

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012



KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

I. Call Meeting to Order

I. Approval of Minutes

1. City Council Regular Meeting - December 4, 2012
~ Amelia Sanchez, City Secretary

III. Citizen Comment Period With City Council

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

IV. Presentations

2. Presentation of the Ethics Commission Annual Report
~ *Gary Rush, Chairman, Ethics Commission*

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

V. Proclamations

3. Proclamation of the City of Kyle, Texas Proclaiming December 18th, 2012 as "Adell Hurst Day" in the City of Kyle, Texas
~ *David Wilson, Council Member District 4 & Samantha LeMense, Council Member District 5*

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VI. Appointments

4. Consideration of Nomination for Appointment to the City of Kyle's Board of Tax Increment Refinancing Zone No.1.

~ Lucy Johnson, Mayor

- **Greg Blackwell**

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VI. Appointments, cont...

5. Consideration of Nomination(s) for Appointment to the Ethics Commission
~ *Lucy Johnson, Mayor*
 - **District 6, Re-appointment, Gary Rush**
 - **District 3, Re-appointment, Jerry Lopez**
 - **District 2, New Appointment, Marta Ortiz**

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VI. Appointments, cont...

6. Consideration of Nomination(s) for Appointment to the Public Works & Service Committee
~ *Lucy Johnson, Mayor*
 - **Terri Slaughter**

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VII. Consent

7. Authorize award and execution of a 36-month contract with THOMSON REUTERS WEST of New York City, NY in an amount not to exceed \$7,774.20 for an online Law Library subscription for the City Attorney
~ *Mark Shellard, Director of Information Technology*



City of Kyle, Texas
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: December 18, 2012
CONTACT CITY DEPARTMENT: Information Technology
CONTACT CITY STAFF: Mark Shellard, Director

SUBJECT: Authorize award and execution of a 36-month contract with THOMSON REUTERS WEST of New York City, NY in an amount not to exceed \$7,774.20 for an online Law Library subscription for the City Attorney.

CURRENT YEAR FISCAL IMPACT:

A total of \$1,849.50 for nine months at \$205.50 per month of the 36-month subscription will be expended in the current Fiscal Year 2012-13. The remaining subscription for 27 months under this contract will be expended in future fiscal years.

1. City Department:	Office of the City Manager
2. Project Name:	Online Law Library Subscription Service
3. Budget/Accounting Code(s):	110-110-51184
4. Funding Source:	General Fund
5. Current Appropriation:	\$ 3,100.00
6. Unencumbered Balance:	\$ 3,100.00
7. Amount of This Action:	\$ (1,849.50)
8. Remaining Balance:	\$ 1,250.50

9. Funding to be Provided From Future Budgets: \$5,924.70

FUNDING SOURCE OF THIS ACTION:

The funding source for this online law library service in the amount of \$1,849.50 will be provided from the Approved FY 2012-13 Budget of the Office of the City Manager (General Fund). The remaining \$5,924.70 for this 36-month service contract will be provided from future budgets of the City's General Fund.

ADDITIONAL INFORMATION/COUNCIL ACTION:

N/A

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VI. Consent, cont...

8. Authorize award and execution of Purchase Order to WALLTECH of Austin, Texas, in an amount not to exceed \$4,250.00 to purchase seventeen (17) 5-drawer lateral file cabinets for the Police Department
~ *Jeff Barnett, Chief of Police*



Jeff Barnett
 City of Kyle (Police Station Project)
 100 W. Center St.
 Kyle, TX 78640
 ph: (512) 410-9502

Quote #: 10226
 Date: 10/22/12

Price Quotation--Herman Miller Action Office System
Refurbished./As-Is Product

Part No	Description	Qty	Unit Net	Total Net
	HM 5-Drawer 30" Lateral File W/Key and File Bars Sand Finish Herman Miller Lateral File 65" Tall x 30" Wide	17	350.00	5,950.00
	Total Materials			5,950.00
	Project Discount			-1,700.00
	Delivery & Installation (Normal Business Hours)			Included
			Total	4,250.00

