

# 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 June 15, 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.

### VIDEO

Posted this 10th day of June, 2021, prior to 7:00 p.m.

---

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

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

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

3. Juneteenth proclamation. ~ *Dex Ellison, Council Member*
4. Recognition of Captain Pedro Hernandez for 25 years with KPD. ~ *Rick Koch, Mayor Pro Tem*
5. Recognition of the Kyle Police Citizens on Patrol and the Kyle Citizens Police Academy Alumni Association. ~ *Jeff Barnett, Chief of Police*
6. Introduction of new police and emergency communications employees. ~ *Jeff Barnett, Chief of Police*
7. CIP/Road Projects and Consent Agenda Presentation. ~ *Travis Mitchell, Mayor*

#### **V. Consent Agenda**

8. Approve a contract with AMERICAN FIREWORKS, Bastrop, Texas in an amount not to exceed \$45,000.00 for the 2021 4th of July Fireworks Show. ~ *Mariana Espinoza, Director of Parks & Recreation*
9. Authorize award and execution of a Purchase Order to JOHN DEERE COMPANY, Cary, North Carolina, in an amount not to exceed \$79,471.04 for the purchase of one (1) John Deere 5100 Cab Utility Tractor with 15' Batwing Mower and 8' Rotary Deck Mower through the TXMAS Purchasing Cooperative for the Storm Drainage and Flood Risk Mitigation Division in Public Works Department. ~ *Harper Wilder, Director of Public Works*
10. Approve a contract with VIKING CONSTRUCTION, INC., Georgetown, Texas in an amount not to exceed \$488,369.01 for the 2021 Miscellaneous Streets Micro-Surfacing Project. ~ *Leon Barba, P.E., City Engineer*
11. A Resolution of the City Council of the City of Kyle, Texas accepting the Stagecoach Subdivision Phase 3 improvements: finding and determining that the meeting at which this Resolution is passed was noticed and is open to the Public as required by law. ~ *Leon Barba, P.E., City Engineer*
12. *(Second Reading)* An Ordinance of the City of Kyle, Texas, Amending Ordinance 959, which Granted a Transmission and Distribution Electric Utility Franchise to Pedernales Electric Cooperative, Inc, to Address Matters Related to the Location of Facilities in an Urban Development District. ~ *Paige Saenz, City Attorney*  
  
*City Council voted 6-0 to approve on First Reading.*
13. Heroes Memorial Park - Final Plat (SUB-21-0191) 5.5440 acres; 1 lot located on the northwest corner of Kohler's Crossing and Kyle Parkway intersection. ~ *Howard J. Koontz, Director of Planning and Community Development*



*Planning and Zoning Commission voted 4-0 to approve the final plat.*

14. Heroes Memorial Park - Site Plan (SD-20-0088) 4.86 acres; 1 lot located on the northwest corner of Kholer's Crossing and Kyle Parkway intersection. ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-0 to approve the site plan.*

15. Consider Approving Site-Specific Declaration of Covenants, Restrictions and Easements for the Heroes Memorial Tracts and Authorize the City Manager to Execute Documents Related to Closing on the Parcel. ~ *Paige Saenz, City Attorney*

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

16. [Postponed 6/1/2021] (*Second Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 12.9 acres of land from Agriculture 'AG' to Mixed Use District 'MXD' for property located on the northeast corner of Philomena Drive and Bunton Creek Road, in Hays County, Texas. (Estate of Evelyn Franke, et al - Z-21-0074) ~ *Howard J. Koontz, Director of Planning and Community Development*

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

*City Council voted 5-2 to approve on First Reading.*

17. (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of assigning original zoning to approximately 4.56 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located at 145 Lehman Road, in Hays County, Texas. (Lucia Hernandez - Z-21-0081) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-0 to recommend approval of the request.*

- Public Hearing

18. (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 10.81 acres of land to Retail Service District 'RS' and approximately 34.83 acres to Multi-Family Residential-3 'R-3-3' for property located at 20139 IH-35, in Hays County, Texas. (Sunrise Village Investments, LLC - Z-21-0082) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-0 to recommend approval of the request.*

- Public Hearing

19. (First Reading) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning and rezone approximately 11.08 total acres of land from Agriculture 'AG' (.023-Acres) and Single Family 'R-1' (10.85-Acres) to Single Family Residential-3 'R-1-3' for property located between Scott Street and the 800 block of South Sledge Street, in Hays County, Texas. (LD Enterprises, LLC - Z-21-0084) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-0 to recommend approval of the request.*

- Public Hearing

20. Consider and approve update to Transportation Master Plan. ~ *John Dean, CP&Y, Inc.*
21. Consider and possible action to approve Capital Idea, a scholarship program for low income students to attend ACC, a program through Corridor Interfaith Alliance for Families here in Hays County. ~ *Yvonne Flores-Cale, Council Member*
22. Proposition F ordinance update on plans for soliciting public input. ~ *Dex Ellison, Robert Rizo, and Michael Tobias, Council Members*
23. (Second Reading) Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2020-2021 by increasing the total appropriations for expenditures in the General Fund by \$8,000,000.00 and in the Park Development Fund by \$375,000.00 to provide \$4,500,000.00 in additional funding for the Uptown Central Park and Heroes Memorial Park projects, \$3,500,000.00 for 2021 Road Bond Program, \$200,000.00 for Christmas lighting and decorations on Center Street and City Square Park, and \$175,000.00 for decorative lights on the historic water tower in downtown Kyle. ~ *Perwez A. Moheet, CPA, Director of Finance*

*City Council voted 7-0 to approve budget amendments, except that City Council voted 6-1 for \$3,500,000.00 for 2021 Road Bond Program and 4-3 for \$175,000.00 for decorative lights on the historic water tower in downtown Kyle to approve on First Reading.*

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

24. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *J. Scott Sellers, City Manager*
- Upcoming Budget Worksessions
  - Parks and Recreation events
  - Juneteenth programming
  - Mass Food Distribution event

## VIII. Executive Session

25. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.
  1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
    - Milestone PID
    - Sign Code
    - Automated Metering Infrastructure
    - Downtown Utilities
    - Texas Lehigh Agreement
    - City Lights and Kyle Marketplace Subdivision/Development
    - Transportation Master Plan
    - Site-Specific Declaration of Covenants, Restrictions and Easements for the Heroes Memorial Tracts
    - Bebee Road Development Agreement
  2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
  3. Personnel matters pursuant to Section 551.074.
  4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
    - Project Pacific Blue
    - Project Valkyrie
    - Project Indigo
    - Project Just Peachy
26. Take action on items discussed in Executive Session.

## IX. Adjourn

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

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



# CITY OF KYLE, TEXAS

2021 0601 Minutes

Meeting Date: 6/15/2021  
Date time: 7:00 PM

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

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

- ☐ 2021 0601 DRAFT Special Council Meeting Minutes

## SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session on June 1, 2021 and due to COVID-19, some members attended virtually (v) at <http://kyletx.new.swagit.com/events/9108>; 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  
Council Member Ashlee Bradshaw  
Council Member Michael Tobias  
Scott Sellers, City Manager  
James Earp, Assistant City Manager  
Paige Saenz, City Attorney  
Samantha Armbruster, Communications Dir.  
Jennifer Holm, City Secretary  
Diana Torres, Economic Dev Director (v)  
Perwez Moheet, Finance Director (v)  
Matt Dawson, IT Director  
Grant Bowling, Video Production Specialist  
Howard Koontz, Community Dev Director (v)

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

Mayor Mitchell called the meeting to order at 6:04 p.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 Bradshaw, and Council Member Tobias. A quorum was present. Council Member Rizo arrived at 6:05 p.m. during Item No. 1.

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

Mayor Mitchell opened citizen comments at 6:04 p.m. With no one wishing to speak, Mayor Mitchell closed citizen comments at 6:04 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.
    - Kyle Park Ambassador Proposal
    - Force Majeure Claims
    - Local Government Corporation
    - Texas Lehigh

- Ordinance No. 493 Utility Billing
  - 104 S. Burleson
  - TF Harper Contract
  - Sales Tax Collection
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
  3. Personnel matters pursuant to Section 551.074.
  4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
    - Project Pacific Blue
    - Project Goldfish
    - Project Indigo
    - 104 S. Burleson

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 - Kyle Park Ambassador Proposal; Force Majeure Claims; Local Government Corporation; Texas Lehigh; Ordinance No. 493 Utility Billing; 104 S. Burleson; TF Harper Contract; Sales Tax Collection; 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 Goldfish; Project Indigo; 104 S. Burleson."

The City Council convened into executive session at 6:06 p.m.

2. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 7:08 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 Bradshaw seconded the motion. No vote was held.

With no further business to discuss, the City Council adjourned at 7:08 p.m.

Attest:

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

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



# CITY OF KYLE, TEXAS

2021 0601 Minutes

Meeting Date: 6/15/2021

Date time: 7:00 PM

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

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

## ATTACHMENTS:

### Description

- 2021 0601 DRAFT Council Meeting Minutes

## REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on June 1, 2021 and due to COVID-19, some members attended virtually (v) at <https://kyletx.new.swagit.com/events/9109>; Spectrum 10 with the following persons present:

Mayor Travis Mitchell	Sindy Estrada
Mayor Pro Tem Rick Koch	Tracy Scheel
Council Member Dex Ellison (v)	John Dean
Council Member Yvonne Flores-Cale	Jeff Barton
Council Member Robert Rizo	Kara Buffington
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 (v)	
Samantha Armbruster, Communications Dir.	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer	
Diana Torres, Economic Dev Director (v)	
Perwez Moheet, Finance Director	
Sandra Duran, HR Director	
Matt Dawson, IT Director	
Grant Bowling, Video Production Specialist	
Paul Phelan, Library Director	
Mariana Espinoza, PARD Director (v)	
Howard Koontz, Community Dev Director (v)	
Harper Wilder, Director of Public Works	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Police Captain	
Tracy Vrana, Police Sergeant	
Krissi Milliken, Emergency Comm. Mgr.	
Ashley Ferris, Emergency. Comm. Supv.	
Jennifer Wood, Telecommunicator	
April Machado, Lead Telecommunicator	

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

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

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

Mayor Mitchell opened citizen comments at 7:10 p.m. out of order, prior to Approval of Minutes.



Sgt. Tracy Vrana was called to speak as registered regarding STEP Enforcement program. He provided an update and said while halfway into the program, that 154 stops had been made, 123 citations issued, and 72 warnings had been issued. They have slowed down quite a few drivers, getting the message out there that KPD is enforcing. They were able to prevent a potential accident by getting a drunk driver off the road.

Sindy Estrada was called to speak as registered in favor of Item No. 24. She stated that she wants to provide support for the camping/begging ordinance. She doesn't want to see the problems of another community spread to this area. She spoke about Austin having been a place that you once would have loved to take visiting family and friends to visit. She spoke about keeping Kyle humble and smart.

Tracy Scheel was called to speak as registered on behalf of the Waterleaf Falls HOA. She spoke about a request from the City's Communication Director to change out the neighborhood marquis to a digital sign. She stated that the marquis was helpful for getting the word out on neighborhood events. She stated that Mr. Koontz stated the building board would likely deny such a request. She asked for an amendment to the ordinance to allow.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:17 p.m.

## **II. Approval of Minutes**

1. City Council Special Meeting Minutes - May 18, 2021. ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes - May 18, 2021. ~ *Jennifer Holm, City Secretary*

Mayor Mitchell brought forward the minutes for discussion.

Council Member Tobias moved to approve the minutes of the May 18, 2021 Special Council Meeting and the minutes of the May 18, 2021 Council Meeting. Mayor Pro Tem Koch seconded the motion. All votes aye; motion carried 7-0.

## **IV. Presentation**

3. Presentation regarding the ongoing update to the City of Kyle Transportation Master Plan. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell brought forward Item No.3 for discussion. Mr. Barba introduced John Dean with CP&Y who presented the item. Mr. Sellers also provided information about the project. No action was taken.

## **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

- Joint P&Z and Parks Board meeting Jan. 25, 2022
- Heroes Memorial Park groundbreaking event recap
- COVID vaccine and testing information
- Parks and Recreation programming

- City Wide Cleanup Event
- Upcoming Budget Worksessions
- Click it or Ticket Campaign
- Team Kyle Is Hiring - Police & Lifeguards
- Dialogue for Peace and Progress – Juneteenth
- Food for Fines Drive
- Updated Census Numbers
- Trails Open House and Survey

Mayor Mitchell brought forward the City Manager's Report out of order, just after Item No. 3. Mr. Sellers spoke about the Heroes Memorial Park groundbreaking event recap with regards to the quality, the turnout, and the flyover and for which a video was shared. He continued his report and spoke about the COVID vaccine taking place on June 13<sup>th</sup> 8:00 a.m. to 1:00 p.m. and testing information. He spoke about the Upcoming Budget Worksession #2 on June 26<sup>th</sup> and Worksession #3 on July 31<sup>st</sup>. Mr. Sellers recapped the Trails Open House and Survey and thanked everyone who participated and assisted. He mentioned National Trail Day on June 5<sup>th</sup>. He spoke about the City-Wide Cleanup Event and Parks and Recreation programming including Movies at the Lake at Lake Kyle on June 11<sup>th</sup> that will be showing Sonic the Hedgehog. He mentioned the Food for Fines Drive, Click it or Ticket Campaign, and that Team Kyle is hiring and taking police applications through June 10<sup>th</sup>. There will be a Civil Service Exam on June 12<sup>th</sup> and the City is hiring for Lifeguards and other positions. Dialogue for Peace and Progress will be on Friday, June 18<sup>th</sup> from 7:00 to 8:30 p.m., and there will be a Joint P&Z and Parks Board meeting on January 25, 2022. Mr. Sellers also provided an update of Census Numbers: January 2020 population of 51,588, an estimated current population of 58,500 and he expects the City's population to be at 60,200 in January 2022. No action was taken.

#### **IV. Presentation**

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

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

#### **V. Consent Agenda**

Mayor Mitchell brought forward Consent Agenda Item Nos. 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 for consideration.

5. Approval of a Service Agreement with PRIME GOVERNMENT SOLUTIONS, INC., of Scottsdale, AZ, in an amount not to exceed \$7,076.00 annually (including Electronic Voting) or \$6,276.99 annually (without Electronic Voting) for Agenda Automation, Meeting Management, and Swagit Connector services. ~ *Jennifer Holm, City Secretary*
6. Approval of Assignment and Assumption of Agreement Regarding Roadway and Drainage Improvements - Spooner Tract. ~ *J. Scott Sellers, City Manager*
7. Approve Amendment No. 2 to Task Order No. 3 to K FRIESE & ASSOCIATES, INC., Austin, Texas in the amount of \$9,680.00 for a total contract amount not to exceed \$247,795.00 for

additional engineering services associated with the Center Street Wastewater Phase I improvements. ~ *Leon Barba, P.E., City Engineer*

8. Approve Amendment No. 3 to contract Task Order No. 2 to CP&Y, INC., Austin, Texas, in the amount of \$35,267.00 increasing the total contract amount not to exceed \$346,757.50 for design and acquisition services for the North Trails Wastewater Interceptor improvement project. ~ *Leon Barba, P.E., City Engineer*
9. Authorize the City Manager to enter into an agreement with Texas Realty Retail Partners (Developer) to construct the Center Street Wastewater Phase I improvements and the City agrees to reimburse the developer up to a maximum amount not to exceed \$496,458.11 for the cost of upsizing the wastewater line. ~ *Leon Barba, P.E., City Engineer*
10. Approve the specifications and construction contract terms between TEXAS REALTY RETAIL PARTNERS (Developer) and LOWDEN EXCAVATING, INC., San Marcos, Texas, in order for the City to reimburse the Developer per the agreement up to a maximum amount not to exceed \$496,458.11 which includes a five (5) percent contingency for the Center Street Wastewater Phase I improvements. ~ *Leon Barba, P.E., City Engineer*
11. A Resolution of the City Council of the City of Kyle, Texas accepting the Casetta Ranch Section 1 improvements: finding and determining that the meeting at which this Resolution is passed was noticed and is open to the Public as required by law. ~ *Leon Barba, P.E., City Engineer*
12. A Resolution of the City Council of the City of Kyle, Texas accepting the Casetta Ranch Section 2 improvements: finding and determining that the meeting at which this Resolution is passed was noticed and is open to the Public as required by law. ~ *Leon Barba, P.E., City Engineer*
13. Authorize the Chief of Police to Execute and Accept a Grant Award on behalf of the Kyle Police Department from the Texas Association of Property and Evidence Technicians in the non-match amount of \$500.00 for the purpose of acquiring a new heat sealer and Polyethylene Tubing to aide in a more efficient evidence packaging process. ~ *Jeff Barnett, Chief of Police*
14. Second Addendum to the Development and Annexation Agreement for the Texas Lehigh Properties. ~ *Paige Saenz, City Attorney*

Council Member Rizo moved to approve Consent Agenda Item Nos. 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14. Mayor Pro Tem Koch seconded the motion.

There was discussion on the motion. Council Member Flores-Cale asked about Item Nos. 11 and 12. She would like to know who approved the roundabout and when it was approved. Mr. Barba spoke about the process, the final walkthrough and the punch list. He stated that it was approved by Public Works. Council Member Flores-Cale asked for Public Works to send that to her, the final walkthrough and she wants to know who approves it.

All votes aye; motion carried 7-0.

## VI. Consider and Possible Action

15. *(First Reading)* An Ordinance of the City of Kyle, Texas, Amending Ordinance 959, which Granted a Transmission and Distribution Electric Utility Franchise to Pedernales Electric Cooperative, Inc, to Address Matters Related to the Location of Facilities in an Urban Development District. ~ *Paige Saenz, City Attorney*
- Public Hearing

Mayor Mitchell stated Item No. 15 would be postponed until later in the meeting.

16. Authorize City Manager to sign agreement with Pedernales Electric Cooperative, Inc., P.E.C., to relocate overhead power lines around the premises of Downtown Square to adjacent streets, alleys, underground, as necessary for beautification of Downtown Square pending the final form agreed to by legal. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell stated Item No. 16 would be postponed until later in the meeting.

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

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

*City Council voted 5-2 to approve on First Reading.*

Mayor Mitchell brought forward Item No. 17 for discussion. Mayor Pro Tem Koch left the dais at 7:59 p.m.

Mr. Koontz stated that the applicant requested postponement until June 15 for the item. Council Member Flores-Cale asked for responses to the clarifying emails she has sent about the Deeds. Council Member Tobias also requested copies of the emails.

Mayor Mitchell moved to postpone to the next regularly scheduled council meeting on June 15th. Council Member Flores-Cale seconded the motion.

There was discussion on the motion. Council Member Flores-Cale asked that Will, Paige, and/or Mr. Sellers respond to her emails about the clarity of the deed.

Mayor Mitchell asked whether there were any objections to postponing. There were none. All votes aye; motion carried 6-0. Mayor Pro Tem Koch was absent for the vote.

18. *(Second 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.*

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

Mayor Mitchell brought forward Item No. 18 for discussion. Mr. Koontz presented the item.

Council Member Ellison moved to approve 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) Council Member Rizo seconded the motion. Motion carried 5-1 with Council Member Flores-Cale dissenting. Mayor Pro Tem Koch was absent for the vote.

19. *(Second 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.*

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

Mayor Mitchell brought forward Item No. 19 for discussion. Mr. Koontz presented the item. Mayor Pro Tem Koch returned to the dais at 8:02 p.m.

Council Member Rizo moved to approve 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. Council Member Ellison seconded the motion. Motion carried 6-1 with Mayor Pro Tem Koch dissenting.

22. *(First Reading)* Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2020-2021 by increasing the total appropriations for expenditures in the General Fund by \$8,375,000.00 to provide \$4,500,000.00 in additional funding for the Uptown Central Park and Heroes Memorial Park projects \$3,500,000.00 for 2021 Road Bond Program, and \$375,000.00 for Christmas Trail of Lights and decorated historic water tower in downtown Kyle. ~ *Perwez A. Moheet, CPA, Director of Finance*

Mayor Mitchell brought forward Item No. 22 for discussion out of order, after Item No. 19. Mr. Moheet presented the item.

Mayor Pro Tem Koch moved to approve an Ordinance amending the City's Approved Budget for Fiscal Year 2020-2021 by increasing the total appropriations for expenditures in the General Fund by \$8,375,000.00 to provide \$4,500,000.00 in additional funding for the Uptown Central Park and Heroes Memorial Park projects, \$3,500,000.00 for 2021 Road Bond Program, and \$375,000.00 for Christmas Trail of Lights and decorated historic water tower in downtown Kyle. Council Member Rizo seconded the motion.

There was discussion on the motion. Council Member Ellison moved to amend the motion to take the items separately. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

Discussion was held on how to proceed. Mayor Mitchell brought forward the first budget amendment: to provide \$4,500,000.00 in additional funding for the Uptown Central Park and Heroes Memorial Park projects. Council Member Ellison stated that the \$4.5M is an increase from the original project and for the public, the funds are to be reimbursed by the TIRZ and that sits better with him. All votes aye; motion carried 7-0.

Discussion on the \$3,500,000.00 for 2021 Road Bond Program was held. Council Member Flores-Cale asked if the item was for consulting and how we came up with the number. Mr. Moheet stated it was initial estimate to get master project manager and firms to begin preliminary engineering, including survey work and Geotech work to lead us to the bond election propositions. Council Member Ellison stated that the council is looking at improving road infrastructure. He stated that this \$3.5M will get the city to that point - engineering and design. He stated that this process is different than the 2013 Road Bonds where all the work was done after voter approval. He stated that this is a large investment up front, and he hopes the voters will see it as a wise one. Council Member Rizo stated that voters can rest assured that they will not have to wait seven to eight years to see these roads completed. He feels this is the right step to move forward, and he spoke about materials and labors going up over time. Motion carried 6-1 with Council Member Bradshaw dissenting.

Discussion on \$200,000 for Christmas Trail of Lights was held. Council Member Ellison stated that this one and the next are challenging for him. He stated that he recalls only one budget amendment during his tenure which was for a special election for a vacancy. He stated that now there have been four in one year. He stands by the first two investments. Christmas decorations, he stated, are a struggle because he is in favor of bolstering the Christmas events downtown for the residents. He asked what the thought process is for adding a budget amendment rather than putting it into the budget for October 1. Mayor Mitchell stated that it is for the lights to be purchased for this Christmas. He then asked how much was added to the current budget for lights. Mr. Moheet spoke about the Christmas tree purchase for \$65,000 and another \$15,000 to \$20,000 in addition. Council Member Ellison asked whether this is a one-time expenditure. Mr. Moheet stated that this budget amendment is a one-time expenditure, but the Parks Director could propose to add funds in future budgets. Council Member Ellison asked about storage for this equipment. Ms. Espinoza provided that storage is included in the amount. Council Member Ellison asked about what is included. Ms. Espinoza stated it did include the addition of two additional storage containers. The quote breakdown included decorating old city hall, large historic tree, all tree wrappings, gazebo, flower bed and fountain, bell tower, at least 7 more large displays at a discounted rate, decorations on Center St. any electrical needs and two large storage containers. Council Member Ellison asked whether this information is in the backup material. Mr. Moheet stated that this is not the final quote but is based on estimates from vendors and other cities' purchases. Council Member Ellison asked whether they could get more final numbers because if it comes back more, he would not be in support. He would like to see more information on these costs. Council Member Bradshaw stated that the past two years the Parks Department has done a great job on the square, residents come out and take professional pictures. She stated this is an easy yes for her. Council Member Rizo spoke about the initial cost of the lights and how the comments outweighed the cost. He stated that it shows the Council is not forgetting about

this part of town, they are investing in it. He spoke about the water tower as well. He stated coming out of the pandemic, it provides a place for people to come out and enjoy and celebrate. Council Member Tobias stated that this is \$375,000 in lights, and if Council is going to invest in that, he would like to see what this will look like, the contract, the brand of lights, so he can feel comfortable about this large purchase. He would like to see a breakdown of what we are buying. Mr. Moheet stated that Ms. Espinoza has some slides of examples of the lights and a few quotes that she can share. Ms. Espinoza presented the proposal. Council Member Flores-Cale suggested that next time staff begin with the presentation. Mayor Mitchell spoke about the Christmas display is over 28 days, while July 4th fireworks are \$45,000 in 19 minutes, so depending on how you look at it, and the fact that the lights are reusable, it seems much more affordable than July 4th. He spoke about the Mary Kyle Hartson Park reconstruction and timing. He stated that he is not sure why it was not considered in this budget, but the funds are there. Mayor Pro Tem Koch stated that this is an easy decision for him. He stated that the council has charged the Parks Department with providing a display at this park. He stated that we are not renting the decorations, which is very expensive. Families can come out daily as they choose, and this is a no-brainer for him. Council Member Ellison stated that he certainly understands the quality-of-life point, and council budgets for those all the time. He asked whether the tree was purchased from the Parks dedication fund. Mr. Moheet confirmed. Council Member Ellison asked whether this purchase could be made from another fund. Mr. Moheet stated that if that is Council direction, he will find it. Council Member Ellison talked about while he is in support of the items, he supports the budget process. He stated that the Parks Development funds come from developers rather than the City's citizens and property tax dollars. Council Member Ellison asked about funding the items through the Park Development fund instead of ad valorem funds. Mr. Moheet stated that if the council wants to amend its motion to take the funds from Park Development funds, he will bring it back on second reading. Mayor Mitchell asked whether this amendment would jeopardize any current projects. There were none.

Council Member Ellison moved to amend the \$200,000 allocation come from Park Dedication Fund rather than General Fund. Council Member Rizo seconded the amended motion. All votes aye; motion carried 7-0.

Mayor Mitchell called for the vote on approving the \$200,000 budget amendment. All votes aye; motion carried 7-0.

Mayor Mitchell brought forward the \$175,000 for the decorated historic water tower in downtown Kyle.

Council Member Ellison moved to amend the \$175,000 for the decorated historic water tower in downtown Kyle come from Park Dedication Fund rather than General Fund. Council Member Tobias seconded the motion.

There was discussion on the motion. Council Member Rizo spoke about the saying that if you blink you might miss Kyle. He stated that we were a small country town out here and as a kid growing up in Kyle, seeing that tower coming into town always meant you were home. He said he is looking forward to lighting up the tower to draw people to historic downtown Kyle.

All votes aye; motion carried 7-0.

Discussion was held on approving the \$175,000. Council Member Ellison stated that this is too far of a reach for him to amend the budget, but he would be in favor of this being budgeted in the 2021-22 FY Budget. He also likes the iconic water tower just being an iconic water tower. Council Member Flores-Cale stated that she feels the Christmas lights are time sensitive, but the water tower is not and can wait. Council Member Rizo stated that prices of materials are only going up, so if we wait it will likely cost more. Mayor Pro Tem Koch was supportive of this item as a beautification measure. He stated that the water tower is in so many photos that people take when they are in Kyle. It is a yes vote for him. Council Member Flores-Cale asked if there is a shortage on LED lights. She stated that there are other things council can focus on with this \$175,000. Council Member Rizo stated that if they wait another year, it could be that the cost skyrockets and possibly much more expensive. Council Member Flores-Cale does not believe it is important enough to amend the budget, and there is no reason to rush this. Mayor Mitchell asked if there is a sense of what this will look like. Ms. Espinoza stated that she would bring back the actual contract and renderings and that the timeline is to have it up by Santa's Arrival. Council Member Ellison stated that he would like to see more, and he would be supportive of it October 1st, which is exactly four months away. He believes the \$200,000 from Park Dedication Fund will be a gamechanger and a draw. He would like to have a more substantial understanding of what this will look like. Council Member Flores-Cale stated that she would like to see a quote so they can be sure it will not cost more. Council Member Tobias asked about maintenance costs and costs to keep it running throughout the year. He stated that there are other things that council could use this money for. Council Member Rizo stated that lighting up downtown is a draw to bring them in to stop, so they do not blink and miss Kyle. Council Member Tobias stated that it is not about investing in downtown, it is about the timing. Mayor Mitchell left the dais at 8:58 p.m. Council Member Flores-Cale asked about maintenance issues, cracking, foggy, lights, etc. She stated her vote is not no, but not right now. Council Member Rizo spoke about being passionate about investing in downtown. Mayor Mitchell returned at 9:00 p.m. Council Member Ellison stated that there are all sorts of things to utilize to bring people downtown. He stated that he would push back that lighting the water tower is the only way to do that. He continued that he feels it would be a draw, and it is a heavy investment considering the vote they just took about the Christmas lights. He stated that it could mean that it does not get done in time for this year, but there will already be \$200,000 more lights than last year. Mayor Mitchell stated that he has some challenges because he is afraid, he will not like it due to shadows and things in the picture. He stated that this is an amendment, and they will have an opportunity to approve a contract in the future, if it passes. He called for a roll call vote.

Council Member Bradshaw voted aye; Council Member Tobias voted nay; Mayor Mitchell voted aye; Council Member Flores-Cale voted nay; Council Member Rizo voted aye; Council Member Ellison voted nay; and Mayor Pro Tem Koch voted aye. Motion carried 4-3.

15. *(First Reading)* An Ordinance of the City of Kyle, Texas, Amending Ordinance 959, which Granted a Transmission and Distribution Electric Utility Franchise to Pedernales Electric Cooperative, Inc, to Address Matters Related to the Location of Facilities in an Urban Development District. ~ *Paige Saenz, City Attorney*

- Public Hearing

Mayor Mitchell brought forward Item No. 15 for discussion after Item No. 22. Ms. Saenz presented the item. Mayor Pro Tem Koch left the dais at 9:04 p.m.



Mayor Mitchell opened the public hearing at 9:07 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:07 p.m.

Mayor Mitchell moved to approve an Ordinance of the City of Kyle, Texas, Amending Ordinance 959, which Granted a Transmission and Distribution Electric Utility Franchise to Pedernales Electric Cooperative, Inc, to Address Matters Related to the Location of Facilities in an Urban Development District. Council Member Rizo seconded the motion. All votes aye; motion carried 6-0. Mayor Pro Tem Koch was absent for the vote.

16. Authorize City Manager to sign agreement with Pedernales Electric Cooperative, Inc., P.E.C., to relocate overhead power lines around the premises of Downtown Square to adjacent streets, alleys, underground, as necessary for beautification of Downtown Square pending the final form agreed to by legal. ~ *Leon Barba, P.E., City Engineer*

Mayor Mitchell brought forward Item No. 16 for discussion. Mr. Barba presented the item.

Council Member Flores-Cale moved to authorize City Manager to sign agreement with Pedernales Electric Cooperative, Inc., P.E.C., to relocate overhead power lines around the premises of Downtown Square to adjacent streets, alleys, underground, as necessary for beautification of Downtown Square pending the final form agreed to by legal. Council Member Tobias seconded the motion. All votes aye; motion carried 6-0. Mayor Pro Tem Koch was absent for the vote.

20. Authorize award and execution of a Purchase Order and Construction Contract with T.F. HARPER & ASSOCIATES, LP of AUSTIN, TEXAS in an amount not to exceed \$1,798,899.82 for park construction and improvements at Mary Kyle Hartson Park as per plans and specifications prepared by Coleman & Associates through the Buy Board Purchasing Cooperative JOC Contract #581-19. ~ *James R. Earp, Assistant City Manager*

Mayor Mitchell brought forward Item No. 20 for discussion after item no. 16. Mr. Earp presented the item. Ms. Saenz also provided information related to timing.

Mayor Mitchell moved to authorize award and execution of a Purchase Order and Construction Contract with T.F. Harper & Associates, LP of Austin, Texas in an amount not to exceed \$1,798,899.82 for park construction and improvements at Mary Kyle Hartson Park as per plans and specifications prepared by Coleman & Associates through the Buy Board Purchasing Cooperative JOC Contract #581-19. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 6-0. Mayor Pro Tem Koch was absent for the vote.

21. Approve a professional services scope with Coleman and Assoc of Austin TX for landscaping and outdoor space for 104 S Burleson. ~ *James R. Earp, Assistant City Manager*

Mayor Mitchell brought forward Item No. 21 for discussion. Mr. Earp presented the item. Council Member Bradshaw left the dais at 9:18 p.m.

Mayor Mitchell moved to approve a professional services scope with Coleman and Assoc of Austin TX in the amount of \$37,700.00 for landscaping and outdoor space for 104 S Burleson. Council Member Tobias seconded the motion. All votes aye; motion carried 5-0. Mayor Pro Tem Koch and Council Member Bradshaw were absent for the vote.

23. Approve a Resolution expressing intent to finance expenditures to be incurred by the City of Kyle for the 2021 General Obligation Road Bond Program and to seek reimbursement of such expenditures from future general obligation bonds issued by the City for road improvements.  
~ *Perwez A. Moheet, CPA, Director of Finance*

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

Council Member Bradshaw returned at 9:21 p.m.

Council Member Tobias moved to approve a Resolution expressing intent to finance expenditures to be incurred by the City of Kyle for the 2021 General Obligation Road Bond Program and to seek reimbursement of such expenditures from future general obligation bonds issued by the City for road improvements. Council Member Rizo seconded the motion. All votes aye; motion carried 6-0. Mayor Pro Tem Koch was absent for the vote.

24. *(First Reading)* An Ordinance of the City of Kyle, Texas Regulating Certain Offenses by Amending Chapter 23, "Miscellaneous Offenses" to add Article XII Titled "Unlawful Activities in Public Area"; Providing a Purpose, Definition, and Enforcement and Penalty Provision in Division I, "General Provisions"; Providing Prohibitions on Camping and Obstruction, Affirmative Defenses, and Disposition of Belongings Provisions In Division II, "Camping and Obstruction Prohibited"; Providing Definitions, Prohibitions, and Offenses in Division III, "Aggressive Confrontation Prohibited"; Providing Prohibitions On Begging In Division IV, "Begging Activity"; and Providing a Severability Clause, Savings Clause; Open Meetings Clause and Effective Date. ~ *Yvonne Flores-Cale, Council Member*

Mayor Mitchell brought forward Item No. 24 for discussion and gave the floor to Council Member Flores-Cale. Mayor Pro Tem Koch returned at approximately 9:33 p.m.

Council Member Bradshaw moved to approve an Ordinance of the City of Kyle, Texas Regulating Certain Offenses by Amending Chapter 23, "Miscellaneous Offenses" to add Article XII Titled "Unlawful Activities in Public Area"; Providing a Purpose, Definition, and Enforcement and Penalty Provision in Division I, "General Provisions"; Providing Prohibitions on Camping and Obstruction, Affirmative Defenses, and Disposition of Belongings Provisions In Division II, "Camping and Obstruction Prohibited"; Providing Definitions, Prohibitions, and Offenses in Division III, "Aggressive Confrontation Prohibited"; Providing Prohibitions On Begging In Division IV, "Begging Activity"; and Providing a Severability Clause, Savings Clause; Open Meetings Clause and Effective Date. Council Member Flores-Cale seconded the motion. All votes aye; motion carried 7-0.

Mayor Mitchell asked whether there were any objections to having Item No. 24 finally passed. There were none.

25. Resolution of the City of Kyle, Texas, accepting the petition for annexation of 24.563 acres, more or less, of land located in Hays County, Texas; setting an annexation schedule; providing for open meetings and other related matters. ~ *Howard J. Koontz, Director of Planning and Community Development*

Mayor Mitchell brought forward Item No. 25 for discussion. Mr. Koontz presented the item.

Council Member Tobias left the dais at 9:35 p.m. He returned at 9:38 p.m.

Mayor Mitchell moved to approve a Resolution of the City of Kyle, Texas, accepting the petition for annexation of 24.563 acres, more or less, of land located in Hays County, Texas; setting an annexation schedule; providing for open meetings and other related matters. Council Member Rizo seconded the motion. Motion carried 5-2 with Council Members Flores-Cale and Tobias dissenting.

26. A Resolution of the City of Kyle, Texas accepting the petition for annexation of 120.458 acres, more or less, of land located in Hays County, Texas; setting annexation schedule; providing for open meetings and other related matters. ~ *Howard J. Koontz, Director of Planning and Community Development*

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

Council Member Flores-Cale moved to approve a Resolution of the City of Kyle, Texas accepting the petition for annexation of 120.458 acres, more or less, of land located in Hays County, Texas; setting annexation schedule; providing for open meetings and other related matters. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

27. Consider approval of an agreement with Gap Strategies in an amount not to exceed \$65,000 for providing PR services related to public education for a possible November bond election package. ~ *Samantha Armbruster, Director of Communications*

Mayor Mitchell brought forward Item No. 27 for discussion. Ms. Armbruster presented the item. Jeff Barton and Kara Buffington with Gap Strategies provided information.

Mayor Mitchell moved to approve an agreement with Gap Strategies in an amount not to exceed \$65,000 for providing PR services related to public education for a possible November bond election package. Council Member Tobias seconded the motion. All votes aye; motion carried 7-0.

28. Discussion and Possible Action on Classifications, Pay and Pay Parity for Telecommunicators. ~ *Jeff Barnett, Chief of Police*

Mayor Mitchell brought forward Item No. 28 for discussion. Chief Barnett presented the item. Krissi Milliken spoke on the item.

Council Member Flores-Cale moved to approve Item No. 28. Council Member Rizo seconded the motion.

There was discussion on the motion. Mayor Mitchell stated that it appears there is a competitive advantage that the County has put itself in. He stated if they want to compete, he supposes they will have to compete. They should be working together. He does not want to lose one dispatcher to the county.

All votes aye; motion carried 7-0.

### **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.
  - Kyle Park Ambassador Proposal
  - Force Majeure Claims
  - Local Government Corporation
  - Texas Lehigh
  - Ordinance No. 493 Utility Billing
  - 104 S. Burleson
  - TF Harper Contract
  - Sales Tax Collection
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
3. Personnel matters pursuant to Section 551.074.
4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
  - Project Pacific Blue
  - Project Goldfish
  - Project Indigo
  - 104 S. Burleson

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 - Kyle Park Ambassador Proposal; Force Majeure Claims; Local Government Corporation; Texas Lehigh; Ordinance No. 493 Utility Billing; 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 Goldfish; Project Indigo."

The City Council convened into executive session at 10:11 p.m.

31. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 11:09 p.m. Mayor Mitchell announced that no action took place in Executive Session and no action would be taken now.

### **IX. Adjourn**

Mayor Mitchell moved to adjourn. Council Member Flores-Cale seconded the motion. No vote was held. With no further business to discuss, the City Council adjourned at 11:09 p.m.

---

Travis Mitchell, Mayor

Attest:

---

Jennifer Holm, City Secretary



# CITY OF KYLE, TEXAS

## Juneteenth Proclamation

**Meeting Date: 6/15/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Juneteenth proclamation. ~ *Dex Ellison, Council Member*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Recognition of P. Hernandez

**Meeting Date: 6/15/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Recognition of Captain Pedro Hernandez for 25 years with KPD. ~ *Rick Koch, Mayor Pro Tem*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Recognition Citizens COP Program and Alumni Assoc.

**Meeting Date: 6/15/2021**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Recognition of the Kyle Police Citizens on Patrol and the Kyle Citizens Police Academy Alumni Association. ~ *Jeff Barnett, Chief of Police*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

### **ATTACHMENTS:**

#### **Description**

- ☐ Memo on Kyle COP Program for Kyle City Council
- ☐ Memo on Kyle CPAAA for Kyle City Council June 2021
- ☐ Kitchen Remodel #1
- ☐ Kitchen remodel #2
- ☐ Kitchen remodel #3
- ☐ Kitchen remodel # 4
- ☐ Back PD Parking lot cleanup # 1
- ☐ Back pd parking lot cleanup # 2





Date: April 28, 2021  
To: Chief Barnett  
CC: Sgt. Gooding  
From: Officer James Plant #726

Re: Kyle Citizens on Patrol

Chief Barnett,

I would like to recognize the Kyle Citizens on Patrol Program at the June 1, 2021 Kyle City Council Meeting. I would like to recognize them for all the hard work they have put in since the inception of the program in early 2020 up until May of 2021 where they have completed their field training and are now operational. These four volunteers have put in hundreds of volunteer hours over the last year and for that they should be recognized.

The four volunteers are:

- Frank Schultz  
Robert Price  
Mike Rubsam  
Phyllis Kerns

Some highlights of the training program for each member of the program:

- 16 hours classroom training (This does not include 3 separate CJIS Training courses and test taken online on their own time)
- 32 hours of Field Training on patrol with the Liaison officer while patrolling the residential and business districts of Kyle. This was done between January and April of 2021

Highlights of events the COP volunteers have assisted with

- 2020 (During beginning of Covid) Plum Creek Golf Course- Volunteers patrolled the golf course during open time to the community for walks. The volunteers put in 105.5 hours
- 2020- Assisted with traffic detail at four (4) Kyle/Central Texas Foodbank distributions at the old Smile Direct Building
- 4<sup>th</sup> of July Plum Creek Golf Course- Security at Firework Display

- Pie Glow- Assisted with traffic control
- Trunk or Treat Event
- Police testing

Members put in over 440 hours of volunteer time and training for 2020.

In 2021 they continue to train and patrol, as well as help with events as they are requested.

During the snowstorm of 2021 members were activated and were at the PD to begin their assignment within 25 minutes of the call and volunteered for three days at different sites from water distribution to food distribution.

Our volunteers are eager to serve the citizens of Kyle and do so with the most professionalism. I am grateful for these volunteers and hope we can continue to serve the citizens on Kyle.

*James Plant # 726  
Background Investigator  
Special Services Bureau  
Kyle Police Department*



512-268-3232



512-268-2330

111 North Front Street, Kyle, TX 78640

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

Item # 5



111 North Front Street, Kyle, TX 78640

Non-Emergency: 512-268-3232

Admin: 512-268-0859

Fax: 512-268-2330

Date: May 27, 2021  
To: Chief Barnett  
CC: Sgt. Gooding  
From: Officer James Plant #726

Re: Recognition of the Kyle CPAAA for exceptional community projects

Chief Barnett,

I would like to recognize the Kyle CPAAA for the work that they have done the last two months to clean up the current police department facility in the June city council meeting. The alumni met in February and decided to give back to the Kyle Police Department by putting in some hard labor and cleaning the back parking lot where patrol cars are kept and clean the old flower beds and replace the mulch with rocks. This has allowed officers an area to walk without being in the mud and tracking unwanted dirt and or mud into the building as well as provided a better curb appeal for people walking or driving by the back parking lot.

The alumni also sanded, painted, and replaced the hardware on the cabinets in the breakroom at the police department. The new paint has lightened up the room and has made the breakroom a much brighter and cleaner look to the breakroom.

This was done all by members of the alumni association with funding from the alumni association at no cost to the city.

Please see attached photographs from the projects.

*James Plant # 726  
Background Investigator  
Special Services Bureau  
Kyle Police Department*

 512-268-3232  512-268-2330

111 North Front Street, Kyle, TX 78640



512-268-3232



512-268-2330

111 North Front Street, Kyle, TX 78640

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

Item # 5









Item # 5





Item # 5









# CITY OF KYLE, TEXAS

## New Employees

**Meeting Date: 6/15/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Introduction of new police and emergency communications employees. ~ *Jeff Barnett, Chief of Police*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

No Attachments Available





# CITY OF KYLE, TEXAS

## CIP/Road Projects Update

**Meeting Date: 6/15/2021**

**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

## Fireworks

Meeting Date: 6/15/2021

Date time: 7:00 PM

**Subject/Recommendation:** Approve a contract with AMERICAN FIREWORKS, Bastrop, Texas in an amount not to exceed \$45,000.00 for the 2021 4th of July Fireworks Show. ~ *Mariana Espinoza, Director of Parks & Recreation*

**Other Information:** This contract is for the Annual 4th of July Fireworks Show. This year's 4th of July Fireworks Show will again launch from the Plum Creek Golf Course. The show is a 30 minute show. \$40,000 is currently budgeted for the show. The remaining balance of \$5,000 will be paid from a generous donation from HEB. The firework vendor is the same vendor that was utilized for last year's show.

### Legal Notes:

**Budget Information:** Funding is available in the approved operating budget of the City's Parks & Recreation Department for Fiscal Year 2021 as follows:

- Funds Available: \$40,000.00
- Budget Coding: 1100-13100-521430

In addition, a donation pledged toward the fireworks will be provided by a private entity as follows:

- HEB Donation: \$5,000.00

---

### ATTACHMENTS:

#### Description

- 4th of July Contract



# AMERICAN FIREWORKS

1315 Hwy 71 W • P.O. Box 64  
Bastrop, Texas 78602  
Phone 512-321-4416 • Fax 512-321-7272

32326A FM 249  
Pinehurst, Texas 77362  
Phone 281-356-9419 • Fax 281-259-8065

## Fireworks Display Contract



Date: 5/18/2021

City of Kyle  
Attn: Mariana Espinoza  
700 Lehman Road  
Kyle, Texas 78640

Re: Fireworks Show Sunday, July 4, 2021.

This is to acknowledge and confirm booking of your 30 minutes Fireworks Display on Sunday July 4, 2021 at approximately 9:30 p.m.

Location: Plum Creek Golf Course  
4301 Benner  
Kyle, Texas 78640

This will be an aerial display where we furnish the insurance in the amount of \$5,000,000.00, Labor, Transportation, a Licensed Pyrotechnic Operator, Permits, Clean Up and all necessary equipment for firing display. We furnish everything except the firing site and security which the venue must provide. The display will be electronically fired with a duration of approximately 30 minutes with a large Finale at the end. If inclement weather cancels the show, a rain date will be agreed upon by both parties.

The total price of the display is \$45,000.00 (Forty Five Thousand Dollars.). A deposit of 50% (\$22,500.00) is due upon signing of the contract. The balance is due no later than June 30, 2021 payable to American Fireworks, P.O. Box 64, Bastrop, Texas 78602. If you agree to the terms, please sign and return this contract by fax, email, or mail to confirm the booking of this display.

Thank You for allowing us the HONOR of accommodating your 4<sup>th</sup> of July Celebration..

Sincerely,

Steve "Coach" Davis  
Director of Pyrotechnic Displays  
American Fireworks

Travis Mitchell

\_\_\_\_\_  
Authorized Signature  
City of Kyle Mayor



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/18/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Britton Gallagher One Cleveland Center, Floor 30 1375 East 9th Street Cleveland OH 44114	<b>CONTACT</b> NAME: PHONE (A/C, No, Ext): 216-658-7100 FAX (A/C, No): 216-658-7101 E-MAIL: ADDRESS:	
	<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A : Everest Indemnity Insurance Co. NAIC # 10851 INSURER B : Axis Surplus Insurance Company 26620 INSURER C : INSURER D : INSURER E : INSURER F :	
<b>INSURED</b> Ches Lee Enterprises, Inc. P. O. Box 64 Bastrop TX 78602		

**COVERAGES**

CERTIFICATE NUMBER: 1116613817

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC			S18ML00113-211	3/10/2021	3/10/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input checked="" type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			P-001-000091768-03	3/10/2021	3/10/2022	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate Holder is named as Additional Insured

Additional Insured extension of coverage is provided by above referenced General Liability policy where required by written agreement.

1.3G FIREWORKS SHOW ON JULY 4, 2021 @ PLUM CREEK GOLF COURSE 4301 BENNER KYLE, TEXAS 78640. ADDITIONAL INSURED: KYLE FIRE DEPARTMENT AND THE CITY OF KYLE.

GROUP CODE: SHOW

**CERTIFICATE HOLDER****CANCELLATION**

PLUM CREEK GOLF COURSE Ltd. and FORESIGHT  
PLUM CREEK LLC LLC.  
4301 BENNER  
KYLE TX 78640

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



## CITY OF KYLE, TEXAS

Purchase Order for \$79,471.04 to  
John Deere Company to Purchase  
Mowing Equipment

Meeting Date: 6/15/2021

Date time: 7:00 PM

**Subject/Recommendation:** Authorize award and execution of a Purchase Order to JOHN DEERE COMPANY, Cary, North Carolina, in an amount not to exceed \$79,471.04 for the purchase of one (1) John Deere 5100 Cab Utility Tractor with 15' Batwing Mower and 8' Rotary Deck Mower through the TXMAS Purchasing Cooperative for the Storm Drainage and Flood Risk Mitigation Division in Public Works Department. ~ *Harper Wilder, Director of Public Works*

**Other Information:**

**Legal Notes:**

**Budget Information:** Funding is available in the approved operating budget of the City's Public Works Department for Fiscal Year 2021 as follows:

- Funds Available: \$79,471.04
- GL Coding: 3120-83500-571240

---

**ATTACHMENTS:**

**Description**

- ☐ City of Kyle 5100e m15 mx8
- ☐ City Of Kyle 5100 revised



# YOUR CONTRACT. YOUR QUOTE. YOUR HELP REQUESTED.

**Ensure your equipment arrives with no delay.  
Issue your Purchase Order or Letter of Intent.**

To expedite the ordering process, please include the following information in Purchase Order or Letter of Intent:

**For any questions, please contact:**

☐ Shipping address

☐ Billing address

Vendor: John Deere Company

☐ 2000 John Deere Run Cary,  
NC 27513

☐ Contract name and/or number

☐ Signature

☐ Tax exempt certificate, if applicable

**Scott Mann**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155

Tel: 830-379-5477

Fax: 830-379-2693

Email: [smann@tellusequip.com](mailto:smann@tellusequip.com)

**Quote Id:** 24417229

---

**ALL PURCHASE ORDERS MUST BE MADE OUT  
TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT  
TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

---

**Prepared For:**  
**City Of Kyle**

**Proposal For:**  
**City Of Kyle**

**Delivering Dealer:**

Scott Mann

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155

aturek@tellusequip.com

**Quote Prepared By:**

Scott Mann  
smann@tellusequip.com

**Quote Id: 24417229**

---

**ALL PURCHASE ORDERS MUST BE MADE OUT  
TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT  
TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

---

13 May 2021  
City Of Kyle  
TX

Scott Mann  
830-379-5477  
Tellus Equipment Solutions



---

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

---

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

---

### Quote Summary

**Prepared For:**

City Of Kyle  
TX  
Home : 512-361-9116

**Delivering Dealer:**

**Tellus Equipment Solutions**  
Scott Mann  
3030 N. Austin Street  
Seguin, TX 78155  
Phone: 830-379-5477  
smann@tellusequip.com

**USED EQUIPMENT SOLD AS IS WHERE IS.  
NO WARRANTY IS WRITTEN OR IMPLIED  
UNLESS REMAINING FACTORY WARRANTY  
IS TRANSFERABLE.  
CONSULT YOUR SALES TEAM FOR  
DETAILS.**

**Quote ID:** 24417229  
**Created On:** 13 May 2021  
**Last Modified On:** 25 May 2021  
**Expiration Date:** 12 June 2021

Equipment Summary	Suggested List	Selling Price	Qty	Extended
JOHN DEERE 5100E Cab Utility Tractor <b>Contract:</b> TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22) <b>Price Effective Date:</b> May 12, 2021	\$ 68,600.00	\$ 55,566.00 X	1 =	\$ 55,566.00
JOHN DEERE M15 Flex Wing Rotary Cutter <b>Contract:</b> TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22) <b>Price Effective Date:</b> May 24, 2021	\$ 23,869.00	\$ 18,140.44 X	1 =	\$ 18,140.44
JOHN DEERE MX8 Semi-Mount Center Drive Rotary Cutter - 540 RPM PTO <b>Contract:</b> TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22) <b>Price Effective Date:</b> May 24, 2021	\$ 7,585.00	\$ 5,764.60 X	1 =	\$ 5,764.60
<b>Equipment Total</b>				<b>\$ 79,471.04</b>

---

**Quote Summary**

Equipment Total \$ 79,471.04

Salesperson : X \_\_\_\_\_

Accepted By : X \_\_\_\_\_ **Item # 9**

Confidential



**JOHN DEERE**

---

**ALL PURCHASE ORDERS MUST BE MADE OUT  
TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

---

**ALL PURCHASE ORDERS MUST BE SENT  
TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

---

Trade In	
SubTotal	<b>\$ 79,471.04</b>
Est. Service	\$ 0.00
Agreement Tax	
Total	\$ 79,471.04
<b>Balance Due</b>	<b>\$ 79,471.04</b>

Salesperson : X \_\_\_\_\_

Accepted By : X \_\_\_\_\_ Item # 9

---

*Confidential*

# Selling Equipment

**Quote Id:** 24417229

**Customer Name:**
**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

## JOHN DEERE 5100E Cab Utility Tractor

**Hours:**
**Suggested List \***
**Stock Number:**
**\$ 68,600.00**
**Contract:** TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22)

**Selling Price \***
**Price Effective Date:** May 12, 2021

**\$ 55,566.00**

\* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
697GP	5100E Cab Utility Tractor	1	\$ 66,908.00	19.00	\$ 12,712.52	\$ 54,195.48	\$ 54,195.48
<b>Standard Options - Per Unit</b>							
0202	United States	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
0409	English	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
1381	12F/12R PowrReverser Transmission - 540/540E	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
2050	Standard Cab	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
2120	Air Suspension Seat	1	\$ 768.00	19.00	\$ 145.92	\$ 622.08	\$ 622.08
3025	Deluxe Cornerpost Exhaust	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
3330	Triple Stackable Rear Deluxe SCV's with Lever Control	1	\$ 924.00	19.00	\$ 175.56	\$ 748.44	\$ 748.44
3400	Less Mid Valves	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
5911	18.4 - 30 In. 8PR R1 Bias	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
6040	MFWD (Four Wheel Drive)	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
6701	12.4 - 24 In. 8PR R1 Bias	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>Standard Options Total</b>			<b>\$ 1,692.00</b>		<b>\$ 321.48</b>	<b>\$ 1,370.52</b>	<b>\$ 1,370.52</b>
<b>Value Added Services Total</b>			<b>\$ 0.00</b>			<b>\$ 0.00</b>	<b>\$ 0.00</b>
<b>Total Selling Price</b>			<b>\$ 68,600.00</b>		<b>\$ 13,034.00</b>	<b>\$ 55,566.00</b>	<b>\$ 55,566.00</b>

## JOHN DEERE M15 Flex Wing Rotary Cutter

# Selling Equipment

**Quote Id:** 24417229

**Customer Name:**
**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

**Equipment Notes:**
**Hours:**
**Stock Number:**
**Contract:** TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22)

**Price Effective Date:** May 24, 2021

**Suggested List \***

\$ 23,869.00

**Selling Price \***

\$ 18,140.44

\* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
2310P	M15 Flex Wing Rotary Cutter	1	\$ 24,329.00	24.00	\$ 5,838.96	\$ 18,490.04	\$ 18,490.04
<b>Standard Options - Per Unit</b>							
0202	United States	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
1200	Spring suspension	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
2500	Blade pan	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
2540	Outward Rotation	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
3015	6 Laminated Tires - (Double center, single on wings) - Puncture proof	1	\$ -460.00	24.00	\$ -110.40	\$ -349.60	\$ -349.60
3510	540 rpm driveline	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
3600	540 rpm -100 hp gearbox	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
5110	Clevis hitch	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
5280	Rigid casting tongue	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>Standard Options Total</b>			<b>\$ -460.00</b>		<b>\$ -110.40</b>	<b>\$ -349.60</b>	<b>\$ -349.60</b>
<b>Total Selling Price</b>			<b>\$ 23,869.00</b>		<b>\$ 5,728.56</b>	<b>\$ 18,140.44</b>	<b>\$ 18,140.44</b>

## JOHN DEERE MX8 Semi-Mount Center Drive Rotary Cutter - 540 RPM PTO

**Equipment Notes:**
**Hours:**
**Stock Number:**
**Contract:** TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22)

**Price Effective Date:** May 24, 2021

**Suggested List \***

\$ 7,585.00

**Selling Price \***

\$ 5,764.60

\* Price per item - includes Fees and Non-contract items



JOHN DEERE

# Selling Equipment

Quote Id: 24417229

Customer Name:

**ALL PURCHASE ORDERS MUST BE MADE OUT  
TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT  
TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
216CP	MX8 Semi-Mount Center Drive Rotary Cutter - 540 RPM PTO	1	\$ 7,585.00	24.00	\$ 1,820.40	\$ 5,764.60	\$ 5,764.60
<b>Total Selling Price</b>			<b>\$ 7,585.00</b>		<b>\$ 1,820.40</b>	<b>\$ 5,764.60</b>	<b>\$ 5,764.60</b>



# YOUR CONTRACT. YOUR QUOTE. YOUR HELP REQUESTED.

**Ensure your equipment arrives with no delay.  
Issue your Purchase Order or Letter of Intent.**

To expedite the ordering process, please include the following information in Purchase Order or Letter of Intent:

**For any questions, please contact:**

- ☐ Shipping address
- ☐ Billing address
- ☐ Vendor: John Deere Company  
2000 John Deere Run Cary,  
NC 27513
- ☐ Contract name and/or number
- ☐ Signature
- ☐ Tax exempt certificate, if applicable

**Scott Mann**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155

Tel: 830-379-5477

Fax: 830-379-2693

Email: [smann@tellusequip.com](mailto:smann@tellusequip.com)

**Quote Id:** 24417229

---

**ALL PURCHASE ORDERS MUST BE MADE OUT  
TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT  
TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

---

**Prepared For:**  
**City Of Kyle**

**Proposal For:**  
**City Of Kyle**

**Delivering Dealer:**

Scott Mann

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155

aturek@tellusequip.com

**Quote Prepared By:**

Scott Mann  
smann@tellusequip.com

**Quote Id: 24417229**

---

**ALL PURCHASE ORDERS MUST BE MADE OUT  
TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT  
TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

---

13 May 2021  
City Of Kyle  
TX

Scott Mann  
830-379-5477  
Tellus Equipment Solutions



---

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

---

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

---

### Quote Summary

**Prepared For:**

City Of Kyle  
TX  
Home : 512-361-9116

**Delivering Dealer:**

**Tellus Equipment Solutions**  
Scott Mann  
3030 N. Austin Street  
Seguin, TX 78155  
Phone: 830-379-5477  
smann@tellusequip.com

**USED EQUIPMENT SOLD AS IS WHERE IS.  
NO WARRANTY IS WRITTEN OR IMPLIED  
UNLESS REMAINING FACTORY WARRANTY  
IS TRANSFERABLE.  
CONSULT YOUR SALES TEAM FOR  
DETAILS.**

**Quote ID:** 24417229  
**Created On:** 13 May 2021  
**Last Modified On:** 01 June 2021  
**Expiration Date:** 01 July 2021

Equipment Summary	Suggested List	Selling Price	Qty	Extended
JOHN DEERE 5100E Cab Utility Tractor <b>Contract:</b> TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22) <b>Price Effective Date:</b> May 12, 2021	\$ 68,600.00	\$ 55,566.00 X	1 =	\$ 55,566.00
JOHN DEERE M15 Flex Wing Rotary Cutter <b>Contract:</b> TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22) <b>Price Effective Date:</b> May 24, 2021	\$ 23,869.00	\$ 18,140.44 X	1 =	\$ 18,140.44
JOHN DEERE MX8 Semi-Mount Center Drive Rotary Cutter - 540 RPM PTO <b>Contract:</b> TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22) <b>Price Effective Date:</b> May 24, 2021	\$ 7,585.00	\$ 5,764.60 X	1 =	\$ 5,764.60
<b>Equipment Total</b>				<b>\$ 79,471.04</b>

---

**Quote Summary**

Equipment Total \$ 79,471.04

Salesperson : X \_\_\_\_\_

Accepted By : X \_\_\_\_\_ Item # 9

Confidential



**JOHN DEERE**

---

**ALL PURCHASE ORDERS MUST BE MADE OUT  
TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

---

**ALL PURCHASE ORDERS MUST BE SENT  
TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

---

Trade In	
SubTotal	<b>\$ 79,471.04</b>
Est. Service	\$ 0.00
Agreement Tax	
Total	\$ 79,471.04
<b>Balance Due</b>	<b>\$ 79,471.04</b>

Salesperson : X \_\_\_\_\_

Accepted By : X \_\_\_\_\_ Item # 9

---

*Confidential*

# Selling Equipment

**Quote Id:** 24417229

**Customer Name:**
**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

## JOHN DEERE 5100E Cab Utility Tractor

**Hours:**
**Suggested List \***
**Stock Number:**
**\$ 68,600.00**
**Contract:** TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22)

**Selling Price \***
**Price Effective Date:** May 12, 2021

**\$ 55,566.00**

\* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
697GP	5100E Cab Utility Tractor	1	\$ 66,908.00	19.00	\$ 12,712.52	\$ 54,195.48	\$ 54,195.48
<b>Standard Options - Per Unit</b>							
0202	United States	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
0409	English	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
1381	12F/12R PowrReverser Transmission - 540/540E	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
2050	Standard Cab	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
2120	Air Suspension Seat	1	\$ 768.00	19.00	\$ 145.92	\$ 622.08	\$ 622.08
3025	Deluxe Cornerpost Exhaust	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
3330	Triple Stackable Rear Deluxe SCV's with Lever Control	1	\$ 924.00	19.00	\$ 175.56	\$ 748.44	\$ 748.44
3400	Less Mid Valves	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
5911	18.4 - 30 In. 8PR R1 Bias	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
6040	MFWD (Four Wheel Drive)	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
6701	12.4 - 24 In. 8PR R1 Bias	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>Standard Options Total</b>			<b>\$ 1,692.00</b>		<b>\$ 321.48</b>	<b>\$ 1,370.52</b>	<b>\$ 1,370.52</b>
<b>Value Added Services Total</b>			<b>\$ 0.00</b>			<b>\$ 0.00</b>	<b>\$ 0.00</b>
<b>Total Selling Price</b>			<b>\$ 68,600.00</b>		<b>\$ 13,034.00</b>	<b>\$ 55,566.00</b>	<b>\$ 55,566.00</b>

## JOHN DEERE M15 Flex Wing Rotary Cutter

# Selling Equipment

**Quote Id:** 24417229

**Customer Name:**
**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

**Equipment Notes:**
**Hours:**
**Stock Number:**
**Contract:** TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22)

**Price Effective Date:** May 24, 2021

**Suggested List \***

\$ 23,869.00

**Selling Price \***

\$ 18,140.44

\* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
2310P	M15 Flex Wing Rotary Cutter	1	\$ 24,329.00	24.00	\$ 5,838.96	\$ 18,490.04	\$ 18,490.04
<b>Standard Options - Per Unit</b>							
0202	United States	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
1200	Spring suspension	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
2500	Blade pan	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
2540	Outward Rotation	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
3015	6 Laminated Tires - (Double center, single on wings) - Puncture proof	1	\$ -460.00	24.00	\$ -110.40	\$ -349.60	\$ -349.60
3510	540 rpm driveline	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
3600	540 rpm -100 hp gearbox	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
5110	Clevis hitch	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
5280	Rigid casting tongue	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>Standard Options Total</b>			<b>\$ -460.00</b>		<b>\$ -110.40</b>	<b>\$ -349.60</b>	<b>\$ -349.60</b>
<b>Total Selling Price</b>			<b>\$ 23,869.00</b>		<b>\$ 5,728.56</b>	<b>\$ 18,140.44</b>	<b>\$ 18,140.44</b>

## JOHN DEERE MX8 Semi-Mount Center Drive Rotary Cutter - 540 RPM PTO

**Equipment Notes:**
**Hours:**
**Stock Number:**
**Contract:** TX Ag Equip TXMAS-18-23V02 (PG 75 CG 22)

**Price Effective Date:** May 24, 2021

**Suggested List \***

\$ 7,585.00

**Selling Price \***

\$ 5,764.60

\* Price per item - includes Fees and Non-contract items



JOHN DEERE

# Selling Equipment

Quote Id: 24417229

Customer Name:

**ALL PURCHASE ORDERS MUST BE MADE OUT  
TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT  
TO DELIVERING DEALER:**

Tellus Equipment Solutions  
3030 N. Austin Street  
Seguin, TX 78155  
830-379-5477  
aturek@tellusequip.com

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
216CP	MX8 Semi-Mount Center Drive Rotary Cutter - 540 RPM PTO	1	\$ 7,585.00	24.00	\$ 1,820.40	\$ 5,764.60	\$ 5,764.60
<b>Total Selling Price</b>			<b>\$ 7,585.00</b>		<b>\$ 1,820.40</b>	<b>\$ 5,764.60</b>	<b>\$ 5,764.60</b>





## CITY OF KYLE, TEXAS

### Contract Award of \$488,369.01 to Viking Construction for 2021 Streets Micro-Surfacing Project

**Meeting Date: 6/15/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Approve a contract with VIKING CONSTRUCTION, INC., Georgetown, Texas in an amount not to exceed \$488,369.01 for the 2021 Miscellaneous Streets Micro-Surfacing Project. ~ *Leon Barba, P.E., City Engineer*

**Other Information:** City Council approved Resolution No. 1093 on March 20, 2018, authorizing Mr. Scott Sellers to sign an Interlocal Purchasing Agreement with Grand Prairie that provided for a cooperative purchasing program for goods and services, which included Microsurfacing.

Utilizing this interlocal purchasing agreement, the City will be Microsurfacing the following fifteen (15) streets:

1. Haupt - Between Michaelis Road and Fairway
2. Mcgarity - Between Mcnaughton and Sampson
3. Camelia Pkwy - Between Sweet Gum Drive and Hometown Pkwy
4. Live Oak Street - Between FM 150 and N Burleson Street
5. Blanco Street - Between FM 150 and N Front Street
6. W South Street - Between Scott Street and S Front Street
7. Nance Street - Between W 1st Street and W Schlemmer Street
8. Arbor Knot Drive, Caddis Cove, Kype Cove, and Bobbin Cove - Between FM 150 and Bobbin Cove
9. Ferrule Drive and Dropper - Between Otono Loop and Dropper
10. Bluestem Street and Primrose Blvd - Between Goldenrod Street and Lehman Road
11. Kym Way, Stephen Court, and Dashed Run - Within Brandi Circle
12. Brent Blvd - Between Brandi Circle and IH-35 NB Frontage Road
13. Keystone Loop - Within Beau Lane
14. Beau Lane - Between Brian Lane and Steeplechase
15. Sheep Trail Drive - Between Gina Road and New Country Road

The Microsurfacing treatment portion of the contract is \$457,535.01, and the striping portion of the contract is \$30,844, totaling \$488,369.01. Exhibit 2 shows details on quantities and item cost.

**Legal Notes:** N/A

**Budget Information:** Funding is available in the City's approved capital improvements budget for Fiscal Year 2021 as follows:

- Funds Available: \$488,369.01
- Budget Coding: 1110-64800-572170

---

**ATTACHMENTS:**

**Description**

- ☐ Exhibit 1 - Contracts & Agreements
- ☐ Exhibit 2 - Plan, Cost & Quantities
- ☐ Exhibit 3 - Technical Specifications
- ☐ Contract

# Exhibit 1

Master Interlocal Cooperative Purchasing Agreement  
Between the City of Kyle and the City of Grand Prairie

Micro Surfacing and Slurry Seal Services Contract Between  
City of Grand Prairie and VIKING Construction, Inc.

Micro Surfacing and Slurry Seal Services Contract Between  
City of Grand Prairie and VIKING Construction, Inc –  
Amendment 2

Micro Surfacing and Slurry Seal Services Contract Between  
City of Grand Prairie and VIKING Construction, Inc. -  
2021 Contract Extension

**MASTER INTERLOCAL COOPERATIVE PURCHASING  
AGREEMENT BETWEEN THE CITY OF GRAND PRAIRIE  
AND THE CITY OF KYLE**

**WHEREAS**, Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act, and Chapter 271.102 of the Texas Local Government Code authorize all local governments to contract with each other to perform governmental functions or services including administrative functions normally associated with the operation of government such as purchasing of necessary equipment, supplies and services;

**WHEREAS**, The City of Grand Prairie and The City of Kyle desire to enter into this Agreement for the purpose of fulfilling and implementing their respective public and governmental purposes, needs, objectives, programs and services;

**WHEREAS**, The City of Grand Prairie and The City of Kyle represent that each are independently authorized to perform the functions or services contemplated by this Agreement;

**WHEREAS**, it is deemed in the best interest of all participating governments that said governments do enter into a mutually satisfactory agreement for the purchase of necessary equipment, supplies, and services;

**WHEREAS**, the participating governments are of the opinion that cooperation in the purchasing of equipment, supplies, services and auctions will be beneficial to the taxpayers of the governments through the efficiencies and potential savings to be realized; and

**WHEREAS**, each party has sufficient resources to perform the functions contemplated by this Agreement;

**NOW THEREFORE**, the parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and agree as to each of the other as follows:

1. The City of Grand Prairie and the City of Kyle are authorized to participate in each other's current and/or future contracts for goods and services. Said contracts shall have been established in accordance with all appropriate procedures governing competitive bids and competitive proposals, if required.
2. The City of Grand Prairie and the City of Kyle agree that the ordering of goods and services is the responsibility of the local government seeking to obtain such goods and services under the established contract, and that participating government shall deal directly with the vendor in obtaining the goods and services and payment therefore. The participating government shall be liable to the vendor only for goods and services ordered and received by it, and shall not, by the execution of this Agreement, assume any additional liability. Neither the City of Grand

Prairie nor the City of Kyle warrant, or is responsible for, the quality or delivery of goods or services from the vendor under contract. Should a dispute arise between a participating government and a vendor, the same shall be handled by and between that participating government and the vendor.

3. Each government shall pay invoices directly to the providers of goods and services that are invoiced and delivered directly to each respective government.
4. Participation of either government in any cooperative purchasing activity is strictly voluntary. Nothing in this Agreement shall prevent either governments from purchasing and/or accepting and awarding bids, proposals and contracts subject to this Agreement on its own behalf.
5. Each government shall ensure that all applicable laws and ordinances have been satisfied.
6. **Effective Date and Term.** This Agreement shall be effective when signed by the last party who's signing makes the Agreement fully executed and will remain in full force and effect indefinitely. Any party may modify or terminate this Agreement as provided in Paragraph(s) 7 or 8.
7. **Modification.** The terms and conditions of this Agreement may be modified upon the mutual consent of all parties. Mutual consent will be demonstrated by approval of the governing body of each party hereto. No modification to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of all parties.
8. **Termination.** This Agreement may be terminated at any time by the City of Grand Prairie or the City of Kyle, with or without cause, upon thirty (30) days written notice to the other party in accordance with Paragraph 11 herein.
9. **Hold Harmless.** To the extent allowed by law, the City of Grand Prairie and the City of Kyle agree to hold each other harmless from and against any and all claims, losses, damages, causes of action, suits and liabilities of every kind, including all expenses of litigation, court costs and attorney's fees, for injury or death of any person, for damage to any property, or for any breach of contract, arising out of or in connection with the work done under this Agreement.
10. **Invalidity.** If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable by a court or other tribunal of competent

jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

11. **Written Notice.** Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person, sent by email, by fax with successful send confirmation, or by certified mail to the last business address as listed herein.

**City of Grand Prairie:** Purchasing Division  
Attn: Purchasing Manager  
City of Grand Prairie  
318 W. Main St.  
Grand Prairie, TX 75050  
972/237-8269 ph ~ 972/237-8265 fax  
[purchasingfax@gptx.org](mailto:purchasingfax@gptx.org)

**City of Kyle:** Scott Sellers, City Manager  
City of Kyle  
100 W. Center St.  
Kyle, TX 78640  
(512) 262-1010

12. **Entire Agreement.** It is understood that this Agreement contains the entire agreement between the parties and supercedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.
13. **Amendment.** No Amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.
14. **Texas Law.** This Agreement has been made under and shall be governed by the laws of the State of Texas.
15. **Place of Performance.** Performance and all matters related thereto shall be in the County of the government originating the bid. This shall be Hays County, Texas, United States of America for the City of Kyle and shall be


Dallas County, Texas, United States of America for the City of Grand Prairie.

16. **Authority to Enter Contract.** Each party has the full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective Government.
17. **Waiver.** Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in anyway affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.
18. **Agreement Read.** The parties acknowledge that they understand and intend to be bound by the terms and conditions of this Agreement.
19. **Multiple Originals.** It is understood and agreed that this Agreement may be executed in a number of identical copies, each of which shall be deemed an original for all purposes.

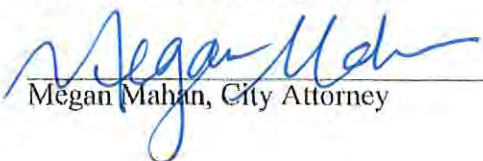
**CITY OF GRAND PRAIRIE**

BY:   
Anna Doll, Deputy City Manager


DATE: 4.9.18

ATTEST:   
Cathy DiMaggio, City Secretary

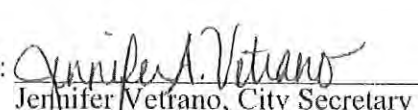
APPROVED AS TO FORM:

  
Megan Mahan, City Attorney

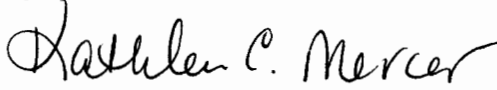

**CITY OF KYLE**

BY:   
Scott Sellers, City Manager

DATE: 3/22/2018

ATTEST:   
Jennifer Vitrano, City Secretary

  
Paige Saenz, City Attorney

**ID****7120****Department:**  
Purchasing for Streets**Vendor Name:**  
Viking Construction, Inc.**Project Name:**  
17041 Micro Surfacing & Slurry Seal Treatment Srv - Viking Construction - initial contract**Work Order Number(s):****Account Number:**  
232010-01713503-63030**Contract Amount:**  
\$500,000.00**Implementation Date:**  
2/22/2017**Termination Date:**  
2/28/2018**City Council Appr. Date:**  
2/21/2017**Insurer A Name:**  
Zurich American Ins**Insurer A Expiration:**  
3/1/2018**Insurer B Name:**  
Travelers Property Cas Co**Insurer B Expiration:**  
3/1/2018**Insurer C Name:**  
American Zurich Ins**Insurer C Expiration:**  
3/1/2018**Insurer D Name:****Insurer D Expiration:****Insurer E Name:****Insurer E Expiration:****Return Executed Copy To:**  
Purchasing Robert Myers Dept Contact Dane Stovall**Department Manager Signature:****Date:**  
March 2, 2017**City Attorney Signature:****Date:**

3/7/17

**City Manager/Deputy City Manager Signature:****Date:**

3/8/17

**City Secretary Signature:****Date:**

3/8/17



CONTRACT for SERVICES PRICE AGREEMENT  
CITY OF GRAND PRAIRIE

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

**THIS CONTRACT** is made and entered into this date by and between the **CITY OF GRAND PRAIRIE**, a Texas municipal corporation (hereinafter referred to as the "CITY"), and **VIKING CONSTRUCTION, INC.** (hereinafter referred to as "VENDOR") and evidences the following:

**I. PURPOSE**

VENDOR shall provide Micro-Surfacing & Slurry Seal Treatment Services per bid award resulting from VENDOR'S response to RFB #17041, submitted by Dan Welsh, on January 30, 2017.

**II. DESCRIPTION OF SERVICES**

The services which VENDOR shall provide for the CITY shall include the following:

- A. VENDOR hereby covenants and agrees that VENDOR is to work closely with the CITY's Public Works Director or their designee, and/or other appropriate officials of the CITY, and that VENDOR is to perform any and all tasks required of VENDOR to fulfill the purposes of this Contract.
- B. VENDOR and the CITY covenant and agree that VENDOR shall perform all of the services and work contained in CITY specifications and VENDOR'S bid to the CITY (attached hereto as "Exhibit A"); said document being part of this Contract and incorporated in its entirety herein. The parties agree that should there be any conflict between the terms of the incorporated document and this Contract, the provisions of this Contract shall control. The parties understand that quantity of services to be furnished to the City is an estimate and that the City may order more or less depending on the projects and the work of the City that requires the services. The price of the services shall remain constant throughout the term of contract.
- C. VENDOR expressly covenants and agrees to provide the CITY with such written reports or documentation of guaranties as may be required by the scope of the submittal.

**III. PERFORMANCE OF WORK**

VENDOR or VENDOR'S associates and employees shall perform all the work called for in this Contract. VENDOR hereby covenants and agrees that all of VENDOR'S associates and employees who work on this project shall be fully qualified to undertake same and competent to do the work described in this Contract, and the services performed shall be performed in a good and workmanlike manner, and that the finished product shall be fit for the particular use(s) contemplated by this agreement.

#### **IV. PAYMENT**

The CITY shall pay to VENDOR a sum not to exceed those unit prices, or percentage discount from list price where applicable in the submittal for the purchase of services designated herein and in no event shall total payments under the base contract exceed \$500,000.00 without additional approval. Invoice must be delivered to the attention of the department placing the order. Payments will be made as work is completed and certification by the City that the work is performed in a good and workmanlike manner within 30 day of certification or receipt of invoice, whichever is later. Payment will be made by means of a City issued check, an ACH, or with a City issued Procurement Card (Mastercard).

#### **V. TERM OF THE CONTRACT**

This Contract is for an initial term of one year with the option to renew for four additional one year periods. This Contract is effective as of February 22, 2017. No new orders shall be accepted, against this Contract term, after midnight on February 28, 2018. Contract shall terminate upon completion of all requirements for orders placed by said date, unless the parties mutually agree in writing to extend the term of the Contract through allowable renewal option, or, unless otherwise terminated as provided in Paragraph XVI herein. The parties shall evidence the renewal in writing, with any additional terms set out in the said writing.

#### **VI. CONTRACT ASSIGNMENT**

VENDOR and the CITY hereby covenant and agree that this Contract provides for services and that these services are not to be assigned or sublet in whole or part without the prior written consent of the CITY.

#### **VII. CONFLICT OF INTEREST**

VENDOR hereby covenants and agrees that during the Contract period that VENDOR and any of VENDOR'S associates and employees will have no interest nor acquire any interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by VENDOR pursuant to this Contract will be conducted by employees or associates of VENDOR. VENDOR further covenants and agrees that it understands that the Code of Ordinances of the City of Grand Prairie prohibits any officer or employee of the CITY from having any financial interest, either direct or indirect, in any business transaction with the CITY. Any violation of this paragraph which occurred with the actual or constructive knowledge of VENDOR will render this Contract voidable by the CITY.

### **VIII. CHANGE IN WORK**

The CITY, through its Purchasing Manager or their designee, may request changes in the scope and focus of the activities and duties called for under this Contract. Any such change which, in the opinion of VENDOR or the CITY varies significantly from the scope and focus of the work set out herein or entails a significant increase in cost or expense to VENDOR must be mutually agreed upon by VENDOR and the CITY. The parties herein acknowledge that any change in the scope or focus of the work which results in the increase in compensation to VENDOR of the fee stated in Paragraph IV hereof must first be approved by the CITY's Purchasing Manager, City Manager or City Council, where applicable.

### **IX. CONFIDENTIAL WORK**

Any reports, designs, plan, information, project evaluations, data or any other documentation given to or prepared or assembled by VENDOR under this Contract shall be kept confidential and may not be made available to any individual or organization by VENDOR without the prior written approval of the CITY except as may be required by law.

### **X. OWNERSHIP OF DOCUMENTS**

VENDOR acknowledges that CITY owns all notes, reports, or other documents, intellectual property or documentation produced by the vendor pursuant to this agreement or in connection with its work which are not otherwise public records. VENDOR acknowledges that CITY shall have copyright privileges to those notes, reports, documents, processes and information.

VENDOR shall provide CITY a copy of all such notes, reports, documents, and information (except to the extent that they contain confidential information about third parties) at CITY expense upon written request.

### **XI. NONDISCRIMINATION**

As a condition of this Contract, VENDOR covenants and agrees that VENDOR shall take all necessary actions to insure, in connection with any work under this Contract, that VENDOR or VENDOR'S associates, sub-vendors, or employees, will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or physical handicap unrelated to job performance, either directly or indirectly or through contractual or other arrangements. In this regard, VENDOR shall keep, retain and safeguard all records relating to this Contract for work performed hereunder for a minimum period of three (3) years from final contract completion, with full access allowed to authorized representatives of the CITY upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

## **XII. INDEPENDENT VENDOR**

By the execution of this Contract, the CITY and VENDOR do not change the independent vendor status of VENDOR. No term or provision of this Contract or any act of VENDOR in the performance of this Contract may be construed as making VENDOR the agent or representative of the CITY. All employees of VENDOR shall perform their duties under the supervision of VENDOR, which shall have the exclusive right to dictate to the VENDOR'S employees how to perform their tasks. VENDOR agrees and covenants that each of its employees will be properly qualified and will use reasonable care in the performance of the assigned duties. VENDOR shall post all applicable warning signs if such work will disrupt normal traffic or workplace activities.

## **XIII. WARRANTY, HOLD HARMLESS, AND INDEMNITY**

VENDOR warrants that the services it performs for CITY will be done in a good and workmanlike manner, and that any items delivered to the CITY under this contract will be fit for the particular purpose for which it was furnished. VENDOR shall defend, indemnify, and hold the CITY whole and harmless against any and all claims for damages, costs, and expenses to persons or property that may arise out of, or be occasioned by, the execution or performance of this Contract or any of VENDOR'S activities or any act of commission or omission related to this Contract of any representative, agent, customer, employee, sub-vendor or invitee of VENDOR or any representative, agent, employee, or servant of the CITY. If an item is covered by a manufacturer's warranty, it is the responsibility of the VENDOR to obtain the information for CITY and to get the manufacturer to honor the warranty.

## **XIV. INSURANCE**

Prior to the commencement of work under this Contract, VENDOR shall obtain and shall continue to maintain in full force and effect during the term of this Contract a comprehensive liability insurance policy, with a company licensed to do business in the State of Texas and rated not less than "A" in the current Best Key Rating Guide, which shall include bodily injury, death, automobile liability and property damage coverage, in accordance with any CITY ordinance or Directive. The minimum limits for this coverage shall be \$1,000,000.00 combined single limit for liability and for property damage, unless modified in accordance with any ordinance or directive. The CITY shall be named as an additional insured under such policy and a provision shall be incorporated in the policy whereby the CITY shall be given at least thirty days prior notice of any material change in coverage or of cancellation of such policy.

## **XV. NO VERBAL AGREEMENT**

This Contract contains the entire commitments and agreements of the parties to the Contract. Any verbal or written commitment not contained in this Contract or expressly referred to in this Contract and incorporated by reference shall have no force or effect.

## **XVI. TERMINATION**

The CITY may, at its option and without prejudice to any other remedy to which it may be entitled at law or in equity, terminate further work under this Contract, in whole or in part, by giving at least thirty (30) days prior written notice thereof to VENDOR with the understanding that all services being terminated shall cease upon the date specified in such notice. The CITY shall equitably compensate VENDOR, in accordance with the terms of this Contract for the services properly performed prior to the date specified in such notice following inspection and acceptance of same by the CITY. VENDOR shall not, however, be entitled to lost or anticipated profits should the CITY choose to exercise its option to terminate.

## **XVII. VENUE**

The parties to this Contract agree and covenant that this Contract will be performable in Grand Prairie, Texas, and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Dallas County, Texas.

## **XVIII. APPLICABLE LAWS**

This Contract is made subject to the existing provisions of the Charter of the City of Grand Prairie, its rules, regulations, procedures and ordinances, present and future, and all applicable laws of the State of Texas and the United States.

## **XIX. CONTRACT INTERPRETATION**

The parties to this Contract covenant and agree that in any litigation relating to this Contract, the terms and conditions of the Contract will be interpreted according to the laws of the State of Texas.

## **XX. NOTICES**

All notices, communications and reports under this Contract must be mailed or delivered to the respective parties at the addresses shown below, unless either party is otherwise notified in writing by the other party:

### **CITY:**

Angi Mize, Sr. Buyer ~ Purchasing Division  
972-237-8262 Phone ~ 972/237-8265 Fax  
amize@gptx.org  
City of Grand Prairie  
326 W. Main Street, Grand Prairie, TX 75050  
PO Box 534045, Grand Prairie, TX 75053-4045

Dane Stovall ~ Streets Department  
972-237-8526 Phone  
dstovall@gptx.org  
City of Grand Prairie  
1821 S. SH 161, Grand Prairie, TX 75052

**VENDOR:**

Dan Welsh, Project Manager  
512-930-5777 Phone ~ 512-868-1955 Fax  
dan@vciss.com  
Viking Construction, Inc.  
2592 Shell Rd., Georgetown, TX, 78628

**XXI. SEVERABILITY**

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

**XXII. RIGHT OF REVIEW**

VENDOR covenants and agrees that the CITY, upon reasonable notice to VENDOR, may review any of the work performed by VENDOR under this Contract.

**XXIII. WAIVER OF ATTORNEYS FEES**

VENDOR and CITY expressly covenant and agree that in the event of any litigation arising between the parties to this contract, each party shall be solely responsible for payment of its attorneys and that in no event shall either party be responsible for the other party's attorney's fees regardless of the outcome of the litigation.

EXECUTED this the 8th day of March 2017.

**CITY OF GRAND PRAIRIE, TEXAS**

By: Tom Cox  
Tom Cox, Deputy City Manager

**ATTEST:**

Cathy E. DiMaggio  
Cathy E. DiMaggio, City Secretary

**VIKING CONSTRUCTION, INC.**

By: Dan Welsh  
Printed  
Name: DAN Welsh  
Title: Project Manager

**APPROVED AS TO FORM:**

Megan Mahon  
for Donald R. Postell, City Attorney



CITY OF GRAND PRAIRIE, TEXAS

[DATE]

**REQUEST FOR BIDS**

RFB #17041 – Micro-Surfacing (Polymer Modified) & Slurry Seal Treatment Services

**DUE DATE: PRIOR TO 2:00 P.M. JANUARY 31, 2017**

**DUE TO:** Angi Mize, Senior Buyer  
Purchasing Division  
326 W. Main Street  
Grand Prairie, Texas 75050

**CLEARLY MARK BID AS “RFB #17041”**

Late responses will be unopened and not accepted for consideration. The City of Grand Prairie is not responsible for lateness or failure of timely delivery via mail (whether delays are internal/external), carrier, etc. Please ensure you allow time to provide your response timely so that you may be properly considered. EMAIL BIDS WILL NOT BE ACCEPTED.



CITY OF GRAND PRAIRIE  
ADVERTISEMENT FOR BIDS

Sealed bids will be received at the office of the Purchasing division, 326 W. Main Street, Grand Prairie, Texas, until January 31, 2017 at 2:00 PM, and publicly opened and read at that time for the purchase of the following:

***BID # 17041 – Micro Surfacing & Slurry Sealing Treatment Services***

There will be a pre-bid meeting held on Tuesday, January 24, 2017 at 10:00 a.m. The meeting will take place at the Fiscal Administration Building, located at 326 W. Main Street, Grand Prairie, TX 75050.

Further information and specifications may be obtained by contacting the city's bid distribution partner, BidSync at [www.bidsync.com](http://www.bidsync.com) or (801) 765-9245, or the Office of the Purchasing division, 326 W. Main Street, Grand Prairie, Texas, (972) 237-8262.

The city reserves the right to reject any or all bids and to waive formalities. The city also reserves the right to purchase these items through state awarded contracts or other intergovernmental agreements when it is in the best interest of the city.

Robert Myers  
Purchasing Manager

Publish: January 15<sup>th</sup>, & January 22<sup>nd</sup> 2017

## Contents

ADVERTISEMENT FOR BIDS .....	2
1. SCOPE .....	5
2. DESCRIPTION .....	5
3. LABORATORY EVALUATION .....	5
4. APPLICABLE SPECIFICATIONS .....	6
5. AGGREGATE .....	7
6. MINERAL FILLER .....	7
7. WATER .....	7
8. EMULSIFIED ASPHALT .....	8
9. LATEX MODIFIER .....	8
10. ADDITIVES .....	8
11. MIX DESIGN .....	9
12. MATERIALS .....	9
13. TEST ON AGGREGATE .....	9
14. GRADATION CHART .....	9
15. TEST ON EMULSION .....	10
16. TEST ON RESIDUE FROM DISTILLATION .....	11
17. TEST ON MICRO-SURFACE JOB MIXTURE .....	11
18. TEST ON SLURRY SEAL JOB MIXTURE .....	11
19. EQUIPMENT-GENERAL .....	11
20. MIXING EQUIPMENT .....	11
21. SPREADING EQUIPMENT .....	12
22. AUXILIARY EQUIPMENT .....	13
23. EQUIPMENT CALIBRATION .....	13
24. VERIFICATION .....	13
25. WEATHER LIMITATIONS .....	14
26. CONDITION AND TYPE OF PAVEMENT .....	14
27. NOTIFICATIONS .....	14
28. TRAFFIC CONTROL .....	15
29. TEMPORARY MARKINGS & LANE DELINEATION GUIDELINES .....	15

30.	STOCKPILING OF AGGREGATE.....	16
31.	STORAGE SITE.....	16
32.	SURFACE PREPARATION.....	16
33.	APPLICATION - GENERAL.....	16
34.	RATE OF APPLICATION.....	16
35.	JOINTS.....	17
36.	HAND WORK.....	17
37.	LINES.....	17
38.	CURING.....	17
39.	CLEAN-UP.....	18
40.	METHODS OF MEASUREMENT MICRO SURFACING.....	18
41.	METHODS OF MEASUREMENT SLURRY SEAL.....	19
42.	SURFACE TREATMENT INSPECTION PROCEDURES.....	19
43.	PAYMENT & INVOICING.....	20
44.	VENDOR RESPONSIBILITIES.....	<u>20</u>
45.	VENDOR QUALIFICATIONS.....	21
46.	SAFETY REQUIREMENTS.....	21
47.	PROCUREMENT SCHEDULE.....	22
48.	CONTACT.....	22
49.	BID EVALUATION.....	22
50.	EVALUATION CRITERIA.....	23
51.	SUBMITTAL RESPONSE GUIDELINES.....	23
52.	AGREEMENT TERMS AND AWARD.....	23
	TERMS AND CONDITIONS.....	24
	SUBMITALS FORMS.....	30

1. **SCOPE**

The work covered by this specification includes the design, testing, construction and quality control required for the proper application of micro-surfacing and slurry seal treatment services. This contract will begin on or after February 21, 2017.

1.1 **Micro-Surfacing**

This blend is used to give maximum skid resistance and an improved wearing surface. An example would be on pavements which have high traffic volume. Rate of application: 25 to 28 pounds per square yard.

1.2 **Slurry Seal**

TYPE IIA: This blend is used to give maximum skid resistance and an improved wearing surface. An example would be on pavements which have highly textured surfaced and require this size aggregate to fill in the voids and provides an improved wearing surface. Rate of application: 20 to 22 pounds per square yard.

2. **DESCRIPTION**

Both the Micro-Surfacing and the Slurry Seal shall consist of a mixture of an approved emulsified asphalt, mineral aggregate, mineral filler, and water and specified additives, proportioned, mixed and uniformly spread over a properly prepared surface. The completed micro-surface shall leave a homogenous mat, adhere firmly to the prepared surface and have a skid resistant surface texture.

3. **LABORATORY EVALUATION**

Before work commences, the vendor shall submit a signed original of a mix design containing the test results and proportioning of the specific materials to be used on the project. This design shall have been performed by a qualified laboratory. Previous lab reports covering the exact materials to be used may be accepted provided they were made during the calendar year. This initial mix design will be done at the vendor's expense. Upon receipt of the original mix design, an independent qualified laboratory selected by the City will perform tests using the same materials as used in the initial mix design for verification of the results. This testing will be done at the City's expense. No work will begin until all materials and/or mix design proportions have met the specifications as required. Once the materials are approved, no substitutions will be permitted unless first tested and approved by the methods stated above.

#### 4. APPLICABLE SPECIFICATIONS

The following specifications and test methods form a part of this specification.

**AASHTO:** American Association of State Highway and Transportation Officials

**ASTM:** American Society for Testing and Materials

**ISSA:** International Slurry Seal Association

AGGREGATE AND MINERAL FILLER		
AASHTO TEST NO.	ASTM TEST NO.	TEST
T 2	D 75	Sampling Aggregates
T 27	C 136	Sieve Analysis of Aggregates
T 11	C 117	Materials Finer than No. 200 in Mineral Aggregate
T 176	D 2419	Sand Equivalent Value of Soils and Fine Aggregate
T 84	C 128	Specific Gravity and Absorption of Fine Aggregate
T 19	C 29	Unit Weight of Aggregate
T 104	C 88	Soundness of Aggregates by use of Sodium Sulfate or Magnesium Sulfate
T 96	C 131	Resistance to Degradation of Small Size Aggregate by Abrasion and Impact in the Los Angeles Machine
	D 1073	Specifications for Fine Aggregate for Bituminous Paving Mixtures
	D 242	Mineral Filler for Bituminous Paving Mixtures
T 37	D 546	Sieve Analysis of Mineral Filler for Bituminous Paving Mixtures

EMULSIFIED ASPHALTS		
AASHTO TEST NO.	ASTM TEST NO.	TEST
T 40	D 140	Sampling Bituminous Materials
M 140	D 977	Specifications for Emulsified Asphalt
M 208	D 2397	Specifications for Cationic Emulsified Asphalt
T 59	D 244	Testing Emulsified Asphalt
T 59	D 88	Test Method for Saybolt Furol Viscosity
T 44	D 113	Test Method for Ductility of Bituminous Materials
T 44	D 2042	Test Methods for Solubility of Asphalt Materials in Trichloroethylene
T 49	D 5	Test Methods for Penetration of Bituminous Materials
	D 2398	Test Methods for Softening Point of Bitumen in Ethylene Glycol (Ring and Ball)

SLURRY SEAL SYSTEM		
ISSA TEST NO.	ASTM TEST NO.	TEST
	D 3910	Design, Testing, and Construction of Slurry Seal
	D 2172	Quantitative Extraction of Bitumen for Bituminous Paving Mixture
T 101		Guide for Sampling Slurry Mix for Extraction Test
T 102		Mixing, Setting, and Water Resistance Test to Identify "Quick-Set" Emulsified Asphalt
T 106		Measurement of Slurry Seal Consistency
T 111		Outline Guide Design Procedure for Slurry Seal
T 113		Trail Mix Procedures for Slurry Seal Design
T 114		Wet Stripping Test for Cured Slurry Seal Mixes
T 115		Determination of Slurry Seal Compatibility

## **MATERIALS**

### **5. AGGREGATE**

The mineral aggregate shall consist of a natural or manufactured crushed stone such as granite, slag, limestone or other high quality aggregates or a combination thereof that conforms to the quality requirement of ASTM Specification D1073 and shall be free of dirt, organic matter, clay balls, and adherent films of clay, dust or other objectionable material. The aggregate shall contain no free water.

- a. **Micro-Surfacing** - One hundred percent (100%) crushed material from a single source is required.
- b. **Slurry Seal** - Smooth textured sands of less than 1.25 % water absorption shall not exceed 50% of the total aggregate blend.

### **6. MINERAL FILLER**

The mineral filler shall be a recognized brand of Type I and II Portland cement with no entrained air that meets the requirements of ASTM D 242 if required by the mix design. 0.5% to 2% by dry weight of aggregate will be the range of mineral filler in the mix design. The mineral filler shall be considered as part of the dry aggregate.

### **7. WATER**

All water shall be potable and compatible with the micro-surfacing and slurry seal mix. Compatibility shall be ensured by the vendor. The percent of water in the mix design shall produce proper mix consistency.

8. **EMULSIFIED ASPHALT** - The asphalt emulsion shall be homogeneous and show no separation after mixing.
- 8.1 **Micro-Surfacing** - The emulsified asphalt shall be a quick-set polymer modified cationic type CSS-Ph emulsion and conform to the requirements specified in AASHTO M 208 and ASTM 2397. It shall pass all applicable storage and settlement test. The polymer material shall be milled into the emulsion or blended into the asphalt cement prior to the emulsification process. The cement mixing test shall be waived.
- 8.2 **Slurry Seal** - Typically grade CQS-1h shall be used. As directed by the Program Manager, the following grade of emulsion shall be used:
- 8.2.1 **Grade CQS-1h** - Conforming to the requirements specified in ASTM D 2397 for Cationic Emulsions. (Quick Set). The emulsion used shall be modified with latex (SBR) which shall be milled into the emulsion or blended into the asphalt cement prior to the emulsification process. It shall pass all applicable storage and settlement tests. The cement mixing testing shall be waived. Asphalt emulsion, type CQS-1h (Quick Set) shall be specified on all city streets to minimize the amount of time the street will be closed.
9. **LATEX MODIFIER**
- 9.1 **Micro-Surfacing** - A minimum of 3% Latex Modifier content based on bitumen weight content, certified from the emulsion supplier, along with special quick-setting emulsifier agents, shall be milled into the asphalt emulsion. **The emulsified asphalt shall be so formulated that when the paving mixture is applied with the relative humidity at no more than 50% and ambient air temperature of at least 75 degrees Fahrenheit, it will cure sufficiently such that uniformly moving traffic can be allowed on completed travel lanes within 1 hour after placement with no damage to the surface. If determined necessary by the Program Manager, the mixture properties shall be adjusted according to humidity conditions and ambient air temperatures to allow uniformly moving traffic on completed travel lanes within 1 hour after placement with no damage to the surface.**
- 9.2 **Slurry Seal** - A 3% latex content based on bitumen weight, certified by the emulsion supplier, shall be milled into the asphalt emulsion.
10. **ADDITIVES**
- Any additive used to accelerate or retard the break-set of the slurry seal shall be approved by the mix design laboratory as part of the mix design. The amount and type of additive (if needed) will be shown in the mix design.



## **TEST AND DESIGN**

### **11. MIX DESIGN**

All materials which first meet all quality test specifications shall be shown in the mix design by type of material and recommended proportions of said material.

### **12. MATERIALS**

Dry Weight, Proportion %

Aggregate

Mineral Filler (Portland cement)

Emulsion

Water

Additive (if required)

### **13. TEST ON AGGREGATE**

TEST	TEST METHOD		SPECIFICATION
	AASHTO TEST NO.	ASTM TEST NO.	
Gradation Analysis	T 27	C 136	See Gradation Chart
Sand Equivalent	T 176	D 2419	45 Minimum
Soundness	T 104	C 88	15% Max. loss by Sodium Sulfate
	T 104	C 88	20% Max. loss by Magnesium Sulfate
Hardness	T 96	C 131	35% Maximum
Unit Weight of Aggregate	T 19	C 29	Informational lb. cu. Ft. (for bulking effect)

- 14. GRADATION CHART** - The aggregate shall meet the above gradations and shall not vary from the low limit on one sieve to the high limit on the adjacent sieves or vice versa. The gradation to be used shall be as approved by the Program Manager.

#### **14.1 Micro-Surfacing**

SIEVE	PERCENT PASSING
3/8	99-100
No. 4	86-94
No. 8	45-65
No. 16	25-46
No. 30	15-35
No. 50	10-25
No. 100	7-18
No. 200	5-15

- 14.2 Slurry Seal - Type IIA** is a modification of ISSA Type II gradation to provide a coarser mix. The vendor shall be required to utilize a screening plant at the stockpile site and all aggregate loaded for use shall first pass thru the screening plant to remove any oversized material. The size of the screen opening on the screening plant shall be appropriate for the gradation approved by the Program Manager. Residual Asphalt Content, 8% to 12% % Weight of Dry Aggregate; Application Rate Lb. Sq. Yd. 20 Lbs to 22 lbs. Based on Weight of Total Mix

SIEVE	TYPE II A PERCENT PASSING
3/8	100
No. 4	85-100
No. 8	55-80
No. 16	35-60
No. 30	25-45
No. 50	18-30
No. 100	10-21
No. 200	5-15

**15. TEST ON EMULSION**

TEST	TEST METHOD		SPECIFICATION
	AASHTO TEST NO.	ASTM TEST NO.	
Particle Charge		D 244	Informational (+ or -)
Residue from Distillation, Weight %	T 59	D 244	62% Min.
Saybolt Furol Viscosity@77 degrees F SSF, sec	T 59	D 88	15-50
Sieve Test, % Retained on 20 Mesh Sieve	T 59	D 244	0.1% Max.
24 hr Storage Stability, %	T 59	D 244	1% Max.
5 Day Settlement Test, %	T 59	D 244	5% Max.

**16. TEST ON RESIDUE FROM DISTILLATION**

TEST	TEST METHOD		SPECIFICATION
	AASHTO TEST NO.	ASTM TEST NO.	
Penetration@77 degrees F, 100 grams 5 sec	T 49	D 243	40-90
Solubility in Trichloroethylene, %	T 44	D 2042	97.5% Min.
Ductility, 77 degrees F, cm	T 44	D 113	40 Min.
Softening Point, degrees F (Ring and Ball)		D 2398	140 degrees F Min.

**17. TEST ON MICRO-SURFACE JOB MIXTURE**

TEST	TEST METHOD		SPECIFICATION
	ISSA TEST NO.	ASTM TEST NO.	
Set Time, Hours		D 3910	12 Hrs Max.
Cure Time, Hours		D 3910	24 Hrs Max.
Wet Stripping Test, % Coating	TB 114		80% Max.
Wet Track Abrasion Test, Grams per Sq Ft		D 3910	75 Max.
Set Time 30 minutes Blotter Test	TB 102		No Brown Stain
Displacement Test	TB 102		No Displacement
Water Resistance Test @ 30 Minutes	TB 102		No Discoloration

**18. TEST ON SLURRY SEAL JOB MIXTURE**

TEST	TEST METHOD		SPECIFICATION
	ISSA TEST NO.	ASTM TEST NO.	
Consistency Test, cm Flow		D 3910	2-3
Set Time, Hours		D 3910	12 Hrs Max.
Cure Time, Hours		D 3910	24 Hrs Max.
Wet Stripping Test, % Coating	TB 114		80% Max.
Wet Track Abrasion Test, Grams per Sq Ft		D 3910	75 Max.

**EQUIPMENT**

**19. GENERAL**

All methods and equipment employed in performing the work shall be subject to the approval of the Program Manager before work is started and whenever found unsatisfactory they shall be changed and improved as required. All equipment shall be maintained in a satisfactory condition.

**20. MIXING EQUIPMENT**

**20.1 Micro-Surfacing** – The material shall be mixed by a self-propelled micro-surfacing mixing machine which shall be a continuous flow mixing unit able to accurately deliver and proportion the aggregate, emulsified asphalt, mineral filler and water to a revolving multi-blade mixer and discharge the mixed product on a continuous flow basis. The machine shall have sufficient storage capacity for aggregate, emulsified asphalt, mineral filler and water to maintain an adequate supply to the proportioning controls. The machine shall be equipped with self-loading devices which provide for the loading of all materials while continuing to lay micro-surfacing, thereby minimizing construction joints.

Individual volume or weight controls for proportioning each material to be added to the mix shall be provided. Each material control device shall be calibrated and properly marked.

The aggregate feed to the mixer shall be equipped with a revolution counter or similar device so the amount of aggregate used may be determined at any time.

The emulsion pump shall be a positive displacement type and shall be equipped with a revolution counter or similar device so that the amount of emulsion used may be determined at any time.

The mixing machine shall be equipped with a water pressure system and nozzle type spray bar to provide a water spray immediately ahead of and outside the spreader box with 0.05 to 0.15 gallons per square yard.

The mixing machine shall be equipped with an approved fines feeder that shall provide a uniform, accurately metered, predetermined amount of specified mineral filler.

- 20.2 Slurry Seal** - The slurry seal mixing equipment shall be a continuous flow mixing unit or continuous-run design machines as to give a uniform and complete circulation of the batch in the mixer, so as not to segregate the aggregate, but will provide a thorough and uniform free flowing mix with the asphalt and water. The units shall be equipped with approved devices so that the machine can be accurately calibrated and the quantities of material used can be determined. The mixing machine shall be equipped with a water pressure system and nozzle type spray bar adequate for completely fogging the surface with 0.05 to 0.15 gallons per square yard immediately ahead of the spreader box.

