

BLANCO RIVER RANCH (Phase One Residential Area)
DE-ANNEXATION AND DEVELOPMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF HAYS §

This Blanco River Ranch (Phase One Residential Area) De-Annexation and Development Agreement (this "Agreement") is entered into between the **CITY OF KYLE**, a Texas home rule city and municipal corporation (the "City"), and **BLANCO RIVER RANCH PROPERTIES LP**, a Texas limited partnership, or its successors and assigns ("Owner"). In this Agreement, the City and Owner are sometimes individually referred to as "a Party" and collectively referred to as "the Parties".

RECITALS

- A. Owner and the City previously entered in the "Blanco River Ranch Interim Annexation and Development Agreement" dated effective as of May 6, 2016 and recorded under Document No. 2016-16014625, Official Public Records of Hays County, Texas (the "IDA") relating to the development of approximately 2,166 acres of land more particularly described therein (the "Blanco River Ranch"). The IDA contemplated, among other things, that the City and Owner would enter into a final development agreement for the Blanco River Ranch, that the City would de-annex a portion of the Blanco River Ranch located within the City's corporate limits (the "Current City Limits Property"), and that the City would create a public improvement district ("PID") and other financing mechanisms for the Blanco River Ranch.
- B. The 858.7 acre tract of land described on the attached **Exhibit "A"** (the "Property") is a portion of the Blanco River Ranch. Owner intends to develop or to sell the Property for development for residential purposes and related amenities and improvements, as more particularly described in this Agreement. The City and Owner have agreed that this Agreement will constitute the final development agreement contemplated by the IDA with respect to the Property, but not with respect to the remainder of the Blanco River Ranch. The remainder of the Blanco River Ranch, being all of the 2,166 acre tract described in the IDA, save and except the Property (the "BRR Remainder"), is and will remain subject to the IDA, and will also be subject to any provision of or obligations under this Agreement that are expressly applicable to the BRR Remainder, including the obligation to dedicate the river park as provided in Section 2.08.
- C. The Property includes the "Current City Limits Property", which is depicted on the attached **Exhibit "B"**. The remainder of the Property is located in the City's extraterritorial jurisdiction ("ETJ"). As provided in the IDA, Owner has requested that the City de-annex the Current City Limits Property and the City

has agreed to do so. Owner and the City now wish to agree on a schedule for such de-annexation.

- D. Owner has petitioned the City for the creation of a PID over the Blanco River Ranch. The City agrees that the Property will be designated as Improvement Areas 1 through 7, inclusive, within the PID. The City acknowledges that the public improvement projects contemplated for the Property and described in this Agreement will confer a special benefit on the Property, and that PID financing is essential for the development of the Property as contemplated by this Agreement.
- E. In the IDA, the City agreed not to annex the portion of the Blanco River Ranch that includes the Property until all PID bonds, each issuance of which is to be for a term not to exceed 25 years, that are to be repaid through assessments have been issued and repaid in full, and there are no further PID assessments against such portion of the Blanco River Ranch. The City desires to confirm such agreement with respect to the Property and emphasize the following qualifications: the payment in full of the PID bonds secured by assessments levied on properties located within a PID Area (the PID Areas within the Property are currently proposed to be areas 1 through 7, the actual PID Areas will be determined at the time of City creation of the PID) constitutes a voluntary request for immediate annexation by the City of the properties within that PID Area; or, should any or all PID Areas be dissolved, the finality of the dissolution of the PID Area or Areas would constitute an immediate voluntary request for annexation into the City for the affected PID Areas. PID Areas established must be adjacent to current City limits (which includes the Spine Road alignment and collector road within the Property).
- F. The City owns, operates, and maintains a water supply system, including groundwater wells and surface water supplies, and a wastewater collection, treatment, and disposal system, including a wastewater treatment plant operating under TPDES Permit Number WQ0011041002, to serve the needs of its customers.
- G. The City has agreed to provide retail water and wastewater services to the Property pursuant to the terms of this Agreement. Owner has agreed to construct and install a potable water distribution system and related facilities and a wastewater collection system and related facilities within the Property (the "Internal Facilities") and certain improvements necessary to connect the Internal Facilities to the City's water and wastewater systems (the "Connecting Facilities") and to construct and/or cost-participate in certain off-site improvements more particularly described in this Agreement (the "Offsite Facilities") in order to enable the City to provide water and wastewater services to the Property.
- H. The City will use the Internal Facilities and the Connecting Facilities, as well as capacity in all Offsite Facilities constructed and/or cost-participated in by Owner, to provide retail water and wastewater services to customers within the Property. The City has agreed that, along with the other public improvements that will

benefit or serve the Property described in this Agreement, the City will issue PID bonds to finance and reimburse Owner for the cost of the Internal Facilities and the Connecting Facilities, and the cost of Owner's cost-participation in the Offsite Facilities.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained in this Agreement, and other good and valuable consideration, the City and Owner agree as follows:

ARTICLE I. RECITALS AND DEFINITIONS

Section 1.01 **Recitals.** The City Council finds and determines that each of the Recitals contained in this Agreement is true and correct and such Recitals are incorporated into this Agreement for all purposes.

Section 1.02 **Defined Terms.** In addition to the defined terms set forth in the Recitals and elsewhere in this Agreement, the following terms will have the meanings set forth below when used in this Agreement:

“**Applicable City Rules**” means the provisions of the City Code in effect on the Vesting Date or any updated Code provision Owner, at its option, elects to take advantage of adopted by the City after the Vesting Date that Owner determines are in the best interests of the Owner without forfeiting vested rights under this Agreement.

“**City Charter**” means the City Charter of the City, as amended from time to time.

“**City Code**” means the City's Code of Ordinances, as amended from time to time.

“**City Council**” means the City Council of the City of Kyle.

“**City's Engineer**” means a licensed professional engineer selected by the City to provide the engineering services described in this Agreement to the City, or his/her designee.

“**City's Service Area(s)**” means the City's retail water service area and/or retail wastewater service area, whether or not certificated, as such service areas now exist or are changed by the City hereafter.

“**City's Water System**” means all water supply, treatment, transmission, and distribution facilities; lines, mains, reservoirs, and pump stations; residential, commercial, and industrial connections; and any other parts or components that comprise the City's public water system, together with all extensions, expansions, improvements, enlargements, betterments and replacements thereof.

“City’s Wastewater System” means all wastewater treatment, disposal, and collection facilities and appurtenances that comprise the City’s wastewater system, together with all extensions, expansions, improvements, enlargements, and replacements thereof.

“Concept Plan” means the concept plan for the Property attached as **Exhibit “C”**, as amended from time to time.

“County” means Hays County, Texas.

“Customers” mean the City’s retail water and wastewater customers located within the Property.

“Director of Planning” means the duly authorized employee or representative of the City in charge of the City’s planning and/or zoning department(s), or his/her designee.

“Director of Public Works” means the duly authorized employee or representative of the City in charge of the City’s street, water and/or wastewater department(s), or his/her designee.

“Emergency” means a sudden unexpected happening; an unforeseen occurrence or condition, exigency, or pressing necessity; or a relatively permanent condition of insufficiency of service or of facilities. The term includes Force Majeure and acts of third parties that cause either the City’s Water System or the City’s Wastewater System to be unable to provide the services the City has agreed to provide under this Agreement.

“Effective Date” means the date of the latest signature on this Agreement by an authorized representative of a Party.

“Force Majeure” means acts of God; strikes, lockouts, or other industrial disturbances; acts of the public enemy; orders of any kind of any governmental entity or any civil or military authority; acts, orders or delays of any regulatory authorities with jurisdiction over the Parties; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions or breakages; accidents to machinery, pipelines or canals; or any other conditions that are not within the control of a Party.

“Impact Fees” means water and/or wastewater capital recovery fees or impact fees imposed by the City against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions in accordance with State law.

“Industrial Waste” means waterborne, liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade or business, including a restaurant.

“**LUE**” means the average daily amount of water required for or wastewater produced by a typical single-family residence, which the City agrees will be 280 gallons for water and 262.5 gallons for wastewater for purposes of this Agreement.

“**Phase One**” means the master-planned residential development of the Property, which will include approximately 2,100 single family homes and garden homes, condominiums and residential cluster units, as well as park land, amenity centers with recreational facilities, and other improvements to serve the residential development. Phase One includes the construction of off-site and on-site utility facilities to be dedicated and conveyed to the City and other infrastructure adequate to serve Phase One consistent with this Agreement. Phase One may include multiple development phases for platting and construction purposes.

“**PID Area**” or, collectively, “**PID Areas**” means an improvement area or, collectively, the improvement areas within the Property, which are currently projected to be designated as PID Areas 1-7, inclusive. The final PID Areas within the Property will be determined at the time of City creation of the PID and, at that time, an exhibit depicting the approved PID Areas within the Property will be incorporated into this Agreement by written amendment of this Agreement, which will be recorded in the Official Public Records of Hays County, Texas.

“**Project Approvals**” means the land use and development standards applicable to Phase One, as set forth on Exhibit “D” and Exhibit “D-1”; all City approvals and variances, waivers and exceptions to the Applicable City Rules granted by the City or necessary for the development of the Property that are contemplated by or set forth in this Agreement; and all future regulatory approvals, variances, waivers and exceptions that are necessary for or are granted with respect to the development of the Property, including plat approvals and site development plan approvals, if applicable.

“**Public Improvements**” means all public improvement projects that benefit the Property and constitute Authorized Improvements under Section 372.003, *Texas Local Government Code*.

“**Reclaimed Water**” means domestic or municipal wastewater that has been treated to a quality suitable for a Type I Reclaimed Water Use pursuant to the requirements of the Commission under 30 *Texas Administrative Code* Section 210.

“**TCEQ**” means the Texas Commission on Environmental Quality or its successor entity.

“**Type I Reclaimed Water Use**” means the use of Reclaimed Water when contact between humans and the Reclaimed Water is likely.

“**Vesting Date**” means the effective date of the IDA: May 6, 2016.

Section 1.03 **Other Definitions.** Any capitalized terms used but not defined in this Agreement will have the meanings given to them in the IDA or, if not defined in the IDA, the City Code.

ARTICLE II. DEVELOPMENT MATTERS

Section 2.01 **Development Standards and Other Project Approvals.** Because the Property will be developed within the City's ETJ, the City's zoning ordinances are not applicable to the Property; however, Owner agrees that the development of the Property will comply with the land use and development standards set forth on the attached **Exhibit "D"** (the "Development Standards") and the design guidelines attached as **Exhibit "D-1"** (the "Design Guidelines") and that builders within Phase One will be required to comply with the City's building code in effect on the Vesting Date, attached as **Exhibit "D-2"**. The City approves the development of the Property in accordance with the Project Approvals, including the Development Standards, Design Guidelines, and the Concept Plan; the Applicable City Rules; and this Agreement. This Agreement, including all exhibits hereto, will also serve as guidance for the review and approval of any additional waivers, variances, exceptions or other municipal authorizations not specifically included in this Agreement. If there is any conflict between the Applicable City Rules and the Project Approvals, the Project Approvals will control.

Section 2.02 **De-annexation of Current City Limits Property.** The City acknowledges that it has deemed the IDA to constitute a petition to de-annex the Current City Limits Property pursuant to Section 1.07 of the City Charter. The City acknowledges receipt of such petition and agrees to proceed to de-annex the Current City Limits Property according to the schedule attached as **Exhibit "E"**.

Section 2.03 **Realignment of Spine Road.** Owner and the City have agreed that it is in their mutual best interests that the spine road through the Property (the "Spine Road") be included in the City's corporate limits. The City previously annexed the proposed right-of-way for the Spine Road through the Property; however, the alignment of the Spine Road was reconfigured during the land-planning process and will now be as shown on the Concept Plan. Accordingly, the City agrees to de-annex the area shown on page 2 of **Exhibit "F"**, which will no longer be included in the right-of-way for the Spine Road, and Owner agrees to petition the City for annexation of the area shown on page 2 of **Exhibit "F"**, which will now be included in the right-of-way for the Spine Road as reconfigured. The City will proceed with the de-annexation and annexation contemplated by this Section in accordance with the schedule attached as **Exhibit "E"**.

Section 2.04 **Contemplated Schedule of Initial Events.** The sequence of initial events contemplated by this Agreement is as follows:

(a) The City's and Owner's approval of this Agreement, including the City's approval of the Concept Plan;

(b) The finalization of a tri-party agreement between the City, Owner, and the County that provides, among other things, standards for maintenance of roadways within the County prior to annexation by the City;

(c) The City's annexation of the new Spine Road alignment;

(d) The City's de-annexation of the Current City Limits Property as described in **Exhibit "B"** and the prior Spine Road alignment;

(e) All legally required steps for the City to create the PID, approve the service and assessment plan for the Property, and authorize the issuance of related bonds and the levy of assessments; and

(f) Owner's submittal and the City's review and approval of preliminary plats, construction plans and final plats of the Property.

The events described in subsection (f) may occur concurrently with the events described in subsections (a) through (e). Owner may submit final plats and construction plans for Phase One for City review prior to City approval of a preliminary plan. The City agrees to use good faith, diligent efforts to respond to submittals and schedule hearings and meetings in a timely manner so that the events contemplated by this Section can be obtained in accordance with the schedule attached as **Exhibit "E"**.

Section 2.05 Development; Phasing.

(a) The City acknowledges that Owner may submit preliminary and final plats of the Property in multiple phases, and that the phases set forth on the Concept Plan or any preliminary plat may not reflect the portion of the Property that Owner will ultimately include in a particular final plat. Owner may include all or a portion of one or more phases reflected on the Concept Plan or on any preliminary plat within a final plat provided that the final plat is otherwise in accordance with the Concept Plan, the preliminary plat, and the Applicable City Rules.

(b) Although the Concept Plan sets forth the current development plan for the Property, the City acknowledges that, because the Property consists of a significant land area that will be developed in phases over a number of years, the actual development of the Property may ultimately vary from the Concept Plan due to changes in market conditions or other factors. Any preliminary plat or final plat may include variations from the Concept Plan, such as minor modifications of street alignments, minor changes in lot lines, or changes in the phasing of development and, provided that those changes do not increase the overall density of development of the Property over 2,100 LUEs or eliminate any Public Improvements required by this Agreement, those variations will constitute "minor changes" under this Agreement and will not require an amendment to the Concept Plan. Any such minor changes may be approved by the City's Director of Planning and will not require City Council approval. Any changes that are not minor changes will require City Council approval. No change or amendment to the Concept Plan will require an amendment of this Agreement.

Section 2.06 **Creation and Purposes of PID.**

(a) The City’s requirements for approving the creation of a PID, as adopted by the City and in effect on the Vesting Date, are attached as **Exhibit “G”**. Owner agrees that, in consideration of this Agreement and the City’s performance of its obligations hereunder, the additional PID requirements set forth on the attached **Exhibit “G-1”** will also apply to the PID created for the Blanco River Ranch. The City agrees that Owner may, at its option, elect to take advantage of any changes to the requirements set forth on **Exhibit “G”** adopted by the City after the Vesting Date that Owner determines are in the best interests of Phase One without forfeiting any vested rights under this Agreement. Subject to Owner’s submittal of a petition and otherwise satisfying the applicable City PID creation requirements, the City agrees to cooperate with Owner in good faith and to take all action necessary to create the PID covering the Blanco River Ranch, incorporating the terms attached hereto as **Exhibit “H”**, in accordance with the schedule attached as **Exhibit “E”**; to designate the Property as separate PID Areas within the PID; to approve a service and assessment plan for such PID Areas; and to levy assessments and issue bonds to fund Public Improvements for Phase One. The PID bonds for the PID Areas within the Property will be secured by the levy and collection of special assessments against the PID Areas. The payment of the last PID bonds secured by special assessments within a PID Area constitutes a voluntary request for immediate annexation of that PID Area by the City.

(b) The purposes of the PID will include (a) to pay for the PID-qualified costs associated with the construction of on-site Public Improvements that are permitted under Chapter 372, *Texas Local Government Code*; (b) to pay for the PID-qualified costs associated with the construction of off-site Public Improvements that are permitted under Chapter 372, *Texas Local Government Code*; and (c) to reimburse the City for administrative and/or operational costs resulting from the creation and operation of the PID.

Section 2.07 **Signage and Landscaping on Public Rights-of-Way.** Owner is hereby authorized to install permanent signage and/or landscaping improvements meeting the standards set forth in the Design Guidelines attached as **Exhibit “D-1”** within portions of the City’s public right-of-way in the locations generally depicted on the schematic plan attached **Exhibit “I”**. Owner agrees to comply with any license agreement that may be required under the Applicable City Rules for areas within the City’s right-of-way; provided, however, that, any required license agreement may be assigned to a homeowners association (“**HOA**”) formed for the administration of all or a portion of the Property and, upon such an assignment, Owner will be released from all obligations under the license agreement and the City will look solely to the HOA for the performance of all obligations thereunder.

Section 2.08 **Park Land Dedication and Park Improvements.** Phase One will be developed as a master-planned community with substantial park land, open space, greenbelts, trails, park improvements, and amenity center(s) as indicated on the Concept Plan. Owner agrees to provide park land, open space land and amenity areas and park improvements for Phase One as summarized on the attached **Exhibit “J”** and

to pay a park fee of \$150 per lot at the time of recordation of each final plat for Phase One. In addition, Owner agrees to dedicate ten acres of land out of the BRR Remainder for a river park amenity that will provide access to the Blanco River. The City acknowledges that such land, fees and improvements far exceed the applicable park land, park fee and park improvement requirements under the Applicable City Rules and therefore agrees that the private and public park land, open space, greenbelts, trails and improvements described on **Exhibit "J"** to be constructed, installed and provided by Owner and the park fees provided for by this Section will be accepted by the City in satisfaction of all City park land dedication, park improvement and park fee requirements for Phase One, and that no additional dedication of park land, provision of park improvements or payment of park-related fees will be required from Owner for the Property. The City expressly waives any right to require other or additional park land dedications, park improvements or park fees for the Property under the Applicable City Rules. Unless otherwise agreed by Owner and the City, all park land within the Property will be dedicated in parcels as the adjacent residential property is final platted.

ARTICLE III. PUBLIC IMPROVEMENTS

Section 3.01 Public Improvements, Generally. Owner will construct and install or cost-participate in the construction and installation of certain Public Improvements that are necessary for the City to provide water and wastewater service to the Property and in the construction and installation of certain road and transportation improvements; landscaping, lighting and signage improvements; park land dedications and park improvements; drainage improvements; and other Public Improvements in connection with the development and improvement of the Property. The City agrees to reimburse Owner for all sums advanced and paid by Owner for such Public Improvements through bonds issued by the PID to the maximum extent permitted by Chapter 372, *Texas Local Government Code*, and this Agreement.

Section 3.02 Park Land and Park Improvements. All park land provided by Owner, all park and recreational improvements that are open to the public, and all related infrastructure provided by Owner will constitute Public Improvements for which Owner will be reimbursed through the issuance of PID bonds as provided in Section 3.01. Owner will not be reimbursed for any park and recreational improvements not open to the public.

Section 3.03 Roadways and Transportation Improvements. The City and Owner agree that the roadways and transportation improvements set forth on the attached **Exhibit "K"** constitute Public Improvements that will be funded through the issuance of PID bonds as provided in Section 3.01. In consideration of Owner's dedication of land for and construction of the roadways and transportation improvements listed on **Exhibit "K"**, the City agrees that Owner will not be required to construct or cost-participate in any other offsite transportation improvements for the Property and will not be required to provide a traffic impact analysis for the Property. Owner will not be reimbursed for any roadway improvements not open to the public.

Section 3.04 **Inspections.** Following City approval of each plat of a portion of the Property and prior to the commencement of construction, Owner will give written notice to the Director of Public Works in order to allow the City to assign an inspector. Within the City's incorporated city limits, the City will inspect street, water and wastewater, and drainage Public Improvements and collect related inspection fees. Within the City's ETJ, the City will inspect water and wastewater Public Improvements only and collect related inspection fees.

**ARTICLE IV.
WATER AND WASTEWATER SERVICES, GENERALLY**

Section 4.01 **Service Level.** Subject to the terms and conditions set forth herein, the City commits and agrees to provide retail water and wastewater service to the Property, as and when required by Customers within Phase One and/or for development of the Property, in an aggregate amount not to exceed 2,100 LUEs, at flow rates and pressures and in quantities, including fire flow, sufficient to meet the minimum requirements of the TCEQ, in the same manner and on the same terms and conditions as the City provides service to similarly situated retail customers inside its corporate limits. The City confirms that it currently has and will maintain an adequate raw water supply and water treatment and wastewater treatment capacity to meet its service obligations, including its obligations under this Agreement. Subject to Owner's performance of its obligations hereunder, the City will plan for, permit and construct any improvements to the City's Water System and the City's Wastewater System, including its treatment facilities, necessary to provide water and wastewater services to the Property as and when contemplated by this Agreement.

