

CITY OF KYLE

Notice of TIRZ #5 Board Meeting



Kyle City Hall, 100 W. Center Street, Kyle, TX 78640

The public can watch remotely at: Spectrum 10;
<https://www.cityofkyle.com/communications/city-videos-kyle-10>. One or more members of the board may participate in the meeting by videoconference pursuant to Section 551.127, Texas Government Code, provided that a quorum of the board will be present at Kyle City Hall.

Notice is hereby given that the board of the City of Kyle Tax Increment Reinvestment Zone No. 5, will meet at 6:00 PM on December 19, 2023, at Kyle City Hall, 100 W. Center Street, Kyle, TX 78640, for the purpose of discussing the following agenda.

Posted this 15th day of December, 2023, prior to 5:30 p.m.

I. Call Meeting to Order

II. Citizen Comment Period

The TIRZ #5 Board welcomes comments from Citizens early in the agenda of special 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.

III. Consider and Possible Action

1. An Election of the Board of Directors of the Tax Increment and Reinvestment Zone Number Five, City of Kyle, Texas to Elect Officers of the Board. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*
2. Adopt an Official Seal for Tax Increment and Reinvestment Zone Number Five. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*
3. A Resolution of the Board of Directors for the Tax Increment and Reinvestment Zone Number Five, City of Kyle, Texas Adopting the Final Project and Financing Plan for the Zone; in connection with the Development of the Zone; Approving an Economic Development Agreement; and Recommending Approval of the Final Plan to the City

IV. Executive Session

4. Pursuant to Chapter 551, Texas Government Code, the TIRZ #5 Board reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The TIRZ #5 Board 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 and Attorneys concerning legal issues pursuant to Section 551.071, Texas Government Code, and Section 1.05, Texas Disciplinary Rules of Professional Conduct.
 2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
 3. Personnel matters pursuant to Section 551.074.
 4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.
5. Take action on items discussed in Executive Session.

V. Adjourn

*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

Elect Officers of the Board

Meeting Date: 12/19/2023

Date time: 6:00 PM

Subject/Recommendation: An Election of the Board of Directors of the Tax Increment and Reinvestment Zone Number Five, City of Kyle, Texas to Elect Officers of the Board. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description



Staff Memo



Board Chair & TIRZ No. 5 Meeting

DEPARTMENT: Planning

FROM: Paige Saenz, The Knight Law Firm, LLP, City Attorney

MEETING: Tuesday, December 19, 2023

SUBJECT:

TIRZ #5 Election of Officers

SUMMARY:

Section 311.009(f), Texas Tax Code provides that TIRZ Board of Directors may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman and any other officers it considers appropriate.

OPTIONS:

Elect a member to serve as vice-chair or decline to do so. Elect a Board Secretary, or decline to do so.

RECOMMENDATION:

Elect a board member to serve as vice-chair. Elect the City Secretary or in her absence, Deputy City Secretary, to serve as Board Secretary.

FISCAL IMPACT:

None

STAFF CONTACT:

Name: Will Atkinson

Title: Director of Planning

watkinson@cityofkyle.com

512-233-1144



CITY OF KYLE, TEXAS

Official Seal

Meeting Date: 12/19/2023

Date time: 6:00 PM

Subject/Recommendation: Adopt an Official Seal for Tax Increment and Reinvestment Zone Number Five. ~
Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Staff Memo
- ☐ Stamp Art



Board Chair & TIRZ No. 5 Meeting

DEPARTMENT: Planning

FROM: Paige Saenz, The Knight Law Firm, LLP, City Attorney

MEETING: Tuesday, December 19, 2023

SUBJECT:

TIRZ #5 Seal

SUMMARY:

The TIRZ Board is requested to take action to adopt an official seal in the form attached hereto to be used to seal official TIRZ documents.

OPTIONS:

Approve or disapprove the proposed seal.

RECOMMENDATION:

Approve the seal.

FISCAL IMPACT:

Purchase of a stamp bearing the seal

STAFF CONTACT:

Name: Will Atkinson

Title: Director of Planning

watkinson@cityofkyle.com

512-233-1144





CITY OF KYLE, TEXAS

Resolution approving the final project and finance plan and Ch. 380

Meeting Date: 12/19/2023

Date time: 6:00 PM

Subject/Recommendation: A Resolution of the Board of Directors for the Tax Increment and Reinvestment Zone Number Five, City of Kyle, Texas Adopting the Final Project and Financing Plan for the Zone; in connection with the Development of the Zone; Approving an Economic Development Agreement; and Recommending Approval of the Final Plan to the City Council of the City of Kyle, Texas. ~ *Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ☐ Resolution
- ☐ Staff Memo
- ☐ 2023-12-19_KYL_TIRZ_5_PFP_Final (Replaced 12.19.2023)
- ☐ 2023-12-19_KYL_TIRZ_5_REDLINE PFP_Final

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF DIRECTORS FOR THE TAX INCREMENT AND REINVESTMENT ZONE NUMBER FIVE, CITY OF KYLE, TEXAS ADOPTING THE FINAL PROJECT AND FINANCING PLAN FOR THE ZONE; IN CONNECTION WITH THE DEVELOPMENT OF THE ZONE; APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT; AND RECOMMENDING APPROVAL OF THE FINAL PLAN TO THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS

WHEREAS, on December 5, 2023, the City Council (the “City Council”) of the City of Kyle, Texas (the “City”), adopted Ordinance No. 1294 (the “TIRZ Ordinance”) creating Reinvestment Zone Number Five, City of Kyle, Texas (the “Zone”) pursuant to Chapter 311 of the Texas Tax Code (the “Act”);

WHEREAS, in addition to creating the Zone, the TIRZ Ordinance appointed the Board of Directors of the Zone (the “Board”) and approved the Preliminary Project and Finance Plan for the Zone;

WHEREAS, on December 19, 2023, the Board met to consider and recommend that the “Reinvestment Zone Number Five, City of Kyle, Texas, Final Project and Finance Plan”, a copy of which is attached hereto as Exhibit A (the “Final Plan”), to be adopted by the City Council by ordinance as the reinvestment zone project plan and financing plan for the Zone, in accordance with Section 311.011 of the Act;

WHEREAS, pursuant to Section 311.010 of the Act, the Board is authorized to enter into agreements as the Board considers necessary or convenient to implement the Final Plan;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ZONE AS FOLLOWS:

SECTION 1. Findings. The findings and determinations set forth in the preamble above are hereby deemed to be true and correct and incorporated herein.

SECTION 2. Adoption and Recommendation of Final Plan. The Final Plan has been prepared by the Board and conforms with and satisfies all requirements set forth in Section 311.011 of the Act. The Board finds that the Final Plan is feasible. The Board hereby adopts the Final Plan, a copy of which is attached hereto as Exhibit A and is incorporated herein for all purposes, as the reinvestment zone project plan and financing plan for the Zone and hereby recommends to the City Council that they approve the Final Plan as the reinvestment zone project plan and financing plan for the Zone.

SECTION 3. Approval of 380 Agreement. That certain “Chapter 380 Incentives Agreement – Project Hot Pursuit” (the “380 Agreement”), among, NewQuest Equity, L.C., a Texas limited liability company, the Board and the City is hereby authorized and approved in substantially the form attached hereto as Exhibit B, which is incorporated herein as a part hereof for all purposes, and the Chairman of the Board is hereby authorized and directed to execute and

deliver such 380 Agreement with such changes as may be required to carry out the purposes of this Resolution and approved by the Chairman, such approval to be evidenced by the execution thereof. The Board hereby recommends to the City Council that they approve the 380 Agreement.

SECTION 4. Additional Actions. The Chairman and Board Secretary are hereby authorized and directed to take any and all actions on behalf of the Board necessary or desirable to carry out the intent and purposes of this Resolution.

SECTION 5. Governing Law. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 6. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 7. Severability. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution or the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 8. Construction of Terms. If appropriate in the context of this Resolution, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 9. Effective Date. This Resolution shall become effective from and after its date of passage in accordance with the law.

[Remainder of Page Intentionally Left Blank; Signatures to Follow]

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF REINVESTMENT ZONE
NUMBER FIVE, CITY OF KYLE, TEXAS ON THIS 19TH DAY OF DECEMBER, 2023.

By: _____
Chairman

ATTEST:

Board Secretary

EXHIBIT A

Final Plan



REINVESTMENT ZONE NUMBER FIVE,
CITY OF KYLE, TEXAS
FINAL PROJECT AND FINANCE PLAN
DECEMBER 19, 2023

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SECTION 1: DEFINITIONS

Capitalized terms used in this Final Plan shall have the meanings given to them in **Section I** below unless otherwise defined in this Final Plan or unless the context in which a term is used clearly requires a different meaning. Unless otherwise defined, a reference to a “Section,” or an “Exhibit,” shall be a reference to a Section of this Final Plan or an Exhibit or Appendix attached to and made a part of this Final Plan for all purposes.

“380 Grant” means a program authorized by Chapter 380 of the Texas Local Government Code, as amended that makes grants from the TIRZ Fund of the Zone, pursuant to the City 380 Agreement.

“381 Grant” means a program authorized by Chapter 381 of the Texas Local Government Code, as amended by and between the county and the Developer that makes grants from a portion of the County’s sales tax collections within the Zone, pursuant to the County 381 Agreement.

“Act” means Chapter 311, Texas Tax Code, Tax Increment Financing Act, as amended.

“Administrative Costs” means the actual, direct costs paid or incurred by or on behalf of the City to administer the Zone, including planning, engineering, legal services, organizational costs, publicizing costs, or implementations costs paid by or on behalf of the City that are directly related to the administration of the Zone.

“Appraisal District” means the Hays Central Appraisal District.

“Board” means the Board of Directors for the Zone.

“Captured Appraised Value” means the new taxable value generated in addition to the Tax Increment Base on a parcel-by-parcel basis for each year during the term of the Zone, as calculated and confirmed annually by the Appraisal District.

“City 380 Agreement” means the agreement between the City and Developer that provides incentive payments to the Developer, upon the satisfaction of certain metrics, paid with the TIRZ Increment Receipts produced by the Zone.

“City Council” means the governing body of the City.

“City Property Tax Increment” means fifty percent (50%) of the City’s ad valorem real property taxes collected and received by the City on the Captured Appraised Value in the Zone and deposited into the TIRZ Fund.

“City Sales Tax Increment” means fifty percent (50%) of the City’s sales taxes collected and received by the City from the development within the Zone and deposited into the TIRZ Fund.

“City” means the City of Kyle, Texas.

“County 381 Agreement” means the agreement between the County and Developer that dedicates one half (1/2) of the County sales tax generated in the Zone to reimburse the Developer for Project Costs of the Zone.

“County Participation Agreement” means that certain Interlocal Agreement to Participate in Reinvestment Zone Number Five, City of Kyle, Texas, entered into by the City and County on December 19, 2023, detailing the City and County’s participation in the Zone.

“County TIRZ Increment” means fifty percent (50%) of the County’s ad valorem real property taxes collected and received by the City on the Captured Appraised Value in the Zone and deposited into the TIRZ Fund.

“County” means Hays County, Texas.

“Creation Ordinance” means Ordinance No. 1294 adopted by the City Council on December 5, 2023.

“Debt Service” means the total principal and interest due on any TIRZ Bonds issued and sold by the City to acquire the Public Improvements, which Debt Service may be paid from the TIRZ Increment Receipts.

“Developer” means NewQuest Equity, L.C. and Transwestern Development Company L.L.C. and its successors or assigns.

“Economic Development Grants” means the 380 Grant and the 381 Grant.

“Feasibility Study” means the economic feasibility study as evaluated over the term of the Zone and focused only on direct financial benefits, as shown on **Exhibit E**.

“Final Plan” means the future *Reinvestment Zone Number Five, City of Kyle Final Project and Finance Plan*.

“Non-Project Costs” means those certain costs that will be spent to develop in the Zone, but will not be financed by the Zone, and will be financed by private funds, as described in **Section 6**, and shown on **Exhibit B**.

“Preliminary Plan” means this *Reinvestment Zone Number Five, City of Kyle Preliminary Project and Finance Plan*.

“Project Costs” means the total costs in the Zone, including the Administrative Costs, the actual costs of the Public Improvements, Debt Service on any TIRZ Bonds issued to acquire the Public Improvements, and the 380 Grant.

“Property” means 100.57 acres of land as depicted on **Exhibit A** and identified on **Exhibit F**.

“Public Improvements” means the proposed public improvements to be financed by the Zone, which includes roads, water, public utilities, and soft costs related thereto, as depicted on **Exhibit H**, and detailed on **Exhibit C**.

“Right-of-Way Land Acquisition” means the land to be acquired by the City and legally recognized as a route for public use for the benefit of the Zone.

“Road Bonds” means any general obligation bonds issued by the City pursuant to voter authorization obtained at an election held on November 8, 2022.

“Sales Tax Base” means the total amount of municipal sales and use taxes attributable to the Zone in 2023. The Sales Tax Base is \$0.00.

“Tax Increment Base” means total appraised value of taxable real property in the Zone at the time of creation of the Zone, as calculated and certified by the Appraisal District.

“TIRZ Bonds” means any public securities, other than Road Bonds, issued by the City to acquire the Public Improvements, which Debt Service thereof may be paid from the TIRZ Increment Receipts.

“TIRZ Fund” means the tax increment fund created by the City and segregated from all other funds of the City.

“TIRZ Increment Receipts” means the cumulative amount of the City Property Tax Increment, the City Sales Tax Increment, and the County TIRZ Increment.

“Total Payments” means the cumulative amount of payments made pursuant to the terms of this Project and Finance Plan, including the Economic Development Grants, payment for Right-of-Way land acquisition, and the net proceeds of TIRZ Bonds, if any, on any series of bonds issued to finance the Public Improvements in an amount not to exceed \$38,970,938 less interest amounts on paid TIRZ Bonds, if any.

“Zone” means Reinvestment Zone Number Five, City of Kyle, as depicted on **Exhibit A**, and described on **Exhibit F**.

SECTION 2: INTRODUCTION

2.1 Authority and Purpose

The City has the authority under the Act to designate a contiguous or noncontiguous geographic area within the corporate limits or extraterritorial jurisdiction of the City as a tax increment reinvestment zone to promote development or redevelopment of the area because the City Council determined that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future, that the Zone is economically feasible, and that creation of the Zone is in the best interest of the City and the property in the Zone. The purpose of the Zone is to facilitate such development or redevelopment by financing the costs of public works, public improvements, programs, and other projects benefiting the Zone, plus other costs incidental to those expenditures, all of which costs are authorized by the Act.

2.2 Eligibility Requirements

An area is eligible under the Act to be designated as a tax increment reinvestment zone if the area:

- 1) substantially arrests or impairs the sound growth of the municipality designating the Zone, retard the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition; or
- 2) is predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impairs or arrests the sound growth of the City; or
- 3) is in a federally assisted new community located in the City or in an area immediately adjacent to a federally assisted new community; or
- 4) is in an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the City by the owners of property constituting at least fifty percent (50%) of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

The City cannot, however, designate a zone if more than thirty percent (30%) of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes, or if the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds fifty percent (50%) of the total appraised value of taxable real property in the City and in industrial districts created by the City.

2.3 Proposed Zone

Concurrently with the approval of this Final Plan, the Property within the proposed Zone will be located within the corporate limits of the City. The Property is predominantly open, undeveloped or underdeveloped, and substantially impairs and arrests the sound growth of the City. Due to its size, location, and physical characteristics development would not occur solely through private investment in the foreseeable future. The Property lacks public infrastructure and requires economic incentive to attract development for the purpose of providing long-term economic benefits including, but not limited to, increased real property tax base for all taxing units in the Zone. If the Public Improvements are financed as contemplated by this Final Plan, the City envisions that the Property will be developed to take full advantage of the opportunity to bring to the City a quality development.

2.4 Preliminary Plan and Hearing

Before the City Council adopted the Creation Ordinance, the City Council prepared the Preliminary Plan in accordance with the Act and held a public hearing on the creation of the Zone and its benefits to the City and to the Property, at which public hearing interested persons were given the opportunity to speak for and against the creation of the Zone, the boundaries of the Zone and the concept of tax increment financing, and at which hearing the owners of the Property were given a reasonable opportunity to protest the inclusion of their Property in the Zone. The requirement of the Act for a preliminary reinvestment zone project and finance plan was satisfied by the Preliminary Plan, the purpose of which was to describe, in general terms, the Public Improvements that would be undertaken and financed by the Zone. A description of the uses of the Property is located in **Exhibit G**, and confirmed by the adoption of this Final Plan.

2.5 Creation of the Zone

Upon the closing of the December 5, 2023 public hearing, the City Council approved the Creation Ordinance and the following findings:

- 1) that development or redevelopment of the Property would not occur solely through private investment in the reasonably foreseeable future,
- 2) that the Zone was feasible,
- 3) that improvements in the Zone will significantly enhance the value of all the taxable real property in the Zone and will be of general benefit to the City, and
- 4) that the Zone meets the eligibility requirements of the Act.

Among other provisions required by the Act, the Creation Ordinance shall appoint the Board.

2.6 Council action

2.6.1 Final Project and Finance Plan

On December 19, 2023, the City Council approved Ordinance No. 1294, adopting a Final Plan for the Zone.

2.6.2 County Participation in the Zone

On December 19, 2023, the City Council and County entered into the County Participation Agreement, detailing the County's participation in the Zone.

2.6.3 Board Recommendation

On December 19, 2023, the Board reviewed, and recommended to the City Council this Final Plan. The City Council shall consider this Final Plan, pursuant to which the City will contribute the City Property Tax Increment and the City Sales Tax Increment into the TIRZ Fund and the County will contribute the County TIRZ Increment into the TIRZ Fund to fund the Project Costs benefiting the Zone.

SECTION 3: DESCRIPTION AND MAPS

3.1 Existing Uses and Conditions

The Property is currently zoned Agriculture and is intended to be developed with commercial and residential uses. The Property is undeveloped or underdeveloped, and there is limited public infrastructure to support development. Development requires extensive public infrastructure that: (1) the City could not provide, and (2) would not be provided solely through private investment in the foreseeable future.

3.2 Proposed Uses

The proposed uses of the Property in the City include commercial and residential use, as shown on **Exhibit G**.

SECTION 4: PROPOSED CHANGES TO ORDINANCES, PLANS, CODES, RULES, AND REGULATIONS

Concurrently with the approval of this Final Plan, the Property within the proposed Zone will be located within the corporate limits of the City and shall be subject to the City's zoning regulations. The property is currently zoned as Agriculture. The City has exclusive jurisdiction over the subdivision and platting of the property within the Property and the design, construction, installation, and inspection of water, sewer, drainage, roadway, and other public infrastructure. No proposed changes to zoning ordinances, comprehensive plan, building codes, subdivision rules, or other municipal ordinances are planned.

SECTION 5: RELOCATION OF DISPLACED PERSONS

No persons were displaced and in need of relocation due to the creation of the Zone or shall be due to the implementation of this Plan.

SECTION 6: NON-PROJECT COSTS

Non-project costs are costs that will be spent to develop in the Zone but will not be financed by the Zone, and will be financed by private funds. The list of non-project costs is shown on **Exhibit B** and are estimated to be approximately \$176,793,059.

SECTION 7: PUBLIC IMPROVEMENTS

7.1 Categories of Public Improvements

All Public Improvements shall be designed and constructed in accordance with all applicable City standards and shall otherwise be inspected, approved, and accepted by the City. At the City's option, the Public Improvements may be expanded to include any other category of improvements authorized by the Act.

7.2 Locations of Public Improvements

The estimated locations of the proposed Public Improvements are depicted on **Exhibit H**. These locations may be revised, with the approval of the City, from time to time without amending this Final Plan.

SECTION 8: PROJECT COSTS

8.1 Project Costs

The total costs are estimated to be \$39,291,241, as shown below and detailed on **Exhibit C**. The Project Costs of are estimated to be \$38,970,938, and the Administrative Costs are estimated to be \$320,303.

8.1.1 Administrative Costs

The Administrative Costs are estimated at \$10,000 in 2024 and projected to increase by two percent (2%) per year beginning 2025. The Administrative Costs shall be paid each year from the TIRZ Fund before any other Project Costs are paid.

8.1.2 Project Costs

The total Project Costs are estimated to be \$38,970,938, as shown on **Exhibit C**.

8.2 Estimated Timeline of Incurred Costs

The Administrative Costs will be incurred annually through the remaining duration of the Zone. It is estimated the costs for constructing the Public Improvements will be incurred between 2026 and 2028, as shown on **Exhibit D**.

SECTION 9: FEASIBILITY STUDY

9.1 Feasibility Study

The Feasibility Study focuses on only direct financial benefits (i.e. ad valorem tax and sales tax revenues from the development of Public Improvements in the Zone). Based on the Feasibility Study, during the term of the Zone, new development (which would not have occurred but for the Zone) will generate approximately \$39,036,988 in total new real property tax revenues for the participating taxing entities over the term of the Zone. Approximately \$19,518,494 in City Property Tax Increment and County TIRZ Increment will be deposited into the TIRZ Fund to pay for the Project Costs over the life of the Zone. The remaining real property tax over that period, estimated at \$19,518,494 shall be retained by the participating taxing entities.

The Feasibility Study shows the cumulative City Property Tax Increment is estimated to be \$11,792,005 which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new City Property Tax Increment generated within the Zone and retained by the City is estimated to be \$11,792,005 over the term of the Zone.

The Feasibility Study shows the cumulative County TIRZ Increment is estimated to be \$7,726,489, which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new County real property tax and sales tax revenues generated within the Zone and retained by the County is estimated to be \$7,726,489, over the term of the Zone.

The Feasibility Study shows the cumulative City Sales Tax Increment is estimated to be \$28,376,768 which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new City Sales Tax Increment generated within the Zone and retained by the City is estimated to be \$28,376,768 over the term of the Zone.

Any Project Costs not paid from the TIRZ Increment Receipts or the 381 Grant will be paid for with private funds. Provided, however, notwithstanding anything in this Preliminary Plan or in any agreement to the contrary, amounts paid to the Developer shall not exceed the Total Payments.

SECTION 10: ESTIMATED BONDED INDEBTEDNESS

The City shall be authorized to issue TIRZ Bonds which are secured by and payable from the City TIRZ Increment. The estimated bonded indebtedness of the Zone is anticipated to be \$8,450,000, as shown on **Exhibit C**. The bonds, supported by the TIRZ, are anticipated to be issued by the City in 2027.

SECTION 11: APPRAISED VALUE

11.1 Tax Increment Base

The Tax Increment Base is estimated to be \$38,990 and shall be confirmed by the Appraisal District. Each year, the Appraisal District shall confirm the Captured Appraised Value of the Zone.

11.2 Estimated Captured Appraised Value

It is estimated that upon expiration of the term of the Zone, the total Captured Appraised Value of taxable real property in the Zone will be approximately \$290,965,150, as shown on **Exhibit E**. The actual Captured Appraised Value, as certified by the Appraisal District each year, will be used to calculate the City Property Tax Increment and the County TIRZ Increment, as applicable, pursuant to this Final Plan.

SECTION 12: METHOD OF FINANCING

12.1 TIRZ No. 5 Fund Contributions

All payments of Project Costs shall be made solely from the TIRZ Fund and the 381 Grant. No other funds of the City or County shall be utilized, unless otherwise approved by their respective governing bodies. The TIRZ Fund shall only be used to pay the Project Costs. The City may amend this Final Plan in compliance with the County Participation Agreement, including but not limited to what is considered a Project Cost.

Additionally, funds deposited into the TIRZ Fund, shall be applied in the following order:

- 1) First, to the allocation of the reasonable Administrative Costs of the Zone (but only from the City Property Tax Increment and the City Sales Tax Increment);
- 2) Second, to the allocation for the annual payments of Debt Service of any TIRZ Bonds issued to acquire the Public Improvements;
- 3) Third, for payments to the Developer for the 380 Grant pursuant to the City 380 Agreement.
- 4) Fourth, to be used in any other manner authorized by the City and as allowed pursuant to the Act, and

- 5) Fifth, after all eligible Project Costs have been paid, any excess shall be returned to the general fund of the City and the County, respectively, on a pro rata basis.

12.1.1 City Property Tax Increment

This Final Plan shall obligate the City to deposit the City Property Tax Increment into the TIRZ Fund. For example, in FY 2024, the City's ad valorem tax rate was \$0.4693 per \$100 of taxable value, therefore the City would contribute \$0.23465 per \$100 of the Captured Appraised Value in the Zone levied and collected, to the TIRZ Fund.

12.1.2 County TIRZ Increment

The County Participation Agreement shall obligate the County to deposit the County TIRZ Increment into the TIRZ Fund. For example, in FY 2023, the County's ad valorem tax rate was \$0.3075 per \$100 of taxable value, therefore the County would contribute \$0.15375 per \$100 of the Captured Appraised Value in the Zone levied and collected, to the TIRZ Fund.

12.2 City Sales Tax

This Final Plan shall obligate the City to deposit the City Sales Tax Increment into the TIRZ Fund.

SECTION 13: DURATION OF THE ZONE, TERMINATION

13.1 Duration

The stated term of the Zone shall commence upon the execution of the Creation Ordinance and shall continue until December 31, 2048, with the last payment being due by January 31, 2049, unless otherwise terminated in accordance with the Creation Ordinance.

13.2 Termination

The Zone shall terminate on the earlier of (i) December 31, 2048, or (ii) at such time that all Debt Service on any TIRZ Bonds and all payments made to the Developer under the Economic Development Grants equal the Total Payments less amounts paid under the 381 Grant have been paid in full. If upon expiration of the stated term of the Zone, the Total Payments have not been fully funded by the TIRZ Fund and the 381 Grant, the City nor County shall have no obligation to pay the shortfall and the term shall not be extended. Nothing in this Section is intended to prevent the City or County from extending the term of the Zone in accordance with the Act.

LIST OF EXHIBITS

Unless otherwise stated, all references to "Exhibits" contained in this Preliminary Plan shall mean and refer to the following exhibits, all of which are attached to and made a part of this Preliminary Plan for all purposes.

