

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 May 18, 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 14th day of May, 2021, prior to 4:00 p.m.

I. Call Meeting to Order

II. Approval of Minutes

1. City Council Special Meeting Minutes - May 1, 2021. ~ *Jennifer Holm, City Secretary*
2. City Council Special Meeting Minutes - May 4, 2021. ~ *Jennifer Holm, City Secretary*
3. City Council Meeting Minutes - May 4, 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.

IV. Presentation

4. Annual Update of the Kyle Area Youth Advisory Council (KAYAC) Presentation. ~ *Abby Power, Chair of the Kyle Area Youth Advisory Council*
5. Introduction of Gary Stubbins, Building Inspector. ~ *Howard J. Koontz, Director of Planning and Community Development*
6. CIP/Road Projects and Consent Agenda Presentation. ~ *Travis Mitchell, Mayor*

V. Consent Agenda

7. Approve a Development Agreement between City of Kyle, Texas and Meritage Homes of Texas, LLC or Assigns. ~ *James R. Earp, Assistant City Manager*
8. Termination and Release of Two Water Easements for Kyle Mortgage Investors. ~ *Leon Barba, P.E., City Engineer*
9. Consider approval of an agreement with RAILPROS FIELD SERVICES, Grapevine, Texas, in an amount not to exceed \$47,575.00 for providing observation services required by Union Pacific Railroad (UPRR) during installation of casing, reclaimed water line, and wastewater line under the UPRR tracks. ~ *Leon Barba, P.E., City Engineer*
10. Consider approval of an agreement with RAILPROS FIELD SERVICES, INC., Grapevine, Texas, in an amount not to exceed \$42,369.00 for providing flagging services required by Union Pacific Railroad (UPRR) during installation of a casing, reclaimed water line, and wastewater line crossing under the UPRR tracks. ~ *Leon Barba, P.E., City Engineer*
11. Authorize the Chief of Police to Execute and Accept a Grant Award on behalf of the Kyle Police Department from the Texas Office of the Attorney General in the amount of \$4,300 for the purpose of acquiring software in support of the partnership with the Internet Crime Against Children (ICAC) Task Force Program. ~ *Jeff Barnett, Chief of Police*
12. Approval of Change Order No. 1 to N.G. PAINTING, LP 1225 Bandera Hwy #A2, Kerrville, TX 78028, in an additional amount not to exceed \$50,000 increasing the total contract amount not to exceed \$392,000 for the purpose of providing additional work for the Well #4 elevated storage tank located on Kohlers Crossing, and the downtown elevated storage tank next to City hall. ~ *Leon Barba, P.E., City Engineer*
13. (*Second Reading*) An ordinance of the City of Kyle, Texas, annexing 25.2 acres of land, more or less, located in Hays County, including the abutting streets, roadways, and rights-of-way into the corporate limits of the City, at the request of the property owner; approving a service plan for the annexed area; making finding of fact; providing a severability clause and an effective date; and providing for open meetings and other related matters. (Peggy Lehman Jansen and CTX Park -

ANNX-21-0008) ~ *Howard J. Koontz, Director of Planning and Community Development*

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

14. Authorize the City Manager to enter an agreement with Pedernales Electric Cooperative, Inc., P.E.C., to relocate overhead power lines around the premises of Krug Activity Center to adjacent streets, alleys, underground, as necessary for beautification of Downtown Square, Mary Kyle Hartson Park. ~ *Leon Barba, P.E., City Engineer*

VI. Consider and Possible Action

15. (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 1.63 acres of land from Construction Manufacturing 'CM' to Retail Service District 'RS' for property located at 1050 Bunton Creek Road, in Hays County, Texas. (Goforth Partners, Inc. - Z-21-0078) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 5-0 to recommend approval of the request.

- Public Hearing

16. (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 1.105 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located within the 1800 block of Goforth Road, in Hays County, Texas. (CTX Park, LLC - Z-21-0079) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 5-0 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 modifying Section 53-893 Conditional Use Permit, required, in Hays County, Texas. ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted to amend the motion to approve staff's recommendation 4-1, the amended motion was approved 3-2.

- Public Hearing

18. (*Second Reading*) An ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2010 Comprehensive Plan; Providing for the amendment of the plan by including Manufactured Home Subdivision District 'M-2' and

Manufactured Home Park ‘M-3’ to the New Town Community Land Use District; Providing for Related Matters. (Hadsell Estate - Z-21-0075) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 to approve.
City Council voted 5-2 to approve on First Reading.*

19. *[POSTPONED 5/4/2021]* Consider approving an Amendment Regarding Declaration related to the Conveyance of the Central Park Parcel to the City and Authorize the City Manager to Execute Documents Related to Closing on the Parcel. ~ *Paige Saenz, City Attorney*
20. Consider and possible action to approve a Temporary Construction Easement and Access Agreement. ~ *Paige Saenz, City Attorney*
21. *[POSTPONED 5/4/2021]* Authorize award and execution of a contract with CADENCE MCSHANE CONSTRUCTION COMPANY in an amount not to exceed \$7,950,000.00 for the construction of Heroes Memorial Park. ~ *J. Scott Sellers, City Manager*
22. *[POSTPONED 5/4/2021]* Authorize award and execution of a contract with STODDARD CONSTRUCTION MANAGEMENT, INC., in an amount not to exceed \$4,850,000.00 for the construction of Uptown Central Park and Cultural Trails. ~ *J. Scott Sellers, City Manager*
23. *[POSTPONED 5/4/2021]* Consider approving a Resolution directing publication of a Notice of Public Hearing and Intention to Issue Combination Tax and Revenue Certificates of Obligation. ~ *Travis Mitchell, Mayor*
24. *[POSTPONED 5/4/2021]* Acceptance of the the Resolution of the Board of Kyle Tax Increment Reinvestment Zone Number Two, as passed on April 29, 2021, authorizing the City Council of the City of Kyle to issue on its behalf Certificates of Obligation bonds in an amount not to exceed five million dollars (\$5,000,000.00) for the design and construction of three roads in Uptown Plum Creek development and other related matters and direct the City to prepare a reimbursement agreement between the City and TIRZ #2 for the repayment of debt associated with this bond. ~ *J. Scott Sellers, City Manager*
25. Consider approving a Resolution Authorizing Amendments to the Personnel Policy. ~ *Sandra Duran, Director of Human Resources*
26. Approve the City of Kyle’s Voluntary Commitment to Reducing Particulate Matter (PM2.5) Emissions within the Austin-Round Rock-Georgetown Metropolitan Statistical Area (MSA). ~ *Robert Rizo, Council Member*
27. Discussion of implementation of Proposition F - Police Department Oversight. ~ *Dex Ellison, Council Member*
28. Discussion and possible action to direct staff to prepare a Camping and Begging

VII. City Manager's Report

29. 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*
- Heroes Memorial Park groundbreaking event
 - COVID vaccine and testing information
 - Mass Food Distribution events
 - Parks and Recreation programming
 - Library 2021 Summer Reading program
 - City Wide Cleanup Event
 - Upcoming Budget Worksessions
 - Trails Open House Event
 - Congrats 2021 Kyle graduates

VIII. Executive Session

30. 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.
 - CO Bond
 - Possible Creation of TIRZ
 - American Rescue Plan
 - Automated Metering Infrastructure
 - Mary Kyle Hartson Park Electric Service
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 - Acquisition of public parkland tracts
 - Acquisition of Right of Way
 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 Pacific Blue
 - Project Eburnean
 - Project Goldfish
 - Project SUFC
 - Project Shamrock
 - Project Wild Strawberry
 - Project Tomahawk
 - Project Pinstripes
31. Take action on items discussed in Executive Session.

IX. Adjourn

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

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



CITY OF KYLE, TEXAS

2021 0501 Minutes

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: City Council Special Meeting Minutes - May 1, 2021. ~ *Jennifer Holm, City Secretary*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 2021 0501 DRAFT Special Meeting Minutes

SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session on May 1, 2021 at Kyle City Hall, 100 W. Center Street, Kyle, Texas 78640 with the following persons present:

Mayor Travis Mitchell
Mayor Pro Tem Rick Koch
Council Member Dex Ellison
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
Jerry Hendrix, Chief of Staff
Samantha Armbruster, Communications Dir.
Jennifer Holm, City Secretary
Leon Barba, City Engineer
Diana Torres, Economic Dev Director
Perwez Moheet, Finance Director
Andy Alejandro, Accounting Manager
Connie Campa, Staff Accountant
Sandra Duran, HR Director
Matt Dawson, IT Director
Grant Bowling, Video Production Specialist
Paul Phelan, Library Director
Mariana Espinoza, PARD Director
Howard Koontz, Community Dev Director
Jeff Barnett, Chief of Police
Pedro Hernandez, Police Captain
Tim Griffith, Police Lieutenant
Dustin Shuler, Police Sergeant
Philip Cleary, Police Officer
Harper Wilder, Public Works Director
Julie Crookston, Assistant Public Works Director
Tim Samford, Division Mgr. - Treatment Ops
Warren Christian, Division Mgr. - W/WW
Scott Egbert, Division Manager of Streets

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 8:06 a.m. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Koch, Council Member Ellison, Council Member Flores-Cale, Council Member Rizo, Council Member Bradshaw, and Council Member Tobias. A quorum was present.

II. Citizen Comment Period with City Council

Mayor Mitchell opened citizen comments at 8:07 a.m. With no one wishing to speak, Mayor Mitchell closed citizen comments at 8:07 a.m.

III. Consider and Possible Action

1. City Manager and Department Directors present new operating (O&M) and capital (CIP) budget requirements to City Council for feedback, prioritization, and policy direction for the development of the City's Fiscal Year 2021-2022 proposed operating & CIP budgets.
~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 1 for discussion. Mr. Sellers opened the presentation with the overview of today's meeting. Items to be discussed include: Discussion Objectives for Budget Work session, City Council's Program Initiatives, New Budget Needs by City Department. (presented in alphabetical order)

- Communications Department, *presented by Samantha Armbruster.*
- Economic Development, *presented by Diana Torres.*
- City Engineer, *presented by Leon Barba.*
- Environmental Services & Trades, *presented by James Earp.*
- Facilities Maintenance, *presented by James Earp.*
- Financial Services Department, *presented by Perwez Moheet.*
- Human Resources Department, *presented by Sandra Duran.*
- Information Technology Department, *presented by Matt Dawson.*
- Library Department, *presented by Paul Phelan.*

A recess was called at 10:03 a.m. Mayor Mitchell called the meeting back to order at 10:14 a.m. The presentation continued.

- Parks & Recreation Department, *presented by Mariana Espinoza.*
- Public Works Department, *presented by Harper Wilder, Tim Samford, and Julie Crookston.*
- Police Department, *presented by Jeff Barnett and Pedro Hernandez.*

A recess was called at 12:16 p.m. Mayor Mitchell called the meeting back to order at 12:27 p.m. The presentation continued.

- High Priority Projects, *presented by Scott Sellers.* Tim Samford also provided information related to Drought Contingency Planning Model. Harper Wilder provided information on streets projects and Leon Barba provided information regarding WWTP Expansion.
- Future Road Bond Election & Timing, *presented by Scott Sellers and Perwez Moheet.*
- Preliminary Revenue Outlook, *presented by Scott Sellers and Perwez Moheet.*
 - Property Tax

- Sales Tax
- Water Rate Increase
- Key Dates for Budget Development, *presented by Scott Sellers.*
- City Council's Directions for FY 2022 Budget. No action was taken.

IV. 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.
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 3. Personnel matters pursuant to Section 551.074.
 4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.

There was no executive session.

3. Take action on items discussed in Executive Session.

V. Adjourn

Mayor Mitchell moved to adjourn. Council Member Rizo seconded the motion. No vote was held.

With no further business to discuss, the City Council adjourned at 1:52 p.m.

Attest:

Travis Mitchell, Mayor

Jennifer Holm, City Secretary



CITY OF KYLE, TEXAS

2021 0504 Minutes

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: City Council Special Meeting Minutes - May 4, 2021. ~ *Jennifer Holm, City Secretary*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 2021 0504 DRAFT Special Council Meeting Minutes

SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session on May 4, 2021 and due to COVID-19, some members attended virtually (v) at <https://www.cityofkyle.com/kyletv/kyle-10-live>; Spectrum 10 with the following persons present:

Mayor Travis Mitchell
Mayor Pro Tem Rick Koch
Council Member Dex Ellison (v)
Council Member Yvonne Flores-Cale
Council Member Robert Rizo (v)
Council Member Ashlee Bradshaw
Council Member Michael Tobias
Scott Sellers, City Manager
James Earp, Assistant City Manager (v)
Paige Saenz, City Attorney
Jerry Hendrix, Chief of Staff (v)
Samantha Armbruster, Communications Dir.
Jennifer Holm, City Secretary
Diana Torres, Economic Dev Director
Matt Dawson, IT Director
Grant Bowling, Video Production Specialist

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 6:02 p.m. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Koch, Council Member Flores-Cale, Council Member Rizo, Council Member Bradshaw, and Council Member Tobias. A quorum was present. Council Member Ellison was absent but arrived at 6:03 p.m. and entered into executive session.

II. Citizen Comment Period with City Council

Mayor Mitchell opened citizen comments at 6:02 p.m. With no one wishing to speak, Mayor Mitchell closed citizen comments at 6:02 p.m.

III. Executive Session

1. 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.
 - Sales Tax Matters
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 - Acquisition of property for park purposes
 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 Pacific Blue
 - Project Eburnean
 - Project Gold
 - Project SUFC

Council Member Flores-Cale 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 - Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071; Sales Tax Matters; Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072; Acquisition of property for park purposes 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 Pacific Blue; Project Eburnean; Project Gold; Project SUFC.”

The City Council convened into executive session at 6:03 p.m.

2. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 6:46 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

IV. Adjourn

Mayor Mitchell moved to adjourn. Council Member Tobias seconded the motion. All votes aye; motion carried 4-0. Mayor Pro Tem Koch, Council Member Ellison and Council Member Rizo were absent for the vote.

With no further business to discuss, the City Council adjourned at 6:46 p.m.

Attest:

Travis Mitchell, Mayor

Jennifer Holm, City Secretary



CITY OF KYLE, TEXAS

2021 0504 Minutes

Meeting Date: 5/18/2021

Date time:7:00 PM

Subject/Recommendation: City Council Meeting Minutes - May 4, 2021. ~ *Jennifer Holm, City Secretary*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 2021 0504 DRAFT Regular Council Meeting Minutes

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on May 4, 2021 and due to COVID-19, some members attended virtually (v) at <https://www.cityofkyle.com/kyletv/kyle-10-live>; Spectrum 10 with the following persons present:

Mayor Travis Mitchell	Eric West
Mayor Pro Tem Rick Koch	Vanessa Westbrook
Council Member Dex Ellison (v)	Aaron Marchon
Council Member Yvonne Flores-Cale	
Council Member Robert Rizo (v)	
Council Member Ashlee Bradshaw	
Council Member Michael Tobias	
Scott Sellers, City Manager	
James Earp, Assistant City Manager	
Paige Saenz, City Attorney	
Jerry Hendrix, Chief of Staff	
Samantha Armbruster, Communications Dir.	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer	
Diana Torres, Economic Dev Director	
Victoria Vargas, Economic Dev. Specialist	
Lauren Lyons, Economic Dev Coordinator	
Perwez Moheet, Finance Director	
Sandra Duran, HR Director (v)	
Matt Dawson, IT Director	
Grant Bowling, Video Production Specialist	
Danielle De Leon Guerrero, Systems Analyst	
Paul Phelan, Library Director	
Mariana Espinoza, PARD Director (v)	
Howard Koontz, Community Dev Director (v)	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Police Captain	
Kelly Delagarza, Victims Services Coordinator	
Hannah-Bea Bickford, NIBRS Compliance Coordinator	
Harper Wilder, Director of Public Works	
Scott Egbert, Div. Mgr. - Streets	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 7:00 p.m. The Pledge of Allegiance was recited. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Koch, Council Member Ellison, Council Member Flores-Cale, Council Member Rizo, Council Member Bradshaw, and Council Member Tobias. A quorum was present.

II. Approval of Minutes

1. City Council Workshop Meeting Minutes - April 17, 2021. ~ *Jennifer Holm, City Secretary*
2. City Council Workshop Meeting Minutes - April 18, 2021. ~ *Jennifer Holm, City Secretary*
3. City Council Special Meeting Minutes - April 20, 2021. ~ *Jennifer Holm, City Secretary*
4. City Council Meeting Minutes - April 20, 2021. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Ellison moved to approve the minutes of the April 17, 2021 City Council Workshop Meeting, April 18, 2021 City Council Workshop Meeting, April 20, 2021 Special Meeting, and the April 20, 2021 Council Meeting Minutes. Mayor Pro Tem Koch seconded the motion. All votes aye; motion carried 7-0.

III. City Manager's Report

5. 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*
 - Upcoming Budget Work sessions
 - COVID testing and vaccination info.
 - Parks events and programming
 - New Library hours
 - Utility Billing System Upgrade
 - 9pm Routine Campaign
 - Kyle Mass Food Distribution Event

Mr. Sellers spoke about upcoming budget work sessions. He mentioned information on COVID testing and vaccination taking place 05/16/2021 at Lehman High School from 8:00 a.m. - 5:00 p.m., which is a drive thru event and the Kyle Mass Food Distribution Events 05/22/2021 from 9:00 a.m. to 12:00 p.m. and 06/26/21 8:00 a.m. to 11:00 a.m. at ACC Hays Campus. Mr. Sellers said that volunteers were needed. He also spoke about Parks events and programming - Market Days at Gregg-Clarke Park will be held this time from 9:00 a.m. to 12:00 p.m. on Saturday, May 8th and Skate Night May 21st at Ash Pavilion from 5:30 to 8:00 p.m. He continued his report with the 9pm Routine Campaign and Utility Billing System Upgrade, for which anyone with automatic bill pay will need to update their credit card information. Mr. Sellers discussed the New Library hours as of May 1st in person programming hours. The new hours will be 10:00 a.m. to 8:00 a.m. Monday through Thursday, 10:00 a.m. to 6:00 p.m. on Fridays and 10:00 a.m. to 4:00 p.m. on Saturdays. Mr. Sellers also spoke about Independence Day staffing.

IV. Recognition

6. Recognition of Star Wars Day. ~ *Scott Solo, Millennium Falcon Manager; Mayor Boba Fett Mitchell; Emperor Palpatine Koch, Mayor Pro-Sith Lord; Yoda Ellison; Princess Leia Flores-Cale; Darth Rizo Vader; Ashlee Rey Bradshaw; and K250 Tobias*

The Council, Department Heads, and Staff participated in recognition of Star Wars Day. Scott Solo, Millennium Falcon Manager; Mayor Boba Fett Mitchell; Emperor Palpatine Koch, Mayor Pro-Sith Lord; Yoda Ellison; Princess Leia Flores-Cale; Darth Rizo Vader; Ashlee Rey Bradshaw; and K250 Tobias were present. No action was taken.

V. Recess

Mayor Mitchell called a recess at 7:10 p.m. Mayor Mitchell called the meeting back to order at 7:25 p.m.

VI. Presentation

7. Air Quality Awareness week, May 3-7. ~ *Robert Rizo, Council Member*

Mayor Mitchell brought forward Item No. 7 for discussion and gave the floor to Council Member Flores-Cale. Council Member Rizo also provided information on Air Quality. No action was taken.

8. Asian Pacific American Heritage Month Proclamation. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 8 for discussion and gave the floor to Council Member Ellison. He introduced City Employee, Danielle De Leon Guerrero who read the proclamation. No action was taken.

9. National Economic Development Week Proclamation and Celebrating the 15-Year anniversary of the creation and impact of the Economic Development Department. ~ *Travis Mitchell, Mayor*

Mayor Mitchell brought forward Item No. 9. Ms. Torres provided a presentation. Mayor Mitchell read the proclamation. No action was taken.

VII. Citizen Comment Period with City Council

Mayor Mitchell called forward Citizen Comments out of order, ahead of Item No. 10. Mayor Mitchell opened citizen comments at 8:03 p.m.

Vanessa Westbrook was called to speak as registered. She spoke about the 15-member renaming committee for which she served as chair. She stated that Kyle has a wonderful problem. She stated that there are many citizens who want to do their civic duty and serve. She stated that there is some confusion, she stated that when the committee came together, there was an application, people were appointed, and they served. She spoke about in other instances there are interviews, and nothing to say how those interviews are held.

Eric West was called to speak as registered. He stated that he came about seven years ago and helped the police department with their ADA compliance. He stated that the Police Department is still not ADA compliant which it wasn't at that time either. He stated that all the handicapped citizens are being bypassed. He stated that navigating ADA is not easy. He stated that there are many items elsewhere in the city that are not ADA compliant, which he mentioned six years ago and not one has changed. He stated that handicapped citizens are just as important as any other citizen.

Aaron Marchon was called to speak as registered. He stated that a couple of years back, there was an issue with parking in neighborhoods near Lehman High School. He stated he would like an agenda item to remove some of those signs. Continuing, he stated that the high school has bridged their two parking lots which has provided better traffic flow.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 8:10 p.m.

VI. Presentation

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

Mayor Mitchell brought forward and presented the CIP/Road Projects and Consent Agenda Presentation after Citizen Comments. Mr. Barba presented the update. No action was taken.

VIII. Consent Agenda

Mayor Mitchell brought forward Consent Agenda Item Nos. 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 for consideration. Council Member Ellison pulled Item No. 11.

12. Approve a Resolution of the City Council of the City of Kyle, Texas, Authorizing the Acceptance of a Two Year Grant in the Amount of \$90,000 from the Office of the Attorney General, Victim Coordinator and Liaison Grant for the Purpose of Funding the Kyle Police Department's Victim Advocate I Full-Time Position for Fiscal Years 2022 - 2023; Agreeing and Assuring that in the Event of Loss or Misuse of Said Grant Funds, the City Will Return the Total Amount of Funds to the Office of the Attorney General; 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 this 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*
13. Authorize renewal of the lease contract with COWBOY HARLEY-DAVIDSON OF AUSTIN, TEXAS, for a total of three (3) FLHP Police Electra Glide Harley-Davidson motorcycles and to extend the lease period to expire September 30, 2021, at the lease rate of \$390.00 per month for each motorcycle for a total amount not to exceed \$14,040.00 for lease payments to be made during Fiscal Year 2020-2021. ~ *Jeff Barnett, Chief of Police*
14. (*Second Reading*) An Ordinance of the City of Kyle, Texas Regulating Sex Offender Residency within the City and Establishing Child Safety Zones; Amending Chapter 23 of the Code of Ordinances Entitled "Miscellaneous Offenses" by adding Article XI to be Entitled "Child Safety Zones;" Making it Unlawful for Certain Sex Offenders to Reside within 1000 feet of Premises where Children Commonly Gather; Providing Exceptions to the Ordinance; Prohibiting Property Owners from Renting Real Property to Certain Sex Offenders; Providing Penalties for Violations of the Ordinance; Repealing Ordinances or Parts of Ordinances in Conflict Therewith; Providing a Severability Clause, Findings of Fact and Providing for Open Meetings. ~ *Jeff Barnett, Chief of Police*

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

15. Authorize award and execution of a Purchase Order to DOGGETT FREIGHTLINER of SOUTH TEXAS in an amount not to exceed \$197,100.00 for the purchase of one (1) Rosco Maximizer 3B Liquid Asphalt Distributor through the Buy Board Purchasing Cooperative for the Public Works Department. ~ *Harper Wilder, Director of Public Works*
16. Authorize award and execution of a Purchase Order to CLOSNER EQUIPMENT COMPANY, INC., in an amount not to exceed \$292,100.00 for the purchase of one (1) Rosco 8' to 16' Variable Width Chip Spreader through the Buy Board Purchasing Cooperative for the Public Works Department. ~ *Harper Wilder, Director of Public Works*
17. Authorize award and execution of a Purchase Order to NUECES POWER EQUIPMENT in an amount not to exceed \$81,345.74 for the purchase of one (1) Hamm HD 14 VO DD Roller through the Buy Board Purchasing Cooperative for the Public Works Department. ~ *Harper Wilder, Director of Public Works*
18. Authorize award and execution of a Purchase Order to NUECES POWER EQUIPMENT in an amount not to exceed \$138,052.36 for the purchase of one Hamm HP 180-15 Pneumatic Roller through the Buy Board Purchasing Cooperative for the Public Works Department. ~ *Harper Wilder, Director of Public Works*
19. Authorize award and execution of a contract with HALFF ASSOCIATES, INC., Austin, Texas in an amount not to exceed \$20,000.00 for a flood study of the Bunton Branch. ~ *Leon Barba, P.E., City Engineer*
20. Approve Regional Detention & Soccer Field Grading Improvements (SD-21-0097) for Approximately 92.43-Acres, Adjacent to and West of the Union Pacific Railroad and Approximately 2,500 Feet North of Kohler's Crossing. ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to approve the site plan.

Council Member Rizo moved to approve Consent Agenda Item Nos. 12, 13, 14, 15, 16, 17, 18, 19, and 20. Council Member Bradshaw seconded the motion. All votes aye; motion carried 7-0.

11. Amend the Joint Use Agreement for HCISD Parking Facilities. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item No. 11 and gave the floor to Council Member Ellison. He asked for Exhibit A to be brought to the screen for some clarification points. Mr. Sellers presented the item.

Council Member Rizo moved to approve Item No. 11, to amend the Joint Use Agreement for HCISD Parking Facilities. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

IX. Consider and Possible Action

21. *(First Reading)* An ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2010 Comprehensive Plan; Providing for the amendment of the plan by including Manufactured Home Subdivision District 'M-2' and Manufactured Home Park 'M-3' to the

New Town Community Land Use District; Providing for Related Matters. (Hadsell Estate - Z-21-0075) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to approve.

- Public Hearing

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

Mayor Mitchell opened the public hearing at 8:27 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:27 p.m. The presentation continued.

Mayor Pro Tem Koch moved to approve an Ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2010 Comprehensive Plan; Providing for the amendment of the plan by including Manufactured Home Subdivision District 'M-2' and Manufactured Home Park 'M-3' to the New Town Community Land Use District; Providing for Related Matters. Council Member Rizo seconded the motion.

There was discussion on the motion. Mayor Mitchell stated that we amend our comp plan, we amend our transportation plan, we amend our stormwater plan, and we have another transportation plan amendment coming up. Council Member Flores-Cale stated that she wouldn't take issue if it wasn't so old. Mayor Mitchell stated that the map was created in 2017, not 2010. Mayor Mitchell stated three seated members reviewed this particular map in 2017. Council Member Rizo stated that the members of Council at that time couldn't have known who was going to come in. Council Member Ellison stated that his point is he felt they could wait until the comprehensive plan. He stated that he hasn't seen this document hold importance with Council to maintain and update. He said he would like to see the policy aspect be put forward as a priority.

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

22. *(First Reading)* An ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2010 Comprehensive Plan by amending a portion of the Farm District to the Regional Node and to the New Settlement Land Use District; Providing for Related Matters. (FM 812, LLC - JD's Market - Z-21-0076) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-0 to approve.

- Public Hearing

Mayor Mitchell brought forward Item No. 22 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 8:43 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:43 p.m. The presentation continued.

Council Member Rizo moved to approve an Ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2010 Comprehensive Plan by amending a portion of the Farm District to the Regional Node and to the New Settlement Land Use District; Providing for Related Matters. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

After Item No. 23, Mayor Mitchell asked whether there were any objections to this item being finally passed. There were none.

23. *(First Reading)* An ordinance of the City of Kyle, Texas, annexing 25.2 acres of land, more or less, located in Hays County, including the abutting streets, roadways, and rights-of-way into the corporate limits of the City, at the request of the property owner; approving a service plan for the annexed area; making finding of fact; providing a severability clause and an effective date; and providing for open meetings and other related matters. (Peggy Lehman Jansen and CTX Park - ANNX-21-0008) ~ *Howard J. Koontz, Director of Planning and Community Development*

- Public Hearing

Mayor Mitchell brought forward Item No. 23 for discussion. Mr. Koontz presented the item.

Mayor Mitchell opened the public hearing at 8:53 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 8:53 p.m.

Council Member Tobias left the dais at 8:53 p.m.

Mayor Mitchell moved to approve an Ordinance of the City of Kyle, Texas, annexing 25.2 acres of land, more or less, located in Hays County, including the abutting streets, roadways, and rights-of-way into the corporate limits of the City, at the request of the property owner; approving a service plan for the annexed area; making finding of fact; providing a severability clause and an effective date; and providing for open meetings and other related matters. Mayor Pro Tem Koch seconded the motion. All votes aye; motion carried 6-0. Council Member Tobias was absent for the vote.

25. Authorize award and execution of a contract with CADENCE MCSHANE CONSTRUCTION COMPANY in an amount not to exceed \$7,950,000.00 for the construction of Heroes Memorial Park. ~ *J. Scott Sellers, City Manager*

26. Authorize award and execution of a contract with STODDARD CONSTRUCTION MANAGEMENT, INC., in an amount not to exceed \$4,850,000.00 for the construction of Uptown Central Park and Cultural Trails. ~ *J. Scott Sellers, City Manager*

27. Acceptance of the Resolution of the Board of Kyle Tax Increment Reinvestment Zone Number Two, as passed on April 29, 2021, authorizing the City Council of the City of Kyle to issue on its behalf Certificates of Obligation bonds in an amount not to exceed five million dollars (\$5,000,000.00) for the design and construction of three roads in Uptown Plum Creek development and other related matters and direct the City to prepare a reimbursement agreement between the City and TIRZ #2 for the repayment of debt associated with this bond. ~ *J. Scott Sellers, City Manager*

28. Consider approving a Resolution directing publication of a Notice of Public Hearing and Intention to Issue Combination Tax and Revenue Certificates of Obligation. ~ *Travis Mitchell, Mayor*

29. Consider approving an Amendment Regarding Declaration related to the Conveyance of the Central Park Parcel to the City and Authorize the City Manager to Execute Documents Related to Closing on the Parcel. ~ *J. Scott Sellers, City Manager*

Mayor Mitchell brought forward Item Nos. 25-29 for discussion out of order after Item No. 23 and stated that he was recommending postponement of all these items to allow time to understand all details within the agreements and contracts.

Mayor Mitchell moved to postpone Item Nos. 25 - 29. Council Member Ellison seconded the motion. All votes aye; motion carried 6-0. Council Member Tobias was absent for the vote.

Council Member Tobias returned to the dais at 8:56 p.m.

24. Consider possible action to amend the Transportation Master Plan. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell left the dais at 8:56 p.m. Mayor Pro Tem Koch brought forward Item No. 24 for discussion. Mr. Barba presented the item.

Council Member Tobias moved to amend the Transportation Master Plan. Council Member Bradshaw seconded the motion. All votes aye; motion carried 6-0. Mayor Mitchell was absent for the vote.

30. Request council to assign a task force to review, revise and update boards/commissions policy. ~ *Dex Ellison, Council Member*

Mayor Pro Tem Koch brought forward Item No. 30 for discussion and gave the floor to Council Member Ellison who presented the item.

Mayor Mitchell returned to the dais at 9:00 p.m.

Council Member Flores-Cale moved to approve Council to assign a task force to review, revise and update boards/commissions policy. Council Member Ellison seconded the motion.

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

31. Request council to schedule joint meetings to discuss vision and goals for the year with the P&Z Commission and Parks Board. ~ *Dex Ellison, Council Member*

Mayor Mitchell brought forward Item No. 31 for discussion and gave the floor to Council Member Ellison who presented the item. No action was taken.

X. Executive Session

32. 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.
 - Sales Tax Matters
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 - Acquisition of property for park purposes
 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 Pacific Blue
 - Project Eburnean
 - Project Gold
 - Project SUFC

Council Member Flores-Cale 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: 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 Eburnean.”

The City Council convened into executive session at 9:56 p.m.

33. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 10:18 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

XI. Adjourn

Mayor Mitchell moved to adjourn. Council Member Bradshaw seconded the motion. No vote was held. Mayor Pro Tem Koch and Council Member Rizo were absent for adjournment.

With no further business to discuss, the City Council adjourned at 10:18 p.m.

Travis Mitchell, Mayor

Attest:

Jennifer Holm, City Secretary

DRAFT



CITY OF KYLE, TEXAS

KAYAC Presentation

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Annual Update of the Kyle Area Youth Advisory Council (KAYAC) Presentation.
~ Abby Power, Chair of the Kyle Area Youth Advisory Council

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Gary Stubbins

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Introduction of Gary Stubbins, Building Inspector. ~ *Howard J. Koontz, Director of Planning and Community Development*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

CIP/Road Projects Update

Meeting Date: 5/18/2021

Date time: 7:00 PM

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

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Meritage Homes DA

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Approve a Development Agreement between City of Kyle, Texas and Meritage Homes of Texas, LLC or Assigns. ~ *James R. Earp, Assistant City Manager*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Staff Memo_Meritage Homes of Texas_Ky-Tex 50 DA
- KyTex.50 Dev Agmt
- 2020 0407 Intermandeco K50 DA Roads



CITY OF KYLE

Community Development Department



MEMORANDUM

TO: Mayor & Council

FROM: James R. Earp – Assistant City Manager

DATE: Tuesday, May 18, 2021

SUBJECT: Ky-Tex 50 Development Agreement

REQUEST

The City of Kyle is requesting a new development agreement to replace the existing Intermandeco GP, LLC development agreement for property known as “Ky-Tex 50”. The developer proposing to purchase the tract is amenable to this agreement.

STAFF ANALYSIS

On May 14, 2020, Intermandeco GP, LCC and the City of Kyle entered into a development agreement for property known as “Ky-Tex 50”. The property is approximately 50-acres and zoned “R-1-2” (Single-Family Residential), with both the north and south ends zoned “CC” (Community Commercial). The development agreement was designed to primarily require the developer to re-align both Opal and Roland Lanes from the 90-degree “dog leg” sections, and create a smoother, s-curve section for each.

The agreement had an expiration date of 365 days, and for reasons unknown, Intermandeco GP, LLC has allowed the agreement to lapse. A new developer, Meritage Homes of Texas, LLC is looking to acquire the property soon, but would like to largely keep the same agreement, with some modifications from the City of Kyle. This requires a new agreement, as the previous agreement has expired.

The most noticeable difference is the inclusion of required architectural features for the residences. These features exist within the City of Kyle zoning code in Sec. 53-934, and related to types of materials and architectural appurtenances. This will allow the City of Kyle to preserve a higher standard of homes, that we would otherwise not be able to enforce due to state law that went into effect during the previous state legislative session.

RECOMMENDATION

Staff finds this new agreement acceptable and so has Meritage Homes of Texas, LLC. Staff recommends approval of the development agreement and asks the Mayor and Council to vote accordingly.

ATTACHMENTS

1. Staff Memo
2. Expired Intermandeco GP, LLC Development Agreement
3. Proposed Meritage Homes of Texas, LLC Development Agreement.

STATE OF TEXAS §
 §
COUNTY OF HAYS §

**DEVELOPMENT AGREEMENT
BETWEEN CITY OF KYLE, TEXAS, AND
MERITAGE HOMES OF TEXAS, LLC, OR ASSIGNS**

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 Meritage Homes of Texas, LLC, an Arizona limited liability company (“Developer”). The term “Parties” or “Party” means the City and the Developer collectively or singularly.

RECITALS

WHEREAS, Developer intends to 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, the City previously entered into that certain Development Agreement between City of Kyle, Texas and Intermandeco GP, LLC dated on or about May 14, 2020 applicable to the Property (the “Intermandeco Development Agreement”) and the Intermandeco Development Agreement has expired in accordance with its terms;

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 Developer desires that the City be able to enforce the development standards set forth herein through its building permit, inspection, and certificate of occupancy processes by this agreement;

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 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, the City believes it is in the best interests of the City and the development to construct certain portions of the Opal roadway and Roland roadway across the Property and have the developer dedicate the associated ROW in exchange for waiver of certain development fees as a result of those improvements being built and ROW being dedicated.

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 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.

1.02 Project Defined. The Project established by the Agreement includes a master-planned residential subdivision that will include single family lots, open spaces and two (2) small retail tracts of land. The Project, includes the subdivision of the Property, the construction of off-site and on-site utility and road facilities to serve the Project and Subdivision Infrastructure 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 will include multiple phases for platting and construction purposes.

1.03 Benefits.

(a) The City desires to enter into this Agreement because Developer agrees to construct these road improvements in exchange for the waiver of certain City fees as defined herein. The Developer will benefit from the City enforcing the Development Standards as set forth herein because it will be more efficient and cost-effective for compliance to be monitored and enforced through the City’s building permit and inspection processes and will help ensure that the Development is built out as planned by the Developer after conveyance to the builder of homes or other buildings and structures authorized by the applicable zoning regulations. The City will benefit from this Agreement by having assurance regarding certain development standards for the Development, having certainty that such Development Standards may be enforced by the City, and preservation of property values within the City.

(b) 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.

1.04 Term. The term of this Agreement shall be fifteen (15) years from the Effective Date (“Term”). After the first Term, this Agreement may be extended for successive five-year periods upon written agreement signed by Developer and the City.

ARTICLE 2
**ROW DEDICATION, OPAL LN IMPROVEMENTS, ROLAND LN IMPROVEMENTS,
CITY FEE WAIVERS, AND DEVELOPMENT STANDARDS**

2.01 Opal Ln ROW Dedication & Improvements. The Developer will re-construct Opal Ln as a C3U roadway across the Property as depicted in Exhibit “B” and dedicate the associated ROW.

2.02 Roland Ln Improvements. The Developer will re-construct Roland Ln across the Property as a C3U roadway as depicted in Exhibit “B” and dedicate the associated ROW.

2.03 City Fee Waivers. (a) Since the Developer will be fully improving the adjacent Opal Ln and Roland Ln across the property and dedicating necessary ROW, the value of those Opal Ln and Roland Ln improvements and the value of the additional ROW dedication will be credited against the Adjacent Lane Mile fees (ALMF) for the Project.

(b) To determine the dollar value of construction improvements being credited against the Adjacent Lane Mile Fee (ALMF), prior to acceptance of the improvements by the City, the Developer will provide an Engineer’s Cost Summary acceptable to the City Engineer that will include final pay applications and all applicable invoices related to the construction, engineering, design and all fees incurred to complete the full scope of Opal Ln and Roland Ln improvements. The Cost Summary will include a calculation which shall credit the actual cost total from the ALMF due for units in the Preliminary Plat. If the actual cost credit fails to cover the entire ALMF due, the remaining amount shall be paid under the normal City process.

(a) At the Developer’s option, to determine the dollar value to be credited against the Adjacent Lane Mile Fee (ALMF) for the any additional ROW being dedicated for the re-route of Opal Ln and Roland Ln that exceeds the City’s standard requirement, a third-party appraisal may be conducted prior to the dedication of said ROW to the City. This appraised value plus the cost of obtaining the value may also be credited against the Adjacent Lane Mile Fee (ALMF) due for the units in the Preliminary Plat.

2.04 Satisfactory Completion of Developer Improvements. The term “Developer Improvements” includes Opal Ln Improvements and Roland Ln Improvements, as defined herein. Upon completion of construction of Developer Improvements, Developer shall provide the City with final “record” drawings of the Developer Improvements, in both hard copy and digital (PDF or CAD, as requested by the City). Developer’s engineer shall provide a certificate of completion to the City and the City shall conduct a final inspection of Developer Improvements within five (5) business days. The City shall within two (2) business days of conducting the final inspection provide a list of deficiencies found in the inspection so that when the deficiencies are corrected, Developer Improvements will meet the requirements for acceptance by the City for ownership, operation and maintenance. Developer shall be responsible for having those deficiencies remedied. Upon request, the City shall then re-inspect Developer Improvements within two (2) business days of receipt of notice from Developer, and if all deficiencies have been remedied to the City’s satisfaction, the City shall furnish, within two (2) business days, a Letter of Satisfactory Completion to the Developer stating that the Developer Improvements have been constructed in substantial compliance with the Approved Plans, meet all applicable testing requirements and otherwise comply with the requirements of the City to accept the Developer Improvements for ownership, operation and maintenance and that building permits are available for the Lots contained within that subdivision plat.

2.05 City Acceptance of Developer Improvements.

(a) 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, 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, and any other items required by the City's subdivision ordinance for acceptance of public improvements, including but not limited to maintenance bonds. 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.

(b) Prior to Council acceptance of public improvements, Developer shall dedicate the Developer Improvements to the City by plat recordation, separate conveyance or other requested means. The City shall not unreasonably deny, delay, or condition its acceptance of such Developer Improvements.

2.06 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 the Developer Improvement and shall be responsible for all costs associated with same.

2.07 Development Standards.

(a) **Development Requirements.** The structures located on the Property shall be constructed in accordance with the Development Standards set forth in **Exhibit C**, as well as the Applicable Regulations. In the event of a conflict between the Development Standards and the Applicable Regulations, the Development Standards shall control.

(b) **Building Permits.** The Developer acknowledges and agrees that compliance with Section 3(a) will be a condition of issuance of building permits and certificates of ordinance. Developer further agrees that the City may use its building permitting, inspection, and enforcement processes and procedures to enforce the requirements of Section 3(a) above, including but not limited to rejection of applications and plans, stop work orders, and disapproval of inspections for applications and/or work that does 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 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 Regulations for a certificate of occupancy to be issued for such structure.

ARTICLE 3
ASSIGNMENT OF COMMITMENTS AND OBLIGATIONS; SUCCESSORS

3.01 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. 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 entity and Developer will be released from its obligations under this Agreement upon delivery of a notice of assignment to the City.

3.02 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.

3.03 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 4
DEFAULT AND NOTICE

4.01 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 ten (10) business days from receipt of the notice to cure the default.

4.02 Remedies for Default. Whether in contract or tort or otherwise, Developer agrees to waive all claims to damages and other remedies, including 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.

4.03 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 4.03 be interpreted as or otherwise construed to be a waiver. Failure of either Party to enforce this Agreement shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

4.04 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 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.

4.05 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 1; 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
Fax:
Email: ssellers@cityofkyle.org

Any notice mailed to the Developer shall be addressed:

Meritage Homes of Texas, LLC
8920 Business Park Drive, Ste. 350
Austin, Texas 78759
Attn: Matthew Scrivener
Fax: (512) 610-6760
Email: matthew.scrivener@meritagehomes.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 5
PROPERTY AND MORTGAGEE OBLIGATIONS

5.01 Mortgage 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.

5.02 Mortgage 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 5.01. 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) Neither entering into this Agreement, nor any breach of this Agreement, will affect any lien upon all or any portion of the Property.
- (b) 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.
- (c) 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.
- (d) 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.

5.03 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 6 MISCELLANEOUS

6.01 Multiple Originals. The Parties may execute this Agreement in one or more duplicate originals, each of equal dignity.

6.02 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.

6.03 Recordation. A copy of this Agreement will be recorded in the Official Public Records of Hays County, Texas.

6.04 Governing Law. This 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 Agreement shall remain in full force and effect. This Agreement is performable in Hays County, Texas.

6.05 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, except that Developer may terminate this Agreement by sending the City a notice of termination within its contract feasibility period on the Property, 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.

6.06 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.

6.07 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.

6.08 Anti-Boycott. For purposes of Chapter 2270 of the Texas Government Code, Developer represents and warrants that, at the time of execution and delivery of this Agreement, neither Developer, nor any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of the same, boycotts Israel or will boycott Israel during the term of this Agreement. For purposes of Chapter 2270 of the Texas Government Code, the Developer represents and warrant that, at the time of execution and delivery of this Addendum, neither the Owner, nor any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of the same, boycotts Israel or will boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, “boycotts Israel” and “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with Developer and exists to make a profit.

6.09 Effective Date. This Agreement is legally effective and enforceable upon the execution of this Agreement by both parties.

SIGNED and executed this __ day of _____,_____.

DEVELOPER:
MERITAGE HOMES OF TEXAS, LLC

By: _____
Name: _____
Title: _____

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 _____, 202____, by _____, Meritage Homes of Texas, an Arizona limited liability company, on behalf of said limited liability company.

Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 202____, by Travis Mitchell, Mayor of Kyle, Hays County, Texas, on behalf of the city.

Notary Public in and for the State of Texas

EXHIBIT A
DESCRIPTION OF PROPERTY

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 49.3928 ACRES (2,151,548 SQUARE FEET) OUT OF THE Z. HINTON SURVEY NO. 12, ABSTRACT NO. 220, IN HAYS COUNTY, TEXAS, BEING ALL OF A CALLED 49.62 ACRES TRACT OF LAND CONVEYED TO KY-TEX PROPERTIES, INC. IN VOLUME 285, PAGE 458 OF THE REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS (R.P.R.H.C.T.), SAID 49.3928 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:



PO Box 90876
Austin, TX 78709
512.537.2384
www.4wards.com

BEGINNING, at a 1/2-inch iron rod found in the northeast right-of-way line of Roland Lane (C.R. 137 – right-of-way varies), being the south corner of said Ky-Tex tract, and being west corner of the remainder of a called 170.876 acres tract conveyed to Paramount Park, Ltd. in Document No. 18013402 of the Official Public Records of Hays County, Texas (O.P.R.H.C.T.), and being the south corner and **POINT OF BEGINNING** hereof, from which a cotton spindle found for an angle point in the northeast right-of-way of said Roland Lane, being the southwest line of said Paramount Park tract bears, S46°27'09"E, a distance of 1,204.49 feet;

THENCE, with the southwest line of said Ky-Tex tract, in part the northeast right-of-way line of said Roland Lane as occupied and used on-the-ground, in part crossing said Roland Lane, N46°24'08"W, a distance of **598.15** feet to a 1/2-inch iron rod with "4ward-Boundary" cap set for an angle point in the southwest line hereof, being in the southeast line of a called 50.912 acres tract conveyed to Texas Old Town, Inc. in Volume 1802, Page 353 (O.P.R.H.C.T.);

THENCE, continuing with the southwest line of said Ky-Tex tract, in part with the southeast line of said Texas Old Town tract, in part with the northeast line of a called 59.30 acres tract conveyed to FG2, LLC in Document No. 4579, Page 410 (O.P.R.H.C.T.), in part crossing said Roland Lane, in part with the apparent northeast right-of-way line of said Roland Lane as occupied and used on-the-ground the following two (2) courses and distances:

- 1) **N43°55'32"E**, passing at a distance of 34.58 feet a 60D nail found for the east corner of said Texas Old Town tract, from which a 3/4-inch iron rod with "Howard Surveying" cap found for an angle point in the common line of said Old Town tract and said FG2 tract bears, N45°54'41"W, a distance of 49.88 feet, in all a distance of **538.89** feet to a 1/2-inch iron rod found for the east corner of said FG2 tract,
- 2) **N46°06'49"W**, a distance of **279.80** feet to a 1/2-inch iron rod found for the southwest corner hereof, being an angle point in the northeast line of said FG2 tract, and being the apparent northeast right-of-way line of said Roland Lane as occupied and used on-the-ground, and being the south corner of a called 10.10 acres tract conveyed to Jewel Wayne Smith in Volume 4380, Page 444 (O.P.R.H.C.T.), from which a 1/2-inch iron rod found in the northeast line of said FG2 tract, and being the apparent northeast right-of-way line of said Roland Lane as occupied and used on-the-ground, and being the west corner of said Smith tract, and being the south corner of a called 10.005 acres tract conveyed to Thistlewood Manor, LLC in Volume 4848, Page 329 (O.P.R.H.C.T.) bears, N46°02'41"W, a distance of 437.74 feet;

THENCE, leaving the northeast line of said FG2 tract, and being the apparent northeast right-of-way line of said Roland Lane as occupied and used on-the-ground, with the northwest line of said Ky-Tex tract and with an apparent gap between deed lines of said Ky-Tex tract and said Smith tract, and in part crossing

Opal Lane (County Road 138 – right-of-way varies), **N43°56'09"E**, passing at a distance of 1,004.97 feet a calculated point, from which a 1/2-inch iron rod found for the east corner of said Smith tract, being an angle point in the southeast line of said Thistlewood tract bears, **N46°03'51"W**, a distance of 3.57 feet, passing at a distance of 2,132.77 feet a 1/2-inch iron rod found for the east corner of said Thistlewood tract, being the end of said gap between deed lines, and being in the southeast right-of-way line of said Opal Lane, from which an iron rod with "Sherwood Surveying" found for an angle point in the north line of said Thistlewood tract, being in the south right-of-way line of said Roland Lane, and being the east corner of a called 44.131 acres tract (Tract 2) conveyed to JDJ Family Manor, LLC in Volume 5092, Page 55 (O.P.R.H.C.T.) bears, **N46°13'53"W**, a distance of 50.06 feet, in all a distance of **2,148.62** feet to a calculated point for the north corner hereof, being in the center of Opal Lane, and being the north corner of said Ky-Tex tract, and being in the south line of a called 117.55 acres tract conveyed to Petra Ann Graef Peters in Volume 858, Page 444 described as a 55 1/2 acres tract in Volume 107, Page 497-499 of the Deed Records of Hays County, Texas (D.R.H.C.T.);

THENCE, with the northeast line of said Ky-Tex tract, in part the southeast line of said Ky-Tex tract, in part with the center of said Opal Lane, in part with the southwest line of said Peters tract, in part with the southwest line of a called said 117.55 acres Peters tract described as a 24.05 acres tract in Volume 170, Page 196-197 (D.R.H.C.T.), in part crossing said Opal Lane, the following three (3) courses and distances:

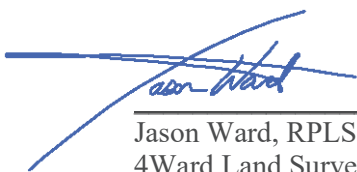
- 1) **S46°12'02"E** a distance of **837.05** feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set for the east corner hereof, being the east corner of said Ky-Tex tract, and being in the east portion of said Opal Lane,
- 2) **S42°49'20"W**, a distance of **116.67** feet to a calculated point for an angle point hereof, being in the center of said Opal Lane,
- 3) **S43°04'20"W**, a distance of **385.27** feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set (from which an iron rod found bears, **N39°23'07"E**, a distance of 1.78 feet) for an angle point hereof, being an angle point in the southeast line of said K-Tex tract, and being in the southwest right-of-way line of said Opal Lane, and being the north corner of said Paramount Park tract;

THENCE, continuing with the southeast line of said Ky-Tex tract and with the northwest line of said Paramount Park tract the following three (3) courses and distances:

- 1) **S43°15'30"W**, a distance of **1,070.42** feet to a Mag nail found for an angle point hereof,
- 2) **S42°43'17"W**, a distance of **651.54** feet to a cotton spindle found for an angle point hereof,
- 3) **S43°08'11"W**, a distance of **462.24** feet to the **POINT OF BEGINNING** hereof, and containing 49.3928 Acres (2,151,548 Square Feet) more or less.

NOTE:

Surveyed on the ground November 8, 2019. All bearings are based on the Texas State Plane Coordinate System, Grid North, South Central Zone (4204), all distances were adjusted to surface using a combined scale factor of 1.000100038566. See attached survey map (reference drawing: 00754_50ac Ky-Tex tract.dwg)



11/13/19

Jason Ward, RPLS #5811
4Ward Land Surveying, LLC
TBPLS Firm #10174300

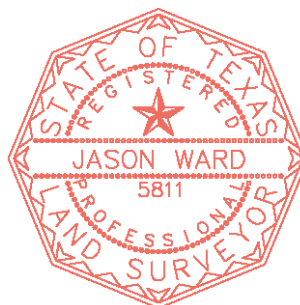
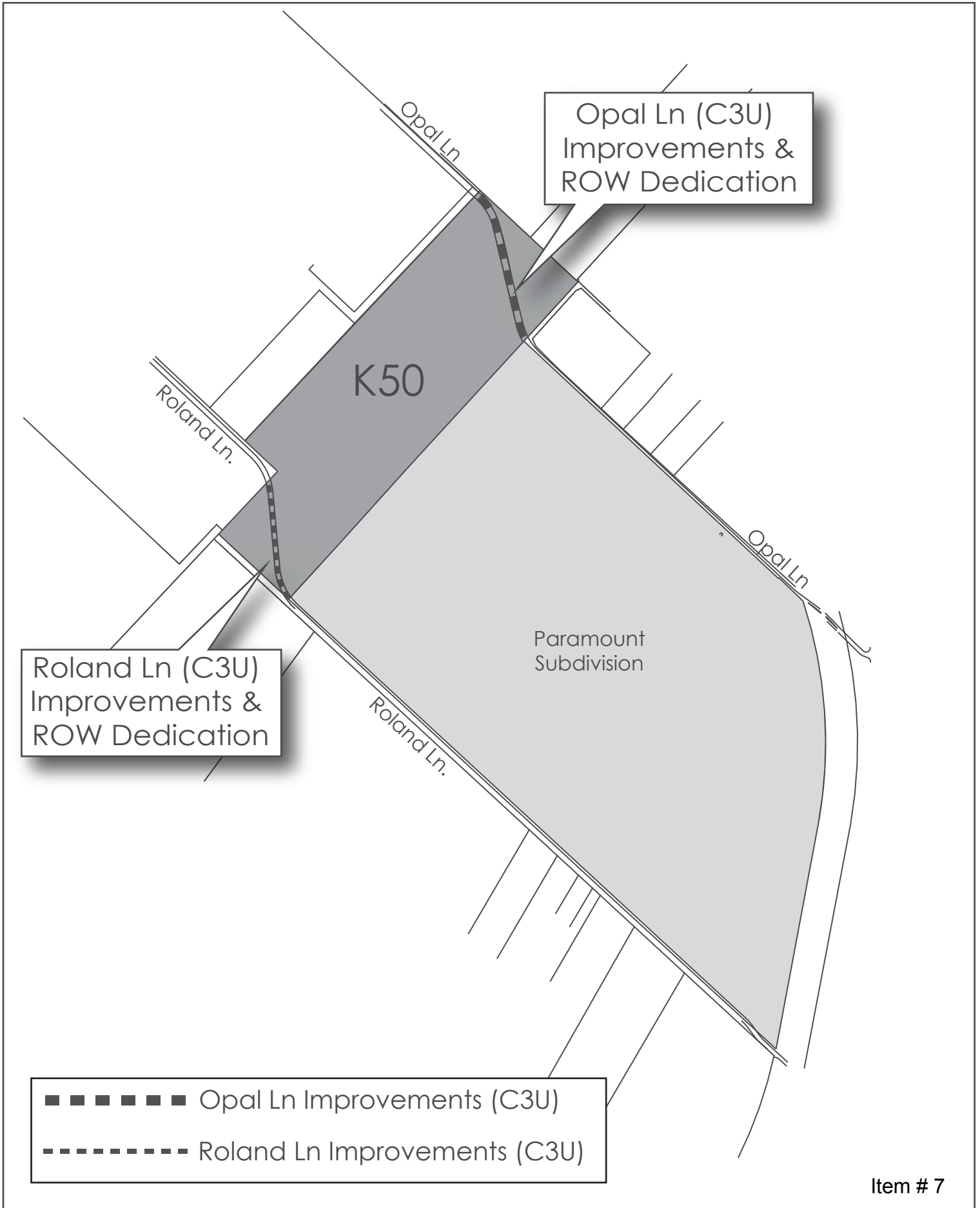


EXHIBIT B
OPAL LN & ROLAND LN IMPROVEMENTS

Exhibit "B"



Roland Ln (C3U)
Improvements &
ROW Dedication

Opal Ln (C3U)
Improvements &
ROW Dedication

- ■ ■ ■ ■ Opal Ln Improvements (C3U)
- - - - - Roland Ln Improvements (C3U)

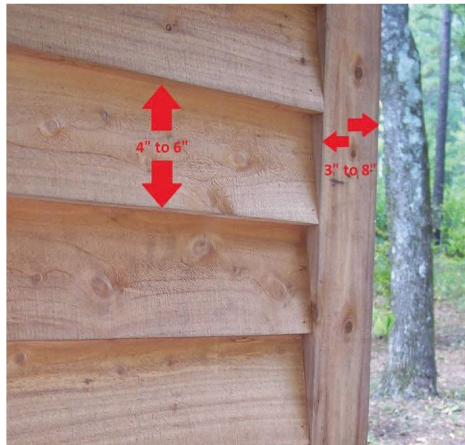
EXHIBIT C
DEVELOPMENT STANDARDS

- (a) All homes will feature exteriors of a masonry material on all sides. This includes brick, natural stone, stucco, cementitious siding/panels, or other approved masonry cladding. Doors, windows, door and window casings, porch decking, roofs, and other architectural accent features are not required to be made from masonry materials.
- (b) As new technologies emerge in the building industry, materials may be introduced that resemble traditional building materials in appearance, especially regarding exterior cladding, with the approval of the Planning Director. New, composite materials, including a combination of wood, cement, and plastic fibers, may be considered for selected, specific uses, as long as they can meet or exceed the performance of the material they are imitating. It is important that alternate materials closely replicate original materials in size, texture, profile and surface treatment.
- (c) The application of faux veneer panels as a primary cladding, such as brick veneer sheeting, Dryvit, EIFS, and engineered plywood is prohibited.
- (d) All single-family and two-family structures must provide a garage for the dwelling unit(s). The minimum size for garages shall be 380 square feet; homes with garages that measure fewer than 430 square feet shall additionally provide an on-site storage structure, with floor area of no less than 140 square feet; homes with garages that measure at least 430 but less than 480 square feet shall additionally provide an on-site storage structure, with floor area of no less than 80 square feet; homes with garages that measure 480 or more square feet shall have no such requirement to provide any additional on-site storage structure.



- (e) The architectural dominance of the garage door(s) on front-loaded home architecture shall be minimized above all else. Kyle alternately requires or at the least strongly encourages alley-loaded, rear-facing garage type products, and the consistent use of side-loading garages, as well as garages located in the rear of the property but accessed from the front of the property.
- (f) Forward facing garage door(s) shall be clad in a neutral color, noticeably darker so as not to draw primary attention to the façade, and yet complimentary to the overall aesthetic of the home. The door(s) shall present architectural features like hinge straps, windows, awning/roofs, and/or decorative handles. No front-facing garage façade or combination of garage façades may comprise more than half the overall width of the home's front façade.

- (g) All façades of a building shall contain a combination of architectural treatments, windows, returns, awnings, stoops, porches, and doors such that the maximum allowable unbroken façade distance for each building or side of building shall be 20 feet. Such controls shall pertain to both the vertical and horizontal elevations. "Blank façades" that do not feature windows, doors, or the above architectural treatments are strictly prohibited. Exposed vents, electric meter boxes, storm gutters and similar utility conduits do not qualify as architectural treatments. It should be noted that for fire-rated walls, penetrations are not required to meet this standard, so the standard is still valid in all cases.



- (h) The reveal (exposed portion) of siding will be a minimum of four inches and shall not exceed six inches. Corner boards should have the same width and depth as the siding reveal, and are not permitted to be more than two inches greater than the siding reveal, or more than one inch less than the siding reveal.
- (i) If appropriate to the architectural style, covered front porches shall be fully-functional, habitable areas and be of at least 120 square feet and at least eight feet in depth.
- (j) Window shutters, whether functional or decorative, shall be scaled as if to cover the window to which they are adjacent.



- (k) When utilizing asphalt shingles as a roofing cover, the shingles will be 3-tab "architectural" or "dimensional" style shingles.

STATE OF TEXAS §
 §
COUNTY OF HAYS §

**DEVELOPMENT AGREEMENT
BETWEEN CITY OF KYLE, TEXAS, AND
INTERMANDECO GP, LLC OR ASSIGNS**

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 INTERMANDECO GP, LLC OR ASSIGNS (“Developer”). The term “Parties” or “Party” means the City and the Developer collectively or singularly.

RECITALS

WHEREAS, Developer intends to 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, 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 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.

WHEREAS, the City believes it is in the best interests of the City and the development to construct certain portions of the Opal roadway and Roland roadway across the Property and have the developer dedicate the associated ROW in exchange for waiver of certain development fees as a result of those improvements being built and ROW being dedicated.

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 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.

1.02 Project Defined. The Project established by the Agreement includes a master-planned residential subdivision that will include single family lots, open spaces and two (2) small retail tracts of land. The Project, includes the subdivision of the Property, the construction of off-site and on-site utility and road facilities to serve the Project and Subdivision Infrastructure 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 will include multiple phases for platting and construction purposes.

1.03 Benefits.

(a) The City desires to enter into this Agreement because Developer agrees to construct these road improvements in exchange for the waiver of certain City fees as defined herein.

(b) 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.

1.04 Term. The term of this Agreement will commence on the Effective Date and continue for 365 days, unless Developer sends the City a notice of termination within its contract feasibility period on the Property or acquires title to the Property and delivers a copy of the recorded deed to the City within said 365-day period. If Developer acquires title to the Property and delivers a copy of the recorded deed to the City within said 365 days, then the term of this Agreement shall be fifteen (15) years from the Effective Date (“Term”). After the first Term, this Agreement may be extended for successive five-year periods upon written agreement signed by Developer and the City.

ARTICLE 2
**ROW DEDICATION, OPAL LN IMPROVEMENTS, ROLAND LN IMPROVEMENTS,
AND CITY FEE WAIVERS**

2.01 Opal Ln ROW Dedication & Improvements. The Developer will re-construct Opal Ln as a C3U roadway across the Property as depicted in Exhibit “B” and dedicate the associated ROW.

2.02 Roland Ln Improvements. The Developer will re-construct Roland Ln across the Property as a C3U roadway as depicted in Exhibit “B” and dedicate the associated ROW.

2.03 City Fee Waivers. (a) Since the Developer will be fully improving the adjacent Opal Ln and Roland Ln across the property and dedicating necessary ROW, the value of those Opal Ln and Roland Ln improvements and the value of the additional ROW dedication will be credited against the Adjacent Lane Mile fees (ALMF) for the Project.

(b) To determine the dollar value of construction improvements being credited against the Adjacent Lane Mile Fee (ALMF), prior to acceptance of the improvements by the City, the Developer will provide an Engineer's Cost Summary acceptable to the City Engineer that will include final pay applications and all applicable invoices related to the construction, engineering, design and all fees incurred to complete the full scope of Opal Ln and Roland Ln improvements. The Cost Summary will include a calculation which shall credit the actual cost total from the ALMF due for units in the Preliminary Plat. If the actual cost credit fails to cover the entire ALMF due, the remaining amount shall be paid under the normal City process.

(c) At the Developer's option, to determine the dollar value to be credited against the Adjacent Lane Mile Fee (ALMF) for the any additional ROW being dedicated for the re-route of Opal Ln and Roland Ln that exceeds the City's standard requirement, a third-party appraisal may be conducted prior to the dedication of said ROW to the City. This appraised value plus the cost of obtaining the value may also be credited against the Adjacent Lane Mile Fee (ALMF) due for the units in the Preliminary Plat.

2.04 Satisfactory Completion of Developer Improvements. The term "Developer Improvements" includes Opal Ln Improvements and Roland Ln Improvements, as defined herein. Upon completion of construction of Developer Improvements, Developer shall provide the City with final "record" drawings of the Developer Improvements, in both hard copy and digital (PDF or CAD, as requested by the City). Developer's engineer shall provide a certificate of completion to the City and the City shall conduct a final inspection of Developer Improvements within five (5) business days. The City shall within two (2) business days of conducting the final inspection provide a list of deficiencies found in the inspection so that when the deficiencies are corrected, Developer Improvements will meet the requirements for acceptance by the City for ownership, operation and maintenance. Developer shall be responsible for having those deficiencies remedied. Upon request, the City shall then re-inspect Developer Improvements within two (2) business days of receipt of notice from Developer, and if all deficiencies have been remedied to the City's satisfaction, the City shall furnish, within two (2) business days, a Letter of Satisfactory Completion to the Developer stating that the Developer Improvements have been constructed in substantial compliance with the Approved Plans, meet all applicable testing requirements and otherwise comply with the requirements of the City to accept the Developer Improvements for ownership, operation and maintenance and that building permits are available for the Lots contained within that subdivision plat.

2.05 City Acceptance of Developer Improvements.

(a) 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, 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, and any other items required by the City's subdivision ordinance for acceptance of public improvements, including but not limited to maintenance bonds. 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.

(b) Prior to Council acceptance of public improvements, Developer shall dedicate the Developer Improvements to the City by plat recordation, separate conveyance or other requested means. The City shall not unreasonably deny, delay, or condition its acceptance of such Developer Improvements.

2.06 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 the Developer Improvement and shall be responsible for all costs associated with same.

ARTICLE 3

ASSIGNMENT OF COMMITMENTS AND OBLIGATIONS; SUCCESSORS

3.01 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. 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 entity and Developer will be released from its obligations under this Agreement upon delivery of a notice of assignment to the City.

3.02 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.

3.03 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 4

DEFAULT AND NOTICE

4.01 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 ten (10) business days from receipt of the notice to cure the default.

4.02 Remedies for Default. Whether in contract or tort or otherwise, Developer agrees to waive all claims to damages and other remedies, including 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.

4.03 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 4.03 be interpreted as or otherwise construed to be a waiver. Failure of either Party to enforce this Agreement shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

4.04 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 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.

4.05 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:

Doreen Clark for Cary L. Cobb
Intermandeco GP, LLC
P.O. Box 670649
Dallas, TX 75367

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 5
PROPERTY AND MORTGAGEE OBLIGATIONS

5.01 Mortgage 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.

5.02 Mortgage 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 5.01. 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) Neither entering into this Agreement, nor any breach of this Agreement, will affect any lien upon all or any portion of the Property.
- (b) 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.
- (c) 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.
- (d) 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.

5.03 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 6 MISCELLANEOUS

6.01 Multiple Originals. The Parties may execute this Agreement in one or more duplicate originals, each of equal dignity.

6.02 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.

6.03 Recordation. A copy of this Agreement will be recorded in the Official Public Records of Hays County, Texas.

6.04 Governing Law. This 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 Agreement shall remain in full force and effect. This Agreement is performable in Hays County, Texas.

6.05 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, except that Developer may terminate this Agreement by sending the City a notice of termination within its contract feasibility period on the Property, 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.

6.06 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.

6.07 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.

6.08 Anti-Boycott. For purposes of Chapter 2270 of the Texas Government Code, Developer represents and warrants that, at the time of execution and delivery of this Agreement, neither Developer, nor any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of the same, boycotts Israel or will boycott Israel during the term of this Agreement. For purposes of Chapter 2270 of the Texas Government Code, the Developer represents and warrant that, at the time of execution and delivery of this Addendum, neither the Owner, nor any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of the same, boycotts Israel or will boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, “boycotts Israel” and “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with Developer and exists to make a profit.

6.09 Effective Date. This Agreement is legally effective and enforceable upon the execution of this Agreement by both parties.

SIGNED and executed this ___ day of _____, 2020.

DEVELOPER:
INTERMANDECO GP, LLC OR ASSIGNS

By: _____
Cary L. Cobb, Vice President

CITY OF KYLE, TEXAS

By:  _____
Travis Mitchell, Mayor

ATTEST:

 _____
Jennifer A. Vetrano, City Secretary

6.08 Anti-Boycott. For purposes of Chapter 2270 of the Texas Government Code, Developer represents and warrants that, at the time of execution and delivery of this Agreement, neither Developer, nor any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of the same, boycotts Israel or will boycott Israel during the term of this Agreement. For purposes of Chapter 2270 of the Texas Government Code, the Developer represents and warrant that, at the time of execution and delivery of this Addendum, neither the Owner, nor any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of the same, boycotts Israel or will boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, “boycotts Israel” and “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with Developer and exists to make a profit.

6.09 Effective Date. This Agreement is legally effective and enforceable upon the execution of this Agreement by both parties.

SIGNED and executed this 14TH day of MAY, 2020.

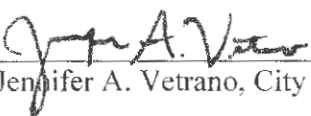
DEVELOPER:
INTERMANDECO GP, LLC OR ASSIGNS

By: 
Cary L. Cobb, Vice President

CITY OF KYLE, TEXAS

By: 
Travis Mitchell, Mayor

ATTEST:


Jennifer A. Vetrano, City Secretary

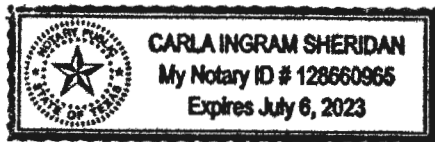
THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2020, by Cary L. Cobb, Vice President of Intermandeco GP, LLC, a Texas limited liability company, on behalf of said limited liability company.

Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on May 13 , 2020, by Travis Mitchell, Mayor of Kyle, Hays County, Texas, on behalf of the city.



 Carla Ingram Sheridan
Notary Public in and for the State of Texas

EXHIBIT A
DESCRIPTION OF PROPERTY

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 49.3928 ACRES (2,151,548 SQUARE FEET) OUT OF THE Z. HINTON SURVEY NO. 12, ABSTRACT NO. 220, IN HAYS COUNTY, TEXAS, BEING ALL OF A CALLED 49.62 ACRES TRACT OF LAND CONVEYED TO KY-TEX PROPERTIES, INC. IN VOLUME 285, PAGE 458 OF THE REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS (R.P.R.H.C.T.), SAID 49.3928 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:



PO Box 90876
Austin, TX 78709
512.537.2384
www.4wards.com

BEGINNING, at a 1/2-inch iron rod found in the northeast right-of-way line of Roland Lane (C.R. 137 – right-of-way varies), being the south corner of said Ky-Tex tract, and being west corner of the remainder of a called 170.876 acres tract conveyed to Paramount Park, Ltd. in Document No. 18013402 of the Official Public Records of Hays County, Texas (O.P.R.H.C.T.), and being the south corner and **POINT OF BEGINNING** hereof, from which a cotton spindle found for an angle point in the northeast right-of-way of said Roland Lane, being the southwest line of said Paramount Park tract bears, S46°27'09"E, a distance of 1,204.49 feet;

THENCE, with the southwest line of said Ky-Tex tract, in part the northeast right-of-way line of said Roland Lane as occupied and used on-the-ground, in part crossing said Roland Lane, N46°24'08"W, a distance of **598.15** feet to a 1/2-inch iron rod with "4ward-Boundary" cap set for an angle point in the southwest line hereof, being in the southeast line of a called 50.912 acres tract conveyed to Texas Old Town, Inc. in Volume 1802, Page 353 (O.P.R.H.C.T.);

THENCE, continuing with the southwest line of said Ky-Tex tract, in part with the southeast line of said Texas Old Town tract, in part with the northeast line of a called 59.30 acres tract conveyed to FG2, LLC in Document No. 4579, Page 410 (O.P.R.H.C.T.), in part crossing said Roland Lane, in part with the apparent northeast right-of-way line of said Roland Lane as occupied and used on-the-ground the following two (2) courses and distances:

- 1) **N43°55'32"E**, passing at a distance of 34.58 feet a 60D nail found for the east corner of said Texas Old Town tract, from which a 3/4-inch iron rod with "Howard Surveying" cap found for an angle point in the common line of said Old Town tract and said FG2 tract bears, N45°54'41"W, a distance of 49.88 feet, in all a distance of **538.89** feet to a 1/2-inch iron rod found for the east corner of said FG2 tract,
- 2) **N46°06'49"W**, a distance of **279.80** feet to a 1/2-inch iron rod found for the southwest corner hereof, being an angle point in the northeast line of said FG2 tract, and being the apparent northeast right-of-way line of said Roland Lane as occupied and used on-the-ground, and being the south corner of a called 10.10 acres tract conveyed to Jewel Wayne Smith in Volume 4380, Page 444 (O.P.R.H.C.T.), from which a 1/2-inch iron rod found in the northeast line of said FG2 tract, and being the apparent northeast right-of-way line of said Roland Lane as occupied and used on-the-ground, and being the west corner of said Smith tract, and being the south corner of a called 10.005 acres tract conveyed to Thistlewood Manor, LLC in Volume 4848, Page 329 (O.P.R.H.C.T.) bears, N46°02'41"W, a distance of 437.74 feet;

THENCE, leaving the northeast line of said FG2 tract, and being the apparent northeast right-of-way line of said Roland Lane as occupied and used on-the-ground, with the northwest line of said Ky-Tex tract and with an apparent gap between deed lines of said Ky-Tex tract and said Smith tract, and in part crossing

Opal Lane (County Road 138 – right-of-way varies), **N43°56'09"E**, passing at a distance of 1,004.97 feet a calculated point, from which a 1/2-inch iron rod found for the east corner of said Smith tract, being an angle point in the southeast line of said Thistlewood tract bears, **N46°03'51"W**, a distance of 3.57 feet, passing at a distance of 2,132.77 feet a 1/2-inch iron rod found for the east corner of said Thistlewood tract, being the end of said gap between deed lines, and being in the southeast right-of-way line of said Opal Lane, from which an iron rod with “Sherwood Surveying” found for an angle point in the north line of said Thistlewood tract, being in the south right-of-way line of said Roland Lane, and being the east corner of a called 44.131 acres tract (Tract 2) conveyed to JDJ Family Manor, LLC in Volume 5092, Page 55 (O.P.R.H.C.T.) bears, **N46°13'53"W**, a distance of 50.06 feet, in all a distance of **2,148.62** feet to a calculated point for the north corner hereof, being in the center of Opal Lane, and being the north corner of said Ky-Tex tract, and being in the south line of a called 117.55 acres tract conveyed to Petra Ann Graef Peters in Volume 858, Page 444 described as a 55 1/2 acres tract in Volume 107, Page 497-499 of the Deed Records of Hays County, Texas (D.R.H.C.T.);

THENCE, with the northeast line of said Ky-Tex tract, in part the southeast line of said Ky-Tex tract, in part with the center of said Opal Lane, in part with the southwest line of said Peters tract, in part with the southwest line of a called said 117.55 acres Peters tract described as a 24.05 acres tract in Volume 170, Page 196-197 (D.R.H.C.T.), in part crossing said Opal Lane, the following three (3) courses and distances:

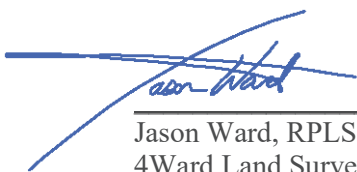
- 1) **S46°12'02"E** a distance of **837.05** feet to a 1/2-inch iron rod with “4Ward-Boundary” cap set for the east corner hereof, being the east corner of said Ky-Tex tract, and being in the east portion of said Opal Lane,
- 2) **S42°49'20"W**, a distance of **116.67** feet to a calculated point for an angle point hereof, being in the center of said Opal Lane,
- 3) **S43°04'20"W**, a distance of **385.27** feet to a 1/2-inch iron rod with “4Ward-Boundary” cap set (from which an iron rod found bears, **N39°23'07"E**, a distance of 1.78 feet) for an angle point hereof, being an angle point in the southeast line of said K-Tex tract, and being in the southwest right-of-way line of said Opal Lane, and being the north corner of said Paramount Park tract;

THENCE, continuing with the southeast line of said Ky-Tex tract and with the northwest line of said Paramount Park tract the following three (3) courses and distances:

- 1) **S43°15'30"W**, a distance of **1,070.42** feet to a Mag nail found for an angle point hereof,
- 2) **S42°43'17"W**, a distance of **651.54** feet to a cotton spindle found for an angle point hereof,
- 3) **S43°08'11"W**, a distance of **462.24** feet to the **POINT OF BEGINNING** hereof, and containing 49.3928 Acres (2,151,548 Square Feet) more or less.

NOTE:

Surveyed on the ground November 8, 2019. All bearings are based on the Texas State Plane Coordinate System, Grid North, South Central Zone (4204), all distances were adjusted to surface using a combined scale factor of 1.000100038566. See attached survey map (reference drawing: 00754_50ac Ky-Tex tract.dwg)



11/13/19

Jason Ward, RPLS #5811
4Ward Land Surveying, LLC
TBPLS Firm #10174300

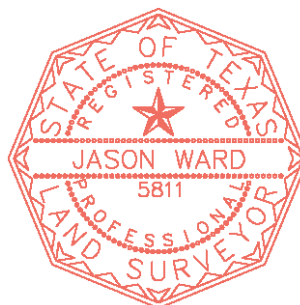
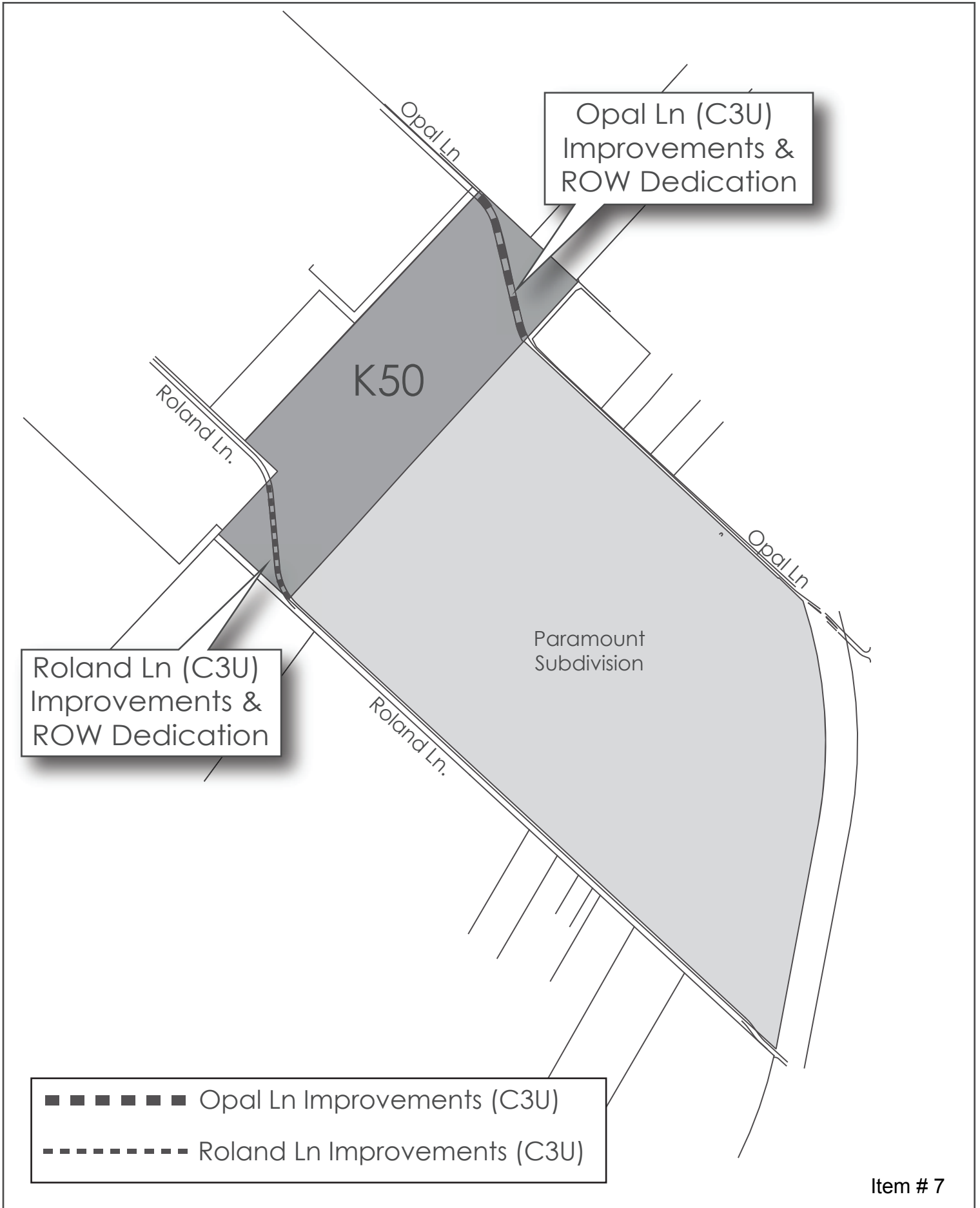


EXHIBIT B
OPAL LN & ROLAND LN IMPROVEMENTS

Exhibit "B"



Roland Ln (C3U)
Improvements &
ROW Dedication

Opal Ln (C3U)
Improvements &
ROW Dedication

- ■ ■ ■ ■ Opal Ln Improvements (C3U)
- - - - - Roland Ln Improvements (C3U)



CITY OF KYLE, TEXAS

Termination and Release of Two Water Easements for Kyle Mortgage Investors

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Termination and Release of Two Water Easements for Kyle Mortgage Investors. ~ *Leon Barba, P.E., City Engineer*

Other Information: Milestone Community Builders, LLC in their acquisition of approximately a 57.293 acre tract located in Hays County, Texas, from Kyle Mortgage Investors, LLC.