The vendor shall have a minimum of 2 Slurry Seal machines at the project site in good working condition each having a capacity of at least 8 cubic yards to assure sufficient production capability.

## **21. SPREADING EQUIPMENT**

- 21.1 Micro-Surfacing** - The surface mixture shall be spread uniformly by means of a mechanical type spreader box attached to the mixer, equipped with paddles to agitate and spread the materials throughout the box. A front seal shall be provided to ensure no loss of the mixture at the road contact point. The rear seal shall act as final strike off and shall be adjustable. The mixture shall be spread to fill cracks and minor surface irregularities and leave a uniform skid resistant application of material on the pavement, the longitudinal joint where two passes join shall be neat appearing, uniform and lapped. All excess material shall be removed from the job site prior to opening the road. The spreader box shall have suitable means provided to side shift the box to compensate for variations in pavement geometry.

**21.2 Slurry Seal** - The spreader box shall be equipped to prevent loss of slurry seal from all sides and with a flexible rear strike-off capable of being adjusted. It shall suitable means for side tracking to compensate for deviation in pavement geometry. The box shall be kept free of built-up asphalt and aggregate. The strike-off drag shall be kept completely flexible at all times.

**22. AUXILIARY EQUIPMENT**

Suitable crack and pavement cleaning equipment, hand tools and any support equipment will be provided by the Vendor as necessary to perform the work. The Vendor shall use a vacuum equipped street sweeper to remove all swept debris. Sweeping of debris into the gutter shall not be permitted.

**23. EQUIPMENT CALIBRATION**

Each Slurry unit to be used shall be calibrated in the presence of the Program Manager prior to construction. Previous calibration documentation covering the exact materials to be used may be accepted provided they were made during the calendar year. No machine shall be allowed to work on the project until the calibrations have been completed and/or accepted.

**24. VERIFICATION**

The test strips will be laid, by the Vendor (location to be determined by the Program Manager) before construction begins. The Program Manager will observe the test strip for verification or rejection according to the specifications. Upon failure of any of the test, additional test strips will be laid at no cost to the City. The square yards of the first test strip will be measured and paid for at the contract unit price. (Keeping proper consistency is a major concern. A wet mix will cause an asphalt rich surface. Consistency can be checked in the field by making a line through the slurry-surface immediately behind the spreader box. If the line stays, the slurry is at a proper consistency level. If the line fills up, the slurry is too wet.)

## **LIMITATIONS**

### **25. WEATHER**

All Micro-Surfacing/Slurry Seal will be applied between March 1 and December 1 unless otherwise approved by the Program Manager. The Slurry Seal shall be applied only when the air and pavement temperature is 50 degrees Fahrenheit and rising. No Slurry Seal shall be applied:

- 25.1** In the period following precipitation with water remaining on the surface to be coated.
- 25.2** In foggy conditions.
- 25.3** If there is a threat of rain before the slurry seal can fully cure.
- 25.4** If there is danger that the finished product will freeze within 24 hours after application.
- 25.5** If weather conditions prolongs opening to traffic beyond the time specified by the Program Manager.

The Micro-Surfacing/Slurry Seal will be placed on the location and within the time limits as specified by the Program Manager.

### **26. CONDITION AND TYPE PAVEMENT TO BE TREATED**

Any base failures, severe pavement defects, or similar conditions which are present will be properly repaired by the City to ensure correct application and performance of the slurry. Slurry normally adheres to asphalt pavement more readily than, concrete, especially worn or polished areas. Heavy traffic areas, especially those on concrete, require greater care in selection of type of coarseness of slurry allowing the surface to fully cure before opening to traffic, and the placing of either a tack coat or a second coat of slurry for greater adhesion and wear purposes.

### **27. NOTIFICATIONS**

It shall be the Vendor's duty to notify all homeowners and businesses affected by the construction a minimum of 24 hours in advance of the surfacing. Should the work not occur on the specified day, new notification will be distributed as required. Complete street closures are allowed when approved by the Program Manager in consultation with the City Traffic Engineer. In general, complete street closures are allowed on residential streets for more efficient and effective completion and for reduction of the project duration impact to the neighborhood.

**28. TRAFFIC CONTROL**

It shall be the Vendor's responsibility to provide adequate traffic control measures, such as barricades, cones, advance warning signs, flag person, etc. to protect the uncured slurry from all types of traffic and provide traffic safety in the construction area. These measures shall be in accordance with the City of Grand Prairie Traffic Barricade Manual and the most current Texas Manual on Uniform Traffic Control Devices for Streets and Highways. Opening to traffic does not constitute acceptance of the work. Any damage to the uncured slurry will be the responsibility of the Vendor and will be repaired as directed by the Program Manager. Approved temporary lane marking will be provided by the Vendor for placement as directed by the Program Manager.

**29. TEMPORARY MARKINGS AND LANE DELINEATION**

Whenever the work causes obliteration of pavement markings or delineation, temporary markings or delineation shall be in place prior to opening the traveled way to public traffic. Lane line and centerline pavement delineation shall be provided at all times for traveled ways open to public traffic. Other markings such as crosswalks, stop bars, and pavement arrows shall be delineated prior to opening the roadway to public traffic if directed by the Program Manager.

All work necessary to establish satisfactory temporary marking and lane delineation shall be performed by the Vendor. Surfaces on which temporary marking and lane delineation is to be applied shall be cleaned of all dirt and loose material, and shall be dry when it is applied. Temporary markings and lane delineation shall be maintained until replaced with permanent markings.

Temporary lane delineation shall consist of either a 4-inch by 4-inch square stripe or a 4-inch reflectorized tab, as directed by the Program Manager. Temporary lane delineators shall be placed on lane lines and centerlines at longitudinal intervals of not more than 24 feet apart, or 12 feet apart on radii. The temporary markings and lane delineators shall be the same color as the lane line, centerline, or pavement marking being replaced.

Temporary markings and lane delineation shall not be paid for as a separate pay item and shall be considered subsidiary to the contract unit price per square yard of Slurry Seal or Micro-Surfacing, which pay item shall be the total compensation for the furnishing of all labor, materials, tools, equipment, and incidentals necessary to locate, install, and maintain the temporary markings and lane delineation.



## **STORAGE AND STOCKPIING**

### **30. STOCKPIILING OF AGGREGATE**

Precautions shall be taken to ensure the aggregate does not become contaminated with oversized rock, clay, silt or excessive amount of moisture. The stockpile shall be kept in areas that have good drainage. Segregation of aggregates proposed for use and as supplied to the mixing plant shall be uniform.

### **31. STORAGE SITE**

The Vendor shall provide a suitable storage facility for all equipment and materials needed to perform the work. This site should be located as close as possible to the area of work being done to reduce turnaround time and ensure an acceptable rate of work. Any site selected shall be subjected to final approval by the Program Manager. Erosion control measures shall be implemented as needed to comply with the law and City of Grand Prairie ordinances.

### **32. SURFACE PREPARATION**

Immediately prior to applying the slurry seal, the pavement shall be thoroughly cleaned of all loose materials, vegetation, soil and other objectionable material. Any breakdowns, base failures, or other defects will be properly repaired by the city before application of the slurry seal begins. Manholes, valve boxes, grate inlet, and other designated objects shall be covered by the Vendor to ensure their integrity. After completion of slurry placement, the vendor shall remove said covers so the objects protected will remain fully functional. Any objects damaged by the Vendor shall be repaired or replaced at no cost to the City.

## **APPLICATION**

### **33. GENERAL**

If conditions require, the pavement shall be pre-wetted by fogging ahead of the spreader box. Water used in fogging the surface shall be applied so that the entire surface is damp with no flowing water in front of the box.

Rate of spray: 0.05 to 0.15 gal/sq. yd. (or as directed by the Program Manager); no streaks, lumps, balls, or unmixed aggregated shall be permitted.

### **34. RATE OF APPLICATION**

The slurry shall be sufficiently stable during the spreading period so that the emulsion does not break, there is no segregation of the fines from the coarser aggregate and the liquid of the mix does not float to the surface.

**35. JOINTS**

No excessive buildup or unsightly appearance shall be permitted on longitudinal or transverse joint. An excessive overlap will not be permitted on longitudinal joints. The Vendor shall provide suitable width spreading equipment to produce a minimum number of longitudinal joints throughout the project. Longitudinal joints shall be placed on lane lines when possible. If half passes are used they shall not be the last pass of any paved area.

**36. HAND WORK**

In areas where the spreader box cannot be used, the slurry shall be applied by hand squeegees to provide complete and uniform coverage. Any joint or cracks not filled by the slurry shall be corrected by use of hand squeegees. Hand work shall be completed during the machine applying process. Due to difficulty in hand working micro-surfacing material due to the quickset nature of the emulsion, hand work areas should be kept to a minimum.

**37. LINES**

Straight lines along curb gutters and shoulder will be required. No runoff on these areas will be permitted. Lines at intersections shall be kept straight to provide a good appearance. Slurry shall be placed at the lip of the gutter or at a distance from the face of the curb as directed by the Program Manager.

**38. CURING**

**38.1 Micro-Surfacing** - All traffic shall be kept off the micro until it has cured to a firm condition that will prevent damage to the micro. **The emulsified asphalt shall be so formulated that when the paving mixture is applied with the relative humidity at no more than 50% and ambient air temperature of at least 75 degrees Fahrenheit, it will cure sufficiently such that uniformly moving traffic can be allowed on completed travel lanes within 1 hour after placement with no damage to the surface. Failure to comply with this requirement may result in cessation of all work until such time that the Vendor provides the proper adjustments in his operations. If determined necessary by the Program Manager, the mixture properties shall be adjusted according to humidity conditions and ambient air temperatures to allow uniformly moving traffic on completed travel lanes within 1 hour after placement with no damage to the surface. Failure to comply with this requirement may result in cessation of all work until such time that the Vendor provides the proper adjustments in his operations.** Protect other locations subject to sharp turning or stopping and starting traffic for longer periods when necessary. Any uncured micro damaged will be repaired to the satisfaction of the Program Manager at the Vendor's expense.

**38.2 Slurry Seal** - All traffic shall be kept off the slurry until it has cured to a firm condition that will prevent damage to the slurry. Any uncured slurry damaged will be repaired to the satisfaction of the Program Manager at the Vendor's expense.

**39. CLEAN-UP**

All objects covered (manhole covers, valve covers, grate inlets, etc.) shall be restored to their original integrity. The Vendor shall remove all unused material and debris from the site prior to final acceptance.

**MEASUREMENT AND PAYMENT**

**40. METHODS OF MEASUREMENT – Micro-Surfacing**

**40.1 Aggregate**

The quantity of aggregate used in the accepted portions of the work shall be measured by net ticket weight of the individual loads of aggregate as measured by approved scales at the project or approved stockpile site and delivered to the lay down machine. Measurement for payment shall be based on the square yards of surface treatment accepted by the City, complete in place, in accordance with these specifications. The amount aggregate shall fall between the specified range of 25 to 28 lbs. of dry aggregate per square yard of polymer modified micro-surfacing treatment to be acceptable to the City.

**40.2 POLYMER MODIFIED ASPHALT EMULSION**

The quantity of polymer modified asphalt emulsion used in the accepted portion of the work shall be measured by gallons of emulsion shipped and used. Mineral filler, modifier, water and all other additives shall be considered subsidiary items and shall not be paid for separately. Measurement for payment shall be based on the square yards of surface treatment accepted by the City, complete, in place, in accordance with these specifications.

**40.2 BASIS OF PAYMENT**

The authorized and accepted quantity of polymer modified micro-surfacing treatment shall be paid for at the contract unit price bid per square yard accepted by the City, completed in place in accordance with these specifications. The unit price bid shall be considered full compensation for all aggregate, polymer modified asphalt emulsion (including mineral filler, water, modifiers and additives), emulsion for tack coat, material, labor, tools, equipment, cleaning the existing pavement, maintenance of traffic and all other incidentals necessary to complete the work in accordance with these specifications and the bid documents. Payment shall be restricted to only those micro surface areas in which the specified range of dry weight aggregate is 25 to 28 lbs. per square yard. **No payment shall be made for micro-surfacing treatment not authorized or approved by the Program Manager.**

**41. METHODS OF MEASUREMENT - Slurry Seal**

**41.1 AGGREGATE**

The quantity of aggregate used in the accepted portions of the work shall be measured by net ticket weight of the individual loads of aggregate shipped to the project and used.

**41.2 LATEX MODIFIED ASPHALT EMULSION**

The quantity of latex modified asphalt emulsion used in the accepted portion of the work shall be measured by gallons of emulsion shipped and used. Mineral filler, modifier, water and all other additives shall be considered subsidiary items and shall not be paid for separately from the bid item.

**41.3 BASIS OF PAYMENT**

The treated area on each street authorized and approved by the Program Manager shall be field measured and calculated in square yards. The gallons of latex modified asphalt emulsion and pounds of aggregate applied shall be calculated. Payment for authorized work shall be approved if the amount of emulsion and aggregate fall within the specified range per square yard. Payment per square yard shall be considered full compensation for grass removal, cleaning the existing pavement, all material (including mineral filler, water modifiers and additives) labor, tools, equipment, maintenance of traffic and incidentals necessary to complete the work. **No payment shall be made for work not authorized and approved by the Program Manager.**

**42. SURFACE TREATMENT INSPECTION PROCEDURES**

**42.1** All locations will be selected and subject to final approval by the Program Manager. Non-compliance will result in nonpayment.

**42.2** No work will commence on any location until approval by the Program Manager. Non-compliance will result in nonpayment.

**42.3** All pavement cleaning (sweeping, vegetation removal, etc.), and covering of appurtenances to be performed by the vendor as directed in the Slurry Seal Specification will be subject to the final approval and acceptance of the Program Manager. Non-compliance will result in nonpayment.

**42.4** All locations will be subjected to final approval in regards to appearance by the Program Manager. Any work directed by the Program Manager to correct any appearance defect will be subject to the final approval of the Program Manager. Non-compliance will result in nonpayment.

**42.5** No location will be opened to traffic without the approval of the Program Manager. Any locations damaged due to non-compliance will be repaired as directed by the Program Manager at the Vendor's expense.

**43. PAYMENT AND INVOICING**

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Micro-Surfacing (Polymer Modified)" of the type specified. This price shall be full compensation for furnishing all labor, equipment, time, materials, and incidentals necessary to complete the Work.

Surface preparation and cleaning will not be measured or paid directly but shall be considered subsidiary to Item No. SS330 "Micro-Surfacing (Polymer Modified)".

Payment for work meeting specifications will be made under:

**Pay Item No. SS330-A:** Micro-Surfacing (Polymer Modified), Type II Mod., at a rate of 25 lbs/SY- Per Square Yard (SY).

**Pay Item No. SS330-B:** Micro-Surfacing Scratch Course (Polymer Modified), Type II Mod. - Per Square Yard (SY).

**44. VENDOR RESPONSIBILITIES**

**44.1 Supervision** – The Vendor shall, during all periods of contract performance, provide competent supervision of his employees to assure complete and satisfactory fulfillment of the work and the terms of this contract. The Vendor or a capable, fully authorized representative must be immediately available during all work activities to receive any and all special instructions from the City agent.

**44.2 Defective Work and Damages** – The Vendor shall be wholly responsible for and shall promptly correct or restore all defective work or damages to any/all City facilities caused by its activities. Restoration and correction shall be to the complete satisfaction of the City. This shall apply to any part of a building, its appurtenances, the adjacent grounds, or any other tangible damage incurred in the performance of the Contract. Any damage will be immediately reported to the Fleet Services Manager or his agent. Failure by the Vendor to proceed promptly with corrective actions may be cause for cancellation of this contract with amount(s) necessary to correct defective work and/or damage being withheld from payments due or to become due to the Vendor.

**44.3 Warranty** - The bidder agrees to warrant all services performed (workmanship, parts, refinishing, etc.) for a minimum period of one (1) year from date of acceptance. Longer warranty periods will be viewed favorably.

**45. VENDOR QUALIFICATIONS**

- 45.1** Bidder must be engaged in the business of providing micro-surfacing and/or slurry seal treatments, maintenance and repair services for a minimum of five years within the last seven years.
- 45.2** Bidder must be in good financial standing, not in any form of bankruptcy, current in payment of all taxes and fees such as state franchise fees. The City reserves the right to request a copy of vendor's audited or un-audited financial statement. When financial statements are requested, the City will review the vendor's audited or un-audited financial statement to this solicitation in accordance with Texas Government Code, Title 10, Subtitle D, Section 2156.007 to evaluate the sufficiency of the vendor's financial resources and ability to perform the contract or provide the service required in the solicitation. The City will be the sole judge in determining the sufficiency of the vendor's financial resources and ability to perform the contract or provide the service.
- 45.3** Bidder must provide a list of three (3) governmental or commercial references for work of a similar scope to this specification. The bidder shall choose references that illustrate the Bidder's ability, capacity, and skill to perform the contract as specified.

**46. SAFETY REQUIREMENTS**

- 46.1** The Vendor must be thoroughly familiar with all prevailing safety measures pertinent to its operation and shall meet or exceed those measures. This shall include, but not necessarily be limited to Environmental Health Agency (EPA) regulations, State of Texas regulations, local city ordinances, and Occupational Safety and Health Agency (OSHA) regulations. In addition, the Vendor shall be wholly responsible for instructing its employees in these safety measures and seeing that they are fully complied with in every respect.
- 46.2** Vendor will provide all required safety signage, barricades, and flashers/strobes.
- 46.3** All employees shall follow all applicable safety procedures, have appropriate safety training certification when required by federal or state law, have immediate access to all appropriate safety equipment, and shall be trained in the use of that equipment.
- 46.4** All vehicles shall have proper safety signage, be fit for their intended purpose, and meet all OSHA, and State of Texas requirements.
- 46.5** Vendors discovered working without necessary safety devices or equipment in place will be required to stop all work in progress until adequate equipment has been obtained and approved by to the Contract Administrator.
- 46.6** Any hazardous condition or any damage to City property is to be immediately reported to the City Contract Administrator.
- 46.7** Vendor will not permit unsafe practices. Examples of unsafe practices include but are not limited to: using inappropriate equipment for the job, removing chains or other safety devices from equipment, traveling with an operator sitting in the back of a pickup truck with the tailgate lowered and operating equipment at excessive speed. Unsafe practices will be grounds for termination of the contract.

**47. PROCUREMENT SCHEDULE**

The projected schedule for this procurement is as follows:

Activity	Target Dates
Release Bid	Tuesday, January 17, 2017
Pre-Bid Meeting	Tuesday, January 24, 2017 10:00 a.m.
Deadline for Questions	Wednesday, January 25, 2017
Responses to Questions	Thursday, January 26, 2017
Deadline for Receipt of Bids	Tuesday, January 31, 2017
Council Date	Tuesday, February 21, 2017

**48. CONTACT**

Information, questions or clarification concerning the intent of this RFB should be in writing and addressed to Angi Mize at [amize@gptx.org](mailto:amize@gptx.org) by 4:30 p.m. (Central Time) of the Deadline for Questions outlined in the Procurement Schedule. City of Grand Prairie's response to questions and requests for clarification will be posted to BidSync ([www.bidsync.com](http://www.bidsync.com)) by 12:00 pm Thursday, January 26, 2017.

**49. BID EVALUATION**

Award will be based on responsive bids best value as outlined in the Evaluation Criteria below. The City of Grand Prairie reserves the right to accept or reject any and all bids in whole or in part and waive any informality in the competitive bid process. Further, the city reserves the right to enter into any contract deemed to be in the best interest of the city. **The City reserves the right to inspect the bidder's shop and equipment for the purposes of evaluating the vendor's qualifications and location.** The annual estimated dollar value of this contract shall be \$500,000. Annual estimated quantities are not known and vary from year to year.

**50. EVALUATION CRITERIA**

The following evaluation criteria will be utilized in the selection of a vendor:

CRITERIA	POINTS
1. Price	35
2. Reputation/References	15
3. Qualifications	40
4. Government Experience	10
TOTAL POSSIBLE POINTS	100

**51. SUBMITTAL RESPONSE GUIDELINES**

Offeror response to this Request for Bid shall include:

- Completed and signed proposal check list.
- Bid Pricing Form filled in with unit prices, extended prices, and total.
- Questionnaire and References pages 1 - 2 answered. References provided should be for similar work/projects with up to date contact information (phone and email).
- Bid Affirmation form reviewed and signed.
- Completed and signed Conflict of Interest Form. If the vendor has no conflict of interest mark "NA", sign and include with your bid.
- Completed Historically Underutilized Business Questionnaire. If the vendor is not a certified HUB or DBE mark "NO", sign and include with your bid.

**52. AGREEMENT TERMS AND AWARD**

The term of the agreement will be for an initial one-year agreement with the option to renew for up to four (4) additional one-year periods. The price agreement shall be awarded to the vendor(s) submitting the bid(s) deemed to be in the best interest of the City. The City may award one Primary and one Secondary vendor by portions or for the entire bid. The City of Grand Prairie may award to a single vendor, multiple vendors, or use any combination that serves the best interest of the City. Successful bidder will enter into a contract with the City for an annual agreement in accordance with the terms and conditions found within.



## SOLICITATION STANDARD TERMS AND CONDITIONS

1. **INSTRUCTIONS:** These standard terms apply to all solicitations.
2. **BEST INTEREST:** The City reserves the right to reject any or all responses and to waive formalities. The City also reserve the right to purchase through State awarded contracts or other intergovernmental agreements when it is in the best interest of the City.
3. **PRICING:** Price(s) quoted must be held firm for ninety (90) days to allow for evaluation unless otherwise noted in this document.
4. **SILENCE OF SPECIFICATION:** The apparent silence of these specifications as to any detail or to the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.
5. **F.O.B.:** All shipping shall be F.O.B. delivered.
6. **COOPERATIVE/INTERLOCAL PURCHASING:** If the vendor checked yes on the submittal affirmation form to allow for Interlocal Purchasing the following will apply: Government Entities utilizing Inter-Governmental Contracts with the City of Grand Prairie will be eligible, but not obligated, to purchase goods and services under this contract (s) awarded as a result of this solicitation. All purchases by Governmental Entities other than the City of Grand Prairie will be billed directly to that Governmental Entity and paid by that Governmental Entity. The City of Grand Prairie will not be responsible for another Governmental Entity's debts. Each Governmental Entity will order their goods and services as needed.
7. **SPLIT AWARD:** The City of Grand Prairie reserves the right to award a separate contract to separate vendors for each item/group or to award one contract for the entire bid.
8. **WITHDRAWAL OF RESPONSE TO SOLICITATION:** A response may not be withdrawn or cancelled by the vendor for a period of ninety (90) days following the date designated for the receipt without approval by the City.
9. **ERROR-QUANTITY:** Submittals must be made on units of quantity specified, extend, and show total(s). In the event of discrepancies in extension, the unit price shall govern.
10. **LATE SUBMITTALS:** Submittals received after the submission deadline shall be returned unopened and will be considered void and unacceptable. The City of Grand Prairie is not responsible for lateness from any carrier for any reason.
11. **TAXES:** The City of Grand Prairie is exempt from Federal Manufacture's Excise, and State Sales taxes. TAX MUST NOT BE INCLUDED IN PRICING. Tax exemption certificates will be executed by the City and furnished upon request.

12. **ADDENDA:** Any interpretations, corrections or changes to this specification will be made by addenda. Sole issuing authority of the addenda shall be vested in the City of Grand Prairie Purchasing Department. Addenda will be mailed to all who are known to have received a copy of this solicitation. It is the responsibility of proposers to ensure they have received and understand any issued addenda.
13. **PROTEST:** Protests shall be submitted in writing and filed with the Purchasing Division no less than three business days prior to the City Council meeting at which the award appears on the agenda. A written response will be prepared by the Purchasing Manager in consultation with the end user department and City Attorney in accordance with the City Purchasing Manual. If the protesting vendor does not agree with the staff recommendation, they may appeal to the City Council. Protesting vendors must contact the City Secretary in order to be acknowledged and heard by City Council at the first available Council meeting.
14. **PAYMENT TERMS:** Payment terms are Net 30 unless otherwise specified by the City in this document.
15. **PATENT RIGHTS:** The vendor agrees to indemnify and hold the City harmless from any claim involving patent right infringement or copyrights on goods supplied.
16. **FUNDING:** The City of Grand Prairie is a home-rule municipal corporation operated and funded on an annual basis for Oct. 1 to Sept. 30. The City reserves the right to terminate, without liability to the City, any contract for which funding is not available.
17. **ASSIGNMENT:** Vendor shall not sell, assign, transfer, or convey this contract in whole or in part, without the prior written consent of the City.
18. **VENUE:** This agreement will be governed and construed according to the laws of the State of Texas.
19. **RIGHT OF REVIEW:** Vendor covenants and agrees that the City, upon reasonable notice to vendor, may review any of the work performed by vendor under this Contract.
20. **DELIVERY TIMES:** Deliveries will be acceptable only during normal working hours at the designated City Municipal Facility.
21. **STANDARD WARRANTY:** Standard manufacturer's warranty shall be provided and submitted to the City of Grand Prairie upon request.
22. **PACKAGING:** Unless otherwise indicated, items will be new, unused, and in first class condition in containers suitable for damage-free shipment and storage.
23. **ORDERS AND INVOICING:** A Purchase Order Number is required for all purchases. All invoices must identify the purchase order number, include the bid unit pricing by item, identify the ordering department/user, and include contact phone and email.

24. **CONFLICT OF INTEREST:** The successful vendor hereby covenants and agrees that during the Contract period that vendor and any of vendor's associates and employees will have no interest nor acquire any interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by vendor pursuant to this Contract will be conducted by employees or associates of vendor. Vendor further covenants and agrees that it understands that the Code of Ordinances of the City of Grand Prairie prohibits any officer or employee of the City from having any financial interest, either direct or indirect, in any business transaction with the City. Any violation of this paragraph which occurred with the actual or constructive knowledge of vendor will render this contract voidable by the City.
25. **CONFIDENTIAL WORK:** Any reports, designs, plan, information, project evaluations, data or any other documentation given to or prepared or assembled by vendor under this contract shall be kept confidential and may not be made available to any individual or organization by vendor without the prior written approval of the City except as may be required by law.
26. **WARRANTY, HOLD HARMLESS, AND INDEMNITY:** Vendor warrants that the commodities it delivers to the City shall be delivered in a good and workmanlike manner, and that any items delivered to the City under this contract will be fit for the particular purpose for which it was furnished. Vendor shall defend, indemnify, and hold the City whole and harmless against any and all claims for damages, costs, and expenses to persons or property that may arise out of, or be occasioned by, the execution or performance of this Contract or any of vendor's activities or any act of commission or omission related to this Contract of any representative, agent, customer, employee, sub-vendor or invitee of vendor or any representative, agent, employee, or servant of the City. If an item is covered by a manufacturer's warranty, it is the responsibility of the vendor to obtain the information for City and to get the manufacturer to honor the warranty.
27. **PROPRIETARY INFORMATION:** Any material or information that is considered proprietary in nature must be clearly marked as such and will be treated as confidential by the City of Grand Prairie to the extent permitted under the Open Records Act.
28. **WAIVER OF ATTORNEYS FEES:** Vendor and City expressly covenant and agree that in the event of any litigation arising between the parties to this contract, each party shall be solely responsible for payment of its attorneys and that in no event shall either party be responsible for the other party's attorney's fees regardless of the outcome of the litigation.
29. **CHANGE ORDERS:** No Oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the resulting contract. All change orders to the contract will be made in writing by the City of Grand Prairie.

30. **TERMINATION:** The City may, at its option and without prejudice to any other remedy to which it may be entitled at law or in equity, terminate the right for vendor to accept further orders under this Contract, in whole or in part, by giving at least thirty (30) days prior written notice thereof to vendor with the understanding that no further orders may be accepted after the date specified in such notice. The City shall equitably compensate vendor, in accordance with the terms of this Contract for the commodities properly ordered prior to the date specified in such notice following inspection and acceptance of same by the City. Vendor shall not, however, be entitled to lost or anticipated profits should the City choose to exercise its option to terminate.
31. The CITY reserves the right to enforce the performance of this purchase order in any manner prescribed by law or deemed to be in the best interest of the CITY in the event of breach or default. The CITY reserves the right to terminate the purchase order immediately in the event the VENDOR fails to: (1) meet delivery schedules, or (2) otherwise perform in accordance with this contract and incorporated documents. Breach of contract or default authorizes the CITY to award to another VENDOR, purchase elsewhere and charge the full increase in cost and handling to the defaulting VENDOR.
32. **PERFORMANCE OF WORK:** Vendor or vendor's associates and employees shall perform all the work called for in this Contract. Vendor hereby covenants and agrees that all of vendor's associates and employees who work on this project shall be fully qualified to undertake same and competent to do the work described in this Contract, and the services performed shall be performed in a good and workmanlike manner, and that the finished product shall be fit for the particular use(s) contemplated by this agreement.
33. **OWNERSHIP OF DOCUMENTS:** VENDOR acknowledges that City owns all notes, reports, or other documents, intellectual property or documentation produced by the vendor pursuant to this agreement or in connection with its work which are not otherwise public records. Vendor acknowledges that City shall have copyright privileges to those notes, reports, documents, processes and information. Vendor shall provide City a copy of all such notes, reports, documents, and information (except to the extent that they contain confidential information about third parties) at City expense upon written request.
34. **PRICE REDETERMINATION:** Price redetermination shall only be considered by the City forty-five (45) days prior to the anniversary date of the initial contract award and subsequent renewals. Price redetermination requests must be substantiated in writing. The City of Grand Prairie reserves the right to reject the request when it is deemed to be in the best interest of the City.
35. **DRUG FREE WORKPLACE:** VENDOR hereby covenants and agrees that during the contract period that VENDOR and any of VENDOR's associates and employees shall be in compliance with the CITY'S drug free workplace policy.

36. **INSPECTION:** All goods and services will be subject to inspection and testing by CITY prior to acceptance. Goods rejected and goods supplied in excess of quantities ordered may be returned to the VENDOR at its expense. If any of the goods or services are found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements of this purchase order, including any applicable drawings and specifications, then CITY, in addition to such other rights and remedies it may have by contract or by law or equity, at its sole discretion may reject and return such goods at VENDOR's expense, require VENDOR to inspect the goods and remove nonconforming goods and/or require VENDOR to replace nonconforming goods or services with conforming goods or services.
37. **PACKAGING:** All goods must be packaged in the manner as specified by CITY and shipped in the manner and by the route and carrier designated by CITY. If CITY does not specify the manner in which the goods must be packaged, VENDOR shall package the goods so as to avoid any damage in transit. If CITY does not specify the manner of shipment, route or carrier, VENDOR shall ship the goods at the lowest possible transportation rates, consistent with VENDOR's obligation to meet the delivery schedule set forth in this Order.
38. **AUDIT:** the CITY reserves the right to audit the records and performance of vendor during the contract and for three years thereafter.
39. **INSURANCE:** Prior to the commencement of work under this Contract, vendor shall obtain and shall continue to maintain in full force and effect during the term of this Contract any insurance required by Law and any additional insurance that may be required pursuant to the specification. Performance under the contract will not start until this obligation has been met. Carrier must be authorized to do business in Texas rated "A" or better in the current Best Key Rating Guide. All policies shall be of the "occurrence type" and the city of Grand Prairie shall be listed as an additional insured (to the extent Vendor/City are indemnified pursuant to the indemnity provisions herein) on all certificates of insurance. Additional Insured Clauses does not apply to Workers' Compensation and Employer's Liability. A waiver of Subrogation Clause, naming the city of Grand Prairie "shall be included" on all types of coverages.

**TYPE AND AMOUNT**

- a. Workers' Compensation Statutory
  - b. Employer's Liability \$1,000,000
  - c. Comprehensive General Liability \$1,000,000 (Combined Single Limit)
  - d. Premises Operations
  - e. Products Operations Hazard
  - f. Contractual Insurance
- Comprehensive Automobile Liability \$1,000,000 (Combined Single Limit)

40. **HB 1295 FORM:** At time of contract execution vendor must provide a signed and notarized HB 1295 Form received directly from the State of Texas.  
[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm).
41. **CONTRACT EXECUTION AND START DATE:** The awarded vendor will have ten calendar days after receiving the notice of award to return the executed contract, certificate of insurance, HB 1295 form, and vendor setup packet (when applicable). The CITY reserves the right to terminate the contract immediately, place the VENDOR on the City's debarred vendor list, and award to another VENDOR in the event the VENDOR fails to return the required documents by the indicated time. After documentation is received by the City a notice to proceed or purchase order will be issued. The vendor will have up to five calendar days to begin performance under this contract, unless otherwise agreed in writing between the CITY and VENDOR.

## QUESTIONNAIRE

All questions should be answered clearly and completely. Marketing materials WILL NOT be accepted in lieu of this questionnaire. This questionnaire will assist the City in understanding your submittal and will be used in the evaluation process and therefore it is critical that the questionnaire be completed and submitted with your submittal.

### General Contact Information

Respondent Name and Title: Dan Welsh - Project Manager

Company: Viking Construction Inc.

Company Address: 2592 Shell Rd.

Telephone Number: 512-930-5777

Fax Number: 512-868-1955

Email Address: DAN@VCISS.COM

Federal Tax ID: 742653491

Provide at Least 3 References, including contact name, agency name, title, phone number and/or email of those you have provided similar services in the past three years. This information will be used in the evaluation of your submittal.

### Project Reference #1

Reference Name and Title: Chris LUTZ - Project Manager

Reference Organization: City of Dallas

Project Title: 2016 Micro-Surfacing Project

Telephone Number: 214-671-0077

Email Address: Christopher.Lutz@DallasCityHall.org

## SUBMITTAL CHECK LIST

Interested parties MUST submit one (1) bid marked as original that includes all of the following items listed below for consideration. The submission should be in the order stated below.

	ITEM	CHECK LIST
1	Proposal Submittal Check List	✓
2	Bid Pricing	✓
3	Questionnaire and References	✓
4	Submittal Affirmation Form	✓
5	Conflict of Interest Questionnaire	✓
6	Historically Underutilized Business Questionnaire	✓

By my signature I affirm all items as listed above have been completed and submitted as part of my firm's proposal.



Authorized Signature

BARRY H DUNN

Print/Type Name

PRES

Title

1/30/17

Date



**BID PRICING**

				UNIT
ITEM	DESCRIPTION	QTY	UOM	PRICE
1	Slurry Seal <49,999	1	SY	2.43
2	Slurry Seal >49,999	1	SY	2.30
3	Micro Seal <49,999	1	SF	2.89
4	Micro Seal >49,999	1	SY	2.74

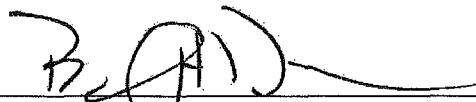
**\*Mobilization fees shall be included in your price per square yard.**

VIKING CONSTRUCTION, INC.  
2592 SHELL ROAD  
GEORGETOWN, TX 78628

Company Name

1/30/17  
Date

Authorized Signature

  
BARRY H DUNN

Title

PRESIDENT

Project Reference #2

Reference Name and Title: Keith Gabbard - Street Supt.

Reference Organization: City of Denton

Project Title: RFP #5712 Microsurfacing

Telephone Number: 940-765-0807

Email Address: Keith.Gabbard@cityofDenton.com

Project Reference #3

Reference Name and Title: Tom Nagel - Project Manager

Reference Organization: City of Amarillo

Project Title: Micro-Surfacing of various Streets

Telephone Number: 806-680-9252

Email Address: Thomas.Nagel@Amarillo.GOV

Service Information

1. How many years has your firm been involved in providing these services? 25 Years

2. Please list all government entities your firm has worked with in the past 3 years. (use separate sheet if needed)

see Attached

3. List five street locations that were completed in the last six (6) months to one (1) year for both Micro-Surfacing and Slurry Seal (use separate sheet if needed).

See Attached

4. List five street locations that were completed in the last 2-3 years for both Micro-Surfacing and Slurry Seal. (use separate sheet if needed)

See Attached

2014

**STATE CREW - Micro**

2014101	POLK COUNTY
2014102	GRAYSON
2014103	HOCKLEY
2014104	CITY OF LUBBOCK
2014105	CITY OF WEATHERFORD
2014106	TARRANT COUNTY
2014107	RED RIVER COUNTY
2014108	CITY OF BURLESON
2014109	
2014110	

**CITY CREW - Slurry**

2014201	CITY OF AUSTIN
2014202	CITY OF KILLEEN
2014203	RICHARDSON/NANTUCKET
2014204	CITY OF DENTON
2014205	
2014206	HARRIS COUNTY
2014207	OMEGA WATER UTIL
2014208	CITY OF WOODWAY
2014209	OSCAR RENDA
2014210	FLOWER MOUND
2014211	CITY OF KYLE
2014212	AUSTIN AVE MICROSEAL
2014213	CITY OF HEWITT
2014214	CITY OF MARSHALL
2014215	FT. HOOD
2014216	CITY OF MIDLOTHIAN
2014217	LOVE FIELD
2014218	BRAZOS PAVING
2014219	SAN ANTONIO
As of 9/29/14	

2015  
2016 JOBS

STATE CREW - *Micro*

---

2014101	POLK COUNTY
2014107	RED RIVER
2015101	
2015102	SAN ANTONIO/FLASHER
2015103	SAN ANTONIO/CLARK
2015104	TOM GREEN
2015105	MIDLAND
2015106	COLLIN COUNTY
2015107	AMARILLO
2015108	APAC/KAUFMAN CO

CITY CREW - *Slurry*

---

2015201	WACO
2015202	FT HOOD
2015203	CITY OF HEWITT
2015204	CITY OF DENTON
2015205	MCLENNAN COUNTY
2015206	COLLIN COUNTY
2015207	KILLEEN
2015208	JOHN BURNS/DWU
2015209	CITY OF KYLE
2015210	CITY OF AUSTIN
2015211	OMEGA/DWU
2015212	SYB/DWU
2015213	ARK/DWU
2015214	BARSON/DWU
2015215	EULESS/PEACHREE
2015216	FLOWERMOUND

## 2016 JOBS

### STATE CREW - *Micro*

---

2014101	POLK COUNTY
2016101	CITY OF KILLEEN
2016102	CITY OF LAMPASAS
2016103	CITY OF DALLAS - MICRO
2016104	FT HOOD/ ATLANTIC ICON
2016105	FT HOOD/ ALBRITE - ACE CO
2016106	CITY OF WOODWAY
2016107	CITY OF AMARILLO
2016108	CITY OF KYLE

### CITY CREW - *Slurry*

---

2015210	CITY OF AUSTIN
2016201	CITY OF DALLAS/SLURRY
2016-3	CITY OF DALLAS/SLURRY 3rd CREW
2016202	CITY OF DENTON
2016203	CITY OF EULESS/PEACHTREE
2016204	TOWN OF FLOWER MOUND
2016205	ATKINS BROS CONSTRUCTION - DWU
2016206	JOHN BURNS CONSTRUCTION - DWU
2016207	OMEGA CONTRACTING - DWU
2016208	SYB CONSTRUCTION - DWU
2016209	CAMINO CONSTRUCTION - DWU
2016210	WEBBER, LLC - DWU
2016211	CITY OF AUSTIN '16
2016212	HAYS COUNTY
2016213	HYDRA ENGINEERING - FT HOOD

*Last 6 Months*

**Microsurfacing in Dallas - 2016**

<b><u>Block #'s</u></b>	<b><u>Street</u></b>	<b><u>Start</u></b>	<b><u>Stop</u></b>
7500-8000	Harry Hines Blvd	Anson Rd.	Roanoke Ave.
9700-10200	Hillcrest Rd.	Walnut Hill Ln.	Meadow Ln.
13600-13900	Coit Rd.	Willow Bend Rd.	Greenhollow Ln.
6900-7200	Spring Valley Rd.	Hillcrest Rd.	Meandering Way
5200-5700	Hampton Rd.	Campfire Cir.	US67
3000-3100	Hampton Rd.	Cliff Teen Ct.	Kiest Blvd.
1600-1700	Hampton Rd.	Bentley Ave.	Falls Dr.
1100	Hampton Rd.	Clarendon Dr.	Emmett St.
600-1000	Hampton Rd.	Gladstone Dr.	Clarendon Dr.
100-400	Hampton Rd.	10th St.	12th St.
100-300	Hampton Rd.	10th St.	Jefferson Blvd.
5500-5900	Marsalis Ave.	Ledbetter Dr.	Laureland Rd.
200-500	12th St.	Zang Blvd.	Llewellyn Ave.
800	Dividend Dr.	Chancellor Row	Sovereign Row
11400-11500	Denton Dr.	Zelrich Ln.	Rodney Ln.
10900	Denton Dr.	Anode Ln.	Walnut Hill Ln.

# Mapasco 5f

City of OHMS Slurry 6 months old

10

Id	Treatment	From	To	Street	Description / Comment	Rank	Approved	Lane Miles	Field Status	Mapasco	Council District	Funding	Item #
21648	Slurry	3700	3700	MARFA AVE	Asbury St to Kolloch Dr	2	<input checked="" type="checkbox"/>	0.1546	Accepted	56-T	4	STS-OPS	
21665	Slurry	3400	3400	OVERTON CT	Overton Rd (E) to Humphrey Dr	145	<input checked="" type="checkbox"/>	0.2011	Accepted	56-T	4	STS-OPS	
22026	Slurry	1600	1600	POPULAR ST	Holmes St to Colonial Ave	167	<input checked="" type="checkbox"/>	0.3784	Accepted	56-B	7	STS-OPS	
22028	Slurry	3000	3100	ROCHESTER ST	Woodville St to Municipal St	140	<input checked="" type="checkbox"/>	0.3443	Accepted	56-H	7	STS-OPS	
22246	Slurry	1700	3000	SARGENT RD	Southerland Ave to Overton Rd (E)	175	<input checked="" type="checkbox"/>	1.7692	Accepted	56-N	4	STS-OPS	

## 13 Projects

7.4575

# Mapasco 57

Id	Treatment	From	To	Street	Description / Comment	Rank	Approved	Lane Miles	Field Status	Mapasco	Council District	Funding
22048	Slurry	6600	6600	CARTER RD	Dead-end near Longacre Ln (S) to Great Trinity Forest Ramp E	38	<input checked="" type="checkbox"/>	0.2012	Accepted	57-Z	8	STS-OPS
21936	Slurry	4600	4600	CHERBOURG ST	Dutch Harbor Ave to dead-end	3	<input checked="" type="checkbox"/>	0.2402	Accepted	57-W	7	STS-OPS
22003	Slurry	8300	8300	YUKON CIR	Cherbourg St to dead-end	12	<input checked="" type="checkbox"/>	0.1552	Accepted	57-W	7	STS-OPS

## 3 Projects

0.5966

# Mapasco 58

Id	Treatment	From	To	Street	Description / Comment	Rank	Approved	Lane Miles	Field Status	Mapasco	Council District	Funding
21908	Slurry	7900	7900	ALTO GARDEN DR	Rose Garden Ave to Gardenview Dr	109	<input checked="" type="checkbox"/>	0.2063	Accepted	58-L	5	STS-OPS
22044	Slurry	400	400	BOLERO AVE	Antler Ave to Elam Rd	37	<input checked="" type="checkbox"/>	0.4030	Accepted	58-S	8	STS-OPS
21832	Slurry	1700	2000	CONNER DR	Asphalt-Over-Concrete	92	<input checked="" type="checkbox"/>	1.3130	Accepted	58-G	5	STS-OPS
22060	Slurry	100	300	FORSYTHE DR	Stonehurst St to Bruton Rd	13	<input checked="" type="checkbox"/>	0.5909	Accepted w/mods	58-X	8	STS-OPS
21850	Slurry	400	400	GLENVIEW ST	Asphalt-Over-Concrete	22	<input checked="" type="checkbox"/>	0.4498	Accepted	58-V	5	STS-OPS
21914	Slurry	1900	2000	HILLBURN DR	Birch St to Elam Rd	113	<input checked="" type="checkbox"/>	1.1963	Accepted	58-F	5	STS-OPS
21860	Slurry	7700	7900	HUTTING AVE	Tillman St to Bruton Rd	44	<input checked="" type="checkbox"/>	0.9638	Accepted	58-G	5	STS-OPS
21918	Slurry	8100	8100	KIPLING DR	Gaylord Dr to Shortal Dr	110	<input checked="" type="checkbox"/>	0.3359	Accepted	58-U	5	STS-OPS
21906	Slurry	2300	2400	LOLTA DR	Bucks Blvd (S) to dead-end	64	<input checked="" type="checkbox"/>	0.3336	Accepted	58-C	5	STS-OPS
22087	Slurry	7600	7600	OLUSTIA DR	Cordell Dr to Jennie Lee Ln	22	<input checked="" type="checkbox"/>	0.1766	Accepted	58-X	8	STS-OPS
21883	Slurry	8400	8400	RAYVILLE DR	Forsythe Dr to Longbranch Ln	106	<input checked="" type="checkbox"/>	0.1516	Accepted	58-R	5	STS-OPS
22034	Slurry	6900	7000	SECO BLVD	Asphalt-Over-Concrete	69	<input checked="" type="checkbox"/>	0.6425	Accepted w/mods	58-E	5	STS-OPS
19827	Slurry	8300	8300	TERESA LN	Teresa Ln to Holcomb Rd	0	<input checked="" type="checkbox"/>	0.4664	Accepted	58-R	5	STS-OPS
21896	Slurry	8300	8400	TRANSIT ST	Gillette St to Jim Miller Rd (N)	28	<input checked="" type="checkbox"/>	0.3964	Accepted	58-V	5	STS-OPS
21900	Slurry	500	500	WIDEMAN DR	Full-depth treatment in FY2013, FY2015	8	<input checked="" type="checkbox"/>	0.0970	Accepted	58-U	5	STS-OPS

5/18/2016

# City of DALLAS 2013 Slurry Seal

ARROW RD	Approx. 200 ft. east of Dalview to Southerland	55-M
ASH LN	Grandview to Martinique	46-D
ASH LN	Claremont to Newell	47-A
ADOLPHUS ST (NW)	Victor to Junius	46-C
BANK ST	Ash to East Grand	46-L
BARNHAM LN	Lanshire to Goforth	27-T
BEARDEN LN	Buckner Blvd (S) to dead-end	48-Y
BEAUCHAMP ST	Bonnie View to Balch	56-S
BECKLEYMEADE AVE	Beckleycrest to Metz	74-F
BEDFORD ST	Vilbig to Harston	44-N
BECKWOOD LN	Midway to Rockbrook	24-Q
BEEVILLE ST	Fabrication to Singleton Blvd	44-Q
BERMONT AVE	Garrett (N) to Henderson (N)	36-S
BERMONT AVE	Alderson to Abrams	36-U
BENNETT AVE	Ross to Monarch	36-W
BERNAL DR	Esmalda to Norco	43-E
BEANFORD ST	Greenmound to Ukiah	59-A
BLOSSOM LN	Piedmont to Prichard	48-X
BLUE BAY DR	Keller Springs to cul-de-sac	5-T
BRIARCREST RD	Midway to Voss	4-B
BRIARCREST CIR	Briarcrest to cul-de-sac	64-A
BRIERFIELD DR	Greenspan to Brierfield Cir	64-U
BROOKDALE LN	Hilandale to alley	64-M
BRYNMALE ST	Berridge to Lomax	48-K
BROOKLYN AVE (W)	Rosemont (S) to Hampton (S)	54-E
BRYAN TRWY	Henderson (N) to Matilda	36-X
BRYAN ST	Munger Blvd (N) to Live Oak	36-X
CADIZ ST	Terminal to Lamar (S)	45-T
CALEDWELL AVE	Philip to East Grand	46-L
CAMBRICK ST	Cole to Travis	35-Y
CAMELOT ST	Plum Dale to Tracy	66-N
CAMELIA DR	Orchid to Royal	25-F
CAMPANELLA DR	Schroeder to Rialto	16-U
CAMELO DR	Alley/dead-end to Dove Creek Way	64-E



# 2013 Micro Streets

Viking Construction Inc.  
City of DENTON

Revised - 6/14/10 1

Item # 10

Map	Street	Start & Stop	Square Yards	Tons	Field Measurement	Trash day
Mon 4/29	CALIBRATE			0.00		
	NOTICES/CLEAN STREETS			0.00		
Tue 4/30	493S ANTLER CIR.	FAWN- NORTH	630	8.19		MON
	494G DEER FOREST	GRANT- WHITE TAIL	1,804	23.45		THUR
	494F HARVEST HILL	HARVEST GLEN- EAST	1,848	24.02		THUR
	494J OXFORD CT.	OXFORD LN- NORTH	474	6.16		THUR
	493S BROADWAY	ALILEEN- MALONE	3,681	47.85		MON
	493W ANDERSON	AMARILLO- MOUNTS	1,665	21.85		MON
Wed 5/1	493D SELENE	NEPTUNE-JUPITER STUART-FISTE	2,635	34.26		MON
	493D JUNO	ATLAS- STUART	2,295	29.84		MON
	493M LIVE OAK	SHERMAN- CRESTWOOD	3,985	51.94		MON
	493R GLENWOOD	PALMWOOD- UNIVERSITY	455	5.92		THUR
	526J MERCEDES	DUDLEY- PARVIN	3,006	39.08		TUES
Thu 5/2	492Y CHARLOTTE	BONNIE BRAE- AVE G	3,784	49.19		WED
	525D LOUISE	BONNIE BRAE- AVE H	1,777	23.10		WED
	525D W. PRAIRIE	AVE. H- NORTH TEXAS	4,743	61.65		WED
	525H WESTRIDGE	HIGHLAND PARK- EAST	2,676	34.79		TUES
Fri 5/3	494G FAWN	GRANT- ANTLER	1,801	23.41		THUR
	494E HARVEST GLEN	HIGHMEADOW- NORTH	1,392	18.10		THUR
	494J OXFORD	HEATHER- NOTTINGHAM	5,241	68.13		THUR
	526R GATEWOOD	TICONDEROGO- LAFAYETTE	3,981	51.76		WED
Sat 5/4	NO WORK		0	0.00		
Sun 5/5	NO WORK			0.00		
Mon 5/6	527J 1/2 COLORADO (INSIDE)	VALLEY CREEK- LOOP 288	8,267	107.47		
	526R LYNHURST	TICONDEROGO- LAFAYETTE	3,570	46.41		WED
Tues 5/7						

# City of Euless 2013 Slurry Seal street list

## STREETS TO BE COMPLETED SOON

STREET	FROM	TO	LENGTH	WIDTH	SY
Anthony Dr.	Baze Rd.	Bear Creek Dr.	598	26	1,728
Aurora Ct.	Baze Rd.	Cul-de-sac			661
Aurora Dr.	Baze Rd.	Bear Creek Dr.	535	26	1,546
Allen Dr.	Baze Rd.	Bear Creek Dr.	635	26	1,834
Allen Dr. (west)	Baze Rd.	Concrete	264	26	763
Cherry Ann Dr.	Baze Rd.	Bear Creek Dr.	882	26	2,548
Cherry Ann Ct.	Baze Rd.	Cul-de-sac			679
Regina Ct.	Baze Rd.	Cul-de-sac			654
Candice Ct.	Baze Rd.	Cul-de-sac			709
<b>TOTAL</b>					<b>11,122</b>

## AMBER HILLS SUBDIVISION

Bear Creek (EB)	N. Main	Amber Hills Ln.	116	11	142
Bear Creek (WB)	N. Main	Amber Hills Ln.	116	11	142
Amber Hills Ln.	Springridge Ln	Laurel Ln.	1,082	26	3,126
Crescent @	Amber Hills Ln.	Laurel Ln.			128
Laurel Ln.	Amber Hills Ln.	Nettle Ln.	1,184	26	3,420
Crescent @	Laurel Ln	Nettle Ln.			224
Nettle Ln.	Laurel Ln	Springridge Ln.	963	26	2,782
Crescent @	Nettle Ln.	Springridge Ln.			396
Springridge Ln.	Nettle Ln.	Amber Hills Ln.	1,155	26	3,337

5. Has your firm failed to complete a contract? If so please identify the project and date  
ND
6. Do you have any litigation issues pending in the last three years? If yes please explain.  
ND
7. Are there any judgments, claims, arbitration proceedings, or suits pending or outstanding against your organization or officers?  
ND
8. Has your organization filed any lawsuits or requested arbitration with regard to construction contracts within the last five years?  
ND
9. Has any officer or principal of your organization ever been an officer or principal of another organization when it failed to complete a construction contract within the last five (5) years?  
ND

## SUBMITTAL AFFIRMATION FORM

### ADDENDA ACKNOWLEDGEMENT

By initialing below I acknowledge I have received, reviewed and understand all addenda that were issued which are a part of this solicitation.

DW Addendum No. 1, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

### INTERLOCAL PURCHASING

Should other Government Entities decide to participate in this contract, would you, the Vendor, agree that all terms, conditions, specifications, and pricing would apply?

Yes X \_\_\_\_\_

No \_\_\_\_\_

### OTHER CONDITIONS

The undersigned agrees to the following:

- A. Agrees that the submittal is complete and all required information/forms were submitted.
- B. Agrees that the bid package was fully reviewed and fully understands the requirements.
- C. Agrees to the Terms & Conditions as included in this bid packet and have noted any exceptions.
- D. Agrees that their submittal shall be good and may not be withdrawn for a period of 90 calendar days after the scheduled closing time.
- E. Will execute contract within the time stated on the notice of award.
- F. Affirms that the submittal was not prepared in collusion with any other firm and the contents of this submittal have not been communicated by the undersigned or any agent with any other person engaged in this type of business.

### SUBMITTAL CERTIFICATION

BY MY SIGNATURE I AFFIRM THAT I AM DULY AUTHORIZED TO EXECUTE THIS PROPOSAL AS AN OFFER TO CONTRACT AND IN COMPLIANCE WITH THIS SOLICITATION, THE UNDERSIGNED FIRM HAVING EXAMINED THE SPECIFICATIONS, AND BEING FAMILIAR WITH THE CONDITIONS TO BE MET, HEREBY SUBMITS A PROPOSAL FOR CONSIDERATION OF BEING SELECTED AS THE CITY'S PROVIDER FOR SAID SERVICES; AND AGREES TO ENTER INTO NEGOTIATIONS IF SELECTED AS A FINALIST FOR SAID SERVICES.

B. H. D.  
Authorized Signature

DRES  
Title

BARRY H DUNN  
Print/Type Name

1/30/17  
Date

## NA

Adopted 8/7/2015

## HISTORICALLY UNDERUTILIZED BUSINESS (HUB) QUESTIONNAIRE

A Historically Underutilized Business (HUB) is a for-profit entity that has not exceeded the size standards prescribed by 34 TAC §20.23, and has its principal place of business in Texas, and is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman and/or Service Disabled Veteran, who reside in Texas and actively participate in the control, operations and management of the entity's affairs.

1. Is your business a certified historically underutilized business (HUB) or Disadvantaged Business Enterprise (DBE)?

☐

Yes

☒

No

2. Please provide the certifying agency name:

Certifying Agency: \_\_\_\_\_

3. I have included a copy of my certification as an attachment to my proposal:

☐

Yes

☒

No

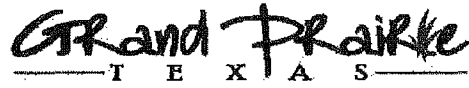
By my signature I affirm the information provided on this form is accurate to the best of my knowledge.

Dan Welsh  
Authorized Signature

DAN Welsh  
Print/Type Name

Project Manager  
Title

1-20-17  
Date



**ADDENDUM #1  
RFB # 17041  
MICRO-SURFACING & SLURRY SEAL TREATMENT SERVICES**

January 26, 2017

- 1. Traffic Control – Vendor will need to submit an application for a traffic control plan permit through the City's Transportation Services Department to receive a permit. The permit is no charge.**
- 2. Please see attached Q&A**
- 3. Please see attached Prebid Sign In Sheet**

Angi Mize  
Sr. Buyer  
(972) 237-8262

*Dan Walsh*

Q&A  
RFB# 17041  
MICRO-SURFACING & SLURRY SEAL TREATMENT SERVICES

1. What streets do you plan to treat?

The Collector roadways and above will be done this year.

2. How much of the \$500k budget do you plan to spend this year?

We will spend most of it. New budget starts October 1<sup>st</sup>

3. You state to be applied March 1<sup>st</sup> – December 1<sup>st</sup>, when will the notice to proceed be posted?

The award should be made on February 21<sup>st</sup>, once the contract is executed and the weather is warm enough the notice to proceed will be sent.

4. Is the schedule flexible?

Yes. We would like the list of streets we have for this year to be completed by the end of August.

5. Does the city have a stockyard location available for use by the vendor?

We do not have a stockyard available.

6. Will you allow us to work at night?

For the most part work hours will be 7 a.m. to 5 p.m. due to the closeness of residential areas.

7. Do you have a contact for the Traffic Control Plan?

Bill Dorminy, [bdorminy@gptx.org](mailto:bdorminy@gptx.org), 972-237-8322



**CITY OF GRAND PRAIRIE, TEXAS**  
**MICRO-SURFACING & SLURRY SEAL ~ RFB 17041**  
**Pre Bid ~ Jan 24, 2017, 10:00 AM**

	Company Name (Print Legibly)	Contact Name	Phone	E-Mail
1	Viking Construction	DAN Welsh	512-930-5777	DAN@veiss.cc
2	INTERMOUNTAIN SLURRY SEAL	JOSH BOWEN	469-271-2044	JOSH.BOWEN@GMCINC
3	Intermountain Slurry Seal	Nathan Niemann	469-416-0242	nate.niemann@gcinc
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Viking Construction, Inc.  
Georgetown, TX United States

Certificate Number:  
2017-170329

Date Filed:  
02/22/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City Of Grand Prairie

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

RFB# 17041  
Microsurfacing and slurry seal streets

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Dunn, Barry	Georgetown, TX United States	X	

5 Check only if there is NO Interested Party. ☐

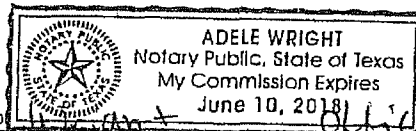
### 6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

B. H. Dunn PRES  
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Barry H. Dunn, this the 22<sup>nd</sup> day of Feb., 20 17, to certify which, witness my hand and seal of office.



Adele Wright  
Signature of officer administering oath

Adele Wright  
Printed name of officer administering oath

Office Manager  
Title of officer administering oath

tem # 10

ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/01/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER <b>USI Southwest Austin</b> <b>7600-B N. Capital of TX Hwy #200</b> <b>Austin, TX 78731</b> <b>512 451-7555</b>	CONTACT NAME: <b>Stefanie Wornell</b>	
	PHONE (A/C, No, Ext): <b>512 451-7555</b>	FAX (A/C, No): <b>512 467-0113</b>
INSURED <b>Viking Construction, Inc.</b> <b>2592 Shell Road</b> <b>Georgetown, TX 78628</b>	E-MAIL ADDRESS: <b>stefanie.wornell@usi.com</b>	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: <b>Zurich American Insurance Compa</b>	NAIC #: <b>16535</b>
	INSURER B: <b>Travelers Property Cas. Co. of</b>	<b>25674</b>
	INSURER C: <b>American Zurich Insurance Compa</b>	<b>40142</b>
	INSURER D:	
INSURER E:		
INSURER F:		

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:		GL0437877407	03/01/2017	03/01/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		BAP437877307	03/01/2017	03/01/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$0		ZUP11S4912217NF	03/01/2017	03/01/2018	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	WC437877507	03/01/2017	03/01/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability and Auto policies include a blanket automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder, only when there is a written contract that requires such status and only with regard to work performed on behalf of the named insured. The General Liability, Auto and Workers Compensation policies provide a Blanket Waiver of Subrogation in favor of the same when required by written contract. Coverage is Primary and Non-Contributory, when (See Attached Descriptions)

## CERTIFICATE HOLDER

## CANCELLATION

City of Grand Prairie  
326 W. Main Street  
Grand Prairie, TX 75050

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*J.W. Wagner*

## DESCRIPTIONS (Continued from Page 1)

required by written contract. 30 days notice of cancellation applies, when required by written contract, with the exception of 10 days notice of cancellation due to nonpayment of premium, per policy form.

**Dept:\*** Purchasing

**Contract ID:** 7120 R3

**For:** Public Works

**Bid Number:** 17041

**Contact Name:** Angi Mize

**Contact Phone:\*** 8262

**Contact Email:\*** amize@gptx.org

**Vendor Name:** Viking Construction, Inc.

**Vendor Email:** dan@vciss.com

**Project Name:** Micro Surfacing & Slurry Seal Treatment Services

**Summary** Renewal #3

**Permanent Retention\***

☒ Yes

☐ No

**Contract Amount**

\$ 500,000.00

**Total Contract Amount over all terms**

\$ 2,500,000.00

**Account #**

**Work Order #**

**Implementation Date**

2/29/2020

**Termination Date**

2/28/2021

**Council Approval Date**

2/21/2017

## Contract Approvals

**Department Manager:**

*Kathleen Mercer*

**Date** 1/16/2020

**City Attorney Signature**

*Megan Mahan*

**Date** 1/19/2020

**City Manager Signature**

*Anna Doll*

**Date** 1/22/2020

**City Secretary Signature**

*HL Galicia*

**Date** 1/22/2020



AMENDMENT TO PRICE AGREEMENT  
CITY OF GRAND PRAIRIE

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

**THIS AMENDMENT** is made and entered into this date by and between the **CITY OF GRAND PRAIRIE**, a Texas municipal corporation (hereinafter referred to as the "CITY," and **VIKING CONSTRUCTION, INC.** (hereinafter referred to as "VENDOR").

WHEREAS, the CITY and VENDOR have entered into a price agreement to provide micro-surfacing & slurry seal treatment services per bid award resulting from vendor's response to RFB #17041, submitted by Dan Welsh on January 30, 2017; and

WHEREAS, the above referenced contract was written for the not to exceed amount of \$500,000.00 at the unit prices quoted. This Contract was effective as of February 22, 2017, and was to terminate at midnight on February 28, 2018, unless the parties mutually agreed in writing to extend the term of the Contract through an allowable renewal option, or, unless otherwise terminated as provided in provided in paragraph XVI of the original contract; and

WHEREAS, the first of four available renewal options was executed on January 20, 2018 included a price redetermination and extended the term of the contract through February 28, 2019; and the second of four available renewal options was executed on January 14, 2019 included a price redetermination and extended the term of the contract through February 28, 2020; and

WHEREAS, the above referenced contract provides that VENDOR may request a price redetermination under this agreement so long as the request is substantiated in writing (Exhibit A); and

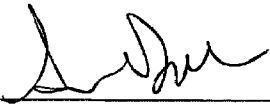
NOW, THEREFORE, for and in consideration of the mutual acts and covenants set out herein, the CITY and VENDOR agree as follows:

1. The parties mutually agree to extend the term of the contract and execute the third of the four available renewal options and extend the contract expiration to midnight on February 28, 2021, at which time all of the work called for under this Contract must be completed unless the parties mutually agree in writing to extend the term of the Contract through an additional allowable renewal option, or, unless otherwise terminated as provided in provided in paragraph XVI of the original contract; and
2. The CITY agrees that the price redetermination (Exhibit A) is acceptable and in the best interest of the CITY; and
3. The estimated annual amount to be paid to VENDOR under such contract shall remain the sum of \$500,000.00; The total estimated amount to be paid to VENDOR if all allowable contract renewals are executed shall not exceed \$2,500,000.00; and

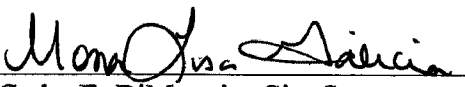
4. This shall constitute an Authorization for extension of contract as set out in the agreement between the parties, and an amendment to such contract. All of the terms and conditions of the original contract shall remain in full force and effect, as amended hereto, unless set out otherwise herein.

EXECUTED this the \_\_\_\_\_ day of 1/22/2020, 20\_\_.

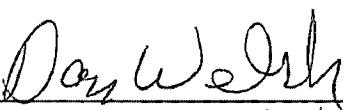
**CITY OF GRAND PRAIRIE, TEXAS**

By:   
Anna Doll, Deputy City Manager

ATTEST:

  
For Cathy E. DiMaggio, City Secretary

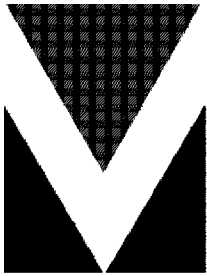
**VIKING CONSTRUCTION INC.**

By:   
Printed Name: DAN Welsh  
Title: Project Manager

APPROVED AS TO FORM:

  
Megan Mahan, City Attorney





# VIKING

Construction, Inc.

2592 Shell Road  
Georgetown, TX 78628  
Office 1(512)930-5777 ▼ Facsimile 1(512) 868-1955

*Preserving Texas roads with  
pride and integrity.*

Specializing in Micro-Surfacing and  
Slurry Seal Pavement Maintenance

City of Grand Prairie  
Ms. Angi Mize  
Senior Buyer, Purchasing

RE: RFB #17041  
Micro-Surfacing & Slurry Seal Services

Ms. Mize,

Thank you for the e-mail I received on Jan. 2 asking for a renewal of our Micro-Surfacing & Slurry Seal contract.

Viking would like to renew this contract but need to ask for an adjustment in our pricing structure for this construction season. Please find attached in this e-mail our proposed changes, based on price increases for asphalt emulsion, insurance costs, increased labor costs and several other additional increases.

Thank you for your consideration of this matter.

Viking Construction Inc.

Dan Welsh  
Project Manager

<b>Micro-Surfacing &amp; Slurry Seal Surfacing Services</b>  <b>Price Redetermination RFB #17041</b>  <b><u>All prices shall include any and all delivery fees, including but not limited to freight, fuel surcharge, and environmental fees</u></b>				<b>Vendor:</b>	Viking Construction
				<b>Contact:</b>	Dan Welsh
				<b>Email:</b>	<a href="mailto:dan@vciss.com">dan@vciss.com</a>
				<b>Phone:</b>	512-966-9106
				<b>City/State:</b>	
					<b>UNIT</b>
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UOM</b>	<b>FISCAL 2019 PRICE</b>	<b>REDETERMINATIO N</b>
1	Slurry Seal <49,999	1	SY	2.84	\$ 3.12
2	Slurry Seal >49,999	1	SY	2.68	\$ 2.95
3	Micro Seal <49,999	1	SF	3.37	\$ 3.71
4	Micro Seal >49,999	1	SY	3.19	\$ 3.51

ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/28/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>USI Southwest Austin</b> <b>7600-C N. Capital of TX Hwy #200</b> <b>Austin, TX 78731</b> <b>512 451-7555</b>		<b>CONTACT NAME:</b> Stefanie Wornell <b>PHONE (A/C, No, Ext):</b> 512 451-7555 <b>E-MAIL ADDRESS:</b> stefanie.wornell@usi.com <b>FAX (A/C, No):</b> 512 467-0113															
<b>INSURED</b> <b>Viking Construction, Inc.</b> <b>2592 Shell Road</b> <b>Georgetown, TX 78628</b>		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Zurich American Insurance Company</td> <td>16535</td> </tr> <tr> <td>INSURER B : Travelers Property Cas. Co. of America</td> <td>25674</td> </tr> <tr> <td>INSURER C : American Zurich Insurance Company</td> <td>40142</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Zurich American Insurance Company	16535	INSURER B : Travelers Property Cas. Co. of America	25674	INSURER C : American Zurich Insurance Company	40142	INSURER D :		INSURER E :		INSURER F :	
INSURER(S) AFFORDING COVERAGE	NAIC #																
INSURER A : Zurich American Insurance Company	16535																
INSURER B : Travelers Property Cas. Co. of America	25674																
INSURER C : American Zurich Insurance Company	40142																
INSURER D :																	
INSURER E :																	
INSURER F :																	

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			GL0437877409	03/01/2019	03/01/2020	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			BAP437877309	03/01/2019	03/01/2020	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$0			ZUP11S4912219NF	03/01/2019	03/01/2020	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> N (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC437877509	03/01/2019	03/01/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability and Auto policies include a blanket automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder, only when there is a written contract that requires such status and only with regard to work performed on behalf of the named insured. The General Liability, Auto and Workers Compensation policies provide a Blanket Waiver of Subrogation in favor of the same when required by written contract. Coverage is Primary and Non-Contributory, when (See Attached Descriptions)

## CERTIFICATE HOLDER

## CANCELLATION

<b>City of Grand Prairie</b> <b>Attn: Purchasing Dept.</b> <b>326 W. Main Street</b> <b>Grand Prairie, TX 75050</b>	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE <i>J.W. Wagner</i>
--	---

## DESCRIPTIONS (Continued from Page 1)

required by written contract. 30 days notice of cancellation applies, when required by written contract, with the exception of 10 days notice of cancellation due to nonpayment of premium, per policy form.

Policy Number GLO 4378774

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS  
ENDORSEMENT**

**COMPANY**

Named Insured: Viking Construction, Inc.

Effective Date: 03-01-2019  
12 :01 A.M., Standard Time

Agent Name: USI Southwest, Inc.

Agent No. 36349-000

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description of Completed Operations
Any person or organization, other than an architect, engineer or surveyor, whom you are required to add as an additional Insured under this policy under a written contract or written agreement executed prior to loss, except where such requirement is prohibited by law and where that contract specifically requires the ISO CG2037 07/04 edition form or the equivalent of same.	Any Location or project, other than a wrap-up or other consolidated insurance program location or project for which Insurance is otherwise separately provided to you by a wrap-up or other consolidated insurance program.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

The insurance afforded to such additional insured only applies to the extent permitted by law.

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION ENDORSEMENT**

**COMPANY**

Named Insured: Viking Construction, Inc.

Effective Date: 03-01-2019  
12:00 A.M., Standard Time

Agent Name: USI Southwest, Inc.

Agent No. 36349-000

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Any person or organization, other than an architect, engineer or surveyor, whom you are required to add as an additional insured under this policy under a written contract or written agreement executed prior to loss, except where such requirement is prohibited by law and where that contract specifically requires the ISO CG2010 07/04 edition form or the equivalent of same.	Any Location or project, other than a wrap-up or other consolidated insurance program location or project for which insurance is otherwise separately provided to you by a wrap-up or other consolidated insurance program.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

- A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
1. Your acts or omissions; or
  2. The acts or omissions of those acting on your behalf;
- in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above. The insurance afforded to such additional insured only applies to the extent permitted by law.
- B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:**
- This insurance does not apply to "bodily injury" or "property damage" occurring after:
1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
  2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

**Name Of Person Or Organization:**

IF YOU ARE REQUIRED BY A WRITTEN CONTRACT OR AGREEMENT, WHICH IS EXECUTED BEFORE A LOSS, TO WAIVE YOUR RIGHTS OF RECOVERY FROM OTHERS, WE AGREE TO WAIVE OUR RIGHTS OF RECOVERY. THIS WAIVER OF RIGHTS SHALL NOT BE CONSTRUED TO BE A WAIVER WITH RESPECT TO ANY OTHER OPERATIONS IN WHICH THE INSURED HAS NO CONTRACTUAL INTEREST.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of Section IV – Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

**ZURICH®**

## Blanket Notification to Others of Cancellation or Non-Renewal

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem.	Return Prem.
GLO 4378774-09	03/01/2019	03/01/2020		36349000	<b>INCL</b>	

### **THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

#### **Commercial General Liability Coverage Part**

- A.** If we cancel or non-renew this Coverage Part by written notice to the first Named Insured, we will mail or deliver notification that such Coverage Part has been cancelled or non-renewed to each person or organization shown in a list provided to us by the first Named Insured if you are required by written contract or written agreement to provide such notification. However, such notification will not be mailed or delivered if a conditional notice of renewal has been sent to the first Named Insured. Such list:
1. Must be provided to us prior to cancellation or non-renewal;
  2. Must contain the names and addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled or non-renewed; and
  3. Must be in an electronic format that is acceptable to us.
- B.** Our notification as described in Paragraph **A.** of this endorsement will be based on the most recent list in our records as of the date the notice of cancellation or non-renewal is mailed or delivered to the first Named Insured. We will mail or deliver such notification to each person or organization shown in the list:
1. Within seven days of the effective date of the notice of cancellation, if we cancel for non-payment of premium; or
  2. At least 30 days prior to the effective date of:
    - a. Cancellation, if cancelled for any reason other than nonpayment of premium; or
    - b. Non-renewal, but not including conditional notice of renewal.
- C.** Our mailing or delivery of notification described in Paragraphs **A.** and **B.** of this endorsement is intended as a courtesy only. Our failure to provide such mailing or delivery will not:
1. Extend the Coverage Part cancellation or non-renewal date;
  2. Negate the cancellation or non-renewal; or
  3. Provide any additional insurance that would not have been provided in the absence of this endorsement.
- D.** We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the list provided to us as described in Paragraphs **A.** and **B.** of this endorsement.

All other terms and conditions of this policy remain unchanged.



## Other Insurance Amendment – Primary And Non-Contributory



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem.	Return Prem.
GLO 4378774-09	03/01/2019	03/01/2020		36349000	<b>INCL</b>	

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**Named Insured:**

**Address (including ZIP Code):**

This endorsement modifies insurance provided under the:

**Commercial General Liability Coverage Part**

1. The following paragraph is added to the Other Insurance Condition of Section IV – **Commercial General Liability Conditions**:

This insurance is primary insurance to and will not seek contribution from any other insurance available to an additional insured under this policy provided that:

- a. The additional insured is a Named Insured under such other insurance; and
  - b. You are required by a written contract or written agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.
2. The following paragraph is added to Paragraph 4.b. of the Other Insurance Condition of Section IV – **Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

All other terms and conditions of this policy remain unchanged.

**ZURICH®**

## Coverage Extension Endorsement

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem.	Return Prem.
BAP-4378773-09	03/01/2019	03/01/2020		36349000	INCL	

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

**Business Auto Coverage Form**  
**Motor Carrier Coverage Form**

### **A. Amended Who Is An Insured**

1. The following is added to the **Who Is An Insured** Provision in **Section II – Covered Autos Liability Coverage**:

The following are also "insureds":

- Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow for acts performed within the scope of employment by you. Any "employee" of yours is also an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.
  - Anyone volunteering services to you is an "insured" while using a covered "auto" you don't own, hire or borrow to transport your clients or other persons in activities necessary to your business.
  - Anyone else who furnishes an "auto" referenced in Paragraphs **A.1.a.** and **A.1.b.** in this endorsement.
  - Where and to the extent permitted by law, any person(s) or organization(s) where required by written contract or written agreement with you executed prior to any "accident", including those person(s) or organization(s) directing your work pursuant to such written contract or written agreement with you, provided the "accident" arises out of operations governed by such contract or agreement and only up to the limits required in the written contract or written agreement, or the Limits of Insurance shown in the Declarations, whichever is less.
2. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary and Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form:

Coverage for any person(s) or organization(s), where required by written contract or written agreement with you executed prior to any "accident", will apply on a primary and non-contributory basis and any insurance maintained by the additional "insured" will apply on an excess basis. However, in no event will this coverage extend beyond the terms and conditions of the Coverage Form.

### **B. Amendment – Supplementary Payments**

Paragraphs **a.(2)** and **a.(4)** of the **Coverage Extensions** Provision in **Section II – Covered Autos Liability Coverage** are replaced by the following:

- Up to \$5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

### C. Fellow Employee Coverage

The Fellow Employee Exclusion contained in **Section II – Covered Autos Liability Coverage** does not apply.

### D. Driver Safety Program Liability and Physical Damage Coverage

1. The following is added to the **Racing Exclusion** in **Section II– Covered Autos Liability Coverage**:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

2. The following is added to Paragraph 2. in the **Exclusions** of **Section III – Physical Damage Coverage** of the Business Auto Coverage Form and Paragraph 2.b. in the **Exclusions** of **Section IV – Physical Damage Coverage** of the Motor Carrier Coverage Form:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

### E. Lease or Loan Gap Coverage

The following is added to the **Coverage Provision** of the **Physical Damage Coverage** Section:

#### **Lease Or Loan Gap Coverage**

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

- a. Any amount paid under the **Physical Damage Coverage** Section of the Coverage Form; and
- b. Any:
  - (1) Overdue lease or loan payments at the time of the "loss";
  - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
  - (3) Security deposits not returned by the lessor;
  - (4) Costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and
  - (5) Carry-over balances from previous leases or loans.

### F. Towing and Labor

Paragraph A.2. of the **Physical Damage Coverage** Section is replaced by the following:

We will pay up to \$75 for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

### G. Extended Glass Coverage

The following is added to Paragraph A.3.a. of the **Physical Damage Coverage** Section:

If glass must be replaced, the deductible shown in the Declarations will apply. However, if glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

### H. Hired Auto Physical Damage – Increased Loss of Use Expenses

The **Coverage Extension** for **Loss Of Use Expenses** in the **Physical Damage Coverage** Section is replaced by the following:

#### **Loss Of Use Expenses**

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or written rental agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
- (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
- (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$100 per day, to a maximum of \$3000.

#### **I. Personal Effects Coverage**

The following is added to the **Coverage Provision of the Physical Damage Coverage Section:**

##### **Personal Effects Coverage**

- a. We will pay up to \$750 for "loss" to personal effects which are:
  - (1) Personal property owned by an "insured"; and
  - (2) In or on a covered "auto".
- b. Subject to Paragraph a. above, the amount to be paid for "loss" to personal effects will be based on the lesser of:
  - (1) The reasonable cost to replace; or
  - (2) The actual cash value.
- c. The coverage provided in Paragraphs a. and b. above, only applies in the event of a total theft of a covered "auto". No deductible applies to this coverage. However, we will not pay for "loss" to personal effects of any of the following:
  - (1) Accounts, bills, currency, deeds, evidence of debt, money, notes, securities, or commercial paper or other documents of value.
  - (2) Bullion, gold, silver, platinum, or other precious alloys or metals; furs or fur garments; jewelry, watches, precious or semi-precious stones.
  - (3) Paintings, statuary and other works of art.
  - (4) Contraband or property in the course of illegal transportation or trade.
  - (5) Tapes, records, discs or other similar devices used with audio, visual or data electronic equipment.

Any coverage provided by this Provision is excess over any other insurance coverage available for the same "loss".

#### **J. Tapes, Records and Discs Coverage**

- 1. The Exclusion in Paragraph B.4.a. of Section III – **Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph B.2.c. of Section IV – **Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply.
- 2. The following is added to Paragraph 1.a. **Comprehensive Coverage** under the **Coverage Provision of the Physical Damage Coverage Section:**

We will pay for "loss" to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

- (a) Are the property of an "insured"; and
- (b) Are in a covered "auto" at the time of "loss".

The most we will pay for such "loss" to tapes, records, discs or other similar devices is \$500. The **Physical Damage Coverage Deductible** Provision does not apply to such "loss".

**K. Airbag Coverage**

The Exclusion in Paragraph B.3.a. of Section III – Physical Damage Coverage in the Business Auto Coverage Form and the Exclusion in Paragraph B.4.a. of Section IV – Physical Damage Coverage in the Motor Carrier Coverage Form does not apply to the accidental discharge of an airbag.

**L. Two or More Deductibles**

The following is added to the **Deductible Provision of the Physical Damage Coverage Section**:

If an accident is covered both by this policy or Coverage Form and by another policy or Coverage Form issued to you by us, the following applies for each covered "auto" on a per vehicle basis:

1. If the deductible on this policy or Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible on this policy or Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

**M. Physical Damage – Comprehensive Coverage – Deductible**

The following is added to the **Deductible Provision of the Physical Damage Coverage Section**:

Regardless of the number of covered "autos" damaged or stolen, the maximum deductible that will be applied to Comprehensive Coverage for all "loss" from any one cause is \$5,000 or the deductible shown in the Declarations, whichever is greater.

**N. Temporary Substitute Autos – Physical Damage**

1. The following is added to **Section I – Covered Autos**:

**Temporary Substitute Autos – Physical Damage**

If Physical Damage Coverage is provided by this Coverage Form on your owned covered "autos", the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own when used with the permission of its owner as a temporary substitute for a covered "auto" you do own but is out of service because of its:

1. Breakdown;
2. Repair;
3. Servicing;
4. "Loss"; or
5. Destruction.

2. The following is added to the Paragraph A. Coverage Provision of the **Physical Damage Coverage Section**:

**Temporary Substitute Autos – Physical Damage**

We will pay the owner for "loss" to the temporary substitute "auto" unless the "loss" results from fraudulent acts or omissions on your part. If we make any payment to the owner, we will obtain the owner's rights against any other party.

The deductible for the temporary substitute "auto" will be the same as the deductible for the covered "auto" it replaces.

**O. Amended Duties In The Event Of Accident, Claim, Suit Or Loss**

Paragraph a. of the **Duties In The Event Of Accident, Claim, Suit Or Loss Condition** is replaced by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident", claim, "suit" or "loss". However, these duties only apply when the "accident", claim, "suit" or "loss" is known to you (if you are an individual), a partner (if you are a partnership), a member (if you are a limited liability company) or an executive officer or insurance manager (if you are a corporation). The failure of any

agent, servant or employee of the "insured" to notify us of any "accident", claim, "suit" or "loss" shall not invalidate the insurance afforded by this policy.

Include, as soon as practicable:

- (1) How, when and where the "accident" or "loss" occurred and if a claim is made or "suit" is brought, written notice of the claim or "suit" including, but not limited to, the date and details of such claim or "suit";
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

If you report an "accident", claim, "suit" or "loss" to another insurer when you should have reported to us, your failure to report to us will not be seen as a violation of these amended duties provided you give us notice as soon as practicable after the fact of the delay becomes known to you.

**P. Waiver of Transfer Of Rights Of Recovery Against Others To Us**

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** Condition:

This Condition does not apply to the extent required of you by a written contract, executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. This waiver only applies to the person or organization designated in the contract.

**Q. Employee Hired Autos – Physical Damage**

Paragraph b. of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph f. of the **Other Insurance – Primary and Excess Insurance Provisions** Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented under a written contract or written agreement entered into by an "employee" or elected or appointed official with your permission while being operated within the course and scope of that "employee's" employment by you or that elected or appointed official's duties as respect their obligations to you.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

**R. Unintentional Failure to Disclose Hazards**

The following is added to the **Concealment, Misrepresentation Or Fraud** Condition:

However, we will not deny coverage under this Coverage Form if you unintentionally:

- (1) Fail to disclose any hazards existing at the inception date of this Coverage Form; or
- (2) Make an error, omission, improper description of "autos" or other misstatement of information.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to the acceptance of this policy.

**S. Hired Auto – World Wide Coverage**

Paragraph 7a.(5) of the **Policy Period, Coverage Territory** Condition is replaced by the following:

- (5) Anywhere in the world if a covered "auto" is leased, hired, rented or borrowed for a period of 60 days or less,

**T. Bodily Injury Redefined**

The definition of "bodily injury" in the **Definitions** Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease, sustained by a person including death or mental anguish, resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

#### **U. Expected Or Intended Injury**

The **Expected Or Intended Injury** Exclusion in Paragraph B. **Exclusions** under **Section II – Covered Auto Liability Coverage** is replaced by the following:

##### **Expected Or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

#### **V. Physical Damage– Additional Temporary Transportation Expense Coverage**

Paragraph A.4.a. of **Section III – Physical Damage Coverage** is replaced by the following:

##### **4. Coverage Extensions**

###### **a. Transportation Expenses**

We will pay up to \$50 per day to a maximum of \$1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

#### **W. Replacement of a Private Passenger Auto with a Hybrid or Alternative Fuel Source Auto**

The following is added to Paragraph A. **Coverage of the Physical Damage Coverage** Section:

In the event of a total "loss" to a covered "auto" of the private passenger type that is replaced with a hybrid "auto" or "auto" powered by an alternative fuel source of the private passenger type, we will pay an additional 10% of the cost of the replacement "auto", excluding tax, title, license, other fees and any aftermarket vehicle upgrades, up to a maximum of \$2500. The covered "auto" must be replaced by a hybrid "auto" or an "auto" powered by an alternative fuel source within 60 calendar days of the payment of the "loss" and evidenced by a bill of sale or new vehicle lease agreement.

To qualify as a hybrid "auto", the "auto" must be powered by a conventional gasoline engine and another source of propulsion power. The other source of propulsion power must be electric, hydrogen, propane, solar or natural gas, either compressed or liquefied. To qualify as an "auto" powered by an alternative fuel source, the "auto" must be powered by a source of propulsion power other than a conventional gasoline engine. An "auto" solely propelled by biofuel, gasoline or diesel fuel or any blend thereof is not an "auto" powered by an alternative fuel source.

#### **X. Return of Stolen Automobile**

The following is added to the **Coverage Extension** Provision of the **Physical Damage Coverage** Section:

If a covered "auto" is stolen and recovered, we will pay the cost of transport to return the "auto" to you. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

All other terms, conditions, provisions and exclusions of this policy remain the same.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured:** VIKING CONSTRUCTION, INC.

**Endorsement Effective Date:**

**SCHEDULE**

**Name(s) Of Person(s) Or Organization(s):**

ALL PERSONS AND/OR ORGANIZATIONS THAT ARE REQUIRED BY WRITTEN  
CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE  
ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER  
THIS POLICY

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.





**ZURICH®**

## **Blanket Notification to Others of Cancellation or Non-Renewal**

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem.	Return Prem.
BAP 4378773-09	03/01/2019	03/01/2020		36349000	<b>INCL</b>	

### **THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

#### **Commercial Automobile Coverage Part**

- A.** If we cancel or non-renew this Coverage Part by written notice to the first Named Insured, we will mail or deliver notification that such Coverage Part has been cancelled or non-renewed to each person or organization shown in a list provided to us by the first Named Insured if you are required by written contract or written agreement to provide such notification. However, such notification will not be mailed or delivered if a conditional notice of renewal has been sent to the first Named Insured. Such list:
1. Must be provided to us prior to cancellation or non-renewal;
  2. Must contain the names and addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled or non-renewed; and
  3. Must be in an electronic format that is acceptable to us.
- B.** Our notification as described in Paragraph **A.** of this endorsement will be based on the most recent list in our records as of the date the notice of cancellation or non-renewal is mailed or delivered to the first Named Insured. We will mail or deliver such notification to each person or organization shown in the list:
1. Within seven days of the effective date of the notice of cancellation, if we cancel for non-payment of premium; or
  2. At least 30 days prior to the effective date of:
    - a. Cancellation, if cancelled for any reason other than nonpayment of premium; or
    - b. Non-renewal, but not including conditional notice of renewal.
- C.** Our mailing or delivery of notification described in Paragraphs **A.** and **B.** of this endorsement is intended as a courtesy only. Our failure to provide such mailing or delivery will not:
1. Extend the Coverage Part cancellation or non-renewal date;
  2. Negate the cancellation or non-renewal; or
  3. Provide any additional insurance that would not have been provided in the absence of this endorsement.
- D.** We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the list provided to us as described in Paragraphs **A.** and **B.** of this endorsement.

All other terms and conditions of this policy remain unchanged.

**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**

**WC000313**

(Ed. 4-84)

---

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

**Schedule**

ALL PERSONS AND/OR ORGANIZATIONS THAT ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY FOR WORK PERFORMED BY YOU FOR THAT PERSON AND/OR ORGANIZATION

**WC000313**

(Ed. 4-84)

©1983 National Council on Compensation Insurance.

**BLANKET NOTIFICATION TO OTHERS OF CANCELLATION OR NONRENEWAL ENDORSEMENT**

This endorsement adds the following to Part Six of the policy.

**PART SIX  
CONDITIONS****Blanket Notification to Others of Cancellation or Nonrenewal**

1. If we cancel or non-renew this policy by written notice to you, we will mail or deliver notification that such policy has been cancelled or non-renewed to each person or organization shown in a list provided to us by you if you are required by written contract or written agreement to provide such notification. However, such notification will not be mailed or delivered if a conditional notice of renewal has been sent to you. Such list:
  - a. Must be provided to us prior to cancellation or non-renewal;
  - b. Must contain the names and addresses of only the persons or organizations requiring notification that such policy has been cancelled or non-renewed; and
  - c. Must be in an electronic format that is acceptable to us.
2. Our notification as described in Paragraph 1. above will be based on the most recent list in our records as of the date the notice of cancellation or non-renewal is mailed or delivered to you. We will mail or deliver such notification to each person or organization shown in the list:
  - a. Within seven days of the effective date of the notice of cancellation, if we cancel for non-payment of premium; or
  - b. At least 30 days prior to the effective date of:
    - (1) Cancellation, if cancelled for any reason other than nonpayment of premium; or
    - (2) Non-renewal, but not including conditional notice of renewal.
3. Our mailing or delivery of notification described in Paragraphs 1. and 2. above is intended as a courtesy only. Our failure to provide such mailing or delivery will not:
  - a. Extend the policy cancellation or non-renewal date;
  - b. Negate the cancellation or non-renewal; or
  - c. Provide any additional insurance that would not have been provided in the absence of this endorsement.
4. We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the list provided to us as described in Paragraphs 1. and 2. above.

All other terms and conditions of this policy remain unchanged.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective  
Insured

Policy No.

Endorsement No.  
Premium \$

Insurance Company

**Dept: \*** Purchasing

**Contract ID:** 7120 R4

**For:** Public Works

**Bid Number:** 17041

**Contact Name:** Angi Mize

**Contact Phone: \*** 8262

**Contact Email: \*** amize@gptx.org

**Vendor Name:** Viking Construction, Inc.

**Vendor Email:** dan@vciss.com

**Project Name:** Micro Surfacing & Slurry Seal Treatment Services

**Summary** final renewal

**Permanent Retention \***

☐ Yes

☒ No

**Contract Amount**

\$ 500,000.00

**Total Contract Amount over all terms**

\$ 2,500,000.00

**Account #**

**Work Order #**

**Implementation Date**

3/1/2021

**Termination Date**

2/28/2022

**Council Approval Date**

2/21/2017

## Contract Approvals

**Department Manager:**

*Kathleen Mercer*

**Date** 1/8/2021

**City Attorney Signature**

*CHUONG Q. PHUNG*

**Date** 1/11/2021

**City Manager Signature**

*WILLIAM A. HILLS*

**Date** 1/11/2021

**City Secretary Signature**

*HL Galicia*

**Date** 1/13/2021



AMENDMENT TO PRICE AGREEMENT  
CITY OF GRAND PRAIRIE

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

**THIS AMENDMENT** is made and entered into this date by and between the **CITY OF GRAND PRAIRIE**, a Texas municipal corporation (hereinafter referred to as the "CITY," and **VIKING CONSTRUCTION, INC.** (hereinafter referred to as "VENDOR").

WHEREAS, the CITY and VENDOR have entered into a price agreement to provide micro-surfacing & slurry seal treatment services per bid award resulting from vendor's response to RFB #17041, submitted by Dan Welsh on January 30, 2017; and

WHEREAS, the above referenced contract was written for the not to exceed amount of \$500,000.00 at the unit prices quoted. This Contract was effective as of February 22, 2017, and was to terminate at midnight on February 28, 2018, unless the parties mutually agreed in writing to extend the term of the Contract through an allowable renewal option, or, unless otherwise terminated as provided in provided in paragraph XVI of the original contract; and

WHEREAS, the first of four available renewal options was executed on January 20, 2018 included a price redetermination and extended the term of the contract through February 28, 2019; and the second of four available renewal options was executed on January 14, 2019 included a price redetermination and extended the term of the contract through February 28, 2020; and the third of four available renewal options was executed on January 22, 2020 included a price redetermination and extended the term of the contract through February 28, 2021; and

**WHEREAS**, the above referenced agreement provides that VENDOR may request a price increase through a price redetermination request, substantiated in writing, to become effective on the anniversary date of the contract to cover verifiable increases in cost to the applicable industry; and

NOW, THEREFORE, for and in consideration of the mutual acts and covenants set out herein, the CITY and VENDOR agree as follows:

1. The CITY agrees that the price redetermination is acceptable and in the best interest of the CITY and such price increase, which is attached hereto and incorporated herein as Exhibit A; and
2. The parties mutually agree to extend the term of the contract and execute the final of the four available renewal options and extend the contract expiration to midnight on February 28, 2022, at which time all of the work called for under this Contract must be completed unless the parties mutually agree in writing to extend the term of the Contract through an additional allowable renewal option, or, unless otherwise terminated as provided in provided in paragraph XVI of the original contract; and
3. The estimated annual amount to be paid to VENDOR under such contract shall remain the sum of \$500,000.00; The total estimated amount to be paid to VENDOR if all allowable contract renewals are executed shall not exceed \$2,500,000.00; and

4. VENDOR shall obtain and shall continue to maintain at no cost to the CITY, in full force and effect during the term of this Contract, a comprehensive liability insurance policy with a company licensed to do business in the State of Texas and rated not less than "A" in the current Best Key Rating Guide, which shall include bodily injury, death, automobile liability, worker's compensation, and property damage coverage, in accordance with any CITY ordinance or directive. The minimum limits for this coverage shall be \$1,000,000.00 per occurrence / \$2,000,000 aggregate for general liability and for property damage, and \$1,000,000 combined single limit for automobile liability unless modified in accordance with any ordinance or directive. Insurance obtained by VENDOR shall be primary and noncontributory, and CITY shall be named as an additional insured under the general liability and automobile policies. A provision shall be incorporated in the policies whereby CITY shall be given at least thirty (30) days prior notice of any material change in coverage or of cancellation of such policies, and Vendor shall provide the City with a copy of any such notice of material change in coverage or cancellation of any such policies, within three (3) business days of its receipt of such a notice. For purposes of this section, a material change in coverage includes, but is not limited to, a reduction in coverage below the amounts required under this agreement. VENDOR shall provide a waiver of subrogation in favor of the CITY on all coverages, and represents that it has taken all actions necessary under the policy or policies for the City to have the status of additional insured and to effectuate any required waiver of subrogation. VENDOR shall furnish the CITY with original copies of the policies or certificates evidencing such coverage prior to commencement of any work under this Contract; and
5. This shall constitute an authorization for extension of the Agreement as set out in the agreement between the parties, and an amendment to such Agreement. All of the terms and conditions of the original Agreement shall remain in full force and effect, as amended hereto, unless set out otherwise herein.

6. NOTICES

All notices, requests, or other communications (excluding invoices) hereunder must be in writing and transmitted via overnight courier, email, hand delivery, or certified or registered mail, postage prepaid and return receipt requested to the CITY and VENDOR as follows:

CITY:

City of Grand Prairie

ATTN: Angi Mize, Sr. Buyer | Purchasing

300 W. Main St, Grand Prairie, TX 75050

PO Box 534045, Grand Prairie, TX 75053-4045

Phone 972-237-8262 | Email [amize@gptx.org](mailto:amize@gptx.org)

VENDOR:

Viking Construction, Inc.

ATTN: Dan Welsh, Project Manager

2592 Shell Rd., Georgetown, TX, 78628

Phone 512-930-5777 | Email [dan@vciss.com](mailto:dan@vciss.com)


Any notice required or desired to be given to either party hereto shall be deemed to be delivered: (i) on the date of delivery, if hand delivered or emailed; (ii) one (1) day after



sending, if sent by overnight courier; or (iii) three (3) days after the same is deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by registered or certified mail, return receipt requested, and addressed to such party at the address hereinafter specified. Either party hereto may change such party's address for notice to another address within the United States of America, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_ 1/13/2021, 20\_\_.


**CITY OF GRAND PRAIRIE, TEXAS**

By:   
Deputy City Manager

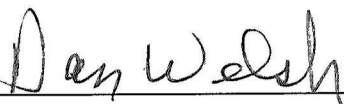
ATTEST:

  
Mona Lisa Galicia, City Secretary

APPROVED AS TO FORM:

  
Megan Mahan, City Attorney

**VIKING CONSTRUCTION INC.**

By:   
Printed Name: DAN Welsh  
Title: Project Manager





# VIKING

Construction, Inc.

*Preserving Texas roads with  
pride and integrity.*

2592 Shell Road  
Georgetown, TX 78628  
Office 1(512)930-5777 ▼ Facsimile 1(512) 868-1955

Specializing in Micro-Surfacing and  
Slurry Seal Pavement Maintenance

City of Grand Prairie  
Ms. Angi Mize  
Senior Buyer, Purchasing

RE: RFB #17041  
Micro-Surfacing & Slurry Seal Services

Ms. Mize,

Thank you for the e-mail I received on Jan. 5 asking for a renewal of our Micro-Surfacing & Slurry Seal contract. Viking would like to extend this contract another year but will need to ask for a small increase to cover our labor and Insurance cost increases. We would like to ask for a 10 cent per square yard increase on all four line items. That would make our costs as follows:

Slurry Seal smaller than 49,999 SY = \$3.22  
Slurry Seal larger than 49,999 SY = \$3.05  
Micro-Surfacing smaller than 49,999 SY = \$3.81  
Micro-Surfacing larger than 49,999 SY = \$3.61

Please let me know what else you need from me.

Thank you for your consideration of this matter.

Viking Construction Inc.

Dan Welsh  
Project Manager  
Office 512-930-5777  
Cell 512-966-9106  
[dan@vciss.com](mailto:dan@vciss.com)

ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/28/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>USI Southwest Austin</b> <b>7600-C N. Capital of TX Hwy #200</b> <b>Austin, TX 78731</b> <b>512 451-7555</b>	<b>CONTACT NAME:</b> Stefanie Wornell <b>PHONE (A/C, No, Ext):</b> 512 451-7555 <b>E-MAIL ADDRESS:</b> stefanie.wornell@usi.com		<b>FAX (A/C, No):</b> 512 467-0113													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Zurich American Insurance Company</td> <td>16535</td> </tr> <tr> <td>INSURER B : Travelers Property Cas. Co. of America</td> <td>25674</td> </tr> <tr> <td>INSURER C : American Zurich Insurance Company</td> <td>40142</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>			INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Zurich American Insurance Company	16535	INSURER B : Travelers Property Cas. Co. of America	25674	INSURER C : American Zurich Insurance Company	40142	INSURER D :		INSURER E :		INSURER F :
INSURER(S) AFFORDING COVERAGE	NAIC #															
INSURER A : Zurich American Insurance Company	16535															
INSURER B : Travelers Property Cas. Co. of America	25674															
INSURER C : American Zurich Insurance Company	40142															
INSURER D :																
INSURER E :																
INSURER F :																
<b>INSURED</b> <b>Viking Construction, Inc.</b> <b>2592 Shell Road</b> <b>Georgetown, TX 78628</b>																

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			GL0437877409	03/01/2020	03/01/2021	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			BAP437877309	03/01/2020	03/01/2021	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB DED <input checked="" type="checkbox"/> RETENTION \$0			ZUP11S4912220NF	03/01/2020	03/01/2021	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC437877509	03/01/2020	03/01/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability and Auto policies include a blanket automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder, only when there is a written contract that requires such status and only with regard to work performed on behalf of the named insured. The General Liability, Auto and Workers Compensation policies provide a Blanket Waiver of Subrogation in favor of the same when required by written contract. Coverage is Primary and Non-Contributory, when (See Attached Descriptions)

## CERTIFICATE HOLDER

## CANCELLATION

City of Grand Prairie  
 Attn: Purchasing Dept.  
 326 W. Main Street  
 Grand Prairie, TX 75050

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Stefanie Wornell*

© 1988-2015 ACORD CORPORATION. All rights reserved.

## DESCRIPTIONS (Continued from Page 1)

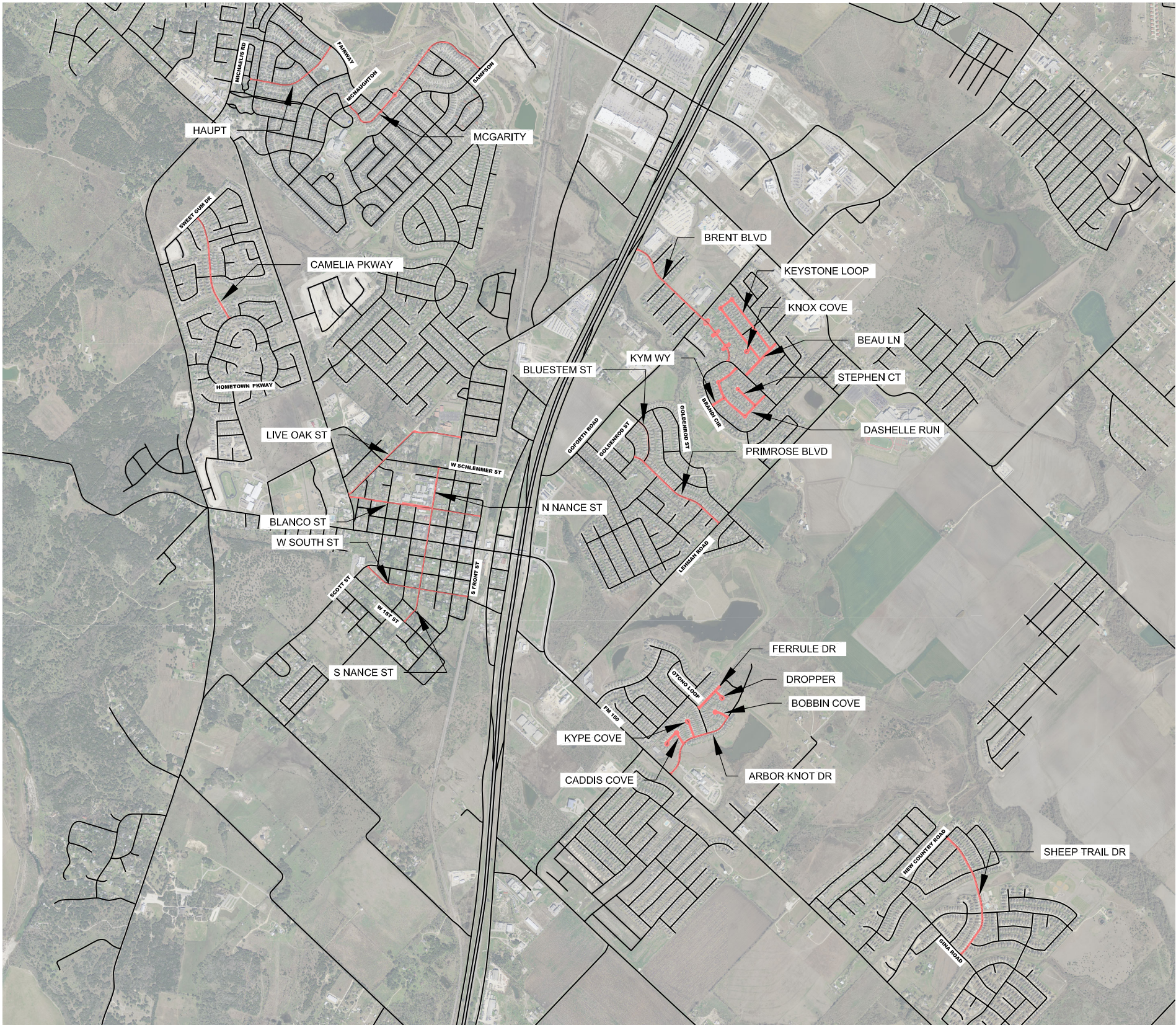
required by written contract. 30 days notice of cancellation applies, when required by written contract, with the exception of 10 days notice of cancellation due to nonpayment of premium, per policy form.

