

# CITY OF KYLE



## Notice of Regular City Council Meeting

KYLE CITY HALL  
100 W. Center Street

Notice is hereby given that the governing body of the City of Kyle, Texas will meet at 7:00 PM on 7/5/2011, at Kyle City Hall, 100 West Center, Kyle, Texas for the purpose of discussing the following agenda.

Posted this 30th day of June, 2011 prior to 7:00 pm.

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### I. Call Meeting To Order

### II. Approval of Minutes

1. City Council Regular Meeting - June 21, 2011 ~ *Amelia Sanchez, City Secretary*

[Attachments](#)

### III. Citizen Comment Period With City Council

The City Council welcomes comments from Citizens early in the agenda of regular meetings. Those wishing to speak must sign in before the meeting begins at the Kyle City Hall. Speakers may be provided with an opportunity to speak during this time period, and they must observe the three-minute time limit.

### IV. Presentation

2. Recognition of Employee of the Month for the Month of June ~ *Lanny Lambert, City Manager*

[Attachments](#)

3. Presentation by the Kyle Police Employee Association regarding association activities ~ *Sergeant Tracy Vrana*

[Attachments](#)

### V. Appointments

4. Consideration of Nomination for Appointment to the Planning and Zoning Commission ~ *Mayor Lucy Johnson*

- *Daphne Tenorio, Seat Five*

[Attachments](#)

5. Consideration of Nomination(s) for Appointment to the Community Relations Committee ~ *Council Member Brad Pickett*

[Attachments](#)

### VI. Consent Agenda

6. Consideration and Possible Action on Approval of the Interlocal Contract between the Capital Area Council of Governments (CAPCOG) and the City of Kyle, Texas for Public Service Answering Points (PSAP) Maintenance, Equipment Upgrade, and Training ~ *Jeff Barnett, Chief of Police*

 [Attachments](#)

7. Hidden Oaks Section Two Replat of Lots 65 and 66R (SFP-11-003)

1.575 acres; 3 commercial lots

Owner: Kyle Vet Holdings LLC and Tri Vet Properties LLC

Agent: Ward Richter, Richter Resources, Inc.

~ Shira Rodgers, Director of Planning

*Planning and Zoning Commission voted 5-0 to Statutorily Disapprove the replat to meet the 30 day statutory requirement.*

 [Attachments](#)

8. Kyle Marketplace Section 1 Replat of Lot 1 Block A

37.624 acres; 2 commercial lots

Located at the northwest intersection of Kyle Parkway/FM 1626 and IH-35

Owner: Kyle Marketplace Ltd.

Agent: Doucet & Associates, Inc.

~ Shira Rodgers, Director of Planning

*Planning and Zoning Commission voted 5-0 to Statutorily Disapprove the replat to meet the 30 day statutory requirements.*

 [Attachments](#)

9. Kyle Towne Center Replat of Lot 1 Block A (SFP-11-004)

80.801 acres; 2 commercial lots

Located at the southwest intersection of Kyle Crossing and IH-35

Owner: Sterling/Babcock & Brown, LP

Agent: Doucet & Associates, Inc.

~ Shira Rodgers, Director of Planning

*Planning and Zoning Commission voted 5-0 to Statutorily Disapprove the replat to meet the 30 day statutory requirements.*

 [Attachments](#)

10. (*Second Reading*) AN ORDINANCE OF THE CITY OF KYLE, TEXAS AUTHORIZING AND DIRECTING THE INSTALLATION AND ERECTION OF FOUR WAY STOP SIGNS FOR THE ZONING OF TRAFFIC CONTROL ON KOHLER CROSSING AT THE INTERSECTION OF KYLE CROSSING IN THE CITY LIMITS OF KYLE; FIXING A PENALTY THEREFOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF ~ James Earp, Assistant City Manager

 [Attachments](#)

11. A RESOLUTION OF THE CITY OF KYLE, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE A CONSTRUCTION CONTRACT BETWEEN THE CITY OF KYLE, TEXAS AND T.F. HARPER & ASSOCIATES LP FOR CONSTRUCTION WORK RELATED TO LAKE KYLE AS FURTHER DESCRIBED IN ATTACHED EXHIBIT; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS ~ Kerry Urbanowicz, Director of Parks, Recreation & Facility Maintenance

 [Attachments](#)

12. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS ACCEPTING A 0.116 ACRE PUBLIC UTILITY EASEMENT CONVEYED BY WHITED ENTERPRISES, LLC, OUT OF LOT 2, BLOCK A, RJ SUBDIVISION; PROVIDING FOR OPEN MEETINGS AND RELATED MATTERS ~ *Shira Rodgers, Director of Planning*

 [Attachments](#)

## VII. Consider and Possible Action

13. A RESOLUTION OF THE CITY OF KYLE, TEXAS, ESTABLISHING THE ADVISORY REDISTRICTING COMMITTEE; AMENDING CONFLICTING RESOLUTIONS; PROVIDING FOR DUTIES, MEMBERSHIP, TERMS, APPOINTMENTS; AND PROVIDING FOR RELATED MATTERS ~ *Frank Garza, City Attorney*

- Appointment - Mayor, *Bob Barton*
- Appointment - District 1, *Ray Bryant*
- Appointment - District 2, *Glenn Whitaker*
- Appointment - District 3, *Cecilia Peche*
- Appointment - District 4, *James Adkins*
- Appointment - District 5, *Andrea Cunningham*
- Appointment - District 6, *Christie Smith*

 [Attachments](#)

14. (*First Reading*) AN ORDINANCE AMENDING CHAPTER 53 ZONING, ARTICLE II ZONING DISTRICTS AND REGULATIONS, DIVISION 1 GENERALLY, SECTION 53-33 CHART 2 AND CHART 3 TO AMEND THE CENTRAL BUSINESS DISTRICTS 1 AND 2 OF THE CITY OF KYLE, CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF ~ *Shira Rodgers, Director of Planning*

*Planning and Zoning Commission voted 6-0 to approve the amendment*

- Public Hearing

 [Attachments](#)

15. (*First Reading*) AN ORDINANCE OF THE CITY OF KYLE, TEXAS AMENDING PART II CHAPTER 41 ARTICLE V SECTION 41-147 (a) OF THE CITY CODE PERTAINING TO PARKLAND DEDICATION DEFINITIONS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING A PENALTY CLAUSE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Kerry Urbanowicz, Director of Parks, Recreation & Facilities*

 [Attachments](#)

16. Consideration and Possible Action on a Speed Hump Policy ~ *Lanny Lambert, City Manager*

 [Attachments](#)

17. Consideration and Possible Action as may be appropriate in regards to awarding Nonpoint Source Water Quality Program Retrofit of Spring Branch Drive Channel for the City of Kyle 319H

Nonpoint Plum Creek Watershed Grant to the apparent lowest bidder, Dale Lowden Excavating, Inc in the amount of \$48,321.00 and Authorizing the City Manager to Execute A Contract with Dale Lowden Excavating for the Construction of the same ~ *James Earp, Assistant City Manager*

 [Attachments](#)

### VIII. General Discussion and Possible Action

18. General Discussion and Possible Action of the July 1st Call for Applications for the Sustainable Places Project Planning Demonstration Sites ~ *Raquel Garcia, Grants Administrator*

 [Attachments](#)

### IX. Planning and Zoning

#### *Zoning*

19. (*First Reading*) AN ORDINANCE AMENDING ORDINANCE NO. 438 (ZONING) OF THE CITY OF KYLE, TEXAS FOR THE PURPOSE OF REZONING APPROXIMATELY 27.01 ACRES FROM 'RS' RETAIL SERVICES DISTRICT TO 'R-3-2-' MULTI-FAMILY RESIDENTIAL DISTRICT, ON PROPERTY LOCATED ON THE EAST SIDE OF IH-35, NORTH OF EAST RR 150 AND SOUTH OF GOFORTH ROAD IN HAYS COUNTY, TEXAS. (CENTER STREET VILLAGE, LP Z-11-007); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Shira Rodgers, Director of Planning*

*Planning and Zoning Commission voted 4-2 to recommend approval of the zoning request.*

- Public Hearing

 [Attachments](#)

20. (*First Reading*) AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 1.007 ACRES, ON PROPERTY LOCATED AT 1371 RR 150 EAST IN HAYS COUNTY, TEXAS. (FHC CONSOLIDATED Z-11-005); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Shira Rodgers, Director of Planning*

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

- Public Hearing

 [Attachments](#)

#### *Variances*

21. Consider and Possible Action Regarding a Variance Request from Cyndy Slovak-Barton for the Barton Word Building to be located at 113 W. Center St. The variance requested is from Chapter 41 Subdivisions, Article V. Standards and Specifications, Section 41-141 Utility Easements of the Code of Ordinances which requires all electrical lines to be located underground ~ *Shira Rodgers, Director of Planning*

*Planning and Zoning Commission voted 5-0 to approve the variance request.*

 [Attachments](#)

***Conditional Use Permit/Conditional Use Overlay District***

22. Consider a request by Matheson Tri-Gas for a Conditional Use Permit to construct a 8,595 square foot building located within the IH-35 Zoning Overlay District.

Located at 2550 Kyle Crossing

Owner: Matheson Tri-Gas

Agent: Charles Turner, T Bar T Construction

~ Shira Rodgers, Director of Planning

*Planning and Zoning Commission voted 6-0 to approve the Conditional Use Permit.*

- Public Hearing

 [Attachments](#)

23. Consider a request by Philemon Martinez for a Conditional Use Permit to occupy and remodel a 4,970 square foot building located within the IH-35 Zoning Overlay District.

Located at 22604 S. IH-35

Owner: Philemon Martinez

Agent: Hugo Elizondo, Cuatro Consultants

~ Shira Rodgers, Director of Planning

*Planning and Zoning Commission voted 6-0 to approve the Conditional Use Permit.*

- Public Hearing

 [Attachments](#)

**X. City Managers Report**

24. Update on Various Capital Improvement Projects, Road Projects, Building Program, and/or General Operational Activities ~ Lanny Lambert, City Manager

- Discussion of City Council Retreat to be held on Saturday, July 9, 2011 at Texas Disposal Systems from 8:00 am - 4:00 pm
- Discussion of Funding Plan options to provide an estimated \$4,938,594.00 for the City's share of RM 150 Realignment project costs
- Discussion of City Council Workshops

 [Attachments](#)

25. Presentation of Guadalupe Blanco River Authority (GBRA) water supply proposed capacity increase and associated costs ~ James Earp, Assistant City Manager

 [Attachments](#)

## **XI. Staff Report**

26. Parks Committee Recommendation for FY2012 Programs ~ *Kerry Urbanowicz, Director of Parks, Recreation & Facilities*

 [Attachments](#)

## **XII. Executive Session**

27. Convene into Executive Session pursuant to Section 551.071, Tex. Gov't Code, and Section 1.05, Tex. Disciplinary Rules of Professional Conduct, to consult with legal counsel regarding the lawsuit pending in Hays County District Court, City of Kyle v. Goodman, Barton Springs / Edwards Aquifer Conservation District, et al., and the defendants' settlement counteroffer.

 [Attachments](#)

28. Reconvene into Open Session to take any and all actions as deemed appropriate in the City Council's discretion regarding the Barton Springs / Edwards Aquifer Conservation District's settlement counteroffer

 [Attachments](#)

## **XIII. ADJOURN**

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

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



# CITY OF KYLE, TEXAS

## City Council Regular Meeting - June 21, 2011

**Meeting Date: 7/5/2011**  
**Date time: 7:00 PM**

**Subject/Recommendation:** City Council Regular Meeting - June 21, 2011 ~ *Amelia Sanchez, City Secretary*

**Other Information:** This item is for formal approval of the minutes from the June 21st Regular Meeting of the City Council, a copy of which is included with the meeting packet.

**Budget Information:** N/A

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Attachments / click to download

[City Council Regular Meeting - June 21, 2011](#)

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## REGULAR CITY COUNCIL MEETING

The City Council of the City of Kyle, Texas met in Regular Session on June 21, 2011 at 7:00 pm at Kyle City Hall, with the following persons present:

Mayor Lucy Johnson	Ned Arcides
Mayor Pro Tem Russ Huebner	Christine Depperschmidt
Council Member Diane Hervol	Samantha Bellows
Council Member Jaime Sanchez	Lila Knight
Council Member Becky Selbera	Mike Fulton
Council Member Brad Pickett	
Council Member David Wilson	
Lanny Lambert, City Manager	
James Earp, Asst. City Manager	
Harper Wilder, Director of Public Works	
Perwez Moheet, Director of Finance	
Mark Shellard, IT	
Diana Blank, Director of Economic Development	
Shira Rodgers, Director of Planning	
Connie Brooks, Library Director	
Frank Garza, City Attorney	
Raquel Garcia, Grants Administrator	

### CALL MEETING TO ORDER

Mayor Johnson called the meeting to order at 7:01 pm.

### ROLL CALL

Mayor Johnson called for roll call. Present were Mayor Johnson, Mayor Pro Tem Wilson, Council Members Hervol, Sanchez, and Huebner.

Mayor Johnson states that she heard from Council Member Pickett and that he will be running a little late.

### APPROVAL OF MINUTES

CITY COUNCIL REGULAR MEETING - JUNE 7, 2011 ~ *AMELIA SANCHEZ, CITY SECRETARY*

Mayor Pro Tem Wilson moves to approve the minutes of June 7, 2011 with an amendment stating that Council Member Pickett was absent from the adjournment of the meeting on June 7, 2011 and therefore did not vote to adjourn and in the future if someone is off the dais at the time of the vote even if at the motion to adjourn they should be identified. Council Member Hervol seconds the motion. All votes aye with Council Members Selbera and Pickett absent.



CITY COUNCIL MEETING  
June 21, 2011 – Page 2  
Kyle City Hall

CITIZEN COMMENT PERIOD WITH CITY COUNCIL

Mayor Johnson opened the citizens comment period at 7:05 pm and called for comments on items not on the agenda or posted for public hearing. Ned Arcides speaks on his concern about the roads on the east side of Kyle with Lehman Road being a priority due to the high volume of traffic and the safety of the students walking to Lehman High School. Christine Depperschmidt spoke to ask the Council to postpone the 4<sup>th</sup> of July fireworks display until weather isn't so dry due to the risk of fire. She has a concern of safety for our firefighters and safety officials as well as the community. Samantha Bellows states that she has received e-mails from residents concerned with the scheduled fireworks display and agrees with the former speaker about postponing the event until it is safe to do so. She also states she has heard a rumor about cuts to employee benefits. She states that the City must take care of its employees and that one employee has a child that is ill and that it is wrong for them to consider cutting benefits. She suggests that Council look at other options and other providers and finds it insulting that they would be talking about this instead of looking at other options. Lila Knight speaks about her concern that Council or someone has made the reconstruction of Burluson Road a priority, although what the City is planning to do is not a reconstruction but a widening to 3 lanes. She would like to see the Council do more in the way of planning and asks if the Master Transportation Plan has been sent to Campo as other cities have done so our major roads would be considered for this type of funding and states that the deadline is June 30<sup>th</sup> and hopes that they will jump on this so that in the future this will not be an issue in terms of what roads qualify for funding. Ms. Knight also asks Council Member Sanchez to consider coming back and re-forming the Transportation committee because he has a lot of talent and a lot to give to this city. Mike Fulton states that he knows he is being considered to fill a vacant seat on Planning and Zoning Commission but wanted to inform them that he would be on vacation and unavailable for the next 2 months and wouldn't want the seat to be vacant. He states that in August or September there will be another seat available and maybe he could come back at that time. With no one else wishing to speak Mayor Johnson closes citizen's comments at 7:16 pm.

Council Member Selbera arrived at 7:07pm.

Mayor Johnson states that up next is item #2 but asks Council for permission to skip to item # 3 Proclamations because CAPCOG will have a long presentation. Council agrees.

PROCLAMATIONS

PROCLAMATION OF THE CITY OF KYLE DECLARING JUNE 21, 2011 AS  
GENERAL EDUCATION DEVELOPMENT RECOGNITION DAY IN KYLE ~  
*MAYOR LUCY JOHNSON*  
CITY COUNCIL MEETING

June 21, 2011 – Page 3  
Kyle City Hall

Mayor Johnson asks the students from the Kyle Learning Center who will graduate on June 24, 2011 to join her in front of the dais and states how proud she of the students who took the time and initiative to get their GED. Mayor Johnson presents and reads a Proclamation to the students and Kyle Learning Center.

Council Member Pickett arrived at 7:20 PM.

Mayor Johnson goes back to item #2

#### PRESENTATION

PRESENTATION FROM THE CAPITAL AREA COUNCIL OF GOVERNMENTS (CAPCOG) REGARDING THE STATE OF THE COUNTY, HAYS ~ *JOHN REES, DIRECTOR OF ECONOMIC DEVELOPMENT*

John Rees, Director of Economic Development does a short report on the state of the County and with things going on in Kyle such as growth, population, unemployment and trends in Kyle.

#### APPOINTMENTS

CONSIDERATION OF NOMINATION FOR APPOINTMENT TO THE PLANNING AND ZONING COMMISSION ~ *MAYOR LUCY JOHNSON*

Mike Fulton, Seat Five

Mayor Johnson states that Mike Fulton would be unavailable to serve on Planning and Zoning and moves to table this item until the first meeting in July. Council Member Huebner seconds the motion. All votes aye.

APPOINTMENT OF REPRESENTATION TO THE SECOND MONARCH BLUE RIBBON PANEL ~ *MAYOR LUCY JOHNSON*

Council Member Hervol moves to reappoint James Havis to the Second Monarch Blue Ribbon Panel. Council Member Selbera seconds the motion. All votes aye. Motion carried.

#### PUBLIC HEARINGS

PUBLIC HEARING TO OBTAIN CITIZEN COMMENTS FOR AMENDMENT OF CITY ORDINANCE NO. 635 ADOPTED ON SEPTEMBER 21, 2010, AND TO AMEND THE CITY'S FEE SCHEDULE FOR FISCAL YEAR 2010-11 TO

INCREASE WASTEWATER (SEWER) RATES FOR MINIMUM MONTHLY CHARGE AND VOLUMETRIC RATES FOR ALL WASTEWATER UTILITY SYSTEM CUSTOMERS, **RELATED TO AGENDA ITEM NO. 8** ~ *PERWEZ MOHEET, DIRECTOR OF FINANCE*

CITY COUNCIL MEETING

June 21, 2011 – Page 4

Kyle City Hall

Mayor Johnson opens the Public Hearing at 7:51 PM to Obtain Citizen Comments for Amendment of City Ordinance No. 635 Adopted on September 21, 2010, and to Amend the City's Fee Schedule for Fiscal Year 2010-11 to Increase Wastewater (Sewer) Rates for Minimum Monthly Charge and Volumetric Rates for all Wastewater Utility System Customers. With no one wishing to speak Mayor Johnson closes the Public Hearing at 7:51 PM.

PUBLIC HEARING TO OBTAIN CITIZEN COMMENTS ON THE PROPOSED ISSUANCE OF CITY OF KYLE, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011, IN AN AMOUNT NOT TO EXCEED \$3,500,000 IN ORDER TO SAVE DEBT SERVICE COSTS BY REFUNDING A PORTION OF CITY'S OUTSTANDING COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2002, **RELATED TO AGENDA ITEM NO. 9** ~ *PERWEZ MOHEET, DIRECTOR OF FINANCE*

Mayor Johnson opens the Public Hearing at 7:52 PM to Obtain Citizen Comments on the Proposed Issuance of City of Kyle, Texas, General Obligation Refunding Bonds, Series 2011, in an Amount Not to Exceed \$3,500,000 in order to save Debt Service Costs by refunding a portion of City's outstanding Combination Tax and Revenue Certificates of Obligation, Series 2002. With no one wishing to speak Mayor Johnson closes the Public Hearing at 7:52 PM.

CONSENT AGENDA

*(Second Reading)* AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING ORDINANCE NO. 635 ADOPTED ON SEPTEMBER 21, 2010, AND APPENDIX A, CITY'S FEE SCHEDULE FOR FISCAL YEAR 2010-11 TO INCREASE WASTEWATER (SEWER) RATES INCLUDING MONTHLY MINIMUM CHARGE AND VOLUMETRIC RATES FOR ALL WASTEWATER UTILITY SYSTEM CUSTOMERS, **Related to Agenda Item No. 6** ~ *Perwez Moheet, Director of Finance*

Council Member Huebner moves to approve An Ordinance of the City of Kyle, Texas, Amending Ordinance No. 635 Adopted on September 21, 2010 to Increase Wastewater (Sewer) Rates including Monthly Minimum charge and Volumetric Rates for all Wastewater Utility System Customers. Council Member Selbera seconds the motion. Mayor Johnson, Mayor Pro Tem Wilson, Council Members Hervol, Selbera and Huebner, vote aye. Council Members Sanchez and Pickett vote nay. Motion carried 5-2.

CITY COUNCIL MEETING  
June 21, 2011 – Page 5  
Kyle City Hall

CONSIDER AND POSSIBLE ACTION

*(First Reading)* CONSIDERATION AND POSSIBLE ACTION ON AN ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF KYLE, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011, IN AN AMOUNT NOT TO EXCEED \$3,500,000 IN ORDER TO SAVE DEBT SERVICE COSTS BY REFUNDING A PORTION OF CITY'S OUTSTANDING COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2002, **Related to Agenda Item No. 7** ~ *Perwez Moheet, Director of Finance*

Council Member Huebner moves to approve An Ordinance authorizing the Issuance of City of Kyle, TX, General Obligation Refunding Bonds, Series 2011, in an amount not to exceed \$3,500,000 in order to save debt service cost by Refunding a portion of City's outstanding Combination Tax and Revenue Certificates of Obligation, Series 2002. Council Member Selbera seconds the motion. All votes aye. Motion carried.

CONSIDERATION AND POSSIBLE ACTION AWARDDING A CONTRACT TO ROCKIN Q CONSTRUCTION, LLC IN THE AMOUNT OF \$40,471.00 TO RETIRE THE SUNSET RIDGE LIFT STATION AND REPLACE WITH A GRAVITY FLOW WASTEWATER LINE IN ACCORDANCE WITH AN AGREEMENT BETWEEN THE OWNER OF THE SUNSET RIDGE MOBILE HOME PARK AND THE CITY OF KYLE ~ *HARPER WILDER, DIRECTOR OF PUBLIC WORKS*

Council Member Selbera moves to Award a Contract to Rockin Q Construction, LLC in the amount of \$40,471.00 to retire the Sunset Ridge Lift Station and Replace with a Gravity Flow Wastewater Line in accordance with an Agreement between the Owner of the Sunset Ridge Mobile Home Park and the City of Kyle. Council Member Hervol seconds the motion. All votes aye. Motion carried.

CONSIDERATION AND POSSIBLE ACTION OF A DEVELOPMENT AGREEMENT FOR THE WINDY HILL MUNICIPAL UTILITY DISTRICT ~ *LANNY LAMBERT, CITY MANAGER*

Council Member Huebner moves to approve a Development Agreement for the Windy Hill Municipal Utility District. Council Member Selbera seconds the motion. Council Member Huebner amends the motion to include the agreement that was handed to Council by the City Manager at tonight's meeting. Council Member Selbera seconds the amendment. Mayor Johnson, Mayor Pro Tem Wilson, Council Members Selbera, Huebner and Pickett vote aye. Council Members Hervol and Sanchez vote nay. Motion carried 5-2.

CITY COUNCIL MEETING

June 21, 2011 – Page 6

Kyle City Hall

CONSIDERATION AND POSSIBLE ACTION ON A RECOMMENDATION FROM THE PUBLIC WORKS & SERVICE COMMITTEE ON THE RENAMING OF THE PUBLIC WORKS TRAINING ROOM IN HONOR OF BOOTS MONTAGUE WHO SERVED THE CITY OF KYLE IN THE PUBLIC WORKS DEPARTMENT FOR OVER 30 YEARS ~ *MAYOR PRO TEM DAVID WILSON AND COUNCIL MEMBER BECKY SELBERA*

Council Member Wilson moves to proceed to name the Public Works Training room in honor of Boots Montague and that we put together a proclamation and have an event honoring that designation. Council Member Johnson seconds the motion. All votes aye. Motion carried.

Mayor Johnson states that there are County Officials present and assumes they are here for the San Marcos – Hays County EMS item and asks Council to skip to item #20.

CITY MANAGERS REPORT

Briefing on the Funding Increase of \$113,886.00 for a total annual cost of \$273,886.00 proposed by San Marcos-Hays County EMS, Inc., to provide Emergency Medical Services during Fiscal Year 2011-12 for the City of Kyle ~ *LANNY LAMBERT, CITY MANAGER*

City Manager Lanny Lambert states that he put this item under City Managers report to inform Council and provide a copy of the request received from EMS Operations that they intend to increase their billing up by \$160,000.00. It would be a penny and 1/10<sup>th</sup> increase in the tax rate in the upcoming budget year to pay for this. City Manager Lambert states that the he stated the wrong amount of increase and it should be \$113,000.00.

Mayor Johnson now goes back to item #13.

CONSIDER AND POSSIBLE ACTION

*Tabled*) A RESOLUTION OF THE CITY OF KYLE, TEXAS, ADOPTING CRITERIA FOR USE IN THE 2011 REDISTRICTING PROCESS, AND PROVIDING FOR RELATED MATTERS ~ *Frank Garza, City Attorney*

Mayor Johnson moves to approve A Resolution of the City of Kyle, Texas, Adopting Criteria for use in the 2011 Redistricting Process with the Amendment to Section 1 Item J that Council should obtain input through Public Hearings and the Creation of a Redistricting Committee. Council Member Huebner seconds the motion. All votes aye. Motion carried.

CITY COUNCIL MEETING  
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Kyle City Hall

CONSIDERATION AND POSSIBLE ACTION REGARDING AUTHORIZATION/APPROVAL TO APPLY FOR THE CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION'S (CAMPO) CALL FOR APPLICATIONS FOR THE FEDERAL HIGHWAY ADMINISTRATION SURFACE TRANSPORTATION PROGRAM METROPOLITAN MOBILITY (STP MM) FOR FUNDING TO ADD SIDEWALKS AND BIKE LANES ALONG FM 2770 AND FM 150 AND TO DIRECT CITY MANAGER TO REQUEST FROM TEXAS DEPARTMENT OF TRANSPORTATION THE 20% REQUIRED CONTRIBUTION OF TOTAL PROJECT COST ~ *RAQUEL GARCIA, GRANTS ADMINISTRATOR*

Council Member Huebner moves to approve Authorization/Approval to apply for the Capital Area Metropolitan Planning Organization's (CAMPO) call for applications for the Federal Highway Administration Surface Transportation Program Metropolitan Mobility (STP MM) for funding to add sidewalks and bike lanes along FM 2770 and FM 150 and to direct City Manager to request from Texas Department of Transportation the 20% required contribution of total project cost but to also add the application to add sidewalks and bike lanes for Goforth-Bunton, Goforth, Lehman and RM150. Mayor Pro Tem Wilson seconds the motion. Council Member Huebner amends his motion at the request of the Mayor to remove Lehman, Goforth and Bunton from Item #14 for sidewalk construction and those will included in Item 15... Mayor Pro Tem Wilson seconds the amendment. All votes aye. Motion carried.

CONSIDERATION AND POSSIBLE ACTION REGARDING AUTHORIZATION/APPROVAL TO APPLY FOR THE CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION'S (CAMPO) CALL FOR APPLICATIONS FOR THE FEDERAL HIGHWAY ADMINISTRATION SURFACE TRANSPORTATION PROGRAM METROPOLITAN MOBILITY (STP MM) FOR FUNDING TO RECONSTRUCT BURLESON ST. WITH CITY CONTRIBUTION NOT TO EXCEED 20% OF TOTAL PROJECT COSTS ~ *RAQUEL GARCIA, GRANTS ADMINISTRATOR*

Mayor Johnson moves to approve application to the (CAMPO) call for applications for the Federal Highway Administration Surface Transportation Program Metropolitan Mobility (STP MM) for funding to reconstruct Burleson St. and to include Bunton, Goforth, and Lehman Roads with city contribution not to exceed 20% of total project costs. Mayor Pro Tem Wilson seconds the motion. All votes aye. Motion carried.

GENERAL DISCUSSION AND POSSIBLE ACTION

GENERAL DISCUSSION AND POSSIBLE ACTION REGARDING THE INTERSECTION OF KOHLER'S CROSSING (CR 171) AND DRY HOLE ROAD ~ *JAMES EARP, ASSISTANT CITY MANAGER*

CITY COUNCIL MEETING  
June 21, 2011 – Page 8  
Kyle City Hall

Mayor Pro Tem Wilson moves to instruct staff to move forward with the development of an Ordinance for a stop sign Kohler's Crossing and Dry Hole Road. Council Member Hervol seconds the motion. Mayor Johnson asks the City Attorney if Council can pass the Ordinance as presented tonight. City Attorney states that they can. Mayor Pro Tem Wilson amends the motion to identify this as the First Reading of the Ordinance. Council Member Hervol seconds the amendment. All votes aye. Motion carried.

City Manager Lanny Lambert asks the Mayor if they can ask input from the Fire Chief who is in attendance on the upcoming 4<sup>th</sup> of July fireworks display before moving to the next item. The Fire Chief states that he went out to look at the site before signing off on the state permit and again this morning with his Battalion Chief and they saw no issues of concern. He states that he will have a fire truck at the site.

GENERAL DISCUSSION AND POSSIBLE ACTION REGARDING ROAD CONSTRUCTION COSTS FOR BUNTON ROAD, GOFORTH ROAD, BURLESON ROAD, AND LEHMAN ROAD ~ LANNY LAMBERT, CITY MANAGER

City Manager Lanny Lambert provides a presentation of a listing of costs LAN Engineers put together for the 4 major roads projects and wanted to notify Council of this and also to solicit input from Council and possibly looking at some potential street bond issue sometime in the future and let the voters decide if they want to spend this kind of money on road reconstruction.

GENERAL DISCUSSION AND POSSIBLE ACTION REGARDING REVIEW OF PRELIMINARY ENGINEERING REPORT FOR THE SOUTHSIDE WASTEWATER SERVICE TO INCLUDE PRELIMINARY ENGINEERING DESIGN CONSIDERATIONS, SIZING AND COST INFORMATION FOR CONSTRUCTION OF COLLECTION FACILITIES TO SERVE UNSEWERED AREAS IN THE SOUTHERLY AREAS OF THE CITY OF KYLE ~ JOHN BARTLE, CITY ENGINEER

John Bartle, City Engineer provides a report for the Southside Wastewater Service including preliminary Engineering Design considerations, sizing and cost information.

CITY MANAGERS REPORT

Update on Various Capital Improvement Projects, Road Projects, Building Program, and/or General Operational Activities ~ *Lanny Lambert, City Manager*

City Manager Lanny Lambert advises Council that TDS has provided a location for the City Council Retreat to be held on Saturday, July 9th, 2011 with a tentative time of 9:00 AM to 4:00 PM with lunch provided.

CITY COUNCIL MEETING

June 21, 2011 – Page 9

Kyle City Hall

BRIEFING ON THE FUNDING PLAN OPTIONS TO PROVIDE AN ESTIMATED \$4,938,594.00 FOR THE CITY'S SHARE OF RM 150 REALIGNMENT PROJECT COSTS ~ *LANNY LAMBERT, CITY MANAGER*

City Manager Lambert states that this item will be brought back at the next meeting.

EXECUTIVE SESSION

CONVENE INTO EXECUTIVE SESSION PURSUANT TO SECTION 551.087 TEX. GOV'T CODE, TO DELIBERATE OFFERS OF FINANCIAL OR OTHER INCENTIVES AND ECONOMIC DEVELOPMENT NEGOTIATIONS WITH BUSINESS PROSPECTS THAT THE CITY SEEKS TO HAVE LOCATE, STAY OR EXPAND IN OR NEAR THE CITY

Mayor Johnson moves to Convene into Executive Session at 11:05 PM pursuant to Section 551.087 Tex. Gov't Code, to deliberate offers of financial or other incentives and economic development negotiations with business prospects that the city seeks to have locate, stay or expand in or near the city. Council Member Huebner seconds the motion. Mayor Johnson, Mayor Pro Tem Wilson, Council Members Hervol, Sanchez, Huebner and Pickett vote aye. Council Member Selbera was off the dais and did not vote.

RECONVENE INTO OPEN SESSION TO TAKE ANY AND ALL ACTIONS AS DEEMED APPROPRIATE IN THE CITY COUNCIL'S DISCRETION REGARDING OFFERS OF FINANCIAL OR OTHER INCENTIVES AND ECONOMIC DEVELOPMENT NEGOTIATIONS WITH BUSINESS PROSPECTS THAT THE CITY SEEKS TO HAVE LOCATE, STAY OR EXPAND IN OR NEAR THE CITY

Mayor Johnson moves to Reconvene into Open Session at 11:42 PM to take any and all actions as deemed appropriate in the City Council's discretion regarding offers of financial or other incentives and economic development negotiations with business prospects that the city seeks to have locate, stay or expand in or near the city. Council Member Huebner seconds the motion. All votes aye. Motion carried.

Mayor Johnson states that no action was taken during Executive Session and no action needs to be taken now.

ADJOURN

With no further business to discuss City Council Member Huebner moves to adjourn. Council Member Sanchez seconds the motion. All votes aye. Motion carries.



CITY COUNCIL MEETING  
June 21, 2011 – Page 9  
Kyle City Hall

The City Council meeting adjourned at 11:43 PM.

---

Lucy Johnson, Mayor

---

Amelia Sanchez, City Secretary



# CITY OF KYLE, TEXAS

## Employee of the Month

**Meeting Date: 7/5/2011**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Recognition of Employee of the Month for the Month of June ~ *Lanny Lambert, City Manager*

**Other Information:**

**Budget Information:**

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# CITY OF KYLE, TEXAS

## KPEA Presentation

**Meeting Date: 7/5/2011**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Presentation by the Kyle Police Employee Association regarding association activities  
~ *Sergeant Tracy Vrana*

**Other Information:**

**Budget Information:**

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# CITY OF KYLE, TEXAS

## Appointment-Planning and Zoning

Meeting Date: 7/5/2011  
Date time: 7:00 PM

**Subject/Recommendation:** Consideration of Nomination for Appointment to the Planning and Zoning Commission ~ *Mayor Lucy Johnson*

- *Daphne Tenorio*, Seat Five

**Other Information:** This seat was left vacant due to the fact that Norman Lloyd was deployed to Afghanistan.

**Budget Information:**

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 [Daphne Tenorio Committee Application](#)

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RECEIVED  
6-22-11



# INFORMATION STATEMENT AND COMMITTEE APPLICATION

Thank you for offering your services to the city of Kyle. Lucy Johnson, Mayor

NAME: Daphne Tenorio	TELEPHONE: (512) 293 0966
ADDRESS: 161 Orion CU Kyle TX	EMAIL: daphne@tenoriofamily.org
SUBDIVISION:	CURRENT OCCUPATION:

**COMMITTEES YOU ARE INTERESTED IN (rank by preference):**

- 1) Planning & zoning
- 2)
- 3)
- 4)

**PROFESSIONAL / EDUCATION / WORK BACKGROUND**

Accountant  
education  
Mom

**LIST ANY COMMUNITY / COMMITTEE INVOLVEMENT:**

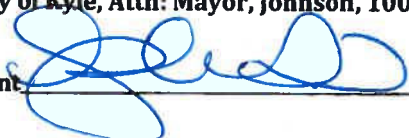
Hays CISD clothing closet  
PTA  
Three Gifts

**SPECIAL KNOWLEDGE OR EXPERIENCE APPLICABLE TO BOARD OR COMMISSION OF INTEREST.**

Thank you for taking the time to complete this application. The information will be helpful to the members of City Council in making appointments. You will be contacted before any action is taken on your appointment.

RESIDENT OF KYLE FOR 10 YEARS. ARE YOU REGISTERED TO VOTE IN THE CITY OF KYLE? YES  NO

Please return this form to: City of Kyle, Attn: Mayor, Johnson, 100 W. Center St., Kyle, TX 78640.

Signature of Applicant:  Date \_\_\_\_\_



**CITY OF KYLE, TEXAS**  
Community Relations Committee

**Meeting Date: 7/5/2011**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Consideration of Nomination(s) for Appointment to the Community Relations Committee ~ *Council Member Brad Pickett*

**Other Information:**

**Budget Information:**

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# CITY OF KYLE, TEXAS

## PSAP Interlocal

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

Consideration and Possible Action on Approval of the Interlocal Contract between the Capital Area Council of Governments (CAPCOG) and the City of Kyle, Texas for Public Service Answering Points (PSAP) Maintenance, Equipment Upgrade, and Training ~ *Jeff Barnett, Chief of Police*

**Other Information:**

**Budget Information:**

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**Attachments / click to download**

 [PSAP Letter](#)

 [PSAP Interlocal Contract](#)

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**Capital Area  
Council of  
Governments**

6800 Burlison Road  
Building 310, Suite 165  
Austin, Texas 78744

512.916.6000  
FAX 512.916.6001

[www.capcog.org](http://www.capcog.org)

**Bastrop**

**Blanco**

**Burnet**

**Caldwell**

**Fayette**

**Hays**

**Lee**

**Llano**

**Travis**

**Williamson**

**Counties**

June 17, 2011

City of Kyle  
Lanny Lambert  
City Manager  
100 W. Center Street  
Kyle, TX 78640

RE: FY2012/2013 PSAP Interlocal

Dear Mr. Lambert:

Please find the enclosed FY 2012/2013 PSAP Interlocal (2 originals). The documents describe how both your entity and CAPCOG will accomplish the delivery of 9-1-1 service throughout the biennium.

I respectfully request you sign and return all originals to our office by August 15, 2011. The new fiscal year starts September 1, 2011 and this will enable reimbursements and disbursements to be made shortly after the beginning of the new fiscal year. Upon receipt in our office, Betty Voights, Executive Director, will sign each, and one original will be returned to you. Please note that without the signed Interlocal in place CAPCOG is unable to reimburse your entity any funds expended on behalf of the 9-1-1 services.

Should you have any questions, please feel free to contact me at (512) 916-6044.

Sincerely,

Gregg Obuch  
Director of Emergency Communications



**CAPITAL AREA COUNCIL OF GOVERNMENTS****INTERLOCAL CONTRACT FOR PSAP MAINTENANCE, EQUIPMENT UPGRADE,  
AND TRAINING****Sec. 1. Parties and Purpose**

1.1. The Capital Area Council of Governments ("CAPCOG") is a regional planning commission and political subdivision of the State of Texas organized and operating under the Texas Regional Planning Act of 1965, chapter 391 of the Local Government Code, as amended. CAPCOG has developed a *Strategic Plan* to establish and maintain 9-1-1 emergency telephone service in State Planning Region 12, and the Texas Commission on State Emergency Communications has approved its current *Plan*.

1.2. The City of Kyle ("Public Agency") is a Texas home-rule municipality that operates one or more Public Service Answering Points (PSAPs) that assist in implementing the *Strategic Plan* as authorized by chapter 771 of the Health and Safety Code.

1.3. This contract is entered into between CAPCOG and Public Agency under chapter 791 of the Government Code so that Public Agency can maintain its PSAP(s), upgrade its equipment, and train its personnel to participate in the enhanced 9-1-1 emergency telephone system in the Region.

**Sec. 2. Goods and Services**

2.1. Public Agency agrees to:

(1) purchase supplies such as printer paper, printer ribbons, cleaning materials, etc. necessary for the continuous operation of its PSAP(s);

(2) upgrade its PSAP equipment and software, as authorized in the current *Strategic Plan*, by requesting CAPCOG to purchase new equipment and software;

(3) protect the PSAP equipment and secure the premises of its PSAP(s) against unauthorized entrance or use;

(4) practice preventive maintenance for the PSAP equipment;

(5) provide emergency communications training to call-takers/dispatchers as described in CAPCOG's *9-1-1 Policies and Procedures Manual*;

(6) protect the confidentiality of 9-1-1 database information and of information furnished by telecommunications providers, and notify CAPCOG's Emergency Communications Department in writing within two business days of the receipt of a request for 9-1-1 database information, or for information furnished by telecommunications providers, made under the Texas Public Information Act;

(7) use the Emergency Notification Services database information only to warn or alert citizens of an emergency situation where property or human life is in jeopardy, and protect the database information from unauthorized use.

### **Sec. 3. Contract Price and Payment Terms**

3.1. CAPCOG agrees to compensate Public Agency in the total amount of not to exceed **\$500.00** for its performance of this contract.

3.2. Within 30 calendar days after the effective date of this contract, CAPCOG agrees to pay Public Agency \$ **500.00** for the purchase of supplies authorized by the current *Strategic Plan*.

3.3. If Public Agency made expenditures under this contract in violation of applicable law or policy described in Sec. 6, Public Agency agrees to repay CAPCOG for those expenditures within 60 calendar days from the date CAPCOG notifies Public Agency of the repayment amount due and the reason repayment is required. If Public Agency does not repay the reimbursement when required, CAPCOG may refuse to purchase 9-1-1 equipment on Public Agency's behalf and may withhold all or part of the unpaid reimbursement from Public Agency's future entitlement to reimbursement under this or future interlocal contracts between the parties for PSAP maintenance, equipment upgrade, and training.

3.4. (a) Before the 60-day repayment period expires, Public Agency may appeal in writing to CAPCOG its determination that Public Agency repay the reimbursement, explaining why it believes the determination is wrong, or Public Agency may request CAPCOG in writing to extend the 60-day repayment period, proposing an alternative period and justifying its need, or it may both appeal and propose an extension. CAPCOG agrees to submit the appeal or proposal or both to the Texas Commission on State Emergency Communications with its recommendation and to furnish Public Agency with a copy of its recommendation. The Commission's decision on Public Agency's appeal or proposal or both is final.

(b) The appeal authorized by Sec. 3.4 (a) is the only mechanism for challenging CAPCOG's determination under Sec. 3.3 that Public Agency repay the reimbursement. The early termination provisions of Sec. 10 and dispute resolution process of Sec. 11 are not available to challenge CAPCOG's determination.

### **Sec. 4. Effective Date and Term of Contract**

4.1. This contract takes effect September 1, 2011 and it ends, unless sooner terminated under Sec. 10, on August 31, 2013.

## **Sec. 5. Performance Reports**

5.1. Public Agency agrees to report to CAPCOG, by the 20<sup>th</sup> of each month, on its performance of this contract using the CAPCOG reporting tool located at psap.capcog.org or at the latest URL address provided by CAPCOG.

## **Sec. 6. Compliance with Applicable Law and Policy**

6.1. Public Agency agrees to comply with all applicable law and policy in carrying out this contract. Applicable law and policy include but are not limited to the State Administration of Emergency Communications Act, chapter 771, Texas Health and Safety Code; rules implementing the Act contained in title I, part XII, Texas Administrative Code; the current *Uniform Grant Management Standards* (Governor's Office of Budget and Planning); Texas Commission on State Emergency Communications, *9-1-1 PROGRAMS Policies and Procedures* and *Program Policy Statements*; the current CAPCOG *Strategic Plan*; and CAPCOG's *9-1-1 Policies and Procedures Manual* and *ENS Policies & Procedures*.

## **Sec. 7. Independent Contractor, Assignment and Subcontracting**

7.1. Public Agency is not an employee or agent of CAPCOG, but furnishes goods and services under this contract solely as an independent contractor.

7.2. Public Agency may not assign its rights or subcontract its duties under this contract without the prior written consent of CAPCOG. An attempted assignment or subcontract in violation of this Sec. 7.2 is void.

7.3. If CAPCOG consents to subcontracting, each subcontract is subject to all of the terms and conditions of this contract, and Public Agency agrees to furnish a copy of this contract to each of its subcontractors.

## **Sec. 8. Records and Monitoring**

8.1. Public Agency agrees to maintain financial, statistical, and ANI/ALI records adequate to document its performance, costs, and receipts under this contract. Public Agency agrees to maintain these records at Public Agency's offices.

8.2. Subject to the additional requirement of Sec. 8.3, Public Agency agrees to preserve the records for three state fiscal years after receiving its final payment under this contract.

8.3. If an audit of or information in the records is disputed or the subject of litigation, Public Agency agrees to preserve the records until the dispute or litigation is finally concluded, regardless of the expiration or early termination of this contract.

8.4. CAPCOG is entitled to inspect and copy, during normal business hours at Public Agency's offices where they are maintained, the records maintained under this contract for as

long as they are preserved. CAPCOG is also entitled to visit Public Agency's offices, talk to its personnel, and audit its records, all during normal business hours, to assist in evaluating its performance under this contract.

8.5. CAPCOG will at least once per year visit Public Agency's offices and monitor its performance of this contract to ensure compliance with applicable law and policy described in Sec. 6. CAPCOG will provide Public Agency a written monitoring report within 30 calendar days of the visit. The report will describe any compliance issues and schedule a follow-up visit if necessary.

8.6. CAPCOG agrees to notify Public Agency at least 24 hours in advance of any intended visit under this Sec. 8. Upon receipt of CAPCOG's notice, Public Agency agrees to notify the appropriate department(s) specified in the notice.

8.7. The Texas Commission on State Emergency Communications and the Texas State Auditor have the same inspection, copying, and visitation rights as CAPCOG.

### **Sec. 9. Nondiscrimination and Equal Opportunity**

9.1. Public Agency shall not exclude anyone from participating under this contract, deny anyone benefits under this contract, or otherwise unlawfully discriminate against anyone in carrying out this contract because of race, color, religion, sex, age, disability, handicap, veteran status, or national origin.

9.2. If Public Agency procures goods or services with funds made available under this contract, Public Agency agrees to comply with CAPCOG's affirmative action procurement policy, which is set out in CAPCOG's *9-1-1 Policies and Procedures Manual*.

### **Sec. 10. Suspension and Early Termination of Contract**

10.1. Public Agency acknowledges that CAPCOG's sole source of funding for this contract is a legislative appropriation distributed under contract between CAPCOG and the Texas Commission on State Emergency Communications. If the Commission does not make timely payments to CAPCOG under its contract, CAPCOG may suspend payment to Public Agency under this contract by giving Public Agency notice of the suspension. The suspension is effective five business days after Public Agency's receipt of the notice. Upon suspension of payment, Public Agency's obligations under this contract are also suspended until CAPCOG resumes payment. If the suspension continues for a cumulative total of 30 or more calendar days, or if the Commission terminates its contract with CAPCOG, CAPCOG or Public Agency may terminate this contract by giving the other notice of termination, and this contract terminates five business days after the receipt of notice.

10.2. Except as provided in Secs. 3.3 and 3.4, if CAPCOG or Public Agency breaches a material provision of this contract, the other may notify the breaching party describing the breach and demanding corrective action. The breaching party has five business days from its receipt of the notice to correct the breach, or to begin and continue with reasonable diligence and in good

faith to correct the breach. If the breach cannot be corrected within a reasonable time, despite the breaching party's reasonable diligence and good faith effort to do so, the parties may agree to terminate the contract or either party may invoke the dispute resolution process of Sec. 11.

10.3. If CAPCOG suspends payment to Public Agency under Sec. 10.1, or if this contract is terminated under Sec. 10.1 or 10.2, CAPCOG and Public Agency are each entitled to compensation for goods and services each provided the other before receiving notice of the suspension or termination. However, neither CAPCOG nor Public Agency is liable to the other for costs it paid or incurred under this contract after or in anticipation of its receipt of notice of suspension or termination.