From review of the Title Commitment it was determined that there are four recorded Water Easements whereby Kyle Mortgage Investors, LLC granted to the City of Kyle easements for the purpose of installing, etc. a Water Transmission Main, Booster Pump Station and associated appurtenances. Milestone Community Builders, LLC prepared the Water Easements, that (i) Document No. 20037475 was recorded to correct Document No. 20035869 as it did not have Exhibit A attached; and (ii) Document No. 20040165 was recorded to correct Document No. 2003677 as it described the wrong Easement Tract and attached an incorrect metes and bounds description. Since Document No. 20037475 and Document No. 20040165 were not recorded as correction documents, the Title Company is requiring that terminations of Document No. 20035869 and Document No. 20036777, executed by Grantor and Grantee, be recorded.

Attached are two Terminations and Releases of Water Easements.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- [Milestone] Kyle 57 - Termination and Release of Water Easement [20035869]
- [Milestone] Kyle 57 - Termination and Release of Water Easement [20036777]

TERMINATION AND RELEASE OF WATER EASEMENT

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HAYS

§

§

WHEREAS, **KYLE MORTGAGE INVESTORS, LLC**, a Colorado limited liability company, hereinafter referred to as "**Grantor**" is the current owner of that certain real property located in Hays County, Texas, as more particularly described as that certain 5,260 square feet out of the land located in the Samuel Pharass ¼ League No. 14 Abstract 360, Hays County, Texas (the "**Easement Tract**").

WHEREAS, Grantor previously executed that certain Water Easement, dated August 3, 2020, and recorded as Document No. 200035869 in the Official Public Records of Hays County, Texas (the "**Easement**"), which encumbers the Easement Tract, granting the Easement to the City of Kyle, Hays County, Texas, hereinafter referred to as "**Grantee**", for the purpose of installing, constructing, operating, using, maintaining, repairing, modifying, upgrading, monitoring, inspecting, replacing, making connections with, removing, and decommissioning a Water Transmission Main, Booster Pump Station and associated appurtenances (collectively, the "**Facilities**").

WHEREAS, Grantor desires to terminate and release the Easement and remove all restrictions and easements contained therein from the Easement Tract.

NOW, THEREFORE, for and in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby TERMINATES and RELEASES the Easement and removes all restrictions and easements contained therein from the Easement Tract.

EXECUTED to be effective this _____ day of _____, 2021.

[SIGNATURE PAGES TO FOLLOW]

GRANTOR:

KYLE MORTGAGE INVESTORS, LLC,
a Colorado limited liability company

By: Harbor Greens of Seminole, Inc.,
a Florida corporation, its Member

By: _____

Name: _____

Title: _____

THE STATE OF _____ §

§

COUNTY OF _____ §

This instrument was acknowledged before me on this ____ day of _____, 2021, by _____ of Harbor Greens of Seminole, Inc., a Florida corporation, Member Kyle Mortgage Investors, LLC, a Colorado limited liability company, on behalf of said corporation and limited liability company.

(seal)

Notary Public, State of Texas

GRANTEE:

CITY OF KYLE, TEXAS

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §

§

COUNTY OF HAYS §

This instrument was acknowledged before me on this ____ day of _____, 2021, by _____ of the City of Kyle, Texas, a municipal corporation, on behalf of said municipal corporation.

(seal)

Notary Public, State of Texas

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.

32 City MS

WATER EASEMENT

Date: August 3, 2020

Grantor: Kyle Mortgage Investors LLC,
a Colorado limited liability company

Grantor's Address: 10800 Wilshire Blvd., Apt. 2101
Los Angeles, CA 90024

Grantee: City of Kyle
Hays County, Texas

Grantee's Address: 100 West Center Street
Kyle, TX 78640

Easement Tract: 5,260 square feet out of the land located in the Samuel Pharras ¼ League No 14 Abstract 360, Hays County, Texas, and more particularly described by metes and bounds in **EXHIBIT A** attached hereto.

Easement Duration: If, and only if, Grantee commences and completes construction of the Facilities within eighteen (18) months of the date of this instrument, the Easement Duration shall be perpetual or until the Facilities are abandoned.

Easement Purpose: To install, construct, operate, use, maintain, repair, modify, upgrade, monitor, inspect, replace, make connections with, remove, and decommission the Facilities, and for no other purpose.

Facilities: Water Transmission Main, Booster Pump Station and associated appurtenances.

Permitted Encumbrances: Any easements, liens, encumbrances, and other matters that are valid, existing, and affect the Easement Tract as of the Date set forth herein and of record in the Real Property Records of Hays County, Texas in which the Easement Tract is located.

Non-Permitted Activity: Installation, construction, operation, use, maintenance, repair, modification, upgrade, and replacement of any building, detention or water quality controls, or rainwater harvesting system, either above or below the surface of the Easement Tract.

Eligible Improvements: Irrigation systems and other utility lines that do not materially

interfere with the Facilities, walkways made of concrete, asphalt, granite or any other similar materials, driveways, access roads and parking areas at grade level, barbed-wire, chain-link, and wooden fences, landscaping items such as plants, flowers, shrubs, bushes, hardscapes, rocks, pathways, and movable structure such as benches, gazebos and other similar items.

Grantor, for **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable consideration paid to Grantor, the receipt and sufficiency of which is acknowledged by Grantor, **GRANTS, SELLS, AND CONVEYS** to the City a non-exclusive easement in, over, under, on, and across the Easement Tract only for the Easement Purpose (and for no other purpose) as may be necessary or desirable subject to the Permitted Encumbrances, together with (i) the right of ingress and egress at all times over, on, and across the Easement Tract only for use of the Easement Tract for the Easement Purpose, (ii) the right to eliminate any encroachments in the Easement Tract that interfere in any material way with the rights granted the City under this instrument for the Easement Purpose and are not otherwise permitted hereunder, and (iii) any and all rights and appurtenances pertaining only to the use of the Easement Tract for the Easement Purpose (collectively, the "Easement").

TO HAVE AND TO HOLD the Easement to the City and City's successors and assigns for the Easement Duration and the Easement Purpose; provided, however, Grantor reserves the right, for Grantor and Grantor's heirs, successors, and assigns, to enter upon and use any portion of the Easement Tract, including without limitation, to install, construct, operate, use, maintain, repair, modify, upgrade, and replace within the Easement Tract any improvements allowed under an approved City Permit and any Eligible Improvements, but in no event shall Grantor, except with respect to any improvements allowed under an approved City Permit and any Eligible Improvements, enter upon or use any portion of the Easement Tract for any Non-Permitted Activity or in any other manner that interferes in any material way or is inconsistent with the rights granted the City under this Easement for the Easement Purpose.

City, at its sole cost and expense, shall be obligated to restore Eligible Improvements and the surface of the soil of the Easement Tract that has been removed, relocated, altered as a result of City's use of the Easement Tract, in each case to substantially and a reasonably practicable to the same condition as existed immediately prior to Grantee's exercise of its rights and/or obligations hereunder. City will not be obligated to restore or relocate any other improvements, not including Eligible Improvements, located in, upon, under or across the Easement Tract.

If, Grantee has failed to commence and complete construction of the Facilities within the Easement Tract within eighteen (18) months of the date of this instrument, this grant of Easement shall ipso facto terminate, all rights in and to the Easement Tract conveyed hereby shall revert to Grantor, its legal representatives, and assigns, the owner of the Easement Tract shall be released from the Easement, and the Easement shall no longer encumber the Easement Tract.

Grantor reserves its interest in all oil, gas, and other minerals in and under and that may be produced from the Easement Tract.

Grantor binds Grantor and Grantor's heirs, successors, and assigns to **WARRANT AND FOREVER DEFEND** the title to the Easement, subject to the Permitted Encumbrances, to the City against every person whomsoever lawfully claiming or to claim the Easement Tract or any part of the

Easement Tract when the claim is by, through, or under Grantor, but not otherwise.

Except where the context otherwise requires, Grantor includes Grantor's heirs, successors, and assigns and City includes City's employees, agents, consultants, contractors, successors, and assigns; and where the context requires, singular nouns and pronouns include the plural.

Executed effective the Date first above stated.

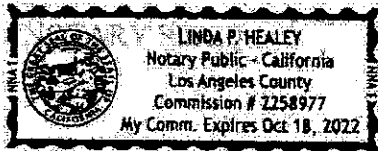
Grantor: KYLE MORTGAGE INVESTORS, LLC,
a Colorado limited liability company

By: Harbor Greens of Seminole, Inc.,
a Florida corporation, its Member

By: Linda Pastel Pres.
Linda Pastel, President

STATE OF California
COUNTY OF Los Angeles

This instrument was acknowledged before me on the 3rd day of August 2020, by Linda Pastel, President of Harbor Greens of Seminole, Inc., a Florida corporation, member of Kyle Mortgage Investors, LLC, a Colorado limited liability company, on behalf of said limited liability company for the purposes set forth herein.



Linda P. Healey
Notary Public in and for the State of _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles }

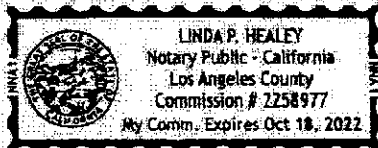
On August 5, 2020 before me, Linda P. Healey
Date Here Insert Name and Title of the Officer

personally appeared Linda Pastel
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal and/or Stamp Above

Signature Linda P. Healey
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

Corporate Officer - Title(s): _____ Corporate Officer - Title(s): _____

Partner - Limited General Partner - Limited General

Individual Attorney in Fact Individual Attorney in Fact

Trustee Guardian of Conservator Trustee Guardian of Conservator

Other: _____ Other: _____

Signer is Representing: _____ Signer is Representing: _____

**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.

20035869 EASEMENT
08/21/2020 04:16:52 PM Total Fees: \$42.00

Elaine H. Cárdenas, MBA, PhD, County Clerk
Hays County, Texas



TERMINATION AND RELEASE OF WATER EASEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HAYS §

WHEREAS, **KYLE MORTGAGE INVESTORS, LLC**, a Colorado limited liability company, hereinafter referred to as "**Grantor**" is the current owner of that certain real property located in Hays County, Texas, as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "**Easement Tract**").

WHEREAS, Grantor previously executed that certain Water Easement, dated August 24, 2020, and recorded as Document No. 200036777 in the Official Public Records of Hays County, Texas (the "**Easement**"), which encumbers the Easement Tract, granting the Easement to the City of Kyle, Hays County, Texas, hereinafter referred to as "**Grantee**", for the purpose of installing, constructing, operating, using, maintaining, repairing, modifying, upgrading, monitoring, inspecting, replacing, making connections within, removing, and decommissioning a Water Transmission Main, Booster Pump Station and associated appurtenances (collectively, the "**Facilities**").

WHEREAS, Grantor desires to terminate and release the Easement and remove all restrictions and easements contained therein from the Easement Tract.

NOW, THEREFORE, for and in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby TERMINATES and RELEASES the Easement and removes all restrictions and easements contained therein from the Easement Tract.

EXECUTED to be effective this _____ day of _____, 2021.

[SIGNATURE PAGES TO FOLLOW]

GRANTOR:

KYLE MORTGAGE INVESTORS, LLC,
a Colorado limited liability company

By: Harbor Greens of Seminole, Inc.,
a Florida corporation, its Member

By: _____

Name: _____

Title: _____

THE STATE OF _____

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on this ____ day of _____, 2021, by _____, _____ of Harbor Greens of Seminole, Inc., a Florida corporation, Member Kyle Mortgage Investors, LLC, a Colorado limited liability company, on behalf of said corporation and limited liability company.

(seal)

Notary Public, State of Texas

GRANTEE:

CITY OF KYLE, TEXAS

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §

§

COUNTY OF HAYS §

This instrument was acknowledged before me on this ____ day of _____, 2021, by _____ of the City of Kyle, Texas, a municipal corporation, on behalf of said municipal corporation.

(seal)

Notary Public, State of Texas

Exhibit "A"

PROPERTY DESCRIPTION

BEING 33,250 SQUARE FEET, 0.763 OF ONE ACRE OF LAND LOCATED IN THE SAMUEL PHARASS SURVEY, ABSTRACT 360 IN HAYS COUNTY, TEXAS AND BEING A PORTION OF A CALLED 57.260 ACRE TRACT DESCRIBED IN A IN VOLUME 3416, PAGE 788, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T), SAID 33,250 SQUARE FEET, 0.763 OF ONE ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS WITH ALL BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE NAD83 4204.

BEGINNING at an iron rod with aluminum cap stamped "PRO TECH ENG." found on the southwesterly line of FM 150 for the east corner of Quail Meadows Subdivision, as recorded in Cabinet 7, Slide 47 of the Plat Records of Hays County, Texas, said point being the northeast corner of the herein described tract;

THENCE, with said southwesterly line of FM 150, the following courses and distances:

1. S46°07'20"E, for a distance of 25.00 feet to a calculated point;

THENCE, leaving said right of way and crossing said 57.260 acre tract the following courses and distances:

1. S43°08'59"W, for a distance of 467.14 feet to a calculated point;
2. S42°48'40"W, for a distance of 252.58 feet to a calculated point and
3. S43°14'32"W, for a distance of 610.38 feet to a calculated point on the northerly line of a called 608.70 acre tract described in Document No. 17034180 O.P.R.H.C.T.;

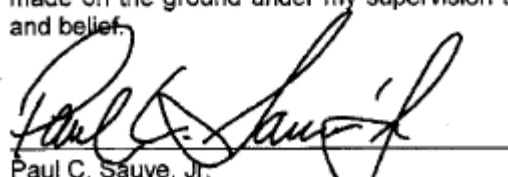
THENCE, N45°43'31"W, for a distance of 25.00 feet to a ½-inch iron rod found at the south corner of said Quail Meadows Subdivision;

THENCE, with the southeasterly line of said subdivision and the northwesterly line of said 57.260 acre tract, the following courses and distances:

1. N43°14'32"E, for a distance of 609.84 feet to a calculated point for corner;
2. N42°48'40"E, for a distance of 252.56 feet to a calculated point for corner;
3. N43°08'59"E, for a distance of 467.53 feet to the **POINT OF BEGINNING** and containing 33,250 square feet, 0.763 of one acre of land, more or less

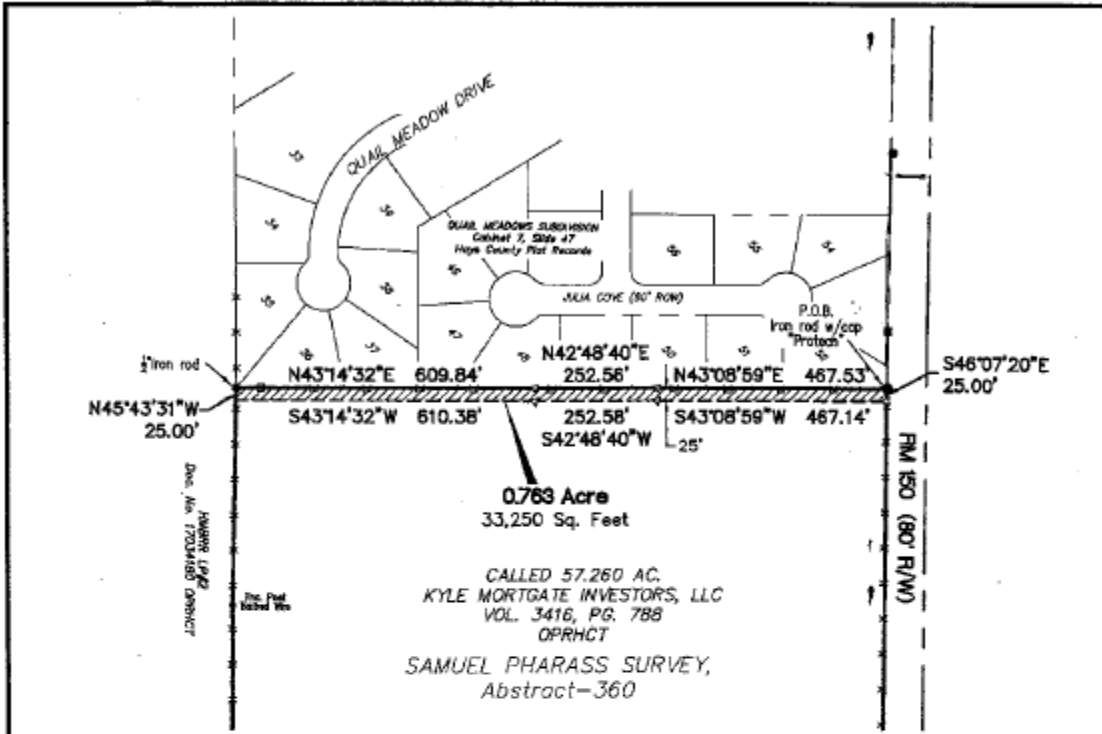
SURVEYOR'S STATEMENT

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



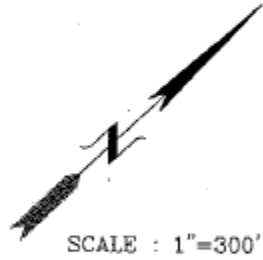
Paul C. Sauve, Jr.
Registered Professional Land Surveyor
No. 2518 - State of Texas
Atwell, LLC
January 2, 2020.





LEGEND

- 1/2" IRON ROD FOUND AND AS NOTED
- ▲ NAIL FOUND AS NOTED
- SET 1/2" IRON ROD W/CAP "AST"
- △ CALCULATED POINT
- P.U.E. PUBLIC UTILITY EASEMENT
- P.O.B. POINT OF BEGINNING
- P.R.H.C.T. PLAT RECORDS HAYS COUNTY, TEXAS
- R.P.R.H.C.T. REAL PROPERTY RECORDS HAYS COUNTY, TEXAS
- O.P.R.H.C.T. OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS



SURVEYOR'S STATEMENT

I HEREBY STATE THAT INFORMATION SHOWN ON THIS MAP IS THE RESULT OF A SURVEY MADE ON THE GROUND UNDER MY SUPERVISION. HORIZONTAL DATUM IS BASED ON THE TEXAS COORDINATE SYSTEM, NAD83, SOUTH CENTRAL ZONE 4204.

THIS IS NOT A BOUNDARY SURVEY.

Paul C. Sauve, Jr.
 PAUL C. SAUVE, JR., RPLS
 TEXAS REGISTRATION NO. 2518



<small>806.850.4200 www.atwell.com 2014 S. CAPITAL OF TEXAS HIGHWAY, SUITE 300 AUSTIN, TX 78704 FURN NO. 10192724</small>	SKETCH TO ACCOMPANY PROPERTY DESCRIPTION 0.763 OF ONE ACRE OF LAND SAMUEL PHARASS SURVEY A-360 HAYS COUNTY, TEXAS	DATE: JAN. 2020 SCALE: 1"=300' CHECKED BY: SAR DRAFTED BY: PCS JOB NUMBER: 18000051	SHEET 1 OF 1
	0.763 Acre 33,250 Sq. Feet CALLED 57.260 AC. KYLE MORTGAGE INVESTORS, LLC VOL. 3416, PG. 788 OPRHCT SAMUEL PHARASS SURVEY, Abstract-360		

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.

32-454-118

WATER EASEMENT

Date: August 24, 2020

Grantor: Kyle Mortgage Investors LLC,
a Colorado limited liability company

Grantor's Address: 10800 Wilshire Blvd., Apt. 2101
Los Angeles, CA 90024

Grantee: City of Kyle
Hays County, Texas

Grantee's Address: 100 West Center Street
Kyle, TX 78640

Easement Tract: 5,260 square feet out of the land located in the Samuel Pharass ¼ League No 14 Abstract 360, Hays County Texas and more particularly described by metes and bounds and as shown in **EXHIBIT A** attached hereto.

Easement Duration: Perpetual or until the Facilities are abandoned.

Easement Purpose: To install, construct, operate, use, maintain, repair, modify, upgrade, monitor, inspect, replace, make connections with, remove, and decommission the Facilities.

Facilities: Water Transmission Main, Booster Pump Station and associated appurtenances.

Permitted Encumbrances: Any easements, liens, encumbrances, and other matters that are valid, existing, and affect the Easement Tract as of the Date set forth herein and of record in the Real Property Records of Hays County, Texas in which the Easement Tract is located.

Non-Permitted Activity: Installation, construction, operation, use, maintenance, repair, modification, upgrade, and replacement of any structure, building, retaining wall, detention or water quality controls, rainwater harvesting system or trees, either above or below the surface of the Easement Tract.

Eligible Improvements: Irrigation systems that are installed perpendicular to the Facilities, walkways made of concrete, asphalt, granite or any other similar materials, driveways, access roads and parking areas at grade level, barbed-wire, chain-link, and wooden

fences, landscaping items such as plants, flowers, shrubs, bushes, hardscapes, rocks, pathways, and movable structure such as benches, gazebos and other similar items.

Grantor, for **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable consideration paid to Grantor, the receipt and sufficiency of which is acknowledged by Grantor, **GRANTS, SELLS, AND CONVEYS** to the City an exclusive easement in, over, under, on, and across the Easement Tract for the Easement Purpose as may be necessary or desirable subject to the Permitted Encumbrances, together with (i) the right of ingress and egress at all times over, on, and across the Easement Tract for use of the Easement Tract for the Easement Purpose, (ii) the right to eliminate any encroachments in the Easement Tract that are not otherwise permitted hereunder, and (iii) any and all rights and appurtenances pertaining to use of the Easement Tract (collectively, the "**Easement**").

TO HAVE AND TO HOLD the Easement to the City and City's successors and assigns for the Easement Duration and Easement Purpose; provided, however, Grantor reserves the right, for Grantor and Grantor's heirs, successors, and assigns, to enter upon and use any portion of the Easement Tract and to install, construct, operate, use, maintain, repair, modify, upgrade, and replace within the Easement Tract the improvements allowed under the City Permit and the Eligible Improvements, which shall be nondiscretionary, but in no event shall Grantor, except with respect to the improvements allowed under the City Permit and the Eligible Improvements, enter upon or use any portion of the Easement Tract for any Non-Permitted Activity or in any other manner that interferes in any material way or is inconsistent with the rights granted the City under this Easement for the Easement Purpose as determined by City in its reasonable discretion.

City, at its sole cost and expense, shall be obligated to restore the surface of the soil of the Easement Tract that has been removed, relocated, altered as a result of City's use of the Easement Tract, in each case to substantially and a reasonably practicable to the same condition as existed immediately prior to Grantee's exercise of its rights and/or obligations hereunder. City will not be obligated to restore or relocate any other improvements, including Eligible Improvements and Third Party Facilities, located in, upon, under or across the Easement Tract.

If, at any time after two (2) years from the date hereof, Grantee has failed to begin construction on the water system within the Easement Tract, this grant of Easement shall ipso facto terminate and the Easement Tract shall revert to Grantor, its legal representatives, and assigns.

Grantor reserves its interest in all oil, gas, and other minerals in and under and that may be produced from the Easement Tract.

Grantor binds Grantor and Grantor's heirs, successors, and assigns to **WARRANT AND FOREVER DEFEND** the title to the Easement, subject to the Permitted Encumbrances, to the City against every person whomsoever lawfully claiming or to claim the Easement Tract or any part of the Easement Tract when the claim is by, through, or under Grantor, but not otherwise.

Except where the context otherwise requires, Grantor includes Grantor's heirs, successors, and assigns and City includes City's employees, agents, consultants, contractors, successors, and assigns; and where the context requires, singular nouns and pronouns include the plural.

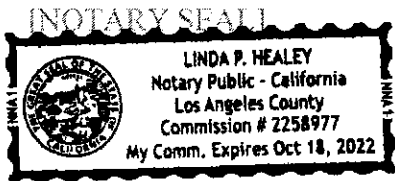
Executed effective the Date first above stated.

Grantor: KYLE MORTGAGE INVESTORS, LLC,
a Colorado limited liability company
By: Harbor Greens of Seminole, Inc.,
a Florida corporation, its Member

By: Linda Pastel
Linda Pastel, President

STATE OF California
COUNTY OF Los Angeles

This instrument was acknowledged before me on the 24 day of August 2020, by Linda Pastel, President of Harbor Greens of Seminole, Inc., a Florida corporation, member of Kyle Mortgage Investors, LLC, a Colorado limited liability company, on behalf of said limited liability company for the purposes set forth herein.



Linda P. Healey
Notary Public in and for the State of _____

PROPERTY DESCRIPTION

BEING 33,250 SQUARE FEET, 0.763 OF ONE ACRE OF LAND LOCATED IN THE SAMUEL PHARASS SURVEY, ABSTRACT 360 IN HAYS COUNTY, TEXAS AND BEING A PORTION OF A CALLED 57.260 ACRE TRACT DESCRIBED IN A IN VOLUME 3416, PAGE 788, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T), SAID 33,250 SQUARE FEET, 0.763 OF ONE ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS WITH ALL BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE NAD83 4204.

BEGINNING at an iron rod with aluminum cap stamped "PRO TECH ENG." found on the southwesterly line of FM 150 for the east corner of Quail Meadows Subdivision, as recorded in Cabinet 7, Slide 47 of the Plat Records of Hays County, Texas, said point being the northeast corner of the herein described tract;

THENCE, with said southwesterly line of FM 150, the following courses and distances:

1. S46°07'20"E, for a distance of 25.00 feet to a calculated point;

THENCE, leaving said right of way and crossing said 57.260 acre tract the following courses and distances:

1. S43°08'59"W, for a distance of 467.14 feet to a calculated point;
2. S42°48'40"W, for a distance of 252.58 feet to a calculated point and
3. S43°14'32"W, for a distance of 610.38 feet to a calculated point on the northerly line of a called 608.70 acre tract described in Document No. 17034180 O.P.R.H.C.T.;

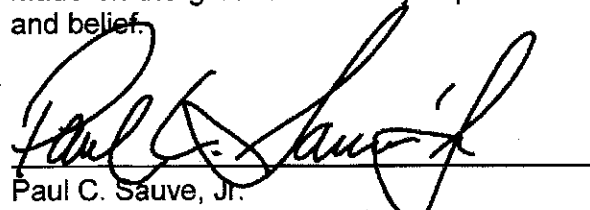
THENCE, N45°43'31"W, for a distance of 25.00 feet to a ½-inch iron rod found at the south corner of said Quail Meadows Subdivision;

THENCE, with the southeasterly line of said subdivision and the northwesterly line of said 57.260 acre tract, the following courses and distances:

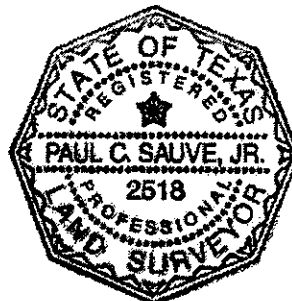
1. N43°14'32"E, for a distance of 609.84 feet to a calculated point for corner;
2. N42°48'40"E, for a distance of 252.56 feet to a calculated point for corner;
3. N43°08'59"E, for a distance of 467.53 feet to the **POINT OF BEGINNING** and containing 33,250 square feet, 0.763 of one acre of land, more or less

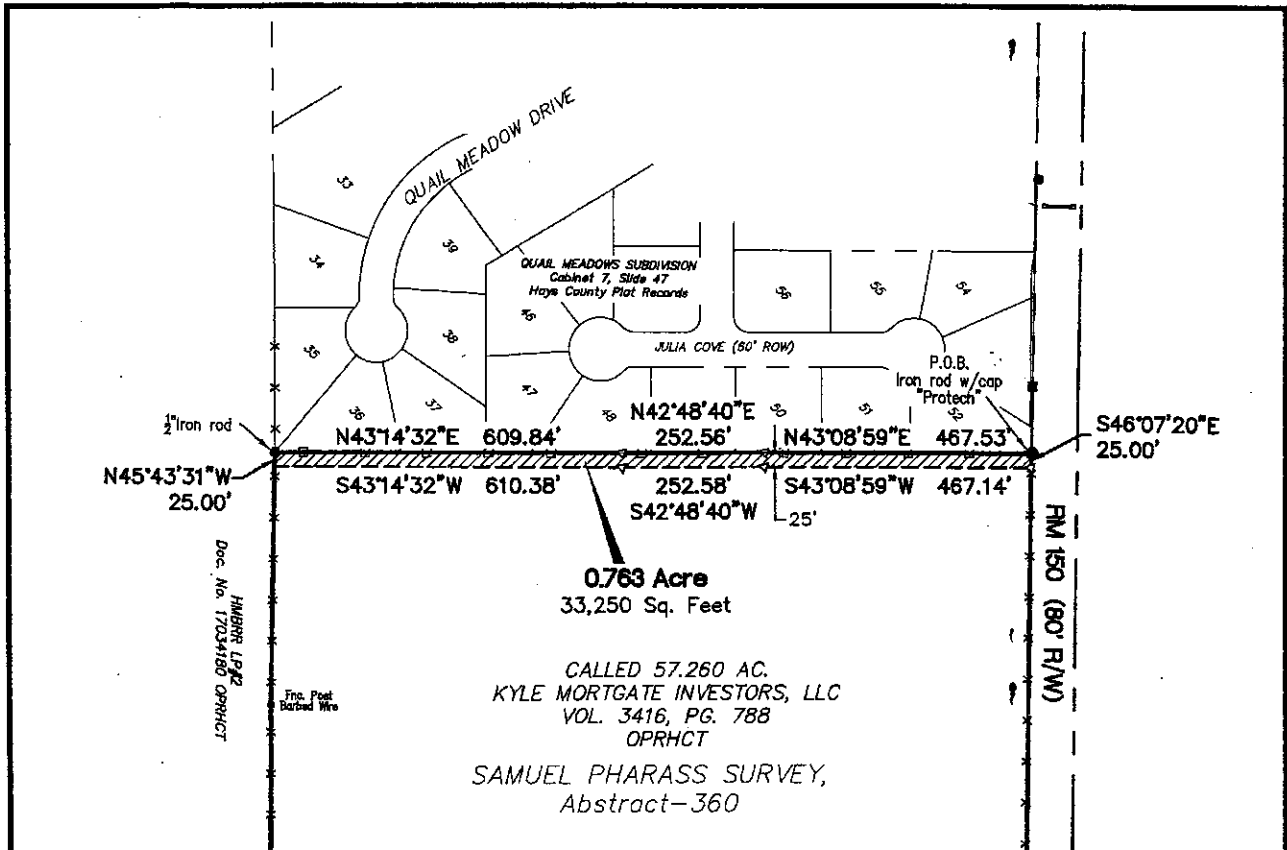
SURVEYOR'S STATEMENT

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



Paul C. Sauve, Jr.
Registered Professional Land Surveyor
No. 2518 – State of Texas
Atwell, LLC
January 2, 2020.





LEGEND

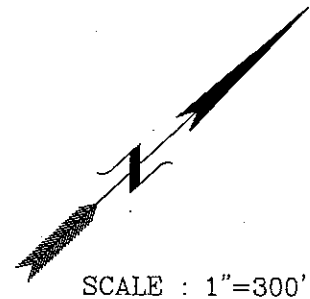
- 1/2" IRON ROD FOUND AND AS NOTED
- ▲ NAIL FOUND AS NOTED
- SET 1/2" IRON ROD W/CAP "AST"
- △ CALCULATED POINT
- P.U.E. PUBLIC UTILITY EASEMENT
- P.O.B. POINT OF BEGINNING
- P.R.H.C.T. PLAT RECORDS HAYS COUNTY, TEXAS
- R.P.R.H.C.T. REAL PROPERTY RECORDS HAYS COUNTY, TEXAS
- O.P.R.H.C.T. OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS

SURVEYOR'S STATEMENT

I HEREBY STATE THAT INFORMATION SHOWN ON THIS MAP IS THE RESULT OF A SURVEY MADE ON THE GROUND UNDER MY SUPERVISION. HORIZONTAL DATUM IS BASED ON THE TEXAS COORDINATE SYSTEM, NAD83, SOUTH CENTRAL ZONE 4204.

THIS IS NOT A BOUNDARY SURVEY.

Paul C. Sauve, Jr.
 PAUL C. SAUVE, JR., RPLS
 TEXAS REGISTRATION NO. 2518



<p>ATWELL 866.850.4200 www.atwell-group.com 3816 S. CAPITAL OF TEXAS BLVD., SUITE 300 AUSTIN, TX 78704 FIRM NO. 10193726</p>	SKETCH TO ACCOMPANY PROPERTY DESCRIPTION	DATE: JAN. 2020 SCALE: 1"=300' CHECKED BY: SAR DRAFTED BY: PCS JOB NUMBER: 18009051	SHEET 1 OF 1
	0.763 OF ONE ACRE OF LAND SAMUEL PHARASS SURVEY A-360 HAYS COUNTY, TEXAS		

**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.

20036777 EASEMENT
08/26/2020 05:48:59 PM Total Fees: \$42.00

Elaine H. Cárdenas, MBA, PhD, County Clerk
Hays County, Texas





CITY OF KYLE, TEXAS

Elliott Branch Interceptor Project - RailPros Observation

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Consider approval of an agreement with RAILPROS FIELD SERVICES, Grapevine, Texas, in an amount not to exceed \$47,575.00 for providing observation services required by Union Pacific Railroad (UPRR) during installation of casing, reclaimed water line, and wastewater line under the UPRR tracks. ~ *Leon Barba, P.E., City Engineer*

Other Information: A section of reclaimed water line and wastewater line of the Elliott Branch Interceptor project is being placed in UPRR right of way. The wastewater line is 24 inches in diameter with a 36 inch steel casing, and the reclaimed water line is 12 inches in diameter with a 24 inch steel casing.

The estimated completion time for both bores is approximately 31 calendar days. The City is required to have an observer monitor construction within the UPRR right-of-way. The primary role for RailPros observers is to ensure construction activity is done safely and in compliance with federal guidelines.

Legal Notes: N/A

Budget Information: A Fiscal Note is attached.

ATTACHMENTS:

Description

- RailPros Observation Agreement
- Cost Breakdown - Observation
- Overall Alignment
- Plan & Profile Sheet

RailPros Field Services, Inc.
Utility Construction Observation Agreement

THIS AGREEMENT ("Agreement") is made and entered into as of _____, **2021** by and between **City of Kyle** ("Company"), located in **Kyle, Texas** and **RailPros Field Services, Inc.** ("RPFS"), located at **Irving, Texas**. RPFS is a consultant to Union Pacific Railroad ("UPRR").

A. General Background

1. Company is interested in performing a utility construction project that crosses Licensor's real property, trackage, or other facilities per an executed agreement between the Company and UPRR referred to as **Folder Nos. 3229-38 and 3229-60** (the "Project").

UPRR requires the Company to utilize the services of RPFS to: 1) observe these services and communicate with UPRR regarding the status of the work and any issues that arise that may impact UPRR or not meet UPRR's executed utility agreement.

B. Services

1. Utility Construction Observation. The Company is required to utilize the services of RPFS to observe the work being performed on the Project by Company and its contractors and to communicate with UPRR regarding issues that may arise during the Project. RPFS' services do not include supervision or direction of the means, methods, or actual work of Company or its contractors.

C. RPFS Non-Responsibility

1. The presence of RPFS observers on site will not relieve Company of its responsibilities to comply with the terms of UPRR permit agreement and the required specifications. RPFS will not be responsible for job or site safety or security on the Project.

2. RPFS shall not be responsible for delays caused by Company's failure to furnish necessary information promptly as requested, or for delays resulting from faulty equipment or late, slow, or faulty performance by Company, other contractors or sub-consultants of Company, or government agencies whose performance of work is precedent to or concurrent with the performance of RPFS' observation of Company's work.

3. RPFS shall not be in default or be responsible for damages due to any delays in the performance of the work for any reason other than for RPFS' negligence or misconduct, and RPFS shall be entitled to additional compensation for any such non-culpable delay. Any such adjustments to the project duration and compensation shall be put in writing in the form of an invoice issued to Company upon determination of same.

D. Company Responsibilities

1. In accordance with generally accepted construction practices, Company will be solely responsible for working conditions on the job site, including security and safety of all persons and property during the Project, and compliance with UPRR safety requirements, local safety requirements and Occupational Safety and Health Administration (OSHA) regulations. This requirement shall apply continuously and not be limited to normal working hours.

2. Wherein the project site is determined by Company to be unworkable due to inclement weather conditions, the Company must notify RPFS's on-site representative as soon as practicable of any such delays.

E. Compensation

1. Company shall compensate RPFS at the rate or rates shown below for the duration of the project. Compensation will be paid based on the Project Fee, which is defined by the actual number of days worked multiplied by the daily rate stipulated in this section plus any mobilization fees. Invoices are submitted upon completion of the project or at month end. On-going jobs are billed on a monthly basis. Payments of invoices are due upon receipt, within 30 days. Invoices are subject to a 1% fee for every 30 days the payment is delinquent.

The daily rates for said services to be provided under this Agreement are based on eight (8) hours per day and will be as follows:

- **Mobilization/Administrative Fee**.....\$1,000 per Observer Required (each project will incur a fee for travel and administrative costs per Observer). 24 Hour continuous work requires two Observers. Project must be cancelled 4 business days prior to the scheduled start date to avoid additional mobilization fee. Multiple mobilization fees or additional labor fees will be charged if the project cannot be constructed in consecutive days (Monday through Saturday at a minimum) or if there is a delay during installation.
- **Construction Observation Fees**.....\$1,400/Standard 8-hour day. Overtime rate after 8 hours is \$200 per hour (all scheduling requests require a minimum 10-business days' notification).
- **Surcharge Fee**.....Activity in certain regions of the U.S. has created high demand for hotel rooms and increased related travel costs. The Project falls within such a region, therefore a surcharge of **\$0.00 per day** will be added to the invoice.

2. RPFS has the right to invoice for fees to cover necessary costs whenever a Project is terminated by the owner, applicant, or agent or when the project is installed in absence of RPFS's Utility construction observation services when required by UPRR.

F. Commencement Date and Term of Services

1. RPSF' services will begin upon acceptance of this Agreement by Company and shall continue through completion of the Project impacting UPRR Right-of-Way.
2. This Agreement has been executed by the authorized representatives of the parties and is intended to create a binding contractual relationship.
3. This Agreement shall take precedence over other documents, purchase orders, work orders that may be issued and/or signed after this Agreement. In no event, shall the terms and conditions in any RPFS or Company purchase order, work order, or similar document issued after the signing of this Agreement govern over this Agreement.
4. The terms of this Agreement shall automatically renew each year unless either party has terminated the agreement as per Article 6 of the Standard Provisions. RPFS reserves the right to modify the agreement terms at any time by written instrument to the Company. Agreement modifications will not take effect until such time any current project(s) with the Company is finished and a signed copy of the modified written instrument is returned by the Company to RPFS. RPFS reserves the right to not begin any new projects until a signed copy of the written instrument is returned.

G. Standard Provisions of Agreement for Professional Services

1. The attached Standard Provisions of Agreement for Professional Services shall apply to the services provided under this Agreement.

RailPros Field Services, Inc.

City of Kyle

By: _____
[Authorized Representative]

By: _____
[Authorized Representative]

By: _____
[Print Name]

By: _____
[Print Name]

Title: _____

Title: _____

Date: _____

Date: _____

STANDARD PROVISIONS OF RPFS' OBSERVATION AGREEMENT

The Company and RailPros Field Services, Inc. ("RPFS"), agree that the following provisions shall be part of this Agreement.

1. The Company shall designate an individual with authority to act on behalf of the Company as to all aspects of the Project and shall give prompt written notice to RPFS if the Company becomes aware of any problems with the Project and shall otherwise fully cooperate as may be required or appropriate in connection with the Project.

2. RPFS' services shall be performed in a manner consistent with that degree of skill and care typically exercised by similar professionals performing similar services under the same or similar circumstances and conditions. RPFS makes no other representations or any warranties, whether expressed or implied, with respect to the services rendered hereunder.

3. In no event, shall any statute of limitations commence to run any later than the date when RPFS' services are substantially completed and any cause of action against RPFS arising from or pertaining to this Agreement must be initiated no later than two (2) years after the date when RPFS' services are substantially completed.

4. In no event, shall RPFS be liable for consequential damages, including lost profits, loss of investment or other incidental damages.

5. Compensation payable to RPFS pursuant to this Agreement shall be in addition to taxes (except income taxes) that may be assessed against RPFS by any state or political subdivision directly on services performed or payments for services performed by RPFS. Such taxes that RPFS may be required to collect or pay shall be added by RPFS to invoices submitted to the Company pursuant to this Agreement.

6. This Agreement may be terminated by either Company or RPFS upon thirty (30) days written notice for any or no reason. Either party may terminate this Agreement upon three days' notice in the event of a material breach of the Agreement by the other party. Company expressly agrees to hold RPFS harmless from any liability arising out of RPFS' termination of its services hereunder. In the event of termination of this Agreement, Company shall promptly pay RPFS for all of the services performed by RPFS prior to the termination of the Agreement. All fees paid are deemed earned.

7. Neither the Company nor RPFS shall assign its interest in this Agreement without the written consent of the other. The services to be provided pursuant to this Agreement are being performed solely for the benefit of the Company and UPRR and no benefit is meant to be conferred upon any other person or entity, and no such person or entity should rely upon RPFS' performance of its services to the Company; and, no claim against RPFS shall accrue to any contractor, subcontractor, owner, officer, director, consultant, engineer, supplier, fabricator, manufacturer, lender, tenant, surety, or any other third-party as a result of this Agreement or the performance or non-performance of services on this Project.

8. Unless otherwise provided by specific agreement, RPFS shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances at the project site.

9. The Company agrees to indemnify and hold RPFS harmless to the same extent the Company agreed to indemnify and hold UPRR harmless in its agreement with UPRR regarding this Project. If the Company lists UPRR as an additional insured on its insurance policy, the Company also agrees to similarly list RPFS as an additional insured on its insurance policy as well.

10. To the extent any damage or claim is covered by insurance during performance of this Agreement, the Company and RPFS waive

all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance. The Company or RPFS, as applicable, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

11. Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation prior to the commencement of any legal or arbitration proceeding as a condition precedent to the right to recover attorney fees in any proceeding. The mediator shall be jointly selected by the Company and RPFS. The mediator's fees shall be shared equally and shall be held at the location selected by the mediator.

12. Equal Opportunity. RPFS shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

13. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

14. This Agreement is the entire agreement between the Parties pertaining to the subject matter hereof, and supersedes all previous agreements, negotiations or understandings, written or oral, between the Parties. The parties hereto declare and represent that no promises, inducements, representations, warranties or other agreements, whether express or implied, not contained herein, have been made, and further declare and represent that they have not executed this Agreement in reliance upon any such promise, inducement, representation, warranty or other agreement not contained herein.

15. This Agreement may only be modified, amended or supplemented in a writing executed by the Parties hereto.

16. No term or provision of this Agreement shall be deemed waived, and no breach or default shall be deemed excused, unless such waiver, consent or excuse is in writing, and signed by the Parties hereto. A waiver by a Party hereto of any breach or default by the other Party to this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach or default hereunder by the other Party.

17. In case any one or more of the provisions in this Agreement should be declared by a court, arbitrator, or governmental agency or department to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

18. Each Party is or had an opportunity to be represented by counsel and made a full and independent investigation of the matters contained herein and is only entering into this Agreement based on the Party's full satisfaction of the results of any investigation and arm's length negotiations. This Agreement will be deemed to have been jointly and equally drafted by the Parties.

19. Time is of the essence in the performance of the terms and conditions of this Agreement.

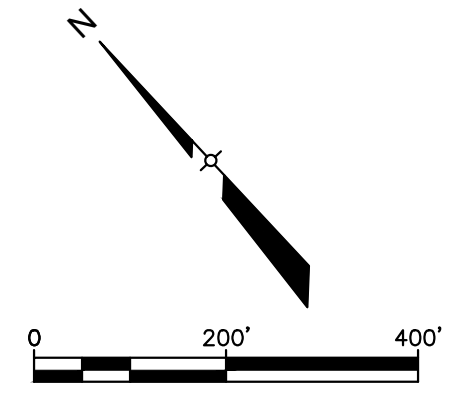
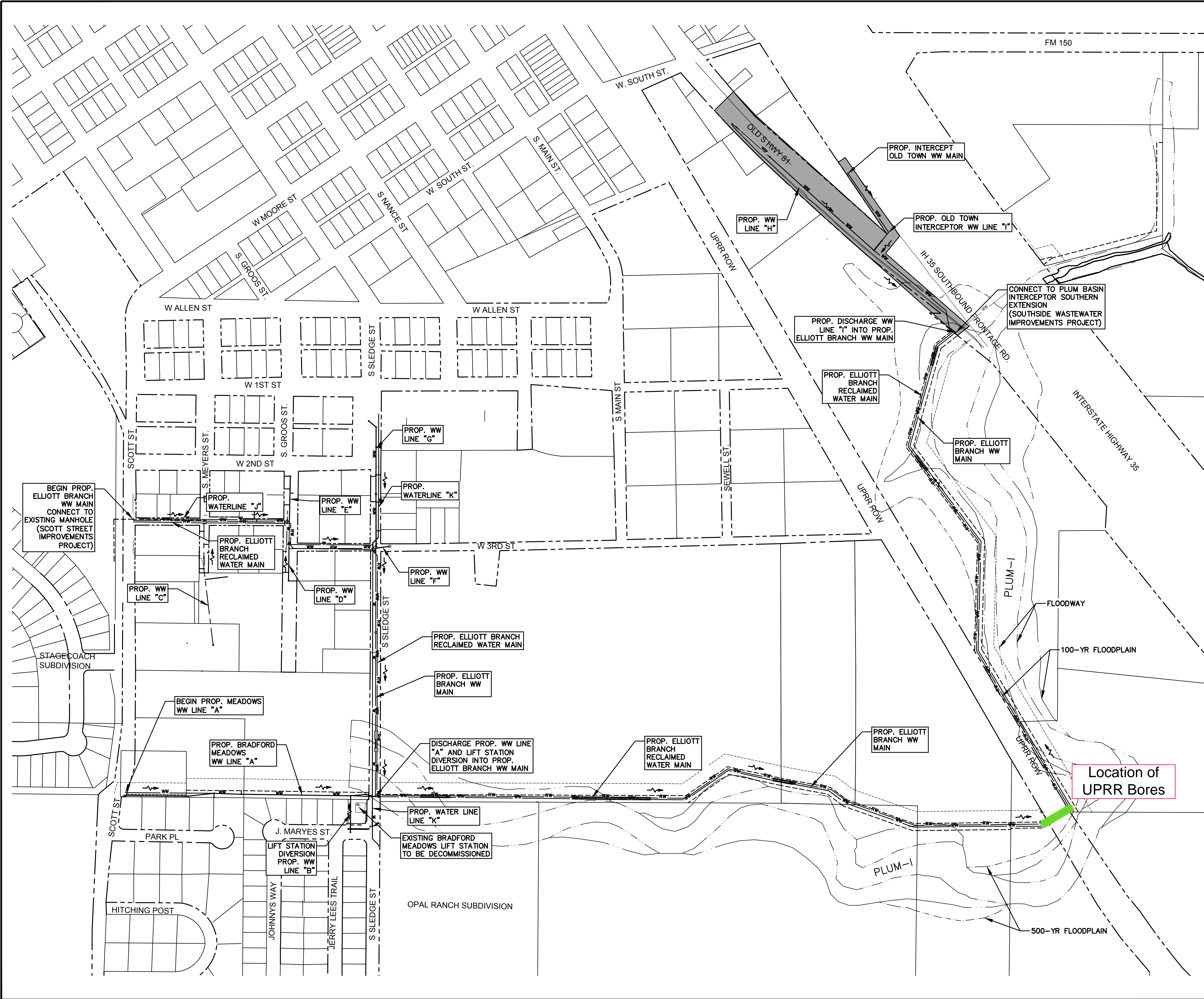
20. In the event of any legal, equitable or alternative dispute resolution proceeding to interpret or enforce this Agreement, the prevailing party shall be entitled to its reasonable legal fees and costs.

(Revised 05/17/16)

UPRR Coordination Cost Breakdown

Item	Quantity	Unit	Unit Price	Amount
RailPros Observer (20 weekdays @ 10.5 hr/day)				
Standard 8 hr day rate 1st Observer	20	Days	\$ 1,200.00	\$ 24,000.00
Standard 8 hr day rate 2nd Observer	6	Days	\$ 1,200.00	\$ 7,200.00
Overtime rate 1st Observer	50	Hours	\$ 175.00	\$ 8,750.00
Overtime rate 2nd Observer	15	Hours	\$ 175.00	\$ 2,625.00
Mobilization 1st Observer	4	LS	\$ 1,000.00	\$ 4,000.00
Mobilization 2nd Observer	1	LS	\$ 1,000.00	\$ 1,000.00
Bore Work Total				\$ 47,575.00

\\NAS-SP-FS-01\LEGACY PROJECTS\ACTIVE\12086.01_ELLIOTT_BRANCH_LL_WW_INTERCEPTOR\CONSTRUCTION PLANS\12086.01_OVERALL.01_9/9/2020 7:34 AM



LEGEND

- PROP. WASTEWATER UTILITY CONSTRUCTION WITHIN TXDOT ROW
- RW PROPOSED RECLAIM WATER
- WW PROPOSED WASTEWATER
- W PROPOSED WATER
- ROW
- FLOODWAY
- 100 YR FLOODPLAIN
- 500 YR FLOODPLAIN

NOTES:
 1. FLOODPLAIN INFORMATION TAKEN FROM FIRM PANEL 48209C0405F AND 48209C0385F BOTH DATED 9/2/2005.

RPS
 Texas PE Firm Reg. #1-293
 4801 Southwest Pkwy, Pkwy 2
 Suite 150, Austin, Texas 78735
 T +1 512 328 5771
 E usinfrastructure@rpsgroup.com

STATE OF TEXAS
 SYLVESTER JOHNSON, P.E.
 111505
 LICENSED PROFESSIONAL ENGINEER
 9/11/2020

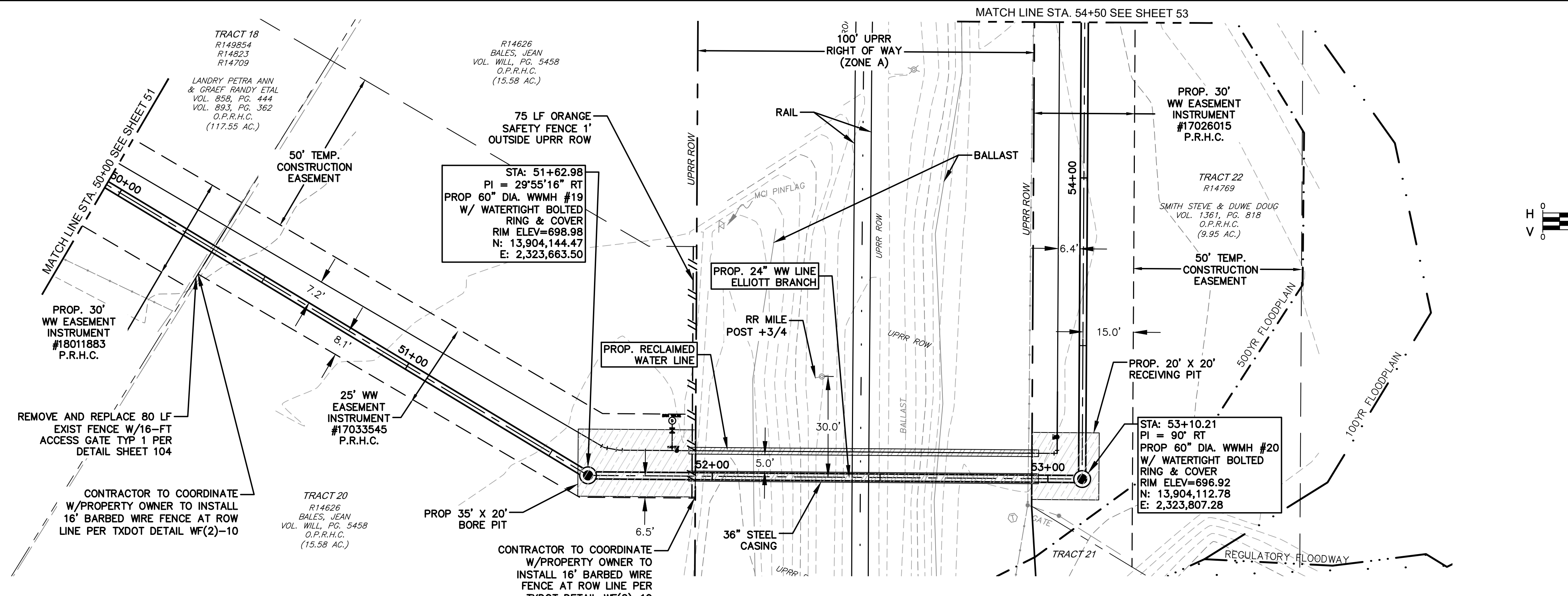
CITY OF KYLE
ELLIOTT BRANCH WASTEWATER INTERCEPTOR
OVERALL ALIGNMENTS

NO.	DATE	REVISION/CORRECTION	BY

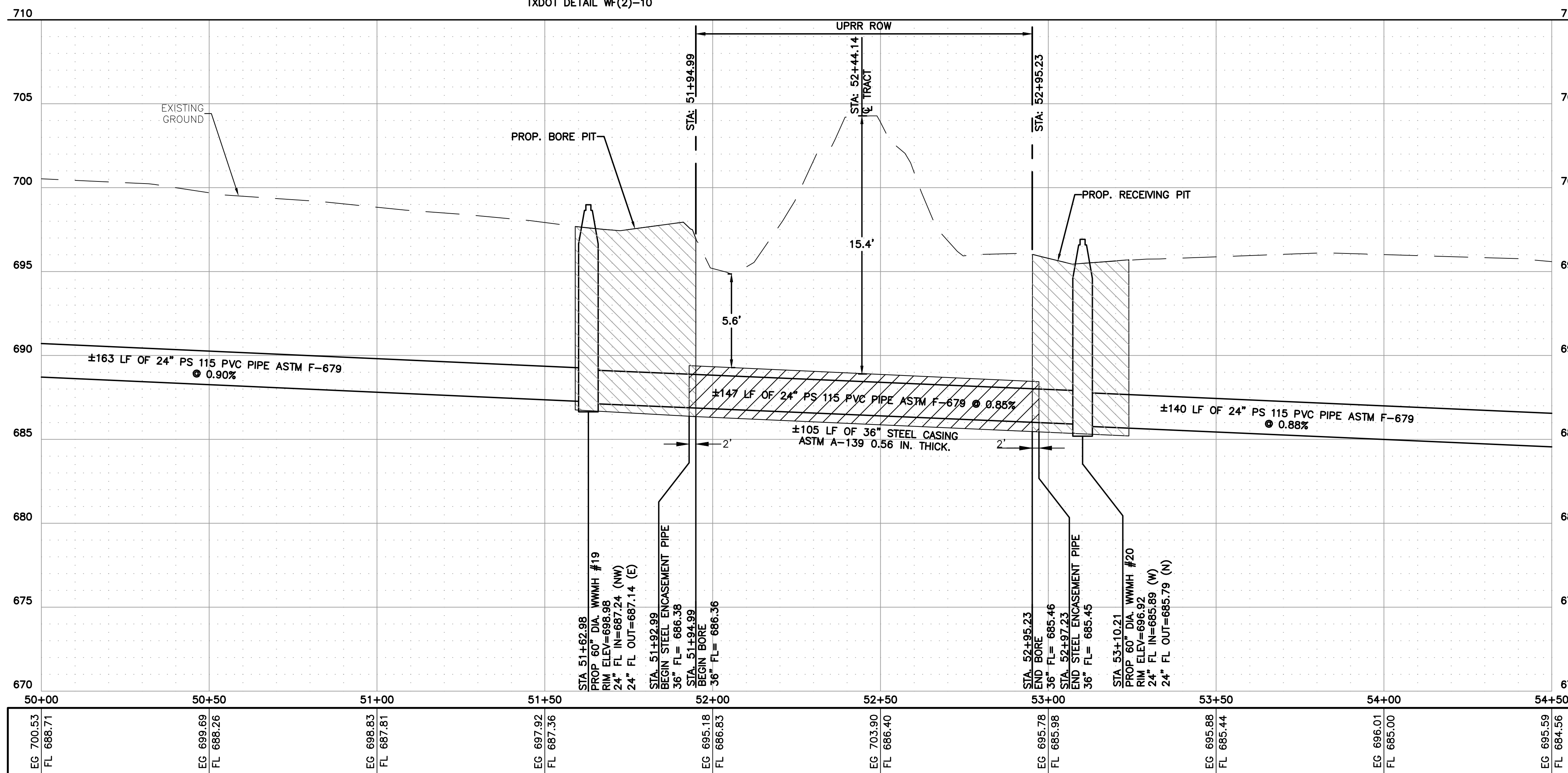
CHECKED BY: MB DESIGNED BY: AL DRAWN BY: AL

SHEET
5 of 124

\\NAS-SRFS-01\LEGACY\PROJECTS\ACTIVE\12066.01_ELLIOTT_BRANCH_LW_INTERCEPTOR\CONSTRUCTION\PLANS\12066.01\WMPRE_ELLIOTT_9/9/2020 10:19 AM



- NOTES:
1. BEDDING MATERIAL FOR ALL WATER, WASTEWATER, STORM SEWER AND OTHER PIPELINES SHALL BE BEDDING STONE PER CITY OF AUSTIN SPECIFICATION 510.2.2A.
 2. SEPARATION DISTANCES BETWEEN WATER, RECLAIMED WATER AND WASTEWATER MAINS MUST COMPLY WITH TCEQ RULES.
 3. PIPE MATERIAL FOR RECLAIMED WATER MAINS SHALL BE PURPLE PIPE OR WRAPPED IN PURPLE POLYWRAP TO MATCH PANTONE 522.
 4. INSTALL MARKER TO INDICATE LOCATION OF PIPELINE OUTSIDE UPRR ROW LINE. SEE COSM DETAIL 510S-M-SM.
 5. UPRR REGULATIONS REQUIRE BORING OPERATIONS WITHIN 'ZONE A' OF THE UPRR ROW TO BE CONTINUOUS WITH NO WORK STOPPAGE.
 6. FLOODPLAIN INFORMATION TAKEN FROM FIRM PANEL 48209C0405F AND 48209C0385F BOTH DATED 9/2/2005.
 7. CONTRACTOR'S PERSONNEL ARE REQUIRED TO WEAR ORANGE SAFETY VESTS WHEN WORKING WITHIN UPRR RIGHT-OF-WAY.
 8. CITY WILL COORDINATE WITH CONTRACTOR TO PROVIDE SURVEY FLAGGING & OBSERVATION DURING CONSTRUCTION.
 9. CONTRACTOR TO REFER TO RECLAIMED WATER LINE SHEETS 75 THRU 90



CITY OF KYLE

ELLIOTT BRANCH WASTEWATER INTERCEPTOR

PLAN & PROFILE- ELLIOTT WW INTCP.

STA. 50+00 TO 54+50

DESIGNED BY: AL DRAWN BY: AL

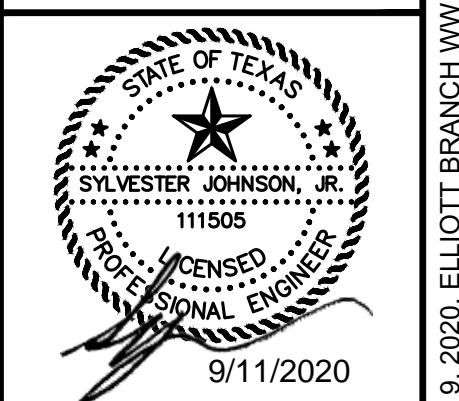
CHECKED BY: MB

NO.	DATE	REVISION/CORRECTION	BY

SHEET

52 of 124

RPS
 Texas PE Firm Reg. # 293
 4801 Southwest Pkwy, Pkwy 2
 Suite 150, Austin, Texas 78735
 T +1 512 328 5771
 E usinfrastructure@rpsgroup.com



September 9, 2020, ELLIOTT BRANCH WW INTERCEPTOR, RPS #12066.01



CITY OF KYLE, TEXAS

Elliott Branch Interceptor Project - RailPros Flagging

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Consider approval of an agreement with RAILPROS FIELD SERVICES, INC., Grapevine, Texas, in an amount not to exceed \$42,369.00 for providing flagging services required by Union Pacific Railroad (UPRR) during installation of a casing, reclaimed water line, and wastewater line crossing under the UPRR tracks. ~ *Leon Barba, P.E., City Engineer*

Other Information: A section of reclaimed water line and wastewater line of the Elliott Branch Interceptor project is being placed in UPRR right of way. The wastewater line is 24 inches in diameter with a 36 inch steel casing, and the reclaimed water line is 12 inches in diameter with a 24 inch steel casing.

The estimated completion time for both bores is approximately 31 calendar days. The City is required to have a flagger anytime the UPRR right-of-way is accessed. The primary role for RailPros flaggers is to communicate with train dispatch and provide advanced warning when trains are traveling through the area of construction.

Legal Notes: N/A

Budget Information: A Fiscal Note is attached.

ATTACHMENTS:

Description

- RailPros Flagging Agreement
- Cost Breakdown - Flagging
- Overall Alignment
- Plan & Profile Sheet



April 19, 2021

Jeff Prato
City of Kyle
512-256-1426
Jpratp@cityofkyle.com

Subject: **Quote for Contractor in Charge Services**

Dear Mr. Prato,

Thank you for contacting RailPros to provide a qualified Contractor in Charge. RailPros provides associates with extensive railroad experience, all qualified in GCOR, Maintenance-of-Way, and On-track safety. All of our Contractors in Charge are dedicated to safety on the jobsite and have an acute understanding of railroad rules.

RailPros charges a daily rate which includes an 8-hour on-site workday, mobilization, and Per Diem costs. Our services are billed for the Contractor in Charge's (CIC's) time on site, to include any time setting up and taking down track protection, if applicable. Any time beyond the CIC's 8 hours will be charged at an hourly overtime rate.

The rates for our services are as follows:

Standard WorkDay:	
Standard 8 hour day	\$1,018.00
Overtime rate per hour after 8 hours	\$135.00
Nights, Weekends, and Holidays:	
Standard 8 hour day	\$1,285.00
Overtime rate per hour after 8 hours	\$154.00

In the event of cancellation, if RailPros Management is given less than 24 hours' notice, it is considered a billable day. Cancellations must be made in writing to UP.Info@RailPros.com.

This quote is based on RailPros standard labor rates and does not take into any account prevailing wage requirements. If prevailing wages are applicable for this project, RailPros will re-quote based on the prevailing wage requirements.

Invoices are submitted upon completion of the job or at month's end. On-going jobs are billed on a monthly basis. Payments of invoices are due upon receipt. Invoices are subject to a 1.5% fee for every 30 days the payment is delinquent. RailPros accepts payment for services via Visa, MasterCard, Discover and American Express without additional fees. We encourage you to use this free and convenient service with no processing fees. Please refer to the second page of this document for credit card payments. Please contact RailPros at 877-315-0513 X116 or UP.Info@railpros.com for more information.

This quote is valid for 30 days and is subject to the attached Services Agreement (SA).

You may indicate your acceptance of this quote and the SA by signing and returning both documents via email.

If you have any questions regarding this quote or would like further information, please feel free to contact me.

Thank you,

RAILPROS

CANDACE MOONEY
Field Services Associate
877.315.0513 x116

AGREED TO AND ACCEPTED BY:

Client Company Representative

Printed Name

Title

Date

RailPros offers a full suite of right of way services including permitting, utility inspections, railroad engineering services and customizable training. To learn more, visit www.railpros.com

1320 Greenway Dr., Suite 490
Irving, TX 75038

P: (877) 315 – 0513

www.railpros.com

Item # 10

RailPros Field Services, Inc.

SERVICES AGREEMENT

This Services Agreement (“Agreement”) is entered into by and between RailPros Field Services, Inc. (“RailPros”) and the entity or individual (“Customer”) described in the Scope of Work/Customer Information Request attached hereto as “Exhibit A” (the “SOW”). The SOW is expressly incorporated herein by reference for all purposes. The SOW also provides RailPros’ charges for services requested. This Agreement shall become effective upon the earlier of the Customer’s executing this agreement or RailPros’ reasonably undertaking to perform services requested by the Customer (the “Effective Date”).

WHEREAS, Customer desires to retain RailPros to provide certain services described and set forth in further detail in the SOW (the “Services”); and

WHEREAS, RailPros has the capability and capacity to provide the Services and—subject to the terms and conditions set forth herein—is willing to perform such Services; and

In consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RailPros and Customer (hereinafter, collectively, the “Parties,” or each, individually, a “Party”) agree as follows:

1. RailPros shall provide Services to the Customer: (1) in accordance with the terms of this Agreement; (2) within any parameters set forth in the SOW; and (3) to the reasonable satisfaction of the Customer. In turn, the Customer shall pay RailPros for its services at the applicable daily rate(s) set forth in the SOW.
2. RailPros shall periodically provide Customer with invoices that set forth the value of the Services provided to Customer during a defined period of time (collectively, the “Invoices”; individually, an “Invoice”). Invoiced amounts are due and payable within thirty (30) days of the date included on an Invoice, and Customer shall remit payment to RailPros at 1320 Greenway Dr., Suite 490, Irving, Dallas County, TX 75038. In the event Customer fails to timely remit payment to RailPros as required in this Section 2, RailPros may elect to immediately cease providing Services to Customer—without providing any advance notice to Customer— until Customer remits payment for all amounts owed by Customer for Services. Customer expressly agrees and acknowledges that it shall neither assert nor seek to enforce any claim for damages or penalties arising from RailPros' ceasing performance under this Section 2. RailPros' right to cease providing Services based on nonpayment and/or untimely payment is independent of any right(s) set forth in Section 5 of this Agreement.
3. In the event that Customer contests any charge(s) included on an Invoice and/or asserts that any Services described in an Invoice were deficient, Customer shall submit a written complaint to RailPros (a "Complaint") within fifteen (15) business days of its receipt of the challenged Invoice. A Complaint must set forth (in detail): (1) the Services and/or Invoice entries that Customer is contesting; (2) the basis for Customer's Complaint; and (3) Customer's desired solution. Failure to timely submit a Complaint shall constitute a waiver of any grievances related to the subject Invoice and shall further be construed as an unequivocal agreement to pay all amounts described therein.

4. Customer may terminate this Contract, in whole or in part, at any time without cause, and without liability except for required payment for services rendered by providing at least twenty-four (24) hours written notice to RailPros. Failure to provide timely notice under this provision shall obligate Customer to pay RailPros for one (1) additional days' worth of Services at the applicable daily rate(s) set forth in the SOW.
5. RailPros may terminate this Agreement without liability, effective upon providing notice to Customer, if Customer: (1) materially breaches a provision of this Contract and fails to cure its breach within fifteen (15) days after receipt of written notice of its breach, or (2) becomes insolvent or admits and/or demonstrates its inability or unwillingness to pay its debts as they become due.
6. This Agreement shall commence as of the Effective Date and shall continue thereafter until the Services described in the SOW are completed or the Contract is terminated.
7. This Agreement benefits solely the Parties hereto and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, confers on any third party any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
8. This Agreement may not be altered, amended, modified or otherwise changed, except by a writing duly executed by the Parties hereto.
9. This Agreement constitutes the final and entire agreement between the Parties, and this Agreement supersedes all prior understandings and agreements, if any, among or between the Parties.
10. The failure of any Party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way affect the validity of this Contract or any part thereof or the right of any person thereafter to enforce each and every provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other breach.
11. This Agreement shall be interpreted and construed under the laws of the State of Texas, and venue for all suits arising out of or relating to this Contract shall be brought exclusively in a Texas state district or county court sitting in Tarrant County, Texas.
12. All invoices, requests, communications, and notices required to be sent to Customer shall be delivered to the address(es) and/or email address(es) set forth in the SOW. All Complaints, requests, communications, and notices required to be sent to RailPros shall be sent to RailPros at 1320 Greenway Dr., Suite 490, Irving, Dallas County, TX 75038, Attention: Stuart Hall. Any notice of termination and/or cancellation shall be sent to RailPros at Stuart.Hall@RailPros.com.
13. Neither of the Parties shall be liable for any delays or failures in performance due to acts of God, strikes, lockouts, labor restrictions by governmental authority, civil riots, war and acts of terrorism.
14. In the event of any subsequent litigation involving the interpretation or enforcement of this Contract, the prevailing Party shall recover against the non-prevailing Party all of its costs and reasonable attorneys' fees incurred in connection with the lawsuit.
15. In connection with RailPros' providing the Services, RailPros agrees to obtain the following insurance policies: (1) a Commercial General Liability policy with limits of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate (the "CGL Policy") and (2) a Commercial Automobile Liability policy with limits of not less than \$1,000,000 (collectively, the "Policies").

The Policies shall include Customer as additional insureds (collectively, the “Additional Insureds”). Coverage for the Additional Insureds shall be primary and non-contributory to any other insurance maintained by Customer. Coverage for Additional Insureds under the CGL Policy shall be set forth via an ISO endorsement form CG 20 26 07 04 (or equivalent endorsement), unless otherwise limited by applicable law. The Policies shall include a Waiver of Subrogation in favor of Customer. RailPros agrees to provide Customer with Certificate(s) of Insurance that verify the foregoing.

In addition, RailPros agrees to maintain Workers’ Compensation insurance (the “WC Policy”) with limits established by statute in the state where the Services will be provided. All RailPros employees providing Services shall be covered under the WC Policy, including employees who are sole proprietors, members or partners, whether or not required by applicable law. The WC Policy shall also include a Waiver of Subrogation in favor of Customer.

16. RailPros and Customer each agree to indemnify, defend, and hold the other harmless from any third- party claims, costs, liabilities, judgments, expenses, or damages (including reasonable attorneys’ fees and other costs of suit) alleged to arise from the indemnifying party’s sole negligence in performing their respective obligations under this Agreement.

Customer/ Company Name:

Name

Title:

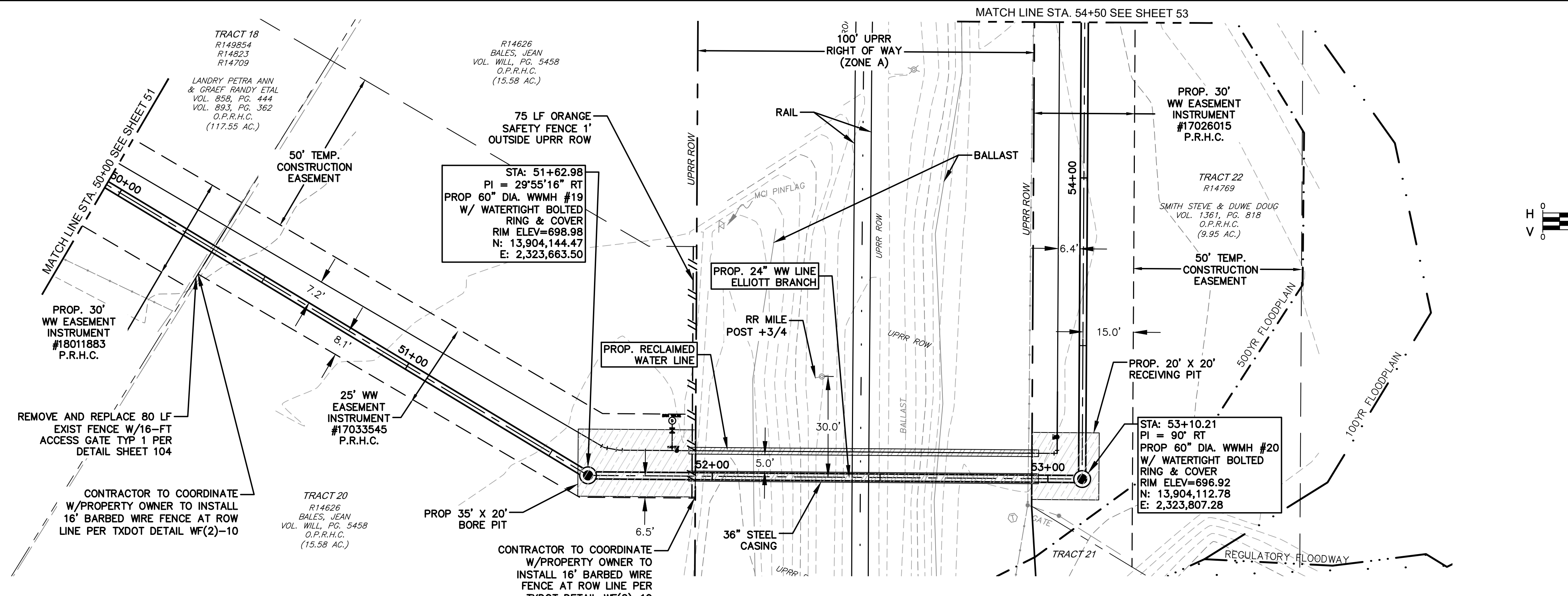
Signature:

UPRR Coordination Cost Breakdown

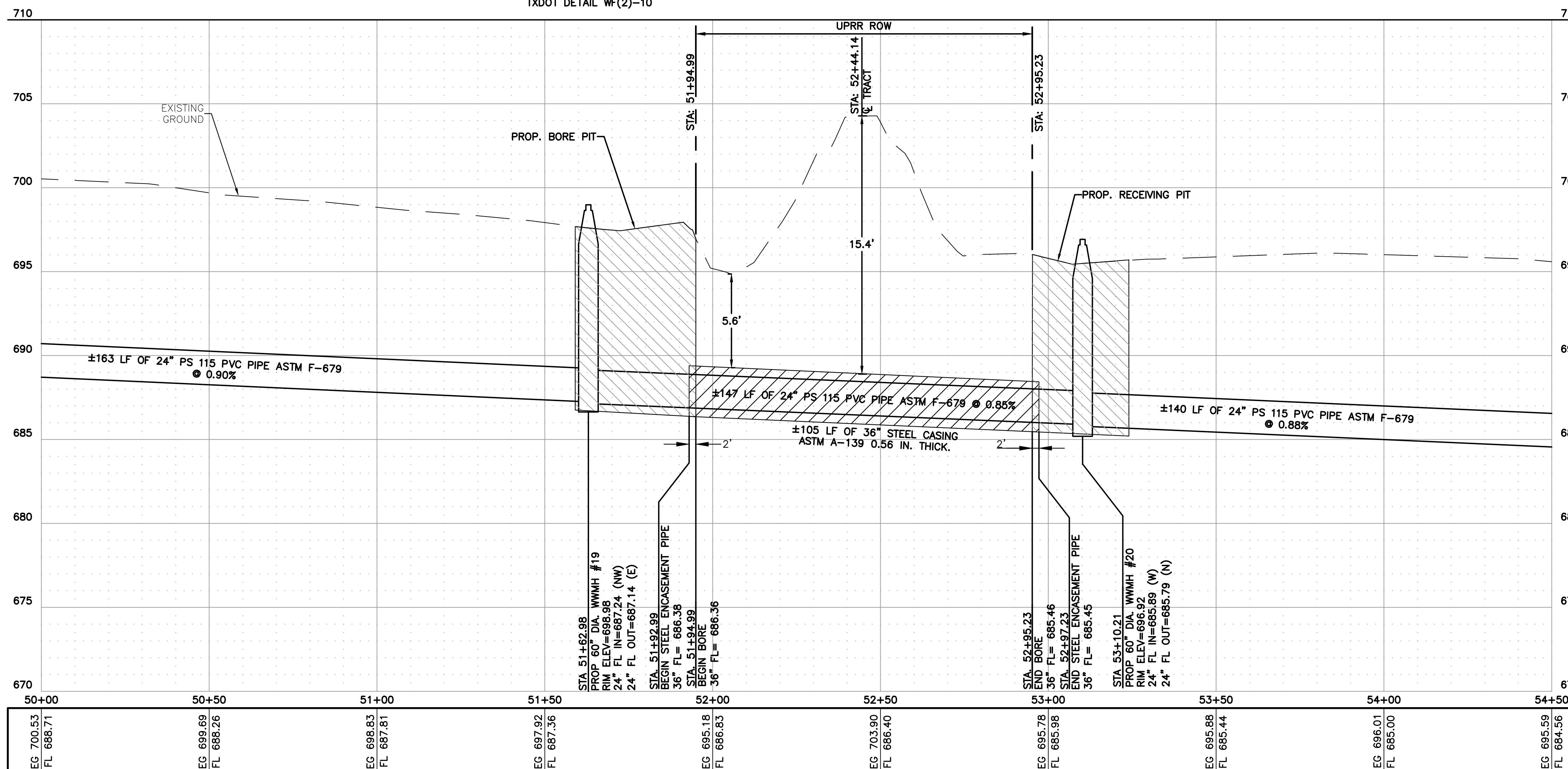
Item	Quantity	Unit	Unit Price	Amount
RailPros Observer (20 weekdays @ 10.5 hr/day)				
Standard 8 hr day rate 1st Flagger *	27	Days	\$ 1,018.00	\$ 27,486.00
Standard 8 hr day rate 2nd Flagger	6	Days	\$ 1,018.00	\$ 6,108.00
Overtime rate 1st Flagger	50	Hours	\$ 135.00	\$ 6,750.00
Overtime rate 2nd Flagger	15	Hours	\$ 135.00	\$ 2,025.00
Bore Work Total				\$ 42,369.00

* Includes cost for 7 day monitoring after completion

\\AUS-SP-FS-01\LEGACY PROJECTS\ACTIVE\12066.01_ELLIOTT_BRANCH_LW_INTERCEPTOR\CONSTRUCTION PLANS\12066.01\WMPRE_ELLIOTT_9/9/2020 10:19 AM



- NOTES:
1. BEDDING MATERIAL FOR ALL WATER, WASTEWATER, STORM SEWER AND OTHER PIPELINES SHALL BE BEDDING STONE PER CITY OF AUSTIN SPECIFICATION 510.2.2A.
 2. SEPARATION DISTANCES BETWEEN WATER, RECLAIMED WATER AND WASTEWATER MAINS MUST COMPLY WITH TCEQ RULES.
 3. PIPE MATERIAL FOR RECLAIMED WATER MAINS SHALL BE PURPLE PIPE OR WRAPPED IN PURPLE POLYWRAP TO MATCH PANTONE 522.
 4. INSTALL MARKER TO INDICATE LOCATION OF PIPELINE OUTSIDE UPRR ROW LINE. SEE COSM DETAIL 510S-M-SM.
 5. UPRR REGULATIONS REQUIRE BORING OPERATIONS WITHIN 'ZONE A' OF THE UPRR ROW TO BE CONTINUOUS WITH NO WORK STOPPAGE.
 6. FLOODPLAIN INFORMATION TAKEN FROM FIRM PANEL 48209C0405F AND 48209C0385F BOTH DATED 9/2/2005.
 7. CONTRACTOR'S PERSONNEL ARE REQUIRED TO WEAR ORANGE SAFETY VESTS WHEN WORKING WITHIN UPRR RIGHT-OF-WAY.
 8. CITY WILL COORDINATE WITH CONTRACTOR TO PROVIDE SURVEY FLAGGING & OBSERVATION DURING CONSTRUCTION.
 9. CONTRACTOR TO REFER TO RECLAIMED WATER LINE SHEETS 75 THRU 90



EC 700.53 FL 686.71	EC 699.69 FL 686.26	EC 698.83 FL 687.81	EC 697.92 FL 687.36	EC 695.18 FL 686.83	EC 703.90 FL 686.40	EC 695.78 FL 685.98	EC 695.88 FL 685.44	EC 696.01 FL 685.00	EC 695.59 FL 684.56
------------------------	------------------------	------------------------	------------------------	------------------------	------------------------	------------------------	------------------------	------------------------	------------------------

CITY OF KYLE

ELLIOTT BRANCH WASTEWATER INTERCEPTOR

PLAN & PROFILE- ELLIOTT WW INTCP.

