

CITY OF KYLE

Notice of Regular City Council Meeting



Kyle City Hall, 100 W. Center Street, Kyle, TX 78640
The public can watch remotely at: Spectrum 10;
<https://www.cityofkyle.com/kyletv/kyle-10-live>. One or more members of the governing body may participate in the meeting by videoconference pursuant to Section 551.127, Texas Government Code, provided that a quorum of the governing body will be present at Kyle City Hall.

Notice is hereby given that the governing body of the City of Kyle, Texas will meet at 7:00 PM on September 20, 2022, at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640, for the purpose of discussing the following agenda.

Posted this 16th day of September, 2022, prior to 11:00 p.m.

I. Call Meeting to Order

II. Approval of Minutes

1. City Council Special Meeting Minutes - September 6, 2022. ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes - September 6, 2022. ~ *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. Agenda Order

3. Agenda Order. ~ *Travis Mitchell, Mayor*

V. Presentation

4. Proclamation honoring Hispanic Heritage month. ~ *Robert Rizo, Mayor Pro Tem*

5. Presentation by Noa Baen of Troop 1954 regarding an Eagle Scout Project at the VFW. ~ *Robert Rizo, Mayor Pro Tem*
6. Update on the Reclaimed Water Master Plan. ~ *Leon Barba, P.E., City Engineer*
7. Presentation by ZenCity for Community Engagement Platform for City Managers Office. ~ *Rachel Sonnier, Director of Communications*
8. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *Jerry Hendrix, Interim City Manager*
 - Heroes Memorial Park Ribbon Cutting Recap
 - Squeeze Box Market Day - Celebrating Hispanic Heritage Month - Sept. 24
 - Dance for People with Disabilities Halloween Boo-gie - Sept 30
 - Road Bond Open House – Oct 1
 - Cornhole Tournament Registration - Oct 15
 - Center Street Trick or Treat - Oct 22
 - Youth Basketball Clinic - Nov 5
 - December Events
 - Team Kyle Update
9. CIP/Road Projects and Consent Agenda Presentation. ~ *Leon Barba, P.E., City Engineer*

VI. Consent Agenda

10. *(Second Reading)* Approve an Ordinance amending the City's approved budget for Fiscal Year 2021-2022 by appropriating \$362,532.10 in additional funds and reducing the fund balance in the General Fund by the same amount for the acquisition of properties located at 110 W. Center Street and 107 Veterans Drive as authorized by the City Council on July 23, 2022 and July 28, 2022 respectively. ~ *Perwez A. Moheet, CPA, Director of Finance*

City Council voted 6-0 to approve on first reading on 9/6/2022.
11. *(First Reading)* Approve an ordinance to reduce the speed limit on FM 1626 from Kohlers Crossing to IH 35. ~ *Leon Barba, P.E., City Engineer*
12. Approve Task Order No. 10 to CP&Y, INC., Austin, Texas, in an amount not to exceed \$78,761.00 to prepare construction plans, specifications, estimates and provide contract administration for the installation of traffic signals at the intersection of Kohlers Crossing and Kyle Crossing. ~ *Leon Barba, City Engineer*
13. Approval of Change Order #3 to QRO MEX CONSTRUCTION CO. INC., Granite Shoals, TX, in an additional amount of \$570,594.93, increasing the total contract amount not to exceed \$4,808,309.83 for the purpose of reconstructing

Sledge Street to J Maryes Lane, adding additional utility services, extending a water line and adding drainage improvements. ~ *Leon Barba, P.E, City Engineer*

14. Ratify emergency repairs of package plant blower #2 at the Wastewater Treatment Plant, in an amount not to exceed \$21,500.00 payable to RPM Services INC, Iowa Colony, Texas. ~ *Harper Wilder, Director of Public Works*
15. Resolution Authorizing Application for a Grant for ballistic Shields for Kyle PD. ~ *William Paiz-Tabash, Emergency Management Coordinator*
16. Authorize the City Manager to accept a STEP (Selective Traffic Enforcement) Comprehensive grant in an amount no greater than \$12,000.00 from TXDOT and authorize matching funding from the Police Department's approved operating budget for FY 2022-2023 in an amount not to exceed \$3,500 to fund a STEP Grant Program for one year beginning October 1, 2022 and ending September 30, 2023. ~ *Pedro Hernandez, Police Captain*
17. Authorize the City Manager to accept a STEP CMV (Commercial Motor Vehicle) grant in an amount no greater than \$12,000.00 from TXDOT and authorize matching funding from the Police Department's approved operating budget for FY 2022-2023 in an amount not to exceed \$3,500 to fund a STEP Grant Program for one year beginning October 1, 2022 and ending September 30, 2023. ~ *Pedro Hernandez, Police Captain*
18. *(Second Reading)* An Ordinance of the City of Kyle, Texas, Amending the Authorization for New Supervisory Positions with the City of Kyle Police Department; to Include a Schedule for the Authorization and Implementation of the Positions; for Amendment of Conflicting Ordinances, and Effective Date, and Open Meetings. ~ *Pedro Hernandez, Police Captain*

City Council voted 6-0 to approve on first reading on 9/6/2022.

19. *(Second Reading)* An ordinance of the City of Kyle, Texas, amending Chapter 11, Section 11-162, Section 11-175, Section 176, & Section 11-177 of the Code of Ordinances by amending items relating to food trucks. ~ *Will Atkinson, Interim Director of Planning*

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

City Council voted 6-0 to approve on first reading on 9/6/2022.

20. Approve Plum Creek Phase 2, Section 10 Replat of Lot 7 (SUB-22-0270) 42.04 acres; 2 commercial lots located at FM 1626 and Rikardson. ~ *Will Atkinson, Interim Director of Planning*

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

21. Approve Taco Bell - Site Plan (SD-22-0151) 0.867 acres; 1 commercial lot located at 1750 Veterans Drive. ~ *Will Atkinson, Interim Director of Planning*

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

22. Authorize the Interim City Manager to accept the 36-month proposal from Spectrum Enterprises to provide multi-point EP-LAN connectivity from and between the City's new Public Safety Center facility and City Hall for \$1,075.20 per month plus a one-time \$280.00 installation fee. ~ *Marco Forti, Interim Director of IT*
23. Approve an extension of contract with High 5 Promotions in an amount not to exceed \$18,000.00 to expire September 30, 2023, with no increase in rates and service charges for YouTube optimization and maps management. ~ *Rachel Sonnier, Director of Communications*
24. Authorize the City Manager to execute a letter in support of the Texas Economic Development & Tourism Office. ~ *Victoria Vargas, Interim Director of Economic Development*

VII. Items Pulled from Consent Agenda

VIII. Consider and Possible Action

25. Discussion and possible action regarding locations in Kyle that qualify and gain additional safety from pedestrian cross walks/light, to include school zones. ~ *Yvonne Flores-Cale, Council Member*
26. Discussion and possible action regarding crosswalks on Center Street near Wallace Middle School. ~ *Robert Rizo, Mayor Pro Tem*
27. Approve Task Order No. 3 and Task Order No. 4 to COBB-FENDLEY & ASSOCIATES, INC., Austin, Texas in an amount not to exceed \$46,996.50 to provide Traffic Signal Warrant Studies at the Bunton Creek Road and Lehman Road Intersection and at the Bunton Creek Road and Dacy Lane Intersection. ~ *Leon Barba, P.E., City Engineer*
28. Consider and possible action on a quote from OMJC Signal for the purchase of portable traffic signals in the amount of \$331,600.00. ~ *Amber Lewis, Assistant City Manager*
29. Consideration and Approval of a Resolution Relating to Establishing the City's Intention to Reimburse itself for the Prior Lawful Expenditure of Funds Relating to Constructing Various City Improvements from the Proceeds of Tax-Exempt Obligations to be Issued by the City for Authorized Purposes; Authorizing Other Matters Incident and Related Thereto; and Providing an Effective Date. ~ *Stephanie Leibe, Norton Rose Fulbright US LLP, City's Bond Counsel*
30. *(First Reading)* An Ordinance regulating traffic, authorizing and directing the installation and erection of no truck signs on South Street from Front Street to Business 81; in the city limits of Kyle; repealing any ordinance or resolution in

conflict; providing a severability clause; declaring a penalty; and providing an effective date. ~ *Leon Barba, P.E., City Engineer*

31. *(Second Reading)* An ordinance of the City of Kyle, Texas, amending Chapter 53 of the Code of Ordinances by Amending Article VII Nonconforming Uses and Structures. ~ *Will Atkinson, Interim Director of Planning*

*Planning and Zoning Commission voted 5-0 to recommend approval.
City Council voted 6-0 to approve on first reading, with amendments, on 9/6/2022.*

32. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 5.15 acres of land to 'PUD' for property located at 3601 Kyle Crossing, in Hays County, Texas. (Hays Commerce Center 5, LP - Z-22-0105) ~ *Will Atkinson, Interim Director of Planning*

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

- Public Hearing

33. [Postponed 9/6/2022] Approve a development agreement between the City of Kyle and Plum Creek Developers, LLC (Joe Brooks). ~ *Will Atkinson, Interim Director of Planning*

34. [Postponed 9/6/2022] *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 18.84 acres of land from 'RS' (Retail Services) to 'PUD' (Planned Unit Development) for property located approximately 400' southwest of the intersection of Marketplace Ave & City Lights Dr. in Hays County, Texas. (Joe Brooks - Z-22-0099) ~ *Will Atkinson, Interim Director of Planning*

*Planning and Zoning Commission voted 3-2 to recommend approval of the request.
City Council voted 6-0 to postpone first reading on 9/6/2022.*

- Public Hearing

35. [Postponed 9/6/2022] Consider and possible action to approve a Resolution of the City Council Authorizing and Creating the Limestone Creek Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code; resolving other matters incident and related thereto; and providing an effective date. ~ *Amber Lewis, Assistant City Manager*

- Public Hearing

The public hearing was left open at the 9/6/2022 Council meeting.

36. *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 9.12 acres of land to 'PUD MXD' for property located at the NW corner of N. Burselson & Marketplace

Avenue, in Hays County, Texas. (Julia Parker Family Partnership and the L.W. Parker Family Trust - Z-22-0104) ~ *Will Atkinson, Interim Director of Planning*

Planning and Zoning Commission voted 4-0 to postpone this item until the September 27th P&Z meeting. Staff asks the Mayor & Council to postpone consideration until the October 3, 2022 council meeting.

- Public Hearing

37. Consider and possible action to issue a Request for Proposals for professional services to assist the city in the recruitment and selection of the City Manager. ~ *Amber Lewis, Assistant City Manager*
38. Direction to staff regarding enforcement of existing sign ordinance related to signs located in the right-of-ways and feather flags. ~ *Travis Mitchell, Mayor*
39. *(First Reading)* Consider approving an Ordinance adopting a policy for members of the City Council regarding City business expenses charged on City issued credit card and reimbursement of expenses incurred in carrying-out official duties. ~ *Perwez A. Moheet, CPA, Director of Finance*

- Public Hearing

40. Discussion regarding location, dates, times, activities for 2023 Council Visioning Workshop. ~ *Jerry Hendrix, Interim City Manager*

IX. Executive Session

41. 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.
 - Joe Brooks - Z-22-0099
 - Julia Parker Family Partnership and the L.W. Parker Family Trust - Z-22-0104
 - Legal Advice regarding the use of Bond Proceeds
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 to deliberate the purchase of real property for public purpose.
 3. Personnel matters pursuant to Section 551.074.
 - Interim City Manager
 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 Midnight Blue
 - Project Brown Bear

42. Take action on items discussed in Executive Session.

X. Adjourn

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

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



CITY OF KYLE, TEXAS

2022 0906 Special Minutes

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: City Council Special Meeting Minutes - September 6, 2022. ~ *Jennifer Holm, City Secretary*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 2022 0906 Special DRAFT

SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session on September 6, 2022 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Timothy Hankins
Mayor Pro Tem Robert Rizo	Jennifer Alvizo
Council Member Yvonne Flores-Cale	
Council Member Ashlee Bradshaw	
Council Member Daniela Parsley	
Council Member Michael Tobias	
Jerry Hendrix, Acting City Manager	
Amber Lewis, Assistant City Manager	
Paige Saenz, City Attorney	
Rachel Sonnier, Communications Director	
Grant Bowling, Video Production Specialist	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer	
Victoria Vargas, Interim Econ. Dev Director	
Perwez Moheet, Finance Director	
Marco Forti, Interim IT Director	
Cara Waits, Interim Library Director	
William Atkinson, Interim Planning Director	
Jeff Barnett, Chief of Police	
Harper Wilder, Director of Public Works	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 5:31 p.m. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Rizo, Council Member Bradshaw, Council Member Parsley, and Council Member Tobias. A quorum was present. Council Member Flores-Cale was absent. She arrived at 5:35 p.m. during Citizen Comments Period.

II. Citizen Comment Period with City Council

Mayor Mitchell open citizen comments at 5:32 p.m.

Timothy Hankins was called to speak as registered. He thanked the Kyle Police Department for their work toward the safety of the community. He asked them to consider either re-routing or slowing down in their response to emergencies when driving down Philomena Drive because there are two schools and a memory center on that street. He stated IDEA Public School faculty have expressed concerns. He also stated his concern that an accident involving a school child is waiting to happen.

Jennifer Alvizo was called to speak as registered. She came to ask about what progress has been made about the request for a stop light at Lehman and Bunton Creek and Dacy Lane and Bunton Creek. She stated that the backup goes back to the circle east of Lehman. She stated that every

morning it is difficult to get through and again in the evenings. She stated they are looking for some relief here.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 5:35 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.
 - Mountain City Agreement
 - A settlement offer made in Cause No. 18-1282, Jesse Espinoza v. City of Kyle, Texas, in the 22nd Judicial District Court of Hays County, Texas
 - A settlement offer made in Case Number 407-18-3098, Jesus Espinoza v. Kyle Police Department in the State Office of Administrative Hearings
 - Goforth Road and the Transportation Master Plan
 - Interlocal Agreement Operations and Maintenance of the Combined Emergency Communications Center
 - Amendment to the Texas Disposal Systems Solid Waste Services Agreement
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 to deliberate the purchase of real property for public purpose.
 - Downtown Property Acquisition
 3. Personnel matters pursuant to Section 551.074.
 4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
 - Project MBA
 - Project Crystal Clear

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 - Mountain City Agreement; A Settlement offer made in Cause No. 18-1282, Jesse Espinoza v. City of Kyle, Texas, in the 22nd Judicial District Court of Hays County, Texas; A settlement offer made in Case Number 407-18-3098, Jesus Espinoza v. Kyle Police Department in the State Office of Administrative Hearings; Goforth Road and the Transportation Master Plan; Interlocal Agreement Operations and Maintenance of the Combined Emergency Communications Center; Amendment to the Texas Disposal Systems Solid Waste Services Agreement; Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 to deliberate the purchase of real property for public purpose - Downtown

Property Acquisition; and Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City - Project MBA; Project Crystal Clear.”

The City Council convened into executive session at 5:37 p.m.

2. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 7:05 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 7:05 p.m.

Travis Mitchell, Mayor

Attest:

Jennifer Holm, City Secretary



CITY OF KYLE, TEXAS

2022 0906 Regular Minutes

Meeting Date: 9/20/2022

Date time:7:00 PM

Subject/Recommendation: City Council Meeting Minutes - September 6, 2022. ~ *Jennifer Holm, City Secretary*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

☐ 2022 0906 DRAFT

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on September 6, 2022 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Steven Cook
Mayor Pro Tem Robert Rizo	Jennifer Alvizo
Council Member Yvonne Flores-Cale	Alex Abadi
Council Member Ashlee Bradshaw	Zak Hall
Council Member Daniela Parsley	Julie Snyder
Council Member Michael Tobias	Sylvia Gallo
Jerry Hendrix, Acting City Manager	Ryan Rosborough
Amber Lewis, Assistant City Manager	Dylan Mumma
Paige Saenz, City Attorney	Iris Tate
Rachel Sonnier, Communications Director	Mark Jones
Grant Bowling, Video Production Specialist	Eric Moreno
Jennifer Holm, City Secretary	Bert Estrada
Leon Barba, City Engineer	Stanley Fees
Kathy Roecker, SWMP Administrator	Travis Donnell
Victoria Vargas, Interim Econ. Dev Director	Joe Brooks
Perwez Moheet, Finance Director	Tracy Scheel
Sandra Duran, HR Director	Angelina Chapa
Marco Forti, Interim IT Director	Todd Kaiser
Mariana Espinoza, Parks & Rec. Director	Adam Green
William Atkinson, Interim Planning Director	
Jeff Barnett, Chief of Police	
Pedro Hernandez, Police Captain	
James Plant, Police Officer	
Briana Geddes, Animal Control Officer	
Harper Wilder, Director of Public Works	
David Amsler, Management Analyst	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 7:05 p.m. The Pledge of Allegiance was recited. Mayor Mitchell asked the city secretary to call roll.

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

II. Approval of Minutes

1. City Council Special Meeting Minutes – August 16, 2022 ~ *Jennifer Holm, City Secretary*
2. City Council Meeting Minutes – August 16, 2022 ~ *Jennifer Holm, City Secretary*
3. City Council Special Meeting Minutes – August 22, 2022 ~ *Jennifer Holm, City Secretary*
4. City Council Special Meeting Minutes – August 25, 2022 ~ *Jennifer Holm, City Secretary*

Council Member Tobias moved to approve the minutes of the August 16, 2022 Special Council Meeting, August 16, 2022 Regular Meeting, August 22, 2022 Special Meeting and the minutes of the August 25, 2022 Special Meeting. Mayor Pro Tem Rizo seconded the motion. Motion carried 6-0.

III. Citizen Comment Period with City Council

Mayor Mitchell opened citizen comments at 7:06 p.m.

Steven Cook, representing the VFW was called to speak as registered. He spoke about the installment of the Flag Retirement at the Heroes Memorial Park. He spoke about flags dropped off at the VFW for proper retirement. He spoke about the large flag that will fly at Heroes Memorial Park, 65 feet in the air, and will one day be retired as well. He stated what more proper location to retire the flag than where it flew. He spoke about the history of the VFW and its service to the City of Kyle. He stated that the VFW representatives are here in support of the Flag Retirement Installation at the Heroes Memorial Park.

Jennifer Alvizo was called to speak as registered. She asked for the Council to consider permanent stop lights at Lehman Road and Bunton Creek Road and at Dacy Lane and Bunton Creek Road. She stated she hoped for a resolution because of the traffic that is created and that it could be a safety hazard for people walking along those roads.

Alex Abadi, representing 3700 Kyle Crossing LLC was called to speak as registered. He spoke about Item No. 34. He stated he owns the two properties north of Plum Creek Developers. He said he had a few concerns that he relayed to the City last week regarding Section 8.1 of the Waterfront at Marketplace PUD Development Standards document. He also had a concern about Section 13.3 of the same document. He stated he supports Joe Brooks, but he is concerned because he hasn't been involved in the decisions regarding the land he owns. He stated he would like to have a motion by Council indicating that anything Plum Creek Developers needs to do has to be either involved with the owners that they participate, otherwise they can't make decisions for the owners.

Zak Hall was called to speak as registered. As a resident of Silverado, he stated that he and other residents were not notified about the removal of the stop signs at Rebel Drive. He stated that the intersection is inconvenient and for those who live in Silverado, it is a safety issue. He stated that notice would have been appreciated. He stated that they could have done something else to make the intersection safer, such as a lower speed limit or a dedicated turn lane, but none of that was considered before the stop signs were removed.

James Plant, representing KPD and KLEA was called to speak as registered. He spoke about Blue Santa Dam 5 Miler and 5K scheduled for September 24 at 7:30 a.m. He stated that October 4 is National Night Out and invited Council to ride out with an officer or attend the downtown block party at Mary Kyle Hartson Park starting at 6:00 p.m. He stated that they are bringing back the Blue Santa Pancake Breakfast on October 15 from 7:00 a.m. - 11:00 a.m.

Julie Snyder, representing Kyle Chamber of Commerce, was called to speak as registered in favor of Item Nos. 31 and 32. She stated that the Kyle Chamber of Commerce is proud of this developer for listening. She stated that Council and staff met with the developer and let them know that the City wants more than just a multi-family development. She stated that this development will be

beneficial in providing some business space and potential incubator businesses. She was in favor of their efforts to provide high quality amenities and the opportunity for small business that could be successful because of the area residents and that area in general. She stated that this is also part of the Vybe Trail, and the Kyle Chamber supports that project as well.

Sylvia Gallo was called to speak as registered. She stated that she is an east-side activists and owns a non-profit. She stated her gratitude for the Council's work they have done. She spoke of her son who serves in the military, and her desire is for her family to want to come back to Kyle to live here. She wanted to reignite the council to look again at developing Kyle Vista Park. She spoke about growing the soccer program. She stated that the community will want the rec center.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 7:28 p.m.

IV. Agenda Order

5. Agenda Order. ~ *Travis Mitchell, Mayor*

Mayor Pro Tem Rizo requested to bring forward Item No. 37 out of order. There were no other items requested.

37. Consideration and possible action to approve a Flag Retirement Element at Heroes Memorial Park in an amount not to exceed \$86,667.00. ~ *Robert Rizo, Mayor Pro Tem*

Mayor Mitchell brought forward Item No. 37 out of order before Item No. 6. Mr. Moheet provided information about funding from TIRZ No. 2. Mr. Ryan Rosborough of AG|CM presented the item.

Mayor Pro Tem Rizo moved to approve the construction of a Flag Retirement Element at Heroes Memorial Park using TIRZ funds and to direct staff to develop a plan for usage. Council Member Flores-Cale seconded the motion. Motion carried 6-0.

V. Presentation

6. Proclamation recognizing the achievement of Kyle resident Dylan Mumma in completing a 292-mile journey on a kayak along the Colorado River. ~ *Robert Rizo, Mayor Pro Tem*

Dylan Mumma spoke about his journey. No action was taken.

7. Kyle/Buda Community Emergency Response Team (CERT) Proclamation ~ *Michael Tobias, Council Member*

No action was taken.

8. Hunger Action Month Mayoral Proclamation ~ *Travis Mitchell, Mayor*

Iris Tate with Hays County Food Bank thanked the City of Kyle for recognizing Hunger Action Month. Commissioner Mark Jones appeared in a turkey costume to promote awareness of the Turkeys Tackling Hunger. No action was taken.

9. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required ~ *Jerry Hendrix, Acting City Manager*
- Pie in the Sky Recap
 - Heroes Memorial Park Ribbon Cutting – Sept. 11
 - Doggie Dip – Sept. 18
 - Squeeze Box Market Day – Sept. 24
 - Dance for People with Disabilities Halloween Boo-gie – Sept. 30
 - Dialogue for Peace & Progress – Celebrating Hispanic Heritage Month – Sept. 16
 - Hays County Creates Film Advisory Board

Mr. Hendrix introduced Ms. Espinoza, Ms. Sonnier and Ms. Vargas who presented the item. No action was taken.

10. Presentation regarding Dacy Lane and Bebee Road ~ *Eric Moreno, Project Engineer for Hays County*

Eric Moreno and Bert Estrada with Hays County presented the item. No action was taken.

11. CIP/Road Projects and Consent Agenda Presentation ~ *Leon Barba, P.E., City Engineer*

Mr. Barba and Chief Barnett presented the item. No action was taken.

VI. Consent Agenda

Mayor Mitchell brought forward Item Nos. 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 for consideration. Council Member Flores-Cale pulled Item No. 16.

12. (*Second Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas for the purpose of rezoning approximately 0.246 acres of land from ‘W’ (Warehouse) to ‘RS’ (Retail Services) for property located at 23091 IH-35 in Hays County, Texas. (Gilbert J. Guerra, P.E. - Z-22-0102) ~ *Will Atkinson, Interim Director of Planning*

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

City Council voted 6-0 to approve on First Reading on 8/16/2022.

13. Approval of the dedication of a Utility Easement and approval of an Underground Agreement with Pedernales Electric Cooperative, Inc. for providing power to the newly constructed dewatering facility at the wastewater treatment plant. ~ *Leon Barba, P.E., City Engineer*

14. (*Second Reading*) An Ordinance of the City Council of the City of Kyle, Texas Approving the 2022 Annual Update to the Service and Assessment Plan and Assessment Roll for the Southwest Kyle Public Improvement District No. 1 Including the Collection of the 2022 Annual Installments. ~ *Jon Snyder, P3Works, LLC, City's PID Administrator*

City Council voted 6-0 to approve on First Reading on 8/25/2022.

15. *(Second Reading)* An Ordinance of the City Council of the City of Kyle, Texas Approving the 2022 Annual Update to the Amended and Restated Service and Assessment Plan and Assessment Roll for the 6 Creeks Public Improvement District Including the Collection of the 2022 Annual Installments. ~ *Jon Snyder, P3Works, LLC, City's PID Administrator*

City Council voted 6-0 to approve on First Reading on 8/25/2022.
17. Approve Amendment #1 to Task Order No. 11 to LJA ENGINEERING, INC., Austin, Texas in the amount not to exceed \$19,980.00, increasing the total contract amount not to exceed \$64,925.00 for additional plan sheets and contract requirements for the Center Street and South Street Quiet Zone Project. ~ *Leon Barba, P.E., City Engineer*
18. Authorize the Chief of Police to execute a Master Services Agreement with Whelen Engineering Company, Inc. for the purpose of providing the Whelen Cloud Platform, a cloud-based vehicle communication platform service at no cost to the City of Kyle. ~ *Jeff Barnett, Chief of Police*
19. Authorize the Chief of Police to execute a Master Service Agreement and Purchase Order with Global Traffic Technologies, LLC, in an amount not to exceed \$55,000.00 annually for hardware, software, cloud platform, installation and warranty service for nineteen (19) intersections and thirty-five (35) police vehicles for traffic signal preemption and related services. ~ *Jeff Barnett, Chief of Police*
20. Authorize the Chief of Police to execute a 10-year Master Services and Purchasing Agreement with Axon Enterprises, Inc. for the purchase of Axon Fleet hardware and software in an amount not to exceed \$29,500.00 annually for the term of the agreement. ~ *Jeff Barnett, Chief of Police*
21. Authorize the Chief of Police to execute a 10-year Master Services and Purchasing Agreement with Axon Enterprises, Inc for the purchase of the AXON Officer Safety Plan 7+ in an amount not to exceed \$273,000.00 in year 1 and \$177,000.00 annually thereafter for the remaining nine (9) years. ~ *Jeff Barnett, Chief of Police*
22. *(First Reading)* An Ordinance of the City of Kyle, Texas, Amending the Authorization for the New Supervisory Positions with the City of Kyle Police Department; to Include a Schedule for the Authorization and Implementation of the Positions; for Amendment of Conflicting Ordinances, and Effective Date, and Open Meetings. ~ *Jeff Barnett, Chief of Police*

Council Member Flores-Cale moved to approve Consent Agenda Item Nos. 12, 13, 14, 15, 17, 18, 19, 20, 21, and 22. Mayor Pro Tem Rizo seconded the motion. Motion carried 6-0.

VII. Items Pulled from Consent Agenda

16. *(First Reading)* Approve an Ordinance amending the City's approved budget for Fiscal Year 2021-2022 by appropriating \$362,532.10 in additional funds and reducing the fund balance in the General Fund by the same amount for the acquisition of properties located

at 110 W. Center Street and 107 Veterans Drive as authorized by the City Council on July 23, 2022 and July 28, 2022 respectively. ~ *Perwez A. Moheet, CPA, Director of Finance*

Mr. Moheet presented the item.

Mayor Mitchell moved to approve an Ordinance amending the City's approved budget for Fiscal Year 2021-2022 by appropriating \$362,532.10 in additional funds and reducing the fund balance in the General Fund by the same amount for the acquisition of properties located at 110 W. Center Street and 107 Veterans Drive as authorized by the City Council on July 23, 2022 and July 28, 2022 respectively. Council Member Bradshaw seconded the motion. Motion carried 6-0.

VIII. Consider and Possible Action

23. Discussion about possible solutions to traffic issues at the Lehman and Bunton Rd intersections. ~ *Daniela Parsley, Council Member*
24. Discussion and possible action on operations cost and installation of Traffic Signals/ Streetlights, to include pedestrian crosswalks at two locations at Bunton Creek Road at Dacy Lane and Lehman Road / Bunton Creek Road Intersection, for improvements in infrastructure and traffic. ~ *Michael Tobias, Council Member*

With no objections, Mayor Mitchell brought forward Item Nos. 23 and 24 simultaneously. Mr. Barba presented on the items. He later introduced Stanley Fees with Cobb-Fendley, who provided information on the topic.

Council Member Parsley moved to direct staff to do a traffic study for Bunton Creek Road and Dacy Lane, and Lehman Road and Bunton Creek Road and to direct staff to bring back options for purchasing four temporary traffic lights. Mayor Pro Tem Rizo seconded the motion. Motion carried 6-0.

25. Discussion and Possible Action Regarding the City's Plan to Handle Safety Issues from Low Hanging Lines, to Include Frontier Communication's Phone Lines, Located on 150 East. ~ *Yvonne Flores-Cale, Council Member*

Chief Barnett provided information on the item.

Council Member Flores-Cale moved to direct staff to create an ordinance addressing low-hanging utility lines and to create an ordinance regarding unstable poles and bring back to Council for review. Council Member Parsley seconded the motion.

It was the council's preference to bring this back by the first meeting in October.

Mayor Mitchell called for the vote on the motion. Motion carried 6-0.

26. Authorize the Mayor to execute an agreement with SANAVA, LLC, dba GRAVITI ENERGY, Houston, Texas, to provide a turn-key Electric Vehicle Charging Station (EVCS) network. ~ *Kathy Roecker, Stormwater Management Plan Administrator*

The item was postponed. No action was taken.

27. *(First Reading)* An ordinance of the City of Kyle, Texas, amending Chapter 53 of the Code of Ordinances by Amending Article VII Nonconforming Uses and Structures. ~ *Will Atkinson, Interim Director of Planning*

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

- Public Hearing

Mayor Mitchell opened the public hearing at 9:24 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:24 p.m.

Council Member Flores-Cale moved to approve an ordinance of the City of Kyle, Texas, amending Chapter 53 of the Code of Ordinances by Amending Article VII Nonconforming Uses and Structures and direct staff to bring back amendments as discussed for second reading. Mayor Pro Tem Rizo seconded the motion. Motion carried 6-0.

28. *(First Reading)* An ordinance of the City of Kyle, Texas, amending Chapter 11, Section 11-162, Section 11-175, Section 176, & Section 11-177 of the Code of Ordinances by amending items relating to food trucks. ~ *Will Atkinson, Interim Director of Planning*

Planning and Zoning Commission voted 5-0 to recommend approval

- Public Hearing

Mayor Mitchell opened the public hearing at 9:39 p.m. With no one wishing to speak, Mayor Mitchell closed the public hearing at 9:40 p.m.

Council Member Bradshaw moved to approve an ordinance of the City of Kyle, Texas, amending Chapter 11, Section 11-162, Section 11-175, Section 176, & Section 11-177 of the Code of Ordinances by amending items relating to food trucks. Council Member Flores-Cale seconded the motion. Motion carried 6-0.

29. Consider and possible action to approve a First Amendment to the Porter Country Development Agreement. ~ *Will Atkinson, Interim Director of Planning*

The item was postponed. No action was taken.

30. Consider and possible action to approve a Maintenance Agreement Between City of Kyle and Hillside Terrace Development, LLC. ~ *Will Atkinson, Interim Director of Planning*

The item was postponed. No action was taken.

31. Approve a development agreement between the City of Kyle and CTC Residential, LLC. ~ *Will Atkinson, Interim Director of Planning*

Council Member Bradshaw moved to approve a development agreement between the City of Kyle and CTC Residential, LLC. Council Member Flores-Cale seconded the motion.

Mr. Travis Donnell provided information on the item.

Mayor Mitchell called for the vote on the motion. Motion carried 6-0.

32. *(Second Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 15.542 total acres of land from Retail Service District ‘RS’ to Planned Unit District – Mixed Use District ‘PUD MXD’ for property located at 5839 Kyle Parkway, in Hays County, Texas (CTC Residential LLC - Z-22-0101). ~ *Will Atkinson, Interim Director of Planning*

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

City Council voted 6-0 to approve on First Reading on 8/16/2022.

Mayor Pro Tem Rizo moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 15.542 total acres of land from Retail Service District ‘RS’ to Planned Unit District – Mixed Use District ‘PUD MXD’ for property located at 5839 Kyle Parkway, in Hays County, Texas (CTC Residential LLC – Z-22-0101). Council Member Flores-Cale seconded the motion. Motion carried 6-0.

33. [Postponed 8/16/2022] Approve a development agreement between the City of Kyle and Plum Creek Developers, LLC (Joe Brooks). ~ *Will Atkinson, Interim Director of Planning*

Mayor Mitchell brought forward Item No. 33 for discussion and later, with no objections, brought forward Item No. 34 for discussion simultaneously.

34. [Postponed 8/16/2022] *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 18.84 acres of land from ‘RS’ (Retail Services) to ‘PUD’ (Planned Unit Development) for property located approximately 400’ southwest of the intersection of Marketplace Ave & City Lights Dr. in Hays County, Texas (Joe Brooks - Z-22-0099). ~ *Will Atkinson, Interim Director of Planning*

Planning and Zoning Commission voted 3-2 to recommend approval of the request.

- Public Hearing

Mayor Mitchell opened the public hearing at 10:04 p.m.

Alex Abadi spoke stating his objection regarding Section 13.3 of the Waterfront at Marketplace PUD Development Standards, which would dedicate the land he owns as parkland. He stated he has not been a part of the process.

With no one else wishing to speak, Mayor Mitchell closed the public hearing at 10:05 p.m.

Council Member Bradshaw moved to postpone Item Nos. 33 and 34 to the next regular city council meeting Council Member Flores-Cale seconded the motion.

Mr. Joe Brooks spoke, representing Plum Creek Development. He spoke about the City’s adoption of floodplain regulations in response to the Atlas 14 study and the effect on the development of the property.

Mayor Mitchell reopened the public hearing at 10:24 p.m.

Mr. Alex Abadi spoke again regarding the detention pond on his property.

Mayor Mitchell left the public hearing open.

Mayor Mitchell called for the vote on the motion. Motion carried 6-0.

35. [Postponed 8/16/2022] (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 54.223 acres of land from ‘RS’ (Retail Services), ‘R-1-T’ (Townhomes), ‘R-1-2’ (Single Family Residential) & ‘T/U’ (Transportation/Utility) to ‘PUD’ (Planned Unit Development) for property located at 1500 E RR 150 in Hays County, Texas (Jackson Walker LLP - Z-22-0103). ~ *Will Atkinson, Interim Director of Planning*

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

City Council voted 6-0 to postpone until 9/6/2022 on 8/16/2022. The Public Hearing was left open.

- Public Hearing

Mayor Mitchell opened the public hearing at 10:30 p.m.

Tracy Scheel spoke as a resident of Waterleaf. She stated she wants to remind Council that FM 150 is a 2.5 lane highway and during school hours and work commuting, it is horrifically backed up. She asked Council to think about the traffic pattern with a new development. She asked whether FM 150 could support the traffic and suggested that if they could get out to FM 158 that might be a solution, but she doesn't think that goes out that far.

Angelina Chapa stated her agreement with Ms. Scheel. She spoke of being at a green light and no one was moving due to the traffic backed up on the road.

With no one wishing to speak, Mayor Mitchell closed the public hearing at 10:33 p.m.

Mr. Todd Kaiser with BGK Architects provided a presentation.

Council Member Bradshaw moved to approve an ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 54.223 acres of land from ‘RS’ (Retail Services), ‘R-1-T’ (Townhomes), ‘R-1-2’ (Single Family Residential) & ‘T/U’ (Transportation/Utility) to ‘P UD’ (Planned Unit Development) for property located at 1500 E RR 150 in Hays County, Texas (Jackson Walker LLP – Z-22-0103). Mayor Pro Tem Rizo seconded the motion.

Mr. Adam Green of Bridge Tower spoke on behalf of the developer, providing information on the project.

Mayor Mitchell requested a roll call vote. Mayor Pro Tem Rizo voted aye; Council Member Bradshaw voted aye; Council Member Tobias voted nay; Council Member Parsley voted nay; Council Member Flores-Cale voted nay; and Mayor Mitchell voted aye. Motion failed 3-3.

36. [Postponed 8/16/2022] Consider and possible action to approve a Resolution of the City Council Authorizing and Creating the Limestone Creek Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code; resolving other matters incident and related thereto; and providing an effective date. ~ *Amber Lewis, Assistant City Manager*

- Public Hearing

The public hearing was left open at the 8/2/2022 Council meeting.

Mayor Mitchell opened the public hearing at 11:20 p.m. With no one wishing to speak, Mayor Mitchell left the public hearing open.

Mayor Mitchell moved to postpone Item No. 36 to the next regularly scheduled council meeting. Council Member Bradshaw seconded the motion. Motion carried 6-0.

38. Discussion and Clarification of implementing a Personnel Employment Improvement policy on grounds to improve retainment within all city employees. ~ *Michael Tobias, Council Member*

Council Member Flores-Cale moved to direct staff to bring back a policy regarding a Personnel Improvement Process. Council Member Parsley seconded the motion.

Ms. Duran presented on the item. Mr. Hendrix also provided information.

Mayor Mitchell called for the vote on the motion. Motion carried 5-1 with Council Member Bradshaw dissenting.

39. Discussion and possible action to seek engagement from a group communication specialist for Council. ~ *Daniela Parsley, Council Member*

No action was taken.

IX. Executive Session

40. 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
 - Mountain City Agreement
 - A settlement offer made in Cause No. 18-1282, Jesse Espinoza v. City of Kyle, Texas, in the 22nd Judicial District Court of Hays County, Texas

- A settlement offer made in Case Number 407-18-3098, Jesus Espinoza v. Kyle Police Department in the State Office of Administrative Hearings
 - Goforth Road and the Transportation Master Plan
 - Interlocal Agreement Operations and Maintenance of the Combined Emergency Communications Center
 - Amendment to the Texas Disposal Systems Solid Waste Services Agreement
 - Internal complaint against the City Manager and the employment of the City Manager
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 to deliberate the purchase of real property for public purpose.
 - Downtown property acquisition
 3. Personnel matters pursuant to Section 551.074.
 - The Employment of the City Manager
 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 MBA
 - Project Crystal Clear

Mayor Mitchell 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 - Internal complaint against the City Manager and the employment of the City Manager; Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 - Downtown Property Acquisition; Personnel matters pursuant to Section 551.074 – The employment of the City Manager; 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 MBA; Project Crystal Clear.”

The City Council convened into executive session at 12:06 a.m. on September 7, 2022.

41. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 1:51 a.m. on September 7, 2022. Mayor Mitchell announced that no action took place in Executive Session but action would be taken now.

Mayor Mitchell moved to authorize the Mayor or City Manager to send a letter to the Parties to the CECC ILA giving notice of Kyle’s transition of dispatch services to the Public Safety Center and request to negotiate an amendment to the ILA. Council Member Flores-Cale seconded the motion. Motion carried 6-0.

Mayor Mitchell moved to approve a settlement agreement in Cause No. 12-1282, Jesse Espinoza v. City of Kyle, Texas, in the 22nd Judicial District Court of Hays County, Texas and Case Number

407-18-3098, Jesus Espinoza v. Kyle Police Department in the State Office of Administrative Hearings. Council Member Tobias seconded the motion. Motion carried 6-0.

Mayor Mitchell moved to approve a separation, release and waiver agreement with Scott Sellers. Council Member Flores-Cale seconded the motion. Motion carried 6-0.

Mayor Mitchell moved to appoint Jerry Hendrix as the Interim City Manager. Mayor Pro Tem Rizo seconded the motion. Motion carried 6-0.

X. Adjourn

Council Member Bradshaw left the dais at 1:53 a.m. on September 7, 2022.

Mayor Pro Tem Rizo moved to adjourn. Council member Parsley seconded the motion. No vote was held.

With no further business to discuss, the City Council adjourned at 1:55 a.m. on September 7, 2022.

Travis Mitchell, Mayor

Attest:

Jennifer Holm, City Secretary



CITY OF KYLE, TEXAS

Agenda Order

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: Agenda Order. ~ *Travis Mitchell, Mayor*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Hispanic Heritage month

Meeting Date: 9/20/2022

Date time:7:00 PM

Subject/Recommendation: Proclamation honoring Hispanic Heritage month. ~ *Robert Rizo, Mayor Pro Tem*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Eagle Scout

Meeting Date: 9/20/2022

Date time:7:00 PM

Subject/Recommendation: Presentation by Noa Baen of Troop 1954 regarding an Eagle Scout Project at the VFW. ~ *Robert Rizo, Mayor Pro Tem*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Reclaimed Water Master Plan Update

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: Update on the Reclaimed Water Master Plan. ~ *Leon Barba, P.E., City Engineer*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

ZenCity Presentation

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: Presentation by ZenCity for Community Engagement Platform for City Managers Office.
~ Rachel Sonnier, Director of Communications

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

City Manager's Report

Meeting Date: 9/20/2022

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. ~ *Jerry Hendrix, Interim City Manager*

- Heroes Memorial Park Ribbon Cutting Recap
- Squeeze Box Market Day - Celebrating Hispanic Heritage Month - Sept. 24
- Dance for People with Disabilities Halloween Boo-gie - Sept 30
- Road Bond Open House – Oct 1
- Cornhole Tournament Registration - Oct 15
- Center Street Trick or Treat - Oct 22
- Youth Basketball Clinic - Nov 5
- December Events
- Team Kyle Update

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

CIP/Road Projects Update

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: CIP/Road Projects and Consent Agenda Presentation. ~ *Leon Barba, P.E., City Engineer*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Budget Amendment No. 3 for FY
2022 Totaling \$362,532.10 for
Acquisition of 110 W. Center Street
and 107 Veterans Drive Properties.

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: *(Second Reading)* Approve an Ordinance amending the City's approved budget for Fiscal Year 2021-2022 by appropriating \$362,532.10 in additional funds and reducing the fund balance in the General Fund by the same amount for the acquisition of properties located at 110 W. Center Street and 107 Veterans Drive as authorized by the City Council on July 23, 2022 and July 28, 2022 respectively. ~ *Perwez A. Moheet, CPA, Director of Finance*

City Council voted 6-0 to approve on first reading on 9/6/2022.

Other Information: This budget amendment totaling \$362,532.10 to the City's approved budget for Fiscal Year 2021-2022 will increase the total amount of appropriations for expenditures and decrease the fund balance in the General Fund by the same amount.

The City Council has taken the following actions pertaining to the two property acquisitions:

- On July 23, 2022, approved an Earnest Money Contract for the purchase of the property located at 110 Center Street in the amount of \$500,000 and authorized the Mayor or City Manager to execute all documents needed to close on the purchase of the property.
- On July 28, 2022, the City Council approved an Earnest Money Contract for the purchase of the property located at 107 Veterans Drive in the amount of \$500,000 and authorized the Mayor or City Manager to execute all documents needed to close on the purchase of the property.

The total appropriations amount or budget amendment required is determined as follows:

1. Purchase Price & Closing Costs for 110 W. Center Street: \$ 500,412.75
2. Purchase Price & Closing Costs for 107 Veterans Drive: \$ 500,452.00
3. Total Funds Required for Both Property Acquisition: \$1,000,862.75
4. (Less) Funds Available in Property Acquisition Account: \$ (638,332.65)
5. Additional Appropriations (Budget Amendment) Required: \$ 362,532.10

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Ordinance - Budget Amendment #3 for FY 2021-2022
- ☐ Minutes - City Council Meeting 7-23-2022
- ☐ Minutes - City Council Meeting 7-28-2022

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING ORDINANCE NO. 1166 ADOPTED ON AUGUST 25, 2021, MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022, BY REALLOCATING \$638,632.65 IN EXISTING APPROPRIATIONS FOR EXPENDITURES FROM THE PROPERTY ACQUISITION ACCOUNT, INCREASING APPROPRIATIONS FOR EXPENDITURES BY \$362,532.10, AND REDUCING THE FUND BALANCE IN THE GENERAL FUND BY \$362,532.10 FOR THE ACQUISITION OF TWO REAL PROPERTIES LOCATED AT 110 W. CENTER STREET AND 107 VETERANS DRIVE IN KYLE, TEXAS.

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, 2021 and ending September 30, 2022, for the support of the general government of the City of Kyle, Texas, is hereby amended for said term by reallocating \$638,332.65 in existing appropriations for expenditures from the approved LGC Property Acquisition/Downtown Revitalization Program account, increasing appropriations for expenditures by \$362,532.10 and reducing the fund balance in the General Fund by \$362,532.10 in order to provide funding for the acquisition of two real properties located at 110 W. center Street and 107 Veterans Drive, in Kyle, Texas.

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, 2021 and ending September 30, 2022.

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 September 2022.

FINALLY PASSED AND ADOPTED on this ____ day of September 2022.

THE CITY OF KYLE, TEXAS

Travis Mitchell, Mayor

ATTEST:

Jennifer Holm, City Secretary

SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session on July 23, 2022 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell	Lila Knight
Mayor Pro Tem Robert Rizo*	Stephanie Leibe
Council Member Yvonne Flores-Cale	Joe Cantalupo
Council Member Ashlee Bradshaw	Andrew Friedman
Council Member Daniela Parsley	Jeff Barton
Council Member Michael Tobias	
Jerry Hendrix, Acting City Manager	
Amber Lewis, Assistant City Manager	
Paige Saenz, City Attorney	
Rachel Sonnier, Communications Director	
Grant Bowling, Video Production Specialist	
Jennifer Holm, City Secretary	
Leon Barba, City Engineer	
Jo Ann Garcia, Engineer	
Perwez Moheet, Finance Director	

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 8:03 a.m. Mayor Mitchell asked the city secretary to call roll.

Present were: Mayor Mitchell, Mayor Pro Tem Rizo, Council Member Flores-Cale, Council Member Bradshaw, and Council Member Parsley. A quorum was present. Council Member Ellison was absent. Council Member Tobias was absent for roll call but returned to the dais at 8:04 a.m.

II. Citizen Comment Period with City Council

Mayor Mitchell opened citizen comments at 8:04 a.m.

Lila Knight was called to speak as registered. She stated that she has never seen a worse council in all her years of attending Council meetings. She stated her expectations for the Council are high.

With no one else wishing to speak, Mayor Mitchell closed citizen comments at 8:05 a.m.

III. Consider and Possible Action

1. City Council to consider and take possible action on the following items:

1. Road Bond Election in November 2022

- Timeline, key dates, and milestones for a City of Kyle bond election (Norton Rose Fulbright)
- Identification of roads and segments to be included (K-Friese & Associates)
- Cost estimate for each road to be included (K-Friese & Associates)
- Project timeline for engineering, design, and construction (K-Friese & Associates)
- Property tax rate impact analysis for road bonds. (SAMCO Capital)

*One or more members of the governing body may participate in the meeting by videoconference pursuant to Section 551.127, Texas Government Code, provided that a quorum of the governing body will be present at Kyle City Hall.

2. Road Selection & Prioritization.
3. Determination of Number of Bond Propositions
4. Set Date to Call Bond Election

~ *Travis Mitchell, Mayor*

Ms. Leibe of Norton Rose Fulbright brought an Ordinance calling the bond election for everyone's review and the associated timeline for calling the election. Mr. Cantalupo of K Friese & Associates presented the various propositions and associated estimated costs.

Council Member Flores-Cale moved to leave the Vybe trail in the bond. Mayor Mitchell seconded the motion. Motion carried 6-0.

Jeff Barton spoke about public outreach/engagement about the bond propositions and on the pros and cons of combining the propositions.

Council Member Bradshaw moved to combine proposition 1 and 2. Mayor Mitchell seconded the motion. Motion carried 4-2 with Council Members Flores-Cale and Tobias dissenting.

Andrew Friedman of SAMCO Capital presented on the property tax impact for this bond project.

IV. Executive Session

2. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.
 1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 - Downtown Property Acquisition
 3. Personnel matters pursuant to Section 551.074.
 - Appointment of the City Manager
 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.

Mayor Mitchell 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: Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 - Downtown Property Acquisition; Personnel matters pursuant to Section 551.074 - Appointment of the City Manager."

The City Council convened into executive session at 9:36 a.m.

3. Take action on items discussed in Executive Session.

Mayor Mitchell called the meeting back to order at 10:17 a.m. Mayor Mitchell announced that no action took place in Executive Session, but action would be taken now.

Mayor Mitchell moved to approve an Earnest Money Contract for the purchase of the property located at 110 Center Street in the amount of \$500,000 and authorize the Mayor or City Manager to execute all documents needed to close on the purchase of the property. Council Member Tobias seconded the motion. Motion carried 6-0.

Mayor Mitchell moved to place city manager Scott Sellers on paid administrative leave pending investigation and appoint Jerry Hendrix as acting city manager. Council Member Parsley seconded the motion. Motion carried 6-0.

V. Adjourn

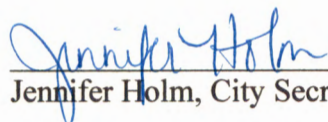
Mayor Mitchell moved to adjourn. Council Member Tobias seconded the motion. No vote was held.

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



Travis Mitchell, Mayor

Attest:



Jennifer Holm, City Secretary

SPECIAL CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Special Session on July 28, 2022 at Kyle City Hall with the following persons present:

Mayor Travis Mitchell
Mayor Pro Tem Robert Rizo
Council Member Yvonne Flores-Cale
Council Member Ashlee Bradshaw
Council Member Daniela Parsley
Council Member Michael Tobias
Jerry Hendrix, Acting City Manager
Amber Lewis, Assistant City Manager
Barbara Boulware-Wells, Assistant City Attorney
Rachel Sonnier, Communications Director
Grant Bowling, Video Production Specialist
Jennifer Holm, City Secretary
Leon Barba, City Engineer
Victoria Vargas, Interim Economic Dev Director
Perwez Moheet, Finance Director
Andy Alejandro, Accounting Manager
Connie Campa, Staff Accountant
Sandra Duran, HR Director
Matt Dawson, IT Director
Marco Forti, IT Systems Analyst
Paul Phelan, Library Director
Mariana Espinoza, Parks & Recreation Director
Benito Pereda, Parks & Trails Maint. Supervisor
Aimee Garcia, Recreation Manager
Jeff Barnett, Chief of Police
Briana Geddes, Animal Control Officer
Hannah-Bea Bickford, Victim Advocate
Harper Wilder, Director of Public Works
Julie Crookston, Assistant Director of Public Works
Will Paiz-Tabash, Emergency. Mgmt. Coord.
David Amsler, Management Analyst
Tim Cropley, Facilities Division Manager
Chance Padier, ES&T Division Manager

I. Call Meeting to Order

Mayor Mitchell called the meeting to order at 5:30 p.m. Mayor Mitchell asked the city secretary to call roll.

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

II. Citizen Comment Period with City Council

Mayor Mitchell opened citizen comments at 5:31 p.m. With no one wishing to speak, Mayor Mitchell closed citizen comments at 5:31 p.m.

III. Consider and Possible Action

1. Consider and possible action to direct staff to bring forward a resolution amending the City's Personnel Policy regarding a capped pay out of unused, accrued leave time upon retirement or departure of employment with the City. ~ *Sandra Duran, Director of Human Resources*

Council Member Flores-Cale moved to approve the proposed policy changes as presented. Council Member Parsley seconded the motion. Motion carried 6-0.

2. Establishing and approving nominations for a Council Compensation Committee per the City Charter. ~ *Travis Mitchell, Mayor*

Council Member Nominations

- Mayor Travis Mitchell - Brad Growt
- Mayor Pro Tem Rizo - Alison G. Castillo
- Council Member District 1, Dex Ellison –
- Council Member District 2, Yvonne Flores-Cale –
- Council Member District 4, Ashlee Bradshaw - Phoenix Askevich
- Council Member District 5, Daniela Parsley - Rose Burke
- Council Member District 6, Michael Tobias -

Council Member Tobias moved to approve nominations of Brad Growt (Mayor Mitchell's nomination), Alison G. Castillo (Mayor Pro Tem Rizo's Nomination), Mario Perez (Council Member Flores-Cale's nomination), Phoenix Askevich (Council Member Bradshaw's nomination), Rose Burke (Council Member Parsley's nomination) and Brandy Heindl (Council Member Tobias' nomination) for a Compensation Committee per the City Charter. Council Member Flores-Cale seconded the motion. Motion carried 6-0.

3. Consider and possible direction to staff to draft an Ordinance calling a Special Election for City Charter Amendments to include, but not limit discussion on the following topics. ~ *Travis Mitchell, Mayor*

- Consider and possible action to make an amendment to the City Charter, section 4.03 point (a). To include Assistant City managers and all Department directors in the dismissal confirmation process.

The city council shall be the legislative and governing body of the city and shall have control of all the city finances, property, functions, services, affairs and programs subject only to the terms and provisions of this charter. The council shall have the power to ordain, alter, amend or repeal and enforce ordinances, resolutions, rules, orders, and regulations, for any public purpose, that are not in conflict with this charter, or federal or state law. The council shall have the power and authority to provide for any public purpose, including but not limited to recreation, the regulation and control of public property, municipal finances, the preservation of the public peace and good order, the security and protection of the public health, safety and welfare, the promotion of trade, commerce and economic development, the beautification and quality of life within the city, and any other governmental or proprietary service or program. The city, by and through its city council, shall have full and complete power of local self government to the fullest extent not in conflict

with this charter and state law, including all such authorities and privileges that are now or hereafter provided to cities by state law and such power and authority both express and implied as necessary to accomplish and enforce any such duty, program or public purpose.

The council shall have all the powers necessary and incident to the proper discharge of the duties imposed upon it and is hereby vested with all powers necessary to carry out the terms and provisions of this charter; except where such powers are, by this charter, specifically reserved or conferred on some other officer.

The following powers and duties of the council are not exclusive but are enumerated for greater clarity:

- (a). Appoint, supervise and remove the city manager, and confirm dismissal of ~~the Director of Finance~~, all assistant City managers, and Department directors by majority (officer hired paid) vote of the entire council.

Sponsored by Council Member Daniela Parsley.

Council Member Parsley moved to amend Section 4.03 (a) of the City Charter to say: appoint, supervise, and remove the city manager and confirm dismissal of the director of finance and provide documentation of the policies and procedures followed for the dismissal of directors, assistant city managers, and chief officers - building official and chief of police. Council Member Flores-Cale seconded the motion.

Mayor Mitchell requested a roll call vote. Mayor Pro Tem Rizo voted nay; Council Member Flores-Cale voted aye; Council Member Ellison was absent; Council Member Parsley voted aye; Council Member Bradshaw voted nay; Council Member Tobias voted nay; and Mayor Mitchell voted nay. Motion failed 2-4.

4. Presentation and discussion on the City Manager's Proposed Budget for Fiscal Year 2022-2023 totaling approximately \$206.0 million for all City Funds including proposed ad valorem tax rate, no increase in water service rates, no increase in wastewater services rates, no increase in storm drainage fees, a 2.49% increase in solid waste service charges (trash collection) per contract terms with Texas Disposal Systems (TDS), addition of two new fees, no increase in all other fees, and charges, and the addition of 51.0 new positions for a total of 356.0 full-time equivalent positions. ~ *Jerry Hendrix, Acting City Manager*

Council Member Parsley moved to direct staff to bring a proposal to add a neighborhood services supervisor position to the police budget. Mayor Pro Tem Rizo seconded the motion. Motion carried 6-0.

Mayor Mitchell moved to direct staff to bring back a proposal increasing the budget for property acquisition to \$1.5 million and to fully fund the proposal from BGK Architects on 104 S. Burlison. Council Member Tobias seconded the motion. Motion carried 5-1 with Council Member Flores-Cale dissenting.

Mayor Pro Tem Rizo moved to direct staff to find funding for the Opticom system for the City's police vehicles. Council Member Flores-Cale seconded the motion. Motion carried 6-0.

Mayor Pro Tem Rizo moved to direct staff to bring back a proposal to add \$500,000 for a new park design. Council Member Tobias seconded the motion. Motion carries 6-0.

Council Member Flores-Cale moved to direct staff to bring back a proposal to increase the arts budget by \$15,000. Mayor Pro Tem Rizo seconded the motion. Motion carried 6-0.

Council Member Flores-Cale moved to direct staff to bring back a proposal for two additional full-time staff for Parks and Trails. Council Member Parsley seconded the motion. Motion carried 6-0.

Council Member Bradshaw moved to direct staff to bring back a proposal for the next annual budget for a cost analysis of hiring full-time employees versus outsourcing maintenance of the Vybe trail. Council Member Tobias seconded the motion. Motion carried 6-0.

Mayor Pro Tem Rizo moved to direct staff to bring back a proposal to add one full-time building maintenance technician for the public safety building to the police budget. Council Member Flores-Cale seconded the motion. Motion carried 6-0.

Council Member Tobias moved to direct staff to bring back job descriptions and job duties for the new full-time building maintenance positions. Mayor Pro Tem Rizo seconded the motion. Motion carried 6-0.

5. Consider a Resolution to record City Council's vote to place a proposal on the agenda of a future City Council meeting as an action item to adopt an ad valorem tax rate for Fiscal Year 2022-2023 for the City of Kyle; making findings of fact; and providing for related matters. (Roll Call Vote Requested) ~ *Jerry Hendrix, Acting City Manager*

Mayor Mitchell moved to approve a Resolution to record City Council's vote to place a proposal on the agenda of a future City Council meeting as an action item to adopt an ad valorem tax rate for Fiscal Year 2022-2023 for the City of Kyle; making findings of fact; and providing for related matters. Council Member Tobias seconded the motion.

Mayor Mitchell requested a roll call vote. Mayor Mitchell voted aye; Council Member Bradshaw voted aye; Council Member Tobias voted aye; Mayor Pro Tem Rizo voted aye; Council Member Parsley voted aye; Council Member Ellison was absent; and Council Member Flores-Cale voted aye. Motion carried 6-0.

IV. Executive Session

6. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.
 1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 to deliberate the purchase of real property for public purpose.
 - o Downtown Property Acquisition
 3. Personnel matters pursuant to Section 551.074.

4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.

Council Member Tobias 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; Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 - Downtown Property Acquisition; Personnel matters pursuant to Section 551.074; 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."

The City Council did not discuss Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071; Personnel matters pursuant to Section 551.074; or 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.

The City Council convened into executive session at 8:14 p.m.

7. Take action on items discussed in Executive Session.

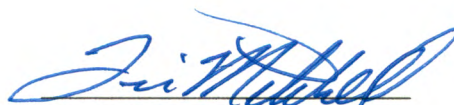
Mayor Mitchell called the meeting back to order at 8:40 p.m. Mayor Mitchell announced that no action took place in Executive Session but action would be taken now.

Mayor Mitchell moved to approve an Earnest Money Contract for the purchase of the property located at 107 Veterans Drive in the amount of \$500,000 and authorize the Mayor or City Manager to execute all documents needed to close on the purchase of the property. Council Member Tobias seconded the motion. Motion carried 6-0.

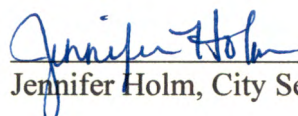
V. Adjourn

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 8:41 p.m.


Travis Mitchell, Mayor

Attest:


Jennifer Holm, City Secretary



CITY OF KYLE, TEXAS

Speed Zone Reduction Ordinance for FM 1626 from Kohlers Crossing to IH 35

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* Approve an ordinance to reduce the speed limit on FM 1626 from Kohlers Crossing to IH 35. ~ Leon Barba, P.E., City Engineer

Other Information:

FOR SOUTHBOUND TRAFFIC

Beginning under Control-Section 1539-03 starting from milepoint 1.548 (at Kohler's Crossing) to milepoint 2.493 (692 feet north of Marketplace Avenue), a distance of 0.945 miles, a prima facie maximum speed limit of **50 miles per hour**.

From milepoint 2.493 (692 feet north of Marketplace Avenue) to milepoint 2.996 (at IH 35 NBFR), a distance of 0.503 miles, a prima facie maximum speed limit of **40 miles per hour**.

FOR NORTHBOUND TRAFFIC

Beginning under Control-Section 1539-03 starting from milepoint 2.996 (at IH 35 NBFR) to milepoint 2.493 (692 feet north of Marketplace Avenue), a distance of 0.503 miles, a prima facie maximum speed limit of **40 miles per hour**.

From milepoint 2.493 (692 feet north of Marketplace Avenue) to milepoint 1.548 (at Kohler's Crossing), a distance of 0.945 miles, a prima facie maximum speed limit of **50 miles per hour**.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Ordinance
- 1626 - Strip Map Redlines

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY KYLE, TEXAS, ZONING FOR TRAFFIC AND RATE OF SPEED THEREIN, ON FM 1626 IN THE CITY LIMITS OF THE CITY OF KYLE; DEFINING SPEEDING AND FIXING A PENALTY, THEREFORE; DECLARING WHAT MAY BE A SUFFICIENT COMPLAINT IN PROSECUTIONS HEREUNDER; PROVIDING A SAVING CLAUSE REPEALING CONFLICTING LAWS; PROVIDING FOR RELATED MATTERS; AND DECLARING AN EMERGENCY.

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

WHEREAS, a traffic study has been completed and recommended specific maximum rates of speed for portions of FM 1626; and

WHEREAS, the City Council has found the maximum rates of speed hereinafter set forth and listed in this ordinance are reasonable and necessary for the public safety and are supported by sound and accepted public safety and traffic engineering criteria.

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

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

Section 2. Speed Zone. It is hereby determined upon the basis of an Engineering and Traffic investigation that the prima facie maximum speed limit on those portions of FM 1626 routed in the City of Kyle, is hereby stated, which prima facie maximum speed limit shall be effective at all times and signs will be erected giving notice of the prima facie maximum speed limit so declared to wit.

FOR SOUTHBOUND TRAFFIC:

Beginning under Control-Section 1539-03 starting from milepoint 1.548 (at Kohler’s Crossing) to milepoint 2.493 (692 feet north of Marketplace Avenue), a distance of 0.945 miles, a prima facie maximum speed limit of 50 miles per hour.

From milepoint 2.493 (692 feet north of Marketplace Avenue) to milepoint 2.996 (at IH 35 NBFR), a distance of 0.503 miles, a prima facie maximum speed limit of 40 miles per hour.

FOR NORTHBOUND TRAFFIC:

Beginning under Control-Section 1539-03 starting from milepoint 2.996 (at IH 35 NBFR) to milepoint 2.493 (692 feet north of Marketplace Avenue), a distance of 0.503 miles, a prima facie maximum speed limit of 40 miles per hour.

From milepoint 2.493 (692 feet north of Marketplace Avenue) to milepoint 1.548 (at Kohler’s Crossing), a distance of 0.945 miles, a prima facie maximum speed limit of 50 miles per hour.

Section 3. Violation and Penalties. That all of the streets of this city, and all portions of any such streets, are hereby declared to be public streets and that the driving or operating of any motor vehicle

on or along any portion of any street of this city at a rate of speed that is greater than the maximum rate of speed for said portion of said street, as fixed by this ordinance shall be guilty of a misdemeanor, which is named "The Offense of Speeding" and that the said offense is punishable by a fine in any sum not to exceed Two Hundred dollars (\$200.00). That the use of the word "Speeding" shall be sufficient to designate the said offense, and shall mean that a motor vehicle has been driven upon a public street at a greater rate of speed than fixed by City Ordinance for the street and for the zone thereof, that such motor vehicle was so being driven upon, if zoned.

That in prosecutions under this ordinance, for the offense of speeding, the complaint, if in other respects sufficient in form, shall as to the portion thereof seeking to acknowledge the offense, be sufficient if it in substance alleges that the defendant did while driving a motor vehicle in said city commit the offense of "Speeding".

Section 4. Repeal of Conflicting Ordinances. That should any section or any portion of any section hereof be decreed to be void, the invalidity of such section or such portion thereof shall not affect the validity of the remaining portions of this ordinance; and that each section and each portion thereof not decreed to be invalid shall remain valid and enforceable.

Section 5. Effective Date. That all ordinances and parts of ordinances that are in conflict with this ordinance are hereby repealed.

Section 6. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 7. 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, Tex. Gov't. Code.*

That the fact that prompt action should be taken in the regulation of traffic, on the streets of this city, in the manner provided for in this ordinance creates an emergency requiring that the rules that provide that an ordinance shall be read at three separate meetings of the city council before final passage, be suspended; and that the said rules are hereby suspended, and this ordinance is here and now passed, and that it is ordered that it take effect from and after its passage and publication.

PASSED AND APPROVED on this the ____ day of _____, 2022.

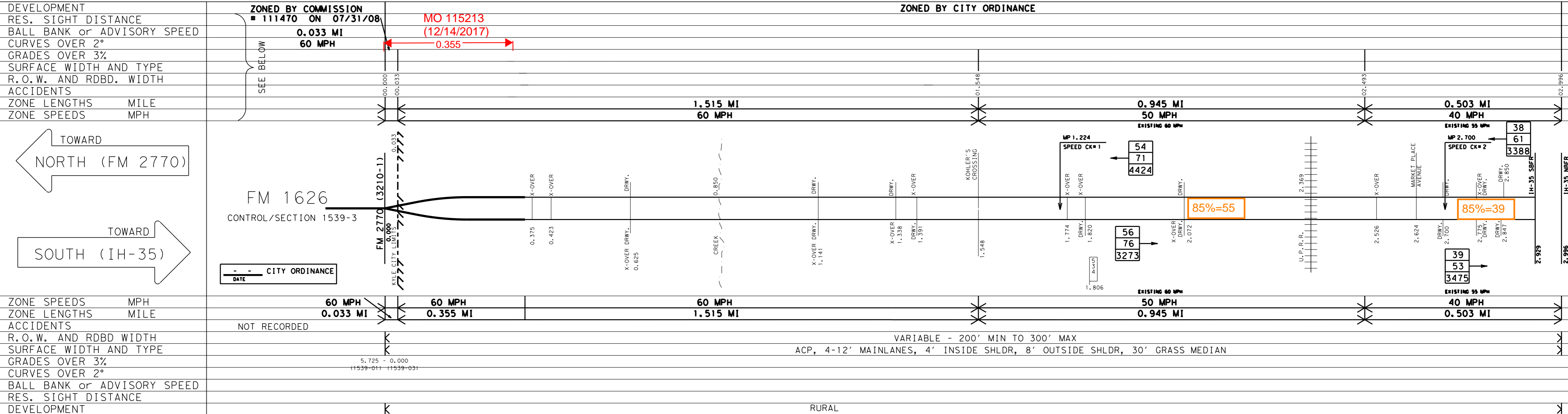
FINALLY PASSED AND APPROVED on this the ____ day of _____, 2022.

The City of Kyle, Texas

Travis Mitchell, Mayor

ATTEST:

Jennifer Holm, City Secretary



DIST. AUSTIN COUNTY HAYS	MINUTE NO. 111470 DATE 07/31/08 ← 115123 (12/14/17)
HIGHWAY FM 1626 CITY KYLE	REPLACES DATE / /
DATE OF SURVEY 06/29/21 SCALE 1" = 800'	REPLACED BY DATE / /
	CANCELED BY DATE / /

LIMITS OF ZONE		SECTION ONE			SECTION TWO			SECTION THREE			SECTION FOUR			
		LENGTH 0.033 MILES			LENGTH 1.515 MILES			LENGTH 0.945 MILES			LENGTH 0.503 MILES			
BEGINS	ENDS	STA. OR M.P.	CONT. & SECT.	PROJECT	BEGINS	ENDS	STA. OR M.P.	CONT. & SECT.	PROJECT	BEGINS	ENDS	STA. OR M.P.	CONT. & SECT.	PROJECT
		00.000	1539-3				00.033	1539-3				01.548	1539-3	
		00.033	1539-3				01.548	1539-3				02.493	1539-3	

- 42 85 PERCENTILE SPEED
- 62 TOP SPEED MEASURED
- 125 NUMBER OF CARS CHECKED
- FATAL ACCIDENT
- ◐ PERSONAL INJURY ACCIDENT
- PROPERTY DAMAGE ACCIDENT
- ▬ INDICATES SECTION ZONED BY COMMISSION MINUTE

SPEED ZONE



CITY OF KYLE, TEXAS

Task Order No. 10 CP&Y Kohlers Crossing and Kyle Crossing Traffic Signal Design

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: Approve Task Order No. 10 to CP&Y, INC., Austin, Texas, in an amount not to exceed \$78,761.00 to prepare construction plans, specifications, estimates and provide contract administration for the installation of traffic signals at the intersection of Kohlers Crossing and Kyle Crossing. ~ *Leon Barba, City Engineer*

Other Information: The scope of services provided by CP&Y, Inc. will include surveying, preparation of plans and specifications, estimates, bid documents and contract administration. Proposed improvements will include construction of a traffic signal system, which will include minor restriping of the existing approaches and a new span-wire signal system with either wood or steel strain poles with related appurtenances.

Legal Notes: N/A

Budget Information: Funding in the amount of \$78,761.00 is available in the approved Capital Improvement Spending Plan for Fiscal Year 2021-2022 as follows:

- 1110-65800-573130

ATTACHMENTS:

Description

- ☐ Task Order No. 10 proposal from CP&Y

Task Order

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated November 13, 2020 ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: September 20, 2022
- b. Owner: City of Kyle
- c. Engineer: CP&Y, Inc.
- d. Specific Project (title): Kohlers Crossing at Kyle Crossing - Traffic Signal Design
- e. Specific Project (description): Engineering and preparation of construction Plans, Specifications, and Estimates, (PS&E); including Field surveying, preparation of an opinion of probable cost, assisting in the preparation of construction bid documents, and performing of construction phase services for the installation of traffic signals at the intersection of Kohlers Crossing and Kyle Crossing.

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:
 - PS&E Design Services (Exhibit A, Part 1)

3. Additional Services

- A. No Additional Services are anticipated under this Task Order.

4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B of this Task Order.

5. Task Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule:

<u>Party</u>	<u>Action</u>	<u>* Schedule</u>
Engineer	Complete Topographic Survey and Furnish electronic copy of the 30% plans to the Owner for review.	Within 60 days of the Effective Date of the Task Order.
Owner	Submit City's review comments regarding 30% submittal to the Engineer.	Within 20 days of the receipt of the 30% Plans from the Engineer.
Engineer	Furnish electronic copy of the 90% plans, including front-end documents, specifications and OPCC to the Owner.	Within 45 days of receipt of the Owner's comments regarding the City's review of the 30% plan submittal.
Owner	Submit City's review comments regarding 90% milestone submittal to Engineer.	Within 20 days of the receipt of the Draft Report from the Engineer.
Engineer	Furnish electronic copy and one (1) hard copy of the 100% Signed & Sealed Plans, front-end documents, and OPCC to the Owner.	Within 15 days of receipt of the Owner's comments regarding the City's review of the 90% plan submittal.

* Construction phase schedule to be established via City coordination at the 100% plan submittal milestone

6. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

Description of Service	Amount	Basis of Compensation
1. Basic Services (Part 1 of Exhibit A)		
Traffic Signal PS&E Design & Construction Phase Svc (A1.01, B1.01, B1.02, and B1.03)	\$78,761	Lump Sum
TOTAL COMPENSATION	\$78,761	Lump Sum
2. Additional Services (Part 2 of Exhibit A)	(N/A)	(N/A)

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

7. **Consultants retained as of the Effective Date of the Task Order:** None.

8. **Other Modifications to Agreement and Exhibits:** None.

9. **Attachments:** Exhibit A, Exhibit B, Exhibit C, Exhibit D

10. **Other Documents Incorporated by Reference:** None.

11. Terms and Conditions


Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is September 20, 2022.

OWNER:
CITY OF KYLE

ENGINEER:
CP&Y, Inc.

By: _____

By:  _____

Print Name: Travis Mitchell

Print Name: Robin Handel

Title: Mayor

Title: Senior Vice President

Engineer License or Firm's Certificate No. (if required): F-1741
State of: Texas

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

ATTEST: _____
Jennifer Holm, City Secretary

Name: Marcel Strachan

Address: 100 W. Center Street., Kyle, Texas 78640

Title: Project Manager

Address: 11757 Katy Freeway, Suite 1540
Houston, TX 77079

E-Mail Address: mstrachan@cpyi.com

Phone: (713) 579-7414

Task Order Form

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
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and American Society of Civil Engineers. All rights reserved.

Engineer's Services for Task Order

PART 1—BASIC SERVICES

The scope of work for services provided by CP&Y, Inc. (the “Engineer”) includes field surveying, engineering design, preparation of plans and specifications, computing of construction quantities, preparation of an opinion of probable cost, and preparation of construction bid documents. The standard drawings and specifications published by TxDOT will be utilized on the project and supplemented where necessary by standard drawings and specifications from the City of Kyle, Texas (“City”). The project involves improvements to the intersection of Kohlers Crossing and Kyle Crossing. Improvements will include construction of a traffic signal system, which will include minor re-striping of the existing approaches, and a new span-wire signal system with either timber or steel strain poles with related appurtenances.

