved for the Property. The City agrees that the residential lots may be all forty foot wide (40') wide lots, fifty foot wide (50') lots or sixty foot wide (60') lots or a combination of forty foot wide (40') wide lots, fifty foot wide (50') lots and sixty foot wide (60') lots or a combination of thirty-five foot wide (35') lots, forty foot wide (40') lots, fifty foot wide (50') lots, sixty foot wide (60') or greater width lots, so long as the total percentage of thirty-five (35') foot lots does not exceed 15% of all single family lots. For purposes of clarifying the preceding sentence, there is no limit to the number of thirty-five foot (35') wide lots that may be contained in an individual final plat so long as the cumulative total of thirty-five foot (35') wide single family residential lots contained in all recorded final plats of the Property do not exceed fifteen percent (15%) of all single family lots shown on the approved preliminary plan. Also, there is no limit on the maximum width of residential lots within the Project. A property owners' association neighborhood park, including, an amenity center and swimming pool for the residents living on the Property, is a permitted use of the Property. Plan View and Street Scape illustrations (Reflecting 35' wide alley load lots) are attached as Exhibit "C".

(c) Alley Load Lots with a width of thirty-five (35') feet will have a 10 foot front yard building set-back, 10 foot rear yard building set-back, 5 foot side yard building set-back and 10 foot street side yard building set back. Alley Load Lots with a width of forty (40') feet will have a

10 foot front yard building set-back, 10 foot rear yard building set-back, 5 foot side yard building set-back and 10 foot street side yard building set back

(d) Local streets within the Project may be designed, engineered and constructed with twenty-eight (28) feet of pavement width measured from face of curb to face of curb with right of way, as required by applicable Code requirements, or with intermittent wider sections of pavement to allow for on-street parking, at intervals and sufficient widths to allow for adequate clearance for fire protection vehicles approved by the City Engineer and the Emergency Services District with reviewing authority over the Property.

(e) The City acknowledges that Park Land Dedication fees shall be computed on the basis of \$750 per dwelling lot and shall be collected at the time of final plat recording. Park Development fees shall be computed on the basis of \$750 per dwelling lot and shall be collected at the time final plat recording. All Park Land Dedication and Park Development fees shall be paid in phases in an amount not to exceed \$1,500 per final platted dwelling lot as sections of the development are final platted and recorded. In as much as the Developer is dedicating and developing active parks and hike and bike trails, \$300 per final platted lot, of the total Park Land Dedication and Park Development fees will be dedicated to and used, by the City, for traffic improvements to Bunton Lane, west of the intersection with Go Forth Lane.

(f) Block lengths within the Project shall be allowed up to 1,200 feet (per ordinance) as a result of using curvilinear streets and paved.

(g) In the event the City requires the extension of a water line to and through the Project, (the "Water Line Project"), and a water line is in excess of the size and capacity of a water line that is necessary for the delivery of water service to the Project as required by the City Code, the City will either reimburse the Developer, or take whatever steps necessary to insure that subsequent users of the water infrastructure, reimburse Developer for the cost of the design, engineering and construction of that portion of the water infrastructure over and above that which is necessary for the Project as provided in Section 4.05(b) and Exhibit "G". In the event that the City requires the water line to be oversized, the City's cost-participation amount shall be determined in accordance with Section 4.05(b) and Exhibit "G".

(h) In the event the City requires the extension of wastewater infrastructure inside or outside of the boundaries of the Project in a size and/or capacity required by the City Code in excess of that which is necessary for the delivery of wastewater service to the Project, the City will either reimburse the Developer, or take whatever steps necessary to insure that subsequent users of the wastewater infrastructure reimburse Developer, for the cost of the design, engineering and construction of that portion of the wastewater infrastructure over and above that which is necessary for the Project, as provided in Section 4.05(b) and Exhibit "G". In the event that the City requires the wastewater line to be oversized, the City's cost-participation amount shall be determined in accordance with Section 4.05(b) and Exhibit "G".

(i) Fifteen percent (15%) of all lots in the Project may be Alley Load Lots with a minimum lot area of 4200 square feet. All other Alley Load Lots within the Project shall have a minimum lot area of 4690 square feet.

(j) All alleys within the Project will be private and maintained by a properly formed property owners association. The City shall have no responsibility for the maintenance of alleys within the Project.

(k) All garages in the project shall have a minimum enclosed area of 360 square feet.

(l) All alley load lots will be developed to provide two durably surfaced, off-street parking spaces of no less than (nine (9') feet by eighteen and one-half (18 ½') feet) each for a combined square footage of approximately three hundred and thirty-three (333') square feet, located adjacent to each garage, hereinafter ("Guest Parking"). Up to four hundred (400') square feet of durably surfaced off-street Guest Parking located on alley load lots shall be excluded from the computation of impervious cover on a per lot basis. Section 53-934D of the Style Guide and related Code requirement, as to on-site storage, may be satisfied with alternative compliance by providing a combination of (a) garage storage as shown on the attached Exhibit "H" and (b) attic storage with a pull-down ladder, so long as the totals on-site storage is no less than one hundred forty (140') square feet.

**2.03 Concept Plan** A copy of the concept plan, which illustrates a combination of forty (40') foot wide alley load lots and fifty (50') foot wide front load lots, is attached hereto and incorporated herein for all purposes as Exhibit "D" ("Concept Plan"). The Concept Plan will be allowed to be developed and platted in multiple phases for platting. Pursuant to Section 212.172, Tex. Local Government Code, Developer hereby confirms that the Concept Plan for the subdivision of the Property complies with the City's Subdivision Ordinance requirements for concept plans, the zoning district regulations applicable to the Property as set forth in this Agreement, the Style Guide and the City's Comprehensive Master Plan. The Concept Plan constitutes a development plan for the Property, as provided in Subchapter G, Texas Local Government Code.

Subject to the allowable uses set forth in Sections 2.02 and 2.03 hereof, a) the total allowable density of development of the Property shall be limited by the number of Living Unit Equivalents ("LUEs") as measured for water and wastewater service connections, and b) the intensity and timing of development within the Property will be determined solely by Developer; provided, however, that the density of development of the Property shall not exceed one hundred and forty (140) LUEs. So long as Developer does not increase the total density of allowable development, as measured by water and wastewater service connections, Developer may amend the Concept Plan and may amend the layout of lots and on-site infrastructure to serve the Project in compliance with this Agreement. The Concept Plan will expire upon the expiration or termination of this Agreement.

**2.04 Preliminary Plan**. Developer may submit to the City an application for a preliminary plan for the Property without submitting to the City a request for the annexation of the Property and without submitting a zoning application for the Property. The preliminary plan must comply with the requirements of this Agreement and generally comply with the Concept Plan and the allowable uses set forth in Sections 2.02 and 2.03. The preliminary plan may show lot layouts and street alignments different than shown in the Concept Plan so long as the total level of development, as measured by water and wastewater service connections, does not increase above one hundred and forty 140 LUEs. Developer may request the City, including the City's Planning and Zoning Commission, to make a written determination that the preliminary plan complies with all applicable regulations; provided, however, that such determination shall not constitute the final approval of the preliminary plan. If the preliminary plan application complies with the terms of this Agreement, the City will approve the preliminary plan upon the request of Developer;



provided that the Developer has submitted to the City a request or petition for voluntary annexation as provided in Section 5.02(a) or (b).

**2.05 Subdivision Plats.** Subdivision plats may be approved and constructed in one or more sections. Developer may submit to the City an application for a subdivision plat for a portion of the Property without submitting to the City a request for the annexation of the Property and without submitting a zoning application for the Property. Developer may submit subdivision construction plans concurrently with a subdivision plat application.

**2.06 City Review and Approval.** This Agreement shall govern the review and approval of preliminary plans, subdivision plats, subdivision construction plans and other approvals, variances or other municipal authorizations hereafter required or requested by Developer. In anticipation of the voluntary annexation of the Property, the City does not require Developer to submit any application to Hays County for review or approval. The City will accept and review applications for preliminary plans, final plats, subdivision construction plans and site development permits for the Property if the final plats, subdivision construction plans and site development permits for the Property comply with the requirements of this Agreement and generally comply with the Concept Plan and the allowable uses set forth herein. The City will approve applications for preliminary plans, subdivision plats and site development permits for the Property if Developer has made a request or petition for voluntary annexation pursuant to Sections 5.02(a) or (b) below, and said applications are in accordance with the requirements of this Agreement. Preliminary plans, subdivision plats, subdivision construction plans, and site development plans hereafter approved pursuant to this Agreement shall expire on the latter of the expiration of the Initial Term of this Agreement, unless the parties agree in writing otherwise, or the date established by the Code.

**2.07 Other Fees.** Except for fees or expenses otherwise specifically provided for in this Agreement, all fees required by the Code will be paid in accordance with the Code as established on the date that the fee is paid, unless the fee is established at another point in time under State Law or the City Code.

**2.08 Fencing.** Owner shall construct and the Owner, or a properly formed property owners association, will maintain, repair or replace at minimum a six foot (6') tall decorative metal fence along parkland, open space and drainage facilities that are fenced. This does not include the portion of a back yard fence that may front one of these public improvements or places, but refers to any fencing put in place for benefit of parkland, open space or drainage facilities. In no case shall these fences be dedicated or conveyed to the City. Developer shall assign to a property and/or property owners association the obligation to maintain, repair or replace said fence as required by the Code.

**2.09 Additional Amenities.** Developer shall provide additional amenities to the Property as follows. Such amenities shall be provided for each phase of development as it is developed. Additional amenities include:

(a) Developer shall form a property owners association as a non-profit corporation ("POA") at the completion of the first phase of development, and the POA shall require dues and be responsible for the maintenance, repair and replacement of any and all amenities, including all



common spaces and any other improvements required to be maintained by the POA under this Agreement or the City Code, made available to occupants of the Property.

(b) Decorative street lighting or street lighting in compliance with Pedernales Electric Cooperative standards, as published on the Effective Date (the "Street Lighting Plan") will be maintained by the POA. The Street Lighting Plan will not require approval by the Planning and Zoning Commission. Street lighting will not be maintained by the City.

(c) The Landscaping Plan will comply with the City Code will be agreed upon by the Developer and the City and will be subject to approval by the city arborist, which approval will not be unreasonably denied, delayed or conditioned.

(d) The Project will abide by all applicable City Codes as if the project were developed inside the City limits, except where the terms of this Agreement modify such Code. To the extent there are conflicts between the terms of the Code, including the zoning regulations, and the terms of this Agreement, this Agreement will control.

### **ARTICLE 3 PUBLIC STREETS AND SUBDIVISION INFRASTRUCTURE**

**3.01 Open and Common Space.** The duly formed POA shall have the responsibility or obligation to maintain, operate, repair or replace all Open and Common Space in accordance with the Code and with the approved Landscaping plan submitted as a part of the Subdivision Construction Plans.

#### **3.02 Subdivision Infrastructure.**

(a) All public streets, roads, sidewalks, drainage, water and wastewater lines and facilities and all other infrastructure within the Property or outside the boundaries of the Property required to serve the Property (the "Subdivision Infrastructure") will be constructed by Developer to meet Code standards, except as provided for herein, and will be dedicated and conveyed to the City at no cost to the City; unless otherwise provided herein.

(b) Pavement width from curb face to curb face shall be twenty-eight feet (28'). Alleys and alley access shall remain private, and be the responsibility of a duly formed and mandatory dues paying POA.

(c) Variances from the Code are hereby granted to allow for the widths of private alleys, restricted to one-way traffic, in the Project to be constructed with twelve (12) feet of pavement within an (18) foot wide access easement and private alleys, providing for two-way traffic, to be constructed with of twenty-four (24) feet of pavement within a thirty (30) foot wide access easement.

**3.03 Satisfactory Completion of Developer Improvements.** The term "Developer Improvements" includes Subdivision Infrastructure and Utility Improvements, as defined herein. Upon completion of construction of each of Developer Improvements in accordance with the City-approved construction plans, good engineering practices, and Section 41-53(h) and (j), the City

shall accept the Developer Improvements for ownership, maintenance, and operation, except for any such improvements that are required to be owned and/or maintained by the Developer or the POA under this Agreement or the City Code. The City shall not unreasonably deny, delay, or condition its acceptance of such Developer Improvement.

**3.04 City Acceptance of Developer Improvements.** As a precondition to the City's final acceptance of a Developer Improvement, the following shall be delivered to the City: executed all bills paid affidavits, bills of sale, assignments, or other instruments of transfer reasonably requested by the City, in a form and content reasonably acceptable to the City, to evidence the City's ownership of same. Contemporaneously therewith, all bonds, warranties, guarantees, and other assurances of performance, record drawings, easements, project manuals and all other documentation related to Developer Improvement to be accepted will also be delivered to the City and any other items required by the City Code. Utility easements for water and wastewater lines and other utility facilities within the Property may be conveyed by plat dedication or separate agreement and must be conveyed or dedicated to the City prior to the City's acceptance of Developer Improvement.

**3.05 City to Own, Operate and Maintain Developer Improvements.** From and after the time of the City's final acceptance of a Developer Improvement, the City will own, operate, and maintain each Developer Improvement and shall be responsible for all costs associated with same; provided, however, alleys, decorative street lights, joint use areas, multiuse trails and any other improvements that are required to be owned and/or maintained by the Developer or the POA under this Agreement or the City Code will be maintained by Developer or the POA. Upon the City's acceptance of all the Developer Improvements within a particular subdivision plat and the City's acceptance of water and wastewater service lines within said recorded final plat, Developer shall be allowed to connect to the accepted water and wastewater service lines in such a manner to serve lots within the recorded plat; provided that the City's applicable utility and connection fees are paid and that such connections meet the City's ordinance and technical requirements.

## **ARTICLE 4 WATER AND WASTEWATER SERVICE**

**4.01 Intent of the Parties Regarding Utility Services.** As of the Effective Date, and again at the time of final plat approval, the City represents that the City has and will have sufficient water and wastewater treatment capacity to allow service connections for one hundred and forty 140 LUEs water and wastewater service to the Property. The City represents that it has rights to sufficient raw water to meet its overall service obligations, including providing water service to the Property in accordance with the terms of this Agreement. The Parties acknowledge that the Property will be built out over a number of years and that the City may decide to incrementally construct additional utility system improvements over time. Developer acknowledges that it is the City's responsibility to determine if the City's utility system needs to be expanded and how the City will expand its utility system to enable the City to meet its utility service obligations under this Agreement. Developer further acknowledges the City's desire to retain flexibility on deciding which City utility system improvements, if any, are necessary for the City to timely meet its utility service obligations under this Agreement. The City acknowledges that Developer requires



certainty regarding the City's plans for meeting the City's utility service obligations under this Agreement, including, if necessary, the expansion or enhancement of the City's water and wastewater utility systems for the purpose of the City meeting its Utility Service obligations in accordance with the terms of this Agreement. The Parties acknowledge that the design engineering and construction of an operational utility improvement can require two (2) or more years. Notwithstanding, the City agrees and warrants that it will take whatever steps are necessary to insure that the City can and will provide one hundred and forty (140) LUEs of water and wastewater service incrementally to the Project as and when final plats are approved within the Project.

#### **4.02 General Conditions For Connections to the City Utility System.**

(a) The City hereby expressly authorizes and approves the Walton Line, shown on the attached Exhibit "E", as the sole and exclusive method by which wastewater service will be provided to the Project by the City by and through the adjacent development to the east (Casetta Ranch) also owned and developed by Clayton Properties Group, Inc dba Brohn Homes). In the event the City should require that the Walton Line be designed, engineered and constructed to a size greater than that which is necessary to serve the Project and required by the City Code and the Walton property ("Oversized Walton Line"), all costs and expenses of Developer in the design, engineering and construction of the oversized portion of the Oversized Walton Line shall be reimbursed to Developer by the City through the collection, and payment to Developer, of capital recovery fees from other users of the Walton Line or a lump sum payment in the City's sole discretion, in accordance with Exhibit "G". If reimbursement through subsequent user fees has not result in the 100% reimbursement to Developer within 2 years of the completion of the Walton Line, the City will pay the outstanding unreimbursed amount.

(b) If the City modifies: (i) the definition of an LUE as compared to the LUE definition incorporated into this Agreement; (ii) water pressure requirements for a service connection to land within the Property; (iii) fire flow requirements for the issuance of building permits and certificates of occupancy without the installation of a sprinkler system; (iv) a Utility or Developer Improvement required for the City to provide water and wastewater service to any portion of the Property; or (v) any other aspect of water and wastewater service standards, the City shall be responsible for the timely design and construction of any additional utility facilities that would be necessary for the City to meet its water and wastewater service obligations under this Agreement, unless such modification by the City is in response to a request for more than one hundred and forty 140 LUEs of water and wastewater service. If the modifications described in the preceding sentence are required by federal or state law or regulations, the Parties shall consult regarding a reasonable resolution to funding such modifications.

**4.03 Service Commitment.** The City hereby commits one hundred and forty 140 LUEs of water and wastewater service to the Property.

**4.04 Service Connections.** The City will timely provide water and wastewater service to Lots within the Project, and will connect each residential unit or structure for another permitted use to the City's water and wastewater system upon completion and City acceptance of the Utility Improvements, payment of applicable fees, establishment of a utility account, and a Certificate of Occupancy being issued for the residential unit or structure and provide water and wastewater

service for the residential unit or structure on the same terms and conditions as provided to all other areas of the City.

**4.05 Utility Improvement Construction Obligations.**

(a) **Developer.** Developer shall be solely responsible for the engineering and construction of all water and wastewater lines and facilities within the Property and any offsite utility extensions needed to serve the property, including but not limited to the Water Line Project and the Wastewater Line Project described in Exhibits “J” and “K” (collectively, the “Utility Improvements”).

(b) **City Oversizing.** City may, at its discretion, require the oversizing of certain Utility Improvements, and if the City exercises this right during or before plan review, so long as the design, engineering and construction of such oversized Utility Improvements does not unreasonable delay Developer’s development, Developer will be responsible for the costs associated with providing the appropriate sized infrastructure to the Project. The City will pay costs associated with the upsizing, the cost of which shall be determined by the Developer and City Engineer generally in accordance with Exhibits “F” and “G”.

**4.06 Service Units Defined.** The size of a water meter required for any particular residential or non-residential structure shall be determined according to the City’s applicable construction and plumbing standards in effect at the time that the building permit for that structure is approved, and the number of LUEs per meter to be accounted for hereunder shall be based on Chapter 50 (“Utilities”), Article VI, of the Code, which is incorporated into this Agreement for the limited purposes set forth in this Agreement.

**4.07 Use of City Property and Easements.** The City hereby consents, at no cost to Developer, to the use of any and all appropriate and available City rights-of-way, sites or easements that may be reasonably necessary to construct a Developer Improvement, or for Developer to perform its obligations under this Agreement; provided, however, that the City’s consent is subject to City approval of the location of a Utility Improvement within the rights-of-way and easements and avoidance of utility facilities existing in such rights of way and easements. The City agrees to cooperate and support Developer’s acquisition of necessary easements from third parties as determined by the city council.

**4.08 Easement Acquisition.** The Utility Improvements and related easements are necessary and required by the City for the City to provide water and wastewater service to the Property. The City further agrees that there exists a public necessity for the construction of the Utility Improvements; therefore, the City agrees to cooperate and support Developer’s acquisition of necessary easements from third parties.

**ARTICLE 5  
ANNEXATION**

**5.01 Annexation.** The City agrees that the Property will be annexed in accordance with this Agreement.



## **5.02 Voluntary Annexation.**

(a) Developer may submit, at any time, a petition requesting the annexation of all or a portion of the Property; provided that submission of an annexation petition shall be submitted prior to, and shall be a condition precedent to, the City finally approving any preliminary plan, final plat, or related development document as provided in Section 2.06.

(b) If the city council begins annexation proceedings pursuant to this Section 5.02, Developer acknowledges that Section 43.052, Texas Local Government Code does not apply to the City's annexation of the Property. Further, Developer agrees that a request for voluntary annexation pursuant to Section 5.02 (a) or (b) will constitute Developer's waiver of all rights Developer may have under Section 43.052, Texas Local Government Code; save and except the terms of this Development Agreement shall survive.

**5.03 Municipal Service Plan.** The Parties agree to be bound and obligated to a municipal service plan ("Plan") negotiated by and between the Parties that is sufficient and adequate and hereby binds and obligates Developer, its grantees, successors, purchasers or assigns to install water, wastewater and drainage infrastructure required by this Agreement to service the Property and upon acceptance by the City, the City shall be obligated from such dedication and acceptance to maintain the infrastructure and to provide services. The Plan will be used as the municipal service plan when the City annexes the Property, in accordance with Exhibit "I". The City intends to annex the Property within ninety (90) days after the date of the first reading on the ordinance annexing the Property, if such annexation is approved and adopted by the city council. If the Plan conflicts with this Agreement, this agreement shall rule.

**5.04 Land Use Upon Annexation.** On the effective date of the annexation of the Property, the zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered for the uses and development standards set forth in this Agreement; unless Developer substantially amends or abandons the Project, defaults under this Agreement, or permits its Chapter 245, Local Government Code rights to expire. Developer may make application for the zoning of the Property at any time but not later than thirty (30) days after the effective date of the annexation. Upon the adoption of permanent zoning for the Property, the applicable City Code provisions will be subject to the terms, provisions and conditions of this Agreement.

## **ARTICLE 6**

### **ASSIGNMENT OF COMMITMENTS AND OBLIGATIONS; SUCCESSORS**

**6.01 Assignment of Developer Rights.** Developer may assign in whole or part its rights and obligations under this Agreement to persons purchasing all of the Property or a part of the Property but not to an individual purchaser of lots within a recorded final plat; provided that the City has consented to the assignment, which will not be unreasonably withheld, delayed, or conditioned. In the event Developer assigns all of its respective rights under this Agreement in conjunction with the conveyance of any unplatted portion of the Property, a written assignment of said rights must be filed of record in the Official Public Records of Hays County, Texas in order to be effective. This Agreement may be assigned by Developer without the consent of the City to any Developer-affiliated or related entity and Developer will be released from its obligations under

this Agreement upon delivery of a notice of assignment to the City. Any assignment of Developer's rights and obligations hereunder to an entity that is not affiliated with or related to Developer will not release Developer of their respective obligations under this Agreement for the assigned portion of the Property until the City has approved the written assignment; provided, however, the City shall not unreasonably deny, delay, or condition its approval of the assignment.

**6.02 Lot Conveyance Not an Assignment.** The mere conveyance of a lot or any portion of the Property without a written assignment of the rights of Developer shall not be sufficient to constitute an assignment of the rights or obligations of Developer hereunder, unless specifically provided herein.

**6.03 Agreement Binding on Assigns.** This Agreement shall be binding upon the Parties, their grantees, successors, assigns, or subsequent purchaser. In the event of an assignment of fee ownership, in whole or in part, of the Property by Developer, only the grantees and assignees and then current owners of any portion of the Property so assigned shall be liable under this Agreement for any subsequent default occurring after the conveyance and affecting only the portion or portions of the Property so assigned. Any reference to Developer or City shall be deemed to and will include the successors or assigns thereof, and all the covenants and agreements in this Agreement shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

## **ARTICLE 7 DEFAULT AND NOTICE**

**7.01 Notice and Opportunity to Cure.** If either Party defaults in its obligations under this Agreement, the other Party must, prior to exercising a remedy available to that Party due to the default, give written notice to the defaulting Party, specifying the nature of the alleged default and the manner in which it can be satisfactorily cured, and extend to the defaulting Party at least thirty (30) days from receipt of the notice to cure the default. If the nature of the default is such that it cannot reasonably be cured within the thirty (30) day period, the commencement of the cure within the thirty (30) day period and the diligent prosecution of the cure to completion will be deemed a cure within the cure period, provided that the default must be cured within six months.

**7.02 Remedies for Default.** Whether in contract or tort or otherwise, Developer agrees to waive all claims to damages and other remedies, with the exception of specific or strict performance, such as lost profits, delay damages, or for any special incidental, liquidated or consequential loss or damage of any nature arising at any time or from any cause whatsoever; provided, however, Developer may enforce this Agreement as provided under §245.006 of the Texas Local Government Code.

**7.03 Enforcement.** The Parties may enforce this Agreement by any proceeding at law or equity except the City is not waiving its right to sovereign immunity nor may this paragraph 7.03 be interpreted as or otherwise construed to be a waiver except as to an action for specific or strict performance. Failure of either Party to enforce this Agreement shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

**7.04 Litigation.** In the event of any third-party lawsuit or other claim relating to the validity of this Agreement or any actions taken by the Parties hereunder, Developer and the City intend to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement. The City's participation in the defense of such a lawsuit is expressly conditioned on budgetary appropriations for such specific action by the city council. The filing of any third-party lawsuit relating to this Agreement or the development of the Project will not delay, stop or otherwise affect the development of the Project or the City's processing or issuance of any approvals for the Project, unless otherwise required by a court of competent jurisdiction.

**7.05 Notices.** Any notice required or permitted to be delivered hereunder shall be in writing and shall be deemed received on the earlier of (i) actual receipt by mail, Federal Express or other delivery service, fax, email or hand delivery; (ii) three (3) business days after being sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to Seller or Purchaser, as the case may be, at the address stated in Section I; or (iii) one (1) business day after being sent by email.

Any notice mailed to the City shall be addressed:

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

Any notice mailed to the Developer shall be addressed:

Adam B. Boenig  
Vice President  
Clayton Properties Group Inc. d/b/a Brohn Homes  
6720 Vaught Ranch Rd, Suite 200  
Austin, Texas 78730  
P 512.320.8833  
Email Address: adamb@brohnhomes.com

Any Party may change the address for notice to it by giving notice of such change in accordance with the provisions of this paragraph.

## **ARTICLE 8 PROPERTY AND MORTGAGEE OBLIGATIONS**

**8.01 Mortgagee Acceptance.** Developer shall assure that any mortgage financing obtained for the Property and the Project includes a provision that obligates the mortgagee to continue this Agreement in full force and effect subject to its terms and provisions in the event of a foreclosure or other action by such mortgagee, with a good and sufficient subordination provision, and any such mortgagee shall be deemed to have taken a security interest in the Property

with notice of and subject to this Agreement. Developer shall provide the City with an executed copy of a subordination agreement that is consistent with the requirements of this Agreement.

**8.02 Mortgagee Protection.** This Agreement will not affect the right of Developer to encumber all or any portion of the Property by mortgage, deed of trust or other instrument to secure financing for the Project, subject to the terms and provisions of Section 8.01. The City understands that a lender providing financing of the development of the Property ("Lender") may require interpretations of or modifications to this Agreement and agrees to not unreasonably refuse to cooperate with Developer and its Lenders' representatives in connection with any requests for interpretations or modifications so long as such modifications are not substantially inconsistent with the terms of this Agreement. The City agrees not to unreasonably condition, withhold or delay its approval of any requested interpretation or modification if the interpretation or modification is consistent with the intent and purposes of this Agreement. The City further agrees as follows:

(a) The City will, upon written request of a Lender given to the City by certified mail, return receipt requested, at the addresses provided in Section 7.05, provide the Lender with a copy of any written notice of default given to Developer under this Agreement within ten (10) days of the date such notice is given to Developer.

(b) Upon default by Developer under this Agreement, a Lender may, but will not be obligated to, promptly cure any default during any cure period extended to Developer, either under this Agreement or under the notice of default.

(c) Any Lender who comes into possession of any portion of the Property by foreclosure or deed in lieu of foreclosure will take such Property subject to the terms of this Agreement. No Lender will be liable for any defaults or monetary obligations of Developer arising prior to the Lender's acquisition of title, but a Lender will not be entitled to obtain any permits or approvals with respect to that Property until all delinquent fees and other obligations of Developer under this Agreement that relate to the Property have been paid or performed.

**8.03 Certificate of Compliance.** Within thirty (30) days of written request by either Party given to the other Party requesting a statement of compliance with this Agreement, the other Party will execute and deliver to the requesting Party a statement certifying that:

(a) this Agreement is unmodified and in full force and effect, or if there have been modifications, that this Agreement is in full force and effect as modified and stating the date and nature of each modification;

(b) there are no current uncured defaults under this Agreement, or specifying the date and nature of each default; and

(c) any other information that may be reasonably requested. The City Manager or the Mayor will be authorized to execute any requested certificate on behalf of the City.