10.4. Termination for breach under Sec. 10.2 does not waive either party's claim for damages resulting from the breach, and both CAPCOG and Public Agency among other remedies may withhold from compensation owed the other an amount necessary to satisfy its claim against the other.

10.5. The ending of this contract under Sec. 4 or its early termination under this Sec. 10 does not affect Public Agency's duty:

(1) to repay CAPCOG for expenditures made in violation of applicable law or policy in accordance with paragraphs 3.3 and 3.4;

(2) to preserve its records and permit inspection, copying, and auditing of its records and visitation of its premises and personnel under Sec. 8.

### **Sec. 11. Dispute Resolution**

11.1. The parties desire to resolve disputes arising under this contract without litigation. Accordingly, if a dispute arises, the parties agree to attempt in good faith to resolve the dispute between themselves. To this end, the parties agree not to sue one another, except to enforce compliance with this Sec. 11, toll the statute of limitations, or seek an injunction, until they have exhausted the procedures set out in this Sec.

11.2. At the written request of either party, each party shall appoint one nonlawyer representative to negotiate informally and in good faith to resolve any dispute arising under this contract. The representatives appointed shall determine the location, format, frequency, and duration of the negotiations.

11.3. If the representatives cannot resolve the dispute within 30 calendar days after the first negotiation meeting, the parties agree to refer the dispute to the Dispute Resolution Center of Austin for mediation in accordance with the Center's mediation procedures by a single mediator assigned by the Center. Each party shall pay half the cost of the Center's mediation services.

11.4. The parties agree to continue performing their duties under this contract, which are unaffected by the dispute, during the negotiation and mediation process.

11.5. If mediation does not resolve the parties' dispute, the parties may pursue their legal and equitable remedies.

**Sec. 12. Notice to Parties**

12.1. Notice to be effective under this contract must be in writing and received by the party against whom it is to operate. Notice is received by a party: (1) when it is delivered to the party personally; (2) on the date shown on the return receipt if mailed by registered or certified mail, return receipt requested, to the party's address specified in Sec. 12.2 and signed for on behalf of the party; or (3) three business days after its deposit in the United States mail, with first-class postage affixed, addressed to the party's address specified in Sec. 12.2.

12.2. CAPCOG's address is 6800 Burleson Rd., Bldg. 310, Ste. 165, Austin, TX 78744, Attention: Executive Director. Public Agency's address is \_\_\_\_\_, Attention:\_\_\_\_\_.

12.3. A party may change its address by providing notice of the change in accordance with Sec. 12.1.

**Sec. 13. Miscellaneous**

13.1. Each individual signing this contract on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

13.2. This contract states the entire agreement of the parties, and an amendment to it is not effective unless in writing and signed by all parties.

13.3. This contract is binding on and inures to the benefit of the parties' successors in interest.

13.4. This contract is executed in duplicate originals.

CITY OF     Kyle    

CAPITAL AREA COUNCIL OF  
GOVERNMENTS

By \_\_\_\_\_

By \_\_\_\_\_

Betty Voights  
Executive Director

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## CITY OF KYLE, TEXAS

### Hidden Oaks Section Two Replat of Lots 65 and 66R

Meeting Date: 7/5/2011  
Date time: 7:00 PM

**Subject/Recommendation:**

Hidden Oaks Section Two Replat of Lots 65 and 66R (SFP-11-003)  
1.575 acres; 3 commercial lots  
Owner: Kyle Vet Holdings LLC and Tri Vet Properties LLC  
Agent: Ward Richter, Richter Resources, Inc.  
~ Shira Rodgers, Director of Planning

*Planning and Zoning Commission voted 5-0 to Statutorily Disapprove the replat to meet the 30 day statutory requirement.*

**Other Information:**

*(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the Planning and Zoning Commission and City Council).*

**Budget Information:**

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## CITY OF KYLE, TEXAS

### Kyle Marketplace Section 1 Replat of Lot 1 Block A

Meeting Date: 7/5/2011  
Date time: 7:00 PM

**Subject/Recommendation:**

Kyle Marketplace Section 1 Replat of Lot 1 Block A  
37.624 acres; 2 commercial lots  
Located at the northwest intersection of Kyle Parkway/FM 1626 and  
IH-35  
Owner: Kyle Marketplace Ltd.  
Agent: Doucet & Associates, Inc.  
~ Shira Rodgers, Director of Planning

*Planning and Zoning Commission voted 5-0 to Statutorily Disapprove  
the replat to meet the 30 day statutory requirements.*

**Other Information:**

*(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of  
the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004,  
12.06.04 the following applications are recommended for statutory disapproval in  
order to allow the City to process the application. These applications will continue  
through the review process without bias and will be placed on the agenda in a timely  
manner once the review process is complete. Statutory disapproval in order to meet  
statutory requirements under these sections shall not bias future consideration of this  
application by the Planning and Zoning Commission and City Council).*

**Budget Information:**

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# CITY OF KYLE, TEXAS

## Kyle Towne Center Replat of Lot 1 Block A

**Meeting Date: 7/5/2011**  
**Date time: 7:00 PM**

**Subject/Recommendation:**

Kyle Towne Center Replat of Lot 1 Block A (SFP-11-004)  
80.801 acres; 2 commercial lots  
Located at the southwest intersection of Kyle Crossing and IH-35  
Owner: Sterling/Babcock & Brown, LP  
Agent: Doucet & Associates, Inc.  
~ Shira Rodgers, Director of Planning

*Planning and Zoning Commission voted 5-0 to Statutorily Disapprove the replat to meet the 30 day statutory requirements.*

**Other Information:**

*(Note: Statutory Disapproval (Note: In accordance with the statutory requirements of the Texas Local Government Code reflected in Sections 12.03.001, 12.05.004, 12.06.04 the following applications are recommended for statutory disapproval in order to allow the City to process the application. These applications will continue through the review process without bias and will be placed on the agenda in a timely manner once the review process is complete. Statutory disapproval in order to meet statutory requirements under these sections shall not bias future consideration of this application by the Planning and Zoning Commission and City Council).*

**Budget Information:**

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# CITY OF KYLE, TEXAS

## Kohler's and Kyle Crossing

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

*(Second Reading)* AN ORDINANCE OF THE CITY OF KYLE, TEXAS AUTHORIZING AND DIRECTING THE INSTALLATION AND ERECTION OF FOUR WAY STOP SIGNS FOR THE ZONING OF TRAFFIC CONTROL ON KOHLER CROSSING AT THE INTERSECTION OF KYLE CROSSING IN THE CITY LIMITS OF KYLE; FIXING A PENALTY THEREFOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF ~ *James Earp, Assistant City Manager*

**Other Information:**

**Budget Information:**

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[Stop Sign Ordinance Kohler's and Kyle Crossing](#)

[Map of 4 Way Stop](#)

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS AUTHORIZING AND DIRECTING THE INSTALLATION AND ERECTION OF FOUR WAY STOP SIGNS FOR THE ZONING OF TRAFFIC CONTROL ON KOHLER CROSSING AT THE INTERSECTION OF KYLE CROSSING IN THE CITY LIMITS OF KYLE; FIXING A PENALTY THEREFOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF.**

**Whereas**, the regulation of traffic, motor vehicles and conveyances upon all public streets, roadway and right-of-ways constituting a speed zone within the City limits is essential and necessary to protect and to preserve the public safety of the City of Kyle, Texas (the "City"), and;

**Whereas**, the: Police Chief; City Engineer; Lockwood, Andrews & Newnam, Inc; City Manager; and, City Council have reviewed the situation and issues that are the subject matter of this Ordinance, and;

**Whereas**, after review, inquiry and the opportunity for citizen participation, the City Council has found the four way stop at Kohler Crossing and Kyle Crossing, hereinafter set forth and listed in this Ordinance are reasonable and necessary for the public safety and are supported by sound and accepted public safety criteria.

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

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

**Section 2. Ratification and Confirmation.** The installation, placement, erection, and enforcement of traffic control and/or stop signs are hereby confirmed and ratified by the City Council:

- a) *Kohler Crossing*, at the intersection of Kyle Crossing
- b) *Kyle Crossing*, at the intersection of Kohler Crossing

**Section 3. Enforcement and Traffic Control Signs.** The City Council hereby orders and directs that new stop signs hereinafter set forth be placed, installed and erected at the appropriate locations and that each such sign and/or device be hereafter maintained and enforced by the City.

**Section 4. Repeal of Conflicting Ordinances.** All parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of the most restrictive ordinance shall govern.

**Section 5. Violation and Penalties.** It shall be unlawful for any person to drive or operate a motor vehicle that does not properly observe all applicable laws and regulations pertaining to vehicular and/or pedestrian stops at designated intersections. Further, it shall be unlawful for any person to tamper with, alter, remove, destroy, cover or hinder the visibility, of any traffic device control device erected by this Ordinance in a manner which is inconsistent with its use as a traffic control device. Any person who violates this Ordinance or part thereof shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$200.00.

**Section 6. Open Meetings.** That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

**Section 7. Effective Date.** This ordinance shall be in full force and effect from and after the date of its final passage and adoption in accordance with the provisions of the Kyle City Charter.

**PASSED AND APPROVED on First Reading this \_\_\_\_ day of \_\_\_\_\_, 2011.**

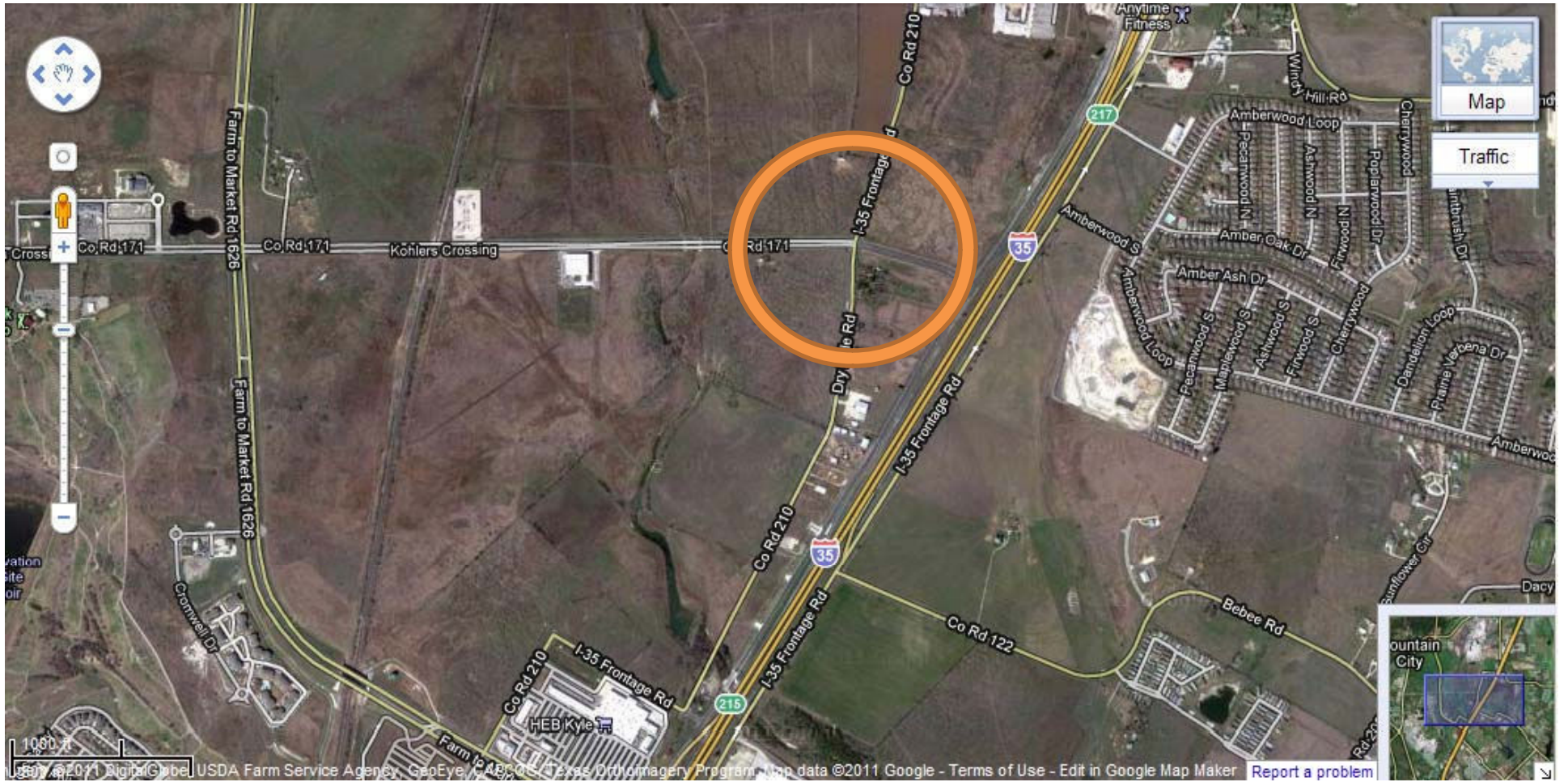
**FINALLY PASSED AND APPROVED on this the \_\_\_\_ day of \_\_\_\_\_, 2011.**

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Amelia Sanchez, City Secretary

\_\_\_\_\_  
Lucy Johnson, Mayor





# CITY OF KYLE, TEXAS

## Lake Kyle Construction Contract

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

A RESOLUTION OF THE CITY OF KYLE, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE A CONSTRUCTION CONTRACT BETWEEN THE CITY OF KYLE, TEXAS AND T.F. HARPER & ASSOCIATES LP FOR CONSTRUCTION WORK RELATED TO LAKE KYLE AS FURTHER DESCRIBED IN ATTACHED EXHIBIT; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS ~ *Kerry Urbanowicz, Director of Parks, Recreation & Facility Maintenance*

**Other Information:**

Current plans are to utilize the cooperative interlocal agreement the City of Kyle has with Choice Facility Partners to acquire building materials and labor to develop the park elements to satisfy the TPWD Grant and the Hays County Grant. This additional contract with the General Contractor is presented at the request of the City Manager.

**Budget Information:**

n/a as this entire project is being funded by grants.

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

[Lake Kyle Construction Contract](#)

[Kyle Park Improvement Contract](#)

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF KYLE, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE A CONSTRUCTION CONTRACT BETWEEN THE CITY OF KYLE, TEXAS AND T.F. HARPER & ASSOCIATES LP FOR CONSTRUCTION WORK RELATED TO LAKE KYLE AS FURTHER DESCRIBED IN ATTACHED EXHIBIT; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the City of Kyle acquired and dedicated parkland on Lehman Road for the purpose of developing a city park, here forth known as Lake Kyle; and,

**Whereas**, the City of Kyle has secured grant funding for the construction and development of the park to be known as Lake Kyle.

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

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

**Section 2. Authorization.** The Mayor is hereby authorized to execute the agreement between the City of Kyle and T.F. Harper & Associates, LP, a copy of which is attached hereto and marked Exhibit A; and made part of this Resolution as if copied verbatim herein.

**Section 3. Budget Approval.** The current *FY2010-11 Annual Operating Budget* has been amended to adequately fund this contract with grant funding secured through Texas Parks & Wildlife Department and Hays County Parks Grants Bond.

**Section 4. Certification of Funds.** The City Manager and/or Finance Director do hereby certify, in compliance with the specific requirements of Article VIII, Section 8.10 of the *Kyle City Charter*, that there is to the credit of such office, department, or agency as described herein sufficient unencumbered funds and appropriations, as approved in the aforementioned *FY2010-11 Annual Operating Budget*, to pay for the contractual services that are the subject matter of this Resolution.

**Section 5. Effective Date.** This Resolution shall take effect from and after the date of its passage as authorized by the Charter of the City of Kyle.

**Section 6. Open Meetings.** That it is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Local Government Code.

**FINALLY PASSED AND APPROVED on this the \_\_\_\_ day of \_\_\_\_\_, 2011.**

**Attest:**

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor



*Exhibit “A”*



construction is built per plans & specifications & documents in connection with the completion of the Work.

#### **ARTICLE 4 – CONTRACT TIMES**

##### *4.01 Notice to Proceed*

- A. Notice to Proceed shall be a written notice given by Owner to Contractor establishing the date on which the Contract Time will commence to run, and on which Contractor may begin performance of its contractual obligations.

##### *4.02 Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

##### *4.03 Days to Achieve Substantial Completion and Final Payment*

- A. The Work will be substantially completed **within 210 days** after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions. The Work will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 240 days after the date when the Contract Times commence to run as provided in Paragraph 2.03.

##### *4.04 Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.03 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration preceding the actual loss suffered by Owner if the Work is not complete on time. Accordingly, instead of requiring any such proof, Owner and Contractor agrees that as liquidated damages for delay (but not as a penalty), Owner shall have the right to withhold from amounts due to Contractor the sum of \$250 for each day that expires after the time specified in Paragraph 4.03 above for Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner. Owner shall also have the right to withhold from amounts due to Contractor the sum of \$250 for each day that expires after the time specified in Paragraph 4.03 above for completion and readiness for final payment until the

Work is completed and ready for final payment. In no event shall liquidated damages ever exceed \$250 per day.

## **ARTICLE 5 – CONTRACT PRICE**

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A:

- A. For all Work, at the prices stated in Contractor’s Bid & City of Kyle’s Purchase Order #, attached hereto as Exhibit “D”. The Contract sum as stated in Exhibit “D” and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

## **ARTICLE 6 – PAYMENT PROCEDURES**

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Design Team as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make undisputed progress payments on account of the Contract Price on the basis of Contractor’s Application for Payments which have been approved for payment by the Design Team, less any amounts Owner withholds in accordance with the terms of this Contract. Undisputed payments which are due and owing to Contractor shall be payable within 15 days after the Application for Payment has been submitted to the Design Team. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
- B. Contractors Application for payment must include supporting, INCLUDING BUT NOT LIMITED TO: CERTIFIED PAYROLLS, AN UPDATED SCHEDULE, DAILY LOGS, AND UPDATED SUBMITTAL SCHEDULE. Such application shall be notarized, if required, and supported by such data substantiating the Contractor’s right to payment as the Owner or Design Team may require, such as copies of requisitions from Subcontractors and material suppliers, and reflecting retainage. Such applications may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or

material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

- C. The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work. CONTRACTOR SHALL INDEMNIFY AND HOLD OWNER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTEREST OR ENCUMBRANCES FILED BY THE CONTRACTOR, SUBCONTRACTORS, OR ANYONE CLAIMING BY, THROUGH OR UNDER THE CONTRACTOR OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY THE OWNER TO CONTRACTOR
- D. Owner shall have the right to withhold retainage in the amount of 5% from each payment due to Contractor under this Contract. Retainage which is due to Contractor after final completion of the work shall be paid to Contractor no later than 15 days after the final payment is made to Contractor.

#### 6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price then due and payable to Contractor, as provided in said Paragraph 14.07, within fifteen (15) days of Owner's receipt of the Design Team's recommendation pursuant to Paragraph 14.07.B of the General Conditions.

### **ARTICLE 7 – INTEREST**

- 7.01 Undisputed payments not made when due shall accrue interest in accordance with the provisions of Chapter 2251 of the Texas Government Code.

### **ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS**

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
  - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work, including weather conditions, typical for the location of the project.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relation to existing surface or subsurface structures at the Site (except Underground Facilities).
- E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; Information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Design Team written notice of all conflicts, errors, ambiguities, or discrepancies that contractor has discovered in the Contract Documents, and the written resolution thereof by Design Team is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

- J. Contractor is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to perform its obligations under the Contract Documents.
- K. Contractor is able to furnish the tools, materials, supplies, equipment and labor required to perform its obligations hereunder and has sufficient experience and competence to do so.

## **ARTICLE 9 – CONTRACT DOCUMENTS**

### *9.01 Contents*

- A. The Contract Documents consist of the following:
  - 1. This Agreement.
  - 2. General Conditions.
  - 3. Specifications as listed on the plan sheets.
  - 4. Drawings consisting of the Drawings listed on attached sheet index.
  - 8. Exhibits to this Agreement (enumerated as follows):
    - a. Exhibit “A” Insurance Requirements,
    - b. Exhibit “B” Prevailing Wage Rate Requirements, and
    - c. Exhibit “C” Priority Water Boundary Project Area.
    - d. Exhibit “D” Contractor’s Bid & City of Kyle’s Purchase Order #.
  - 9. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
    - a. Notice to Proceed (Written, pages 1 to 1, inclusive).
    - b. Work Change Directives.
    - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9. The Contract Documents, as defined in Section 9.01.A are expressly incorporated into and made a part of this Contract between the Owner and the Contractor by

reference in this Section. The Contract Documents represent the entire and integrated agreement between the Owner and the Contractor and supersede all prior negotiations, representations or agreements, either written or oral.

- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the general Conditions.

## **ARTICLE 10 – MISCELLANEOUS**

### *10.01 Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### *10.02 Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. Owner's consent must be approved by the Kyle City Council.

### *10.03 Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

### *10.04 Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intentions of the stricken provision.

### *10.05 Contractor's Certifications*



- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
1. “corrupt practices” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### 10.06 *Other Provisions*

1. Contractor agrees and warrants to Owner that all Work performed under this Contract will be performed in a good and workmanlike manner, in accordance with the designs and specifications, and terms of the Contract Documents, and in compliance with all applicable, Federal, State and local laws and regulations.
2. The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Contractor’s usual source, and the cost thereof shall be included in the cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Price. Statutory Payment and Performance Bonds for the performance of the Work and for payment of those who provide labor and materials will be required within 10 days after Contractor executes the Contract. No Work shall be performed under the Contract until the bonds have been provided and approved by Owner. Any provisions in the Contract Documents to the contrary notwithstanding, all bonds must comply with Chapter 2253, Texas Government Code, including the requirement that such bonds must be executed by a corporate surety licensed to do business in the State of

Texas in accordance with Article 7.13-1, Texas Insurance Code. Such bonds shall be on forms supplied or approved by Owner. Surety shall be listed as an approved surety by the U.S. Treasury Department. If any surety on any bond becomes insolvent or is unable to perform its obligations thereunder, the Contractor shall immediately furnish other bonds meeting the requirements of this Contract from a different surety or other equivalent security acceptable to Owner to protect the interests of Owner and persons furnishing labor and materials to the Project.

3. Paragraphs 5.03 through 5.09 of the General Conditions are replaced with Exhibit "A" to the Contract. The Contractor is required to maintain and comply with the insurance requirements set out in Exhibit "A" attached hereto and incorporated herein and to require subcontractors to comply with the applicable provision. Notwithstanding any other provision in the Contract Documents, Contractor has no obligation to obtain a Builder's Risk "all risk" policy.
4. The Contractor and each subcontractor who performs Work under this Contract, must comply with the prevailing wage rate requirements set out in Chapter 2258 of the Texas Government Code. The Contractor and each subcontractor must pay not less than the prevailing wage rates described in Exhibit "B" attached hereto and incorporated herein.
5. Any provision of the Contract Documents to the contrary notwithstanding, it is expressly agreed that the extension of the Contract Time shall be Contractor's sole remedy for any delay unless the same shall have been caused by acts constituting interference by the Owner which interfere with Contractor's performance of the Work, and then only to the extent that such acts continue after Contractor's written notice to Owner of such interference. Owner's exercise of any of its rights or remedies under the Contract shall not under any circumstances be construed as interference with Contractor's performance of the Work.
6. Any notice, communication, request, reply or advice (severally and collectively referred to as "Notice") in this Agreement provided or permitted to be given, made or accepted by either Party to the other must be in writing. Notice may, unless otherwise provided herein, be given or served: (a) by depositing the same in the United States Mail, certified, with return receipt requested, addressed to the Party to be notified and with all charges prepaid; (b) by depositing the same with Federal Express or another service guaranteeing "next day delivery", addressed to the Party to be notified and with all charges prepaid; (c) by delivering the same to

such party; or (d) by transmitting the same to the Party to be notified by telecopy or email during normal business hours, provided that receipt for such telecopy is verified by the sender. Except as provided herein, notices hereunder shall be effective on the date of deliver, deposit or transmittal in the manner described hereinabove. Any notice required or permitted to be given under the Contract shall be deemed delivered three days after it is deposited in the U.S. Mail, when sent by certified mail, return receipt requested, postage prepaid, correctly addressed to the party at the address set out on the first page of this Agreement. The Design Team shall be copied on any notice sent to Owner.

7. Contractor recognizes and agrees that any substantial modification of the Contract may require the approval of the Kyle City Council. Owner in its sole discretion shall determine whether City Council approval is required in connection with any Change Order.
8. Paragraph 3.02 of the General Conditions is modified by substituting the words “at the time of the Effective Date of the Contract” for the words “at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids).”
9. Paragraph 6.01 of the General Conditions is modified by the addition of the following words to the end of the last sentence “except for failure to comply with Paragraph 3.03 of the General Conditions.”
10. Paragraph 6.06.G of the General Conditions is hereby modified to read as follows:  

“All Work performed for Contractor by a Subcontractor will be pursuant to an appropriate written agreement between Contractor and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Design Team. In the event the Payment Bond and Performance Bond do not cover a payment claim by a Supplier, then Contractor shall be responsible for paying said Supplier.
11. Paragraph 6.07.B of the General Conditions is deleted in its entirety.
12. Paragraph 10.01.A of the general Conditions is modified to read as follows:

A. Owner and Contractor, upon their mutual consent and agreement to the terms, shall execute appropriate Change Orders recommended by Design Team covering:

13. Subparagraph 3 of Paragraph 15.03 of the General Conditions is deleted in its entirety.
14. Paragraph 16.01.C of the General Conditions is modified by substituting the words “within a reasonable time period thereafter” for the words “within that time period.”
15. If no Supplementary Conditions have been prepared by the Design Team, the term “Contract Documents” shall replace the term “Supplementary Conditions” as used in the General Conditions.
16. Any provision of the Contract Documents requiring Owner to indemnify Contractor or any other person is deleted in its entirety.
17. The following provisions are added to the Contract:

Any provisions in the Contract Documents to the contrary notwithstanding, Owner and Contractor each hereby waive any and all rights of recovery, claims, actions or causes of action against the other, its officers, employees, agents, and members of its governing body, for any property damage or personal injury which is insured against by the Contractor or any of Contractor’s subcontractors, to the extent of any proceeds actually received and applied to the payment of such costs or damages.

By signing the agreement or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the project will be covered by workers’ compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification code and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission’s Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions. The Contractor’s failure to comply with any of these provisions is a breach of Contract by the Contractor which entitles the Owner to declare the Contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the Owner.

18. In the event of a conflict between the terms of this Contract and the terms of the General Conditions, the terms of this Contract shall control.
19. Paragraph 6.08.A of the General Conditions is modified to read as follows:

“Owner shall obtain all local, state and federal permits and approvals necessary for the Project. Owner represents to Contractor that all necessary local, state and federal permits and approvals have been obtained and a copy of such permits and approvals have been delivered to Contractor no later than the date that the Notice to Proceed is issued. Contractor shall not be responsible for any delays caused by Owner not obtaining a required permit for the Project. Contractor shall comply with all requirements of all necessary local, state and federal permits and approvals necessary for the project.”
20. Paragraph 6.09.B is modified by: a) modifying the first sentence to read as follows: “If Contractor performs any Work with actual knowledge or having reason to know that the Work is contrary to Laws or Regulations, Contractor...” and b) adding a new sentence to read as follows: “For purposes of this Paragraph 6.09.B, the phrase “Law or Regulations” does not include any local, state or federal environmental laws.”
21. Paragraph 12.03.C of the General Conditions is modified by deleting the word “abnormal.”
22. Notwithstanding any contrary provisions in the Contract, the Owner shall have the right to phase the Work which may decrease the original Contract Price by more than Twenty percent (20%). Contractor acknowledges and agrees Owner may phase the Work and that the Contractor waives its right to consent provided for in Texas Local Government Code Section 252.048, if the cumulative removal of any element(s) of the Work results in a decrease of no more than twenty five percent (25%) of the original Contract Price. Prior to any Change Order that removes any portion of the Work, Owner shall consult with Contractor and Owner shall obtain the approval of the Design Team. Approval by the Design Team shall not be unreasonably withheld and the parties shall execute a Change Order documenting the decrease to the Contract Price, the change in the Work and the change to the Contract Times, if any. Prior to payment of the Final Payment as described in Paragraph 6.03 of the Contract, Owner reserves the right to request the execution of a Change Order to add any of the removed or modified portions of the Work to the Project. This paragraph

does not modify any of the Change Order or Claim provision set forth in the Contract Documents.

*IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.*

Executed to be Effective as of the Date of the Contract.

**OWNER:**

City of Kyle, Texas

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CONTRACTOR:**

T. F. Harper & Associates LP

By: Harper Services, LLC, General Partner of T.F. Harper & Associates, LP

By: \_\_\_\_\_

Thomas F. Harper, Manager of Harper Services, LLC, in its capacity as general partner for T.F. Harper & Associates, LP

## EXHIBIT "A"

### Insurance Requirements

#### (1) General Requirements

Contractor shall carry insurance in the types and amounts indicated below for the duration of the Contract, which shall include items owned by Owner in the care, custody and control of Contractor prior to and during construction and warranty period.

Contractor must complete and forward the Certificate of Insurance to Owner before the Contract is executed as verification of coverage required below. Contractor shall not commence Work until the required insurance is obtained and until such insurance has been reviewed by Owner. Approval of insurance by Owner shall not relieve or decrease the liability of Contractor hereunder and shall not be construed to be a limitation of liability on the part of Contractor. Contractor must also complete and forward the Certificate of Insurance to Owner whenever a previously identified policy period has expired as verification on continuing coverage.

Contractor's Insurance coverage is to be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of A or better.

All endorsements naming the Owner as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall indicate: Owner, and the address set forth of Owner in the Agreement.

The "other" insurance clause shall not apply to the Owner where the Owner is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both Owner and Contractor, shall be considered primary coverage as applicable.

If insurance policies are not written for amounts specified below, Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If excess Liability Insurance is provided, it shall follow the form of the primary coverage.

Owner reserves the right to review the Insurance requirements set forth during the effective period of this Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by Owner based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as Contractor. Provided, however, in the event of any such adjustments by Owner, Contractor shall be entitled to a Change Order for any increased costs Contractor incurs as a result of such adjustments.

Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

Contractor shall provide Owner thirty (30) days written notice of erosion of the aggregate limits below occurrence limits for all applicable converges indicted within the Contract.

If Owner owned property is being transported or stored off-site by Contractor, then the appropriate property policy will be endorsed for transit and storage in an amount sufficient to protect Owner's property.

The insurance coverage required under this contract are required minimums and are not intended to limit the responsibility or liability of Contractor.

(2) **Business Automobile Liability Insurance.** Provide coverage for all owned, non-owned and hired vehicles. The policy shall contain the following endorsements in favor of Owner or such alternate endorsement designations as Owner may hereafter specify:

- (a) Waiver of Subrogation endorsement TE 2046A;
- (b) 30 day Notice of Cancellation endorsement TE 020A; and
- (c) Additional Insured endorsement TE 9901 B.
- (d) Provide converge in the following types and amounts:

*A minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability each accident.*

(3) **Workers' Compensation And Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Section 401). Contractor shall assure compliance with this Statute by submitting two (2) copies of a standard certificate of coverage (e.g. ACCORD form) to Owner for every person providing services on the Project as acceptable proof of coverage. The Certificate of Insurance must be presented as evidence of coverage for Contractor. Workers' Compensation Insurance coverage written by the Texas Workers Compensation Fund is required, unless Owner agrees otherwise in writing, Contractor's policy shall apply to the State of Texas and include these endorsements in favor of Owner.

- (a) Waiver of Subrogation, form WC 420304; and
- (b) 30 days Notice of Cancellation, form WC 420601.



- (c) The minimum policy limits for Employers' Liability Insurance coverage shall be as follows:

*\$500,000 bodily injury per accident, \$500,000 bodily injury by disease policy limit and \$500,000 bodily injury by disease each employee.*

- (4) **Commercial General Liability Insurance.** The Policy shall contain the following provisions:

- (a) Blanket contractual liability coverage for liability assumed under the Contract and all contracts relative to this Project.
- (b) Completed Operations/Products Liability for the duration of the warranty period.
- (c) Explosion, Collapse and Underground (X, C & U) coverage.
- (d) Independent Contractors coverage.
- (e) Aggregate limits of insurance per project, endorsement CG 2503.
- (f) Owner listed as additional insured, endorsement CG 2010.
- (g) 30 day notice of cancellation in favor of Owner, endorsement CG 0205.
- (h) Waiver of Transfer of Recovery Against Others in favor of Owner, endorsement CG 2404.
- (i) Provide coverage categories A & B with minimum limits as follows: A combined bodily injury and property damage limit of \$2,000,000 per occurrence.

**Subcontractor Insurance Requirements:**

- (1) Unless waived by Owner, the following forms of insurance are the minimum coverage requirements are to be furnished by all Subcontractors, and deductibles shall not exceed ten thousand dollars (\$10,000). The Contractor has the option to require higher limits of liability from designated Subcontractors in the form of primary or excess liability coverage.
  - (a) Workers' compensation insurance to cover full liability under Workers' Compensation Laws of the State of Texas with employer's liability coverage in limit not less than Five Hundred Thousand Dollars (\$500,000.00).
  - (b) Commercial general liability insurance coverage shall be on an "occurrence" basis and shall insure the Subcontractor against claims related to Work performed under the Subcontract for bodily injury, including death of any person other than the Trade Contractor's employees, and property damage for injury to or destruction of tangible property, other than the Work itself. The policy shall contain the personal injury and broad form property damage endorsements modified as set forth below, and the policy exclusions pertaining to loss by explosion, collapse or underground damage. Owner and Contractor are to be

named as additional insured. The policy shall include the following Overages and limits:

- (i) Completed operations liability
  - (ii) Contractual liability insuring the indemnification agreement contained in the Trade Contract
  - (iii) Personal injury liability with employee's exclusion deleted
  - (iv) Broad form property damage extended to apply to completed operations
  - (v) Automobile liability insuring Trade Contractor for operations of all owned, hired and non-owned vehicles
  - (vi) Limits of liability shall not be less than:
    - (a) Bodily injury, except automobile:
      - (I) \$1,000,000 each occurrence
      - (II) \$1,000,000 aggregate
    - (b) Property Damage, except automobile
      - (I) \$1,000,000 each occurrence
      - (II) \$1,000,000 aggregate
    - (c) Bodily injury: Automobile
      - (I) \$1,000,000 each person
      - (II) \$1,000,000 each occurrence
    - (d) Property damage: Automobile
      - (I) \$500,000 each occurrence
    - (e) Umbrella excess liability \$1,000,000
- (2) All policies are to be written through a company duly authorized to transact that class of insurance in the State of Texas, with an A.M. Best Rating of B+VII or better.
- (3) Any of such insurance policies may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.
- (4) Contractor's Subcontracts shall provide for reasonable indemnification of the Owner and the Architect for adequate insurance coverage, and contain such other clauses as may be required to fully protect Owner and Contractor's interests.

## **EXHIBIT “B”**

### **Prevailing Wage Rates**

#### **GENERAL SUMMARY**

In the execution of the Contract for this project, the Contractor must comply with all applicable state and federal laws, including but not limited to laws concerned with labor, equal employment opportunity, safety, minimum wage and prevailing wage rates requirements under Chapter 2258 of the Texas Government Code.

The Contractor and each Subcontractor who performs Work under this Contract must pay not less than the rates described herein to a worker employed by it in the execution of the Work.

A Contractor or Subcontractor who violates these provisions shall pay to Owner \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated herein.

The Contractor and each Subcontractor shall keep a record showing:

- (1) The name and occupation of each worker employed by the Contractor or Subcontractor in the construction of the public work; and
- (2) The actual per diem wages paid to each worker.

The record shall be open at all reasonable hours to inspection by officers and agents of Owner.

In the event of a complaint of breach of these requirements by Contractor or a Subcontractor, Owner shall have the right to make a determination as provided by law, and to retain any amount due under the contract pending a final determination of the violation.

#### **DEFINITIONS**

**Base Per Diem Wage Rates:** Except for work on legal holidays, the “general prevailing rate of per diem wage” for the various crafts, type of workers, or mechanics is the product of (a) number of hours worked per day, except for overtime hours, times (b) respective Rate Per Hour.

**Multipliers for Overtime Rates:** Over 40 hours per week: The “general prevailing rate for overtime work” for the crafts, type of workers, or mechanics is one and one-half times the respective Rate Per Hour.

**Multipliers for Holiday Rates:** For legal holidays, the “general prevailing rate of per diem wage” for the various crafts, type of workers, or mechanics is the product of (a) one and one-half times the respective Rate Per Hour times (b) the number of hours worked on the legal holiday.

SHEET INDEX		
SHT. NO	DESCRIPTION	DATE
	COVER SHEET	
	CIVIL ENGINEERING SERIES	
	INSERT SHEET	

DRAFT



## CITY OF KYLE, TEXAS

Meeting Date: 7/5/2011

Date time: 7:00 PM

### Whited Enterprises Easement Acceptance

**Subject/Recommendation:**

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS ACCEPTING A 0.116 ACRE PUBLIC UTILITY EASEMENT CONVEYED BY WHITED ENTERPRISES, LLC, OUT OF LOT 2, BLOCK A, RJ SUBDIVISION; PROVIDING FOR OPEN MEETINGS AND RELATED MATTERS ~ *Shira Rodgers, Director of Planning*

**Other Information:**

The purpose of this easement is to allow for the construction of a new sewer line to serve several new development projects along Creekside Trail.

**Budget Information:**

N/A

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**Attachments / click to download**

[Resolution](#)

[Exhibit A and Exhibit B](#)

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS  
ACCEPTING A 0.116 ACRE PUBLIC UTILITY EASEMENT CONVEYED BY  
WHITED ENTERPRISES, LLC, OUT OF LOT 2, BLOCK A, RJ SUBDIVISION;  
PROVIDING FOR OPEN MEETINGS AND RELATED MATTERS.**

**WHEREAS**, the City specifically desires to accept and has determined it necessary as it relates to the property, an approximately 0.116 acre Public Utility Easement, over and across a portion of Lot 2, Block A, RJ Subdivision, a subdivision recorded in Hays County, conveyed in Volume 10, Page 158 in the Official Public Records of Hays County, Texas;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS;**

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

**Section 2. Acceptance of Easement.** The Council hereby accepts Easement over and across all or a portion of that certain real property located in Kyle, Hays County, Texas, as more particularly described in Exhibit "A" and shown in Exhibit "B".

**Section 4. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2011.

**ATTEST**

**CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Amelia Sanchez, City Secretary

\_\_\_\_\_  
Lucy Johnson, Mayor

**UTILITY EASEMENT**

DATE: April 4, ~~2010~~ 2011

GRANTOR: **Whited Enterprises, LLC**

GRANTOR'S MAILING ADDRESS (including County): **1604 Cliffwood Drive  
Austin, TX 78733**

GRANTEE: **City of Kyle, Texas**

GRANTEE'S MAILING ADDRESS (including County): **100 West Center Street  
Kyle, Hays County, Texas 78611**

LIENHOLDER: **None**

CONSIDERATION: Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

PROPERTY:

A ten foot (10') wide utility easement, containing 0.116 acres, more or less, over a portion of Lot 2, Block A, R J Subdivision, a subdivision of record in Vol. 10, Page 158, of the Hays County Plat Records, said easement being more fully described in the legal description attached as Exhibit "A" and as shown in Exhibit "B" hereto and made a part hereof for all purposes.

A Twenty Foot (20') Wide Temporary Construction Easement, adjacent to said 5' wide Utility Easement. This Temporary Construction Easement shall terminate at the completion of construction of utility line.

**GRANTOR**, for the **CONSIDERATION** paid to **GRANTOR**, hereby grants, sells, and conveys to **GRANTEE**, its successors and assigns, an exclusive, perpetual easement for the purpose of placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocating and removing or causing to be placed, constructed, operated, repaired, maintained, rebuilt, replaced, relocated and removed structures or improvements reasonably necessary and useful for water and wastewater mains, lines and pipes, and the supplying of water and/or sanitary sewer service or other such utility services in, upon, under and across the **PROPERTY** more fully described in Exhibit "A" and as shown in Exhibit "B" attached hereto.

**TO HAVE AND TO HOLD** the above-described easement, together with all and singular the rights and appurtenances thereto in anywise belonging unto **GRANTEE**, and **GRANTEE's** successors and assigns forever; and **GRANTOR** does hereby bind himself, his heirs, successors and assigns to **WARRANT AND FOREVER DEFEND** all and singular the easement unto

**GRANTEE**, its successor and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

When the context requires, singular nouns and pronouns include the plural.

**GRANTOR: Whited Enterprises, LLC**

by Kelley Whited  
Kelley Whited, Member

**THE STATE OF TEXAS:**

**COUNTY OF HAY:**

**BEFORE ME**, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared **Kelley Whited**, Grantor herein, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that [s]he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** on this the 22 day of March 2010.

(SEAL) [Signature]  
Notary Public-State of Texas

**AFTER RECORDING RETURN TO:**

City Secretary  
City of Kyle, Texas  
100 West Center Street  
Kyle, Texas 78640





FIELD NOTES FOR A TEN FOOT UTILITY EASEMENT OUT OF LOT 2, BLOCK A, R J  
SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 10, PAGE 158, PLAT RECORDS  
HAYS COUNTY, TEXAS

BEGINNING FOR REFERENCE at a ½ " iron rod being the South corner of Lot 2 and being in the  
center of a 50 foot wide right-of-way easement known as Creekside Trail (Volume 340, Page 504);

THENCE N 45°04'48" E with the easterly line of Lot 2, same being the centerline of Creekside Trail, for  
a distance of 5.00 feet to a point for the south corner of the herein described easement and the POINT OF  
BEGINNING;

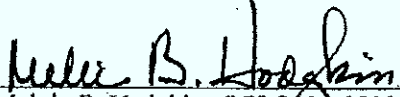
THENCE continuing N 45°04'48" E with the easterly line of Lot 2, same being the centerline of  
Creekside Trail, for a distance of 10.00 feet to a point being the east corner of said easement;

THENCE N 44°54'53" W for a distance of 505.52 feet to a point in the westerly line of Lot 2 for the  
north corner of the easement described herein;

THENCE S 45°03'00" W for a distance of 10.00 feet with the westerly line of Lot 2 to a point for the  
west corner of the easement described herein;

THENCE S 44°54'53" E for a distance of 505.51 feet to the POINT OF BEGINNING and containing  
0.116 acres of land.

The undersigned does hereby certify that the field notes for the easement described above was prepared  
by the undersigned based on information shown on the recorded subdivision plat.

  
Melvin B. Hodgkiss, RPLS No. 2808  
Hodgkiss Surveying, Firm No. 100575-00

1-14-2011  
Date Signed



EXHIBIT "A"

Hector C. Gutierrez and Olivia Gutierrez

(5.001 Acres)

Volume 717 Page 885

(S44°57'08"E 505.47')  
(S44°56'33"E 505.75')

105.0'

5' Utility Easement

observation well

Sanitary Easement

Radius = 100'

approximate  
"Zone A"

25.00'

25.00'

**LOT 2**

5.283 Acres

Drainage Easement

Roger Dale Linebarger (88,945 Acres)  
Volume 877 Page 95

951.95'

952.03'

486.00'

S47°00'W 305.00'

S77°16'W 177.48'

**BLOCK A**

PROPOSED  
10 FT PUB. UTILITY  
ESMT

Exist. 5' Utility Easement

N44°54'53"W 505.51'

5' Utility Easement

(N45°02'48"E  
N45°03'00"E

N03°00'E  
35.00'

**LOT 1**

5.749 Acres

Drainage Easement

EXHIBIT "B"

455.24'

949.18'

949.16'

S45°04'48"W

(S45°04'48"W  
Bearing Basis

493.94'

(50') Right-of-Way Easement per Volume 340 Page 504  
"ORFESIDE TRAIL"

approximate  
"Zone A"

497.03'



# CITY OF KYLE, TEXAS

## Executive Session-Convvene-BSEACD

**Meeting Date: 7/5/2011**  
**Date time: 7:00 PM**

**Subject/Recommendation:**

Convvene into Executive Session pursuant to Section 551.071, Tex. Gov't Code, and Section 1.05, Tex. Disciplinary Rules of Professional Conduct, to consult with legal counsel regarding the lawsuit pending in Hays County District Court, City of Kyle v. Goodman, Barton Springs / Edwards Aquifer Conservation District, et al., and the defendants' settlement counteroffer.

**Other Information:**

**Budget Information:**

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**CITY OF KYLE, TEXAS**  
**Executive Session-Reconvene-BSEACD**

**Meeting Date: 7/5/2011**  
**Date time: 7:00 PM**

**Subject/Recommendation:** Reconvene into Open Session to take any and all actions as deemed appropriate in the City Council's discretion regarding the Barton Springs / Edwards Aquifer Conservation District's settlement counteroffer

**Other Information:**

**Budget Information:**

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# CITY OF KYLE, TEXAS

## Advisory Redistricting Committee

Meeting Date: 7/5/2011  
Date time: 7:00 PM

**Subject/Recommendation:**

A RESOLUTION OF THE CITY OF KYLE, TEXAS, ESTABLISHING THE ADVISORY REDISTRICTING COMMITTEE; AMENDING CONFLICTING RESOLUTIONS; PROVIDING FOR DUTIES, MEMBERSHIP, TERMS, APPOINTMENTS; AND PROVIDING FOR RELATED MATTERS ~ *Frank Garza, City Attorney*

- Appointment - Mayor, *Bob Barton*
- Appointment - District 1, *Ray Bryant*
- Appointment - District 2, *Glenn Whitaker*
- Appointment - District 3, *Cecilia Peche*
- Appointment - District 4, *James Adkins*
- Appointment - District 5, *Andrea Cunningham*
- Appointment - District 6, *Christie Smith*

**Other Information:**

**Budget Information:**

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[Resolution on Advisory Redistricting Committee](#)

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**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF KYLE, TEXAS, ESTABLISHING THE ADVISORY REDISTRICTING COMMITTEE; AMENDING CONFLICTING RESOLUTIONS; PROVIDING FOR DUTIES, MEMBERSHIP, TERMS, APPOINTMENTS; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City Council of the City of Kyle desires to establish an Advisory Redistricting Committee to assist in the development of the new city council district boundaries and to promote efficient governmental operations and involvement of citizens in the revision of the council boundaries.

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

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**Section 2. Committees Established.** Advisory Redistricting Committee is hereby created.

**Section 3. Duties.**

(a) General Duties. The committees shall function in an advisory capacity only to the Council, and in such advisory capacity shall have the duties to provide input and guidance on the revision to current City Council Districts based on the 2010 census information. Committee shall be provided a copy of Council Resolution No. \_\_\_\_\_, adopted on June 21, 2011 establishing criteria to be used when developing the new district boundaries.

**Section 4. Membership and Appointments, Term of Office and Vacancy.**

(a) Membership and Appointment. The committee shall be composed seven (7) residents of the City (the "citizen members"), with one citizen member chosen from each single member voting district and four citizen members chosen from the City at large (the "citizen members"). The City Council shall appoint members of the committee upon the recommendation of the Mayor.