Consultant services for this project shall include all aspects of the work as set forth in the following Scope of Services, and in coordination with Services to be provided by the City. Any of the items identified herein that are specifically excluded from this scope of work, items not listed below that are desired by the City to be included in the scope of work or needs beyond the design scope may be added at any time via a duly executed Amendment defining the scope of those items and the related adjustment to the agreed upon fee.

The parameters for the design of the improvements shall include the following:

- A topographical and boundary survey of the project area will be performed to establish existing conditions, topography of the project site, and existing right-of-way limits.
- A geotechnical investigation is not anticipated with this project and is excluded from this scope.
- New Ramps and Sidewalks is not anticipated with this project and is excluded from this scope.
- The existing Ramp located at the Southwest corner of the intersection will be removed, however the overall existing intersection pavement will generally remain in-place.
- Erosion control plans for use during construction and post construction. Erosion control to include inlet protection, sodding and/or seeding as necessary to re-establish vegetation. No landscape planning is anticipated and is excluded from the scope.
- Submittals to the City of work-in-progress shall be made at 30%, 90% and 100% stages of completion, as more fully defined below.
- All plan sheets for review and construction shall be printed on 11"x17" bond paper and provided electronically in PDF format if requested.
- All design work shall be prepared in CAD with electronic files in MicroStation V8i File can be provided to the City upon completion of the record drawings if necessary.
- Standard and typical details of TxDOT and the City selected for use will be included in the final plans and specifications. Plans and Specifications will follow City requirements and utilize TxDOT standards and details. Special details not available as a standard drawing by TxDOT or the City will be prepared, as necessary.
- The Engineer will perform the necessary engineering and technical services for the Design and Bid phase, including any Additional Services for the development of this project in accordance with the following sections of this agreement. These items will follow the City’s requirements and utilize TxDOT design requirements and details.

As part of the Basic Services, Engineer Shall provide:

A1.01 - Project Management

A. Project Management

1. Create and submit monthly invoices suitable for payment by the City. Prepare monthly progress reports for submission with the monthly invoices to provide a written account of the progress made to date on the project.
2. Prepare a schedule depicting the key milestones and critical path items necessary to complete the detailed design of project development. The schedule shall incorporate and depict the interdependence of various tasks, subtasks, milestones, review times, and deliverables. The schedule will be updated monthly throughout the duration of the project to reflect substantial changes in progress that are found during review and coordination meetings. Any issues that need resolution or action items will be identified in the progress report. The environmental schedule shall be incorporated into the overall project schedule.
3. Meet formally with the City at least twice to review project progress.
4. Prepare project meeting summaries for applicable meetings during the project development process.
5. The Engineer will have internal meetings with the consultant design team every month for the length of the project. It is assumed that these meetings will include key personnel from each discipline and will be required to discuss and resolve project issues.
6. The Engineer will perform at least one site visit with the survey and design of this project. Engineer anticipates a pre-design site visit to review the survey and become familiar with existing conditions and a second site visit near the end of the design to verify various elements and the design.
7. The Engineer shall Obtain record drawings of existing utilities at the intersection from franchise utility owners
8. The Engineer shall formally close out the project and perform a documented archive process.

B1.01 - Project Survey

B. PROJECT SURVEY

CP&Y will perform a design survey of existing site conditions 200 feet from the center of the intersection on all approaches. The design survey will include two (2) control points set in concrete, contacting Texas811 to mark utilities, and locating any marks they put down, locating above ground appurtenances, and cross-sections at 50-foot intervals from ROW to ROW. The survey will also include hardwood trees (8" or greater). Flowline elevations and pipe sizes will be obtained for all wastewater and storm drain features (if ascertainable). The design survey will be based on an on-the-ground survey and will include elevations adequate across the site to develop one-foot contours. We will also locate enough property corners to do a best-fit to the property boundaries closest to the work area. This is not considered to be a boundary survey.

CP&Y will provide an electronic file of the survey in MicroStation (DGN) (2D) Format and referenced to the Texas South Central Coordinate System NAD 83 and NAVD 88. We'll also provide a signed copy of a control sheet for the two (2) control points.

Subsurface Utility Engineering SUE Investigation:

Engineer will provide Level C/D Subsurface Utility Engineering services to locate existing utilities within the project limits. SUE investigations above and below ground will be based on the following:

- Level D – Existing Records; Utilities are plotted from review of available records.
- Level C – Surface Visible Feature Survey; Quality level 'D' information from existing records is correlated with surveyed surface-visible features. Includes Quality Level D information.

Any utilities discovered through field investigative efforts by the Engineer, but no plan records or ownership data can be identified will be referred to as 'unknown' utilities.

Survey Items included in this scope of Survey work:

- Coordinate with Texas811 and Utility Locators to request underground utilities be marked prior to beginning.
- Time involved for installation of temporary traffic control devices (if required).
- Mobilization / Demobilization Cost.
- QA/QC & Project Management/Coordination

Survey Items NOT included in this scope of Survey work:

- Any required permitting fees or traffic control fees (other than standard traffic control equipment).
- Traffic control plans for survey work.
- Level A and Level B SUE

Survey Equipment/Resources include:

- Traffic Safety Equipment
- Easily Identifiable Uniformed Field Crew
- Easily Identifiable Survey Vehicles

Survey Schedule:

CP&Y will begin notifying Texas811 within 2 days of receipt of written NTP. Once the utilities have been marked (minimum of 2 working days) we can begin our field work. We anticipate the survey deliverables to be complete within 10 to 12 business days of receipt of written NTP.

B1.02 - Construction Plans, Specifications and Estimates (PS&E)

C. Construction Plans, Specification, and Estimates (PS&E)

1. Title Sheet

A project title sheet will be prepared as required for use in the construction plans.

2. Index Sheet

A detailed index of sheet will be prepared that shows each sheet's location in the plan set as well as it's corresponding sheet number.

3. General Notes & Specifications

A general notes sheet will be prepared highlighting important parameters and construction guidelines the contractor needs to adhere to for general work, traffic signal construction, and working around utilities. A list of specifications necessary for construction of the various elements designed on the project will be compiled by the Engineer. Special specifications will also be provided, as necessary. References to specifications will be provided in the general note sheet, other sections of the construction plans, and contract documents, as appropriate.

4. Summary Sheet

Quantity summary sheets will be prepared with all necessary bid items listed for the project. Items will generally follow TxDOT bid items (subject to the approval of City) and be broken out as necessary.

5. Traffic Control Plans

Traffic Control Plans (TCP) will be developed and include TCP typical sections for the project. TCP will be developed in accordance with the latest edition of the TMUTCD. The Engineer will implement the current Barricade and Construction (BC) standards and TCP standards as applicable.

The Engineer will provide the following:

- Written narrative of the construction sequencing and work activities per phase.
- Traffic control typical sections for each phase of the construction sequence to clearly delineate the position of the existing traffic with respect to the proposed construction.
- Temporary roadways and or pavement/stripping necessary to maintain lane continuity throughout the construction phase.

6. Traffic Signal Design and Plans

- I. The Engineer will design a traffic signal and develop plans for the intersection of Kohlers Crossing and Kyle Crossing. This task will include:
 - a. Development of the physical design of the traffic signal system. The design will include a new span-wire signal system with either timber or steel strain poles. The Engineer will utilize TxDOT standards and requirements in design development.
 - b. Development of traffic signal plans to include:
 - i. Existing Conditions
 - ii. Traffic Signal Layout
 - iii. Traffic Signal Details, including equipment schedules and tables
 - iv. Standard Detail Drawings (TxDOT standards)

- c. Development of signal phasing and timing plans. Signal timing and phasing will be based on traffic counts collected in March 2022 as part of the Preliminary Engineering Report for the intersection. The Engineer will develop the phasing and timing in Synchro and coordinate the phasing and timing with the City for approval.
- d. Calculate, Summarize, and Tabulate traffic signal quantities. The Engineer will calculate quantities and prepare Opinions of Probable Construction Cost at milestone submittals.
- e. Develop plan notes and specifications for traffic signal equipment and installations. The Engineer will generally specify TxDOT standard bid items. But the Engineer will coordinate with the City on specific equipment preferences and may specify other equipment as approved by the City.
- f. Coordination with the power utility company to determine electrical service connection location, type of electrical service, signal address, and other requirements.
- g. Coordination with City staff on signal equipment and configuration preferences.

II. Traffic Signal Design Assumptions:

- a. The traffic signal will be constructed based on the existing roadway configuration and lane assignments. Roadway improvements are not assumed to be part of the project design.
- b. Pedestrian signal heads and push buttons will not be included in the design. There is one existing sidewalk and pedestrian ramp in the southwest corner of the intersection. But it is non-functional and does not lead to a pedestrian crossing.
- c. Temporary Traffic Signal Plans will not be required. The Temporary Traffic Control Plan will utilize existing 4-way stop control and temporary lane closures during installation of the traffic signal.
- d. Stop bar video detection will be incorporated into the design. Advanced detection is not assumed to be required.
- e. Close circuit TV, ethernet radios, fiber interconnect, and other communications equipment are not assumed to be required for the signal. The signal will be operated as an actuated-uncoordinated system.

7. Signing and Striping Plans

Signing and Striping plans will be developed following TxDOT standards and City's guidelines, for the proposed re-striping of lanes.

8. Stormwater Pollution Prevention Plans (SW3P)

SW3P plans will be developed following TxDOT standards. These sheets will include all necessary BMP's (Best Management Practices) needed as well as any details required.

9. Standard Drawings and Miscellaneous Details

The Engineer shall assemble, collect, and incorporate the necessary standard drawings and any non-standard details needed for the plan set.

10. Opinion of Probable Construction Cost (OPCC)

The engineer shall prepare a preliminary construction cost estimate using TxDOT 6-months average rates and/or based on other available City of Kyle bid tabulation records/trends.

11. QA/QC

The Engineer shall perform QA/QC reviews for all design elements and at project milestones of 30%, 90% and Final Plans submissions.

12. Bid Documents

The Engineer will *assist* the City of Kyle to assemble project documents governing the bidding and construction administration of the project including instructions to bidders, construction contract, bid schedule, bonds, general conditions of the contract, supplementary conditions and other documents related to the performance of work for the project. The Engineer will prepare necessary addenda to address issues or clarifications necessary for completion of the bidding process. Advertisement for Bids is assumed to be handled by the City.

13. Submittal Milestones

During the course of this project the Engineer will make submittals to the City for review and input. The plans will be provided to the City in electronic format on 11"x17" pages as PDF files, suitable for reproduction, for each deliverable milestone. Below is a list of the expected submittals for this project:

- a. 30% Submittal - Engineer's 30 percent submittal will primarily consist of the cover sheet, existing conditions layout sheet, proposed signal layout, and other sheets necessary to convey and review the conceptual design, including a list of the planned standard drawings, and Engineer's OPCC. The plan set will be provided in electronic format as PDF files
- b. 90% Submittal - The 90 percent submittal should be considered complete with 90% interim seal and will include all the construction drawings (outlined above), with all review comments from the 30% submittal resolved, including all comment logs with responses, first draft of specifications, standard details, and Engineer's OPCC. The plan set will be provided in electronic format as PDF files.
- c. The 100 percent design submittal shall consist of responses to 90 percent comments, one signed and sealed set of bid plans on 11"x17" hard copy delivered to the City, along with a PDF submittal of the signed and sealed drawings, final specifications, estimates, and relevant front-end documentation.

B1.03 - Construction Phase Services

D. Construction Phase Services

Letting and Construction management is assumed to be handled by the City.

- a. Pre-Construction Meeting: The Engineer will attend the pre-construction meeting with the City.
- b. Shop Drawing Reviews and Request for Information (RFI): The Engineer will perform necessary shop drawing reviews and will respond to Contractor's RFI and evaluate contractor changes to plans and cost proposals. Any other construction related service not listed under this phase will be handled by the City, unless requested by the City to be added to the scope by an amendment to this contract.
- c. Site Visit: Engineer will perform at least one (1) on-site construction observation/site visit with the Contractor and City staff prior to completion of construction.
- d. As-Built Drawings: The Engineer will prepare a reproducible complete set of As-Built drawings based on any field changes made during construction and any field notes or marked up plans provided by the contractor/City upon completion of construction.

PART 2—ADDITIONAL SERVICES

A2.01 *No additional services are proposed as part of this Task Order.*

This is **EXHIBIT B**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated Sep 20, 2022.

Owner's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following responsibilities unless expressly stated otherwise in a Task Order.

B2.01 Specific Responsibilities

A. Owner shall:

1. Provide the following documents for use in developing the PS&E documents, as available:
 - a. Available as-built plans and construction documents the City has on file concerning the Project.
 - b. Provide any available as-built plans for the existing facilities in and around the project site.
 - c. Provide any available as-built plans for City owned utility lines along and/or below the existing and proposed facility.
 - d. Provide City preferred project specifications and construction administration documents in electronic format or an example specification package from a prior project as a go-by.
 - e. Provide City bid tabulation data, from similar recently bid projects.
 - f. Assist the Engineer, as necessary, in obtaining any required data and information from the County, and/or other franchise utility companies.
 - g. Assist the Engineer by requiring appropriate utility companies to expose underground utilities within the right-of-way, when required.
 - h. Coordinate directly with utility companies to facilitate utility adjustments, if required, by the proposed improvements.
 - i. Give prompt written notice to Engineer whenever the City observes or otherwise becomes aware of any development that affects the scope or timing of Engineer's services
2. Be responsible for the coordination and oversight of advertisement(s) to bidders, construction letting, management and oversight of the Contractor's construction schedule and inspection of Contractor's construction activities throughout the duration of construction.

This is **EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated Sep 20 , 2022.

Payments to Engineer for Services and Reimbursable Expenses

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER'S RESPONSIBILITIES

C2.01 Explanation of Compensation Method

A. Lump Sum

1. Owner shall pay Engineer a Lump Sum amount for the specified category of services as shown on **Exhibit D**, Fee Schedule, attached.
2. The Lump Sum includes compensation for Engineer's services and services of Consultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, expenses (other than those expenses expressly eligible for reimbursement, if any), and Consultant charges.
3. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.

Exhibit D - Engineer's Fee Summary

**Kohlers Crossing and Kyle Crossing Traffic Signal - PS&E Design Phase Services
City of Kyle - Task Order No.10**

Basic Services		
Scope Item	CP&Y	%
A1.01 Project Management	\$9,840.00	12.49%
B1.01 Project Survey	\$11,926.00	15.14%
B1.02 Contruction Plans, Specifications, and Estimates	\$44,070.00	55.95%
B1.03 Construction Phase Services	\$11,580.00	14.70%
Labor Sub-Total	\$77,416.00	98.29%
Expenses	\$1,345.00	1.71%
Project Total	\$78,761.00	100.00%

Exhibit D - Engineer's Fee Schedule

CP&Y, Inc. Level of Effort - Basic Services (DETAILED DESIGN)

Task	Project Manager	Senior Design Engineer	Professional Engineer (P.E.)	Engineer in Training (EIT)	CAD/ Tech	Admin/ Clerical	RPLS Project Manager	RPLS Task Lead	Senior Survey Tech	2-Person Survey Crew	Total Hours	Total Fee
	\$195.00	\$225.00	\$150.00	\$125.00	\$95.00	\$70.00	\$200.00	\$160.00	\$126.00	\$150.00		
BASIC SERVICES												
A1.01 Project Management												
1. Create and Submit Monthly Invoices - Assumed 3 Months	2					4					6	\$670.00
2. Prepare Project Schedule and Update Monthly - Assume 3 Months	2										2	\$390.00
3. Meetings with City of Kyle to discuss progress - Assume 3 Meetings	2	2									4	\$840.00
4. Prepare Meeting Minutes, Phone Logs, etc. for all meetings with City of Kyle	4										4	\$780.00
5. Internal Team Meetings - Bi-Weekly (Assumed 4 Months)	4		4								8	\$1,380.00
6. Site Visits/Field Visits (assume 2)	8		8	8							24	\$3,760.00
7. Texas 811, CenterPoint & Other Misc Utility Coordination/Submittals	4		4	4		2					14	\$2,020.00
Subtotal A1.01:	26	2	16	12	0	6					62	\$9,840.00
B1.01 - Survey												
Set Controls (Tie Primary Control & Set Secondary)								2	6	8	16	\$2,276.00
Topographic Survey of Roadway/Intersection					6			2	6	16	30	\$4,046.00
Best-Fit ROW and Boundary Alignment Determination								2	6	16	24	\$3,476.00
Prepare and Create Survey Control Sheets								2	8		10	\$1,328.00
Survey QA/QC							4				4	\$800.00
Subtotal B1.01:	0	0	0	0	6	0	4	8	26	40	84	\$11,926.00
B1.02 - Construction Plans, Specifications, and Estimates												
Kohlrs Crossing and Kyle Crossing - Traffic Signal PS&E Package												
1. Title/Cover Sheet				2	4						6	\$630.00
2. Index Sheet				2	4						6	\$630.00
3. General Notes & Specifications	2		4	4							10	\$1,490.00
4. Quantity Summary Sheet			2	4	2						8	\$990.00
5. Traffic Contol Plans	2		4	4	6						16	\$2,060.00
6. Traffic Signal Design & Plans	2	36	36	48	64						186	\$25,970.00
7. Signing/Striping Plans	2			6	8						16	\$1,900.00
8. Erosion Control Plans (SW3P)	2			6	8						16	\$1,900.00
9. Standard Drawings/Construction Details			2	2	4						8	\$930.00
10. Opinion of Probably Construction Cost (OPCC)			4	4							8	\$1,100.00
11. QAQC (30%, 90%, 100% Submittal Package)	6	4	8								18	\$3,270.00
12. Assist City Preparing Bid Documents	8	4	4			2					18	\$3,200.00
Subtotal B1.02:	24	44	64	82	100	2	0	0	0	0	316	\$44,070.00
B1.03 - Construction Phase Services												
Construction Phase Services	16	16	8	16	16	2					74	\$11,580.00
Subtotal B1.03:	16	16	8	16	16	2	0	0	0	0	74	\$11,580.00
Total Hours	66	62	88	110	122	10	4	8	26	40	536	\$77,416.00
Fee per Hour	\$195.00	\$225.00	\$150.00	\$125.00	\$95.00	\$70.00	\$200.00	\$160.00	\$126.00	\$150.00		
Fee per Classification	\$12,870.00	\$13,950.00	\$13,200.00	\$13,750.00	\$11,590.00	\$700.00	\$800.00	\$1,280.00	\$3,276.00	\$6,000.00		
% Fee	14.99%	16.25%	15.37%	16.01%	13.50%	0.82%	0.93%	1.49%	3.82%	6.99%		

CP&Y, Inc. Expenses - Basic Design Services

Item	Description	Unit	Total	Unit Cost	Total Cost
Traffic Study, Roadway Design, Etc					
1	Mileage	MI	1500	\$0.63	\$945.00
2	Paper (8.5" x 11")	EA	50	\$0.50	\$25.00
3	Paper (11" x 17")	EA	500	\$0.75	\$375.00
Totals					\$1,345.00



CITY OF KYLE, TEXAS

Elliott Branch Wastewater Interceptor Change Order #3

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: Approval of Change Order #3 to QRO MEX CONSTRUCTION CO. INC., Granite Shoals, TX, in an additional amount of \$570,594.93, increasing the total contract amount not to exceed \$4,808,309.83 for the purpose of reconstructing Sledge Street to J Maryes Lane, adding additional utility services, extending a water line and adding drainage improvements. ~ Leon Barba, P.E, City Engineer

Other Information: Request for Information (RFI) 19 – Additional Water and Wastewater Service
RFI 20 – Installation of 2 additional 3” Gate Valves
RFI 24 – Additional Wastewater(3) and Water(1) Services
RFI 26 – 8” Branches at 3rd & S. Meyer St. (Waterline ”J”)
RFI 27 – Standardize Ex. Connection & Additional Water Service
RFI 29 – Box Culvert Extension 3rd & Scott St.
RFI 30 – 24” Concrete Pipe Extension 3rd and S Sledge St.
Private Wastewater Service Adjustments
Street Reconstruction (Sledge Street)
Additional Paving

Legal Notes: N/A

Budget Information: Funding in the amount of \$570,594.93 is available in the approved Capital Improvements Spending Plan for Fiscal Year 2021-2022 from accumulated wastewater impact fee funds as follows:

- 3420-89000-572220

ATTACHMENTS:

Description

- ☐ CHANGE ORDER #3 RFIs and Street Reconstruction



CONTRACT CHANGE ORDER

PROJECT NAME	City of Kyle – Elliott Branch Wastewater Interceptor		
LOCATION OF WORK	Kyle, TX		
CONTRACT NO.	K20-21.8	CHANGE ORDER NO.	
REQUESTING PARTY	QRO Mex Construction, Inc.	DATE OF REQUEST	09/14/2022
PROJECT MANAGER	Yvonne Gilvallejo	CONTRACTOR	QRO Mex Construction
OWNER	City of Kyle	ENGINEER	RPS Group, Inc.

CONTRACTOR IS DIRECTED TO COMPLETE THE FOLLOWING CHANGES IN CONTRACT DOCUMENTS	
DESCRIPTION OF CHANGES NEEDED	<ol style="list-style-type: none"> 1) Changes due to RFIs 19,20,24,26,27,29 & 30. 2) Private wastewater service adjustments at 707 & 606 Groos St. Kyle, Tx. 3) Street Reconstruction on Sledge St. from 3rd to J Maryes Ln. 4) Mill, Tack and Pave areas of Sledge St, S Groos St, S Meyer St.
REASON FOR CHANGE	<ol style="list-style-type: none"> 1) See details in RFIs. 2) Requested by the City of Kyle 3) Change due to 3 utility trenches in paved area of Sledge St. 4) Due to extreme deterioration of the road caused by construction activities.
SUPPORT AND JUSTIFICATION DOCUMENTS	<p><i>List all attached documents which support the requested change, and justify any increased cost and time.</i></p> <ol style="list-style-type: none"> 1) Proposal for Change Order 03
SPECIFICATIONS	

CHANGE IN CONTRACT PRICE		CHANGE IN CONTRACT TIMES	
ORIGINAL PRICE	\$ 4,040,248.50	ORIGINAL TIMES	
NET CHANGES OF PREVIOUS CHANGE ORDERS	\$ 197,466.40	NET CHANGES OF PREVIOUS CHANGE ORDERS IN DAYS	
NET INCREASE / DECREASE	\$ 570,594.93	NET INCREASE / DECREASE	
TOTAL CONTRACT PRICE WITH APPROVED CHANGES	\$ 4,808,309.83	TOTAL CONTRACT TIME WITH APPROVED CHANGES	



PROJECT NAME	City of Kyle Southside Wastewater Improvements		
LOCATION OF WORK	Kyle, TX		
CONTRACT NO.	N/A	CHANGE ORDER NO.	03

ITEMIZED BREAKDOWN OF WORK (ATTACHED)				
ITEM NAME	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
1	RFI 19 – Additional WW and Water Service	1	\$ 3,625.00	\$ 3,625.00
2	RFI 20 – Installation of additional 3” GV	1	\$ 2,400.00	\$ 2,400.00
3	RFI 24 – Four additional WW (3) and Water (1) Services	1	\$ 10,480.00	\$ 10,480.00
4	RFI 26 – 8” Branches at 3 rd & S Meyer St. (WL “J”)	1	\$ 16,950.00	\$ 16,950.00
5	RFI 27 – Standardize Ex. Connection & Additional W. Service	1	\$ 9,030.00	\$ 9,030.00
6	RFI 29 – Box Culvert Extension 3 rd & Scott St.	1	\$ 39,829.00	\$ 39,829.00
7	RFI 30 – 24” RCP Pipe Extension 3 rd and S. Sledge St.	1	\$ 25,200.00	\$ 25,200.00
8	Private Wastewater Service Adjustments	1	\$ 15,000.00	\$ 15,000.00
9	Street Reconstruction	1	\$ 281,859.24	\$ 281,859.24
10	Mill, Tack & Pave HMAC 2”	1	\$ 155,033.55	\$ 155,033.55
	Subtotal		=	\$ 559,406.79
	2% Insurance & Bonds		=	\$ 11,188.14
			TOTAL	\$ 570,594.93

RECOMMENDED BY ENGINEER	RPS Group	APPROVED BY OWNER	
DATE	09/14/2022	DATE	
ACCEPTED BY CONTRACTOR		REVIEWED BY FUNDER	
DATE		DATE	

UNIT PRICE BID FORM_03
CITY OF KYLE, TEXAS
ELLIOT BRANCH WASTEWATER INTERCEPTOR

CHANGE ORDER ON SOUTH SLEDGE STREET (W 3 Rd. to 1 St. on S Sledge Milling and 2" Paving)

	BID ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	110S-A	Mill, Tack & Pave HMAC TY D 64-22(2.0")(COA)Sledge St.	2,073	SY	\$ 55.00	\$ 114,033.15
2	110S-A	Mill, Tack & Pave HMAC TY D 64-22(2.0")(COA)S Gross St.	345	SY	\$ 55.00	\$ 18,968.40
3	110S-A	Mill, Tack & Pave HMAC TY D 64-22(2.0")(COA)N Gross St.	318	SY	\$ 55.00	\$ 17,490.00
4	110S-A	Mill, Tack & Pave HMAC TY D 64-22(2.0")(COA)S Meyer St.	190	SY	\$ 55.00	\$ 10,450.00
		Credit for TY D on Trench Repair for Wastewater Line	972	LF	\$ 4.00	\$ (3,888.00)
		Credit for TY D on Trench Repair for Water Line	505	LF	\$ 4.00	\$ (2,020.00)
BID TOTAL						\$ 155,033.55



CITY OF KYLE, TEXAS

Ratification Emergency Repairs of Wastewater Treatment Plant Blower #2

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: Ratify emergency repairs of package plant blower #2 at the Wastewater Treatment Plant, in an amount not to exceed \$21,500.00 payable to RPM Services INC, Iowa Colony, Texas. ~ *Harper Wilder, Director of Public Works*

Other Information:

Legal Notes:

Budget Information: Funding in the amount of \$21,500.00 is available in the approved budget for Fiscal Year 2021-2022 of the Public Works Department from the Wastewater Utility Fund as follows:

- 3110-82600-541520

ATTACHMENTS:

Description

- ☐ Q22-4440-267 (002) PP BLOWER #2



e PROPOSAL

DATE: 9/15/22

Buy Board #: **672-22**

BUDGETARY PROPOSAL: Q22-4440-267

CUSTOMER: City of Kyle

CONTACT: Robert Defreitas/Tim Sanford

LOCATION: Kyle, Tx.

PHONE #: (512) 214-4564

E-MAIL: rdefreitas@cityofkyle.com tsamford@cityofkyle.com

FROM: Mike Vaughn

SUBJECT: Hoffman 74106A9 / SN: M10700

Scope of Supply

1. Disassemble, inspect,
2. Blast housing & internal components & prime.
3. Clean all components & prep for assembly.
4. Stack rotor & balance to 4W/N @ 3600 rpm & unstack rotor. (API 610 spec.)
5. Assemble unit complete utilizing standard overhaul kit.
6. Repair Shaft – Damage at bearing fits.
7. Weld Repair Damaged impellers.
8. Set up, test run blower, & take baseline vibration readings.
9. Paint & prepare to ship.
10. Prepare service report

Total O/H Routine

***\$21,500.00**

Delivery: 6-8 Weeks (Routine - Pending Parts Availability)

(Taxes not included)

This quotation is hereby based upon the job scope listed above. Any additional scope of supply not covered herein will be submitted for prior approval and performed under change order.

This quote is good for 30 days.

We appreciate the opportunity to provide this quote and look forward to assisting with your future maintenance needs. If there are any questions, please call us at either of the numbers listed below.

Thank You,
RPM SERVICES, INC.

Mike Vaughn
Office: 281-595-3165
Cell: 281-808-4998
Efax: 713-513-5410



STANDARD TERMS & CONDITIONS

QUOTATIONS – All quotations subject to acceptance within thirty (30) days from date of issue and are subject to change without notice thereafter. Any variance from the terms and conditions contained herein is subject to the approval and acceptance by an authorized representative of the Seller and is not binding until so approved and accepted in writing.

DELIVERY – Seller shall be excused for any delay in delivery or partial delivery, hereunder, resulting from any cause beyond its reasonable control, including but not limited to fire, explosion, flood, epidemic, war, interruption or delay in transportation or labor troubles. In case of delay caused by Buyer's failure to furnish necessary information as to specific details to be determined by said buyer, Seller may extend date for shipment for a reasonable time, based on period of Buyer's delay and/or conditions at Seller's service center. In case shipment is delayed by Buyer's failure to furnish shipping instructions or other details on request, Seller may at its option invoice material ready for shipment, and payment therefore shall be made in accordance with the terms hereof.

TITLE OF EQUIPMENT – The title to the goods and/or services sold hereunder, and the right of repossession and removal thereof, shall remain with the Seller until payment in full. Buyer agrees to properly care for all equipment and material delivered until the same is fully paid for, and to hold the Seller harmless against any taxes assessed upon the equipment and material, or any part thereof, after shipment.

EQUIPMENT SERVICES SOLD F.O.B. RPM FACILITY – All goods are sold F.O.B. Seller's Service Center. Delivery by Seller to Buyer is completed when the equipment is properly packaged for shipment, including any special shipping instructions from Buyer and handed over to and signed for by Carrier, the goods thereafter being at Buyer's risk. Buyer will make all claims against Carrier for damage incurred during shipment.

INSURANCE – From time of shipment to full payment to Seller, Buyer shall insure for benefit of Seller and Buyer goods furnished hereunder for fire, windstorm, and extended coverage. Buyer hereby waives all rights to recover from Seller for damage or loss for which buyer is protected by insurance. Seller makes no warranty, either expressed or implied in connection with the services of its field service personnel and shall have no liability either direct or indirect or for any loss, damage, injury, or expense resulting from or arising out of their service, and in no event for consequential damage or injury or for any amount in excess of the amount the Buyer paid the Seller for services rendered. The Seller's insurance coverage includes field services personnel while at the job site or traveling to and from the job site. Seller's insurance certificates are available upon request.

EQUIPMENT MODIFICATIONS – The Seller in conjunction with the Buyer will determine the design specifications associated with all equipment alterations and/or modifications to improve operational functionality. All modifications and/or repairs shall comply with acceptable rotating equipment engineering practices and standards. Modifications that may be considered experimental will require approval from the Buyer prior to proceeding.

WARRANTY – Seller warrants the equipment to be as specified herein. It is agreed that there are no other warranties, expressed or implied. Defects, which develop under normal and proper use and maintenance within twelve (12) months from date of shipment, will be corrected (defective parts / service will be performed F.O.B. Service Center), provided Buyer has complied with the Warranty Validation requirements shipped with the equipment item and given prompt notice to Seller of any such defects. Equipment is not guaranteed against chemical attack, corrosion, or abrasion, but all normal precautions will be taken to assure that goods used are of the material grade and analysis specified. No allowance will be made for repairs or replacements not authorized in writing by the Seller. Seller shall be notified of, and reserves the right to be represented at, any tests and/or inspections that Buyer may perform in conducting a root cause failure analysis. It is agreed that Seller shall in no event be held responsible or liable for any loss, damage, injury, or expense resulting from or arising out of their service, and in no event for consequential damage or injury for any amount in excess of the cost of repair or replacement of a specified part that may be found defective. All equipment components manufactured by others, but not included as part of specified equipment, will be subject to the standard warranty as issued by its manufacturer.

TAXES – Any tax, Federal, State or Municipal, levied on the sale of the equipment described herein or on the use or possession thereof after shipment by Seller, shall be borne and paid by Buyer; and if any such tax shall be due and payable and if Seller shall be chargeable by law for collection of same, Buyer will pay same to Seller on demand whether or not this contract of sale shall have been fully performed.

INVOICES – All invoices are due "Net 30" from the invoice date, unless otherwise negotiated. Invoices not paid when due will be subject to 1% interest per month from the date the invoice is due to the date paid. In case a note is accepted, it shall not be deemed payment but only evidence of indebtedness, and if any note, or renewal note, shall not be paid when due, the entire outstanding balance shall at option of holder become immediately due and payable, all fees and costs incurred in connection with the collection of any sum due to be paid by Buyer.

CANCELLATION – Buyer may not cancel any order except upon written notice to Seller and on payment of a reasonable and proper sum to compensate Seller for expenses incurred in processing said order to the date of cancellation, including planning, technical services, expenses and all work performed and other commitments incurred from date of acceptance to date of cancellation.

COMPLETE AGREEMENT – This document shall represent the final, complete and exclusive statement of agreement between the parties and may not be modified, supplemented, explained, or waived, except in writing, signed by an authorized representative of the Seller. In the case of invalid provisions exist herein, the invalidity or unenforceability of any particular provision of the Terms and Conditions herein shall not affect the other provisions hereof, and the Terms and Conditions herein shall be construed in all respects as if such invalid or unenforceable provision were omitted. This document shall be interpreted and enforced in accordance with the laws of the State of Texas, and Texas shall be the forum state for all disputes herein.



CITY OF KYLE, TEXAS

Resolution Authorizing Grant Application for Ballistic Shields for PD

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: Resolution Authorizing Application for a Grant for ballistic Shields for Kyle PD. ~
William Paiz-Tabash, Emergency Management Coordinator

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Resolution for Ballistic Shield Grant

RESOLUTION AUTHORIZING APPLICATION FOR A GRANT FOR BALLISTIC SHIELDS FOR KYLE PD

WHEREAS, The Kyle City Council finds it in the best interest of the citizens of Kyle that the Ballistic Shield Purchase Project be operated for FY 2022-2023; and

WHEREAS, The Kyle City Council agrees that in the event of loss or misuse of the Office of the Governor funds, The City of Kyle assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, The Kyle City Council designates Amber Lewis, Assistant City Manager as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED that The City of Kyle approves submission of the grant application for the Ballistic Shield Purchase to the Office of the Governor.

Signed by:

Passed and Approved this _____ (Day) of _____ (Month), _____ (Year)

Grant Number: 4641301



CITY OF KYLE, TEXAS

STEP Comprehensive Grant

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: Authorize the City Manager to accept a STEP (Selective Traffic Enforcement) Comprehensive grant in an amount no greater than \$12,000.00 from TXDOT and authorize matching funding from the Police Department's approved operating budget for FY 2022-2023 in an amount not to exceed \$3,500 to fund a STEP Grant Program for one year beginning October 1, 2022 and ending September 30, 2023. ~ *Pedro Hernandez, Police Captain*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Request Council to Authorize TXDOT STEP Comprehensive Grant FY22-23



Date: August 30, 2022

To: Jeff Barnett, Chief of Police

From: Tracy Vrana, Traffic Enforcement Division Sergeant

Re: **Request to Authorize TXDOT STEP Comprehensive Grant FY2022-2023**

Texas' Selective Traffic Enforcement Program (STEP) is a federally funded law enforcement grant program run by the Traffic Safety Division of the Texas Department of Transportation (TXDOT). STEP enforcement is focused on reducing crashes and crash-related injuries and deaths in and across Texas. Per TXDOT and through (KA) crash data analysis, certain areas of the City of Kyle require focused traffic enforcement to reduce the number of these crashes. TXDOT has determined that the Kyle Police Department is eligible to apply for a STEP-Comprehensive grant for FY22-23 to support this effort.

After careful review of this grant, the Kyle Police Traffic Enforcement Division is seeking approval to utilize federal funds to increase traffic enforcement for an ultimate goal of reducing automobile crashes with an emphasis on those resulting in serious injuries and deaths. This is a STEP Comprehensive grant to fund traffic enforcement for designated zones which are, per TXDOT's KA data, determined to be hotspots for serious crashes. Our hope is that we can bring the number of those motorists killed on our roadways to zero.

Subject/Recommendation:

Authorize the City Manager to accept a STEP Comprehensive grant in an amount no greater than \$12,000.00 from TXDOT and authorize matching funding from the Police Department's approved operating budget for FY 2022-2023 in an amount not to exceed \$3,500 to fund a STEP Grant Program for one year beginning October 1, 2022 and ending September 30, 2023.

Other Information:

This grant is funded at an estimated 80% from TXDOT with a required estimated 20% City match. The total amount of \$15,155.29 will be used to fund an estimated 191 hours of traffic enforcement based on a running average of individual officer salaries. The Kyle Police Department will fund an estimated 20.87% match using fringe benefits for a total amount of \$3,162.29 though with a maximum request amount of \$3,500 to cover unforeseen deviations in percentages. A total benefit funding from TXDOT of 79.13% for the total in the amount of \$11,993.00 is calculated. Reimbursement of funds from TXDOT and data reporting will be conducted on a monthly basis. Funding for the fringe match will be pulled from the police department operating budget.

Sgt. T. Vrana



512-268-3232



512-268-2330





CITY OF KYLE, TEXAS

STEP CMV Grant Program

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: Authorize the City Manager to accept a STEP CMV (Commercial Motor Vehicle) grant in an amount no greater than \$12,000.00 from TXDOT and authorize matching funding from the Police Department's approved operating budget for FY 2022-2023 in an amount not to exceed \$3,500 to fund a STEP Grant Program for one year beginning October 1, 2022 and ending September 30, 2023. ~ *Pedro Hernandez, Police Captain*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Request Council to Authorize TXDOT STEP CMV Grant FY22-23 FINAL



Date: August 30, 2022

To: Jeff Barnett, Chief of Police

From: Tracy Vrana, Traffic Enforcement Division Sergeant

Re: **Request to Authorize TXDOT STEP CMV Grant FY2022-2023**

Texas' Selective Traffic Enforcement Program (STEP) is a federally funded law enforcement grant program run by the Traffic Safety Division at the Texas Department of Transportation (TXDOT). STEP enforcement is focused on reducing crashes and crash-related injuries and deaths in and across Texas. Per TXDOT and through crash data analysis, certain areas of the City of Kyle require focused CMV (Commercial Motor Vehicle) traffic enforcement to reduce the number of CMV related crashes. TXDOT has determined that the Kyle Police Department is eligible to apply for a STEP CMV grant for FY22-23 to support this effort.

After careful review of this grant, the Kyle Police Traffic Enforcement Division is seeking approval to utilize federal funds to increase traffic enforcement for an ultimate goal of reducing automobile crashes with an emphasis on those resulting in serious injuries and deaths. This is a STEP CMV grant to fund traffic enforcement for designated zones which are, per TXDOT's KA data, determined to be hotspots for CMV related serious crashes. Our hope is that we can bring the number of those motorists killed on our roadways to zero.

Subject/Recommendation:

Authorize the City Manager to accept a STEP CMV grant in an amount no greater than \$12,000.00 from TXDOT and authorize matching funding from the Police Department's approved operating budget for FY 2022-2023 in an amount not to exceed \$3,500 to fund a STEP Grant Program for one year beginning October 1, 2022 and ending September 30, 2023.

Other Information:

This grant is funded at an estimated 80% from TXDOT with a required estimated 20% City match. The total amount of \$15,155.29 will be used to fund an estimated 191 hours of traffic enforcement based on a running average of individual officer salaries. The Kyle Police Department will fund an estimated 20.87% match using fringe benefits for a total amount of \$3,162.29 though with a maximum request amount of \$3,500 to cover unforeseen deviations in percentages. A total benefit funding from TXDOT of 79.13% for the total in the amount of \$11,993.00 is calculated. Reimbursement of funds from TXDOT and data reporting will be conducted on a monthly basis. Funding for the fringe match will be pulled from the police department operating budget.

Sgt. T. Vrana



512-268-3232



512-268-2330





CITY OF KYLE, TEXAS

Amending the Authorization for New Supervisory Positions - PD

Meeting Date: 9/20/2022

Date time:7:00 PM

Subject/Recommendation: *(Second Reading)* An Ordinance of the City of Kyle, Texas, Amending the Authorization for New Supervisory Positions with the City of Kyle Police Department; to Include a Schedule for the Authorization and Implementation of the Positions; for Amendment of Conflicting Ordinances, and Effective Date, and Open Meetings. ~ *Pedro Hernandez, Police Captain*

City Council voted 6-0 to approve on first reading on 9/6/2022.

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 2022-09 Police Department New Positions

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING THE AUTHORIZATION FOR NEW SUPERVISORY POSITIONS WITH THE CITY OF KYLE POLICE DEPARTMENT; TO INCLUDE A SCHEDULE FOR THE AUTHORIZATION AND IMPLEMENTATION OF THE POSITIONS; FOR AMENDMENT OF CONFLICTING ORDINANCES, AN EFFECTIVE DATE, AND OPEN MEETINGS.

Whereas, the City Council for the City of Kyle, Texas, provided funding for new supervisory positions within the City of Kyle Police Department in the 2022/2023 fiscal year budget;

Whereas, the Police Department for the City of Kyle will be adding four Corporal positions, three Sergeant positions, and two Commander positions within the 2022/2023 fiscal year;

Whereas, the introduction of nine new positions including an entirely new rank requires significant preparation on the part of the Police Department;

Whereas, the Police Department needs time to properly prepare for, integrate, equip and train these critical supervisory positions;

Whereas, the City Council finds that it is in the best interest of the City of Kyle to create an implementation schedule for the authorization and onboarding of the new positions that allows time for proper preparation.

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

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

Section 2. Implementation Schedule. The new positions are authorized and will become effective at the following dates:

- A. Four (4) Police Corporals are authorized and become effective November 06, 2022
- B. Three (3) Police Sergeants are authorized and become effective December 04, 2022
- C. Two (2) Police Commanders are authorized and become effective January 15, 2023.

Section 3. Amendment of Conflicting Ordinances. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, the terms and provisions of the most restrictive ordinance shall govern.

Section 4. Effective Date. This ordinance shall be effective from and after its approval and passage in accordance with the Texas Local Government Code and the city charter.

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, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED on this _____ day of _____, 2022.

FINALLY PASSED AND APPROVED on this _____ day of _____, 2022.

ATTEST:

THE CITY OF KYLE, TEXAS

Jennifer Holm, City Secretary

Travis Mitchell, Mayor



CITY OF KYLE, TEXAS

Food Truck Amendment to Sec. 11-162, Sec. 11-175, Sec. 176, & Sec. 11-177

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: *(Second Reading)* An ordinance of the City of Kyle, Texas, amending Chapter 11, Section 11-162, Section 11-175, Section 176, & Section 11-177 of the Code of Ordinances by amending items relating to food trucks. ~ *Will Atkinson, Interim Director of Planning*

*Planning and Zoning Commission voted 5-0 to recommend approval.
City Council voted 6-0 to approve on first reading on 9/6/2022.*

Other Information: See attached.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Memo
- Ordinance
- Food Truck Ordinance - Redline



CITY OF KYLE

Community Development Department



MEMORANDUM

TO: Mayor & City Council

FROM: Will Atkinson – Interim Director of Planning

DATE: Tuesday, September 6, 2022

SUBJECT: Food Truck Ordinance Amendment – Sec. 11-162, Sec. 11-175, Sec. 11-176, Sec. 11-177

Earlier in the year, Council directed staff to amend the food truck ordinance to ensure better standards and streamline the process. The existing code places significant restrictions and burdens on business entities wanting to establish both short term and long-term food trucks in the City of Kyle. The attached, proposed ordinance, in the back up material provides for such intent.

The most noticeable and effective amendments include, but are not limited to:

- Reduction in required parking;
- Increased flexibility relating to where a food truck may be placed on a parcel;
- Increased length of time a food truck may be allowed in one location;
- More robust fire code requirements;
- Increased number of food trucks allowed in a food truck court

RECOMMENDATION

Planning staff has researched multiple jurisdictions and coordinated with many departments to ensure a comprehensive replacement of the existing food truck ordinance. Staff believes the proposed ordinance will better facilitate the inclusion of food truck facilities in the City of Kyle for the citizenry to enjoy. Staff asks the Mayor & City Council to recommend approval of the food truck ordinance.

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS
ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING
CHAPTER 11, SEC. 11-162, SEC. 11-175, SEC. 11-176 & SEC. 11-177
OF THE CODE OF ORDINANCES BY AMENDING ITEMS
RELATING TO FOOD TRUCKS; PROVIDING FOR REPEAL OF
CONFLICTING ORDINANCES; PROVIDING FOR RELATED
MATTERS; AND PROVIDING OPEN MEETINGS, AN EFFECTIVE
DATE AND SEVERABILITY CLAUSES.**

WHEREAS, the City of Kyle (the “City”) a home-rule city is a home-rule City authorized to regulate health & safety provisions within its city limits; and

WHEREAS, the City Council of the City of Kyle, Texas (the “City Council”) reviews the City’s health & safety regulations from time to time to consider amendments to Chapter 11, Business Regulations of the City’s Code of Ordinances (specifically the “Food Truck Ordinance”); and

WHEREAS, the City finds it necessary to amend the Food Truck Ordinance and adopt the amendments set forth in this ordinance; and

WHEREAS, growth and population increases, the protection of the public health, safety and welfare, and the need to protect the existing and future property values, development and economic interests of the City and its citizens, require provisions be made for nonconforming uses within the City.

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

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

Section 2. Amendment of Chapter 11, Sec. 11-162, Sec. 11-175, Sec. 11-176 & Sec. 11-177. The City Council hereby amends Chapter 11, Business Regulations of the Kyle Code of Ordinances (the “Food Truck Ordinance”) in its entirety to read as follows:

Sec. 11-162. – Definitions

Food truck means an operational motor vehicle and/or trailer from which food and associated non-alcoholic beverages which are not typically tied to a single season of the year, are prepared, served and sold on private property for a period of time which exceeds 60 minutes or two instances of 30 minutes each day. This definition shall also apply to any seating, garbage and/or recycling containers, gear or equipment that is associated with the food truck's operation.

Food truck court means a property used or developed to accommodate one or more food trucks as the primary use of the property while possibly accommodating areas on the property for entertainment or recreational opportunities. Food truck courts must have a valid certificate of occupancy in addition to all other applicable permits and inspections.

Operation site means the geographic area, not located within a food truck court, within which the food truck will park, prepare, and sell food and/or associated non-alcoholic beverages. This also includes areas where the food truck's customers go to consume food and/or non-alcoholic beverages sold from the food truck. The sale of merchandise other than food and non-alcoholic beverages shall not be permitted. Operation sites must have a valid food truck temporary site permit in addition to all other applicable permits and inspections.

Sec. 11-175. - Required Plans, Permits & Inspections.

- (a) *Certificate of occupancy (food truck courts only)*. Each food truck court shall be required to receive a certificate of occupancy from the chief building official or their designee subsequent to the approval of a specific use permit and corresponding site plan. As part of the request for a certificate of occupancy, the following information, at a minimum, shall be provided:
- (1) The name and address of the owner and/or operator;
 - (2) A description of the owner and/or operator;
 - (3) If the applicant represents a corporation, association, partnership or any other business entity, the names and addresses of the officers, partners or principals;
 - (4) The address and name under which the mobile food court will be operated; and
 - (5) Any other information reasonably required by the building official to document the use and operation of the food truck court.
- (b) *Food truck temporary site permit (for an operation site)*.
- (1) Except as part of a food truck court, the owner or the owner's authorized representative of a property containing an operation site where a food truck may be located from time to time must apply for a food truck temporary site permit from the building department prior to allowing a food truck to operate on their property. The permit application, which shall be verified in the same manner as required for a deed, shall include information that details where the food truck will be located on the property along with the location of any refuse receptacle(s), restroom(s), vehicle parking, dining area(s), and any other pertinent information regarding the operation of the food truck on and about the operation site. As part of the permit application, any necessary authorization letters from adjacent property owners and businesses shall be provided. Authorization letters that limit the allowance of food trucks to a specific type or style of food will not be accepted. Any additional information as may be deemed necessary by the chief building official to thoroughly review the request shall also be submitted as part of the permit application.
 - (2) A food truck temporary site permit (i.e mobile food permit) for an operation site issued by the building department shall only remain valid for a maximum of twelve (12) months from the date the permit is issued.
 - (3) A food truck temporary site permit may accommodate any licensed food truck vendor that the property owner/temporary site permit holder deems acceptable for an operation site.
- (c) *Food truck log*. Each food truck operator shall maintain a log that contains each date of servicing and the signature of the commissary operator certifying that servicing occurred at the commissary. In lieu of a log, receipts showing the type of purchases, date and time of purchases, and the location of the commissary where purchases were made may be accepted in lieu of a

food truck log. The food truck log or receipts shall be made available to city personnel for inspection upon request.

- (d) *Food truck vendor permit.* All food trucks shall be required to register and obtain all applicable permits from the Building Department prior to operation. Food truck permits shall remain valid for a maximum of three (3) years from the date the permit is issued.
- (e) *Health permit.* All food trucks must obtain a permit from the county health department prior to operating at a food truck court.
- (f) *Inspections.* Food truck courts, operation sites and food trucks may be inspected from time to time by appropriate city personnel. Food truck courts, operation sites and food trucks shall immediately be made available for inspection upon request of such city personnel.
- (g) *Other permits required.* Food trucks shall be responsible for identifying and obtaining all applicable permits and shall be responsible for conforming to all applicable city, county, state and federal regulations. Property owners shall be responsible for ensuring that any food truck which operates as part of the food truck court or a temporary site permit for an operation site obtains all necessary permits prior to operation and conforms to all applicable city, county, state and federal regulations.
- (h) *Safety.* The building official, fire marshal and/or the planning department shall have the authority to require that additional safety measures be provided at a food truck court, operation site or food truck to ensure the health, safety, and welfare of the general public. These additional safety measures may include, but are not limited to, limitations governing the provision of utilities (water, wastewater, electricity, gas, etc.) to the food truck, providing fire extinguisher(s), and adding limitations to the use of deep fat fryers or flat top grills in specific instances.
- (i) *Site plan required (food truck court only).* A site plan as specified in section 32-42 of the Code of Ordinances shall be required to be submitted and approved prior to the issuance of any permits for a food truck court.
- (j) *Items to be sold.*
 - a. A person operating a mobile food establishment may only sell a food item described in the permit;
 - b. A person operating a mobile food establishment may not sell a non-food item.
- (k) *Prohibited vending.*
 - a. Tobacco products;
 - b. Alcoholic products;
 - c. Sexually explicit and/or drug-related paraphernalia;
 - d. Real estate transactions and vacation packages;
 - e. Marketing and advertising activities;
 - f. Tickets for events;
 - g. Other services or products not approved by the city prior to issuance of the permit;

h. No vending is permitted in such a manner as to impede pedestrian traffic along the right-of-way/pathway;

i. No vending is permitted in such a manner as to impede vehicular traffic around the mobile food kitchen.

Sec. 11-176. - Acceptable Locations.

(a) *Food truck courts.*

(1) Food truck courts shall be a permitted land use in the following zoning districts of the city:

- a. "RS" Retail Services
- b. "CBD-1" and "CBD-2" Central Business Districts
- c. "E" Entertainment District

(2) Food truck courts may have a maximum of (1) food truck per (2,000) sq. ft.

- d. Food trucks must be located a minimum of 20 feet from any permanent structure.
- e. Each food truck pad site within the food truck court must fully contain the food truck and any equipment necessary for its operation.
- f. There shall be a minimum of 10 feet between each food truck pad site.

(b) *Food truck operation sites.*

(1) Subsequent to all permits being issued, operation sites for food trucks must meet the following criteria:

b. A maximum of 1 food trucks shall be permitted per 2,000 sq. ft.

- a. Food trucks shall not be allowed to engage in sales operations within 100 feet of any property used for single family or duplex residential purposes. This distance may be eliminated if unanimous written consent from each property owner located within the 100 foot buffer is provided.
- b. The food truck must be located at least 20 feet from any permanent structure on the site.
- c. If more than one food truck is located on a site, there must be a minimum of 10 feet between each food truck.
- d. The serving window may face into property;
- e. The serving window may face onto public ROW if an ADA compliant sidewalk is available. Customers must leave sufficient room for ADA accessibility and the sidewalk must be at least 6' wide;
- f. A food truck may use public parking with City permission; however, the vendor must not utilize the area as a drive thru. Temporary barriers are required to delineate the space between the vendor and the street;

(c) Food trucks and their customers shall be prohibited from utilizing the public rights-of-ways for food sales, preparation and/or consumption.

(d) Food trucks courts and operation sites shall only be permitted on private property.

(e) All portions of a food truck and its associated operation site shall be located within 150 feet, as determined by the fire marshal, of a dedicated fire lane easement or a public street.

- (f) Food trucks must be parked, situated and operated in a manner that does not restrict orderly and/or safe vehicular and/or pedestrian movements.
- (g) All food trucks participating in a food truck court shall remain fully mobile and operational unless a commissary is provided on site and said food trucks are authorized to utilize the on-site commissary.
- (h) Food trucks shall report to their designated commissary as required per the county health code for food, supplies, cleaning and servicing.

(i) *Prohibited vending.*

- 1. Tobacco products;
- 2. Alcoholic products;
- 3. Sexually explicit and/or drug related paraphernalia;
- 4. Real estate transactions and vacation packages;
- 5. Marketing and Advertising activities;
- 6. Tickets for off-site events;
- 7. Other services or products not approved by the city prior to issuance of the permit;
- 8. No vending is permitted in such a manner as to impede vehicle or pedestrian traffic along any right-of-way/pathway;
- 9. No vending is permitted in such a manner as to impede vehicular traffic around the use.

(j) Hours of operation.

(1) *Food truck courts.*

(a) Food truck courts shall only be allowed to engage in sales operations between the hours of 7:00 am to 12:00 am. If a food truck court is within 300-feet of residential zoning or uses, the food truck court must be closed to the public by 10:00 pm.

(2) *Food truck operation sites.*

(a) Food trucks shall only be allowed to engage in sales operations between the hours of 8:00 am and 10:00 pm.

(k) Noise.

(1) Food truck courts and operation sites shall be subject to the noise requirements of their designated zoning districts and/or the City's noise ordinance

(2) No amplified sound shall be permitted after 10:00 p.m.

(l) Refuse, recycling, litter and food preparation byproducts.

(2) *Food truck courts.*

(a) Food truck courts shall provide containers of sufficient size and number for the disposal of refuse resulting from the food truck court's operation and sales. The containers shall be identified as being for the disposal of refuse.

(2) *Food truck operation sites.*

(a) Food trucks shall provide, on or within 20 feet of the food truck, containers of sufficient size and number for the disposal of refuse resulting from the food truck's operation and sales. The containers shall be identified as being for the disposal of refuse.

(3) City-provided refuse and recycling containers shall not be used for the food truck's or food truck court's refuse and/or recycling needs unless written authorization has first been obtained from the city for such use.

(4) Any refuse, recycling and/or litter on the ground at the food truck court or operation site shall be immediately picked up and discarded appropriately by the food truck operator or the food truck court's on-site manager. Refuse and/or recycling must be removed from the operation site or food truck court at least daily or more frequently as needed to remove excess refuse and/or recycling from the property thereby avoiding the creation of an unsanitary or unhealthy condition or nuisance.

(5) Greases, oils, vapors and other similar food preparation byproducts shall be kept inside the food truck at all times. Dumping, or the improper disposal, of food preparation byproducts onto the ground, pavement or other surface or into a stormwater collection system or other system not designed for that specific use is strictly prohibited and may result in the immediate revocation of all permits and licenses of the food truck, food truck court, and/or operation site in addition to the performance of any necessary remediation and the issuance of citations and fines.

(6) Sewage, liquid wastes and food preparation byproducts shall be removed from a food truck at an approved waste servicing area in such a way that a public health hazard or nuisance is not created.

(m) Signage.

All signage pertaining to or advertising a food truck and/or its menu shall be attached to the food truck. There shall be no limit to the amount of signage that is allowed on a food truck while the food truck is parked at a food truck court or operation site. A food truck shall not be outfitted with a "changeable electronic variable message sign" or any manner of "prohibited signage" as defined and/or set forth in chapter 29 (signs) of the Code of Ordinances. Signage for the food truck court shall be permitted as outlined in chapter 29 (signs) of the Code of Ordinances. Signage containing profanity or lewd or obscene images shall be prohibited.

(n) Off-street vehicle parking.

(1) *Food truck courts.*

(2) One off-street vehicle parking space shall be required for every 4 seats for customers. Each food truck pad site must provide a minimum of 8 customer seats. The minimum number of required customer parking spaces may be reduced by the planning and zoning commission as part of the site plan approval process should the commission find that the full provision of required parking may not be necessary.

(2) *Food truck operation sites.*

(a) One off-street vehicle parking space shall be required for each table that is provided for use by food truck customers. If no tables are provided, no off-street vehicle parking shall be required. Parking that is provided for food truck customers may not also be used to satisfy the

minimum parking requirements of another land use. Any customer parking that is provided must be finished with concrete or asphaltic surface materials.

(3) Food truck courts and operation sites must feature an area of sufficient size that is finished with a compacted gravel base, concrete or asphaltic surface materials on which any food trucks may park and operate. Customer parking must be finished with concrete or asphaltic surface materials.

(o) Restrooms required.

(1) *Food truck courts.*

(a) Permanent restrooms located within a permitted building or structure must be provided on-site within the food truck court for the use of the food trucks' and the food truck court's customers, operators and employees. The minimum number and type of restrooms shall be determined based on the occupant load of the food truck court. Such restroom(s) must remain open and available for use at all times during which the food truck court is being used. No portable or temporary restrooms shall be allowed.

(2) *Food truck operation sites.*

(a) Restrooms for each sex, or a gender neutral restroom(s), located within a permanent building that has been issued a valid certificate of occupancy shall be provided for the use of the food truck's customers, operators and employees. Such restroom(s) must remain open and available for use at all times during which the food truck is situated on the operation site. Portable restrooms are allowed, through a waiver request approved by city staff. See examples of portable restrooms to be considered.

(p) Utility services required at food truck courts.

Each site at the food truck court on which a food truck will be located and operated shall be provided hookups for electricity and potable water. Food trucks are not allowed to tie into the applicable wastewater system. Each individual food truck is not permitted to operate a generator at the site unless emergency circumstances necessitate the need for the use of a generator on a temporary basis not to exceed two hours within any given six hour period of time.

Sec. 11-177. - Exceptions.

(a) These regulations shall not apply to food trucks that operate:

(1) At a special event that is properly licensed pursuant to a special event permit issued by the city, provided that the food truck is identified in the special event permit application as a participating concessionaire or caterer; or

(2) As a vendor at a properly permitted farmers' market for which the food truck has rented space from the farmers' market and/or its organizer(s); or

(3) On public property including, but not limited to a public park, public library, recreation or aquatics center, or performing art center at the request of and with the express written permission of the property owner.

(4) City staff has the authority to waive any portion of the code relating to food trucks, however, such waivers may not endanger the health or welfare of the general public.

Section 3. Construction. The terms and provisions of this Ordinance shall not be construed in a manner to conflict with Chapter 211 of the Texas Local Government Code and if any term or provision of this Ordinance shall appear to conflict with any term, provision or condition of Chapter 211, such Ordinance term or provision shall be read, interpreted and construed in a manner consistent with and not in conflict with such Chapter, and, if possible, in a manner to give effect to both. The standard and accepted rules of statutory construction shall govern in construing the terms and provisions of this Ordinance.

Section 4. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances governing zoning in force when the provisions of this Ordinance become effective which are inconsistent with or in conflict with the terms and provisions contained herein are amended only to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the city, the terms and provisions of this ordinance shall govern.

Section 5. Effective Date. This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Tex. Loc. Gov't. Code and the City Charter.

Section 6. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 7. 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 the ____ day of _____, 2022.

ATTEST:

CITY OF KYLE, TEXAS

Jennifer Holm, City Secretary

Travis Mitchell Mayor

Sec. 11-162. – Definitions

Food truck means an operational motor vehicle and/or trailer from which food and associated non-alcoholic beverages which are not typically tied to a single season of the year, are prepared, served and sold on private property for a period of time which exceeds 60 minutes or two instances of 30 minutes each day. This definition shall also apply to any seating, garbage and/or recycling containers, gear or equipment that is associated with the food truck's operation.

Food truck court means a property used or developed to accommodate one or more food trucks as the primary use of the property while possibly accommodating areas on the property for entertainment or recreational opportunities. Food truck courts must have a valid certificate of occupancy in addition to all other applicable permits and inspections.

Operation site means the geographic area, not located within a food truck court, within which the food truck will park, prepare, and sell food and/or associated non-alcoholic beverages. This also includes areas where the food truck's customers go to consume food and/or non-alcoholic beverages sold from the food truck. The sale of merchandise other than food and non-alcoholic beverages shall not be permitted. Operation sites must have a valid food truck temporary site permit in addition to all other applicable permits and inspections.

Sec. 11-175. - ~~Mobile food vendors~~ Required Plans, Permits & Inspections.

~~It shall be unlawful for mobile food vendors to operate within the city limits, without having first applied for and obtained a permit from the City Building Department as provided for in this section. It shall be unlawful for a mobile food vendor permit holder to fail to comply with any condition of such permit.~~

~~(1) — *Permit requirements.* To receive and hold a permit for a mobile food vendor operation, the applicant/permittee must meet each of the following minimum requirements:~~

~~a. Meet all requirements set forth by section 11-165 of this Code.~~

~~b. Be at least 18 years of age.~~

~~c. Be a citizen of the United States.~~

~~d. Licensed by the state of Texas to operate a vehicle.~~

~~e. Will have submitted a sworn statement that the driver has not been finally convicted within the past seven years of a felony or the following offenses involving moral turpitude:~~

~~1. Prostitution or related offenses;~~

~~2. Driving while intoxicated;~~

~~3. Driving while under the influence of drugs;~~

~~4. Violations of the Controlled Substance Act;~~

~~5. Rape, murder, attempted murder, aggravated assault;~~

~~6. Theft offenses of a class B misdemeanor or higher.~~

~~f. Meet all state and local laws and regulations applicable to mobile food vendors and food establishments, including but not limited to 25 Texas Administrative Code 229, Subchapter K, as amended (the "food establishment rules" or the "rules").~~

~~g. In addition, where not in conflict with the food establishment rules, comply with the following:~~

~~1. All foods must be from an approved source and bear a label demonstrating that they are from an approved source.~~

~~2. Mobile units must operate from an approved commissary. A residential home commissary is not allowed. The commissary shall comply with all food establishment rules, and hold current licenses and permits as required by the rules. The mobile unit shall return to that commissary for weekly replenishing of supplies, and servicing of the mobile unit. If the commissary is located outside the city, valid copies of the commissary's current licenses and permits issued under the food establishment rules and most recent health inspection report must be kept on file with the City.~~

~~3. Only single service/use items are allowed (i.e. styrofoam, plastic or paper).~~

~~4. Plumbing. Mobile food vendors may not connect to the city water or wastewater system except at an approved commissary or other facility approved by the city for such purposes.~~

~~5. The mobile food vendor must operate out of a clean and enclosed unit or vehicle.~~

~~6. The mobile food vendors unit or vehicle must be equipped with the following:~~

~~i. Self-contained pressurized (by pump) hot and cold potable water system.~~

~~ii. A hand washing sink (equipped with soap and paper towels).~~

~~iii. A three-compartment ware wash sink (must have capacity for largest piece of ware/equipment).~~

~~iv. A permanently installed wastewater holding tank (15 percent greater in size than potable water capacity).~~

~~v. Covered trash receptacles.~~

~~vi. Thermometers (cold hold, hot hold and stem type for cooked food).~~

~~vii. Smooth, easily cleanable, and nonabsorbent surfaces.~~

~~7. Mobile food vendors shall properly sanitize all food contact surfaces.~~

~~8. All employees must have a valid food handler's training certificate.~~

~~9. All mobile food vendors must provide the city with a copy of Texas sales tax certificate.~~

~~10. If a mobile food vendor unit or vehicle is not commercially designed, the applicant must submit a floor plan drawn to scale that includes the location and identification of all equipment, plumbing fixtures and storage areas to the city building department. Additionally, a site plan must be submitted to the city building department for review with the application for permit. A site plan should include the following:~~

~~i. Setbacks from structures and property lines;~~

~~ii. Electrical service or supply to the mobile food establishment.~~

~~11. Mobile food vendors must complete a commissary certification letter.~~

~~12. All mobile food vendors may not remain longer than four hours at any one location.~~

~~h. Visibly display the City of Kyle permit number on the top left rear of the vehicle in vinyl, or other temporary lettering, no less than two inches in height before vehicle is put into operation under any permit.~~

~~i. Make a deposit of funds as provided for in appendix A of this Code which shall be returned in full when the permittee chooses to non-renew their mobile food vendor permit in writing, except when forfeited as provided below.~~

~~1. The deposit shall be forfeited for the following reasons:~~

~~i. Any violation of this code.~~

~~ii. Any violation of food establishment rules or an applicable regulation of the Texas Health and Human Services Commission, or successor agency, or any other state laws, rules, or regulations dealing with food, beverage, or health and human services.~~

~~iii. Operating as a mobile food vendor with an expired permit.~~

~~2. Should the deposit be forfeited for any reason, a new deposit and any permit fees will be required before any new application for a permit under this section to be considered.~~

~~(2) Permit revocation.~~

~~a. Compliance with subsection (2) of this section shall be a condition of the mobile food vendor permit. If the permittee fails to comply with a subsection (2), then the mobile food vendor permit may be revoked.~~

~~b. If a mobile food vendor permit is revoked, any deposits and fees paid to the city will be forfeited.~~

~~c. The former permittee may appeal the revocation of a mobile food vendor permit by submitting a written request for appeal to the city secretary within ten days of receiving the notice of revocation. The city manager will hold a hearing within a reasonable time of receipt of the appeal, but no later than 30 days after receipt, at which the former permittee will have an opportunity to explain why the permit should not be revoked. The city manager shall issue his decision within 30 days of the date of the hearing. The city manager's decision shall be final.~~

~~(3) Permit renewal and fees.~~

~~a. Mobile food vendor permits expire after 12 months from the date in which they were issued and must be renewed annually. A permittee's violation of this Code, the food establishment rules, or any applicable Texas state law, rule or regulation shall be grounds for denial of a permit. Denial of a permit may be appealed pursuant to the procedure for appealing revocation of permits.~~

~~b. Fees for the mobile food vendor—hot and mobile food vendor—cold are provided for in appendix A of this Code and payable in advance. Where both hot and cold food are offered, only one permit is required, and the permit for hot food will prevail. Permits will not be prorated, though the permittee may choose which calendar quarter during which the permit will be valid.~~

(a) Certificate of occupancy (food truck courts only). Each food truck court shall be required to receive a certificate of occupancy from the chief building official or their designee subsequent to the approval of a specific use permit and corresponding site plan. As part of the request for a certificate of occupancy, the following information, at a minimum, shall be provided:

- (1) The name and address of the owner and/or operator;
- (2) A description of the owner and/or operator;
- (3) If the applicant represents a corporation, association, partnership or any other business entity, the names and addresses of the officers, partners or principals;
- (4) The address and name under which the mobile food court will be operated; and
- (5) Any other information reasonably required by the building official to document the use and operation of the food truck court.

(b) Food truck temporary site permit (for an operation site).

- (1) Except as part of a food truck court, the owner or the owner's authorized representative of a property containing an operation site where a food truck may be located from time to time must apply for a food truck temporary site permit from the building department prior to allowing a food truck to operate on their property. The permit application, which shall be verified in the same manner as required for a deed, shall include information that details where the food truck will be located on the property along with the location of any refuse receptacle(s), restroom(s), vehicle parking, dining area(s), and any other pertinent

information regarding the operation of the food truck on and about the operation site. As part of the permit application, any necessary authorization letters from adjacent property owners and businesses shall be provided. Authorization letters that limit the allowance of food trucks to a specific type or style of food will not be accepted. Any additional information as may be deemed necessary by the chief building official to thoroughly review the request shall also be submitted as part of the permit application.

- (2) A food truck temporary site permit (i.e mobile food permit) for an operation site issued by the building department shall only remain valid for a maximum of twelve (12) months from the date the permit is issued.
- (3) A food truck temporary site permit may accommodate any licensed food truck vendor that the property owner/temporary site permit holder deems acceptable for an operation site.
- (c) Food truck log. Each food truck operator shall maintain a log that contains each date of servicing and the signature of the commissary operator certifying that servicing occurred at the commissary. In lieu of a log, receipts showing the type of purchases, date and time of purchases, and the location of the commissary where purchases were made may be accepted in lieu of a food truck log. The food truck log or receipts shall be made available to city personnel for inspection upon request.
- (d) Food truck vendor permit. All food trucks shall be required to register and obtain all applicable permits from the Building Department prior to operation. Food truck permits shall remain valid for a maximum of three (3) years from the date the permit is issued.
- (e) Health permit. All food trucks must obtain a permit from the county health department prior to operating at a food truck court.
- (f) Inspections. Food truck courts, operation sites and food trucks may be inspected from time to time by appropriate city personnel. Food truck courts, operation sites and food trucks shall immediately be made available for inspection upon request of such city personnel.
- (g) Other permits required. Food trucks shall be responsible for identifying and obtaining all applicable permits and shall be responsible for conforming to all applicable city, county, state and federal regulations. Property owners shall be responsible for ensuring that any food truck which operates as part of the food truck court or a temporary site permit for an operation site obtains all necessary permits prior to operation and conforms to all applicable city, county, state and federal regulations.
- (h) Safety. The building official, fire marshal and/or the planning department shall have the authority to require that additional safety measures be provided at a food truck court, operation site or food truck to ensure the health, safety, and welfare of the general public. These additional safety measures may include, but are not limited to, limitations governing the provision of utilities (water, wastewater, electricity, gas, etc.) to the food truck, providing fire extinguisher(s), and adding limitations to the use of deep fat fryers or flat top grills in specific instances.
- (i) Site plan required (food truck court only). A site plan as specified in section 32-42 of the Code of Ordinances shall be required to be submitted and approved prior to the issuance of any permits for a food truck court.

(4) *Items to be sold.*

- a. A person operating a mobile food establishment may only sell a food item described in the permit;
- b. A person operating a mobile food establishment may not sell a non-food item.

(5k) *Prohibited vending.*

- a. Tobacco products;
- b. Alcoholic products;
- c. Sexually explicit and/or drug-related paraphernalia;
- d. Real estate transactions and vacation packages;
- e. Marketing and advertising activities;
- f. Tickets for events;
- g. Other services or products not approved by the city prior to issuance of the permit;
- h. No vending is permitted in such a manner as to impede pedestrian traffic along the right-of-way/pathway;
- i. No vending is permitted in such a manner as to impede vehicular traffic around the mobile food kitchen.

Sec. 11-176. - ~~Temporary food vendors~~ Acceptable Locations.

