

# **KYLE CITY COUNCIL MEETING**

**DECEMBER 13TH, 2011**



# **KYLE CITY COUNCIL MEETING**

## ***DECEMBER 13, 2011***

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**I. Call Meeting to Order**

**II. Citizen Comment Period With City Council**

**III. Presentation**

- 1.** Presentation of Kyle Leadership Academy Certification  
~ *Jerry Hendrix, Director of Communications*

*Level 1: Chuck Moerbe*

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# KYLE CITY COUNCIL MEETING

## *DECEMBER 13, 2011*

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### **IV. Consider and Possible Action**

2. Authorize Award and Execution of a Purchase Order to KEILHAUER, of Toronto, Canada, in an amount Not to Exceed \$16,633.41 (U.S. Dollars) to purchase various furniture items for the Kyle Public Library  
~ *Connie Brooks, Director of Public Library*

## KEILHAUER

1450 Birchmount Road | Toronto, Ontario M1P2E3 Canada  
800-724-5665 Office | 800-416-759-5723 Fax

Quote #: KPL-LR-07272011-KH-SW Rev. # 5 Date: 12.01.2011  
Quoted To: Shea McClanahan | Workplace Resource | 1717 W. 6<sup>th</sup> St., # 1900 | Austin, TX 78703  
Project: Kyle Public Library Specifier: Laura Robinson  
Sales Rep: Sue Gorman Associates | 713.522.0707 Office | sue@suegormanip.com

Qty	Description of item	List Price Each	Sell Price Each	Extended
2	C-13 Librarian's Office Keilhauer Also Chair # 3623 With Arms, Upholstered Seat and Back Frame: PC00 Nickel   Shell Color: TBD COM Upholstery - 1 yard per chair required	\$500.00 Excluding COM	\$211.00	\$422.00
4	C-21B   Reading Area Keilhauer Also Chair # 3623 With Arms, Upholstered Seat and Back Frame: PC00 Nickel   Shell Color: TBD COM Upholstery - 1 yard per chair required	\$500.00 Excluding COM	\$211.00	\$844.00
4	C-9 Breakroom Keilhauer Also Chair with Arms # 3513 Shell: Solid # 15 Black Frame: POC00 Nickel	\$400.00	\$168.80	\$675.20
40	C-21 Reading Area Keilhauer Also Chair with Arms # 3513 Shell: Solid # 15 Black Frame: POC00 Nickel	\$400.00	\$168.80	\$6,752.00
16	C-21 Silent Reading Keilhauer Also Chair with Arms # 3513 Shell: Solid # 15 Black Frame: POC00 Nickel	\$400.00	\$168.80	\$2,700.80
12	C-14 Entry Lobby Keilhauer Also Chair without Arms # 3510 Shell: Translucent # 56 Soft Spring Frame: POC00 Nickel	\$350.00	\$147.70	\$1,772.40
6	C-17 Entry Lobby Keilhauer Also Chair with Arms # 3513 Shell: Translucent # 56 Soft Spring Frame: POC00 Nickel	\$400.00	\$168.80	\$1,012.80
Total:				\$14,179.20
Freight:				0.00
NOTE: Pricing does not include Dealer Delivery and Installation Fees				
COMs: Pricing for C-13 and C-21B do not include fabric pricing				
TXMAS Discount: 57.8% off List price				
TXMAS Admin/Smart Fee: Not included in pricing				
Keilhauer TXMAS Contract #: TXMAS-3-7110280				
Workplace Resource: TXMAS Contract # 3-7110280-11				
Lead Time: 4-6 Weeks after receipt of clean PO/receipt of COM				
Terms: Deposits and payments subject to Manufacturer's terms and conditions.				

Quote valid for 30 days from date on quote.

**Quote# SM110130**  
**KYLE PUBLIC LIBRARY**  
**TXMAS CONTRACT: TXMAS-3-7110280; EXP. 01/27/2012**  
**PURCHASE ORDER MUST BE MADE OUT TO THE FOLLOWING:**  
**KEILHAUER**  
**c/o Workplace Resource LLC.**  
**1450 BIRCHMOUNT RD**  
**TORONTO SCARBOROUGH ONTARIO CANADA M1P2E3**

Item	Qty.	Product	Unit	Extended
1	2	<b>3623</b> ALSO CHAIR W/ ARMS UPH SEAT AND BACK FRAME PC00 NICKEL SHELL TBD COM KNOLL STAR STRUCK FAN CLUB K1048/6	List: \$500.00 Sel: \$211.00 Self Discount %: 57.80	\$1,000.00 \$422.00 57.80
2	2	KNOLL STAR STRUCK FAN CLUB K1048/6	List: \$0.00 Sel: \$77.00 Self Discount %: 0.00	\$0.00 \$154.00 0.00
3	12	<b>3510</b> ALSO CHAIR W/O ARMS SHELL TRANSLUCENT #56 SOFT SPRING FRAME POC00	List: \$350.00 Sel: \$147.70 Self Discount %: 57.80	\$4,200.00 \$1,772.40 57.80
4	6	<b>3513</b> ALSO CHAIR W/ ARMS 27.5H SHELL TRANSLUCENT #56 SOFT SPRING FRAME POC00	List: \$400.00 Sel: \$168.80 Self Discount %: 57.80	\$2,400.00 \$1,012.80 57.80
5	56	<b>3515</b> ALSO CHAIR W/ ARMS 27.5H SHELL #15 BLACK FRAME POC00 NICKEL	List: \$400.00 Sel: \$168.80 Self Discount %: 57.80	\$22,400.00 \$9,452.80 57.80
6	4	<b>3623</b> ALSO CHAIR W/ ARMS UPH SEAT AND BACK FRAME PC00 NICKEL SHELL TBD COM MAHARAM OFFSET OASIS	List: \$500.00 Sel: \$211.00 Self Discount %: 57.80	\$2,000.00 \$844.00 57.80
7	4	MAHARAM OFFSET OASIS	List: \$0.00 Sel: \$77.00 Self Discount %: 0.00	\$0.00 \$308.00 0.00
8	4	<b>3513</b> ALSO CHAIR W/ ARMS 27.5H SHELL #15 BLACK FRAME POC00 NICKEL	List: \$400.00 Sel: \$168.80 Self Discount %: 57.80	\$1,600.00 \$675.20 57.80
9	1	<b>TXMAS ADMIN FEE</b>	List: \$215.92 Sel: \$215.92 Self Discount %: 0.00	\$215.92 \$215.92 0.00
10	1	<b>FREIGHT COST</b>	List: \$0.00 Sel: \$14.29 Self Discount %: 0.00	\$0.00 \$14.29 0.00

Quote# SM110130  
 KYLE PUBLIC LIBRARY  
 TXMAS CONTRACT: TXMAS-3-7110280; EXP. 01/27/2012  
 PURCHASE ORDER MUST BE MADE OUT TO THE FOLLOWING:  
 KEILHAUER  
 c/o Workplace Resource LLC.  
 1450 BIRCHMOUNT RD  
 TORONTO SCARBOROUGH ONTARIO CANADA M1P2E3

Item	Qty.	Product	Unit	Extended
11	1	INSTALL RECEIVE AND INSTALL NORMAL BUSINESS HOURS	List: \$0.00 Sell: \$2,224.00 Self Discount %: 0.00	\$0.00 \$2,224.00 0.00
			<b>Total:</b>	List: \$33,815.92 Sell: \$17,095.41

Price Valid for 30 Days.

City of Kyle, Texas  
FISCAL NOTE

**DATE OF COUNCIL CONSIDERATION:** December 13, 2011  
**CONTACT CITY DEPARTMENT:** Public Library  
**CONTACT CITY STAFF:** Connie Brooks, Director

**SUBJECT:** Authorize award and execution of a Purchase Order to KILHAUER of Toronto, Canada, in an amount Not to Exceed \$18,633.41 (U.S. Dollars) to various furniture item for the new Kyle Public Library.

**CURRENT YEAR FISCAL IMPACT:**

The Purchase Order to Kehlauer will require expenditure of funds from the accumulated Library Donation Fund for the new library.

1. City Department:	Public Library
2. Project Name:	Furniture, Fixtures, and Equipment (FF&E)
3. Budget/Accounting Code(s):	126-877-67111
4. Funding Source #:	Library Donations
5. Current Appropriation:	\$ 161,000.00 (Donations)
6. Unencumbered Balance:	\$ 89,000.00
7. Amount of This Action:	\$ 18,633.41
8. Remaining Balance:	\$ 70,366.59

**FUNDING SOURCE OF THIS ACTION:**

The funding source for this purchase in the amount of \$18,633.41 is provided from accumulated donations for the new Library.

**ADDITIONAL INFORMATION/COUNCIL ACTION:**

On November 21, 2011, the Library Board approved the furniture purchase plan for the new Kyle Public Library. Accordingly, the Library Board recommends City Council's approval of the purchase. The City Council's approval of the item will also authorize staff to spend \$18,633.41 from the Library Donation Fund for this Purchase Order.

# KYLE CITY COUNCIL MEETING

## *DECEMBER 13, 2011*

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### **IV. Consider and Possible Action, cont...**

3. Authorize the Chief of Police to Expend an amount Not to Exceed \$3,464.00 in donated funds for the Blue Santa Program and to transfer the administration and management responsibilities of the Blue Santa Program to the Police Association including collection, distribution, accounting, and reporting for such donated funds

*~ Jeff Barnett, Chief of Police*



**City of Kyle, Texas  
FISCAL NOTE**

**DATE OF COUNCIL CONSIDERATION:** December 13, 2011  
**CONTACT CITY DEPARTMENT:** Police Department  
**CONTACT CITY STAFF:** Jeff Sumrell, Chief of Police

**SUBJECT:** Authorize the Chief of Police to Expand an amount Not to Exceed \$3,464.00 in donated funds for the Blue Santa Program and to transfer the administration and management responsibilities of the Blue Santa Program to the Police Association including collection, distribution, accounting, and reporting for each donated funds. -- Larry Lambert, City Manager

**CURRENT YEAR FISCAL IMPACT:**

The authorization will require expenditure of donated funds accumulated in the Police Special Revenue Fund for the Blue Santa Program.

1. City Department:	Police Department
2. Project Name:	Blue Santa Program
3. Budget/Accounting Code(s):	126-620-66100
4. Funding Source:	Donations
5. Current Appropriation:	\$ 3,464.00 (Donations)
6. Unencumbered Balance:	\$ 3,464.00
7. Amount of This Action:	\$3,464.00
8. Remaining Balance:	\$ _____ 0.00

**FUNDING SOURCE OF THIS ACTION:**

The funding source for all expenditure of funds in the amount not to exceed \$3,464.00 for the Blue Santa Program is provided from accumulated donations.