Plus applicable sales tax.
 Terms: 65% Deposit with order, Balance net 10 upon installation
 Subject to Credit Approval/Acceptance
 Seller retains a Security Interest in all materials listed in this proposal
 until account is paid in full.
 FOB our dock. Subject to prior sale.
 Accounts over 15 days are subject to a finance charge of 1 1/2% monthly.
 All Pricing based on Total Project purchase

Bobby Sullivan
 WALLTECH
 Account Manager

Accepted by: _____

Date: _____

Jeff Barnett
City of Kyle (Police Station Project)
100 W. Center St.
Kyle, TX 78640
ph: (512) 410-9502

Quote #: 10226
Date: 10/22/12

Price Quotation--Herman Miller Action Office System
Refurbished./As-Is Product

Part No	Description	Qty	Unit Net	Total Net
---------	-------------	-----	----------	-----------



Jeff Barnett
City of Kyle (Police Station Project)
100 W. Center St.
Kyle, TX 78640
ph: (512) 410-9502

Quote #: 10226
Date: 10/22/12

Price Quotation--Herman Miller Action Office System
Refurbished./As-Is Product

Part No	Description	Qty	Unit Net	Total Net
---------	-------------	-----	----------	-----------



City of Kyle, Texas
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: December 18, 2012
CONTACT CITY DEPARTMENT: Police Department
CONTACT CITY STAFF: Jeff Barnett, Chief

SUBJECT: Authorize award and execution of a Purchase Order to WALLTECH of Austin, Texas, in an amount not to exceed \$4,250.00 for the purchase of seventeen (17) 5-drawer lateral file cabinets for the Police Department.

CURRENT YEAR FISCAL IMPACT:

This Purchase Order to WALLTECH will require expenditure of funds from the FY 2012-13 approved budget of the Police Department as follows:

1. City Department:	Police Department
2. Project Name:	Purchase of 17 Lateral File Cabinets
3. Budget/Accounting Code(s):	110-151-52211
4. Funding Source:	FY 2012-13 Approved Budget (General Fund)
5. Current Appropriation:	\$ 4,250.00
6. Unencumbered Balance:	\$ 4,250.00
7. Amount of This Action:	<u>\$(4,250.00)</u>
8. Remaining Balance:	<u>\$ 0.00</u>

FUNDING SOURCE OF THIS ACTION:

The funding source for this Purchase Order for the purchase of file cabinets in an amount not to exceed \$4,250.00 will be provided from the FY 2012-13 approved budget of the Police Department.

ADDITIONAL INFORMATION/COUNCIL ACTION:

N/A.