## **ARTICLE 9 MISCELLANEOUS**

**9.01 Multiple Originals.** The Parties may execute this Agreement in one or more duplicate originals, each of equal dignity.

**9.02 Entire Agreement.** This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties with respect to its subject matter, and may not be amended except by a writing signed by all Parties with authority to sign and dated subsequent to the date hereof. There are no other agreements, oral or written, except as expressly set forth herein.

**9.03 Recordation.** A copy of this Agreement will be recorded in the Official Public Records of Hays County, Texas.

**9.04 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. This Agreement is performable in Hays County, Texas.

**9.05 Severability.** In the event any provision of this Agreement is illegal, invalid, or unenforceability under the present or future laws, then, and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceability and is a similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

**9.06 Termination or Amendment By Agreement.** This Agreement may only be terminated or amended as to any or all of the Property at any time by mutual written consent of the City and Developer, or may be terminated or amended only as to a portion of the Property by the mutual written consent of the City and the Developer of only the portion of the Property affected by the amendment or termination. The City may terminate this Agreement if the Developer does not obtain preliminary plat approval within five (5) years of the Effective Date. This Agreement will terminate if the preliminary plat expires during the term of this Agreement pursuant to the provisions governing expiration of preliminary plats set forth in the City Code.

**9.07 No Oral or Implied Waiver.** The Parties may waive any of their respective rights or conditions contained herein or any of the obligations of the other party hereunder, but unless this Agreement expressly provides that a condition, right, or obligation is deemed waived, any such waiver will be effective only if in writing and signed by the party waiving such condition, right, or obligation. The failure of either party to insist at any time upon the strict performance of any covenant or agreement in this Agreement or to exercise any right, power, or remedy contained in this Agreement will not be construed as a waiver or a relinquishment thereof for the future.

**9.08 No Third-Party Beneficiary.** This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided herein.

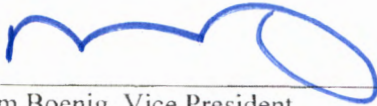
**9.09 Anti-Boycott Verification.** To the extent this Agreement constitute a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law the Company represents that neither the Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer (a) boycotts Israel or (b) will boycott Israel through the term of this Agreement. 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.

**9.10 Iran, Sudan and Foreign Terrorist Organizations.** To the extent this Agreement constitute a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law the Developer represents that the Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Developer is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

SIGNED and executed this 16<sup>TH</sup> day of JUNE, 2019. 2020

Clayton Properties Group Inc. (dba – Brohn Homes)

By:

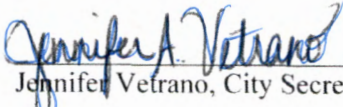
  
Adam Boenig, Vice President

CITY OF KYLE, TEXAS

By:

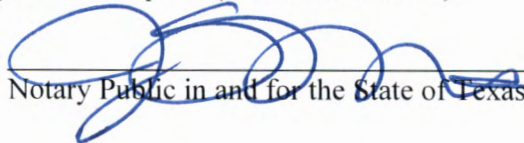
  
Travis Mitchell, Mayor

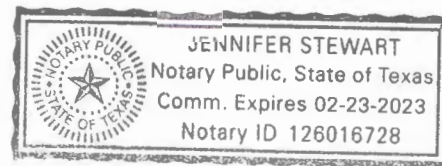
ATTEST:

  
Jennifer Vetrano, City Secretary

THE STATE OF TEXAS   §  
                                     §  
COUNTY OF Travis   §

This instrument was acknowledged before me on 4/16/20, 2019, by Adam Boenig, Vice President of Clayton Properties Group Inc (dba Bohn Homes).

  
\_\_\_\_\_  
Notary Public in and for the State of Texas



**EXHIBIT A**  
**DESCRIPTION OF PROPERTY**





**A DESCRIPTION OF 29.792 ACRES OUT OF THE JOHN JONES SURVEY, ABSTRACT NO. 263, IN HAYS COUNTY TEXAS, BEING A PORTION OF A CALLED 83.3633 ACRE TRACT OF LAND CONVEYED TO JANSEN EQUIPMENT, INC. IN VOLUME 4335, PAGE 867 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (OPRHCT), AND BEING A PORTION OF A CALLED 105.744 ACRE TRACT OF LAND CONVEYED TO THEODORE H. LEHMAN AND HAZEL L. LEHMAN IN VOLUME 195, PAGE 93 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS (DRHCT); SAID 29.792 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at a 1/2-inch iron rod found within said 83.3633 acre tract, at the west corner of Lot 2, Brod Subdivision, a subdivision recorded in Volume 16, Page 156 of the Plat Records of Hays County, Texas (PRHCT), and being in the southeast line of Lot 1, Block A, Lehman High School Subdivision, a subdivision recorded in Volume 12, Page 324 (PRHCT), for the northernmost corner hereof;

**THENCE**, crossing said 83.3633 acre tract with the southwest line of said Lot 2, **S46°27'15"E**, a distance of **384.09** feet to a Mag nail with "Payne 6064" washer set in the concrete footer of a concrete drainage structure, in the southeast line of said 83.3633 acre tract, for the easternmost corner hereof, same being an angle point in the northwest line of a called 97.646 acre tract of land conveyed to Clayton Properties Group, Inc., a Tennessee Corporation doing business in Texas as Brohn Homes, in Document No. 19010347 (OPRHCT), from which a 1/2-inch iron rod found for another angle point in the northwest line of said 97.646 acre tract, same being the south corner of said Lot 2, bears **S46°27'15"E**, a distance of **52.28** feet;

**THENCE**, with the northwest line of said 97.646 acre tract, same being the southeast line of said 83.3633 acre tract, **S43°22'22"W**, a distance of **799.16** feet to a 1/2-inch iron rod found for the west corner of said 97.646 acre tract, same being the westerly north corner of a called 324.14 acre tract of land conveyed to Walton Texas, LP in Volume 4399, Page 768 (OPRHCT);

**THENCE**, with the northwest line of said 342.14 acre tract, in part being the southeast line of said 83.3633 acre tract and in part being the southeast line of said 105.744 acre tract, **S43°57'38"W**, a distance of **1235.00** feet to a 1/2-inch iron rod with "Payne 6064" cap set in the southeast line of said 105.744 acre tract, for the southernmost corner hereof, from which a fence post found bears **S43°57'38"W** a distance of **848.14** feet, and **S44°18'49"W** a distance of **448.66** feet;

**THENCE**, crossing said 105.744 acre tract and said 83.3633 acre tract, the following five (5) courses and distances:

- 1) **N02°21'48"W**, a distance of **117.39** feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 2) **N20°40'58"W**, a distance of **286.73** feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 3) **N36°14'04"W**, a distance of **156.71** feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 4) With a curve to the right, having a radius of **461.85** feet, a delta angle of **27°35'18"**, an arc length of **222.39** feet, and a chord which bears **N06°42'07"W**, a distance of **220.24** feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 5) **N17°14'42"E**, a distance of **919.34** feet to a 1/2-inch iron rod found within said 83.3633 acre tract, at an angle point in the southwest line of said Lot 1, for the northwest corner hereof, from which a 1/2-inch iron rod with "Chaparral" cap found for the west corner of said Lot 1 bears **N36°42'55"W**, a distance of **1017.46** feet;

**THENCE**, continuing across said 83.3633 acre tract with the south line of said Lot 1, the following three (3) courses and distances:

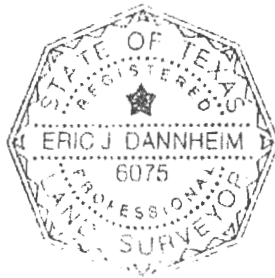
- 1) **S75°00'47"E**, a distance of **883.03** feet to a 1/2-inch iron rod with "Chaparral" cap found;
- 2) **N15°03'42"E**, a distance of **233.76** feet to a 1/2-inch iron rod with "Chaparral" cap found;
- 3) **N52°15'15"E**, a distance of **209.77** feet to the **POINT OF BEGINNING** hereof, and containing 29.792 acres, more or less.

Surveyed on the ground August 21, 2019. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from SmartNet. Attachments: drawing 1850-001-TI



8/29/19

Eric J. Dannheim, RPLS  
State of Texas #6075



**EXHIBIT B**  
**PRIOR AGREEMENT**



STATE OF TEXAS §  
§  
COUNTY OF HAYS §

**AMENDED AND RESTATED DEVELOPMENT AGREEMENT  
BETWEEN CITY OF KYLE, TEXAS, AND LEHMAN FAMILY LIMITED  
PARTNERSHIP AND LEHMAN FAMILY TRUST**

This Amended and Restated Development Agreement ("Restated Agreement") is by and between the City of Kyle, Texas, a home rule City situated in Hays County, Texas (the "City") and Lehman Family Limited Partnership and Lehman Family Trust, the undersigned property owner(s) (the "Owner"). The term "Owner" includes all owners of the Property described herein. The term "Parties" means the City and the Owner.

**WHEREAS**, the Owner owns a parcel of real property (the "Property") in Hays County, Texas, which is more particularly described in the attached Exhibit "A" incorporated herein by reference;

**WHEREAS**, in October 2009, the City and the Owner entered into that one certain Chapter 43 Texas Local Government Code Development Agreement shown in the attached Exhibit "A" ("Prior Agreement");

**WHEREAS**, the recitals to the Prior Agreement state that the City had initiated the annexation of the Property before the City and the Owner entered into the Agreement pursuant to Sections 43.035 and 212.172, Texas Local Government Code;

**WHEREAS**, the Prior Agreement provides that if the Owner sells the Property, the Property shall be voluntarily annexed to the City if the Property is intended to be used for development purposes; and,

**WHEREAS**, the Owner has the Property under contract to sell but does not want to lose the extra-territorial jurisdiction status of the Property if the sale does not close; and,

**WHEREAS**, due to changed circumstances, the Parties desire to amend and restate the Prior Agreement by terminating and removing the applicability of Section 43.035, Texas Local Government Code, except for subsection (d) of Section 43.035, to the Prior Agreement and by making the Restated Agreement pursuant to only Section 212.172, Texas Local Government Code.

**NOW, THEREFORE**, for and in consideration of the above stated recitals, which are made a part of this Restated Agreement, plus the mutual promises expressed herein, the sufficiency of which is hereby acknowledged by the Parties, the Parties hereby contract, covenant and agree as follows:

May 5, 2015

## ARTICLE 1 PURPOSES AND TERM

1.01 Purpose. This Restated Agreement modifies, amends and replaces the Prior Agreement in its entirety as of the effective date of this Restated Agreement.

1.02 Authority. Authority for the Owner and the City to enter into this Restated Agreement exists under the City Charter of the City, Article III, Section 52-a of the Texas Constitution; Chapter 212, Subchapter G, Tex. Local Government Code, ("Subchapter G"); and Chapter 395, Tex. Local Government Code ("Chapter 395") and other statutes as may be applicable.

1.03 Owner Execution. The Owner acknowledges that each and every owner of the Property must sign this Restated Agreement in order for the Restated Agreement to take full effect, and the Owners who sign this Restated Agreement covenant and agree, jointly and severally, to indemnify, hold harmless, and defend the City against any and all legal claims, by any person claiming an ownership interest in the Property who has not signed the Agreement, arising in any way from the City's reliance on this Restated Agreement.

1.04 Term. The term of this Restated Agreement will commence on the Effective Date and continue for nine (9) years thereafter, unless sooner terminated under this Restated Agreement as provided herein, (the "Term"). After the first Term, this Restated Agreement may be extended for successive five-year periods upon written agreement signed by the Owner and the City.

## ARTICLE 2 PRELIMINARY AND FINAL PLATS

2.01 Generally. All development applications relating to the Property will comply with the Code of Ordinances and other ordinances not codified of the City of Kyle ("Code") as if the Property were inside the corporate limits of the City. The preceding sentence controls even if the Property has not been annexed by the City.

2.02 Preliminary Plan. The Owner may submit to the City an application for a preliminary plan for the Property without submitting to the City a request for the annexation of the Property and without submitting a zoning application for the Property subject to 3.02 below. Pursuant to Section 41-45 of the City Code, the Owner may request the City, including the City's Zoning and Planning Commission, to make a written determination that the preliminary plan complies with all applicable regulations; provided, however, that such determination shall not constitute the final approval of the preliminary plan.

2.03 Subdivision Plats. The Owner may submit to the City an application for a subdivision plat for a portion of the Property without submitting to the City a request for the annexation of the Property and without submitting a zoning application for the Property subject to 3.02 below. Owner may submit subdivision construction plans concurrently with a subdivision plat application.

**2.04 City Review and Approval.** In anticipation of the voluntary annexation of the Property, the City will not require the Owner to submit any development applications to Hays County for review or approval. The City will accept and review applications for preliminary plans, final plats, subdivision construction plans and site development permits for the Property.

### **ARTICLE 3 ANNEXATION**

**3.01 Involuntary Annexation.** Except as provided in Section 3.02, the City guarantees the continuation of the extraterritorial status of the Property, its immunity from annexation by the City, and its immunity from City property taxes for the term of this Restated Agreement. Except as provided in this Restated Agreement, the City agrees not to annex the Property, agrees not to involuntarily institute proceedings to annex the Property, and further agrees not to include the Property in a statutory annexation plan during the term of this Restated Agreement.

**3.02 Voluntary Annexation.**

(a) Owner may submit, at any time, a signed petition requesting the annexation of all or a portion of the Property.

(b) If an application for a preliminary plan under 2.02 of this agreement, final plat under 2.03 or any related development permit relating to the Property is filed and such application is not withdrawn by the 180<sup>th</sup> day after the day of the City's acceptance of such application, then Owner's failure to withdraw any such application will constitute and be deemed a petition for voluntary annexation by the Owner, and the Property will be subject to annexation at the discretion of the City Council. The Owner agrees that such annexation shall be deemed voluntary and the Owner hereby consents to such annexation as though a petition for such annexation had been tendered by the Owner.

(c) If a preliminary plan, final plat or related development permit relating to the Property is approved by the City, such approval will constitute and be deemed a petition for voluntary annexation by the Owner, and the Property will be subject to annexation at the discretion of the City Council. The Owner agrees that such annexation shall be deemed voluntary and the Owner hereby consents to such annexation as though a petition for such annexation had been tendered by the Owner.

(d) If an application for a preliminary plan, final plat or related development permit relating to the Property is filed and such application is withdrawn on or before the 180<sup>th</sup> day after the day of the City's acceptance of such application, then such withdrawn application will not constitute or be deemed a petition for voluntary application.

**3.03 Waiver of Owner's Rights Under § 43.035.** If the City Council begins annexation proceedings pursuant to Section 3.02, the Owner acknowledges and agrees that Section 43.052, Texas Local Government Code, does not apply to the City's annexation of the Property. Further, Owner agrees that voluntary annexation pursuant to Section 3.02 (a), (b) or (c) will constitute Owner's waiver of all rights Owner may have under Section 43.052, Texas Local Government Code.

3.04 Change in Annexation Law. No subsequent change in the law regarding annexation shall affect the enforceability of this Restated Agreement or the City's ability to annex the Property pursuant to the terms of this Restated Agreement.

#### ARTICLE 4 EXISTING USE

4.01 Existing Use. Until a request for voluntary annexation is made in accordance with Section 3.02, Owner covenants and agrees not to use the Property for any use other than for agriculture or wildlife management, except for any now-existing single family residential use of the Property, without the prior written consent of the City. The City will not enforce any planning and development authority and regulations that interfere with the use of the Property for agriculture and wildlife management purposes. Until a request for voluntary annexation is made in accordance with Section 3.02, the Owner covenants and agrees not to construct, or allow to be constructed, any buildings on the Property that would require a building permit if the Property were in the City limits, subject to the exceptions set forth herein. The Owner reserves the right to construct, repair, or renovate buildings on the Property that are consistent with its agricultural use without obtaining a building permit or triggering annexation. Further, the Owner may construct an accessory structure to an existing single-family dwelling. Additionally, Owner reserves the right to construct a new residence on the Property, provided that Owner provides written notice of the construction to the City so that the Parties can modify the description of the land subject to this Restated Agreement. This Section 4.01 expires upon the annexation of the Property by the City.

4.02 Eminent Domain. The City reserves its authority pursuant to Chapter 251 of the Texas Local Government Code to exercise eminent domain over property that is subject to a Section 212.172 Texas Local Government Code development agreement.

#### ARTICLE 5 ASSIGNMENT OF COMMITMENTS AND OBLIGATIONS; SUCCESSORS

5.01 Notice to Purchaser. The Owner shall give written notice of this Restated Agreement to a prospective purchaser or grantee of any portion of the Property prior to such sale or conveyance. The Owner shall give the City written notice of such sale or conveyance; provided, however, this sentence will not apply to a sale or conveyance among the owners of the Property.

5.02 Assignment of Owner Rights. The Owner's rights and obligations under this Restated Agreement may be assigned in whole or part, subject to the prior written consent of the City, which shall not be unreasonably withheld, to persons purchasing all of the Property or a part of the Property but not to an individual purchaser of lots within a recorded final plat. In the event the Owner assigns all of its respective rights under this Restated Agreement in conjunction with the conveyance of any unplatted portion of the Property, a written assignment of said rights must be filed of record in the Official Public Records of Hays County, Texas in order to be effective.



**5.03 Agreement Binding on Assigns.** This Restated Agreement shall be binding upon the Parties, their grantees, successors, assigns, or subsequent purchaser. In the event of an assignment of fee ownership, in whole or in part, of the Property by the Owner, only the grantees and assignees and then current owners of any portion of the Property so assigned shall be liable under this Restated Agreement for any subsequent default occurring after the conveyance and affecting only the portion or portions of the Property so assigned. Any reference to the Owner or the City shall be deemed to and will include the successors or assigns thereof, and all the covenants and agreements in this Restated Agreement shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

## **ARTICLE 6 MISCELLANEOUS**

**6.01 Notices.** Any notice required or permitted to be delivered hereunder shall be in writing and shall be deemed received on the earlier of (i) actual receipt by mail, Federal Express or other delivery service, fax, email or hand delivery; (ii) three (3) business days after being sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to a particular Party, as the case may be, at the address hereinafter stated; or (iii) one business day after being sent by email.

Any notice mailed to the City shall be addressed:

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

Any notice mailed to the Owner shall be addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this Section.

**6.02 Multiple Originals.** The Parties may execute this Restated Agreement in one or more duplicate originals, each of equal dignity.

**6.03 Recordation.** This Restated Agreement shall be a covenant running with the Property and a copy of this Restated Agreement will be recorded in the Official Public Records of Hays County, Texas.

**6.04 Governing Law.** This Restated Agreement shall be governed by and construed in accordance with the laws of the State of Texas. In the event of partial invalidity, the balance of the Restated Agreement shall remain in full force and effect. This Restated Agreement is performable in Hays County, Texas.

May 5, 2015

6.05 Termination or Amendment By Agreement. This Restated Agreement may only be terminated or amended as to any or all of the Property at any time by mutual written consent of the City and Owner, or may be terminated or amended only as to a portion of the Property by the mutual written consent of the City and the owner of only the portion of the Property affected by the amendment or termination.

6.06 Damages; Waiver. Whether in contract or tort or otherwise, the Owner agrees to waive all claims to damages and other remedies, including specific or strict performance, lost profits, delay damages, or for any special incidental, liquidated or consequential loss or damage of any nature arising at any time or from any cause whatsoever. Damages, if any, will be limited to amounts recoverable under §271.153 of the Texas Local Government Code.

6.07 Enforcement. This Restated Agreement may be enforced by the Owner but only as provided under §271.153 of the Texas Local Government Code or by the City by any proceeding at law or equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Restated Agreement thereafter.

6.08 Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstance will, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term and provision of this Agreement will be valid and enforced to the fullest extent permitted by law.

6.09 No Third Party Beneficiary. This Restated Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided herein.

6.10 Effective Date. This Restated Agreement will be effective as of the date upon which all Parties have executed the Restated Agreement.

6.11 Entire Agreement. This Restated Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties with respect to its subject matter, and may not be amended except by a writing signed by all Parties with authority to sign and dated subsequent to the date hereof. There are no other agreements, oral or written, except as expressly set forth herein.

OWNER:

Lehman Family Trust

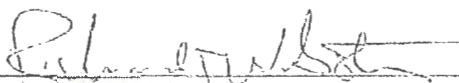
By: Peggy Jensen

May 5, 2015

7

ACKNOWLEDGEMENT

CITY OF KYLE, TEXAS

By:   
R. Todd Webster, Mayor

ATTEST:

  
Amelia Sanchez, City Secretary

May 5, 2015

**EXHIBIT A**  
**PRIOR AGREEMENT**

May 5, 2015

9



RESOLUTION NO. 688

**A RESOLUTION OF THE CITY OF KYLE, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE A DEVELOPMENT AGREEMENT WITH LEHMAN FAMILY LIMITED PARTNERSHIP AND LEHMAN FAMILY TRUST, TEXAS LOCAL GOVERNMENT CODE; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.**

Whereas, the City of Kyle, Texas (the "City") has initiated several annexations for the purpose of filling gaps and providing for greater continuity within the city limits; and

Whereas, pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code, the City has offered to enter a development agreement titled "Development Agreement Under Section 43.035, Texas Local Government Code" (the "Agreement") attached hereto and incorporated herein as Exhibit A, with landowners owning land currently appraised for ad valorem tax purposes as land for agricultural use;

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

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

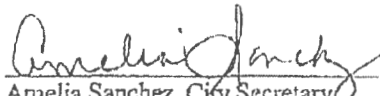
**Section 2. Agreement Approved.** The City Council hereby approves the Development Agreement Under Section 43.035, Texas Local Government Code attached hereto as Exhibit "A", and authorizes the Mayor to execute said Agreement.


**Section 3. Open Meetings.** It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Local Government Code.

**FINALLY PASSED AND APPROVED on this the 6th day of October, 2009.**

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

  
Amelia Sanchez, City Secretary

  
Miguel Gonzalez, Mayor

STATE OF TEXAS       §  
COUNTY OF HAYS       §

**DEVELOPMENT AGREEMENT  
UNDER SECTION 45.035, TEXAS LOCAL GOVERNMENT CODE**

This Development Agreement Under Section 45.035, Texas Local Government Code is entered between the City of Kyle, Texas (the "City") and the undersigned property owner(s) (the "Owner") (the "Agreement"). The term Owner shall include all owners of the Property. The City and the Owner are collectively referred to as the Parties.

WHEREAS, the Owner owns a parcel of real property in Hays County, Texas, which is more particularly described in the attached Exhibit "A" (the "Property") that is appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber land under Chapter 23, Tax Code;

WHEREAS, the City has begun the process to institute annexation proceedings on all or portions of Owner's Property;

WHEREAS, under Section 43.035, Texas Local Government Code, the City is required to offer to make a development agreement with the Owner that will provide for the continuation of the extraterritorial status of the area and authorize the enforcement of all regulations and planning authority of the City that do not interfere with the use of the area for agriculture, wildlife management, or timber;

WHEREAS, Section 43.035 provides that the restriction or limitation on the City's annexation of all or part of the Property under this Agreement is void if the Owner files any type of subdivision plat or related development document for the Property, regardless of how the area is appraised for ad valorem tax purposes;

WHEREAS, the Owner desires to have the Property remain in the City's extraterritorial jurisdiction, in consideration for which the Owner agrees to enter into this Agreement; and

WHEREAS, this Agreement is entered into pursuant to Sections 43.035 and 212.172, Texas Local Government Code;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

**Section 1. Extraterritorial Jurisdiction Status of Property.** The City agrees that the Property shall remain in the City's extraterritorial jurisdiction (the "ETJ") and the City shall discontinue the pending annexation proceedings as to the Property. The City further agrees that it shall not annex the Property during the term of this Agreement, subject to the terms and conditions of this Agreement.

**Section 2. Owner's Obligations.** In consideration of the City's agreement not to annex the

Property and as a condition of the Property remaining in the City's ETJ, the Owner covenants and agrees to the following:

- (a) The Owner shall use the Property only for agriculture, wildlife management, and/or timber land use, as defined by Chapter 23 of the Texas Tax Code, that are existing on the Effective Date of this Agreement, except for single-family residential use existing on the Effective Date or as otherwise provided by this Agreement, without the prior written consent of the City. The Owner's use of the property as of the Effective Date includes the following:
  - (1) Raising and selling of livestock, including pigs, hogs, and cattle.
  - (2) The planting, cultivation, harvesting, and destruction of crops, plowing of the land and application of herbicides, insecticides, fertilizers, and other chemical performed by ground rigs, airplanes, and helicopters; and
  - (3) Storage and selling of grains, crops, chemicals, fertilizer, and feed.
- (b) The Owner shall not subdivide the Property, or file for approval of a subdivision plat, site plan, or related development document for the Property with Hays County or the City until the Property is annexed into and zoned by the City; provided that the Property may be subdivided into two parcels that are greater than five acres in size if required by a lender to finance the construction of a new single family home or other building or structure that is authorized to be constructed on the Property under Section 2(c).
- (c) The Owner shall not construct, or allow to be constructed, any building or structure on the Property that requires a building permit until the Property is annexed into and zoned by the City. Accessory structures authorized under the Agricultural District (District "A") (including but not limited to barns, sheds, fences, and corrals) and buildings or structures that are related to and necessary for the use of the Property as authorized under Section 2(a) (excluding new single family residences, except as authorized in this Section 2(c)) are exceptions to this Section 2(c). One additional new single family residence may be constructed on the Property if the residence is to be occupied by family members of the Owner who participate in the ownership or operation of the agricultural, timberland, or wildlife management uses of the Property. Proof of qualification for this exception must be presented at the time of application for a building permit.
- (d) The City's Agricultural District (District "A") zoning regulations shall apply to the Property, and in addition to the uses authorized under District "A", the Property may also be used for wildlife management or timber land, as defined by Chapter 23 of the Texas Tax Code, if such uses existed on the Effective Date of this Agreement. Structures that exist on the Property on the Effective Date shall not be subject to setback requirements. Fences shall not be subject to setback requirements. The City's building codes and regulations shall apply to the Property except as provided otherwise in this Section 2(d). Any buildings or structures constructed on the Property after the Effective Date shall be constructed

in compliance with the regulations for the Agricultural District (District "A") and applicable building codes and regulations, provided that building permits and related inspections shall only be required for the construction of a new single family residence and additions to an existing single family residence that are authorized to be located on the Property under this Agreement. Building permits and related inspections shall not be required for accessory structures related to the existing use of the Property.

### **Section 3. Development and Annexation of Property.**

- (a) The following occurrences shall be deemed the Owner's petition for voluntary annexation of the Property, and the Property may subsequently be annexed at the discretion of the City Council:
  - (1) The filing of any application for plat approval, site plan approval, building permit (excluding building permit applications for construction of a new single family residence or additions to an existing single family residence authorized to be located on the Property under Section 2), or related development document for the Property, or the commencement of development of the Property, except as specifically authorized herein.
  - (2) The Owner's failure to comply with Sections 2(a), 2(b), or 2(c).
  - (3) The Property is no longer appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber land under Chapter 23, Texas Tax Code, or successor statute, unless the Property is no longer appraised for such purposes because the Legislature has abolished agricultural, wildlife management, or timberland exemptions, provided that the Owner is in compliance with Section 2.
  - (4) The filing for voluntary annexation of the Property into the City by the Owner.
  - (5) The expiration of this Agreement.
- (b) The Owner agrees that annexation initiated due to an occurrence under Section 3(a) shall be voluntary and the Owner hereby consents to such annexation as though a petition for such annexation had been tendered by the Owner. Upon annexation, municipal services shall be provided to the Property in accordance with the adopted municipal services plan.