Section 4.02 **Planning and Coordination.** The City will plan for and manage its overall utility service obligations, including its obligations under this Agreement. The City will coordinate and collaborate with Owner and other developers and landowners with land in the area of the Property in order to maximize the efficiency and cost effectiveness of the City's provision of services, provide certainty as to the availability of services, and minimize the duplication of facilities, including requiring oversizing of planned water and wastewater lines and facilities as necessary to provide services to the Property as contemplated by this Agreement in an economical and timely manner.

Section 4.03 **Modifications of City Regulations.** If the City modifies: (i) the definition of an LUE from the definition contained in this Agreement; (ii) water pressure requirements for service connections within Phase One; (iii) fire flow requirements; or (iv) any other aspect of the City's water and wastewater service standards, the City will be responsible for the timely design and construction of any modifications to the City's Water System and/or the City's Wastewater System necessary for the City to meet its water and wastewater service obligations under this Agreement, unless the modification required due to an increase in the LUEs required by Owner for Phase One or is mandated by Federal or State law or regulation. If any modification is required by Federal or State law or regulation, the Parties will cooperate in order to

provide for the required modifications while preserving, to the maximum extent possible, the benefits of the Parties' agreements hereunder.

Section 4.04 Quality of Water Delivered to Customers. All water delivered by the City hereunder will be potable water of a quality, volume and pressure conforming to the requirements of all applicable Federal and State laws, rules, regulations and orders applicable to water for human consumption and other domestic uses; provided, however, that temporary excursions from such requirements that may occur from time to time will not give rise to a claim for breach of this Agreement, provided that the City complies with all notice and other requirements applicable to the excursion under the rules of the TCEQ and any other regulatory entity with jurisdiction, and corrects the cause of the excursion within a reasonable time.

Section 4.05 Curtailments, Conservation Restrictions, and Environmental.

(a) The City may curtail or limit service to Customers within Phase One in the same manner that service is curtailed or limited to similarly situated customers within the City's incorporated limits, but to no greater extent, unless the curtailment or rationing is required by law or a State or Federal regulatory authority with jurisdiction over the City's delivery of water or wastewater service, is adopted in response to an order or finding by a State or Federal regulatory authority with such jurisdiction, or the curtailment is authorized by Subsection b., below.

(b) If, during the term of this Agreement, the City becomes unable to provide adequate water or wastewater services to its Service Area due to an Emergency or shortage of water supply, production, treatment, storage or transportation capability in the City's Water System or the City's Wastewater System, or if modifications, improvements, or repairs to the City's Water System or the City's Wastewater System are necessary in order to maintain or improve the level of service to the City's customers, then the City will have the right to curtail or limit service to Customers within Phase One for the same time period and on the same basis as service is curtailed or limited to similarly situated customers within the City's incorporated limits. The City agrees to provide the Customers with notice of any proposed curtailment or limitation as soon as reasonably practicable. In the event of an Emergency, the priority of and the restrictions on usage will be the same as those established from time to time for customers within the City's incorporated limits. Notwithstanding anything herein to the contrary, if it is ever determined by any governmental or regulatory authority with jurisdiction that provision of water and/or wastewater services by the City under this Agreement or the curtailment or limitation of water or wastewater services by City to any of its customers, including the Customers, is in violation of applicable law, then the City, after giving reasonable notice to the Customers and providing an opportunity for consultation, may take such action as will best effectuate this Agreement and comply with applicable law. Owner will include written notice to all future Customers that they will be required to comply with the City's water conservation and use restrictions and the City will have the right to curtail or limit service to Customers for the same time period and on the same basis as service is curtailed or limited to similarly situated

customers within the City's incorporated limits due to an Emergency or shortage of water supply through including such notice in the restrictive covenants applicable to the Property, which will be recorded in the Official Public Records of Hays County, Texas.

(c) All Customers that receive water service from the City will be required to comply with the City's water conservation and use restrictions and ordinances in the same manner and to the same extent as customers located within the City's incorporated limits. All Customers with a connection to the City's Water System, including property owners, lessees and lessors, will be subject to all of the City's rights and remedies, including fines, fees, interruption of service and disconnection of service, for any failure to comply with any applicable water conservation or use restriction or ordinance.

(d) Any Industrial Waste received by the City from Customers will be subject to the provisions of the City's Industrial Waste Ordinance, as adopted and amended by the City Council from time to time and uniformly applied throughout the City's Service Area.

Section 4.06 **Nondiscrimination.** Water and wastewater service provided to the Customers by the City will be nondiscriminatory and consistent with City's policies, tariffs and regulations applicable to customers of the City's Water System and the City's Wastewater System located within the City's incorporated limits, as such policies, regulations and tariffs may be amended from time to time in accordance with applicable law.

ARTICLE V. WATER AND WASTEWATER FACILITIES

Section 5.01 **Approval of Water Facilities Plan and Wastewater Facilities Plan; Design Requirements.** The City approves the Water Facilities Plan attached as **Exhibit "L"** and the Wastewater Facilities Plan attached as **Exhibit "M"** for the Property. The City confirms and agrees that, except as set forth on the attached **Exhibits "L" and "M"** or as otherwise provided in this Agreement, Owner will have no obligation to construct, cost participate in, and/or oversize any Internal Facilities, Connecting Facilities or Offsite Facilities. The foregoing notwithstanding, if Owner materially modifies its development plan for Phase One in a manner that increases the level of service required for Phase One above 2,100 LUEs, then Owner may be required to construct any additional or oversized facilities that are required to serve the additional LUEs.

Section 5.02 **Initial Water Service.** The City agrees to provide 500 LUEs of initial water service for Phase One through the City's existing water main located on Old Stagecoach Road, as depicted on the Water Facilities Plan, subject to Owner's construction of any required Internal Facilities and any Connecting Facilities necessary to connect to the water main. No additional facilities will be required for this initial 500 LUES of water service.

Section 5.03 Permanent Water Service.

(a) The City has entered into a Retail Water and Wastewater Services Agreement dated September 20, 2016 (the "Anthem Contract") with Mountain City 150 LP ("MC 150") under which MC 150 has agreed to construct an elevated water storage tank with a capacity of approximately 2.039 million gallons (the "Anthem Storage Tank"). The Anthem Contract also provides that, in connection with the construction of the Anthem Storage Tank, MC 150 will construct a water line from the Anthem Storage Tank to the main entryway into the MC 150 development (the "Anthem Water Main") and a water line from the main entryway along FM 150 to a point of connection with the City's Water System, as depicted on the Water Facilities Plan (the "FM 150 Water Main"). The City agrees to require MC 150 to oversize the Anthem Water Main from 12 inches to 16 inches.

(b) Provided that MC 150 commences the construction of the Anthem Storage Tank, the Anthem Water Main (oversized to 16 inches) and the FM 150 Water Main (collectively, the "Anthem Facilities") on or before the time that 350 LUEs of water service have been connected within the Property and completes the construction of the Anthem Facilities on or before June 30, 2019, Owner agrees to advance and pay a pro-rata portion of the cost of the Anthem Storage Tank, based on 2,100 LUEs out of 4,221 LUEs being reserved for the Property; and the incremental cost of oversizing the Anthem Water Main from 12 inches to 16 inches (the "Phase One Cost Share"), subject to Owner's right to reimbursement as provided in Section 7.05, below.

(c) The City agrees that, if MC 150 has not sooner commenced the design and construction of the Anthem Facilities, the City will give written notice to MC 150 under the Anthem Contract to proceed with the design and construction of the Anthem Facilities at such time as 250 LUEs of water service have been connected within the Property. If MC 150 has not (i) commenced construction of the Anthem Facilities at such time as 350 LUEs of water service have been connected within the Property, or (ii) completed the construction on or before June 30, 2019, the City agrees that Owner will have the right to proceed as provided in Subsection (d). in lieu of any cost participation in the Anthem Facilities.

(d) If the Anthem Facilities are not commenced and completed as provided in Subsections (b) and (c), Owner may proceed with the design and construction of alternative facilities consisting of a 12-inch water line to be constructed in the FM 150 right-of-way from a point of connection to the City's existing 12-inch water line at the intersection of FM 150 and Old Stagecoach Road to a booster pump station to be constructed at the location depicted on the Water Facilities Plan (the "Alternative Facilities"). The proposed booster pump station will include a connection to allow the future extension of the 12-inch water line to the west and the water line will also be extended to the south, to the site of a future, approximately 580,978 gallon elevated storage tank to be constructed at the location depicted on the Water Facilities Plan. If these Alternate Facilities are designed and constructed by Owner, the City agrees that Owner's costs will be reimbursed to Owner as provided in Section 7.05, below

Section 5.04 Initial Wastewater Service. The City agrees to provide 286 LUEs of initial wastewater service for Phase One through the City's existing 8-inch gravity main located in Old Stagecoach Road as depicted on the Wastewater Facilities Plan, subject to Owner's construction of any required Internal Facilities and the Connecting Facilities to the gravity main. No additional facilities will be required for this initial 286 LUES of wastewater service.

Section 5.05 Permanent Wastewater Service. To provide wastewater service to Phase One in excess of 286 LUEs, the City agrees to complete the construction of an appropriately sized gravity interceptor along Elliot Branch as depicted on the Wastewater Facilities Plan (the "Elliot Branch Interceptor") on or before June 30, 2019. In order to connect to the Elliot Branch Interceptor, Owner agrees to construct a lift station sufficient to serve 1,814 LUEs (the "Phase One Lift Station") as depicted on the Wastewater Facilities Plan and a six-inch force main along Cypress Road from the Phase One Lift Station to the Elliot Branch Interceptor as depicted on the Wastewater Facilities Plan. Owner further agrees that the Phase One Lift Station will be constructed on a site that is sufficient to accommodate the expansion of the Phase One Lift Station to serve up to an additional 2,200 LUEs in the future. The City acknowledges that Owner is relying on the City's timely completion of the design of, easement acquisition for, and construction of the Elliot Branch Interceptor in order to make permanent wastewater service in excess of 286 LUEs available as and when required for Customers within Phase One and/or for the development of the Property. Accordingly, the City agrees that, if the Elliot Branch Interceptor is not complete and available to provide wastewater service to the Property on or before June 30, 2019, the City will provide pump-and-haul wastewater service as needed for connections within the Property until the Elliot Branch Interceptor is completed, accepted by the City, and placed into service. Pump-and-haul service will be provided by the City contracting to have all wastewater that is delivered from Customers within the Property to the Phase One Lift Station pumped from the Phase One Lift Station wet well and transported off the Property for treatment and disposal. All costs associated with this pump-and-haul service will be borne by the City; however, the Customers within the Property receiving wastewater service through the pump-and-haul program will be required to pay all usual and customary City wastewater service fees and rates.

Section 5.06 City's Supply and Owner's Use of Reclaimed Water. Provided that the City extends Reclaimed Water facilities to a point at the intersection of the Spine Road and Old Stagecoach Road within Phase One as depicted on the Water Facilities Plan and makes Reclaimed Water available to Phase One for irrigation purposes, Owner agrees to use Reclaimed Water for irrigation within open space areas, medians, and landscaping within the right-of-way for the Spine Road within the Property where such use is economically feasible. Owner will not be required to install transmission pipelines for Reclaimed Water in the right-of-way of any roadways within Phase One that are constructed prior to the date that the City makes Reclaimed Water services available to Phase One, but will install Reclaimed Water distribution pipelines (commonly referred to as "purple pipe") in areas of the right-of-way of the Spine Road and collector roads within Phase One where irrigation is required.

**ARTICLE VI.
CONSTRUCTION, OPERATION AND MAINTENANCE**

Section 6.01 **Owner's Obligation for Design and Construction.** Owner, at its cost and expense, but subject to Owner's right to receive reimbursements as provided in this Agreement, will construct or cause to be designed and constructed or will cost-participate in the design and construction of the Internal Facilities, Connecting Facilities and Offsite Facilities that are described in the Water Facilities Plan (the "Water Facilities") and in the Wastewater Facilities Plan (the "Wastewater Facilities") and this Agreement.

Section 6.02 **Oversizing.** The City reserves the right to request Owner to oversize Water Facilities, including elevated tanks, storage tanks, pumping stations, vaults, and transmission lines, and Wastewater Facilities, including lift stations, force mains, and gravity collection lines, subject to the requirements of this Section. If the City requests oversizing of any of such facilities beyond the sizes specified in the Water Facilities Plan and/or Wastewater Facilities Plan, then, provided that accommodating such request would not result in a delay in the timing of construction of any facilities required for service to Phase One or require Owner to advance any additional costs, Owner agrees to negotiate with the City in good faith in order to accommodate the City's request. For any requested oversizing, Owner will be responsible for Owner's portion of the cost of the design, permitting and construction of the facility sized as shown on the Water Facilities Plan or Wastewater Facilities Plan, as applicable, and the City will be responsible for the City's incremental portion of the cost of the design, permitting and construction of the facility as oversized. The costs and capacities of any oversized facility will be allocated based on engineering estimates. For example, if a 10-inch line is necessary to serve Phase One, and the City requests that Owner construct a 15-inch line, then the City will be required to advance and pay the incremental cost associated with increasing the line from 10" to 15" and the incremental cost will be determined based on the difference between an engineering cost estimate for the construction of a 10" line, and an engineering cost estimate for construction of a 15" line. The incremental cost will be determined, in good faith, by the City Engineer. Owner will maintain its allocated capacity in any facility that is oversized based on the size of facility as originally planned.

Section 6.03 **Design; Plan Approval.** All Water Facilities and Wastewater Facilities will be designed and constructed in accordance with Applicable City Rules as well as any applicable regulations of the TCEQ. The plans and specifications will be subject to review and approval by the City prior to the commencement of construction, and the City will be entitled to collect its standard review fees in accordance with applicable City policies, as modified by this Agreement. The City agrees to review all plans and specifications submitted on a timely basis and, if the City disapproves any submitted plans, it will provide a written explanation of the basis for such disapproval.

Section 6.04 **Utility Design Guidelines.** The utility design guidelines attached as Exhibit "N" will apply to water and wastewater facilities within Phase One.

If any of the guidelines attached as Exhibit “N” conflict with otherwise applicable City requirements, the design guidelines on Exhibit “N” will control.

Section 6.05 **Construction Contracts, Insurance and Bonds.** All contractors selected by Owner for the Water Facilities and Wastewater Facilities will be required to provide performance and payment bonds in the amount of the contract price. Each construction contract must require the contractor to provide insurance in amounts customary for similar projects, naming Owner and the City as additional insureds, and a contractor’s warranty of the work and materials for a period of two years from the date of completion. Owner must provide City with a copy of each construction contract, a copy of the required performance and payment bonds, and a certificate evidencing the required insurance before notice to proceed is given to the contractor. The City will have the right to stop work by a contractor if the contractor starts work before Owner complies with the requirements of this Section, and the City will have no liability to Owner or any contractor for any claims or causes of action arising from any properly issued stop-work order.

Section 6.06 **Easement Acquisition.**

- (a) **Use of City Easements.** The City hereby grants to Owner the license and right to use the use any City rights-of-way, sites or easements that may be reasonably necessary for construction of the Water Facilities and/or the Wastewater Facilities, or for Owner to perform its obligations under this Agreement; provided, however, that the City has approved the plans and specifications for and the location of the facilities in question.

- (b) **Easements from Third Parties.** The City acknowledges that the Water Facilities and Wastewater Facilities, and any easements required for such facilities, are necessary in order for the City to provide water and wastewater services to the Property as contemplated by this Agreement and that there exists a public necessity for the construction of the Water Facilities and Wastewater Facilities. Accordingly, the City agrees to cooperate with Owner to facilitate Owner’s acquisition of any necessary easements from third parties.

- (c) **Use of Condemnation.** If Owner is unable to obtain any easement required for the Water Facilities and/or Wastewater Facilities that are located outside of the Property through good faith negotiation, Owner may request that the City proceed with the acquisition of the easement through condemnation, in compliance with applicable law. The City agrees to consider any such request within 60 calendar days and, provided that the City Council finds that the requested easement is necessary to accomplish a public purpose, the City Council may elect to exercise the City’s power of eminent domain to acquire the requested easement. The Parties agree to cooperate in order to enable Owner to proceed with construction within any easement being acquired by the City under this Section at the earliest time lawfully permitted. Owner agrees to reimburse the City for any out-of-pocket costs incurred for the acquisition of an easement under this Subsection, whether by condemnation or conveyance in lieu thereof;

provided, however, that, if the easement in question is required for facilities that will serve land in addition to the Property, Owner will only be required to reimburse the City for its proportionate share of such costs, determined based on LUEs. Owner will be entitled to receive reimbursement for any costs paid or reimbursed by Owner for easement acquisition out of the proceeds of the PID bonds.

Section 6.07 Construction of Water and Wastewater Facilities.

(a) Owner may begin construction of the Internal Facilities located within a portion of the Property after City approval of the preliminary plat covering that portion of the Property and the City Engineer's approval of the related plans and specifications. All Water Facilities and Wastewater Facilities must be constructed in strict accordance with the plans and specifications approved by the City's Engineer.

(b) Owner's engineer will provide construction observation services during construction of all Water Facilities and Wastewater Facilities and, upon completion of construction, will provide the City with a signed and sealed certificate of completion stating that construction of the Water Facilities and/or Wastewater Facilities in question was accomplished in substantial accordance with the plans and specifications approved by the City's Engineer.

Section 6.08 Conveyance, Ownership, Operation, and Maintenance of Water Facilities and Wastewater Facilities. Upon completion of construction and City acceptance of each phase of the Water Facilities and Wastewater Facilities, Owner will promptly convey those facilities to the City, subject to the City's obligation to provide service as provided in this Agreement and the Owner's right to reimbursement out of PID bonds. Any conveyance contemplated by this Agreement will be subject to a reservation of capacity in the facilities in question as required to serve Phase One, but Owner will have no right to any excess capacity created by oversizing or any capacity in excess of 2,100 LUEs. At the time of conveyance, Owner will assign the City all contractor's warranties, guarantees and payment and/or performance bonds related to the facilities conveyed. The City agrees that its acceptance of such facilities and the related assignments will not be unreasonably withheld, conditioned, or delayed. Upon such conveyance and acceptance, the City agrees to operate and maintain such facilities to provide service to Customers within Phase One and/or for development of the Property in accordance with this Agreement.

Section 6.09 Record Drawings. Following completion of each phase of the Water Facilities and/or Wastewater Facilities, Owner's engineer will provide one set of record drawings of those facilities to the City. Owner will use good faith efforts to obtain and furnish such drawings to the City within 30 days of the date of the City's acceptance of the facilities in question. Owner's engineer will also obtain GPS/GIS data captured in the field for the material, size, location and depth of all lines, valves and manholes as such facilities are being constructed and deliver such data to the City's mapping division with the record drawings.

Section 6.10 **Initiation of Retail Service.** The City will initiate retail service, whether for temporary water service for construction purposes or for water service to a home or business within Phase One, upon receipt of the City's standard application for service and the applicant's compliance with the requirements for such service, including performance of required inspections and payment of standard inspection fees, service initiation fees, and deposits.

**ARTICLE VII.
FEES AND FINANCIAL MATTERS**

Section 7.01 **City Fees.** Except as otherwise provided in this Agreement, the City's standard water and wastewater Impact Fees, rates, charges, and other fees, including engineering review and inspection fees, that are applicable within the City's incorporated limits will be applicable to facilities constructed, connections made, and services provided within the Property. Since the County does not have building code authority or building inspectors and the Project is receiving a special benefit to develop residential uses outside of the City's corporate limits, builders within the Project will be subject to compliance with the provisions of the City's building code in effect on the Vesting Date, as set forth on the attached **Exhibit "D-2"**, and will be required to pay the City's standard building inspection fees.

Section 7.02 **Impact Fees.** Section 7.01 hereof notwithstanding, for the first 300 lots platted out of the Property, the water and wastewater Impact Fees will be those fees in effect as of the Vesting Date, \$2,216 per LUE for wastewater and \$2,115 for water, as provided in this Section. Owner agrees to pre-purchase the 300 wastewater Impact Fees vested at the amount of \$2,216 per LUE on or before March 31, 2018 and to purchase an additional 400 wastewater Impact Fees at the amount of \$2,826 per LUE on the first to occur of (i) the City's approval of the final plat or plats including first 300 lots within Phase One, or (ii) March 31, 2020. After the water and wastewater Impact Fees described in the preceding sentences of this Section are applied by Owner, the Impact Fees payable for the remainder of Phase One will be adjusted to the City's Impact Fees in effect at the time of City approval of each subsequent final plat out of the Property and will be payable by the homebuilders at the time of the City's issuance of each residential building permit for lots within those platted sections, as required by Section 7.01. The Impact Fees prepaid by Owner under this Section will not be eligible for reimbursement out of PID bonds.

Section 7.03 **Adjacent Streets Fee.** In consideration of Owner's improvement of Old Stagecoach Road along the perimeter boundary of the Property at an estimated costs of \$1,200,000 and participation in the construction of the Spine Road, the City's Adjacent Streets Fee for Phase One is waived, and Owner will not be required to pay any "Adjacent Streets Fee", "perimeter road fee", "road mile fee" or similar fee for Phase One.