~~It shall be unlawful for temporary food vendors to operate within the city limits, without having first applied for and obtained a permit from the city building department as provided for in this section. It shall be unlawful for a temporary food vendor permit holder to fail to comply with any condition of such permit.~~

~~(1) — *Permit requirements.* To receive and hold a permit for a temporary food vendor operation, the applicant/permittee must meet each of the following minimum requirements:~~

~~a. Meet all requirements set forth by section 11-166 of this Code.~~

~~b. Be at least 18 years of age.~~

~~c. Be a citizen of the United States.~~

~~d. Submitted a sworn statement that no operator or employee has been finally convicted within the past seven years of a felony or the following offenses involving moral turpitude:~~

~~1. Prostitution or related offenses;~~

~~2. Driving while intoxicated;~~

~~3. Driving while under the influence of drugs;~~

~~4. Violations of the Controlled Substance Act;~~

~~5. Rape, murder, attempted murder, aggravated assault;~~

~~6. Theft offenses of a class B misdemeanor or higher.~~

~~e. Meet all state and local laws and regulations applicable to mobile food vendors and food establishments, including but not limited to the food establishment rules.~~

~~f. In addition, where not in conflict with the food establishment rules, comply with the following:~~

~~1. All foods must be from an approved source and bear a label demonstrating that they are from an approved source.~~

~~2. Temporary food vendors hot must operate from an approved commissary; a residential home commissary is not allowed. The commissary shall comply with all Texas Food Establishment Rules and hold current licenses and permits as required by the rules. The mobile unit shall return to that commissary for replenishing of supplies, and servicing of the mobile unit. If the commissary is located outside of the city limits, valid copies of the commissary's current licenses and permits issued under the food establishment rules and the most recent health inspection report must be kept on file with the city.~~

~~The commissary servicing a mobile food vending unit must have the following facilities in addition to the licensed kitchen:~~

- ~~i. **Overhead** protection for supplying, cleaning, and servicing the mobile unit;~~
- ~~ii. Areas for flushing and cleaning liquid waste storage facility on mobile unit that is separate from water servicing area;~~
- ~~iii. Surface of servicing area is constructed of smooth, nonabsorbent material;~~
- ~~iv. Time/date device to record when a mobile vending unit is serviced.~~

~~3. Temporary food vendors must complete a commissary certification letter.~~

~~4. Temporary food vendors cold and vendors offering only shaved ice or prepackaged frozen treats are exempt from commissary requirements so long as there is no history of violations of this Code.~~

~~5. Only single service/use items are allowed (i.e. styrofoam, plastic or paper).~~

~~6. The temporary food vendor shall properly sanitize all food contact surfaces.~~

~~7. All employees must have a valid food handler's training certificate.~~

~~8. If a temporary food vendor unit or vehicle is not commercially designed, then a plan or drawing showing the layout of the mobile unit must be submitted to the city building department for review with the application for permit. Additionally, a site plan must be submitted.~~

~~i. A site plan should include:~~

~~A. Setbacks from structures and property lines;~~

~~B. Electrical service or supply to the mobile food establishment;~~

~~C. Water connection or supply (if included);~~

~~D. Outside equipment or accessories.~~

~~ii. A floor plan should include:~~

~~A. All mechanical equipment;~~

~~B. Sinks and drains;~~

~~C. Cooking appliances;~~

~~D. Storage of hazardous materials/fuel supplies;~~

~~E. Cold storage/ice machines;~~

~~F. Hot holding (storage);~~

~~G. Potable water holding tank and size (volume);~~

~~H. Wastewater holding tank.~~

~~9. The temporary food vendor must operate out of a clean and enclosed unit/vehicle;~~

~~10. The temporary food unit or vehicle must be equipped with the following:~~

~~i. Covered trash receptacles.~~

~~ii. Smooth, easily cleanable, and nonabsorbent surfaces.~~

~~iii. Thermometers (cold hold, hot hold and stem type for cooked foods).~~

~~iv. Trash receptacle for customers.~~

~~g. Temporary food vendors are permitted in "RS" retail services, "CBD-1" and "CBD-2" central business districts and "E" entertainment zoning districts only, where each of the following conditions are met:~~

~~1. The temporary food vendor is or will be located on private property where an existing, permanent business operates in a building with a certificate of~~

~~occupancy at all times while the temporary food vendor occupies the property.~~

~~2. Temporary connections to **utilities** such as potable water and city sewer are prohibited. Water shall be obtained from an internal source tank. Wastewater shall be handled with an internal tank which may not be emptied into the city sewer system. Electricity shall be used from a generator or an electrical outlet via a portable cord that is in conformance with the National Electrical Code as adopted by the city, including amendments thereto.~~

~~3. The temporary food vendor is located no closer than 50 feet from thoroughfares.~~

~~4. A drivethrough is not **utilized** in conjunction with the temporary food vendor.~~

~~5. Except in the CBD-2 zoning district, temporary food vendors may not be located within 150 feet of another temporary food vendor on the same lot, except that two temporary food vendors may cluster (be within 150 feet of each other on the same lot) but the buffer then becomes 300 feet for any other temporary food vendors;~~

~~6. Except in the CBD-2 zoning district, the temporary food vendor shall be located no closer than 150 feet from a property used or zoned for residential purposes.~~

~~h. Temporary food vendors may operate only during the hours allowed by the zoning district they are located in so long as restroom access is still available.~~

~~i. A temporary food vendor may not remain on a particular property for a period of time that exceeds 12 months.~~

~~j. The temporary food vendor may not use amplifiers, loudspeakers, musical instruments or any other devices for the production of sound.~~

~~k. Tables, chairs and ice chests are permitted for customers/employees use, but no visible storage outside of the food unit is accepted and anything stored underneath the trailer must be screened from view. Food establishments with outdoor seating cannot use required minimum parking area(s) for operating businesses.~~

~~l. Dogs are permitted at the site but are required to be on leashes and watched over by their owners.~~

~~m. Every temporary food vendor must visibly display the approved permit issued by the city.~~

~~n.1. Owners are permitted one temporary sign attached to the cart for public display. The temporary sign:~~

~~i. Cannot measure larger than 16 square feet;~~

~~ii. Cannot extend more than nine feet above grade;~~

~~iii. Must be constructed from durable materials intended to be used as a temporary sign; and~~

~~iv. Must be securely affixed, either independently or via poles, to the unit.~~

~~2. Additionally, one "sandwich board" of no more than 12 square feet per facade (24 square feet total) is permitted during business hours only, but must be removed and stored away from public view daily.~~

~~e. Temporary food vendors must submit with the permit application written authorization or other suitable documentation showing that the owner of the property consents to the temporary food vendor operating on said property.~~

~~p. A temporary food vendor shall submit a site map depicting the location of the temporary food vendor on the property, shall secure a health permit from the county, and a permit from building inspections prior to the operation of such use.~~

~~q. The operator of the temporary food vendor operation shall possess a valid Texas sales and use tax permit.~~

~~(2) Prohibited vending.~~

~~a. Tobacco products;~~

~~b. Alcoholic products;~~

~~c. Sexually explicit and/or drug related paraphernalia;~~

~~d. Real estate transactions and vacation packages;~~

~~e. Marketing and Advertising activities;~~

~~f. Tickets for off-site events;~~

~~g. Other services or products not approved by the city prior to issuance of the permit;~~

~~h. No vending is permitted in such a manner as to impede vehicle or pedestrian traffic along any right-of-way/pathway;~~

~~i. No vending is permitted in such a manner as to impede vehicular traffic around the use.~~

~~(3) Permit revocation.~~

~~a. Compliance with subsection (2) of this section shall be a condition of the temporary food vendor permit. If the permittee fails to comply with subsection (2), then the temporary food vendor permit may be revoked.~~

~~b. If a temporary food vendor permit is revoked, any deposits and fees paid to the city will be forfeited.~~

~~c. The former permittee may appeal the revocation of a temporary food vendor permit by submitting a written request for appeal to the city secretary within ten days of receiving the notice of revocation. The city manager will hold a hearing within a reasonable time of receipt of the appeal, but no later than 30 days after receipt, at which the former permittee will have an opportunity to explain why the permit should not be revoked. The city manager shall issue his decision within 30 days of the date of the hearing. The city manager's decision shall be final.~~

~~(4) Permit renewal and fees.~~

~~a. Temporary food vendor permits expire a year from the date on which they were issued and must be renewed annually. A permittee's violation of this code, the food establishment rules, or any applicable Texas state law, shall be grounds for denial of a permit. Denial of a permit may be appealed pursuant to the procedure for appealing revocation of permits.~~

~~b. Fees for the temporary food vendor—hot and temporary food vendor—cold are provided for in appendix A of this Code and payable in advance. Where both hot and cold food are offered, only one permit is required, and the permit for hot food will prevail. Permits will not be prorated, though the permittee may choose which calendar month during which the permit will be valid.~~

(a) Food truck courts.

(1) Food truck courts shall be a permitted land use in the following zoning districts of the city:

- a. "RS" Retail Services
- b. "CBD-1" and "CBD-2" Central Business Districts
- c. "E" Entertainment District

(2) Food truck courts may have a maximum of (1) food truck per (2,000) sq. ft.

- d. Food trucks must be located a minimum of 20 feet from any permanent structure.
- e. Each food truck pad site within the food truck court must fully contain the food truck and any equipment necessary for its operation.
- f. There shall be a minimum of 10 feet between each food truck pad site.

(b) Food truck operation sites.

(1) Subsequent to all permits being issued, operation sites for food trucks must meet the following criteria:

- b. A maximum of 1 food trucks shall be permitted per 2,000 sq. ft.
 - a. Food trucks shall not be allowed to engage in sales operations within 100 feet of any property used for single family or duplex residential purposes. This distance may be eliminated if unanimous written consent from each property owner located within the 100 foot buffer is provided.
 - b. The food truck must be located at least 20 feet from any permanent structure on the site.

- c. If more than one food truck is located on a site, there must be a minimum of 10 feet between each food truck.
- d. The serving window may face into property;
- e. The serving window may face onto public ROW if an ADA compliant sidewalk is available. Customers must leave sufficient room for ADA accessibility and the sidewalk must be at least 6' wide;
- f. A food truck may use public parking with City permission; however, the vendor must not utilize the area as a drive thru. Temporary barriers are required to delineate the space between the vendor and the street;

(c) Food trucks and their customers shall be prohibited from utilizing the public rights-of-ways for food sales, preparation and/or consumption.

(d) Food trucks courts and operation sites shall only be permitted on private property.

(e) All portions of a food truck and its associated operation site shall be located within 150 feet, as determined by the fire marshal, of a dedicated fire lane easement or a public street.

(f) Food trucks must be parked, situated and operated in a manner that does not restrict orderly and/or safe vehicular and/or pedestrian movements.

(g) All food trucks participating in a food truck court shall remain fully mobile and operational unless a commissary is provided on site and said food trucks are authorized to utilize the on-site commissary.

(h) Food trucks shall report to their designated commissary as required per the county health code for food, supplies, cleaning and servicing.

(i) Prohibited vending.

1. Tobacco products;

2. Alcoholic products;

3. Sexually explicit and/or drug related paraphernalia;

4. Real estate transactions and vacation packages;

5. Marketing and Advertising activities;

6. Tickets for off-site events;

7. Other services or products not approved by the city prior to issuance of the permit;

8. No vending is permitted in such a manner as to impede vehicle or pedestrian traffic along any right-of-way/pathway;

9. No vending is permitted in such a manner as to impede vehicular traffic around the use.

(j) Hours of operation.

(1) Food truck courts.

(a) Food truck courts shall only be allowed to engage in sales operations between the hours of 7:00 am to 12:00 am. If a food truck court is within 300-feet of residential zoning or uses, the food truck court must be closed to the public by 10:00 pm.

(2) *Food truck operation sites.*

(a) Food trucks shall only be allowed to engage in sales operations between the hours of 8:00 am and 10:00 pm.

(k) Noise.

(1) Food truck courts and operation sites shall be subject to the noise requirements of their designated zoning districts and/or the City's noise ordinance

(2) No amplified sound shall be permitted after 10:00 p.m.

(l) Refuse, recycling, litter and food preparation byproducts.

(2) *Food truck courts.*

(a) Food truck courts shall provide containers of sufficient size and number for the disposal of refuse resulting from the food truck court's operation and sales. The containers shall be identified as being for the disposal of refuse.

(2) *Food truck operation sites.*

(a) Food trucks shall provide, on or within 20 feet of the food truck, containers of sufficient size and number for the disposal of refuse resulting from the food truck's operation and sales. The containers shall be identified as being for the disposal of refuse.

(3) City-provided refuse and recycling containers shall not be used for the food truck's or food truck court's refuse and/or recycling needs unless written authorization has first been obtained from the city for such use.

(4) Any refuse, recycling and/or litter on the ground at the food truck court or operation site shall be immediately picked up and discarded appropriately by the food truck operator or the food truck court's on-site manager. Refuse and/or recycling must be removed from the operation site or food truck court at least daily or more frequently as needed to remove excess refuse and/or recycling from the property thereby avoiding the creation of an unsanitary or unhealthy condition or nuisance.

(5) Greases, oils, vapors and other similar food preparation byproducts shall be kept inside the food truck at all times. Dumping, or the improper disposal, of food preparation byproducts onto the ground, pavement or other surface or into a stormwater collection system or other system not designed for that specific use is strictly prohibited and may result in the immediate revocation of all permits and licenses of the food truck, food truck court, and/or operation site in addition to the performance of any necessary remediation and the issuance of citations and fines.

(6) Sewage, liquid wastes and food preparation byproducts shall be removed from a food truck at an approved waste servicing area in such a way that a public health hazard or nuisance is not created.

(m) Signage.

All signage pertaining to or advertising a food truck and/or its menu shall be attached to the food truck. There shall be no limit to the amount of signage that is allowed on a food truck while the food truck is parked at a food truck court or operation site. A food truck shall not be outfitted with a "changeable electronic variable message sign" or any manner of "prohibited signage" as defined and/or set forth in chapter 29 (signs) of the Code of Ordinances. Signage for the food truck court shall be permitted as

outlined in chapter 29 (signs) of the Code of Ordinances. Signage containing profanity or lewd or obscene images shall be prohibited.

(n) Off-street vehicle parking.

(1) *Food truck courts.*

(2) One off-street vehicle parking space shall be required for every 4 seats for customers. Each food truck pad site must provide a minimum of 8 customers seats. The minimum number of required customer parking spaces may be reduced by the planning and zoning commission as part of the site plan approval process should the commission find that the full provision of required parking may not be necessary.

(2) *Food truck operation sites.*

(a) One off-street vehicle parking space shall be required for each table that is provided for use by food truck customers. If no tables are provided, no off-street vehicle parking shall be required. Parking that is provided for food truck customers may not also be used to satisfy the minimum parking requirements of another land use. Any customer parking that is provided must be finished with concrete or asphaltic surface materials.

(3) Food truck courts and operation sites must feature an area of sufficient size that is finished with a compacted gravel base, concrete or asphaltic surface materials on which any food trucks may park and operate. Customer parking must be finished with concrete or asphaltic surface materials.

(o) Restrooms required.

(1) *Food truck courts.*

(a) Permanent restrooms located within a permitted building or structure must be provided on-site within the food truck court for the use of the food trucks' and the food truck court's customers, operators and employees. The minimum number and type of restrooms shall be determined based on the occupant load of the food truck court. Such restroom(s) must remain open and available for use at all times during which the food truck court is being used. No portable or temporary restrooms shall be allowed.

(2) *Food truck operation sites.*

(a) Restrooms for each sex, or a gender neutral restroom(s), located within a permanent building that has been issued a valid certificate of occupancy shall be provided for the use of the food truck's customers, operators and employees. Such restroom(s) must remain open and available for use at all times during which the food truck is situated on the operation site. Portable restrooms are allowed, through a waiver request approved by city staff. See examples of portable restrooms to be considered.

(p) Utility services required at food truck courts.

Each site at the food truck court on which a food truck will be located and operated shall be provided hookups for electricity and potable water. Food trucks are not allowed to tie into the applicable wastewater system. Each individual food truck is not permitted to operate a generator at the site unless emergency circumstances necessitate the need for the use of a generator on a temporary basis not to exceed two hours within any given six hour period of time.

Sec. 11-177. - **Food courts Exceptions.**

- ~~(a) Notwithstanding conflicting provisions located elsewhere within this article, on any recorded lot of greater than 20,000 square feet, located in a nonresidential district, a food court can be established. "Food court" for the purposes of this article is a dedicated and permanent facility at which mobile food vendors may set up and operate, in accordance with the terms and provisions of this article.~~
- ~~(b) Food courts must provide:~~
- ~~(1) Permanent pad sites for the locations of food vendors, with drive aisles of sufficient size and dimension to service the units with waste water servicing and install and remove the units in accordance with their temporary nature;~~
 - ~~(2) Dedicated potable water and electricity connections for each pad site;~~
 - ~~(3) Tables and chairs of sufficient number for patrons' use;~~
 - ~~(4) Permanent off-street parking availability (including inter-parcel parking agreements) of no fewer than four spaces per operating vendor except no such requirement in CBD-1 and CBD-2;~~
 - ~~(5) Permanent lavatory and hand-washing facilities of sufficient number as determined by the building official using the International Code Council's recommendations as a guide; and~~
 - ~~(6) Adequate permanent lighting (if operated after sunset) as determined by the building official, which shall also be compliant with the city's lighting ordinances.~~
- ~~(c) Food courts will provide front, side, and rear yard setbacks of 25 feet for all permanent and temporary structures, and landscape buffer yards of no less than 30 feet in depth along any property line adjacent to a property zoned or used for residential purposes.~~
- ~~(d) Signage will be displayed in accordance with 11-176(1)n.~~
- ~~(e) Vendor density will not exceed 12 units per acre.~~
- ~~(f) Permanent structures will meet all underlying district requirements for location, bulk and exterior materials.~~
- ~~(g) Permits to operate as a vendor at any food court will be issued in accordance with the terms and requirements of section 11-175, less and except directly conflicting provisions with operations in a food court circumstance.~~

(a) These regulations shall not apply to food trucks that operate:

- (1) At a special event that is properly licensed pursuant to a special event permit issued by the city, provided that the food truck is identified in the special event permit application as a participating concessionaire or caterer; or
- (2) As a vendor at a properly permitted farmers' market for which the food truck has rented space from the farmers' market and/or its organizer(s); or

- (3) On public property including, but not limited to a public park, public library, recreation or aquatics center, or performing art center at the request of and with the express written permission of the property owner.
- (4) City staff has the authority to waive any portion of the code relating to food trucks, however, such waivers may not endanger the health or welfare of the general public.



CITY OF KYLE, TEXAS

Plum Creek Phase 2, Section 10
Replat of Lot 7 (SUB-22-0270)

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: Approve Plum Creek Phase 2, Section 10 Replat of Lot 7 (SUB-22-0270) 42.04 acres; 2 commercial lots located at FM 1626 and Rikardson. ~ *Will Atkinson, Interim Director of Planning*

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

Other Information: See attached.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Memo
- Landowner Authorization Form
- Summary Letter
- Deed
- Franchise Tax Status Form
- Replat



CITY OF KYLE

Community Development Department

MEMORANDUM

TO: Mayor & Council

FROM: Will Atkinson – Interim Director of Planning

DATE: Tuesday, September 20, 2022

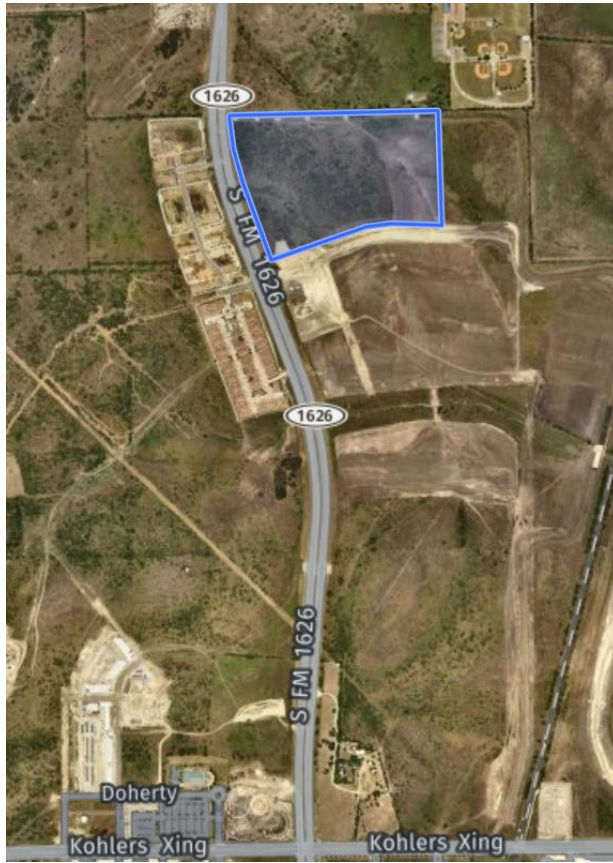
SUBJECT: Plum Creek Phase 2, Section 10 Replat of Lot 7 (SUB-22-0270)

REQUEST

The applicant (Anthony Ennis, P.E.) on behalf of Mountain Plum, Ltd. is requesting approval of the Plum Creek Phase 2, Section 10 Replat of Lot 7. Subdivision plats in the Plum Creek PUD must be approved by both the Planning & Zoning Commission and City Council.

NARRATIVE

The existing Lot 7 (42.04-Acres) will be subdivided into Lot 7A (36.23-Acres) and Lot 7B (5.81-Acres), per direction of the landowner (Mountain Plum, Ltd.). Lot 7 along with Lots 1-6 all have direct street access to the future Plum Creek Meadows, which is a street currently under construction per the approved subdivision. The subdivision is in Area 10 of Plum Creek which is zoned Plum Creek Employment. The replat has been reviewed by the Planning, Engineering & Public Works departments for compliance and received an approval vote (4-0) from the Planning & Zoning Commission on September 13, 2022.



Vicinity Map

RECOMMENDATION

Staff asks the Mayor & Council to approve the subdivision plat as it is compliant.

LANDOWNER AUTHORIZATION AND AFFIDAVIT OF OWNERSHIP

SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: Plum Creek Phase II Section 10 Lot 7
of lots (if subdivided): 2 # of acres: 42.04
Site APN/Property ID #(s): 109017
Location: 3251 1626, Kyle Texas County: Hays
Development Name: Plum Creek Section 10

OWNER Mountain Plum Ltd By: MCA Realty Advisors, its Development manager
Company/Applicant Name:
Authorized Company Representative (if company is owner): Megan Shannon
Type of Company and State of Formation: Texas limited partnership
Title of Authorized Company Representative (if company is owner): Megan Shannon
Applicant Address: 4090 Broadway Suite 501 San Antonio TX 78209
Applicant Fax:
Applicant Phone: 512 391 1789
Applicant/Authorized Company Representative Email: megan@mamatdevelopment.com

APPLICANT REPRESENTATIVE

Check one of the following:

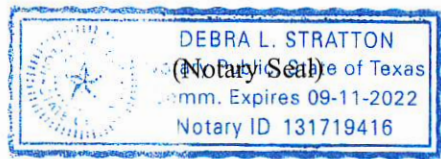
I will represent the application myself; or
I hereby designate Anthony Ennis (name of project representative) to act in the capacity as the agent for filing, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for 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: Megan Shannon Date: 7/11/2022

State of TX §
County of TRAVIS §

This instrument was acknowledged before me on (date) by (name of authorized company representative) who is a(n) (member, manager, authorized officer, etc.) of (name of company), a (Texas) (limited liability company, corporation, partnership, etc.).



SUBSCRIBED AND SWORN TO before me, this the 11 day of July, 2022
Debra Stratton
Notary Public's Signature
9-11-22
My Commission Expires

PROJECT REPRESENTATIVE

Representative Name: Anthony Ennis, PE
Representative Address: 5301 Southwest Parkway, Building 2, Suite 100, Austin, TX 78735
Representative Phone: 512-518-6260
Representative Email: Anthony.Ennis@kimley-horn.com
Representative's Signature: *Anthony J Ennis* Date: 7/12/22

Kimley»»Horn

July 7th, 2022

City of Kyle Planning Department
100 W. Center Street
Kyle, TX 78640

**RE: Plum Creek Section 10 Lot 7 Engineer's Summary Letter
Final Plat Application – Plum Creek Section 10 Lot 7 Replat
FM 1626 & Rikardson
Kyle, TX 78640**

Dear Reviewers,

On behalf of our client, Mountain Plum, LTD., Kimley-Horn has prepared a Final Plat application package for a proposed development located at the above referenced address. The 42.04 acre plat is Lot 7 and is a part of the overall 171.05 acre plat and is located at FM 1626 & Rikardson, within the City of Kyle, Hays County, Texas. The subject site is completely undeveloped. The owner, Mountain Plum, LTD., plans to subdivide Lot 7 into 2 lots for future development.

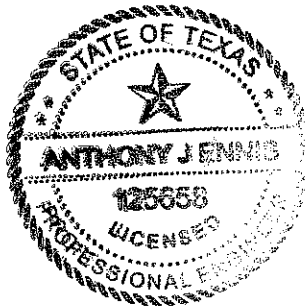
The project site is described as "Plum Creek Phase II Section 10 Lot 7" per document #22012719 official public records of Hays County, Texas. The site is currently zoned as a EMP Plum Creek zoning designation. Additionally, it is our understanding that no parkland dedication is required.

This project is located entirely within the Bunton Branch-Plum Creek Watershed. No portion of the site is located within Zone A of FEMA's 100-year floodplain according to FIRM number 48209C0290F, revised September 2, 2005. No portion of our site falls within the Edwards Aquifer recharge or contributing zones according to the Edward's Aquifer GIS databases.

Should any of you require additional information, please contact me at (512) 646-2237.

Sincerely,

Anthony J. Ennis, P.E.
Project Manager
Kimley-Horn and Associates



7/7/22

A handwritten signature in black ink that reads "Anthony J. Ennis".

DEED WITHOUT WARRANTY

THE STATE OF TEXAS
COUNTY OF HAYS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

THAT THE UNDERSIGNED, **William Negley**, as Life Tenant with Power of Sale under the Will of Laura Burleson Negley, deceased and **William Negley**, as Life Tenant with Power of Sale pursuant to the provisions of Deed recorded under Volume 270, Page 350, Hays County Deed Records (collectively, "Grantor"), for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid to Grantor by **Mountain Plum, Ltd.**, a Texas limited partnership ("Grantee"), the receipt and sufficiency of which are hereby fully acknowledged and confessed, subject to the matters set forth herein, have GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents do hereby GRANT, BARGAIN, SELL and CONVEY unto Grantee, that certain real property located in Hays County, Texas ("Land"), being more particularly described by metes and bounds in Exhibit A attached hereto and made part hereof for all purposes, together with any and all other right, title and interest of Grantor in and to the Land, and all of Grantor's right, title and interest in and to all improvements and fixtures located on the Land and all and singular the rights and appurtenances thereto including, but not limited to, strips and gores between the Land and abutting properties and in any street, highway, alley, easement or right of way, existing or proposed, on or adjacent to Land (all of which is collectively referred to herein as the "Property").

This conveyance is expressly made and accepted subject to any and all conditions, restrictions, easements, liens, encumbrances, and all other matters of record that affect the Property.

Ad valorem taxes and special assessments, if any, against the Property for the year 2003 have been prorated between Grantor and Grantee as of the date of this Deed Without Warranty and Grantee hereby expressly assumes and agrees to pay the same.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, its successors and assigns forever, without express or implied warranty. All warranties that might arise by common law as well as the warranties in Section 5.023 of the Texas Property Code (or its successor) are excluded.

[Signature Page to Follow]

IN WITNESS WHEREOF, this instrument is executed this 19th day of August, 2003.

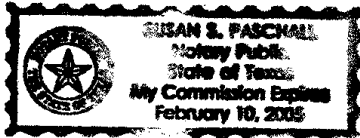
GRANTOR:

William Negley
WILLIAM NEGLEY, as Life Tenant
with Power of Sale under
the Will of Laura Burleson Negley,
deceased

William Negley
WILLIAM NEGLEY, as Life Tenant
with Power of Sale pursuant to
Deed recorded under Volume 270,
Page 350, Hays County Deed Records

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

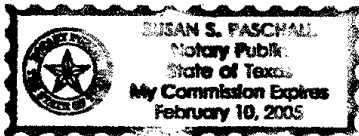
This instrument was acknowledged before me this 19th day of August, 2003, by William Negley, as Life Tenant with Power of Sale under the Will of Laura Burleson Negley, deceased.



Susan S. Paschall
Notary Public for the State
of Texas

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me this 19th day of August, 2003, by William Negley, as Life Tenant with Power of Sale pursuant to the provisions of Deed recorded under Volume 270, Page 350, Hays County Deed Records.



Susan S. Paschall
Notary Public for the State of
Texas

AFTER RECORDING, PLEASE RETURN TO:

Akin, Gump, Strauss, Hauer & Feld, L.L.P.
300 Convent Street, Suite 1500
San Antonio, Texas 78205
Attn: Ami E. Gordon

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION

1170.2 ACRES OF LAND, ALL IN HAYS COUNTY, TEXAS, COMMONLY KNOWN AS THE NEGLEY RANCH, BEING SURVEYED BY RALPH HARRIS SURVEYOR, P.C. AND BEING DESCRIBED IN TRACTS 2, 4, AND 5 INCLUSIVE AS FOLLOWS:

TRACT 2

983.99 ACRES OF LAND OUT OF THE M. M. MCCARVER LEAGUE NO. 4 IN HAYS COUNTY, TEXAS, BEING ALL OF THOSE CERTAIN TRACTS OF LAND CONVEYED TO NEGLEY AS FOLLOWS:

- 51.1 ACRES RECORDED IN VOLUME 119, PAGE 517
- 51.2 ACRES RECORDED IN VOLUME 117, PAGE 288
- 51.3 ACRES RECORDED IN VOLUME 117, PAGE 288
- 51.2 ACRES RECORDED IN VOLUME 124, PAGE 447
- 51.3 ACRES RECORDED IN VOLUME 123, PAGE 545

AND BEING A PORTION OF THOSE TRACTS OF LAND AS CONVEYED TO NEGLEY AS FOLLOWS:

- 211 ACRES RECORDED IN VOLUME 116, PAGE 209
- 100 ACRES RECORDED IN VOLUME 116, PAGE 209
- 331 ACRES RECORDED IN VOLUME 117, PAGE 288
- 28 ACRES RECORDED IN VOLUME 125, PAGE 69
- 38.7 ACRES RECORDED IN VOLUME 127, PAGE 139
- 25.9 ACRES RECORDED IN VOLUME 124, PAGE 477
- 11 ACRES RECORDED IN VOLUME 127, PAGE 139
- 201.14 ACRES RECORDED IN VOLUME 185, PAGE 402

ALL OF RECORD IN THE HAYS COUNTY DEED RECORDS, SAID 983.99 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2" rebar set at the northwest intersection of County Road No. 171 and the Missouri-Pacific Railroad for the southeast corner and POINT OF BEGINNING hereof, from which Point Of Beginning the southwest corner of the herein described Tract 1 bears N 89° 55' 35" E 206.51 feet

THENCE, with the north R.O.W. line of County Road No. 171 (average 42' fenced R.O.W.) the south line of said 100 acre Negley tract and the south line of said 331 acre Negley tract as found fenced and used upon the ground the following 4 calls:

S 89° 25' 16" W passing at 2.45 feet the approximate centerline of a gas pipeline (as evidenced by stakes set by the Valero Gas Company) the easement for which as granted to the L.C.R.A. is recorded in Volume 254, Page 251 of the Hays County Deed Records and continuing on the same course for a total distance of 3643.95 feet to a 60D nail set in fence post for an angle point hereof

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION
CONT. PAGE 2

S 88° 14' 14" W 1299.23 feet to a 1/2" rebar set for an angle point hereof

S 87° 47' 15" W 819.56 feet to a 1/2" rebar set for an angle point hereof

S 87° 08' 30" W 1241.83 feet to a concrete highway monument found at the intersection of the north R.O.W. line of County Road No. 171 and the east R.O.W. line of R.M. Hwy. No. 2770 for the southwest corner hereof

THENCE, with the east R.O.W. line of R.M. Hwy. 2770 (100' R.O.W.) the following 13 calls:

N 35° 59' 15" W 125.51 feet to a concrete highway monument found at a point of curvature of a curve to the right

Along said curve to the right whose central angle is 04° 45' 23", whose radius is 1859.86 feet, whose arc length is 154.40 feet and whose long chord bears N 13° 58' 00" E 154.35 feet to a concrete highway monument found at the end of said curve

N 16° 15' 03" E 617.68 to a concrete highway monument found at the point of curvature of a curve to the left

Along said curve to the left whose central angle is 05° 49' 10", whose radius is 2914.79 feet whose arc length is 296.05 feet and whose long chord bears N 13° 22' 28" E 295.93 feet to a concrete highway monument found at the end of said curve

N 10° 26' 02" E 1260.09 feet to a concrete highway monument found at the point of curvature of a curve to the right

Along said curve to the right whose central angle is 02° 41' 05", whose radius is 5680.59 feet, whose arc

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION
CONT. PAGE 3

length is 266.12 feet and whose long chord bears
N 11° 46' 57" E 266.10 feet to a concrete highway
monument found at the end of said curve

N 13° 07' 35" E 554.80 feet to a concrete highway
monument found at the point of curvature of a curve
to the right

Along said curve to the right whose central angle is
06° 47' 29", whose radius is 2814.79 feet, whose arc
length is 333.65 feet, and whose long chord bears
N 16° 29' 50" E 333.45 feet to a concrete highway
monument found at the end of said curve

N 19° 54' 45" E 1612.78 feet to a concrete highway
monument found at the point of curvature of a curve to the
left

Along said curve to the left whose central angle is
02° 16' 57", whose radius is 5779.58 feet, whose arc
length is 230.24 feet, and whose long chord bears
N 18° 44' 45" E 230.22 feet to a concrete highway
monument found at the end of said curve

N 17° 37' 49" E passing at 256 feet the approximate
centerline of the afore mentioned gas pipeline (as
evidenced by stakes set by Valero Gas Company),
passing at 699.22 feet and 3.28 feet left a State
Highway Department Satellite Station marker
S 1060165, whose grid azimuth to the "Lone
Man Microwave Tower" visible on the horizon to the
west, northwest is 100° 00' 14" (bearing basis used for
this survey), and continuing on the same course of
N 17° 37' 49" E for a total distance of 1341.81 feet
to a concrete highway monument found at engineers
centerline station 199+53.99 and being the point of
curvature of a curve to the right

Along said curve to the right whose central angle is
24° 37' 05", whose radius is 1095.92 feet, whose arc
length is 470.88 feet, and whose long chord bears
N 29° 55' 08" E 467.26 feet to a concrete highway
monument found at the end of said curve

N 42° 12' 35" E 285.38 feet to a 1/2" rebar set in
in the occupied north line of said 201.14 acre Negley
tract being the occupied south line of that certain 348
acre tract of land known as Lot 2 by deed of partition
of record in Volume 34, Page 313 of the Hays County Deed
Records, said Lot 2 as conveyed to R. C. Barton of
record in Volume 178, Page 282 of the Hays County Deed
Records for the northwest corner hereof from which point
a concrete highway monument found bears N 42° 12' 35" E
813.10 feet

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION
CONT. PAGE 4

THENCE, with the north line of said 201.14 acre Negley tract and the south line of said 348 acre R. C. Barton tract as found fenced and used upon the ground the following 2 calls:

N 88° 40' 14" E 1197.12 feet to a 2" iron pipe found at a fence corner

S 01° 16' 00" E 870.05 feet to a 1/2" rebar found at a fence corner at the most southerly southwest corner of said R. C. Barton tract for an ell corner hereof

THENCE continuing with the north line of said 201.14 acre Negley tract, the south line of said R. C. Barton tract and the south line of that certain 97.38 acre tract of land conveyed to Meditex Development Corp. of record in Volume 432, Page 555 of the Hays County Deed Records as found fenced and used upon the ground N 88° 41' 49" E 3747.10 feet to a 1/2" rebar set at the occupied northeast corner of said 201.14 acre Negley tract, being the most westerly northwest corner of that certain tract of land conveyed to J. D. Meador being Lot 3 of said Partition deed of record in Volume 24, Page 313 of the Hays County Deed Records for an angle point hereof

THENCE, with the east line of said 201.14 acre Negley Tract and the west line of said J. D. Meador tract as found fenced and used upon the ground S 01° 23' 20" E 1296.55 feet to a 1/2" rebar set at the occupied southeast corner of said 201.14 acre Negley tract, being the most southerly southwest corner of said J. D. Meador tract and being in the occupied north line of said 211 acre Negley tract, for an ell corner hereof

THENCE, with the north line of said 211 acre Negley tract and the south line of said J. D. Meador tract as found fenced and used upon the ground N 88° 50' 15" E 1022.96 feet to a 1/2" rebar set on the west R.O.W. line of the Missouri-Pacific Railroad, for the northeast corner hereof

THENCE, with the west R.O.W. line of the Missouri-Pacific Railroad (this line being 100.00 feet west of and parallel with the centerline of the tracks) S 14° 01' 32" W 2474.39 feet to a 1/2" rebar set on the south line of said 211 acre Negley tract, being the north line of the 118.2 acre Negley tract above mentioned in Tract 1, for an ell corner hereof

THENCE, with the south line of said 211 acre Negley tract the north line of said 118.2 acre Negley tract and continuing with the west R.O.W. line of the Missouri-Pacific Railroad S 88° 50' 15" W 378.23 feet to a 1/2" rebar set at the northwest corner of said 118.2 acre Negley tract, being the northeast corner of said 100 acre Negley tract, for an angle point hereof

EXHIBIT 'A'

METES AND BOUNDS DESCRIPTION
CONT. PAGE 5

THENCE, with the west line of said 118.2 acre Negley tract, the east line of said 100 acre Negley tract and continuing with the west R.O.W. line of the Missouri-Pacific Railroad S 00° 09' 45" E 1693.23 feet to a 1/2" rebar set for an angle point hereof

THENCE, continuing with the west R.O.W. line of the Missouri-Pacific Railroad (this line being 50.00 feet west of and parallel with the centerline of the tracks) S 14° 01' 32" W 842.55 feet to the POINT OF BEGINNING and containing 983.99 acres of land, more or less.

SAVE AND EXCEPT ROW 1626:

28.91 ACRES OF LAND IN THE M. M. MCCARVER SURVEY NO. 4, ABSTRACT NO. 10, HAYS COUNTY, TEXAS; BEING A PORTION OF THE FOLLOWING FOUR TRACTS: TRACT ONE BEING THAT CALLED 201.14 ACRE TRACT CONVEYED TO LAURA B. NEGLEY BY DEED OF RECORD IN VOLUME 185, PAGE 402, DEED RECORDS OF HAYS COUNTY, TEXAS (D.R.H.C.TX.), TRACT TWO BEING A CALLED 51.3 ACRE TRACT CONVEYED TO LAURA BURLESON NEGLEY BY DEED OF RECORD IN VOLUME 117, PAGE 288, (FIRST TRACT) D.R.H.C.TX., TRACT THREE BEING A CALLED 51.2 ACRE TRACT CONVEYED TO LAURA BURLESON NEGLEY BY DEED OF RECORD IN VOLUME 117, PAGE 288, (FIRST TRACT) D.R.H.C.TX. AND TRACT FOUR BEING CONVEYED TO LAURA BURLESON NEGLEY BY DEED OF RECORD IN VOLUME 117, PAGE 288, (SECOND TRACT) D.R.H.C.TX, SAID 28.91 ACRE TRACT, AS SHOWN ON THE ACCOMPANYING SKETCH, BEING A PORTION OF THE PROPOSED RIGHT-OF-WAY (ROW) FOR FM 1626, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2-inch iron rod found for the northwest corner of said Laura B. Negley 201.14 acre Tract One and being the southwest corner of a called 10 acre tract of land conveyed to Texas Lehigh Cement Company (T.L.C.C.), designated as Tract I, of record in Volume 609, Page 843, Real Property Records Hays County, Texas (R.P.R.H.C.TX.);

THENCE N 88° 06' 51" E, with the north line of said Tract One, being the south line of said T.L.C.C. 10 acre tract and with the south line of a 20 acre tract of land conveyed to T.L.C.C., designated as Tract III, of record in Volume 609, Page 843, R.P.R.H.C.TX., a distance of 715.24 feet to 1/2-inch iron rod found for the southeast corner of the said T.L.C.C. 20 acre tract same being the southwest corner of a 97.38 acre tract conveyed to T.L.C.C., designated as Tract IV, of record in Volume 609, Page 843, R.P.R.H.C.TX;

THENCE N 88° 08' 15" E, with the south boundary line of said 97.38 acre tract and being the north line of said Tract One, a distance of 301.20 feet to a calculated point in the proposed west

EXHIBIT 'A'

METES AND BOUNDS DESCRIPTION
CONT. PAGE 6

ROW line of said FM 1626 for the northwest corner and **POINT OF BEGINNING** of the tract described herein;

THENCE N 88° 08' 15" E, crossing said proposed ROW of said F.M. 1626 and with said common line of said Tract One and said 97.38 acre tract, a distance of 200.03 feet to a calculated point for the northeast corner of the tract described herein;

THENCE crossing said Tracts One, Three and Four and with the proposed east ROW line of said F.M. 1626 the following seven (7) courses and distances:

1. with a curve to the left having a radius of 2,764.79 feet, an arc distance of 899.20 feet, a chord bearing of S 12° 13' 49" E and a chord distance of 895.24 feet to a calculated point of tangency;
2. S 21° 32' 51" E, at a distance of approximately 458 feet pass the south line of said Tract One and being the north line of said Tract Three, continuing for a total distance of 1,391.42 feet to a calculated point of curvature of a curve to the right having a radius of 2,964.79 feet,
3. with said curve to the right an arc distance of 1,306.85 feet and having a chord bearing of S 08° 55' 11" E, a chord distance of 1,296.30 feet to a calculated point of tangency,
4. S 03° 42' 29" W, at a distance of approximately 227 feet pass the south line of said Tract Three, being the north line of said Tract Four, at approximately 919 feet pass the north line of a called 100-foot wide ROW agreement with the Lower Colorado River Authority (L.C.R.A.) of record in Volume 254, Page 254, D.R.H.C.TX., and continuing a total distance of 1,925.38 feet to a calculated point of curvature of a curve to the left having a radius of 2,764.78 feet,
5. with said curve to the left an arc distance of 355.80 feet and having a chord bearing of S 00° 01' 17" W, a chord distance of 355.55 feet to a calculated point of tangency,
6. S 03° 39' 55" E, a distance of 355.99 feet to a calculated point for an angle point in the east line of the tract described herein, and
7. S 47° 23' 20" E, a distance of 72.34 feet to a calculated point for the southeast corner of the tract described herein and being in the north ROW line, as fenced, of Hays County Road 171 (HCR 171) same being the south line of said Tract Four;

THENCE S 88° 51' 11" W, with said north ROW line of HCR 171 and said south line of Tract Four, a distance of 300.29 feet to a calculated point for the southwest corner of the tract described herein and being in the proposed west ROW line of FM 1626;

EXHIBIT 'A'

METES AND BOUNDS DESCRIPTION
CONT. PAGE 7

THENCE leaving said north ROW line of HCR 171, with said proposed west ROW line of FM 1626 and crossing said Tracts Four through One the following seven (7) courses and distance;

1. N 42° 46' 53" E, a distance of 68.99 feet to a calculated point for an angle point in the west line of the tract described herein,
2. N 03° 39' 55" W, a distance of 347.54 feet to a calculated point of curvature of a curve to the right having a radius of 2,964.78 feet,
3. with said curve to the right an arc distance of 381.54 feet, a chord bearing of N 00° 01' 17" E and a chord distance of 381.27 feet to a calculated point of tangency,
4. N 03° 42' 29" E, at a distance of approximately 1,171 feet pass said north line of the said L.C.R.A. ROW, at a distance of approximately 1,680 feet pass the south line of said Tract Three, and continuing for a total distance of 1,925.38 feet to a calculated point of curvature of a curve to the left having a radius of 2,764.79 feet,
5. with said curve to the left an arc distance of 1,218.69 feet and having a chord bearing of N 08° 55' 11" W and a chord distance of 1,208.85 feet to a calculated point of tangency,
6. N 21° 32' 51" W, at a distance of approximately 803 feet pass the west line of said Tract Three and being the east line of said Tract Two, at a distance of approximately 1005 feet pass the north line of said Tract Two, being the south line of said Tract One, continuing for a total distance of 1,391.42 feet to a calculated point of curvature of a curve to the right having a radius of 2,964.79 feet, and
7. with said curve to the right an arc distance of 967.91 feet, a chord bearing of N 12° 11' 41" W and a chord distance of 963.62 feet to the POINT OF BEGINNING and containing 28.91 acres of land, more or less.

BEARING BASIS: Bearings recited herein are Texas Coordinate System, South Central Zone, NAD83, Grid (the foregoing tract and parcel of land is sometimes hereinafter referred to as the "Property").

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION
CONT. PAGE 8

SAVE AND EXCEPT THE WELL YARD:

A portion of land containing 1.016 acres of land, more or less, out of the Henry Loller Survey No 19. Recorded in Vol. 1336, Page 515, Hays County Deed Records.

Commencing at a Tx.D.O.T. marker on the R.O.W. of F.M. 2770 and County Road 171

Thence N 84°46'28" E for a distance of 3337.91 feet to a point on the R.O.W. of County Road 171 and the POINT OF BEGINNING;

Thence N 01°02'15" W for a distance of 260.82 feet to an angle point;

Thence N 88°57'45" E for a distance of 170.00 feet to an angle point;

Thence S 01°02'15" E for a distance of 259.84 feet to an angle point on said R.O.W. of County Road 171

Thence S 88°37'57" W for a distance of 170.00 feet along said R.O.W. to the Point of Beginning.

Recorder's Note:
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION
CONT. PAGE 9

SAVE AND EXCEPT:

DESCRIPTION OF 10.00 ACRES OF LAND IN THE M.M. MCCARVER LEAGUE, SURVEY NO. 4, A-10, AND THE JOHN COOPER SURVEY, A-100, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO LAURA BURLESON NEGLELY OF RECORD IN VOLUME 117, PAGE 288, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 10.00 ACRE TRACT OF LAND, AS SHOWN ON LOOMIS AUSTIN, INC. PLAN NO. 2085, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2-inch iron rod with plastic cap stamped "LAI" set at the intersection of the east right-of-way (ROW) line of FM 2770 with the north ROW line of Hays County Road 171, being the southwest corner of said Negley tract;

THENCE with the north line of said County Road 171, same being the south line of said Negley tract, the following six (6) courses and distances:

1. S 87° 02' 08" E a distance of 294.17 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for an angle point,
2. S 64° 15' 42" E a distance of 30.92 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for an angle point,
3. N 87° 03' 42" E a distance of 935.83 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for an angle point,
4. N 87° 08' 40" E a distance of 819.54 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for an angle point,
5. N 87° 34' 40" E a distance of 1,299.21 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for an angle point, and
6. N 88° 54' 08" E a distance of 630.90 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for the most southern southwest corner and POINT OF BEGINNING of the tract described herein;

THENCE leaving the north line of said County Road 171 and crossing said Negley tract the following nine (9) courses and distances:

1. N 01° 06' 44" W a distance of 230.58 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for an ell corner of the tract described herein,
2. S 88° 53' 16" W a distance of 167.83 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for the most western southwest corner of the tract described herein,
3. N 01° 06' 44" W a distance of 304.50 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for the most western northwest corner of the tract described herein,

Recorder's Note:
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION
CONT. PAGE 10

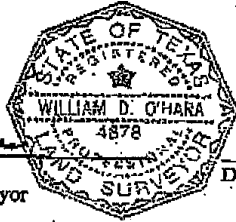
4. N 88° 53' 16" E a distance of 187.46 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for an ell corner of the tract described herein,
5. N 01° 06' 44" W a distance of 48.00 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for an ell corner of the tract described herein,
6. N 88° 53' 16" E a distance of 89.05 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for an ell corner of the tract described herein,
7. N 00° 32' 48" W a distance of 107.58 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for the most northern northwest corner of the tract described herein,
8. N 88° 50' 25" E a distance of 465.45 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set for northeast corner of the tract described herein, and
9. S 01° 06' 44" E a distance of 691.18 feet to a 1/2-inch iron rod with plastic cap stamped "LAI" set in the north line of said County Road 171 for the southeast corner of the tract described herein;

THENCE S 88° 54' 08" W, with the north line of said County Road 171, a distance of 575.20 feet to the POINT OF BEGINNING and containing 10.00 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD 83, Grid.

I hereby certify that this description was prepared from an actual survey made on the ground by Loomis Austin, Inc. during the months of April to July 2001, and February 2002, under my direction and supervision and is true and correct to the best of my knowledge.

William D. O'Hara
William D. O'Hara
Registered Professional Land Surveyor
No. 4878 - State of Texas



2-28-02
Date

Recorder's Note:
ORIGINAL DOCUMENT ILLEGIBLE

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION
CONT. PAGE 11

Tract 4

185.77 ACRES OF LAND OUT OF THE JOHN COOPER SURVEY NO. 13, THE JESSE DAY SURVEY NO. 162, THE JESSE DAY SURVEY, THE THOMAS ALLEN SURVEY NO. 1 AND THE JOHN KING SURVEY NO. 20 IN HAYS COUNTY, TEXAS, AND BEING ALL OF THOSE TRACTS OF LAND CONVEYED TO NEGLEY AS FOLLOWS:

151 ACRES OF RECORD IN VOLUME 133, PAGE 148
35 ACRES OF RECORD IN VOLUME 137, PAGE 574

ALL OF RECORD IN THE HAYS COUNTY DEED RECORDS, SAID 185.77 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at the southeast intersection of County Road No. 171 and the Missouri-Pacific Railroad, being the northwest corner of said 151 acre Negley tract, for the northwest corner and POINT OF BEGINNING hereof, from which point of beginning the southwest corner of the herein described Tract 1 bears N 71° 48' 57" E 153.99 feet

THENCE, with the south R.O.W. line of County Road No. 171 (averaged fenced R.O.W. being 42') and the north line of said 151 acre and 35 acre Negley tracts as found fenced and used upon the ground the following 4 calls:

N 89° 17' 28" E 3106.53 feet to a 1/2" rebar set for an angle point hereof

N 89° 43' 51" E 400.45 feet to a 60-D nail set in a hackberry tree for an angle point hereof

N 89° 34' 30" E 309.22 feet to a 1/2" rebar set for an angle point hereof

S 21° 02' 41" E 12.52 feet to a 1/2" rebar set on the west R.O.W. line of County Road No. 210 for the northeast corner hereof

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION
CONT. PAGE 12

THENCE, with the west R.O.W. line of County Road 210 (R.O.W. varies) and the east line of said 35 acre Negley tract as found fenced and used upon the ground the following 3 calls:

S 00° 58' 29" W 492.71 feet to a 1/2" rebar set for an angle point hereof

S 09° 25' 53" W 965.98 feet to a 1/2" rebar set for an angle point hereof

S 14° 16' 52" W 229.23 feet to a 1/2" rebar found at the southeast corner of said 35 acre Negley tract being the northeast corner of that certain tract of land described in deed to J. A. Burton in Volume 366, Page 215 of the Hays County Deed Records for the southeast corner hereof

THENCE, with the south line of said 35 acre Negley tract and the north line said J. A. Burton tract as found fenced and used upon the ground the following 2 calls:

N 66° 36' 49" W for a distance of 1130.44 feet to a 60D nail set for an angle point hereof

N 66° 34' 22" W 353.85 feet to a 1/2" rebar set at a fence corner occupying the southwest corner of said 35 acre Negley tract being in the southeast line of said 151 acre Negley tract and being the northwest corner of said J. A. Burton tract for an ell corner hereof

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION
CONT. PAGE 13

THENCE, with the southeast line of said 151 acre Negley tract and the northwest line of said J. A. Burton tract as found fenced and used upon the ground S 46° 37' 31" W passing at 899 feet the approximate centerline of a gas pipeline (as evidenced by stakes set by the Valero Gas Company) the easement for which as granted to the L.C.R.A. is recorded in Volume 254, Page 254 of the Hays County Deed Records and continuing on the same course for a total distance of 4063.40 feet to a 1/2" rebar set on the east R.O.W. line of the Missouri-Pacific Railroad, being the south corner of said 151 acre Negley tract, for the south corner hereof

THENCE with the east line of the Missouri-Pacific Railroad (This line being 20.00 feet east of and parallel with the centerline of the tracks), and the west line of said 151 acre Negley the following 3 calls:

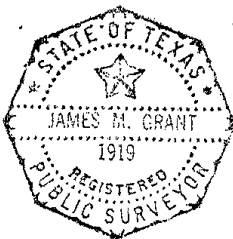
N 09° 35' 53" E 2797.00 feet to a 1/2" rebar set at the point of curvature of a curve to the right

Along said curve to the right whose central angle is 04° 25' 39", whose radius is 5709.65 feet, whose arc length is 441.20 feet and whose long chord bears N 11° 48' 43" E 441.09 feet to a 1/2" rebar set at the end of said curve

N 14° 01' 32" E passng at 655 feet the approximate centerline of the afore mentioned gas pipeline (as evidenced by stakes set by Valero Gas Company) and continuing on the same course for a total distance of 668.33 feet to the POINT OF BEGINNING and containing 185.77 acres of land more or less.

AS SURVEYED BY:
RALPH HARRIS SURVEYOR INC.

James M. Grant
JAMES M. GRANT
REG. PUBLIC SURVEYOR NO. 1919
1406 Hether
Austin, Texas 78704
February 14, 1986



Updated: October 21, 1987

E16:negley05.fn
E16:negley04.fn

EXHIBIT 'A'

METES AND BOUNDS DESCRIPTION
CONT. PAGE 14

TRACT 5

0.44 ACRES OF LAND OUT OF THE HENRY LOLLAR SURVEY, IN HAYS COUNTY, TEXAS, BEING SURVEYED BY RALPH HARRIS SURVEYOR, P.C. AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 60-D nail set in a fence post on the east r.o.w. line of R.M. Highway No. 2770 at the southwest corner of that certain 214.661 acre tract of land as conveyed to Richard V. W. Negley in Volume 275, Page 103 of the Hays County Deed Records, for the northwest corner and POINT OF BEGINNING hereof, from which point of beginning a concrete highway monument found at engineers station 286+58.38 bears N 05° 13' 41" W 939.55 feet

THENCE with the south line of said 214.661 acre Negley tract as found fenced and used upon the ground S 46° 15' 17" E 130.24 feet to a 1/2" rebar set at the northwest corner of that certain 262.33 acre tract of land as conveyed to Richard V.W. Negley in Volume 133, Page 147 of the Hays County Deed Records, for the northeast corner hereof

THENCE with the west line of said 262.33 acre Negley tract S 11° 09' 17" W 424.33 feet to a 60-D nail set in a fence post on the east r.o.w. line of R.M. Highway No. 2770 for the south corner hereof

THENCE with the east r.o.w. line of R.M. Highway No. 2770 as found fenced and used upon the ground the following 2 calls:

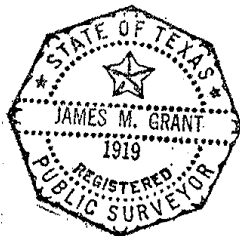
N 02° 19' 26" E 247.29 feet to a 60-D nail set in a fence post for an angle point hereof

N 04° 51' 20" W 260.21 feet to the POINT OF BEGINNING and containing 0.44 acres more or less.

AS SURVEYED BY:
RALPH HARRIS SURVEYOR, P.C.

James M. Grant

JAMES M. GRANT
REG. PUB. SURVEYOR NO. 1919
1406 Hether
Austin, Texas 78704
February 18, 1986



FILED AND RECORDED
OFFICIAL PUBLIC RECORDS
On: Aug 25, 2003 at 12:49P

Document Number: 03027104
Amount 41.00

Lee Carlisle
County Clerk
By
Rose Robinson, Deputy
Hays County

15:Lollar.044

UPDATED: OCTOBER 21, 1987



Franchise Tax Account Status

As of : 09/14/2022 08:12:33

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

MOUNTAIN PLUM, LTD.	
Texas Taxpayer Number	32035881153
Mailing Address	4040 BROADWAY STE 501 SAN ANTONIO, TX 78209-6368
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	07/10/2002
Texas SOS File Number	0800101625
Registered Agent Name	LAURA NEGLEY GILL
Registered Office Street Address	4040 BROADWAY STE. 501 SAN ANTONIO, TX 78209

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.

REPLAT OF LOT 7, PLUM CREEK PHASE II, SECTION 10

M.M. MCCARVER LEAGUE NO. 4, A-10,
HAYS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS, THAT WE, MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP, ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, WITH ITS HOME ADDRESS AT 4040 BROADWAY, SUITE 501, SAN ANTONIO, TEXAS 78209, BEING THE OWNER OF 42.04 ACRES IN THE M.M. MCCARVER LEAGUE NO. 4, ABSTRACT NO. 10, HAYS COUNTY, TEXAS, BEING ALL OF LOT 7, PLUM CREEK PHASE II, SECTION 10, A SUBDIVISION ACCORDING TO THE MAP OR PLAT OF RECORD IN DOCUMENT NO. 22012719, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, SAID LOT 7 BEING A PORTION OF A CERTAIN CALLED 983.99 ACRE TRACT DESIGNATED AS TRACT 2 OF EXHIBIT "A" AND DESCRIBED IN THE DEED WITHOUT WARRANTY TO MOUNTAIN PLUM, LTD. OF RECORD IN VOLUME 2297, PAGE 139, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, DO HEREBY SUBDIVIDE SAID 42.04 ACRES AS SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS THE REPLAT OF LOT 7, PLUM CREEK PHASE II, SECTION 10 SUBDIVISION TO THE CITY OF KYLE, TEXAS, AND SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED, HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER PUBLIC RIGHT OF WAY AND DRAINS, EASEMENTS (EXCLUDING LANDSCAPE AREA WITHIN EASEMENTS), PARKS AND PUBLIC PLACES THEREON SHOWN, EXCEPT AREAS IDENTIFIED AS PRIVATE OR CREATED BY SEPARATE INSTRUMENT, FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

WHEREOF THE SAID MOUNTAIN PLUM, LTD., OWNER, HAS CAUSED THESE PRESENTS TO BE EXECUTED BY ITS GENERAL PARTNER, MP GENERAL, LLC, A TEXAS LIMITED LIABILITY COMPANY, THEREUNTO DULY AUTHORIZED, GENERAL PARTNER HAS CAUSED THESE PRESENTS TO BE EXECUTED BY ITS MANAGERS,

MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP

BY: MP GENERAL, LLC, A TEXAS LIMITED LIABILITY COMPANY, ITS GENERAL PARTNER

BY: _____, NAME: _____, MANAGER

BY: _____, NAME: _____, MANAGER

BY: _____, NAME: _____, MANAGER

STATE OF TEXAS
COUNTY OF HAYS

I, THE UNDERSIGNED AUTHORITY, ON THIS THE ____ DAY OF _____, 20____ A.D. DID PERSONALLY APPEAR _____ MANAGER OF MP GENERAL, LLC, A TEXAS LIMITED LIABILITY COMPANY, THE GENERAL PARTNER OF MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FORGOING INSTRUMENT OF WRITING, AND THEY ACKNOWLEDGED BEFORE ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED, ON BEHALF OF SAID LIMITED LIABILITY COMPANY AND LIMITED PARTNERSHIP.

NOTARY PUBLIC

STATE OF TEXAS
COUNTY OF HAYS

I, THE UNDERSIGNED AUTHORITY, ON THIS THE ____ DAY OF _____, 20____ A.D. DID PERSONALLY APPEAR _____ MANAGER OF MP GENERAL, LLC, A TEXAS LIMITED LIABILITY COMPANY, THE GENERAL PARTNER OF MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FORGOING INSTRUMENT OF WRITING, AND THEY ACKNOWLEDGED BEFORE ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED, ON BEHALF OF SAID LIMITED LIABILITY COMPANY AND LIMITED PARTNERSHIP.

NOTARY PUBLIC

STATE OF TEXAS
COUNTY OF HAYS

I, THE UNDERSIGNED AUTHORITY, ON THIS THE ____ DAY OF _____, 20____ A.D. DID PERSONALLY APPEAR _____ MANAGER OF MP GENERAL, LLC, A TEXAS LIMITED LIABILITY COMPANY, THE GENERAL PARTNER OF MOUNTAIN PLUM, LTD., A TEXAS LIMITED PARTNERSHIP, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FORGOING INSTRUMENT OF WRITING, AND THEY ACKNOWLEDGED BEFORE ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED, ON BEHALF OF SAID LIMITED LIABILITY COMPANIES AND LIMITED PARTNERSHIP.

NOTARY PUBLIC

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS

THAT, ELAINE H. CARDENAS, CLERK OF HAYS COUNTY COURT DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON

THE _____ DAY OF _____, 20____, A.D., IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS UNDER

CLERK'S FILE NUMBER _____ WITNESS MY HAND AND SEAL OF OFFICE OF HAYS

COUNTY ON THIS THE _____ DAY OF _____, 20____, A.D.

FILED FOR RECORD AT _____ O'CLOCK ____M. THIS THE _____ DAY OF _____, 20____, A.D.

ELAINE H. CARDENAS
COUNTY CLERK
HAYS COUNTY, TEXAS

APPROVAL CITY OF KYLE

I, THE UNDERSIGNED CHAIRPERSON OF THE PLANNING COMMISSION OF THE CITY OF KYLE HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THE CITY AS TO WHICH THE COMMISSION'S APPROVAL IS REQUIRED.

BY: _____
CHAIRPERSON

THIS PLAT (PLUM CREEK PHASE II, SECTION 10) HAS BEEN SUBMITTED TO AND CONSIDERED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS AND IS HEREBY APPROVED BY THE COUNCIL.

DATED THIS _____ DAY OF _____, 20____.

BY: _____
ATTEST:

SECRETARY

REVIEWED BY:

LEÓN BARBA, CITY ENGINEER DATE _____

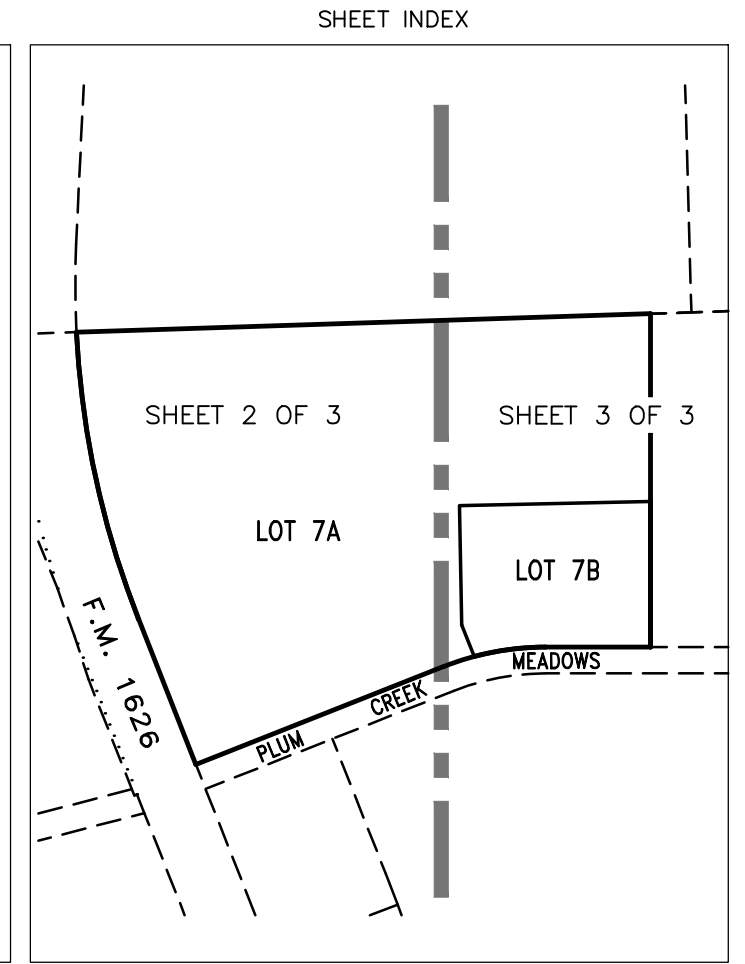
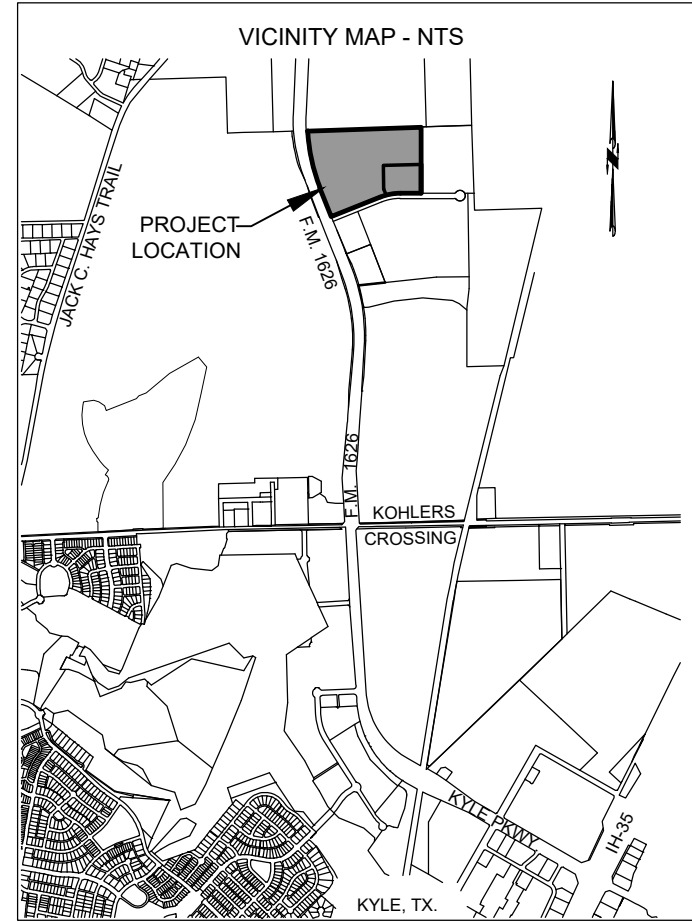
REVIEWED BY:

HARPER WILDER, DIRECTOR OF PUBLIC WORKS DATE _____

PUBLIC UTILITY INFORMATION:
THIS SUBDIVISION IS SERVICED BY THE FOLLOWING UTILITIES:

WATER: CITY OF KYLE, 100 W. CENTER ST. KYLE, TEXAS 78640
WASTEWATER: CITY OF KYLE, 100 W. CENTER ST. KYLE, TEXAS 78640

ELECTRIC: PEDERNALES ELECTRIC COOPERATIVE, 1819 RANCH TO MARKET RD 150 KYLE, TX 78640



NOTES:

- 1. TOTAL ACREAGE: 42.04 ACRES.
- 2. THE TOTAL AREA OF PUBLIC STREET RIGHT-OF-WAY TO BE DEDICATED IN THIS SUBDIVISION IS: 0 ACRES.
- 3. TOTAL NUMBER OF LOTS: 2.
- 4. PLAT COMPLETELY CONFORMS WITH PLUM CREEK P.U.D. MASTER PLAN & CITY OF KYLE ORDINANCE 308 AND 311 AS AMENDED.
- 5. SETBACKS NOT SHOWN ON LOTS SHALL CONFIRM TO THE CITY OF KYLE ZONING ORDINANCES.
- 6. A 7.5 FOOT PUBLIC UTILITY EASEMENT ADJACENT TO F.M. 1626 AND PLUM CREEK MEADOWS IS HEREBY DEDICATED, AS SHOWN HEREON.
- 7. ALL UTILITIES WITHIN THIS SUBDIVISION SHALL BE UNDERGROUND.
- 8. ALL OPEN SPACES, DRAINAGE EASEMENT AND LANDSCAPE EASEMENT AREAS DEPICTED HEREON SHALL BE MAINTAINED, KEPT NEATLY CUT, FREE FROM DEBRIS AND, WITH RESPECT TO DRAINAGE EASEMENTS, FREE FROM TREE/BRUSH RE-GROWTH. MAINTENANCE OF ALL EASEMENTS AND RIGHT-OF-WAYS TO THE PAVEMENT TO BE THE RESPONSIBILITY OF THE PROPERTY OWNERS, OR IF EASEMENTS ARE CREATED BY SEPARATE INSTRUMENTS, MAINTENANCE GOVERNED BY THE TERMS OF SUCH SEPARATE INSTRUMENTS.
- 9. THE OWNER OF LOT 7A AND LOT 7B ARE REQUIRED TO SUBMIT THE SITE DEVELOPMENT PLAN FOR LOT 7A AND LOT 7B TO THE CITY OF KYLE, PLUM CREEK DEVELOPMENT PARTNERS, LTD., A TEXAS LIMITED PARTNERSHIP, AND, IF NOT THE SAME PARTIES AS ARE IN PLUM CREEK DEVELOPMENT PARTNERS, THEN THE ARCHITECTURAL REVIEW COMMITTEE FOR THE PLUM CREEK HOME OWNER'S ASSOCIATION, FOR THEIR RESPECTIVE REVIEW AND APPROVALS PRIOR TO COMMENCING ANY CONSTRUCTION ACTIVITY ON OR AROUND LOT 7A AND LOT 7B, INCLUDING, WITHOUT LIMITATION, THE INSTALLATION OF THE SIDEWALK AND ANY OTHER IMPROVEMENTS REQUIRED HEREIN.
- 10. PRIOR TO CONSTRUCTION OF ANY IMPROVEMENTS ON LOT 7A AND LOT 7B, IN THIS SUBDIVISION, A SITE DEVELOPMENT AND/OR BUILDING PERMITS WILL BE OBTAINED FROM THE CITY OF KYLE.
- 11. THIS SUBDIVISION LIES WITHIN THE BUNTON BRANCH-PLUM CREEK WATERSHED.
- 12. EASEMENTS SHOWN HEREON WHICH ARE CREATED BY SEPARATE INSTRUMENTS AND NOT DEDICATED PER THIS PLAT ARE GOVERNED BY THE TERMS OF SUCH SEPARATE INSTRUMENTS.
- 13. SIDEWALKS ALONG PUBLIC RIGHT-OF-WAY ADJACENT TO LOT 7A AND LOT 7B, SHALL BE INSTALLED BY THE OWNER OF LOT 7A AND LOT 7B, AT THE TIME OF SITE DEVELOPMENT AND PRIOR TO SUCH OWNER'S OCCUPANCY OF LOT 7A AND LOT 7B. SIDEWALKS, PEDESTRIAN CROSSING AND OTHER PUBLIC AMENITIES THAT ARE 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.
- 14. THE OWNER OF THE LAND DEDICATED BY THIS PLAT RESERVES THE RIGHT TO USE AND ENJOY THE SURFACE OF ALL EASEMENT AREAS FOR ALL PURPOSES THAT DO NOT INTERFERE WITH THE USE OF SAID EASEMENT AREAS FOR THE PURPOSE OF SAID EASEMENT, INCLUDING BUT NOT LIMITED TO THE RIGHT TO PLACE SURFACING MATERIALS OVER AND ACROSS THE EASEMENT AREA AND TO USE THE SAME FOR PARKING AREAS, DRIVEWAYS, WALKWAYS, SIDEWALK, LANDSCAPING AND LIGHTING.
- 15. FLOODPLAIN ANALYSIS MAY BE REQUIRED PER CITY ADOPTED RAINFALL DEPTH AT THE TIME OF SITE DEVELOPMENT.

STATE OF TEXAS §
COUNTY OF TRAVIS §

ENGINEER'S CERTIFICATION

I THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THE PLAT AND ALL PLANS AND SPECIFICATIONS WHICH ARE INCLUDED WITH THE PLAT ARE, TO THE BEST OF MY PROFESSIONAL CAPACITY, COMPLETE AND ACCURATE AND IN COMPLIANCE WITH ALL RELEVANT CITY ORDINANCES, CODES, PLANS, AND RELEVANT STATE STANDARDS.

ANTHONY J. ENNIS, P.E. DATE _____
REGISTERED PROFESSIONAL ENGINEER
NO. 125658- STATE OF TEXAS
KIMLEY-HORN
FIRM NO. F-928
5301 SOUTHWEST PARKWAY, BUILDING 3, SUITE 100
AUSTIN, TEXAS 78735
(512) 646-2237

STATE OF TEXAS §
COUNTY OF TRAVIS §

SURVEYOR'S CERTIFICATION:

I, ERNESTO NAVARRETE, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACTUAL ON-THE-GROUND SURVEY MADE UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

ERNESTO NAVARRETE, R.P.L.S. DATE _____
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 6642 - STATE OF TEXAS
HR GREEN DEVELOPMENT TX, LLC.
5508 HIGHWAY 290 WEST, SUITE 150
AUSTIN, TEXAS 78735
(512) 872-6696
TBPLS FIRM NO. 10194101

FILE NO: 1373
SHEET 1 OF 3

PLAT PREPARATION DATE: JULY, 2022
APPLICATION SUBMITTAL DATE:

No:	REVISION:	BY:	DATE:



5508 HIGHWAY 290 WEST
SUITE 150
AUSTIN, TX 78735
512.872.6696
HRGREEN.COM

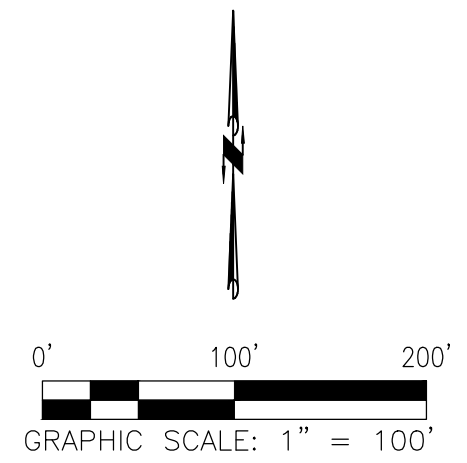
TBPE NO: 16384
TBPLS NO: 10194101

DEVELOPMENT TX

REPLAT OF LOT 7,
PLUM CREEK PHASE II,
SECTION 10
M.M. MCCARVER LEAGUE NO. 4, A-10,
HAYS COUNTY, TEXAS

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.