# Exhibit 2

2021 Microsurface Plan

Quantities and Estimated Cost for for Micro Surfacing and Striping





SN	STREET NAME	MICROSURFACE LIMITS	MICROSURFACE AREA (SY)
1.0	HAUPT	BETWEEN MICHAELIS RD TO FAIRWAY	5,686
2.0	MCGARITY	BETWEEN MCNAUGHTON TO SAMPSON	11,279
3.0	CAMELIA PARKWAY	BETWEEN SWEET GUM DR AND HOMETOWN PKWAY	7,682
4.0	LIVE OAK ST	BETWEEN FM 150 AND N BURLESON ST	6,408
5.0	BLANCO ST	BETWEEN FM 150 AND N FRONT ST	8,988
6.0	W SOUTH ST	BETWEEN SCOTT ST AND S FRONT ST	4,827
7.0	NANCE ST	BETWEEN W 1ST ST AND W SCHLEMMER ST	7,886
8.0	ARBOR KNOT DRIVE, CADDIS CV, KYPE COVE AND BOBBIN COVE	BETWEEN FM 150 AND BOBBIN COVE	11,470
9.0	FERRULE DR AND DROPPER	BETWEEN OTONO LOOP AND DROPPER	3,305
10.0	BLUESTEM ST AND PRIMROSE BLVD	BETWEEN GOLDENROD ST AND LEHMAN RD	11,378
11.0	KYM WY, STEPHEN CT AND DASHELLE RUN	WITHIN BRANDI CIR	8,902
12.0	BRENT BLVD	BETWEEN BRANDI CIR AND I-35 FRONTAGE ROAD	15,276
13.0	KEystone LOOP	WITHIN BEAU LANE	8,932
14.0	BEAU LN	BETWEEN BRIAN LANE AND STEEPLCHASE	3,241
15.0	SHEEP TRAIL DR	BETWEEN GINA ROAD AND NEW COUNTRY ROAD	11,481

TOTAL = 126,741 SY

REV. #	REVISION DESCRIPTION	DATE

MICROSURFACE PROJECTS  
2021

CITY OF KYLE  
ENGINEERING DEPARTMENT  
100 W CENTER ST, KYLE, TX 78640



DATE: 5/4/2021  
JOB NO:  
DRAWN BY: JP  
APPROVED BY: LB





# VIKING

## Construction, Inc.

*Preserving Texas roads with  
pride and integrity.*

2592 Shell Road  
Georgetown, TX 78628  
Office 1(512)930-5777 ▼ Facsimile 1(512) 868-1955

Description	Unit	QTY	Unit Price	TOTAL
<b>THERMO PAVEMENT MARKINGS</b>				
REFL PAV MRK TY I (W) 12" (SLD)(100 MIL)	LF	2,026	\$ 4.20	\$ 8,509.20
REFL PAV MRK TY I (W) 24" (SLD)(100 MIL)	LF	432	\$ 8.40	\$ 3,628.80
REFL PAV MRK TY I (W) (ARROW) (100 MIL)	EA	19	\$ 183.75	\$ 3,491.25
REFL PAV MRK TY I (W) (WORD) (100 MIL)	EA		\$ 262.50	\$ -
REFL PAV MRK TY I (W) 4" (BRK) (100 MIL)	LF		\$ 0.81	\$ -
REFL PAV MRK TY I (W) 4" (SLD) (100 MIL)	LF		\$ 0.81	\$ -
REFL PAV MRK TY I (Y) 4" (BRK) (100 MIL)	LF	950	\$ 0.81	\$ 769.50
REFL PAV MRK TY I (Y) 4" (SLD) (100 MIL)	LF	3,400	\$ 0.81	\$ 2,754.00
REFL PAV MRK TY I (Y) 24" (SLD) (100 MIL)	LF		\$ 8.40	\$ -
REFL PAV MRK TY II -A-A	EA	201	\$ 5.25	\$ 1,055.25
REF PAV MRK TY II - C-R	EA	24	\$ 5.25	\$ 126.00
<b>THERMO TOTAL</b>				<b>\$ 20,334.00</b>
<b>Remove all existing thermo markings</b>	LS	1		<b>\$ 10,500.00</b>
<b>Micro-surfacing</b>	SY	126,741	\$ 3.61	<b>\$ 457,535.01</b>
<b>Total Cost</b>				<b>\$ 488,369.01</b>

# Exhibit 3

## Specifications for Striping

**SPECIAL PROVISION TO  
Standard Specification Item NO. 803S  
"Barricades, Signs, and Traffic Handling"**

For this project Standard Specification Item No. 803S, "Barricades, Signs, and Traffic Handling", of the City of Austin Standard Technical Specifications is hereby amended with respect to the clauses cited below. No other clauses or requirements of this Section of the City of Austin Standard Specifications are waived or changed.

**Section 803S.7 Payment:**

Add the following to the list of Pay Items:

**Pay Item No. SP803S-LS:** Barricades, Signs, Traffic Handling, and Temporary Signs/Markings – Lump Sum

Add the following COA Standard Specifications to the list of **Related Cross Reference Materials**.

<u>Designation</u>	<u>Description</u>
Item No. 802S-2	CIP Movable Project Sign Type II
Item No. 804S-1	Arterial One Lane Closure
Item No. 804S-1A	Temporary Arterial One Lane Closure
Item No. 804S-2	Collector/Residential Street Flagging Operations
Item No 804S-3	Temporary Traffic Control Pavement Markings
Item No. 804S-4	Safety Fence
Item No. 804S-5	Channelizing Devices

**End.**



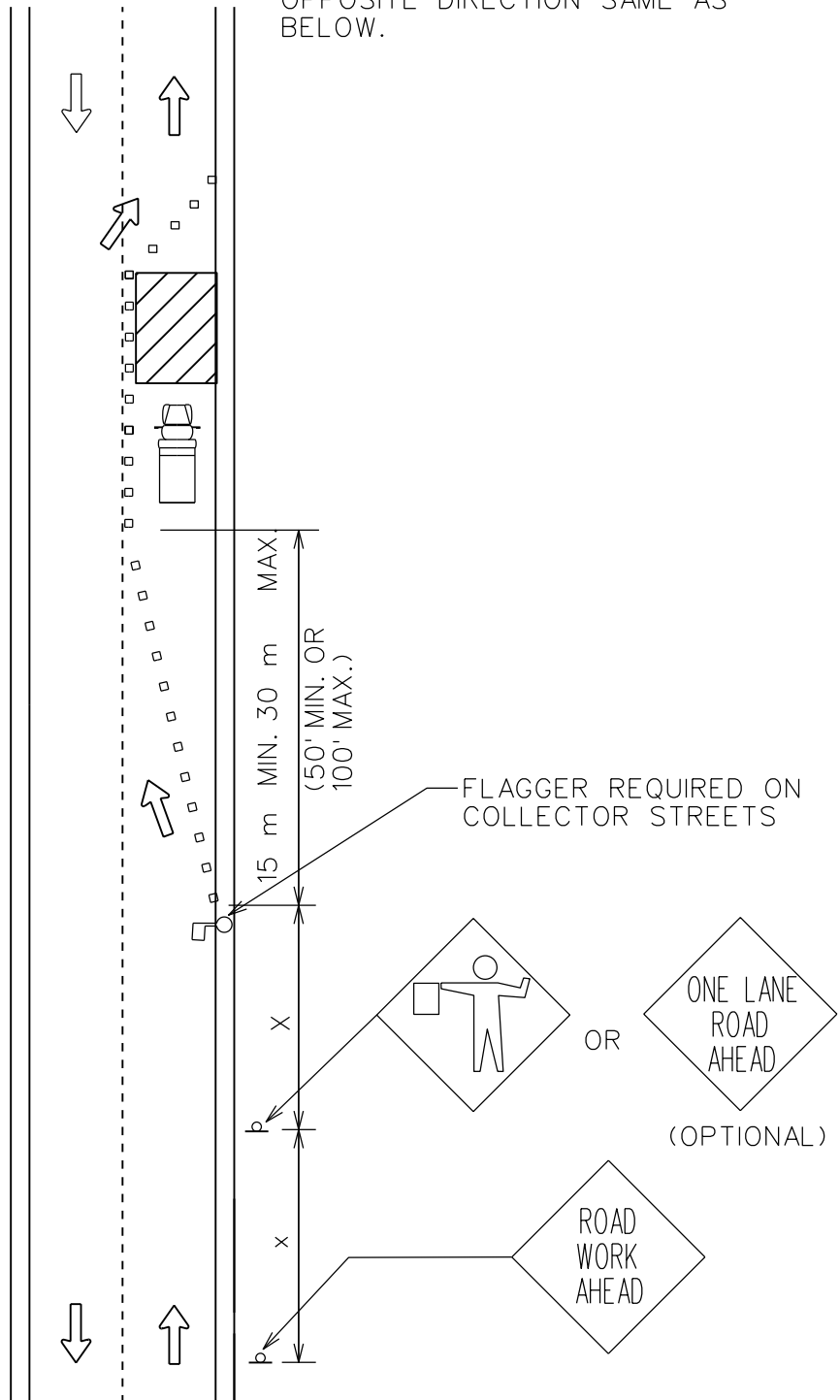
FLAGGER REQUIRED ON  
COLLECTOR STREETS

USE OF SECOND FLAGGER  
IS OPTIONAL.

NOTE:

WARNING SIGN SEQUENCE IN  
OPPOSITE DIRECTION SAME AS  
BELOW.

SHE SHEET 3 OF 8  
FOR FLAGGER NOTES  
AND TAPER LENGTHS.  
SEE SHEET 8 OF 8  
FOR DEVICE SPACING.



**CITY OF AUSTIN**  
DEPARTMENT OF PUBLIC WORKS

**COLLECTOR / RESIDENTIAL STREET  
FLAGGING OPERATIONS**

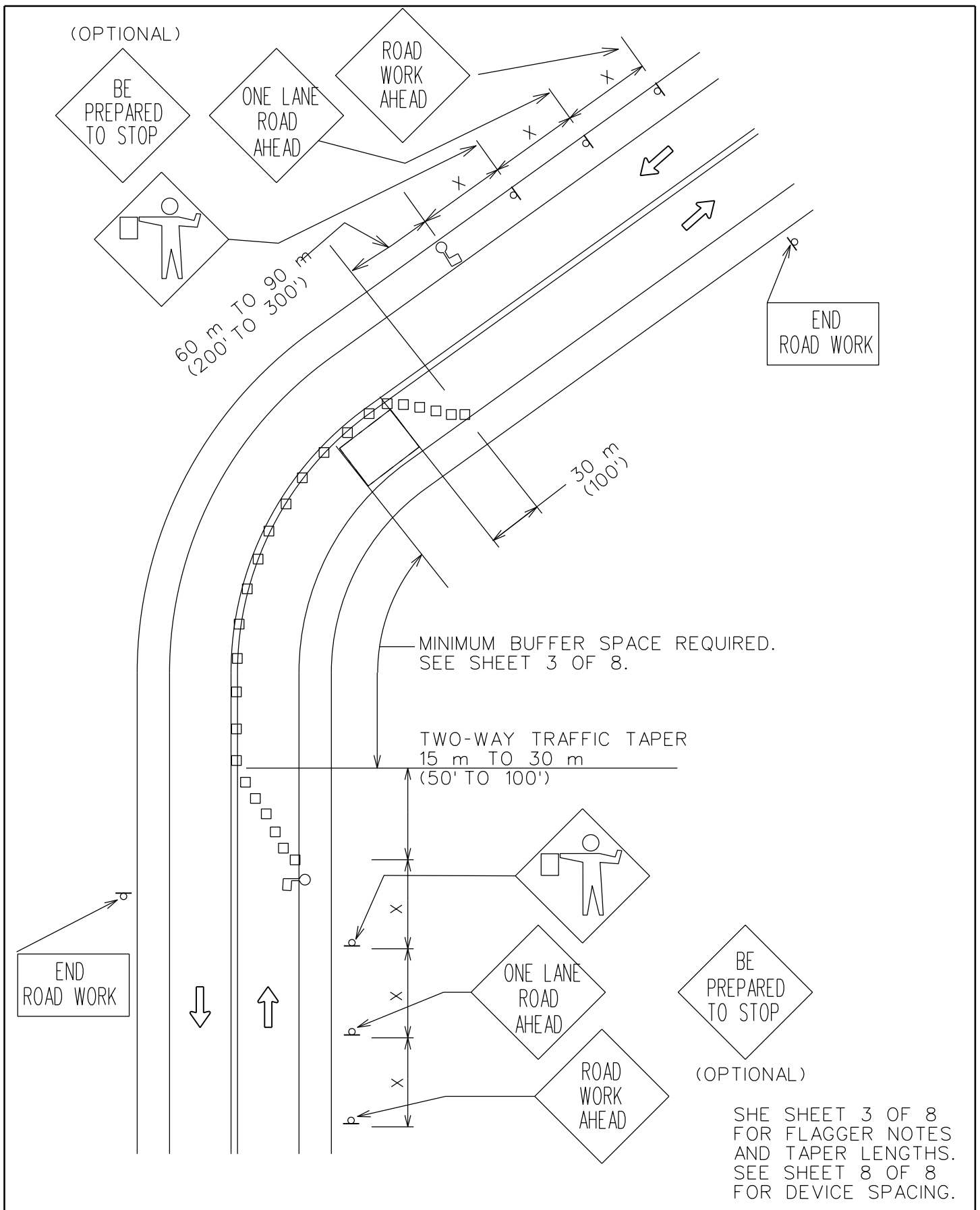
*RECORD COPY SIGNED  
BY BILL GARDNER*

*03/13/06*  
ADOPTED

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

**804S-2**  
Item # 10  
1 of 8



<p><b>CITY OF AUSTIN</b> DEPARTMENT OF PUBLIC WORKS</p>	<p>FLAGGER SETUP FOR 2 LANE ROADWAY</p>	
<p>RECORD COPY SIGNED BY <u>BILL GARDNER</u></p>	<p>03/13/06 ADOPTED</p>	<p>THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.</p> <p>STANDARD NO. <b>804S-2</b> Item # 10 2 of 8</p>

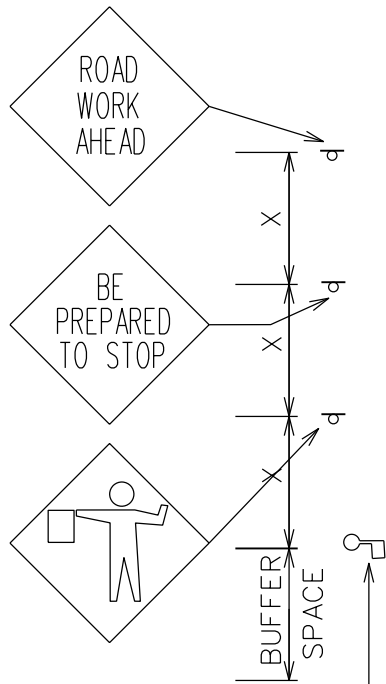
1. FOR DAYTIME WORK, THE FLAGGER SHALL WEAR AN APPROVED BRIGHTLY COLORED VEST. FOR NIGHTTIME WORK, THE VEST SHALL BE RETROFLECTIVE. THE RETROFLECTIVE MATERIAL SHALL BE ORANGE, YELLOW, WHITE, SILVER, STRONG YELLOW-GREEN OR A FLOURESCENT VERSION OF THESE COLORS AND SHALL BE VISIBLE AT A MINIMUM DISTANCE OF 305 m (1,000').
2. FOR LOW-VOLUME APPLICATIONS, A SINGLE FLAGGER MAY BE ADEQUATE. WHERE ONE FLAGGER CAN BE USED, SUCH AS FOR SHORT WORK AREAS ON STRAIGHT ROADWAYS, THE FLAGGER MUST BE VISIBLE TO APPROACHING TRAFFIC FROM BOTH DIRECTIONS.
3. FLAGGERS SHALL USE ONLY STOP/SLOW PADDLE TO DIRECT TRAFFIC UNLESS WORKING IN A SIGNALIZED INTERSECTION WHERE DRIVERS MAY BE CONFUSED BY THE SIGN PADDLE. HAND SIGNAL MAY BE USED IN THESE SITUATIONS.
4. FLAGGERS SHALL ENSURE THAT ALL REQUIRED SIGNING IS IN PLACE PRIOR TO BEGINNING FLAGGING OPERATIONS.
5. FLAGGERS SHALL NOT PERFORM WORK THAT IS NOT RELATED TO FLAGGING WHILE ON DUTY.
6. FLAGGERS MAY CARRY AIR HORNS OR WHISTLES TO WARN WORKERS OF AN EMERGENCY CONDITION.
7. FLAGGERS SHALL BE REQUIRED TO USE TWO-WAY RADIOS WHEN OUT OF CLEAR VIEW OF EACH OTHER.
8. FLOODLIGHTS SHOULD BE PROVIDED TO MARK FLAGGER STATIONS AT NIGHT AS NEEDED.

#### TAPER LENGTHS

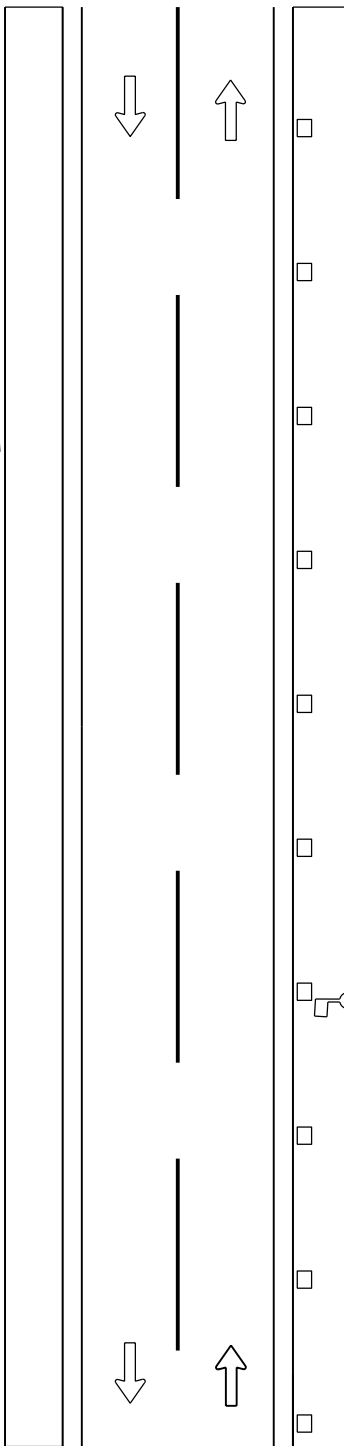
SPEED (kmph)	SPEED* (mph)	LENGTH (meters)	LENGTH (feet)
30	20	11	35
40	25	17	55
50	30	26	85
55	35	36	120
65	40	51	170
70	45	66	220
80	50	84	280
90	55	101	335
95	60	125	415
105	65	146	485

\*POSTED SPEED

<b>CITY OF AUSTIN</b> DEPARTMENT OF PUBLIC WORKS		FLAGGER SETUP FOR 2 LANE ROADWAY	
RECORD COPY SIGNED BY <u>BILL GARDNER</u>	03/13/06 ADOPTED	THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.	STANDARD NO. 804S-2 3 of 8 Item # 10

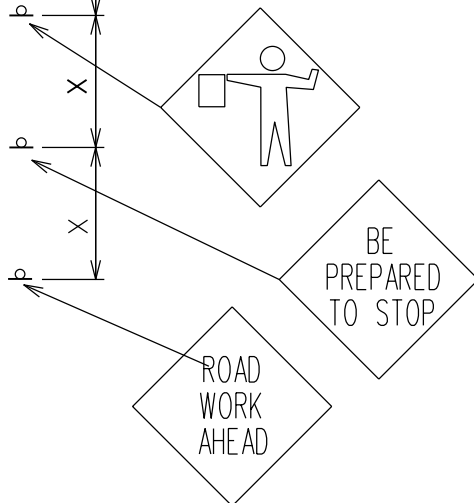


FLAGGER REQUIRED ON COLLECTOR STREETS. ADDITIONAL FLAGGERS MAY BE REQUIRED DEPENDING ON FIELD CONDITIONS.



VEHICLES ENTERING & EXITING IN THIS AREA

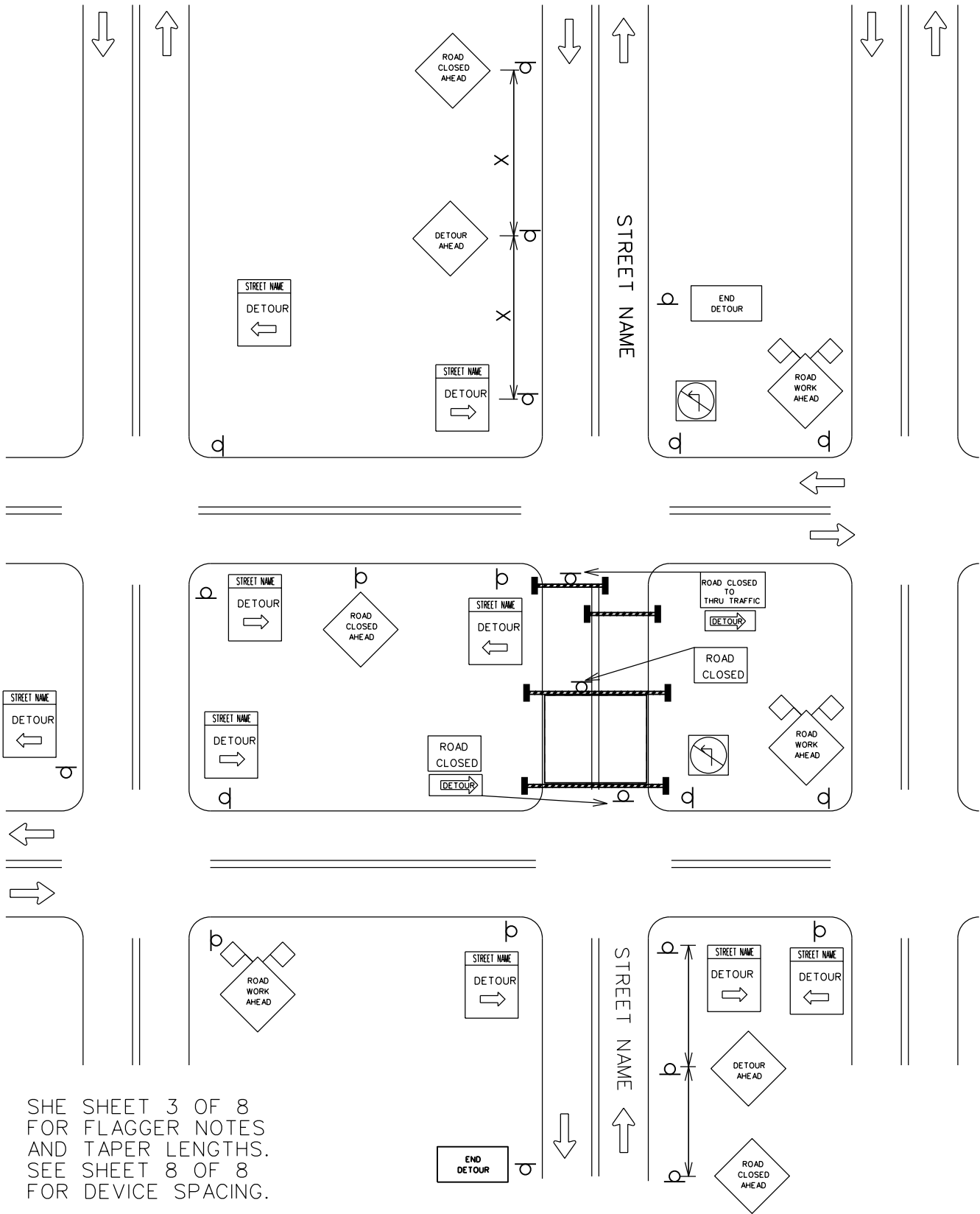
FLAGGER REQUIRED ON COLLECTOR STREETS. ADDITIONAL FLAGGERS MAY BE REQUIRED DEPENDING ON FIELD CONDITIONS.



SHE SHEET 3 OF 8 FOR FLAGGER NOTES AND TAPER LENGTHS. SEE SHEET 8 OF 8 FOR DEVICE SPACING.

<p><b>CITY OF AUSTIN</b> DEPARTMENT OF PUBLIC WORKS</p>	<p><b>FLAGGER SETUP FOR VEHICLES ENTERING AND EXITING WORK SITE</b></p>	
<p>RECORD COPY SIGNED BY <u>BILL GARDNER</u></p>	<p>03/13/06 ADOPTED</p>	<p>THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.</p>
<p>STANDARD NO. <b>804S-2</b> Item # 10 4 of 8</p>		





SEE SHEET 3 OF 8  
FOR FLAGGER NOTES  
AND TAPER LENGTHS.  
SEE SHEET 8 OF 8  
FOR DEVICE SPACING.

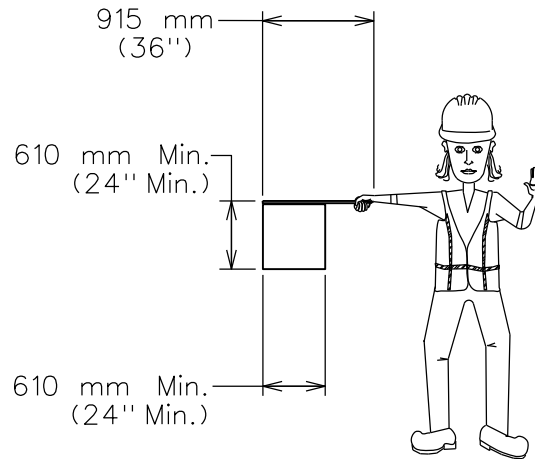
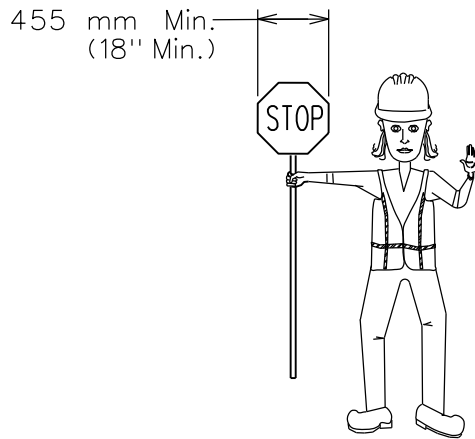
<p><b>CITY OF AUSTIN</b> DEPARTMENT OF PUBLIC WORKS</p>	<p><b>STREET DETOUR BOTH DIRECTIONS</b></p>	
<p>RECORD COPY SIGNED BY <u>BILL GARDNER</u></p>	<p>03/13/06 ADOPTED</p>	<p>THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.</p> <p>STANDARD NO. <b>804S-2</b> Item # 10 6 of 8</p>

# PREFERRED METHOD

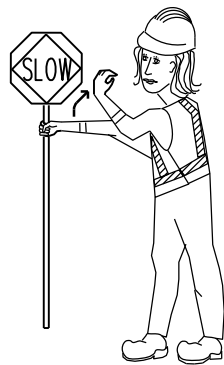
# EMERGENCY USE ONLY

## PADDLE

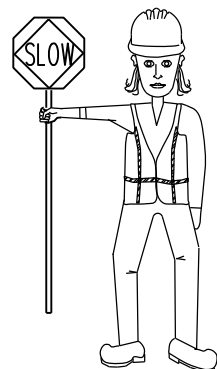
## FLAG



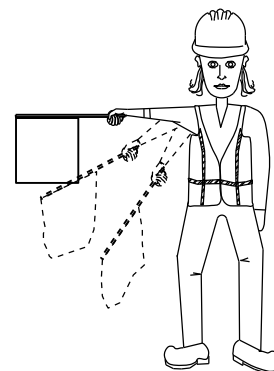
TO STOP TRAFFIC



TRAFFIC PROCEED



TO ALERT AND  
SLOW TRAFFIC



SHE SHEET 3 OF 8  
FOR FLAGGER NOTES.

**CITY OF AUSTIN**  
DEPARTMENT OF PUBLIC WORKS

USE OF HAND SIGNALING DEVICES

RECORD COPY SIGNED  
BY BILL GARDNER

03/13/06  
ADOPTED

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

804S-2  
Item # 10

## Typical Transition Lengths and Suggested Maximum Spacing of Devices

Speed KMPH	Posted Speed MPH	Formula	Minimum Desirable Taper Lengths (L) Meters (Feet)			Suggested Max. Device Spacing		Suggested Sign Spacing
			3.0(10) Offset Meters (feet)	3.3(11) Offset Meters (feet)	3.6(12) Offset Meters (feet)	On a taper Meters (feet)	On a tangent Meters (feet)	"X" Dimension Meters (Feet)
50	30	$L = \frac{WS^2}{60}$	45 (150)	50 (165)	55 (180)	9 (30)	15-20 (60-75)	40 (120)
55	35		65 (205)	70 (225)	75 (245)	10 (35)	25-25 (70-90)	50 (160)
65	40		80 (265)	90 (295)	100 (320)	12 (40)	25-30 (80-100)	75 (240)
70	45	L=WS	135 (450)	150 (495)	165 (540)	13 (45)	25-30 (90-110)	100 (320)
80	50		150 (500)	165 (550)	180 (600)	15 (50)	30-35 (100-125)	120 (400)
90	55		165 (550)	185 (605)	200 (660)	16 (55)	35-40 (110-140)	150 (500)
95	60		180 (600)	200 (660)	220 (720)	18 (60)	40-45 (120-150)	180 (600)
105	65		195 (650)	215 (715)	235 (780)	19 (65)	40-50 (130-165)	210 (700)
115	70		215 (700)	235 (770)	255 (840)	21 (70)	45-55 (140-175)	240 (800)

### LEGEND

 Channelizing devices

 Trailer mounted  
flashing arrow  
board

 Flagger

### TRAFFIC DETOUR NOTES:

- "STREET CLOSED" AND "STREET CLOSED TO THRU TRAFFIC" MAY BE USED IN PLACE OF "ROAD CLOSED" AND "ROAD CLOSED TO THRU TRAFFIC".
- THE USE OF A STREET SIGN NAME MOUNTED WITH THE M4-9 DETOUR SIGN\*\* IS REQUIRED. THE STREET NAME PLATE SHOULD BE PLACED ABOVE THE DETOUR SIGN. THE PLATE MAY HAVE EITHER A WHITE-ON-GREEN OR A BLACK-ON-ORANGE LEGEND.
- ADDITIONAL "DO NOT ENTER SIGNS" MAY BE DESIRABLE AT INTERSECTIONS WITH INTERVENING STREETS.
- A M4-9 DETOUR SIGN\*\* WITH AN ADVANCE TURN ARROW MAY BE USED IN ADVANCE OF A TURN. ON MULTI-LANE STREETS, SUCH SIGNS SHOULD BE USED.
- M4-9 DETOUR SIGNS\*\* MAY BE LOCATED ON THE FAR SIDE OF INTERSECTIONS.

\*\* TEXAS MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

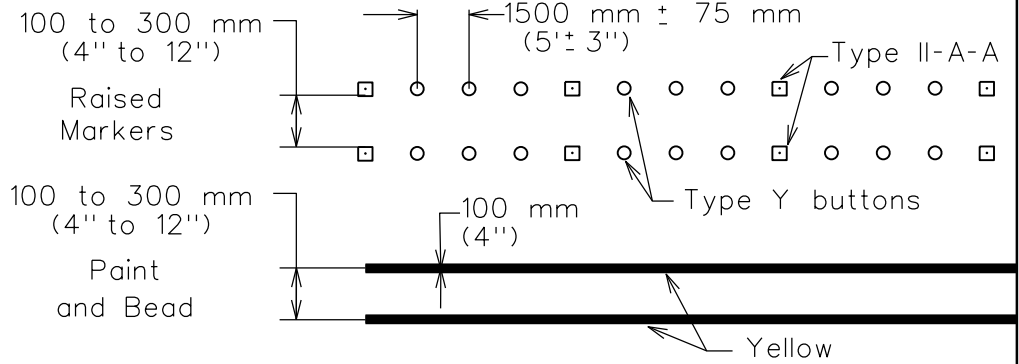
<b>CITY OF AUSTIN</b> DEPARTMENT OF PUBLIC WORKS		TYPICAL LENGTHS & SPACING OF DEVICES, LEGEND and GENERAL NOTES	
RECORD COPY SIGNED BY BILL GARDNER	03/13/06 ADOPTED	THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.	STANDARD NO. 804S-2 Item # 10



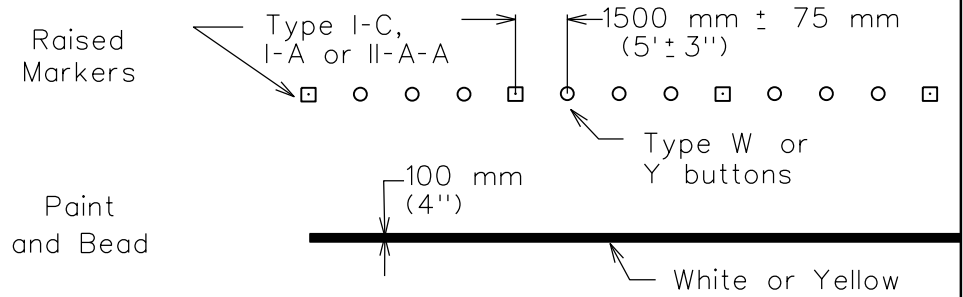
# STANDARD WORK ZONE PAVEMENT MARKINGS DETAIL

## SOLID LINES

### DOUBLE NO-PASSING LINE

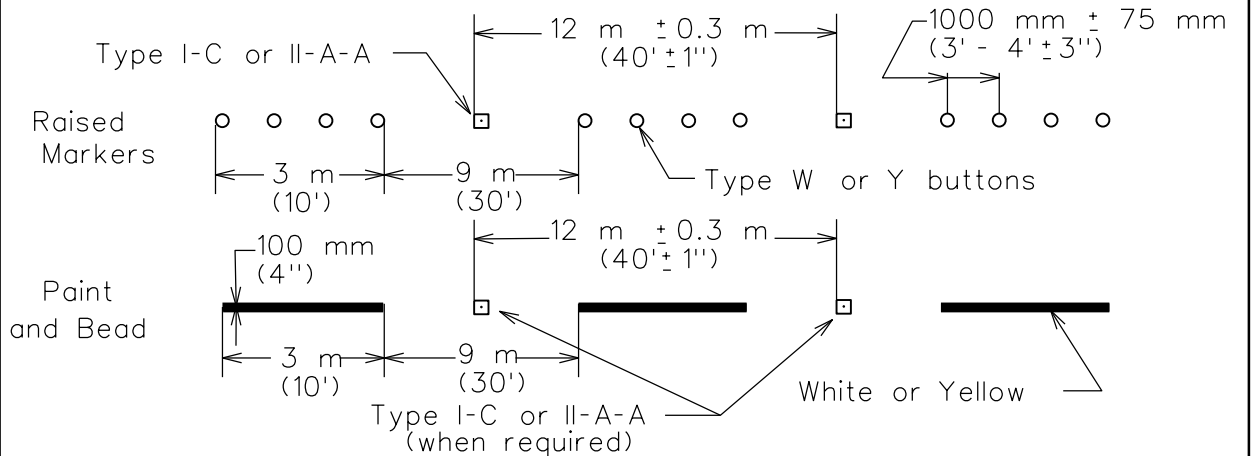


### EDGE LINE OR CHANNELIZING LINE (To discourage lane changing)



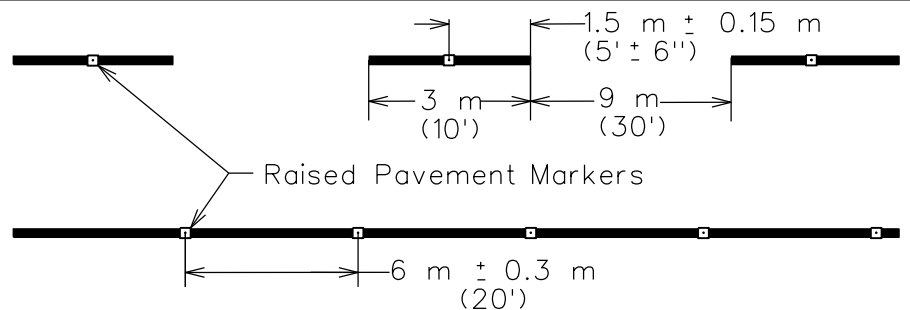
## BROKEN LINE

(For CL or Lane Line)



## REMOVABLE MARKINGS WITH RAISED PAVEMENT MARKERS

SEE STANDARD 804S-3 SHEET 5 OF 5 FOR GENERAL NOTES.



NOTE: IF RAISED PAVEMENT MARKERS ARE USED TO SUPPLEMENT REMOVABLE MARKINGS, THE MARKERS SHALL BE APPLIED TO THE TOP OF THE TAPE AT THE APPROXIMATE MID-LENGTH OF TAPE BROKEN LINES AND AT APPROXIMATE 6 m (20') SPACING FOR SOLID LINES. THIS ALLOWS AN EASIER REMOVAL OF RAISED MARKERS AND TAPE.

**CITY OF AUSTIN**  
DEPARTMENT OF PUBLIC WORKS

**TEMPORARY TRAFFIC CONTROL  
PAVEMENT MARKINGS**

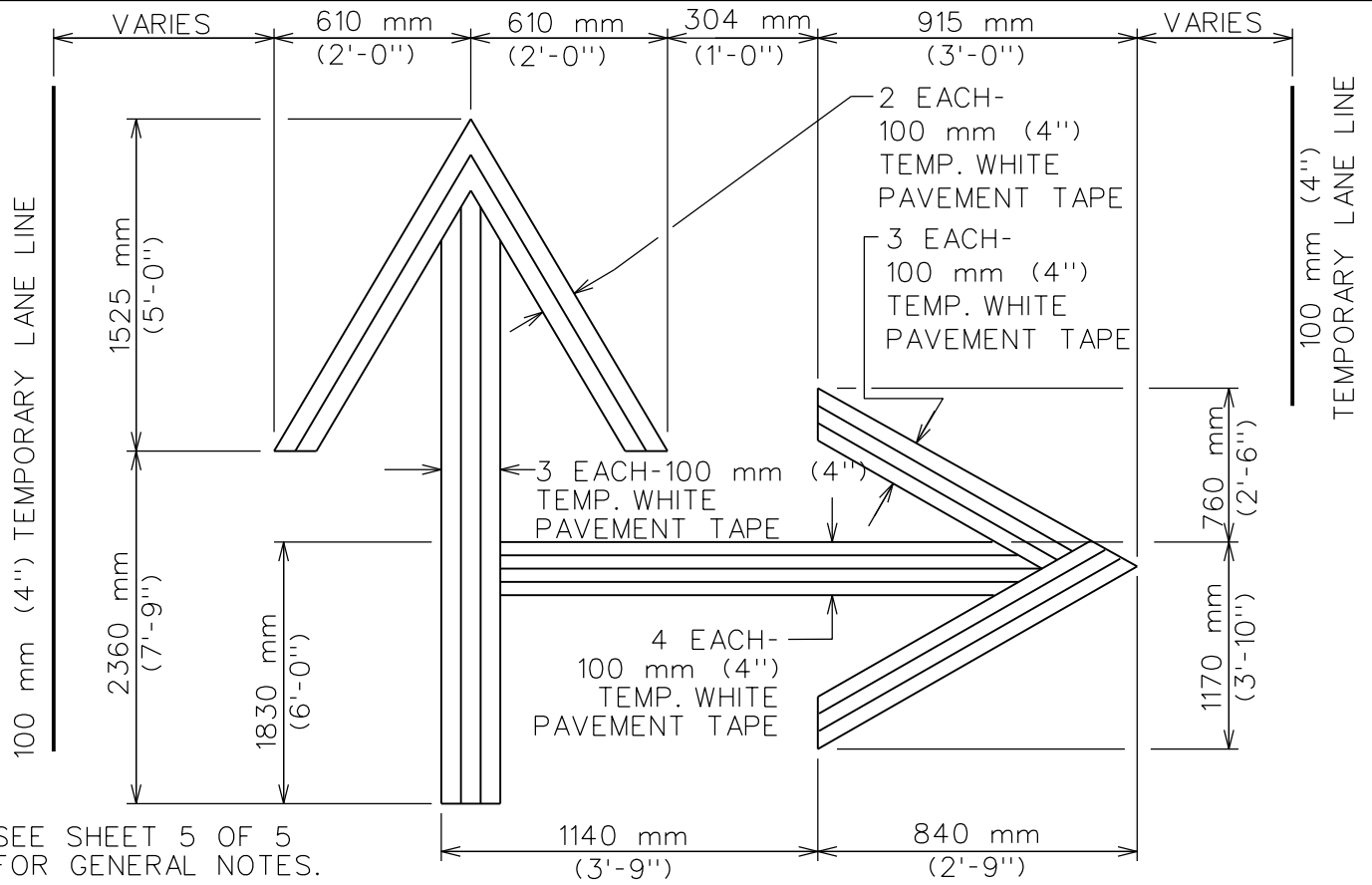
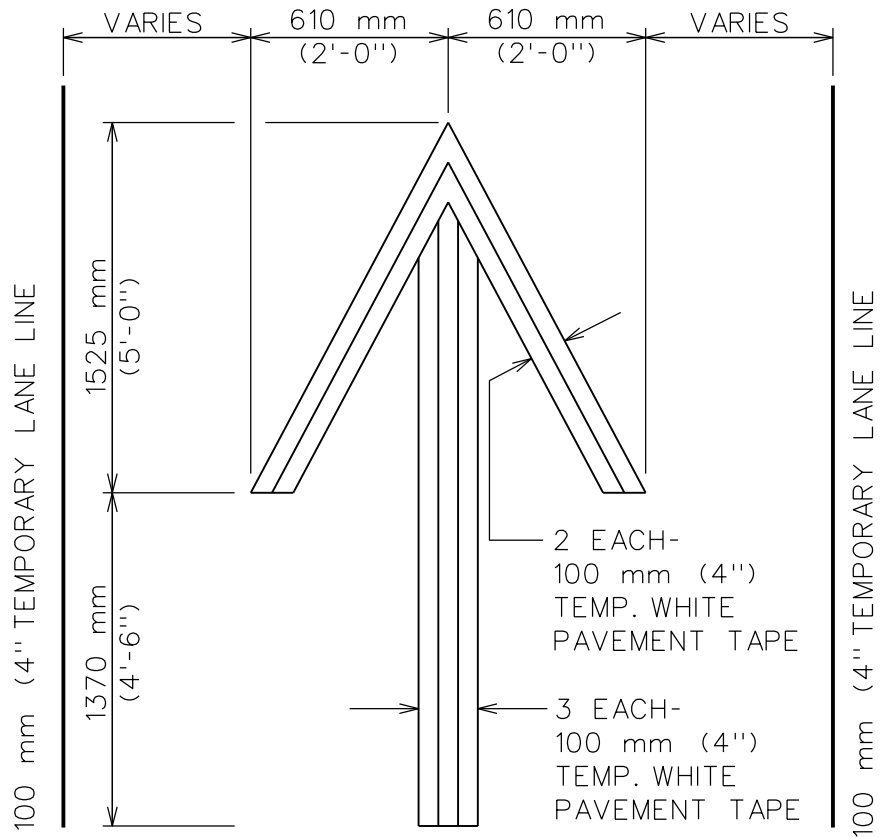
RECORD COPY SIGNED  
BY BILL GARDNER

03/13/06  
ADOPTED

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

804S-3  
Item # 10



SEE SHEET 5 OF 5  
FOR GENERAL NOTES.

**CITY OF AUSTIN**  
DEPARTMENT OF PUBLIC WORKS

**TEMPORARY REMOVABLE TAPE,  
ARROWS AND LEGENDS**

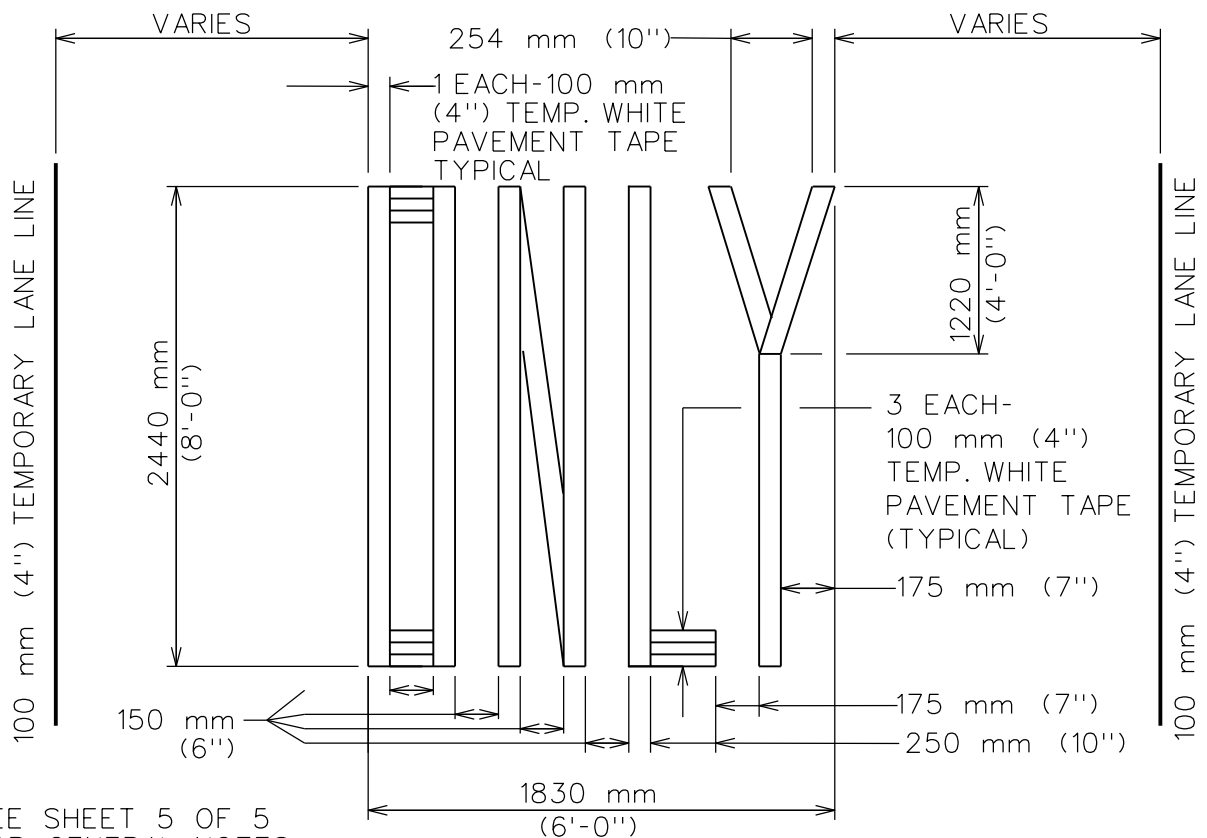
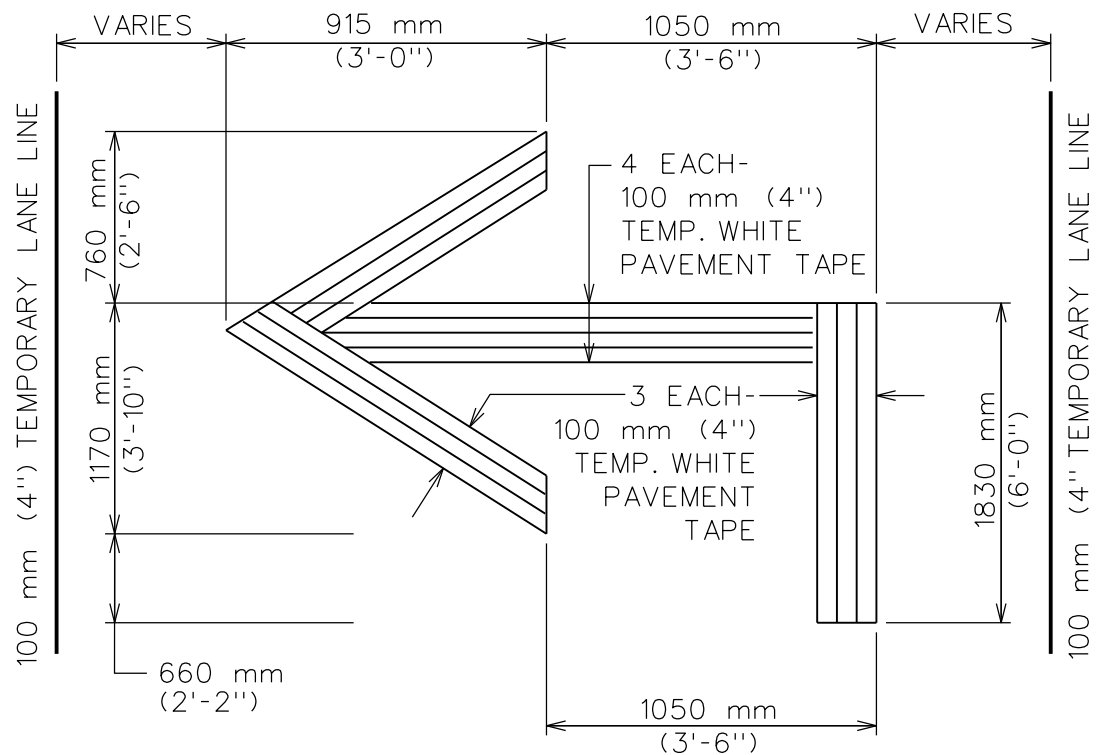
RECORD COPY SIGNED  
BY BILL GARDNER

03/13/06  
ADOPTED

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

804S-3  
Item # 10  
2 of 3



SEE SHEET 5 OF 5  
FOR GENERAL NOTES.

**CITY OF AUSTIN**  
DEPARTMENT OF PUBLIC WORKS

**TEMPORARY REMOVABLE TAPE,  
ARROWS AND LEGENDS**

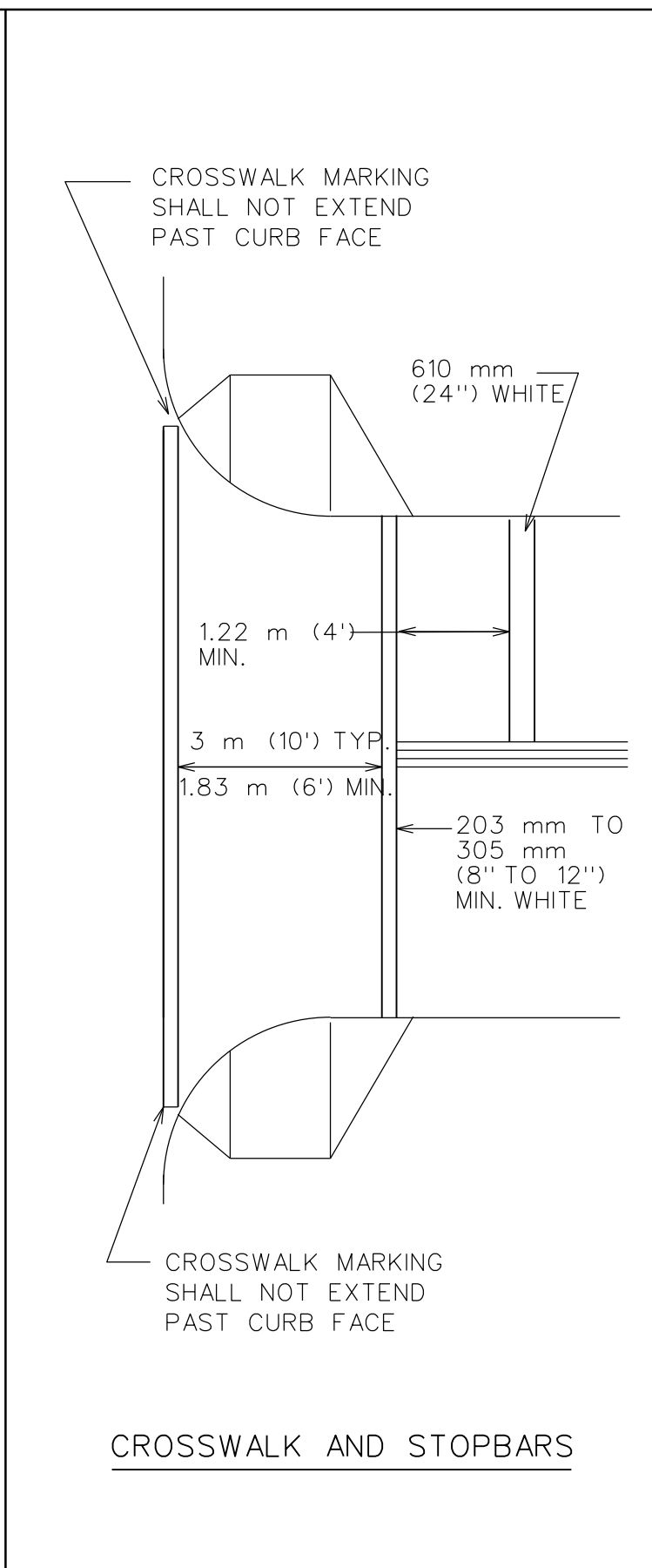
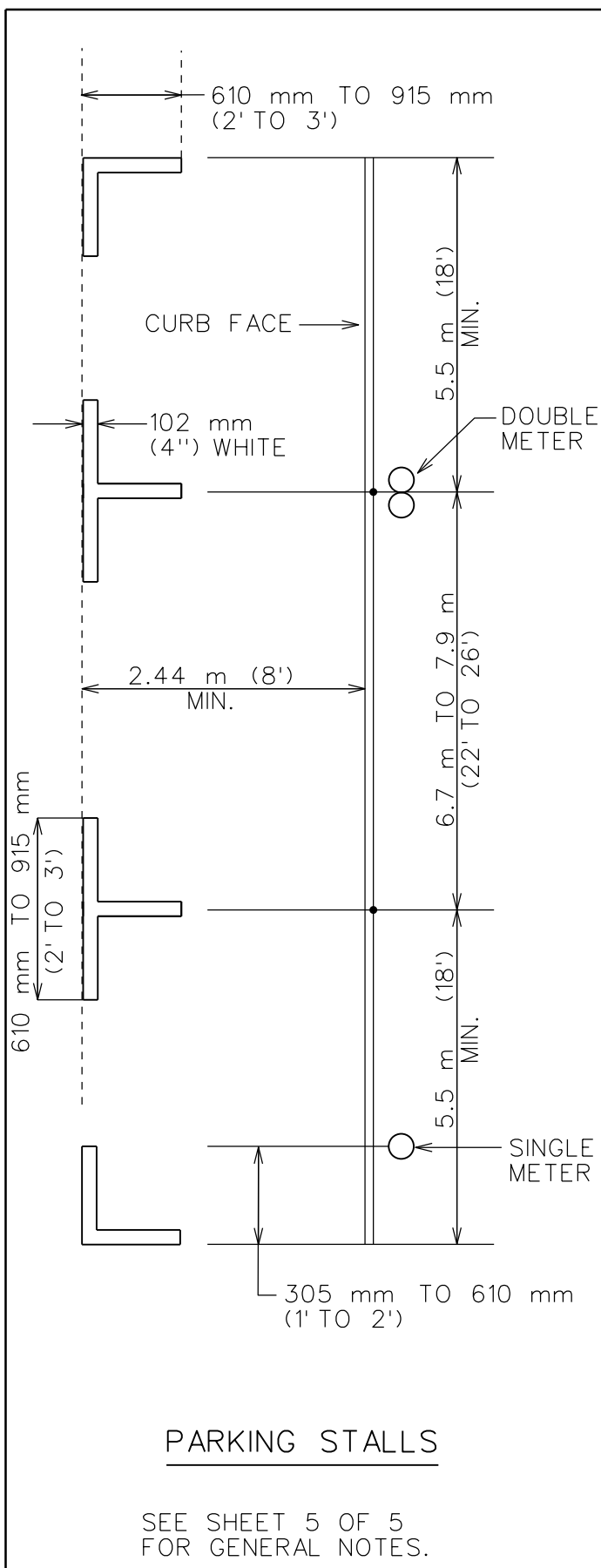
RECORD COPY SIGNED  
BY BILL GARDNER

03/13/06  
ADOPTED

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

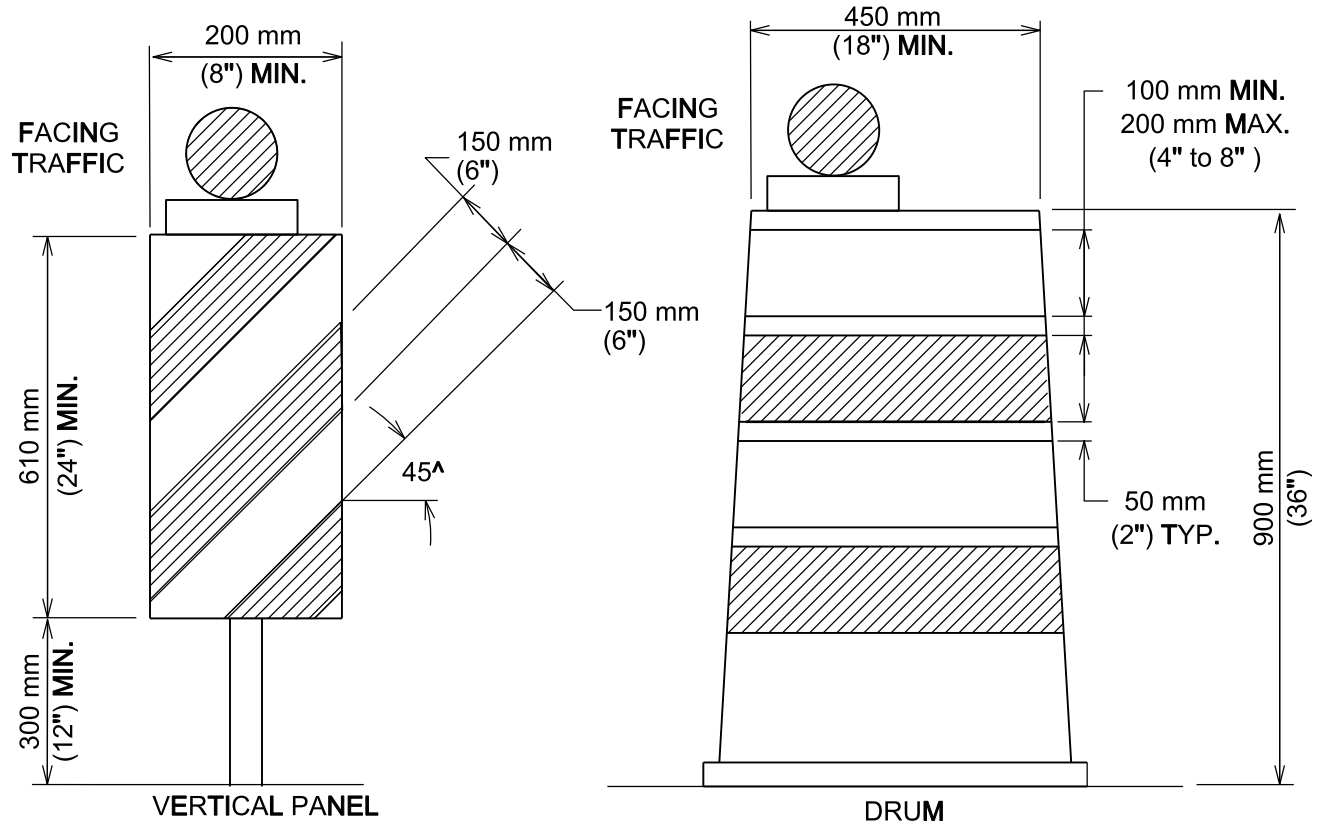
804S-3  
Item # 10  
3 of 3



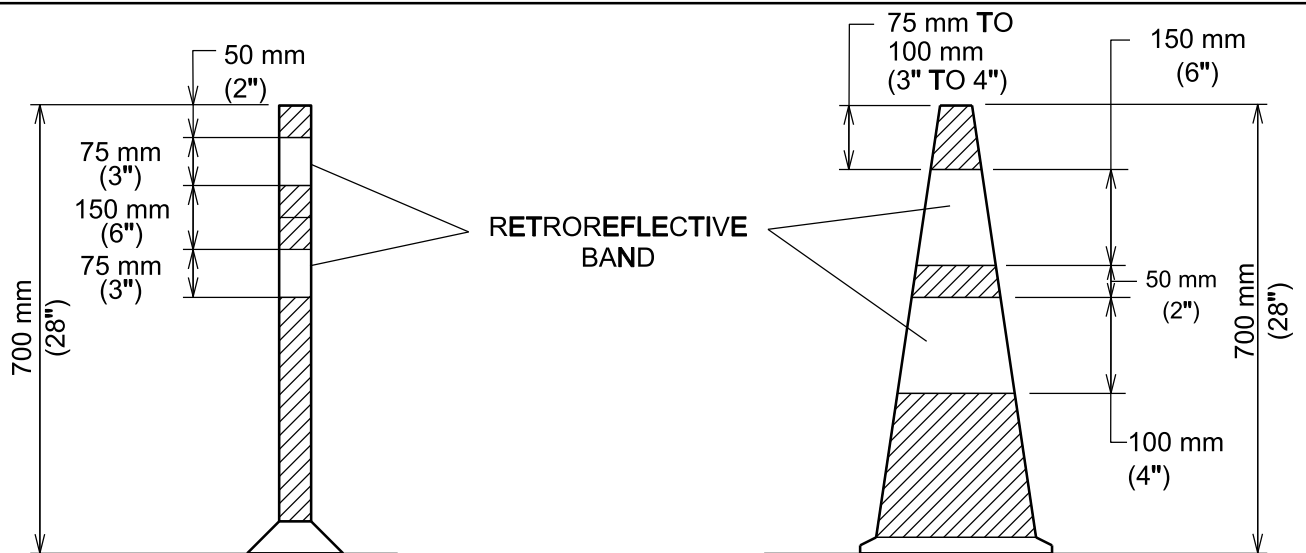
<p><b>CITY OF AUSTIN</b> DEPARTMENT OF PUBLIC WORKS</p>	<p><b>PARKING STALLS, CROSSWALK AND STOP BARS</b></p>	
<p>RECORD COPY SIGNED BY BILL GARDNER</p>	<p>03/13/06 ADOPTED</p>	<p>THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.</p> <p>STANDARD NO. <b>804S-3</b> Item # 10 4 of 5</p>

1. ALL PAVEMENT MARKINGS USED SHALL CONFORM TO THE CURRENT EDITION OF THE TEXAS MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES ( TMUTCD) AND THE CITY OF AUSTIN TRANSPORTATION CRITERIA MANUAL.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL TEMPORARY AND EXISTING PAVEMENT MARKINGS ON ALL ROADWAYS WITHIN THE CONSTRUCTION LIMITS AND ON ANY ROADWAY OUTSIDE THE CONSTRUCTION LIMITS THAT REQUIRES THE REROUTING OF TRAFFIC FOR HIS WORK.
3. ALL ROADWAYS TO BE OPENED TO TRAFFIC SHALL HAVE TEMPORARY OR STANDARD PAVEMENT MARKINGS INSTALLED AS SHOWN IN THE DRAWINGS, AT THE END OF EACH DAY'S OPERATION.
4. MARKINGS SHALL PROVIDE A VISIBLE REFERENCE FOR A MINIMUM DISTANCE OF 91.5 m (300') DURING NORMAL DAYLIGHT HOURS AND 49 m (160') WHEN ILLUMINATED BY AUTOMOBILE LOW-BEAM HEADLIGHTS AT NIGHT, UNLESS SIGHT DISTANCE IS RESTRICTED BY ROADWAY GEOMETRICS.
5. ALL TEMPORARY REMOVABLE PAVEMENT MARKINGS SHALL BE SUPPLEMENTED WITH RAISED PAVEMENT MARKERS.
6. TEMPORARY REMOVABLE PAVEMENT MARKING TAPE IS THE PREFERRED PAVEMENT MARKING; HOWEVER, THE CONTRACTOR MAY, WITH APPROVAL OF THE ENGINEER OR DESIGNATED REPRESENTATIVE, USE RAISED PAVEMENT MARKINGS, PAINT AND BEADS OR THERMOPLASTIC IF THE ROADWAY IS TO BE COMPLETELY RESURFACED.
7. PAVEMENT MARKINGS THAT ARE NO LONGER APPLICABLE AND WHICH MAY CREATE CONFUSION OR DIRECT A MOTORIST TOWARD OR INTO THE CLOSED PORTION OF THE ROADWAY, SHALL BE REMOVED OR OBLITERATED BEFORE THE ROADWAY IS OPENED TO TRAFFIC. THE ABOVE DOES NOT APPLY TO SHORT-DURATION, SHORT TERM STATIONARY OR INTERMEDIATE TERM STATIONARY WORK.
8. REMOVAL OR OBLITERATION OF PAVEMENT MARKINGS INCLUDES CENTERLINES, CHANNELIZING LINES, LANE LINES, EDGE LINES, WORDS, ARROWS, SYMBOLS AND RAISED PAVEMENT MARKINGS.
9. PAVEMENT MARKINGS SHALL BE REMOVED OR OBLITERATED TO THE FULLEST EXTENT POSSIBLE, SO AS NOT TO LEAVE A DISCERNIBLE MARK. GRINDING OF PAVEMENT MARKINGS WILL ONLY BE ALLOWED ON PAVEMENT THAT IS TO BE COMPLETELY REPLACED.
10. TEMPORARY FLEXIBLE-REFLECTIVE TABS MAY BE USED FOR TEMPORARY PAVEMENT MARKINGS ON NEW PAVEMENT, PROVIDED THEY ARE PLACED ON 1.5 m (5') CENTERS.
11. THE CONTRACTOR SHALL PLACE TEMPORARY FLEXIBLE-REFLECTIVE TABS IMMEDIATELY AFTER THE FINAL HMAC OVERLAY AS EACH LANE IS COMPLETED AND READY FOR TRAFFIC. NO DIRECT PAYMENT WILL BE MADE FOR THIS OPERATION, BUT WILL BE CONSIDERED SUBSIDIARY TO THE OTHER BID ITEMS. FINAL STRIPING SHOULD BE COMPLETED WITHIN FOURTEEN (14) DAYS OF THE FINAL PAVING.

<p align="center"><b>CITY OF AUSTIN</b> DEPARTMENT OF PUBLIC WORKS</p>	<p align="center">GENERAL NOTES</p>	
<p><i>RECORD COPY SIGNED BY BILL GARDNER</i>      <i>03/13/06</i> ADOPTED</p>	<p>THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.</p>	<p>STANDARD NO. <b>804S-3</b> 5 of 5 Item # 10</p>



### LONG TERM AND INTERMEDIATE TERM STATIONARY WORK



### TUBULAR MARKERS

### CONES

### SHORT TERM AND SHORT DURATION WORK

SEE STANDARD 804S-5  
SHEET 12 OF 13 AND SHEET 13 OF 13  
FOR GENERAL NOTES AND DEVICE SPACING.

## CITY OF AUSTIN

DEPARTMENT OF PUBLIC WORKS

RECORD COPY SIGNED  
BY SAM ANGOORI

01/04/10

ADOPTED

## CHANNELIZING DEVICES

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

804S-5  
Item # 10

## CHANNELIZING DEVICES

1. ALL CHANNELIZING DEVICES SHALL HAVE WARNING LIGHTS OR LARGE REFLECTORS WHEN USED AT NIGHT. FLASHING WARNING LIGHTS MAY BE PLACED ON CHANNELIZING DEVICES USED SINGULARLY OR IN GROUPS TO MARK A SPOT CONDITION. WARNING LIGHTS ON CHANNELIZING DEVICES USED IN A SERIES SHALL BE STEADY-BURN. CHANNELIZING DEVICES IN TAPERS AT NIGHT SHALL HAVE TYPE C WARNING LIGHTS.
2. THE RETROREFLECTIVE MATERIAL USED ON CHANNELIZING DEVICES SHALL HAVE A SMOOTH, SEALED OUTER SURFACE.
3. THE NAME AND TELEPHONE NUMBER OF THE AGENCY, CONTRACTOR OR SUPPLIER SHALL BE SHOWN ON THE NON-RETROREFLECTIVE SURFACE OF ALL CHANNELIZING DEVICES. THE LETTERS AND NUMBERS SHALL BE A NON-RETROREFLECTIVE COLOR AND NOT OVER 50 mm (2") IN HEIGHT.
4. PARTICULAR ATTENTION SHOULD BE GIVEN TO ASSURE THAT CHANNELIZING DEVICES ARE MAINTAINED AND KEPT CLEAN, VISIBLE AND PROPERLY POSITIONED AT ALL TIMES. DEVICES SHALL BE REPLACED THAT ARE DAMAGED AND HAVE LOST A SIGNIFICANT AMOUNT OF THEIR RETROREFLECTIVITY AND EFFECTIVENESS.

## CONES

CONES SHALL PREDOMINANTLY BE ORANGE, FLUORESCENT RED-ORANGE, OR FLUORESCENT YELLOW-ORANGE IN COLOR, NOT LESS THAN 70 mm (28") IN HEIGHT, AND SHALL BE MADE OF A MATERIAL THAT CAN BE STRUCK WITHOUT DAMAGING VEHICLES ON IMPACT. FOR NIGHT TIME USE, CONES SHALL BE RETROREFLECTIVE OR EQUIPPED WITH LIGHTING DEVICES FOR MAXIMUM VISIBILITY. RETROREFLECTION OF CONES SHALL BE PROVIDED BY A WHITE BOND 150 mm (6") WIDE, NO MORE THAN 75 TO 100 mm (3 TO 4") FROM THE TOP OF THE CONE, AND AN ADDITIONAL 100 mm (4") WHITE BAND A MINIMUM OF 50 mm (2") BELOW THE 150 mm (6") BAND. TRAFFIC CONES ARE NORMALLY USED FOR SHORT-TERM STATIONARY AND SHORT DURATION WORK. HOWEVER, CONES MAY BE USED FOR INTERMEDIATE-TERM STATIONARY WORK AT NIGHT, IF THE SITE IS CONTINUOUSLY MANNED.

## TUBULAR MARKERS

TUBULAR MARKERS SHALL PREDOMINANTLY BE ORANGE IN COLOR, NOT LESS THAN 700 mm (28") IN HEIGHT, A MINIMUM 50 mm (2") WIDE WHEN FACING TRAFFIC AND MADE OF A MATERIAL THAT CAN BE STRUCK WITHOUT DAMAGING VEHICLES. FOR NIGHT TIME USE, TUBULAR MARKERS SHALL BE RETROREFLECTIVE PROVIDED BY TWO (2) 75 mm (3") WIDE WHITE BANDS PLACED A MAXIMUM OF 50 mm (2") FROM THE TOP, WITH A MAXIMUM OF 150 mm (6") BETWEEN BANDS. TUBULAR MARKERS ARE NORMALLY USED FOR SHORT-TERM STATIONARY AND SHORT DURATION WORK. HOWEVER, TUBULAR MARKERS MAY BE USED FOR INTERMEDIATE-TERM STATIONARY WORK AT NIGHT, IF THE SITE IS CONTINUOUSLY MANNED.

## VERTICAL PANELS

VERTICAL PANELS SHALL BE 200 TO 300 mm (8 TO 12") WIDE AND AT LEAST 600 mm (24") IN HEIGHT. THEY SHALL HAVE ORANGE AND WHITE STRIPES, AND BE RETROREFLECTIVE. PANEL STRIPE WIDTHS SHALL BE 150 mm (6") EXCEPT WHERE PANEL HEIGHTS ARE LESS THAN 900 mm (36"), WHEN 100 mm (4") STRIPES MAY BE USED. IF USED FOR TWO-WAY TRAFFIC, BACK-TO-BACK PANELS SHALL BE USED.

## DRUMS

1. DRUMS USED FOR TRAFFIC WARNING OR CHANNELIZATION SHALL BE CONSTRUCTED OF LIGHT-WEIGHT FLEXIBLE AND DEFORMABLE MATERIALS AND BE A MINIMUM OF 900 mm (36") IN HEIGHT, AND HAVE AT LEAST 450 mm (18") MINIMUM WIDTH, REGARDLESS OF ORIENTATION. STEEL DRUMS SHALL NOT BE USED. THE MARKINGS ON DRUMS SHALL BE HORIZONTAL, CIRCUMFERENTIAL, ALTERNATING ORANGE AND WHITE RETROREFLECTIVE STRIPES 100 TO 200 mm (4 TO 8") WIDE. EACH DRUM SHALL HAVE A MINIMUM OF TWO (2) ORANGE AND TWO (2) WHITE STRIPES. ANY NON-RETROREFLECTIVE SPACES BETWEEN THE HORIZONTAL ORANGE AND WHITE STRIPES, SHALL NOT EXCEED 50 mm (2") WIDE. DRUMS SHALL HAVE CLOSED TOPS THAT WILL NOT ALLOW COLLECTION OF ROADWORK OR OTHER DEBRIS.
2. DRUMS SHOULD NOT BE WEIGHTED WITH SAND, WATER OR ANY MATERIAL TO AN EXTENT THAT WOULD MAKE THEM HAZARDOUS TO MOTORISTS, PEDESTRIANS OR WORKERS. WHEN THEY ARE USED IN REGIONS SUSCEPTIBLE TO FREEZING, THEY SHOULD HAVE DRAINAGE HOLES IN THE BOTTOM SO WATER WILL NOT ACCUMULATE AND FREEZE, CAUSING A HAZARD IF STRUCK BY A MOTORIST. BALLAST SHALL NOT BE PLACED ON TOP OF THE DRUM.

## **CITY OF AUSTIN**

DEPARTMENT OF PUBLIC WORKS

RECORD COPY SIGNED  
BY SAM ANGOORI

01/04/10

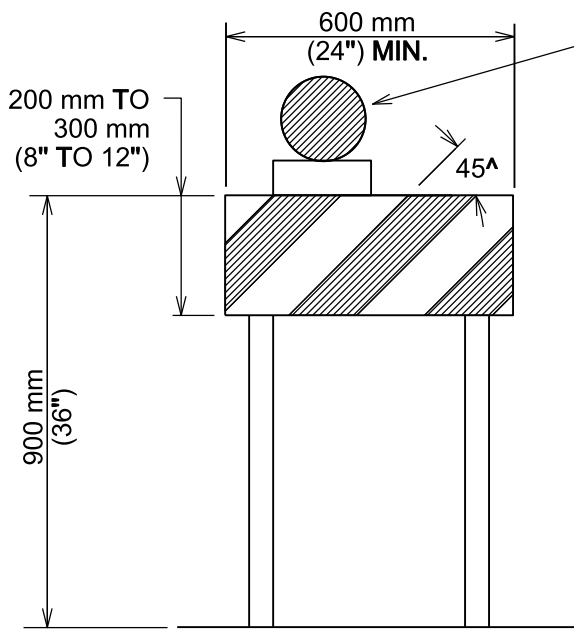
ADOPTED

## **CHANNELIZING DEVICES**

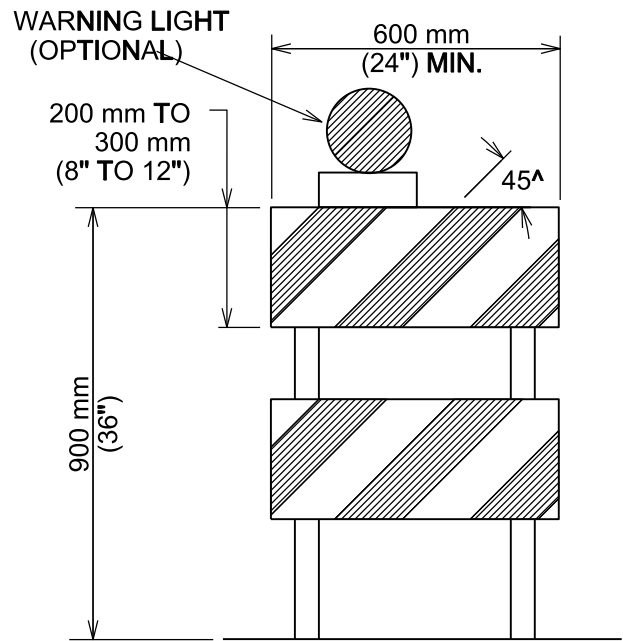
THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

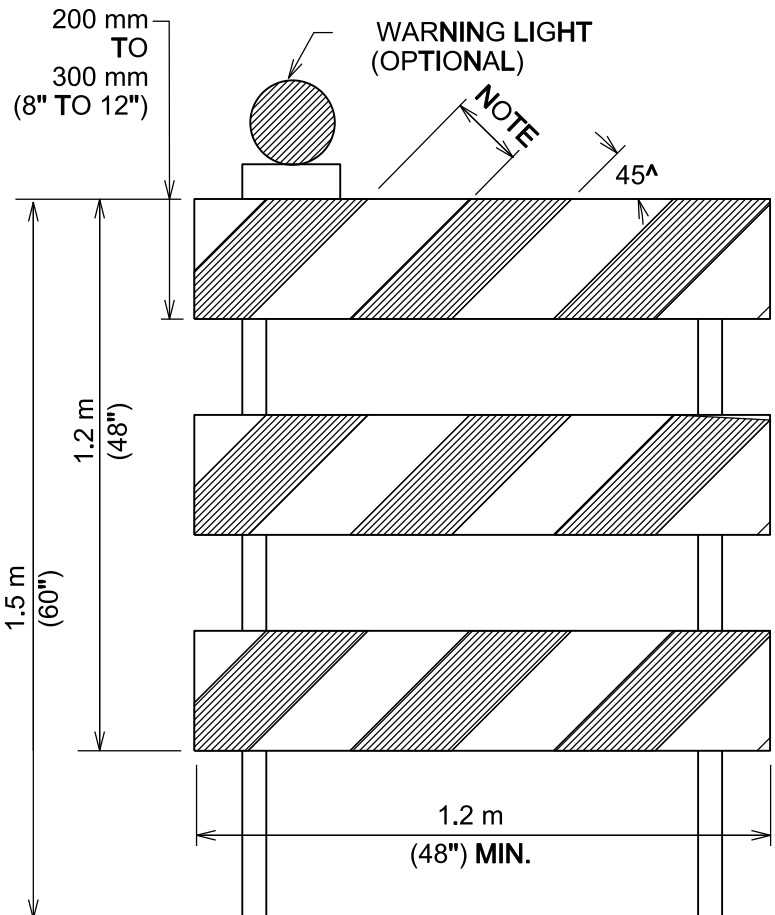
**804S-5**  
Item # 10  
2 OF 13



TYPE I BARRICADE



TYPE II BARRICADE



TYPE III BARRICADE

NOTES:

1. NOMINAL LUMBER DIMENSIONS ARE SATISFACTORY FOR BARRICADE RAIL WIDTH DIMENSIONS.
2. RAIL STRIPE WIDTHS SHALL BE 150 mm (6") EXCEPT WHERE RAIL LENGTHS ARE LESS THAN 900 mm (36"), THEN 100 mm (4") WIDE STRIPES MAY BE USED.
3. THE SIDE OF BARRICADES FACING TRAFFIC SHALL HAVE RETRO-REFLECTIVE RAIL FACES.

SEE STANDARD 804S-5  
SHEET 12 OF 13 AND SHEET 13 OF 13  
FOR GENERAL NOTES AND DEVICE SPACING.

CITY OF AUSTIN

DEPARTMENT OF PUBLIC WORKS

RECORD COPY SIGNED  
BY SAM ANGOORI

01/04/10

ADOPTED

BARRICADES

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

804S-5  
Item # 10

3 OF 13



## **BARRICADES**

1. BARRICADES SHALL BE OF THREE TYPES: TYPE I, TYPE II OR TYPE III.
2. STRIPES ON BARRICADE RAILS SHALL BE ALTERNATING ORANGE AND WHITE RETRO-REFLECTIVE STRIPES (SLOPING DOWNWARD AT AN ANGLE OF 45 DEGREES IN THE DIRECTION TRAFFIC IS TO PASS). THE STRIPES SHALL BE 150 mm (6") WIDE, EXCEPT WHERE RAIL LENGTHS ARE LESS THAN 900 mm (36"), WHEN 100 mm (4") WIDE STRIPES MAY BE USED.
3. WHERE A BARRICADE EXTENDS ENTIRELY ACROSS A ROADWAY, THE SURFACE STRIPES SHOULD SLOPE DOWNWARD IN THE DIRECTION TOWARD WHICH TRAFFIC MUST TURN. WHERE BOTH RIGHT AND LEFT TURNS ARE PROVIDED, THE STRIPES MAY SLOPE DOWNWARD IN BOTH DIRECTIONS FROM THE CENTER OF THE BARRICADE OR BARRICADES. WHERE NO TURNS ARE INTENDED, THE STRIPES SHOULD SLOPE DOWNWARD TOWARD THE CENTER OF THE BARRICADE OR BARRICADES.
4. BARRICADE RAILS SHOULD BE SUPPORTED IN A MANNER THAT WILL ALLOW THEM TO BE SEEN BY THE MOTORIST AND PROVIDE A STABLE SUPPORT NOT EASILY BLOWN OVER BY THE WIND OR TRAFFIC. FOR TYPE I BARRICADES, THE SUPPORT MAY INCLUDE OTHER UNSTRIPED HORIZONTAL PANELS NECESSARY TO PROVIDE STABILITY.
5. BARRICADES ARE LOCATED ADJACENT TO TRAFFIC AND ARE THEREFORE SUBJECT TO IMPACT WITH ERRANT VEHICLES. BECAUSE OF THEIR VULNERABLE POSITION AND THE HAZARD THEY COULD CREATE, THEY SHOULD BE CONSTRUCTED OF LIGHTWEIGHT MATERIALS AND HAVE NO RIGID STAY BRACING FOR A-FRAME DESIGNS. ALL BARRICADE SYSTEMS SHOULD BE CRASHWORTHY.
6. ON HIGH-SPEED EXPRESSWAYS OR IN OTHER SITUATION WHERE BARRICADES MAY BE SUSCEPTIBLE TO OVERTURNING IN THE WIND, SANDBAGS SHOULD BE USED FOR BALLASTING. SANDBAGS MAY BE PLACED ON PARTS OF THE FRAME OR STAYS TO PROVIDE THE REQUIRED BALLAST BUT SHALL NOT BE PLACED ON TOP OF ANY STRIPED RAIL. BARRICADES SHALL NOT BE BALLASTED BY HEAVY OBJECTS SUCH AS ROCKS OR CHUNKS OF CONCRETE.

### **CITY OF AUSTIN**

DEPARTMENT OF PUBLIC WORKS

### **BARRICADES**

*RECORD COPY SIGNED  
BY SAM ANGOORI*

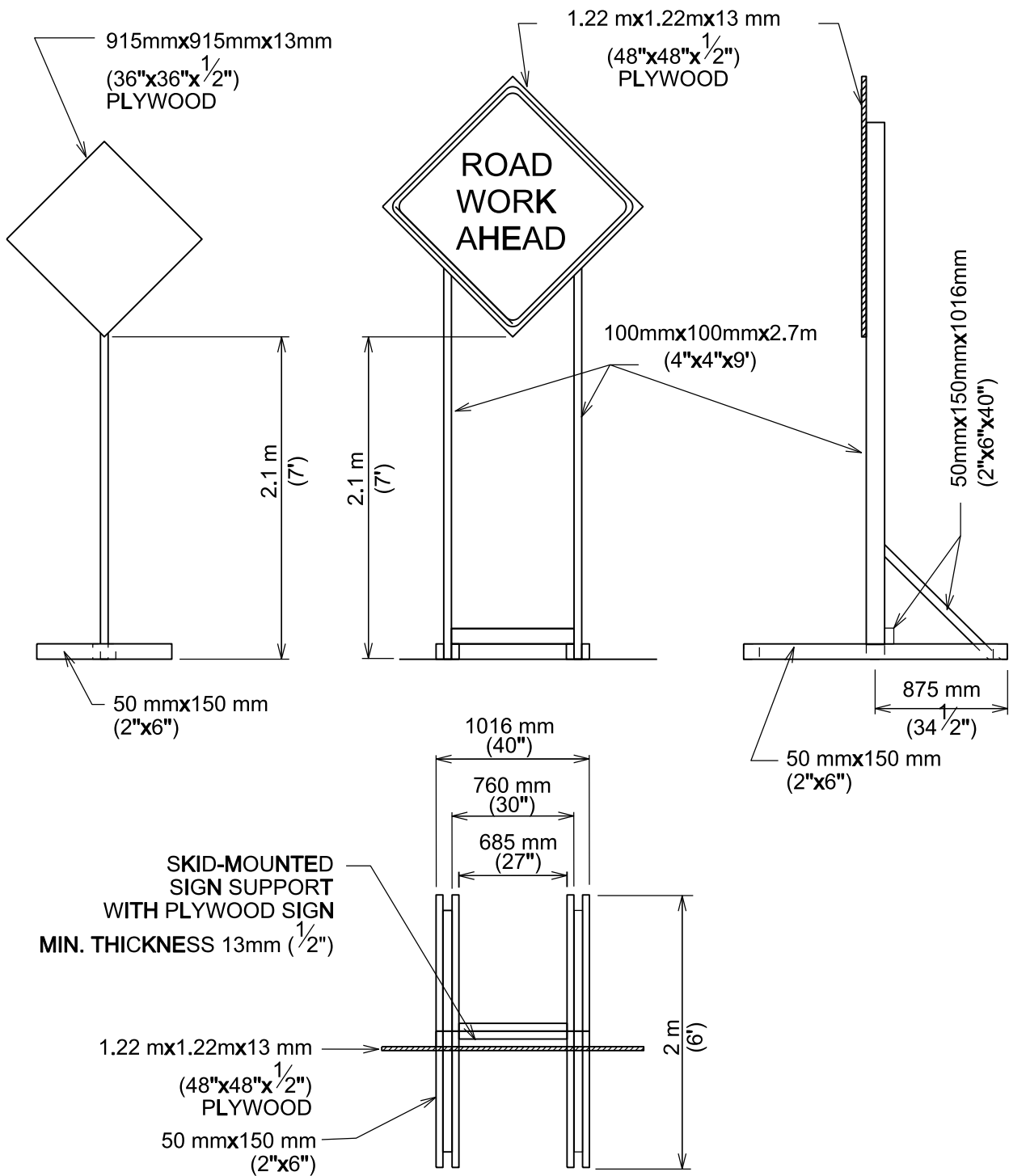
*01/04/10*

ADOPTED

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

**804S-5**  
Item # 10  
4 of 13



( LONG TERM AND INTERMEDIATE-TERM STATIONARY WORK)

### TEMPORARY SIGN SUPPORT

SEE STANDARD 804S-5  
SHEET 12 OF 13 AND SHEET 13 OF 13  
FOR GENERAL NOTES AND DEVICE SPACING.

**CITY OF AUSTIN**

DEPARTMENT OF PUBLIC WORKS

RECORD COPY SIGNED  
BY SAM ANGOORI

01/04/10

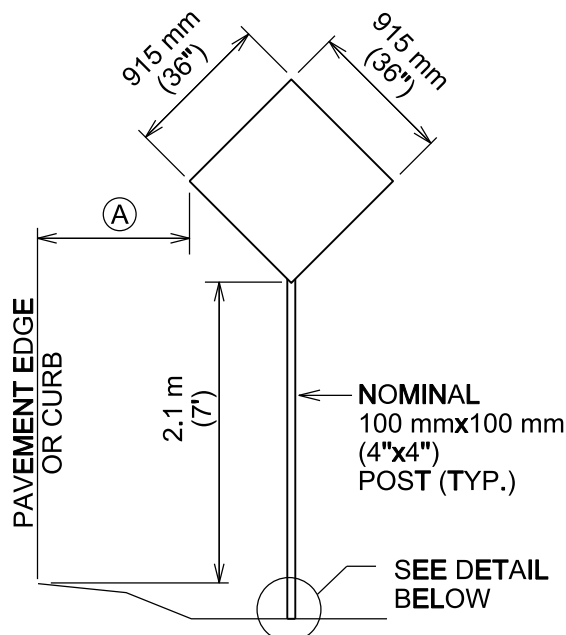
ADOPTED

### TRAFFIC CONTROL SIGNS

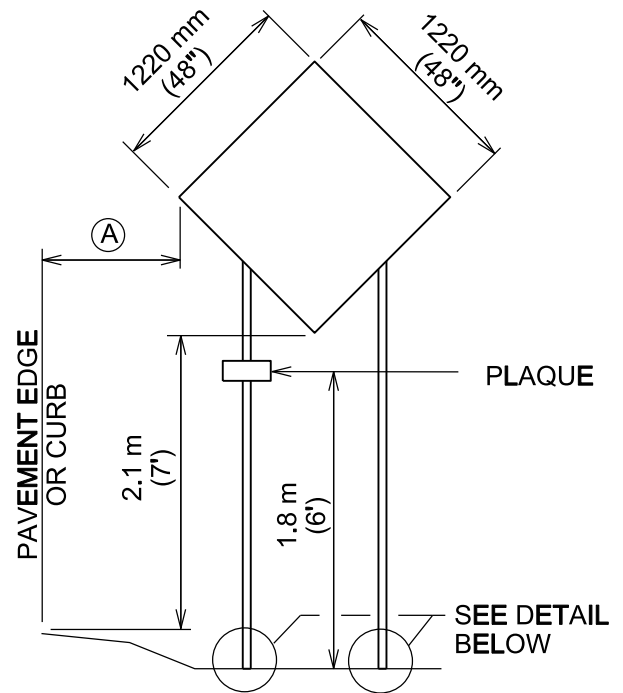
THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

**804S-5**  
Item # 10  
5 OF 13

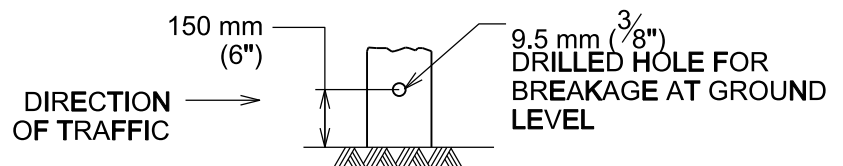


FOR 915 mm x 915 mm (36"x36")  
AND SMALLER WARNING SIGNS &  
OTHER SIGNS HAVING AN AREA  
NOT EXCEEDING 1 sm (10.7 sf).

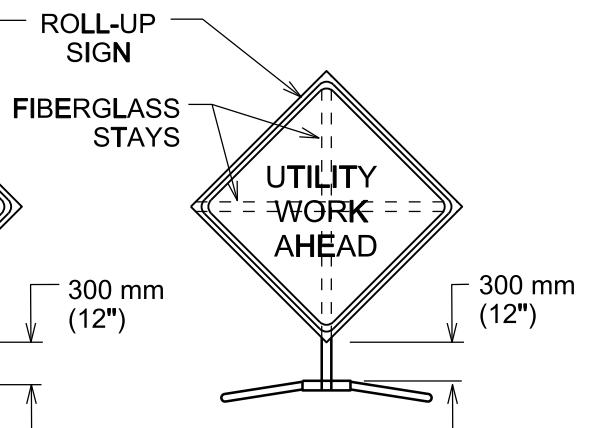
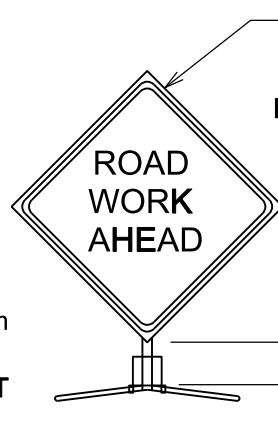
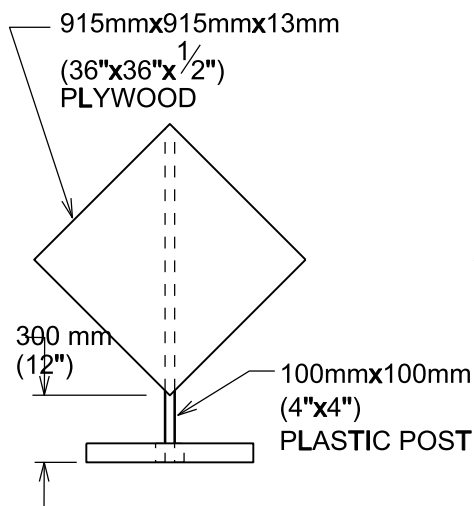


FOR 1220 mm x 1220 mm  
(48"x48") WARNING SIGNS.

(A) 610 mm (2') **MINIMUM**  
(REFER TO TMUTCD)



### WOOD POST SIGN SUPPORT USED AS FIXED SIGN SUPPORTS



300 mm (1') **MOUNTING HEIGHT**  
(SHORT TERM AND SHORT DURATION WORK)

### PORTABLE SIGN SUPPORT

SEE STANDARD 804S-5  
SHEET 12 OF 13 AND  
SHEET 13 OF 13 FOR  
GENERAL NOTES AND DEVICE SPACING.

**CITY OF AUSTIN**

DEPARTMENT OF PUBLIC WORKS

RECORD COPY SIGNED  
BY SAM ANGOORI

01/04/10

ADOPTED

### TRAFFIC CONTROL SIGNS

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

**804S-5**  
Item # 10  
6 OF 13

1. WARNING SIGNS SHALL BE ORANGE, FLUORESCENT RED-ORANGE OR FLUORESCENT YELLOW-ORANGE IN COLOR. THE FLUORESCENT VERSIONS OF ORANGE PROVIDE HIGHER CONSPICUITY THAN STANDARD ORANGE, ESPECIALLY DURING TWILIGHT. ALL SIGNS USED AT NIGHT SHALL BE EITHER RETROREFLECTIVE, WITH A MATERIAL THAT HAS A SMOOTH, SEALED OUTER SURFACE, OR ILLUMINATED TO SHOW SIMILAR SHAPE AND COLOR BOTH DAY AND NIGHT. SIGN ILLUMINATION MAY BE EITHER INTERNAL OR EXTERNAL. ROADWAY LIGHTING DOES NOT MEET THE REQUIREMENTS FOR SIGN ILLUMINATION.
2. TYPE A FLASHING WARNING LIGHTS MAY BE USED IN CONJUNCTION WITH SIGNS AT NIGHT. STANDARD ORANGE FLAGS MAY BE USED FOR DAY TIME OPERATIONS. HOWEVER, NEITHER LIGHTS NOR FLAGS MAY BLOCK THE SIGN LEGEND.
3. SIGNS SHOULD BE LOCATED ON THE RIGHT-HAND SIDE OF THE ROADWAY. WHEN SPECIAL EMPHASIS IS NEEDED, SIGNS MAY BE PLACED ON BOTH THE LEFT AND RIGHT SIDES OF ROADWAY. SIGNS SHALL BE PLACED ON BOTH THE LEFT AND RIGHT SIDES OF ONE-WAY OR DIVIDED ROADWAYS. SIGNS USED FOR LONG-TERM STATIONARY AND INTERMEDIATE-TERM STATIONARY WORK SHALL BE MOUNTED AT A HEIGHT OF AT LEAST 2.1 m (7'), MEASURED FROM THE BOTTOM OF THE SIGN. THE HEIGHT TO THE BOTTOM OF A SECONDARY SIGN MOUNTED BELOW ANOTHER SIGN MAY BE 0.3 m (1') LESS THAN THE APPROPRIATE HEIGHT ABOVE.
4. SIGNS MAY BE MOUNTED ON PORTABLE SUPPORTS FOR SHORT-TERM, SHORT DURATION, MOBILE CONDITIONS AND EMERGENCIES. SIGNS MOUNTED ON PORTABLE SUPPORTS SHALL BE AT A HEIGHT OF AT LEAST 0.3 m (1'), MEASURED FROM THE BOTTOM OF THE SIGN.
5. ALL SIGN SYSTEMS SHOULD BE CRASHWORTHY. NO SIGN MOUNTS SHALL BLOCK OR IMPEDE SIDEWALKS UNLESS NO OTHER OPTION IS AVAILABLE. ONLY SANDBAGS SHOULD BE USED FOR BALLASTING SIGN MOUNTS.

**TABLE VI-3 TYPICAL CONSTRUCTION WARNING SIGN SIZE AND SPACING**

Roadway Classification	Posted Speed	Sign Spacing ★	Long-term Stationary Or Intermediate-term Stationary Approaching Warning Signs CW20 Series And CW22-1 Sign		Short-term Stationary Or Short Duration Approach Warning Signs CW22 Series		Other Warning Signs
			Standard	Minimum <sup>4</sup>	Standard	Minimum <sup>4</sup>	Standard
Conven.	KPH (MPH)	meter (feet)	mm (inches)	mm (inches)	mm (inches)	mm (inches)	mm (inches)
	50 (30)	40 (120)	1220x1220 (48x48)	915x915 (36x36)			
	55 (35)	50 (160)			915x915 (36x36)		915x915 (36x36)
	65 (40)	75 (240)		↓			
	70 (45)	100 (320)		Use Standard Size		Use Standard Size	
	80 (50)	120 (400)					
	90 (55)	150 2 (500)			↓		↓
	100 (60)	180 2 (600)			1220x1220 (48x48)		1220x1220 (48x48)
	105 (65)	210 2 (700)			↓		↓
	115 (70)	240 2 (800)			↓	↓	↓
Exp. or Fwy	★ ★	★ ★ 3	↓	↓	★ ★ ★	★ ★ ★	★ ★ ★

★ MINIMUM DISTANCE FROM WORK TO 1st ADVANCE WARNING SIGN AND/OR DISTANCE BETWEEN EACH ADDITIONAL SIGN.

★ ★ FOR TYPICAL SIGN SPACINGS ON EXPRESSWAYS AND FREEWAYS, REFER TO THE CURRENT ADDITION OF TMUTCD.

★ ★ ★ SMALLER SIGN SIZES MAY BE USED WHERE SIGN DESIGNS HAVE NOT BEEN INCLUDED IN THE "STANDARD HIGHWAY SIGNS DESIGN MANUAL".

1. SPECIAL OR LARGER SIZE SIGNS MAY BE USED AS NECESSARY.
2. DISTANCE BETWEEN SIGNS SHOULD BE INCREASED AS REQUIRED TO HAVE 450 m (1500') OR MORE ADVANCE WARNING.
3. DISTANCE BETWEEN SIGNS SHOULD BE INCREASED AS REQUIRED TO HAVE A 0.8 km ( $\frac{1}{2}$  MILE) OR MORE ADVANCE WARNING.
4. FOR USE ONLY ON SECONDARY ROADS OR CITY STREETS WHERE SPEEDS ARE LOW.

## CITY OF AUSTIN

DEPARTMENT OF PUBLIC WORKS

RECORD COPY SIGNED  
BY SAM ANGOORI

01/04/10

ADOPTED

## TRAFFIC CONTROL SIGNS

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

**804S-5**  
Item # 10  
7 of 13

JOINT C.I.P.  
SIGN (A, B & C)  
@ END OF PROJECT  
SEE STD. 802S-2A



CMTA SIGN (A)  
SEE STD. 802S-2  
END CONSTRUCTION SIGN



CONSTRUCTION AREA

CMTA SIGN (A)  
SEE STD. 802S-2



"ROAD WORK AHEAD" SIGN  
X  
CMTA SIGN (A)  
SEE STD. 802S-2  
(CMTA-CAPITAL METROPOLITAN  
TRANSIT AUTHORITY)  
X  
JOINT C.I.P.  
SIGN (A, B & C)  
@ BEGINNING OF PROJECT  
SEE STD. 802S-2A  
(CIP-CAPITAL IMPROVEMENT  
PROJECT)

**NOTES:**

1. OTHER REQUIRED SIGNS NOT SHOWN FOR CLARITY.
2. "X" DISTANCES SAME AS STANDARD TABLE SHOWN ON SHEET 13 OF 13.

SEE STANDARD 804S-5  
SHEET 12 OF 13 AND SHEET 13 OF 13  
FOR GENERAL NOTES AND DEVICE SPACING.

**CITY OF AUSTIN**

DEPARTMENT OF PUBLIC WORKS

**TYPICAL CMTA/C.I.P. SIGN LOCATIONS**

RECORD COPY SIGNED  
BY SAM ANGOORI

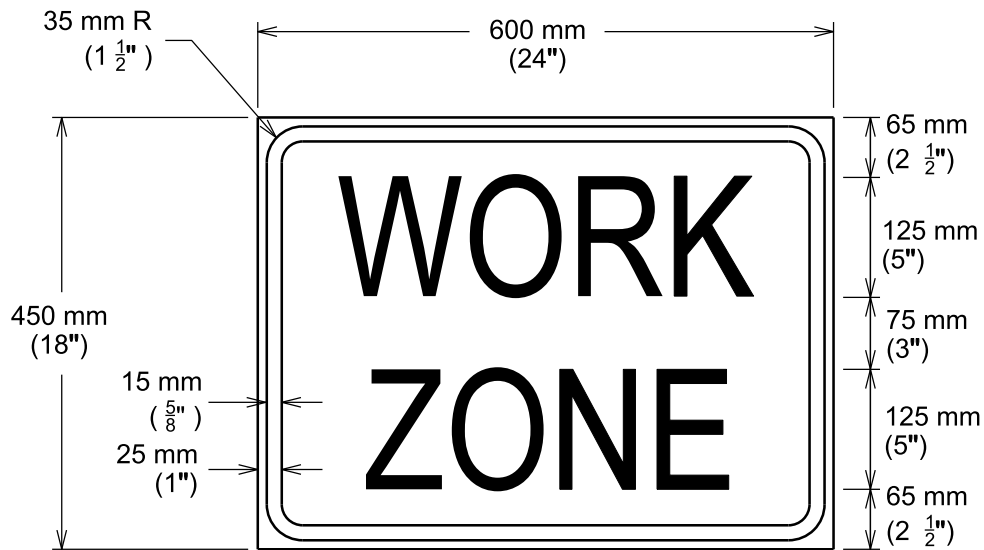
01/04/10

ADOPTED

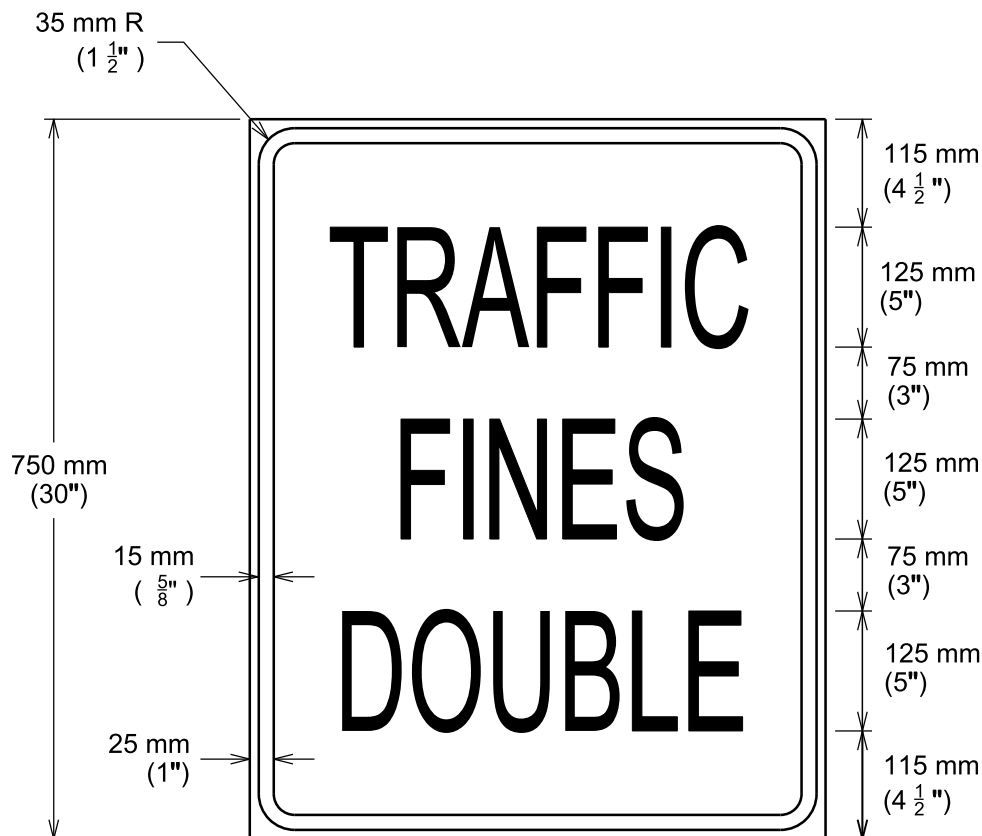
THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

**804S-5**  
Item # 10  
8 OF 13



**LETTERS - BLACK  
BORDER - BLACK  
BACKGROUND - ORANGE  
REFL.**



**LETTERS - BLACK  
BORDER - BLACK  
BACKGROUND - WHITE  
REFL.**

SEE STANDARD DETAIL 804S-5  
SHEET 5 OF 13 FOR SKID-  
MOUNTED SIGN SUPPORT.