Exhibit A	Map of the Zone
Exhibit B	Non-Project Costs
Exhibit C	List of Project Costs
Exhibit D	Estimated Timeline of Incurred Project Costs
Exhibit E	Feasibility Study
Exhibit F	Legal Description of the Zone
Exhibit G	Proposed Uses of the Property
Exhibit H	Map of the Public Improvements

EXHIBIT A – MAP OF THE ZONE

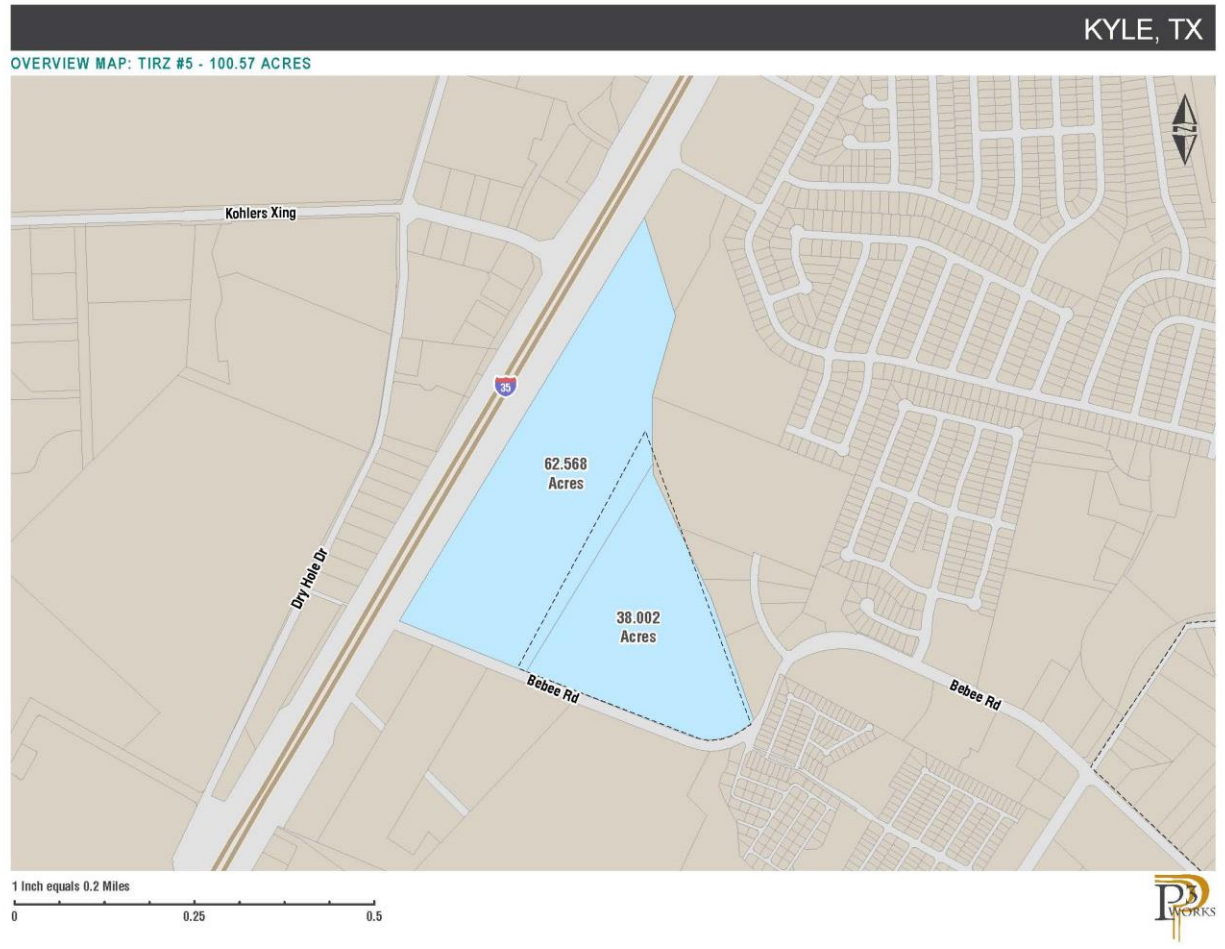


EXHIBIT B – NON-PROJECT COSTS

Lot Type	Unit/SF	Buildout Value	
		\$	Total
Inline Retail	267,275	\$ 190	\$ 50,782,250
Freestanding Retail	142,775	\$ 400	\$ 57,110,000
Restaurant	20,771	\$ 300	\$ 6,231,300
First Floor Retail	17,800	\$ 275	\$ 4,895,000
Multi-Family	421	\$ 201,900	\$ 85,000,000
Total Buildout Value			\$ 204,018,550
Less: Beginning Taxable Value			\$ (38,990)
Less: Public Improvements			\$ (27,186,501)
Total Non-Project Costs			\$ 176,793,059

Footnotes:

¹Values based on Developer's model dated 7/19/2023.

EXHIBIT C – LIST OF PROJECT COSTS

Reinvestment Zone Number Five, City of Kyle Project Costs			
Project Costs	TIRZ Funding	Other Sources	Total Funding
Right-of-Way Land Acquisition ¹	\$ -	\$ 5,500,000	
Debt Service on TIRZ Bonds for Public Improvements ²	\$ 12,695,938		
380 Grant	\$ 14,490,563		
Project Costs Subtotal³	\$ 27,186,501	\$ 5,500,000	\$ 32,686,501
Administrative Costs	320,303		
Total Project Costs	\$ 27,506,804	\$ 5,500,000	\$ 33,006,804

Footnotes:

¹ May be funded with appropriated funds or Road Bond proceeds. These amounts are not currently contemplated to be paid with TIRZ Bond proceeds or TIRZ Increment Receipts.

² The Par Value of the TIRZ Bonds is estimated to be \$8,450,000.

³ Maximum reimbursable costs to Developer is \$38,970,938, which is inclusive of the County's 381 Grant of \$6,284,437.

EXHIBIT D – ESTIMATED TIMELINE OF INCURRED PROJECT COSTS

Reinvestment Zone Number Five, City of Kyle, Texas Estimated Timeline of Incurred Project Costs

Zone Year	Calendar Year	Total Project Costs ^{1,2}	
		Annual	Cumulative
Base	2023	\$ -	\$ -
1	2024	\$ 11,632,965	\$ 11,632,965
2	2025	\$ 15,553,536	\$ 27,186,501
3	2026	\$ -	\$ 27,186,501
4	2027	\$ -	\$ 27,186,501
5	2028	\$ -	\$ 27,186,501
Total		\$ 27,186,501	

Footnotes:

¹ Estimate provided for illustrative purposes only.

² Does not illustrate Administrative Costs, which shall be incurred annually for the duration of the Zone.

EXHIBIT E – FEASIBILITY STUDY

Reinvestment Zone Number Five, City of Kyle Feasibility Study															
Zone Year	Calendar Year	Growth/ Year ¹	Added Development Value ²	New Taxable Value	Incremental Value	City Property Tax Increment ⁴			County TIRZ Increment ⁵			City Sales Tax Increment ⁶		Total TIRZ Fund Contribution ⁷	
						%	Annual	Cumulative	%	Annual	Cumulative	Annual	Cumulative	Annual	Cumulative
Base	2023			\$ 38,990											
1	2024	2%	-	\$ 39,770	\$ 780	50%	\$ -	\$ -	50%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2	2025	2%	-	\$ 40,565	\$ 1,575	50%	\$ 2	\$ 2	50%	\$ 1	\$ 1	\$ -	\$ -	\$ 3	\$ 3
3	2026	2%	-	\$ 41,376	\$ 2,386	50%	\$ 4	\$ 6	50%	\$ 2	\$ 4	\$ -	\$ -	\$ 6	\$ 9
4	2027	2%	151,229,535	\$ 151,271,739	\$ 151,232,749	50%	\$ 6	\$ 11	50%	\$ 4	\$ 7	\$ -	\$ -	\$ 9	\$ 18
5	2028	2%	4,992,900	\$ 159,290,074	\$ 159,251,084	50%	\$ 354,868	\$ 354,879	50%	\$ 232,520	\$ 232,528	\$ 999,150	\$ 999,150	\$ 1,586,538	\$ 1,586,556
6	2029	2%	53,715,517	\$ 216,191,392	\$ 216,152,402	50%	\$ 373,683	\$ 728,561	50%	\$ 244,849	\$ 477,376	\$ 1,039,200	\$ 2,038,350	\$ 1,657,731	\$ 3,244,288
7	2030	2%	-	\$ 220,515,220	\$ 220,476,230	50%	\$ 507,202	\$ 1,235,763	50%	\$ 332,334	\$ 809,711	\$ 1,386,233	\$ 3,424,583	\$ 2,225,768	\$ 5,470,056
8	2031	2%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 517,347	\$ 1,753,111	50%	\$ 338,982	\$ 1,148,693	\$ 1,386,233	\$ 4,810,815	\$ 2,242,562	\$ 7,712,618
9	2032	0%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 527,696	\$ 2,280,807	50%	\$ 345,763	\$ 1,494,456	\$ 1,386,233	\$ 6,197,048	\$ 2,259,692	\$ 9,972,310
10	2033	0%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 527,696	\$ 2,808,503	50%	\$ 345,763	\$ 1,840,219	\$ 1,386,233	\$ 7,583,280	\$ 2,259,692	\$ 12,232,002
11	2034	2%	-	\$ 229,424,035	\$ 229,385,045	50%	\$ 527,696	\$ 3,336,199	50%	\$ 345,763	\$ 2,185,982	\$ 1,386,233	\$ 8,969,513	\$ 2,259,692	\$ 14,491,694
12	2035	2%	-	\$ 234,012,516	\$ 233,973,526	50%	\$ 538,252	\$ 3,874,451	50%	\$ 352,680	\$ 2,538,661	\$ 1,386,233	\$ 10,355,745	\$ 2,277,164	\$ 16,768,858
13	2036	2%	-	\$ 238,692,766	\$ 238,653,776	50%	\$ 549,019	\$ 4,423,470	50%	\$ 359,734	\$ 2,898,396	\$ 1,386,233	\$ 11,741,978	\$ 2,294,986	\$ 19,063,843
14	2037	2%	-	\$ 243,466,621	\$ 243,427,631	50%	\$ 560,001	\$ 4,983,471	50%	\$ 366,930	\$ 3,265,326	\$ 1,386,233	\$ 13,128,210	\$ 2,313,164	\$ 21,377,007
15	2038	2%	-	\$ 248,335,954	\$ 248,296,964	50%	\$ 571,203	\$ 5,554,674	50%	\$ 374,270	\$ 3,639,596	\$ 1,386,233	\$ 14,514,443	\$ 2,331,705	\$ 23,708,713
16	2039	2%	-	\$ 253,302,673	\$ 253,263,683	50%	\$ 582,629	\$ 6,137,303	50%	\$ 381,757	\$ 4,021,352	\$ 1,386,233	\$ 15,900,675	\$ 2,350,618	\$ 26,059,330
17	2040	2%	-	\$ 258,368,726	\$ 258,329,736	50%	\$ 594,283	\$ 6,731,586	50%	\$ 389,393	\$ 4,410,745	\$ 1,386,233	\$ 17,286,908	\$ 2,369,909	\$ 28,429,239
18	2041	2%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 606,171	\$ 7,337,757	50%	\$ 397,182	\$ 4,807,927	\$ 1,386,233	\$ 18,673,140	\$ 2,389,585	\$ 30,818,824
19	2042	0%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 618,296	\$ 7,956,053	50%	\$ 405,127	\$ 5,213,054	\$ 1,386,233	\$ 20,059,373	\$ 2,409,655	\$ 33,228,480
20	2043	0%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 618,296	\$ 8,574,349	50%	\$ 405,127	\$ 5,618,181	\$ 1,386,233	\$ 21,445,605	\$ 2,409,655	\$ 35,638,135
21	2044	2%	-	\$ 268,806,823	\$ 268,767,833	50%	\$ 618,296	\$ 9,192,645	50%	\$ 405,127	\$ 6,023,308	\$ 1,386,233	\$ 22,831,838	\$ 2,409,655	\$ 38,047,790
22	2045	2%	-	\$ 274,182,959	\$ 274,143,969	50%	\$ 630,664	\$ 9,823,309	50%	\$ 413,231	\$ 6,436,538	\$ 1,386,233	\$ 24,218,070	\$ 2,430,127	\$ 40,477,917
23	2046	2%	-	\$ 279,666,618	\$ 279,627,628	50%	\$ 643,279	\$ 10,466,587	50%	\$ 421,496	\$ 6,858,035	\$ 1,386,233	\$ 25,604,303	\$ 2,451,008	\$ 42,928,925
24	2047	2%	-	\$ 285,259,951	\$ 285,220,961	50%	\$ 656,146	\$ 11,122,734	50%	\$ 429,927	\$ 7,287,962	\$ 1,386,233	\$ 26,990,535	\$ 2,472,306	\$ 45,401,231
25	2048	2%	-	\$ 290,965,150	\$ 290,926,160	50%	\$ 669,271	\$ 11,792,005	50%	\$ 438,527	\$ 7,726,489	\$ 1,386,233	\$ 28,376,768	\$ 2,494,031	\$ 47,895,261
Total			209,937,952			\$ 11,792,005			\$ 7,726,489			\$ 28,376,768		\$ 47,895,261	

Assumptions	
Base Taxable Value ³	\$ 38,990
City AV Rate	0.469300
County AV Rate	0.3075

Footnotes
1) Values increased at 2% annually with two years of no growth each decade to simulate an economic downturn.
2) Based on project development data as provided by the Developer.
3) Base Taxable Value is subject to confirmation by Appraisal District. The City Base Taxable Value is lower due to two parcels being located in the City's ETJ currently.
4) The City agreed to participate at 50% of the Incremental Value of property tax.
5) The County agreed to participate at 50% of the Incremental value of property tax.
6) The City agreed to participate at 50% of the sales tax generated.
7) The Total Payments will conclude after the City/County participation equals the maximum reimbursement to developer of \$38,970,938. The Total Payments includes Principal & Interest on Bonds, Right-of-Way Cost, TIRZ and 381 payments.

EXHIBIT F – LEGAL DESCRIPTION OF THE ZONE

EXHIBIT “ ”

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 101.8289 ACRES (4,435,666 SQUARE FEET) PARTIALLY OUT OF THE THOMAS G. ALLEN SURVEY, ABSTRACT NO. 26 IN HAYS COUNTY, TEXAS, AND PARTIALLY OUT OF THE DAN DOWNER SURVEY NO. 22, ABSTRACT NO. 151 IN HAYS COUNTY, TEXAS, BEING THE REMNANT PORTION OF A CALLED 104.08 ACRE TRACT CONVEYED TO CARAWAY CATTLE COMPANY FAMILY, IN VOLUME 4516, PAGE 661 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS (D.R.H.C.T.), SAID 101.8289 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:



PO Box 90876
Austin, TX 78709
(512) 537-2384
jward@4wardls.com
www.4wardls.com

BEGINNING, at a 1/2-inch iron rod with “4Ward Boundary” cap set at the intersection of the east right-of-way line of South IH 35 (right-of-way varies) and the north right-of-way line of Bebee Road (right-of-way varies), being the southwest corner of said 104.08 acre tract, for the southwest corner and POINT OF BEGINNING hereof, from which a 1/2-inch iron rod found for the intersection of the east right-of-way line of said IH 35 and the south right-of-way line of said Bebee Road, being the northwest corner of a called 45.64 acre tract (described as “Tract 1”) conveyed to Sunrise Village Investment, LLC in Document No. 20032482 of the Official Public Records of Hays County, Texas (O.P.R.H.C.T.), bears, S31°37’13”W, a distance of 79.98 feet;

THENCE, with the east right-of-way line of said IH 35 and the west line of said 104.08 acre tract, the following three (3) courses and distances:

- 1) N31°24’32”E, passing at a distance of 1,908.08 feet a TxDot type II Brass Disc found for a point on line hereof, and continuing for a total distance of 3,067.92 feet to a calculated point for an angle point hereof, from which a TxDot Type I concrete monument found bears, S73°31’45”E, a distance of 1.21 feet,
- 2) N53°13’03”E, a distance of 107.88 feet to a calculated point for an angle point hereof, from which a TxDot Type I concrete monument found bears, N59°56’12”W, a distance of 1.01 feet, and
- 3) N31°24’07”E, a distance of 284.23 feet to an 1/2-inch iron rod with illegible cap found for the north corner hereof, said point being the north corner of said 104.08 acre tract, and being the west corner of Lot 2, Amberwood Commercial Section 1, a subdivision recorded in Volume 14, Page 129 of the Plat Records of Hays County, Texas (P.R.H.C.T.), said Lot 2 having been conveyed to SPI Strand 160 EX, LLC in Document No. 1830726 (O.P.R.H.C.T.), from which a 1/2-inch iron rod found for an angle point in the north line of said Lot 1, Amberwood Commercial, being in the south right-of-way line of Amberwood South (right-of-way varies), bears, N31°24’07”E a distance of 398.05 feet, and N72°48’46”E, a distance of 44.66 feet;

THENCE, leaving the east right-of-way line of said IH 35, with the northeast line of said 104.08 acre tract, in part with the southwest line of said Lot 2, Amberwood Commercial, and in part with the southwest line of Lot 1 of said Amberwood Commercial (no ownership information provided for Lot 1 per Hays County Appraisal District), the following two (2) courses and distances:

- 1) S16°50’22”E, passing at a distance of 724.16 feet a 1/2-inch iron rod with illegible cap found for the common south corner of said Lot 1 and said Lot 2, Amberwood Commercial, and continuing for a total distance of 752.15 feet to a 1/2-inch iron rod with “4Ward Boundary” cap found for an angle point hereof, and

- 2) **S16°53'19"W**, a distance of **610.34** feet to a 1/2-inch iron rod found for an angle point hereof;

THENCE, with the northeast line of said 104.08 acre tract, in part with the southwest line of said Lot 1, Amberwood Commercial, in part with the southwest line of a called 25.98 acre tract (described as "Tract 2") conveyed to Kyle Business Park, L.P. in Volume 2835, Page 819 (D.R.H.C.T.), and in part with the southwest lines of Lots 21 through 23, Block A, Kyle Business Park, Section One, a subdivision recorded in Volume 12, Page 395 (P.R.H.C.T.), said Lots 21 through 23 (described as part of "Tract 2") having been conveyed to Kyle Business Park, L.P. in Volume 2835, Page 819 (D.R.H.C.T.), the following three (3) courses and distances:

- 1) **S00°13'08"W**, passing at a distance of 5.71 feet a calculated point for the common west corner of said Lot 1, Amberwood Commercial and said 25.98 acre tract, and continuing for a total distance of **567.81** feet to a 3/8-inch iron rod found for an angle point hereof,
- 2) **S24°24'03"E**, passing at a distance of 431.92 feet a 1/2-inch iron rod with "Bryn" cap found for the common west corner of said 25.98 acre tract and said Lot 21, passing at a distance of 853.52 feet a calculated point for the common west corner of said Lot 21 and said Lot 22, from which a 1/2-inch iron rod with "Bryn" cap found bears **S37°03'32"W**, a distance of 0.39 feet, and continuing for a total distance of **1,009.62** feet to a 1/2-inch iron rod found for an angle point hereof, said point being in the west line of said Lot 22, and
- 3) **S18°33'49"E**, passing at a distance of 294.69 feet a 1/2-inch iron rod with "Bryn" cap found for the common west corner of said Lot 22 and said Lot 23, and continuing got a total distance of **935.60** feet to a 1/2-inch iron rod with illegible cap found for a point of curvature hereof, said point being in the northwest right-of-way line of said Bebee Road, for the southeast corner of said Lot 23, and being an angle point in the north line of a called 2.305 acre tract conveyed to Hays County, Texas for right-of-way purposes in Volume 1206, Page 472 (O.P.R.H.C.T.),

THENCE, with the north right-of-way line of said BeBee Road, with the north line of said 2.305 acre tract, and over and across said 104.08 acre tract, the following two (2) courses and distances:

- 1) Along a curve to the right, whose radius is **418.37** feet, whose arc length is **522.20** feet, and whose chord bears **S76°32'18"W**, a distance of **488.96** feet to a 1/2-inch iron rod with illegible cap found for a point of tangency hereof, and
- 2) **N67°41'19"W**, a distance of **2,281.99** feet to the **POINT OF BEGINNING** and containing 101.8289 Acres (4,435,666 Square Feet) of land, more or less.

NOTE:

All bearings are based on the Texas State Plane Coordinate System, Grid North, South Central Zone (4204), all distances were adjusted to surface using a combined scale factor of 1.000098675586. See attached sketch (reference drawing: 01480.dwg).

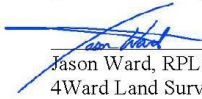
 **9/2/2022**
Jason Ward, RPLS #5811
4Ward Land Surveying, LLC



EXHIBIT G – PROPOSED USES OF THE PROPERTY

SITE PLAN



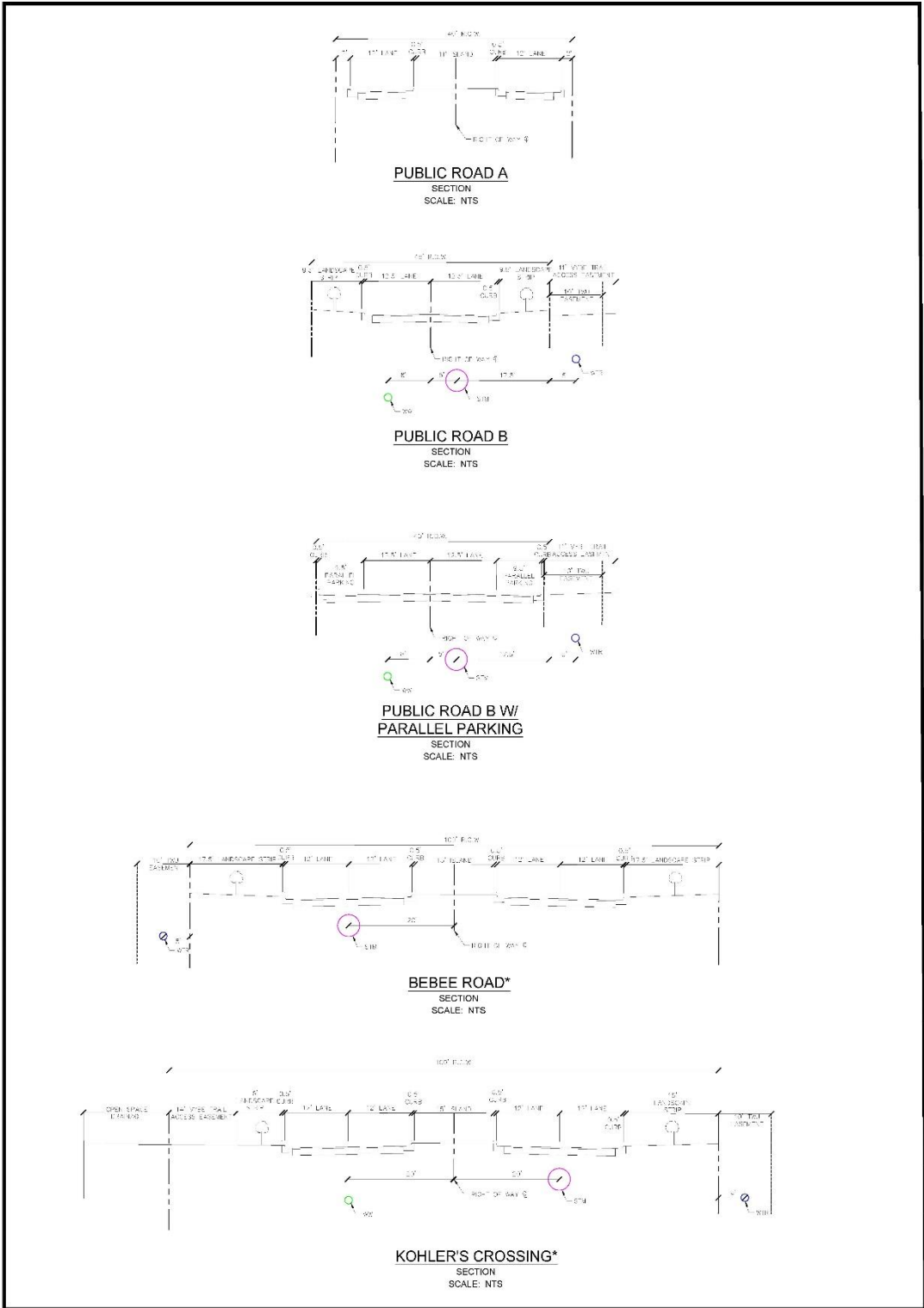
EXHIBIT H – MAP OF THE PUBLIC IMPROVEMENTS



Caraway Tract
Road Section Map (SP40)
 Kyle, Texas
 August 24, 2023

Kimley»Horn

1201 Southwest Parkway, Uplands II
 Suite 102
 Austin, Texas 78735
 512-546-2237
 State of Texas Registration No. F-955



Caraway Tract

Road Sections

Kyle, Texas
August 23, 2023

PROJECT NO. 2023-001
DRAWN BY: J. HARRIS
CHECKED BY: J. HARRIS
DATE: 8/23/23

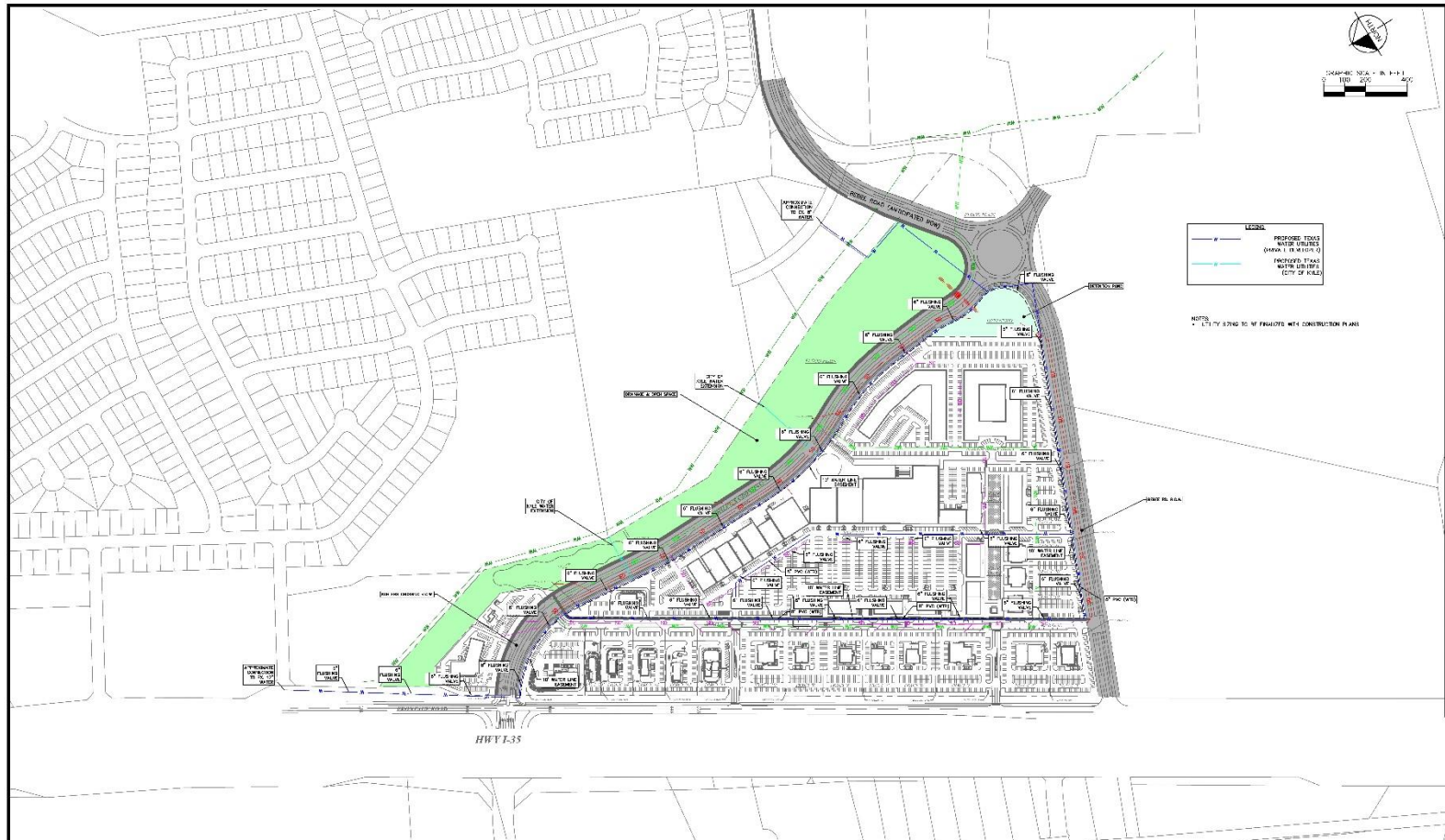
*NOTE:
TO BE CONSTRUCTED BY CITY
OF KYLE CAPITAL PROJECTS.



Caraway Tract
Preliminary Utility Exhibit (SP40)
 Kyle, Texas
 August 24, 2023

Kimley»Horn

6309 Southwest Parkway, Uplands II
 Suite 102
 Austin, Texas 78735
 512-590-0237
 State of Texas Registration No. F-825



Caraway Tract
Preliminary Water Exhibit (SP40)
 Kyle, Texas
 August 24, 2023

Kimley»Horn

6309 Southwest Parkway, Uplands II
 Suite 102
 Austin, Texas 78735
 512-990-0237
 State of Texas Registration No. F-825

THIS PLAN IS A PRELIMINARY PLAN. IT IS NOT TO BE USED FOR CONSTRUCTION. IT IS SUBJECT TO CHANGE WITHOUT NOTICE. THE ENGINEER ASSUMES NO LIABILITY FOR ANY DAMAGE OR INJURY RESULTING FROM THE USE OF THIS PLAN.