**ADDITIONAL INFORMATION/COUNCIL ACTION:**

# KYLE CITY COUNCIL MEETING

## *DECEMBER 13, 2011*

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

4. Authorize Award and Execution of a 12-month lease contract with COWBOY HARLEY-DAVIDSON OF AUSTIN, TEXAS, for two (2) 2012 FLHP Road King Harley-Davidson police motorcycles in an amount Not to Exceed \$9,360.00 for the 12-month term  
*~ Jeff Barnett, Chief of Police*

**EXHIBIT A**

**QUOTATION FOR A 2-YEAR POLICE MOTORCYCLE LEASE**  
(Bidders Must Use Exhibits A & B to Respond)

1. Responder: COWBOY H-D OF AUSTIN
2. Address: 1047 S THAS AUSTIN, TX 78747
3. Contact Name: RICHARD BOURGEOIS
4. Email Address: richard@cowboyharley.com
5. Telephone/Fax: 512-448-4294 512-286-0332
6. Manufacturer: HARLEY-DAVIDSON
7. Model Name: FLHP
8. Model Year: 2012
9. Model Description: ROAD KING  
BLACK  
ABS  
103 ci
10. Delivery Date(s): 12-2-11
11. Allowable Mileage Per Year: 18000 (Per Motorcycle)
12. Number of Lease Payments: 12 (Per Motorcycle)
13. Monthly Lease Payment Amount: 390.00 (Per Motorcycle)
14. Total Amount of Lease Payments: 4680.00 (Per Motorcycle)  
Line 12 x Line 13
15. Is Buyback Option Available?  Yes  No
16. Buyback Value at End of 2-Year Lease: \_\_\_\_\_ (Per Motorcycle)  
What will it cost the City to purchase the motorcycles at the end of the 2-year lease?
17. Charge Per Mile Above Allowable Miles Per Year: \$0.10 (Rate Per Mile)
18. Interest Rate Used for the Lease: \_\_\_\_\_ (APR)
19. Any Required Maintenance Costs (Per Mileage Interval/Per Motorcycle):

Mileage Interval(s)	<u>1000, 5000 &amp; 15000</u>	Cost:	<u>239.00</u>
Mileage Interval(s)	<u>10000</u>	Cost:	<u>279.00</u>
Mileage Interval(s)	<u>2500, 7500 &amp; 12500</u>	Cost:	<u>153.00</u>
Mileage Interval(s)	_____	Cost:	_____

**ONE YEAR RENEWABLE LEASE PER OWNERSHIP.**

City of Kyle, Texas  
FISCAL NOTE

**DATE OF COUNCIL CONSIDERATION:** December 13, 2011  
**CONTACT CITY DEPARTMENT:** Police Department  
**CONTACT CITY STAFF:** Jeff Burnett, Chief of Police

**SUBJECT:** Authorize award and execution of a 18-month lease contract with COWBOY HARLEY-DAVIDSON OF AUSTIN, TEXAS, for two (2) 2012 FLHP Road King Harley-Davidson police motorcycles in an amount Not to Exceed \$9,593.00 for the 12-month term. ~ Jeff Burnett, Chief of Police

**CURRENT YEAR FISCAL IMPACT:**

The Purchase Order to Cowboy Harley-Davidson will require expenditure of funds from the Operating Budget of the Police Department.

1. City Department:	Police Department
2. Project Name:	Lease Contract for Two Police Motorcycles
3. Budget/Accounting Code(s):	110-151-64179
4. Funding Source:	Approved FY 2011-12 Budget (General Fund)
5. Current Appropriation:	\$ 5,600.00
6. Unencumbered Balance:	\$ 5,600.00
7. Amount of This Action:	\$9,593.00
8. Remaining Balance:	\$ <u>690.00</u>

**FUNDING SOURCE OF THIS ACTION:**

The funding source for this 18-month lease contract in the amount of \$9,593.00 is provided from the approved FY 2011-12 Operating Budget for the Police Department (General Fund).

**ADDITIONAL INFORMATION/COUNCIL ACTION:**

A separate City Council authorization will be requested by the Police Department to purchase and install emergency equipment from a different vendor/supplier on both police patrol motorcycles being leased by the department.

# KYLE CITY COUNCIL MEETING

## *DECEMBER 13, 2011*

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### **IV. Consider and Possible Action, cont...**

5. Authorize Award and Execution of a Purchase Order to PRIORITY PUBLIC SAFETY UNIFORMS & EQUIPMENT (formerly doing business as Cop Stuff) of Van Alstyne, Texas, in an amount Not to Exceed \$10,189.00 to purchase and install emergency equipment for two leased police motorcycles for the City of Kyle Police Department. (Related to Item No. 4)  
*~ Jeff Barnett, Chief of Police*



**EMERGENCY VEHICLE OUTFITTERS**  
 659 Martin Duke Road Van Alstyne, Texas 75495  
 Phone: 1-866-532-9357 Fax: 1-877-532-6533

# Proposal

Proposal Date: 10/26/11  
 Proposal #: 0711-0004  
 Project:

Bill To:  
 KYLE POLICE DEPARTMENT  
 ATTN: Walt G. and Sgt. Vasquez  
 303 West Center Street  
 P.O. Box 49  
 Kyle, Texas 75440

REP	
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Item	Description	Qty.	Rate	Amount	Material	Total
WC 000001	200' 100000-1 01 0-1 0000	2	450.00	900.00		900.00
WC 000002	200' 1000 000 000 000 000 000	2	1000.00	2000.00		2000.00
WC 000003	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000004	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000005	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000006	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000007	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000008	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000009	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000010	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000011	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000012	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000013	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000014	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000015	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000016	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000017	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000018	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000019	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00
WC 000020	200' 1000 000 000 000 000 000	2	100.00	200.00		200.00

<b>TAX (8.25%)</b>	240.00
<b>Total</b>	<b>38,189.10</b>

Signature

**City of Kyle, Texas  
FISCAL NOTE**

**DATE OF COUNCIL CONSIDERATION:** December 13, 2011  
**CONTACT CITY DEPARTMENT:** Police Department  
**CONTACT CITY STAFF:** Jeff Sumrell, Chief of Police

**SUBJECT:** Authorize award and execution of a Purchase Order to PRIORITY PUBLIC SAFETY UNIFORMS & EQUIPMENT (currently doing business as Cop Stuff) of Van Alstyne, Texas, in an amount Not to Exceed \$10,100.00 to purchase and install emergency equipment for two leased police motorcycles for the City of Kyle Police Department. (Related to Item No. ~ Jeff Sumrell, Chief of Police

**CURRENT YEAR FISCAL IMPACT:**  
The Purchase Order to Priority Public Safety Uniforms & Equipment (currently doing business as Cop Stuff) will require expenditure of funds from the Operating Budget of the Police Department.

1. City Department:	Police Department
2. Project Name:	Emergency Equipment for Two Police Motorcycles
3. Budget/Accounting Code(s):	110-151-60233
4. Funding Source:	Approved FY 2011-12 Budget (General Fund)
5. Current Appropriation:	\$ 11,000.00
6. Unencumbered Balance:	\$ 11,000.00
7. Amount of This Action:	<u>\$10,100.00</u>
8. Remaining Balance:	<u>\$ 811.00</u>

**FUNDING SOURCE OF THIS ACTION:**  
The funding source for this Purchase Order in the amount of \$10,100.00 is provided from the approved FY 2011-12 Operating Budget for the Police Department (General Fund).

**ADDITIONAL INFORMATION/COUNCIL ACTION:**  
A separate City Council authorization will be requested by the Police Department to lease two police motorcycles for a 12-month term from a different vendor/supplier.

# KYLE CITY COUNCIL MEETING

## *DECEMBER 13, 2011*

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### **IV. Consider and Possible Action, cont...**

6. Consider and Possible Action on the Economic Development Agreement between the City of Kyle and Image Microsystems  
~ *Diana Blank, Director of Economic Development*



# KYLE CITY COUNCIL MEETING

## *DECEMBER 13, 2011*

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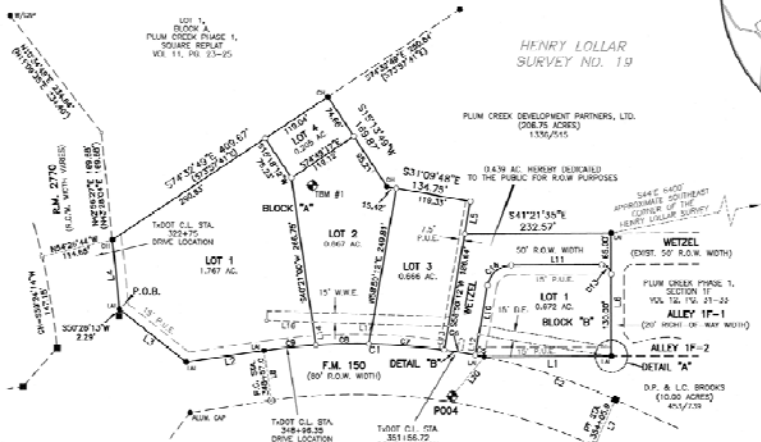
### **IV. Consider and Possible Action, cont...**

7. Consider and Possible Action on the Economic Development Agreement between the City of Kyle and Nomoland Company, LP  
~ *Diana Blank, Director of Economic Development*

CHARNAL CONTROL POINT POCO:  
 CONCRETE MONUMENT/2000 DGT  
 ELEV. 810.27 (1988 ORUS NOS)  
 SURFACE COORDINATE:  
 N 1.918304.8884  
 E 2314997.2000  
 UTM SOUTH-CENTRAL ZONE  
 STATE PLANE COORDINATES:  
 N 12916079.8099  
 E 2319841.8000  
 COMBINED SCALE FACTOR:  
 0.99999763  
 HEARING BASIS IS GRID AZIMUTH  
 FOR THE TEXAS STATE PLANE.

SCALE IN FEET  
 100 50 0 100

# PLUM CREEK PHASE 1 SECTION 1H HAYS COUNTY, TEXAS FINAL PLAT



- LEGEND**
- 1/2" REBAR FOUND
  - 1/2" REBAR WITH LAL CAP FOUND
  - 1/2" REBAR WITH CHAPARRAL CAP FOUND
  - 1/2" REBAR WITH GAP SET
  - CALCULATED POINT
  - ⊙ T-POUT TYPE II DISK FOUND
  - CONC. HIGHWAY MON. FOUND
  - ⊕ BENCHMARK/CONTROL POINT LOCATION
  - K.O.W. HOPE-OF-WAY
  - WT. WATER EASEMENT
  - WALL. WATERMESH EASEMENT
  - D.C. DRAINAGE EASEMENT
  - P.U.E. PUBLIC UTILITY EASEMENT
  - L.L. LANDSCAPE EASEMENT

**BENCHMARK NOTE:**  
 COTTON SPRING SET IN BASE OF LIVE OAK TREE  
 TAGGED NO. 12749  
 1811483.0000, 231727.0000  
 SOURCE: 1980-88 FROM OPUS OBSERVATIONS.