**Section 4. Application of City Regulations.** Pursuant to Section 43.035(b)(1)(B), Texas Local Government Code, the Property is subject to all of the City's regulations, as they are amended from time to time, and planning authority that do not materially interfere with the use of the Property for agriculture, wildlife management, or timber, in the same manner the regulations are enforced within the City's boundaries and the Owner acknowledges and agrees that the City is hereby authorized to enforce said regulations and planning authority except as



specifically provided otherwise herein; provided that fees that are applicable to properties located within the ETJ shall apply to the Property. A City regulation shall be deemed to materially interfere with the use of the Property for agriculture, wildlife management, or timber if the regulation prohibits one of the uses of Property listed in Section 2(a) or a use authorized by Chapter 23, Texas Tax Code; provided that the City may regulate hunting to the extent authorized by Chapter 229, Texas Local Gov't Code. It is the intent of the parties that the enforcement of City regulations during the term of this Agreement does not prevent the Owner from continuing the Owner's agricultural operation under current practices that are compliant with applicable state and federal law or under future practices that occur due to changes in technology, methods, or applicable state or federal law and that are compliant with applicable state and federal law.

**Section 5. Term.** The term of this Agreement (the "Term") is fifteen (15) years from the Effective Date. The Agreement may be extended for two additional fifteen year terms upon the agreement of both parties and approval by the City Council

**Section 6. Vested Rights Claims.** This Agreement is not a permit for the purposes of Chapter 245, Texas Local Government Code. The Owner hereby waives any and all vested rights and claims that the Owner may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any actions Owner has taken in violation of Section 2 herein. The Owner further waives any and all vested rights and claims that the Owner may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any plat or construction the Owner may initiate following the expiration of this Agreement and the institution of annexation proceedings by the City; provided that the City initiates annexation proceedings within one year following the expiration of this Agreement.

**Section 7. Authorization.**

- (a) All parties and officers signing this Agreement warrant to be duly authorized to execute this Agreement.
- (b) The Owner acknowledges that each and every owner of the Property must sign this Agreement in order for the Agreement to take full effect. The failure of each and every owner of the Property to sign this Agreement at the time of approval and execution by the City shall result in the Agreement being void, and the City may, within its discretion, annex the Property in accordance with applicable law.

**Section 8. Notice.** Any person who sells or conveys any portion of the Property shall, prior to such sale or conveyance, give written notice of this Agreement to the prospective purchaser or grantee, and shall give written notice of the sale or conveyance to the City. Furthermore, the Owner and the Owner's heirs, successor, and assigns shall give the City written notice within 14 days of any change in the agricultural exemption status of the Property. A copy of the notices required by this Section shall be sent by personal delivery or certified mail, return receipt requested, to the City at the following address:

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

Notices required to be sent to the Owner shall be sent by personal delivery or certified mail, return receipt requested, to the City at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Section 9. Covenant Running with the Land.** This Agreement shall run with the Property, and this Agreement or a memorandum of this Agreement acceptable to City and the Owner shall be recorded in the Official Public Records of Hays County, Texas. The Owner and the City acknowledge and agree that this Agreement is binding upon the City and the Owner and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement. Conveyance of the Property, or portions thereof, to subsequent owners does not trigger a request for voluntary annexation unless Section 2 is also violated.

**Section 10. Severability.** If any provision of this Agreement is held by a court of competent and final 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.

**Section 11. Amendment and Modifications.** This Agreement may be amended or modified only in a written instrument that is executed by both the City and the Owner after it has been authorized by the City Council.

**Section 12. Gender, Number and Headings.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

**Section 13. Governmental Immunity; Defenses.** Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either the City or Owner, including governmental immunity, nor to create any legal rights or claims on behalf of any third party.

**Section 14. Enforcement; Waiver.** This Agreement may be enforced by any Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

**Section 15. Effect of Future Laws.** No subsequent change in the law regarding annexation

shall affect the enforceability of this Agreement or the City's ability to annex the properties covered herein pursuant to the terms of this Agreement.

**Section 16. Venue and Applicable Law.** Venue for this Agreement shall be in Hays County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas.

**Section 17. Counterparts.** This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

**Section 18. Effective Date.** This Agreement shall be in full force and effect as of the date of approval of this Agreement by the City Council, from and after its execution by the parties.

**Section 19. Sections to Survive Termination.** This Agreement shall survive its termination to the extent necessary for the implementation of the provisions related to annexation of the Property into the City.

Entered into this 5<sup>th</sup> day of October, 2009.

Owner (s)

Harold Lehman  
Printed Name: Harold Lehman

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

City of Kyle, Texas

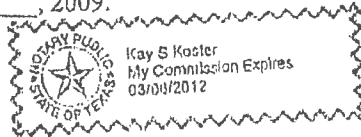
Miguel Gonzalez  
Miguel Gonzalez, Mayor

STATE OF TEXAS §

COUNTY OF HAYS §

Hazel Lehman BEFORE ME the undersigned authority on this day personally appeared Owner of the Property, and acknowledged that s/he is fully authorized to execute the foregoing document and that s/he executed such document for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 5<sup>th</sup> day of October, 2009.



Kay S. Koster  
Notary Public - State of Texas

STATE OF TEXAS §  
COUNTY OF HAYS §

BEFORE ME the undersigned authority on this day personally appeared \_\_\_\_\_, Owner of the Property, and acknowledged that s/he is fully authorized to execute the foregoing document and that s/he executed such document for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public - State of Texas

STATE OF TEXAS §  
COUNTY OF HAYS §

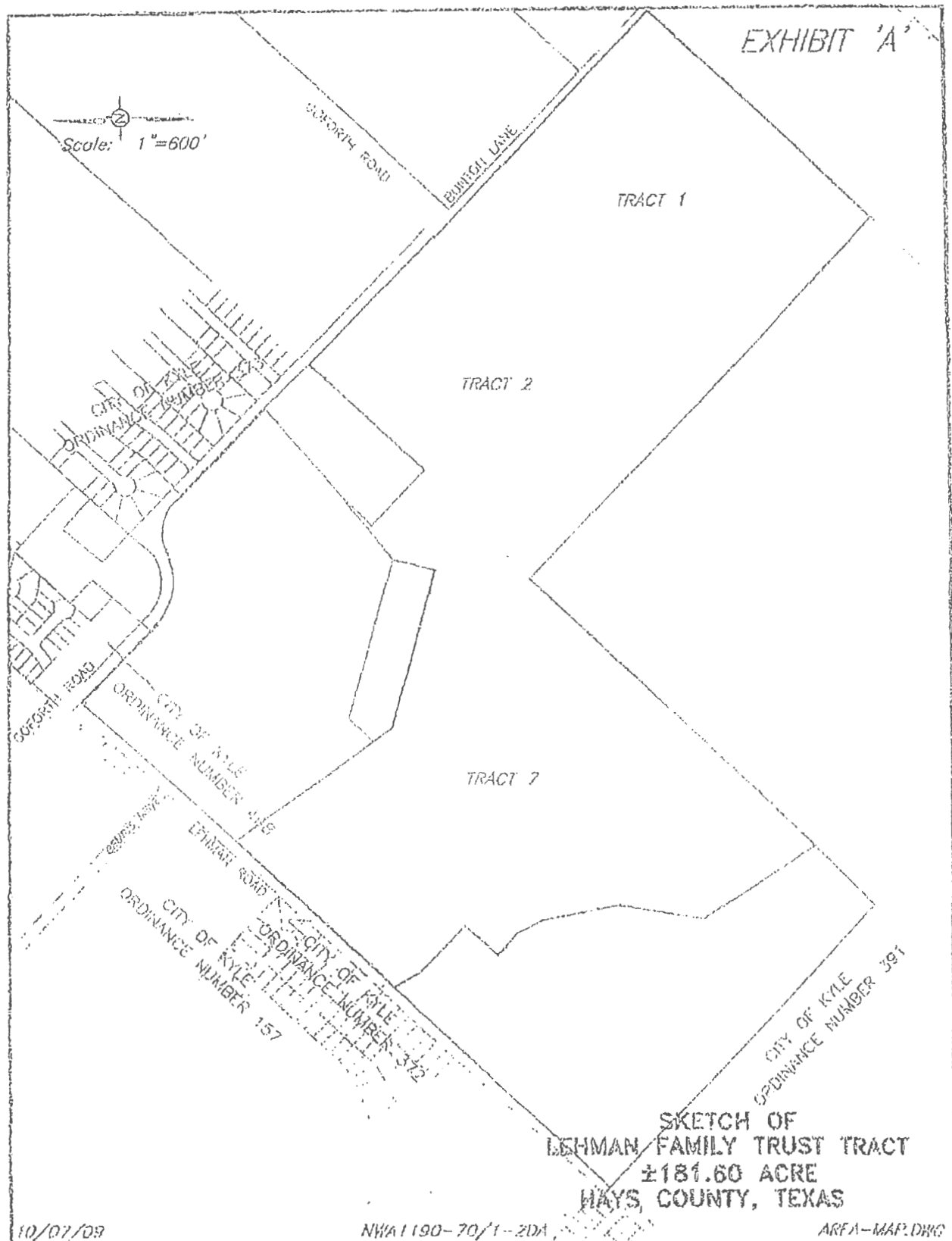
BEFORE ME the undersigned authority on this day personally appeared Miguel Gonzalez, Mayor, City of Kyle, and acknowledged that he is fully authorized to execute the foregoing document and that he executed such document for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 20<sup>th</sup> day of October, 2009.



Amelia L. Sanchez  
Notary Public - State of Texas





LEHMAN FAMILY TRUST  
DEVELOPMENT AGREEMENT  
CITY OF KYLE, TEXAS

TRACT 1

All that certain tract or parcel of land, called 46.68 acres, conveyed to Hazel M. Lehman, Trustee of the Lehman Family Trust by Will of Theodore H. Lehman, as recorded in Volume 280, Page 213 Official Public Records of Hays County, Texas.

TRACT 2

All that certain tract or parcel of land, called 50.11 acres, conveyed to Hazel M. Lehman, Trustee of the Lehman Family Trust by Will of Theodore H. Lehman, as recorded in Volume 285, Page 171 Official Public Records of Hays County, Texas.

TRACT 7

All that certain tract or parcel of land, called 83.4273 acres, conveyed to Lehman Family Limited Partnership and Lehman Family Trust, Hazel M. Lehman, Trustee, by deed recorded in Volume 3352, Page 176 Official Public Records of Hays County, Texas.

19/13/2021

# TAX RECEIPT

Luanne Caraway Tax Assessor-Collector, Hays County  
102 N. LBJ Dr.  
San Marcos, TX 78666  
Ph: 512-393-5545 Fax: 512-393-5517



Receipt Number: SM-2009-343211

Payor: HLP LEHMAN FAMILY LIMITED PARTNERSH (00082197)  
HAZEL M LEHMAN TRUSTEE  
1000 LEHMAN RD  
KYLE, TX 78640

Owner: HLP LEHMAN FAMILY LIMITED PARTNERSH (00082197)  
HAZEL M LEHMAN TRUSTEE  
1000 LEHMAN RD  
KYLE, TX 78640

Quick Ref ID: R70300  
Owner: HLP LEHMAN FAMILY LIMITED PARTNERSH (00082197) - 100%  
Owner Address: HAZEL M LEHMAN TRUSTEE  
1000 LEHMAN RD  
KYLE, TX 78640

Property: 10-0263-0009-00000-2  
Legal Description: A0263 JOHN JONES SURVEY, ACRES 84.4273

Tax Year/Taxing Unit	Taxable Value	Tax Rate	Levy	Tax Paid	Amount Paid
2008					
Plum Creek	18,150	0.018000	3.27	3.27	3.27
Hays Consolidated	18,150	1.461300	265.23	265.23	265.23
Special Road Dist	18,150	0.080100	14.54	14.54	14.54
Plum Creek	18,150	0.018000	3.27	3.27	3.27
Hays County	18,150	0.374900	68.05	68.05	68.05
Hays Co ESD #5	18,150	0.085000	15.43	15.43	15.43
Total Payment Amount					369.79
Check Payment Tendered					369.79
Total Tendered					369.79

Date Paid: 01/08/2009  
Effective Date: 01/08/2009  
Station: Luanne  
Cashier: LuanneC

Page 1 of 1

# TAX RECEIPT

Luanne Caraway Tax Assessor-Collector, Hays County  
102 N. LBJ Dr.  
San Marcos, TX 78666  
Ph: 512-393-5545 Fax: 512-393-5517



Receipt Number: SM-2009-343213

Payor: HLP LEHMAN FAMILY LIMITED PARTNERSH (00082197)  
HAZEL M LEHMAN TRUSTEE  
1000 LEHMAN RD  
KYLE, TX 78640

Owner: HLP LEHMAN FAMILY LIMITED PARTNERSH (00082197)  
HAZEL M LEHMAN TRUSTEE  
1000 LEHMAN RD  
KYLE, TX 78640

Quick Ref ID: R12600  
Owner: HLP LEHMAN FAMILY LIMITED PARTNERSH (00082197) - 100%  
Owner Address: HAZEL M LEHMAN TRUSTEE  
1000 LEHMAN RD  
KYLE, TX 78640

Property: 10-0021-0010-00000-2  
Legal Description: A0021 MILTON B ATKINSON SURVEY, ACRES 50.06

Tax Year/Taxing Unit	Taxable Value	Tax Rate	Levy	Tax Paid	Amount Paid
2008					
Plum Creek	10,760	0.018000	1.94	1.94	1.94
Hays Consolidated	10,760	1.481300	157.23	157.23	157.23
Special Road Dist	10,760	0.080100	8.62	8.62	8.62
Plum Creek	10,760	0.018000	1.94	1.94	1.94
Hays County	10,760	0.374900	40.34	40.34	40.34
Hays Co ESD #5	10,760	0.085000	9.15	9.15	9.15
Total Payment Amount					219.22
Check Payment Tendered					219.22
Total Tendered					219.22

Date Paid: 01/08/2009  
Effective Date: 01/08/2009  
Station: Luanne  
Cashier: LuanneC

Page 1 of 1



# TAX RECEIPT

Luanne Caraway Tax Assessor-Collector, Hays County  
102 N. LBJ Dr.  
San Marcos, TX 78666  
Ph: 512-393-5546 Fax: 512-393-5517



Receipt Number: SM-2009-343214

Payor: HLP LEHMAN FAMILY LIMITED PARTNERSH (00082197)  
HAZEL M LEHMAN TRUSTEE  
1000 LEHMAN RD  
KYLE, TX 78640

Owner: HLP LEHMAN FAMILY LIMITED PARTNERSH (00082197)  
HAZEL M LEHMAN TRUSTEE  
1000 LEHMAN RD  
KYLE, TX 78640

Quick Ref ID: R12590  
Owner: HLP LEHMAN FAMILY LIMITED PARTNERSH (00082197) - 100%  
Owner Address: HAZEL M LEHMAN TRUSTEE  
1000 LEHMAN RD  
KYLE, TX 78640

Property: 10-0021-0009-00000-2  
Legal Description: A0021 MILTON B ATKINSON SURVEY,  
ACRES 48.68

Tax Year/Taxing Unit	Taxable Value	Tax Rate	Levy	Tax Paid	Amount Paid
2008					
Plum Creek	10,470	0.018000	1.88	1.88	1.88
Hays Consolidated	10,470	1.461300	153.00	153.00	153.00
Special Road Dist	10,470	0.080100	8.39	8.39	8.39
Plum Creek	10,470	0.018000	1.88	1.88	1.88
Hays County	10,470	0.374900	39.25	39.25	39.25
Hays Co ESD #5	10,470	0.085000	8.90	8.90	8.90
Total Payment Amount					213.30
Check Payment Tendered					213.30
Total Tendered					213.30

Date Paid: 01/08/2009  
Effective Date: 01/08/2009  
Station: Luanne  
Cashier: LuanneC

# TAX RECEIPT

**HAYS COUNTY TAX OFFICE**  
**Luanne Garaway Tax Assessor-Collector**  
**102 N. LBJ Drive**  
**San Marcos, TX 78666**  
**(512) 393-5545**

This is a receipt for taxes paid as of 11/16/2007 based upon the tax records of the County Tax Office.

Station : dianec	Receipt Number : SM-2007-233926
Cashier : DianeC	Date Paid : 11/16/2007 Effective Date: 11/16/2007
Tax Years : 2007	Tender Method : Check Payment - 1621
Payor : LEHMAN, HAZEL LIPPE	Total Paid : 1,656.53

Payor: LEHMAN, HAZEL LIPPE (O0022441)  
1000 LEHMAN RD  
KYLE, TX 78640

Owner: Multiple Owners

## LEGAL DESCRIPTION

## ENTITIES

R11514 : ABS 14 JOHN STUART SURVEY 38.93 AC	FHA Hays Co ESD #5
R12599 : A0021 MILTON B ATKINSON SURVEY, ACRES 48.68	SHA Hays Consolidated ISD
R12600 : A0021 MILTON B ATKINSON SURVEY, ACRES 50.11	GHA Hays County
R70073 : ABS 14 JOHN STUART SURVEY 20.00 AC	PCC Plum Creek Conservation District
R70300 : A0263 JOHN JONES SURVEY, ACRES 111.6283	WPC Plum Creek Groundwater District
R70301 : ABS 263 JOHN JONES SURVEY 1.00 AC GEO#90602151	RSP Special Road Dist

## PAYMENT SUMMARY

R11514 - LEHMAN, HAZEL LIPPE (O0022441)  
1000 LEHMAN RD KYLE, TX 78640

10-0014-0078-00000-2

Tax Year / Taxing Unit	Taxable Value	Tax Rate	Levy	Tax Paid	Penalty&Int	Coll. Penalty	Amount Paid
2007 FHA	7,880.00	0.077000	6.07	6.07	0.00	0.00	6.07
2007 SHA	7,880.00	1.461300	115.15	115.15	0.00	0.00	115.15
2007 GHA	7,880.00	0.371400	29.26	29.26	0.00	0.00	29.26
2007 PCC	7,880.00	0.017800	1.40	1.40	0.00	0.00	1.40
2007 WPC	7,880.00	0.018000	1.42	1.42	0.00	0.00	1.42
2007 RSP	7,880.00	0.086000	6.78	6.78	0.00	0.00	6.78
Total Payment for Property R11514							160.08

R12599 - LEHMAN, HAZEL LIPPE (O0022441)  
1000 LEHMAN RD KYLE, TX 78640

10-0021-0009-00000-2

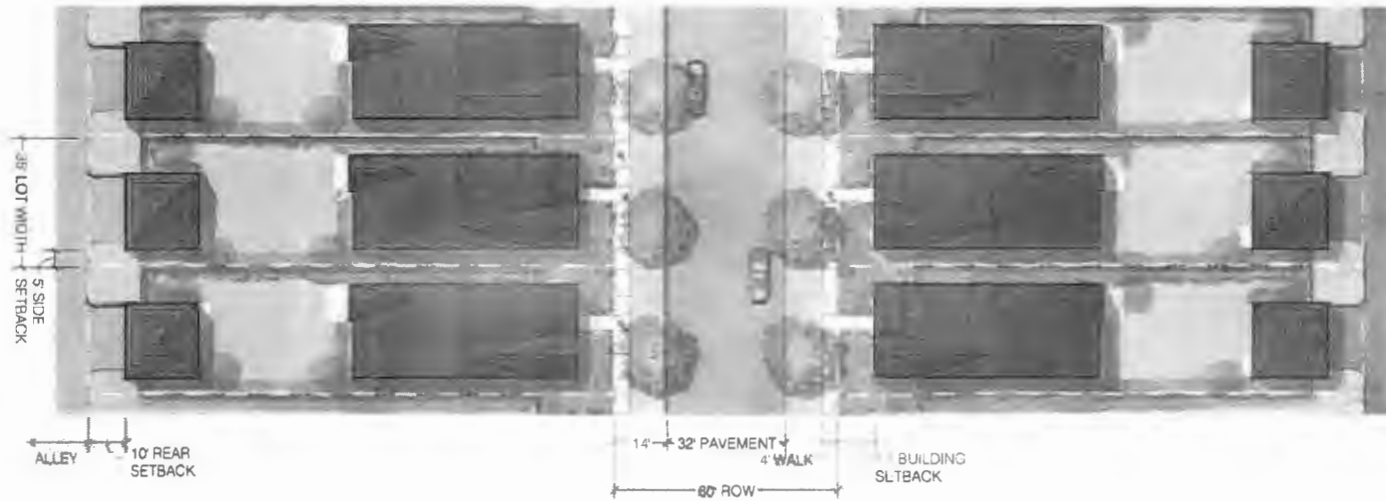
Tax Year / Taxing Unit	Taxable Value	Tax Rate	Levy	Tax Paid	Penalty&Int	Coll. Penalty	Amount Paid
2007 FHA	9,850.00	0.077000	7.58	7.58	0.00	0.00	7.58
2007 SHA	9,850.00	1.461300	143.94	143.94	0.00	0.00	143.94
2007 GHA	9,850.00	0.371400	36.59	36.59	0.00	0.00	36.59
2007 PCC	9,850.00	0.017800	1.75	1.75	0.00	0.00	1.75
2007 WPC	9,850.00	0.018000	1.77	1.77	0.00	0.00	1.77
2007 RSP	9,850.00	0.086000	8.47	8.47	0.00	0.00	8.47
Total Payment for Property R12599							200.10

R12600 - LEHMAN, HAZEL LIPPE (O0022441)  
1000 LEHMAN RD KYLE, TX 78640

10-0021-0010-00000-2

Tax Year / Taxing Unit	Taxable Value	Tax Rate	Levy	Tax Paid	Penalty&Int	Coll. Penalty	Amount Paid
2007 FHA	10,140.00	0.077000	7.81	7.81	0.00	0.00	7.81
2007 SHA	10,140.00	1.461300	148.18	148.18	0.00	0.00	148.18
2007 GHA	10,140.00	0.371400	37.66	37.66	0.00	0.00	37.66
2007 PCC	10,140.00	0.017800	1.80	1.80	0.00	0.00	1.80
2007 WPC	10,140.00	0.018000	1.83	1.83	0.00	0.00	1.83
2007 RSP	10,140.00	0.086000	8.72	8.72	0.00	0.00	8.72
Total Payment for Property R12600							206.00

**EXHIBIT C**  
**PLAN VIEW AND STREET SCAPE ILLUSTRATIONS**



KYLE, TEXAS

# CASSETTA RANCH

TYPICAL STREET PLAN - 35' LOTS

FEBRUARY 26, 2019







PHOTO  
STUDIO

KYLE, TEXAS

CASSETTA RANCH

TYPICAL STREET VIEW - 35' LOTS

FEBRUARY 20, 2019

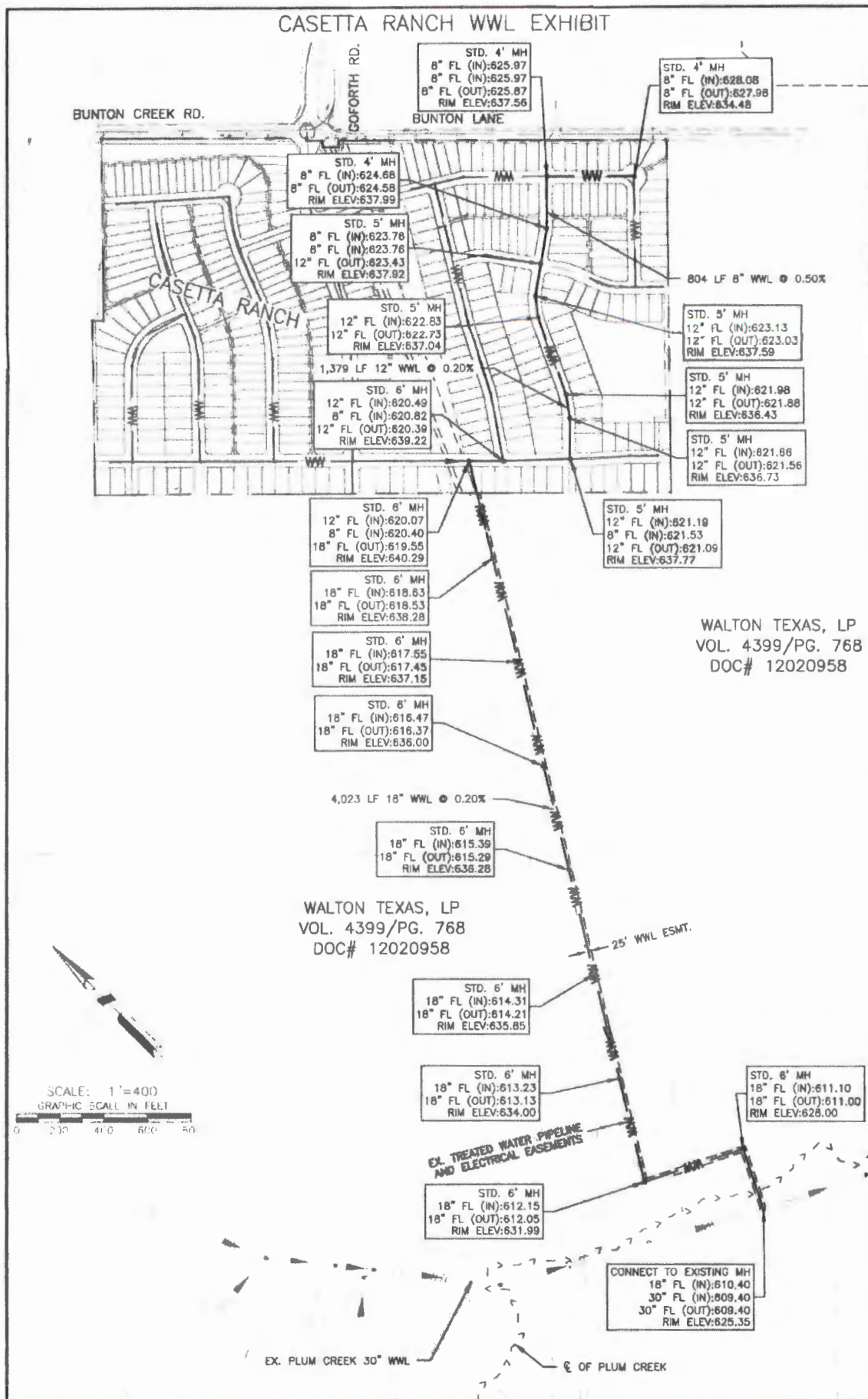


**EXHIBIT D**  
**CONCEPT PLAN**



**EXHIBIT E**  
**WALTON LINE**





## EXHIBIT F

(a) In the event that the City authorizes oversizing of a water line, the Developer shall solicit private bids for the Water Line Project based on the City Engineer-approved design, plans and specifications for the Water Line Project, and recommend the lowest qualified bidder/contractor to the City. The Water Line private bids will be stated or quoted with alternate bids being required for a water line sized to serve the Project as required by the City Code (“**Alternate #1**”) and the size water line required by the City (“**Alternate #2**”), together with all equipment and related facilities and structures shown on the City approved plans and specifications for the Water Line Project.

(b) Prior to bidding the Water Line Project, the Developer shall provide the City Engineer and the purchasing agent with a copy of the documents soliciting the bids. Within seven (7) business days, the City Engineer will review the description of the Project for compliance with this Agreement and notify the Project Engineer of any corrections to be made.

(c) After bids are solicited, the Project Engineer will provide the City Engineer and the City’s purchasing agent with copies of the bids. Within ten business days of receipt of the bids, the City Engineer shall evaluate the alternate bids to determine whether the bids are fair and balanced and shall notify the Project Engineer and the purchasing agent that (i) the bids are approved; or (ii) the bids are rejected due to being unbalanced or skewed. If the City Engineer rejects the bids, the Project Engineer shall cause the bids to be corrected and resubmitted to the City Engineer. The City Engineer will review the corrected bids and either approve the bids or reject the bids and seek additional corrections in accordance with the procedures set forth in this subsection (c), or submit the bid to the City Council for approval.

(d) The Reimbursable Costs for the Water Line Project, which shall be:

- (1) the difference between the dollar amount of the approved bid for Water Line Project Alternate #1 and the dollar amount of the approved bid for Water Line Project Alternate #2; and

provided that all such sums and amounts shall have been paid by Developer and are reasonable, necessary and documented to and approved by the City Engineer.

(e) It is estimated that the Reimbursable Costs for the Water Line Project will be less than \$50,000. In the event that the difference between Alternate #2 and Alternate #1 exceeds \$50,000, the Parties shall confer to determine whether (i) the Water Line Project should be rebid; (ii) there is a lawful exception to publicly bidding the Water Line Project; or (iii) the Water Line Project should be bid in accordance with Chapter 252, Texas Local Gov’t Code, and thereafter the Parties shall work in good faith to cause the Water Line Project to be rebid and this Addendum amended, if required.