EXHIBIT B

380 Agreement

THE STATE OF TEXAS

§
§
§
§
§

**Chapter 380 Incentives Agreement
Project Hot Pursuit**

COUNTY OF HAYS

THIS Chapter 380 Incentives Agreement – Project Hot Pursuit (this “Agreement”) is executed by and between **NEWQUEST EQUITY, L.C.**, a Texas limited liability company duly authorized to do business in the State of Texas (hereafter referred to as “Developer”), the **CITY OF KYLE, TEXAS**, a home rule municipality located in Hays County, Texas (hereafter referred to as “City”), and the **BOARD OF REINVESTMENT ZONE NUMBER FIVE, CITY OF KYLE, TEXAS** (the “TIRZ”). The City, the Developer and the Board are sometimes collectively referenced in this Agreement as “Parties” or, each individually, as a “Party”.

W I T N E S S E T H:

WHEREAS, the City and Developer entered into that certain “Development Agreement for the Caraway Tract Development” dated December 19, 2023 (the “Development Agreement”); and

WHEREAS, the TIRZ was created pursuant to Ordinance No. 1294, adopted by the City Council of the City (the “City Council”) on December 5, 2023, pursuant to the Act (the “TIRZ Ordinance”); and

WHEREAS, on December 19, 2023, pursuant to Ordinance No. ____, the City Council approved a Final Project and Finance Plan for the TIRZ (the “TIRZ Plan”) and granted the Zone Chapter 380 powers pursuant to Section 311.010(h), Texas Tax Code; and

WHEREAS, the TIRZ is comprised of the Property (approximately 101.8283 acres) as defined in the TIRZ Plan and as more particularly described in Exhibit “A” attached hereto; and

WHEREAS, the TIRZ Plan and the TIRZ Ordinance provide for the collection of fifty percent (50%) of the City’s ad valorem tax increment attributable to the Property within the TIRZ, based on the City’s tax rate each year and as authorized by law (the “City Property Tax Increment”); and

WHEREAS, the TIRZ Plan and the TIRZ Ordinance provide for the collection of fifty percent (50%) of the City’s sales taxes collected and received by the City on the Property located in the TIRZ (the “City Sales Tax Increment”); and

WHEREAS, the TIRZ Plan and the County Participation Agreement (as defined in the TIRZ Plan) provide for the collection of fifty percent (50%) of Hays County's ad valorem tax increment attributable to the Property within the TIRZ, based on the County's tax rate each year and as authorized by law, subject to annual appropriations (the "County TIRZ Increment") and, together with the City Property Tax Increment and the City Sales Tax Increment, the "TIRZ Increment Receipts"; and

WHEREAS, the Development Agreement and the TIRZ Plan address the issuance of Bonds (hereinafter defined) and the payment of Debt Service (hereinafter defined) from the revenues deposited in the TIRZ Fund; and

WHEREAS, the City and the Board intend for the TIRZ Increment Receipts collected from the Property on an annual basis to be used in the following priority: (i) to pay Administrative Costs (but only with the City Property Tax Increment and the City Sales Tax Increment); as defined in the TIRZ Plan), (ii) to pay the Debt Service, (iii) to pay Chapter 380 Incentives to the Developer pursuant to the terms in this Agreement, (iv) any excess of the TIRZ Fund revenue may be used in any other matter as authorized by the City and as allowed pursuant to the Act, and (v) after eligible Project Costs have been paid, any excess of the TIRZ Fund revenue shall be returned to the General Fund of the City and the County on a pro rata basis; and

WHEREAS, capitalized terms used but not defined herein shall have the meanings given to them in the TIRZ Plan; and

WHEREAS, the City established an economic development program pursuant to Chapter 380, Texas Local Government Code (the "Program"), to provide for the grant of economic development incentives to the Developer under the terms and conditions of this Agreement; and

WHEREAS, the City has determined that the Project (hereinafter defined) qualifies for economic development incentives under the Program, subject to the terms and conditions of this Agreement; and

WHEREAS, the Developer has entered into or anticipates entering into a Chapter 381 economic incentive agreement with Hays County (which will provide for the payment to the Developer of a portion of the County's sales tax revenues from the commercial properties located on the Property); and

WHEREAS, the Project is located within the Zone, and the Chapter 380 Incentives (hereinafter defined) will be paid solely from the City ad valorem and sales tax revenues deposited in the TIRZ Fund (hereinafter defined); and

WHEREAS, the Chapter 380 Incentives and the Chapter 381 Incentives paid to the Developer, combined with the ROW Acquisition Amount and the principal

amount paid on any Debt Service (hereinafter defined), will not exceed the Total Payments (herein defined); and

WHEREAS, construction of the Project on the Property will promote economic development of the City, encourage businesses to locate and expand in the City, and increase opportunities for increased property tax, sales tax, and employment; and

WHEREAS, the Parties agree that the Developer must fulfill its obligations under this Agreement in order for the City to pay the Chapter 380 Incentives; and

WHEREAS, Chapter 380, Texas Local Government Code, as amended, and Chapter 311, Texas Tax Code, as amended, provide statutory authority for granting the economic incentives and administering the Program; and

WHEREAS, the City Council of the City (the “City Council”) finds that it is in the public interest to provide the agreements set forth herein subject to the terms and conditions of this Agreement.

NOW THEREFORE, the City, the Developer, and the Board, for and in consideration of the mutual premises and promises contained herein, do hereby agree, covenant and contract as set forth below:

I. Definitions

- A. **Administrative Costs** means the actual, direct costs paid or incurred by or on behalf of the City to administer the Zone, including planning costs, engineering costs, legal services, organizational costs, publicizing costs, or implementation costs paid by or on behalf of the City that are directly related to the administration of the Zone.
- B. **Annual City Property Tax Increment** means fifty percent (50%) of the City’s ad valorem real property taxes collected and received by the City on the Captured Appraised Value on the Property in the Zone for the Calendar Year and deposited into the TIRZ Fund. The Annual City Property Tax Increment shall not include rollback taxes.
- C. **Annual City Sales Tax Increment** means fifty percent (50%) of the City’s sales taxes collected above the Sales Tax Base (as defined in the TIRZ Plan) and received by the City on the commercial properties located on the Property in the Zone for the Calendar Year and deposited into the TIRZ Fund.
- D. **Appraisal District** means the Hays Central Appraisal District.

- E. **Calendar Year** means any twelve month period of time that begins on January 1st and ends on December 31st of the same numbered year.
- F. **Captured Appraised Value** means the new taxable value generated in addition to the Tax Increment Base within the Zone on a parcel-by-parcel basis for each year during the term of the Zone, as calculated and confirmed annually by the Appraisal District.
- G. **Certificate of Occupancy** means the final certificate(s) of occupancy issued by the City for vertical structures pursuant to applicable City regulations, or, for non-vertical improvements, City acceptance of the improvement or approval of the improvement following final inspection by the City.
- H. **Chapter 380 Incentives** means the economic incentive payments described in Article V.
- I. **Chapter 381 Incentives** means the economic incentive payments made to the Developer pursuant to that certain Chapter 381 Economic Incentive Agreement between the County and the Developer dated effective _____, as amended.
- J. **County** means Hays County, Texas.
- K. **Development Agreement** means that certain Development Agreement for the Caraway Tract Development between the City of Kyle and Caraway Cattle Company Family Partnership, LLP, NewQuest Equity, L.L.C. and Transwestern Development Company, L.L.C. dated effective December 19, 2023 as amended.
- L. **Debt Service** means an amount equal to the total principal and interest payments on any TIRZ Bond, plus any amounts carried over from the prior year which were not paid by an amount equal to any prior year principal and interest on the TIRZ Bond that was not paid from revenues on deposit in the TIRZ Fund due to insufficient funds being available in the TIRZ Fund.
- M. **Effective Date** means December 19, 2023.
- N. **HCISD** means the Hays Consolidated Independent School District.
- O. **Ongoing Performance Criteria Documentation** means copies of the following documents for each year in which an annual Chapter 380 Incentives payment is sought: (1) proof of compliance with the Ongoing Performance Criteria; (2) proof of payment of ad valorem taxes; and (3) the 380 Incentive Certification described in Article VI. The City may reasonably request additional records to support the information shown in the Ongoing Performance Criteria Documentation and compliance with the applicable Ongoing Performance Criteria.
- P. **Ongoing Performance Criteria** means the criteria the Developer is required to meet for payment of Chapter 380 Incentives after Year 1, which are set forth in Section IV.A(2).

- Q. **Performance Criteria** means the criteria set forth in Article IV that the Developer must meet to receive the Chapter 380 Incentives.
- R. **Project** means the mixed used development to be located and operating on the Property, consisting of approximately 450,000 square feet of commercial retail, restaurant, hotel, and office space, the Urban District Park Tract, and multi-family uses constructed and installed in accordance with the Development Agreement, the PUD, applicable local, state, and federal regulations, and good engineering practices.
- S. **Property** means that a certain 101.8283-acre parcel, more or less, being more particularly described in **Exhibit A**.
- T. **Public Improvements** means the proposed public improvements to be financed by the Zone, which includes but not limited to, roads, water, public utilities, and soft costs related thereto, as described in the TIRZ Plan.
- U. **PUD** means the ____ Planned Unit Development District established by Ordinance No. _____, as amended.
- V. **Road Bonds** means any general obligation bonds issued by the City pursuant to voter authorization obtained at an election held on November 8, 2022.
- W. **ROW Acquisition Amount** means the purchase price in the amount of Five Million Five Hundred Thousand Dollars (\$5.5 million) for the purchase of land for public right-of-way pursuant to the terms of the Development Agreement.
- X. **Tax Increment Base** means total appraised value of taxable real property in the Zone on January 1, 2023, the year the Zone was created, as calculated and certified by the Appraisal District.
- Y. **TIRZ Increment Receipts** means the cumulative amount of the City Property Tax Increment, the City Sales Tax Increment, and the County TIRZ Increment.
- Z. **Threshold Performance Criteria Documentation** means copies of the following documents: (1) proof of compliance with the Threshold Performance Criteria; (2) proof of payment of ad valorem taxes; and (3) the 380 Incentive Certification described in Article VI. The City may request additional records to support the information shown in the Threshold Performance Criteria Documentation or compliance with this Agreement.
- AA. **Threshold Performance Criteria** is defined as the criteria the Developer is required to meet for payment of Chapter 380 Incentives to commence being paid, which are set forth in Section IV. A(1).

- BB. **TIRZ Bonds** means any public securities, other than Road Bonds, issued by the City to acquire the Public Improvements, which Debt Service therefor may be paid from the TIRZ Increment Receipts.
- CC. **TIRZ Fund** means the tax increment fund created by the City and segregated from all other funds of the City.
- DD. **TIRZ Plan** means that certain “Reinvestment Zone Number Five, City of Kyle, Texas Final Project and Finance Plan” as finally adopted by the Board of Directors for the Zone and the City Council of the City on December 19, 2023, as amended.
- EE. **Total Payments** means the cumulative amount of payments made to the Developer pursuant to this Agreement, the Development Agreement, and the TIRZ Plan, which shall not exceed \$38,970,938, and which is made up of the sum of the Chapter 380 Incentives, the Chapter 381 Incentives, the ROW Acquisition Amount, and the net proceeds of TIRZ Bonds, if any, on any series of bonds issued to finance the Public Improvements, less interest amounts on paid TIRZ Bonds, if any.
- FF. **Urban District Park Tract** means the portion of the Project consisting of approximately 1.28 acres of private park space to which the general public shall have access (the “Private Park”) and the adjacent retail and mixed used buildings located adjacent to the private park (the “Vertical Structures”), as generally shown in **Exhibit ”B”**, constructed and installed in accordance with the Development Agreement, the PUD, applicable local, state and federal regulations, and good engineering practices.
- GG. **Year 1** means the Calendar Year (which is anticipated to be 2029) following the date on which the Developer complies with the Threshold Performance Criteria.
- HH. **Zone** means Reinvestment Zone Number Five, City of Kyle, Texas.

II.

General Provisions

- A. The Project is not in an improvement project initially financed by tax increment bonds. The Public Improvements may be financed by tax increment bonds as provided in the TIRZ Plan and the Development Agreement.
- B. The Property is not owned or leased by any member of the City Council or any member of the Planning and Zoning Commission of the City.
- C. It is acknowledged and agreed by the parties that the completion of the Project is consistent with the purposes of encouraging state and local economic development and to stimulate business and commercial activity within the City.

III.

Representations and Warranties

- A. The City hereby represents and warrants to the Developer that the City has full constitutional and lawful right, power, and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary City proceedings, findings, and actions. Accordingly, this Agreement constitutes the legal, valid, and binding obligation of the City, is enforceable in accordance with its terms and provisions, and does not require the consent of any other governmental authority.
- B. The Developer hereby represents and warrants to the City that the Developer has full constitutional and lawful right, power, and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized and approved by all actions necessary. Accordingly, this Agreement constitutes the legal, valid, and binding obligation of Developer, is enforceable in accordance with its terms and provisions, and does not require the consent of any other authority or entity.

IV.

Performance Criteria

- A. **Performance Criteria.**
 - 1. **Threshold Performance Criteria.** The following events must occur for the Developer to receive the Chapter 380 Incentives described in Article V:
 - a. The Developer completes construction and obtains a Certificate of Occupancy for a minimum of 100,000 square feet of shell or finished (or a combination thereof) retail space on or before five (5) years from the Effective Date. Site development permits for the initial 100,000 square feet of retail space must be issued within two (2) years after the Effective Date.
 - b. The Developer is in compliance with Sections IV.C-E.
 - 2. **Ongoing Performance Criteria.** After the first Chapter 380 Incentives payment is made to the Developer, the Developer must comply with the following requirements in order to seek and be paid a subsequent Chapter 380 Incentives payment:
 - a. Site development permits for at least 200,000 square feet of shell or finished (or a combination thereof) retail, hotel, restaurant, or office space must be issued within four (4) years after the Effective Date. Developer must complete construction of and obtain a Certificate of

Occupancy for 200,000 square feet of retail, hotel, restaurant, or office space within seven (7) years after the Effective Date.

- b. Site development permits for at least 300,000 square feet of shell or finished (or a combination thereof) retail, restaurant, hotel, or office space must be issued within six (6) years after the Effective Date. Developer must complete construction and obtain a Certificate of Occupancy for 300,000 square feet of retail, hotel, restaurant, or office space within nine (9) years after the Effective Date.
 - c. The Developer shall obtain the site development permits for the Urban District Park Tract within six (6) years of the Effective Date and shall complete construction and obtain a Certificate of Occupancy for the Private Park and 30,000 square feet of retail, restaurant, or office space within the Vertical Structures within the Urban District Park Tract by December 31, 2031.
 - d. The Vertical Structures do not count towards and are in addition to the square footage requirements set forth in Sections IV.A.2.a. and b. For the purposes of determining compliance with the square footage requirements set forth in Sections IV.A.2.a. and b., shell space or finished space shall be counted only once. For example, if a shell space is used to satisfy compliance with a square footage requirement, that same space when finished out may not be used to satisfy a subsequent square footage requirement.
 - e. The Developer is in compliance with Section IV.C-E.
- B. Developer shall not allow a site development permit for the phases of the Project described in Section IV.A.1 and 2 to expire once issued, unless otherwise granted an extension as provided in Section V.B.(3).
 - C. The Project shall conform to the PUD, the Development Agreement, applicable local, stated, and federal regulations, and good engineering practices.
 - D. The Developer shall not allow the ad valorem taxes owed to the City, the County, or the HCISD on any real property owned by the Developer and located within the City of Kyle or the HCISD to become delinquent beyond the last day they can be paid without assessment of penalty. Notwithstanding the foregoing the Developer may contest and appeal any and all taxes/ad valorem taxes associated with the Property and owed to the City, County, District, or any other applicable governmental entity, and during such appeal/contest the Developer shall not be required to pay taxes/ad valorem taxes associated with the Property to the City, County, District, or any other applicable governmental entity until such time as the

contest/appeal is finally and fully resolved, and in such event the City shall not be required to pay the Chapter 380 Incentives until the contest/appeal is finally and fully resolved.

- E. The Developer covenants and certifies that the Developer does not and will not knowingly and directly employ an undocumented worker as that term is defined by Section 2264.001(4) of the Texas Government Code. In accordance with Section 2264.052 of the Texas Government Code, if the Developer is convicted of a violation under 8 U.S.D. Section 132(a)(f), the Developer shall repay to the City the full amount of Chapter 380 Incentives made under Article V of this Agreement. Repayment shall be paid within 120 days after the date following an unappealable conviction of the Developer, provided, however, the Developer shall not be liable for a violation by a subsidiary, affiliate, or franchisee of the Developer or by a person with whom the Developer contracts.

V.

Economic Development Grants

A. **Chapter 380 Incentives.**

- 1) **Time Period for Chapter 380 Incentive Payments.** Subject to the terms and limitations of this Agreement, and Developer's full and timely performance of, and compliance with, each of the applicable Performance Criteria set forth in Article IV, the City agrees to pay to Developer the Chapter 380 Incentives commencing in Year 1 and continuing for each subsequent year up to the earlier to occur of the following:
 - (a) the expiration of the term of this Agreement;
 - (b) the termination of this Agreement; or
 - (c) the Total Payments being paid.
- 2) **Chapter 380 Incentives Amount.** The Chapter 380 Incentives shall be an annual amount equal to the sum of the Annual City Property Tax Increment plus the Annual City Sales Tax Increment; provided that there are sufficient funds in the TIRZ Fund to pay the Administrative Costs and the Debt Service payments. The priority of payments from the TIRZ Fund are as follows: (i) payment of Administrative Costs (ii) payment of Debt Service, and (iii) payment of Chapter 380 Incentives to the Developer pursuant to the terms in this Agreement. In the event that there are insufficient funds to pay the Administrative Expenses, the Debt Service, and the Chapter 380 Incentives for the year in full, the Chapter 380 Incentive for the year shall be reduced. The annual Chapter 380 Incentive shall be reduced by an amount equal to the amount, if any, needed to pay in full the Administrative Costs and the Debt Service for the year.

B. **Payment of Semi-Annual Chapter 380 Incentives**

- 1) **Performance Criteria.** The City shall pay the Chapter 380 Incentives semi-annually as provided in this Subsection B. To be eligible to receive the Chapter 380 Incentives in the Year 1, the Developer must meet the Threshold Performance Criteria. To be eligible to receive the Chapter 380 Incentives in the years following Year 1, the Developer must meet the Ongoing Performance Criteria and Threshold Performance Criteria.
- 2) **Suspension and Forfeiture of Payments.** In the event that Developer fails to comply with the Ongoing Performance Criteria, payment of the Chapter 380 Incentives will be suspended until the Developer is in compliance with the applicable Ongoing Performance Criteria. All suspended payments for up to twenty-four (24) months of non-compliance will be paid to the Developer upon compliance with the applicable Ongoing Performance Criteria. In the event the Developer fails to come into compliance with the applicable Ongoing Performance Criteria within twenty-four (24) months after the original deadline for the Ongoing Performance Criteria (as extended pursuant to Section V.B(3)), the Chapter 380 Incentives which were suspended shall be forfeited, and the Developer will not be paid Chapter 380 Incentives for those years which the Ongoing Performance Criteria were not met.
- 3) **Extensions.**
 - a) The City Manager may, but shall in no way be obligated to, grant reasonable extensions to the deadlines set forth in this Agreement or expiration dates for site development permits set forth in City ordinance. A request for a deadline or expiration date extension shall be submitted in writing and shall state the reason for the request. The City Manager may elect to submit any request for an extension to the City Council. Any extension granted hereunder will not be effective until approved in writing and signed by both the City Manager and the Developer. New deadlines or expiration dates approved in accordance with this subsection shall be incorporated into this Agreement and shall be used to determine compliance with the Performance Criteria and payment of Chapter 380 Incentives.
 - b) The timing for Developer's performance as provided in Article IV shall be extended one day for each day the City fails to complete the infrastructure provided in Section 3.1(e) of the Development Agreement.
- 4) **Time for Payment of Chapter 380 Incentives.** Each year on or before February 28, the Developer shall provide the City the applicable Performance

Criteria Documentation. The City shall pay the Chapter 380 Incentives semi-annually with the first payment being made within forty-five (45) days following the date the Performance Criteria Documentation is received by the City and the second payment being made by August 31; provided that the applicable Performance Criteria have been met.

- C. **Maintenance of Books and Records.** The City shall maintain complete books and records showing ad valorem taxes received by the City from the Property, which books and records shall be deemed complete if kept in accordance with generally accepted accounting principles as applied to Texas municipalities. Such books and records shall be available for examination by the duly authorized officers or agents of Developer during normal business hours upon request made not less than five (5) business days prior to the date of the examination. The City shall maintain such books and records throughout the term of this Agreement and store the same for four (4) years thereafter.

VI. **Reports, Audits and Inspections**

- A. **Annual Certification and Reports.** The Developer shall certify in writing to the City that the Developer is in compliance with the terms of this Agreement, and shall provide the City with reports and records reasonably necessary to demonstrate fulfillment of the Performance Criteria as follows (collectively, the “Performance Criteria Documentation”):
1. **Certification.** Developer shall complete and certify a 380 Incentive Certification in a form substantially similar to that set forth in **Exhibit “C”**, which shall include the Threshold or Ongoing Performance Criteria Documentation, as appropriate. Such documentation and certification shall be submitted no later than February 28th of each year during the term of this Agreement.
 2. **Sales Tax Reports.** The Developer shall use commercially reasonable efforts to provide or cause to be provided to the City the sales tax identification numbers for tenants on the Property to allow the City to verify the amount of Chapter 380 Incentives to be paid to the Developer under this Agreement. The City will request a sales tax report from the Texas Comptroller for all tenants on the Property. The City shall not be required to pay the Annual City Sales Tax Increment portion of the Chapter 380 Incentives until the City has received access to such information from the Texas Comptroller, and the Annual City Sales Tax Increment portion of the Chapter 380 Incentives shall be calculated solely on sales tax receipts that can be verified based on records held by the State of Texas.

3. **Additional Reports.** The, Developer shall furnish the City any additional records and information reasonably requested to support the Performance Criteria and the reports required by this Agreement. The Developer shall further furnish the City with copies of or access to additional information reasonably required to verify the information set forth in the Threshold or Ongoing Performance Criteria Documentation.
- B. **Right to Audit Books and Records.** The City shall have the right to audit the books and records of the Developer related to the Property and the Project. The City shall notify the Developer in advance in writing of its intent to audit in order to allow the Developer adequate time to make such books and records available (in no event shall the Developer have less than ten (10) business days in order to make such books and records available).
- C. **Inspection.** At all times throughout the term of this Agreement, the City shall have reasonable access to the Property (subject to the rights of tenants in possession) upon providing at least 48 hours' written notice to the Developer for the purpose of inspecting the Property to ensure that the Project is designed, constructed and installed in accordance with the terms of this Agreement. Notwithstanding the foregoing, the City's inspection of the Property shall not interfere with the operation of the Project or the rights of tenants in possession of any portion of the Property.

VII. **Breach**

- A. **Breach.** A breach of this Agreement may result in termination or modification of this Agreement as provided herein. The following conditions shall constitute a breach of this Agreement:
 1. The Developer falsely certifies that the performance criteria in the Threshold or Ongoing Performance Criteria Documentation submitted to the City has been met.
 2. City fails to timely make payments to the Developer under the terms of this Agreement.
- B. **Notice of Breach.** Notwithstanding anything herein to the contrary, no Party shall be deemed to be in default under this Agreement until the passage of sixty (60) business days after receipt by such Party of notice of default from the other Party ("Cure Period"), which notice shall specify, in reasonable detail, the nature of the default. Upon the passage of the Cure Period 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 such that it cannot reasonably be cured within the Cure Period, the Party receiving the notice of default may during such Cure Period give the other Party written notice that it has commenced cure within the Cure Period and will diligently and continuously prosecute the cure to completion as soon as reasonably possible, and such written notice together with diligent and continuous

prosecution of the cure shall extend the Cure Period for up to an additional ninety (90) calendar days so long as the cure is being diligently and continuously pursued during such time; and provided further that, if the cure cannot be reasonably accomplished within the additional ninety (90) calendar day period but the applicable facts, circumstances, and progress establish that a cure will be obtained within a reasonable period of time following the expiration of the ninety (90) calendar day period, the time for cure will be extended for an additional period of time as mutually agreed by the Parties in writing (such agreement not to be unreasonably withheld); provided, further, that if a default is not cured within the applicable Cure Period, or, as applicable, written notice having been given and cure being commenced and diligently and continuously prosecuted, within the additional ninety (90) calendar days after the giving of the written notice, or, as otherwise applicable within the time mutually agreed by the Parties due to the defaulting Party not being able to obtain a cure within the additional ninety (90) calendar days after the defaulting Party gives written notice that it is commencing cure, then the non-defaulting Party may terminate this Agreement, pursue the remedies set forth in this Agreement, as well as any other remedies available in equity or law.

C. **Repayment of Chapter 380 Incentives.**

In the event that the Developer commits a breach of this Agreement according to Section VII.A, the Developer shall pay back to the City the Chapter 380 Incentives for the tax year for which false certification was submitted within thirty (30) days of written demand by the City.

D. **Tax Lien Not Impaired.** It is expressly agreed and acknowledged between the parties to this Agreement that nothing in this Agreement shall be deemed or construed to affect the lien for taxes against the Property established by Section 32.01 of the Texas Tax Code. Such lien shall secure the payment of all taxes, penalties and interest ultimately imposed on the Property.

E. **Limitations on Liability.** The City shall not be liable for consequential damages, specifically lost profits, and any damages claimed against the City shall be limited to amounts recoverable under §271.153 of the Texas Local Government Code. The parties agree that this Agreement shall not be interpreted as or otherwise claimed to be a waiver of sovereignty or governmental immunity on the part of the City.

F. **Personal Liability of Public Officials; No Debt Created.** No employee of the City, nor any councilmember or agent of the City, shall be personally responsible for any liability arising under or growing out of this Agreement. The Chapter 380 Incentives made hereunder shall be paid solely from lawfully available funds that have been appropriated by the City. Under no circumstances shall the City's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision.

VIII.

Indemnification

DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE BROUGHT BY ANY THIRD PARTY AND DIRECTLY RELATING TO DEVELOPER'S ACTIONS UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON THE CITY OR DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER OR DEVELOPER'S AFFILIATE'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR CRIMINAL CONDUCT IN ITS ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY SUCH ACTS OR OMISSIONS OF DEVELOPER OR DEVELOPER'S AFFILIATE, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANTS OF DEVELOPER OR DEVELOPER'S AFFILIATE, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY, UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE CITY AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. DEVELOPER SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY, RELATED TO OR ARISING OUT OF DEVELOPER OR DEVELOPER'S TENANTS' ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT DEVELOPER'S COST TO THE EXTENT REQUIRED UNDER THE INDEMNITY IN THIS PARAGRAPH. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING DEVELOPER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH, SHALL NOT BE AN INDEMNITY EXTENDED BY DEVELOPER TO INDEMNIFY, PROTECT AND HOLD HARMLESS CITY FROM THE CONSEQUENCES OF THE NEGLIGENCE OR INTENTIONAL MISCONDUCT OF THE CITY, OR ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL APPLY ONLY, TO THE EXTENT OF ANY COMPARATIVE NEGLIGENCE STATUTES AND FINDINGS, WHEN THE NEGLIGENT ACT OF CITY IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE, AND IT SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF CITY IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE. DEVELOPER FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE AND ON BEHALF OF CITY AND IN THE NAME OF

CITY ANY CLAIM OR LITIGATION BROUGHT AGAINST CITY (AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES), IN CONNECTION WITH ANY SUCH INJURY, DEATH, OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS SET FORTH ABOVE.