## CITY OF AUSTIN

DEPARTMENT OF PUBLIC WORKS

## SPECIAL WORK ZONE SIGNS

*RECORD COPY SIGNED  
BY SAM ANGOORI*

01/04/10

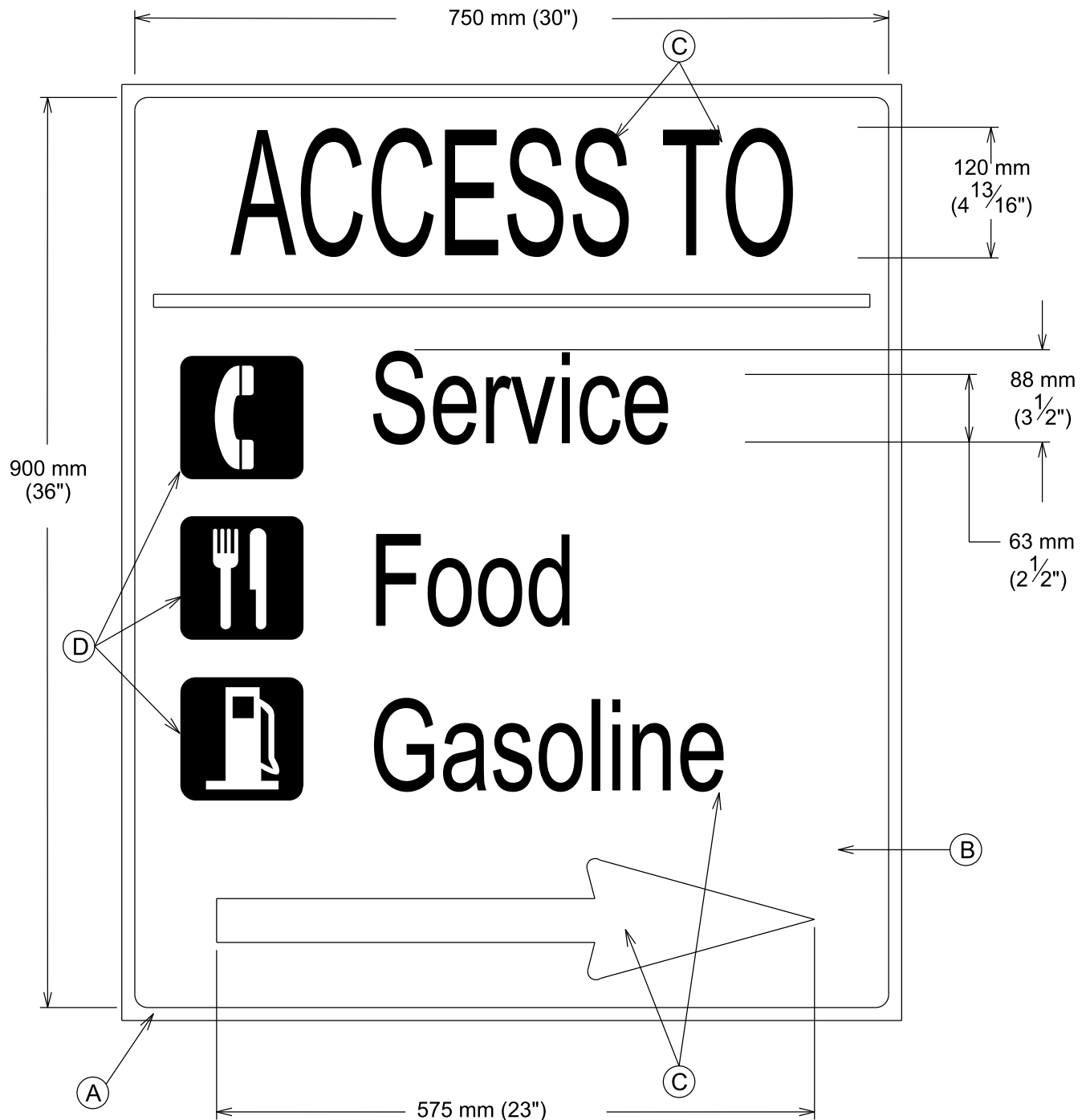
ADOPTED

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

**804S-5**  
Item # 10

9 OF 13



- Ⓐ 50 mm ( $\frac{1}{2}$ ") WHITE RETROREFLECTIVE BORDER
- Ⓑ BLUE RETROREFLECTIVE BACKGROUND
- Ⓒ WHITE RETROREFLECTIVE ARROW AND LETTERS
- Ⓓ WHITE RETROREFELCTIVE BUSINESS LOGO

**NOTES:**

1. CONTRACTORS CAN MAKE BUSINESS NAMES REMOVABLE/CHANGEABLE AS AN OPTION.
2. BUSINESS LOGO ARE OPTIONAL. IF USED LETTERING MUST BE MINIMIZED.

**CITY OF AUSTIN**

DEPARTMENT OF PUBLIC WORKS

**SPECIAL WORK ZONE SIGNS**

*RECORD COPY SIGNED  
BY SAM ANGOORI*

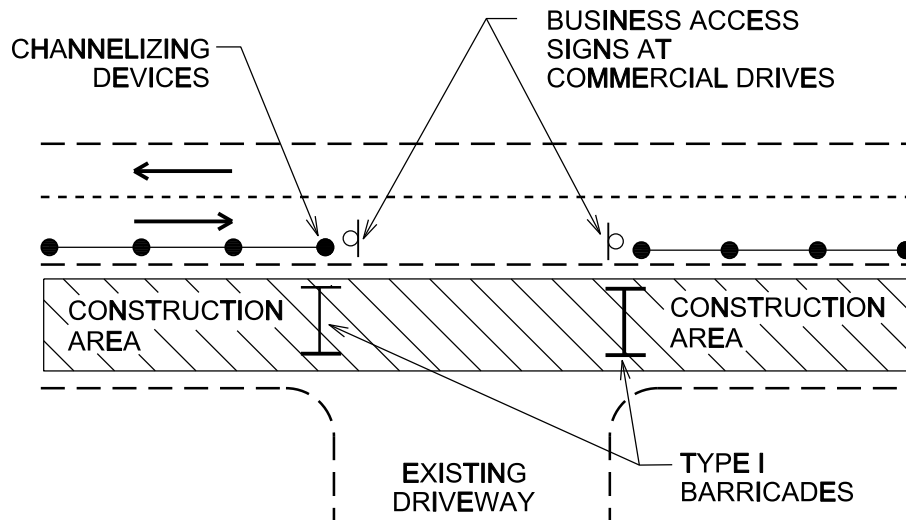
01/04/10

ADOPTED

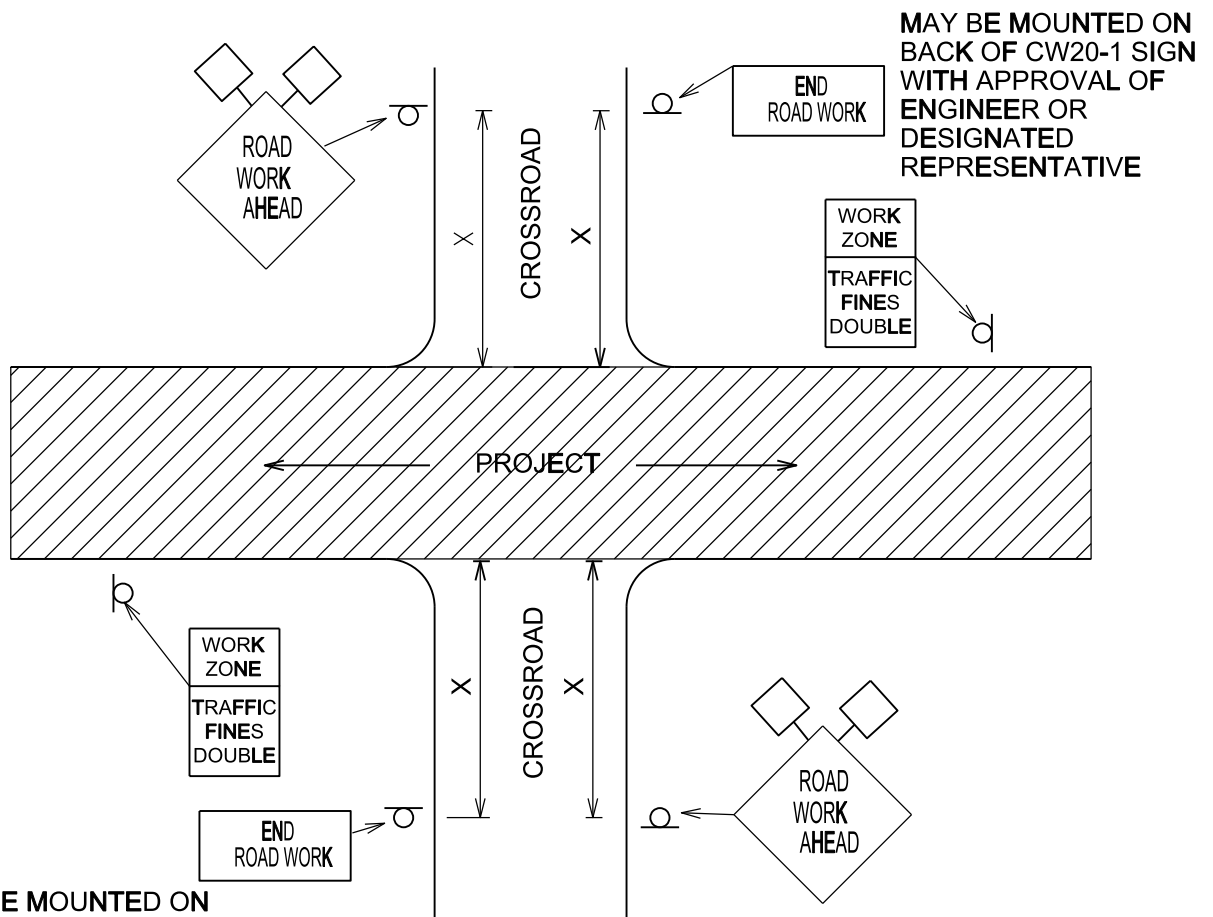
THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

**804S-5**  
Item # 10



DRIVEWAY ACCESS BARRICADE DETAIL



CROSSROAD SIGNING AND BARRICADING

MAY BE MOUNTED ON  
BACK OF TMUTCD  
CW20-1 SIGN WITH  
APPROVAL OF ENGINEER  
OR DESIGNATED  
REPRESENTATIVE  
(TMUTCD-TEXAS MANUAL  
FOR UNIFORM TRAFFIC  
CONTROL DEVICES)

SEE STANDARD 804S-5  
SHEET 12 OF 13 AND SHEET 13 OF 13  
FOR GENERAL NOTES AND DEVICE SPACING.

**CITY OF AUSTIN**

DEPARTMENT OF PUBLIC WORKS

**SIGNING AND BARRICADING  
CROSSROAD & DRIVEWAY**

RECORD COPY SIGNED  
BY SAM ANGOORI

01/04/10

ADOPTED

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

**804S-5**  
1 of 13



1. ALL TRAFFIC CONTROL DEVICES, SIGNS, BARRICADES AND WARNING SIGNS SHALL BE FURNISHED, PLACED, CONSTRUCTED AND MAINTAINED IN THE APPROPRIATE TYPES AND SIZES AND FLAGGER OPERATIONS EXECUTED IN ACCORDANCE WITH THE CURRENT EDITION OF THE TEXAS MANUAL ON UNIFORM CONTROL DEVICES (TMUTCD), THE CITY OF AUSTIN STANDARD SPECIFICATIONS SERIES 800 AND THE CITY OF AUSTIN TRANSPORTATION CRITERIA MANUAL, OR AS DIRECTED BY THE ENGINEER OR DESIGNATED REPRESENTATIVE. IF A CONFLICT ARISES THEN THE CITY OF AUSTIN TRANSPORTATION CRITERIA MANUAL SHALL CONTROL UNLESS OTHERWISE INSTRUCTED BY THE ENGINEER OR DESIGNATED REPRESENTATIVE.
2. THE CONTRACTOR SHALL NOTIFY THE TRANSPORTATION DIVISION OF THE DEPARTMENT OF PUBLIC WORKS AT 974-7024 NO LATER THAN THE MONDAY OF THE WEEK DURING WHICH THE CONTRACTOR INTENDS TO SET UP BARRICADES TO START CONSTRUCTION.
3. PROPOSED CONSTRUCTION TRAFFIC MOVEMENTS MAY REQUIRE EXISTING SIGNAL HEADS TO BE RELOCATED. THE CITY OF AUSTIN WILL REVIEW SIGNAL HEAD LOCATIONS DURING CONSTRUCTION AND PERFORM THE REQUIRED ADJUSTMENTS. THE CONTRACTOR SHALL CONTACT THE TRANSPORTATION DIVISION OF THE DEPARTMENT OF PUBLIC WORKS AT 974-7024, THREE (3) DAYS PRIOR TO PLACEMENT ANY TRAFFIC CONTROLS WHICH MAY REQUIRE SIGNAL HEAD ADJUSTMENTS/RELOCATION.
4. THE CONTRACTOR SHALL PROVIDE ONE (1) FULL-TIME OFF-DUTY, UNIFORMED AUSTIN POLICE DEPARTMENT CERTIFIED PEACE OFFICER AND ONE (1) VEHICLE OF THE TYPE APPROVED BY THE ENGINEER OR DESIGNATED REPRESENTATIVE FOR TEMPORARY LANE CLOSURES WHEN UNDERSEALING, MILLING, PAVING AND WHEN WORKING IN INTERSECTIONS AS PART OF THE TRAFFIC CONTROL OPERATIONS. THE PEACE OFFICER SHALL BE ABLE TO SHOW PROOF OF CERTIFICATION BY THE TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS.
5. THE CONTRACTOR SHALL NOTIFY ALL OTHER GOVERNMENTAL AGENCIES WHOSE RIGHTS-OF-WAY ARE AFFECTED BY HIS WORK ACTIVITIES. THE CONTRACTOR SHALL PROVIDE ANY ADDITIONAL TRAFFIC CONTROL DEVICES THAT THEY MAY NEED.
6. THE CONTRACTOR SHALL MAINTAIN ONE (1) DUST-FREE LANE OF TRAFFIC IN EACH DIRECTION AT ALL TIMES, UNLESS OTHERWISE NOTED IN THE DRAWINGS OR APPROVED THE ENGINEER OR DESIGNATED REPRESENTATIVE.
7. THERE SHALL BE A MINIMUM OF THREE (3) METERS (10 FEET) CLEAR WIDTH FOR EACH LANE OF TRAFFIC IN CHANNELIZED AREAS, UNLESS OTHERWISE NOTED ON THE DRAWINGS OR APPROVED BY THE ENGINEER OR DESIGNATED REPRESENTATIVE.
8. THE CONTRACTOR SHALL MAINTAIN DRIVEWAY ACCESS AT ALL TIMES. IF ACCESS CANNOT BE MAINTAINED, THE CONTRACTOR WITH THE APPROVAL OF THE ENGINEER OR DESIGNATED REPRESENTATIVE SHALL PROVIDE AT LEAST 24 HOUR WRITTEN NOTICE OF LIMITED ACCESS TO AFFECTED PROPERTY OWNERS. THE CONTRACTOR SHALL PROVIDE BUSINESS ACCESS SIGNS AS NEEDED TO INFORM DRIVERS OF THE LOCATIONS OF ALL DRIVEWAYS.
9. TEMPORARY LANE CLOSURES IN THE CENTRAL BUSINESS DISTRICT (CBD) OR ON ARTERIAL STREETS SHALL NOT BE PERMITTED DURING THE HOURS OF 7 AM TO 9 AM AND 4 PM TO 6PM MONDAY THROUGH FRIDAY UNLESS PRIOR APPROVAL HAS BEEN OBTAINED FROM THE TRANSPORTATION DIVISION.
10. TRAFFIC CONTROL SHOWN ON STANDARD DETAILS IS TYPICAL. ADDITIONAL SIGNING AND/ OR BARRICADING, AS WELL AS TEMPORARY PAVEMENT MARKINGS AND OBLITERATION/ RESTORATION OF EXISTING PAVEMENT MARKINGS, MAY BE REQUIRED DEPENDING ON FIELD CONDITIONS. FIELD ADJUSTMENTS TO TRAFFIC CONTROLS WILL NOT BE PAID FOR DIRECTLY, BUT WILL BE CONSIDERED SUBSIDIARY TO ITEM NO. 803S "BARRICADES, SIGNS AND TRAFFIC HANDLING".
11. THE CONTRACTOR SHALL DESIGNATE A COMPETENT PERSON FOR TRAFFIC CONTROL. THE COMPETENT PERSON SHALL MAKE INSPECTIONS OF THE TRAFFIC CONTROL DEVICES AT LEAST TWO (2) TIMES A DAY (ONCE AT THE BEGINNING OF THE DAY AND ONCE AT THE END OF THE DAY), INCLUDING NON-WORKING DAYS, ENSURING THAT ALL DEVICES ARE IN THEIR PROPER PLACE AND ARE IN WORKING ORDER.
12. ALL DEVICES SHALL BE MADE USING MATERIALS LISTED ON THE TxDOT APPROVED PRODUCTS LIST.

CITY OF AUSTIN DEPARTMENT OF PUBLIC WORKS		GENERAL TRAFFIC CONTROL NOTES	
<div>RECORD COPY SIGNED BY SAM ANGOORI</div> <div>01/04/10</div> <div>ADOPTED</div>		THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.	STANDARD NO. <div>804S-5</div> <div>Item # 10</div> <div>12 OF 13</div>

13. ALL PERSONS WORKING WITHIN THE RIGHT-OF-WAY SHALL WEAR A BRIGHTLY COLORED SAFETY VEST. FOR NIGHTTIME WORK THE VEST SHALL BE RETROREFLECTIVE,
14. WHEN AN INTERSECTION IS CLOSED FOR CONSTRUCTION, THE CONTRACTOR SHALL PROCEED WITH CONSTRUCTION IN SUCH A MANNER THAT THE CLOSURE TIME IS MINIMIZED.
15. THE CONTRACTOR SHALL NOTIFY THE CAPITAL METRO DISPATCHER AT 385-4295 ONE (1) WEEK PRIOR TO LANE CLOSURES ADJACENT TO BUS STOPS.

#### DURATION OF WORK

WORK DURATION IS A MAJOR FACTOR IN DETERMINING THE NUMBER AND TYPES OF DEVICES USED IN TEMPORARY TRAFFIC ZONES. THE FIVE (5) CATEGORIES OF WORK DURATION AND THEIR TIME AT A LOCATION ARE AS FOLLOWS:

- LONG-TERM STATIONARY-WORK THAT OCCUPIES A LOCATION FOR MORE THAN 3 DAYS.
- INTERMEDIATE-TERM STATIONARY-WORK THAT OCCUPIES A LOCATION FROM OVERNIGHT TO 3 DAYS.
- SHORT-TERM STATIONARY-DAYTIME WORK THAT OCCUPIES A LOCATION FROM 1 TO 12 HOURS.
- SHORT-DURATION WORK THAT OCCUPIES A LOCATION UP TO 1 HOUR.
- MOBILE-WORK THAT MOVES INTERMITTENTLY OR CONTINUOUSLY.

#### Typical Transition Lengths and Suggested Maximum Spacing of Devices

		Minimum Desirable Taper Lengths (L) Meters (Feet)			Suggested Max. Device Spacing		Suggested Sign Spacing Meters (Feet)
Posted Speed KPH (MPH)	Formula	3.0(10) Offset Meters (feet)	3.3(11) Offset Meters (feet)	3.6(12) Offset Meters (feet)	On a taper Meters (feet)	On a tangent Meters (feet)	"X" Dimension
50 (30)	$L = \frac{WS^2}{60}$	45 (150)	50 (165)	55 (180)	9 (30)	15-20 (60-75)	40 (120)
55 (35)		65 (205)	70 (225)	75 (245)	10 (35)	25-25 (70-90)	50 (160)
65 (40)		80 (265)	90 (295)	100 (320)	12 (40)	25-30 (80-100)	75 (240)
70 (45)	L=WS	135 (450)	(495)	165 (540)	13 (45)	25-30 (90-110)	100 (320)
80 (50)		150 (500)	165 (550)	180 (600)	15 (50)	30-35 (100-125)	120 (400)
90 (55)		165 (550)	185 (605)	200 (660)	16 (55)	35-40 (110-140)	150 (500)
100 (60)		180 (600)	200 (660)	220 (720)	18 (60)	40-45 (120-150)	180 (600)
105 (65)		195 (650)	215 (715)	235 (780)	19 (65)	40-50 (130-165)	210 (700)
115 (70)		215 (700)	235 (770)	255 (840)	21 (70)	45-55 (140-175)	240 (800)

### CITY OF AUSTIN

DEPARTMENT OF PUBLIC WORKS

### GENERAL TRAFFIC CONTROL NOTES

RECORD COPY SIGNED  
BY SAM ANGOORI

01/04/10

ADOPTED

THE ARCHITECT/ENGINEER ASSUMES  
RESPONSIBILITY FOR APPROPRIATE USE  
OF THIS STANDARD.

STANDARD NO.

804S-5  
Item # 10  
13 OF 13

# Special Specification 6001

## Portable Changeable Message Sign



### 1. DESCRIPTION

Furnish, operate, and maintain portable trailer mounted changeable message sign (PCMS) units.

### 2. MATERIALS

Furnish new or used material in accordance with the requirements of this Item and the details shown on the plans. Provide a self-contained PCMS unit with the following:

- Sign controller
- Changeable Message Sign
- Trailer
- Power source

Paint the exterior surfaces of the power supply housing, supports, trailer, and sign with Federal Orange No. 22246 or Federal Yellow No. 13538 of Federal Standard 595C, except paint the sign face assembly flat black.

2.1. **Sign Controller.** Provide a controller with permanent storage of a minimum of 75 pre-programmed messages. Provide an external input device for random programming and storage of a minimum of 75 additional messages. Provide a controller capable of displaying up to 3 messages sequentially. Provide a controller with adjustable display rates. Enclose sign controller equipment in a lockable enclosure.

2.2. **Changeable Message Sign.** Provide a sign capable of being elevated to at least 7 ft. above the roadway surface from the bottom of the sign. Provide a sign capable of being rotated 360° and secured against movement in any position.

Provide a sign with 3 separate lines of text and 8 characters per line minimum. Provide a minimum 18 in. character height. Provide a 5 × 7 character pixel matrix. Provide a message legibility distance of 600 ft. for nighttime conditions and 800 ft. for normal daylight conditions. Provide for manual and automatic dimming light sources.

The following are descriptions for 3 screen types of PCMS:

- **Character Modular Matrix.** This screen type comprises of character blocks.
- **Continuous Line Matrix.** This screen type uses proportionally spaced fonts for each line of text.
- **Full Matrix.** This screen type uses proportionally spaced fonts, varies the height of characters, and displays simple graphics on the entire sign.

2.3. **Trailer.** Provide a 2 wheel trailer with square top fenders, 4 leveling jacks, and trailer lights. Do not exceed an overall trailer width of 96 in. Shock mount the electronics and sign assembly.

2.4. **Power Source.** Provide a diesel generator, solar powered power source, or both. Provide a backup power source as necessary.

2.5. **Cellular Telephone.** When shown on the plans, provide a cellular telephone connection to communicate with the PCMS unit remotely.

---

**3. CONSTRUCTION**

Place or relocate PCMS units as shown on the plans or as directed. The plans will show the number of PCMS units needed, for how many days, and for which construction phases.

Maintain the PCMS units in good working condition. Repair damaged or malfunctioning PCMS units as soon as possible. PCMS units will remain the property of the Contractor.

---

**4. MEASUREMENT**

This Item will be measured by each PCMS or by the day used. All PCMS units must be set up on a work area and operational before a calendar day can be considered measurable. When measurement by the day is specified, a day will be measured for each PCMS set up and operational on the worksite.

---

**5. PAYMENT**

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Portable Changeable Message Sign." This price is full compensation for PCMS units; set up; relocating; removing; replacement parts; batteries (when required); fuel, oil, and oil filters (when required); cellular telephone charges (when required); software; and equipment, materials, tools, labor, and incidentals.

## ITEM NO. 863S - REFLECTORIZED PAVEMENT MARKERS 9-26-12

### 863S.1 - Description

This item governs reflectORIZED pavement markers to be used to delineate traffic lanes or fire hydrants.

This specification is applicable for projects or work involving either inch-pound or SI units. Within the text, the inch-pound units are given preference followed by SI units shown within parentheses.

### 863S.2 - Submittals

The submittal requirements of this specification item include:

- A. List of specific application(s) [i.e. type: (reflectORIZED Type I-A, I-C or II-A-A, II-B-B or II-C-R)] and applicable epoxy system and adhesive types [867S.5].
- B. Specific manufacturer with test results and technical specifications for proposed pavement markers.
- C. Manufacturer's recommendations for surface preparation, cleaning, placement temperatures and installation instructions.
- D. Adhesive components and mixing recommendations.

### 863S.3 - Materials

All materials shall meet the requirements as specified below and indicated on City of Austin Standard Detail 863S-1, "Pavement Markers (ReflectORIZED - Type I & II)". The pavement markers shall comply with TxDOT Departmental Materials Specifications DMS-4210.

#### A. Design and Shape

The outer surface of the marker shall be smooth and all corners and edges exposed to traffic must be rounded. The base of the marker shall have a width of 4.0 inches + ½ inch (100 mm + 13 mm) and shall have a minimum area exposed to traffic of 12.5 square inches (8000 square mm). The maximum height shall be ¾ inch (19 mm). The maximum slope of the reflector face or faces shall be not more than 30 degrees from the horizontal.

The bottom surface of the markers shall be of a design for adhesion with epoxy adhesives to comply with TxDOT Test Method Tex-611-J.

The marker shall be designed to show no change in shape or color when subjected to the requirements of TxDOT Test Method Tex-846-B, at a temperature of 140°F (60°C) with the marker in a vertical position.

#### B. Optical

##### 1. Definitions

- (a) Horizontal entrance angle is defined as being in a plane parallel to the base of the road marker, between a line in the direction of the incident light and a line that is perpendicular to the leading edge of the reflective surface.
- (b) Divergence angle shall mean the angle at the reflector between observer's line of sight and the direction of the light incident on the marker.
- (c) Specific intensity shall mean candle power of the returned light at the chosen divergence and entrance angles for each footcandle of incident light per reflective face. TxDOT Test Method Tex-842-B will be used to determine specific intensity.

##### 2. Performance

For the pavement markers the specific intensity of the reflecting surface at a 15-degree divergence angle shall be not less than the following when the incident light is parallel to the base of the marker.

Horizontal Entrance Angle, Degrees	Specific Intensity	
	Crystal	Amber
0	3.0	2.0
20	1.5	1.0

The specific intensity of the marker shall not be less than 80 percent of the above minimum values after being subjected to heat test of TxDOT Test Method Tex-846-B.

#### C. Pavement Marker Types

Pavement markers shall be of the following types:

1. Type I-A shall contain an approach face that reflects amber light. The body, other than the reflective face, shall be yellow.
2. Type I-C shall contain an approach face that reflects white light. The body, other than the reflective face, shall be white, silver white or light gray.
3. Type II-A-A, shall contain two reflective faces (approach and trailing), each of which shall reflect amber light. The body, other than the reflective faces, shall be yellow.
4. Type II-B-B shall contain two reflective faces (approach and trailing) with glass covered pneumatic reflective faces, each of which shall reflect blue light. The body, other than the reflective faces, shall be blue.
5. Type II-C-R shall contain two reflective faces (approach and trailing), one of which reflects white light and one of which reflects red light. The body, other than the reflective faces, shall be either white, silver white or light gray or one-half white, silver white or light gray on the side that reflects white light and one-half red on the side that reflects red light.

The reflective faces of the Type II markers shall be located so that the direction from one face shall be directly opposite the direction of reflections of the other face.

#### 863S.4 - Sampling

Sampling will be conducted in accordance with TxDOT Test Method Tex-729-I.

#### 863S.5 - Testing

The Contractor shall certify that the markers meet the requirements defined in the specification and meet or exceed the applicable tests required. All testing will be in accordance with the TxDOT manual of Testing Procedures. Applicable tests shall include the following:

Tex-611-J: Adhesion Requirements

Tex-842-B: Light Retroreflectivity

#### Tex-846-B: Heat Resistance

Blue markers' color will conform to Fire Department requirements.

#### 863S.6 - Construction Methods

The Contractor shall use a crew experienced in the work of installing reflectorized pavement markers and in the necessary traffic control for such operations on the roadway surface and shall supply all the equipment, personnel, traffic control and materials necessary for the placement of the pavement markings as indicated on the Drawings or as directed by the Engineer or designated representative. All work shall conform to the current edition of the Texas Manual of Uniform Traffic Control Devices (TMUTCD), The City of Austin Transportation Criteria Manual and Standard Detail 863S-1.

All reflectorized pavement markers shall be from the same manufacturer. Surfaces to which markers are to be attached by an adhesive shall be prepared by any method approved by the Engineer or designated representative to ensure that the surface is free of dirt, curing compound, grease, oil, moisture, loose or unsound pavement markings and any other material which would adversely affect the adhesive bond. Unless indicated otherwise on the Drawings, surface preparation for installation of raised reflectorized pavement markers will not be paid for directly, but shall be included in the unit price bid for this specification item.

Guides to mark the lateral location of pavement markings shall be established as indicated on the Drawings or as directed by the Engineer or designated representative. The Contractor will establish the pavement marking guides and the Engineer or designated representative will verify the location of the guides prior to final installation.

The pavement markers shall be placed in proper alignment with the Guides. The deviation rate in alignment shall not exceed 1 inch per 200 feet (25 millimeters per 60 meters) of roadway. The maximum deviation shall not exceed 2 inches (50 millimeters) nor shall any deviation be abrupt.

Markers placed which are not in alignment indicated on the Drawings shall be removed by the Contractor at the Contractor's expense. Removal shall be in accordance with Specification Item 874S except for measurement and payment. Guides placed on the roadway for alignment purposes shall not establish a permanent marking on the roadway.

The Reflectorized Pavement Markers shall be applied using an approved epoxy adhesive (City of Austin Standard Specification Item 867S) to the lines and spacings as indicated on the Drawings or as directed by the Engineer or designated representative. The adhesive shall be applied in sufficient quantity to ensure that 100 percent of the bonding area of the pavement markers shall be in contact with the adhesive. The adhesive shall be applied in accordance with the manufacturer's recommendations.

Pavement markers shall be placed immediately after the adhesive is applied and shall be firmly bonded to the pavement. Adhesive or any other material that impairs functional reflectivity will not be acceptable.

When deemed necessary by the Engineer or designated representative, the Contractor, at the Contractor's expense, shall place any additional pilot markings required to facilitate the placement of the permanent markings in the alignment specified. Any and all additional markings placed on the roadway for alignment purposes shall be temporary in nature and shall not establish a permanent marking on the roadway. Materials used for pilot markings and equipment used to place such markings shall be approved by the Engineer or designated representative.

#### 863S.7 - Measurement

Reflectorized Pavement Marker will be measured as per each, complete in place.

#### 863S.8 - Payment

Payment will be made at the unit bid price per each. The price shall include full compensation for all work performed and all materials furnished in constructing, transporting and placing the markers.

Payment will be made under:

<b>Pay Item No. 863S-1:</b>	Reflectorized Pavement Markers (Type I-A)	Per Each.
<b>Pay Item No. 863S-2:</b>	Reflectorized Pavement Markers (Type I-C)	Per Each.
<b>Pay Item No. 863S-3:</b>	Reflectorized Pavement Markers (Type II-A-A)	Per Each.
<b>Pay Item No. 863S-4:</b>	Reflectorized Pavement Markers (Type II-B-B)	Per Each.
<b>Pay Item No. 863S-5:</b>	Reflectorized Pavement Markers (Type II-C-R)	Per Each.

**End**

<u>Specification Item 863S " Reflectorized Pavement Markers"</u>	
<u>Texas Department of Transportation: Manual of Testing Procedures</u>	
<u>Designation</u>	<u>Description</u>
Tex 611-J	Adhesion Test For Traffic Buttons, Markers, and Jiggle Bars
Tex-729-I	Sampling of Traffic Markers
Tex-842-B	Method for Measuring Retroreflectivity
Tex-846-B	Method of Testing The Heat Resistance of Reflector Units
<u>Texas Department of Transportation: Departmental Materials Specifications</u>	
<u>Designation</u>	<u>Description</u>



DMS-4210	Pavement Markers (All Weather Reflectorized
<u>City of Austin Standard Details</u>	
<u>Designation</u>	<u>Description</u>
863S-1	Pavement Buttons (Reflectorized-Type I & Type II)
<u>City of Austin Standard Specifications</u>	
<u>Designation</u>	<u>Description</u>
Item No. 867S	Epoxy Adhesive
Item No. 874S	Eliminating Existing Pavement Markings and Markers
Item No. 875S	Pavement Surface Preparation For Markings
<u>City of Austin Transportation Criteria Manual</u>	
<u>Designation</u>	<u>Description</u>
Section 8	Traffic Control
<u>State of Texas Manual on Uniform Traffic Control Devices for Streets and Highways</u>	
<u>Designation</u>	<u>Description</u>
Part III	Markings
Part VI	Traffic Controls for Street and Highway Construction, Maintenance, Utility and Incident Management Operations

Part VI, Article D	Markings
Part VI, Article F	Control of Traffic Through Work Areas

<b><u>RELATED CROSS REFERENCE MATERIALS</u></b>	
<b><u>Specification Item 863S " Reflectorized Pavement Markers"</u></b>	
<b><u>City of Austin Standard Specifications</u></b>	
<b><u>Designation</u></b>	<b><u>Description</u></b>
Item No. 865S	Non-Reflectorized Traffic Buttons
Item No. 870S	Work Zone Pavement Markings
Item No. 871S	Reflectorized Pavement Markings
Item No. 873S	Raised Pavement Markers
<b><u>Texas Department of Transportation: Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges</u></b>	
<b><u>Designation</u></b>	<b><u>Description</u></b>
Item No. 666	Reflectorized Pavement Markings
Item No. 672	Raised Pavement Markers
Item No. 677	Eliminating Existing Pavement Markings and Markers

Item No. 678	Pavement Surface Preparation For Markings
--------------	---

#### ITEM NO. 871S - REFLECTORIZED PAVEMENT MARKINGS 6-21-07

##### 871S.1 - Description

This item shall govern furnishing and placement of reflectORIZED pavement markings of the colors, types, shapes, sizes, widths and thickness indicated on the Drawings.

This specification is applicable for projects or work involving either inch-pound or SI units. Within the text and accompanying tables, the inch-pound units are given preference followed by SI units shown within parentheses.

##### 871S.2 - Materials

###### A. Type I Marking Material.

Type I markings are thermoplastic type materials that require heating to elevated temperatures for application. Type I marking materials shall conform to TxDOT Departmental Materials Specification Item DMS-8220, "Thermoplastic Pavement Markings". Each container of Type I Marking Material shall be clearly marked to indicate the color, weight (mass), type of material, manufacturer's name and lot/batch number.

###### B. Type II Marking Material.

Type II markings are paint- type materials that are applied at ambient temperature or slightly elevated temperatures. Type II marking materials shall conform to Specification Item No. 860S, "Pavement Marking Paint".

###### C. Source of Supply.

All Type I marking materials shall be purchased on the open market. All glass traffic beads shall be purchased on the open market.

##### 871S.3 - Equipment Requirements

The equipment used to place pavement markings shall:

- A. be maintained in satisfactory operating condition;
- B. be considered in satisfactory operating condition if it has an average placement rate of 5,000 lineal feet (1,525 lineal meters) per hour of acceptable four (4) inch (100 millimeters) solid or broken lines over any five (5) consecutive working days;
- C. meet or exceed the material handling at elevated temperature requirements of the National Fire Underwriters and the Texas Railroad Commission;
- D. be capable of placing a minimum of 40,000 lineal feet (12,190 lineal meters) of 4 inch (100 millimeters) solid or broken markings per day;
- E. have production capabilities similar to four-inch (100 millimeters) marking equipment and shall be capable of placing linear markings up to 8 inches (200 millimeters) in width in a single pass when used for placing markings in widths other than 4 inches (100 millimeters);

- F. have production capabilities considered satisfactory by the Engineer or designated representative, when used to place markings other than solid or broken lines;
- G. be capable of placing a centerline and no-passing barrier-line configuration consisting of one broken line with two solid lines at the same time to the alignment and spacing shown on the Drawings;
- H. be capable of placing broken and/or continuous white line from both sides;
- I. be capable of placing lines with clean edges and of uniform cross-section. All lines shall have a tolerance of plus or minus 1/8 inch per 4-inch width (3 mm per 100-mm width);
- J. have an automatic cut-off device with manual operating capabilities to provide clean, reasonably square marking ends to the satisfaction of the Engineer, and to provide a method of applying broken line in an approximate stripe-to-gap ratio of 10 to 30. The length of the stripe shall not be less than 10 feet (3.05 meters) or more than 10.5 feet (3.2 meters). The total length of any stripe-gap cycle shall not be less than 39.5 feet (12 meters) or more than 40.5 feet (12.3 meters);
- K. provide continuous mixing and agitation of the pavement marking material. The use of pans, aprons or similar appliances, which the die overruns, will not be permitted for longitudinal striping applications;
- L. apply beads by an automatic bead dispenser attached to the pavement marking equipment in such a manner that the beads re-dispensed uniformly and almost instantly upon the marking as the marking is being applied to the road surface. The bead dispenser shall have an automatic cut-off control, synchronized with the cut-off of the pavement marking equipment.

#### 871S.4 - Construction Methods

##### A. General.

When required by the Engineer, the Contractor and the Engineer shall review the sequence of Work to be followed and the estimated progress schedule.

Markings may be placed on streets either free of traffic or open to traffic. On streets already open to traffic, the markings shall be placed under traffic conditions that exist with a minimum of interference to the operation of the facility. Traffic control shall be as shown on the Drawings or as approved in writing by the Engineer or designated representative. All markings placed under open-traffic conditions shall be protected from traffic damage and disfigurement. On streets open to traffic with 3 lanes of travel in one direction, all markings shall be placed from the outside lanes only, unless otherwise approved in writing by the Engineer or designated representative.

Guides to mark the lateral location of pavement markings shall be established as shown on the Drawings or as directed by the Engineer or designated representative. The Contractor shall establish the pavement marking guide and the Engineer or designated representative will verify the location of the guides.

Markings shall be placed in proper alignment with the guides. The deviation rate in alignment shall not exceed 1 inch per 200 feet (25 mm per 60 meters) of street. The maximum deviation shall not exceed 2 inches (50 millimeters) nor shall any deviation be abrupt.

Markings shall essentially have a uniform cross-section. The density and quality of markings shall be uniform throughout their thickness. The applied markings shall have no more than five (5) percent, by area, of holes or voids and shall be free of blisters.

Markings, in place on the street, shall be reflectorized both internally and externally. Glass beads shall be applied to the materials at a uniform rate sufficient to achieve uniform and distinctive retroflective characteristics when observed in accordance with TxDOT Test Method Tex-828-B.

Contractor personnel shall be sufficiently skilled in the Work of installing pavement markings.

Markings placed that are not in alignment or sequence, as shown on the drawings or as stated in the Standard Specification Item, shall be removed by the Contractor at its own expense. Removal shall be in accordance with Specification Item 874S, "Eliminating Existing Pavement Markings and Markers", except for measurement and payment. Guides placed on the street for alignment purposes shall not establish a permanent marking on the street.

Unless indicated otherwise on the Drawings, pavement markings shall not be placed sooner than 3 calendar days after the placement of a new hot mix asphaltic concrete surface course or surface treatment.

Unless otherwise shown on the Drawings, pavement markings may be applied by any method that will yield markings meeting the requirements of the Specification Item.

**B. Surface Preparation.**

New Portland cement concrete surfaces shall be cleaned in accordance with Specification Item 875S, "Pavement Surface Preparation for Markings" to remove curing membrane, dirt, grease, loose and/or flaking existing construction markings and other forms of contamination.

Older Portland cement concrete surfaces and asphaltic surfaces that exhibit loose and/or flaking existing markings shall be cleaned in accordance with Specification Item 875S, "Pavement Surface Preparation for Markings" to remove all loose and flaking markings.

Pavement to which material is to be applied shall be completely dry. Pavements shall be considered dry if, on a sunny day after observation for 15 minutes, no condensation occurs in the underside of a 1 foot (300 mm) square piece of clear plastic that has been placed on the pavement and weighted on the edges.

**C. Application of Type I Markings.**

New Portland cement concrete surfaces shall be further prepared for Type I markings, after cleaning, by placing a Type II marking as a sealer in accordance with the Specification Item. When placing Type I markings in new locations on asphaltic surfaces 3 years old or older or any Portland cement concrete surfaces, a Type II marking shall be used as a sealer. Unless otherwise shown on the Drawings, existing Portland cement concrete and asphaltic surfaces to be restriped will not require Type II markings as a sealer; existing markings may be used as a sealer in lieu of Type II markings. Type II markings shall be placed a minimum of 2 and a maximum of 30 calendar days in advance of placing Type I markings. Type II markings which become dirty due to inclement weather or street conditions shall be cleaned by washing, brushing, compressed air or other means approved by the Engineer, prior to application of Type I markings. If washing is used, the surface of Type II markings shall become thoroughly dry before placing Type I markings. Color, location and configuration of Type II markings shall be the same as that of Type I markings.

Type I pavement marking material shall be applied within temperature limits recommended by the material manufacturer. Application of Type I pavement markings shall be done only on clean, dry pavement having a surface temperature above 500F (100C). Pavement temperature shall be measured in accordance with TxDOT Test Method Tex-829-B.

When Type I pavement marking application is by spray, and operations cease for 5 minutes or more, the spray head shall be flushed by spraying pavement marking material into a pan or similar container until the pavement marking material being sprayed is at the proper temperature for application.

Unless otherwise directed by the Engineer in writing, Type I pavement-marking materials shall not be placed on streets between September 30 and March 1, subject to temperature and moisture limitations specified herein.

Unless otherwise shown on the Drawings, the minimum thickness of Type I marking shall be 0.060 inches (60 mil) (1.5 millimeters) for edgeline markings and 0.090 inches (90 mil) (2.3 millimeters) for stop-bars, legends, symbols, gore and center-line/no-passing barrier-line markings, when measured in accordance with TxDOT Test Method Tex-854-B. The maximum thickness of all Type I markings shall be 0.180 inches (180 mil) (4.6 millimeters).

The thickness of Type I markings at the time of placement will be measured above the plane formed by the pavement surface. The Contractor will supply an approved device to measure the thickness of the applied markings. The markings shall be of uniform thickness throughout their lengths and widths.

D. Application of Type II Markings.

The application of Type II marking materials shall be done only on surfaces with a minimum surface temperature of 500F (100C).

The application rate for Type II marking material shall be between 15 and 20 gallons per mile (35 to 47 liters per kilometer) of solid 4 inch (100 millimeter) line and between 30 and 40 gallons per mile (70 to 95 liters per kilometer) of solid 8 inch (200 millimeter) line. For new surface treatment projects the application rate shall be between 25 and 30 gallons per mile (60 to 70 liters per kilometer) of solid four (4) inch line (one hundred (100) millimeters) and between 40 and 50 gallons per mile (95 to 120 liters per kilometer) of solid 8 inch (200 millimeters) line.

Pavement markings for new surface treatment projects shall be applied in two applications, each approximately one-half the application rate. The first application shall not contain glass beads. The interval between the first and second application shall be a minimum of 1 hour.

When there is impending inclement weather and the Contractor chooses to apply water-based traffic paint and the markings, that are subsequently damaged by rain, sleet, hail, etc., the Contractor is responsible for all costs associated with the replacement markings. The Contractor will be paid, when the work is acceptable.

871S.5 - Performance Period for Type I Markings

Type I pavement markings shall meet all the requirements of this technical specification for a minimum of 15 calendar days after installation. Pavement markings that fail to meet all requirements of this specification shall be removed and replaced by the Contractor at its own expense. The Contractor shall replace all pavement markings failing the requirements of this technical specification within 30 calendar days following notification by the Engineer or designated representative of such failing. All replacement markings shall also meet all requirements of this technical specification for a minimum of 15 calendar days after installation.

871S.6 - Measurement

This Specification Item will be measured by the lineal foot (lineal meter), by each of the various words, shapes or symbols, or by any other unit as shown on the Drawings.

Where double stripes are placed, each stripe will be measured separately.

Type II pavement markings requiring 2 applications on new surface treatments (Specification Item No. 320S) will be measured as 1 marking.

Type II pavement marking materials, when used as a sealer for Type I markings will be measured as Type II markings.

Final work zone pavement markings (paint and beads), which will be used as a sealer for Type I pavement markings, will not be measured for payment.

## 871S.7 - Payment

The work performed and materials furnished in accordance with this Standard Specification Item and measured as provided under "Measurement" will be paid for at the Unit bid price for "Reflectorized Pavement Markings" of the various types, colors, shapes, sizes, widths and thickness (Type I markings only) specified. This price shall include full compensation for furnishing all materials; for application of pavement markings; and for all other labor, tools, equipment and incidentals necessary to complete the Work, except as described below.

Surface Preparation, when indicated on the Drawings, will be paid for under Specification Item 875S, "Pavement Surface Preparation for Markings."

Final work zone pavement markings (paint and beads), which will be used as a sealer for Type I pavement markings, shall be included in the unit price bid for the item of construction for which final work zone pavement markings are used.

When replacement Type II markings are required due to damage to the original markings from rain, sleet, hail, etc., and the original markings were placed at the Direction of the Engineer, the Contractor will be paid for the actual quantity of original and replacement markings at the unit bid price for the bid item.

Payment will be made under one or more of the following:

Original placement of Reflectorized Pavement Markings:

<b>Pay Item 871S-A:</b>	Reflectorized Type I Thermoplastic Pavement Markings _____ inches in width, _____ mils in thickness _____ in color	per lineal foot.
<b>Pay Item 871S-B:</b>	Reflectorized Type I Thermoplastic Pavement Markings _____ inches in width, _____ mils in thickness _____ in color	Words per each.
<b>Pay Item 871S-C:</b>	Reflectorized Type I Thermoplastic Pavement Markings _____ inches in width, _____ mils in thickness _____ in color	Shapes per each.
<b>Pay Item 871S-D:</b>	Reflectorized Type I Thermoplastic Pavement Markings _____ inches in width, _____ mils in thickness _____ in color	Symbols per each.
<b>Pay Item 871S-E:</b>	Reflectorized Type II Paint Pavement Markings _____ inches in width, _____ in color	per lineal foot.
<b>Pay Item 871S-F:</b>	Reflectorized Type II Paint Pavement Markings _____ inches in width, _____ in color	Words per each.
<b>Pay Item 871S-G:</b>	Reflectorized Type II Paint Pavement Markings _____ inches in width, _____ in color	Shapes per each.
<b>Pay Item 871S-H:</b>	Reflectorized II Paint Pavement Markings _____ inches in width, _____ in color	Symbols per each.

Replacement of Reflectorized Pavement Markings:		
<b>Pay Item 871S-AR:</b>	Replace Reflectorized Type I Thermoplastic Pavement Markings _____ inches in width, _____ mils in thickness _____ in color	per lineal foot.
<b>Pay Item 871S-BR:</b>	Replace Reflectorized Type I Thermoplastic Pavement Markings _____ inches in width, _____ mils in thickness _____ in color	Words per each.
<b>Pay Item 871S-CR:</b>	Replace Reflectorized Type I Thermoplastic Pavement Markings _____ inches in width, _____ mils in thickness _____ in color	Shapes per each.
<b>Pay Item 871S-DR:</b>	Replace Reflectorized Type I Thermoplastic Pavement Markings _____ inches in width, _____ mils in thickness _____ in color	Symbols per each.
<b>Pay Item 871S-ER:</b>	Replace Reflectorized Type II Paint Pavement Markings _____ inches in width, _____ in color	per lineal foot.
<b>Pay Item 871S-FR:</b>	Replace Reflectorized Type II Paint Pavement Markings _____ inches in width, _____ in color	Words per each.
<b>Pay Item 871S-GR:</b>	Replace Reflectorized Type II Paint Pavement Markings _____ inches in width, _____ in color	Shapes per each.
<b>Pay Item 871S-HR:</b>	Replace Reflectorized Type II Paint Pavement Markings _____ inches in width, _____ in color	Symbols per each.

**END**

<b><u>SPECIFIC CROSS REFERENCE MATERIALS</u></b>	
<b><u>Specification Item No. 871S, "Reflectorized Pavement Markings"</u></b>	



<u>City of Austin Contract Documents</u>	
<u>Designation</u>	<u>Description</u>
Section 00300U	Bid Form (Unit Price)
<u>City of Austin Standard Specifications</u>	
<u>Designation</u>	<u>Description</u>
Item No. 320S	Two Course Surface Treatment
Item No. 860S	Pavement Marking Paint (Reflectorized)
Item No. 874S	Eliminating Existing Pavement Markings and Markers
Item No. 875S	Pavement Surface Preparation For Markings
<u>Texas Department of Transportation: Manual of Testing Procedures</u>	
<u>Designation</u>	<u>Description</u>
Tex-828-B	Determining Functional Characteristics of Pavement Markings
Tex-829-B	Method For Measuring Pavement Temperature
Tex-854-B	Evaluation Of Thermoplastic Striping For Uniformity And Thickness

<b><u>RELATED CROSS REFERENCE MATERIALS</u></b>	
<u>Specification Item No. 871S, "Reflectorized Pavement Markings"</u>	

City of Austin Standard Specifications

<u>Designation</u>	<u>Description</u>
Item No. 301S	Asphalts, Oils and Emulsions
Item No. 302S	Aggregates for Surface Treatments
Item No. 310S	Emulsified Asphalt Treatment
Item No. 311S	Emulsified Asphalt Repaving
Item No. 312S	Seal Coat
Item No. 313S	Rubber Asphalt Joint and Crack Sealant
Item No. 315S	Milling Asphaltic Concrete Paving
Item No. 340S	Hot Mix Asphaltic Concrete Pavement
Item No. 341S	Paving Fabric
Item No. 350S	Heating, Scarifying and Repaving
Item No. 360	Concrete Pavement
Item No. 801S	Construction Detours
Item No. 803S	Barricades, Signs and Traffic Handling
Item No. 863S	Reflectorized Pavement Markers
Item No. 864S	Abbreviated Pavement Markings
Item No. 865S	Nonreflectorized Traffic Buttons
Item No. 866S	Jiggle Bar Tile
Item No. 867S	Epoxy Adhesive

Item No. 870S	Work Zone Pavement Markings
Item No. 872S	Prefabricated Pavement Markings
Item No. 873S	Raised Pavement Markers
Item No. 863S-1	Pavement Buttons (Reflectorized-Type I & Type II)
Item No. 865S-1	Traffic Buttons (Non-Reflectorized)
<u>Texas Department of Transportation: Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges</u>	
<u>Designation</u>	<u>Description</u>
Item No. 302	Aggregates for Surface Treatments
Item No. 314	Emulsified Asphalt Treatment
Item No. 315	Emulsified Asphalt Seal
Item No. 316	Surface Treatments
Item No. 334	Hot Mix-Cold Laid Asphaltic Concrete Pavement
Item No. 340	Hot Mix Asphaltic Concrete Pavement
Item No. 342	Plant Mix Seal
Item No. 351	Repairing Existing Flexible Pavement Structure
Item No. 354	Planing and/or Texturing Pavement
Item No. 358	Asphaltic Concrete Surface Rehabilitation
Item No. 360	Concrete Pavement
Item No. 421	Hydraulic Cement Concrete

Item No. 427	Surface Finishes for Concrete
Item No. 428	Concrete Surface Treatment
Item No. 662	Work Zone Pavement Markings
Item No. 666	Reflectorized Pavement Markings
Item No. 667	Prefabricated Pavement Markings
Item No. 672	Raised Pavement Markers
Item No. 677	Eliminating Existing Pavement Markings and Markers
Item No. 678	Pavement Surface Preparation For Markings
<u>Texas Department of Transportation: Manual of Testing Procedures</u>	
<u>Designation</u>	<u>Description</u>
Tex 729-I	Sampling of Traffic Markers
<u>Texas Department of Transportation: Departmental Materials Specifications</u>	
<u>Designation</u>	<u>Description</u>
DMS-4100	Jiggle Bar Tile
DMS-4200	Pavement Markers (Reflectorized)
DMS-4300	Traffic Buttons
DMS-4210	Pavement Markers
DMS-6130	Bituminous Adhesive

DMS-8200	Pavement Paint
DMS-8220	Thermoplastic marking material
DMS-8240	Prefabricated Marking Materials
DMS-8241	Removable Tape
DMS-8290	Pavement Paint
YPT-10 and/or WPT-10	Pavement Paint

## ITEM NO. 874S - ELIMINATING EXISTING PAVEMENT MARKINGS AND MARKERS 4-3-09

### 874S.1 - Description

This item shall govern the elimination of existing pavement markings of various types and sizes, and pavement markers as shown on the Drawings or as directed, in writing, by the Engineer or designated representative.

### 874S.2 - Materials

All surface treatment material application rates shall be as directed by the Engineer or designated representative. Unless otherwise shown on the Drawings, surface treatment materials shall conform to the requirements of Specification Item No. 301S, "Asphalts, Oils and Emulsions," and Specification Item No. 302S, "Aggregates for Surface Treatment." Testing of surface treatment materials may be waived by the Engineer or designated representative. Asphalt and aggregate types and grades shall be as shown on the Drawings or as approved by the Engineer or designated representative.

### 874S.3 - Construction Methods

Elimination of existing pavement markings and markers shall be accomplished by one or more of the following methods as approved by the Engineer or designated representative.

#### A. Markings on Asphaltic Surfaces.

1. Placement of a surface treatment a minimum of 2 feet (600 mm) wide to cover the existing marking.
2. Placement of a surface treatment, thin overlay or microsurfacing a minimum of 1 lane in width in areas where directional changes of traffic are involved or other areas as directed by the Engineer or designated representative. Construction methods for surface treatments shall conform to Specification Item No. 320S, "Two Course Surface Treatment."

#### B. Markings on Concrete Surfaces.

Removal by an approved burning method.

#### C. Markings on Asphaltic or Concrete Surfaces.

Removal by water, water-sand blasting techniques or any other method(s) proven satisfactory to the Engineer.

#### D. Markers on Asphaltic or Concrete Surfaces.

Removal by any mechanical method to remove marker and adhesive.

Existing pavement markings and markers on both concrete and asphaltic surfaces shall be removed in such a manner that color and/or texture contrast of the pavement surface will be held to a minimum.

Removal of pavement markings on concrete surfaces by blast cleaning shall be accomplished in accordance with Specification Item No. 875S, "Pavement Surface Preparation for Markings," except for measurement and payment. Blast cleaning shall be performed in such a manner that damage to the Portland cement concrete surface is held to a minimum.

When thermoplastic pavement markings or prefabricated pavement markings are encountered, the application of heat may be used to remove the bulk of the marking material prior to blast cleaning. When heat is used, care shall be taken to prevent spalling of Portland cement concrete surfaces.

A burner may be used for complete removal of pavement markings. Broom removal or light blast cleaning may be used for removal of minor residue.

Damage to asphaltic surfaces, such as spalling, shelling, etc., that is greater than ¼ inch (6 mm) in depth and is caused by the removal of pavement markers shall be repaired by the application of a 2 foot (600 mm) wide surface treatment for longitudinal markers with no directional change or a minimum of 1 lane width surface treatment in areas where directional changes of traffic are involved.

Grinding is not an acceptable method of marker or marking removal. However, equipment utilizing special milling flails is considered acceptable in the removal of markings and markers on asphalt and Portland cement concrete surfaces.

#### 874S.4 - Measurement

This Specification Item will be measured by the square yard (square meter: 1 square meter is equal to 1.196 square yards) of surface treatment, thin overlay or microsurfacing (full lane width) placed; by each word, symbol or shape eliminated; by the lineal foot (lineal meter: 1 lineal meter is equal to 3.281 lineal feet) of markings eliminated; or by any other unit as shown on the Drawings.

Payment for revised quantities will be paid for at the unit price bid for that bid item.

The elimination of pavement markers required in conjunction with the elimination of longitudinal markings will not be measured for payment.

#### 874S.5 - Payment

The work performed and materials furnished in accordance with this Specification Item and measured as provided under "Measurement" will be paid for at the unit bid price for "Eliminating Existing Pavement Markings and Markers" of the various types specified. This price shall include full compensation for blast cleaning, mechanical cleaning and/or other cleaning methods; for all materials, tools, equipment and incidentals necessary to complete the Work, except as specified below.

Elimination of pavement markers when pavement markers are to be removed in conjunction with the elimination of longitudinal markings shall be included in the unit price bid for the item of construction indicated on the drawings.

Payment will be made under one or more of the following:

<b>Pay Item 874S-A:</b>	Eliminating Existing Pavement Markings: _____ inches in width,	Per Lineal Foot.
<b>Pay Item 874S-B:</b>	Eliminating Existing Work Zone Pavement Markings: _____ inches in width,	Per Lineal Foot.
<b>Pay Item 874S-C:</b>	Eliminating Existing ReflectORIZED Thermoplastic Pavement Markings: _____ inches in width	Words Per Each.
<b>Pay Item 874S-D:</b>	Eliminating Existing ReflectORIZED Thermoplastic Pavement Markings: _____ inches in width	Shapes Per Each.

<b>Pay Item 874S-E:</b>	Eliminating Existing Reflectorized Thermoplastic Pavement Markings: _____ inches in width	Symbols. Per Each.
<b>Pay Item 874S-F:</b>	Eliminating Existing Raised Pavement Markings, _____ Type,	Per Each.

**END**

<b><u>SPECIFIC CROSS REFERENCE MATERIALS</u></b>	
<u>Specification Item No. 874S, "Eliminating Existing Pavement Markings And Markers"</u>	
<u>City of Austin Contract Documents</u>	
<u>Designation</u>	<u>Description</u>
Section 00300U	Bid Form (Unit Prices)
<u>City of Austin Standard Specifications</u>	
<u>Designation</u>	<u>Description</u>
Item No. 301S	Asphalts, Oils and Emulsions
Item No. 302S	Aggregates for Surface Treatments
Item No. 320S	Two Course Surface Treatment
Item No. 875S	Pavement Surface Preparation For Markings

<b><u>RELATED CROSS REFERENCE MATERIALS</u></b>
<u>Specification Item No. 874S, "Eliminating Existing Pavement Markings And Markers"</u>



City of Austin Standard Specifications

<u>Designation</u>	<u>Description</u>
Item No. 310S	Emulsified Asphalt Treatment
Item No. 311S	Emulsified Asphalt Repaving
Item No. 312S	Seal Coat
Item No. 313S	Cleaning and/or Sealing Joints and Cracks (Asphaltic Concrete)
Item No. 315S	Milling Asphaltic Concrete Paving
Item No. 340	Hot Mix Asphaltic Concrete Pavement
Item No. 341S	Paving Fabric
Item No. 350S	Heating, Scarifying and Repaving
Item No. 360	Concrete Pavement
Item No. 413S	Cleaning and/or Sealing Joints and Cracks (Portland Cement Concrete)
Item No. 801S	Construction Detours
Item No. 803S	Barricades, Signs and Traffic Handling
Item No. 860S	Pavement Marking Paint (Reflectorized)
Item No. 863S	Reflectorized Pavement Markers
Item No. 864S	Abbreviated Pavement Markings
Item No. 865S	Non-Reflectorized Traffic Buttons
Item No. 866S	Jiggle Bar Tile
Item No. 867S	Epoxy Adhesive

Item No. 870S	Work Zone Pavement Markings
Item No. 871S	Reflectorized Pavement Markers
Item No. 872S	Prefabricated Pavement Markings
Item No. 873S	Raised Pavement Markings
<u>City of Austin Standard Details</u>	
<u>Designation</u>	<u>Description</u>
863S-1	Pavement Buttons (Reflectorized-Type I & Type II)
865S-1	Traffic Buttons (Non-Reflectorized)
<u>Texas Department of Transportation: Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges</u>	
<u>Designation</u>	<u>Description</u>
Item No. 302	Aggregates for Surface Treatments
Item No. 314	Emulsified Asphalt Treatment
Item No. 315	Emulsified Asphalt Seal
Item No. 316	Surface Treatments
Item No. 334	Hot Mix-Cold Laid Asphaltic Concrete Pavement
Item No. 340	Hot Mix Asphaltic Concrete Pavement
Item No. 342	Plant Mix Seal
Item No. 351	Repairing Existing Flexible Pavement Structure
Item No. 354	Planing and/or Texturing Pavement

Item No. 358	Asphaltic Concrete Surface Rehabilitation
Item No. 360	Concrete Pavement
Item No. 421	Hydraulic Cement Concrete
Item No. 427	Surface Finishes for Concrete
Item No. 428	Concrete Surface Treatment
Item No. 662	Work Zone Pavement Markings
Item No. 666	Reflectorized Pavement Markings
Item No. 667	Prefabricated Pavement Markings
Item No. 672	Raised Pavement Markers
Item No. 677	Eliminating Existing Pavement Markings and Markers
Item No. 678	Pavement Surface Preparation For Markings

Texas Department of Transportation: Manual of Testing Procedures

<u>Designation</u>	<u>Description</u>
Tex 729-I	Sampling of Traffic Markers
Tex-828-B	Determining Functional Characteristics of Pavement Markings
Tex-829-B	Method For Measuring Pavement Temperature
Tex-854-B	Evaluation Of Thermoplastic Striping For Uniformity And Thickness

Texas Department of Transportation: Departmental Materials Specification

<u>Designation</u>	<u>Description</u>
DMS-4100	Jiggle Bar Tile

DMS-4200	Pavement Markers (Reflectorized)
DMS-4300	Traffic Buttons
DMS-4210	Pavement Markers
DMS-6130	Bituminous Adhesive
DMS-8200	Pavement Paint
DMS-8220	Thermoplastic marking material
DMS-8240	Prefabricated Marking Materials
DMS-8241	Removable Tape
DMS-8290	Pavement Paint
YPT-10 and/or WPT	Pavement Paint

**MICRO SURFACING & SLURRY SEAL TREATMENT CONTRACT  
CITY OF KYLE**

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

**THIS CONTRACT** is made and entered into this date by and between the **CITY OF KYLE**, a Texas municipal corporation (hereinafter referred to as the "CITY", and **VIKING CONSTRUCTION, INC.** (hereinafter referred to as "VENDOR").

WHEREAS, **CITY OF GRAND PRAIRIE**, (hereinafter referred to as the "AWARDING ENTITY") and **CITY OF KYLE** (hereinafter referred to as the "CITY") have entered into an Interlocal Agreement pursuant to Chapter 791 of the Texas Government Code setting forth the terms and conditions upon which AWARDING ENTITY and CITY may purchase various goods and services commonly utilized by each entity;

WHEREAS, VENDOR was awarded agreement number 17041 with AWARDING ENTITY for MICRO SURFACING & SLURRY SEAL TREATMENT (MISSST). The Contract was for an initial term of one year with the option to renew for four additional one-year period(s). The original Contract is effective as of February 22, 2017 and was to terminate midnight February 28, 2020 . Both the parties mutually agree in writing to extend the terms of the Contract through allowable renewal option. Original contract is amended and signed on 01/22/2020 (Exhibit 1). CITY and VENDOR both agree to extend the contract until 2/28/2022 according to the terms of AWARDING ENTITY'S contract;

WHEREAS, AWARDING ENTITY and VENDOR agree that other entities can utilize AWARDING ENTITY'S agreement under the same pricing, terms and conditions (Exhibit 1);

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants and obligations as set forth herein;

1. CITY will be entering into a contract for MISSST through the Interlocal agreement as Grand Prairie Agreement RFB #17041; the estimated dollar expenditure for the CITY is \$488,369.01. (Exhibit 2 showing MISSST project limit and quantities)
2. This Contract is the second of four available renewal options and extend the contract expiration to midnight on February 28, 2021. Details of original contract and price redetermination included as Exhibit A of this contract.
3. CITY will be awarding additional contract to VENDOR to stripe the roads as described in Exhibit B. This part of contract is based on independent negotiation between CITY and VENDOR. Exhibit 3 includes striping quantities and bid prices from the VENDOR. Exhibit C also provides specifications for the striping. The estimated dollar amount for the striping contract is \$ 30,834. This part of contract is only valid for this year.
4. CITY will be responsible for payments directly to the VENDOR and for the VENDOR'S compliance with all conditions of delivery and quality of purchased items or services under this agreement; and

5. All notices, communications and reports under this Contract must be mailed or delivered to the respective parties at the addresses shown below, unless either party is otherwise notified in writing by the other party

**CITY:**

Keshav Gnawali, PE

(210) 343-5064

kgnawali@cityofkyle.com

City of Kyle

100 W. Center Street, City of Kyle, TX 78640

**VENDOR:**

Dan Welsh

Office (512) 966-5777

dan@vciss.com

VIKING Construction, Inc.

2592 Shell Road, Georgetown, TX 78628

6. By signing in the space provided, you agree to extend agreement number 17041 to CITY and to abide by all pricing, terms, conditions, and specifications in the interlocal contract.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF KYLE, TEXAS**

**VIKING CONSTRUCTION, INC**

By: \_\_\_\_\_  
Travis Mitchell, Mayor

By: \_\_\_\_\_  
Printed  
Name: \_\_\_\_\_

ATTEST:

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

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

ATTACHMENTS

## EXHIBIT 1

- Master Interlocal Cooperative Purchasing Agreement Between the City of Kyle and the City of Grand Prairie.
- Micro Surfacing and Slurry Seal Services Contract Between City of Grand Prairie and VIKING Construction, Inc.
- Micro Surfacing and Slurry Seal Services Contract Between City of Grand Prairie and VIKING Construction, Inc – Amendment 2.
- Micro Surfacing and Slurry Seal Services Contract Between City of Grand Prairie and VIKING Construction, Inc – 2021 Contract Extension

## EXHIBIT 2

- Drawing Showing Estimated Micro Surface Quantities and Project Limits.
- Estimated Cost for Micro Surfacing Quantities.

## EXHIBIT 3

- Quantities and Bid Prices for Striping the Project Limit
- Specifications for Striping



# CITY OF KYLE, TEXAS

## Acceptance of Stagecoach Subdivision Phase 3

**Meeting Date: 6/15/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** A Resolution of the City Council of the City of Kyle, Texas accepting the Stagecoach Subdivision Phase 3 improvements: finding and determining that the meeting at which this Resolution is passed was noticed and is open to the Public as required by law.~ *Leon Barba, P.E., City Engineer*

**Other Information:** A final walk-through was completed on June 2, 2021. The punch list items have been completed on the project. The street, drainage, water and wastewater improvements have been completed in substantial accordance with the City's requirements. Record drawings have been provided to the City.

A Maintenance Bond has been provided for a period of two (2) years.

**Legal Notes:** N/A

**Budget Information:** N/A

---

### ATTACHMENTS:

#### **Description**

- ☐ Resolution for Stagecoach Subdivision Phase 3



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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, ACCEPTING THE STAGECOACH SUBDIVISION PHASE 3; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the developer of this subdivision has completed construction of the improvements in general accordance with plans approved by the City of Kyle; and

**WHEREAS**, the subdivision improvements are defined as street, drainage, water and wastewater improvements installed within public rights-of-way and any dedicated drainage or public utility easements within the subdivision; and

**WHEREAS**, the contractor has also provided the City a two (2) year maintenance bond in an amount of thirty five percent (35%) of the cost of the construction for any repairs that may be necessary during a two-year period from the date of acceptance by City Council.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS** hereby accepts the public improvements and certifies completion of the improvements for the Stagecoach Subdivision Phase 3. The current maintenance surety is hereby \$482,177.50 being thirty five percent of the total cost of required improvements, to be held for two years from this date.

**SECTION 1.** That the subdivision improvements within the Stagecoach Subdivision Phase 3 are hereby accepted for operation and maintenance.

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

**PASSED AND APPROVED** this the \_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF KYLE, TEXAS

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

ATTEST:

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

**EXHIBIT A**

**STAFF ACCEPTANCE MEMO**



# CITY OF KYLE


---

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

Kyle, Texas 78640  
Fax (512) 262-3915

## MEMORANDUM

TO: Scott Sellers, City Manager

FROM: Leon Barba, P.E., City Engineer 

DATE: June 9<sup>th</sup>, 2021

SUBJECT: Stagecoach Subdivision Phase 3 Final Acceptance

The referenced subdivision is recommended for acceptance by the City of Kyle.

A final walk-through was completed on June 2<sup>th</sup>, 2021. The punch list items have been completed on the project. The street, drainage, water, and wastewater improvements have been constructed in substantial accordance with the City's requirements. Record drawings have been provided to the City.

A Maintenance Bond (Liberty Mutual Insurance Company – Bond No. 58S215129) in the amount of \$482,177.50 has been provided for a period of two (2) years.

Please let me know if you need any additional information.

Xc: Harper Wilder, Public Works Department  
Pervez Moheet, Finance Department  
Debbie Guerra, Planning and Zoning



# Carlson, Brigance & Doering, Inc.

Civil Engineering ♦ Surveying

## ENGINEER'S CONCURRENCE

FOR

CITY OF Kyle

June 9, 2021

PROJECT: STAGECOACH PHASE 3 CBD#5003

Owner's Name and Address

Consultant Engineer's Name  
and Address

KB HOME  
c/o John Zinsmeyer  
Authorized Representative  
10800 Pecan Park Blvd, st 200  
Austin, Texas 78750

Carlson Brigance & Doering, Inc.  
5501 West William Cannon Dr  
Austin, Texas 78749  
(512) 280-5160

On this day, I, the undersigned professional engineer, or my representative, made a visual inspection of the above referenced project. No discrepancies in approved construction plans or deficiencies in construction were visible or brought to my attention by the inspecting authority except those listed below. I, therefore, recommend acceptance of this project by the City of Kyle, once the following listed items are corrected to the satisfaction of the Public Works Department.

Seal



Lee A. Whited, P.E.

102471

Texas Registration Number

**EXHIBIT B**

**MAINTENANCE BOND**

Fidelity and Surety Department

Liberty Mutual Insurance Company

Bond No. 58S215129

Maintenance Bond

KNOW ALL MEN BY THESE PRESENTS, THAT,

**Chasco Constructors**

Hereinafter called Principal, as Principal, and the **Liberty Mutual Insurance Company** A corporation organized and existing under the laws of the State of **Massachusetts**, with its principal office in the City of **Boston**, hereinafter called the Surety, as Surety, are held and firmly bound unto

**City of Kyle**

Hereinafter called the Obligee, as Obligee, in the just and full sum of

**Four Hundred Eighty Two Thousand One Hundred Seventy Seven Dollars & 50/100----**

**DOLLARS (\$482,177.50)** to the payment of which sum, well and truly to be made we bind ourselves, and our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

**Whereas**, the Principal and the Obligee entered in to a written contract for

**Stagecoach Phase 3- Street Improvements, Sewer System, Storm Drainage System, Erosion Improvements**

**Whereas**, said contract provides that the Principal will furnish a Maintenance Bond in the penalty Of Thirty Five Percent (**35%**) of the contract price conditioned to guarantee, for the period of **2 Years from the date of final acceptance by City Kyle**. against all defects in workmanship and materials which may become apparent during said period, and,

**Whereas**, the said contract has been substantially completed,

**NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH** that, if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of any defective materials or workmanship which became apparent during the period of **2 Years from the date of final acceptance by City of Kyle** from and after this date, then this obligation shall be null and void, otherwise to remain in full force and effect.

**SIGNED, SEALED AND DATED THIS 27th day of May, 2021**

**Chasco Constructors**

Principal

By:

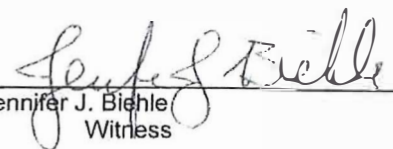
 **BILL BAMBRICK**

**Liberty Mutual Insurance Company**

Surety

  
Robert James Nitsche

Attorney-In-Fact

  
Jennifer J. Biehle  
Witness



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company  
The Ohio Casualty Insurance Company  
West American Insurance Company

Certificate No: 8203793 - 974127

## POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Kenneth Nitsche; Gary A. Nitsche; Robert James Nitsche; Robert K. Nitsche; Craig Parker; Nina Smith

all of the city of Giddings state of TX each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 22nd day of May, 2020.



Liberty Mutual Insurance Company  
The Ohio Casualty Insurance Company  
West American Insurance Company

By: David M. Carey  
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss  
County of MONTGOMERY

On this 22nd day of May, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Teresa Pastella, Notary Public  
Upper Merion Twp., Montgomery County  
My Commission Expires March 28, 2021  
Member Pennsylvania Association of Notaries

By: Teresa Pastella  
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

### ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

### ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 27th day of May, 2021.



By: Renee C. Llewellyn  
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.





## TEXAS IMPORTANT NOTICE

To obtain information or make a complaint:

You may call toll-free for information or to make a complaint at  
1-877-751-2640

You may also write to:

2200 Renaissance Blvd., Ste. 400  
King of Prussia, PA 19406-2755

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at  
1-800-252-3439

You may write the Texas Department of Insurance  
Consumer Protection (111-1A)  
P. O. Box 149091  
Austin, TX 78714-9091  
FAX: (512) 490-1007  
Web: <http://www.tdi.texas.gov>  
E-mail: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

### PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should first contact the agent or call 1-800-843-6446. If the dispute is not resolved, you may contact the Texas Department of Insurance.

### ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

## TEXAS AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis para informacion o para someter una queja al  
1-877-751-2640

Usted tambien puede escribir a:

2200 Renaissance Blvd., Ste. 400  
King of Prussia, PA 19406-2755

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al  
1-800-252-3439

Puede escribir al Departamento de Seguros de Texas Consumer Protection (111-1A)  
P. O. Box 149091  
Austin, TX 78714-9091  
FAX # (512) 490-1007  
Web: <http://www.tdi.texas.gov>  
E-mail: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

### DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el agente o primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI)

### UNA ESTE AVISO A SU POLIZA:

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.



**Stagecoach Phase 3**

FINAL COST &amp; QUANTITIES

KB Home

5/26/2021



Contract Time Frame		Please Enter Subcontractor Name Here			
120/140		CHASCO CONSTRUCTORS			
<b>3</b>	<b>STREET IMPROVEMENTS</b>				
C	SUBGRADE PREP	14085	SY	\$ 1.90	\$ 26,761.50
D	12" FLEX BASE	9400	TN	\$ 14.70	\$ 138,180.00
E	2" HMAC	10700	SY	\$ 10.50	\$ 112,350.00
H	CURB & GUTTER	5565	LF	\$ 12.50	\$ 69,562.50
I	SIDEWALK	8668	SF	\$ 5.75	\$ 49,841.00
J	ADA RAMPS	12	EA	\$ 655.00	\$ 7,860.00
K	SIGNAGE AND STRIPING	1	LS	\$ 2,250.00	\$ 2,250.00
	<b>STREET IMPROVEMENTS SUBTOTAL:</b>				<b>\$ 406,805.00</b>
<b>4</b>	<b>SEWER SYSTEM</b>				
A	8" SDR 26 WWL 0-8	1952	LF	\$ 38.00	\$ 74,176.00
B	8" SDR 26 WWL 8-10	914	LF	\$ 44.00	\$ 40,216.00
C	4' WASTEWATER MANHOLE	17	EA	\$ 4,600.00	\$ 78,200.00
D	4' WASTEWATER MANHOLE AT EXISTING STUB	1	EA	\$ 5,300.00	\$ 5,300.00
E	DOUBLE SERVICE	41	EA	\$ 2,800.00	\$ 114,800.00
F	SINGLE SERVICE	5	EA	\$ 2,400.00	\$ 12,000.00
G	TRENCH SAFETY	2866	LF	\$ 1.50	\$ 4,299.00
	<b>SEWER SYSTEM SUBTOTAL:</b>				<b>\$ 328,991.00</b>
<b>5</b>	<b>STORM DRAINAGE SYSTEM</b>				
A	18" RCP SSL 0-6	721	LF	\$ 50.00	\$ 36,050.00
B	24" RCP SSL 0-6	384	LF	\$ 63.00	\$ 24,192.00
C	24" RCP SSL 6-8	145	LF	\$ 72.00	\$ 10,440.00
D	24" RCP SSL 8-10	25	LF	\$ 79.00	\$ 1,975.00
E	30" RCP SSL 0-6	593	LF	\$ 80.00	\$ 47,440.00
F	36" RCP SSL 0-6	475	LF	\$ 110.00	\$ 52,250.00
G	42" RCP SSL 0-6	160	LF	\$ 137.00	\$ 21,920.00
H	4X3 RCB SSL 0-6	238	LF	\$ 225.00	\$ 53,550.00
I	5X3 RCB SSL 0-6	14	LF	\$ 274.00	\$ 3,836.00
M	4' SS MANHOLE	3	EA	\$ 3,850.00	\$ 11,550.00
N	15' CURB INLET	1	EA	\$ 7,490.00	\$ 7,490.00
O	10' CURB INLET	16	EA	\$ 5,060.00	\$ 80,960.00
P	3X3 AREA INLET	1	EA	\$ 3,130.00	\$ 3,130.00
R	TRENCH SAFETY	2755	LF	\$ 1.00	\$ 2,755.00
	<b>STORM DRAINAGE SYSTEM SUBTOTAL:</b>				<b>\$ 357,538.00</b>
<b>6</b>	<b>WATER SYSTEM</b>				
A	8" DR14 WATERLINE	3080	LF	\$ 39.00	\$ 120,120.00
B	FIRE HYDRANT ASSEMBLY	6	EA	\$ 5,225.00	\$ 31,350.00
C	8" GATE VALVE	5	EA	\$ 1,310.00	\$ 6,550.00
D	DOUBLE SERVICE	42	EA	\$ 2,300.00	\$ 96,600.00
E	SINGLE SERVICE	3	EA	\$ 1,630.00	\$ 4,890.00
F	TRENCH SAFETY	3,080	LF	\$ 0.95	\$ 2,926.00
	<b>WATER SYSTEM SUBTOTAL:</b>				<b>\$ 262,436.00</b>

Contract Time Frame 120/140		Please Enter Subcontractor Name Here			
		CHASCO CONSTRUCTORS			
8	EROSION IMPROVEMENTS				
A	STABILIZED CONSTRUCTION ENTRANCE	2	EA	\$ 1,470.00	\$ 2,940.00
B	SILT FENCE (LOC)	2592	LF	\$ 2.00	\$ 5,184.00
E	ROW REVEGETATION	7460	SY	\$ 0.55	\$ 4,103.00
H	COMMON AREA REVEGETATION	2,225	SY	\$ 0.60	\$ 1,335.00
J	CONCRETE WASH PIT	1	EA	\$ 790.00	\$ 790.00
EROSION IMPROVEMENTS SUBTOTAL:					\$ 14,352.00
CHANGE ORDER No. 01					
CO No. 01	Streets - Sidewalk	-980	sf	\$ 5.75	\$ (5,635.00)
CO No. 01	Streets - ADA Ramps	2	ea	\$ 655.00	\$ 1,310.00
CO No. 01	Water - 8" DR14 Waterline	195	lf	\$ 39.00	\$ 7,605.00
CHANGE ORDER No. 02					
CO No. 02	RFI No. 03 - Add 8" Gate Valves	3	ea	\$ 1,310.00	\$ 3,930.00
CO No. 02	Drainage Swale - Revegetation	530	sy	\$ 0.60	\$ 318.00
CHANGE ORDERS No. 01 & 02 - TOTAL					\$ 7,528.00
GRADE, STREETS TOTAL:					\$ 406,805.00
SEWER, STORM & WATER TOTAL:					\$ 948,965.00
ELECTRIC IMPROVEMENTS TOTAL:					\$ -
CHANGE ORDERS No. 01 & 02 - TOTAL					\$ 18,644.50
GRAND TOTAL:					\$ 1,377,650.00

X   
Chasco Constructors  
Aimee Reiswig, Project Manager  
5-27-21



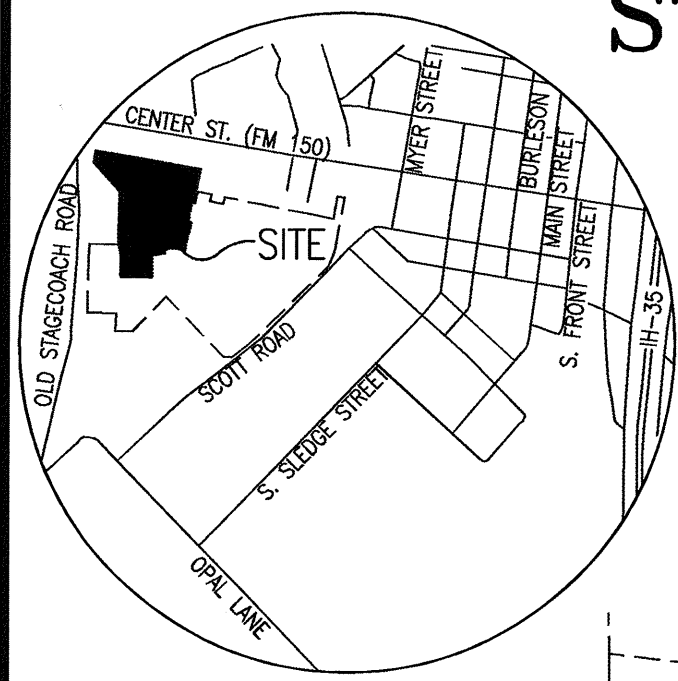
CARLSON, BRIGANCE & DOERING, INC.  
ID# F3791

**EXHIBIT C**

**SUBDIVISION MAP**



STAGECOACH SUBDIVISION PHASE 3  
FINAL PLAT



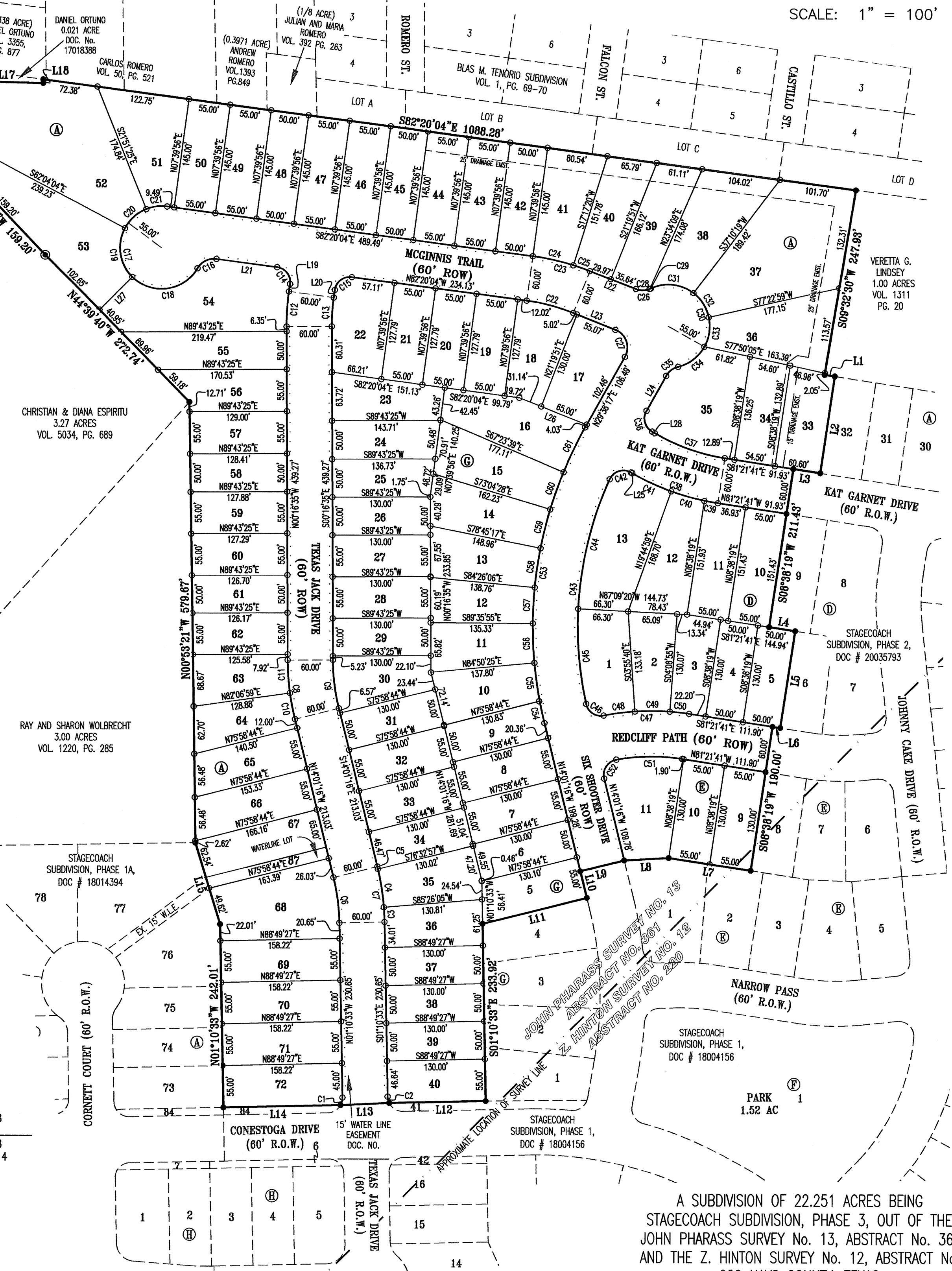
SCALE: 1" = 100'



- LEGEND**
- CAPPED IRON ROD SET
  - CAPPED IRON ROD FOUND
  - 1/2" IRON PIPE FOUND
  - 11 LOT NUMBER
  - Ⓐ BLOCK DESIGNATION
  - APPROXIMATE LOCATION OF SIDEWALK

DATE: NOVEMBER 6, 2020  
ACREAGE: 22.251 ACRES  
SURVEY: JOHN PHARASS SURVEY No. 13, ABSTRACT No. 361  
Z. HINTON SURVEY No. 12, ABSTRACT No. 220  
HAYS COUNTY, TEXAS  
ZONING: R-1-3  
TOTAL NUMBER OF LOTS: 88  
NUMBER OF SINGLE FAMILY LOTS: 88  
NUMBER OF BLOCKS: 4

OWNER:  
KB HOME LONE STAR INC.  
10800 PECAN PARK BLVD., STE. 200  
AUSTIN, TX 78750  
(512) 651-8100 phone  
(512) 795-6181 fax  
ENGINEER & SURVEYOR:  
CARLSON, BRIGANCE & DOERING, INC.  
5501 WEST WILLIAM CANNON DRIVE  
AUSTIN, TX 78749  
(512)-280-5160 phone  
(512)-280-5165 fax



A SUBDIVISION OF 22.251 ACRES BEING STAGECOACH SUBDIVISION, PHASE 3, OUT OF THE JOHN PHARASS SURVEY No. 13, ABSTRACT No. 361 AND THE Z. HINTON SURVEY No. 12, ABSTRACT No. 220 HAYS COUNTY, TEXAS

**Carlson, Brigance & Doering, Inc.**  
FIRM ID #F3791 REG. # 10024900  
Civil Engineering Surveying  
5501 West William Cannon Austin, Texas 78749  
Phone No. (512) 280-5160 Fax No. (512) 280-5165

STAGECOACH SUBDIVISION PHASE 3  
FINAL PLAT

Curve Table					
Curve #	Length	Radius	Chord Direction	Chord Length	Tangent
C1	10.47	20.00	N13°49'27"E	10.35	5.36
C2	8.63	20.00	S13°31'56"E	8.56	4.38
C3	19.52	330.00	S02°52'14"E	19.52	9.76
C4	51.18	330.00	S09°00'29"E	51.13	25.64
C5	3.28	330.00	S13°44'10"E	3.28	1.64
C6	60.53	270.00	N07°35'54"W	60.40	30.39
C7	73.98	330.00	N07°35'54"W	73.83	37.15
C8	78.16	330.00	S07°08'55"E	78.97	38.77
C9	64.77	270.00	S07°08'55"E	64.62	32.54
C10	35.35	330.00	N10°57'08"W	35.33	17.69
C11	43.81	330.00	N04°04'48"W	43.78	21.94
C12	46.27	330.00	S03°44'25"W	46.23	23.17
C13	37.85	270.00	S03°44'25"W	37.82	18.96
C14	31.45	20.00	N37°17'20"W	28.31	20.03
C15	31.38	20.00	S52°42'40"W	28.26	19.97
C16	28.66	25.00	S63°40'40"W	27.95	16.85
C17	238.04	55.00	S28°19'20"E	91.21	81.50
C18	100.91	55.00	S82°14'55"W	87.34	71.83
C19	70.19	55.00	N08°37'49"W	65.53	40.79
C20	38.60	55.00	N48°02'15"E	37.81	20.13
C21	28.34	55.00	N82°54'16"E	28.03	14.49
C22	64.40	270.00	S75°30'07"E	64.24	32.35
C23	78.71	330.00	N75°30'07"E	78.52	39.54
C24	55.43	330.00	S77°31'22"E	55.36	27.78
C25	23.28	330.00	S70°41'24"E	23.27	11.64
C26	20.32	25.00	S80°02'49"W	19.76	10.76
C27	42.89	25.00	N19°30'56"W	37.82	28.92
C28	18.61	25.00	N90°00'00"E	18.19	9.76
C29	1.70	25.00	N66°42'59"E	1.70	0.85
C30	183.77	55.00	N19°30'56"W	109.45	548.99
C31	58.91	55.00	S84°01'56"E	56.99	33.31
C32	38.60	55.00	S32°43'21"E	37.81	20.13
C33	40.17	55.00	S08°18'19"W	39.28	21.03
C34	45.10	55.00	S52°43'00"W	43.84	23.90
C35	20.32	25.00	N52°55'18"E	19.76	10.76
C36	31.42	20.00	S15°21'43"E	28.28	20.00
C37	98.96	270.00	S70°51'42"E	98.40	50.04
C38	120.95	330.00	S70°51'42"E	120.27	61.16
C39	18.08	330.00	N78°47'30"W	18.08	9.04
C40	45.91	330.00	N74°14'10"W	45.88	22.99
C41	56.95	330.00	N65°18'22"W	56.88	28.55
C42	33.23	20.00	S72°02'39"W	29.54	21.90
C43	304.44	470.00	N05°53'38"E	299.14	157.77
C44	177.23	470.00	S13°38'50"W	176.19	89.68
C45	127.20	470.00	S04°54'32"E	126.81	63.99
C46	30.89	20.00	S56°54'28"E	27.91	19.48
C47	113.87	330.00	S88°45'13"W	113.30	57.51
C48	41.49	330.01	N82°28'13"E	41.46	20.77
C49	46.52	330.00	S89°53'23"E	46.48	23.30
C50	25.86	330.00	S85°36'23"E	25.85	12.94
C51	87.85	270.00	S89°19'01"W	87.47	44.32
C52	32.82	20.00	S32°59'14"W	29.26	21.45
C53	403.86	530.00	S07°48'30"W	394.16	212.30
C54	29.66	530.00	N12°25'04"W	29.66	14.83
C55	51.21	530.00	N08°02'48"W	51.19	25.62
C56	52.54	530.00	N02°28'20"W	52.52	26.29
C57	47.76	530.00	N02°58'59"E	47.75	23.90
C58	52.54	530.00	N08°24'18"E	52.52	26.29
C59	52.54	530.00	N14°05'07"E	52.52	26.29
C60	52.54	530.00	N19°45'56"E	52.52	26.29
C61	65.05	530.00	N26°07'19"E	65.01	32.57

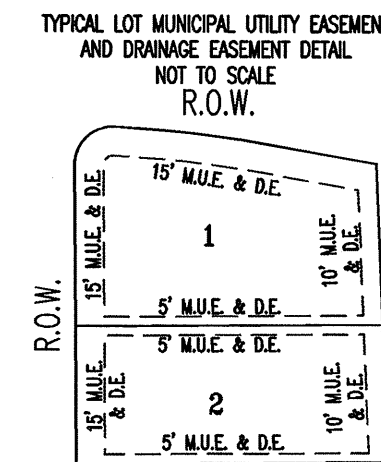
AREA TABLE		
AREA WITHIN SUBDIVISION	22.251 ACRES	(969,269 SQUARE FEET)
AREA OF SINGLE FAMILY LOTS	17.872 ACRES	(778,536 SQUARE FEET)
AREA WITHIN STREETS	4.378 ACRES	(190,726 SQUARE FEET)

BLOCK 'A'			BLOCK 'D'		
LOT NO.	ACREAGE	SQ. FT.	LOT NO.	ACREAGE	SQ. FT.
33	0.182	7,917	1	0.212	9,236
34	0.168	7,334	2	0.167	7,294
35	0.322	14,027	3	0.159	6,918
36	0.285	12,422	4	0.149	6,500
37	0.550	23,979	5	0.149	6,500
38	0.300	13,072	10	0.191	8,329
39	0.221	9,622	11	0.191	8,332
40	0.214	9,328	12	0.224	9,764
41	0.229	9,953	13	0.329	14,322
42	0.166	7,250	BLOCK 'E'		
43	0.183	7,975	LOT NO.		
44	0.183	7,975	9	0.164	7,150
45	0.166	7,250	10	0.164	7,150
46	0.183	7,975	11	0.256	11,152
47	0.183	7,975	BLOCK 'G'		
48	0.166	7,250	LOT NO.		
49	0.183	7,975	5	0.172	7,500
50	0.183	7,975	6	0.149	6,500
51	0.274	11,293	7	0.164	7,150
52	0.640	27,860	8	0.164	7,150
53	0.412	17,963	9	0.149	6,509
54	0.416	18,101	10	0.189	8,221
55	0.224	9,750	11	0.185	8,045
56	0.183	7,977	12	0.169	7,365
57	0.162	7,078	13	0.196	8,547
58	0.147	6,407	14	0.216	9,416
59	0.161	7,017	15	0.236	10,299
60	0.160	6,984	16	0.259	11,283
61	0.145	6,321	17	0.218	9,497
62	0.159	6,923	18	0.195	8,506
63	0.174	7,599	19	0.161	7,028
64	0.168	7,309	20	0.161	7,028
65	0.185	8,080	21	0.161	7,028
66	0.202	8,786	22	0.214	9,333
67	0.246	10,733	23	0.180	7,846
68	0.329	14,327	24	0.161	7,011
69	0.200	8,702	25	0.153	6,663
70	0.200	8,702	26	0.149	6,500
71	0.200	8,702	27	0.164	7,150
72	0.200	8,693	28	0.164	7,150
			29	0.149	6,500
			30	0.182	7,915
			31	0.149	6,500
			32	0.164	7,150
			33	0.164	7,150
			34	0.150	6,552
			35	0.185	8,056
			36	0.171	7,467
			37	0.149	6,500
			38	0.149	6,500
			39	0.149	6,500
			40	0.164	7,145

Line Table		
Line #	Length	Direction
L1	13.76	S81°22'15"E
L2	127.95	S08°38'19"W
L3	36.06	N61°21'41"W
L4	34.94	S81°21'41"E
L5	130.00	S08°38'19"W
L6	10.29	N61°21'41"W
L7	110.00	N61°21'41"W
L8	59.24	S88°48'16"W
L9	60.00	S75°58'44"W
L10	36.07	S140°11'06"E
L11	142.64	S75°58'44"W
L12	128.17	S88°48'27"W
L13	64.53	S87°22'09"W
L14	155.54	S88°48'27"W

Line Table		
Line #	Length	Direction
L15	112.17	N17°06'23"W
L16	115.57	N07°23'48"E
L17	91.94	S88°38'05"E
L18	5.02	N00°35'56"E
L19	10.20	S07°45'24"W
L20	10.36	N07°45'24"E
L21	81.19	N82°20'04"W
L22	65.61	N88°40'09"W
L23	60.09	S88°40'09"E
L24	52.70	S29°38'17"W
L25	2.16	N60°21'43"W
L26	96.14	N88°40'09"W
L27	61.58	S44°48'27"W
L28	4.00	S60°21'43"E

LOT SIZE	NO.
< 1 ACRE	88
1-2 ACRE	0
2-5 ACRE	0
5-10 ACRE	0
> 10 ACRE	0
MINIMUM LOT SIZE: 0.147 AC (6,407 sq. ft.)	
AVERAGE LOT SIZE: 0.203 AC (8,847 sq. ft.)	



RECORD DRAWINGS

A SUBDIVISION OF 22.251 ACRES BEING STAGECOACH SUBDIVISION, PHASE 3, OUT OF THE JOHN PHARASS SURVEY No. 13, ABSTRACT No. 361 AND THE Z. HINTON SURVEY No. 12, ABSTRACT No. 220 HAYS COUNTY, TEXAS

**Carlson, Brigance & Doering, Inc.**  
FIRM ID #F3791 REG. # 10024900  
Civil Engineering Surveying  
5501 West William Cannon Austin, Texas 78749  
Phone No. (512) 280-5160 Fax No. (512) 280-5165



STAGECOACH SUBDIVISION PHASE 3  
FINAL PLAT

STATE OF TEXAS }  
COUNTY OF HAYS }

KNOW ALL MEN BY THESE PRESENTS:  
THAT KB HOME LONE STAR INC., BEING THE OWNER OF \_\_\_\_\_ ACRES OF LAND OUT OF THE JOHN PHARASS SURVEY  
NUMBER 13, ABSTRACT NUMBER 361 AND THE Z. HINTON SURVEY NUMBER 12, ABSTRACT NUMBER 220 SITUATED IN HAYS COUNTY,  
TEXAS, AS CONVEYED BY DEED RECORDED IN DOCUMENT NUMBER \_\_\_\_\_ OF THE OFFICIAL PUBLIC RECORDS OF HAYS  
COUNTY, TEXAS, DO HEREBY SUBDIVIDE 22.251 ACRES OF LAND IN ACCORDANCE WITH THIS PLAT, TO BE KNOWN AS:

STAGECOACH SUBDIVISION PHASE 3

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

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

\_\_\_\_\_  
KB HOME LONE STAR INC.  
JOHN ZINSMEYER, VICE PRESIDENT  
10800 PECAN PARK BLVD., STE. 200  
AUSTIN, TX 78750

STATE OF TEXAS }  
COUNTY OF HAYS }

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED JOHN ZINSMEYER, KNOWN TO ME TO BE THE PERSON  
WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE  
PURPOSE AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

\_\_\_\_\_  
PRINTED NOTARY NAME  
MY COMMISSION EXPIRES: \_\_\_\_\_

THIS FINAL PLAT, STAGECOACH SUBDIVISION PHASE 3, HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING AND ZONING  
COMMISSION OF THE CITY OF KYLE, TEXAS AND IS HEREBY APPROVED BY SUCH PLANNING AND ZONING COMMISSION. DATED THIS  
\_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, A.D.

\_\_\_\_\_  
CHAIRPERSON

STATE OF TEXAS }  
COUNTY OF HAYS }

REVIEWED BY

\_\_\_\_\_  
LEON BARBA, CITY ENGINEER

STATE OF TEXAS }  
COUNTY OF HAYS }

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

DO HEREBY CERTIFY THAT NO PORTION OF THIS PROPERTY IS LOCATED WITHIN A DESIGNATED 100-YEAR FLOOD ZONE AREA,  
AS DELINEATED ON THE FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANELS 48209C 0385F, DATED SEPTEMBER 2, 2005,  
AS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. ADDITIONALLY, STORMWATER RUNOFF FROM THE 100 YEAR  
STORM EVENT SHALL BE CONTAINED WITHIN THE DRAINAGE FACILITIES TO BE LOCATED WITHIN THE RIGHTS-OF-WAY, AND /OR  
OPEN SPACE AND DRAINAGE EASEMENT LOTS.

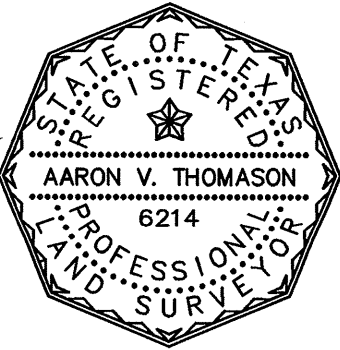
\_\_\_\_\_  
LEE A. WHITED, P.E. No. 102471  
CARLSON, BRIGANCE & DOERING, INC.  
5501 WEST WILLIAM CANNON  
AUSTIN, TEXAS 78749  
(512) 280-5160



STATE OF TEXAS }  
COUNTY OF HAYS }

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

SURVEYED BY: \_\_\_\_\_ DATE \_\_\_\_\_  
ARRON V. THOMASON, R.P.L.S. #6214  
CARLSON, BRIGANCE & DOERING, INC.  
5501 WEST WILLIAM CANNON DR.  
AUSTIN, TEXAS 78749  
araron@cbbdeng.com



THIS FLOOD STATEMENT, AS DETERMINED BY A H.U.D.-F.I.A. FLOOD INSURANCE RATE  
MAP, DOES NOT IMPLY THAT THE PROPERTY OR THE IMPROVEMENTS THEREON WILL BE  
FREE FROM FLOODING OR FLOOD DAMAGE. ON RARE OCCASIONS, GREATER FLOODS  
CAN AND WILL OCCUR, AND FLOOD HEIGHTS MAY INCREASE BY MAN-MADE OR  
NATURAL CAUSES.

THIS STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF ENGINEER OR  
SURVEYOR.