(f) The City will pay for the Reimbursable Costs of the Water Line Project from any funds available from the City, including but not limited to water impact fees, either in a lump sum payment

or through water impact fee reimbursements from customers who connect to the water Line Project. The method of payment for the Reimbursable Costs of the Water Line Project shall be at the City's sole discretion.

## EXHIBIT G

(a) This Exhibit shall govern City cost-participation in the oversizing of the Walton Line or another wastewater line in the Project. The Developer shall solicit private bids for the Wastewater Line Project based on the City Engineer-approved design, plans and specifications for the Wastewater Line Project, and recommend the lowest qualified bidder/contractor to the City. The Wastewater Line private bids will be stated or quoted with alternate bids being required for Wastewater line sized to serve the Project as required by the City Code (“**Alternate #1**”) and a Wastewater line in the size required by the City line (“**Alternate #2**”), together with all equipment and related facilities and structures shown on the City approved plans and specifications for the Wastewater Line Project.

(b) Prior to bidding the Wastewater Line Project, the Developer shall provide the City Engineer and the purchasing agent with a copy of the documents soliciting the bids. Within seven (7) business days, the City Engineer will review the description of the Project for compliance with this Agreement and notify the Project Engineer of any corrections to be made.

(c) After bids are solicited, the Project Engineer will provide the City Engineer and the City’s purchasing agent with copies of the bids. Within ten business days of receipt of the bids, the City Engineer shall evaluate the alternate bids to determine whether the bids are fair and balanced and shall notify the Project Engineer and the purchasing agent that (i) the bids are approved; or (ii) the bids are rejected due to being unbalanced or skewed. If the City Engineer rejects the bids, the Project Engineer shall cause the bids to be corrected and resubmitted to the City Engineer. The City Engineer will review the corrected bids and either approve the bids or reject the bids and seek additional corrections in accordance with the procedures set forth in this subsection (c) or submit the bid to the City Council for approval .

(d) The Reimbursable Costs for the Wastewater Line Project, which shall be:

- (1) the difference between the dollar amount of the approved bid for Wastewater Line Project Alternate #1 and the dollar amount of the approved bid for Wastewater Line Project Alternate #2; and

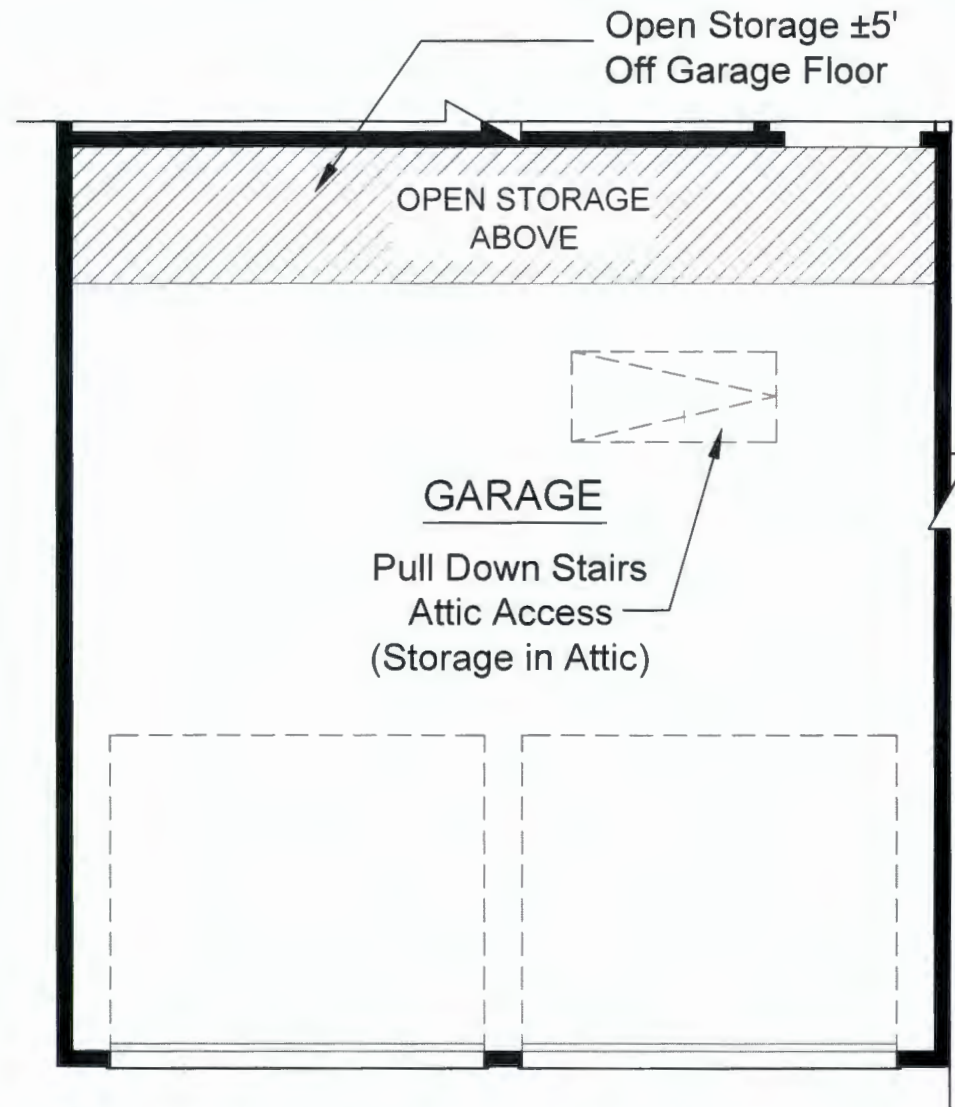
provided that all such sums and amounts shall have been paid by Developer and are reasonable, necessary and documented to and approved by the City Engineer.

(e) It is estimated that the Reimbursable Costs for the Wastewater Line Project will be less than \$50,000. In the event that the difference between Alternate #2 and Alternate #1 exceeds \$50,000, the Parties shall confer to determine whether (i) the Wastewater Line Project should be rebid; (ii) there is a lawful exception to publicly bidding the Wastewater Line Project; or (iii) the Wastewater Line Project should be bid in accordance with Chapter 252, Texas Local Gov’t Code, and thereafter the Parties shall work in good faith to cause the Wastewater Line Project to be rebid and this Addendum amended, if required.



(f) The City will pay for the Reimbursable Costs of the Wastewater Line Project from any funds available from the City, including but not limited to wastewater impact fees, either in a lump sum payment or through wastewater impact fee reimbursements from customers who connect to the Wastewater Line Project. The method of payment for the Reimbursable Costs of the Wastewater Line Project shall be at the City's sole discretion.

**EXHIBIT H**  
**GARAGE STORAGE**



① OPEN STORAGE @ GARAGE TYP.  
A

*\*Location and Dimensions of Storage and Attic Access May Vary*

Item # 21

## EXHIBIT I

### MUNICIPAL SERVICES PLAN FOR PROPERTY TO BE ANNEXED TO THE CITY OF KYLE

**WHEREAS**, the City of Kyle, Texas (the "City") intends to institute annexation proceedings for a tract of land described more fully hereinafter (referred to herein as the "Property");

**WHEREAS**, *Section 43.056, Loc. Gov't. Code*, requires a municipal service plan be adopted with the annexation ordinance;

**WHEREAS**, the Property is not included in the municipal annexation plan and is exempt from the requirements thereof;

**WHEREAS**, infrastructure provided for herein and that are existing are sufficient to service the Property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements by the City are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City;

**WHEREAS**, it is found that all statutory requirements have been satisfied and the City is authorized by *Chapt. 43, Loc. Gov't. Code*, to annex the Property into the City;

**WHEREAS**, the Property will benefit from the City's development restrictions and zoning requirements, as well as other municipal services provided by the City, which are good and valuable consideration for this service plan; and

**WHEREAS**, the City of Kyle, a home rule city situated in Hays County, Texas (the "City") and Clayton Properties Group, Inc. d/b/a Brohn Homes ("Developer") on \_\_\_\_\_ entered into that one certain Development Agreement ("Development Agreement") to which reference is made for all purposes;

**NOW, THEREFORE**, the following municipal services will be provided for the Property on the effective date of annexation:

(1) **General Municipal Services.** Pursuant to this Plan, the following municipal services shall be provided immediately from the effective date of the annexation:

A. Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City.



B. Fire protection and Emergency Medical Services as follows:

Fire protection by the present personnel and equipment of the City volunteer fire fighting force and emergency services district with the limitations of water available. Radio response for Emergency Medical Services with the personnel serving the area and equipment.

C. Solid waste collection services as follows:

Solid waste collection and services as now being offered to the citizens of the City.

D. Animal control as follows:

Service by present personnel, equipment and facilities or by contract with a third party, as provided within the City.

E. Maintenance of parks and playgrounds within the City.

F. Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities.

G. Maintenance of other City facilities, buildings and service.

H. Land use regulation as follows:

On the effective date of annexation, the zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered; and shall be temporarily zoned Agricultural District "A" with the intent to rezone the Property upon request of the landowner(s) or city staff. The Planning & Zoning Commission and the City Council will consider rezoning the Property at future times in response to requests submitted by the landowner(s) or requested by city staff.

(2) **Scheduled Municipal Services.** Depending upon the Property owner's plans and schedule for the development of the Property or redevelopment of the Property, the following municipal services will be provided on a schedule and at increasing levels of service as provided in this Plan:

A. Water service and maintenance of water facilities as follows:

- (i) In accordance with the Development Agreement.
- (ii) As set forth in the Development Agreement, the Property owner(s) shall construct the internal and off-site water lines and facilities (the "Water System") and, as agreed to in the Development Agreement, pay the costs of line extension and facilities as required in City ordinances. Upon acceptance of the Water System, water service will be provided by the City utility department on the same terms, conditions and requirements as are

applied to all similarly situated areas and customers of the City, subject to the Development Agreement, and to the extent not in conflict with the Development Agreement, all the ordinances, regulations and policies of the City in effect from time to time. The Water System will be accepted and maintained by the City in accordance with its usual policies. Requests for new water extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The City ordinances, policies, and agreements between the City and the Property owner(s) in effect at the time a request for additional service is submitted shall govern the costs and request for service.

B. Wastewater service and maintenance of wastewater service as follows:

- (i) In accordance with the Development Agreement.
- (ii) As set forth in the Development Agreement, the Property owner(s) shall construct the internal and off-site sewer lines and facilities (the "Sewer System") and, as agreed to in the Development Agreement, pay the costs of line extension and facilities as required in City ordinances. Upon acceptance of the Sewer System, sewer service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City, subject to the Development Agreement, and to the extent not in conflict with the Development Agreement, all the ordinances, regulations and policies of the City in effect from time to time. The Sewer System will be accepted and maintained by the City in accordance with its usual policies. Requests for new sewer extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The City ordinances, policies, and agreements between the City and the Property owner(s) in effect at the time a request for additional service is submitted shall govern the costs and request for service.

C. Maintenance of public streets and rights-of-way as appropriate as follows:

- (i) Except is set forth in the Development Agreement, the City will provide maintenance services on public streets within the Property that are dedicated and finally accepted by the City. The maintenance of such public streets and roads will be limited as follows:
  - (A) Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.;
  - (B) Routine maintenance as presently performed by the City; and
  - (C) The Property owner(s) have specifically agreed that maintenance services will be of little benefit and will not be required or needed on the

Property, prior to the Property owner(s), its grantees, successors and assigns completing the construction and dedication of streets to the City in compliance with City subdivision regulations.

(ii) Following installation of the roadways, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain the public streets, roadways and rights-of-way within, and adjacent to, the boundaries of the Property if dedicated and accepted, as follows:

(A) As provided in C(i)(A)&(B) above;

(B) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;

(C) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and

(D) Installation and maintenance of street lighting in accordance with established policies of the City;

(iii) The outer boundaries of the Property abut existing roadways. The Property owner(s) agree that no City improvements are required on such roadways to service the Property except as set forth in the Development Agreement. If the owner(s) develop the Property so as to impact abutting roadways pursuant to the City's subdivision regulation, the owner(s) agree to comply with such ordinances as set forth in the Development Agreement.

(3) **Special Services and Actions.** Although the City reserves all its governmental authority, powers and discretion, if the City shall unreasonably refuse to grant the permits and approvals above provided in (2)(A), (B) & (C), then in that event the owner(s) may request and obtain disannexation of the Property pursuant to this service plan; provided that if the City shall, in the exercise of its discretion and authority, approve the permits and events set forth in (2)(A), (B) & (C) above, the Property shall be and remain within the corporate limits of the City.

(4) **Capital Improvements.** Construction of capital improvements shall be initiated after the effective date of the annexation as set forth in the Development Agreement: Water and wastewater facilities that are identified in the Development Agreement, as and when funded pursuant to the Development Agreement. Upon development of the Property or redevelopment, the landowner(s) will be responsible for the development costs the same as a developer or landowner in a similarly situated area under the ordinances in effect at the time of development or redevelopment, except as set forth in the Development Agreement. No additional capital improvements are necessary at this time to service the Property, except those specifically enumerated in the Development Agreement. The Property owner(s)

for itself, its grantees, successors, and assigns agree that no capital improvements are required to service the Property, except as set forth in the Development Agreement, the same as similarly situated properties already within the City.

(5) **Term.** If not previously expired under the term set out in state law, this service plan expires at the expiration of the Development Agreement.

(6) **Property Description.** The legal description and map of the Property are as set forth in Exhibit "A" that is attached to the Development Agreement to which this negotiated municipal service plan is attached as Exhibit "N".



**THE STATE OF TEXAS**

**COUNTY OF HAYS**

I hereby certify that this instrument was FILED on the  
date and the time stamped hereon by me and was duly  
RECORDED in the Records of Hays County, Texas.

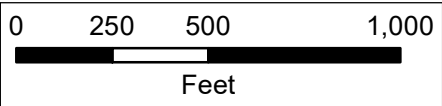
**20030094      AGREEMENT**

**07/22/2020 03:01:17 PM      Total Fees: \$270.00**

 *Elaine H. Cardenas*

**Elaine H. Cárdenas, MBA, PhD, County Clerk  
Hays County, Texas**

**Project Location Map**  
**Z-21-0070**  
**Casetta Ranch Section 5**  
**Proposed R-1-3 zoning**

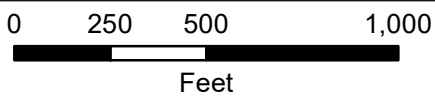
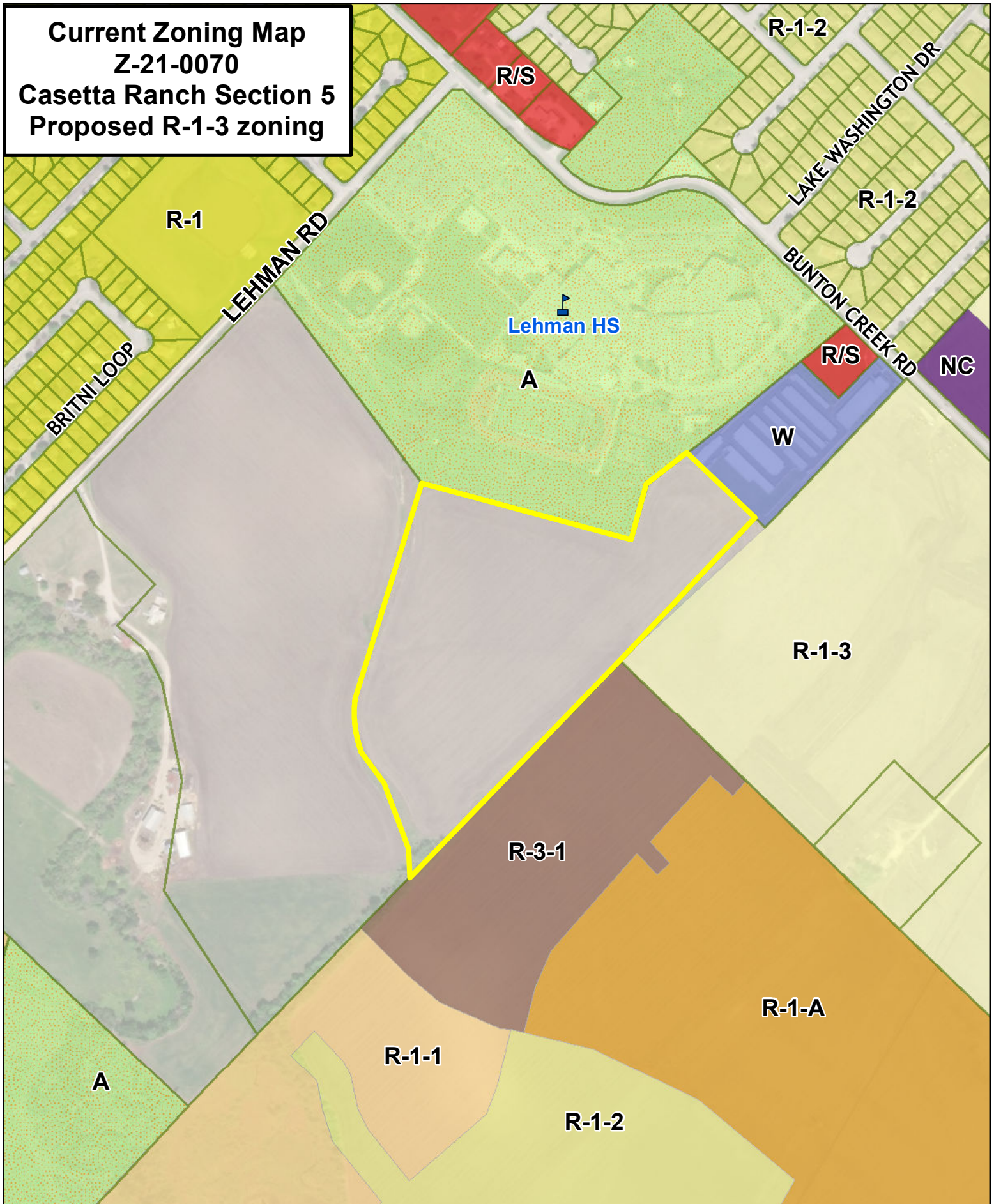


 Property Location

 Parcel Lines



**Current Zoning Map**  
**Z-21-0070**  
**Casetta Ranch Section 5**  
**Proposed R-1-3 zoning**

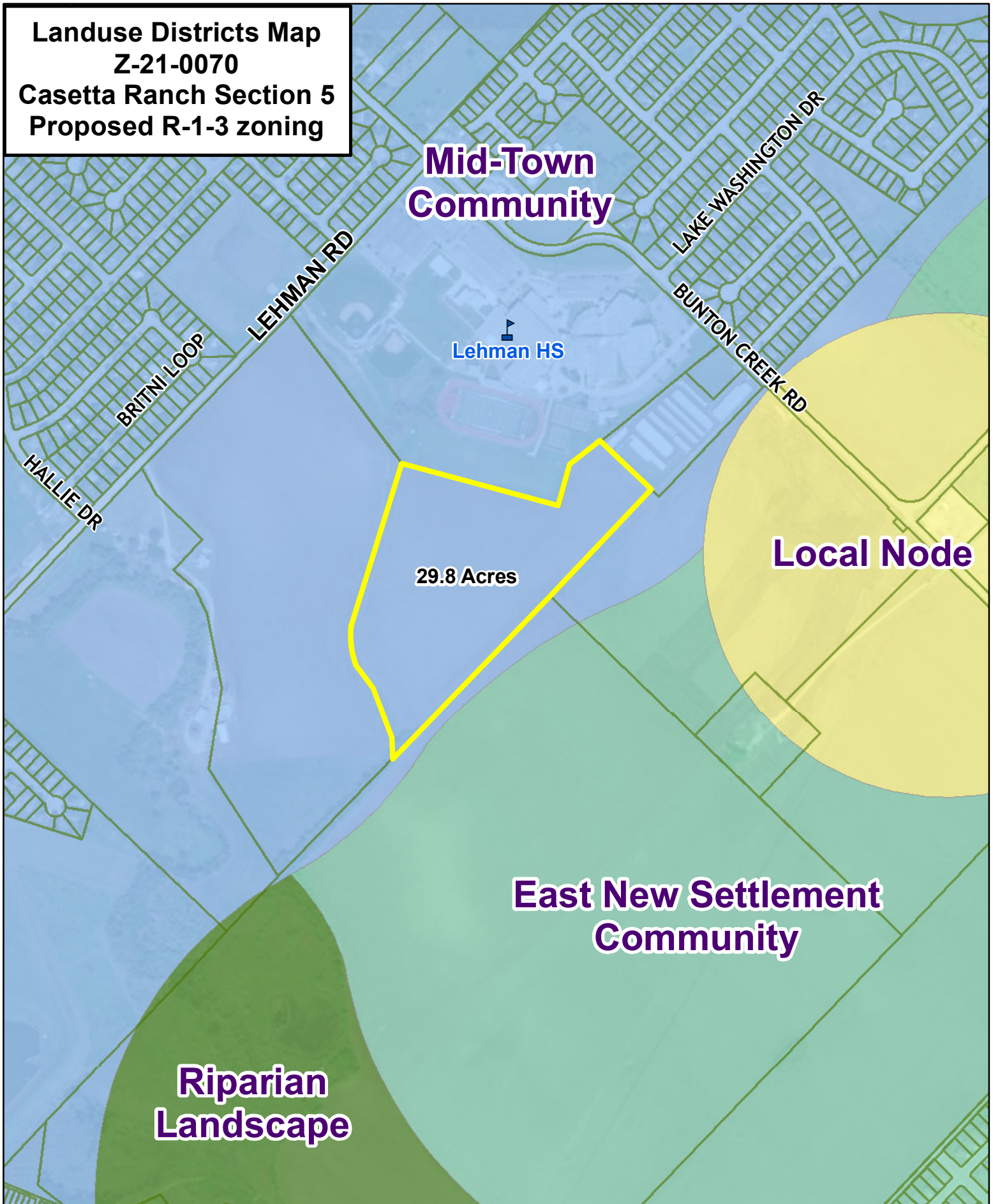


 Property Location

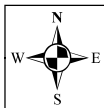
 Parcel Lines  
Item # 21



**Landuse Districts Map  
Z-21-0070  
Casetta Ranch Section 5  
Proposed R-1-3 zoning**



0 250 500 1,000  
Feet



 Property Location

 Parcel Lines

Item # 21





# CITY OF KYLE, TEXAS

## Communication and Social Media policy

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Review and approve updated Communication and Social Media policy. ~ *Samantha Armbruster, Director of Communications*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

### **ATTACHMENTS:**

#### **Description**

- ☐ City of Kyle Communications Plan - DRAFT
- ☐ CityofKyleSocialMediaPolicyDraft

# City of Kyle Communication Plan - 2021

Team Kyle Culture is based on the Core Values (KYLE) listed below:

**KNOWLEDGE**- Knowledgeable in all aspects of job and City operations; maintains high quality of work; follows health and safety guidelines.

**YES-ATTITUDE**- Demonstrates superior customer service; treats other employees and citizens with kindness; promotes goodwill; solves conflict with tact.

**LEADING EDGE**- Continually looking for areas to improve upon; decisive and adaptive; supports new ideas; a driver for change. Innovative.

**EMPLOYEE ACCOUNTABILITY**- Actively seeks and gives performance feedback to determine developmental opportunities; uses feedback as an opportunity for continuous improvement. Takes accountability for their mistakes and learns from them.

## *Section 1: Plan Purpose, Protocol, and Information Distributors*

- Generate useful, accessible content
- Establish cohesive content standards through a recommended Style Guide
- Designate responsive and knowledgeable public information distributors
- Structure communication engagement guidelines
- Share crisis communication plan
- Establish public engagement behavior standards, procedures, and platforms
- Support internal communication standards

### *Section 1.1 Public Information Protocol*

The Director of Communications, as the Public Information Officer (PIO), coordinates City of Kyle communications. A copy of any mass communication (such as press releases, Everbridge Notifications, letters to large numbers of residents or businesses, etc.) from any Department to the public will be sent to [communicationsdept@cityofkyle.com](mailto:communicationsdept@cityofkyle.com) at least 48 hours prior to its release

### *Section 1.2 Content Authority*

The Director of Communications or designee may remove any content that violates the Communications Plan or for any other reason. The Director of Communications or designee has the authority to edit any communication submissions for the purposes of clarity, accuracy and professionalism.

## *Section 2: City of Kyle Content Guidelines*

It is our goal to regularly generate useful, accessible, and transparent content for our residents, businesses, guests, and other stakeholders.

### *Section 2.1 Appropriate and Inappropriate Content*

Content should promote and adhere to the City of Kyle core values. Content will be crafted keeping the suggested Style Guide and Content Quick Guide in mind.

Appropriate content includes:

- City of Kyle news, events, programs, services, and initiatives.
- Resources relevant to residents, businesses, and visitors.
- Policies, crises, social movements, and environmental factors that affect the region.

Inappropriate content includes, but is not limited to:

- Confidential or proprietary information, unless authorized for disclosure.
- Commentary or personal opinions.
- Language or material that may be considered profane, offensive or obscene.

- Content in support of or opposition to political campaigns.
- Content promoting goods or services not otherwise available to the public (i.e. promoting receipt of free food or services).
- Content that discriminates on the basis of race, color, age, religion, gender, marital status, military status, citizenship status, economic status, national origin, disability, or sexual orientation.
- Information that may compromise the safety or security of the public or public systems.

## ***Section 2.2 Accessible and Transparent***

Web accessibility means that websites, tools, and technologies are made so that people with disabilities can use them. They can also aid those that do not speak English fluently. Our Content Quick Guide is a useful tool on accessible and transparent content.

- Our website can be easily translated into various languages. PDFs cannot, so when possible write your content into the website.
- Links should go where intended and when possible open a new window instead of changing the page.
- The W3C Web Accessibility Initiative (WAI) develops technical specifications, guidelines, techniques, and supporting resources for accessibility solutions. These are considered international standards for web accessibility and we should strive to follow them. These standards work to make content screen reader accessible as well as other accessibility options. Screen readers are software that allow blind or visually impaired users to read the text that is displayed on the computer screen with a speech synthesizer or braille display.
  - To help screen readers, hyperlinks must provide context of where the link is going. Instead of “Click here” or “Learn more” use “online payment” “meeting agenda” “building permit” or other descriptive language.
  - An image should have “alt text” saved to it. This text displays if an image is unable to load and is read aloud to those with visual impairments.
  - Using built in heading features in Microsoft Word or our website (H1, H2, H3 etc.) assists screen reader users to speed read through a page or document and help the user focus on the information they want.
  - If generating a table without detailed supporting text, request IT assistance to make it screen reader accessible.
  - Content should have a visual contrast to allow for ease of viewing. This means white text should not be placed on a light beige background.

Content should be clear and concise. By being concise, content will resonate with more audiences. Our Content Quick Guide has helpful tips.

- Avoid industry jargon if simpler language is available. While our jargon may be more technically accurate, it will confuse the general public.
- Content should include contact information to allow for follow-up questions.

## ***Section 2.3 Templates***

Templates are available through the City of Kyle's One Drive

To maintain a unified and professional look, templates have been created for the following:

- Letterhead (general)
- Press releases
- PowerPoints
- Memo
- Resolutions
- Proclamations
- Project Pages

## ***Section 2.4 Logo and Mark Use***

Official City of Kyle logos and official mark are available City of Kyle's One Drive. The City of Kyle logo should be used on official communications such as resident mailings, letterhead, envelopes, business cards, press releases, etc. Approved department logos may be used in lieu of or in addition to the City of Kyle's logo.

Administration may grant use of our logos to community-based or recognized non-profit organizations. The City of Kyle's logo may not be used on personal documents/materials, to promote a private business (unless used to promote a co-sponsored community event).

## ***Section 2.5 Department Content***

Departments are responsible for creating content on a regular basis for use in City of Kyle publications. Content should include fully written and proofed articles, as well as photos or images that meet platform standards as outlined in the City of Kyle's Communication Plan.

All content should be reviewed by at least one other person before sharing.