Section 7.04 **Reimbursements.** The City agrees to reimburse Owner for all eligible costs that are permitted under Chapter 372, *Texas Local Government Code* for the Internal Facilities, Connecting Facilities, City Facilities and Offsite Facilities and/or

Owner's cost participation in such facilities through the PID bonds. Eligible costs will include, but not be limited to, engineering and legal fees, costs of easement and access acquisition, costs of design, permitting and inspection, and construction costs, including the costs of required utility extensions, screening and landscaping. The costs and capacity of any oversized facilities will be allocated, per Section 6.02 above, to Owner and the City and/or a third party that will utilize the additional capacity, and the City or third party will be required to advance its share of the costs of such oversizing.

Section 7.05 **City's Allocation of Net PID Bond Proceeds**. The City will be entitled to receive 10% of the net proceeds of the PID bonds issued by the City for Public Improvements benefitting Phase One (the "City Allocation") either in the form of a payment at the time of funding of such bond issue or, if Owner advances costs of water and wastewater treatment plant Public Improvements including costs for the Phase One Cost Share of the Anthem Storage Tank and the Anthem Water Main, or the Alternative Facilities, as defined in Section 5.03, as provided below in this Section 7.05, through Owner's advancing costs of or completion and conveyance of such Public Improvements to the City at no cost to the City.

(a) The City agrees to defer the City Allocation that would otherwise be payable to the City out of the proceeds of the first issuance of PID bonds (the "Deferred Initial Allocation") and, accordingly, no portion of the proceeds of that first bond issuance will be paid to the City; however, at the time of second issuance of PID bonds, the City will, subject to subsection (b), below, receive the City Allocation payable out of the proceeds of those bonds, plus an amount equal to the Deferred Initial Allocation, subject to Subsection (c), below.

(b) At the time of the second issuance of PID bonds, the City will be entitled to receive a City Allocation of \$1,500,000 in City Allocations for use by the City for water treatment and wastewater treatment plant Project Improvements. The foregoing notwithstanding, if the second issuance of PID bonds has not occurred on or before March 31, 2020, the Owner agrees to advance the sum of \$1,200,000 to the City for use for wastewater treatment plant Project Improvements and any such advance (the "Allocation Credit") will be credited against and reduce the \$1,500,000 in City Allocation(s) otherwise payable out of the second issuance of PID bonds and, therefore, the City will receive the remaining \$300,000 out of the second issuance of PID bonds. The Owner will be entitled to reimbursement for the Allocation Credit, if advanced, out of the proceeds of subsequent issuances of PID bonds.

(c) After the City has received \$1,500,000 in City Allocations (or, if Owner advances the Allocation Credit under Subsection (b), above, the Allocation Credit plus an additional \$300,000 City Allocation), the City Allocation(s) out of the next PID Bond issuance or issuances will be paid to Owner to reimburse Owner for the Allocation Credit, the Phase One Cost Share of the Anthem Storage Tank and the Anthem Water Main, if advanced by Owner as provided in Section 5.03(b), or, if applicable, the cost of the Alternative Facilities described in Section 5.03(d).

(d) After Owner has been reimbursed for the Allocation Credit, the Phase One Cost Share of the Anthem Storage Tank and the Anthem Water Main, or the Alternative Facilities, as applicable, the City will utilize the next City Allocation(s) paid to the City for reimbursement of the City's costs of construction of the Elliot Branch wastewater interceptor and, thereafter, for the reconstruction of Old Stagecoach Road as a two lane road with bike lane within existing right of way from FM 2770 to the roundabout at the entrance of Phase One and for related intersection improvement.

(e) After the City's completion of the Old Stagecoach Road improvements described in (d), above, additional City Allocations may be utilized by the City for any other public purpose. If, however, the County funds the reconstruction of Old Stagecoach Road as described in Subsection (e), then the portion of the City Allocation that would otherwise have been utilized for that reconstruction may be utilized by the City for any other public purpose.

ARTICLE VIII. OTHER DEVELOPMENT MATTERS

Section 8.01 Interlocal Cooperation.

(a) Pursuant to the City's interlocal agreement with the County, the City will be the common point of contact for submittals for approvals for Phase One, however, Owner will be subject to payment of all applicable County review fees.

(b) The City will cooperate with Owner to facilitate Owner's obtaining a license agreement from the County that will allow landscaping, signage and related improvements in any rights-of-way and medians for collector roads and the portion of FM 150 within Phase One that is owned by or under the jurisdiction of the County.

(c) The City will cooperate with Owner to negotiate and enter into a tri-party agreement between the City, Owner and the County confirming utility assignments and maintenance obligations within any rights-of-way owned by or under the jurisdiction the County within Phase One. Final approval of this Agreement by the City will be conditioned upon the approval and execution of such tri-party agreement by the City, the County and Owner.

Section 8.02 Owner's Right to Continue Development. In consideration of Owner's agreements hereunder, the City agrees that it will not, during the term of this Agreement, impose or attempt to impose (a) any moratorium on building or development within the Property, or (b) any land use or development regulation that limits the rate or timing of land use approvals, whether affecting preliminary plats, final plats, site plans, or other necessary approvals, within the Property unless the moratorium is mandated by an agency of the State of Texas or the United States, or is applicable to the City in its entirety. The City may impose temporary moratoria provided that any such moratorium is applicable to the City's entire jurisdiction and is due to an emergency constituting an imminent threat to the public health or safety,

provided that any such moratorium may continue with respect to the Property only during the duration of the emergency.

**ARTICLE IX.
REPRESENTATIONS AND WARRANTIES**

Section 9.01 Representations and Warranties of Owner.

- (a) **Organization and Good Standing.** Owner is a duly organized and validly existing limited partnership with full power and authority to conduct its business as it is now being conducted, to own or use the properties and assets that it purports to own or use, and to perform all of its obligations under this Agreement for the Property.
- (b) **Authority; No Conflict.** This Agreement constitutes a legal, valid and binding obligation of Owner, enforceable against Owner in accordance with its terms. Owner has the absolute and unrestricted right, power, authority, and capacity to execute and deliver this Agreement and to perform its obligations under this Agreement with respect to the Property.

Section 9.02 Representations and Warranties of the City.

- (a) **Organization and Good Standing.** The City is a duly organized and validly existing municipal corporation in good standing under the laws of the State of Texas, with full power and authority to conduct its business as it is now being conducted, to own or use the properties and assets that it purports to own or use, and to perform all of its obligations under this Agreement.
- (b) **Authority; No Conflict.** This Agreement constitutes a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms. The City has the absolute and unrestricted right, power, authority, and capacity to execute and deliver this Agreement and to perform its obligations under this Agreement.

**ARTICLE X.
AUTHORITY; FRUSTRATION OF PURPOSE**

Section 10.01 Legal Authority. This Agreement is entered into under, among other authority, the statutory authority of Sections 42.042 and 212.172, *Texas Local Government Code*. Subject to compliance with the terms of this Agreement, the Parties intend that this Agreement guarantee the continuation of the extraterritorial status of the Property for the period of time provided in this Agreement; provide for Public Improvements and other infrastructure to serve the Property; and provide other lawful terms and considerations relating to the Property. The City acknowledges that the IDA constituted an application by Owner for the subdivision and development of the Property, initiated the subdivision and development permit process for the Property, and constitutes a development plan as provided in Section 212.172, *Texas Local*

Government Code. Subject to the terms and conditions of this Agreement, the City confirms, acknowledges and agrees that Owner has vested authority to develop the Property in accordance with the Applicable City Rules, as modified by Phase One Approvals, notwithstanding subsequently adopted ordinances, rules or regulations, or changes or modifications to the City Code or the City's ordinances, rules and regulations, which will only be applicable to the extent allowed by Chapter 245, *Texas Local Government Code* (the "Vested Rights"). If there is any conflict between the Applicable City Rules and the terms of this Agreement, the terms of this Agreement will control.

Section 10.02 Negotiated Development Procedures. Owner has voluntarily elected to enter into and accept the benefits of this Agreement, which include the certainty and assurance of the development and use of the Property in accordance with this Agreement; the establishment and confirmation of the regulations applicable to the development of the Property; and the water and wastewater services that will be made available to the Property pursuant to the terms of this Agreement. Owner has voluntarily agreed to pay certain fees, and to facilitate, among other things, the construction of Offsite Facilities and other Public Improvements that may exceed the requirements that would be applicable to the Property if Owner had elected to follow standard City development procedures. The City will benefit from this Agreement by virtue of its control over the development standards for the Property and the extension of its water and wastewater systems as provided by this Agreement. The parties agree that development of the Property will be best accomplished through this Agreement and that such development will substantially advance the legitimate interests of the City. The City, by approval of this Agreement, further finds the execution and implementation of this Agreement is not inconsistent or in conflict with any of the policies, plans, or ordinances of the City.

Section 10.03 Frustration of Purpose. If any word or other part of this Agreement is affected, in whole or in part, as a result of amendments to the underlying statutory authority for this Agreement or a final judicial decree for which all appeals have expired or been exhausted, or if the Texas Legislature amends State law in a manner that limits or curtails any right or obligation of the Parties under this Agreement, then the Parties acknowledge that the purpose of this Agreement may be frustrated. In such case, the Parties agree to work in good faith to amend this Agreement so that the purpose of this Agreement may be fully realized.

Section 10.04 Cooperation. The City and Owner agree to execute such further documents or instruments as may be reasonably necessary to evidence their agreements hereunder. In the event of any third party lawsuit or other claim relating to the validity of this Agreement or any actions taken hereunder, then to the extent permitted by law, the City and Owner agree to cooperate in the defense of such suit or claim and to use their respective best efforts to resolve the suit or claim without diminution in their respective rights and obligations under this Agreement.

**ARTICLE XI.
DEFAULT AND REMEDIES FOR DEFAULT**

Section 11.01 **Default; Notice of Default; Opportunity to Cure.** If a Party defaults in the performance of any obligation under this Agreement, the non-defaulting Party may give written notice to the other Party specifying the alleged event of default and extending to the defaulting Party 30 days from the date of the notice in order to cure the default complained of or, if the curative action cannot reasonably be completed within 30 days, 30 days to commence the curative action and a reasonable additional period, not to exceed 90 days, to diligently pursue the curative action to completion.

Section 11.02 **Dispute Resolution.** If any default is not cured within the curative period specified in Section 11.01, the Parties agree to use good faith, reasonable efforts to resolve any dispute among them by agreement, including engaging in mediation or other non-binding alternative dispute resolution methods, before initiating any lawsuit to enforce their respective rights under this Agreement. The Parties will share the costs of any alternative dispute resolution method equally.

Section 11.03 **Legal or Equitable Remedies.** If the Parties are unable to resolve any dispute through alternative dispute resolution methods, a non-defaulting Party will have the right to pursue all remedies existing at law or in equity. The Parties acknowledge that a default in the performance of the City's obligations hereunder could not be adequately compensated in money damages alone and that the curtailment or discontinuance of water and/or wastewater service to a residential subdivision is often an unattainable remedy because of the potential threat to the health, safety, and welfare and property of the residents of the subdivision; therefore, the City agrees, in the event of any default on its part as admitted by City or adjudicated by a Court as part of any proceeding in which Owner pursues legal or equitable remedies, that Owner will have available to it the equitable remedies of mandamus and specific performance in addition to any other legal or equitable remedies that may also be available.

Section 11.04 **Non-Waiver.** Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement will not be deemed a waiver of such provision or of any other provision of this Agreement, and such Party will have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement. The Owner acknowledges and agrees that the City is a governmental entity engaging in a governmental function. By entering into this Agreement the City does not waive its governmental immunity, except as provided by Section 271.152, *Texas Local Government Code*.

Section 11.05 **Applicable Law and Venue.** The construction and validity of this Agreement will be governed by the laws of the State of Texas (without regard to conflicts of law principles). Venue for any dispute arising from or related to this Agreement will be in a Hays County, Texas State District Court in accordance with the Texas Civil Practice and Remedies Code.

Section 11.06 **Reservation of Rights.** To the extent not inconsistent with this Agreement, each Party reserves all rights, privileges and immunities under applicable laws.

**ARTICLE XII.
MISCELLANEOUS PROVISIONS**

Section 12.01 **Amendments to Agreement.** This Agreement may be amended only by a written agreement signed by the City and Owner.

Section 12.02 **Term and Termination.** The term of this Agreement will commence on the Effective Date and continue until the first to occur of (i) 45 years from the Effective Date; (ii) the date all of the Property is annexed by the City pursuant to the terms of this Agreement, which the City confirms and agrees will not occur until all PID bonds that are to be repaid through assessments against the Property have been issued and repaid in full, and there are no further PID assessments against the Property; or (iii) written agreement of the Parties. Upon termination of this Agreement, the Parties agree to execute and record in the Official Public Records of Hays County, Texas, a document confirming the termination of this Agreement. In no event will any termination of this Agreement entitle the City to terminate water and/or wastewater service to any existing Customer, or to refuse service for a connection for which an Impact Fee has been paid.

Section 12.03 **Agreement Binds Successors and Runs with the Property.** Within ten business days after the Effective Date, this Agreement will be recorded by Owner in the Official Public Records of Hays County, Texas and a copy of this Agreement complete with recording information will be provided to the City's City Secretary. This Agreement will bind and inure to the benefit of the Parties, their successors and assigns. The terms of this Agreement will constitute covenants running with the land comprising the Property and be binding upon Owner, its successors and assigns. The foregoing notwithstanding, as provided in Section 212.172(f), *Texas Local Government Code*, this Agreement is not binding on, and does not create any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the Property, except as to any land use and development regulations and City fees provided for by this Agreement that may apply to a specific lot developed out of the Property.

Section 12.04 **Force Majeure.** If any Party is rendered unable, wholly or in part, by Force Majeure to carry out any of its obligations under this Agreement other than an obligation to pay or provide money, the obligations of that Party, to the extent affected by such Force Majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, will be suspended during the continuance of the inability to the extent provided above, but for no longer period. The cause, as far as possible, must be remedied with all reasonable diligence; however, the settlement of strikes and lockouts will be entirely within the discretion of the Party affected, and the requirement that any Force Majeure be remedied with all reasonable dispatch will not require the settlement of strikes and lockouts by acceding to the demand of the opposing party or parties if settlement is unfavorable to it in the judgment of the affected Party.

Section 12.05 Owner Assignment of Agreement.

(a) Owner's rights and obligations under this Agreement may be assigned, in whole or in part, by Owner to one or more purchasers of all or part of the Property. Except as provided in Subsection (b), the City Council must first approve and consent to any such assignment by Owner, which consent will not be unreasonably withheld, conditioned or delayed. Any assignment must be in writing, specifically set forth the assigned rights and obligations and be executed by Owner and the proposed assignee. A copy of the executed assignment document must be provided to the City.

(b) The City hereby expressly approves and consents to Owner's assignment of its rights and obligations under this Agreement to Hanna/Magee LP #1, a Texas limited partnership ("Hanna/Magee"), or to an entity controlling, controlled by or under common control with Hanna/Magee. No further City consent to any such assignment will be required; however, the assignment must be in writing, specifically set forth the assigned rights and obligations, be executed by Owner and Hanna/Magee, and a copy of the executed assignment document must be provided to the City.

(c) If Owner assigns its rights and obligations hereunder as to a portion of the Property, then the rights and obligations of any assignee and Owner will be severable, and Owner will not be liable for the nonperformance of the assignee and vice versa. In the case of nonperformance by one Owner, the City may pursue all remedies against that nonperforming Owner, but will not pursue any remedies with respect to or impede development activities of any performing Owner as a result of that nonperformance.

(d) Owner may collaterally assign its rights and obligations, including the right to receive sums payable to Owner through PID bonds, under this Agreement to a lender providing financing for all or a portion of Phase One. No City consent to such a collateral assignment will be required, but Owner will give the City written notice of the name and address of any lender to whom a collateral assignment is made.

Section 12.06 Notice. Any notice given under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the Party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the Party to be notified and with all charges prepaid; (iii) by personally delivering it to the Party; or (iv) by facsimile or email with confirming copy sent by one of the other described methods of notice set forth above. Notice by United States mail will be effective on the earlier of the date of receipt or three days after the date of mailing. Notice given in any other manner will be effective only when received. For purposes of notice, the addresses of the Parties will, until changed by notice as provided in this Section, be as follows:

City:

City of Kyle
Attn: City Manager
100 W. Center Street
Kyle, TX 78640

With a copy to:

Davidson, Troilo, Ream & Garza, PC
Attn: Frank Garza, City Attorney
601 NW Loop 410, Suite 100
San Antonio, TX 78216

Owner:

Blanco River Ranch Properties LP
Attn: Gregg Reyes
1901 Hollister Road
Houston, Texas 77080

With a copy to:

Hanna/Magee LP#1
Attn: Blake Magee
1011 North Lamar Blvd.
Austin, Texas 78703

Section 12.07 Lender Protection. This Agreement will not affect the right of Owner to encumber any portion of the Property owned by it by mortgage, deed of trust or other instrument to secure financing for development of that land. The City understands that a lender providing financing for Phase One (a "Lender") may require interpretations of or modifications to this Agreement and agrees to cooperate with Owner and its Lender's representatives in connection with any requests for interpretations or modifications. The City agrees not to withhold or delay unreasonably its approval of any requested interpretation or modification if the interpretation or modification is consistent with the intent and purposes of this Agreement. The City further agrees as follows:

(a) Neither entering into this Agreement, nor any breach of this Agreement, will affect any lien upon all or any portion of the Property.

(b) The City will, upon written request of a Lender given in compliance with this Agreement, provide the Lender with a copy of any written notice of default given to Owner under this Agreement within ten days of the date such notice is given to Owner.

(c) In the event of default by Owner under this Agreement, a Lender may, but will not be obligated to, cure any default during any cure period extended to Owner, either under this Agreement or under the notice of default.

(d) Any Lender who comes into possession of any portion of the Property by foreclosure or deed in lieu of foreclosure will take such property subject to the terms of this Agreement. A Lender will not be liable for any defaults or monetary obligations of Owner arising prior to the Lender's acquisition of title, but the Lender will not be entitled to obtain any permits or approvals with respect to that portion of the Property until all delinquent fees and other obligations of Owner under this Agreement that relate to the property in question have been paid or performed.

(e) From time to time upon written request by Owner, the City shall execute a written estoppel certificate stating, if true, that the City has not given or received any written notices alleging any events of default under this Agreement provided, however, the City may require payment in advance of its estimated charges for preparing the requested estoppel certificate.

Section 12.08 Severability. If any part of this Agreement or its application to any person or circumstance is held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the Parties agree that they will cooperate to amend or revise this Agreement to accomplish, to the greatest degree practical, the same purpose as the part determined to be invalid or unconstitutional. It is the intent of the Parties to preserve and protect, to the maximum extent possible, the Parties' contractual rights and benefits under this Agreement.

Section 12.09 Effect of Agreement.

(a) With respect to the Property only, this Agreement supersedes the IDA. The IDA will remain in full force and effect as to the BRR Remainder except as provided in Subsection (b), below. The City and Owner agree that the phasing of development of and the designation of the Improvement Areas within the PID for the BRR Remainder will be specified in a final development agreement for the BRR Remainder to be negotiated and entered into by Owner and the City. Until such time as the final development agreement for the BRR Remainder is finally approved and executed, the BRR Remainder will be subject to the IDA, as modified by this Agreement.

(b) Owner and the City mutually agree that Section 8.03 of the IDA is replaced with the following:

“Deannexation. If (1) the PID is not created as contemplated by Section 2.06 of this Agreement, or (2) despite the intentions of the Parties described in Section 2.02 above, the City Council does not approve deannexation of the Current City Limits Property, Owner may petition for deannexation of the Commercial Land pursuant to Section 1.07 of the City Charter and the City agrees, in good faith, to take action to deannex the Commercial Land promptly upon receipt of such petition.”

Section 12.10 **Good Faith.** Each Party agrees that, notwithstanding any provision herein to the contrary, it will not unreasonably withhold or unduly delay any consent, approval, decision, determination or other action required or permitted under the terms of this Agreement, it being agreed and understood that each Party will act in good faith and will at all times deal fairly with the other Party.

Section 12.11 **Authority.** By their execution hereof, each individual signing this Agreement on behalf of a Party represents and warrants that he or she has the authority to execute this Agreement on behalf of the Party and in the capacity shown below.

Section 12.12 **No Third Party Beneficiary.** This Agreement is for the benefit of the City and Owner and shall not be construed to confer any benefit on any third party other than the Customers.

Section 12.13 **Counterparts.** To facilitate execution, this Agreement may be executed in any number of counterparts, and it will not be necessary that the signatures of all Parties be contained on any one counterpart. Additionally, for purposes of facilitating the execution of this Agreement: (a) the signature pages taken from separate, individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts; and (b) a facsimile or electronic signature will be deemed to be an original signature for all purposes. All executed counterparts of this Agreement will be deemed to be originals, but all such counterparts, when taken together, will constitute one and the same instrument.