STA. 50+00 TO 54+50

DESIGNED BY: AL DRAWN BY: AL

CHECKED BY: MB

NO.	DATE	REVISION/CORRECTION	BY

SHEET

52 of 124

September 9, 2020, ELLIOTT BRANCH WW INTERCEPTOR, RPS #12066.01

RPS
Texas PE Firm Reg. #1-293
4801 Southwest Pkwy, Pkwy 2
Suite 150, Austin, Texas 78735
T +1 512 328 5771
E usinfrastructure@rpsgroup.com



CITY OF KYLE, TEXAS

PD Grant - Software Internet Crime Against Children

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Authorize the Chief of Police to Execute and Accept a Grant Award on behalf of the Kyle Police Department from the Texas Office of the Attorney General in the amount of \$4,300 for the purpose of acquiring software in support of the partnership with the Internet Crime Against Children (ICAC) Task Force Program. ~ *Jeff Barnett, Chief of Police*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- PD Memo re Internet Crime Against Children Software Grant
- ICAC FY2021 Grant Acceptance



KYLE POLICE

111 North Front Street, Kyle, TX 78640

Non-Emergency: 512-268-3232

Admin: 512-268-0859

Fax: 512-268-2330

Date: May 7 2021

To: Jeff Barnett, Chief of Police

From: Catlyn Bone, Sergeant

Re: Agenda Item Request – International Crimes Against Children (ICAC) Grant Request

The Kyle Police Department's application with the Office of Attorney General's Office, International Crimes Against Children (ICAC) grant for a \$4,300, to cover the cost of the Cellebrite data extraction software's yearly subscription, has been approved pending Department Head signature. This grant is for the purpose of helping agencies with investigating crimes against children and our extraction software is used to extract data from cell phones and other devices. This is a valuable investigative resource used on almost every successful child pornography case (and helpful on very many other offenses as well).

Wording for agenda:

Authorize the Chief of Police to Execute and Accept a Grant Award on behalf of the Kyle Police Department from the Texas Office of the Attorney General in the amount of \$4,300 for the purpose of acquiring software in support of the partnership with the Internet Crime Against Children (ICAC) Task Force Program. ~ *Jeff Barnett, Chief of Police*

Respectfully,

Catlyn Bone #731



512-268-3232

512-268-2330

111 North Front Street, Kyle, TX 78640

www.cityofkyle.com/police

Item # 11



RE: FY 2021 Internet Crimes Against Children (ICAC) Sub-Recipient Grant Contract

Contract Number: 2113447

Grantee: Kyle Police Department

Amount: \$4,300.00

Executed:

Term: May 1, 2021 – August 31, 2021

Budget Coding:

ORG	PCA	Agy Obj
885	15800	7611

GRANT CONTRACT

OAG Contract No. 2113447

This grant contract is executed between the Office of the Attorney General (OAG) and **Kyle Police Department** (GRANTEE) for certain grant funds. The OAG and GRANTEE may be referred to in this Contract individually as “Party” or collectively as “Parties.”

SECTION 1. PURPOSE OF THE CONTRACT

The Internet Crimes Against Children (ICAC) Task Force Program, United States Department of Justice, Office of Justice Programs (OJP), Office of Juvenile Justice and Delinquency Prevention, seeks to maintain and expand State and regional ICAC task forces to address technology-facilitated child exploitation. These task forces work collaboratively as a national network of law enforcement and prosecutorial agencies that prevent, interdict, and investigate Internet crimes against children. The program requires existing task forces to develop multi-jurisdictional, multi-agency responses to such offenses by providing funding and other support to State and local law enforcement agencies as a means to help them acquire the necessary knowledge, personnel, and equipment. The OAG, as the regional contact for the task force known as “Texas, Southern ICAC Task Force”, (hereinafter the “OAG ICAC Task Force”) receives funding from the OJP to provide grants to local law enforcement agencies that are affiliates of the task force in order to address technology-facilitated child exploitation. Pursuant to the terms of a Memorandum of Understanding (MOU) between the parties, the GRANTEE became a member of the OAG ICAC Task Force. The purpose of this Contract is to provide reasonable contractual controls to ensure that the public purposes of the grant provided to GRANTEE are achieved.

SECTION 2 TERM OF THE CONTRACT

This contract shall begin on May 1, 2021 and shall terminate August 31, 2021, unless it is terminated earlier or extended in accordance with another provision of this Contract. The OAG is not obligated to reimburse expenses that were incurred prior to the commencement or after the termination of this Contract.

SECTION 3 GRANTEE’S CONTRACTUAL SERVICES

3.1 GRANTEE’S Compliance with the Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Cooperative Agreement for Award Number 2018-MC-FX-K065. The GRANTEE will comply with all terms and conditions as set forth and required in the Cooperative Agreement between the OAG and the Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Award Number **2018-MC-FX-K065**, (OAG Award Document) and as attached hereto as Exhibit C and incorporated by reference, as well as the applicable provisions of the OAG ICAC Grant Application (“Grant Application”) or OAG Award Document as supplemented, amended or adjusted. Specifically, Grantee’s compliance with the applicable “Special Conditions” identified in the OAG Award Document are a material requirement of the grant award made hereunder.

Failure to comply with any one or more of the Special Conditions, whether a condition set out in full below, a condition incorporated by reference herein, or a certification or assurance related to conduct during the award period, may result in the OAG and/or to the extent federal funds are expended in this grant, the Office of Justice Programs ("OJP") in taking appropriate action which may include but is not limited to OAG and/or OJP withholding award funds, disallowing costs, or suspending or terminating the grant award. Additionally, the GRANTEE shall comply with all terms and conditions as set forth and required in the Memorandum of Understanding between the OAG and GRANTEE, OAG Contract Number **1991629-01** (the "Task Force MOU") attached hereto as Exhibit "D" and incorporated herein by reference.

3.2 Establishment of Final Project Budget; Grant Project Narrative; Special Conditions.

3.2.1 Final Project Budget. The GRANTEE's budget is attached as Exhibit A. The OAG, at its sole discretion, may adjust GRANTEE's budget, targets, outputs, outcomes and/or any other items as deemed appropriate by the OAG, at any time, during the term of this Contract.

3.2.2 Grant Project Narrative. The GRANTEE's Project Narrative is as follows:

To support certain Internet Crimes Against Children (ICAC) other direct operating costs.

GRANTEE hereby certifies that the information provided by GRANTEE in the Grant Application, including the statements made in the narrative, is true and correct and agrees to be bound by the representations and commitments contained therein. The OAG, at its sole discretion, will establish the final project targets, outputs, and outcomes.

3.2.3 Special Conditions. The Special Conditions, including the OAG Award Document, are attached as Exhibit B. The OAG, at its sole discretion, may supplement, amend or adjust the Special Conditions attached to this Contract.

SECTION 4 REQUIRED REPORTS

4.1 General Matters

4.1.1 Required Reports; Form of Reports; Filings with the OAG. GRANTEE shall forward to the OAG the applicable reports on forms as specified by the OAG. GRANTEE shall ensure that it files each document or form required by the OAG in an accurate and timely manner. Unless filing dates are given herein, all other reports and other documents that GRANTEE is required to forward to the OAG shall be promptly forwarded. From time to time, the OAG may require additional information from GRANTEE.

4.1.2 Cooperation; Additional Information; Immediate Notification and Correction and Inaccuracies. GRANTEE shall cooperate fully with the OAG. In addition to the information contained in the required reports, other information may be required as requested by the OAG. GRANTEE will immediately notify the OAG in the event GRANTEE discovers that any

previously submitted information was inaccurate and forward the corrected information to the OAG.

4.1.3 Notification of Changes in Organization, Changes in Authorized Official or Grant Contact. GRANTEE shall submit within ten (10) business days, notice to the OAG of any change of the following: GRANTEE's name; contact information; key personnel, officer, director or partner; organizational structure; legal standing; or authority to do business in Texas. GRANTEE shall promptly notify the OAG, preferably in advance, of a change in address or main telephone number of GRANTEE. A change in GRANTEE's name requires an amendment to the Contract.

To change an Authorized Official, GRANTEE must submit a written request on GRANTEE's letterhead, with original signature. To change a Grant Contact, GRANTEE must submit a written request on GRANTEE's letterhead signed by an Authorized Official.

4.1.4 Standards for Financial and Programmatic Management. GRANTEE and its governing body shall bear full and sole responsibility for the integrity of the fiscal and programmatic management of the organization including financial and programmatic policies and procedures to ensure the integrity of the fiscal and programmatic management of the organization.

Such fiscal and programmatic management shall include accountability for all funds and materials received from the OAG; compliance with OAG rules, policies and procedures, and applicable federal and state laws and regulations; and correction of fiscal and program deficiencies identified through self-evaluation and/or the OAG's monitoring processes. Ignorance of any contract provisions or other requirements referenced in this Contract shall not constitute a defense or basis for waiving or failing to comply with such provisions or requirements.

GRANTEE shall develop, implement, and maintain appropriate financial management and control systems, which include budgets that adequately reflect all functions and resources necessary to carry out authorized activities and the adequate determination of costs; accurate and complete payroll, accounting, and financial reporting records; cost source documentation; effective internal and budgetary controls; allocation of costs; and timely and appropriate audits and resolution of any findings and applicable annual financial statements.

4.1.5. Security and Confidentiality of Records. GRANTEE shall establish a method to secure the confidentiality of records required to be kept confidential by applicable federal and state law, rules and regulations. This provision shall not be construed as limiting the OAG's access to such records and other information.

4.2 Programmatic Reports

4.2.1 ICAC Semi-Annual Statistical (Performance) Reports, including Outcome Measure Reports. GRANTEE will support the OAG in its progress reporting requirements, including the reporting requirements of outcome measures. The OAG is required to report, within 30 days after the end of the reporting periods, certain outcome measures. The semi-annual reporting periods end on the last day of June and December each year. The OAG will establish deadlines for the

GRANTEE to meet its requirement to report to the OAG.

4.2.2 Contents of Semi-Annual Statistical Reports. GRANTEE shall report data to the OAG on the following outcome measures on the reporting deadlines established by OAG:

- a. Number of CyberTipLine referrals received and investigated;
- b. Number of indictments obtained on CyberTipLine referrals;
- c. Number of convictions obtained on CyberTipLine referrals;
- d. Number of online solicitation of a minor (or its equivalent) arrests;
- e. Number of online solicitation of a minor (or its equivalent) indictments obtained;
- f. Number of online solicitation of a minor (or its equivalent) convictions obtained;
- g. Total number of ICAC-related arrests during reporting period;
- h. Number of partner agencies that sign memorandum certifying compliance with ICAC program guidelines;
- i. Number of investigative technical assistance sessions that ICAC task force provides to non-member law enforcement agencies;
- j. Number of computer forensic technical assistance examinations that ICAC task forces provide to non-member law enforcement agencies;
- k. Percent increase in arrests related to technology-facilitated child sexual exploitation and Internet Crimes Against Children;
- l. Percent increase in computer forensic examinations completed by ICAC task forces; and
- m. Percent increase in investigative technical assistance sessions provided by ICAC task forces to non-member law enforcement agencies.

4.2.3 ICAC Task Force Program Monthly Performance Measures. GRANTEE will support the OAG in its reporting requirements of the ICAC Task Force Program Monthly Performance Measures. The OAG will establish the GRANTEE's monthly reporting deadlines. The Performance Measures shall contain, at a minimum, the following additional supporting data elements:

- a. Complaints;
- b. Case Information;
- c. Goals;
- d. Court Actions;
- e. Technical Assists;
- f. Training; and
- g. Community Outreach Presentations.

4.2.4 ICAC Annual Reports. GRANTEE will support the OAG in its annual reporting requirements. The OAG will establish the GRANTEE's annual reporting deadlines of the following measures:

- a. Staffing levels of the task force, including the number of investigators, prosecutors, education specialists, and forensic specialists dedicated to investigating and prosecuting Internet crimes against children.
- b. Investigation and prosecution performance measures of the task force, including:
 1. the number of investigations initiated related to Internet Crimes Against Children;
 2. the number of arrests related to Internet Crimes Against Children; and
 3. the number of prosecutions for Internet Crimes Against Children, including-
 - i. whether the prosecution resulted in a conviction for such crime; and
 - ii. the sentence and the statutory maximum for such crime under State law.
- c. The number of referrals made by the task force to the United States Attorney's Office, including whether the referral was accepted by the United States Attorney.
- d. Statistics that account for the disposition of investigations that do not result in arrests or prosecutions, such as referrals to other law enforcement.
- e. The number of investigative technical assistance sessions that the task force provided to non-member law enforcement agencies.
- f. The number of computer forensic examinations that the task force completed.
- g. The number of law enforcement agencies participating in Internet Crimes Against Children program standards established by the task force.

4.2.5 Written Explanation of Variance. GRANTEE is required to provide a written explanation to the OAG for any variances by GRANTEE from the projected performance required by this Contract or the Task Force MOU. In addition to the written explanation, GRANTEE shall promptly answer any questions of the OAG, whether in writing or otherwise, in connection with the reports presented to the OAG.

4.2.6 Other Program Reports. GRANTEE shall cooperate fully in any social studies, fiscal or programmatic monitoring, auditing, evaluating, and other reviews pertaining to services rendered by GRANTEE, which may be conducted by the OAG or its designees.

GRANTEE also shall make available at reasonable times and for reasonable periods programmatic or financial records, books, reports, and supporting documents for reviewing and copying by the OAG or its designees.

4.3 Financial Matters

4.3.1 Grant Budgets. With regard to the use of funds pursuant to this Contract, GRANTEE will immediately review the annual budget as established in this Contract.

4.3.2 Monthly Request for Reimbursement and Financial Status Report. Grant funds are paid on a cost reimbursement basis. GRANTEE will submit, each month, a monthly request for reimbursement (also referred to as “financial status report”) for the actual and allowable allocable costs incurred by GRANTEE for project costs to provide services under this Contract. The payments made to GRANTEE shall not exceed its actual and allowable allocable costs to provide the services under this Contract.

The request for reimbursement/financial status report will be submitted to the OAG in the form and manner as approved by the OAG and will specify the detailed and total expenses for the month, in the following cost categories: (i) personnel and fringe benefits, reported separately, (ii) professional and consulting services, (iii) travel, (iv) equipment, (v) supplies, and (vi) other direct operating expenses. The request for reimbursement must be accompanied by supporting documentation as required by the OAG. The OAG may from time to time require different or additional supporting documentation.

A request for reimbursement/financial status report is required each month, whether GRANTEE has paid expenses, or is seeking reimbursement.

4.3.3 Fiscal Year End Required Reports. GRANTEE shall submit the following reports to the OAG on or before October 15, 2021 or a date otherwise established by the OAG:

- a. Record of Reimbursement.** GRANTEE will submit a reconciled record of its expenses for the prior fiscal year in the following cost categories: (i) personnel and fringe benefits, reported separately, (ii) professional and consulting services, (iii) travel, (iv) equipment, (v) supplies, and (vi) other direct operating expenses.
- b. Equipment Inventory Report.** To the extent the purchase of equipment is authorized under this grant and GRANTEE purchases equipment is purchased with grant funds. GRANTEE will submit an Equipment Inventory Report which provides a record of the current inventory of items purchased, disposed of, replaced or transferred for any equipment that was purchased with grant funds.
- c. Additional Fiscal Reports.** GRANTEE shall submit any other additional fiscal report in the form and manner as may be requested by OAG.

4.3.4 Timing of Submission of Request for Reimbursement to the OAG; Close Out Invoice. GRANTEE is responsible for submitting bills in an accurate and timely manner, and shall make every reasonable effort to submit monthly billings to the OAG, which cover the previous month’s expenses, so that they are received by the OAG on or before the twentieth (20th) of each month, or if the 20th falls on a weekend or holiday, the next business day. The OAG will make all reasonable efforts to promptly process and make payments on properly completed billings. GRANTEE may submit a final invoice to be received by the OAG not later than forty-five (45) calendar days after termination of this Contract.

4.3.5 Reimbursement of Actual and Allowable Costs. The OAG shall only reimburse costs incurred and paid by GRANTEE during the term of this Contract. The OAG shall only reimburse GRANTEE for employee costs that are directly related to performing the responsibilities of this Contract.

4.3.6 Refunds and Deductions. If the OAG determines that GRANTEE has been overpaid grant funds under this Contract, such as payments made inadvertently or payments made but later determined to not be actual and allowable allocable costs, GRANTEE shall refund that amount of the OAG reimbursement identified by the OAG as an overpayment. The OAG may offset and deduct the amount of the overpayment from any amount owed to GRANTEE, as a reimbursement, but not yet paid by the OAG to GRANTEE. The OAG may choose to require a payment directly from GRANTEE rather than offset and deduct a specified amount. GRANTEE shall refund any overpayment to the OAG within thirty (30) calendar days of the receipt of the notice of the overpayment from the OAG unless an alternate payment plan is specified by the OAG.

4.3.7 Purchase of Equipment; Maintenance and Repair; Title upon Termination. GRANTEE shall not give any security interest, lien or otherwise encumber any item of equipment purchased with contract funds. GRANTEE shall permanently identify all equipment purchased under this Contract by appropriate tags or labels affixed to the equipment. GRANTEE shall maintain a current inventory of all equipment which shall be available to the OAG at all times upon request; however, a title for equipment will remain with Grantee.

GRANTEE will maintain, repair, and protect all equipment purchased in whole or in part with grant funds so as to ensure the full availability and usefulness of such equipment. In the event GRANTEE is indemnified, reimbursed, or otherwise compensated for any loss of, destruction of, or damage to the equipment purchased under this Contract, it shall use the proceeds to repair or replace said equipment.

To the extent that the OAG reimburses GRANTEE for its purchase of equipment with funds from this Contract, and to the extent it is allowed by federal or state law, GRANTEE agrees that upon termination of the Contract, title to or ownership of all such purchased equipment, at the sole option of the OAG, shall remain with the OAG.

4.3.8 Direct Deposit. GRANTEE may make a written request to the OAG to be placed on Direct Deposit status by completing and submitting to the OAG the State Comptroller's Direct Deposit Authorization Form. After the direct deposit request is approved by the OAG and the setup is completed on the Texas Identification Number System by the State Comptroller's Office, payment will be remitted by direct deposit and the OAG will discontinue providing GRANTEE with copies of reimbursement vouchers.

SECTION 5 OBLIGATIONS OF OAG

5.1 Monitoring. The OAG is responsible for closely monitoring GRANTEE to ensure the effective and efficient use of grant funds to accomplish the purposes of this Contract.

5.2 Maximum Liability of OAG. The maximum liability of the OAG is contained in the attached Exhibit A. Any change to the maximum liability must be supported by a written amendment to this Contract.

5.3 Reimbursement of Grantee Expenses. The OAG shall be obligated to reimburse GRANTEE for all actual and allowable allocable costs incurred by GRANTEE pursuant to this Contract. The OAG is not obligated to pay unauthorized costs.

Prior written approval from the OAG is required if GRANTEE anticipates altering the scope of the grant, adding funds to previously un-awarded budget categories, changing funds in any awarded budget category by more than 10% of the annual budget and/or adding new line items to any awarded budget category.

Notwithstanding the foregoing, should GRANTEE wish to alter the scope of the grant or change the goals of the grant by adding or eliminating goals which were included in the GRANTEE's final narrative included in Section 3.2.2 above, such alteration or change may only be achieved by a written, duly executed amendment to this Contract.

5.4 Contract Not Entitlement or Right. Reimbursement with contract funds is not an entitlement or right. Reimbursement depends, among other things, upon strict compliance with all terms, conditions and provisions of this Contract. The OAG and GRANTEE agree that any act, action or representation by either party, their agents or employees that purports to increase the maximum liability of the OAG is void unless a written amendment to this Contract is first executed. GRANTEE agrees that nothing in this Contract will be interpreted to create an obligation or liability of the OAG in excess of the funds delineated in this Contract.

5.5 Funding Limitation. GRANTEE agrees that funding for this Contract is subject to the actual receipt by the OAG of grant funds (state and/or federal) appropriated to the OAG. GRANTEE agrees that the grant funds if any, received from the OAG are limited by the term of each state biennium and by specific appropriation authority to and the spending authority of the OAG for the purpose of this Contract. **GRANTEE agrees that, notwithstanding any other provision of this Contract, if the OAG is not appropriated the funds or if the OAG does not receive the appropriated funds for this grant program, or if the funds appropriated to the OAG for this grant program are required by the state to be reallocated to fund other state programs or purposes, the OAG is not liable to pay the GRANTEE any remaining balance on this Contract.**

SECTION 6 TERMINATION

6.1 Termination for Convenience. Either Party may, at its sole discretion, terminate this Contract without recourse, liability or penalty, upon written notice to the other party at least thirty (30) calendar days before the effective date of such termination.

6.2 Termination for Cause. In the event that GRANTEE fails to perform or comply with an obligation of the terms, conditions and provisions of this Contract, the OAG may, upon written

notice of the breach to GRANTEE, immediately terminate this Contract.

6.3 Termination Not Exclusive Remedy; Survival of Terms and Conditions. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law, or under this Contract.

Termination of this Contract for any reason or expiration of this Contract shall not release the Parties from any liability or obligation set forth in this Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination. The following terms and conditions, (in addition to any others that could reasonably be interpreted to survive but are not specifically identified), survive the termination or expiration of this Contract: Sections 4, 5, 7; 11; and 12.

SECTION 7 AUDIT RIGHTS; RECORDS RETENTION

7.1 Duty to Maintain Records. GRANTEE shall maintain adequate records that enable the OAG to verify all reporting measures and requests for reimbursements related to this Contract. GRANTEE also shall maintain such records as are deemed necessary by the OAG, OAG's auditor, the State Auditor's Office or other auditors of the State of Texas, the federal government or such other persons or entities designated by the OAG, to ensure proper accounting for all costs and performances related to this Contract.

7.2 Records Retention. GRANTEE shall maintain and retain records for a period of seven (7) years after the Contract is completed or expires, or all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the Contract are resolved. The records include, but may not be limited to, the Contract, any contract solicitation documents, any documents that are necessary to fully disclose the extent of services provided under this Contract, any daily activity reports and time distribution and attendance records, and other records that may show the basis of the charges made or performances delivered.

7.3 Audit Trails. GRANTEE shall maintain appropriate audit trails to provide accountability for all reporting measures and requests for reimbursements. Audit trails maintained by GRANTEE will, at a minimum, identify the supporting documentation prepared by GRANTEE to permit an audit of its systems. GRANTEE's automated systems, if any, must provide the means whereby authorized personnel have the ability to audit and to verify contractually required performances and to establish individual accountability for any action that can potentially cause access to, generation of, or modification of confidential information.

7.4 Access and Audit. At the request of the OAG, GRANTEE shall grant access to and make available all paper and electronic records, books, documents, accounting procedures, practices, and any other items relevant to the performance of this Contract, compliance with the applicable state or federal laws and regulations, and the operation and management of GRANTEE to the OAG or its designees for the purposes of inspecting, auditing, or copying such items. GRANTEE will direct any other entity, person, or contractor receiving fund directly under this Contract or through a subcontract under this Contract to likewise permit access to, inspection of, and reproduction of

all books, records and other relevant information of the entity, person or contractor that pertain to this Contract. All records, books, documents, accounting procedures, practices, and any other items, in whatever form, relevant to the performance of this Contract shall be subject to examination or audit. Whenever practical as determined at the sole discretion of the OAG, the OAG shall provide GRANTEE with up to five (5) business days advance notice of any such examination or audit.

7.5 State Auditor. In addition to and without limitation on the other audit provisions of this Contract, pursuant to Section 2262.154 of the Texas Government Code, the State Auditor's Office may conduct an audit or investigation of GRANTEE or any other entity or person receiving funds from the State directly under this Contract or indirectly through a subcontract under this Contract. The acceptance of funds by GRANTEE or any other entity or person directly under this Contract or indirectly through a subcontract under this Contract acts as acceptance of the authority of the State Auditor's Office, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, GRANTEE or another entity that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit. GRANTEE further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. GRANTEE shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through GRANTEE and the requirement to cooperate is included in any subcontract it awards. The State Auditor's Office shall at any time have access to and the right to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of GRANTEE related to this Contract. GRANTEE also represents and warrants that it will comply with Section 321.022 of the Texas Government Code, which requires that suspected fraud and unlawful conduct be reported to the State Auditor's Office.

7.6 Location. Any audit of records shall be conducted at GRANTEE's principal place of business and/or the location(s) of GRANTEE's operations during GRANTEE's normal business hours. GRANTEE shall provide to OAG or its designees, on GRANTEE's premises (or if the audit is being performed of a subcontractor, the subcontractor's premises if necessary) private space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office-related equipment and duplicating services as OAG or its designees may reasonably require to perform the audits described in this Contract.

SECTION 8 SUBMISSION OF INFORMATION TO THE OAG

The OAG will designate methods for submission of information to the OAG by GRANTEE. The OAG generally requires submission of information via email or hard copy format. Some reporting requirements must occur via the internet and/or a web-based data collection method.

8.1 Programmatic Reports and Information (excluding Financial Reports). All quarterly statistical reports, annual performance reports, correspondence, reports or notices, except financial reports specified below, must be submitted in the manner directed by the OAG. OAG will provide

the required manner of delivery after the grant is awarded. The manner of delivery may be subject to change during the term of the Contract, in the sole discretion of the OAG.

8.2 Financial Reports (excluding Programmatic Reports and Information). All financial status reports, requests for reimbursement and inventory reports, must be submitted in the manner directed by the OAG. OAG will provide the required manner of delivery after the grant is awarded. The manner of delivery may be subject to change during the term of the Contract, in the sole discretion of the OAG.

SECTION 9 CORRECTIVE ACTION PLANS AND SANCTIONS

The Parties agree to make a good faith effort to identify, communicate and resolve problems found by either the OAG or GRANTEE.

9.1 Corrective Action Plans. If the OAG finds deficiencies with GRANTEE's performance under this Contract, the OAG, at its sole discretion, may impose one or more of the following remedies as part of a corrective action plan: increase monitoring visits; require that additional or more detailed financial and/or programmatic reports be submitted; require prior approval for expenditures; require additional technical or management assistance and/or make modifications in business practices; reduce the Contract amount; and/or terminate this Contract. The foregoing are not exclusive remedies, and the OAG may impose other requirements that the OAG determines will be in the best interest of the State.

9.2 Financial Hold. Failure to comply with submission deadlines for required reports, invoices, or other requested information, may result in the OAG, at its sole discretion, placing GRANTEE on immediate financial hold without further notice to GRANTEE and without first requiring a corrective action plan. No reimbursements will be processed until the requested information is submitted. If GRANTEE is placed on financial hold, the OAG, at its sole discretion, may deny reimbursement requests associated with the expenses incurred during the time GRANTEE was placed on financial hold.

9.3 Sanctions. In addition to financial hold, the OAG, at its sole discretion, may impose other sanctions without first requiring a corrective action plan. The OAG, at its sole discretion, may impose sanctions, including, but not limited to, withholding or suspending funding, offsetting previous reimbursements, requiring repayment, disallowing claims for reimbursement, reducing funding, terminate this Contract and/or any other appropriate sanction.

9.4 No Waiver. Notwithstanding the imposition of corrective actions, financial hold and/or sanctions, GRANTEE remains responsible for complying with the Contract terms and conditions. Corrective action plans, financial hold and/or sanctions do not excuse or operate as a waiver of prior failure to comply with this Contract.

SECTION 10 GENERAL TERMS AND CONDITIONS

10.1 Uniform Grant Management Act, UGMS and Applicable Standard Federal and State Certifications and Assurances. GRANTEE agrees to comply with applicable laws, executive orders, regulations and policies as well as the Uniform Grant Management Act of 1981 (UGMA), Texas Government Code, Chapter, 783, as amended. GRANTEE also agrees to comply with Uniform Grant Management Standards (UGMS), and any other applicable federal or state grant management standards.

10.2 Generally Accepted Accounting Principles or Other Recognized Accounting Principles. GRANTEE shall adhere to Generally Accepted Accounting Principles (GAAP) promulgated by the American Institute of Certified Public Accountants, unless other recognized accounting principles are required by GRANTEE. GRANTEE shall also follow OAG fiscal management policies and procedures in processing and submitting requests for reimbursement and maintaining financial records related to this Contract.

10.3 Conflicts of Interest; Disclosure of Conflicts. GRANTEE represents and warrants that performance under the Contract or grant will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. GRANTEE has not given or offered to give, nor does GRANTEE intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or employee of the OAG, at any time during the negotiation of this Contract or in connection with this Contract, except as allowed under relevant state or federal law. Further, GRANTEE represents and warrants that in the administration of the grant, it will comply with all conflict of interest prohibitions and disclosure requirements required by applicable law, rules, and policies, including Chapter 176 of the Texas Local Government Code. GRANTEE will establish safeguards to prohibit its employees from using their positions for a purpose that constitutes or presents the appearance of a personal or organizational conflict of interest or personal gain. GRANTEE will operate with complete independence and objectivity without an actual, potential or apparent conflict of interest with respect to its performance under this Contract. GRANTEE must disclose, in writing, within fifteen (15) calendar days of discovery, any existing or potential conflicts of interest relative to its performance under this Contract.

10.4 Compliance with Regulatory and Licensing Bodies. GRANTEE agrees that it has obtained all licenses, certifications, permits and authorizations necessary to perform the responsibilities of this Contract and currently is, and will remain, in good standing with all regulatory agencies that regulate any or all aspects of GRANTEE's business or operations. GRANTEE agrees to remain in good standing with the Texas Secretary of State, Texas Comptroller of Public Accounts and related federal governmental bodies related to GRANTEE's right to conduct its business in Texas. GRANTEE agrees to comply with all applicable licenses, legal certifications, inspections, and any other applicable local ordinance or state, or federal laws.

10.5 Child Support Obligation Affirmation. Under Section 231.006 of the Texas Family Code, the GRANTEE certifies that the individual or business entity named in this Contract is not ineligible to receive the specified grant, and acknowledges that this Contract may be terminated

and payment may be withheld if this certification is inaccurate.

10.6 Contract Oversight. GRANTEE represents and warrants that it will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

10.7 Cybersecurity Training Program. GRANTEE represents and warrants its compliance with Section 2054.5191 of the Texas Government Code relating to the cybersecurity training program for local government employees who have access to a local government computer system or database.

10.8 Debarment and Suspension. Grantee certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration.

10.9 Debts and Delinquencies. To the extent permissible under applicable state and federal law and the underlying Federal Grant Award, GRANTEE agrees that any payments due under the grant contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

10.10 Protections for Certain Charitable Organizations, Charitable Trusts, and Private Foundations. GRANTEE represents and warrants that it will comply with Section 2252.906 of the Texas Government Code relating to disclosure protections for certain charitable organizations, charitable trusts, and private foundations.

10.11 Excluded Parties. GRANTEE certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

10.12 Executive Head of a State Agency Affirmation. Under Section 669.003 of the Texas Government Code, relating to contracting with an executive head of a state agency, GRANTEE represents and warrants that no person who served as an executive of OAG, in the past four (4) years, was involved with or has any interest in this Contract or grant award. To the extent GRANTEE employs or has used the services of a former executive of OAG, then GRANTEE certifies it has previously disclosed the following information: name of the former executive, the name of the state agency, the date of separation from the state agency, the position held with GRANTEE, and the date of employment with GRANTEE.

10.13 Law Enforcement Funding. To the extent applicable, GRANTEE represents and warrants that it will not use appropriated money unless the law enforcement agency is in compliance with all rules adopted by the Texas Commission on Law Enforcement (TCOLE), or TCOLE certifies that it is in the process of achieving compliance with such rules.

10.14 Legal Authority. GRANTEE represents that it possesses legal authority to apply for the grant. A resolution, motion or similar action has been duly adopted or passed as an official act of the GRANTEE's governing body, authorizing the filing of the Application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative, or the designee of GRANTEE to act in connection with the Application and to provide such additional information as may be required.

10.15 No Use of Grant Money for Lobbying. GRANTEE represents and warrants that OAG's payments to GRANTEE and GRANTEE's receipt of appropriated or other funds under the contract or grant are not prohibited by Sections 403.1067 or 556.0055 of the Texas Government Code which restrict lobbying expenditures.

10.16 Open Meetings If the GRANTEE is a governmental entity, GRANTEE represents and warrants its compliance with Chapter 551 of the Texas Government Code which requires all regular, special or called meeting of a governmental body to be open to the public, except as otherwise provided by law.

10.17 Political Polling Prohibition. GRANTEE represents and warrants that it does not perform political polling and acknowledges that appropriated funds may not be granted to, or expended by, any entity which performs political polling.

10.18 Texas Public Information Act. Information, documentation, and other material in connection with this Contract or the underlying grant may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act"). In accordance with Section 2252.907 of the Texas Government Code, GRANTEE is required to make any information created or exchanged with OAG, the State of Texas, or any state agency pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to OAG, the State of Texas, or any state agency.

10.19 Reporting Compliance. GRANTEE represents and warrants that it will submit timely, complete, and accurate reports in accordance with the grant and maintain backup documentation to support the reports.

10.20 Reporting Suspected Fraud and Unlawful Conduct. GRANTEE represents and warrants that it will comply with Section 321.022 of the Texas Government Code which requires that suspected fraud and unlawful conduct be reported to the State Auditor's Office.

10.21 Subaward Monitoring. GRANTEE represents and warrant that it will monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with applicable statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved.

10.22 Does Not Boycott Israel. To the extent required by Texas Government Code, section 2271.002, GRANTEE represents and warrants that neither GRANTEE, nor any subcontractor,

assignee, or sub-recipient of GRANTEE, currently boycotts Israel, or will boycott Israel during the term of this contract. GRANTEE agrees to take all necessary steps to ensure this certification remains true for any future subcontractor or assignee. For purposes of this provision, “Boycott Israel” shall have the meaning assigned by Texas Government Code, Sec. 808.001(1).

10.23 Restriction on Abortion Funding. GRANTEE acknowledges that, under article IX, section 6.25 of the General Appropriations Act for the term covered by this Contract, and except as provided by that Act, funds may not be distributed under this Contract to any individual or entity that: (1) performs an abortion procedure that is not reimbursable under the State’s Medicaid program; (2) is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the State’s Medicaid program; or (3) is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the State’s Medicaid program.

10.24 U.S. Department of Homeland Security’s E-Verify System. GRANTEE will ensure that it utilizes the U.S. Department of Homeland Security’s E-Verify system to determine the eligibility of any new employee hired after the effective date of this agreement who will be working on any matter covered by this agreement.

10.25 Financial Participation Prohibited Affirmation. Under Section 2155.004(b) of the Texas Government Code, GRANTEE certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract or grant funding and acknowledges that the Contract may be terminated and all payments withheld if this certification is inaccurate.

10.26 Human Trafficking Prohibition. Under Section 2155.0061 of the Texas Government Code, the GRANTEE certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract or grant funding and acknowledges that this Contract may be terminated and all payments withheld if this certification is inaccurate.

10.27 Prior Disaster Relief Contract Violation. Under Sections 2155.006 and 2261.053 of the Texas Government Code, the GRANTEE certifies that the individual or business entity named in this contract is not ineligible to receive the specified Contract or grant funding and acknowledges that this Contract may be terminated and all payments withheld if this certification is inaccurate.

10.28 Business with Iran, Sudan, or Terrorist Organizations. GRANTEE hereby represents and warrants that it does not, and shall not for the duration of any resulting contract or purchase order hereunder, engage in any business operations, including but not limited to acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce with Iran, Sudan or a foreign terrorist organization.

SECTION 11 SPECIAL TERMS AND CONDITIONS

11.1 Independent Contractor Status; Indemnity and Hold Harmless Agreement. GRANTEE expressly agrees that it is an independent contractor and under no circumstances shall

any owner, incorporator, officer, director, employee, or volunteer of GRANTEE be considered an OAG employee, agent, servant, joint venturer, joint enterpriser or partner of the OAG. GRANTEE agrees to take such steps as may be necessary to ensure that each contractor of GRANTEE will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, joint enterpriser or partner of OAG or the State of Texas.

All persons furnished, used, retained, or hired by or on behalf of GRANTEE or any of GRANTEE'S contractors shall be considered to be solely the employees or agents of GRANTEE or the contractors. GRANTEE or GRANTEE'S contractors shall be responsible for ensuring that any and all appropriate payments are made, such as unemployment, workers compensation, social security, any benefit available to a state employee as a state employee, and other payroll taxes for such persons, including any related assessments or contributions required by law.

GRANTEE is responsible for all types of claims whatsoever due to actions or performance under this Contract, including, but not limited to, the use of automobiles or other transportation by its owners, incorporators, officers, directors, employees, volunteers or any third parties. To the extent allowed by law, GRANTEE shall defend, indemnify, and hold harmless OAG and the State of Texas, and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees from any and all liability, actions, claims, demands, or suits, and all related costs, attorneys fees, and expenses arising out of, or resulting from any acts or omissions of GRANTEE or its agents, employees, subcontractors, order fulfillers, or suppliers of subcontractors in the execution or performance of the Contract. In the event the State of Texas, the OAG, or any other State of Texas agency are named defendants in any lawsuit, the defense thereof shall be coordinated by GRANTEE with the OAG. GRANTEE may not agree to any settlement without first obtaining the concurrence from OAG. OAG and GRANTEE agree to furnish timely written notice to each other of any such claim.

11.2 Publicity. GRANTEE shall not use the OAG's name or refer to the OAG directly or indirectly in any media release, public service announcement or public service disclosure relating to this Contract or any acquisition pursuant hereto, including in any promotional or marketing materials, without first obtaining written consent from the OAG. This section is not intended to and does not limit GRANTEE's ability to comply with its obligations and duties under the Texas Open Meetings Act and/or the Texas Public Information Act.

11.3 Intellectual Property. GRANTEE understands and agrees that where funds obtained under this Contract may be used to produce original books, manuals, films, or other original material and intellectual property, GRANTEE may copyright such material subject to the royalty-free, non-exclusive, and irrevocable license which is hereby reserved by the OAG and granted by GRANTEE to the OAG or the state (or federal government, if federal funds are expended in this grant) government. Grantee hereby grants the OAG an unrestricted, royalty-free, non-exclusive, and irrevocable license to use, copy, modify, reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), at no additional cost to the OAG, in any manner the OAG deems appropriate at its sole discretion, any component of such intellectual property made the subject of this Contract.

Whereas federal funds are expended in this grant, Grantee also hereby grants the Office of Justice Programs (OJP) a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under this Contract; and (2) any rights of copyright to which Grantee purchases ownership with grant funds received under this Contract.

Grantee acknowledges and agrees that OJP has the right to (1) obtain, reproduce, publish, or otherwise use the data first produced under this Contract and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227- 14 (Rights in Data - General).

GRANTEE shall obtain from subrecipients, contractors, and subcontractors (if any) all rights and data necessary to fulfill the Grantee's obligations to the OAG and OJP under this Contract. If a proposed subrecipient, contractor, or subcontractor refuses to accept terms affording the OAG or OJP such rights, Grantee shall promptly bring such refusal to the attention of the OAG Program Manager for the Contract and not proceed with the agreement in question without further authorization from the OAG.

11.4 Program Income. Gross income directly generated from the grant funds through a project or activity performed under this Contract are considered program income. Unless otherwise required under the terms of this Contract, any program income shall be used by GRANTEE to further the program objectives of the project or activity funded by this grant, and the program income shall be spent on the same project or activity in which it was generated. GRANTEE shall identify and report this income in accordance with the OAG's reporting instructions. GRANTEE shall expend program income during this Contract term; program income not expended in this Contract term shall be refunded to the OAG.

11.5 No Supplanting. GRANTEE shall not supplant or otherwise use funds from this Contract to replace or substitute existing funding from other sources that also supports the activities that are the subject of this Contract.

11.6 No Solicitation or Receipt of Funds on Behalf of OAG. It is expressly agreed that any solicitation for or receipt of funds of any type by GRANTEE is for the sole benefit of GRANTEE and is not a solicitation for or receipt of funds on behalf of the OAG or the Attorney General of the State of Texas.

11.7 No Subcontracting, Assignment, or Delegation Without Prior Written Approval of OAG. GRANTEE may not subcontract, assign any of its rights, or delegate any of its duties under this contract without the prior written approval of the OAG. OAG shall maintain the complete and sole discretion to approve or deny any request to subcontract, assign any right, or delegate any duty under this contract, and the OAG may withhold its approval for any reason or no reason. In the event OAG approves subcontracting, assignment, or delegation by GRANTEE, GRANTEE will ensure that its contracts with others shall require compliance with the provisions of this

Contract. GRANTEE, in subcontracting for any performances specified herein, expressly understands and agrees that it is not relieved of its responsibilities for ensuring that all performance is in compliance with this contract and that the OAG shall not be liable in any manner to GRANTEE's subcontractor(s). GRANTEE represents and warrants that it will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

11.8 No Grants to Certain Organizations. GRANTEE confirms by executing this Contract that it does not make contributions to campaigns for elective office or endorse candidates.

11.9 No Waiver of Sovereign Immunity. The Parties agree that no provision of this Contract is in any way intended to constitute a waiver by the OAG or the State of Texas of any immunities from suit or from liability that the OAG or the State of Texas may have by operation of law.

11.10 Dispute Resolution. The negotiation process provided for in Subchapter B of Chapter 2260 of the Texas Government Code shall be used to resolve any alleged breach of the Contract by OAG.

11.11 Governing Law; Venue. This contract is made and entered into in the State of Texas. This contract and all disputes arising out of or relating thereto shall be governed by the laws of the State of Texas, without regard to any otherwise applicable conflict of law rules or requirements.

Except where state law establishes mandatory venue, GRANTEE agrees that any action, suit, litigation or other proceeding (collectively "litigation") arising out of or in any way relating to this Contract shall be commenced exclusively in the Travis County District Court or the United States District Court in the Western District, Austin Division, and to the extent allowed by law, hereby irrevocably and unconditionally consent to the exclusive jurisdiction of those courts for the purpose of prosecuting and/or defending such litigation. GRANTEE hereby waives and agrees not to assert by way of motion, as a defense, or otherwise, in any suit, action or proceeding, any claim that GRANTEE is not personally subject to the jurisdiction of the above-named courts, the suit, action or proceeding is brought in an inconvenient forum and/or the venue is improper.

11.12 MOU between OAG and GRANTEE. The OAG and GRANTEE will have in place a Memorandum of Understanding that outlines the duties and responsibilities of GRANTEE as a member of the Internet Crimes Against Children Task Force. GRANTEE agrees to comply with the approved Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention ICAC Task Force Operational and Investigative Standards.

11.13 Restrictions and Certifications Regarding Non-Disclosure Agreements and Related Matters. In accepting this grant, the GRANTEE:

a. represents and warrants that GRANTEE neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if GRANTEE learns or GRANTEE is notified that is or has been

requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the OAG and will resume (or permit resumption of) such obligations only if expressly authorized to do so OAG.

SECTION 12 FEDERAL FUNDING TERMS AND CONDITIONS

12.1 Federal and State Laws, Rules and Regulations, Directives, Guidelines, Code of Federal Regulations (CFR) and Other Relevant Authorities. GRANTEE agrees to comply with all applicable federal and state laws, rules and regulations, directives, guidelines, including 2 CFR Part 200, and any other authorities relevant to the performance of GRANTEE under this contract. In instances where multiple requirements apply to GRANTEE, the more restrictive requirement applies.

12.2 Catalog of Federal Domestic Assistance Number. The Catalog of Federal Domestic Assistance Number (CFDA) number for the Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention program is 16.543, titled “Missing Children’s Assistance.”

12.3 Byrd Anti-Lobbying Amendment, To the extent applicable, GRANTEE certifies that no federal appropriated funds have been paid or will be paid to any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on its behalf to obtain, extend, or modify this contract or grant. If non-federal funds are used by GRANTEE to conduct such lobbying activities, GRANTEE shall promptly file the prescribed disclosure form. In accordance with 31 U.S.C. § 1352(b)(5), GRANTEE acknowledges and agrees that it is responsible for ensuring that each subrecipient and subcontractor certifies its compliance with the expenditure prohibition and the declaration requirement.

12.4 Clean Air Act and Federal Water Pollution Control Act. GRANTEE represents and warrants that it will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

12.5 Compliance with Laws, Rules, and Requirements. GRANTEE represents and warrants that it will comply, and assure the compliance of all its subrecipients and contractors, with all applicable federal and state laws, rules, regulations, and policies in effect or hereafter established. In addition, GRANTEE represents and warrants that it will comply with all requirements imposed by the OAG concerning special requirements of law, program requirements, and other administrative requirements. In instances where multiple requirements apply to GRANTEE, the more restrictive requirement applies.

12.6 Disclosure of Violations of Federal Criminal Law. Grantee represents and warrants its compliance with 2 CFR § 200.113 which requires the disclosure in writing of violations of federal

criminal law involving fraud, bribery, and gratuity and the reporting of certain civil, criminal, or administrative proceedings to SAM.

12.7 Federal Solid Waste Disposal Act. GRANTEE represents and warrants that it will comply with the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

12.8 No Conflicts of Interest (Federal). GRANTEE represents and warrants its compliance with the OJP’s conflict of interest policies in accordance 2 CFR § 200.112.

12.9 Records Retention (Federal). GRANTEE represents and warrants its compliance with the records retention requirements of 2 CFR § 200.333. OAG reserves the right to direct a GRANTEE to retain documents for a longer period of time or transfer certain records to OAG custody when it is determined the records possess longer term retention value. GRANTEE must include the substance of this clause in all subawards and subcontracts.

12.10 Special Provisions Due to Federal Funding.

12.10.1 Source of Federal Funds. The source of funds for this Contract are federal funds, specifically, the Internet Crimes Against Children (ICAC) Task Forces, conducted in accordance with Federal grant programs funded under the Catalog of Federal Domestic Assistance (CFDA) No. 16.543 Missing Children’s Assistance.

12.10.2 Applicable Certifications and Assurances and other Provisions Due to Federal Funding. GRANTEE agrees to comply with all relevant federal requirements under the applicable federal grant program. GRANTEE agrees to comply with terms of the “Super Circular” (2 CFR Chapters I and II) in the event they are applicable to this award funded with federal funds.

SECTION 13 CONSTRUCTION OF CONTRACT AND AMENDMENTS

13.1 Construction of Contract. The provisions of Section 1 are intended to be a general introduction to this Contract. To the extent the terms and conditions of this Contract do not address a particular circumstance or are otherwise unclear or ambiguous, such terms and conditions are to be construed consistent with the general objectives, expectations and purposes of this Contract.

13.2 Entire Agreement, including Exhibits. This contract, including all exhibits, reflect the entire agreement between the Parties with respect to the subject matter therein described, and there are no other representations (verbal or written), directives, guidance, assistance, understandings or agreements between the Parties relative to such subject matter. By executing this Contract, GRANTEE agrees to strictly comply with the requirements and obligations of this Contract, including all exhibits.

13.3 Amendment. This contract shall not be modified or amended except in writing, signed by both parties. Any properly executed amendment of this Contract shall be binding upon the Parties

and presumed to be supported by adequate consideration.

13.4 Partial Invalidity. If any term or provision of this Contract is found to be illegal or unenforceable, such construction shall not affect the legality or validity of any of its other provisions. The illegal or invalid provision shall be deemed severable and stricken from the Contract as if it had never been incorporated herein, but all other provisions shall continue in full force and effect.

13.5 Non-waiver. The failure of any Party to insist upon strict performance of any of the terms or conditions herein, irrespective of the length of time of such failure, shall not be a waiver of that party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this Contract shall constitute a consent or waiver to or of any breach or default in the performance of the same or any other obligation of this Contract.

13.6 Official Capacity. The Parties agree that the signatories hereto are signing, executing and performing this Contract only in their official capacity.

13.7 Signature Authority. The undersigned Parties represent and warrant that the individuals submitting this document are authorized to sign such documents on behalf of the respective parties.

**OFFICE OF THE ATTORNEY
GENERAL OF TEXAS**

KYLE POLICE DEPARTMENT

Printed Name: _____
Office of the Attorney General

Printed Name: Jeff Barnett
Authorized Official

GRANT CONTRACT

OAG Contract No. 2113447

EXHIBIT A

Maximum Liability of the OAG. The OAG and GRANTEE agree that the total liability of the OAG to GRANTEE, directly or indirectly, arising out of this Contract for reimbursement of all expenses, shall not exceed:

\$4,300.00

Subject to the limitations within this Contract, the OAG will reimburse GRANTEE for actual allowable and allocable costs paid according to the following amounts and budget categories:

Budget Category	Amount
Personnel	\$0.00
Fringe Benefits	\$0.00
Professional & Contractual Services	\$0.00
Travel	\$0.00
Equipment	\$0.00
Supplies	\$0.00
Other Direct Operating Expenses	\$4,300.00
Total	\$4,300.00

GRANT CONTRACT

OAG Contract No. 2113447

EXHIBIT B

SPECIAL CONDITIONS


Special Conditions are imposed by the OAG at its sole discretion. In addition to the ones identified in this exhibit to this Contract, the OAG may, at its sole discretion, impose additional special conditions, with or without notice, without amending this Contract.

GRANTEE's signature on this contract will be treated as a signature agreement for each of the twenty-five (25) pages of the Special Conditions, as attached.

The Special Conditions that apply to this Contract are:

- **Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Special Conditions of the Cooperative Agreement (OAG Award Document), 2018-MC-FX-K065, and any subsequent award document.**
 - Eighteen (18) pages.
- **Compliance with the Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, as provided in memo to Official Grant File, to Texas Office of the Attorney General and any subsequent award document.**
 - One (1) page.
- **Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Project Summary (OAG Award Document), 2018-MC-FX-K065.**
 - Two (2) pages.
- **Compliance with the Department of Justice, Office of Justice Programs, Office of Civil Rights, as provided in the letter to Texas Office of the Attorney General and any subsequent award document.**
 - One (1) page.
- **Department of Justice, Office of Justice Programs, Assurances – Standard Assurances.**
 - Three (3) pages.

EXHIBIT B

 <p>Department of Justice (DOJ) Office of Justice Programs Office of Juvenile Justice and Delinquency Prevention</p>	<h2 style="margin: 0;">Cooperative Agreement</h2>	<p>PAGE 1 OF 18</p>																
<p>1. RECIPIENT NAME AND ADDRESS (Including Zip Code)</p> <p>Texas Office of the Attorney General PO Box 12548 Austin, TX 78711-2548</p>	<p>4. AWARD NUMBER: 2018-MC-FX-K065</p>																	
<p>2a. GRANTEE IRS/VENDOR NO. 746000057</p>	<p>5. PROJECT PERIOD: FROM 10/01/2018 TO 09/30/2021 BUDGET PERIOD: FROM 10/01/2018 TO 09/30/2021</p>																	
<p>2b. GRANTEE DUNS NO. 806780789</p>	<p>6. AWARD DATE</p>	<p>7. ACTION Supplemental</p>																
<p>3. PROJECT TITLE Southern Texas ICAC Task Force Program</p>	<p>8. SUPPLEMENT NUMBER 02</p>																	
<p>9. PREVIOUS AWARD AMOUNT</p>	<p>\$ 1,124,411</p>																	
<p>10. AMOUNT OF THIS AWARD</p>	<p>\$ 608,000</p>																	
<p>11. TOTAL AWARD</p>	<p>\$ 1,732,411</p>																	
<p>12. SPECIAL CONDITIONS</p> <p>THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).</p>																		
<p>13. STATUTORY AUTHORITY FOR GRANT</p> <p>This project is supported under FY20(OJJDP - MEC - ICAC Task Force - other than TTA or "HERO" veterans employment) Pub. L. No. 116-93, 133 Stat. 2317, 2410</p>																		
<p>14 . CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)</p> <p>16.543 - Missing Children's Assistance</p>																		
<p>15. METHOD OF PAYMENT</p> <p>GPRS</p>																		
<p>AGENCY APPROVAL</p>		<p>GRANTEE ACCEPTANCE</p>																
<p>16. TYPED NAME AND TITLE OF APPROVING OFFICIAL</p> <p>Katharine T. Sullivan Principal Deputy Assistant Attorney General</p>	<p>18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL</p> <p>Jeffrey C. Mateer</p>																	
<p>17. SIGNATURE OF APPROVING OFFICIAL</p> <div style="background-color: black; width: 100%; height: 30px;"></div>	<p>19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL</p>	<p>19A. DATE</p>																
<p>AGENCY USE ONLY</p>																		
<p>20. ACCOUNTING CLASSIFICATION CODES</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>FISCAL YEAR</th> <th>FUND CODE</th> <th>BUD. ACT.</th> <th>DIV. OFC.</th> <th>REG.</th> <th>SUB.</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>F</td> <td>MC</td> <td>70</td> <td>00</td> <td>00</td> <td></td> <td>608000</td> </tr> </tbody> </table>	FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	REG.	SUB.	POMS	AMOUNT	X	F	MC	70	00	00		608000	<p>21. TMCTGT0068</p>	
FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	REG.	SUB.	POMS	AMOUNT											
X	F	MC	70	00	00		608000											



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 2 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 3 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2020 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2020 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2020 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 4 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 5 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 6 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

9. Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1) and (2).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) and (2) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1) and (2).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 7 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1) and (2).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

10. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

11. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

12. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 8 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

13. Unreasonable restrictions on competition under the award; association with federal government

SCOPE. This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, whether by the recipient or by any subrecipient at any tier, and regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any subaward (at any tier).

1. No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements -- including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business" and taking "[a]ny arbitrary action in the procurement process") -- no recipient (or subrecipient, at any tier) may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. The term "associate of the federal government" means any person or entity engaged or employed (in the past or at present) by or on behalf of the federal government -- as an employee, contractor or subcontractor (at any tier), grant recipient or -subrecipient (at any tier), agent, or otherwise -- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work, project, or activity (or to provide such goods or services) in future.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 9 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

14. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

15. Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

17. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

18. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 10 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

19. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

20. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

21. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

22. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

23. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 11 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

24. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

25. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2020) The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions that may be set out in applicable appropriations acts are indicated at <https://ojp.gov/funding/Explore/FY20AppropriationsRestrictions.htm>, and are incorporated by reference here. Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 12 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

27. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 13 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

28. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

29. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

30. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

31. Prior to the expenditure of confidential funds, the recipient and any subrecipients agree to sign a certification that the recipient (or the subrecipient, as applicable) has read, understands, and agrees to abide by all of the conditions pertaining to confidential fund expenditures set forth in the DOJ Grants Financial Guide.

32. ICAC Annual Reports

The recipient agrees to submit annual reports to OJP that set forth the following:

(A) The number of law enforcement agencies participating in Internet crimes against children program standards established by the task force. (B) Staffing levels of the task force, including the number of investigators, prosecutors, education specialists, and forensic specialists dedicated to investigating and prosecuting Internet crimes against children.

33. The recipient agrees to forward reports of ICAC Task Force Program Monthly Performance Measures to the OJJDP-designated site.

34. The recipient agrees to comply with the OJJDP approved ICAC Task Force Operational and Investigative Standards



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 14 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

35. Copyright; Data rights

The recipient acknowledges that OJP reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under an award or subaward (at any tier); and (2) any rights of copyright to which a recipient or subrecipient (at any tier) purchases ownership with Federal support.

The recipient acknowledges that OJP has the right to (1) obtain, reproduce, publish, or otherwise use the data first produced under any such award or subaward; and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227-14 (Rights in Data - General).

It is the responsibility of the recipient (and of each subrecipient (at any tier), if applicable) to ensure that the provisions of this condition are included in any subaward (at any tier) under this award.

The recipient has the responsibility to obtain from subrecipients, contractors, and subcontractors (if any) all rights and data necessary to fulfill the recipient's obligations to the Government under this award. If a proposed subrecipient, contractor, or subcontractor refuses to accept terms affording the Government such rights, the recipient shall promptly bring such refusal to the attention of the OJP program manager for the award and not proceed with the agreement in question without further authorization from the OJP program office.

36. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

37. The Project Director and key program personnel designated in the application shall be replaced only for compelling reasons. Successors to key personnel must be approved, and such approval is contingent upon submission of appropriate information, including, but not limited to, a resume. OJP will not unreasonably withhold approval. Changes in other program personnel require only notification to OJP and submission of resumes, unless otherwise designated in the award document.

38. With respect to this award, federal funds may not be used to pay cash compensation (salary plus bonuses) to any employee of the award recipient at a rate that exceeds 110% of the maximum annual salary payable to a member of the federal government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (An award recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds.)

This limitation on compensation rates allowable under this award may be waived on an individual basis at the discretion of the OJP official indicated in the program announcement under which this award is made.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 15 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

39. The recipient agrees to submit a final report at the end of this award documenting all relevant project activities during the entire period of support under this award. This report will include detailed information about the project(s) funded, including, but not limited to, information about how the funds were actually used for each purpose area, data to support statements of progress, and data concerning individual results and outcomes of funded projects reflecting project successes and impacts. The final report is due no later than 90 days following the close of this award period or the expiration of any extension periods. This report will be submitted to the Office of Justice Programs, on-line through the Internet at <https://grants.ojp.usdoj.gov/>.
40. The recipient shall submit semiannual progress reports. Progress reports shall be submitted within 30 days after the end of the reporting periods, which are June 30 and December 31, for the life of the award. These reports will be submitted to the Office of Justice Programs, on-line through the Internet at <https://grants.ojp.usdoj.gov/>.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 16 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

41. Within 45 calendar days after the end of any conference, meeting, retreat, seminar, symposium, training activity, or similar event funded under this award, and the total cost of which exceeds \$20,000 in award funds, the recipient must provide the program manager with the following information and itemized costs:

- 1) name of event;
- 2) event dates;
- 3) location of event;
- 4) number of federal attendees;
- 5) number of non-federal attendees;
- 6) costs of event space, including rooms for break-out sessions;
- 7) costs of audio visual services;
- 8) other equipment costs (e.g., computer fees, telephone fees);
- 9) costs of printing and distribution;
- 10) costs of meals provided during the event;
- 11) costs of refreshments provided during the event;
- 12) costs of event planner;
- 13) costs of event facilitators; and
- 14) any other costs associated with the event.

The recipient must also itemize and report any of the following attendee (including participants, presenters, speakers) costs that are paid or reimbursed with cooperative agreement funds:

- 1) meals and incidental expenses (M&IE portion of per diem);
- 2) lodging;
- 3) transportation to/from event location (e.g., common carrier, Privately Owned Vehicle (POV)); and,
- 4) local transportation (e.g., rental car, POV) at event location.

Note that if any item is paid for with registration fees, or any other non-award funding, then that portion of the expense does not need to be reported.

Further instructions regarding the submission of this data, and how to determine costs, are available in the OJP Financial Guide Conference Cost Chapter.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 17 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

42. Any Web site that is funded in whole or in part under this award must include the following statement on the home page, on all major entry pages (i.e., pages (exclusive of documents) whose primary purpose is to navigate the user to interior content), and on any pages from which a visitor may access or use a Web-based service, including any pages that provide results or outputs from the service:

"This Web site is funded [insert "in part," if applicable] through a grant from the [insert name of OJP component], Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control, are responsible for, or necessarily endorse, this Web site (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)."

The full text of the foregoing statement must be clearly visible on the home page. On other pages, the statement may be included through a link, entitled "Notice of Federal Funding and Federal Disclaimer," to the full text of the statement.

43. Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.

44. The recipient shall submit to OJJDP a copy of all interim and final reports and proposed publications (including those prepared for conferences, journals, and other presentations) resulting from this award, for review and comment prior to publishing. Any publication produced with grant funds must contain the following statement: "This project was supported by Grant # () awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect those of the Department of Justice. All reports and products may be required to display the OJJDP logo on the cover (or other location) with the agreement of OJJDP. OJJDP defines publications as any planned, written, visual or sound materials substantively based on the project, formally prepared by the award recipient for dissemination to the public.

45. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

Item # 11



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 18 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

46. Statement of Federal Involvement:

Due to the substantial Federal involvement contemplated in completion of this project, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has elected to enter into a cooperative agreement rather than a grant. This decision is based on OJP and OJJDP's ongoing responsibility to assist and coordinate projects that relate to the funded activities. OJP and OJJDP will provide input and re-direction to the project, as needed, in consultation with the recipient, and will actively monitor the project by methods including, but not limited to, ongoing contact with the recipient. In meeting programmatic responsibilities, OJP, OJJDP, and the recipient will be guided by the following principles: responsibility for the day-to-day operations of this project rests with the recipient in implementation of the recipient's approved proposal, the recipient's approved budget, and the terms and conditions specified in this award. Responsibility for general oversight and redirection of the project, if necessary, rests with OJJDP. In addition to its programmatic reporting requirements, the recipient agrees to provide necessary information as requested by OJP and OJJDP. Information requests may include, but are not limited to, specific submissions related to: performance, including measurement of project outputs/outcomes; meeting performance specifications; developmental decision points; changes in project scope or personnel; budget modifications; and/or coordination of related projects.

47. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.



Department of Justice (DOJ)

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Lou Ann Holland, OJJDP NEPA Coordinator

Subject: Categorical Exclusion for Texas Office of the Attorney General

This award is made as part of the Internet Crimes Against Children Task Force Program. Awards under this program will be used to support State and local law enforcement agencies to maintain and expand State and regional task forces to address technology-facilitated child exploitation. None of the following activities will be conducted either under this award or a related third party action: 1) New construction; 2) Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species; 3) A renovation which will change the basic prior use of a facility or significantly change its size; 4) Research and technology whose anticipated and future application could be expected to have an effect on the environment; or 5) Implementation of a program involving the use of chemicals, other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments. Additionally, the proposed action is neither a phase nor a segment of a project which when reviewed in its entirety would not meet the criteria for a categorical exclusion. Consequently, the subject federal action meets OJP's criteria for a categorical exclusion as contained in paragraph 4(b) of Appendix D to Part 61 of Title 28 of the Code of Federal Regulations.



Department of Justice (DOJ)
Office of Justice Programs

Office of Juvenile Justice and
Delinquency Prevention

**GRANT MANAGER'S MEMORANDUM, PT. I:
PROJECT SUMMARY
Cooperative Agreement**

PROJECT NUMBER
2018-MC-FX-K065

PAGE 1 OF 1

This project is supported under FY20(OJJDP - MEC - ICAC Task Force - other than TTA or "HERO" veterans employment) Pub. L. No. 116-93, 133 Stat. 2317, 2410

1. STAFF CONTACT (Name & telephone number)

Lou Ann Holland
(202) 305-2742

2. PROJECT DIRECTOR (Name, address & telephone number)

Amy Britt
OAG Grants Coordinator
PO Box 12548
Austin, TX 78711-2548
(512) 936-9936

3a. TITLE OF THE PROGRAM

OJJDP FY 20 Internet Crimes Against Children Task Force Invited Applicants

3b. POMS CODE (SEE INSTRUCTIONS
ON REVERSE)

4. TITLE OF PROJECT

Southern Texas ICAC Task Force Program

5. NAME & ADDRESS OF GRANTEE

Texas Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

6. NAME & ADDRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 10/01/2018 TO: 09/30/2021

8. BUDGET PERIOD

FROM: 10/01/2018 TO: 09/30/2021

9. AMOUNT OF AWARD

\$ 608,000

10. DATE OF AWARD

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The National Internet Crimes Against Children (ICAC) Task Force Program, consists of state and local law enforcement task forces dedicated to developing effective responses to online enticement of children by sexual predators, child exploitation, and child obscenity and pornography cases. Each State and local task force that is part of the national program shall: 1) consist of State and local investigators, prosecutors, forensic specialists, and education specialists who are dedicated to addressing the goals of the task force; 2) engage in proactive investigations, forensic examinations, and effective prosecutions of Internet crimes against children; 3) provide forensic, preventive, and investigative assistance to parents, educators, prosecutors, law enforcement, and others concerned with Internet crimes against children; 4) develop multijurisdictional, multiagency partnerships and responses to Internet crimes against children offenses through ongoing informational, administrative, and technological support to other State and local law enforcement agencies, as a means for such agencies to acquire the necessary knowledge, personnel, and specialized equipment to investigate and prosecute such offenses; 5) participate in nationally coordinated investigations in any case in which the Attorney General determines such participation to be necessary, as permitted by the available resources of such task force; 6) establish or adopt investigative and

prosecution standards consistent with established norms, to which such task force shall comply; 7) investigate, and seek prosecution on tips related to Internet crimes against children, including tips from Operation Fairplay, the National Internet Crimes Against Children Data System, the National Center for Missing and Exploited Children's CyberTipline, ICAC task forces, and other Federal, State, and local agencies, with priority being given to investigate leads that indicate the possibility of identifying or rescuing child victims, including investigative leads that indicate a likelihood of seriousness of offense or dangerousness to the community; 8) develop procedures for handling seized evidence for ICAC task force lead agencies and affiliate agencies; 9) maintain reports required by OJJDP and other reports and records as determined by the Attorney General; and, 10) seek to comply with national standards regarding the investigation and prosecution of Internet crimes against children, as set forth by the Attorney General, to the extent such standards are consistent with the law of the State where the task force is located.

The Texas Office of the Attorney General (TX OAG) ICAC Task Force will continue to maintain, expand, and improve the Southern Texas ICAC task force effectiveness in preventing, interdicting, investigating, and prosecuting Internet crimes against children and technology-facilitated child exploitation. ICAC grant-funded personnel are critical in addressing the increased caseload, as well as, providing investigative and forensic assistance to law enforcement in areas where expertise is required. The Texas OAG ICAC Task Force will continue to grow its ICAC affiliate partnerships. The Texas OAG will continue training ICAC and non-ICAC personnel. Emphasis will continue to be on collaborating with law enforcement and local and federal prosecutors to support investigation and prosecution of child predators. Additionally, mental wellness training of investigators, supervisors, and support staff remains a priority to ensure personnel are sufficiently equipped to prevent and mitigate the negative effects associated with conducting investigations involving child pornography. CA/CF



Department of Justice (DOJ)

Office of Justice Programs

Office of Civil Rights

Washington, DC 20531

Mr. Jeffrey C. Mateer
Texas Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

Dear Mr. Mateer:

Congratulations on your recent award. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, require recipients of federal financial assistance to give assurances that they will comply with those laws. In addition to those civil rights laws, many grant program statutes contain nondiscrimination provisions that require compliance with them as a condition of receiving federal financial assistance. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with OJP and other DOJ awards, see <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm>

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a non-discriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5). Please submit information about any adverse finding to the OCR at the above address.

We at the OCR are available to help you and your organization meet the civil rights requirements that are associated with OJP and other DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to let us know.

Sincerely,



Michael L. Alston
Director

cc: Grant Manager
Financial Analyst



U.S. DEPARTMENT OF JUSTICE

CERTIFIED STANDARD ASSURANCES

On behalf of the Applicant, and in support of this application for a grant or cooperative agreement, I certify under penalty of perjury to the U.S. Department of Justice ("Department"), that all of the following are true and correct:

(1) I have the authority to make the following representations on behalf of myself and the Applicant. I understand that these representations will be relied upon as material in any Department decision to make an award to the Applicant based on its application.

(2) I certify that the Applicant has the legal authority to apply for the federal assistance sought by the application, and that it has the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project costs) to plan, manage, and complete the project described in the application properly.

(3) I assure that, throughout the period of performance for the award (if any) made by the Department based on the application--

- a. the Applicant will comply with all award requirements and all federal statutes and regulations applicable to the award;
- b. the Applicant will require all subrecipients to comply with all applicable award requirements and all applicable federal statutes and regulations; and
- c. the Applicant will maintain safeguards to address and prevent any organizational conflict of interest, and also to prohibit employees from using their positions in any manner that poses, or appears to pose, a personal or financial conflict of interest.

(4) The Applicant understands that the federal statutes and regulations applicable to the award (if any) made by the Department based on the application specifically include statutes and regulations pertaining to civil rights and nondiscrimination, and, in addition--

- a. the Applicant understands that the applicable statutes pertaining to civil rights will include section 601 of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); section 901 of the Education Amendments of 1972 (20 U.S.C. § 1681); and section 303 of the Age Discrimination Act of 1975 (42 U.S.C. § 6102);
- b. the Applicant understands that the applicable statutes pertaining to nondiscrimination may include section 809(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. § 10228(c)); section 1407(e) of the Victims of Crime Act of 1984 (34 U.S.C. § 20110(e)); section 299A(b) of the Juvenile Justice and Delinquency Prevention Act of 2002 (34 U.S.C. § 11182(b)); and that the grant condition set out at section 40002(b)(13) of the Violence Against Women Act (34 U.S.C. § 12291(b)(13)), which will apply to all awards made by

the Office on Violence Against Women, also may apply to an award made otherwise;

- c. the Applicant understands that it must require any subrecipient to comply with all such applicable statutes (and associated regulations); and
- d. on behalf of the Applicant, I make the specific assurances set out in 28 C.F.R. §§ 42.105 and 42.204.

(5) The Applicant also understands that (in addition to any applicable program-specific regulations and to applicable federal regulations that pertain to civil rights and nondiscrimination) the federal regulations applicable to the award (if any) made by the Department based on the application may include, but are not limited to, 2 C.F.R. Part 2800 (the DOJ "Part 200 Uniform Requirements") and 28 C.F.R. Parts 22 (confidentiality - research and statistical information), 23 (criminal intelligence systems), 38 (regarding faith-based or religious organizations participating in federal financial assistance programs), and 46 (human subjects protection).

(6) I assure that the Applicant will assist the Department as necessary (and will require subrecipients and contractors to assist as necessary) with the Department's compliance with section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. § 306108), the Archeological and Historical Preservation Act of 1974 (54 U.S.C. §§ 312501-312508), and the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4335), and 28 C.F.R. Parts 61 (NEPA) and 63 (floodplains and wetlands).

(7) I assure that the Applicant will give the Department and the Government Accountability Office, through any authorized representative, access to, and opportunity to examine, all paper or electronic records related to the award (if any) made by the Department based on the application.

(8) If this application is for an award from the National Institute of Justice or the Bureau of Justice Statistics pursuant to which award funds may be made available (whether by the award directly or by any subaward at any tier) to an institution of higher education (as defined at 34 U.S.C. § 10251(a)(17)), I assure that, if any award funds actually are made available to such an institution, the Applicant will require that, throughout the period of performance--

- a. each such institution comply with any requirements that are imposed on it by the First Amendment to the Constitution of the United States; and
- b. subject to par. a, each such institution comply with its own representations, if any, concerning academic freedom, freedom of inquiry and debate, research independence, and research integrity, at the institution, that are included in promotional materials, in official statements, in formal policies, in applications for grants (including this award application), for accreditation, or for licensing, or in submissions relating to such grants, accreditation, or licensing, or that otherwise are made or disseminated to students, to faculty, or to the general public.

(9) I assure that, if the Applicant is a governmental entity, with respect to the award (if any) made by the Department based on the application--

- a. it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C.



- §§ 4601-4655), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
- b. it will comply with requirements of 5 U.S.C. §§ 1501-1508 and 7324-7328, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

(10) If the Applicant applies for and receives an award from the Office of Community Oriented Policing Services (COPS Office), I assure that as required by 34 U.S.C. § 10382(c) (11), it will, to the extent practicable and consistent with applicable law--including, but not limited to, the Indian Self-Determination and Education Assistance Act--seek, recruit, and hire qualified members of racial and ethnic minority groups and qualified women in order to further effective law enforcement by increasing their ranks within the sworn positions, as provided under 34 U.S.C. § 10382(c) (11).

(11) If the Applicant applies for and receives a DOJ award under the STOP School Violence Act program, I assure as required by 34 U.S.C. § 10552(a) (3), that it will maintain and report such data, records, and information (programmatic and financial) as DOJ may reasonably require.

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271-10273), and also may subject me and the Applicant to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and 3801-3812). I also acknowledge that the Department's awards, including certifications provided in connection with such awards, are subject to review by the Department, including by its Office of the Inspector General.

EXHIBIT C

 <p>Department of Justice (DOJ) Office of Justice Programs Office of Juvenile Justice and Delinquency Prevention</p>	<h2 style="margin: 0;">Cooperative Agreement</h2>	<p>PAGE 1 OF 18</p>																
<p>1. RECIPIENT NAME AND ADDRESS (Including Zip Code)</p> <p>Texas Office of the Attorney General PO Box 12548 Austin, TX 78711-2548</p>	<p>4. AWARD NUMBER: 2018-MC-FX-K065</p>																	
<p>2a. GRANTEE IRS/VENDOR NO. 746000057</p>	<p>5. PROJECT PERIOD: FROM 10/01/2018 TO 09/30/2021 BUDGET PERIOD: FROM 10/01/2018 TO 09/30/2021</p>																	
<p>2b. GRANTEE DUNS NO. 806780789</p>	<p>6. AWARD DATE</p>	<p>7. ACTION Supplemental</p>																
<p>3. PROJECT TITLE Southern Texas ICAC Task Force Program</p>	<p>8. SUPPLEMENT NUMBER 02</p>																	
<p>12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).</p>	<p>9. PREVIOUS AWARD AMOUNT \$ 1,124,411</p>																	
<p>13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY 20(OJJDP - MEC - ICAC Task Force - other than TTA or "HERO" veterans employment) Pub. L. No. 116-93, 133 Stat. 2317, 2410</p>	<p>10. AMOUNT OF THIS AWARD \$ 608,000</p>																	
<p>14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number) 16.543 - Missing Children's Assistance</p>	<p>11. TOTAL AWARD \$ 1,732,411</p>																	
<p>15. METHOD OF PAYMENT GPRS</p>	<p>12. SPECIAL CONDITIONS</p>																	
<p>AGENCY APPROVAL</p>	<p>GRANTEE ACCEPTANCE</p>																	
<p>16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Katharine T. Sullivan Principal Deputy Assistant Attorney General</p>	<p>18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Jeffrey C. Mateer</p>																	
<p>17. SIGNATURE OF APPROVING OFFICIAL </p>	<p>19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL</p>	<p>19A. DATE</p>																
<p>AGENCY USE ONLY</p>																		
<p>20. ACCOUNTING CLASSIFICATION CODES</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>FISCAL YEAR</th> <th>FUND CODE</th> <th>BUD. ACT.</th> <th>DIV. OFC.</th> <th>REG.</th> <th>SUB.</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>F</td> <td>MC</td> <td>70</td> <td>00</td> <td>00</td> <td></td> <td>608000</td> </tr> </tbody> </table>	FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	REG.	SUB.	POMS	AMOUNT	X	F	MC	70	00	00		608000	<p>21. TMCTGT0068</p>	
FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	REG.	SUB.	POMS	AMOUNT											
X	F	MC	70	00	00		608000											



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 2 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 3 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2020 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2020 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2020 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 4 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 5 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 6 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

9. Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1) and (2).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) and (2) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1) and (2).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 7 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1) and (2).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

10. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

11. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

12. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 8 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

13. Unreasonable restrictions on competition under the award; association with federal government

SCOPE. This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, whether by the recipient or by any subrecipient at any tier, and regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any subaward (at any tier).