GENERAL NOTES:

1. SIDEWALKS SHALL BE NOT LESS THAN FOUR FEET IN WIDTH (ADA COMPLIANT) AND SHALL BE TWO FEET FROM CURB.  
SUCH SIDEWALKS SHALL BE INSTALLED AND CONSTRUCTED ON BOTH SIDES OF EACH RESIDENTIAL STREET AND BE  
SITUATED WHOLLY WITHIN THE DEDICATED RIGHT-OF-WAY.
2. A 15-FOOT WIDE MUNICIPAL UTILITY EASEMENT ABUTTING THE RIGHT-OF-WAY OF EACH STREET IS HEREBY DEDICATED AS  
AN EASEMENT FOR UTILITIES, DRAINAGE AND EXCAVATION AND/OR EMBANKMENTS.
3. A 10' MUNICIPAL UTILITY EASEMENT AND DRAINAGE EASEMENT IS HEREBY DEDICATED ALONG THE REAR PROPERTY LINES.
4. A 5' MUNICIPAL UTILITY EASEMENT AND DRAINAGE EASEMENT IS HEREBY DEDICATED ALONG THE SIDE PROPERTY LINES.
5. NO OBJECT INCLUDING SIGNAGE, BUILDING, ACCESSORY BUILDING, FENCING OR LANDSCAPING, WHICH WOULD INTERFERE  
WITH CONVEYANCE OF STORM WATER SHALL BE PLACED OR ERECTED WITHIN ANY DRAINAGE EASEMENT WITHOUT THE PRIOR  
APPROVAL OF THE CITY OF KYLE.
6. OWNER(S) OF PROPERTY WITH DRAINAGE AND UTILITY EASEMENT(S) SHALL ALLOW ACCESS FOR INSPECTIONS, REPAIR,  
MAINTENANCE AND RECONSTRUCTION AS MAY BE NECESSARY.
7. PRIOR TO CONSTRUCTION OF ANY IMPROVEMENTS ON LOTS IN THIS SUBDIVISION, BUILDING PERMITS WILL BE OBTAINED  
FROM THE CITY OF KYLE.
8. TYPICAL LANDSCAPE MAINTENANCE, CUTTING AND TRIMMING, WITHIN THE SUBDIVISION, ALL EASEMENTS, DETENTION PONDS  
AND RIGHT OF WAYS TO THE PAVEMENT TO BE THE RESPONSIBILITY OF PROPERTY OWNERS AND/OR PROPERTY OWNERS  
ASSOCIATIONS.
9. SIDEWALKS, PEDESTRIAN CROSSINGS AND OTHER PUBLIC AMENITIES TO BE DEDICATED TO THE CITY OF KYLE SHALL MEET  
OR EXCEED ALL 2010 ADA STANDARDS OF ACCESSIBILITY DESIGN AND ALL CURRENT FEDERAL AND STATE LAWS REGARDING  
ACCESS FOR PEOPLE WITH DISABILITIES FOR TITLE II ENTITIES.
10. ADJACENT LANE MILE FEE NOT REQUIRED FOR STAGECOACH SUBDIVISION. SCOTT STREET IMPROVEMENTS WILL BE  
CONSTRUCTED IN LIEU OF ADJACENT LANE MILE FEE.
11. POST-CONSTRUCTION STORMWATER CONTROL MEASURES SHALL HAVE A MAINTENANCE PLAN. THE MAINTENANCE PLAN MUST  
BE FILED IN THE REAL PROPERTY RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED. THE OWNER OR  
OPERATOR OF ANY NEW DEVELOPMENT OR REDEVELOPED SITE SHALL DEVELOP AND IMPLEMENT A MAINTENANCE PLAN  
ADDRESSING MAINTENANCE REQUIREMENTS FOR ANY STRUCTURAL CONTROL MEASURES INSTALLED ON SITE. OPERATION AND  
MAINTENANCE PERFORMANCE SHALL BE DOCUMENTED AND RETAINED ON SITE, SUCH AS AT THE OFFICES OF THE OWNER OR  
OPERATOR, AND MADE AVAILABLE FOR REVIEW BY THE CITY.
12. THE MAIL KIOSK SERVICING STAGECOACH SUBDIVISION, PHASE 3 IS LOCATED ON LOT 38, BLOCK C, STAGECOACH  
SUBDIVISION, PHASE 1, RECORDED IN DOCUMENT NUMBER 18004156, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

I, LIZ GONZALEZ, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT IN WRITING  
WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_, A.D., AT \_\_\_\_\_ O'CLOCK \_\_\_\_M. IN THE PLAT RECORDS OF  
HAYS COUNTY, TEXAS IN DOCUMENT NUMBER \_\_\_\_\_.

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

\_\_\_\_\_  
LIZ GONZALEZ BY: \_\_\_\_\_  
COUNTY CLERK  
HAYS COUNTY, TEXAS

STATE OF TEXAS }  
COUNTY OF HAYS }

REVIEWED BY

\_\_\_\_\_  
HARPER WILDER, DIRECTOR OF PUBLIC WORKS

A SUBDIVISION OF 22.251 ACRES BEING  
STAGECOACH SUBDIVISION, PHASE 3, OUT OF THE  
JOHN PHARASS SURVEY No. 13, ABSTRACT No. 361  
AND THE Z. HINTON SURVEY No. 12, ABSTRACT No.  
220 HAYS COUNTY, TEXAS



RECORD DRAWINGS



# CITY OF KYLE, TEXAS

## PEC Franchise Ordinance Amendment

**Meeting Date: 6/15/2021**  
**Date time: 7:00 PM**

**Subject/Recommendation:** *(Second Reading)* An Ordinance of the City of Kyle, Texas, Amending Ordinance 959, which Granted a Transmission and Distribution Electric Utility Franchise to Pedernales Electric Cooperative, Inc, to Address Matters Related to the Location of Facilities in an Urban Development District. ~ *Paige Saenz, City Attorney*

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

### **Other Information:**

### **Legal Notes:**

### **Budget Information:**

---

### **ATTACHMENTS:**

#### **Description**

- ☐ PEC Franchise Agreement Amendment
- ☐ PEC Franchise Agreement Amendment - Redline
- ☐ Easement.Electric.Streets.4.6.21[1]
- ☐ MUE Exhibit A\_Updated[1]
- ☐ MUE Exhibit B
- ☐ MUE Exhibit C

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF KYLE TEXAS, AMENDING ORDINANCE NO. 959 WHICH GRANTED A TRANSMISSION AND DISTRIBUTION ELECTRIC UTILITY FRANCHISE TO PEDERNALES ELECTRIC COOPERATIVE, INC. TO ADDRESS MATTERS RELATED TO THE LOCATION OF FACILITIES IN AN URBAN DEVELOPMENT DISTRICT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kyle, Texas (the “**City**”) granted to the Pedernales Electric Cooperative, Inc. (the “**Cooperative**”), a transmission and distribution electric utility franchise pursuant to Ordinance No. 959 (the “**Original Franchise**”); and

**WHEREAS**, the City desires to amend the Original Franchise to address the responsibility of the City and the Cooperative in relation to the installation of electric facilities in certain areas referred to herein as Urban Development Districts;

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

**Sec. 1 – Installation of Facilities in Urban Development Districts.** The Original Franchise is hereby amended by adding Section 4A to read as follows:

**Section 4A –Facilities Located in Urban Development Districts**

- (a) If Cooperative is requested to install facilities in an area designated by the City as a the Uptown Kyle section of the Plum Creek Planned Unit Development (“the Uptown District”) or any other zoning district or area in which there is insufficient space outside the Public Right-of-Way for the Cooperative to locate its facilities on private property whether in a Public Utility Easement, Municipal Utility Easement, or a private easement (the “Easement Tract”) (the Uptown District and such other zoning districts are herein referred to as the “Urban Development Districts”), the City may designate a distinct area within the Public Right-of-Way as a Public Utility Easement or Municipal Utility Easement, and the Cooperative to the extent that it is unable to obtain an easement on private property shall, to the extent its design and safety standards allow, locate such facilities in such area as directed by the City; provided, however, to the extent its design and safety standards require certain electric equipment (other than conduit containing electric lines, which shall be located underground in the Public Utility Easement or Municipal Utility Easement within the Public Right-of-Way to the extent that such costs are paid for the lines to be located underground by an entity other than the Cooperative) to be located outside such area, the City acknowledges such design and safety standards. The Cooperative shall reasonably cooperate with the City to cause facilities (other than the conduit containing electric lines which is addressed in the foregoing sentence) to be located in the Public Utility Easement or Municipal Utility Easement in the Public Right-of-Way in such instances where safety standards can be met. Relocation of Cooperative facilities within the Urban Development District at the request of the City shall be at the expense of the City.



- (b) If Cooperative's facilities in an Urban Development District are in a Public Utility Easement or Municipal Utility Easement within the Public Right-of-Way, and the City directs removal or relocation of such facilities, such removal or relocation of Cooperative's facilities shall be at the City's expense. Furthermore, the City will repair or cause the repair of damage to the pavement, asphalt, concrete, parking striping, and signage within the Easement Tract or to trees, bushes, landscaping, ground cover, and other vegetation within the other portions of the Easement Tract caused by the Cooperative's maintenance or repair of lines. The Cooperative will reasonably cooperate with the City to minimize damage to the paved portion of the right-of-way.

**Sec. 2. – Effect of Amendment.** The Original Franchise is hereby amended as provided in this Ordinance. In the event of a conflict between the Original Franchise and this Ordinance, this Ordinance shall control. This Amendment and the Original Franchise shall be referred to together as the "Franchise". Words and phrases used in this Ordinance shall, if defined in the Franchise and not specifically modified by this Ordinance, shall have the definition and meaning as provided in the Franchise.

**Sec 3. – Effective Date.** This Ordinance shall take effect immediately from and after is passage and adoption in accordance with the applicable provisions of Section 11.02 of the Home Rule Charter of the City of Kyle, and Chapter 52 of the Texas Local Government Code (the "Effective Date").

**Sec. 4. – 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, Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

**FINALLY PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

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

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

**ACKNOWLEDGED, ACCEPTED, AND AGREED TO:**

**PEDERNALES ELECTRIC COOPERATIVE, INC.**

BY: \_\_\_\_\_

NAME: \_\_\_\_\_



TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KYLE TEXAS, AMENDING ORDINANCE NO. 959 WHICH GRANTED A TRANSMISSION AND DISTRIBUTION ELECTRIC UTILITY FRANCHISE TO PEDERNALES ELECTRIC COOPERATIVE, INC. TO ADDRESS MATTERS RELATED TO THE LOCATION OF FACILITIES IN AN URBAN DEVELOPMENT DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City of Kyle, Texas (the “City”) granted to the Pedernales Electric Cooperative, Inc. (the “Cooperative”), a transmission and distribution electric utility franchise pursuant to Ordinance No. 959 (the “Original Franchise”); and

**WHEREAS**, the City desires to amend the Original Franchise to address the responsibility of the City and the Cooperative in relation to the installation of electric facilities in certain areas referred to herein as Urban Development Districts;

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

**Sec. 1 – Installation of Facilities in Urban Development Districts.** The Original Franchise is hereby amended by adding Section 4A to read as follows:

**Section 4A –Facilities Located in Urban Development Districts**

- (a) If Cooperative is requested to install facilities in an area designated by the City as a the Uptown Kyle section of the Plum Creek Planned Unit Development (“the Uptown District”) or any other zoning district or area in which there is insufficient space outside the Public Right-of-Way for the Cooperative to locate its facilities on private property whether in a Public Utility Easement, Municipal Utility Easement, or a private easement (the “Easement Tract”) (the Uptown District and such other zoning districts are herein referred to as the “Urban Development Districts”), the City may designate a distinct area within the Public Right-of-Way as a Public Utility Easement or Municipal Utility Easement, and the Cooperative to the extent that it is unable to obtain an easement on private property shall, to the extent its design and safety standards allow, locate such facilities in such area as directed by the City; provided, however, to the extent its design and safety standards require certain electric equipment (other than conduit containing electric lines, which shall be located underground in the Public Utility Easement or Municipal Utility Easement within the Public Right-of-Way to the extent that such costs are paid for the lines to be located underground by an entity other than the Cooperative) to be located outside such area, the City acknowledges such design and safety standards. The Cooperative shall reasonably cooperate with the City to cause facilities (other than the conduit containing electric lines which is addressed in the foregoing sentence) to be located in the Public Utility Easement or Municipal Utility Easement in the Public Right-of-Way in such instances where safety standards can be met. Relocation of Cooperative facilities within the Urban Development District at the request of the Cooperative-City shall be subject to Section 3(a) of Ordinance No. 959 at the expense of the City.

- (b) If Cooperative's facilities in an Urban Development District are in a Public Utility Easement or Municipal Utility Easement within the Public Right-of-Way, and the City directs removal or relocation of such facilities, such removal or relocation of Cooperative's facilities shall be at the City's expense. Furthermore, the City will repair or cause the repair of damage to the pavement, asphalt, concrete, parking striping, and signage within the Easement Tract or to trees, bushes, landscaping, ground cover, and other vegetation within the other portions of the Easement Tract caused by the Cooperative's maintenance or repair of lines. The Cooperative will reasonably cooperate with the City to minimize damage to the paved portion of the right-of-way.

**Sec. 2. – Effect of Amendment.** The Original Franchise is hereby amended as provided in this Ordinance. In the event of a conflict between the Original Franchise and this Ordinance, this Ordinance shall control. This Amendment and the Original Franchise shall be referred to together as the "Franchise". Words and phrases used in this Ordinance shall, if defined in the Franchise and not specifically modified by this Ordinance, shall have the definition and meaning as provided in the Franchise.

**Sec 3. – Effective Date.** This Ordinance shall take effect immediately from and after is passage and adoption in accordance with the applicable provisions of Section 11.02 of the Home Rule Charter of the City of Kyle, and Chapter 52 of the Texas Local Government Code (the "Effective Date").

**Sec. 4. – 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, Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

**FINALLY PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

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

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

**ACKNOWLEDGED, ACCEPTED, AND AGREED TO:**

**PEDERNALES ELECTRIC COOPERATIVE, INC.**

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**MUNICIPAL UTILITY EASEMENT**  
**ELECTRIC UTILITIES**  
**(WITHIN STREET RIGHT-OF-WAY)**

**STATE OF TEXAS**                      §

**COUNTY OF HAYS**                      §

THE CITY OF KYLE, TEXAS (the “City”), the owner of the hereinafter described right-of-way located within the City of Kyle, Hays County, Texas, (the “Property”) hereby dedicates and designates the following portion of the right-of-way for use for electric utilities as set forth herein, subject to the continuing and future control and regulation of the use of such easement by the City, but to the extent the City has undertaken certain obligations herein, the City may not amend or diminish such obligations herein:

An easement situated in Kyle, Hays County, Texas, that is a strip of land ten feet in width, being five feet on each side of the centerline of the underground duct bank as built, shown in **Exhibit A**, and the land where the vaults shown in **Exhibit A**, are located (being the size of the surface area of the top of the vault) and the land that is five feet around the perimeter of said vaults, except where an adjacent property line is located less than five feet from the perimeter of said vaults, the easement area shall terminate at the boundary of said property line (the “**Easement Tract**”).

This Easement is a non-exclusive, perpetual easement for the purpose of placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocating, and removing, or causing to be placed, constructed, operated, repaired, maintained, rebuilt, replaced, relocated, and removed, structures or improvements reasonably necessary and useful for: an underground electric distribution line consisting of variable number of wires, and all necessary or desirable appurtenances and other facilities useful or necessary for the transmission and distribution of electric utility service including fiber optic communications owned and operated by the electric utility as may be necessary for as related to the transmission or distribution of electricity, energy, power, light, heat, or energy services or other services provided by the electric utility located within one or more conduits or vaults (the “**Facilities**”) in, under and across the Easement Tract more fully described in **Exhibit “A”** attached hereto.

This Easement is subject to the following covenants:

1. The City reserves the right to use the Easement Tract for all purposes that do not unreasonably interfere with or prevent the use of the Easement Tract as provided herein. Specifically, and without limiting the generality of the foregoing, the City has

- the right to install, construct, own, operate, maintain, repair, control and regulate roadways, streets, trails, and driveways; facilities in which underground telecommunication, cable, fiber, and other electronic data transmission facilities, and similar utilities are to be installed, located, maintained, repaired, replaced, and operated as permitted by the City (a general illustration of which is attached hereto as **Exhibit B**); water, reclaimed water, sanitary sewer and wastewater mains, wastewater line and pipes; natural gas lines and systems; storm sewer, drainage, and systems for the conveyance of stormwater run-off; landscaping; and signage on, in, under, over and across the Easement Tract so long as such use does not unreasonably interfere with or prevent the use of the Easement Tract as provided herein; provided, however, the City may not construct any buildings or similar improvements on the Easement Tract.
2. This Easement is being dedicated within the boundaries of public right-of-way. In the event of any conflicts between the Easement granted herein and the instrument dedicating the public right-of-way, this Easement governs.
  3. The Facilities will generally be located under the portion of the right-of-way designated for parking and additionally where needed for connectivity of such Facilities in the shared travelled lanes of the right-of-way and such other portions as may be required as generally depicted on **Exhibit C** attached hereto and incorporated herein for all purposes. Specifically, and without limiting the generality of the rights of the City retained herein, the City shall have the right to place, construct, operate, repair, replace any pavement, asphalt, concrete, parking striping, and signage on, in, under, over and across the Easement Tract and to use the Easement Tract for public parking and right-of-way provided, however, that such pavement, asphalt, concrete, parking or parking striping or signage will not be placed above electric utility vaults in a manner that will interfere with appropriate clearances on the top of the equipment doors or any other necessary points of access to electric facilities.
  4. The Easement Tract also include portions of the right-of-way used for pedestrian sidewalks. The only portion of the Facilities that may be located in the portion of the right-of-way that is used as a sidewalk will be “service stub-outs,” including, primary or secondary electric service to adjacent private property, and such “service stub-outs” will be located to the maximum extent possible in the portion of the right-of-way that serves as an entrance to private alleys and will be located generally as depicted in **Exhibit “C”** attached hereto and incorporated herein for all purposes; provided, however, the City acknowledges that if private alleys are unavailable for such “service stub-outs” Facilities may be placed across any portion of the ROW adjacent to private property, subject to approval of the City Engineer which shall not be unreasonably withheld, and is dependent on the finalized design for the Facilities.

5. The use of this Easement includes the placement, construction, operation, repair, maintenance, rebuilding, replacement, relocation, and removal of conduit for electric facilities and related structures and improvements reasonably necessary and useful for the Facilities. In addition, the use of the Easement by Pedernales Electric Cooperative, Inc. (“**PEC**”) includes: (a) the right to inspect, patrol, relocate, remove, and maintain the electric facilities within the Easement Tract or other portions of the Property as may be required; and (b) the right to remove and trim trees and vegetation, or parts thereof, or other obstructions with prior notice to the City which endanger or may interfere with the efficiency of the electric facilities and may affect other utilities located within duct banks to address outages or other repairs or upgrades; provided, however, no prior notice to the City shall be required to the extent to address an emergency situation that threatens the public safety.
6. This Easement is dedicated, granted and accepted subject to any and all easements, covenants, rights-of way, conditions, restrictions, encumbrances, mineral reservations and royalty reservations, if any, relating to the Easement Tract to the extent and only to the extent, that the same may still be in force and effect, and either shown of record in the Office of the County Clerk of Hays County, Texas or apparent on the ground.
7. (a) Except as provided herein in Section 7(b) as to PEC, the repair of any damage to pavement, facilities, equipment, asphalt, concrete, parking striping, and signage within the Easement or to trees, bushes, landscaping, ground cover, and other vegetation within the other portions of the Easement Tract, caused by the construction, placement, installation, repair, maintenance, operation, rebuilding, replacing, relocation, or removal of the Facilities, shall be finalized by the utility or entity installing the Facilities within thirty (30) days of completion of any such work within or upon the Easement Tract or the Property so as to restore the Easement Tract or the Property and any improvements to substantially the same condition as existed prior to commencement of such construction, maintenance, repair or other work.  
  
(b) After the initial installation of the underground electric distribution facilities owned and operated by PEC for a phase of development, PEC shall not be liable to repair any damage to pavement, asphalt, concrete, parking striping, and signage within the Easement Tract or to trees, bushes, landscaping, ground cover, and other vegetation within the Easement Tract or other portions of the Property, caused by the construction, placement, installation, repair or maintenance, operation, rebuilding, replacing, relocation or removal of the underground electric distribution facilities within the Easement Tract or other portions of the Property caused by PEC. The City will be

responsible for causing such restoration of the Easement Tract or Property. PEC will reasonably cooperate with the City to minimize damage to the pavement, asphalt, concrete, parking striping, and signage, within the Easement Tract or Property or trees, bushes, landscaping, ground cover, and other vegetation within the Easement Tract or other portions of the Property to the extent PEC must construct, reconstruct, operate, inspect, patrol, relocate, remove, and maintain the electric facilities. This section does not apply to damage resulting from work or activities conducted by a contractor contracting with a person or entity other than PEC.

(c) If the City directs removal or relocation of PEC's electric facilities located within the Easement Tract or the Property, such removal or relocation of PEC's electric facilities shall be at the City's expense.

The covenants and terms of this Easement are covenants running with the land and enforcement of this Easement shall be proceedings at law or in equity against any person or persons violating or attempting to violate the restrictions of this Easement, either to restrain the violation or to recover damages. Invalidation of any of the restrictions or uses (covenants) by a judgment or court order shall not affect any of the other provisions of the easements herein, which shall remain in full force and effect.

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

Executed the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF \_\_\_\_\_, TEXAS

By: \_\_\_\_\_  
Travis Mitchell, Mayor



THE STATE OF TEXAS       §  
  §  
COUNTY OF HAYS       §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared Travis Mitchell, Mayor, on behalf of the City of Kyle, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

\_\_\_\_\_  
Notary Public - State of Texas

AFTER RECORDING RETURN TO:

City of Kyle  
Attn: City Secretary  
100 W. Center Street  
Kyle, Texas 78640

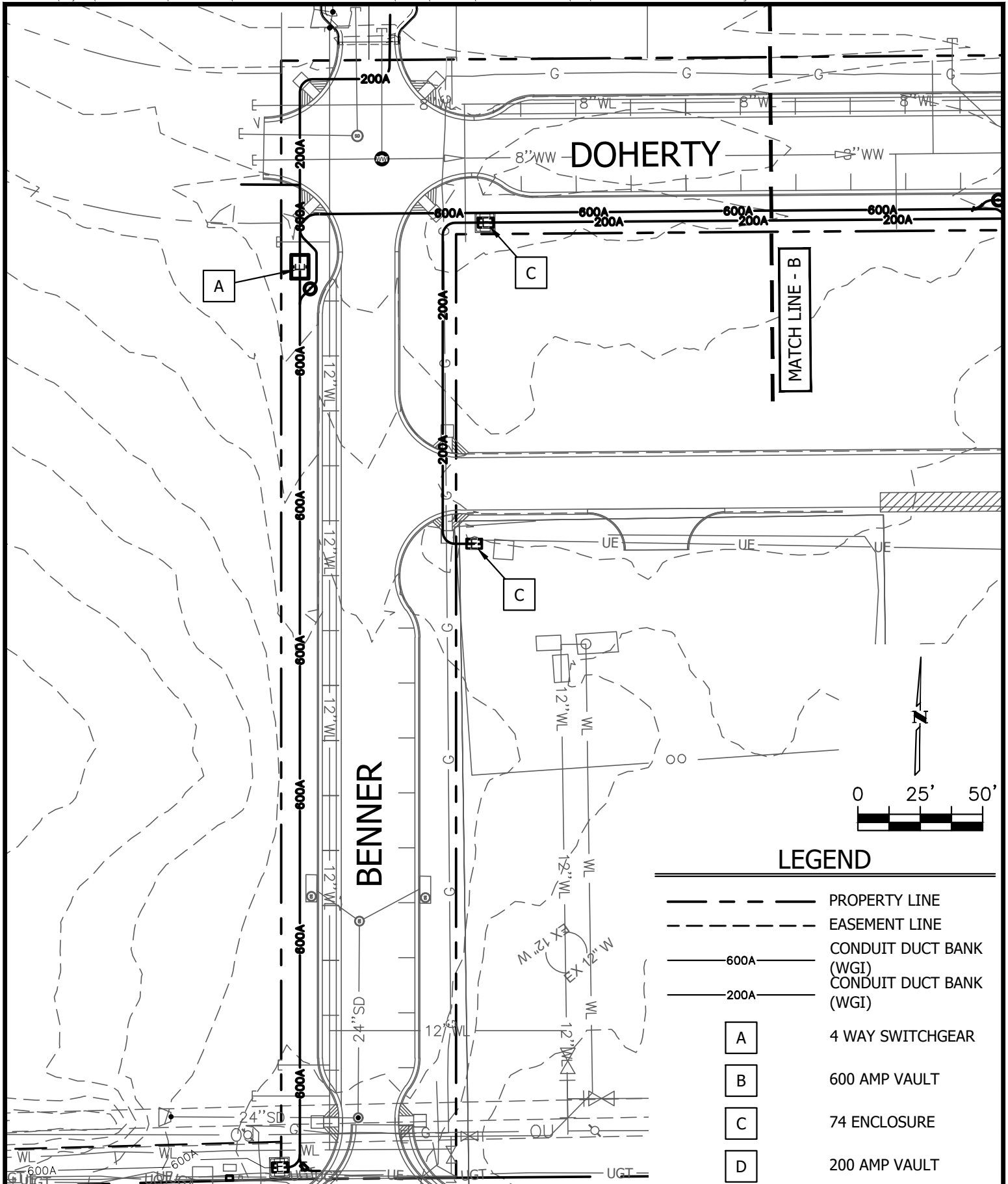
**EXHIBIT A**

**[Add as Exhibit A—the layout of the lines and vaults]**

**EXHIBIT B**  
**Duct Bank Cross Section**

**EXHIBIT C**  
**Street Cross Section**





FIRM No.: F-15085



512.669.5560  
2021 EAST 5TH STREET, SUITE 200, AUSTIN, TEXAS, 78702

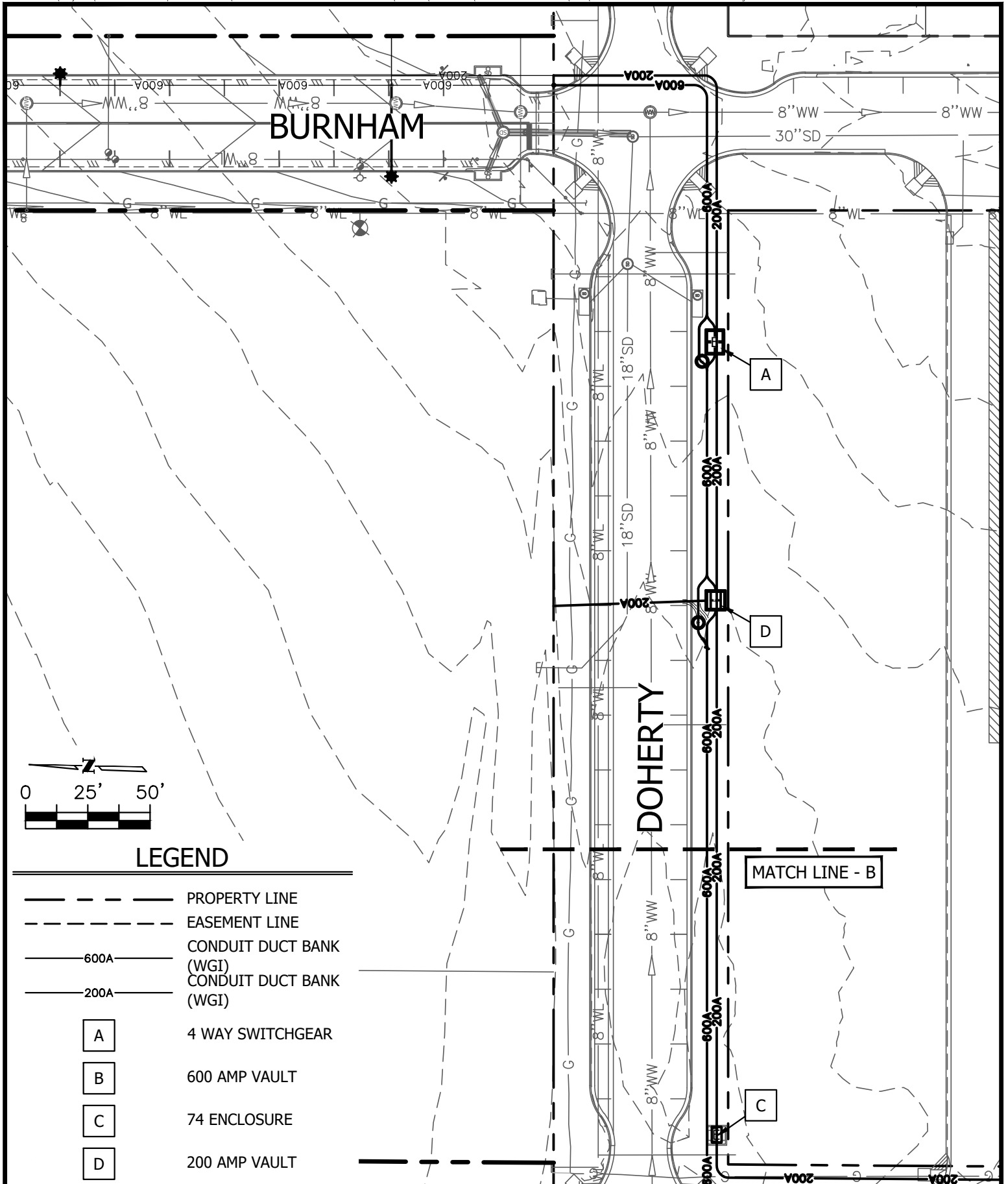
## MUE FOR ELECTRIC UTILITIES (WITHIN STREET RIGHT-OF-WAY)

PLUM CREEK UPTOWN PHASE 1A  
KOHLEERS CROSSING & KYLE PARKWAY, KYLE, TX 78640

EXHIBIT

A

Item # 12  
01 OF 06



## LEGEND

	PROPERTY LINE
	EASEMENT LINE
	CONDUIT DUCT BANK (WGI)
	CONDUIT DUCT BANK (WGI)
	4 WAY SWITCHGEAR
	600 AMP VAULT
	74 ENCLOSURE
	200 AMP VAULT

FIRM No.:F-15085



512.669.5560  
2021 EAST 5TH STREET, SUITE 200, AUSTIN, TEXAS, 78702

## MUE FOR ELECTRIC UTILITIES (WITHIN STREET RIGHT-OF-WAY)

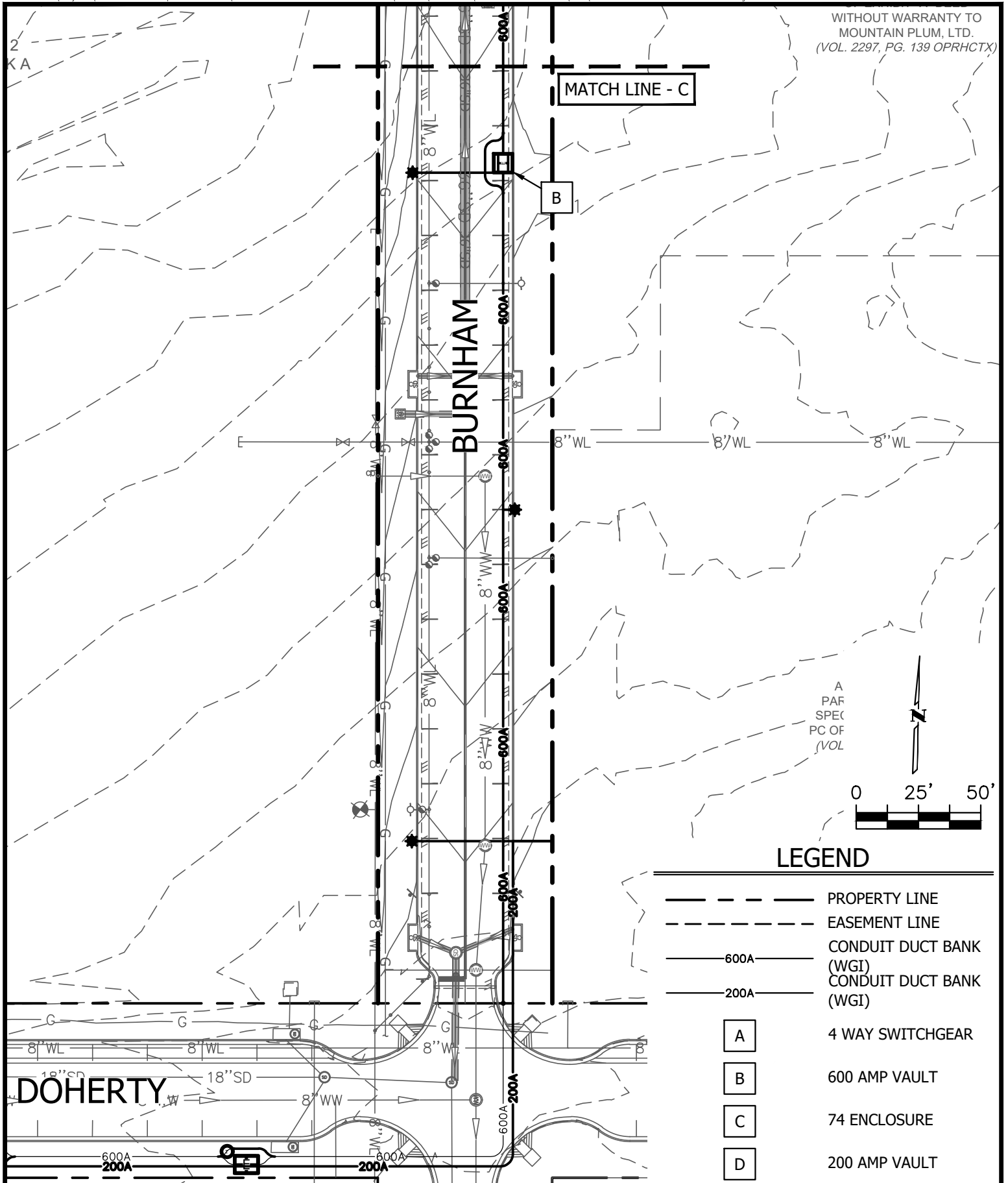
PLUM CREEK UPTOWN PHASE 1A  
KOHLEERS CROSSING & KYLE PARKWAY, KYLE, TX 78640

EXHIBIT

A

Item # 12  
02 OF 06

WITHOUT WARRANTY TO  
MOUNTAIN PLUM, LTD.  
(VOL. 2297, PG. 139 OPRHCTX)



## LEGEND

---	PROPERTY LINE
---	EASEMENT LINE
600A	CONDUIT DUCT BANK (WGI)
200A	CONDUIT DUCT BANK (WGI)
A	4 WAY SWITCHGEAR
B	600 AMP VAULT
C	74 ENCLOSURE
D	200 AMP VAULT

FIRM No.: F-15085



512.669.5560  
2021 EAST 5TH STREET, SUITE 200, AUSTIN, TEXAS, 78702

## MUE FOR ELECTRIC UTILITIES (WITHIN STREET RIGHT-OF-WAY)

PLUM CREEK UPTOWN PHASE 1A  
KOHLEERS CROSSING & KYLE PARKWAY, KYLE, TX 78640

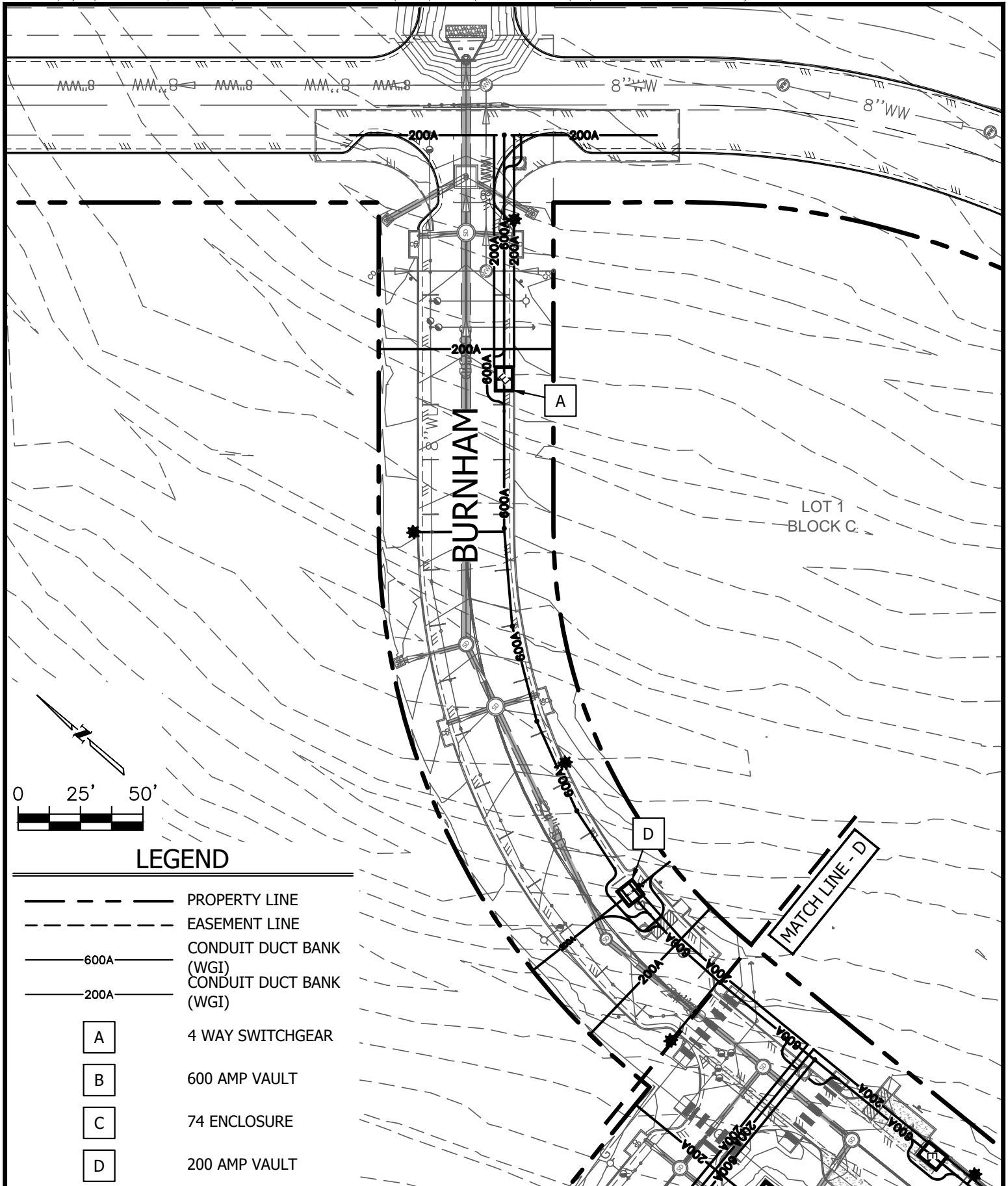
EXHIBIT

A

Item # 12  
03 OF 06



Item # 12  
04 OF 06



FIRM No.: F-15085

512.669.5560  
2021 EAST 5TH STREET, SUITE 200, AUSTIN, TEXAS, 78702

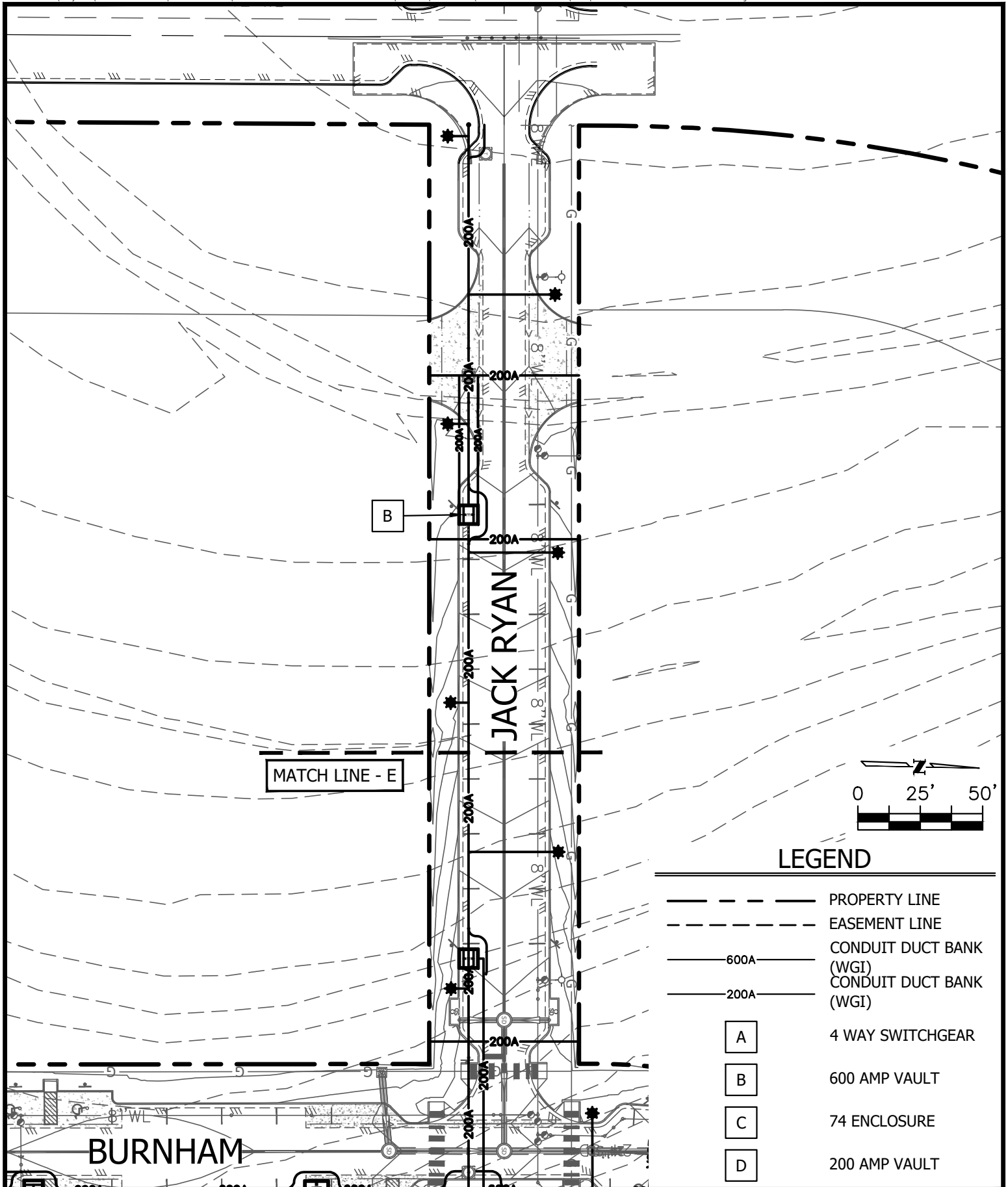
# MUE FOR ELECTRIC UTILITIES (WITHIN STREET RIGHT-OF-WAY)

PLUM CREEK UPTOWN PHASE 1A  
KOHLEERS CROSSING & KYLE PARKWAY, KYLE, TX 78640

EXHIBIT

A

Item # 12  
05 OF 06



### LEGEND

---	PROPERTY LINE
---	EASEMENT LINE
600A	CONDUIT DUCT BANK (WGI)
200A	CONDUIT DUCT BANK (WGI)
A	4 WAY SWITCHGEAR
B	600 AMP VAULT
C	74 ENCLOSURE
D	200 AMP VAULT

FIRM No.: F-15085



WGL Inc.  
512.669.5560  
2021 EAST 5TH STREET, SUITE 200, AUSTIN, TEXAS, 78702

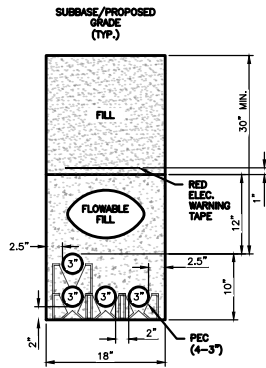
**MUE FOR ELECTRIC UTILITIES  
(WITHIN STREET RIGHT-OF-WAY)**

PLUM CREEK UPTOWN PHASE 1A  
KOHLEERS CROSSING & KYLE PARKWAY, KYLE, TX 78640

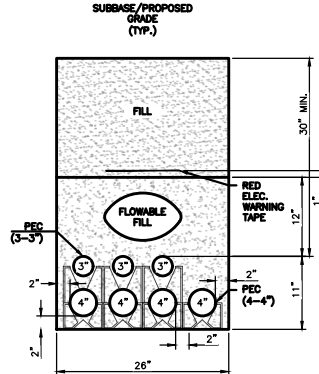
**EXHIBIT**

**A**

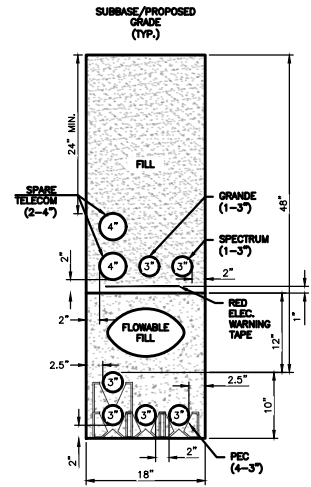
Item # 12  
06 OF 06



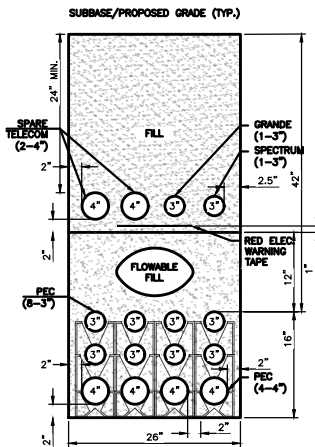
(4)-3" SECTION



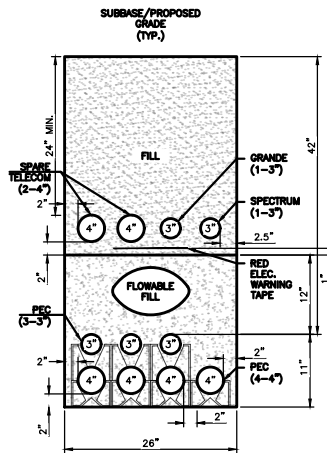
(4)-4", (3)-3" SECTION



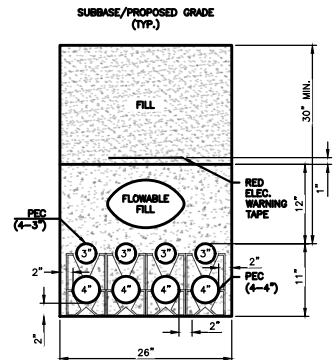
(4)-3" SECTION  
(WITH TELECOM)



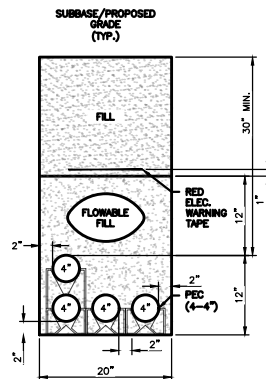
(4)-4", (8)-3" SECTION  
(WITH TELECOM)



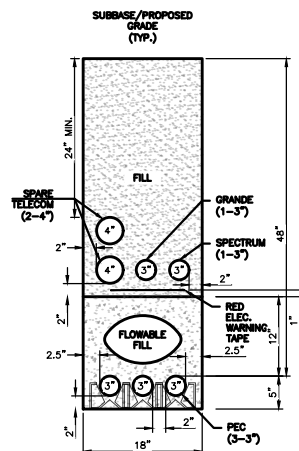
(4)-4", (3)-3" SECTION  
(WITH TELECOM)



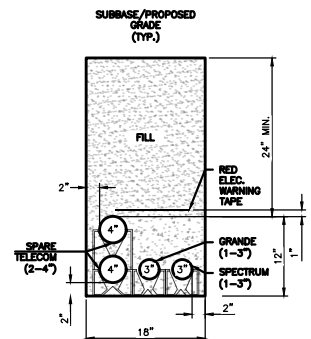
(4)-4", (4)-3" SECTION



(4)-4" SECTION



(3)-3" SECTION  
(WITH TELECOM)



(2)-4", (2)-3" SECTION  
(TELECOM ONLY)



FIRM No.: F-15085

512.669.5560  
2021 EAST 5TH STREET, SUITE 200, AUSTIN, TEXAS, 78702

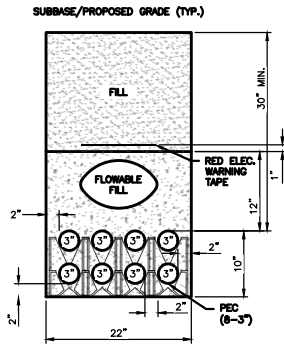
## DUCT BANK CROSS SECTIONS

PLUM CREEK UPTOWN PHASE 1A  
KOHLEERS CROSSING & KYLE PARKWAY, KYLE, TX 78640

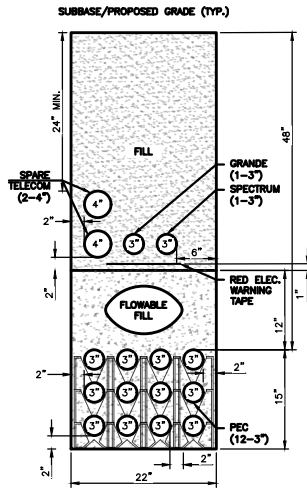
EXHIBIT

B

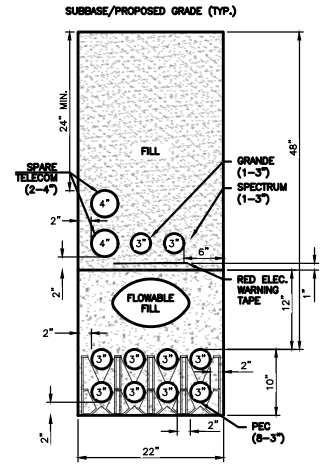
Item # 12  
01 OF 04



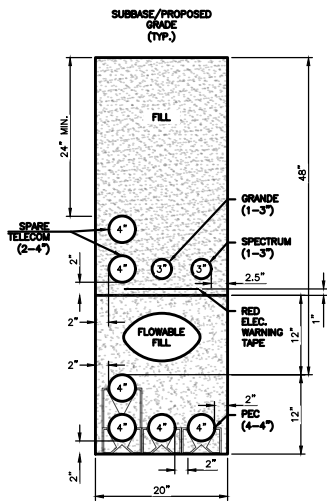
(8)-3" SECTION



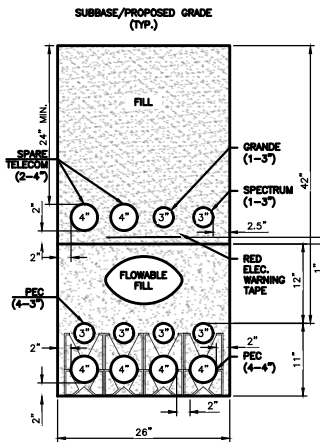
(12)-3" SECTION  
(WITH TELECOM)



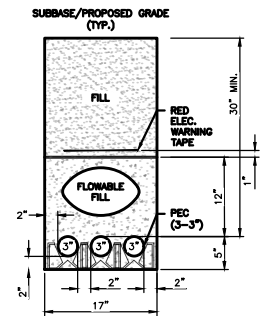
(8)-3" SECTION  
(WITH TELECOM)



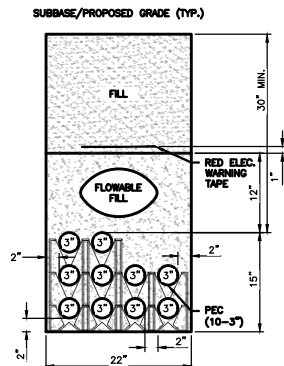
(4)-4" SECTION  
(WITH TELECOM)



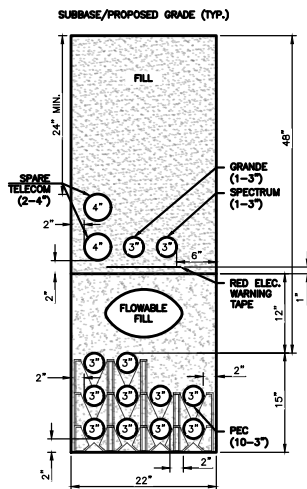
(4)-4", (4)-3" SECTION  
(WITH TELECOM)



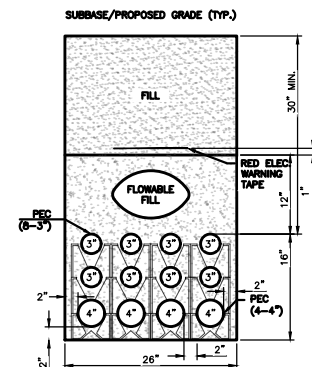
(3)-3" SECTION



(10)-3" SECTION



(10)-3" SECTION  
(WITH TELECOM)



(4)-4", (8)-3" SECTION



FIRM No.: F-15085

512.669.5560  
2021 EAST 5TH STREET, SUITE 200, AUSTIN, TEXAS, 78702

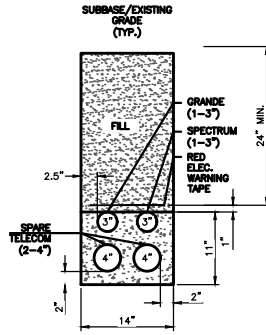
## DUCT BANK CROSS SECTIONS

PLUM CREEK UPTOWN PHASE 1A  
KOHLEERS CROSSING & KYLE PARKWAY, KYLE, TX 78640

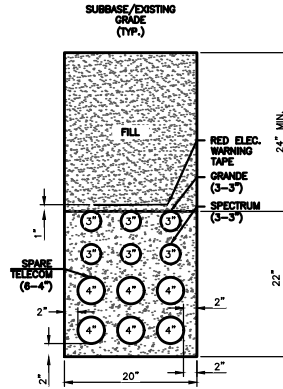
EXHIBIT

B

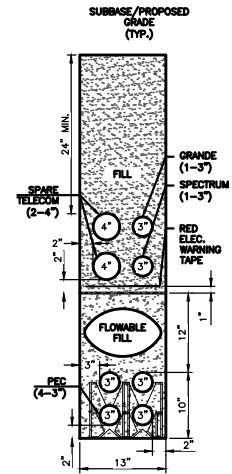
Item # 12  
02 OF 04



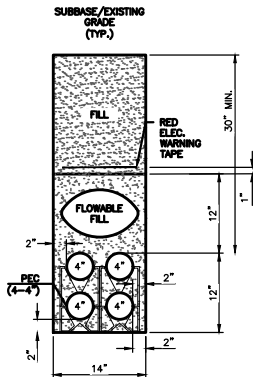
(2)-4", (2)-3" SECTION  
(TELECOM ONLY)



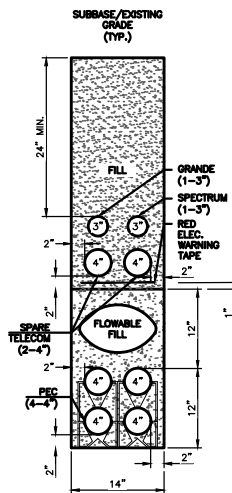
(6)-4", (6)-3" SECTION  
(TELECOM ONLY)



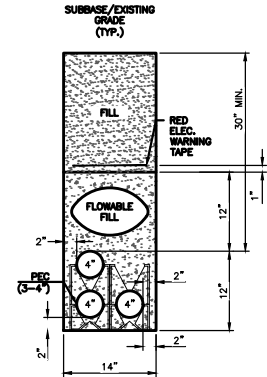
(4) - 3" W/ TEL SECTION



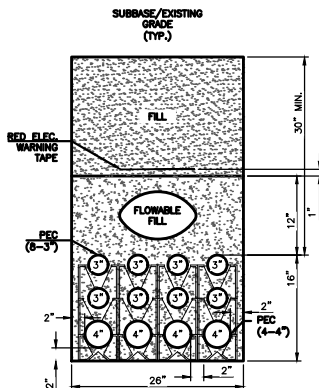
(4) - 4" SECTION



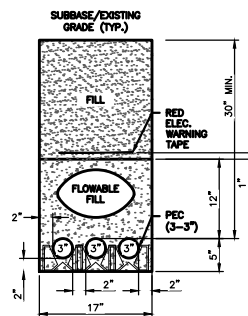
(4) - 4" W/ TEL SECTION



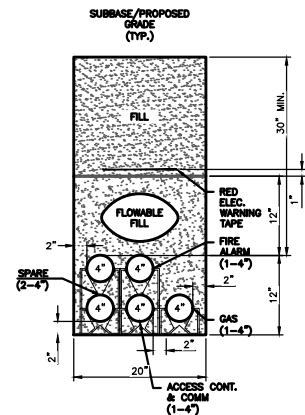
(3) - 4" SECTION



(4) - 4", (8) - 3" SECTION



(3) - 3" SECTION



(5)-4" SECTION (ADD. SLEEVE)



FIRM No.: F-15085

512.669.5560  
2021 EAST 5TH STREET, SUITE 200, AUSTIN, TEXAS, 78702

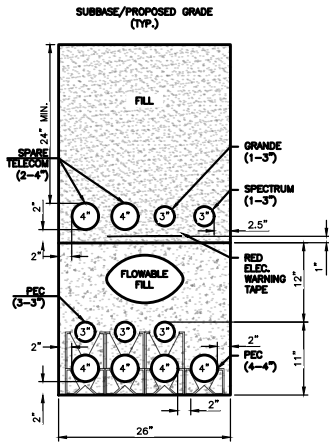
## DUCT BANK CROSS SECTIONS

PLUM CREEK UPTOWN PHASE 1A  
KOHLERS CROSSING & KYLE PARKWAY, KYLE, TX 78640

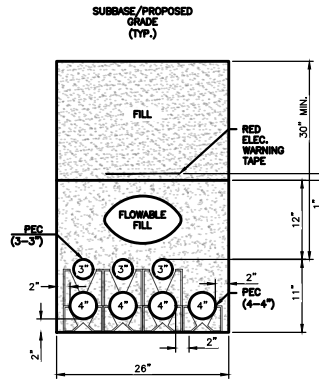
EXHIBIT

B

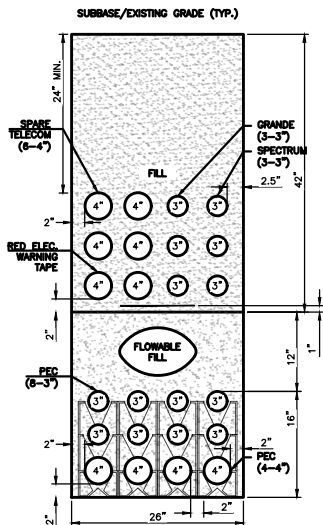
Item # 12  
03 OF 04



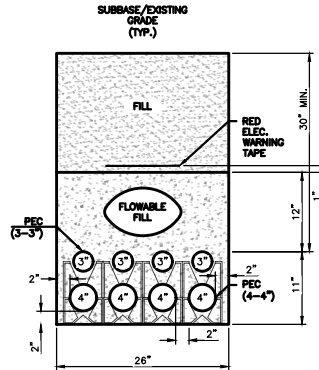
(4) - 4", (3) - 3" W/ TEL SECTION



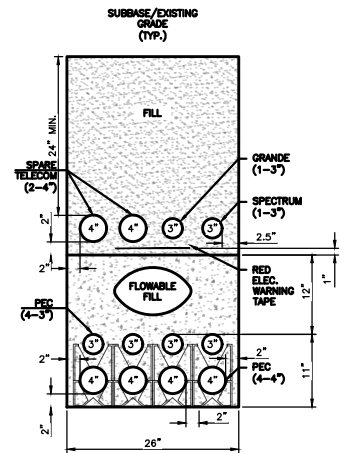
(4) - 4", (3) - 3" SECTION



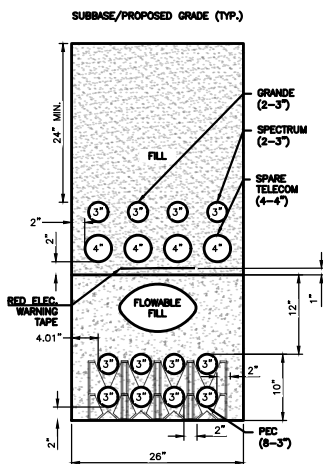
(4) - 4", (8) - 3" W/ TEL SECTION  
((6) - 4", (6) - 3")



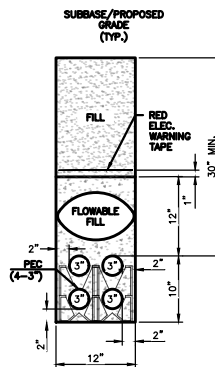
(4) - 4", (4) - 3" SECTION



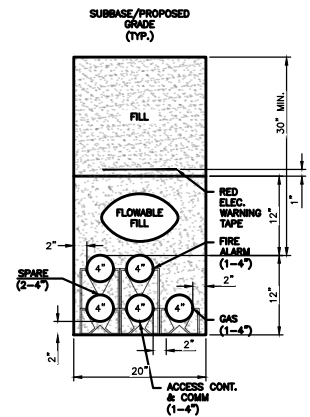
(4) - 4", (4) - 3" W/ TEL SECTION



(8) - 3" W/ TEL SECTION  
((4) - 4", (4) - 3")



(4) - 3" SECTION



(5)-4" SECTION (ADD. SLEEVE)



FIRM No.:F-15085

512.669.5560  
2021 EAST 5TH STREET, SUITE 200, AUSTIN, TEXAS, 78702

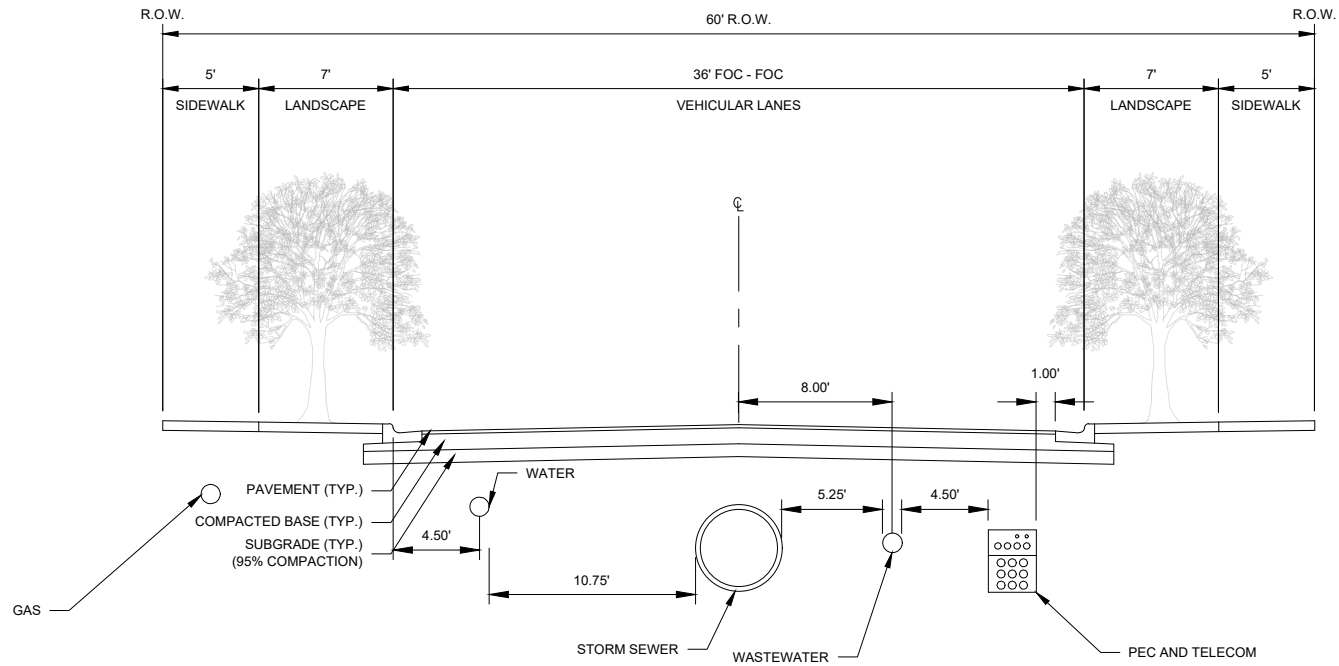
## DUCT BANK CROSS SECTIONS

PLUM CREEK UPTOWN PHASE 1A  
KOHLEERS CROSSING & KYLE PARKWAY, KYLE, TX 78640

EXHIBIT

B

Item # 12  
04 OF 04



TYPICAL THOROUGHFARE CROSS-SECTION  
N.T.S.

EXHIBIT C - STREET & UTILITY  
CROSS SECTION

UPTOWN PLUM CREEK  
KYLE, HAYS COUNTY, TEXAS

512.669.5560

WWW.BIGREDDOG.COM

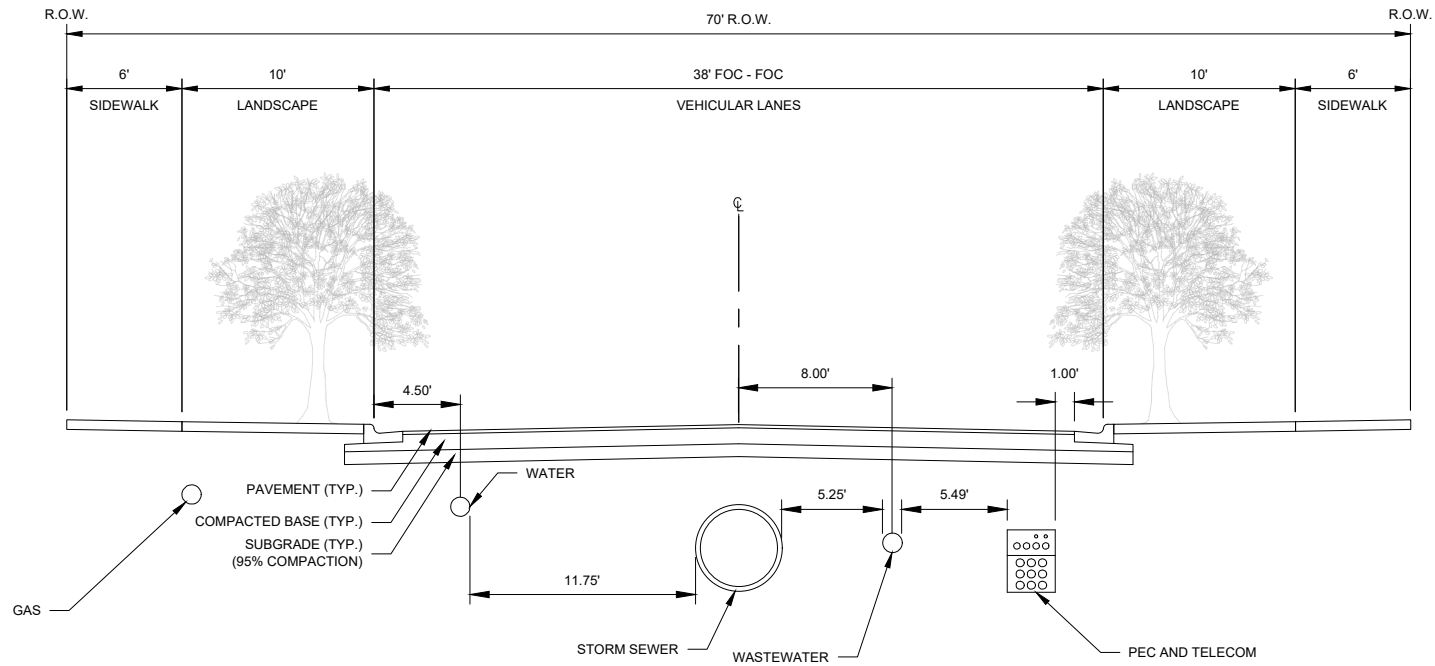


2021 E. 5TH STREET, SUITE 200  
AUSTIN, TEXAS 78702

FIRM NO: F-15085

Item # 12





TYPICAL THOROUGHFARE CROSS-SECTION  
N.T.S.

EXHIBIT C - STREET & UTILITY  
CROSS SECTION

UPTOWN PLUM CREEK  
KYLE, HAYS COUNTY, TEXAS

512.669.5560

WWW.BIGREDDOG.COM



2021 E. 5TH STREET, SUITE 200  
AUSTIN, TEXAS 78702

FIRM NO: F-15085

Item # 12



# CITY OF KYLE, TEXAS

## Heroes Memorial Park - Final Plat (SUB-21-0191)

**Meeting Date: 6/15/2021**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Heroes Memorial Park - Final Plat (SUB-21-0191) 5.5440 acres; 1 lot located on the northwest corner of Kohler's Crossing and Kyle Parkway intersection. ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-0 to approve the final plat.*

**Other Information:** See attached.

**Legal Notes:** N/A

**Budget Information:** N/A

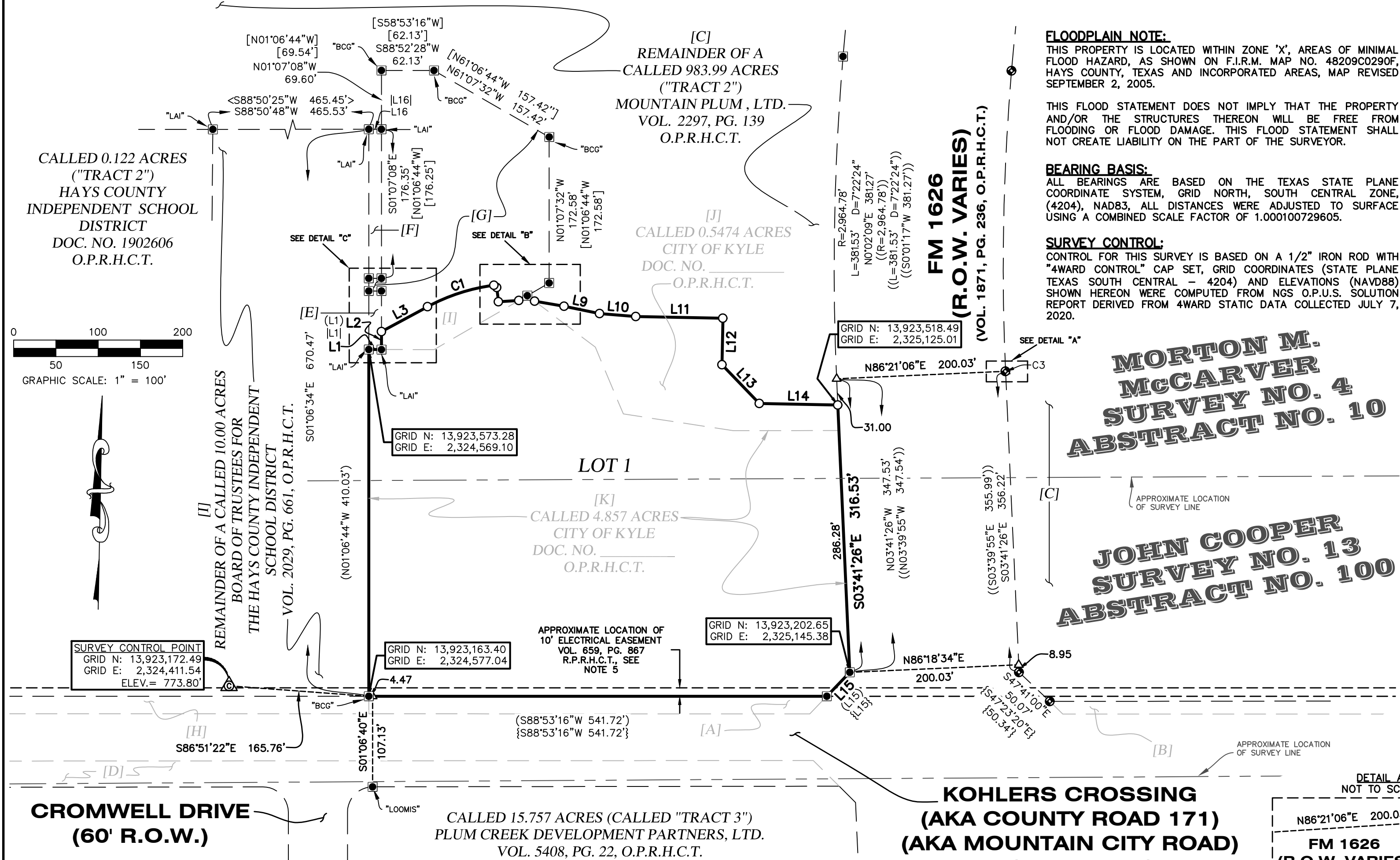
---

### ATTACHMENTS:

#### **Description**

❏ Final Plat

HEROES MEMORIAL PARK  
City of Kyle, Hays County, Texas

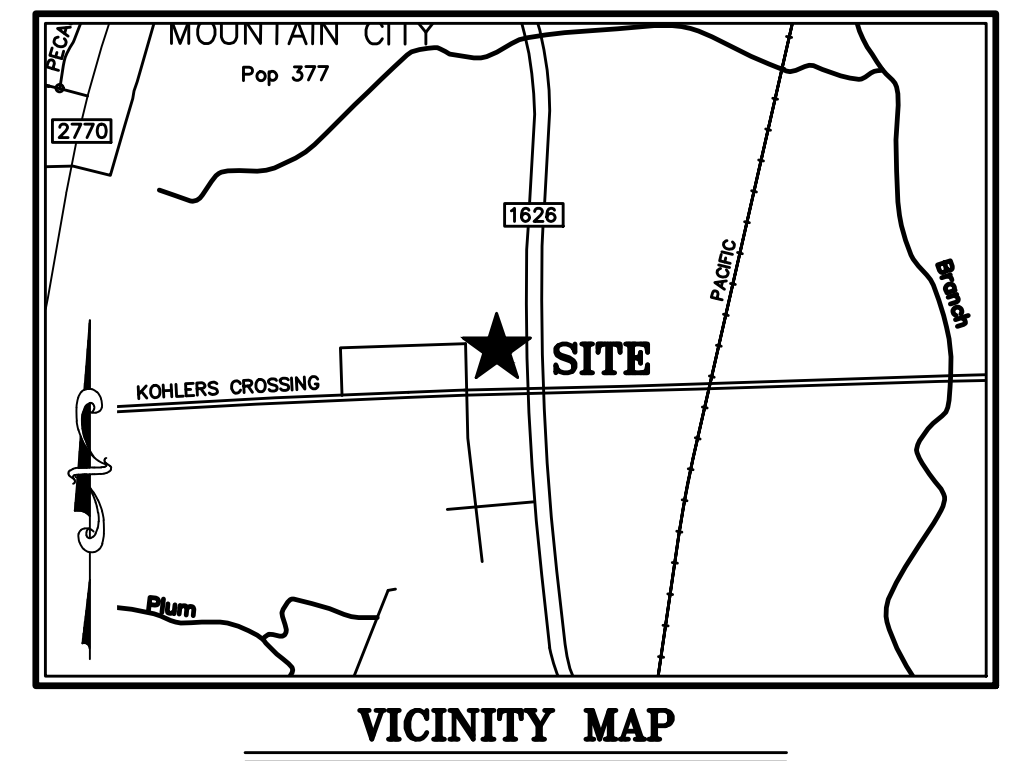


**FLOODPLAIN NOTE:**  
THIS PROPERTY IS LOCATED WITHIN ZONE 'X', AREAS OF MINIMAL FLOOD HAZARD, AS SHOWN ON F.I.R.M. MAP NO. 48209C0290F, HAYS COUNTY, TEXAS AND INCORPORATED AREAS, MAP REVISED SEPTEMBER 2, 2005.

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

**BEARING BASIS:**  
ALL BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, GRID NORTH, SOUTH CENTRAL ZONE, (4204), NAD83, ALL DISTANCES WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.000100729605.

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



LEGEND		
	PROPERTY LINE	O.P.R.H.C.T.
	EXISTING PROPERTY LINES	OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS
	EXISTING EASEMENTS	R.P.R.H.C.T.
	1/2" IRON ROD WITH "4WARD BOUNDARY" CAP SET (UNLESS NOTED)	REAL PROPERTY RECORDS, HAYS COUNTY, TEXAS
	IRON ROD WITH "4WARD BOUNDARY" CAP FOUND (UNLESS NOTED)	RECORD INFORMATION PER PLAT VOL. 5258, PG. 857
	TXDOT TYPE II BRASS DISC FOUND	RECORD INFORMATION PER DEED DOC. NO. 19026207
	SURVEY CONTROL POINT	RECORD INFORMATION PER VOL. 3220, PG. 508
	CALCULATED POINT	RECORD INFORMATION PER VOL. 1871, PG. 236
DOC. NO.	DOCUMENT NUMBER	RECORD INFORMATION PER VOL. 2029, PG. 661
VOL./PG.	VOLUME, PAGE	RECORD INFORMATION PER VOL. 2857, PG. 753
R.O.W.	RIGHT-OF-WAY	

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	BEARING	DISTANCE
C1	82.93'	229.29'	20°43'21"	N70°57'51"E	82.48'
C2	4.75'	3.00'	90°45'35"	S53°17'41"E	4.27'
C3	0.11'	2,764.78'	0°00'08"	S03°38'58"E	0.11'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N88°54'44"E	15.00'
L2	N01°07'08"W	21.27'
L3	N60°36'10"E	61.98'
L4	S07°54'54"E	16.98'
L5	N85°23'42"E	24.23'
L6	N58°52'03"E	11.48'
L7	S53°56'51"E	10.79'
L8	S81°21'33"E	35.32'
L9	S79°26'03"E	42.98'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L10	S86°28'37"E	43.01'
L11	N90°00'00"E	103.02'
L12	S00°00'00"E	55.00'
L13	S45°00'00"E	63.64'
L14	N90°00'00"E	92.82'
L15	S42°46'57"W	39.17'
L16	S88°50'48"W	14.96'
L17	S88°53'27"W	14.99'
L18	N89°16'20"E	14.99'

RECORD LINE TABLE		
LINE #	DIRECTION	LENGTH
(L1)	N88°53'16"E	15.00'
(L11)	N88°53'16"E	15.00'
(L15)	S42°46'53"W	39.16'
(L15)	S42°46'53"W	39.16'
(L16)	S88°53'16"W	15.00'
(L17)	S88°53'16"W	15.00'
(L18)	N88°53'16"E	15.00'

[A] CALLED 2.163 ACRES CITY OF KYLE, TEXAS (0.254 AC, PARCEL, "TRACT 3") VOL. 3220, PG. 508 O.P.R.H.C.T.

[B] CALLED 2.163 ACRES CITY OF KYLE, TEXAS (0.576 AC, PARCEL 3 "TRACT 4"), VOL. 3220, PG. 508 O.P.R.H.C.T.

[D] CALLED 2.318 ACRES CITY OF KYLE, TEXAS (1.252 AC, PARCEL NO. 2, "TRACT 1") VOL. 3218, PG. 838 O.P.R.H.C.T.

[E] CALLED 0.0238 ACRE MOUNTAIN PLUM, LTD. VOL. 2857, PG. 753 O.P.R.H.C.T.

[F] CALLED 0.0606 ACRE MOUNTAIN PLUM, LTD. VOL. 2857, PG. 753 O.P.R.H.C.T.

[G] CALLED 1.263 ACRES ("TRACT 1") PLUM CREEK DEVELOPMENT PARTNERS, LTD. DOC. NO. 19026207 O.P.R.H.C.T.

[H] CALLED 0.273 ACRES ("PARCEL NO. 8") CITY OF KYLE, TEXAS VOL. 3226, PG. 168 O.P.R.H.C.T.

[I] CALLED 0.1377 ACRE CITY OF KYLE, TEXAS DOC. NO. \_\_\_\_\_ O.P.R.H.C.T.

**OWNERS:** CITY OF KYLE  
**ADDRESS:** 100 W. CENTER ST, KYLE, TX 78640 PHONE: (512) 256-1426 FAX: N/A

**ACREAGE:** 5.5440 (241,449 SQ. FT.)  
**ACREAGE BY LOT:** LOT 1 (DEVELOPMENT) 5.5440 ACRES 241,497 SQ. FT. TOTAL: 5.5440 ACRES 241,497 SQ. FT.

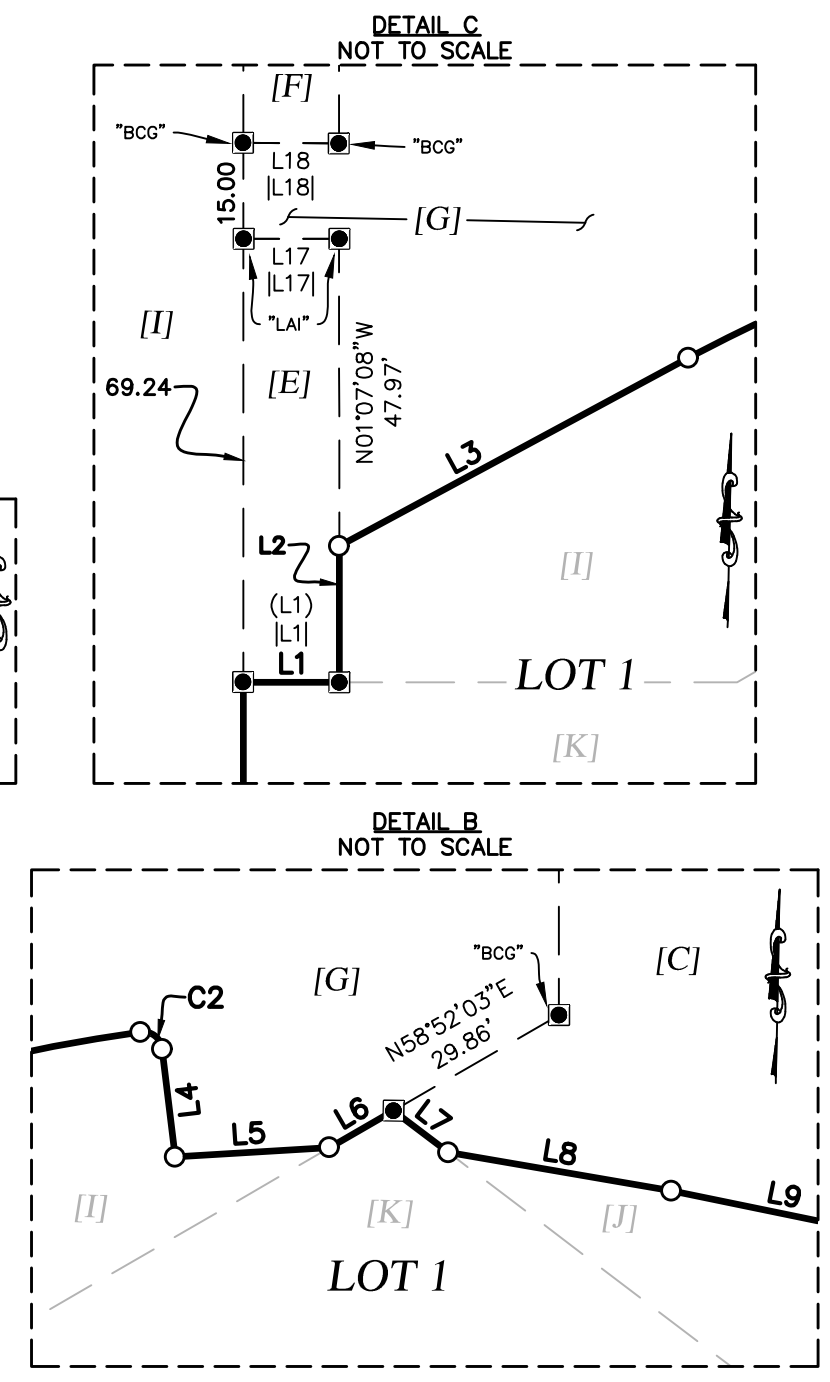
**SURVEY:** MORTON M. MCCARVER SURVEY NO. 4, ABSTRACT NO. 10 JOHN COOPER SURVEY NO. 13, ABSTRACT NO. 100

**NUMBER OF LOTS AND PROPOSED USE:** 1 DEVELOPMENT LOT

**DATE:** \_\_\_\_\_

**SURVEYOR:** 4WARD LAND SURVEYING, LLC PHONE: (512) 537-2384 FAX: N/A

**ENGINEER:** WGI, INC. PHONE: (512) 669-5560 FAX: N/A



PO Box 90876, Austin Texas 78709  
WWW.4WARDLS.COM (512) 537-2384  
TBPELS FIRM #10174300

Date:	6/3/2021
Project:	01037
Scale:	1" = 100'
Reviewer:	DV
Tech:	TE
Field Crew:	JZ/FH
Survey Date:	JAN. 2021
Sheet:	1 OF 2



# HEROES MEMORIAL PARK

## City of Kyle, Hays County, Texas

### STATE OF TEXAS § COUNTY OF \_\_\_\_\_ §

KNOW ALL MEN BY THESE PRESENTS, THAT THE CITY OF KYLE, TEXAS, ACTING BY AND THROUGH JEFF PRATO, OWNERS OF 5.5440 ACRES (241,497 SQUARE FEET) OUT OF THE MORTON M. MCCARVER SURVEY NO. 4, ABSTRACT NO. 10 AND THE JOHN COOPER SURVEY NO. 13, ABTRACT NO. 100, BOTH IN HAYS COUNTY, TEXAS, AND BEING ALL OF A CALLED 4.857 ACRE TRACT CONVEYED TO THE CITY OF KYLE IN DOCUMENT NO. \_\_\_\_\_, BEING ALL OF A CALLED 0.1377 ACRE TRACT CONVEYED TO THE CITY OF KYLE IN DOCUMENT NO. \_\_\_\_\_, AND BEING ALL OF A CALLED 0.5474 ACRE TRACT CONVEYED TO THE CITY OF KYLE IN DOCUMENT NO. \_\_\_\_\_, ALL DOCUMENTS BEING OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, DO HEREBY SUBDIVIDE THIS PROPERTY IN ACCORDANCE WITH THE PLAT SHOWN HEREON, SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED, AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF THE STREETS AND EASEMENTS SHOWN HEREON, AND TO BE KNOWN AS:

#### HEROES MEMORIAL PARK

IN WITNESS THEREOF, THE SAID PARAMOUNT PARK, LTD., HAS CAUSED THESE PRESENTS TO BE EXECUTED BY MARIANNE PLANCKE, REPRESENTATIVE, AND THEREUNTO DULY AUTHORIZED

CITY OF KYLE, TEXAS  
SCOTT SELLERS, CITY MANAGER  
100 W. CENTER STREET  
KYLE, TX 78640

### STATE OF TEXAS § COUNTY OF \_\_\_\_\_ §

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME, ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 20\_\_\_\_ BY MARIANNE PLANCKE, REPRESENTATIVE OF THE CITY OF KYLE, TEXAS, ON BEHALF OF SAID MUNICIPALITY.

NOTARY PUBLIC, STATE OF TEXAS

#### GENERAL NOTES:

- 1) NO LOT IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO THE CITY OF KYLE WATER AND WASTEWATER SYSTEM.
- 2) WATER AND WASTEWATER SYSTEMS, INCLUDING METERS, SERVING THIS SUBDIVISION SHALL BE DESIGNED AND INSTALLED IN ACCORDANCE WITH THE CITY OF KYLE STANDARDS. PLANS AND SPECIFICATIONS SHALL BE SUBMITTED TO THE CITY OF KYLE UTILITY DEPARTMENT FOR REVIEW.
- 3) ALL STREETS, DRAINAGE, SIDEWALKS, WATER AND WASTEWATER LINES, AND EROSION CONTROLS SHALL BE CONSTRUCTED AND INSTALLED TO CITY OF KYLE STANDARDS.
- 4) NO BUILDING, FENCES, LANDSCAPING OR OTHER SUCH STRUCTURES ARE PERMITTED IN DRAINAGE EASEMENTS EXCEPT AS APPROVED BY CITY OF KYLE.
- 5) PROPERTY OWNERS SHALL PROVIDE FOR ACCESS TO DRAINAGE EASEMENTS AS MAY BE NECESSARY AND SHALL NOT PROHIBIT ACCESS BY GOVERNMENTAL AGENCY.
- 6) ALL DRAINAGE EASEMENTS ON PRIVATE PROPERTY SHALL BE MAINTAINED BY THE PROPERTY OWNER OR ASSIGNS. OBSTRUCTIONS IN DRAINAGE EASEMENTS IS PROHIBITED.
- 7) SETBACKS NOT SHOWN ON LOTS SHALL CONFORM TO THE CITY OF KYLE ZONING ORDINANCES.
- 8) THE OWNER OF THIS SUBDIVISION, AND HIS OR HER SUCCESSORS AND ASSIGNS, ASSUMES RESPONSIBILITY FOR PLANS FOR CONSTRUCTION OF SUBDIVISION IMPROVEMENTS WHICH COMPLY WITH APPLICABLE CODES AND REQUIREMENTS OF THE CITY OF KYLE. THE OWNER UNDERSTANDS AND ACKNOWLEDGES THAT PLAT VACATION, REPLATTING AND/OR DEDICATION OF EASEMENTS BY SEPARATE INSTRUMENT MAY BE REQUIRED, AT THE OWNER'S SOLE EXPENSE, IF PLANS TO CONSTRUCT THIS SUBDIVISION DO NOT COMPLY WITH SUCH CODES AND REQUIREMENTS.
- 9) THE OWNER SHALL BE RESPONSIBLE FOR INSTALLATION OF TEMPORARY EROSION CONTROL, REVEGETATION AND TREE PROTECTION FOR ELECTRIC UTILITY WORK REQUIRED TO PROVIDE ELECTRIC SERVICE TO THIS PROJECT.
- 10) ANY ELECTRIC UTILITY ACTIVITY INSIDE THE SUBDIVISION SHALL BE INCLUDED UNDER THE DEVELOPMENT PERMIT. ELECTRIC SERVICE TO EACH LOT SHALL BE UNDERGROUND.
- 11) THE SUBDIVISION IS SERVED BY THE FOLLOWING UTILITIES:

WATER	CITY OF KYLE
WASTEWATER	CITY OF KYLE
ELECTRIC	PEDERNALES ELECTRIC COMPANY
TELEPHONE	SPECTRUM
GAS	CENTER POINT GAS
- 12) ALL LOTS CONTAINED IN THIS SUBDIVISION AND USERS THEREOF, SHALL HAVE RECIPROCAL ACCESS FOR INGRESS AND EGRESS THROUGH ALL DRIVE LANES, FIRE LANES, AND DRIVEWAYS.
- 13) PRIOR TO CONSTRUCTION OF ANY IMPROVEMENTS ON LOTS IN THIS SUBDIVISION, SITE DEVELOPMENT PERMITS AND BUILDING PERMITS WILL BE OBTAINED FROM THE CITY OF KYLE.
- 14) A 7.5 FOOT PUE IS DEDICATED ADJACENT TO ALL PUBLIC RIGHTS OF WAY.
- 15) REPAIRS TO SURFACE PAVING DUE TO MAINTENANCE AND/OR REPAIR OF CITY UTILITIES WITHIN MUNICIPAL UTILITY EASEMENTS INTERIOR TO LOTS SHALL BE THE RESPONSIBILITY OF THE LOT OWNER(S).
- 16) TYPICAL LANDSCAPE MAINTENANCE, CUTTING AND TRIMMING, WITHIN THE SUBDIVISION, ALL EASEMENTS, DETENTION PONDS AND RIGHT-OF-WAYS TO THE PAVEMENT TO BE THE RESPONSIBILITY OF PROPERTY OWNERS/AND OR PROPERTY OWNERS ASSOCIATIONS.
- 17) SIDEWALKS, PEDESTRIAN CROSSINGS AND OTHER AMENITIES TO BE DEDICATED TO THE CITY OF KYLE SHALL MEET OR EXCEED ALL 2010 ADA STANDARDS OF ACCESSIBILITY DESIGN AND ALL CURRENT FEDERAL AND STATE LAWS REGARDING ACCESS FOR PEOPLE WITH DISABILITIES FOR TITLE II ENTITIES.
- 18) SIDEWALKS SHALL BE INSTALLED ON BOTH SIDES OF THE FOLLOWING STREETS: KOHLER'S CROSSING AND FARM TO MARKET 1626.

#### LEGAL DESCRIPTION

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 5.5440 ACRES (241,497 SQUARE FEET) PARTIALLY OUT OF THE MORTON M. MCCARVER SURVEY NO. 4, ABSTRACT NO. 10, AND PARTIALLY OUT OF THE JOHN COOPER SURVEY NO. 13, ABSTRACT NO. 100, BOTH IN HAYS COUNTY, TEXAS, BEING ALL OF A CALLED 4.857 ACRE TRACT CONVEYED TO THE CITY OF KYLE IN DOCUMENT NO. \_\_\_\_\_ OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T.), BEING ALL OF A CALLED 0.1377 ACRE TRACT CONVEYED TO THE CITY OF KYLE IN DOCUMENT NO. \_\_\_\_\_ (O.P.R.H.C.T.), AND BEING ALL OF A CALLED 0.5474 ACRE TRACT CONVEYED TO THE CITY OF KYLE IN DOCUMENT NO. \_\_\_\_\_ (O.P.R.H.C.T.), SAID 5.5440 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, AT A 1/2-INCH IRON ROD WITH 'BCG' CAP FOUND IN THE NORTH RIGHT-OF-WAY LINE OF KOHLERS CROSSING (AKA COUNTY ROAD 171, AKA MOUNTAIN CITY ROAD, RIGHT-OF-WAY VARIES), BEING IN THE EAST LINE OF THE REMAINDER OF A CALLED 10.00 ACRE TRACT CONVEYED TO BOARD OF TRUSTEES FOR THE HAYS COUNTY INDEPENDENT SCHOOL DISTRICT IN VOLUME 2029, PAGE 661 (O.P.R.H.C.T.), BEING THE SOUTHWEST CORNER OF SAID 4.857 ACRE TRACT, BEING THE NORTHEAST CORNER OF A CALLED 0.273 ACRE RIGHT-OF-WAY DEDICATION (PARCEL NO. 8') CONVEYED TO THE CITY OF KYLE, TEXAS IN VOLUME 3226, PAGE 168 (O.P.R.H.C.T.), AND BEING THE NORTHWEST CORNER OF A CALLED 0.254 ACRE RIGHT-OF-WAY DEDICATION ('TRACT 3') CONVEYED TO THE CITY OF KYLE, TEXAS IN VOLUME 3220, PAGE 508 (O.P.R.H.C.T.), FOR THE SOUTHWEST CORNER AND POINT OF BEGINNING HEREOF, FROM WHICH A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP FOUND IN THE NORTH RIGHT-OF-WAY LINE OF SAID KOHLERS CROSSING, FOR THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID 4.857 ACRE TRACT, FOR THE NORTHEAST CORNER OF SAID 0.254 ACRE RIGHT-OF-WAY DEDICATION BEARS, N88°53'20"E, A DISTANCE OF 541.89 FEET;

THENCE, LEAVING THE NORTH RIGHT-OF-WAY LINE OF SAID KOHLERS CROSSING, WITH THE COMMON LINE OF SAID 10.00 ACRE HAYS COUNTY INDEPENDENT SCHOOL DISTRICT TRACT AND SAID 4.857 ACRE TRACT, N01°06'34"W, A DISTANCE OF 410.00 FEET TO A 1/2-INCH IRON ROD WITH 'LAI' CAP FOUND FOR THE MOST WESTERLY NORTHWEST CORNER HEREOF, SAID POINT BEING THE NORTHWEST CORNER OF SAID 4.857 ACRE TRACT, ALSO BEING THE SOUTHWEST CORNER OF A CALLED 0.0238 ACRE TRACT CONVEYED TO MOUNTAIN PLUM, LTD. IN VOLUME 2857, PAGE 753 (O.P.R.H.C.T.);

THENCE, WITH THE NORTH LINE OF SAID 4.857 ACRE TRACT AND THE SOUTH LINE OF SAID 0.0238 ACRE TRACT, N88°54'44"E, A DISTANCE OF 15.00 FEET TO A 1/2-INCH IRON ROD WITH 'LAI' CAP FOUND FOR AN INTERNAL ELL-CORNER HEREOF, SAID POINT BEING THE SOUTHWEST CORNER OF SAID 0.1377 ACRE TRACT, ALSO BEING THE SOUTEAST CORNER OF SAID 0.0238 ACRE TRACT;

THENCE, WITH THE WEST LINE OF SAID 0.1377 ACRE TRACT AND THE EAST LINE OF SAID 0.0238 ACRE TRACT, N01°07'08"W, A DISTANCE OF 21.27 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR AN ANGLE POINT HEREOF, FROM WHICH A 1/2-INCH IRON ROD WITH 'LAI' CAP FOUND FOR THE NORTHEAST CORNER OF SAID 0.0238 ACRE TRACT, BEING AN ANGLE POINT IN THE WEST LINE OF THE REMAINDER OF A CALLED 1.263 ACRE TRACT ('TRACT 1') CONVEYED TO PLUM CREEK DEVELOPMENT PARTNERS, LTD., IN DOCUMENT NO. 19026207 (O.P.R.H.C.T.), N01°07'08"W, A DISTANCE OF 47.97 FEET;

THENCE, WITH THE NORTH LINE OF SAID 0.1377 ACRE TRACT AND THE SOUTH LINE OF SAID 1.263 ACRE REMAINDER TRACT THE FOLLOWING FIVE (5) COURSES AND DISTANCES:

- 1) N60°36'10"E, A DISTANCE OF 61.98 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' SET FOR A POINT OF CURVATURE HEREOF,
- 2) ALONG A CURVE TO THE RIGHT, WHOSE RADIUS IS 229.29 FEET, WHOSE ARC LENGTH IS 82.93 FEET, AND WHOSE CHORD BEARS N70°57'51"E, A DISTANCE OF 82.48 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR A POINT OF COMPOUND CURVATURE HEREOF,
- 3) ALONG A CURVE TO THE RIGHT, WHOSE RADIUS IS 3.00 FEET, WHOSE ARC LENGTH IS 4.75 FEET, AND WHOSE CHORD BEARS S53°17'41"E, A DISTANCE OF 4.27 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR A POINT OF TANGENCY HEREOF,
- 4) S07°54'54"E, A DISTANCE OF 16.98 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR AN INTERIOR ELL-CORNER HEREOF, AND
- 5) N85°23'42"E, A DISTANCE OF 24.23 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR AN ANGLE POINT HEREOF, SAID POINT BEING THE NORTHEAST CORNER OF SAID 0.1377 ACRE TRACT, BEING IN THE SOUTHEAST LINE OF SAID 1.263 ACRE REMAINDER TRACT, AND BEING IN THE NORTH LINE OF SAID 4.857 ACRE TRACT;

THENCE, WITH THE SOUTH LINE OF SAID 1.263 ACRE REMAINDER TRACT AND THE NORTH LINE OF SAID 4.857 ACRE TRACT, N58°52'03"E, A DISTANCE OF 11.48 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP FOUND FOR AN ANGLE POINT HEREOF, SAID POINT BEING THE NORTH CORNER OF SAID 4.857 ACRE TRACT, AND BEING IN THE SOUTH LINE OF THE REMAINDER OF A CALLED 983.99 ACRE TRACT ('TRACT 2') CONVEYED TO MOUNTAIN PLUM, LTD. IN VOLUME 2297, PAGE 139 (O.P.R.H.C.T.), FROM WHICH A 1/2-INCH IRON ROD WITH 'BCG' CAP FOUND FOR AN ANGLE POINT IN THE EAST LINE OF SAID 1.263 ACRE REMAINDER TRACT, BEING IN THE SOUTH LINE OF SAID 983.99 ACRE TRACT, BEARS, N58°52'03"E, A DISTANCE OF 29.86 FEET;

THENCE, WITH THE NORTH LINE OF SAID 4.857 ACRE TRACT AND THE SOUTH LINE OF SAID 983.99 ACRE REMAINDER TRACT, S53°56'51"E, A DISTANCE OF 10.79 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR AN ANGLE POINT HEREOF, SAID POINT BEING THE NORTHWEST CORNER OF SAID 0.5474 ACRE TRACT;

THENCE, WITH THE NORTH LINE OF SAID 0.5474 ACRE TRACT AND THE SOUTH LINE OF SAID 983.99 ACRE REMAINDER TRACT THE FOLLOWING SEVEN (7) COURSES AND DISTANCES:

- 1) S81°21'33"E, A DISTANCE OF 35.32 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR AN ANGLE POINT HEREOF,
- 2) S79°26'03"E, A DISTANCE OF 42.98 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR AN ANGLE POINT HEREOF,
- 3) S86°28'37"E, A DISTANCE OF 43.01 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR AN ANGLE POINT HEREOF,
- 4) N90°00'00"E, A DISTANCE OF 103.02 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR AN EXTERNAL ELL-CORNER HEREOF,
- 5) S00°00'00"E, A DISTANCE OF 55.00 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR AN ANGLE POINT HEREOF,
- 6) S45°00'00"E, A DISTANCE OF 63.64 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR AN ANGLE POINT HEREOF, AND
- 7) N90°00'00"E, A DISTANCE OF 92.82 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP SET FOR THE NORTHEAST HEREOF, SAID POINT BEING IN THE WEST RIGHT-OF-WAY LINE OF FM 1626 (THIS PORTION OF FM 1626 HAVING BEEN DEDICATED IN VOLUME 1871, PAGE 236, O.P.R.H.C.T., RIGHT-OF-WAY WIDTH VARIES), BEING THE NORTHEAST CORNER OF SAID 0.5474 ACRE TRACT, AND BEING IN THE SOUTH LINE OF SAID 983.99 ACRE REMAINDER TRACT;

THENCE, WITH THE WEST RIGHT-OF-WAY LINE OF SAID FM 1626, IN PART WITH THE EAST LINE OF SAID 0.5474 ACRE TRACT, AND IN PART WITH THE EAST LINE OF SAID 4.857 ACRE TRACT, S03°41'26"E, PASSING AT A DISTANCE OF 30.25 FEET A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP FOUND FOR THE COMMON EAST CORNER OF SAID 0.5474 ACRE TRACT AND SAID 4.857 ACRE TRACT, CONTINUING FOR A TOTAL DISTANCE OF 316.53 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP FOUND FOR THE MOST EASTERLY SOUTHEAST CORNER HEREOF, SAID POINT BEING THE MOST EASTERLY SOUTHEAST CORNER OF SAID 4.857 ACRE TRACT, AND BEING THE IN THE BEGINNING OF A RIGHT-OF-WAY TRANSITION FROM THE WEST RIGHT-OF-WAY LINE OF SAID FM 1626 TO THE NORTH RIGHT-OF-WAY LINE OF SAID KOHLERS CROSSING;

THENCE, WITH THE SOUTHEAST LINE OF SAID 4.857 ACRE TRACT AND SAID RIGHT-OF-WAY TRANSITION, S42°46'57"W, A DISTANCE OF 39.17 FEET TO A 1/2-INCH IRON ROD WITH '4WARD BOUNDARY' CAP FOUND FOR THE MOST SOUTHERLY SOUTHEAST CORNER HEREOF, SAID POINT BEING THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID 4.857 ACRE TRACT, AND BEING IN THE NORTH RIGHT-OF-WAY LINE OF SAID KOHLERS CROSSING;

THENCE, WITH THE NORTH LINE OF SAID KOHLERS CROSSING AND THE SOUTH LINE OF SAID 4.857 ACRE TRACT, S88°53'20"W, A DISTANCE OF 541.89 FEET TO THE POINT OF BEGINNING AND CONTAINING 5.5440 ACRES (241,497 SQUARE FEET) OF LAND, MORE OR LESS.