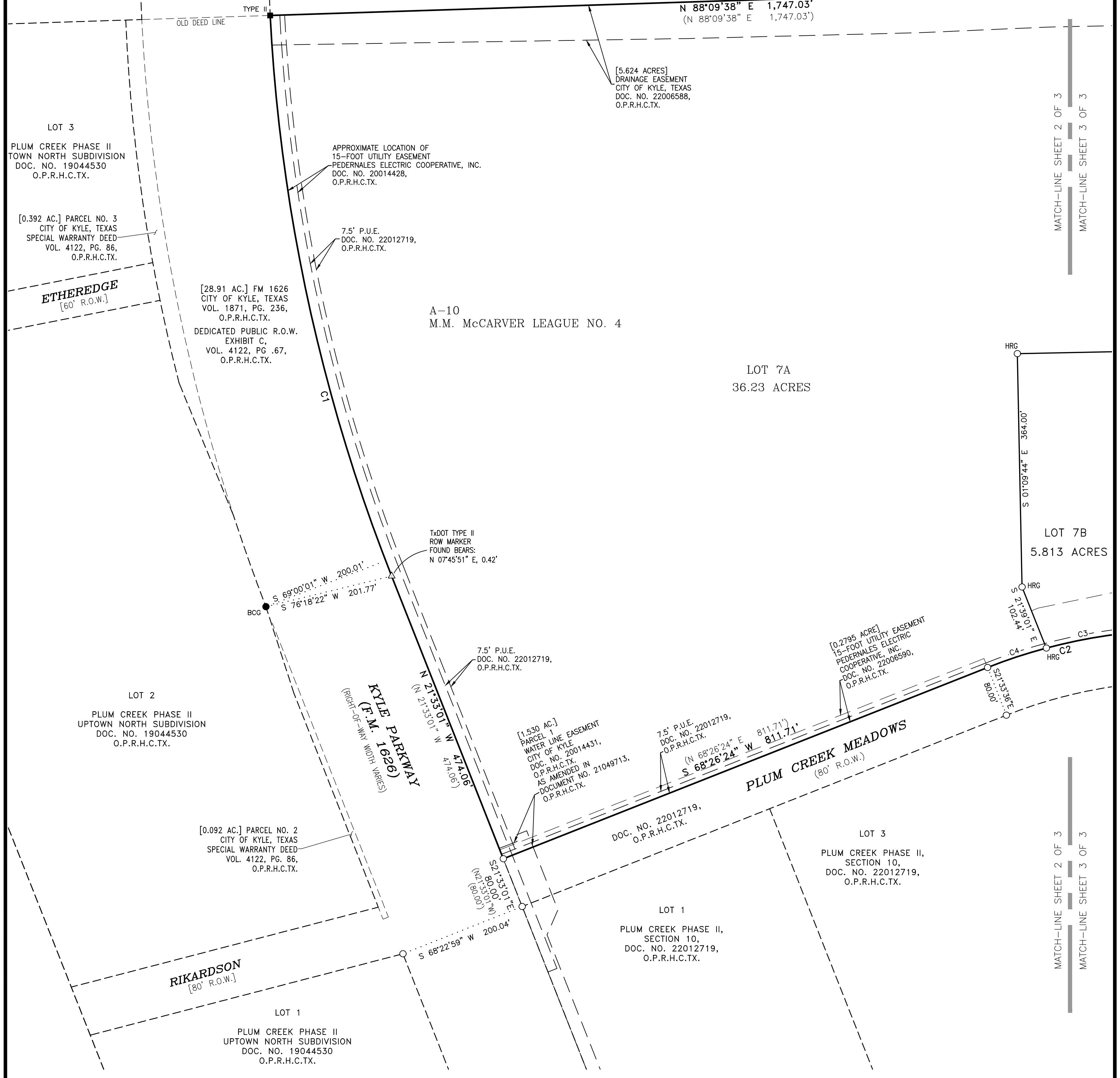
REPLAT OF LOT 7, PLUM CREEK PHASE II, SECTION 10 M.M. MCCARVER LEAGUE NO. 4, A-10, HAYS COUNTY, TEXAS



[TRACT FOUR ~ 97.38 ACRES]
SPECIAL WARRANTY DEED
TEXAS LEHIGH CEMENT COMPANY
VOL. 609, PG. 843,
R.P.R.H.C.TX.

[8.51 AC.]
FM 1626
VOL. 2019, PG. 482,
O.P.R.H.C.TX.

[TRACT FOUR ~ 97.38 ACRES]
SPECIAL WARRANTY DEED
TEXAS LEHIGH CEMENT COMPANY
VOL. 609, PG. 843,
R.P.R.H.C.TX.



MATCH-LINE SHEET 2 OF 3
MATCH-LINE SHEET 3 OF 3

MATCH-LINE SHEET 2 OF 3
MATCH-LINE SHEET 3 OF 3

FILE No: 1373
PLAT PREPARATION DATE: JULY, 2022
APPLICATION SUBMITTAL DATE:

No:	REVISION:	BY:	DATE:



5508 HIGHWAY 290 WEST
SUITE 150
AUSTIN, TX 78735
512.872.6696
HRGREEN.COM

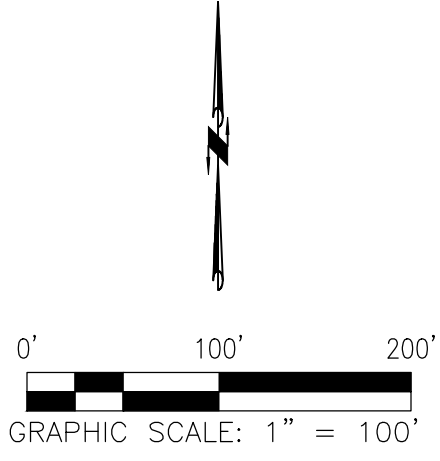
TBPE NO: 16384
TBPLS NO: 10194101

REPLAT OF LOT 7,
PLUM CREEK PHASE II,
SECTION 10
M.M. MCCARVER LEAGUE NO. 4, A-10,
HAYS COUNTY, TEXAS

PLAT DATE: Jul 20, 2022 - 12:29pm

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.

REPLAT OF LOT 7,
 PLUM CREEK PHASE II, SECTION 10
 M.M. MCCARVER LEAGUE NO. 4, A-10,
 HAYS COUNTY, TEXAS

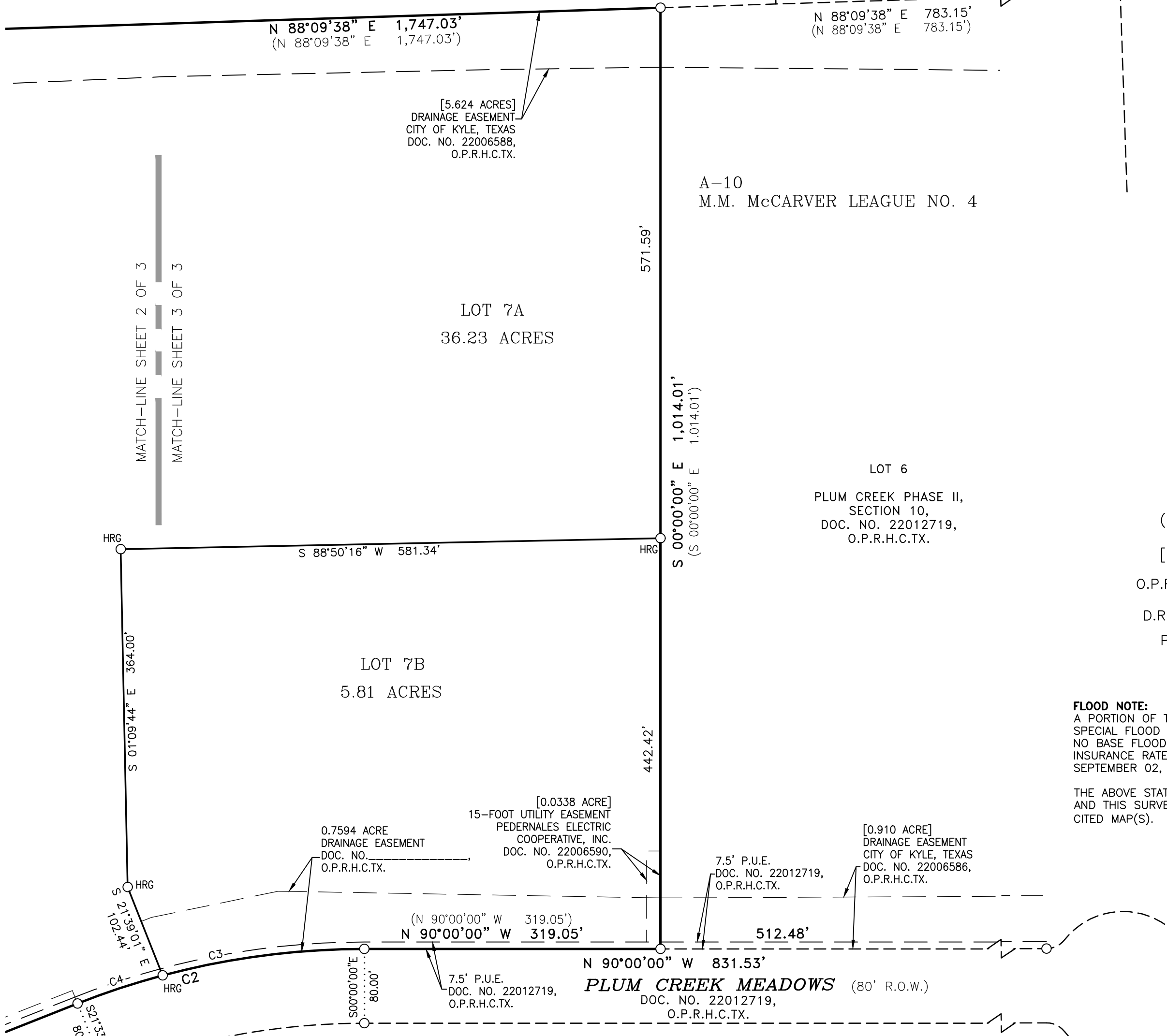


[TRACT FOUR ~ 97.38 ACRES]
 SPECIAL WARRANTY DEED
 TEXAS LEHIGH CEMENT COMPANY
 VOL. 609, PG. 843,
 R.P.R.H.C.TX.

[21.60 AC.]
 WARRANTY DEED
 HAYS COUNTY YOUTH ATHLETIC
 ASSOCIATION, INCORPORATED
 VOL. 356, PG. 294,
 O.P.R.H.C.TX.

BENCHMARK LIST: NAVD88 – OPUS
 BM005549–633:
 SQUARE FOUND ON A CONCRETE INLET IN THE
 SOUTH RIGHT-OF-WAY OF KOHLERS CROSSING
 APPROXIMATELY 588' EAST OF THE UNION PACIFIC
 RAIL ROAD RIGHT-OF-WAY, AND APPROXIMATELY
 850' WEST OF THE MARKETPLACE RIGHT-OF-WAY.
 ELEVATION = 718.35 FEET.
 BM005549–634:
 SQUARE SET ON A CONCRETE INLET AT THE
 SOUTHEAST INTERSECTION OF KOHLERS CROSSING
 AND MARKETPLACE AVENUE.
 ELEVATION = 708.46 FEET.

[145.94 AC.]
 SPECIAL WARRANTY DEED
 FLINT HILLS RESOURCES
 CENTRAL TEXAS, LLC,
 VOL. 5167, PG. 585,
 O.P.R.H.C.TX.



LEGEND

■ TYPE II	TxDOT TYPE II R.O.W. MARKER FOUND
●	1/2" IRON ROD FOUND
● BCG	1/2" IRON ROD W/ PLASTIC CAP STAMPED "BCG" FOUND
○	1/2" IRON ROD W/ PLASTIC CAP STAMPED "LANDDEV" PREVIOUSLY SET
○ HRG	1/2" IRON ROD W/ PLASTIC CAP STAMPED "HR GREEN" SET
△	CALCULATED POINT
()	RECORD INFORMATION PER DOC. NO. 22012719, O.P.R.H.C.TX.
[]	OTHER RECORD INFORMATION
O.P.R.H.C.TX.	OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS
D.R.H.C.TX.	DEED RECORDS OF HAYS COUNTY, TEXAS
P.U.E.	PUBLIC UTILITY EASEMENT

FLOOD NOTE:
 A PORTION OF THE SUBJECT TRACT IS SHOWN TO BE IN FLOOD ZONE A, A SPECIAL FLOOD HAZARD AREA INUNDATED BY THE 1% ANNUAL CHANCE FLOOD, NO BASE FLOOD ELEVATIONS DETERMINED, AS IDENTIFIED BY THE FLOOD INSURANCE RATE MAP PANEL NO. 48209C0270F & 48209C0290F, DATED SEPTEMBER 02, 2005.

THE ABOVE STATEMENT IS MEANT FOR FLOOD INSURANCE DETERMINATION ONLY AND THIS SURVEYOR ASSUMES NO LIABILITY FOR THE CORRECTNESS OF THE CITED MAP(S).

LOT 4
 PLUM CREEK PHASE II,
 SECTION 10,
 DOC. NO. 22012719,
 O.P.R.H.C.TX.

CURVE TABLE

CURVE #	RADIUS	ARC DISTANCE	CHORD BEARING	CHORD DISTANCE
C1	2,764.79' (2,764.79')	898.29' (898.29')	N 12°13'25" W (N 12°13'25" W)	894.34' (894.34')
C2	840.00' (840.00')	316.09' (316.09')	S 79°13'12" W (S 79°13'12" W)	314.23' (314.23')
C3	840.00'	219.48'	S 82°30'53" W	218.86'
C4	840.00'	96.61'	S 71°44'05" W	96.55'

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 0.999902.

FILE No: 1373
 PLAT PREPARATION DATE: JULY, 2022
 APPLICATION SUBMITTAL DATE:

No:	REVISION:	BY:	DATE:



5508 HIGHWAY 290 WEST
 SUITE 150
 AUSTIN, TX 78735
 512.872.6696
 HRGREEN.COM
 TBPE NO: 16384
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REPLAT OF LOT 7,
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 SECTION 10
 M.M. MCCARVER LEAGUE NO. 4, A-10,
 HAYS COUNTY, TEXAS



CITY OF KYLE, TEXAS

Taco Bell - Site Plan (SD-22-0151)

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: Approve Taco Bell - Site Plan (SD-22-0151) 0.867 acres; 1 commercial lot located at 1750 Veterans Drive. ~ *Will Atkinson, Interim Director of Planning*

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

Other Information: See attached.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Memo
- Landowner Authorization Form
- Summary Letter
- Deed
- Franchise Tax Status Form
- Site Plan
- Landscape Plan L1
- Landscape Plan L2



CITY OF KYLE

Community Development Department

MEMORANDUM

TO: Mayor & Council

FROM: Will Atkinson – Interim Director of Planning

DATE: Tuesday, September 20, 2022

SUBJECT: Taco Bell - 0.867 acres; 1 commercial lot- Site Plan (SD-22-0151)

REQUEST

The applicant (Raquel Saenz, Hagood Engineering Associates, Inc.) on behalf of Nomoland Company, LP, is requesting approval of the Taco Bell site plan located at 1750 Veterans Drive, Kyle, Texas.

NARRATIVE

The development site is located in Phase 1 of the Plum Creek Planned Unit Development. The total acreage (approximately 0.867 – acres), is approximately 300-feet southeast of the intersection of Veterans Drive and FM 2770 and is currently a vacant lot between the Walgreens and Sonic on Veteran’s Drive. The site is zoned Plum Creek Mixed Use and will have a free standing Taco Bell restaurant with dine in and drive-thru options. The site plan has been reviewed by the Planning, Engineering & Public Works Department for compliance. Per the Plum Creek zoning ordinance, projects zoned Plum Creek Mixed Use, must have site plans approved by both the Planning & Zoning Commission and City Council. The Planning & Zoning Commission approved the site plan with a 4-0 vote at the September, 13, 2022 regularly scheduled meeting.



Vicinity Map

RECOMMENDATION

Staff asks the Mayor & Council to approve the site development permit as it is compliant.

LANDOWNER AUTHORIZATION AND AFFIDAVIT OF OWNERSHIP

SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: Lot 2, Block "A" of PLUM CREEK PHASE 1, SECTION 1H

of lots (if subdivided): 1 # of acres: 0.87

Site APN/Property ID #(s): R136880

Location: 1750 VETERANS DR. County: HAYS

Development Name: TACO BELL

OWNER

Company/Applicant Name: Nomoland Company, LP

Authorized Company Representative (if company is owner): Reeder E. Ratliff

Type of Company and State of Formation: Texas limited partnership

Title of Authorized Company Representative (if company is owner): President of General Partner

Applicant Address: 5725 NW 132nd Street, Oklahoma City, OK 73142

Applicant Fax: (405) 720-9113

Applicant Phone: (405)-722-9390

Applicant/Authorized Company Representative Email: rratliff@mhrokc.com

APPLICANT REPRESENTATIVE

Check one of the following:

. I will represent the application myself; or

X. I hereby designate HAGOOD ENGINEERING ASSOCIATES, INC. ("HEA") to act as Owner's agent for the limited purpose of filing, processing, representation, and/or presentation of an application for development of the subject property by Tacala Austin Corp., the party with whom Owner has contracted to sell the subject property. HEA shall be the principal contact for responding to all requests for information and for resolving all issues of concern relative to the development application. The authority of HEA as granted herein shall commence and be in full force on the date of this instrument and shall remain in full force and effect thereafter until the development application has been submitted to, and finally ruled upon, by the City of Kyle, Texas (the "City"), unless Owner sooner revokes such authority in writing and delivers a copy of such revocation to HEA.

I hereby certify that the above-named owner is the rightful owner of the Property. I am the President of MHR Enterprises, LLC, General Partner of the Owner, and am authorized to act on behalf of the Owner. I further certify that the information provided herein is true and correct. By signing below, I agree that the City is authorized and permitted to provide information contained within this application, including the email address, to the public.

Owner: NOMOLAND COMPANY, LP, a Texas limited partnership

By: MHR Enterprises, LLC, an Oklahoma limited Liability company, General Partner

By: Reeder E. Ratliff
Reeder E. Ratliff, President

State of Oklahoma §
County of Oklahoma §

This instrument was acknowledged before me on July 12, 2022, by Reeder E. Ratliff, President of MHR Enterprises, LLC, an Oklahoma limited liability company, General Partner of Nomoland Company, LP, a Texas limited partnership.

(Notary Seal)



SUBSCRIBED AND SWORN TO before me, this 12th day of July, 2022.

Vicky Calhoun

Notary Public's Signature

01/10/24

My Commission Expires

PROJECT REPRESENTATIVE

Representative Name: RAQUEL SAENZ
Representative Address: 900 E. MAIN STREET ROUND ROCK, TX 78664
Representative Phone: 512.244.1546
Representative Email: RAQUELR@HEAENG.COM
Representative's Signature: _____ Date: _____

July 15, 2022



City of Kyle
Planning Department
100 W. Center Street
Kyle, TX 78640

Re: Engineer's Summary Letter
Taco Bell Kyle
1750 Veterans Drive
HEA# 22-015

To Whom It May Concern:

We are pleased to present the site development plans for the Taco Bell – Kyle project to be located at 1750 Veterans Drive, Kyle, Texas. This development includes the construction of a 2739 S.F. restaurant building with associated parking, drainage and utility infrastructure.

The 0.867-acre site is currently undeveloped and is zoned Plum creek mixed use. The site has been designed and engineered to meet the standards and requirements of the plum creek mixed use zoning. These include parking requirements, tree ordinances and utility requirement

Water service and wastewater service shall be provided by the city of Kyle. This site has a reciprocal access easement as part of the subdivision. This shall be used as the primary point of access to the site.

This site is part of a regional storm water management system and all developed flow generated from the site will be captured into the existing storm system.

I hope that you find this information sufficient for the approval process. Should you need anything further, please contact either of us by phone or e-mail at your earliest convenience, (512) 244-1546.

Sincerely,
Hagood Engineering Associates, Inc.

A handwritten signature in black ink, appearing to read "Tom Asuquo", is written over a faint, illegible printed name.

Tom Asuquo
TA/xx

WARRANTY DEED

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

DATE: June 10, 2011

GRANTOR: **MGCC Texas Enterprises, LLC, an Oklahoma limited liability company**

GRANTOR'S MAILING ADDRESS: P.O. Box 22775
Oklahoma City, OK 73123-1775

GRANTEE: **Nomoland Company, LP, a Texas limited partnership**

GRANTEE'S MAILING ADDRESS: P.O. Box 22775
Oklahoma City, OK 73123-1775

Consideration: **TEN AND NO/100 DOLLARS (\$10.00)** and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property (including any improvements):

All that certain tract or parcel of land lying and being situated in Hays County, Texas, and being more particularly described on Exhibit A attached hereto and made a part hereof.

Reservations from and Exceptions to Conveyance and Warranty:

Easements, rights-of-way and prescriptive rights, whether of record or not; all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, liens and other instruments that affect the Property; rights of adjoining owners in any walls and fences situated on a common boundary; discrepancies, conflicts, or shortages in area or boundary line; any encroachments or overlapping of improvements; all rights, obligations and other matters emanating from and existing by reason of the creation, establishment, maintenance and operation of any water district; and taxes for existing and subsequent years.

Grantor, for the Consideration and subject to the Reservations from and Exceptions to Conveyance and Warranty, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in 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, successors and assigns 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 all or any part of the Property.

MGCC TEXAS ENTERPRISES, LLC,
an Oklahoma limited liability company

By: RLM, LLC, an Oklahoma limited liability company, Manager

By: R L Mason
Ralph L. Mason, Manager

STATE OF OKLAHOMA)

COUNTY OF OKLAHOMA)

This instrument was acknowledged before me on the 10th day of June, 2011, by Ralph L. Mason, Manager of RLM, LLC, an Oklahoma limited liability company, Manager of MGCC Texas Enterprises, L.L.C., an Oklahoma limited liability company.



Margaret J. Oden
Notary Public, State of Oklahoma

AFTER RECORDING RETURN TO:
Nomoland Company, L.P.
Attn: Margaret Oden
P.O. Box 22775
Oklahoma City, OK 73123-1775

EXHIBIT "A"

4.532 acres of land, more or less, out of the Henry Loller Survey No. 19, Abstract No. 290, in Hays County, Texas, being the same tract conveyed to MGCC Texas Enterprises, LLC, an Oklahoma limited liability company in deed dated June 1, 2007, and recorded in Volume 3192, Page 267, and re-recorded in Volume 3214, Page 381, Official Public Records Hays County, Texas, and being a portion of a 206.75 acre tract conveyed to Plum Creek Development Partners, Ltd., a Texas limited partnership in deed recorded in Volume 1336, Page 515, Official Public Records Hays County, Texas, said 4.532 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" rebar with cap found at the intersection of the east right-of-way line of R.M. 2770 (right-of-way width varies) and the north right-of-way line of F.M. 150 (80' right-of-way width), also being in the west line of said 206.75 acre tract, from which a concrete highway monument found bears South 50°28'13" West, a distance of 2.29 feet;

THENCE North 42°56'27" East, with the east right-of-way line of said R.M. 2770 and the west line of the 206.75 acre tract, a distance of 110.13 feet to a 1/2" rebar with cap set for the southwest corner of Lot 1, Block 'A' Plum Creek Phase 1, Square Replat, a subdivision of record in Volume 11, Page 23-26 of the Hays County Plat Records, from which a 1/2" rebar found in the east right-of-way line of R.M. 2770 for the northwest corner of said Lot 1 bears North 42°56'27" East, a distance of 169.68 feet to a calculated point and North 10°34'49" East, a distance of 234.84 feet;

THENCE South 74°32'49" East, over and across the 206.75 acre tract with the south line of Lot 1, a distance of 408.67 feet to a 1/2" rebar with cap set, from which a 1/2" rebar found for the southeast corner of Lot 1 bears South 74°32'49" East, a distance of 250.84 feet;

THENCE continuing over and across the 206.75 acre tract, the following four (4) courses:

1. South 15°13'49" West, a distance of 273.97 feet to a 1/2" rebar with cap set for a point of curvature;
2. Along a curve to the right having a radius of 60.00', an arc length of 140.39 feet and chord which bears South 51°13'09" East, a distance of 110.48 feet to a 1/2" rebar with cap set for a point of reverse curvature;

3. Along a curve to the left having a radius of 25.00 feet, an arc length of 19.15 feet and chord which bears South 19°24'46" East, a distance of 18.69 feet to a 1/2" rebar with cap set;
4. South 41°21'35" East, a distance of 172.53 feet to a 1/2" rebar found for the northwest termination of the north right-of-way line of Wetzel Drive (50' right-of-way width), also being the northwest corner of Plum Creek Phase 1, Section 1F, a subdivision of record in Volume 12, Pages 31-33 of the Plat Records of Hays County, Texas;

THENCE South 48°38'34" West, continuing over and across the 206.75 acre tract with the west line of said Plum Creek Phase 1, Section 1F, a distance of 195.00 feet to a 1/2" rebar with cap found in the south line of the 206.75 acre tract for the southwest corner of Plum Creek Phase 1, Section 1F and also being in the north line of a 10.00 acre tract described in Volume 453, Page 739 of the Deed Records of Hays County, Texas;

THENCE North 41°22'52" West, with the south line of the 206.75 acre tract and the north line of said 10.00 acre tract, a distance of 201.86 feet to a 1/2" rebar with cap found in the north right-of-way line of said F.M. 150 for the northwest corner of the 10.00 acre tract, from which a concrete highway monument found for point of tangency station 354+05.9 bears along a curve to the right having a radius of 994.93 feet, an arc length of 219.75 feet and chord which bears South 23°04'41" East, a distance of 219.30 feet;

THENCE with the north right-of-way line of F.M. 150 and the south and west lines of the 206.75 acre tract, the following three (3) courses:

1. Along a curve to the left having a radius of 994.93 feet, an arc length of 351.99 feet and chord which bears North 39°29'51" West, a distance of 350.15 feet to a 1/2" rebar with cap found at point of curvature station 348+57.0;
2. North 49°34'58" West, a distance of 124.93 feet to a 1/2" rebar with cap found for the southwest corner of the 206.75 acre tract;
3. North 02°47'48" West, a distance of 135.56 feet to the POINT OF BEGINNING, containing 4.532 acres of land, more or less.

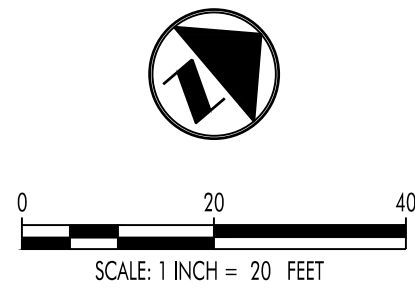
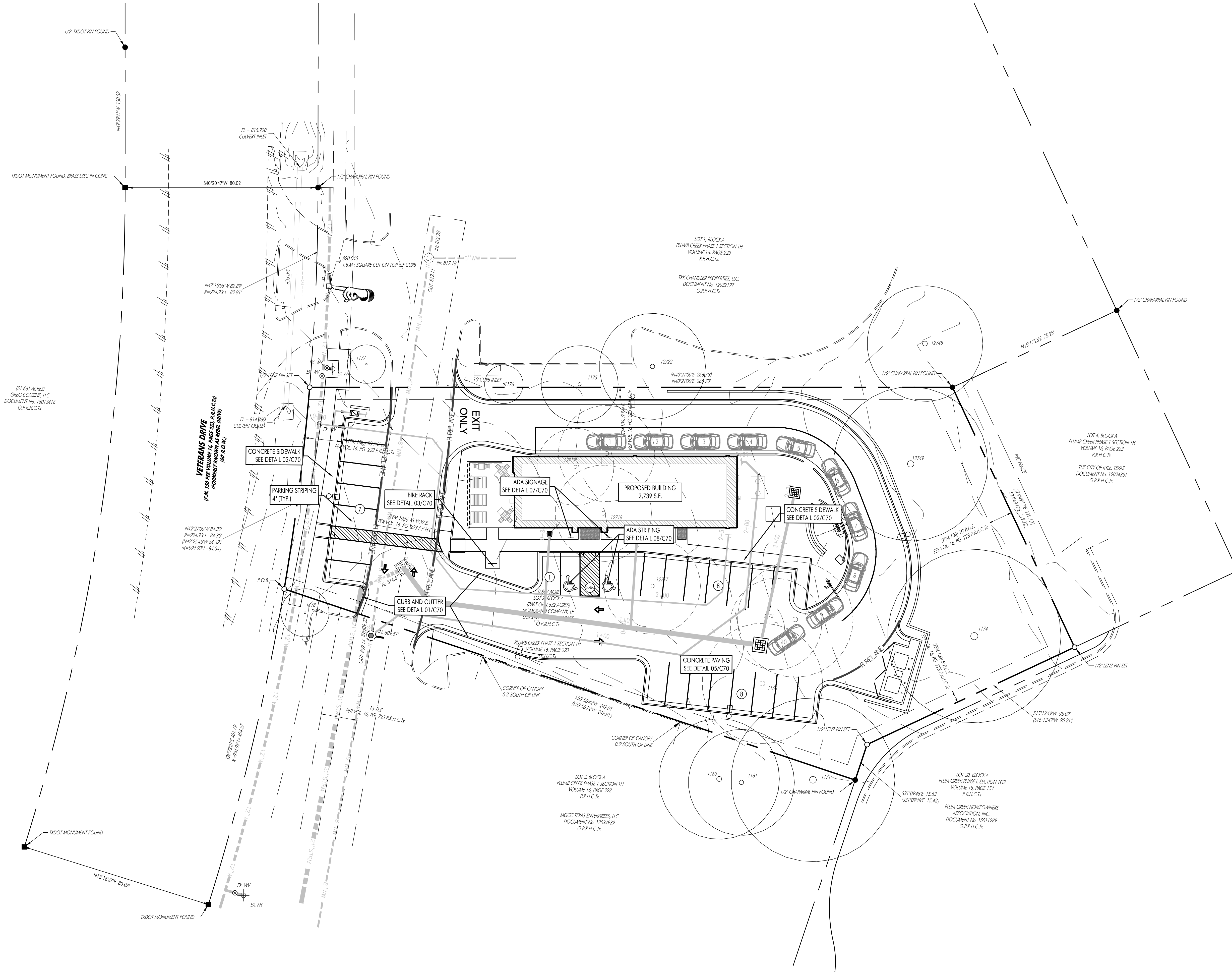


Franchise Tax Account Status

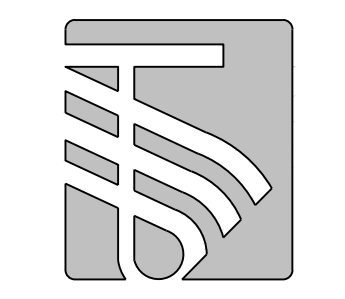
As of : 07/15/2022 12:54:37

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

NOMOLAND COMPANY, LP	
Texas Taxpayer Number	32043750671
Mailing Address	PO BOX 22775 OKLAHOMA CITY, OK 73123-1775
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	03/07/2011
Texas SOS File Number	0801393066
Registered Agent Name	CROWE & DUNLEVY, A PROFESSIONAL CORPORATION
Registered Office Street Address	2525 MCKINNON STREET SUITE 425 DALLAS, TX 75201



HOOVER & ASSOCIATES, INC.
ARCHITECTS & PLANNERS
 1407 W. 46th Street
 Austin, TX. 78756
 512/467-2626
 FAX 512/467-2655



CONTRACTORS SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK. DO NOT SCALE THESE DRAWINGS.

Taco Bell
 1750 VETERANS DRIVE
 KYLE TX, 78640



900 E. Main Street
 Round Rock, TX 78664
 Phone (512) 244-1546
 Fax (512) 244-1010
 www.hagood.com
 TSPC Registration No. F-12709



THE SEAL APPEARING ON THIS DOCUMENT HAS AUTHORIZED BY TERRY R. HAGOOD, P.E.
 3786
 THIS DRAWING MAY NOT BE ADDED, DELETED, OR OTHERWISE MODIFIED WITHOUT THE WRITTEN CONSENT OF THE ENGINEER AND THEN ONLY IN ACCORDANCE WITH THE RULES OF THE BOARD OF ENGINEERING EXAMINERS.

JOB NO. 22-015 © 2022 HEA, Inc.
 DATE SIGNED: 08/12/2022
 ISSUED FOR: AGENCY REVIEW

REVISIONS	DATE

PROJECT NO. XXXX
 CAD FILE 22-015
 DRAWN BY TA
 CHECKED BY TH
 DATE: 08/12/2022
 SCALE: AS NOTED

SITE PLAN

SP

SITE PLAN PERMIT NO.

DWG 02 OF 23

SITE DEVELOPMENT PERMIT

LANDSCAPE NOTES:

1. TREES SHALL BE A MINIMUM OF THREE INCHES IN CALIPER MEASURE SIX INCHES ABOVE THE ROOT FLARE IMMEDIATELY AFTER PLANTING. TREES SHALL HAVE AN AVERAGE MATURE CROWN GREATER THAN 15 FEET IN DIAMETER. A MINIMUM AREA THREE FEET IN RADIUS IS REQUIRED AROUND THE TRUNKS OF ALL EXISTING AND PROPOSED TREES.
2. TREES SELECTED FOR PLANTING MUST BE FREE FROM INJURY, PESTS, DISEASE, OR NUTRITIONAL DISORDERS. TREES SELECTED FOR PLANTING MUST BE OF GOOD VIGOR.
 - 2.1. FOLIAGE SHOULD HAVE A GREEN OR DARK GREEN COLOR.. VIGOROUS TREES WILL HAVE LARGE LEAVES AND DENSE FOLIAGE.
 - 2.2. SHOOT GROWTH FOR MOST VIGOROUS TREES WILL BE AT LEAST ONE FOOT PER YEAR. AT LEAST ONE-HALF OF THE BRANCHES SHOULD ARISE FROM THE TOP ONE-THIRD AND ONE-HALF FROM THE CENTER ONE-THIRD
 - 2.3. BARK TEXTURE CAN DENOTE VIGOR. SMOOTH OR SHINY BARK ON THE TRUNK AND BRANCHES OF A YOUNG TREE USUALLY SIGNIFIES GOOD VIGOR; CONVERSELY, ROUGH AND DULL BARK COULD INDICATE POOR VIGOR.
 - 2.4. TRUNK TAPER. THE TRUNKS OF VIGOROUS TREES WILL GENERALLY HAVE AN INCREASE IN DIAMETER WITH A DECREASE IN HEIGHT. TREES WITH REVERSE TAPERS OR NO TAPER SHOULD BE AVOIDED.
 - 2.5. ROOT COLOR.YOUNG ROOTS OF MOST TREES WILL BE LIGHT IN COLOR
3. TREES SELECTED FOR PLANTING MUST BE FREE OF ROOT DEFECTS.
 - 3.1. KINKED ROOTS, IN WHICH TAPROOTS, MAJOR BRANCHY ROOTS, OR BOTH ARE BENT MORE THAN 90 DEGREES WITH LESS THAN 20 PERCENT OF THE ROOT SYSTEM ORIGINATING ABOVE THE KINK. A TREE WITH SUCH ROOTS WILL PROBABLY BEND AT THE SOIL LINE WHEN RELEASED FROM A SUPPORTING STAKE.
 - 3.2. CIRCLING OR GIRDLING ROOTS WHICH CIRCLE 80 PERCENT OR MORE OF THE ROOT SYSTEM BY 360 DEGREES OR MORE.
4. BUFFERING OF THE FRONT YARD WILL BE ACCOMPLISHED THROUGH THE COMBINATION OF TREES, SHRUBS, GRADE CHANGES, AND FENCES.
5. GRADE CHANGES THAT DO NOT APPEAR ON THE SITE PLANS SHALL BE BROUGHT TO THE ATTENTION OF THE LANDSCAPE ARCHITECT BY THE GENERAL CONTRACTOR PRIOR TO CONSTRUCTION.
6. A MINIMUM 35% OF THE REQUIRED LANDSCAPED AREA AND REQUIRED PLANTINGS SHALL BE INSTALLED BETWEEN THE FRONT PROPERTY LINES AND THE BUILDING BEING CONSTRUCTED.
7. SHRUB MATERIAL NOT TO BE A MINIMUM OF 48" O.C. UNLESS OTHERWISE SPECIFIED. GROUNDCOVERS NOT TO EXCEED 18" O.C. DURING THE TIME OF MARCH 15–OCTOBER 15 INSTALLATION OF HYDROMULCH SHALL BE COMMON BERMUDA OR SAHARA BERMUDA FOR OCTOBER 16 –MARCH 14 INSTALLATION OF HYDROMULCH SHALL BE ANNUAL OR PERENNIAL RYE WITH A SPRING APPLICATION OF COMMON BERMUDA OR SAHARA BERMUDA.
8. ALL LAWN AREAS WITHIN THE LIMITS OF CONSTRUCTION SHALL BE RE-VEGETATED WITH BERMUDA SOD OR RYE UNLESS NATIVE RESTORATION MIX IS SPECIFIED.
9. ALL LANDSCAPE AREAS TO BE SEPARATED FROM TURF BY EDGING.
10. NOT MORE THAN 50% OF THE TREES AND 50% OF SHRUBS PROPOSED WILL BE OF THE SAME SPECIES.
11. AN AUTOMATIC IRRIGATION SYSTEM SHALL BE INSTALLED. SEE IRRIGATION NOTES IN THESE DRAWINGS FOR REQUIREMENT.

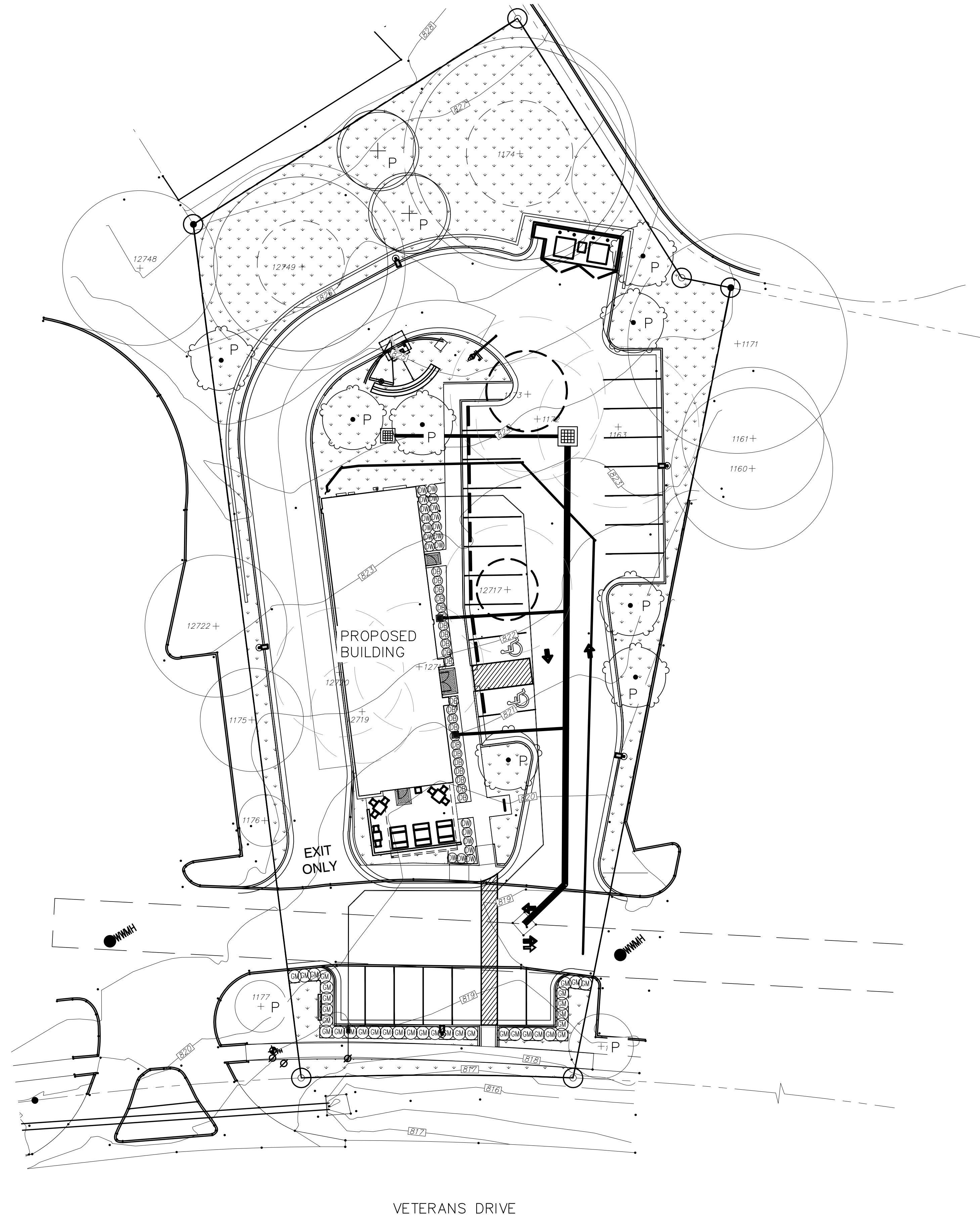
LANDSCAPE CALCULATIONS

LOT AREA	0.867 ACRES	=	37,767 SQ.FT.	
LANDSCAPE REQUIRED:	5,666 SQ.FT.		15%	
LANDSCAPE PROVIDED:	14,189 SQ.FT.			
FRONT-PLACEMENT LANDSCAPE	1,926 SF	13.6% OF PROVIDED	LANDSCAPE	
TOTAL LANDSCAPED AREA	14,189 SF	250.4% PROVIDED		

TREES			
REQUIRED TREES BY CODE	6	TREES	
REQUIRED PKG LOT TREES BY CODE (NO PKG SPACE LESS THAN 50' FROM TREE)	6	TREES	
PARKING LOT TREES PROVIDED	6	TREES	
REQUIRED TREES PROVIDED (MIN 3" CAL.)	6	TREES	
TOTAL TREES PROVIDED	12	TREES	
SCREENING SHRUBS			
LINEAR FOOTAGE REQ. TO BUFFER PARKING LOT	121 LF		
SHRUBS REQUIRED (4' O.C. MINIMUM)	121/4	31	SHRUBS
TOTAL SHRUBS PROVIDED		34	SHRUBS

NOTE:
EXISTING TREES TO REMAIN USED TO SATISFY PARKING TREE REQUIREMENT

LEGEND	
P	PARKING LOT TREES
R	REQUIRED TREES



HOOVER & ASSOCIATES, INC.
ARCHITECTS & PLANNERS
 1407 W. 46th Street
 Austin, TX. 78756
 512/467-2626
 FAX 512/467-2655

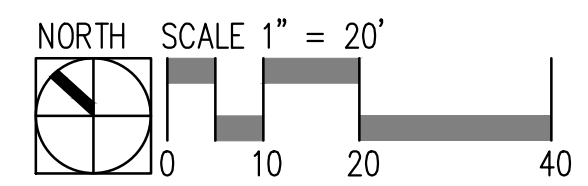
07/15/2022

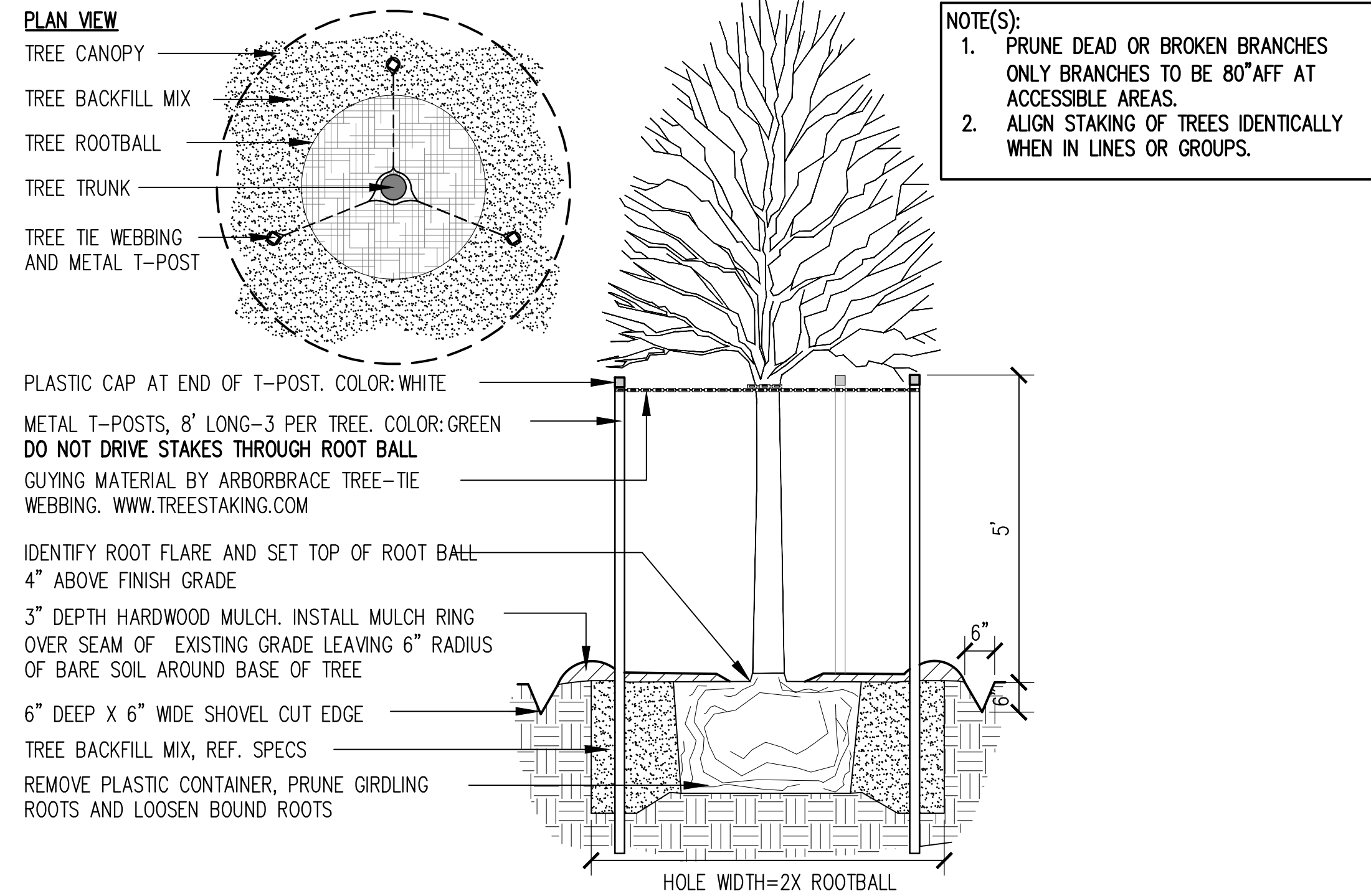
CONTRACTORS SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK. DO NOT SCALE THESE DRAWINGS.



REVISIONS	DATE

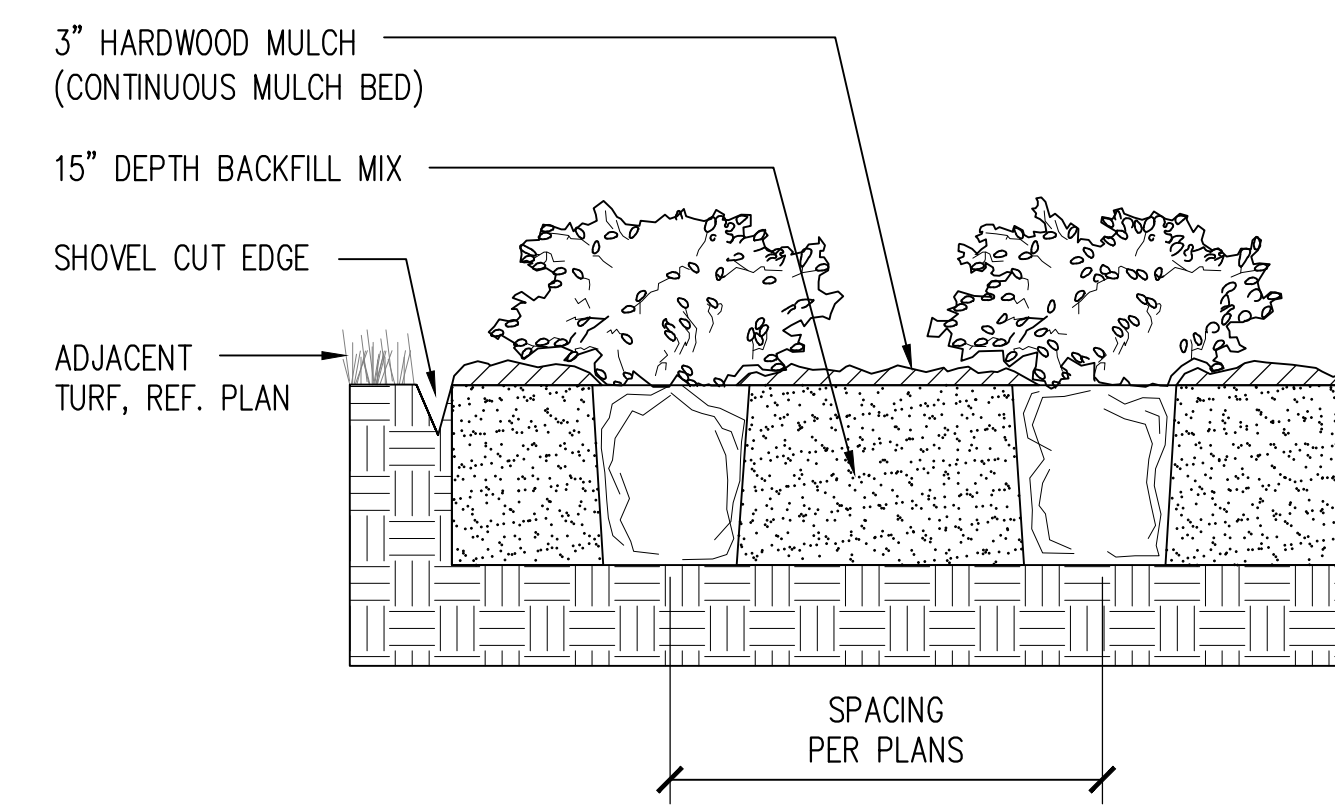
L1





1 SHADE TREE PLANTING
SECTION

SCALE: 1/2"=1'-0"



2 SHRUB PLANTING
SECTION

SCALE: 3/4"=1'-0"

PLANT SCHEDULE					
TREES	QTY	COMMON / BOTANICAL NAME	CONT		
	8	RED OAK QUERCUS RUBRA	65 GAL		
	2	SOUTHERN LIVE OAK QUERCUS VIRGINIANA	65 GAL		
SHRUBS	QTY	COMMON / BOTANICAL NAME	CONT	SPACING	
DB	23	DWARF BURFORD HOLLY ILEX CORNUTA 'DWARF BURFORD HOLLY'	3 GAL	36" o.c.	
DW	21	DON'S DWARF WAX MYRTLE MYRTICA CERIFERA 'DON'S DWARF'	5 GAL	36" o.c.	
GM	34	REGAL MIST PINK MUHLY GRASS MUHLENBERGIA CAPILLARIS 'REGAL MIST'	3 GAL	48" o.c.	
GROUND COVERS	CODE	QTY	COMMON / BOTANICAL NAME	CONT	SPACING
	TURF	12,967 SF REF. PLAN	BERMUDA GRASS CYNODON DACTYLON	SOD	

IRRIGATION NOTES:

AUTOMATIC IRRIGATION SYSTEMS SHALL COMPLY WITH TCEQ CHAPTER 344 AS WELL AS THE FOLLOWING REQUIREMENTS:

- THESE REQUIREMENTS SHALL BE NOTED ON THE SITE DEVELOPMENT PERMIT AND SHALL BE IMPLEMENTED AS PART OF THE LANDSCAPE INSPECTION:
 - THE SYSTEM MUST PROVIDE A MOISTURE LEVEL ADEQUATE TO SUSTAIN GROWTH OF THE PLANT MATERIALS.
 - THE SYSTEM DOES NOT INCLUDE SPAY IRRIGATION ON AREAS LESS THAN (10) FEET WIDE (SUCH AS MEDIANS, BUFFER STRIPS, AND PARKING LOT ISLANDS).
 - CIRCUIT REMOTE CONTROL VALVES HAVE ADJUSTABLE FLOW CONTROLS.
 - SERVICEABLE IN-HEAD CHECK VALVES AREA ADJACENT TO PAVED AREAS WHERE ELEVATION DIFFERENCES MAY CAUSE LOW HEAD DRAINAGE.
 - A MASTER VALVE INSTALLED ON THE DISCHARGE SIDE OF THE BACKFLOW PREVENTER.
 - ABOVE-GROUND IRRIGATION EMISSION DEVICES ARE SET BACK AT LEAST SIX (6) INCHES FROM IMPERVIOUS SURFACES.
 - AN AUTOMATIC RAIN SHUT-OFF DEVICE SHUTS OFF THE IRRIGATION SYSTEM AUTOMATICALLY AFTER MORE THAN A ONE-HALF INCH (1/2") RAINFALL.
 - NEWLY PLANTED TREES SHALL HAVE PERMANENT IRRIGATION CONSISTING OF DRIP OR BUBBLERS.
- THE IRRIGATION INSTALLER SHALL DEVELOP AND PROVIDE AN AS-BUILT DESIGN PLAN TO THE CITY AT THE TIME THE FINAL IRRIGATION INSPECTION IS PERFORMED.
 - UNLESS FISCAL SECURITY IS PROVIDED TO THE CITY FOR THE INSTALLATION OF THE SYSTEM, IT MUST BE OPERATIONAL AT THE TIME OF THE FINAL LANDSCAPE INSPECTION.
- THE IRRIGATION INSTALLER SHALL ALSO PROVIDE EXHIBITS TO BE PERMANENTLY INSTALLED INSIDE OR ATTACHED TO THE IRRIGATION CONTROLLER, INCLUDING:
 - A LAMINATED COPY OF THE WATER BUDGET CONTAINING ZONE NUMBERS, PRECIPITATION RATE, GALLONS PER MINUTE AND THE LOCATION OF THE ISOLATION VALVE, AND AN AS BUILT PLAN.
- THE IRRIGATION INSTALLER SHALL PROVIDE A REPORT TO THE CITY ON A FORM PROVIDED BY THE AUSTIN WATER UTILITY DEPARTMENT CERTIFYING COMPLIANCE WITH SUBSECTION 1 WHEN THE FINAL PLUMBING INSPECTION IS PERFORMED BY THE CITY.

EXISTING TREES TO BE REMOVED -
(REF. CIVIL SHEETS FOR FULL EXISTING TREE LIST)

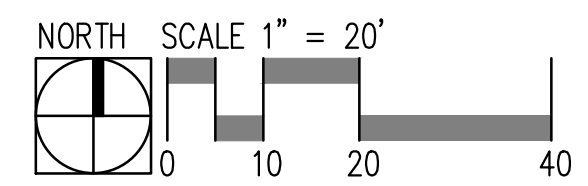
Tree #	Caliper	Name	R
1163	25	Live Oak	(R)
1172	19	Live Oak	(R)
1173	24	Live Oak	(R)
12717	20	Live Oak	(R)
12718	20	Live Oak	(R)
12719	16	Live Oak	(R)
12720	20	Live Oak	(R)

07/15/2022
CONTRACTORS SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY THE ARCHITECT OF ANY DIMENSIONAL ERRORS, OMISSIONS OR DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK. DO NOT SCALE THESE DRAWINGS.



REVISIONS	DATE

L2





CITY OF KYLE, TEXAS

Spectrum EP-LAN connectivity

Meeting Date: 9/20/2022

Date time:7:00 PM

Subject/Recommendation: Authorize the Interim City Manager to accept the 36-month proposal from Spectrum Enterprises to provide multi-point EP-LAN connectivity from and between the City's new Public Safety Center facility and City Hall for \$1,075.20 per month plus a one-time \$280.00 installation fee. ~ *Marco Forti, Interim Director of IT*

Other Information:

Legal Notes:

Budget Information: Funding for this 3-year service agreement will be provided from the adopted budget for Fiscal Year 2022-2023 and future budgets of the Information Technology Department.

ATTACHMENTS:

Description

- 1G ELAN from 1700 Kohlers Crossing to 100 W. Center Street Kyle_ 36 month term 8_29_22



Spectrum Enterprise Proposal For

City of Kyle

Monday, August 29, 2022
Patrick Kufrovich
Key Account Lead- State of Texas DIR
Spectrum Enterprise
12012 N. Mopac Expwy
Austin, TX 78758
patrick.kufrovich@charter.com

Spectrum Enterprise Sales Proposal

Monday, August 29, 2022

Client: City of Kyle
Attn: Matt Dawson

1G ELAN to 1700 Kohlers Crossing Road, Kyle, TX / Off-Net

Dear Matt

Spectrum Enterprise is pleased to provide this proposal to **City of Kyle** and we believe this proposal provides your organization with a customized solution that addresses your long-term needs and goals. These services are available via the DIR contract and our specific information related to this procurement vehicle is as follows:

Vendor ID: 431843179
Contract#: DIR-TELE-CTSA-009

We appreciate the opportunity to share our unique capabilities with the City of Kyle and we look forward to discussing this proposal in greater detail with you.

Sincerely,

Patrick Kufrovich
Key Account Lead- State of Texas DIR

Below are the Spectrum Enterprise service costs.

DIR Account Code: MW3000

36 Month Purchase Order Term / Off-net

Address: 1G ELAN to 1700 Kohlers Crossing Rd, Kyle, TX / Off-Net

Product	Speed	Quantity	Cost	Total Cost
EP-LAN	1 Gbps	1	\$1,075.20	\$1,075.20
0 Static IP Addresses	N/A			\$0.00
One Installation Fee		1	\$280.00	\$280.00
Total UNI Count		1		
Total Monthly Recurring Charge:				\$1,075.20
Total One Time Installation Charges:				\$280.00
UNI Count:				1

***Pricing includes DIR 12% Cost Recovery Fee (CRF)**

***DIR contracts fulfill public entity requirements pertaining to competitive solicitations. If you are seeking terms outside of the DIR contract, you may not be fulfilling your competitive solicitation requirements and should consult with your procurement and legal departments for guidance**

***Pricing does not include Federal Universal Service Fee (FUSF) - this rate is determined by the Federal Government and has ranged from 10% - 18% of the Internet Docsis MRC over the past 18 Months**



CITY OF KYLE, TEXAS

High Five Promotions Contract Renewal to 9-30-2023

Meeting Date: 9/20/2022

Date time:7:00 PM

Subject/Recommendation: Approve an extension of contract with High 5 Promotions in an amount not to exceed \$18,000.00 to expire September 30, 2023, with no increase in rates and service charges for YouTube optimization and maps management. ~ *Rachel Sonnier, Director of Communications*

Other Information:

Legal Notes:

Budget Information: Funding in the amount of \$18,000.00 is provided in the adopted budget for next Fiscal Year 2022-2023 for the Communications Department from the General Fund as follows:

- 1100-11610-556410

ATTACHMENTS:

Description

- ☐ City of Kyle Agreement 2022

**This form can be typed on from a computer or device.
There is no need to print**



Please initial, sign & date, and then email this form to: hq@high5seo.agency

Advertiser Information

Advertiser Name: _____ Address: _____
 Phone: _____ City: _____
 Email: _____ State: _____ Zip: _____
 URL: _____

Authorized Advertiser Representative

Full Name: _____ Title: _____
 Phone: _____ Email: _____

Order Summary

Estimated Start Date: Month _____ Year _____

Campaign setup	Budget per campaign cycle	Number of campaign cycles	Total

Advertiser's Initials: _____

Contract Total: _____

Terms And Conditions

By signing below the advertiser:

1. Is acknowledging that it has read and agrees to the High 5 Promotions "Advertiser Terms", which may be accessed at <https://high5seo.agency/advertiser-terms/>
2. Is agreeing that payment in full is required for the first Campaign Cycle before the campaign will be scheduled to go live. Advertiser shall pay in advance all amounts owed to High 5 Promotions for each subsequent Campaign Cycle.
3. Acknowledges and agrees that delivery of the Advertising services shall be conclusively evidenced by the reporting provided by the publisher's data.
4. Acknowledges and agrees that the Advertiser may cancel or terminate the agreement contemplated by this invoice, only using the procedures set forth in the "Advertiser Terms". <https://high5seo.agency/advertiser-terms/>

Authorized Advertiser Rep

Signature – not required if sent via email

Date

High 5 Agent

Signature – not required if sent via email

Date



CITY OF KYLE, TEXAS

Texas Economic Development &
Tourism Office Ltr of Support

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: Authorize the City Manager to execute a letter in support of the Texas Economic Development & Tourism Office. ~ *Victoria Vargas, Interim Director of Economic Development*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Memo regarding TX ED&T Office
- ED&T Letter of Support



MEMO

To: Kyle City Council

From: Victoria Vargas, Interim Director of Economic Development

Date: September 16, 2022

Re: Letter of Support

The Sunset Advisory Commission is currently reviewing the mission and performance of the Texas Economic Development & Tourism Office, led by Adriana Cruz. The Texas Sunset Act requires the Sunset Commission to periodically review agencies and to recommend whether to continue the agency and/or to change state law to improve efficiency and effectiveness. Kyle and other regional partners collaborate on many of our economic development projects and initiatives with the Texas Economic Development & Tourism Office. We would like to show our strength as a region to demonstrate our support of this division. I'm attaching a letter I would like to submit to the Sunset Commission with a signature for our City Manager. Please let me know if you would like to authorize Mr. Hendrix to sign the letter or feel free to contact me with any questions. Thank you.



CITY OF KYLE

Economic Development

100 W. Center Street Kyle, Texas 78640 (512) 262-3932

September 20, 2022

Dear Sunset Advisory Commission,

We encourage the Sunset Advisory Commission to renew the Texas Economic Development and Tourism Office as this team plays a vital role in the Central Texas region's economic development initiatives and accomplishments resulting in significant positive impact to our community.

Our state's economy is among the top 10 largest in the world and one of the most diverse in the country, not to mention our job growth continues to set new all-time records. Central Texas is leading the way with a highly skilled, diverse workforce of 14.5 million with an innovative ecosystem with many different layers. We are home to entrepreneurs, startups, growing companies and tech giants. We continue to be successful by partnering with the Texas Economic Development team and their initiatives to attract transformative investments from expanding and relocating companies around the globe.

The leadership from the Texas Economic Development team, led by Adriana Cruz, continues to position Texas as a strategic location with easy access to global markets, a reasonable regulatory environment and a pro-growth mindset that sets Texas apart from the rest of the nation. The city of Kyle values the collaborative relationship that includes lead generation, access and guidance to state programs, and leadership on strategic initiatives.

We have a diverse regional economy while continuing to be a leader in semiconductor manufacturing because of strong relationships throughout the region and the Texas economic development leadership. This year working in tandem with the Texas Economic Development and Tourism team, Central Texas was able to exhibit the region's commitment to growth and innovation in the support of the CHIPs and Science Act, bipartisan legislation that advances key investments in our domestic semiconductor manufacturing industry. The Texas Economic Development team was integral to this victory which has the possibility to spur billions of dollars of investment to the city of Kyle, Central Texas and the entire state of Texas.

The city of Kyle along with our regional partners recognize and value the important relationship we have forged with the entire Texas Economic Development and Tourism team. Continuing this important department will allow us to position and exhibit the region's commitment to growth and innovation for decades to come.

We look forward to continuing our important work together as we keep Texas the best state for business!

Jerry Hendrix, Interim City Manager
City of Kyle



CITY OF KYLE, TEXAS

Pedestrian Cross Walks/Light

Meeting Date: 9/20/2022

Date time:7:00 PM

Subject/Recommendation: Discussion and possible action regarding locations in Kyle that qualify and gain additional safety from pedestrian cross walks/light, to include school zones. ~ *Yvonne Flores-Cale, Council Member*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Back up material









CITY OF KYLE, TEXAS

Center Street Crosswalks near Wallace Middle School

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: Discussion and possible action regarding crosswalks on Center Street near Wallace Middle School. ~ *Robert Rizo, Mayor Pro Tem*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Task Order #3 and #4 Bunton Creek
Road at Lehman Road and Dacy
Lane Intersections Traffic Study

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: Approve Task Order No. 3 and Task Order No. 4 to COBB-FENDLEY & ASSOCIATES, INC., Austin, Texas in an amount not to exceed \$46,996.50 to provide Traffic Signal Warrant Studies at the Bunton Creek Road and Lehman Road Intersection and at the Bunton Creek Road and Dacy Lane Intersection. ~ *Leon Barba, P.E., City Engineer*

Other Information: Cobb-Fendley will perform a traffic signal warrant analysis and prepare technical memos for two different intersections. One is at Bunton Creek Road and Lehman Road and the other is at Bunton Creek Road and Dacy Lane.

Legal Notes: N/A

Budget Information: Funding in the amount of \$46,996.50 is available in the approved Capital Improvements Spending Plan for Fiscal Year 2021-2022 as follows:

- 1110-65800-573130

ATTACHMENTS:

Description

- Bunton at Lehman Fee
- Bunton at Lehman Scope
- Bunton at Dacy Lane Fee
- Bunton at Dacy Lane Scope

Project:	Lehman Road at Bunton Creek Road
Description:	Traffic Signal Study
Method of Pay	Lump Sum

Task Description	Task Cost	Principal Hours	Project Manager Hours	Project Engineer Hours	Design Engineer Hours	EIT Hours	Engineer Tech Hours	CADD Operator Hours	Clerical Hours	Total Labor Hours
Preliminary Engineering										
Project Management	\$2,631.00	1	4	4					5	14
Agency Coordination	\$1,752.00		4	4						8
Site Visit	\$1,446.00			3	3	3				9
Meetings [Kick off (1), coordination (2)]	\$1,967.00	1	3	3					3	10
Preliminary Cost Estimates (Options 1 & 2)	\$1,402.00		1	3	2	2				8
Preliminary schedules (Options 1 & 2)	\$1,472.00		2	2	2	2				8
Traffic Signal Warrant Analysis	\$2,331.00		1	4	3	4	2			14
Growth Rate and Future Traffic Volumes	\$1,162.00		1	2		4				7
Recommended Lane Assignment Analysis	\$3,125.00		2	4	3	8	2			19
QA/QC review	\$1,355.00		4						3	7
Traffic Signal Technical Memo	\$3,699.00		1	4	6	8	2		3	24
Hours Subtotals		2	23	33	19	31	6	0	14	128

Contract Rate Per Hour	Principal \$314.00/HR.	Project Manager \$254.00/HR.	Project Engineer \$184.00/HR.	Design Engineer \$163.00/HR.	EIT \$135.00/HR.	Engineer Tech \$156.00/HR.	CADD Operator \$135.00/HR.	Clerical \$113.00/HR.	Labor Subtotal
Subtotal Labor Costs	\$628.00	\$5,842.00	\$6,072.00	\$3,097.00	\$4,185.00	\$936.00	\$0.00	\$1,582.00	\$22,342.00

Direct Expenses (Lump Sum)	Unit	Quantity	Unit Cost	Subtotal
CJ Hensch Data Collection	LS	1	\$ 1,000	\$ 1,000.00
Vehicle Mileage - (Current State Rate)	Mile	250	\$ 0.625	\$ 156.25
Direct Expenses Subtotal (Lump Sum)				\$ 1,156.25

Preliminary Engineering + Direct Expenses (Lump Sum)	\$23,498.25
TOTAL COST (LUMP SUM)	\$23,498.25

Task Order

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services — Task Order Edition, dated November 9, 2020 ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: September 20, 2022
- b. Owner: City of Kyle
- c. Engineer: Cobb Fendley & Associates, Inc.
- d. Specific Project (title): Lehman Road at Bunton Creek Road Traffic Signal Study
- e. Specific Project (description): Perform Traffic Signal Warrant Analysis for the Lehman Road at Bunton Creek Road Intersection and prepare Tech Memo

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:
 - Study and Report Services (Exhibit A, Part 1)

3. Additional Services

- A. Additional Services that may be authorized or necessary under this Task Order are:
 - Set forth as Additional Services in Part 2-Additional Services, of Exhibit A, Engineer's Services for Task Order," modified for this specific Task Order, and attached to an incorporated as part of this Task Order.

4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B of this Task Order.

5. Task Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule:

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Furnish pdf copy of the Draft Report to Owner.	Within 45 days of the Effective Date of the Task Order.
Owner	Submit comments regarding Draft Report to Engineer.	Within 20 days of the receipt of Draft Report.
Engineer	Furnish pdf copy of the Final Report to Owner.	Within 20 days of receipt of the Owner's comments regarding the Draft Report.

6. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

Description of Service	Amount	Basis of Compensation
1. Basic Services (Part 1 of Exhibit A)		
a. Study and Report Phase (A1.01)	\$ 23,498.25	Lump Sum
TOTAL COMPENSATION (lines 1.a)	\$ 23,498.25	
2. Additional Services (Part 2 of Exhibit A)	\$ (N/A)	(N/A)

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

7. Consultants retained as of the Effective Date of the Task Order: None.

8. Other Modifications to Agreement and Exhibits: None.

9. Attachments: Exhibit A, Exhibit B, Exhibit C.

10. Other Documents Incorporated by Reference: None.

11. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner

The Effective Date of this Task Order is September 20, 2022.

OWNER:
CITY OF KYLE

ENGINEER:
Cobb, Fendley & Associates, Inc..

By: _____

By: Julie Hastings

Print Name. _____

Print Name: Julie Hastings

Title: _____

Title: Principal

Engineer License or Firm's Certificate No. (if required): 88199
State of Texas

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASKORDER:

ATTEST: _____
Print Name, Choose an item.

Name: _____

Address: _____

Title: _____

Address: _____

E-Mail Address: _____

Phone: _____

Engineer's Services for Task Order

PART 1—BASIC SERVICES

A1.01 Study and Report Phase Services

As Basic Services, Engineer shall:

- A. Project Management
 - 1. Overall management of the tasks associated with this project to provide a quality final product. Expected duration 2 months.
- B. Agency Coordination
 - 1. Coordinate with City of Kyle, Texas. (e-mail, phone, video conference).

Exclusion: This does not include time spent at Planning and Zoning meetings or City Council meetings – this level of effort would be for an additional fee.

- C. Site Visit
 - 1. A site visit shall be performed to survey and investigate site conditions and to review general field information. If it is determined that additional survey / utility / right-of-way information is needed, this will be provided by the Client or can be performed for an additional fee.
- D. Meetings
 - 1. Attend Kickoff meeting (1) and Coordination meetings (2) with City of Kyle, Texas as required (in person, video conference).
- E. Data Collection
 - 1. 24 hr. turning movement counts will be obtained while school is in session for the intersection of Lehman Rd at Bunton Creek Rd.
- F. Preliminary Cost Estimates
 - 1. Prepare preliminary cost estimates for Options 1 (Signal with wooden poles and span wire) and 2 (Signal with metal poles and mast arms) to allow the City of Kyle to determine which option is the most cost effective.
- G. Preliminary Schedules
 - 1. Prepare preliminary project design and construction schedules for Options 1 and 2.
- H. Traffic Signal Warrant Analysis
 - 1. Utilizing 24-hr turning movement, a traffic signal warrant analysis will be performed for the intersection based on the guidelines from the Texas Manual on Uniform Traffic Control Devices. Two scenarios will be evaluated:
 - (a) Existing (2022)
 - (b) Future Volumes (Year TBD)

- I. Growth Rate and Future Traffic Volumes
 - 1. A 4% growth rate will be used to grow the existing volumes to future year volumes to determine the year that the intersection will meet Signal Warrant 1 or 2 if it does not meet warrant with existing volumes.
- J. Lane Assignments Analysis
 - 1. Perform a LOS analysis for up to 3 lane configurations for the intersection using Highway Capacity Manual methodologies using the future year traffic volumes when the signal will meet Signal Warrant 1 or 2.
- K. QA/QC review
 - 1. Perform QA/QC review of Traffic Signal Warrant Analysis and Tech Memo.
- L. Recommendations
 - 1. Recommendations on signal installation and lane assignments will be included in the tech memo provided to the City.
- M. Traffic Signal Technical Memo
 - 1. All warrant information will be in presented in a draft tech memo submitted to the City. City will provide comments on the draft memo within 20 days and a final tech memo will be submitted to the City.

PART 2—ADDITIONAL SERVICES

A2.01 Additional Services Requiring an Amendment to Task Order

- A. Work not described in the basic services must be approved by supplemental amendment by the City before the Engineer undertakes it. If the Engineer is of the opinion that any work is beyond the scope of this Contract and constitutes additional work, the Engineer shall promptly notify the Owner of that opinion, in writing. In the event the City finds that such work does constitute additional work, then the City shall so advise the Engineer, in writing, and shall provide extra compensation to the Engineer for the additional work as provided under a supplemental agreement.

This is EXHIBIT B, consisting of 3 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services — Task Order Edition dated September 20, 2022.

Owner's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following responsibilities unless expressly stated otherwise in a Task Order.

B2.01 *Specific Responsibilities*

A. Owner shall:

1. Provide record drawing and available design information for Lehman Rd at Bunton Creek Road.
2. Provide access to the project site.
3. Provide Engineer with all criteria and full information as to Owner's requirements for the Specific Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
4. Furnish to Engineer any other available information pertinent to the Specific Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
5. Following Engineer's assessment of initially-available Specific Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - a. Property descriptions.
 - b. Zoning, deed, and other land use restrictions.
 - c. Utility and topographic mapping and surveys.
 - d. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.

- e. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 - f. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Specific Project, the Site, and adjacent areas.
 - g. Data or consultations as required for the Project but not otherwise identified in this Agreement.
6. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
 7. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
 - a. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 - b. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 - c. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
 8. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
 9. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project, including all coordination and permitting with Texas Commission on Environmental Quality (TCEQ).
 10. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
 11. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, other work is to be performed at or adjacent to the Site by others or by employees of Owner, or if

Owner arranges to have work performed at the Site by utility owners, then Owner shall coordinate such work unless Owner designates an individual or entity to have authority and responsibility for coordinating the activities among the various prime Contractors and others performing work. In such case Owner shall define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit 8 that is to be mutually agreed upon and made a part of this Agreement before such services begin.

12. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
13. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
14. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
15. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
16. Place and pay for advertisement for Bids in appropriate publications.
17. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.