Section 12.14 **Headings, Construction.** The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender include the feminine or neuter, and the singular includes the plural, and vice-versa. The Parties acknowledge that each of them has been actively and equally involved in the negotiation and drafting of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. If there is any conflict or inconsistency between the provisions of this Agreement and the Applicable City Rules, the terms of this Agreement will control.

Section 12.15 **Time.** Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be extended to the next day that is not a Saturday, Sunday or legal holiday.

Section 12.16 **Interested Parties.** Owner acknowledges that Section 2252.908, Texas Government Code ("Section 2252.908") requires disclosure of certain matters by business entities entering into a contract with a local government entity such as the City. Owner confirms that it has reviewed Section 2252.908 and that Owner will 1) complete Form 1295, using the unique identification number specified on page 1 of this Agreement, and electronically file it with the Texas Ethics Commission ("TEC"); and 2)

submit to the City the signed and notarized Form 1295, including the certification of filing number of the Form 1295 with the TEC, at the time the Owner executes and submits this Agreement to the City. Form 1295 is available at the TEC's website: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. This Agreement is not effective until the requirements listed above are satisfied and approval of this Agreement by the City is expressly made contingent upon Owner's compliance with such requirements.

Section 12.17 **Conflicts of Interest.** Owner acknowledges that Texas Local Government Code Chapter 176 ("*Chapter 176*") requires the disclosure of certain matters by persons who enter into or seek to enter into a contract with local government entities such as the City. Owner confirms that it has reviewed Chapter 176 and, if it is required to do so, it will complete and return Form CIQ promulgated by the TEC, which is available on the TEC website at <https://www.ethics.state.tx.us/forms/CIQ-New-2015.pdf>, within seven days of the date of submitting this Agreement to the City or within seven days of becoming aware of a matter that requires disclosure under Chapter 176, whichever is applicable.

Section 12.18 **City has no Liability to Contractors of Owner.** It is expressly understood and agreed by all Parties hereto that, in performing its services hereunder, Owner will at no time will be acting as an agent of the City or and that all consultants or contractors engaged by Owner will be independent contractors of Owner, and not of the City. The Parties hereto understand and agree that the City will not be liable for any claims that may be asserted by any third party occurring in connection with Owner's performance under this Agreement, unless any such claims are due to the fault of the City.

Section 12.19 **Exhibits.** The following exhibits are attached to this Agreement and incorporated herein for all purposes:

Exhibit "A" Description of the Property

Exhibit "B" Depiction of Current City Limits Property

Exhibit "C" Concept Plan

Exhibit "D" Development Standards and Project Approvals, including exceptions and variances

Exhibit "D-1" Design Guidelines

Exhibit "D-2" City's Current Building Code in effect on vesting date

Exhibit "E" Schedule for De-Annexation, Annexation and Other Project Approvals

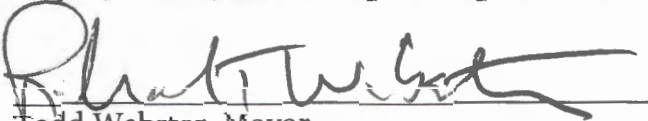
<u>Exhibit “F”</u>	Spine Road Alignment, including areas to be annexed and de-annexed
<u>Exhibit “G”</u>	City PID Requirements
<u>Exhibit “G-1”</u>	Additional PID Requirements Approved by Owner
<u>Exhibit “H”</u>	PID Agreement Term Sheet
<u>Exhibit “I”</u>	Permitted Locations for Signage and Landscaping Improvements
<u>Exhibit “J”</u>	Park Land and Park Improvements
<u>Exhibit “K”</u>	Roadway and Transportation Improvements
<u>Exhibit “L”</u>	Water Facilities Plan
<u>Exhibit “M”</u>	Wastewater Facilities Plan
<u>Exhibit “N”</u>	Utility Design Guidelines

EXECUTED in multiple counterparts, each of which shall constitute an original, to be effective as of the Effective Date.

(The remainder of this page has been intentionally left blank, and the signature page or pages follow.)

**SIGNATURE PAGE TO BLANCO RIVER RANCH (Residential Area)
DE-ANNEXATION AND DEVELOPMENT AGREEMENT.**

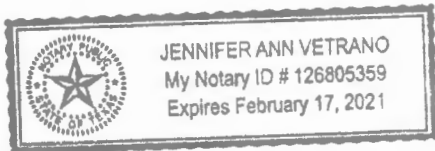
CITY: City of Kyle, Texas, a municipal corporation

By: 
Todd Webster, Mayor

Date: 5/16/2017

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on the 16th day of May, 2017, by Todd Webster, Mayor of the City of Kyle, Texas, a municipal corporation, on behalf of said municipal corporation.

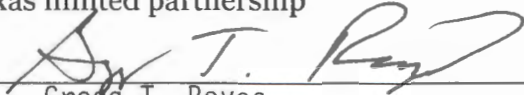



Notary Public, State of Texas

**SIGNATURE PAGE TO BLANCO RIVER RANCH (Residential Area)
DE-ANNEXATION AND DEVELOPMENT AGREEMENT.**

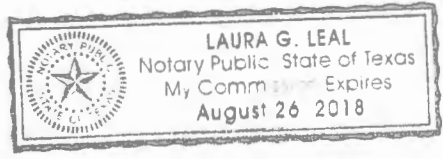
OWNER:

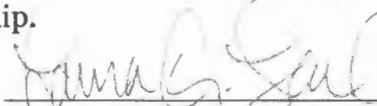
BLANCO RIVER RANCH PROPERTIES LP,
a Texas limited partnership

By: 
Name: Gregg T. Reyes
Title: Manager

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 16th day of May, 2017, by Gregg T. Reyes, Manager of Blanco River Ranch Properties-LP, a Texas limited partnership, on behalf of said limited partnership.




Notary Public, State of Texas

BLAKE MAGEE CO

TRANSMITTAL COVER LETTER

TO: Mr. Scott Sellers **Via Courier**
City of Kyle
City Manager

FROM: Amy Lynn Payne
Blake Magee Company

DATE: May 15, 2017

SUBJECT: Blanco River Ranch Development Agreement (DA)

ENCLOSED: Two originals with incorporated revisions as detailed below.
PLEASE FIND

Scott, please find the final DA ready for execution by the Mayor. As we discussed the following scrivener's errors have been corrected:

The blank under Section 5.05 was filled in to say, "an appropriately sized gravity interceptor";
Exhibit C- Concept Plan was updated to correct the text errors on the face of the drawing that conflicted with the table in Exhibit C;
Exhibit D - Item 9 referenced Exhibit C. That was corrected to reference Exhibit J;
Exhibit H- PID Agreement Term Sheet- The blank on page 3 of 4, Item 1 was filled in to say, "the estimated impact to the roadway as determined by a trip generation or traffic impact analysis";
Exhibit J- Park and Open Space Plan was corrected to match the park plan that was approved on the 1/23/17 Parks Meeting.

For your information

In accordance with your request

Please sign the attached documents

Please contact me

EXHIBIT "A"
DESCRIPTION OF THE PROPERTY

Blanco River Ranch
858.70 acres

PROPERTY DESCRIPTION
EXHIBIT A

BEING 858.70 ACRES OF LAND LOCATED IN THE SAMUEL PHARASS ¼ LEAGUE NO. 14, ABSTRACT 360, AND THE CALEB W. BAKER SURVEY, ABSTRACT 31 HAYS COUNTY, TEXAS AND BEING A PORTION OF TRACT I, A CALLED 1,971.29 ACRE TRACT AND ALL OF TRACT II, A CALLED 195.14 ACRE TRACT AS DESCRIBED IN A DEED FROM THE STATE OF TEXAS TO BLANCO RIVER RANCH, LP AND RECORDED IN VOLUME 5230, PAGE 583 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 858.70 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS WITH ALL BEARING REFERENCED TO THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE.

BEGINNING at an iron rod with aluminum cap stamped "Kent McMillian" found marking the most northerly corner of a called 311.56 acre tract described in a deed to Robert Nance recorded in Volume 4459, Page 137 of said Deed Records, same being the northwest corner of a called 195.14 acre tract described in the aforementioned deed to Blanco River Ranch as Tract II and being on the southeasterly line of said 1,971.29 acre Tract I;

THENCE, with the southerly line of said 1,971.29 acre tract, same being the northeasterly line of said 311.56 acre tract S43°59'58"W, 1916.27 feet to a ½-inch iron rod with cap stamped "AST" set on the northerly line of proposed RM 150;

THENCE, leaving said southerly line and crossing said 1,941.29 acre tract with the proposed northerly line of RM 150 the following courses and distances:

1. N65°08'51"W, 49.48 feet to a ½-inch iron rod with cap stamped "AST" set at the beginning of a curve to the right;
2. with a curve to the right, 381.25 feet, having a radius of 925.00 feet, a central angle of 23°36'54" and a chord bearing and distance of N53°30'43"W, 378.55 feet to a ½-inch iron rod with cap stamped "AST" set for point of tangency;
3. N41°42'16"W, 336.00 feet to a ½-inch iron rod with cap stamped "AST" set at the beginning of a curve to the left;
4. with the arc of said curve to the left, 151.93 feet, having a radius of 1100.00 feet, a central angle of 07°54'48" and a chord bearing and distance of N45°39'41"W, 151.81 feet to a ½-inch iron rod with cap stamped "AST" set for point of tangency;
5. N49°37'05"W, 572.43 feet to a ½-inch iron rod with cap stamped "AST" set for an angle point in said line;
6. N51°37'01"W, 75.00 feet to a ½-inch iron rod with cap stamped "AST" set for an angle point in said line;
7. N53°36'58"W, 749.01 feet to a ½-inch iron rod with cap stamped "AST" set at the beginning of a curve to the left;

8. with the arc of said curve to the left, 93.33 feet, having a radius of 1025.00 feet, a central angle of 05°13'01" and a chord bearing and distance of N56°13'28"W, 93.30 feet to a ½-inch iron rod with cap stamped "AST" set for the most westerly southwest corner of the herein described tract;

THENCE leaving said proposed right of way line and with a dry creek, the following courses and distances:

1. N26°31'11"E, 563.37 feet to a calculated point;
2. N46°09'29"E, 1179.39 feet to a calculated point;
3. N28°22'57"E, 708.36 feet to a calculated point;
4. N44°16'34"E, 582.28 feet to a calculated point at the beginning of a curve to the right;
5. with a curve to the right, 297.90 feet, having a radius of 1184.66 feet, a central angle of 14°24'28" and a chord bearing and distance of N77°54'54"E, 297.12 feet to a calculated point;
6. N04°51'54"W, 125.14 feet to a calculated point;
7. N23°10'37"E, 321.60 feet to a calculated point;
8. N13°08'23"W, 681.62 feet to a calculated point;
9. N31°45'00"E, 255.79 feet to a calculated point;
10. N08°23'37"E, 473.49 feet to a calculated point;
11. N02°33'01"W, 195.07 feet to a calculated point;
12. N30°53'10"W, 576.14 feet to a calculated point;
13. N01°26'31"W, 729.89 feet to a calculated point;
14. N38°05'39"W, 1250.80 feet to a calculated point;
15. N20°33'26"E, 282.73 feet a ½-inch iron rod with cap stamped "AST" set for the most westerly northwest corner of the herein described tract on the northerly line of said 1,971.29 acre tract, same being on the southerly line of Park Land Lot 23 of Arroyo Ranch, Section One, a subdivision of record in Volume 10, Page 180 of the Hays County Official Public Records;

THENCE, with the northerly line of said 1,971.29 acre tract, S82°42'45"E, 432.46 feet to a point located in the centerline of the remains of an old stone fence corner for an angle point in the north line of the herein described tract, from which a ½"-inch iron rod bears S88°19'W, 37.5 feet;

THENCE, continuing with said northerly line, N43°55'32"E, 1271.63 feet to a 2-inch metal fence post at the most northerly northwest corner of said 1,971.29 acre tract and being the common corners of Lots 12, 13 and 19, Block D of said Arroyo Ranch Section One subdivision;

THENCE, with the easterly line of said 1,971.29 acre tract the following courses and distances:

1. S46°19'30"E, at 185.02 feet passing the south line of said Arroyo Ranch subdivision and north line of a 20.3 acre tract described in a deed to F. Javier, Jr et al and recorded in Volume 2813, Page 359 of said Official Public Records and continuing for a total distance of 887.68 feet to a found ½-inch iron rod for the south corner of said Javier tract, same being the westerly corner of

a 21.15 acre tract described in a deed to Nancy L. Russell and Randall W. Russell and recorded in Volume 4385, Page 135 of said Official Public Records;

2. S46°48'04"E, 579.01 feet to a found ½-inch iron rod for the south corner of Russell and being the westerly corner of Quail Meadows Subdivision as recorded in Volume 7, Page 47 of the Hays County Plat Records;
3. With the southwesterly line of said subdivision, S46°06'19"E, 409.08 feet to ½-inch iron rod for angle point;
4. S47°09'10"E, 405.41 feet to ½-inch iron rod for angle point;
5. S47°52'54"E, 295.90 feet to ½-inch iron rod for angle point;
6. S47°18'52"E, 296.88 feet to ½-inch iron rod for angle point;
7. S47°21'24"E, 132.10 feet to ½-inch iron rod for angle point;
8. S47°07'34"E, 179.01 feet to ½-inch iron rod for angle point;
9. S46°55'27"E, 248.69 feet to ½-inch iron rod for most southerly corner of said subdivision and the westerly corner of a called 57.26 acre tract described in a deed to Kyle Mortgage Investors, LLC and recorded in Volume 3416, Page 789 of said Official Public Records;
10. S45°43'31"E, 436.59 feet to a fence post for angle point;
11. S46°32'55"E, 1447.00 feet to an iron rod with aluminum cap stamped "Kent McMillian" at an interior ell corner of said 1,971.29 acre tract;
12. Continuing with the easterly line of said 1,971.29 acre tract, S40°23'35"W, 1023.40 feet to a ½-inch iron rod found at the westerly corner of a called 1.259 acre tract described in a deed to Robin Robinson and recorded in Volume 5358, Page 587 of said Official Public Records;
13. S50°23'48"E, 255.70 feet to a fence post for angle point;
14. N40°43'43"E, 42.89 feet to a ½-inch iron rod with cap stamped "AST" set;
15. S52°09'40"E, at 85.22 feet passing a ½-inch iron rod found at the westerly corner of a called 0.72 acre tract described in a deed to Robin and Gale Robinson and recorded in Volume 4689, Page 363 of said Official Public Records and continuing for a total distance of 244.62 feet to a ½-inch iron rod with cap stamped "AST" set;
16. N43°53'50"E, 92.19 feet to a ½-inch iron rod with cap stamped "AST" set;
17. S78°26'49"E, 101.27 feet ½-inch iron rod found on the westerly right of way line of N. Old Stagecoach Road (width varies);

THENCE, with said westerly right of way line the following course and distances:

1. S16°21'49"E, 511.37 feet to a ½-inch iron rod with cap stamped "AST";
2. S16°20'38"E, 1420.21 feet to a 60d nail found next to a cedar fence post and
3. S16°48'53"E, 800.20 feet to a ½-inch iron rod with cap stamped "AST" set for the most easterly southeast corner of this tract;

THENCE, leaving said westerly right of way line and with fence along the southeasterly line of said 195.14 acre tract, S36°01'23"W, 42.36 feet to a cedar fence post;

THENCE, continuing with said southeasterly line, same being the northwesterly line of a called 132.59 acre tract described in a deed to Felder CND, LLC and recorded in Volume 5224, Page 246 of the Hays County Official Public Records the following courses and distances:

1. S48°36'08"W, 1583.50 feet to a cedar fence post;
2. N49°26'16"W, 34.23 feet to a cedar fence post;
3. S25°40'41"W, 39.42 feet to an iron rod with cap stamped "Vickrey";
4. S48°29'40"W, 2127.73 feet to a cedar fence post with "Mag Nail" on the northerly right of way line of Cypress Road (aka Limekiln Road) (width undetermined) at the southeast corner of said 195.14 acre tract from which an iron rod with aluminum cap stamped "Kent McMillian" bears S21°57'46"W, 50.84 feet;

THENCE, with said northerly right of way line, N77°16'32"W, 599.91 feet to a cedar fence post on the easterly line of said 311.56 acre tract;

THENCE, with fence and the easterly line of said 311.56 acre and westerly line of said 195.14 acre tract the following courses and distances:

1. N16°48'19"W, 270.65 feet to a calculated angle point in said line and;
2. N17°13'44"W, 1607.95 feet to the **POINT OF BEGINNING** and containing 858.70 acres of land, more or less.

SURVEYOR'S STATEMENT

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

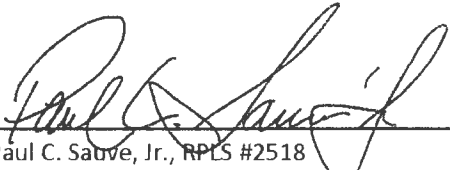

Paul C. Sauve, Jr., RPLS #2518
Austin Spatial Technologies, LLC
December 5, 2016



EXHIBIT "B"
DEPICTION OF CURRENT CITY LIMITS PROPERTY



EXHIBIT "C" CONCEPT PLAN

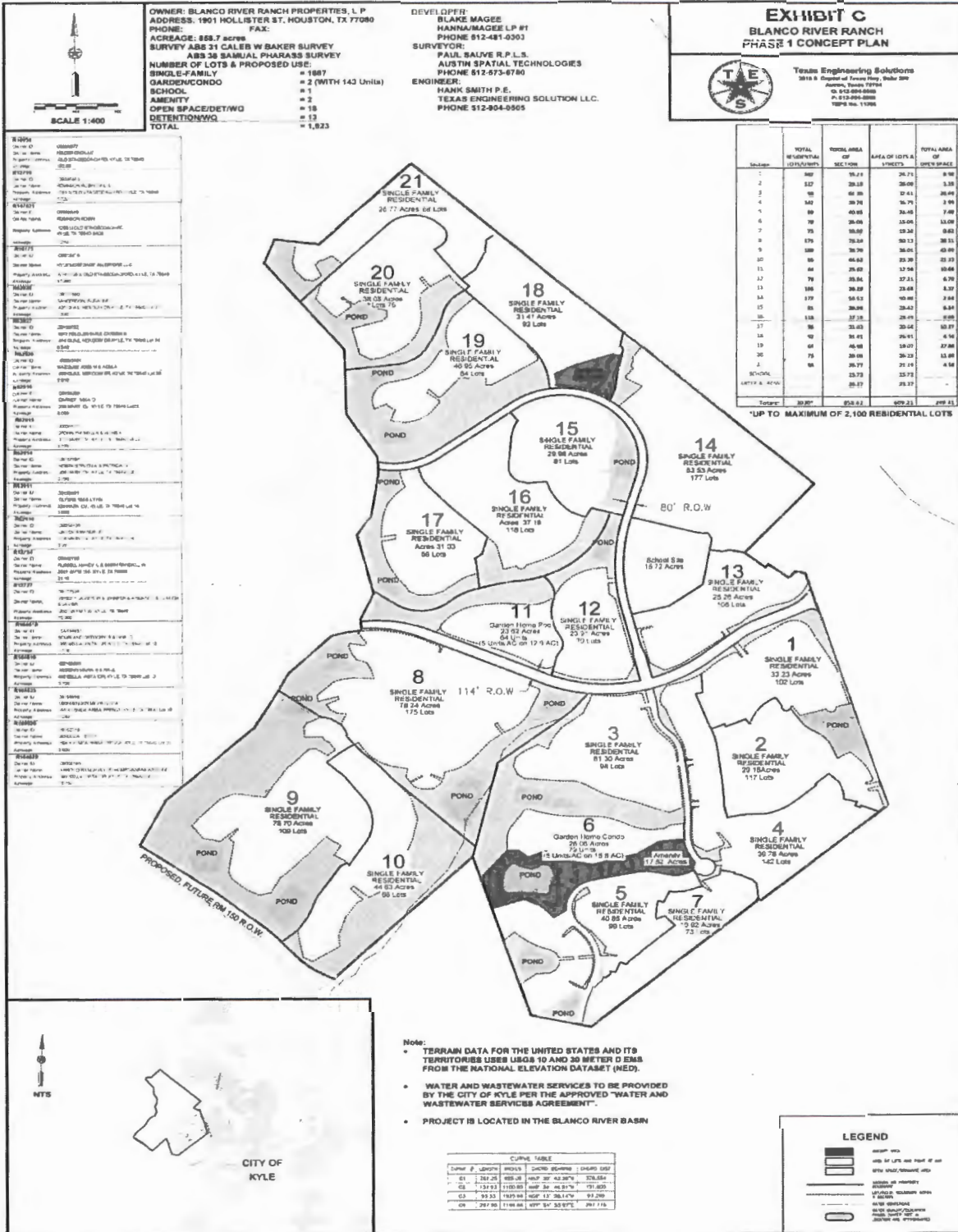


EXHIBIT "D"
BLANCO RIVER RANCH LAND
USE AND DEVELOPMENT
STANDARDS

1. Table A: Land Use Chart:

Single-Family and Garden Homes/Cluster

USE	Lot Width*	Minimum Lot Size	Minimum Living Area SF	Total Lots/Units	% of Total	Min/Max %
Single-Family	50	5500	1200	540 Lots	26%	max
Single-Family	55	5750	1200	460 Lots	22%	max
Single-Family	60	7200	1500	600 Lots	29%	max
Single-Family	70-80	9000	2000	350 Lots	17%	min
Garden Homes/Cluster			1000	150 Units	7%	max
Total				2100	100%	

*Lot Width measured at front Building Line

2. Site Area = 858.7 Acres
3. Single-family lot width distribution will be in accordance with Table A.
4. **Exhibit "C"** - Concept Plan: This plan illustrates the proposed general layout of Phase One.
5. Phase One will be limited to 2,100 single-family lots and garden homes/cluster units.
6. Impervious Cover on each lot will be limited to 60% of the lot area.
7. Phase One will contain a minimum of 100 acres of parkland, amenity center lots, trail corridors and open space.
8. A 6-foot decorative masonry wall will be built along the rear or sides of homes backing or siding to collector roads (roads without lots fronting on them) within a 25-foot landscaped parkway (10-feet of right-of-way with a 15-foot Wall and Landscape Easement/Lot).
9. Over three miles of joint use 8-foot and 10-foot concrete trails within 10-foot to 20-foot Trail Corridor/ROW/Easement will be provided within Phase One as shown on **Exhibit "J"**. Additional native trails (not ADA compliant) will be provided within open space and floodplain areas, as shown conceptually on **Exhibit "J"**, subject to topographic and drainage constraints.
10. No homes will front on collector roads and all street-facing sides of homes abutting collector roads will be 100% masonry, excluding doors, windows, etc. Masonry will

be defined as natural stone, brick and/or stucco. The stucco percentage of any structure will not exceed 50%.