## ***Section 3: Website and E-Newsletter***

The City of Kyle website is the core of our communication outreach. When possible, all other communication avenues should direct back to the website.

### ***Section 3.1 Department Content Responsibility***

Each department will keep their website content updated, relevant, and stylistically consistent. Pages will have seasonally appropriate information. Each department should have at least one web content editor and should strive for at least two.

The Department Web Content Editor/s will be responsible for the department's website content, and for submitting relevant news articles and calendar events to the Communications Department. The Department Web Content Editor will, on a quarterly basis, check their part of the website for broken links and outdated information. Calendar content will be reserved to City of Kyle or City of Kyle Partner events and meetings.

Resources Content Quick Guide and Communication Calendar are helpful tools.

### ***Section 3.2 Legal Notices***

The City of Kyle staff liaisons or City Secretary, or their designee, will ensure that the required meeting notices and agendas for City of Kyle Board/Commission Meetings are posted to the website in accordance with the Open Meetings Act and any subsequent legislation regulating internet notice posting.

### ***Section 3.3 E-Newsletter***

E-Newsletters are distributed every Friday and when necessary for timely distribution of public information. Any department can submit content for inclusion in newsletter by sending to Communications Department. Submissions are due by Wednesday at 5pm.

## ***Section 4: Digital Billboards***

The City of Kyle partners with owners of digital billboards to announce important community information as approved by the Communications Department. These rules and guidelines are to ensure proper and best use of the signs. All departments interested in using billboards should contact Communications Department.

## ***Section 5: Social Media***

Official City of Kyle social media accounts are an extension of all City of Kyle communications. Social networking sites should link back to the official city website for forms, documents and other information.

All social media pages must be in the City of Kyle's name. The log-in, password for access, and employee access list must be submitted to the Communications Department. The Communications Department will have final determination of who can post on each account. Each account must have a primary and secondary administrator who are familiar with the Communications Plan and IT Technology Use Policy.

Each Social Media Page will include a statement of scope and comment policy.



### ***Section 5.1 Facebook, Twitter and Nextdoor***

The City of Kyle reserves the right to remove any comments that violate our social media policy such as:

- Profane, obscene, violent, sexual, or pornographic content and/or language;
- Personally identifiable information, such as Social Security Numbers;
- Content that violates federal, state or local law.

Be timely, concise and conscientious in response to comments. Information should direct back to primary City of Kyle resources such as Department contacts or the website when possible. View our response guide to determine when a response should be provided.

Do not alter previous posts except when absolutely necessary. All posts should be reviewed by one other person before sharing.

Posts will be shared regularly and pre-scheduled when possible to allow for consistent, reliable posting. Seasonal items and holidays are examples of posts that can be pre-scheduled. Regularly check scheduled items to make sure content is still relevant and appropriate. Disable scheduled posts when they may be distracting such as during an emergency. Hashtags will be investigated for appropriate content history before use.

All posts should have image or video content and, when possible, link back to our website. All images shall have "Alt Tags" to improve accessibility as discussed in the Content Quick Guide.

When sharing posts on behalf of another agency or non-profit, the City of Kyle will share their post and will not create the post for them. This protects the City of Kyle from responsibility if the information in the post becomes inaccurate.

Posts that may generate follow up phone calls will be run by the Department Head.

### ***Section 5.2 Youtube***

This channel posts public meetings and videos of useful, informative content as well as City of Kyle promotional materials.

Public comments may be disabled, comments regarding public meetings can be submitted by email or our electronic public comment form.

### ***Section 5.3 New Platform Evaluation***

No social media page will be created without approval from the Communications Director. Consideration will include:

- Viability of Platform: Is the platform offering content in a new or more successful way than existing platforms? Is it expected to be stable for an extended period of time? Will residents use this platform?
- Resources: Does the platform take too much additional staff time? Does the platform have an additional cost?
- Tone: Is the platform's tone and intent consistent with City of Kyle's values?

## ***Section 6: Public Access Channel - Kyle10***

The channel's programming mission is to provide municipal and community information.

### ***Section 6.1 Programming Content***

While the primary content creator will be the Communications Department, the City of Kyle may also share relevant content from other government or non-profit agencies as determined by the Communications Department.

### ***Section 6.2 Programming Schedule***

A rebroadcast of the City Council meetings can be viewed on every Wednesday at 10:00 AM and 4:00 PM. All other content must be programmed around this schedule.

## ***Section 7: Press Releases/Media Interviews, Water bills and Misc.***

### ***Section 7.1 Press Release and Media Engagement***

Press releases and media interviews must be pre-approved by the relevant Department Head or Communications Director.

Press Releases will include a staff contact name, phone number, and email address as a designated spokesperson or subject matter expert.

The Communications Department shall be promptly notified of all media interviews.

### ***Section 7.2 Water Bills and Miscellaneous***

Water Bill inserts require approval from the Communications Department and must be requested 21 days before the water bills are submitted to our distribution agency.

Email signatures noting name and title at the bottom of the email should be used and include a contact phone number.

## ***Section 8: Mass Public and Crisis Communication***

### ***Section 8.1 Crisis Communication and Emergency Operations***

Follow the Emergency Operations Plan.

### ***Section 8.2 Everbridge and Mass General Public Notification***

The City of Kyle uses Everbridge as a mass notification system. When possible, all Everbridge notifications and notification areas will be reviewed by the City Manager's Office before release. Preapproved topics include:

- Road Closures
- Flooding and Severe Weather
- Public Safety Emergency Response
- Missing Person
- Reports of Police or Criminal Activity
- Boil Order

Everbridge notifications can be released by the City Manager's Office, Public Works, or Police. Additional access may be provided at the City Manager's discretion.

When releasing a message, be aware of the time of day. Also be brief with text message content due to character limitations by cellphone providers (Less than 160 characters).

## ***Section 9: Strategic Communication***

Strategic Communication is aligning internal and external communication with our mission, core values, financial plan, and general strategic goals.

### ***Section 9.1 Keeping Colleagues Informed***

Copies of mass notifications that may generate questions will be shared with staff who field general inquiries. The content creator should also include where to direct inquiries. This can include social media posts that could reasonably be expected to generate questions.

Content creators will also evaluate if a partner agency should be informed of the notification.

Department Heads and General Inquiry staff will receive the e-newsletter.

### ***Section 9.2 Communication Plan Updates***

This policy will be reviewed and updated biennially or on an as needed basis.

# City of Kyle Social Media Policy

The City of Kyle engages residents and visitors through many digital outlets but communicating through social media further enables residents and visitors to contact the City of Kyle in a direct and meaningful way.

The goal of City of Kyle social media pages is to be a helpful medium that is conducive to real-time discussions and useful feedback. Some of the City of Kyle social media pages allow public interaction in the form of comments.

The City of Kyle shares information, images and video with the public through external social media websites. Comments made by the public to these sites are reviewed and, while comments will not be edited by City of Kyle personnel, a comment may be hidden if it violates the comment policy described below:

- Obscene, indecent or profane language, pictures and/or videos.
- Physically threatening or harassing language.
- Content that promotes, fosters or perpetuates discrimination on the basis of race, color, gender, sexual orientation, national origin, ethnicity, age, religion or disability, or other protected status under applicable law.
- Comments not related to the posted topic for the City of Kyle social media page or post.
- Multiple successive off-topic posts by a single user or repetitive posts copied and pasted by multiple users, or spam.
- Promotion or endorsement of services and products not sponsored or in a direct relationship with the City.
- Comments advocating illegal activity, posting of material that violates copyrights or trademarks of others, or posting private or confidential information.
- Violate any local, state, or federal laws and/or is otherwise unlawful.
- Encourages actions that may compromise public safety or posts information that may compromise safety or security of the public or public systems
- Campaign materials promoting or opposing an individual in an election for political office.

The City of Kyle reserves the right to deny access to City Social Media sites for any individual, who violates the City of Kyle Social Media Policy, at any time and without prior notice. Content deemed inappropriate per City of Kyle Social Media Policy shall be promptly documented (screenshot/printout), saved pursuant to IST policies and procedures regarding record retention, and then be removed immediately.

Please be aware that when engaging with the City of Kyle through social media, you are agreeing to the social media public comment policy. This comment policy is subject to amendment or modification at any time.

## *User created content*

Users are welcome to submit or post content, including photographs and videos, to an official City of Kyle site where the agency allows users to post content, the content meets the standards articulated in this Customer Use Policy and pertains to the subject of the social media site. Users may only post their own, original content. Reproduced or borrowed content that reasonably appears to violate third party rights will be deleted. Users should have no expectation of privacy when posting to a City of Kyle site.

## *Questions or concerns*

Questions or concerns regarding the City of Kyle's social media activity and/or this policy should be submitted to [communicationsdept@cityofkyle.com](mailto:communicationsdept@cityofkyle.com).



# CITY OF KYLE, TEXAS

## Multifamily Recycling Pilot

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Presentation and update on status of a Multifamily Recycling Pilot program for apartment complexes in Kyle. ~ *Dex Ellison, Council Member*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available





# CITY OF KYLE, TEXAS

## Annexation Petition and Resolution - 25.2-Acres Jansen Property and land owned by CTX Park, LLC

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** A Resolution of the City of Kyle, Texas, Accepting the Petition for Annexation of 25.2 Acres, More or Less, of Land Located in Hays County, Texas; Setting an Annexation Schedule; Providing for Open Meetings and Other Related Matters. ~ *Howard J. Koontz, Director of Planning and Community Development*

**Other Information:** See attached.

**Legal Notes:** N/A

**Budget Information:** N/A

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### ATTACHMENTS:

#### **Description**

- ☐ Staff Memo\_Jansen 25.2 Acres\_Annexation
- ☐ Annexation Petition
- ☐ Annexation Resolution
- ☐ Annexation Schedule
- ☐ Non-Annexation Development Agreement
- ☐ 1.1-Acres out of 25.2-Acres
- ☐ Landowner Authorization Letter
- ☐ Franchise Tax Account Status



# CITY OF KYLE

## Community Development Department

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### MEMORANDUM

**TO:** Mayor & Council

**FROM:** Howard J. Koontz – Director of Planning & Community Development

**DATE:** Tuesday, April 6, 2021

**SUBJECT:** Annexation of 25.2-Acres Owned by the Jansen Family and CTX Park, LLC.

### REQUEST

The applicant (Andrew Dodson, P.E.) has applied for annexation on behalf of CTX Park, LLC and petitions the Mayor & Council to annex the 1.105-acres associated with a Chapter 43 Non-Annexation Development Agreement on 25.2-acres of the Jansen property.

### LOCATION

The property is located north and southeast of the baseball complex located west of the Bunton Creek Road & Goforth Rd intersection. The site associated with the Non-annexation development agreement is approximately 25.2-acres, with 1.105-acres to be subdivided out of the larger parcel and owned by CTX Park, LLC.



Blue denotes 25.2-acres (Jansen)  
Red denotes 1.105-acres (CTX Park, LLC)

Per State of Texas law, when a municipality considers annexing property into city boundaries, they must offer a non-annexation development agreement to property(s) with agricultural exemptions and/or used for agricultural, pastorage or timber production (Chapter 43, *Texas Local Government Code*). This allows the property to stay outside the city limits for a certain amount of time, and also places rules for reasons to annex the property. In 2019, the City of Kyle entered into a non-annexation development agreement with Peggy Jansen, for approximately 25.2-acres of agriculture land. The agreement is still in force.

As part of the agreement, it was agreed the 25.2-acres would not be subdivided, as this constitutes a development application. A development application is one of the items that triggers annexation into the City. Additionally, as part of the agreement, the owners of the 25.2-acres agreed to not develop or build any additional structures other than those typical of farms (i.e. barns, stables, corrals, silos, etc.).

Earlier this year, representatives of CTX Park, LLC approached the city with the intent to subdivide the property and also stay in the City of Kyle's Extra-Territorial Jurisdiction. The "ETJ" is outside the city limits and is an area of shared jurisdiction between a city and the county. Open further research, it was found that 1.105-acre to be subdivided was part of the larger 25.2-acre Jansen parcel, and under a non-annexation development agreement. The owners of CTX Park, LLC had already purchased the property and were intent to develop the site into a baseball training facility (indoor batting cages) associated with the adjacent baseball complex.

Staff held discussions with representatives of CTX Park, LLC to best approach moving the training facility forward. With consideration from the Mayor and Council, staff informed the representatives of CTX Park, LLC to petition the Mayor and Council for annexation into the City. Andrew Dodson, P.E. has done so on behalf of CTX Park, LLC.

Following completion of the annexation, the following steps/permits will be taken:

- Zoning (Retail/Services expected)
- Subdivision Plat
- Site Plan
- Conditional Use Permit (Aesthetics of Exterior of Building(s))
- Building Permit (Compliance with 2015 International Building Code)

## **RECOMMENDATION**

Staff supports the annexation petition and asks the Mayor and Council to support the petition by affirmative vote.

STATE OF TEXAS

§  
§  
§

COUNTY OF HAYS

**REQUEST & PETITION TO THE CITY COUNCIL OF THE CITY OF KYLE  
FOR ANNEXATION OF PROPERTY**

**WHEREAS**, the undersigned is the owner of certain area of land located within Hays County, Texas, such property being more particularly described hereinafter by true and correct legal description (referred to herein as the “subject property”);

**WHEREAS**, the undersigned has sought the annexation of the subject property by the City of Kyle, Texas, (hereinafter sometimes referred to as “City”), in order to obtain the benefits of City services to the subject property by the City;

**WHEREAS**, the subject property is contiguous and adjacent to the corporate limits of the City;

**WHEREAS**, the City, pursuant to §43.003, *Tex. Loc. Gov’t. Code* and the request of the property owner, is authorized to annex the subject property; and,

**WHEREAS**, the undersigned agrees and consents to the annexation of the subject property by the City and further agrees to be bound by all acts, ordinances, and all other legal action now in force and effect within the corporate limits of the City and all those which may be hereafter adopted.

**NOW THEREFORE**, the undersigned by this Petition and Request:

**SECTION ONE:** Requests the City Council of the City to commence annexation proceedings and to annex into the corporate limits of the City of Kyle, Texas, of all portions of the subject property, including the abutting streets, roadways, and rights-of-way, not previously annexed into the City and further described as follows:

All that certain area of land being 25.2 acres, more or less, out of the John Stewart League Survey, Abstract No. 14, Hays County, Texas and being out of that certain 38.9 acre tract conveyed to Peggy Lehman Jansen in the warranty deed recorded in Instrument No. 16043789, Official Public Records of Hays County, Texas and being further described by warranty deed with vendor’s lien recorded in Instrument No. 21011388 in the Official Public Records of Hays County, Texas and being more particularly shown and described by survey and metes and bounds in the Exhibit “A” attached hereto and incorporated herein for all purposes.

**SECTION TWO:** Requests that after annexation the City provide such services as are legally permissible and provided by the City, including sanitation, water and general governmental services as set forth in the services plan.

**SECTION THREE:** Acknowledges and represents having received, read and understood



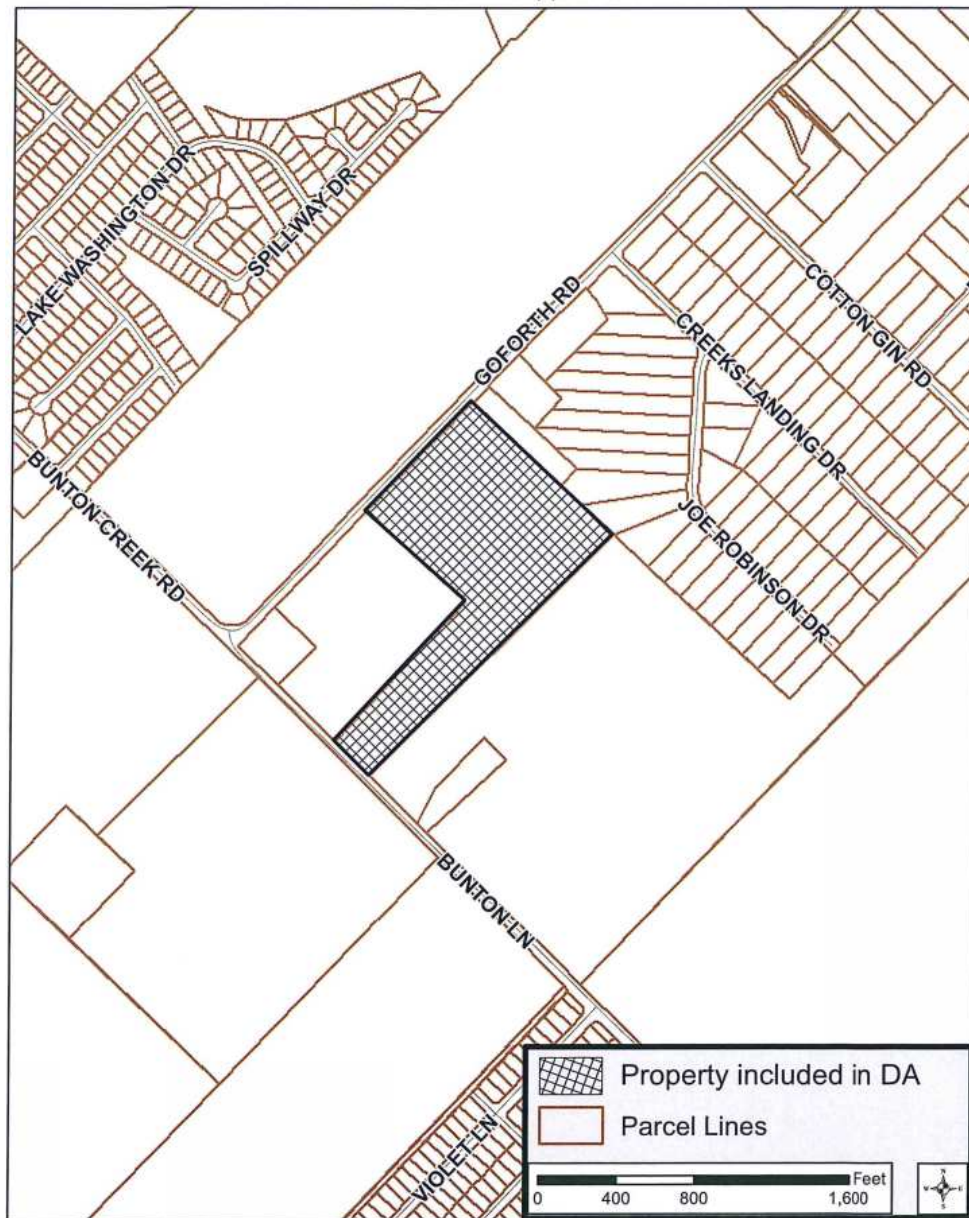


# Exhibit “A”

## DESCRIPTION OF THE SUBJECT PROPERTY

+/- 25.2 ACRES

Jansen Development Agreement  
HCAD ID: R11514      Approx. 25.2 Acres



## **Exhibit “B”**

### **SERVICES PLAN FOR PROPERTY TO BE ANNEXED INTO THE CITY OF KYLE**

**WHEREAS**, the City of Kyle, Texas (the “City”) intends to institute annexation proceedings for an area of land described more fully hereinafter (referred to herein as the “subject property”);

**WHEREAS**, *Section 43.0672, Loc. Gov't. Code*, requires the City to negotiate and enter into a written agreement with the owner(s) of land in the area for the provision of services in the area;

**WHEREAS**, the subject property is not included in the municipal annexation plan and is exempt from the requirements thereof;

**WHEREAS**, infrastructure provided for herein and that existing are sufficient to service the subject property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City; and

**WHEREAS**, it is found that all statutory requirements have been satisfied and the City is authorized by *Chapter 43, Loc. Gov't. Code*, to annex the subject property into the City;

**NOW, THEREFORE**, the following services will be provided for the subject property on the effective date of annexation:

(1) **General Municipal Services.** Pursuant to the requests of the owner and this Plan, the following services shall be provided immediately from the effective date of the annexation:

A. Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City.

B. Fire protection and Emergency Medical Services as follows:

Fire protection by the present personnel and equipment of the City fire fighting force and the volunteer fire fighting force with the limitations of water available. Radio response for Emergency Medical Services with the present personnel and equipment.

C. Solid waste collection services as follows:

Solid waste collection and services as now being offered to the citizens of the City.

D. Animal control as follows:

Service by present personnel, equipment and facilities or by contract with a third party, as provided within the City.

E. Maintenance of parks and playgrounds within the City.

F. Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities.

G. Maintenance of other City facilities, buildings and service.

H. Land use regulation as follows:

On the effective date of annexation, the zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered; and shall be temporarily zoned agricultural district "A" with the intent to rezone the subject property upon request of the landowner or staff. The Planning & Zoning Commission and the City Council will consider rezoning the subject property at future times in response to requests submitted by the landowner(s) or authorized city staff.

(2) **Scheduled Municipal Services.** Due to the size and vacancy of the subject property, the plans and schedule for the development of the subject property, the following municipal services will be provided on a schedule and at increasing levels of service as provided in this Plan:

A. Water service and maintenance of water facilities as follows:

(i) Inspection of water distribution lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of water service, water service will be provided to the subjects properties, or applicable portions thereof, by the utility holding a water certificate of convenience and necessity ("CCN") for the subject properties, or portions thereof as applicable, or absent a water CCN, by the utility in whose jurisdiction the subject properties, or portions thereof as applicable, are located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of water service. If connected to the City's water utility system, the subject properties' owner shall construct the internal water lines and pay the costs of line extension and construction of such facilities necessary to provide water service to the subject properties as required in City ordinances. Upon acceptance of the water lines within the subject properties and any off-site improvements, water service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City; subject to all the ordinances, regulations and policies of the City in effect from time to time. The system will be accepted and maintained by the City in accordance with its usual acceptance and maintenance policies.



New water line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances of the City in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a water well that is in use on the effective date of the annexation and is in compliance with applicable rules and regulations shall be permitted and such use may continue until the subject properties' owner requests and is able to connect to the City's water utility system.

B. Wastewater service and maintenance of wastewater service as follows:

(i) Inspection of sewer lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of wastewater service, wastewater service will be provided to the subjects properties, or applicable portions thereof, by the utility holding a wastewater CCN for the subject properties, or portions thereof as applicable, or absent a wastewater CCN, by the utility in whose jurisdiction the subject properties, or portions thereof as applicable, are located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of wastewater service. If connected to the City's wastewater utility system, the subject properties' owner shall construct the internal wastewater lines and pay the costs of line extension and construction of facilities necessary to provide wastewater service to the subject properties as required in City ordinances. Upon acceptance of the wastewater lines within the subject properties and any off-site improvements, wastewater service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City, subject to all the ordinances, regulations and policies of the City in effect from time to time. The wastewater system will be accepted and maintained by the City in accordance with its usual policies. Requests for new wastewater line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a septic system that is in use on the effective date of the annexation and is in compliance with all applicable rules and regulations shall be permitted and such use may continue until the subject property owner requests and is able to connect to the City's wastewater utility system.

C. Maintenance of streets and rights-of-way as appropriate as follows:

(i) Provide maintenance services on existing public streets within the subject property and other streets that are hereafter constructed and finally accepted by the City. The maintenance of the streets and roads will be limited as follows:

(A) Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.; and

(B) Routine maintenance as presently performed by the City.

(ii) The City will maintain existing public streets within the subject property, and following installation and acceptance of new roadways by the City as provided by city ordinance, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain such newly constructed public streets, roadways and rights-of-way within the boundaries of the subject property, as follows:

(A) As provided in C(i)(A)&(B) above;

(B) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;

(C) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and

(D) Installation and maintenance of street lighting in accordance with established policies of the City;

(iii) The outer boundaries of the subject property abut existing roadways. The property owner agrees that no improvements are required on such roadways to service the property.

(3) **Capital Improvements.** Construction of the following capital improvements shall be initiated after the effective date of the annexation: None. Upon development of the subject property or redevelopment, the landowner will be responsible for the development costs the same as a developer in a similarly situated area under the ordinances in effect at the time of development or redevelopment. No additional capital improvements are necessary at this time to service the subject property the same as similarly situated properties.

(4) **Term.** If not previously expired, this service plan expires at the end of ten (10) years.

(5) **Property Description.** The legal description of the subject property is as set forth in the Annexation Ordinance and exhibits attached to the Annexation Ordinance to which this Service Plan is attached.

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

**A RESOLUTION OF THE CITY OF KYLE, TEXAS, ACCEPTING THE PETITION FOR ANNEXATION OF 25.2 ACRES, MORE OR LESS, OF LAND LOCATED IN HAYS COUNTY, TEXAS; SETTING AN ANNEXATION SCHEDULE; PROVIDING FOR OPEN MEETINGS AND OTHER RELATED MATTERS.**

**WHEREAS**, the owner of certain property located within Hays County, Texas, has petitioned the City of Kyle, Texas, (herein the “City”), a home-rule City, for annexation of said property, more particularly described herein (the “subject property”), into the City limits;

**WHEREAS**, the subject property is contiguous and adjacent to the corporate limits of the City and the owner(s) have made application for annexation;

**WHEREAS**, after review and consideration of such requests and petition of the owner of the subject property for annexation, the City Council finds that the subject property may be annexed pursuant to §43.0671 of the *Local Government Code*; and,

**WHEREAS**, the City and the owner of the subject property and petitioner herein entered into that certain Development Agreement dated August 7, 2019 and filed and recorded in the Records of Hays County, Texas on September 9, 2019 as Instrument No. 19031781;

**WHEREAS**, the Development Agreement sets forth the terms by which the subject property will be annexed into the City;

**WHEREAS**, the petitioner has agreed and consented to the annexation of the subject property by the City and subject to the terms of the Development Agreement and to the extent not in conflict therewith, has further agreed to be bound by all acts, ordinances, and all other legal action now in force and effect within the corporate limits of the City and all those which may be hereafter adopted;

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

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

**Section 2. Proceedings.** The petition for annexation of the subject property, including the abutting streets, roadways, and rights of way, not previously annexed into the City and the draft services plan shown in Exhibit “B”, are hereby accepted:

All that certain area of land being 25.2 acres, more or less, out of the John Stewart League Survey, Abstract No. 14, Hays County, Texas and being out of that certain 38.9 acre tract conveyed to Peggy Lehman Jansen in the warranty deed recorded in Instrument No. 16043789, Official Public Records of Hays County, Texas and being further described by warranty deed with vendor’s lien recorded in Instrument No.

21011388 in the Official Public Records of Hays County, Texas and being more particularly shown and described by survey and metes and bounds in the Exhibit "A" attached hereto and incorporated herein for all purposes.

A public hearing has been set for the date of May 4, 2021. Notice of such hearing shall be posted and the hearing shall be open to the public to accept public comment on the annexation request. In the event of a conflict between the subject property description contained herein, Exhibit "A" shall control.

**Section 3. Severability.** Should any section or part of this Resolution be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Resolution are declared to be severable.