This is EXHIBIT C, consisting of 2 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services — Task Order Edition dated September 20, 2022.

Payments to Engineer for Services and Reimbursable Expenses

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 2 — OWNER'S RESPONSIBILITIES

C2.01 Explanation of Compensation Method

A. Lump Sum

1. Owner shall pay Engineer a Lump Sum amount for the specified category of services as shown on the following page.
2. The Lump Sum includes compensation for Engineer's services and services of Consultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, expenses (other than those expenses expressly eligible for reimbursement, if any), and Consultant charges.
3. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.

Project: Dacy Lane at Bunton Creek Road

Description: Traffic Signal Study

Method of Pay: Lump Sum

Task Description	Task Cost	Principal Hours	Project Manager Hours	Project Engineer Hours	Design Engineer Hours	EIT Hours	Engineer Tech Hours	CADD Operator Hours	Clerical Hours	Total Labor Hours
Preliminary Engineering										
Project Management	\$2,631.00	1	4	4					5	14
Agency Coordination	\$1,752.00		4	4						8
Site Visit	\$1,446.00		3	3	3	3				9
Meetings [Kick off (1), coordination (2)]	\$1,967.00	1	3	3					3	10
Preliminary Cost Estimates (Options 1 & 2)	\$1,402.00		1	3	2	2				8
Preliminary schedules (Options 1 & 2)	\$1,472.00		2	2	2	2				8
Traffic Signal Warrant Analysis	\$2,331.00		1	4	3	4	2			14
Growth Rate and Future Traffic Volumes	\$1,162.00		1	2		4				7
Recommended Lane Assignment Analysis	\$3,125.00		2	4	3	8	2			19
QA/QC review	\$1,355.00		4						3	7
Traffic Signal Technical Memo	\$3,699.00		1	4	6	8	2		3	24
Hours Subtotals		2	23	33	19	31	6	0	14	128

Contract Rate Per Hour	Principal \$314.00/HR.	Project Manager \$254.00/HR.	Project Engineer \$184.00/HR.	Design Engineer \$163.00/HR.	EIT \$135.00/HR.	Engineer Tech \$156.00/HR.	CADD Operator \$135.00/HR.	Clerical \$113.00/HR.	Labor Subtotal
Subtotal Labor Costs	\$628.00	\$5,842.00	\$6,072.00	\$3,097.00	\$4,185.00	\$936.00	\$0.00	\$1,582.00	\$22,342.00

Direct Expenses (Lump Sum)	Unit	Quantity	Unit Cost	Subtotal
CJ Hensch Data Collection	LS	1	\$ 1,000	\$ 1,000.00
Vehicle Mileage - (Current State Rate)	Mile	250	\$ 0.625	\$ 156.25
Direct Expenses Subtotal (Lump Sum)				\$ 1,156.25

Preliminary Engineering + Direct Expenses (Lump Sum)	\$23,498.25
TOTAL COST (LUMP SUM)	\$23,498.25

Task Order

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services — Task Order Edition, dated November 9, 2020 ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: September 20, 2022
- b. Owner: City of Kyle
- c. Engineer: Cobb Fendley & Associates, Inc.
- d. Specific Project (title): Dacy Lane at Bunton Creek Road Traffic Signal Study
- e. Specific Project (description): Perform Traffic Signal Warrant Analysis for the Dacy Lane at Bunton Creek Road Intersection and prepare Tech Memo

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:
 - Study and Report Services (Exhibit A, Part 1)

3. Additional Services

- A. Additional Services that may be authorized or necessary under this Task Order are:
 - Set forth as Additional Services in Part 2-Additional Services, of Exhibit A, Engineer's Services for Task Order," modified for this specific Task Order, and attached to an incorporated as part of this Task Order.

4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B of this Task Order.

5. Task Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule:

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Furnish pdf copy of the Draft Report to Owner.	Within 45 days of the Effective Date of the Task Order.
Owner	Submit comments regarding Draft Report to Engineer.	Within 20 days of the receipt of Draft Report.
Engineer	Furnish pdf copy of the Final Report to Owner.	Within 20 days of receipt of the Owner's comments regarding the Draft Report.

6. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

Description of Service	Amount	Basis of Compensation
1. Basic Services (Part 1 of Exhibit A)		
a. Study and Report Phase (A1.01)	\$ 23,498.25	Lump Sum
TOTAL COMPENSATION (lines 1.a)	\$ 23,498.25	
2. Additional Services (Part 2 of Exhibit A)	\$ (N/A)	(N/A)

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

7. Consultants retained as of the Effective Date of the Task Order: None.

8. Other Modifications to Agreement and Exhibits: None.

9. Attachments: Exhibit A, Exhibit B, Exhibit C.

10. Other Documents Incorporated by Reference: None.

11. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner

The Effective Date of this Task Order is September 20, 2022.

OWNER:
CITY OF KYLE

ENGINEER:
Cobb, Fendley & Associates, Inc..

By: _____

By: Julie Hastings

Print Name. _____

Print Name: Julie Hastings

Title: _____

Title: Principal

Engineer License or Firm's
Certificate No. (if required): 88199
State of Texas

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASKORDER:

ATTEST: _____
Print Name, Choose an item.

Name: _____

Address: _____

Title: _____

Address: _____

E-Mail Address: _____

Phone: (XXX) XXX-XXXX

Engineer's Services for Task Order

PART 1—BASIC SERVICES

A1.01 Study and Report Phase Services

As Basic Services, Engineer shall:

- A. Project Management
 - 1. Overall management of the tasks associated with this project to provide a quality final product. Expected duration 2 months.
- B. Agency Coordination
 - 1. Coordinate with City of Kyle, Texas. (e-mail, phone, video conference).

Exclusion: This does not include time spent at Planning and Zoning meetings or City Council meetings – this level of effort would be for an additional fee.

- C. Site Visit
 - 1. A site visit shall be performed to survey and investigate site conditions and to review general field information. If it is determined that additional survey / utility / right-of-way information is needed, this will be provided by the Client or can be performed for an additional fee.
- D. Meetings
 - 1. Attend Kickoff meeting (1) and Coordination meetings (2) with City of Kyle, Texas as required (in person, video conference).
- E. Data Collection
 - 1. 24 hr. turning movement counts will be obtained while school is in session for the intersection of Dacy Lane at Bunton Creek Rd.
- F. Preliminary Cost Estimates
 - 1. Prepare preliminary cost estimates for Options 1 (Signal with wooden poles and span wire) and 2 (Signal with metal poles and mast arms) to allow the City of Kyle to determine which option is the most cost effective.
- G. Preliminary Schedules
 - 1. Prepare preliminary project design and construction schedules for Options 1 and 2.
- H. Traffic Signal Warrant Analysis
 - 1. Utilizing 24-hr turning movement, a traffic signal warrant analysis will be performed for the intersection based on the guidelines from the Texas Manual on Uniform Traffic Control Devices. Two scenarios will be evaluated:
 - (a) Existing (2022)
 - (b) Future Volumes (Year TBD)

- I. Growth Rate and Future Traffic Volumes
 - 1. A 4% growth rate will be used to grow the existing volumes to future year volumes to determine the year that the intersection will meet Signal Warrant 1 or 2 if it does not meet warrant with existing volumes.
- J. Lane Assignments Analysis
 - 1. Perform a LOS analysis for up to 3 lane configurations for the intersection using Highway Capacity Manual methodologies using the future year traffic volumes when the signal will meet Signal Warrant 1 or 2.
- K. QA/QC review
 - 1. Perform QA/QC review of Traffic Signal Warrant Analysis and Tech Memo.
- L. Recommendations
 - 1. Recommendations on signal installation and lane assignments will be included in the tech memo provided to the City.
- M. Traffic Signal Technical Memo
 - 1. All warrant information will be in presented in a draft tech memo submitted to the City. City will provide comments on the draft memo within 20 days and a final tech memo will be submitted to the City.

PART 2—ADDITIONAL SERVICES

A2.01 Additional Services Requiring an Amendment to Task Order

- A. Work not described in the basic services must be approved by supplemental amendment by the City before the Engineer undertakes it. If the Engineer is of the opinion that any work is beyond the scope of this Contract and constitutes additional work, the Engineer shall promptly notify the Owner of that opinion, in writing. In the event the City finds that such work does constitute additional work, then the City shall so advise the Engineer, in writing, and shall provide extra compensation to the Engineer for the additional work as provided under a supplemental agreement.

This is EXHIBIT B, consisting of 3 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services — Task Order Edition dated September 20, 2022.

Owner's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following responsibilities unless expressly stated otherwise in a Task Order.

B2.01 Specific Responsibilities

A. Owner shall:

1. Provide record drawing and available design information for Dacy Lane at Bunton Creek Road.
2. Provide access to the project site.
3. Provide Engineer with all criteria and full information as to Owner's requirements for the Specific Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
4. Furnish to Engineer any other available information pertinent to the Specific Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
5. Following Engineer's assessment of initially-available Specific Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - a. Property descriptions.
 - b. Zoning, deed, and other land use restrictions.
 - c. Utility and topographic mapping and surveys.
 - d. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.

- e. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 - f. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Specific Project, the Site, and adjacent areas.
 - g. Data or consultations as required for the Project but not otherwise identified in this Agreement.
6. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
 7. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
 - a. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 - b. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 - c. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
 8. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
 9. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project, including all coordination and permitting with Texas Commission on Environmental Quality (TCEQ).
 10. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
 11. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, other work is to be performed at or adjacent to the Site by others or by employees of Owner, or if

Owner arranges to have work performed at the Site by utility owners, then Owner shall coordinate such work unless Owner designates an individual or entity to have authority and responsibility for coordinating the activities among the various prime Contractors and others performing work. In such case Owner shall define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit 8 that is to be mutually agreed upon and made a part of this Agreement before such services begin.

12. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
13. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
14. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
15. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
16. Place and pay for advertisement for Bids in appropriate publications.
17. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.

This is EXHIBIT C, consisting of 2 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services — Task Order Edition dated September 20, 2022.

Payments to Engineer for Services and Reimbursable Expenses

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 2 — OWNER'S RESPONSIBILITIES

C2.01 Explanation of Compensation Method

A. Lump Sum

1. Owner shall pay Engineer a Lump Sum amount for the specified category of services as shown on the following page.
2. The Lump Sum includes compensation for Engineer's services and services of Consultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, expenses (other than those expenses expressly eligible for reimbursement, if any), and Consultant charges.
3. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.



CITY OF KYLE, TEXAS

Portable Traffic Signals

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: Consider and possible action on a quote from OMJC Signal for the purchase of portable traffic signals in the amount of \$331,600.00. ~ *Amber Lewis, Assistant City Manager*

Other Information: OMJC Signal is a sole source manufacturer for the 25' trailers and any and all trailers with Intelight 2070 ATC traffic controllers and EDI conflict monitors.

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Quote # 8554



PO Box 1594
 Waterloo, IA 50704
 403 Chestnut St.
 Waterloo, IA 50703
 800.776.5999
 Fax: 319.236.1554
 Email: sales@omjcsignal.com
 omjcsignal.com

Quotation

Quote Number
8554

Quote Date:
September 16, 2022

Page:
1

Quoted to:
 ATTN: JO ANN GARCIA
 KYLE, TX

SHIP TO:
 CITY OF KYLE
 KYLE, TX

PH: 512 262 3949
 FAX:

Customer ID	Good Thru	Payment Terms	Sales Rep Name
CITY OF KYLE	10/16/22	Net 30 Days	DAVID T. KNAPP

Quantity	Item	Description	Unit Price	Extension
4.00	HDPTS	ONE PAIR OF 25' POP-UP HEAVY DUTY XL TRAILERS (1 MASTER, ONE DRONE) WIRELESS TRAFFIC CONTROL AND SOLAR POWER. INCLUDES KIT FOR USE WITH EXISTING INFRASTRUCTURE	80,000.00	320,000.00
8.00	TC26-B-OMJC	VEHICLE DETECTOR **ON-SITE TRAINING WITH FACTORY REP INCLUDED AT NO ADDED COST	800.00	6,400.00

Freight & handling are in addition to the prices quoted above unless otherwise specified. All parts, materials and components are new unless otherwise specified. OMJC has been in business since July of 1985 to serve you.

Subtotal	326,400.00
Sales Tax	
Freight	5,200.00
Total	331,600.00

Item # 28



CITY OF KYLE, TEXAS

Reimbursement Resolution for traffic signal

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: Consideration and Approval of a Resolution Relating to Establishing the City's Intention to Reimburse itself for the Prior Lawful Expenditure of Funds Relating to Constructing Various City Improvements from the Proceeds of Tax-Exempt Obligations to be Issued by the City for Authorized Purposes; Authorizing Other Matters Incident and Related Thereto; and Providing an Effective Date. ~ *Stephanie Leibe, Norton Rose Fulbright US LLP, City's Bond Counsel*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Reimbursement Resolution

RESOLUTION

A RESOLUTION RELATING TO ESTABLISHING THE CITY'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUNDS RELATING TO CONSTRUCTING VARIOUS CITY IMPROVEMENTS FROM THE PROCEEDS OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY THE CITY FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council (the *Governing Body*) of the City of Kyle, Texas (the *Issuer*) has entered into or will enter into various contracts pertaining to the expenditure of lawfully available funds of the Issuer to finance the costs associated with (i) making permanent public improvements or for other public purposes, to wit: designing, demolishing, constructing, renovating, improving, reconstructing, restructuring and extending streets and thoroughfares and related land and right-of-way sidewalks, streetscapes, collectors, drainage, landscape, signage, upgrading technology and traffic signals, acquiring lands and rights-of-way necessary thereto or incidental therewith and installing related public art (the *Construction Costs*), (ii) the payment of various engineering costs, including design testing, design engineering, and construction inspection related to the Construction Costs (the *Engineering Costs*), (iv) the payment of various architectural costs, including preparation of plans and specifications and various other plans and drawings related to the Construction Costs (the *Architectural Costs*), and (v) the payment of various administrative costs, including the fees of bond counsel, financial advisor, project manager, project consultant, other professionals, and bond printer (the *Administrative Costs*) [the Construction Costs, the Engineering Costs, the Architectural Costs, and the Administrative Costs collectively constitute the costs of the Issuer's projects that are the subject of this Resolution (the *Project*); and

WHEREAS, the provisions of Section 1201.042, as amended, Texas Government Code (*Section 1201.042*) provide that the proceeds from the sale of obligations issued to finance the acquisition, construction, equipping, or furnishing of any project or facilities, such as the Project, may be used to reimburse the Issuer for costs attributable to such project or facilities paid or incurred before the date of issuance of such obligations; and

WHEREAS, the United States Department of Treasury (the *Department*) released Regulation Section 1.150-2 (the *Regulations*) which establishes when the proceeds of obligations are spent and therefore are no longer subject to various federal income tax restrictions contained in the Internal Revenue Code of 1986, as amended (the *Code*); and

WHEREAS, the Issuer intends to reimburse itself, within eighteen months from the later of the date of expenditure or the date the property financed is placed in service (but in no event more than three years after the original expenditures are paid), for the prior lawful capital expenditure of funds from the proceeds of one or more series of tax-exempt obligations (the *Obligations*) that the Issuer currently contemplates issuing in the principal amount of not to exceed \$294,000,000 to finance a portion of the costs of the Project; and

WHEREAS, under the Regulations, to fund such reimbursement with proceeds of the Obligations, the Issuer must declare its expectation ultimately to make such reimbursement before making the expenditures; and

WHEREAS, the Issuer hereby finds and determines that the reimbursement for the prior expenditure of funds of the Issuer is not inconsistent with the Issuer's budgetary and financial circumstances; and

WHEREAS, the Governing Body hereby finds and determines that the adoption of this Resolution is in the best interests of the residents of the Issuer; now, therefore,

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

SECTION 1. This Resolution is a declaration of intent to establish the Issuer's reasonable, official intent under section 1.150-2 of the Regulations and Section 1201.042 to reimburse itself from certain of the proceeds of the Obligations for any capital expenditures previously incurred (not more than 60 days prior to the date hereof) or to be incurred with respect to the Project from the Issuer's General Fund or other lawfully available funds of the Issuer.

SECTION 2. The Issuer intends to issue the Obligations and allocate within 30 days after the date of issuance of the Obligations the proceeds therefrom to reimburse the Issuer for prior lawful expenditures with respect to the Project in a manner to comply with the Regulations.

SECTION 3. The reimbursed expenditure will be a type properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles.

SECTION 4. The Issuer intends to otherwise comply, in addition to those matters addressed within this Resolution, with all the requirements contained in the Regulations.

SECTION 5. This Resolution may be relied upon by the appropriate officials at the Office of the Attorney General for the State of Texas and establishes compliance by the Issuer with the requirements of Texas law and the Regulations.

SECTION 6. With respect to the proceeds of the Obligations allocated to reimburse the Issuer for prior expenditures, the Issuer shall not employ an abusive device under Treasury Regulation Section 1.148-10, including using within one year of the reimbursement allocation, the funds corresponding to the proceeds of the Obligations in a manner that results in the creation of "replacement proceeds", as defined in Treasury Regulation Section 1.148-1, of the Obligations or another issue of tax-exempt obligations.

SECTION 7. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Governing Body.

SECTION 8. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict,

and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

SECTION 9. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 10. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Governing Body hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 11. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 12. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

[The remainder of this page intentionally left blank]

PASSED, ADOPTED AND APPROVED on this the 20th day of September, 2022.

CITY OF KYLE, TEXAS

Mayor

ATTEST:

City Secretary

(CITY SEAL)



CITY OF KYLE, TEXAS

No Through Trucks - South St. from Front St. to Business 81

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* An Ordinance regulating traffic, authorizing and directing the installation and erection of no truck signs on South Street from Front Street to Business 81; in the city limits of Kyle; repealing any ordinance or resolution in conflict; providing a severability clause; declaring a penalty; and providing an effective date. ~ *Leon Barba, P.E., City Engineer*

Other Information: The City is proposing to install a center concrete raised median on the South Street approach leading to the railroad tracks. The installation of the concrete median on South Street, is part of the Center Street Quiet Zone project. The Federal Railroad Administration (FRA) provides guidelines as to what measures can be used to establish a Quiet Zone.

Constructing a non-mountable raised concrete median is one of the more effective measures that can be utilized. Upon construction of the measures at the five crossings included in the Quiet Zone project, (Burlison St., Center St., South St., Opal Lane, and Roland Lane) and inspection of the improvements at each location, if accepted by FRA, the train horn will not be sounded through the Quiet Zone established. However, if the train operator observes any damage to any of the measures installed at any one crossing the horn will be sounded at all the crossings until which time the City repairs the damage.

The exhibits included show large trucks will have difficulty turning onto and off of South Street at Front Street. In an effort to protect the integrity of the concrete raised median and be able to maintain a Quiet Zone, once approved, truck traffic should be prohibited from using South Street from Front Street to Business 81.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- No Truck South Street Ordinance
- EB Bus Turn
- EB Truck Turn 1
- EB Truck Turn 2
- WB Truck Turns

- School Bus Layouts
- Front Street Sign Placement

ORDINANCE NO.

AN ORDINANCE REGULATING TRAFFIC, AUTHORIZING AND DIRECTING THE INSTALLATION AND ERECTION OF NO THROUGH TRUCK SIGNS ON EAST SOUTH STREET FROM FRONT STREET TO BUSINESS 81; IN THE CITY LIMITS OF KYLE; REPEALING ANY ORDINANCE OR RESOLUTION IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of KYLE, Texas is a Home-Rule municipality operating pursuant to its City Charter and the laws of the State of Texas; and

WHEREAS, the City of KYLE has exclusive control and power over the streets, alleys, and public grounds and highways of the City pursuant to Transportation Code §311.002, as it may be amended; and

WHEREAS, the City Council finds and determines that in order to protect the health, safety and general welfare of the City of KYLE neighborhoods and extend the operational life of public streets, the prohibition of large trucks in residential neighborhoods and the establishment of truck routes is necessary, and

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

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

WHEREAS, the City Council of the City further finds that the prohibition of through truck traffic on the designated street herein will help to prolong the life of the street and the center concrete median being installed so designated; and

WHEREAS, the City Council of the City find that the safety and welfare of the citizens of the City desires to prohibit through truck traffic on the street designated below;

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

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

Section 2. Definitions. The following words, terms, and phrases when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Authorized emergency trucks shall mean fire department trucks, police trucks, public ambulances for which permits have been issued by the State Board of Health, emergency trucks of municipal departments or public service corporations as are designated or authorized by the governing body of an incorporated city, private trucks operated by volunteer firemen or certified emergency medical volunteers while answering a fire alarm or responding to a medical emergency, and trucks owned by the state or by a political subdivision engaged in emergency utility repair or electric, water, or wastewater services.

(2) Light truck shall mean any truck with a manufacturer's rated carrying capacity of two thousand (2,000) pounds or less, including trucks commonly known as pickup trucks, panel delivery trucks, and carryall trucks.

(3) Proof of route shall mean a written verification of pick-ups, deliveries, or destinations, which may include a log book, delivery slip, shipping order, bill or any other document which identifies and specifies the date, address, and name of the person requesting or directing the pick-up or delivery and the destination of the pick up or delivery.

(4) Truck shall mean any motor vehicle designed, used or maintained primarily for the transportation of property, including "truck tractors," "road tractors," "trailers," "semitrailers," "pole trailers," and "special mobile equipment" as those terms are defined in Texas Transportation Code Annotated § 541.201. Terms not defined herein shall be construed in accordance with customary usage.

(b) Through truck traffic.

(1) Regulation. A person commits an offense if the person operates a truck upon a public street designated as a no through truck street.

(2) Affirmative defenses. It is an affirmative defense to prosecution under this section if:

(i) The truck was an authorized emergency truck; or

(ii) The truck:

a. was being driven to seek service or repairs at a facility that engages in the business or repairs of commercial motor vehicles or the truck was being driven to or from home or to fulfill a local commercial obligation to a buyer or seller at a given destination, evidenced by a bill or sale or invoice; and

b. the public street was the only route to such destination."

Section 3. Through truck traffic is prohibited on the following street:

• EAST SOUTH STREET From FRONT STREET To BUSINESS 81

Section 4. The Director of Public Works and or the City's contractor is directed to erect and place signs, after the construction of the Center Street raised median, designating the above street as a "No Trucks" street. "No Trucks" signs be placed, either in the surface of the street or at the side thereof, prohibiting through truck traffic, and no provisions of this ordinance for

which signs are required shall be enforceable against an alleged violator, if at the time and place of the alleged violation the sign herein required is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

Section 5. That it shall be unlawful for the operator of any vehicle to disobey the instructions of the signs placed in accordance with the provisions of this ordinance.

Section 6. That it shall be unlawful for any person to willfully deface, injure, move, remove, obstruct or interfere with any signs under the provisions of this ordinance.

Section 7. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$200. Each violation shall constitute a separate offense.

Section 8. Conflicting Ordinances or Resolutions. All resolutions or ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby REPEALED to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other resolution, code or ordinance of the City, or parts thereof, the terms and provisions of this ordinance shall govern.

Section 9. 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 10. Effective Date. This ordinance shall be effective from and after its approval and passage in accordance with the Texas Local Government Code and the city charter.

PASSED AND APPROVED on this the 20th day of September, 2022.

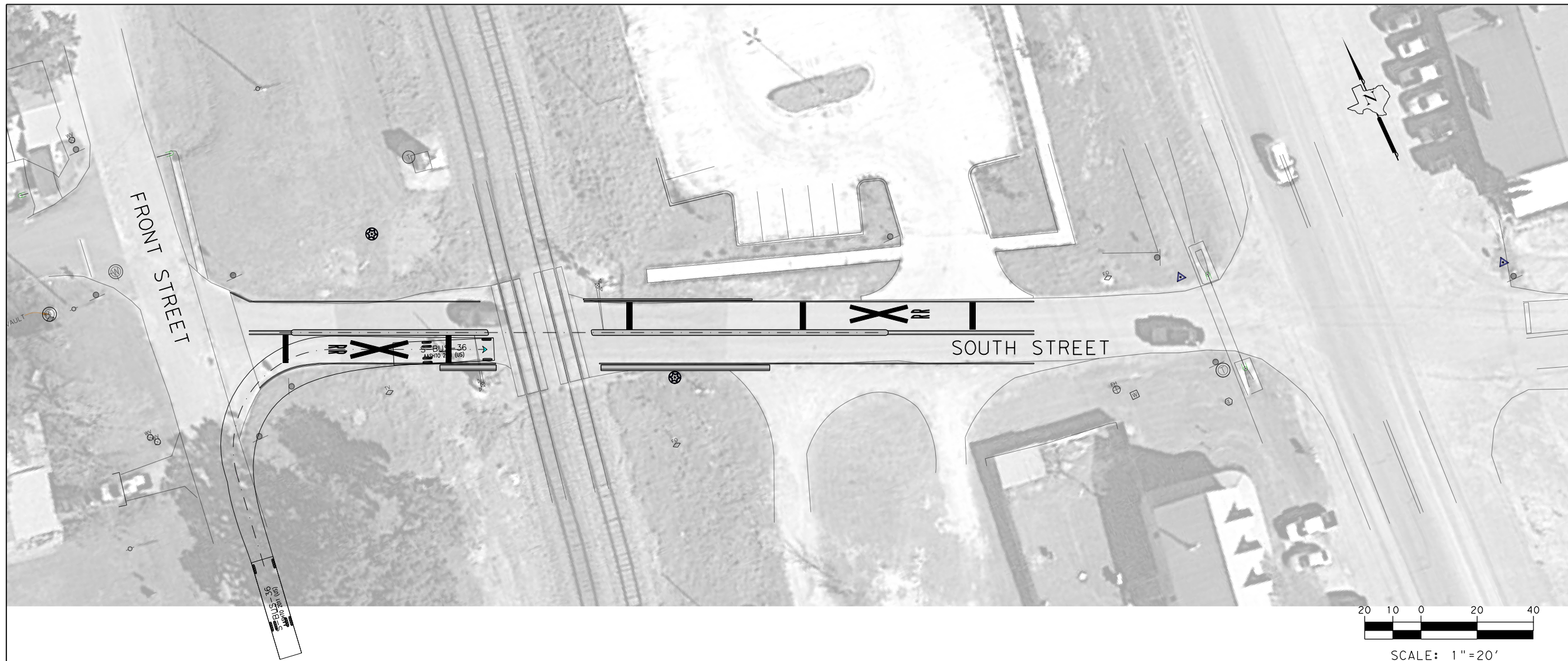
FINALLY PASSED AND APPROVED on this the _____ day of _____, 2022.

ATTEST:

The City of Kyle, Texas

Jennifer A. Holm, City Secretary

Travis Mitchell, Mayor



BENCHMARK:

- NOTES:**
- 1) THE CONTRACTOR SHALL FIELD VERIFY ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION
 - 2) CAUTION: THERE ARE EXISTING UTILITIES WITHIN THE PROJECT AREA. CONTRACTOR SHALL FIELD VERIFY LOCATION OF ALL EXISTING UTILITIES AFFECTING PROPOSED UTILITIES PRIOR TO CONSTRUCTION. IN THE EVENT OF CONFLICT BETWEEN EXISTING UTILITIES AND PROPOSED UTILITIES, THE CONTRACTOR SHALL SUSPEND CONSTRUCTION IN THE VICINITY OF THE CONFLICT, AND SHALL COMMENCE ONLY UPON AUTHORIZATION BY OWNER.

DATE	REVISION	BY

HAYS COUNTY ENGINEERING DEPARTMENT

APPROVED: _____
DEVELOPMENT COORDINATOR

DATE: _____

CITY OF KYLE

S-BUS-36 SOUTH ST

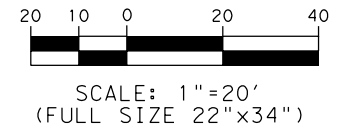
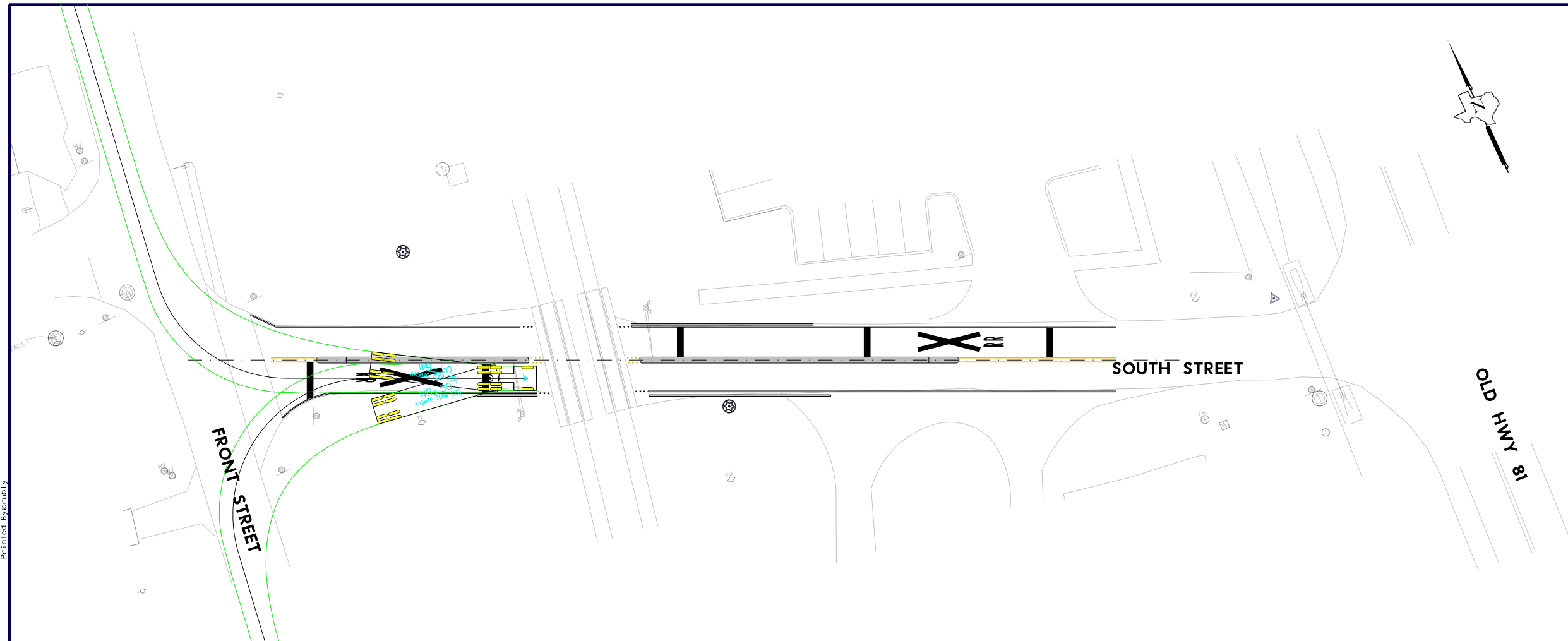
LJA Rail, LLC
 3600 W Sam Houston Parkway S Phone 713.953.5200
 Suite 600 Fax 713.953-5026
 Houston, Texas 77042 www.ljara.com

LJA PROJECT NO.: 2173-2202
 DESIGNED BY: M.G.B. DRAWN BY: C.A.R. DATE: APRIL 2022

DRAWING SCALE	ENGINEERING APPROVAL	
SHEET NO.	OF	

RAILROAD QUIET ZONE UPDATES FOR CENTER STREET - JOB NO. 2173-2202

NUMBER	DATE	REVISION	APPROVED



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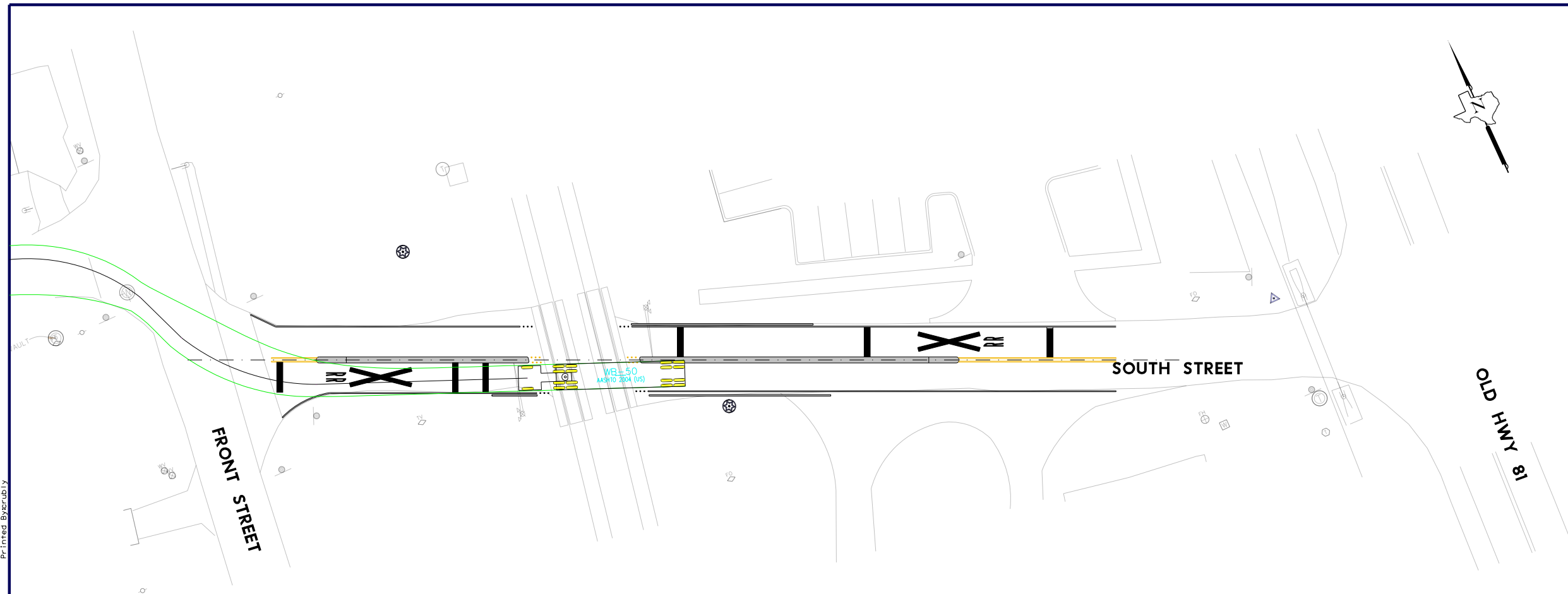
DESIGN ENGINEER
LJA Engineering, Inc.
 FRN-F-1386



RAILROAD QUIET ZONE
 WB-50
 SOUTH STREET

FED. RD. DIV. NO.	STATE	PROJECT NO.		HIGHWAY NO.	
14	TEXAS	CC 12-17-015		RM 150	
STATE DISTRICT	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
AUSTIN	HAYS	0016	17	015	1 of 1


NUMBER	DATE	REVISION	APPROVED



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DESIGN ENGINEER

LJA Engineering, Inc. 
 FRN-F-1386

LOCAL GOVERNMENT



STATE OF TEXAS

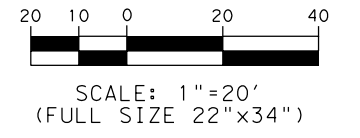
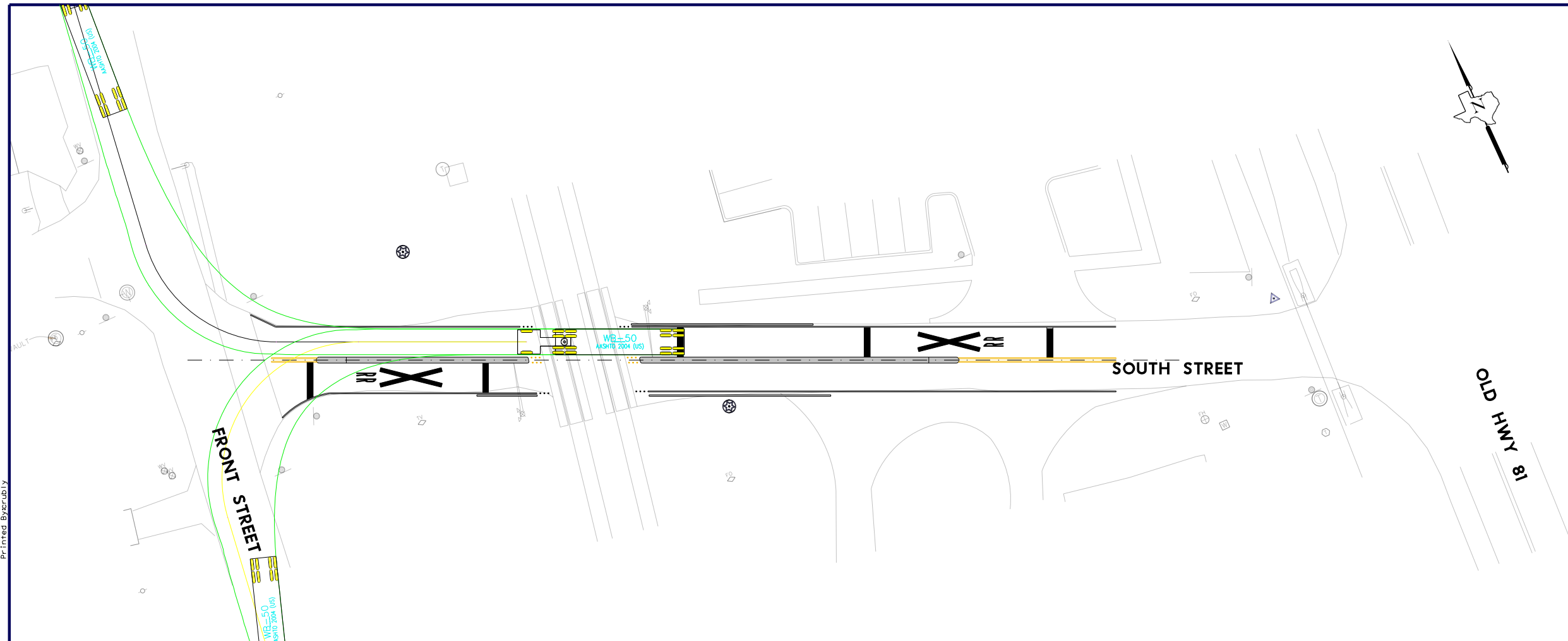
 **Texas Department of Transportation**

RAILROAD QUIET ZONE

WB-50
SOUTH STREET


FED. RD. DIV. NO.	STATE	PROJECT NO.			HIGHWAY NO.
14	TEXAS	CC 12-17-015			RM 150
STATE DISTRICT	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
AUSTIN	HAYS	0016	17	015	1 of 1

NUMBER	DATE	REVISION	APPROVED



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DESIGN ENGINEER

LJA Engineering, Inc. 
 FRN-F-1386

LOCAL GOVERNMENT


 CITY OF
KYLE
 TEXAS

STATE OF TEXAS

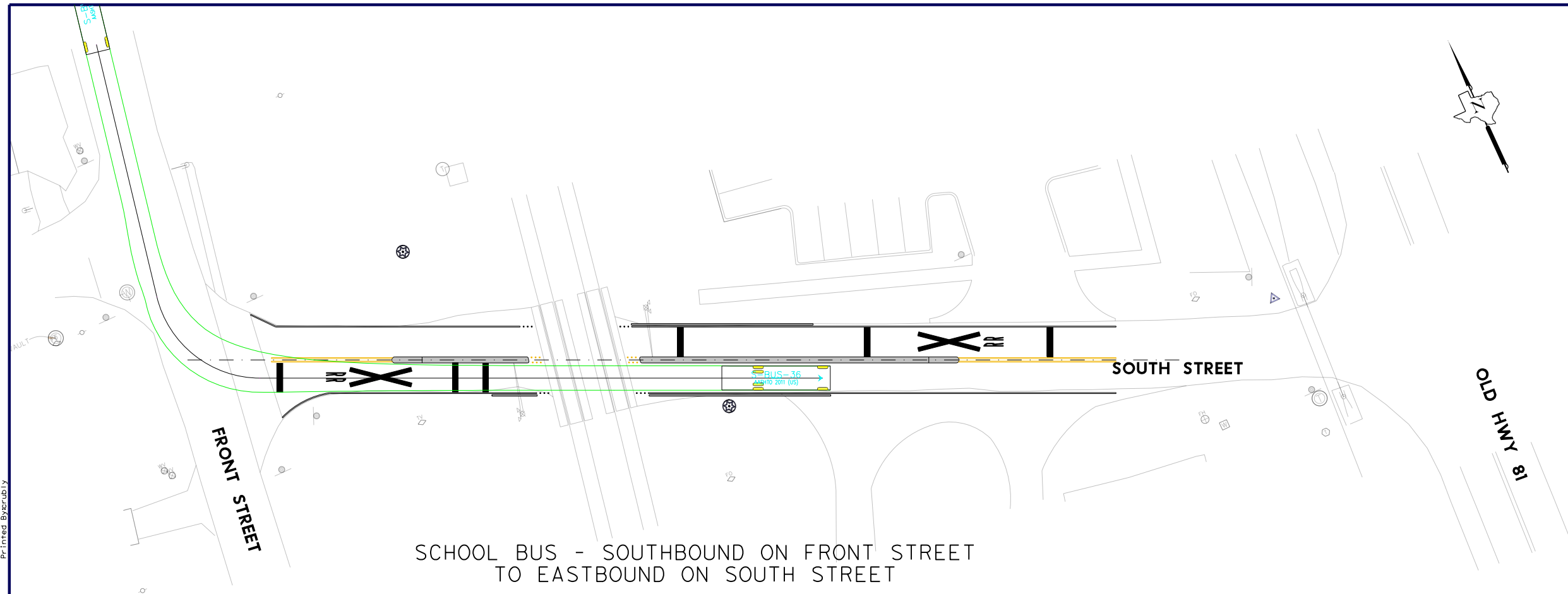

Texas Department of Transportation

RAILROAD QUIET ZONE

WB-50
 SOUTH STREET

FED. RD. DIV. NO.	STATE	PROJECT NO.			HIGHWAY NO.
14	TEXAS	CC 12-17-015			RM 150
STATE DISTRICT	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
AUSTIN	HAYS	0016	17	015	1 of 1

NUMBER	DATE	REVISION	APPROVED




SCHOOL BUS - SOUTHBOUND ON FRONT STREET
TO EASTBOUND ON SOUTH STREET



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DESIGN ENGINEER

LJA Engineering, Inc. 
FRN-F-1386

LOCAL GOVERNMENT



STATE OF TEXAS



RAILROAD QUIET ZONE

S-BUS-36
SOUTH STREET

FED. RD. DIV. NO.	STATE	PROJECT NO.			HIGHWAY NO.
14	TEXAS	CC 12-17-015			RM 150
STATE DISTRICT	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
AUSTIN	HAYS	0016	17	015	1 of 6

NUMBER	DATE	REVISION	APPROVED




SCHOOL BUS - NORTHBOUND ON FRONT STREET
TO EASTBOUND ON SOUTH STREET



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DESIGN ENGINEER

LJA Engineering, Inc. 
FRN-F-1386

LOCAL GOVERNMENT



STATE OF TEXAS

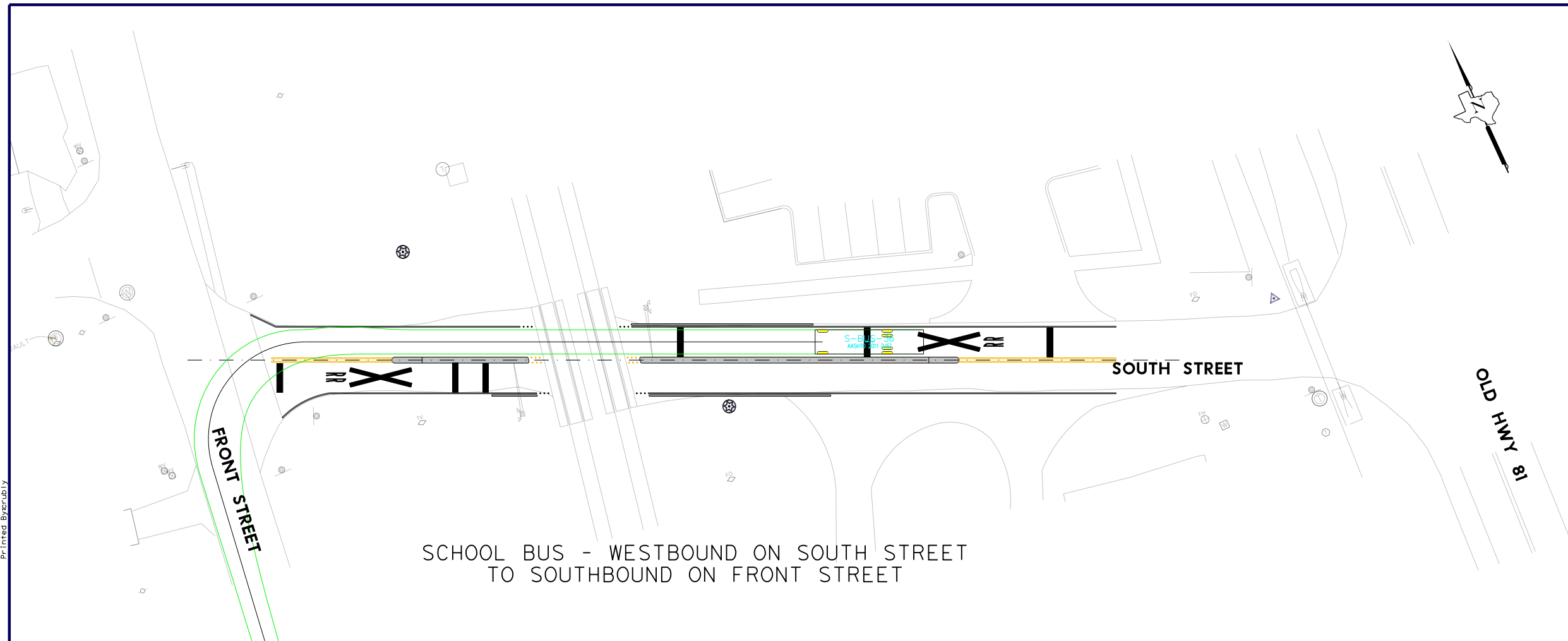


RAILROAD QUIET ZONE

S-BUS-36
SOUTH STREET

FED. RD. DIV. NO.	STATE	PROJECT NO.			HIGHWAY NO.
14	TEXAS	CC 12-17-015			RM 150
STATE DISTRICT	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
AUSTIN	HAYS	0016	17	015	2 of 6

NUMBER	DATE	REVISION	APPROVED



SCHOOL BUS - WESTBOUND ON SOUTH STREET
TO SOUTHBOUND ON FRONT STREET



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DESIGN ENGINEER
LJA Engineering, Inc. 
FRN-F-1386

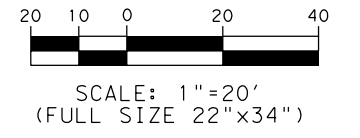
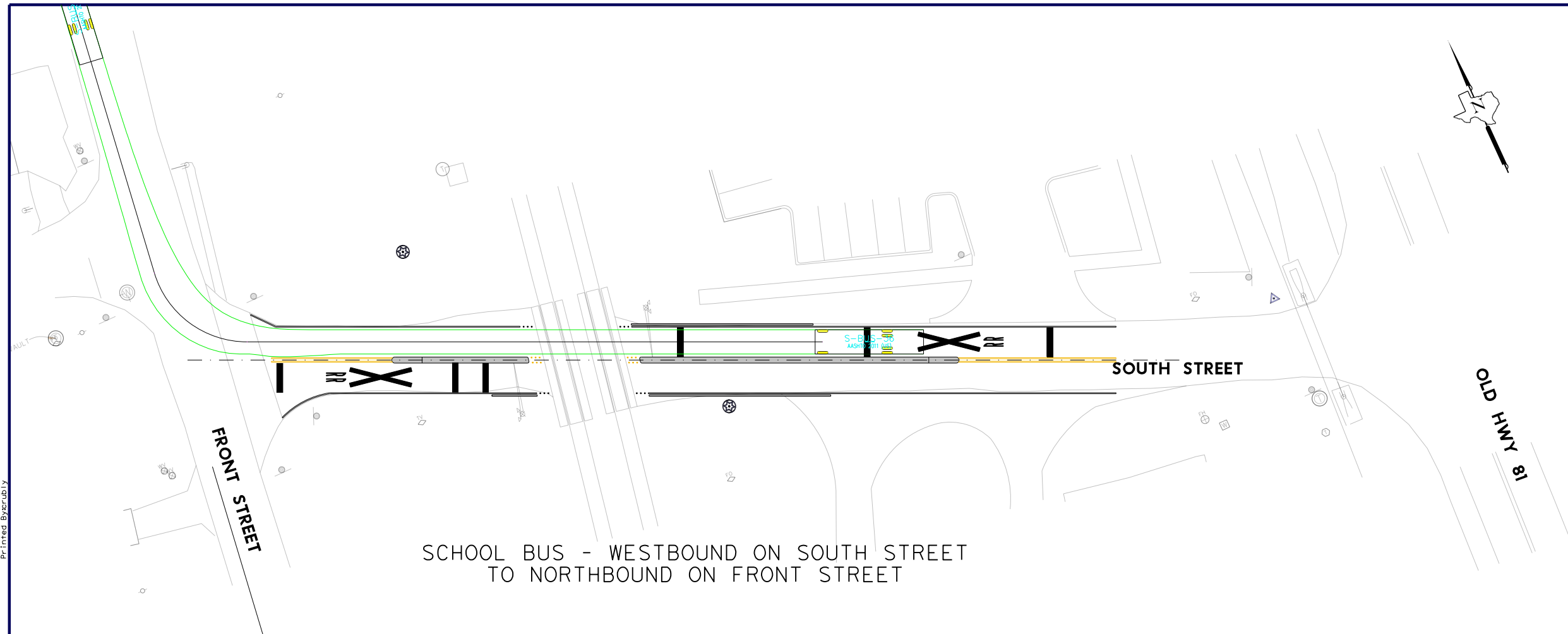
LOCAL GOVERNMENT


STATE OF TEXAS
 **Texas Department of Transportation**

RAILROAD QUIET ZONE
S-BUS-36
SOUTH STREET


FED. RD. DIV. NO.	STATE	PROJECT NO.			HIGHWAY NO.
14	TEXAS	CC 12-17-015			RM 150
STATE DISTRICT	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
AUSTIN	HAYS	0016	17	015	3 of 6

NUMBER	DATE	REVISION	APPROVED



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DESIGN ENGINEER

LJA Engineering, Inc. 
 FRN-F-1386

LOCAL GOVERNMENT



STATE OF TEXAS

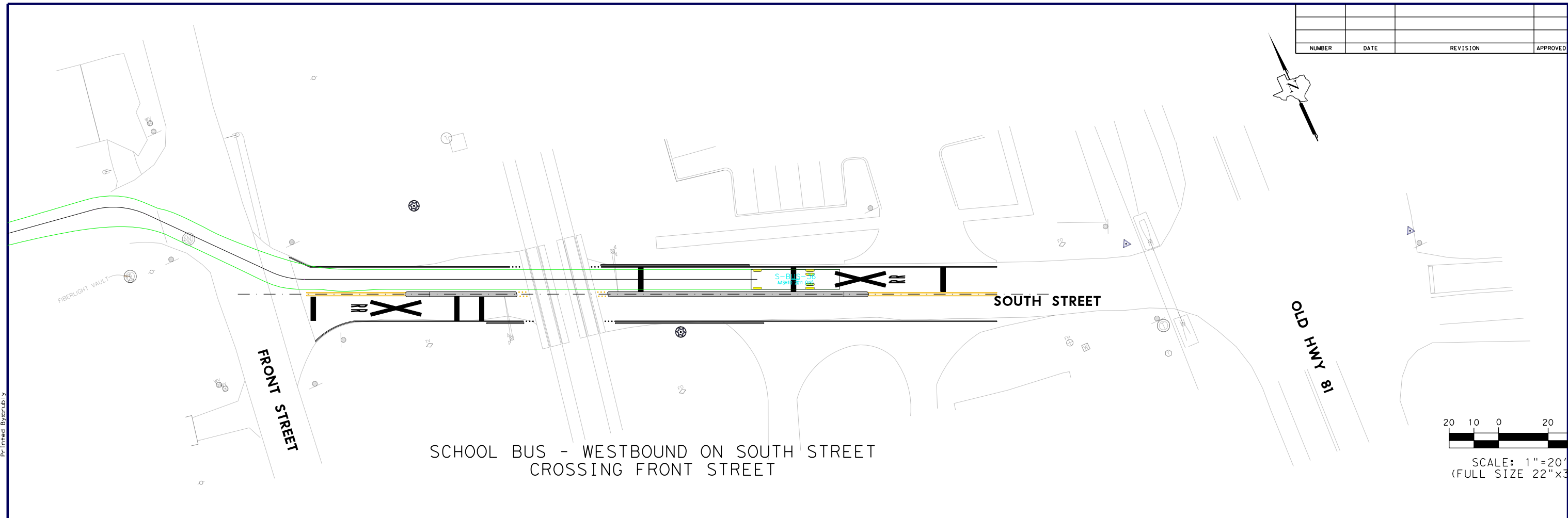
 **Texas Department of Transportation**

RAILROAD QUIET ZONE

S-BUS-36
SOUTH STREET

FED. RD. DIV. NO.	STATE	PROJECT NO.			HIGHWAY NO.
14	TEXAS	CC 12-17-015			RM 150
STATE DISTRICT	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
AUSTIN	HAYS	0016	17	015	4 of 6

NUMBER	DATE	REVISION	APPROVED




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20 10 0 20
SCALE: 1"=20'
(FULL SIZE 22"x34")

DESIGN ENGINEER

LJA Engineering, Inc. 
FRN-F-1386

LOCAL GOVERNMENT



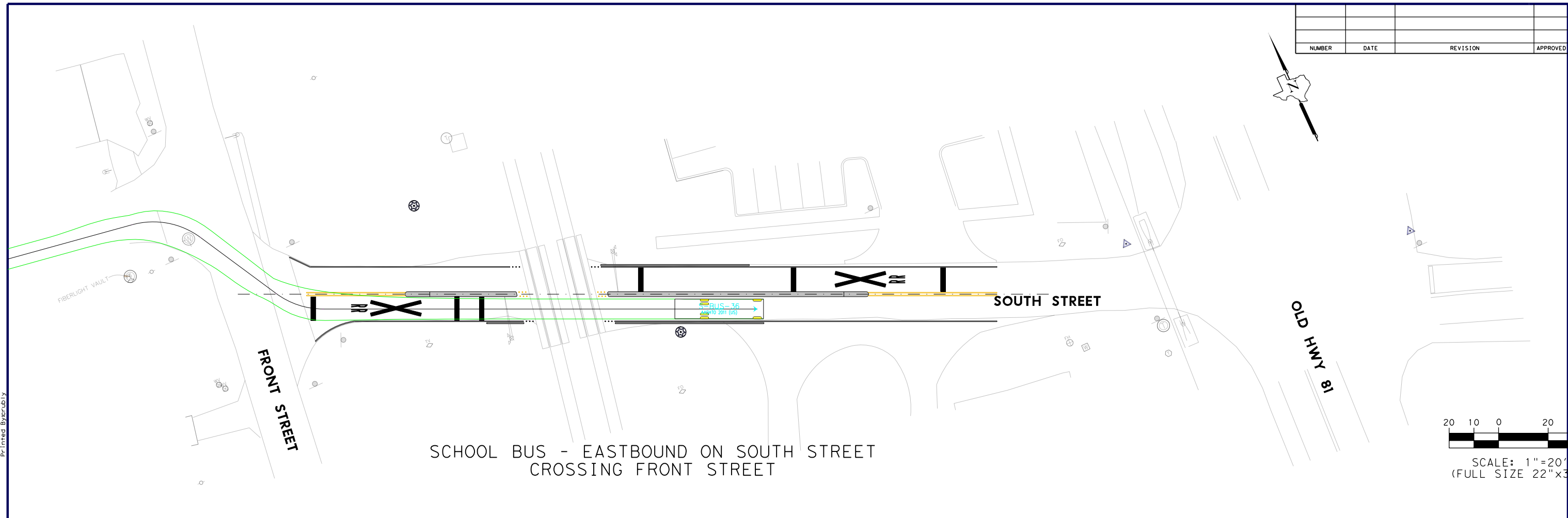
STATE OF TEXAS

 **Texas Department of Transportation**

RAILROAD QUIET ZONE
S-BUS-36
SOUTH STREET

FED. RD. DIV. NO.	STATE	PROJECT NO.			HIGHWAY NO.
14	TEXAS	CC 12-17-015			RM 150
STATE DISTRICT	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
AUSTIN	HAYS	0016	17	015	5 of 6


NUMBER	DATE	REVISION	APPROVED



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DESIGN ENGINEER

LJA Engineering, Inc. 
FRN-F-1386

LOCAL GOVERNMENT



STATE OF TEXAS



RAILROAD QUIET ZONE

S-BUS-36
SOUTH STREET

FED. RD. DIV. NO.	STATE	PROJECT NO.			HIGHWAY NO.
14	TEXAS	CC 12-17-015			RM 150
STATE DISTRICT	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
AUSTIN	HAYS	0016	17	015	6 of 6

NUMBER	DATE	REVISION	APPROVED

NOTE:
 1. RIGHT-OF-WAY AND PROPERTY LINES ON THIS DRAWING ARE NOT SURVEYED AND WERE COMPILED AND DIGITIZED FROM AVAILABLE CITY PLAT DRAWINGS

GENERAL NOTES

- 12 TRAINS PER DAY AT 40 MPH (MAX)
- 1,225 VEHICLES PER DAY (ADT 2022)
- 35 MPH POSTED VEHICLE SPEED
- THE CONTRACTOR SHALL NOT ENCROACH ON RAILROAD RIGHT-OF-WAY WITHOUT RIGHT-OF-ENTRY AGREEMENT
- ANY WORK THAT WILL OCCUR WITHIN 25 FEET OF NEAREST RAIL WILL REQUIRE COORDINATION FOR RAILROAD FLAGGING
- CITY TO INSTALL "NO TRAIN HORN" SIGN (W10-9P) AFTER FRA APPROVES QUIET ZONE

SOUTH STREET
 UNION PACIFIC RAILROAD
 MP 201.08
 DOT NO. 447651A



DESIGN ENGINEER



LOCAL GOVERNMENT

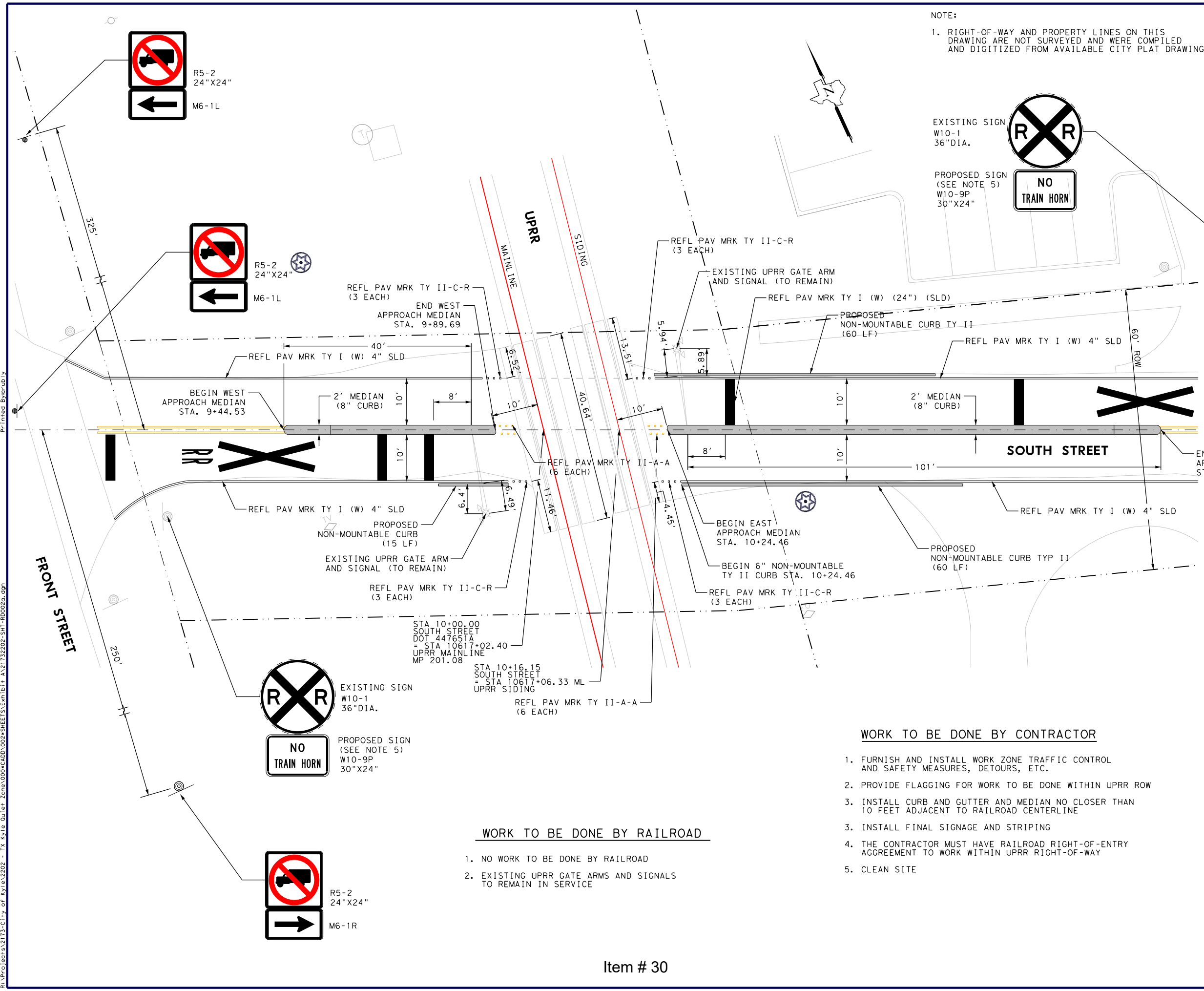


STATE OF TEXAS



**RAILROAD QUIET ZONE
 EXHIBIT A
 SOUTH STREET
 PROJECT LAYOUT**

FED. RD. DIV. NO.	STATE	PROJECT NO.	HIGHWAY NO.		
14	TEXAS	CC 12-17-015	RM 150		
STATE DISTRICT	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
AUSTIN	HAYS	0016	17	015	of



WORK TO BE DONE BY RAILROAD

1. NO WORK TO BE DONE BY RAILROAD
2. EXISTING UPRR GATE ARMS AND SIGNALS TO REMAIN IN SERVICE

WORK TO BE DONE BY CONTRACTOR

1. FURNISH AND INSTALL WORK ZONE TRAFFIC CONTROL AND SAFETY MEASURES, DETOURS, ETC.
2. PROVIDE FLAGGING FOR WORK TO BE DONE WITHIN UPRR ROW
3. INSTALL CURB AND GUTTER AND MEDIAN NO CLOSER THAN 10 FEET ADJACENT TO RAILROAD CENTERLINE
3. INSTALL FINAL SIGNAGE AND STRIPING
4. THE CONTRACTOR MUST HAVE RAILROAD RIGHT-OF-ENTRY AGREEMENT TO WORK WITHIN UPRR RIGHT-OF-WAY
5. CLEAN SITE

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CITY OF KYLE, TEXAS

Nonconforming Uses and Structures Amendments

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: *(Second Reading)* An ordinance of the City of Kyle, Texas, amending Chapter 53 of the Code of Ordinances by Amending Article VII Nonconforming Uses and Structures. ~
Will Atkinson, Interim Director of Planning

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

City Council voted 6-0 to approve on first reading, with amendments, on 9/6/2022.

Other Information: See attached.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Memo
- Ordinance



CITY OF KYLE

Community Development Department



MEMORANDUM

TO: Mayor & Council

FROM: Will Atkinson – Interim Director of Planning

DATE: Tuesday, September 6, 2022

SUBJECT: Legal Nonconformity Ordinance Amendment – Sec. 53-1138, Sec. 53-1139, Sec. 53-1140

Earlier in the year, City Council directed staff to replace the zoning code's legal nonconformity ordinance to ensure clear standards to better determine legal nonconforming structures and uses. Additionally, City Council wanted to establish more robust protections for legally non-conforming residential structures and uses. Lastly, this ordinance creates the allowance of a permitting system to determine a legal nonconformity with fees and establishing a database. The existing code is simple and is not adequate for a growing community such as Kyle or is it up to par with state law. This ordinance replaces Sec. 53-1138 through 53-1140 and adds four additional sections.

The most noticeable and effective amendments include, but are not limited to:

- Rewritten to account for state law and case law;
- Robust protections of residential uses or structures, including in commercially zoned areas;
- Providing a process to approve an extension of time for legally nonconforming uses or structures;
- Providing a process for approving legally nonconforming structures in newly annexed areas;
- Termination of legally nonconforming uses and structures.

RECOMMENDATION

Planning staff has worked closely with our legal team to ensure a fully rewritten and solid ordinance, as directed to us by City Council. Staff asks the Mayor & Council to recommend approval of the proposed ordinance.

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS
ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING
CHAPTER 53 OF THE CODE OF ORDINANCES BY AMENDING
ARTICLE VII NONCONFORMING USES AND STRUCTURES;
PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES;
PROVIDING FOR RELATED MATTERS; AND PROVIDING OPEN
MEETINGS, AN EFFECTIVE DATE AND SEVERABILITY
CLAUSES.**

WHEREAS, the City of Kyle (the “City”) a home-rule city is a home-rule City authorized to regulate zoning within its city limits; and

WHEREAS, the City Council of the City of Kyle, Texas (the “City Council”) reviews the City’s zoning regulations from time to time to consider amendments to Chapter 53, Zoning of the City’s Code of Ordinances (the “Zoning Ordinance”); and

WHEREAS, the City finds it necessary to amend the Zoning Ordinance and adopt the amendments set forth in this ordinance; and

WHEREAS, growth and population increases, the protection of the public health, safety and welfare, and the need to protect the existing and future property values, development and economic interests of the City and its citizens, require provisions be made for nonconforming uses within the City.

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

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

Section 2. Amendment of Chapter 53, Article VII. The City Council hereby amends Chapter 53, Zoning of the Kyle Code of Ordinances (the “Zoning Ordinance”), Article VII. Nonconforming Uses and Structures in its entirety to read as follows:

ARTICLE VII. - NONCONFORMING USES AND STRUCTURES

Sec. 53-1138 - Purpose.

The purpose of this article is to protect the rights of property owners who have lawfully established, and continuously maintained in a lawful manner, a use prior to the adoption of this chapter or prior to any amendment to this chapter which would otherwise render such use

unlawful. A nonconforming use or structure that was recognized prior to the adoption of this chapter shall continue to operate under the provision of law under which the nonconforming structure or use was recognized so long as the nonconforming use or structure is not in violation of such provision of law, the adoption of this chapter notwithstanding.

While permitting the use and maintenance of existing nonconforming uses and structures, this article is intended to establish the criteria under which they may be continued, or possibly expanded, and to provide for the correction or removal of the land use nonconformities determined incompatible in an equitable, reasonable, and timely manner.

Sec. 53-1139 - Exceptions to nonconformities.

The general public, the city council and the planning and zoning commission are directed to take note that nonconformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, whenever and wherever possible, except:

- (1) When necessary to preserve property rights established prior to the date the ordinance from which this chapter is derived become effective as to the property in question; and
- (2) When necessary to promote the general welfare and to protect the character of the surrounding property.

Sec. 53-1140. - Restriction on Nonconforming Uses and Structures.

The provisions of this section shall apply to nonconforming uses and structures that have been legally established.

- (1) **Legal Establishment.** Nonconforming uses and structures must have been legally established to be recognized as a legal nonconforming use.
- (2) **Health, Safety, Welfare.** The City determines that the continuation of the previously conforming use and/or structure does not endanger the health, safety, or general welfare of the public.
- (3) **Continuation of Nonconforming Residential Uses.** Nonconforming residential uses may continue to be used for residential purposes in any zoning district where they were legally established.
- (4) **Continuation of Nonconforming Residential Structures.**
 - (a) Nonconforming residential structures may continue to be maintained and used for residential purposes in any zoning district where they were legally established, provided that no additions or enlargements are made which exceed fifteen percent (15%) of the total square footage of the residence and do not exceed the impervious cover except those required by law or expressly permitted by this Article.

- (b) A nonconforming building, structure, or part thereof for which construction has begun prior to a change in regulations, which change would make the structure, once completed, a nonconforming structure, may be completed in accordance with the approved building permit and plans, provided that the work is implemented continuously and without delay. Such structure shall be deemed to be a previously conforming structure and shall, thereafter, be subject to the regulations set forth herein.
 - (c) A nonconforming building, structure, or part thereof may be added to or enlarged if used for residential purposes in a commercial zoning district.
- (5) **Continuation of Nonconforming Non-Residential Uses.** Nonconforming non-residential uses may continue to operate in the location where they were legally established.
- (6) **Continuation of Nonconforming Non-Residential Structures.**
- (a) Nonconforming non-residential structures may continue to be maintained in the location where they were legally established provided no additions or enlargements are made therein except those required by law or expressly permitted by this Article.
 - (b) A nonconforming building, structure, or part thereof for which construction has begun prior to a change in regulations, which change would make the structure, once complete, a nonconforming structure, may be completed in accordance with the approved building permit and plans, provided the work is implemented continuously and without delay. Such structure shall be deemed to be a previously conforming structure and shall thereafter be subject to the regulations set forth herein.
- (7) **Nonconforming Use of Land May Be Maintained.** A nonconforming use of land that does not involve buildings may be continued.
- (8) **Nonconforming Use of Conforming Building - Generally.** Where a nonconforming use of a conforming building existing at the time of the provisions of this ordinance become applicable to such building so as to make the use thereof a nonconforming use, such nonconforming use may be continued and such nonconforming use may be expanded or extended throughout such existing building, provided no structural alterations are made therein, except those permitted by law or as expressly permitted by this ordinance.
- (9) **Nonconforming Use of a Nonconforming Structure or Building - Generally.** The nonconforming use of a nonconforming structure or building may be continued and expanded or extended throughout such existing building provided no structural alterations are made therein, except those required by law or expressly permitted by this ordinance.

Sec. 53-1141. - Extension of a Legal Nonconforming Use. When special circumstances, as delineated in subsections 53.1142(7)(a-d) (Application Process for Extension of a Legal Nonconforming Use), exist and an application and applicable fees, which shall include \$200 plus newspaper publication fee of \$190.21, as maybe amended; and legal fees, have been timely submitted

as provided below, the Planning and Community Department (“Department”) may extend the legal nonconforming status of a use for up to an additional twelve (12) months.

Sec. 53-1142. - Application Process for Extension of a Legal Nonconforming Use.

- (1) An application for extension of legal nonconforming status shall be filed with the Planning and Community Department on a City application form, together with all required fees, plans, maps, statement of justification, and any other information deemed necessary by the Planning and Community Department to process the application. The application shall be filed prior to the expiration of the initial twelve (12)-month period.
- (2) The Planning and Community Department shall notify the applicant, in writing, as to whether the application is complete. If the application is not complete, the Planning and Community Department shall specify those parts of the application that are not complete, and shall identify the manner by which it can be made complete.
- (3) Notice to affected property owners. Within ten (10) working days after the application has been filed, the Planning and Community Department shall notify all property owners, as shown on the last county assessment roll(s) as owning property located within a radius of two hundred (200) feet of the proposed project, that the application has been filed. Each such person may request, in writing, the opportunity to be heard on the application. Such written request must be filed with the Planning and Community Department within fifteen (15) days after mailing the notice. Failure to do so shall be deemed a waiver of the rights under this section. If written request to be heard is filed by any property owner receiving such notice, the property owner shall receive all notices required by this Section (Application Process for Extension of a Legal Nonconforming Use) and may request or shall be permitted to be heard at a review pursuant thereto. The notice required by this Section shall include a brief description of the project as proposed on the application, and shall inform each property owner of their rights pursuant to this section. The failure of any person to receive the notice specified herein shall not invalidate any action taken pursuant to this ordinance.
- (4) The Planning and Community Department shall investigate the facts bearing on the application and provide the information necessary for action on the application, consistent with this ordinance and shall report all findings to the City Manager.
- (5) Consideration of the request for an extension - Notice of Decision.
 - (a) Within fifty (50) calendar days after an application is deemed complete by the City, the Department shall approve, conditionally approve, or disapprove the request for extension of the legal nonconforming use. The time limit specified in this paragraph may be extended by mutual consent of the applicant and the Department. If the request for extension of legal nonconforming use is disapproved, the reasons shall be stated in the notice of disapproval.