11. Garage Placement: For lots less than 60 feet wide (or less than 70 feet wide on corner lots), residential street-facing garages will be located no closer to the street than five feet in front of the dwelling or roof of a covered porch, with such dwelling or porch structure being not less than seven feet wide for all portions of the structure adjacent to the garage. For all other lots, residential street-facing garages will be located no closer to the street than the dwelling. The minimum front building setback will be 20 feet from the property line (25 feet for street-facing garages). For purposes of this provision on garage placement, lot width will be determined based on the width of the lot at the front building setback line of the lot for all lot sizes. Measurement of corner lots will be ten feet wider to account for a 15-foot street side setback.
12. All building fronts will have a minimum of three architectural features. The following are examples of the types of architectural features that will be utilized: horizontal off-sets, recesses or projections; porches; breezeways; porte-cocheres; courtyards; awnings; canopies; alcoves; recessed entries; ornamental cornices; display or other ornamental windows; vertical "elevation" off-sets; peaked roof forms; arches; outdoor patios; architectural details such as tile work or moldings integrated into the façade; integrated planters or wing walls; accent materials; and varied roof heights.
13. Building Setback Table:

Interior Width	Lot Width	Corner Lot Width	Side Yard Setback	Rear Yard Setback *	Front Garage Setback	Minimum Front Setback	Street Building Setback	Side Street Garage
50	60		5	15	25	20	15	20
60	70		5	20	25	20	15	20
70	80		5	20	25	20	15	20
80+	90		7.5	20	25	20	15	20

*Open and Covered Porches may encroach up to 10 feet into the rear yard setbacks.

14. The street lighting plan for Phase One will require minimum spacing of 500 feet along all collector and public streets. Decorative street lighting will be permitted but not required. The design of any decorative street lighting will be subject to approval by the City. Any decorative street lighting will be maintained by the homeowners association for Phase One. All street lighting will utilize energy-efficient LED light fixtures.
15. Decorative street signs will be permitted. Any decorative street signs will be subject to approval by the City.
16. Primary subdivision signage will be located at the main entry to Phase One at the intersection of Old Stagecoach Road and the Spine Road and may include a

maximum of 200 square feet of signage or graphics. Tertiary entrance signs will be stone or masonry and each sign may be a maximum of 100 square feet in size, with a maximum of 30 square feet of signage or graphics.

17. Marketing signage/Burma Shave signs will be allowed within Blanco River Ranch within rights-of-way of the Spine Road and collector roads. Marketing signage, as updated and modified from time to time, will be consistent throughout Blanco River Ranch. The approximate size and quantity of permitted marketing signs is shown on **EXHIBIT "I"**.
18. Section 41-136(C) - Lot Width depth to average lot width ratio of the City's Subdivision Ordinance is waived. Lot width will be measured at the front building line.
19. Section 41-137(D) of the Subdivision Ordinance will be amended with respect to Phase One as follows: Offset intersection spacing along collector, local and residential streets will be a minimum of 125 feet measured from roadway street centerline to roadway centerline. Such intersection spacing along arterials will be a minimum of 180 feet.
20. Flag lots will be permitted within Phase One. Flag lots will be a minimum of 20 feet at the right-of-way intersection and substantially perpendicular to the right-of-way.
21. Block lengths may generally not exceed 1,000 feet within Phase One; however, block lengths that exceed this criteria will be permitted when the block includes creeks, natural drainage ways, open space and steep topography.
22. Cul-de-sac maximum lengths may not exceed 800 feet measured from the center of the turnaround to centerline of the connecting road and a maximum of 30 units may be serviced from each cul-de-sac; however, cul-de-sac lengths that exceed this criteria for cul-de-sac lengths and serviced units when the land serviced by the cul-de-sac is restricted by creeks, natural drainage ways, steep topography and external property boundaries. In such cases, the maximum number of units served may not exceed 50 units.
23. Phase One Roadway Cross Sections:

Standard Category	Pavement Width (In Feet)	Right-of-Way Width (In Feet)
Residential Lane	30' FOC-FOC	50'
Residential Collector (W/ Bike Lanes)	37' FOC-FOC	60'
Undivided Arterial (Internal Loop w/ Bike Lanes)	61' FOC-FOC	85'
Divided Arterial (Internal Loop w/ Bike Lanes)	2 at 52' FOC - FOC	114'
Major Thoroughfare (FM 150)	To be Determined	Varies - 120' Minimum

24. Site and Architectural components for garden home/cluster site(s):

- A. Maximum Number of Detached Units: 150 Units
- B. Access Drives: Driveway access from collector roads to residential units is prohibited. Internal private drives will be a minimum of 26 feet wide, with curb and gutter measured from face of curb to face of curb.
- C. Residential Setbacks: Front building setbacks will be a minimum of 15 feet from back of curb. Side building separation will be a minimum of 10 feet. When the rear of one unit is immediately adjacent to the side of another unit, the minimum setback will be 10 feet. Rear building separation, when the rear yards of two units are immediately adjacent to one another, will be a minimum of 20 feet. Patios (covered or uncovered), decks and eave overhang are not included in the determination of rear building separation. A minimum of seven foot clear zone between building roof lines will be provided.
- D. Sidewalks: A four foot sidewalk is required along all public streets. No sidewalks are required along internal private drives.
- E. Units may have single-car garages with driveways at least 18 feet long and nine feet wide. Garages will be setback at least 20 feet from the back of curb. Garages may be flush with the primary façade as long as primary façade is located 20 feet from the back of curb. Porches will be considered part of the primary façade as long as they are a minimum of seven feet wide and six feet deep).
- F. Lighting: Street lighting is required along all public streets, but is optional along interior private drives within Phase One.
- G. Minimum landscape requirements for garden homes/cluster residential structures will be two two-inch caliper significant trees such as oak, elm, pecan, walnut, hickory, cherry, cypress, redbud and any rare species, with diameter measured 18 inches above finished grade immediately after planting; three one-gallon shrubs; three five-gallon shrubs; and turf grass or an alternative material as defined in this section from the front property line to the front two corners of the structure and a minimum coverage area extending three feet from the slab/foundation to protect against water runoff from the roof dripline. If lawn grass is not used in this area, rain gutter systems will be required. One three-and-one-half inch caliper tree may be substituted for two two-inch trees, if the tree is planted in the front yard. Existing trees and shrubs that are retained in healthy condition will be counted toward fulfillment of these requirements.

EXHIBIT "D-1"
DESIGN GUIDELINES

BLANCO RIVER RANCH

DESIGN GUIDELINES
[RESIDENTIAL]

Submittals

Requests for approval of proposed new construction, landscaping, or exterior modifications must be made by submitting the information and materials outlined in the Plan Review Process, set forth herein. The Blanco River Ranch Reviewer will attempt to review all applications and submittals within thirty (30) days. Please allow at least thirty (30) days prior to installation or construction for the Blanco River Ranch Reviewer to review the related applications.

Timing of Completion

The construction of a residence or improvement by a Homebuilder must be started promptly after receiving approval from the Blanco River Ranch Reviewer and completed with due diligence. Unless otherwise approved in advance by the Blanco River Ranch Reviewer, each single family residence must be completed on or before the expiration of one hundred and eighty (180) days after commencement of construction.

Architectural and Aesthetic Standards

A. Required Architectural Elements

All single family residences are required to have the following architectural elements:

- At least seventy-five percent (75%) of the exterior surface area of walls, including all stories of a residence, shall consist of unpainted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, nonreflective glass façade, and glass block (or alternative glazing e.g. Kalwall). The remaining exterior wall surface shall be comprised of those materials listed or cementitious-fiber planking. Panels are strictly prohibited. Solid wood planking and decorative cementitious-fiber panels may be used for accent features;
- Windows shall have a maximum exterior reflectivity of twenty percent (20%);
- All residence fronts shall have least five different design features to break the wall plane. The following is a list of design features that shall be utilized:
 - Horizontal offsets;
 - Recesses or projections,
 - Porches;

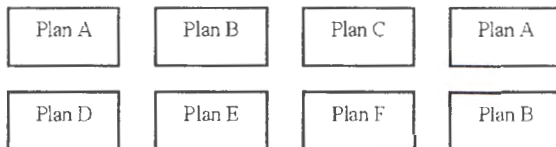
- o Breezeways;
- o Porte-cocheres;
- o Courtyards;
- o Awnings;
- o Canopies;
- o Alcoves;
- o Recessed entries;
- o Ornamental cornices;
- o Display or other ornamental windows;
- o Vertical "elevation" offsets;
- o Peaked roof forms;
- o Arches;
- o Outdoor patios;
- o Architectural details, such as tile work or moldings integrated into the façade;
- o Integrated planters or wing walls;
- o Varied roof heights; or
- o Premium roofing materials such as tile or standing seam metal;

- All roofs shall be peaked and have at least a 6:12 pitch except for porches and shed roofs which may be constructed to a minimum pitch of 2:12

B. Plan Repetition

Blanco River Ranch Reviewer may, in its sole and absolute discretion, deny a plan or elevation proposed for a particular Lot if a substantially similar plan or elevation exists on a Lot in close proximity to the Lot on which the plan or elevation is proposed. The Blanco River Ranch Reviewer may, in its sole and absolute discretion, deny a plan and elevation proposed for a particular Lot, if the same plan and elevation exists across the street or diagonal from the plan and elevation that is proposed. The Blanco River Ranch Reviewer may adopt additional requirements concerning substantially similar plans or elevations constructed in proximity to each other, and reserves the right to reject an elevation that closely resembles that of a nearby home or in any way detracts from the overall street scene. For Example:

- *Same Plan and Elevation can be repeated every third Lot (example: Plan A, Plan B, Plan C, and Plan A below).*



- *Across the Street: Same Plan and Elevation cannot be placed on a Lot across the street or diagonal from any other plan.*
- *Same Plan, different elevation, same and opposite side of the street, must have two (2) full Lot separation (repeated every three (3) Lots).*

BLANCO RIVER RANCH [RESIDENTIAL]
DESIGN GUIDELINES

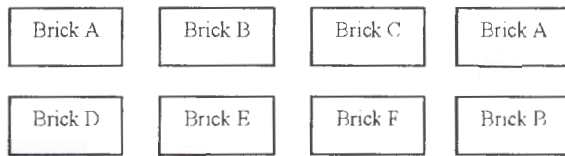
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- The number of combinations of plans and elevations shall, at a minimum, equal at least twenty-five percent (25%) of the total Lots in any final plat section, but is not required to exceed fifteen (15). (For example, five floor plans with three different elevation options for each floor plan results in fifteen different floor plan/elevation combinations).

C. Brick Color and Masonry Stone Repetition

Blanco River Ranch Reviewer may, in its sole and absolute discretion, deny a proposed brick or masonry color for a particular Lot if a substantially similar brick color or masonry stone exists on a Lot in close proximity to the Lot on which the brick color or masonry stone is proposed. The Blanco River Ranch Reviewer may adopt additional requirements concerning substantially similar brick or masonry stone constructed in proximity to each other, and reserves the right to reject a brick color or masonry stone that closely resembles that of a nearby home or in any way detracts from the overall street scene. For Example:

- Similar brick color or masonry stone can be repeated every third Lot (example: Plan A, Plan B, Plan C, and Plan A).



- Across the Street: Same brick color or masonry stone cannot be placed on a Lot across the street or diagonal from any other brick color or masonry stone (example above: Brick B).

D. Exterior Finishing Materials

The exterior of each primary residence on a Lot shall consist of the following exterior finishing materials:

- New Materials. All building materials must be approved in advance by Blanco River Ranch Reviewer, and only new building materials (except for antique brick if approved in writing) may be used for constructing any Improvements. Brick, stone, cast stone or other similar masonry product shall not be painted.
- Exterior Wall Standards.
 - At least seventy-five percent (75%) of the exterior surface area of walls, including all stories of a residence, shall consist of unpainted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, nonreflective glass façade, and glass block (or alternative glazing e.g. Kalwall). The remaining exterior wall surface shall be comprised of those materials listed or cementitious-fiber planking. Panels are strictly prohibited. Solid wood planking and decorative cementitious-fiber panels may be used for accent features.
 - Calculation of Percentages. In calculating percentage of exterior wall area, the area of windows and window frames, doors and door frames, eaves, soffits, dormers, columns,

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recessed entryways, foundation and similar areas are excluded from the calculations and may utilize any of the materials listed in the applicable component exterior wall standards, when construction with the required masonry materials is not reasonably feasible.

- *Stucco.* Blanco River Ranch Reviewer must approve in advance the composition and method of application of all stucco proposed to be applied.
- *Accessories.* Roofs, eaves, soffits, windows, gables, doors, garage doors and trim work are not required to be constructed of masonry.
- Public View Corridors. Any residence facing, abutting or adjacent to important public view corridors such as, a collector road, as determined by the Blanco River Ranch Reviewer in its sole and absolute discretion, shall use 100% masonry and attempt to provide design detail, approved by the Blanco River Ranch Reviewer, that avoids a “flat front” look.
- Exposed Foundations. Exposed portions of the foundation on each front, side and rear elevation, visible from any street, must be concealed by extending the exterior masonry to within at least twenty-four inches (24”) of the finished grade. If the exterior of the elevation adjacent to the exposed foundation is constructed of stucco, Blanco River Ranch Reviewer will have the authority to require the use of masonry, in a color approved in advance by Blanco River Ranch Reviewer, to conceal the exposed portion of the foundation. Remaining exposed slab area must be parge/sand finished. Exposed areas of slabs visible from streets may require textured/painted finish at the sole discretion of the Blanco River Ranch Reviewer. Exposed slab on the front of the house and, on corner Lots the entire exposed side of the slab facing the street, must have textured, painted finish.
- Projections and Accessories. All projections from a dwelling or other structure, including but not limited to chimney flues, vents, gutters, downspouts, porches, railings and exterior stairways must match the color of the surface from which they project, unless otherwise approved by the Blanco River Ranch Reviewer. Roofs, eaves, soffits, windows, gables, doors, garage doors and trim work are not required to be constructed of masonry.
- Prohibited Elements:
 - Vertical siding or wood shake siding (wood siding accents may be permitted if approved by Blanco River Ranch Reviewer).
 - Highly reflective finishes on exterior surfaces (other than non-mirrored glass or on surfaces of hardware fixtures).
 - Mirrored glass.
 - No vivid/bright colors.
 - Gray brick or other masonry.

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DESIGN GUIDELINES

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Landscape Guidelines

A. Landscape

General landscaping guidelines for each Lot are set forth below. Notwithstanding the subsequent provisions, the installation of drought-resistant landscaping or water-conserving turf on a residential lot, which is a landscaping procedure known as xeriscaping ("Xeriscaping"), will be permitted upon written approval by the Blanco River Ranch Reviewer in accordance with those certain Xeriscaping provisions set forth in the Development Area Declaration. All landscapes and landscaping must be approved in writing prior by the Blanco River Ranch Reviewer prior to installation.

- Plans. A detailed landscape plan for the minimum landscape package for each Lot size must be submitted to the Blanco River Ranch Reviewer for consideration at least ninety (90) days before completion of the residence. The minimum landscape package must be in conformance with the landscape sections of the Zoning Ordinance (Chapter 53, Article V, Landscaping and Screening Requirements of the City of Kyle Code of Ordinances). No significant (*i.e.* major changes in the plant list, plant and plant bed locations, plant count, hardscape design, materials) revisions that would be considered to lower the quality or look of the package may be made to the approved plan without submission to, and further approval by the Blanco River Ranch Reviewer of the revised plan. Landscape plans must include vegetative screening for above ground utility connections visible from the street or adjacent properties in accordance with the plan approved in advance by the Blanco River Ranch Reviewer. Hardscape elements in the landscaping must be in scale with the home and associated structures.
- Materials. All introduced vegetation shall be trees, shrubs, vines, ground covers, seasonal flowers or sodded grasses which are recommended by the Grow Green Plant Guide, a copy of which is available online at the City's website, and which are routinely and generally accepted landscape practices for the region and which are approved by the Blanco River Ranch Reviewer. An emphasis should be placed on utilizing native plants that are drought tolerant. A minimum of 2" of mulch is required for all shrub and bed areas. Caliche is not considered soil. An Owner must plant grass within three (3) days after top-soil for planting grass has been delivered to the Lot. Buffalo grass, zoysia grass or Bermuda grass are recommended for sunny sections of the landscape. Bermuda and Buffalo grass should be maintained at a height of two to two and one-half inches.
- Installation and Maintenance. Landscaping of new homes must be installed within thirty (30) days of completion and in any event, landscaping in accordance with the approved plans shall be completely installed prior to occupancy of a residence. Extensions to the time limit may be granted by the Blanco River Ranch Reviewer. After installation, landscaping (including temporary landscaping) shall be properly maintained at all times.
- Minimum Landscape Requirements. Landscaping of a new home must conform to the following minimum requirements:

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- o Full sodded front and side yards (in front of fences), with backyards to be fully sodded by the Owner within thirty (30) days after acquiring occupancy of the Lot for residential purposes;
- o On all Lots other than corner Lots, two (2) three-inch caliper significant trees such as oak, elm, pecan, walnut, hickory, cherry, cypress, redbud and any rare species, measured eighteen inches above finished grade immediately after planting. On all corner Lots, four (4) three-inch caliper trees (with two (2) in the front portion of the Lot and two (2) in the side of the Lot adjacent to the street)
- o Ten (10) five-gallon shrubs;
- o Turfgrass or alternative materials which can include native and adaptive landscape plants as specified in the Grow Green Guide, mulch, or similar materials. No more than fifty percent (50%) of the Lot may consist of non-plant material, from the front property line to the front two (2) corners of the residence and minimum coverage area extending 3' from the slab/foundation to protect water runoff from the roof drip line. If lawn grass is not used in this area, then rain gutter systems shall be installed. The use of rock or crushed rock as a ground cover shall not be permitted. See Section 3.13 of the Development Area Declaration for further guidelines on Xeriscaping;

Trees and shrubs should be pruned to avoid blocking clear view of signs, address markers, the flow of air conditioner compressors as well as pedestrian and vehicular traffic.

- Gardens, Sculptures and Fountains. Any Owner who wishes to modify their landscaping upon their Lot must obtain the approval of the Blanco River Ranch Reviewer. Sculptures and fountains are subject to approval by Blanco River Ranch Reviewer.
- Landscape Screening. Approved screening techniques including fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof.
 - o Fencing. The finished side of all fences built to comply with screening shall face away from the screened object. All posts shall have concrete footings.
 - o Evergreen Vegetative Screens. Evergreen plant materials shall be shrubs, at least thirty inches (30") in height and at a minimum spacing of 48 inches (48") at the time of installation, in combination with shade trees not more than fifty feet apart.
 - o Landscape Berms. In combination with trees, shall fulfill the screening requirements of this section if the berms are at least feet (3') in height and have a maximum side slope of four feet (4') of horizontal run for every one foot (1') in vertical rise.
 - o Existing on-site vegetation, demonstrating significant visual screening capabilities, including but not limited to evergreens.
- Tree Protection. Protection and preservation of trees is of significant important to the aesthetics of the community and the environment of Blanco River Ranch.