**Section 4. Open Meetings.** It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

**PASSED AND APPROVED** this the \_\_\_\_ day of \_\_\_\_\_, 2021.

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

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

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

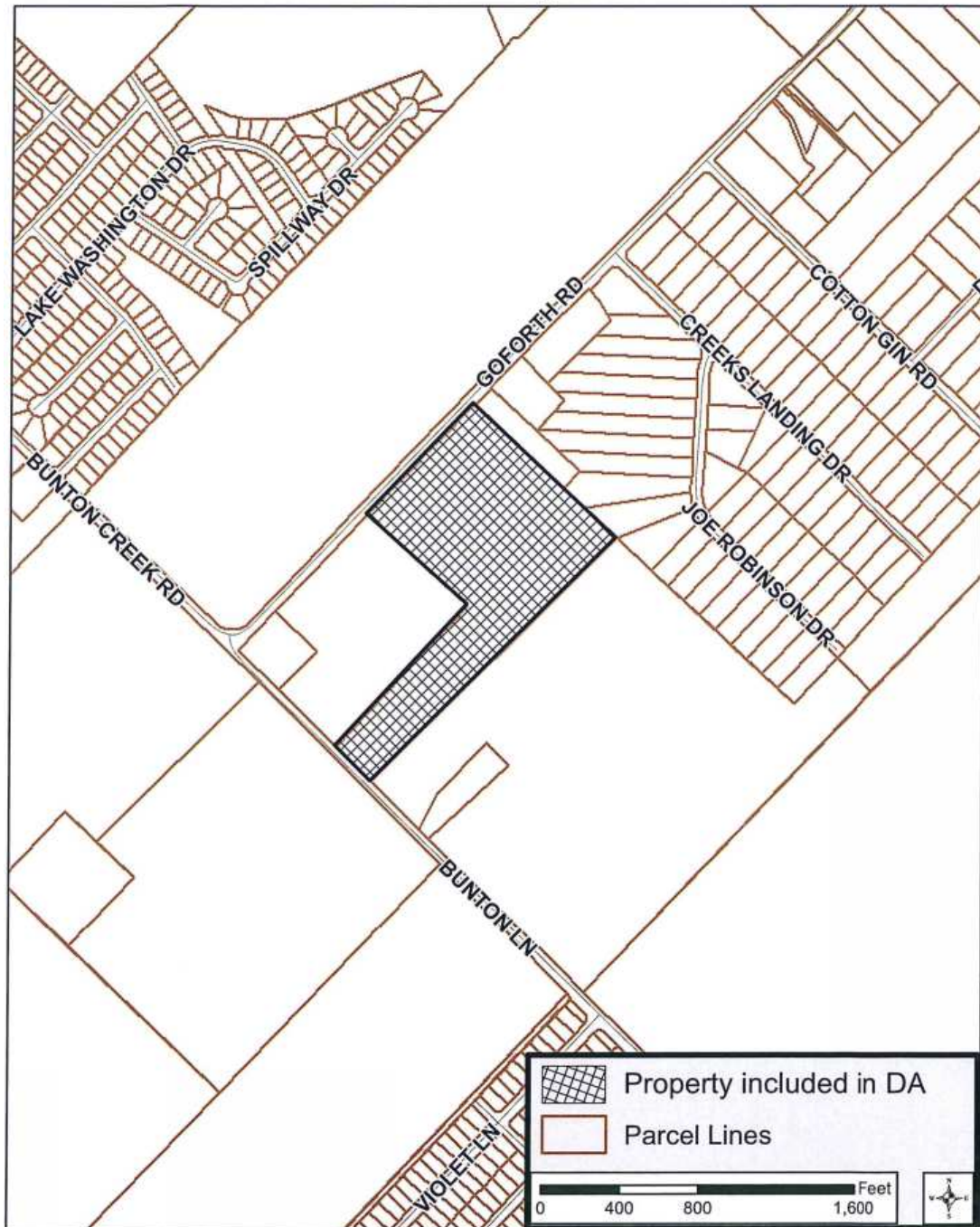


## Exhibit "A"

### SUBJECT PROPERTY DESCRIPTION

+/- 25.2 Acres

Jansen Development Agreement  
HCAD ID: R11514      Approx. 25.2 Acres



## **Exhibit “B”**

### **SERVICES PLAN FOR PROPERTY TO BE ANNEXED INTO THE CITY OF KYLE**

**WHEREAS**, the City of Kyle, Texas (the “City”) intends to institute annexation proceedings for an area of land described more fully hereinafter (referred to herein as the “subject property”);

**WHEREAS**, *Section 43.0672, Loc. Gov't. Code*, requires the City to negotiate and enter into a written agreement with the owner(s) of land in the area for the provision of services in the area;

**WHEREAS**, the subject property is not included in the municipal annexation plan and is exempt from the requirements thereof;

**WHEREAS**, infrastructure provided for herein and that existing are sufficient to service the subject property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City; and

**WHEREAS**, it is found that all statutory requirements have been satisfied and the City is authorized by *Chapter 43, Loc. Gov't. Code*, to annex the subject property into the City;

**NOW, THEREFORE**, the following services will be provided for the subject property on the effective date of annexation:

(1) **General Municipal Services.** Pursuant to the requests of the owner and this Plan, the following services shall be provided immediately from the effective date of the annexation:

A. Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City.

B. Fire protection and Emergency Medical Services as follows:

Fire protection by the present personnel and equipment of the City fire fighting force and the volunteer fire fighting force with the limitations of water available. Radio response for Emergency Medical Services with the present personnel and equipment.

C. Solid waste collection services as follows:

Solid waste collection and services as now being offered to the citizens of the City.

D. Animal control as follows:

Service by present personnel, equipment and facilities or by contract with a third party, as provided within the City.

E. Maintenance of parks and playgrounds within the City.

F. Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities.

G. Maintenance of other City facilities, buildings and service.

H. Land use regulation as follows:

On the effective date of annexation, the zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered; and shall be temporarily zoned agricultural district "A" with the intent to rezone the subject property upon request of the landowner or staff. The Planning & Zoning Commission and the City Council will consider rezoning the subject property at future times in response to requests submitted by the landowner(s) or authorized city staff.

(2) **Scheduled Municipal Services.** Due to the size and vacancy of the subject property, the plans and schedule for the development of the subject property, the following municipal services will be provided on a schedule and at increasing levels of service as provided in this Plan:

A. Water service and maintenance of water facilities as follows:

(i) Inspection of water distribution lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of water service, water service will be provided to the subjects properties, or applicable portions thereof, by the utility holding a water certificate of convenience and necessity ("CCN") for the subject properties, or portions thereof as applicable, or absent a water CCN, by the utility in whose jurisdiction the subject properties, or portions thereof as applicable, are located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of water service. If connected to the City's water utility system, the subject properties' owner shall construct the internal water lines and pay the costs of line extension and construction of such facilities necessary to provide water service to the subject properties as required in City ordinances. Upon acceptance of the water lines within the subject properties and any off-site improvements, water service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City; subject to all the ordinances, regulations and policies of the City in effect from time to time. The system will be accepted and maintained by the City in accordance with its usual acceptance and maintenance policies. New water line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances of the City in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a water well that is in use on the effective date of the

annexation and is in compliance with applicable rules and regulations shall be permitted and such use may continue until the subject properties' owner requests and is able to connect to the City's water utility system.

B. Wastewater service and maintenance of wastewater service as follows:

(i) Inspection of sewer lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of wastewater service, wastewater service will be provided to the subjects properties, or applicable portions thereof, by the utility holding a wastewater CCN for the subject properties, or portions thereof as applicable, or absent a wastewater CCN, by the utility in whose jurisdiction the subject properties, or portions thereof as applicable, are located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of wastewater service. If connected to the City's wastewater utility system, the subject properties' owner shall construct the internal wastewater lines and pay the costs of line extension and construction of facilities necessary to provide wastewater service to the subject properties as required in City ordinances. Upon acceptance of the wastewater lines within the subject properties and any off-site improvements, wastewater service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City, subject to all the ordinances, regulations and policies of the City in effect from time to time. The wastewater system will be accepted and maintained by the City in accordance with its usual policies. Requests for new wastewater line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a septic system that is in use on the effective date of the annexation and is in compliance with all applicable rules and regulations shall be permitted and such use may continue until the subject property owner requests and is able to connect to the City's wastewater utility system.

C. Maintenance of streets and rights-of-way as appropriate as follows:

(i) Provide maintenance services on existing public streets within the subject property and other streets that are hereafter constructed and finally accepted by the City. The maintenance of the streets and roads will be limited as follows:

(A) Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.; and

(B) Routine maintenance as presently performed by the City.

(ii) The City will maintain existing public streets within the subject property, and following installation and acceptance of new roadways by the City as provided by city ordinance, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain such newly constructed public



streets, roadways and rights-of-way within the boundaries of the subject property, as follows:

- (A) As provided in C(i)(A)&(B) above;
  - (B) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;
  - (C) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and
  - (D) Installation and maintenance of street lighting in accordance with established policies of the City;
- (iii) The outer boundaries of the subject property abut existing roadways. The property owner agrees that no improvements are required on such roadways to service the property.

(3) **Capital Improvements.** Construction of the following capital improvements shall be initiated after the effective date of the annexation: None. Upon development of the subject property or redevelopment, the landowner will be responsible for the development costs the same as a developer in a similarly situated area under the ordinances in effect at the time of development or redevelopment. No additional capital improvements are necessary at this time to service the subject property the same as similarly situated properties.

(4) **Term.** If not previously expired, this service plan expires at the end of ten (10) years.

(5) **Property Description.** The legal description of the subject property is as set forth in the Annexation Ordinance and exhibits attached to the Annexation Ordinance to which this Service Plan is attached.

**SCHEDULE FOR VOLUNTARY ANNEXATION  
JANSEN PROPERTY/BATTING CAGES ON GOFORTH ROAD +/- 25.2 ACRES**

DATE	ACTION/EVENT	LEGAL AUTHORITY
April 6, 2021	COUNCIL CONSIDERS ACCEPTANCE OF ANNEXATION PETITION REQUEST FROM LANDOWNER(S) AND INITIATION OF ANNEXATION - AND SETS A PUBLIC HEARING FOR MAY 4, 2021	<a href="#">Loc. Gov't Code, §43.0671</a>
<b>April 21, 2021 **</b>  Publish notice of Public Hearing.  &  Send notice to school district and to each public entity.	<b>NEWSPAPER NOTICE</b> RE: PUBLIC HEARING; (Certified Notice to Railroad - if railroad company's right-of-way is in the area proposed for annexation.)  <b>POST NOTICE OF HEARING ON CITY'S WEBSITE AND MAINTAIN UNTIL HEARINGS COMPLETE.</b>  <b>SCHOOL DISTRICT NOTICE.</b> Notify each school district of possible impact <u>w/in the period prescribed for publishing the notice of the Public Hearing.</u>  <b>PUBLIC ENTITY NOTICES.</b> Notify each public entity that is located in or provides services to the area proposed for annexation. Public Entity includes: a county (Hays), a fire protection service provider, including a volunteer fire department, emergency medical services provider, including a volunteer emergency medical services provider, or special district (MUD, WCID, or other district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution) - of possible impact <u>w/in the period prescribed for publishing the notice of the Public Hearing.</u>	Not less than 10 days nor more than 20 days before public hearing. <a href="#">Loc. Gov't Code, §43.0673</a>  <a href="#">Loc. Gov't Code, §§43.905 &amp; 43.9051</a> ; <u>send notice to school district and to each public entity not less than 10 days nor more than 20 days before the Public Hearing.</u>
<b>May 4, 2021*</b>	<b>PUBLIC HEARING – REGULAR MEETING</b>	The governing body must provide persons interested in the annexation the opportunity to be heard. <a href="#">Loc. Gov't Code, §43.0673</a>
<b>May 4, 2021*</b>	<b>FIRST READING OF ORDINANCE</b> <i>REGULAR MEETING</i>	<a href="#">Loc. Gov't Code, §43.0673</a>
May 18, 2021 Or at a special called meeting after the First Reading; Or within 90 days of First Reading.	<b>SECOND &amp; FINAL READING OF ORDINANCE</b> <i>REGULAR MEETING</i>	Second reading of annexation Ordinance – City Charter, Section 4.06(c)
<b>Within 30 days of Second Reading</b>	<b>CITY SENDS COPY OF MAP</b> showing boundary changes to County Voter Registrar in a format that is compatible with mapping format used by registrar	<a href="#">Elec. Code §42.0615</a>
Within 60 days of Second Reading	<b>CITY PROVIDES CERTIFIED COPY OF ORDINANCE AND MAPS TO:</b>  1. County Clerk 2. County Appraisal District 3. County Tax Assessor Collector 4. 911 Addressing 5. Sheriff's Office 6. City Department Heads 7. State Comptroller 8. Franchise Holders 9. ESD - <b>if</b> annexed area located in district and city intends to remove the area from the district and be the sole provider of emergency services; See <a href="#">Health and Safety Code, Section 775.022</a>	<u>ESD Notice:</u> Notice must be sent to the secretary of the ESD board by certified mail, return receipt requested, as applicable.

\*Dates in BOLD are MANDATORY dates to follow. Please advise of schedule deviation.

\*\*Newspaper notice to paper by 5 p.m. one week prior to publication

STATE OF TEXAS §  
COUNTY OF HAYS §

**DEVELOPMENT AGREEMENT  
UNDER SECTION 43.016, TEXAS LOCAL GOVERNMENT CODE**

This Development Agreement under Section 43.016, Texas Local Government Code is entered between the City of Kyle, Texas (the "City") and the undersigned property owner(s) (the "Owner") (the "Agreement"). The term Owner shall include all owners of the Property. The City and the Owner are collectively referred to as the Parties.

**WHEREAS**, the Owner owns a parcel of real property in Hays County, Texas, which is more particularly described in the attached Exhibit "A" (the "Property") that is appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber land under Chapter 23, Tax Code;

**WHEREAS**, the City initiated the process to annex all or portions of Owner's Property;

**WHEREAS**, under Section 43.016, Texas Local Government Code, the City is required to offer to make a development agreement with the Owner that will provide for the continuation of the extraterritorial status of the area and authorize the enforcement of all regulations and planning authority of the City that do not interfere with the use of the area for agriculture, wildlife management, or timber;

**WHEREAS**, Section 43.016 provides that the restriction or limitation on the City's annexation of all or part of the Property under this Agreement is void if the Owner files any type of subdivision plat or related development document for the Property, regardless of how the area is appraised for ad valorem tax purposes;

**WHEREAS**, the Owner desires to have the Property remain in the City's extraterritorial jurisdiction, in consideration for which the Owner agrees to enter into this Agreement; and

**WHEREAS**, this Agreement is entered into pursuant to Sections 43.016 and 212.172, Texas Local Government Code;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

**Section 1. Extraterritorial Jurisdiction Status of Property.** The City agrees that the Property shall remain in the City's extraterritorial jurisdiction (the "ETJ") and the City shall discontinue the pending annexation proceedings as to the Property. The City further agrees that it shall not annex the Property during the term of this Agreement, subject to the terms and conditions of this Agreement.

**Section 2. Owner's Obligations.** In consideration of the City's agreement not to annex the Property and as a condition of the Property remaining in the City's ETJ, the Owner covenants and agrees to the following:

- (a) The Owner shall use the Property only for agriculture, wildlife management, and/or timber land use, as defined by Chapter 23 of the Texas Tax Code, that are existing on the Effective Date of this Agreement, except for single-family residential use existing on the Effective Date or as otherwise provided by this Agreement.
- (b) The Owner shall not subdivide the Property, or file for approval of a subdivision plat, site plan, or related development document for the Property with Hays County or the City until the Property is annexed into and zoned by the City. A "development document" is an application for a permit or approval that must be filed with a governmental entity that has jurisdiction over the Property in order to develop the Property.
- (c) The Owner shall not construct, or allow to be constructed, any building or structure on the Property that requires a building permit until the Property is annexed into and zoned by the City. Accessory structures authorized under the Agricultural District A (including but not limited to barns, sheds, fences, and corrals) and buildings or structures that are related to and necessary for the use of the Property as authorized under Section 2(a) (excluding new single family residences) are exceptions to this Section 2(c), provided that the Owner obtains required building permits prior to construction.
- (d) The City's Agricultural District A zoning regulations shall apply to the Property, and in addition to the uses authorized under Agricultural District A, the Property may also be used for wildlife management or timber land, as defined by Chapter 23 of the Texas Tax Code, if such uses existed on the Effective Date of this Agreement. Fences shall not be subject to setback requirements. The City's building codes and regulations shall apply to the Property except as provided otherwise in this Section 2(d). Any buildings or structures constructed on the Property after the Effective Date shall be constructed in compliance with the regulations for the Agricultural District A and applicable building codes and regulations, provided that building permits and related inspections shall only be required for additions to an existing single family residence that are authorized to be located on the Property under this Agreement.

**Section 3. Development and Annexation of Property.**

- (a) The following occurrences shall be deemed the Owner's petition for voluntary annexation of the Property, and the Property may subsequently be annexed at the discretion of the City Council:
  - (1) The filing of any application for plat approval, site plan approval, building



permit or related development document for the Property, or the commencement of development of the Property, except as specifically authorized in Section 2.

- (2) The Owner's failure to comply with Sections 2(a), 2(b), 2(c), or 2(d).
  - (3) The Property is no longer appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber land under Chapter 23, Texas Tax Code, or successor statute, unless the Property is no longer appraised for such purposes because the Legislature has abolished agricultural, wildlife management, or timberland exemptions, provided that the Owner is in compliance with Section 2.
  - (4) The filing for voluntary annexation of the Property into the City by the Owner.
  - (5) The expiration of this Agreement.
- (b) The Owner agrees that annexation initiated due to an occurrence under Section 3(a) is an annexation by request consent of the Owner and the Owner hereby consents to such annexation as though a petition for such annexation had been tendered to the City by the Owner. Upon annexation, municipal services shall be provided to the Property in accordance with the adopted municipal services plan.

**Section 4. Application of City Regulations.** Pursuant to Section 43.016(b)(1)(B), Texas Local Government Code, the Property is subject to all of the City's regulations, as they are amended from time to time, and planning authority that do not materially interfere with the use of the Property for agriculture, wildlife management, or timber, in the same manner the regulations are enforced within the City's boundaries and the Owner acknowledges and agrees that the City is hereby authorized to enforce said regulations and planning authority except as specifically provided otherwise herein.

**Section 5. Term.** The term of this Agreement (the "Term") is fifteen (15) years from the Effective Date. On the date not more than 180 days before the expiration of this Agreement, until the expiration of this Agreement, and at the request of the Owner and/or the City, and upon written consent of both parties, this Agreement may be extended for an additional term of up to fifteen (15) years from the date of expiration of the previous Agreement. Two such extensions may be enacted beyond the original term of this Agreement.

**Section 6. Vested Rights Claims.** This Agreement is not a permit for the purposes of Chapter 245, Texas Local Government Code. Any claims regarding the City's ordinances and regulations that govern a project on the Property under Chapter 245 shall be determined as if the Property were located within the City limits and subject to Agricultural District A at the time that the application, plan for development, or plat application (except for those allowed under Section 2) was filed with a regulatory agency. The Owner further waives any and all claims that the Owner may have under Section 43.002(a) that would otherwise exist by virtue of any application, plan, plat or construction the Owner may file or initiate with respect to the Property

following the expiration of this Agreement prior to annexation of the Property by the City; provided that the City initiates annexation proceedings within one year following the expiration of this Agreement. Notwithstanding the foregoing, the Owner and City agree and acknowledge that any vested rights and claims pertaining to the use and development of the Property as authorized by Section 2 is not modified by this Agreement.

**Section 7. Authorization.**

- (a) All parties and officers signing this Agreement warrant to be duly authorized to execute this Agreement.
- (b) The Owner acknowledges that each and every owner of the Property or an authorized representative has signed this Agreement and that the Agreement is binding on all owners of the Property.

**Section 8. Notice.** Any person who sells or conveys any portion of the Property shall, prior to such sale or conveyance, give written notice of this Agreement to the prospective purchaser or grantee, and shall give written notice of the sale or conveyance to the City. Furthermore, the Owner and the Owner's heirs, successor, and assigns shall give the City written notice within 14 days of any change in the agricultural exemption status of the Property. A copy of the notices required by this Section shall be sent by personal delivery or certified mail, return receipt requested, to the City at the following address:

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

Notices required to be sent to the Owner shall be sent by personal delivery or certified mail, return receipt requested, to the Owner at the following address:

Peggy Lehman Jansen  
PO Box 1778  
Kyle, Texas 78640

**Section 9. Covenant Running with the Land.** This Agreement shall run with the Property and is binding on future Owners of the Property, and a copy of this Agreement shall be recorded in the Official Public Records of Hays County, Texas. The Owner and the City acknowledge and agree that this Agreement is binding upon the City and the Owner and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement. Conveyance of the Property, or portions thereof, to subsequent owners does not trigger a request for voluntary annexation unless Section 2 is also violated.

**Section 10. Severability.** If any provision of this Agreement is held by a court of competent and final 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.

**Section 11. Amendment and Modifications.** This Agreement may be amended or modified only in a written instrument that is executed by both the City and the Owner after it has been authorized by the City Council.

**Section 12. Gender, Number and Headings.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

**Section 13. Governmental Immunity; Defenses.** Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either the City or Owner, including governmental immunity, nor to create any legal rights or claims on behalf of any third party.

**Section 14. Enforcement; Waiver.** This Agreement may be enforced by any Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

**Section 15. Effect of Future Laws.** No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement or the City's ability to annex the properties covered herein pursuant to the terms of this Agreement.

**Section 16. Venue and Applicable Law.** Venue for this Agreement shall be in Hays County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas.

**Section 17. Counterparts.** This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

**Section 18. Effective Date.** This Agreement shall be in full force and effect as of the date of approval of this Agreement by the City Council, from and after its execution by the Parties.

**Section 19. Sections to Survive Termination.** This Agreement shall survive its termination to the extent necessary for the implementation of the provisions related to annexation of the Property into the City.

**Section 20. Cooperation of Parties; Intent.** The Parties shall reasonably cooperate in good faith to give effect to the provisions and intent of this Agreement. The intent of this Agreement is that the Property remain in the City's ETJ until the Property is developed or used for other than for agriculture, wildlife management, or timberland uses, as further defined in Section 2, and that development of the Property or changes in use of the Property, as defined in Section 3, will constitute the Owner's request to be annexed into the city so that the Property will be

annexed into the City.

Entered into this 7 day of August, 2019.

**Owner (s)**

Peggy Jansen

Printed Name: Peggy Jansen

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

**City of Kyle, Texas**

Travis Mitchell  
Travis Mitchell, Mayor

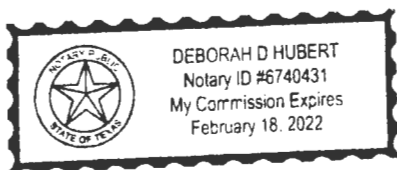


STATE OF TEXAS §  
COUNTY OF HAYS §

BEFORE ME the undersigned authority on this day personally appeared Peggy Tansen, Owner of the Property, and acknowledged that s/he is fully authorized to execute the foregoing document and that s/he executed such document for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 7th day of August, 2019.

Deborah D Hubert  
Notary Public - State of Texas



STATE OF TEXAS §  
COUNTY OF \_\_\_\_\_ §

BEFORE ME the undersigned authority on this day personally appeared \_\_\_\_\_, Owner of the Property, and acknowledged that s/he is fully authorized to execute the foregoing document and that s/he executed such document for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

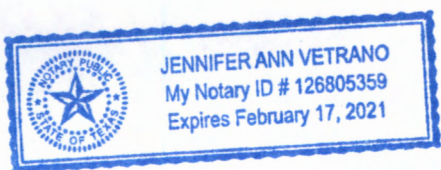
\_\_\_\_\_  
Notary Public - State of Texas

STATE OF TEXAS                   §  
COUNTY OF HAYS               §

**BEFORE ME** the undersigned authority on this day personally appeared Travis Mitchell, Mayor, City of Kyle, Texas and acknowledged that he is fully authorized to execute the foregoing document and that he executed such document for the purposes and consideration therein expressed and in the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** on this the 20<sup>th</sup> day of August, 2019.

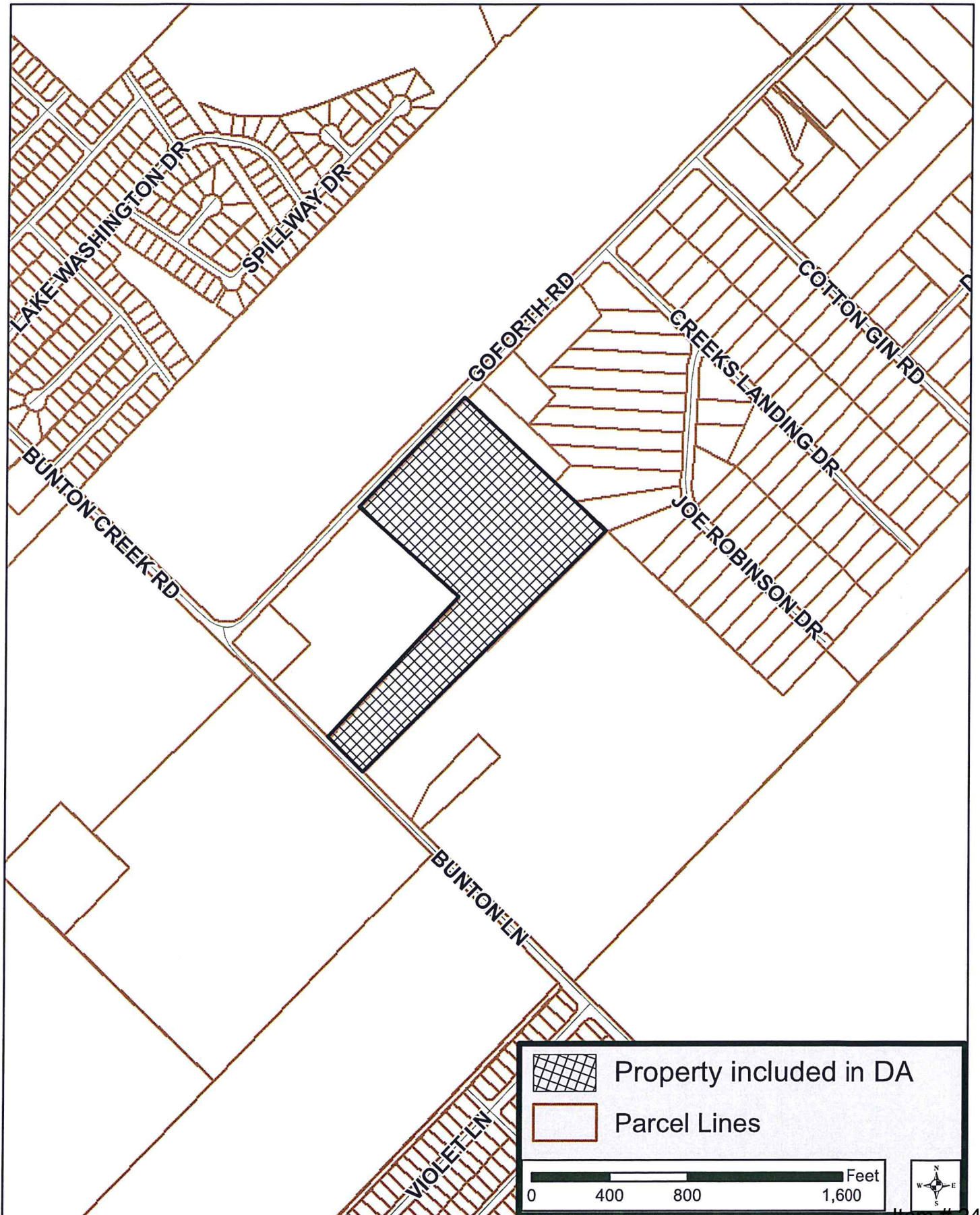
Jennifer A. Vetrano  
Notary Public - State of Texas



**EXHIBIT “A”**  
**Property Location Map**

# Exhibit A

Jansen Development Agreement  
HCAD ID: R11514      Approx. 25.2 Acres





**THE STATE OF TEXAS**

**COUNTY OF HAYS**

I hereby certify that this instrument was FILED on the  
date and the time stamped hereon by me and was duly  
RECORDED in the Records of Hays County, Texas.

**19031781 AGREEMENT**

09/09/2019 03:07:57 PM Total Fees: \$62.00

 Elaine H. Cardenas

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

**Exhibit "C"**

**MUNICIPAL SERVICES PLAN  
FOR PROPERTY TO BE  
ANNEXED TO THE CITY OF KYLE**

**WHEREAS**, the City of Kyle, Texas (the "City") intends to institute annexation proceedings for a tract of land described more fully hereinafter (referred to herein as the "Property");

**WHEREAS**, *Section 43.056, Loc. Gov't. Code*, requires a municipal service plan be adopted with the annexation ordinance;

**WHEREAS**, the Property is not included in the municipal annexation plan and is exempt from the requirements thereof;

**WHEREAS**, infrastructure provided for herein and that are existing are sufficient to service the Property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements by the City are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City;

**WHEREAS**, it is found that all statutory requirements have been satisfied and the City is authorized by *Chapt. 43, Loc. Gov't. Code*, to annex the Property into the City; and

**WHEREAS**, the Property will benefit from the City's development restrictions and zoning requirements, as well as other municipal services provided by the City, which are good and valuable consideration for this service plan

**NOW, THEREFORE**, the City agrees to provide the following municipal services for the Property on the effective date of annexation:

(1) **General Municipal Services.** Pursuant to this Plan, the following municipal services shall be provided immediately from the effective date of the annexation:

A. Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City.