(b) Members' Terms and Vacancy. The members of the Committee shall serve until the City Council adopts a final plan to be submitted to the Department of Justice. Vacancies shall be filled by appointment by the City Council upon the recommendation of the Mayor in accordance with Section 4(a). Newly appointed members shall be installed at the first regular meeting after their appointment.

(c) Compensation. Committee members shall serve without compensation.

- (d) Chairperson and Vice-Chairperson. The Chairperson shall be appointed by the Mayor and the Vice-Chairperson shall be appointed by the Committee. The Vice-Chairperson shall serve as Chairperson in the absence of the Chairperson.
- (e) Dismissal of Members. The Council shall have the authority to dismiss members with or without cause or to abolish the committee with or without cause.

**Section 5. Committee Meetings.**

- (a) Regular Meetings. The committee shall hold at least one (1) regular meeting every other week during the development of the city council district boundaries. The City Secretary shall post a copy of the agenda in the City Hall for a period of least 72 hours prior to the time of the meeting.
- (b) Special Meetings. The committees may hold special meetings upon the request of the Chairperson, the Mayor, the City Manager, City Attorney, or upon the written request of three (3) committee members.
- (c) Quorum. A quorum shall consist of four (4) members. A motion to approve any matter before a committee or to recommend approval of any request requiring City Council action shall require a majority vote of the quorum members present.
- (d) Voting. Voting shall be by roll call vote, and the Chairperson shall be entitled to vote on any matter before the committee.

**Section 6. Removal Upon Excessive Unexcused Absences From Meetings or Moving Outside City Limits.**

- (a) Unexcused Absences. If a member of a committee is absent for three regular consecutive meetings, the member's office is considered vacant unless the member is sick or has first obtained a leave of absence at a regular meeting. The committee in question shall be the judge of whether the member has had three such consecutive unexcused absences.
- (b) Moving Outside City Limits. Membership on a committee is automatically terminated if a member moves outside the City limits.

**Section 7. Repeal of Conflicting Ordinances.** All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

**Section 8. Open Meetings.** That it is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Local Government Code.

**PASSED AND APPROVED** on this the \_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST:

**THE CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Amelia Sanchez, City Secretary

\_\_\_\_\_  
Lucy Johnson, Mayor

DRAFT





# CITY OF KYLE, TEXAS

## CBD 1 and 2 Amendment

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

*(First Reading)* AN ORDINANCE AMENDING CHAPTER 53 ZONING, ARTICLE II ZONING DISTRICTS AND REGULATIONS, DIVISION 1 GENERALLY, SECTION 53-33 CHART 2 AND CHART 3 TO AMEND THE CENTRAL BUSINESS DISTRICTS 1 AND 2 OF THE CITY OF KYLE, CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF ~ *Shira Rodgers, Director of Planning*

*Planning and Zoning Commission voted 6-0 to approve the amendment*

- Public Hearing

**Other Information:**

Please see attached backup material.

**Budget Information:**

N/A

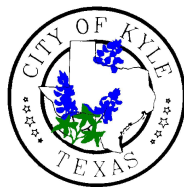
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[Staff Memo](#)

[Ordinance](#)



**CITY COUNCIL AGENDA  
July 5, 2011**

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**Item/Subject:** Consider And Possible Action Regarding An Ordinance Amending Chapter 53 Zoning, Article II Zoning Districts And Regulations, Division 1 Generally, Section 53-33 Chart 2 And Chart 3 To Amend The Central Business Districts 1 And 2 Of The City Of Kyle, Code Of Ordinances. (Public Hearing And First Reading of Ordinance).

**Initiating Dept:** Planning

---

**Commentary**

**INFORMATION:**

This is an amendment to the Central Business District 1 and 2. The amendment tries to clear up some confusion regarding the maximum lot coverage and the zero setbacks allowed within the Central Business District 2.

Chart 2 Maximum Lot Coverage states that 60 or 65 percent maximum lot coverage is allowed which contradicts Chart 1 within the Zoning Ordinance. Chart 1 allows for the Central Business District 2 to have zero setbacks.

Chart 2 does refer to a note that states that City Council has the flexibility to waive the 60/65 percent maximum lot coverage. However there still seemed to be some confusion regarding this. Therefore city staff proceeded with a proposed revision to the ordinance.

**Planning and Zoning Commission Recommendation to the City Council:**

On June 28, 2011 the Planning and Zoning Commission held a public hearing at which the Planning and Zoning Commission voted 6-0 to recommend the City Council approve the variance request. The Planning and Zoning Commission also recommended to staff that another revision to the Central Business District 2 be brought back to them at their next meeting in July to allow for some type of multi-family within the CBD-2 District. The following Commissioners voted *yes* to recommend approval: Chairman Cale Baese, Vice Chairman John Atkins, Mike Rubsam, Jenny DiLeo, Cicely Kay, and Samantha Bellows.

Planning & Zoning Commission Public Hearing:

Lila Knight stated that she would like for the Commissioner's to consider another revision to the Central Business District 2 (CBD-2) to allow for multi-family since a multi-family project was just approved within the CBD-2 for the Barton Word Building.

Public Information Plan:

- June 8, 2011* : Public notice of the Planning and Zoning Commission and City Council public hearings published in the Hays Free Press.
- June 28, 2011:* Planning and Zoning Commission public hearing and recommendation to City Council.
- July 5, 2011:* City Council public hearing and first reading of ordinance

Red font indicates additions  
Strike through indicates deletions

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 ZONING, ARTICLE II ZONING DISTRICTS AND REGULATIONS, DIVISION 1 GENERALLY, SECTION 53-33 CHART 2 AND CHART 3 TO AMEND THE CENTRAL BUSINESS DISTRICTS 1 AND 2 OF THE CITY OF KYLE, CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

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

SECTION 1: That Chapter 53 Zoning, Article II Zoning Districts and Regulations, Division 1 Generally, Section 53-33 Chart 2, City of Kyle Code of Ordinances (the “Code”) is hereby amended as written:

**CHAPTER 53 ZONING  
ARTICLE II ZONING DISTRICTS AND REGULATIONS  
DIVISION 1 GENERALLY  
SECTION 53-33 CHART 2**

Chart 2		
District	Maximum Lot Coverage	
	Main buildings (in percent)	Main building and accessory buildings (in percent)
R-1-1	35	40
R-1-2	35	45
R-1-A	40	60
R-1-T	40	60
R-1-C	40	50
R-2	40	50
R-3-1	40	50

R-3-2	40	50
R-3-2	40	50
<del>CBD-1 and CDB-2</del>	60 <sup>(4)</sup>	65 <sup>(2) (1)</sup>
<b>CBD-2</b>	<b>100</b>	<b>100</b>
RS	60	65
HS	60	65
W	50	60
CM	40	45
E	60	65
TU	60	65

Note—Open off-street parking and loading areas will not considered as lot coverage under this subsection.

~~(1) To preserve the history and small town ambiance of the central business district No. 2 (CBD-2) that has historically served as the downtown business area, the city council may, based on a site plan and proposed building plans that are compatible with existing buildings, waive the maximum lot coverage on a case by case basis for buildings within CBD-2.~~

~~(1) (2) Maximum lot coverage of 70 percent for the main building and for all buildings is permitted for the buildings and the on lots on which where existing buildings were located prior to the date of the ordinance from which this chapter is derived. , for only the specific This only applies to buildings that existed on the date of the ordinance from which this chapter is derived, and that are within the area hereafter zoned CBD-1. or CDB-2. With this exception only, unless specifically approved by the city council as provided in note (1), the maximum lot coverage within the CBD-1 and CBD-2 districts shall be the same as in the RS districts.~~

(m) *Floor area ratio.* Except as hereinafter provided, no building or structure may be erected, added to or altered to exceed the maximum floor area ratio standards in the various zoning districts as set forth in chart 3 in this subsection. In the zoning districts listed in the chart in this subsection, the maximum floor area ratio (FAR) for any building or structure shall be as follows:

SECTION 2: That Chapter 53 Zoning, Article II Zoning Districts and Regulations, Division 1 Generally, Section 53-33 Chart 3, City of Kyle Code of Ordinances (the “Code”) is hereby amended as written:

**CHAPTER 53 ZONING**  
**ARTICLE II ZONING DISTRICTS AND REGULATIONS**  
**DIVISION 1 GENERALLY**  
**SECTION 53-33 CHART 3**

Chart 3	
District	Building Area, Maximum Floor Area Ratio to Land Area
<del>CBD-1 and CDB-2</del>	1.8:1
<b>CBD-2</b>	<b>2.5:1</b>
RS	1.8:1
HS	1.8:1
W	1.5:1
CM	1.2:1
E	1.8:1
TU	1.8:1

SECTION 3: If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle, in adopting this ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_ day of \_\_\_\_\_ 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

---

Lucy Johnson, Mayor

ATTEST:

---

Amelia Sanchez, City Secretary



# CITY OF KYLE, TEXAS

## Park Dedication 7.5.11

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

*(First Reading)* AN ORDINANCE OF THE CITY OF KYLE, TEXAS AMENDING PART II CHAPTER 41 ARTICLE V SECTION 41-147 (a) OF THE CITY CODE PERTAINING TO PARKLAND DEDICATION DEFINITIONS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING A PENALTY CLAUSE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ Kerry Urbanowicz, Director of Parks, Recreation & Facilities

**Other Information:**

Simply adding these words to the definition of Park "...pool, lake, waterway..." as parks in Kyle may include pool, lakes and/or waterways.

**Budget Information:**

n/a

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 [Park Dedication Definition](#)



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS AMENDING PART II CHAPTER 41 ARTICLE V SECTION 41-147 (a) OF THE CITY CODE PERTAINING TO PARKLAND DEDICATION DEFINITIONS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING A PENALTY CLAUSE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**Whereas**, the City of Kyle, Texas (the “City”) adopted Chapter 41, Article V, Section 41-147 (A) of the City Code pertaining to Parkland Dedication Definitions, and desires to amend the definition of a park;

**Whereas**, the City has parkland that includes features and amenities that are not clearly included in the definition; and

**Whereas**, the adoption of this ordinance will promote the public health, safety and quality of life for the citizens of Kyle;

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

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

**Section 2. Amending Section 41-147 (a) – Parkland Dedication Definitions.** Part II, Chapter 41, Article V, Section 41-147 (a), City of Kyle Code of Ordinances, is hereby amended to read as follows:

**Sec 41-147 (a) Definitions**

*Definitions.* For the purposes of this section, the following terms, phrases and words shall have the meaning ascribed to them in this subsection.

*Hike and bike trail* means a strip of land that is dedicated for a trail or pathway for pedestrian circulation, alternative transportation and recreational uses, that is not less than ten feet in width, and that has installed, or is planned to have installed, certain improvements, including but not limited to an all-weather (concrete or asphalt) trail or

pathway that is not less than six feet in width, designed and constructed in compliance with standards and specifications adopted and maintained by the city.

*Neighborhood park* means a public park provided for a variety of outdoor recreational opportunities located within a residential subdivision or within a close proximity or convenient distance of the majority of residences to be served thereby so that the residential subdivision or subdivisions so located shall be the primary beneficiaries of these facilities. These parks are generally smaller in size, being less than 15 acres.

*Park* means any public park, playground, pool, water-feature, lake, waterway, recreation or open space area, or hike and bike trail including a parking lot within such areas, which is operated, maintained and controlled by the city, and heretofore platted, dedicated, or designated as a public park within the city and its extraterritorial jurisdiction. These parks are generally larger in size, 15 acres or larger, and regionally located throughout the city. Land dedicated for public school land, which contains a park or park land as defined herein shall be considered a park for the purposes of this section but only to the extent of the actual land dedicated for such a park.

*Private park* means a recreation area or open space land within a residential area which are not available for public use or which are intended primarily for exclusive use by residents of the residential area, by members of a homeowners association or other organizations. A private park shall be considered a park for purposes of this section but only to the extent necessary for planning purposes. A private park does not meet the cash payment nor park land dedication requirements of this section.

*Residential area* means any area within a subdivision plat which in whole or in part is platted for the development of dwelling units or residences, whether the same be single-family, multifamily, owner-occupied or rental dwelling units and including townhouses, condominiums and apartments.

**Section 3. Amendment of Code of Ordinances.** The City Code is hereby amended in as set forth in this Ordinance, and all prior ordinances of the City dealing with or applicable to parkland are hereby amended with regard to parkland dedication definitions to the extent of any conflict herewith, and all ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, the terms and provisions of this Ordinance shall govern.

**Section 4. Penalty Clause.** Any person who shall violate any of the provisions of this ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of five hundred dollars (\$500.00). Each day the violation exists shall constitute a separate offense. Proof of a culpable mental state shall not be required to establish a violation of this ordinance. Such penalty shall be in addition to all the other remedies provided herein.

**Section 5. Savings Clause.** All rights and remedies of the City of Kyle are expressly saved as to any and all violations of the provisions of any ordinances affecting parkland which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 6. Effective Date.** This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code and the City Charter.

**Section 7. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation into this Ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

**Section 8. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Lucy Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Amelia Sanchez, City Secretary



# CITY OF KYLE, TEXAS

## Speed Hump Policy

Meeting Date: 7/5/2011  
Date time: 7:00 PM

**Subject/Recommendation:** Consideration and Possible Action on a Speed Hump Policy ~ *Lanny Lambert, City Manager*

**Other Information:**

**Budget Information:**

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 [Speed Hump Policy](#)

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# Speed Hump Policy

A speed hump is a gentle rise and fall of pavement surface placed in the roadway to reduce the speed of vehicles. In local tests and in other cities, it is found to be successful in reducing speed while allowing motorists safe operation of a vehicle.

## **Step One: Request**

A request for Speed Humps begins by contacting the city at <http://www.cityofkyle.com/contact>. Requests can be made by either a neighborhood or a group of residents located on the street requesting speed humps. A designated contact person will receive all correspondence and be responsible for gathering evidence of support. Only request forms supplied by the Department of Public Works or exact copies may be used for this purpose.

Request forms should be submitted to the Department of Public Works at the following address.

**Public Works**  
**Attn: Speed Hump Request Processing**  
**PO Box 40**  
**Kyle, TX 78640**

The request must be for a specific street segment and should include, at a minimum the following information:

- The requested street name
- The boundary of the street segment (example, between 1st Avenue and 5th Avenue)
- Name of contact person
- Address of contact person
- Daytime phone number of contact person
- Evidence of neighborhood support (ten individual signatures representing 10 different residents whose property abuts the street segment in question)
- Signature of contact person

Requests will be evaluated on an as received basis. However, the schedule and process do not preclude the Director of Public Works from installing speed humps when and where it is deemed necessary outside the procedures of this program.

## **Step Two: Eligibility**

In order for a request to qualify for consideration, the street must meet criteria set by the

Department of Public Works. It is the responsibility of the Department of Public works to conduct an evaluation to determine if the street segment meets the following minimum criteria:

- The street segment must be primarily a residential street which provides direct access to abutting single family, duplex, triplex or quad-plex residential properties
- The street segment must have no more than one moving lane of traffic in each direction of travel
- The street segment may not be designated as an arterial street on any Major Thoroughfare Plan
- The street must have a speed limit of 30 mph as determined in accordance with State Law and be unmodified for slower or faster speeds whether for short time spans, or long. This would include school zones.
- The street segment must not be so close to a Fire Department Facility as to significantly interfere with emergency vehicle operations
- The street segment must be long enough to comply with the minimum placement procedures described in Step Five. The measured length must be continuous without interruption by a traffic control device.
- Other factors such as curves and grade changes on the street, emergency vehicle access, and safe sight distances will be evaluated.

Only those requests meeting all the eligibility requirements will proceed to “Step Three Funding”. If a request is denied, applicants will not be able to reapply to the speed hump program for the following two years unless there is considerable change in conditions.

### **Step Three: Funding**

Projects will be scheduled for construction, as funding is received. An eligible project will be completed if the applicants choose to pay for 100% of the estimated cost of the installation. Applicants are interested residents on the street where the proposed speed hump is to be located, except where a bona fide Home Owners Association exists, in which case it is the HOA’s responsibility to fund any speed humps their member’s request which are approved. Where HOA’s are involved, the HOA Board or executive manager must endorse the proposed project, and indicate that the HOA will provide funding, otherwise the project is ineligible for consideration. Residents that have a mandatory dues paying HOA may not circumvent the HOA’s decision by approaching the city directly in cases where speed hump requests are denied by the HOA. Projects will be constructed no later than the next fiscal year following deposit of funding.

### **Step Four: Level of Support**

If the Department of Public Works determines the street to be eligible and funding has been identified according to Step Two “Eligibility”, and funding identified per Step Three “Funding”; the requestor will be required to canvass the residents for approval. Only canvassing forms supplied by the Department of Public Works will be used for this purpose and each form must be notarized before it is turned in. Any proposed location must show two-thirds approval of residents abutting the street with the proposed location prior to installation.

### **Step Five: Speed Hump Location**

It is the responsibility of the Department of Public Works to determine the final location of all speed humps in accordance with the following safe engineering principles.

- Speed humps will usually be placed between 300 feet to 500 feet apart
- A speed hump will not be located in front of a driveway or within an intersection
- Speed humps will not be located within 250 feet of a traffic control device or within 50 feet of an intersection
- A speed hump will not be located adjacent to a property if the occupant objects to its placement
- Speed humps should not be placed within 6 feet of a driveway
- Speed humps will typically be placed at property lines
- Speed humps will not be placed within a curved section of roadway
- Speed humps will not be placed on street segments with a vertical grade greater than 8%
- “No Parking” signs may be placed within 50 feet of the approaching side of the Speed hump if deemed necessary for safety of the driver

### **Additional Information**

The process for speed hump removal or alteration by residents is the same as the process for installation. Funding will be required before a speed hump is removed or relocated. The cost to remove or relocate the speed humps will include the cost to repair the pavement by milling and overlaying the section of roadway. The Department of Public Works shall prepare and maintain current design standards for speed humps in accordance with this installation procedure.





# CITY OF KYLE, TEXAS

## Spring Branch Drive Channel

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

Consideration and Possible Action as may be appropriate in regards to awarding Nonpoint Source Water Quality Program Retrofit of Spring Branch Drive Channel for the City of Kyle 319H Nonpoint Plum Creek Watershed Grant to the apparent lowest bidder, Dale Lowden Excavating, Inc in the amount of \$48,321.00 and Authorizing the City Manager to Execute A Contract with Dale Lowden Excavating for the Construction of the same ~ *James Earp, Assistant City Manager*

**Other Information:**

The City of Kyle is currently working under a 319H Nonpoint Source Water Quality Grant requiring the City to retrofit the Spring Branch Drive Channel in the Plum Creek Watershed.

**Budget Information:**

This construction project will be funded using the 319H Nonpoint Source Water Quality Program grant funds.

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- [Bid Recommendation](#)
- [Bid Tabulation](#)
- [Special Conditions](#)
- [General Conditions](#)



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June 23, 2011  
Attn: James Earp, CPM  
City of Kyle  
100W. Center St.  
Kyle, TC 78640

RE: Nonpoint Source Water Quality Program, Retrofit of Spring Branch Drive Channel

Dear Mr. Earp,

LNV Inc, reviewed the bids submitted on June 17, 2011 for the Nonpoint Source Water Quality Program, Retrofit of Spring Branch Drive Channel. The lowest bid submitted was from CAS Construction; however the bid packet was incomplete as they did not include the Statement of Bidders Qualifications. Dale Lowden Excavating, Inc. bid of forty eight thousand, three hundred twenty-one dollars and zero cents (\$48,321.00) has been verified as the lowest complete bid. Based on a review of past performance it is our opinion that Dale Lowden Excavating, Inc. is qualified to perform the required scope of work. It is also our opinion that the bid submitted by Dale Lowden Excavating, Inc. is a fair and reasonable amount for the scope of work to be performed. We hereby recommend award of the contract to Dale Lowden Excavating, Inc. in the amount of \$48,321.00.

I have attached a copy of the bid tabulation for your records. If you have any questions or need additional information, please feel free to contact me at (512)381-8333.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Stokinger', written over a horizontal line.

Stephen Stokinger, P.E.  
Project Engineer  
LNV, Inc

# Bid Tabulation

## Nonpoint Source Water Quality Program Retrofit of Spring Branch Drive Channel

June 17, 2011 at 3:00 PM

Bidder Name	Total Bid	Bid Bond	SBQ	Addendum # 1
Myers Concrete Construction	\$88,238.00	X	x	x
Lowden Excavating	\$48,321.00	X	X	X
CAS Construction	\$42,138.00	X		X
KIVA, Inc	\$54,500.00	X	X	X
AEC Austin Engineering	\$49,920.00	X	X	
Nelson Lewis, Inc.	\$63,300.00	X	X	

## **SPECIAL CONDITIONS**

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### **DESCRIPTION OF WORK:**

#### **NONPOINT SOURCE WATER QUALITY PROGRAM, RETROFIT OF SPRING BRANCH DRIVE CHANNEL**

The Contractor shall furnish all labor, materials, equipment, tools, services and supervision necessary to perform all the work as described in the Proposal and shall deliver the work complete in all respects and in full accordance with the Contract Documents. All incidental services and materials which may be reasonably inferred as necessary to accomplish the intended end result shall be provided by the Contractor whether or not specifically shown on the Drawings or itemized in the Specifications.

### **CONSTRUCTION SEQUENCE:**

Within ten (10) days after receiving a written "Notice to Proceed" the Contractor will be expected to pursue continuous progress of the overall Project from beginning of the work to completion. The Contractor will, in general, be left to schedule his work as he sees fit in so far as the Owner remains satisfied that an orderly progress is being made on the project to the extent of finishing within the stated contract time.

The Contractor will, however, be required to coordinate the sequencing of this work with the Owner and various utility companies, and any other individual or entity which may suffer inconvenience or damage as a result of a lack of cooperation in the construction of the project.

### **TIME OF COMPLETION:**

Construction time is to start ten (10) days after receipt of a written "Notice to Proceed". All items of work contemplated in these Specifications and the accompanying drawings is to be substantially completed in the number of days specified in the bid proposal. After the notification of substantial completion and a final inspection, Contractor shall have fifteen (15) days to remedy any incomplete or defective work.

### **PROJECT MEETINGS:**

Prior to starting work, the Contractor shall attend a pre-construction conference to review the Contractor's schedules, to establish procedures for processing applications for payment, and to establish a working understanding between Owner, Engineer and Contractor. Representatives of all parties shall be in attendance. Other meetings will be scheduled during the construction as need dictates.

**LIQUIDATED DAMAGES FOR DELAY:**

The Contractor agrees that a delay in substantial completion of the project beyond the total number of days anticipated for substantial completion plus such extensions to the allotted time as may be provided for in the General Conditions shall cause a damage to the Owner and that the Owner may withhold, permanently, from the Contractor's total compensation a sum of two hundred dollars (\$200.00) per calendar day as the stipulated damages for such delay.

**GUARANTEES:**

The Contractor shall provide the City of Kyle with a warranty which shall guarantee work against defective materials and workmanship for a period of one (1) year from the date of issue of certificate of acceptance. Neither final acceptance nor final payment or any provision in the contract documents will relieve Contractor of above guarantee. Failure to repair or replace defect upon notice entitles Owner to repair or replace same and recover reasonable cost thereof from the Contractor and/or his surety.

**PERMITS AND RIGHT-OF-WAY:**

The Owner will provide right-of-way for the purpose of construction without cost to the Contractor by securing permits in areas of public dedication or by obtaining easements across privately owned property. It shall be the responsibility of the Contractor prior to the initiation of construction on easements through private property, or upon areas of public dedication, to familiarize himself with the requirements of the pertinent easement or permit and to abide by all of the stated terms of such easements or permits. The Contractor shall give notice of intent to begin construction on privately owned property or permitted areas as required by the relevant easement or permit but in no case less than 48 hours before commencing work.

**MATERIALS AND EQUIPMENT:**

Incorporate into work only new materials and equipment of domestic manufacture unless otherwise designated. Store these materials and equipment in manner to protect them from damage.

**REPAIR OF DAMAGE:**

Driveways, curbs, culverts, yards or items of private or public ownership, if damaged during the course of construction of this project, shall be, to the greatest extent practicable, repaired or replaced to the condition of such items before their being damaged, at no cost.

**SITE MAINTENANCE AND CLEAN-UP:**

Maintain work site during construction neat and free of trash, rubbish or other debris. In cleanup operations, remove from site temporary structures, rubbish and waste materials,

and leave site in a neat and presentable condition throughout. Dispose of excavated material beyond that which is needed to bring site to required final elevations.

**MEASUREMENT AND PAYMENT:**

Estimated quantities shown in the Contract Documents are provided solely for the purpose of allowing a uniform comparison of submitted bids. Payment will be made on either the basis of actual measured quantities or a lump sum as may be relevant to the particular item. For those items for which payment is based on actual measured quantities, the Contractor shall verify all measurements at the site and shall be responsible for the correctness of same. Unit prices shall then be used to calculate payment. Methods of measurement shall be given in the Technical Specifications for each measured item.

**RETAINAGE:**

The Owner will retain from the Contractor's monthly estimate and request for payment an amount equal to 5% of the invoice amount. This 5% shall be retained by the Owner until final acceptance of the total project and then paid to the Contractor.

**PAYMENT FOR MATERIALS ON SITE:**

Contractor shall present to the Owner with his monthly estimate of production and request for payment a list of all material delivered to the project site, but not installed, with the total invoice cost of that material and the Owner shall pay to the Contractor the invoice cost of such material as has been verified by the Engineer to be "on site", less a 10% retainage. "On site" shall mean on or immediately adjacent to the work area or point of material installation, or a central storage yard or office area which has been set up for the project in the immediate project area. This does not include material in transit to the job site, material stored in yards or areas located in other towns, or materials stored in a manufacturer's warehouse, even though Contractor may have been invoiced for such material. Materials considered as consumables, i.e. chlorine for disinfection, testing pipe and equipment, etc., shall not be considered as material on-site, and only principle material items shall be considered for payment for material on-site.

**STATE SALES TAX:**

The improvements proposed for construction under the terms of these Contract Documents shall become a part of the utility system of the City of Kyle. The City of Kyle qualifies as an exempt organization under the Limited Sales Excise Tax Rules and Regulations of the State of Texas. Since the City of Kyle and the Contractor shall be exempt from the state sales tax, the state sales tax shall not be included in the Bid.

Prior to the execution of the Contract, the Contractor shall obtain a Limited Sales Tax Permit and shall show evidence of this permit when signing the Contract. The Contractor shall then issue Resale Certificates in lieu of payment of the sales tax, on material purchased for incorporation into the project. These instructions are in strict compliance with the State Sales Tax Code, Section 151.311. The Contractor is assumed to be fully

aware of the sales tax regulations and agrees to cooperate fully with the City of Kyle claiming its lawful exemption from the state sales tax.

**TRAFFIC CONTROL:**

It will be the Contractor's responsibility to provide a traffic control plan approved by the ENGINEER and the Texas Department of Transportation to adequately provide for the safety of the public during the course of the construction of the project.

**MATERIALS TESTING:**

The Owner will provide for the initial testing of materials to be incorporated into the project to such extent as may be desired including the testing of concrete samples taken at the time of concrete placement. The Contractor shall be responsible for supplying samples of materials as may be required for testing. Any re-testing required shall be at the Contractor's expense as stated in the General Conditions.

**WATER FOR CONSTRUCTION:**

Water used for the mixing of concrete, jetting or flooding trenches, or testing, or any other purposes incidental to this project, will be furnished by the Contractor. If water is obtained from the City's water supply, the Contractor shall make the necessary arrangements for securing and transporting such water and shall take such water in a manner and at such times that will not produce a harmful drain or decrease pressure in the City's water system. There will be no charge to Contractor for water used in the construction of this project.

**LINES AND GRADES:**

Detailed construction staking shall be the full responsibility of the Contractor.

**LOCATION OF AND DAMAGE TO EXISTING UTILITIES:**

The Contractor shall be solely responsible for all above ground utilities, structures, and appurtenances in regard to protection and replacement or repair of same. The Contractor shall also be solely responsible for visible below ground utilities, structures and appurtenances that may be accurately located by removing manhole covers, valve box covers, and other access point coverings, with a reasonable effort on the part of two workmen, using hand tools for such removal and inspection. The cost of protecting, replacing, or repairing the utilities, structures, and appurtenances covered by this paragraph shall be borne solely by the Contractor and shall be included in the prices bid for the various affected items in the Contract.

The Contractor shall notify all private and public utilities 48 hours prior to performing any work in the vicinity of said utilities. Such 48-hour notice shall not include Saturdays, Sundays and holidays.

In those instances where faults, caverns or subsidence zones are encountered during construction, the design engineer will make the necessary adjustments and/or modifications to ensure proper installation. This subject is further defined in the detailed specification list which governs this project.

**CONTRACTOR'S FIELD ADMINISTRATION STAFF:**

The Contractor shall employ for this project, as its field administration staff, superintendents and foremen who are careful and competent and acceptable to the Owner. The criteria upon which the Owner shall make this determination shall include the following:

- A. The superintendent shall have at least five (5) years experience in the day-to-day field management and oversight of projects of a similar size and complexity to the project which is the subject of this Contract. This experience shall include, but is not limited to, scheduling of manpower and materials, safety, coordination of subcontractors, and familiarity with the submittal process, federal and state wage rate requirements, and contract close-out procedures.
- B. The foreman shall have at least five (5) years experience in oversight and management of the work of various subcontractors and crafts. Should the scope of the project be such that a foreman is not required, the Contractor's superintendent shall assume the responsibilities of a foreman.

Documentation concerning these matters shall be reviewed by the Owner. The Contractor's field administration staff, and any subsequent substitutions or replacements thereto, shall be approved by the Owner in writing prior to such superintendent or foreman assuming responsibilities on the project.

Such written approval of field administration staff is a prerequisite to the Owner's obligation to execute a contract for this project. If such approval is not obtained, the award may be rescinded. Further, such written approval is also necessary prior to a change in field administration staff during the term of this Contract. If the Contractor fails to obtain prior written approval of the Owner concerning any substitutions or replacements in its field administration staff for this project, the award may be rescinded. Further, such written approval is also necessary prior to a change in field administration staff during the term of this Contract. If the Contractor fails to obtain prior written approval of the Owner concerning any substitutions or replacements in its field administration staff for this project during the term of the Contract, such a failure will constitute a basis to annul the Contract.

**CHARACTER OF WORKMEN AND CONDITION OF EQUIPMENT:**

The Contractor shall employ such superintendents, foremen, and workmen as are careful and competent and the Engineer may demand the dismissal of any person or persons employed by the Contractor, in, about or on the work who shall misconduct himself or be incompetent or negligent in the proper performance of his or their duties or neglect or refuse to comply with the directions of the Engineer, and such person or persons shall not



be employed thereon again without the written consent of the Engineer. All workmen shall have sufficient skill and experience to perform properly the work assigned them.

The Contractor shall furnish such equipment as is considered necessary for the prosecution of the work in an acceptable manner and at a satisfactory rate of progress. All equipment, tools and machinery used for handling materials and executing any part of the work shall be subject to the approval of the Engineer and shall be maintained in a satisfactory working condition. Equipment on any portion of the work shall be such that no injury to the work or adjacent property will result from its use.

**AS-BUILT DRAWINGS:**

Contractor shall maintain daily a set of "As-Built" drawings detailing the location and depths of new and existing utilities. The completed set of "As-Built" shall be submitted to the ENGINEER at the completion of the project.

## GENERAL CONTRACT CONDITIONS

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### CONTRACT AND CONTRACT DOCUMENTS

The project to be constructed pursuant to this contract and is subject to all applicable Federal and State laws and regulations.

The Plans, Specifications and Addenda shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth.

### DEFINITIONS

Whenever used in any of the Contract Documents, the following meanings shall be given to the terms here in defined:

- A. The term "Contract" means the Contract executed between the \_\_\_\_\_, hereinafter called the Locality and, \_\_\_\_\_ hereinafter called Contractor, of which these GENERAL CONDITIONS, form a part.
- B. The term "Project Area" means the area within which are the specified Contract limits of the Improvements contemplated to be constructed in whole or in part under this contract.
- C. The term "Engineer" means LNV, Inc., Engineer in charge, serving the Locality with architectural or engineering services, his successor, or any other person or persons, employed by the Locality for the purpose of directing or having in charge the work embraced in this Contract.
- D. The term "Contract Documents" means and shall include the following: Executed Contract, Addenda (if any), Invitation for Bids, Instruction to Bidders, Signed Copy of Bid, General Conditions, Special Conditions, Technical Specifications, and Drawings (as listed in the Schedule of Drawings).

### SUPERVISION BY CONTRACTOR

- A. Except where the Contractor is an individual and gives his personal supervision to the work, the Contractor shall provide a competent superintendent, satisfactory to the Local Public Agency and the Engineer, on the work at all times during working hours with full authority to act for him. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work.
- B. The Contractor shall lay out his own work and he shall be responsible for all work executed by him under the Contract. He shall verify all figures and elevations before proceeding with the work and will be held responsible for any error resulting from his failure to do so.

### SUBCONTRACTS

- A. The Contractor shall not execute an agreement with any subcontractor or permit any subcontractor to perform any work included in this contract until he has verified the subcontractor as eligible to participate in federally funded contracts.
- B. No proposed subcontractor shall be disapproved by the City of Kyle except for cause.
- C. The Contractor shall be as fully responsible to the City of Kyle for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them.
- D. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work and required compliance by each subcontractor with the applicable provisions of the Contract.
- E. Nothing contained in the Contract shall create any contractual relationship between any subcontractor and the Locality.

### FITTING AND COORDINATION OF WORK

The Contractor shall be responsible for the proper fitting of all work and for the coordination of the operations of all trades, subcontractors, or material suppliers engaged upon this Contract.

### PAYMENTS TO CONTRACTOR

#### A. Partial Payments

- 1. The Contractor shall prepare his requisition for partial payment (contractor shall use the AIA - G702 Application & Certificate for Payment) as of the last day of the month and submit it, with the required number of copies, to the Engineer for his approval within five (5) days after the end of each month. The amount of the payment due to the Contractor shall be determined by adding to the total value of work completed to date, the value of materials properly stored on the site and deducting (1) ten percent (10%) of the total amount, to be retained until final payment and (2) the amount of all previous payments. The total value of work completed to date shall be based on the estimated quantities of work completed. The value of materials properly stored on the site shall be based upon the estimated quantities of such materials and the invoice prices. Copies of all invoices shall be delivered to the Engineer.
- 2. Monthly or partial payments made by the Locality to the Contractor are moneys advanced for the purpose of assisting the Contractor to expedite the work of construction. The Contractor shall be responsible for the care and protection of all materials and work upon which payments have been made until final acceptance of such work and materials by the Locality. Such payments shall not constitute a waiver of the right of the Locality to require the fulfillment of all terms of the Contract and the delivery of all improvements embraced in this Contract complete and satisfactory to the Locality in all details.

#### B. Final Payment

- 1. After final inspection and acceptance by the Locality of all work under the Contract, the Contractor shall prepare his requisition for final payment which shall be based upon the careful inspection of each item of work at the applicable prices stipulated in the Agreement. The total amount of the final payment due the Contractor under this contract shall be the amount computed as described above less all previous payments.
- 2. The Locality before paying the final estimate, shall require the Contractor to furnish releases or receipts from all subcontractors having performed any work and all persons having supplied materials, equipment (installed on the Project) and services to the

Contractor, if the Locality deems it necessary in order to protect its interest. The Locality may, if it deems such action advisable, make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payments made shall in no way impair the obligations of any surety or sureties furnished under this Contract.

3. Any amount due the Locality under Liquidated Damages, shall be deducted from the final payment due the Contractor.

C. Payments Subject to Submission of Certificates

Each payment to the Contractor by the Locality shall be made subject to submission by the Contractor of all written certifications required of him and his subcontractors.

D. Withholding Payments

The Locality may withhold from any payment due the Contractor whatever is deemed necessary to protect the Locality, and if it so elects, may also withhold any amounts due from the Contractor to any subcontractors or materials dealers, for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the Locality and will not require the Locality to determine or adjust any claims or disputes between the Contractor and his subcontractors or material dealers, or to withhold any moneys for their

protection unless the Locality elects to do so. The failure or refusal of the Locality to withhold any moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.

**CHANGES IN THE WORK**

- A. The Locality may make changes in the scope of work required to be performed by the Contractor under the Contract without relieving or releasing the Contractor from any of his obligations under the contract or any guarantee given by him pursuant to the Contract provisions, and without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise. Additionally, all such change orders must be approved by the City of Kyle's Council prior to execution of same.
- B. Except for the purpose of affording protection against any emergency endangering health, life, limb or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the improvements or supply additional labor, services or materials beyond that actually required for the execution of the Contract, unless in pursuance of a written order from the Locality authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract will be valid unless so ordered.
- C. If applicable unit prices are contained in the Agreement, the Locality may order the Contractor to proceed with desired unit prices specified in the Contract; provided that in case of a unit price contract the net value of all changes does not increase the original total amount of the agreement by more than twenty-five percent (25%) or decrease the original the total amount by eighteen percent (18%).
- D. Each change order shall include in its final form:
  - 1. A detailed description of the change in the work.
  - 2. The Contractor's proposal (if any) or a confirmed copy thereof.
  - 3. A definite statement as to the resulting change in the contract price and/or time.
  - 4. The statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the change order.
  - 5. The procedures as outlined in this Section for a unit price contract also apply in any lump sum contract.

**CLAIM FOR EXTRA COST**

- A. If the Contractor claims that any instructions by Drawings or otherwise involve extra cost or extension of time, he shall, within ten days after the receipt of such instructions, and in any event before proceeding to execute the work, submit his protest thereto in writing to the Locality, stating clearly and in detail the basis of his objections. No such claim will be considered unless so made.
- B. If, on the basis of the available evidence, the Locality determines that an adjustment of the Contract Price and/or time is justifiable, a change order shall be executed.

**TERMINATION, DELAYS, AND LIQUIDATED DAMAGES**

A. Right of the Locality to Terminate Contract

In the event that any of the provisions of this contract are violated by the Contractor, or by any of his subcontractors, the Locality may serve written notice upon the Contractor and the Surety of its intention to terminate the Contract. The notices shall contain the reasons for such intention to terminate the Contract, and unless such violation or delay shall cease and satisfactory arrangement or correction be made within ten (10) days, the Contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Locality shall immediately serve notice thereof upon the Surety and the Contractor. The Surety shall have the right to take over and perform the Contract. Provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the Locality may take over the work and complete the project by bid/contract or by force account at the expense of the Contractor and his Surety shall be liable to the Locality for any excess cost incurred. In such event the Locality may take possession of and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefore.

B. Liquidated Damages for Delays

If the work is not completed within the time stipulated in the applicable bid for Lump Sum or Unit Price Contract provided, the Contractor shall pay to the Locality as fixed, agreed, liquidated damages (it being impossible to determine the actual damages occasioned by the delay) the amount of \$200.00 for each calendar day of delay, until the work is completed. The Contractor and his sureties shall be liable to the Locality for the amount thereof.

C. Excusable Delays

The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due to:

- (1) Any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, national defense, or any other national emergency.
- (2) Any acts of the Locality;
- (3) Causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of another Contractor in the performance of some other contract with the Locality, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions.

Provided, however, that the Contractor promptly notifies the Locality within ten (10) days in writing of the cause of the delay. Upon receipt of such notification, the Locality shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this Contract, the delay is properly excusable, the Locality shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

**ASSIGNMENT OR NOVATION**

The Contractor shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the written consent of the Locality; provided, however, that assignments to banks or other financial institutions may be made without the consent of the Locality. No assignment or novation of this Contract shall be valid unless the assignment or novation expressly provides that the assignment of any of the Contractor's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered, and materials, tools, and equipment supplied for the performance of the work under this Contract in favor of all persons, firms, or corporations rendering such labor or services or supplying such materials, tools, or equipment.

**DISPUTES**

- A. All disputes arising under this Contract or its interpretation except those disputes covered by FEDERAL LABOR STANDARDS PROVISIONS whether involving law or fact or both, or extra work, and all claims for alleged breach of contract shall, within ten (10) days of commencement of the dispute, be presented by the Contractor to the Locality for decision. Any claim not presented within the time limit specified in this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim is not given within ten (10) days of its commencement, the claim will be considered only for a period commencing ten (10) days prior to the receipt of the Locality.
- B. The Contractor shall submit in detail his claim and his proof thereof.
- C. If the Contractor does not agree with any decision of the Locality, he shall in no case allow the dispute to delay the work but shall notify the Locality promptly that he is proceeding with the work under protest.

**TECHNICAL SPECIFICATIONS AND DRAWINGS**

Anything mentioned in the Technical Specifications and not shown on the Drawings or vice versa, shall be of like effect as if shown on or mentioned in both. In case of difference between Drawings and Technical Specifications, the Technical Specifications shall govern. In case of any discrepancy in Drawings, or Technical Specifications, the matter shall be immediately submitted to the Locality, without whose decision, said discrepancy shall not be adjusted by the Contractor, save only at his own risk and expense.

**SHOP DRAWINGS**

- A. All required shop drawings, machinery details, layout drawings, etc. shall be submitted to the Engineer in five (5) copies for approval sufficiently in advance of requirements to afford ample time for checking, including time for correcting, resubmitting and rechecking if necessary. The Contractor may proceed, only at his own risk, with manufacture or installation of any equipment or work covered by said shop drawings, etc. until they are approved and no claim, by the Contractor, for extension of the contract time shall be granted by reason of his failure in this respect.
- B. Any drawings submitted without the Contractor's stamp of approval will not be considered and will be returned to him for proper resubmission. If any drawings show variations from the requirements of the Contract because of standard shop practice or other reason, the Contractor shall make specific mention of such variation in his letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment of contract price and/or time, otherwise the Contractor will not be relieved of the responsibility for executing the work in accordance with the Contract even though the drawings have been approved.
- C. If a shop drawing is in accordance with the contract or involves only a minor adjustment in the interest of the Locality not involving a change in contract price or time; the Engineer may approve the drawing. The approval shall not relieve the Contractor from his responsibility for adherence to the contract or for any error in the drawing.



### **REQUESTS FOR SUPPLEMENTARY INFORMATION**

It shall be the responsibility of the Contractor to make timely requests of the Locality for any additional information not already in his possession which should be furnished by the Locality under the terms of this Contract, and which he will require in the planning and execution of the work. Such requests may be submitted from time to time as the need approaches, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two weeks after Contract award and shall be as complete as possible at that time. The Contractor shall, if requested, furnish promptly any assistance and information the Engineer may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in his work or to others arising from his failure to comply with the provision of this section.

### **MATERIAL AND WORKMANSHIP**

- A. Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials and articles incorporated in the Work shall be new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to in the Technical Specifications as "equal to" any particular standard, the Engineer shall decide the question of equality.
- B. The Contractor shall furnish to the Locality for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which he contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as required, and shall likewise submit for approval full information concerning all other materials or articles which he proposes to incorporate.
- C. Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.
- D. Materials specified by reference to the number or symbol of a specific standard, shall comply with requirements in the latest version thereof and any amendment or supplement thereto in effect on the date of the invitation for Bids, except as limited to type, class or grade, or modified in the Technical Specifications shall have full force and effect as though printed therein.
- E. The Locality may require the Contractor to dismiss from the work such employee or employees as the Locality or the Engineer may deem incompetent, or careless, or insubordinate.

**SAMPLES, CERTIFICATES, AND TESTS**

- A. The Contractor shall submit all material or equipment samples, certificates, affidavits, etc., as called for in the Contract Documents or required by the Engineer, promptly after award of the Contract and acceptance of the Contractor's bond. No such material or equipment shall be manufactured or delivered to the site, except at the Contractor's own risk, until the required samples or certificates have been approved in writing by the Engineer. Any delay in the work caused by late or improper submission of samples or certificates for approval shall not be considered just cause for an extension of the contract time.
- B. Each sample submitted by the Contractor shall carry a label giving the name of the Contractor, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the Contractor shall state that the sample complies with contract requirements, shall give the name and brand of the product, its place of origin, the name and address of the producer and all specifications or other detailed information which will assist the Engineer in making a prompt decision regarding the acceptability of the sample. It shall also include the statement that all materials or equipment furnished for use in the project will comply with the samples and/or certified statements.
- C. Approval of any materials shall be general only and shall not constitute a waiver of the Locality's right to demand full compliance with Contract requirements. After actual deliveries, the Engineer will have such check tests made as he deems necessary in each instance and may reject materials and equipment and accessories for cause, even though such materials and articles have been given general approval. If materials, equipment, or accessories which fail to meet check tests have been incorporated in the work, the Engineer will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the Contractor as is equitable.
- D. Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follows:
  - 1. The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, except those samples taken on the project by the Engineer;
  - 2. The Contractor shall assume all costs of re-testing materials which fail to meet contract requirements;
  - 3. The Contractor shall assume all costs of testing materials offered in substitution for those found deficient;
  - 4. The Locality will pay all other expenses.

### PERMIT AND CODES

- A. The Contractor shall give all notices required by and comply with all applicable laws, ordinances, and codes of the Local Government. All construction work and/or utility installations shall comply with all applicable ordinances, and codes including all written waivers. Before installing any work, the Contractor shall examine the Drawings and Technical Specifications for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the Locality. Where the requirements of the Drawings and Technical Specifications fail to comply with such applicable ordinances or codes, the Locality will adjust the Contract by Change Order to conform to such ordinances or codes (unless waivers in writing covering the difference have been granted by the governing body or department) and make appropriate adjustment in the contract Price or stipulated unit prices.

Should the Contractor fail to observe the foregoing provisions and proceed with the construction and/or install any utility at variance with any applicable ordinance or code, including any written waivers (notwithstanding the fact that such installation is in compliance with the Drawings and Technical Specifications), the Contractor shall remove such work without cost to the Locality.

- B. The Contractor shall at his own expense, secure and pay for all permits for street pavement, sidewalks, sheds, removal of abandoned water taps, sealing of house connection drains, pavement cuts, buildings, electrical, plumbing, water, gas, and sewer permits required by the local regulatory body or any of its agencies.
- C. The Contractor shall comply with applicable local laws and ordinances governing the disposal of surplus excavation, materials, debris and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with the Improvements contained in this Contract.

### CARE OF WORK

- A. The Contractor shall be responsible for all damages to person or property that occur as a result of his fault or negligence in connection with the prosecution of the work and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance.
- B. The Contractor shall provide sufficient competent watchmen, both day and night, including Saturdays, Sundays, and holidays, from the time the Work is commenced until final completion and acceptance.
- C. In an emergency affecting the safety of life, limb or property, including adjoining property, the Contractor, without special instructions or authorization from the Locality is authorized to act at his discretion to prevent such threatened loss or injury, and he shall so act. He shall likewise act if instructed to do so by the Locality.
- D. The Contractor shall avoid damage as a result of his operations to existing sidewalks, streets, curbs, pavements, utilities (except those which are to be replaced or removed), adjoining property, etc., and he shall at his own expense completely repair any damage thereto caused by his operations.
- E. The Contractor shall shore up, brace, underpin, secure, and protect as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the construction of the improvements included in this Contract. The Contractor shall be responsible for the giving of any and all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the Locality from any damages on account of settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the Locality may become liable in consequences of such injury or damage to adjoining and adjacent structures and their premises.