#### PLANNING AND ZONING COMMISSION CERTIFICATION:

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

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

MADAM CHAIRPERSON \_\_\_\_\_ DATE \_\_\_\_\_

#### REVIEWED BY:

DIRECTOR OF PUBLIC WORKS \_\_\_\_\_ DATE \_\_\_\_\_

#### REVIEWED BY:

CITY ENGINEER \_\_\_\_\_ DATE \_\_\_\_\_

### STATE OF TEXAS § COUNTY OF HAYS §

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

FOR RECORD IN MY OFFICE ON THE \_\_\_\_DAY OF \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_O'CLOCK \_\_\_\_M.,

AND DULY RECORDED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ A.D.,

AT \_\_\_\_\_ O'CLOCK \_\_\_\_ M., IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS IN

DOC. # \_\_\_\_\_

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY CLERK, THIS THE \_\_\_\_\_

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

ELAINE H. CARDENAS, COUNTY CLERK  
HAYS COUNTY, TEXAS

TRAVIS MITCHELL, MAYOR  
KYLE, TEXAS

JENNIFER HOLM, CITY SECRETARY  
KYLE, TEXAS

#### ENGINEER'S CERTIFICATE:

I, JILL C. TARLETON, A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT. NO PORTION OF THIS SUBDIVISION LIES WITHIN THE 0.2% ANNUAL CHANCE FLOODPLAIN AS DEFINED BY FEMA FIRM PANEL 48209C0290F DATED SEPTEMBER 2, 2005.

JILL C. TARLETON, P.E. \_\_\_\_\_ DATE \_\_\_\_\_  
REGISTERED PROFESSIONAL ENGINEER NO. 130413  
WGI, INC.  
2021 EAST 5TH STREET, SUITE 200  
AUSTIN, TX 78702  
(512) 669-5560

#### SURVEYOR'S CERTIFICATE:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WAS ACTUALLY MADE UPON THE GROUND UNDER MY DIRECTION AND SUPERVISION ON THE DATE SHOWN. THIS PLAT COMPLIES WITH ORDINANCE #439 OF THE CITY CODE OF KYLE.

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

STEVEN M. DUARTE, R.P.L.S. \_\_\_\_\_ DATE \_\_\_\_\_  
TEXAS REGISTRATION NO. 5940  
4WARD LAND SURVEYING  
2201 WOODWARD STREET, SUITE 2201  
AUSTIN, TEXAS 78745

 A Limited Liability Company PO Box 90876, Austin Texas 78709 WWW.4WARDLS.COM (512) 537-2384 TBPELS FIRM #10174300	Date:	6/3/2021
	Project:	01037
	Scale:	N/A
	Reviewer:	DV
	Tech:	TE
	Field Crew:	JZ/FH
Survey Date: JAN. 2021		Sheet: 2 OF 2



# CITY OF KYLE, TEXAS

## Heroes Memorial Park - Site Plan (SD-20-0088)

**Meeting Date: 6/15/2021**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Heroes Memorial Park - Site Plan (SD-20-0088) 4.86 acres; 1 lot located on the northwest corner of Kholer's Crossing and Kyle Parkway intersection. ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-0 to approve the site plan.*

**Other Information:** See attached.

**Legal Notes:** N/A

**Budget Information:** N/A

---

### ATTACHMENTS:

#### **Description**

- ☐ Site Plan
- ☐ Landscape Plan





STATE OF TEXAS  
JILL C. TARLETON  
130413  
LICENSED  
PROFESSIONAL ENGINEER  
3/2/21

**KYLE HEROES MEMORIAL PARK**  
KOHLEERS CROSSING & KYLE PARKWAY (FM 1626)  
KYLE, HAYS COUNTY, TEXAS 78640

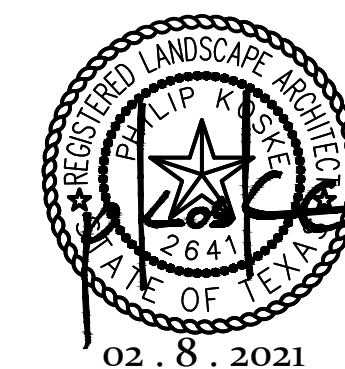
**OVERALL SITE PLAN**

SHEET  
CS100  
13 OF 183  
SD-20-0088





nudge  
design  
www.nudgedesign.com



HEROES MEMORIAL PARK  
KYLE, TX  
Issue For Bid

Project Number:

20-002

Date Issued:

February 8, 2021

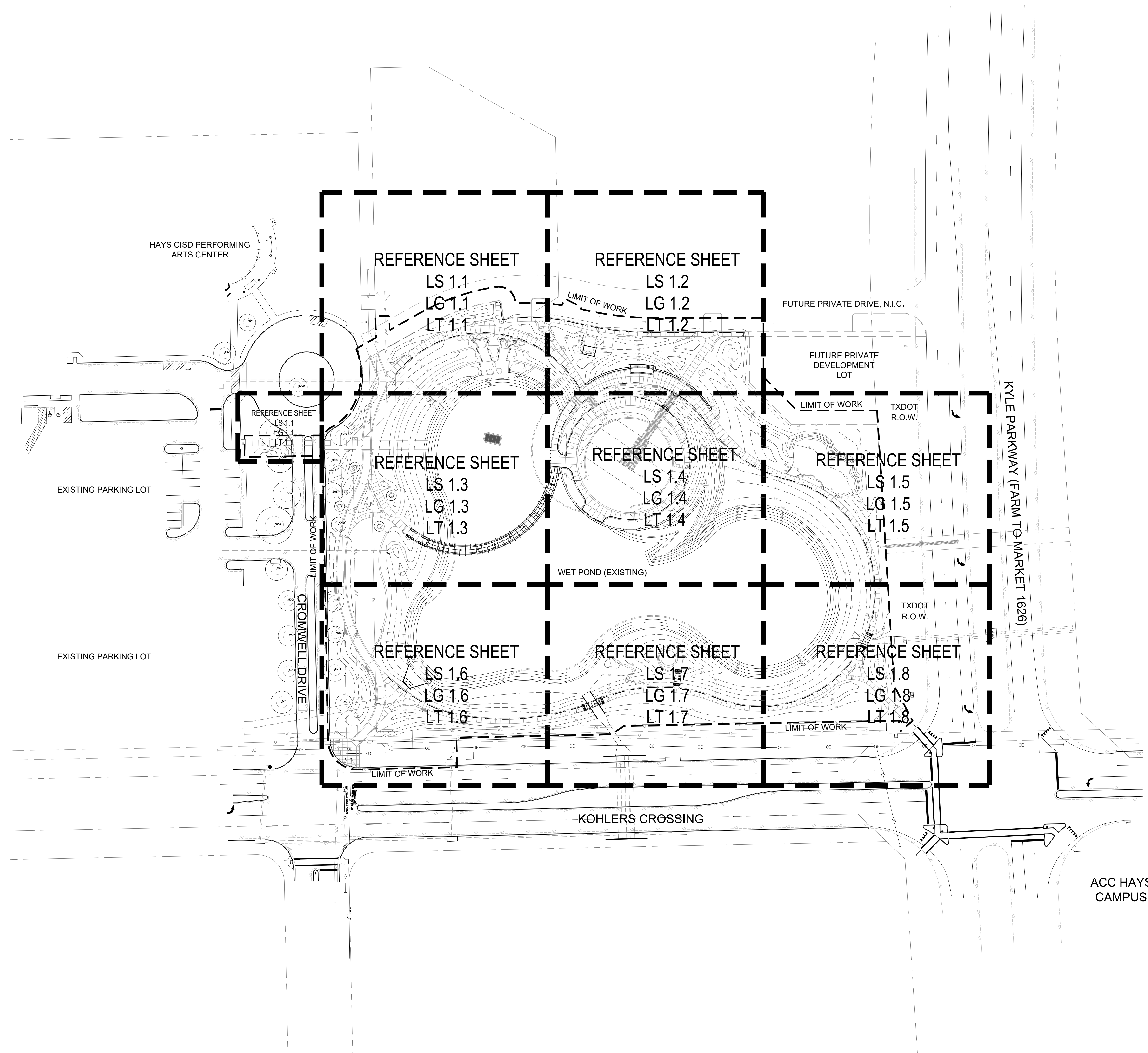
Revisions:

Sheet Title:

REFERENCE PLAN

Sheet Number:

LC 1.2





# CITY OF KYLE, TEXAS

## Site-Specific Declaration Heroes Memorial Tracts

**Meeting Date: 6/15/2021**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Consider Approving Site-Specific Declaration of Covenants, Restrictions and Easements for the Heroes Memorial Tracts 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**

- ☐ [Plum Creek] Site-Specific Declaration - Heroes Memorial Tracts.6.15.21



**SITE-SPECIFIC DECLARATION OF  
COVENANTS, RESTRICTIONS AND EASEMENTS  
[Heroes Memorial Tracts]**

STATE OF TEXAS

COUNTY OF HAYS

This *Site-Specific Declaration of Covenants, Restrictions, and Easements [Heroes Memorial Tracts]* ("**Declaration**") is made this \_\_\_\_ day of \_\_\_\_\_, 2021 ("**Effective Date**"), between and among **PLUM CREEK DEVELOPMENT PARTNERS, LTD.**, a Texas limited partnership, and **MOUNTAIN PLUM, LTD.**, a Texas limited partnership, its successors and assigns (collectively, "**Declarant**"), **PLUM CREEK UPTOWN DISTRICT PROPERTY OWNERS' ASSOCIATION, INC.**, a Texas nonprofit corporation, its successors and assigns ("**POA**"), and the **THE CITY OF KYLE**, a Texas \_\_\_\_\_, and its affiliates ("**City**"). Collectively the Declarant, the POA, and the City shall hereinafter be referred to as the "**Parties**" or singularly as a "**Party**".

**RECITALS**

A. Declarant is the owner of that approximate 0.6851-acre parcel more particularly described under Exhibit "A", attached and incorporated herewith (the "**Declarant Parcel**").

B. The POA is the owner of that approximately 4.857-acre parcel more particularly described under Exhibit "B", attached and incorporated herewith (the "**Pond Parcel**").

C. The Declarant Parcel and the Pond Parcel are adjacent to or in the vicinity of certain real property which Declarant is developing as a mixed-use, master planned community known as Plum Creek (collectively, the "**Community**"). The land that may be made part of the Community by annexation is, as applicable, described in the \_\_\_\_\_ as may be supplemented and amended from time to time (collectively, the "**Community Declaration**").

D. Concurrent with the recordation of this Declaration in the Official Public Records of Hays County, Texas (the "**Official Records**"), the POA shall convey the Pond Parcel and the Declarant shall convey the Declarant Parcel to the City to be used for the site of the Heroes and Veteran's Memorial on which will be constructed the Heroes Memorial Improvements (as herein defined).

E. To provide for the development and use of the Heroes Memorial Tracts in a manner that complements the Community, the City hereby consents that the Heroes Memorial Tracts shall be subject to the terms, covenants, conditions, easements, and restrictions of this Declaration, as evidenced by its signature as attached hereto.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant, the POA, and the City hereby declares that the Heroes Memorial Tracts shall be owned, conveyed, maintained, 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 parties now or hereafter having any right, title, or interest in the Heroes Memorial Tracts, 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 the Declarant and the POA.

**1. Definitions.** Definitions used herein but not defined shall have the meanings set forth in the Community Declaration. For purposes hereof:

- 1.1.** The term **“Applicable Law”** means all applicable laws, statutes, ordinances, codes, rules, regulations, orders, licenses, permits, applicable judicial decisions or decrees of any **“Governmental Authority”** or **“Governmental Authorities”** which such terms shall include all federal, state, county, city, township, or local governmental or quasi-governmental authority, entities, or bodies (or any department or agency thereof) exercising jurisdiction over the Heroes Memorial Tracts.
- 1.2.** The term **“Benefited Party”** or **“Benefited Parties”** means any owner of a Benefited Property.
- 1.3.** The term **“Benefited Property”** or **“Benefited Properties”** means any property within the 43.56-acre Basin A area depicted on Exhibit “C”, attached and incorporated herein, and made a part of the Drainage and Detention Plans, including but not limited to those properties that are benefited by the drainage easements conveyed under the Private Drainage Easements and any property benefitting under an Additional Easement.
- 1.4.** The term **“Core Drainage Improvements”** means those devices, utilities, lines, equipment, or improvements necessary to the function of the Pond and the Heroes Memorial Tracts for the Drainage Purpose and as such improvements are repaired and modified by the POA pursuant to the terms of this Declaration to continue to serve the Drainage Purpose, including but not limited to the culverts; the permanent pool basin; the aerators; the concrete trickle channel; the outfall structures; the fabric and rock dissipation areas; the rock walls; the pool basin’s protective soil layer and clay liner; the rock berms; the silt fences; the waterstops; and the control box. The term **“Core Drainage Improvements”** shall specifically exclude the Heroes Memorial Improvements.
- 1.5.** The term **“Drainage and Detention Plans”** means the *As-Built Construction Plans for Plum Creek Pond 3, FM 1626 and Kohlers Crossing, Kyle, Texas* dated September 11, 2008, and developed by Hanrahan Pritchard Engineering, Inc.
- 1.6.** The term **“Drainage Purpose”** means the use of the Pond, the Core Drainage Improvements, and the Pond Parcel for storm water drainage and detention as **described in the Drainage and Detention Plans**, as provided in this Declaration, and as required by Applicable Law.
- 1.7.** The term **“Heroes Memorial Improvements”** means the Heroes Memorial Tracts and all improvements constructed in, under, and on such parcels by the City as more particularly described in the Heroes Memorial Plans and as such improvements are repaired and modified by the City pursuant to the terms of this Declaration to continue to serve the Park Purpose, including but not limited to the bridge walk; the water walls; the honor walls; the Armed Forces/First Responder educational/information area; any signage; any picnic tables and seating; the rock and water cascade area, including any rocks, concrete floors and inlets related thereto; and all landscaping, including all gardens, trees, lawns, all aquatic plantings, and any other landscaping on the flooded slopes. The term **“Heroes Memorial Improvements”** shall specifically exclude the Core Drainage Improvements.

- 1.8. The term “**Heroes Memorial Plans**” means the plans attached and incorporated herein as Exhibit “D”, as such plans may be amended from time to time.
- 1.9. The term “**Heroes Memorial Tracts**” shall collectively mean the Declarant Parcel and the Pond Parcel.
- 1.10. The term “**Owner**” means the holder of record title to all or any portion of the Heroes Memorial Tracts.
- 1.11. The term “**Park Purpose**” means the use of the Heroes Memorial Tracts for a public municipal park and for public recreational purposes.
- 1.12. The term “**Pond**” means the storm water drainage and detention pond and the Core Drainage Improvements located on the Pond Parcel as further described in the Drainage and Detention Plans and as such improvement is repaired, modified, or enlarged pursuant to the terms of this Declaration.
- 1.13. The term “**Private Drainage Easements**” shall be those easements listed on Exhibit “E”, attached and incorporated herewith.

## **2. Use and Conduct**

2.1. **Land Use Covenants.** The Heroes Memorial Tracts shall expressly NOT be a part of the Community or encumbered by the Community Declaration and, therefore, the Owner shall not be a member of the Association, but the Heroes Memorial Tracts, and any portion thereof, shall be subject to those covenants and restrictions set forth in this Declaration.

2.2. **Municipal Park Use.** The Heroes Memorial Tracts shall be used solely for the Park Purpose and the Drainage Purpose, and for no other purpose, unless otherwise approved by the Declarant, the POA, and the City. The Heroes Memorial Tracts and all structures, landscaping, signage, buildings, equipment, and other improvements and areas located therein and thereon shall be used in accordance with Applicable Law. By acceptance of title to any property subject to this Declaration, the Owner acknowledges and agrees that in the event the Heroes Memorial Tracts are no longer used for the Park Purpose or ownership of the Heroes Memorial Tracts reverts back to the POA or the Declarant, as applicable, then the POA or the Declarant, as applicable, shall have the right to annex the Heroes Memorial Tracts into the Community for use as open space and subject the Heroes Memorial Tracts to the terms and conditions of Community Declaration and the other governing documents referenced therein; provided that the use of the Park Parcel shall be used solely as open space, and provided further that improvements of the type commonly found in municipal parks may be constructed on the Park Parcel. The City further agrees that (i) except as necessary to construct and maintain the Heroes Memorial Improvements for the Park Purpose, the City shall not directly modify, remove, or destroy the Pond, the Core Drainage Improvements, or any other improvements located on the Heroes Memorial Tracts related to or used for the Drainage Purpose nor shall the City grant any drainage easement to drain into the Pond without the prior written consent of the Declarant or the POA; (ii) in no event shall the use of the Heroes Memorial Tracts for the Park Purpose or the City’s construction or repair of the Heroes Memorial Improvements interfere with the rights and benefits of the Benefited Parties or the capacity of the Pond or impair the operation of the Pond and the Core Drainage Improvements for the Drainage Purpose as detailed under the Drainage and Detention Plans, without the prior written consent of the Declarant or the POA; and (iii) in no event shall the use of the Heroes Memorial Tracts for the Park

Purpose or the City's construction or repair of the Heroes Memorial Improvements interfere with the rights and benefits granted to the the Declarant or the POA under this Declaration or the use of the Pond and the Core Drainage Improvements for the Drainage Purpose without the prior written consent of the Declarant or the POA (herein, collectively called the "**Restrictions**"). The Restrictions are imposed for the benefit of the the Declarant, the POA, and the Benefited Parties, and their successors and assigns, and may be enforced by any of the Declarant, the POA, or the Benefited Parties, or any successor or assign of such parties. The Benefited Parties are entitled to enforce the Restrictions only and may not enforce the other terms and conditions of this Declaration. The Restrictions are covenants running with the Heroes Memorial Tracts, touch and concern title to the Heroes Memorial Tracts, and shall be binding upon the successors and assigns of the City owning all or any interest in the Heroes Memorial Tracts.

### **3. Agreement Regarding Future Easements and Capacity.**

**3.1. Future Easements.** The City acknowledges and agrees that in furtherance of the Drainage Purpose, it may be necessary or desirable that the City from time to time grant or dedicate additional drainage and detention easements over or within portions of the Heroes Memorial Tracts from time to time as requested by the POA for the benefit of a Benefited Party (singularly, the "**Additional Easement**" and collectively, the "**Additional Easements**"). The City agrees to reasonably cooperate with POA in connection with the granting of any Additional Easements desired and requested by the POA in order to continue providing drainage into the Pond by the Benefitted Parcels, provided that the the POA and the City shall reasonably cooperate as to the location of such Additional Easements so that they do not unreasonably interfere with the Heroes Memorial Improvements or the Park Purpose. If the POA requests in writing that the City execute and deliver any Additional Easement, from time to time throughout the Term, as may be reasonably appropriate or necessary for the development, construction, repair, restoration, or operation of the Pond and the Core Drainage Improvements for the Drainage Purpose, the City shall not unreasonably withhold, condition, or delay its consent to such request (provided that it shall not be considered unreasonable of City to withhold its consent to any such Additional Easement if such Additional Easement is otherwise prohibited by Applicable Law). Notwithstanding anything herein to the contrary, no drainage or detention easement can be granted in favor of any piece of property that is not within the 43.56 acre Basing Area shown on the Drainage and Detention Plans, including but not limited to Exhibit "C".

**3.2. Future Capacity.** In the event that the POA or the Declarant determines the capacity of the Pond and the Core Drainage Improvements must be increased or enlarged so that such improvements can continue to serve the Drainage Purpose for the Benefited Properties and any other parcels entitled to use the Pond and the Core Drainage Improvements for the Drainage Purpose, the City agrees that the POA or the Declarant may require such enlargement to occur (the "**Pond Enlargement**"), provided that the POA or the Declarant and the City shall reasonably cooperate as to design and construction of such Pond Enlargement to reasonably minimize its interference with the Heroes Memorial Improvements. If the POA or the Declarant requests in writing that the City execute or join with the POA or the Declarant in executing and delivering documents required to effectuate such Pond Enlargement from time to time throughout the Term, the City shall not unreasonably withhold, condition, or delay its consent to such request (provided that it shall not be considered unreasonable of the City to withhold its consent to any such document that is otherwise prohibited by Applicable Law). Pursuant to *Section 10.2*, if any of the POA Parties damage or destroy any portion of the Heroes Memorial Improvements during any Pond Enlargement, the POA shall be required to repair and restore the damaged portion of the Heroes Memorial Improvements to substantially the same condition in which they existed prior to any such damage or destruction, at the POA's sole expense. Prior to construction of the Pond Enlargement, the Declarant or the POA, as appropriate, shall procure and maintain commercially standard general liability

insurance, property insurance, automobile liability coverage, and worker's compensation as required by law to be and remain in effect during the period of construction of the Pond Enlargement. The POA may satisfy this requirement by causing the contractor for the Pond Enlargement to carry such insurance. The City shall be named as an additional insured on the general liability policy, and the City will be provided proof of such insurance coverage prior to entry into the Heroes Memorial Park Tract for the purpose of constructing the Pond Enlargement.

#### **4. Division of Maintenance Rights and Responsibilities.**

**4.1. Heroes Memorial Improvements Maintenance.** Except as otherwise provided herein, the City shall be responsible for the operation, construction, reconstruction, maintenance, management, replacement, and repair of the Heroes Memorial Improvements. All such operation, construction, reconstruction, maintenance, management, replacement, and repair shall be performed in compliance with Applicable Law and the requirements set forth herein, which shall include, without limitation, the following responsibilities:

**4.1.1.** The City agrees that the Pond and the Core Drainage Improvements will not be modified by the City without the consent of the POA and the Declarant (provided that the POA and the Declarant consent to the modification of the Pond and the Core Drainage Improvements as set forth in the Heroes Memorial Plans) and use of the Heroes Memorial Tracts for the Heroes Memorial Improvements by the City and the public, as well as the construction, maintenance, operation, modification, and removal of the Heroes Memorial Improvements by the City and its agents, contractors, and employees, shall not interfere with the easements and rights held by the Benefited Parties or the use of the Pond, the Core Drainage Improvements or the Heroes Memorial Tracts for the Drainage Purpose or as otherwise permitted hereunder. In the event that conditions of the Pond Parcel such as the placement of an improvement, vegetation, or the accumulation of litter unreasonably interferes with the day-to-day operation of the Pond, the Core Drainage Improvements, or the Pond Parcel for the Drainage Purpose or as otherwise interfere with the rights held by the Declarant and the POA hereunder, the City shall timely remove or modify such improvement to terminate such interference; provided that improvement installed in accordance with the Plans shall not be required to be modified or removed.

**4.1.2.** The City agrees that it shall provide written notice to the POA at least thirty (30) days in advance of the start of any planned construction, repair, or reconstruction of any portion of the Heroes Memorial Improvements pursuant to this Declaration ("**City Construction**"). Upon receipt of such notice by the POA, the City and the POA hereby agree that they shall work in good faith with each other to coordinate the date that the City Construction may commence to minimize the City Construction's interference with the POA's use of the Pond for the Drainage Purpose or the POA's Pond operation and maintenance activities. Prior to commencing the City Construction, the City shall be required to install signage, barriers, and fencing in sufficient quantities to reasonably deter the public from entering into the area in which the City Construction is occurring. The City shall also be required to remove such signage, barriers, and fencing within seven (7) days of the termination of the City Construction.

- 4.1.3.** The City shall at all times, at the City's expense, maintain at a minimum the insurance coverage listed in *Section 8*.

**4.2. Core Drainage Improvements Maintenance.** The POA shall be responsible for the operation, maintenance, management, replacement, and repair of the Pond and the Core Drainage Improvements. All such operation, maintenance, management, replacement, and repairs shall be performed by the POA in a safe, first class manner, and consistent with the operation, maintenance, replacement, repair and management practices of the surrounding Community and in compliance with Applicable Law and the requirements set forth herein which shall include, without limitation, the following responsibilities:

- 4.2.1.** The POA agrees that it shall provide written notice to the City at least thirty (30) days in advance of the start of any planned construction, repair, or reconstruction of any portion of the Pond or the Core Drainage Improvements pursuant to this Declaration ("**POA Construction**"). Upon receipt of such notice by the City, the POA and the City hereby agree that they shall work in good faith with each other to coordinate the date that the POA Construction may commence to minimize the POA Construction's interference with the City's use of the Heroes Memorial Tracts for the Park Purpose or the City's operation and maintenance activities. Prior to commencing the POA Construction, the POA shall be required to install signage, barriers, and fencing in sufficient quantities to reasonably deter the public from entering into the area in which the POA Construction is occurring. The POA shall also be required to remove such signage, barriers, and fencing within seven (7) days of the termination of the POA Construction.

- 4.2.2.** The POA shall at all times, at the POA's expense, maintain at a minimum the insurance coverage listed in *Section 8*.

## **5. Division of Maintenance Rights and Responsibilities.**

**5.1. Restricted Activities and Uses.** The following activities and uses are prohibited within the Heroes Memorial Tracts unless expressly authorized by the POA and the Declarant, and then subject to such conditions as may be imposed by the POA and the Declarant. The POA and the Declarant shall have the right to determine if any activities or uses violate this *Section 5.1* in POA's and the Declarant's reasonable discretion:

- 5.1.1.** "adult entertainment uses", which term means 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" means and refer to any material that is (i) obscene or pornographic as determined by the Declarant and the POA 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);

- 5.1.2.** the sale of illicit drugs or paraphernalia for use of illicit drugs; or,

- 5.1.3. 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.

5.2. **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 Heroes Memorial Tracts. 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 Heroes Memorial Tracts for the Park Purpose. The following activities are expressly prohibited within the Heroes Memorial Tracts:

- 5.2.1. the burning of materials that cause smoke to cross the Heroes Memorial Tracts;
- 5.2.2. the parking or storage of motor vehicles or motorcycles on the Heroes Memorial Tracts for more than twenty-four (24) hours;
- 5.2.3. the storage of materials or equipment except as permitted in the Heroes Memorial Plans or the Plans;
- 5.2.4. the staging of construction work except as permitted in the Heroes Memorial Plans or the Plans or that is related to Pre-Approved Improvements;
- 5.2.5. the storage of hazardous or toxic materials except as permitted in the Heroes Memorial Plans or the Plans and in compliance with all applicable laws;
- 5.2.6. the use or placement of underground storage tanks except as permitted in the Heroes Memorial Plans or the Plans and in compliance with all Applicable Law;
- 5.2.7. the use, enjoyment, and occupancy of the Heroes Memorial Tracts 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 (collectively, the “**Disturbances**”). Notwithstanding the foregoing, this provision shall not apply to Disturbances that occur during a special event conducted on the Heroes Memorial Tracts such as an outdoor concert (“**Special Event**”), provided that the Special Event terminates at 10:00 P.M., as required by the City of Kyle Code of Ordinances, unless it is a Special Permitted Event. A “**Special Permitted Event**” is defined as a Special Event during which the Disturbances are not required to terminate at 10:00 P.M., as required by the City of Kyle Code of Ordinances. The City shall be allowed to conduct fourteen (14) Special Permitted Events a year on the Heroes Memorial Tracts and shall provide the Declarant and the POA written notice of the date that the Special Permitted Event shall occur at least sixty (60) days in advance of the Special Permitted Event, unless a shorter notice period is accepted by the Declarant or the POA;
- 5.2.8. the use of laser pointers, spotlights, drones, or other unmanned aerial vehicles or equipment or activity except in the event such equipment is being operated by the City or its designee;
- 5.2.9. the use of devices that unreasonably interfere with television or radio reception;
- 5.2.10. sleeping or camping overnight in the Heroes Memorial Tracts and the use of tents for such activity; or,

- 5.2.11. 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 POA and the Declarant. Notwithstanding the foregoing, the use of sparklers on the Heroes Memorial Tracts by the City and their invitees is permitted.

5.3. **Parking.** Neither the Declarant nor the POA shall be providing any parking for the Heroes Memorial Tracts. In addition, neither the Owner, nor its agents, representatives, or employees, nor any visitors to the Heroes Memorial Tracts shall be permitted to park vehicles within any privately owned areas of the Community, unless otherwise agreed to in writing by the owner of such privately owned areas.

5.4. **Exterior Illumination.** All permanent exterior illumination must be approved in advance and in writing by the Reviewer (as defined herein) and shall be designed and located to avoid the spreading of light onto adjacent property.

5.5. **Screening.** Unless otherwise approved in advance and in writing by the Reviewer or except as otherwise set forth in the Heroes Memorial Plans, 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.

## 6. Architectural Review

6.1. **Reviewing Authority.** The entity having architectural review and approval authority hereunder at any given time is hereinafter referred to in this Declaration as the “**Reviewer**”. Such authority is currently held by the POA and the Declarant. The Heroes Memorial Plans submitted by the City have been approved by the POA, serving as a Reviewer. Any improvements to be constructed, installed, altered, renovated, replaced, repaired, maintained, or otherwise added to the Heroes Memorial Tracts pursuant to the Heroes Memorial Plans (“**Pre-Approved Improvements**”) shall not require further approval by the Reviewer.

6.2. **Plan Approval.** Until such time that the Declarant no longer owns any property under the Community Declaration (“**Development Period**”), no other improvements that are not Pre-Approved Improvements shall be constructed, installed on, altered, renovated, replaced, repaired, maintained, or located within the Heroes Memorial Tracts until design and construction plans (“**Plans**”) for such improvements or work have been submitted to and approved in writing by the Declarant; provided that if such Plans are consistent with the vision for the Heroes Memorial Tracts set forth in the Heroes Memorial Plans such approval shall not be unreasonably withheld, conditioned, or delayed. In addition, any material amendment to the Heroes Memorial Plans (“**Plan Amendments**”) or any Plans for improvements to be constructed, installed, altered, renovated, or otherwise added to the Heroes Memorial Tracts that are not in accordance with the Heroes Memorial Plans must be approved by the Declarant; provided that if such Plans are consistent with the vision for the Heroes Memorial Tracts set forth in the Heroes Memorial Plans such approval shall not be unreasonably withheld, conditioned, or delayed. 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, and must comply the following requirements:



- 6.2.1. Any buildings constructed on or within the Heroes Memorial Tracts shall be designed by and built in accordance with the plans and specifications of a licensed architect or building designer.
- 6.2.2. All improvements and other construction shall conform with the Plum Creek P.U.D. Master Plan, provided that any Commercial Design Guidelines that interfere with or restrict the use of the Heroes Memorial Tracts as a public park or change the standards for the improvements set forth in the Heroes Memorial Plans, Plan Amendments, or the Plans shall not apply unless approved by the City.
- 6.2.3. All improvements and other construction shall comply with the design, architectural, and landscaping standards of the Uptown District Design Standards & Guidelines attached hereto and incorporated herewith as Exhibit "F" as may be amended and supplemented ("**Commercial Design Guidelines**"), provided that any Commercial Design Guidelines that interfere with or restrict the use of the Heroes Memorial Tracts as a public park or change the standards for the improvements set forth in the Heroes Memorial Plans, Plan Amendments, or the Plans shall not apply unless approved by the City.

6.3. **ACC.** After expiration or termination of the Development Period, or in the event Declarant or the Board of the POA earlier delegates its architectural review authority, any construction, installation, or alteration of any improvements that are not Pre-Approved Improvements shall be subject to the prior review and approval by the architectural control committee established pursuant to the Community Declaration ("**ACC**"); provided that if such Plans are consistent with the vision for the Heroes Memorial Tracts set forth in the Heroes Memorial Plans such approval shall not be unreasonably withheld, conditioned, or delayed. The City shall be permitted to have one (1) voting representative serving on the ACC taking part in any reviews held by the ACC related to the Heroes Memorial Tracts.

6.4. **Right to Designate the Reviewer.** The Declarant shall have the right to designate another Reviewer ("**Designation**") or change or revoke a Designation from time to time by written instrument. Within ten (10) days of the executing a Designation, the POA, the Declarant, and the Owner shall record the Designation in the Official Public Records of Hays County, Texas. Notwithstanding the foregoing, a Designation shall not be considered void if the Designation is not recorded in the Official Public Records of Hays County, Texas.

## **7. Maintenance and Operation Requirements.**

7.1. **Operation and Maintenance.** The Heroes Memorial Tracts and all structures, landscaping, signage, buildings, equipment, and improvements located therein and thereon shall be designed, constructed, operated, and maintained in a safe, first class manner, as reasonably determined by the POA and the City, and consistent with the design, construction, maintenance, and operation practices of the surrounding Community and in accordance with the requirements of this Declaration, the O&M Manual, and Applicable Law. Such operation and maintenance is subject to funds being appropriated in any applicable budget, which the City shall use its best efforts to appropriate.

7.2. **Rule Adoption.** Within nine (9) months of the Effective Date, the City shall adopt a binding design, construction, operation, and maintenance plan by resolution that shall be applicable to the Heroes Memorial Tracts and all equipment, components, improvements, or areas located therein or thereon (the "**O&M Manual**"), which shall govern the operations and maintenance of the Heroes

Memorial Tracts in accordance with the standards set forth herein. No amendments to the O&M Manual will materially impact the standards set forth herein.

**8. Insurance.**

**8.1. Owner Insurance.** The Owner will be required to procure and maintain commercially standard general liability insurance, property insurance, automobile liability coverage, and worker's compensation as required by law. Insurance policies required by this Section may be from an intergovernmental risk pool authorized to transact business in the State of Texas.

**8.2. POA Insurance.** The POA will be required to procure and maintain commercially standard general liability insurance, property insurance, automobile liability coverage, and worker's compensation as required by Applicable Law, and the City shall be named as an additional insured on the general liability and property insurance policies.

**9. Repair and Reconstruction.** Except as set forth under *Sections 3.2, 4.2, 10, 11, 13* or in the event of damage or destruction caused by the Declarant, the POA, or their respective agents, officers, directors, contractors, subcontractors, or employees, in the event of damage or destruction to any portion of the improvements on the Heroes Memorial Tracts, 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, Heroes Memorial Plans, or such other Plans approved in accordance with *Article 6*. For any period prior to commencement of reconstruction of a structure on the Heroes Memorial Tracts, an Owner shall act diligently and in a commercially reasonable manner to clear the Heroes Memorial Tracts of debris and maintain it in a neat and attractive, landscaped condition consistent with this Declaration. Except as otherwise provided herein, an Owner shall pay any costs insurance proceeds do not cover.

**10. Construction Damage**

**10.1. Construction Damage by the City.** Notwithstanding anything in this Declaration to the contrary, if the public or the City or the City's builder, contractor, agent, or other invitee damages or destroys any portion of the Pond or the Core Drainage Improvements during the use of the Heroes Memorial Tracts or during the construction, maintenance, operation, modification, and removal of the Heroes Memorial Improvements, the City shall be required to repair and restore, or cause the repair and restoration of, the damaged portion of the Pond or the Core Drainage Improvements to substantially the same condition in which they existed prior to any such damage or destruction, at the City's sole expense. Any repair or restoration work must be commenced within a reasonable period of time not to exceed thirty (30) days after the date the City is notified in writing of the damage by the POA or the Declarant, and diligently pursued until such repair or restoration work is completed. All such repair or replacement work must comply with Applicable Law and requirements of this Declaration.

**10.2. Construction Damage by the POA.** Notwithstanding anything in this Declaration to the contrary, if any of the POA Parties damage or destroy any portion of the Heroes Memorial Improvements during any construction, maintenance, operation, modification, and removal of the Pond or the Core Drainage Improvements or any Pond Enlargement performed by such POA Parties, the POA shall be required to repair and restore the damaged portion of the Heroes Memorial Improvements to substantially the same condition in which they existed prior to any such damage or destruction, at the POA's sole expense. Any repair or restoration work must be commenced within a reasonable period of time not to exceed thirty (30) days after the date the POA is notified in writing of the damage by the City

and diligently pursued until such repair or restoration work is completed. All such repair or replacement work must comply with Applicable Law, the Heroes Memorial Plans, and requirements of this Declaration.

## **11. Self-Help; No Waiver**

**11.1. Self-Help.** If the 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 POA, the Declarant, or a Benefited Party (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 POA, the Declarant, or the Benefited Party, as applicable, will give the 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 11.1* means any violation which may damage all or any portion of the Heroes Memorial Tracts, the Benefited Property, the Community, or the improvements located therein or thereon, or cause physical injury to any person). The POA, the Declarant, or the Benefited Party has the right to enter any portion of the Heroes Memorial Tracts to perform any maintenance required, or to abate or remove any improvement, thing, animal, person, vehicle, or condition that violates this Declaration. In exercising this right, such party is not trespassing and shall not seek reimbursement from the Owner for the costs incurred by the POA, the Declarant, or the Benefited Party, as applicable, or any of the agents, employees, or contractors of the POA, the Declarant, or the Benefited Party, as applicable, to cure the violations. The POA, the Declarant, and the Benefited Party, as applicable, shall further ensure that all costs incurred in exercising its remedies under this Section shall be paid in full and shall prevent any vendors or contractors from filing a lien against the Heroes Memorial Tracts. Nothing contained in this Section shall create any obligation on the part of the POA, the Declarant, or a Benefited Party to exercise the rights granted herein or perform another Owner's obligations. The rights of the POA, the Declarant, and the Benefited Parties to enforce this Declaration against the City shall be limited to the right to exercise self-help as set forth in this section and the right to seek injunctive relief.

**11.2. No Waiver.** 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.

## **12. Easements.**

**12.1. Private Drainage Easements.** All dedications, limitations, restrictions and reservations shown on any plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant or the POA or any third-party prior to the Effective Date, including but not limited to the Private Drainage Easements, are incorporated herein by reference and made a part of this Declaration, and will be construed as being adopted in each and every contract, deed, or conveyance related to the Heroes Memorial Tracts.

**12.2. Easement for Access.** The City hereby grants to the POA and the Declarant, and the directors, officers, employees, agents, builder's, and contractors of the POA and the Declarant (the "**POA Parties**"), a nonexclusive, perpetual easement for the purpose of ingress and egress over, upon, and across the Heroes Memorial Tracts in a location reasonably agreed upon by the parties that does not unreasonably interfere with the Heroes Memorial Improvements or the Park Purpose and subject to the compliance with the terms and conditions of this Declaration for emergency, security, and safety reasons, to perform maintenance, to inspect for compliance with, and to enforce this Declaration, and to the

extent reasonably necessary to provide the POA Parties access to the Pond and the Core Drainage Improvements and to exercise the POA Parties' rights and obligations hereunder. Additionally, the City hereby grants the POA Parties the right and easement in a location reasonably agreed upon by the Parties that does not unreasonably interfere with the Heroes Memorial Improvements or the Park Purpose to reasonably inspect, construct, connect to, install, maintain, remove, replace, and enlarge the Pond and the Core Drainage Improvements pursuant to and in compliance with the terms of this Declaration and as necessary to enable the Pond and the Core Drainage Improvements to continuously provide storm water drainage and detention to the Benefited Properties as described by the Drainage and Detention Plans or as required by Applicable Law, so long as any damage done to the Heroes Memorial Improvements by the POA Parties in exercising these rights is repaired pursuant to *Section 10*. Such right may be exercised by the POA Parties 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.

### **13. Miscellaneous.**

**13.1. Indemnification.** POA and the Declarant shall indemnify, defend, and hold harmless the City and its officers, agents and employees against all claims, suits, demands, judgments, damage, costs, losses, expenses, including attorney's fees, or other liability for personal injury, death, or damage to any person or property which arises from or is in any manner caused by the activities of the POA or the Declarant under *Sections 3.2, 4.2, 10.2, 11, or 12* of this Declaration, including any acts or negligent omissions of the POA or the Declarant, and its respective agents, officers, directors, contractors, subcontractors, or employees, while in the exercise or performance of the rights or duties under *Sections 3.2, 4.2, 10.2, 11, or 12* of this Declaration. This indemnification provision, however shall not apply to any claims, suits, demands, judgments, damage, costs, losses, or expenses arising from the negligent or willful acts or omissions of the City; provided that for the purposes of the foregoing, the City's entering into this Declaration shall not be deemed to be a "negligent or willful act."

### **13.2. Term.**

**13.2.1.** Subject to amendment or termination as provided herein, this Declaration shall remain in effect and shall be enforceable by the POA, the Declarant, and the City, and each such entity's successors and assigns, in accordance with the terms of this Declaration, 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 Heroes Memorial Tracts becomes subject to the Community Declaration or if the Heroes Memorial Tracts revert back to the ownership of the POA or the Declarant, as applicable, then this Declaration shall automatically terminate and be of no further force and effect and, thereafter, use, and development of the Heroes Memorial Tracts shall be subject to the terms of the Community Declaration and the other governing documents referenced therein; provided that the documents annexing the Heroes Memorial Tracts into the Community Declaration shall provide that the Heroes Memorial Tracts shall be used solely as open space and that any improvements constructed on the Heroes Memorial Tracts be limited to those of the type commonly found in municipal parks (the "**Open Space Restriction**"), which such Open Space Restriction shall survive termination of this Declaration.

**13.2.2.** 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.

**13.3. Amendment.** This Declaration may be amended only by written instrument signed by POA, the Declarant, and the Owner. Notwithstanding the foregoing, this Declaration cannot be amended to materially interfere with the easements and rights held by the Benefited Parties under this Declaration to use the Pond, the Core Drainage Improvements, or the Heroes Memorial Tracts for the Drainage Purpose without the written consent of the Benefited Party or Benefited Parties so affected.

**13.4. 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 (3<sup>rd</sup>) 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.

**13.5. Recitals.** The recitals above are incorporated herein and specifically made a part of this Declaration.

**13.6. 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.

**13.7. No Agency.** Nothing in this Declaration shall be deemed or construed by any Party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

**13.8. Governing Law.** The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of this Declaration.

**13.9. Assignability.** The easements granted herein are appurtenant to, assignable, and run with the transfer of, the Benefited Properties or portions thereof. The easements may not be severed from the Benefited Properties or portions thereof except as consented to by the owner(s) of the Benefited Properties or portions thereof. This Declaration is assignable by the Parties. The POA specifically has the right to assign its rights and obligations under this Declaration to the Plum Creek Mixed-Use Property Owners' Association, Inc., a Texas nonprofit corporation.

**13.10. Counterparts.** This Declaration may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

**13.11. Further Assurances.** Each of the Parties hereto agrees to execute and deliver any and all additional papers, documents, and other assurances that may be required, and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the Parties hereto.

*[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]*

[illegible]

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Richard B. Negley, Manager of PCDP General Partner, LLC, a Texas limited liability company, General Partner of Plum Creek Development Partners, Ltd., a Texas limited partnership, on behalf of said limited liability company and limited partnership.

(seal)

THE STATE OF TEXAS                   §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Thomas Smith, Manager of PCDP General Partner, LLC, a Texas limited liability company, General Partner of Plum Creek Development Partners, Ltd., a Texas limited partnership, on behalf of said limited liability company and limited partnership.

(seal)

[illegible]

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Laura Negley Gill, Manager of MountainCityLand, LLC, a Texas limited liability company, Manager of PCDP General Partner, LLC, a Texas limited liability company, General Partner of Plum Creek Development Partners, Ltd., a Texas limited partnership, on behalf of said limited liability companies and limited partnership.

(seal)



**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]*

[illegible]

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Richard B. Negley, Manager of MP General, L.L.C., a Texas limited liability company, General Partner of Mountain Plum, Ltd., a Texas limited partnership, on behalf of said limited liability company and limited partnership.

(seal)

[illegible]

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Thomas Smith, Manager of MP General, L.L.C., a Texas limited liability company, General Partner of Mountain Plum, Ltd., a Texas limited partnership, on behalf of said limited liability company and limited partnership.

(seal)

[illegible]

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Laura Negley Gill, Manager of MountainCityLand, LLC, a Texas limited liability company, Manager of MP General, L.L.C., a Texas limited liability company, General Partner of Mountain Plum, Ltd., a Texas limited partnership, on behalf of said limited liability company and limited partnership.

(seal)

**POA:**

**PLUM CREEK UPTOWN DISTRICT PROPERTY OWNERS'  
ASSOCIATION, INC.,**  
a Texas nonprofit corporation

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

[illegible]

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, who is known to me in his/her capacity as \_\_\_\_\_ of the PLUM CREEK UPTOWN DISTRICT PROPERTY OWNERS' ASSOCIATION, INC., a Texas nonprofit corporation, on behalf of said entity.

(seal)

Notary Public, State of Texas

**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

## Exhibit "A"

### Legal Description of the Declarant Parcel

"TRACT 5"

Morton M. McCarver Survey No. 44  
Abstract No. 10

#### Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 0.1377 ACRES (5,997 SQUARE FEET) OUT OF THE MORTON M. MCCARVER SURVEY NO. 4, ABSTRACT NO. 10, IN HAYS COUNTY, TEXAS, BEING A PORTION OF A CALLED 1.263 ACRE TRACT ("TRACT 1") CONVEYED TO PLUM CREEK DEVELOPMENT PARTNERS, LTD. IN DOCUMENT NO. 19026207 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T.), SAID 0.1377 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:



PO Box 90876  
Austin, TX 78709  
(512) 537-2384  
jward@4wardls.com  
[www.4wardls.com](http://www.4wardls.com)

**COMMENCING**, at a 1/2-inch iron rod with "BCG" cap found in the north right-of-way line of Kohlers Crossing (aka County Road 171, aka Mountain City Road, right-of-way varies), being in the east line of the remainder of a called 10.00 acre tract conveyed to Board of Trustees for the Hays County Independent School District in Volume 2029, Page 661 (O.P.R.H.C.T.), being the southwest corner of a called 4.857 acre tract conveyed to Plum Creek Uptown District Owners' Association, Inc. in Volume 5258, Page 857 (O.P.R.H.C.T.), being the northeast corner of a called 0.273 acre right-of-way dedication ("Parcel No. 8") conveyed to the City of Kyle, Texas in Volume 3226, Page 168 (O.P.R.H.C.T.), and being the northwest corner of a called 0.254 acre right-of-way dedication ("Tract 3") conveyed to the City of Kyle, Texas in Volume 3220, Page 508 (O.P.R.H.C.T.), from which a 1/2-inch iron rod with "4Ward Boundary" cap found in the north right-of-way line of said Kohlers Crossing, for the most southerly southeast corner of said 4.857 acre tract, for the northeast corner of said 0.254 acre right-of-way dedication bears, N88°53'20"E, a distance of 541.89 feet;

**THENCE**, leaving the north right-of-way line of said Kohlers Crossing, with the common line of said 10.00 acre Hays County Independent School District tract and said 4.857 acre tract, N01°06'34"E, a distance of 410.00 feet to a 1/2-inch iron rod with "LAI" cap found, said point being the northwest corner of said 4.857 acre tract, also being the southwest corner of a called 0.0238 acre tract conveyed to Mountain Plum, Ltd. in Volume 2857, Page 753 (O.P.R.H.C.T.);

**THENCE**, with the north line of said 4.857 acre tract and the south line of said 0.0238 acre tract, N88°54'44"E, a distance of 15.00 feet to a 1/2-inch iron rod with "LAI" cap found for the southwest corner and **POINT OF BEGINNING** hereof, said point being the southeast corner of said 0.0238 acre tract, also being the most southerly southwest corner of a called 1.263 acre tract conveyed to Plum Creek Development Partners, Ltd. in Document No. 19026207 (O.P.R.H.C.T.);

**THENCE**, with the east line of said 0.0238 acre tract and the west line of said 1.263 acre tract, N01°07'08"W, a distance of 21.27 feet to a 1/2-inch iron rod with "4Ward Boundary" cap set for an angle point hereof, from which a 1/2-inch iron rod with "LAI" cap found for the northeast corner of said 0.0238 acre tract, being an angle point in the west line of said 1.263 acre tract, N01°07'08"W, a distance of 47.97 feet;

**THENCE**, over and across said Plum Creek Development Partners tract the following five (5) courses and distances:

- 1) N60°36'10"E, a distance of 61.98 feet to a 1/2-inch iron rod with "4Ward Boundary" cap set for a point of curvature hereof,

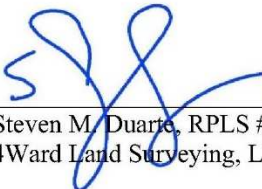
- 2) Along a curve to the right, whose radius is **229.29** feet, whose arc length is **82.93** feet, and whose chord bears **N70°57'51"E**, a distance of **82.48** feet to a 1/2-inch iron rod with "4Ward Boundary" cap set for a point of compound curvature hereof,
- 3) Along a curve to the right, whose radius is **3.00** feet, whose arc length is **4.75** feet, and whose chord bears **S53°17'41"E**, a distance of **4.27** feet to a 1/2-inch iron rod with "4Ward Boundary" cap set for a point of tangency hereof,
- 4) **S07°54'54"E**, a distance of **16.98** feet to a 1/2-inch iron rod with "4Ward Boundary" cap set for an interior ell-corner hereof, and
- 5) **N85°23'42"E**, a distance of **24.23** feet to a 1/2-inch iron rod with "4Ward Boundary" cap set for an angle point hereof, said point being in the southeast line of said 1.263 acre tract, and being in the north line of said 4.857 acre tract, from which a 1/2-inch iron rod with "BCG" cap found for the most easterly southeast corner of said 1.263 acre tract, being in the south line of the remainder of a called 983.99 acre tract ("Tract 2") conveyed to Mountain Plum, Ltd. in Volume 2297, Page 139 (O.P.R.H.C.T.), bears N58°52'03"E, a distance of 41.34 feet;

**THENCE**, with the south line of said 1.263 acre tract and the north line of said 4.857 acre tract, the following two (2) courses and distances:

- 1) **S58°52'03"W**, a distance of **116.03** feet to a 1/2-inch iron rod with "BCG" cap found for an angle point hereof, and
- 2) **S88°54'44"W**, a distance of **62.15** feet to the **POINT OF BEGINNING** and containing 0.1377 Acres (5,997 Square Feet) of land, more or less.

**NOTE:**

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 1.000100729605. See attached sketch (reference drawing: 01037-TITLE rev 3.dwg).

 **4/21/2021**  
 Steven M. Duarte, RPLS #5940  
 4Ward Land Surveying, LLC





Legal Description

**BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 0.5474 ACRES (23,846 SQUARE FEET) OUT OF THE MORTON M. McCARVER SURVEY NO. 4, ABSTRACT NO. 10, IN HAYS COUNTY, TEXAS, BEING A PORTION OF THE REMAINDER OF A CALLED 983.99 ACRE TRACT (“TRACT 2”) CONVEYED TO MOUNTAIN PLUM, LTD. IN VOLUME 2297, PAGE 139 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T.), SAID 0.5474 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**



PO Box 90876  
Austin, TX 78709  
(512) 537-2384  
jward@4wards.com  
[www.4wards.com](http://www.4wards.com)

**COMMENCING**, at a 1/2-inch iron rod with “4Ward Boundary” cap found in the west right-of-way line of FM 1626 (right-of-way varies, this portion of FM 1626 having been dedicated in Volume 1871, Page 236, O.P.R.H.C.T.), being the most easterly southeast corner of a called 4.857 acre tract conveyed to Plum Creek Uptown District Property Owners’ Association, Inc. in Volume 5258, Page 857 (O.P.R.H.C.T.), from which a 1/2-inch iron rod with “4Ward Boundary” cap found in the north right-of-way line of Kohlers Crossing (aka County Road 171, aka Mountain City Road, right-of-way varies), for the most southerly southeast corner of said 4.857 acre tract, for the northeast corner of a called 0.254 acre right-of-way dedication (“Tract 3”) conveyed to the City of Kyle, Texas in Volume 3220, Page 508 (O.P.R.H.C.T.), bears, S42°46’57”W, a distance of 39.17 feet;

**THENCE**, with the west right-of-way line of said FM 1626 and the east line of said 4.857 acre tract, N03°41’26”W, a distance of 286.28 feet to a 1/2-inch iron rod with “4Ward Boundary” cap found for the southeast corner and **POINT OF BEGINNING** hereof, said point being the northeast corner of said 4.857 acre tract, and being in the south line of said 983.99 acre remainder tract;

**THENCE**, leaving the west right-of-way line of said FM 1626, with the north line of said 4.857 acre tract and the south line of said 983.99 acre remainder tract the following four (4) courses and distances:

- 1) **S88°48’24”W**, a distance of **124.97** feet to a 1/2-inch iron rod with “4Ward Boundary” cap found for an angle point hereof,
- 2) **N82°26’54”W**, a distance of **131.53** feet to a 1/2-inch iron rod with “4Ward Boundary” cap found for an angle point hereof,
- 3) **N23°56’06”W**, a distance of **85.71** feet to a 1/2-inch iron rod with “4Ward Boundary” cap found for an angle point hereof, and
- 4) **N53°56’51”W**, a distance of **90.04** feet to a 1/2-inch iron rod with “4Ward Boundary” cap set for the northwest corner hereof, from which a 1/2-inch iron rod with “4Ward Boundary” cap found for the north corner of said 4.857 acre tract, being in the south line of said 983.99 acre remainder tract, and being in the southeast line of a called 1.263 acre tract (“Tract 1”) conveyed to Plum Creek Development Partners, Ltd. in Document No. 19026207 (O.P.R.H.C.T.), bears, N53°56’51”W, a distance of 10.79 feet;

**THENCE**, over and across said 983.99 acre remainder tract the following seven (7) courses and distances:


- 1) **S81°21’33”E**, a distance of **35.32** feet to a 1/2-inch iron rod with “4Ward Boundary” cap set for an angle point hereof,
- 2) **S79°26’03”E**, a distance of **42.98** feet to a 1/2-inch iron rod with “4Ward Boundary” cap set for an angle point hereof,
- 3) **S86°28’37”E**, a distance of **43.01** feet to a 1/2-inch iron rod with “4Ward Boundary” cap set for an angle point hereof,

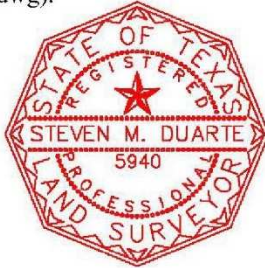
- 4) **N90°00'00"E**, a distance of **103.02** feet to a 1/2-inch iron rod with "4Ward Boundary" cap set for an external ell-corner hereof,
- 5) **S00°00'00"E**, a distance of **55.00** feet to a 1/2-inch iron rod with "4Ward Boundary" cap set for an angle point hereof,
- 6) **S45°00'00"E**, a distance of **63.64** feet to a 1/2-inch iron rod with "4Ward Boundary" cap set for an angle point hereof, and
- 7) **N90°00'00"E**, a distance of **92.82** feet to a 1/2-inch iron rod with "4Ward Boundary" cap set for the northeast corner hereof, said point being in the west right-of-way line of said FM 1626;

**THENCE**, with the west right-of-way line of said FM 1626, over and across said 983.99 acre remainder tract, **S03°41'26"E**, a distance of **30.25** feet to the **POINT OF BEGINNING** and containing 0.5474 Acres (23,846 Square Feet) of land, more or less.

**NOTE:**

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 1.000100729605. See attached sketch (reference drawing: 01037-TITLE rev3.dwg).

 **4/21/2021**  
Steven M. Duarte, RPLS #5940  
4Ward Land Surveying, LLC





## **EXHIBIT "B"**

### **Legal Description of the Pond Parcel**

4.857 Acres  
M.M. McCarver League, Sur. 4, A-10  
Hays County, Texas

LAI Job No. 070605  
FN0897(kls)  
Page 1 of 3

#### **FIELD NOTES DESCRIPTION**

DESCRIPTION OF 4.857 ACRES OF LAND IN THE M.M. MCCARVER LEAGUE SURVEY NO. 4, A-10, HAYS COUNTY, TEXAS; BEING A PORTION OF THE CALLED 983.99 ACRE TRACT DESCRIBED AS TRACT 2 OF EXHIBIT "A" IN A DEED WITHOUT WARRANTY TO MOUNTAIN PLUM, LTD. OF RECORD IN VOLUME 2297, PAGE 139, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 4.857 ACRE TRACT OF LAND, AS SURVEYED BY LOOMIS AUSTIN, INC. AND SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a ½-inch iron rod with plastic cap stamped "LAI" previously set at the intersection of the current north right-of-way line of Kohlers Crossing (a.k.a. Hays County Road No. 171) and the west right-of-way line of F.M. Highway 1626, same being in the west line of that certain 28.91 acre tract described in the deed to the City of Kyle, Texas, of record in Volume 1871, Page 236, Official Public Records of Hays County, Texas, for the northeast corner of a called 0.254 acre right-of-way dedication described as Parcel No. 3, Tract 3 in a deed to The City of Kyle, Texas of record in Volume 3220, Page 508, Official Public Records of Hays County, Texas, and for the southeast corner and **POINT OF BEGINNING** of the tract described herein;

**THENCE** S 88° 53' 16" W, with the current north right-of-way line of said Kohlers Crossing, same being the north line of the said 0.254 acre right-of-way dedication, a distance of 541.72 feet to a ½-inch iron rod with plastic cap stamped "LAI" previously set in the east line of a called 10.00 acre tract described in a deed to Hays Consolidated Independent School District of record in Volume 2029, Page 661, Official Public Records of Hays County, Texas, for the northwest corner of the said 0.254 acre right-of-way dedication, same being the northeast corner of a called 0.273 acre right-of-way dedication described as Parcel No. 8, in a deed to The City of Kyle, Texas of record in Volume 3226, Page 168, Official Public Records of Hays County, Texas, and for the southwest corner of the tract described herein;

**THENCE** N 01° 06' 44" W, with the east line of the said 10.00 acre tract, a distance of 410.03 feet to a ½-inch iron rod with plastic cap stamped "LAI" previously set for the southwest corner of a called 0.0238 acre tract described as Exhibit "A" in a deed to Hays Consolidated Independent School District of record in Volume 2857, Page 753, Official Public Records of Hays County, Texas, and for the northwest corner of the tract described herein;

**THENCE** N 88° 53' 16" E, with the south line of the said 0.0238 acre tract, at a distance of 15.00 feet pass a ½-inch iron rod with plastic cap stamped "LAI" previously set for the southeast corner of the said 0.0238 acre tract, same being the southern southwest corner of a called 1.2623 acre tract described in a deed to Hays Consolidated Independent School District of record in Volume 2029, Page 668, Official Public Records of Hays County, Texas, and continuing with the south line of the said 1.2623 acre tract for a total distance of 77.13 feet to a ½-inch iron rod with plastic cap stamped "LAI" previously set for an angle point;

**THENCE** N 58° 53' 16" E, with the southwest line of the said 1.2623 acre tract, a distance of 127.50 feet to a calculated point for the north corner of the tract described herein, from which a ½-inch iron rod with plastic cap stamped "LAI" previously set for the southeast corner of the said 1.2623 acre tract bears N 58° 53' 16" E, a distance of 29.92 feet;

**THENCE** with the crossing the said 983.99 acre tract, the following four (4) courses and distances:

4.857 Acres  
M.M. McCarver League, Sur. 4, A-10  
Hays County, Texas

LAI Job No. 070605  
FN0897(kls)  
Page 2 of 3

1. S 53° 55' 11" E, a distance of 100.89 feet to a calculated angle point,
2. S 23° 54' 05" E, a distance of 85.73 feet to a calculated angle point,
3. S 82° 24' 53" E, a distance of 131.55 feet to a calculated angle point, and
4. N 88° 50' 25" E, a distance of 124.99 feet to a calculated point in the west right-of-way line of said F.M. Highway 1626, same being in the west line of the said 28.91 acre tract, for the northwest corner of the tract described herein, from which a Type 2 Texas Department of Transportation monument bears N 03° 39' 40" W, a distance of 61.49 feet and S 68° 44' E, a distance of 0.17 feet;

**THENCE** with the west right-of-way line of said F.M. 1626, same being the west line of the said 28.91 acre tract, the following two (2) courses and distances:

1. S 03° 39' 40" E, a distance of 286.04 feet to a 1/4-inch iron rod with plastic cap stamped "LAI" previously set, from which a Type 2 Texas Department of Transportation monument bears N 82° 45' E a distance of 0.21 feet, and
2. S 42° 46' 53" W, a distance of 39.16 feet to the **POINT OF BEGINNING** and containing 4.857 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD83, Grid.  
LAI WORD FILE: FN0897(kls)


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

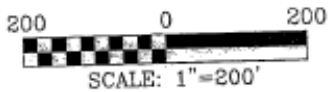
That I, John D. Barnard, a Registered Professional Land Surveyor, do hereby certify that the above description and the accompanying sketch is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during the month of February, May, September, December 2007, and January 2008, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas on this 19<sup>th</sup> of February, 2008, A.D.

Loomis Austin, Inc  
Austin, Texas 78746



  
John D. Barnard  
Registered Professional Land Surveyor  
No. 5749 - State of Texas



FEBRUARY, 2008  
HAYS COUNTY, TEXAS

A-10  
M.M. McCARVER LEAGUE NO. 4

(883.99 AC.)  
TRACT 2 OF EXHIBIT "A"  
DEED WITHOUT WARRANTY  
TO MOUNTAIN PLAZA, LTD.  
VOLUME 2297, PAGE 139  
O.P.R.H.C.T.X.

(0.0606 AC.)  
EXHIBIT "A"  
HAYS CONSOLIDATED INDEPENDENT  
SCHOOL DISTRICT  
VOLUME 2857, PAGE 753  
O.P.R.H.C.T.X.

(0.0238 AC.)  
EXHIBIT "A"  
HAYS CONSOLIDATED INDEPENDENT  
SCHOOL DISTRICT  
VOLUME 2857, PAGE 753  
O.P.R.H.C.T.X.

PLUM CREEK PHASE 2  
PERFORMING ARTS CENTER

(10.00 AC.)  
HAYS CONSOLIDATED INDEPENDENT  
SCHOOL DISTRICT  
VOLUME 2029, PAGE 641  
O.P.R.H.C.T.X.

(0.273 AC.)  
RIGHT-OF-WAY DEDICATION  
PARCEL NO. 8  
THE CITY OF KYLE, TEXAS  
VOLUME 3228, PAGE 186  
O.P.R.H.C.T.X.

(1.4433 AC.)  
HAYS CONSOLIDATED  
SCHOOL DISTRICT  
VOLUME 2029, PAGE 641  
O.P.R.H.C.T.X.

(883.99 AC.)  
TRACT 2 OF EXHIBIT "A"  
DEED WITHOUT WARRANTY  
TO MOUNTAIN PLAZA, LTD.  
VOLUME 2297, PAGE 139  
O.P.R.H.C.T.X.

(18.91 AC.)  
CITY OF KYLE, TEXAS  
VOLUME 1871, PAGE 230, O.P.R.H.C.T.X.

TRUST TYPE 2 ROW  
MARKER FOUND  
BEARS S 89°44' E, 0.17'

TRUST TYPE 2 ROW  
MARKER FOUND  
BEARS N 32°45' E, 0.21'

(0.224 AC.)  
RIGHT-OF-WAY DEDICATION  
PARCEL NO. 3, TRACT 3  
THE CITY OF KYLE, TEXAS  
VOLUME 3229, PAGE 508  
O.P.R.H.C.T.X.

KOHLERS CROSSING  
(HAY COUNTY ROAD 171)  
(HAY MOUNTAIN CITY ROAD)  
S.S.W. WHITE

# LEGEND

- LAI 1/2" IRON ROD W/ PLASTIC CAP  
STAMPED "LAI" PREVIOUSLY SET
- △ CALCULATED POINT
- P.O.B. POINT OF BEGINNING
- O.P.R.H.C.T.X. OFFICIAL PUBLIC RECORDS OF  
HAYS COUNTY, TEXAS

## NOTES:

1. BEARING BASIS IS TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83, GRID.
2. DISTANCES SHOWN HEREON ARE BASED ON SURFACE MEASUREMENTS. TO CONVERT SURFACE DISTANCES TO GRID, MULTIPLY BY THE COMBINED SCALE FACTOR.
3. THE COMBINED SCALE FACTOR FOR THIS PROJECT IS 0.999907.

**LOOMIS  
AUSTIN**

ENGINEERING, LAND SURVEYING  
& ENVIRONMENTAL CONSULTING

3103 Bee Caves Road, Suite 225, Austin Texas 78748  
Phone: (512) 327-1180; Fax: (512) 327-4082; [www.loomisaustin.com](http://www.loomisaustin.com)

SKETCH TO ACCOMPANY  
FIELD-NOTES (FN0897)

PAGE 3 OF 3

**Exhibit "C"**

**43.56-acre Basin A**



**Exhibit "D"**

**Heroes Memorial Plans**

## **Exhibit "E"**

### **Private Drainage Easements**

1. Joint Agreement executed by Plum Creek Development Partners, Ltd, a Texas limited partnership, and A+ Federal Credit Union, and recorded on December 16, 2008 in Vol 3555, Page 638 of the Official Public Records of Hays County, Texas
2. Water Detention Pond Easement executed by Plum Creek Development Partners, Ltd, a Texas limited partnership, and KOP Plum Creek, LP and Rico Runner Plum Creek, LP, and recorded on February 29, 2008, in Vol 3339, Page 283 of the Official Public Records of Hays County, Texas
3. Drainage and Detention Easement Agreement by and between Plum Creek Uptown District Property Owners' Association, Inc., a Texas nonprofit corporation, and the Board of Trustees of Hays Consolidated Independent School District, an independent school district and political subdivision of the State of Texas, and recorded on \_\_\_\_\_, 2021, in \_\_\_\_\_ of the Official Public Records of Hays County, Texas.
4. Drainage and Detention Easement Agreement by and between Plum Creek Uptown District Property Owners' Association, Inc., a Texas nonprofit corporation, and PC Operating Partners, Ltd., a Texas limited partnership, and recorded on \_\_\_\_\_, 2021, in \_\_\_\_\_ of the Official Public Records of Hays County, Texas
5. Drainage and Detention Easement Agreement by and between Plum Creek Uptown District Property Owners' Association, Inc., a Texas nonprofit corporation, and Uptown at Plum Creek Phase 1A LLC, an Oklahoma limited liability company, and recorded on \_\_\_\_\_, 2021, in \_\_\_\_\_ of the Official Public Records of Hays County, Texas
6. Drainage and Detention Easement Agreement by and between Plum Creek Uptown District Property Owners' Association, Inc., a Texas nonprofit corporation, and Plum Creek Development Partners, Ltd., a Texas limited partnership, and recorded on \_\_\_\_\_, 2021, in \_\_\_\_\_ of the Official Public Records of Hays County, Texas
7. Drainage and Detention Easement Agreement by and between Plum Creek Uptown District Property Owners' Association, Inc., a Texas nonprofit corporation, and Mountain Plum, Ltd., a Texas limited partnership, and recorded on \_\_\_\_\_, 2021, in \_\_\_\_\_ of the Official Public Records of Hays County, Texas

**Exhibit “F”**

**Commercial Design Guidelines**





# CITY OF KYLE, TEXAS

Estate of Evelyn Franke, et al (Z-21-0074)

Meeting Date: 6/15/2021

Date time: 7:00 PM

**Subject/Recommendation:** [Postponed 6/1/2021] (*Second Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of assigning original zoning to approximately 12.9 acres of land from Agriculture 'AG' to Mixed Use District 'MXD' for property located on the northeast corner of Philomena Drive and Bunton Creek Road, in Hays County, Texas. (Estate of Evelyn Franke, et al - Z-21-0074) ~ *Howard J. Koontz, Director of Planning and Community Development*

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

*City Council voted 5-2 to approve on First Reading.*

**Other Information:** See attached.

**Legal Notes:** N/A

**Budget Information:** N/A

---

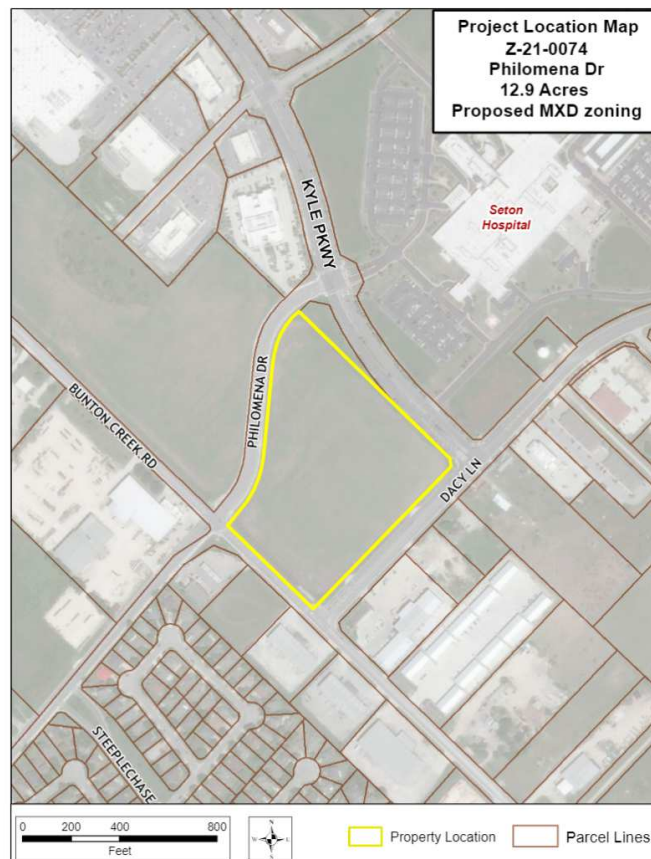
## ATTACHMENTS:

### **Description**

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

<b>Property Location</b>	<b>Northeast Corner of Philomena Drive and Bunton Creek Road</b>
<b>Owner</b>	<b>Estate of Evelyn Franke, et al 1259 N. Old Stagecoach Road Kyle, Texas 78640</b>
<b>Agent</b>	<b>Evan Voight - on behalf of Gardner Capital Investments Fund, LLC 2501 N. Harwood Street Dallas TX, 75201</b>
<b>Request</b>	<b>Rezone 12.893-Acres "A" (Agriculture) to "MXD" (Vertical Mixed Use)</b>

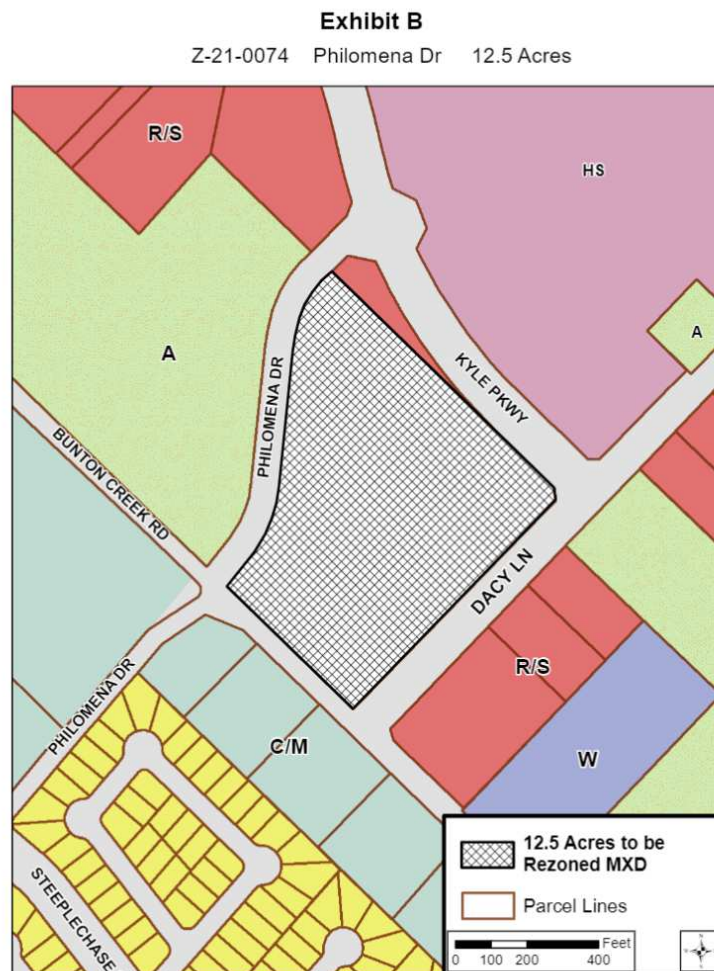
### **Vicinity Map**



## Site Description

The site is an undeveloped lot on the northwest corner of Dacy Lane and Bunton Creek Road. It is also bounded on the west by the Philomena Drive extension, and on the north by Kyle Parkway. The parcel is located between the Bread Basket convenience store at the intersection of Philomena and Bunton Creek. All those parcels to the southwest, across Bunton Creek are zoned C/M (Construction/Manufacturing district). Lands to the northwest (across the Philomena extension) are zoned A (Agriculture district), and the land to the southeast (across Dacy Lane) is zoned R/S (Retail Services district). To the northwest, a portion of the area within the development block, but off the subject site itself, is also zoned R/S, and across Kyle Parkway can be found HS zoning, the Hospital Services district.

## Zoning Map



## **Existing Zoning**

### **A (Agriculture)**

#### **Sec. 53-36.**

The permitted uses in the agricultural district A allow farming, ranching, pasturage, detached single-family residences and related accessory structures, on a minimum one acre tract. Parks, playgrounds, greenbelts and other public recreational facilities, owned and/or operated by the municipality or other public agency are permitted.

## **Requested Zoning**

### **Mixed Use Zoning District (MXD)**

#### **Sec. 53-674. - Purpose and findings**

The mixed-use district (MXD) is generally intended to further and promote the tenants of the cities' master plans and comprehensive plan. The district is a commercial zoning classification that requires a vertical mix of commercial and residential uses within the same building(s) on multiple floors. The district is intended to accommodate a physical pattern of development often found in high traffic activity areas, along major streets and especially at intersections of major thoroughfares, and in neighborhood commercial areas of older cities. The district, where appropriately located, will accommodate mixed-use buildings with activity center retail, service, and other commercial uses on the ground and lower floor(s), and residential units above those nonresidential space(s); as well as encourage development that exhibits the physical design characteristics of pedestrian-oriented, store front-style shopping; and promote the health and well-being of residents by encouraging physical activity and greater social interaction.

## **Conditions of the Zoning Ordinance**

### **Sec. 53-1205 Amendments**

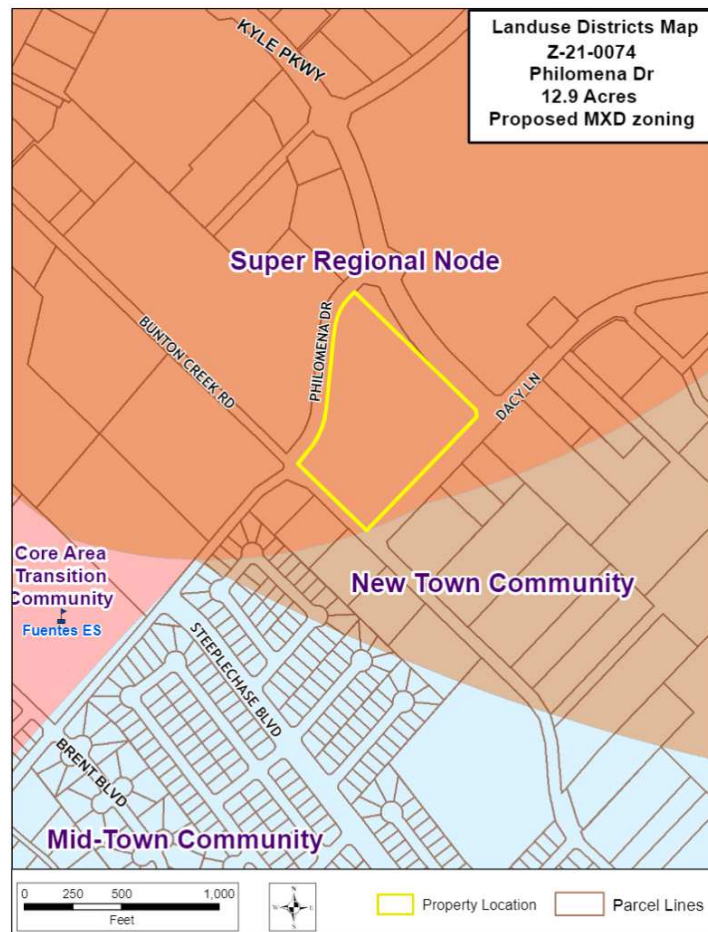
(d)

*Referral of amendment to planning and zoning commission.* Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning commission for consideration, public hearing, and recommendation to the city

council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.

(e)

*Action by the planning and zoning commission.* The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the council such action as the planning and zoning commission deems proper...



## Comprehensive Plan Text

The subject site is located within the “Super Regional Node”. The “MXD” zoning district is a recommended district in the “Super Regional Node”.

Recommended: E, HS, R-3-2, R-3-3, R/S, **MXD**, O/I



Conditional: ----

## **Super Regional Node**

'Character': The Super Regional Node should contain large-scale institutional, commercial, retail, and where appropriate, high density multifamily land uses to create the highest classification activity center in Kyle. The Seton Medical Center should serve as the key distinguishing employment component, serving as the primary institutional use in the district upon which support enterprises can base their business locations. The Super Regional Node is in the early stages of development, and care should be taken to ensure that as development processes, it is in keeping with the character and intent outlined below for this Node. Seton Hospital serves as a regional attractor and, in large part, alongside destination retail and business services, defines the Super Regional Node. Associated health providers and goods and service providers should be attracted to this area and encouraged to create a diverse commercial and employment center. The aggregation of commercial square footage in this Node creates a significant commercial destination that will be visible to regional travelers along the I-35 corridor. This proximity to highway infrastructure results in the rare instance of a district primarily designed to be automobile oriented, with patrons arriving and inter-locating primarily by car. The commercial focus of this Node should be on acting as an economic activity center, generating much needed real estate, sales and hotel occupancy tax revenue for the city while fulfilling the retail and service needs of patrons from a targeted distance of no less than 10-15 mile away. Additionally, ancillary entertainment uses, such as movie theaters or bowling alleys, may be appropriate in this Node. This Node should serve as a destination for Kyle, attracting people due to the hospital and/or commercial offerings, and encouraging them to extend their stay due to unique and diverse uses and connections to other areas of Kyle.

'Intent': The purpose of the Super Regional Node is to capture employment opportunities and create a commercial destination within Kyle. Situated at the intersection of I-35 and Texas State Highway 1626, these high classification roadways are best suited to bring in out-of-region patrons with the least impact to Kyle's local street network. This Node should take advantage of the medical center and of I-35 traffic to increase Kyle's competitiveness in the surrounding region. Existing employment opportunities should be referenced when targeting complimentary commercial uses and opportunities for increased value capture. Due to the concentration and diversity of uses in this Node, appropriate land use transitions to adjacent Communities is critical. The anchor of the Super Regional Node should be employment and they daytime population created by those positions, and the Super Regional Node should have the highest level of development intensity of all Nodes.

## **Analysis**

The subject property is located on approximately 12.9-acres, zoned “A” (Agriculture). This site is currently undeveloped and used for agricultural purposes.

The site is entirely within the Super Regional Node, a district within the City of Kyle’s comprehensive plan that envisions dense urban development and a high level of activity (both commercial and residential). As stated in the “Character” portion of the text, “the Super Regional Node should contain large-scale institutional, commercial, retail, and where appropriate, high density multifamily land uses to create the highest classification activity center in Kyle”. The Mixed Use (MXD) zoning district is a mix of the highest density multifamily and commercial zoning districts the City of Kyle has to offer. The ground floor is required to be commercial, with up to 30 units per buildable acre of residential above the ground floor. The MXD zoning district fits into the Super Regional node activity center, from an intensity of use, and is expected to thrive in this portion of the City.

The MXD zoning district is intentionally designed to facilitate a vertical mix of uses, in one building. As previously stated, no residential uses, or those uses directly accessory to associated residential uses, is allowed on the ground floor. Requiring commercial on the ground floor is key, as it helps create and amenitize a pedestrian friendly shopping experience. Residents of the project will also help patronize the commercial spaces. Additionally, street parking is critical to the design of the site, as it allows customers to park adjacent to the store fronts, walk the block to window shop and help sustain associated businesses. Vertical mixed-use developments thrive in urban settings, and this development will be one of the first, large scale projects in the City of Kyle (Uptown at Plum Creek the other).

As previously stated, this site is entirely surrounded by city streets, creating significant vehicular connectivity. This will help provide sufficient customers to the ground floor commercial, in addition to the residents on site. The existing street network is in good condition. From a site development perspective, the project will also create a sidewalk network to help attract pedestrian customers from adjacent, developed areas (Steeplechase neighborhood). From a utilities perspective, water and wastewater is available and has sufficient capacity to serve the site. There is also ample access to employment nearby, with Seton Hospital adjacent to the north and retail outlets located surrounding the I-35/1626 intersection.

## **Recommendation**

The site has sufficient utilities, road infrastructure, helps create a vibrant, urban project and supports the Comprehensive Plan. At the March 23, 2021 Planning & Zoning Commission meeting, the Commission voted 6-0 recommending approval of the zoning

request. City staff supports the rezoning to MXD and asks the Mayor & Council to vote to approve the rezoning request.

---

## **Attachments**

- Landowner Authorization Form
- Franchise Tax Account Status
- Location Map
- Current Zoning Map
- Land Use Districts Map



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING TO APPROXIMATELY 12.9 ACRES OF LAND FROM AGRICULTURE 'AG' TO MIXED USE DISTRICT 'MXD' FOR PROPERTY LOCATED ON THE NORTHEAST CORNER OF PHILOMENA DRIVE AND BUNTON CREEK ROAD, IN HAYS COUNTY, TEXAS. (ESTATE OF EVELYN FRANKE, ET AL – Z-21-0074); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to assign original zoning to approximately 12.9 acres of land from Agriculture 'AG' to Mixed Use District 'MXD', as shown on the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, at which a quorum

was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

ATTEST:

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





SPOT ON SURVEYING

*Land Surveying & Mapping*

## EXHIBIT "A"

### FIELD NOTES-METES AND BOUNDS DESCRIPTION

BEING 12.893 ACRES OF LAND, MORE OR LESS OUT OF THE JOHN M. GREEN SURVEY NO. 21, ABSTRACT NO. 200, SAID 12.893 ACRES BEING A PORTION OF LOTS 15, 16, 19, 20, 21, 25, 26, 27, 28, 40, 41, 42, 43, 44, 45, 46, 47 AND 48, A PORTION OF REBEL DRIVE AND FIELDCREST DRIVE AND ALL OF LOTS 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 AND 39, WOOD RIDGE SUBDIVISION, BEING A SUBDIVISION IN THE CITY OF KYLE, COUNTY OF HAYS, STATE OF TEXAS PER MAP OR PLAT RECORDED IN VOLUME 1, PAGE 271, PLAT RECORDS, HAYS COUNTY, TEXAS, (P.R.H.C.TX.), SAID PLAT BEING VACATED PER VACATION OF SUBDIVISION PLAT RECORDED AS INSTRUMENT NO. 16024639, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, (O.P.R.H.C.TX.), SAID TRACT BEING CONVEYED TO EVELYNE B. FRANKE, ROBIE LYNN GREGG ROBINSON, AUDREY ELAINE GREGG OSWALT, AUBREY W. GREGG, JR., AND MARY EVELYN GREGG KINSALA BY AGREEMENT AS TO INTEREST IN REAL PROPERTY RECORDED AS DOCUMENT NO. 90032469, IN VOLUME 3792, PAGE 125, O.P.R.H.C.TX., AND LATER CONVEYED TO MKK ASSOCIATES, L.P. BY MARY GREGG KINSALA, AS TRACT TWO IN SPECIAL WARRANTY CONTRIBUTION DEED RECORDED AS DOCUMENT NO. 2009-90032521 IN VOLUME 3792, PAGE 446, O.P.R.H.C.TX., SAID 12.893 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a found iron rod with cap stamped "BURY & PARTNERS", said point being accepted as the common Southeasterly corner of Lot 2 of Amending Plat of the RePlat of Lot 1B, Block "A", of the SCC Bunton Creek Subdivision, Replat of Lot 6A, Block "A", in the City of Kyle, Hays County, Texas, according to the map or plat recorded as Document No. 17011827, (P.R.H.C.TX.), and the most Westerly corner of Lot 2B, Block "A", SCC Bunton Creek Subdivision, Replat of Lot 6A, Block "A" to Establish Lot 1B and 2B SCC Bunton Creek Subdivision, according to the map or plat recorded in Volume 17, Page 54, (P.R.H.C.TX.), also being accepted as the most Northerly corner of said Wood Ridge Subdivision;

**THENCE** S45° 45' 45" E, 467.55 feet with the common Southwesterly limits of said Lot 2B, also being the Southwesterly limits of Seton Hays County Subdivision, a subdivision in the City of Kyle, County of Hays, State of Texas, per map or plat recorded in Volume 14, Page 255, (P.R.H.C.TX.), and the Northeasterly limits of said Wood Ridge Subdivision to a set 5/8" iron rod with cap stamped "SPOT ON SURVEYING", said point being set at the Northeasterly limits of that 1.902 acre tract of land called Philomena Drive conveyed to the City of Kyle for Public Right of Way (ROW), 90 feet wide, by Special Warranty Deed recorded as Instrument No. 16023063, (O.P.R.H.C.TX.), for the most Northerly corner and the **TRUE POINT OF BEGINNING** hereof;

**THENCE** S 45° 45' 45" E, 879.92 feet continuing with the common Southwesterly limits of said Seton Hays County Subdivision and the Northeasterly limits of said Wood Ridge Subdivision, to a (SIRC), said point being set at the most Northerly corner of that 0.963 acre tract of land called C.R. 205 a.k.a. Dacy Lane conveyed to the County of Hays, for (ROW) purposes, 100 feet wide, by General Warranty Deed, recorded as Document No. 2010-10023353, in Volume 3952, Page 419, (O.P.R.H.C.TX.), for the Northeasterly corner hereof, passing at 625.78 feet pass a found mag nail with washer stamped "BURY & PARTNERS", said point being accepted as the most Southerly corner of Lot 1, Block D, of said Seton Hays County Subdivision, also being accepted as a point of curvature in the Southwesterly (ROW) limits of Kyle Parkway, 120 feet wide, as shown on said Seton Hays County Subdivision;

**THENCE** Southerly with the (ROW) limits of said 0.963 acre tract (Dacy Lane ROW) limits the following two (2) courses:

1. S 01° 26' 28" E, 36.92 feet to a found 1/2" iron rod;
2. S 43° 47' 05" W, 769.82 feet, to a (SIRC), said point being set at the most Easterly corner of that 1.791 acre tract of land called Bunton Road, a.k.a. Goforth Road, conveyed to the City of Kyle for (ROW), 90 feet wide, by Special Warranty Deed recorded as Document No. 2015-15035237, in Volume 5366, Page 727, (O.P.R.H.C.TX.), for the most Southerly corner hereof;

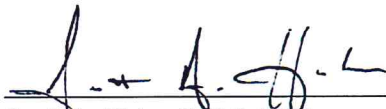
**THENCE** N 46° 02' 44" W, 515.66 feet, leaving said Dacy Lane, with the common Northeasterly (ROW) limits of said Goforth/Bunton Road and the Southwesterly limits of said Wood Ridge to a (S.I.R.C.), said point being set at the most Southerly limits of said Philomena Drive, 1.902 acre tract, for the most Westerly corner hereof;

**THENCE** leaving the Northeasterly limits of said Goforth/Bunton Road, with the Easterly (ROW) limits of said Philomena Drive and the Westerly limits of the herein described tract, the following four (4) courses:

1. N 43° 45' 28" E, 37.32 feet to a (S.I.R.C.), said point being the beginning of a curve concave Westerly, having a radius of 378.00 feet;
2. Northerly with said curve to the left through a central angle of 38° 16' 01" an arc length of 252.46 feet to a (S.I.R.C.), for the end of said curve, having a chord bearing and distance of N 24° 37' 27" E, 247.79 feet to said point;
3. N 05° 29' 27" E, 402.36 feet to a (S.I.R.C.), said point being the beginning of a curve concave Easterly, having a radius of 288.00 feet;
4. Northeasterly with said curve to the right through a central angle of 45° 23' 42" an arc length of 228.18 feet to the **POINT OF BEGINNING** hereof, having a chord bearing and distance of N 28° 11' 18" E, 222.26 feet to said point, containing a calculated area of 561,611.51 square feet or 12.893 acres of land, more or less.

SAID FIELD NOTES BEING DESCRIBED IN ACCORDANCE WITH A SURVEY MADE ON THE GROUND BY ME OR UNDER MY DIRECTION, TO BE USED WITH SURVEY SKETCH PREPARED BY SPOT ON SURVEYING, INC. ATTACHED HERETO AND MADE A PART HEREOF.

ALL BEARINGS ARE BASED ON NAD 83 TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE. ALL DISTANCES SHOWN ARE SURFACE OR GROUND DISTANCES.

  
\_\_\_\_\_  
Scott A. Hahn, RPLS 6375

Spot On Surveying, INC. – TX Firm No.:10193894  
614 Jerrys Ln., Buda TX. 78610  
(512)523-8092  
SOS J/N: 0048-20-016

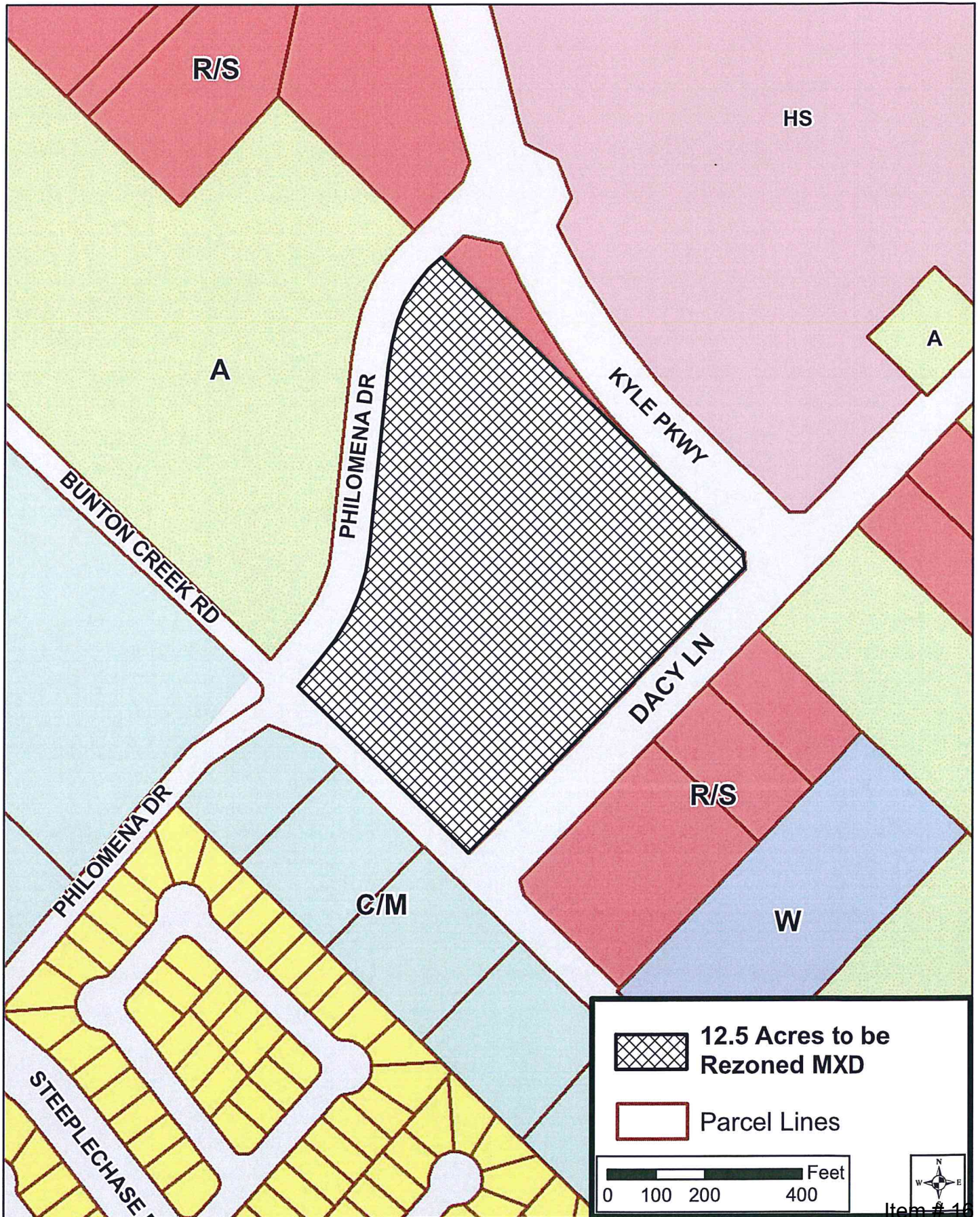
January 21, 2021

\_\_\_\_\_  
Date



# Exhibit B

Z-21-0074 Philomena Dr 12.5 Acres





February 22, 2021

Debbie A Guerra  
Planning Technician  
City of Kyle  
100 West Center Street  
Kyle, Texas 78740

RE: Request Change in Zoning  
Summary and Owner Authorization for Agent Representation  
NE Corner of Philomena Dr & Bunton Creek Rd (CR 130), Kyle, Texas 78640

We are requesting a zoning change from its existing Agricultural (AG) zoning designation to Mixed-Use Zoning District (MXD) zoning for the land located approximately at the NE corner of Philomena Drive and Bunton Creek Road, Kyle, Texas 78640. This change will allow for a more dense, vertical mixed-use development on the 12.893-acre site.

The applicant information is the following:

Estate of Evelyn Franke et al

Members of Estate

Don S. Franke, Independent Co-Executor of Estate of Evelyn Franke

Mary Gregg Kinsala, Agent for MKK Associates, a TX limited partnership,  
GAWLS Ltd., a TX limited partnership,  
CR Two Investments, Ltd., a TX limited partnership,  
Clifton Oswalt as Trustee of the Clifton Oswalt Trust, and  
Evelyn Nicholson as Trustee of the Evelyn Nicholson Trust

1259 N Old Stagecoach Rd, Kyle, Texas 78460  
(p) (512) 924-6966  
(email) [crobinson@robinsonrealtyservices.com](mailto:crobinson@robinsonrealtyservices.com) or [ekathry@aol.com](mailto:ekathry@aol.com)

As the owner of the site, I hereby grant Gardner Capital Investments Fund, LLC the right to act as the Authorized Agent on development applications associated with this property. The agents may act in the preparation of documents, communication with county staff, and presentation to county boards and commissions, conditioned, however, to contract requirements that rezoning not to be finalized until sale to Gardner Capital Investment Fund, LLC is finalized. Agent's Information is listed as follows:

*Gardner Capital Investments Fund, LLC*  
2501 N Harwood St. Dallas, Texas 75201  
(p) (314)561.5901  
(email) [michael@gardnercapital.com](mailto:michael@gardnercapital.com)

[signature page to follow]

[signature page from letter request]

Respectfully,

Signature:

*Don S. Franke*

Don S. Franke, Independent Co-Executor of Estate of Evelyn Franke  
As to the undivided one-third interest in the property

Date:

February 25, 2021

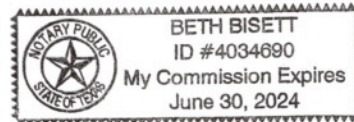
**Certified Public Notary:**

This document was acknowledged before me on the 25 day of February 2021 by  
Don S. Franke (Owner).

*Beth Bisett*

Notary Public State of Texas

(Seal)



Signature:

*Mary Gregg Kinsala*

Mary Gregg Kinsala, Agent for MKK Associates, TX limited partnership,  
GAWLS Ltd., a TX limited partnership,  
CR Two Investments, Ltd., a TX limited partnership,  
Clifton Oswalt as Trustee of the Clifton Oswalt Trust, and  
Evelyn Nicholson as Trustee of the Evelyn Nicholson Trust

Date:

25 FEB 2021

**Certified Public Notary:**

This document was acknowledged before me on the 25<sup>th</sup> day of FEBRUARY, 2021, by  
MARY GREGG KINSALA (Owner).

*Leslie Karole O'Pry*

Notary Public State of Texas

(Seal)



---


**RE: Franchise Tax Account Status**

Evan Voight <evan@alderbach.com>

Thu 3/11/2021 2:34 PM

To: William Atkinson <watkinson@cityofkyle.com>

Cc: Debbie Guerra <dguerra@cityofkyle.com>; citrinedev@gmail.com <citrinedev@gmail.com>

 1 attachments (11 KB)

EIN-Gardner Capital Investment Fund, LLC.pdf;

Hi Will,

According to my contact at Gardner Capital this is a Missouri entity which hasn't applied for a foreign license in Texas. Legally, they don't believe it's required to enter into a land contract or purchase land. I attached the EIN for the entity for your reference. Please advise how you'd like us to proceed.

Thanks,

Evan Voight

Alderbach Development, LLC

(c) 317.413.0041

[evan@alderbach.com](mailto:evan@alderbach.com)



ALDERBACH DEVELOPMENT, LLC

---

**From:** William Atkinson <watkinson@cityofkyle.com>

**Sent:** Wednesday, March 10, 2021 1:08 PM

**To:** Evan Voight <evan@alderbach.com>

**Cc:** Debbie Guerra <dguerra@cityofkyle.com>

**Subject:** Franchise Tax Account Status

Evan,

Please upload the appropriate Franchise Tax Account Status for Gardner Capital to Energov as well.

<https://mycpa.cpa.state.tx.us/coa/>

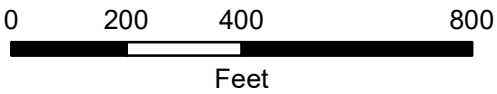
[Taxable Entity Search](#)

Use the 11-digit Comptroller's Taxpayer Number or the 9-digit Federal Employer's Identification Number.

[mycpa.cpa.state.tx.us](https://mycpa.cpa.state.tx.us)



**Project Location Map**  
**Z-21-0074**  
**Philomena Dr**  
**12.9 Acres**  
**Proposed MXD zoning**



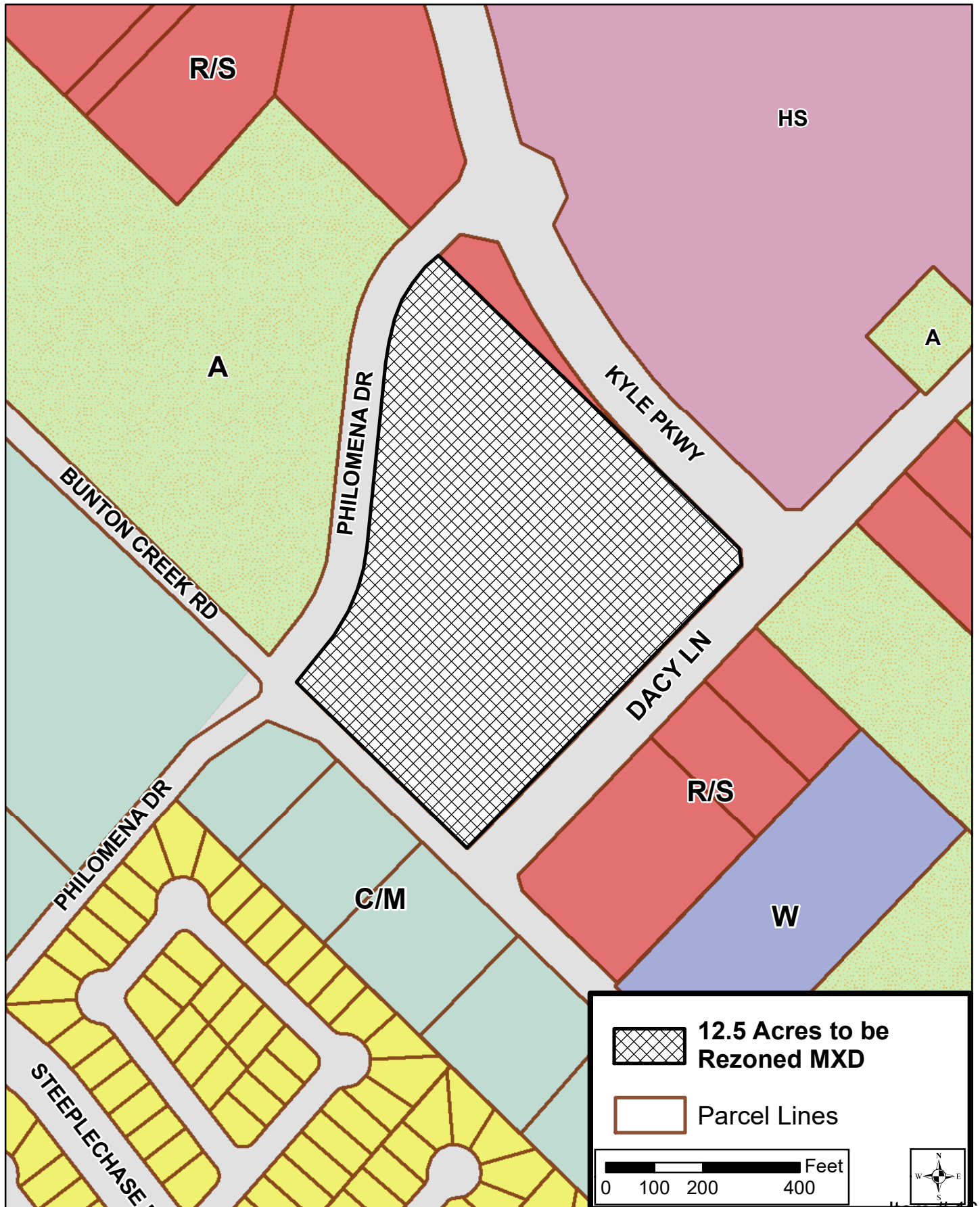
Property Location



Parcel Lines

# Exhibit B

Z-21-0074 Philomena Dr 12.5 Acres





Landuse Districts Map  
Z-21-0074  
Philomena Dr  
12.9 Acres  
Proposed MXD zoning

**Super Regional Node**

**New Town Community**

**Core Area  
Transition  
Community**

Fuentes ES

**Mid-Town Community**

KYLE PKWY

BUNTON CREEK RD

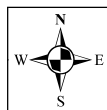
PHILOMENA DR

DACY LN

STEEPLECHASE BLVD

BRENT BLVD

0 250 500 1,000  
Feet



Property Location



Parcel Lines

Item # 16

\*\*\*\* **Electronically Filed Document** \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

---

**Document Number: 2009-90032521**  
**Recorded As : ELECTRONIC RECORDING**

**Recorded On: December 21, 2009**  
**Recorded At: 08:31:15 am**  
**Number of Pages: 7**  
**Book-VI/Pg: Bk-OPR VI-3792 Pg-446**  
**Recording Fee: \$36.00**

**Parties:**

**Direct- KINSALA MARY GREGG**  
**Indirect- MKK ASSOCIATES LP**

**Receipt Number: 235397**  
**Processed By: Christina Rodriguez**

---

\*\*\*\*\* **THIS PAGE IS PART OF THE INSTRUMENT** \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Linda C. Fritsche*

Linda C. Fritsche, County Clerk

**SPECIAL WARRANTY CONTRIBUTION DEED**

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

STATE OF TEXAS           §  
                                   §       KNOWN ALL PERSONS BY THESE PRESENTS  
 COUNTY OF HAYS       §

That **Mary Gregg Kinsala**, an individual residing in Hays County, Texas ("Grantor"), is the sole and separate property of Grantor and Grantor owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **MKK Associates, L.P.**, a Texas limited partnership ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out his undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of his interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hayes County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 18th day of December, 2009.