1. No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements -- including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business" and taking "[a]ny arbitrary action in the procurement process") -- no recipient (or subrecipient, at any tier) may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. The term "associate of the federal government" means any person or entity engaged or employed (in the past or at present) by or on behalf of the federal government -- as an employee, contractor or subcontractor (at any tier), grant recipient or -subrecipient (at any tier), agent, or otherwise -- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work, project, or activity (or to provide such goods or services) in future.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 9 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

14. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

15. Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

17. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

18. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 10 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

19. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

20. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

21. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

22. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

23. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 11 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

24. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

25. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2020) The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions that may be set out in applicable appropriations acts are indicated at <https://ojp.gov/funding/Explore/FY20AppropriationsRestrictions.htm>, and are incorporated by reference here. Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 12 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

27. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 13 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

28. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

29. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

30. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

31. Prior to the expenditure of confidential funds, the recipient and any subrecipients agree to sign a certification that the recipient (or the subrecipient, as applicable) has read, understands, and agrees to abide by all of the conditions pertaining to confidential fund expenditures set forth in the DOJ Grants Financial Guide.

32. ICAC Annual Reports

The recipient agrees to submit annual reports to OJP that set forth the following:

(A) The number of law enforcement agencies participating in Internet crimes against children program standards established by the task force. (B) Staffing levels of the task force, including the number of investigators, prosecutors, education specialists, and forensic specialists dedicated to investigating and prosecuting Internet crimes against children.

33. The recipient agrees to forward reports of ICAC Task Force Program Monthly Performance Measures to the OJJDP-designated site.

34. The recipient agrees to comply with the OJJDP approved ICAC Task Force Operational and Investigative Standards



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 14 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

35. Copyright; Data rights

The recipient acknowledges that OJP reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under an award or subaward (at any tier); and (2) any rights of copyright to which a recipient or subrecipient (at any tier) purchases ownership with Federal support.

The recipient acknowledges that OJP has the right to (1) obtain, reproduce, publish, or otherwise use the data first produced under any such award or subaward; and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227-14 (Rights in Data - General).

It is the responsibility of the recipient (and of each subrecipient (at any tier), if applicable) to ensure that the provisions of this condition are included in any subaward (at any tier) under this award.

The recipient has the responsibility to obtain from subrecipients, contractors, and subcontractors (if any) all rights and data necessary to fulfill the recipient's obligations to the Government under this award. If a proposed subrecipient, contractor, or subcontractor refuses to accept terms affording the Government such rights, the recipient shall promptly bring such refusal to the attention of the OJP program manager for the award and not proceed with the agreement in question without further authorization from the OJP program office.

36. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

37. The Project Director and key program personnel designated in the application shall be replaced only for compelling reasons. Successors to key personnel must be approved, and such approval is contingent upon submission of appropriate information, including, but not limited to, a resume. OJP will not unreasonably withhold approval. Changes in other program personnel require only notification to OJP and submission of resumes, unless otherwise designated in the award document.

38. With respect to this award, federal funds may not be used to pay cash compensation (salary plus bonuses) to any employee of the award recipient at a rate that exceeds 110% of the maximum annual salary payable to a member of the federal government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (An award recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds.)

This limitation on compensation rates allowable under this award may be waived on an individual basis at the discretion of the OJP official indicated in the program announcement under which this award is made.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 15 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

39. The recipient agrees to submit a final report at the end of this award documenting all relevant project activities during the entire period of support under this award. This report will include detailed information about the project(s) funded, including, but not limited to, information about how the funds were actually used for each purpose area, data to support statements of progress, and data concerning individual results and outcomes of funded projects reflecting project successes and impacts. The final report is due no later than 90 days following the close of this award period or the expiration of any extension periods. This report will be submitted to the Office of Justice Programs, on-line through the Internet at <https://grants.ojp.usdoj.gov/>.
40. The recipient shall submit semiannual progress reports. Progress reports shall be submitted within 30 days after the end of the reporting periods, which are June 30 and December 31, for the life of the award. These reports will be submitted to the Office of Justice Programs, on-line through the Internet at <https://grants.ojp.usdoj.gov/>.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 16 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

41. Within 45 calendar days after the end of any conference, meeting, retreat, seminar, symposium, training activity, or similar event funded under this award, and the total cost of which exceeds \$20,000 in award funds, the recipient must provide the program manager with the following information and itemized costs:

- 1) name of event;
- 2) event dates;
- 3) location of event;
- 4) number of federal attendees;
- 5) number of non-federal attendees;
- 6) costs of event space, including rooms for break-out sessions;
- 7) costs of audio visual services;
- 8) other equipment costs (e.g., computer fees, telephone fees);
- 9) costs of printing and distribution;
- 10) costs of meals provided during the event;
- 11) costs of refreshments provided during the event;
- 12) costs of event planner;
- 13) costs of event facilitators; and
- 14) any other costs associated with the event.

The recipient must also itemize and report any of the following attendee (including participants, presenters, speakers) costs that are paid or reimbursed with cooperative agreement funds:

- 1) meals and incidental expenses (M&IE portion of per diem);
- 2) lodging;
- 3) transportation to/from event location (e.g., common carrier, Privately Owned Vehicle (POV)); and,
- 4) local transportation (e.g., rental car, POV) at event location.

Note that if any item is paid for with registration fees, or any other non-award funding, then that portion of the expense does not need to be reported.

Further instructions regarding the submission of this data, and how to determine costs, are available in the OJP Financial Guide Conference Cost Chapter.



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 17 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

42. Any Web site that is funded in whole or in part under this award must include the following statement on the home page, on all major entry pages (i.e., pages (exclusive of documents) whose primary purpose is to navigate the user to interior content), and on any pages from which a visitor may access or use a Web-based service, including any pages that provide results or outputs from the service:

"This Web site is funded [insert "in part," if applicable] through a grant from the [insert name of OJP component], Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control, are responsible for, or necessarily endorse, this Web site (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)."

The full text of the foregoing statement must be clearly visible on the home page. On other pages, the statement may be included through a link, entitled "Notice of Federal Funding and Federal Disclaimer," to the full text of the statement.

43. Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.

44. The recipient shall submit to OJJDP a copy of all interim and final reports and proposed publications (including those prepared for conferences, journals, and other presentations) resulting from this award, for review and comment prior to publishing. Any publication produced with grant funds must contain the following statement: "This project was supported by Grant # () awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect those of the Department of Justice. All reports and products may be required to display the OJJDP logo on the cover (or other location) with the agreement of OJJDP. OJJDP defines publications as any planned, written, visual or sound materials substantively based on the project, formally prepared by the award recipient for dissemination to the public.

45. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

Item # 11



Department of Justice (DOJ)
Office of Justice Programs
**Office of Juvenile Justice and
Delinquency Prevention**

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 18 OF 18

PROJECT NUMBER 2018-MC-FX-K065

AWARD DATE

SPECIAL CONDITIONS

46. Statement of Federal Involvement:

Due to the substantial Federal involvement contemplated in completion of this project, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has elected to enter into a cooperative agreement rather than a grant. This decision is based on OJP and OJJDP's ongoing responsibility to assist and coordinate projects that relate to the funded activities. OJP and OJJDP will provide input and re-direction to the project, as needed, in consultation with the recipient, and will actively monitor the project by methods including, but not limited to, ongoing contact with the recipient. In meeting programmatic responsibilities, OJP, OJJDP, and the recipient will be guided by the following principles: responsibility for the day-to-day operations of this project rests with the recipient in implementation of the recipient's approved proposal, the recipient's approved budget, and the terms and conditions specified in this award. Responsibility for general oversight and redirection of the project, if necessary, rests with OJJDP. In addition to its programmatic reporting requirements, the recipient agrees to provide necessary information as requested by OJP and OJJDP. Information requests may include, but are not limited to, specific submissions related to: performance, including measurement of project outputs/outcomes; meeting performance specifications; developmental decision points; changes in project scope or personnel; budget modifications; and/or coordination of related projects.

47. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.



Department of Justice (DOJ)

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Lou Ann Holland, OJJDP NEPA Coordinator

Subject: Categorical Exclusion for Texas Office of the Attorney General

This award is made as part of the Internet Crimes Against Children Task Force Program. Awards under this program will be used to support State and local law enforcement agencies to maintain and expand State and regional task forces to address technology-facilitated child exploitation. None of the following activities will be conducted either under this award or a related third party action: 1) New construction; 2) Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species; 3) A renovation which will change the basic prior use of a facility or significantly change its size; 4) Research and technology whose anticipated and future application could be expected to have an effect on the environment; or 5) Implementation of a program involving the use of chemicals, other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments. Additionally, the proposed action is neither a phase nor a segment of a project which when reviewed in its entirety would not meet the criteria for a categorical exclusion. Consequently, the subject federal action meets OJP's criteria for a categorical exclusion as contained in paragraph 4(b) of Appendix D to Part 61 of Title 28 of the Code of Federal Regulations.



Department of Justice (DOJ)
Office of Justice Programs

Office of Juvenile Justice and
Delinquency Prevention

**GRANT MANAGER'S MEMORANDUM, PT. I:
PROJECT SUMMARY
Cooperative Agreement**

PROJECT NUMBER

2018-MC-FX-K065

PAGE 1 OF 1

This project is supported under FY20(OJJDP - MEC - ICAC Task Force - other than TTA or "HERO" veterans employment) Pub. L. No. 116-93, 133 Stat. 2317, 2410

1. STAFF CONTACT (Name & telephone number)

Lou Ann Holland
(202) 305-2742

2. PROJECT DIRECTOR (Name, address & telephone number)

Amy Britt
OAG Grants Coordinator
PO Box 12548
Austin, TX 78711-2548
(512) 936-9936

3a. TITLE OF THE PROGRAM

OJJDP FY 20 Internet Crimes Against Children Task Force Invited Applicants

3b. POMS CODE (SEE INSTRUCTIONS
ON REVERSE)

4. TITLE OF PROJECT

Southern Texas ICAC Task Force Program

5. NAME & ADDRESS OF GRANTEE

Texas Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

6. NAME & ADDRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 10/01/2018 TO: 09/30/2021

8. BUDGET PERIOD

FROM: 10/01/2018 TO: 09/30/2021

9. AMOUNT OF AWARD

\$ 608,000

10. DATE OF AWARD

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The National Internet Crimes Against Children (ICAC) Task Force Program, consists of state and local law enforcement task forces dedicated to developing effective responses to online enticement of children by sexual predators, child exploitation, and child obscenity and pornography cases. Each State and local task force that is part of the national program shall: 1) consist of State and local investigators, prosecutors, forensic specialists, and education specialists who are dedicated to addressing the goals of the task force; 2) engage in proactive investigations, forensic examinations, and effective prosecutions of Internet crimes against children; 3) provide forensic, preventive, and investigative assistance to parents, educators, prosecutors, law enforcement, and others concerned with Internet crimes against children; 4) develop multijurisdictional, multiagency partnerships and responses to Internet crimes against children offenses through ongoing informational, administrative, and technological support to other State and local law enforcement agencies, as a means for such agencies to acquire the necessary knowledge, personnel, and specialized equipment to investigate and prosecute such offenses; 5) participate in nationally coordinated investigations in any case in which the Attorney General determines such participation to be necessary, as permitted by the available resources of such task force; 6) establish or adopt investigative and

prosecution standards consistent with established norms, to which such task force shall comply; 7) investigate, and seek prosecution on tips related to Internet crimes against children, including tips from Operation Fairplay, the National Internet Crimes Against Children Data System, the National Center for Missing and Exploited Children's CyberTipline, ICAC task forces, and other Federal, State, and local agencies, with priority being given to investigate leads that indicate the possibility of identifying or rescuing child victims, including investigative leads that indicate a likelihood of seriousness of offense or dangerousness to the community; 8) develop procedures for handling seized evidence for ICAC task force lead agencies and affiliate agencies; 9) maintain reports required by OJJDP and other reports and records as determined by the Attorney General; and, 10) seek to comply with national standards regarding the investigation and prosecution of Internet crimes against children, as set forth by the Attorney General, to the extent such standards are consistent with the law of the State where the task force is located.

The Texas Office of the Attorney General (TX OAG) ICAC Task Force will continue to maintain, expand, and improve the Southern Texas ICAC task force effectiveness in preventing, interdicting, investigating, and prosecuting Internet crimes against children and technology-facilitated child exploitation. ICAC grant-funded personnel are critical in addressing the increased caseload, as well as, providing investigative and forensic assistance to law enforcement in areas where expertise is required. The Texas OAG ICAC Task Force will continue to grow its ICAC affiliate partnerships. The Texas OAG will continue training ICAC and non-ICAC personnel. Emphasis will continue to be on collaborating with law enforcement and local and federal prosecutors to support investigation and prosecution of child predators. Additionally, mental wellness training of investigators, supervisors, and support staff remains a priority to ensure personnel are sufficiently equipped to prevent and mitigate the negative effects associated with conducting investigations involving child pornography. CA/CF

Exhibit D

Memorandum of Understanding

OAG Contract No. 1991629-01

This Memorandum of Understanding (“MOU”) is executed between the Parties identified below, for certain Internet Crimes Against Children (“ICAC”) Task Force activities. The Parties may be referred to in this contract individually as “Party” or collectively as “Parties.”

Section 1 Parties

Kyle Police Department (“Department”)

The Office of the Attorney General of Texas (“OAG”)

Section 2 Mission of the OAG

The ICAC Task Force Program, created by the United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, (“OJJDP”), is a national network of state and local law enforcement cybercrime units tasked with combating technology-facilitated child exploitation. These task forces work collaboratively as a national network of law enforcement and prosecutorial agencies that prevent, interdict, investigate and prosecute ICAC activities. The ICAC program requires existing task forces to develop multi-jurisdictional, multi-agency responses to such offenses by providing funding and other support to state and local law enforcement agencies as a means to help them acquire the necessary knowledge, personnel, and equipment. This help encompasses investigative and forensic components, training and technical assistance, victim services, and community education.

The OAG is designated by the OJJDP as the Regional Contact for the “Texas, Southern ICAC Task Force.” The OAG is a recipient of an OJJDP ICAC grant. The OAG utilizes the ICAC grant funds to administer and operate an ICAC Task Force. The mission of the OAG’s ICAC Task Force is to: (1) properly investigate and prosecute those who sexually exploit children through the use of the Internet and/or computers; (2) provide training and equipment to those involved in investigating and prosecuting Internet crimes against children, and (3) provide community education regarding the prevention of Internet crimes against children.

Section 3 Term of MOU

This MOU shall be effective on September 1, 2018 and will continue in effect until September 30, 2021.

Section 4 Purpose of the MOU

The purpose of this MOU is to formalize the working relationship between the OAG and the Department. This MOU delineates the responsibilities and expectations of the Parties. By signing this MOU, the Department agrees to join the OAG ICAC Task Force for the primary

purpose of vigorously and properly performing ICAC investigations. By joining the OAG ICAC Task Force, the Department will benefit from joint operations and extensive training opportunities.

By entering into this MOU, the OAG will benefit from the investigative support by the Department.

This MOU cancels and replaces any prior existing ICAC Task Force MOU between the Parties.

Section 5 Investigations

All ICAC investigations will be conducted only by sworn law enforcement investigators and in a spirit of cooperation with other OAG ICAC Task Force members. Investigations will follow guidelines established by each Party's respective policy manual or guidelines. However, ICAC investigations shall also be governed by the national ICAC program's Operational and Investigative Standards. Violation of the ICAC operational standards is cause for termination of this MOU. This MOU is not intended to infringe on the ongoing investigations of any other agency. It is agreed that unilateral acts on the part of employees involved in ICAC Task Force investigations are not in the best interest of the Task Force.

Section 6 Department's Duties and Responsibilities

The Department will ensure the following activities:

- A. Only sworn Department law enforcement personnel will conduct undercover ICAC investigations. Each investigator involved with undercover operations **must** receive ICAC training prior to initiating proactive investigations and shall submit reports of all undercover activity to the OAG.
- B. Conduct reactive investigations where subjects are associated with the Department's jurisdiction, including investigations of child pornography, CYBERTIP referrals from the National Center for Missing and Exploited Children, Internet Service Provider and law enforcement referrals, and other ICAC-related investigations. Additional case initiations may develop from subject interviews, documented public sources, direct observations of suspicious behavior, public complaints, or other appropriate sources.
- C. Record and document all undercover online activity. Any deviations from this policy due to unusual circumstances shall be documented in the relevant case file and reviewed by the ICAC Task Force Program Manager.
- D. Provide agents assigned to the ICAC Task Force access to all ICAC investigative files including, without limitation, computer records, in order to ensure compliance with all national ICAC standards.
- E. Locate its ICAC investigators in secured space provided by the Department with controlled access to all equipment, software, and investigative files. At a minimum,

information should be maintained in locked cabinets and under control of the Department ICAC Task Force personnel, with restricted access to authorized personnel only.

- F. Conduct education and prevention programs to foster awareness and provide practical, relevant guidance to children, parents, educators, librarians, the business and law enforcement communities, and other individuals concerned about Internet child safety issues. Presenters shall not discuss ongoing investigative techniques and undercover operations utilized by the ICAC Task Force.

Section 7 Supervision; Compliance with Regulatory and Licensing Bodies

The Department will be responsible for the day-to-day operational supervision, administrative control, and personal and professional conduct of its officers and agents assigned to the Task Force. ICAC investigations are a cooperative effort and investigative decisions will be a joint process guided by ICAC standards.

The Department agrees that it has obtained all licenses, certifications, permits and authorizations necessary to perform the responsibilities of this MOU. The Department agrees to comply with all applicable licenses, legal certifications, inspections, and any other applicable local ordinance, state, or federal laws.

Section 8 No Employment Relationship with the OAG; Liability

The Department expressly agrees that there is no employment relationship between the Department and the OAG. Under no circumstances shall any owners, incorporators, officers, directors, employees, or volunteers of the Department be considered an employee, agent, servant, or partner of, or part of any joint venture or joint enterprise with, the OAG.

To the extent allowed by law, the Department is responsible for all types of claims whatsoever due to their own actions or performance under this MOU, including, but not limited to, the use of automobiles (or other transportation), taken by its owners, incorporators, officers, directors, employees, volunteers or any third parties.

Section 9 Reporting Statistics

Using the reporting form provided by the OAG, the Department shall submit monthly statistics to the OAG on all ICAC investigations or other investigative work pertaining to the sexual exploitation of children via the Internet. These statistics shall be submitted in the appropriate format by the tenth (10th) calendar day of each month, and shall include data on all related investigations opened or closed during the month, as well as forensic examinations, technical/investigative assistance provided to other agencies, subpoenas and court orders issued, training hours attended and taught, and community outreach provided.

In addition, the Department shall provide detail reporting on the basic case data for each sexual exploitation of a minor (child pornography) case, and/or criminal solicitation of a minor (enticement/traveler) case investigated by the Department. The OAG will then be responsible for all required reporting to OJJDP.

Section 10 Training

The Department shall make investigators designated as ICAC Task Force members available for applicable specialized training provided through the national ICAC program and other appropriate training programs. The Department will support the on-going training needs of its investigators to maintain their competency and currency.

Section 11 Confidentiality

It is understood that any confidential information pertaining to ICAC investigations will be held in the strictest confidence, and will only be shared with participating OAG ICAC Task Force members or other law enforcement agencies where necessary or as otherwise permitted by federal and/or state law.

Section 12 Termination of MOU

Either Party, at its sole discretion, may terminate this MOU for convenience upon written notice to the other Party at least thirty (30) calendar days in advance of the effective date of such termination. The OAG may terminate this MOU for cause for the following reasons that include, but are not limited to, failure of Department to accept and/or investigate cyber tips, failure of Department to report statistics to the OAG, failure of Department to adhere to national ICAC program's Operational and Investigative Standards, or failure of Department to exercise reasonable efforts to support the on-going training needs of its investigators to maintain their competency and currency.

Section 13 Signatures

The Parties stipulate and agree that the signatories hereto are signing, executing and performing this MOU only in their official capacity.

Office of the Attorney General

DocuSigned by:
David Maxwell

Attorney General or designee

DocuSigned by:
Sgt Tracy Vrana

Sgt Tracy Vrana
Authorized Official

Certificate Of Completion

Envelope Id: 430807D8A1FF4850A9C570B23490A93F	Status: Sent
Subject: Please DocuSign: FY 2021 Internet Crimes Against Children (ICAC) Sub-Recipient Grant Contract	
Template ID:	
Source Envelope:	
Document Pages: 74	Signatures: 0
Certificate Pages: 7	Initials: 0
AutoNav: Enabled	Envelope Originator:
Enveloped Stamping: Disabled	Joshua Alexander
Time Zone: (UTC-06:00) Central Time (US & Canada)	PO Box 12548
	Austin, TX 78711-2548
	Joshua.Alexander@oag.texas.gov
	IP Address: 204.64.56.14

Record Tracking

Status: Original	Holder: Joshua Alexander	Location: DocuSign
4/30/2021 3:27:38 PM	Joshua.Alexander@oag.texas.gov	

Signer Events

Signature	Timestamp
Jeff Barnett	Sent: 4/30/2021 3:34:04 PM
jbarnett@cityofkyle.com	Viewed: 5/11/2021 9:31:21 AM

Chief of Police
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Accepted: 5/11/2021 9:31:21 AM
 ID: 4090aaf7-fcff-468e-8a7d-9a27563c9cb1

Grants - Division Chief

Signing Group: Grants - Division Chief
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Criminal Investigations - Division Chief

Signing Group: Criminal Investigations - Division Chief
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Financial Litigation - FLD Attorney Review

Signing Group: Financial Litigation - FLD Attorney Review
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Financial Litigation and Charitable Trusts - Division Chief

Signing Group: Financial Litigation and Charitable Trusts - Division Chief
 Security Level: Email, Account Authentication (None)

Signer Events	Signature	Timestamp
---------------	-----------	-----------

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Budget Analysts (Non-CS)

Signing Group: Budget Analysts (Non-CS)
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Director of Law Enforcement

Signing Group: Director of Law Enforcement
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Deputy Attorney General for Criminal Justice

Signing Group: Deputy Attorney General for Criminal
Justice
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
-------------------------	-----------	-----------

Editor Delivery Events	Status	Timestamp
------------------------	--------	-----------

Agent Delivery Events	Status	Timestamp
-----------------------	--------	-----------

Intermediary Delivery Events	Status	Timestamp
------------------------------	--------	-----------

Certified Delivery Events	Status	Timestamp
---------------------------	--------	-----------

Carbon Copy Events	Status	Timestamp
--------------------	--------	-----------

Joshua Alexander
joshua.alexander@oag.texas.gov
Security Level: Email, Account Authentication
(None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

FLD Contracts
fldcontracts@oag.texas.gov
Security Level: Email, Account Authentication
(None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Accounting - DocuSign Contracts
ACC_DocuSign_Contracts@oag.texas.gov
Signing Group: Accounting - DocuSign Contracts
Inbox
Security Level: Email, Account Authentication
(None)
Electronic Record and Signature Disclosure:

Carbon Copy Events	Status	Timestamp
---------------------------	---------------	------------------

Not Offered via DocuSign

Witness Events	Signature	Timestamp
-----------------------	------------------	------------------

Notary Events	Signature	Timestamp
----------------------	------------------	------------------

Envelope Summary Events	Status	Timestamps
--------------------------------	---------------	-------------------

Envelope Sent	Hashed/Encrypted	4/30/2021 3:34:05 PM
---------------	------------------	----------------------

Payment Events	Status	Timestamps
-----------------------	---------------	-------------------

Electronic Record and Signature Disclosure

CONSUMER DISCLOSURE

From time to time, Office of the Attorney General (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign, Inc. (DocuSign) electronic signing system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Electronic signature

An electronic signature is an electronic identifier, created by a computer, attached to or logically associated with an electronic record, executed or adopted by a person with the intent and with the actual authority to sign the record. Your electronic signature has the same legal force and effect as a manual signature. Your electronic signature constitutes your signature, acceptance, and agreement as if you signed in writing.

Security standards

DocuSign provides security assurance with enterprise-wide ISO 27001:2013 certification, xDTM compliance, as well as SSAE 16, SOC 1 Type 2, SOC 2 Type 2 reports. DocuSign delivers data confidentiality with application level AES 256 bit encryption.

Sending information to and receiving information from us

The Public Information Act, chapter 552 of the Texas Government Code, applies to all information we send and receive. The Public Information Act protects information from public disclosure if it is confidential by any law or rule. If we receive a written request for information, the Public Information Act requires us to publicly disclose requested information that is not confidential by law or rule or otherwise excepted from public disclosure. If you receive any information from us in error, you are not authorized to read, print, retain, copy, or disseminate the information. Any information you receive in error may be confidential information that cannot be disclosed without violating the criminal provisions of the Public Information Act or Texas Penal Code section 39.06. If you receive information in error, please immediately send an e-mail to servicedesk@oag.texas.gov to notify us of the error and delete all copies of the information you received.

Getting paper copies

At any time, you may request from us a paper copy of any record we provided or made available electronically to you through the DocuSign system. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after signing session and, if you elect to create a DocuSign signer account, you may access them for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign ‘Withdraw Consent’ form on the signing page of a DocuSign envelope instead of signing it. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Office of the Attorney General

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: servicedesk@oag.texas.gov

To advise Office of the Attorney General of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at servicedesk@oag.texas.gov and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address.

In addition, you must notify DocuSign, Inc. to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in the DocuSign system.

To request paper copies from Office of the Attorney General

To request delivery from us of paper copies of the notices and disclosures we previously provided to you electronically, you must send us an e-mail to servicedesk@oag.texas.gov and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Office of the Attorney General

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to servicedesk@oag.texas.gov and in the body of such request you must state your e-mail, full name, US Postal Address, and telephone number. We do not need any other information from you to withdraw consent. The consequences of your withdrawing consent for online documents will be that transactions may take longer time to process.

Required hardware and software

Supported Browsers:	DocuSign supports the latest stable release (except where noted) of the following browsers: Chrome, Firefox, Safari, Internet Explorer 11+, Windows Edge
PDF Reader:	Acrobat® or similar software may be required to view and print PDF files
Screen Resolution:	1024 x 768 minimum (for desktops and laptops)
Enabled Security Settings:	Allow per session cookies. Users accessing the Internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection. Firewall settings must allow access to the following server: https://docucdn-a.akamaihd.net . DocuSign leverages Akamai as a content delivery service to enhance our application's performance.

** These minimum requirements are subject to change. If these requirements change, you will be asked to re-accept the disclosure. Pre-release (e.g. beta) versions of operating systems and browsers are not supported.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC CONSUMER DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify Office of the Attorney General as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made

available to me by Office of the Attorney General during the course of my relationship with you.



CITY OF KYLE, TEXAS

Approval of Change Order No. 1, Well #4 Elevated Tank Rehabilitation Project

Meeting Date: 5/18/2021
Date time: 7:00 PM

Subject/Recommendation: Approval of Change Order No. 1 to N.G. PAINTING, LP 1225 Bandera Hwy #A2, Kerrville, TX 78028, in an additional amount not to exceed \$50,000 increasing the total contract amount not to exceed \$392,000 for the purpose of providing additional work for the Well #4 elevated storage tank located on Kohlers Crossing, and the downtown elevated storage tank next to City hall. ~ *Leon Barba, P.E., City Engineer*

Other Information: Well #4 Elevated Storage Tank:

- Remove existing logo and replace with updated logo 25% larger.
- Install additional logo same size.

Downtown Elevated Storage Tank:

- Pressure wash and repaint shell.
- Remove overflow pipe and patch hole.
- Paint two updated logos.

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Change Order No. 1

CONTRACT CHANGE ORDER

PROJECT NAME	City of Kyle Well #4 Rehabilitation Project		
LOCATION OF WORK	Kyle, TX		
CONTRACT NO.	N/A	CHANGE ORDER NO.	1
REQUESTING PARTY		DATE OF REQUEST	5/11/2021
PROJECT MANAGER	Jeff Prato	CONTRACTOR	NG Painting, LP
OWNER	City of Kyle	ENGINEER	LJA Engineering, INC

CONTRACTOR IS DIRECTED TO COMPLETE THE FOLLOWING CHANGES IN CONTRACT DOCUMENTS

DESCRIPTION OF CHANGES NEEDED	Additional work for Downtown EST and Well #4 EST.
REASON FOR CHANGE	
SUPPORT AND JUSTIFICATION DOCUMENTS	
SPECIFICATIONS	

CHANGE IN CONTRACT PRICE		CHANGE IN CONTRACT TIMES	
ORIGINAL PRICE	\$342,000	ORIGINAL TIMES	120 Days
NET CHANGES OF PREVIOUS CHANGE ORDERS	-	NET CHANGES OF PREVIOUS CHANGE ORDERS IN DAYS	-
NET INCREASE / DECREASE	50,000.00	NET INCREASE / DECREASE	60 Days
TOTAL CONTRACT PRICE WITH APPROVED CHANGES	392,000.00	TOTAL CONTRACT TIME WITH APPROVED CHANGES	180 Days



CITY OF KYLE, TEXAS

Proposed Annexation - 25.2-Acres
Jansen Property and land owned by
CTX Park, LLC (ANNX-21-0008)

Meeting Date: 5/18/2021
Date time: 7:00 PM

Subject/Recommendation: *(Second Reading)* An ordinance of the City of Kyle, Texas, annexing 25.2 acres of land, more or less, located in Hays County, including the abutting streets, roadways, and rights-of-way into the corporate limits of the City, at the request of the property owner; approving a service plan for the annexed area; making finding of fact; providing a severability clause and an effective date; and providing for open meetings and other related matters. (Peggy Lehman Jansen and CTX Park - ANNEX-21-0008) ~ *Howard J. Koontz, Director of Planning and Community Development*

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

Other Information: CTX Park, LLC has purchased approximately 1.105 acres out of the 25.2 acre tract owned by Peggy L. Jansen. Per the non-annexation development agreement, subdivision of the 25.2 acres triggers annexation into the City of Kyle.

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Ordinance_PDF
- CTX Park, LLC - Deed
- Peggy L. Jansen - Deed
- Non-Annexation Development Agreement
- Franchise Tax Account Status
- Landowner Authorization Letter

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS ANNEXING 25.2 ACRES OF LAND, MORE OR LESS, LOCATED IN HAYS COUNTY, INCLUDING THE ABUTTING STREETS, ROADWAYS, AND RIGHTS-OF-WAY INTO THE CORPORATE LIMITS OF THE CITY, AT THE REQUEST OF THE PROPERTY OWNER; APPROVING A SERVICE PLAN FOR THE ANNEXED AREA; MAKING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR OPEN MEETINGS AND OTHER RELATED MATTERS.

WHEREAS, the City of Kyle, Texas, (the “City”) is a home rule municipality authorized by State law to annex territory lying adjacent and contiguous to the City;

WHEREAS, the owner of the property, as hereinafter described, made written request for the City to annex such property in compliance with the *Tex. Loc. Gov't. Code*;

WHEREAS, the property is adjacent and contiguous to the present city limits;

WHEREAS, the City Council heard and has decided to grant the owner’s request that the City annex said property;

WHEREAS, a public hearing was conducted prior to consideration of this Ordinance in accordance with §43.0673 of the *Tex. Loc. Gov't. Code*;

WHEREAS, notice of the public hearing was published not more than twenty (20) nor less than ten (10) days prior to the public hearing;

WHEREAS, the City and the owner of the subject property entered into that certain Development Agreement August 7, 2019 and filed and recorded in the Records of Hays County, Texas 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 attached hereto as Exhibit “A” (Page 4);

WHEREAS, the associated property to be annexed is shown as Exhibit “B” (Page 20);

WHEREAS, the City intends to provide services to the property to be annexed according to the Service Plan attached hereto as Exhibit “C” (Page 29).

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

SECTION 1. That all of the above premises and findings of fact are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. All portions of the following described property (hereinafter referred to as the “Annexed

Property”), not previously annexed into the City, including the abutting streets, roadways and rights-of-way, are hereby annexed into the corporate limits of the City:

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 3. That the Service Plan submitted herewith is hereby approved as part of this Ordinance, made a part hereof and attached hereto as Exhibit “B”.

SECTION 4. That the future owners and inhabitants of the Annexed Property shall be entitled to all of the rights and privileges of the City as set forth in the Service Plan attached hereto as Exhibit “B”, and are further bound by all acts, ordinances, and all other legal action now in full force and effect and all those which may be hereafter adopted.

SECTION 5. That the official map and boundaries of the City, heretofore adopted and amended be and hereby are amended so as to include the Annexed Property as part of the City of Kyle.

SECTION 6. That the Annexed Property shall be temporarily zoned agricultural district A as provided in the City Zoning Ordinance, as amended, until permanent zoning is established therefore.

SECTION 7. The Annexed Property shall be assigned to Council District No. 6.

SECTION 8. That if any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 9. That this Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

SECTION 10. That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED on First Reading this ____ day of _____, 2021.

FINALLY PASSED AND APPROVED on this ____ day of _____, 2021.

ATTEST:

CITY OF KYLE, TEXAS

Jennifer Holm City Secretary

Travis Mitchell, Mayor

Exhibit A

NON-ANNEXATION DEVELOPMENT AGREEMENT - PEGGY LEHMAN JANSEN

Chapter 43.016 (Texas Local Government Code)

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

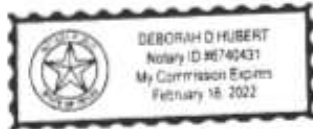
Travis Mitchell
Travis Mitchell, Mayor

STATE OF TEXAS
COUNTY OF HAYS on

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 _____ on

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 20th day of August, 2019.

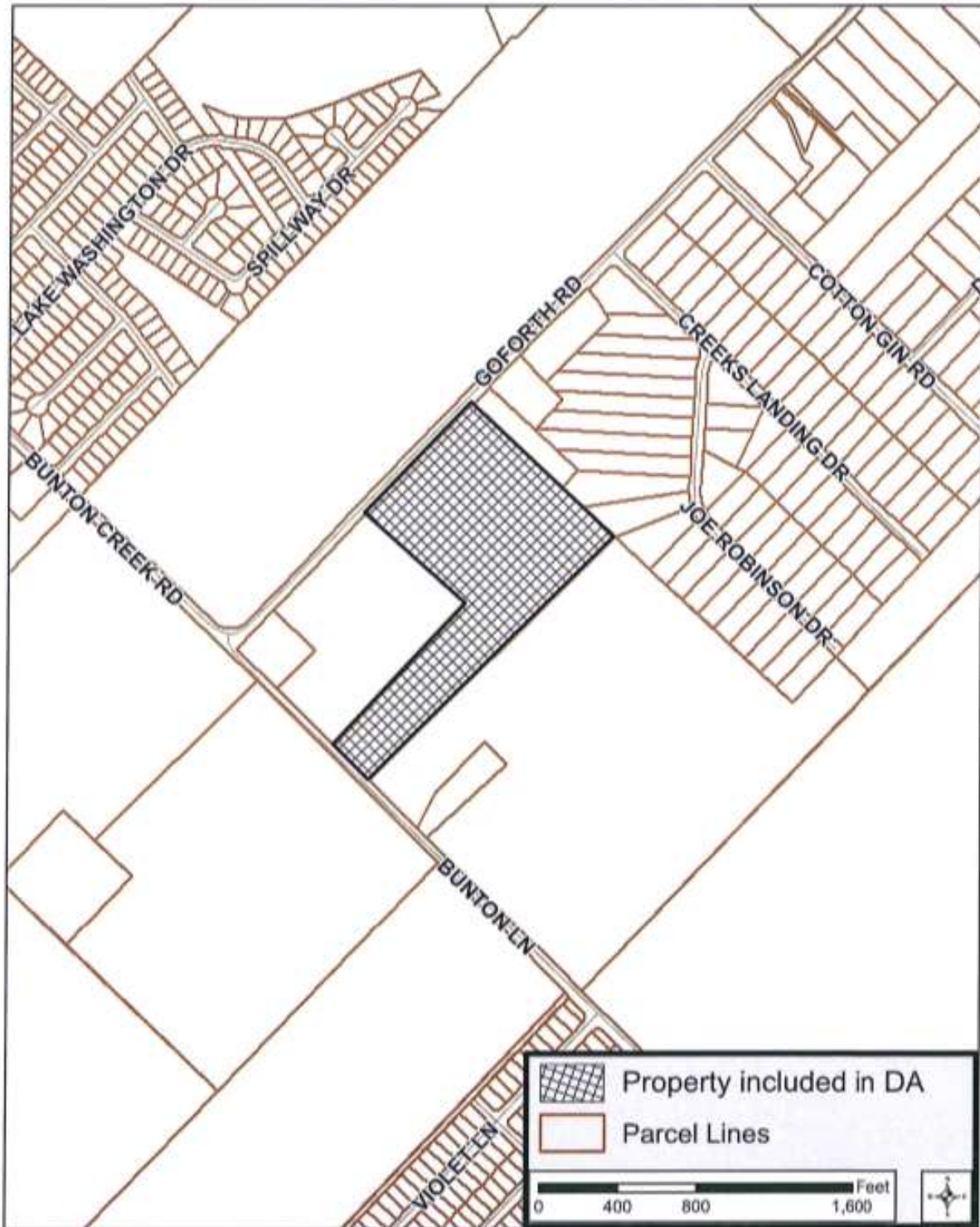
Jennifer A. Vetrano
Notary Public - State of Texas



EXHIBIT "A"
Property Location Map

Exhibit A

Jansen Development Agreement
HCAD ID: R11514 Approx. 25.2 Acres

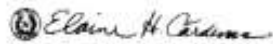


THE STATE OF TEXAS

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".

Exhibit "B"

ANNEXED PROPERTY DESCRIPTION

+/- 25.2 Acres (1.105-Acres Owned By CTX Park, LLC Included Within Boundaries of 25.2 Acres)

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
PEGGY LEHMAN JANSEN

STATE OF TEXAS

§
§
§

COUNTY OF HAYS

This instrument was acknowledged before me on March 9, 2021, by PEGGY LEHMAN JANSEN.



[Signature]
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 88.9 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" iron rebar with cap found in the southeastern right of way of Goforth Road at the west corner of that certain 13.231 acre tract conveyed to Central Texas Sports Partners, L.P. in Special Warranty Deed recorded in Instrument No. 19018793, Official Public Records of said County; said 1" iron rebar found being the north corner of that certain 2.07 acre tract conveyed to Pedernales Valley Cooperative, Inc. in General Warranty Deed recorded in Instrument No. 0935016, Official Public Records of said County and from which the calculated intersection of the southeastern right of way line of Goforth Road and the northeastern right of way line of Buster 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 southeastern right of way line of Goforth Road, N 44° 43' 00" E (bearing basis) a distance of 675.00 feet to a 1" iron rebar with cap found at the north corner of said Central Texas tract, and from which a 1" 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" rebar with cap found being the west corner of said 1.105 acre tract and the **PLACE OF BEGINNING** hereof;


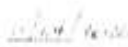

THENCE along the southeast line of said Goforth Road and the northwest line of said Jansen tract, N 44° 43' 00" E a distance of 74.99 feet to a 1" iron rebar with B&G Surveying cap set at the north corner of said 1.105 acre tract to the north corner hereof;

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" iron rebar with B&G surveying cap set for an angle point hereof;
2. S 72° 52' 52" E a distance of 147.41 feet to a 1" iron rebar with B&G surveying cap set for an angle point hereof;
3. S 25° 17' 00" E a distance of 180.15 feet to a 1" 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 152.61 feet to a 1" 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 north corner hereof, from which a 1" iron rebar with cap found at the east corner of said Central Texas tract bears S 45° 17' 00" E a distance of 125.20 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 128.13 feet to the **PLACE OF BEGINNING** hereof, containing a calculated area of 1.105 acres of land, more or less;

THIS DESCRIPTION TO BE USED WITH THE ATTACHED SURVEY SKETCH ONLY.

	
Michael J. Lancaster, P.L.S. 5579	Date
B & G Surveying, LLC 1504 W. Smith Loop Blvd Apt. C, Texas 78756 Phone: 512-458-1866 Fax: 512-458-1866 Email: bgc@bgsurvey.com	

**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



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.

WARRANTY DEED

Date: December 27, 2016

Grantor: HLP LEHMAN FAMILY LIMITED PARTNERSHIP, a Texas limited partnership; and HAZEL M. LEHMAN, individually and as Trustee of the Lehman Family Trust, a testamentary trust created by the Will of Theodore H. Lehman

Grantor's Mailing Address:

1000 Lehman Road
Kyle, Texas 78640

Grantee: PEGGY LEHMAN JANSEN

Grantee's Mailing Address:

1000 Lehman Road
Kyle, Texas 78640

Consideration: \$10 and other good and valuable consideration

Property (including any improvements): Being 38.9 acres of land, more or less, out of a 41.00 acre tract out of the JOHN STEWART LEAGUE, Abstract No. 14 in Hays County, Texas, described by metes and bounds in Exhibit A, attached hereto, LESS AND EXCEPT 2.09 acres of land described in deed dated June 18, 1999, from Theodore H. Lehman and wife, Hazel M. Lehman to Pedernales Electric Cooperative, Inc., recorded under Clerk's File No. 9915016, Official Public Records of Hays County, Texas.

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 2017, 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 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 Exceptions to Conveyance and Warranty.

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

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

HLP LEHMAN FAMILY LIMITED
PARTNERSHIP, a Texas limited partnership

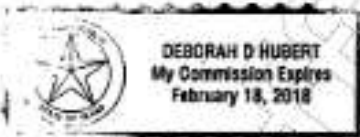
By: HLP LEHMAN, INC., a Texas corporation,
its General Partner

By: Hazel M. Lehman
Hazel M. Lehman, President

Hazel M. Lehman
HAZEL M. LEHMAN, individually and as trustee of
the Lehman Family Trust

STATE OF TEXAS)
COUNTY OF HAYS)

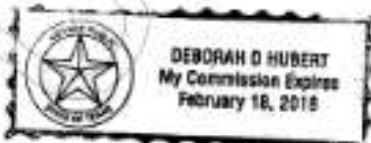
This instrument was acknowledged before me on 12/20/16, 2016, by Hazel M. Lehman, President of HLP LEHMAN, INC., a Texas corporation general partner, on behalf of HLP LEHMAN FAMILY LIMITED PARTNERSHIP, a Texas limited partnership.



Deborah D. Hubert
Notary Public, State of Texas

STATE OF TEXAS)
COUNTY OF HAYS)

This instrument was acknowledged before me on 12/20/16, 2016, by HAZEL M. LEHMAN, individually and as trustee of the Lehman Family Trust.



Deborah D. Hubert
Notary Public, State of Texas

EXHIBIT "A"

41.00 acre tract out of the JOHN STEWART LEAGUE, Abstract No. 14 in Hays County, Texas, being a portion of that tract of land described as 101-38/56 acres described in deed to Robert E. Lehman, Herbert Lehman and Theodore Lehman by Henry Kuempel by deed dated November 28, 1973, and recorded in Volume 263, Page 795, Hays County Deed Records:

BEGINNING at the West corner of the tract herein described, same being the West corner of the Lehman tract, and being at the intersection of the Southeast line of a County Road with the Northeast line of a second County Road;

THENCE with the Southeast line of the said first County Road, and the Northwest line of the Lehman tract, N 44° 43' E, at about 728 feet passing the approximate center line of a 100 foot L.C.R.A. Power Easement as described by instrument of record in Volume 148, Page 287, Hays County Deed Records, at about 1008 feet passing the approximate center line of a creek, at about 1371 feet passing the approximate centerline of a L.C.R.A. Pipeline Easement as described by instrument of record in Volume 254, Page 276, Hays County Deed Records, and continuing on in all 1755.92 feet to the North corner of the tract herein described, and the North corner of the said Lehman tract;

THENCE leaving the said first County Road, with the Northeast line of the said Lehman tract, the following courses numbered (1) and (2) :

- (1) S 45° 33' E, 668.83 feet;
- (2) S 45° 54' E, 345.34 feet to the East corner of the tract herein described;

THENCE leaving the Northeast line of the said Lehman tract, S 44° 43' W, 1767.76 feet to the South corner of the tract herein described, being on the Northeast line of the aforementioned second County Road;

THENCE with the Northeast line of the said second County Road, N 45° 00' W, 1014.16 feet to the PLACE OF BEGINNING containing 41.00 acres of land.



Exhibit “C”

MUNICIPAL 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 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 *Chapter 43, Loc. Gov't. Code*, to annex the subject property into the City;

WHEREAS, the subject 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

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 or wells as provide 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 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 the City of Kyle Code of Ordinances, and to the extent not in conflict with 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) 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.
 - (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;

(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: Water and wastewater facilities that are identified in the Capital Improvement Plan, as and when funded pursuant to such Plan. 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 under the term set out in state law, this service plan expires at the end of 10 years.

(6) **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.

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.

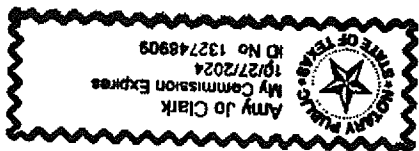
When the context requires, singular nouns and pronouns include the plural.

Peggy Lehman Jansen

PEGGY LEHMAN JANSEN

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on March 9, 2021, by PEGGY LEHMAN JANSEN.



[Signature]

Notary Public, State of Texas
My commission expires: 10/27/2024

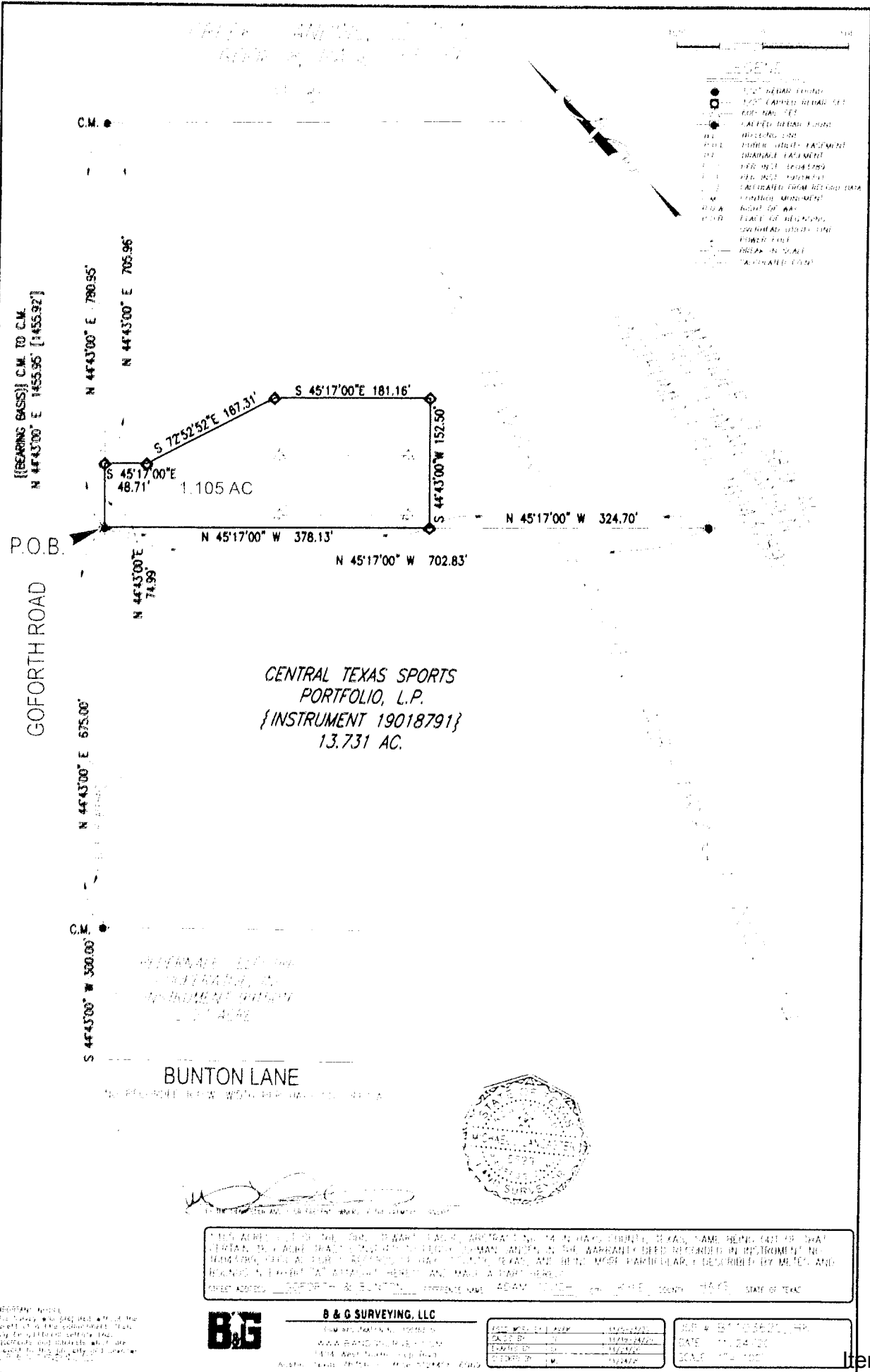


EXHIBIT "A"

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.

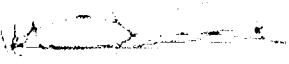
THENCE along the southeast line of said Goforth Road and the northwest line of said Jansen tract, N 44° 43' 00" E a distance of 74.95 feet to a 1/2" iron rebar with B&G Surveying cap set at the north corner of said 1.105 acre tract for the north corner hereof.

THENCE over and across said Jansen tract the following four courses:

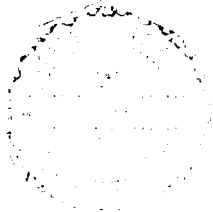
1. S 45° 17' 00" E a distance of 48.71 feet to a 1/2" iron rebar with B&G Surveying cap set for an angle point hereof;
2. S 72° 52' 52" E a distance of 167.41 feet to a 1/2" iron rebar with B&G Surveying cap set for an angle point hereof;
3. S 45° 17' 00" E a distance of 182.16 feet to a 1/2" iron rebar 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.

 Date

B & G Surveying, L.P.
1404 W. North Loop Blvd
Austin, Texas 78758
Phone (512) 458-6169
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



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.

WARRANTY DEED

Date: December 27, 2016

Grantor: HLP LEHMAN FAMILY LIMITED PARTNERSHIP, a Texas limited partnership; and HAZEL M. LEHMAN, individually and as Trustee of the Lehman Family Trust, a testamentary trust created by the Will of Theodore H. Lehman

Grantor's Mailing Address:

1000 Lehman Road
Kyle, Texas 78640

Grantee: PEGGY LEHMAN JANSEN

Grantee's Mailing Address:

1000 Lehman Road
Kyle, Texas 78640

Consideration: \$10 and other good and valuable consideration

Property (including any improvements): Being 38.9 acres of land, more or less, out of a 41.00 acre tract out of the JOHN STEWART LEAGUE, Abstract No. 14 in Hays County, Texas, described by metes and bounds in Exhibit A, attached hereto, LESS AND EXCEPT 2.09 acres of land described in deed dated June 18, 1999, from Theodore H. Lehman and wife, Hazel M. Lehman to Pedernales Electric Cooperative, Inc., recorded under Clerk's File No. 9915016, Official Public Records of Hays County, Texas.

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 2017, 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 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 Exceptions to Conveyance and Warranty.

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

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

HLP LEHMAN FAMILY LIMITED
PARTNERSHIP, a Texas limited partnership

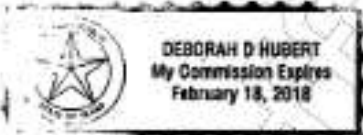
By: HLP LEHMAN, INC., a Texas corporation,
its General Partner

By: Hazel M. Lehman
Hazel M. Lehman, President

Hazel M. Lehman
HAZEL M. LEHMAN, individually and as trustee of
the Lehman Family Trust

STATE OF TEXAS)
COUNTY OF HAYS)

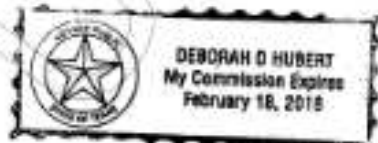
This instrument was acknowledged before me on 12/20/16, 2016, by Hazel M. Lehman, President of HLP LEHMAN, INC., a Texas corporation general partner, on behalf of HLP LEHMAN FAMILY LIMITED PARTNERSHIP, a Texas limited partnership.



Deborah D. Hubert
Notary Public, State of Texas

STATE OF TEXAS)
COUNTY OF HAYS)

This instrument was acknowledged before me on 12/20/16, 2016, by HAZEL M. LEHMAN, individually and as trustee of the Lehman Family Trust.



Deborah D. Hubert
Notary Public, State of Texas

EXHIBIT "A"

41.00 acre tract out of the JOHN STEWART LEAGUE, Abstract No. 14 in Hays County, Texas, being a portion of that tract of land described as 101-38/56 acres described in deed to Robert E. Lehman, Herbert Lehman and Theodore Lehman by Henry Kuempel by deed dated November 28, 1973, and recorded in Volume 263, Page 795, Hays County Deed Records:

BEGINNING at the West corner of the tract herein described, same being the West corner of the Lehman tract, and being at the intersection of the Southeast line of a County Road with the Northeast line of a second County Road;

THENCE with the Southeast line of the said first County Road, and the Northwest line of the Lehman tract, N 44° 43' E, at about 728 feet passing the approximate center line of a 100 foot L.C.R.A. Power Easement as described by instrument of record in Volume 148, Page 287, Hays County Deed Records, at about 1008 feet passing the approximate center line of a creek, at about 1371 feet passing the approximate centerline of a L.C.R.A. Pipeline Easement as described by instrument of record in Volume 254, Page 276, Hays County Deed Records, and continuing on in all 1755.92 feet to the North corner of the tract herein described, and the North corner of the said Lehman tract;

THENCE leaving the said first County Road, with the Northeast line of the said Lehman tract, the following courses numbered (1) and (2) :

- (1) S 45° 33' E, 668.83 feet;
- (2) S 45° 54' E, 345.34 feet to the East corner of the tract herein described;

THENCE leaving the Northeast line of the said Lehman tract, S 44° 43' W, 1767.76 feet to the South corner of the tract herein described, being on the Northeast line of the aforementioned second County Road;

THENCE with the Northeast line of the said second County Road, N 45° 00' W, 1014.16 feet to the PLACE OF BEGINNING containing 41.00 acres of land.



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

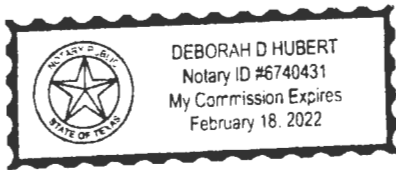
Travis Mitchell
Travis Mitchell, Mayor

STATE OF TEXAS §
COUNTY OF HAYS §

BEFORE ME the undersigned authority on this day personally appeared Peggy Jansen, 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 20th day of August, 2019.

Jennifer A. Vetrano
Notary Public - State of Texas

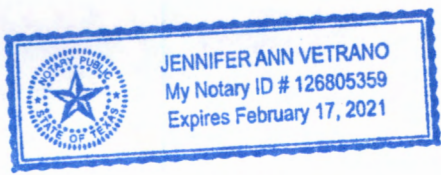
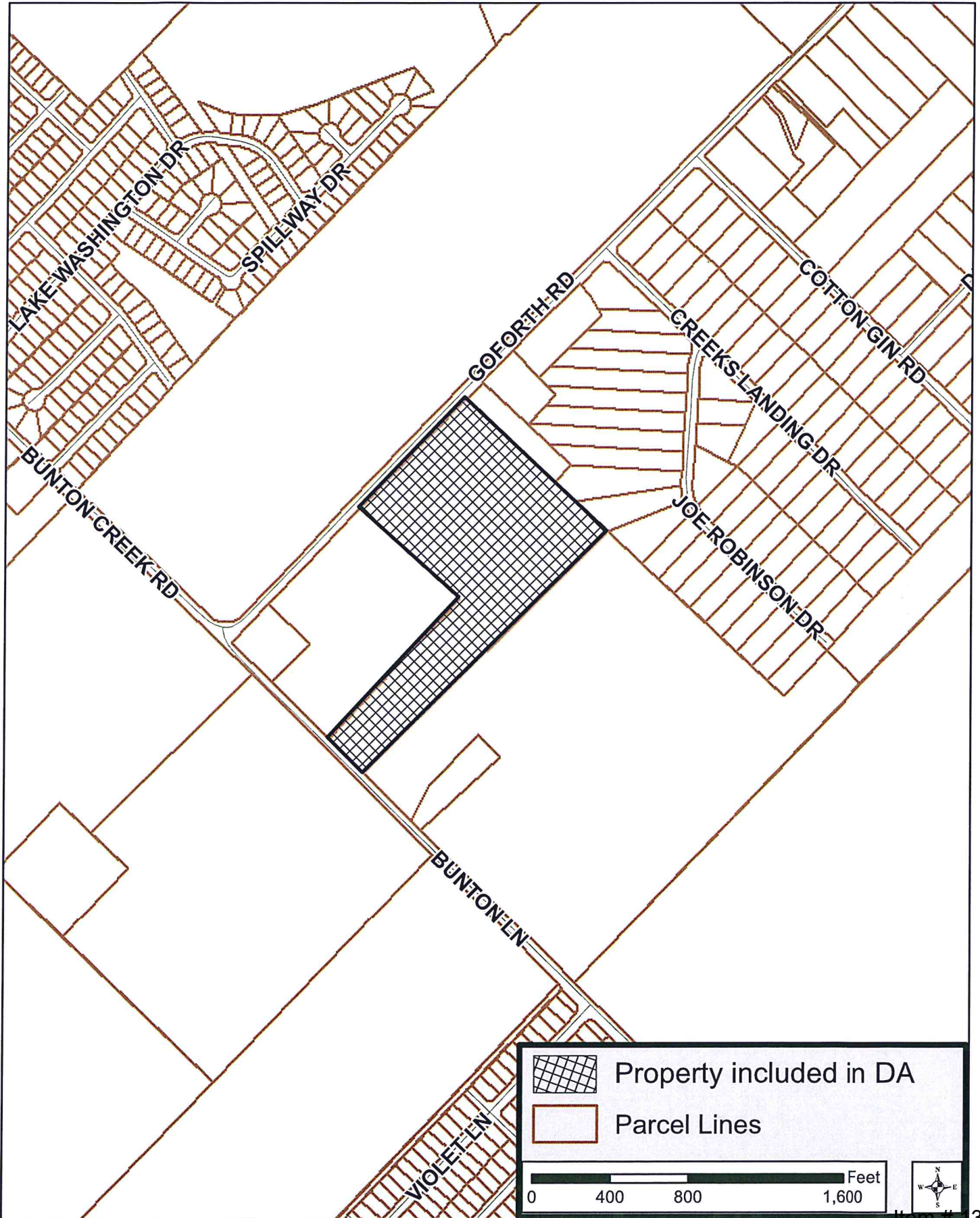


EXHIBIT "A"
Property Location Map

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".

Franchise Search Results

Public Information Report



As of : 04/27/2021 13:26:22

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

[Obtain a certification](#) for filings with the Secretary of State.

CTX PARK, LLC

Texas Taxpayer Number	32065090550
Mailing Address	2709 LESLIE LN SAN MARCOS, TX 78666-5185
? Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	10/11/2017
Texas SOS File Number	0802834309
Registered Agent Name	#1 STARZ OVER TEXAS, INC.
Registered Office Street Address	2709 LESLIE LN SAN MARCOS, TX 78666

Close

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.

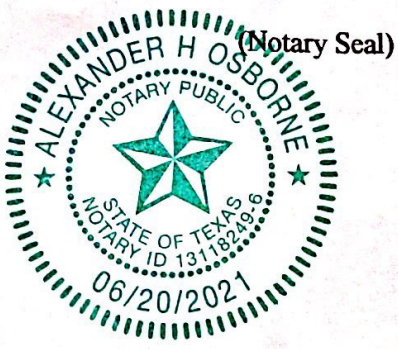
Owner's Signature: [Signature] Date: 3-12-21

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 12th day of March, 2021

[Signature]
Notary Public's Signature
06-20-2021
My Commission Expires





CITY OF KYLE, TEXAS

Mary Kyle Hartson Park Electric Service

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Authorize the City Manager to enter an agreement with Pedernales Electric Cooperative, Inc., P.E.C., to relocate overhead power lines around the premises of Krug Activity Center to adjacent streets, alleys, underground, as necessary for beautification of Downtown Square, Mary Kyle Hartson Park. ~ *Leon Barba, P.E., City Engineer*

Other Information: Relocation of overhead power lines will require the City to compensate P.E.C, for all of their expenditures toward this effort. Preliminary discussions with P.E.C., indicate the cost could range from \$1.5 M to \$2.5 M. The Old City Hall electric service would be consolidated from three meters on the grounds to one meter. These efforts would also include costs for providing new service to the three story building being constructed across from Old City Hall, and private structures located on the south side of Miller Street affected by the relocation of the overhead lines. The City or Owner in addition bears the cost of running and providing services to its' buildings and grounds through separate agreements/contracts with other providers. The costs indicated herein exclude other costs the City may need to incur for relocation of overhead communication lines.

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- PEC Agreement
- Existing Pole Layout

STANDARD UTILITY AGREEMENT

City of Kyle Downtown Aesthetic Improvements

Project Boundary Border Limits:

Project to encompass an area with boundary
Limits between Front Street to Nance Street &
Lockhart Street to Moore Street

Project Letting Date :

This Agreement by and between the City of Kyle, a Texas municipal corporation, (City), and Pedernales Electric Cooperative, Inc. ("Utility") acting by and through its duly authorized representative, shall be effective on the date of approval and execution by and on behalf of the City.

WHEREAS, the **City** has deemed it necessary to make certain aesthetic improvements and beautify the Downtown Block Area as designated by the **City** within the limits of the streets indicated above;

WHEREAS, the proposed street improvements and beautification will necessitate the adjustment, removal, and/or relocation of certain facilities of **Utility** as indicated in the following statement of work: Convert overhead powerlines to underground for the beautification of the City of Kyle; and more specifically shown in **Utility's** preliminary layout with associated estimated costs, are attached hereto as Attachment "A

WHEREAS, the **City** will participate in the costs of the adjustment, removal, and/or relocation of certain facilities to the extent as may be eligible for City participation.

WHEREAS, the **City**, upon receipt of evidence it deems sufficient, acknowledges **Utility's** interest in certain lands and/or facilities that entitle it to reimbursement for the adjustment, removal, and relocation of certain of its facilities located upon the lands as indicated in the statement of work above.

NOW, THEREFORE, BE IT AGREED:

The **City** will pay to **Utility** the costs incurred in adjustment, removal, and/or relocation of **Utility's** facilities up to the amount said costs may be eligible for **City** participation.

All conduct under this agreement, including but not limited to the adjustment, removal and relocation of the facility, the development and reimbursement of costs, any environmental requirements, and retention of records will be in accordance with all applicable federal and state laws, rules, and regulations. **Utility** shall supply, upon request by the **City**, proof of compliance with federal and state laws, rules, and regulations prior to the commencement of construction.

The **Utility** agrees to develop relocation or adjustment costs by accumulating actual direct and related indirect costs in accordance with a work order accounting procedure prescribed by **City**, or may, with the **City** approval, accumulate actual direct and related indirect costs

in accordance with an established accounting procedure developed by **Utility**. Bills for work here under will be submitted to **City** not later than 90 days after completion of the work.

Upon execution of this agreement by both parties hereto, the **City** will, by written notice, authorize the **Utility** to perform such work diligently by Phase of project development, and to conclude said adjustment, removal, or relocation by the stated completion date. The completion date shall be extended for delays caused by events outside **Utility's** control, including an event of Force Majeure, which shall include a strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, sabotage, or other events, interference by the **City** or any other party with **Utility's** ability to proceed with the relocation, or any other event in which **Utility** has exercised all due care in the prevention thereof so that the causes or other events are beyond the control and without the fault or negligence of **Utility**.

The **City** will, upon satisfactory completion of each Phase of Development and upon receipt of billing prepared in an approved form and manner, make payment in the amount of 90 percent (90%) of the eligible costs as shown in the billing up to the Final billing prior to audit and after such audit shall make an additional final payment totaling the reimbursement amount found eligible for **City** reimbursement.

This agreement in its entirety consists of the following elements:

1. Standard Utility Agreement

Phase 1 – Preliminary Engineering:

2. Detailed preliminary layout and estimates of Cost for design, materials, labor, equipment, construction, internally or by sub-contractors. (Attachment "A").

Phase 2 – Engineering Design:

3. Plans, Specifications, and updated/revised Estimates of Costs (Attachment "B")

4. Utility's Accounting Method (Attachment 'C')

5. Utility's Schedule of Work and Estimated Date of Completion (Attachment "D")

6. Statement Covering Contract Work (Attachment "E")

7. Utility Joint Use Acknowledgement and or Utility Installation Request Form (Attachment "F")

8. Eligibility Ratio (Attachment "G")

9. Betterment Calculation and Estimates (Attachment "H")

Phase 3 – Adjustment of Utility Lines:

All attachments are included herein as if fully set forth. In the event it is determined that a substantial change from the statement of work contained in this agreement is required, reimbursement therefore shall be limited to costs covered by a modification or amendment of this agreement or a written change or extra work order approved by the **City and Utility**.

This agreement is subject to cancellation by the **City** at any time up to the date that work under this agreement has been authorized and that such cancellation will not create any liability on the part of the **City**. However, the **City** will review and reimburse the **Utility** for

eligible costs incurred by the **Utility** in preparation of this Agreement.

The **City** may conduct an audit or investigation of any entity receiving funds from the **City** directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the **City** to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the **City** with access to any information the **City** considers relevant to the investigation or audit.

The **Utility** by execution of this agreement does not waive any of the rights which **Utility** may have within the limits of the law.

It is expressly understood that the **Utility** conducts the adjustment, removal, or relocation at its own risk, and that **City** makes no warranties or representations regarding the existence or location of utilities currently within its right of way.

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

UTILITY

EXECUTED in duplicate originals on this _____ day of _____, 20____.

BY: _____

Title

CITY OF KYLE

BY: _____

Authorized Signature

Title

Existing Overhead Lines around Perimeter of Old City Hall



With 3 Phase run in alley between Miller and Moore street the following poles would be eliminated

- 1, 3, 4, 5, 11, 12, 13, 22, 14, 15, 16, 17, 18, 21, 22 (8 possibly depending on City)

With short term goal of eliminating overhead power to Old City Hall Building following poles could be eliminated:

- 1, 14, 15, 16, 21 : The expense would be duplicated/wasted if the City pursued the Old City Hall perimeter removal of overhead lines in the future, as new power source connections would be needed.

Communication lines attached to PEC poles along Miller Street, Burleson Street, Center Street. Additional discussions, agreements would be necessary for relocation of these lines.

Existing City Meters on poles 8 & 11. Power to Old City Hall building from pole 14. Service Power to Krug Home from Pole 15 to Pole 21. If poles removed new power source for Krug home would be from new pole placed 'B' on layout.



CITY OF KYLE, TEXAS

Goforth Partners, Inc. - Zoning (Z-21-0078)

Meeting Date: 5/18/2021
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 1.63 acres of land from Construction Manufacturing 'CM' to Retail Service District 'RS' for property located at 1050 Bunton Creek Road, in Hays County, Texas. (Goforth Partners, Inc. - Z-21-0078) ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 5-0 to recommend approval of the request.

- Public Hearing

Other Information: See attachments.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

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

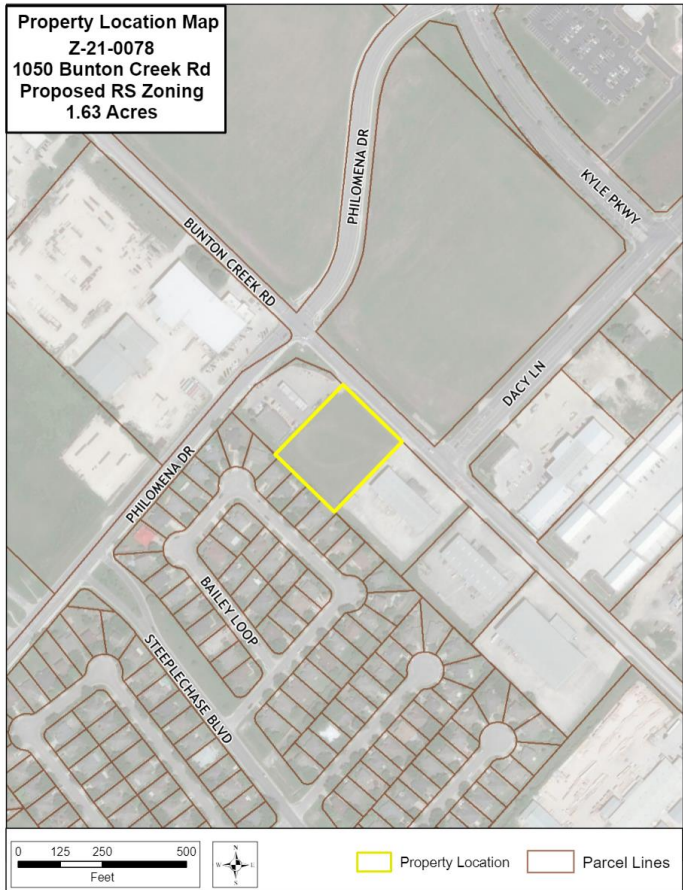
Property Location 1050 Bunton Creek Road, Kyle, TX 78640

Owner Goforth Partners Inc.
Suffian Emmar, President
2623 Jones Rd,
Austin, TX 78745

Agent Sarah Corona, Office Manager
Professional StruCIVIL Engineers Inc.
2205 W. Parmer Lane, Ste. 201
Austin, TX 78727

Request Rezone 1.63-Acres "CM" (Construction Manufacturing) to "RS" (Retail Services)

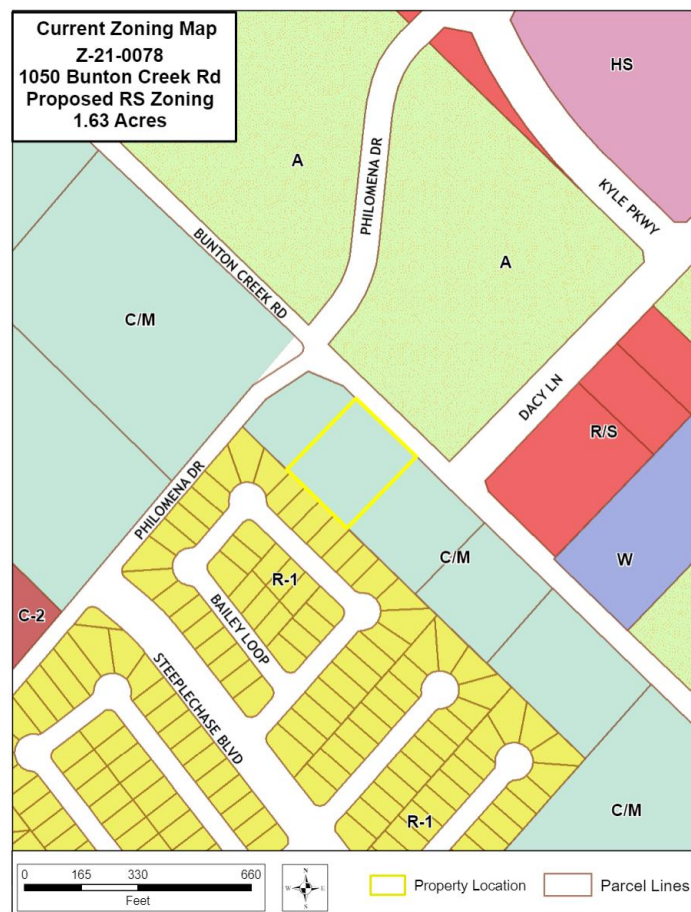
Vicinity Map



Site Description

The site is an undeveloped lot located at 1050 Bunton Creek Road. It's currently zoned "CM" or "Construction Manufacturing". Immediately to the northwest it a convenience store and fuel station (Breadbasket) and zoned "CM". To the north is Bunton Creek Road and approximately 12-acres zoned for "A" (Agriculture), and used in a manner keeping of the zoning district. To the southeast is a property zoned "CM" and used for assorted warehousing or manufacturing businesses (as allowed per the "CM" zoning district. To the south, behind 1050 Bunton Creek Road, is the Steeplechase neighborhood, zoned R-1 (Single-Family Residential).

Zoning Map



Existing Zoning

C/M (Construction/Manufacturing)

Sec. 53-556. – Permitted Uses

- (a) The construction and manufacturing district CM allows assembly, packaging, treatment, processing, and manufacture of products that do not pose any materially potential hazard to persons and property outside the boundaries of the property, and the following specifically listed uses to the extent such uses are contained or included within property as to not pose a potential hazard outside of the property on which such use is conducted.
- (b) The construction and manufacturing district CM allows any use permitted in the following districts as provided in section 53-1230:
 - (1) CBD-1;
 - (2) CBD-2;
 - (3) RS;
 - (4) W; and
 - (5) CM.

Requested Zoning

Retail and Services District, RS

Sec. 53-480. – Purpose and permitted uses

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas, e.g., clothing, prescription drugs, furniture, toys, hardware, electronics, pet supply, variety, department, video rental and antique stores, art studio or gallery, hobby shops and florist shops., and the retail sale of goods and products (in the following listed use areas) to which value has been added on site, including sales of goods and services outside of the primary structure as customary with the uses

specifically listed, and the following: Any use permitted in CBD-1 or CBD-2 and RS districts as provided in section 53-1230.

Conditions of the Zoning Ordinance

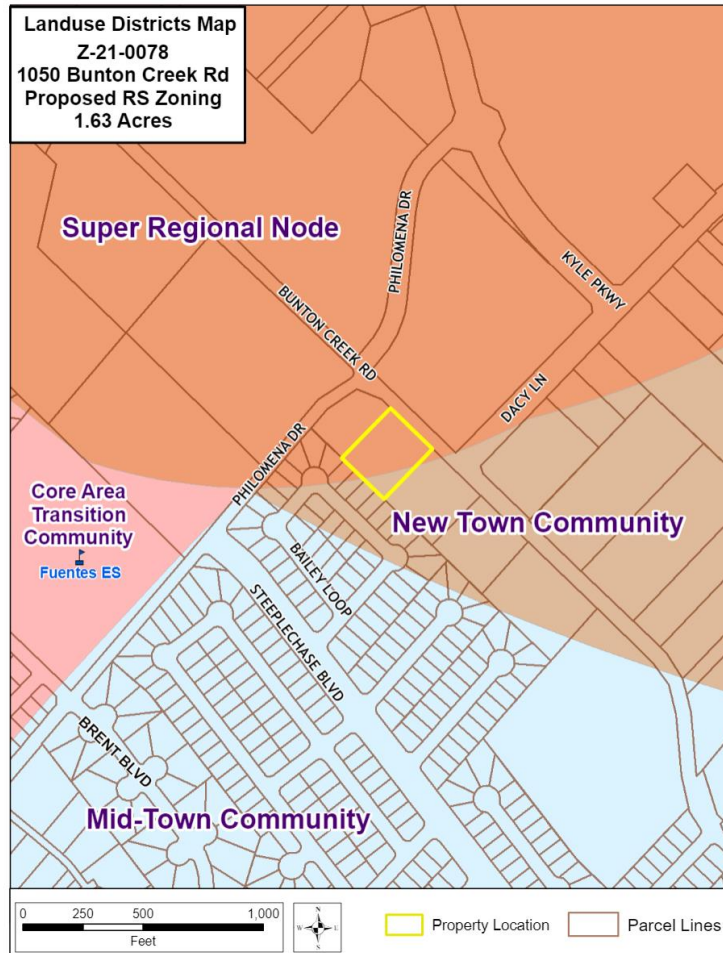
Sec. 53-1205 Amendments

(d)

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

(e)

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



Comprehensive Plan Text

The subject site is located within the “Super Regional Node” and the “New Town Community” land use districts. The “RS” zoning district is a recommended district in both the “Super Regional Node” and “New Town Community” land use districts.

Super Regional Node

Recommended: E, HS, R-3-2, R-3-3, **R/S**, MXD, O/I

Conditional: ----

New Town Community

Recommended: R-1-1, R-1-2, R-1-3, R-1-C, R-1-T, R-2, R-3-2, R-3-3, CC, NC, **RS**, MXD, O/I

Conditional: E, A, C/M, R-1-A, R-3-1, RV, T/U, UE, HS, W

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 1.63-acres, zoned "CM" (Construction Manufacturing). This site is currently undeveloped. The site is split by both the "Super

Regional Node” land use district, and “New Town Community” land use district. By far, a majority of the platted lot is within the “Super Regional Node” and this staff report will focus on the “Super Regional Node” for this reason.

The stretch of Bunton Creek Road between Philomena Drive and Lehman Road has the following built environment.