### **ACCIDENT PREVENTION**

- A. No laborer or mechanic employed in the performance of this Contract shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety as determined under construction safety and health standards promulgated by the Secretary of Labor.
- B. The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work.
- C. The Contractor shall maintain an accurate record of all cases of death, occupational disease, or injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the Contract. The Contractor shall promptly furnish the Locality with reports concerning these matters.
- D. The Contractor shall indemnify and save harmless the Locality from any claims for damages resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result of any work conducted under this Contract.
- E. The Contractor shall provide trench protection for all trenches in excess of a depth of five (5) feet, in the manner specified in the Technical Specifications and Drawings.

### **SANITARY FACILITIES**

The Contractor shall furnish, install and maintain ample sanitary facilities for the workmen. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required. Drinking water shall be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or foundations. All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

### **USE OF PREMISES**

- A. The Contractor shall confine his equipment, storage of materials, and construction operations to the Contract limits as shown on the Drawings and as prescribed by ordinances or permits, or as may be desired by the Locality, and shall not unreasonably encumber the site or public rights of way with his materials and construction equipment.
- B. The Contractor shall comply with all reasonable instructions of the Locality and all existing state and local regulations regarding signs, advertising, traffic, fires, explosives, danger signs and barricades.

### **REMOVAL OF DEBRIS, CLEANING, ETC.**

The Contractor shall, periodically or as directed by the Engineer during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights of way reasonably clear. Upon completion of the work, he shall remove all temporary construction facilities, debris and unused materials provided for work, and put the whole site of the Work and public rights of way in a neat and clean condition.

### **INSPECTION**

- A. All materials and workmanship shall be subject to inspection, examination, or test by the Locality and Engineer at any and all times during manufacture or construction and at any and all places where such manufacture or construction occurs. The Locality shall have the right to reject defective material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Area and replaced with material of specified quality without charge. If the Contractor fails to proceed at once with the

correction of rejected workmanship or defective material, the Locality may by contract or otherwise have the defects remedied or rejected materials removed from the Project Area and charge the cost of the same against any Monies which may be due the Contractor, without prejudice to any other rights or remedies of the Locality.

- B. The Contractor shall furnish promptly all materials reasonably necessary for any tests which may be required. All tests by the Locality will be performed in such a manner as not to delay the work unnecessarily and will be made in accordance with the provisions of the Technical Specifications.

- C. The Contractor shall notify the Locality sufficiently in advance of backfilling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent of the Locality, the Contractor shall uncover for inspection and recover such facilities at his own expense, when so requested by the Locality.
- D. Should it be considered necessary or advisable by the Locality at any time before final acceptance of the entire work to make an examination of work already completed by uncovering the same, the Contractor shall on request promptly furnish all necessary facilities, labor, and material. If such work is found to be defective in any important or essential respect, due to fault of the Contractor or his subcontractors, the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual cost of labor and material necessarily involved in the examination and replacement, shall be allowed the Contractor and he shall, in addition, if completion of the work of the entire Contract has been delayed thereby, be granted a suitable extension of time on account of the additional work involved.
- E. Inspection of materials and appurtenances to be incorporated in the improvements included in this Contract may be made at the place of production, manufacture or shipment, whenever the quantity justifies it, and such inspection and acceptance, unless otherwise stated in the technical specifications, shall be final, except as regards (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit, or (4) fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of material as a whole or in part will be made at the Project Site.
- F. Neither inspection, testing, approval nor acceptance of the Work in whole or in part, by the Locality or its agents shall relieve the Contractor or his sureties of full responsibility for materials furnished or work performed not in strict accordance with the Contract.

#### **REVIEW BY LOCALITY**

The Locality and its authorized representatives and agents shall have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, material invoices, and other relevant data and records pertaining to this Contract, provided, however that all instructions and approval with respect to the work will be given to the Contractor only by the Locality through its authorized representatives or agents.

#### **FINAL INSPECTION**

When the Improvements included in this Contract are substantially completed, the Contractor shall notify the Locality in writing that the work will be ready for final inspection on a definite date which shall be stated in the notice. The Locality will make the arrangements necessary to have final inspection commenced on the date stated in the notice, or as soon thereafter as is practicable.

#### **DEDUCTION FOR UNCORRECTED WORK**

If the Locality deems it not expedient to require the Contractor to correct work not done in accordance with the Contract Documents, an equitable deduction from the Contract Price will be made by agreement between the Contractor and the Locality and subject to settlement, in case of dispute, as herein provided.

#### **INSURANCE**

The Contractor shall not commence work under this Contract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Locality. Each insurance carrier shall be licensed to operate in the State of Texas and listed with the Texas State Board of Insurance.

- a. Definitions: Certificate of coverage (certificate). A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, OR TWCC 84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in para.406.09 includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- b. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas labor Code, Section 401.011 (44) for all employees of the Contractor providing services on the project, for the duration of the project.
- c. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- d. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- e. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
  - (1) a certificate of coverage, prior to that person beginning work on the project, s
  - (2) no later than seven (7) days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- f. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- g. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- h. The Contractor shall post on each project site a notice, in the test, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- i. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
  - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.00(44) for all of its employees providing services on the project, for the duration of the project;
  - (2) provide to the Contractor, prior to that person beginning work on the project, a certificate of

coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the Contractor:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period. If the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially effects the provision of coverage of any person providing services on the project; and

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1)-(7), with the certificates of coverage to be provided to the person for whom they are providing services.

j. By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

k. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

A. Compensation Insurance:

The Contractor shall procure and shall maintain during the life of this Contract Worker's Compensation Insurance as required by the State of Texas for all of his employees to be engaged in work at the site of the project under this Contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Worker's Compensation Insurance.

B. Contractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance:

The Contractor shall procure and shall maintain during the life of this Contract Contractor's Public Liability Insurance, Contractor's Property Damage Insurance and Vehicle Liability Insurance in the following amounts:

Public Liability: \$100,000 for injuries to 1 person, \$300,000 for each occurrence. In addition to these requirements, the City requires an additional \$1,000,000.



Property Damage: \$250,000.

Automobile Property Damage: \$250,000.

Automobile Public Liability: \$500,000 for injuries to 1 person. \$500,000 for each occurrence.

NOTE: Automobile insurance shall cover all automobiles and trucks owned by the CONTRACTOR. For terms covered under this Contract, the City of Kyle, 411 E. San Patricio Ave., Kyle, Texas 78368 and LNV ENGINEERING, 801 Navigation, Suite 300, Corpus Christi, Texas 78408 shall be named as additional insured with respect to general liability.

Proper certificates of insurance shall be filed with the ENGINEER prior to the execution of the Contract.

C. Proof of Insurance:

The Contractor shall furnish the Locality with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after thirty (30) days written notice has been received by the Locality."

**WARRANTY OF TITLE**

No material, supplies, or equipment to be installed or furnished under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale, lease-purchase or other agreement by which an interest is retained by the seller or supplier. The Contractor shall warrant good title to all materials, supplies, and equipment installed or incorporated in the work and upon completion of all work, shall deliver the same together with all improvements and appurtenances constructed or placed by him to the Locality free from any claims, liens, or charges. Neither the Contractor nor any person, firm, or corporation furnishing any material or labor for any work covered by this Contract shall have any right to a lien upon any improvement or appurtenance. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any law permitting such persons to look to funds due the Contractor in the hands of the Locality. The provisions of this paragraph shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials for the work when no formal contract is entered into for such materials.

**WARRANTY OF WORKMANSHIP AND MATERIALS**

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the improvements included in this Contract by the Locality or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of twelve (12) months from the date of final acceptance of the work.

**COMPLIANCE WITH AIR AND WATER ACTS**

In compliance with the Clean Air Act, as amended, 41 U.S.C. Sec. 7401 et. seq., and the regulations of the Environmental Protection Agency (EPA) with respect thereto, the Contractor agrees that:

1. Any facility to be utilized in the performance of this Contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to 40 CFR 15.20.
2. He will comply with all requirements of Section 114 of the Clean Air Act, as amended.

**EQUAL EMPLOYMENT OPPORTUNITY**

- A. The Contractor will not discriminate against any employee or an applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Locality.
- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- D. The Contractor shall take affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions.
- E. Contractors are encouraged to participate in voluntary associations which assist in fulfilling their affirmative action obligations.
- F. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority.
- G. The Contractor shall not use the timetable or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- H. The Contractor shall not enter into any subcontract with any person or firm debarred from Governmental contracts.
- I. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents.

**AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS**

The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, promotion, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

**SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974**

No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

**THE PROVISION OF LOCAL TRAINING, EMPLOYMENT, AND BUSINESS OPPORTUNITIES**

- A. To the greatest extent feasible, opportunities for training and employment must be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- B. The Contractor will include this clause in every subcontract for work in connection with the project.

**NON SEGREGATED FACILITIES**

The Contractor certifies that he does not and will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not and will not permit his employees any segregated facilities at any of his establishments, or permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. As used in this paragraph the term "segregated facilities" means any waiting rooms, work areas, rest rooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise.

**JOB OFFICES**

- A. The Contractor and his subcontractors may maintain such office and storage facilities on the site as are necessary for the proper conduct of the work. These shall be located so as to cause no interference to any work to be performed on the site. The Locality shall be consulted with regard to locations.
- B. Upon completion of the improvements, or as directed by the Locality, the Contractor shall remove all such temporary structures and facilities from the site, and leave the site of the Work in the condition required by the Contract.

**PARTIAL USE OF SITE IMPROVEMENTS**

The Locality may give notice to the Contractor and place in use those sections of the improvements which have been completed, inspected and can be accepted as complying with the Technical Specifications and if in its opinion, each such section is reasonably safe, fit, and convenient for the use and accommodation for which it was intended, provided:

- A. The use of such sections of the Improvements shall in no way impede the completion of the remainder of the Work by the Contractor.
- B. The Contractor shall not be responsible for any damages or maintenance costs due directly to the use of such sections.
- C. The period of guarantee stipulated in the General Contract Conditions hereof shall not begin to run until the date of the final acceptance of all Work which the Contractor is required to construct under this Contract.

**CONTRACT DOCUMENTS AND DRAWINGS**

The Local Public Agency will furnish the Contractor without charge three (3) copies of the Contract Documents, including Technical Specifications and Drawings. Additional copies requested by the Contractor will be furnished at cost.

**CONTRACT PERIOD**

The Work to be performed under this Contract shall commence within the time stipulated by the Locality in the Notice to Proceed, and shall be fully completed within the time stipulated in the Contractor's bid.

**LIQUIDATED DAMAGES**

Since the actual damages for any delay in completion of the Work under this Contract are impossible to determine, the Contractor and his Sureties shall be liable for and shall pay to the Locality the sum of Two Hundred Dollars (\$200.00) as fixed, agreed, and liquidated damages for each calendar day of delay from the above stipulated time for completion.



# CITY OF KYLE, TEXAS

## Sustainable Places Project Planning Demonstration Sites

Meeting Date: 7/5/2011  
Date time: 7:00 PM

**Subject/Recommendation:**

General Discussion and Possible Action of the July 1st Call for Applications for the Sustainable Places Project Planning Demonstration Sites ~ *Raquel Garcia, Grants Administrator*

**Other Information:**

The Capital Area Council of Governments, working with a regional consortium of local governments and other regional stakeholders, was awarded \$3.7 million as one of only 45 HUD Sustainable Communities Planning Grants given out across the nation and of two in Texas. The Consortium, which has been named the Capital Area Texas Sustainability Consortium or CATS, includes the Cities of Austin, Round Rock, and San Marcos, CAMPO, Envision Central Texas, and UT's Center for Sustainable Development. IBM is the only private sector member of the Consortium. The project focuses on the Activity Centers proposed in the Capital Area Metropolitan Planning Organization (CAMPO) 2035 Plan and proposes to use an innovative model for planning future development that integrates economic development opportunities and housing choices with mobility. The concept centers on the selection of several of the Activity Centers as demonstration sites – ideally selecting at least one in each of the five counties covered in CAMPO's plan. Technical support will be provided to the host communities of the demo sites during the next two years and a new analytic tool will be developed by IBM in cooperation with the University of Texas (the Sustainable Development and Transportation Research departments) to assist the communities to assess the fiscal and economic impact of different approaches for planning future development. This is not a traditional grant fund in the terms of an exchange of money; this project will be a selection of sites that will award consulting services to those sites, or Activity Centers.

Consortium partners also include Capital Metro, Austin Community College, Texas State University, HousingWorks, Capital Area Housing Finance Corporation, WorkForce Solutions, Lone Star Rail District, Austin-San Antonio Corridor Council, LCRA, and TxDOT.

**Budget Information:**

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

- [Sustainable Places Project Agenda](#)
- [Call for Applications](#)
- [Application Checklist](#)
- [Application Form](#)
- [Example Resolution](#)

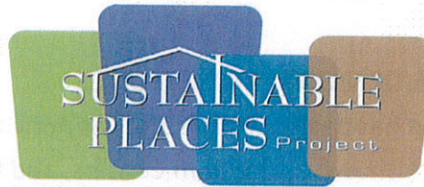


**Application Forum**  
Presented by the  
**Capital Area Texas Sustainability Consortium**

UT Thompson Conference Center  
June 24, 2011  
9:30 a.m. – 11 a.m.

**A G E N D A**

- |             |   |  |
|-------------|---|--|
| <b>I.</b>   | <b>Welcome and Opening Remarks</b>                            | <b>Betty Voights</b> , Executive Director<br>Capital Area Council of Governments               |
| <b>II.</b>  | <b>Introduction to the<br/>Sustainable Places Project</b>     | <b>Sally Campbell</b> , Executive Director<br>Envision Central Texas                           |
| <b>III.</b> | <b>Why Should Local Governments Apply?</b>                    | <b>Betty Voights</b>   |
| <b>IV.</b>  | <b>Activity Centers Designated as<br/>Demonstration Sites</b> | <b>Alex Kone</b> , Planner<br>Capital Area Metropolitan Planning<br>Organization               |
| <b>V.</b>   | <b>The Application Process</b>                                | <b>Mark Sweeney</b> ,<br>Director of Regional Services,<br>Capital Area Council of Governments |
| <b>VI.</b>  | <b>Questions and Answers</b>                                  | <b>All</b>   |
| <b>VII.</b> | <b>Closing Remarks</b>  | <b>Betty Voights</b>   |



## **SUSTAINABLE PLACES PROJECT PLANNING DEMONSTRATION SITES CALL FOR APPLICATIONS**

### **INTRODUCTION**

A regional consortium of organizations and local governments from the Austin-Round Rock-San Marcos MSA have received a Sustainable Communities Regional Planning Grant from the Department of Housing and Urban Development (HUD) to work on integrating mobility, housing choices, and economic prosperity into planning efforts of communities represented as Activity Centers in the 2035 Plan adopted by the Capital Area Metropolitan Planning Organization (CAMPO). The Capital Area Texas Sustainability (CATS) Consortium was awarded \$3.7 million through the Capital Area Council of Governments (CAPCOG) as the lead applicant. A cooperative agreement was officially executed with HUD on February 14, 2011. The project is referred to as the Sustainable Places Project.

The CATS Consortium has developed definitive goals for the Activity Centers in the CAMPO 2035 Plan. The host jurisdictions of these Activity Centers are being solicited through this **Call for Applications** to participate as planning demonstration (demo) sites and take on planning and implementation efforts that will address these goals.

The CATS Consortium will subsequently select a professional consultant team through a separate RFP process to provide planning services and guidance to the selected planning demonstration sites. It is the goal of the Consortium to choose a planning demo site in each county of the MSA (Travis, Williamson, Hays, Bastrop and Caldwell Counties) that will be selected through this competitive process, as described in detail below. Likewise, the objective is to choose a diverse group of Activity Centers as defined in the CAMPO 2035 Plan.

The grant is also funding the development of a sustainability software package (in cooperation with the University of Texas – Center for Sustainable Development, IBM, and the City of Austin) which will allow each selected planning demo site to evaluate the consequences of various land development and infrastructure investment scenarios from environmental quality, mobility, economic development, and social justice perspectives.

For more information and regular updates please access the CAPCOG web site at [www.capcog.org](http://www.capcog.org).

## **ELIGIBLE PLANNING DEMONSTRATION SITES**

The CAMPO 2035 Plan has designated 37 sites as Activity Centers. One (1) site is classified as large, thirteen (13) are shown as medium Centers, and twenty-three (23) sites are categorized as small Centers. Each site is eligible to be considered as a planning demonstration site.

## **ELIGIBLE PLANNING DEMONSTRATION SITE APPLICANTS**

Any local government (city or county) located within the five county CAMPO area that has a designated Activity Center is eligible to apply. Multiple applications are permissible, e.g., if a city has three designated Activity Centers within their city limits they can submit three separate applications. Likewise, joint applications between a city and a county or two counties are also allowable, as long as one of the local governments is designated as the lead applicant and primary responsible party.

Please note that only one application is allowed for each of the thirteen (13) Medium Activity Centers and the twenty-three (23) Small Activity Centers as designated in the CAMPO 2035 Plan. Multiple applications are permissible for the one (1) Large Activity Center due to its geographical size. The following is a link to the CAMPO Centers location map:

<http://www.campotexas.org/pdfs/Map%20%20Centers%20Concept.pdf>

## **WHY SHOULD LOCAL GOVERNMENTS APPLY?**

As previously stated, the CATS Consortium will select a team of professional consultants to provide technical planning assistance, including access to the new analytics software, to those communities with Activity Centers that have been selected as planning demonstration sites. **Please note that this Call for Applications does not offer grant funding, but does offer valuable consultant services in strategic areas of transportation, land use, housing and economic development that would empower a community to fully develop a designated Activity Center. The level and time frame of consultant support will vary for each planning demo site based on unique issues, local progress, and extent of support needed to complete the planning process.**



## **SUSTAINABLE ACTIVITY CENTER GOALS**

The following goals were established by the CATS Consortium that address the primary components of a successful and sustainable Activity Center. While different in some aspects, these goals build upon and complement CAMPO's adopted 2035 Regional Transportation Plan Goals.

### **Housing Choices:**

- Opportunity for people with diverse household income levels to live a reasonable distance from employment, shopping, educational, recreational and transportation choices.
- Neighborhoods that provide diverse housing types with mixed densities that accommodate all age groups and stages of life.

### **Mobility Options:**

- Transportation infrastructure and services that enhance the efficient movement of people, goods and services.
- Multi-model options (rail, bus, pedestrian and bicycle) that support living and working within an activity center, as well as commuting to other centers.
- Connectivity between the different mobility systems.

### **Economic Prosperity:**

- Commercial/business development to provide jobs and services for center residents.
- Effective linkages between residents and post secondary education opportunities/development of a workforce that can earn a livable wage and support free agents working within the center.
- Target the development and retention of competitive businesses and the jobs they create.
- Maximize the return on public investments in existing and new roads, utilities, transit systems, bridges, etc.

### **Healthy/Inclusive Community:**

- Ample exercise and recreational opportunities and facilities.
- Access to products and services to support and enhance health, including proximity to medical facilities, daycare, and fresh produce/farmers markets.
- Cultural vitality and connection to local history.
- Community spaces for public gatherings and activities.
- Stable neighborhood schools as a focal point for all adults, children, civic groups, and businesses.
- Thoroughfare and pedestrian systems designed to provide walkability, bicycle pathways and public safety.

- Proximity to open space and nature.
- Emphasis on local food production and community gardening.

**Concentrated/Balanced Growth:**

- Mixed-use development that provides a variety of development options and land use types near transit service/transportation centers.
- Commitment to redevelopment, infill or adaptive reuse of areas with existing infrastructure.
- Maintain and enhance existing infrastructure.
- Orderly and efficient provision of new infrastructure in context with site optimization and compactness.
- Facilitate residential development in close proximity to daily needs, e.g., food/retail/personal services.
- Emphasis on street-level uses that maximize pedestrian activity.
- Focus on community identity or sense of place by utilizing compatible, quality architectural and landscape designs, and preservation of significant historic structures.

**Preservation of Environment/Natural Resources:**

- Minimal impact on the natural environment (air quality, water, watersheds, wetlands and climate).
- Sustainable building and site designs that use water, energy and material resources efficiently (green building design and conservation).
- Effective recycling and source reduction programs and services.
- Preservation and protection of natural areas, scenic corridors, agricultural uses, environmentally sensitive areas and open space.

## REVIEW CRITERIA FOR SELECTION OF PLANNING DEMONSTRATION SITES

- **Complete a Planning Demonstration Site Application Form:** Please refer to the attached application form and checklist.
- **Planning Demonstration Site Area:** Define the proposed planning demonstration site area and depict in map form (11"x 17" maximum – two copies) including scale and north arrow. The area should be clearly defined, focused, and of concise size/composition to be manageable. Also provide one parcel map (11"x17" maximum) of the site showing the primary land owners. (4 pages max; 3 maps, 1 narrative page). Please note that the proposed planning demonstration site area must be primarily located within a designated Activity Center as shown on the CAMPO Centers map.
- **Issue Statement:** Prepare an issue statement that addresses the following questions (2 pages maximum):
  - Why should your Activity Center be selected as a planning demonstration site?
  - What is the vision for your Activity Center?
  - How will having your Activity Center designated as a demonstration site impact your community's planning goals and vision?
  - How will the technical and professional assistance for developing detailed plans and implementation strategies make a difference in your community's efforts to establish a successful and sustainable Activity Center?
  - What aspects of the **Sustainable Activity Center Goals** are being considered or have been included in your community's planning efforts to date?
- **Local Resources:** Identify the applicant's primary point of contact and support staff that will be dedicated to this two (2) year process. Identify the applicant's planning information and infrastructure inventory databases. Identify the electronic media and media format on land use, zoning, parcel boundaries and infrastructure capacity/location. (2 pages maximum)
- **Local Commitment:** The applicant should include an appendix to the application displaying collective commitment/political will to implement local initiatives in support of their proposed planning demo site that reflects the **Sustainable Activity Center Goals**. Required local commitment activities to be submitted in the appendix include the following:
  - Provide an adopted and signed Sustainable Places Project resolution from the local government acknowledging long-term commitment to this endeavor. (refer to attached draft resolution)
  - Provide a list of specific stakeholders (bankers, developers, local business owners, realtors, large landowners, minority and faith based community representatives, etc.) that are dedicated to being involved throughout the entire process, and will serve as members of a Sustainable Places Stakeholders Committee.
  - Provide letters of support from local organizations, civic clubs and businesses.
  - Provide letters of support from primary land owners within the planning demo site area.

**Capacity to Implement** (2 pages maximum): Describe substantive activities that show local ability to undertake the proposed planning demo site process, and the ability to support and implement the desired outcomes. Examples of local activities include:

- Describe a project or elements of a plan that your community has implemented including staffing, funding, development of regulations, community support, and formal actions by the governing body.
  - Describe the community's past efforts in using financing tools, capital improvement projects, bond issues, other programs (grants, pass-through tolling, loans, etc) to implement projects supporting transportation, housing, and economic development.
- **Discretionary Factors:** Additional consideration may be given through the evaluation process to planning demonstration site applications that exhibit the following discretionary factors:
    - Innovative concept/approach to the project.
    - Proposed or pending private and/or public development projects within the demo site area that will complement and support the **Sustainable Activity Center Goals**.
    - Identification of additional funding sources that could be effectively applied to the planning demo site.
    - Comprehensive coordination with other organizations and non-profits to address a full range of needs.
    - Contribution of In-kind services to the project.
    - Applicability and transferability of the potential planning demo site outcomes locally and regionally.

## **APPLICATION FORMAT AND SUBMITAL PROCESS**

You may obtain a copy of the Sustainable Places Planning Demonstration Sites application requirements by:

- Contacting **Chad Coburn by telephone at 512-916-6012 or email at [ccoburn@capcog.org](mailto:ccoburn@capcog.org).**
- Downloading the application form and checklist with this Call for Applications announcement; or
- Downloading the application form and checklist from the CAPCOG website at [www.capcog.org](http://www.capcog.org).

Submit one (1) signed, unbound original and two (2) copies of the complete planning demonstration sites application along with one (1) complete PDF version on disk or USB device to CAPCOG. Applications must be received by **5:00 pm on Wednesday, August 31, 2011.**

Applications must be mailed or delivered to:

Chad Coburn, Sustainable Places Project Manager  
Capital Area Council of Governments  
6800 Burlleson Road  
Building 310, Suite 165  
Austin, TX 78744

**Faxed or electronically transmitted applications will not be accepted.**

Upon receipt, an application will be stamped indicating the time and date it was received at CAPCOG. Confirmation of receipt of each application will be posted on the CAPCOG website.

### **Preliminary Review of Submitted Applications**

Based on the elements of the attached application checklist, the CAPCOG staff will review each planning demo site application for completeness and will notify the applicant in a timely manner via email if a required item is missing. Each applicant will have an opportunity to amend their respective application based on the schedule shown below. If an applicant does not provide the identified missing components by the required deadline, the applicant will forfeit further consideration of their application. No adjustments will be allowed outside of the established time frame.

Please note that all informational and scheduling updates will be posted on a regular basis on the CAPCOG website ([www.capcog.org](http://www.capcog.org)) for your convenience. If you have any questions concerning the application and evaluation process, please contact Chad Coburn at (512) 916-6012 or email at [ccoburn@capcog.org](mailto:ccoburn@capcog.org).

## APPLICATION EVALUATION AND SELECTION PROCESS

The Sustainable Places Project Planning Demonstration Sites application is a competitive selection process. Only applications received on or before the deadline will be reviewed competitively.

The CATS Steering Committee has appointed a CATS Review Committee to evaluate the planning demo sites applications. The Committee will determine which applications best meet the selection criteria based on the strength and completeness of the responses.

At the discretion of the individual committee members, additional consideration may be given to the **Discretionary Factors**, as outlined above, in assessing the level of response from the applicants.

Upon completion of the non-numerical scoring phase, the CATS Review Committee will compare and discuss the results of the process in order to come to a consensus on which planning demo sites to recommend to the CATS Steering Committee. **If deemed necessary, before making their final recommendations, the Review Committee may request formal presentations at a later date, as shown in the schedule below, from those applicants that exhibit the greatest level of applicability. Therefore, all applicants should be prepared to have an elected official from their respective jurisdiction give a ten (10) minute power point presentation and be available to answer questions from the Review Committee.**

The CATS Review Committee will subsequently submit their selection recommendations to the CATS Steering Committee, who will then officially choose the planning demonstration sites. Written notification of the results will be provided to each applicant and will be posted on the CAPCOG website.

In summary, the goal of the CATS Consortium is to select a planning demo site in each county of the MSA (Travis, Williamson, Hays, Bastrop and Caldwell Counties) that is primarily located within the boundaries of a designated CAMPO Activity Center. Likewise, the objective is to choose a diverse group of Activity Centers as defined in the CAMPO 2035 Plan.

## SCHEDULE OF IMPORTANT DATES

June 24, 2011	Planning Demonstration Sites Application Forum Thompson Conference Center – UT Austin 9:30 am – 11:00 am
July 1, 2011	Applications Available on CAPCOG website
August 31, 2011	Applications Due at CAPCOG by 5:00 pm
September 1 – 8, 2011	Preliminary Review of Submitted Applications
September 9, 2011	Notification of Application Status Sent to Applicants
September 26, 2011	Application Adjustments Due at CAPCOG by 5:00 pm
September 27, 2011	Complete Applications Sent to CATS Review Committee
October 13, 2011	CATS Review Committee Evaluation Meeting at CAPCOG
October 20, 2011	Applicant Presentations to CATS Review Committee (if requested) and Final Recommendations at CAPCOG
October 28, 2011	CATS Steering Committee Planning Demo Sites Selection Meeting at CAPCOG

SCHEDULE OF IMPORTANT DATES

Date	Event
July 24, 2011	Final presentation of development form
August 1, 2011	Thompson Conference Center - 111 Austin
August 1, 2011	9:00 am - 11:00 am
August 1, 2011	Application Available for RFP - 111 Austin
August 1, 2011	Application Due for RFP - 111 Austin
August 1, 2011	Program for 111 Austin - 111 Austin
September 1, 2011	Notification of application status sent to applicant
September 1, 2011	Application Available for RFP - 111 Austin
September 1, 2011	Application Due for RFP - 111 Austin
September 1, 2011	Program for 111 Austin - 111 Austin
October 1, 2011	Final presentation of development form
October 1, 2011	Thompson Conference Center - 111 Austin
October 1, 2011	9:00 am - 11:00 am
October 1, 2011	Application Available for RFP - 111 Austin
October 1, 2011	Application Due for RFP - 111 Austin
October 1, 2011	Program for 111 Austin - 111 Austin
November 1, 2011	Notification of application status sent to applicant
November 1, 2011	Application Available for RFP - 111 Austin
November 1, 2011	Application Due for RFP - 111 Austin
November 1, 2011	Program for 111 Austin - 111 Austin



**APPLICATION CHECKLIST**

The planning demonstration sites application submittal should be comprised of the sections below, clearly marked and in the following order:

✓	Requirements
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▪ <b>Complete Planning Demonstration Site Application Form</b> (1 page maximum)</li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▪ <b>Planning Demonstration Site Area</b> maps and a narrative description of the proposed area. Ensure that all maps include a scale and north arrow. (11" x 17" maximum size – two copies). Provide one parcel map (11"x 17" maximum) of the site showing the primary land owners. Please verify that the planning demo site area is located primarily within the boundaries of the designated CAMPO Activity Center. (4 pages maximum; 3 maps, 1 narrative page)</li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▪ <b>Issue Statement</b> that addresses the following questions (2 pages maximum):               <ul style="list-style-type: none"> <li>○ Why should your Activity Center be selected as a planning demonstration site?</li> <li>○ What is the vision for your Activity Center?</li> <li>○ How will having your Activity Center designated as a demonstration site impact your community's planning goals and vision?</li> <li>○ How will the technical and professional assistance for developing detailed plans and implementation strategies make a difference in your community's efforts to establish a successful and sustainable Activity Center?</li> <li>○ What aspects of the <b>Sustainable Activity Center Goals</b> are being considered or have been included in your community's planning efforts to date?</li> </ul> </li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▪ Detailed explanation of <b>Local Resources</b> dedicated to the process (2 pages maximum). Including identification of the primary point of contact and support staff dedicated to the two (2) year process; identification of planning information and infrastructure inventory databases; and identification of the electronic media and media format on land use, zoning, parcel boundaries and infrastructure capacity/location.</li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▪ Display of <b>Local Commitment</b> or political will to implement recommended initiatives and strategies in support of the proposed planning demo site that reflects the <b>Sustainable Activity Center Goals</b> (provide requested information in the Appendices to the application). Required local commitment activities include the following:               <ul style="list-style-type: none"> <li>○ Provide an adopted and signed Sustainable Places Project Resolution from the local government acknowledging long-term commitment to this endeavor. (refer to attached example resolution; place adopted resolution in the Appendices as described below)</li> <li>○ Provide a list of specific stakeholders (bankers, developers, local business owners, realtors, large landowners, minority and faith based community representatives, etc.) that are dedicated to be involved throughout the entire process, and will serve as members of a Sustainable Places Stakeholders Committee. (place in the Appendices as described below)</li> <li>○ Provide letters of support from local organizations, civic clubs and businesses. (place letters in the Appendices as described below)</li> <li>○ Provide letters of support from primary landowners within the planning demo site area. (place letters in the Appendices as described below)</li> </ul> </li> </ul>

<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▪ Provide the following substantive indicators that show <b>Local Capacity</b> to undertake the proposed planning demo site process and the ability to support and implement the desired outcomes (2 pages maximum).               <ul style="list-style-type: none"> <li>○ Describe a project or elements of a plan that your community has implemented including staffing, funding, development of regulations, community support, and formal actions by the governing body.</li> <li>○ Describe the community's past efforts in using financing tools, capital improvement projects, bond issues, and other programs (grants, pass-through tolling, loans, etc.) to implement projects supporting transportation, housing and economic development.</li> </ul> </li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▪ <b>Appendices</b> may include relevant supporting documentation as necessary; e.g. photographs, letters of support, related study summaries, supporting comprehensive plan policies.</li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▪ <b>Provide one (1) signed unbound original and two (2) copies of the complete application and one (1) complete PDF version on disk or USB device to CAPCOG.</b></li> </ul>

**Submit one (1) signed, unbound original and two (2) copies of the complete application along with one (1) complete PDF version on disk or USB device to Chad Coburn, Sustainable Places Project Manager, CAPCOG, 6800 Burleson Road, Building 310, Suite 165, Austin, TX 78744 by 5:00 p.m., Wednesday, August 31, 2011.**

**The Sustainable Places Project/CATS Review Committee will receive complete applications as a PDF only. Please ensure the PDF version that you provide with your submittal is a full package, including application form and checklist, completed responses to all information requests, resolution, letters of support, photos, and any other supporting material. Any materials not submitted as a PDF will not be distributed to the CATS Review Committee. If you have problems providing a PDF copy, please contact CAPCOG staff at (512)-916-6012.**

**Sustainable Places Project Demonstration Sites Application Form**

Name of responsible local government: \_\_\_\_\_

Name of primary contact person: \_\_\_\_\_

Title: \_\_\_\_\_ Department: \_\_\_\_\_

Address/City/State/Zip: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_

E-mail: \_\_\_\_\_

Name of co-applicant local government (if relevant): \_\_\_\_\_  
(Attach letter verifying joint application)

Name and location of Activity Center and proposed planning demonstration site: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Please read the Call for Applications document and follow the instructions on the attached application checklist in order to submit a complete planning demonstration site application.**

Typed Name of Authorizing Official: \_\_\_\_\_

Title of Authorizing Official: \_\_\_\_\_

Signature of Authorizing Official: \_\_\_\_\_ Date: \_\_\_\_\_

Subscribed and affirmed before me this \_\_\_\_ day of \_\_\_\_\_ August, 2011

Notary Public

\_\_\_\_\_  
My Commission expires:

## EXAMPLE SUSTAINABLE PLACES PROJECT RESOLUTION

A RESOLUTION OF THE CITY COUNCIL/COUNTY COMMISSIONERS' COURT OF <entity name>, TEXAS, AUTHORIZING THE FILING OF AN APPLICATION TO THE CAPITAL AREA TEXAS SUSTAINABILITY (CATS) CONSORTIUM TO BECOME A DEMONSTRATION SITE FOR THE SUSTAINABLE PLACES PROJECT, A PROGRAM FUNDED BY THE HUD SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT.

WHEREAS, the <entity name> desires to develop the Activity Center (description) through a two-year planning process that will integrate mobility options, expanded economic opportunities, housing choices, a healthy, inclusive community, and concentrated/balanced growth that preserves the surrounding natural environment and supports future growth of the community; and,

WHEREAS, the <entity name> governing body acknowledges a commitment of reasonable resources to support the planning process including meeting space, staff time, coordination with stakeholder groups, and participation by <entity name> leadership in sharing best practices and case studies with other demonstration site leaders; and,

WHEREAS, the <entity name> acknowledges that all consulting and analytical services are being made available through funding received by CAPCOG from the HUD Sustainable Communities Regional Planning Grant and there will be no direct cost to the city/county except for in-kind resources provided; however, there will not be any direct funding provided directly to any city/county participating as a demonstration site; and,

WHEREAS, the <entity name> agrees if designated to formally appoint its Sustainable Places Stakeholders Committee (list attached) in January 2012 ensuring the members understand the city/county's commitment to the two-year planning process and indicating their willingness to serve; and,

WHEREAS, the <entity name> recognizes the importance of communities in the region implementing plans that focus growth to maximize existing assets and infrastructure while sustaining economic competitiveness and the unique qualities of the participating cities and counties including planning for mobility and housing based on where people live and work;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL/COMMISSIONERS' COURT OF THE <entity name>, TEXAS;

1. That a Sustainable Places Project Planning Demonstration Site application is hereby authorized to be filed on behalf of <entity name> with the CATS Consortium.
2. That the City Council/Commissioner's Court commits that members of the governing body and staff as appropriate will work with planning consultants selected by the CATS Consortium to engage stakeholders, facilitate public support, and formulate inventive plans for the designated Activity Center.
3. That the city/county intends to adopt various improvement plans that are developed by the city/county during the planning process, possibly including capital improvements, incentive programs, regulations, and ordinances designed for the Activity Center.

Passed and approved this day of , 2011  
(Mayor/County Judge, City/County of )



# CITY OF KYLE, TEXAS

## Center Street Village, LP

Meeting Date: 7/5/2011  
Date time: 7:00 PM

**Subject/Recommendation:**

*(First Reading)* AN ORDINANCE AMENDING ORDINANCE NO. 438 (ZONING) OF THE CITY OF KYLE, TEXAS FOR THE PURPOSE OF REZONING APPROXIMATELY 27.01 ACRES FROM 'RS' RETAIL SERVICES DISTRICT TO 'R-3-2-' MULTI-FAMILY RESIDENTIAL DISTRICT, ON PROPERTY LOCATED ON THE EAST SIDE OF IH-35, NORTH OF EAST RR 150 AND SOUTH OF GOFORTH ROAD IN HAYS COUNTY, TEXAS. (CENTER STREET VILLAGE, LP Z-11-007); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Shira Rodgers, Director of Planning*

*Planning and Zoning Commission voted 4-2 to recommend approval of the zoning request.*

- Public Hearing

**Other Information:**

Please see attached backup material.

**Budget Information:**

N/A

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

- [Staff Memo](#)
- [Ordinance](#)
- [Exhibit A](#)
- [Exhibit A](#)
- [Exhibit B](#)
- [Planning Commission Staff Report](#)
- [Latest Plans for extension of RR 150](#)
- [Color Zoning Map](#)
- [Citizen Comment](#)
- [Future Land Use Map](#)
- [Land Use Recommendations](#)



**CITY COUNCIL AGENDA  
July 5, 2011**

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**Item/Subject:** AN ORDINANCE AMENDING ORDINANCE NO. 438 (ZONING) OF THE CITY OF KYLE, TEXAS FOR THE PURPOSE OF REZONING APPROXIMATELY 27.01 ACRES FROM 'RS' RETAIL SERVICES DISTRICT TO 'R-3-2-' MULTI-FAMILY RESIDENTIAL DISTRICT, ON PROPERTY LOCATED ON THE EAST SIDE OF IH-35, NORTH OF EAST RR 150 AND SOUTH OF GOFORTH ROAD IN HAYS COUNTY, TEXAS. (CENTER STREET VILLAGE, LP Z-11-007)  
(Public Hearing And First Reading of Ordinance).

**Initiating Dept:** Planning

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**Commentary**

Applicant's Request:

To rezone approximately 27.01 acres from 'RS' Retail Services District to 'R-3-2' Multi-Family Residential District.

Planning & Zoning Commission Recommendation to the City Council:

The Planning and Zoning Commission voted 4-2 to recommend approval of the applicant's request to rezone approximately 27.01 acres from 'RS' Retail Services District to 'R-3-2' Multi-Family Residential District.

In Favor: Chairman Cale Baese, Vice Chairman John Atkins, Jenny DiLeo, and Mike Rubsam.

In Opposition: Cicely Kay and Samantha Bellows.

Planning & Zoning Commission Public Hearing:

The Planning and Zoning Commission held a public hearing on June 28, 2011.

Lila Knight spoke in opposition to the applicant's request stating concerns with the amount of existing mutli-famliy zoning within the City; driveway access to the future

extension of RR 150, issues with the property and the amount of acres that are located within the floodplain.

Daphne Tenorio spoke in opposition to the applicant's request stating concerns with traffic issues and loss of taxable revenue for the City.

Background:

Owner: Center Street Village, LP

Agent: Kyle Residential LP

Please see attached Planning & Zoning Commission Staff Report for details.

Public Information Plan:

*June 8, 2011* : Public notice of the Planning and Zoning Commission and City Council public hearings published in the Hays Free Press.

*June 28, 2011:* Planning and Zoning Commission public hearing and recommendation to City Council.

*July 5, 2011:* City Council public hearing and first reading of ordinance



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF REZONING APPROXIMATELY 27.01 ACRES OF LAND FROM 'RS' RETAIL SERVICES DISTRICT TO 'R-3-2' MULTI-FAMILY RESIDENTIAL DISTRICT, ON PROPERTY LOCATED ON THE EAST SIDE OF IH-35, NORTH OF EAST RR 150 AND SOUTH OF GOFORTH ROAD IN HAYS COUNTY, TEXAS. (CENTER STREET VILLAGE Z-11-007); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to rezone approximately 27.01 acres from 'RS' Retail Services District to 'R-3-2' Multi-Family Residential District, on property located on the east side of IH-35, north of East RR 150 and south of Goforth Road, as set forth in the legal description labeled Exhibit A, and the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_ day of \_\_\_\_\_, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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Lucy Johnson, Mayor

ATTEST:

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Amelia Sanchez, City Secretary

## **2010 Comp Plan Landuse Recommendations**

Farm District	Recommended: A, UE Conditional: R-1-1, R/S
Ranch District	Recommended: A, UE Conditional: R-1-1, R/S
Riparian District	Recommended: A, UE Conditional: R-1-1, R/S
Old Town District	Recommended: CBD-1, CBD-2, R-1-T Conditional: E, R-1-A, R-1-C, R-2, R-3-2, R-3-3
Core Area Transition	Recommended: CBD-1, CBD-2, R-1-T, R-1-C, R-3-2, R-3-3, RS Conditional: E, HS, R-1-A
Historic Core Area	Recommended: R-1-1, R-1-2, R-1-T Conditional: A, R-1-A, R-2, R-3-1, R/S, UE
Mid-Town District	Recommended: R-1-2, R-2 Conditional: E, R-1-1, R-1-A, R-1-T, R-3-1, R-3-2, R/S
New Settlement	Recommended: R-1-1, R-1-2 Conditional: A, E, HS, R-1-A, R-1-T, R-2, R-3-1-, R-3-2, R/S, T/U, UE
New Town District	Recommended: R-1-1, R-1-2, R-1-C, R-1-T, R-2, R-3-2, R-3-3 Conditional: A, C/M, E, HS, R-1-A, R-3-1, R/S, T/U, UE, W
Employment District	Recommended: A, C/M, R-1-2, R-1-A, R-1-C, R-1-T, R-2, R-3-2, R-3-3, W Conditional: M-2, M-3, R-1-1, R-3-1, R/S, RV, T/U, UE
Sensitive/Sustainable Development	Recommended: A, UE Conditional: C/M, E, R-1-1, R-1-A, R-2, R-1-T, R/S, T/U, W
Heritage District	Recommended: A, R-1-1, R-1-2, UE Conditional: C/M, E, M-2, M-3, R-1-A, R-1-T, R-2, R-3-1, R/S, RV, T/U, W
Local Node	Recommended: R-1-C, R-3-2, R-3-3, R/S Conditional: R-1-T, R-3-1
Regional Node	Recommended: R-1-C, R-3-2, R-3-3 Conditional: CBD-1, CBD-2, E, HS, R-3-1, R/S
Super Regional Node	Recommended: CBD-1, CBD-2, HS, R-1-C, R-3-2, R-3-3 Conditional: E

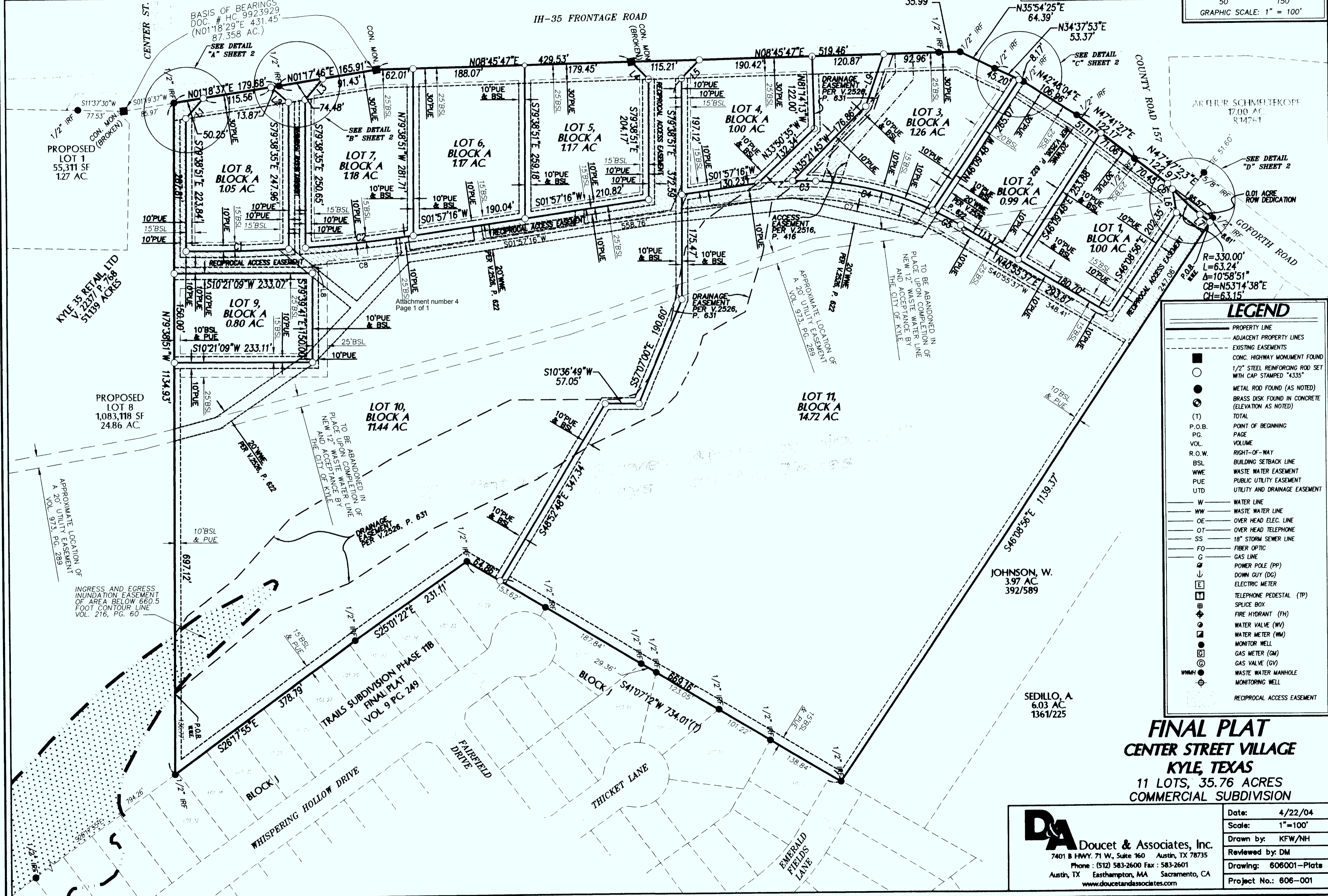
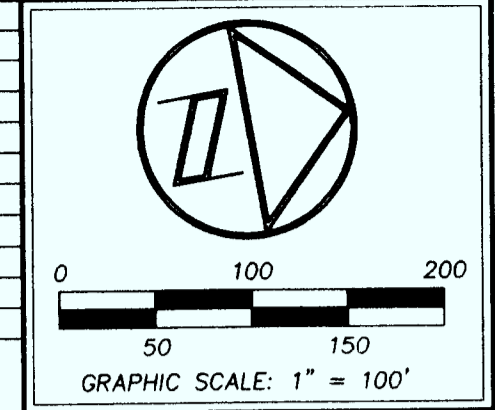
Amendment #1 Added 'RS' to Core Area Transition (Approved May 17, 2011)

# CENTER STREET VILLAGE

Interstate Highway 35  
(R.O.W. Varies)

CURVE	DELTA	RADIUS	LENGTH	CH. BEARING	CH. LEN.	TANGENT
C1	4°14'47"	2340.00'	173.43'	N09°12'05"E	173.39'	86.75'
C2	4°28'54"	2340.00'	183.04'	N04°09'02"E	182.99'	91.57'
C3	4°09'43"	540.00'	39.22'	S11°31'26"W	39.22'	19.62'
C4	25°49'57"	540.00'	243.47'	S22°21'34"W	241.41'	125.49'
C5	5°39'05"	540.00'	53.26'	S38°06'05"W	53.24'	26.65'
C6	2°10'12"	330.00'	12.50'	S59°09'10"W	12.50'	6.25'
C7	41°03'22"	510.00'	365.45'	S20°23'56"W	357.68'	190.97'
C8	4°12'11"	2370.00'	173.86'	S04°03'22"W	173.82'	86.97'

LINE	LENGTH	BEARING
L1	45.64	S39°10'07"E
L2	38.94	S50°50'01"W
L3	45.65	N39°10'25"W
L4	41.27	N55°21'49"E
L5	43.01	S35°26'32"E
L6	40.04	S89°10'47"E
L7	21.07	S47°45'13"W
L8	13.16	S79°39'41"E
L9	92.27	S60°13'38"E



**LEGEND**

- PROPERTY LINE
- - - ADJACENT PROPERTY LINES
- - - EXISTING EASEMENTS
- CONC. HIGHWAY MONUMENT FOUND
- 1/2" STEEL REINFORCING ROD SET WITH CAP STAMPED "4335"
- METAL ROD FOUND (AS NOTED)
- BRASS DISK FOUND IN CONCRETE (ELEVATION AS NOTED)
- (T) TOTAL
- P.O.B. POINT OF BEGINNING
- PG. PAGE
- VOL. VOLUME
- R.O.W. RIGHT-OF-WAY
- BSL BUILDING SETBACK LINE
- WWE WASTE WATER EASEMENT
- PUE PUBLIC UTILITY EASEMENT
- UTD UTILITY AND DRAINAGE EASEMENT
- W WATER LINE
- WW WASTE WATER LINE
- OE OVER HEAD ELEC. LINE
- OT OVER HEAD TELEPHONE
- SS 18" STORM SEWER LINE
- FO FIBER OPTIC
- G GAS LINE
- PP POWER POLE (PP)
- DG DOWN GUY (DG)
- E ELECTRIC METER
- TP TELEPHONE PEDESTAL (TP)
- SB SPLICE BOX
- FH FIRE HYDRANT (FH)
- WV WATER VALVE (WV)
- WM WATER METER (WM)
- MW MONITOR WELL
- GM GAS METER (GM)
- GV GAS VALVE (GV)
- WWMH WASTE WATER MANHOLE
- MONITORING WELL
- RECIPROCAL ACCESS EASEMENT

**FINAL PLAT**  
**CENTER STREET VILLAGE**  
**KYLE, TEXAS**  
11 LOTS, 35.76 ACRES  
COMMERCIAL SUBDIVISION

**DA** Doucet & Associates, Inc.  
7401 B HWY. 71 W, Suite 160 Austin, TX 78735  
Phone : (512) 583-2600 Fax : 583-2601  
Austin, TX Easthampton, MA Sacramento, CA  
www.doucetandassociates.com

Date: 4/22/04  
Scale: 1"=100'  
Drawn by: KFW/NH  
Reviewed by: DM  
Drawing: 606001-Plats  
Project No.: 606-001

PHOTOGRAPHIC MYLAR

# CENTER STREET VILLAGE

STATE OF TEXAS  
 COUNTY OF HAYS  
 KNOW ALL MEN BY THESE PRESENTS, THAT KYLE COMMERCIAL GROUP, LTD., A TEXAS LIMITED PARTNERSHIP ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, OWNER OF A 31.98 ACRE TRACT OF LAND BEING A REMAINING PORTION OF A 32.60 ACRE TRACT OF LAND OUT OF THE Z. HINTON SURVEY, HAYS COUNTY, TEXAS AS CONVEYED TO IT BY DEED DATED DECEMBER 16, 2003, AND RECORDED IN DOCUMENT NO. 04014040 OF THE OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, SAID KYLE COMMERCIAL GROUP ALSO BEING OWNERS OF A 1.218 SQUARE FOOT TRACT OF LAND, A 113 SQUARE FOOT TRACT OF LAND, A 2.230 SQUARE FOOT TRACT OF LAND AND A 17,802 SQUARE FOOT TRACT OF LAND AS CONVEYED TO IT BY DEED RECORDED IN DOCUMENT NUMBER 04026026 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND MINERVA, LTD., A TEXAS LIMITED PARTNERSHIP ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, OWNER OF A 1.80 ACRE REMAINDER PORTION OF A 2.21 ACRE TRACT OF LAND BY VIRTUE OF THAT CERTAIN SUBSTITUTE TRUSTEE'S DEED DATED JULY 3, 2001, AND RECORDED IN DOCUMENT NO. 01016010, VOLUME 1838, PAGE 397 OF THE OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, AND A 0.871 ACRE REMAINDER TRACT OF LAND OUT OF A 0.953 ACRE TRACT OF LAND AS CONVEYED TO SAID MINERVA, LTD. BY DEED DATED SEPTEMBER 30, 1999, AND RECORDED IN DOCUMENT NO. 9923928 OF THE OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, AND A 19,929 SQUARE FOOT TRACT OF LAND, A 485 SQUARE FOOT TRACT OF LAND, AND A 6,941 SQUARE FOOT TRACT OF LAND, AS RECORDED IN SAID DOCUMENT NUMBER 04026077, DOES HEREBY SUBDIVIDE 35.76 ACRES OF LAND OUT OF THE Z. HINTON SURVEY, TO BE KNOWN AS:

"CENTER STREET VILLAGE" SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED, AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF THE STREETS AND EASEMENTS SHOWN HEREON.