IT IS THE EXPRESS INTENT OF THIS SECTION THAT THE INDEMNITY PROVIDED TO THE CITY AND THE DEVELOPER SHALL SURVIVE THE TERMINATION AND OR EXPIRATION OF THIS AGREEMENT AND SHALL BE BROADLY INTERPRETED AT ALL TIMES TO PROVIDE THE MAXIMUM INDEMNIFICATION OF THE CITY AND / OR THEIR OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES AND ELECTED OFFICIALS PERMITTED BY LAW.

IX.
Notice

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as any party designates in writing, by certified mail postage prepaid or by hand delivery:

DEVELOPER: c/o NewQuest Properties
Attn: Steven D. Alvis
8827 W. Sam Houston Pkwy. N, Suite 200
Houston, Texas 77040

With a copy to: NewQuest Properties
Attn: Legal Department
8827 W. Sam Houston Pkwy. N., Suite 200
Houston, Texas 77040
lhammill@newquest.com

CITY: City of Kyle
Attn: City Manager
1700 Kohlers Crossing
Kyle, TX 78640
blangley@cityofkyle.com

With a copy to: Paige H. Saenz
The Knight Law Firm, LLP
223 West Anderson Lane, Suite A-105
Austin, Texas 78752
paige@cityattorneytexas.com

TIRZ Tax Increment Reinvestment Zone Number 5, City
of Kyle
Attn: Board President
1700 Kohlers Crossing
Kyle, TX 78640

IX.
City Council Authorization

This Agreement was authorized by motion and vote of the City Council recorded in the minutes authorizing the City Manager or his designee to execute this Agreement on behalf of the City.

X.
Severability

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

XI.
Estoppel Certificate

Any party hereto may request an estoppel certificate from another party hereto, so long as the certificate is requested in connection with a bona fide business purpose. The certificate, which if requested will be addressed to a subsequent purchaser or assignee of Developer, shall include, but not necessarily be limited to statements that this Agreement is in full force and effect without default (or if default exists the nature of same), the remaining term of this Agreement, the levels and remaining term of the eligible grants and such other matters reasonably requested by the party(ies) to receive the certificates.

XII.
Standing

Developer, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions or City Council actions authorizing same, and Developer shall be entitled to intervene in said litigation.

XIII.
Applicable Law

This Agreement shall be construed under the laws of the State of Texas without regarding to its conflict of laws provisions. Venue for any action under this Agreement shall be the State's District Court of Hays County, Texas. This Agreement is performable in Hays County, Texas.

XIV.
Force Majeure

It is expressly understood and agreed by the parties to this Agreement that the parties shall not be found in default of this Agreement if any party's failure to meet the requirements of this Agreement is delayed by reason of war, Act of God, fire, pandemic, material or labor shortage, strike, civil unrest, governmental action, or any other reason beyond the reasonably control of the respective party, or other casualty or event of a similar nature.

XV.
No Other Agreement

This Agreement embodies all of the agreements of the parties relating to its subject matter as specifically set out herein, supersedes all prior understandings and agreements regarding such subject matter, and may be amended, modified or supplemented only by an instrument or instruments in writing executed by the parties.

XVI.
Headings

The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XVII.
Successors and Assigns

(a) The parties to this Agreement each bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement. No successor, executor, administrator or assign is valid in the place of the parties to this Agreement without the written consent of City and such consent shall not be unreasonably withheld.

(b) Developer may, from time to time, effectuate a transfer of its rights under this Agreement, in whole or in part, with the consent of City Council, which shall not be unreasonably withheld, conditioned, delayed, or denied, to any party, provided such party agrees in writing to assume all of Developer's duties, obligations, and liabilities so assigned hereunder, and provided further that any such assignment shall not become effective until the City receives notice of the assignment and a copy of the assignment instrument.

(c) Developer may pledge, assign or transfer its right, title and interest under this Agreement, in whole or in part, without the consent of the City, to any third party lender of the Project (each, a "Lender") as security for the performance of Developer's loan obligations; and in relation thereto, the City will execute reasonable acknowledgements of this Agreement as may be requested by such Lender, including confirmation whether this Agreement is valid and in full force and effect, whether any party has been declared to be in default of any duty or obligation under this Agreement, and agreeing to provide notice

and opportunity to cure to such Lender.

(d) Developer may pledge, assign or transfer its right, title and interest under this Agreement, in whole or in part, to any affiliate, shareholders, subsidiary, or intercompany entity of the Developer; and in relation thereto, the City Manager is authorized to approve and consent to such assignment by the Developer, which consent shall not be unreasonably withheld, conditioned, or delayed, and the City Manager is further authorized to execute reasonable acknowledgements of this Agreement as may be requested by such affiliate, subsidiary, or intercompany entity, including confirmation whether this Agreement is valid and in full force and effect, whether any party has been declared to be in default of any duty or obligation under this Agreement, and agreeing to provide notice and opportunity to cure to such affiliate, subsidiary, or intercompany entity; provided that the affiliate, shareholders, subsidiary, or intercompany entity of the Developer agrees in writing to assume all of Developer's duties, obligations, and liabilities so assigned hereunder.

XVIII.

Counterparts

This Agreement may be executed in any number of counterparts, each of which may be executed by any one or more of the parties hereto, but all of which shall constitute one instrument, and shall be binding and effective when all of the parties hereto have executed at least one counterpart.

XIX.

No Third-Party Beneficiaries

For purposes of this Agreement, including its intended operation and effect, the parties specifically agree that: (1) the agreement only affects matters/disputes among the parties to this Agreement, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with the City or the Developer; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either the City or the Developer.

XX.

Remedies

Except as provided in this Agreement, no right or remedy granted herein or reserved to the parties is exclusive of any right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without consent of the parties. Forbearance or indulgence by any party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Agreement.

XXI.

Term and Termination

- A. **Term.** Unless terminated earlier as provided herein, this Agreement shall terminate upon the earliest occurrence of any one or more of the following: (1) the written agreement of the Parties; or (2) this Agreement's "Expiration Date". The "Expiration Date" shall be the earlier to occur of: (a) the date that an amount equal to the Total Payments is paid to the Developer, or (b) December 31, 2048; provided that the following shall survive termination of this Agreement for any reason: Article III, Article VI.B, Article VII, Article VIII, Article XIII, Article XIV, Article XV, Article XVI, Article XVIII, Article XX, and Article XXI.
- B. **Termination.** During the term of this Agreement, should the Developer commit a breach of this Agreement according to the Sections VII.A(1) the City may terminate this Agreement after providing written notice and opportunity to cure as set forth in Section VII.B.

XXII.

Statutory Verifications

- A. In accordance with Chapter 2270, Texas Government Code, the City may not enter into a contract with a Developer for goods and services unless the contract contains a written verification from the Developer that it: (a) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this contract on behalf of the Developer verifies that the Developer does not boycott Israel and will not boycott Israel during the term of this Agreement.
- B. The Developer represents that the Developer and any wholly owned subsidiary, majority-owned subsidiary, parent of Developer and affiliates of Developer do not, and will not for the duration of this Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association. Further, the Developer represents that the Developer and any wholly owned subsidiary, majority-owned subsidiary, parent of Developer and affiliates of Developer do not, and will not for the duration of this Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association. The phrase "discriminates against a firearm entity or firearm trade association" as used in this paragraph have the meanings assigned to the phrase "Discriminate Against a Firearm Entity or Firearm Trade Association" in Section 2274.001(3) of the Texas Government Code, as amended.
- C. The Developer represents that neither the Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent of Developer or affiliate of Developer (i) boycotts energy companies or (ii) will boycott energy companies through the term of this Agreement. The phrase "boycott energy companies" as used in this paragraph have the meanings assigned to the phrase "Boycott Energy Company" in Section 809.001 of the Texas Government Code, as amended.

- D. The Developer represents that Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent of Developer 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. Further, 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.

XXIII.
Effective Date

This Agreement shall be effective on December 19, 2023 (the “Effective Date”).

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written above.

DEVELOPER:

NEWQUEST EQUITY, L.C., a Texas
limited liability company

By: _____

Name: _____

Title: _____

DATE: _____

WITNESS:

THE STATE OF TEXAS §
COUNTY OF HARRIS §

Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me (or proved to me on the oath of _____ or through _____ (*description of identity card or other document*)) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **NEWQUEST EQUITY, L.C.**, a Texas limited liability company, such entity duly authorized to do business in the State of Texas, and as the _____ thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2023.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES:

NOTARY'S PRINTED NAME

CITY OF KYLE, TEXAS

By: _____

CITY MANAGER

Date: _____

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM:

By: _____

CITY ATTORNEY

Date: _____

THE STATE OF TEXAS

§

§

COUNTY OF HAYS

§

Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of the **CITY OF KYLE, TEXAS**, a municipal corporation of Hays County, Texas, and as the _____ thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2023.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES:

NOTARY'S PRINTED NAME

**REINVESTMENT ZONE NUMBER 5,
CITY OF KYLE**

By: _____

BOARD CHAIRMAN

Date: _____

ATTEST:

CITY SECRETARY

THE STATE OF TEXAS

§
§
§

COUNTY OF HAYS

Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Travis Mitchell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of the **BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER FIVE, CITY OF KYLE**, a reinvestment zone created by the City of Kyle, Texas pursuant to Chapter 311, Texas Tax Code, as amended, and as chairman thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2023.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES:

NOTARY'S PRINTED NAME

EXHIBIT A
The Property

EXHIBIT “ A ”

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 101.8289 ACRES (4,435,666 SQUARE FEET) PARTIALLY OUT OF THE THOMAS G. ALLEN SURVEY, ABSTRACT NO. 26 IN HAYS COUNTY, TEXAS, AND PARTIALLY OUT OF THE DAN DOWNER SURVEY NO. 22, ABSTRACT NO. 151 IN HAYS COUNTY, TEXAS, BEING THE REMNANT PORTION OF A CALLED 104.08 ACRE TRACT CONVEYED TO CARAWAY CATTLE COMPANY FAMILY, IN VOLUME 4516, PAGE 661 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS (D.R.H.C.T.), SAID 101.8289 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:



PO Box 90876
Austin, TX 78709
(512) 537-2384
jward@4wardls.com
www.4wardls.com

BEGINNING, at a 1/2-inch iron rod with “4Ward Boundary” cap set at the intersection of the east right-of-way line of South IH 35 (right-of-way varies) and the north right-of-way line of Bebee Road (right-of-way varies), being the southwest corner of said 104.08 acre tract, for the southwest corner and **POINT OF BEGINNING** hereof, from which a 1/2-inch iron rod found for the intersection of the east right-of-way line of said IH 35 and the south right-of-way line of said Bebee Road, being the northwest corner of a called 45.64 acre tract (described as “Tract 1”) conveyed to Sunrise Village Investment, LLC in Document No. 20032482 of the Official Public Records of Hays County, Texas (O.P.R.H.C.T.), bears, S31°37’13”W, a distance of 79.98 feet;

THENCE, with the east right-of-way line of said IH 35 and the west line of said 104.08 acre tract, the following three (3) courses and distances:

- 1) **N31°24’32”E**, passing at a distance of 1,908.08 feet a TxDot type II Brass Disc found for a point on line hereof, and continuing for a total distance of **3,067.92** feet to a calculated point for an angle point hereof, from which a TxDot Type I concrete monument found bears, S73°31’45”E, a distance of 1.21 feet,
- 2) **N53°13’03”E**, a distance of **107.88** feet to a calculated point for an angle point hereof, from which a TxDot Type I concrete monument found bears, N59°56’12”W, a distance of 1.01 feet, and
- 3) **N31°24’07”E**, a distance of **284.23** feet to an 1/2-inch iron rod with illegible cap found for the north corner hereof, said point being the north corner of said 104.08 acre tract, and being the west corner of Lot 2, Amberwood Commercial Section 1, a subdivision recorded in Volume 14, Page 129 of the Plat Records of Hays County, Texas (P.R.H.C.T.), said Lot 2 having been conveyed to SPI Strand 160 EX, LLC in Document No. 1830726 (O.P.R.H.C.T.), from which a 1/2-inch iron rod found for an angle point in the north line of said Lot 1, Amberwood Commercial, being in the south right-of-way line of Amberwood South (right-of-way varies), bears, N31°24’07”E a distance of 398.05 feet, and N72°48’46”E, a distance of 44.66 feet;

THENCE, leaving the east right-of-way line of said IH 35, with the northeast line of said 104.08 acre tract, in part with the southwest line of said Lot 2, Amberwood Commercial, and in part with the southwest line of Lot 1 of said Amberwood Commercial (no ownership information provided for Lot 1 per Hays County Appraisal District), the following two (2) courses and distances:

- 1) **S16°50’22”E**, passing at a distance of 724.16 feet a 1/2-inch iron rod with illegible cap found for the common south corner of said Lot 1 and said Lot 2, Amberwood Commercial, and continuing for a total distance of **752.15** feet to a 1/2-inch iron rod with “4Ward Boundary” cap found for an angle point hereof, and

- 2) **S16°53'19"W**, a distance of **610.34** feet to a 1/2-inch iron rod found for an angle point hereof;

THENCE, with the northeast line of said 104.08 acre tract, in part with the southwest line of said Lot 1, Amberwood Commercial, in part with the southwest line of a called 25.98 acre tract (described as "Tract 2") conveyed to Kyle Business Park, L.P. in Volume 2835, Page 819 (D.R.H.C.T.), and in part with the southwest lines of Lots 21 through 23, Block A, Kyle Business Park, Section One, a subdivision recorded in Volume 12, Page 395 (P.R.H.C.T.), said Lots 21 through 23 (described as part of "Tract 2") having been conveyed to Kyle Business Park, L.P. in Volume 2835, Page 819 (D.R.H.C.T.), the following three (3) courses and distances:

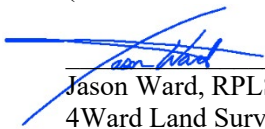
- 1) **S00°13'08"W**, passing at a distance of 5.71 feet a calculated point for the common west corner of said Lot 1, Amberwood Commercial and said 25.98 acre tract, and continuing for a total distance of **567.81** feet to a 3/8-inch iron rod found for an angle point hereof,
- 2) **S24°24'03"E**, passing at a distance of 431.92 feet a 1/2-inch iron rod with "Bryn" cap found for the common west corner of said 25.98 acre tract and said Lot 21, passing at a distance of 853.52 feet a calculated point for the common west corner of said Lot 21 and said Lot 22, from which a 1/2-inch iron rod with "Bryn" cap found bears **S37°03'32"W**, a distance of 0.39 feet, and continuing for a total distance of **1,009.62** feet to a 1/2-inch iron rod found for an angle point hereof, said point being in the west line of said Lot 22, and
- 3) **S18°33'49"E**, passing at a distance of 294.69 feet a 1/2-inch iron rod with "Bryn" cap found for the common west corner of said Lot 22 and said Lot 23, and continuing got a total distance of **935.60** feet to a 1/2-inch iron rod with illegible cap found for a point of curvature hereof, said point being in the northwest right-of-way line of said Bebee Road, for the southeast corner of said Lot 23, and being an angle point in the north line of a called 2.305 acre tract conveyed to Hays County, Texas for right-of-way purposes in Volume 1206, Page 472 (O.P.R.H.C.T.),

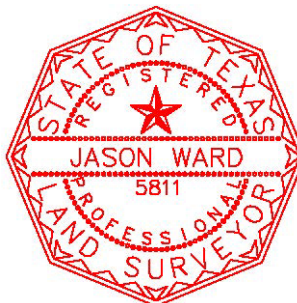
THENCE, with the north right-of-way line of said BeBee Road, with the north line of said 2.305 acre tract, and over and across said 104.08 acre tract, the following two (2) courses and distances:

- 1) Along a curve to the right, whose radius is **418.37** feet, whose arc length is **522.20** feet, and whose chord bears **S76°32'18"W**, a distance of **488.96** feet to a 1/2-inch iron rod with illegible cap found for a point of tangency hereof, and
- 2) **N67°41'19"W**, a distance of **2,281.99** feet to the **POINT OF BEGINNING** and containing 101.8289 Acres (4,435,666 Square Feet) of land, more or less.

NOTE:

All bearings are based on the Texas State Plane Coordinate System, Grid North, South Central Zone (4204), all distances were adjusted to surface using a combined scale factor of 1.000098675586. See attached sketch (reference drawing: 01480.dwg).


9/2/2022
Jason Ward, RPLS #5811
4Ward Land Surveying, LLC



SECTION	DATE	DESCRIPTION
5000	1/4"	WELLS
5001	1/4"	WELLS
5002	1/4"	WELLS
5003	1/4"	WELLS
5004	1/4"	WELLS
5005	1/4"	WELLS
5006	1/4"	WELLS
5007	1/4"	WELLS
5008	1/4"	WELLS
5009	1/4"	WELLS
5010	1/4"	WELLS
5011	1/4"	WELLS
5012	1/4"	WELLS
5013	1/4"	WELLS
5014	1/4"	WELLS
5015	1/4"	WELLS
5016	1/4"	WELLS
5017	1/4"	WELLS
5018	1/4"	WELLS
5019	1/4"	WELLS
5020	1/4"	WELLS
5021	1/4"	WELLS
5022	1/4"	WELLS
5023	1/4"	WELLS
5024	1/4"	WELLS
5025	1/4"	WELLS
5026	1/4"	WELLS
5027	1/4"	WELLS

OWNER: SJA STRAND
DOC NO. 1830726
O.P.R. H.C.T.

PROPOSED
S165.53°19'W 610.24'
754.16'
754.16'

FROM WIND A LOT 1 TYPE 1 CONCRETE MANTMENT FOUND BLANKS
(DISTANCE 1.00')

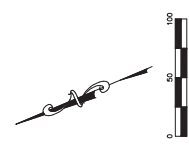
FROM WIND A LOT 1 TYPE 1 CONCRETE MANTMENT FOUND BLANKS
(DISTANCE 1.00')

AMBERWOOD COMMERCIAL
SECTION 1
VOLUME 129
P.R.H.C.T.

LOT 1
AND ADJACENT
INFORMATION PROVIDED
PER HAYS COUNTY
APPRAISAL DISTRICT

MATCHLINE
(SHEET 2)
MATCHLINE
(SHEET 3)

INTERSTATE HIGHWAY 35
(R.O.W. VARIES)



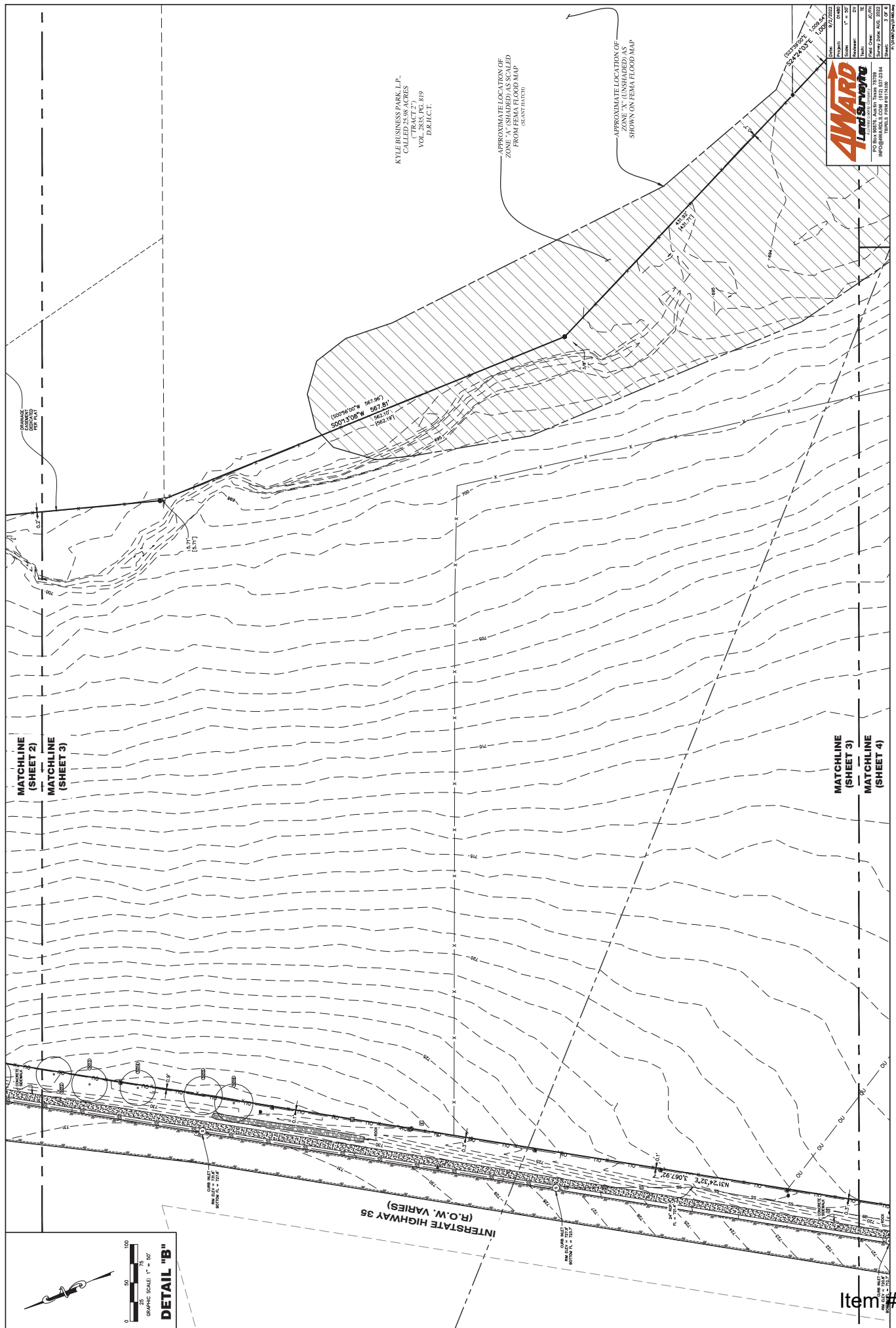
GRAPHIC SCALE: 1" = 50'

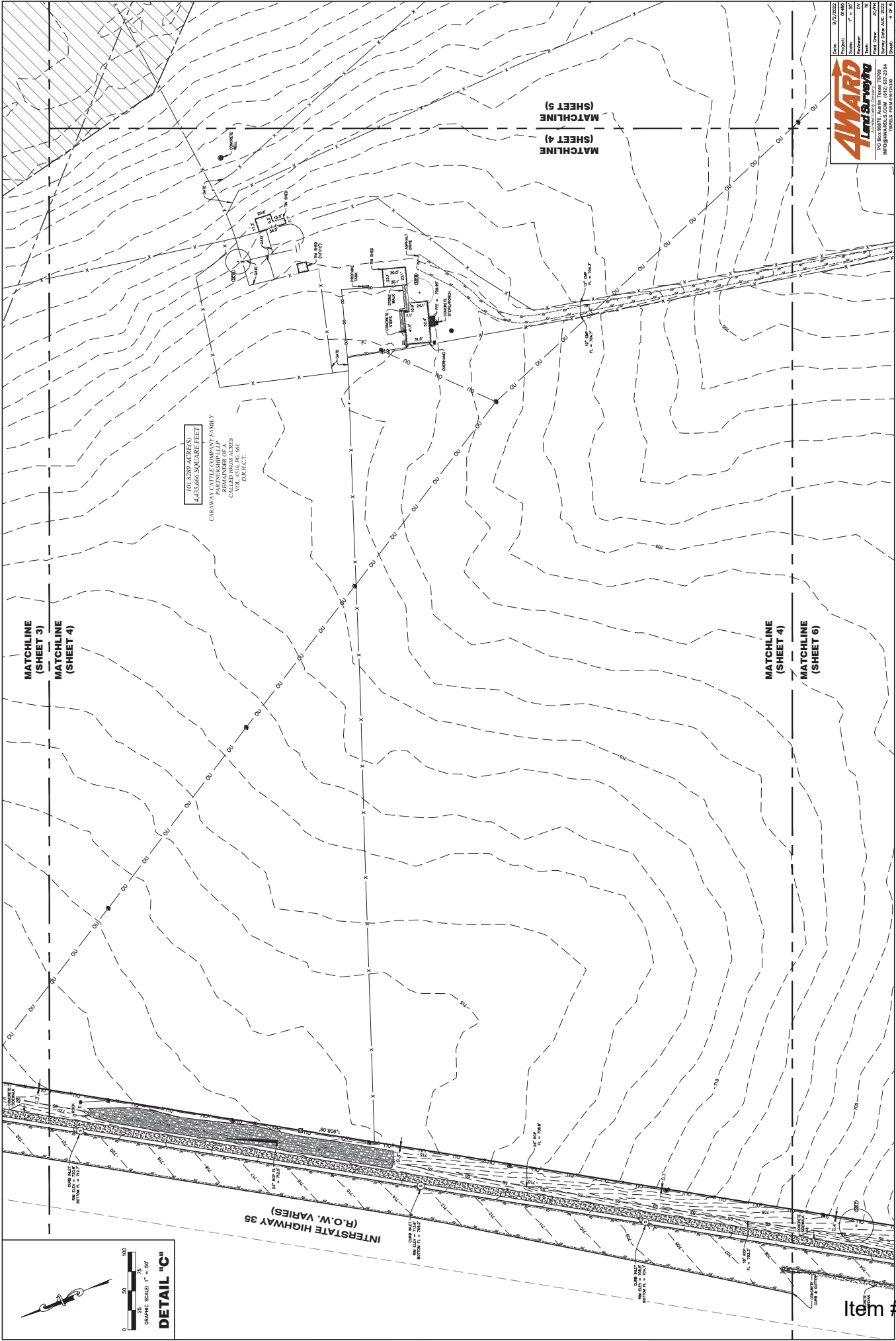
DETAIL "A"

4WARD
Land Surveying

PO Box 20575, Austin, Texas 78720
INFO@4WARDL.S.COM (512) 357-2334
4WARDL.S.COM

Date:	6/7/2022
Project:	CHAS
Client:	CHAS
Surveyor:	CHAS
Checker:	CHAS
TE:	CHAS
Field Date:	6/7/22
Sheet:	3 OF 3