No.	BEARING	LENGTH	BEARING
L1	N41°27'52"W	703.89	(DMS:40°20")
L2	N49°34'59"W	124.53	(MPS:93.10" 124.82)
L3	N07°47'48"W	133.09	(N02°10'36" 133.00)
L4	N42°58'27"E	110.13	(N47°27'39"E)
L5	S59°47'49"W	51.93	
L6	S48°38'34"W	165.00	(N48°12'05" 165.00)
L7	S72°15'07"W	80.07	
L8	S40°22'15"W	80.00	
L9	S59°50'12"W	77.24	
L10	N59°50'12"E	112.81	
L11	S41°21'35"E	143.57	
L12	S59°50'12"W	32.82	
L13	S08°46'55"W	38.06	
L14	N40°21'00"E	37.02	
L15	N67°08'11"E	67.86	
L16	N39°11'48"W	72.81	
L17	S59°19'36"E	210.90	
L18	N58°35'18"E	13.30	
L19	S58°35'18"W	13.30	
L20	S98°01'15"W	80.50	

**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 I WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MARKED UNLESS MY SUPERVISION OF THE GROUND, AND THAT ALL NECESSARY SURVEY MONUMENTS ARE CORRECTLY SET OR FOUND AS SHOWN.  
 TO THE BEST OF MY KNOWLEDGE, THIS PLAT COMPLIES WITH ORDINANCE NO. 108 OF THE CITY GOV. OF KYLE WITH THE EXCEPTION OF THE EASEMENT NOTED ON SHEET 2, WHICH IS TO BE VACATED. ALL PLOTTABLE EASEMENTS OF RECORD AS FOUND ON THE TITLE POLICY ISSUED BY ANAHO TITLE INSURANCE, C.P. NO. A33-2002101, EFFECTIVE DATE MAY 25, 2007, ISSUED TO THE OWNER OF THE PROPERTY, ARE SHOWN.  
 DATE OF SURVEY: JULY 01, 2008, REVISED MAY 20, 2011

ROBERT C. WATTS, JR.  
 REGISTERED PROFESSIONAL LAND SURVEYOR #995  
 CHARNAL PROFESSIONAL LAND SURVEYING, INC.  
 3500 MICHAEL LANE  
 AUSTIN, TEXAS 78744  
 512-443-1724 F  
 512-389-0943 F

FOR REVIEW ONLY

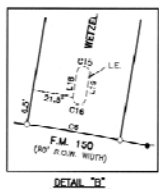
**ENGINEER'S CERTIFICATION:**

STATE OF TEXAS  
 KNOW ALL MEN BY THESE PRESENTS  
 COUNTY OF HAYS  
 I, GREGORY GRIFFIN, AM AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF ENGINEERING, AND HEREBY CERTIFY THAT THIS PLAT IS FEASIBLE FROM AN ENGINEERING STANDPOINT, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.  
 THE TRACT SHOWN HEREON LIES WITHIN ZONE "X" (AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD-PLAIN), AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, AS SHOWN ON MAP NO. 5115-180-0000, DATED 8/2002, FOR HAYS COUNTY, TEXAS AND INCORPORATED AREAS. IF THIS SITE IS NOT WITHIN AN IDENTIFIED SPECIAL FLOOD HAZARD AREA.

**ENGINEER BY:**

GREGORY GRIFFIN, P.E.  
 PROFESSIONAL ENGINEER  
 NO. 64191 STATE OF TEXAS  
 ENGINEERING BY:  
 GRIFFIN ENGINEERING GROUP INC.  
 11711 NORTH LAMAR BLVD.  
 AUSTIN, TEXAS 78753  
 (512) 836-3113 (PHONE)  
 (512) 836-3113 (FAX)

NO.	DATA	BEARING	TAN	ARC	CHORD	BEARING	RECORD INFO
C1	26°18'13"	894.93	177.85	143.82	150.12	N32°28'51"W	8-894.93, 0-291874
C2	12°39'17"	994.93	110.32	210.25	210.30	N23°04'41"W	(91195E 219437)
C3	13°03'32"	80.00	141.85	140.39	110.48	S81°13'02"E	
C4	4°53'29"	25.00	10.07	10.15	18.89	S10°24'48"E	
C5	0°50'58"	994.93	7.38	14.78	14.78	N29°47'14"W	
C6	72°27'47"	894.93	28.11	80.01	50.00	N31°39'07"W	
C7	8°54'32"	994.93	80.06	119.97	119.90	N38°30'47"W	
C8	4°51'25"	994.93	42.20	184.54	184.57	N42°25'45"W	
C9	4°46'29"	994.93	41.48	89.91	89.89	N47°14'47"W	
C10	89°41'53"	17.00	16.91	26.81	23.98	S89°11'44"E	
C11	77°28'49"	50.00	48.11	81.10	75.07	S23°01'40"W	
C12	74°31'57"	25.00	19.78	33.82	33.49	N21°54'13"E	
C13	90°00'09"	15.00	15.00	23.56	21.21	N03°38'30"E	
C14	79°48'14"	36.50	32.19	53.62	49.39	N81°15'41"W	
C15	180°00'00"	3.50	INFINITE	13.00	7.00	S13°24'42"E	
C16	180°00'00"	3.50	INFINITE	13.00	7.00	S31°24'42"E	



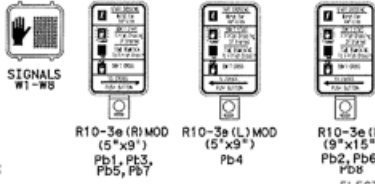
OWNER: MOCC TEXAS ENTERPRISES, LLC.  
 ADDRESS: P.O. BOX 23772  
 OKLAHOMA CITY, OK 73123-1775  
 PHONE: (405) 722-9300 FAX: (405) 720-9113  
 ACREAGE: 4.816 AC.  
 SURVEY: HENRY LOLLAR SURVEY NO. 19  
 NATURE OF LOTS AND PROPOSED USE: 1 COMMERCIAL  
 DATE: MAY 20, 2011  
 SURVEYOR: ROBERT C. WATTS, JR.  
 PHONE: (512) 443-1724 FAX: (512) 388-0843  
 ENGINEER: GREGORY GRIFFIN, P.E.  
 PHONE: (512) 836-3113 FAX: (512) 836-3103

PROJECT NO.:  
 533-001  
 DRAWING NO.:  
 043-1201-174  
 PLOT DATE:  
 05/20/11  
 PLOT SCALE:  
 1"=100'  
 DRAWN BY:  
 JDR

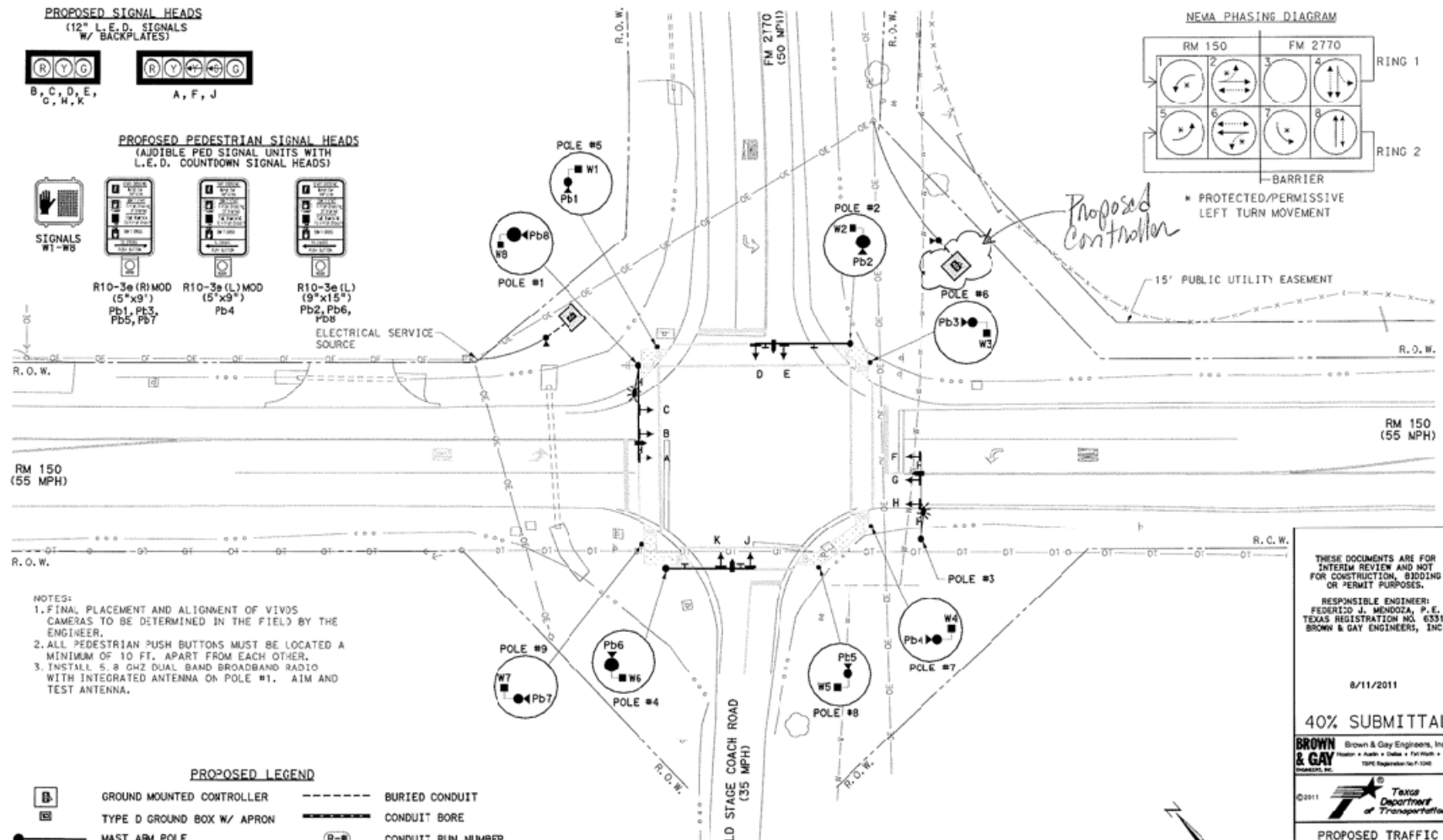
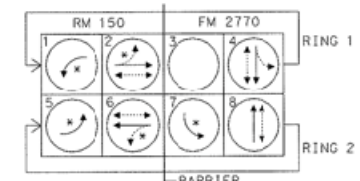
**PROPOSED SIGNAL HEADS**  
(12" L, E, D. SIGNALS  
W/ BACKPLATES)



**PROPOSED PEDESTRIAN SIGNAL HEADS**  
(AUDIBLE PED SIGNAL UNITS WITH  
L.E.D. COUNTDOWN SIGNAL HEADS)



**NEMA PHASING DIAGRAM**



- NOTES:**
1. FINAL PLACEMENT AND ALIGNMENT OF VIVOS CAMERAS TO BE DETERMINED IN THE FIELD BY THE ENGINEER.
  2. ALL PEDESTRIAN PUSH BUTTONS MUST BE LOCATED A MINIMUM OF 10 FT. APART FROM EACH OTHER.
  3. INSTALL 5.8 GHZ DUAL BAND BROADBAND RADIO WITH INTEGRATED ANTENNA ON POLE #1. AIM AND TEST ANTENNA.