GRANTOR:

Mary Gregg Kinsala  
Mary Gregg Kinsala

GRANTEE:

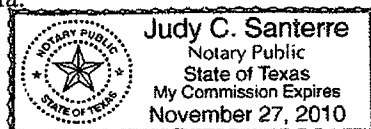
MKK Associates, L.P.  
a Texas limited partnership

By: MKK Management, LLC,  
a Texas limited liability company,  
General Partner

By: Mary Gregg Kinsala  
Mary Gregg Kinsala, President

STATE OF TEXAS       §  
                                 §  
COUNTY OF TRAVIS   §

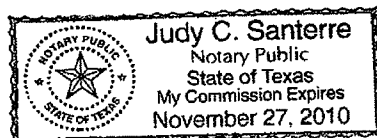
The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Mary Gregg Kinsala.



Judy C. Santerre  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                 §  
COUNTY OF TRAVIS   §

The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Mary Gregg Kinsala, the President of MKK Management, LLC, a limited liability company, the General Partner of MKK Associates, L.P., a Texas limited partnership, for and on behalf of said limited liability company and limited partnership.



Judy C. Santerre  
Notary Public, State of Texas

## **EXHIBIT A**

### **Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

#### **SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

(4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways

## **EXHIBIT B**

### **Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records

and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

### **EXHIBIT C**

#### **Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

(1) Warranty Deed dated October 25, 2004, to RH of Texas Limited Partnership, and recorded in Volume 2567, Page 514, of the Official Public Records of Hays County, Texas;

(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey



Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

### **EXHIBIT D**

#### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres); and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.

### **EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

WHEN RECORDED RETURN TO:

E. Clark Lutz  
Graves, Dougherty, Hearon & Moody, P.C.  
P.O. Box 98  
Austin, Texas 78767

GRANTEE'S ADDRESS:

MKK Associates, L.P.  
1301 N. Old Stagecoach Road  
Kyle, Texas 78640

\*\*\*\* Electronically Filed Document \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

---

Document Number: 2009-90032469  
Recorded As : ELECTRONIC RECORDING

Recorded On: December 18, 2009  
Recorded At: 01:45:03 pm  
Number of Pages: 5  
Book-VI/Pg: Bk-OPR VI-3792 Pg-124  
Recording Fee: \$29.25

Parties:

Direct- GREGG AUBREY WJR  
Indirect- GREGG AUBREY WJR

Receipt Number: 235342  
Processed By: Christina Rodriguez

---

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Linda C. Fritsche*

Linda C. Fritsche, County Clerk

**AGREEMENT AS TO INTEREST IN REAL PROPERTY**

STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HAYS

§

This AGREEMENT dated the 17th day of December, 2009, by and between, EVELYN B. FRANKE, a *feme sole*, ROBIE LYNN GREGG ROBINSON, AUDREY ELAINE GREGG OSWALT, AUBREY W. GREGG, JR., and MARY EVELYN GREGG KINSALA of the County of Hays, State of Texas, hereinafter referred to as Owners, as follows:

**RECITALS:**

1. **WHEREAS**, Owners are the joint owners of approximately 37.234 acres of land, more or less, located in Hays County, Texas, being two tracts of land, as follows:

Tract 1: Being 10.274 acres of land, more or less, out of the John Jones Survey and the Walter M. Green Survey, Hays County, Texas and being a portion of that 47.52 acre tract of land formerly conveyed by W. A. Word to Aurel W. Franke as described in Warranty Deed dated November 1, 1962 recorded in Vol. 194 at Page 423, Hays County Deed Records.

Tract 2: Being 26.96 acres of land, more or less, being Lots 1 through 48 of the Woodridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Book 1, Page 271 of the Hays County Real Property Records.

together with all improvements, rights and appurtenances belonging or pertaining thereto (the "Property");

2. **WHEREAS**, a portion of the title to the Property is being currently shown in the Official Public Records of Hays County, Texas, as being in A.W. GREGG, who is now deceased;

3. **WHEREAS**, Owners desire to declare and confirm their agreement as to the proportionate undivided interest of each owner in the Property;

4. **WHEREAS**, each Owner owns, occupies, and claims property other than the Property as the respective homestead of such Owner. The undivided interest of each of the Owners in the Property is the sole and separate property and estate of each respective Owner.

**NOW, THEREFORE**, for and in consideration of confirming the property interests described herein and other and other valuable consideration, the Owners hereto agree as follows:

1. **THAT** Owners' respective undivided interests in the Property are as follows:

EVELYN B. FRANKE  
P. O. Box 236  
Kyle, Texas 78640

undivided 1/3rd interest

ROBIE LYNN GREGG ROBINSON  
1251 N. Old Stagecoach Rd.  
Kyle, Texas 78640

undivided 1/6th interest

AUDREY ELAINE GREGG OSWALT  
P. O. Box 726  
Kyle, Texas 78640-0726

undivided 1/6th interest

AUBREY W. GREGG, JR.  
1259 N. Old Stagecoach Rd.  
Kyle, Texas 78640

undivided 1/6th interest

MARY EVELYN GREGG KINSALA  
P. O. Box 1600  
Kyle, Texas 78640

undivided 1/6th interest

2. That it is the intention of the Owners that the Property described as Tract 1 and Tract 2 herein consist of all of the Owners' interest in the remainder of the property originally described in deed recorded in Volume 194, Page 423 of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Agreement and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.

This Agreement may be executed in multiple original counterparts and each of such counterparts with the respective acknowledgments, shall, for all purposes, be deemed to be an original, and, as such, be binding upon each person or party executing any counterpart, and the combined executed signature pages of the counterparts, when attached to one original counterpart, shall constitute the fully executed Agreement.

*[Signature Page Follows]*

EXECUTED this 9th day of December, 2009.

Evelyn B. Franke

EVELYN B. FRANKE

Robie Lynn Gregg Robinson

ROBIE LYNN GREGG ROBINSON

Audrey Elaine Gregg Gloswalt

AUDREY ELAINE GREGG GLOSWALT

Aubrey W. Gregg, Jr.

AUBREY W. GREGG, JR.

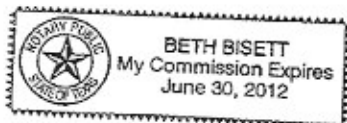
Mary Evelyn Gregg Kinsala

MARY EVELYN GREGG KINSALA

THE STATE OF TEXAS

COUNTY OF HAYS

This instrument was acknowledged before me on the 9th day of December, 2009 by EVELYN B. FRANKE.



Beth Bisett

Notary Public, State of Texas

STATE OF TEXAS §

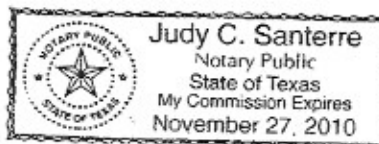
§

COUNTY OF HAYS §

This instrument was acknowledged before me on the 18th day of December, 2009, by ROBIE LYNN GREGG ROBINSON.

Judy C. Santerre

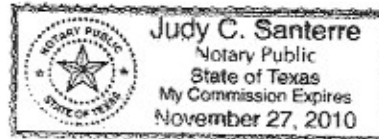
Notary Public, State of Texas



STATE OF TEXAS §  
§  
COUNTY OF HAYS §

This instrument was acknowledged before me on the 18th day of December, 2009, by AUDREY ELAINE GREGG OSWALT.

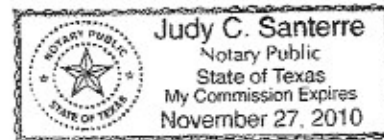
Judy C. Santerre  
Notary Public, State of Texas



STATE OF TEXAS §  
§  
COUNTY OF HAYS §

This instrument was acknowledged before me on the 18th day of December, 2009, by AUBREY W. GREGG, JR.

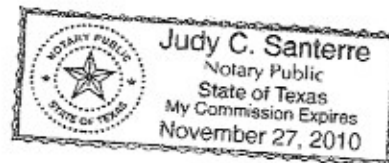
Judy C. Santerre  
Notary Public, State of Texas



STATE OF TEXAS §  
§  
COUNTY OF HAYS §

This instrument was acknowledged before me on the 18th day of December, 2009, by MARY EVELYN GREGG KINSALA.

Judy C. Santerre  
Notary Public, State of Texas





**AMENDED AND RESTATED  
LIMITED AGENCY AGREEMENT**

This Limited Agency Agreement (this "Agreement") is entered into by and among Mary Gregg Kinsala ("Agent"), Kathryn Kinsala ("Co-Agent"), GAWLS Ltd., a Texas limited partnership, CR TWO Investments, Ltd., a Texas limited partnership, MKK Associates LP, a Texas limited partnership, Clifton Oswalt as Trustee of the Clifton Oswalt Trust, and Evelyn Nicholson as Trustee of the Evelyn Nicholson Trust (collectively, "Principals") on this 2<sup>nd</sup> day of August, 2020 (the "Effective Date").

**RECITALS:**

WHEREAS, the Agent and Principals, entered into that certain Limited Agency Agreement (the "Original Agreement"), effective as of August 2, 2019, under which Agent was appointed to perform the Agent Duties (as defined herein) until August 2, 2020; and

WHEREAS, Principals desire to amend and restate the Original Agreement in order to extend the duration of Agent's appointment and appoint a co-agent to serve if Agent is medically unable to carry out the Agent Duties.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein, the parties hereto agree to amend and restate the Original Agreement in its entirety as follows:

1. Agency.

(a) Principals hereby appoint Agent, and Agent hereby agrees, to carry out the Agent Duties (as defined below), subject to the terms, conditions and limitations set forth in this Agreement. Agent is hereby granted a power of attorney to perform on Principals' behalf the Agent Duties. This power of attorney is not affected by the subsequent disability, bankruptcy or incapacity of Principals.

(b) Principals hereby delegate as the duties of the Agent the negotiation and execution of listing agreements, contracts, addenda, and other documents routinely involved in the sale of property or entering into agricultural leases regarding those certain tracts of real property as described on Exhibits A and B attached hereto (the "Properties") SAVE AND EXCEPT the ability or duty to sign a conveyance or deed of any of the Properties, subject to the terms, conditions and limitations set forth in this Agreement (the "Agent Duties"). Agent shall have the following powers with respect to the Agent Duties:

(i) To manage the process of hiring independent brokers or realtors on an as-needed project basis for the listing and sale of the Properties.

(ii) To negotiate and enter into contracts, letters of intent, or other documentation, on behalf of Principals, pertaining to the sale of any of the Properties.

(iii) To negotiate and enter into contracts, leases or other



documentation, on behalf of the Principals, pertaining to agricultural leases of the Properties.

(iv) Agent may obtain assistance of accountants, appraisers, attorneys, technical experts, and other advisors for carrying out its duties hereunder.

(c) In carrying out the Agent Duties, Agent is authorized:

(i) To execute any instrument necessary to carry out the purposes of this Agreement;

(ii) To employ the professional services of accountants, attorneys, appraisers, managers, technical experts or real estate consultants and/or experts, and to delegate its duties hereunder to such third parties, subject to Agent's supervision and control.

(d) Notwithstanding anything to the contrary herein, Agent shall not, without prior written consent of the Principals or any Principal, as applicable to the ownership of the Properties:

(i) Execute any deed or other conveyance conveying any of Principals' interest in the Properties;

(ii) Lease or rent any Properties other than agricultural leases; or

(iii) Mortgage or otherwise encumber all or any part of the Properties or incur any indebtedness for borrowed money on behalf of Principals.

2. Income, Expenses. Agent shall not receive or collect any revenues from the Properties in Agent's accounts. Agent shall not pay any expenses in connection with collection of such revenue or the preservation of the Properties from Agent's accounts. The revenues from and expenses of the Properties shall be collected and paid directly to and from Principals' accounts, as applicable.

3. Term; Revocation:

(a) Unless otherwise revoked or terminated as addressed herein, this Agreement shall automatically terminate and be of no further force or effect on the date that is three (3) years from the Effective Date.

(b) This Agreement may be revoked, in whole or in part, at any time delivering to Agent a written revocation instrument signed by the Principals or any individual Principal as to their ownership in the Properties. The revocation instrument shall state whether the revocation is in full or in part, and if in part, shall specify the Agent Duties as to which this Agreement is partially revoked.

(c) Upon receipt of notice of revocation, the Agent's powers and duties as to the Agent Duties covered by the revocation instrument shall cease, and Agent shall convey and deliver all such Principal's property to the applicable Principal, and Agent shall execute and deliver any instruments necessary remove Agent from all accounts, contracts or contact lists related to the Agent Duties.

4. Resignation. Agent shall have the right to resign, effective as of the date of such resignation, by giving written notice to that effect to the Principals (or any individual Principal as to their applicable ownership in the Properties). Upon delivery of such notice of resignation, the Agent's powers and duties as to the Agent Duties covered by the resignation shall cease, and Agent shall convey and deliver all such Principal's property to the applicable Principal, and Agent shall execute and deliver any instruments necessary remove Agent from all accounts, contracts or contact lists related to the Agent Duties.

5. Third Parties Dealing With Agent.

(a) Any third parties dealing with Agent shall conclusively presume that this Agreement is in effect, unrevoked and unterminated by any of the events provided for in Section 3 above, and shall not be put on inquiry as to the continued existence of this Agreement, except by (a) actual written notice from Agent, Principals, or other source, or (b) constructive notice by instrument filed in the Public Records of Hays County, Texas.

(b) The purpose of this Section 5 is to avoid inconvenience and any expense to Principals by virtue of third parties requiring Principals' ratifications of this Agreement from time to time by virtue of the revocation and termination provisions in Section 3.

6. Co-Agent. Principals hereby appoint Kathryn Kinsala, and she hereby agrees, to serve as "Agent" subject to the terms, conditions and limitations set forth in this Agreement, in the event that Mary Gregg Kinsala becomes legally disabled or is otherwise medically unable to act (a "Medical Disability"). In accordance with the foregoing, the parties hereby agree that Co-Agent shall be deemed the Agent for any and all purposes under this Agreement in the event of any such Medical Disability. Any third party dealing with Co-Agent shall conclusively presume that Co-Agent is the Agent for purposes of this Agreement based solely on Co-Agent's representation of such.

7. Compliance with Laws. Agent shall comply with all laws, rules and ordinances of the United States and any applicable state or other governmental agency while performing the Agent Duties.

8. Binding Effect; Assignment. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns; provided, that Agent may not assign or otherwise transfer this Agreement, or any rights or obligations hereunder (including any of the Agent Duties), without the prior written consent of the Principals.

9. Notice of Agreement. A copy of this Agreement may be provided to any third party dealing with Agent in connection with the Agent Duties.



10. Counterparts. This Agreement may be executed electronically and in multiple counterparts, each of which shall be deemed an original and together shall constitute the same document.

11. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Texas without regard to conflicts of law provisions. The venue for any dispute, arising out of or related to this Agreement, shall be the state or federal courts located in Hays County, Texas.

12. No Waiver. No waiver, express or implied, by any party of any breach of any term, condition, or obligation of this Agreement shall be construed as a waiver of any subsequent breach of any term, condition or obligation of this Agreement of the same or similar nature.

13. Complete Understanding; Modification. This Agreement constitutes the complete and exclusive understanding and agreement of the parties hereto and supersedes all prior understandings and agreements, whether written or oral, with respect to the subject matter hereof. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by the parties hereto.

*[Signature Page Follows.]*

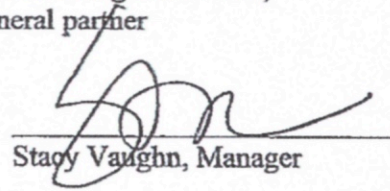
IN WITNESS WHEREOF, I have hereunto set my hand this the 24<sup>th</sup> day of July, 2020.

**PRINCIPALS:**

GAWLS Ltd., a Texas limited partnership

By: GAWLS Management LLC,  
its general partner

By:

  
Stacy Vaughn, Manager

STATE OF TEXAS           §  
                                     §  
COUNTY OF Williamson §

This instrument was acknowledged before me by Stacy Vaughn in her capacity as Manager of GAWLS Management LLC, the general partner of GAWLS Ltd., on this the 24<sup>th</sup> day of July, 2020.



  
NOTARY PUBLIC State of Texas

IN WITNESS WHEREOF, I have hereunto set my hand this the 23<sup>rd</sup> day of July, 2020.

CR TWO Investments, Ltd., a Texas limited partnership

By: CR TWO Management, LLC,  
its general partner

By: [Signature]  
Robin Robinson, Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS     §

This instrument was acknowledged before me by Robin Robinson in her capacity as Manager of CR TWO Management, LLC, the general partner of CR TWO Investments, Ltd., on this the 23<sup>rd</sup> day of July, 2020.

[Signature]  
NOTARY PUBLIC, State of Texas



IN WITNESS WHEREOF, I have hereunto set my hand this the 23<sup>RD</sup> day of JULY, 2020.

MKK Associates LP, a Texas limited partnership

By: MKK Management LLC,  
its general partner

By: Mary Gregg Kinsala, Manager  
Mary Gregg Kinsala, Manager

STATE OF TEXAS

COUNTY OF HAYS

§  
§  
§

This instrument was acknowledged before me by Mary Gregg Kinsala in her capacity as Manager of MKK Management LLC, the general partner of MKK Associates LP on this the 23<sup>RD</sup> day of JULY, 2020.

Leslie Karole O'Pry  
NOTARY PUBLIC, State of Texas





IN WITNESS WHEREOF, I have hereunto set my hand this the 24<sup>th</sup> day of JULY, 2020.

Clifton Oswalt Trust

By:   
Clifton Oswalt, Trustee

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS     §

This instrument was acknowledged before me by Clifton Oswalt in his capacity as trustee of the Clifton Oswalt Trust on this the 24<sup>th</sup> day of JULY, 2020.

  
NOTARY PUBLIC, State of Texas



IN WITNESS WHEREOF, I have hereunto set my hand this the 24<sup>th</sup> day of JULY, 2020.

Evelyn Nicholson Trust

By: Evelyn Nicholson  
Evelyn Nicholson, Trustee

STATE OF TEXAS

COUNTY OF HAYS

§  
§  
§

This instrument was acknowledged before me by Evelyn Nicholson in her capacity as trustee of the Evelyn Nicholson Trust on this the 24<sup>th</sup> day of JULY, 2020.

Leslie Karole O'Pry  
NOTARY PUBLIC, State of Texas





IN WITNESS WHEREOF, I have hereunto set my hand this the 23<sup>RD</sup> day of JULY, 2020.

AGENT:

Mary Gregg Kinsala  
Mary Gregg Kinsala

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS     §

This instrument was acknowledged before me by Mary Gregg Kinsala, an individual, on this the 23<sup>RD</sup> day of JULY, 2020.

Leslie Karole O'Pry  
NOTARY PUBLIC, State of Texas



IN WITNESS WHEREOF, I have hereunto set my hand this the 23<sup>rd</sup> day of JULY, 2020.

CO-AGENT:

Kathryn Kinsala  
Kathryn Kinsala

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS   §

This instrument was acknowledged before me by Kathryn Kinsala, an individual, on this the 23<sup>rd</sup> day of JULY, 2020.

Leslie Karole O'Pry  
NOTARY PUBLIC, State of Texas



## **EXHIBIT A**

### **Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A.W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

#### **SAVE AND EXCEPT THEREFROM**

- (1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,
- (2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,
- (3) any portion of said tracts that is within areas used, claimed or held as a public roadway,
- (4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas, and
- (5) that certain tract of land stated to contain 0.739 acres conveyed to Hays County in Deed dated December 17, 2010, and recorded at Document No. 2010-10035140 of the Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.



## **EXHIBIT B**

### **Tract Two Land**

All of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J.M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

SAVE and EXCEPT that certain tract of land stated to contain 0.963 acres conveyed to Hays County by General Warranty Deed dated July 7, 2010 and recorded at Document No. 2010-10023353 of the Official Public Records of Hays County, Texas.

SAVE and EXCEPT that certain tract of land stated to contain 1.902 acres conveyed to the City of Kyle by Special Warranty Deed dated July 14, 2016 and recorded s Instrument No. 16023063 of the Official Public Records of Hays County, Texas.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

\*\*\*\* Electronically Filed Document \*\*\*\*

Hays County Texas  
Liz Q. Gonzalez  
County Clerk

Document Number: 2012-12036985  
Recorded As : ELECTRONIC RECORDING

Recorded On: December 27, 2012  
Recorded At: 11:06:31 am  
Number of Pages: 7  
Book-VI/Pg: Bk-OPR VI-4515 Pg-533  
Recording Fee: \$36.00

Parties:

Direct- OSWALT AUDREY E  
Indirect- OSWALT CLIFTON

Receipt Number: 323501  
Processed By: Christina Rodriguez

---

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

---



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Liz Q. Gonzalez*

Liz Q. Gonzalez, County Clerk

**SPECIAL WARRANTY DEED**

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

STATE OF TEXAS	§	
	§	KNOWN ALL PERSONS BY THESE PRESENTS
COUNTY OF HAYS	§	

That **Audrey E. Oswalt**, an individual residing in Hays County, Texas ("Grantor"), owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **Evelyn E. Nicholson and Clifton Oswalt**, as co-trustees of the **2005 Irrevocable Trust For Family of Audrey E. Oswalt** ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out her undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of her interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hays County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 19<sup>th</sup> day of December, 2012.

SIGNATURE AND ACKNOWLEDGEMENT PAGE

GRANTOR:

Audrey E. Oswalt  
Audrey E. Oswalt

GRANTEE:

The 2005 Irrevocable Trust For Family  
Of Audrey E. Oswalt

By: Evelyn E. Nicholson  
Evelyn E. Nicholson, Co-trustee

By: Clifton Oswalt  
Clifton Oswalt, Co-trustee

STATE OF TEXAS §

COUNTY OF ~~TRAVIS~~ §  
HAYS

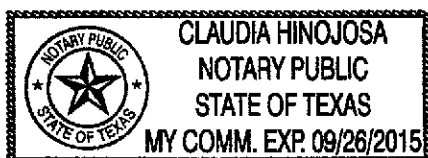
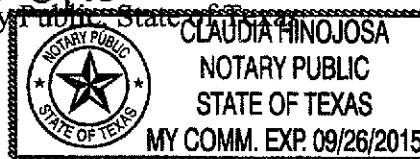
The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2012, by  
Audrey E. Oswalt.

Claudia Hinojosa  
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF ~~TRAVIS~~ §  
HAYS

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2012, by  
Evelyn E. Nicholson and Clifton Oswalt, as co-trustees of the 2005 Irrevocable Trust For Family  
of Audrey E. Oswalt.



Claudia Hinojosa  
Notary Public, State of Texas

## **EXHIBIT A**

### **Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

#### **SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

(4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas, and

(5) that certain tract of land stated to contain 0.739 acres conveyed to Hays County in Deed dated December 17, 2010, and recorded at Document No. 2010-10035140 of the Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.



## **EXHIBIT B**

### **Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

SAVE and EXCEPT that certain tract of land stated to contain 0.963 acres conveyed to Hays County by General Warranty Deed dated July 7, 2010 and recorded at Document No. 2010-10023353 of the Official Public Records of Hays County, Texas.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

## **EXHIBIT C**

### **Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to

A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

(1) Warranty Deed dated October 25, 2004, to RH of Texas Limited Partnership, and recorded in Volume 2567, Page 514, of the Official Public Records of Hays County, Texas;

(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres);

and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.

**EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

**GRANTEE'S ADDRESS:**

Evelyn E. Nicholson and Clifton Oswalt, as  
 Trustees of the 2005 Irrevocable Trust For  
 Family of Audrey E. Oswalt  
 P.O. Box 726  
 Kyle, Texas 78640

**WHEN RECORDED RETURN TO:**

E. Clark Lutz  
 Graves, Dougherty, Hearon & Moody, P.C.  
 P.O. Box 98  
 Austin, Texas 78767

**SPECIAL WARRANTY DEED**

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

STATE OF TEXAS

§

KNOWN ALL PERSONS BY THESE PRESENTS

§

COUNTY OF HAYS

§

That **Audrey E. Oswalt**, an individual residing in Hays County, Texas ("**Grantor**"), owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **Evelyn E. Nicholson and Clifton Oswalt**, as co-trustees of the 2005 Irrevocable Trust For Family of Audrey E. Oswalt ("**Grantee**"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "**Tract One Land**"), Exhibit B (the "**Tract Two Land**"), Exhibit C (the "**Tract Three Land**"), and Exhibit D (the "**Tract Four Land**") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "**Properties**" and respectively "**Tract One**", "**Tract Two**", "**Tract Three**", and "**Tract Four**"). Grantor has set out her undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "**Table**"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of her interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hayes County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 19<sup>th</sup> day of December, 2012.

SIGNATURE AND ACKNOWLEDGEMENT PAGE

GRANTOR:

Audrey E. Oswalt  
Audrey E. Oswalt

GRANTEE:

The 2005 Irrevocable Trust For Family  
Of Audrey E. Oswalt

By: Evelyn E. Nicholson  
Evelyn E. Nicholson, Co-trustee

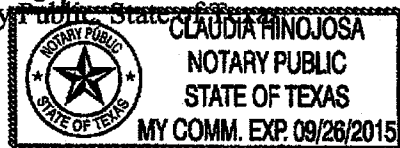
By: Clifton Oswalt  
Clifton Oswalt, Co-trustee

STATE OF TEXAS §

COUNTY OF ~~TRAVIS~~ §  
HAYS §

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2012, by  
Audrey E. Oswalt.

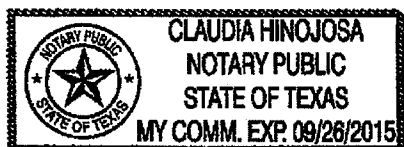
Hinojosa  
Notary Public, State of Texas



STATE OF TEXAS §

COUNTY OF ~~TRAVIS~~ §  
HAYS §

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2012, by  
Evelyn E. Nicholson and Clifton Oswalt, as co-trustees of the 2005 Irrevocable Trust For Family  
of Audrey E. Oswalt.



Hinojosa  
Notary Public, State of Texas

**EXHIBIT A**

**Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

**SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

(4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas, and

(5) that certain tract of land stated to contain 0.739 acres conveyed to Hays County in Deed dated December 17, 2010, and recorded at Document No. 2010-10035140 of the Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.

**EXHIBIT B**

**Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

SAVE and EXCEPT that certain tract of land stated to contain 0.963 acres conveyed to Hays County by General Warranty Deed dated July 7, 2010 and recorded at Document No. 2010-10023353 of the Official Public Records of Hays County, Texas.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

**EXHIBIT C**

**Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to

A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

(1) Warranty Deed dated October 25, 2004, to RH of Texas Limited Partnership, and recorded in Volume 2567, Page 514, of the Official Public Records of Hays County, Texas;

(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres);

and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.



**EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

**GRANTEE'S ADDRESS:**

Evelyn E. Nicholson and Clifton Oswalt, as  
Trustees of the 2005 Irrevocable Trust For  
Family of Audrey E. Oswalt  
P.O. Box 726  
Kyle, Texas 78640

**WHEN RECORDED RETURN TO:**

E. Clark Lutz  
Graves, Dougherty, Hearon & Moody, P.C.  
P.O. Box 98  
Austin, Texas 78767

\*\*\*\* Electronically Filed Document \*\*\*\*

Hays County Texas  
Liz Q. Gonzalez  
County Clerk

Document Number: 2012-12036985  
Recorded As : ELECTRONIC RECORDING

Recorded On: December 27, 2012  
Recorded At: 11:06:31 am  
Number of Pages: 7  
Book-VI/Pg: Bk-OPR VI-4515 Pg-533  
Recording Fee: \$36.00

Parties:

Direct- OSWALT AUDREY E  
Indirect- OSWALT CLIFTON

Receipt Number: 323501  
Processed By: Christina Rodriguez

---

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

---



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Liz Q. Gonzalez*

Liz Q. Gonzalez, County Clerk

\*\*\*\* **Electronically Filed Document** \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

---

**Document Number: 2009-90032522**  
**Recorded As : ELECTRONIC RECORDING**

**Recorded On: December 21, 2009**  
**Recorded At: 08:32:11 am**  
**Number of Pages: 7**  
**Book-VI/Pg: Bk-OPR VI-3792 Pg-453**  
**Recording Fee: \$36.00**

**Parties:**

**Direct- GREGG A:WJR**  
**Indirect- GAWLS LTD**

**Receipt Number: 235398**  
**Processed By: Christina Rodriguez**

---

\*\*\*\*\* **THIS PAGE IS PART OF THE INSTRUMENT** \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Linda C. Fritsche*

Linda C. Fritsche, County Clerk

**SPECIAL WARRANTY CONTRIBUTION DEED**

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

STATE OF TEXAS           §  
                                   §           KNOWN ALL PERSONS BY THESE PRESENTS  
 COUNTY OF HAYS       §

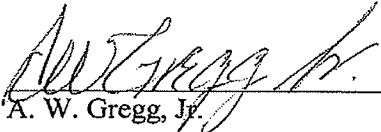
That **A. W. Gregg, Jr.**, an individual residing in Hays County, Texas ("Grantor"), is the sole and separate property of Grantor and Grantor owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **GAWLS, LTD.**, a Texas limited partnership ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out his undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of his interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hayes County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 18th day of December, 2009.

SIGNATURE AND ACKNOWLEDGEMENT PAGE

GRANTOR:

  
A. W. Gregg, Jr.

GRANTEE:

GAWLS, LTD,  
a Texas limited partnership

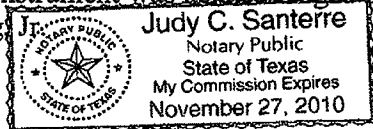
By: GAWLS Management, LLC,  
a Texas limited liability company,  
General Partner

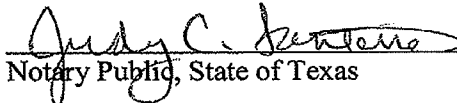
By:   
A. W. Gregg, Jr., President

STATE OF TEXAS §

§  
COUNTY OF TRAVIS §

The foregoing instrument was acknowledged before me this 18th day of December, 2009,  
by A. W. Gregg, Jr.

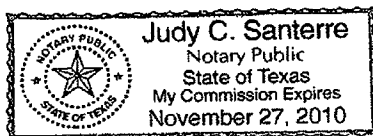


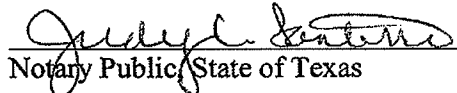
  
Notary Public, State of Texas

STATE OF TEXAS §

§  
COUNTY OF TRAVIS §

The foregoing instrument was acknowledged before me this 18th day of December, 2009,  
by A. W. Gregg, Jr., the President of GAWLS Management, LLC, a limited liability company, the  
General Partner of GAWLS, LTD., a Texas limited partnership, for and on behalf of said limited  
liability company and limited partnership.



  
Notary Public, State of Texas

## **EXHIBIT A**

### **Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

#### **SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

(4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.

## **EXHIBIT B**

### **Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records

and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

### **EXHIBIT C**

#### **Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

(1) Warranty Deed dated October 25, 2004, to RH of Texas Limited Partnership, and recorded in Volume 2567, Page 514, of the Official Public Records of Hays County, Texas;

(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey

Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres); and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.

#### **EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

WHEN RECORDED RETURN TO:

E. Clark Lutz  
Graves, Dougherty, Hearon & Moody, P.C.  
P.O. Box 98  
Austin, Texas 78767



GRANTEE'S ADDRESS:

GAWLS, LTD.  
1259 N. Old Stagecoach Road  
Kyle, Texas 78640

\*\*\*\* Electronically Filed Document \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

---

Document Number: 2009-90032523  
Recorded As : ELECTRONIC RECORDING

Recorded On: December 21, 2009  
Recorded At: 08:32:58 am  
Number of Pages: 7  
Book-VI/Pg: Bk-OPR VI-3792 Pg-460  
Recording Fee: \$36.00

Parties:

Direct- ROBINSON ROBIE LYNN  
Indirect- CR TWO INVESTMENTS LTD

Receipt Number: 235399  
Processed By: Christina Rodriguez

---

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

---



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Linda C. Fritsche*

Linda C. Fritsche, County Clerk

**SPECIAL WARRANTY CONTRIBUTION DEED**

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

STATE OF TEXAS           §  
                                   §       KNOWN ALL PERSONS BY THESE PRESENTS  
 COUNTY OF HAYS       §

That **Robie Lynn Robinson**, an individual residing in Hays County, Texas ("Grantor"), is the sole and separate property of Grantor and Grantor owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **CR Two Investments, Ltd.**, a Texas limited partnership ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out his undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of his interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hayes County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 18th day of December, 2009.

GRANTOR:

Robie Lynn Robinson  
Robie Lynn Robinson

GRANTEE:

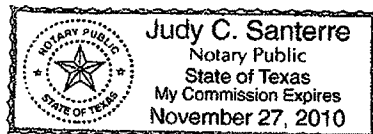
CR Two Investments, Ltd.  
a Texas limited partnership

By: CR Two Management, LLC,  
a Texas limited liability company,  
General Partner

By: Robie Lynn Robinson  
Robie Lynn Robinson, President

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS     §

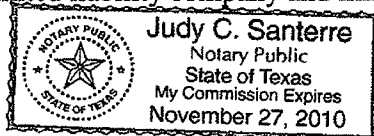
The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Robie Lynn Robinson.



Judy C. Santerre  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF HAYS     §

The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Robie Lynn Robinson, the President of CR Two Management, LLC, a limited liability company, the General Partner of CR Two Investments, Ltd., a Texas limited partnership, for and on behalf of said limited liability company and limited partnership.



Judy C. Santerre  
Notary Public, State of Texas

**EXHIBIT A**

**Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

**SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

(4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways.

**EXHIBIT B**

**Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Special

Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

### **EXHIBIT C**

#### **Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

(1) Warranty Deed dated October 25, 2004, to RH of Texas Limited Partnership, and recorded in Volume 2567, Page 514, of the Official Public Records of Hays County, Texas;

(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres); and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.

#### **EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

WHEN RECORDED RETURN TO:

E. Clark Lutz  
Graves, Dougherty, Hearon & Moody, P.C.  
P.O. Box 98  
Austin, Texas 78767

GRANTEE'S ADDRESS:

CR Two Investments, Ltd.  
1251 N. Old Stagecoach Road  
Kyle, Texas 78640



\*\*\*\* **Electronically Filed Document** \*\*\*\*

Hays County Texas  
Linda C. Fritsche  
County Clerk

---

**Document Number: 2009-90032521**  
**Recorded As : ELECTRONIC RECORDING**

**Recorded On: December 21, 2009**  
**Recorded At: 08:31:15 am**  
**Number of Pages: 7**  
**Book-VI/Pg: Bk-OPR VI-3792 Pg-446**  
**Recording Fee: \$36.00**

**Parties:**

**Direct- KINSALA MARY GREGG**  
**Indirect- MKK ASSOCIATES LP**

**Receipt Number: 235397**  
**Processed By: Christina Rodriguez**

---

\*\*\*\*\* **THIS PAGE IS PART OF THE INSTRUMENT** \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed for record in my office on the date and  
time stamped hereon and was recorded on the volume and page of the named records  
of Hays County, Texas

*Linda C. Fritsche*

Linda C. Fritsche, County Clerk

**SPECIAL WARRANTY CONTRIBUTION DEED**

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

STATE OF TEXAS           §  
                                   §       KNOWN ALL PERSONS BY THESE PRESENTS  
 COUNTY OF HAYS       §

That **Mary Gregg Kinsala**, an individual residing in Hays County, Texas ("Grantor"), is the sole and separate property of Grantor and Grantor owns, occupies, and claims property other than the Properties (defined below) as the homestead of Grantor, for and in consideration of the receipt of partnership interests in the Grantee (defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, CONTRIBUTED, and CONVEYED, and by these presents does GRANT, CONTRIBUTE, and CONVEY unto **MKK Associates, L.P.**, a Texas limited partnership ("Grantee"), all of Grantor's undivided interest in the Properties in each of the tracts of land located in Hays County, Texas described on Exhibit A (the "Tract One Land"), Exhibit B (the "Tract Two Land"), Exhibit C (the "Tract Three Land"), and Exhibit D (the "Tract Four Land") together, (a) any and all improvements, rights and appurtenances belonging or pertaining thereto, (b) all rights, title interests of Grantor in and to any easements, leases, rights-of-way, rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed, in, on, in front of, abutting, adjoining or benefiting the respective tract of Land, and (c) all rights, title and interests of Grantor in and to all utilities, sewage treatment capacity and water rights and capacity, if any, to serve or which will serve the Land (collectively the "Properties" and respectively "Tract One", "Tract Two", "Tract Three", and "Tract Four"). Grantor has set out his undivided interest in each of the Properties in the table attached hereto as Exhibit E (the "Table"); however, if Grantor owns a greater undivided interest, then it is the intent hereof to convey all of his interest and not limit it to the interest set out.

TO HAVE AND TO HOLD, Grantor's undivided interest in the Properties unto Grantee and Grantee's successors and assigns forever, subject to the exceptions, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the undivided interest in the Properties unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, by, through or under Grantor, but not otherwise, and subject to any and all easements, covenants, leases, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Properties, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Hayes County, Texas, or apparent on the Properties. Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.

EXECUTED AND DELIVERED on the 18th day of December, 2009.

GRANTOR:

Mary Gregg Kinsala  
Mary Gregg Kinsala

GRANTEE:

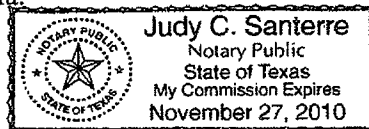
MKK Associates, L.P.  
a Texas limited partnership

By: MKK Management, LLC,  
a Texas limited liability company,  
General Partner

By: Mary Gregg Kinsala  
Mary Gregg Kinsala, President

STATE OF TEXAS       §  
                                 §  
COUNTY OF TRAVIS   §

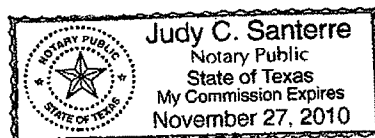
The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Mary Gregg Kinsala.



Judy C. Santerre  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                 §  
COUNTY OF TRAVIS   §

The foregoing instrument was acknowledged before me this 18th day of December, 2009, by Mary Gregg Kinsala, the President of MKK Management, LLC, a limited liability company, the General Partner of MKK Associates, L.P., a Texas limited partnership, for and on behalf of said limited liability company and limited partnership.



Judy C. Santerre  
Notary Public, State of Texas

## **EXHIBIT A**

### **Tract One Land**

Being those two certain tracts of land referenced and described in deed to Alton Franke and A. W. Gregg dated October 3, 1974 recorded in Vol. 271 Page 300, Deed Records, Hays County, Texas as Tract One being 46.44 acres in the D. Downer Survey No. 22, Tract Two being 7.703 acres partially in the D. Downer Survey No. 22 and partially in the John King Survey No. 20, as corrected by Correction Deed recorded in Volume 371, Page 677 of the Deed Records of Hays County, Texas, both of said tracts being located in Hays County, Texas, reference to said deeds being made hereby for all purposes,

#### **SAVE AND EXCEPT THERE FROM**

(1) that certain tract described as Lot 1 of North Branch Subdivision, Hays County, Texas according to the plat thereof recorded in Vol. 4 Page 51, Plat Records, Hays County, Texas and being the same property conveyed to Jerome P. Faskas in deed dated January 2, 1986 recorded in Vol. 572 Page 733 Deed Records, Hays County, Texas,

(2) that certain tract of land stated to contain 0.783 acres in deed to the County of Hays dated March 7, 1996 recorded in Vol. 1214 Page 353 Deed Records, Hays County, Texas,

(3) any portion of said tracts that is within areas used, claimed or held as a public roadway, and

(4) any portion of said tracts that have been conveyed to third parties by deed recorded on or before October 1, 2009 in the Deed Records or Official Public Records of Hays County, Texas.

It is the intention of the parties hereto that the property conveyed hereby consist of all of Grantor's interest in the remainder of the property originally described in deed recorded in Volume 271, Page 300 as corrected in Volume 371, Page 677, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tracts parcels that have been conveyed to third parties by deeds filed of record in the Deed Records and/or the Official Public Records of Hays County, Texas on or before the date of this Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways

## **EXHIBIT B**

### **Tract Two Land**

It is the intention of the parties hereto that the property conveyed hereby as the Tract Two Land consists of all of Grantor's interest in the remainder of the 47.52 acre tract originally described in deeds recorded in Volume 194, Page 423, and subsequently in Volume 241, Page 813, of the Deed Records of Hays County, Texas, after there is excluded from the originally described tract those parcels that have been conveyed to third parties by deeds filed of record in the Deed Records

and/or the Official Public Records of Hays County, Texas on or before the date of this Special Warranty Deed and excluding portions of the originally described property that are now within areas used, held or claimed as public roadways. The Tract Two Land is those two tracts of land described as being 11.21 acres in the John Jones Survey, Hays County, Texas and 36.31 acres in the J. M. Green Survey, Hays County, Texas as further described and referenced in deed to Alton Franke, Trustee dated February 1, 1971 recorded in Volume 241, Page 813 of the Deed Records of Hays County, Texas,

SAVE AND EXCEPT that certain 9.159 acre tract conveyed to Sac-N-Pac Stores, Inc. in Warranty Deed With Vendor's Lien dated May 20, 1999, and recorded at Document No. 9911898 of the Official Public Records of Hays County, Texas, and

SAVE AND EXCEPT any portions of said property lying within areas used, claimed or held as a public roadway.

A portion of this Tract Two Land is sometimes called Lots 1 through 48 of the Wood Ridge Subdivision, Hays County, Texas, together with all interest in easements and roadways according to plat recorded in Volume 1, Page 271, of the Hays County Plat Records.

### **EXHIBIT C**

#### **Tract Three Land**

A DESCRIPTION OF A CERTAIN 54.697 ACRE, MORE OR LESS, TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 54.697 acres of land, more or less, being the remaining portion of a tract comprising 156.35 acres, more or less, called the First Tract in a deed conveyed by Ernest R. Griffin to Earl Gregg dated January 15, 1951, recorded at Volume 148, Page 624, of the Hays County Deed Records; and later conveyed by Frances S. Gregg, widow of Earl Gregg, to A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey Elaine Gregg Oswalt in deed dated June 2, 1979, and recorded at Volume 327, Page 179 of the Hays County Deed Records;

LESS AND EXCEPT all acreage previously conveyed, including but not limited to the following:

(1) Warranty Deed dated October 25, 2004, to RH of Texas Limited Partnership, and recorded in Volume 2567, Page 514, of the Official Public Records of Hays County, Texas;

(2) Warranty Deed dated October 25, 2004, to Pulte Homes of Texas, LP, and recorded in Volume 2567, Page 467, of the Official Public Records of Hays County, Texas.

It is the intention of this property description to include all remaining acreage owned by A. W. Gregg Jr., Robie Lynn Gregg Robinson, Mary Evelyn Gregg Kinsala, and Audrey

Elaine Gregg Oswalt in the First Tract, as described above, located on North Old Stagecoach Road and FM 150, and lying north of the Hometown Kyle Subdivision.

#### **EXHIBIT D**

##### **Tract Four Land**

A DESCRIPTION OF A CERTAIN 7.373 ACRE TRACT OF LAND SITUATED IN THE JOHN PHARASS SURVEY NO. 13, ABSTRACT 361 IN HAYS COUNTY, TEXAS:

Said 7.373 acres of land being a part of that certain 139.46 acre tract of land conveyed by Bernhard Kuhn *et ux* to Franklin Jordan *et ux* by Warranty Deed dated September 26, 1964, recorded in Volume 202 at Page 412 of the Hays County Deed Records;

Said 7.373 acres of land being the same tract designated as "Tract Two" conveyed by Franklin Jordan and Arthur C. Jordan to Ky-Tex Properties, Inc. as described in Warranty Deed dated November 17, 1972 recorded in Volume 254 at Page 848 of the Hays County Deed Records ("Tract Two" having been recited in said deed as containing 7.38 acres of land, but the actual contents of said tract having been found by resurvey to be 7.373 acres); and said 7.373 acres of land being more particularly described by metes and bounds in that certain Warranty Deed dated as of December 31, 2001 from Ky-Tex Properties, Inc. to A. W. Gregg, Jr., R. Robinson, M. Kinsala, and A. Oswalt, and recorded at Document No. 02003368, in Volume 1947, Page 42, of the Official Public Records of Hays County, Texas.

#### **EXHIBIT E**

**Table**

<b>Tract</b>	<b>Undivided Interest</b>
One	15%
Two	1/6th
Three	1/4th
Four	1/4th

WHEN RECORDED RETURN TO:

E. Clark Lutz  
Graves, Dougherty, Hearon & Moody, P.C.  
P.O. Box 98  
Austin, Texas 78767

GRANTEE'S ADDRESS:

MKK Associates, L.P.  
1301 N. Old Stagecoach Road  
Kyle, Texas 78640



# CITY OF KYLE, TEXAS

Lucia Hernandez - Zoning (Z-21-0081)

Meeting Date: 6/15/2021

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 4.56 acres of land from Agriculture 'AG' to Retail Service District 'RS' for property located at 145 Lehman Road, in Hays County, Texas. (Lucia Hernandez - Z-21-0081) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-0 to recommend approval of the request.*

- Public Hearing

**Other Information:** See attachments.

**Legal Notes:** N/A

**Budget Information:** N/A

---

## ATTACHMENTS:

### **Description**

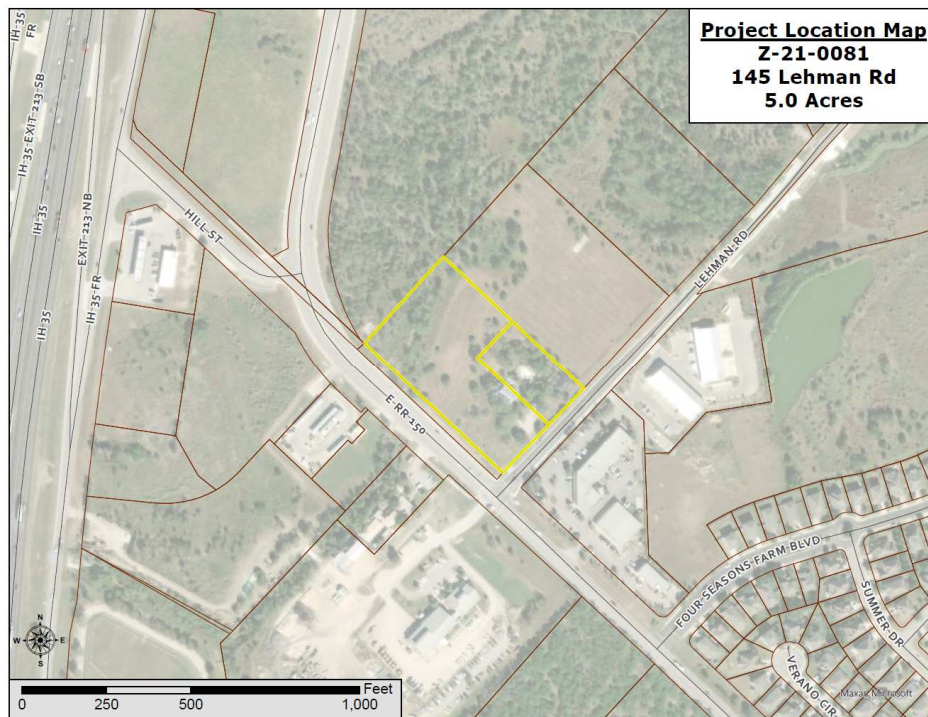
- ☐ Staff Memo
- ☐ Ordinance with Exhibit A & B
- ☐ Summary Letter
- ☐ Project Location Map
- ☐ Current Zoning Map
- ☐ Land Use Districts Map
- ☐ Deed
- ☐ Landowner Authorization Letter
- ☐ Franchise Tax Account Status



<b>Property Location</b>	<b>145 Lehman Rd - North Corner of E FM 150 &amp; Lehman Rd Intersection</b>
<b>Owner</b>	<b>Lucia Hernandez 145 Lehman Rd Kyle, TX 78640</b>
<b>Agent</b>	<b>Graham Moore Cool Breeze Consultants, LLC 1314 Avenue A, Ste. A, Katy, TX 77493</b>
<b>Request</b>	<b>Rezone 5-acres "A" (Agriculture) to "RS" (Retail Services)</b>

---

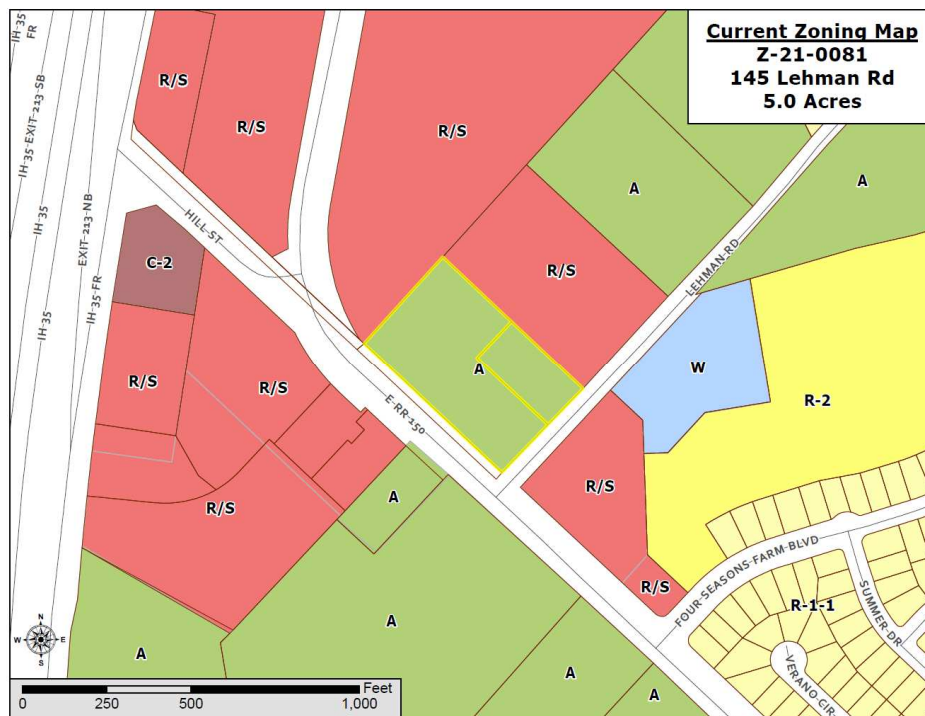
### **Vicinity Map**



## Site Description

145 Lehman Road is currently zoned for Agriculture (assigned when annexed, November 18, 2002). The property currently has two single-family residences on site, and is used as such. To the north and northeast lie vacant properties zoned “RS” (Retail Services). To the east and southeast, across Lehman Road, are properties zoned for “W” (Warehouse, two buildings), and “RS” (commercial strip center). To the south is the PAWS animal shelter and the City of Kyle Public Works facility (both zoned for Agriculture). Southwest and west of 145 Lehman Road is the Sonic restaurant (RS) and E FM 150.

The applicant seeks to rezone the property from “A” (Agriculture) to “RS” (Retail Services), for the entire 5-acre parcel.



**Current Zoning**

## A (Agriculture)

### **Sec. 53-36. - Agricultural district A.**

The permitted uses in the agricultural district 'A' allow farming, ranching, pasturage, detached single-family residences and related accessory structures, on a minimum one acre tract. Parks, playgrounds, greenbelts and other public recreational facilities, owned and/or operated by the municipality or other public agency are permitted.

### **Requested Zoning**

#### Retail and Services District RS

### **Sec. 53-480. - Purpose and permitted uses.**

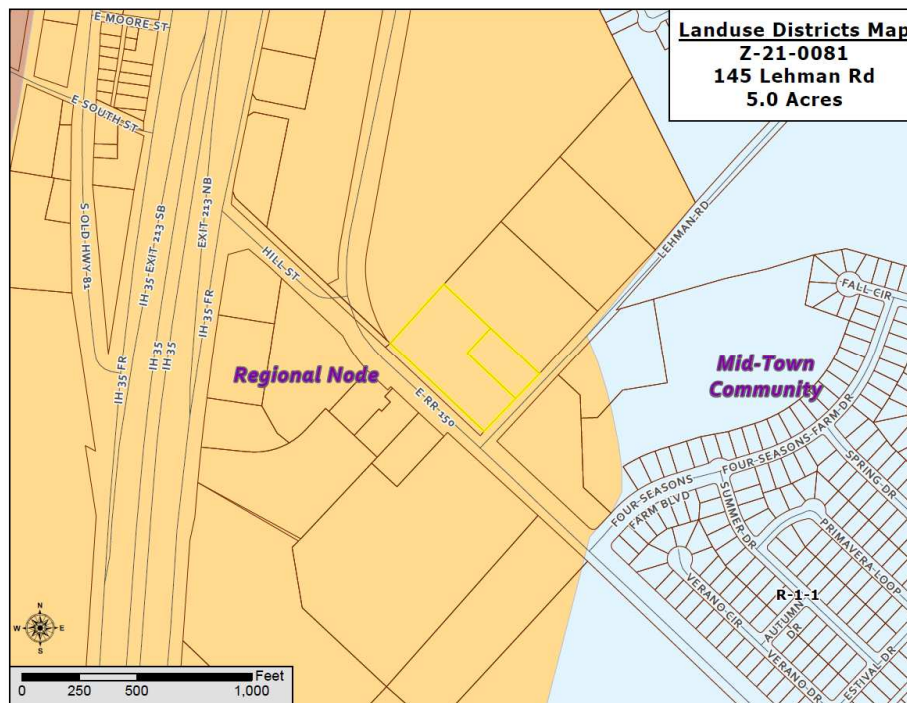
This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard 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 in the “Regional Node” District. The RS zoning district is recommended in the Regional Node.

## Current Land Use Chart

### Regional Node

Recommended Zoning Categories: R-1-C, R-3-2, R-3-3, CC, NC, **R/S**, MXD

Conditional Zoning Categories: CBD-1, CBD-2, E, HS, R-3-1, O/I

## **Regional Node**

'Character': Regional Nodes should have regional scale retail and commercial activity complimented by regional scale residential uses. These Nodes should represent the character and identity of Kyle, and signal these traits to the surrounding community. Regional Nodes have a radius of approximately 1/3 of a mile so that they are walkable, but are able to contain a greater range of uses at a larger scale than those found in Local Nodes. Appropriate uses may include grocery stores, retail shopping centers, multi-family housing, and municipal services, such as libraries and recreation centers. Regional Nodes are scaled and designed as activity centers where users not only secure goods and services, but also congregate and remain for extended periods, unlike Local Nodes which are designed around quick turnaround convenience retail. The Regional Nodes located along I-35 at the northern and southern boundaries of Kyle should be designed as entryways into Kyle with elements that are symbolic of Kyle and serve to attract I-35 travelers into Kyle. Transitions between Regional Nodes and surrounding districts must be carefully constructed to avoid abrupt shifts in land uses. Trails and sidewalks should be present throughout all Regional Nodes and should connect to surrounding neighborhoods.

'Intent': The primary goal of the Regional Nodes is to capture commercial opportunities necessary to close Kyle's tax gap. To achieve this goal, these Nodes should draw down upon anticipated regional growth and aggregate density to enhance value and activity levels in a concentrated and visible location. Regional Nodes should provide a mixture of uses that compliments regional commercial activity, as well as encourage high density residential development. These Nodes should respond to other regional areas of growth, specifically along I-35 and FM 1626, and to grow toward Hwy 21, SH 45 and SH 130. The anchor of each Regional Node should be regional commercial uses, and Regional Nodes should have a high level of development intensity.

## **Analysis**

The subject property is bounded by "RS" zoning and uses associated with this zoning district on most sides of the parcel. It is entirely within the Regional Node, a land use district that flanks IH-35 and expects land uses commensurate with high turnover retail and point of sales service type of businesses.

Located within the Regional Node, centering on this intersection, this corner will contribute to the already successful development in the immediate area. Though it is not directly on IH-35 (approximately 800 linear feet from IH-35 ROW), it is at the intersection of E FM 150 and Lehman Road. This intersection is heavily trafficked by motorized vehicles and retail uses would ostensibly do well at this location (as seen by

the commercial success of the retail center located at 575 E FM 150). Assigning zoning that matches the retail center across the street is supported by the comprehensive plan, and staff. Finally, the site has adequate street access, water and wastewater availability.

### **Recommendation**

In conclusion, both the 2010 Comprehensive Plan and staff support the rezoning request. At the June 8, 2020 Planning & Zoning Commission meeting, the Commission voted 4-0 to recommend approval of the zoning request. Staff asks the Mayor & Council to vote to approve the zoning request, as presented.

---

### **Attachments**

- Summary Request Letter
- Location Map
- Land Use Districts Map
- Zoning Map
- Deed
- Landowner Affidavit Letter
- Franchise Tax Account Status



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING TO APPROXIMATELY 4.56 ACRES OF LAND FROM AGRICULTURE 'AG' TO RETAIL SERVICE DISTRICT 'RS' FOR PROPERTY LOCATED AT 145 LEHMAN ROAD, IN HAYS COUNTY, TEXAS. (LUCIA HERNANDEZ – Z-21-0081); 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 4.56 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'*

ABRAM DASHNER RPLS, LLC

TEXAS REGISTERED PROFESSIONAL LAND SURVEYOR 5901

TBPLS FIRM NO. 10194420

[rpls5901@gmail.com](mailto:rpls5901@gmail.com)

512-905-4369

4.516 ACRES  
CARTA SUBDIVISION  
KYLE, TEXAS

FILE NO. 2021.028  
PROJECT: 136-01  
DATE: 04/19/2021

#### DESCRIPTION

4.516 ACRES OUT OF AND A PART OF THE Z. HINTON SURVEY, ABSTRACT 220, SITUATED IN HAYS COUNTY, TEXAS, AND BEING A PORTION OF CARTA SUBDIVISION, OF RECORD IN VOLUME 15, PAGE 163, OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS; SAID 4.516 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING**, at a 1/2-inch iron rod found in the northwest right-of-way line of Lehman Road (r.o.w. varies), being the southeast corner of that certain 5.00 acre tract conveyed to Tom & Lyndee Jordan, by Deed of record in Instrument Number 16008430, of the Official Public Records of Hays County, Texas, for the most easterly corner of Lot 2, of said Carta Subdivision and hereof;

**THENCE**, S43°53'20"W, along said northwest right-of-way line, being the southeast line of said Carta Subdivision, at 150.01 feet passing a calculated point at the east common corner of said Lot 2 and Lot 1, of said Carta Subdivision, and continuing for a total distance of 317.35 feet to a 1/2-inch iron rod with "Dashner RPLS 5901" stainless steel cap set at the northeast corner of that certain 0.010 acre tract conveyed to the City of Kyle, by Deed of record in Instrument Number 18002799, of said Official Public Records, for the southeasterly corner hereof;

**THENCE**, S88°33'50"W, leaving said northwest right-of-way line, over and across said Lot 1, along the north line of said 0.010 acre tract, a distance of 42.79 feet to a 1/2-inch iron rod with "Dashner RPLS 5901" stainless steel cap set at the northwest corner of said 0.010 acre tract, being in the southwest line of said Lot 1, also being in the northeast right-of-way line of FM 150 (r.o.w. varies), for the most southerly corner hereof;

**THENCE**, N46°49'47"W, along said northeast right-of-way line of FM 150, being the south line of said Lot 1 and said Carta Subdivision, a distance of 531.96 feet to a 1/2-inch iron rod with "Dashner RPLS 5901" stainless steel cap set at the southeast corner of Lot 7, Replat of Lots 4-8, Kyle 150/I-35 Subdivision, of record in Volume 12, Page 163, of said Plat Records, for the most westerly corner of said Lot 1, said Carta Subdivision, and hereof;

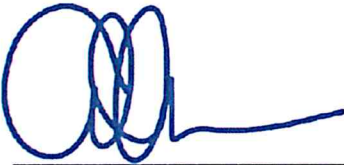
**THENCE**, N42°08'32"E, leaving said northeast right-of-way line, along the southeast line of said Lot 7, being the northwest line of said Lot 1 and said Carta Subdivision, a distance of 347.64 feet to a 1/2-inch iron rod found at the northwest corner of said Lot 1 and said Carta Subdivision, being the southwest corner of said 5.00 acre tract, for the most northerly corner hereof;

**THENCE**, S46°50'21"E, along the south line of said 5.00 acre tract, being the north line of said Lot 1, a distance of 280.62 feet to a 1/2-inch iron rod found at the north common corner of said Lots 1 and 2, for an angle point;

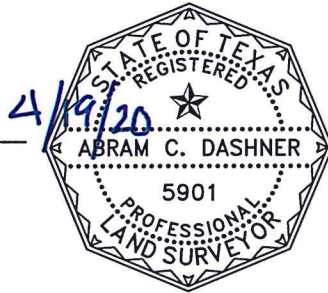
**THENCE**, S46°46'48"E, continuing along the south line of said 5.00 acre tract, being the north line of said Lot 2, a distance of 292.03 feet to the **POINT OF BEGINNING**, and containing 4.516 acres (196,732 square feet) of land, more or less.

BEARING BASIS: TEXAS COORDINATE SYSTEM, NAD 83(2011), CENTRAL ZONE, UTILIZING THE LEICA SMARTNET CONTINUALLY OPERATING REFERENCE NETWORK.

I HEREBY CERTIFY THAT THE ABOVE DESCRIPTION WAS PREPARED BASED UPON A FIELD SURVEY PERFORMED UNDER MY SUPERVISION DURING THE MONTH OF MARCH, 2021, AND IS TRUE AND CORRECT TO THE BEST OF MY ABILITIES.



ABRAM C. DASHNER  
TEXAS RPLS 5901  
TBPLS FIRM NO. 10194420



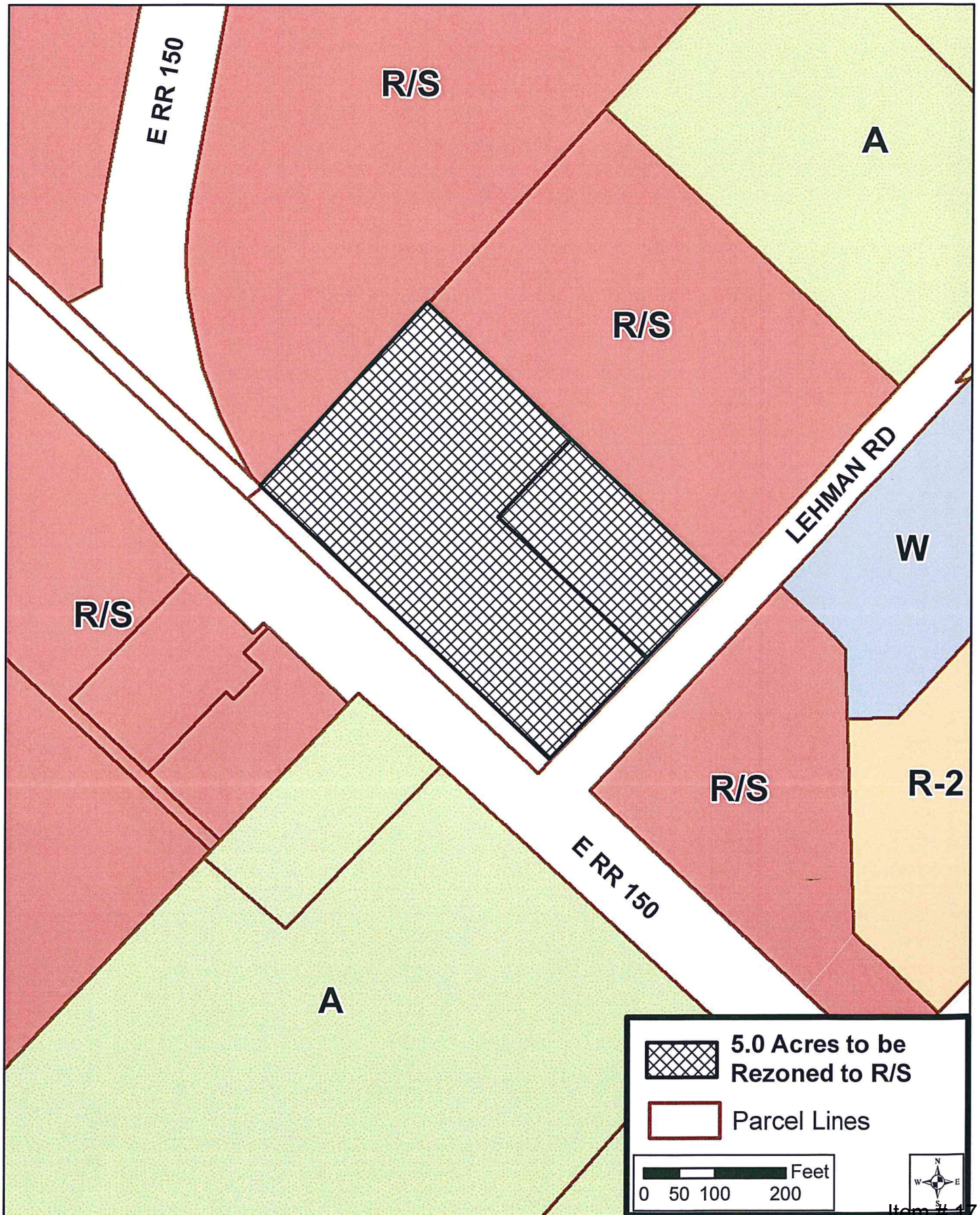


# Exhibit B

Z-21-0081

145 Lehman Rd

5.0 Acres





April 23, 2021

Kyle Planning Department  
100 W. Center Street  
Kyle, TX 78640

Reference: Application for Rezoning  
Carta Subdivision, Lots 1 and 2  
145 Lehman Road  
Kyle, TX 78640

To Whom It May Concern:

This letter shall serve as our application for rezoning for the property referenced above. The intent of the rezoning application is to change the property from the Agricultural Zone to the Retail and Services Zone in order to prepare the property for development. The adjacent property to the north is currently zoned Retail and Services and this application will change this property to match. This will allow for the property to be developed as one of the allowed uses in the Retail and Services Zone.

Enclosed with this letter please find the following:

- Completed Application
- Signed and notarized Landowner Authorization Form
- Application Fee (to be paid with the online submission)
- Recorded Plat
- Metes and Bounds Description
- Deed for the Property
- Tax Records for Both Lots

Should you have any questions or need further information, please do not hesitate to contact me.

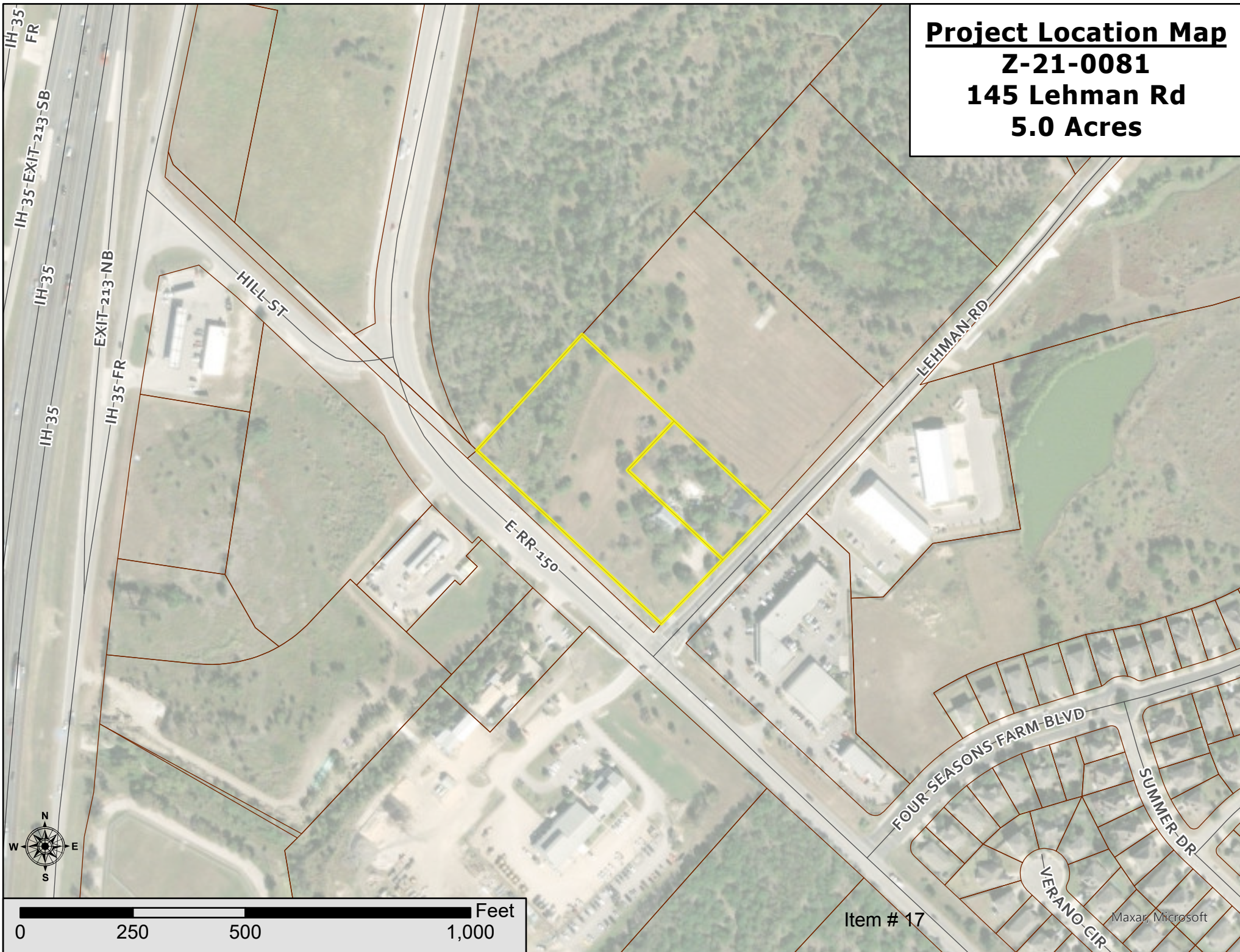
Thank you,

A handwritten signature in black ink, appearing to read "G Moore".

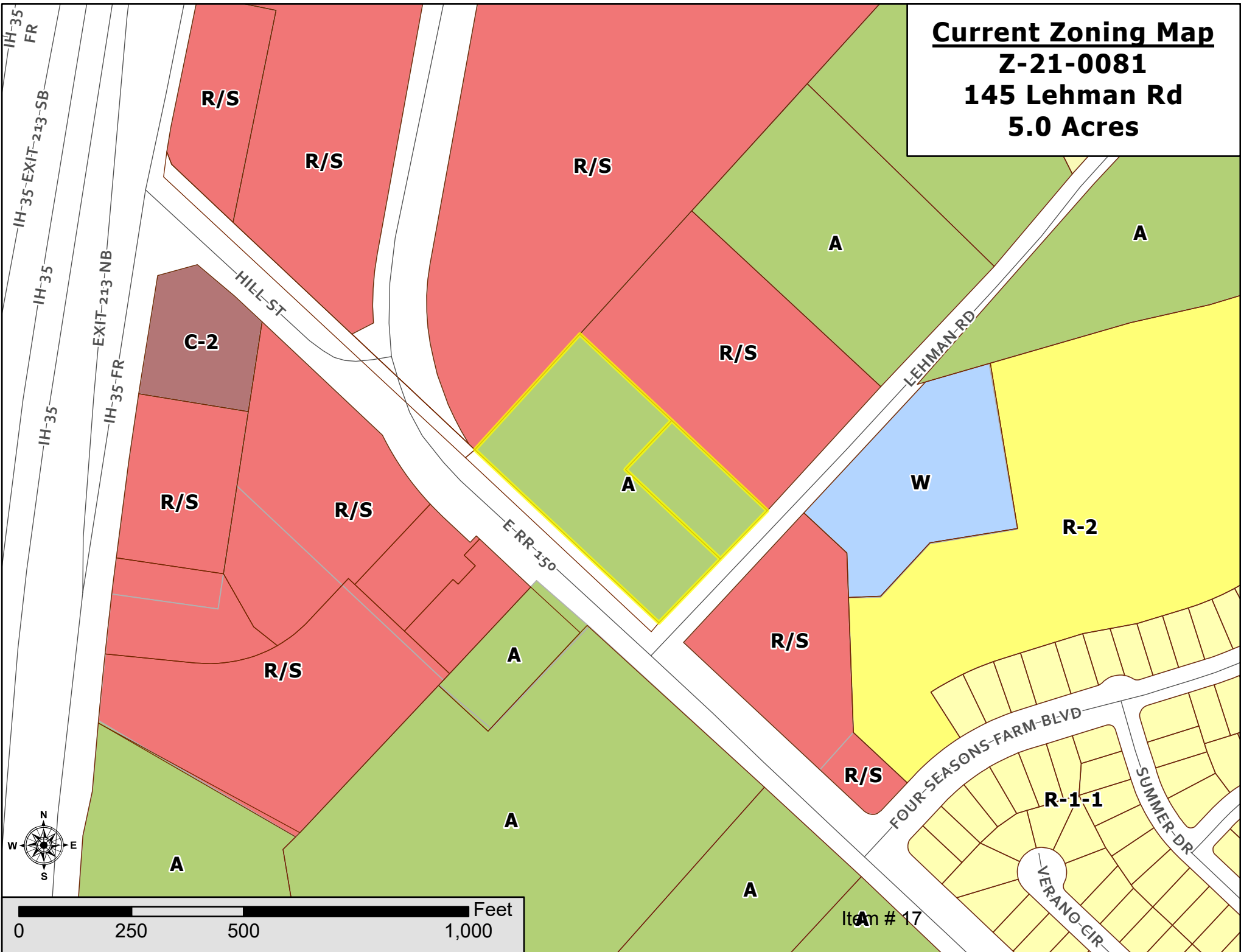
Graham Moore, P.E.  
Cool Breeze Consultants LLC  
TBPE Firm # F-20465



**Project Location Map**  
**Z-21-0081**  
**145 Lehman Rd**  
**5.0 Acres**

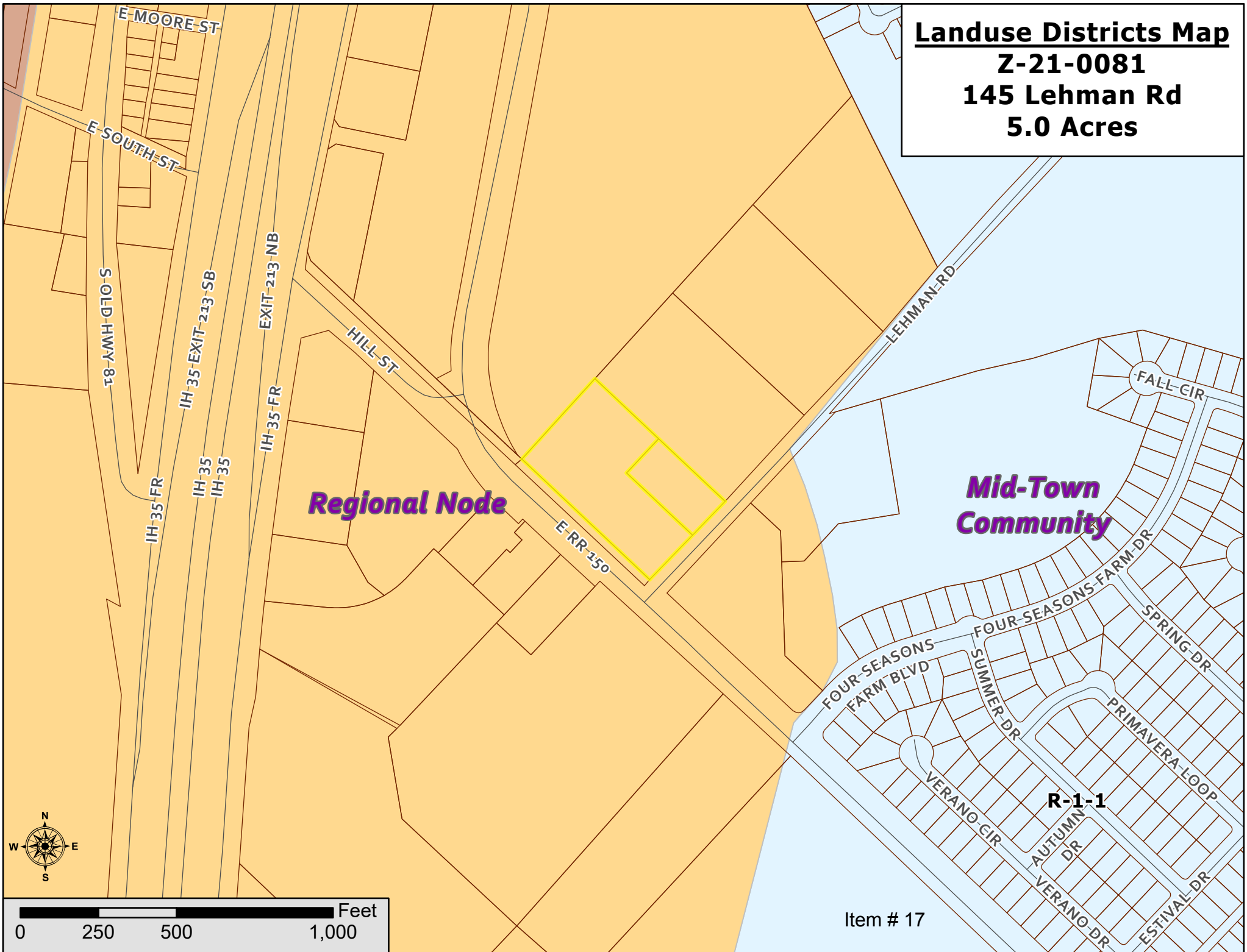


**Current Zoning Map**  
**Z-21-0081**  
**145 Lehman Rd**  
**5.0 Acres**





**Landuse Districts Map**  
**Z-21-0081**  
**145 Lehman Rd**  
**5.0 Acres**



Item # 17

STATE OF TEXAS

COUNTY OF HAYS

Y  
I  
I

130396

VOL. 328 PAGE 793

KNOW ALL MEN BY THESE PRESENTS: That we, LEROY P. HILL and wife, WINNIE HILL, of the County of Caldwell and State of Texas, for and in consideration of the sum of money paid and secured to be paid by grantees herein named, as hereinafter shown and stated, have GRANTED, SOLD AND CONVEYED and by these presents do GRANT, SELL AND CONVEY unto JOSE H. HERNANDEZ and wife, LUCIA G. HERNANDEZ of the County of HAYS and State of Texas, subject to the hereinafter mentioned taxes and liens, all of that certain real property described as follows:

All that certain real property being 5.00 acres of land situated in the 2. Hinton Survey, Abstract 220, Hays County, Texas. Said 5.00 acre tract is part of a tract called 107.5 acres (hereinafter called parent tract) in conveyance by Ida Hill to Adolph Hill, et al by deed recorded in Volume 212 at page 474 of the deed records of said county and is described by metes and bounds, as follows:

BEGINNING for reference at a concrete right-of-way marker marking the intersection of the east line of Interstate Highway No. 35 and the northeast line of Farm-to-Market Road No. 150;

THENCE with fence along said northeast line, S 45° 15' E 925.6 feet to the west corner of and PLACE OF BEGINNING of the tract herein described;

THENCE into the parent tract, N 43° 45' E 377.4 feet;

THENCE S 45° 15' E 582.8 feet to the east corner of the tract herein described;

THENCE with fence along the northwest line of a county road, S 45° 28' W 377.4 feet to a fence corner marking the intersection of said northwest line with the northeast line of Farm-to-Market Road Number 150;

THENCE with fence along said northeast line, N 45° 15' W 571.5 feet to the PLACE OF BEGINNING, all corners of the tract herein described being marked with iron stakes, and containing 5.00 acres of land.

The above described real property was surveyed on the ground under the supervision of H. S. Bettersworth on May, 1979.

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 grantees, 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 grantees, their heirs and assigns, against every person whosoever lawfully claiming or to claim the same or any part thereof, subject to the hereinafter described taxes and lien.

The Consideration for this conveyance is as follows:

1. The assumption on the part of the said grantees, effected by the acceptance of this conveyance, of all ad valorem taxes levied and assessed for the year of 1979 against the premises conveyed hereby.
2. The sum of Ten Dollars (\$10.00) cash and other good and valuable consideration to us in hand paid by the said grantees, the receipt whereof is hereby acknowledged

DEEDS  
Hays County, Texas



Vol. 328 p. 794

and confessed and for which no lien, express or implied, is retained.

3. The execution and delivery to the said grantors by the said grantees of their one certain promissory note dated of even date herewith, for the sum of Twelve Thousand and No/100 Dollars (\$12,000.00), payable to the said Grantors herein, or order, at Kyle, Hays County, Texas, 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 makers of said note to Henry C. Kyle, Trustee, conveying said premises for the use and benefit of the holders of said note. Said deed of trust is here referred to for all pertinent purposes.

WITNESS OUR HANDS on this the 14 day of JULY 1979.

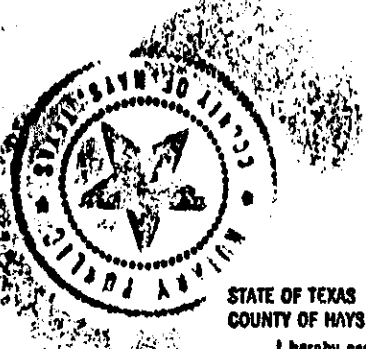
Leroy P. Hill  
Leroy P. Hill

Winnie Hill  
Winnie Hill

THE STATE OF TEXAS    I  
THE COUNTY OF HAYS    I

BEFORE ME, the undersigned authority, on this day personally appeared LEROY P. HILL and WINNIE HILL, 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 the 14 day of JULY, 1979.



Albert M. Walker  
Notary Public, HAYS County, Texas.

STATE OF TEXAS }  
COUNTY OF HAYS }  
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Hays County, Texas, as stamped hereon by me, on  
July 17, 1979  
Louise B. Clayton  
COUNTY CLERK  
HAYS COUNTY, TEXAS



**FILED**  
At 11:30 o'clock P. M.  
JUL 16 1979  
Louise B. Clayton  
County Clerk, Hays County, Texas  
Maibul Majumdar  
Deputy

LANDOWNER AUTHORIZATION AND AFFIDAVIT OF OWNERSHIP

**SUBJECT PROPERTY INFORMATION**

Subdivision Name, Block, Lot, or legal description if not subdivided: CARTA SUBDIVISION, LOTS 1 AND 2  
# of lots (if subdivided): 2 # of acres: 4.516 (1.003 AND 3.513)  
Site APN/Property ID #(s): R132207 (11-1269-0000-00100-2) AND R132208 (11-1269-0000-00200-2)  
Location: 145 LEHMAN ROAD County: HAYS  
Development Name: TBD

**OWNER**

Company/Applicant Name: Lucia Hernandez  
Authorized Company Representative (if company is owner): \_\_\_\_\_  
Type of Company and State of Formation: \_\_\_\_\_  
Title of Authorized Company Representative (if company is owner): \_\_\_\_\_  
Applicant Address: 145 Lehman Road Kyle TX 78640  
Applicant Fax: \_\_\_\_\_  
Applicant Phone: 512-585-3373  
Applicant/Authorized Company Representative Email: \_\_\_\_\_

**APPLICANT REPRESENTATIVE**

Check one of the following:

\_\_\_\_. I will represent the application myself; or

☒ I hereby designate COOL BREEZE CONSULTANTS LLC (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.

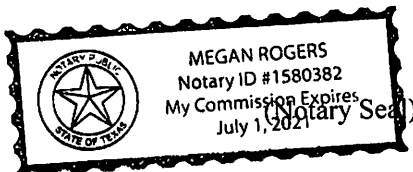
I hereby certify that the above-named owner is the rightful owner of the Property. I am either the owner of the property identified above or a partner/manager/officer/director/member of the company who is authorized to act on behalf of the company. I further certify that the information provided herein 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: Lucia Hernandez Date: 5-6-21

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 10<sup>th</sup> day of May, 2021  
[Signature]  
Notary Public's Signature  
7/1/21  
My Commission Expires

PROJECT REPRESENTATIVE

Representative Name: COOL BREEZE CONSULTANTS LLC - GRAHAM MOORE  
Representative Address: 1314 AVENUE A SUITE A KATY, TX 77493  
Representative Phone: (832) 349-4018  
Representative Email: graham@coolbreezeconsultants.com  
Representative's Signature:  Date: 4/15/21

## Franchise Search Results

## Public Information Report



As of : 06/03/2021 10:08:26

**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.

## COOL BREEZE CONSULTANTS LLC

<b>Texas Taxpayer Number</b>	32069398397
<b>Mailing Address</b>	20407 IVORY CREEK LN KATY, TX 77450-6631
<b>? Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	TX
<b>Effective SOS Registration Date</b>	01/10/2019
<b>Texas SOS File Number</b>	0803206057
<b>Registered Agent Name</b>	GRAHAM MOORE
<b>Registered Office Street Address</b>	20407 IVORY CREEK LN. KATY, TX 77450



# CITY OF KYLE, TEXAS

## Sunrise Village Investments, LLC - Zoning (Z-21-0082)

Meeting Date: 6/15/2021

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 10.81 acres of land to Retail Service District 'RS' and approximately 34.83 acres to Multi-Family Residential-3 'R-3-3' for property located at 20139 IH-35, in Hays County, Texas. (Sunrise Village Investments, LLC - Z-21-0082) ~ *Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-0 to recommend approval of the request.*

- Public Hearing

**Other Information:** See attachments.

**Legal Notes:** N/A

**Budget Information:** N/A

---

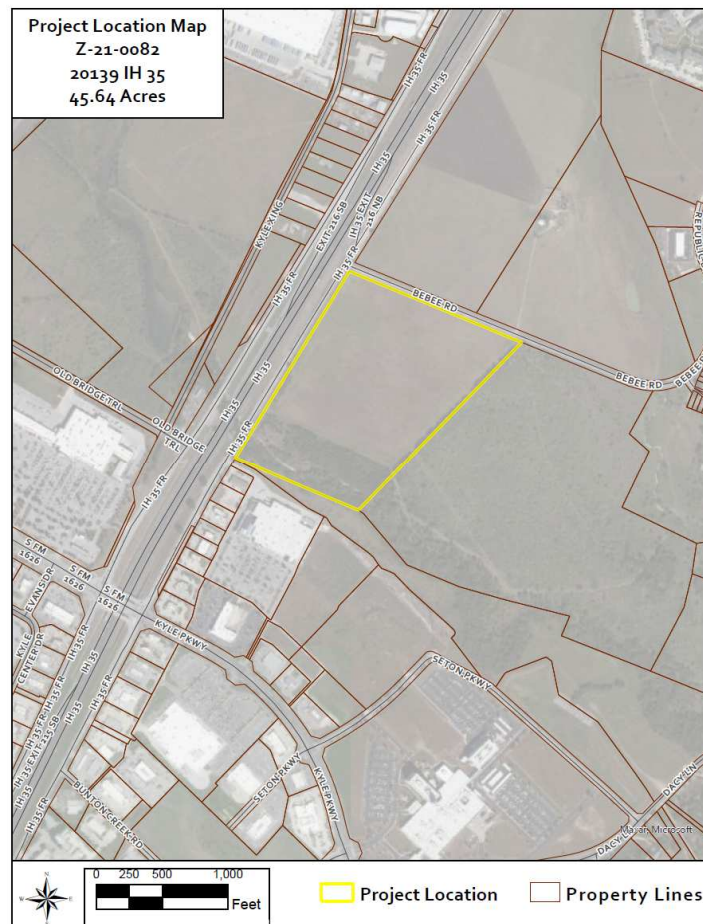
### ATTACHMENTS:

#### **Description**

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

Property Location	20139 IH-35 – Southeast corner of IH-35 & Bebee Rd Kyle, TX 78640
Owner	Sunrise Village Investment, LLC 1095 Windy Hill Rd, Kyle, TX 78640
Agent	Sergio Lozano Sanchez, P.E. 2211 S. IH-35 Frontage Road, Ste. 107 Austin, TX 78741
Request	Rezone 45.64-acres "RS" (Retail Services) to 10.81- acres "RS" and 34.83-acres "R-3-3" (Multifamily)

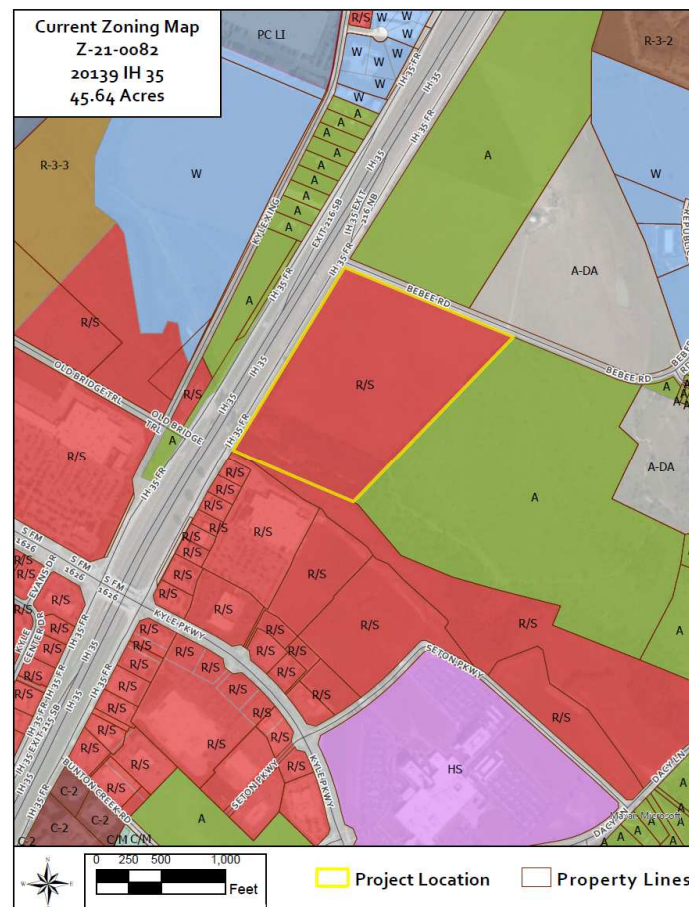
### Vicinity Map



## Site Description

20139 IH-35 is approximately 45-acres zoned “RS” (Retail Services). The site is located at the south corner of IH-35 and Bebee Road and is currently undeveloped. To the north and northeast is Bebee Rd, with land zoned “A” (Agriculture) and partially in the ETJ (Caraway Tract). To the east is land zoned “A” and used for agricultural purposes. To the south is the Lowe’s shopping center on land zoned “RS”. To the southwest and west of the property is IH-35.

The applicant seeks to rezone the property from “RS” (Retail Services) to “RS” (Retail Services) and “R-3-3” (Multifamily, 28 units per buildable acre).



## **Current 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.

## **Requested Zoning**

### Retail and Services District RS (10.81-Acres)

#### **Sec. 53-480. - Purpose and permitted uses.**

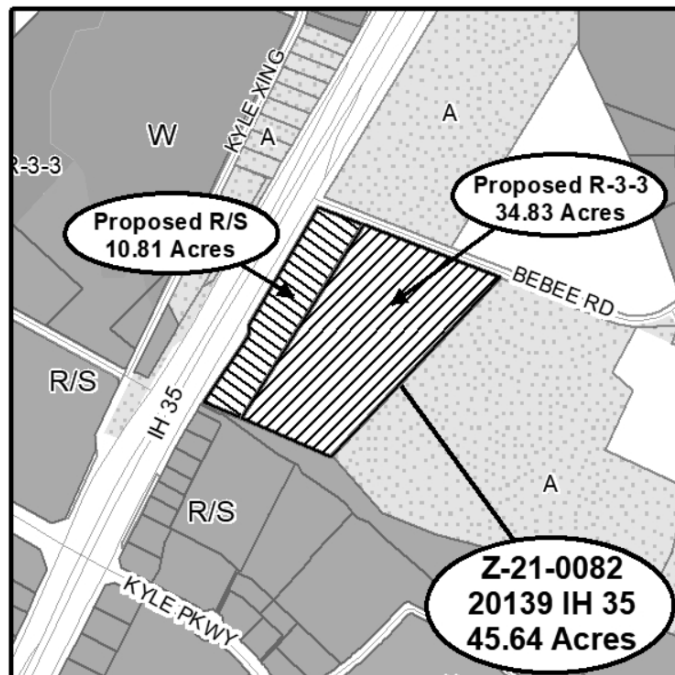
This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard 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.

### Apartments Residential 3, District R-3-3 (34.83-Acres)

#### **Sec. 53-292. – Purpose and permitted uses.**



The multifamily residential district R-3-3 permits typical apartment development with buildings not exceeding three stories, nor more than 28 units per buildable acre, and with apartments or units having a minimum living area of 500 square feet; provided that not more than 25 percent of the units in any such apartment development or project shall have less than 750 square feet of living area.

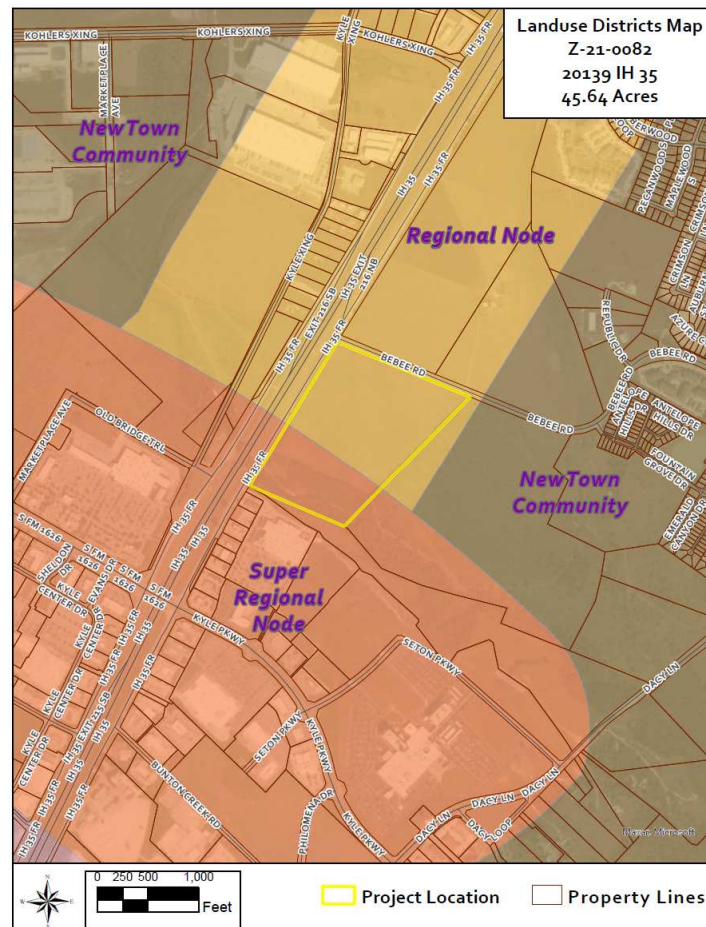


## Conditions of the Zoning Ordinance

### Sec. 53-1205 Amendments

- (d) *Referral of amendment to planning and zoning commission.* Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning commission for consideration, public hearing, and recommendation to the city council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.
- (e) *Action by the planning and zoning commission.* The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state

law, and shall recommend to the council such action as the planning and zoning commission deems proper...



## Comprehensive Plan Text

The subject site is located primarily in the “Regional Node” District. Both the RS and R-3-3 zoning districts are recommended in the Regional Node. The southern portion is within the “Super Regional Node”, however, most of this area is within a creek way and therefore undevelopable. For the purposes of this request, we will not be considering the “Super Regional Node”.

## Current Land Use Chart

### Regional Node

Recommended Zoning Categories: R-1-C, R-3-2, **R-3-3**, CC, NC, **R/S**, MXD

Conditional Zoning Categories: CBD-1, CBD-2, E, HS, R-3-1, O/I

### **Regional Node**

'Character': Regional Nodes should have regional scale retail and commercial activity complimented by regional scale residential uses. These Nodes should represent the character and identity of Kyle, and signal these traits to the surrounding community. Regional Nodes have a radius of approximately 1/3 of a mile so that they are walkable, but are able to contain a greater range of uses at a larger scale than those found in Local Nodes. Appropriate uses may include grocery stores, retail shopping centers, multi-family housing, and municipal services, such as libraries and recreation centers. Regional Nodes are scaled and designed as activity centers where users not only secure goods and services, but also congregate and remain for extended periods, unlike Local Nodes which are designed around quick turnaround convenience retail. The Regional Nodes located along I-35 at the northern and southern boundaries of Kyle should be designed as entryways into Kyle with elements that are symbolic of Kyle and serve to attract I-35 travelers into Kyle. Transitions between Regional Nodes and surrounding districts must be carefully constructed to avoid abrupt shifts in land uses. Trails and sidewalks should be present throughout all Regional Nodes and should connect to surrounding neighborhoods.

'Intent': The primary goal of the Regional Nodes is to capture commercial opportunities necessary to close Kyle's tax gap. To achieve this goal, these Nodes should draw down upon anticipated regional growth and aggregate density to enhance value and activity levels in a concentrated and visible location. Regional Nodes should provide a mixture of uses that compliments regional commercial activity, as well as encourage high density residential development. These Nodes should respond to other regional areas of growth, specifically along I-35 and FM 1626, and to grow toward Hwy 21, SH 45 and SH 130. The anchor of each Regional Node should be regional commercial uses, and Regional Nodes should have a high level of development intensity.

## **Analysis**

The subject property is currently zoned “RS” and is entirely within the Regional Node, a land use district that flanks IH-35 and expects land uses commensurate with high turnover retail and point of sales service type of businesses. The applicant is requesting to rezone the property to allow for an area of 34.83-acres of R-3-3 (multifamily, 28 units per buildable acre). The remaining 10.81-acres will stay as “RS” along IH-35. The 45-acre property is currently undeveloped.

The “RS” zoning district along IH-35 will be continued. RS zoning encourages retail-type development to provide shopping amenities for local and regional residents of the area. Located within the Regional Node, commercial entities are encouraged to develop in a quality manner (Overlay districts relating to aesthetics).

The “R-3-3” zoning district allows for multifamily dwellings to be built at a “buildable density” of up to 28 units per acre. This is essentially net density (gross area minus detention, parking, landscaping, etc.). Both the requested “RS” and “R-3-3” zoning districts are recommended in the “Regional Node” land use district.

The “Regional Node” is intentionally designed to capture higher intensity uses and residential density. While not generally as intense as the “Super Regional Node” to the south, it does share similar attributes at a smaller scale. From a comprehensive plan perspective, it provides a step down in development patterns, but still allows much of the same zoning districts and land uses.

Site access will be provided by both the IH-35 frontage road and Bebee Rd. While frontage road provides more than adequate access, discussion with the developer will be required regarding improvements to Bebee Rd. This will happen at time of platting/site plan (after zoning, if approved). Water and wastewater availability will be provided by the City of Kyle, with both services existing to the south.

## **Recommendation**

In conclusion, both the 2010 Comprehensive Plan and staff support the rezoning request. At the June 8, 2021, Planning & Zoning Commission meeting, the Commission voted 4-0 to recommend approval of the request. Staff asks the Mayor and Council to vote in favor of the request.

---

## **Attachments**

- Summary Request Letter
- Location Map
- Land Use Districts Map
- Zoning Map
- Deed
- Landowner Affidavit Letter
- Franchise Tax Account Status

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING TO APPROXIMATELY 10.81 ACRES OF LAND TO RETAIL SERVICE DISTRICT 'RS' AND APPROXIMATELY 34.83 ACRES TO MULTI-FAMILY RESIDENTIAL-3 'R-3-3' FOR PROPERTY LOCATED AT 20139 IH-35, IN HAYS COUNTY, TEXAS. (SUNRISE VILLAGE INVESTMENTS, LLC – Z-21-0082); 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 10.81 acres of land to Retail Service District 'RS' and approximately 34.83 acres of land to Multi-Family Residential-3 'R-3-3', as shown on the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, 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.

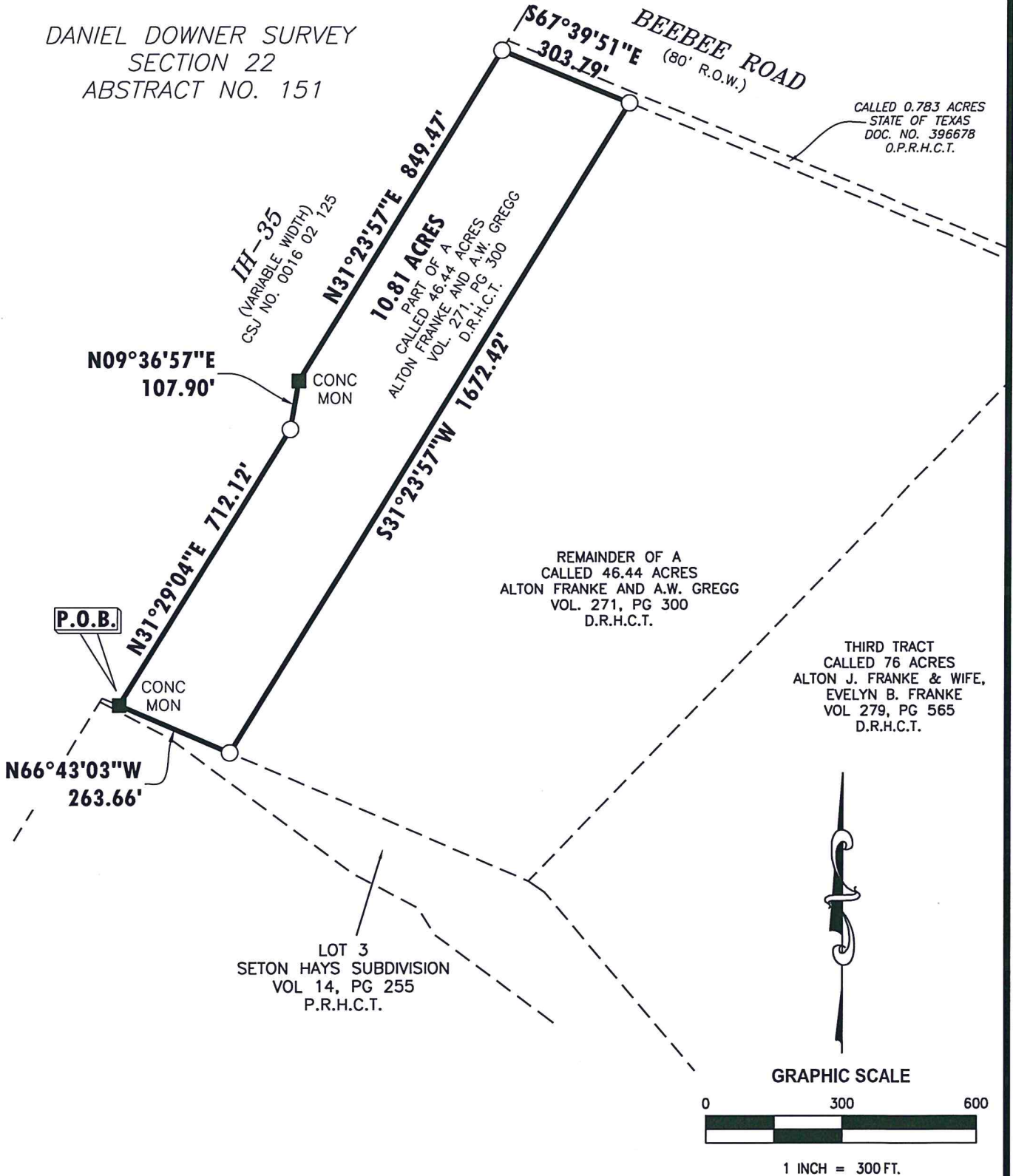
\_\_\_\_\_  
Travis Mitchell, Mayor

ATTEST:

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

# 'Exhibit A'

DANIEL DOWNER SURVEY  
SECTION 22  
ABSTRACT NO. 151



6410 SOUTHWEST BLVD. STE. 127  
FORT WORTH, TX 76109  
(817)554-1805  
www.landpoint.net  
TBPLS REG. NO. 10194220



LEGAL DESCRIPTION

Being all that certain tract or parcel of land situated in the Daniel Downer Survey, Abstract No. 151, Hays County, Texas, being a part of the remainder of that certain called 46.44 acre tract of land described in the deed to Alton Franke and A.W. Gregg, recorded in Volume 271, page 300, Deed Records, Hays County, Texas and being more particularly described by mete and bounds and follows:

BEGINNING at the West corner of the tract being described herein at a concrete monument found in the Easterly right-of-way line of Interstate Highway 35, the Northerly line of Lot 3, Seton Hays Subdivision, according to the plat thereof recorded in Volume 14, Page 255, Plat Records, Hays County, Texas and the Southerly line of said 46.44 acre tract of land;

THENCE with the Easterly right-of-way line of said Interstate Highway 35, the following courses and distances:

N31°29'04"E, a distance of 712.12 feet to a point for corner;

N09°36'57"W, a distance of 107.90 feet to a concrete monument found for corner;

N31°23'57"E, a distance of 849.47 feet to a point in the Southerly right-of-way line of Beebee Road for the West corner of that certain called 0.783 acre tract of land described in the deed to the State of Texas, recorded in Document No. 396678, Official Public Records, Hays County, Texas and the North corner of said tract herein described;

THENCE S67°39'51"E, with the Southerly right-of-way line of said Beebee Road, the Southerly line of said 0.783 acre tract of land and the Northerly line of said 46.44 acre tract of land, a distance of 303.79 feet to a point for the East corner of said tract herein described;

THENCE S31°23'57"W, over and across said 46.44 acre tract of land, a distance of 1672.42 feet to a point in the Northerly line of said Lot 3 and the Southerly line of said 46.44 acre tract of land for the South corner of said tract herein described;

THENCE N66°43'03"W, with the Northerly line of said Lot 3 and the Southerly line of said 46.44 acre tract of land, a distance of 263.66 feet to the POINT OF BEGINNING and containing 10.81 acres of land.