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- o Tree Removal. All existing trees shall be preserved to the best extent possible. As used herein, the term "Building Envelope" shall be defined as the area of the Lot that is allowed for construction of a residence as defined by the setbacks of the Lot. Within the Building Envelope, a Homebuilder may remove any existing tree less than 18" in diameter as measured 24" off the ground. Within the Building Envelope, any existing tree greater than or equal to 18" in diameter as measured 24" off the ground shall require prior written approval from the Blanco River Ranch Reviewer before removal. Any existing trees should be shown on the plot plan that is submitted by the Homebuilder to the Blanco River Ranch Reviewer for review and prior approval. All existing trees outside the Building Envelope shall be preserved regardless of size.

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DESIGN GUIDELINES

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EXHIBIT “D-2”
CITY’S CURRENT BUILDING CODE IN EFFECT ON VESTING DATE

Chapter 8 – Building Regulations Including

- 2009 International Building Code
- 2009 International Residential Code
- 2009 International Plumbing Code
- 2009 International Mechanical Code
- 2000 International Electrical Code
- 2009 International Fire Code
- 2009 International Energy Conservation Code
- 2009 International Property Maintenance Code

Chapter 26 – Parks and Recreation

Chapter 29 – Sign Standards and Permits

Chapter 32 – Site Development

Chapter 38- Streets, Sidewalks and Other Public Places

Chapter 41- Subdivisions

Chapter 50- Utilities

EXHIBIT "E"
SCHEDULE FOR DE-ANNEXATION, ANNEXATION AND OTHER PROJECT
APPROVALS

RESOLUTION NO. 1060

A RESOLUTION TO PROVIDE FOR THE POSSIBLE EXTENSION OF THE KYLE MUNICIPAL BOUNDARIES BY THE ANNEXATION OF APPROXIMATELY 119.20 ACRES WHICH IS LOCATED WEST OF N. OLD STAGECOACH RD IN THE BLANCO RIVER RANCH; AND THE DE-ANNEXION OF APPROXIMATELY 242.12 ACRES WHICH IS LOCATED WEST OF THE INTERSECTION OF N. OLD STAGECOACH RD AND W. RR 150 IN THE BLANCO RIVER RANCH; AND SETTING THE DATES AND TIMES OF TWO PUBLIC HEARINGS FOR THE PURPOSE OF ANNEXING AND DE-ANNEXING PROPERTY AND SETTING AN EFFECTIVE DATE

WHEREAS, City of Kyle is a Home Rule city that has the legal authority under Chapter 43 of the Texas Local Government code to annex property in accordance with state law and City Charter; and

WHEREAS, City Kyle is a Home Rule city that has the legal authority under Chapter 43 of the Texas Local Government code and state law requires a home rule city to comply with their City Charter to de-annex property in their city limits; and

WHEREAS, City Kyle City Charter, Section 1.07 requires the Council to adopt an ordinance to unilaterally annex or de-annex any land upon its own initiative when in the best interest of the city and the procedure for the annexation or de-annexation may not be inconsistent with state law; and

WHEREAS, Section 43.063(a) of the Texas Local Government Code and Section 1.07 of the City Charter require the City to conduct two public hearings to be held at least ten (10) days but not more than twenty (20) days after notice of such public hearings are published; and

WHEREAS, Section 43.0561(c) of the Texas Local Government Code and Section 1.07 of the City Charter require the publication of notice of each hearing in a newspaper of general circulation in the City of Kyle at least once on or after the 10th day but before the 20th day before the date of the hearing; and

WHEREAS, the property to be annexed is approximately 119.20 acres located west of N. Old Stagecoach Rd in the Blanco River Ranch; and

WHEREAS, the property to be de-annexed is approximately 242.12 acres located west of the intersection of N. Old Stagecoach Rd and W. RR 150 in the Blanco River Ranch; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF KYLE, HAYS COUNTY, TEXAS:

Section 1. City of Kyle will publish the notice of the first public hearing on or about April 26, 2017 in compliance with Section 43.0561(c) of the Texas Local Government Code.

Section 2. City will hold its first public hearing during a special called council meeting on May 6, 2017.

Section 3. City of Kyle will publish the notice of the second public hearings on or about April 26, 2017 in compliance with Section 43.0561(c) of the Texas Local Government Code.

Section 4. City will hold its second public hearing during a scheduled council meeting on May 16, 2017.

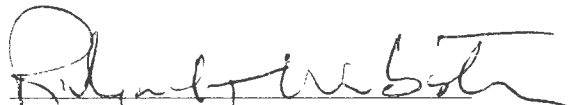
Section 5. City will consider for adoption the annexation of approximately 119.20 acres located west of N. Old Stagecoach Rd in the Blanco River Ranch.

Section 6. On May 16, 2017, if Council elects to annex the land described in Section 5, City will accomplish the annexation by Ordinance that will include the metes and bounds for all parcels and include the Service Delivery Plan for the area.

Section 7. This Resolution shall become effective upon passage.

PASSED, APPROVED AND RESOLVED in KYLE, Texas, this the 2nd day of May, 2017.

CITY OF KYLE, TEXAS

By: 
Todd Webster, Mayor

ATTEST

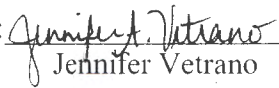
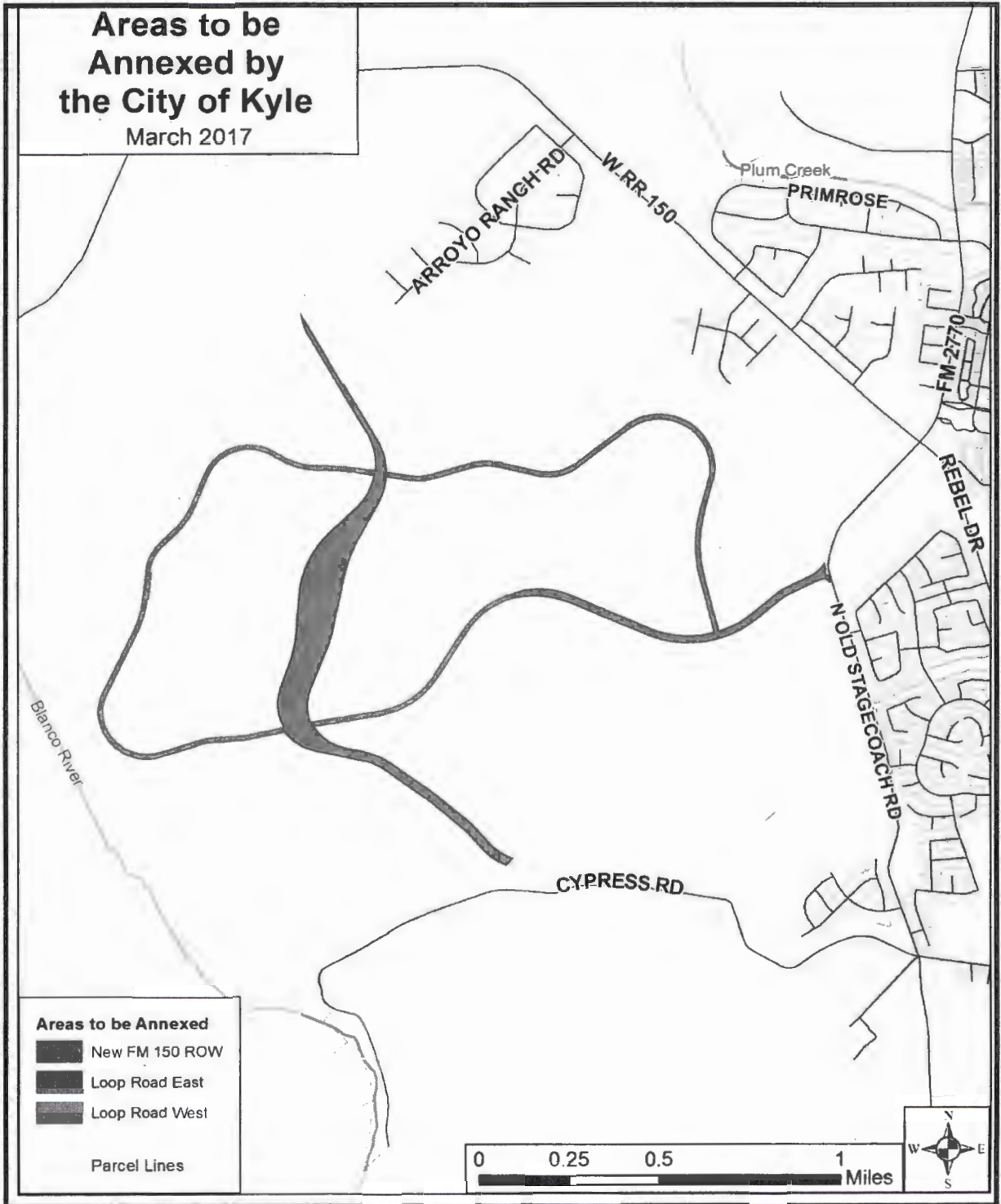
By: 
Jennifer Vetrano
City Secretary

EXHIBIT "F"
SPINE ROAD ALIGNMENT, INCLUDING AREAS TO BE ANNEXED AND DE-ANNEXED



**Areas to be
Disannexed
by the City of Kyle**
March 2017

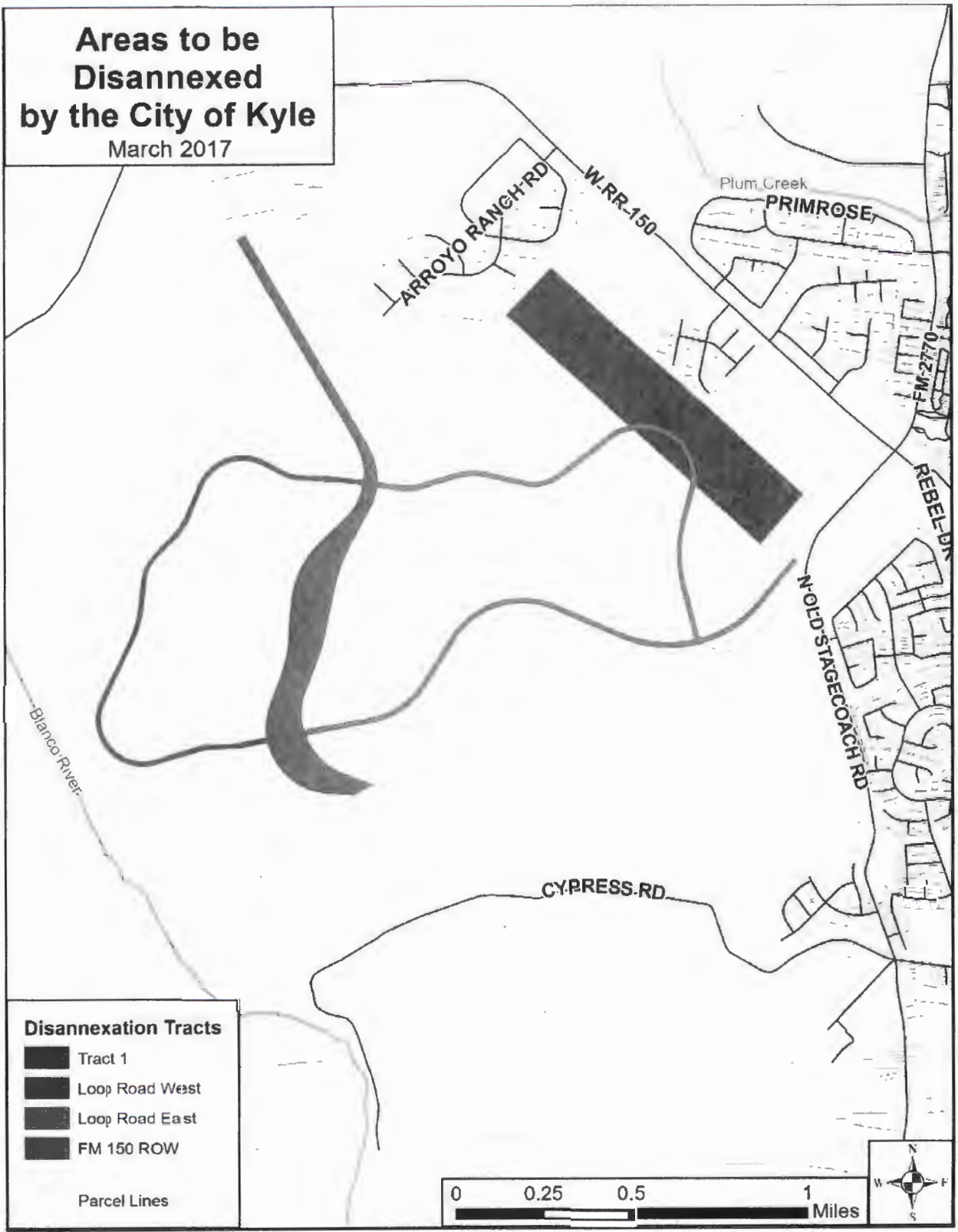


EXHIBIT "G"
CITY PID REQUIREMENTS
CITY OF KYLE

Public Improvement District Policy

OVERVIEW

Public Improvement Districts ("PIDs"), per the Texas Local Government Code Chapter 372 ("the code" or "PID Act"), provide the City of Kyle ("the City") an economic development tool that permits the financing of qualified public improvement costs which confer a special benefit on a definable part of the City, including property both within its corporate limits as well as property that may be located within its extra-territorial jurisdiction. Proceeds from bonds issued by a PID can finance capital costs and fund supplemental services to meet the community needs which could not otherwise be constructed or provided. The bonds issued by the PID to fund the costs of eligible capital improvements and/or supplemental services are paid entirely by property owners within the Public Improvement District ("PID") who receive special benefits from the capital improvements or services. **A PID may only be used to pay for public improvements.**

A PID is comprised of properties, whose owners have petitioned the City to form a PID. The City Council establishes a PID by adoption of a resolution after a public hearing. Written notification of the public hearing is published and mailed to all property owners in the proposed PID. By petition, the owners pledge to pay an assessment in order to receive enhanced services and/or improvements within the District. The PID must demonstrate that it confers a benefit, not only to the properties within the district, but also to the "public" which includes the City.

The purpose of this PID policy is to outline the issues to be addressed by the owner of the taxable real property liable for assessment petitioning for creation of a PID ("Petitioner") before the City Council can support the establishment of a PID. The PID policy outlines such things as petition requirements, qualified costs, financing criteria, information disclosures to property owners, and the determination of annual plans, budgets and assessments.

GENERAL

1. A PID may be created and utilized to construct qualified public improvements and/or reimburse a Developer's actual and documented costs required to serve the development. Such incremental costs shall be associated with the construction of qualified public improvements.
2. PIDs must be self-sufficient and not require the City to incur any costs associated with the formation of the PID, bond issuance costs, PID administration or the construction of PID improvements.
3. PID petition signatures should reflect that a reasonable attempt was made to obtain the full support of the PID by the majority of the property owners located within the proposed PID. Priority will be given to PIDs with the support of 100% of the landowners within a PID.

City of Kyle
Public Improvement District Policy

4. Priority will be given to PID improvements:
 - a. In support of development that will generate economic development benefits to the City;
 - b. In the public right of way (e.g., entryways, landscaping, fountains, specialty lighting, art, decorative and landscaped streets and sidewalks, bike lanes, multi-use trails, signage); and
 - c. Which meet community needs (e.g., enhanced drainage improvements, parks and off-street public parking facilities, wastewater and/or water on or off-site improvements).
5. A PID's budget shall include sufficient funds to pay for all costs, including additional administrative and/or operational costs.
6. A Landowner's Agreement must be recorded in the Official Public Records of the County in which the PID is located which, among other things, will notify any prospective owner of the existence or proposal of special assessments on the property. All closing statements and sales contracts for lots must specify who is responsible for payment of any existing PID assessment or a *pro rata* share thereof until such time as the PID assessment is paid in full.
7. Any requested adjustments or deviations from the terms of this Policy for a PID shall be clearly requested and explained in the PID petition for that PID. Any adjustments or deviations granted are at the sole discretion of the City Council.
8. A PID must be identified as a PID with use of signage along the main entry/exits located at the boundaries of the PID. All signage shall be clearly visible to all motorists entering and exiting the PID.
9. Property owned by the City of Kyle that is located in the boundaries of the PID shall not be subject to any assessment by the PID.
10. No PIDs will be allowed to be created that overlap the boundaries of another PID.
11. Annual Service and Assessment Plan updates, as required by chapter 372 of the PID Act, shall be provided for if a PID is created in response to a petition.

PETITION REQUIREMENTS

In addition to the requirements of Texas Local Government Code §372.005(a) the petition must include the following:

1. PID petitions shall include this additional note: "With respect to community property, the City may accept the signature of a spouse as a representation of both spouses that they support the creation or renewal of the PID absent a separate property agreement. *However, if City staff is made aware of any disagreement among owners of community property, those petitions will not be counted.*
2. Signatures for PID petitions must be gathered not more than six months preceding submittal of the PID Application.
3. PID petitions shall include this language: The City shall, upon reasonable prior written notice to the Developer and during normal business hours, have the right to audit and inspect the Developer's records, books, and all other relevant records related to

ty of Kyle
Public Improvement District Policy

Reimbursable Amounts under this Agreement. The Parties agree to maintain the appropriate confidentiality of such records, unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, State Law, municipal ordinance, or at the direction of the Office of the Texas Attorney General.

4. All PID Agreements shall include Indemnification language for construction of public improvements as follows:

Indemnification. DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS. CITY (AND THEIR 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 RELATING TO DEVELOPER'S CONSTRUCTION OF THE PUBLIC IMPROVEMENTS INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON CITY OR DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER OR DEVELOPER'S CONTRACTORS' NEGLIGENCE, WILLFUL MISCONDUCT OR CRIMINAL CONDUCT IN ITS ACTIVITIES, INCLUDING ANY SUCH ACTS OR OMISSIONS OF DEVELOPER OR DEVELOPER'S CONTRACTORS, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANTS OF DEVELOPER OR DEVELOPER'S CONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES, 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 CITY, RELATED TO OR ARISING OUT OF DEVELOPER OR DEVELOPER'S CONTRACTORS ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT THE DEVELOPER'S COST TO THE EXTENT REQUIRED UNDER THE INDEMNITY IN THIS PARAGRAPH. CITY SHALL HAVE THE RIGHT, AT THEIR OPTION AND AT THEIR OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING

DEVELOPER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

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, EMPLOYEES AND ELECTED OFFICIALS PERMITTED BY LAW.

For a district to be established, a petition shall include the following:

1. Evidence that the petition's signatures meet the state law requirements or the petition must be accompanied by a reasonable fee to cover the City's costs of signature verification. If the proposed district is an expansion of an existing district, a petition for the new portion of the district must identify each subdivision, or portion thereof, within the proposed boundaries of the new district, and each subdivision or portion thereof that is not currently in an existing PID shall individually satisfy the requirements for a petition under Section 372.005 of the Texas Local Government Code. Subdivision has the meaning assigned by Section 232.021 of the Texas Local Government Code.
2. Map of the area, a legal description of the boundaries of the district for the legal notices and a "commonly known" description of the area to be included in the district.
3. Statement that the petitioners understand that the annual Service and Assessment Plan for the district is subject to review by City staff with final approval by the City Council.
4. Unless otherwise approved by City Council in acceptance of the PID Petition as provided in Item 7 under General above, upon approval of the PID, the boundaries of the PID will be immediately annexed into the City of Kyle.

In addition, the following issues must be addressed before the City Council will take action on a petition.

1. A non-refundable application fee of \$15,000.00 will be required with the filing of a petition to create a PID. This fee is regulatory in character and approximates the costs of evaluating the PID petition. Any other related upfront City-required cost, limited to actual costs as are documented by the City, is the responsibility of the Developer.
2. A petition must include a current tax roll with notations indicating the owners registering support for the petition.
3. A copy of the Preliminary PID Finance Plan shall be submitted with the petition. This Finance Plan shall include at minimum:
 - a. Targeted gross bond amount;
 - b. Estimated *ad valorem* revenue generated;
 - c. Annual assessment per unit;
 - d. Estimated number of bond issuances;
 - e. Proposed maturity dates for PID Bonds; and

- f. Any other such supporting information related to the success of the PID.

PID ADMINISTRATION

1. The City may contract with a qualified third party company to manage and administer the PID, subject to appropriate oversight by City staff.
2. Any management firm for a PID shall be required to submit quarterly reports of all activities and expenditures to the City until the project is 80% build out.
3. The City may request an independent audit at any time.