- Western portion (Philomena Drive to Dacy Lane) – Retail and Service type uses (Breadbasket & Gemstone Palace). Immediately east of 1050 Bunton Creek Road are existing warehouse or manufacturing type uses.
- Between Gemstone Palace and Universal Forest Products are uses/zoning primarily focusing on warehousing or manufacturing. One childcare facility exists at 1381 Bunton Creek Road (zoned RS).
- Between 1381 Bunton Creek Road and Lehman Road are acreage lots of single family residential (north side of Bunton Creek Road), and the Steeplechase neighborhood to the south of Bunton Creek Road (zoned R-1).

This block along Bunton Creek Road hosts variable land uses, all of which are commercial. The request to rezone 1050 Bunton Creek Road from “CM” to “RS” fits into the streetscape from a zoning perspective.

As this property is within the “Super Regional Node”, any future use should be instituted to help attract a customer base from within the city and also well outside the city’s limits. All the retail, service and medical type uses, as an aggregate, should help achieve this goal.

From a use perspective, the “RS” zoning district allows fewer business categories and will effectively be a down zoning (per request of the applicant). This means in a developed state, the site will likely be less obtrusive to the residents behind and within the Steeplechase neighborhood (virtually no manufacturing, and most sales of goods and services inside buildings). Finally, water and wastewater will be provided by the City of Kyle, and Bunton Creek Road streetscape was upgraded just a few years ago.

Recommendation

The site has sufficient utilities, road infrastructure, and supports the Comprehensive Plan. At the May 11, 2021 Planning & Zoning Commission meeting, the Commission voted 5-0 to recommend approval of the zoning request. Staff supports the rezoning to “RS” and asks the Mayor & Council to vote approving the rezoning request.

Attachments

- Staff Report
- Location Map
- Current Zoning Map
- Land Use Districts Map
- Landowner Authorization Form
- Franchise Tax Account Status
- Deed
- Applicant Request Letter

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 1.63 ACRES OF LAND FROM CONSTRUCTION MANUFACTURING 'CM TO RETAIL SERVICE DISTRICT 'RS' FOR PROPERTY LOCATED AT 1050 BUNTON CREEK ROAD, IN HAYS COUNTY, TEXAS. (GOFORTH PARTNERS, INC. – Z-21-0078); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to rezone approximately 1.63 acres of land from Construction Manufacturing 'CM' to Retail Service District 'RS', as shown on the property location map labeled Exhibit B.

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

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

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

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

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the _____ day of _____, 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.

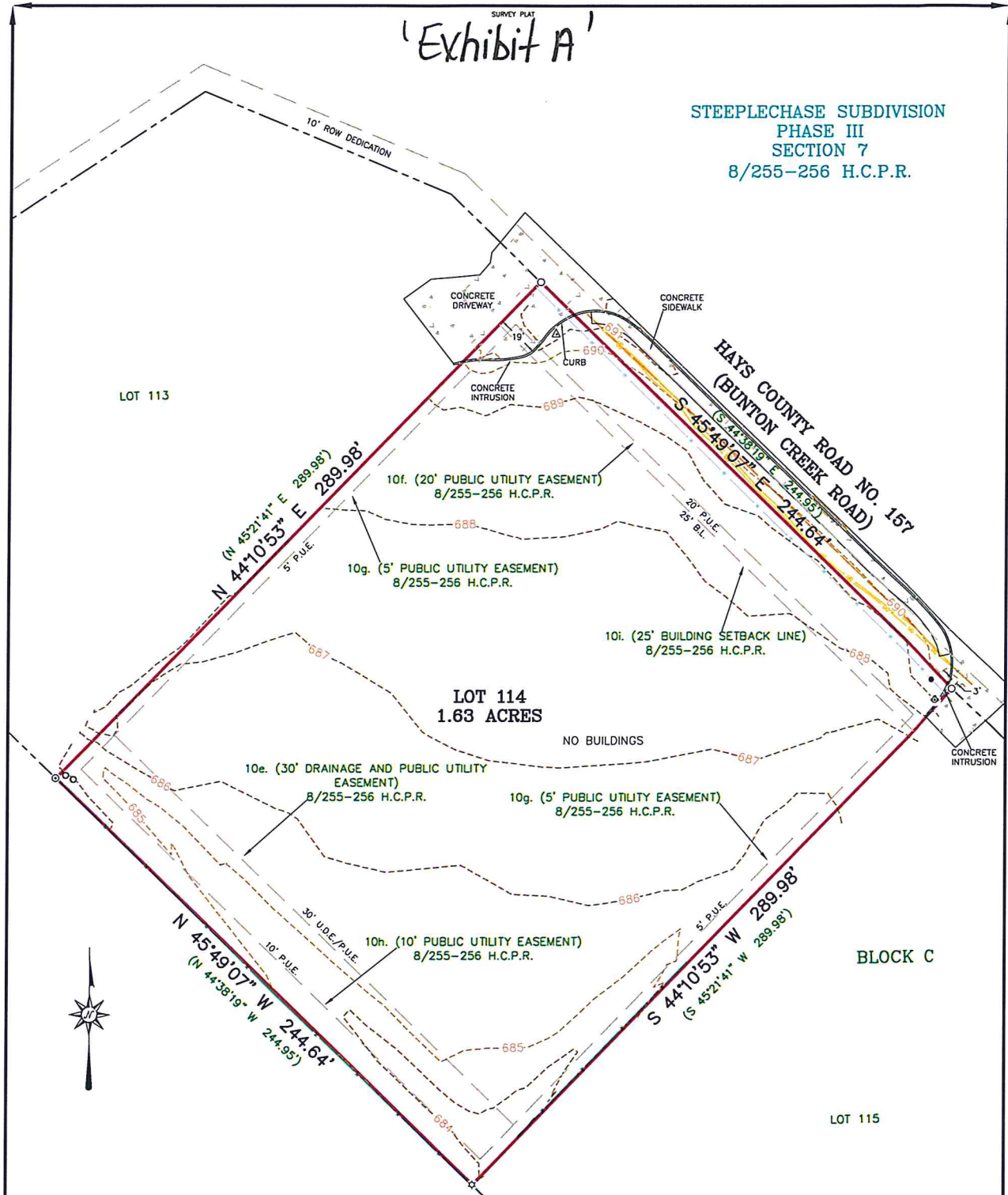
Travis Mitchell, Mayor

ATTEST:

Jennifer Holm, City Secretary

'Exhibit A'

STEEPLECHASE SUBDIVISION
 PHASE III
 SECTION 7
 8/255-256 H.C.P.R.



- LEGEND:**
- BOUNDARY LINE
 - ADJOINER LINE
 - SURVEY LINE
 - - - FENCE
 - BURIED PIPELINE
 - OVERHEAD ELECTRIC LINE
 - UNDERGROUND UTILITY LINE
 - WATER LINE
 - P.U.E. - PUBLIC UTILITY EASEMENT
 - B.L. - BUILDING SETBACK LINE
 - U.D.E. - UTILITY, DRAINAGE, AND EMBANKMENT/BACKSLOPE EASEMENT
 - (BRC-DIST.) RECORD CALL XXX/XXX VOLUME/PAGE
 - H.C.P.R. - HAYS COUNTY PLAT RECORDS
 - H.C.D.R. - HAYS COUNTY DEED RECORDS
 - H.C.O.P.R. - HAYS COUNTY OFFICIAL PUBLIC RECORDS
 - H.C.R.P.R. - HAYS COUNTY REAL PROPERTY RECORDS
 - WATER VALVE
 - SENSER CLEWOUT
 - 1/2" IRON ROD FOUND
 - 1/2" IRON ROD SET
 - △ LIGHT POLE
 - ☆ IRON PIPE FOUND
 - ⊙ NAIL SET
 - ⊙ 3/8" IRON ROD FOUND
 - ⊙ PIPE FENCE CORNER POST FOUND
 - ⊙ WOOD FENCE CORNER POST FOUND
 - ⊙ A/C
 - ⊙ ELECTRIC METER
 - ⊙ TELEPHONE PEDESTAL
 - ⊙ SEPTIC
 - ⊙ GAS METER
 - ⊙ WATER WELL
 - ⊙ UTILITY POLE
 - ⊙ FIRE HYDRANT



NOTE:
 1. AS PER INFORMATION PROVIDED IN G/F 20200812 THIS PROPERTY IS SUBJECT TO RESTRICTIVE COVENANTS: N/A
 2. EASEMENTS: 102/703 H.C.D.R. (BLANKET EASEMENT), 102/504 H.C.D.R. (BLANKET EASEMENT), 254/256 H.C.D.R. (DOES NOT APPLY), 8/255-256 H.C.P.R. (SHOWN ON PLAT)



INTREPID
 SURVEYING & ENGINEERING
 P.O. Box 519 | 1004 C STREET
 FLORESVILLE, TX 78114
 D. 830.393.8833 • F. 830.393.3388
 WWW.INTREPIDTX.COM
 TBPLS #10193936 - TBPE #16550

I, THE UNDERSIGNED, DO HEREBY CERTIFY TO BE THE REGISTERED PROFESSIONAL LAND SURVEYOR WHO HAS MADE THIS SURVEY AND WHO HAS MADE THIS SURVEY IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT AND WHO HAS MADE THIS SURVEY IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT AND WHO HAS MADE THIS SURVEY IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT.

SHERMAN L. POSEY
 04-15-2020
 REGISTERED PROFESSIONAL LAND SURVEYOR DATE

NOTE:
 1. BEARINGS, DISTANCES & ACREAGE ARE GRID, NAD 83 US TX SOUTH CENTRAL ZONE AND ARE DERIVED FROM NORMAL GPS TECHNIQUES.
 2. UNDERGROUND SPRINKLER SYSTEMS, VALVES, BOXES AND/OR SPRINKLER HEADS THAT MAY OR MAY NOT EXIST ARE NOT SHOWN HEREON.
 3. IRON ROD SET ARE 1/2 INCH IRON REBAR WITH PLASTIC CAPS MARKED "INTREPID"
 4. PROPERTY IS NOT LOCATED IN THE FLOOD PLAN IT IS IN "ZONE X" ACCORDING TO MAP NUMBER 48209C02007, DATED SEPTEMBER 2, 2005.

REFERENCE: STUART C. HENDRY
ADDRESS: 1050 BUNTON CREEK ROAD
LEGAL DESCRIPTION: BEING LOT 114, BLOCK C, STEEPLCHASE SUBDIVISION, PHASE III, SECTION 7, HAYS COUNTY, TEXAS
ACCORDING TO THE MAP OR PLAT RECORDED THEREOF IN VOLUME 8, PAGES 255-258 H.C.P.R.
JOB NO. 20-0311
REV. 0
DRAWN BY: AJS
FIELD BOOK: 81/18

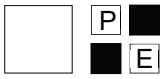
Exhibit B

Z-21-0078

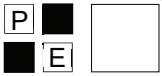
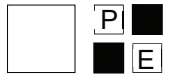
1050 Bunton Creek Rd

1.63 Acres





PROFESSIONAL STRUCIVIL ENGINEERS, INC.



STRUCTURAL CIVIL TRANSPORTATION



2205 W. PARMER LN., SUITE #201, AUSTIN, TEXAS 78727
512.238.6422 PSCE@PSCEINC.COM REGISTERED FIRM F-4951

Sarah Corona, Applicant
Office Manager, PSCE, Inc.
2205 W. Parmer LN., Ste. 201 Austin, TX 78727
(512) 238-6422, psce@psceinc.com

To Whom It May Concern,

I am submitting this letter on behalf of Sufian Emmar, Managing Partner of Goforth Partners, Inc., owner of the property located at 1050 Bunton Creek Road, Kyle, Texas 78640. Please let it be known that Sufian Emmar, Managing Partner of Goforth Partners, Inc., does hereby give permission to have Sarah Corona (Applicant Representative) of Professional StruCIVIL Engineers, Inc., file with the City of Kyle for a zoning change, from CM Zoning to RS Zoning, for the property located at 1050 Bunton Creek Road, Kyle, Texas, 78640, Lot 114, Block C, Steeplechase Subdivision Phase 3, Section 7, Hays County, Texas, according to the map or plat recorded thereof in Volume 8, Pages 255-256, as noted on the attached survey. The client is pursuing this zoning change in order to increase the number of possible parking spaces, and to reduce the building setbacks needed for his development. Thank you for taking the time to read my correspondence; please do not hesitate to contact me if there are any questions or concerns.

Sincerely,

Sarah Corona

Office Manager, PSCE Inc.

LANDOWNER AUTHORIZATION AND AFFIDAVIT OF OWNERSHIP

SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: Lot 114, Block C, Steeplechase Subdivision, Phase 3, Section 7
of lots (if subdivided): 1 # of acres: 1.63
Site APN/Property ID #(s): R88995
Location: 1050 Bunton Creek Rd County: Hays
Development Name: Bunton Retail Center

OWNER

Company/Applicant Name: Goforth Partners Inc.
Authorized Company Representative (if company is owner): Sufian Emmar
Type of Company and State of Formation: Corporation, Texas
Title of Authorized Company Representative (if company is owner): President
Applicant Address: 2623 Jones Road, Austin, Texas 78745
Applicant Fax: N/A
Applicant Phone: (512) 913-7167
Applicant/Authorized Company Representative Email: somar12366@aol.com

APPLICANT REPRESENTATIVE

Check one of the following:

I will represent the application myself; or

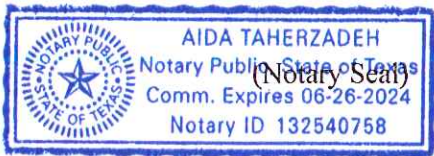
I hereby designate Sarah Corona, Professional Structural Engineers, Inc. (name of project representative) to act in the capacity as the agent for filing, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding 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: Sufian Emmar Date: 03/22/21

State of TX §
County of Travis §

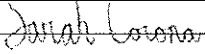
This instrument was acknowledged before me on (date) by (name of authorized company representative) who is a(n) (member, manager, authorized officer, etc.) of (name of company), a (Texas) (limited liability company, corporation, partnership, etc.).



SUBSCRIBED AND SWORN TO before me, this the 22nd day of March, 2021.

Notary Public's Signature
My Commission Expires 06/26/2024

PROJECT REPRESENTATIVE

Representative Name: Sarah Corona, Office Manager, Professional StruCIVIL Engineers, Inc.
Representative Address: 2205 W. Parmer Lane, Suite 201
Representative Phone: (512) 238-6422
Representative Email: psce@psceinc.com
Representative's Signature:  Date: 03/22/2021

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

STATE OF TEXAS §
 § KNOW ALL BY THESE PRESENTS:
COUNTY OF HAYS §

THAT BEDROCK KYLE BUDA PROPERTIES, LLC, a Texas limited liability company ("Grantor"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) cash and other good and valuable consideration in hand paid by GOFORTH PARTNERS, INC., a Texas corporation ("Grantee"), the receipt and sufficiency of which are hereby acknowledged, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY, unto Grantee all that certain real property situated in Hays County, Texas, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference, together with all and singular the rights, privileges and appurtenances in anywise belonging thereto (including Grantor's interest in minerals, utilities, adjacent streets, alleys, strips, gores, rights-of-way, licenses and permits) and all improvements thereon (collectively, the "Property").

THIS CONVEYANCE IS EXPRESSLY MADE AND ACCEPTED SUBJECT TO those matters set forth on Exhibit "B" attached hereto and made a part hereof (collectively, the "Permitted Exceptions").

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, unto Grantee, and Grantee's successors and assigns, forever, and Grantor does hereby bind Grantor, and Grantor's successors and assigns, to WARRANT AND FOREVER DEFEND, all and singular, the Property unto Grantee, and 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.

Ad valorem taxes on the Property for the year 2021 have been prorated as of the date of the delivery of this deed, and taxes for 2021 and subsequent years are assumed by Grantee.

Executed as of the acknowledgment date hereinbelow, but effective as of the 16th day of March, 2021.

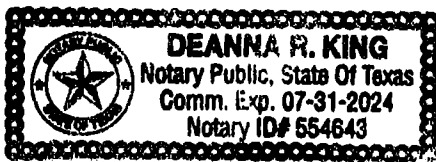
GRANTOR:

BEDROCK KYLE BUDA PROPERTIES, LLC, a Texas limited liability company

By: Shannon R. Cameron
Shannon R. Cameron, Manager

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

The foregoing instrument was sworn to, subscribed to and acknowledged before me this 16th day of March, 2021, by Shannon R. Cameron, Manager of Bedrock Kyle Buda Properties, LLC, a Texas limited liability company, on behalf of said company.



Deanna R. King
Notary Public in and for the State of Texas

Exhibits:

“A” - Description of Property

“B” - Permitted Exceptions

ADDRESS OF GRANTEE:

1514 Holly Street
Austin, Texas 78702

11-GF#202100178 DRK
RETURN TO: HERITAGE TITLE
401 CONGRESS AVE., STE.1500
AUSTIN, TEXAS 78701

EXHIBIT "A"

DESCRIPTION OF PROPERTY

Lot 114, Block C, STEEPLECHASE SUBDIVISION, PHASE III, SECTION 7, a subdivision in Hays County, Texas, according to the map or plat thereof, recorded in Volume 8, Page 225 of the Plat Records of Hays County, Texas.

EXHIBIT "B"

PERMITTED EXCEPTIONS

1. An undivided 3/4th interest in all oil, gas and other minerals, together with all rights relating thereto, express or implied, reserved in instrument recorded in Volume 104, Page 318 of the Deed Records of Hays County, Texas.
2. Drainage and public utility easement 30 feet in width along the rear property line(s), as shown by the Plat recorded in Volume 8, Page 225 of the Plat Records of Hays County, Texas.
3. Public utility easement 20 feet in width along the front property line(s), as shown and stated by the Plat recorded in Volume 8, Page 225 of the Plat Records of Hays County, Texas.
4. Public utility easement 5 feet in width along the side property line(s), as stated on the Plat recorded in Volume 8, Page 225 of the Plat Records of Hays County, Texas.
5. Public utility easement 10 feet in width along the rear property line(s), as stated on the Plat recorded in Volume 8, Page 225 of the Plat Records of Hays County, Texas.
6. Building setback 25 feet in width along the front property line(s), as shown by the Plat recorded in Volume 8, Page 225 of the Plat Records of Hays County, Texas.
7. Rights of others to use the drive, curb and gutter that traverses the property leading to the adjacent lot as shown on survey dated April 15, 2020, prepared by Sherman L. Posey, Registered Professional Land Surveyor No. 6433 ("the Survey").
8. The terms, conditions and stipulations of that certain Easement Agreement for Access dated October 1, 2020, recorded under Document No. 2020-20044119 of the Official Public Records of Hays County, Texas.

**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.

21012977 DEED
03/17/2021 01:04:37 PM Total Fees: \$42.00

Elaine H. Cárdenas, MBA, PhD, County Clerk
Hays County, Texas





As of : 03/23/2021 08:56:05

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

[Obtain a certification](#) for filings with the Secretary of State.

GOFORTH PARTNERS, INC.	
Texas Taxpayer Number	32042745011
Mailing Address	2623 JONES RD AUSTIN, TX 78745-2640
? Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	10/01/2010
Texas SOS File Number	0801325396
Registered Agent Name	SUFIAN EMMAR
Registered Office Street Address	2623 JONES ROAD AUSTIN, TX 78745

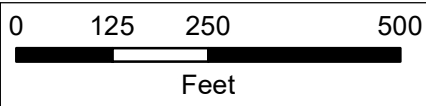
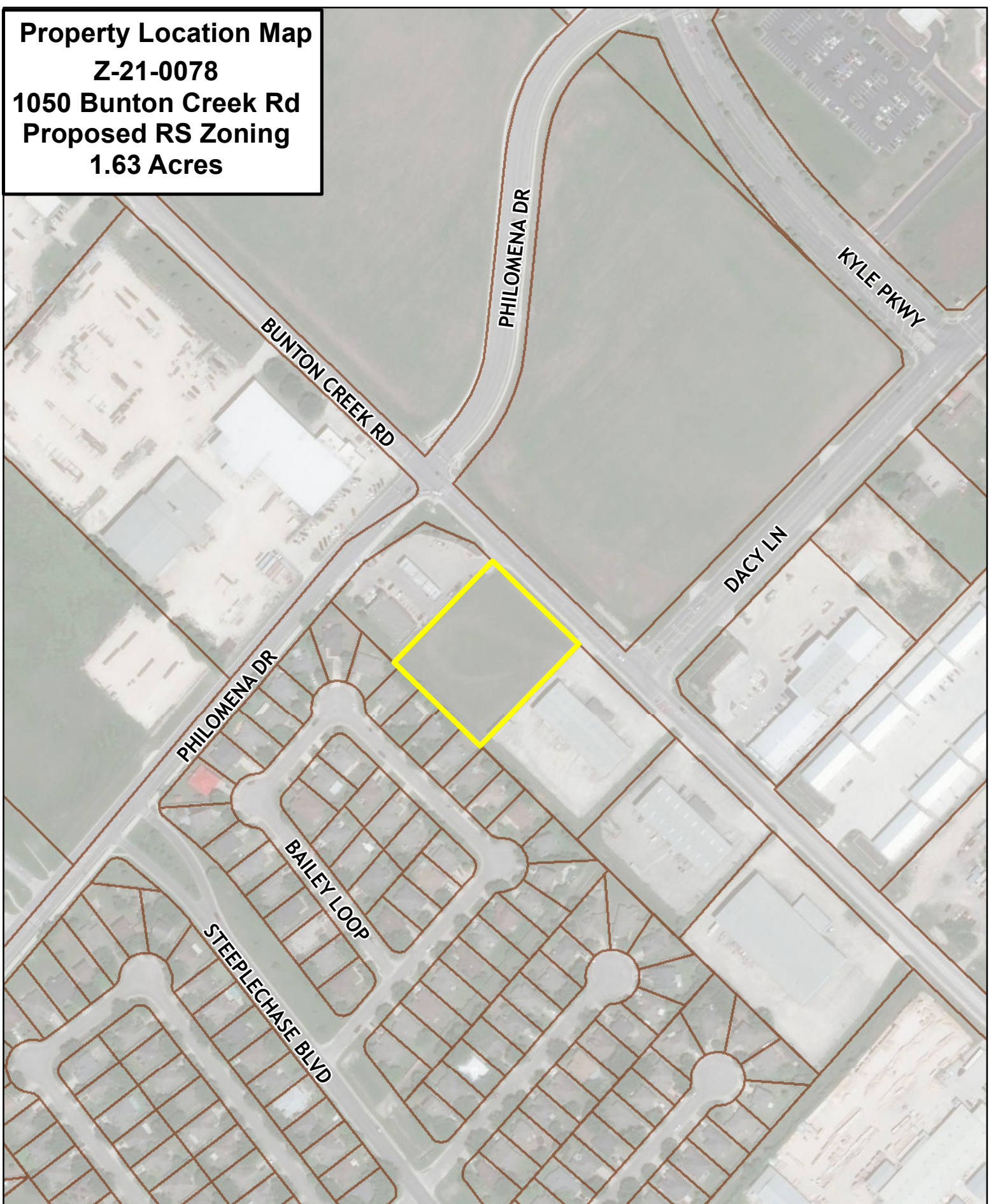
Property Location Map

Z-21-0078

1050 Bunton Creek Rd

Proposed RS Zoning

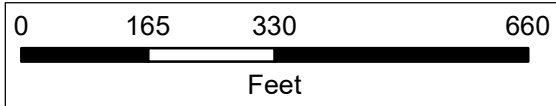
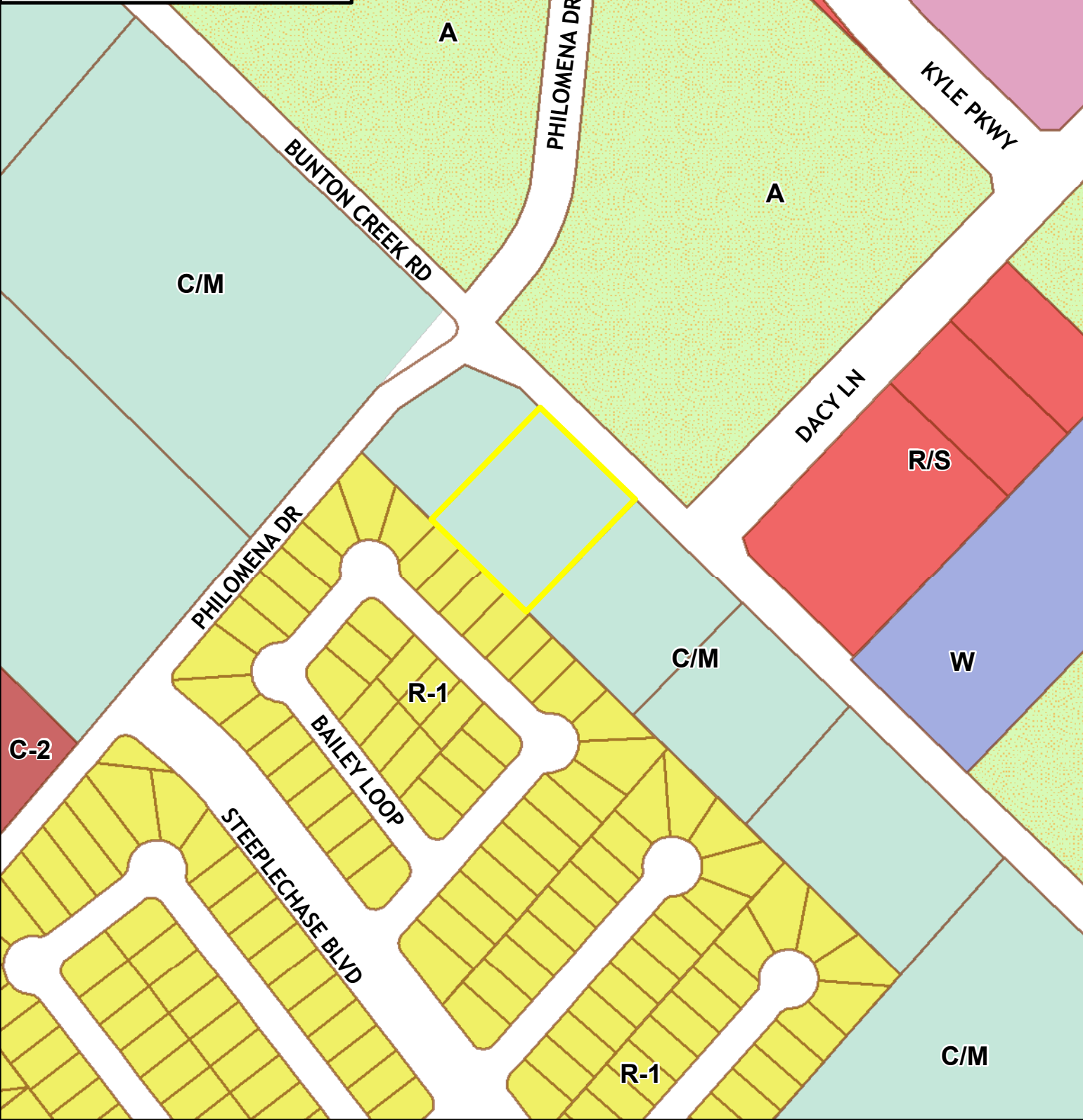
1.63 Acres



 Property Location

 Parcel Lines

Current Zoning Map
Z-21-0078
1050 Bunton Creek Rd
Proposed RS Zoning
1.63 Acres



 Property Location

 Parcel Lines

Landuse Districts Map
Z-21-0078
1050 Bunton Creek Rd
Proposed RS Zoning
1.63 Acres

Super Regional Node

**Core Area
Transition
Community**

Fuentes ES

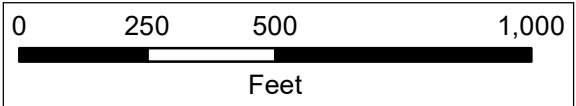
New Town Community

Mid-Town Community

BUNTON CREEK RD
PHILOMENA DR
KYLE PKWY
DACY LN

PHILOMENA DR
BAILEY LOOP
STEEPLECHASE BLVD

BRENT BLVD



 Property Location

 Parcel Lines



CITY OF KYLE, TEXAS

CTX Park, LLC - Zoning (Z-21-0079)

Meeting Date: 5/18/2021
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 1.105 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located within the 1800 block of Goforth Road, in Hays County, Texas. (CTX Park, LLC - Z-21-0079) ~
Howard J. Koontz, Director of Planning and Community Development

Planning and Zoning Commission voted 5-0 to recommend approval of the request.

- Public Hearing

Other Information: See attachments.

Legal Notes: N/A

Budget Information: N/A

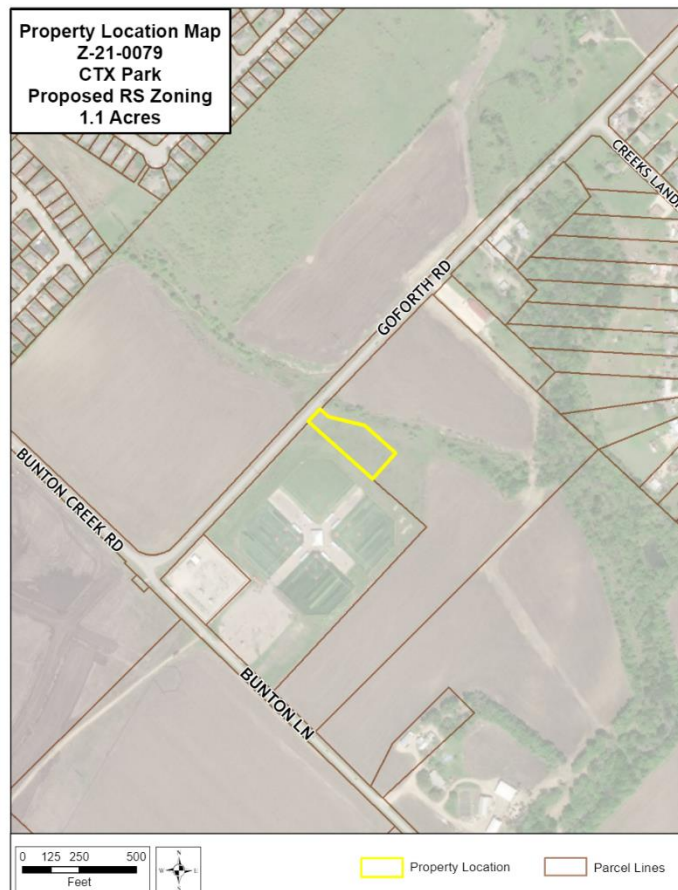
ATTACHMENTS:

Description

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

Property Location	Approximately 1000 Feet Northeast of Intersection of Bunton Creek Road and Goforth Road, Kyle, Texas 78640
Owner	CTX Park, LLC Adam Couch 740 Willow Ridge Drive, San Marcos, TX 78640
Agent	Andrew Dodson, P.E. 361 Middle Creek Buda, TX 78610
Request	Rezone 1.105 - Acres "A" (Agriculture) to "RS" (Retail Services)

Vicinity Map



Site Description

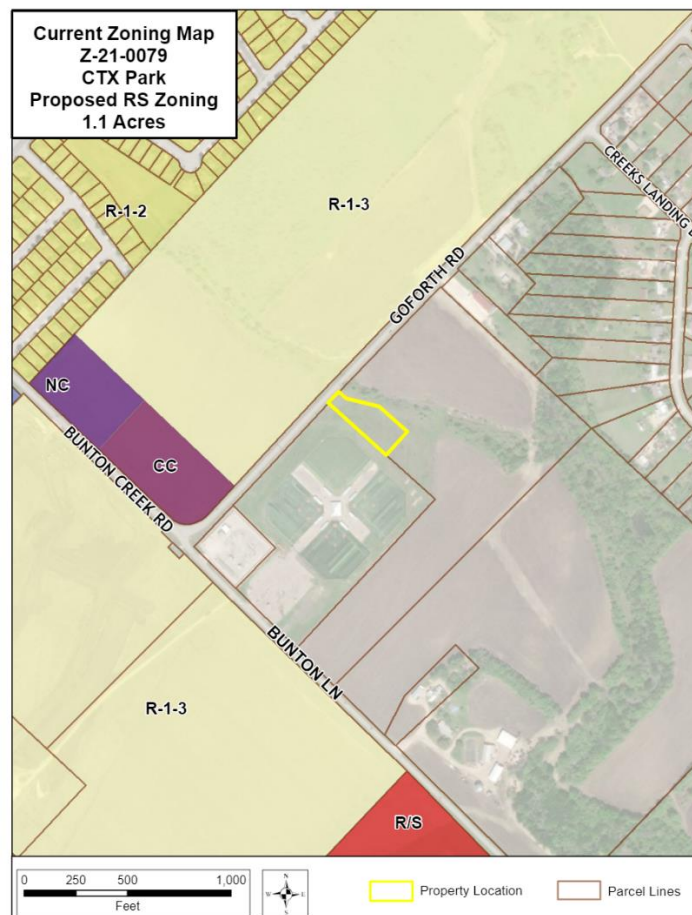
The site is located approximately 1,000 feet northeast of the intersection of Bunton Creek Road and Goforth Road., The parcel is currently zoned “A” (Agriculture). The 1.105-acre lot is currently vacant and was purchased from Peggy Jansen on March 9, 2021. Prior to the purchase, the acreage was part of a larger 25-acre portion of land used for agricultural purposes (ETJ).

To the north and east is farmland recently annexed (Agriculture zoning, “A”). To the south is a private baseball facility, consisting of four (4) baseball diamonds, concessions and parking area (in the ETJ). To the west and northwest, and across Goforth Road, is land zoned for 50-foot, single-family residences (R-1-3, subdivision in review).

The applicant seeks to rezone the property from “A” (Agriculture) to “RS” (Retail Services).

*Please note that as of this reading of the Mayor & Council meeting, the site may still be moving through the annexation process, and therefore may or may not be within the city limits.

Current Zoning



Sec. 53-36. - Agricultural district A.

The permitted uses in the agricultural district A allow farming, ranching, pasturage, detached single-family residences and related accessory structures, on a minimum one acre tract. Parks, playgrounds, greenbelts and other public recreational facilities, owned and/or operated by the municipality or other public agency are permitted.

(Ord. No. 438, § 23, 11-24-2003)

Requested Zoning

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](#).

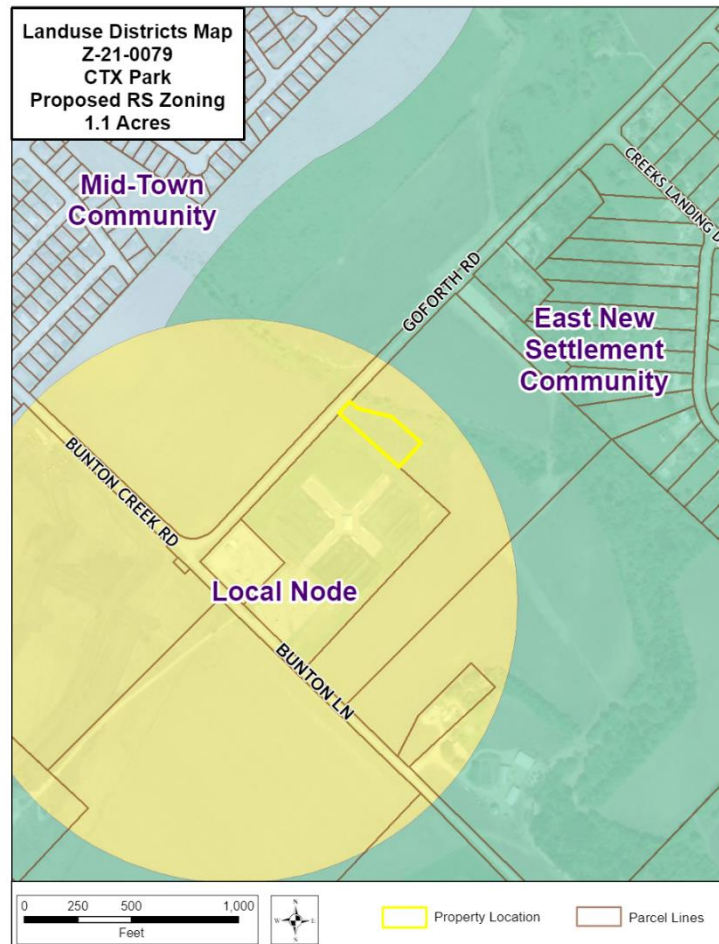
(Ord. No. 438, § 42(a), 11-24-2003)

Conditions of the Zoning Ordinance

Sec. 53-1205 Amendments

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

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



Comprehensive Plan Text

The subject site is located in the “Local Node” District. The RS zoning district is recommended conditionally in the “Local Node” District

Current Land Use Chart

Local Node

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

Conditional Zoning Categories: R-1-T, R-3-1, **R/S**

Local Node

'Character':

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

Intent':

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

Analysis

The property requesting to be rezoned is sited within the "Local Node", centered on Bunton Creek Road and Goforth Road. The property itself will have a future address on Goforth Road.

The 1.105-Acre site is required to be annexed, as it's part of a parent parcel of 25.2-Acres with a non-annexation development agreement. Per development agreements of this nature, if the property owner violates the regulations of the agreement, then the City has the right to annex the property. As the 1.105-Acre parcel will officially be subdivided, and therefore violating a clause of the agreement, City Council has chosen to exercise its right to annex the property.

To develop the property in a manner consistent with the plans of the new property owner (CTX Park, LLC, 1.105-Acres), the applicant is requesting the "RS" zoning district for the acreage. While staff and the Commission cannot discuss the specific proposed use, it is sufficient that the proposed use fits within the "RS" or "Retail Services" zoning district (allowed in the "Local Node" conditionally).

The “Local Node” is a type of land use district intended to have a higher intensity of use and associated zoning districts. Its area is meant to be walkable, but also creating options for convenience retail and services, restaurants, offices, etc. Nodal type developments tend to center on the confluence of major roads throughout the city, and this “Local Node” is no exception.

Both Bunton Creek Road and Goforth Road are heavily traversed by vehicular traffic, at all times of the day, and this intersection is currently under construction to improve vehicular circulation. The traffic circle is being built by the Cassetta Ranch developer (Brohn Homes). Eventually, Goforth Road will also be improved to a 3-Lane collector, as required in the City of Kyle’s Transportation Master Plan. Water will be provided by County Line Special Utility District, and the wastewater will be provided by the City of Kyle. Additionally, following approval of the rezoning, the site will be expected to comply with all regulations relating to platting, site plan and conditional use permits (Goforth Road Overlay).

Recommendation

In conclusion, staff supports the rezoning from “A” (Agriculture) to RS (Retail Services) for the 1.105-Acre property. At the May 11, 2021 Planning & Zoning Commission meeting, the Commission voted 5-0 to recommend approval of the request. Staff asks the Mayor & Council to vote recommending approval of the rezoning request.

Attachments

- Staff Memo
- Location Map
- Existing Zoning Map
- Land Use Districts Map
- Deed
- Landowner Authorization Letter
- Franchise Tax Account Status
- Non-Annexation 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 1.105 ACRES OF LAND FROM AGRICULTURE ‘AG’ TO RETAIL SERVICE DISTRICT ‘RS’ FOR PROPERTY LOCATED WITHIN THE 1800 BLOCK OF GOFORTH ROAD, IN HAYS COUNTY, TEXAS. (CTX PARK, LLC – Z-21-0079); 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 zoning to approximately 1.105 acres of land Agriculture ‘AG’ to Retail Service District ‘RS’, as shown on the property location map labeled Exhibit B.

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

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

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

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

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the _____ day of _____, 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"

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 13.711 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 Fleeter 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 675.90 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 789.95 feet, said 1/2" rebar with cap found being the west corner of said 1.105 acre tract and the PLACE OF BEGINNING hereof.

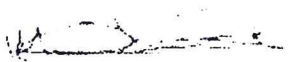
THENCE along the southeast line of said Goforth Road and the northwest line of said Jansen Tract, N 44° 43' 00" E a distance of 74.95 feet to a 1/2" iron rebar with B&G Surveying cap set at the north corner of said 1.105 acre tract for the north corner hereof.

THENCE over and across said Jansen tract the following four courses:

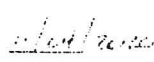
1. S 45° 17' 00" E a distance of 48.71 feet to a 1/2" iron rebar with B&G Surveying cap set for an angle point hereof;
2. S 72° 52' 52" E a distance of 167.43 feet to a 1/2" iron rebar with B&G Surveying cap set for an angle point hereof;
3. S 45° 17' 00" E a distance of 181.16 feet to a 1/2" iron rebar 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 152.50 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.F.L.S. 4529



Date

B & G Surveying, LLC
1304 W. North Loop Blvd
Aurora, Texas 78756
Phone (512) 458-6369
www.bandsurveying.com
Firm Reg. No. 100303-00



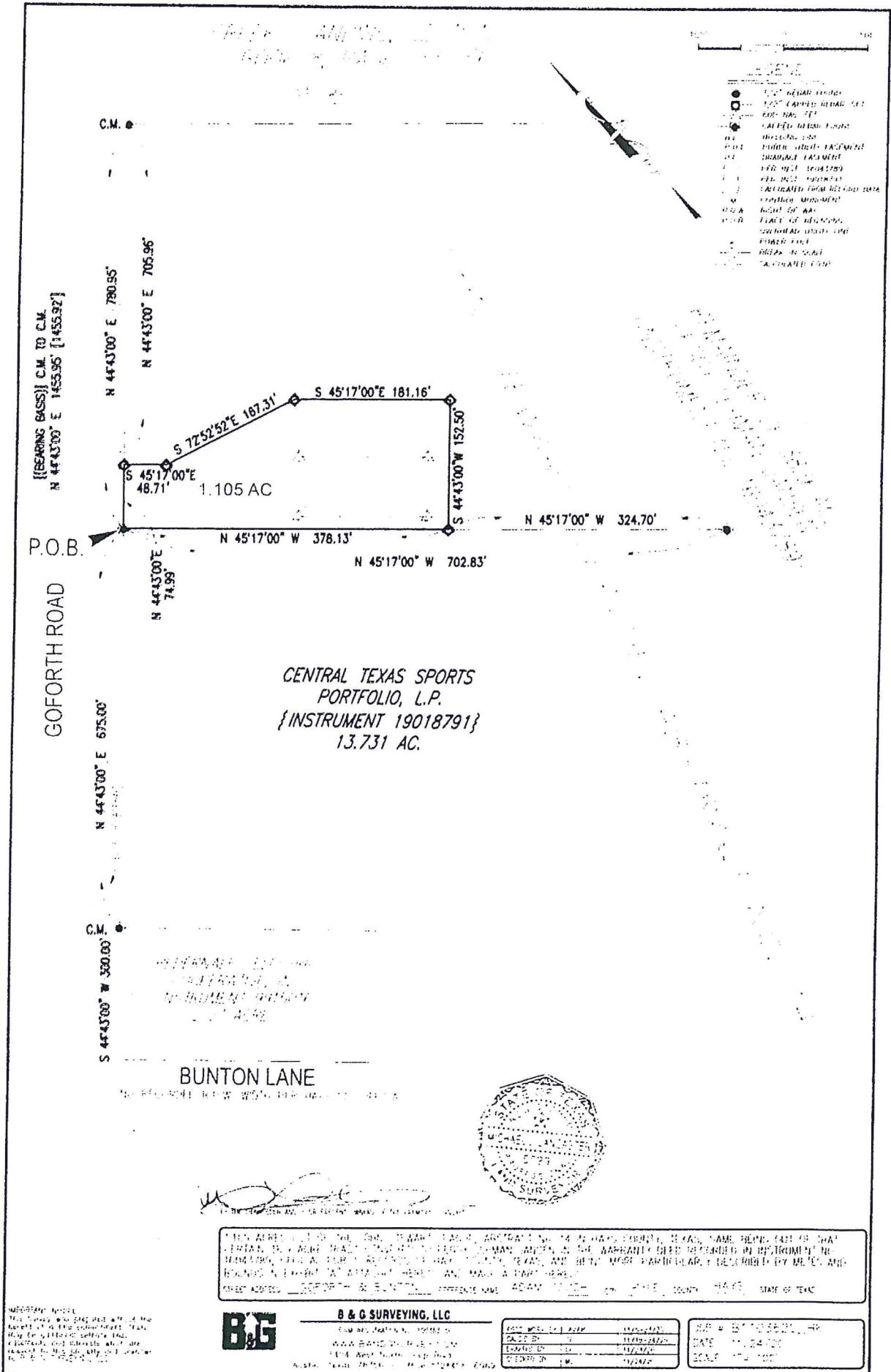
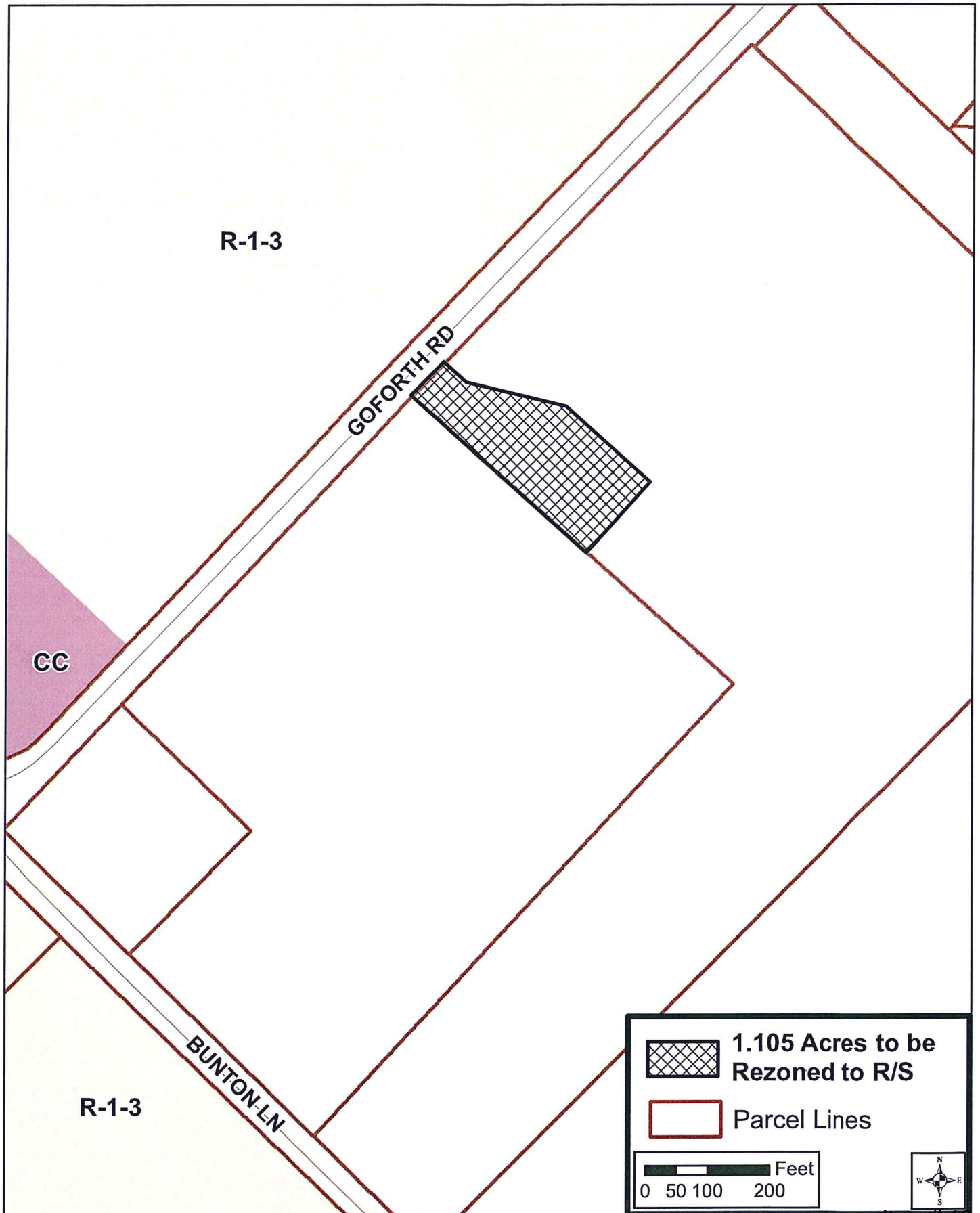


Exhibit B

Z-21-0079

Goforth Rd

1.105 Acres





April 2, 2021

City of Kyle
Planning Department

RE: Zoning Request CTX Park 1.105 acres

CTX Park, LLC owner of 1.105 acres out of the John Stewart League, ABS 14 in Hays County, Texas, hereby request property be rezoned from Interim AG zoning to RS Retail Services. Pending annexation that is currently in process. The site is located on Goforth Road immediately adjacent to an existing baseball field complex. The property was conveyed to CTX Park, LLC via document number 21011388. It does not have a unique property ID through Hays CAD, but is part of parcel R11514.

Pursuant to an existing development agreement with "Lehmann Farms", the property is required to be annexed in the city. The owner is would like to request RS zoning for the proposed development of the site. A zoning case will be filed next week requesting RS zoning. A subdivision plat is being prepared and will be submitted when completed.

Water is to be provided via County Line SUD, electric will be via Pedernales Electric COOP, wastewater will be extended from existing city lines to the northeast.

Sincerely,

Andrew Dodson

Andrew Dodson, PE

Dodson Civil Group, LLC

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.

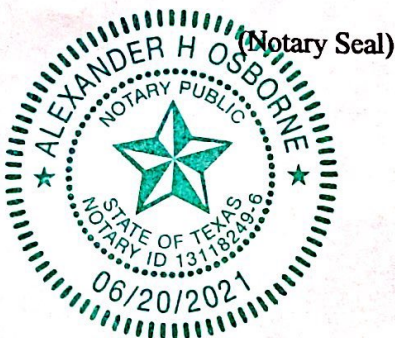
Owner's Signature: [Signature] Date: 3-12-21

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 12th day of March, 2021

[Signature]
Notary Public's Signature
06-20-2021
My Commission Expires



PROJECT REPRESENTATIVE

Representative Name: Andrew Dodson, PE _____

Representative Address: _361 Middle Creek, Buda, TX 78610_____

Representative Phone: ___512-748-3253_____

Representative Email: ___dodsoncivil@gmail.com_____

Representative's Signature: _____ Date: _____

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.

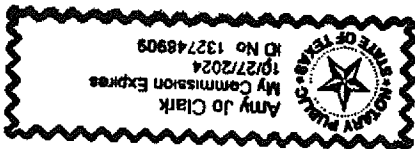
When the context requires, singular nouns and pronouns include the plural.

Peggy Lehman Jansen

PEGGY LEHMAN JANSEN

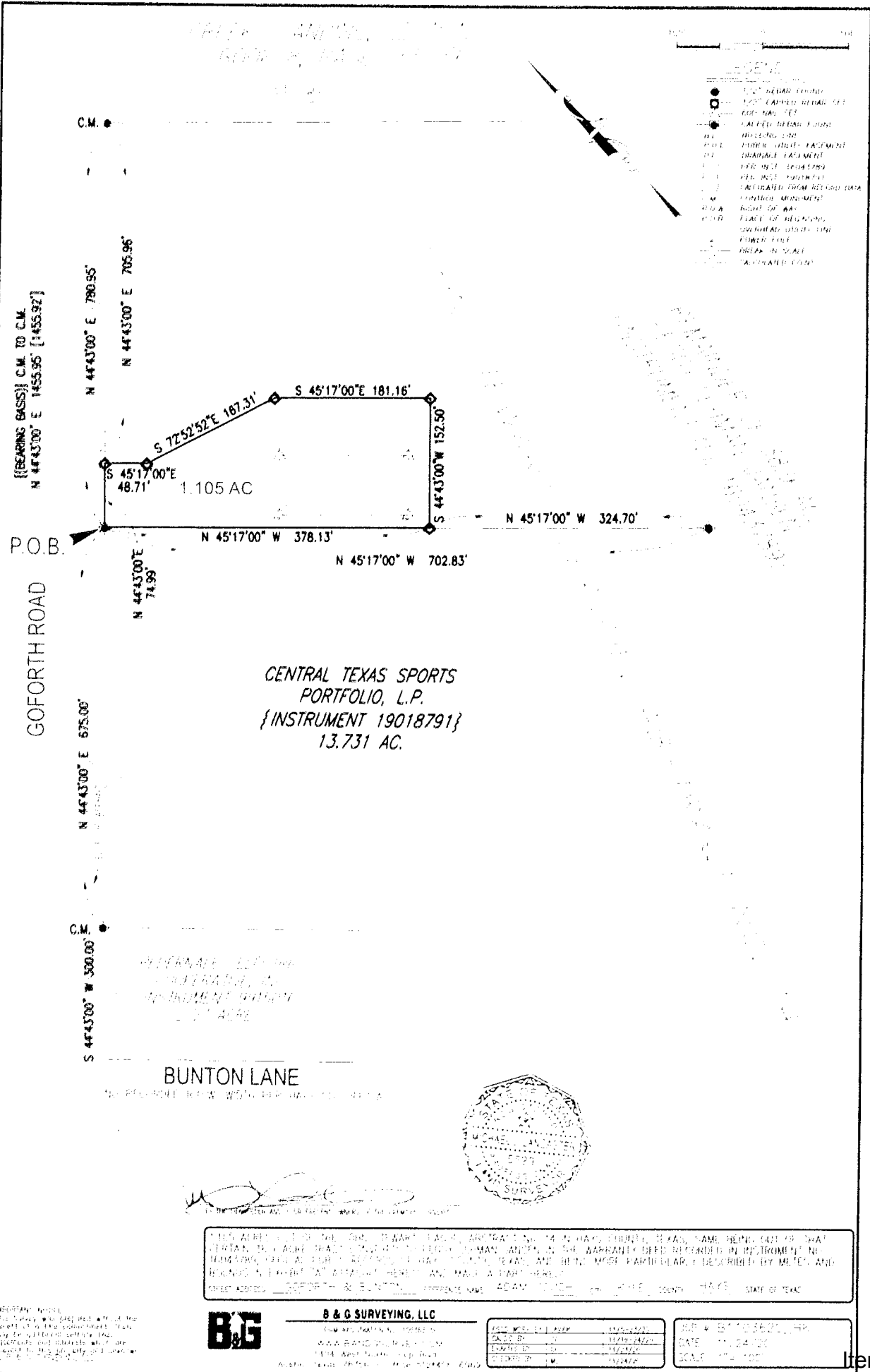
STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on March 9, 2021, by PEGGY LEHMAN JANSEN.



Amy Jo Clark

Notary Public, State of Texas
My commission expires: 10/27/2024



BUNTON LANE

TO BE RECORDED WITH INSTRUMENT NO. 19018791

[Signature]

8 & G SURVEYING, LLC

1414 West North Loop East
 Austin, Texas 78751-1414

THIS AGREEMENT OF THE UNDERSIGNED IS MADE THIS 14th DAY OF MARCH, 2014, IN HARRIS COUNTY, TEXAS, NAME BEING: ADAM J. BUNTON, CERTAIN TO A CERTAIN TRACT OF LAND, TO-WIT: TRACT 13.731 ACRES, MORE PARTICULARLY DESCRIBED IN INSTRUMENT NO. 19018791, RECORDED IN PUBLIC RECORDS OF HARRIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

WITNESSED AND SIGNED BY SAID PARTY AND MADE A PART HEREOF.

ADAM J. BUNTON, HARRIS COUNTY, TEXAS

IMPORTANT NOTICE:
 This survey was prepared by the undersigned in accordance with the provisions of the Texas Surveying Act, Chapter 81, Texas Government Code, and the rules and regulations of the State Board of Professional Engineers and Surveyors.



8 & G SURVEYING, LLC
 1414 West North Loop East
 Austin, Texas 78751-1414

DATE OF SURVEY	03/14/2014
DATE OF PLOTTING	03/14/2014
DATE OF RECORDING	03/14/2014
SCALE	1" = 100'

JOB # 14036801-04
 DATE 03/14/2014
 SCALE 1" = 100'

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.

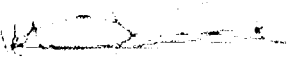

THENCE along the southeast line of said Goforth Road and the northwest line of said Jansen tract, N 44° 43' 00" E a distance of 74.95 feet to a 1/2" iron rebar with B&G Surveying cap set at the north corner of said 1.105 acre tract for the north corner hereof.

THENCE over and across said Jansen tract the following four courses:

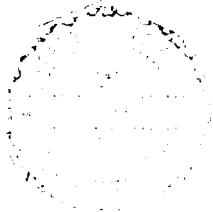
- 1. S 45° 17' 00" E a distance of 48.71 feet to a 1/2" iron rebar with B&G Surveying cap set for an angle point hereof;
- 2. S 72° 52' 52" E a distance of 167.41 feet to a 1/2" iron rebar with B&G Surveying cap set for an angle point hereof;
- 3. S 45° 17' 00" E a distance of 181.16 feet to a 1/2" iron 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.F.L.S. 3529 Date

B & G Surveying, L.R.
1404 W. North Loop Blvd
Aurora, Texas 78703
Phone (512) 458-6369
www.bngsurvey.com
Firm Reg. No. 100303-00



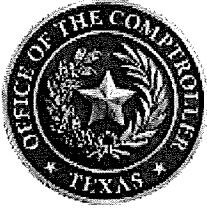
**THE STATE OF TEXAS
COUNTY OF HAYS**

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





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	
Texas Taxpayer Number	32065090550
Mailing Address	2709 LESLIE LN SAN MARCOS, TX 78666-5185
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	10/11/2017
Texas SOS File Number	0802834309
Registered Agent Name	#1 STARZ OVER TEXAS, INC.
Registered Office Street Address	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.

<input type="checkbox"/> Taxpayer number 32065090550	<input type="checkbox"/> Report year 2020	<input type="checkbox"/> 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.):

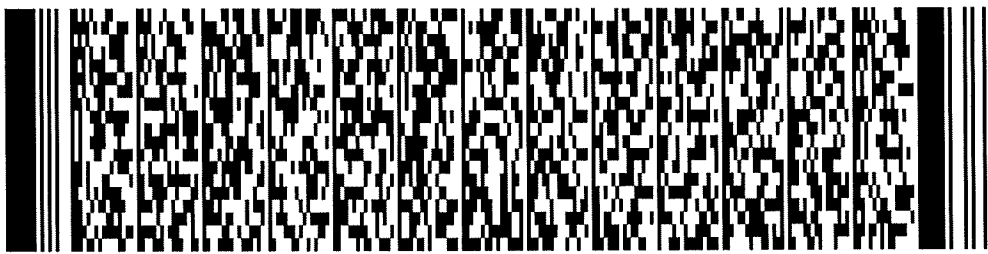
1. This entity is a passive entity as defined in Texas Tax Code Sec. 171.0003. (See instructions.) (Passive income does NOT include rent.) 1.
 2. This entity's annualized total revenue is below the no tax due threshold. 2.
 3. This entity has zero Texas Gross Receipts. 3.
 4. This entity is a Real Estate 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
7. TOTAL REVENUE (Whole dollars only) 7. 0. 00

XT 692234

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/. If you have any questions, call 1-800-252-1381.

Texas Comptroller Official Use Only



VE/DE	<input type="checkbox"/>
PM Date	<input type="checkbox"/>



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

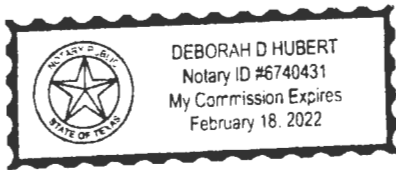
Travis Mitchell
Travis Mitchell, Mayor

STATE OF TEXAS §
COUNTY OF HAYS §

BEFORE ME the undersigned authority on this day personally appeared Peggy Jansen, 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 20th day of August, 2019.

Jennifer A. Vetrano
Notary Public - State of Texas

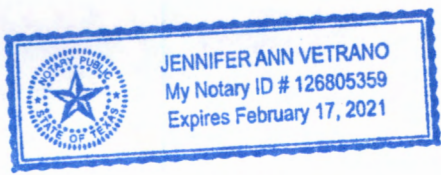
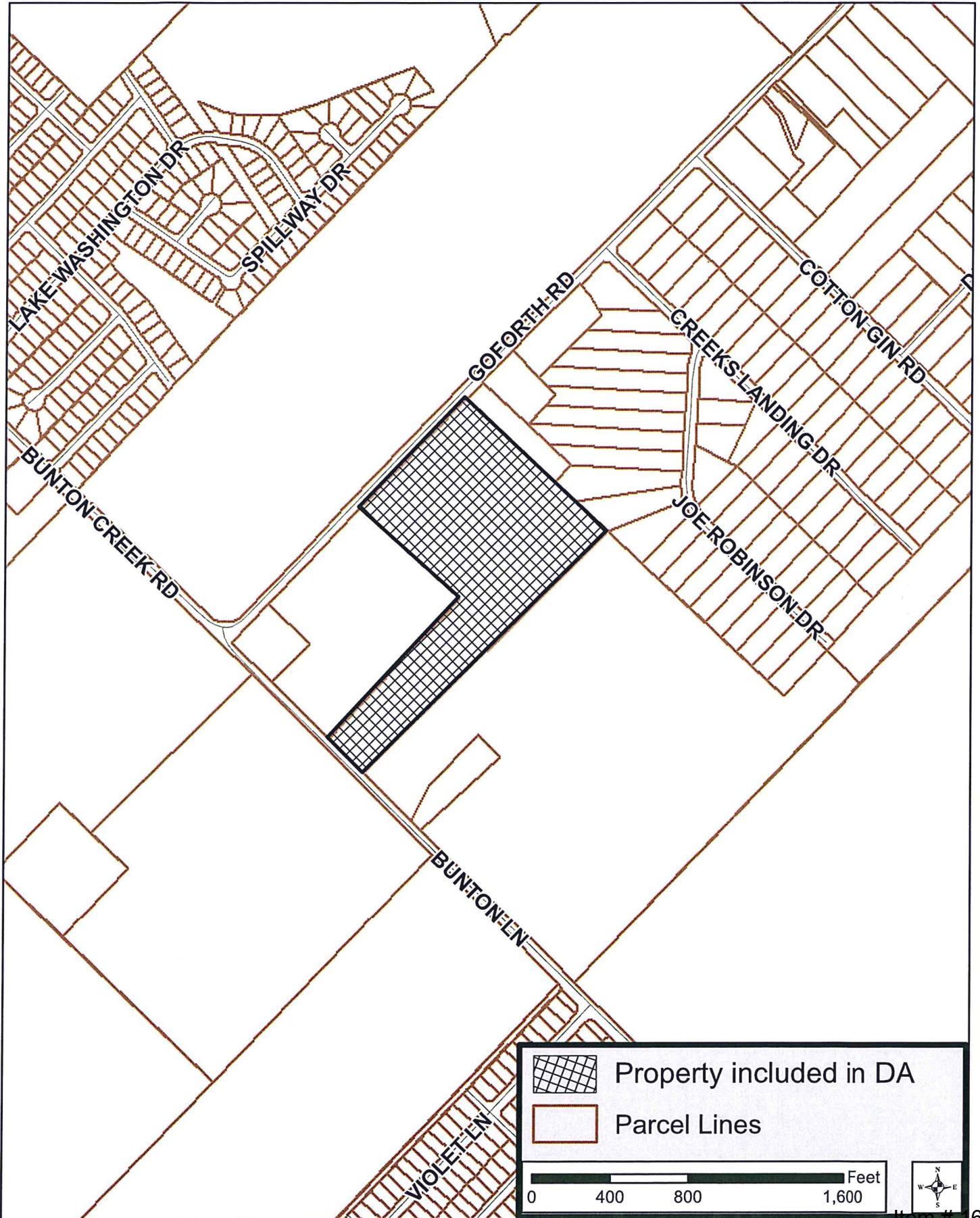


EXHIBIT "A"
Property Location Map

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. Cárdenas, 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.

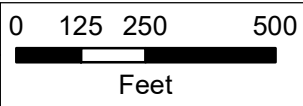
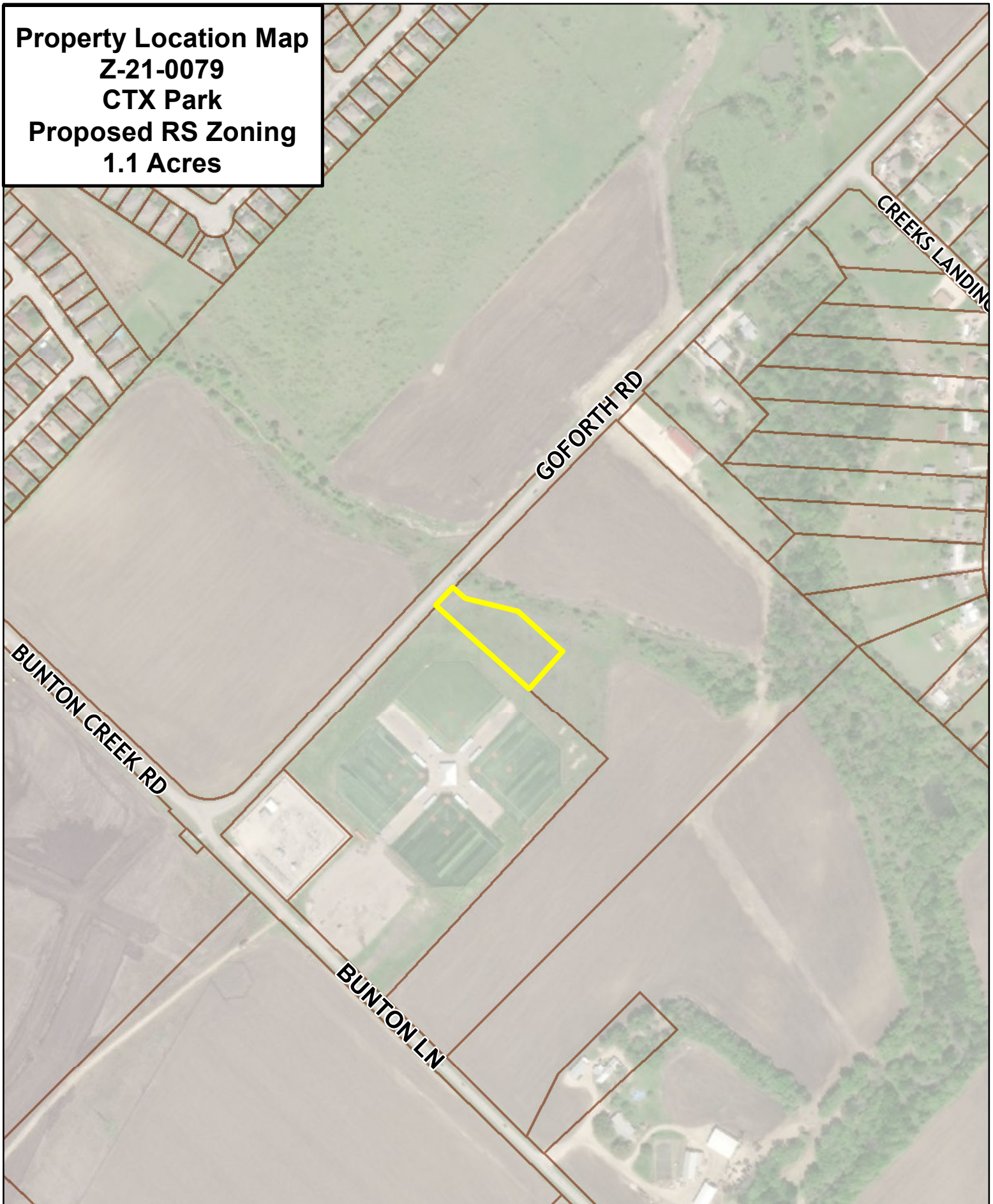
(3) **Special Services and Actions.** Although the City reserves all its governmental authority, powers and discretion, if the City shall unreasonably refuse to grant the permits and approvals above provided in (2)(A), (B) & (C), then in that event the owner(s) may request and obtain disannexation of 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".

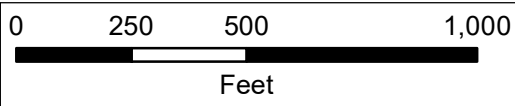
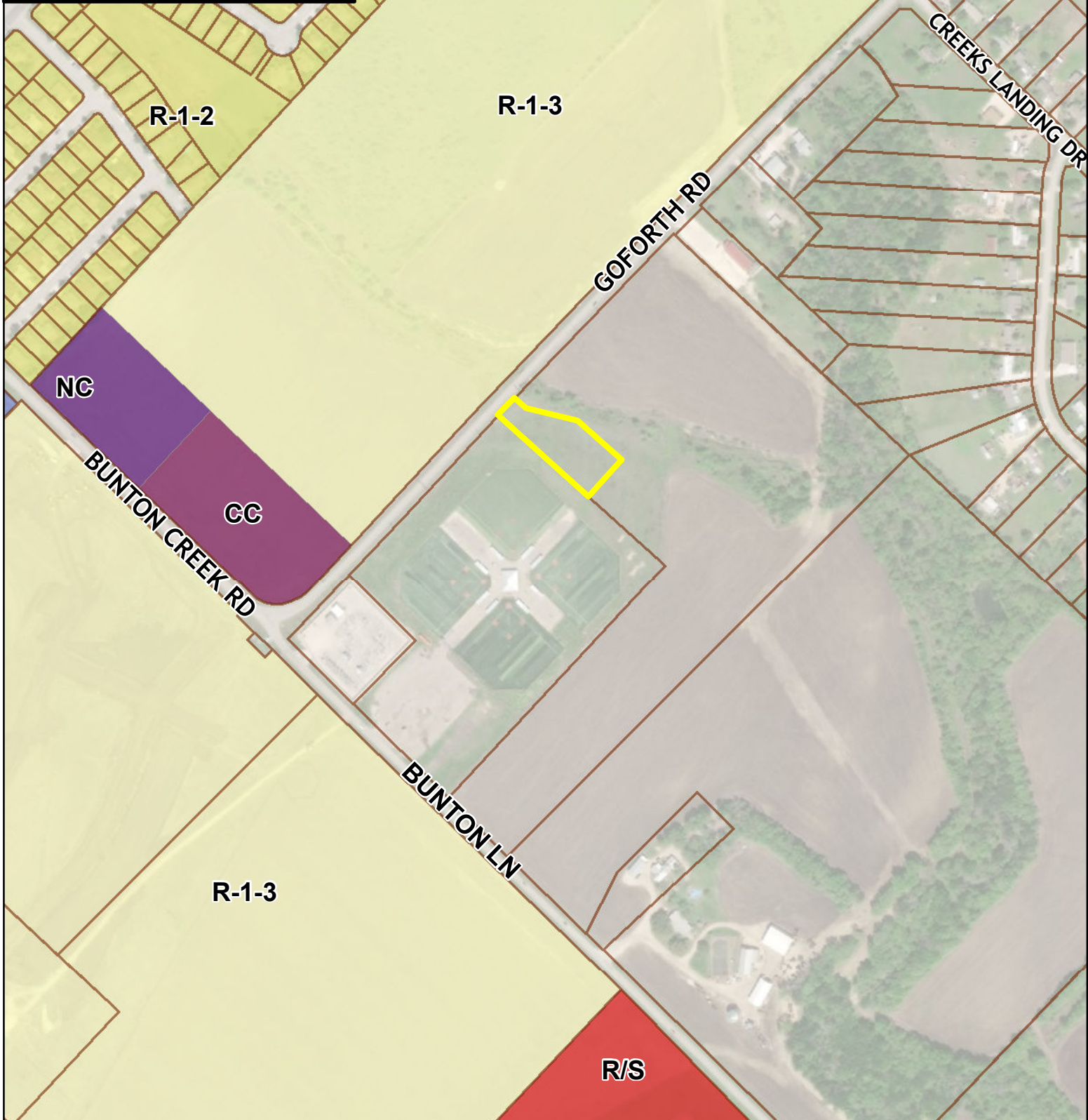
Property Location Map
Z-21-0079
CTX Park
Proposed RS Zoning
1.1 Acres




 Property Location

 Parcel Lines

Current Zoning Map
Z-21-0079
CTX Park
Proposed RS Zoning
1.1 Acres



 Property Location

 Parcel Lines
Item # 16

Landuse Districts Map
Z-21-0079
CTX Park
Proposed RS Zoning
1.1 Acres

**Mid-Town
Community**

**East New
Settlement
Community**

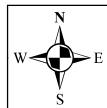
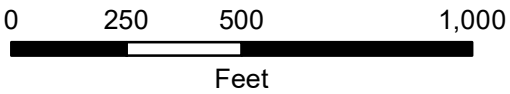
Local Node

BUNTON CREEK RD

GOFORTH RD

CREEKS LANDING DR

BUNTON LN



 Property Location

 Parcel Lines
Item # 16



CITY OF KYLE, TEXAS

Conditional Use Permit Amendment to Section (53-893)

Meeting Date: 5/18/2021

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 modifying Section 53-893 Conditional Use Permit, required, in Hays County, Texas.~ Howard J. Koontz, Director of Planning and Community Development

Planning and Zoning Commission voted to amend the motion to approve staff's recommendation 4-1, the amended motion was approved 3-2.

- Public Hearing

Other Information: See attached.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Memo
- Ordinance
- Exhibit A - Redlined
- Exhibit A



CITY OF KYLE

Community Development Department



MEMORANDUM

TO: Mayor & Council

FROM: Howard J. Koontz – Director of Planning & Community Development

DATE: Tuesday, May 18, 2021

SUBJECT: Amending Sec. 53-893 - Conditional Use Permit Required

REQUEST

Upon the Planning & Zoning Commissions consent, staff has brought forth an amendment to Sec. 53-893 - Conditional use permit required. This amendment seeks to slightly alter Sec. 53-893 to better control how commercial projects are developed. This section of code discusses *when* a Conditional Use Permit is required, a permit that controls how the façade of a commercial building looks and complies with overlay districts within the City of Kyle. Below, Sec. 53-892 references the existing overlay districts. Sec. 53-893 is the text to be amended.

OVERLAY DISTRICTS

Sec. 53-892. - Districts and boundaries.

- (a) *Established.* Seven conditional use overlay districts are established as follows:
- (1) *The 1-35 overlay district.* The Interstate Highway 35 corridor conditional use overlay district (the 1-35 overlay district) extends from the northernmost city limit boundary at 1-35 to the southernmost city limit boundary at 1-35, and includes all real property within 1,500 feet of the outer most edge of the highway right-of-way of 1-35;
 - (2) *The Old Highway 81 overlay district.* The Old Highway 81 corridor conditional use overlay district (the Old Highway 81 overlay district) extends from the intersection of Burluson Street and Old Highway 81 on the north to the intersection of Opal Lane and Old Highway

81 on the south, and includes all real property within 200 feet from the outer most edge of the highway right-of-way of Old Highway 81;

- (3) *The Center Street overlay district.* The Center Street conditional use overlay district (the Center Street overlay district), Center Street is also known as Farm-to-Market Road No. 150, extends from the intersection of Center Street and 1-35 on the east to the intersection of Center Street and Rebel Drive on the west, and includes all real property within 200 feet from the centerline of Center Street; and all real property within all central business district-1 (CBD-1) and central business district-2 (CBD-2) zoning districts; and
 - (4) *The Rebel Drive overlay district.* The Rebel Drive conditional use overlay district (the Rebel Drive overlay district), Rebel Drive is also known as Farm-to-Market Road No. 150, extends from the intersection of Rebel Drive and Center Street on the south to the northernmost city limit boundary at Rebel Drive on the north, and includes all real property within 400 feet of the outer most edge of the street right-of-way of Rebel Drive.
 - (5) The FM 1626 conditional use overlay district (FM 1626 overlay district). The FM 1626 overlay district extends from the intersection of FM 1626 and IH 35 on the south and east to the city limit boundary to the north and west, and includes all real property within 500 feet of the outer most edge of the street right-of-way of FM 150 East.
 - (6) The FM 150 East conditional use overlay district (FM 150 East overlay district). The FM 150 East overlay district extends from the intersection of FM 150 East and IH 35 on the west to the city limit boundary on the east, and includes all real property within 400 feet of the outer most edge of the street right-of-way of FM 150 East.
 - (7) The Goforth Road conditional use overlay district (Goforth Road overlay district). Goforth Road is also known as County Road 157. The Goforth Road overlay district extends from the intersection of Goforth Road and IH 35 on the west to the city limit boundary on the north and east, and includes all real property within 400 feet of the outer most edge of the street right-of-way of Goforth Road.
- (b) *Map.* The boundaries of the conditional use overlay districts are additionally set forth on the city map which is attached hereto and made part hereof. The I-35 overlay district, the Old Highway 81 overlay district, Center Street overlay district, the Rebel Drive overlay district, the FM 1626 overlay district, the FM 150 East overlay district and the Goforth Road overlay district are hereinafter collectively sometimes referred to as the "overlay districts."

TEXT OF THE ZONING ORDINANCE (Initial Staff Recommendation)

“Sec. 53-893. – Conditional use permit required.

(a) A conditional use permit shall be required prior to the construction or erection of any new structure for a commercial, retail, or business use within one of the overlay districts. A conditional use permit shall also be required:

- (1) Prior to any existing structure within one of the overlay districts being altered, reconstructed, enlarged, or remodeled for a commercial, retail, or business use, which altering or remodeling would increase or decrease the total gross building area by 50 percent or more; ~~and~~ or
- (2) If such work requires any additional curb cut, or the reconstruction, enlargement, remodeling, or alteration of the exterior design (~~including color~~), material, ~~material~~, finish grade line, landscaping, or orientation of the structure.

(b) The conditional use permit shall be in addition to and not in lieu of the required site plan and the appropriate underlying zoning required for the proposed use.”

Planning & Zoning Commission Amendment

“Sec. 53-893. – Conditional use permit required.

(a) A conditional use permit shall be required prior to the construction or erection of any new structure for a commercial, retail, or business use within one of the overlay districts. A conditional use permit shall also be required:

- (1) Prior to any existing structure within one of the overlay districts being altered, reconstructed, enlarged, or remodeled for a commercial, retail, or business use, which altering or remodeling would increase or decrease the total gross building area by 50 percent or more; ~~and~~ or
- (2) ~~Prior to any existing structure within one of the overlay districts being altered, reconstructed, enlarged, or remodeled for a commercial, retail, or business use, if~~ such work requires any additional curb cut, or the reconstruction, enlargement, remodeling, or alteration of the exterior design (~~including color~~), material, ~~material~~, finish grade line, landscaping, or orientation of the structure.