WITNESS MY HAND THIS 17th DAY OF September, 2004.

RECEIVED OF  
 KYLE COMMERCIAL GROUP, LTD., A TEXAS LIMITED PARTNERSHIP  
 STATE OF TEXAS  
 COUNTY OF HAYS  
 THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 17th DAY OF September, 2004 BY Joel Wilkinon ON BEHALF OF KYLE COMMERCIAL GROUP, LTD., A TEXAS LIMITED PARTNERSHIP.  
 NOTARY PUBLIC, STATE OF TEXAS  
 MY COMMISSION EXPIRES: 10/1/05  
 WITNESS MY HAND THIS 17th DAY OF September, 2004.  
Chad S. Ambold, Partner  
 MINERVA, LTD., A TEXAS LIMITED PARTNERSHIP

STATE OF TEXAS  
 COUNTY OF HAYS  
 THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 17th DAY OF September, 2004 BY Joel Wilkinon ON BEHALF OF MINERVA, LTD., A TEXAS LIMITED PARTNERSHIP.  
 NOTARY PUBLIC, STATE OF TEXAS  
 MY COMMISSION EXPIRES: 10/1/05  
 WITNESS MY HAND THIS 17th DAY OF September, 2004.  
Joel Wilkinon  
 MINERVA, LTD., A TEXAS LIMITED PARTNERSHIP

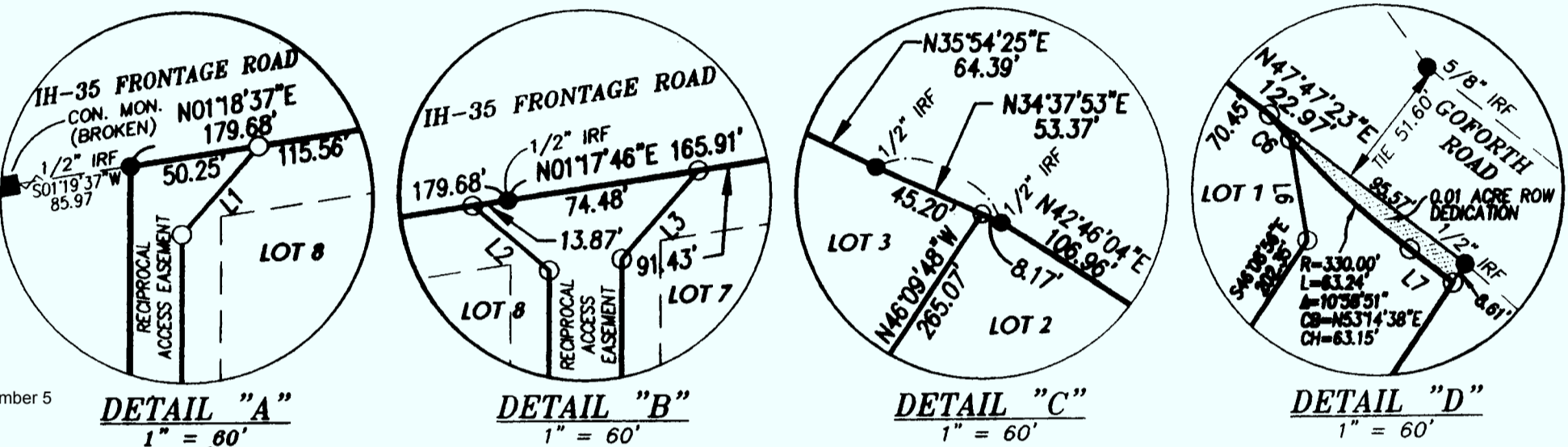
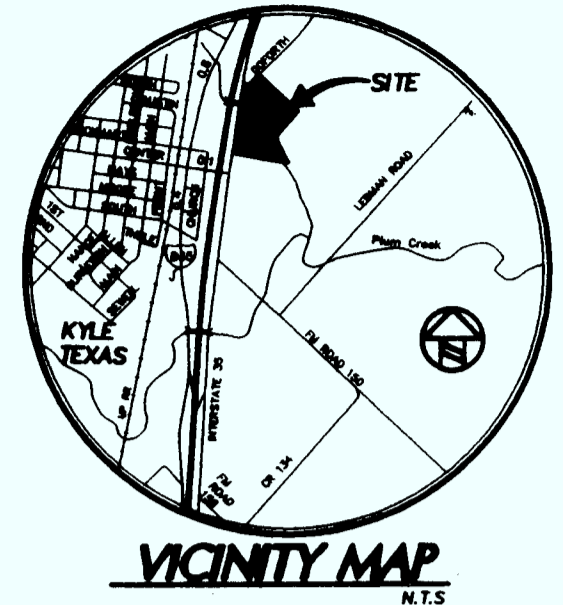
**LEGAL DESCRIPTION:**  
 DESCRIPTION OF A 35.76 ACRE TRACT OF LAND IN THE Z. HINTON SURVEY, ABSTRACT NO. 220, HAYS COUNTY, TEXAS, SAID 35.76 ACRE TRACT BEING ALL OF THAT CERTAIN TRACT OF LAND DESCRIBED AS 32.603 ACRES IN A DEED TO KYLE COMMERCIAL GROUP, LTD., OF RECORD IN DOCUMENT NUMBER HC 04014040 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, ALSO BEING ALL OF THAT CERTAIN TRACT OF LAND DESCRIBED AS 2.21 ACRES BY VIRTUE OF THAT CERTAIN SUBSTITUTE TRUSTEE'S DEED TO MINERVA, LTD. OF RECORD IN DOCUMENT NUMBER HC 01016010, VOLUME 1838, PAGE 397 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, ALSO BEING ALL OF THAT REMAINING 0.953 ACRE TRACT ORIGINALLY DESCRIBED AS 87,358 ACRES IN A DEED TO MINERVA, LTD. OF RECORD IN DOCUMENT NUMBER HC 9923928 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, ALL RECORDED DOCUMENTS STATED HEREIN ARE OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, SAID 35.76 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:  
 BEGINNING AT 1/4 INCH IRON ROD FOUND AT A NORTHWESTERLY CORNER OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRES, SAME BEING A WESTERLY CORNER OF SAID 2.21 ACRE TRACT, SAME ALSO BEING IN THE EASTERLY LINE OF INTERSTATE HIGHWAY 35;  
 THENCE, WITH A NORTHERLY LINE OF THE HEREIN DESCRIBED TRACT, AND SAID 2.21 ACRE TRACT, NORTH 8°44'32" EAST 35.99 FEET TO A 1/4 INCH IRON ROD FOUND AT AN ANGLE POINT FOR THE HEREIN DESCRIBED TRACT, SAME BEING THE INTERSECTION OF THE EASTERLY LINE OF INTERSTATE HIGHWAY NO. 35 AND THE SOUTHEASTERLY LINE OF COUNTY ROAD NO. 157, (GOFORTH ROAD);  
 THENCE, WITH A NORTHERLY LINE OF THE HEREIN DESCRIBED TRACT, AND SAID 2.21 ACRE TRACT, SAME BEING THE SOUTHEASTERLY LINE OF COUNTY ROAD NO. 157, THE FOLLOWING FOUR (4) COURSES:  
 1.) NORTH 35°54'25" EAST 64.39 FEET TO A 1/4 INCH IRON ROD FOUND AT AN ANGLE POINT,  
 2.) NORTH 34°37'53" EAST 53.37 FEET TO A 1/4 INCH IRON ROD FOUND AT AN ANGLE POINT,  
 3.) NORTH 42°46'04" EAST 106.96 FEET TO A 1/4 INCH IRON ROD FOUND AT AN ANGLE POINT,  
 4.) NORTH 47°41'27" EAST 122.17 FEET TO A 1/4 INCH IRON ROD FOUND AT THE MOST NORTHERLY CORNER OF SAID 2.21 ACRE TRACT;  
 THENCE, LEAVING SAID 2.21 ACRE TRACT AND CONTINUING A NORTH LINE OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRE TRACT, SAME BEING THE SOUTHEASTERLY LINE OF COUNTY ROAD NO. 157, NORTH 47°47'23" EAST 166.02 FEET TO A 1/4 INCH IRON ROD FOUND AT THE MOST NORTHERLY CORNER OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRE TRACT, SAME ALSO BEING IN THE SOUTHERLY LINE OF SAID COUNTY ROAD 157, SAME ALSO BEING THE WESTERLY CORNER OF A TRACT OF LAND DESCRIBED AS 1.97 ACRES IN VOLUME 392, PAGE 589;  
 THENCE, WITH THE NORTHEAST LINE OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRE TRACT, SAME BEING THE SOUTHWESTERLY LINE OF SAID 3.97 ACRE TRACT, SOUTH 46°08'56" EAST 1139.37 FEET TO A 1/4 INCH IRON ROD FOUND FOR A WESTERLY CORNER OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRE TRACT, SAME ALSO BEING IN THE NORTHWESTERLY LINE OF TRAILS SUBDIVISION PHASE 11B, A SUBDIVISION OF RECORD IN PLAT BOOK 9, SLIDE 249;  
 THENCE, WITH A SOUTHEASTERLY LINE OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRE TRACT, SAME BEING A NORTHWESTERLY LINE OF SAID TRAILS SUBDIVISION, SOUTH 41°07'12" WEST 734.02 FEET TO A 1/4 INCH IRON ROD FOUND AT AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRE TRACT;  
 THENCE, WITH AN EASTERLY LINE OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRE TRACT, SAME BEING A WESTERLY LINE OF SAID TRAILS SUBDIVISION, SOUTH 25°01'22" EAST 231.11 FEET TO A 1/4 INCH IRON ROD SET;  
 THENCE, CONTINUING WITH AN EASTERLY LINE OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRE TRACT, SAME BEING A WESTERLY LINE OF SAID TRAILS SUBDIVISION, SOUTH 26°17'55" EAST 378.79 FEET TO A 1/4 INCH IRON ROD SET FOR THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT ALSO BEING THE NORTHEAST CORNER OF A TRACT OF LAND DESCRIBED AS 51.139 ACRES IN A DEED TO KYLE 35 RETAIL, LTD., OF RECORD IN VOLUME 2237, PAGE 768;  
 THENCE, LEAVING SAID TRAILS SUBDIVISION, WITH THE SOUTHERLY LINE OF THE HEREIN DESCRIBED TRACT, SAME BEING THE SOUTHERLY LINE OF SAID 32.603 ACRE TRACT, SAME ALSO BEING THE NORTHERLY LINE OF SAID 51.139 ACRES, NORTH 79°38'51" WEST 1134.93 FEET TO A 1/4 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT, SAME BEING THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED AS 0.953 ACRES IN EXHIBIT A-1 OF RECORD IN DOCUMENT NUMBER HC 9923928, SAME ALSO BEING THE SOUTHWEST CORNER OF SAID 32.603 ACRE TRACT, SAME ALSO BEING IN THE EASTERLY LINE OF INTERSTATE HIGHWAY NO. 35;  
 THENCE, WITH A WESTERLY LINE OF THE HEREIN DESCRIBED TRACT, SAME BEING A WESTERLY LINE OF SAID 0.953 ACRE TRACT, SAME ALSO BEING AN EASTERLY LINE OF INTERSTATE HIGHWAY NO. 35, NORTH 01°18'37" EAST 179.68 FEET TO A 1/4 INCH IRON ROD FOUND AT THE NORTHWEST CORNER OF SAID 0.953 ACRE TRACT, SAME BEING AN INTERIOR ANGLE POINT OF THE HEREIN DESCRIBED TRACT SAME ALSO BEING IN THE WESTERLY LINE OF SAID INTERSTATE HIGHWAY NO. 35;  
 THENCE, WITH THE WESTERLY LINE OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRE TRACT, SAME BEING THE EASTERLY LINE OF SAID INTERSTATE HIGHWAY NO. 35, NORTH 117°46' EAST 165.91 FEET TO A CONCRETE HIGHWAY MONUMENT FOUND;  
 THENCE, CONTINUING WITH THE WESTERLY LINE OF THE HEREIN DESCRIBED TRACT AND SAID 32.603 ACRE TRACT, SAME BEING THE EASTERLY LINE OF SAID INTERSTATE HIGHWAY NO. 35, NORTH 8°45'47" EAST AT 429.53 FEET PASSING A CONCRETE HIGHWAY MONUMENT FOUND, IN ALL A TOTAL DISTANCE OF 948.99 FEET TO THE POINT OF BEGINNING AND CONTAINING 35.76 ACRES OF LAND WITHIN THESE METES AND BOUNDS.

**OWNER:**  
 MINERVA, LTD.  
 2207 HAKE AUSTIN BOULEVARD  
 AUSTIN, TX 78703  
 512-481-8899

**OWNER/DEVELOPER:**  
 KYLE COMMERCIAL GROUP, LTD.  
 1406 CAMP CRAFT ROAD STE. 212  
 AUSTIN, TX 78746  
 512-458-6100  
 512-306-0133 (FAX)

**SURVEYOR:**  
 DENNIS MEENACH, R.P.L.S.  
 DOUCET & ASSOCIATES, INC.  
 7401B HIGHWAY 71 WEST, STE. 160  
 AUSTIN, TEXAS 78735  
 512-583-2600  
 512-583-2601 (FAX)

**ENGINEER:**  
 F.P. HOWLAND III, P.E.  
 DOUCET & ASSOCIATES, INC.  
 7401B HIGHWAY 71 WEST, STE. 160  
 AUSTIN, TEXAS 78735  
 512-583-2600  
 512-583-2601 (FAX)



**SURVEYOR'S NOTES:**  
 THIS TRACT IS SUBJECT TO THE FOLLOWING EASEMENTS:  
 1. RESTRICTIVE COVENANTS RECORDED IN/UNDER VOL. 2022, PG. 121 AND VOL. 2237, PG. 790 OF THE REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS. 18.853 AC. TRACT IN VOL. 2022, PG. 121 SHOWN HEREON.  
 2. EASEMENT EXECUTED BY ADOLPH HILL, MARVIN HILL, AND LEROY HILL TO PLUM CREEK CONSERVATION DISTRICT OF LOCKHART, TEXAS, DATED FEBRUARY 27, 1967, RECORDED IN/UNDER VOL. 216, PG. 60 OF THE REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS. THIS IS AN INUNDATION EASEMENT BELOW THE 660.5 FOOT CONTOUR LINE AND IS SHOWN HEREON.  
 3. EASEMENT FOR PUBLIC UTILITIES EXECUTED BY B.P. NEWMAN INVESTMENT CO., TO CITY OF KYLE, TEXAS, DATED OCTOBER 17, 2000, RECORDED IN/UNDER VOL. 973, PG. 289 OF THE REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS. [SHOWN HEREON]  
 4. SUBJECT TO DEVELOPMENTAL REGULATIONS FOR THAT PORTION OF THE SUBJECT TRACT OF LAND SITUATED WITHIN THE 100 YEAR FLOODPLAIN.  
 5. SUBJECT PROPERTY ADJOINS INTERSTATE HIGHWAY 35, WHICH IS A CONTROLLED ACCESS HIGHWAY AND MAY BE SUBJECT TO ACCESS REGULATIONS.  
 6. ADJACENT OWNER INFORMATION TAKEN FROM CURRENT HAYS COUNTY TAX APPRAISAL DISTRICT MAPS.

**SCHOOL DISTRICT:**  
 THIS SUBDIVISION IS WITHIN THE BOUNDARIES OF THE HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT.

**UTILITY NOTES:**  
 \* WASTEWATER UTILITY SERVICE WILL BE PROVIDED BY THE CITY OF KYLE.  
 \* WATER UTILITY SERVICE WILL BE PROVIDED BY THE CITY OF KYLE.  
 \* ELECTRIC UTILITY SERVICE WILL BE PROVIDED BY PEDERNALES ELECTRIC COOPERATIVE.  
 \* TELEPHONE UTILITY SERVICE WILL BE PROVIDED BY VERIZON.  
 \* GAS UTILITY SERVICE WILL BE PROVIDED BY ENTEX.

**FLOODPLAIN NOTE:**  
 THIS PLAT CONTAINS FLOODPLAIN AS SHOWN ON THE FEMA FLOOD INSURANCE RATE MAP #48209C0185E, DATED FEBRUARY 18, 1998; FLOODPLAIN ASSOCIATED WITH FLOODWATER RETARDING DAM NO. 2 IN THE PLUM CREEK WATERSHED IN HAYS COUNTY, CONVEYED IN AN EASEMENT IN FAVOR OF PLUM CREEK CONSERVATION DISTRICT, DATED FEBRUARY 27, 1967 VOL. 216 PAGES 60-64 SUBJECT TO, AS SHOWN, LANDS LYING BELOW THE 660.5 FOOT CONTOUR.

**GENERAL NOTES:**  
 1. NO PORTION OF THIS SUBDIVISION LIES WITHIN THE BOUNDARIES OF THE EDWARDS AQUIFER RECHARGE ZONE.  
 2. NO PORTION OF THIS SUBDIVISION LIES WITHIN THE BOUNDARIES OF THE CONTRIBUTING ZONE OF THE BARTON SPRINGS SEGMENT OF THE EDWARDS AQUIFER.  
 3. THIS SUBDIVISION LIES WITHIN THE CORPORATE LIMITS OF THE CITY OF KYLE.  
 4. BASIS OF BEARING WAS OBTAINED FROM THE MONUMENTED EAST LINE OF INTERSTATE HIGHWAY #35 ACCORDING TO DOCUMENT NUMBER 9923929 O.P.R.H.C.T. AS SHOWN.  
 5. ALL BUILDING SETBACKS SHALL COMPLY WITH THE CITY OF KYLE ZONING ORDINANCE 439.  
 6. SITE DEVELOPMENT PLAN FOR EACH LOT SHALL BE SUBMITTED FOR REVIEW AND APPROVAL BY CITY, IN ACCORDANCE WITH THE CITY OF KYLE SITE DEVELOPMENT ORDINANCE 374, ZONING ORDINANCE 438, AND OVERLAY DISTRICT ARTICLE III, SECTION 66 OF ORDINANCE 438 PRIOR TO ISSUANCE OF SITE DEVELOPMENT AND CONDITIONAL USE PERMITS.  
 7. NO OBJECT INCLUDING SIGNAGE, BUILDING, ACCESSORY BUILDING, FENCING OR LANDSCAPING WHICH WOULD INTERFERE WITH EASEMENT ACCESS SHALL BE PLACED OR ERRECTED WITHIN UTILITY EASEMENTS.  
 8. PROPERTY OWNERS SHALL ALLOW THE CITY ACCESS TO UTILITY EASEMENT(S) FOR INSPECTION, REPAIR, MAINTENANCE AND RECONSTRUCTION AS MAY BE NECESSARY.  
 9. EACH PROPERTY OWNER OF A LOT ON WHICH DRAINAGE EASEMENT(S) IS PLATTED SHALL BE RESPONSIBLE FOR KEEPING GRASS AND WEEDS NEATLY CUT AND THE EASEMENT AREA FREE OF DEBRIS AND ALL TREE/BUSH RE-GROWTH. MAINTENANCE AND UPKEEP OF ALL STORM WATER FACILITIES IS THE RESPONSIBILITY OF EACH OWNER ON WHICH SUCH FACILITIES ARE LOCATED.  
 10. LOTS 1-8 OF THIS SUBDIVISION SHALL NOT HAVE DIRECT ACCESS FROM I-35 FRONTAGE OR C.R. 157/GOFORTH ROAD.  
 11. ALL LOTS CONTAINED IN THIS SUBDIVISION AND USERS THEREOF SHALL HAVE RECIPROCAL ACCESS FOR INGRESS AND EGRESS ACROSS THE RECIPROCAL ACCESS EASEMENT AS SHOWN AND THROUGH ALL DRIVE LANES, FIRE LANES, AND DRIVEWAYS WITHIN THE LOTS COVERED BY THIS SUBDIVISION PLAT.

**CITY ENGINEER'S CERTIFICATION:**  
 STATE OF TEXAS  
 COUNTY OF HAYS  
 I, THE UNDERSIGNED, CITY ENGINEER OF THE CITY OF KYLE, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION ORDINANCE AND HEREBY RECOMMEND APPROVAL.  
Joel Wilkinon 10/13/04  
 JOEL WILKINSON, P.E.  
 CITY OF KYLE ENGINEER

**DIRECTOR OF PUBLIC WORKS CERTIFICATION:**  
 STATE OF TEXAS  
 COUNTY OF HAYS  
 I, THE UNDERSIGNED, DIRECTOR OF PUBLIC WORKS OF THE CITY OF KYLE, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE CITY OF KYLE AND HEREBY RECOMMEND APPROVAL.  
Jimmy Hafferda 10/14/04  
 JIMMY HAFFERDA  
 DIRECTOR OF PUBLIC WORKS

**PLANNING AND ZONING COMMISSION CERTIFICATION:**  
 STATE OF TEXAS  
 COUNTY OF HAYS  
 THIS FINAL PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KYLE, TEXAS, AND IS HEREBY APPROVED BY SUCH PLANNING AND ZONING COMMISSION.  
 DATED THIS 15 DAY OF 10, 2004.  
Dan Ryan  
 DAN RYAN  
 CHAIRPERSON

**CERTIFICATION OF THE CITY SECRETARY:**  
 STATE OF TEXAS  
 COUNTY OF HAYS  
 I HEREBY CERTIFY THAT THE ABOVE AND FOREGOING PLAT OF CENTER STREET VILLAGE SUBDIVISION, AN ADDITION TO THE CITY OF KYLE, TEXAS, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF KYLE ON THE 15 DAY OF May, 2004. SAID ADDITION SHALL BE SUBJECT TO ALL THE REQUIREMENTS OF THE SUBDIVISION ORDINANCE OF THE CITY OF KYLE, TEXAS.  
 WITNESS MY HAND THIS 14th DAY OF October, 2004.  
Minim Falcon  
 MINERVA FALCON  
 CITY SECRETARY

I LEE CARLISLE, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE 15 DAYS OF October, 2004, AT 10:50 O'CLOCK A.M. IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS, IN BOOK 183, PAGE 12. WITNESS MY HAND AND SEAL OF OFFICE THIS 15 DAY OF October, 2004.  
Lee Carlisle  
 LEE CARLISLE  
 COUNTY CLERK  
 HAYS COUNTY, TEXAS

**SURVEYOR'S CERTIFICATION:**  
 STATE OF TEXAS  
 COUNTY OF HAYS  
 I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT, THAT IT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND, AND THAT ALL NECESSARY SURVEY MONUMENTS ARE CORRECTLY SET OR FOUND AS SHOWN THEREON.  
Dennis Meenach 9-2-04  
 DENNIS MEENACH, R.P.L.S.  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 NO. 4335

**ENGINEER'S CERTIFICATION:**  
 STATE OF TEXAS  
 COUNTY OF HAYS  
 I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT.  
F.P. Howland III 9/3/04  
 F.P. HOWLAND III, P.E.  
 REGISTERED PROFESSIONAL ENGINEER  
 NO. 90451

**LOT ACREAGE SUMMARY:**

LOT 1,	1.00 AC
LOT 2,	0.99 AC
LOT 3,	1.26 AC
LOT 4,	1.00 AC
LOT 5,	1.18 AC
LOT 6,	1.17 AC
LOT 7,	1.18 AC
LOT 8,	1.05 AC
LOT 9,	0.80 AC
LOT 10,	11.44 AC
LOT 11,	14.72 AC
ROW DEDICATION, 0.01 AC	
TOTAL =	35.76 AC.

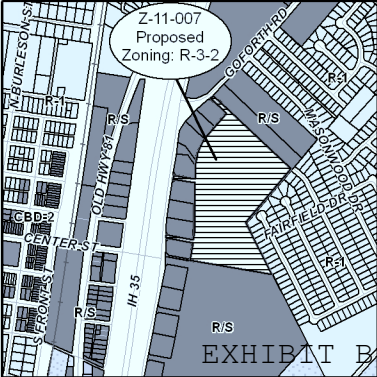
**FINAL PLAT**  
**CENTER STREET VILLAGE**  
**KYLE, TEXAS**  
**11 LOTS, 35.76 ACRES**  
**COMMERCIAL SUBDIVISION**

**DA Doucet & Associates, Inc.**  
 7401 B HWY. 71 W., Suite 160 Austin, TX 78735  
 Phone : (512) 583-2600 Fax : 583-2601  
 Austin, TX Easthampton, MA Sacramento, CA  
 www.doucetandassociates.com

Date:	4/22/04
Scale:	AS SHOWN
Drawn by:	KFW/NH
Reviewed by:	DM
Drawing:	608001-Plats
Project No.:	608-001

PHOTOGRAPHIC MYLAR

Z-11-007  
Proposed  
Zoning: R-3-2



June 28, 2011	<b>Planning and Zoning Commission</b>
Zoning	<b>Center Street Village, LP Zoning</b>
<b>Case Number: Z-11-007</b>	

**OWNER/APPLICANT:** Center Street Village, LP      **AGENT:** Kyle Residential LP

**LOCATION:** East side of IH-35, north of E RR 150 and south of Goforth Road.

**COUNTY:** Hays County      **AREA:** 27.01 acres

**PROPOSED CITY COUNCIL HEARINGS:**      July 5, 2011 ~ 1<sup>ST</sup> Reading  
July 19, 2011 ~ 2<sup>ND</sup> Reading

**EXISTING ZONING:** “RS” Retail Services

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas, e.g. clothing, prescription drugs, furniture, toys, hardware, electronics, pet supply, variety, department, video rental and antique stores, art studio or gallery, hobby shops and florist shops., and the retail sale of goods and products (in the following listed use areas) to which value has been added on-site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed.

**PROPOSED ZONING:** “R-3-2” Multi-Family Residential 2 District

This district permits typical apartment development with buildings not exceeding three stories, nor more than 21 units per buildable acre, and with apartments or units having a minimum living area of 400 square feet; provided that not more than 25 percent of the units in any such apartment development or project shall have less than 500 square feet of living area.

**SITE INFORMATION:**

*Transportation:*

The site will have access off of the IH-35 frontage road, Goforth Road and the proposed extension of RR 150.

*Subdivision:*

A subdivision plat may be required for a part of this development.

*Surrounding Land Use and Zoning:*

North: ‘RS’ Retail Services (Single Family Residence and a Landscape Business)

South: ‘RS’ Retail Services (Undeveloped Land)

East: ‘R-1’ Single Family Residential District (The Trails Subdivision)

West: ‘RS’ Retail Services (Goodyear Tire and Auto Zone)

June 28, 2011

*Planning and Zoning Commission*

Zoning

**Center Street Village, LP Zoning**

**Case Number: Z-11-007**

**PUBLIC INPUT:**

Currently, Staff has received one comment in opposition from the general public regarding the requested zoning change.

**CONFORMANCE WITH COMPREHENSIVE PLAN:**

The site is designated as Old Town Community in the Comprehensive Plan. The Old Town Community allows for Multi-Family Residential 2 District as a conditional use.

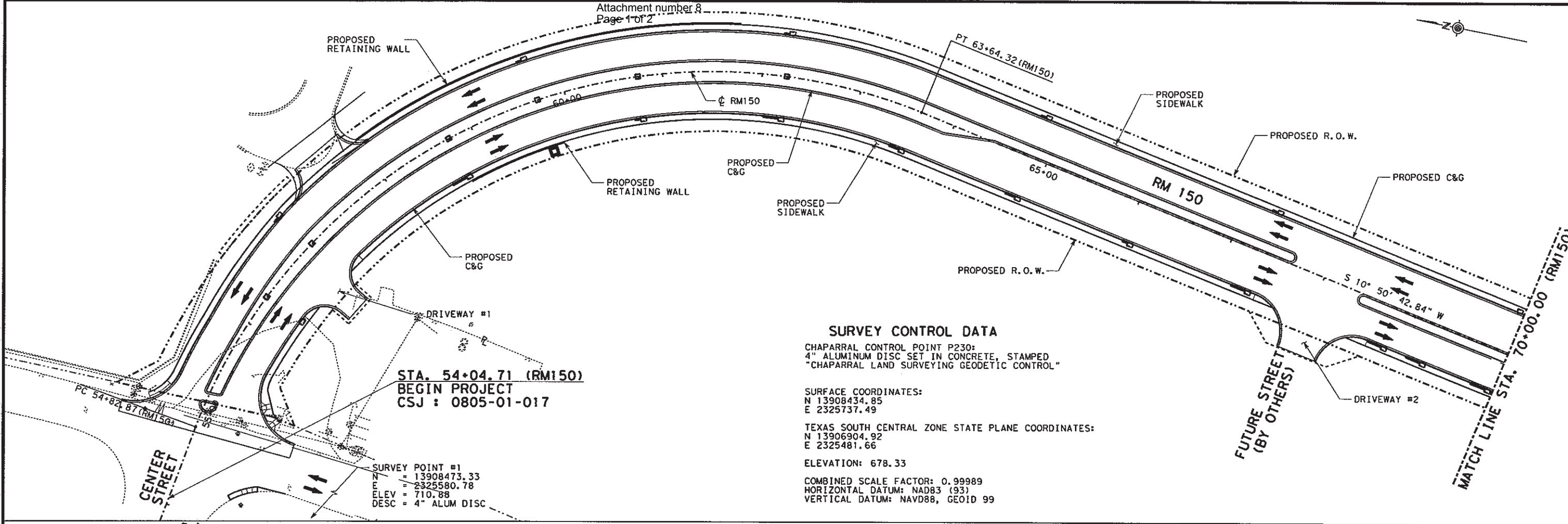
**STAFF RECOMMENDATION:**

The request of the Multi-Family Residential 2 District would be a good transition from the Retail Services along the frontage road to the residential subdivision located in the rear. The Old Town Community states that “overall this District should offer both local service commercial activities and residential uses in order to create a lively and livable area. The addition of multi-family to this area would help create more of a horizontal mixed use development.

The request for this zoning classification is a reasonable request and is in the public interest because it promotes some of the goals adopted in the Comprehensive Plan.



9/16/16 5:56 AM  
9/7/2010



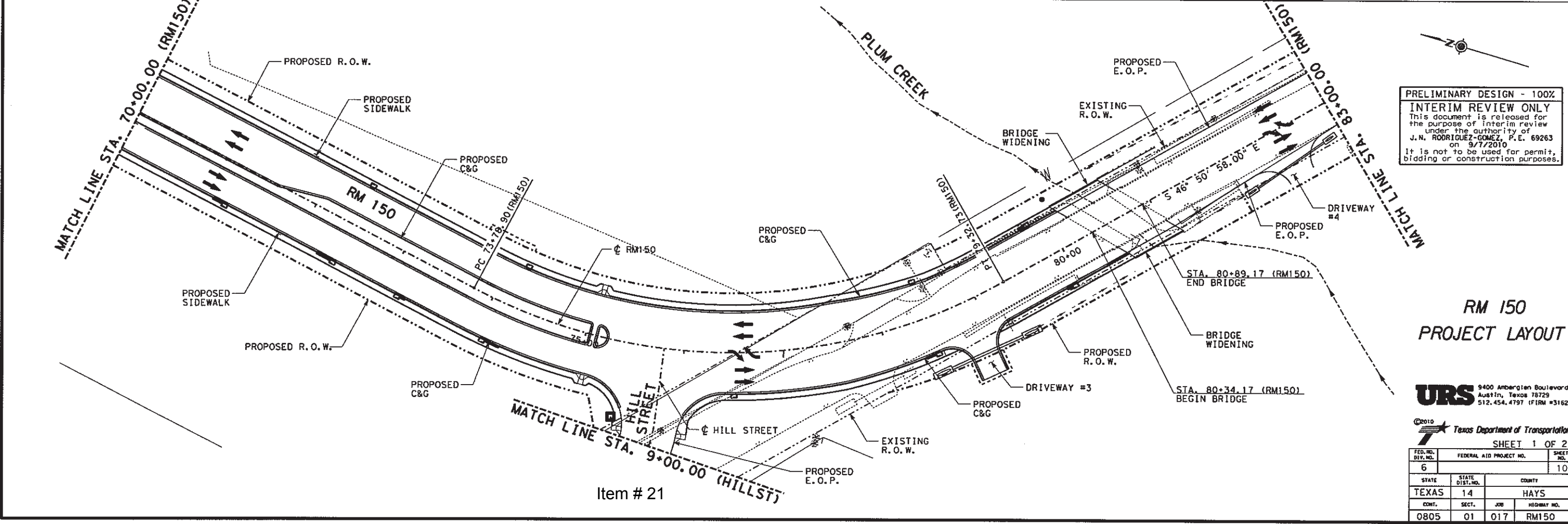
**STA. 54+04.71 (RM150)**  
BEGIN PROJECT  
CSJ : 0805-01-017

SURVEY POINT #1  
N = 13908473.33  
E = 2325580.78  
ELEV = 710.88  
DESC = 4" ALUM DISC

**SURVEY CONTROL DATA**  
CHAPARRAL CONTROL POINT P230:  
4" ALUMINUM DISC SET IN CONCRETE, STAMPED  
"CHAPARRAL LAND SURVEYING GEODETIC CONTROL"

SURFACE COORDINATES:  
N 13908434.85  
E 2325737.49  
  
TEXAS SOUTH CENTRAL ZONE STATE PLANE COORDINATES:  
N 13906904.92  
E 2325481.66  
  
ELEVATION: 678.33  
  
COMBINED SCALE FACTOR: 0.99989  
HORIZONTAL DATUM: NAD83 (93)  
VERTICAL DATUM: NAVD88, GEOID 99

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**PRELIMINARY DESIGN - 100%**  
**INTERIM REVIEW ONLY**  
This document is released for the purpose of interim review under the authority of J.N. RODRIGUEZ-GOMEZ, P.E. 69263 on 9/7/2010.  
It is not to be used for permit, bidding or construction purposes.

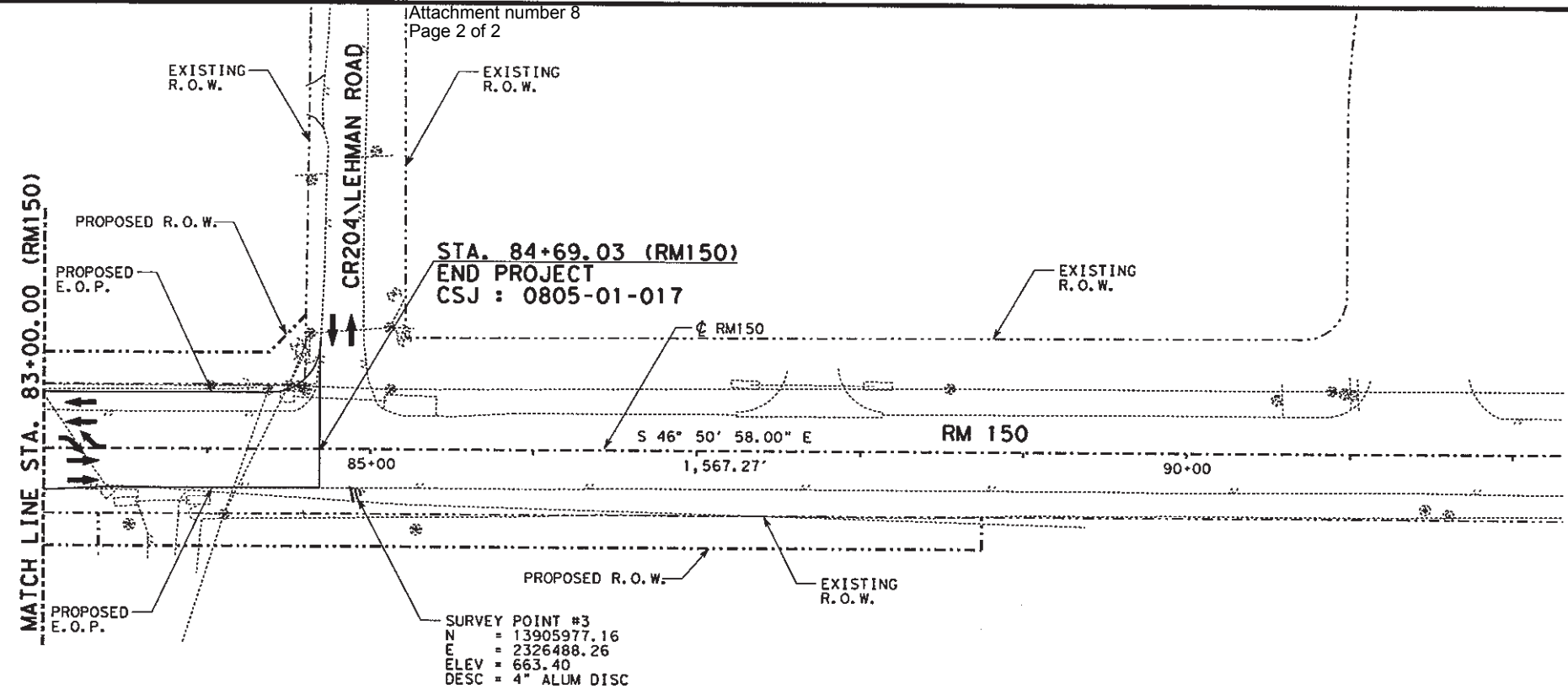
**RM 150 PROJECT LAYOUT**

**URS** 9400 Amberglenn Boulevard  
Austin, Texas 78729  
512.454.4797 (FIRM #3162)

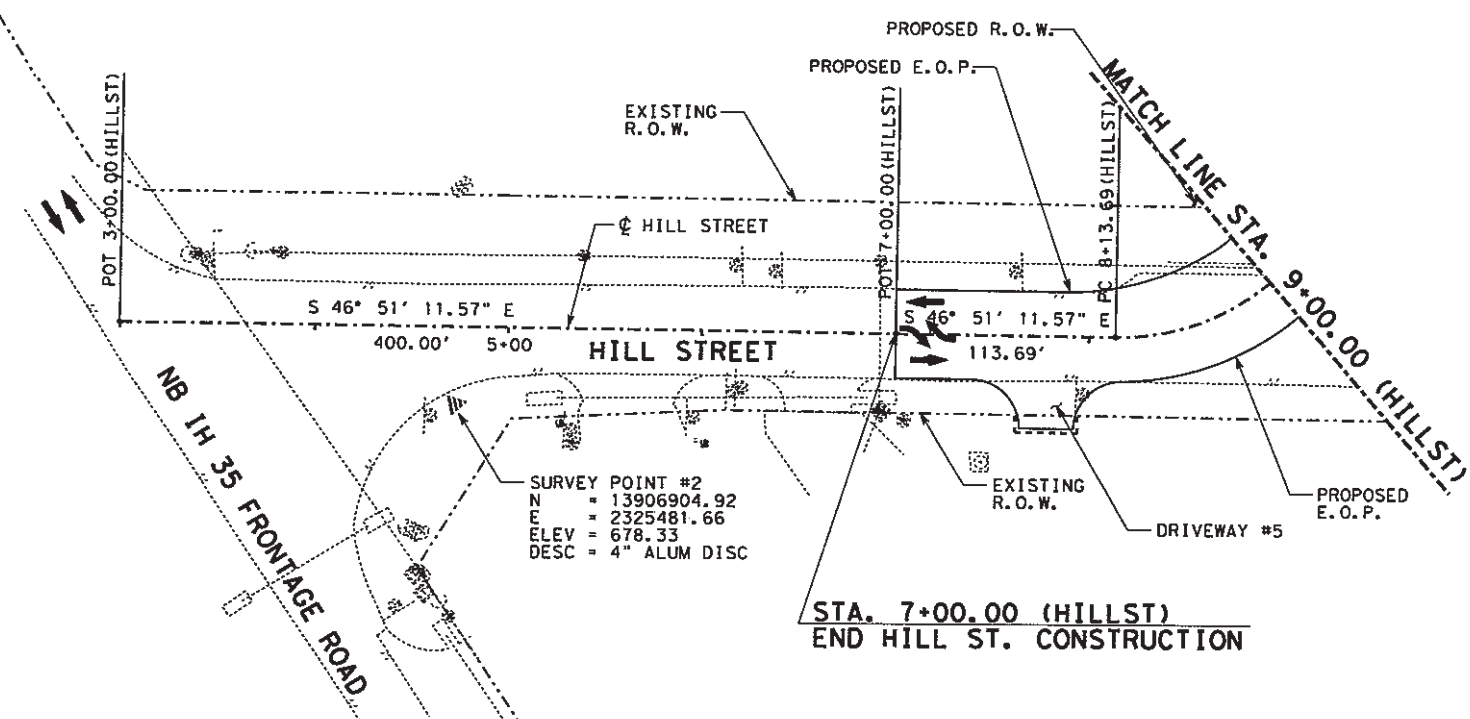
©2010 Texas Department of Transportation  
SHEET 1 OF 2

FED. NO.	FEDERAL AID PROJECT NO.	SHEET NO.
6		10
STATE	STATE DIST. NO.	COUNTY
TEXAS	14	HAYS
CONT.	SECT.	JOB
0805	01	017
		RM150

Item # 21

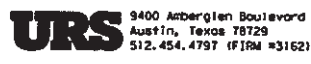


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**SURVEY CONTROL DATA**  
CHAPARRAL CONTROL POINT P230:  
4" ALUMINUM DISC SET IN CONCRETE, STAMPED "CHAPARRAL LAND SURVEYING GEODETIC CONTROL"  
  
SURFACE COORDINATES:  
N 13908434.85  
E 2325737.49  
  
TEXAS SOUTH CENTRAL ZONE STATE PLANE COORDINATES:  
N 13906904.92  
E 2325481.66  
  
ELEVATION: 678.33  
  
COMBINED SCALE FACTOR: 0.99989  
HORIZONTAL DATUM: NAD83 (93)  
VERTICAL DATUM: NAVD88, GEOID 99

**RM 150  
PROJECT LAYOUT**



9400 Amberglenn Boulevard  
Austin, Texas 78729  
512.454.4797 (FIRM #3162)

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FED. NO. DIV. NO.		FEDERAL AID PROJECT NO.		SHEET NO.	
6				11	
STATE	STATE DIST. NO.	COUNTY			
TEXAS	14	HAYS			
CONT.	SECT.	JOB	HIGHWAY NO.		
0805	01	017	RM150		

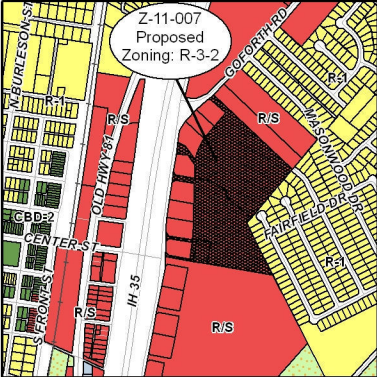
Item # 21

9/7/2010 9:06:23 AM

9/7/2010

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Z-11-007  
Proposed  
Zoning: R-3-2



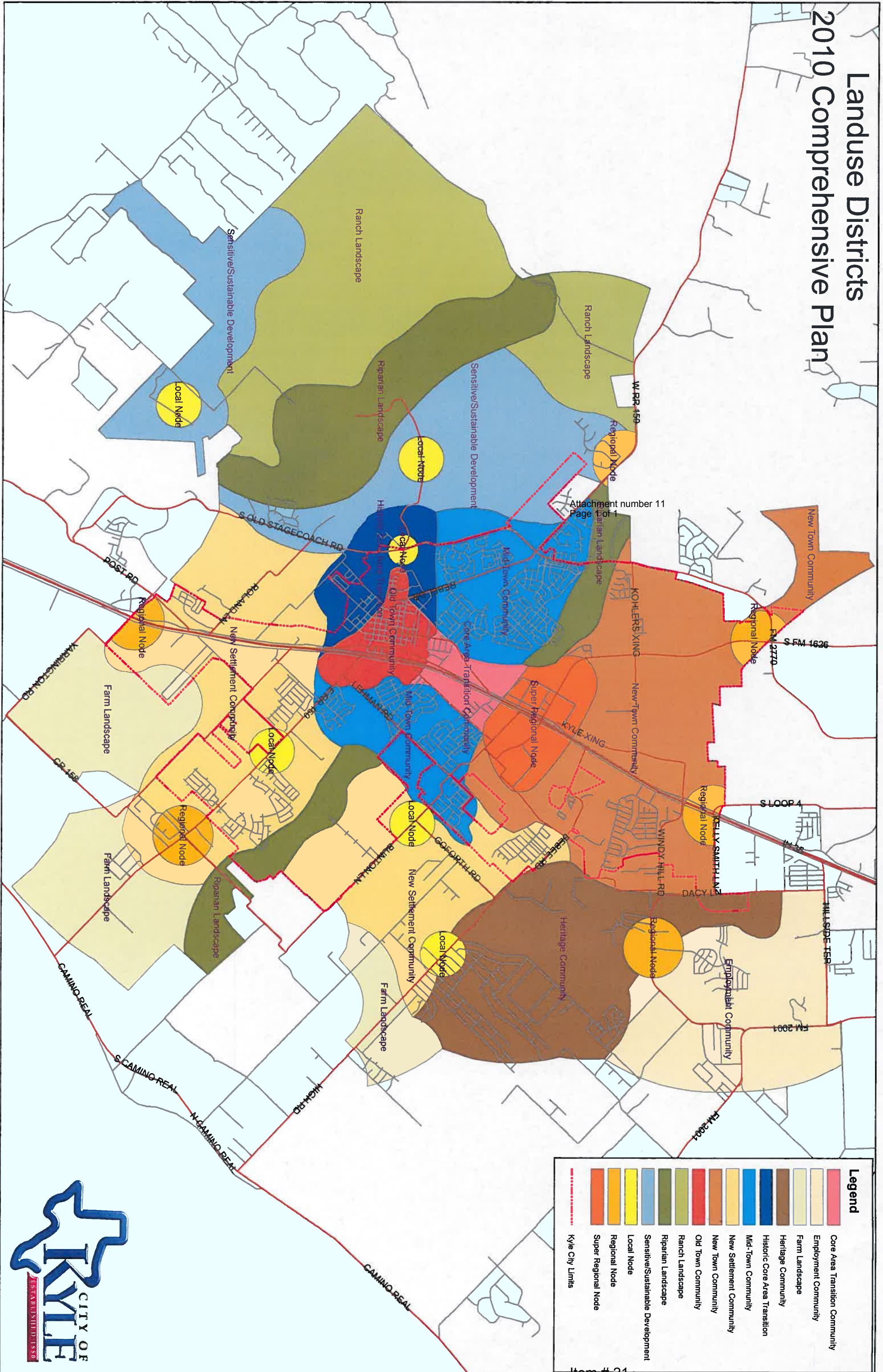
You may send your written comments to the Planning Department, 100 W. Center St., Kyle, Texas 78640  
(attention: Zoning File #: Z-11-007)

Name: GREGORY B. SUND AHL Address: 350 Thicket LN

- I am in favor, this is why \_\_\_\_\_
- I am not in favor, and this is why MORE
- Crime to my neighbor hood
- And lower property values,
- Does Kyle want to be
- JUST LIKE E-AUSTIN?