PROJECT CRITERIA

In agreeing to form a PID for which debt will be issued to fund the costs of constructing qualified public improvements, the City will require the following:

1. The property owner must demonstrate to the City that it has the expertise to complete the new development that the PID will support.
2. The property owner must provide the City with its sources of funding the public improvements not being funded by the PID unless such improvements have already been constructed by the property owner prior to the PID funding.
3. The proposed development must be consistent with the entitlements on the property. All required zoning must be in place for the development of the portion or phase of the Property to be assessed by the PID Bond issue prior to the issuance of any PID bonds for that portion of the property.
4. The property owner must provide evidence to the City that the utility service provider has or will have sufficient capacity to provide all necessary utility services for the development of the portion or phase of the Property to be assessed by the PID Bond issue prior to the issuance of any PID bonds for that portion of the property.
5. All reasonable estimated costs must be identified before a decision is reached on a request to issue bonds for a PID. Costs to be identified include costs related to establishing the district, costs for construction and/or the acquisition of improvements, the maintenance and operation of improvements (if any) and PID administrative costs.
6. If the City elects to hire a qualified third party PID administrator to administer the PID, the costs for such administration shall be paid for with PID funds.
7. The PID Financing Agreement (or other applicable PID documentation) shall contain a section which clearly identifies the benefit of the PID to the affected property owners and to the City as a whole (i.e., public purpose) and also evidence of insurance.
8. The Service and Assessment Plan shall describe, if applicable, all City-owned land within the district.

BOND SIZE LIMITATIONS

The following limitations and performance standards shall apply to a PID debt issue approved by the City:

City of Kyle
Public Improvement District Policy

1. Minimum appraised value to lien ratio at date of each bond issue: 3:1
2. Minimum annual permitted increase for the debt service component of the annual assessment installment: 0%
3. Maximum maturity for each series of bonds (to extent allowed by law): 30 years

The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund: (i) the actual costs of the qualified public improvements; (ii) required reserves and capitalized interest during the period of construction and not more than 12 months after the completion of construction and in no event for a period greater than three (3) years from the date of the initial delivery of the bonds; and (iii) any costs of issuance. Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of future bond issuances.

FINANCING CRITERIA

1. The PID may seek bond issues in advance of construction of an individual phase of a project subject to compliance with these standards.
2. No City backing or moral obligations will be utilized to fund or support the PID bonds.
3. All proposed subsequent PID bond issues for a project, if any, will be subject to approval by the City Council.
4. Special assessments on any given portion of the property may be adjusted in connection with subsequent bond issues as long as an agreed-upon maximum annual assessment rate is not exceeded for a project or phase, and the special assessments are determined in accordance with the Service and Assessment Plan and the PID Act. Special assessments on any portion of the property will bear a direct proportionate relationship to the special benefit of the public improvements to that improvement area. In no case will assessments be increased for any parcel unless the property owner of the parcel consents to the increased assessment.
5. The City shall not be obligated, but may choose to do so at its sole discretion, to provide funds for construction of any improvement except from the proceeds of the PID bonds and PID assessments.
6. Each PID Bond Indenture will contain language precluding the City from making any debt service payments for the PID bonds other than from available special assessment revenues.
7. A PID will be responsible for payment of all the City's reasonable and customary costs and expenses including the cost of any appraisal.
8. Any PID bond issued will include a Reserve Fund in an amount equal to the lesser of: (i) the maximum annual debt service on the bonds; (ii) 10 percent of the Bond Par Amount; or (iii) 125 percent of the average annual debt service and that such Reserve Fund will be funded from bond proceeds at the time bonds are issued.
9. All public infrastructure within the PID that is to be reimbursed must include a minimum of three (3) bidders approved by the City and the Developer.

City of Kyle
Public Improvement District Policy

10. All Developers and significant landowners will provide any required continuing disclosure obligations associated with the issuance of PID bonds as required under the Indenture or any other regulatory agreement or regulatory agency.
11. All construction of improvements is subject to City review and provision shall be made for dedication to City or to another appropriate entity.

MISCELLANEOUS

1. Severability: If any section, subsection, sentence, clause, phrase, or word of this policy is declared unconstitutional or invalid for any purpose, the remainder of this policy shall not be affected.
2. No Personal Liability of Public Officials. No public official or employee shall be personally responsible for any liability arising under or growing out of any approved PID. Any obligation or liability of the Developer whatsoever that may arise at any time under the approved PID or any obligation or liability which may be incurred by the Developer pursuant to any other instrument transaction or undertaking as a result of the PID shall be satisfied out of the assets of the Developer only and the City shall have no liability.

EXHIBIT “G-1”
ADDITIONAL PID REQUIREMENTS APPROVED BY OWNER

GENERAL

1. Priority will be given to PID improvements:
 - (a) Improvements or services that advance City's adopted Master Plan; and
 - (b) Projects that increase or enhance City's multimodal transportation and roadway plans.
2. All purchasers of property within a PID that elect to set up an escrow account to pay for mortgage payments, property taxes, insurance and/or other related expenses; shall be required to include the payment of any PID annual installments in the amounts collected via such escrow account.
3. Developer contracts with builders will require that builders who use the Multiple Listing Service (or other comparable mass distribution service of available properties for sale) include within such listing the presence of the PID and the estimated annual installments due.
4. In the case of any conflict between **Exhibit “G”** and **Exhibit “G-1”**, **Exhibit “G-1”** controls.

PETITION REQUIREMENTS

1. In accordance with Texas Local Government Code §372.005(a) the petition must include the following:
 - (a) the general nature of the proposed improvements;
 - (b) the estimated cost of the improvements;
 - (c) the boundaries of the proposed assessment district;
 - (d) the proposed method of assessment, which may specify included or excluded classes of assessable property;
 - (e) the proposed apportionment of costs between the public improvement district and the municipality or county as a whole;
 - (f) whether the district will be managed by the municipality or county, by the private sector, or by a partnership of the two;
 - (g) that the persons signing the petition request or concur with the establishment of the district; and
 - (h) that an advisory body may be established to develop and recommend an improvement plan to the governing body of the municipality or county.

BOND SIZE LIMITATIONS

1. Minimum overall appraisal by an independent 3rd party appraiser, provides for a value to lien ratio at date of each bond issue of 3:1.
2. Maximum annual permitted increase in annual assessment installment: 2%

FINANCING CRITERIA

1. The PID may seek bond issues in advance of construction of an individual Phase of a Project subject to compliance with these standards. All such PID bond issue will be subject to approval of the City Council.
2. The City shall not be obligated to provide any funds for any improvement except from the proceeds of the PID Bonds and PID assessments.
3. Improvements funded with PID proceeds will be exempt from any public bidding or other purchasing and procurement policies per Texas Local Government Code Section 252.022(a) (9) which states that a project is exempt from such requirements if "paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements."
4. Pursuant to the PID Act, the interest rate for assessments may exceed the interest rate of the bonds by no more than one half of one percent (0.50%). The City may allocate up to 0.50% of the interest rate component to fund a delinquency reserve, prepayment reserve, or for any other use that provides a direct benefit to the PID.
5. Developer will demonstrate committed capital (by proof of bank financing) to the City, on the closing date of PID Bonds issued in advance of construction of the first phase of Public Improvements for the Project, in an amount confirmed by an engineer's estimate of probable cost, which represents the difference between the budgeted cost to complete the public improvements assumed to be complete in the appraisal and the net proceeds of the PID bonds.
6. Improvements to be funded by the PID are limited to those defined as Authorized Improvements under Texas Local Government Code Section 372.003(b):
 - (a) Landscaping and irrigation in public rights of way;
 - (b) Erection of fountains, distinctive lighting, backlit street signs and way finding signs;
 - (c) Acquiring, constructing, improving, widening, narrowing, closing or rerouting sidewalks, streets or any other roadway or their rights-of-way;
 - (d) Construction or improvement of pedestrian malls;
 - (e) Acquisition and installation of pieces of public art;

- (f) Acquisition, construction or improvement of libraries;
- (g) Acquisition, construction or improvement of public off-street parking facilities;
- (h) Acquisition, construction, improvement or rerouting of mass transportation facilities;
- (i) Acquisition, construction or improvement of water, wastewater or drainage improvements;
- (j) The establishment or improvement of parks;
- (k) Acquisition, by purchase or otherwise, of real property in connection with an authorized improvement:
- (l) Acquisition, by purchase or otherwise, of real property that shall be designated as conservation habitat, protected with a conservation easement, or used in furtherance of the protection of endangered species, or aquifer recharge features;
- (m) Special supplemental services for improvement and promotion of the district, including services related to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and culture enhancement;
- (n) Payment of expenses incurred in the establishment, administration, and operation of the district, including expenses related to the operation and maintenance of mass transportation facilities; and
- (o) The development, rehabilitation, or expansion of affordable housing.

EXHIBIT "H"
PID AGREEMENT TERM SHEET

The following limitations and performance standards will apply to the Blanco River Ranch Public Improvement District (the "PID") agreed to by Blanco River Ranch Properties LP or its affiliates and assignees ("Owner"), and the City of Kyle, Texas (the "City") in connection with the development of the 858.7 acre portion of the 2,166 acre Blanco River Ranch master planned community (the "Project"):

FINANCING CRITERIA – PUBLIC IMPROVEMENT DISTRICT

1. Maximum Authorized Improvements (including hard costs, soft costs, contingency, and a construction management fee) for the PID: \$225,000,000. Maximum Project Improvements (including hard costs, soft costs, contingency, and a construction management fee) for Improvement Areas 1A, 1B and 1C (i.e., the Project): \$100,000,000.
2. Minimum appraised value to lien ratio for each PID Bond issued: 3:1
3. Maximum total equivalent tax rate including PID annual installment: \$3.10/\$100 Assessed Value
4. Maximum years of capitalized interest : 2
5. Maturity of PID Bonds (to extent allowed by law): 25 yrs.
6. It is agreed that the improvements to be funded by the PID are limited to those defined as Authorized Improvements under Texas Local Government Code Section 372.003.
7. The aggregate principal amount of PID Bonds required to be issued shall not exceed an amount sufficient to fund: (i) the actual costs of the qualified Authorized Improvements (ii) required reserves and capitalized interest during the period of construction and not more than 12 months after the completion of construction and in no event for a period greater than 2 years from the date of the initial delivery of the bonds and (iii) any costs of issuance. Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of actual bond issuance.

MISCELLANEOUS

1. **Owner may request the issuance of PID Bonds in advance of construction of Public Improvements for the Project subject to compliance with these standards. No PID Bonds will be issued without the approval by the City of a Service and Assessment Plan for the Project.**

2. **No General Obligation or Certificate of Obligation bonds will be utilized by the City to fund the PID's Authorized Improvements.**
3. Special assessments on any given portion of the Project may be adjusted in connection with subsequent PID Bond issues as long as the maximum annual assessment rate is not exceeded, and the special assessments are determined in accordance with the Service and Assessment Plan. Special assessments on any portion of the Project will bear a direct proportionate relationship to, and will not exceed, the special benefit of the Authorized Improvements to that improvement area.
4. The City shall not be obligated to provide funds for any Authorized Improvement except from the proceeds of the PID Bonds.
5. The PID Bonds' Trust Indenture will contain language precluding the City from making any debt service payments for the PID Bonds other than from available special assessment revenues.
6. The PID will be responsible for payment of all of the City's reasonable and customary costs and expenses associated with the financing and administrative activities of the PID.
7. It is agreed that the PID will be exempt from any public bidding or other purchasing and procurement policies per Texas Local Government Code Section 252.022(a) (9) which states that a project is exempt from such policies for "paving drainage, street widening, and other Authorized Improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements."
8. No additional security or surety will be provided by the Owner, or its assignees, for the construction of the Authorized Improvements beyond typical performance bond or other similar surety agreements.
9. It is agreed that all principal landowners will provide any required continuing disclosure obligations associated with the issuance of PID Bonds as required under the Trust Indenture or any other regulatory agreement or regulatory agency.
10. This term sheet shall remain in place and in force until such time and date that a Final Financing Agreement is executed by both the City and the Owner.
11. In the case of any conflict between **Exhibit "G"** and **Exhibit "H"**, **Exhibit "H"** controls.

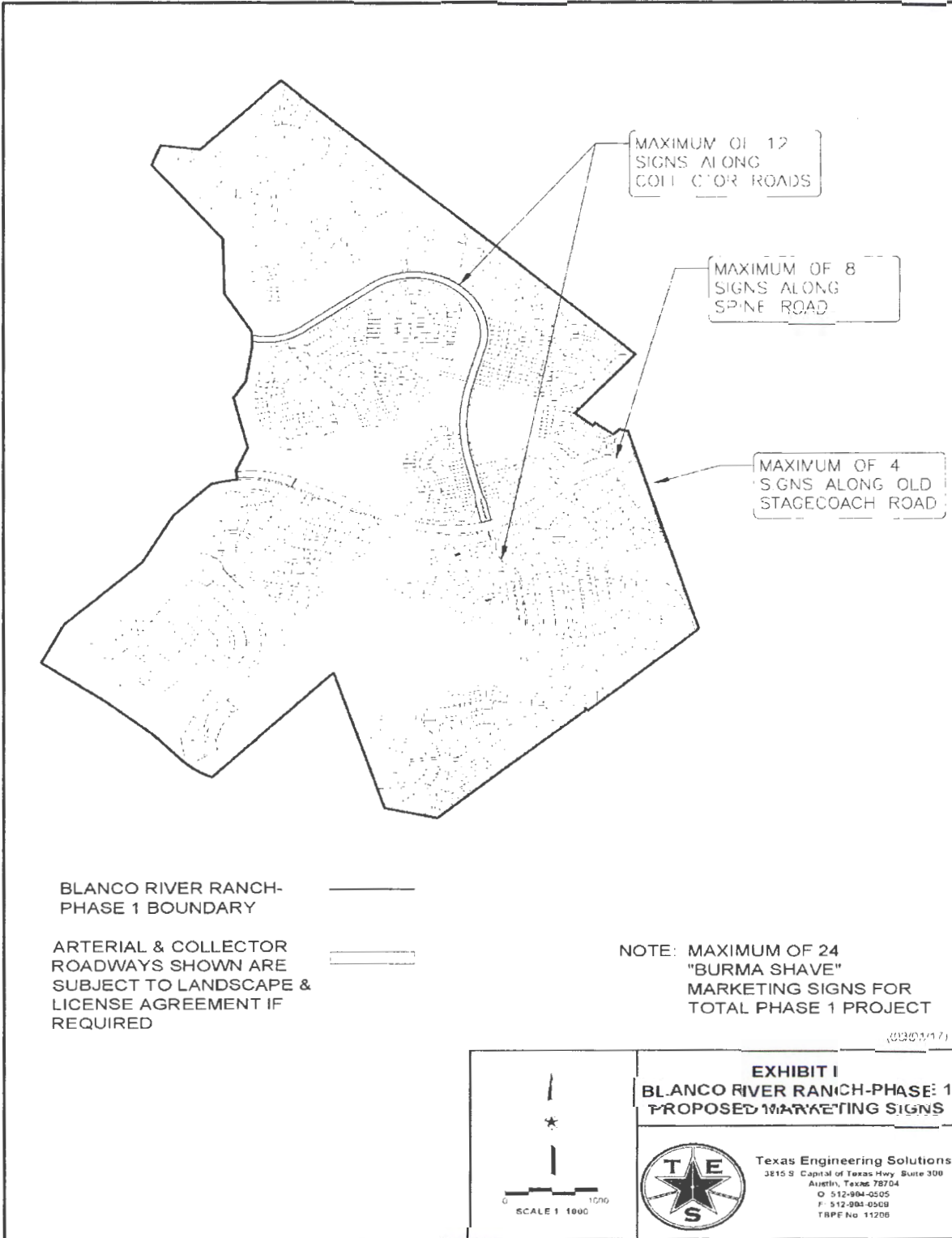
ADDITIONAL CRITERIA FOR PROPERTY

1. Owner agrees that an amount not to exceed 10 percent of the net PID Bond proceeds otherwise payable for actual costs of Authorized Improvements under this Agreement, exclusive of cost of issuance, interest, and contingency (the "City PID Payment"), will be retained by the City out of each PID Bond issuance to fund the City's actual expenditures or reimbursements to third parties for the cost of construction and/or acquisition of the following Authorized Improvements that benefit the Property: offsite water storage facilities, off-site booster pump facilities, and other off-site water system improvements serving the Property; off-site wastewater system improvements serving the Property; realignment and improvement of (including roundabout for) Old Stagecoach Road; realignment and improvement of FM 150; and trails and parks serving the Property (the "City PID Improvements"). Any costs incurred or advanced by Owner for the City PID Improvements will be credited against and reduce the amount of the City PID Payment at the time of each PID Bond issuance. If any City PID Improvements will serve property in addition to the Property, only a prorata share of the costs of such improvements will be eligible to be funded through the City PID Payment and such prorata share will be calculated based on the ratio of the total LUES within the Property to be served by the facility in question to the total LUEs to be served by the facility or, for roadway improvements, based on the estimated impact to the roadway as determined by a trip generation or traffic impact analysis. At such time as the cost of all City PID Improvements, or the eligible portions thereof, have been funded through PID Bonds, no further City PID Payment will be retained by the City.
2. The City and the Owner agree that the cost estimates for and timetable for construction and funding of the specific improvement projects that will be classified as the City PID Improvements will be agreed upon prior to approval of the service and assessment plan for the Project and that the total City PID Payment will not exceed 10% of the amount of the PID Bonds issued for hard and soft costs of Authorized Improvements (net of interest, costs of issuance and contingency). Any sums advanced or paid by Owner for costs associated with the City PID Improvements prior to the issuance of PID Bonds not previously reimbursed to Owner will be credited against and reduce the amount of the City PID Payment at the time of each issuance of PID Bonds.
3. The City agrees to defer annexation of each phase of the Residential Component of the Project until all PID bonds that are to be repaid through assessments against that phase have been issued and repaid in full, there are no further PID assessments applicable to or payable through assessments against that phase, and the City has discharged all of its PID obligations for that phase.
4. The amount of PID bonds issued that will be secured by assessments against the Property will not exceed \$100,000,000 (the "Project PID Bonds"). The proceeds of the Project PID Bonds, net of costs of issuance (the "Net Proceeds"), will be

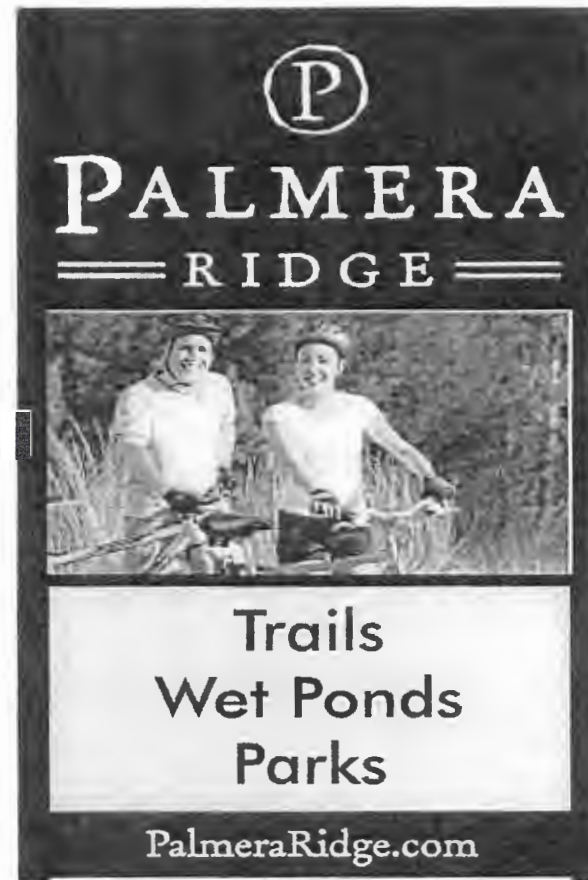
receive up to 90% of the Net Proceeds and the City will be eligible to receive up to 10 of the Net Proceeds. Only Public Improvements that benefit the Project will be eligible for funding out of the Project PID Bonds.

5. The City agrees to enter into an acquisition and reimbursement agreement providing that (i) Owner will be eligible for reimbursement of soft costs for Public Improvements that serve the first phase of the Project upon the City's approvals of the design plans for the water and wastewater facilities that serve that phase for operation and maintenance, which approval will not be unreasonably withheld or delayed; and (ii) Owner will be eligible for reimbursement of hard costs for Public Improvements that serve the first phase of the Project upon the City's acceptance of the water and wastewater facilities that serve that phase for operation and maintenance, which acceptance will not be unreasonably withheld or delayed. After reimbursement for the first phase of the Project Improvements, Owner will be eligible for subsequent reimbursement payments as additional Project Improvements design plans and construction are completed by Owner and approved or accepted by the City. The City agrees to proceed with the issuance of Project PID Bonds on a schedule and in a manner that allows Owner to receive reimbursement in a timely manner following completion of the first phase of the Project Improvements as additional phases are completed thereafter.
6. The City agrees to enter into a financing agreement providing that within 30 days of the City's receipt of the proceeds of the sale of Project PID Bonds, the City will reimburse the Owner for the costs of Public Improvements advanced by Owner and eligible for payment out of the Net Proceeds. Eligible costs will include design, engineering, construction management, and professional services; road, utility, streetscape, park and other public improvements; land acquisition; and any other costs that may be financed under Chapter 372, Local Government Code.
7. Owner agrees to submit documentation of the hard and soft costs incurred by Owner for which reimbursement is requested as a condition to such reimbursement.
8. In the case of any termination of the Development Agreement and/or dissolution of the District, the obligation of the City to pay or reimburse the costs of Public Improvements expended by the Owner prior to such termination or dissolution, and remaining unpaid, shall survive such termination or dissolution.