- (b) The Department shall notify the applicant of the preliminary decision to conditionally approve or disapprove the application for extension of the legal nonconforming use, along with any conditions of conditional approval or the reasons for the disapproval, within forty (40) days after the application is deemed complete by the City. If no written request for the review is received within the time prescribed, the preliminary decisions shall become final and the applicant shall be so notified, as prescribed in this section. Such request must be received by the Department within ten (10) calendar days after the date of the preliminary decision, but in no case later than forty-nine (49) calendar days after the application is deemed complete by the City. Upon receipt within the time prescribed of the written request for review of a preliminary decision, the Department shall arrange a time and place for such review, and shall notify the applicant and appropriate City departments thereof. In the event that a review cannot be arranged or completed prior to fifty (50) calendar days after the application is deemed complete, the request for review shall be deemed to constitute consent of the applicant to extend, for a reasonable period not to exceed ten (10) working days, the time limit in which the Department must approve, conditionally approve, or disapprove the application for the extension of a legal nonconforming use. After completion of the review, the Department shall render his/her final approval, conditional approval, or disapproval of the application, as provided in this section. In the event that no written request for the review is received within the time prescribed, the preliminary decision shall become final and the applicant shall be so notified, as prescribed in this section.
- (c) The applicant shall be informed of the preliminary decision and of the final decision of the Department by written notice. Notice shall be deemed to have been given upon deposit of the notice in the U.S. mail, addressed to the applicant.
- (6) In granting an extension of the legal nonconforming status, the Department may attach reasonable conditions and restrictions to the request, in addition to those required by this ordinance, which will ensure that the use will do the following:
 - (a) Comply with the City's Building Code, Fire Code, and local ordinances and national standards;
 - (b) Not injure the value of adjoining or abutting property;
 - (c) Not result in any significant environmental impacts; and
 - (d) Be in harmony with the area in which it is located.
- (7) The Department shall consider the following factors in determining whether an extension of time shall be approved under the provisions of this section:
 - (a) The applicant's investment in the property or structure on or in which the nonconforming use is conducted.

- (b) The applicant's lease obligations in the property or structure on or in which the nonconforming use is conducted.
- (c) Whether the applicant's investment in the property or structure on or in which the nonconforming use is conducted was made prior to the effective date of this ordinance.
- (d) Whether the applicant will be able to recoup the applicant's investment in the property or structure on or in which the nonconforming use is conducted as of the date established for termination of the nonconforming use.

(8) Approval of Extension - Findings.

- (a) An extension under the provisions of this section shall be for a period of time not exceeding twelve (12) months, and shall be approved only if the Department makes the following findings, based on supporting documentation and evidence submitted by the applicant:
 - i. The applicant has made a good faith effort to keep the nonconforming status;
 - ii. If applicable, in the case of vacation of the property by the City due to unsafe and dangerous conditions, the applicant has made a good faith effort to rectify the unsafe and dangerous conditions through the submittal of plans and/or the issuance of permits, and had diligently pursued it to completion (shown through the request for inspections); and
- (b) Based on the determination made in subsection 53.1142(7) (Application Process for Extension of a Legal Nonconforming Use), the twelve (12)-month extension shall be granted by the Department only if three (3) of the following findings are made, based on supporting documentation and evidence submitted by the applicant:
 - i. A physical and/or economic hardship has prevented the nonconforming use from being reestablished prior to the expiration of the twelve (12)-month period;
 - ii. Approving the extension will not adversely affect the character, integrity, or value of surrounding properties;
 - iii. Approving the extension will not adversely affect the character, integrity, or general welfare of the neighborhood;
 - iv. The extension will not adversely impact the public health, safety, or general welfare of the City's residents;
 - v. The applicant has made a substantial investment (including, but not limited to, lease obligations) in the property or structure on or in which the nonconforming use is conducted, and such property or structure cannot be readily converted to

another use, and such investment was made prior to the effective date of this ordinance; and

vi. The applicant will be unable to recoup said investment as of the date established for termination of the use.

Sec. 53-1143. - Newly Annexed Territory. Nonconforming rights may be granted to newly annexed areas in accordance with the following provisions and upon payment of the applicable fees, which shall include \$200 per structure; \$2,000 base fee plus \$5.00 per developable lot; and newspaper publication fee of \$190.21, as maybe amended (master development fee). All applications for nonconforming rights must be filed within sixty (60) days of the effective date of annexation.

(a) Incomplete Construction. Construction may be completed on any structure legally under construction upon annexation provided:

(1) The owner or his designated representative applies to the Planning & Community Development Department or Department for a permit to authorize further work on the structure stating the proposed use of the structure and attaching thereto the plans and specifications relating to the construction; and

(2) The construction is completed within two (2) years of the effective date of annexation. Action on the permits shall be taken by the Planning & Community Development Department within fifteen (15) days from the date of application. The director shall deny the permit if he finds that the construction will not meet the requirements of the building, fire protection, or minimum housing codes and other applicable ordinances and codes of the city. If the permit is refused, the construction work shall cease until necessary corrections are made.

(b) Proposed Construction. Proposed construction may be completed upon a finding by the zoning commission that sufficient evidence exists that planning for the proposed use was in progress prior to annexation. Within fifteen (15) days from the date of such filing, the director shall present the evidence to the zoning commission for their determination, unless the applicant agrees to a longer period. The applicant shall have twelve (12) months from the date of the zoning commission's favorable determination to secure all building permits. After that time, the nonconforming rights shall expire.

(c) Master Development Plans. Newly annexed areas may be entitled to nonconforming rights for a master development plan upon favorable consideration by the zoning commission. The property owner must submit an application. The zoning commission shall conduct a public hearing on the nonconforming rights master development plan after giving notice to the owners of property within two hundred (200) feet. The purpose of the public hearing shall be to ascertain (1) the extent to which development of the master development plan had progressed prior to annexation and (2) the extent to which the master plan complies with the policies and objectives of the city's land use plan. If the zoning commission approves the master development plan, construction in conformance with the plan must begin within one

(1) year, with all portions of the plan either completed or under construction within five (5) years from the date of annexation. After that time, the nonconforming rights shall expire.

Sec. 53-1144. - Termination of Nonconforming Uses. Termination of nonconforming rights under subsections (a) and (b) of this section shall provide for notice and hearing.

(a) By Violation of Chapter. The violation of this chapter shall terminate immediately the right to operate a nonconforming use.

(b) By Specific Acts of Termination. Any one (1) of the following specific acts of termination shall terminate immediately the right to operate a nonconforming use:

(1) Changing a nonconforming use to a conforming use;

(2) Changing a nonconforming use to another nonconforming use as herein provided and authorized; provided, however, that the termination shall apply only to the nonconforming use existing prior to any change;

(3) Nonoperation or non-use of a nonconforming use for a period of twelve (12) or more successive calendar months;

(4) Vacancy for a period of twelve (12) or more successive calendar months of the structure or that part of a structure occupied by a nonconforming use.

(c) By Action of the Zoning City. The zoning city may inquire into the existence of a nonconforming use, and after public hearing and investigation into the conditions created by the use, fire or health hazards created by the use, and any other danger or nuisance to the public due to or created by any condition or use existing on the property, require the discontinuance of such use. The owner of the use under investigation by the board shall have not less than ten (10) days' written notice prior to the day of the public hearing. Time allowed for discontinuance of such use shall be prescribed by the board at a subsequent public hearing, after having heard from the affected parties, based on the board's ruling as to a reasonable amortization period for the nonconforming use. In prescribing said time period, the board shall consider the following factors:

(1) The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became nonconforming.

(2) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.

(3) Any return on investment since inception of the use, including net income and depreciation.

- (4) The anticipated annual recovery of investment, including net income and depreciation.
- (d) At the Direction of City Council. The zoning city, at the direction of the city council, shall require the discontinuance of a nonconforming use. The board, after having heard from the affected parties, must provide a reasonable amortization period for the discontinuance of such use based on the factors set forth in subsection (c), above.
- (e) By Destruction or Damage of Structure. The right to operate and maintain any nonconforming use, except a single-family dwelling unit, shall terminate and shall cease to exist whenever the structure or structures in which the nonconforming use is operated and maintained is damaged or destroyed from any cause whatsoever, and the cost of repairing such damage or destruction exceeds fifty (50) percent of the replacement cost of such structure on the date of such damage or destruction. A nonconforming single-family dwelling unit which is destroyed or damaged more than fifty (50) percent of the replacement cost may be rebuilt provided a building permit is issued within one (1) year of the date of such damage or destruction. The director of planning and development services may require the submission of necessary evidence to verify the date of damage or destruction.

Section 3. Construction. The terms and provisions of this Ordinance shall not be construed in a manner to conflict with Chapter 211 of the Texas Local Government Code and if any term or provision of this Ordinance shall appear to conflict with any term, provision or condition of Chapter 211, such Ordinance term or provision shall be read, interpreted and construed in a manner consistent with and not in conflict with such Chapter, and, if possible, in a manner to give effect to both. The standard and accepted rules of statutory construction shall govern in construing the terms and provisions of this Ordinance.

Section 4. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances governing zoning in force when the provisions of this Ordinance become effective which are inconsistent with or in conflict with the terms and provisions contained herein are amended only to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the city, the terms and provisions of this ordinance shall govern.

Section 5. Effective Date. This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Tex. Loc. Gov't. Code and the City Charter.

Section 6. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 7. 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 the ____ day of _____, 2022.

ATTEST:

CITY OF KYLE, TEXAS

Jennifer Holm, City Secretary

Travis Mitchell Mayor



CITY OF KYLE, TEXAS

Hays Commerce Center 5, LP -
Zoning (Z-22-0105)

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 5.15 acres of land to 'PUD' for property located at 3601 Kyle Crossing, in Hays County, Texas. (Hays Commerce Center 5, LP - Z-22-0105) ~ Will Atkinson, Interim Director of Planning

Planning and 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 Report
- Ordinance
- Summary Letter
- Deed
- Landowner Authorization Letter
- Franchise Tax Status Form

Property Location 3601 Kyle Crossing, Kyle, TX 78640

Owner Hays Commerce Center 5 LP
3700 N Capital of Texas Hwy, Ste. 240
Austin, TX 78746

Agent Shauna L. Weaver
Pape-Dawson Engineers, Inc.
2000 NW Loop 410
San Antonio, TX 78213

Request Rezone 5.148-Acres “A” (Agriculture) to “PUD”
(Planned Unit Development)

Vicinity Map

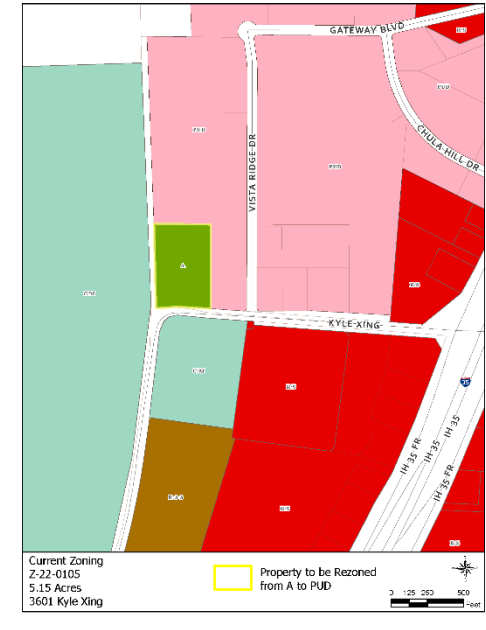


Site Description

The site proposed to be rezoned, is an undeveloped lot located at 3601 Kyle Crossing. It is currently zoned “A” or “Agriculture.” Immediately to the north and to the east are properties zoned “PUD” or “Planned Unit Development” (Ord. 671 and 1144). To the south and to the west are properties zoned “CM” or “Construction/Manufacturing.” The

purpose of this rezoning is to adjoin this property with the surrounding PUD, also known as Hays Commerce Center.

Existing Zoning



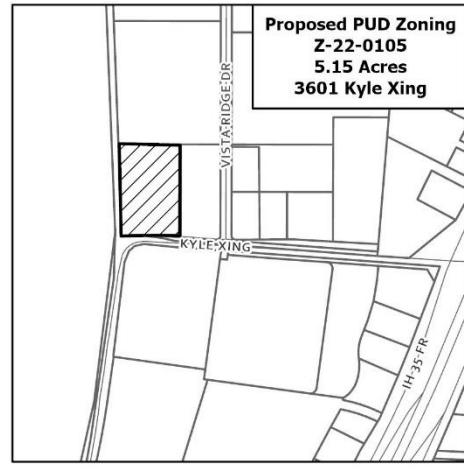
“A” (Agriculture)

Sec. 53-36. - Agricultural district A.

The permitted uses in the agricultural district A allow farming, ranching, pasturage, detached single-family residences and related accessory structures, on a minimum one-acre tract. Parks, playgrounds, greenbelts and other public recreational facilities, owned and/or operated by the municipality or other public agency are permitted.

(Ord. No. 438, § 23, 11-24-2003)

Requested Zoning



PUD (Planned Unit Development) – Ordinance 671 and 1141

3. PURPOSE

The purpose of the Plan is to ensure a PUD that 1) is equal to, superior than and/or more consistent than that which would occur under the standards ordinance requirements, 2) is in harmony with the Comprehensive Plan, as amended, 3) does not have an undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utilities or any other matters affecting the public health, safety and welfare, 4) is adequately provisioned by essential public facilities and services, and 5) will be developed and maintained so as not to dominate, by scale or massing of structures, the immediate neighboring properties or interfere with their development or use.

4. APPLICABILITY OF CITY ORDINANCES

4.1 Zoning and Subdivision Ordinances

The Property shall be regulated for the purpose of development and occupancy by the Plan, this ordinance, and applicable provisions of the Zoning Ordinance. All aspects not specifically covered by this Plan shall be regulated by the **RS Retail Services, CM Construction Manufacturing and W Warehouse Zoning Districts** and other sections of the Zoning Ordinance and the Code, as applicable and as amended. If there is a conflict between this Plan and the Zoning Ordinance or the Code, the Plan shall supersede conflicting provisions of the Code.

4.2 Other Ordinances

All other Ordinances within the Code shall apply to the Property, except as clearly modified by this Plan. In the event of a conflict, the Plan shall control.

Conditions of the Zoning Ordinance

Sec. 53-1205 Amendments

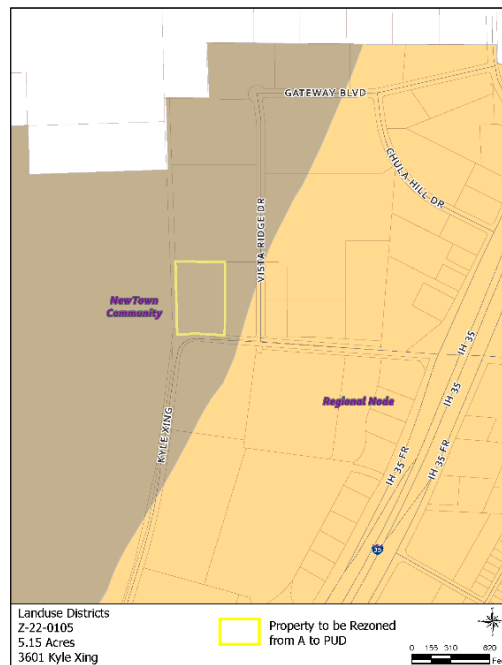
(d)

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



Orange = Regional Node
Brown = New Town Community

5. Compatibility with the Comprehensive Plan

This property is located within the New Town Community District which specifies the Construction Manufacturing District and Warehouse District as conditional uses.

New Town Community

Recommended: R-1-1, R-1-2, R-1-3, R-1-C, R-1-T, R-2, R-3-2, R-3-3, CC, NC, R/S, MXD, O/I
Conditional: E, A, **C/M**, R-1-A, R-3-1, RV, T/U, UE, HS, **W**

'Character': Currently consisting primarily of residential uses, open fields, some commercial uses along I-35, and the City's new Performing Arts Center, the New Town District will likely experience significant development pressures in the near future. This District straddles both I-35 and FM 1626, and growth from Austin and Buda is spreading south along these roadways. These land uses and the forms that follow are wide ranging and varying according to the existing development pattern in place today, and the availability for utility service to as-yet undeveloped lands. The New Town District includes undeveloped residential areas, the proposed site for an 'Uptown' shopping/activity center, proposed and existing commercial along higher classified roadways, and legacy residential that has existed for many years. This District should be livable, comfortable, and convenient for all residents of Kyle and the surrounding region. Elements of form and design are critical to ensuring transitions between neighboring uses.

'Intent': The New Town District is designed to contain a horizontal mix of land uses that should be integrated across the area to express a cohesive community form. Many differing uses are encouraged throughout the District, but are distributed in autonomous land parcels instead of vertically integrated in fewer land parcels. Horizontal mixed uses provide a transition to integrate the community form of New Town with surrounding communities, landscapes, and nodes.

Analysis

The subject property is located on approximately 5.148-acres and zoned "A" (Agriculture). This site is currently undeveloped, and within the "New Town Community" land use district. The site is adjacent to properties that are part of the development known as Hays Commerce Center. The purpose of Hays Commerce Center is to promote employment opportunities related to Warehouse, Logistics facilities, and Light Industrial based businesses in a Class A setting. The applicant is seeking this re-zoning to adjoin the property with those located in the Hays Commerce Center. The applicable Ordinances (Ord. 671 & 1144) will apply to this property and outlines all development requirements and restrictions for this site. This zoning will effectively amend the existing

PUD and combine the language of Ord. 671 and 1144. Consequently, this will allow the site to development in the same manner as Hays Commerce Center.

Utility Providers:

- Water: City of Kyle
- Wastewater: City of Kyle
- Electricity: Pedernales Electric Cooperative

Permits required following zoning:

- Subdivision
- Site Development
- Conditional Use Permit (building elevation approvals)
- Commercial Building Permit

Recommendation

The site has sufficient utilities, road infrastructure, and supports the Comprehensive Plan. Staff supports the request and the Planning & Zoning Commission voted 4-0 on September 13, 2022 to recommend approval of the request. Commissioner's McCall & Mata were not present for the meeting.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 5.15 ACRES TO “PUD” (PLANNED UNIT DEVELOPMENT) FOR PROPERTY LOCATED AT 3601 KYLE CROSSING, IN HAYS COUNTY, TEXAS; AUTHORIZING THE CITY SECRETARY TO AMEND THE CITY OF KYLE CODE OF ORDINANCES SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to rezone approximately 5.15 acres to Planned Unit Development - “PUD” for property located at 3601 Kyle Crossing, Hays County, Texas and the property location map labeled ‘Exhibit A’.

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, as shown in ‘Exhibit A’ and by proper endorsement indicate the authority for said notation.

SECTION 3. The associated PUD standards and concept plan are attached as ‘Exhibit B’, and the PUD standards will control over portions of City of Kyle development code where such standards vary from the City of Kyle requirements.

SECTION 4. 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 5. 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 6. 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 _____, 2022, 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 _____, 2022, 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 _____, 2022.

ATTEST:

Jennifer Holm, City Secretary

Travis Mitchell, Mayor

Exhibit A

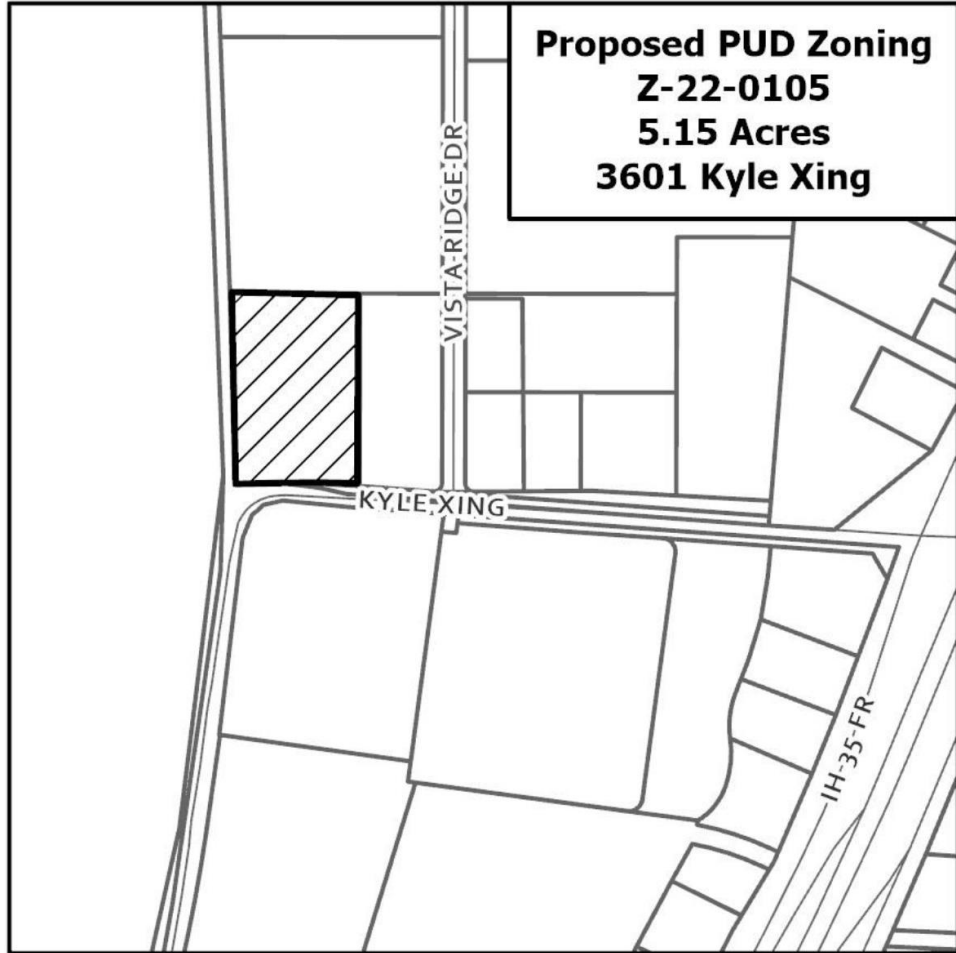


Exhibit B

**Hays Commerce Center PUD
Development Standards**

***Standards shown in Exhibit B are existing per Ord. 671 & 1141.**

**EXHIBIT B
DEVELOPMENT PLAN
RECOVERY HP BUSINESS PARK
PLANNED UNIT DEVELOPMENT
FIRST AMENDMENT**

**THE STATE OF TEXAS
COUNTY OF HAYS**

THIS DEVELOPMENT PLAN (this "Plan") is adopted and approved by the CITY OF KYLE, TEXAS (hereinafter referred to as the "City").

SECTION 1. GENERAL PROVISIONS

1. CONFORMITY WITH DEVELOPMENT STANDARDS

That all uses and development within the Property shall conform to the Development Standards included in Section II herein.

2. CHANGES AND MODIFICATIONS

No changes or modifications will be made to the Plan unless all provisions pertaining to changes or modifications as stated in Section II.13 below are followed.

3. ZONING VIOLATION

Any person, firm, corporation or other entity violating any conditions or terms of the Plan shall be subject to any and all penalties for the violation of any zoning ordinance provisions as stated in Chapter 53, Article IX Administration, Section 53-1203 and Section 53-1204, Code of Ordinances, City of Kyle, Texas, as amended.

4. MISCELLANEOUS PROVISIONS

4.1 Severability

In case one or more provisions contained in this Plan are deemed invalid, illegal or unenforceable in a respect such invalidity, illegality, or unenforceability shall not affect any other provisions of this Plan and in such event, this Plan shall be construed as if such invalid, illegal or unenforceable provision had never been contained in the Plan.

4.2 Venue

All obligations of the Plan are performable in Hays County, Texas, and venue for any action shall be in Hays County.

4.3 Effective Date

This Plan shall be effective from and after the date of approval by the City Council.

SECTION II. DEVELOPMENT STANDARDS

1. DEFINITIONS

Words and terms used herein shall have their usual force and meaning, or as defined in the Code of Ordinances of the City of Kyle, Texas, as amended, hereinafter referred to as "the Code".

2. PROPERTY

This Plan covers approximately 107.247 acres of land, located within the city limits of Kyle, Texas, and more particularly described in EXHIBIT "A".

3. PURPOSE

The purpose of the Plan is to ensure a PUD that 1) is equal to, superior than and/or more consistent than that which would occur under the standards ordinance requirements, 2) is in harmony with the Comprehensive Plan, as amended, 3) does not have an undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utilities or any other matters affecting the public health, safety and welfare, 4) is adequately provisioned by essential public facilities and services, and 5) will be developed and maintained so as not to dominate, by scale or massing of structures, the immediate neighboring properties or interfere with their development or use.

4. APPLICABILITY OF CITY ORDINANCES

4.1 Zoning and Subdivision Ordinances

Revised 2/9

The Property shall be regulated for the purpose of development and occupancy by the Plan, this ordinance, and applicable provisions of the Zoning Ordinance. All aspects not specifically covered by this Plan shall be regulated by the **CM Construction Manufacturing and W Warehouse Zoning Districts** and other sections of the Zoning Ordinance and the Code, as applicable and as amended. If there is a conflict between this Plan and the Zoning Ordinance or the Code, the Plan shall supersede conflicting provisions of the Code.

4.2 Other Ordinances

All other Ordinances within the Code shall apply to the Property, except as clearly modified by this Plan. In the event of a conflict, the Plan shall control.

5. COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The majority of this property is located within the New Town Community District which specifies the Retail Services District as a recommended use and the Construction Manufacturing District and Warehouse District as conditional uses.

The frontage along IH-35 is located within a Regional Node which specifies the Retail Services District as a conditional use. The Construction Manufacturing District and Warehouse District are not listed as recommended or conditional uses within a Regional Node. Therefore, the portion of property that is located within the Regional Node will only be allowed to have uses that are specifically listed in the Retail Services District, so that the PUD is consistent with the Comprehensive Plan.

6. PERMITTED AND PROHIBITED USES

6.1 Permitted Uses

The following principal uses are permitted on the Property:

All uses permitted in the RS Retail Services Zoning District except prohibited uses listed in this Plan;

All uses permitted in the W Warehouse Zoning District except prohibited uses listed in this Plan; and

All uses permitted in the CM Construction Manufacturing Zoning District except prohibited uses listed in this Plan.

6.2 Prohibited Uses

The following uses are prohibited on the Property: mini-warehouses, sexually oriented businesses, portable buildings sales, amusement parks or carnivals, wholesale nurseries, recreational vehicle parks, recreational vehicle sales, new and used car sales, outdoor shooting ranges, pawn shops, heavy equipment sales, kennels (not prohibiting veterinary clinics with overnight facilities), auto body shops and paint shops, truck stops, flea markets, R.V. or boat sales, wrecking yards, tattoo parlors, concrete ready mix plant, explosives manufacturer, industrial gases manufacturer, lime manufacturer, limestone mining, lumber mill, manufactured homes manufacturer, mobile homes manufacturer, mulch and reconstituted wood manufacturer, precast concrete manufacturer, sawmill, steel and pipe manufacturer, trailer hitch and trailer manufacturer, used and salvaged auto part sales, construction sand and gravel sales, heavy equipment rentals, garage collection service, oil and well drilling service, scrap and metals recycling, septic tank cleaning, portable toilet rentals and sales, petroleum bulk terminals, and uses not otherwise authorized in the RS, W, and CM Districts.

7. LOT STANDARDS

7.1 Height

The maximum height of buildings on the Property shall be sixty (60) feet.

7.2 Building Setbacks

Minimum front yard setbacks shall be twenty five (25) feet.

Minimum front yard setback along IH-35 frontage road and Kyle Crossing shall be twenty five (25) feet and shall be designated on the Final Plat and Site Development Plans as a Pedestrian and Landscape Easement. No parking or structures are allowed within the Pedestrian and Landscape Easement. The IH-35 frontage road and Kyle Crossing shall both be considered as the front of the property.

Minimum side yard setbacks shall be twenty (20) feet from all side lot lines and any internal streets.

Minimum rear yard setbacks shall twenty (20) feet from all rear lot lines and any internal streets.

8. LANDSCAPE STANDARDS

8.1 Landscape Area

At least 20 percent of street yard must be landscaped.

8.2 Determining Street Yard

The exact configuration of a street yard (or street yards) on a site will depend on how a number of factors interrelate on that site. Among these factors are:

- Type and location of building walls.
- Number of streets that border the site.
- Number, size, and orientation of buildings on the site.
- Whether there is a building on the site or just a parking lot.

The street yard area is calculated by finding the total lot square footage which lies between the street right-of-way line and the front wall of a building or buildings on a site. This street yard boundary extends from the outward-most corners of the front wall, parallel to the street until it intersects with the side property lines, or another building on site, then to the side property lines.

The building wall line shall include irregular shapes or indentions of the building wall, but exclude unenclosed porches, canopies and exterior columns.

On a site or portion of a site used only for parking purposes or as a commercial or private parking lot, the street yard shall consist of the area between the street right-of-way line and the midpoint of the lot.

8.3 Drip Line Credit

In order to encourage the preservation and continued growth of smaller trees, the following credit toward landscape area is possible. Each square foot of landscape area which is permeable and within the area encompassed by the drip line of a surveyed tree at least two (2) inches in trunk diameter measured at four (4) feet above the ground, shall count as one and one-quarter (1.25) square feet of landscape area.

The forgoing credit shall be subject to the following limitations:

- Overlapping drip line area cannot be counted twice.
- No credit will be given if more than twenty percent (20%) of the drip line is impervious.

- No credit will be given where damaging grade changes within the drip line (of a tree) has occurred.
- In no case can the actual landscape area in the street yard of a lot be less than one-third (1/3) the required twenty percent (20%).

8.4 Street Yard Trees

Within the area described as street yard, a minimum amount of trees are required to be planted or preserved with at least sixty percent (60%) of the trees planted from a list approved by the City of Kyle and attached hereto. No tree shall be planted within five feet of a water or a wastewater line which is in a city-maintained easement. Heat-absorbing surfaces such as courtyards and the west-facing walls of buildings are encouraged to be shaded. A minimum of fifty percent (50%) of the trees required in the landscape yard area, which is not utilized for parking, are to be large shade-providing trees.

In all cases automatic irrigation systems shall be utilized.

<u>Total Street Yard Area</u>	<u>Required Trees</u>
1,000 to 10,000 Sq. ft.	1 tree/1,000 sq. ft.
10,000 to 110,000 sq. ft.	10 trees for first 10,000 sq. ft. plus 1 tree/2,500 sq. ft. over 10,000 sq. ft.
Over 110,000 sq. ft.	50 trees for first 110,000 sq. ft. plus 1 tree/5,000 sq. ft. over 110,000 sq. ft.

8.5 Existing Tree Credit

All existing surveyed trees over two (2) inches in trunk diameter or tree clusters of at least four (4) one-inch diameter trees preserved within the street yard boundaries may satisfy these requirements one for one. All trees measuring six (6) inches or more in trunk diameter measured at four (4) feet above the ground shall count double toward satisfying these requirements.

8.6 Landscape in Parking Lots

Ninety (90) square feet of landscaped area is required for each fifteen (15) parking spaces within a parking lot located in the street yard. Sixty (60) square feet for each fifteen (15) parking spaces is required for all non-street yard parking lots.

This landscape area should occur entirely within the parking lot boundaries as landscaped medians, landscaped islands or as landscaped peninsulas.

8.7 Landscape Islands, Medians or Peninsulas

A landscape island, median or peninsula should be located within 90 feet of each entire parking space on a lot. This distance should be measured from the curb line of the landscape island, median or peninsula and should encompass the entire parking space.

No more than fifty percent (50%) of the plants from the same species may be planted on anyone island, median or peninsula.

To provide significant space for the growth of trees planted within these areas, the minimum width for landscaped islands, medians or peninsulas which contain new trees is six (6) feet measured from the inside of the curb.

8.8 Trees in Parking Lots

One tree must be located within ninety (90) feet of each parking space. A minimum of sixty percent (60%) of the trees required for parking lot areas are to be from the List approved by the City of Kyle and attached hereto. No tree shall be planted within five (5) feet of a water or a wastewater line which is in a city-maintained easement. In areas where utility lines are present or proposed, only trees that are Utility Compatible shall be planted within:

- Ten (10) lateral feet from any overhead distribution conductor;
- Thirty (30) to Forty (40) lateral feet from any overhead transmission conductor, unless a more restrictive dedicated right-of-way has been established;
- Ten (10) lateral feet from any underground electric facility. Any plantings near transmission facilities must also allow for required access to the facilities. Variations to these planting distances and species may be made only with the explicit written approval of the City of Kyle, Texas, or the affected utility owner. Approved utility compatible trees are attached herewith.

8.9 Special Provisions for Large Parking Lots

The above paragraphs 8.2 and 8.3, do not apply if this Section 8.9 is required. For parking lots with more than three (3) parking modules, a ten (10) foot minimum-width median (measured from inside of curb) will be required for every second parking module. Trees within the median must be located so that one (1) tree shall be located within fifty (50) feet of each parking space adjacent to the median. No additional islands shall be required except for end islands for each parking module. All landscape islands and peninsulas must be six (6) foot minimum width measured from inside of curb.

9. ARCHITECTURAL STANDARDS

9.1 Permitted Building Materials

The exterior finish of all buildings (walls) shall be masonry, except for doors, windows and trim. Masonry shall mean stone, simulated stone, brick, stucco, concrete masonry units, tile, hardiplank, tilt wall or such other suitable material as may be approved by the Planning Director and the Building Official.

9.2 Prohibited Building Materials

The follow building materials are prohibited for use on the exterior of all buildings:

Sheet and corrugated metal, and unfinished aluminum

Galvanized Steel

Mirrored Glass

E.I.F.S (Exterior Insulation Finish System), except for decorative trim purposes

9.3 Service and Loading Areas

No dock high loading area is permitted along the IH-35 frontage road or Kyle Crossing unless such area is visually screened from public view from public streets. Services areas shall be screened from adjacent tracts and all public rights-of-way.

Methods of screening include walled entrances, evergreen landscaping, and depressed service areas. Screening walls must be constructed of the same building materials as the main building.

9.4 Loading Areas

All loading and service docks must be clearly signed. Loading docks must be clearly denoted on the pavement and designed so as not to prohibit on-site vehicular circulation when occupied. Loading docks must be designed to accommodate backing and maneuvering on-site, not from a public street.

9.5 Trash Storage

Refuse storage enclosures are required for all buildings. Enclosures must be of sufficient height to completely screen all refuse containers and must be provided with gates, so as to provide screening from view from adjacent lots and public rights-of-way. All enclosures must be constructed using a permitted building material as listed in Section 9.1.

9.6 Street Level Mechanical Equipment

All ground-mounted service equipment (e.g. air conditioners and transformers) related to each building shall be consolidated in one or more service area. Landscaping shall be used to soften the visual appearance of each service area.

9.7 Roof Mounted Mechanical Equipment

All roof mounted mechanical elements shall be screened from view from the public right-of-way along IH-35 frontage road and Kyle Crossing. Screening must be compatible with the building design.

9.8 Screening Outdoor Storage

All outdoor storage areas must be the following criteria:

Outdoor storage must be located in the rear yard or side yard of the buildings.

Solid, continuous fencing up to eight (8) feet in height, but not less than six (6) feet in height; and/or solid landscaping of at least four (4) feet in width and at least six (6) feet in height.

The finished side of all fences built to comply with this section shall face away from the screened property.

10. RIGHT-OF-WAY DEDICATION

The required right-of-way for the proposed extension of RR 967/Loop 4 shall be dedicated or cause to be dedicated to the City, free of all monetary liens, with the final plat. The right-of-way to be dedicated shall be in accordance with the Transportation Plan.

Further, Owner shall construct, or cause to be constructed, the right-of-way described above in accordance with applicable City standards and approved construction plans.

11. SIGNAGE

All signage shall be in accordance with the Code.

12. UNDERGROUD UTILITY SERVICE

All electrical, telephone and cablevision distribution and service lines, shall be placed underground, except for existing lines and the addition of one new overhead electric line that will extend through the property and service the lots from the rear. All electric service line drops shall be underground.

13. BUILDING CODES

All structures shall comply with the City's adopted building codes with the following exception:

All buildings shall be supplied with an approved fire suppression system.

14. DEVELOPMENT PROCESS

As required by City Code, the property owner shall be required to complete the remaining steps in the City's development process, including but not limited to subdivision platting and site development plan approval. No site development plan approval on the Property shall be granted until the Final Plat is recorded. No building permit on the Property shall be issued until the site development plan is approved.

15. CHANGES TO DEVELOPMENT PLAN

15.1 Minor Changes

Minor changes to this plan which do not substantially or adversely change this Plan may be approved administratively, if approved in writing, by the City Engineer, the Director of Planning, and the City Manager.

Such minor changes may include but not be limited to small site alterations such as realignment of streets and relocation of utility lines due to engineering necessity. The developer shall request such amendment in writing, clearly setting forth the reasons for such changes. If approved, the Plan shall be so amended prior to submission of any preliminary plan-site plan application involving or affecting such amendment. Appeal from the decision of the City Engineer, the Director of Planning and the City Manager may be taken to the City Council.

15.2 Major Changes

All changes not permitted under section 15.1 above shall be resubmitted following the same procedure required by the original PUD Application.

Such major changes shall include, but not be limited to, increased density, land use, location of use, condition(s) of planning and zoning commission approval and street pattern.

16. IMPERVIOUS COVER

For the purposes of impervious cover calculations, two or more lots within this PUD may be combined and considered as a whole, such that the average impervious cover across the lots remains in accordance with City of Kyle limits by district type:

W Warehouse – 75%

CM Construction / Manufacturing – 75%

RS Retail Services – 80%

This applies to remaining lots:

Hays Commerce Phase 2A, Block A, Lot 2

Hays Commerce Phase 2A, Block A, Lot 1

Hays Commerce Phase 1, Block C, Lot 1

Hays Commerce Phase 3, Block C, Lot 2

Hays Commerce Phase 3, Block C, Lot 4

Hays Commerce Phase 3, Block C, Lot 5

Hays Commerce Phase 3, Block D, Lot 1

Hays Commerce Phase 3, Block D, Lot 2

Hays Commerce Phase 3, Block D, Lot 3

Hays Commerce Phase 3, Block D, Lot 4

Hays Commerce Phase 3, Block D, Lot 7

Hays Commerce Phase 3, Block D, Lot 8

Hays Commerce Phase 3, Block D, Lot 9

For clarification purposes, the impervious cover lot combination is not a platting action, but only to be used for calculating impervious cover limits.





August 11, 2022

Mr. Howard Koontz
The City of Kyle
100 W. Center Street
Kyle, TX 78640

Re: 3601 Kyle Crossing Rezoning
Summary Request Letter

Dear Mr. Koontz:

Please accept this letter as part of the rezoning application submittal for the above-referenced project. This 5.148-acre tract located at 3601 Kyle Crossing in Kyle, TX is currently zoned A (Agriculture). This application proposes to rezone the tract to PUD (Planned Unit Development).

A predevelopment meeting, with the City of Kyle and the developer HPI, was held on April 4th, 2022 addressing the anticipated development of the property. The proposed development consists of warehouse and office complex buildings with onsite standard and compact parking and a truck court. The proposed development would include private sanitary sewer, water, and drainage improvements. Runoff from proposed impervious cover would be routed to an existing storm drain system that was designed as part of the Hays Commerce Center – Phase 1 & 2 Subdivision Construction Plan (2015).

If you have any questions or require additional information, please do not hesitate to contact our office at your earliest convenience.

Sincerely,
Pape-Dawson Engineers, Inc.

A handwritten signature in blue ink that reads 'Shauna L. Weaver'.

Shauna L. Weaver, P.E.
Senior Vice President

P:\123\10\00\WORD\LETTERS\201214A1.DOCX

Independence Title/GF# 2144114 BUD/FNC

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 TRANSFER AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WARRANTY DEED WITH VENDOR'S LIEN

DATE September 28, 2021

GRANTOR: 3601 DRY HOLE, LLC,
A TEXAS LIMITED LIABILITY COMPANY

GRANTEE: HAYS COMMERCE CENTER 5, LP
Address: 3700 N. Capital of Texas Highway \$420, Austin, TX 78746

CONSIDERATION: TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration, including a Note of the same date in the principal amount of **ONE MILLION ONE HUNDRED NINETY AND No/100 Dollars (\$1,190,000.00)** (the "note") and is executed by Grantee, payable to the order of **HORIZON BANK SSB** (the "Lender"). The Note is secured by a first and superior Vendor's Lien and the Superior Title herein retained in favor of Grantor and assigned and conveyed without recourse to Lender in this Deed and by a Deed of Trust of even date from Grantees to **JAMES DYESS**, as **TRUSTEE**, located at **600 Congress Avenue, Suite 400, Austin, TX 78701**.

PROPERTY (including any improvements):

Being 5.150 acres of land, more or less, out of and a part of the **ALEXANDER MCKOWNE SURVEY, ABSTRACT NO. 328**, in Hays County, Texas, being that same 5.231 acres of land more fully described by metes and bounds in Warranty Deed recorded Volume 2032, Page 431, Official Public Records, Hays County, Texas, save and except that 0.080 acre portion conveyed to the City of Kyle, Texas for right-of-way purposes being more fully described by metes and bounds in Special Warranty Deed recorded in Volume 3105, Page 447, Official Public Records, Hays County, Texas; said 5.150 acres being more particularly described by metes and bounds attached hereto as Exhibit "A".

Together with all improvements thereon, if any, and all rights, privileges, tenements, hereditaments, rights of way, easements, appendages and appurtenances, in anyway appertaining thereto, and all right, title and interest of Grantor in and to any streets, ways, alleys, strips or gores of land adjoining the above described property or any part thereof (hereinafter referred to as the "Property").

RESERVATIONS FROM CONVEYANCE: The first and superior vendor's lien and superior title to secure payment of the Note.

EXCEPTIONS TO CONVEYANCE AND WARRANTY:

Liens described herein as part of the Consideration and any other liens described in this deed as being either assumed or to which title is taken subject to; validly existing easements, rights of way which are recorded and of record; and taxes for the current year and subsequent years, which Grantee assumes and agrees to pay and subsequent assessments for the current year and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

Grantor, for the consideration and subject to the Reservations from Conveyance and 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 wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and Exceptions to Conveyance and Warranty.

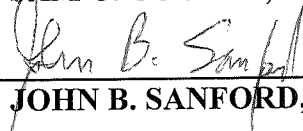
The Lender, at Grantees request, has paid in cash to Grantor the portion of the purchase price of the Property that is evidenced by the Note. The First and Superior Vendor's Lien against and superior title to the Property are retained for the benefit of the Lender, and are transferred to the Lender without recourse against Grantor.

When this Deed is executed by one person, or when the Grantee is one person, the instrument shall read as though pertinent verbs and pronouns were changed to correspond, and when executed by or to a corporation the words "heirs, executors, administrators" or "heirs and assigns" shall be construed to mean "Successors and Assigns".

Dated as first written above.

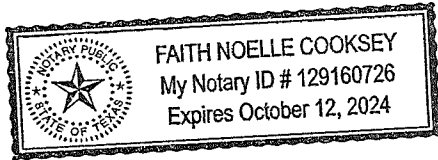
**3601 DRY HOLE, LLC,
A TEXAS LIMITED LIABILITY COMPANY**

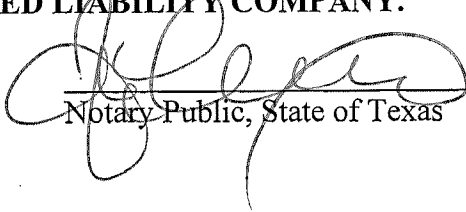
By: 
SAM C. COOPER, Manager

By: 
JOHN B. SANFORD, Manager

THE STATE OF TEXAS
COUNTY OF Hays

This instrument was acknowledged before me on September 28, 2021 by
**SAM C. COOPER and JOHN B. SANFORD, duly authorized agents on behalf of 3601
DRY HOLE, LLC, A TEXAS LIMITED LIABILITY COMPANY.**





Notary Public, State of Texas

EXHIBIT A



Professional Land Surveying, Inc.
Surveying and Mapping

Office: 512-443-1724
Fax: 512-389-9943

3500 McCall Lane
Austin, Texas 78744

5.150 ACRES
ALEXANDER McKOWNE SURVEY, ABSTRACT No. 328

A DESCRIPTION OF 5.150 ACRES OF LAND SITUATED IN THE ALEXANDER McKOWNE SURVEY, ABSTRACT No. 328, IN HAYS COUNTY, TEXAS; BEING 5.231 ACRES OF LAND AS DESCRIBED IN THE WARRANTY DEED WITH VENDOR'S LIEN TO WESTSIDE CROSSING BUSINESS PARK, GP, OF RECORD IN VOLUME 2032, PAGE 431 (DOCUMENT NO. 02019548), OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS (OPRHCT), SAVE AND EXCEPT THAT 0.080 ACRE PORTION CONVEYED TO THE CITY OF KYLE, TEXAS FOR RIGHT-OF-WAY PURPOSES IN THE SPECIAL WARRANTY DEED DEDICATION OF RIGHT-OF-WAY, OF RECORD IN VOLUME 3105, PAGE 447 (DOCUMENT NO. 70003835), OPRHCT; SAID 5.231 ACES SEVERED FROM THAT 93.08 ACRE TRACT DESCRIBED IN THE SPECIAL WARRANTY DEED WITH VENDOR'S LIEN TO THAMES AND WIMMER, L.L.C., OF RECORD IN VOLUME 1799, PAGE 363 (DOCUMENT NO. 01008865), OPRHCT; SAID 5.150 ACRE TRACT, AS SHOWN ON CHAPARRAL PROFESSIONAL LAND SURVEYING, INC.'S DRAWING FILE 247-014-TL.DWG, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½-inch rebar with cap marked "CHAPARRAL BOUNDARY" found on the west line of said 93.08 acre tract, being the east margin of Dry Hole Road (County Road 210 – no dedication record found), for the southwest corner of Lot 2, Block A, Hays Commerce Phase 2A, a subdivision of record in Clerk's File Number 16034294, OPRHCT, also being the northwest corner of said 5.231 acre tract and said 5.150 acre remainder tract herein.

THENCE South 89°15'04" East, leaving the west line of said 93.08 acre tract and crossing same with the south line of said Lot 2, Block A, 394.10 feet to a calculated point (temporarily covered by construction materials from north adjoining site) for the northeast corner herein, said point also being the northwest corner of Lot 1, Block A, said Hays Commerce Phase 2A.

THENCE South 00°08'40" West, with the west line of said Lot 1, Block A, 590.22 feet to a ½-inch rebar marked "CHAPARRAL BOUNDARY" reset for the northeast corner of said 0.080 right-of-way dedication and being the north right-of-way line of Kyle Crossing – County Road 210 (width varies), for the southeast corner herein.

THENCE crossing said 5.231 acre tract with the north line of said 0.080 right-of-way dedication of Kyle Crossing, the following three (3) courses and distances:

1. North 87°04'08" West, 226.43 feet to a ½-inch rebar marked "CHAPARRAL BOUNDARY" reset for a point of curvature,

- 2. With the arc of a curve to the left, having a radius of 187.50 feet, 53.81 feet through a central angle of 16° 26' 35", and a chord which bears South 84° 42' 34" West, 53.63 feet to a ½-inch rebar marked "CHAPARRAL BOUNDARY" reset to a point of compound curvature, and
- 3. With the arc of a curve to the left (non-tangent to last course), having a radius of 950.00 feet, 91.43 feet through a central angle of 05° 30' 51", and a chord which bears South 86° 47' 26" West, 91.39 feet to a ½-inch rebar marked "CHAPARRAL BOUNDARY" reset on the west line of said 93.08 acre tract, being on the east margin of said Dry Hole Road, for the southwest corner herein.

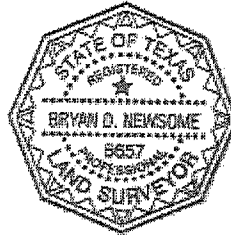
THENCE North 02°06'08" West, with the east margin of said Dry Hole Road and the west line of said 93.08 acre tract, 594.26 feet to the POINT OF BEGINNING and containing 6.150 acres of land.

Based upon a survey made in July, 2002.
Survey revised September 08, 2021.

Bearing Basis: Grid bearings of the Texas Coordinate System of 1983, South Central Zone (4204), US Survey Feet, utilizing a GPS Real-Time Network (RTN).

Attachments: Survey Drawing No. 247-014-T1.dwg.

Bryan D. Newsome 10 September 2021
 Bryan D. Newsome
 Registered Professional Land Surveyor
 State of Texas No. 5657



AFTER RECORDING, PLEASE RETURN TO:

**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.

21061734 DEED
11/08/2021 11:49:16 AM Total Fees: \$42.00

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



LANDOWNER AUTHORIZATION AND AFFIDAVIT OF OWNERSHIP

SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: See Deed
of lots (if subdivided): _____ # of acres: 5.148
Site APN/Property ID #(s): 16680
Location: 3601 Kyle Crossing, Kyle, TX 78640 County: Hays
Development Name: Hays Commerce 5 & 6

OWNER

Company/Applicant Name: Hays Commerce Center 5 LP
Authorized Company Representative (if company is owner): P. Andrew Thomas
Type of Company and State of Formation: _____
Title of Authorized Company Representative (if company is owner): Industrial Partner
Applicant Address: 3700 N Capital of Texas Hwy, Ste 240, Austin, TX 78746
Applicant Fax: _____
Applicant Phone: 512-835-4455
Applicant/Authorized Company Representative Email: thomas@HPItx.com

APPLICANT REPRESENTATIVE

Check one of the following:

I will represent the application myself; or

I hereby designate Pape-Dawson Engineers, Inc. (name of project representative) to act in the capacity as the agent for filing, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

I hereby certify that the above-named owner is the rightful owner of the Property. I am either the owner of the property identified above or a partner/manager/officer/director/member of the company who is authorized to act on behalf of the company. I further certify that the information provided herein and in the application for the development is true and correct. By signing below, I agree that the City of Kyle (the "City") is authorized and permitted to provide information contained within this application, including the email address, to the public.

Owner's Signature: [Signature] Date: 7/27/22

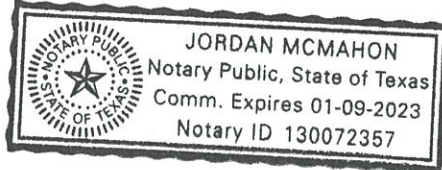
State of Texas §
County of Travis §

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 27th day of July, 2022

[Signature]
Notary Public's Signature
01-09-2023
My Commission Expires

(Notary Seal)



PROJECT REPRESENTATIVE

Representative Name: Pape-Dawson Engineers, Inc.

Representative Address: 2000 NW Loop 410, San Antonio, TX 78213

Representative Phone: 210-375-9000

Representative Email: sweaver@pape-dawson.com

Representative's Signature: *Shauna L. Weaver* Date: 8/11/22



Franchise Tax Account Status

As of : 09/08/2022 16:40:39

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

HAYS COMMERCE CENTER 5, LP	
Texas Taxpayer Number	32081083969
Mailing Address	3700 N CAPITAL OF TEXAS HWY STE 420 AUSTIN, TX 78746-3454
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	09/17/2021
Texas SOS File Number	0804236854
Registered Agent Name	HPI REAL ESTATE, INC.
Registered Office Street Address	3700 CAPITAL OF TEXAS HIGHWAY N., SUITE 420 AUSTIN, TX 78746



CITY OF KYLE, TEXAS

Plum Creek Developers, LLC (Joe Brooks) - Development Agreement

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: [Postponed 9/6/2022] Approve a development agreement between the City of Kyle and Plum Creek Developers, LLC (Joe Brooks). ~ *Will Atkinson, Interim Director of Planning*

Other Information: See attachments.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Development Agreement

**DEVELOPMENT AGREEMENT
ESTABLISHING DEVELOPMENT STANDARDS
FOR THE WATERFRONT AT MARKETPLACE DEVELOPMENT**

This Development Agreement Establishing Development Standards for the Waterfront at Marketplace Development (the "Agreement") is made and entered into, effective as of the ____ day of August, 2022, (the "Effective Date") by and between the **City of Kyle, Texas**, a Texas home rule municipal corporation (the "City"), and **Plum Creek Developers, LLC** (the "Developer"). The City and the Developer are sometimes referred to herein as the "Parties." The Parties agree as follows.

Section 1. Purpose; Consideration.

- (a) The Developer owns that certain 18.844 acre tract located in Hays County, Texas, being more particularly described in **Exhibit A** attached hereto and incorporated herein for all purposes (the "Property") and wishes to develop the Property for mixed use (the "Development"). The Developer desires that the City be able to enforce the development standards set forth in **Exhibit B** attached hereto and incorporated herein for all purposes through its building permit and inspection processes, given that House Bill 2439 adopted in the 86th Legislative Session limits the ability of cities to enforce certain development standards governing building materials by ordinance.
- (b) The Developer will benefit from the City enforcing the Development Standards as set forth herein because it will be more efficient and cost-effective for compliance to be monitored and enforced through the City's building permit and inspection processes and will help ensure that the Development is built out as planned by the Developer after conveyance to the builder of homes or other buildings and structures authorized by the applicable zoning regulations. The City will benefit from this Agreement by having assurance regarding certain development standards for the Development, having certainty that such Development Standards may be enforced by the City, and preservation of property values within the City.
- (c) The benefits to the Parties set forth in this Section 1, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

Section 2. Term; Termination.

- (a) The initial term of this Agreement shall be in full force and effect from the Effective Date hereof for a period of ten (10) years, subject to earlier termination as provided in this Agreement. The Initial Term shall automatically be extended for an additional five (5) years for a total term of fifteen (15) years ("Extension Term") upon Developer receiving temporary or final certificates of occupancy with respect to buildings containing a minimum of 250 dwelling units. Unless earlier terminated as provided in this Agreement, this Agreement shall terminate upon the earlier of the Initial Term or Extension Term, if applicable or the issuance of the final certificate of occupancy for the final multifamily

structure in the Development.

- (b) The Parties further mutually agree that this Agreement shall be in full force and effect upon the date above first written, provided that the City may terminate this Agreement if Developer defaults under the terms of this Agreement, subject to the notice and cure provisions in Section 6.
- (c) City acknowledges that Developer may seek new entitlements to use and amendments to entitlements to use and new or amended development standards for the Development.

Section 3. Development Standards.

- (a) **Architectural Design.** The multifamily portion of the Planned Unit Development approved by Ordinance No. _____ on even date will have building material components designed and built to the design standard as shown in **Exhibit B**. City staff has the authority to grant minor changes to the building materials shown in **Exhibit B**, however the building material components must substantially comply with said exhibit. Developer acknowledges and agrees that the building material components of the Architectural Design is a covenant that runs with the Property and is binding upon future owners of the Property.
- (b) **Building Permits.** The Developer acknowledges and agrees that compliance with Section 3(a) will be a condition of issuance of building permits. Developer further agrees that the City may use its building permitting and inspection enforcement processes and procedures to enforce the requirements of Section 3(a) above, including but not limited to rejection of applications and plans, stop work orders, and disapproval of inspections for applications and/or work that does not comply with this Agreement. Applications and plans for a building permit must demonstrate substantial compliance with this Agreement in order for a building permit to be issued. Applications for building permits must be in substantial compliance with this Agreement, as well as the Applicable Regulations, in order for such application to be approved and a building permit issued. Plans demonstrating substantial compliance with this Agreement must accompany a building permit application and will become a part of the approved permit. Any multifamily structure constructed on the Property must comply with this Agreement and the Applicable Regulations for a certificate of occupancy to be issued for such structure.

Section 4. Development of the Property. Except as modified by this Agreement, the Development and the Property will be developed in accordance with all applicable local, state, and federal regulations, including but not limited to the City's ordinances and the zoning regulations applicable to the Property, and such amendments to City ordinances and regulations that may be applied to the Development and the Property under Chapter 245, Texas Local Government Code, and good engineering practices (the "Applicable Regulations"). If there is a conflict between the Applicable Regulations and the Development Standards, the Development Standards shall control.

- (a) The City shall not impose any architectural standards or require any architectural, design review or similar approvals to be obtained from the City other than those set forth in **Exhibit B** for the multifamily residential portions of the Development.

Section 5. Assignment of Commitments and Obligations; Covenant Running with the Land Changes.

- (a) Developer's rights and obligations under this Agreement may be assigned by Developer to one (1) or more purchasers of all or part of the Property; provided the City Council must first approve and consent to any such assignment by Developer of this Agreement or of any right or duty of Developer pursuant to this Agreement, which consent shall not be unreasonably withheld, conditioned, or delayed.
- (b) This Agreement shall constitute a covenant that runs with the Property and is binding on future owners of the Property, including but not limited to the building material component of the Architectural Design, and a copy of this Agreement shall be recorded in the Official Public Records of Hays County, Texas. The Developer and the City acknowledge and agree that this Agreement is binding upon the City and the Developer and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.
- (c) The parties acknowledge that refinements and further development may demonstrate that changes are appropriate with respect to the details and performance of the parties under this Agreement. The parties desire to retain a certain degree of flexibility with respect to the architectural details of the Development and with respect to those items covered in general terms under this Agreement and Exhibit B. If and when the parties find that minor changes or adjustments or other implementations are necessary or appropriate to Exhibit B, they shall, unless otherwise required by law, effectuate such minor changes or adjustments through administrative amendments approved by the City Manager or his/her designee, which, after execution, shall be attached hereto as an addenda to such Exhibit and become a part hereof. This Agreement may be further changed or amended from time to time as necessary, with approval by the City Council of the City and Developer as noted in Section 2(c) above. Any minor changes or adjustments shall not be deemed to be an overall amendment to this Agreement, and unless otherwise required by law, no such minor administrative changes or adjustments shall require prior notice or hearing.

Section 6. Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of fourteen (14) business days after receipt by such party of notice of default from the other party. Upon the passage of fourteen (14) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement; provided that if the nature of the default is that it cannot reasonably be cured within the fourteen (14) business day period, the defaulting party shall have a longer period of time as may be reasonably necessary to cure the default in question; but in no event more than sixty (60) days. In the event of default, the non-defaulting party to this Agreement may pursue the remedy of specific performance or other equitable legal remedy not inconsistent with this Agreement. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of

remedies or a waiver of the right to pursue any other authorized remedy. In addition to the other remedies set forth herein, the City may withhold approval of a building permit application or a certificate of occupancy for a structure that does not comply with the Development Standards.

Section 7. Reservation of Rights. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws, and neither party waives any legal right or defense available under law or in equity.

Section 8. Attorneys' Fees. In the event of action pursued in court to enforce rights under this Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees, incurred in connection with such action.

Section 9. Waiver. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not, regardless of length of time during which that failure continues, be deemed a waiver of that party's right to insist upon strict compliance with all terms of this Agreement. In order to be effective as to a party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

Section 10. Force Majeure.

- (a) The term "force majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemics; pandemics, landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.
- (b) If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.
- (c) It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require that the settlement be unfavorable in the judgment of the party having the difficulty.

Section 11. Notices. Any notice to be given hereunder by any party to another party shall be in

writing and may be effected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed:

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

with copy to:

The Knight Law Firm, LLC
Attn: Paige Saenz
223 West Anderson Lane, Suite A-105
Austin, Texas 78752

Any notice mailed to the Developer shall be addressed:

Plum Creek Developers, LLC
265 Fieldcrest Dr.
Marble Falls, Tx 78654
Attn: Joe Brooks

with a copy to:

FSG Lawyers P.C.
19800 MacArthur Boulevard, Suite 1100
Irvine, CA 92612
Attn: James D. Stroffe

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

Section 12. Waiver of Alternative Benefits. The Parties acknowledge the mutual promises and obligations of the Parties expressed herein are good, valuable and sufficient consideration for this Agreement. Therefore, save and except the right to enforce the obligations of the City to perform each and all of the City's duties and obligations under this Agreement, Developer hereby waives any and all claims or causes of action against the City Developer may have for or with respect to any duty or obligation undertaken by Developer pursuant to this Agreement, including any benefits that may have been otherwise available to Developer but for this Agreement.

Section 13. Severability. Should any court declare or determine that any provisions of this Agreement is invalid or unenforceable under present or future laws, that provision shall be fully severable; this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in place of each such illegal, invalid, or unenforceable provision, there shall be added automatically

as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. Texas law shall govern the validity and interpretation of this Agreement.

Section 14. Agreement and Amendment. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties and except as otherwise provided, may not be amended except by a writing approved by the City Council of the City that is signed by all Parties and dated subsequent to the date hereof.

Section 15. No Joint Venture. The terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past, present and future officers, elected officials, employees and agents, do not assume any responsibilities or liabilities to any third party in connection with the development of the Property. The City enters into this Agreement in the exercise of its public duties and authority to provide for development of property within the City pursuant to its police powers and for the benefit and protection of the public health, safety, and welfare.

Section 16. No Third Party Beneficiaries. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a party, unless expressly provided otherwise herein, or in a written instrument executed by both the City and the third party. Absent a written agreement between the City and third party providing otherwise, if a default occurs with respect to an obligation of the City under this Agreement, any notice of default or action seeking a remedy for such default must be made by the Owner.

Section 17. Effective Date. The Effective Date of this Agreement is the defined date set forth in the first paragraph.

Section 18. Recordation. This Agreement or a memorandum of Agreement acceptable to the City and Developer shall be recorded in the Official Public Records of Hays County, Texas.

Section 20. Texas Law Governs. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Hays County, Texas. Venue shall lie exclusively in Hays County, Texas.

Section 21. Statutory Verifications.

- (a) To the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, the Developer represents that neither the Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer (i) boycotts Israel or (ii) will boycott Israel through the term of this Agreement. The terms “boycotts Israel” and “boycott Israel” as used in this paragraph have the meanings assigned to the term “boycott Israel” in Section 808.001 of the Texas Government Code, as amended.

- (b) To the extent this Agreement constitute a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, Developer represents that Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.
- (c) The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, and to the extent such Section is not inconsistent with a governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds. As used in the foregoing verification, "boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by the preceding statement in (A).
- (d) The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" means: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; but does not include (a) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; or (b) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Section 22. Time is of the Essence. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

Section 23. Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

- Exhibit A** – Property Description
- Exhibit B** – Architectural Material Design

EXECUTED in multiple originals this the ____ day of September, 2022.

CITY:
City of Kyle, Texas
 a Texas home-rule municipal corporation

Attest:

By: _____
 Name: Jennifer Holm
 Title: City Secretary

By: _____
 Name: Travis Mitchell
 Title: Mayor

THE STATE OF TEXAS §
COUNTY OF HAYS §

This instrument was acknowledged before me on this ____ day of _____, 20__, by Travis Mitchell, Mayor of the City of Kyle, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

Notary Public, State of Texas

DEVELOPER:
Plum Creek Developers, LLC

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on this ____ day of _____, 20____, by _____, _____ of _____, a _____ company, on behalf of said company.

(SEAL)

Notary Public, State of Texas

EXHIBIT "A"

Description of Property



POLITICAL SUBDIVISION DESCRIPTION

DESCRIPTION OF A CALCULATED 18.844 ACRE TRACT OF LAND, SITUATED IN THE HENRY LOLLAR SURVEY, ABSTRACT NUMBER 290 AND COMPRISED OF A PORTION OF LOT 1A OF THE RESUBDIVISION OF LOT 1 PLUM CREEK PARK, A SUBDIVISION OF RECORD IN BOOK 10, PAGES 10-11 OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN 37.526 ACRE TRACT OF LAND AS DESCRIBED IN A DEED TO PLUM CREEK DEVELOPERS, LLC OF RECORD IN DOCUMENT NUMBER 11015327 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID CALCULATED 18.884 ACRE TRACT OF LAND, AS SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at the most northerly corner of said Lot 1A, being also the most westerly southwest corner of Lot 2B of the Replat of Plum Creek Park Lot 2, a subdivision of record in Document No. 17034221 of the Official Records of Hays County, Texas, and being in the east line of Missouri Pacific Railroad and International & Great Northern Railroad, a 100 foot wide Right-of-Way;

THENCE with the north line of said Lot 1A and the southwest line of said Lot 1A, the following nine (9) bearings and distances (all bearings and distances noted below are derived from record information in Documents noted above);

1. S 70° 21' 37" E, for a distance of 176.53 feet to a calculated point of record,
2. S 24° 23' 06" E, for a distance of 143.06 feet to a calculated point of record,
3. S 12° 20' 02" E, for a distance of 90.04 feet to a calculated point of record,
4. S 02° 27' 00" W, for a distance of 140.63 feet to a calculated point of record,
5. S 16° 00' 15" W, for a distance of 115.60 feet to a calculated point of record,
6. S 44° 50' 39" W, for a distance of 70.35 feet to a calculated point of record,
7. S 12° 49' 37" E, for a distance of 103.49 feet to a calculated point of record,
8. S 56° 56' 48" E, for a distance of 149.23 feet to a calculated point of record, and
9. S 86° 36' 55" E, for a distance of 84.19 feet to a calculated point of record and being the southeast corner of the herein described tract

Zamora, L.L.C. dba "ZWA" Firm No. 10062700
1425 South Loop 4, Buda, TX 78610 ~ P.O. Box 1036, Buda, TX 78610
Phone: 512-295-6201 ~ Fax: 512-295-6091

Page 1 of 4

M:_Austin-Projects\1081 PLUM CREEK DEVELOPMENT\01 18.844 ACRE ZONING CHANGE\M-B DESC

THENCE N 80° 56' 38" W (a calculated bearing and distance) crossing said Lot 1A and said 37.526 acre tract, for a distance of **366.65** feet to a calculated point in the west line of said Lot 1A, the west line of said 37.526 acre tract and the east line of said Missouri Pacific Railroad and International & Great Northern Railroad;

THENCE N 10° 15' 09" E (record bearing from Plat for Lot 1A), with the east line of said Missouri Pacific Railroad and International & Great Northern Railroad for a distance of **2,283.93** feet to the **POINT OF BEGINNING** and containing **18.844** acres of land, more or less.

THIS DOCUMENT WAS PREPARED UNDER 22 TAC § 663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

BEARINGS ALONG MISSOURI PACIFIC RAILROAD AND THE NORTH LINE OF LOT 1A WERE TAKEN FROM PLAT RECORDED IN BOOK 10, PAGE 10 -11 OF THE PLAT RECORDS HAYS COUNTY, TEXAS.

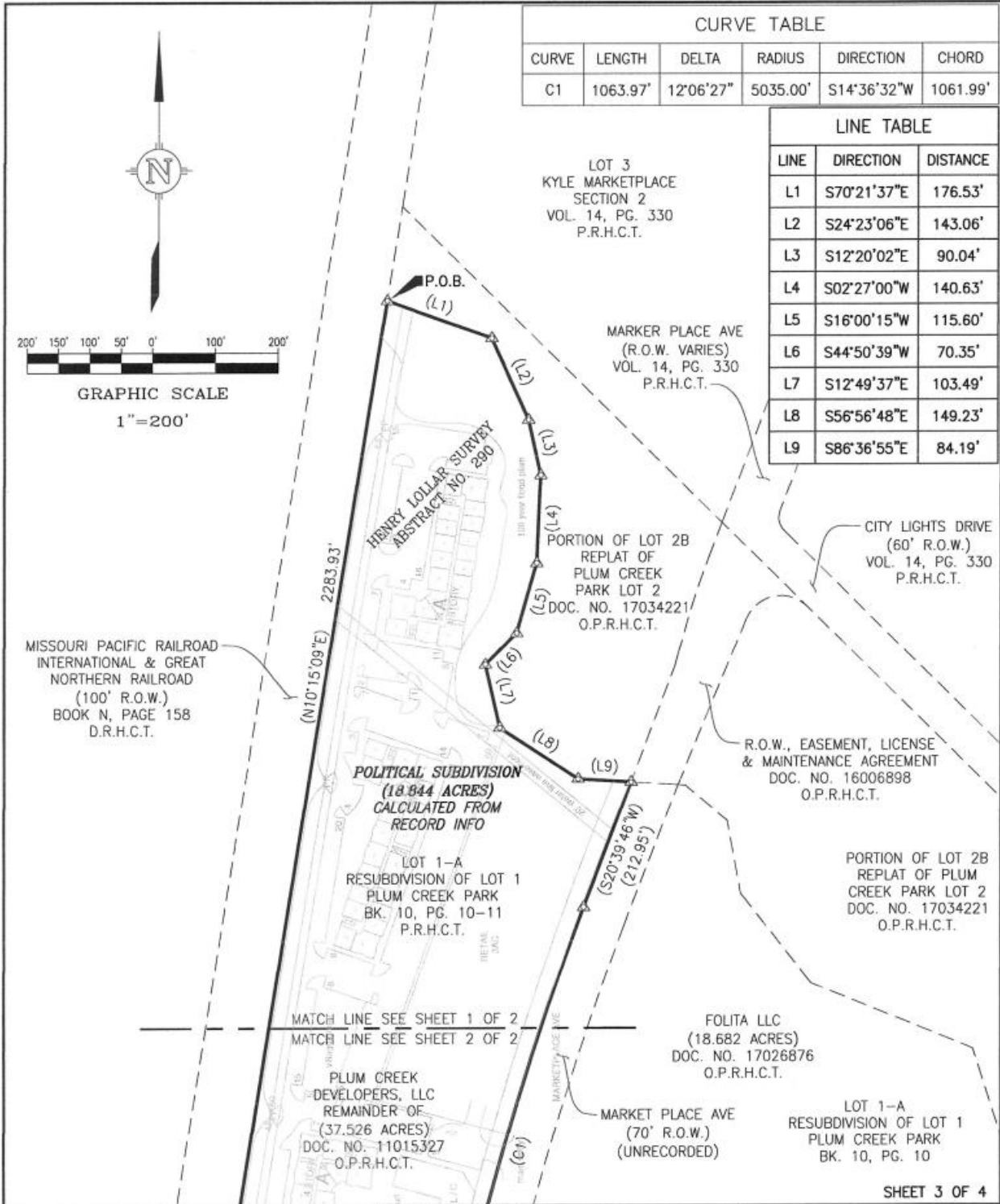
BEARINGS AND DISTANCES ALONG THE WEST RIGHT OF WAY OF MARKET PLACE AVE WERE TAKEN FOR DOCUMENT NO. 17026876 OFFICIAL PUBLIC RECORDS HAYS COUNTY, TEXAS.

REVISION 1: Modified Acreage

Zamora, L.L.C. dba "ZWA" Firm No. 10062700
1425 South Loop 4, Buda, TX 78610 ~ P.O. Box 1036, Buda, TX 78610
Phone: 512-295-6201 ~ Fax: 512-295-6091

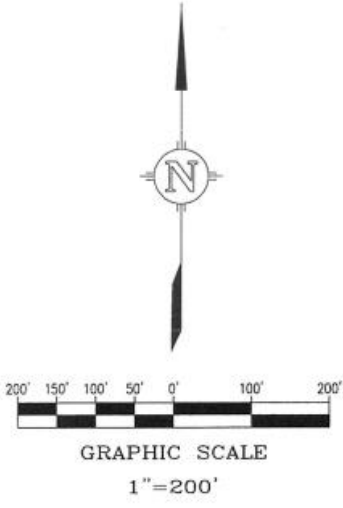
Page 2 of 4

M:_Austin-Projects\1081 PLUM CREEK DEVELOPMENT\01 18.844 ACRE ZONING CHANGE\M-B DESC



CURVE TABLE					
CURVE	LENGTH	DELTA	RADIUS	DIRECTION	CHORD
C1	1063.97'	12°06'27"	5035.00'	S14°36'32"W	1061.99'

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	S70°21'37"E	176.53'
L2	S24°23'06"E	143.06'
L3	S12°20'02"E	90.04'
L4	S02°27'00"W	140.63'
L5	S16°00'15"W	115.60'
L6	S44°50'39"W	70.35'
L7	S12°49'37"E	103.49'
L8	S56°56'48"E	149.23'
L9	S86°36'55"E	84.19'



LOT 3
KYLE MARKETPLACE
SECTION 2
VOL. 14, PG. 330
P.R.H.C.T.

MARKER PLACE AVE
(R.O.W. VARIES)
VOL. 14, PG. 330
P.R.H.C.T.

CITY LIGHTS DRIVE
(60' R.O.W.)
VOL. 14, PG. 330
P.R.H.C.T.

PORTION OF LOT 2B
REPLAT OF
PLUM CREEK
PARK LOT 2
(DOC. NO. 17034221)
O.P.R.H.C.T.

MISSOURI PACIFIC RAILROAD
INTERNATIONAL & GREAT
NORTHERN RAILROAD
(100' R.O.W.)
BOOK N, PAGE 158
D.R.H.C.T.

R.O.W., EASEMENT, LICENSE
& MAINTENANCE AGREEMENT
DOC. NO. 16006898
O.P.R.H.C.T.

POLITICAL SUBDIVISION
(18.844 ACRES)
CALCULATED FROM
RECORD INFO

LOT 1-A
RESUBDIVISION OF LOT 1
PLUM CREEK PARK
BK. 10, PG. 10-11
P.R.H.C.T.

PORTION OF LOT 2B
REPLAT OF PLUM
CREEK PARK LOT 2
DOC. NO. 17034221
O.P.R.H.C.T.

MATCH LINE SEE SHEET 1 OF 2
MATCH LINE SEE SHEET 2 OF 2

PLUM CREEK
DEVELOPERS, LLC
REMAINDER OF
(37.526 ACRES)
DOC. NO. 11015327
O.P.R.H.C.T.