**PROPOSED LEGEND**

- GROUND MOUNTED CONTROLLER
- TYPE D GROUND BOX W/ APRON
- MAST ARM POLE
- PEDESTRIAN SIGNAL POLE
- HORIZONTAL SIGNAL HEAD
- VIDEO CAMERA AND NUMBER
- OVERHEAD SIGN
- SERVICE METER & DISCONNECT
- BURIED CONDUIT
- CONDUIT BORE
- CONDUIT RUN NUMBER
- PEDESTRIAN SIGNAL HEAD
- PEDESTRIAN PUSH BUTTON
- LUMINAIRE
- BROADBAND ANTENNA

POLE #	DESCRIPTION
1	30' Pole with 40' Mast Arm and Luminaire
2	19' Pole with 40' Mast Arm
3	30' Pole with 36' Mast Arm and Luminaire
4	19' Pole with 36' Mast Arm
5-9	Pedestrian Pole
10	ELECTRICAL SERVICE POLE

THESE DOCUMENTS ARE FOR INTERIM REVIEW AND NOT FOR CONSTRUCTION, BIDDING OR PERMIT PURPOSES.  
RESPONSIBLE ENGINEER: FEDERICO J. MENDOZA, P.E. TEXAS REGISTRATION NO. 63311  
BROWN & GAY ENGINEERS, INC.

8/11/2011

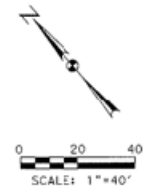
**40% SUBMITTAL**

**BROWN & GAY** Engineers, Inc.  
Houston • Austin • Dallas • Fort Worth • Phoenix  
12000 Independence • TX 75240



**PROPOSED TRAFFIC SIGNAL LAYOUT**  
RM 150 AT  
FM 2770

SCALE: 1"=40'	PROJECT NO.
DWN: AAR, CKD, F, JAM	COUNTY
STATE: 212, 20, 10, 30	DAYS
TEXAS: 4, 6	NO. SHEETS
DATE: 08/11/11	SHEET NO.
RM 150	3



\\\RM150 at FM 2770 - 82-rsig-09p  
 8/11/2011 4:18:08 PM TrefTris Group

# KYLE CITY COUNCIL MEETING

## DECEMBER 13, 2011

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### IV. Consider and Possible Action, cont...

8. Consideration and possible action as may be required regarding initiating action and taking action to amend the 2010 Transportation Master Plan to include Bebee Rd as a Minor Arterial Roadway, directing staff and the Planning and Zoning Commission to make such amendment to the 2010 Master Transportation Plan and submit said amended plan to CAMPO for an amendment to the CAMPO 2035 Plan and inclusion in such plan for possible consideration for future 2011/2012 TIP Funding ~ *Council Member Jaime Sanchez*

# KYLE CITY COUNCIL MEETING

## *DECEMBER 13, 2011*

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### **IV. Consider and Possible Action, cont...**

9. Consideration and Possible Action to Extend the Interlocal Agreement for Commercial Office Lease of 111 N. Front Street, formerly known as the Wells Fargo Building, to Hays County for One Year  
~ *Lanny Lambert, City Manager*

**FIRST AMENDMENT AND RENEWAL OF INTERLOCAL AGREEMENT  
FOR  
COMMERCIAL OFFICE LEASE**

*111 S. Front Street*

This is the first amendment (hereinafter "Amended Agreement") renewing the Interlocal Agreement for the Lease of Commercial Office Space (hereinafter "Agreement") dated 12/7/10 and entered into by and between the City of Kyle, Texas a home-rule municipality, as hereinafter "Lessor"; and Gray County, a political subdivision of the State of Texas as hereinafter "Lessee", whether one or more which is attached hereto as Exhibit "A-1," and is incorporated herein by reference for all purposes as if fully copied and set forth in length. The above-cited parties shall be collectively referred to as "the parties to the Amended Agreement" or "the parties."

In consideration of the renewal of the interlocal agreement for the commercial office lease, Lessee shall provide at its cost to Lessor herein, sufficient office space suitable to Lessor herein for the use of the City of Kyle Police Department in the Gray County Health Department Building located at 150 Lockhart St., Kyle, TX 79640, and office space to be minimally provided during the term prescribed in Section 4.1 hereof. The provisions of the Agreement referenced herein shall be amended in the manner specified herein. All other requirements of the Agreement aforementioned shall survive and be renewed in the manner prescribed herein. To the extent that any provision of this Amended Agreement shall conflict with the Agreement referenced herein, this document shall control.

**4.1 Term, Possession, and Anniversary.**

The lease term shall be for 12 full calendar months from commencement date and the last day of the lease term being September 30, 2012. The commencement date of this lease shall be December 1, 2011. Rent will begin to accrue on the lease commencement date. Lessee requires Lessor to provide, in written documentation, sixty-days (60) notice to surrender premises before the termination date of this contract. Should Lessee surrender leased premises prior to the end of the lease term, rent will be prorated through last day of the month Lessee surrenders the leased premises to Lessor.

*{This portion of the Agreement left intentionally blank}*

Page 1

Building name: 111 S. Front Street  
Lessor's name: City of Kyle, Texas  
Lessee's name: Gray County, Texas

Lessor's initials:  
Lessee's initials:

2189662

# KYLE CITY COUNCIL MEETING

## *DECEMBER 13, 2011*

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### **IV. Consider and Possible Action, cont...**

10. Consideration and Possible Action regarding the First Amended and Restated Interlocal Agreement between Hays County and the City of Kyle regarding FM 150  
~ *Lanny Lambert, City Manager*

# KYLE CITY COUNCIL MEETING

## *DECEMBER 13, 2011*

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### **IV. Consider and Possible Action, cont...**

11. Consideration and Possible Action of Any and All Issues relating to the Renewal and Extension of the Reclaimed Water Agreement for the Plum Creek Golf Course; and Related Matters  
*~ Diana Blank, Director of Economic Development*



**PLUM  
CREEK**  
GOLF • COURSE



**PLUM  
CREEK**  
GOLF • COURSE

PARKING



PRO SHOP



CART RETURN



BAR & GRILL



BANQUET PAVILLION



# PLUM CREEK GOLF • COURSE



# PLUM CREEK GOLF • COURSE

- **Plum Creek Golf Stats:**
- Open 7 days per week
- 18 holes at over 7,100 yards
- 4 tees to allow for all player levels
- 20 employees with \$50,000+ monthly payroll
- 10,000 clubhouse with 5,000 sq foot event pavilion, kitchen, pro-shop
- New ownership and management by Foresight Golf with 11 courses state-wide
- New driving range and practice facilities in planning stages
- Player development program (65 members)
- Membership (50)
- 27,000 rounds 2011 – 28,000 rounds projected
- 40 events and tournaments 2011 / 50 2012
- Meetings, weddings, parties, holiday parties
- Multiple Kyle Chamber events
- Multiple HCISD events, education foundation



- **Plum Creek Golf Reclaimed Water Proposal:**
- Plum Creek installs new screening chamber at treatment plant at our cost
- Plum Creek continues to maintain pumps, wells, ponds and other reclaimed water infrastructure over the term of the renewal at our cost
- Plum Creek makes major investment in golf course upgrades including new driving range, new practice facilities, tee and green and irrigation upgrades
- Plum Creek and Texas State continue to work towards creation of long-term partnership establishing Plum Creek as their home course
- Plum Creek will continue to work with Kyle to plan for the expansion of their reclaimed water system
- City of Kyle continues to provide 900,000 gallons per day of reclaimed water for the sole purpose of irrigating the Plum Creek Golf Course