I, Robert Glen Maloy, certify that this plat was prepared under my direct supervision from a survey made on the ground and that this plat correctly represents the facts found at the time of said survey.

*Robert Glen Maloy*

04/20/2021

Robert Glen Maloy

Texas R.P.L.S. No. 6028



6410 SOUTHWEST BLVD. STE. 127  
FORT WORTH, TX 76109  
(817)554-1805  
www.landpoint.net  
TBPLS REG. NO. 10194220

'Exhibit A'

DANIEL DOWNER SURVEY  
SECTION 22  
ABSTRACT NO. 151

CALLED 0.783 ACRES  
STATE OF TEXAS  
DOC. NO. 396678  
O.P.R.H.C.T.

BEEBEE ROAD  
(80' R.O.W.)

S67°39'51"E 1112.84'

P.O.B.

5/8" IRF  
W/ALUM. CAP

IH-35  
(VARIABLE WIDTH)  
CSJ NO. 0016 02 125

CONC  
MON

REMAINDER OF A  
CALLED 46.44 ACRES  
ALTON FRANKE AND A.W. GREGG  
VOL. 271, PG 300  
D.R.H.C.T.

N31°23'57"E 1672.42'

**34.83 ACRES**

PART OF A  
CALLED 46.44 ACRES  
ALTON FRANKE AND A.W. GREGG  
VOL. 271, PG 300  
D.R.H.C.T.

S44°01'17"W 1790.04'

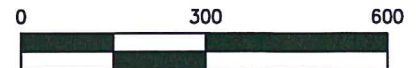
THIRD TRACT  
CALLED 76 ACRES  
ALTON J. FRANKE & WIFE,  
EVELYN B. FRANKE  
VOL 279, PG 565  
D.R.H.C.T.

N66°43'03"W 714.95'

LOT 3  
SETON HAYS SUBDIVISION  
VOL 14, PG 255  
P.R.H.C.T.



GRAPHIC SCALE



1 INCH = 300 FT.

ZONING  
34.83 ACRES IN THE  
DANIEL DOWNER SURVEY, A-151  
HAYS COUNTY, TEXAS



6410 SOUTHWEST BLVD. STE. 127  
FORT WORTH, TX 76109  
(817)554-1805  
www.landpoint.net  
TBPLS REG. NO. 10194220

I:\2020 Download\20-0568\DWG\20-0568 ZONING 34.83 ACRES 210512.dwg

LEGAL DESCRIPTION

Being all that certain tract or parcel of land situated in the Daniel Downer Survey, Abstract No. 151, Hays County, Texas, being a part of the remainder of that certain called 46.44 acre tract of land described in the deed to Alton Franke and A.W. Gregg, recorded in Volume 271, page 300, Deed Records, Hays County, Texas and being more particularly described by mete and bounds and follows:

BEGINNING at the East corner of the tract being described herein at a 5/8-inch iron rod with aluminum cap found in the Southerly right-of-way line of Beebee Road and the Southerly line of that certain called 0.783 acre tract of land described in the deed to the State of Texas, recorded in Document No. 396678, Official Public Records, Hays County, Texas for the North corner of that certain called 76 acre tract of land described as Third Tract in the deed to Alton J. Franke and wife, Evelyn B. Franke, recorded in Volume 279, Page 565, Deed Records, Hays County, Texas and the East corner of said 46.44 acre tract of land;

THENCE S44°01'17"W, with the Westerly line of said 76 acre tract of land and the Easterly line of said 46.44 acre tract of land, a distance of 1790.04 feet to a point in the Northerly line of Lot 3, Seton Hays Subdivision, according to the plat thereof recorded in Volume 14, Page 255, Plat Records, Hays County, Texas for the West corner of said 76 acre tract of land, the South corner of said 46.44 acre tract of land and the South corner of said tract herein described;

THENCE N66°43'03"W, with the Northerly line of said Lot 3 and the Southerly line of said 46.44 acre tract of land, a distance of 714.95 feet to a point for the West corner of said tract herein described;

THENCE N31°23'57"E over an across said 46.44 acre tract of land a distance of 1672.42 feet to a point Southerly right-of-way line of said Beebee Road, the Southerly line of said 0.783 acre tract of land and the Northerly line of said 46.44 acre tract of land;

THENCE S67°39'51"E, with the Southerly right-of-way line of said Beebee Road, the Southerly line of said 0.783 acre tract of land and the Northerly line of said 46.44 acre tract of land, a distance of 1112.84 feet to the POINT OF BEGINNING and containing 34.83 acres of land.



I, Robert Glen Maloy, certify that this plat was prepared under my direct supervision from a survey made on the ground and that this plat correctly represents the facts found at the time of said survey.

*Robert Glen Maloy*

04/20/2021

Robert Glen Maloy

Texas R.P.L.S. No. 6028

ZONING  
34.83 ACRES IN THE  
DANIEL DOWNER SURVEY, A-151  
HAYS COUNTY, TEXAS



6410 SOUTHWEST BLVD. STE. 127  
FORT WORTH, TX 76109  
(817)554-1805  
www.landpoint.net  
TBPLS REG. NO. 10194220

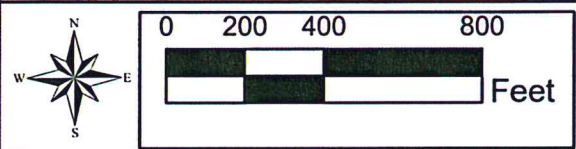
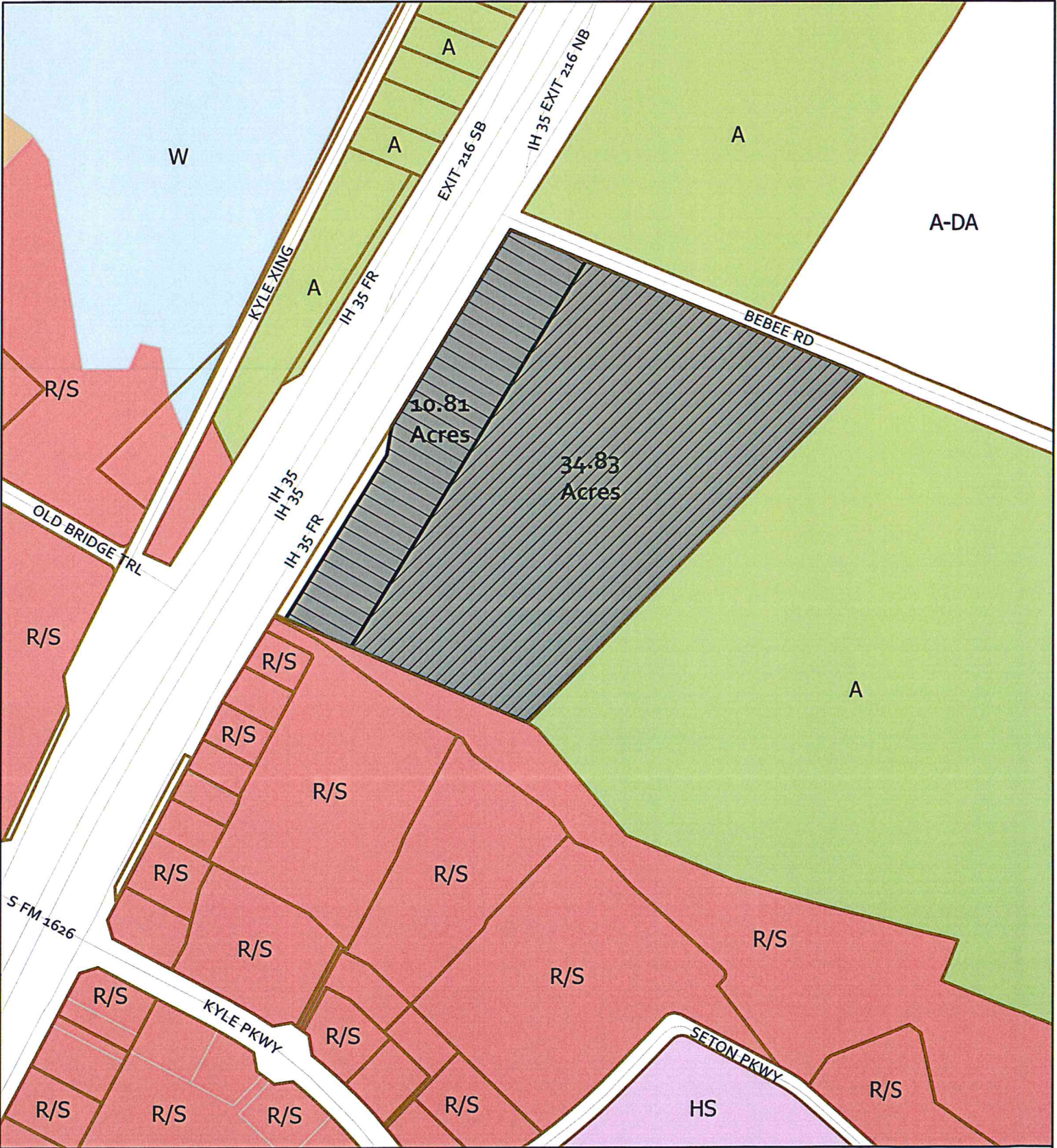


# Exhibit B

Z-21-0082

20139 IH 35

45.64 Acres



Parcel Lines

- To Be Zoned RS
- To Be Zoned R-3-3



2211 S. IH 35 Frontage Rd. #107, Austin, TX 78741  
(512)524-0677 sergio@loccivil.com

April 29, 2021

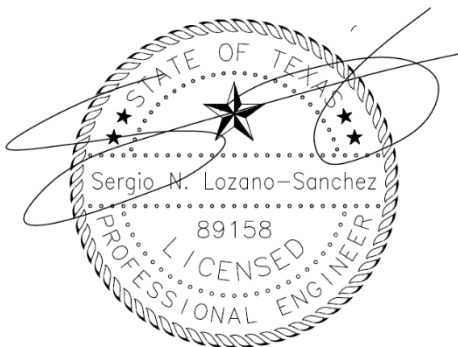
Mr. Howard J. Koontz  
Director of Planning  
City of Kyle – Planning Department  
100 W Center St.  
Kyle, Texas 78640

**RE: Zoning Change – 20139 35, Kyle, Texas**

Dear Mr. Koontz,

On behalf of the property owner, SUNRISE VILLAGE INVESTMENT LLC, we are hereby requesting a Zoning Change for the property located at 20139 35, KYLE, TX. The legal description of the property is “ABS 151 DANIEL DOWNES SURVEY 46.217 AC GEO#90601178” and Property ID R13829. The property is located in Hays County, Texas in the intersection of IH-35 and Bebee Rd. The land is currently zoned as A – Agriculture. We request that the zoning be changed to R/S Retail Services and R-3-3 Multifamily to bring it in line with existing development neighboring the subject property.

Sincerely:



Sergio Lozano-Sanchez, P.E.

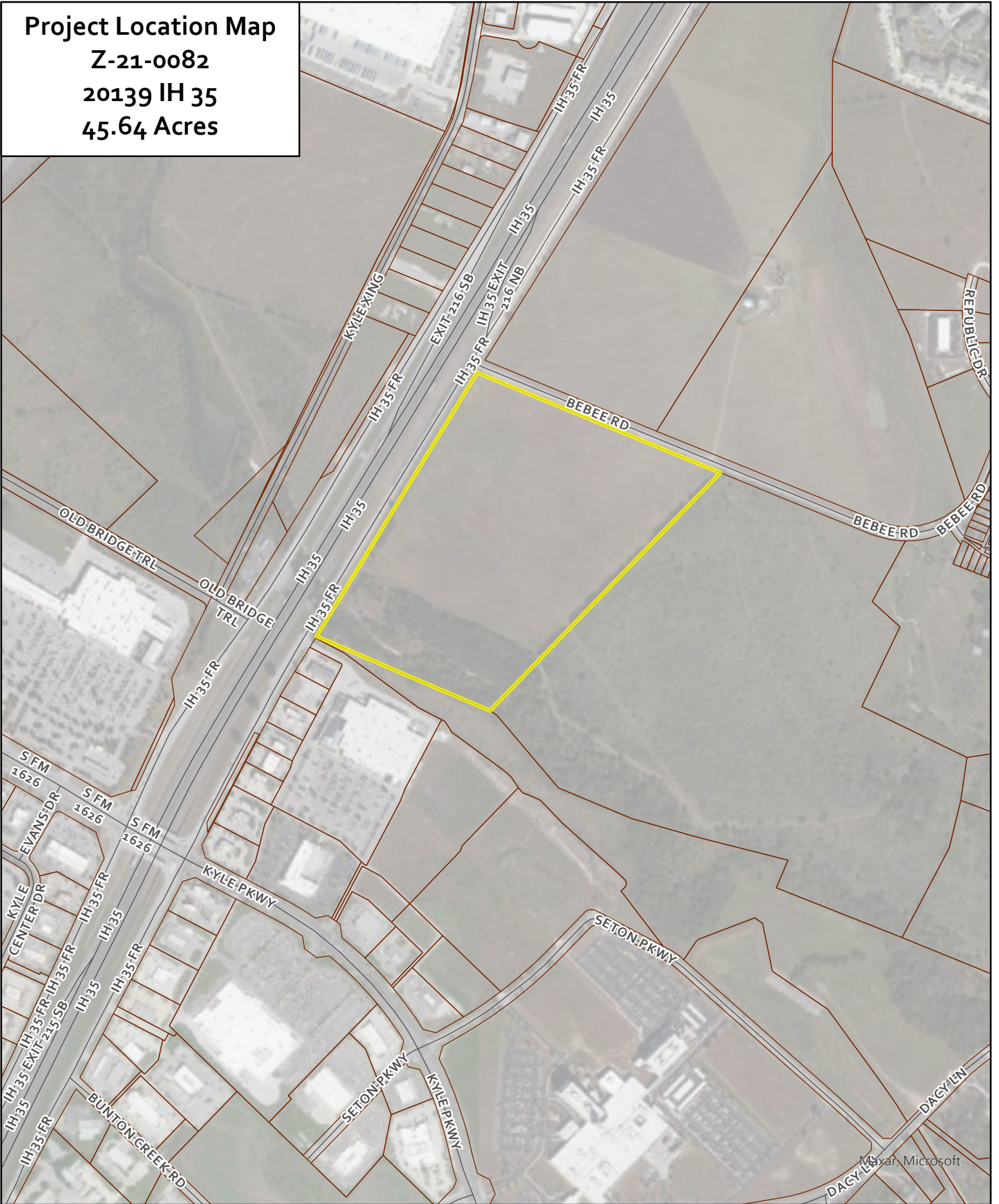
Principal



## Project Location Map

20139 IH 35

# 45.64 Acres

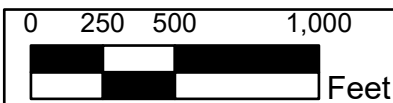
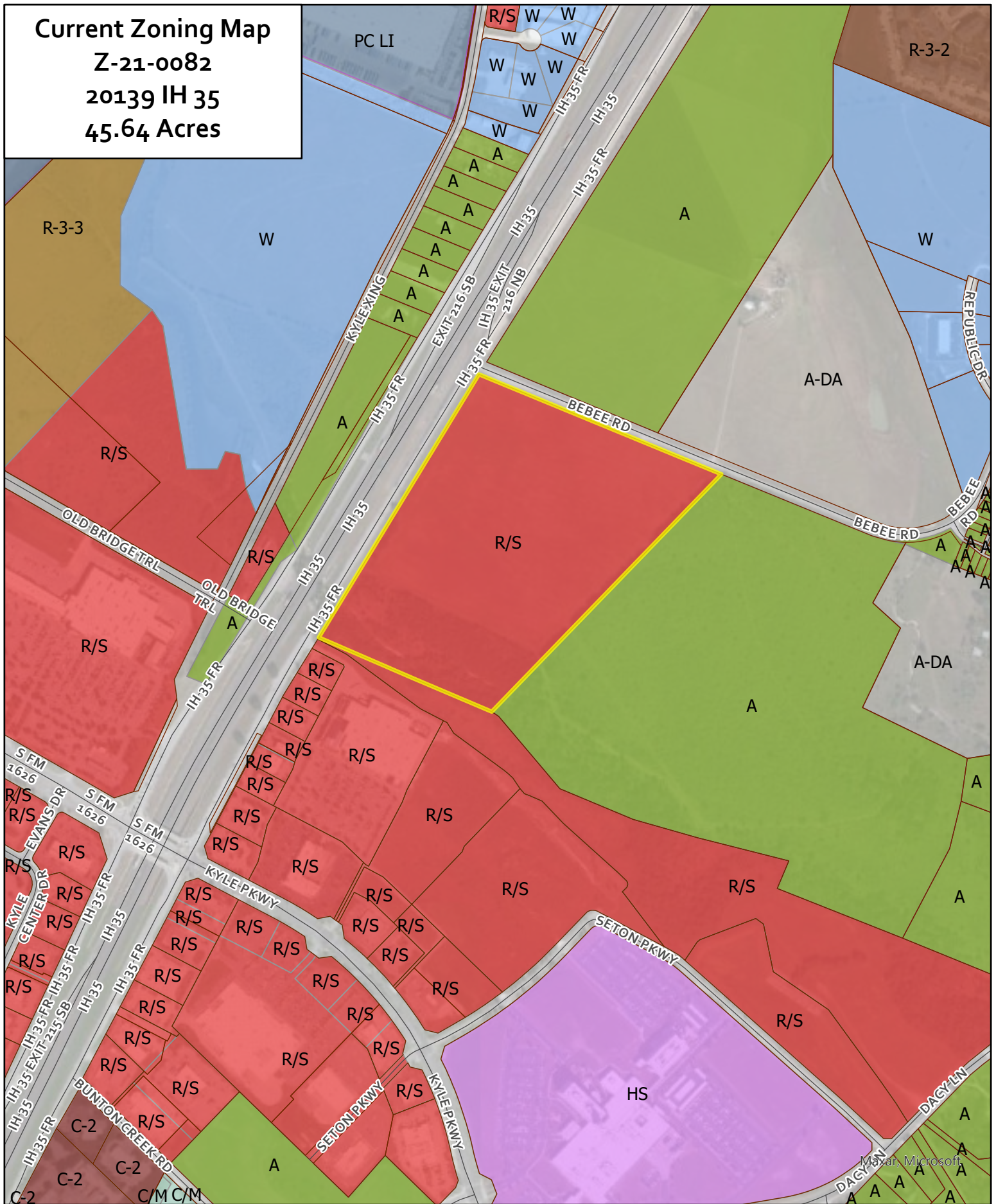


#### Project Location

☐ **Property Lines**



**Current Zoning Map**  
**Z-21-0082**  
**20139 IH 35**  
**45.64 Acres**



**Project Location**

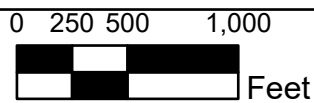
**Property Lines**



**Z-21-0082**  
**20139 IH 35**  
**45.64 Acres**

20139 IH 35

**45.64 Acres**



### Property Lines

Item # 18



**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 WITH VENDOR'S LIEN**

**Date:** July 30, 2020

**Grantor:** CR TWO INVESTMENT, LTD., GAWLS, Ltd., MKK ASSOCIATES, LP., CLIFTON OSWALT, Trustee of the Clifton Oswalt Trust under 2005 Trust Agreement, EVELYN E. NICHOLSON, Trustee of the Evelyn Nicholson Trust under 2005 Trust Agreement, ALTON E. FRANKE and DEANNA K. FRANKE, spouses

**Grantor's Mailing Address:**

**Grantee:** SUNRISE VILLAGE INVESTMENT, LLC

**Grantee's Mailing Address:**

1095 Windy Hill Road  
Kyle, Texas 78640

**Consideration:** Cash and a note of even date executed by Grantee and payable to the order of PIONEER FINANCE, INC. ("LENDER") in the principal amount of FIVE MILLION THREE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$5,350,000.00). The note is secured by a first and superior vendor's lien and superior title retained in this deed in favor of LENDER and by a first-lien deed of trust of even date from Grantee to ARIF LAWJI, Trustee.

**Property (including any improvements):**

Being 51.07 acres of land comprised of two tracts of land out of the D. DOWNER SURVEY No. 22, Abstract No. 151 and the JOHN KING SURVEY No 20, Hays County Texas, Tract 1 being 45.64 acres of land and Tract 2 being 5.43 acres of land, both tracts being portions of two tracts of land referenced and described in deed from a Adele Grimes Castle to Alton Franke and A. W. Gregg dated October 3, 1974, recorded in Volume 271, page 300, Deed Records of Hays County, Texas both of said tracts of land being described by metes and bounds in Exhibit "A" attached.

**Reservation of Minerals:** For Grantor, and Grantor's successors, a reservation of all of the mineral estate owned by Grantor. Grantor does not reserve the implied rights of ingress and egress and the reasonable use of the Property (including surface materials) for mining, drilling, exploring, operating, developing or removing the oil, gas and other minerals.

**Exceptions to Conveyance and Warranty:** The conveyance of the Property is being made by Grantor and accepted by Grantees subject to the matters (the "Permitted Exceptions") set forth in Exhibit "B" attached hereto and made a part hereof for all purposes.

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, when the claim is by, through or under grantor, but not otherwise.

LENDER, 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 LENDER and are transferred to LENDER without recourse against Grantor.

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

*Signatures and acknowledgments appear on the following pages.*

CR TWO INVESTMENT, LTD.

By: CR TWO MANAGEMENT, LLC

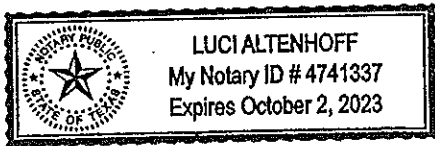
By: *Robin Gail Robinson*  
ROBIN GAIL ROBINSON, Manager

STATE OF TEXAS

COUNTY OF HAYS

}  
}  
}

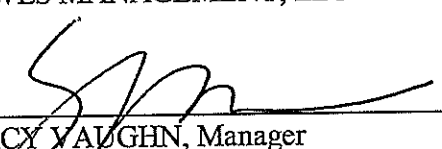
This instrument was acknowledged before me on July 30, 2020 by ROBIN GAIL ROBINSON, Manager of CR TWO MANAGEMENT, LLC, General Partner of CR TWO INVESTMENT, LTD.



*Luci Altenhoff*  
Notary Public, State of Texas

GAWLS, Ltd.

By: GAWLS MANAGEMENT, LLC

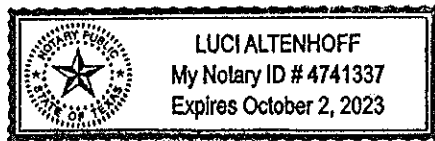
By:   
STACY VAUGHN, Manager

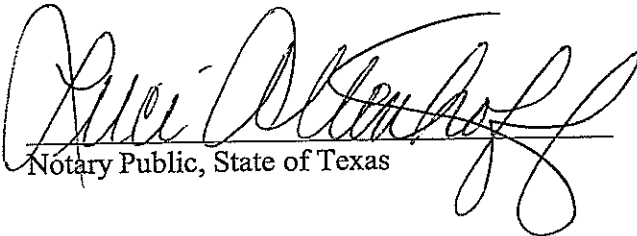
STATE OF TEXAS

}  
}  
}

COUNTY OF HAYS

This instrument was acknowledged before me on July 30, 2020 by STACY VAUGHN,  
Manager of GAWLS MANAGEMENT, LLC, General Partner of GAWLS, Ltd.



  
Notary Public, State of Texas

MKK ASSOCIATES, LP

By: MKK MANAGEMENT, LLC

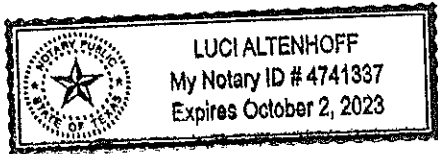
By: Mary G. Kinsala, manager  
MARY G. KINSALA, Manager

STATE OF TEXAS

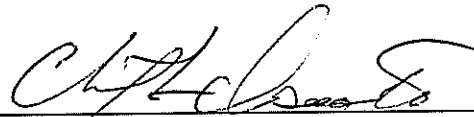
COUNTY OF HAYS

}  
}  
}

This instrument was acknowledged before me on July 30, 2020 by MARY G. KINSALA, Manager of MKK MANAGEMENT, LLC, General Partner of MKK ASSOCIATES, LP.



Luci Altenhoff  
Notary Public, State of Texas



CLIFTON OSWALT

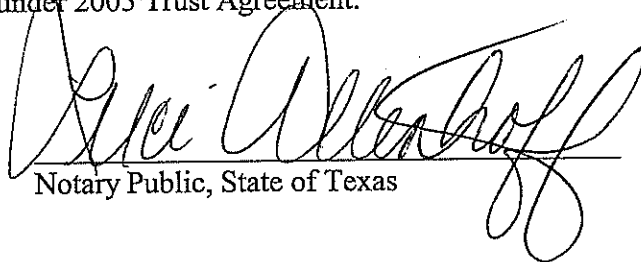
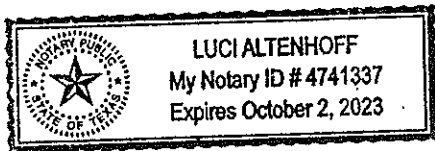
Trustee of the Clifton Oswalt Trust  
Under 2005 Trust Agreement

STATE OF TEXAS

}  
}  
}

COUNTY OF HAYS

This instrument was acknowledged before me on July 30, 2020 by CLIFTON OSWALT Trustee of the Clifton Oswalt Trust under 2005 Trust Agreement.

  
Notary Public, State of Texas

*Evelyn E. Nicholson*

EVELYN E. NICHOLSON

Trustee of the Evelyn Nicholson Trust

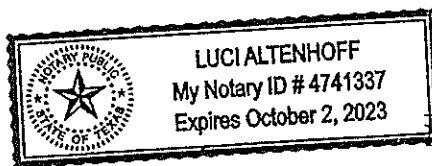
Under 2005 Trust Agreement

STATE OF TEXAS

COUNTY OF HAYS

}  
}  
}

This instrument was acknowledged before me on July 30, 2020 by EVELYN E. NICHOLSON Trustee of the Evelyn Nicholson Trust under 2005 Trust Agreement.



*Lucien Altenhoff*  
\_\_\_\_\_  
Notary Public, State of Texas

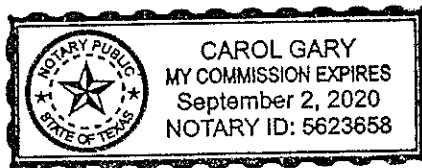
Alton E. Franke  
ALTON E. FRANKE

Deanna K. Franke  
DEANNA K. FRANKE

STATE OF TEXAS

COUNTY OF HAYS

This instrument was acknowledged before me on July 30, 2020 by ALTON E. FRANKE and DEANNA K. FRANKE, spouses.



Carol Gary  
Notary Public, State of Texas



EXHIBIT 'A'



Metes and Bounds:

BEING 51.07 ACRES OF LAND COMPRISED OF TWO TRACTS OF LAND OUT OF THE DANIEL DOWNER SURVEY, SECTION NO. 22, ABSTRACT NO. 151 AND THE JOHN KING SURVEY, SECTION 20, ABSTRACT NO. 276, HAYS COUNTY, TEXAS TRACT 1 BEING 45.64 ACRES OF LAND AND TRACT 2 BEING 5.43 ACRES OF LAND, BOTH TRACTS BEING PORTIONS OF TWO TRACTS OF LAND REFERENCED AND DESCRIBED IN THE DEED TO ADELE GRIMES CASTLE TO ALTON FRANKE AND A.W. GREGG DATED OCTOBER 3, 1974, RECORDED IN VOLUME 271, PAGE 300, DEED RECORDS OF HAYS COUNTY, TEXA AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

TRACT 1

**BEGINNING** at a 5/8-inch iron rod with cap stamped "Landpoint" set (hereinafter referred to as capped iron rod set) at the intersection of the Easterly right-of-way line of Interstate Highway 35 and the Southerly right-of-way line of Beebee Road for the West corner of that certain called 0.783 acre tract of land described in the deed to the State of Texas, recorded in Document No. 396678, Official Public Records, Hays County, Texas and the North corner of said tract herein described, from which a 1/2-inch iron rod found for the North corner of that certain called 0.739 acre tract of land described as Parcel 17 in the deed to State of Texas, recorded in Document No. 2010-10035140, Official Public Records, Hays County, Texas bears North 64°22'09": West, a distance of 426.63 feet;

**THENCE** South 67°39'51" East, with the Southerly right-of-way line of said Beebee Road and the Southerly line of said 0.783 acre tract of land, a distance of 1416.64 feet to a 1/2-inch iron rod found in the Westerly line of that certain called 76 acre tract of land described as Third Tract in the deed to Alton J. Franke and wife, Evelyn B. Franke, recorded in Volume 279, Page 565, Deed Records, Hays County, Texas and the Easterly line of said 46.44 acre tract of land for the South corner of said 0.783 acre tract of land and the East corner of said tract herein described;

**THENCE** South 44°01'17" West, with the Westerly line of said 76 acre tract of land and the Easterly line of said 46.44 acre tract of land, a distance of 1790.04 feet to a capped iron rod set in the Northerly line of Lot 3, Seton Hays Subdivision, according to the plat thereof recorded in Volume 14, Page 255, Plat Records, Hays County, Texas for the West corner of said 76 acre tract of land, the South corner of said 46.44 acre tract of land and the South corner of said tract herein described;

EXHIBIT 'A'



**THENCE** North 66°43'03" West, with the Northerly line of said Lot 3 and the Southerly line of said 46.44 acre tract of land, a distance of 978.61 feet to a concrete monument found in the Easterly right-of-way line of said Interstate Highway 35 for the North corner of said Lot 3, the West corner of said 46.44 acre tract of land and the West corner of said tract herein described;

**THENCE** with the Easterly right-of-way line of said Interstate Highway 35, the following calls and distances:

North 31°29'04" East, a distance of 712.12 feet to a capped iron rod set for corner;

North 09°36'57" East, a distance of 107.90 feet to a concrete monument found for corner;

North 31°23'57" East, a distance of 849.47 feet to the **POINT OF BEGINNING** and containing 45.64 acres of land.

**TRACT 2**

**BEGINNING** at a 1/2-inch iron rod found in the Westerly right-of-way line of Interstate Highway 35 for the North corner of that certain called 0.739 acre tract of land described as Parcel 17 in the deed to State of Texas, recorded in Document No. 2010-10035140, Official Public Records, Hays County, Texas and the East corner of said tract herein described, from which a 1/2-inch iron rod found for reference bears North 31°38'11" East, a distance of 31.04 feet;

**THENCE** South 31°34'07" West, with the Westerly right-of-way line of said Interstate Highway 35 and the Westerly line of said 0.739 acre tract of land, passing the South corner thereof and continuing on said course with the Westerly right-of-way line of said Interstate Highway 35 and the Easterly line of said 7.703 acre tract of land, a distance of 1237.33 feet to a 5/8-inch iron rod with cap stamped "Landpoint" set (hereinafter referred to as capped iron rod set) for the East corner of Lot 1, North Branch Subdivision, according to the plat thereof recorded in Volume 4, Page 51, Plat Records, Hays County, Texas and the South corner of said tract herein described;

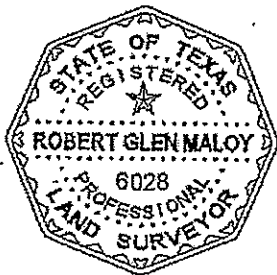


**THENCE** North 25°27'22" West, with the Northerly line of said Lot 1, a distance of 188.60 to a capped iron rod set in the Easterly right-of-way line of County Road 210 and the Westerly line of said 7.703 acre tract of land for the North corner of said Lot 1 and the West corner of said tract herein described;

**THENCE** North 26°45'58" East, with the Easterly right-of-way line of said County Road 210 and the Westerly line of said 7.703 acre tract of land, a distance of 1098.52 feet to a 1/2-inch iron rod found for the North corner of said 7.703 acre tract of land and the North corner of said tract herein described;

**THENCE** South 67°31'10" East, with the Northerly line of said 7.703 acre tract of land, a distance of 253.37 feet to the **POINT OF BEGINNING** and containing 5.43 acres of land.

The herein referenced tract is referenced to State Plane Coordinates, Texas South Central Zone, 4204.



*Robert Glen Maloy*

7/24/20

Robert Glen Maloy  
Registered Professional Land Surveyor  
Texas Registration No. 6028

## EXHIBIT "B"

Standby fees, taxes and assessments by any taxing authority for the year 2020, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership.

Easement and right-of-way in favor of Southwestern Bell Telephone Company recorded in Volume 124, page 203, Deed Records, Hays County, Texas.

Easement and right-of-way in favor of Lower Colorado River Authority recorded in Volume 254, page 259, Deed Records, Hays County, Texas.

Easement in favor of the City of Kyle for wastewater facilities recorded in Volume 3014, page 878, Official Public Records, Hays County, Texas.

Easement in favor of the City of Kyle for wastewater facilities recorded in Volume 3014, page 888, Official Public Records, Hays County, Texas.

Easement in favor of Hays County and State of Texas for temporary utility relocation easement recorded in Volume 3761, page 315, Official Public Records, Hays County, Texas.

Inclusion within the Hays County Special Road.

Inclusion within the Plum Creek Conservation District.

Inclusion within the Plum Creek Groundwater District.

**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.

20032482 DEED  
08/04/2020 11:41:30 AM Total Fees: \$72.50

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



LANDOWNER AUTHORIZATION AND AFFIDAVIT OF OWNERSHIP

**SUBJECT PROPERTY INFORMATION**

Subdivision Name, Block, Lot, or legal description if not subdivided: ABS 151 DANIEL DOWNES  
SURVEY 46.217 AC GEO#90601178 # of lots (if subdivided): \_\_\_\_\_ # of acres:  
46.217

Site APN/Property ID #(s): R13829

Location: BEBEE RD, KYLE, TX 78640 County: Hays

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

**OWNER**

Company/Applicant Name: SUNRISE VILLAGE INVESTMENT LLC

Authorized Company Representative (if company is owner): Asifali KAROWALIA

Type of Company and State of Formation: LLC TEXAS

Title of Authorized Company Representative (if company is owner): managing member

Applicant Address: 1095 WINDY HILL RD KYLE, TX 78640-6127

Applicant Fax: \_\_\_\_\_

Applicant Phone: (512) 524 06 77

Applicant/Authorized Company Representative Email: sergio@loccivil.com

**APPLICANT REPRESENTATIVE**

Check one of the following:

\_\_\_\_\_. I will represent the application myself; or

X I hereby designate Sergio Lozano Sanchez (name of project representative) to act in the capacity as the agent for filing, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

I hereby certify that the above-named owner is the rightful owner of the Property. I am either the owner of the property identified above or a partner/manager/officer/director/member of the company who is authorized to act on behalf of the company. I further certify that the information provided herein and in the application for the development is true and correct. By signing below, I agree that the City of Kyle (the "City") is authorized and permitted to provide information contained within this application, including the email address, to the public.

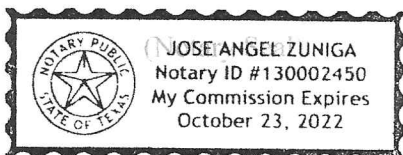
Owner's Signature: \_\_\_\_\_ Date: 04/26/2021

State of Texas

§  
§

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 26<sup>th</sup> day of April, 2021.

\_\_\_\_\_  
Notary Public's Signature  
10/23/2022  
My Commission Expires

PROJECT REPRESENTATIVE

Representative Name: Sergio Lozano Sanchez

Representative Address: 2211 S IH 35 Frontage Rd, Suite 107, Austin, TX 78741

Representative Phone: (512) 524-0677

Representative Email: sergio@loccivil.com

Representative's Signature:  Date: 04/26/2021.



## Franchise Tax Account Status

As of : 04/28/2021 13:30:48

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

SUNRISE VILLAGE INVESTMENT LLC	
Texas Taxpayer Number	32074476055
Mailing Address	1095 WINDY HILL RD KYLE, TX 78640-6127
 Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	06/01/2020
Texas SOS File Number	0803635584
Registered Agent Name	RAHIM MOMIN
Registered Office Street Address	1095 WINDY HILL RD KYLE, TX 78640





# CITY OF KYLE, TEXAS

## LD Enterprises, LLC - Zoning (Z-21-0084)

Meeting Date: 6/15/2021

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 and rezone approximately 11.08 total acres of land from Agriculture 'AG' (.023-Acres) and Single Family 'R-1' (10.85-Acres) to Single Family Residential-3 'R-1-3' for property located between Scott Street and the 800 block of South Sledge Street, in Hays County, Texas. (LD Enterprises, LLC - Z-21-0084) ~  
*Howard J. Koontz, Director of Planning and Community Development*

*Planning and Zoning Commission voted 4-0 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
- ☐ Project Location Map
- ☐ Current Zoning Map
- ☐ Land Use Districts Map
- ☐ Deed
- ☐ Franchise Tax Account Status
- ☐ Landowner Authorization Letter
- ☐ Letter of Opposition

---

Property Location	Southeast of Scott Street, Northwest of S. Sledge St, North of Bradford Meadows subdivision
Owner	LD Enterprises, LLC 725 Edgewood Court, Woodland, CA 95695
Agent	John F. Patton 7701 Rialto Blvd, #1223 Austin, TX 78735
Request	Rezone 11.08-acres from "R-1" (Single Family Residential) & "A" (Agriculture) to "R-1-3" (Single Family Residential)

---

**VICINITY MAP**



## **SITE DESCRIPTION**

The parcel, comprised of two unplatted lots, is approximately 11.08-acres. A majority of the parcel is zoned R-1 (Single Family Residential, Ord. No. 92). A small portion in the western corner (adjacent to Scott Street), is zoned "A" (Agriculture, approximately .23-acres). The site is undeveloped.

The applicant is requesting the entire property to be rezoned to R-1-3.



**CURRENT ZONING MAP**

## **Existing Zoning**

### **R-1 (Single Family Residential, Ord. No. 92)**

5.2 District R-1: Single Family Residential

- 5.2.a. Purpose: This district includes lands which are sub-divided into tracts for residential purposes. The district is designed to protect these areas from the undesirable encroachment of nonresidential uses, dense residential development and other similar uses not compatible with the character of one-family detached home type land use, and provided with necessary services and facilities. Mobile homes are excluded from this district.

**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.

Proposed Zoning

**SINGLE-FAMILY RESIDENTIAL 3 DISTRICT R-1-3**

**Sec. 53-101. - Purpose and permitted uses.**

The R-1-3 single-family residential 3 district allows detached single-family residences with a minimum of 1,000 square feet of living area and permitted accessory structures on a minimum lot size of 5,540 square feet. There shall be no more than 5.5 houses per buildable acre.

**CONDITIONS OF THE ZONING ORDINANCE**

**Sec. 53-1205 Amendments**

(d)

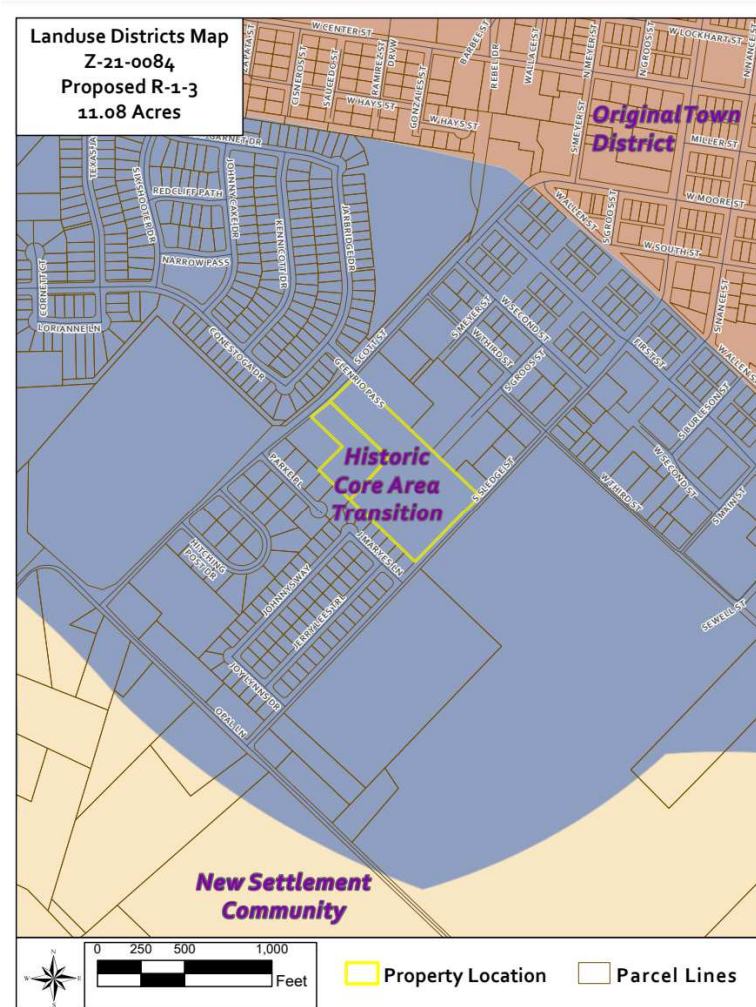
*Referral of amendment to planning and zoning commission.* Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and 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 “Historic Core Area Transition” District. R-1-3 is recommended in the “Historic Core Area Transition” land use district.

## Historic Core Area Transition District

Recommended: R-1-1, R-1-2, **R-1-3**, R-1-A

Conditional: A, R-2, R-3-1, R-1-T, UE, NC, E, RS, MXD

## **HISTORIC CORE AREA TRANSITION LAND USE DISTRICT**

Character: The Historic Core Area Transition serves as a transition between the regular gridded development pattern that characterizes Downtown and the more rural patterns to the south and west, as well as newer development to the north. Significant features of this District include the intersection of Old Stagecoach Road and Center Street, the Gregg Clarke Park, Wallace Middle School, and the emerging commercial corridor along Rebel Road north from Center Street. This District is a “middle landscape” of historic residential forms that transition to more rural residential forms. The District should embody the historic character of existing uses while anticipating appropriate expansion of Old Town. Development in the Historic Core Area Transition District has historically been on a small, lot-by-lot basis, rather than on a larger, project-by-project basis. Because of this, the street serves as the organizing feature of the District. Therefore, as new development extends into the District from the Old Town District, care should be taken to ensure that the historic street pattern is preserved, as called for in ‘Kyle Connected’, the city’s Transportation Master Plan.

Intent: The purpose of the Historic Core Area Transition District is to accommodate the growth of residential and neighborhood commercial uses around the Old Town District, while preserving the historic rural fabric. The core of Kyle should be allowed to expand into this area as population growth increases in order to strengthen the core of the City. Land use transitions are critical in this District, as are architectural style transitions from traditional Rural Town Center/Old Town Block to curvilinear, rural residential, ensuring the shift from township to rural landscape should be maintained. This can be accomplished by transition in the built form and function from commercial uses to residential uses and finally to rural agricultural residential uses and by establishing transitions in density, decreasing outwardly from the Old Town District. Public spaces in this District should be used to preserve the character of ranch heritage, where appropriate.

## **ANALYSIS**

The 11.08-acre site is currently vacant and primarily zoned R-1 (Ord. No. 92) with a small area of approximately .23-acres zoned “A”. The applicant is requesting to rezone to R-1-3, which is the modern equivalent of the now-vestigial R-1 zoning district. The R-1 zoning district was created with Ord. No. 92 in 1978 and allows for single family detached residences. The R-1-3 zoning district also allows for single family residences with minor differences to the design metrics in each district description. The two reasons the rezoning is requested is to account for the .23-acres of “A” that cannot be rezoned to the “R-1” district from 1972, as it’s no longer in our code (zoning continuity), and for reduced setbacks.

The entire 11.08-acres is within the “Historic Core Area Transition” land use district. This district allows for a transition area from the formal grid pattern of the “Original Town District” (Original Town of Kyle plat), to the more rural nature of Kyle (to the southwest). This area is expected to be primarily residential in nature, but does allow for limited commercial opportunities (as shown in the allowable zoning districts). New residential development in this area is expected to further implement the existing grid pattern of the Original Town of Kyle.

Zoning	Front Setback (feet)	Side Setback (feet)	Corner Lot Side Setback (feet)	Rear Setback (feet)	Min Lot Area (Sq. Ft.)	Min. Lot St. Width (feet)	Height Limit (feet)	Max. Building per Acre	Max Imp Cover
R-1	25’	7.5’	15’	15’	5,000	50’	35’	6	N/A
R-1-3	20’	5’	10’	10’	5,450	50’	35’	5.5	65%

### **Parking**

**R-1** = 1 space per residence

**R-1-3** = 2 spaces minimum, plus .5 spaces per each bedroom above 2

While the older R-1 zoning provides a few, individual advantages in buildable units per acre (6 vs. 5.5), no impervious cover maximum, nor parking requirements, the R-1-3 zoning district is staff’s preference for rezoning. With the R-1-3 district, densities are slightly lower, the lot minimum is slightly larger and there are impervious cover

maximums. From an administration standpoint, there are more controls with the R-1-3 zoning district.

Road infrastructure is mostly adequate, especially from Scott Street. The condition, design, capacity and level of service possible on South Sledge Street may require discussion. Sidewalks will be installed along Scott Street and S. Sledge. Water and wastewater will be provided by the City of Kyle.

### **RECOMMENDATION**

City staff has reviewed the application and believes the proposed R-1-3 district is appropriate. At the June 8, 2021, Planning & Zoning Commission meeting, the Commission voted 4-0 to recommend approval of the zoning request. Staff asks the Mayor & Council to vote to approve the request.

---

### **Attachments**

- Summary Request Letter
- Location Map
- Current Zoning Map
- Land Use Districts Map
- Deed
- Landowner Authorization Letter
- Franchise Tax Account Status



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING AND TO REZONE APPROXIMATELY 11.08 TOTAL ACRES OF LAND FROM AGRICULTURE 'AG' (.023 ACRES) AND SINGLE FAMILY 'R-1' (10.85 ACRES) TO SINGLE FAMILY RESIDENTIAL-3 'R-1-3' FOR PROPERTY LOCATED BETWEEN SCOTT STREET AND THE 800 BLOCK OF SOUTH SLEDGE STREET, IN HAYS COUNTY, TEXAS. (LD ENTERPRISES, LLC – Z-21-0084); 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 11.08 total acres of land from Agriculture 'AG' (.023 acres) and Single Family 'R-1' (10.85 acres) to Single Family Residential-3 'R-1-3', as shown on the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

ATTEST:

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



## EXHIBIT "A"

### METES & BOUNDS DESCRIPTION FOR 11.0757 ACRES OF LAND

A tract of land containing 11.0757 acres out of and part of the Z. Hinton Survey No. 12, Abstract No. 220, in Hays County, Texas, and being the combination of 2 tracts of land conveyed to Ernest Kimbro, Tract 1 being a called 2.54 acre tract conveyed and described in Volume 1304, Page 485, Official Public Records of Hays County, and Tract 2 being a called 8.539 acre tract conveyed and described in Volume 2623, Page 613, Official Public Records of Hays County, said 11.0757 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 7/8" iron pipe found in the southeast right-of-way of Scott Street at the base of a chain link fence post for the most westerly corner of the Rodriguez Tract as described in Volume 1297, Page 858, Official Public Records of Hays County, for the most northerly corner of the said Tract 2 and for the most northerly corner of the herein described tract;

THENCE S 45° 21' 53" E, at 434.45 feet passing a 5/8" iron rod found for the most southerly corner of the said Rodriguez Tract and the most westerly corner of the Moore Tract as described in Volume 1332, Page 329, Official Public Records of Hays County, and at 618.18 feet passing an iron rod with a plastic cap found for the most southerly corner of the said Moore Tract, and at 786.89 feet passing a 1/2" iron rod found for the most westerly corner of the Estrada Tract as described in Volume 1960, Page 299, Official Public Records of Hays County, in all a total distance of 986.85 feet to a 7/8" iron pipe found in the northwest right-of-way of Sledge Street for the most southerly corner of the said Estada Tract, the most easterly corner of the said Tract 2 and the most easterly corner of this 11.0757 acre tract;

THENCE S 44° 26' 00" W, following the northwest right-of-way of Sledge Street, a distance of 531.73 feet to a PK nail set in a concrete drainage ditch for the most southerly corner of the said Tract 2 and the most southerly corner of this 11.0757 acre tract;

THENCE N 45° 18' 07" W, leaving the Sledge Street right-of-way, and at 7.5' passing an iron rod with a plastic cap found for the most easterly corner of Lot 1, Block A, Bradford Meadows Subdivision, as recorded in Volume 9, Page 362, Hays County Plat Records, in all a total distance of 525.85 feet to a 1/2" iron rod found for the most westerly corner of the said Tract 2, the most southerly corner of the said Tract 1, the most northerly corner of Lot 7, said Block A, Bradford Meadows Subdivision and for the most easterly corner of Lot 5, Four Oaks Subdivision, as recorded in Volume 1, Page 91, Hays County Plat Records;

THENCE N 45° 38' 32" W, a distance of 242.40 feet to a 1/2" iron pipe found in the northeast property line of Lot 3, said Four Oaks Subdivision, for the most southerly western corner of said Tract 1, the most southerly western corner of the herein described tract and for the most southerly corner of the Vaughn Tract as described in Volume 1978, Page 183, Official Public Records of Hays County;

THENCE N 43° 59' 44" E, a distance of 193.48 feet to a 5/8" iron rod set for an interior ell corner said Tract 1, an interior ell corner of this 11.0757 acre tract and the most easterly corner of the said Vaughn Tract;

THENCE N 45° 25' 00" W, a distance of 216.00 feet to a 5/8" iron rod set in the southeast right-of-way of Scott Street for the most northerly western corner of the said Tract 1, the most northerly western corner of the herein described tract and for a northeast corner of the said Vaughn Tract;

THENCE N 44° 07' 00" E, along the Scott Street right-of-way, a distance of 139.00 feet to a 7/8" iron pipe found for the most northerly corner of the said Tract 1, the most westerly corner of the said Tract 2 and for an angle point of the herein described tract, from which for reference and for the bearing basis used herein, a 7/8" iron pipe found for an interior ell corner of the said Tract 2 and for the most easterly corner of the said Tract 1 bears S 45° 25' 00" E, a distance of 457.79 feet;

THENCE N 44° 20' 01" E, along the Scott Street right-of-way, a distance of 200.07 feet to the POINT OF BEGINNING, containing 11.0757 acres.

NOTE: THE COMPANY DOES NOT REPRESENT THAT THE ABOVE ACREAGE AND/OR SQUARE FOOTAGE CALCULATIONS ARE CORRECT.

Filed for Record in:  
Hays County  
On: Sep 25, 2007 at 12:25P  
Document Number: 70028295  
Amount: 28.00  
Receipt Number - 179872  
By:  
Christina Sanchez, Deputy  
Linda C. Fritscher, County Clerk  
Hays County

**THIS PAGE LEFT INTENTIONALLY BLANK FOR  
RECORDING PURPOSES**

**EXHIBIT "A"**

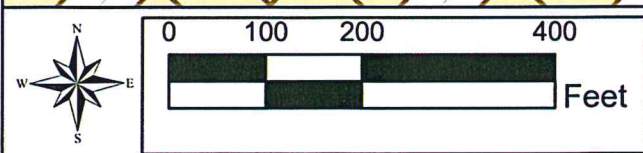
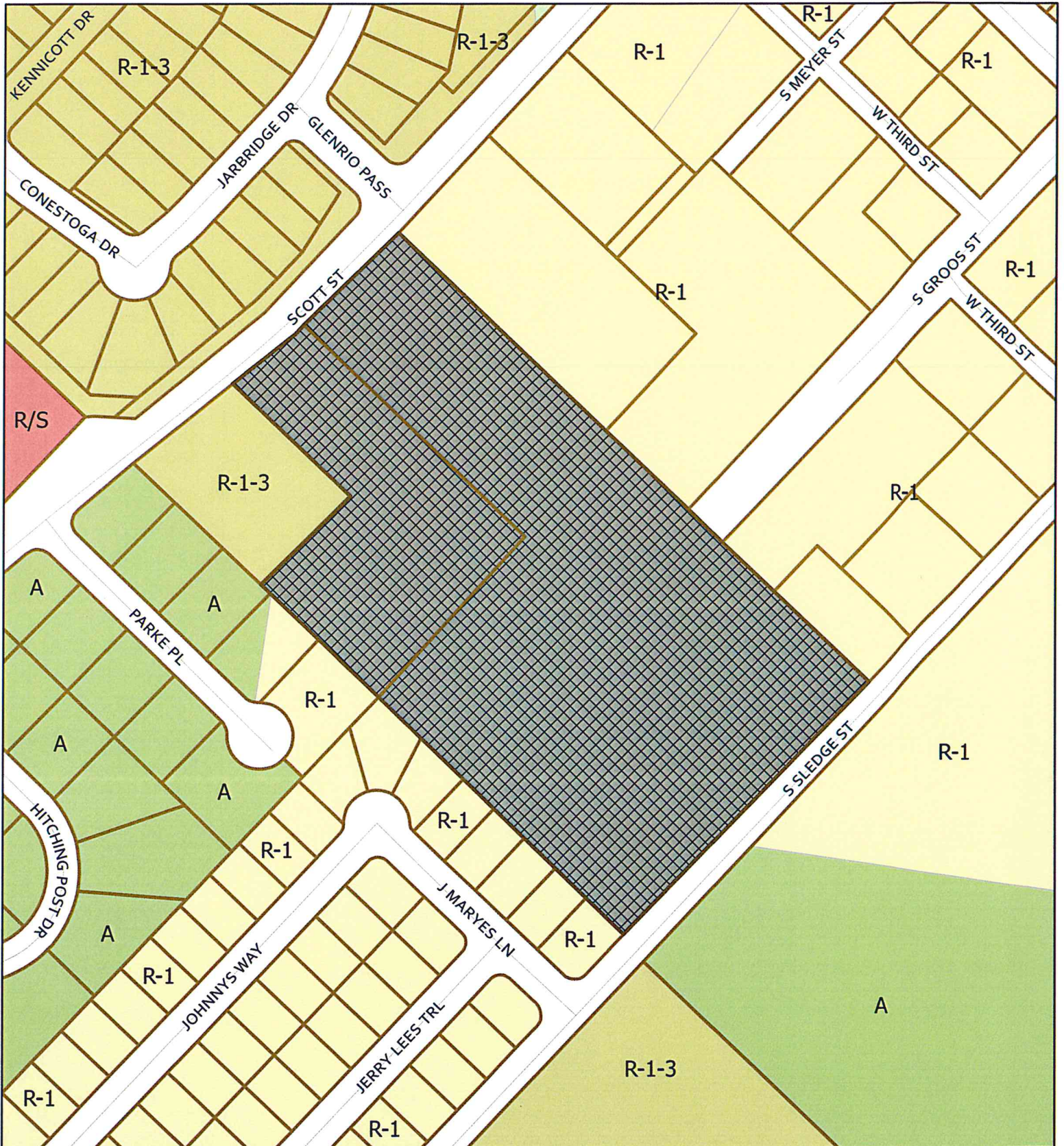


# Exhibit B

Z-21-0084

S Sledge St

11.08 Acres



Parcel Lines

To Be Zoned R-1-3

Item # 19





May 7, 2021

Debbie Guerra, Planning Technician  
City of Kyle  
100 W. Center St.  
Kyle, TX 78640

**RE: 11.08 ACRE TRACT – SCOTT STREET  
CCL 21-247**

**Subject: ZONING CHANGE REQUEST LETTER**

Dear Ms. Guerra:

On behalf of our Client, John Patton, we hereby request this zoning change from R-1: Residential Single Family and AG: Agriculture to R-1-3: Single-Family Residential 3.

The Landowner desires to install single family residential rentals on this tract.

Please advise if you have any questions concerning this matter.

Sincerely,

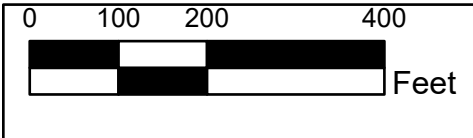
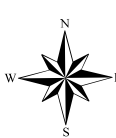
Chris Elizondo, E.I.T., S.I.T.  
Project Manager

Attachments

Property Location Map  
Z-21-0084  
Proposed R-1-3  
11.08 Acres



Maxar, Microsoft

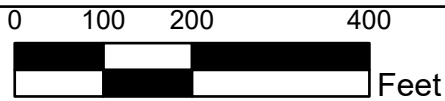
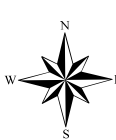
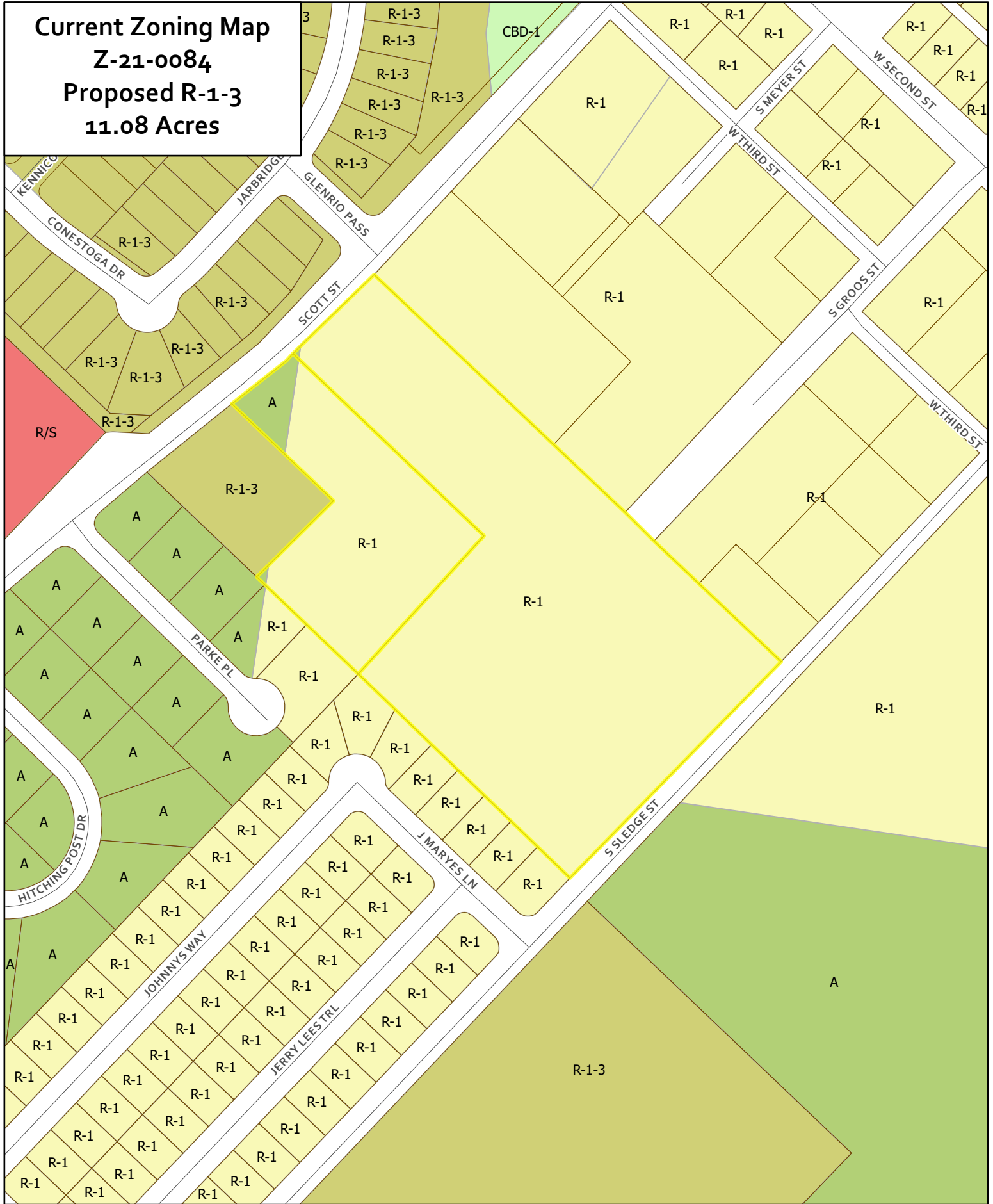


 Property Location

 Parcel Lines



**Current Zoning Map**  
**Z-21-0084**  
**Proposed R-1-3**  
**11.08 Acres**



**Property Location**

**Parcel Lines**

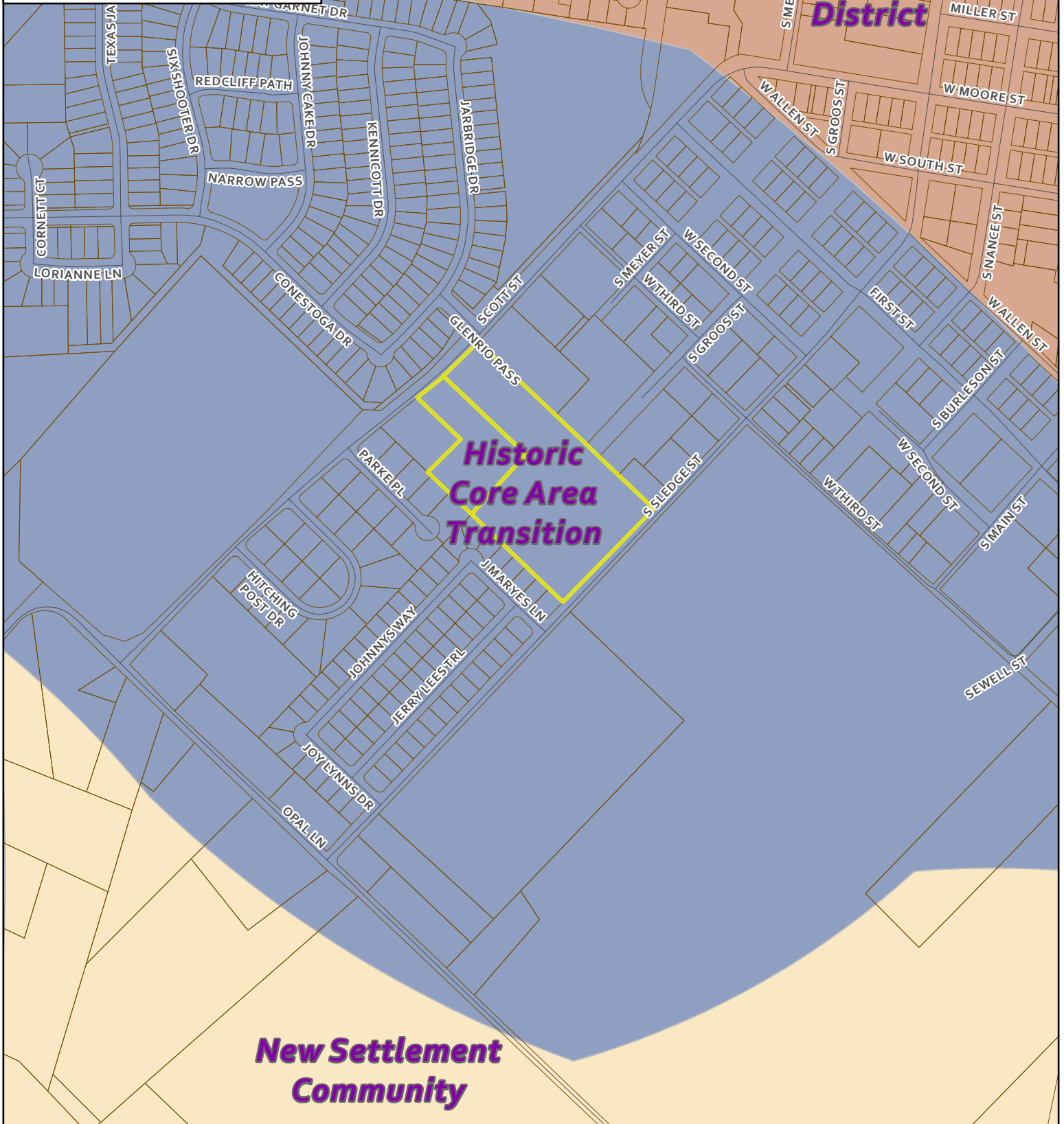


# Landuse Districts Map

Z-21-0084

Proposed R-1-3

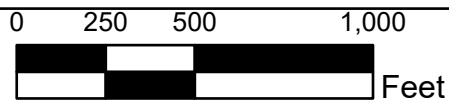
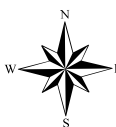
11.08 Acres



**Historic  
Core Area  
Transition**

**Original Town  
District**

**New Settlement  
Community**



 **Property Location**

 **Parcel Lines**

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

**WARRANTY DEED WITH VENDOR'S LIEN**

**THE STATE OF TEXAS**

§

§ **KNOW ALL MEN BY THESE PRESENTS**

**COUNTY OF HAYS**

§

THAT **GRAY CAPITAL CORPORATION**, a *Texas corporation*, for and in consideration of the sum of Ten Dollars and other good and valuable consideration to the undersigned paid by the grantees herein named, the receipt of which is hereby acknowledged, and the further consideration of the *assumption* and promise to pay by the Grantee herein that one certain promissory note dated *November 28, 2005*, in the original principal amount of *One Hundred Seventy-Five Thousand and No/100 Dollars (\$175,000.00)*, bearing interest and payable as therein provided, the payment of which note is secured by a Vendor's Lien retained herein, and is additionally secured by a Deed of Trust of even date therewith, and recorded in *Volume 2814, Page 377*, of the Real Property Records of Hays County, Texas, to *Wm. Z. Fitzgerald, Trustee*, has GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY UNTO **LD ENTERPRISES, LLC**, a *Texas Limited Liability Company*, all of the following described real property in Hays County, Texas, to wit:

A tract of land containing 11.0757 acres out of and part of the Z. Hinton Survey No. 12, Abstract No. 220, in Hays County, Texas, and being the combination of 2 tracts of land conveyed to Ernest Kimbro, Tract I, being called a 2.54 acre tract conveyed and described in Volume 1304, Page 485, of the Official Public Records of Hays County, and Tract 2, being called a 8.539 acre tract conveyed and described in Volume 2623, Page 613, of the Official Public Records of Hays County, said 11.0757 acre tract being more particularly described by *Metes and Bounds in Exhibit "A"* attached hereto; and, subject to easements, reservations, and restrictions of record or apparent on the ground, taxes for the current year and thereafter, and any prior reservations of minerals;

TO HAVE AND TO HOLD the above described premises, together with all and singular of the rights and appurtenances thereto in anywise belonging unto the said grantee, his heirs and assigns; and I do hereby bind myself, my heirs and assigns to WARRANT AND FOREVER

DEFEND all and singular the said premises unto the said Grantee, his heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof,

But it is expressly agreed that the VENDOR'S LIEN, is retained against the above described property, premises and improvements until the above described note and all interest thereon are fully paid according to the face tenor, effect and reading thereof, when this Deed shall become absolute, and which Vendor's Lien and Superior Title is by the Grantors herein transferred to **Ernest W. Kimbro**.

EXECUTED this the 21 day of September, 2007.

**GRAY CAPITAL CORPORATION,**  
*a Texas corporation*

By:

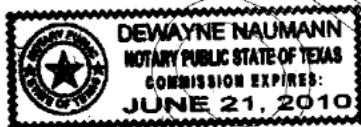
SCOTT OLGUIN, President

**ACKNOWLEDGMENT**

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the 21<sup>ST</sup> day of September, 2007, by **SCOTT OLGUIN, President of GRAY CAPITAL CORPORATION, a Texas corporation.**



Dewayne Naumann  
Notary Public in and for the  
STATE OF TEXAS

**DEWAYNE NAUMANN**

Printed name of Notary

My Commission expires: JUNE 21, 2010

**Please return to the mailing address of Grantee:**

LD Enterprises, LLC, a Texas Limited Liability Company  
Lee Wiegrefe, Manager  
13105 Lake View Drive  
Austin, Texas 78732

**THIS PAGE LEFT INTENTIONALLY BLANK FOR  
RECORDING PURPOSES**

**EXHIBIT "A"**

## EXHIBIT "A"

### METES & BOUNDS DESCRIPTION FOR 11.0757 ACRES OF LAND

A tract of land containing 11.0757 acres out of and part of the Z. Hinton Survey No. 12, Abstract No. 220, in Hays County, Texas, and being the combination of 2 tracts of land conveyed to Ernest Kimbro, Tract 1 being a called 2.54 acre tract conveyed and described in Volume 1304, Page 485, Official Public Records of Hays County, and Tract 2 being a called 8.539 acre tract conveyed and described in Volume 2623, Page 613, Official Public Records of Hays County, said 11.0757 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 7/8" iron pipe found in the southeast right-of-way of Scott Street at the base of a chain link fence post for the most westerly corner of the Rodriguez Tract as described in Volume 1297, Page 858, Official Public Records of Hays County, for the most northerly corner of the said Tract 2 and for the most northerly corner of the herein described tract;

THENCE S 45° 21' 53" E, at 434.45 feet passing a 5/8" iron rod found for the most southerly corner of the said Rodriguez Tract and the most westerly corner of the Moore Tract as described in Volume 1332, Page 329, Official Public Records of Hays County, and at 618.18 feet passing an iron rod with a plastic cap found for the most southerly corner of the said Moore Tract, and at 786.89 feet passing a 1/2" iron rod found for the most westerly corner of the Estrada Tract as described in Volume 1960, Page 299, Official Public Records of Hays County, in all a total distance of 986.85 feet to a 7/8" iron pipe found in the northwest right-of-way of Sledge Street for the most southerly corner of the said Estrada Tract, the most easterly corner of the said Tract 2 and the most easterly corner of this 11.0757 acre tract;

THENCE S 44° 26' 00" W, following the northwest right-of-way of Sledge Street, a distance of 531.73 feet to a PK nail set in a concrete drainage ditch for the most southerly corner of the said Tract 2 and the most southerly corner of this 11.0757 acre tract;

THENCE N 45° 18' 07" W, leaving the Sledge Street right-of-way, and at 7.5' passing an iron rod with a plastic cap found for the most easterly corner of Lot 1, Block A, Bradford Meadows Subdivision, as recorded in Volume 9, Page 362, Hays County Plat Records, in all a total distance of 525.85 feet to a 1/2" iron rod found for the most westerly corner of the said Tract 2, the most southerly corner of the said Tract 1, the most northerly corner of Lot 7, said Block A, Bradford Meadows Subdivision and for the most easterly corner of Lot 5, Four Oaks Subdivision, as recorded in Volume 1, Page 91, Hays County Plat Records;

THENCE N 45° 38' 33" W, a distance of 242.40 feet to a 1/2" iron pipe found in the northeast property line of Lot 3, said Four Oaks Subdivision, for the most southerly western corner of said Tract 1, the most southerly western corner of the herein described tract and for the most southerly corner of the Vaughn Tract as described in Volume 1978, Page 183, Official Public Records of Hays County;

THENCE N 43° 59' 44" E, a distance of 193.48 feet to a 5/8" iron rod set for an interior ell corner said Tract 1, an interior ell corner of this 11.0757 acre tract and the most easterly corner of the said Vaughn Tract;

THENCE N 45° 25' 00" W, a distance of 216.00 feet to a 5/8" iron rod set in the southeast right-of-way of Scott Street for the most northerly western corner of the said Tract 1, the most northerly western corner of the herein described tract and for a northeast corner of the said Vaughn Tract;

THENCE N 44° 07' 00" E, along the Scott Street right-of-way, a distance of 139.00 feet to a 7/8" iron pipe found for the most northerly corner of the said Tract 1, the most westerly corner of the said Tract 2 and for an angle point of the herein described tract, from which for reference and for the bearing basis used herein, a 7/8" iron pipe found for an interior ell corner of the said Tract 2 and for the most easterly corner of the said Tract 1 bears S 45° 25' 00" E, a distance of 457.79 feet;

THENCE N 44° 20' 01" E, along the Scott Street right-of-way, a distance of 200.07 feet to the POINT OF BEGINNING, containing 11.0757 acres.

Filed for Record in:

Hays County

On: Sep 25, 2007 at 12:25P

Document Number: 70028295

Amount: 28.00

Receipt Number - 179872

By,

Christina Sanchez, Deputy  
Linda C. Fritscher, County Clerk  
Hays County

NOTE: THE COMPANY DOES NOT REPRESENT THAT THE ABOVE ACREAGE AND/OR SQUARE FOOTAGE CALCULATIONS ARE CORRECT.

# Q Taxable Entity Search Results

✔ 1



the search string : 32033308993

i If

1-800-252-1500.

s about the search results, send an email to [tax.help@cpa.texas.gov](mailto:tax.help@cpa.texas.gov) or call

## Franchise Tax Account Status

As of : 06/10/2021 05:46:49

### Results

**This page is valid for most business transactions but is not sufficient for filings with the**

#### Secretary of State

Name	Taxpayers ID#	Zip
LEE & DI ENTERPRISES LLC.	32033308993	78732

#### LEE & DI ENTERPRISES LLC.

**Texas Taxpayer Number** 32033308993**Mailing Address** 13105 LAKE VIEW DR AUSTIN, TX 78732-1221**Right to Transact Business in Texas** ACTIVE**State of Formation** TX**Effective SOS Registration Date** 07/10/2007**Texas SOS File Number** 0800841968**Registered Agent Name** LEE A WIEGREFE**Registered Office Street Address** 13105 LAKE VIEW DR AUSTIN, TX 78732



LANDOWNER AUTHORIZATION AND AFFIDAVIT OF OWNERSHIP

SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: 11.075 acres out of the Z. Hinton Survey No. 12, Abstract No. 220

# of lots (if subdivided): \_\_\_\_\_ # of acres: 11.08

Site APN/Property ID #(s): R14662 & R70247

Location: \_\_\_\_\_ County: Hays

Development Name: Scott Street Subdivision

OWNER

Company/Applicant Name: LD Enterprises LLC

Authorized Company Representative (if company is owner): Diane Wiegrefe

Type of Company and State of Formation: Limited Liability Co. / TX

Title of Authorized Company Representative (if company is owner): Owner General Partner

Applicant Address: 13105 Lakeview Drive, Austin, TX 78732

Applicant Fax: N/A

Applicant Phone: N/A

Applicant/Authorized Company Representative Email: nanatoannika@gmail.com

APPLICANT REPRESENTATIVE

Check one of the following:

\_\_\_\_. I will represent the application myself; or

X I hereby designate John F. Patton (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: LEE WIEGREFE Date: 5/13/21

State of Texas

County of Travis

Diane M Wiegrefe  
Diane M Wiegrefe 5/13/21

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 13 day of May, 2021.

Elizabeth Reid  
Notary Public's Signature  
04-22-2023  
My Commission Expires

PROJECT REPRESENTATIVE

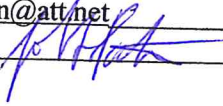


Representative Name: John F. Patton

Representative Address: 7701 Rialto Blvd. #1223, Austin, TX 78735

Representative Phone: 512-923-0529

Representative Email: johnfpatt@att.net

Representative's Signature: 

Date: 5/13/21

\*\*\*\*\*  
You may send your written comments to the Planning Department, 100 W. Center St., Kyle, Texas 78640  
(attention: Zoning File # Z-21-0084).

Name: David Wiley Address: 184 J. Marys Ln.

☐ I am in favor, this is why \_\_\_\_\_

☒ I am not in favor, and this is why I live next door to this. I don't  
want 2 story houses behind me.



# CITY OF KYLE, TEXAS

## Transportation Master Plan Amendment

**Meeting Date: 6/15/2021**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Consider and approve update to Transportation Master Plan. ~ *John Dean, CP&Y, Inc.*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

### **ATTACHMENTS:**

#### **Description**

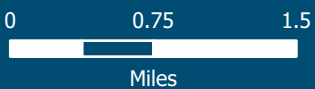
20210614\_Kyle\_TMP\_Proposed\_Road\_Network\_11x17\_V2



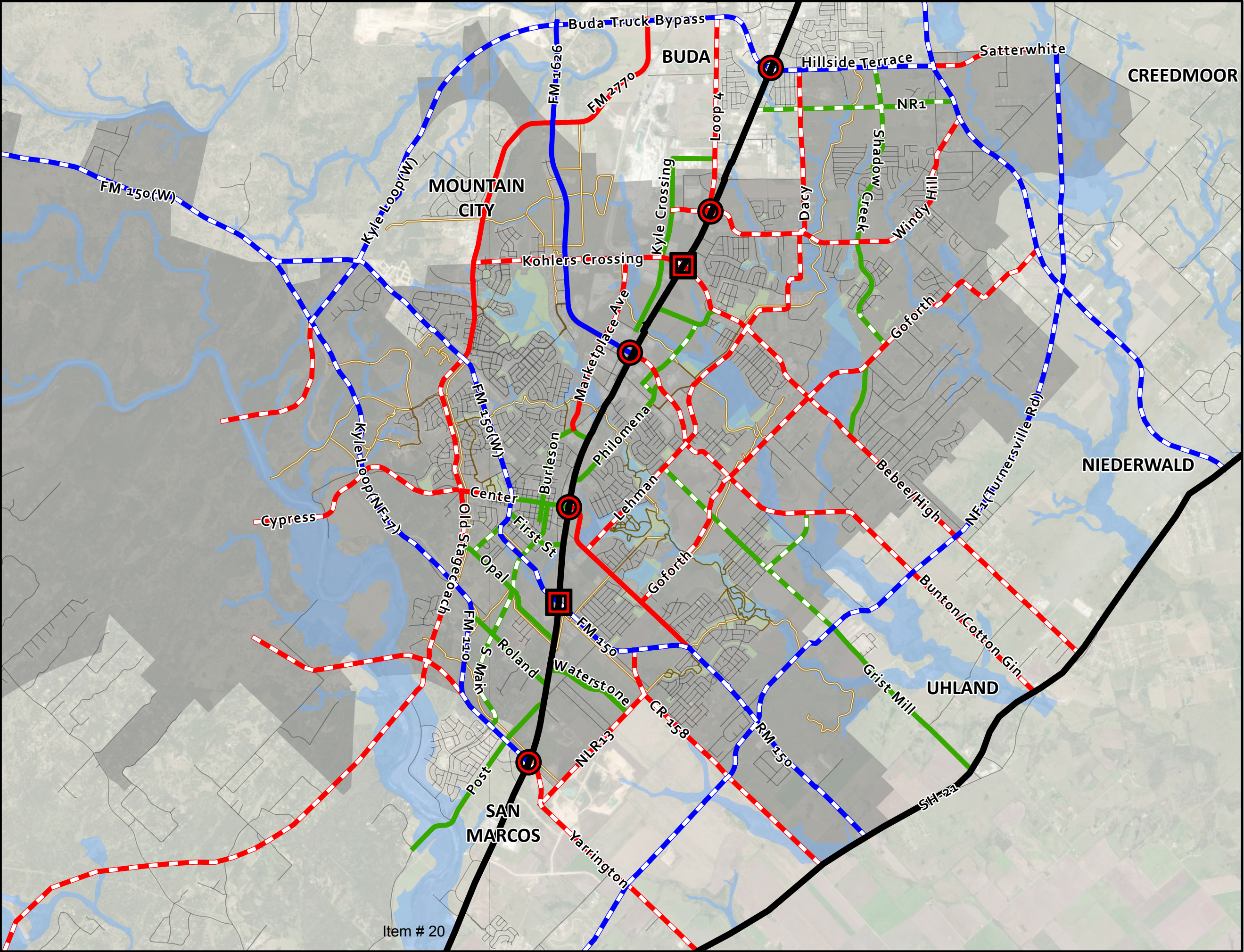


City of Kyle -  
Transportation  
Master Plan  
2021 Update

- Existing Freeway Crossing
- Proposed Freeway Crossing
- Roadways
- Freeway
- Major Arterial (6 Lane)
  - Existing
  - Proposed
- Minor Arterial (4 Lane)
  - Existing
  - Proposed
- Collector (2-3 Lane)
  - Existing
  - Proposed
- Trails
  - Existing
  - Proposed
- Parks
- 100 Year Floodplain
- City Limits & Extraterritorial Jurisdiction (ETJ)



Final alignments of proposed roadways will be determined through more detailed engineering studies. Crossings of IH 35 are subject to coordination with The Texas Department of Transportation.







# CITY OF KYLE, TEXAS

## Capital Idea

**Meeting Date: 6/15/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Consider and possible action to approve Capital Idea, a scholarship program for low income students to attend ACC, a program through Corridor Interfaith Alliance for Families here in Hays County. ~ *Yvonne Flores-Cale, Council Member*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

### **ATTACHMENTS:**

#### **Description**

Capital IDEA 101 of June 2021



# Capital IDEA 101

June 2021



Item # 21



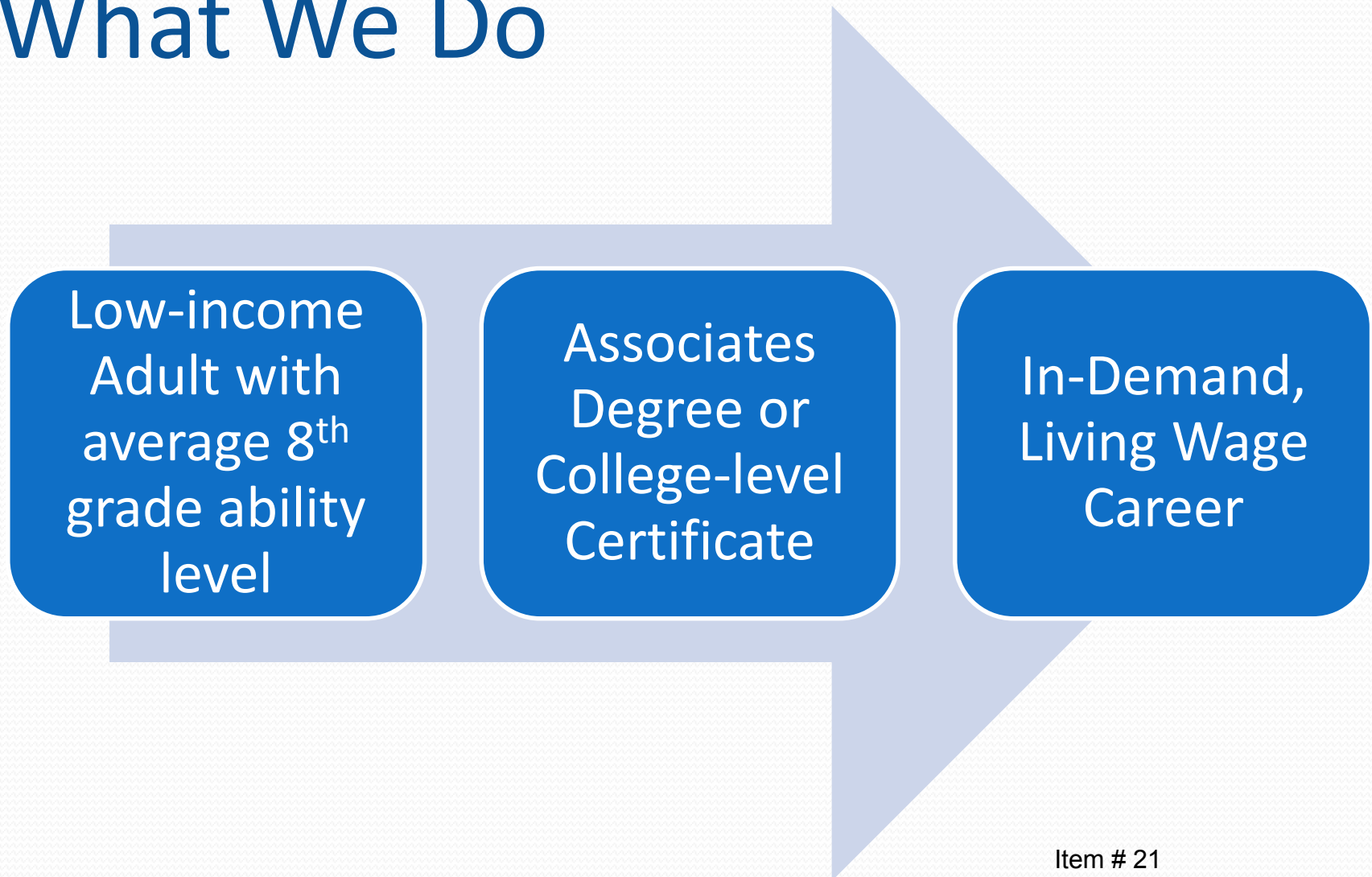
Founded in 1998 by  
Central Texas Interfaith and  
Employers.

Mission:

To lift working adults out of poverty  
and into living-wage careers through  
education.



# What We Do



# How We Do It

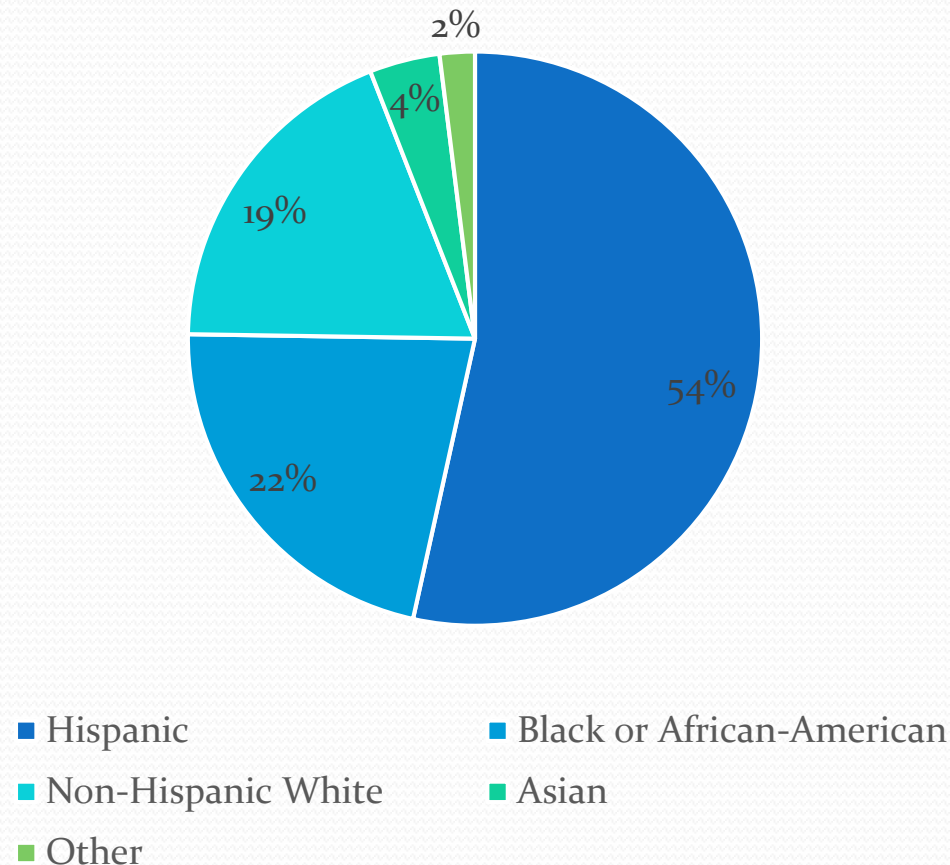
- Upfront career exploration, assessment, and planning
- ***Mutual commitment***
- Direct education expenses
- Wrap-around support services
- ***Intrusive case management***
- Placement and support in early career

# Whom We Serve

- Adults (average age is about 30)
- Low-income (200% federal poverty level)
- HS diploma/GED – no college degree
- 40% attempted college
- 80% ethnic minority
- 35% speakers of other languages
- 42% are parents, with 66% of those being single parents
- Most are *first* in their family to attend college

# Race and Ethnicity

## 2020 Students Served



# Results To Date

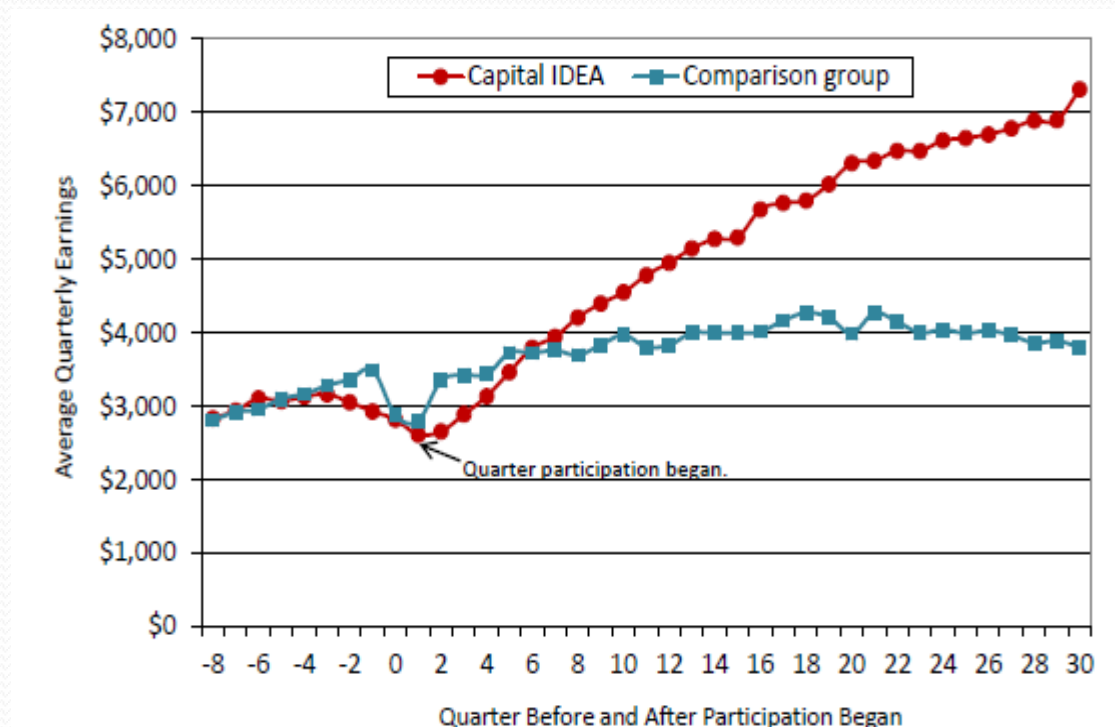
- 1900+ in new careers
  - Nursing, IT, other Health, Tech, Trades
- Starting Wage for 2020 was \$24/hour
- Earnings 3x

# Hays County Numbers

- 82 or 9% of the overall students we serve reside in Hays County
- 44% reside in Kyle and,
  - 92% are women
  - 81% are Hispanic
  - 13% are Black
  - 6% are white
  - 47% have kids
  - The average age at intake is 26

# Long-term Training Impact on Earnings

## Significant Positive Impact and Continued Growth



Tara Smith, Kristen Christensen, Greg Cumpton, *An Evaluation of Local Workforce Development Investments, 2014 Update*. UT Ray Marshall Center, June 2015



# Taxpayer ROI

165 percent over 10 years  
(9% annual ROI)

501 percent over 20 years  
(17% annual ROI)

Tara Smith and Christopher King, *Exploratory Return on Investment Analysis of Local Workforce Investments*. UT Ray Marshall Center, 2014

# Next Generation Impact

“Roughly **70%** of children of parents receiving services from Capital IDEA enrolled in college directly after high school.” [vs. 45% expected]



Source: Greg Cumpton, UT Ray Marshall Center,  
from Student Futures Dataset, 2016 (emphasis added)

Item # 21

# Capital IDEA Resources

Steve Jackobs, ED

Eva Rios-Lleverino, DED

[sjackobs@capitalidea.org](mailto:sjackobs@capitalidea.org)

[erios@capitalidea.org](mailto:erios@capitalidea.org)



# CITY OF KYLE, TEXAS

## Prop F Ordinance Update

**Meeting Date: 6/15/2021**

**Date time: 7:00 PM**

**Subject/Recommendation:** Proposition F ordinance update on plans for soliciting public input. ~ *Dex Ellison, Robert Rizo, and Michael Tobias, Council Members*

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

Budget Amendment No. 1 for FY  
2021: \$8,375,000

Meeting Date: 6/15/2021  
Date time: 7:00 PM

**Subject/Recommendation:** *(Second Reading)* Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2020-2021 by increasing the total appropriations for expenditures in the General Fund by \$8,000,000.00 and in the Park Development Fund by \$375,000.00 to provide \$4,500,000.00 in additional funding for the Uptown Central Park and Heroes Memorial Park projects, \$3,500,000.00 for 2021 Road Bond Program, \$200,000.00 for Christmas lighting and decorations on Center Street and City Square Park, and \$175,000.00 for decorative lights on the historic water tower in downtown Kyle. ~ Perwez A. Moheet, CPA, Director of Finance

*City Council voted 7-0 to approve budget amendments, except that City Council voted 6-1 for \$3,500,000.00 for 2021 Road Bond Program and 4-3 for \$175,000.00 for decorative lights on the historic water tower in downtown Kyle to approve on First Reading.*

**Other Information:** The purpose of this amendment to the City's approved budget for Fiscal Year 2020-2021 is to increase the total amount of appropriations for expenditures in the General Fund and the Park Development Fund for the following specific items:

General Fund: \$8,000,000.00

- \$4,500,000.00 for additional funding to complete the design, construction, and related costs for the Central Park/Cultural Trails and Heroes Memorial Park projects in the Uptown Plum Creek development. A total of \$11,000,000 has already been appropriated in the current approved budget for these two capital improvement projects.
- \$3,500,000.00 to retain specialized consultant services associated with project scope development, preliminary engineering, roadway alignments, project cost estimates, public education and involvement, educational materials, and supplies for the 2021 Bond Election Program to reconstruct four major roadways in Kyle.

Park Development Fund: \$375,000.00

- \$200,000.00 for the purchase and installation of Christmas lights, decorations, fabricated arches and frames, electrical wiring, power supply, and switches/timers for a Christmas Trail of Lights on Center Street in downtown Kyle.
- \$175,000.00 for the purchase and installation of Christmas lights and decorations, electrical wiring, power supply, and switches/timers for the historic water tower in downtown Kyle.

The following documents are attached to provide complete information regarding this

City Council meeting agenda item:

1. Ordinance for Budget Amendment No. 1 totaling \$8,375,000.00 for Fiscal Year 2020-2021.
2. Budget and cost estimates for the Central Park/Cultural Trails and Heroes Memorial Park projects.
3. May 18, 2021 City Council meeting agenda items 21 and 22 awarding construction contracts for the Central Park/Cultural Trails and Heroes Memorial Park projects.

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

- ☐ Ordinance - Budget Amendment No. 1 FY 2020-2021
- ☐ Budget & Cost Estimates: Central Park & Heroes Memorial Park
- ☐ May 18, 2021 Council Meeting Agenda Items 21 & 22

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING ORDINANCE NO. 1112 ADOPTED ON AUGUST 25, 2020, MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021, BY INCREASING THE TOTAL APPROPRIATIONS FOR EXPENDITURES IN THE CITY'S GENERAL FUND BY \$8,000,000.00 AND IN THE PARK DEVELOPMENT FUND BY \$375,000.00; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLIC NOTICE PURSUANT TO THE TEXAS OPEN MEETINGS ACT; ESTABLISHING AN EFFECTIVE DATE; AND MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO.

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

**Section 1. Amendment to Approved Budget.** That the appropriations for the Fiscal Year beginning October 1, 2020 and ending September 30, 2021, for the support of the general government of the City of Kyle, Texas, is hereby amended for said term by increasing the total amount of appropriations for expenditures in the General Fund by \$8,000,000.00 and in the Park Development Fund by \$375,000.00 for the following items:

- (A) \$4,500,000.00 for additional funding to complete the design, construction, and related costs for Central Park/Cultural Trails and Heroes Memorial Park projects in the Uptown Plum Creek development. A total of \$11,000,000 has already been appropriated in the current approved budget for these two capital improvement projects.
- (B) \$3,500,000.00 to retain specialized consultant services associated with project scope development, survey, preliminary engineering, roadway alignments, project cost estimates, public education and involvement, educational materials, and supplies for the 2021 Bond Election Program to reconstruct four major roadways in Kyle (Center Street/Stagecoach Road, Bebee Road, Marketplace Avenue, & Windy Hill Road).
- (C) \$200,000.00 for the purchase and installation of Christmas lights, decorations, fabricated arches and frames, electrical wiring, power supply, and switches/timers for a Christmas Trail of Lights on Center Street in downtown Kyle.
- (D) \$175,000.00 for the purchase and installation of Christmas lights and decorations, electrical wiring, power supply, and switches/timers for the historic water tower in downtown Kyle.



**Section 2. Approval of Amendment.** This amendment is hereby approved in all aspects and adopted as an amendment to the City budget for the Fiscal Year beginning October 1, 2020 and ending September 30, 2021.

**Section 3. Conflict.** Any and all ordinances, and parts thereof, that are in conflict herewith are hereby repealed to the extent of the conflict only.

**Section 4. Severability.** If any section, subsection, sentence, clause, phrase or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

**Section 5. 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, Chapter 551, Local Government Code.

**Section 6. Effective Date.** This Ordinance shall be in full force and take effect from and after the date of its final passage and publication as required by law.

**PASSED AND APPROVED** on First Reading this \_\_\_\_ day of June 2021.

**FINALLY PASSED AND ADOPTED** on this \_\_\_\_ day of June 2021.

**THE CITY OF KYLE, TEXAS**

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

**ATTEST:**

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

City of Kyle, Texas  
CIP Funding Plan - Heroes Memorial, Cultural Trails, & Central Park  
Updated: As of April 29, 2021

	Central Park & Cultural Trails	Heroes Memorial	Combined Total
1 <u>Original Project Budget:</u>			
2 Central Square Park	\$ 4,000,000	\$ -	\$ 4,000,000
3 Cultural Trails Phase I (approximately 33% of total trails, refer to Note #3)	2,000,000	-	2,000,000
4 Heroes Memorial Park (refer to Note #2)	-	4,500,000	4,500,000
5 Total Project Budget:	\$ 6,000,000	\$ 4,500,000	\$ 10,500,000
6 Owner's Contingency Reserve	300,000	200,000	500,000
7 Total Budget:	\$ 6,300,000	\$ 4,700,000	\$ 11,000,000
8	57.3%	42.7%	100.0%
9			
10 <u>Project Cost Estimates/Bids:</u>			
11 Design Services - Central Park & Cultural Trails (MG Cardinal)	\$ 525,000	\$ -	\$ 525,000
12 Design Services - Heroes Memorial (Nudge Design)	-	646,700	646,700
13 AG/CM Owner's Rep	162,430	121,178	283,608
14 Playground Equipment (KOMPAN)	675,000	-	675,000
15 Geotech Services	6,014	4,486	10,500
16 Survey	2,864	2,136	5,000
17 Construction Award - Cadence McShane for Heroes Memorial Park	-	7,950,000	7,950,000
18 Construction Award - Stoddard for Uptown Central Park & Cultural Trails	4,850,000	-	4,850,000
19 Testing & Inspection Services	113,830	84,920	198,750
20 Opening/Dedication Ceremony	20,045	14,955	35,000
21 Owner's Contingency Reserve	171,818	128,182	300,000
22 Total Project Cost Estimates/Bids	\$ 6,527,000	\$ 8,952,558	\$ 15,479,558
23			
24 Budget Surplus (Deficit) as of April 29, 2021:	\$ (227,000)	\$ (4,252,558)	\$ (4,479,558)



## 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](#)

**REQUEST FOR COMPETITIVE SEALED PROPOSALS**  
**EVALUATOR'S WORKSHEET COMPILED**

**PROJECT:** City of Kyle Parks Projects

**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](#)

**PROJECT:** City of Kyle Parks Projects

**DATE:** 4/5/2021

**EVALUATOR:** AGCM, Architect, Owner

**REQUEST FOR COMPETITIVE SEALED PROPOSALS**  
**EVALUATOR'S WORKSHEET COMPILED**

**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

## 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 Activity Ordinance. ~ Yvonne Flores-Cale, Council Member

## 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.](#)
    - 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](#)
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

## City Manager's Report

**Meeting Date: 6/15/2021**

**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*

- Upcoming Budget Worksessions
- Parks and Recreation events
- Juneteenth programming
- Mass Food Distribution event

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

**ATTACHMENTS:**

**Description**

No Attachments Available



# CITY OF KYLE, TEXAS

## Executive Session - Convene

Meeting Date: 6/15/2021

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.
  - Milestone PID
  - Sign Code
  - Automated Metering Infrastructure
  - Downtown Utilities
  - Texas Lehigh Agreement
  - City Lights and Kyle Marketplace Subdivision/Development
  - Transportation Master Plan
  - Site-Specific Declaration of Covenants, Restrictions and Easements for the Heroes Memorial Tracts
  - Bebee Road Development Agreement
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
3. Personnel matters pursuant to Section 551.074.
4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
  - Project Pacific Blue
  - Project Valkyrie
  - Project Indigo
  - Project Just Peachy

**Other Information:**

**Legal Notes:**

**Budget Information:**

---

### ATTACHMENTS:

#### Description

No Attachments Available







# CITY OF KYLE, TEXAS

## Reconvene

**Meeting Date: 6/15/2021**  
**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