(b) The conditional use permit shall be in addition to and not in lieu of the required site plan and the appropriate underlying zoning required for the proposed use.”

STAFF ANALYSIS

Due to a relatively recent “issue” regarding color of a commercial building, staff has brought forward an amendment to Sec. 53-893. Currently, the code states that one is required to 1) expand or decrease the building area by 50% or more **and** (2) complete exterior site or building work to require a Conditional Use Permit. This amendment decouples the two requirements, and will trigger the Conditional Use Permit if **either** one or the other is proposed (see “Text of the Zoning Ordinance”). Approving this code amendment will give the City of Kyle greater control over how commercial buildings shall appear, and give the Planning & Zoning Commission another tool to require compliance.

RECOMMENDATION

At the May 11, 2021 the Planning & Zoning Commission reviewed the staff submittal and voted to amend the recommendation (see report). The Commission voted to amend the motion to approve 4-1, with the amendment itself passing 3-2. Staff believes the addition by the Planning & Zoning Commission further compliments staff’s amendment. Staff asks the Mayor & Council to approve the amendment.

ATTACHMENTS

1. Staff Memo
2. Code Amendment Exhibit_Staff

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF MODIFYING SECTION 53-893 – CONDITIONAL USE PERMIT REQUIRED, IN HAYS COUNTY, TEXAS; AUTHORIZING THE CITY SECRETARY TO AMEND THE CITY OF KYLE CODE OF ORDINANCES 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 Section 53-893 of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to modify when a conditional use permit is required, as shown on the code section labeled Exhibit A.

SECTION 2. That the City Secretary is hereby authorized and directed to amend Sec. 53-893 in the Code of Ordinances of the City of Kyle, as shown in Exhibit A 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.

ATTEST:

Jennifer Holm, City Secretary

Travis Mitchell, Mayor

Exhibit A

Exhibit A

Sec. 53-893 Amendment

Sec. 53-893. - Conditional use permit required.

(a) A conditional use permit shall be required prior to the construction or erection of any new structure for a commercial, retail, or business use within one of the overlay districts. A conditional use permit shall also be required:

- (1) Prior to any existing structure within one of the overlay districts being altered, reconstructed, enlarged, or remodeled for a commercial, retail, or business use, which altering or remodeling would increase or decrease the total gross building area by 50 percent or more; ~~and~~ or
- (2) If such work requires any additional curb cut, or the reconstruction, enlargement, remodeling, or alteration of the exterior design (including color), material, ~~material,~~ finish grade line, landscaping, or orientation of the structure.

(b) The conditional use permit shall be in addition to and not in lieu of the required site plan and the appropriate underlying zoning required for the proposed use.

Exhibit A

Sec. 53-893 Amendment

Sec. 53-893. - Conditional use permit required.

(a) A conditional use permit shall be required prior to the construction or erection of any new structure for a commercial, retail, or business use within one of the overlay districts. A conditional use permit shall also be required:

- (1) Prior to any existing structure within one of the overlay districts being altered, reconstructed, enlarged, or remodeled for a commercial, retail, or business use, which altering or remodeling would increase or decrease the total gross building area by 50 percent or more; or
- (2) If such work requires any additional curb cut, or the reconstruction, enlargement, remodeling, or alteration of the exterior design (including color), material, finish grade line, landscaping, or orientation of the structure.

(b) The conditional use permit shall be in addition to and not in lieu of the required site plan and the appropriate underlying zoning required for the proposed use.



CITY OF KYLE, TEXAS

Hadsell Estate – Comprehensive Plan Amendment (Z-21-0075)

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: *(Second Reading)* An ordinance of the City of Kyle, Texas, adopting an amendment to the City's 2010 Comprehensive Plan; Providing for the amendment of the plan by including Manufactured Home Subdivision District 'M-2' and Manufactured Home Park 'M-3' to the New Town Community Land Use District; Providing for Related Matters. (Hadsell Estate - Z-21-0075) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 6-0 to approve.
City Council voted 5-2 to approve on First Reading.*

Other Information: See attached.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Report
- Ordinance
- Ordinance_Redlined
- Summary Letter
- Agent Assignee Letter
- Franchise Tax Account Status
- Deed
- Letters Testamentary
- Land Use Districts Map (Entire City)



CITY OF KYLE

Community Development Department



April 13, 2021

To: Kyle Planning & Zoning Commission
From: Howard J. Koontz, AICP; Director, Planning & Community Development
Re: Comprehensive Plan Text Amendment to Add Manufactured Home Zoning to the New Town Community District

A client has come forward to the city with a request to apply manufactured home zoning to a certain parcel. The parcel in question has been assigned to the city's New Town Community district on the Future Land Use map of the 2010 Comprehensive Plan. Adjacent to the subject site are lands owned by the client which already operate as a manufactured home community, also located within the New Town Community district. Those parcels are lawful and conforming from a land use and existing zoning standpoint, but at the same time are non-conforming from a future land use map assignment perspective. The client has made a request of staff to initiate a text amendment to the Comprehensive Plan to allow the city to consider the assignment of manufactured home zoning in the New Town Community, consistent with the community already operating in the region.

City Charter Comprehensive Plan Ordinance

Sec. 10.03. - Comprehensive Plan Adoption and Amendment.

"The comprehensive plan, or elements or portions thereof, shall be initially prepared and drafted by personnel and/or consultants authorized by the council, under the supervision of the city manager who shall coordinate development of the plan with the planning commission and the council. A draft of the comprehensive plan shall be submitted to the planning commission which shall hold a minimum of two public hearings on such plan and make recommendations for the approval of the plan, with or without amendments. The planning commission shall then forward the proposed comprehensive plan or element or portion thereof to the city manager, who shall thereupon submit such plan, or element or portion thereof, to the council with the planning commission's and the city manager's recommendations thereon. If the proposed comprehensive plan has not been adopted within two years from the effective date of this charter, the proposed plan as it then exists will automatically become the City's comprehensive plan.

"The council may adopt, or adopt with changes or amendments, the proposed comprehensive plan or any element or portion thereof, after one or more public hearings. The council shall act on such plan, element or portion thereof, within ninety

(90) days following its submission. If such plan or element or portion thereof is not adopted by the council, the council shall, with policy direction, return such plan or element thereof to the planning commission, which may modify such plan or element or portion thereof, and again forward it to the city manager for submission in like manner to the council. Amendments to the comprehensive plan may be initiated by the council, the planning commission, or the city manager; provided that all amendments shall be reviewed, considered and recommended for adoption in the same manner as for the original adoption of the comprehensive plan.

“Upon the adoption of a comprehensive plan or element or portion thereof by the council, all land development regulations including zoning and map, subdivision regulations, roadway plan, all public improvements, public facilities, public utilities projects and all city regulatory actions relating to land use, subdivision and development approval shall be consistent with the comprehensive plan, element or portion thereof as adopted, except to the extent, if any, as provided by law. For purposes of clarity, consistency and facilitation of comprehensive planning and land development process, the various types of local regulations or laws concerning the alteration, development and use of land may be combined in their totality in a single ordinance or code.”

Comprehensive Plan Text

New Town Community District

“Recommended: R-1-1, R-1-2, R-1-3, R-1-C, R-1-T, R-2, R-3-2, R-3-3, CC, NC, RS, MXD, O/I

“Conditional: E, A, C/M, R-1-A, R-3-1, RV, T/U, UE, HS, W”

New Town Community

“Character”: Currently consisting of primarily residential uses, open fields, some commercial uses along I-35, and the City’s new Performing Arts Center, the New Town District will likely experience significant development pressures in the near future. This District straddles both I-35 and FM 1626, and growth from Austin and Buda is spreading south along these roadways. These land uses and the forms that follow are wide ranging and varying according to the existing development pattern in place today, and the availability for utility service to as-yet undeveloped lands. The New Town District includes undeveloped residential areas, the proposed site for an ‘Uptown’ shopping/activity center, proposed and existing commercial along higher classified roadways, and legacy residential that has existed for many years. This District should be livable, comfortable, and convenient for all residents of Kyle and surrounding region. Elements of form and design are critical to ensuring transitions between neighboring uses.

“Intent”: The New Town District is designed to contain a horizontal mix of land uses that should be integrated across the area to express a cohesive community form. Many differing uses are encouraged throughout the District, but are distributed in autonomous land parcels instead of vertically aggregated in fewer land parcels. Horizontal mixed uses provide a transition to integrate the community form of New Town with surrounding communities, landscapes and nodes.

“As parcels along major roadways and along side high capacity wet utilities come available, the development density of those parcels should be established higher than other areas of the city, especially any properties in proximity to either I-35, FM 1626 or both. The purpose of the New Town District is to harness economic development potential and establish its position as the sustainable center of surrounding growth. The leading way to make this a reality is to build off the strength of the urban form supported in the Core Area Transition District, make use of the transportation network already in place that runs through and along this district, and enable more uses and architectural types that blend well into the urban design form. This District should provide economic support to Kyle based on locational advantages gained by access to growth advancing from south Austin and nodal developments on the northern side of Kyle. Mixed-Use development should be encouraged, not only permitted, to maximize economic development. This can be achieved by aggregating appropriate densities in order to support a mixture of uses. Development patterns and employment opportunities should be created in the New Town District that do not conflict with the surrounding community fabric. Establishing mixed use zoning districts and employment districts will compliment the existing retail and service uses present today, and should be supported by the adjacent residential and future integrated multi-family residential.”

Analysis

Approximately a year ago, representatives approached City staff wanting to purchase the 24.653-Acres at 600 Bebee Road. At this time, they wanted to purchase the site for a new phase of the Lakeside Crossing Manufactured Home Park. As staff conducted preliminary research, it became clear the comprehensive plan did not consider any manufactured home zoning districts in this part of Kyle (New Town Community district).

The Lakeside Crossing community originally began as a county development, outside the city limits of Kyle. As there are no land use restrictions (zoning) in the county, they were allowed to construct their facility. In October of 2009, mid-process, the City of Kyle annexed the property, allowing the vested development continue (Texas law allows for properly vested projects started in the county to continue once annexed into municipalities.)

At the time that staff met with the representatives for the expansion, they were informed that the City was beginning a comprehensive plan update, and they could be incorporated into the discussion. However, this process has been delayed, and as such, the applicant has asked to continue moving forward. Staff recommended applying separately, as it would move the process along for their project.

The first step to beginning the development process is to request a comprehensive plan amendment. The New Town Community district does not currently consider any

manufactured home zoning districts. If the applicant applied for any zoning assignment related to manufactured home districts, they couldn't move forward.

This amendment would allow consideration of both the "M-2" and "M-3" zoning districts. It would actually allow both zoning districts to be considered throughout the New Town Community district, not just the 24-acre tract proposed for development. From a practical perspective, any new manufactured homes would primarily remain east of IH-35, because the Plum Creek PUD and Texas Lehigh Quarry take up most of the New Town Community west of IH-35.

From a regulatory standpoint, both the "M-2" and "M-3" districts are virtually the same (same minimum lot size, house size, setbacks, etc.). The key difference is that the "M-2" zoning district is designed for fee simple lots that are sold to interested parties and take access from public streets. The "M-3" zoning district is designed for manufactured home parks, where all the internal roads are private and the plotted locations for the homesites are leased to interested parties within the boundaries of a larger parent parcel.

As part of city growth, multiple types of housing should be considered. This should range from all parts of the affordability spectrum and construction type. This idea helps the City become more inclusive to all people wanting to live in our municipality. Manufactured homes can provide a welcome option for home type, length of occupancy tenure, and affordability.

Staff is amenable to adding both the "M-2" and "M-3" zoning districts to the New Town Community district. Adding both zoning districts should be within the 'Conditional' category, as not every part of the New Town Community district is appropriate for manufactured homes. This means when zoning is requested, extra analysis is required, and the site needs to be appropriate for the use.

Recommendation

In conclusion, staff supports the proposed text amendment and recommends the Planning & Zoning Commission support the request.

ORDINANCE _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ADOPTING AN AMENDMENT TO THE CITY’S 2010 COMPREHENSIVE PLAN; PROVIDING FOR THE AMENDMENT OF THE PLAN BY INCLUDING THE MANUFACTURED HOME SUBDIVISION – “M-2” AND MANUFACTURED HOME PARK – “M-3” ZONING DISTRICTS TO THE NEW TOWN COMMUNITY LAND USE DISTRICT; PROVIDING FOR RELATED MATTERS

WHEREAS, it is necessary and reasonable for the City of Kyle, Texas, a Texas home rule municipality, (herein the “City”) to provide for, modify and amend a Comprehensive Plan for the City in accordance with Chapters 211 and 213 of the Texas Local Government Code and the City Charter;

WHEREAS, the City in anticipation of growth and expansion desires to plan for the orderly and efficient growth of the City;

WHEREAS, the City desires to facilitate the lessening of congestion in the streets; the securing of its citizens and visitors from fire, panic and other dangers; the promotion of the general health and welfare; the provision of adequate light and air, the prevention of the overcrowding of property and undue concentration of populations; and the adequate provision of transportation, water, sewers, schools, parks and other public requirements;

WHEREAS, the City recognizes that the existing Comprehensive Plan contains data that needs to be reviewed and updated where appropriate, commiserate with the City’s growth and expansion in both population and land area;

WHEREAS, the Planning and Zoning Commission, after conducting two (2) Public Hearings, recommended adoption of a Mid-Term Update to the existing Comprehensive Plan; and,

WHEREAS, after review, inquiry and the opportunity for the public to give testimony and present written evidence at Public Hearings, and after review and recommendation by the Planning and Zoning Commission, the City Council has found the amendment of the Comprehensive Plan hereinafter set forth and listed in this ordinance is reasonable and necessary for the public health, safety, morals and welfare;

WHEREAS, the City Council has determined adding both the Manufactured Home Subdivision - “M-2” and Manufactured Home Park – “M-3” zoning districts to the New Town Community Land Use District, as a conditional zoning district, to be correct (Exhibit “A”).

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

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

Section 2. Comprehensive Plan. Having held a Public Hearing and after receiving a

recommendation from the Planning and Zoning Commission, the City Council hereby adopts and approves this Mid-Term Amendment to the Comprehensive Plan spread upon the minutes of this meeting. The Comprehensive Plan shall be kept in the office of the City Secretary and shall be available for public inspection during normal office hours. Zoning uses, as amended from time to time at the request of the landowner or on motion of the City, shall be amended to be made consistent with the Comprehensive Plan. The City may further amend the Comprehensive Plan at the discretion of the City Council to plan for the changing plans of the City.

Section 3. Repeal of Comprehensive Plan. Portions of the existing Comprehensive Plan are repealed, to be replaced with text and renderings as indicated in Attachment 'A'.

Section 4. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Effective Date. This Ordinance shall be in force and effect from and after its passage on the date shown below.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED on this ____ day of _____, 20 __.

ATTEST:

**THE CITY OF KYLE,
TEXAS**

Jennifer Holm, City Secretary

Travis Mitchell, Mayor

Exhibit A

Landuse Recommendations from the 2017 Comp Plan

With updates from Ordinances #654, #794, #950 & 2019 & 2021

Farm Landscape	Recommended: A, UE Conditional: R-1-1, NC <u>Conditional by Development Agreement</u> <ul style="list-style-type: none">Pecan Woods: R-1-1, R-1-2, R-1-A, R-1-T, R-1-C, R-2, R-3-1, R-3-2, R-3-3, MXD, R/S, NC, CC
Ranch Landscape	Recommended: A, UE Conditional: R-1-1, NC <u>Conditional by Development Agreement</u> <ul style="list-style-type: none">Blanco North: R-1-1, R-3-3, R/SBlanco Central/West: R-1-2, R-3-3, R/SBlanco South: R-1-2, R-3-3, R/S
Riparian Landscape	Recommended: A, UE Conditional: R-1-1 <u>Conditional by Development Agreement</u> <ul style="list-style-type: none">Blanco North: R-1-1, R-3-3, R/SBlanco Central/West: R-1-2, R-3-3, R/SBlanco South: R-1-2, R-3-3, R/SPecan Woods: R-1-1, R-1-2, R-1-A, R-1-T, R-1-C, R-2, R-3-1, R-3-2, R-3-3, MXD, R/S, NC, CC
Original Town District	Recommended: CBD-1, CBD-2, R-1-T, NC, CC E, MXD Conditional: R-1-A, R-1-3, R-1- R-2, R-3-2, R-3-3, R/S
Core Area Transition	Recommended: E, R/S, CC, NC, MXD, O/I, Conditional: HS, R-1-A, R-1-T, R-1-C, R-3-2, R-3-3
East Settlement	Recommended: R-1-1, R-1-2, UE Conditional: R-1-3, R-2, R-1-C, R-1-A, NC, CC, R-1-T, M-1, M-2, M-3, T/U, MXD, R/S
Historic Core Area	Recommended: R-1-1, R-1-2, R-1-3, R-1-A Conditional: A, R-2, R-3-1, R-1-T, UE, NC, E, R/S, MXD <u>Conditional by Development Agreement</u> <ul style="list-style-type: none">Blanco South: R-1-2, R-3-3, R/S

Mid-Town District	<p>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</p> <p><u>Conditional by Development Agreement</u></p> <ul style="list-style-type: none"> • Blanco North: R-1-1, R-3-3, R/S
New Settlement	<p>Recommended: O/I Conditional: E, R-1-A, R-1-1, R-1-2, R-1-3, R-1-C, R-1-T, R-2, T/U, UE, NC, CC, MXD, R/S, W</p> <p><u>Conditional by Development Agreement</u></p> <ul style="list-style-type: none"> • Blanco South: R-1-2, R-3-3, R/S • Pecan Woods: R-1-1, R-1-2, R-1-A, R-1-T, R-1-C, R-2, R-3-1, R-3-2, R-3-3, MXD, R/S, NC, CC
New Town District	<p>Recommended: R-1-1, R-1-2, R-1-3, R-1-C, R-1-T, R-2, R-3-2, R-3-3, CC, NC, R/S, MXD, O/I Conditional: E, A, C/M, R-1-A, R-3-1, RV, T/U, UE, HS, W, M-2, M-3</p>
Transitional Settlement District	<p>Recommended: R-1-1, A, C/M, UE Conditional: R-1-2, R-1-3, R-1-A, R-1-C, R-1-T, R-2, R-3-1, R-3-2, R-3-3, W, NC, CC, HS, E, M-2, M-3, R/S, RV, T/U</p>
Sensitive/Sustainable Development	<p>Recommended: A, UE Conditional: R-1-1, R-1-2, R-1-A, R-2, R-1-T, R-3-3, T/U, NC, R/S</p> <p><u>Conditional by Development Agreement</u></p> <ul style="list-style-type: none"> • Blanco North: R-1-1, R-1-2, R/S • Blanco Central/West: R-1-2, R-3-3, R/S • Blanco South: R-1-2, R-3-3, R/S
Heritage District:	<p>Recommended: A, R-1-1, R-1-2, UE, NC Conditional: C/M, E, M-2, M-3, R-1-3, R-1-A, R-1-T, R-2, R-3-1, R/S, RV, T/U, W, CC</p>
Local Node	<p>Recommended: R-1-C, R-3-2, R-3-3, CC, NC, MXD Conditional: R-1-T, R-3-1, R/S</p> <p><u>Conditional by Development Agreement</u></p> <ul style="list-style-type: none"> • Blanco North: R-1-1, R-1-2, R/S • Blanco Central/West: R-1-2, R-3-3, R/S
Regional Node	<p>Recommended: R-1-C, R-3-2, R-3-3, CC, NC, R/S, MXD Conditional: CBD-1, CBD-2, E, HS, R-3-1, O/I</p> <p><u>Conditional by Development Agreement</u></p> <ul style="list-style-type: none"> • Pecan Woods: R-1-1, R-1-2, R-1-A, R-1-T, R-1-C, R-2, R-3-1, R-3-2, R-3-3, MXD, R/S, NC, CC
Super Regional Node	<p>Recommended: E, HS, R-3-2, R-3-3, R/S, MXD, O/I Conditional:</p>

ORDINANCE _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ADOPTING AN AMENDMENT TO THE CITY'S 2010 COMPREHENSIVE PLAN; PROVIDING FOR THE AMENDMENT OF THE PLAN BY INCLUDING THE MANUFACTURED HOME SUBDIVISION – “M-2” AND MANUFACTURED HOME PARK – “M-3” ZONING DISTRICTS TO THE NEW TOWN COMMUNITY LAND USE DISTRICT; PROVIDING FOR RELATED MATTERS

WHEREAS, it is necessary and reasonable for the City of Kyle, Texas, a Texas home rule municipality, (herein the “City”) to provide for, modify and amend a Comprehensive Plan for the City in accordance with Chapters 211 and 213 of the Texas Local Government Code and the City Charter;

WHEREAS, the City in anticipation of growth and expansion desires to plan for the orderly and efficient growth of the City;

WHEREAS, the City desires to facilitate the lessening of congestion in the streets; the securing of its citizens and visitors from fire, panic and other dangers; the promotion of the general health and welfare; the provision of adequate light and air, the prevention of the overcrowding of property and undue concentration of populations; and the adequate provision of transportation, water, sewers, schools, parks and other public requirements;

WHEREAS, the City recognizes that the existing Comprehensive Plan contains data that needs to be reviewed and updated where appropriate, commiserate with the City’s growth and expansion in both population and land area;

WHEREAS, the Planning and Zoning Commission, after conducting two (2) Public Hearings, recommended adoption of a Mid-Term Update to the existing Comprehensive Plan; and,

WHEREAS, after review, inquiry and the opportunity for the public to give testimony and present written evidence at Public Hearings, and after review and recommendation by the Planning and Zoning Commission, the City Council has found the amendment of the Comprehensive Plan hereinafter set forth and listed in this ordinance is reasonable and necessary for the public health, safety, morals and welfare;

WHEREAS, the City Council has determined adding both the Manufactured Home Subdivision - “M-2” and Manufactured Home Park – “M-3” zoning districts to the New Town Community Land Use District, as a conditional zoning district, to be correct (Exhibit “A”).

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

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

Section 2. Comprehensive Plan. Having held a Public Hearing and after receiving a recommendation from the Planning and Zoning Commission, the City Council hereby adopts and approves this Mid-Term Amendment to the Comprehensive Plan spread upon the minutes of this meeting. The Comprehensive Plan shall be kept in the office of the City Secretary and shall be available for public inspection during normal office hours. Zoning uses, as amended from time to time at the request of the landowner or on motion of the City, shall be amended to be made consistent with the Comprehensive Plan. The City may further amend the Comprehensive Plan at the discretion of the City Council to plan for the changing plans of the City.

Section 3. Repeal of Comprehensive Plan. Portions of the existing Comprehensive Plan are repealed, to be replaced with text and renderings as indicated in Attachment 'A'.

Section 4. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Effective Date. This Ordinance shall be in force and effect from and after its passage on the date shown below.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED on this ____ day of _____, 20 __.

ATTEST:

**THE CITY OF KYLE,
TEXAS**

Jennifer Holm, City Secretary

Travis Mitchell, Mayor

Exhibit A

Landuse Recommendations from the 2017 Comp Plan

With updates from Ordinances #654, #794, #950 & 2019 & 2021

Farm Landscape	Recommended: A, UE Conditional: R-1-1, NC <u>Conditional by Development Agreement</u> <ul style="list-style-type: none">Pecan Woods: R-1-1, R-1-2, R-1-A, R-1-T, R-1-C, R-2, R-3-1, R-3-2, R-3-3, MXD, R/S, NC, CC
Ranch Landscape	Recommended: A, UE Conditional: R-1-1, NC <u>Conditional by Development Agreement</u> <ul style="list-style-type: none">Blanco North: R-1-1, R-3-3, R/SBlanco Central/West: R-1-2, R-3-3, R/SBlanco South: R-1-2, R-3-3, R/S
Riparian Landscape	Recommended: A, UE Conditional: R-1-1 <u>Conditional by Development Agreement</u> <ul style="list-style-type: none">Blanco North: R-1-1, R-3-3, R/SBlanco Central/West: R-1-2, R-3-3, R/SBlanco South: R-1-2, R-3-3, R/SPecan Woods: R-1-1, R-1-2, R-1-A, R-1-T, R-1-C, R-2, R-3-1, R-3-2, R-3-3, MXD, R/S, NC, CC
Original Town District	Recommended: CBD-1, CBD-2, R-1-T, NC, CC E, MXD Conditional: R-1-A , R-1-3 , R-1- R-2, R-3-2, R-3-3, R/S
Core Area Transition	Recommended: E, R/S, CC, NC, MXD, O/I, Conditional: HS, R-1-A, R-1-T, R-1-C, R-3-2, R-3-3
East Settlement	Recommended: R-1-1, R-1-2, UE Conditional: R-1-3, R-2, R-1-C, R-1-A, NC, CC, R-1-T, M-1, M-2, M-3, T/U, MXD, R/S
Historic Core Area	Recommended: R-1-1, R-1-2, R-1-3, R-1-A Conditional: A, R-2, R-3-1, R-1-T, UE, NC, E, R/S, MXD

Conditional by
Development
Agreement

- Blanco
South:

R-1-2, R-3-3, R/S

Mid-Town District	<p>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</p> <p><u>Conditional by Development Agreement</u></p> <ul style="list-style-type: none"> • Blanco North: R-1-1, R-3-3, R/S
New Settlement	<p>Recommended: O/I Conditional: E, R-1-A, R-1-1, R-1-2, R-1-3, R-1-C, R-1-T, R-2, T/U, UE, NC, CC, MXD, R/S, W</p> <p><u>Conditional by Development Agreement</u></p> <ul style="list-style-type: none"> • Blanco South: R-1-2, R-3-3, R/S • Pecan Woods: R-1-1, R-1-2, R-1-A, R-1-T, R-1-C, R-2, R-3-1, R-3-2, R-3-3, MXD, R/S, NC, CC
New Town District	<p>Recommended: R-1-1, R-1-2, R-1-3, R-1-C, R-1-T, R-2, R-3-2, R-3-3, CC, NC, R/S, MXD, O/I Conditional: E, A, C/M, R-1-A, R-3-1, RV, T/U, UE, HS, W, <u>M-2, M-3</u></p>
Transitional Settlement District	<p>Recommended: R-1-1, A, C/M, UE Conditional: R-1-2, R-1-3, R-1-A, R-1-C, R-1-T, R-2, R-3-1, R-3-2, R-3-3, W, NC, CC, HS, E, M-2, M-3, R/S, RV, T/U</p>
Sensitive/Sustainable Development	<p>Recommended: A, UE Conditional: R-1-1, R-1-2, R-1-A, R-2, R-1-T, R-3-3, T/U, NC, R/S</p> <p><u>Conditional by Development Agreement</u></p> <ul style="list-style-type: none"> • Blanco North: R-1-1, R-1-2, R/S • Blanco Central/West: R-1-2, R-3-3, R/S • Blanco South: R-1-2, R-3-3, R/S
Heritage District:	<p>Recommended: A, R-1-1, R-1-2, UE, NC Conditional: C/M, E, M-2, M-3, R-1-3, R-1-A, R-1-T, R-2, R-3-1, R/S, RV, T/U, W, CC</p>
Local Node	<p>Recommended: R-1-C, R-3-2, R-3-3, CC, NC, MXD Conditional: R-1-T, R-3-1, R/S</p> <p><u>Conditional by Development Agreement</u></p> <ul style="list-style-type: none"> • Blanco North: R-1-1, R-1-2, R/S • Blanco Central/West: R-1-2, R-3-3, R/S
Regional Node	<p>Recommended: R-1-C, R-3-2, R-3-3, CC, NC, R/5, MXD Conditional: CBD-1, CBD-2, E, HS, R-3-1, O/I</p> <p><u>Conditional by Development Agreement</u></p> <ul style="list-style-type: none"> • Pecan Woods: R-1-1, R-1-2, R-1-A, R-1-T, R-1-C, R-2, R-3-1, R-3-2, R-3-3, MXD, R/S, NC, CC
Super Regional Node	<p>Recommended: E, HS, R-3-2, R-3-3, R/S, MXD, O/I</p>

Conditional:

HUSCH BLACKWELL

111 Congress Avenue
Suite 1400
Austin, Texas 78701-4093
512.472.5456 main

STACEY L. MILAZZO
PARALEGAL
512.370.3441 direct
stacey.milazzo@huschblackwell.com

March 12, 2021

City of Kyle Planning Dept.
100 W. Center Street
Kyle, Texas 78640

Re: Comprehensive Plan Amendment Request

To Whom it May Concern:

As agent for the Estate of Janelle Hadsell, we respectfully request a comprehensive plan amendment to include "M-2" and "M-3" zoning districts in the "New Town Community" district.

Please let me know if you have any questions or need additional information.

Very truly yours,



Stacey L. Milazzo,
Paralegal

Estate of Janelle Hadsell
c/o Sheila Webb
304 Bridgepoint Drive
Kingsland, TX 78639-9617

AGENT DESIGNATION LETTER

October 26, 2020

City of Kyle Planning Dept.
100 W. Center Street
Kyle, Texas 78640

Re: Designation of agent for proposed annexation, zoning, platting and related matters for 24.653 acres of land located at CR 122/Bebee Rd, Kyle, TX 78640 under Property ID numbers R13831, R13832 and R132787 (the "Property")

To Whom It May Concern:

The undersigned, as the owner of the above-referenced Property, hereby appoints Husch Blackwell LLP (Nikelle Meade), as agent in connection with the annexation, zoning, platting and any related matters concerning the Property with the City of Kyle.

A map of the Property is attached hereto as Exhibit A.

Estate of Janelle Hadsell

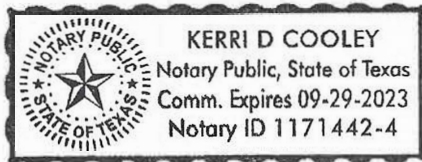
By: Sheila Lynn Webb
Sheila Lynn Webb, Independent
Co-Executor

By: Rebecca Ann Hadsell
Rebecca Ann Hadsell, Independent
Co-Executor

[Notary blocks are on following page]

THE STATE OF TEXAS §
 §
 §
COUNTY OF LLANO §

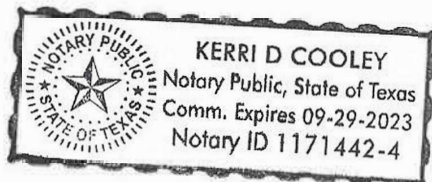
This instrument was acknowledged before me on the 28th day of October, 2020, by **Sheila Lynn Webb**, Independent Co-Executor of the Estate of Janelle Hadsell, on behalf of said estate.



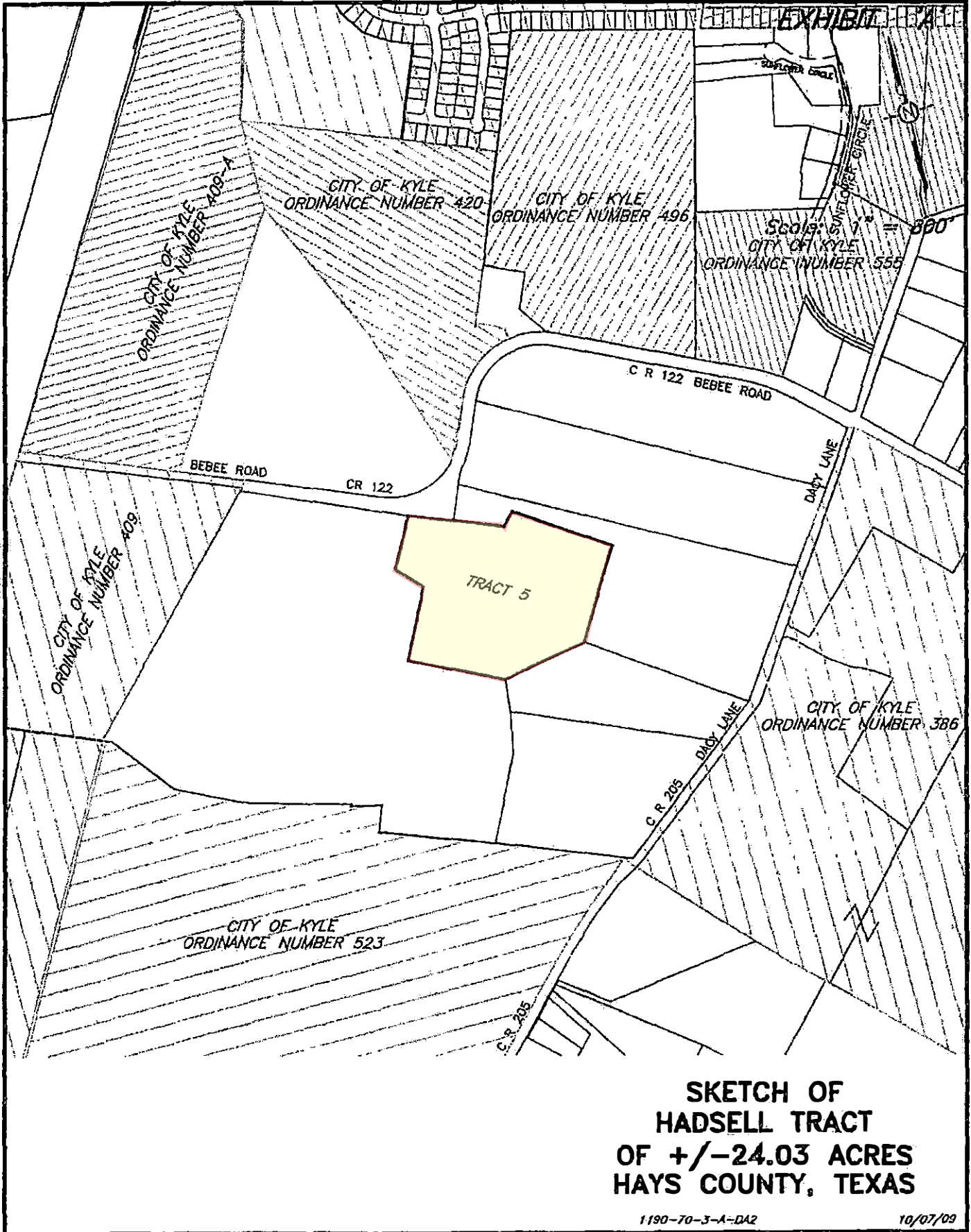
Kerri D Cooley
Notary Public, State of Texas

THE STATE OF TEXAS §
 §
 §
COUNTY OF LLANO §

This instrument was acknowledged before me on the 28th day of October, 2020, by **Rebecca Ann Hadsell**, Independent Co-Executor of the Estate of Janelle Hadsell, on behalf of said estate.

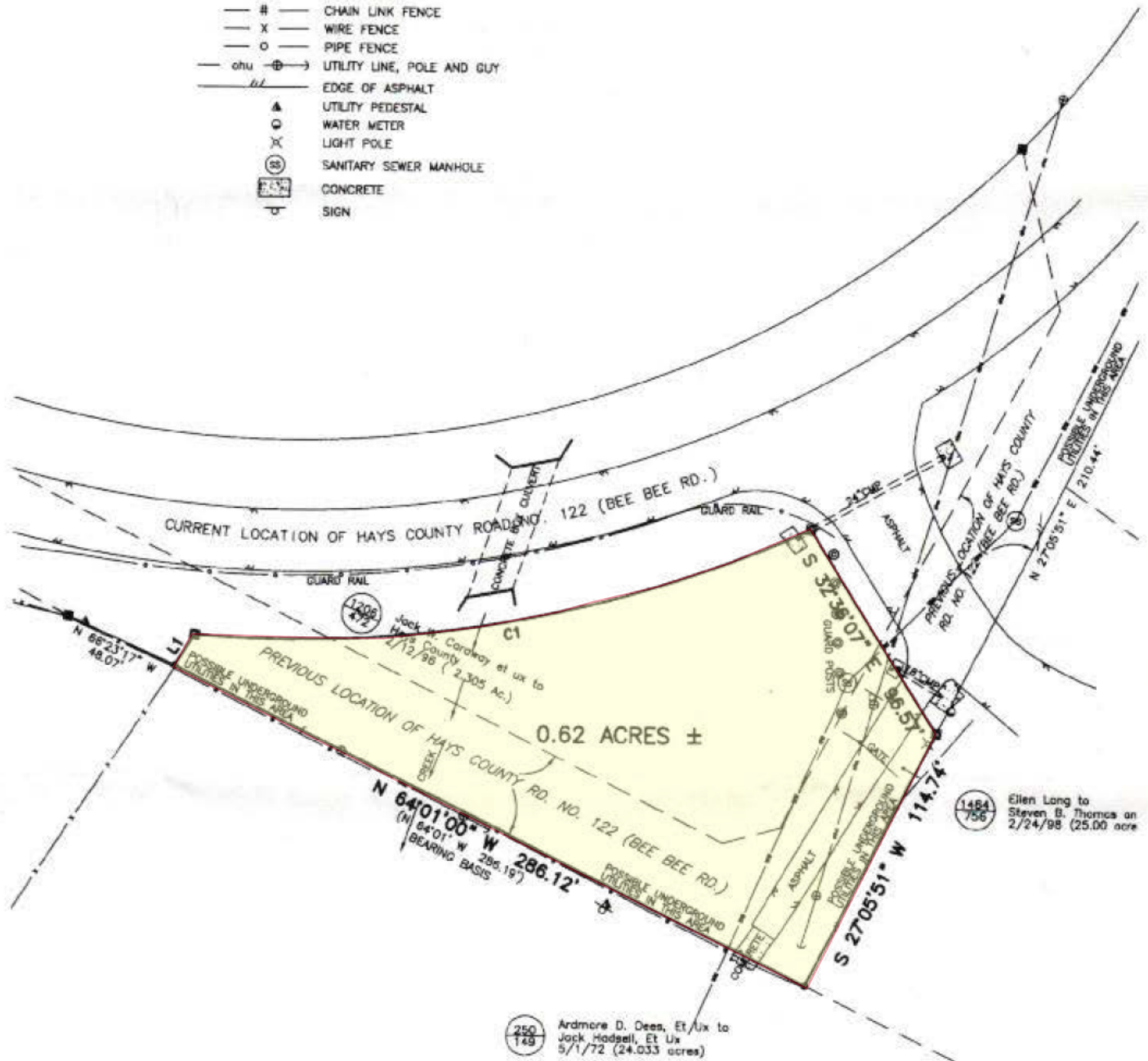


Kerri D Cooley
Notary Public, State of Texas



LEGEND

- VOL
PG HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
- 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- 1/2" IRON ROD FOUND OR DIAMETER NOTED
- 5/8" IRON ROD FOUND WITH PLASTIC CAP STAMPED "RPLS 4532"
- // — WOOD FENCE
- # — CHAIN LINK FENCE
- X — WIRE FENCE
- O — PIPE FENCE
- ohu — UTILITY LINE, POLE AND GUY
- / / — EDGE OF ASPHALT
- ▲ UTILITY PEDESTAL
- WATER METER
- × LIGHT POLE
- ⊗ SANITARY SEWER MANHOLE
- CONCRETE CONCRETE
- ⊕ SIGN



BEARING	DISTANCE
N 32°57'08" E	14.90'

ΔVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
	29°27'53"	498.37'	256.29'	N 79°37'27" E	253.48'



Franchise Tax Account Status

As of : 04/08/2021 09:27:58

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

HUSCH BLACKWELL LLP	
Texas Taxpayer Number	12616882861
Mailing Address	190 CARONDELET PLZ STE 600 SAINT LOUIS, MO 63105-3433
Right to Transact Business in Texas	ACTIVE
State of Formation	DE
Effective SOS Registration Date	Not Registered
Texas SOS File Number	Not Registered
Registered Agent Name	Not on file
Registered Office Street Address	

STATE OF TEXAS
 COUNTY OF HAYS

Y
 Y
 X

KNOW ALL MEN BY THESE PRESENTS:

#76546

76546

That we, Ardmore D. Dees and wife, Iris S. Dees, of the County of Hays and State of Texas, for the consideration hereinafter shown as paid and secured to be paid by Jack Hadsell and wife, Janelle R. Hadsell, have granted, sold and conveyed, and by these presents do grant, sell and convey, unto the said Jack Hadsell and Janelle R. Hadsell of the County of **TRAVIS** and State of Texas, subject to the hereinafter mentioned taxes, liens and mineral reservation, all of that certain parcel of land situated in Hays County, Texas, being 24.033 acres of land, same being out of and a part of the D. Downer Survey No. 22 and the A. Brichta Survey in Hays County, Texas; said 24.033 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at an iron pipe found at the most easterly corner, as fenced, of that certain 30 acres, more or less, of land conveyed to Mrs. C. C. Young by deed of record in Volume 123 at Pages 128-131 of the Deed Records of Hays County, Texas, which point of beginning is the most easterly corner of this tract;

THENCE, with a fence, S 35° 16' W 633.31 feet to an iron pipe found and S 84° 30' W 547.01 feet to an iron pin set at the most southerly corner of this tract;

THENCE, with a fence, N 59° 22' W 616.67 feet to an iron pin set, N 30° 43' E 475.78 feet to an iron pin set and N 39° 14' W 205.56 feet to an iron pin set at the most northerly west corner of this tract;

THENCE, N 32° 44' E 348.26 feet to an iron pin set on the south line, as fenced, of the Kyle-Science Hall Road, which point is the most northerly corner of this tract;

THENCE, with the south line, as fenced, of the Kyle-Science Hall Road, S 64° 01' E 286.19 feet to an iron pipe found at a corner fence post;

THENCE, with a fence, S 64° 12' E 320.46 feet to an iron pipe found, N 48° 25' E 105.47 feet to an iron pipe found and S 51° 23' E 658.67 feet to the POINT OF BEGINNING and containing 24.033 acres of land.

This conveyance is made subject to that undivided one sixteenth (1/16th) mineral estate reserved by the Federal Land Bank of Houston in that deed from said Bank to Mrs. C. C. Young, dated September 16, 1938, and recorded in Volume 123, pages 128-131, Hays County Deed Records.

To have and to hold the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Jack Hadsell and Janelle R. Hadsell, their heirs and assigns, forever; and we do hereby bind ourselves, our heirs, executors

and administrators, to warrant and forever defend, all and singular the said premises unto the said Jack Hadsell and Janelle R. Hadsell, their heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, subject to the hereinabove mentioned mineral reservation and the hereinafter described taxes and liens.

The consideration for this conveyance is as follows:

1. The assumption on the part of the said Jack Hadsell and Janelle R. Hadsell, effected by the acceptance of this conveyance, of all ad valorem taxes levied and assessed for the year of 1972 against the premises conveyed hereby.

2. The sum of Ten Dollars (\$10.00) cash to us in hand paid by the said Jack Hadsell and Janelle R. Hadsell, the receipt and sufficiency of which is hereby acknowledged and confessed, and for which no lien, express or implied, is retained.

3. The execution and delivery to the said Ardmore D. Dees by the said Jack Hadsell and Janelle R. Hadsell of their one certain promissory note dated of even date herewith, for the sum of Eight Thousand and No/100 Dollars (\$8,000.00) and payable to the said Ardmore D. Dees, or order, with interest and in installments as in said note provided. Said note is here referred to and made a part hereof for all pertinent purposes.

The vendor's lien is retained against the above described premises and improvements for the security and until the full and final payment of the above described note, when and whereupon this deed shall become absolute. Said note is further secured by a deed of trust of even date herewith from the maker of said note to Henry C. Kyle, Trustee, conveying said premises for the use and benefit of the holder of said note. Said deed of trust is here referred to for all pertinent purposes.

Witness our hands this the 1st day of May, 1972.

Ardmore D. Dees

Ardmore D. Dees

Iris S. Dees

Iris S. Dees

STATE OF TEXAS Y
 Y
COUNTY OF HAYS Y

BEFORE ME, the undersigned authority, on this day personally

mirrored text bleed-through from the reverse side of the page, including the words "STATE OF TEXAS" and "COUNTY OF HAYS".

VOL 250 PAGE 152

appeared Ardmore D. Dees and Iris S. Dees, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of

May, 1972.

Albert G. Walker
Notary Public, Hays County, Texas.

THE STATE OF TEXAS }
COUNTY OF HAYS }

I, LYDELL B. CLAYTON, Clerk of the County Court within and for the County and State aforesaid, do hereby certify that the within and foregoing instrument of writing with its Certificate of Authentication, was filed for record in my office on the 3rd day of May A.D., 1972 at 3:20 o'clock P.M., and duly recorded on the 4th day of May A.D., 1972 at 10:20 o'clock A.M. in the Deed Records of said County in Book Number 250 Pages 149-152 inclusive.

WITNESS MY HAND AND SEAL OF THE COUNTY COURT OF HAYS COUNTY, TEXAS, the date last above written.

Lydell B. Clayton By [Signature] Deputy
LYDELL B. CLAYTON, Clerk of the County Court within and for the County

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.

QUITCLAIM DEED

10028678 Bk Vol Pg
OPR 3988 777

THE STATE OF TEXAS §
§
COUNTY OF HAYS §

Grantor: HAYS COUNTY, TEXAS
a political subdivision of the State of Texas

Grantor's Mailing Address: 111 E. San Antonio Street, Suite 300
San Marcos, Hays County, Texas 78667

Grantee: Jack Hadsell

Grantee's Mailing Address: 2702 Jefferson
Austin, Texas 78703

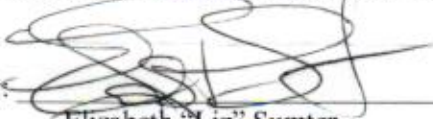
Property: That certain real property situated in Hays County, Texas, and being more particularly described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

By operation of law, the sufficiency of which is hereby acknowledged, and as authorized pursuant to that certain Resolution to Abandon, adopted by the Hays County Commissioners Court, dated May 12, 2010 and numbered 26129, a copy of which is attached hereto as Exhibit "B", Grantor quitclaims to Grantee all of Grantor's right, title, and interest in and to the Property, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Neither Grantor nor Grantor's heirs, successors, or assigns will have, claim, or demand any right or title to the Property or any part of it.

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

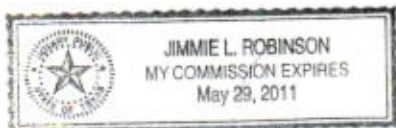
IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this the 12th day of October, 2010.

HAYS COUNTY, TEXAS
a political subdivision of the State of Texas

By: 
Elizabeth "Liz" Sumter
Hays County Judge

STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on October 12th, 2010 by Elizabeth "Liz" Sumter as County Judge of Hays County.




Notary Public, State of Texas



Bk Vol Pg
90012572 OPR 3651 873

Bk Vol Pg
10028678 OPR 3988 778

DESCRIPTION OF 0.62 OF AN ACRE, MORE OR LESS, OF LAND AREA IN THE D. DOWNER SURVEY, ABSTRACT NO. 151, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 2.305 ACRES IN A DEED FROM JACK W. CARAWAY ET UX TO HAYS COUNTY DATED FEBRUARY 12, 1996 AND RECORDED IN VOLUME 1206, PAGE 472 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, BEING A PORTION OF THE PREVIOUS LOCATION OF HAYS COUNTY ROAD NO. 122/BEE BEE ROAD, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found at the end of a wire fence in the southwest line of the previous location of Bee Bee Road for the west corner of this description, the north corner of that tract described as 24.033 acres in a deed from Ardmore D. Dees et ux to Jack Hadsell et ux dated May 1, 1972 and recorded in Volume 250, Page 149 of the Hays County Deed Records, and for the east corner of the remaining portion of that tract described as "Third Tract - 76 acres" in a deed from Ardmore D. Dees et ux to Alton J. Franke et ux dated November 12, 1975 and recorded in Volume 279, Page 565 of the Hays County Deed Records (said Hadsell 24.033 acre tract being a portion of the Franke 76 acre Third Tract), from which a 5/8" iron rod found with a plastic cap stamped "RPLS 4532" in the curving south line of the current location of Bee Bee Road for the east corner of that tract described as 0.484 acres in a deed from Evelyn B. Franke to Hays County dated March 8, 1996 and recorded in Volume 1214, Page 357 of the Hays County Official Public Records bears N 66°23'17" W 48.07 feet (said Hays County 0.484 acre tract being a portion of the Franke 76 acre Third Tract);

THENCE leaving the Franke tract, the Hadsell 24.033 acre tract, and the **PLACE OF BEGINNING** as shown on that plat numbered 26361-09-c dated February 24, 2009 prepared for Hays County by Byrn & Associates, Inc., of San Marcos, Texas, crossing portions of the previous location of Bee Bee Road and the Hays County 2.305 acre tract, the following three courses:

1. N 32°57'08" E 14.90 feet to a ½" iron rod set,

2. With a left-breaking curve having the following characteristics: **delta angle = 29°27'53"**, **radius = 498.37 feet**, **arc = 256.29 feet**, and a chord which bears **N 79°37'27" E 253.48 feet** to a ½" iron rod set for the north corner of this description, and

3. **S 32°36'07" E 96.57 feet** to a ½" iron rod set in the southeast line of the previous location of Bee Bee Road and northwest line of that tract described as 25.00 acres in a deed from Ellen Long to Steven B. Thomas and Rebecca J. Thomas Dated February 24, 1998 and recorded in Volume 1464, Page 756 of the Hays County Official Public Records for the east corner of this description, from which a 5/8" iron rod found in the curving southeast line of the current location of Bee Bee Road and northwest line of that tract described as 25.00 acres in a deed from Elon C. Nash to Steven B. Thomas and Rebecca J. Thomas dated February 24, 1998 and recorded in Volume 1464, Page 350 of the Hays County Official Public Records for the south corner of that tract described as 0.173 of an acre in a deed from Elon C. Nash to Hays County dated August 8, 1995 and recorded in Volume 1166, Page 738 of the Hays County Official Public Records bears **N 27°05'51" E 210.44 feet**;

THENCE with the common northwest line of the Thomas 25.00 acre tract recorded in Volume 1464, Page 756 and southeast line of the previous location of Bee Bee Road, **S 27°05'51" W 114.74 feet** to a ½" iron rod found in the northeast line of the previously mentioned Hadsell 24.033 acre tract for the south corner of this description and the previous location of Bee Bee Road and west corner of the Thomas 25.00 acre tract;

THENCE leaving the Thomas 25.00 acre tract with the common northeast line of the Hadsell 24.033 acre tract and southwest line of the previous location of Bee Bee Road, **N 64°01'00" W (being the bearing basis for this description) 286.12 feet** to the **PLACE OF BEGINNING**.

Bk Vol Pg
90012572 OPR 3651 875
Bk Vol Pg
10028678 OPR 3988 780

THERE are contained within these metes and bounds 0.62 of an acre, more or less, as prepared from public records and a survey made on the ground on February 24, 2009 by Byrn & Associates, Inc., of San Marcos, Texas. All 1/2" iron rods set are capped with a plastic cap stamped "Byrn Survey".



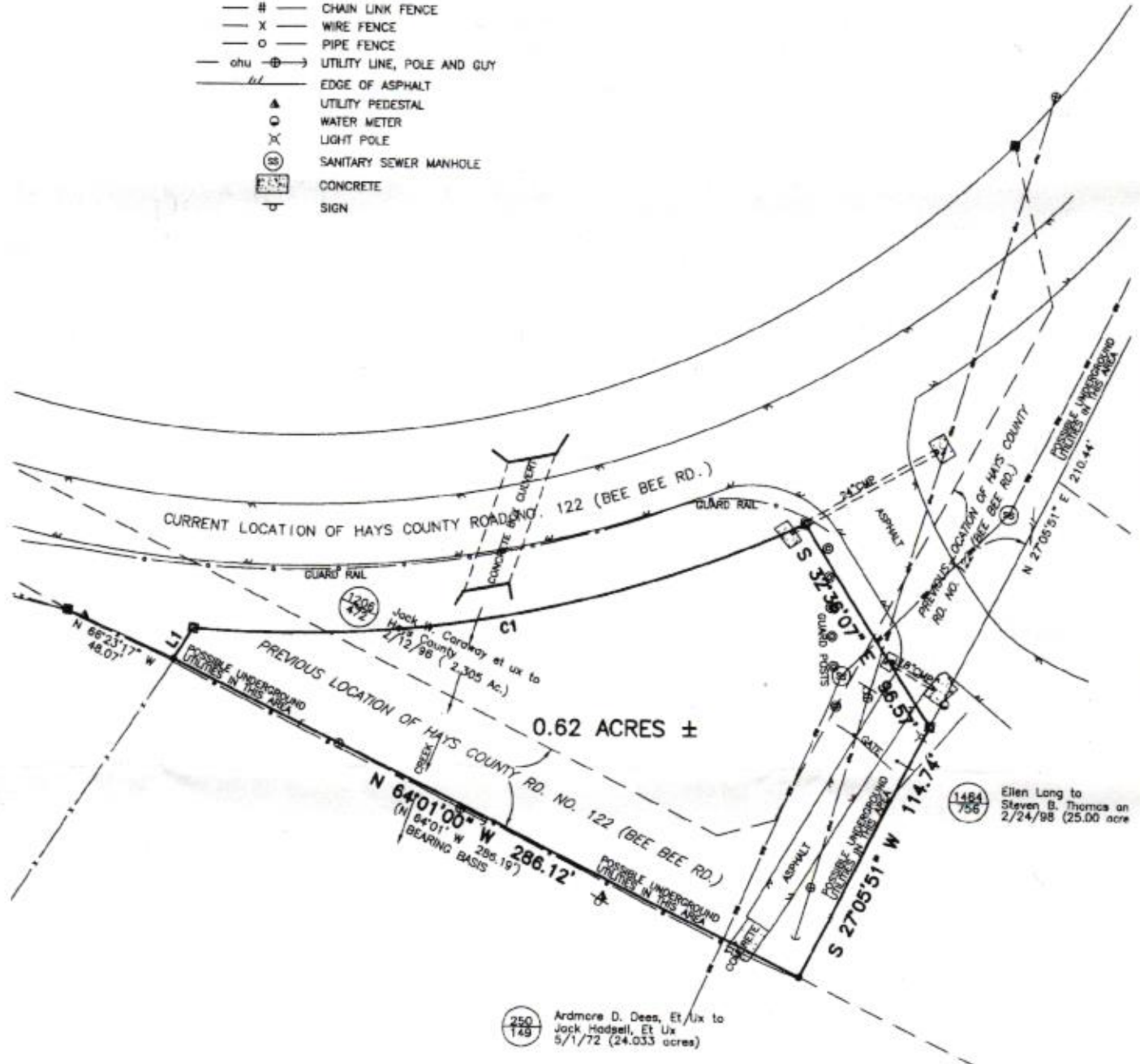
Kyle Smith, R.P.L.S. # 5307



Client: Hays County
Date: February 24, 2009
Survey: Downer, D. A-151
County: Hays, Texas
Job No: 26361-09
FND0.62

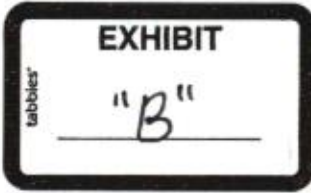
LEGEND

- (VOL PG) HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
- 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- 1/2" IRON ROD FOUND OR DIAMETER NOTED
- 5/8" IRON ROD FOUND WITH PLASTIC CAP STAMPED "RPLS 4532"
- // — WOOD FENCE
- # — CHAIN LINK FENCE
- X — WIRE FENCE
- o — PIPE FENCE
- ohu ⊕ — UTILITY LINE, POLE AND GUY
- / / — EDGE OF ASPHALT
- ▲ UTILITY PEDESTAL
- WATER METER
- ⊗ LIGHT POLE
- ⊕ SANITARY SEWER MANHOLE
- ⊞ CONCRETE
- ⊞ SIGN



BEARING	DISTANCE
N 32°57'08" E	14.90'

ΔVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
	29°27'53"	498.37'	256.29'	N 79°37'27" E	253.48'



CERTIFIED COPY OF HAYS COUNTY COMMISSIONERS' COURT MINUTES

**STATE OF TEXAS *
COUNTY OF HAYS ***

ON THIS THE 12TH DAY OF MAY A.D., 2010, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

**ELIZABETH "LIZ" SUMTER
DEBBIE GONZALES INGALSBE
JEFFERSON W. BARTON
WILL CONLEY
KAREN FORD
LINDA C. FRITSCHÉ**

**COUNTY JUDGE
COMMISSIONER, PCT. 1
COMMISSIONER, PCT. 2
COMMISSIONER, PCT. 3
COMMISSIONER, PCT. 4
COUNTY CLERK**

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

26129 CLOSE, ABANDON, AND VACATE .62 ACRES OF COUNTY RIGHT-OF-WAY ON ROAD IN PRECINCT 1; AND TO RECORD THE ORDER CLOSING, ABANDONING, AND VACATING THIS PROPERTY IN THE OFFICIAL COUNTY RECORDS [T1-1821]

RPTP Director Jerry Borcharding advised that this property is of no value to the county. Special Counsel Mark Kennedy spoke of Order conveying the property and he spoke of Chapter 251 of the Transportation Code. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to close, abandon, and vacate .62 acres of county Right-of-Way on BeBee Road in Precinct 1; and to record the order closing, abandoning, and vacating this property in the official County Records. All voting "Aye". **MOTION PASSED**

**THE STATE OF TEXAS
COUNTY OF HAYS**

I, Linda C. Fritsche, County Clerk and Ex-Officio Clerk of the Commissioners' Court of Hays County, Texas, do hereby certify that the following contains a true and correct copy of the minutes of **MAY 12, 2010** under Resolution #26129 in the Commissioners' Court Minutes of Hays County, Texas:

Given under my hand and seal of office at San Marcos, Texas this the 16TH day of **JULY**, 2010.

**LINDA C. FRITSCHÉ, COUNTY CLERK AND
EXOFFICIO CLERK OF THE HAYS
COUNTY COMMISSIONERS' COURT**

BY *Liz Ingalsbe*
DEPUTY

Clerk's Note: Property Owner – Jack Hadsell, 2702 Jefferson St. Austin, TX 78703

LETTERS TESTAMENTARY

ESTATE OF
JANELLE HADSELL
DECEASED

C-1-PB-20-000850
IN PROBATE COURT NUMBER ONE
TRAVIS COUNTY, TEXAS

THE STATE OF TEXAS *
COUNTY OF TRAVIS *

I, the undersigned Clerk of the Probate Court No. 1 of Travis County Texas, do hereby certify that on **July 30, 2020**, **REBECCA ANN HADSELL AND SHEILA LYNN WEBB** was duly granted by said Court, Letters Testamentary of the Estate of **JANELLE HADSELL** Deceased, and that **they** qualified as **Independent Co-Executors** without bond of said estate on **July 30, 2020** as the law requires, said appointment is still in full force and effect.

Given under my hand and seal of office at Austin, Texas, on **July 30, 2020**.

Dana DeBeauvoir

County Clerk, Travis County, Texas

P.O. Box 149325 Austin, Texas 78714-9325

By Deputy


B. HICKS



ESTATE OF	§	IN THE PROBATE COURT
JANELLE HADSELL,	§	
DECEASED	§	NO. 1 OF
	§	
	§	TRAVIS COUNTY, TEXAS

PROOF OF DEATH AND OTHER FACTS

On this day, Sheila Lynn Webb ("Affiant") personally appeared in open court, and after being duly sworn, deposed and said:

1. My name is Sheila Lynn Webb and I am the daughter of Janelle Hadsell. Janelle Hadsell ("Decedent") died on January 24, 2020 at the Windchime Assisted Living Facility, 216 Covenant Lane, Kingsland, Llano County, Texas, 78639 at the age of 92 years. Four years have not elapsed since the date of Decedent's death.

2. Although Decedent died in Llano Country, the Decedent was domiciled and had a fixed place of residence in Austin, Travis County, Texas at the date of death.

3. The document dated November 5, 2009, now shown to me and which purports to be Decedent's Will, was never revoked so far as I know.

4. A necessity exists for the administration of this Estate because the Decedent owned assets that require administration.

5. After the date of the Will, no children were born to or adopted by Decedent.

6. After the date of this Will no marriage of Decedent was ever dissolved.

7. The State of Texas, a governmental agency of the State of Texas, or a charitable organization are not named by Decedent's Will as a Devisee.

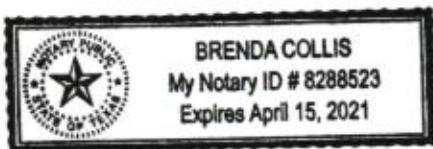
8. Decedent's Will named Rebecca Ann Hadsell and Sheila Lynn Webb, the Applicants herein, as Independent Co-Executors to serve without bond, and they are duly qualified and not disqualified by law from accepting Letters Testamentary or from serving as executors of this estate and are entitled to such letters.

C-1-PB-20-000850

SIGNED this 30th day of July, 2020.

Sheila Lynn Webb
Sheila Lynn Webb, Affiant

SUSCRIBED AND SWORN TO BEFORE ME by Sheila Lynn Webb this 30th day of July, 2020, to certify which witness my hand and seal of office.



Brenda Collis
Notary Public in and for the State of Texas

STATE OF TEXAS
CERTIFICATION OF VITAL RECORD

DEPARTMENT OF STATE HEALTH SERVICES
VITAL STATISTICS

TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS

Jan 28 2020

STATE OF TEXAS

CERTIFICATE OF DEATH

STATE FILE NUMBER

142-20-011177

1. LEGAL NAME OF DECEASED (Include AKA's, if any) (First, Middle, Last) JANELLE HAUSELL				(Before Marriage) RAPE		2. DATE OF DEATH - ACTUAL OR PRESUMED (mm-dd-yyyy) JANUARY 24, 2020	
3. SEX FEMALE	4. DATE OF BIRTH (mm-dd-yyyy) MARCH 22, 1927	5. AGE - Last Birthday (Years) 92	IF UNDER 1 YR MI Days		IF UNDER 1 DAY HOURS MIN		6. BIRTHPLACE (City & State or Foreign Country) MINEOLA, TX
7. SOCIAL SECURITY NUMBER 457-38-9673		8. MARITAL STATUS AT TIME OF DEATH: <input type="checkbox"/> Married <input type="checkbox"/> Divorced (but not remarried) <input checked="" type="checkbox"/> Widowed (but not remarried) <input type="checkbox"/> Never Married <input type="checkbox"/> Unknown			9. SURVIVING SPOUSE'S NAME (If spouse, give name prior to first marriage)		
10a. RESIDENCE STREET ADDRESS 1804 REDD ST				10b. APT. NO.	10c. CITY OR TOWN AUSTIN		
10d. COUNTY TRAVIS		10e. STATE TEXAS		10f. ZIP CODE 78745		10g. INSIDE CITY LIMITS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
11. FATHER/PARENT 2 NAME PRIOR TO FIRST MARRIAGE GRADY RAPE				12. MOTHER/PARENT 1 NAME PRIOR TO FIRST MARRIAGE ETNA HORTON			
13. PLACE OF DEATH (CHECK ONLY ONE) IF DEATH OCCURRED IN A HOSPITAL: <input type="checkbox"/> Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> DOA IF DEATH OCCURRED SOMEWHERE OTHER THAN A HOSPITAL: <input type="checkbox"/> Hospice Facility <input checked="" type="checkbox"/> Nursing Home <input type="checkbox"/> Decedent's Home <input type="checkbox"/> Other (Specify)							
14. COUNTY OF DEATH LLANO				15. CITY/TOWN, ZIP - (IF OUTSIDE CITY LIMITS, GIVE PRECINCT NO) KINGSLAND, 78639		16. FACILITY NAME (If not institution, give street address) WINDCHIME	
17. INFORMANT'S NAME & RELATIONSHIP TO DECEASED SHEILA WEBB - DAUGHTER				18. MAILING ADDRESS OF INFORMANT (Street and Number, City, State, Zip Code) 304 BRIDGEPOINT DRIVE, KINGSLAND, TX 78639			
19. METHOD OF DISPOSITION: <input type="checkbox"/> Burial <input checked="" type="checkbox"/> Cremation <input type="checkbox"/> Donation <input type="checkbox"/> Entombment <input type="checkbox"/> Removal from state <input type="checkbox"/> Mausoleum <input type="checkbox"/> Other (Specify)			20. SIGNATURE AND LICENSE NUMBER OF FUNERAL DIRECTOR OR PERSON ACTING AS SUCH ELIJAH M. HEATLEY, BY ELECTRONIC SIGNATURE - 116789			21. <input checked="" type="checkbox"/> Unknown Section _____ Block _____ Lot _____ Space _____	
22. PLACE OF DISPOSITION (Name of cemetery, crematory, other place) PUTNAM CREMATORY				23. LOCATION (City/Town, and State) KINGSLAND, TX			
24. NAME OF FUNERAL FACILITY PUTNAM FUNERAL HOME, LLC				25. COMPLETE ADDRESS OF FUNERAL FACILITY (Street and Number, City, State, Zip Code) 145 TEXAS AVE., KINGSLAND, TX 78639			
26. CERTIFIER (Check only one) <input checked="" type="checkbox"/> Certifying physician - To the best of my knowledge, death occurred due to the cause(s) and manner stated. <input type="checkbox"/> Medical Examiner/Judge of the Peace - On the basis of examination, and/or investigation in my opinion, death occurred at the time, date and place, and due to the cause(s) and manner stated.							
27. SIGNATURE OF CERTIFIER ALAN LEIFESTE, BY ELECTRONIC SIGNATURE				28. DATE CERTIFIED (mm-dd-yyyy) JANUARY 27, 2020		29. LICENSE NUMBER M0791	
30. TIME OF DEATH (Actual or presumed) 03:24 PM						31. PRINTED NAME, ADDRESS OF CERTIFIER (Street and Number, City, State, Zip Code) ALAN LEIFESTE 525 RANCH ROAD 2900, KINGSLAND, TX 78639	
32. TITLE OF CERTIFIER MD						33. PART 1. ENTER THE CHAIN OF EVENTS - DISEASES, INJURIES, OR COMPLICATIONS - THAT DIRECTLY CAUSED THE DEATH. DO NOT ENTER TERMINAL EVENTS SUCH AS CARDIAC ARREST, RESPIRATORY ARREST, OR VENTRICULAR FIBRILLATION WITHOUT SHOWING THE ETIOLOGY. DO NOT ABBREVIATE. ENTER ONLY ONE CAUSE ON EACH. IMMEDIATE CAUSE (Final disease or condition resulting in death) a. SENILE DEGENERATION OF BRAIN Due to (or as a consequence of) Sequentially list conditions, if any, leading to the cause listed on line a. Enter the UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST b. _____ Due to (or as a consequence of) c. _____ Due to (or as a consequence of) d. _____ Due to (or as a consequence of)	
34. WAS AN AUTOPSY PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				35. WERE AUTOPSY FINDINGS AVAILABLE TO COMPLETE THE CAUSE OF DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> No			
PART 2. ENTER OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN PART 1.							
36. MANNER OF DEATH: <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined		37. DID TOBACCO USE CONTRIBUTE TO DEATH? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Previously <input type="checkbox"/> Probably <input type="checkbox"/> Unknown		38. IF FEMALE: <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to one year before death <input type="checkbox"/> Unknown if pregnant within the past year		39. IF TRANSPORTATION INJURY, SPECIFY: <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other (Specify)	
40a. DATE OF INJURY (mm-dd-yyyy)		40b. TIME OF INJURY		40c. INJURY AT WORK? <input type="checkbox"/> Yes <input type="checkbox"/> No		40d. PLACE OF INJURY (e.g. Decedent's home, construction site, restaurant, wooded area)	
40e. LOCATION (Street and Number, City, State, Zip Code)						40f. COUNTY OF INJURY	
41. DESCRIBE HOW INJURY OCCURRED							
42a. REGISTRAR FILE NO.		42b. DATE RECEIVED BY LOCAL REGISTRAR		42c. REGISTRAR <i>Tara Das</i>			

TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS UNIT

WARNING: The penalty for knowingly making a false statement in this form can be 2-10 years in prison and a fine up to \$10,000. (Health and Safety Code, Sec. 191.198)

VS-112 REV 1/2006

EDR NUMBER 00004444547864

This is a true and correct copy of the record as registered in the State of Texas. Issued under the authority of Section 191.051, Health and Safety Code.

ISSUED Jan 30 2020

Tara Das
TARA DAS
STATE REGISTRAR

JON

WARNING: THIS DOCUMENT HAS A DARK BLUE BORDER AND A COLORED BACKGROUND

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE



Item # 18

STATE OF TEXAS
 COUNTY OF HAYS

Y
 Y
 X

KNOW ALL MEN BY THESE PRESENTS:

#76546

76546

That we, Ardmore D. Dees and wife, Iris S. Dees, of the County of Hays and State of Texas, for the consideration hereinafter shown as paid and secured to be paid by Jack Hadsell and wife, Janelle R. Hadsell, have granted, sold and conveyed, and by these presents do grant, sell and convey, unto the said Jack Hadsell and Janelle R. Hadsell of the County of **TRAVIS** and State of Texas, subject to the hereinafter mentioned taxes, liens and mineral reservation, all of that certain parcel of land situated in Hays County, Texas, being 24.033 acres of land, same being out of and a part of the D. Downer Survey No. 22 and the A. Brichta Survey in Hays County, Texas; said 24.033 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at an iron pipe found at the most easterly corner, as fenced, of that certain 30 acres, more or less, of land conveyed to Mrs. C. C. Young by deed of record in Volume 123 at Pages 128-131 of the Deed Records of Hays County, Texas, which point of beginning is the most easterly corner of this tract;

THENCE, with a fence, S 35° 16' W 633.31 feet to an iron pipe found and S 84° 30' W 547.01 feet to an iron pin set at the most southerly corner of this tract;

THENCE, with a fence, N 59° 22' W 616.67 feet to an iron pin set, N 30° 43' E 475.78 feet to an iron pin set and N 39° 14' W 205.56 feet to an iron pin set at the most northerly west corner of this tract;

THENCE, N 32° 44' E 348.26 feet to an iron pin set on the south line, as fenced, of the Kyle-Science Hall Road, which point is the most northerly corner of this tract;

THENCE, with the south line, as fenced, of the Kyle-Science Hall Road, S 64° 01' E 286.19 feet to an iron pipe found at a corner fence post;

THENCE, with a fence, S 64° 12' E 320.46 feet to an iron pipe found, N 48° 25' E 105.47 feet to an iron pipe found and S 51° 23' E 658.67 feet to the POINT OF BEGINNING and containing 24.033 acres of land.

This conveyance is made subject to that undivided one sixteenth (1/16th) mineral estate reserved by the Federal Land Bank of Houston in that deed from said Bank to Mrs. C. C. Young, dated September 16, 1938, and recorded in Volume 123, pages 128-131, Hays County Deed Records.

To have and to hold the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Jack Hadsell and Janelle R. Hadsell, their heirs and assigns, forever; and we do hereby bind ourselves, our heirs, executors

and administrators, to warrant and forever defend, all and singular the said premises unto the said Jack Hadsell and Janelle R. Hadsell, their heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, subject to the hereinabove mentioned mineral reservation and the hereinafter described taxes and liens.

The consideration for this conveyance is as follows:

1. The assumption on the part of the said Jack Hadsell and Janelle R. Hadsell, effected by the acceptance of this conveyance, of all ad valorem taxes levied and assessed for the year of 1972 against the premises conveyed hereby.

2. The sum of Ten Dollars (\$10.00) cash to us in hand paid by the said Jack Hadsell and Janelle R. Hadsell, the receipt and sufficiency of which is hereby acknowledged and confessed, and for which no lien, express or implied, is retained.

3. The execution and delivery to the said Ardmore D. Dees by the said Jack Hadsell and Janelle R. Hadsell of their one certain promissory note dated of even date herewith, for the sum of Eight Thousand and No/100 Dollars (\$8,000.00) and payable to the said Ardmore D. Dees, or order, with interest and in installments as in said note provided. Said note is here referred to and made a part hereof for all pertinent purposes.

The vendor's lien is retained against the above described premises and improvements for the security and until the full and final payment of the above described note, when and whereupon this deed shall become absolute. Said note is further secured by a deed of trust of even date herewith from the maker of said note to Henry C. Kyle, Trustee, conveying said premises for the use and benefit of the holder of said note. Said deed of trust is here referred to for all pertinent purposes.

Witness our hands this the 1st day of May, 1972.

Ardmore D. Dees

Ardmore D. Dees

Iris S. Dees

Iris S. Dees

STATE OF TEXAS Y
 Y
COUNTY OF HAYS Y

BEFORE ME, the undersigned authority, on this day personally

mirrored text bleed-through from the reverse side of the page, including the words "STATE OF TEXAS" and "COUNTY OF HAYS".

VOL 250 PAGE 152

appeared Ardmore D. Dees and Iris S. Dees, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of

May, 1972.

Albert G. Walker
Notary Public, Hays County, Texas.

THE STATE OF TEXAS }
COUNTY OF HAYS }

I, LYDELL B. CLAYTON, Clerk of the County Court within and for the County and State aforesaid, do hereby certify that the within and foregoing instrument of writing with its Certificate of Authentication, was filed for record in my office on the 3rd day of May, A.D., 1972 at 3:20 o'clock P.M., and duly recorded on the 4th day of May, A.D., 1972 at 10:20 o'clock A.M. in the Deed Records of said County in Book Number 250 Pages 149-152 Inclusive.

WITNESS MY HAND AND SEAL OF THE COUNTY COURT OF HAYS COUNTY, TEXAS, the date last above written.

Lydell B. Clayton By [Signature] Deputy
LYDELL B. CLAYTON, Clerk of the County Court within and for the County

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.

QUITCLAIM DEED

10028678 Bk Vol Pg
OPR 3988 777

THE STATE OF TEXAS §
§
COUNTY OF HAYS §

Grantor: HAYS COUNTY, TEXAS
a political subdivision of the State of Texas

Grantor's Mailing Address: 111 E. San Antonio Street, Suite 300
San Marcos, Hays County, Texas 78667

Grantee: Jack Hadsell

Grantee's Mailing Address: 2702 Jefferson
Austin, Texas 78703

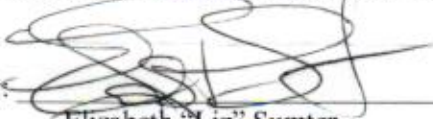
Property: That certain real property situated in Hays County, Texas, and being more particularly described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

By operation of law, the sufficiency of which is hereby acknowledged, and as authorized pursuant to that certain Resolution to Abandon, adopted by the Hays County Commissioners Court, dated May 12, 2010 and numbered 26129, a copy of which is attached hereto as Exhibit "B", Grantor quitclaims to Grantee all of Grantor's right, title, and interest in and to the Property, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Neither Grantor nor Grantor's heirs, successors, or assigns will have, claim, or demand any right or title to the Property or any part of it.

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

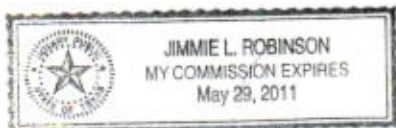
IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this the 12th day of October, 2010.

HAYS COUNTY, TEXAS
a political subdivision of the State of Texas

By: 
Elizabeth "Liz" Sumter
Hays County Judge

STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on October 12th, 2010 by Elizabeth "Liz" Sumter as County Judge of Hays County.




Notary Public, State of Texas



Bk Vol Pg
90012572 OPR 3651 873

Bk Vol Pg
10028678 OPR 3988 778

DESCRIPTION OF 0.62 OF AN ACRE, MORE OR LESS, OF LAND AREA IN THE D. DOWNER SURVEY, ABSTRACT NO. 151, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 2.305 ACRES IN A DEED FROM JACK W. CARAWAY ET UX TO HAYS COUNTY DATED FEBRUARY 12, 1996 AND RECORDED IN VOLUME 1206, PAGE 472 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, BEING A PORTION OF THE PREVIOUS LOCATION OF HAYS COUNTY ROAD NO. 122/BEE BEE ROAD, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found at the end of a wire fence in the southwest line of the previous location of Bee Bee Road for the west corner of this description, the north corner of that tract described as 24.033 acres in a deed from Ardmore D. Dees et ux to Jack Hadsell et ux dated May 1, 1972 and recorded in Volume 250, Page 149 of the Hays County Deed Records, and for the east corner of the remaining portion of that tract described as "Third Tract - 76 acres" in a deed from Ardmore D. Dees et ux to Alton J. Franke et ux dated November 12, 1975 and recorded in Volume 279, Page 565 of the Hays County Deed Records (said Hadsell 24.033 acre tract being a portion of the Franke 76 acre Third Tract), from which a 5/8" iron rod found with a plastic cap stamped "RPLS 4532" in the curving south line of the current location of Bee Bee Road for the east corner of that tract described as 0.484 acres in a deed from Evelyn B. Franke to Hays County dated March 8, 1996 and recorded in Volume 1214, Page 357 of the Hays County Official Public Records bears N 66°23'17" W 48.07 feet (said Hays County 0.484 acre tract being a portion of the Franke 76 acre Third Tract);

THENCE leaving the Franke tract, the Hadsell 24.033 acre tract, and the **PLACE OF BEGINNING** as shown on that plat numbered 26361-09-c dated February 24, 2009 prepared for Hays County by Byrn & Associates, Inc., of San Marcos, Texas, crossing portions of the previous location of Bee Bee Road and the Hays County 2.305 acre tract, the following three courses:

1. N 32°57'08" E 14.90 feet to a ½" iron rod set,

2. With a left-breaking curve having the following characteristics: **delta angle = 29°27'53"**, **radius = 498.37 feet**, **arc = 256.29 feet**, and a chord which bears **N 79°37'27" E 253.48 feet** to a ½" iron rod set for the north corner of this description, and
3. **S 32°36'07" E 96.57 feet** to a ½" iron rod set in the southeast line of the previous location of Bee Bee Road and northwest line of that tract described as 25.00 acres in a deed from Ellen Long to Steven B. Thomas and Rebecca J. Thomas Dated February 24, 1998 and recorded in Volume 1464, Page 756 of the Hays County Official Public Records for the east corner of this description, from which a 5/8" iron rod found in the curving southeast line of the current location of Bee Bee Road and northwest line of that tract described as 25.00 acres in a deed from Elon C. Nash to Steven B. Thomas and Rebecca J. Thomas dated February 24, 1998 and recorded in Volume 1464, Page 350 of the Hays County Official Public Records for the south corner of that tract described as 0.173 of an acre in a deed from Elon C. Nash to Hays County dated August 8, 1995 and recorded in Volume 1166, Page 738 of the Hays County Official Public Records bears **N 27°05'51" E 210.44 feet**;

THENCE with the common northwest line of the Thomas 25.00 acre tract recorded in Volume 1464, Page 756 and southeast line of the previous location of Bee Bee Road, **S 27°05'51" W 114.74 feet** to a ½" iron rod found in the northeast line of the previously mentioned Hadsell 24.033 acre tract for the south corner of this description and the previous location of Bee Bee Road and west corner of the Thomas 25.00 acre tract;

THENCE leaving the Thomas 25.00 acre tract with the common northeast line of the Hadsell 24.033 acre tract and southwest line of the previous location of Bee Bee Road, **N 64°01'00" W (being the bearing basis for this description) 286.12 feet** to the **PLACE OF BEGINNING**.