EXHIBIT "I"
PERMITTED LOCATIONS FOR SIGNAGE AND LANDSCAPE
IMPROVEMENTS



Samples of Similar “Burma Shave” Marketing Signs For Blanco River Ranch – Phase 1



- Maximum Height of Sign – 8 FT
- Maximum Size of Sign – 32 SF
- Signs To Be Constructed Of Metal Or Wood


PALMERA
 R I D G E



Connected
Communities

TV Like You've Never Seen Before

AT&T U-Verse
 TV, High Speed Internet,
 Home Phone or Wireless
ATT.com/iverseconnect
866-636-6686
PalmeraRidge.com


HIGHLANDS
 AT MAYFIELD RANCH

Builders

Homes 

Homes 

Homes 

Homes 


HIGHLANDS
 AT MAYFIELD RANCH


Amenities

Community Center

Resort Style Pool

Pool Toys

Pavilion


HIGHLANDS
 AT MAYFIELD RANCH

Utilities

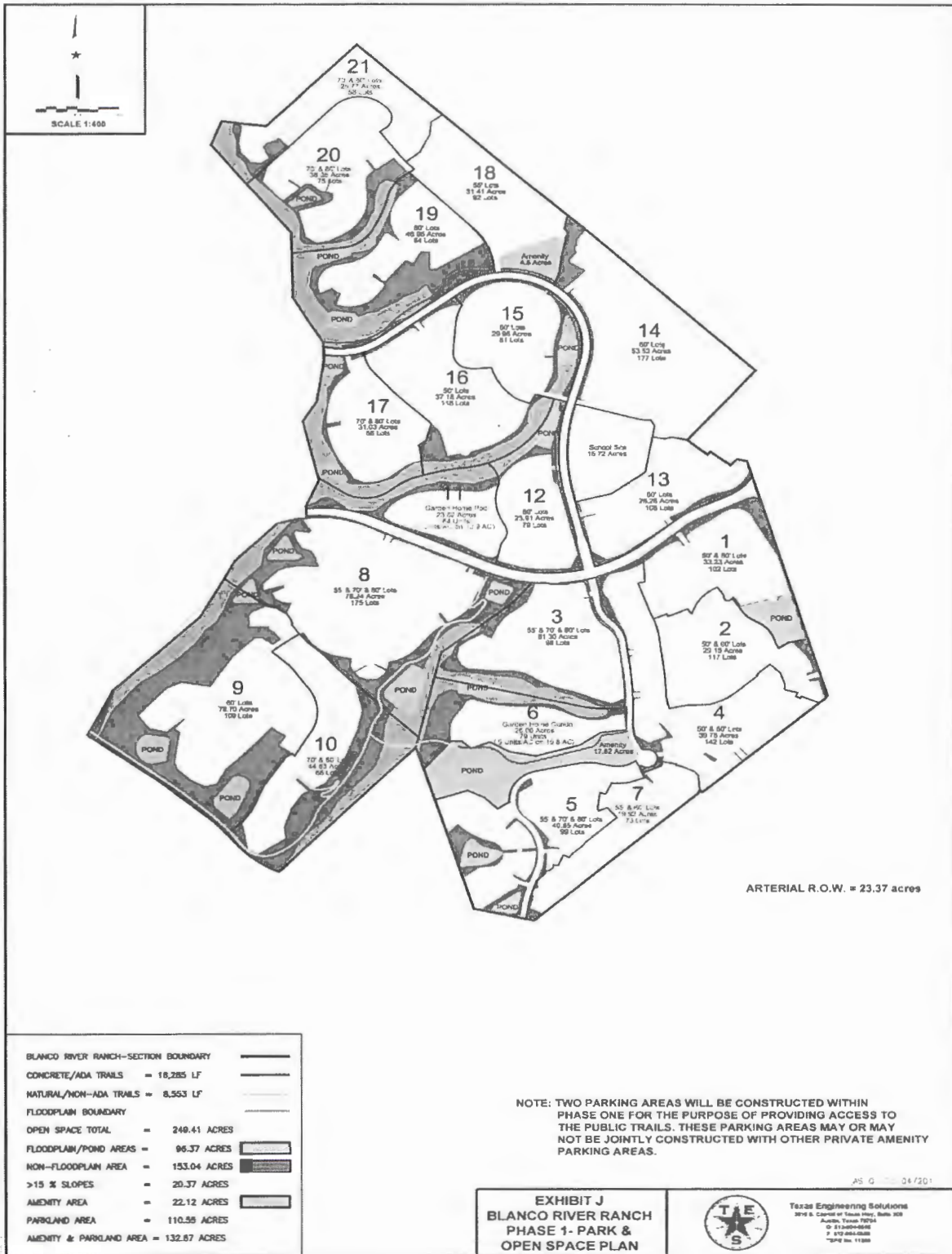
Natural Gas Provided
by Atmos Energy

Pedernales Electric Co.

City of Georgetown, Water

AT&T U-Verse

EXHIBIT "J" PARK LAND AND PARK IMPROVEMENTS



ROADWAY AND TRANSPORTATION IMPROVEMENTS
EXHIBIT "K"

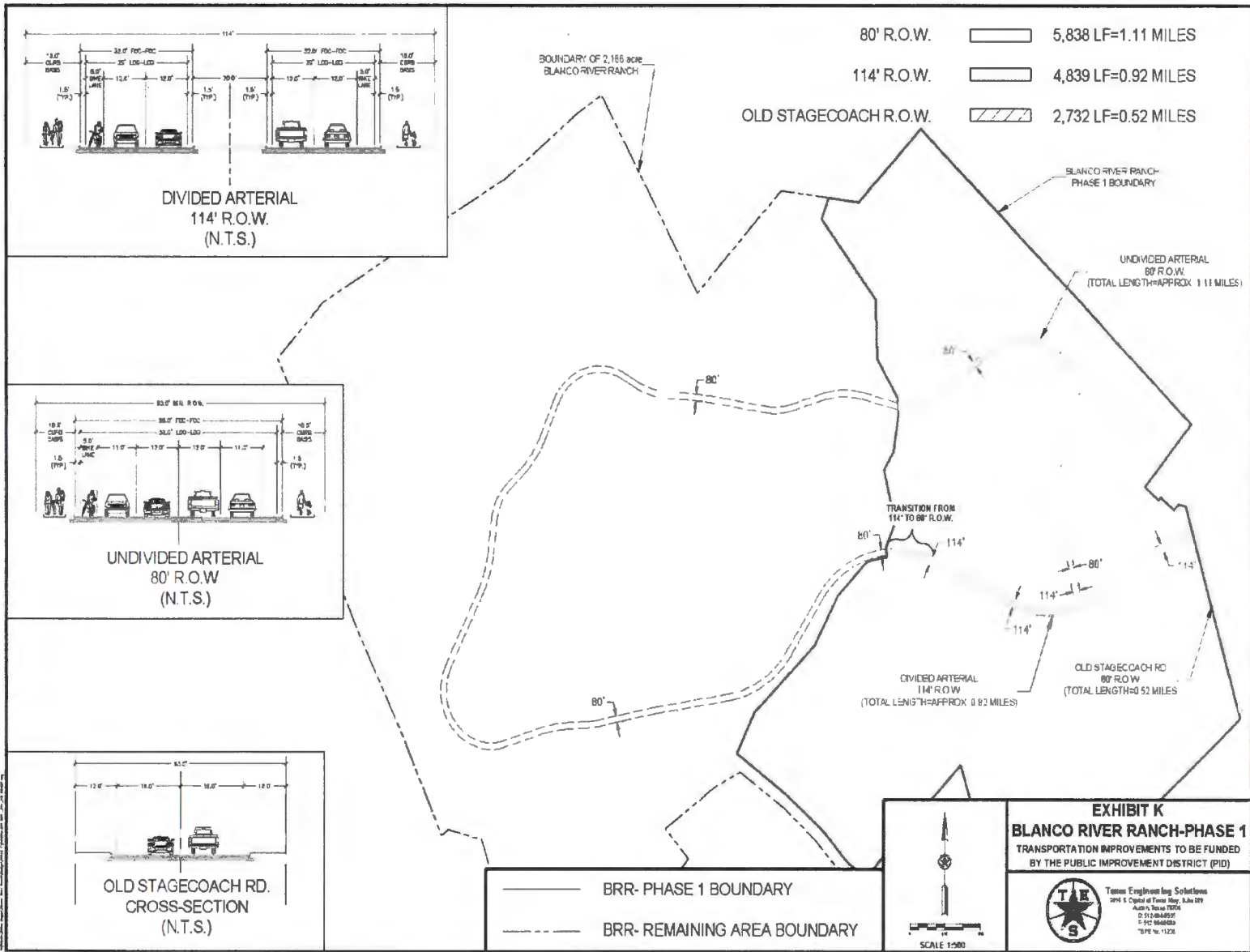
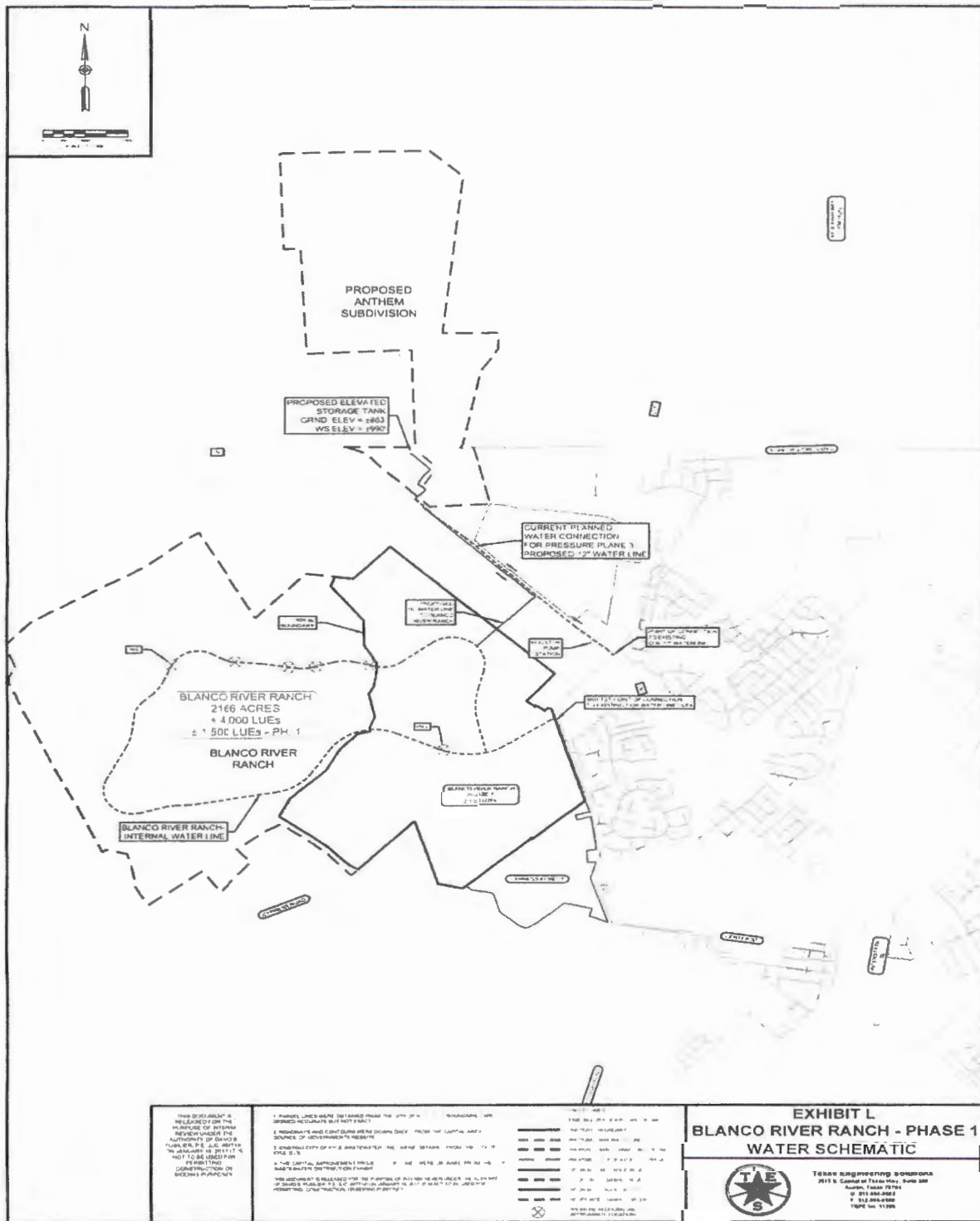


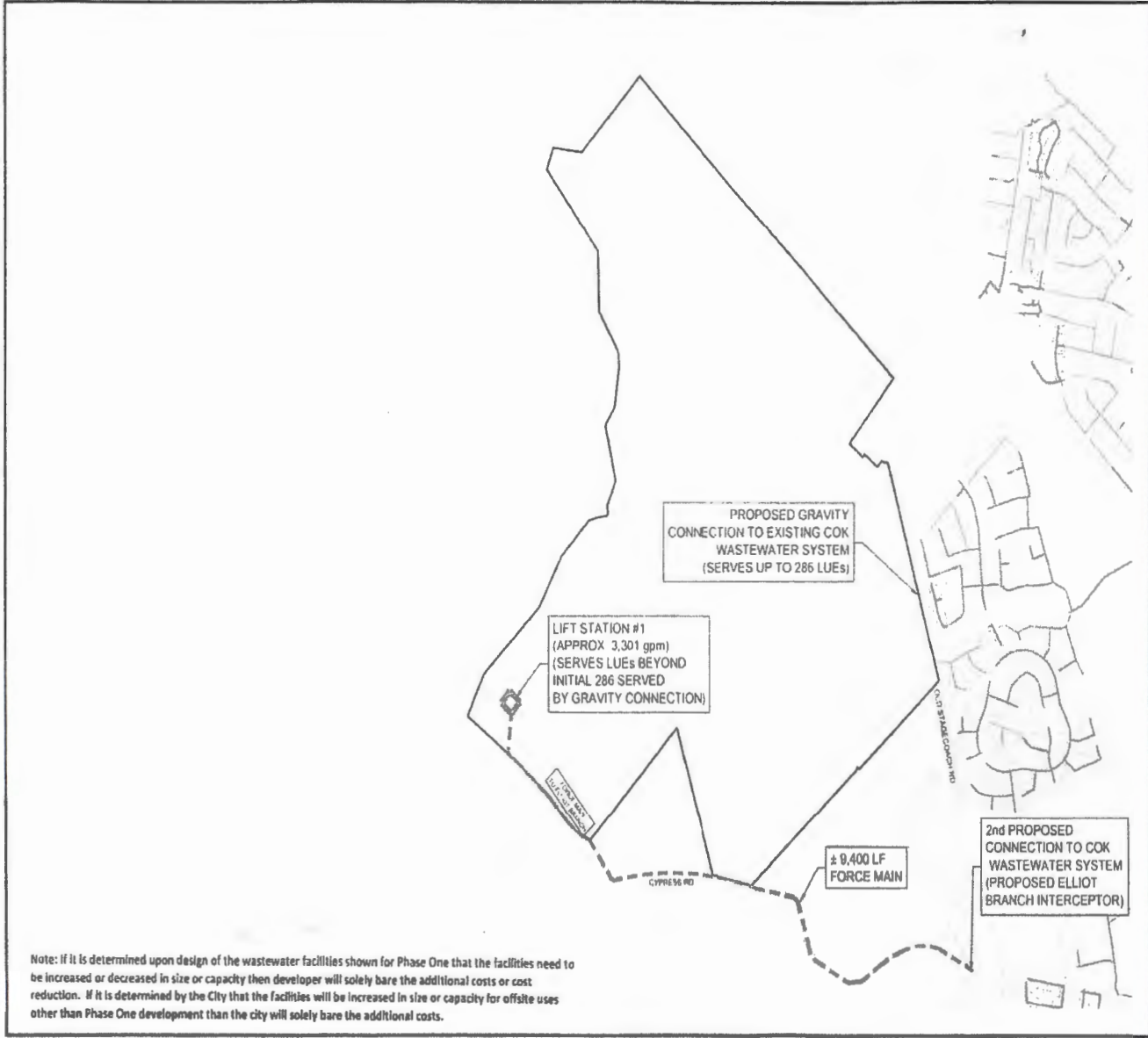
EXHIBIT "L" WATER FACILITIES PLAN



Note: If it is determined upon design of the water facilities shown for Phase One that the facilities need to be increased or decreased in size or capacity then developer will solely bare the additional costs or cost reduction. If it is determined by the City that the facilities will be increased in size or capacity for offsite uses other than Phase One development then the city will solely bare the additional costs.

EXHIBIT "M"
WASTEWATER FACILITIES PLAN

L:\Projects\2016\160724190-7\160724190-7.dwg



Texas
Engineering
Solutions

3815 S. CAPITAL OF TEXAS
HWY. SUITE 300
AUSTIN, TEXAS 78704
O: 512-904-0505
F: 512-904-0509
TBPE No. 11206

NOTES AND LEGEND

- 1 WASTEWATER SERVICE WILL BE PROVIDED BY THE CITY OF KYLE
- 2 CCN SERVICE AREAS WERE DOWNLOADED FROM THE TCEQ WEBSITE AND CONFIRMED BY THE PUBLIC UTILITIES COMMISSION WATER AND SEWER CCN VIEWER

CCN SERVICE AREAS

City of Kyle

— EXISTING CCN WASTEWATER

--- PROPOSED WASTEWATER ENT FROM BLANCO RIVER RANCH-PHASE 1

— PROPERTY BOUNDARY BLANCO RIVER RANCH PHASE 1

SCALE 1" = 1250'

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW UNDER THE AUTHORITY OF DAVID B FUSLER, P.E. (L.C. 187710) ON JANUARY 18, 2017. IT IS NOT TO BE USED FOR PERMITTING, CONSTRUCTION OR BIDDING PURPOSES.

BLANCO
RIVER RANCH
PHASE 1

EXHIBIT M
OVERALL
WASTEWATER
SCHEMATIC

EXHIBIT "N"
UTILITY DESIGN GUIDELINES

Design requirements for the Project Lift Station:

1. Fencing will be 8' tall commercial grade chain link fence.
2. Fencing will be installed 5 feet inside property line for maintenance outside the fenced area.
3. A 12"x12" sign identifying the name of the facility, operator, and contact phone number will be placed on entrance gates.
4. Lift Stations will include pumps and controls with soft starts or VFDs from manufacturers acceptable to the City Engineer or the Director of Public Works.
5. A safety grate will be included on Lift Station wet well access doors.
6. A shade cover with lighting will be installed over outdoor Lift Station controls.
7. The Lift Station will be connected to the City's SCADA system for remote monitoring of Lift Station wet well levels.
8. The Lift Stations will be designed with a peak factor calculated based on the population served.
9. Water service provided at each Lift Station by City at no cost to developer.
10. Site lighting to be LED per City of Kyle ordinances.
11. Access driveway will be gravel/road base material, minimum 8 inches in depth.



TRANSMITTAL COVER LETTER

TO: Mr. Scott Sellers **Via Courier**
City of Kyle
City Manager

FROM: Amy Lynn Payne
Blake Magee Company

DATE: May 15, 2017

SUBJECT: Blanco River Ranch Development Agreement (DA)

ENCLOSED: Two originals with incorporated revisions as detailed below.
PLEASE FIND

Scott, please find the final DA ready for execution by the Mayor. As we discussed the following scrivener’s errors have been corrected:

- The blank under Section 5.05 was filled in to say, “an appropriately sized gravity interceptor”;
- Exhibit C- Concept Plan was updated to correct the text errors on the face of the drawing that conflicted with the table in Exhibit C;
- Exhibit D – Item 9 referenced Exhibit C. That was corrected to reference Exhibit J;
- Exhibit H- PID Agreement Term Sheet- The blank on page 3 of 4, Item 1 was filled in to say, “the estimated impact to the roadway as determined by a trip generation or traffic impact analysis”;
- Exhibit J- Park and Open Space Plan was corrected to match the park plan that was approved on the 1/23/17 Parks Meeting.

For your information

In accordance with your request

Please sign the attached documents

Please contact me

Instrument # 17018505 Number of Pages: 77
Filed and Recorded: 5/31/2017 4:40 PM
Liz Q. Gonzalez, Hays County Clerk, Texas
Rec \$330.00 Deputy Clerk: KBOGGUS