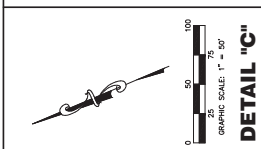




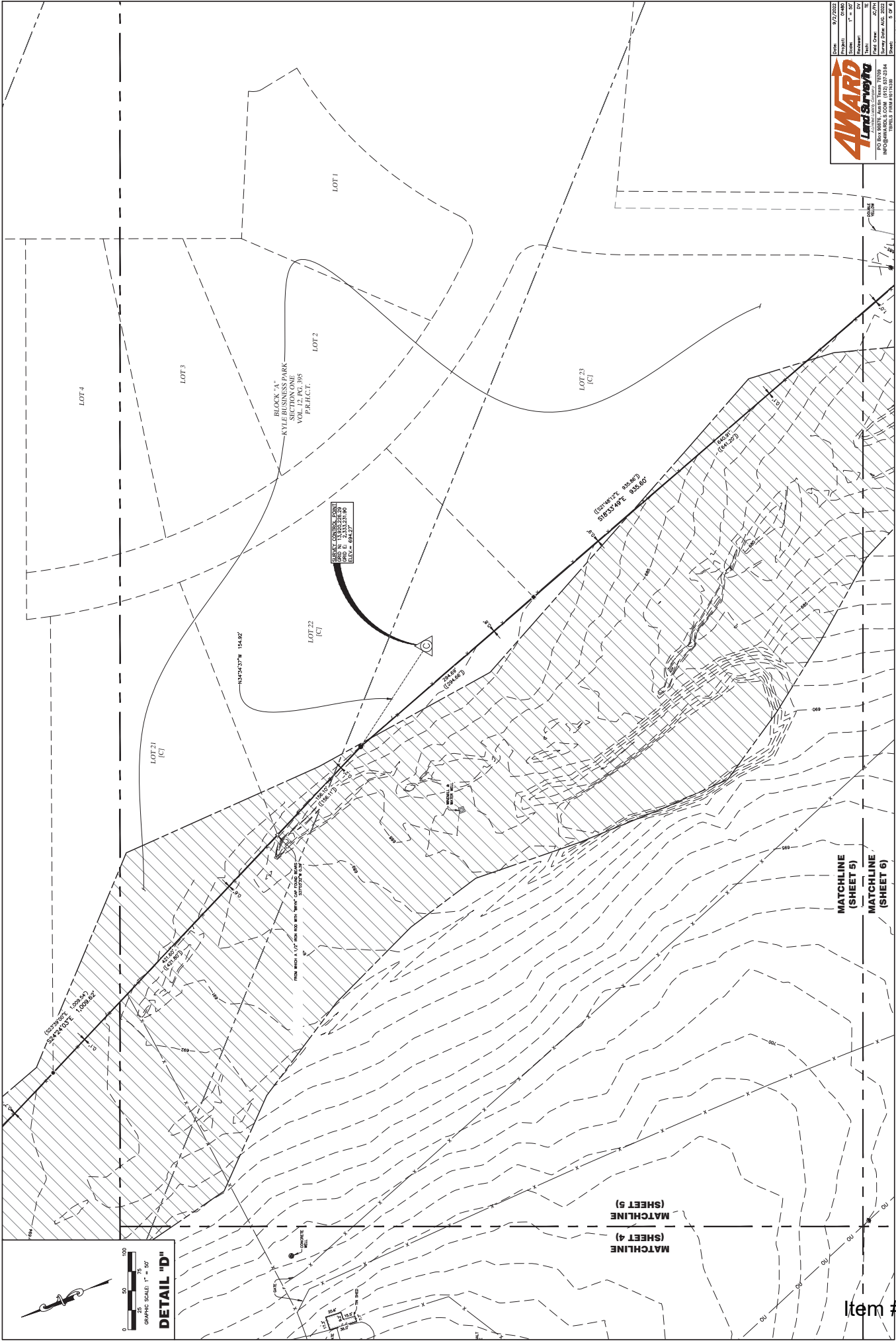
4WARD
Land Surveying

Date:	07/2022
Project:	CR-400
Sheet:	1" = 50'
Drawn by:	DT
Check:	TE
Field Date:	07/21
Field Book:	101,829 ACRES
Scale:	1" = 50'
Sheet:	4 OF 4

PO Box 5075, Austin, Texas 78769
INFO@4WARDL.S.COM (512) 357-2334



DETAIL "C"
GRAPHIC SCALE: 1" = 50'



4WARD

Land Surveying

PO Box 10075, Austin, Texas 78710
info@4wardlls.com (512) 357-2334
www.4wardlls.com

Date	6/7/2022
Project	CR-460
Client	City of Austin
Surveyor	DA
Title	TE
Field Date	6/7/21
Drawn	DA
Checked	DA

0 25 50 100
Feet

0 25 50 100
Meters

DETAIL "D"

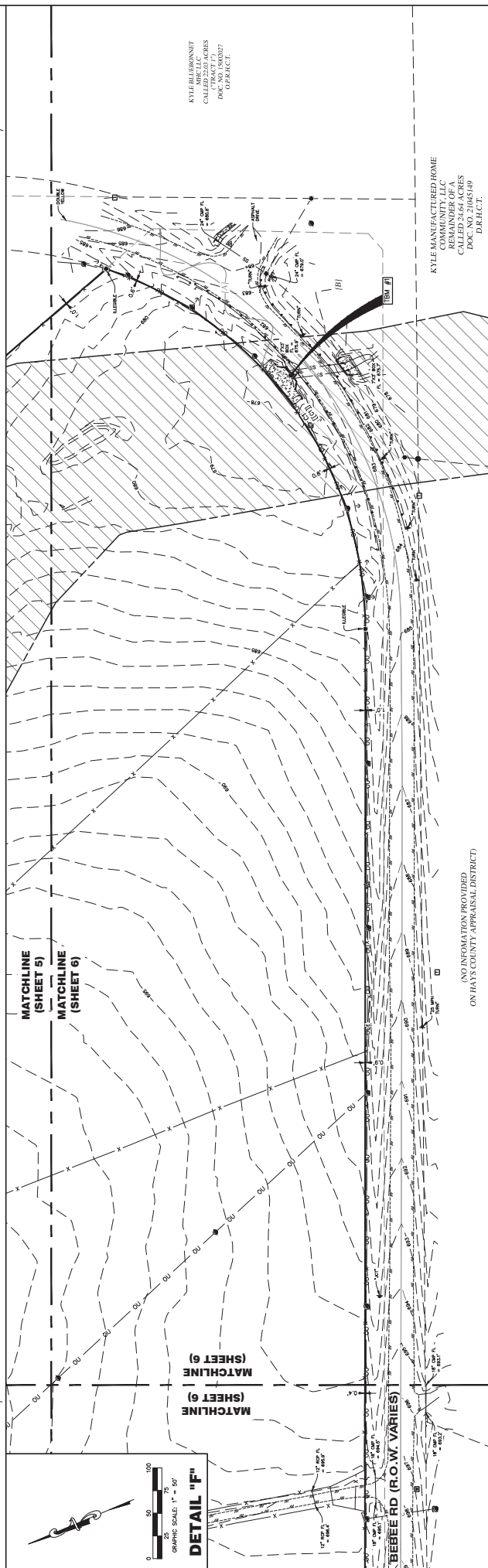
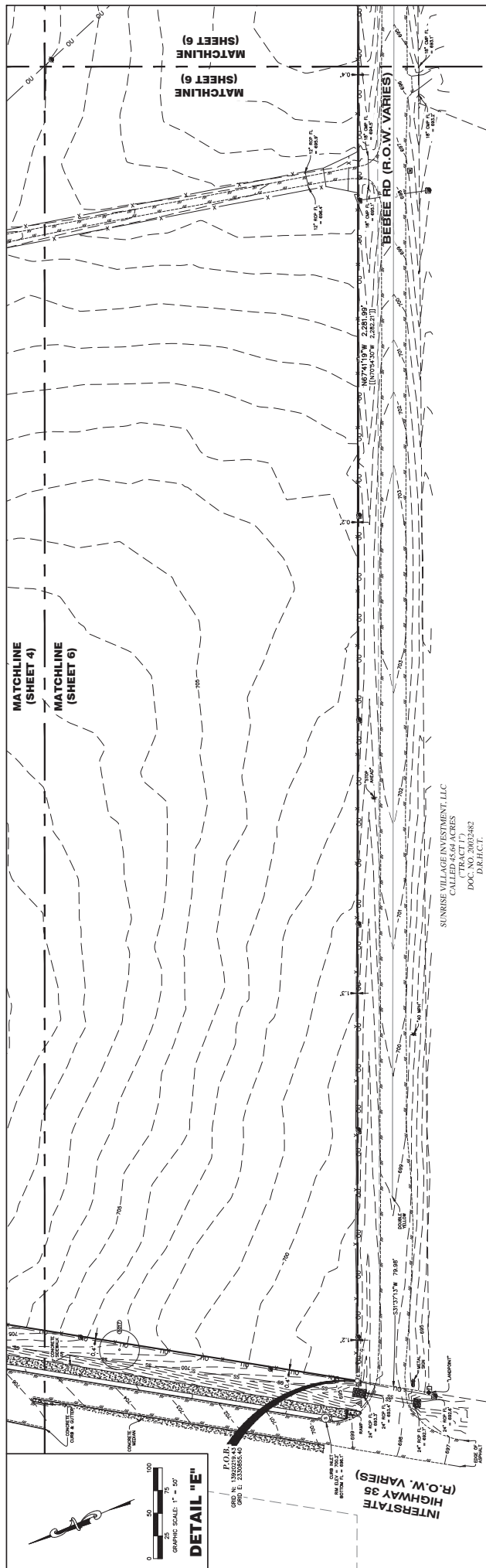
GRAPHIC SCALE: 1" = 50'

MATCHLINE
(SHEET 4)

MATCHLINE
(SHEET 5)

MATCHLINE
(SHEET 5)

MATCHLINE
(SHEET 6)

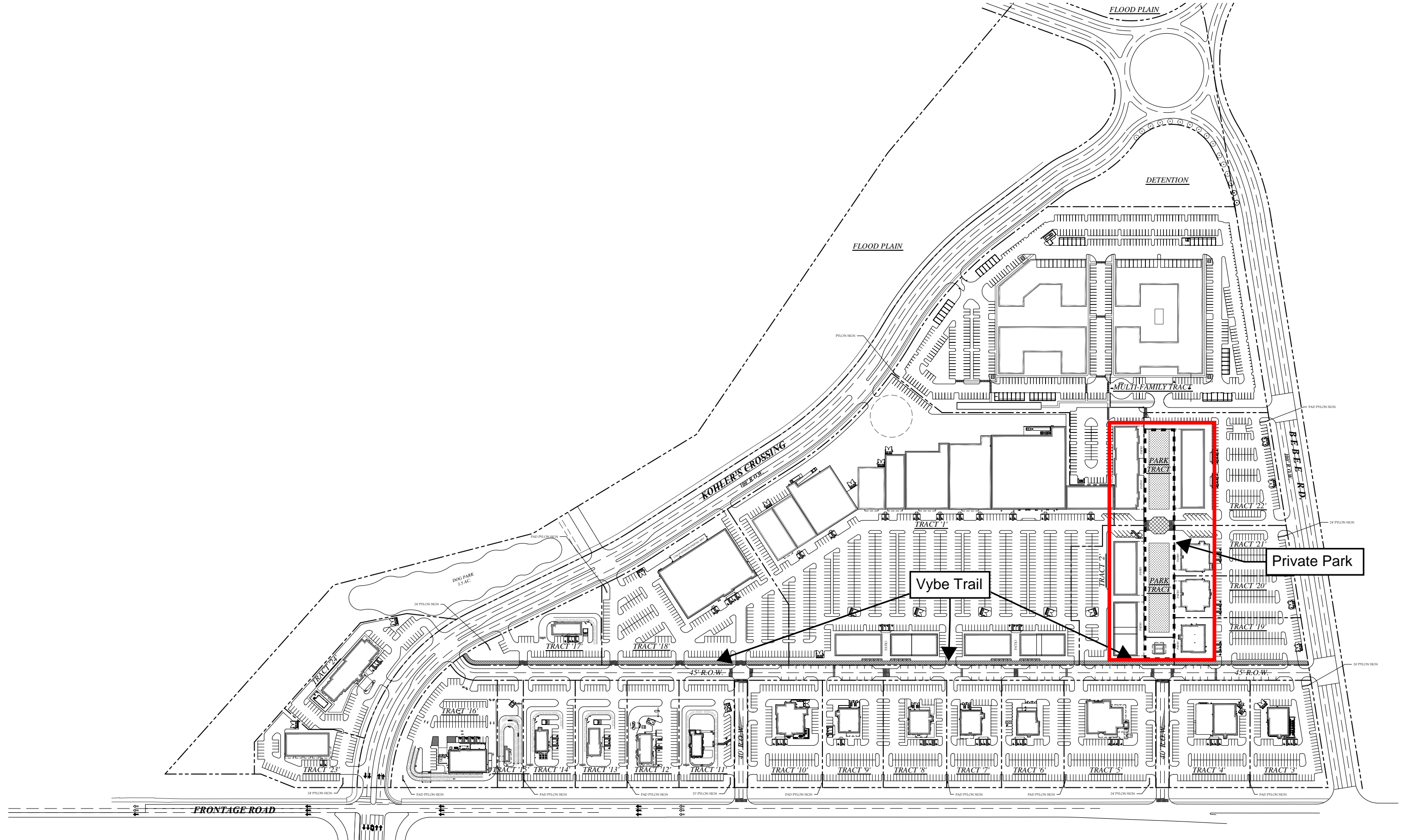


KYLE MANUFACTURED HOME
COMMUNITY, LLC
REMAINDER OF A
CALLED 24.64 ACRES
DOC. NO. 21045149
D.R.H.C.T.

Date:	9/2/2022
Project:	01400
Scale:	1" = 50'
Reviewer:	DV
Technician:	TE
Field Crew:	JC/FH
Survey Date:	AUG. 2022
Sheet:	6 OF 6

(NO INFORMATION PROVIDED
ON HAYS COUNTY APPRAISAL DISTRICT)

EXHIBIT B
URBAN DISTRICT PARK TRACT



HWY I-35

EXHIBIT B - URBAN DISTRICT PARK TRACT

EXHIBIT C
CITY OF KYLE
CHAPTER 380 AGREEMENT (THE “AGREEMENT”) PERFORMANCE
CRITERIA REPORT FORM

Chapter 380 Incentives Performance Certification

PROJECT STATUS – THRESHOLD PERFORMANCE CRITERIA (provide in Year 1 only)

- ☐ Copies of documentation showing issuance of site development permits and certificates of occupancy for the square footage required by the 380 Agreement.
- ☐ Proof of compliance with Sections IV.C-E of the 380 Agreement.

PROJECT STATUS – ONGOING PERFORMANCE CRITERIA (for years following Year 1)

Please provide each of the following documents as an attachment to this Certification:

- ☐ Copies of documentation showing issuance of site development permits and certificates of occupancy for the square footage required by the 380 Agreement.
- ☐ Proof of compliance with Sections IV.C-E of the 380 Agreement.

CERTIFICATION

I certify that to the best of my knowledge and belief, the information and attached documents provided in this Chapter 380 Incentives Certification are true and accurate and in compliance with the terms of the Chapter 380 Agreement with the City of Kyle. I further certify that to the best of my knowledge and belief, I am have met the requirements of the Performance Criteria, as that terms is defined in the Agreement applicable to the Developer.

Printed Name and Title of Certifying Officer

Signature of Certifying Officer

Date

Telephone Number

Email Address

NOTE: This Chapter 380 Incentives Certification shall be filed with the City prior to the payment of the Chapter 380 Incentives.



Board Chair & TIRZ No. 5 Meeting

DEPARTMENT: Planning

FROM: Stephanie Leibe, Norton Rose Fulbright, City's Bond Counsel

MEETING: Tuesday, December 19, 2023

SUBJECT:

TIRZ #5 Caraway/Hot Pursuit

SUMMARY:

Project Hot Pursuit is intended to receive full entitlements no later than the 12/19/23 City Council meeting. As a function of this project, an economic incentive in the form of a Tax Increment Reinvestment Zone (TIRZ) has been created. Tonight's action, if the Board so chooses, is to approve the resolution adopting the final TIRZ plan, recommending that City Council approve the final TIRZ plan, and authorizing the execution of a Chapter 380 economic development agreement between the Board, the City and the developer.

OPTIONS:

Approve, deny or amend the resolution.

RECOMMENDATION:

Approve the resolution as written.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

11/14/23 – Public hearing called for 12/5 /23 City Council meeting to consider creation of TIRZ 5.

12/5/23 – Public hearing held; TIRZ 5 created by affirmative vote of the City Council

FISCAL IMPACT:

See Exhibit E to Final Project and Finance Plan

STAFF CONTACT:

Name: Will Atkinson

Title: Director of Planning

watkinson@cityofkyle.com

512-233-1144



REINVESTMENT ZONE NUMBER FIVE,
CITY OF KYLE, TEXAS
FINAL PROJECT AND FINANCE PLAN
DECEMBER 19, 2023

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SECTION 1: DEFINITIONS

Capitalized terms used in this Final Plan shall have the meanings given to them in **Section I** below unless otherwise defined in this Final Plan or unless the context in which a term is used clearly requires a different meaning. Unless otherwise defined, a reference to a “Section,” or an “Exhibit,” shall be a reference to a Section of this Final Plan or an Exhibit or Appendix attached to and made a part of this Final Plan for all purposes.

“380 Grant” means a program authorized by Chapter 380 of the Texas Local Government Code, as amended that makes grants from the TIRZ Fund of the Zone, pursuant to the City 380 Agreement.

“381 Grant” means a program authorized by Chapter 381 of the Texas Local Government Code, as amended by and between the county and the Developer that makes grants from a portion of the County’s sales tax collections within the Zone, pursuant to the County 381 Agreement.

“Act” means Chapter 311, Texas Tax Code, Tax Increment Financing Act, as amended.

“Administrative Costs” means the actual, direct costs paid or incurred by or on behalf of the City to administer the Zone, including planning, engineering, legal services, organizational costs, publicizing costs, or implementations costs paid by or on behalf of the City that are directly related to the administration of the Zone.

“Appraisal District” means the Hays Central Appraisal District.

“Board” means the Board of Directors for the Zone.

“Captured Appraised Value” means the new taxable value generated in addition to the Tax Increment Base on a parcel-by-parcel basis for each year during the term of the Zone, as calculated and confirmed annually by the Appraisal District.

“City 380 Agreement” means the agreement between the City and Developer that provides incentive payments to the Developer, upon the satisfaction of certain metrics, paid with the TIRZ Increment Receipts produced by the Zone.

“City Council” means the governing body of the City.

“City Property Tax Increment” means fifty percent (50%) of the City’s ad valorem real property taxes collected and received by the City on the Captured Appraised Value in the Zone and deposited into the TIRZ Fund.

“City Sales Tax Increment” means fifty percent (50%) of the City’s sales taxes collected and received by the City from the development within the Zone and deposited into the TIRZ Fund.

“City” means the City of Kyle, Texas.

“County 381 Agreement” means the agreement between the County and Developer that dedicates one half (1/2) of the County sales tax generated in the Zone to reimburse the Developer for Project Costs of the Zone.

“County Participation Agreement” means that certain Interlocal Agreement to Participate in Reinvestment Zone Number Five, City of Kyle, Texas, entered into by the City and County on December 19, 2023, detailing the City and County’s participation in the Zone.

“County TIRZ Increment” means fifty percent (50%) of the County’s ad valorem real property taxes collected and received by the County on the Captured Appraised Value in the Zone, excluding the portion of real property taxes collected and received associated with road and bridge maintenance and operations, and deposited into the TIRZ Fund.

“County” means Hays County, Texas.

“Creation Ordinance” means Ordinance No. 1294 adopted by the City Council on December 5, 2023.

“Debt Service” means the total principal and interest due on any TIRZ Bonds issued and sold by the City to acquire the Public Improvements, which Debt Service may be paid from the TIRZ Increment Receipts.

“Developer” means NewQuest Equity, L.C. and Transwestern Development Company L.L.C. and its successors or assigns.

“Economic Development Grants” means the 380 Grant and the 381 Grant.

“Feasibility Study” means the economic feasibility study as evaluated over the term of the Zone and focused only on direct financial benefits, as shown on **Exhibit E**.

“Final Plan” means the future *Reinvestment Zone Number Five, City of Kyle Final Project and Finance Plan*.

“Non-Project Costs” means those certain costs that will be spent to develop in the Zone, but will not be financed by the Zone, and will be financed by private funds, as described in **Section 6**, and shown on **Exhibit B**.

“Preliminary Plan” means this *Reinvestment Zone Number Five, City of Kyle Preliminary Project and Finance Plan*.

“Project Costs” means the total costs in the Zone, including the Administrative Costs, the actual costs of the Public Improvements, Debt Service on any TIRZ Bonds issued to acquire the Public Improvements, and the 380 Grant.

“Property” means 100.57 acres of land as depicted on **Exhibit A** and identified on **Exhibit F**.

“Public Improvements” means the proposed public improvements to be financed by the Zone, which includes roads, water, public utilities, and soft costs related thereto, as depicted on **Exhibit H**, and detailed on **Exhibit C**.

“Right-of-Way Land Acquisition” means the land to be acquired by the City and legally recognized as a route for public use for the benefit of the Zone.

“Road Bonds” means any general obligation bonds issued by the City pursuant to voter authorization obtained at an election held on November 8, 2022.

“Sales Tax Base” means the total amount of municipal sales and use taxes attributable to the Zone in 2023. The Sales Tax Base is \$0.00.

“Tax Increment Base” means total appraised value of taxable real property in the Zone at the time of creation of the Zone, as calculated and certified by the Appraisal District.

“TIRZ Bonds” means any public securities, other than Road Bonds, issued by the City to acquire the Public Improvements, which Debt Service thereof may be paid from the TIRZ Increment Receipts.

“TIRZ Fund” means the tax increment fund created by the City and segregated from all other funds of the City.

“TIRZ Increment Receipts” means the cumulative amount of the City Property Tax Increment, the City Sales Tax Increment, and the County TIRZ Increment.

“Total Payments” means the cumulative amount of payments made pursuant to the terms of this Project and Finance Plan, including the Economic Development Grants, payment for Right-of-Way land acquisition, and the net proceeds of TIRZ Bonds, if any, on any series of bonds issued to finance the Public Improvements in an amount not to exceed \$38,970,938 less interest amounts on paid TIRZ Bonds, if any.

“Zone” means Reinvestment Zone Number Five, City of Kyle, as depicted on **Exhibit A**, and described on **Exhibit F**.

SECTION 2: INTRODUCTION

2.1 Authority and Purpose

The City has the authority under the Act to designate a contiguous or noncontiguous geographic area within the corporate limits or extraterritorial jurisdiction of the City as a tax increment reinvestment zone to promote development or redevelopment of the area because the City Council determined that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future, that the Zone is economically feasible, and that creation of the Zone is in the best interest of the City and the property in the Zone. The purpose of the Zone is to facilitate such development or redevelopment by financing the costs of public works, public improvements, programs, and other projects benefiting the Zone, plus other costs incidental to those expenditures, all of which costs are authorized by the Act.

2.2 Eligibility Requirements

An area is eligible under the Act to be designated as a tax increment reinvestment zone if the area:

- 1) substantially arrests or impairs the sound growth of the municipality designating the Zone, retard the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition; or
- 2) is predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impairs or arrests the sound growth of the City; or
- 3) is in a federally assisted new community located in the City or in an area immediately adjacent to a federally assisted new community; or
- 4) is in an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the City by the owners of property constituting at least fifty percent (50%) of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

The City cannot, however, designate a zone if more than thirty percent (30%) of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes, or if the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds fifty percent (50%) of the total appraised value of taxable real property in the City and in industrial districts created by the City.

2.3 Proposed Zone

Concurrently with the approval of this Final Plan, the Property within the proposed Zone will be located within the corporate limits of the City. The Property is predominantly open, undeveloped or underdeveloped, and substantially impairs and arrests the sound growth of the City. Due to its size, location, and physical characteristics development would not occur solely through private investment in the foreseeable future. The Property lacks public infrastructure and requires economic incentive to attract development for the purpose of providing long-term economic benefits including, but not limited to, increased real property tax base for all taxing units in the Zone. If the Public Improvements are financed as contemplated by this Final Plan, the City envisions that the Property will be developed to take full advantage of the opportunity to bring to the City a quality development.

2.4 Preliminary Plan and Hearing

Before the City Council adopted the Creation Ordinance, the City Council prepared the Preliminary Plan in accordance with the Act and held a public hearing on the creation of the Zone and its benefits to the City and to the Property, at which public hearing interested persons were given the opportunity to speak for and against the creation of the Zone, the boundaries of the Zone and the concept of tax increment financing, and at which hearing the owners of the Property were given a reasonable opportunity to protest the inclusion of their Property in the Zone. The requirement of the Act for a preliminary reinvestment zone project and finance plan was satisfied by the Preliminary Plan, the purpose of which was to describe, in general terms, the Public Improvements that would be undertaken and financed by the Zone. A description of the uses of the Property is located in **Exhibit G**, and confirmed by the adoption of this Final Plan.

2.5 Creation of the Zone

Upon the closing of the December 5, 2023 public hearing, the City Council approved the Creation Ordinance and the following findings:

- 1) that development or redevelopment of the Property would not occur solely through private investment in the reasonably foreseeable future,
- 2) that the Zone was feasible,
- 3) that improvements in the Zone will significantly enhance the value of all the taxable real property in the Zone and will be of general benefit to the City, and
- 4) that the Zone meets the eligibility requirements of the Act.

Among other provisions required by the Act, the Creation Ordinance shall appoint the Board.

2.6 Council action

2.6.1 Final Project and Finance Plan

On December 19, 2023, the City Council approved Ordinance No. 1294, adopting a Final Plan for the Zone.

2.6.2 County Participation in the Zone

On December 19, 2023, the City Council and County entered into the County Participation Agreement, detailing the County's participation in the Zone.

2.6.3 Board Recommendation

On December 19, 2023, the Board reviewed, and recommended to the City Council this Final Plan. The City Council shall consider this Final Plan, pursuant to which the City will contribute the City Property Tax Increment and the City Sales Tax Increment into the TIRZ Fund and the County will contribute the County TIRZ Increment into the TIRZ Fund to fund the Project Costs benefiting the Zone.

SECTION 3: DESCRIPTION AND MAPS

3.1 Existing Uses and Conditions

The Property is currently zoned Agriculture and is intended to be developed with commercial and residential uses. The Property is undeveloped or underdeveloped, and there is limited public infrastructure to support development. Development requires extensive public infrastructure that: (1) the City could not provide, and (2) would not be provided solely through private investment in the foreseeable future.

3.2 Proposed Uses

The proposed uses of the Property in the City include commercial and residential use, as shown on **Exhibit G**.

SECTION 4: PROPOSED CHANGES TO ORDINANCES, PLANS, CODES, RULES, AND REGULATIONS

Concurrently with the approval of this Final Plan, the Property within the proposed Zone will be located within the corporate limits of the City and shall be subject to the City's zoning regulations. The property is currently zoned as Agriculture. The City has exclusive jurisdiction over the subdivision and platting of the property within the Property and the design, construction, installation, and inspection of water, sewer, drainage, roadway, and other public infrastructure.

No proposed changes to zoning ordinances, comprehensive plan, building codes, subdivision rules, or other municipal ordinances are planned.

SECTION 5: RELOCATION OF DISPLACED PERSONS

No persons were displaced and in need of relocation due to the creation of the Zone or shall be due to the implementation of this Plan.

SECTION 6: NON-PROJECT COSTS

Non-project costs are costs that will be spent to develop in the Zone but will not be financed by the Zone, and will be financed by private funds. The list of non-project costs is shown on **Exhibit B** and are estimated to be approximately \$176,793,059.

SECTION 7: PUBLIC IMPROVEMENTS

7.1 Categories of Public Improvements

All Public Improvements shall be designed and constructed in accordance with all applicable City standards and shall otherwise be inspected, approved, and accepted by the City. At the City's option, the Public Improvements may be expanded to include any other category of improvements authorized by the Act.

7.2 Locations of Public Improvements

The estimated locations of the proposed Public Improvements are depicted on **Exhibit H**. These locations may be revised, with the approval of the City, from time to time without amending this Final Plan.

SECTION 8: PROJECT COSTS

8.1 Project Costs

The total costs are estimated to be \$39,291,241, as shown below and detailed on **Exhibit C**. The Project Costs of are estimated to be \$38,970,938, and the Administrative Costs are estimated to be \$320,303.

8.1.1 Administrative Costs

The Administrative Costs are estimated at \$10,000 in 2024 and projected to increase by two percent (2%) per year beginning 2025. The Administrative Costs shall be paid each year from the TIRZ Fund before any other Project Costs are paid.

8.1.2 Project Costs

The total Project Costs are estimated to be \$38,970,938, as shown on **Exhibit C**.

8.2 Estimated Timeline of Incurred Costs

The Administrative Costs will be incurred annually through the remaining duration of the Zone. It is estimated the costs for constructing the Public Improvements will be incurred between 2026 and 2028, as shown on **Exhibit D**.