# PLUM CREEK

GOLF • COURSE



**PLUM**  
**CREEK**  
**GOLF • COURSE**



# PLUM CREEK

GOLF • COURSE



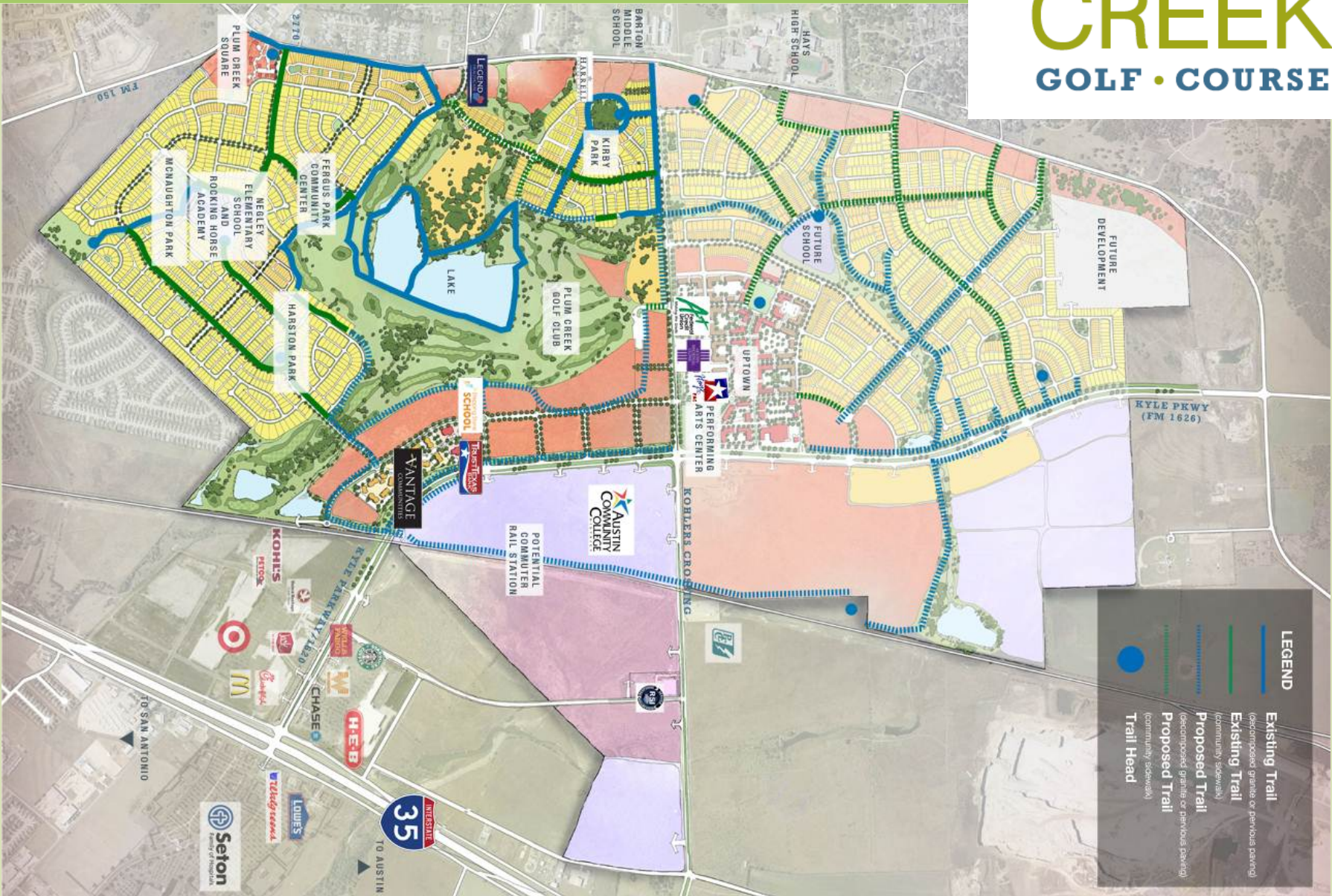
# PLUM CREEK

GOLF • COURSE



# PLUM CREEK

## GOLF • COURSE





## Proposed developments around the Plum Creek Golf Course include:

**PLUM  
CREEK**  
GOLF • COURSE



- Luxury Apartments
- Independent senior living
- Memory care facility
- Long-term nursing care facility
- Self storage facility
- Move-up single family housing

**AMENDED AND RESTATED RECLAIMED WATER USE AGREEMENT**

**STATE OF TEXAS**

**COUNTY OF HAYS**

This Amended and Restated Reclaimed Water Use Agreement, effective as of the day of ..... 2011 is made by and between the City of Kyle, Texas, a Type A general law city ("City"), and Plum Creek Development Partners, Ltd. ("Purchaser").

**WITNESSETH**

WHEREAS, on March 1, 2011, Purchaser acquired title to the Property (hereinafter defined);

WHEREAS, Purchaser, as current owner of the Property, and the City wish to enter into this Agreement in order to amend and restore that certain original Reclaimed Water Use Agreement between the City and Mountain City Golf Company, L.L.C. dated effective as of July 21, 1998 (the "Original Agreement");

WHEREAS, pursuant to the Development Agreement dated on or about April 15, 1997, between the City and Purchaser, upon completion of the Facilities (as defined herein) the Purchaser has the right to all available Reclaimed Water (as defined below) from the City's wastewater plant through April 15, 2017;

WHEREAS, the City, in order to (i) reduce the use of potable water for irrigation purposes, and (ii) increase the productivity of existing potable water treatment facilities and drinking water capacity, is contemplating the creation of an additional utility that would distribute and sell some of the Reclaimed Water (the "Reclaimed Water Utility") to other third party users that want such Reclaimed Water for irrigation purposes;

WHEREAS, Purchaser, in exchange for the execution of this Agreement, is willing to work with the City in the planning and implementation of the Reclaimed Water Utility as the City installs infrastructure to pump, distribute and store Reclaimed Water for such other users who wish to use such Reclaimed Water for irrigation purposes. In that regard, Purchaser is willing to (i) consider improvements, retrofit and upgrades of holding ponds or lines within Plum Creek that would hold such Reclaimed Water for sale to such other users and (ii) to plan and install Reclaimed Water Lines ("Canal Lines") in areas within Plum Creek in order to assist in the distribution of Reclaimed Water to such other users;

WHEREAS, the City and Purchaser desire to (a) secure a long term supply of Reclaimed Water for Plum Creek and (ii) plan for the distribution to such other users of some of the Reclaimed Water not used by Plum Creek;

WHEREAS, Purchaser desires to accept from the City the Reclaimed Water produced by the City, upon the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the City agrees to sell Reclaimed Water to Purchaser, and Purchaser agrees to pay the City for such delivery of Reclaimed Water, in the amounts and upon the terms and conditions hereinafter set forth.

#### Section I. DEFINITION OF TERMS

The following terms and expressions as used in this Agreement shall have the following meanings:

1.1 "EFFLUENT PUMPING FACILITIES" means the facilities necessary to convey Reclaimed Water from the Point of Delivery to the meter (as both are depicted on Attachment B, attached hereto for all purposes).

1.2 "EFFLUENT TRANSPORTATION AND DISTRIBUTION FACILITIES" means the facilities necessary to convey Reclaimed Water from the meter to the Storage Pond, as both are shown on the facilities drawing attached hereto as Attachment A and B.

1.3 "FACILITIES" means collectively the Effluent Pumping Facilities, the Effluent Transportation and the Distribution Facility and the Storage Pond.

1.4 "IRRIGATION SYSTEM" means the system installed on a portion of the Property for irrigation of the Property.

1.5 "OPERATE AND MAINTAIN THE FACILITIES" means the routine maintenance used to maintain the Effluent Pumping Facilities to a standard of care and quality that ensures a consistent and reliable delivery of Reclaimed Water. As used in this definition, the word "maintenance", includes, without limitation, the routine cleaning, service and replacement of screen, silt pump, effluent wet well, water pumps, meters, valves, latches, control panels, electric, signage, fencing, distribution lines, cisterns and any other associated apparatuses to allow for a consistent production of effluent to the Storage Pond.

1.6 "OPERATE AND MAINTAIN THE CITY WASTEWATER TREATMENT PLANT" means the operation of the City's Waste Water Treatment Plant to a standard of care and quality that ensures a consistent and reliable deliverability of a minimum of 900,000 gallons a day (2.9 MGD) of Type II Reclaimed Water meeting all applicable State and Federal requirements and as specified by Section III of the Tenth Discharge Permit No. WQ 811041-022 and the record keeping related thereto. As used in this definition, the word "operation", includes, without limitation, the consistent conveyance of effluent water from the City's wastewater treatment plant up to the Point of Delivery as depicted on Attachment A and B.

1.7 "POINT OF DELIVERY" means the location at which title to the Reclaimed Water passes from the City to the Purchaser as such location is reflected on the facilities drawing

attached hereto for all purposes as *Attachments A and B*.

1.8 **"PROPERTY"** means the real property owned by Purchaser, and/or Purchaser's affiliates, which real property makes up the project known as *Pine Creek*. Some of the Property has been developed as open space, as reflected on *Attachment C*, a portion of which is a golf course. A quantity of the Reclaimed Water will be used on such open space.

1.9 **"RECLAIMED WATER"** means the treated wastewater effluent (also known as "grey water") produced from the City's Wastewater Treatment Plant.

1.10 **"STORAGE POND"** means the golf course pond constructed to store Reclaimed Water delivered to Purchaser as depicted on the facilities drawing attached hereto as *Attachment A*.

1.11 **"TNRCC"** means the Texas Natural Resource Conservation Commission, or its successor agency.

1.12 **"TREATED WASTEWATER EFFLUENT RATE"** means the rate to be charged for Purchaser by the City (if the City owns the Facilities) per 1,000 gallons of Reclaimed Water that is equal to the City's operating and maintenance cost of the Facilities; provided that on such charge will be made by the City to Purchaser until after the City purchases the Facilities. After ten years from the date of this Agreement, the City may adjust the charge per 1,000 gallons annually based on actual increases in the City's operating and maintenance costs and market value, provided that the total charge does not exceed 125% of the City's actual operating and maintenance costs of the Facilities for the prior year.

1.13 **"WASTEWATER TREATMENT PLANT"** means the primary wastewater treatment plant of the City is presently located and as may be relocated in the future; provided that if any relocation occurs, the City will use its best efforts to assist Purchaser with the relocation of use of its Facilities affected by such relocation, including, without limitation, obtaining and/or assisting to Purchaser any additional, necessary easements for any relocated Facilities.

## Section 2. FACILITIES CONSTRUCTION

2.1 **Facilities Constructed.** The Effluent Transportation and Distribution Facilities, Effluent Pumping Facilities, and Storage Pond (collectively, the "Facilities") necessary to transport and deliver Reclaimed Water from the Point of Delivery at the City's Wastewater Treatment Plant to the Purchaser at the Property as shown on the facilities drawing at *Attachment A* are existing as of the date of this Agreement. The City hereby acknowledges that the Facilities currently meet all applicable rules and regulations of the TNRCC for reclaimed water systems.

2.2 **Conveyance of Portion of Facilities to City.** The City will have the option to acquire the Effluent Pumping Facilities, the Effluent Transportation and Distribution Facilities, or both from Purchaser in payment to terms and conditions acceptable to Purchaser, in Purchaser's reasonable discretion. Notwithstanding any provision in this Agreement to the

contract, upon the occurrence of the Effluent Pumping Facilities, the Effluent Transportation and Distribution Facilities, or both to the City, the City shall own, operate and maintain, as applicable, the Effluent Pumping Facilities and the Effluent Transportation and Distribution Facilities and the Purchaser shall have no further maintenance obligations with respect thereto.

### Section 3. OPERATIONS AND MAINTENANCE OF FACILITIES AND DELIVERY OF RECLAIMED WATER

3.1 **Delivery.** The Purchaser shall operate and maintain the Facilities and deliver Reclaimed Water from the Point of Delivery through the Facilities to the Storage Pond. It is agreed and understood that the City and the Purchaser shall share a meter for the purpose of measuring the Reclaimed Water delivered to Purchaser. For clarity, the parties hereto agree that all valves and other controls to start, stop, and regulate the flow of water to Purchaser under this Agreement (the "Regulators") that are beyond the Point of Delivery (including such Regulation related meters), are part of the Facilities. If the quality of the Reclaimed Water is ever less than that specified in Texas Discharge Permit No. WQ 0011041-001, then the City shall notify Purchaser orally within twenty-four (24) hours of the City becoming aware of such deficiency, and Purchaser shall have the right to suspend acceptance of the Reclaimed Water by notifying the City orally and confirming such suspension in writing within twenty-four (24) hours.

3.2 **Permits.** The City has obtained Texas Discharge Permit No. WQ 0011041-002 and Authorization No. R11041-002 from the TNRCC. The Producer and Provider shall continue to maintain, with assistance from the Purchaser but at no cost to Purchaser, TNRCC's permits and authorizations for this Reclaimed Water project pursuant to TNRCC rules and regulations.

3.3 **Use of Water.** The Reclaimed Water delivered by the City shall be used for (i) for irrigation of the Property, (ii) for irrigation of any other land owned or managed by Purchaser, (iii) to replenish lakes and ponds because of evaporation, (b) for suppression of dust, and or (c) for compactness of soil for construction purposes.