FOLITA LLC
(18.682 ACRES)
DOC. NO. 17026876
O.P.R.H.C.T.

MARKET PLACE AVE
(70' R.O.W.)
(UNRECORDED)

LOT 1-A
RESUBDIVISION OF LOT 1
PLUM CREEK PARK
BK. 10, PG. 10

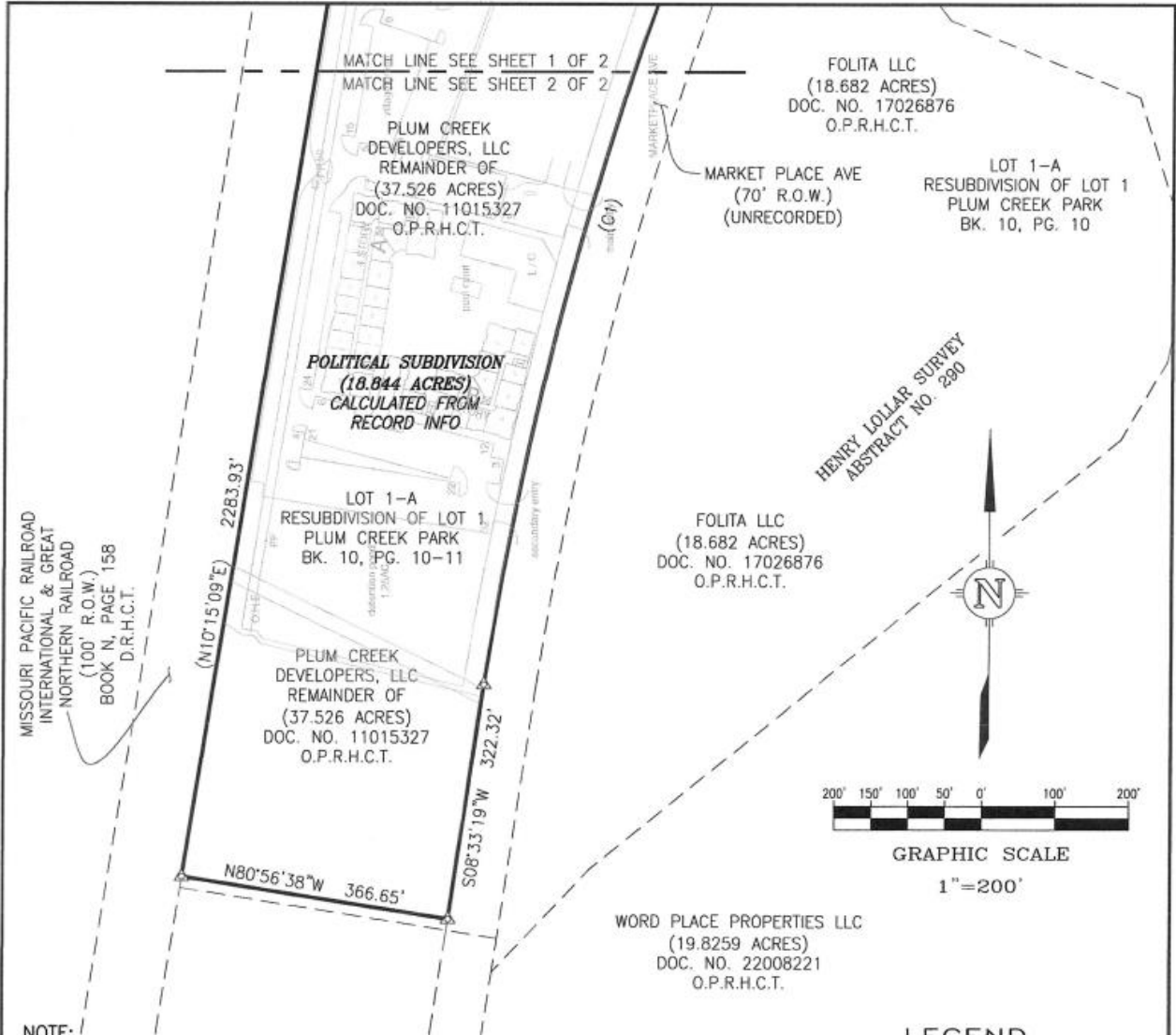
SHEET 3 OF 4



ZWA
Zamora, L.L.C.
Professional Land Surveyors
Texas Firm No. 10062700
1425 South Loop 4 • Buda, Texas 78610
Tel (512) 295-6201 • Fax (512) 295-6091

PROJECT:	18.844 ACRES POLITICAL SUBDIVISION
JOB NUMBER:	10B1-01
DATE:	JUNE 2022
SCALE:	1" = 200'
SURVEYOR:	WARRICK
TECHNICIAN:	DWC
DRAWING:	10B1-01-BSE.dwg
FIELDNOTES:	
PARTYCHIEF:	
FIELDBOOKS:	

POLITICAL SUBDIVISION FOR
REZONING CHANGE



NOTE:

THIS DOCUMENT WAS PREPARED UNDER 22 TAC § 663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

BEARINGS ALONG MISSOURI PACIFIC RAILROAD AND THE NORTH LINE OF LOT 1A WERE TAKEN FROM PLAT RECORDED IN BOOK 10, PAGES 10-11 PLAT RECORDS HAYS COUNTY, TEXAS.

BEARINGS AND DISTANCES ALONG THE WEST RIGHT OF WAY OF MARKET PLACE AVE WERE TAKEN FOR DOCUMENT NO. 16006898 AND DOCUMENT NO. 17026876 OFFICIAL PUBLIC RECORDS HAYS COUNTY, TEXAS.

REVISION 1: MODIFIED ACREAGE

SHEET 4 OF 4

LEGEND

P.O.B.	POINT OF BEGINNING
P.R.H.C.T.	PLAT RECORDS HAYS COUNTY, TEXAS
O.P.R.H.C.T.	OFFICIAL PUBLIC RECORDS HAYS COUNTY, TEXAS
()	RECORD INFORMATION

LOCATIONS

ZWA
Zamora, LLC.
Professional Land Surveyors
 Texas Firm No. 10062700
 1425 South Loop 4 • Buda, Texas 78610
 Tel (512) 295-6201 • Fax (512) 295-6091

PROJECT: 18.844 ACRES POLITICAL SUBDIVISION
JOB NUMBER: 1081-01
DATE: JUNE 2022
SCALE: 1" = 200'
SURVEYOR: WARRICK
TECHNICIAN: DWC
DRAWING: 1081-01-BAS.dwg
FIELDNOTES:
PARTYCHIEF:
FIELDBOOKS:

POLITICAL SUBDIVISION FOR REZONING CHANGE

Exhibit "B"
Architectural Design
Elevations







CITY OF KYLE, TEXAS

Joe Brooks - Zoning (Z-22-0099)

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: [Postponed 9/6/2022] (*First Reading*) An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 18.84 acres of land from 'RS' (Retail Services) to 'PUD' (Planned Unit Development) for property located approximately 400' southwest of the intersection of Marketplace Ave & City Lights Dr. in Hays County, Texas. (Joe Brooks - Z-22-0099) ~ *Will Atkinson, Interim Director of Planning*

Planning and Zoning Commission voted 3-2 to recommend approval of the request. City Council voted 6-0 to postpone first reading on 9/6/2022.

- Public Hearing

Other Information: See attached.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Report
- PUD Ordinance
- Landowner Authorization Form
- Franchise Tax Status Form
- Deed

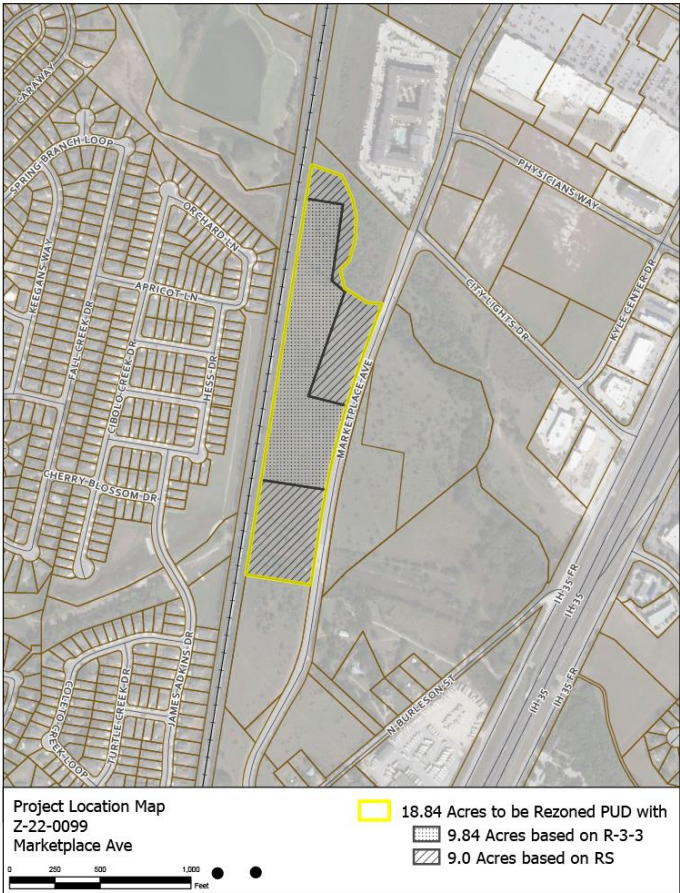
Property Location Marketplace Ave, Kyle, TX 78640

Owner Plum Creek Developers, LLC.
265 Field Crest
Marble Falls, TX 78654

Agent Joe Brooks
19800 MacArthur Blvd., Suite 1110
Irvine, CA 92616

Request Rezone Approximately 18.84-Acres "RS" (Retail Services) to "PUD" (Planned Unit Development)

Vicinity Map

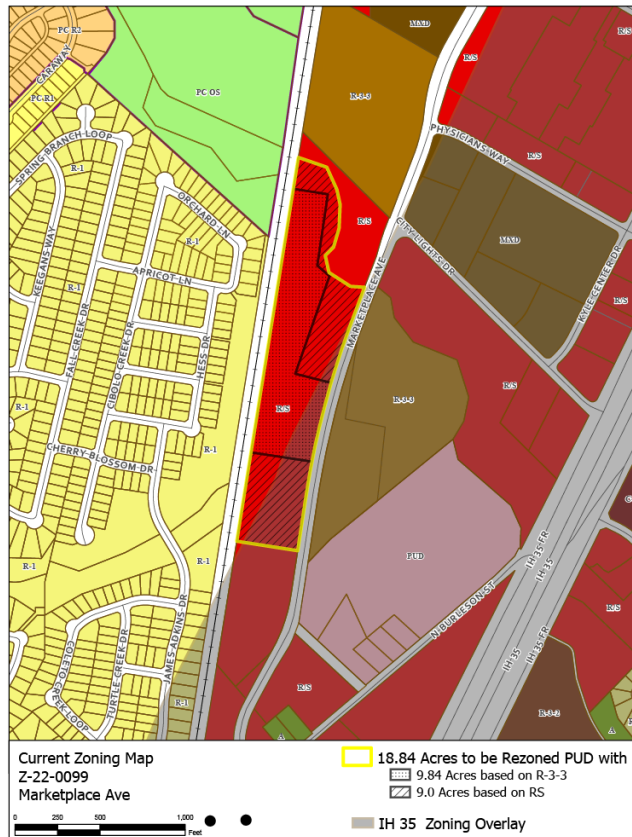


Site Description

The site is undeveloped and located on the west side of Marketplace Ave. It's currently inside the city limits of the City of Kyle and is zoned "Retail Services" ("RS"). The parcel is approximately 0.3 miles west of IH-35, and across the street from City Lights Drive.

Just north of the property is the Oaks on Marketplace Apartments (R-3-3). To the west is the Creekside Village Subdivision which is zoned Single-Family Old "R-1." The property to the south is currently undeveloped and is zoned Retail Services "RS."

Zoning Map



Existing Zoning

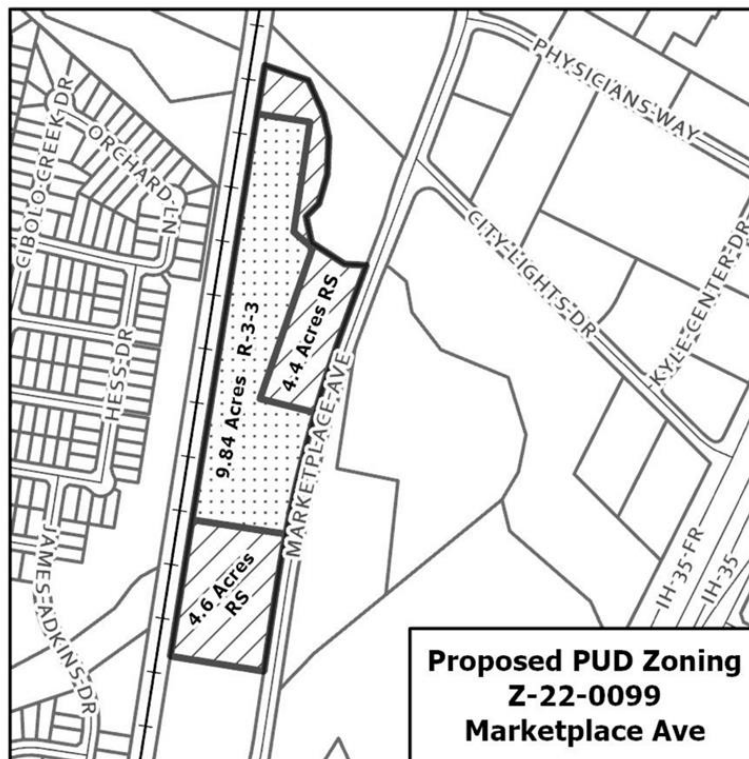
RS (Retail Services)

Sec. 53-480. – Permitted Uses

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas, e.g., clothing, prescription drugs, furniture, toys, hardware, electronics, pet supply, variety, department, video rental and antique stores, art studio or gallery, hobby shops and florist shops., and the retail sale of goods and products (in the following listed use areas) to which value has been added on site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed, and the following: Any use permitted in CBD-1 or CBD-2 and RS districts as provided in [section 53-1230](#).

(Ord. No. 438, § 45(a), 11-24-2003)

Requested Zoning



PUD (Planned Unit Development)

- R-3-3 (Residential Multifamily 3 - 9.84 acres)
- RS (Retail Services – 9 acres total)

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.

(Ord. No. 438, § 33(a), 11-24-2003)

Sec. 53-480. – Permitted Uses

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas, e.g., clothing, prescription drugs, furniture, toys, hardware, electronics, pet supply, variety, department, video rental and antique stores, art studio or gallery, hobby shops and florist shops., and the retail sale of goods and products (in the following listed use areas) to which value has been added on site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed, and the following: Any use permitted in CBD-1 or CBD-2 and RS districts as provided in [section 53-1230](#).

(Ord. No. 438, § 45(a), 11-24-2003)

Sec. 53-703. - Flexible planning.

- (a) When considering a planned unit development (PUD), the unique nature of each proposal for a PUD may require, under proper circumstances, the departure from the strict enforcement of certain present codes and ordinances, e.g., without limitation, the width and surfacing of streets and highways, lot size, parking standards, set backs, alleyways for public utilities, signage requirements, curbs, gutters, sidewalks and streetlights, public parks and playgrounds, drainage, school sites, storm drainage, water supply and distribution, sanitary sewers, sewage collection and treatment, single use districts, etc.
- (b) Final approval of a PUD by the city council shall constitute authority and approval for such flexible planning to the extent that the PUD as approved, departs from existing codes and ordinances.

- (c) The flexibility permitted for a PUD does not imply that any standard or requirement will be varied or decreased.

Sec. 53-704. - Rules applicable.

The city council, after public hearing and proper notice to all parties affected and after recommendation from the planning and zoning commission, may attach a planned unit development district designation to any tract of land equal to or greater than three buildable acres. Under the planned development designation the following rules apply:

- (1) The approval of any proposed PUD or combination of uses proposed therein shall be subject to the discretion of the city council, and no such approval will be inferred or implied.
- (2) Permitted uses are those listed under the applicable zoning districts for the base zoning to be applied to the PUD (for example, the permitted uses in a PUD proposed to be developed as CBD-2, RS, W, CM districts). In addition, a planned unit development district may be established where the principal purpose is to serve as a transitional district, or as an extension of an existing district whereby the provision of off-street parking, screening walls, fences, open space and/or planting would create a protective transition between a lesser and more restrictive district. In approving a planned unit development, additional uses may be permitted, and specific permitted uses may be prohibited from the base district.
- (3) Standards required by the base zoning apply in a planned unit development except that the following regulations and standards may be varied in the adoption of the planned unit development; provided that the plan is consistent with sound urban planning and good engineering practices.
 - a. Front, side and rear setbacks.
 - b. Maximum height.
 - c. Maximum lot coverage.
 - d. Floor area ratio.
 - e. Off-street parking requirements.
 - f. Special district requirements pertaining to the base zoning.
 - g. Number of dwelling units per buildable acre.

- h. Accessory building regulations.
 - i. Sign standards.
- (4) In approving a planned unit development, no standards may be modified unless such modification is expressly permitted by this chapter, and in no case may standards be modified when such modifications are prohibited by this chapter.
- (5) In approving a planned unit development, the city council may require additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, light and air, orientation, type and manner of construction, setbacks, lighting, landscaping, management associations, open space, and screening.
- (6) The planning and zoning commission and city council, in approving modifications to standards and regulations, shall be guided by the purpose intended by the base zoning and general intent of this chapter.

(Ord. No. 438, § 39(e), 11-24-2003)

Conditions of the Zoning Ordinance

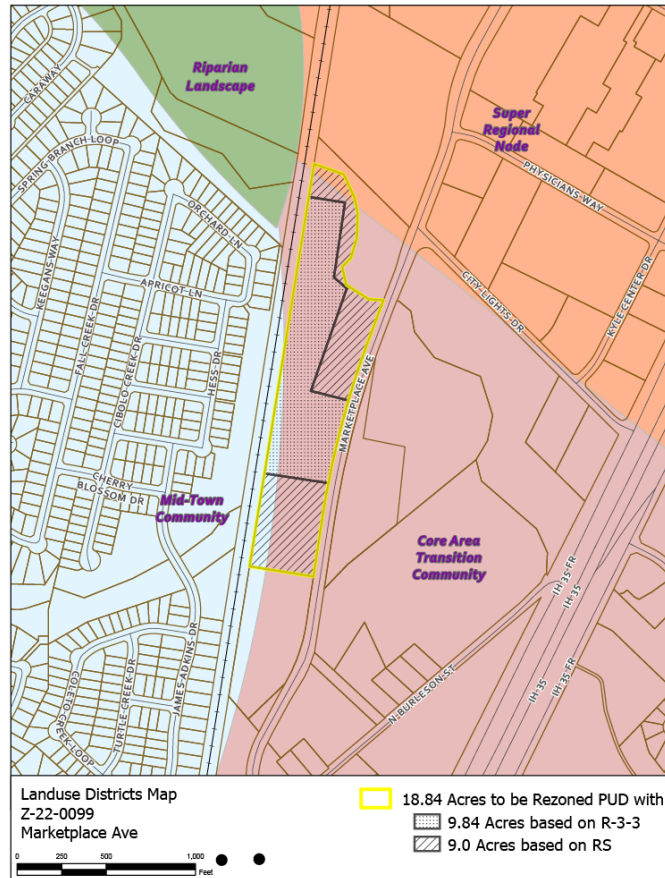
Sec. 53-1205 Amendments

(d)

Referral of amendment to planning and zoning commission. Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning commission for consideration, public hearing, and recommendation to the city council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.

(e)

Action by the planning and zoning commission. The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the council such action as the planning and zoning commission deems proper...



Comprehensive Plan Text

The subject site is primarily located within the “Core Area Transition Community” land use district. The “RS” zoning district is recommended and “R-3-3” is recommended conditionally in the “Core Area Transition” land use district.

Core Area Transition Community

Recommended: E, **R/S**, CC, NC, MXD, O/I,
 Conditional: HS, R-1-A, R-1-T, R-1-C, R-3-2, **R-3-3**

Core Area Transition

‘Character’: The Core Area Transition District currently consists primarily of commercial and light industrial uses, with some residential uses. Key defining features include Old Highway 81, North Burseson Street, I-35 and frontage roads, and the railroad. This District is important as a transitional zone between largely residential areas and the commercial

uses along I-35 and as a portion of Kyle that is visually significant to travelers along I-35. The character of the District should reflect its urban and transitional intentions. The land area of this District is relatively small, and there are many physical barriers, so land uses should be compact and aggregated, especially residential uses. Vertically mixed-use development models are well suited to this District, and development should be located close to roadways, with minimal front yards, to maximize available land and visibility from main roads. Adequate land use transitions should be provided to avoid conflict between different land uses (i.e. residential adjacent to industrial).

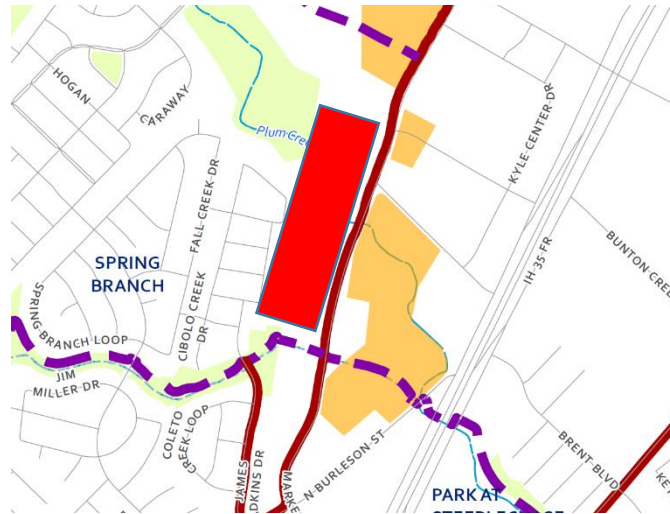
'Intent': With its highly visible position in the middle of the City, the Core Area Transition District should be an urban environment that serves an identifying function for the City of Kyle. By acting as an area of functional linkage for the City, the District can connect vehicular and pedestrian movement, economic centers, and visually defining elements. The built fabric should display a transition from the small-scale grid pattern of Downtown to the large plate design of the Super Regional Node. As this District develops, it should serve to create a consistent fabric that links Downtown and the Super Regional Node, encouraging the expansion and strengthening of Kyle's core. Additionally, Plum Creek passes west to east through the middle of the Core Area Transition District, and this significant natural feature should be apparent and accessible via trails and open spaces

Analysis

The 18.84-acre tract is south of the Oaks on Marketplace Apartments, on Marketplace Ave. All adjacent properties are inside the city limits, with diverse zoning in place.

The 2019 comprehensive plan allows "RS" zoning district as recommended and the "R-3-3" zoning district as conditional. When zoning districts/uses are recommended, they generally will fit into the landscape or built environment without much issue. This can range from expected uses to how the development integrates into the street and surrounding community, and diversity of housing types. When zoning districts/uses are conditional, staff and applicants need to provide more careful consideration of the project. The diverse existing land uses/zoning allow the "PUD" district to generally fit in to the area.

From west to east, the existing zoning generally ramps up in density and intensity of use. The zoning request neatly fits into this idea. Creekside Village is a single-family residential neighborhood. The railroad is a dividing line and buffer between Creekside Village and this property with its proposed "PUD" Zoning.



Vybe Trail Map – Location of Project in Red

Per the proposed PUD ordinance, the site is more than simply stitching the RS and R-3-3 districts together. The overall design expects the project to have significant urban form as it relates to front building lines adjacent to Marketplace Avenue. Additionally, the commercial buildings (RS) are required to be 2-stories minimum. The multifamily units will be 4 stories. Both zoning districts will have appropriate architecture as expected per City standards. The multifamily units will have a development agreement with elevations included. The commercial areas will comply or exceed the standards in the I-35 Overlay, which is required (Conditional Use Permit). Additionally, this property will tie into the Citywide Vybe Trail System, which allows for and promotes higher density, mixed-use developments.

Utility Providers

- Electricity = Pedernales Electric Cooperative
- Water & Wastewater = City of Kyle

Per discussions with the Planning & Zoning Commission on August 9, 2022, the public notice has different acreage than what is expected in the PUD. What is noticed is approximately 9.84 acres of multifamily, and the expectation from the applicant was to rezone approximately 12-13 acres to multifamily (R-3-3). Staff realized the honest mistake following notice in the newspaper and worked with the applicant to account for standards in the PUD document to allow for flexibility in acreage. The adjustment in the PUD document is an effort to be fair to the applicant. Both Chairperson Guerra & Commissioner James voted against the request as they had concerns relating to stated acreage of multifamily use versus the acreage in the PUD.

It should be noted that Jeff Barton provided both written and oral testimony in support of the proposed application. Mr. Barton and his family owns property across Marketplace

Avenue from Mr. Brook's acreage. The Word Place PUD is a high density, town center development that will benefit from additional high-density development around it. Mr. Barton's testimony reflects this idea.

As stated at the last Council meeting, Mr. Abadi has an easement over his property allowing for 50% of Mr. Brooks stormwater onto his property. Additionally, the City of Kyle, Engineering Department does not agree to waiving the rules applying to a 100-foot stream buffer from the center line of the creek. As a function of the site development permit that will be required of the site, the city will review data to study the effects on the floodplain. As a result of the data, the site development permit will account for the floodplain in an appropriate manner, per the city's code and also FEMA's requirements.

Recommendation

At the August, 9, 2022 Planning & Zoning Commission meeting, the Commission voted 3-2 to recommend approval of the zoning. As the comprehensive plan supports the rezoning request, and this stretch of Marketplace Avenue is expected to develop in a more urban fashion, Staff asks the Mayor & City Council to support the zoning request.

WATERFRONT AT MARKETPLACE

**THE WATERFRONT AT MARKETPLACE
PLANNED UNIT DEVELOPMENT SUBMITTED May 9, 2022**

The Waterfront at Marketplace is in the heart of the city of Kyle and integral to the City-wide Kyle Trail System Plan. The property is located west of I-35, south of City Lights Drive, and north of Burleson Road in Kyle.

The owners of the property provided a land easement for the Marketplace Avenue Extension to support the City’s vision for a high-density mixed-use community offering new employment opportunities to the residents of Kyle. This Planned Unit Development (PUD) seeks to realize the vision by establishing flexible development and building standards that will accommodate a land plan that allows for market-based outcomes.

The purpose of this document is to provide overall guidance and create a sustainable framework for the project. The community will be built in several phases, but still maintain creativity in building placement, people movement, traffic flow and to create a comfortable place to live, work and play. It allows flexibility to accommodate the evolution of living space designs, work place environments, supporting services, hospitality and entertainment.

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WATERFRONT AT MARKETPLACE

SECTION 1. DEFINITIONS

All definitions referenced in the Unified Development Code of the City of Kyle, Ordinance No. (Ord. No. 438, § 39(a), 11-24-2003) Section 53-699 through 53-727, of Kyle Code of Ordinances (the “Code”), shall apply to interpretation of the terms of this Planned Unit Development for The Waterfront at Marketplace (this “PUD”). Any terms not defined in this Development Plan shall be construed by applying the *Random House Webster’s Unabridged Dictionary*, subject to the interpretation of the Planning Director of the City of Kyle.

SECTION 2. THE PROPERTY

This PUD applies to approximately eighteen (18.844) acres of land located within the jurisdictional limits of the City of Kyle, Texas, west of Interstate North 35 Service Road and north of Burleson Road, which are collectively herein defined as the “Property”, and which are legally described as follows:

PLUM CREEK PARK, Lot PT 1-A, Acres 18.844

SECTION 3. APPROVAL CRITERIA

This PUD is intended to conform to the approval criteria of (Ord. No. 438, § 39(a), 11-24-2003) Section 53-699 through 53-727, of Kyle Code of Ordinances (the “Code”). Section 53-699 of the Code provides that the following criteria shall be considered by City Council for zoning changes: Toward these ends, rezoning of land and development under this district will be permitted only in accordance with the intent and purpose of the city's comprehensive plan and this chapter, and to that end the planned unit development plan must be prepared and approved in accordance with the provisions of this chapter.

- (1) Allow development which is harmonious with nearby areas;
- (2) Enhance and preserve areas which are unique or have outstanding scenic, environmental, cultural or historic significance;
- (3) Provide an alternative for more efficient use of land, resulting in smaller utility networks, safer streets, more open space, and lower construction and maintenance costs;
- (4) Encourage harmonious and coordinated development, considering natural features, community facilities, circulation patterns and surrounding properties and neighborhoods;
- (5) Facilitate the analysis of the effect of development upon the tax base, the local economy, population, public facilities and the environment;
- (6) Provide and result in an enhanced residential and/or work environment for those persons living and/or working within the district; and
- (7) Require the application of professional planning and design techniques to achieve overall coordinated mixed-use developments and avoid the negative effects of piecemeal, segregated, or unplanned development.

SECTION 4. BASE ZONING DISTRICTS

This PUD shall be applicable to zoning as it applies to all portions of the Property. All design, development, and use criteria not specifically covered by this PUD shall be subject to the applicable provisions of the current Code. All design, development and use of the Property shall generally conform to the PUD described herein and, unless superseded, amended or controverted by the terms of this PUD. Below each Zone shall have its own zoning description as follows:

Development Zone A – High Density Multi-family (R3-3)

Development Zone B – Commercial District (RS)

Development Zone C – Commercial District (RS)

SECTION 5. DEVELOPMENT ZONES

The three (3) Zones as shown on Exhibit “C”, being Zone A, Zone B and Zone C, are described in the following sections. Each Zone will be built in phases.

- 5.1 **Zone A** consists of approximately twelve - thirteen (13) acres of land and represents the approximate boundary lines of the most northern and central land area comprising the Property closest in proximity to the Missouri Pacific Railroad and borders Creekside Village. Zone A is segmented from the remainder of the PUD by Zone C to the north east, Zone B to the south and Marketplace Avenue Street extension. Zone A shall be developed with the following residential product:

Multi-family High Density: Zone A shall be designed and developed with the intent to build approximately 300 to 330 units housed within four story buildings equipped with elevators, flat roofs, inset balconies and first floor masonry. The site will be a gated community with market rate units. Density is to be up to 28 units per acre. The leasing office is to be located at Marketplace Avenue with protracted elevation. Units facing the wet detention are to have larger balconies and the same massing as Marketplace Avenue elevations. Unless otherwise noted within this PUD, the development standards of Overlay Districts, (Ord. No. 438, § 39(a), 11-24-2003) Section 53-699 through 53-727 and Section 53-294 Code shall be met. Leasing office, club center, business center, swimming pool, fitness center, dog park and resident gathering area will serve as amenity and activity centers for the apartment residents

- **Zone B** consists of approximately two (2) acres of land generally depicted as the land south of Zone A and along Marketplace Avenue. Two separate buildings against Marketplace ROW/Easement where commercial space is allocated will be incorporated. Parking will be in the rear of the site. Massing is to compliment the multifamily along Marketplace Ave. Unless otherwise noted within this PUD, Zone B shall be a minimum elevation of two stories developed to RS Overlay District standards with the following use restrictions:
 - Uses permitted by right:

WATERFRONT AT MARKETPLACE

- Restaurant general
- Micro-brewery/micro-winery,
- Live music/entertainment
- Integrated office center,
- Bar, pub or tavern,
- General office
- General Retail
- Dry cleaning serve/drop off only,
- Fitness center,
- Vehicle rentals - provided it's a golf car rental or lease facility. Facility must keep inventory inside commercial space or behind commercial building.

All other RS uses shall be prohibited in Zone C, including mattress stores, "Second Hand" store or/ "Surplus Store", however, this provision shall not apply to a Nike Factory Outlet, Last Call, Nordstrom Rack or like user, Liquor store containing less than 5,000 sq. ft. and having less than 50 locations in the United States, Automotive service/repair facility, financial institutions, nail salons greater than 3,000 sq. ft., convenience store, gas stations, veterinary hospital, all medical uses, or daycare facility.

- **Zone C** consists of approximately three (3) acres of land and is generally depicted as the land northeast along Marketplace Avenue extension. Zone C may be designed and developed for commercial use with a minimum elevation of two stories. Two separate buildings against Marketplace ROW/Easement where commercial space is allocated will be incorporated. Parking will be in the rear of the site. The north end of north building first floor to be dedicated for restaurant use along the wet detention area. Massing is to compliment the multifamily along Marketplace Ave.

52 Unless otherwise noted within this PUD, Zone C shall be developed to RS Overlay District standards with the following use restrictions:

- Uses permitted by right:
 - Restaurant general
 - Micro-brewery/micro-winery,
 - Live music/entertainment
 - Integrated office center,
 - Bar, pub or tavern,
 - General office
 - General Retail
 - Dry cleaning serve/drop off only,
 - Fitness center,
 - Vehicle rentals - provided it's a golf car rental or lease facility. Facility must keep inventory inside commercial space or behind commercial building.

All other RS uses shall be prohibited in Zone C, including mattress stores, "Second Hand" store or/ "Surplus Store", however, this provision shall not apply to a Nike Factory Outlet, Last Call, Nordstrom Rack or like user, Liquor store containing less than 5,000 sq. ft. and having less than 50 locations in the United States, Automotive service/repair facility, financial institutions, nail salons greater than 3,000 sq. ft., convenience store, gas stations, veterinary hospital, all medical uses, or daycare facility.

- 53 This PUD allows for multiple site plans for or within each Zone in order to allow for phased development. Each area developed will be compliant with City of Kyle development code unless otherwise superceded by this PUD document. Construction of north commercial site (Zone C) must have a certificate of occupancy prior to the first multifamily building. Commencement and completion of commercial areas will be subject to Force Majeure.
- 54 Pursuant to the Code, landscape features including outside gathering areas, walkways, driveways, swimming pools, walls, and minor utilities, shall be permitted within required setback areas, provided that the same shall not encroach on a public utility easement without a License to Encroach. To the extent defined under the Code, the improvements consisting of these landscape features will be included in impervious cover calculations.

SECTION 6. DEVELOPMENT STANDARDS

- 61 **Zone A** will be developed with (Ord. No. 438, § 39(a), 11-24-2003) Section 53-699 through 53-727 and Section 53-294. Common area landscaping shall comply with City requirements. Buildings shall contain variation through three types of articulation of front façades, using different building materials, flat roof designs, front door location and cover treatment, colors and window design.

Table 6.2	
Zone A1 –Multifamily High-Density (R3-3)	
	MF-2
Maximum Number of Units per Building	No Limit
Building Height (Maximum)	60 feet
Building Separation	10 feet
Internal Lot Setback (Minimum)	0 feet
Building Setback to Perimeter Boundary (East)*	0 feet
Building Setback to Perimeter Boundary (West)	10 feet
Residential Density (Units/Acre)	28
* Internal drive aisles and driveways allowed within setback	

- 62 **Zone B and C** may be developed as C-3 General Commercial. Building design and materials will adhere to Overlay District and Sections 53-480 through 53-484.

Table 6.5	
Zone B – Commercial (RS)	
Building Height (Maximum)	60 feet
Building Separation (Minimum)	25 feet
Marketplace Street Setback (Minimum)	0 feet
Side Setback (Minimum)	10 feet

SECTION 7. MASTER SIGN PLAN

- 7.1 Signs shall not be subject to a setback from the public right-of way and in accordance with Chapter 29 of the Code.

SECTION 8. STORMWATER MANAGEMENT

- 8.1 *Storm Water Detention:* The property owner holds a perpetual easement adjacent and to the north of the subject site. This easement provides for storm water detention and will be adjacent to Plum Creek along the north property line and west of Marketplace Avenue. Site storm water will be directed to a combination of both on site detention to the south pursuant to Code and/or to an off-site wet detention area to the north of the site. Both of these detention areas will drain into the waterways of Plum Creek to the north and Spring Branch Tributary to the south. The detention ponds will be maintained in accordance with code requirements relative to detention and the provisions thereof contained within a water detention maintenance agreement with property owners within the PUD. The City of Kyle will put its full assonance and effort into granting building permits in an expedited manner. **Stormwater and flood management will comply with FEMA and City of Kyle ordinances.**

waters, there will be no stream set back required.

SECTION 9. ENVIRONMENTAL PROTECTION

The Plan will comply with environmental protection standards detailed in Section 53-722 of the Code, except as otherwise specified in this PUD.

SECTION 10. ROADWAY INFRASTRUCTURE

- 10.1 The Property has approximately 2000 feet of frontage along Marketplace Avenue, a major arterial roadway. Sound walls will not be provided or required between the railroad tracks and the multi-family units.
- 10.2 Up to five driveway curb cuts will be incorporated into the street access and egress designs of the site. This agreement provides for a waiver of any roadway / infrastructure related fees as the road ROW was provided by property owner with no land costs.
- 10.3 The City of Kyle is planning to install a pedestrian tunnel along the south property line of Zone B. Property owner and the City will enter into a mutually agreeable 10' below grade easement along the north side of the south property line for the City of Kyle trail system improvements within the 10 feet set back requirement herein. Surface parking will be allowed within the easement. In exchange for this easement rather than compensation all Park Land Fees are waived.

SECTION 11. PEDESTRIAN AND VEHICULAR CIRCULATION

- 11.1 The improvements within this PUD will be designed to maximize pedestrian and vehicular circulation within the Property. This PUD will incorporate homogenous design features for all Buildings and other improvements and appurtenances within the Property.
- 11.2 Transportation is an important component with a focus on both internal circulation and access to neighboring property/roadways. All driveways and streets will provide safety and be in accordance with the City's adapted Fire Code.

SECTION 12. PARKING REQUIREMENTS

Improvements within this PUD shall consist of a mixed-use development with a variety of businesses that conduct business at varying times. It is unlikely that all of these businesses will operate at maximum capacity during the same hours of the day. The intent of this provision is to best facilitate a mixed-use, environment where additional surface parking would be detrimental to the desired density.

Parking requirements in all Zones shall meet the requirements of Tables 12.1 and 12.2 of this PUD. All other uses shall follow the UDC minimum requirements at the time of Site Development Plan.

Table 12.1 Minimum Bicycle Parking	
Office, on-site	1 space per 10,000 sq. ft. GFA
Retail, on-site	1 space per 7,500 sq. ft. GFA

WATERFRONT AT MARKETPLACE

Table 12.2 Minimum Vehicle Parking	
Multifamily Residential High-Density (MF-2)	2.01 total parking spaces per unit and 1.43 total parking spaces per bed.
Office	1 space per 250 sq. ft. GFA
Retail	1 space per 250 sq. ft. GFA
Restaurant	1 space per 250 sq. ft. GFA

SECTION 13. LANDSCAPING, COMMON AMENITIES

13.1 Landscape requirements for this PUD shall meet all applicable requirements in Section 53-699 through 53-727 and Section 53-294 of the Code, unless otherwise stated. Landscape requirements can be shifted within a development zone provided the entire PUD meets the overall requirements. Screening of mechanical equipment and waste containers shall meet the Code requirements. Enclosures shall resemble the composition of the buildings nearby.

13.2 *Landscape Maintenance.* Property owners of each Zone will maintain the landscaping.

13.3 *Parkland Dedication.* In the event the city desires to utilize any detention area related to the development for public use that it will accept a parkland donation from the owner of said detention area and the developers that use the detention area will perform the detention pond maintenance and not burden Parks Department with this scope. The developer will work with adjacent property owner(s) to ensure any dedication will be legally binding.

13.4 *Impervious Cover.* Section 53-33 Of the Code requires impervious cover shall not exceed eighty-five (80) percent as applied to the aggregate sum of the building and improvement footprints compared to the comprehensive area of land comprising each Zone in the Property. However, as this property is affected by two waterways with flood plain setbacks, wet detention and wetlands restoration these areas for this site will be counted as meeting the pervious cover requirements. The affected area that is pervious is approximately 3.75 acres thus meeting the 80% requirement.

SECTION 14. EXTERIOR LIGHTING

Exterior Lighting on the Property and its Buildings will comply with the requirements set forth in Section 7.05 of the Code related to outdoor lighting unless otherwise described in this PUD.

SECTION 15. PUD MODIFICATIONS

This PUD represents the allowable uses and design standards for the Zones contained within the Property. The exhibits attached to this PUD are illustrative only and do not represent final designs. Modifications to Building sizes, uses and locations, as well as to amenity areas and to pedestrian and vehicular circulation, are allowed without amendment to the PUD, providing modifications conform to uses authorized by this PUD or to applicable provisions of the Code.

WATERFRONT AT MARKETPLACE

SECTION 16. DEVELOPMENT DENSITY

Table 17.1 Development Density					
Zone	Use(s)	Max. Approx. Acres	Max. Res. Units	Approx. Density	Max. # LUEs
A	High-Density Multifamily (R3-3)	13	330	25.07	500
Residential Totals		Varies	Varies	Varies	500
Zone	Use(s)	Min. Approx. Acres	Min. Building SF	Approx. FAR	Approx. # LUEs
B	General Commercial (RS)	2	45,000	varies	250
C	General Commercial (RS)	3	180,000	varies	250
Non-Residential Totals (Zones B, and C)		5	225,000	varies	500

SECTION 17. UTILITIES

City of Kyle shall provide water and wastewater services.

The City agrees that if an agreement exists between this property and the City of Kyle, relating to water and wastewater service, it will be honored. Otherwise, the project will be required to pay for the full cost of any off site wet utility extensions required, including the associated service taps and labor.

SECTION 18. LIST OF EXHIBITS

The following exhibits are attached hereto and incorporated herein by reference:

- Exhibit A Location Map
- Exhibit B Current Zoning
- Exhibit C Development Zones

LANDOWNER AUTHORIZATION AND AFFIDAVIT OF OWNERSHIP

SUBJECT PROPERTY INFORMATION

Subdivision Name, Block, Lot, or legal description if not subdivided: PLUM CREEK PARK, Lot PT 1-A, 18.844

of lots (if subdivided): _____ # of acres: 18.44

Site APN/Property ID #(s): 8421-R99807

Location: Marketplace Ave. Kyle TX County: Hays

Development Name: The Waterfront at Marketplace

OWNER

Company/Applicant Name: Plum Creek Developers, LLC

Authorized Company Representative (if company is owner): Joe Brooks

Type of Company and State of Formation: a Texas Limited Liability Company

Title of Authorized Company Representative (if company is owner): Member

Applicant Address: 19800 MacArthur Blvd., Suite 1100, Irvine, CA 92616

Applicant Fax: 949-265-1199

Applicant Phone: 949-265-1100

Applicant/Authorized Company Representative Email: joe.brooksceo@gmail.com

APPLICANT REPRESENTATIVE

Check one of the following:

. I will represent the application myself; or

_____ I hereby designate _____ (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.

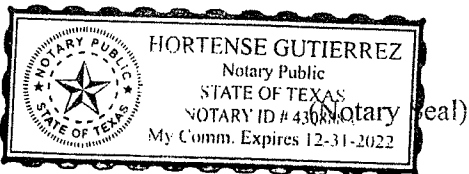
I hereby certify that the above-named owner is the rightful owner of the Property. I am either the owner of the property identified above or a partner/manager/officer/director/member of the company who is authorized to act on behalf of the company. I further certify that the information provided herein 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: 5/23/22

State of Texas

County of Burnet

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 23rd day of May, 2022

Hortense Gutierrez
Notary Public's Signature

12-31-2022
My Commission Expires

PROJECT REPRESENTATIVE

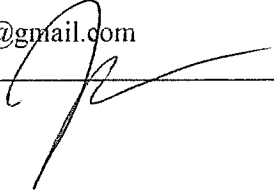
Representative Name: Joe Brooks

Representative Address: 265 Field Crest Dr., Marble Falls, TX 78654

Representative Phone: 805-816-2964

Representative Email: joe.brooksceo@gmail.com

Representative's Signature: _____



Date: 5/23/22



Franchise Tax Account Status

As of : 05/23/2022 11:23:30

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

PLUM CREEK DEVELOPERS, LLC

Texas Taxpayer Number 32042922537

Mailing Address 19800 MACARTHUR BLVD STE 1100 IRVINE, CA
92612-2440

Right to Transact Business in Texas ACTIVE

State of Formation TX

Effective SOS Registration Date 10/27/2010

Texas SOS File Number 0801336033

Registered Agent Name JEFFREY S. HOWARD

Registered Office Street Address 901 SOUTH MOPAC EXPRESSWAY, SUITE 225
AUSTIN, TX 78746

Public Information Report

Public Information Report
PLUM CREEK DEVELOPERS, LLC
Report Year :2021

Information on this site is obtained from the most recent Public Information Report (PIR) processed by the Secretary of State (SOS). PIRs filed with annual franchise tax reports are forwarded to the SOS. After processing, the SOS sends the Comptroller an electronic copy of the information, which is displayed on this web site. The information will be updated as changes are received from the SOS.

You may order a copy of a Public Information Report from open.records@cpa.texas.gov or Comptroller of Public Accounts, Open Records Section, PO Box 13528, Austin, Texas 78711.

Title	Name and Address
MEMBER	PC EDGE INVESTMENTS LLC 265 FIELDCREST DRIVE MARBLE FALLS, TX 78654
MEMBER	PLUM CREEK INVESTORS LLC 19800 MACARTHUR BLVD STE 11 IRVINE, CA 92612

Hays County
Liz Q. Gonzalez
County Clerk
San Marcos, Texas 78666



70 2011 11015327

Instrument Number: 2011-11015327

As

Recorded On: July 05, 2011

OPR RECORDINGS

Parties: PARKER JULIA E TRUSTEE

Billable Pages: 9

To PLUM CREEK DEVELOPERS LLC

Number of Pages: 10

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

OPR RECORDINGS	48.00
Total Recording:	48.00

***** DO NOT REMOVE. 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.

File Information:

Document Number: 2011-11015327
Receipt Number: 278075
Recorded Date/Time: July 05, 2011 12:31:48P
Book-Vol/Pg: BK-OPR VL-4145 PG-863
User / Station: L Curry - Cashiering #5

Record and Return To:

INDEPENDENCE TITLE COMPANY
9442 N. CAPITAL OF TX HWY .
PLAZA 2 STE 100
AUSTIN TX 78759



State of Texas |
County of Hays

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

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.

15-0921564-DPP

SPECIAL WARRANTY DEED WITH VENDOR'S LIEN

Date: June 30, 2011

Grantor: JULIA E. PARKER also known as JULIE NORMAN PARKER, Individually and as Trustee of THE L. W. PARKER FAMILY TRUST

Grantor's Mailing Address: P. O. Box 555, Pflugerville, Travis County, Texas 78660, with copy to: RAY PARKER, 15104 Spring Hill Lane, Pflugerville, Travis County, Texas 78660

Grantee: PLUM CREEK DEVELOPERS, LLC, a Texas limited liability company

Grantee's Mailing Address:

PLUM CREEK DEVELOPERS, LLC
101 Highway 281, Suite 208
Marble Falls, Texas, 78654

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration together with a purchase money promissory note ("Note") dated June 30, 2011, executed by Grantee and payable to the order of Grantor in the principal amount of SIX HUNDRED THOUSAND AND NO/100 DOLLARS (\$600,000.00). The Note is secured by a first and superior vendor's lien retained in this deed and by a first-lien deed of trust dated June 30, 2011, executed by Grantee to DAN R. MCNERLY, Trustee.

Property (including any improvements):

(The description of the Property to be conveyed by this Deed is set forth on Exhibit A attached hereto and incorporated herein by reference.)

Reservations from Conveyance: None.

Exceptions to Conveyance and Warranty: Set forth on Exhibit B, attached hereto and incorporated herein by reference.

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 when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

The vendor's lien against and superior title to the Property are retained until the Note described is fully paid according to its terms, at which time this deed will become absolute.

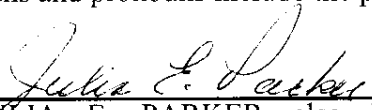
“AS IS” CLAUSE

AS A MATERIAL PART OF THE CONSIDERATION FOR THIS DEED, GRANTOR AND GRANTEE AGREE THAT GRANTEE IS TAKING THE PROPERTY “AS IS” WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY BY GRANTOR THAT THE PROPERTY HAS A PARTICULAR FINANCIAL VALUE OR IS FIT FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY SET FORTH IN THE OPTION AGREEMENT PURSUANT TO WHICH THIS DEED IS GIVEN, GRANTEE ACKNOWLEDGES AND STIPULATES THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION, STATEMENT, OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY CONDITION BUT IS RELYING ON GRANTEE’S EXAMINATION OF THE PROPERTY. GRANTEE TAKES THE PROPERTY WITH THE EXPRESS UNDERSTANDING AND STIPULATION THAT EXCEPT AS EXPRESSLY SET FORTH IN THE OPTION AGREEMENT PURSUANT TO WHICH THIS DEED IS GIVEN, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES EXCEPT FOR LIMITED WARRANTIES OF TITLE SET FORTH IN THIS DEED.

ENVIRONMENTAL MATTERS CLAUSE

AFTER THE DATE OF THIS DEED, GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS GRANTOR FROM ANY AND ALL LIABILITIES (INCLUDING STRICT LIABILITY), ACTIONS, DEMANDS, PENALTIES, LOSSES, COSTS OR EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY’S FEES AND REMEDIAL COSTS), SUITS, COSTS OF ANY SETTLEMENT OR JUDGMENT AND CLAIMS OF ANY AND EVERY KIND WHATSOEVER WHICH MAY NOW OR IN THE FUTURE BE PAID, INCURRED OR SUFFERED BY OR ASSERTED AGAINST GRANTOR BY ANY PERSON OR ENTITY OR GOVERNMENTAL AGENCY ARISING OUT OF THE EXISTENCE OF ANY HAZARDOUS MATERIALS, ENVIRONMENTAL HAZARDS OR CONDITION ON THE PROPERTY RESULTING SOLELY FROM GRANTEE’S, GRANTEE’S AGENTS’, CONTRACTORS’, LESSEES’, OR OTHER PERMITEES’ OPERATIONS AND ACTIVITIES ON THE PROPERTY AFTER THE DATE OF THIS DEED.

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



JULIA E. PARKER also known as JULIA
NORMAN PARKER, Individually and as Trustee
of THE L. W. PARKER FAMILY TRUST

Grantee, PLUM CREEK DEVELOPERS, LLC, accept this deed and consents to its form and substance. Grantee acknowledges that the terms of this deed conform with Grantee’s intent and that they will control in the event of any conflict with the agreement Grantee signed regarding the Property described in this deed.

(Acknowledgments)

STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on June 30, 2011, by JULIA E. PARKER also known as JULIE NORMAN PARKER, Individually and as Trustee of THE L. W. PARKER FAMILY TRUST.



[Signature]
Notary Public - State of Texas

STATE OF CALIFORNIA)
COUNTY OF Orange)

On June 24 2011 before me, Anne Jessica Harlow, personally appeared James A. Strophe, who proved to me on the basis of satisfactory evidence to be the person(s) whose Name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

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

WITNESS my hand and official seal.

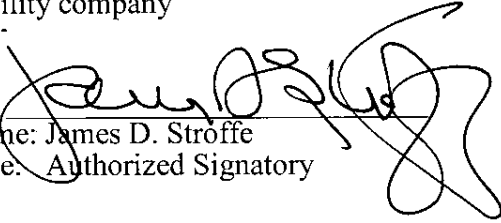
Signature A. J. Harlow

(Seal)



Grantee agrees to the obligations imposed on Grantee by the terms of this deed.

PLUM CREEK DEVELOPERS, LLC, a Texas limited liability company

By: 
Name: James D. Stroffe
Title: Authorized Signatory

After Recording Return To:
Independence Title Company

Independence Title Company
9442 N. Cap. of Tx. Hwy.
Bldg. 2, Ste. 200
Austin, TX 78759
Attn: Deb Dubelbeis

EXHIBIT A
Property Description

Parcel One

BEING 37.526 ACRES OF LAND OUT OF THE HENRY LOLLAR SURVEY, ABSTRACT NO. 290, SITUATED IN HAYS COUNTY, TEXAS, BEING A PORTION OF LOT 1-A OF THE RESUBDIVISION OF LOT 1 PLUM CREEK PARK, A SUBDIVISION OF RECORD IN VOLUME 10, PAGES 10-11 OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS; SAID 37.526 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at the intersection of the easterly right-of-way line of the Missouri Pacific Railroad and the westerly right-of-way line of Burleson Road (R.O.W. varies), for the southernmost corner of said Lot 1-C and hereof;

THENCE, N10° 15' 09"E, leaving said westerly right-of-way line of Burleson Road, along said easterly right-of-way line of the Missouri Pacific Railroad, for the westerly line of said Lot 1-C and a portion of the westerly line of said Lot 1-A, a distance of 1591.00 feet a calculated point for the **POINT OF BEGINNING** and southwesterly corner hereof;

THENCE, N10° 15' 09"E, continuing along said easterly right-of-way line of the Missouri Pacific Railroad, for a portion of the westerly line of said Lot 1-A, a distance of 2298.50 feet to the westernmost southerly corner of Lot 2 of Plum Creek Park, a subdivision of record in Volume 7, Pages 297-298 of said Plat Records, for the northernmost corner of said Lot 1-A and hereof;

THENCE, leaving said easterly right-of-way line of the Missouri Pacific Railroad, along a portion of the southerly line of said Lot 2, being the northerly line of said Lot 1-A and hereof, the following sixteen (16) course and distance:

- 1) S69° 10' 00"E, a distance of 176.52 feet for an angle point;
- 2) S23° 11' 29"E, a distance of 143.06 feet for an angle point;
- 3) S11° 08' 25"E, a distance of 90.04 feet for an angle point;
- 4) S03° 38' 37"W, a distance of 140.63 feet for an angle point;
- 5) S17° 11' 52"N, a distance of 115.60 feet for an angle point;
- 6) S46° 02' 16"W, a distance of 70.35 feet for an angle point;
- 7) S11° 38' 00"E, a distance of 103.49 feet for an angle point;
- 8) S55° 45' 11"E, a distance of 149.23 feet for an angle point;
- 9) S85° 25' 18"E, a distance of 170.36 feet for an angle point;
- 10) S49° 04' 51"E, a distance of 87.45 feet for an angle point;
- 11) S09° 07' 16"E, a distance of 118.27 feet for an angle point;
- 12) S36° 52' 23"E, a distance of 182.25 feet for an angle point;
- 13) S66° 41' 34"E, a distance of 277.90 feet for an angle point;

- 14) S16° 22' 40"E, a distance of 228.51 feet for an angle point;
- 15) S13° 01' 30"W, a distance of 144.88 feet for an angle point;
- 16) S31° 35' 43"W, a distance of 124.54 feet to the northernmost corner of Lot 3-A of the Replat of Lot 3 Plum Creek Park, a subdivision of record in Volume 8, Page 65 of said Plat Records, being an angle point in the southerly line of said Lot 2, for an angle point in the easterly line of said Lot 1-A and hereof;

THENCE, S52° 03' 46"W, along the westerly line of said Lot 3-A, being the easterly line of said Lot I-A, a distance of 928.78 feet for an angle point in the easterly line hereof:

THENCE, S44° 39' 38"W, continuing along the westerly line of said Lot 3- A, being the easterly line of said Lot I -A, a distance of 190.57 feet to a calculated point for the southeasterly corner hereof;

THENCE, leaving the westerly line of said Lot 3-A, over and across said Lot 1-A, for the southerly lines hereof, the following two (2) courses and distances:

- 1) N09° 45' 44"E, a distance of 45.94 feet to a calculated point for an angle point;
- 2) N79° 44' 51"W, a distance of 432.27 feet to the POINT OF BEGINNING, containing an area of 37.526 acres (1,634,639 square feet) of land, more or less, within these meets and bounds.

Parcel Two

A non-exclusive, appurtenant easement and right of way for pedestrian and vehicular ingress and egress to and from Parcel One, and for roadway, drainage and utility purposes, including both public and private utilities and services, and for landscaping and for the construction, operation, maintenance, repair, alteration, and inspection thereof and other necessary facilities attendant thereto, over, under, across and through Grantor's retained property being generally described as:

Phase 1 consisting of approximately 23.362 acres of land out of the Henry Lollar Survey, Abstract No. 290 and the John Green Survey Abstract Number 200, situated in Hays County, Texas, being all of Lot 2 Plum Creek Park, a subdivision of record in volume 7, pages 297-298 of the plat records of Hays County, Texas; and

Phase 2 consisting of approximately 17.500 acres of land out of the Henry Lollar Survey, Abstract No. 290 and the Z. Hinton Survey Abstract No. 220, situated in Hays County, Texas, being all of Lots 1-B and 1-C and a portion of Lot 1-A of the re-subdivision of Lot 1 Plum Creek Park, a subdivision of record in volume 10, pages 10-11 of the plat records of Hays County, Texas;

together with all right necessary or convenient for the full and complete use, occupation and enjoyment of the easement hereby granted, and all rights and privileges incident thereto, including the right to cut and remove timber, trees, brush and other obstructions.

Said easement is approximately 70 feet wide, aligning generally with the centerline of Marketplace at its intersection with City Lights Drive to the north and intersecting Burleson Road on the southeast and is depicted on the attached Exhibit A-I.

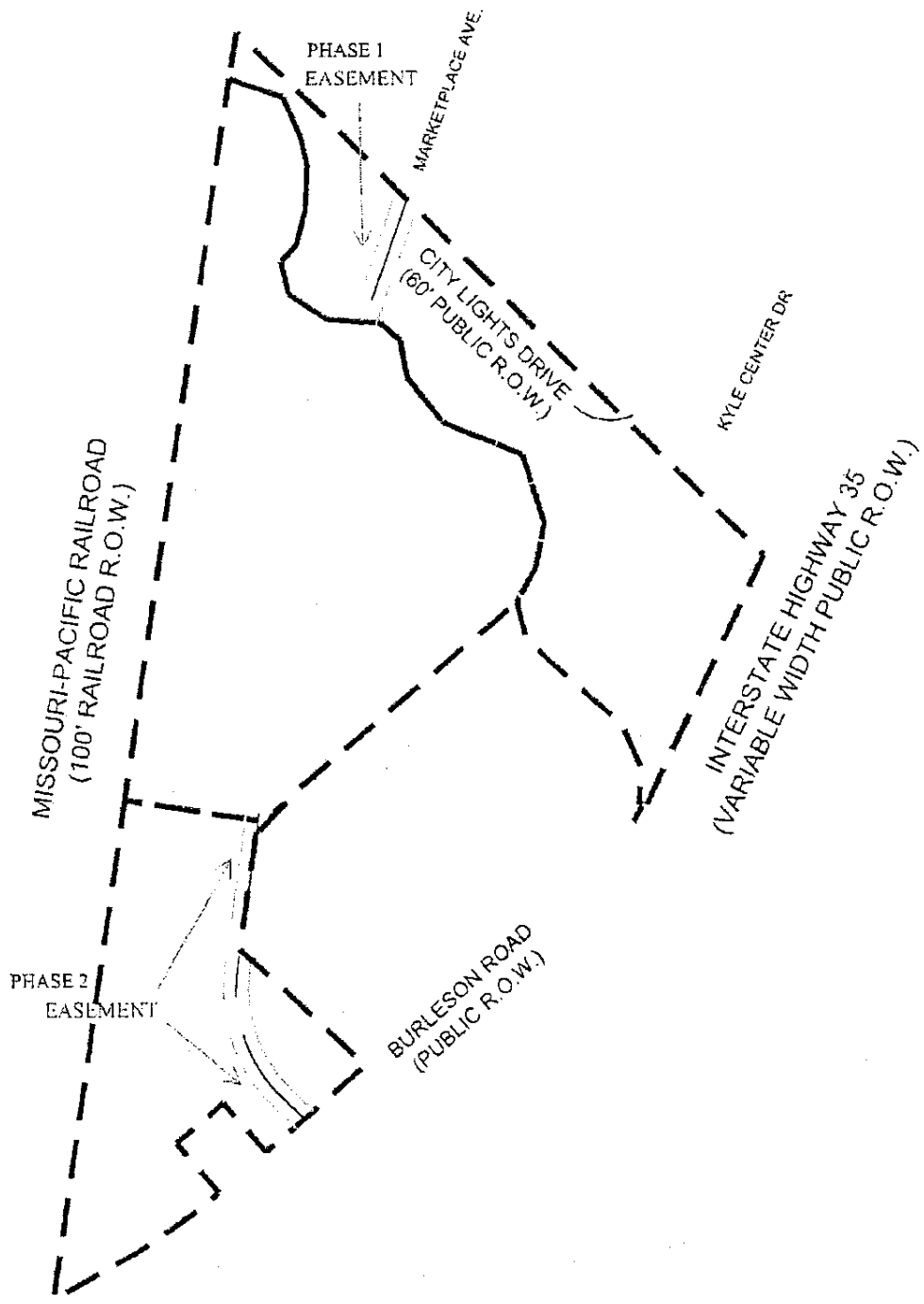


EXHIBIT A-1

EXHIBIT B
Exceptions to Conveyance and Warranty

As to Tract One:

1. Liens described as part of the Consideration.
2. Standby fees, taxes, and assessments by any taxing authority for the year 2011, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes
3. Rights and interests of parties in, to and/or arising from an existing grazing lease, and to the rights and interests of the tenants in possession under the terms of the grazing lease.
4. Rights and interests of parties in, to and/or arising from, together with obligations, restrictions, provisions, easements setback lines, designation of additional right of way and other matters as set forth in plat recorded respectively in Volume 10, Pages 10-11, Plat Records, Hays County, Texas.
5. Rights and interests of parties, in, to and/or arising from easement/right of way originally in favor of the City of Kyle, Texas, as recorded in Volume 1433, Page 670, Official Public Records, Hays County, Texas.
6. Rights and interests of parties in, to and/or arising from easement/right of way originally in favor of Pedernales Electric Cooperative as recorded in Volume 3146, Page 328, Official Public Records, Hays County, Texas.
7. Rights and interests of parties in, to and/or arising from Boundary Line Agreement recorded in Document No. 9915546, Official Public Records, Hays County, Texas.
8. Easement For Underground Facilities originally in favor of Southwestern Bell Telephone Company as recorded in Volume 261, Page 478, Deed Records, Hays County, Texas.

As to Tract Two:

1. Liens described as part of the Consideration.
2. Standby fees, taxes, and assessments by any taxing authority for the year 2011 and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership.
3. Rights and interests of parties in, to and/or arising from an existing grazing lease, and to the rights and interests of the tenants in possession under the terms of the grazing lease.
4. Rights and interests of parties in, to and/or arising from, together with obligations, restrictions, provisions, easements setback lines, designation of additional right of way and other matters as set forth in plats recorded respectively in Volume 7, Pages 297-298, and Volume 10, Pages 10-11, Plat Records, Hays County, Texas.
5. As to portions of Lot 2, rights and interests of parties in, to and/or arising from easement/right of way originally in favor of TLC Properties, Inc. as recorded in Volume 3009, Page 72, Official Public Records, Hays County, Texas.
6. As to portions of Lot 2, rights and interests of parties in, to and/or arising from easement/right of way originally in favor of the City of Kyle as recorded in Volume

3041, Page 8, Official Public Records, Hays County, Texas.

7. Rights and interests of parties in, to and/or arising from easement/right of way originally in favor of Pedernales Electric Cooperative as recorded in Volume 3146, Page 333, Official Public Records, Hays County, Texas.
8. As to portions of Lot 2, rights and interests of parties in, to and/or arising from easement/right of way originally in favor of the City of Kyle as recorded in Volume 3305, Page 773, Official Public Records, Hays County, Texas.
9. As to portions of Lot 2, rights and interests of parties in, to and/or arising from easement/right of way originally in favor of Pedernales Electric Cooperative as recorded in Volume 3305, Page 779, Official Public Records, Hays County, Texas.
10. As to portions of Lot 2, rights and interests of parties in, to and/or arising from, together with obligations and agreements related to on-site sewage facility as stated in or referenced by Affidavit to the Public recorded under Document No. 9923803 Official Public Records, Hays County, Texas.
11. Easement For Underground Facilities originally in favor of Southwestern Bell Telephone Company as recorded in Volume 261, Page 478, Deed Records, Hays County, Texas.



CITY OF KYLE, TEXAS

Limestone Creek PID Creation

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: [Postponed 9/6/2022] Consider and possible action to approve a Resolution of the City Council Authorizing and Creating the Limestone Creek Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code; resolving other matters incident and related thereto; and providing an effective date. ~ *Amber Lewis, Assistant City Manager*

- Public Hearing

The public hearing was left open at the 9/6/2022 Council meeting.

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Limestone Creek PID Creation Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS AUTHORIZING AND CREATING THE LIMESTONE CREEK PUBLIC IMPROVEMENT DISTRICT WITHIN THE CITY OF KYLE, TEXAS IN ACCORDANCE WITH CHAPTER 372 OF THE TEXAS LOCAL GOVERNMENT CODE; RESOLVING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kyle, Texas (the “City”) is authorized by Chapter 372, Texas Local Government Code, as amended (the “Act”) to create a public improvement district within its corporate limits and its extraterritorial jurisdiction and to levy special assessments against property within the district to pay the costs of public improvement projects that confer a special benefit on property within the district; and

WHEREAS, on April 27, 2022, Meritage Homes of Texas, LLC, an Arizona limited liability company and LaSalle Municipal Utility District No. 1, a Texas conservation and reclamation district (the “Petitioners”), submitted and filed with the City Secretary of the City (the “City Secretary”) pursuant to the Act a “Petition for the Creation of a Public Improvement District to Finance Improvements to Limestone Creek Development” (the “Petition”) requesting the establishment of a public improvement district within the corporate limits of the City, covering approximately 161.5 acres described in the Petition, and is more particularly described by metes and bounds in Exhibit “A” and depicted in Exhibit “B” (the “Property”) each attached hereto and incorporated herein for all purposes, to be known as the Limestone Creek Public Improvement District (the “District”); and

WHEREAS, Petitioners represent they constitute (i) the owners of taxable real property representing more than fifty percent (50%) of the appraised value of taxable real property liable for assessment under the proposal in the Petition, as determined by the current roll of the appraisal district in which the property is located and (ii) the record owners of real property liable for assessment under the proposal who: (A) constitute more than fifty percent (50%) of all record owners of property that is liable for assessment under the proposal in the Petition; or (B) own taxable real property that constitutes more than fifty percent (50%) of the area of all taxable real property that is liable for assessment under the proposal in the Petition, within the corporate limits of the City. It is further asserted that Petitioners include the intended successors in interest to certain owners of taxable real property within the area proposed for the District and who will be responsible for the assessments against the property within the District; and

WHEREAS, the Act states that a Petition to create a public improvement district is sufficient if signed by owners of more than fifty percent (50%) of the taxable real property, according to appraised value, and either of the following: more than fifty percent (50%) of the area of all taxable real property liable for assessment under the proposal, or more than fifty percent (50%) of all record owners of property liable for assessment; and

WHEREAS, Petitioners estimate the cost of the proposed public improvements is \$50,000,000.00 (including issuance and other financing costs) and that said cost will be recovered through an assessment against property in the District which will result in each parcel paying its fair share of the costs of public improvements based on the special benefits received by the property; and

WHEREAS, the City Council of Kyle, Texas (the “City Council”) has investigated and determined that the facts contained in the Petition are true and correct; and

WHEREAS, after publishing notice in an official newspaper of general circulation in the City and mailing notice of the hearing, all as required by and in conformity with the Act, the City Council, conducted a public hearing on the advisability of the improvements and services on July 19, 2022; and

WHEREAS, after all persons having an interest in the creation of the District were given the opportunity to be heard, the City Council closed the public hearing; and

WHEREAS, the Petition, has been examined, verified, and found to meet the requirements of Section 372.005(b) of the Act and to be sufficient for consideration by the City Council; and

WHEREAS, the City Council has determined that the approval of this Resolution is in the best interests of the City and its residents.

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

SECTION 1. The City Council hereby approves the recitals contained in the preamble of this Resolution and finds that all the recitals are true and correct and incorporate the same in the body of this Resolution as findings of fact.

SECTION 2. The Petition submitted to the City by the Petitioner was filed with the City Secretary and complies with Section 372.005 of the Act.

SECTION 3. Pursuant to the requirements of the Act, including, without limitation, Sections 372.006, 372.009(a), 372.009(b), and 372.010, the City Council, after considering the Petition and the evidence and testimony presented at the public hearing, hereby finds and declares:

- (a) Advisability of the Proposed Improvements. It is advisable to create the District to provide the Authorized Improvements (as defined below) described in the Petition and this Resolution. The Authorized Improvements will promote the interests of the City and will confer a special benefit on the District.

- (b) General Nature of the Proposed Improvements. The purposes of the District include the design, acquisition, construction, and improvement of public improvement projects authorized by the Act. The general nature of the proposed public improvements to be provided by the District that are necessary for the development of the Property within the District, in phases, may include, without limitation: (i) the establishment of parks and open space, together with the design, construction and maintenance of any ancillary structures, features or amenities such as trails, pavilions, irrigation, walkways, lighting, benches, trash receptacles and any similar items located therein; (ii) landscaping; (iii) acquisition, construction, and improvement of water, wastewater and drainage facilities; (iv) acquisition, construction and improvement of streets, roadways, rights-of-way and related facilities; (v) construction of entry monumentation and features; (vi) signage; (vii) projects similar to those listed in subsections (i) – (vi) above; and (viii) payment of costs associated with constructing and financing the public improvements listed in subparagraphs (i) – (vii)

above; as well as payment of expenses incurred in the establishment, administration and operation of the District (collectively, the “Authorized Improvements”). These Authorized Improvements shall promote the interests of the City and confer a special benefit upon the Property within the District.

- (c) Estimated Cost of the Authorized Improvements. The estimated cost to design, acquire and construct the Authorized Improvements is \$50,000,000.00 (including bond issuance and other financing costs). The City will determine what amount or portion of the costs will be paid by assessment of the property owners within the District. Unless otherwise agreed upon by the City, the City will not be obligated to provide any funds to finance the proposed Authorized Improvements, other than from assessments levied on real property within the District. The developer of the Property (the “Developer”) may be obligated for the costs of certain specified Authorized Improvements within the District. The City and the Developer may be reimbursed for the costs of certain specified Authorized Improvements from assessments levied within the District. The Developer may also pay certain costs of the Authorized Improvements from other funds available to the Developer.
- (d) District Boundaries. The District is proposed to include approximately 161.5 acres of land generally located east of Post Road and south of County Road 158 and within the corporate limits of the City, as more particularly described in Exhibit “A” attached hereto, and as depicted in Exhibit “B” attached hereto.
- (e) Proposed Method of Assessment. An assessment methodology will be prepared that will address: (i) how the costs of the Authorized Improvements financed with the assessments are assessed against the property in the District, (ii) the assessments to be collected each year, and (iii) reduction of the assessments for costs savings (pursuant to the annual review of the service plan for the District). Additionally, a report will be prepared showing the special benefits accruing to property in the District and how the costs of the Authorized Improvements are assessed to property on the basis of the special benefits. The result will be that equal shares of the costs will be imposed on property similarly benefited.

The assessment methodology will result in each parcel paying its fair share of the costs of the Authorized Improvements provided with the assessments based on the special benefits received by the property from the Authorized Improvements and property equally situated paying equal shares of the costs of the Authorized Improvements.
- (f) Proposed Apportionment of Cost between the District and the City. Authorization and creation of the District will not obligate the City to provide any funds to finance the Authorized Improvements. No City property in the District shall be assessed. All of the costs of the Authorized Improvements will be paid from assessments levied on the property within the District and from other funds, if any, available to the District.
- (g) Management of the District. The District shall be managed by the City. The City may contract with a consultant or third-party administrator, who shall, from time to time, advise the City regarding certain operations of the District.
- (h) Advisory Body. The District shall be managed without the creation of an advisory body.

The City Council reserves the right to appoint an advisory body in the future.

SECTION 4. The Limestone Creek Public Improvement District is hereby authorized and created as a public improvement district under the Act in accordance with the findings as to the advisability of the Authorized Improvements contained in this Resolution, which authorization shall take effect on the date of adoption of this Resolution. The District shall be subject to the terms, conditions, limitations, and reservations contained in the findings of Section 3 of this Resolution. The Authorized Improvements described in the Petition and Section 3 of this Resolution are authorized to be made in accordance with the service and assessment plan for the Limestone Creek Public Improvement District to be approved by City Council at a future meeting.

SECTION 5. The District can be terminated as provided by law. Subject to the last sentence of this Section 5, the power of the City to continue to levy and collect assessments within the District pursuant to the Act will cease and the District will be dissolved following the date that a petition requesting dissolution is filed with the City Secretary of the City of Kyle and the petition contains signatures of at least the number of property owners in the District to make the petition sufficient for creation of a public improvement district as provided in Section 372.005(b) of the Act, and a public hearing has been held by the City Council as described in Section 372.011 of the Act. If the District is dissolved, the District shall remain in effect for the purpose of meeting obligations of indebtedness for the Authorized Improvements.