SECTION 9: FEASIBILITY STUDY

9.1 Feasibility Study

The Feasibility Study focuses on only direct financial benefits (i.e. ad valorem tax and sales tax revenues from the development of Public Improvements in the Zone). Based on the Feasibility Study, during the term of the Zone, new development (which would not have occurred but for the Zone) will generate approximately \$38,031,916 in total new real property tax revenues for the participating taxing entities over the term of the Zone. Approximately \$19,015,958 in City Property Tax Increment and County TIRZ Increment will be deposited into the TIRZ Fund to pay for the Project Costs over the life of the Zone. The remaining real property tax over that period, estimated at \$19,015,958 shall be retained by the participating taxing entities.

The Feasibility Study shows the cumulative City Property Tax Increment is estimated to be \$11,792,005 which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new City Property Tax Increment generated within the Zone and retained by the City is estimated to be \$11,792,005 over the term of the Zone.

The Feasibility Study shows the cumulative County TIRZ Increment is estimated to be \$7,223,953, which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new County real property tax and sales tax revenues generated within the Zone and retained by the County is estimated to be \$7,223,953, over the term of the Zone.

The Feasibility Study shows the cumulative City Sales Tax Increment is estimated to be \$28,376,768 which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new City Sales Tax Increment generated within the Zone and retained by the City is estimated to be \$28,376,768 over the term of the Zone.

Any Project Costs not paid from the TIRZ Increment Receipts or the 381 Grant will be paid for with private funds. Provided, however, notwithstanding anything in this Preliminary Plan or in

any agreement to the contrary, amounts paid to the Developer shall not exceed the Total Payments.

SECTION 10: ESTIMATED BONDED INDEBTEDNESS

The City shall be authorized to issue TIRZ Bonds which are secured by and payable from the City TIRZ Increment. The estimated bonded indebtedness of the Zone is anticipated to be \$8,450,000, as shown on **Exhibit C**. The bonds, supported by the TIRZ, are anticipated to be issued by the City in 2027.

SECTION 11: APPRAISED VALUE

11.1 Tax Increment Base

The Tax Increment Base is estimated to be \$38,990 and shall be confirmed by the Appraisal District. Each year, the Appraisal District shall confirm the Captured Appraised Value of the Zone.

11.2 Estimated Captured Appraised Value

It is estimated that upon expiration of the term of the Zone, the total Captured Appraised Value of taxable real property in the Zone will be approximately \$290,926,160, as shown on **Exhibit E**. The actual Captured Appraised Value, as certified by the Appraisal District each year, will be used to calculate the City Property Tax Increment and the County TIRZ Increment, as applicable, pursuant to this Final Plan.

SECTION 12: METHOD OF FINANCING

12.1 TIRZ No. 5 Fund Contributions

All payments of Project Costs shall be made solely from the TIRZ Fund and the 381 Grant. No other funds of the City or County shall be utilized, unless otherwise approved by their respective governing bodies. The TIRZ Fund shall only be used to pay the Project Costs. The City may amend this Final Plan in compliance with the County Participation Agreement, including but not limited to what is considered a Project Cost.

Additionally, funds deposited into the TIRZ Fund, shall be applied in the following order:

- 1) First, to the allocation of the reasonable Administrative Costs of the Zone;
- 2) Second, to the allocation for the annual payments of Debt Service of any TIRZ Bonds issued to acquire the Public Improvements;
- 3) Third, for payments to the Developer for the 380 Grant pursuant to the City 380 Agreement.

- 4) Fourth, to be used in any other manner authorized by the City and as allowed pursuant to the Act, and
- 5) Fifth, after all eligible Project Costs have been paid, any excess shall be returned to the general fund of the City and the County, respectively, on a pro rata basis.

12.1.1 City Property Tax Increment

This Final Plan shall obligate the City to deposit the City Property Tax Increment into the TIRZ Fund. For example, in FY 2024, the City's ad valorem tax rate was \$0.4693 per \$100 of taxable value, therefore the City would contribute \$0.23465 per \$100 of the Captured Appraised Value in the Zone levied and collected, to the TIRZ Fund.

12.1.2 County TIRZ Increment

The County Participation Agreement shall obligate the County to deposit the County TIRZ Increment into the TIRZ Fund. For example, in FY 2023, the County's ad valorem tax rate was \$0.3075 per \$100 of taxable value, of which \$0.02 per \$100 of taxable value was associated with road and bridge maintenance and operations, therefore the County would contribute \$0.14375 per \$100 of the Captured Appraised Value in the Zone levied and collected, to the TIRZ Fund.

12.2 City Sales Tax

This Final Plan shall obligate the City to deposit the City Sales Tax Increment into the TIRZ Fund.

SECTION 13: DURATION OF THE ZONE, TERMINATION

13.1 Duration

The stated term of the Zone shall commence upon the execution of the Creation Ordinance and shall continue until December 31, 2048, with the last payment being due by January 31, 2049, unless otherwise terminated in accordance with the Creation Ordinance.

13.2 Termination

The Zone shall terminate on the earlier of (i) December 31, 2048, or (ii) at such time that all Debt Service on any TIRZ Bonds and all payments made to the Developer under the Economic Development Grants equal the Total Payments less amounts paid under the 381 Grant have been paid in full. If upon expiration of the stated term of the Zone, the Total Payments have not been fully funded by the TIRZ Fund and the 381 Grant, the City shall have no obligation to pay the shortfall and the term shall not be extended. Nothing in this Section is intended to prevent the City from extending the term of the Zone in accordance with the Act.

LIST OF EXHIBITS

Unless otherwise stated, all references to "Exhibits" contained in this Preliminary Plan shall mean and refer to the following exhibits, all of which are attached to and made a part of this Preliminary Plan for all purposes.

Exhibit A	Map of the Zone
Exhibit B	Non-Project Costs
Exhibit C	List of Project Costs
Exhibit D	Estimated Timeline of Incurred Project Costs
Exhibit E	Feasibility Study
Exhibit F	Legal Description of the Zone
Exhibit G	Proposed Uses of the Property
Exhibit H	Map of the Public Improvements

EXHIBIT A – MAP OF THE ZONE

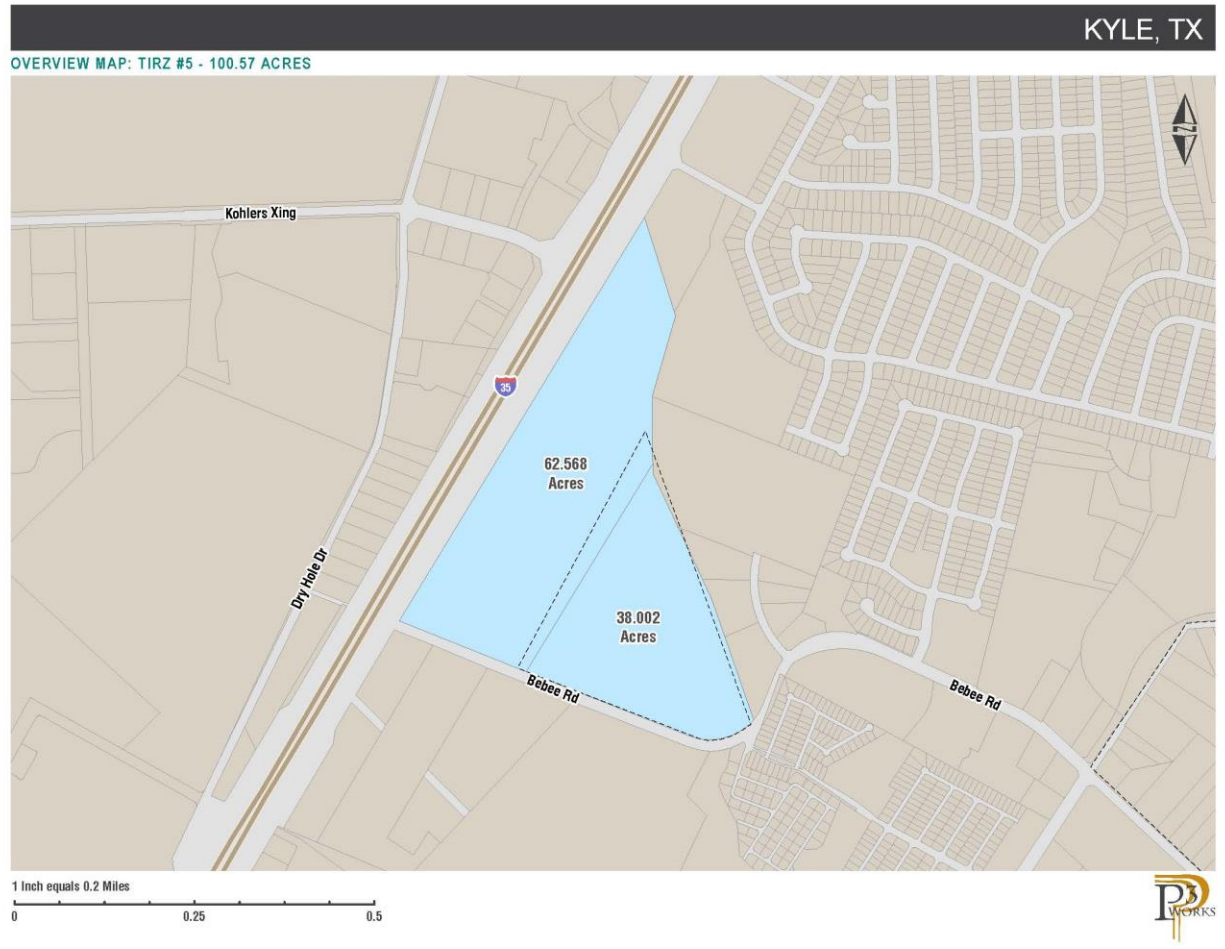


EXHIBIT B – NON-PROJECT COSTS

Lot Type	Unit/SF	Buildout Value	
		\$	Total
Inline Retail	267,275	\$ 190	\$ 50,782,250
Freestanding Retail	142,775	\$ 400	\$ 57,110,000
Restaurant	20,771	\$ 300	\$ 6,231,300
First Floor Retail	17,800	\$ 275	\$ 4,895,000
Multi-Family	421	\$ 201,900	\$ 85,000,000
Total Buildout Value			\$ 204,018,550
Less: Beginning Taxable Value			\$ (38,990)
Less: Public Improvements			\$ (27,186,501)
Total Non-Project Costs			\$ 176,793,059

Footnotes:

¹Values based on Developer's model dated 7/19/2023.

EXHIBIT C – LIST OF PROJECT COSTS

Reinvestment Zone Number Five, City of Kyle Project Costs			
Project Costs	TIRZ Funding	Other Sources	Total Funding
Right-of-Way Land Acquisition ¹	\$ -	\$ 5,500,000	
Debt Service on TIRZ Bonds for Public Improvements ²	\$ 12,695,938		
380 Grant	\$ 14,490,563		
Project Costs Subtotal³	\$ 27,186,501	\$ 5,500,000	\$ 32,686,501
Administrative Costs	320,303		
Total Project Costs	\$ 27,506,804	\$ 5,500,000	\$ 33,006,804

Footnotes:

¹ May be funded with appropriated funds or Road Bond proceeds. These amounts are not currently contemplated to be paid with TIRZ Bond proceeds or TIRZ Increment Receipts.

² The Par Value of the TIRZ Bonds is estimated to be \$8,450,000.

³ Maximum reimbursable costs to Developer is \$38,970,938, which is inclusive of the County's 381 Grant of \$6,284,437.

EXHIBIT D – ESTIMATED TIMELINE OF INCURRED PROJECT COSTS

Reinvestment Zone Number Five, City of Kyle, Texas Estimated Timeline of Incurred Project Costs

Zone Year	Calendar Year	Total Project Costs ^{1,2}	
		Annual	Cumulative
Base	2023	\$ -	\$ -
1	2024	\$ 11,632,965	\$ 11,632,965
2	2025	\$ 15,553,536	\$ 27,186,501
3	2026	\$ -	\$ 27,186,501
4	2027	\$ -	\$ 27,186,501
5	2028	\$ -	\$ 27,186,501
Total		\$ 27,186,501	

Footnotes:

¹ Estimate provided for illustrative purposes only.

² Does not illustrate Administrative Costs, which shall be incurred annually for the duration of the Zone.

EXHIBIT E – FEASIBILITY STUDY

Reinvestment Zone Number Five, City of Kyle Feasibility Study															
Zone Year	Calendar Year	Growth/ Year ¹	Added Development Value ²	New Taxable Value	Incremental Value	City Property Tax Increment ⁴			County TIRZ Increment ⁵			City Sales Tax Increment ⁶		Total TIRZ Fund Contribution ⁷	
						%	Annual	Cumulative	%	Annual	Cumulative	Annual	Cumulative	Annual	Cumulative
Base	2023			\$ 38,990											
1	2024	2%	-	\$ 39,770	\$ 780	50%	\$ -	\$ -	50%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2	2025	2%	-	\$ 40,565	\$ 1,575	50%	\$ 2	\$ 2	50%	\$ 1	\$ 1	\$ -	\$ -	\$ 3	\$ 3
3	2026	2%	-	\$ 41,376	\$ 2,386	50%	\$ 4	\$ 6	50%	\$ 2	\$ 3	\$ -	\$ -	\$ 6	\$ 9
4	2027	2%	151,229,535	\$ 151,271,739	\$ 151,232,749	50%	\$ 6	\$ 11	50%	\$ 3	\$ 7	\$ -	\$ -	\$ 9	\$ 18
5	2028	2%	4,992,900	\$ 159,290,074	\$ 159,251,084	50%	\$ 354,868	\$ 354,879	50%	\$ 217,397	\$ 217,404	\$ 999,150	\$ 999,150	\$ 1,571,415	\$ 1,571,433
6	2029	2%	53,715,517	\$ 216,191,392	\$ 216,152,402	50%	\$ 373,683	\$ 728,561	50%	\$ 228,923	\$ 446,327	\$ 1,039,200	\$ 2,038,350	\$ 1,641,806	\$ 3,213,239
7	2030	2%	-	\$ 220,515,220	\$ 220,476,230	50%	\$ 507,202	\$ 1,235,763	50%	\$ 310,719	\$ 757,046	\$ 1,386,233	\$ 3,424,583	\$ 2,204,153	\$ 5,417,392
8	2031	2%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 517,347	\$ 1,753,111	50%	\$ 316,935	\$ 1,073,981	\$ 1,386,233	\$ 4,810,815	\$ 2,220,515	\$ 7,637,907
9	2032	0%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 527,696	\$ 2,280,807	50%	\$ 323,274	\$ 1,397,255	\$ 1,386,233	\$ 6,197,048	\$ 2,237,203	\$ 9,875,110
10	2033	0%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 527,696	\$ 2,808,503	50%	\$ 323,274	\$ 1,720,530	\$ 1,386,233	\$ 7,583,280	\$ 2,237,203	\$ 12,112,313
11	2034	2%	-	\$ 229,424,035	\$ 229,385,045	50%	\$ 527,696	\$ 3,336,199	50%	\$ 323,274	\$ 2,043,804	\$ 1,386,233	\$ 8,969,513	\$ 2,237,203	\$ 14,349,516
12	2035	2%	-	\$ 234,012,516	\$ 233,973,526	50%	\$ 538,252	\$ 3,874,451	50%	\$ 329,741	\$ 2,373,545	\$ 1,386,233	\$ 10,355,745	\$ 2,254,226	\$ 16,603,741
13	2036	2%	-	\$ 238,692,766	\$ 238,653,776	50%	\$ 549,019	\$ 4,423,470	50%	\$ 336,337	\$ 2,709,882	\$ 1,386,233	\$ 11,741,978	\$ 2,271,588	\$ 18,875,330
14	2037	2%	-	\$ 243,466,621	\$ 243,427,631	50%	\$ 560,001	\$ 4,983,471	50%	\$ 343,065	\$ 3,052,947	\$ 1,386,233	\$ 13,128,210	\$ 2,289,298	\$ 21,164,628
15	2038	2%	-	\$ 248,335,954	\$ 248,296,964	50%	\$ 571,203	\$ 5,554,674	50%	\$ 349,927	\$ 3,402,874	\$ 1,386,233	\$ 14,514,443	\$ 2,307,363	\$ 23,471,991
16	2039	2%	-	\$ 253,302,673	\$ 253,263,683	50%	\$ 582,629	\$ 6,137,303	50%	\$ 356,927	\$ 3,759,801	\$ 1,386,233	\$ 15,900,675	\$ 2,325,788	\$ 25,797,779
17	2040	2%	-	\$ 258,368,726	\$ 258,329,736	50%	\$ 594,283	\$ 6,731,586	50%	\$ 364,067	\$ 4,123,868	\$ 1,386,233	\$ 17,286,908	\$ 2,344,582	\$ 28,142,361
18	2041	2%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 606,171	\$ 7,337,757	50%	\$ 371,349	\$ 4,495,217	\$ 1,386,233	\$ 18,673,140	\$ 2,363,752	\$ 30,506,114
19	2042	0%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 618,296	\$ 7,956,053	50%	\$ 378,777	\$ 4,873,994	\$ 1,386,233	\$ 20,059,373	\$ 2,383,306	\$ 32,889,419
20	2043	0%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 618,296	\$ 8,574,349	50%	\$ 378,777	\$ 5,252,771	\$ 1,386,233	\$ 21,445,605	\$ 2,383,306	\$ 35,272,725
21	2044	2%	-	\$ 268,806,823	\$ 268,767,833	50%	\$ 618,296	\$ 9,192,645	50%	\$ 378,777	\$ 5,631,548	\$ 1,386,233	\$ 22,831,838	\$ 2,383,306	\$ 37,656,030
22	2045	2%	-	\$ 274,182,959	\$ 274,143,969	50%	\$ 630,664	\$ 9,823,309	50%	\$ 386,354	\$ 6,017,902	\$ 1,386,233	\$ 24,218,070	\$ 2,403,250	\$ 40,059,280
23	2046	2%	-	\$ 279,666,618	\$ 279,627,628	50%	\$ 643,279	\$ 10,466,587	50%	\$ 394,082	\$ 6,411,984	\$ 1,386,233	\$ 25,604,303	\$ 2,423,593	\$ 42,482,873
24	2047	2%	-	\$ 285,259,951	\$ 285,220,961	50%	\$ 656,146	\$ 11,122,734	50%	\$ 401,965	\$ 6,813,948	\$ 1,386,233	\$ 26,990,535	\$ 2,444,343	\$ 44,927,217
25	2048	2%	-	\$ 290,965,150	\$ 290,926,160	50%	\$ 669,271	\$ 11,792,005	50%	\$ 410,005	\$ 7,223,953	\$ 1,386,233	\$ 28,376,768	\$ 2,465,509	\$ 47,392,726
Total			209,937,952			\$ 11,792,005			\$ 7,223,953			\$ 28,376,768		\$ 47,392,726	

Assumptions	
Base Taxable Value ³	\$ 38,990
City AV Rate	0.469300
County AV Rate	0.2875

Footnotes
1) Values increased at 2% annually with two years of no growth each decade to simulate an economic downturn.
2) Based on project development data as provided by the Developer.
3) Base Taxable Value is subject to confirmation by Appraisal District. The City Base Taxable Value is lower due to two parcels being located in the City's ETJ currently.
4) The City agreed to participate at 50% of the Incremental Value of property tax.
5) The County agreed to participate at 50% of the Incremental value of property tax, excluding the portion of property tax associated with road and bridge maintenance and operations.
6) The City agreed to participate at 50% of the sales tax generated.
7) The Total Payments will conclude after the City/County participation equals the maximum reimbursement to developer of \$38,970,938. The Total Payments includes Principal & Interest on Bonds, Right-of-Way Cost, TIRZ and 381 payments.

EXHIBIT F – LEGAL DESCRIPTION OF THE ZONE

EXHIBIT “ ”

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 101.8289 ACRES (4,435,666 SQUARE FEET) PARTIALLY OUT OF THE THOMAS G. ALLEN SURVEY, ABSTRACT NO. 26 IN HAYS COUNTY, TEXAS, AND PARTIALLY OUT OF THE DAN DOWNER SURVEY NO. 22, ABSTRACT NO. 151 IN HAYS COUNTY, TEXAS, BEING THE REMNANT PORTION OF A CALLED 104.08 ACRE TRACT CONVEYED TO CARAWAY CATTLE COMPANY FAMILY, IN VOLUME 4516, PAGE 661 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS (D.R.H.C.T.), SAID 101.8289 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:



PO Box 90876
Austin, TX 78709
(512) 537-2384
jward@4wardls.com
www.4wardls.com

BEGINNING, at a 1/2-inch iron rod with “4Ward Boundary” cap set at the intersection of the east right-of-way line of South IH 35 (right-of-way varies) and the north right-of-way line of Bebee Road (right-of-way varies), being the southwest corner of said 104.08 acre tract, for the southwest corner and POINT OF BEGINNING hereof, from which a 1/2-inch iron rod found for the intersection of the east right-of-way line of said IH 35 and the south right-of-way line of said Bebee Road, being the northwest corner of a called 45.64 acre tract (described as “Tract 1”) conveyed to Sunrise Village Investment, LLC in Document No. 20032482 of the Official Public Records of Hays County, Texas (O.P.R.H.C.T.), bears, S31°37’13”W, a distance of 79.98 feet;

THENCE, with the east right-of-way line of said IH 35 and the west line of said 104.08 acre tract, the following three (3) courses and distances:

- 1) N31°24’32”E, passing at a distance of 1,908.08 feet a TxDot type II Brass Disc found for a point on line hereof, and continuing for a total distance of 3,067.92 feet to a calculated point for an angle point hereof, from which a TxDot Type I concrete monument found bears, S73°31’45”E, a distance of 1.21 feet,
- 2) N53°13’03”E, a distance of 107.88 feet to a calculated point for an angle point hereof, from which a TxDot Type I concrete monument found bears, N59°56’12”W, a distance of 1.01 feet, and
- 3) N31°24’07”E, a distance of 284.23 feet to an 1/2-inch iron rod with illegible cap found for the north corner hereof, said point being the north corner of said 104.08 acre tract, and being the west corner of Lot 2, Amberwood Commercial Section 1, a subdivision recorded in Volume 14, Page 129 of the Plat Records of Hays County, Texas (P.R.H.C.T.), said Lot 2 having been conveyed to SPI Strand 160 EX, LLC in Document No. 1830726 (O.P.R.H.C.T.), from which a 1/2-inch iron rod found for an angle point in the north line of said Lot 1, Amberwood Commercial, being in the south right-of-way line of Amberwood South (right-of-way varies), bears, N31°24’07”E a distance of 398.05 feet, and N72°48’46”E, a distance of 44.66 feet;

THENCE, leaving the east right-of-way line of said IH 35, with the northeast line of said 104.08 acre tract, in part with the southwest line of said Lot 2, Amberwood Commercial, and in part with the southwest line of Lot 1 of said Amberwood Commercial (no ownership information provided for Lot 1 per Hays County Appraisal District), the following two (2) courses and distances:

- 1) S16°50’22”E, passing at a distance of 724.16 feet a 1/2-inch iron rod with illegible cap found for the common south corner of said Lot 1 and said Lot 2, Amberwood Commercial, and continuing for a total distance of 752.15 feet to a 1/2-inch iron rod with “4Ward Boundary” cap found for an angle point hereof, and

- 2) **S16°53'19"W**, a distance of **610.34** feet to a 1/2-inch iron rod found for an angle point hereof;

THENCE, with the northeast line of said 104.08 acre tract, in part with the southwest line of said Lot 1, Amberwood Commercial, in part with the southwest line of a called 25.98 acre tract (described as "Tract 2") conveyed to Kyle Business Park, L.P. in Volume 2835, Page 819 (D.R.H.C.T.), and in part with the southwest lines of Lots 21 through 23, Block A, Kyle Business Park, Section One, a subdivision recorded in Volume 12, Page 395 (P.R.H.C.T.), said Lots 21 through 23 (described as part of "Tract 2") having been conveyed to Kyle Business Park, L.P. in Volume 2835, Page 819 (D.R.H.C.T.), the following three (3) courses and distances:

- 1) **S00°13'08"W**, passing at a distance of 5.71 feet a calculated point for the common west corner of said Lot 1, Amberwood Commercial and said 25.98 acre tract, and continuing for a total distance of **567.81** feet to a 3/8-inch iron rod found for an angle point hereof,
- 2) **S24°24'03"E**, passing at a distance of 431.92 feet a 1/2-inch iron rod with "Bryn" cap found for the common west corner of said 25.98 acre tract and said Lot 21, passing at a distance of 853.52 feet a calculated point for the common west corner of said Lot 21 and said Lot 22, from which a 1/2-inch iron rod with "Bryn" cap found bears **S37°03'32"W**, a distance of 0.39 feet, and continuing for a total distance of **1,009.62** feet to a 1/2-inch iron rod found for an angle point hereof, said point being in the west line of said Lot 22, and
- 3) **S18°33'49"E**, passing at a distance of 294.69 feet a 1/2-inch iron rod with "Bryn" cap found for the common west corner of said Lot 22 and said Lot 23, and continuing got a total distance of **935.60** feet to a 1/2-inch iron rod with illegible cap found for a point of curvature hereof, said point being in the northwest right-of-way line of said Bebee Road, for the southeast corner of said Lot 23, and being an angle point in the north line of a called 2.305 acre tract conveyed to Hays County, Texas for right-of-way purposes in Volume 1206, Page 472 (O.P.R.H.C.T.),

THENCE, with the north right-of-way line of said BeBee Road, with the north line of said 2.305 acre tract, and over and across said 104.08 acre tract, the following two (2) courses and distances:

- 1) Along a curve to the right, whose radius is **418.37** feet, whose arc length is **522.20** feet, and whose chord bears **S76°32'18"W**, a distance of **488.96** feet to a 1/2-inch iron rod with illegible cap found for a point of tangency hereof, and
- 2) **N67°41'19"W**, a distance of **2,281.99** feet to the **POINT OF BEGINNING** and containing 101.8289 Acres (4,435,666 Square Feet) of land, more or less.

NOTE:

All bearings are based on the Texas State Plane Coordinate System, Grid North, South Central Zone (4204), all distances were adjusted to surface using a combined scale factor of 1.000098675586. See attached sketch (reference drawing: 01480.dwg).

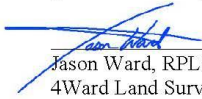
 **9/2/2022**
Jason Ward, RPLS #5811
4Ward Land Surveying, LLC



EXHIBIT G – PROPOSED USES OF THE PROPERTY

SITE PLAN



EXHIBIT H – MAP OF THE PUBLIC IMPROVEMENTS



Caraway Tract
Road Section Map (SP40)
 Kyle, Texas
 August 24, 2023

Kimley»Horn
 1201 Southwest Parkway, Uplands II
 Suite 102
 Austin, Texas 78735
 512-546-2237
 State of Texas Registration No. F-955



Caraway Tract
Preliminary Utility Exhibit (SP40)
 Kyle, Texas
 August 24, 2023

Kimley»Horn

6309 Southwest Parkway, Uplands II
 Suite 102
 Austin, Texas 78735
 512-590-0237
 State of Texas Registration No. F-825

THIS PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION. IT IS THE RESPONSIBILITY OF THE CLIENT TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.



Caraway Tract
Preliminary Water Exhibit (SP40)
 Kyle, Texas
 August 24, 2023

Kimley»Horn

6309 Southwest Parkway, Uplands II
 Suite 102
 Austin, Texas 78735
 512-990-0237
 State of Texas Registration No. F-825

THIS PLAN AND ANY INSTRUMENTS HEREON SHALL BE CONSIDERED TO BE A PART OF THE PROJECT AND SHALL BE SUBJECT TO THE SAME TERMS AND CONDITIONS AS THE PROJECT.



REINVESTMENT ZONE NUMBER FIVE,
CITY OF KYLE, TEXAS
FINAL PROJECT AND FINANCE PLAN
DECEMBER 19, 2023

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SECTION 1: DEFINITIONS

Capitalized terms used in this Final Plan shall have the meanings given to them in **Section I** below unless otherwise defined in this Final Plan or unless the context in which a term is used clearly requires a different meaning. Unless otherwise defined, a reference to a “Section,” or an “Exhibit,” shall be a reference to a Section of this Final Plan or an Exhibit or Appendix attached to and made a part of this Final Plan for all purposes.