Bk Vol Pg
90012572 OPR 3651 875
Bk Vol Pg
10028678 OPR 3988 780

THERE are contained within these metes and bounds 0.62 of an acre, more or less, as prepared from public records and a survey made on the ground on February 24, 2009 by Byrn & Associates, Inc., of San Marcos, Texas. All 1/2" iron rods set are capped with a plastic cap stamped "Byrn Survey".



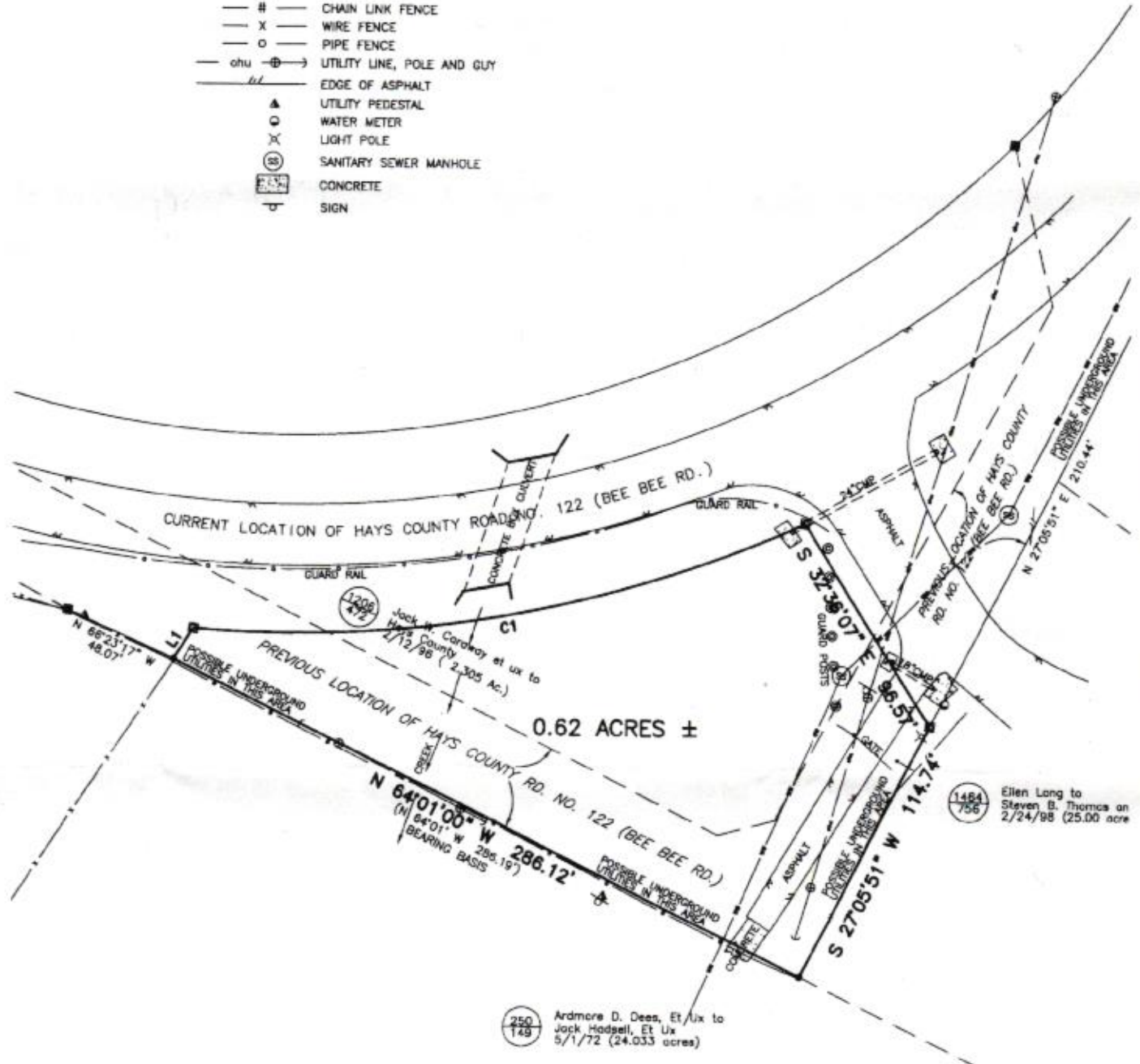
Kyle Smith, R.P.L.S. # 5307



Client: Hays County
Date: February 24, 2009
Survey: Downer, D. A-151
County: Hays, Texas
Job No: 26361-09
FND0.62

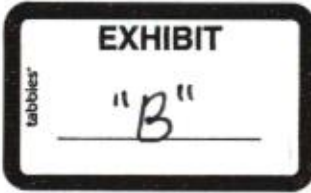
LEGEND

- (VOL PG) HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
- 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
- 1/2" IRON ROD FOUND OR DIAMETER NOTED
- 5/8" IRON ROD FOUND WITH PLASTIC CAP STAMPED "RPLS 4532"
- // — WOOD FENCE
- # — CHAIN LINK FENCE
- X — WIRE FENCE
- o — PIPE FENCE
- ohu ⊕ — UTILITY LINE, POLE AND GUY
- / / — EDGE OF ASPHALT
- ▲ UTILITY PEDESTAL
- WATER METER
- ⊗ LIGHT POLE
- ⊕ SANITARY SEWER MANHOLE
- ⊞ CONCRETE
- ⊟ SIGN



BEARING	DISTANCE
N 32°57'08" E	14.90'

Δ	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
2	29°27'53"	498.37'	256.29'	N 79°37'27" E	253.48'



CERTIFIED COPY OF HAYS COUNTY COMMISSIONERS' COURT MINUTES

**STATE OF TEXAS *
COUNTY OF HAYS ***

ON THIS THE 12TH DAY OF MAY A.D., 2010, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

**ELIZABETH "LIZ" SUMTER
DEBBIE GONZALES INGALSBE
JEFFERSON W. BARTON
WILL CONLEY
KAREN FORD
LINDA C. FRITSCHÉ**

**COUNTY JUDGE
COMMISSIONER, PCT. 1
COMMISSIONER, PCT. 2
COMMISSIONER, PCT. 3
COMMISSIONER, PCT. 4
COUNTY CLERK**

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

26129 CLOSE, ABANDON, AND VACATE .62 ACRES OF COUNTY RIGHT-OF-WAY ON ROAD IN PRECINCT 1; AND TO RECORD THE ORDER CLOSING, ABANDONING, AND VACATING THIS PROPERTY IN THE OFFICIAL COUNTY RECORDS [T1-1821]

RPTP Director Jerry Borcharding advised that this property is of no value to the county. Special Counsel Mark Kennedy spoke of Order conveying the property and he spoke of Chapter 251 of the Transportation Code. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to close, abandon, and vacate .62 acres of county Right-of-Way on BeBee Road in Precinct 1; and to record the order closing, abandoning, and vacating this property in the official County Records. All voting "Aye".
MOTION PASSED

**THE STATE OF TEXAS
COUNTY OF HAYS**

I, Linda C. Fritsche, County Clerk and Ex-Officio Clerk of the Commissioners' Court of Hays County, Texas, do hereby certify that the following contains a true and correct copy of the minutes of **MAY 12, 2010** under Resolution #26129 in the Commissioners' Court Minutes of Hays County, Texas:

Given under my hand and seal of office at San Marcos, Texas this the 16TH day of **JULY**, 2010.

**LINDA C. FRITSCHÉ, COUNTY CLERK AND
EXOFFICIO CLERK OF THE HAYS
COUNTY COMMISSIONERS' COURT**

BY 
DEPUTY

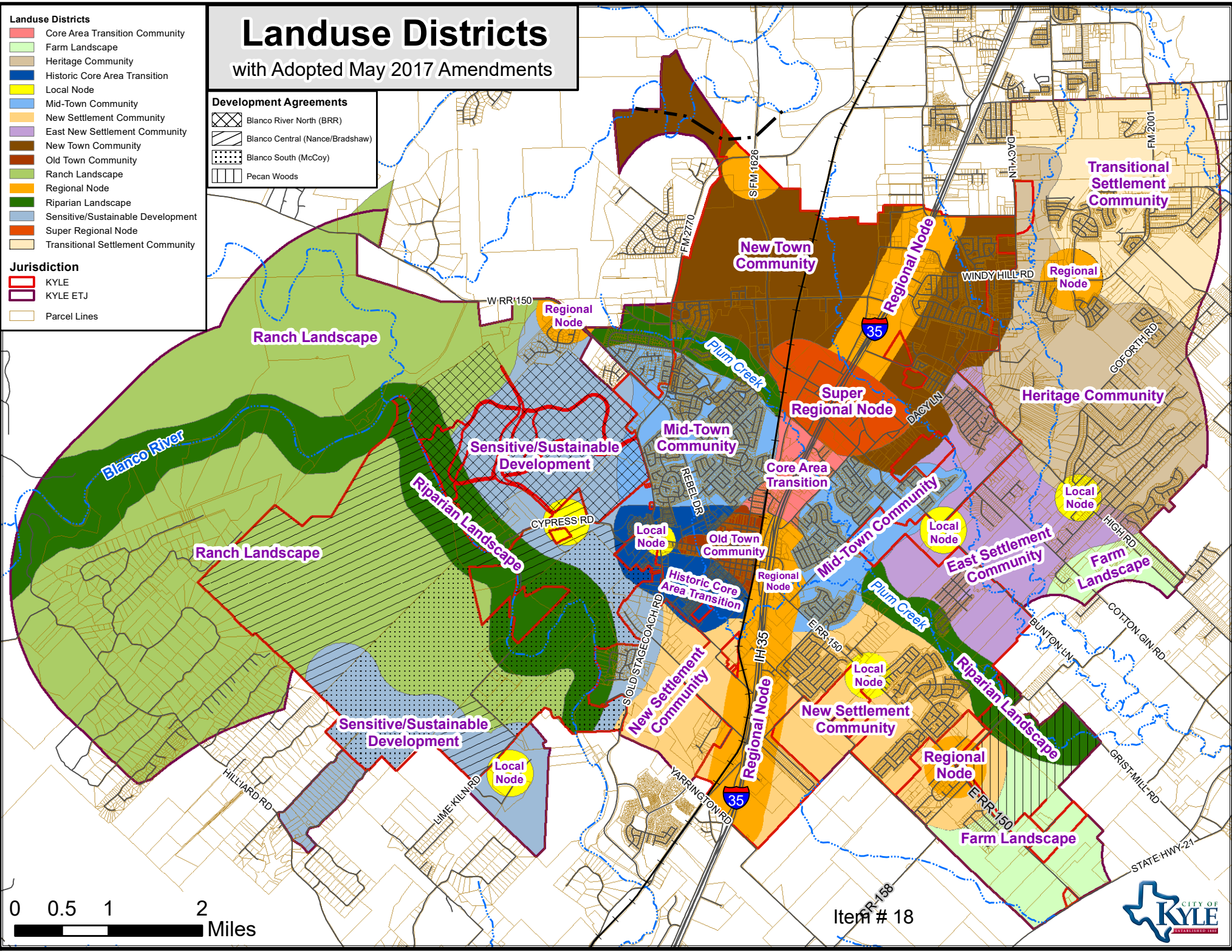
Clerk's Note: Property Owner – Jack Hadsell, 2702 Jefferson St. Austin, TX 78703

Landuse Districts

with Adopted May 2017 Amendments

- Landuse Districts**
- Core Area Transition Community
 - Farm Landscape
 - Heritage Community
 - Historic Core Area Transition
 - Local Node
 - Mid-Town Community
 - New Settlement Community
 - East New Settlement Community
 - New Town Community
 - Old Town Community
 - Ranch Landscape
 - Regional Node
 - Riparian Landscape
 - Sensitive/Sustainable Development
 - Super Regional Node
 - Transitional Settlement Community
- Jurisdiction**
- KYLE
 - KYLE ETJ
 - Parcel Lines

- Development Agreements**
- Blanco River North (BRR)
 - Blanco Central (Nance/Bradshaw)
 - Blanco South (McCoy)
 - Pecan Woods



Item # 18





CITY OF KYLE, TEXAS

Central Park Parcel Conveyance

Meeting Date: 5/18/2021
Date time: 7:00 PM

Subject/Recommendation: *[POSTPONED 5/4/2021]* Consider approving an Amendment Regarding Declaration related to the Conveyance of the Central Park Parcel to the City and Authorize the City Manager to Execute Documents Related to Closing on the Parcel. ~ *Paige Saenz, City Attorney*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Central Park - Site-Specific Declaration
- Central Park - Agreement Regarding Declaration
- DOCS-#359713-v1-RECORDED_Plat-_Park_Parcel

**SITE-SPECIFIC DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS
[Central Park]**

STATE OF TEXAS

COUNTY OF HAYS

This *Site-Specific Declaration of Covenants, Restrictions, and Easements [Central Park]* (this "**Declaration**") is made this ____ day of _____, 2021, by **PLUM CREEK DEVELOPMENT PARTNERS, LTD**, a Texas limited partnership and **MOUNTAIN PLUM, LTD.**, a Texas limited partnership, on behalf of itself, its successors and assigns ("**Declarant**").

BACKGROUND STATEMENT

That certain tract of real property described as Lot 1, Block A of the Final Plat of Plum Creek Uptown Central Park, a subdivision located in Hays County, Texas, according to the map or plat recorded as Document No. 21018804 in the Official Public Records of Hays County, Texas ("**Restricted Area**") is adjacent to or in the vicinity of certain real property which Declarant is developing as a master planned community known as Plum Creek ("**Community**"). The land that may be made part of the Community by annexation is described in that certain _____, recorded as Document No. _____ in the Official Public Records of Hays County, Texas, as may be supplemented and amended from time to time (collectively, the "**Community Declaration**").

To provide for the development and use of the Restricted Area in a manner that complements and does not detract from the Community, the City of Kyle, Texas, its affiliates, successors or assigns ("**City**"), as the present owner of the Restricted Area, hereby consents that the Restricted Area shall be subject to the terms, covenants, conditions, easements, and restrictions of this Declaration, as evidenced by its signature as attached hereto.

NOW, THEREFORE, Declarant and the City hereby declares that the Restricted Area shall be owned, conveyed and used subject to the provisions of this Declaration, which shall constitute a covenant running with the title to such property and shall be binding upon all Persons now or hereafter having any right, title, or interest in the Restricted Area, and their heirs, successors, successors-in-title, and assigns. This Declaration, as may be supplemented and amended from time to time, shall inure to the benefit of, and shall be enforceable by Declarant until such time as Declarant or the successors and assigns of Declarant cease to exist; thereafter, this Declaration shall inure to the benefit, of and shall be enforceable by the _____, a Texas nonprofit corporation, its successors and assigns ("**Association**") and, at such time, the Board of the Association ("**Board**") shall have all the rights and powers of the Declarant hereunder.

1. Use and Conduct

1.1. **Land Use Covenants.** The Restricted Area shall expressly NOT be a part of the Community Declaration and, therefore, the holder of record title to all or any portion of the Restricted Area ("**Owner**") shall not be a member of the Association, but the Restricted Area, and any portion thereof, shall be subject to those covenants and restrictions set forth in this Declaration.

1.2. **Plan Approval.** No party shall construct any improvements on the Restricted Area without first submitting the plans and specifications for such improvements (“Plans”) for approval by the Reviewer (as defined herein). All Plans shall be accompanied by such information as to building materials, final appearance, and other related information as is necessary to establish the exterior appearance and basic structural integrity of the improvements. _____ is hereby designated as the officer of the Declarant or the Board, as applicable, authorized to approve the Plans, who shall act as the Reviewer as set forth under *Article 2*.

1.3. **Municipal Park Use.** The Restricted Area shall be used solely for a public municipal park (“Park”) and for no other purpose, unless otherwise approved by the Declarant.

1.4. **Restricted Activities and Uses.** The following activities and uses are prohibited within the Restricted Area unless expressly authorized by the Declarant, and then subject to such conditions as may be imposed by the Declarant. Declarant shall have the right to determine if any activities or uses violate this *Section 1.4* in Declarant’s reasonable discretion:

- (a) “adult entertainment uses”, which term shall mean and refer to any theater, establishment, equipment or system which: (A) shows, previews, sells, rents, distributes, displays, depicts or promotes in any way “adult” movies, films, motion pictures, videos, television shows, cable media, magazines, books or other medium, media or electronic experience (whether now or hereafter developed); or (B) sells, rents, or distributes sexually explicit games, toys, devices, or similar merchandise (provided that nothing herein is intended to require the blocking of access to the same from any personal computer or internet access point or any future technological equivalent). For the purposes of the foregoing, the term “adult” shall mean and refer to any material that is (i) obscene or pornographic as determined by Declarant in its discretion, or (ii) rated X or NC-17 or its equivalent by the movie production industry (or any successor rating established by the movie production industry);
- (b) the sale of illicit drugs or paraphernalia for use of illicit drugs;
- (c) gambling for money facility or operation, including, but not limited to off track or sports betting parlor, table games such as black jack, poker, slot machines, video poker/black jack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, the prohibition shall not apply to governmental sponsored gambling activities, or charitable gambling activities, so long as such activities are incidental to the public use of the Park, or to activities which might be associated with gambling but whereby no money changes hands;

1.5. **Nuisances.** No unsightly article, building, condition, or any other item or condition creating a nuisance or otherwise in violation of law shall be permitted to exist or remain on or within the Restricted Area. The Owner and its employees, agents, visitors, guests, and licensees shall refrain from any conduct, actions, or use of any devices that would distract from the quality of the Park. The following activities are expressly prohibited within the Restricted Area:

- (a) except when using a Grill (as defined herein), the burning of materials where the smoke will cross the Park;

- (b) permitting or failing to keep dogs or other pets on a leash when not using the Dog Park (as defined herein);
- (c) failing to clean up after any dog or other pet;
- (d) failing to restrain dogs and other pets from interfering with other visitors to the park, including but not limited to loud barking and roaming;
- (e) the unauthorized use of any improvements located on the Restricted Area.
- (f) the parking or storage of motor vehicles or motorcycles on the Restricted Area for more than twenty-four (24) hours;
- (g) the storage of materials or equipment except as permitted in the Plans;
- (h) the staging of construction work except as permitted in the Plans;
- (i) the storage of hazardous or toxic materials except as permitted in the Plans and in compliance with all applicable laws;
- (j) the use or placement of underground storage tanks;
- (k) other than reasonable ambient music and related noise associated with outdoor use, the use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device that is audible to owners or occupants of other parts of the Community, except for sounds arising in connection with alarm devices used exclusively for security purposes;
- (l) the use, enjoyment, and occupancy of the Restricted Area in a manner that causes or produces any effects that are discernible by or affect the owners or occupants of other parts of the Community by their volume, duration, pounding beat, frequency or shrillness, vibration, or light;
- (m) the use of laser pointers, spotlights, or drones or other unmanned aerial vehicles or equipment or activity;
- (n) the use of devices that unreasonably interfere with television or radio reception;
- (o) the sleeping or camping overnight in the Park and the use of tents for such activity; or,
- (p) the discharge of firecrackers and other fireworks except in connection with fireworks, laser shows, or similar displays under a license or permit issued for that purpose and approved in advance by the Declarant.

1.6. **Parking.** Parking shall be permitted along the streets adjacent to the Park. The Owner shall also provide a sufficient number parking spaces for use by visitors to the Park. Neither the Owner, nor its agents, representatives, or employees, nor any visitors to the Park shall be permitted to park vehicles within any other part of the Community.

1.7. **Dog Park.** The dog park located within the Restricted Area (“**Dog Park**”) shall be constructed, installed, used, maintained, or replaced in accordance to the following requirements:

- (a) The following rules must be prominently displayed at each entrance of the Dog Park:
 1. Owners/handlers must clean up after their dogs and deposit waste into a trash can.
 2. Owners and visitors shall use the dog park at their own risk.
 3. Owners are legally responsible for the behavior of their dog(s) at all times.
 4. Dogs must be leashed while entering and exiting the dog park.
 5. Dogs must be within sight and sound control of their owners or handlers at all times.
 6. Dogs in heat are not permitted in off-leash areas.
 7. No person shall be permitted to bring a known dangerous or aggressive dog to the dog park.
 8. Dogs that show signs of aggression must be removed immediately.

9. Parents/guardians are strongly discouraged from bringing children under 12 years of age into the off-leash dog park. Any person who brings a child under 12 years of age into an off-leash dog park shall keep the child under strict supervision.
 10. All dogs must have tags showing that they are currently vaccinated for rabies, distemper, and kennel cough.
 11. Puppies are not allowed in the dog park.
 12. Glass bottles are not permitted within the dog park.
- (b) There shall be no fewer than _____ trash receptacles (“**Trash Receptables**”) located adjacent to the Dog Park. The Trash Receptables shall be emptied at least once every week.
 - (c) There shall be at least one (1) dog waste bag dispenser (“**Dog Bag Dispenser**”) located at each entrance of the Dog Park and two (2) Dog Bag Dispensers within the enclosed Dog Park area. The Dog Bag Dispensers shall be refilled at least once every week.
 - (d) A fence at least four (4) feet high shall be constructed around the perimeter of the Dog Park. The gate allowing entry and exiting from the Dog Park shall be double gated.
- 1.8. **Playground**. The playground located within the Restricted Area (“**Playground**”) shall be constructed, installed, used, maintained, or replaced in accordance to the following requirements:
- (a) The Owner, its employees, occupants, and visitors must comply with the following rules and such rules must be prominently displayed at the Playground:
 1. Visitors shall use the playground equipment at their own risk.
 2. Children must be accompanied by an adult at all times.
 3. Alcohol, tobacco products, glass, and bottles are not allowed within the Playground area.
 4. No littering; all garbage and other waste must be disposed of using the receptacles provided.
 5. No jumping off the slide.
 6. No rough play, fighting, foul language, or reckless behavior permitted.
 7. No unauthorized use of any of the playground equipment.
 8. All pets must remain leashed. Pets that show signs of aggression must be removed immediately.
 - (b) There shall be no fewer than two (2) Trash Receptables located adjacent to the Playground. The Trash Receptables shall be emptied at least once every week.
 - (c) There shall be at least two (2) Dog Bag Dispensers located in the immediate vicinity of the Playground. The Dog Bag Dispensers shall be refilled at least once every week.
 - (d) A fence at least _____ (_____) feet high shall be constructed around the perimeter of the Playground.
 - (e) All Playground equipment shall meet the following requirements:

1. All Playground equipment shall be high quality, IPEMA-certified commercial playground equipment. The Playground equipment must satisfy the ASTM F1487-17 standard consumer safety performance specifications for playground equipment for public use, as applicable, as well as any applicable recommendations made by the United States Consumer Product Safety Commission for public playgrounds in the "Public Playground Safety Handbook", as such may be amended from time to time.
 2. The construction, installation, use, maintenance, and replacement of all Playground equipment must satisfy all applicable law.
 3. All surfacing material underneath the Playground equipment shall be at least twelve (12) inch deep and be composed of engineered wood fiber or a comparable shock-absorbing material. Concrete, black top, packed earth, and grass are prohibited for use as surfacing material. All surfacing material shall extend at least six (6) feet in all directions from the Playground equipment. For swings, the surfacing material shall extend the distance of twice the height of the suspending bar, both in back and in front of the swing.
 4. Playground equipment that is more than thirty (30) inches in height shall be spaced at least nine (9) feet apart.
 5. Elevated surfaces such as platforms and ramps shall include guardrails.
 6. Playground equipment shall not have open "s" hooks, protruding bolt ends, or sharp points or edges.
 7. The Playground equipment shall have no openings that measure between 3.5 to 9 inches.
- (f) The following Playground equipment is not permitted within the Restricted Area: trampolines, swinging gates, giant strides, climbing ropes that are not secured at both ends, heavy metal swings, multiple occupancy swings, rope swings, and swinging dual exercise rings and trapeze bars.
- 1.9. **Water Park.** The interactive water feature located within the Restricted Area ("**Water Park**") shall be constructed, installed, used, maintained, and replaced in accordance to the following requirements:
- (a) The Owner, its employees, occupants, and visitors must comply with the following rules and such rules must be prominently displayed at each entrance of the Water Park:
 1. Do not drink the water.
 2. Visitors shall use the Water Park at their own risk.
 3. Glass bottles are not permitted within the Water Park.
 4. No rough play, fighting, foul language, or reckless behavior is allowed within the Water Park.
 5. Visitors shall not sit on or near fountain jets.
 6. Visitors with diarrhea are not permitted to use the Water Park.

7. Visitors with unbandaged open cuts or wounds are not permitted to use the Water Park.
 8. No pets are allowed within the Water Park.
 9. No bikes, balls, or other toys are allowed within the Water Park.
 10. No food, gum, drinks, or smoking are allowed within the Water Park.
 11. Adults must be accompanied by a child age fourteen or under.
 12. Access for adults may be restricted for safety.
 13. No littering; all garbage and other waste must be disposed of using the receptacles provided.
 14. Visitors must clean up after themselves and deposit any waste into a trash can.
- (b) The spray grounds in the Water Park shall be installed with UV generators to address the threat of water-borne illness. All water used in the Water Park shall continually filtered, chlorinated, and UV-treated.
- (c) The spray grounds in the Water Park shall be inspected and the water tested for acceptable chlorine levels and the absence of bacterial growth and contamination at least three (3) times daily. If bacterial growth or contamination is found in the water or the spray grounds, the Owner shall immediately close, clean, and treat all improvements and the water within the Water Park.
- (d) There shall be no fewer than _____ Trash Receptables located adjacent to the Water Park. The Trash Receptables shall be emptied at least once every week.
- (e) The Water Park shall be closed during inclement weather.

1.10. **BBQ Grills and Hot Coal Bin.** Any bar-b-que grill (“Grill”) or hot coal bin (“Coal Bin”) located within the Restricted Area shall be constructed, installed, used, maintained, and replaced in accordance to the following requirements:

- (a) The Owner, its employees, occupants, and visitors must comply with the following rules and such rules must be prominently displayed adjacent to the Grills and Coal Bins:
1. Visitors shall use the Grill and the Coal Bin at their own risk.
 2. Cooking is permitted only in designated areas.
 3. The fire on all coals must be extinguish with water and the cold coals disposed of in the Coal Bin before leaving the premises.
 4. Coals shall not be deposited in trash containers.
 5. The Grill and the Coal Bin may not be used during “burn ban” periods, during periods of high wind, or during periods of inclement weather.
 6. The Grill shall be cleaned and scraped after each use.
 7. A lit Grill shall not be left unattended.
 8. Gasoline shall not be used to light any charcoal coals. Charcoal lighting fluid should not be used on an open flame.
 9. The use of combustibles near a Grill or a Coal Bin is prohibited.
 10. Persons under the age of eighteen (18) years shall not use a Grill or a Coal Bin without adult supervision.
 11. No rough play, fighting, or reckless behavior is permitted near a Grill or a Coal Bin.

12. No littering; all garbage and other waste must be disposed of using the receptacles provided. The disposing of trash in a Grill or a Coal Bin is prohibited.
 13. Visitors must clean up after themselves and deposit any waste into a trash can.
 14. Personal grills are not permitted within the Park.
- (b) Use of a Grill and/or Coal Bin is prohibited during “burn ban” periods, during periods of high wind, and during periods of inclement weather.
 - (c) All Grills and Coal Bins must be regularly inspected for cracks and damage and replaced if necessary.
 - (d) A fire extinguisher or garden hose connected to working supply of water shall be located near each Grill or Coal Bin in case of fire.
 - (e) The Grill and the Coal Bin shall be located at least ten (10) feet away from any other improvement within the Restricted Area.
 - (f) “No Trash Permitted” shall be prominently displayed on or in front of each Grill and Coal Bin.

1.11. **Trash Containers.** All trash must be placed entirely within Trash Receptacles located within the Restricted Area, which Trash Receptacles must be approved as to location and design by the Reviewer. Trash may not be placed outside, next to, or on top of the Trash Receptacle. Unless otherwise approved by the Reviewer, Trash Receptacles are to be closed at all times when not in use.

1.12. **Outside Burning.** Except when using a Grill, exterior fires on the Restricted Area are prohibited and the Owner shall not permit any condition to exist upon the Restricted Area which creates a fire hazard or violates applicable law.

1.13. **Exterior Illumination.** All exterior illumination must be approved in advance and in writing by the Reviewer and shall be designed and located to avoid the spreading of light onto adjacent property.

1.14. **Screening.** Unless otherwise approved in advance and in writing by the Reviewer, exterior components of plumbing, storage areas, air conditioning and heating equipment, roof objects (including fans, vents, cooling towers, antennas, and all roof-mounted equipment which rises above the roof line), Trash Receptacles, and maintenance facilities, shall either be housed in closed buildings, or otherwise screened from view. Unless otherwise approved in advance and in writing by the Reviewer, no lumber, metals, bulk materials or scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Restricted Area, except within enclosed structures, or appropriately screened from view. The construction materials, location, and size of all screening and storage areas must be approved in advance and in writing by the Reviewer.

2. Maintenance and Insurance; Repair and Reconstruction

2.1. **Architecture and Landscaping.** The design, architectural, and landscaping standards for the construction or installation of Improvements within the Restricted Area are set forth in the Uptown District Design Standards & Guidelines attached hereto and incorporated herewith as **Exhibit “A”**, as may

be amended and supplemented (“**Commercial Design Guidelines**”). All Plans for Improvements within the Restricted Area must comply with the requirements of the Plans, the Commercial Design Guidelines, and the following restrictions:

(a) Until such time that the Declarant no longer owns any property under the Community Declaration (“**Development Period**”), no building or other improvements, including, but not limited to, parking areas, setbacks, fences, signage, outside refuse containers or storage tanks, mechanical equipment, utility improvements, antennae and satellite dishes, landscaping, irrigation, or stormwater control and lighting, shall be constructed or installed on or within the Restricted Area, and no changes or alterations shall be made to any building or other improvement until the Plans thereof have been submitted to and approved in writing by the Declarant or its designee. After expiration or termination of the Development Period, or in the event Declarant or the Board earlier delegates its architectural review authority, any such construction, installation, or alterations shall be subject to the prior review and approval of the particular architectural control committee (“**ACC**”) established pursuant to the Community Declaration, except that the ACC shall not unreasonably withhold its approval or impose unreasonable conditions on granting of such approval to any requested modification that is consistent with and does not materially alter the overall appearance of the originally approved improvements on the Restricted Area. The entity having reviewing authority hereunder at any given time is hereinafter referred to in this Declaration as the “**Reviewer**”.

(b) Any building constructed on the Restricted Area shall be designed by and built in accordance with the plans and specifications of a licensed architect or building designer.

(c) All improvements and other construction shall conform with the Plum Creek P.U.D. Master Plan.

(d) The Reviewer may establish and charge reasonable fees for its review of applications or Plans and may require that such fees be paid in advance. Such fees may include the reasonable costs incurred in having any applications or Plans reviewed by architects, engineers, or other professionals and the reasonable fee charged by any architect or other outside professional selected to serve on the ACC.

2.2. **Maintenance of Restricted Area.** An Owner shall maintain the Restricted Area, including, but not limited to, all structures, landscaping, signage, buildings, and other improvements located on the Restricted Area, in a neat, sanitary, clean, and attractive condition, and in good order and repair, in a manner consistent with this Declaration and any other applicable covenants. Such maintenance shall include, without limitation:

(a) the maintenance and care of all exterior surfaces and roofs of buildings, structures, signage, and other improvements on the Restricted Area, including pressure washing and painting as reasonably needed to maintain a high-class development;

(b) mowing of lawns and pruning of shrubs as reasonably needed to maintain an appearance typical of a high-class development; application of fertilizer and weed killers to landscaped areas and removal of weeds and evasive plant material as reasonably needed to maintain an appearance typical of a high-class development; and removal and replacement of dead or diseased plant material within a reasonable period of time after it becomes noticeably diseased or dies;

(c) removal of leaves, trash, litter, trash, refuse, construction debris and wastes, and other debris from exterior portions of the Restricted Area and rights-of-way adjacent to the Restricted

Area controller by Owned as reasonably needed to maintain an appearance typical of a high-class development;

(d) striping, sealing, and resurfacing of all paved areas as needed to maintain such areas in good repair, free of significant cracks and potholes; and,

(e) the prompt repair or replacement of damaged lighting, signage, and other structures on or within the Restricted Area.

The Owner shall be responsible for performing any repair and replacement necessary to maintain the Restricted Area to a level consistent with this *Section 2.2*. An Owner shall not allow any improvements on the Restricted Area to become rusty, dilapidated, or fall into disrepair. In the event that the Owner does not maintain the Restricted Area and all improvements thereon pursuant to this section or in the event that, in its discretion, the Declarant or the Association must supplement the Owner's maintenance within the Restricted Area to meet the requirements of this Section, then the Declarant or the Association shall have the right to perform such maintenance at the expense of the Owner and the Owner shall be required, pursuant to *Section 3.1*, to reimburse any reasonable expenses incurred by the Declarant or the Association, as applicable, to perform such maintenance.

2.3. **Obligation to Insure; Repair and Reconstruction.** The Owner will obtain commercial general liability insurance, worker's compensation and employer's liability insurance, business automobile liability insurance, and property insurance satisfying those requirements set forth in **Exhibit "B"**. The Declarant and the Association shall be named as an additional insured on all of Owner's liability insurance policies maintained with respect to the Restricted Area and each policy shall be endorsed to provide Declarant and the Association with at least thirty (30) days advance written notice of cancellation or material change. Upon request, the Owner shall provide the Declarant and the Association certificates of insurance to evidence of its compliance with these requirements. The insurance required to be maintained by the Owner shall be maintained with financially responsible insurance carriers licensed to do business in the State of Texas. In the event of damage or destruction to any portion of the improvements on the Restricted Area, an Owner shall work diligently to repair or reconstruct the damaged improvements within a commercially reasonable period and in a manner consistent with the original construction or such other Plans approved in accordance with *Article 2*. For any period prior to commencement of reconstruction of a structure on the Restricted Area, an Owner shall act diligently and in a commercially reasonable manner to clear the Restricted Area of debris and maintain it in a neat and attractive, landscaped condition consistent with this Declaration. An Owner shall pay any costs insurance proceeds do not cover.

2.4. **Mechanic's Liens.** If because of any act or omission (or alleged act or omission) of any party hereto or of such party's employees, agents, contractors or subcontractors, any mechanic's or other lien, charge or order for the payment of money or other encumbrance shall be filed against the other party and/or any portion of the units and/or common elements of the other party (whether or not such lien, charge, order or encumbrance is valid or enforceable as such), such party shall, at its own cost and expense, cause the same to be discharged of record or bonded within thirty (30) days after such party's receipt of notice of the filing thereof. If such party fails to comply with the foregoing provisions, the other party shall have the option of discharging or bonding any such lien, charge, order or encumbrance, and the party failing to comply with the foregoing provisions agrees to reimburse the other party for all costs, expenses and other sums of money in connection therewith with interest thereon, promptly upon demand.

3. Enforcement; No Waiver; Self-Help.

3.1. The Declarant and the Board shall have the right to enforce all of the provisions of this Declaration and such right of enforcement shall include both damage and injunctive relief against the breach of any provision hereof; provided, however, that in no event shall the Declarant of the Association, and each such entity's partners, beneficial owners, officers, directors, employees, representatives and agents, be liable for any consequential, special, exemplary or punitive damages resulting from a breach by Owner of any provision hereunder. If any Owner fails to perform or comply with any term, condition or obligation of this Declaration, and such failure continues for thirty (30) days after receipt of written notice from the Declarant or the Association (or such longer period as may be reasonable under the circumstances if the failure cannot be cured within thirty (30) days and the Owner failing to perform commences to cure within such time period and diligently and continuously prosecutes such cure to completion), then the Owner failing to perform shall be in breach of this Declaration. Upon such breach, the Declarant or the Board will give the violating Owner at least five (5) days' notice of its intent to exercise self-help, except in case of emergency (an emergency for the purpose of this *Section 3.1* shall mean any violation which may damage all or any portion of the Restriction Area or its improvements located therein or thereon, or cause physical injury to any person). The costs of curing or abating a breach are the expense of the Owner or other person responsible for the breach and the Owner shall be responsible for refunding the Declarant's or the Association's expenses within thirty (30) days that Owner receives notice of same. Notwithstanding the foregoing, no party shall have the right to alter or demolish any improvement within the Restricted Area without judicial proceedings. The Declarant and the Association has the right to enter any portion of the Restricted Area to abate or remove, using force as may reasonably be necessary, any improvement, thing, animal, person, vehicle, or condition that violates this Declaration. In exercising this right, such party is not trespassing and is not liable for damages related to the cure or abatement or removal. Nothing contained in this Section shall create any obligation on the part of the Declarant or the Association to exercise the rights granted herein or perform another Owner's obligations. The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration. No breach shall entitle Owner to terminate this Declaration.

4. Easements.

4.1. Declarant, the Association, and each such entity's successors and assigns, shall have a perpetual non-exclusive right, privilege and easement, but not the obligation, to enter upon any portion of the Restricted Area for emergency, security, and safety reasons, to perform maintenance, to inspect for compliance with, and to enforce this Declaration. Such right may be exercised by Declarant's or the Association's duly authorized agents and assigns, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner or occupant(s) of the Restricted Area.

4.2. Declarant, the Association, and each entity's successors and assigns, shall have a perpetual non-exclusive right, privilege and easement to enter upon any portion of the Restricted Area for access and construction as may be reasonably necessary in connection with the installation, construction, maintenance, repair, replacement, or operation of infrastructure and public utilities, as contemplated hereby. The foregoing access and construction easement and rights shall be exercised in a reasonable manner; provided, however, such construction shall be at times and in a manner to cause the least disruption to operating businesses on the Restricted Area.

4.3. The Owner shall reasonably cooperate in the granting of appropriate and proper easements for the installation, repair and replacement of storm drains, sewers, utilities and other proper services necessary for the orderly development and operation of the Community; provided, however, that the Owner shall not be obligated to grant any such easement to the extent it would materially and adversely affect the intended development and use of the Restricted Area by the Owner.

5. Miscellaneous.

5.1. Term.

(a) Subject to amendment or termination as provided herein, this Declaration shall remain in effect and shall be enforceable by Declarant and the Association, and each entity's successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded in the Official Public Records of Hays County, Texas ("**Public Records**") and, thereafter, shall automatically be renewed for successive periods of ten (10) years each so long as the Community Declaration remains in effect. Notwithstanding the foregoing, if the Restricted Area becomes subject to the Community Declaration, then this Declaration shall automatically terminate and be of no further force and effect and, thereafter, use and development of the Restricted Area shall be subject to the terms of the Community Declaration and the other governing documents referenced therein.

(b) If any provision of this Declaration would be unlawful, void or voidable by reason of any Texas law prohibiting covenants from extending more than twenty-one (21) years beyond the death of a person identified in such covenant who is living at the time such covenant is made, such provision shall expire twenty-one (21) years after the death of the last survivor of the now living, as of the date of the initial recording of this Declaration in the Public Records, descendants of Elizabeth II, Queen of England.

5.2. Amendment. This Declaration may be amended only by written instrument signed by Declarant until expiration or termination of the Development Period (as such term is defined under the Community Declaration) and by the Owner. After the end of the Development Period (as such term is defined under the Community Declaration), this Declaration may be amended only by written instrument signed by Association and the Owner.

5.3. Notices. Any notice permitted or required to be given by this Declaration must be in writing and may be delivered either personally or by mail, or as otherwise required by applicable law. If delivery is made by mail, it will be deemed to have been delivered on the third (3rd) day (other than a Saturday, Sunday, or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person in writing to the Declarant, its successors and assigns, as applicable, for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Declarant, its successors and assigns, as applicable.

5.4. Construction and Interpretation. The provisions of this Declaration will be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof will not affect the validity or enforceability of any other provision. Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular. All captions and titles used in

this Declaration are intended solely for convenience of reference and will not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections, or articles hereof.

[SIGNATURE PAGE FOLLOWS]

EXECUTED to be effective on the date this instrument is recorded in the Official Public Records of Hays County, Texas.

DECLARANT:

PLUM CREEK DEVELOPMENT PARTNERS, LTD.,
a Texas limited partnership

By: PCDP General Partner, LLC, a Texas limited liability company, its General Partner

By: _____
Richard B. Negley, Manager

By: _____
Thomas Smith, Manager

By: MountainCityLand, LLC,
a Texas limited liability company

By: _____
Name: Laura Negley Gill
Title: Manager

[ACKNOWLEDGEMENTS ON FOLLOWING PAGE]

DECLARANT:

MOUNTAIN PLUM, LTD., a Texas limited partnership

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

By: _____
Richard B. Negley, Manager

By: _____
Thomas Smith, Manager

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

By: _____
Name: Laura Negley Gill
Title: Manager

[ACKNOWLEDGEMENTS ON FOLLOWING PAGE]

ACKNOWLEDGED, AGREED TO, RATIFIED AND CONFIRMED:

CITY:

The City of Kyle, Texas

By: _____

Name: _____

Title: _____

Date: _____

Address: 100 West Center Street
Kyle, Texas 78641

STATE OF TEXAS §

§

COUNTY OF Hays §

This instrument was acknowledged before me on the ___ day of _____, 2021, by
_____, _____ of _____, a
_____, on behalf of said _____.

Notary Public in and for the
State of Texas

CONSENT OF ASSOCIATION

The undersigned executes this Declaration to evidence its consent to the covenants, restrictions, easements, terms, and conditions as set forth herein.

_____,
a Texas nonprofit corporation

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 2021, by _____, _____ of _____, a Texas nonprofit corporation, on behalf of said nonprofit corporation.

(seal)

Notary Public, State of Texas

Exhibit A

Commercial Design Guidelines

Exhibit B

Insurance Requirements

AGREEMENT REGARDING DECLARATION

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HAYS §

This Agreement Regarding Declaration (this “**Agreement**”) is hereby made and entered into the _____ day of _____, 2020 (the “**Effective Date**”), by and between **MOUNTAIN PLUM, LTD.**, a Texas limited partnership (“**Seller**”), and _____, a _____ (“**Owner**”).

W I T N E S S E T H:

WHEREAS, Seller has this day conveyed to Owner by Special Warranty Deed certain real property situated in Hays County, Texas, being more particularly described on **Exhibit A** attached hereto and made a part hereof for all purposes (the “**Property**”);

WHEREAS, the Property is subject to that certain Declaration of Covenants, Conditions and Restrictions for Plum Creek Uptown District recorded in Volume 3339, Page 197, Official Public Records, Hays County, Texas, as amended by that certain Supplemental Declaration of Covenants, Conditions and Restrictions for Plum Creek Uptown District recorded in Volume 5233, Page 109, Official Public Records, Hays County, Texas and that certain First Amendment to Declarations of Covenants, Conditions and Restrictions for Plum Creek Uptown District, recorded in Volume 5233, Page 124, Official Public Records, Hays County, Texas (collectively, the “**Uptown Declaration**”);

WHEREAS, Seller intends to request that the owners of the property currently encumbered by the Uptown Declaration amend and restate the Uptown Declaration (the “**Uptown Declaration Amendment**”) to withdraw certain property from the Uptown Declaration (which such withdrawn property shall include but not be limited to the Property); and

WHEREAS, Owner has agreed to cooperate with Seller in its efforts to effect such Uptown Declaration Amendment, as set forth herein, and has further agreed that the Property shall be made subject to the Site-Specific Declaration, as defined herein, by the recording against the Property of the Site-Specific Declaration in the Public Records, as more fully set forth below.

NOW THEREFORE, incorporating the above recitals and for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, the parties hereby agree as follows:

1. **Uptown Declaration Amendment.** Owner agrees to reasonably cooperate with Seller’s efforts to withdraw the Property from the Uptown Declaration and to consent to and execute the Uptown Declaration Amendment. Seller is hereby irrevocably appointed and authorized as the agent and attorney-in-fact of Owner to complete or undertake any action required of Owner under this paragraph 1 in the name of Owner in the event Owner fails to do the same within seven (7) days after the delivery of a written request from Seller to Owner.

2. **Site-Specific Declaration.** Owner agrees that the Property shall be made subject to the *Site-Specific Declaration of Covenants, Restrictions, and Easements [Central Park]* in substantially the same form as the form attached hereto and made a part hereof as **Exhibit B** (the “**Site-Specific Declaration**”). In the event that the Uptown Declaration is not amended and restated pursuant to the Uptown Declaration Amendment, then the Owner agrees that the term “Community Declaration” in the

Site-Specific Declaration shall mean the Uptown Declaration, the term "Association" in the Site-Specific Declaration shall mean the Plum Creek Uptown District Property Owners' Association, Inc., a Texas nonprofit corporation (the "**Uptown Association**"), and the term "Reviewer" as set forth under *Section 1.2* and *Section 2.1 (a)* of the Site-Specific Declaration shall be the Board of the Uptown Association. In the event that the Uptown Declaration is amended and restated pursuant to the Uptown Declaration Amendment, then the Owner agrees that the term "Community Declaration" in the Site-Specific Declaration shall mean the Plum Creek Mixed-Use Master Declaration recorded as Instrument #17035892 in the Official Public Records of Hays County, Texas (together with all governing instruments relating thereto, and as the same may be amended from time to time, the "**Master Declaration**"), the term "Association" in the Site-Specific Declaration shall mean the Plum Creek Mixed-Use Property Owners' Association, Inc., a Texas nonprofit corporation, and the term "Reviewer" as set forth under *Section 1.2* and *Section 2.1 (a)* of the Site-Specific Declaration shall be the Plum Creek Reviewer, as such term is defined in the Master Declaration. The Site-Specific Declaration shall be recorded in the Official Public Records of Hays County, Texas ("**Public Records**") within thirty (30) days of Seller providing Owner notice of the resolution of the Uptown Declaration Amendment and Seller's intent to record the Site-Specific Declaration in the Public Records.

3. **Binding Effect; Termination.** This Agreement will run with the land and bind future owners of all or any portion of the Property (subject to the terms and conditions hereof), including any mortgagee or owner following foreclosure or deed in lieu of foreclosure of any deed of trust encumbering the Property. This Agreement will automatically terminate and be of no further force or effect as of the date (i) no portion of the Property is affected by the Uptown Declaration and (ii) all of the Property has been made subject to the Master Declaration as provided herein.

4. **Assignment.** Seller may assign its rights under this Agreement to a third party upon notice to, but without the prior written consent of, Owner.

5. **Notices.** Any notice to be given or to be served upon any party hereto in connection with this Agreement shall be in writing and shall be deemed given to a party when (i) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (ii) sent by electronic mail with delivery receipt; or (iii) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses or facsimile numbers and marked to the attention of the person (by name or title) designated below (or to such other address as a Party may designate by notice to the other parties):

Owner: _____

Attn: _____
Telephone: _____
Email: _____

Seller: Mountain Plum, Ltd.
4040 Broadway, Suite 501
San Antonio, Texas 78209
Attn: Richard B. Negley and Laura Negley Gill
Telephone: (210) 829-7224
Email: richard_negley@msn.com
lauragill.lngres@gmail.com

with a copy to: Momark Development

1711 E. Cesar Chavez, Suite B
Austin, Texas 78702
Attn: Megan Shannon
Telephone: (512) 391-1789
Email: megan@momarkdevelopment.com

with a copy to: Golden Steves & Gordon, LLP
200 East Basse Rd., Suite 200
San Antonio, Texas 78209
Attn: Robin K. Eubanks
Telephone: (210) 745-3749
Email: reubanks@goldensteves.com

6. **Governing Law.** This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Texas. Venue shall be in Hays County, Texas.

7. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8. **Authority.** Each party warrants authority and due execution of this Agreement.

9. **Time of Essence.** Time is of the essence.

10. **Execution/Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as to any party whose signature appears hereon, and all of which shall constitute one in the same instrument. Each of the parties hereto has the right to rely on a fax or electronic signature from the other party, the same as having received an original counterpart.

11. **Termination Notice.** The termination of this Agreement shall occur automatically upon satisfaction of the conditions set forth herein; provided, however, that upon such automatic termination and written request by Owner, Seller agrees to execute an instrument in a form mutually acceptable to both parties stating that the Agreement has expired or terminated in accordance with the terms, conditions and provisions hereof.

[Signature and acknowledgement pages follow.]

EXECUTED to be effective as of the Effective Date.

SELLER:

MOUNTAIN PLUM, LTD.,
a Texas limited partnership

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

By: _____
Name: _____
Title: Manager

By: _____
Name: _____
Title: Manager

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

By: _____
Name: _____
Title: Manager

EXECUTED to be effective as of the Effective Date.

OWNER:

a _____

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ___ day of _____, 2021, by
_____, _____ of _____, a
_____, on behalf of said _____.

Notary Public in and for the
State of Texas

AFTER RECORDING PLEASE RETURN TO:

Golden Steves & Gordon, LLP
200 East Basse Rd., Suite 200
San Antonio, Texas 78209
Attn: Robin K. Eubanks

Exhibit A

Legal Description of Property

[to be attached]

Exhibit B

Form of Site-Specific Declaration

[to be attached]

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS, THAT WE, MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, WITH ITS HOME ADDRESS AT 4040 BROADWAY, SUITE 501, SAN ANTONIO, TEXAS, 78209; BEING THE OWNER OF 1.672 ACRES OF LAND, MORE OR LESS, BEING A REMAINDER OF TRACT 2 OF EXHIBIT "A" IN A DEED WITHOUT WARRANTY TO MOUNTAIN PLUM, LTD., OF RECORD IN VOL. 2297, PG. 139, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

DO HEREBY SUBDIVIDE SAID 1.672 ACRES AS SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS PLUM CREEK UPTOWN CENTRAL PARK TO THE CITY OF KYLE, TEXAS, AND HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER EASEMENTS (EXCLUDING LANDSCAPE AREA WITHIN EASEMENTS), PARKS AND PUBLIC PLACES THEREON SHOWN, EXCEPT AREAS IDENTIFIED AS PRIVATE OR CREATED BY SEPARATE INSTRUMENT, FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

WHEREOF THE SAID MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP, OWNER, HAS CAUSED THESE PRESENTS TO BE EXECUTED BY ITS GENERAL PARTNER, MP GENERAL, LLC., A TEXAS LIMITED LIABILITY COMPANY

MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP
BY: MP GENERAL LLC, A TEXAS LIMITED LIABILITY COMPANY, IT'S GENERAL PARTNER

BY: *[Signature]* MANAGER

BY: *[Signature]* MANAGER

BY: MOUNTAINCITYLAND, LLC., A TEXAS LIMITED LIABILITY COMPANY, MANAGER

BY: *[Signature]* MANAGER

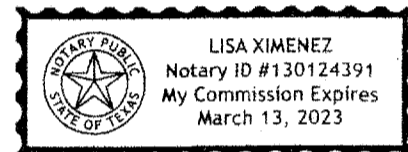
STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY

APPEARED, *Richard Newley*, MANAGER OF MP GENERAL, LLC., A TEXAS LIMITED LIABILITY COMPANY, GENERAL PARTNER OF MOUNTAIN PLUM LTD., A TEXAS LIMITED PARTNERSHIP, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED ON BEHALF OF SAID LIMITED LIABILITY COMPANY AND LIMITED PARTNERSHIP.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 17 DAY OF March 2021.

BY: *[Signature]* NOTARY PUBLIC



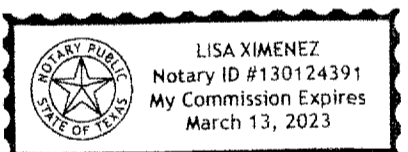
STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY

APPEARED, *Thomas Smith*, MANAGER OF MP GENERAL, LLC., A TEXAS LIMITED LIABILITY COMPANY, GENERAL PARTNER OF MOUNTAIN PLUM LTD., A TEXAS LIMITED PARTNERSHIP, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED ON BEHALF OF SAID LIMITED LIABILITY COMPANY AND LIMITED PARTNERSHIP.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 17 DAY OF March 2021.

BY: *[Signature]* NOTARY PUBLIC



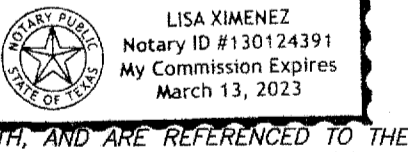
STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY

APPEARED, *Laura Gill*, MANAGER OF MOUNTAINCITYLAND, LLC., A TEXAS LIMITED LIABILITY COMPANY, MANAGER OF MP GENERAL, LLC., A TEXAS LIMITED LIABILITY COMPANY, GENERAL PARTNER OF MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED ON BEHALF OF SAID LIMITED LIABILITY COMPANIES AND LIMITED PARTNERSHIP.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 17 DAY OF March 2021.

BY: *[Signature]* NOTARY PUBLIC



BEARING BASIS:

THE BEARINGS SHOWN HEREON ARE BASED ON GRID NORTH, AND ARE REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983 (2011). THE COORDINATES SHOWN HEREON ARE GRID.

FLOODPLAIN NOTE:

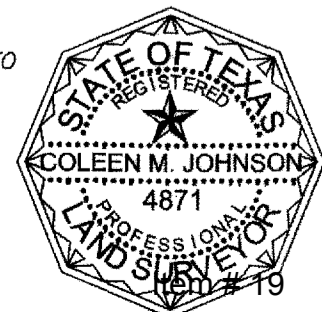
THIS TRACT IS LOCATED WITHIN FLOOD ZONE "X", (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN), AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, NATIONAL FLOOD INSURANCE PROGRAM, AS SHOWN ON COMMUNITY-PANEL MAP NUMBER 48209C0270F, WITH AN EFFECTIVE DATE OF SEPTEMBER 2, 2005. THERE MAY BE ADDITIONAL INFORMATION (LETTER OF MAP REVISIONS, LETTER OF MAP AMENDMENTS, OR LETTER OF MAP CHANGES) NOT PROVIDED TO, NOR RESEARCHED BY THE UNDERSIGNED SURVEYOR, THAT COULD AFFECT THE SUBJECT PROPERTY. IF THIS SITE IS NOT WITHIN AN IDENTIFIED SPECIAL FLOOD HAZARD AREA, 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.

SURVEYOR'S CERTIFICATION:

I, COLEEN M. JOHNSON, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACTUAL ON-THE-GROUND SURVEY MADE UNDER MY DIRECTION AND SUPERVISION, COMPLIES WITH ORDINANCE #439, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

[Signature] March 12, 2021

COLEEN M. JOHNSON
TEXAS REGISTRATION NO. 4871
WGI, INC.
2021 EAST 5TH STREET, SUITE 200
AUSTIN, TEXAS 78702
TBPCLS SURVEY FIRM NO. 10194509
Phone No. 512.669.5560



FINAL PLAT
PLUM CREEK UPTOWN CENTRAL PARK
CITY OF KYLE, HAYS COUNTY, TEXAS

ENGINEER'S CERTIFICATION:

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT AND ALL PLANS AND SPECIFICATIONS WHICH ARE INCLUDED WITH THE PLAT ARE, TO THE BEST OF MY PROFESSIONAL CAPACITY, COMPLETE AND ACCURATE AND IN COMPLIANCE WITH ALL RELEVANT CITY ORDINANCES, CODES, PLANS AND RELEVANT STATE STANDARDS.

[Signature] March 15, 2021

BRIAN JAMES PARKER, P.E.
TEXAS REGISTRATION NO. 90248
KIMLEY-HORN
2800 VIA FORTUNA, SUITE 300
AUSTIN, TEXAS 78746
(512) 646-2248



NOTES:

- 1. TOTAL ACREAGE: 1.672 ACRES
- 2. TOTAL NUMBER OF LOTS: 1
- 3. THIS PLAT COMPLETELY CONFORMS WITH PLUM CREEK P.U.D. MASTER PLAN & CITY OF KYLE ORDINANCES 308 AND 311.
- 4. NO OBJECTS INCLUDING BUILDINGS, ACCESSORY BUILDINGS, FENCING OR LANDSCAPING WHICH WOULD INTERFERE WITH CONVEYANCE OF STORM WATER SHALL BE PLACED OR ERECTED WITHIN DRAINAGE EASEMENTS CREATED BY THIS PLAT, IF ANY, EXCEPT AS APPROVED BY THE CITY OF KYLE.
- 5. OFFSITE WATER AND WASTEWATER LINES MUST BE CONSTRUCTED AND ACCEPTED BY CITY PRIOR TO OCCUPANCY OF ANY BUILDING(S) ON THIS PROPERTY.
- 6. THIS SUBDIVISION SHALL COMPLY WITH THE CENTRAL BUSINESS DISTRICT OF THE CITY OF KYLE.
- 7. SETBACKS NOT SHOWN ON LOTS SHALL CONFORM TO THE CITY OF KYLE ZONING ORDINANCE.
- 8. SIDEWALKS SHALL BE INSTALLED ON THE SUBDIVISION SIDE OF BURNHAM. THOSE SIDEWALKS NOT ABUTTING A RESIDENTIAL, COMMERCIAL OR INDUSTRIAL LOT SHALL BE INSTALLED WHEN THE ADJOINING STREET IS CONSTRUCTED. WHERE THERE ARE DOUBLE FRONTAGE LOTS, SIDEWALKS ON THE STREET TO WHICH ACCESS IS PROHIBITED ARE ALSO REQUIRED TO BE INSTALLED WHEN THE STREETS IN THE SUBDIVISION ARE CONSTRUCTED. (ORD. # 439, ARTICLE V, SEC. 10; KYLE CODE).
- 9. AT THE FEBRUARY 2, 2021 CITY COUNCIL MEETING, THE CITY COUNCIL VOTED 6-0 TO APPROVE A WAIVER TO REMOVE THE REQUIRED 7.5-FOOT PUBLIC UTILITY EASEMENT, PER THE PLUM CREEK SUBDIVISION CODE.
- 10. EASEMENTS SHOWN HEREON WHICH ARE CREATED BY SEPARATE INSTRUMENTS AND NOT DEDICATED PER THIS PLAT ARE GOVERNED BY THE TERMS OF SUCH SEPARATE INSTRUMENTS.
- 11. THE OWNER OF THE LAND DEDICATED BY THIS PLAT RESERVES THE RIGHT TO USE AND ENJOY THE SURFACE OF ALL EASEMENT AREAS FOR ALL PURPOSES THAT DO NOT INTERFERE WITH THE USE OF SAID EASEMENT AREAS FOR THE PURPOSE OF SAID EASEMENT, INCLUDING BUT NOT LIMITED TO THE RIGHT TO PLACE SURFACING MATERIALS OVER AND ACROSS THE EASEMENT AREA AND TO USE THE SAME FOR PARKING AREAS, DRIVEWAYS, WALKWAYS, SIDEWALK, LANDSCAPING AND LIGHTING.

PUBLIC UTILITY INFORMATION:

THIS SUBDIVISION IS SERVICED BY THE FOLLOWING UTILITIES:

WATER: CITY OF KYLE
100 W. CENTER STREET
KYLE, TEXAS 78640

ELECTRIC: PEDERNALES ELECTRIC COOP.
1810 F.M. 150 WEST
KYLE, TEXAS 78640

WASTEWATER: CITY OF KYLE
100 W. CENTER STREET
KYLE, TEXAS 78640

GAS: RELIANT ENERGY
326 CHEATHAM STREET
SAN MARCOS, TEXAS 78666

TELEPHONE: VERIZON
6601 F.M. 3237
WIMBERLEY, TEXAS 78738

I, THE UNDERSIGNED CHAIRPERSON OF THE PLANNING & ZONING COMMISSION OF THE CITY OF KYLE, HEREBY CERTIFIES THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THE CITY AS TO WHICH THE COMMISSION'S APPROVAL IS REQUIRED.

BY: *[Signature]*
CHAIRPERSON

REVIEWED BY:

[Signature] 3/27/21
LEON BARBA, CITY ENGINEER

REVIEWED BY:

[Signature] 3-30-21
HARPER WILDER, DIRECTOR OF PUBLIC WORKS

THIS PLAT (PLUM CREEK UPTOWN CENTRAL PARK) HAS BEEN SUBMITTED TO AND CONSIDERED BY THE CITY OF KYLE, TEXAS AND IS HEREBY APPROVED BY THE COUNCIL.

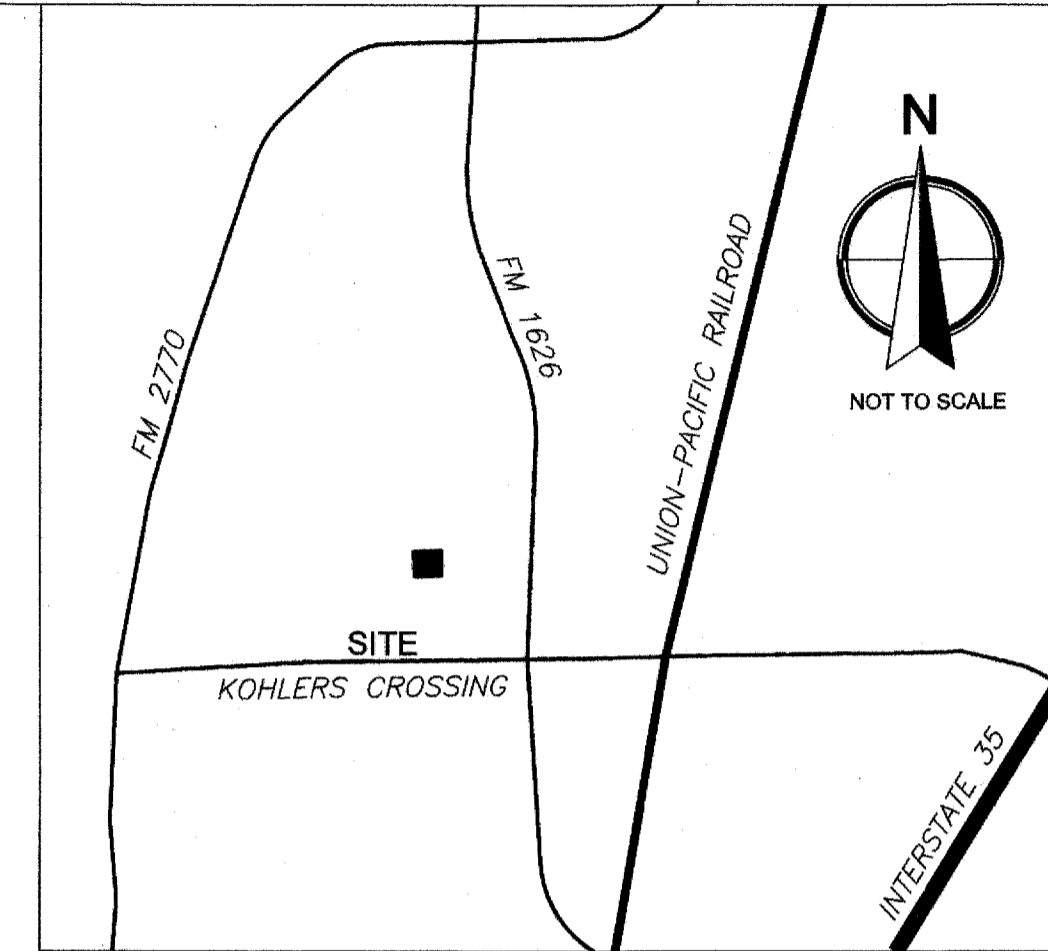
DATED THIS 16TH DAY OF February, 2021.

BY: *[Signature]*
SECRETARY



2021 East 5th Street Suite 200 Austin, TX 78702
Phone No. 512.669.5560
TBPCLS Survey Firm No. 10194509

DATE:	07-28-20
PROJECT:	03205833.00
SCALE:	1" = 100'
CHECK/QC:	CMJ
TECH:	RA
FIELD CREW:	DS
SURVEY DATE:	07-18-20
SHEET:	1 OF 2



LOCATION MAP
PROJECT LOCATED IN
CITY OF KYLE, HAYS COUNTY, TEXAS

BY: OWNERS: MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP.

ADDRESS: 4040 BROADWAY STREET, SUITE 501

SAN ANTONIO, TEXAS 78209

PHONE: (512) 391-1789 FAX:

BY: MP GENERAL, LLC., A TEXAS LIMITED LIABILITY COMPANY, IT'S GENERAL PARTNER AND MOUNTAINCITYLAND, LLC, A TEXAS LIMITED LIABILITY COMPANY, MANAGER OF MP GENERAL, LLC, A TEXAS LIMITED LIABILITY COMPANY, GENERAL PARTNER OF MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP

ACREAGE: 1.672

SURVEY: M. M. MCGARVER SURVEY NO. 4, ABST. NO. 10.

NUMBER OF LOTS AND PROPOSED USE (IF MORE THAN ONE USE IS PLANNED FOR THE LOTS, PROVIDE LAND USE SUMMARY SHOWING # OF LOTS ARE PLANNED FOR EACH USE): 1 LOT - PARK

SURVEYOR: COLEEN M. JOHNSON, R.P.L.S. #4871

PHONE: 512-669-5560 FAX:

ENGINEER: BRIAN JAMES PARKER, P.E.

PHONE: 512-646-2248 FAX:

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS:

THAT, ELAINE H. CARDENAS, CLERK OF HAYS COUNTY COURT, DOES HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING AND THE CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORDS IN MY

OFFICE ON THE 15th DAY OF April, 2021, A.D., IN THE PLAT

RECORDS OF SAID COUNTY AND STATE IN DOCUMENT # 2108804
WITNESS MY HAND AND SEAL OF OFFICE OF COUNTY CLERK OF SAID COUNTY ON

THIS THE 15th DAY OF April, 2021 A.D. FILED FOR RECORD AT
9:27 O'CLOCK A. M. THIS THE 15th DAY OF April, 2021, A.D.

BY: *[Signature]*
ELAINE H. CARDENAS
COUNTY CLERK
HAYS COUNTY, TEXAS



FINAL PLAT
PLUM CREEK UPTOWN CENTRAL PARK
 CITY OF KYLE, HAYS COUNTY, TEXAS

WGI
WGInc.com
 2021 East 5th Street Suite 200 Austin, TX 78702
 Phone No. 512.669.5560
 TBPELS Survey Firm No. 10194509

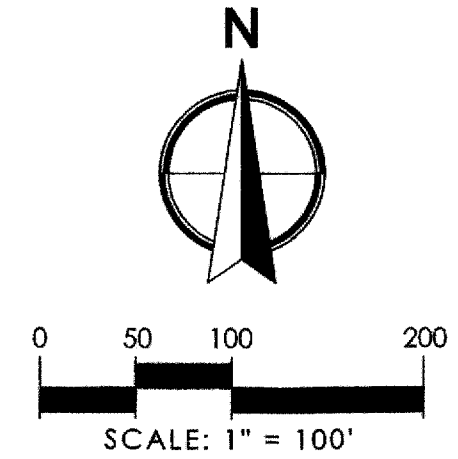
DATE:	07-28-20
PROJECT:	03205833.00
SCALE:	1" = 100'
CHECK/QC:	CMJ
TECH:	RA
FIELD CREW:	DS
SURVEY DATE:	07-18-20
SHEET:	2 OF 2

SYMBOLS LEGEND:

- FOUND 1/2" IRON ROD (AS NOTED)
- SET 5/8" IRON ROD AND CAP STAMPED "WGI 10194509" UNLESS NOTED
- ⊕ BENCHMARK

ABBREVIATIONS LEGEND:

- BM BENCHMARK
- CAB. CABINET
- E EASTING
- ELEV. ELEVATION
- IR IRON ROD
- IR&C IRON ROD AND CAP
- N NORTHING
- OPRHCTX OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS
- PRHCTX PLAT RECORDS OF HAYS COUNTY, TEXAS
- PG. PAGE
- P.O.B. POINT OF BEGINNING
- RPLS REGISTERED PROFESSIONAL LAND SURVEYOR
- R/W RIGHT-OF-WAY
- VOL. VOLUME



CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C2	213.14'	311.00'	39°15'58"	S20°44'43"E	208.99'
C3	190.72'	215.00'	50°23'16"	N24°13'34"E	184.52'
C4	252.81'	285.00'	50°23'16"	S24°13'34"W	244.60'

LEGAL DESCRIPTION

BEING 1.672 ACRES OF LAND OUT OF AND A PART OF THE M.M. McCARVER SURVEY NO. 4, ABSTRACT NO. 10, IN THE CITY OF KYLE, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN TRACT DESCRIBED AS TRACT NO. 2 IN A DEED WITHOUT WARRANTY TO MOUNTAIN PLUM, LTD., OF RECORD IN VOLUME 2297, PAGE 139, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T.); SAID 1.672 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

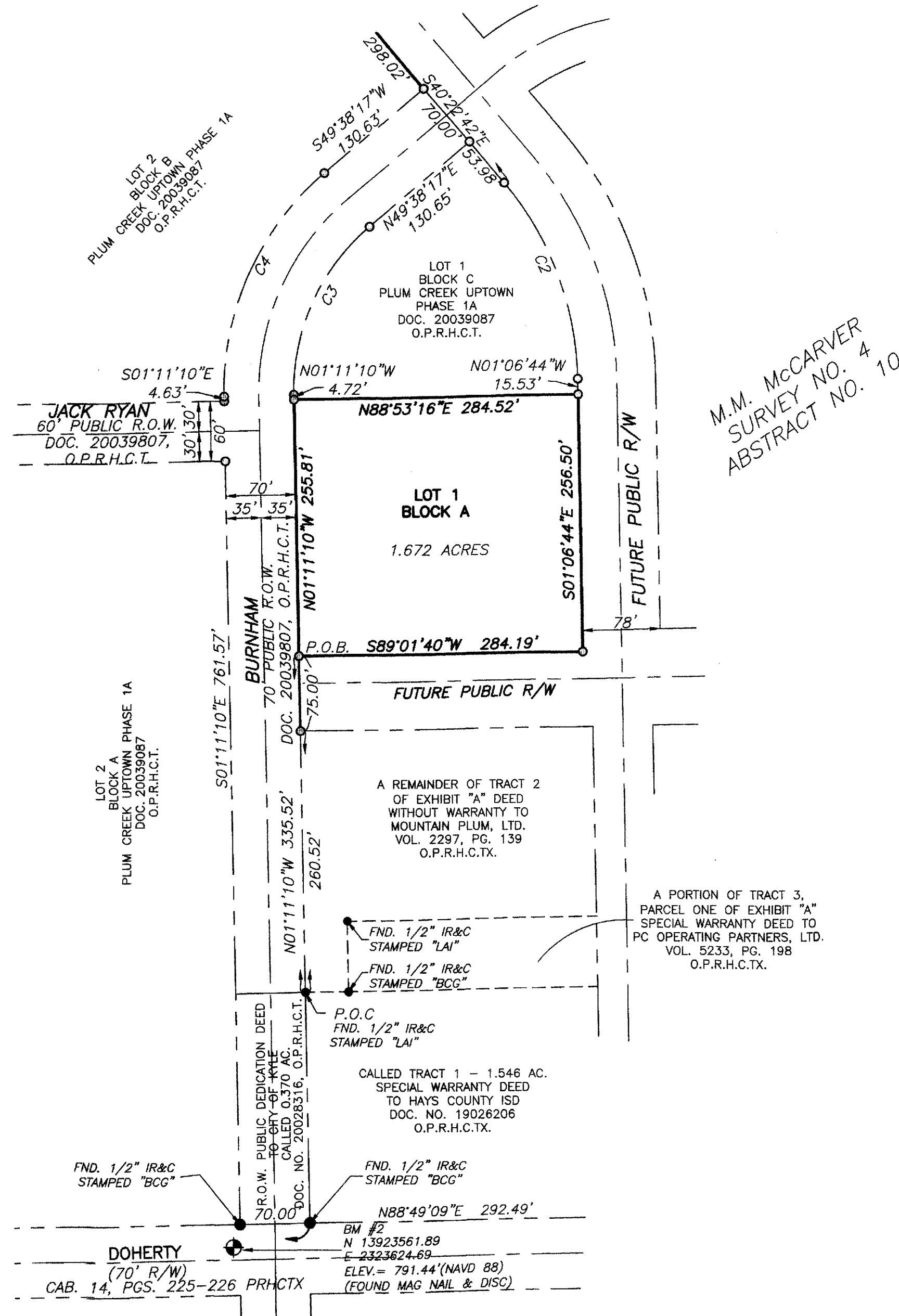
COMMENCING FOR REFERENCE at a 1/2-inch iron rod found with cap stamped "LAI" at the intersection of the north Right-of-way line of that certain 0.370 acre tract described in a ROW Public Dedication Deed of record in Document No. 20028316, O.P.R.H.C.T. and the east right-of-way line of Burnham (a 70 foot wide public right-of-way dedicated by Plum Creek Uptown Phase 1A, a subdivision plat of record in Document No. 20039087, O.P.R.H.C.T.); THENCE, North 01°11'10" West, along said east right-of-way line, at a distance of 260.52 feet passing a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509", in all a total distance of 335.52 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509", for the southwest corner and POINT OF BEGINNING of the tract described herein;

THENCE, with the west line of the tract described herein, continuing with the east right-of-way line of Burnham, North 01°11'10" West, a distance of 255.81 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" for northwest corner of the tract described herein, from which a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" bears North 01°11'10" West, a distance of 4.72 feet;

THENCE, with the north line of the tract described herein, with the south line of Lot 1, Block C, Plum Creek Uptown Phase 1A, North 88°53'16" East, a distance of 284.52 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" for northeast corner of the tract described herein, from which point a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" in the east line of said Lot 1, Block C, Plum Creek Uptown Phase 1A bears, North 01°06'44" West, a distance of 15.53 feet;

THENCE, with the east line of the tract described herein, South 01°06'44" East, a distance of 256.50 feet to a 5/8-inch iron rod set with a plastic cap stamped "WGI 10194509" for the southeast corner of the tract described herein;

THENCE, with the south line of the tract described herein, South 89°01'40" West, a distance of 284.19 feet to the POINT OF BEGINNING and containing 1.672 acres of land within these metes and bounds.



M.M. McCARVER
 SURVEY NO. 4
 ABSTRACT NO. 10



CITY OF KYLE, TEXAS

Temporary Construction Easement and Access Agreement

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Consider and possible action to approve a Temporary Construction Easement and Access Agreement. ~ *Paige Saenz, City Attorney*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Cadence McShane Construction
Contract for Heroes Memorial Park
\$7,950,000

Meeting Date: 5/18/2021
Date time: 7:00 PM

Subject/Recommendation: *[POSTPONED 5/4/2021]* Authorize award and execution of a contract with CADENCE MCSHANE CONSTRUCTION COMPANY in an amount not to exceed \$7,950,000.00 for the construction of Heroes Memorial Park. ~ *J. Scott Sellers, City Manager*

Other Information:

Legal Notes:

Budget Information: An appropriation of unencumbered available funds totaling approximately \$4.6 million is necessary for this contract award. Staff will bring forward a budget amendment for City Council's approval at its next regular meeting on May 18, 2021.

ATTACHMENTS:

Description

- A101-2017 - HMP Cadence McShane
- Bid Evaluations Compiled

DRAFT AIA® Document A101® - 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the « 4th » day of « May » in the year « 2021 »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

«City of Kyle, a Texas home rule municipal corporation »« »
«100 W. Center St. »
«Kyle, TX 78640 »
« »

and the Contractor:
(Name, legal status, address and other information)

«Cadence McShane Construction Company LLC »« »
1221 S. Mopac Expressway, Suite 250
«Austin, TX 78746 »
« »

for the following Project:
(Name, location and detailed description)

«Kyle Heroes Memeorial Park »
«Kohlers Crossing & Kyle Parkway (FM 1626) »
«Kyle, TX 78640 »

The Architect:
(Name, legal status, address and other information)

«Nudge Design »« »
«2051 South Lamar »
«Austin, TX 78704 »
« »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, Contractor's proposal, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[] The date of this Agreement.

[] A date set forth in a notice to proceed issued by the Owner.

[] Established as follows:

Commencement shall be the date of a Notice to Proceed

within 5 days of the latter of (i) receipt of building permit, (ii) written notice to proceed by Owner; (iii) recording of first lien by the lender; and (iv) receipt of evidence of funding document from Owner suitable to Contractor. Further, the Contract Time shall not commence if there are any local, state or national stop work orders or other orders issued by governmental authorities which prohibit commencement, and, if necessary, the Contract Time will be adjusted accordingly.

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[] Not later than (273) calendar days from the date of commencement of the Work. The above duration of days includes an allowance of (32) days for weather-related non-working days. If the allowance is exceeded , then a day extension for a day lost will be added to the date of substantial completion as provided in Section 8.3.1 of AIA A201-2017 General Conditions of the Contract for Construction.

[] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
<input type="text"/>	<input type="text"/>

§ 3.4 The Owner represents and warrants that it has, or prior to commencement of Work, will secure all necessary accesses, easements, or authorizations, including, but not limited to, those required by applicable government agencies, the property owner and/or owners of property adjoining or otherwise impacted by the Project and/or the performance of the Work.