SECTION 6. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 7. If any section, article, paragraph, sentence, clause, phrase or word in this Resolution or application thereof to any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Resolution; and the City Council hereby declares it would have passed such remaining portions of the Resolution despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 8. The City Secretary is directed to give notice of the authorization for the establishment of the District by recording this Resolution in the Official Public Records of Hays County, Texas on or before the seventh day after the passage of this Resolution.

SECTION 9. It is officially found, determined and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 10. This Resolution shall be in full force and effect from and after its passage, and it is accordingly so resolved.

PASSED AND ADOPTED by the City Council of Kyle, Texas, at a regular meeting on the 19th day of July, 2022, at which a quorum was present, and for which due notice was given pursuant to Government Code, Chapter 551.

Travis Mitchell, Mayor

ATTEST:

Jennifer Holm, City Secretary
City of Kyle, Texas

[CITY SEAL]

EXHIBIT "A"
METES AND BOUNDS DESCRIPTION OF THE PROPERTY



7401B Highway 71 West, Suite 160, Austin, TX 78735
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Doucetengineers.com

"Exhibit "-----"

D&A Job No. 1691-009
April 19, 2022

METES AND BOUNDS DESCRIPTION
161.5 ACRE TRACT

BEING A 161.5 ACRE TRACT OUT OF THE JAMES WILLIAMS SURVEY, ABSTRACT NUMBER 473, HAYS COUNTY, TEXAS, BEING ALL OF A CALLED 179.278 ACRE TRACT OF LAND, DESCRIBED IN A DEED TO MERITAGE HOMES OF TEXAS LLC, RECORDED IN DOCUMENT NUMBER 21036270, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS [O.P.R.H.C.T.], SAVE AND EXCEPT A 5.895 ACRE TRACT AND A 11.946 ACRE TRACT IN SAID DEED, AND BEING ALL OF A CALLED 7.87 ACRE TRACT, DESCRIBED TO LASALLE MUNICIPAL UTILITY DISTRICT NO 1, RECORDED IN DOCUMENT NUMBER 21016927, [O.P.R.H.C.T.], SAID 161.5 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod found for the northwest corner of said 179.278 acre tract, also on the east right-of-way line of County Road (CR) 145 (Volume 5, Page 205, Plat Records of Hays County, Texas [P.R.H.C.T.]), same being the southwest corner of a called 85.1806 acre tract, described in a deed to Allauddin N. Maredia, and recorded in Document Number 17039745 [O.P.R.H.C.T.];

THENCE S46°44'17"E, departing the east right-of-way of said C.R. 145 and continuing with the common line of said 179.278 acre and said 85.1806 acre tract, a distance of 4,013.29 feet to a 1/2-inch iron rod found for the northeast corner of said 179.278 acre tract, and the southeast corner of said 85.1806 acre tract, same being on the northwest line of a called 236.1 acre tract, described in a deed to Tack Development, Ltd., recorded in C.F. Number 18007777 [O.P.R.H.C.T.];

THENCE S43°23'05"W, departing the south line of said 85.1806 acre tract and continuing with the common line of said 179.278 acre tract and said 236.1 acre tract, a distance of 1,947.18 feet to a 1/2-inch iron rod found for the southeast corner of said 179.278 acre tract, same being the northwest corner of Quail Ridge Subdivision, a subdivision of record in Volume 2, Page 337, [P.R.H.C.T.];

THENCE N46°44'14"W, departing the west line of said 236.1 acre tract and continuing with the common line of said 179.278 acre tract and said Quail Ridge Subdivision, a distance of 2,842.59 feet to a 1/2-inch iron rod found at the southeast corner of the said 5.895 acre save and except tract;

THENCE departing north line of said Quail Ridge Subdivision, and continuing over and across said 179.278 acre tract with the east and north lines of the said 5.895 acre save and except tract and the south line of the said 7.87 acre tract, the following eight (8) courses and distances:

- 1) N43°15'48"E, a distance of 195.23 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found and the beginning of a curve to the right,
- 2) with said curve to the right, defined by an arc length of 141.87 feet, a radius of 330.03 feet, a delta angle of 24°37'51", a chord bearing of N09°38'34"W, a chord distance of 140.78 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found,

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DOUCET

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"Exhibit "-----"

- 3) N02°44'09"E, a distance of 243.78 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found and the beginning of a curve to the left,
- 4) with said curve to the left, defined by an arc length of 31.23 feet, a radius of 20.00 feet, a delta angle of 89°28'43", a chord bearing of N42°12'11"W, a chord distance of 28.16 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found,
- 5) N86°49'32"W, a distance of 280.56 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found and the beginning of a curve to the right,
- 6) with said curve to the right, defined by an arc length of 573.03 feet, a radius of 1,040.13 feet, a delta angle of 31°33'55", a chord bearing of N71°23'01"W, a chord distance of 565.81 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found,
- 7) N55°32'03"W, a distance of 126.49 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found, and
- 8) S86°40'31", a distance of 20.47 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found on the west line of said 179.278 acre tract and on the south right-of-way line of said C.R. 145;

THENCE N43°16'02"E, with the east right-of-way line of said C.R. 145, a distance of 106.18 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found on the west line of said 179.278 acre tract, at the southwest corner of the said 11.946 acre save and except tract;

THENCE, departing the east right-of-way of said C.R. 145 and continuing over and across said 179.278 acre tract with the south and east lines of the said 11.946 acre save and except tract, and the north line of the said 7.87 acre tract, the following eight (8) courses and distances:

- 1) S10°17'05"E, a distance of 17.42 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found,
- 2) S55°36'03"E, a distance of 114.06 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found and the beginning of a curve to the left,
- 3) with said curve to the left, defined by an arc length of 529.19 feet, a radius of 960.25 feet, a delta angle of 31°34'31", a chord bearing of S71°23'26"E, a chord distance of 522.51 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found,
- 4) S86°49'32"E, a distance of 279.97 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found and the beginning of a curve to the left,
- 5) with said curve to the left, defined by an arc length of 31.59 feet, a radius of 20.00 feet, a delta angle of 90°29'25", a chord bearing of N47°49'44"W, a distance of 28.41 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found,
- 6) N02°43'44"E, a distance of 419.07 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found, and the beginning of a curve to the right. and

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"Exhibit "-----"

- 7) with said curve to the right, defined by an arc length of 136.59 feet, a radius of 330.03 feet, a delta angle of 23°42'48", a chord bearing of N14°32'37"E, a chord distance of 135.62 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found, and
- 8) N47°21'17"W, a distance of 480.50 feet to a 1/2-inch iron rod with cap stamped "PAYNE 6064" found on the west line of said 179.278 acre tract and on the said east right-of-way of C.R. 145;

THENCE N43°16'09"W, with the west line of said 179.278 acre tract and on the said east right-of-way of C.R. 145, a distance of 958.21 feet to the POINT OF BEGINNING and containing approximately 161.5 acres.

Basis of bearings is the Texas Coordinate System, South Central Zone [4204], NAD83 (2011), Epoch 2010, observed using the Leica Smartnet Network. All distances shown are adjusted to surface values using a combined scale factor of 1.000081, units: US survey feet.

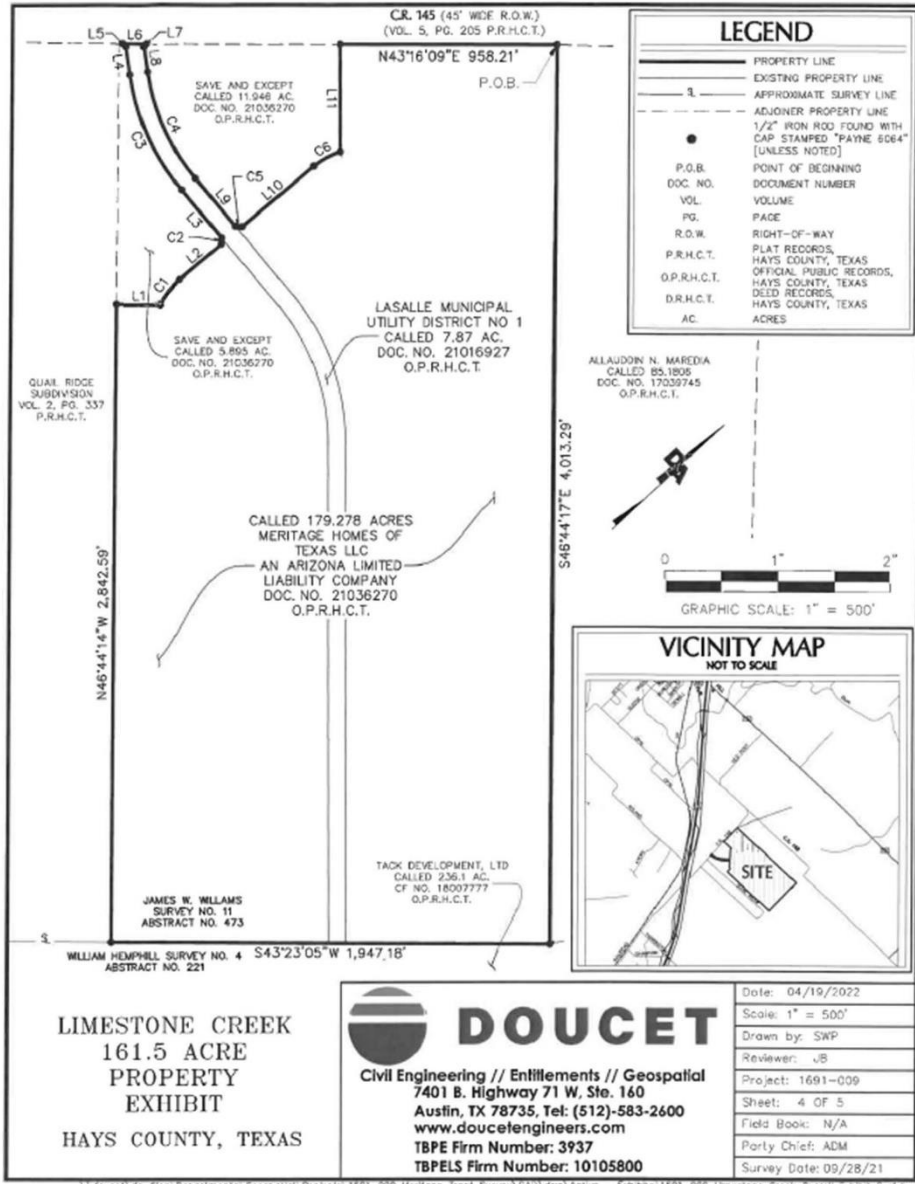
I, John Barnard, Registered Professional Land Surveyor, hereby certify that this description and accompanying exhibit of even date represent an actual survey performed on the ground.

04/19/2022

John Barnard Date
Registered Professional Land Surveyor
Texas Registration No. 5749
Doucet & Associates
jbarnard@doucetengineers.com
TBPLS Firm No. 10105800



EXHIBIT "B" PROPERTY DEPICTION



**LIMESTONE CREEK
161.5 ACRE
PROPERTY
EXHIBIT
HAYS COUNTY, TEXAS**

DOUCET
Civil Engineering // Entitlements // Geospatial
7401 B. Highway 71 W, Ste. 160
Austin, TX 78735, Tel: (512)-583-2600
www.doucetengineers.com
TBPE Firm Number: 3937
TBPELS Firm Number: 10105800

\\doucet\yds_files\Departments\Geospatial\Projects\1691-009 Meritage Tract Survey\CAD\dwg\Active - Exhibe\1691-009 Limestone Creek Overall Exhibit Surf.dwg



CITY OF KYLE, TEXAS

Julia Parker Family Partnership and
the L.W. Parker Family Trust -
Zoning (Z-22-0104)

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* An ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 9.12 acres of land to 'PUD MXD' for property located at the NW corner of N. Burselson & Marketplace Avenue, in Hays County, Texas. (Julia Parker Family Partnership and the L.W. Parker Family Trust - Z-22-0104) ~ Will Atkinson, Interim Director of Planning

Planning and Zoning Commission voted 4-0 to postpone this item until the September 27th P&Z meeting. Staff asks the Mayor & Council to postpone consideration until the October 3, 2022 council meeting.

- Public Hearing

Other Information: See attachments.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Report
- PUD Ordinance
- Summary Letter
- Landowner Authorization Letter
- Deed
- Franchise Tax Account Status

Property Location 1481 N Burleson, Kyle, TX 78640

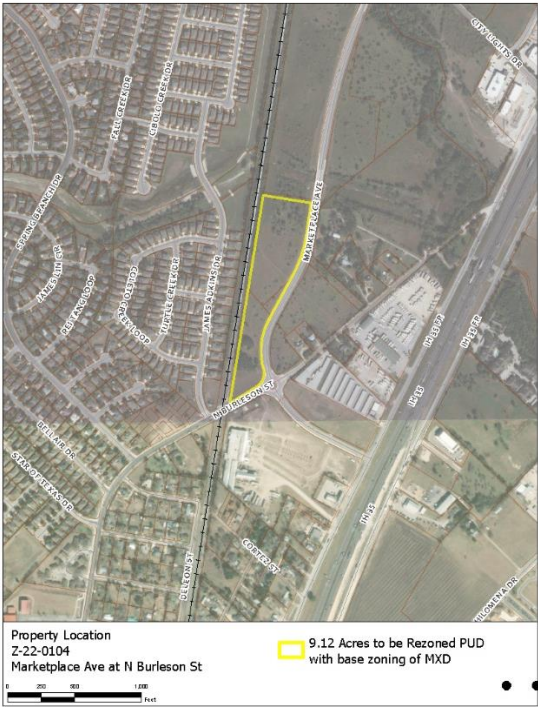
Owner Julia Parker Family Partnership & the L.W. Parker Family Trust
1025 Jane Haven Lakes
Cleburne, TX 76033

Agent Josh Delk
Arenaman Development Company, LLC
9004 Sautelle Lane
Austin, TX 78749

Amanda Swor
Drenner Group
200 Lee Barton Dr. Ste. 100
Austin, TX 78704

Request Rezone 9.12-Acres “RS” (Retail Services) to “PUD MXD” (Planned Unit Development, PUD)

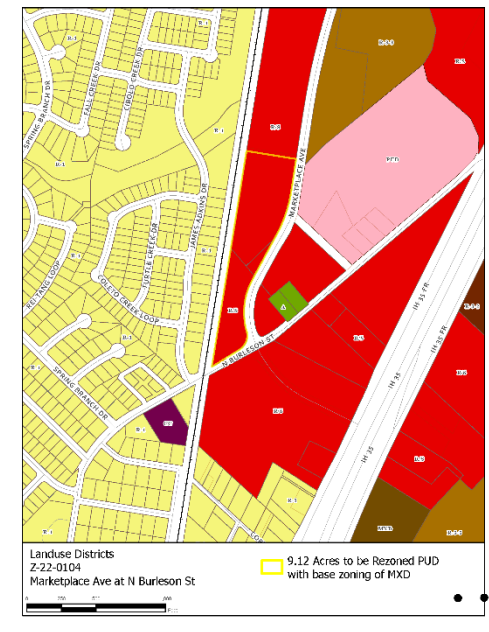
Vicinity Map



Site Description

The site proposed to be rezoned, is an undeveloped lot located at 1481 N Burluson. It's currently zoned "RS" or "Retail Services." Immediately to the north is a vacant lot currently zoned "RS". To the south is property zoned "RS". To the west is the Spring Branch subdivision which is zoned "Single Family Old R-1." To the east is a property zoned "PUD" or "Planned Unit Development."

Existing Zoning



RS (Retail Services)

Sec. 53-480. – Permitted Uses

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas, e.g., clothing, prescription drugs, furniture, toys, hardware, electronics, pet supply, variety, department, video rental and antique stores, art studio or gallery, hobby shops and florist shops., and the retail sale of goods and products (in the following listed use areas) to which value has been added on site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed, and the following: Any use permitted in CBD-1 or CBD-2 and RS districts as provided in [section 53-1230](#).

(Ord. No. 438, § 45(a), 11-24-2003)

Requested Zoning



PUD MXD (Planned Unit Development, Mixed-Use)

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.

([Ord. No. 978](#), § 2(Exh. A), 11-21-2017)

Sec. 53-703. - Flexible planning.

- (a) When considering a planned unit development (PUD), the unique nature of each proposal for a PUD may require, under proper circumstances, the departure from the strict enforcement of certain present codes and ordinances, e.g., without limitation, the width and surfacing of streets and highways, lot size, parking standards, set backs, alleyways for public utilities, signage requirements, curbs, gutters, sidewalks and streetlights, public parks and playgrounds, drainage, school sites, storm drainage, water supply and distribution, sanitary sewers, sewage collection and treatment, single use districts, etc.
- (b) Final approval of a PUD by the city council shall constitute authority and approval for such flexible planning to the extent that the PUD as approved, departs from existing codes and ordinances.
- (c) The flexibility permitted for a PUD does not imply that any standard or requirement will be varied or decreased.

Sec. 53-704. - Rules applicable.

The city council, after public hearing and proper notice to all parties affected and after recommendation from the planning and zoning commission, may attach a planned unit development district designation to any tract of land equal to or greater than three buildable acres. Under the planned development designation the following rules apply:

- (1) The approval of any proposed PUD or combination of uses proposed therein shall be subject to the discretion of the city council, and no such approval will be inferred or implied.
- (2) Permitted uses are those listed under the applicable zoning districts for the base zoning to be applied to the PUD (for example, the permitted uses in a PUD proposed to be developed as CBD-2, RS, W, CM districts). In addition, a planned unit development district may be established where the principal purpose is to serve as a transitional district, or as an extension of an existing district whereby the provision of off-street parking, screening walls, fences, open space and/or planting would create a protective transition between a lesser and more restrictive district. In approving a planned unit development, additional uses may be permitted, and specific permitted uses may be prohibited from the base district.
- (3) Standards required by the base zoning apply in a planned unit development except that the following regulations and standards may be varied in the

adoption of the planned unit development; provided that the plan is consistent with sound urban planning and good engineering practices.

- a. Front, side and rear setbacks.
 - b. Maximum height.
 - c. Maximum lot coverage.
 - d. Floor area ratio.
 - e. Off-street parking requirements.
 - f. Special district requirements pertaining to the base zoning.
 - g. Number of dwelling units per buildable acre.
 - h. Accessory building regulations.
 - i. Sign standards.
- (4) In approving a planned unit development, no standards may be modified unless such modification is expressly permitted by this chapter, and in no case may standards be modified when such modifications are prohibited by this chapter.
- (5) In approving a planned unit development, the city council may require additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, light and air, orientation, type and manner of construction, setbacks, lighting, landscaping, management associations, open space, and screening.
- (6) The planning and zoning commission and city council, in approving modifications to standards and regulations, shall be guided by the purpose intended by the base zoning and general intent of this chapter.

(Ord. No. 438, § 39(e), 11-24-2003)

Conditions of the Zoning Ordinance

Sec. 53-1205 Amendments

(d)

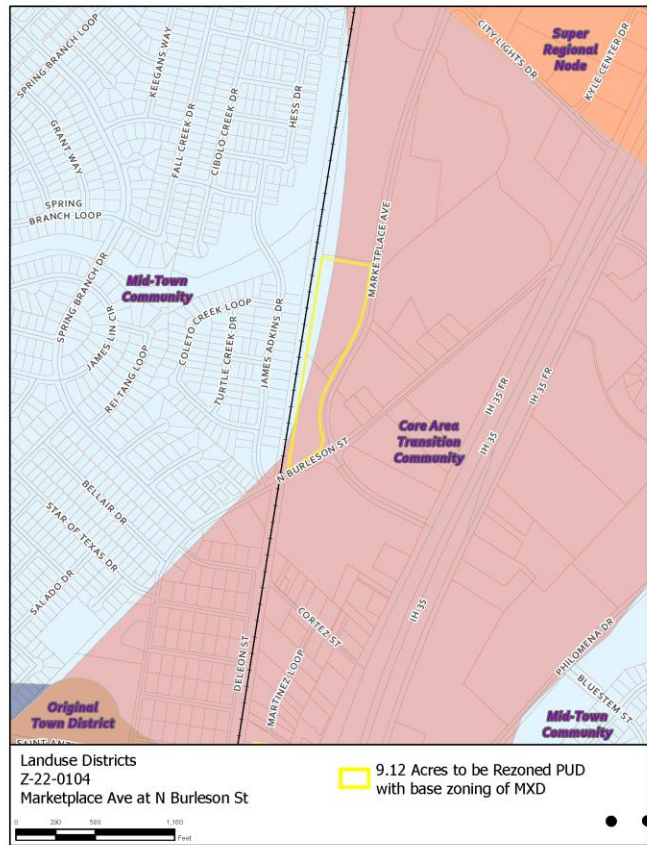
Referral of amendment to planning and zoning commission. Upon its own motion, a request by the planning and zoning commission, or the receipt of an

administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning commission for consideration, public hearing, and recommendation to the city council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.

(e)

Action by the planning and zoning commission. The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the council such action as the planning and zoning commission deems proper...

Comprehensive Plan Text



Pink = Core Area Transition Community

The subject site is located within both the “Core Area Transition” district and “Mid-Town Community” district. For the purposes of this request, we are only considering the “Core Area

Transition” District as it is a natural transition area between the site, railroad, and adjacent neighborhood. The “MXD” zoning district is a recommended district in the “Core Area Transition” district.

Core Area Transition

Recommended: E, R/S, CC, NC, **MXD**, O/I,
Conditional: HS, R-1-A, R-1-T, R-1-C, R-3-2, R-3-3

‘Character’: The Core Area Transition District currently consists primarily of commercial and light industrial uses, with some residential uses. Key defining features include Old Highway 81, North Burleson Street, I-35 and frontage roads, and the railroad. This District is important as a transitional zone between largely residential areas and the commercial uses along I-35 and as a portion of Kyle that is visually significant to travelers along I-35. The character of the District should reflect its urban and transitional intentions. The land area of this District is relatively small, and there are many physical barriers, so land uses should be compact and aggregated, especially residential uses. Vertically mixed-use development models are well suited to this District, and development should be located close to roadways, with minimal front yards, to maximize available land and visibility from main roads. Adequate land use transitions should be provided to avoid conflict between different land uses (i.e. residential adjacent to industrial).

‘Intent’: With its highly visible position in the middle of the City, the Core Area Transition District should be an urban environment that serves an identifying function for the City of Kyle. By acting as an area of functional linkage for the City, the District can connect vehicular and pedestrian movement, economic centers, and visually defining elements. The built fabric should display a transition from the small-scale grid pattern of Downtown to the large plate design of the Super Regional Node. As this District develops, it should serve to create a consistent fabric that links Downtown and the Super Regional Node, encouraging the expansion and strengthening of Kyle’s core. As well as the City’s most likely transition region to develop employment centers on land historically not operating at its highest and best use. Additionally, Plum Creek passes west to east through the middle of the Core Area Transition District, and this significant natural feature should be developed with appropriate sensitivity, and accessible via trails and open spaces once completed.

Analysis

The subject property is located on approximately 9.12-acres and zoned “RS” (Retail Services). This site is currently undeveloped

A Planned Unit Development (PUD) is a zoning district that establishes a base zoning (MXD in this case), and then modifies the district to better enable marketability, city policies and code. The intent of the district is to create a better project and allowing

flexibility, where warranted. This PUD reflects this process. The major variations and improvements in our code are outlined in the “PUD Standards.”

Recommendation

At the Planning and Zoning Commission meeting on September 13, 2022, the applicant requested to postpone this item until the next Planning & Zoning Commission meeting on September 27, 2022 in order to address concerns of the commissioners. Staff, the Planning and Zoning Commission, and the applicant request that City Council open the public hearing and leave it open until the October 3, 2022 Council meeting, with the intent to delay Council consideration on October 3, 2022.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 9.12 ACRES FROM RETAIL SERVICES “RS” (RETAIL SERVICES) TO “PUD MXD” (PLANNED UNIT DEVELOPMENT – MIXED USE) FOR PROPERTY LOCATED AT THE NW CORNER OF N. BURLESON & MARKETPLACE AVENUE, IN HAYS COUNTY, TEXAS; AUTHORIZING THE CITY SECRETARY TO AMEND THE CITY OF KYLE CODE OF ORDINANCES SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to rezone approximately 9.12 acres from “RS” (Retail Services), to Planned Unit Development – Mixed Use “PUD MXD” for property located at the NW corner of N. Burleson & Marketplace Avenue, Hays County, Texas and the property location map labeled ‘Exhibit A’.

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, as shown in ‘Exhibit A’ and by proper endorsement indicate the authority for said notation.

SECTION 3. That the ordinance amending the zoning of this property, includes the proposed concept plan shown as ‘Exhibit C’.

SECTION 4. The associated PUD standards and concept plan are attached as ‘Exhibit B’, and the PUD standards will control over portions of City of Kyle development code where such standards vary from the City of Kyle requirements.

SECTION 5. 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 6. 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 7. 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 _____, 2022, 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 _____, 2022, 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 _____, 2022.

ATTEST:

Jennifer Holm, City Secretary

Travis Mitchell, Mayor

Exhibit A

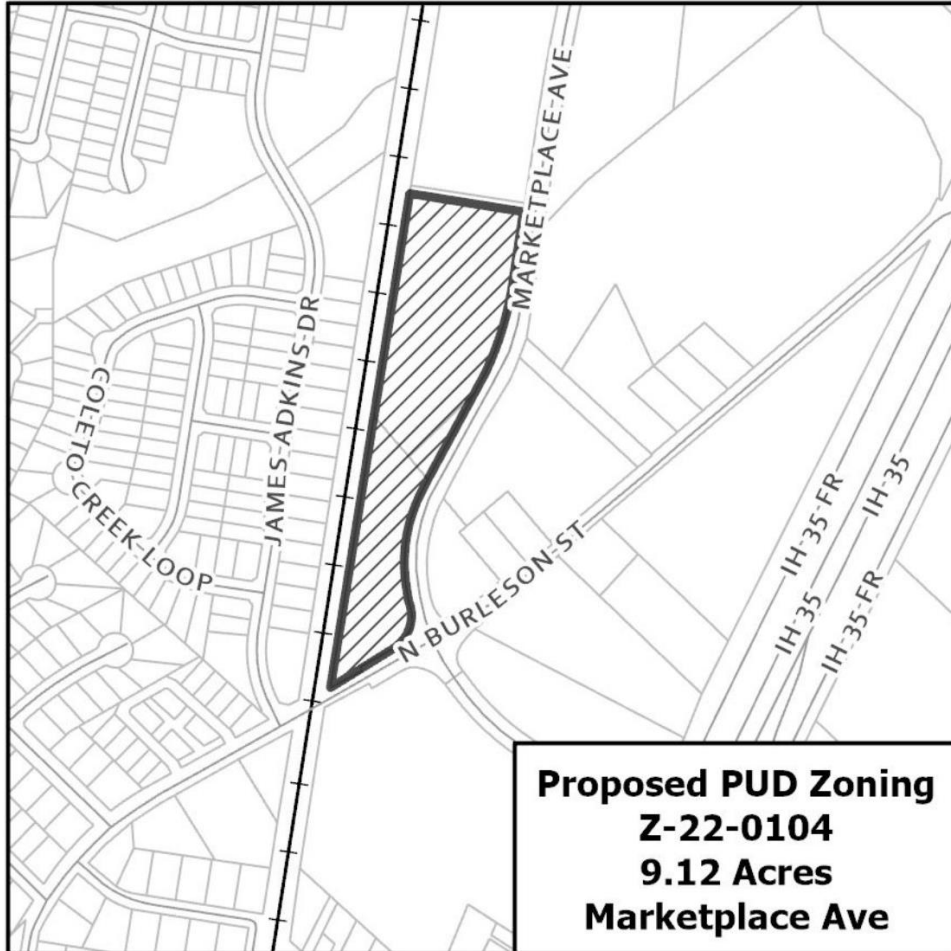


Exhibit B

Kyle Station PUD Development Standards



Amanda Swor
direct dial: (512) 807-2904
aswor@drennergroupp.com

September 9, 2022

Mr. William Atkinson
City of Kyle
100 W. Center Street
Kyle, TX 78640

Via Electronic Delivery

Re: Kyle Station – Rezoning – Rezoning application for the 9.12-acre piece of property located northwest of the intersection of Marketplace Avenue and Burleson Road in Kyle, Hays County, Texas (the “Property”)

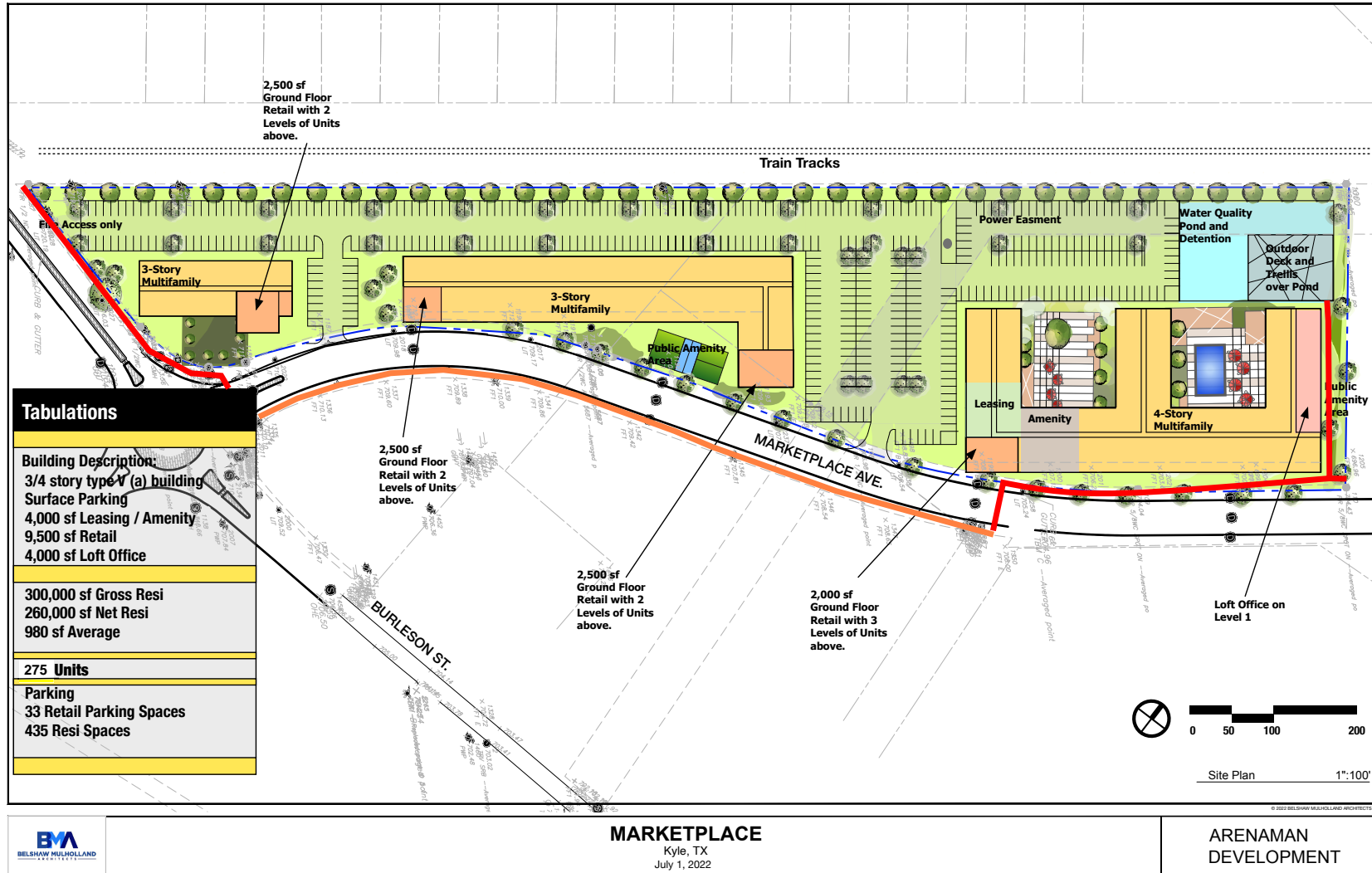
Dear Mr. Atkinson:

For reference, the project is titled Kyle Station, consists of 9.12 acres, and is located northwest of the intersection of Marketplace Avenue and Burleson Road. As a follow-up to our conversation on August 12, 2022, please find a synopsis of this proposed Planned Unit Development (PUD) below.

CURRENT ZONING:	Retail Service (R/S)
FUTURE LAND USE:	Core Area Transition
BASE DISTRICT:	Mixed-Use Zoning District (MXD)
USES:	a) Approximately 4,000 square feet of Loft Office b) Approximately 275 multifamily residential units c) Approximately 4,000 square feet of Leasing Office/Amenity d) Approximately 9,500 square feet of ground-floor retail
PROHIBITED USES:	a) The following uses are prohibited: banks, mattress stores, medical offices, blood/plasma centers, daycare facilities, veterinary hospitals, second-hand stores
SUPERIORITY:	a) The Development shall develop and utilize the adjacent Vybe Trail as a trail-oriented development (TOD). b) Approximately 1,000 linear feet of Vybe Trail (as depicted in red in the attached) will be constructed with this project, subject to site constraints and future adjacent trail connections. This will include crossing the traffic circle at North Burleson and Marketplace

	<p>Avenue, a crossing at the main entrance of the project and extension to the detention pond. A HAWK signal will be placed across Marketplace Avenue, dependent on existence of electricity.</p> <p>b) The landscape screening adjacent the Railroad right-of-way will include one additional large tree, evenly spaced between those required by standard Code; unless restricted by encumbrance such as overhead or underground utility.</p>
	<p>c) A minimum of two separate public amenity areas will be included within the PUD, to focus attention on either the pedestrian corridor of Marketplace Avenue, or the transit-oriented development areas within view of the Vybe Trail.</p>
VARIANCES:	<p>a) The Traffic Impact Analysis (TIA) is hereby waived.</p> <p>b) Multifamily dwelling Parking ratio shall be 1.4 spaces for one multifamily unit</p> <p>c) Sec. 53-677 (a) and Sec. 53-677 (c) are not applicable to this PUD. <i>(a) reads "No use category may occupy less than 20% of the ground floor area."</i> <i>(b) reads "No residential uses are allowed on the ground floor of the buildings."</i></p> <p>d) Sec. 53-769 (b) is not applicable to this PUD. <i>(b) reads "All commercial floor space(s) provided on the ground floor of mixed-use building(s) must contain at least 35% of the lot area on lots with 80 feet of street frontage or more."</i></p> <p>e) The rear setback to the Union Pacific Rail Road right-of-way is zero feet (0').</p>

Exhibit C - Concept Site Plan



DRENNER GROUP

Amanda Swor
direct dial: (512) 807-2904
aswor@drennergroupp.com

July 12, 2022

Mr. William Atkinson
City of Kyle
100 W. Center Street
Kyle, TX 78640

Via Electronic Delivery

Re: Kyle Station – Rezoning – Rezoning application for the 9.12-acre piece of property located northwest of the intersection of Marketplace Avenue and Burleson Road in Kyle, Hays County, Texas (the “Property”)

Dear Mr. Atkinson:

As representatives of the owner of the Property, we respectfully submit the enclosed Rezoning application package. The project is titled Kyle Station, consists of 9.12 acres, and is located northwest of the intersection of Marketplace Avenue and Burleson Road.

The Property is within City Limits and has a current zoning of Retail Service (R/S). Within the current Comprehensive Plan, the Land Use Map designates the Property as within Core Area Transition.

This application proposes a rezoning from Retail Service to Planned Unit Development (PUD) with a base district of Mixed-Use Zoning District (MXD). The proposed project will consist of a mix of uses including approximately 4,000 square feet of Loft Office, approximately 265 multifamily residential units, approximately 4,000 square feet of Leasing Office/Amenity, and approximately 9,500 square feet of ground-floor retail.

If this application is approved, Arenaman will move forward with appropriate applications for platting, site development, and building permits, to ensure a quality development that meets the character and quality of the City of Kyle.

Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Very truly yours,

A handwritten signature in blue ink that reads "Amanda Swor". The signature is written in a cursive, flowing style.

Amanda Swor

cc: Debbie A. Guerra, Planning Technician (*via electronic delivery*)

LANDOWNER AUTHORIZATION AND AFFIDAVIT OF OWNERSHIP

SUBJECT PROPERTY INFORMATION

DESCRIPTION OF 5.863 ACRES OUT OF LOT 1-A, 0.305 ACRES OUT OF LOT 1-B AND 2.954 ACRES OUT OF LOT 1-C OF THE RESUBDIVISION OF LOT 1 PLUM CREEK PARK, A SUBDIVISION OUT OF THE HENRY LOLLAR SURVEY, ABSTRACT NO. 290 AND THE Z. HINTON SURVEY, ABSTRACT NO. 220 IN HAYS COUNTY, TEXAS, PER MAP OR PLAT RECORDED IN VOLUME 10, PAGE 10, PLAT RECORDS, HAYS COUNTY, TEXAS. (P.R.H.C.TX.), SAID 9.122 ACRE TRACT

Subdivision Name, Block, Lot, or legal description if not subdivided:

of lots (if subdivided): 1 # of acres: 9.122

Site APN/Property ID #(s): Portions of R99807, R99808, & R99809

Location: NW of Marketplace & Burlison County: Hays

Development Name: Re-subdivision of Plum Creek Park

OWNER

Company/Applicant Name: Julia Parker Family Partnership and the L.W. Parker Family Trust

Authorized Company Representative (if company is owner): Larry Parker

Type of Company and State of Formation: TRUST

Title of Authorized Company Representative (if company is owner):

Applicant Address: 1025 Jane Haven Lakes, Cleburne, TX 76033

Applicant Fax: N/A

Applicant Phone: 817-271-1370

Applicant/Authorized Company Representative Email: larryparker1025@gmail.com

APPLICANT REPRESENTATIVE

Check one of the following:

I will represent the application myself; or

I hereby designate Josh Delk, Arenaman & Amanda Swor, Drenner Group (name of project representative) to act in the capacity as the agent for filing, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

I hereby certify that the above-named owner is the rightful owner of the Property. I am either the owner of the property identified above or a partner/manager/officer/director/member of the company who is authorized to act on behalf of the company. I further certify that the information provided herein and in the application for the development is true and correct. By signing below, I agree that the City of Kyle (the "City") is authorized and permitted to provide information contained within this application, including the email address, to the public.

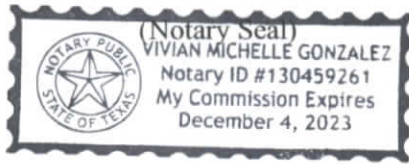
Owner's Signature: [Signature] Date: June 16, 2022

State of TX §
County of JOHNSON §

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 16 day of June, 2022



[Handwritten Signature]
Notary Public's Signature

12/04/2023

My Commission Expires

PROJECT REPRESENTATIVE

Representative Name: Josh Delk, Arenaman Development Company, LLC

Representative Address: 9004 Sautelle Lane, Austin, TX 78749

Representative Phone: _____

Representative Email: josh.delk@arenaman.com

Representative's Signature: _____ Date: _____

Representative Name: Amanda Swor, Drenner Group

Representative Address: 200 Lee Barton Dr., Suite 100, Austin, Texas 78704

Representative Phone: 512.807.2904

Representative Email: aswor@drennergroupp.com

Representative's Signature: Amanda Swor Date: 05/19/2022

Hays County
Liz Q. Gonzalez
County Clerk
San Marcos, Texas 78666



70 2012 12037119

Instrument Number: 2012-12037119

Recorded On: December 28, 2012 As
OPR RECORDINGS

Parties: PARKER JULIA NORMAN

Billable Pages: 3

To JULIA PARKER FAMILY PARTNERSHIP LTD

Number of Pages: 4

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

OPR RECORDINGS 24.00
Total Recording: 24.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

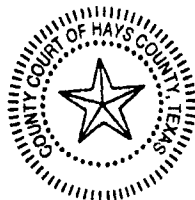
Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2012-12037119
Receipt Number: 323618
Recorded Date/Time: December 28, 2012 08:23:05A
Book-Vol/Pg: BK-OPR VL-4516 PG-633
User / Station: A Herzog - Cashiering #5

Record and Return To:

ARMBRUST & BROWN PLLC
ATTN: FRANK BROWN
100 CONGRESS STE. 1300
AUSTIN TX 78701-2744



State of Texas |
County of Hays

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

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

SPECIAL WARRANTY DEED

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

That **JULIA NORMAN PARKER**, an individual residing in Travis County, Texas (“Grantor”), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and as a contribution to the capital of **JULIA PARKER FAMILY PARTNERSHIP, LTD.**, a Texas limited partnership (“Grantee”) by Grantor in exchange for a partnership interest issued to Grantee as a partner of Grantor, the receipt and sufficiency of which are hereby acknowledged and for which no lien, express or implied, is herein retained by Grantor, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto Grantee, all of the following-described real property in Travis County, Texas (the “Property”), to wit:

An undivided thirty-seven and fifty one hundredths (37.5%) interest in 40.866 acres of land, more or less, in Hays County, Texas described on Exhibit A attached hereto and made a part hereof for all purposes.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns, forever; and Grantor does hereby bind herself, her heirs, successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise; provided, however that this conveyance is made by Grantor subject to all easements, rights of way, leases, reservations, mineral severances, covenants, conditions, restrictions and other documents or matters of any kind or nature affecting the Property which are filed of record or are visible or apparent on the ground, to the extent, and only to the extent, that the same may still be in force and effect and applicable to the Property.

Address of Grantee:
Julia Parker Family Partnership, Ltd.
20904 Apache Plum Lane,
Pflugerville, Texas 78660

[signature page follows]

{W0565039.1}

EXECUTED effective the 27 day of December, 2012.

Julia Norman Parker
JULIA NORMAN PARKER

RECEIVED AND ACCEPTED BY GRANTEE EFFECTIVE DECEMBER 27, 2012.

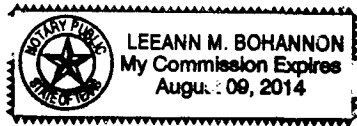
JULIA PARKER FAMILY
PARTNERSHIP, LTD.
By: JPPF GP, LLC, its general partner

By: *Julia N. Parker*
Julia N. Parker, Manager

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 27 day of December, 2012, by Julia Norman Parker.

[SEAL]

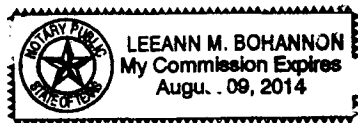


Leeann M. Bohannon
NOTARY PUBLIC, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 27 day of December, 2012, by Julia N. Parker as Manager of JPPF GP, LLC, a Texas limited liability company as general partner of Julia Parker Family Partnership, Ltd., a Texas limited partnership on behalf of the limited liability company and the limited partnership.

[SEAL]



Leeann M. Bohannon
NOTARY PUBLIC, State of Texas

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

40.866 acres of land, more or less, located in Hays County, Texas, consisting the following Tract 1, Tract 2 and Tract 3:

Tract 1: Lot 2 of PLUM CREEK PARK, an addition in Hays County, Texas, according to the map or plat thereof recorded in Vol. 7, Pg. 297 of the Plat Records of Hays County, Texas.

Tract 2: Lots I-B and I-C of RESUBDIVISION OF LOT 1 OF PLUM CREEK PARK, an addition in Hays County, Texas, according to the map or plat thereof recorded in Vol. 10, Pg. 10 of the Plat Records of Hays County, Texas.

Tract 3: Lot I-A of RESUBDIVISION OF LOT 1 OF PLUM CREEK PARK, an addition in Hays County, Texas, according to the map or plat thereof recorded in Vol. 10, Pg. 10 of the Plat Records of Hays County, Texas, SAVE AND EXCEPT and excluding 37.526 acres of land described in that certain deed executed by Julia Norman Parker, individually and as trustee of The L.W. Parker Family Trust as grantor to Plum Creek Developers, LLC as grantee, recorded in Volume 4145, Page 863 of the Hays County Official Public Records.

AFTER RECORDING, PLEASE RETURN TO:

Armbrust & Brown, PLLC
100 Congress, Suite 1300
Austin, Texas 78701-2744
Attention: Frank Brown

{W0565039.1}



Franchise Tax Account Status

As of : 07/05/2022 19:50:05

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

ARENAMAN DEVELOPMENT COMPANY, LLC	
Texas Taxpayer Number	32084164808
Mailing Address	9004 SAUTELLE LN AUSTIN, TX 78749-1146
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	04/18/2022
Texas SOS File Number	0804527809
Registered Agent Name	JOSHUA ERIC DELK
Registered Office Street Address	9004 SAUTELLE LANE AUSTIN, TX 78749



CITY OF KYLE, TEXAS

RFP - City Manager

Meeting Date: 9/20/2022

Date time:7:00 PM

Subject/Recommendation: Consider and possible action to issue a Request for Proposals for professional services to assist the city in the recruitment and selection of the City Manager. ~ *Amber Lewis, Assistant City Manager*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Sign Ordinance Enforcement

Meeting Date: 9/20/2022

Date time: 7:00 PM

Subject/Recommendation: Direction to staff regarding enforcement of existing sign ordinance related to signs located in the right-of-ways and feather flags. ~ *Travis Mitchell, Mayor*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Ordinance Adopting Policy for City Council Credit Card and Expense Reimbursement

Meeting Date: 9/20/2022
Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* Consider approving an Ordinance adopting a policy for members of the City Council regarding City business expenses charged on City issued credit card and reimbursement of expenses incurred in carrying-out official duties. ~ *Perwez A. Moheet, CPA, Director of Finance*

- Public Hearing

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Draft Ordinance - Policy for Council Credit Card & Expense Reimbursement

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, ADOPTING A POLICY FOR MEMBERS OF CITY COUNCIL REGARDING CITY BUSINESS EXPENSES CHARGED ON CITY ISSUED CREDIT CARD AND REQUEST FOR REIMBURSEMENT OF EXPENSES INCURRED IN CONDUCTING CITY BUSINESS; MAKING FINDINGS OF FACT; PROVIDING FOR RELATED MATTERS; REPEALING ALL POLICIES OR PARTS OF POLICIES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Whereas, the City Council recognizes that a policy is needed to provide guidance and compliance requirements to members of the City Council for allowable business expenses when charged on City issued credit card, and

Whereas, the City Council further recognizes that a policy is needed to provide guidance and compliance requirements to members of the City Council for the reimbursement of allowable business expenses incurred in conducting City business but which was initially paid for with personal funds, and

Whereas, the City Council appointed a citizens committee to examine, study, and assess compensation for the members of the City Council including reimbursement of expenses incurred in conducting City business, and to make recommendations for any changes, and

Whereas, establishing a clearly defined policy would provide guidelines, procedures, and compliance requirements that are uniform and can be consistently applied to all members of the City Council, and

Whereas, such a policy will ensure accountability and transparency to the residents and taxpayers of the City of Kyle for all City-related business expenses incurred by the members of the City Council, and

Whereas, the City Charter under Article III, Section 3.09 requires that the Council by Ordinance shall provide a method for determining what expenses are reimbursable and what requirements must be met to receive reimbursement.

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

Section 1. Findings.

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

Section 2. City Council Deliberations.

The City Council considered and discussed the proposed Policy for Members of City Council Regarding City Business Expenses Charged on City Credit Card & Request for Reimbursement of City Business Expenses on first and second readings of the Ordinance in a regularly held City Council meeting on September 20, 2022 and October 3, 2022 respectively.

Section 3. Public Hearings.

To obtain comments and recommendations from Kyle taxpayers, ratepayers, residents, and other interested persons, on September 20, 2022 and October 3, 2022, the City Council held public hearings on the proposed Policy for Members of City Council Regarding City Business Expenses Charged on City Credit Card & Request for Reimbursement of City Business Expenses.

Section 4. City Council Compensation and Expense Stipend

The City Council appointed a citizens committee to examine, study, and assess compensation for the members of the City Council, and to make recommendations for any changes. On August 25, 2022, the City Council approved an amendment to the proposed budget for Fiscal Year 2022-2023 to maintain the current level of monthly compensation for Mayor and Council and added an expense stipend in the amount of \$500.00 per month or \$6,000.00 annually, to be paid to each member of the City Council.

Section 5. Policy Adoption.

As outlined in Exhibit No. 1 of this City Ordinance, the Policy for Members of City Council Regarding City Business Expenses Charged on City Credit Card & Request for Reimbursement of City Business Expenses, is adopted by a majority vote of the City Council after deliberations, taking into consideration all comments received during the public hearings, and making any necessary amendments.

Section 6. Conflict.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 7. Open Meetings.

That it is hereby officially found and determined that the meeting at which this City 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, Ch. 551, Texas Local Government Code.

Section 8. Effective Date.

This Ordinance shall be in full force and effect from and after the date of its final passage and adoption in accordance with the provisions of applicable state law and the City Charter.

PASSED AND APPROVED on First Reading this 20th day of September 2022.

FINALLY PASSED AND APPROVED on this 3rd day of October 2022.

CITY OF KYLE, TEXAS

Travis Mitchell, Mayor

ATTEST:

Jennifer Holm, City Secretary

EXHIBIT No. 1

Policy for Members of City Council Regarding
City Business Expenses Charged on City Credit Card &
Request for Reimbursement of City Business Expenses



City of Kyle, Texas
Policy for Members of City Council Regarding
City Business Expenses Charged on City Credit Card &
Request for Reimbursement of City Business Expenses

1. Purpose

- A. This policy is intended to provide guidance and policy compliance requirements to members of the City Council for allowable expenses charged on City issued credit cards and for the reimbursement of expenses incurred while conducting City business.
- B. Furthermore, this policy is also intended to provide direction to the City Manager, to ensure for the consistent application of this policy and to ensure compliance with the policy requirements when processing City issued credit card charges and or requests for expense reimbursements for individual members of the City Council.

2. Policy Objectives

- A. Establish a clearly defined policy for members of the City Council to adhere to and comply with when incurring allowable City-related business expense charges on their City issued credit card and or when requesting reimbursement for City-related business expenses incurred by individual members of the City Council in carrying-out their official duties.
- B. Establish a policy that provides clear guidelines, procedures, and requirements that are uniform and can be consistently applied by the City Manager and their staff to strengthen administrative and budgetary controls.
- C. Ensure accountability and transparency to the residents and taxpayers of the City of Kyle for all City-related business expenses incurred by the members of the Kyle City Council.

3. Policy Scope & Coverage

- A. This policy is applicable to and exclusively covers all elected officials of the City of Kyle including but not limited to the following elected positions:

- 1) Mayor
- 2) Council Member, District 1
- 3) Council Member, District 2
- 4) Council Member, District 3
- 5) Council Member, District 4
- 6) Council Member, District 5
- 7) Council Member, District 6

4. Policy Basis

The Kyle City Charter is the authoritative basis for the development and implementation of this City policy. Specifically, Article III, Section 3.09 states as follows:

“Members of the City Council shall also be entitled to reimbursement for all necessary and approved expenses incurred in the performance of their official duties. There shall be provided in each annual city budget an amount for the expenses of the mayor and for each council member. The city council by ordinance shall provide a method for determining what expenses are reimbursable and what requirements must be met to receive reimbursement. No staff or assistant shall be provided for any member of the city council.”

5. Policy

Based on Article III, Section 3.09 of the City Charter, it is the policy of the City of Kyle to allow members of the City Council to:

- A. Attend training, educational conferences, seminars, and meetings related to the duties and responsibilities as a member of the City Council.
- B. Travel to other cities as a member of the City of Kyle delegation that is officially sanctioned by a majority vote of the City Council, to explore economic development opportunities and to further the interest of the City of Kyle.
- C. Use City issued credit card to charge allowable City-related business expenses incurred in the performance of their official duties including travel.
- D. Request reimbursement of allowable City-related business expenses incurred in the performance of their official duties including travel which was paid for with personal funds.

6. Responsibilities of the Kyle City Council

Under this policy, each individual member of the City Council shall be responsible for, including but not limited to the following:

- A. Fully adhere to and comply with the requirements of this policy as adopted by the City Council by an Ordinance.
- B. Each member of the City Council shall be responsible for monitoring and ensuring that City-related business expenses incurred or planned to be incurred, do not exceed the approved budget for the expense line-item. A monthly expenditure report for cost centers pertaining to Mayor and Council members shall be provided to each City Council member to assist in the monitoring of the expense line-item budget status and remaining available funds.
- C. Each member of the City Council shall be responsible for obtaining and submitting actual itemized receipts from the respective vendor, retailer, restaurant, hotel, airline, and or other establishment for their City-related business expense.
- D. Each member of the City Council shall be responsible for ensuring that they submit to the City Secretary, on a timely basis each month, actual itemized receipts for any and all charges made on their City-issued credit card statement.
- E. Each member of the City Council shall be responsible for reviewing their individual monthly statement for the City-issued credit card.
- F. Each month, members of the City Council shall be responsible for submitting all actual itemized receipts supporting each credit card transaction reported on the monthly credit card statement within five (5) business days from the date the credit card statement is provided to them by the City Secretary.
- G. Members of the City Council shall be responsible for paying back to the City for all unallowed expenses and for all unsupported transactions charged to the City-issued credit card.

7. Definitions

- A. Actual Expenses: Expenses incurred for City-related business and supported by an original legible printed receipt; detailing items purchased. Refer to definition of receipts/invoices below.
- B. Approved Budget: Appropriations (spending authority) as authorized by the City Council for line-item expenditures in the approved cost center budget for the Mayor and each Council member.
- C. City-Issued Credit Card: This is also referred to as the City Purchasing Card. A City-issued credit card is a standard credit card issued by the City's banking institution in the name of the City Council member for use only by the specific

member of the City Council to charge an allowable City-related business expense incurred in carrying-out their official duties as a member of the City Council.

- D. City-Related Business Expense: An expense incurred by a member of the City Council that is required and or is necessary in the performance of their official duties of a public purpose for the benefit of the City.
- E. Credit Card Statement: A monthly statement in the name of each member of the City Council provided by the City's banking institution showing, in date order, all transactions including amounts charged on the City-issued credit card by the individual member of the City Council during the reporting month.
- F. Entertainment Expenses: Includes but not limited to, movies, concerts, theatre performances, events at museums, entertainment shows, car shows, social and cultural events, hunting and fishing events, hot air balloon rides, sport events, golf games, sports tournaments, food and drink tasting, or any other excursion/entertainment are not allowed under this policy.
- G. Mileage Reimbursement: Reimbursement request for actual mileage driven per trip in a personal vehicle by a member of the City Council to conduct City-related business. Filling up fuel tanks in a personal vehicle with a City-issued credit card and or reimbursement with City funds is strictly prohibited and as such, is not allowed under this policy.
- H. Receipts/Invoices: An original legible printed receipt issued by a retailer, restaurant, hotel, airline, or similar business establishment that shows the date of transaction, name of the vendor/retailer, vendor/retailer's address, product or itemized description, quantity, and amount for each item purchased or ordered.
- I. Travel – Local: From Kyle City Hall to a destination that is equal to or less than seventy-five (75) miles and to which it can be reasonably expected to travel, conduct City-related business, and return to Kyle City Hall within the same business day.
- J. Travel – Out-of-Town: From Kyle City Hall to a destination that is more than seventy-five (75) miles and to which it cannot be reasonably expected to travel, conduct City-related business, and return to Kyle City Hall within the same business day.
- K. Unallowed Expenses: A list of expenses specifically identified in this policy and other similar personal type expenses, that under no circumstances, shall be paid for with the use of a City-issued credit card or shall be reimbursed to any member of the City Council with City funds.

- L. Unsupported Expenses: Any expense transaction incurred and charged to the City-issued credit card that is unsubstantiated and for which no actual itemized receipt has been provided. An unsubstantiated expense can also occur when a Request for Reimbursement Form is submitted by a member of the City Council without actual receipts substantiating the expense reimbursement claim.

8. Procedures for Out-of-Town Travel & Completing Travel Expense Claim Form

When a member of the City Council travels to another city, or state to:

- A. Attend a training session, educational conferences, seminars, and meetings related to the duties and responsibilities as a member of the City Council.
- B. Explore economic development opportunities and to further the interest of the City of Kyle as an official member of the City of Kyle delegation that is sanctioned by a majority vote of the City Council.

Within five (5) business days of completion of the travel, each member of the City Council who traveled, must prepare, sign, and submit to the City Secretary, a Travel Expense Claim Form (Exhibit A) along with all original itemized receipts as supporting documentation.

Upon receipt of the Travel Expense Claim Form, the City Secretary shall:

- A. Immediately place on the agenda of the next regularly scheduled City Council meeting, an agenda item for the member of the City Council to provide a briefing or report regarding the travel/trip completed.
- B. The City Secretary will also attach to the agenda item if any documents, brochures, pamphlets, and or other information material is provided by the Council member for the benefit of the City Council's review and discussion.

9. Procedures for the Settlement of Expenses Charged on City-Issued Credit Card

Each month, the City receives a separate credit card statement from the City's banking institution in the names of individual members of the City Council. This monthly statement includes in date order, a listing of itemized transactions with amounts, that the respective member of the City Council authorized to be charged to their City-issued credit card.

- A. By the second (2nd) business day of the month, the Accounts Payable team will forward to the City Secretary, a PDF copy of the monthly credit card statement for each individual member of the City Council.
- B. By the third (3rd) business day of the month, the City Secretary will review and forward by email, a copy of the monthly credit card statement to the respective member of the City Council.

C. By the eighth (8th) business day of the month, each member of the City Council shall:

- 1) Complete their review of all posted transactions reported on their respective monthly statement for the City-issued credit card,
- 2) Compile and attach all actual itemized receipts supporting each expense transaction reported on the monthly statement for the City credit card,
- 3) Prepare and attach a personal or a bank check made payable to the City of Kyle in the amount of any unallowed or personal expenses charged to the City-issued credit card,
- 4) Submit the complete documentation packet (credit card statement, actual receipts, and personal check if applicable) to the City Secretary for processing.
- 5) The City Secretary will examine the monthly credit card statement and all attachments submitted by the member of the City Council for completeness, accuracy, and assign appropriate expense line-item and cost center coding for processing.
- 6) If the City Council member's submittal is complete and accurate, the City Secretary will forward the credit statement and all attachments to the Accounts Payable section in the City's Financial Services Department for final processing.
- 7) If the City Council member's submittal is incomplete or receipts do not reconcile with the amount charged and posted on the monthly credit card statement, then the City Secretary will contact the City Council member in writing by email and request them to rectify the incomplete items and to resubmit by no later than the tenth (10th) business day of the same month.
- 8) For any transactions charged to the City-issued credit card for which an actual itemized receipt is not provided or if a personal check is not provided to pay back the City of Kyle, then an equivalent amount shall be deducted from the respective City Council member's next regular monthly compensation payment (paycheck). An email will be sent by the City Secretary informing the City Council member of the amount of the deduction from their monthly compensation payment.

10. Procedures for Requesting Reimbursement of City-Related Business Expenses

If a member of the City Council is interested in seeking reimbursement of City-related business expenses that the City Council member incurred and paid for with personal funds in the performance of their official duties, then they must follow the following procedural steps:

- A. Complete a City of Kyle Request for Expense Reimbursement Form (Exhibit B).
- B. Attach all actual itemized receipts supporting the reimbursement request.
- C. Sign and date the Request for Expense Reimbursement Form.
- D. Submit the completed form with attached itemized receipts to the City Secretary.
- E. The City Secretary will acknowledge by email, the receipt of the submittal to the member of the City Council.
- F. The City Secretary will examine the Request for Expense Reimbursement Form and all attachments submitted by the City Council member for completeness, accuracy, and assign appropriate expense line-item and cost center coding for processing.
- G. If the submittal is complete and accurate, the City Secretary will forward the Request for Expense Reimbursement Form and all attachments to the Accounts Payable section in the City's Financial Services Department for processing a reimbursement payment to the requesting City Council member.
- H. Should the Accounts payable team in the Financial Services Department find the submittal packet forwarded by the City Secretary to be incomplete, incorrect, or missing any receipts, then the entire submittal will be returned to the City Secretary to take corrective action(s).
- I. If the Request for Expense Reimbursement Form submittal is incomplete or receipts do not reconcile with the amount claimed for reimbursement, then the City Secretary will contact the member of the City Council in writing by email and request them to rectify the incomplete items and to resubmit their request for reimbursement.
- J. If the Accounts payable team's review and examination of the Request for Expense Reimbursement Form submittal packet indicates that it is complete and accurate, then a reimbursement check will be processed and issued to the requesting member of the City Council within ten (10) business days.

11. Procedures for Requesting Mileage Reimbursement for Use of Personal Vehicle

If a member of the City Council is interested in seeking reimbursement for the actual number of miles driven using their personal vehicle in the performance of their official duties, then they must follow the following procedural steps:

- A. Maintain actual record for each trip taken using personal vehicle to conduct City-related business to include:
 - a. Name of member of the City Council
 - b. Description of personal vehicle (2022 Chev Tahoe)
 - c. Date of each City business trip

- d. Purpose of each trip (for example: to meet with County Commissioners)
 - e. Provide destination for each trip (for example: from City Hall to County Government Center in San Marcos and return to City Hall)
 - f. Total actual miles driven for each trip
- B. At the end of each month, complete a Request for Mileage Reimbursement Form for Use of Personal Vehicle for City Business (Exhibit C).
- C. Sign and date the Request for Mileage Reimbursement Form for Use of Personal Vehicle for City Business.
- D. If a member of the City Council wants to utilize a GPS-based IRS compliant mileage tracking software for the use of their personal vehicle for City-business trips, they can submit a report generated from the GPS-based IRS compliant mileage tracking software in lieu of completing the City mileage reimbursement form provided the following minimum information is included in the report:
- 1) Name of member of the City Council
 - 2) Description of personal vehicle (2022 Chev Tahoe)
 - 3) Date of each City business trip
 - 4) Purpose of each trip (for example: to meet with County Commissioners)
 - 5) Provide destination for each trip (for example: from City Hall to County Government Center in San Marcos and return to City Hall)
 - 6) Total actual miles driven for each trip
 - 7) Sign and date of signature
- E. Submit the completed mileage reimbursement form to the City Secretary for processing.
- F. If the submittal is complete and accurate, the City Secretary will forward the Request for Mileage Reimbursement Form for Use of Personal Vehicle for City Business or the GPS-based IRS compliant mileage tracking software report to the Accounts Payable section in the City's Financial Services Department for processing a reimbursement payment to the requesting member of the City Council.
- G. If the request for mileage reimbursement form for the use of personal vehicle for City business is incomplete, then the City Secretary will contact the City Council member in writing by email and request them to rectify the incomplete items and to resubmit their request for reimbursement.
- H. If the Accounts payable team's review and examination of the Request for Mileage Reimbursement Form for Use of Personal Vehicle for City Business indicates that it is complete, then a reimbursement check will be processed and issued to the requesting member of the City Council within ten (10) business days. Otherwise, the form will be returned to the City Secretary for corrections.

12. Unallowed Expenses

The City of Kyle will not pay for nor reimburse with City funds, the following types of personal expenses to any member of the City Council. This list is an example of unallowed expenses and includes but is not limited to the following types of personal expenses:

- 1) Alcoholic beverages including beer, wine, liquor, mixed drinks, accessing mini bars in hotel rooms, including rental of alcoholic beverage dispensing equipment and associated supplies and materials.
- 2) Automobile and other vehicle expenses including but not limited to any repair and or maintenance expenses associated with a personal vehicle such as for fuel charges, electric vehicle charging costs/fees, oil changes, brakes, battery, tires, wiper blades, damages due to accidents, insurance, vehicle rental while personal vehicle is being repaired, etc.
- 3) Books and magazines for personal reading, newspapers, movie rentals, in-room movies, online entertainment services, etc.
- 4) Cash advances or cash equivalents, money orders, wire transfers, foreign currency, bitcoins, traveler's checks, gift cards, pre-paid cards, etc.
- 5) Charges, fees, and or fines for illegal substances, products, activities, and or services.
- 6) Commuting mileage reimbursement claims. Driving personal vehicle from home to work and driving back from work to return home is an unallowed expense.
- 7) Computer equipment including but not limited to hardware, software, desktop computers, laptop computers, notebook computers, tablets, iPads, printers, scanners, projectors, cameras, audio/video equipment, copiers, shredders, fax machines, cellular devices, mobile phones, routers, hotspot or hotspot service, telecommunication equipment, etc. This includes expenses associated with the purchase, lease, rental, and or the repair and maintenance of any such equipment.
- 8) Cost of any travel ticket class on any airline, limousine, bus, coach, train, ship, or other means of transportation that is above the economy (coach) class.
- 9) Cost of any priority boarding, preferred seating, and or other upgrades on any airline, limousine, bus, coach, train, ship, or other means of transportation.
- 10) Donations and any charitable contributions to individuals, organizations, and not-for-profit entities including value of time donated.
- 11) Entertainment expenses including but not limited to, movies, concerts, theatre performances, events at museums, entertainment shows, car shows, social and cultural events, hunting and fishing events, hot air balloon rides, sport events, golf games, sports tournaments, food and drink tasting, or any other excursion/entertainment.

- 12) and other excursions.
- 13) Excess baggage fees and or surcharges for overweight baggage.
- 14) Expenses for spouse, partners, family members, pets, and or for other guests accompanying the member of the City Council.
- 15) Fitness center charges, health club expenses, and other personal services including sports spa, hot tub, and massage/reflexology services.
- 16) Flight and or travel/trip insurance.
- 17) Gambling expenses, cost of lottery tickets, bingo, betting on sports and races, and cost of other game of chance even if it is operated by charitable organizations.
- 18) Gifts, souvenirs, t-shirts, baseball caps, jackets, and other similar personal items.
- 19) Grooming care services including haircuts, beard trimming, hair stylists, hair removal services, nail salon services, beauty parlor services, tattoo services, tattoo removal services, shoe shining, etc.
- 20) Home office expenses including but not limited to internet services, cable service, cellular or mobile phone service, networking services, office equipment, furniture and fixtures, file cabinets, lighting, ceiling fans, flooring, security and surveillance systems, rent for office space, and any repairs or maintenance of such items.
- 21) Loss of personal funds and or personal property.
- 22) Marijuana and or related by-products.
- 23) Passport fees, global entry or similar security clearance fees, annual service fees for security clearance, airline pre-check fee for pre-screening convenience service, etc.
- 24) Personal items such as clothing, jewelry, watches, batteries for hearing aid and watches, shoes, handbags, hats, raincoats, umbrellas, wigs, toothbrush and toothpaste, shaving kits, toiletries, mints, chewing gum, breath fresheners, air fresheners, sunglasses, visors, baseball caps, sunscreens, etc.
- 25) Prescription and over the counter medications, sleep aids, thermometers, oxygen sensors, oxygen tanks or refills, contact lens cleaners, bandages, pain relievers, sanitary pads, adult diapers, etc.
- 26) Pet sitting, pet-care, kenneling, veterinarian fees, pet supplies, etc.
- 27) Private and or charter flights.
- 28) Subscription and membership services including but not limited to airline frequent flyer clubs, airport and airline lounge services, auto clubs, Amazon Prime, Instacart, Costco, Sam's Warehouse, and other similar card membership fees and dues.
- 29) Tips and or gratuities on meals and other services exceeding 20 percent (20%).
- 30) Tobacco and or tobacco products.
- 31) Traffic citations, parking tickets, related attorney fees, court fees, and other fines.

32) Valet service for parking when self-parking options are available.

13. Resignation or Upon Completion of Council Member's Term

When a member of the City Council resigns from their elected position or upon completion of their term of office, all procedural and requirements of this policy will continue to apply until they fully reconcile and settle all credit card transactions for expenses incurred by them and posted to the final credit card statement for their City issued credit card.

Upon resignation by a member of the City Council or completion of their elected term of office, the City Manager and City staff in the City's Financial Services Department shall take the following actions immediately:

- A. Deactivate the City-issued credit card.
- B. Cease processing of any credit card transaction incurred after the resignation date or the term end date.
- C. Cease reimbursement of any expenses incurred after the resignation date or the term end date.
- D. If the outgoing member of the City Council fails to reconcile and settle their last credit card statement for the City issued credit card, then the City Manager and appropriate City staff are fully authorized under this policy to create an accounts receivable for the amount owed to the City on the City's General Fund balance sheet, send an invoice to the outgoing member of the City Council to pay the amount owed within fifteen (15) business days.
- E. Should the outgoing member of the City Council fail or refuse to pay any amount owed to the City by the deadline (within the fifteen (15) business days), then the City Manager and appropriate City staff in the City's Financial Services Department are fully authorized to submit the outstanding accounts receivable balance to the City's collection agency for processing.

14. Policy Directives to City Manager & City Staff

This policy is adopted by a City Ordinance approved by a majority vote of the City Council. Accordingly, it is the expressed intent and direction of the City Council to the City Manager, Assistant City Managers, City Secretary, and all appropriate City staff in the City's Financial Services Department that should any member of the City Council fails to adhere to and comply with the requirements of this policy, that all of the following actions shall be immediately implemented:

- A. Deactivation or suspension of the City-issued credit card, and
- B. Cease and suspend all requests for reimbursement of City-related business expenses, and

- C. Cease and suspend all requests for mileage reimbursement for City-related business use of personal vehicle.

The above action steps shall be enforced equally by the City Manager and City staff for all members of the City Council and shall remain in effect until the City Council member comes into full compliance with the requirements of the City's Policy for Members of City Council Regarding City Business Expenses Charged on City Credit Card & Request for Reimbursement of City Business Expenses.

The City Manager nor any member of the City staff has been authorized or given the expressed or implied authority under this policy to make any exceptions to any of the requirements of this policy as adopted by the City Council under this Ordinance.

15. Exhibits

- A. Travel Expense Claim/Report Form – For Use by Members of City Council
- B. Request for Expense Reimbursement Form - For City Related Business Expense Incurred by Member of City Council
- C. Request for Mileage Reimbursement Form - For Use of Personal Vehicle by Member of City Council for City Business

16. City Council Authorization

The above guidelines and policy requirements of the City's Policy for City Council Members Regarding City Business Expenses Charged on City Credit Card & Request for Reimbursement of City Business Expenses were considered, approved, and adopted by a majority vote of the City Council when adopting the City Ordinance.

EXHIBIT A

TRAVEL EXPENSE CLAIM/REPORT FORM
FOR CITY RELATED BUSINESS TRAVEL EXPENSE
INCURRED BY MEMBERS OF CITY COUNCIL

DRAFT



**Travel Expense Claim Form
For Use By Members of City Council**

Date Form Completed: _____

Council Member's Name: _____

Date of Travel: _____

Traveled to: _____

Purpose of Travel: _____

Summary of Travel Expenses Claimed**	
	Amount
Food/M Meal Expenses:	
Lodging & Transportation Expenses:	
Conference Registration & Other Travel Expenses:	
Mileage Expense for Use of Personal Vehicle:	
Total Travel Expenses Claimed:	

Food/Meal Expenses**				
Date	Breakfast	Lunch	Dinner	Total
Total:				

Lodging & Transportation Expenses**					
Date	Airfare	Car Rental	Parking	Hotel	Total
Total:					

Conference Registration & Other Travel Expenses**		
Date	Description	Amount
Total:		

Mileage Claim If Using Personal Vehicle to Travel			
Date	Driven From/To and Purpose	Miles	Amount
Total:			

I hereby certify that the expenses listed above are accurately recorded and represent only expenditures made by me for City business related travel.

Signature: _____ Date: _____

** Actual receipts must be provided and attached for each travel related expense claimed on this form.

EXHIBIT B

REQUEST FOR EXPENSE REIMBURSEMENT FORM
FOR CITY RELATED MISCELLANEOUS BUSINESS EXPENSE
INCURRED BY MEMBERS OF CITY COUNCIL

DRAFT



**REQUEST FOR EXPENSE REIMBURSEMENT FORM
FOR CITY-RELATED MISCELLANEOUS BUSINESS EXPENSE
INCURRED BY MEMBERS OF CITY COUNCIL**

Name of Council Member: _____

Date of Expense	Description of City-Related Business Expense	Total Cost
	Total Expense Reimbursement Request:	

Please ensure that all receipts for items listed above are attached to this form.

I hereby certify that the expense(s) listed above are accurately recorded and represent only expenditures made by me for City-related business purposes.

Signature: _____

Date: _____

EXHIBIT C

REQUEST FOR MILEAGE REIMBURSEMENT FORM
FOR USE OF PERSONAL VEHICLE FOR CITY BUSINESS
INCURRED BY MEMBERS OF CITY COUNCIL

DRAFT



CITY OF KYLE, TEXAS

Council Visioning Workshop

Meeting Date: 9/20/2022

Date time:7:00 PM

Subject/Recommendation: Discussion regarding location, dates, times, activities for 2023 Council Visioning Workshop. ~ *Jerry Hendrix, Interim City Manager*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Executive Session - Convene

Meeting Date: 9/20/2022

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.
 - Joe Brooks - Z-22-0099
 - Julia Parker Family Partnership and the L. W. Parker Family Trust - Z-22-0104
 - Legal Advice regarding the use of Bond Proceeds
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072 to deliberate the purchase of real property for public purpose.
3. Personnel matters pursuant to Section 551.074.
 - Interim City Manager
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 Midnight Blue
 - Project Brown Bear

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Reconvene

Meeting Date: 9/20/2022
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