3.4 **Right to Maintain the Facilities and, if applicable, the City's Wastewater Treatment Plant.** The City hereby grants to Purchaser and Purchaser's successors, assigns, employees, contractors and agents the right, to the extent necessary, to access to and all property (i) owned by the City, (ii) that the City has rights to, and or (iii) that the City's Wastewater Treatment Plant occupies (either now or in the future) for the purposes of constructing, maintaining and or operating the Facilities and any equipment used in connection with such Facilities (whether or not such equipment is owned by the Purchaser or the City).

### Section 4. QUANTITY AND UNIT MEASUREMENT

4.1 **Quantity.** The City agrees to sell and deliver Reclaimed Water to Purchaser at the Point of Delivery pursuant to this Agreement. Purchaser agrees to take at the Point of Delivery all Reclaimed Water desired for use by Purchaser pursuant to this Agreement during the entire term of this Agreement. The Reclaimed Water will be delivered in accordance with this Agreement. In no event shall the City be required under this Agreement to deliver any minimum amount of Reclaimed Water to Purchaser. Purchaser agrees that the quantity of Reclaimed Water

available for delivery and use by Purchaser shall solely be dependent on the normal operation of production of the City's wastewater treatment system. The City shall endeavor to deliver a quantity of Reclaimed Water necessary to meet Purchaser's needs as contemplated by this Agreement subject to the normal operation and production of the City's wastewater treatment system.

4.2 **Sale by Purchaser.** Purchaser may not sell Reclaimed Water purchased from the City to any agency, individual, corporation, or other party.

4.3 **Measurements.**

a. Purchaser has installed, operates, maintains, and reads the meter that records the Reclaimed Water delivered to Purchaser. The City is permitted to also read such meter and record the Reclaimed Water delivered to Purchaser. The principal measurement point for water taken by Purchaser under this Agreement shall be located near the designated Point of Delivery.

b. The City and Purchaser shall keep accurate records of all measurement of Reclaimed Water required under this Agreement and the measuring device and such records shall be open to inspection by Purchaser during reasonable business hours. The City and Purchaser shall have access to the measuring equipment at all reasonable times, but the reading, calibration, and adjustment thereof shall be done only by employees or agents of the Purchaser. The City's agents or employees may observe the reading, calibration and adjustment.

c. Should Purchaser have reason to believe that a meter or meters is recording water usage inaccurately, Purchaser may request in writing that the City investigate the meter operations. If it is mutually agreed by the City and Purchaser that the meter is malfunctioning, or should the City or Purchaser discover that a meter or meters is recording water usage inaccurately, Purchaser shall immediately notify the City of same, and replace the faulty meter or meters.

d. If, for any reason, a meter is out of service or out for repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meter is out of service or out for repair, shall be estimated and agreed upon by the parties thereto upon the basis of the best data available. For such purposes, the best data available shall be deemed by other meters in the transmission line which can be related to the main delivery main. If no other meters in the system are operational which will allow determination of delivered quantity, the amount of water delivered during such period may be estimated (i) by connecting the meter if the percentage of error is ascertainable by calibration, test or mathematical calculation, or (ii) by estimating the quantity of delivery by deliveries during the preceding periods under similar conditions when the meter was registering accurately.

4.4 **Unit of Measurement.** The unit of measurement for Reclaimed Water delivered hereunder shall be 1,000 gallons of water, U.S. Standard Liquid Measure.

**Section 5. QUALITY**

5.1 **General.** The Reclaimed Water to be delivered by the City shall be treated sewage

in compliance with applicable State and Federal Law. This water is not intended for human consumption or domestic purposes and is to be used only for irrigation purposes, for lake and pond evaporation makeup, for dust suppression and/or for soil compaction related to construction on any part of the Property. Purchaser has satisfied itself that such water will be suitable for its use; provided that if at any time the quality of water delivered is dangerous to human health when applied by Purchaser's irrigation system or otherwise less than that required to maintain a vigorous, healthy plant growth for the plant material at the Purchaser's facilities, then Purchaser may immediately terminate or suspend this Agreement and may refuse acceptance of the water, and Purchaser will not be liable for any payments for any period of non-acceptance. **THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, WHICH EXTEND BEYOND THE DESCRIPTION CONTAINED IN THIS AGREEMENT RELATIVE TO THE QUALITY OF RECLAIMED WATER.**

#### **Section 6. PAYMENTS BY PURCHASER FOR RECLAIMED WATER RECEIVED**

6.1 **Commencement of Service.** The City has been providing Reclaimed Water under the Original Agreement and shall continue to provide Reclaimed Water to Purchaser on and after the date of this Agreement in accordance with the terms of this Agreement.

6.2 **Rate.** If the City acquires the Facilities from Purchaser then the City shall charge Purchaser and Purchaser shall pay City for the Reclaimed Water delivered to the Purchaser at the Treated Wastewater Effluent Rate as defined in Section 1.12. The parties acknowledge and agree that as of the date of this Agreement and until the date the City acquires title to the Facilities from Purchaser, Purchaser shall not be charged for the Reclaimed Water provided to Purchaser pursuant to the terms of this Agreement.

6.3 **Billing.** If the City acquires title to the Effluent Pumping Facilities and the Effluent Transportation and Distribution Facilities from Purchaser, then the City shall bill Purchaser for Reclaimed Water sold under this Agreement as follows:

- a. Billing will be on a monthly basis.
- b. The City will submit to Purchaser a monthly statement for Reclaimed Water. The monthly statement will be payable on or before 10 days after receipt of the invoice.
- c. The City will retain the right to suspend water service if Purchaser has not paid its monthly statement by 10<sup>th</sup> day after receiving notice that the invoice is delinquent.

#### **Section 7. SUSPENSION OF SERVICE**

7.1 **Force Majeure.** If the City is unable to deliver Reclaimed Water under the terms of this Agreement due to circumstances beyond the City's control and without its fault whether such occurrence or circumstance be an act of God or the common enemy or the result of war, riot, civil commotion, non-foreign conduct, or the act or conduct of any person or persons not party or party hereto, then the City shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof, then the City shall

not be liable for the breach of this Agreement. The City shall use reasonable and good faith efforts to correct any impediment preventing delivery of Reclaimed Water and give Purchaser advance notice when possible and to the extent it is reasonable, give such notice of any inability to deliver the water needed so that Purchaser may seek alternative sources.

**7.2 System and Maintenance.** The City may temporarily suspend delivery of Reclaimed Water to Purchaser for the purpose of performing maintenance and repairs to the City's wastewater system, including its Wastewater Treatment Plant. The City shall endeavor to provide Purchaser with written notice prior to suspension of such service and an estimated time of when service shall be reestablished.

**7.3 Regulatory Action.** The City may temporarily suspend delivery of Reclaimed Water to Purchaser pursuant to the request, written order, or direction of any regulatory agency having jurisdiction over the use of Reclaimed Water. The City shall endeavor to provide Purchaser with verbal notice prior to suspension of such service and an estimated time of when service shall be reestablished.

**7.4 Emergency Situation.** If the City has or is in the imminent future going to run out of potable water for the residents in the City's service area and only after (i) the City has exhausted all of its other available feasible systems, (ii) the City cannot locate another feasible source for water and (iii) the City has provided not less than one hundred twenty (120) days prior written notice, the City may temporarily suspend delivery of the Reclaimed Water to Purchaser for the purpose of converting the Reclaimed Water into potable water for such residents or to use the Reclaimed Water as a substitute for potable water in order to preserve public health. The City will make every effort to shorten the duration for which the Reclaimed Water will not be available to Purchaser. If the City suspends delivery of the Reclaimed Water because of an emergency situation as provided for in this Agreement, Purchaser may, at Purchaser's election and sole discretion, terminate this Agreement at any time during any such suspension, by providing written notice of such termination to the City, and such termination will take effect when sent by Purchaser.

#### **Section 8. RECLAIMED WATER UTILITY.**

**8.1 Planning for Reclaimed Water Utility.** The City intends to study the feasibility and implementation of a facilities, operation and distribution system operated by a City-owned Reclaimed Water Utility to promote the above objectives described in the Recitals to this Agreement. Purchaser shall reasonably cooperate with the City, which reasonable cooperation will include, without limitation, Purchaser providing planning materials, engineering data and other similar materials relating to Plant Creek and the City's planning and possible location of the Reclaimed Water Utility.

**8.2 Lines and Joint Facilities.** The City and Purchaser contemplate that existing or future ponds and lines within Plant Creek could be used as holding ponds to hold Reclaimed Water, some of which will be for the distribution to other third party users. Purchaser and the City agree to work together diligently and in good faith to consider providing some of the



Reclaimed Water to each third party means and to plan for the possible expansion and or extent of the Facilities in order for such Facilities to be able to transport and hold the Reclaimed Water for distribution to each other third parties for use in landscape irrigation or other approved purposes. Likewise, Purchaser and the City agree to work together diligently and in good faith to plan for the area the Pump Pipes would be located within Plaza Creek and to design the mechanism that would measure the amount of Reclaimed Water distributed to each other third parties for such uses. The costs of such Facilities and Pump Pipes shall be a part of the Reclaimed Water Utility system. The allocation of such costs, if any allocation is made, between Purchaser and the City, must be approved by both Purchaser and the City, and is dependent on factors (not an exhaustive list) such as the party benefiting from such improvement, the rate to be charged for such Reclaimed Water, the capacity of such improvements and other factors relating to the installation, operation and use of the such Reclaimed Water Utility system.

#### **Section 9. GENERAL PROVISIONS.**

**9.1 Operations and Maintenance.** Purchaser will continuously operate and maintain the Facilities.

**9.2 Conditions.** It is expressly understood and agreed that any obligations on the part of the City to provide Reclaimed Water to Purchaser be (a) conditional upon the City's ability to maintain all necessary permits, agreements, material, labor, and equipment, provided the City uses reasonable efforts to maintain said permits, agreements, material, labor, and equipment (b) subject to all present and future valid laws, orders, rules, and regulations of the United States of America, the State of Texas and any government or regulatory body having jurisdiction over the City or its activities, and (c) subject to the right of the City to terminate Reclaimed Water deliveries under this Agreement when the City finds uses of such water to be noncompliant with the provisions of the TNRCC Reclaimed Water use rules located at Title 20 of the Texas Administrative Code, Chapter 210.

**9.3 Title.** Title to all water supplied hereunder shall be in the City up to the Point of Delivery at which point title shall pass to Purchaser. The Point of Delivery is specifically delineated and shown on Attachment A and is located prior to the measuring point where the water flowing from the City to Purchaser is measured.