# Landuse Districts 2010 Comprehensive Plan

Attachment number 11  
Page 1 of 1



Legend	
	Core Area Transition Community
	Employment Community
	Farm Landscape
	Heritage Community
	Historic Core Area Transition
	Mid-Town Community
	New Settlement Community
	New Town Community
	Old Town Community
	Ranch Landscape
	Riparian Landscape
	Sensitive/Sustainable Development
	Local Node
	Regional Node
	Super Regional Node
	Kyle City Limits





# CITY OF KYLE, TEXAS

## FHC Consolidated

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

*(First Reading)* AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 1.007 ACRES, ON PROPERTY LOCATED AT 1371 RR 150 EAST IN HAYS COUNTY, TEXAS. (FHC CONSOLIDATED Z-11-005); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW ~ *Shira Rodgers, Director of Planning*

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

- Public Hearing

**Other Information:**

Please see attached backup material.

**Budget Information:**

N/A

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

- [Staff Memo](#)
- [Ordinance](#)
- [Exhibit A](#)
- [Exhibit B](#)
- [Planning Commission Staff Report](#)
- [Color Zoning Map](#)
- [Future Land Use Map](#)
- [Land Use Recommendations](#)



**CITY COUNCIL AGENDA  
July 5, 2011**

---

**Item/Subject:** AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 1.007 ACRES, ON PROPERTY LOCATED AT 1371 E.RR 150 IN HAYS COUNTY, TEXAS. (FHC CONSOLIDATED Z-11-005)  
(Public Hearing And First Reading of Ordinance).

**Initiating Dept:** Planning

---

**Commentary**

Applicant's Request:

To assign original zoning of 'RS' Retail Services District to approximately 1.007 acres.

Planning & Zoning Commission Recommendation to the City Council:

The Planning and Zoning Commission voted 5-0 to recommend approval of the applicant's request to assign original zoning of 'RS' Retail Services District to approximately 1.007 acres.

In Favor: Chairman Cale Baese, Jenny DiLeo, Cicely Kay, Samantha Bellows and Mike Rubsam.

Planning & Zoning Commission Public Hearing:

The Planning and Zoning Commission held a public hearing on June 28, 2011.

There was no testimony during the public hearing.

Background:

Owner: FHC Consolidated

Agent: Gary Whited

Please see attached Planning & Zoning Commission Staff Report for details.

Public Information Plan:

- June 8, 2011* : Public notice of the Planning and Zoning Commission and City Council public hearings published in the Hays Free Press.
- June 28, 2011:* Planning and Zoning Commission public hearing and recommendation to City Council.
- July 5, 2011:* City Council public hearing and first reading of ordinance



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 53 (ZONING) OF THE CITY OF KYLE, TEXAS, FOR THE PURPOSE OF ASSIGNING ORIGINAL ZONING OF 'RS' RETAIL SERVICES DISTRICT TO APPROXIMATELY 1.007 ACRES, ON PROPERTY LOCATED AT 1371 E.RR 150 IN HAYS COUNTY, TEXAS. (FHC CONSOLIDATED Z-11-005); AUTHORIZING THE CITY SECRETARY TO AMEND THE ZONING MAP OF THE CITY OF KYLE SO AS TO REFLECT THIS CHANGE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the zoning district map of the City of Kyle adopted in Chapter 53 (Zoning) be and the same is hereby amended to assign original zoning of 'RS' Retail Services District to approximately 1.007 acres, on property located at 1371 E.RR 150, as set forth in the legal description labeled Exhibit A, and the property location map labeled Exhibit B.

SECTION 2. That the City Secretary is hereby authorized and directed to designate the tract of land zoned herein as such on the zoning district map of the City of Kyle and by proper endorsement indicate the authority for said notation.

SECTION 3. If any provision, section, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Kyle in adopting this Ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION 4. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Kyle at a regular meeting on the \_\_\_ day of \_\_\_\_\_, 2011, at which a quorum was

present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Kyle at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Lucy Johnson, Mayor

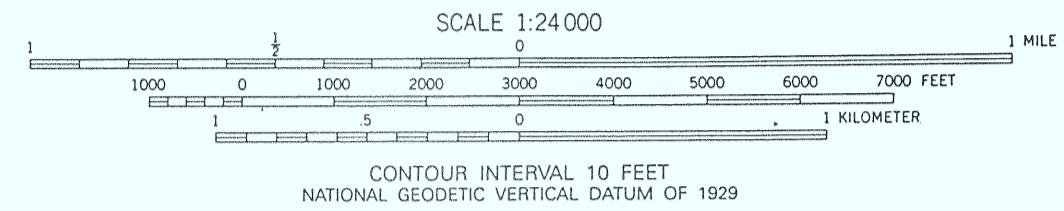
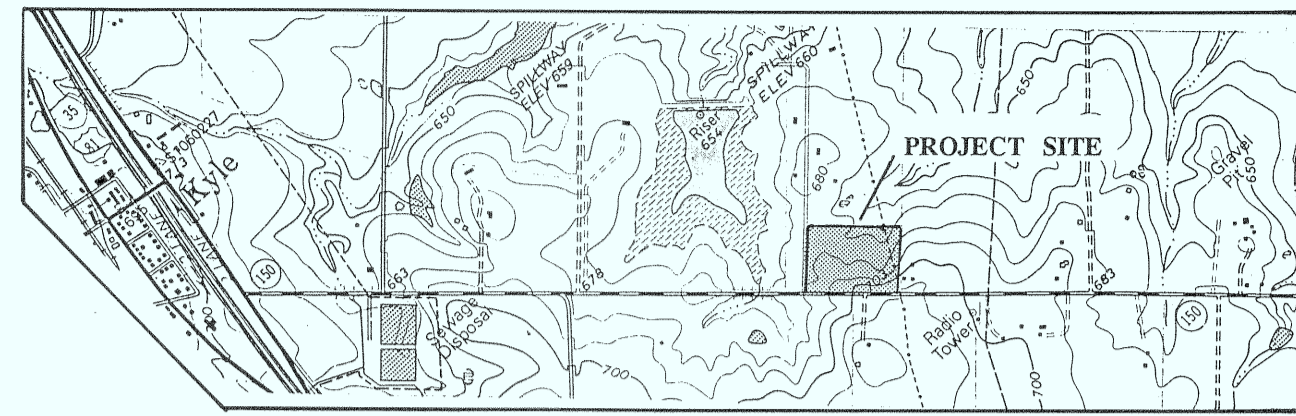
ATTEST:

\_\_\_\_\_  
Amelia Sanchez, City Secretary

Vol 6 pg 374

# THE HILL

LOCATION MAP 385516



STATE OF TEXAS  
COUNTY OF HAYS

I, RONNIE DANNELLEY, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON THE 24 DAY OF JULY, A.D., 1995, THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS PASSED AN ORDER AUTHORIZING THE FILING FOR RECORD OF THIS PLAT, AND SAID ORDER HAS BEEN DULY ENTERED IN THE MINUTES OF SAID COURT IN BOOK P, PAGE 480.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE 24th DAY OF JULY, A.D., 1995.

*Eddy Etheredge*  
EDDY ETHEREDGE  
COUNTY JUDGE  
HAYS COUNTY, TEXAS

*Ronnie Dannelley*  
RONNIE DANNELLEY  
COUNTY CLERK  
HAYS COUNTY, TEXAS

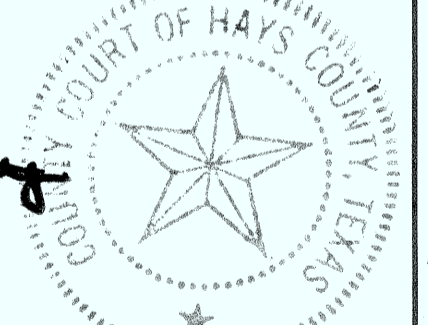


STATE OF TEXAS  
COUNTY OF HAYS

I, RONNIE DANNELLEY, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE 28th DAY OF August, 1995, AT 3:15 O'CLOCK P.M., AND DULY RECORDED ON THE 28th DAY OF August, A.D., 1995 AT 3:15 O'CLOCK P.M., IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS, IN BOOK 6, PAGE(S) 374.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE 28th DAY OF August, A.D., 1995.

*Ronnie Dannelley*  
RONNIE DANNELLEY  
COUNTY CLERK  
HAYS COUNTY



### Certification for Road Maintenance:

In approving this plat by the Commissioners Court of Hays County, Texas, it is understood that the building of all streets, roads, and other public thoroughfares delineated and shown on this plat and all bridges and culverts necessary to be constructed or placed in such streets, roads or other public thoroughfares or in connection therewith, shall be the responsibility of the owner and/or the developer of the tract of land covered by this plat in accordance with the plans and specifications prescribed by the Commissioners Court of Hays County, Texas, and the Commissioners Court of Hays County, Texas assumes no obligation to build the streets, roads or other public thoroughfares shown on this plat or of constructing any bridges or culverts in connection therewith.

### Sewage Disposal/Individual Water Supply Certification:

No structure in this subdivision shall be occupied until connected to an individual water supply or a state-approved community water system. Due to declining water supplies and diminishing water quality, prospective property owners are cautioned by Hays County to question the seller concerning ground water availability. Rain water collection is encouraged and in some areas may offer the best renewable water resource.

No structure in this subdivision shall be occupied until connected to a public sewer system or to an on-site wastewater system which has been approved and permitted by Hays County Environmental Health.

No construction or other development within this subdivision may begin until all Hays County Development Permit requirements have been met.

*Allen G. Walther*  
Allen G. Walther, Director  
Hays County Environmental Health  
Hays County Floodplain Administrator

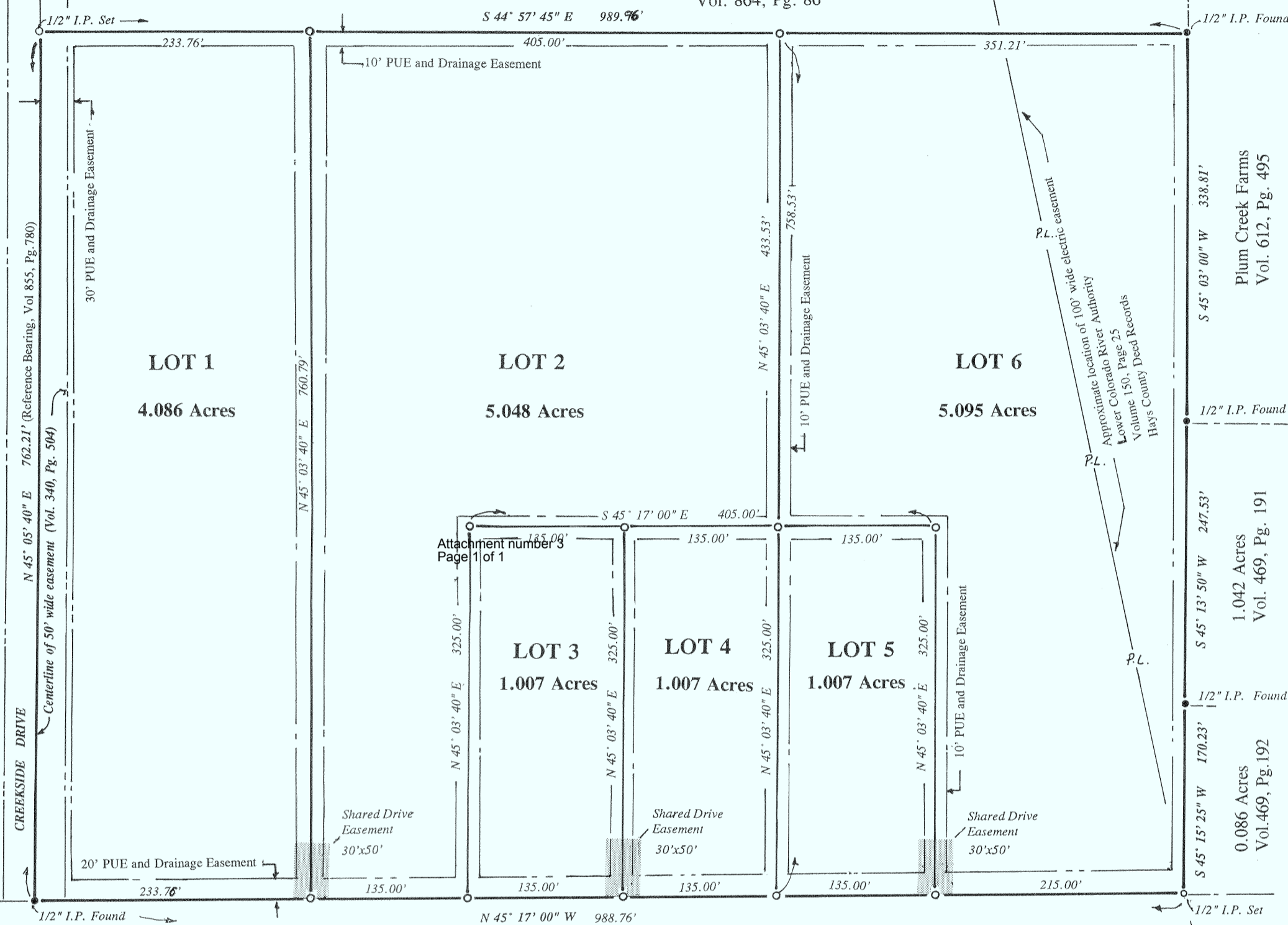
8-3-95  
Date

### PUBLIC UTILITY AND DRAINAGE EASEMENT DEDICATION:

There is hereby dedicated a Public Utility and Drainage Easement as follows:

- Twenty (20) foot wide along all lot lines adjacent to F.M. Highway No. 150;
- Ten (10) foot wide adjacent to all non-street lot lines;
- Thirty (30) foot wide adjacent to the west line of Lot 1, and said 30 foot wide easement is reserved by developer for future dedication as a public road.
- If two or more lots are combined as a single homesite, this easement shall be relinquished along the common lot line or lines of the combined lots so long as no utility lines or drainage improvements are located therein.

10.00 Acres  
Vol. 864, Pg. 86



F M Highway No. 150

STATE OF TEXAS  
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS, That I, the undersigned, a Registered Professional Land Surveyor in the State of Texas, hereby certify that this plat complies with the survey related requirements of the Hays County Subdivision Specifications and further certify that this plat is true and correctly made and is prepared from an actual survey of the property made under my supervision on the ground and the corner monuments were properly placed under my supervision.

*Melvin B. Hodgkiss*  
Melvin B. Hodgkiss  
Registered Professional Land Surveyor No. 2808

No portion of this subdivision lies within the boundaries of the Edwards Aquifer Recharge Zone.

No portion of this subdivision lies within the boundaries of the 100 year flood plain as delineated on Hays County FEMA Community-Panel No. 480321 0205 B, dated June 16, 1993.

A portion of this subdivision lies within the extra territorial jurisdiction of the City of Kyle.

County Line Water Supply Corporation, an approved public water supply system, has adequate quantity to supply this subdivision and provisions have been made to provide service to each lot in accordance with the policies of the water supply system.

*Daniel Hiedeman*  
Daniel Hiedeman,  
County Line Water Supply Corporation  
Date 8-3-95

This plat, The Hill, has been submitted to and considered by the Planning Commission of the City of Kyle, Texas and is hereby approved by such Commission.

Dated this 13th day of July, 1995.

By *Chelene Nunham*  
Chelene Nunham  
Chairman  
ATTEST *Maria Palom*  
Maria Palom  
Secretary

STATE OF TEXAS  
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS, that I, Barbara Humble, on behalf of FHC Consolidated, a Texas Limited Partnership, with its mailing address at 2008 West Koenig Lane, Austin, Texas 78756, owners of 17.250 acres of land out of the M.B. Atkinson Survey, Abstract No. 21 in Hays County, Texas as conveyed by deed dated March 31, 1995, and recorded in Volume 1139, Page(s) 863, Hays County Deed Records, DOES HEREBY SUBDIVIDE said 17.250 acres of land out of the M.B. Atkinson Survey, to be known as THE HILL, in accordance with the plat shown hereon, subject to any and all easements or restrictions heretofore granted, and does hereby dedicate to the public the streets and easements shown hereon.

WITNESS MY HAND, this the 28 day of August, A.D., 1995.

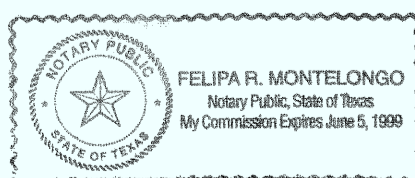
FHC Consolidated, a Texas Limited Partnership, Acting Through  
Heavenly Investments, Inc. Its General Partner

*Barbara Humble*  
Barbara Humble, President

STATE OF TEXAS  
COUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared Barbara Humble known to me to be the person whose name is subscribed to the foregoing instrument and acknowledges to me that she executed the same for the purposes and considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 28th day of August, A.D., 1995.

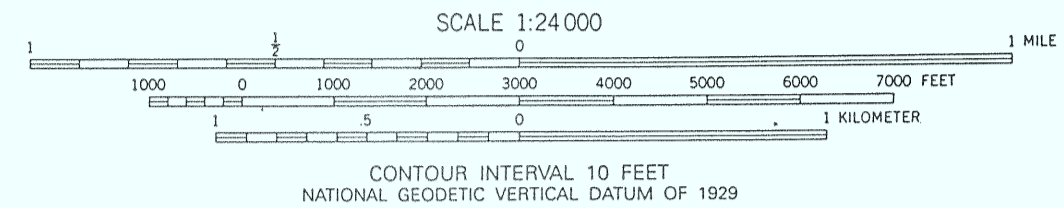
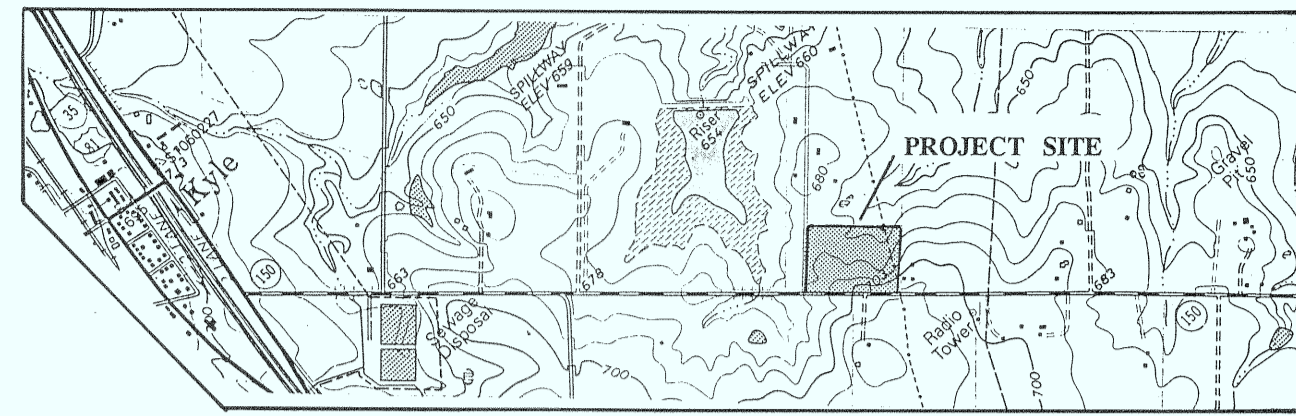


*Felipa R. Montelongo*  
Felipa R. Montelongo  
NOTARY PUBLIC in and for Hays County, Texas

Vol 6 pg 374

# THE HILL

LOCATION MAP 385516



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*Ronnie Dannelley*  
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COUNTY CLERK  
HAYS COUNTY, TEXAS

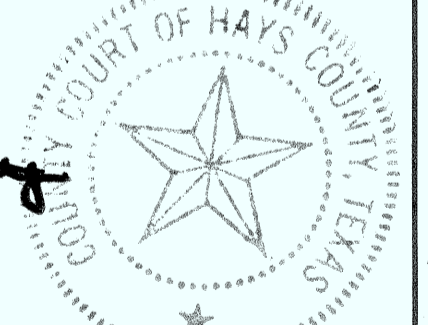


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RONNIE DANNELLEY  
COUNTY CLERK  
HAYS COUNTY



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*Allen G. Walther*  
Allen G. Walther, Director  
Hays County Environmental Health  
Hays County Floodplain Administrator

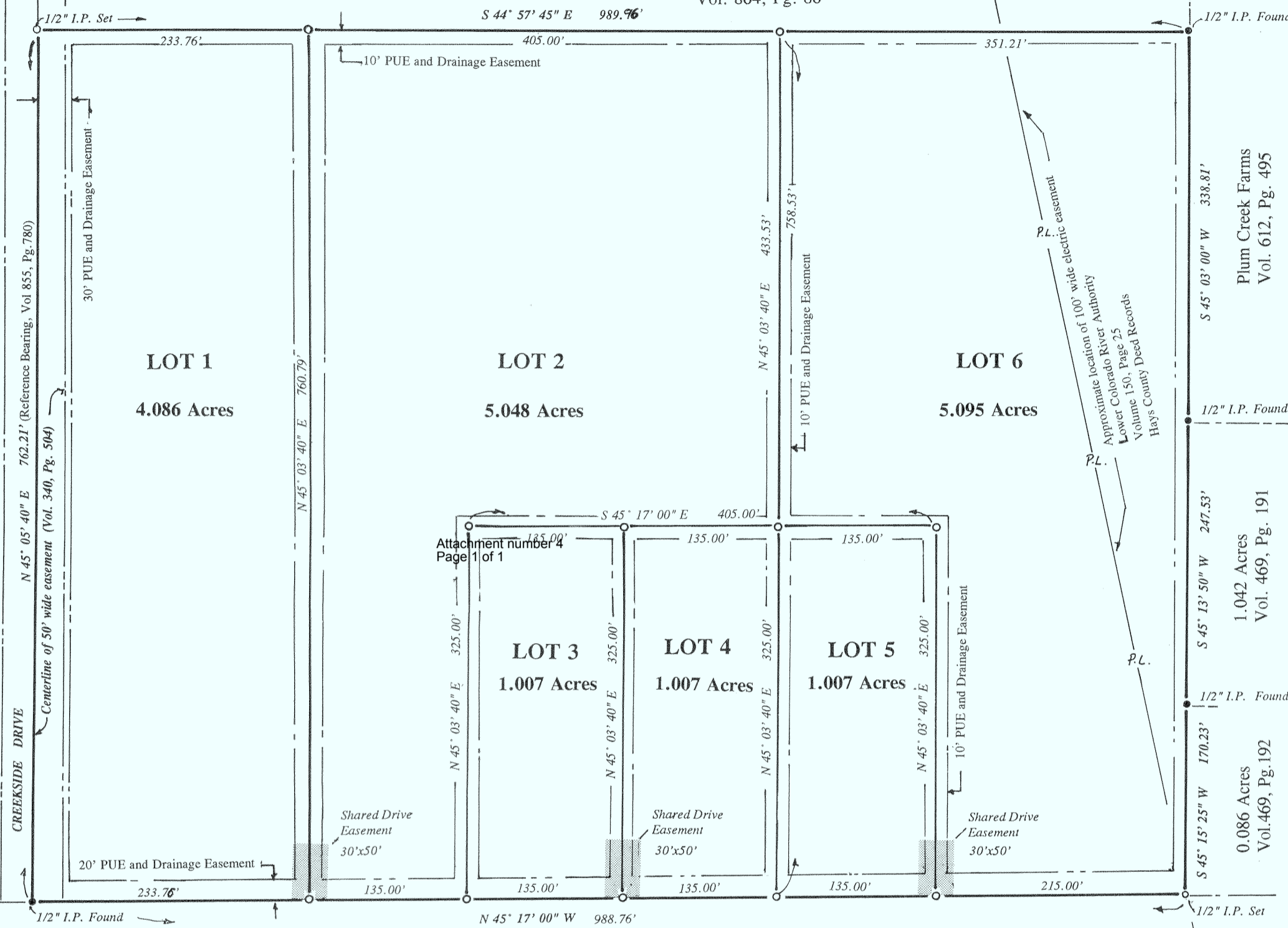
8-3-95  
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10.00 Acres  
Vol. 864, Pg. 86



F M Highway No. 150

STATE OF TEXAS  
COUNTY OF HAYS

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*Melvin B. Hodgkiss*  
Melvin B. Hodgkiss  
Registered Professional Land Surveyor No. 2808

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*Daniel Hiedeman*  
Daniel Hiedeman,  
County Line Water Supply Corporation  
Date 8-3-95

This plat, The Hill, has been submitted to and considered by the Planning Commission of the City of Kyle, Texas and is hereby approved by such Commission.

Dated this 13th day of July, 1995.

By *Esther Vanham*  
Chairman  
ATTEST *Minnie Palmer*  
Secretary

STATE OF TEXAS  
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS, that I, Barbara Humble, on behalf of FHC Consolidated, a Texas Limited Partnership, with its mailing address at 2008 West Koenig Lane, Austin, Texas 78756, owners of 17.250 acres of land out of the M.B. Atkinson Survey, Abstract No. 21 in Hays County, Texas as conveyed by deed dated March 31, 1995, and recorded in Volume 1139, Page(s) 863, Hays County Deed Records, DOES HEREBY SUBDIVIDE said 17.250 acres of land out of the M.B. Atkinson Survey, to be known as THE HILL, in accordance with the plat shown hereon, subject to any and all easements or restrictions heretofore granted, and does hereby dedicate to the public the streets and easements shown hereon.

WITNESS MY HAND, this the 28 day of August, A.D., 1995.

FHC Consolidated, a Texas Limited Partnership, Acting Through  
Heavenly Investments, Inc. Its General Partner

*Barbara Humble*  
by: Barbara Humble, President

STATE OF TEXAS  
COUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared Barbara Humble known to me to be the person whose name is subscribed to the foregoing instrument and acknowledges to me that she executed the same for the purposes and considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 28th day of August, A.D., 1995.



*Felipa R. Montelongo*  
NOTARY PUBLIC in and for Hays County, Texas

June 28, 2011	<b>Planning and Zoning Commission</b>
Zoning	<b>FHC Consolidated Zoning</b>
<b>Case Number: Z-11-005</b>	

**OWNER/APPLICANT:** FHC Consolidated

**AGENT:** Gary Whited

**LOCATION:** 1371 East RR 150

**COUNTY:** Hays County

**AREA:** 1.007 acres

**PROPOSED CITY COUNCIL HEARINGS:**

July 5, 2011 ~ 1<sup>ST</sup> Reading

July 19, 2011 ~ 2<sup>ND</sup> Reading

**EXISTING ZONING:** Interim "A" Agricultural

All territory hereafter annexed to the City shall be automatically classified as Agricultural District "A", pending subsequent action by the Commission and Council for permanent zoning; provided that upon application, by either the City or the property owner of the land being annexed, for zoning other than Agricultural, notice may be given and hearings held in compliance with *Chapt. 211, Tex. Loc. Gov't. Code*, and, upon annexation, such property may be permanently zoned as determined by the City Council after considering the Commission's recommendation.

In an area temporarily classified as Agricultural District "A", no permits for the construction of a building or use of land other than uses allowed in said District under this Ordinance shall be issued by the City Building Official.

**PROPOSED ZONING:** "RS" Retail Services

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas, e.g. clothing, prescription drugs, furniture, toys, hardware, electronics, pet supply, variety, department, video rental and antique stores, art studio or gallery, hobby shops and florist shops., and the retail sale of goods and products (in the following listed use areas) to which value has been added on-site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed.

**SITE INFORMATION:**

*Transportation:*

The site will have access off of East RR 150.

This site will be incorporated into the existing commercial area.

June 28, 2011	<b>Planning and Zoning Commission</b>
Zoning	<b>FHC Consolidated Zoning</b>
<b>Case Number: Z-11-005</b>	

The RS District requires 100% of the exterior walls to consist of masonry, which includes but is not limited to: stone, brick, stone or brick veneers, or stucco.

*Subdivision:*

A subdivision plat will not be required for this development.

*Surrounding Land Use and Zoning:*

North: 'RS' Retail Services (Undeveloped Land) and 'R-3-1' Multi-family Residential 1 (Undeveloped Land).

South: 'R-1-2' Single Family Residential (Post Oak Subdivision)

East: 'A' Agricultural (Single Family Residence) and 'RS' Retail Services (Undeveloped Land)

West: 'RS' Retail Services (Undeveloped Land)

**PUBLIC INPUT:**

Currently, Staff has not received any comments from the general public regarding the requested zoning change.

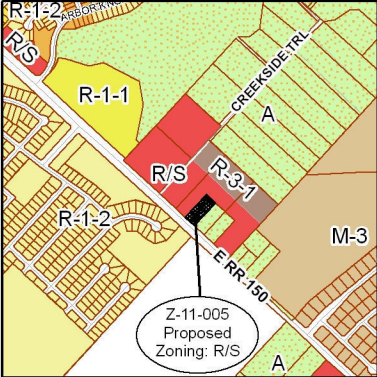
**CONFORMANCE WITH COMPREHENSIVE PLAN:**

The site is designated as New Settlement District in the Comprehensive Plan. The New Settlement District allows for Retail Services District as a conditional use.

**STAFF RECOMMENDATION:**

The request of the Retail Services District would help to create more of a neighborhood commercial center for surrounding residents and may help to slightly reduce the number of vehicle trips along E RR 150 by not requiring residents to drive towards the Interstate for certain goods. Retail would also help create a more balanced tax base by promoting the development of a neighborhood retail center.

The request for this zoning reclassification is a reasonable request and is in the public interest because it promotes some of the goals adopted in the Comprehensive Plan.



R-1-2  
R/S

ARBOR KINGS

R-1-1

CREEKSIDE TRL

A

R/S

R-3-1

R-1-2

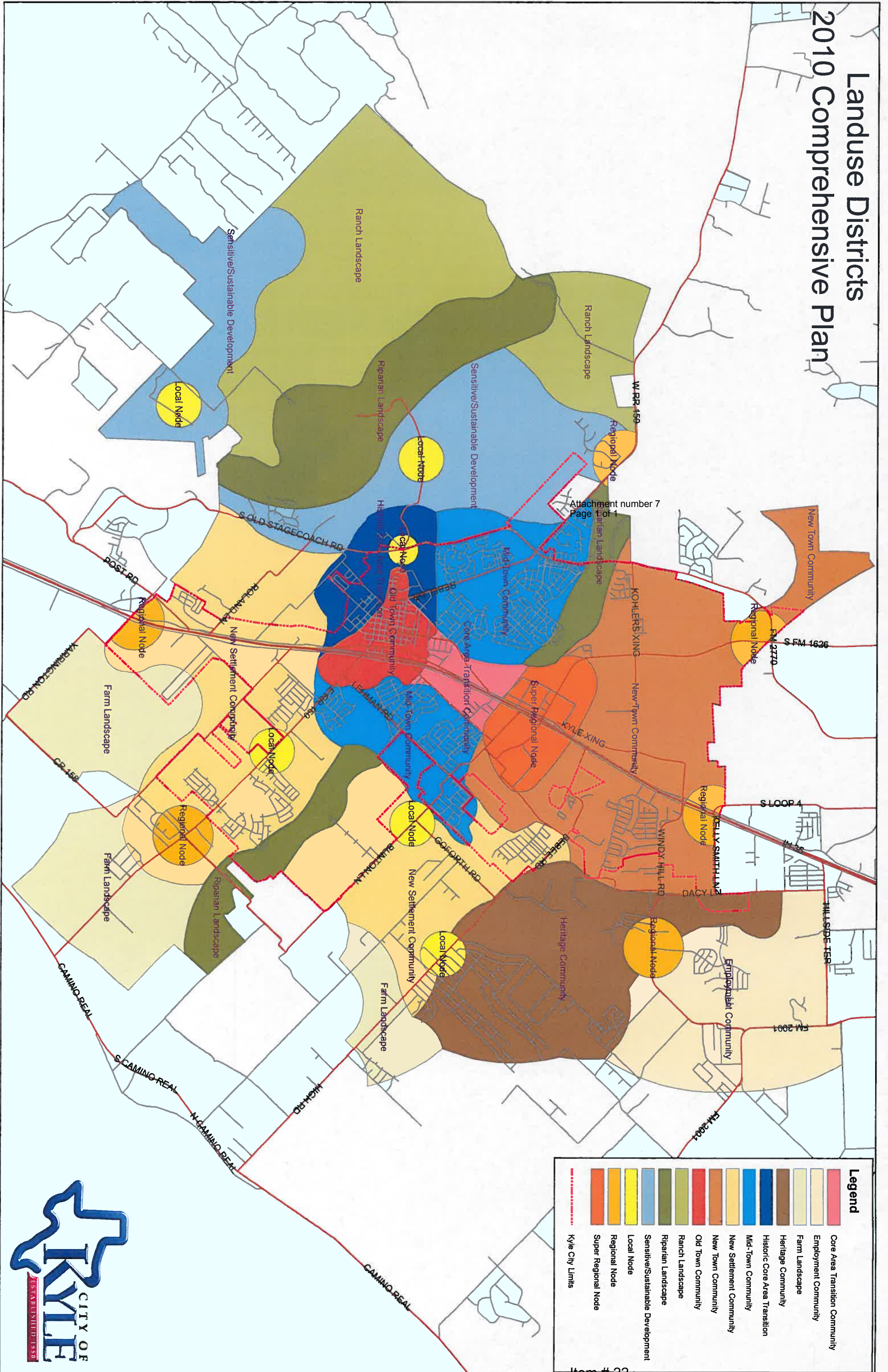
M-3

E. RR-150

Z-11-005  
Proposed  
Zoning: R/S

A

# Landuse Districts 2010 Comprehensive Plan



**Legend**

	Core Area Transition Community
	Employment Community
	Farm Landscape
	Heritage Community
	Historic Core Area Transition
	Mid-Town Community
	New Settlement Community
	New Town Community
	Old Town Community
	Ranch Landscape
	Riparian Landscape
	Sensitive/Sustainable Development
	Local Node
	Regional Node
	Super Regional Node
	Kyle City Limits





## **2010 Comp Plan Landuse Recommendations**

Farm District	Recommended: A, UE Conditional: R-1-1, R/S
Ranch District	Recommended: A, UE Conditional: R-1-1, R/S
Riparian District	Recommended: A, UE Conditional: R-1-1, R/S
Old Town District	Recommended: CBD-1, CBD-2, R-1-T Conditional: E, R-1-A, R-1-C, R-2, R-3-2, R-3-3
Core Area Transition	Recommended: CBD-1, CBD-2, R-1-T, R-1-C, R-3-2, R-3-3, RS Conditional: E, HS, R-1-A
Historic Core Area	Recommended: R-1-1, R-1-2, R-1-T Conditional: A, R-1-A, R-2, R-3-1, R/S, UE
Mid-Town District	Recommended: R-1-2, R-2 Conditional: E, R-1-1, R-1-A, R-1-T, R-3-1, R-3-2, R/S
New Settlement	Recommended: R-1-1, R-1-2 Conditional: A, E, HS, R-1-A, R-1-T, R-2, R-3-1-, R-3-2, R/S, T/U, UE
New Town District	Recommended: R-1-1, R-1-2, R-1-C, R-1-T, R-2, R-3-2, R-3-3 Conditional: A, C/M, E, HS, R-1-A, R-3-1, R/S, T/U, UE, W
Employment District	Recommended: A, C/M, R-1-2, R-1-A, R-1-C, R-1-T, R-2, R-3-2, R-3-3, W Conditional: M-2, M-3, R-1-1, R-3-1, R/S, RV, T/U, UE
Sensitive/Sustainable Development	Recommended: A, UE Conditional: C/M, E, R-1-1, R-1-A, R-2, R-1-T, R/S, T/U, W
Heritage District	Recommended: A, R-1-1, R-1-2, UE Conditional: C/M, E, M-2, M-3, R-1-A, R-1-T, R-2, R-3-1, R/S, RV, T/U, W
Local Node	Recommended: R-1-C, R-3-2, R-3-3, R/S Conditional: R-1-T, R-3-1
Regional Node	Recommended: R-1-C, R-3-2, R-3-3 Conditional: CBD-1, CBD-2, E, HS, R-3-1, R/S
Super Regional Node	Recommended: CBD-1, CBD-2, HS, R-1-C, R-3-2, R-3-3 Conditional: E

Amendment #1 Added 'RS' to Core Area Transition (Approved May 17, 2011)



# CITY OF KYLE, TEXAS

## Barton Word Building

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

Consider and Possible Action Regarding a Variance Request from Cyndy Slovak-Barton for the Barton Word Building to be located at 113 W. Center St. The variance requested is from Chapter 41 Subdivisions, Article V. Standards and Specifications, Section 41-141 Utility Easements of the Code of Ordinances which requires all electrical lines to be located underground ~ *Shira Rodgers, Director of Planning*

*Planning and Zoning Commission voted 5-0 to approve the variance request.*

**Other Information:**

Please see attached backup information.

**Budget Information:**

N/A

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

[Staff Memo](#)

[Rendering](#)

[Rendering](#)



**CITY COUNCIL AGENDA  
July 5, 2011**

---

**Item/Subject:** Consider and Possible Action Regarding a Variance Request from Cyndy Slovak-Barton for the Barton Word Building to be located at 113 W. Center St. The variance requested is from Chapter 41 Subdivisions, Article V. Standards and Specifications, Section 41-141 Utility Easements of the Code of Ordinances which requires all electrical lines to be located underground.

**Initiating Dept:** Planning

---

**Commentary**

This is a request by Cyndy Slovak-Barton for a variance request to Chapter 41 Subdivisions, Section 41-141 Utility Easements which requires all electrical lines to be placed underground.

There is an existing overhead pole located behind the proposed building in an end island along Main Street. To run the electric underground would be very costly because there is an existing sewer line in the alley. In addition according to Pedernales Electric (PEC), since this is a zero setback lot there isn't an ideal location for an electric utility box which would be required for the underground service line. The only place that PEC could locate a utility box would be in the alley.

The overhead line would span approximately forty (40) feet and will be located in the rear of the building.

**STAFF RECOMMENDATION:**

Approve the variance request.

**Planning and Zoning Commission Recommendation to the City Council:**

On June 28, 2011 the Planning and Zoning Commission held a public hearing at which the Planning and Zoning Commission voted 5-0 to recommend the City Council approve

the variance request. The following Commissioners voted *yes* to recommend approval: Chairman Cale Baese, Mike Rubsam, Jenny DiLeo, Cicely Kay, and Samantha Bellows.

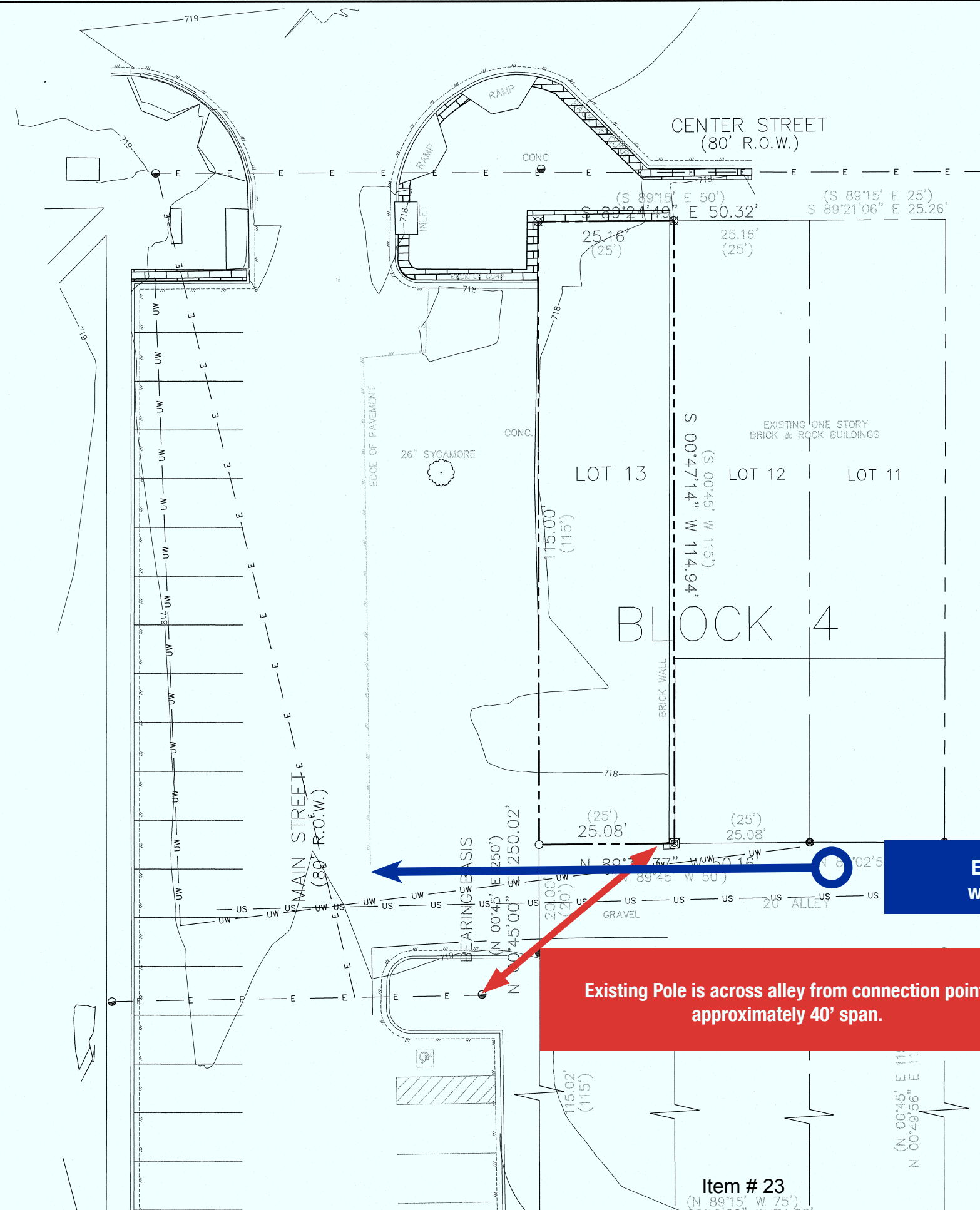
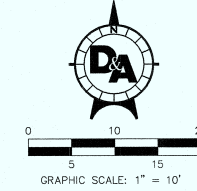
Planning & Zoning Commission Public Hearing:

Lila Knight spoke in support of the variance request.