“380 Grant” means a program authorized by Chapter 380 of the Texas Local Government Code, as amended that makes grants from the TIRZ Fund of the Zone, pursuant to the City 380 Agreement.

“381 Grant” means a program authorized by Chapter 381 of the Texas Local Government Code, as amended by and between the county and the Developer that makes grants from a portion of the County’s sales tax collections within the Zone, pursuant to the County 381 Agreement.

“Act” means Chapter 311, Texas Tax Code, Tax Increment Financing Act, as amended.

“Administrative Costs” means the actual, direct costs paid or incurred by or on behalf of the City to administer the Zone, including planning, engineering, legal services, organizational costs, publicizing costs, or implementations costs paid by or on behalf of the City that are directly related to the administration of the Zone.

“Appraisal District” means the Hays Central Appraisal District.

“Board” means the Board of Directors for the Zone.

“Captured Appraised Value” means the new taxable value generated in addition to the Tax Increment Base on a parcel-by-parcel basis for each year during the term of the Zone, as calculated and confirmed annually by the Appraisal District.

“City 380 Agreement” means the agreement between the City and Developer that provides incentive payments to the Developer, upon the satisfaction of certain metrics, paid with the TIRZ Increment Receipts produced by the Zone.

“City Council” means the governing body of the City.

“City Property Tax Increment” means fifty percent (50%) of the City’s ad valorem real property taxes collected and received by the City on the Captured Appraised Value in the Zone and deposited into the TIRZ Fund.

“City Sales Tax Increment” means fifty percent (50%) of the City’s sales taxes collected and received by the City from the development within the Zone and deposited into the TIRZ Fund.

“City” means the City of Kyle, Texas.

“County 381 Agreement” means the agreement between the County and Developer that dedicates one half (1/2) of the County sales tax generated in the Zone to reimburse the Developer for Project Costs of the Zone.

“County Participation Agreement” means that certain Interlocal Agreement to Participate in Reinvestment Zone Number Five, City of Kyle, Texas, entered into by the City and County on December 19, 2023, detailing the City and County’s participation in the Zone.

“County TIRZ Increment” means fifty percent (50%) of the County’s ad valorem real property taxes collected and received by the [CityCounty](#) on the Captured Appraised Value in the Zone, excluding the portion of real property taxes collected and received associated with road and bridge maintenance and operations, and deposited into the TIRZ Fund.

“County” means Hays County, Texas.

“Creation Ordinance” means Ordinance No. 1294 adopted by the City Council on December 5, 2023.

“Debt Service” means the total principal and interest due on any TIRZ Bonds issued and sold by the City to acquire the Public Improvements, which Debt Service may be paid from the TIRZ Increment Receipts.

“Developer” means NewQuest Equity, L.C. and Transwestern Development Company L.L.C. and its successors or assigns.

“Economic Development Grants” means the 380 Grant and the 381 Grant.

“Feasibility Study” means the economic feasibility study as evaluated over the term of the Zone and focused only on direct financial benefits, as shown on **Exhibit E**.

“Final Plan” means the future *Reinvestment Zone Number Five, City of Kyle Final Project and Finance Plan*.

“Non-Project Costs” means those certain costs that will be spent to develop in the Zone, but will not be financed by the Zone, and will be financed by private funds, as described in **Section 6**, and shown on **Exhibit B**.

“Preliminary Plan” means this *Reinvestment Zone Number Five, City of Kyle Preliminary Project and Finance Plan*.

“Project Costs” means the total costs in the Zone, including the Administrative Costs, the actual costs of the Public Improvements, Debt Service on any TIRZ Bonds issued to acquire the Public Improvements, and the 380 Grant.

“Property” means 100.57 acres of land as depicted on **Exhibit A** and identified on **Exhibit F**.

“Public Improvements” means the proposed public improvements to be financed by the Zone, which includes roads, water, public utilities, and soft costs related thereto, as depicted on **Exhibit H**, and detailed on **Exhibit C**.

“Right-of-Way Land Acquisition” means the land to be acquired by the City and legally recognized as a route for public use for the benefit of the Zone.

“Road Bonds” means any general obligation bonds issued by the City pursuant to voter authorization obtained at an election held on November 8, 2022.

“Sales Tax Base” means the total amount of municipal sales and use taxes attributable to the Zone in 2023. The Sales Tax Base is \$0.00.

“Tax Increment Base” means total appraised value of taxable real property in the Zone at the time of creation of the Zone, as calculated and certified by the Appraisal District.

“TIRZ Bonds” means any public securities, other than Road Bonds, issued by the City to acquire the Public Improvements, which Debt Service thereof may be paid from the TIRZ Increment Receipts.

“TIRZ Fund” means the tax increment fund created by the City and segregated from all other funds of the City.

“TIRZ Increment Receipts” means the cumulative amount of the City Property Tax Increment, the City Sales Tax Increment, and the County TIRZ Increment.

“Total Payments” means the cumulative amount of payments made pursuant to the terms of this Project and Finance Plan, including the Economic Development Grants, payment for Right-of-Way land acquisition, and the net proceeds of TIRZ Bonds, if any, on any series of bonds issued to finance the Public Improvements in an amount not to exceed \$38,970,938 less interest amounts on paid TIRZ Bonds, if any.

“Zone” means Reinvestment Zone Number Five, City of Kyle, as depicted on **Exhibit A**, and described on **Exhibit F**.

SECTION 2: INTRODUCTION

2.1 Authority and Purpose

The City has the authority under the Act to designate a contiguous or noncontiguous geographic area within the corporate limits or extraterritorial jurisdiction of the City as a tax increment reinvestment zone to promote development or redevelopment of the area because the City Council determined that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future, that the Zone is economically feasible, and that creation of the Zone is in the best interest of the City and the property in the Zone. The purpose of the Zone is to facilitate such development or redevelopment by financing the costs of public works, public improvements, programs, and other projects benefiting the Zone, plus other costs incidental to those expenditures, all of which costs are authorized by the Act.

2.2 Eligibility Requirements

An area is eligible under the Act to be designated as a tax increment reinvestment zone if the area:

- 1) substantially arrests or impairs the sound growth of the municipality designating the Zone, retard the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition; or
- 2) is predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impairs or arrests the sound growth of the City; or
- 3) is in a federally assisted new community located in the City or in an area immediately adjacent to a federally assisted new community; or
- 4) is in an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the City by the owners of property constituting at least fifty percent (50%) of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

The City cannot, however, designate a zone if more than thirty percent (30%) of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes, or if the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds fifty percent (50%) of the total appraised value of taxable real property in the City and in industrial districts created by the City.

2.3 Proposed Zone

Concurrently with the approval of this Final Plan, the Property within the proposed Zone will be located within the corporate limits of the City. The Property is predominantly open, undeveloped or underdeveloped, and substantially impairs and arrests the sound growth of the City. Due to its size, location, and physical characteristics development would not occur solely through private investment in the foreseeable future. The Property lacks public infrastructure and requires economic incentive to attract development for the purpose of providing long-term economic benefits including, but not limited to, increased real property tax base for all taxing units in the Zone. If the Public Improvements are financed as contemplated by this Final Plan, the City envisions that the Property will be developed to take full advantage of the opportunity to bring to the City a quality development.

2.4 Preliminary Plan and Hearing

Before the City Council adopted the Creation Ordinance, the City Council prepared the Preliminary Plan in accordance with the Act and held a public hearing on the creation of the Zone and its benefits to the City and to the Property, at which public hearing interested persons were given the opportunity to speak for and against the creation of the Zone, the boundaries of the Zone and the concept of tax increment financing, and at which hearing the owners of the Property were given a reasonable opportunity to protest the inclusion of their Property in the Zone. The requirement of the Act for a preliminary reinvestment zone project and finance plan was satisfied by the Preliminary Plan, the purpose of which was to describe, in general terms, the Public Improvements that would be undertaken and financed by the Zone. A description of the uses of the Property is located in **Exhibit G**, and confirmed by the adoption of this Final Plan.

2.5 Creation of the Zone

Upon the closing of the December 5, 2023 public hearing, the City Council approved the Creation Ordinance and the following findings:

- 1) that development or redevelopment of the Property would not occur solely through private investment in the reasonably foreseeable future,
- 2) that the Zone was feasible,
- 3) that improvements in the Zone will significantly enhance the value of all the taxable real property in the Zone and will be of general benefit to the City, and
- 4) that the Zone meets the eligibility requirements of the Act.

Among other provisions required by the Act, the Creation Ordinance shall appoint the Board.

2.6 Council action

2.6.1 Final Project and Finance Plan

On December 19, 2023, the City Council approved Ordinance No. 1294, adopting a Final Plan for the Zone.

2.6.2 County Participation in the Zone

On December 19, 2023, the City Council and County entered into the County Participation Agreement, detailing the County's participation in the Zone.

2.6.3 Board Recommendation

On December 19, 2023, the Board reviewed, and recommended to the City Council this Final Plan. The City Council shall consider this Final Plan, pursuant to which the City will contribute the City Property Tax Increment and the City Sales Tax Increment into the TIRZ Fund and the County will contribute the County TIRZ Increment into the TIRZ Fund to fund the Project Costs benefiting the Zone.

SECTION 3: DESCRIPTION AND MAPS

3.1 Existing Uses and Conditions

The Property is currently zoned Agriculture and is intended to be developed with commercial and residential uses. The Property is undeveloped or underdeveloped, and there is limited public infrastructure to support development. Development requires extensive public infrastructure that: (1) the City could not provide, and (2) would not be provided solely through private investment in the foreseeable future.

3.2 Proposed Uses

The proposed uses of the Property in the City include commercial and residential use, as shown on **Exhibit G**.

SECTION 4: PROPOSED CHANGES TO ORDINANCES, PLANS, CODES, RULES, AND REGULATIONS

Concurrently with the approval of this Final Plan, the Property within the proposed Zone will be located within the corporate limits of the City and shall be subject to the City's zoning regulations. The property is currently zoned as Agriculture. The City has exclusive jurisdiction over the subdivision and platting of the property within the Property and the design, construction, installation, and inspection of water, sewer, drainage, roadway, and other public infrastructure.

No proposed changes to zoning ordinances, comprehensive plan, building codes, subdivision rules, or other municipal ordinances are planned.

SECTION 5: RELOCATION OF DISPLACED PERSONS

No persons were displaced and in need of relocation due to the creation of the Zone or shall be due to the implementation of this Plan.

SECTION 6: NON-PROJECT COSTS

Non-project costs are costs that will be spent to develop in the Zone but will not be financed by the Zone, and will be financed by private funds. The list of non-project costs is shown on **Exhibit B** and are estimated to be approximately \$176,793,059.

SECTION 7: PUBLIC IMPROVEMENTS

7.1 Categories of Public Improvements

All Public Improvements shall be designed and constructed in accordance with all applicable City standards and shall otherwise be inspected, approved, and accepted by the City. At the City's option, the Public Improvements may be expanded to include any other category of improvements authorized by the Act.

7.2 Locations of Public Improvements

The estimated locations of the proposed Public Improvements are depicted on **Exhibit H**. These locations may be revised, with the approval of the City, from time to time without amending this Final Plan.

SECTION 8: PROJECT COSTS

8.1 Project Costs

The total costs are estimated to be \$39,291,241, as shown below and detailed on **Exhibit C**. The Project Costs of are estimated to be \$38,970,938, and the Administrative Costs are estimated to be \$320,303.

8.1.1 Administrative Costs

The Administrative Costs are estimated at \$10,000 in 2024 and projected to increase by two percent (2%) per year beginning 2025. The Administrative Costs shall be paid each year from the TIRZ Fund before any other Project Costs are paid.

8.1.2 Project Costs

The total Project Costs are estimated to be \$38,970,938, as shown on **Exhibit C**.

8.2 Estimated Timeline of Incurred Costs

The Administrative Costs will be incurred annually through the remaining duration of the Zone. It is estimated the costs for constructing the Public Improvements will be incurred between 2026 and 2028, as shown on **Exhibit D**.

SECTION 9: FEASIBILITY STUDY

9.1 Feasibility Study

The Feasibility Study focuses on only direct financial benefits (i.e. ad valorem tax and sales tax revenues from the development of Public Improvements in the Zone). Based on the Feasibility Study, during the term of the Zone, new development (which would not have occurred but for the Zone) will generate approximately ~~\$39,036,988~~\$38,031,916 in total new real property tax revenues for the participating taxing entities over the term of the Zone. Approximately ~~\$19,518,494~~\$15,958 in City Property Tax Increment and County TIRZ Increment will be deposited into the TIRZ Fund to pay for the Project Costs over the life of the Zone. The remaining real property tax over that period, estimated at ~~\$19,518,494~~\$15,958 shall be retained by the participating taxing entities.

The Feasibility Study shows the cumulative City Property Tax Increment is estimated to be \$11,792,005 which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new City Property Tax Increment generated within the Zone and retained by the City is estimated to be \$11,792,005 over the term of the Zone.

The Feasibility Study shows the cumulative County TIRZ Increment is estimated to be ~~\$7,726,489~~\$223,953, which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new County real property tax and sales tax revenues generated within the Zone and retained by the County is estimated to be ~~\$7,726,489~~\$223,953, over the term of the Zone.

The Feasibility Study shows the cumulative City Sales Tax Increment is estimated to be \$28,376,768 which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new City Sales Tax Increment generated within the Zone and retained by the City is estimated to be \$28,376,768 over the term of the Zone.

Any Project Costs not paid from the TIRZ Increment Receipts or the 381 Grant will be paid for with private funds. Provided, however, notwithstanding anything in this Preliminary Plan or in

any agreement to the contrary, amounts paid to the Developer shall not exceed the Total Payments.

SECTION 10: ESTIMATED BONDED INDEBTEDNESS

The City shall be authorized to issue TIRZ Bonds which are secured by and payable from the City TIRZ Increment. The estimated bonded indebtedness of the Zone is anticipated to be \$8,450,000, as shown on **Exhibit C**. The bonds, supported by the TIRZ, are anticipated to be issued by the City in 2027.

SECTION 11: APPRAISED VALUE

11.1 Tax Increment Base

The Tax Increment Base is estimated to be \$38,990 and shall be confirmed by the Appraisal District. Each year, the Appraisal District shall confirm the Captured Appraised Value of the Zone.

11.2 Estimated Captured Appraised Value

It is estimated that upon expiration of the term of the Zone, the total Captured Appraised Value of taxable real property in the Zone will be approximately \$290,~~965,150~~926,160, as shown on **Exhibit E**. The actual Captured Appraised Value, as certified by the Appraisal District each year, will be used to calculate the City Property Tax Increment and the County TIRZ Increment, as applicable, pursuant to this Final Plan.

SECTION 12: METHOD OF FINANCING

12.1 TIRZ No. 5 Fund Contributions

All payments of Project Costs shall be made solely from the TIRZ Fund and the 381 Grant. No other funds of the City or County shall be utilized, unless otherwise approved by their respective governing bodies. The TIRZ Fund shall only be used to pay the Project Costs. The City may amend this Final Plan in compliance with the County Participation Agreement, including but not limited to what is considered a Project Cost.

Additionally, funds deposited into the TIRZ Fund, shall be applied in the following order:

- 1) First, to the allocation of the reasonable Administrative Costs of the Zone;
- 2) Second, to the allocation for the annual payments of Debt Service of any TIRZ Bonds issued to acquire the Public Improvements;
- 3) Third, for payments to the Developer for the 380 Grant pursuant to the City 380 Agreement.

- 4) Fourth, to be used in any other manner authorized by the City and as allowed pursuant to the Act, and
- 5) Fifth, after all eligible Project Costs have been paid, any excess shall be returned to the general fund of the City and the County, respectively, on a pro rata basis.

12.1.1 City Property Tax Increment

This Final Plan shall obligate the City to deposit the City Property Tax Increment into the TIRZ Fund. For example, in FY 2024, the City's ad valorem tax rate was \$0.4693 per \$100 of taxable value, therefore the City would contribute \$0.23465 per \$100 of the Captured Appraised Value in the Zone levied and collected, to the TIRZ Fund.

12.1.2 County TIRZ Increment

The County Participation Agreement shall obligate the County to deposit the County TIRZ Increment into the TIRZ Fund. For example, in FY 2023, the County's ad valorem tax rate was \$0.3075 per \$100 of taxable value, of which \$0.02 per \$100 of taxable value was associated with road and bridge maintenance and operations, therefore the County would contribute \$0.~~15375~~14375 per \$100 of the Captured Appraised Value in the Zone levied and collected, to the TIRZ Fund.

12.2 City Sales Tax

This Final Plan shall obligate the City to deposit the City Sales Tax Increment into the TIRZ Fund.

SECTION 13: DURATION OF THE ZONE, TERMINATION

13.1 Duration

The stated term of the Zone shall commence upon the execution of the Creation Ordinance and shall continue until December 31, 2048, with the last payment being due by January 31, 2049, unless otherwise terminated in accordance with the Creation Ordinance.

13.2 Termination

The Zone shall terminate on the earlier of (i) December 31, 2048, or (ii) at such time that all Debt Service on any TIRZ Bonds and all payments made to the Developer under the Economic Development Grants equal the Total Payments less amounts paid under the 381 Grant have been paid in full. If upon expiration of the stated term of the Zone, the Total Payments have not been fully funded by the TIRZ Fund and the 381 Grant, the City shall have no obligation to pay the shortfall and the term shall not be extended. Nothing in this Section is intended to prevent the City from extending the term of the Zone in accordance with the Act.

LIST OF EXHIBITS

Unless otherwise stated, all references to "Exhibits" contained in this Preliminary Plan shall mean and refer to the following exhibits, all of which are attached to and made a part of this Preliminary Plan for all purposes.

Exhibit A	Map of the Zone
Exhibit B	Non-Project Costs
Exhibit C	List of Project Costs
Exhibit D	Estimated Timeline of Incurred Project Costs
Exhibit E	Feasibility Study
Exhibit F	Legal Description of the Zone
Exhibit G	Proposed Uses of the Property
Exhibit H	Map of the Public Improvements

EXHIBIT A – MAP OF THE ZONE

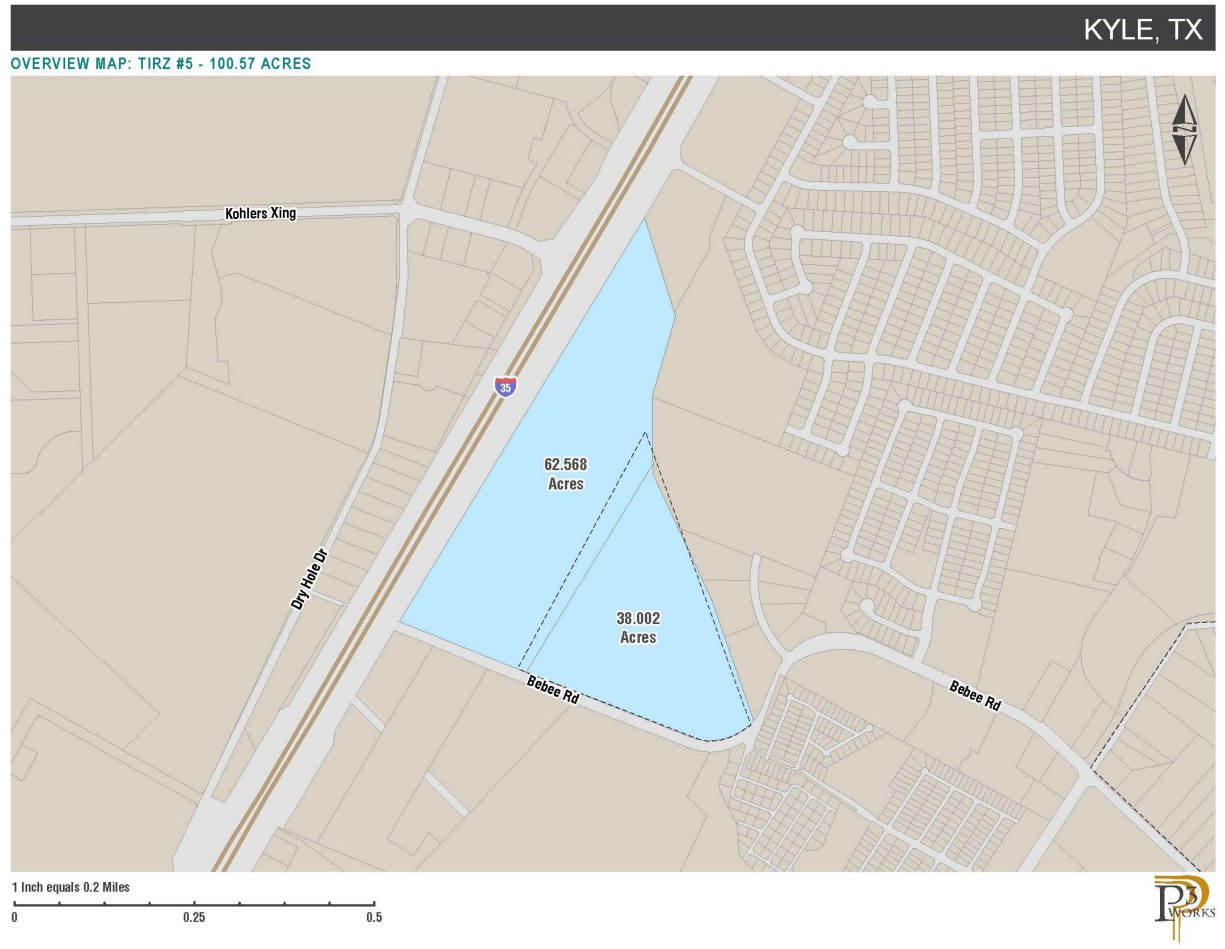


EXHIBIT B – NON-PROJECT COSTS

Lot Type	Unit/SF	Buildout Value	
		\$	Total
Inline Retail	267,275	\$ 190	\$ 50,782,250
Freestanding Retail	142,775	\$ 400	\$ 57,110,000
Restaurant	20,771	\$ 300	\$ 6,231,300
First Floor Retail	17,800	\$ 275	\$ 4,895,000
Multi-Family	421	\$ 201,900	\$ 85,000,000
Total Buildout Value			\$ 204,018,550
Less: Beginning Taxable Value			\$ (38,990)
Less: Public Improvements			\$ (27,186,501)
Total Non-Project Costs			\$ 176,793,059

Footnotes:

¹Values based on Developer's model dated 7/19/2023.

EXHIBIT C – LIST OF PROJECT COSTS

Reinvestment Zone Number Five, City of Kyle Project Costs			
Project Costs	TIRZ Funding	Other Sources	Total Funding
Right-of-Way Land Acquisition ¹	\$ -	\$ 5,500,000	
Debt Service on TIRZ Bonds for Public Improvements ²	\$ 12,695,938		
380 Grant	\$ 14,490,563		
Project Costs Subtotal³	\$ 27,186,501	\$ 5,500,000	\$ 32,686,501
Administrative Costs	320,303		
Total Project Costs	\$ 27,506,804	\$ 5,500,000	\$ 33,006,804

Footnotes:

¹ May be funded with appropriated funds or Road Bond proceeds. These amounts are not currently contemplated to be paid with TIRZ Bond proceeds or TIRZ Increment Receipts.

² The Par Value of the TIRZ Bonds is estimated to be \$8,450,000.

³ Maximum reimbursable costs to Developer is \$38,970,938, which is inclusive of the County's 381 Grant of \$6,284,437.

EXHIBIT D – ESTIMATED TIMELINE OF INCURRED PROJECT COSTS

Reinvestment Zone Number Five, City of Kyle, Texas Estimated Timeline of Incurred Project Costs

Zone Year	Calendar Year	Total Project Costs ^{1,2}	
		Annual	Cumulative
Base	2023	\$ -	\$ -
1	2024	\$ 11,632,965	\$ 11,632,965
2	2025	\$ 15,553,536	\$ 27,186,501
3	2026	\$ -	\$ 27,186,501
4	2027	\$ -	\$ 27,186,501
5	2028	\$ -	\$ 27,186,501
Total		\$ 27,186,501	

Footnotes:

¹ Estimate provided for illustrative purposes only.

² Does not illustrate Administrative Costs, which shall be incurred annually for the duration of the Zone.