#### **9.4 Obligations of Purchaser.**

a. Purchaser shall be responsible to operate and maintain its lines, any pumping or other facilities necessary for the transportation of the Reclaimed Water from the Point of Delivery to the place of use including the Facilities and Storage Pond, at its sole risk and expense, provided however, City shall use its good faith efforts to assist Purchaser in obtaining any and all necessary easements for the operation of the Facilities, including any easements necessary for the Facilities if the City's Wastewater Treatment Plant is relocated pursuant to an express right in this Agreement to relocate it. Additionally, City agrees to, in applicable, (i)

assign to Purchaser, in form attached hereto as Attachment B, any and all easement rights, to the extent assignable, that the City has in the operation of the Facilities, and (ii) grant to Purchaser easements, in form and with content reasonably satisfactory to Purchaser, easement and access rights, to the extent the City can, for access to and the operation of the Facilities. The City represents that it has one or more written and recorded easements in place that collectively make up the entire area occupied by the Millport Transportation and Distribution Facilities. And, further, the City agrees that to the extent it does not have written and recorded easements for any such area and once the City is notified of such failure, the City will cooperate in good faith and use commercially reasonable efforts to obtain such missing easement or easements.

b. By its execution of this Agreement, Purchaser acknowledges its receipt of the TNRCC Reclaimed Water use rules the located at Title 30 of the Texas Administrative Code, Chapter 210 and further agrees to comply with all requirements and responsibilities under such rules.

**9.5 INDEMNIFICATION. THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES SHALL NOT BE HELD LIABLE OR RESPONSIBLE FOR, AND SHALL BE SAVED AND HELD HARMLESS BY PURCHASER FROM AND AGAINST ANY AND ALL CLAIMS, SUITS, ACTIONS, ENFORCEMENT ACTIONS, LOSSES, DAMAGES, OR LIABILITY INCLUDING ALL LITIGATION, COSTS, AND ATTORNEYS' FEES BROUGHT BY ANY PERSON, ENTITY OR ANY REGULATORY AUTHORITY ARISING OUT OF OR OCCASIONED BY THE ACTS OF PURCHASER OR PURCHASER'S AGENT OR EMPLOYEES IN THE EXECUTION OR THE PERFORMANCE OF THIS CONTRACT, PURCHASER'S USE OF RECLAIMED WATER, AND PURCHASER'S OPERATION OF THE FACILITIES.**

**Section 10. TERM OF AGREEMENT; MODIFICATION; NOTICE; STATE OR FEDERAL LAWS, RULES, ORDER OR REGULATIONS**

**10.1 Term of Agreement.** This Agreement shall be in force and effect from the date of execution hereto for a term of fifteen (15) years.

**10.2 Option for Renewal.** The parties hereby agree that Purchaser shall have two options to renew and extend the term of this Agreement, each for an additional ten (10) year term. Each such option shall be exercised in advance of the then current expiration date of this Agreement by Purchaser giving the City written notice one hundred eighty (180) days prior to the then current expiration date or within thirty (30) days of receipt of written notice from the City notifying Purchaser of its option rights, whichever comes later.

**10.3 Address and Notice.** Unless otherwise provided in this Agreement, any notice, communication, request, copy, or advice (hereinafter and collectively, for convenience called "Notice") herein provided or permitted to be given, made or accepted by any party must be in writing. Notice may, unless otherwise provided herein, be given or served (i) by depositing the same in the United States mail, postage paid, certified or registered, and addressed to the party to be notified, with return receipt requested; (ii) by delivering the same to such party, or an agent such of such party, by hand delivery or facsimile transmission; or (iii) by depositing the

same with an overnight courier service guaranteeing "next day delivery," addressed to the party to be notified and with all charges prepaid. Notices shall be addressed to the party notified. Notice deposited in the mail in the manner hereinabove described shall be effective upon such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purpose of Notice, the addresses of the parties shall be, until changed as hereinafter provided as follows.

**Purchaser:** **Plan Creek Development Partners, Ltd.**  
200 Congress Avenue, Suite 90A  
Austin, Texas 78701  
Attn: Dan Adams  
Fax: (512) 472-7455

**With Copy To:** **Mountain Plant, Ltd.**  
4040 Broadway, Suite 201  
San Antonio, Texas 78209  
Attn: Chris Gill and Peter French  
Fax: (214) 828-8902

**City:** **City of Kyle**  
Attn: Director of Public Works  
P.O. Box 40  
Fax: (512) 262-3403

Any party may change the address for notice by giving notice of such change in accordance with the provisions of this section.

**10.4 State and Federal Laws, Rules, Orders and Regulations.** This Agreement is subject to all applicable Federal and State Laws and applicable permits, ordinances, rules, codes and regulations of any local, State or Federal Governmental Authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule or regulation in any forum having jurisdiction.

#### Section 11. ASSIGNMENT

**11.1 General.** Except under the condition stated in Section 11.2, this Agreement shall not be assignable by Purchaser in whole or in part without the written consent of the City except that such consent shall not be unreasonably withheld. The City and Purchaser each shall itself and its successors and assigns to the other party with respect to all covenants of this Agreement.

**11.2 Partial Assignment.** Any assignment by Purchaser of any right or interest in this Agreement, in whole or in part, to Plan Creek or Purchaser's Best Best lender shall not require the City's consent.

**11.3 Transfer.** In the event the City assigns, conveys or otherwise relinquishes its

place of performance of this Agreement, and in the event that any legal proceeding is brought to enforce this Agreement or any provision hereof, the same shall be brought in These Courts, Texas.

**Section 13. SEVERABILITY**

13.1 **General.** The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof in any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other person or circumstances shall not be affected hereby.

**Section 16. TITLES**

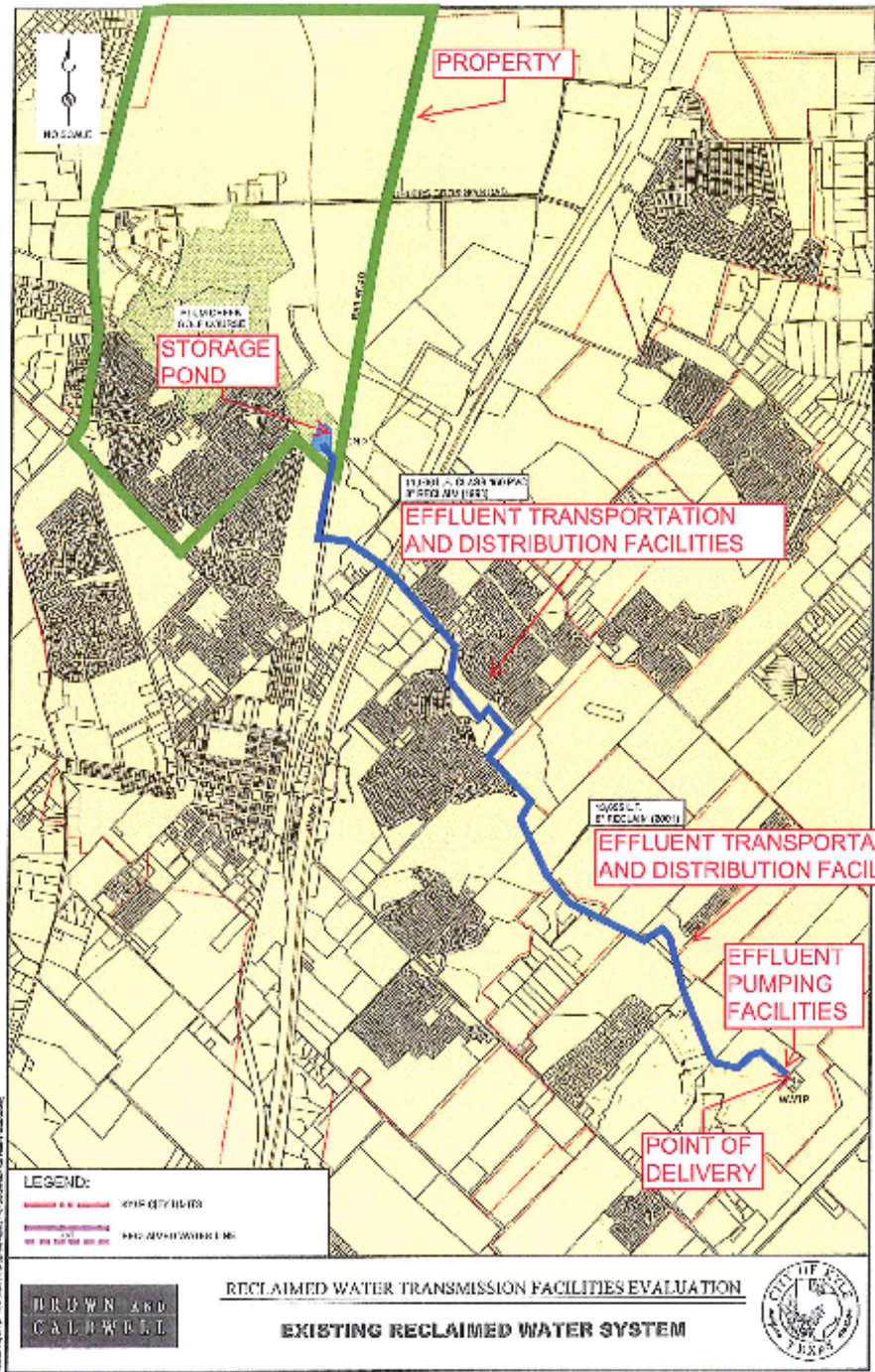
16.1 **General.** Titles and subtitled Articles contained herein are for convenience only and have no legal or other effect on the terms of this Agreement.

**Section 17. PRIOR AGREEMENTS (PERSONS)**

17.1 **General.** This Agreement constitutes the sole and only Agreement of the parties with respect to the delivery of Reclaimed Water to Purchaser and cancels and supersedes any prior understandings or oral or written Agreements between the parties respecting the subject matter.