Public Information Plan:

*June 28, 2011:* Planning and Zoning Commission public hearing and recommendation to City Council.

*July 5, 2011:* City Council action.



- LEGEND**
- 1 INCH COATED PIPE FOR REFERENCE
  - IRON ROD FOUND
  - IRON ROD WITH CAP SET
  - ⊠ CALCULATED POINT
  - ⊗ "X" SET IN CONCRETE
  - ⊞ WATER METER
  - //— WOOD FENCE
  - o— CHAIN LINK FENCE
  - x— WIRE FENCE
  - P.U.E. PUBLIC UTILITY EASEMENT
  - D.E. DRAINAGE ESMT.
  - B.L. BUILDING LINE
  - POWER POLE
  - E— OVERHEAD ELEC. LINE
  - G— DOWN GUY

Existing sewer lines run behind building where electrical line would have to cross

Existing Pole is across alley from connection point, approximately 40' span.

FIRM REGISTRATION #3937  
**D&A**  
 Doucet & Associates, Inc.  
 7401 B Hwy 71 West, Suite 160  
 Austin, TX 78735  
 Phone: (512) 583-2600 Fax: (512) 583-2601  
 www.doucetandassociates.com

**THE BARTON BUILDING**  
 SITE DEVELOPMENT PLANS

**EXISTING CONDITIONS**  
 MAIN STREET & CENTER STREET  
 KYLE, TEXAS

Scale: AS SHOWN  
 Designed: D&A  
 Drawn: D&A  
 Reviewed: D&A  
 Date: 07/06/10

SHEET  
**3**

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# CITY OF KYLE, TEXAS

## Matheson Tri-Gas

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

Consider a request by Matheson Tri-Gas for a Conditional Use Permit to construct a 8,595 square foot building located within the IH-35 Zoning Overlay District.

Located at 2550 Kyle Crossing

Owner: Matheson Tri-Gas

Agent: Charles Turner, T Bar T Construction

~ Shira Rodgers, Director of Planning

*Planning and Zoning Commission voted 6-0 to approve the Conditional Use Permit.*

- Public Hearing

**Other Information:**

Please see the attached color renderings.

**Budget Information:**

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

 [Color Rendering](#)

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**KEY NOTES**

1. EDGE OF CONCRETE DOCK PLATFORM.
2. DOOR OPENING.
3. NEW STAIR WITH GUARDRAIL AND HANDRAIL.
4. NEW ACCESSIBLE RAMP.
5. PRE-ENGINEERED STEEL COLUMN.
6. PRE-ENGINEERED METAL WALL PANELS.
7. PRE-ENGINEERED METAL ROOF.
8. ROOF RIDGE VENT.
9. 6" HIGH CONCRETE TILT-UP PANES AT HPM STORAGE BAY.
10. TONNER RACK ENCLOSURE WITH MINIMUM 2-HOUR FIRE RATED \* MASONRY WALL. SEE STRUCTURAL.
11. EXISTING TILT-UP CONCRETE WALL TO REMAIN.
12. EXISTING DOOR TO REMAIN.
13. EXISTING METAL ROOF TO REMAIN.
14. EDGE OF EXISTING DOCK PLATFORM TO REMAIN.
15. EXISTING ELECTRICAL SERVICE BOX AND CONDUIT TO BE RELOCATED. SEE ELECTRICAL.
16. EXISTING DATA SERVICE CONDUIT TO BE RELOCATED. SEE ELECTRICAL.
17. EXISTING SPRINKLER SYSTEM RELIEF DRAIN PIPE TO BE RELOCATED. SEE FIRE PROTECTION DRAWINGS.
18. EXISTING LIGHTNING ROD GROUNDING WIRE TO BE RELOCATED. SEE ELECTRICAL.
19. NEW PRE-ENGINEERED WALL LINER PANELS.
20. NEW CONCRETE SLAB AT DOCK PLATFORM. SEE STRUCTURAL.
21. COMPACTED SELECT FILL. SEE STRUCTURAL.
22. NEW RAIN GUTTER AND SCUPPER.
23. NEW ROOF PURLINS, TYPICAL.
24. NEW CONCRETE PAVING.
25. NEW ATS CABINET MOUNTED TO FACE OF CONCRETE PLATFORM WITH UNISTRUT FRAME. SEE ELECTRICAL.
26. ELECTRIC GENERATOR ON CONCRETE HOUSEKEEPING PAD. SEE ELECTRICAL.
27. EXHAUST DUCT. SEE MECHANICAL.
28. MECHANICAL UNIT ON CONCRETE HOUSEKEEPING PAD. SEE MECHANICAL.
29. FLUORESCENT LIGHT FIXTURE. SEE ELECTRICAL.
30. SKYLIGHT.
31. NEW SLIDING METAL GATE WITH 'V' TRACK AT HPM STORAGE BAY.

**EXTERIOR FINISH SCHEDULE**

**PAINT**

	DESCRIPTION: PRE-FINISHED METAL WALL PANELS MANUFACTURER: VP BUILDINGS VARCO PRUDEN COLOR: COOL EGYPTIAN WHITE
	DESCRIPTION: STRUCTURAL STEEL GIRTS AND TRIM MANUFACTURER: VP BUILDINGS VARCO PRUDEN COLOR: COOL COBALT BLUE
	DESCRIPTION: 8" X 8" X 16" SPLIT MASONRY HPM STORAGE MANUFACTURER: DUNN EDWARDS COLOR: TO MATCH VP BUILDINGS "COOL EGYPTIAN WHITE" AS SELECTED BY ARCHITECT

**STONE/ MASONRY**

	DESCRIPTION: 4" X 8" X 16" SPLIT MASONRY T.B.D. STYLE: "BUFF LIMESTONE"
--	---

**ROOFING**

	DESCRIPTION: PRE-FINISHED METAL PANEL RIB ROOF MANUFACTURER: VP BUILDINGS VARCO PRUDEN COLOR: BARE GALVALUME
--	--

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**MATHESON TRI-GAS**  
**KYLE, TEXAS SITE**  
**HPM STORAGE**

PROJECT TITLE

REV DATE DESCRIPTION

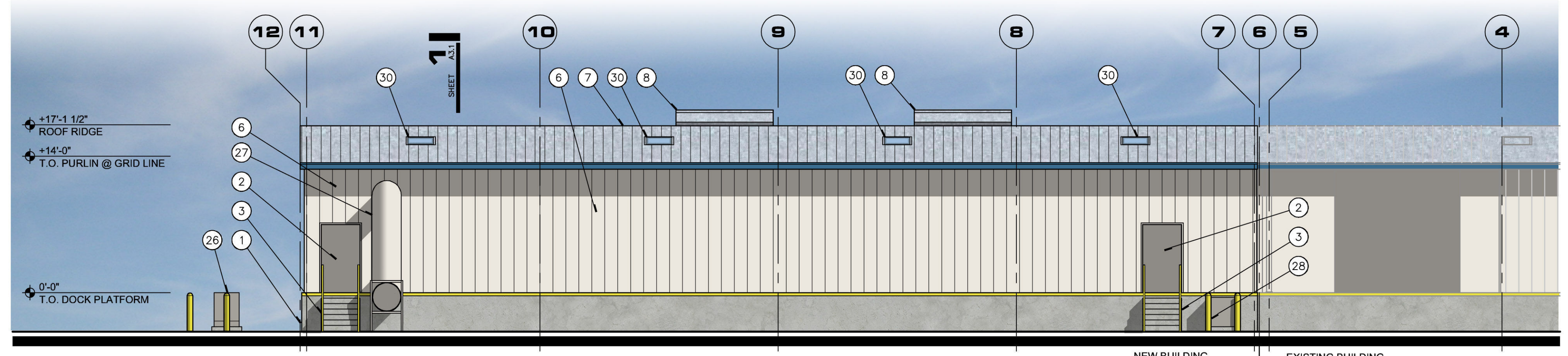
REVISIONS

PROJECT NO. **11001**  
 CAD FILE NO.  
 CHECKED BY  
 DESIGNED BY  
 DRAWN BY  
 DATE **3/15/11**  
 SCALE **AS NOTED**

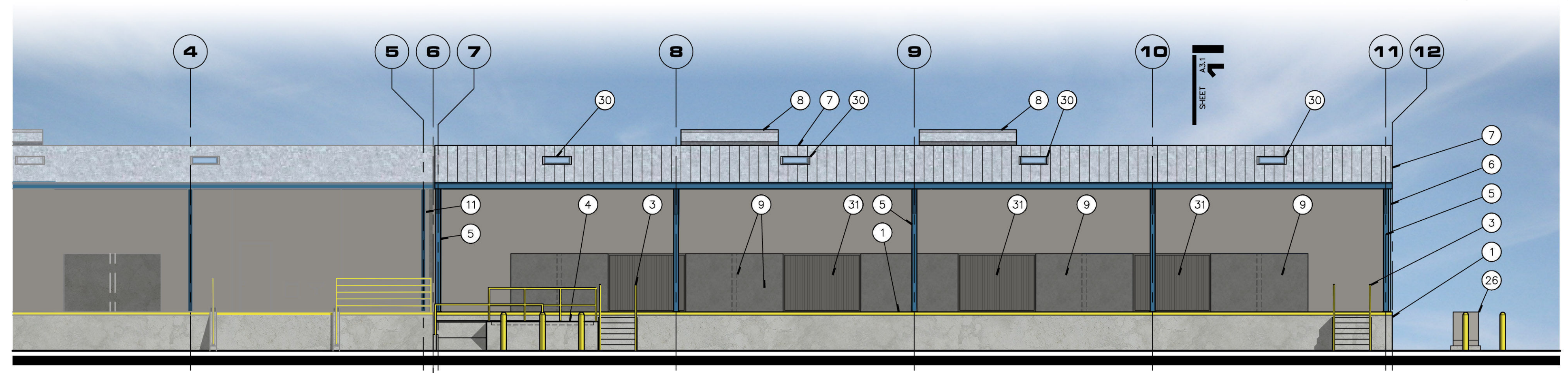
PROJECT INFORMATION  
**EXTERIOR ELEVATIONS AND SECTION- WAREHOUSE**

SHEET TITLE

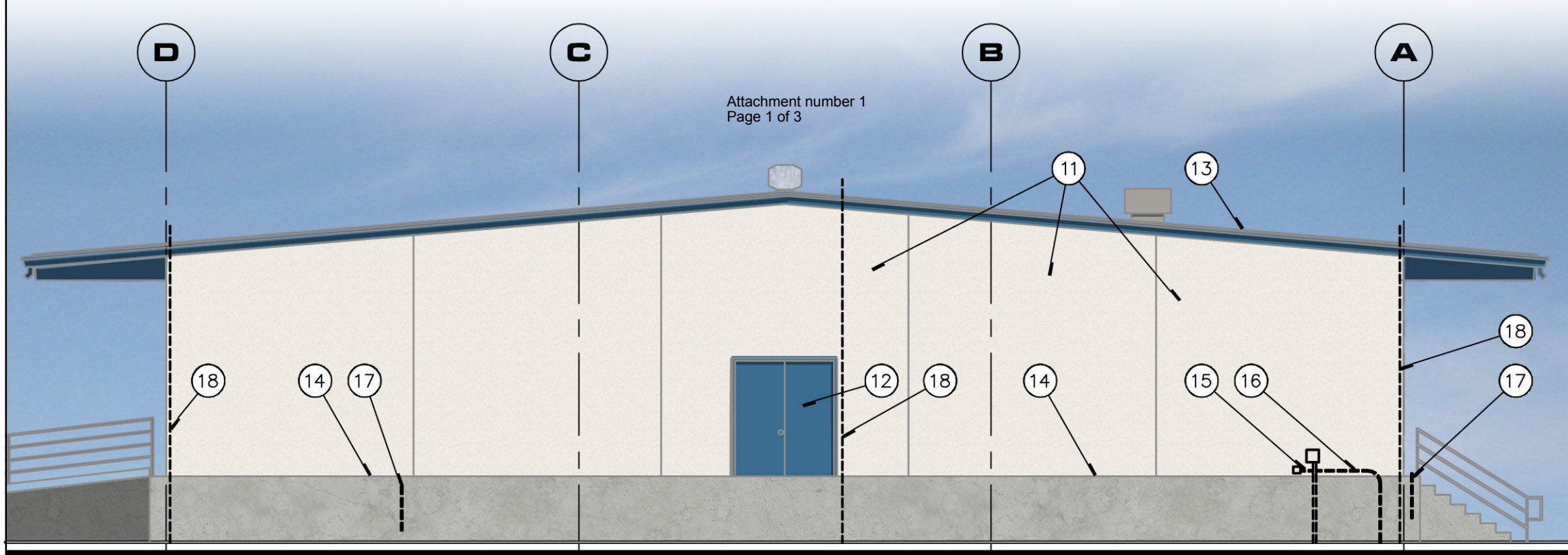
**A3.1**  
 SHEET NUMBER



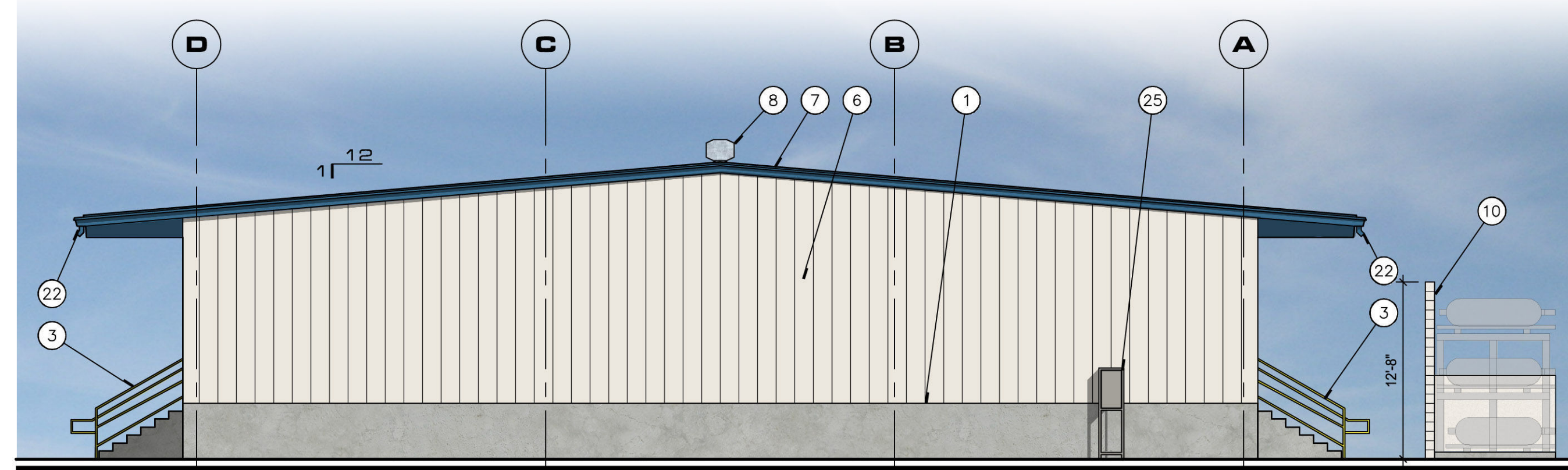
**NORTH ELEVATION-NEW WAREHOUSE**  
 SCALE: 1/8" = 1'-0" **4**



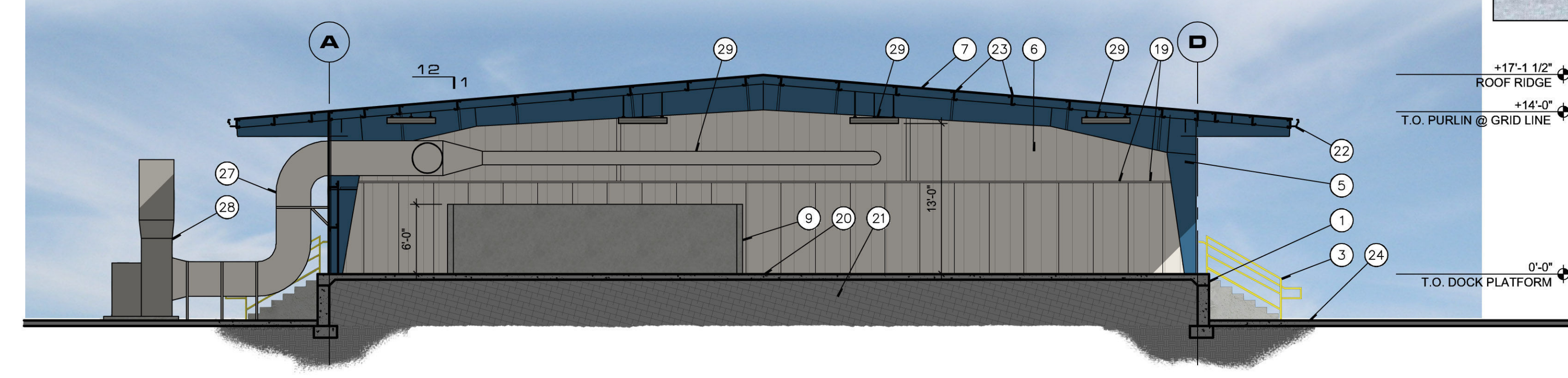
**SOUTH ELEVATION-NEW WAREHOUSE**  
 SCALE: 1/8" = 1'-0" **3**



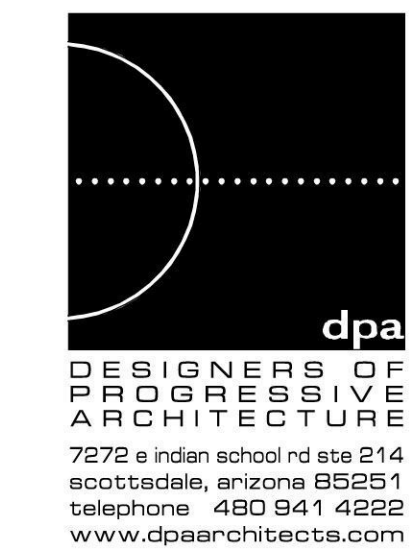
**EAST ELEVATION-EXISTING WAREHOUSE**  
 SCALE: 1/8" = 1'-0" **5**



**EAST ELEVATION-NEW WAREHOUSE**  
 SCALE: 1/8" = 1'-0" **2**



**SECTION 1**  
 SCALE: 1/8" = 1'-0" **1**





**KEY NOTES**

1. EDGE OF CONCRETE SLAB.
2. 8'-0" HIGH CHAIN-LINK FENCING.
3. 8'-0" CHAIN-LINK GATE.
4. PRE-ENGINEERED STEEL COLUMN.
5. PRE-FINISHED STANDING SEAM METAL ROOF.
6. FIRE RISER ROOM.
7. 8'-0" HIGH PAINTED MASONRY WALL.
8. DOWNSPOUT.
9. PRE-FINISHED RAIN GUTTER.
10. PURLINS.
11. FINISHED GRADE.
12. OPEN.
13. FLUORESCENT LIGHT FIXTURE. SEE ELECTRICAL.

**EXTERIOR FINISH SCHEDULE**

**PAINT**

- |  |   |
|--|---|
|  | DESCRIPTION: PRE-FINISHED METAL WALL PANELS<br>MANUFACTURER: VP BUILDINGS VARCO PRUDEN<br>COLOR: COOL EGYPTIAN WHITE                                  |
|  | DESCRIPTION: STRUCTURAL STEEL, GIRTS AND TRIM<br>MANUFACTURER: VP BUILDINGS VARCO PRUDEN<br>COLOR: COOL COBALT BLUE                                   |
|  | DESCRIPTION: 8" X 8" X 16" SPLIT MASONRY<br>HPM STORAGE<br>DUNN EDWARDS<br>TO MATCH VP BUILDINGS<br>"COOL EGYPTIAN WHITE"<br>AS SELECTED BY ARCHITECT |

**STONE/ MASONRY**

- |  |   |
|--|---|
|  | DESCRIPTION: 4" X 8" X 16" SPLIT MASONRY<br>MANUFACTURER: T.B.D.<br>STYLE: "BUFF LIMESTONE" |
|--|---|

**ROOFING**

- |  |  |
|--|--|
|  | DESCRIPTION: PRE-FINISHED METAL PANEL RIB ROOF<br>MANUFACTURER: VP BUILDINGS VARCO PRUDEN<br>COLOR: BARE GALVALUME |
|--|--|

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**MATHESON TRI-GAS**  
**KYLE, TEXAS SITE**  
**HPM STORAGE**

**PROJECT TITLE**

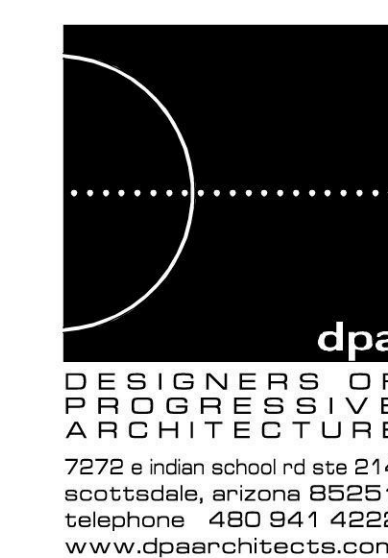
REV	DATE	DESCRIPTION

**REVISIONS**

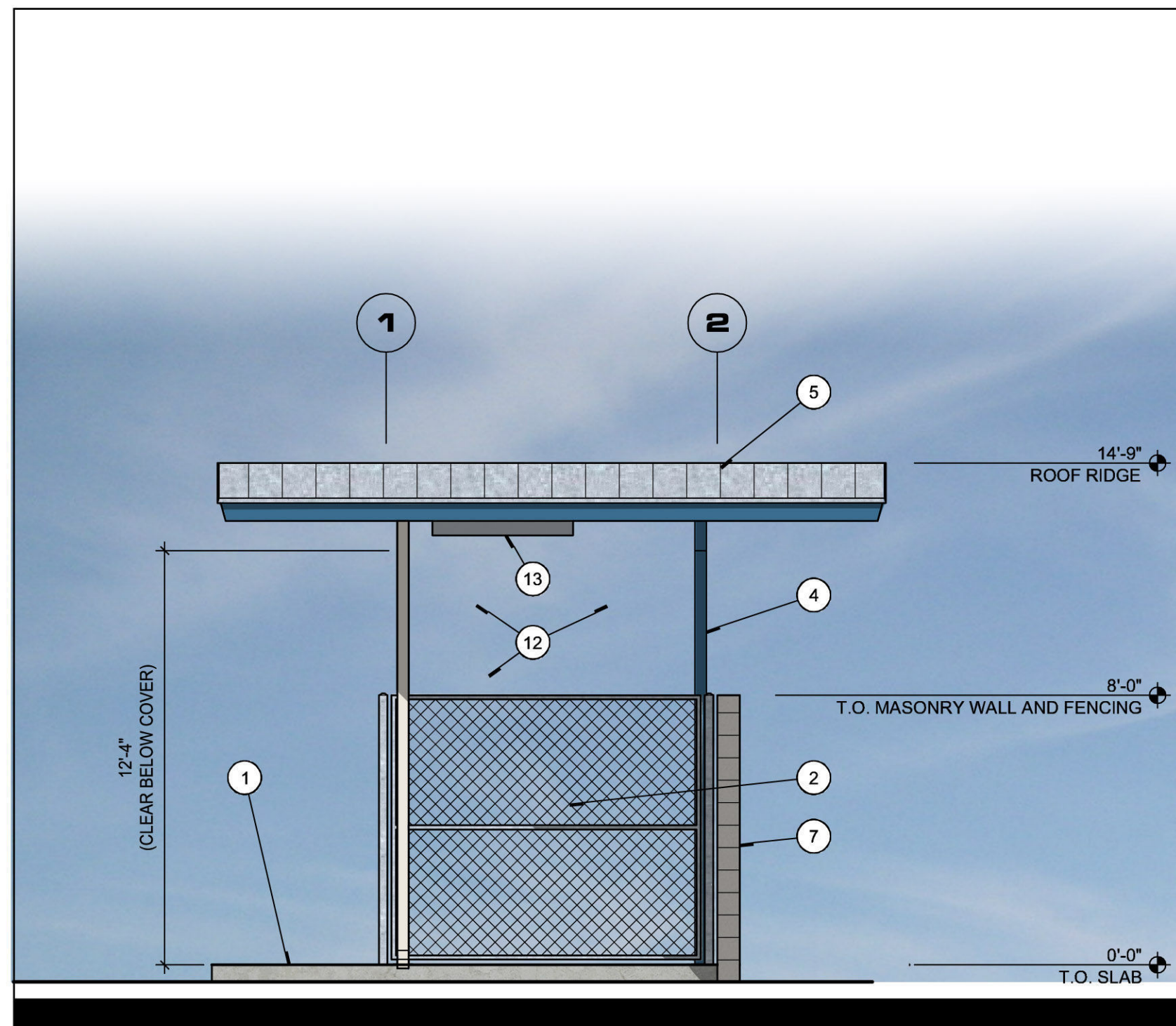
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<b>CAD FILE NO.</b>
<b>CHECKED BY</b>
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<b>DRAWN BY</b>
<b>DATE</b> 3/15/11
<b>SCALE</b> AS NOTED

**PROJECT INFORMATION**

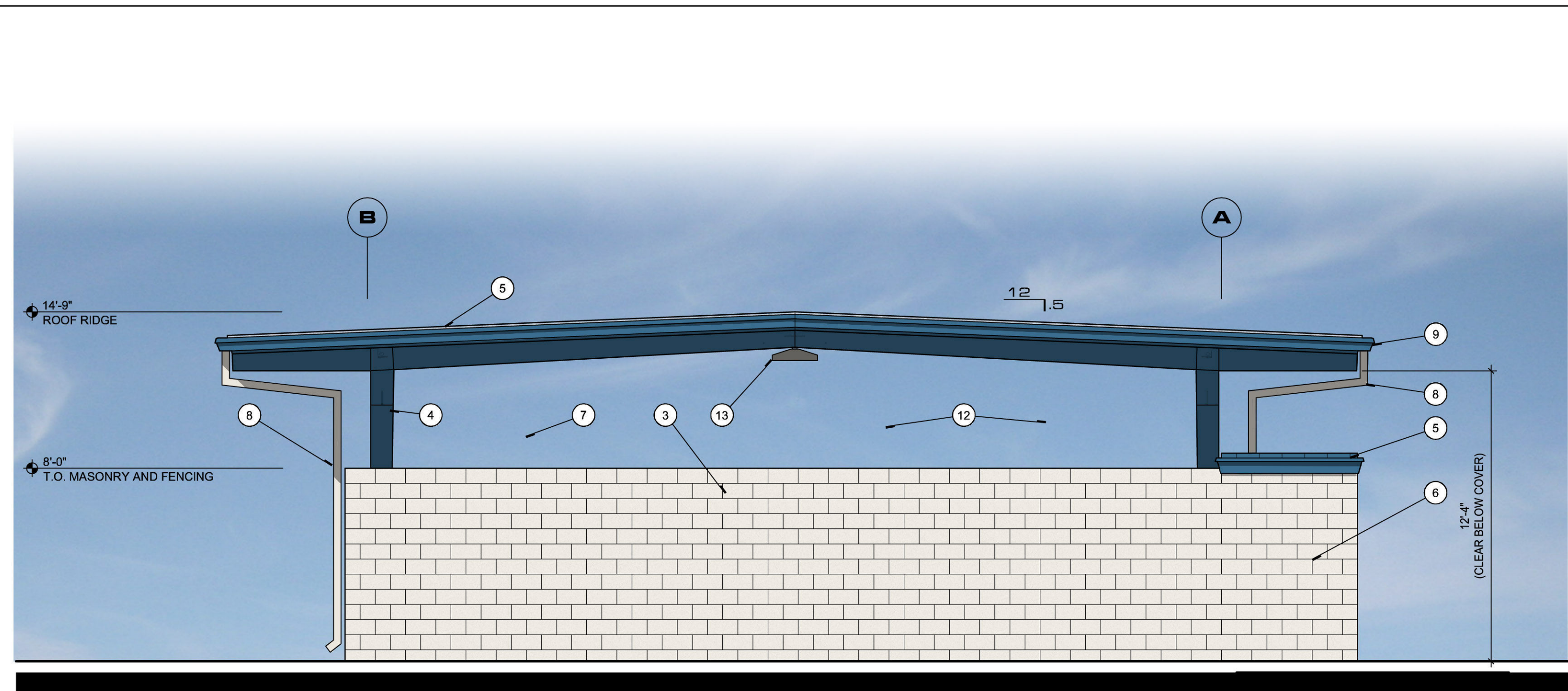
**HPM STORAGE - EXTERIOR ELEVATIONS AND SECTIONS**  
SHEET TITLE



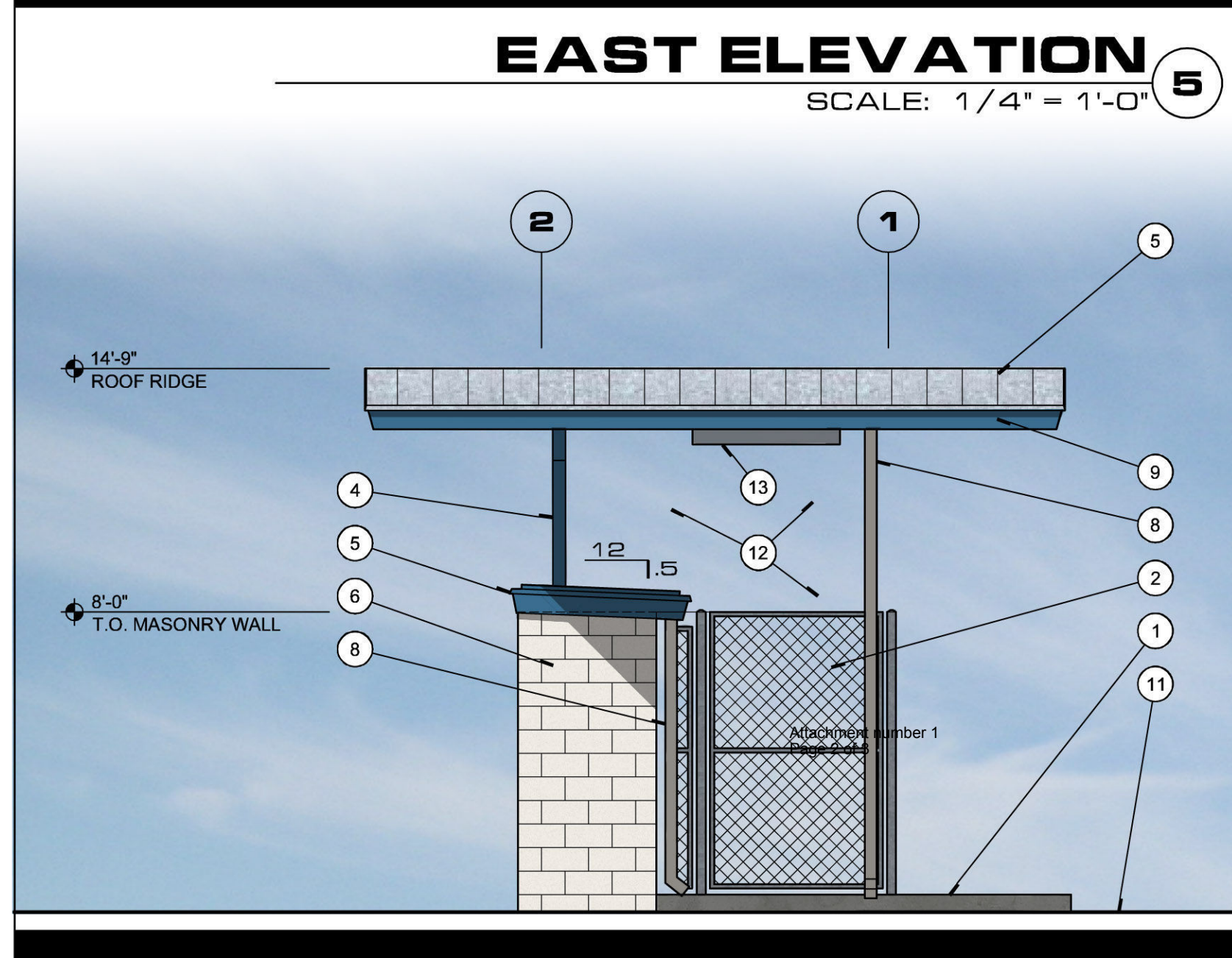
**A3.2**  
SHEET NUMBER



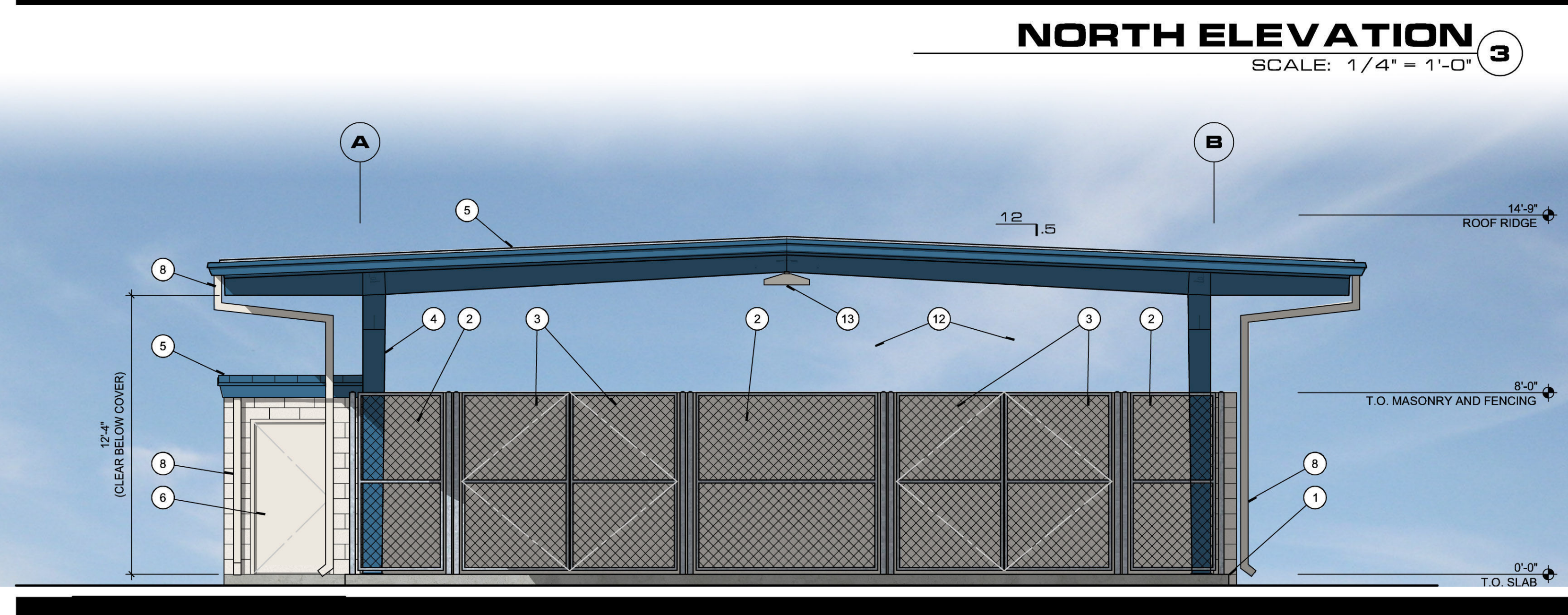
**EAST ELEVATION**  
SCALE: 1/4" = 1'-0" **5**



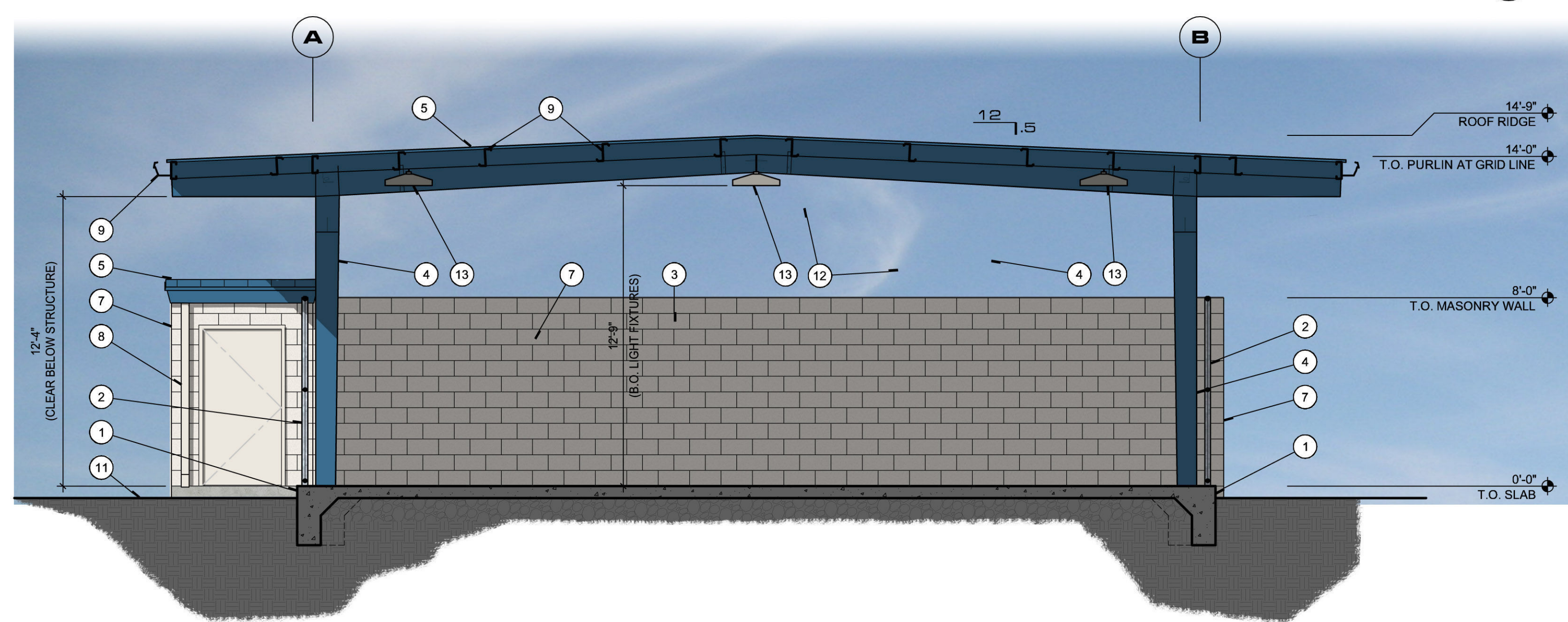
**NORTH ELEVATION**  
SCALE: 1/4" = 1'-0" **3**



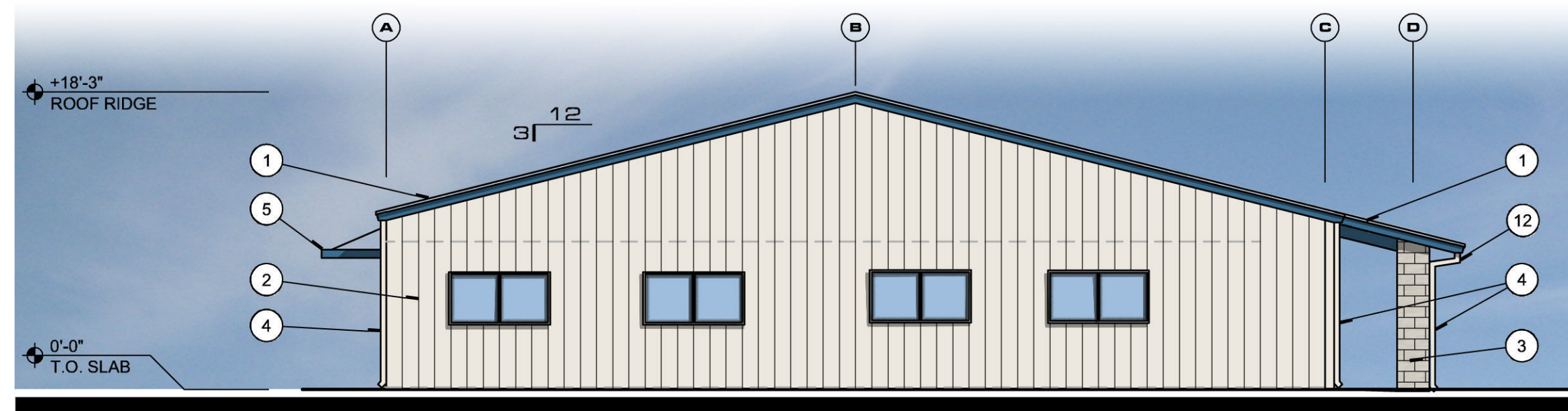
**WEST ELEVATION**  
SCALE: 1/4" = 1'-0" **4**



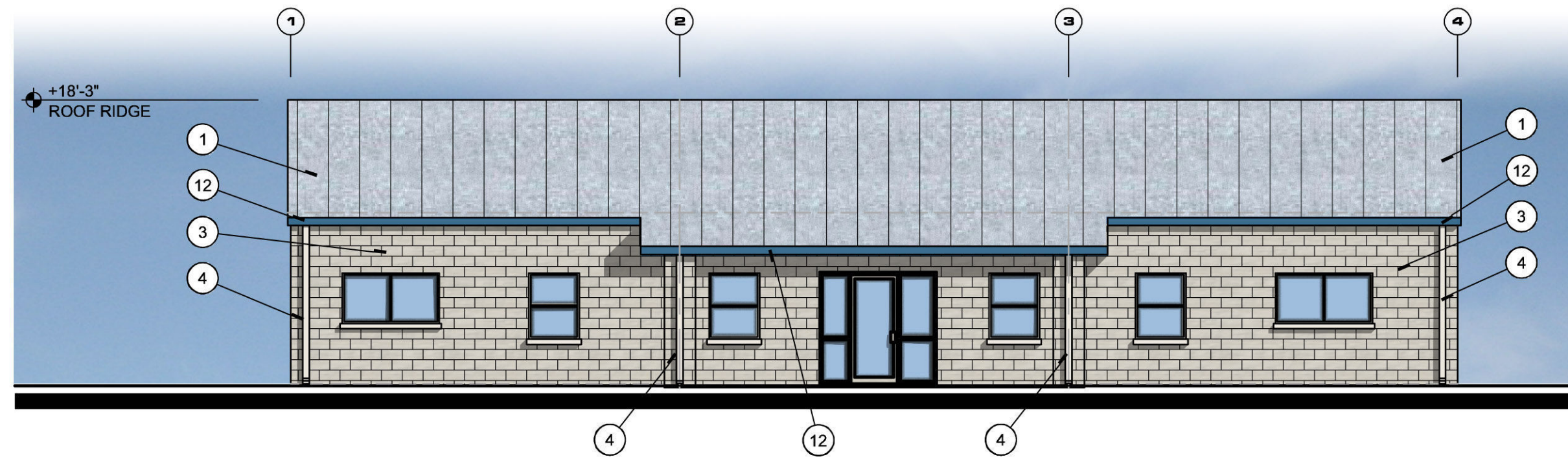
**SOUTH ELEVATION**  
SCALE: 1/4" = 1'-0" **2**



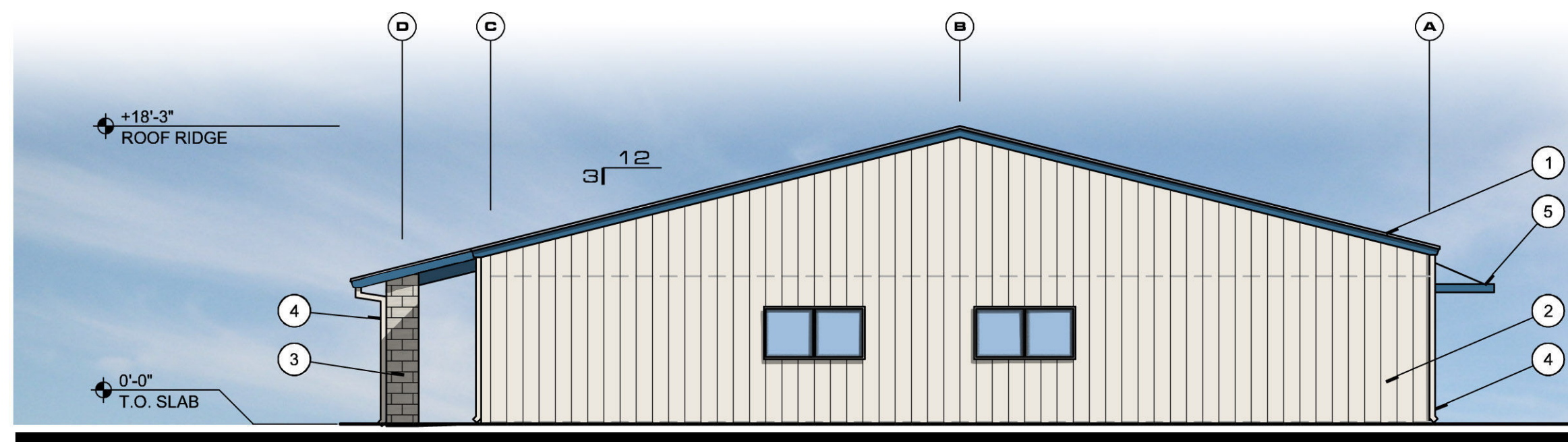
**SECTION 1**  
SCALE: 1/4" = 1'-0"



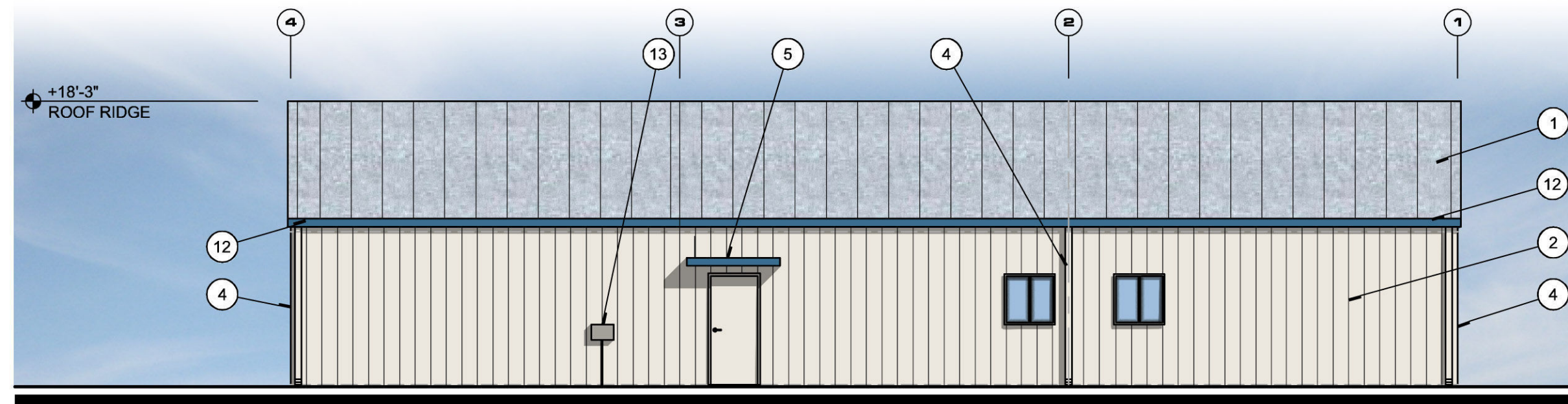
**EAST ELEVATION**  
SCALE: 1/8" = 1'-0" **5**



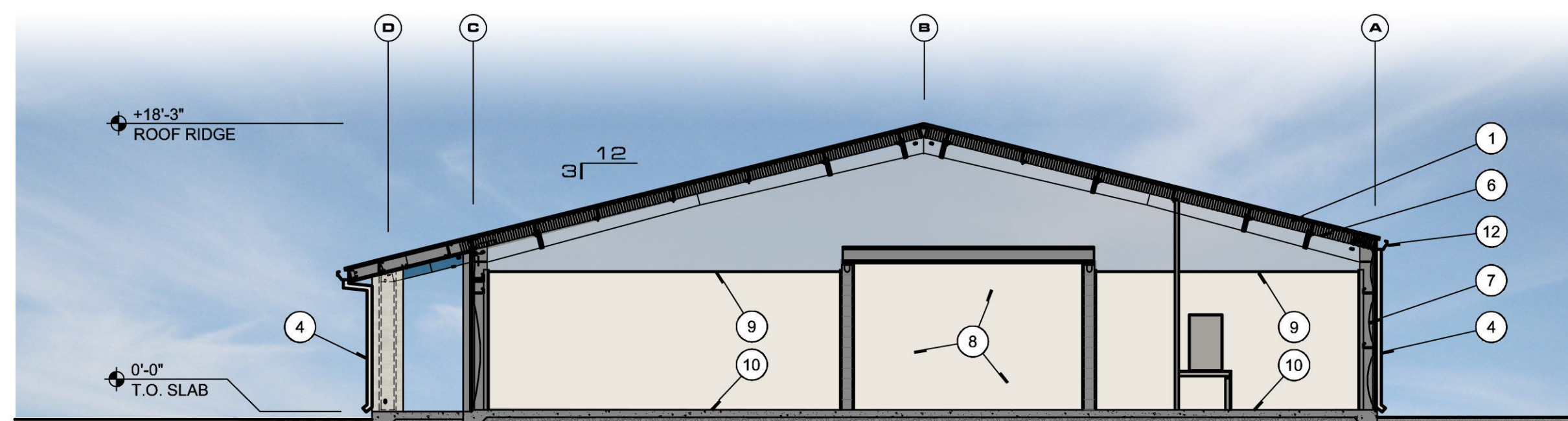
**NORTH ELEVATION**  
SCALE: 1/8" = 1'-0" **3**



**WEST ELEVATION**  
SCALE: 1/8" = 1'-0" **4**



**SOUTH ELEVATION**  
SCALE: 1/8" = 1'-0" **2**



**SECTION**  
SCALE: 1/8" = 1'-0" **1**

**KEY NOTES**

1. PRE-FINISHED STANDING METAL SEAM ROOF.
2. PRE-ENGINEERED METAL WALL PANELS.
3. MASONRY VENEER.
4. DOWNSPOUT.
5. METAL CANOPY.
6. R-29 INSULATION.
7. R-11 INSULATION.
8. STORM RESISTANT ENCLOSURE AT BREAK ROOM. SEE STRUCTURAL.
9. LAY-IN ACOUSTIC TILE CEILING.
10. CONCRETE FLOOR SLAB.
11. FINISHED GRADE.
12. PRE-FINISHED RAIN GUTTER.
13. ELECTRIC METER. SEE ELECTRICAL.