§3.5 In the event of delay in the Work beyond the reasonable control of the Contractor resulting from 1) the conduct or lack of conduct by the Owner or the Architect or their consultants, representatives, officers, agents or employees; 2) or delay by the Owner in making the site available, in furnishing any items required to be furnished to the Contractor by the Owner pursuant to the Contract Documents ; or 3) the failure of Owner or Architect to timely perform contractual obligations, the Contractor shall be entitled to an extension of time commensurate with such delay and compensation for extra costs of labor, materials and/or equipment, plus job site overhead, and extended home office overhead incurred by reason of such delay, plus profit on those amounts.

§3.6 Owner represents and warrants to Contractor that Owner has not received funds, grants, tax relief or other financial benefits or incentives from any governmental, quasi-governmental or other entities that impose contracting requirements on the Owner as a condition of receiving such financial benefit. Such contracting requirements may include, but are not limited to: minority-owned; women-owned, veteran-owned and/or small business subcontracting requirements or goals; local hiring requirements or goals; payment of Prevailing Wage Rates and/or benefits; certified payments; cost certification and jobsite work hour limitations. Owner agrees to indemnify and hold Contractor harmless from any costs, expenses, fines or penalties imposed upon Contractor because of Contractor’s failure to comply with any such Contracting requirements.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be (\$), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
<input type="text"/>	<input type="text"/>

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
« »		

§ 4.3 Allowances, if any, included in the Contract Sum: (Identify each allowance.)

Item	Price
«Contingency Allowance Fund»	\$100,000

§ 4.4 Unit prices, if any: (Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
« »		

§ 4.5 Other: (Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

« »

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the «30th» day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the «15th» day of the «following» month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than «30» («thirty») days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« »

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

concrete materials, reinforcing steel, steel framing, lumber, plumbing fixtures, lighting fixtures and mechanical units which are critical to achieving Substantial Completion.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

« »

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

« »

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

« »

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. *(Insert rate of interest agreed upon, if any.)*

«WSJ Prime Rate, plus 3 » % « »

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows: *(Check the appropriate box.)*

[] Arbitration pursuant to Section 15.4 of AIA Document A201-2017

[] Litigation in a court of competent jurisdiction

[] Other *(Specify)*

« »

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

« »

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

«Ryan Rosborough»
«AGCM Inc. »
«11503 Jones Maltsberger Rd. # 186 »
« San Antonio, TX 78216»
«rrosborough@agcm.com »
« »

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

«Srinath Pai Kasturi, Executive Vice President »
«Cadence McShane Construction Company LLC »
«1221 S. Mopac Expressway, Suite 250 »
«Austin, Texas 78746 »
«SKasturi@cadencemcshane.com »
« »

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 8.7 Other provisions:

« »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

«N/A»

- .5 Drawings

Number	Title	Date
«100% Construction Plans»	Kyle Heroes Memorial Park	2/8/21

.6 Specifications

Section	Title	Date	Pages
« Project Manual»	Heroes Memorial Park	2/8/21	

.7 Addenda, if any:

Number	Date	Pages
1	3/16/21	
2	3/26/21	

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

« »

[] The Sustainability Plan:

Title	Date	Pages
« Division 00 and Division 01 Specifications»	3/03/21	Issued with Request for Proposal

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
«Included Above»			

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

«Contractor Proposal »

This Agreement entered into as of the day and year first written above.

<< >>

OWNER *(Signature)*

<< >><< >>

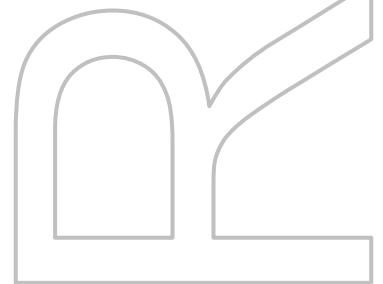
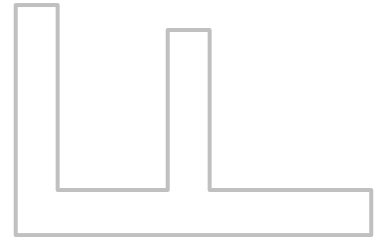
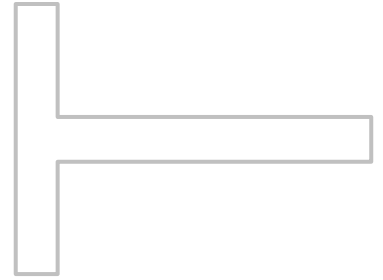
(Printed name and title)

<< >>

CONTRACTOR *(Signature)*

<< >><< >>

(Printed name and title)



PROJECT: City of Kyle Parks Projects

**REQUEST FOR COMPETITIVE SEALED PROPOSALS
EVALUATOR'S WORKSHEET COMPILED**

DATE: 4/5/2021

EVALUATOR: AGCM, Architect, Owner

CONTRACTORS

Stoddard	Cadence McShane
----------	--------------------

- A. Relevant Company Experience 11 pnts
 - B. Project Management Ability 17 pnts
 - C. Past Performance 27 pnts
 - D. Subcontractors & Suppliers 15 pnts
 - E. Price Proposal-Based on Total Bid 30 pnts
- 100 pnts possible

Heroes Memorial Park

\$9,000,000 \$8,950,000

Evaluator 1	89.52	98.80
Evaluator 2	92.02	92.30
Evaluator 3	90.52	97.80

272.06	288.90
---------------	---------------

Uptown Central Park

\$4,991,210 \$7,200,000

Evaluator 1	95.85	65.80
Evaluator 2	92.85	62.80
Evaluator 3	90.80	67.80

279.50	196.40
---------------	---------------

Combination Bid

\$13,891,210 \$16,150,000

Award HMP to Cadence McShane and UCP to Stoddard

\$13,941,210



CITY OF KYLE, TEXAS

Stoddard Construction Contract Award for Central Park \$4,850,000

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: *[POSTPONED 5/4/2021]* Authorize award and execution of a contract with STODDARD CONSTRUCTION MANAGEMENT, INC., in an amount not to exceed \$4,850,000.00 for the construction of Uptown Central Park and Cultural Trails.
~ J. Scott Sellers, City Manager

Other Information:

Legal Notes:

Budget Information: An appropriation of unencumbered available funds totaling approximately \$4.6 million is necessary for this contract award. Staff will bring forward a budget amendment for City Council's approval at its next regular meeting on May 18, 2021.

ATTACHMENTS:

Description

- A101-2017 - UCP Stoddard CMI
- Bid Evaluations Compiled

DRAFT AIA® Document A101® - 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the « 4th » day of « May » in the year « 2021 »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

«City of Kyle, a Texas home rule municipal corporation »« »
«100 W. Center St. »
«Kyle, TX 78640 »
« »

and the Contractor:
(Name, legal status, address and other information)

«Stoddard Construction Management Inc
461 Rodeo Dr.
«Spring Branch TX 78070 »
« »

for the following Project:
(Name, location and detailed description)

«Uptown Central Park »
«Kyle, TX 78640 »

The Architect:
(Name, legal status, address and other information)

«Lionheart Places »
«1023 Springdale Rd, Bldg. 6 Ste. E »
«Austin, TX 78721 »
« »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, Contractor's proposal, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[] The date of this Agreement.

[] A date set forth in a notice to proceed issued by the Owner.

[] Established as follows:

Commencement shall be the date of a Notice to Proceed

within 5 days of the latter of (i) receipt of building permit, (ii) written notice to proceed by Owner; (iii) recording of first lien by the lender; and (iv) receipt of evidence of funding document from Owner suitable to Contractor.

Further, the Contract Time shall not commence if there are any local, state or national stop work orders or other orders issued by governmental authorities which prohibit commencement, and, if necessary, the Contract Time will be adjusted accordingly.

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[] Not later than (273) calendar days from the date of commencement of the Work. The above duration of days includes an allowance of (32) days for weather-related non-working days. If the allowance is exceeded , then a day extension for a day lost will be added to the date of substantial completion as provided in Section 8.3.1 of AIA A201-2017 General Conditions of the Contract for Construction.

[] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
<input type="text"/>	<input type="text"/>

§ 3.4 The Owner represents and warrants that it has, or prior to commencement of Work, will secure all necessary accesses, easements, or authorizations, including, but not limited to, those required by applicable government agencies, the property owner and/or owners of property adjoining or otherwise impacted by the Project and/or the performance of the Work.

§3.5 In the event of delay in the Work beyond the reasonable control of the Contractor resulting from 1) the conduct or lack of conduct by the Owner or the Architect or their consultants, representatives, officers, agents or employees; 2) or delay by the Owner in making the site available, in furnishing any items required to be furnished to the Contractor by the Owner pursuant to the Contract Documents ; or 3) the failure of Owner or Architect to timely perform contractual obligations, the Contractor shall be entitled to an extension of time commensurate with such delay and compensation for extra costs of labor, materials and/or equipment, plus job site overhead, and extended home office overhead incurred by reason of such delay, plus profit on those amounts.

§3.6 Owner represents and warrants to Contractor that Owner has not received funds, grants, tax relief or other financial benefits or incentives from any governmental, quasi-governmental or other entities that impose contracting requirements on the Owner as a condition of receiving such financial benefit. Such contracting requirements may include, but are not limited to: minority-owned; women-owned, veteran-owned and/or small business subcontracting requirements or goals; local hiring requirements or goals; payment of Prevailing Wage Rates and/or benefits; certified payments; cost certification and jobsite work hour limitations. Owner agrees to indemnify and hold Contractor harmless from any costs, expenses, fines or penalties imposed upon Contractor because of Contractor’s failure to comply with any such Contracting requirements.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be (\$), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
<input type="text"/>	<input type="text"/>

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
« »		

§ 4.3 Allowances, if any, included in the Contract Sum: (Identify each allowance.)

Item	Price
« Contingency Allowance Fund »	\$100,000

§ 4.4 Unit prices, if any: (Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
« »		

§ 4.5 Other: (Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

« »

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the «30th» day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the «15th» day of the «following» month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than «30» («thirty») days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« »

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

concrete materials, reinforcing steel, steel framing, lumber, plumbing fixtures, lighting fixtures and mechanical units which are critical to achieving Substantial Completion.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

« »

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

« »

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

« »

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

«» % « »

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

[] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[] Litigation in a court of competent jurisdiction

[] Other *(Specify)*

« »

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

« »

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

«Ryan Rosborough»
«AGCM Inc. »
«11503 Jones Maltsberger Rd. # 186 »
« San Antonio, TX 78216»
«rrosborough@agcm.com »
« »

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

«Keith Stoddard»
«Stoddard Construction Management Inc. »
«461 Rodeo Dr.»
«Spring Branch TX 78070»
ks@stoddardcemi.com

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 8.7 Other provisions:

« »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

«N/A»

- .5 Drawings

Number	Title	Date
«100% Construction Document Sets»	Uptown Central Park	2/5/21

.6 Specifications

Section	Title	Date	Pages
«100% Construction Documentation»	Uptown Central Park	2/5/21	

.7 Addenda, if any:

Number	Date	Pages
1	3/16/21	
2	3/26/21	

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

« »

[] The Sustainability Plan:

Title	Date	Pages
« Division 00 and Division 01 Specifications»	3/03/21	Issued with Request for Proposal

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
«Included Above»			

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

«Contractor Proposal »

This Agreement entered into as of the day and year first written above.

<< >>

OWNER (Signature)

<< >><< >>

(Printed name and title)

<< >>

CONTRACTOR (Signature)

<< >><< >>

(Printed name and title)



PROJECT: City of Kyle Parks Projects

REQUEST FOR COMPETITIVE SEALED PROPOSALS
EVALUATOR'S WORKSHEET COMPILED

DATE: 4/5/2021

EVALUATOR: AGCM, Architect, Owner

CONTRACTORS

Stoddard	Cadence McShane
----------	--------------------

- A. Relevant Company Experience 11 pnts
- B. Project Management Ability 17 pnts
- C. Past Performance 27 pnts
- D. Subcontractors & Suppliers 15 pnts
- E. Price Proposal-Based on Total Bid 30 pnts

100 pnts possible

Heroes Memorial Park

\$9,000,000 \$8,950,000

Evaluator 1

89.52	98.80
--------------	--------------

Evaluator 2

92.02	92.30
--------------	--------------

Evaluator 3

90.52	97.80
--------------	--------------

272.06	288.90
---------------	---------------

Uptown Central Park

\$4,991,210 \$7,200,000

Evaluator 1

95.85	65.80
--------------	--------------

Evaluator 2

92.85	62.80
--------------	--------------

Evaluator 3

90.80	67.80
--------------	--------------

279.50	196.40
---------------	---------------

Combination Bid

\$13,891,210 \$16,150,000

Award HMP to Cadence McShane and UCP to Stoddard

\$13,941,210



CITY OF KYLE, TEXAS

Notice of Intent

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: *[POSTPONED 5/4/2021]* Consider approving a Resolution directing publication of a Notice of Public Hearing and Intention to Issue Combination Tax and Revenue Certificates of Obligation. ~ *Travis Mitchell, Mayor*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Resolution for NOI (01322442-4x7A30F)

PASSED AND APPROVED THIS 18TH DAY OF MAY, 2021.

Mayor

ATTEST:

City Secretary

[CITY SEAL]

Exhibit "A"

**NOTICE OF PUBLIC HEARING AND INTENTION TO ISSUE
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION**

NOTICE IS HEREBY GIVEN that the City Council of the City of Kyle, Texas, will convene at its regular meeting place of said City Council located at City Hall at 100 W. Center Street, Kyle, Texas, at 7:00 p.m. July 20, 2021, or by videoconference if necessary, and, during such meeting, the City Council will conduct a hearing on whether to issue combination tax and revenue certificates of obligation, and, upon conclusion of the public hearing, will consider passage of an ordinance and take such other actions as may be deemed necessary to authorize the issuance of combination tax and revenue certificates of obligation for the purpose of paying contractual obligations of the City to be incurred for the design and construction of roads and recreational and cultural trails within, around, and related to Tax Increment Reinvestment Zone No. 2 and the Uptown Plum Creek Development, and the payment of professional services and costs of issuance related thereto. The combination tax and revenue certificates of obligation will be payable from the levy of an annual ad valorem tax, within the limitations prescribed by law, upon all taxable property within the City, and a pledge of the surplus revenues of the Tax Increment Reinvestment Zone No. 2. The combination tax and revenue certificates of obligation are to be issued, and this notice is given, under and pursuant to the provisions of the Certificate of Obligation Act of 1971, as amended, Local Government Code Section 271.041, et seq.

As further required by Local Government Code Section 271.049(b), the following additional information is provided:

- (A) The current principal of all outstanding debt obligations of the City is \$96,290,000.
- (B) The current combined principal and interest required to pay all outstanding debt obligations of the City on time and in full is \$134,010,065.72.
- (C) The maximum principal amount of the certificates to be authorized is \$5,000,000.
- (D) The estimated combined principal and interest required to pay the certificates to be authorized on time and in full is approximately \$6,719,504.17.
- (E) The maximum interest rate for the certificates to be authorized is 5.000%.
- (F) The maximum maturity date of the certificates to be authorized is 2041.

Pursuant to Texas Local Government Code Section 271.049, an election on the question of the issuance of the certificates will be called if before the time tentatively set for the authorization and issuance or if before the authorization of the certificates, the City Secretary receives a petition signed by at least five percent of the qualified voters of the City protesting the issuance of the certificates, the City may not issue the certificates unless the issuance is approved at an election ordered, held and conducted in the manner provided for bond elections.

Mayor, City of Kyle, Texas

CITY OF KYLE, TEXAS



Acceptance of Resolution of TIRZ #2 Board Authorizing the City of Kyle to Issue on its Behalf Certificates of Obligation Bonds Totaling \$5.0 Million for Three Roads in Uptown Plum Creek Development & Related Matters

Meeting Date: 5/18/2021
Date time: 7:00 PM

Subject/Recommendation: *[POSTPONED 5/4/2021]* Acceptance of the the Resolution of the Board of Kyle Tax Increment Reinvestment Zone Number Two, as passed on April 29, 2021, authorizing the City Council of the City of Kyle to issue on its behalf Certificates of Obligation bonds in an amount not to exceed five million dollars (\$5,000,000.00) for the design and construction of three roads in Uptown Plum Creek development and other related matters and direct the City to prepare a reimbursement agreement between the City and TIRZ #2 for the repayment of debt associated with this bond. ~ *J. Scott Sellers, City Manager*

Other Information: At its regular meeting held on April 29, 2021, the Board of Kyle Tax Increment Reinvestment Zone Number Two passed a Resolution of the Board authorizing the City Council of the City of Kyle to:

1. Issue Certificates of Obligation bonds in an amount not to exceed five million dollars (\$5,000,000.00) for the design and construction of the three roads and other associated infrastructure improvements in Uptown Plum Creek development, and
2. Agree to reimburse the City of Kyle each fiscal year for all principal and interest payments due on the bonds each fiscal year from the property tax revenue increments until the bonds have been fully paid off, and
3. Select and enter into contracts with professional services firms and contractors for the design and construction of the three roads and other associated infrastructure improvements in Uptown Plum Creek development, and
4. Administer, manage, and disburse funds from the said bond proceeds to the selected professional services firms and contractors for expenditures incurred for the design and construction of the three roads and other associated infrastructure improvements in Uptown Plum Creek development, and
5. Authorize the publication of Notice of Intent by the City of Kyle to issue Certificates of Obligation bonds.

The three roads identified for expedited design and construction in Uptown Plum Creek development are as follows:

1. Cromwell Street
2. Heroes Park Drive
3. Cultural Trails Drive

For complete transparency, the following documents are attached for this agenda item:

1. Map showing the three roads to be designed and constructed in Uptown Plum Creek development.

2. Resolution of the Board of of Kyle Tax Increment Reinvestment Zone Number Two.

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 3 Roads PC Development
- Board Resolution of TIRZ #2 Authorizing Issuance of Certificates of Obligation Bonds Totaling \$5.0 Million & Related Matters

CONCEPTUAL PLAN



Three streets proposed to be installed by City/TIRZ over the next year

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF THE TAX INCREMENT REINVESTMENT ZONE NUMBER TWO, KYLE, TEXAS, AUTHORIZING THE CITY OF KYLE TO ISSUE ON ITS BEHALF CERTIFICATES OF OBLIGATION BONDS IN THE AMOUNT NOT TO EXCEED FIVE MILLION DOLLARS (\$5,000,000.00) FOR THE EXPEDITED DESIGN AND CONSTRUCTION OF THREE (3) ROADS AND OTHER ASSOCIATED INFRASTRUCTURE IMPROVEMENTS IN UPTOWN PLUM CREEK DEVELOPMENT; AUTHORIZE THE CITY OF KYLE TO ADMINISTER, MANAGE, AND DISBURSE SAID BOND FUNDS FOR THE THREE ROADS AND ASSOCIATED IMPROVEMENTS; AGREE TO REIMBURSE THE CITY OF KYLE FOR ALL PRINCIPAL AND INTEREST PAYMENTS DUE ON THE SAID BONDS EACH FISCAL YEAR UNTIL SUCH BONDS ARE FULLY PAID OFF; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.

WHEREAS the Board of the Kyle Tax Increment Reinvestment Zone Number Two recognizes and concurs that expediting the design and construction of the three roads and associated infrastructure improvements in the Uptown Plum Creek development will accelerate and stimulate economic development activities in the FM 1626 area as well as in the Kyle city limits, and

WHEREAS the Board of the Kyle Tax Increment Reinvestment Zone Number Two recognizes and concurs that the accelerated economic development activities will result in attracting and drawing major employers and creating good paying jobs for the residents of Kyle, and

WHEREAS the Board of the Kyle Tax Increment Reinvestment Zone Number Two recognizes and concurs that by expediting the design and construction of the three roads and associated infrastructure improvements in the Uptown Plum Creek development will enhance and complement its three major capital improvement projects that are underway within the boundaries of TIRZ #2: Uptown Center Park, Uptown Cultural Trails, and the Heroes Memorial Park, and

WHEREAS the Board of the Kyle Tax Increment Reinvestment Zone Number Two recognizes and concurs should the design and construction of the three roads and associated infrastructure improvements are not expedited and left to the developer's responsibility and timetable, then the accelerated positive economic benefits to the residents, businesses, and the City of Kyle will be significantly delayed with adverse impacts.

WHEREAS the Board of the Kyle Tax Increment Reinvestment Zone Number Two recognizes and accepts full and complete financial responsibility and obligation to fully reimburse the City of Kyle each fiscal year for all principal and interest payments due on the bonds each fiscal year from the property tax revenue increments until the said bonds have been fully paid off.

WHEREAS the Board of the Kyle Tax Increment Reinvestment Zone Number Two during its regularly scheduled meeting held on April 29, 2021, conducted a public hearing to obtain comments and feedback on its intent and plan to authorize the City of Kyle to Certificates of Obligation bonds in an amount not to exceed five million dollars (\$5,000,000.00) for the design and construction of the three roads and other associated infrastructure improvements in Uptown Plum Creek development and to agree to fully reimburse the City of Kyle each fiscal year for all principal and interest payments due on the said bonds each fiscal year from the property tax revenue increments until such bonds have been fully paid off.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE TAX INCREMENT REINVESTMENT ZONE NUMBER TWO, KYLE, HAYS COUNTY, TEXAS, THAT:

Section 1. Findings.

The Board of the Kyle Tax Increment Reinvestment Zone Number Two hereby finds that:

1. Expediting the design and construction of the three roads and associated infrastructure improvements in the Uptown Plum Creek development will accelerate and stimulate economic development activities in the FM 1626 area as well as in the Kyle city limits, and
2. Accelerated economic development activities will result in attracting major employers and creating good paying jobs for the residents of Kyle, and
3. Expedited design and construction of the three roads and associated infrastructure improvements in the Uptown Plum Creek development will enhance and complement its three major capital improvement projects that are underway within the boundaries of TIRZ #2: Uptown Center Park, Uptown Cultural Trails, and the Heroes Memorial Park, and
4. Should the design and construction of the three roads and associated infrastructure improvements be not expedited and left to the developer's responsibility and timetable, then the accelerated positive economic benefits to the residents, businesses, and the City of Kyle will be significantly delayed with adverse impacts.
5. It is the full and complete financial responsibility and obligation of the Board and Kyle Tax Increment Reinvestment Zone Number Two to reimburse the City of Kyle each fiscal year for all principal and interest payments due on the bonds each fiscal year from the property tax revenue increments until the said bonds have been fully paid off.

6. The Board considered any comments, feedback, and recommendations received during the public hearing held on April 29, 2021.
7. The recitals are hereby found to be true and correct and are hereby adopted by the Board of the Kyle Tax Increment Reinvestment Zone Number Two and made a part hereof for all purposes as findings of fact.

Section 2. Three Roads Determined by Board For Expedited construction.

The Board of the Kyle Tax Increment Reinvestment Zone Number Two has determined the following three roads and associated infrastructure improvements in the Uptown Plum Creek development:

1. Cromwell Street
2. Heroes Park Drive
3. Cultural Trails Drive

Section 3. Authorization Granted to City Council of the City of Kyle by the Board.

The Board of the Kyle Tax Increment Reinvestment Zone Number Two hereby authorizes the City Council of the City of Kyle to conduct the following on behalf of the Board and Kyle Tax Increment Reinvestment Zone Number Two:

1. Issue Certificates of Obligation bonds in an amount not to exceed five million dollars (\$5,000,000.00) for the design and construction of the three roads and other associated infrastructure improvements in Uptown Plum Creek development, and
2. Select and enter into contracts with professional services firms and contractors for the design and construction of the three roads and other associated infrastructure improvements in Uptown Plum Creek development, and
3. Administer, manage, and disburse funds from the said bond proceeds to the selected professional services firms and contractors for expenditures incurred for the design and construction of the three roads and other associated infrastructure improvements in Uptown Plum Creek development, and
4. Authorize publication of Notice of Intent by the City of Kyle to issue Certificates of Obligation bonds.

Section 4. Reimbursements to City of Kyle for All Principal and Interest Payments Due on the Contractual Obligation Bonds.

The Board of the Kyle Tax Increment Reinvestment Zone Number Two does hereby fully and completely accept its commitment, responsibility, and financial obligation to the City of Kyle that which is created and established under this Resolution of the Board.

The Board of the Kyle Tax Increment Reinvestment Zone Number Two hereby agrees to fully reimburse the City of Kyle each fiscal year for all principal and interest payments due on the bonds each fiscal year from the property tax revenue increments until the said bonds are fully paid off.

Section 5. Resolution Adoption Authorization.

This Resolution of the Board of the Kyle Tax Increment Reinvestment Zone Number Two is hereby adopted in compliance with the requirements set forth in the rules of order as applicable and granted to the Board under the creation Ordinance.

Section 6. Effective Date.

This Resolution of the Board of the Kyle Tax Increment Reinvestment Zone Number Two, Hays County, Texas shall take effect from and after the date of its passage.

Section 7. Open Meetings.

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

FINALLY PASSED AND APPROVED ON THIS THE 29TH DAY OF APRIL 2021.

BY THE BOARD OF THE KYLE TAX INCREMENT REINVESTMENT ZONE
NUMBER TWO:

Debbie Gonzales Ingalsbe, Chairperson
Kyle Tax Increment Reinvestment Zone Number Two
Hays County, Texas

ATTEST:

Jennifer Holm, City Secretary
City of Kyle, Texas



CITY OF KYLE, TEXAS

Personnel Policy ammendment

Meeting Date: 5/18/2021

Date time:7:00 PM

Subject/Recommendation: Consider approving a Resolution Authorizing Amendments to the Personnel Policy.
~ Sandra Duran, Director of Human Resources

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Resolution.Personnel.Policy
- Staffing & Recruiting
- Staffing & Recruiting - Redline

RESOLUTION NO. _____

AN RESOLUTION OF THE CITY OF KYLE, TEXAS, APPROVING AN AMENDMENT TO THE PERSONNEL POLICY; AND PROVIDING FOR RELATED MATTERS

Whereas, the City Council of the City of Kyle, Texas, a home rule municipality, has established and adopted a personnel policy governing the employees of the City; and

Whereas, the City Council finds that it is reasonable and necessary to amend the personnel policy as provided herein;

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. Personnel Policy Amendment. The City of Kyle Personnel Policy is hereby amended as provided and set forth in Exhibit A attached hereto and incorporated herein for all purposes.

Section 3. Effective Date. This Resolution shall be effective from and after the date of approval by the City Council in accordance with the City Charter.

Section 4. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Resolution are severable and, if any phrase, sentence, paragraph or section of this Resolution should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Resolution, since the same would have been enacted by the City Council without the incorporation in this Resolution of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Resolution shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision, and to this end the provisions of this Resolution are declared to be severable.

Section 5. 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 on this _____ day of _____, 2021.

ATTEST:

THE CITY OF KYLE, TEXAS

Jennifer Holm, City Secretary

Travis Mitchell, Mayor

Exhibit A

Section 2.05. Nepotism.

No person related, within the second degree of affinity (marriage) or within the third degree of consanguinity (blood), to the Mayor or any member of the City Council or the City Manager shall be employed or appointed to any office, position or clerkship or other service of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City prior to and at the time of election or appointment of the official related in the prohibited degree or for seasonal positions as defined in Section 4.12 2) d).

Relatives and members of the immediate family shall not be appointed to serve in positions in the same department unless specific written approval has been obtained from the City Manager. Department supervisors who believe any such appointment is justified may present to the City Manager the reason and needs that are the basis for requesting the appointment. The City Manager's written approval shall be required to make any such appointment official, and the City Manager's decision shall be final.

Article 4. Applications and Conditions of Employment

Section 4.01. Basis of Employment.

All initial employment with the City shall be based on job related qualifications, including but not limited to, knowledge, skills, ability, physical fitness and required licenses, as determined under the authority of the City Manager based upon:

- 1) Education, training, and work experience as reflected by the application form, plus other documentary evidence as to certification, registration, licenses, etc...
- 2) Job related written and/or performance tests.
- 3) Job related physical examination and drug screening test.
- 4) Background check for conviction of crimes involving moral turpitude and (in connection with jobs involving the operation of motor vehicles) moving traffic violations.
- 5) Reference checks made by the HR Department and/or the department head of the department concerned.
- 6) Specific positions may have additional basis of employment standards defined in the job description and application criteria posted by the department head.

Section 4.02. Recruitment.

The HR Director and appropriate Department Head are responsible for recruitment of all regular full-time, part-time, and seasonal employees, and maintenance of all applications. Recruitment occurs through personal contact, through employment agencies, and/or by way of advertising. The HR Director or those designated by the HR Director will conduct the initial recruiting. All applications will be referred to the appropriate department supervisor for screening interviews and possible employment.

Section 4.03. Requests for Personnel.

When the department head submits a request to the HR Department for persons to fill vacancies, such requests shall include the title of the position to be filled, contemplated initial salary or wages, desired training and/or experience qualifications as per the job description and such other pertinent information as may be needed to enable the HR Department to most satisfactorily find the personnel being sought by the department. Requests for personnel should be made a reasonable period of time in advance of actual need.

Section 4.04. Applicant Preference.

Other qualifications being equal among applicants, departments will give hiring preference to persons currently employed by the City.

Section 4.05. Residence.

All employees required as part of the employee's duties to be on call will be expected to reside within a reasonable response time of the office as defined by the Department Head and as approved by the City Manager.

Section 4.06. Job Postings.

All positions will be open to current city employees and shall be posted for at least seven (7) business days. If a shorter publication period is required due to an emergency, written justification should be included with the requisition and must be approved by the City Manager. External positions will be posted on the City Website.. The department head may request positions to be advertised in other media outlets. Applications will be accepted from both internal and external candidates. Internal only vacancies must be approved by the City Manager.

Section 4.07. Application and Selection Procedures.

All persons seeking initial employment or re-employment will be required to complete, sign and file an application with the HR Department. Referrals will be made from the City's applicant database. Suitable and eligible candidates will be selected according to the requirements the department places on the requisition, which will include education, skills, experience, and duties, etc. Candidates will be required to complete typing, data entry, aptitude physical and/or psychological testing as applicable. Interviewers must complete and return interview forms after the interviews. No formal job offers are to be made at the time of the interview. If the hiring supervisor determines that a candidate is acceptable, the HR Department will then extend a conditional job offer contingent to the results of a background check, and any other pre-employment assessments such as physical examination and drug screening., if required. Copy of driving record shall be required for those employees who operate City vehicles

Section 4.08. Appointments.

No formal job offers are to be extended prior to completion of the entire recruitment process. . The HR department shall schedule an appointment with the preferred candidate for new hire

orientation. If no candidate possessing the minimum qualifications is located or approved, the budgeted position may be filled by a lesser-qualified person at a lower job classification.

Section 4.09. Physical Standards.

- 1) Medical Examinations. Any and all new and former employees may be subject to undergoing a prescribed medical and physical examination to be made by some officially designated medical authority. Those positions specifically identified and designated as positions requiring medical and physical examinations shall undergo a prescribed medical and physical examination to be made by the officially designated medical authority. The purpose of the examination will be the determination and certification of physical fitness and ability to perform the duties of the position to which appointment is being considered. Such examinations are to be made as near the effective date of employment as possible. The HR department and appropriate Department Head share the responsibility of making appointments and arrangements for obtaining the examination, and matters concerning the initiation and completion of the requirements should be taken up with the HR department.
- 2) Exceptions. Physical standards and requirements will vary somewhat in accordance with the duties and working conditions as generally set forth in the specifications for various positions and also as to anticipated length of employment. The HR Director will advise the examining medical officer regarding any special or unusual requirements of this nature. The opinion and recommendation of the examining medical officer will determine the acceptability of any person for employment, to perform the required duties of the position. The examining medical officer will complete and forward to the HR Director the prescribed form indicating specific recommendations. Any discrimination on the basis of disability is prohibited. All applicable ADA (Americans Disabilities Act) guidelines will apply.

Section 4.10. Age Requirements.

Within statutory limits and the restrictions of State or Federal law, minors may be considered for employment in positions of a non-hazardous nature. In all instances, the parents of such minors shall be required to execute a waiver and release form provided by the HR Director. Any related questions that cannot be satisfactorily solved by the HR Director will be referred to the City Attorney, whose ruling shall be final.

Section 4.11. Standards of Conduct.

Employees of the City are the "Good Will Ambassadors" of the City, and such status involves a degree of duty and obligation regarding public and private conduct above and beyond other classes of employment. City employees should at all times promote the good will and favorable attitude of the public toward the City Administration and its program and policies.

Section 4.12. Types of Positions.

It is the intent of the City of Kyle to clarify the definitions of employment classifications so that employees understand their employment status and benefits eligibility. These classifications do not guarantee employment for any specified period of time. The right to terminate the employment relationship at will at any time is retained by both the employee and the City of Kyle. Employees are informed of their status as exempt or non-exempt at the time of their initial employment, or

subsequently if their classification changes for any reason. An employee's exempt or non-exempt classification may be changed only upon written notification by the Director of Human Resources.

1) **Fair Labor Standards Act Job Classifications.** All employees are designated as either nonexempt or exempt under state and federal wage and hour laws:

- a) Non-exempt employees are employees whose work is covered by the Fair Labor Standards Act (FLSA). They are not exempt from the law's requirements concerning minimum wage and overtime.
- b) Exempt employees are generally executives or managers or professional, administrative or outside sales staff who are exempt from the minimum wage and overtime provisions of the FLSA. Exempt employees hold jobs that meet the standards and criteria established under the FLSA by the U.S. Department of Labor.

2) **City Job Classifications.** The City of Kyle has established the following categories for both non-exempt and exempt employees:

- a) Regular full-time employees are not in a temporary status and are regularly scheduled to work the department's full-time schedule. Full-time employees are those with an average of at least 30 hours of service per week or 130 hours of service per month. Generally, they are eligible for the full benefits package, subject to the terms, conditions and limitations of each benefit program.
- b) Regular part-time employees are not in a temporary status and are regularly scheduled to work less than the full-time schedule and less than 1,000 hours of work per year. Regular part-time employees are not eligible for benefits offered by the city and are not eligible for participation in TMRS. There are voluntary benefits offered to all City employees by third party providers, subject to the terms, conditions and limitations of each benefit program.
- c) Temporary full-time and part-time employees are hired as interim replacements to temporarily supplement the workforce or to assist in the completion of a specific project and are temporarily scheduled to work the department's schedule for a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees receive all legally mandated benefits (such as workers' compensation insurance coverage) but are not eligible for the City's other employment benefits. Temporary employees who are placed with the City but who are actually employed by a temporary staffing agency must look to the temporary staffing agency to determine what benefits are provided. Such employees are not eligible for benefits from the City and are not eligible for participation in TMRS.
- d) Seasonal full-time and part-time employees are hired for only a specific time period associated with certain job duties that arise seasonally. These positions may not exceed 120 days in a calendar year. Employment beyond any initially stated period does not in any way imply a change in employment status. Seasonal employees receive all legally mandated benefits (such as workers' compensation insurance coverage) but are not eligible for the City's other employment benefits.

- e) Evaluation and Training Employee. All newly hired, promoted or transferred employees shall be subject to a six-month evaluation and training period or longer if extended. All employees shall be subject to being placed on evaluation and training status for disciplinary reasons for a term to be determined in writing at the time the evaluation and training status is instituted.

Note: Volunteers and unpaid interns are not employed by the City in any capacity. Volunteers elect to donate their time and services as a volunteer for the City without any expectation of compensation. City of Kyle interns are unpaid and work in exchange for exposure to, and training in, a particular field of work. Volunteers and interns are generally not paid, are not entitled to any benefits, and are not covered by worker's compensation.

Section 4.13. Disqualification for Employment.

The HR Director or the department head of the applicable department may reject any application, which indicates on its face that the applicant does not possess the minimum qualifications required for the position if:

- 1) the applicant does not meet the experience and/or education requirements of the job description for the position to which the applicant seeks appointment;
- 2) the applicant appears to have made false statements in the application or in the examination or appears to have practiced or attempted to practice deception or fraud in connection with such application;
- 3) the applicant tests positive for drug use;
- 4) the applicant's criminal background information is unsatisfactory;
- 5) the position is one requiring more than 20 hours per week and the applicant is receiving pension benefits under a retirement plan of the City;
- 6) the applicant refuses to participate in a retirement system, insurance or social security program required by this policy;
- 7) it is determined, subsequent to employment or offer of employment, that the applicant/employee made statements as to qualifications or experience in their application that were false, deceptive, inaccurate, and/or misleading;
- 8) or any other grounds set forth in these policies, rules and regulations.

Section 4.14. Training of New Hire.

When the employee first reports for work, the employee shall be notified of the fact that the employee will be in training for several months. During this time, the supervisor shall observe the employee's work with particular care, train, and advise the employee in the performance of his/her duties, and let the employee know if the employee is progressing satisfactorily.

Section 4.15. Drug Screening.

The City may perform pre-employment, post-accident, and reasonable cause drug screening of all employees and of all employees in positions that mandate such screening.

Section 2.05. Nepotism.

No person related, within the second degree of affinity (marriage) or within the third degree of consanguinity (blood), to the Mayor or any member of the City Council or the City Manager shall be employed or appointed to any office, position or clerkship or other service of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City prior to and at the time of election or appointment of the official related in the prohibited degree or for seasonal positions as defined in Section 4.12 2) d).

Relatives and members of the immediate family shall not be appointed to serve in positions in the same department ~~or in the departments that work closely together~~ unless specific written approval has been obtained from the City Manager. Department supervisors who believe any such appointment is justified may present to the City Manager the reason and needs that are the basis for requesting the appointment. The City Manager's written approval shall be required to make any such appointment ~~official~~official, and the City Manager's decision shall be final.

Article 4. Applications and Conditions of Employment

Section 4.01. Basis of Employment.

All initial employment with the City shall be based on job related qualifications, including but not limited to, knowledge, skills, ability, physical fitness and required licenses, as determined under the authority of the City Manager based upon:

- 1) Education, ~~training~~training, and work experience as reflected by the application form, plus other documentary evidence as to certification, registration, licenses, etc...
- 2) Job related written and/or performance tests.
- 3) Job related physical examination and drug screening test.
- 4) Background check for conviction of crimes involving moral turpitude and (in connection with jobs involving the operation of motor vehicles) moving traffic violations.
- 5) ~~Mandatory R~~reference checks made by the HR Department and/or the department head of the department concerned.
- 6) Specific positions may have additional basis of employment standards defined in the job description and application criteria posted by the department head.

Section 4.02. Recruitment.

The HR Director and appropriate Department Head are responsible for recruitment of all regular full-time, part-time, and seasonal employees, and maintenance of all applications. Recruitment occurs through personal contact, through employment agencies, and/or by way of advertising. The HR Director or those designated by the HR Director will conduct the initial recruiting. All applications will be referred to the appropriate department supervisor for screening interviews and possible employment. ~~Absent a HR Director, the department head of the department for which~~

~~the vacancy exists, or, in specific instances, another officer of the City designated by the City Manager, shall be responsible for recruitment.~~

Section 4.03. Requests for Personnel.

When the department head submits a request to the HR Department for persons to fill vacancies, such requests shall include the title of the position to be filled, contemplated initial salary or wages, desired training and/or experience qualifications as per the job description and such other pertinent information as may be needed to enable the HR Department to most satisfactorily find the personnel being sought by the department. Requests for personnel should be made a reasonable period of time in advance of actual need.

Section 4.04. Applicant Preference.

Other qualifications being equal among applicants, departments will give hiring preference to persons currently employed by the City.

Section 4.05. Residence.

All employees required as part of the employee's duties to be on call will be expected to reside within a reasonable response time of the office as defined by the Department Head and as approved by the City Manager.

Section 4.06. Job Postings.

All positions will be open to current city employees and shall be posted for at least seven (7) business days. If a shorter publication period is required due to an emergency, written justification should be included with the requisition and must be approved by the City Manager. External positions will be posted on the City Website, ~~and at the City Hall bulletin board where city notices are posted.~~ The department head may request positions to be advertised in other media outlets. Applications will be accepted from both internal and external candidates. Internal only vacancies must be approved by the City Manager.

Section 4.07. Application and Selection Procedures.

All persons seeking initial employment or re-employment may will be required to complete, sign and file an application with the HR Department. ~~Application forms will be secured from and returned to the HR Office prior to the posted deadline.~~ Referrals will be made from the City's applicant database. Suitable and eligible candidates will be selected according to the requirements the department places on the ~~requisition;~~ requisition, which will include education, skills, experience, and duties, etc. Candidates will be required to complete typing, data entry, aptitude physical and/or psychological testing as applicable. Interviewers must complete and return interview forms after the interviews. No formal job offers are to be made at the time of the interview. If the ~~hiring supervisor;~~ interviewer determines that a candidate is acceptable, the HR ~~Office-Department~~ will then extend a conditional job offer contingent to the results of a background check, check referenees, driving records, etc. and, subject to such information being found satisfactory, extend a preliminary job offer and any other ~~schedule the candidate for a pre-employment~~ assessments such as physical examination and drug screening., if required. ~~Clerical~~

~~positions shall normally be exempted from pre-employment physical examination requirements. Copy of driving record shall be required for those employees who operate City vehicles. (Records will be returned to employee upon termination of employment.)~~

Section 4.08. Appointments.

No formal job offers are to be extended prior to completion of the entire recruitment process. ~~The final employment of any applicant may be subject to such applicant passing a physical exam (except for office personnel) and drug screening if required. The preferred candidate shall be reported to the City Manager for approval.~~ The HR ~~Director~~ department shall schedule an appointment with the preferred candidate for ~~enrollment and new hire~~ orientation. If no candidate possessing the minimum qualifications is located or approved, the budgeted position may be filled by a lesser-qualified person at a lower job classification.

Section 4.09. Physical Standards.

- 1) Medical Examinations. Any and all new and former employees may be subject to undergoing a prescribed medical and physical examination ~~(except for office personnel)~~ to be made by some officially designated medical authority. Those positions specifically identified and designated as positions requiring medical and physical examinations shall undergo a prescribed medical and physical examination to be made by the officially designated medical authority. The purpose of the examination will be the determination and certification of physical fitness and ability to perform the duties of the position to which appointment is being considered. Such examinations are to be made as near the effective date of employment as possible. The HR ~~Office~~ department and appropriate Department Head share the responsibility of making appointments and arrangements for obtaining the examination, and matters concerning the initiation and completion of the requirements should be taken up with the HR ~~Officedepartment~~.
- 2) Exceptions. Physical standards and requirements will vary somewhat in accordance with the duties and working conditions as generally set forth in the specifications for various positions and also as to anticipated length of employment. The HR Director will advise the examining medical officer regarding any special or unusual requirements of this nature. The opinion and recommendation of the examining medical officer will determine the acceptability of any person for employment, to perform the required duties of the position. The examining medical officer will complete and forward to the HR Director the prescribed form indicating specific recommendations. Any discrimination on the basis of disability is prohibited. All applicable ADA (Americans Disabilities Act) guidelines will apply.

Section 4.10. Age Requirements.

Within statutory limits and the restrictions of State or Federal law, minors may be considered for employment in positions of a non-hazardous nature. In all instances, the parents of such minors shall be required to execute a waiver and release form provided by the HR Director. Any related questions that cannot be satisfactorily solved by the HR Director will be referred to the City Attorney, whose ruling shall be final. ~~The employment of any person less than eighteen (18) years of age, in a full-time position, shall require the review and approval of the City Manager.~~

Section 4.11. Standards of Conduct.

Employees of the City are the "Good Will Ambassadors" of the City, and such status involves a degree of duty and obligation regarding public and private conduct above and beyond other classes of employment. City employees should at all times promote the good will and favorable attitude of the public toward the City Administration and its program and policies.

Section 4.12. Types of Positions.

It is the intent of the City of Kyle to clarify the definitions of employment classifications so that employees understand their employment status and benefits eligibility. These classifications do not guarantee employment for any specified period of time. The right to terminate the employment relationship at will at any time is retained by both the employee and the City of Kyle. Employees are informed of their status as exempt or non-exempt at the time of their initial employment, or subsequently if their classification changes for any reason. An employee's exempt or non-exempt classification may be changed only upon written notification by the Director of Human Resources.

- 1) **Fair Labor Standards Act Job Classifications.** All employees are designated as either nonexempt or exempt under state and federal wage and hour laws:
 - a) Non-exempt employees are employees whose work is covered by the Fair Labor Standards Act (FLSA). They are not exempt from the law's requirements concerning minimum wage and overtime.
 - b) Exempt employees are generally executives or managers or professional, administrative or outside sales staff who are exempt from the minimum wage and overtime provisions of the FLSA. Exempt employees hold jobs that meet the standards and criteria established under the FLSA by the U.S. Department of Labor.
- 2) **City Job Classifications.** The City of Kyle has established the following categories for both non-exempt and exempt employees:
 - a) Regular full-time employees are not in a temporary status and are regularly scheduled to work the department's full-time schedule. Full-time employees are those with an average of at least 30 hours of service per week or 130 hours of service per month. Generally, they are eligible for the full benefits package, subject to the terms, conditions and limitations of each benefit program.
 - b) Regular part-time employees are not in a temporary status and are regularly scheduled to work less than the full-time schedule and less than 1,000 hours of work per year. Regular part-time employees are not eligible for benefits offered by the city and are not eligible for participation in TMRS. There are voluntary benefits offered to all City employees by third party providers, subject to the terms, conditions and limitations of each benefit program.
 - c) Temporary full-time and part-time employees are hired as interim replacements to temporarily supplement the workforce or to assist in the completion of a specific project and are temporarily scheduled to work the department's schedule for a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees receive all legally mandated benefits (such as

workers' compensation insurance coverage) but are not eligible for the City's other employment benefits. Temporary employees who are placed with the City but who are actually employed by a temporary staffing agency must look to the temporary staffing agency to determine what benefits are provided. Such employees are not eligible for benefits from the City and are not eligible for participation in TMRS.

- d) Seasonal full-time and part-time employees are hired for only a specific time period associated with certain job duties that arise seasonally. These positions may not exceed 120 days in a calendar year. Employment beyond any initially stated period does not in any way imply a change in employment status. Seasonal employees receive all legally mandated benefits (such as workers' compensation insurance coverage) but are not eligible for the City's other employment benefits.
- e) Evaluation and Training Employee. All newly hired, promoted or transferred employees shall be subject to a six-month evaluation and training period or longer if extended. All employees shall be subject to being placed on evaluation and training status for disciplinary reasons for a term to be determined in writing at the time the evaluation and training status is instituted.

Note: Volunteers and unpaid interns are not employed by the City in any capacity. Volunteers elect to donate their time and services as a volunteer for the City without any expectation of compensation. City of Kyle interns are unpaid and work in exchange for exposure to, and training in, a particular field of work. Volunteers and interns are generally not paid, are not entitled to any benefits, and are not covered by worker's compensation.

Section 4.13. Disqualification for Employment.

The HR Director or the department head of the applicable department may reject any application, which indicates on its face that the applicant does not possess the minimum qualifications required for the position if:

- 1) the applicant does not meet the experience and/or education requirements of the job description for the position to which the applicant seeks appointment;
- 2) the applicant appears to have made false statements in the application or in the examination or appears to have practiced or attempted to practice deception or fraud in connection with such application;
- 3) the applicant tests positive for drug use;
- 4) the applicant's criminal background information is unsatisfactory;
- 5) the position is one requiring more than 20 hours per week and the applicant is receiving pension benefits under a retirement plan of the City;
- 6) the applicant refuses to participate in a retirement system, insurance or social security program required by this policy;

- 7) it is determined, subsequent to employment or offer of employment, that the applicant/employee made statements as to qualifications or experience in their application that were false, deceptive, inaccurate, and/or misleading;
- 8) or any other grounds set forth in these policies, rules and regulations.

Section 4.14. Training of New Hire.

When the employee first reports for work, the employee shall be notified of the fact that the employee will be in training for several months. During this time, the supervisor shall observe the employee's work with particular care, train, and advise the employee in the performance of his/her duties, and let the employee know if the employee is progressing satisfactorily.

Section 4.15. Drug Screening.

The City may perform pre-employment, post-accident, and reasonable cause drug screening of all employees and ~~may perform pre-employment, post-accident, and reasonable cause drug screening~~ of all employees in positions that mandate such screening.



CITY OF KYLE, TEXAS

Approve the City of Kyle's Voluntary Commitment to Reducing Particulate Matter (PM2.5) Emissions

Meeting Date: 5/18/2021
Date time: 7:00 PM

Subject/Recommendation: Approve the City of Kyle's Voluntary Commitment to Reducing Particulate Matter (PM2.5) Emissions within the Austin-Round Rock-Georgetown Metropolitan Statistical Area (MSA). ~ *Robert Rizo, Council Member*

Other Information: Currently, the region's air pollution levels within the Austin-Round Rock-Georgetown Metropolitan Statistical Area (MSA) continue to be moving closer to exceeding the national ozone (O3) standards more than the particulate (PM) standards. However, the region's PM air pollution levels pose a much more significant public health threat than O3, and the PM pollution levels may pose a more significant regulatory threat as well in the coming years.

The list of proposed measures was designed to help reduce regional PM2.5 pollution and were developed by a subcommittee of the Clean Air Coalition Advisory Committee (CACAC) that included staff from Austin, Round Rock, Travis County, Bastrop County, EPA, and Public Citizen, and was reviewed by the Clean Air Coalition (CAC) at its February 10, 2021, meeting. The list was intended to provide a "menu" of options for current and potential future CAC members to consider implementing as part of the regional plan. The Capital Area Council of Governments (CAPCOG) has requested that organizations consider this list of measures and notify CAPCOG by May 31, 2021, of any new measures they plan to implement, as well as any existing measures already being implemented.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- City of Kyle PM2.5 Proposed Emission Reduction Measures_2021
- CAPCOG PM2.5 Proposed Emission Reduction Measures for the MSA_2021-02-25

Proposed Regional PM_{2.5} Emission Reduction and Planning Measures for the Austin-Round Rock-Georgetown
MSA Regional Air Quality Plan – February 25, 2021

Organization: City of Kyle

Table 1 - PM_{2.5} Measures for Austin-Round Rock-Georgetown MSA Air Quality Plan

Measure and Status (i.e., new or existing)	Implement within own organization's operations	Encourage or require 3 rd party organizations to implement	Educate and encourage the public at large to implement
1: Reduce PM emissions from construction and demolition activities (new) *Dust	Yes * No N/A	Yes No N/A	Yes No N/A
2: Reduce PM emissions from commercial cooking/charbroiling (new)	Yes No N/A	Yes No N/A	Yes No N/A
3: Reduce PM emissions from road dust (new)	Yes No N/A	Yes No N/A	Yes No N/A
4: Reduce PM emissions from mining and quarrying activities (new)	Yes No N/A	Yes No N/A	Yes No N/A
5: Reducing PM emissions from open burning (new)	Yes No N/A	Yes No N/A	Yes No N/A
6: Reduce PM emissions or impact of PM emissions from prescribed burning on high PM days (new)	Yes No N/A	Yes No N/A	Yes No N/A
7: Reduce emissions from mobile sources year-round (existing)	Yes No N/A	Yes No N/A	Yes No N/A
8: Reduce emissions from stationary combustion sources year-round (existing)	Yes No N/A	Yes No N/A	Yes No N/A
9: Installation additional PM_{2.5} monitors/sensors within the region (new)	Yes No N/A	Yes No N/A	Yes No N/A
10: Promote awareness of health effects of PM air pollution (new)	Yes No N/A	Yes No N/A	Yes No N/A

Proposed PM_{2.5} Measures for the Austin-Round Rock-Georgetown MSA Regional Air Quality Plan

February 25, 2021

Prepared by the Capital Area Council of Governments (CAPCOG)

Background

In December 2020, the U.S. Environmental Protection Agency (EPA) concluded its periodic review of the particulate matter (PM) National Ambient Air Quality Standards (NAAQS) by deciding to retain all of the existing PM NAAQS. However, as part of this review, EPA staff indicated that there is no clear threshold below which exposure to PM pollution will not cause significant health problems, and EPA staff had recommended consideration of a tighter annual fine particulate matter (PM_{2.5}) NAAQS. During the next PM NAAQS review due in 2025, the new EPA Administrator could tighten the NAAQS and the Austin-Round Rock-Georgetown Metropolitan Statistical Area's (MSA's) PM_{2.5} concentrations are high enough that the region could be at risk of a nonattainment designation for a tighter PM_{2.5} NAAQS. Therefore, both from a public health perspective and a regulatory perspective, the Central Texas Clean Air Coalition (CAC) has decided to update the region's voluntary air quality plan, *2019-2023 Austin-Round Rock-Georgetown Metropolitan Statistical Area (MSA) Regional Air Quality Plan*, to include additional measures targeted at reducing regional PM_{2.5} air pollution and enhancing awareness of PM air pollution.

Currently, the region's air pollution levels continue to be much closer to exceeding the ozone (O₃) NAAQS than any of the PM NAAQS. However, the region's PM air pollution levels pose a much more significant public health threat than O₃, and the PM pollution levels may pose a more significant regulatory threat as well in the coming years. This list of proposed measures is designed to help reduce regional PM_{2.5} pollution, and were developed by a subcommittee of the Clean Air Coalition Advisory Committee (CACAC) that included staff from Austin, Round Rock, Travis County, Bastrop County, EPA, and Public Citizen, and was reviewed by the CAC at its February 10, 2021, meeting. The list is intended to provide a "menu" of options for current and potential future CAC members to consider implementing as part of the regional plan. CAPCOG will solicit public comment on these measures, compile the responses, and provide these to CAC members for their consideration. CAPCOG is requesting that organizations consider this list of measures and notify CAPCOG by May 31, 2021, of any new measures they plan to implement, as well as any existing measures already being implemented. CAPCOG staff will incorporate this into an update to the regional plan that will be presented to the CAC at its August 11, 2021, meeting, for approval.

Proposed Measures

Several proposed measures are new and specific to major sources of PM emissions that differ from measures to control O₃-forming emissions. However, there are also existing measures in the plan that organizations may not be implementing that can also help reduce PM emissions and concentrations. The list includes both a measure and target for implementation. Methods of implementation can range from passive controls such as encouraging and sharing best management practices (BMPs) to more aggressive controls such as contractor requirements that BMPs are implemented or city ordinances. The appendix contains details on specific activities that can be undertaken under each category and provides additional background to help stakeholders understand the multiple ways in which certain sectors could reduce emissions. CAPCOG is not requesting that CAC members list in detail each specific action. However, CAPCOG is requesting that CAC members indicate which general measures they will commit to implementing and the level of commitment (i.e., encouraging best management practices, ordinances, contractual specifications, outreach and education, etc.).

Proposed Regional PM_{2.5} Emission Reduction and Planning Measures for the Austin-Round Rock-Georgetown
MSA Regional Air Quality Plan – February 25, 2021

Organization: _____

Table 1 - PM_{2.5} Measures for Austin-Round Rock-Georgetown MSA Air Quality Plan

Measure and Status (i.e., new or existing)	Implement within own organization's operations	Encourage or require 3 rd party organizations to implement	Educate and encourage the public at large to implement
1: Reduce PM emissions from construction and demolition activities (new)	Yes No N/A	Yes No N/A	Yes No N/A
2: Reduce PM emissions from commercial cooking/charbroiling (new)	Yes No N/A	Yes No N/A	Yes No N/A
3: Reduce PM emissions from road dust (new)	Yes No N/A	Yes No N/A	Yes No N/A
4: Reduce PM emissions from mining and quarrying activities (new)	Yes No N/A	Yes No N/A	Yes No N/A
5: Reducing PM emissions from open burning (new)	Yes No N/A	Yes No N/A	Yes No N/A
6: Reduce PM emissions or impact of PM emissions from prescribed burning on high PM days (new)	Yes No N/A	Yes No N/A	Yes No N/A
7: Reduce emissions from mobile sources year-round (existing)	Yes No N/A	Yes No N/A	Yes No N/A
8: Reduce emissions from stationary combustion sources year-round (existing)	Yes No N/A	Yes No N/A	Yes No N/A
9: Installation additional PM_{2.5} monitors/sensors within the region (new)	Yes No N/A	Yes No N/A	Yes No N/A
10: Promote awareness of health effects of PM air pollution (new)	Yes No N/A	Yes No N/A	Yes No N/A

Next Steps

Below is the timeline that CAPCOG plans to follow regarding collecting public comments, soliciting emission reduction commitments from CAC members, and updating the Regional Air Quality Plan. CAPCOG will be conducting a region-wide public comment period in March 2021 in order to provide CAC member organizations useful public and stakeholder input on this list of measures ahead of the May 31, 2021, target date for submitting its list of measure for inclusion in the update to the air quality plan that will be presented to the CAC for approval at their August 2021 meeting. Since this is a voluntary plan, the CAC’s approval will simply codify all of the commitments that member organizations have made and provide any direction on region-wide initiatives that it may wish CAPCOG to undertake. Please send any questions, comments, or inquiries to Christiane Alepuz at calepuz@capcog.org. Public comment will be accepted until March 26, 2021, and then collated and distributed to CAC members the following week.

CAPCOG also plans to monitor new state legislation that may affect PM emissions sectors from some key sector and sources such as concrete batch plants or mining and quarry operations, and any federal or state-level initiatives that may be supportive of additional PM reductions within the region.

Table 2 - Timeline for 2021 Update to the 2019-2023 Regional Air Quality Plan Update for PM_{2.5}

Date or Timeframe	Milestone
2/10/2021	CAC meeting; list of measures presented, public comment period opens
3/26/2021	End of public comment period
3/29/2021- 4/2/2021	CAPCOG will compile comments and disseminate to CAC and CACAC
4/29/2021	CACAC meeting; review progress
5/3/2021 – 5/7/2021	National Air Quality Awareness Week; Presentations to CAC Organizations
5/12/2021	CAC Meeting; review progress
5/31/2021	Target date for existing CAC members to update commitments
6/25/2021	Target date for commitments from new CAC members
7/22/2021	Target date for drafting plan & distribution to CACAC for review
7/29/2021	CACAC meeting to consider recommendation of plan update (tentative)
8/11/2021	CAC considers approval of update to plan
8/13/2021	CAPCOG submits plan to EPA as “Path Forward” for PM Advance Program

Appendix A: Additional Background

What are the Health Effects of Particulate Matter Pollution?

Particles with diameters of 2.5 micrometers or smaller (PM_{2.5}, or “fine PM”) are small enough to penetrate and harm numerous body systems. EPA’s review of PM health studies have indicated “causal” or “likely causal” relationships between short-term and/or long term exposure to PM_{2.5} and the following health effects¹:

- Premature death;
- Lung cancer;
- Cardiovascular effects;
- Nervous system effects; and
- Respiratory effects.

EPA’s review also indicated that there is no evidence of a threshold below which further reductions to PM_{2.5} exposure would not continue to decrease risks. This means that there are public health benefits of reducing both long-term and short-term exposure to PM_{2.5} even if an area is attaining the PM_{2.5} NAAQS.

EPA also reviewed health effects of particles with diameters 2.5 – 10 micrometers (PM_{2.5-10} or “coarse PM”), but EPA was not able to determine if particles in this size range could be definitively linked to any health outcomes. EPA does have a NAAQS for short-term exposure to all particles with diameters 10 micrometers or smaller (PM₁₀), but PM₁₀ includes PM_{2.5}. EPA also reviewed information on health effects associated with even smaller particles – ones with diameters smaller than 0.1 micrometers (PM_{0.1} or “ultrafine PM”), but was not able to determine conclusively if there were health effects from particles these sizes that were distinct from the health effects it assessed for PM_{2.5}.

Who is Most Affected by Particulate Matter Pollution?

People with heart or lung diseases, children, and older adults are the most likely to be affected by PM_{2.5} pollution exposure. These sensitive groups comprise at least 40% of the population in the MSA. Additionally, people of color and people with low incomes tend to have disproportionate exposure to high PM_{2.5} levels.

What are the Different Types of PM_{2.5} Pollution?

PM_{2.5} is both a primary pollutant (i.e., directly emitted from different sources) and a secondary pollutant (i.e., formed in the atmosphere through chemical reactions and processes from other direct emissions).

Sources of PM_{2.5} include:

- Crustal PM_{2.5} – particles from dust/soil;
- Elemental carbon (EC) PM_{2.5} – particles that contain the elemental form of carbon (i.e., graphite);
- Organic carbon (OC) PM_{2.5} – particles that contain organic molecules (hydrocarbons);
- Sulfate PM_{2.5} – particles that contain SO₄ molecules;
- Nitrate PM_{2.5} – particles that contain NO₃ molecules; and
- Ammonium PM_{2.5} – particles that contain NH₄ molecules.

Which Type of PM_{2.5} Pollution is of Most Concern?

The type of PM_{2.5} that appears to be contributing the most to the highest levels of annual PM_{2.5} concentrations within the region is organic carbon PM_{2.5}. The large variation in the organic carbon PM_{2.5} contributions at the two regional regulatory monitors in 2014-2018 accounts for the vast majority in the differences in the annual PM_{2.5} concentrations between these locations. This suggests that reducing organic carbon PM_{2.5} emissions would

¹ EPA. *Integrated Science Assessment for Particulate Matter*. December 2019. EPA/600/R-19/188, http://ofmpub.epa.gov/eims/eimscomm.getfile?p_download_id=539935.

be the most important step that the region can take towards reducing the highest annual PM_{2.5} concentrations, which are located in the urban core.

What are the Largest Sources of PM_{2.5} Emissions?

The largest sources of PM_{2.5} and organic carbon PM_{2.5} within the Austin-Round Rock-Georgetown MSA are listed below:

Table 3 – Largest sources of PM_{2.5} Emissions in the region, 2017

Source Category	Tons per year PM _{2.5}	% of Total PM _{2.5} Emissions	Tons per year OC PM _{2.5}	% of Total OC PM _{2.5} Emissions
Road Dust	2,325	22%	153	6%
Construction Dust	1,693	16%	78	3%
Open Burning	1,574	15%	611	26%
Prescribed Fires	861	8%	403	17%
Agricultural Dust	793	8%	24	1%
Commercial Cooking	417	4%	279	12%
Mining and Quarrying	326	3%	0	0%
Subtotal	7,989	76%	1,548	65%

It’s important to note that while these represent the best estimates available, they are characterized by a high degree of certainty, especially compared to some of the largest sources of ozone-forming emissions. EPA has developed these estimates based on broad national datasets and emissions factors, and circumstances may vary significantly location to location. For example, EPA assumes that 12.5% of all PM₁₀ emissions from all mines and quarries is PM_{2.5}, but EPA’s estimates for the region do not reflect any unique circumstances that may be present at any specific mine or quarry within the region.

How Do the Sources of PM_{2.5} Emissions Compare to Sources of Ozone-Forming Emissions?

The list of the mains sources of PM_{2.5} emissions in the region is very different than the list of main sources of emissions contributing to peak O₃ formation, which is dominated by mobile sources and point sources. While measures to reduce O₃-forming emissions from mobile sources and point sources will also help reduce PM_{2.5}, those sources do not contribute nearly as much to the region’s PM_{2.5} concentrations as they do to peak O₃ formation, and the main sources of PM_{2.5} emissions require distinct control measures in order to significantly affect regional PM_{2.5} concentrations.

How Do the Region’s PM_{2.5} Concentrations Compare to NAAQS?

When comparing the region’s PM_{2.5} concentrations to the NAAQS, the concentrations are referred to as “design values,” and are based on 3 years’ worth of data, (i.e., 2018-2020):

- Annual design value: 9.7 micrograms per cubic meter (µg/m³) – 81% of the maximum allowed
 - The annual NAAQS is 12.0 µg/m³
 - EPA staff had proposed consideration of a NAAQS as low as 8.0 µg/m³
- 24-hour design value for 2018-2020: 22 µg/m³ – 63% of the maximum allowed
 - The 24-hour NAAQS is 35 µg/m³

How are the Design Values Determined?

When EPA determines if an area's PM_{2.5} levels are in compliance with the NAAQS, they will use the most recent three years' worth of data from all of the official PM_{2.5} monitors that the state operates or has approved for use in comparison to the NAAQS. These numbers are known as "design values." The highest design value for the whole region becomes that region's design value. In the Austin-Round Rock-Georgetown MSA, there are two such PM_{2.5} monitors that will be used to assess the region's compliance for the 2018-2020 period:

- AQS Number 484530021/CAMS Number 171 in East Austin: https://www.tceq.texas.gov/cgi-bin/compliance/monops/site_photo.pl?cams=171
- AQS Number 484531068/CAMS 1068 along IH-35, just north of the intersection with US-183: https://www.tceq.texas.gov/cgi-bin/compliance/monops/site_photo.pl?cams=1068

These two sites are located where EPA and the state have determined would be the locations most likely to measure the highest region-wide PM_{2.5} concentrations over a three-year period.

For the annual PM_{2.5} NAAQS, EPA calculates quarterly averages for each year, and then calculates a 3-year average to determine the design value. If that 3-year average is 12.0 µg/m₃ or below, the region is considered in compliance with the NAAQS. For the 24-hour PM_{2.5} NAAQS, EPA calculates the 98th percentile 24-hour concentration for each year, and then calculates a 3-year average. If that 3-year average is 35 µg/m₃ or below, the region is considered in compliance with the NAAQS.

What Specific Actions can be Implemented?

This section outlines in detail the specific activities that CAC members could implement under each category identified above. This is meant to provide an idea of specific activities, and it is not required that CAC members list in detail which specific action (e.g., water application) is planned to be implemented.

1. Reduce emissions from construction and demolition activities
 - a. There are a number of ways to reduce PM emissions during construction and demolition. The list below is compiled from the WRAP Fugitive Dust Handbook² and a best practice document from Canada³
 - b. Water application
 - c. Dust suppressants
 - d. Reschedule large dust generating activities from high wind days or forecasted high PM days
 - e. Design:
 - i. Plan for minimizing dust generation
 - ii. Choosing building material to reduce dust generation
 - iii. Minimize distances travelled for delivery of materials
 - iv. Use of green building materials
 - v. Design and construction for maximum energy efficiency
 - f. Site preparation

² Western Regional Air Partnership's (WRAP's) Fugitive Dust Handbook, https://www.wrapair.org//forums/deif/fdh/content/FDHandbook_Rev_06.pdf

³Best Practices for the Reduction of Air Emissions From Construction and Demolition Activities, <http://www.bv.transports.gouv.qc.ca/mono/1173259.pdf>

Proposed PM_{2.5} Measures for the Austin-Round Rock-Georgetown MSA Regional Air Quality Plan

- i. Grade the construction site in phases
 - ii. Use wind fencing
 - iii. Stabilize surfaces of completed earthworks with vegetation
 - iv. Stabilize earthworks with stone/soil/geotextiles
 - v. Create ridges to prevent dust
 - vi. Compact disturbed soil
 - vii. Eliminate open burning
 - viii. Reduce certain activities during windy conditions
 - g. Storage piles:
 - i. Storage pile activity should be conducted downwind
 - ii. Utilize enclosures/coverings for storage piles
 - iii. Utilize wind fences/screens for storage piles
 - iv. Use vegetation cover as a wind break
 - v. Properly shape storage piles
 - vi. Properly schedule the delivery of landscaping materials
 - h. Material Handling & Transfer Systems
 - i. Control mud and dirt trackout and carryout
 - ii. Minimize material drop at the transfer point and enclosure
 - iii. Utilize foam suppression systems
 - iv. Secure loads on haul trucks
 - v. Prevent PM emissions from spills
 - vi. Minimize material handling operations
 - vii. Capture fugitive dust emissions
 - viii. Utilize wind barriers
 - ix. Reduce certain activities during windy conditions
 - i. Road surfaces
 - i. Establish on-site vehicle restrictions
 - ii. Surface improvements to unpaved road surfaces
 - iii. Proper maintenance of unpaved roads
 - iv. Work practices associated with de-icing materials
 - j. Fabrication
 - i. On high PM days, reschedule the following:
 - 1. Cutting and grinding
 - 2. Sand and grit blasting and façade cleaning
 - 3. Concrete cutting
 - 4. Mixing processes
 - 5. Internal and external finishing and refurbishment
 - k. Demolition and Deconstruction
 - i. Apply deconstruction techniques
 - ii. Minimize drop heights for debris
 - iii. Enclose chutes and cover bins
 - iv. Use fogging systems
 - v. Construct barriers to prevent dispersion
 - vi. Avoid blasting when feasible
 - vii. Vacuum debris
 - viii. Work practices for loading debris
 - ix. Avoid prolonged storage of debris
- 2. Reduce emissions from commercial cooking/charbroiling, possibly through some kind of grant program

Proposed PM_{2.5} Measures for the Austin-Round Rock-Georgetown MSA Regional Air Quality Plan

- a. The U.S. Environmental Protection Agency's (EPA's) Menu of Control Measures⁴ identifies one control for commercial cooking, catalytic oxidizers, which are estimated to achieve an 83% control efficiency at a cost of \$3,252 per ton of PM + volatile organic compounds (VOCs).
 - i. This measure focuses on the control of PM emissions from over-fire and conveyor charbroilers. The use of a catalytic oxidizer, placed above the charbroiler in the stack and activated by heat from the cooking, appears to be the best and most cost-effective emission control device for charbroilers.
 - ii. Cities in California and New York have established exemptions for establishments that charbroil less than 400 – 1,000 pounds of meat per week.
 - b. If funds are available, a grant program could be implemented to assist restaurants and food service businesses, that charbroil a certain threshold of meat, in purchasing and installing a catalytic oxidizer.
3. Reduce road dust emissions²
 - a. Paved roads and parking lots:
 - i. Water flushing/sweeping
 - ii. Improvements in sanding/salting applications and materials
 - iii. Covering haul trucks
 - iv. Prevention of vehicle dust trackout
 1. Curb installation
 2. Shoulder stabilization
 - b. Unpaved roads & parking lots
 - i. Paving
 - ii. Chemical stabilization/dust suppressant
 - iii. Surface improvement (e.g., gravel)
 - iv. Vehicle speed reduction (to 25 miles/hour or less)
 - v. Watering twice a day for industrial unpaved road
 4. Reduce emissions from mining and quarrying activities
 - a. EPA⁴ identifies the following control measures for direct PM emissions from “Mineral Products – Stone Quarrying & Processing” at stationary facilities at which materials are being handled after quarrying.
 - i. Dry Electrostatic Precipitator (ESP) – Wire Plate Type
 - ii. Fabric Filter
 - iii. Paper/Nonwoven Filters – Cartridge Collector
 - iv. Venturi Scrubber
 - v. Wet Electrostatic Precipitator (ESP) – Wire Plate Type
 - b. PM reduction measures at the mining and quarrying site are^{2,5}:
 - i. Reschedule blasting and other large dust generating activities from days with high winds or high PM levels

⁴ EPA Point & Non-Point PM Menu of Control Measures, <https://www.epa.gov/sites/production/files/2016-02/documents/menuofcontrolmeasures.pdf>

⁵ Public Citizen Urges Texas Legislature to Rein in Aggregate Pollution, <https://www.citizen.org/article/public-citizen-urges-texas-legislature-to-rein-in-aggregate-pollution/>

Proposed PM_{2.5} Measures for the Austin-Round Rock-Georgetown MSA Regional Air Quality Plan

- ii. Implement wet suppression
 - iii. Enclose or cover storage piles
 - iv. Plant vegetation as a windbreak and/or erect artificial wind barriers
 - v. Control mud and dirt trackout
 - vi. Secure loads on haul trucks
 - vii. Vehicle wash stations upon exiting property
 - viii. Route optimization to avoid neighborhoods and school zone times
 - ix. Vacuuming dust
- c. The control measures for unpaved roads² are potentially applicable to mines and quarries. These measures include:
- i. Pave roads and high-traffic areas
 - ii. Chemical stabilization/dust suppressant
 - iii. Surface improvement (e.g., gravel)
 - iv. Vehicle speed reduction to 25 miles/hour
 - v. Watering twice a day for industrial unpaved road
5. Reducing open burning
- a. Working with the Capital Area Regional Environmental Task Force (RETF) and other city or county environmental enforcement staff to enforce burn bans and the state's Outdoor Burning Rule
 - i. Outdoor Burning Rule, Title 30, Texas Administrative Code, Sections 111.201–221
 - 1. The Outdoor Burning Rule requires that certain kinds of burning be conducted downwind of, or at least 300 feet from, any structure containing sensitive receptors located on adjacent properties unless written approval is obtained beforehand from the owner or occupant—the one who will suffer adverse effects—of the adjacent or downwind property. Also, the burning must not cause a nuisance or traffic hazard.
 - 2. See the Texas Commission on Environmental Quality's (TCEQ's) Outdoor Burning in Texas Guide - https://www.tceq.texas.gov/assets/public/comm_exec/pubs/rg/rg-049.pdf
 - b. Educating the public on fire and air quality hazards from open burning
6. Working to ensure prescribed burning activities do not coincide with projected high PM days, if possible
- a. According to Travis County's Park Land Manager, prescribed burn windows are identified the week before the prescribed burn. Therefore, it is recommended that prescribed burning staff consider the air quality forecast for the timeframe in which the burns are being considered. There a lot of factors that go into selecting the day of a prescribed burn such as meteorology and staff availability, so it may not be possible to avoid some high PM days. Note that this measure would be expected to reduce peak daily 24-hour PM_{2.5} concentrations, but not annual PM_{2.5} concentrations.

CAPCOG can also encourage consideration of co-benefits of PM air pollution reductions from other actions/measures that are already in the Regional Air Quality⁶ plan for O₃ that also could impact regional 24-hour or annual PM_{2.5} concentrations

⁶ 2019-2023 Austin-Round Rock-Georgetown MSA Regional Air Quality Plan, https://www.capcog.org/wp-content/uploads/2019/10/2019-2023_Regional_Air_Quality_Plan.pdf

Proposed PM_{2.5} Measures for the Austin-Round Rock-Georgetown MSA Regional Air Quality Plan

7. Measures to reduce air pollution from the use of fleet/commercial vehicles and equipment:
 - a. Tier 1
 - i. Establish and enforce idling restriction policies for use of the organization's vehicles, equipment, and property
 - ii. Establish fleet management policies that prioritize the use of vehicles and equipment with low emission rates
 - iii. Educate fleet users on driving and equipment operation practices that can reduce emissions
 - iv. Seek funding to accelerate replacement of older, higher-emitting vehicles and equipment with newer, cleaner vehicles and equipment, such as TERP grants
 - b. Tier 2
 - i. Establish low-emission purchasing policies for new on-road vehicles, non-road equipment, and stationary equipment
 - ii. Enforce vehicle idling restrictions within the community [either through an ordinance if a city or a memorandum of agreement with TCEQ if a county].
8. Measures to reduce air pollution from power plants and other stationary combustion sources:
 - a. Conserve energy
 - b. Schedule discretionary emission-generating activities such as engine testing to periods that would avoid peak 8-hour O₃ or 24-hour PM_{2.5} concentrations

The following measures would also be expected to generally improve understanding and awareness of PM_{2.5} air pollution, which could lead to emission reduction or exposure reduction by the community at large.

9. Encourage installation of additional PM_{2.5} monitors/sensors within the region
 - a. More PM_{2.5} monitors and sensors in the MSA would allow a better understanding of where elevated PM_{2.5} levels are occurring and the populations that are most affected by high PM_{2.5}.
 - b. EPA has started to display privately collected PM_{2.5} data from "Purple Air" sensors on their AirNow website, and these low-cost sensors (\$200-\$300) can greatly expand the availability of PM_{2.5} data within the region (fire.airnow.gov)
 - c. CAPCOG is installing/has installed Purple Air sensors at its air monitoring stations in Austin, Bastrop, Dripping Springs, Elgin, Georgetown, Lockhart, Round Rock, and San Marcos.
10. Promote awareness of health effects of PM air pollution
 - a. PM_{2.5} poses the greater risk to human health than ozone as PM_{2.5} can be inhaled deep into the lungs and can enter the bloodstream.
 - b. People with heart or lung diseases, children, and older adults are the most likely to be affected by particle pollution exposure.
 - i. AirNow, www.airnow.gov, can help the public view the air quality in their area in order to avoid elevated PM levels.



CITY OF KYLE, TEXAS

Proposition F - Police Department Oversight

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Discussion of implementation of Proposition F - Police Department Oversight. ~ *Dex Ellison, Council Member*

Other Information: https://library.municode.com/tx/kyle/codes/code_of_ordinances?nodeId=PTICH_ARTVIIADSE_S7.06PODE
The City of Kyle Police Department shall collaborate with a committee established by the City Council to have oversight over the development of standard operating policies and strategies, providing timely data sharing, and deploying resources that aim to: (1) protect all citizens, businesses, and property within the City; (2) promote transparency within the police department to the community, to also include data sharing communication in the forms of: in person briefings, news publications, and social media on a quarterly basis; and (3) reduce crime by increasing positive community engagement and promoting cooperation with all citizens through training, education, and community policing models. Annually, the Police Chief or designee shall provide the full City Council with a comprehensive report about police department operations, crime statistics, training initiatives, and other information requested by the City Council. The City Council shall adopt an ordinance implementing the terms of this subsection.

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Camping & Begging Discussion

Meeting Date: 5/18/2021

Date time: 7:00 PM

Subject/Recommendation: Discussion and possible action to direct staff to prepare a Camping and Begging Activity Ordinance. ~ *Yvonne Flores-Cale, Council Member*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

City Manager's Report

Meeting Date: 5/18/2021

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*

- Heroes Memorial Park groundbreaking event
- COVID vaccine and testing information
- Mass Food Distribution events
- Parks and Recreation programming
- Library 2021 Summer Reading program
- City Wide Cleanup Event
- Upcoming Budget Worksessions
- Trails Open House Event
- Congrats 2021 Kyle graduates

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Executive Session - Convene

Meeting Date: 5/18/2021

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.
 - o CO Bond
 - o Possible Creation of TIRZ
 - o American Rescue Plan
 - o Automated Metering Infrastructure
 - o Mary Kyle Hartson Park Electric Service
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 - o Acquisition of public parkland tracts
 - o Acquisition of Right of Way
3. Personnel matters pursuant to Section 551.074.
4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
 - o Project Pacific Blue
 - o Project Eburnean
 - o Project Goldfish
 - o Project SUFC
 - o Project Shamrock
 - o Project Wild Strawberry
 - o Project Tomahawk
 - o Project Pinstripes

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Reconvene

Meeting Date: 5/18/2021
Date time: 7:00 PM

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

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available