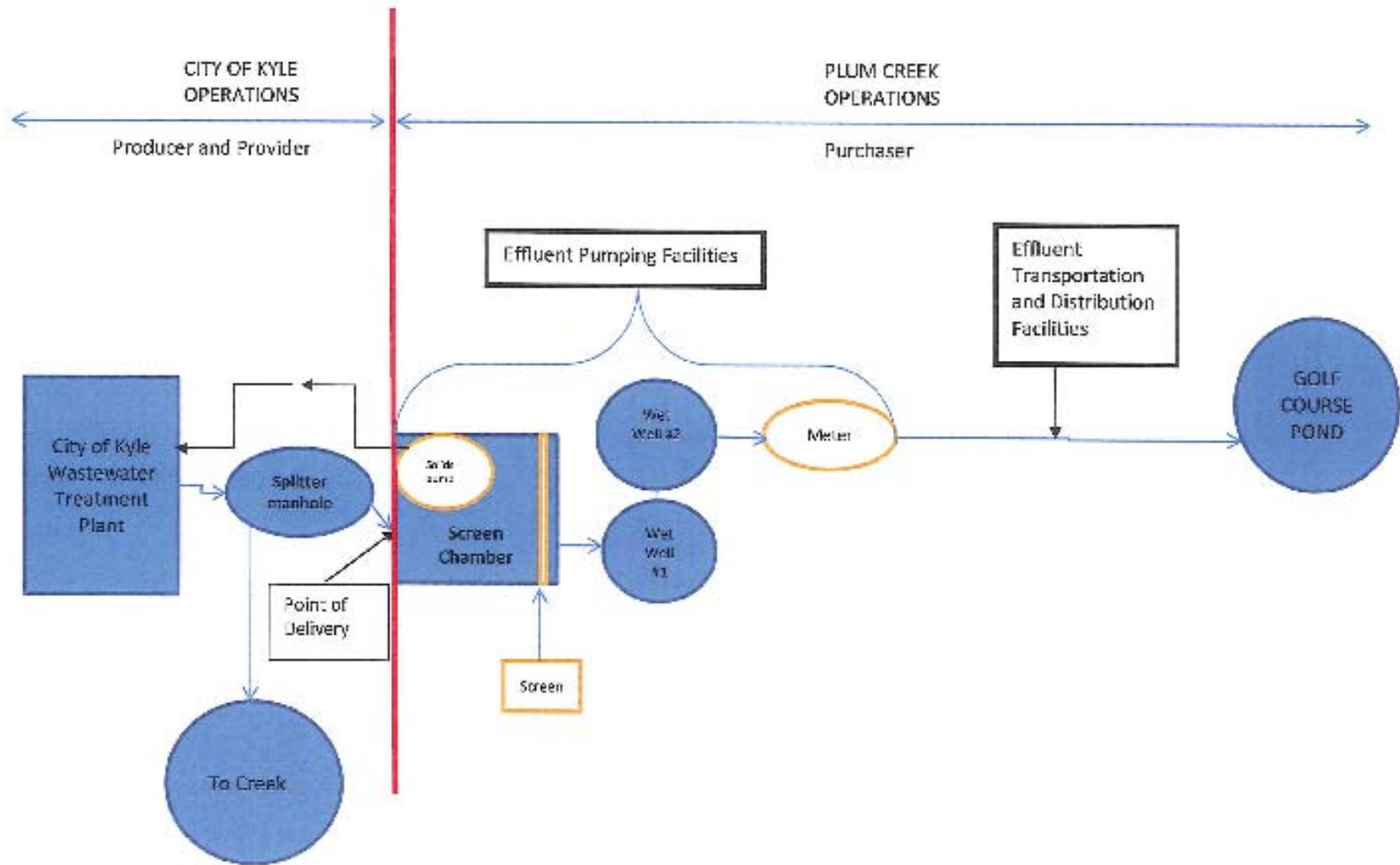
IN WITNESS WHEREOF, the parties hereto acting under the proper authority have caused this Agreement to be duly executed in several counterparts, each of which shall constitute an original, on this \_\_\_\_\_ day of \_\_\_\_\_, 201 . all as of the day and year first written, which is the effective date of this Agreement.

**[SIGNATURE ARE ON THE FOLLOWING PAGE]**



ATTACHMENT

Attachment B  
System Schematic for Operation and Maintenance





# AMENDED MASTER PLAN 2009

ORIGINAL MASTER PLAN DATED JULY 1997  
 AMENDED MASTER PLAN SEPTEMBER 1999  
 AMENDED MASTER PLAN JUNE 17, 2003  
 AMENDED MASTER PLAN JULY 5, 2005  
 AMENDED MASTER PLAN JULY 7, 2009  
 AMENDED MASTER PLAN AUGUST 10, 2009

### OWNERS

**MOUNTAIN PLUM, LTD.**  
 809 NE Loop 480 Suite 200  
 San Antonio, TX 78207  
 Contact: Duely Maxwell - 512/829-7224

**PLUM CREEK DEVELOPMENT PARTNERS, LTD.**  
 8001 W. William Canyon  
 Building 2, Suite 201  
 Austin, TX 78748  
 Contact: David C. Mehn - 512/742-7453

**MIDDLETON PROPERTIES, INC.**  
 F. O. Box 88  
 Arcadia, MO 63821  
 Contact: George C. Middleton - 672/548-2808

**PLUM CREEK HOMEOWNERS ASSOCIATION**  
 188 Kriem Circle Suite B  
 Kyle, TEXAS 78640  
 Contact: Dave Brown - 512/216-1827

### APPLICANT:

**PLUM CREEK DEVELOPMENT PARTNERS, LTD.**  
 8001 W. William Canyon  
 Building 2, Suite 201  
 Austin, TX 78748  
 Contact: David C. Mehn - 512/742-7453

### LAND PLANNER:

**TBG PARTNERS, INC.**  
 801 South MoPac  
 Building 2, Suite 300  
 Austin, TX 78747  
 Contact: Sean Compton - 512/327-0111

### ENGINEER:

**AXIOM ENGINEERS, INC.**  
 13278 Research Blvd. Ste. 208  
 Austin, TX 78750  
 Contact: Alan France - 817-636-9335

PLUM CREEK PHASE I MASTER PLAN 2009	
LAND USE	AREA (ACRES)
OS	296.00
R1	178.40
R2	261.74
MXD	152.15
EMP	96.14
LI	132.09
NEIGHBORHOOD RESIDENTIAL ROW AREA	28.72
<b>TOTAL</b>	<b>1247.24</b>

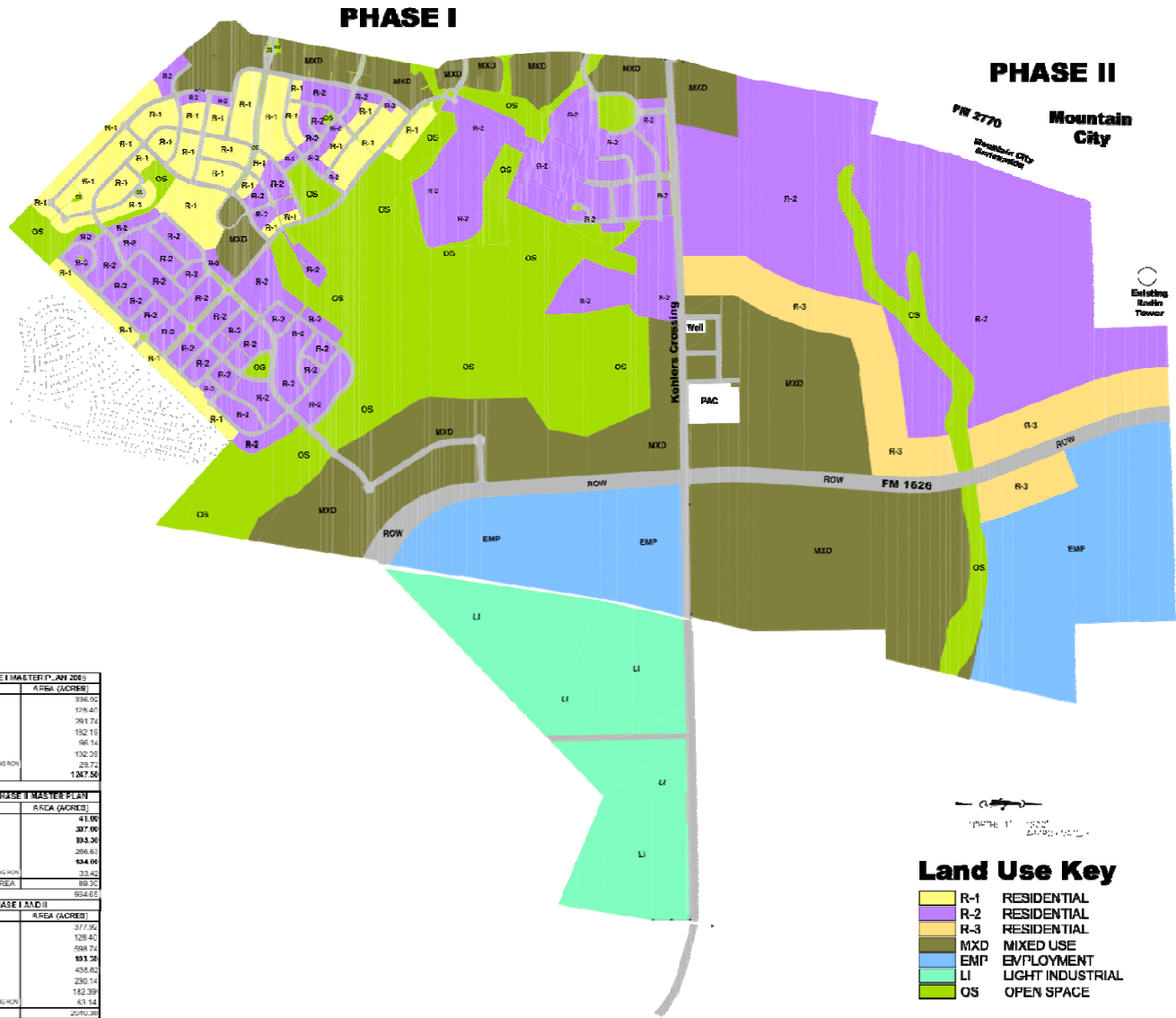
  

PLUM CREEK PHASE I MASTER PLAN	
LAND USE	AREA (ACRES)
OS	41.88
R2	307.00
R3	833.30
MXD	296.65
EMP	434.99
NEIGHBORHOOD RESIDENTIAL ROW AREA	33.42
UNANNEXED AREA	89.50
<b>TOTAL</b>	<b>2036.65</b>

TOTAL PHASE I AND II	
LAND USE	AREA (ACRES)
OS	377.88
R1	128.40
R2	608.74
R3	833.30
MXD	455.82
EMP	230.14
LI	132.09
NEIGHBORHOOD RESIDENTIAL ROW AREA	63.14
<b>TOTAL</b>	<b>2230.39</b>

\*NEIGHBORHOOD RESIDENTIAL ROW AREA IS NOT INCLUDED IN ROW CALCULATIONS.



### Land Use Key

- R-1 RESIDENTIAL
- R-2 RESIDENTIAL
- R-3 RESIDENTIAL
- MXD MIXED USE
- EMP EMPLOYMENT
- LI LIGHT INDUSTRIAL
- OS OPEN SPACE

PLUM CREEK  
 ZONING MAP



13278 Research Blvd.  
 Suite 208  
 Austin, Texas 78750  
 Ph: (817) 636-9335  
 Fax: (817) 636-1277  
 www.axiomeng.com

PLUM CREEK PHASE I ZONING MAP PREPARED BY AXIOM ENGINEERS, INC.

# **KYLE CITY COUNCIL MEETING**

## ***DECEMBER 13, 2011***

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### **V. Executive Session**

12. 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



# **KYLE CITY COUNCIL MEETING**

## ***DECEMBER 13, 2011***

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### **V. Executive Session, cont...**

13. 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

# **KYLE CITY COUNCIL MEETING**

## ***DECEMBER 13, 2011***

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**X. Adjourn**

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