**EXTERIOR FINISH SCHEDULE**

**PAINT**

- |  |  |
|--|--|
|  | DESCRIPTION: PRE-FINISHED METAL WALL PANELS<br>MANUFACTURER: VP BUILDINGS VARCO PRUDEN<br>COLOR: COOL EGYPTIAN WHITE   |
|  | DESCRIPTION: STRUCTURAL STEEL, GIRTS AND TRIM<br>MANUFACTURER: VP BUILDINGS VARCO PRUDEN<br>COLOR: COOL COBALT BLUE  |
|  | DESCRIPTION: 8" X 8" X 16" SPLIT MASONRY<br>HPM STORAGE<br>MANUFACTURER: DUNN EDWARDS<br>COLOR: TO MATCH VP BUILDINGS<br>"COOL EGYPTIAN WHITE"<br>AS SELECTED BY ARCHITECT |

**STONE/ MASONRY**

- |  |   |
|--|---|
|  | DESCRIPTION: 4" X 8" X 16" SPLIT MASONRY<br>T.B.D.<br>STYLE: "BUFF LIMESTONE" |
|--|---|

**ROOFING**

- |  |  |
|--|--|
|  | DESCRIPTION: PRE-FINISHED METAL PANEL RIB ROOF<br>MANUFACTURER: VP BUILDINGS VARCO PRUDEN<br>COLOR: BARE GALVALUME |
|--|--|

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**MATHESON TRI-GAS**  
**KYLE, TEXAS SITE**  
**HPM STORAGE**

REV	DATE	DESCRIPTION

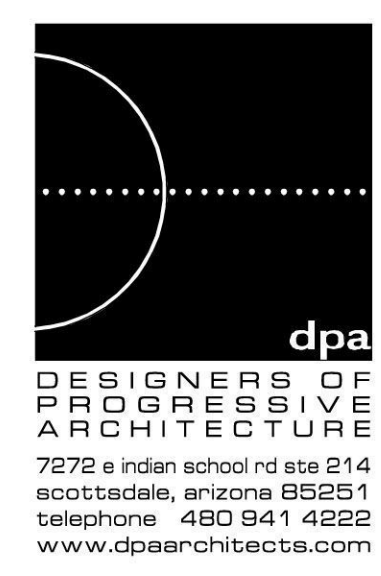
**REVISIONS**

PROJECT NO.	11001
CAD FILE NO.	
CHECKED BY	
DESIGNED BY	
DRAWN BY	
DATE	3/15/11
SCALE	AS NOTED

**PROJECT INFORMATION**

**EXTERIOR ELEVATIONS AND SECTION-OFFICE**  
SHEET TITLE

**A3.3**  
SHEET NUMBER



Attachment number 1  
Page 3 of 3



## CITY OF KYLE, TEXAS

Meeting Date: 7/5/2011  
Date time: 7:00 PM

### Philemon Martinez - Cantina and Bakery

**Subject/Recommendation:**

Consider a request by Philemon Martinez for a Conditional Use Permit to occupy and remodel a 4,970 square foot building located within the IH-35 Zoning Overlay District.

Located at 22604 S. IH-35

Owner: Philemon Martinez

Agent: Hugo Elizondo, Cuatro Consultants

~ Shira Rodgers, Director of Planning

*Planning and Zoning Commission voted 6-0 to approve the Conditional Use Permit.*

- Public Hearing

**Other Information:**

Please see the attached color renderings.

**Budget Information:**

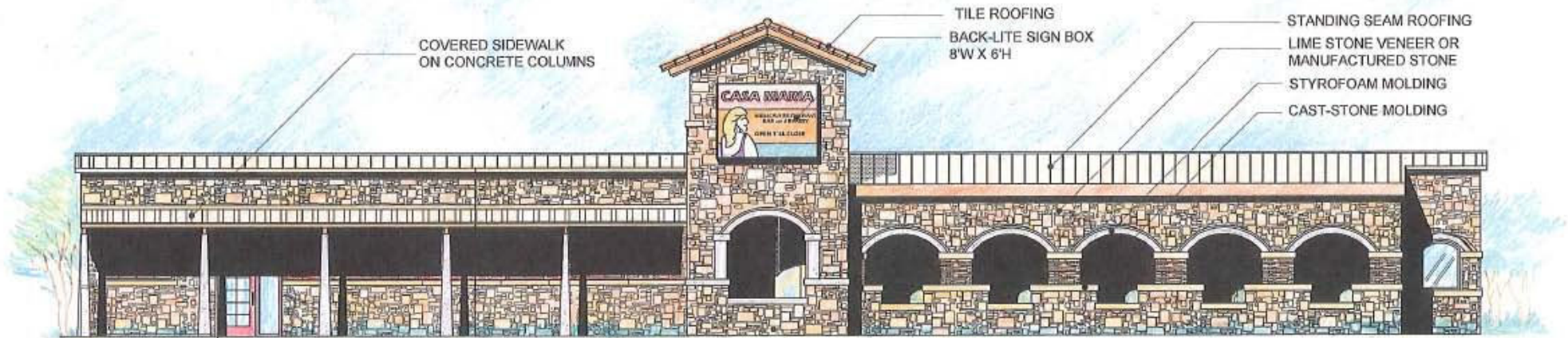
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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

 [Color Renderings](#)

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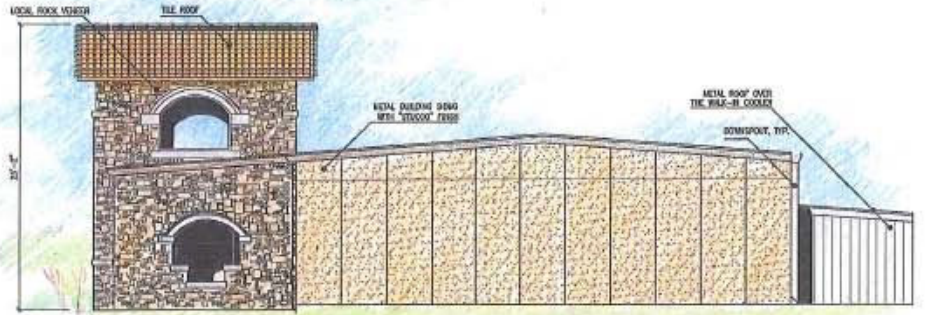


CASA MARIA  
 22604 IH-35 S.  
 KYLE, TEXAS 78640

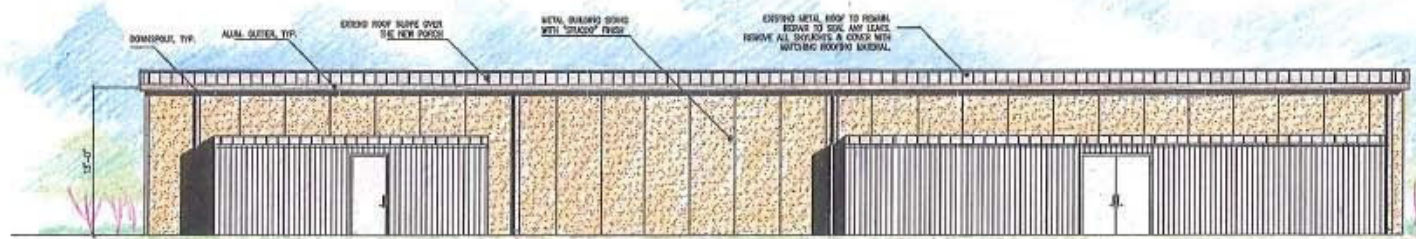
TCHEN ARCHITECTS  
 5.24.2011



SOUTH ELEVATION



NORTH ELEVATION



WEST ELEVATION

CASA MARIA  
 22804 IH-35 S.  
 KYLE, TEXAS 78840  
 TOSHEN ARCHITECTS  
 8/24/2011



# CITY OF KYLE, TEXAS

## City Managers Report

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

Update on Various Capital Improvement Projects, Road Projects, Building Program, and/or General Operational Activities ~ *Lanny Lambert, City Manager*

- Discussion of City Council Retreat to be held on Saturday, July 9, 2011 at Texas Disposal Systems from 8:00 am - 4:00 pm
- Discussion of Funding Plan options to provide an estimated \$4,938,594.00 for the City's share of RM 150 Realignment project costs
- Discussion of City Council Workshops

**Other Information:**

**Budget Information:**

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

 [San Marcos City Council Agenda Workshop](#)

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**SAN MARCOS  
CITY COUNCIL AGENDA  
WORKSHOP  
CITY COUNCIL CHAMBERS -  
PACKET MEETING - NO  
ACTION TAKEN  
FRIDAY, JUNE 3, 2011  
12:30 P.M.**

1. Call To Order

2. Roll Call

3. Consider staff briefing and Council Member discussion and question regarding items on the agenda for June 7, 2011, Regular City Council Meeting, to wit (item 3 and items 7-26):

Consider staff briefing and Council Member discussion and question regarding items on the agenda for June 7, 2011, Regular City Council Meeting, to wit (item 3 and items 7-26):

**3. COUNCIL MEMBER UPDATES:**

Receive status reports and updates from the Mayor and/or Council Members and a general discussion regarding the following:

Mayor Guerrero – Report regarding the recent Planning and Zoning Commission/City Council Quarterly Workshop.

Council Member Jones – Update regarding recent Hays County Appraisal District Activity.

7. May 17, 2011, Regular Meeting Minutes.

8. Resolution 2011-62R, awarding the Indefinite Delivery/Indefinite Quality (IDIQ) Master Contract for street slurry seal (2011) to Viking Construction, Inc. in the estimated annual amount of \$118,503.88 contingent upon the bidder's timely submission of sufficient bonds and insurance in accordance with the City's bid documents for the project; authorizing the City Manager to execute the contract documents on behalf of the City and declaring an effective date.

9. Resolution 2011-63R adopting the Community Development Block Grant (CDBG) Action Plan for program year 2011 for funding of projects and program administration based upon allocation estimates provided by the United States Department Of Housing And Urban Development; and declaring an effective date.

10. Resolution 2011-64R approving authorization of Change in Service No. 1 to an agreement between the City and Lockwood, Andrews & Newnam, Inc. for the provision of additional professional real property acquisition services; increasing the agreement amount from \$49,500.00 to \$59,500.00; authorizing the City Manager to execute the authorization of Change in Service and declaring an effective date.

11. Resolution 2011-65R approving an Advance Funding Agreement for Voluntary Local

Item # 26

Government Contributions to Transportation Improvement Projects between the City and the State of Texas acting through the Texas Department of Transportation for the City's upgrade of FM 2439 (Hunter Road) from FM 3407 to Bishop Street into a multi-lane facility; authorizing the City Manager to execute this agreement on behalf of the City; and declaring an effective date.

12. Resolution 2011-66R approving authorization of Change in Service No. 3 to an agreement between the City and the Broussard Group, Inc. for the provision of additional professional services in connection with the Eddie Durham Park Site Development Project; increasing the agreement amount from \$40,800.00 to \$79,050.00; authorizing the City Manager to execute the authorization of Change in Service, and declaring an effective date.

13. Resolution 2011-67R approving an agreement between the City and Lockwood Andrews and Newnam, Inc. in a not-to-exceed amount of \$142,575.00 for the provision of Professional Right-Of-Way and Easement Acquisition Services in connection with the North LBJ-Sessom to Holland and 12" Waterline Project; authorizing the City Manager to execute this agreement on behalf of the City and declaring an effective date.

14. Resolution 2011-68R adopting a Residential Home Improvement Incentive Program and providing an effective date; and hold a discussion regarding waiving City Permit fees.

15. Resolution 2011-69R nominating Tom Taggart for reappointment as an Area Representative to the South Central Texas Regional Water Planning Group.

16. Resolution 2011-70R approving a form for a License Agreement to License the use of the City's logo and tag line to various entities that promote the City of San Marcos and community; authorizing the Mayor to execute this agreement on behalf of the City; and declaring an effective date.

17. **PUBLIC HEARING 7:00PM** Ordinance 2011-27 amending various sections of the Land Development Code as follows: amending Chapter 1, Article 2 by authorizing the Planning Director to approve administrative adjustments to standards in the Code; amending Chapter 1, Article 6 by establishing a simple plat amendment process for eliminating a lot line between two lots under common ownership; amending Chapter 4, Article 1 to acknowledge the Planning Director's authority to approve administrative adjustments; amending Chapter 4, Article 3 by establishing standards for renewable energy systems; amending Chapter 6, Article 1 by modifying standards for certain fences and by establishing on-site refuse and recycling standards; amending Chapter 8 by adding definitions related to renewable energy systems and a definition for studio apartment; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date; **and consider adoption of Ordinance 2011-27 on the first of two readings.**

## **NON-CONSENT AGENDA**

18. Ordinance 2011-08 on the first of two readings pertaining to two contiguous tracts of land out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located on Telluride Street near Post Road ; approving an amendment to the Future Land Use Map from " C "Commercial to "MDR" Medium Density Residential for an 8.38 acre, more or less, tract of land and from "HDR" High Density Residential to "MDR" Medium Density Residential for a 9.87 acre, more or less, tract of land; amending the Official Zoning Map of the City by rezoning said 8.38 acre tract from "GC" General Commercial District to "MF-12" Multiple-Family Residential District and said 9.87 acre tract from "FD" Future Development District to "MFR" Multiple-Family Residential District; and including



procedural provisions.

18. Reconsider Ordinance 2011-22 amending the San Marcos City Code by adding a new section to Chapter 4, Article 3 entitled "Underground Utility Area"; including procedural provisions; and providing an effective date.

19. Ordinance 2011-25, on the second of two readings, amending Chapter 2, Article 3, Division 21 by changing the reporting structure, provide for a specific venue for the meetings and require the Committee Chair to be a Veteran; and including procedural provisions.

20. Ordinance 2011-28 on first reading amending the 2010-2011 fiscal year budget to approve a revised schedule of Capital Improvement Projects

21. Resolution 2011-68R adopting a Residential Home Improvement Incentive Program and providing an effective date; and hold a discussion regarding waiving City Permit fees.

22. Resolution 2011-72R approving an Agreement between the City and Vision Internet Providers, Inc. in the estimated amount of \$80,930.00 for the provision of web redesign and content management system services; authorizing the City Manager to execute this Agreement on behalf of the City and declaring an effective date.

23. Staff presentation and discussion of the Capital Improvements Program prioritization, process, and reallocation of funds and proposed projects.

24. Discussion and direction to staff regarding Edwards Aquifer Recovery Implementation Program (EARIP) under stated City Council Strategic Goal #4 of San Marcos River Protection, Recreation and Maintenance.

25. Discussion and direction to staff regarding the Paso Robles Planned Development District (PDD) Agreement and Tax Increment Reinvestment Zone.

26. Hold a discussion and provide direction to Staff regarding appointments for the following Boards and Commissions vacancies:

- A. Convention and Visitor Bureau
- B. Ethics Review Commission
- C. Library Advisory Board
- D. Neighborhood Commission
- E. Planning and Zoning Commission

4. Question and Answer Session with Press and Public. *This is an opportunity for the Press and Public to ask questions related to items on this agenda.*

5. Adjournment.

**POSTED ON TUESDAY, MAY 31, 2011 AT 12:30PM**

**JAMIE LEE PETTIJOHN, CITY CLERK**

## Notice of Assistance at the Public Meetings

The San Marcos City Hall is wheelchair accessible. The entry ramp is located in the front of the building. Accessible parking spaces are also available in that area. Sign interpretative services for meetings must be made 48 hours in advance of the meeting. Call the City Clerk's Office at 512-393-8090

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Title: \_\_\_\_\_

## **Agenda Information**

### **AGENDA CAPTION:**

Consider staff briefing and Council Member discussion and question regarding items on the agenda for June 7, 2011, Regular City Council Meeting, to wit (item 3 and items 7-26):

Consider staff briefing and Council Member discussion and question regarding items on the agenda for June 7, 2011, Regular City Council Meeting, to wit (item 3 and items 7-26):

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7. May 17, 2011, Regular Meeting Minutes.

8. Resolution 2011-62R, awarding the Indefinite Delivery/Indefinite Quality (IDIQ) Master Contract for street slurry seal (2011) to Viking Construction, Inc. in the estimated annual amount of \$118,503.88 contingent upon the bidder's timely submission of sufficient bonds and insurance in accordance with the City's bid documents for the project; authorizing the City Manager to execute the contract documents on behalf of the City and declaring an effective date.

9. Resolution 2011-63R adopting the Community Development Block Grant (CDBG) Action Plan for program year 2011 for funding of projects and program administration based upon allocation estimates provided by the United States Department Of Housing And Urban Development; and declaring an effective date.

10. Resolution 2011-64R approving authorization of Change in Service No. 1 to an agreement between the City and Lockwood, Andrews & Newnam, Inc. for the provision of additional professional real property acquisition services; increasing the agreement amount from \$49,500.00 to \$59,500.00; authorizing the City Manager to execute the authorization of Change in Service and declaring an effective date.

11. Resolution 2011-65R approving an Advance Funding Agreement for Voluntary Local Government Contributions to Transportation Improvement Projects between the City and the State of Texas acting through the Texas Department of Transportation for the City's upgrade of FM 2439 (Hunter Road) 4

from FM 3407 to Bishop Street into a multi-lane facility; authorizing the City Manager to execute this agreement on behalf of the City; and declaring an effective date.

12. Resolution 2011-66R approving authorization of Change in Service No. 3 to an agreement between the City and the Broussard Group, Inc. for the provision of additional professional services in connection with the Eddie Durham Park Site Development Project; increasing the agreement amount from \$40,800.00 to \$79,050.00; authorizing the City Manager to execute the authorization of Change in Service, and declaring an effective date.

13. Resolution 2011-67R approving an agreement between the City and Lockwood Andrews and Newnam, Inc. in a not-to-exceed amount of \$142,575.00 for the provision of Professional Right-Of-Way and Easement Acquisition Services in connection with the North LBJ-Sessom to Holland and 12" Waterline Project; authorizing the City Manager to execute this agreement on behalf of the City and declaring an effective date.

14. Resolution 2011-68R adopting a Residential Home Improvement Incentive Program and providing an effective date; and hold a discussion regarding waiving City Permit fees.

15. Resolution 2011-69R nominating Tom Taggart for reappointment as an Area Representative to the South Central Texas Regional Water Planning Group.

16. Resolution 2011-70R approving a form for a License Agreement to License the use of the City's logo and tag line to various entities that promote the City of San Marcos and community; authorizing the Mayor to execute this agreement on behalf of the City; and declaring an effective date.

17. **PUBLIC HEARING 7:00PM** Ordinance 2011-27 amending various sections of the Land Development Code as follows: amending Chapter 1, Article 2 by authorizing the Planning Director to approve administrative adjustments to standards in the Code; amending Chapter 1, Article 6 by establishing a simple plat amendment process for eliminating a lot line between two lots under common ownership; amending Chapter 4, Article 1 to acknowledge the Planning Director's authority to approve administrative adjustments; amending Chapter 4, Article 3 b by establishing standards for renewable energy systems; amending Chapter 6, Article 1 by modifying standards for certain fences and by establishing on-site refuse and recycling standards; amending Chapter 8 by adding definitions related to renewable energy systems and a definition for studio apartment; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date; **and consider adoption of Ordinance 2011-27 on the first of two readings.**

## **NON-CONSENT AGENDA**

18. Ordinance 2011-08 on the first of two readings pertaining to two contiguous tracts of land out of the J.M. Veramendi Survey No. 2, Abstract No. 17, located on Telluride Street near Post Road ; approving an amendment to the Future Land Use Map from “ C ”Commercial to “MDR” Medium Density Residential for an 8.38 acre, more or less, tract of land and from “HDR” High Density Residential to “MDR” Medium Density Residential for a 9.87 acre, more or less, tract of land; amending the Official Zoning Map of the City by rezoning said 8.38 acre tract from “GC” General Commercial District to “MF-12” Multiple-Family Residential District and said 9.87 acre tract from “FD” Future Development District to “MFR” Multiple-Family Residential District; and including procedural provisions.

18. Reconsider Ordinance 2011-22 amending the San Marcos City Code by adding a new section to Chapter 4, Article 3 entitled “Underground Utility Area”; including procedural provisions; and providing an effective date.

19. Ordinance 2011-25, on the second of two readings, amending Chapter 2, Article 3, Division 21 by changing the reporting structure, provide for a specific venue for the meetings and require the Committee Chair to be a Veteran; and including procedural provisions.

20. Ordinance 2011-28 on first reading amending the 2010-2011 fiscal year budget to approve a revised schedule of Capital Improvement Projects

21. Resolution 2011-68R adopting a Residential Home Improvement Incentive Program and providing an effective date; and hold a discussion regarding waiving City Permit fees.

22. Resolution 2011-72R approving an Agreement between the City and Vision Internet Providers, Inc. in the estimated amount of \$80,930.00 for the provision of web redesign and content management system services; authorizing the City Manager to execute this Agreement on behalf of the City and declaring an effective date.

23. Staff presentation and discussion of the Capital Improvements Program prioritization, process, and reallocation of funds and proposed projects.

24. Discussion and direction to staff regarding Edwards Aquifer Recovery Implementation Program (EARIP) under stated City Council Strategic Goal #4 of San Marcos River Protection, Recreation and Maintenance.

25. Discussion and direction to staff regarding the Paso Robles Planned Development District (PDD) Agreement and Tax Increment Reinvestment Zone.

26. Hold a discussion and provide direction to Staff regarding appointments for the following Boards and Commissions vacancies:

A. Convention and Visitor Bureau

B. Ethics Review Commission

- C. Library Advisory Board
- D. Neighborhood Commission
- E. Planning and Zoning Commission

**Meeting date:** June 3, 2011

**Department:**

**Funds Required:**

**Account Number:**

**Funds Available:**

**Account Name:**

**CITY COUNCIL GOAL:**

**BACKGROUND:**



# CITY OF KYLE, TEXAS

## GBRA Report

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

Presentation of Guadalupe Blanco River Authority (GBRA) water supply proposed capacity increase and associated costs ~ *James Earp, Assistant City Manager*

**Other Information:**

In 2008, the City of Kyle was approached by GBRA and presented with a plan for GBRA to sell the remaining capacity of 2.72 mgd in the GBRA transmission line to Wimberly, Monarch and a proposed MUD. In a move to protect the City of Kyle's access to water in a transmission line that we were already the major partner on, the city notified GBRA of our intent to exercise our first right of refusal on all of the remaining capacity, thereby securing a much needed water supply for our citizens to assist us in carrying our needs to 2018. GBRA was unable to deliver the water, and began a lengthy process of cleaning their raw water intake lines and reassessing the treatment plant in order to increase the treatment capacity and delivery capacity of the plant to meet the 2.72 mgd commitment. This process was completed in early second quarter 2011, approximately three years after the original request. In the mean time, the City of Buda also came forward to the City of Kyle with a request to receive an additional 0.5 mgd from the pipeline, asking Kyle to reduce our requested allotment by 0.5 mgd to 2.22 mgd. As a city we do not immediately need the additional 0.5 mgd and all the capacity that we reserve has to be paid for, therefore, Kyle staff agreed to reduce our allotment to 2.22 mgd.

In first quarter 2011, the city of Kyle was audited by the Texas Commission on Environmental Quality and found to be in violation of the 85% rule. Staff had anticipated this in 2008, another reason for the request of additional supply. The GBRA water will meet the requirement of TCEQ and move us into compliance with the 85% rule.

The additional GBRA water has both fixed and variable costs, the fixed costs must be paid whether or not Kyle utilizes the water. With current infrastructure, .75 mgd of the 2.22 can be immediately put to use. The remaining 1.47 mgd can be utilized as additional ground storage or a southern transmission line are brought online.

Without the GBRA water, the city of Kyle will be in violation of the 85% rule. With the entire allotment of 2.22 mgd, the city of Kyle will be able to meet its water demands through 2018-2020.


**Budget Information:**

Significant impact on water budget as the capacity of GBRA is almost doubling. This will require a water rate increase to cover the added capacity. See the attachment for a breakdown of costs of the additional capacity.

**Attachments / click to download**

 [85 Percent Violation Response](#)

 [GBRA Letter and Amendment](#)

 [GBRA Cost Table](#)

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520 E. FM 150  
Kyle, TX 78640

Lawrence King  
2800 South IH 35, Suite 100  
Austin, TX 78704

Dear Inspector King,

Pursuant to the letter received by City of Kyle staff dated 25 February, 2011 we offer the following information and plan regarding our current water supply.

The city recognizes the importance of long range water planning, to that end; on June 2, 2011 representatives from the City of Kyle met with representative from the Guadalupe –Blanco River Authority (GBRA) in Sequin Texas to discuss the remaining amount and availability of treated water in the GBRA/San Marcos IH 35 Corridor project.

As provided during the meeting between yourself and I on 19 May, 2011, we currently have supply of 5,091.8 gpm. With the addition of the remaining GBRA water, to be received at Yarrington Station and Lehman Station, our new total supply will be 6,619.6 gpm. Based on 7,439 connections as confirmed during investigation # 893558, dated 2 February 2011, the current percentage of usage, when the additional supply becomes available, on or before 1 September 2011 will be 67 percent.

This additional supply will cost the COK \$746,532.93 annually. Further, primary infrastructure upgrades will be needed to optimize the full extent of this additional water supply. Notwithstanding system upgrades however, the supply and distribution system are both sufficient to meet the current needs of the citizens of Kyle. Obviously any upgrades and system expansion will need to first be determined with consultation of engineering staff. Therefore, the costs associated with any expansion are not currently available for consideration.

If additional information is needed, please contact my office.

Sincerely,

Jason W. Biemer, PWO  
Utility Coordinator  
WO0016620

June 8, 2011

Mayor Lucy Johnson  
City of Kyle  
100 W. Center Street  
P.O. Box 40  
Kyle, TX 78640

Re: 2<sup>nd</sup> Amendment to Contract for Raw Water Service between GBRA and City of Kyle and  
2<sup>nd</sup> Amendment to Water Supply Agreement and Supplemental Agreement between GBRA  
and City of Kyle

Dear Mayor Johnson:

In August 2008, GBRA notified the City of Kyle that GBRA had received two third-party requests for treated water from the San Marcos Water Treatment Plant. In accordance with the 1998 Water Supply Agreement and 2004 Supplemental Agreement between the City of Kyle and GBRA, the City notified GBRA that it was exercising its option to increase its "Agreed Amount" and requested an additional 2.72 MGD. The City of Buda, likewise was provided notice and the City of Buda also notified GBRA that it wished to increase its Agreed Amount and requested an additional 0.5 MGD. The total amount of available treated water capacity from the San Marcos Water Treatment Plant was 2.72 MGD. The City of Kyle and the City of Buda have agreed that the City of Buda would contract for an additional 0.5 MGD and the City of Kyle for the remaining 2.22 MGD.

Enclosed herein are two originals of the Second Amendment to the Contract for Raw Water Service as well as two originals of the Second Amendment to the Water Supply Agreement and Supplemental Agreement to reflect the 2.22 MGD increase. The amendments are not actually effective until October 1, 2011, as requested by the City, and thereby delaying any increased costs until the City's new fiscal year starts.

Please review the enclosed documents and if you find them acceptable, please execute two originals of each document on behalf of the City of Kyle and return them to GBRA for execution. Once executed by GBRA, a fully executed original of both documents will be returned to you for the City's files.

Should you have any questions, feel free to contact me or my staff at your convenience.

Sincerely,



W.E. West, Jr.  
General Manager



Main Office: 933 East Court Street ~ Seguin, Texas 78155  
830-379-5822 ~ 800-413-4130 ~ 830-379-9718 fax ~ www.gbra.org

**GBRA**

**Guadalupe-Blanco River Authority**  
*flowing solutions*

Item # 27

**SECOND AMENDMENT TO WATER SUPPLY AGREEMENT  
AND SUPPLEMENTAL AGREEMENT BETWEEN  
THE GUADALUPE-BLANCO RIVER AUTHORITY AND  
THE CITY OF KYLE, TEXAS**

This the Second Amendment (“Second Amendment”) to the Water Supply Agreement dated October 7, 1998 (the “1998 Agreement”) and the Supplemental Agreement, dated March 29, 2004 (the “2004 Agreement”) is executed this \_\_\_ day of June, 2011, but effective on October 1, 2011 between the Guadalupe-Blanco River Authority, a conservation and reclamation district and political subdivision of the State of Texas (“GBRA”) and the City of Kyle, Texas (the “City”).

WHEREAS, pursuant to the 1998 Agreement, the 2004 Agreement, and the Contract for Raw Water Service dated October 7, 1998, GBRA has agreed to provide the City up to 2.64 MGD (2,957 acre-feet per year) of treated water from the San Marcos Water Treatment Plant; and

WHEREAS, the City has requested an additional amount of treated water from the San Marcos Water Treatment Plant; and

WHEREAS, GBRA and the City have agreed that GBRA will increase the Agreed Amount by 1,541 gpm or 2.22 MGD (2,486 acre-feet per year) resulting in a new Agreed Amount total of 3,383 gpm or 4.86 MGD.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth in the 1998 Agreement, the 2004 Agreement and the 1998 Contract for Raw Water Service, GBRA and the City agree to amend the 1998 Agreement and the 2004 Agreement as follows:

Section 1. Definitions – “City’s Raw Water Contract” means that certain contract dated October 7, 1998, as amended, by and between GBRA and the City providing the City with a commitment of stored water from Canyon Reservoir or other sources available to GBRA of up to 5,443 acre-feet per year. A copy of such contract is attached hereto as Exhibit 2.

Section 19A. Increased Agreed Amount – Section 18 describes the allocation procedure of the Raw Water Delivery System debt service and debt service coverage costs using the City’s Raw Water Delivery System capacity relative to total Raw Water Delivery System capacity of all GBRA Customers exclusive of the City of San Marcos. Similarly, Section 19 describes the allocation procedure of the Plant and Treated Water Delivery System debt service and debt service coverage costs using the City’s Plant and Treated Water Delivery System capacity relative to total capacity of all GBRA Customers. Effective with this Second Amendment, the Raw Water Delivery System capacity, the Plant capacity, and the Treated Water Delivery System capacity is the increased Agreed Amount of 3,383 gpm or 4.86 MGD.

All Other Terms Remain in Force and Effect GBRA and the City INTEND AND AGREE that all other terms and conditions of the 1998 Agreement and the 2004 Agreement not expressly amended by this Second Amendment, shall remain in full force and effect. If there is a conflict between terms and conditions in this Second Amendment and the 1998 Agreement and 2004 Agreement, the terms and conditions of this Second Amendment control.

City of Kyle, Texas

Guadalupe-Blanco River Authority

By \_\_\_\_\_  
Lucy Johnson, Mayor

By \_\_\_\_\_  
W.E. West, General Manager

THE STATE OF TEXAS §

THE COUNTY OF HAYS §

BEFORE ME, the undersigned authority, personally appeared Lucy Johnson, Mayor of the City of Kyle, Texas personally known or identified to me as the person and officer whose name is subscribed to this instrument. She acknowledged to me that she executed this instrument for the purpose and consideration expressed in it and in her capacity as the authorizing representative of the City of Kyle, Texas.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the \_\_ day of June 2011.

(SEAL)

\_\_\_\_\_  
Notary Public  
The State of Texas

THE STATE OF TEXAS §

COUNTY OF GUADALUPE §

BEFORE ME, the undersigned, a Notary Public in and for said State, on this day personally appeared **W.E. West, Jr.**, General Manager of the Guadalupe-Blanco River Authority, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the Guadalupe-Blanco River Authority, and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the \_\_ day of June, 2011.

(SEAL)

\_\_\_\_\_  
Notary Public  
The State of Texas

**SECOND AMENDMENT TO CONTRACT FOR RAW WATER SERVICE  
BETWEEN THE GUADALUPE-BLANCO RIVER AUTHORITY AND  
THE CITY OF KYLE, TEXAS**

This the Second Amendment ("Second Amendment") to the Contract for Raw Water Service dated October 7, 1998 (the "1998 Contract") is executed this \_\_\_ day of June, 2011 but effective on October 1, 2011 between the Guadalupe-Blanco River Authority, a conservation and reclamation district and political subdivision of the State of Texas ("GBRA") and the City of Kyle, Texas (the "City").

WHEREAS, pursuant to the 1998 Contract, as amended, GBRA has agreed to provide the City up to 2.64 MGD (2,957 acre-feet per year) of raw water from Canyon Reservoir; and

WHEREAS, the City has requested an additional amount of raw water to be treated and delivered to the City from the San Marcos Water Treatment Plant; and

WHEREAS, GBRA and the City have agreed that GBRA will increase the Annual Commitment by 2.22 MGD (2,486 acre-feet per year).

NOW THEREFORE, in consideration of the mutual promises and obligations set forth in the 1998 Contract, as amended, GBRA and the City agree to amend the 1998 Contract as follows:

1. Quantity GBRA agrees to furnish Purchaser, at the Point of Delivery (hereinafter defined) during the term of this Contract, untreated water from conservation storage in Canyon Reservoir under Certificate of Adjudication 18-2074, as amended, ("GBRA's Canyon Water Right") or from other water sources available to GBRA in such quantity as may be required by Purchaser, not to exceed 5,443 acre feet per year (the "Annual Commitment").

All Other Terms Remain in Force and Effect GBRA and the City INTEND AND AGREE that all other terms and conditions of the 1998 Contract, as amended, not expressly amended by this Second Amendment, shall remain in full force and effect. If there is a conflict between terms and conditions in this Second Amendment and the 1998 Contract, as amended, the terms and conditions of this Second Amendment control.

City of Kyle, Texas

Guadalupe-Blanco River Authority

By \_\_\_\_\_  
Lucy Johnson, Mayor

By \_\_\_\_\_  
W.E. West, General Manager

City of Kyle, Texas  
 2011 GBRA Contract Amendment to Increase Water Supply for Kyle  
 Analysis of Change in Fixed Cost Billing  
 As of June 29, 2011 - Updated

	Current Level	Revised Level	Unit Increase	% Increase	Current Annual Payment	Revised Annual Payment	\$ Increase Total Annual Payment	% Increase Total Annual Payment
1. Reservation Fee - Take or Pay (ac. ft.)	2,957	5,533	2,576	87.12%	\$ 325,270.00	\$ 639,061.50	\$ 313,791.50	96.47%
2. Raw Water Delivery System (gpm) (\$14,955,000 Bond Issue by GBRA)	1,842	3,383 *	1,541	83.66%	233,787.00	357,827.41	124,040.41	53.06%
3. IH-35 Treated Water Delivery System (mgd) (\$20,965,000 Bond Issue by GBRA)	2.64	4.86 *	2.22	84.09%	438,158.58	620,883.81	182,725.23	41.70%
4. San Marcos WTP 12 MGD Expansion (mgd) (\$10,595,000 Bond Issue by San Marcos)	2.64	4.86 *	2.22	84.09%	251,207.00	353,413.03	102,206.03	40.69%
5. Total Change in Fixed Cost Billing Amount:					<u>\$ 1,248,422.58</u>	<u>\$ 1,971,185.75</u>	<u>\$ 722,763.17</u>	<u>57.89%</u>

Note: \* Updated to reflect a reduction of 0.08 mgd in Kyle's capacity in WTP and TWDS Pipeline and 55 gpm reduction in RWDS Pipeline in order to allow Buda to add the difference in both systems.



# CITY OF KYLE, TEXAS

## Parks Committee recommendation for FY2012 Programs

Meeting Date: 7/5/2011

Date time: 7:00 PM

**Subject/Recommendation:**

Parks Committee Recommendation for FY2012 Programs ~ *Kerry Urbanowicz, Director of Parks, Recreation & Facilities*

**Other Information:**

From: Kerry Urbanowicz <kerryu@cityofkyle.com>  
Date: Tue, Jun 7, 2011 at 10:06 AM  
Subject: Parks Committee recommendation for FY2012 Programs  
To: Lanny Lambert <l.lambert@cityofkyle.com>, JAMES EARP  
[jrearp@cityofkyle.com](mailto:jrearp@cityofkyle.com)

Lanny and James - Attached are power point slides used at the April parks committee meeting when we discussed the issue of not enough staff to continue current programs and offer new programs next year.

Points brought up:

The 2006 Parks Master Plan's Citizen Survey Results showed that more citizens visited the city parks then attend city events;

The citizens in 2006 wanted more parks, sports fields and open spaces with natural resources like ponds;

That until now, the City of Kyle did not have these recreational facilities to program activities for citizens;

The Kyle Fair splits 2 fiscal years and with purchase orders for contracts, staff would be encumbering funds for next fiscal year during the winter of the current fiscal year;

These are the main reasons why nearly every major event in every town in Texas is not done by the PARD;

This exercise of evaluating programs is going on all over the country and citizen groups, like the parks committee, should be a highly regarded recommendation;

When given a choice to give up a special event, consider the ones that other community groups would be able to take on and continue

Sponsorships are the main point of revenue and volunteer manpower is the main fuel for successful events:

City's are not successful at raising sponsorships due to the fact that we are not a 501c3 tax-exempt organization and everyone pays taxes to city's;

Our manpower are not volunteers, they use over 2,000 man-hours by not doing other functions around town like maintaining buildings and grounds

With new buildings, parks and grounds coming into maintenance responsibilities, and no new staff a strong possibility this next fiscal year, what is our primary responsibility and duty to the citizens?

The recommendation from the Parks Committee was to allow others in the community to take over the Kyle Fair, Kyle Market Days, Easter and Halloween and reduce the Christmas Light Spectacular. This would free up nearly 5,000 man-hours, save over \$30,000 in Recreation Expense Budget and allow the PARD to maintain the new library, parks, buildings and new recreational programs without an increase in staff.

This discussion, explanation and understanding may take more time to discuss with council then an agenda item would allow. I would recommend a council workshop with the Parks Committee to discuss at length. The Parks Committee's next meeting is

June 28.

Kerry

**Budget Information:**

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Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

**Attachments / click to download**

 [PARD Staff Issues FY2012](#)

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# PARD FT Staff FY2011

- **Administration**
  - (2) Kerry & Jennifer
- **Recreation**
  - (2) Deidre & Sarah
- **Maintenance**
  - (1) Michael
  - (12) Parks & Grounds
    - Arthur, Max, Robert, Joe, Ronnie, David E, Gabe, Amado, David J, Sotero, David R & Roberto
  - (3) Buildings & Facilities
    - Nathan, Belinda & Mario

# Staff Man-Hours

- Administration = 4,160
- Recreation = 4,160
- Maintenance = 33,280

*Assumption that each FTE works 2,080 hours per year (40 hours a week x 52 weeks) Seasonal Part-time staff not included and not added to any program*

# New Programs for FY2012

- Gregg-Clarke Park Sports Complex
- Lake Kyle and PARD Admin Office
- Kyle Library

# Gregg-Clarke Park Sports Complex

- Parks & Grounds Maintenance Man-hours needed: **(204)** for grounds services assuming 2 guys, 3 hours a week for 34 weeks a year - not counting leagues or tournaments
- Buildings & Facility Maintenance Man-hours needed: **(312)** for custodial services at new restrooms – assuming 1 person, 2 hours a trip, 3 trips a week, 52 weeks - not counting leagues or tournaments

# Lake Kyle & PARD Admin Office

- Administration Needs: Hours of Operation with at least 1 staff on duty
  - October & March - Monday - Saturday 8a - 6p (Closed Sundays)
  - April - September - Everyday 8a - 6p (7 days a week)
  - November - February - Monday - Friday 8a -5p (closed Sat & Sun)
  - Additional Man Hours needed for this schedule **(800)** *split with Rec*
- Parks & Grounds Needs: Man-hours needed for grounds services - assuming 4 guys, 6 hours a day, 32 weeks a year **(768)**
- Buildings & Facilities – Man-hours needed to custodial services at Lake Kyle assuming 3 trips a week, 1 person, 3 hours a trip for 52 weeks a year **(468)**

# New Kyle Library

- Parks & Grounds: Man-hours needed for grounds services - assume 2 guys, 4 hours, once a week for 34 weeks **(272)**
- Building & Facilities: Man-hours needed for custodial services - assume 4 days a week, 8 hours a day for 52 weeks **(1,664)**
- Building & Facilities: Man-hours needed for building/facility services - assume 1 guy, 2 hours week for 52 weeks **(104)**

# New Recreational Programs

- Expansion of Adult Kickball League
- Adult Flag Football League
- Outdoor Family Camping
- Fishing Leagues & Clubs
- Youth sports – baseball, softball & soccer
- Nature & Wildlife programs
- Additional Outdoor Programs
- Additional Man-hours for these:
  - Administrative – **(260)** *assuming 5 hours a week/year*
  - Recreation – **(520)** *assuming 10 hours a week/year*
  - Maintenance – **(260)** *assuming 5 hours a week/year*

# Total New Man-Hours Needed

- Administration – 660 hours
- Recreation – 920 hours
- Parks & Grounds – 1,764 hours
- Building & Facility – 2,548 hours
  
- **Total – 5,892 hours (2.83 FTE)**



# Total New Man-Hours Needed

- Gregg-Clarke Park Sports Complex - 516
- Lake Kyle & Admin Office – 2,036 hours
- New Library – 2,040 hours
- New Programs – 1,300 hours
  
- **Total – 5,892 hours (2.83 FTE)**

# Current Recreation Programs

*Polar Bear Splash, Disc Golf, Adult Kickball, Swim Lessons, Swim Team,  
Summer Camps, Red Cross Training, Fishing, Contract Programs*

Man-hours = 2,694

Expense Budget = \$145,207

Revenue Budget = \$191,065

Positive Revenue of \$45,858

# Current Special Event Programs

*Family Bike Ride, Market Days, Earth Day, Creek Clean Up, Easter Egg-Stravaganza, Movies in the Park, Teen Night @ Pool, July 4<sup>th</sup> Fireworks, Kyle Fair & Music Festival, Halloween, Santa's Arrival, Lights Spectacular*

Man-hours = 6,232

Expense Budget = \$121,000

Revenue Budget = \$61,150

**Negative Revenue of \$59,850**

# Committee's Actions

1. Find 5,892 Man-Hours
2. Recommend suspension of certain Special Events
3. Recommend suspension of certain Recreational Programs
4. Other Budgetary recommendations

# Special Event Breakdown

- Santa & Lights Spectacular – 2,340 hours *(\$9,100)*
- Kyle Fair & Music Festival – 2,107 hours *(\$21,000)*
- Easter Egg-Stravaganza – 460 hours *(\$3,000)*
- Halloween Carnival – 425 hours *(\$2,750)*
- Market Days – 368 hours *(\$6,500)*
- Movies in the Park – 153 hours *(\$2,500)*
- Creek Clean Up – 140 hours *(\$0)*
- Family Bike Ride – 118 Hours *(\$0)*
- Earth Day – 69 hours *(\$0)*
- Teen Night at Pool – 28 hours *(\$0)*
- July 4<sup>th</sup> Fireworks – 24 hours *(\$15,000)*

**Totals 6,232 hours**