EXHIBIT E – FEASIBILITY STUDY

Reinvestment Zone Number Five, City of Kyle Feasibility Study															
Zone Year	Calendar Year	Growth/ Year ¹	Added Development Value ²	New Taxable Value	Incremental Value	City Property Tax Increment ⁴			County TIRZ Increment ⁵			City Sales Tax Increment ⁶		Total TIRZ Fund Contribution ⁷	
						%	Annual	Cumulative	%	Annual	Cumulative	Annual	Cumulative	Annual	Cumulative
Base	2023			\$ 38,990											
1	2024	2%	-	\$ 39,770	\$ 780	50%	\$ -	\$ -	50%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2	2025	2%	-	\$ 40,565	\$ 1,575	50%	\$ 2	\$ 2	50%	\$ 1	\$ 1	\$ -	\$ -	\$ 3	\$ 3
3	2026	2%	-	\$ 41,376	\$ 2,386	50%	\$ 4	\$ 6	50%	\$ 2	\$ 4	\$ -	\$ -	\$ 6	\$ 9
4	2027	2%	151,229,535	\$ 151,271,739	\$ 151,232,749	50%	\$ 6	\$ 11	50%	\$ 4	\$ 7	\$ -	\$ -	\$ 9	\$ 18
5	2028	2%	4,992,900	\$ 159,290,074	\$ 159,251,084	50%	\$ 354,868	\$ 354,879	50%	\$ 232,520	\$ 232,528	\$ 999,150	\$ 999,150	\$ 1,586,538	\$ 1,586,556
6	2029	2%	53,715,517	\$ 216,191,392	\$ 216,152,402	50%	\$ 373,683	\$ 728,561	50%	\$ 244,849	\$ 477,376	\$ 1,039,200	\$ 2,038,350	\$ 1,657,731	\$ 3,244,288
7	2030	2%	-	\$ 220,515,220	\$ 220,476,230	50%	\$ 507,202	\$ 1,235,763	50%	\$ 332,334	\$ 809,711	\$ 1,386,233	\$ 3,424,583	\$ 2,225,768	\$ 5,470,056
8	2031	2%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 517,347	\$ 1,753,111	50%	\$ 338,982	\$ 1,148,693	\$ 1,386,233	\$ 4,810,815	\$ 2,242,562	\$ 7,712,618
9	2032	0%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 527,696	\$ 2,280,807	50%	\$ 345,763	\$ 1,494,456	\$ 1,386,233	\$ 6,197,048	\$ 2,259,692	\$ 9,972,310
10	2033	0%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 527,696	\$ 2,808,503	50%	\$ 345,763	\$ 1,840,219	\$ 1,386,233	\$ 7,583,280	\$ 2,259,692	\$ 12,232,002
11	2034	2%	-	\$ 229,424,035	\$ 229,385,045	50%	\$ 527,696	\$ 3,336,199	50%	\$ 345,763	\$ 2,185,982	\$ 1,386,233	\$ 8,969,513	\$ 2,259,692	\$ 14,491,694
12	2035	2%	-	\$ 234,012,516	\$ 233,973,526	50%	\$ 538,252	\$ 3,874,451	50%	\$ 352,680	\$ 2,538,661	\$ 1,386,233	\$ 10,355,745	\$ 2,277,164	\$ 16,768,858
13	2036	2%	-	\$ 238,692,766	\$ 238,653,776	50%	\$ 549,019	\$ 4,423,470	50%	\$ 359,734	\$ 2,898,396	\$ 1,386,233	\$ 11,741,978	\$ 2,294,986	\$ 19,063,843
14	2037	2%	-	\$ 243,466,621	\$ 243,427,631	50%	\$ 560,001	\$ 4,983,471	50%	\$ 366,930	\$ 3,265,326	\$ 1,386,233	\$ 13,128,210	\$ 2,313,164	\$ 21,377,007
15	2038	2%	-	\$ 248,335,954	\$ 248,296,964	50%	\$ 571,203	\$ 5,554,674	50%	\$ 374,270	\$ 3,639,596	\$ 1,386,233	\$ 14,514,443	\$ 2,331,705	\$ 23,708,713
16	2039	2%	-	\$ 253,302,673	\$ 253,263,683	50%	\$ 582,629	\$ 6,137,303	50%	\$ 381,757	\$ 4,021,352	\$ 1,386,233	\$ 15,900,675	\$ 2,350,618	\$ 26,059,330
17	2040	2%	-	\$ 258,368,726	\$ 258,329,736	50%	\$ 594,283	\$ 6,731,586	50%	\$ 389,393	\$ 4,410,745	\$ 1,386,233	\$ 17,286,908	\$ 2,369,909	\$ 28,429,239
18	2041	2%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 606,171	\$ 7,337,757	50%	\$ 397,182	\$ 4,807,927	\$ 1,386,233	\$ 18,673,140	\$ 2,389,585	\$ 30,818,824
19	2042	0%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 618,296	\$ 7,956,053	50%	\$ 405,127	\$ 5,213,054	\$ 1,386,233	\$ 20,059,373	\$ 2,409,655	\$ 33,228,480
20	2043	0%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 618,296	\$ 8,574,349	50%	\$ 405,127	\$ 5,618,181	\$ 1,386,233	\$ 21,445,605	\$ 2,409,655	\$ 35,638,135
21	2044	2%	-	\$ 268,806,823	\$ 268,767,833	50%	\$ 618,296	\$ 9,192,645	50%	\$ 405,127	\$ 6,023,308	\$ 1,386,233	\$ 22,831,838	\$ 2,409,655	\$ 38,047,790
22	2045	2%	-	\$ 274,182,959	\$ 274,143,969	50%	\$ 630,664	\$ 9,823,309	50%	\$ 413,231	\$ 6,436,538	\$ 1,386,233	\$ 24,218,070	\$ 2,430,127	\$ 40,477,917
23	2046	2%	-	\$ 279,666,618	\$ 279,627,628	50%	\$ 643,279	\$ 10,466,587	50%	\$ 421,496	\$ 6,858,035	\$ 1,386,233	\$ 25,604,303	\$ 2,451,008	\$ 42,928,925
24	2047	2%	-	\$ 285,259,951	\$ 285,220,961	50%	\$ 656,146	\$ 11,122,734	50%	\$ 429,927	\$ 7,287,962	\$ 1,386,233	\$ 26,990,535	\$ 2,472,306	\$ 45,401,231
25	2048	2%	-	\$ 290,965,150	\$ 290,926,160	50%	\$ 669,271	\$ 11,792,005	50%	\$ 438,527	\$ 7,726,489	\$ 1,386,233	\$ 28,376,768	\$ 2,494,031	\$ 47,895,261
Total			209,937,952			\$ 11,792,005			\$ 7,726,489			\$ 28,376,768		\$ 47,895,261	

Assumptions	
Base Taxable Value ³	\$ 38,990
City AV Rate	0.469300
County AV Rate	0.3075

Footnotes	
1) Values increased at 2% annually with two years of no growth each decade to simulate an economic downturn.	
2) Based on project development data as provided by the Developer.	
3) Base Taxable Value is subject to confirmation by Appraisal District. The City Base Taxable Value is lower due to two parcels being located in the City's ETJ currently.	
4) The City agreed to participate at 50% of the Incremental Value of property tax.	
5) The County agreed to participate at 50% of the Incremental value of property tax.	
6) The City agreed to participate at 50% of the sales tax generated.	
7) The Total Payments will conclude after the City/County participation equals the maximum reimbursement to developer of \$38,970,938. The Total Payments includes Principal & Interest on Bonds, Right-of-Way Cost, TIRZ and 381 payments.	

Reinvestment Zone Number Five, City of Kyle Feasibility Study															
Zone Year	Calendar Year	Growth/ Year ¹	Added Development Value ²	New Taxable Value	Incremental Value	City Property Tax Increment ⁴			County TIRZ Increment ⁵			City Sales Tax Increment ⁶		Total TIRZ Fund Contribution ⁷	
						%	Annual	Cumulative	%	Annual	Cumulative	Annual	Cumulative	Annual	Cumulative
Base	2023			\$ 38,990											
1	2024	2%	-	\$ 39,770	\$ 780	50%	\$ -	\$ -	50%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2	2025	2%	-	\$ 40,565	\$ 1,575	50%	\$ 2	\$ 2	50%	\$ 1	\$ 1	\$ -	\$ -	\$ 3	\$ 3
3	2026	2%	-	\$ 41,376	\$ 2,386	50%	\$ 4	\$ 6	50%	\$ 2	\$ 3	\$ -	\$ -	\$ 6	\$ 9
4	2027	2%	151,229,535	\$ 151,271,739	\$ 151,232,749	50%	\$ 6	\$ 11	50%	\$ 3	\$ 7	\$ -	\$ -	\$ 9	\$ 18
5	2028	2%	4,992,900	\$ 159,290,074	\$ 159,251,084	50%	\$ 354,868	\$ 354,879	50%	\$ 217,397	\$ 217,404	\$ 999,150	\$ 999,150	\$ 1,571,415	\$ 1,571,433
6	2029	2%	53,715,517	\$ 216,191,392	\$ 216,152,402	50%	\$ 373,683	\$ 728,561	50%	\$ 228,923	\$ 446,327	\$ 1,039,200	\$ 2,038,350	\$ 1,641,806	\$ 3,213,239
7	2030	2%	-	\$ 220,515,220	\$ 220,476,230	50%	\$ 507,202	\$ 1,235,763	50%	\$ 310,719	\$ 757,046	\$ 1,386,233	\$ 3,424,583	\$ 2,204,153	\$ 5,417,392
8	2031	2%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 517,347	\$ 1,753,111	50%	\$ 316,935	\$ 1,073,981	\$ 1,386,233	\$ 4,810,815	\$ 2,220,515	\$ 7,637,907
9	2032	0%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 527,696	\$ 2,280,807	50%	\$ 323,274	\$ 1,397,255	\$ 1,386,233	\$ 6,197,048	\$ 2,237,203	\$ 9,875,110
10	2033	0%	-	\$ 224,925,524	\$ 224,886,534	50%	\$ 527,696	\$ 2,808,503	50%	\$ 323,274	\$ 1,720,530	\$ 1,386,233	\$ 7,583,280	\$ 2,237,203	\$ 12,112,313
11	2034	2%	-	\$ 229,424,035	\$ 229,385,045	50%	\$ 527,696	\$ 3,336,199	50%	\$ 323,274	\$ 2,043,804	\$ 1,386,233	\$ 8,969,513	\$ 2,237,203	\$ 14,349,516
12	2035	2%	-	\$ 234,012,516	\$ 233,973,526	50%	\$ 538,252	\$ 3,874,451	50%	\$ 329,741	\$ 2,373,545	\$ 1,386,233	\$ 10,355,745	\$ 2,254,226	\$ 16,603,741
13	2036	2%	-	\$ 238,692,766	\$ 238,653,776	50%	\$ 549,019	\$ 4,423,470	50%	\$ 336,337	\$ 2,709,882	\$ 1,386,233	\$ 11,741,978	\$ 2,271,588	\$ 18,875,330
14	2037	2%	-	\$ 243,466,621	\$ 243,427,631	50%	\$ 560,001	\$ 4,983,471	50%	\$ 343,065	\$ 3,052,947	\$ 1,386,233	\$ 13,128,210	\$ 2,289,298	\$ 21,164,628
15	2038	2%	-	\$ 248,335,954	\$ 248,296,964	50%	\$ 571,203	\$ 5,554,674	50%	\$ 349,927	\$ 3,402,874	\$ 1,386,233	\$ 14,514,443	\$ 2,307,363	\$ 23,471,991
16	2039	2%	-	\$ 253,302,673	\$ 253,263,683	50%	\$ 582,629	\$ 6,137,303	50%	\$ 356,927	\$ 3,759,801	\$ 1,386,233	\$ 15,900,675	\$ 2,325,788	\$ 25,797,779
17	2040	2%	-	\$ 258,368,726	\$ 258,329,736	50%	\$ 594,283	\$ 6,731,586	50%	\$ 364,067	\$ 4,123,868	\$ 1,386,233	\$ 17,286,908	\$ 2,344,582	\$ 28,142,361
18	2041	2%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 606,171	\$ 7,337,757	50%	\$ 371,349	\$ 4,495,217	\$ 1,386,233	\$ 18,673,140	\$ 2,363,752	\$ 30,506,114
19	2042	0%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 618,296	\$ 7,956,053	50%	\$ 378,777	\$ 4,873,994	\$ 1,386,233	\$ 20,059,373	\$ 2,383,306	\$ 32,889,419
20	2043	0%	-	\$ 263,536,101	\$ 263,497,111	50%	\$ 618,296	\$ 8,574,349	50%	\$ 378,777	\$ 5,252,771	\$ 1,386,233	\$ 21,445,605	\$ 2,383,306	\$ 35,272,725
21	2044	2%	-	\$ 268,806,823	\$ 268,767,833	50%	\$ 618,296	\$ 9,192,645	50%	\$ 378,777	\$ 5,631,548	\$ 1,386,233	\$ 22,831,838	\$ 2,383,306	\$ 37,656,030
22	2045	2%	-	\$ 274,182,959	\$ 274,143,969	50%	\$ 630,664	\$ 9,823,309	50%	\$ 386,354	\$ 6,017,902	\$ 1,386,233	\$ 24,218,070	\$ 2,403,250	\$ 40,059,280
23	2046	2%	-	\$ 279,666,618	\$ 279,627,628	50%	\$ 643,279	\$ 10,466,587	50%	\$ 394,082	\$ 6,411,984	\$ 1,386,233	\$ 25,604,303	\$ 2,423,593	\$ 42,482,873
24	2047	2%	-	\$ 285,259,951	\$ 285,220,961	50%	\$ 656,146	\$ 11,122,734	50%	\$ 401,965	\$ 6,813,948	\$ 1,386,233	\$ 26,990,535	\$ 2,444,343	\$ 44,927,217
25	2048	2%	-	\$ 290,965,150	\$ 290,926,160	50%	\$ 669,271	\$ 11,792,005	50%	\$ 410,005	\$ 7,223,953	\$ 1,386,233	\$ 28,376,768	\$ 2,465,509	\$ 47,392,726
Total			209,937,952			\$ 11,792,005			\$ 7,223,953			\$ 28,376,768		\$ 47,392,726	

Assumptions	
Base Taxable Value ³	\$ 38,990
City AV Rate	0.469300
County AV Rate	0.2875

Footnotes
1) Values increased at 2% annually with two years of no growth each decade to simulate an economic downturn.
2) Based on project development data as provided by the Developer.
3) Base Taxable Value is subject to confirmation by Appraisal District. The City Base Taxable Value is lower due to two parcels being located in the City's ETJ currently.
4) The City agreed to participate at 50% of the Incremental Value of property tax.
5) The County agreed to participate at 50% of the Incremental value of property tax, excluding the portion of property tax associated with road and bridge maintenance and operations.
6) The City agreed to participate at 50% of the sales tax generated.
7) The Total Payments will conclude after the City/County participation equals the maximum reimbursement to developer of \$38,970,938. The Total Payments includes Principal & Interest on Bonds, Right-of-Way Cost, TIRZ and 381 payments.

EXHIBIT F – LEGAL DESCRIPTION OF THE ZONE

EXHIBIT “ ”

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 101.8289 ACRES (4,435,666 SQUARE FEET) PARTIALLY OUT OF THE THOMAS G. ALLEN SURVEY, ABSTRACT NO. 26 IN HAYS COUNTY, TEXAS, AND PARTIALLY OUT OF THE DAN DOWNER SURVEY NO. 22, ABSTRACT NO. 151 IN HAYS COUNTY, TEXAS, BEING THE REMNANT PORTION OF A CALLED 104.08 ACRE TRACT CONVEYED TO CARAWAY CATTLE COMPANY FAMILY, IN VOLUME 4516, PAGE 661 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS (D.R.H.C.T.), SAID 101.8289 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:



PO Box 90876
Austin, TX 78709
(512) 537-2384
jward@4wardls.com
www.4wardls.com

BEGINNING, at a 1/2-inch iron rod with “4Ward Boundary” cap set at the intersection of the east right-of-way line of South IH 35 (right-of-way varies) and the north right-of-way line of Bebee Road (right-of-way varies), being the southwest corner of said 104.08 acre tract, for the southwest corner and POINT OF BEGINNING hereof, from which a 1/2-inch iron rod found for the intersection of the east right-of-way line of said IH 35 and the south right-of-way line of said Bebee Road, being the northwest corner of a called 45.64 acre tract (described as “Tract 1”) conveyed to Sunrise Village Investment, LLC in Document No. 20032482 of the Official Public Records of Hays County, Texas (O.P.R.H.C.T.), bears, S31°37’13”W, a distance of 79.98 feet;

THENCE, with the east right-of-way line of said IH 35 and the west line of said 104.08 acre tract, the following three (3) courses and distances:

- 1) N31°24’32”E, passing at a distance of 1,908.08 feet a TxDot type II Brass Disc found for a point on line hereof, and continuing for a total distance of 3,067.92 feet to a calculated point for an angle point hereof, from which a TxDot Type I concrete monument found bears, S73°31’45”E, a distance of 1.21 feet,
- 2) N53°13’03”E, a distance of 107.88 feet to a calculated point for an angle point hereof, from which a TxDot Type I concrete monument found bears, N59°56’12”W, a distance of 1.01 feet, and
- 3) N31°24’07”E, a distance of 284.23 feet to an 1/2-inch iron rod with illegible cap found for the north corner hereof, said point being the north corner of said 104.08 acre tract, and being the west corner of Lot 2, Amberwood Commercial Section 1, a subdivision recorded in Volume 14, Page 129 of the Plat Records of Hays County, Texas (P.R.H.C.T.), said Lot 2 having been conveyed to SPI Strand 160 EX, LLC in Document No. 1830726 (O.P.R.H.C.T.), from which a 1/2-inch iron rod found for an angle point in the north line of said Lot 1, Amberwood Commercial, being in the south right-of-way line of Amberwood South (right-of-way varies), bears, N31°24’07”E a distance of 398.05 feet, and N72°48’46”E, a distance of 44.66 feet;

THENCE, leaving the east right-of-way line of said IH 35, with the northeast line of said 104.08 acre tract, in part with the southwest line of said Lot 2, Amberwood Commercial, and in part with the southwest line of Lot 1 of said Amberwood Commercial (no ownership information provided for Lot 1 per Hays County Appraisal District), the following two (2) courses and distances:

- 1) S16°50’22”E, passing at a distance of 724.16 feet a 1/2-inch iron rod with illegible cap found for the common south corner of said Lot 1 and said Lot 2, Amberwood Commercial, and continuing for a total distance of 752.15 feet to a 1/2-inch iron rod with “4Ward Boundary” cap found for an angle point hereof, and

- 2) **S16°53'19"W**, a distance of **610.34** feet to a 1/2-inch iron rod found for an angle point hereof;

THENCE, with the northeast line of said 104.08 acre tract, in part with the southwest line of said Lot 1, Amberwood Commercial, in part with the southwest line of a called 25.98 acre tract (described as "Tract 2") conveyed to Kyle Business Park, L.P. in Volume 2835, Page 819 (D.R.H.C.T.), and in part with the southwest lines of Lots 21 through 23, Block A, Kyle Business Park, Section One, a subdivision recorded in Volume 12, Page 395 (P.R.H.C.T.), said Lots 21 through 23 (described as part of "Tract 2") having been conveyed to Kyle Business Park, L.P. in Volume 2835, Page 819 (D.R.H.C.T.), the following three (3) courses and distances:

- 1) **S00°13'08"W**, passing at a distance of 5.71 feet a calculated point for the common west corner of said Lot 1, Amberwood Commercial and said 25.98 acre tract, and continuing for a total distance of **567.81** feet to a 3/8-inch iron rod found for an angle point hereof,
- 2) **S24°24'03"E**, passing at a distance of 431.92 feet a 1/2-inch iron rod with "Bryn" cap found for the common west corner of said 25.98 acre tract and said Lot 21, passing at a distance of 853.52 feet a calculated point for the common west corner of said Lot 21 and said Lot 22, from which a 1/2-inch iron rod with "Bryn" cap found bears **S37°03'32"W**, a distance of 0.39 feet, and continuing for a total distance of **1,009.62** feet to a 1/2-inch iron rod found for an angle point hereof, said point being in the west line of said Lot 22, and
- 3) **S18°33'49"E**, passing at a distance of 294.69 feet a 1/2-inch iron rod with "Bryn" cap found for the common west corner of said Lot 22 and said Lot 23, and continuing got a total distance of **935.60** feet to a 1/2-inch iron rod with illegible cap found for a point of curvature hereof, said point being in the northwest right-of-way line of said Bebee Road, for the southeast corner of said Lot 23, and being an angle point in the north line of a called 2.305 acre tract conveyed to Hays County, Texas for right-of-way purposes in Volume 1206, Page 472 (O.P.R.H.C.T.),

THENCE, with the north right-of-way line of said BeBee Road, with the north line of said 2.305 acre tract, and over and across said 104.08 acre tract, the following two (2) courses and distances:

- 1) Along a curve to the right, whose radius is **418.37** feet, whose arc length is **522.20** feet, and whose chord bears **S76°32'18"W**, a distance of **488.96** feet to a 1/2-inch iron rod with illegible cap found for a point of tangency hereof, and
- 2) **N67°41'19"W**, a distance of **2,281.99** feet to the **POINT OF BEGINNING** and containing 101.8289 Acres (4,435,666 Square Feet) of land, more or less.

NOTE:

All bearings are based on the Texas State Plane Coordinate System, Grid North, South Central Zone (4204), all distances were adjusted to surface using a combined scale factor of 1.000098675586. See attached sketch (reference drawing: 01480.dwg).

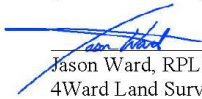
 **9/2/2022**
Jason Ward, RPLS #5811
4Ward Land Surveying, LLC

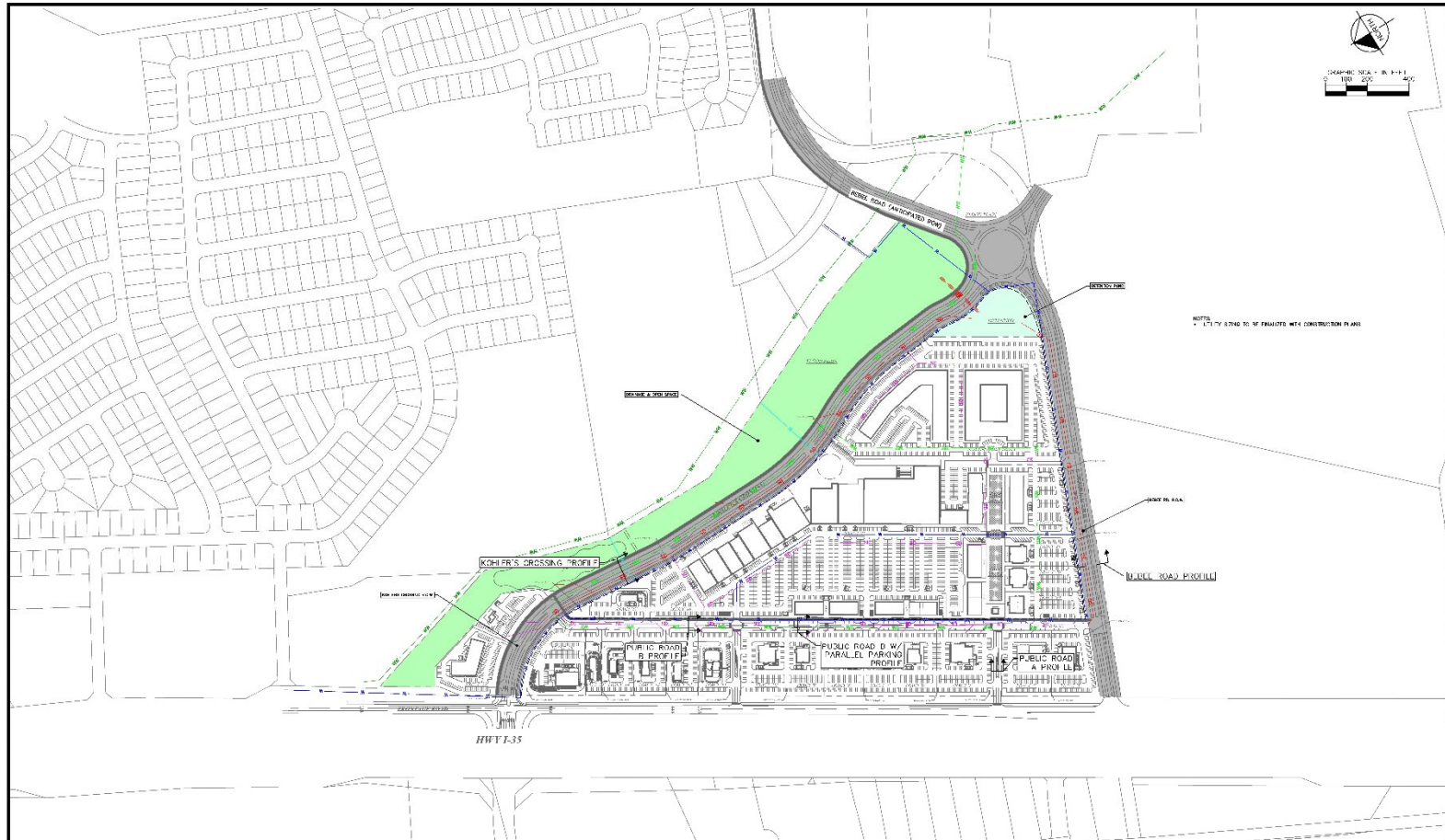


EXHIBIT G – PROPOSED USES OF THE PROPERTY

SITE PLAN



EXHIBIT H – MAP OF THE PUBLIC IMPROVEMENTS



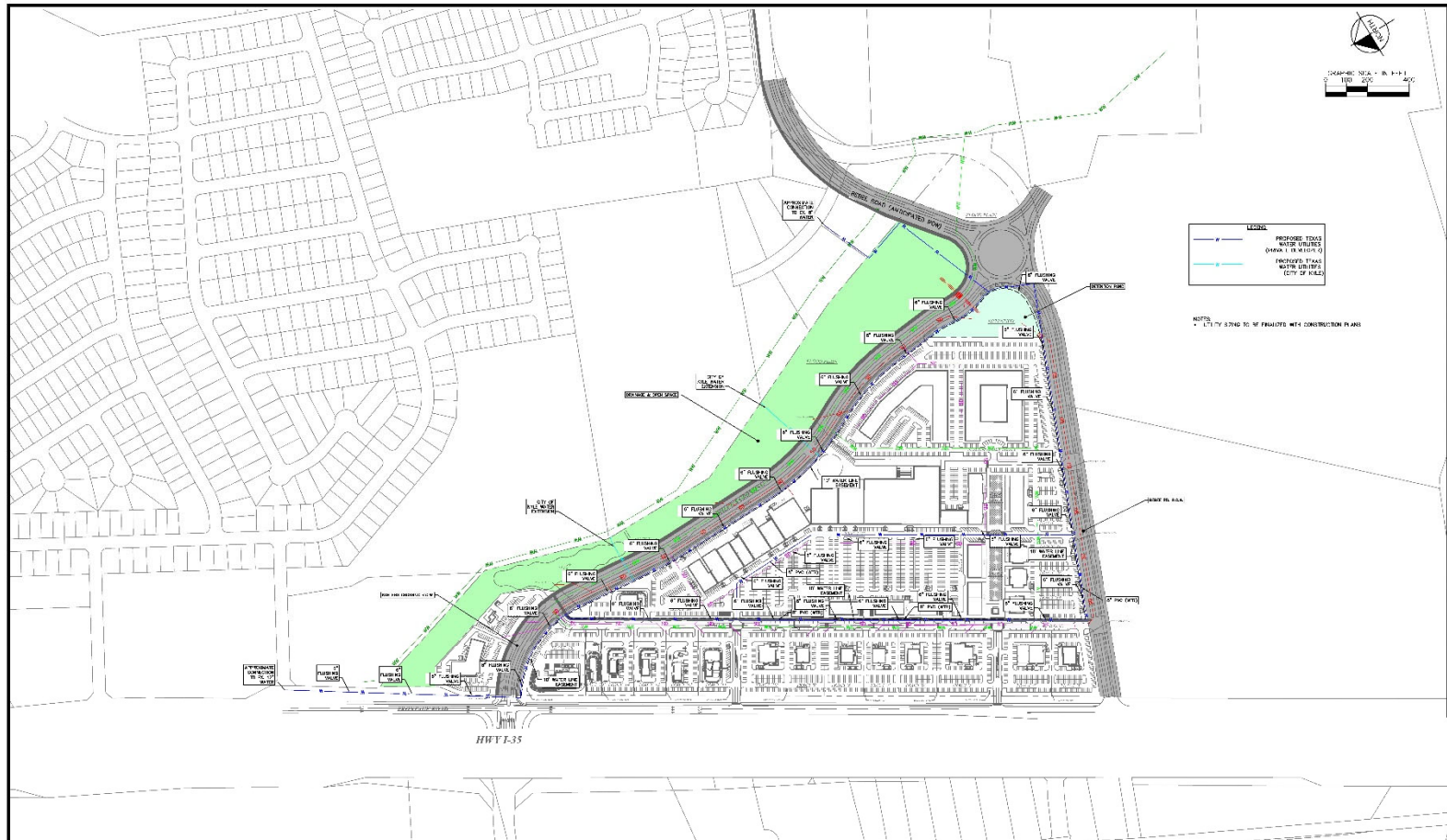
Caraway Tract
Road Section Map (SP40)
 Kyle, Texas
 August 24, 2023

Kimley»Horn
 1201 Southwest Parkway, Uplands II
 Suite 102
 Austin, Texas 78735
 512-546-2237
 State of Texas Registration No. F-955



Caraway Tract
Preliminary Utility Exhibit (SP40)
 Kyle, Texas
 August 24, 2023

Kimley»Horn
 3309 Southwest Parkway, Uplands II
 Suite 102
 Austin, Texas 78735
 512-999-0227
 State of Texas Registration No. F-805



Caraway Tract
Preliminary Water Exhibit (SP40)
 Kyle, Texas
 August 24, 2023

Kimley»Horn

3309 Southwest Parkway, Uplands II
 Suite 102
 Austin, Texas 78735
 512-999-0227
 State of Texas Registration No. F-805

THIS PLAN IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION. IT IS THE RESPONSIBILITY OF THE CLIENT TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.



CITY OF KYLE, TEXAS

Executive Session - Convene

Meeting Date: 12/19/2023

Date time: 6:00 PM

Subject/Recommendation: Pursuant to Chapter 551, Texas Government Code, the TIRZ #5 Board reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The TIRZ #5 Board 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 and Attorneys concerning legal issues pursuant to Section 551.071, Texas Government Code, and Section 1.05, Texas Disciplinary Rules of Professional Conduct.
2. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
3. Personnel matters pursuant to Section 551.074.
4. Convene into executive session pursuant to Section 551.087, Texas Government Code, to deliberate regarding the offer of economic incentives to one or more business prospects that the City seeks to have locate, stay, or expand in or near the City.

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Reconvene

Meeting Date: 12/19/2023
Date time: 6:00 PM

Subject/Recommendation: Take action on items discussed in Executive Session.

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available