B. Fire protection and Emergency Medical Services as follows:

Fire protection by the present personnel and equipment of the City volunteer fire fighting force with the limitations of water available. Radio response for Emergency Medical Services with the personnel serving the area and equipment.

C. Solid waste collection services as follows:

Solid waste collection and services as now being offered to the citizens of the City.

D. Animal control as follows:

Service by present personnel, equipment and facilities or by contract with a third party, as provided within the City.

E. Maintenance of parks and playgrounds within the City.

F. Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities.

G. Maintenance of other City facilities, buildings and service.

H. Land use regulation as follows:

On the effective date of annexation, the zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered; and shall be temporarily zoned Agricultural District "A" with the intent to rezone the Property upon request of the landowner(s) or city staff. The Planning & Zoning Commission and the City Council will consider rezoning the Property at future times in response to requests submitted by the landowner(s) or requested by city staff.

(2) **Scheduled Municipal Services.** Depending upon the Property owner's plans and schedule for the development of the Property or redevelopment of the Property, the following municipal services will be provided on a schedule and at increasing levels of service as provided in this Plan:

A. Water service and maintenance of water facilities as follows:

(i) Inspection of water distribution lines or wells as provided by statutes of the State of Texas.

(ii) In accordance with the rules and regulations for water service extension, water service will be provided by the utility holding a water certificate of convenience and necessity ("CCN") for the Property, or absent a utility holding a CCN, in whose jurisdiction the Property is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of water service. If connected to the City's system, the Property owner(s) shall construct the internal water lines and pay the costs of water line extension and necessary facilities to service the Property as required in City ordinances at the time of the request. The Property owner(s) agree the Property in its current state has adequate water service and no capital improvements by the City are required. The Property owner(s) agree as the Property develops and water services are sought from the utility holding the CCN for the Property that the City's ordinances, policies, or agreements between the City and the Property owner(s) shall govern the extension of water services to the Property and the City shall have no obligation to service in another CCN.

B. Wastewater service and maintenance of wastewater service as follows:



(i) Inspection of sewer lines or septic systems as provided by statutes of the State of Texas.

(ii) The Property owner(s) shall construct the internal and off-site sewer lines and facilities (the "Sewer System") and pay the costs of line extension and facilities as required in City ordinances. Upon acceptance of the Sewer System, sewer service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City, subject to all the ordinances, regulations and policies of the City in effect from time to time. The Sewer System will be accepted and maintained by the City in accordance with its usual policies. Requests for new sewer extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The City ordinances, policies, and agreements between the City and the Property owner(s) in effect at the time a request for additional service is submitted shall govern the costs and request for service.

C. Maintenance of public streets and rights-of-way as appropriate as follows:

(i) Provide maintenance services on public streets within the Property that are dedicated and finally accepted by the City. The maintenance of such public streets and roads will be limited as follows:

(A) Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.;

(B) Routine maintenance as presently performed by the City; and

(C) The Property owner(s) have specifically agreed that maintenance services will be of little benefit and will not be required or needed on the Property, prior to the Property owner(s), its grantees, successors and assigns completing the construction and dedication of streets to the City in compliance with City subdivision regulations.

(ii) Following installation of the roadways, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain the public streets, roadways and rights-of-way within the boundaries of the Property if dedicated and accepted, as follows:

(A) As provided in C(i)(A)&(B) above;

(B) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;



(C) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and

(D) Installation and maintenance of street lighting in accordance with established policies of the City;

(iii) The outer boundaries of the Property abut existing roadways. The Property owner(s) agree that no City improvements are required on such roadways to service the Property. If the owner(s) develop the Property so as to impact abutting roadways pursuant to the City's subdivision regulation, the owner(s) agree to comply with such ordinances.

(3) **Special Services and Actions.** Although the City reserves all its governmental authority, powers and discretion, if the City shall unreasonably refuse to grant the permits and approvals above provided in (2)(A), (B) & (C), then in that event the owner(s) may request and obtain disannexation of the Property pursuant to this service plan; provided that if the City shall, in the exercise of its discretion and authority, approve the permits and events set forth in (2)(A), (B) & (C) above, the Property shall be and remain within the corporate limits of the City.

(4) **Capital Improvements.** Construction of the following capital improvements shall be initiated after the effective date of the annexation: None. Upon development of the Property or redevelopment, the landowner(s) will be responsible for the development costs the same as a developer or landowner in a similarly situated area under the ordinances in effect at the time of development or redevelopment. No additional capital improvements are necessary at this time to service the Property. The Property owner(s) for itself, its grantees, successors, and assigns agree that no capital improvements are required to service the Property the same as similarly situated properties already within the City.

(5) **Term.** If not previously expired, this service plan expires at the end of ten (10) years.

(6) **Property Description.** The legal description and map of the Property are as set forth in Exhibits "A" and "B" that are attached to the Ordinance to which this negotiated municipal service plan is attached as Exhibit "C".

**WARRANTY DEED WITH VENDOR'S LIEN**

**Date:** March 9, 2021  
**Grantor:** PEGGY LEHMAN JANSEN  
**Grantor's Mailing Address:** 1000 Lehman Road  
Kyle, Texas 78640  
**Grantee:** CTX PARK, LLC, a Texas limited liability company  
**Grantee's Mailing Address:** 740 Willow Ridge Dr.  
San Marcos, TX 78666

**Consideration:**

Cash and a note of even date executed by Grantee and payable to the order of BRADLEY HULLUM, the proceeds of which shall be used, in whole or in part, to acquire the Property identified below. The note is secured by a first and superior vendor's lien and superior title retained in this deed in favor of BRADLEY HULLUM and by a first-lien deed of trust of even date from Grantee to CHI REECE, trustee.

**Property (including any improvements):**

1.105 acres out of the John Stewart League, Abstract No. 14 in Hays County, Texas: Same being out of that certain 38.9 acre tract conveyed to Peggy Lehman Jansen in the warranty deed recorded in instrument No. 16043789, Official Public records of Hays County, Texas, and being more particularly described by Metes and Bounds in Exhibit "A" attached hereto and made a part hereof.

**Reservations from Conveyance:**

None

**Exceptions to Conveyance and Warranty:**

Liens described as part of the Consideration and any other liens described in this deed as being either assumed or subject to which title is taken; validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for 2021, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

The vendor's lien against and superior title to the Property are retained until each note described is fully paid according to its terms, at which time this deed will become absolute.

Bradley Hullum, at Grantee's request, has paid in cash to Grantor that portion of the purchase price of the Property that is evidenced by the note. The first and superior vendor's lien against and superior title to the Property are retained for the benefit of Bradley Hullum and are transferred to Bradley Hullum without recourse against Grantor.

When the context requires, singular nouns and pronouns include the plural.

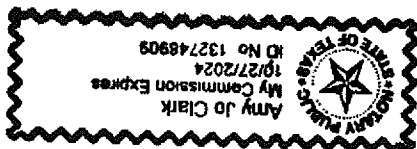
  
 PEGGY LEHMAN JANSEN


STATE OF TEXAS

§  
§  
§

COUNTY OF HAYS

This instrument was acknowledged before me on March 9, 2021, by  
 PEGGY LEHMAN JANSEN.



  
 Notary Public, State of Texas  
 My commission expires: 10/27/2024





**EXHIBIT "A"****LEGAL DESCRIPTION**

**BEING 1.105 ACRES OF LAND, MORE OR LESS, OUT OF THE JOHN STEWART LEAGUE, ABSTRACT No. 14 IN HAYS COUNTY, TEXAS; SAME BEING OUT OF THAT CERTAIN 38.9 ACRE TRACT CONVEYED TO PEGGY LEHMAN JANSEN IN THE WARRANTY DEED RECORDED IN INSTRUMENT No. 16043789 OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 1.105 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**COMMENCING** at a 1/2" iron rebar with cap found in the southeasterly right of way of Goforth Road at the west corner of that certain 13.731 acre tract conveyed to Central Texas Sports Portfolio, L.P. in Special Warranty Deed recorded in Instrument No. 19018791, Official Public Records of said County; said 1/2" iron rebar found being the north corner of that certain 2.07 acre tract conveyed to Pedernales Electric Cooperative, Inc. in General Warranty Deed recorded in Instrument No. 9915016, Official Public Records of said County and from which the calculated intersection of the southeasterly right of way line of Goforth Road and the northeasterly right of way line of Barton Lane, said calculated point being the west corner of said Pedernales tract bears: S 44° 43' 00" W a distance of 300.00 feet;

**THENCE** with the southeasterly right of way line of Goforth Road, N 44° 43' 00" E (Bearing Basis) a distance of 675.00 feet to a 1/2" iron rebar with cap found at the north corner of said Central Texas tract, and from which a 1/2" iron rebar found at the north corner of the aforementioned Jansen tract bears: N 44° 43' 00" E (Bearing Basis) a distance of 780.95 feet, said 1/2" rebar with cap found being the west corner of said 1.105 acre tract and the **PLACE OF BEGINNING** hereof;

**THENCE** along the southeast line of said Goforth Road and the northwest line of said Jansen tract, N 44° 43' 00" E a distance of 74.95 feet to a 1/2" iron rebar with B&G Surveying cap set at the north corner of said 1.105 acre tract for the north corner hereof;

**THENCE** over and across said Jansen tract the following four courses:

1. S 45° 17' 00" E a distance of 48.71 feet to a 1/2" iron rebar with B&G Surveying cap set for an angle point hereof;
2. S 72° 52' 52" E a distance of 167.41 feet to a 1/2" iron rebar with B&G Surveying cap set for an angle point hereof;
3. S 45° 17' 00" E a distance of 181.16 feet to a 1/2" iron rebar with B&G Surveying cap set at the east corner of said 1.105 acre tract, for the east corner hereof;
4. S 44° 43' 00" W a distance of 152.56 feet to a 1/2" iron rebar with B&G Surveying cap set in the northeast line of said Central Texas tract at the south corner of said 1.105 acre tract, for the south corner hereof, from which a 1/2" iron rebar with cap found at the east corner of said Central Texas tract bears: S 45° 17' 00" E a distance of 124.70 feet;

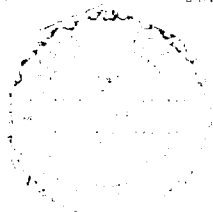
**THENCE** with the northeast line of said Central Texas tract and the southwest line of said 1.105 acre tract, N 45° 17' 00" W a distance of 378.13 feet to the **PLACE OF BEGINNING** hereof, containing a calculated map area of 1.105 acres of land, more or less.

**THIS DESCRIPTION TO BE USED WITH THE ATTACHED SURVEY SKETCH ONLY.**

  
Michael J. Lancaster R.E.L.S. 5529

Date

B & G Surveying, LLC  
1404 W. North Loop Blvd.  
Austin, Texas 78756  
Phone (512) 458-6359  
www.bngsurvey.com  
Firm Reg. No. 100303-00



**THE STATE OF TEXAS  
COUNTY OF HAYS**

I hereby certify that this instrument was FILED on the  
date and the time stamped hereon by me and was duly  
RECORDED in the Records of Hays County, Texas.

21011388 DEED  
03/09/2021 03:02:58 PM Total Fees: \$38.00

Elaine H. Cárdenas, MBA, PhD, County Clerk  
Hays County, Texas



# LANDOWNER AUTHORIZATION AND AFFIDAVIT OF OWNERSHIP

## SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: John Stewart League, ABS 14  
# of lots (if subdivided): \_\_\_\_\_ # of acres: 1.105  
Site APN/Property ID #(s): \_\_\_\_\_ Portion of R11514  
Location: Goforth Rd County: Hays  
Development Name: CTX Park

## OWNER

Company/Applicant Name: CTX Park, LLC  
Authorized Company Representative (if company is owner): Adam Couch  
Type of Company and State of Formation: LLC  
Title of Authorized Company Representative (if company is owner):  
Applicant Address: 740 Willow Ridge Drive, San Marcos, TX 78666  
Applicant Fax:  
Applicant Phone: 512-913-0579  
Applicant/Authorized Company Representative Email: accouch21@yahoo.com

## APPLICANT REPRESENTATIVE

Check one of the following:

\_\_\_\_. I will represent the application myself, or

X I hereby designate Andrew Dodson, PE (name of project representative) to act in the capacity as the agent for filing, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

I hereby certify that the above-named owner is the rightful owner of the Property. I am either the owner of the property identified above or a partner/manager/officer/director/member of the company who is authorized to act on behalf of the company. I further certify that the information provided herein and in the application for the development is true and correct. By signing below, I agree that the City of Kyle (the "City") is authorized and permitted to provide information contained within this application, including the email address, to the public.

Owner's Signature: \_\_\_\_\_ Date: 3-12-21

State of Texas §

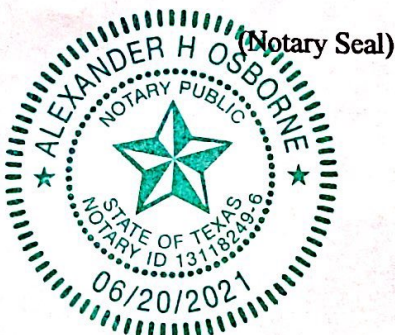
County of Hays §

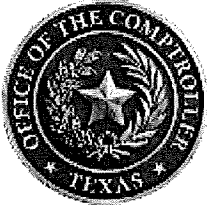
This instrument was acknowledged before me on (date) by (name of authorized company representative) who is a(n) (member, manager, authorized officer, etc.) of (name of company), a (Texas) (limited liability company, corporation, partnership, etc.).

SUBSCRIBED AND SWORN TO before me, this  
the 12<sup>th</sup> day of March, 2021

Notary Public's Signature

My Commission Expires 06-20-2021





## Franchise Tax Account Status

As of : 03/31/2021 14:38:21

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

CTX PARK, LLC	
<b>Texas Taxpayer Number</b>	32065090550
<b>Mailing Address</b>	2709 LESLIE LN SAN MARCOS, TX 78666-5185
<b>ⓘ Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	TX
<b>Effective SOS Registration Date</b>	10/11/2017
<b>Texas SOS File Number</b>	0802834309
<b>Registered Agent Name</b>	#1 STARZ OVER TEXAS, INC.
<b>Registered Office Street Address</b>	2709 LESLIE LN SAN MARCOS, TX 78666



# Texas Franchise Tax No Tax Due Report

■ Tcode 13255 ANNUAL

The law requires No Tax Due Reports originally due on or after Jan. 1, 2016 to be filed electronically. Filing this paper report means you are requesting, and we are granting, a waiver from the electronic reporting requirement for this report year ONLY.

■ Taxpayer number 32065090550	■ Report year 2020	Due date 07/15/2020
----------------------------------	-----------------------	------------------------

Taxpayer name CTX PARK LLC				Secretary of State file number or Comptroller file number 0802834309	
Mailing address 2709 LESLIE LN					
City SAN MARCOS	State TX	Country UNITED STATES	ZIP code plus 4 786665185	Check box if the address has changed <input type="checkbox"/>	
Check box if this is a combined report <input type="checkbox"/>				NAICS code 531190	
Check box if Total Revenue is adjusted for Tiered Partnership Election, see instructions. (Note: Upper tiered partnerships do not qualify to use this form.) <input type="checkbox"/>			Check box to request a Certificate of Account Status <input type="checkbox"/>		
Is this entity a corporation, limited liability company, professional association, limited partnership or financial institution? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					

If any of the statements below are true, you qualify to file this **No Tax Due Report** (Check all boxes that apply.):

1. This entity is a passive entity as defined in Texas Tax Code Sec. 171.0003. (See instructions.) (Passive income does NOT include rent.) 1. ☐
2. This entity's annualized total revenue is below the no tax due threshold. 2. ☒
3. This entity has zero Texas Gross Receipts. 3. ☒
4. This entity is a Real Estate Investment Trust (REIT) that meets the qualifications specified in Texas Tax Code Sec. 171.0002(c)(4). 4. ☐
5. This entity is a new veteran-owned business as defined in Texas Tax Code Sec. 171.0005. (See instructions.) (Must have formed after Jan. 1, 2016 and must be pre-qualified.) 5. ☐

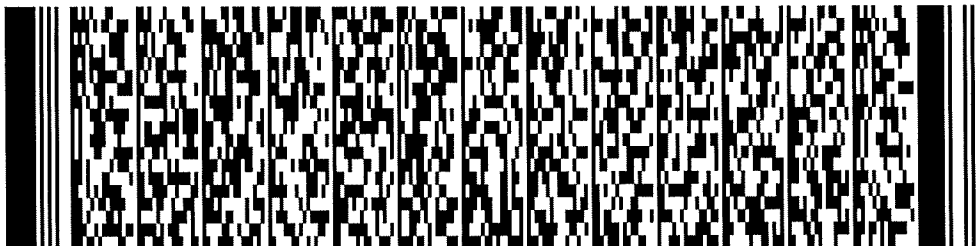
6a. Accounting year begin date	m m d d y y 010119	6b. Accounting year end date	m m d d y y 123119
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7. TOTAL REVENUE (Whole dollars only) 7.

Print or type name ADAM COUCH		Area code and phone number (512) 913-0579
I declare that the information in this document and any attachments is true and correct to the best of my knowledge and belief.		Mail original to: Texas Comptroller of Public Accounts P.O. Box 149348 Austin, TX 78714-9348
sign here ▶	Date	

Instructions for each report year are online at [www.comptroller.texas.gov/taxes/franchise/forms/](http://www.comptroller.texas.gov/taxes/franchise/forms/). If you have any questions, call 1-800-252-1381.

## Texas Comptroller Official Use Only



VE/DE	<input type="checkbox"/>
PM Date	<input type="text"/>





# CITY OF KYLE, TEXAS

## Reconsider Direction to P&Z

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Reconsider Direction to the Planning & Zoning Commission to Revise the CBD 1 & CBD 2 zoning codes. ~ *Travis Mitchell, Mayor*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Board & Commission Staffing Policy

Meeting Date: 4/6/2021

Date time: 7:00 PM

**Subject/Recommendation:** Discussion and possible action regarding Board & Commission Staffing Policy. ~ *Dex Ellison, Council Member*

**Other Information:** 3. City staff will evaluate applications from those citizens who meet the city charter's basic criteria for membership in a first-round evaluation. Staff may determine that the size and/or qualifications of those in the applicant pool are insufficient and reopen the application or otherwise extend the deadline to allow time for more citizens to apply.

4. Based on the first round evaluation of the applications, applicants that are determined to best meet the requirements of the Board or Commission position, will be selected to participate in a second-round, personal interview conducted by employed, elected, and appointed city staff, to include: the city manager or his/her designee; and the mayor and/or an elected council member, or his/her/their designee; and the chairperson of the Board/Commission being staffed; and the department head that supports the Board/Commission being staffed.

Below are the only qualifications stated in the city charter...

Sec. 2-62. - Qualifications. [SHARE LINK TO SECTIONPRINT](#)  
[SECTIONDOWNLOAD \(DOCX\)](#) OF [SECTIONSEMAIL](#) SECTION

An individual shall not be eligible for appointment to a committee unless the individual meets the following qualifications on the day prior to the date of appointment: (1) be at least 18 years of age; (2) be a citizen of the United States; (3) be a qualified voter of the city; (4) have been a resident of the State of Texas and the city for at least 12 consecutive months; and (5) not be delinquent on any indebtedness to the city. An appointee may not be a city employee. If any appointee ceases to possess any of these qualifications, including continuous residency within the city during the term of appointment, such position to which the appointee was appointed shall, upon such fact being determined by the council, immediately become vacant; provided that if the residence of an appointee is dis-annexed, the appointee shall serve the remainder of the appointee's term on the committee to which the appointee was appointed.

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

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2017\_0815\_board\_and\_commission\_staffing\_policy\_update\_-\_final





# CITY OF KYLE

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## Policy on Soliciting Memberships for City Boards and Commissions

The process for selecting members to fill existing and future board and commission vacancies will comply with the following policy:

1. An official job description for the vacant position on the Board or Commission will be created and posted to the city's website under the volunteer applications page. The city may take any additional measures it determines necessary to ensure there is sufficient awareness of an appointment opportunity.
2. An application for the vacant position will be posted to the city's website on the volunteer applications page. The application must be completed by any person wishing to be considered for the position prior to 5:00 PM on the date identified in the posting as the final day for application submission.
3. City staff will evaluate applications from those citizens who meet the city charter's basic criteria for membership in a first-round evaluation. Staff may determine that the size and/or qualifications of those in the applicant pool are insufficient and reopen the application or otherwise extend the deadline to allow time for more citizens to apply.
4. Based on the first round evaluation of the applications, applicants that are determined to best meet the requirements of the Board or Commission position, will be selected to participate in a second-round, personal interview conducted by employed, elected, and appointed city staff, to include: the city manager or his/her designee; and the mayor and/or an elected council member, or his/her/their designee; and the chairperson of the Board/Commission being staffed; and the department head that supports the Board/Commission being staffed. Other personnel may attend as required. The personal interview will serve as an opportunity for both parties to familiarize themselves with the position(s) being filled, and the prospective candidate(s).
5. The interview panel may include representatives from more than one board in the event of more than one board/commission having simultaneous vacancies so as to reduce multiple interviews of the same candidate.
6. In those instances that multiple interviewees exhibit the virtues and qualifications necessary to fill a single position, those candidate(s) not chosen to fill the solicited Board/Commission vacancy, can and should be recommended to fill other city Board and Commission vacancies for which they are additionally qualified. With agreement from both the applicant and the city review panel, the City Council can alternatively approve the recommendation from the review panel for an

alternative appointment to a different Board or Commission vacancy, pursuant to the term length of that Board or Commission.

7. The final candidate(s) will be selected from the interview process and will be presented to the Mayor and City Council for confirmation at a regular city council meeting. The final candidate must be present at the meeting and will have an opportunity to make a statement regarding their candidacy and to answer any questions that the city council may ask.

### Reappointments

1. The chair of the board or commission may recommend a member with an expiring term for reappointment subject to confirmation by the Council. If the chair does not recommend reappointment, the member may reapply via the application and interview process defined herein.
2. If the member with an expiring term seeking reappointment is the Chair of the board or commission, the mayor may recommend reappointment, subject to confirmation by the Council. If the mayor does not recommend reappointment of the person seated as the chair, the member may reapply via the application and interview process defined herein.
3. If there is a vacancy for an unexpired term of one year or more, Council may seat a person seeking reappointment to an unexpired vacant seat.

*Consideration and selection of any appointment to a City of Kyle board or commission shall not discriminate based on actual or perceived race, color, national or ethnic origin, age, religion, disability, gender identity, sexual orientation, veteran status, or any other characteristic protected under applicable federal or state law.*



# CITY OF KYLE, TEXAS

## Balcones Trail Workforce Housing Development Agreement

**Meeting Date: 4/6/2021**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Approval of Balcones Trail Workforce Housing Payment and Development Agreement.  
~ *James R. Earp, Assistant City Manager*

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

☐ Payment Agreement\_Balcones Trails\_2021.04.06[2]

**PAYMENT AND DEVELOPMENT AGREEMENT**  
**(BALCONES TRAILS APARTMENTS)**

This Payment and Development Agreement (the “**Agreement**”) dated as of March \_\_\_\_, 2021 is entered into by and among (i) the City of Kyle, Texas (“**City**”) (ii) LDG Multifamily, LLC, a Kentucky limited liability company (the “**Developer**”) upon terms and conditions set forth herein.

**RECITALS**

WHEREAS, Inayat Fidai (“**Owner**”) owns that certain real property consisting of approximately 14 acres located on Philomena Drive in Hays County, Texas, which is more particularly described in Exhibit A and Exhibit B attached hereto (the “**Property**” or “**Parcel**”);

WHEREAS, Developer is a developer of affordable housing in the State of Texas and will form LDG Balcones Trails, LP, as a Texas limited partnership (the “**Partnership**”) for the purpose of owning and developing affordable multifamily housing to be located on the Property;

WHEREAS, following formation of the Partnership, and prior to Closing (as defined herein), the Partnership shall execute the “Consent to Payment and Development Agreement”, attached hereto as **Exhibit D**, whereby the Partnership shall consent to and acknowledge its rights and responsibilities under this Agreement;

WHEREAS, Capital Area Housing Finance Corporation (“**CAHFC**”), or one of its affiliates, intends to purchase the Property and enter into a 99-year ground lease with the Partnership (the “**Ground Lease**”); and

WHEREAS, the Ground Lease will be evidenced by a Memorandum of Ground Lease for the purposes of recording notice of the lease to protect the rights and interests of Landlord and Tenant, as such terms are defined therein, as to third parties; and

WHEREAS, the Partnership intends to construct, equip and manage an affordable multifamily apartment facility in the City of Kyle, Hays County, Texas, to be known as Balcones Trails Apartments and to be constructed on the Property (the “**Facility**” or the “**Project**”); and

WHEREAS, the Facility will be exempt from ad valorem taxation pursuant to Section 11.11 of the Texas Tax Code and the Ground Lease with CAHFC (the “**Exemption**”); and

WHEREAS, the Project will consist of two hundred seventy six (276) units (the “**Units**”), 50% of the Units will be restricted to tenants having an AMI of 50% or less, and the other 50% of the Units will be restricted to tenants having an AMI of 70% or less; and

WHEREAS, the City has a public purpose for entering into this Agreement and held a meeting on April \_\_\_\_, 2021, whereby the City decided that it is in the best interest of the City and the public to enter into this Agreement to facilitate the development of affordable housing within the City;

WHEREAS, the Partnership desires to make an upfront lump sum payment to the City to preserve tax revenue to the City that is lost through the Exemption and provide for ongoing annual payments in lieu of taxes as provided in this Agreement; and

WHEREAS, City finds that this Agreement serves the public purpose of promoting economic growth.



NOW, THEREFORE, in consideration of the foregoing and other consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Partnership agrees to pay the City of Kyle an alternate fee in the form of a lump sum payment equal to Two Million Five Hundred Thousand Dollars (\$2,500,000.00) based on the estimated total ad valorem taxes that would have otherwise been paid to the City for period of twenty years, and as further set forth below (the “**Payment**”). The Payment is not in lieu of the charges and fees for other services provided by the City to the Project that are typically payable by other service users in the City apart from taxes, including but not limited to permit fees, transportation fees, parkland fees, utilities, and solid waste collection charges. Beginning in Year 21, the Partnership shall pay an annual payment in lieu of taxes (the “**PILOT Payment**”) as more fully described in Section 3.

2. The City of Kyle shall provide an invoice for the Payment to the Partnership (the “**Invoice**”), and the Partnership shall pay the Payment in conjunction with the Partnership’s finance closing for the Project (the “**Closing**”). The Payment must be made and the fully executed “Consent to Payment and Development Agreement” delivered to the City before a building permit will be issued for the Facility. Prior to the Partnership making the Payment, the City of Kyle shall provide a “permit ready” letter to the Partnership and Developer, stating that the building permits have been “approved and are ready to issue,” contingent only on the Partnership paying to the City of Kyle the Payment and any of the applicable permit fees and delivering the fully executed “Consent to Payment and Development Agreement” to the City; provided that the Developer has satisfied all requirements of the City’s ordinances and codes and this Agreement for issuance of a building permit.

3. Term and Re-Negotiation of PILOT Payment

a. The initial Term of this Agreement for which the Payment is being made is twenty (20) Years from the first full calendar year following construction completion and occupancy stabilization (the “**Term**”), which shall be considered “Year 1”.

b. No less than one hundred eighty (180) days (the “**Renegotiation Period**”) prior to the start of Year 21, the Partnership and the City shall review the terms of this Agreement, and the then current appraised value of the Project, and re-negotiate and re-establish the PILOT Payment as needed for the five (5) years following Year 20, with the PILOT Payment beginning in Year 21, and shall extend the Term of the Agreement for the same five years.

c. Said re-negotiations shall take place every five years and each re-negotiation shall be subject to the Renegotiation Period (each a “**Payment Extension Term**”) so long as the Ground Lease and the Exemption are in place, or other such agreements providing the Partnership and the Project a full exemption from ad valorem taxation, unless otherwise agreed to by the Partnership and the City.

d. In the event the Parties are unable to agree upon the reestablished PILOT Payment during the Renegotiation Period for the Payment Extension Term beginning in Year 21, the PILOT Payment for Year 21 shall be equal One Hundred Fifty Thousand Dollars (\$150,000.00) annually (the “**Default PILOT**”) and shall increase \$1,500 annually through and including Year 25 (the “**Annual Increase**”). In the event the Parties are unable to agree upon the reestablished PILOT Payment during the Renegotiation Period for any Payment Extension Term beginning in or after Year 26, the PILOT Payment for the first year of the renewed Payment Extension Term shall be equal to the Default PILOT, which shall be adjusted for Consumer Price Index inflation for each five year Payment Extension Term following Year 25, and the PILOT Payments for the four years thereafter in each Payment Extension Term shall be subject to the Annual Increase.

e. Beginning in Year 21, the PILOT Payments shall be due and payable on October 1 of each year and shall become past due and delinquent if not paid by February 1 of the following year. Each past due and delinquent PILOT Payment (excluding amounts deferred in accordance with Section 3(a)), shall accrue penalties, interest, fees and collection costs at the same rates, in the same amounts, and in accordance with the same dates as ad valorem taxes as provided in Chapter 33, Texas Tax Code. In the event the Project loses its tax-exempt status and the Property and improvements are subject to ad valorem taxes, this Agreement shall automatically terminate and the annual PILOT Payment described herein shall no longer be due and payable; provided that in the event the Partnership has failed to pay any portion of the Payment PILOT Payments (the “**Delinquent Payments**”), the PILOT Payments shall continue until the Delinquent Payments, plus any applicable penalties, attorney’s fees, collection costs, and interest, are paid in full and the provisions of this Agreement governing the requirement and enforcement of the requirement to pay the PILOT Payment shall survive termination of the Agreement, if the termination occurs at any time after the Payment.

4. If the Partnership fails to pay the Payment to the City at Closing, and such failure continues for ten days after written notice of such default to the Partnership by the City, the City shall have the right to exercise any and all legal remedies available to it to obtain such payment. As an additional remedy, the City may withhold any permits related to development or use of the Property until the Payment and fully executed “Consent to Payment and Development Agreement” are delivered to the City. If the Payment and the “Consent to Payment and Development Agreement” are not delivered to the City within five (5) days after Closing, the Concept Plan and the building permit application for the Project shall expire. The Partnership agrees to pay the statutory amounts for penalties, interest, attorney’s fees, and costs of collection applicable to suits to recover delinquent ad valorem taxes under Texas Tax Code Chapter 33 for failure to remit timely Payments to City as a contractual obligation even though the Property will be exempt from local ad valorem taxation.

5. The Payment shall be made payable to City of Kyle and shall be sent to the Director of Finance, City of Kyle, 100 W. Center St., Kyle, TX 78640, or as otherwise set forth on the Invoice.

6. Additional Fees. In addition to the Payment, the Developer or the Partnership shall also pay to the City the following fees, pursuant to the applicable City ordinances and regulations (the “Code”) and this Agreement:

a. A parkland dedication fee calculated as \$750 x total number of units to be constructed and a parkland improvement fee calculated as \$750 x total number of units to be constructed (for example, if 276 units are to be constructed, the total parkland fees of Four Hundred and Fourteen Thousand Dollars (\$414,000.00)) will be paid to the City for the Project in satisfaction of Section 41-147 of the Code, on or before the date the first building permit is issued for the Project. No building permit will be issued for the Property until the parkland fees set forth in this section are paid to the City. City acknowledges and agrees that no other park fees or park land dedications are required for the issuance of certificates of occupancy for the Project.

b. An adjacent lane mile fee (the “ALM Fee”) calculated as 6.65 x 81 x total number of units to be constructed (for example, if 276 units are to be constructed, the fee would be One Hundred Forty Eight Thousand Six Hundred Sixty Seven Dollars and Forty Cents (\$148,667.40)) will be paid to the City for the Project before final plat approval, and the ALM fees must be paid to receive final plat approval.

c. Except for fees or expenses otherwise specifically provided for in this Agreement, all fees required by the Code will be paid in accordance with the Code.

7. The parties stipulate and agree that the PILOT Payments made pursuant to this Agreement are in lieu of ad valorem taxes only, and are not in lieu of the charges and fees for other services provided by the City to the Project that are typically payable by other service users in the City apart from taxes, including but not limited to permit fees, utilities, and solid waste collection charges.

8. Development Standards and Review Procedures.

a. Generally. If there is any conflict between the terms of this Agreement and the Code, the specific terms of this Agreement will control.

b. Development Standards. Except as provided in this Agreement, the Property shall be subject to and developed in accordance with the use and development standards of the City's R-3-3 zoning district, or such other comparable zoning classification approved by the City Council for the Property permitting multifamily development, and all codes, ordinances, and regulations of the City that are applicable within the city limits as modified by this Agreement, and this Agreement.

c. Design Standards. The Property, the Project, and the Facility shall be designed and constructed in compliance and in accordance with the Design Standards set forth in **Exhibit C**, attached hereto and made a part hereof. The Developer acknowledges and agrees that compliance with **Exhibit C** will be a condition of issuance of building permits for the Project and the Facility. Developer further agrees that the City may use its building permitting, inspection, and enforcement processes and procedures to enforce the requirements of **Exhibit C**, including but not limited to rejection of applications and plans, stop work orders, and disapproval of inspections for applications and/or work that do not comply with this Agreement. Applications and plans for a building permit must demonstrate compliance with this Agreement in order for a building permit to be issued. Applications for building permits must be in compliance with this Agreement, as well as the applicable City ordinances and regulations, in order for such application to be approved and a building permit issued. Plans demonstrating compliance with this Agreement must accompany a building permit application and will become a part of the approved permit. Any structure constructed on the Property must comply with this Agreement and the applicable City ordinances and regulations for a certificate of occupancy to be issued for such structure.

d. Concept Plan. The Developer has submitted to the City a concept plan for the development of the Property. A copy of the concept plan is attached hereto and incorporated herein for all purposes as **Exhibit D** (the "Concept Plan"). The Concept Plan constitutes a development plan for the Property, as provided in Subchapter G, Chapter 212, Texas Government Code. Subject to the allowable uses set forth herein, the intensity and timing of development within the Property will be determined solely by the Developer. So long as the Developer does not increase the total level of allowable development, as measured by water and wastewater service connections, or the land use, the Developer may amend the Concept Plan and may amend the layout of buildings and on-site infrastructure to serve the Project in compliance with this Agreement, however such amendments shall not require the Developer to return to City Council for additional approvals. The

Concept Plan, as amended, will be effective for the Term of this Agreement; provided that the Developer completes the Project within five (5) years of the Closing.

e. Preliminary Plan. In the event that the Property is required to be platted, the preliminary plan may show building layouts different than shown in the Concept Plan. Developer may request the City, including the City's Planning and Zoning Commission, to make a written determination that the preliminary plan complies with all applicable regulations; provided, however, that such determination shall not constitute the final approval of the preliminary plan. If the preliminary plan application complies with the terms of this Agreement and applicable City ordinances and this Agreement, the City will approve the preliminary plan upon the request of Developer.

f. Expiration of Applications. This Agreement and applicable local, state, and federal regulations shall govern the review and approval of preliminary plans, construction plans and other approvals, variances or other municipal authorizations hereafter required or requested by the Developer. The City does not require Developer or the Partnership to submit any application to Hays County for review or approval. Preliminary plans, construction plans, and site development plans hereafter approved pursuant to this Agreement shall expire on the latter of the expiration or termination of this Agreement or the date established by the Code; provided that if the Project is not completed within five (5) years of the Effective Date, the such plans will be deemed expired.

g. Satisfactory Completion of Project Improvements. The term "Project Improvements" includes all required water facilities, wastewater facilities, streets, drainage facilities and other amenities and improvements that are required by regulatory authorities with jurisdiction over the Property to serve individual lots within the Property. The Developer shall design, construct and complete the Project Improvements in accordance with applicable local, state, and federal regulations, this Agreement, and good engineering practices. The City will accept for ownership, maintenance, and operation those Project Improvements that are required to be owned and operated by the City under the City's ordinances and regulations upon satisfaction of requirements for the city to accept such improvements as set forth in the City's ordinances and regulations.

h. Weatherization Plan and Recycling Program. The Developer shall create a weatherization plan, that includes but is not limited to insulated fire suppression piping. The Developer shall also incorporate a recycling program into the Project. Additionally, the Developer must show adherence to principles of Low Impact Development including, but not limited to the usage of permeable pavers. These plans must be submitted to the City prior to the City's issuance of the building permit.

i. Master Water Meter. The Developer shall ensure there is a master water meter located outside the perimeter fence or gate around the outside of the Project.

9. City Services.

- a. The City hereby consents, at no cost to the Partnership, by license agreement in a form acceptable to the City or otherwise as determined appropriate by the City, to the use of any and all appropriate and available City rights-of-way, sites or easements that may be reasonably necessary to construct a Project Improvement, or for the Partnership to perform its obligations under this



Agreement; provided, however, that the City's consent is subject to City approval of the location of a Project Improvement within the rights-of-way and easements and avoidance of utility facilities existing in such rights of way and easements. The City agrees to reasonably cooperate and support Owner's acquisition of necessary easements from third parties as determined by the city council, at minimal or no cost to the City.

- b. The City will timely provide water and wastewater service to the Project, and will connect each residential unit or structure for another permitted use to the City's water and wastewater system upon payment of applicable fees and a Certificate of Occupancy being issued for the structure and provide water and wastewater service for the structure on the same terms and conditions as provided to all other areas of the City; provided that the Developer and/or Partnership, as applicable, satisfies all requirements of the City's ordinances to receive water and wastewater service and completes and obtains City acceptance of all water and wastewater improvements required by the City to provide water and wastewater service to the Project.

10. Any notice provided or permitted to be given pursuant to this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage prepaid, certified mail, with return receipt requested, by fax (with confirmation of receipt), by personal delivery service or nationally recognized air courier service. For purposes of notice, the addresses of the parties shall be as set forth below:

To the City:                      Director of Finance  
    City of Kyle  
    100 W. Center St.  
    Kyle, TX 78640

To the Developer:              LDG Multifamily, LLC  
    1469 South Fourth Street  
    Louisville, Kentucky 40208

11. This Agreement shall be governed by the laws of the State of Texas. Venue for any action concerning this Agreement shall be in the District Courts of Hays County, Texas.

12. a. Neither the Developer or the Partnership may assign, transfer or otherwise convey any of its rights or obligations under this Agreement to any other person or entity without the prior consent of City, which consent shall not be unreasonably withheld, conditioned on (i) the prior approval of the assignee or successor and a finding by City that the proposed assignee or successor is financially capable of meeting the terms and conditions of this Agreement and (ii) prior execution by the proposed assignee or successor of a written agreement with City under which the proposed assignee or successor agrees to assume and be bound by all covenants and obligations of the Partnership under this Agreement. Any attempted assignment without City's prior consent shall constitute grounds for termination of this Agreement and following ten (10) calendar days of receipt of written notice from City to the Partnership and shall further constitute grounds for the City to withhold development permits for the Project. In the event the Partnership transfers, sells, conveys, leases or disposes of the Project or an interest therein, the agreement and the documents evidencing such transfer, sale, conveyance, lease or disposal must incorporate and preserve all rights granted to the City under this Agreement to the extent the Project remains subject to the Exemption after

such transfer, sale, conveyance, lease or disposal. Further such transferee shall remain liable for all unpaid or deferred PILOT payments required herein.

b. The City hereby authorizes the City Manager to consent to the Developer's assignment of its rights and obligations under this Agreement to the Partnership, provided that the assignment must be in writing, specifically set forth the assigned rights and obligations without modification or amendment, and be signed by the Developer and the Partnership, and a copy of the fully executed assignment must be provided to the City.

13. This Agreement constitutes the entire understanding between the parties and supersedes any prior negotiations, discussions, agreements, and understandings between the parties with respect to the subject matter of this Agreement.

14. This Agreement shall continue for a term concurrent with the Exemption of the Property. Notwithstanding anything herein to the contrary, at such time as the Property no longer receives an exemption from ad valorem taxes, this Agreement shall automatically terminate, and be of no further force and effect, provided that the Partnership shall be required to pay the Delinquent Payments and the City's right to enforce payment of Delinquent Payments shall survive termination of this Agreement. Furthermore, this Agreement shall be automatically terminated if the Closing does not take place by February 22, 2022 (or the date that the bond reservation for the Project expires if such date is later than February 22, 2022.).

15. To the extent permitted by law, a holding by any court that any part or any provision in this Agreement is invalid, illegal or unenforceable in any respect shall not affect any other provision, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been a part of the Agreement.

16. This Agreement may not be amended except in a writing specifically referring to this Agreement and signed by all of the parties hereto. Any right created under this Agreement may not be waived, except in a writing specifically referring to this Agreement and signed by the party waiving the right. Provided, however, termination of this Agreement shall not relieve the Partnership, or its successors, from any payments due to the City that were incurred prior to such termination.

17. This Agreement may be simultaneously executed in multiple counterparts, which, taken together, shall be considered as original, and all of which constitute one and the same instrument.

18. To the extent this Agreement 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: (i) the Developer represents that neither the Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer (w) boycotts Israel or (x) will boycott Israel through the term of this Agreement; and (i) the Bank represents that neither the Bank nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Bank (y) boycotts Israel or (z) will boycott Israel through the term of this Agreement. 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.

[Signatures appear on following pages]

DEVELOPER:

LDG MULTIFAMILY, LLC,  
a Kentucky limited liability company

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

THE STATE OF \_\_\_\_\_ §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 2021, by  
\_\_\_\_\_, as \_\_\_\_\_ of LDG Multifamily, LLC, a Kentucky limited  
liability company, on behalf of said limited liability company.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

CITY OF KYLE, TEXAS

By: \_\_\_\_\_  
Travis Mitchell, Mayor

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_, City Attorney

THE STATE OF \_\_\_\_\_ §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 2021, by  
\_\_\_\_\_, as \_\_\_\_\_ of The City of Kyle, Texas, on behalf of said  
City.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_



JOINDER:

Inayat Fidai, Owner of the approximately 14 acre tract as of the Effective Date signs this Agreement for the purpose of authorizing the Developer and Partnership to file applications for development of the Property in accordance with this Agreement.

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INAYAT FIDAI

## EXHIBIT A

### METES & BOUNDS DESCRIPTION (Tract A)

Being a 7.600 acre tract of land situated in the Z. Hinton Survey Number 12, Abstract Number 220, Hays County, Texas, in the City of Kyle being all of the tract of land described as Tract One in the deed to Morris Henry and Linda Hill Schmeltekopf, recorded in Volume 275, Page 491, Deed Records of Hays County, Texas, said 7.600 acre tract of land being more particularly described as follows:

BEGINNING at a ½ inch iron rod with a yellow cap stamped “Allstar 5729” found in the northwesterly right-of-way line of County Road 157 (Goforth Road) (a variable width right-of-way) for the common easterly corner of said Morris Henry and Linda Hill Schmeltekopf tract and the tract of land described in the deed to Laura Lynne Schmeltekopf Lehman recorded in Volume 1162, Page 300, Official Public Records of Hays County, Texas;

THENCE with the northwesterly right-of-way line of County Road 157 the following:

South 42° 10' 47" West (Volume 275 Page 491 = South 42° 43' West) a distance of 107.90 feet to a ½ inch iron rod with a yellow cap stamped “Allstar 5729” found for corner;

South 41° 33' 47" West (Volume 275 Page 491 = South 42° 08' West) a distance of 589.34 feet to a ½ inch iron rod with a yellow cap stamped “Allstar 5729” found for the common easterly corner of said Morris Henry and Linda Hill Schmeltekopf tract and the tract of land described in the deed to The Arthur Louis Schmeltekopf, Jr. Revocable Trust dated March 4, 1997, As Amended February 12, 2003, Arthur Louis Schmeltekopf, Jr., Trustee, recorded in Volume 2904, Page 8, Official Public Records of Hays County, Texas.

THENCE departing the northwesterly right-of-way line of County Road 157 with the common line of said Morris Henry and Linda Hill Schmeltekopf tract and said Arthur Louis Schmeltekopf, Jr. Revocable Trust tract North 46° 35' 13" West a distance of 448.92 feet (Volume 275 Page 491 = North 46° 01' West, Volume 2904 Page 8 = North 46° 33' 29" West) to a 5/8 inch iron rod with a yellow plastic cap stamped “Dunaway Assoc LP” set for corner;

THENCE North 29° 26' 02" East a distance of 599.98 feet to a ½ inch iron rod found for the common southerly corner of said Laura Lynne Schmeltekopf Lehman tract and Lot 1, Block A, Mitchell Family Motorsports an addition to the City of Kyle according to the plat recorded in Volume 17, Page 187, Plat Records of Hays County, Texas;

THENCE with the common line of said Morris Henry and Linda Hill Schmeltekopf tract and said Laura Lynne Schmeltekopf Lehman tract, South 57° 54' 57" East (Volume 275 Page 491 = South 57° 18' East) a distance of 583.88 feet (Volume 1162 Page 300 = South 57° 18' East 538.78 feet) to the POINT OF BEGINNING;

CONTAINING a computed area of 7.600 acres (331,056 square feet) of land.

METES & BOUNDS DESCRIPTION  
(Tract B)

Being a 6.400 acre tract of land situated in the Z. Hinton Survey Number 12, Abstract Number 220, Hays County, Texas, in the City of Kyle being all of the tract of land described in the deed to Laura Lynne Schmeltekopf Lehman, recorded in Volume 1162, Page 300, Official Public Records of Hays County, Texas, said 6.400 acre tract of land being more particularly described as follows:

BEGINNING at a ½ inch iron rod with a yellow cap stamped "Allstar 5729" found in the northwesterly right-of-way line of County Road 157 (Goforth Road) (a variable width right-of-way) for the common easterly corner of said Laura Lynne Schmeltekopf Lehman tract and the tract described as Tract One in the deed to Morris Henry and Linda Hill Schmeltekopf recorded in Volume 275, Page 491, Official Public Records of Hays County, Texas;

THENCE with the common line of said Laura Lynne Schmeltekopf Lehman tract and said Morris Henry and Linda Hill Schmeltekopf tract North 57° 54' 57" West (Volume 275 Page 491 = North 57° 18' West) a distance of 583.88 feet (Volume 1162 Page 300 = North 57° 18' West 538.78 feet) to ½ inch iron rod found for the common corner of said Laura Lynne Schmeltekopf Lehman tract and Lot 1, Block A, Mitchell Family Motorsports, an addition to the City of Kyle according to the plat recorded in Volume 17, Page 187, Plat Records of Hays County, Texas;

THENCE departing the common line of said Laura Lynne Schmeltekopf Lehman tract and said Morris Henry and Linda Hill Schmeltekopf tract with the common line of said Laura Lynne Schmeltekopf Lehman tract and said Lot 1, Block A, Mitchell Family Motorsports North 43° 12' 53" East (Volume 1162 Page 300 = North 43° 48' East) a distance of 310.14 feet (Volume 17 Page 187 = North 43° 14' 26" East 310.15 feet) to a ½ inch iron rod found for the common corner of said Laura Lynne Schmeltekopf Lehman tract and Lot 1, Block A, Mitchell Family Motorsports and Lot 3, Windmill Center Subdivision, an addition to the City of Kyle according to the plat recorded in Volume 18, Page 121, Plat Records of Hays County, Texas;

THENCE with the common line of said Laura Lynne Schmeltekopf Lehman tract and said Lot 3, Windmill Center Subdivision the following:

South 45° 51' 20" East a distance of 116.66 feet (Volume 1162 Page 300 = South 45° 29' East 116.41 feet, Volume 18 Page 121 = South 45° 22' 29" East 116.59 feet) to a ½ inch iron rod found for corner;

North 43° 16' 31" East (Volume 18 Page 121 = North 43° 54' 31" East) a distance of 293.27 feet (Volume 1162 Page 300 = North 43° 52' East 292.33 feet) to a ½ inch iron rod found for the common northerly corner of said Laura Lynne Schmeltekopf Lehman tract and Lot 1, Block A, Ample Subdivision, an addition to the City of Kyle according to the plat recorded in Volume 14, Page 93, Plat Records of Hays County, Texas;

THENCE departing the common line of said Laura Lynne Schmeltekopf Lehman tract and said Lot 3, Windmill Center Subdivision with the common line of said Laura Lynne Schmeltekopf Lehman tract and said Lot 1, Block A, Ample Subdivision South 45° 49' 13" East (Volume 1162 Page 300 = South 45° 17' East) a distance of 475.10 feet (Volume 14, Page 93 = South 45° 50' 02" East 475.01 feet) to a ½ inch

iron rod with a plastic cap stamped "Allstar 5729" found in the northwesterly right-of-way line of County Road 157 (Goforth Road) (a variable width right-of-way) for the common southern corner of said Laura Lynne Schmeltekopf Lehman tract and said Lot 1, Block A, Ample Subdivision;

THENCE with the northwesterly right-of-way line of County Road 157 the following:

South 47° 09' 47" West (Volume 1162 Page 300 = South 47° 42' West) a distance of 319.65 feet to an iron rod with an aluminum cap stamped "Kent Surveying RPLS 4341" found for corner;

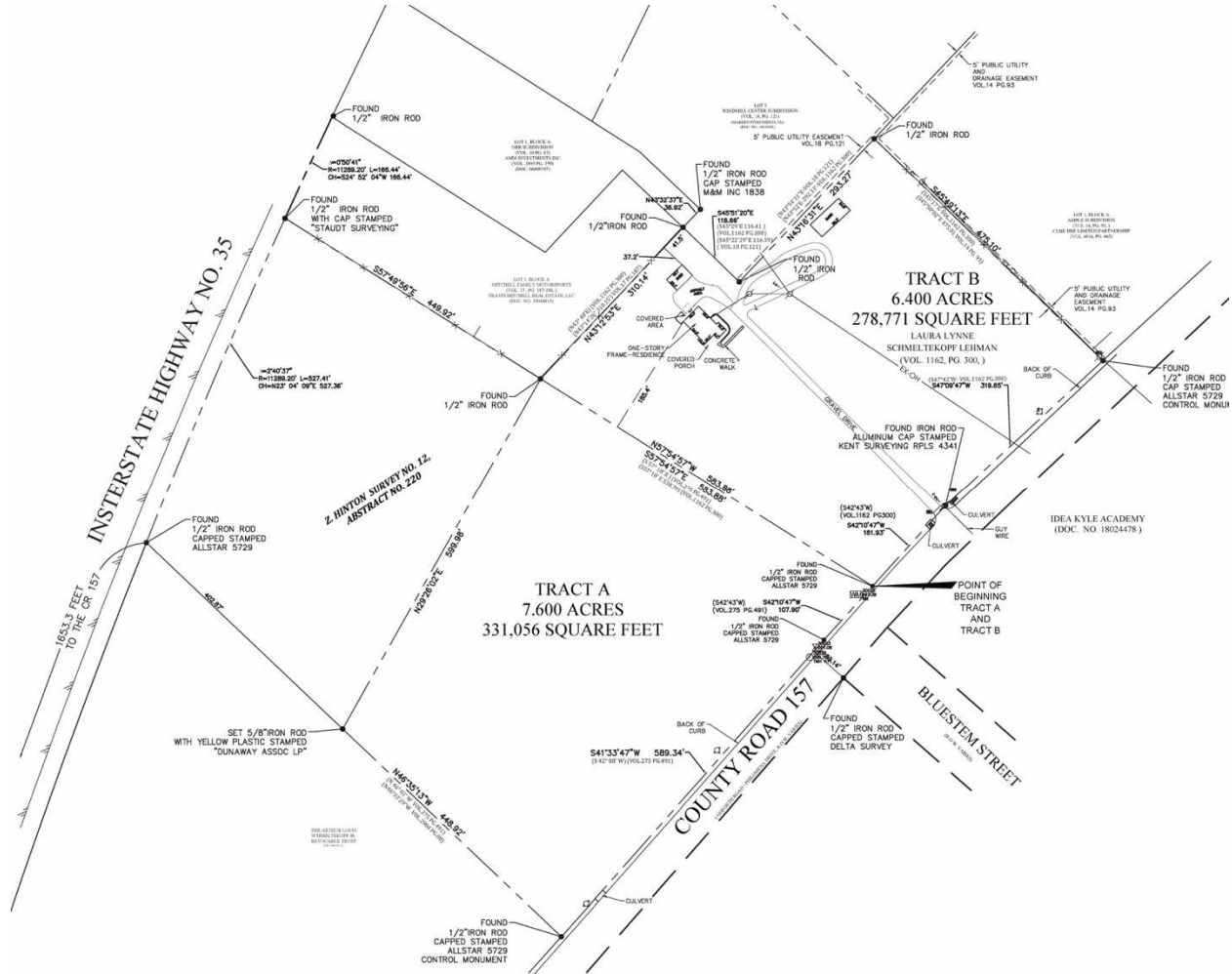
South 42° 10' 47" West (Volume 1162 Page 300 = South 42° 43' West) a distance of 161.93 feet to the POINT OF BEGINNING;

CONTAINING a computed area of 6.400 acres (278,771 square feet) of land.



## EXHIBIT B

### PROPERTY BOUNDARY DESCRIPTION (Tract A & Tract B)



## **EXHIBIT C**

### **DESIGN STANDARDS**

#### **Building Envelope**

- Post-Tension Slab on Grade Foundation
- 2X6 Wood Stud Framing / Wood Truss Floor and Roof Framing
- Zip-Lock Exterior Sheathing with integral Moisture Barrier
- 30 Year Shingle / 30 Year Membrane Roofing
- 100% Masonry, Stucco and/or Cement Board Veneer
- Low E, Insulated Windows
- Metal Exterior Doors
- Painted Aluminum Gutters, Downspouts and Railings
- 6' Decorative Masonry Fence

#### **Interior Materials**

- Heavy-Duty Vinyl Plank (throughout) / Ceramic Tile Flooring (Bathrooms)
- Natural Stone Countertops
- Painted Drywall Finish

#### **Energy**

- Meet / exceed National Electric Conservation Code (NECC) Requirements
- Energy Star Rated Appliances / Ceiling Fans
- SEER 15 or greater HVAC
- EPA Water Sense Toilets, Shower Heads, Faucets
- LED Lighting

**Exhibit D**

**CONSENT TO PAYMENT AND DEVELOPMENT AGREEMENT**

The undersigned, being the [Manager] of [LDG Balcones Trails GP, LLC], a Texas limited liability company, being the general partner of [LDG Balcones Trails, LP], as Texas limited partnership (the “Partnership”), has read that certain Payment and Development Agreement dated as of March \_\_\_\_, 2021 entered into by and among (i) the City of Kyle, Texas (ii) LDG Multifamily, LLC, a Kentucky limited liability company herein (the “Agreement”) here by contents to, acknowledges, and agrees to all terms and conditions of the Agreement and covenants and agrees to assume and perform all duties and obligations to be performed and/or discharged by to the Partnership as set forth in the Agreement.

[LDG Balcones Trails, LP,  
a Texas limited partnership]

By: [LDG Balcones Trails GP, LLC,  
a Texas limited liability company,  
its general partner]

\_\_\_\_\_

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

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



# CITY OF KYLE, TEXAS

## City Manager's Report

**Meeting Date: 4/6/2021**

**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*

- Community Survey
- Upcoming Budget Dates FY 2021-22
- COVID-19 Testing and Vaccine update
- Business Booster webinar
- Kyle Mass Food Distribution Event

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Executive Session - Convene

**Meeting Date: 4/6/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.

1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
  - City Lights and Kyle Marketplace Subdivision/Development
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 Big Red
  - Project Valkyrie
  - Project EKUS
  - Project SUFC
  - Project Pacific Blue
  - Project Apollo
  - Project Apricot

**Other Information:**

**Legal Notes:**

**Budget Information:**

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**ATTACHMENTS:**

**Description**

No Attachments Available





# CITY OF KYLE, TEXAS

## Reconvene

**Meeting Date: 4/6/2021**  
**Date time: 7:00 PM**

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

**Other Information:**

**Legal Notes:**

**Budget Information:**

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### **ATTACHMENTS:**

#### **Description**

No Attachments Available