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

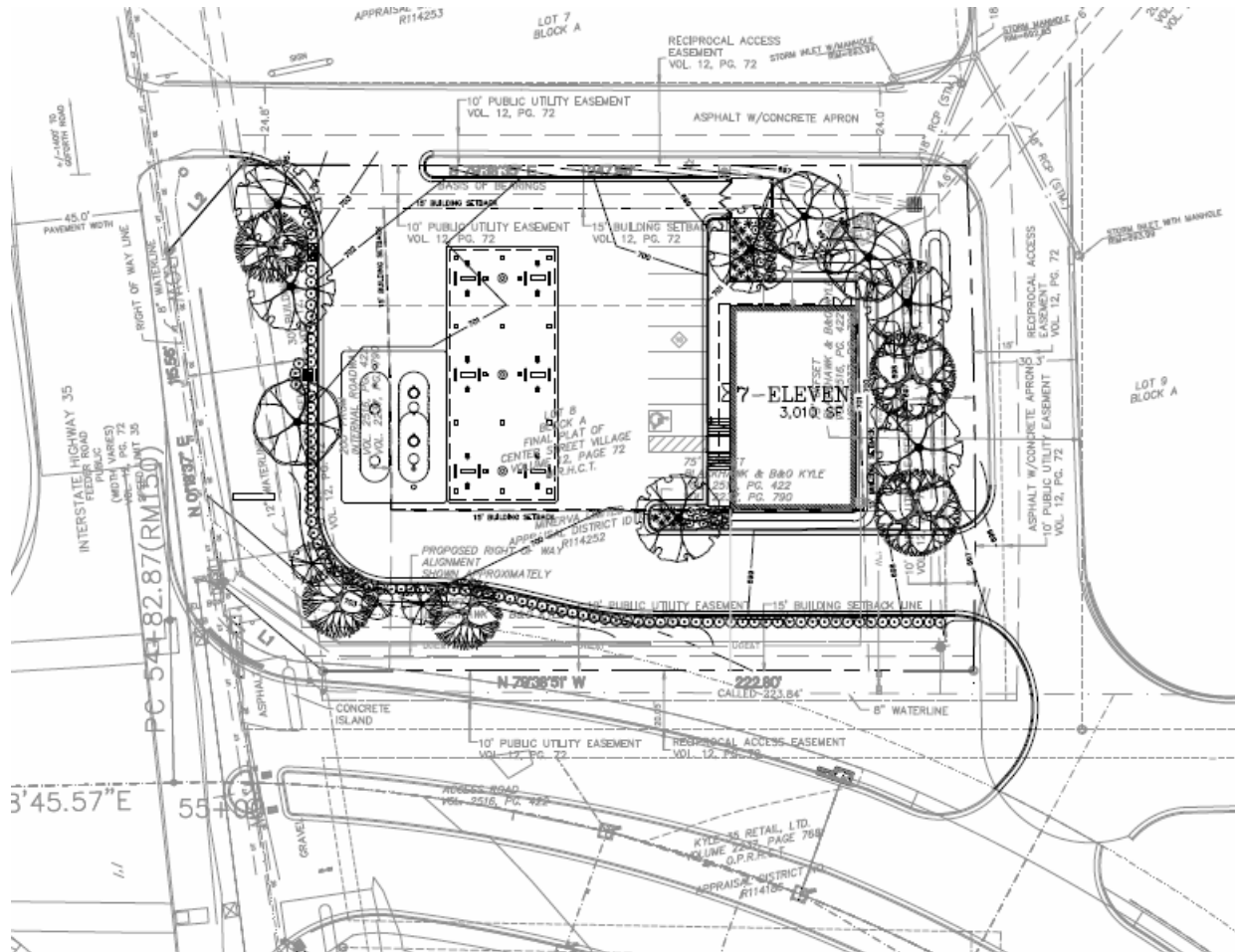
VIII. Consider and Possible Action

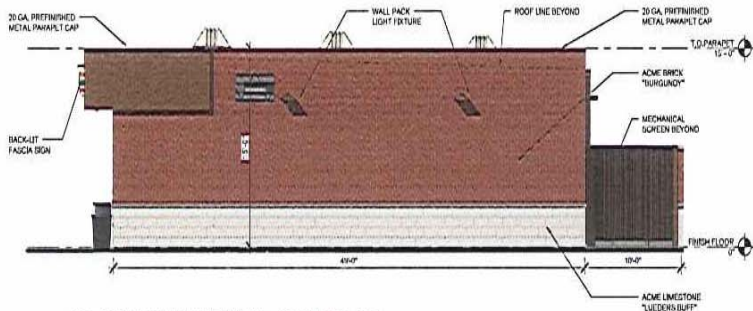
9. Consider a request by Minerva, Ltd. (7 Eleven Store) located at 22553 IH-35 for a Conditional Use Permit to construct a 3,010 square foot building located within the Interstate Highway 35 Corridor District.
~ *Sofia Nelson, Director of Planning*

Planning and Zoning Commission voted 6-1 to approve the Conditional Use Permit with Conditions outlined in Staff Report.

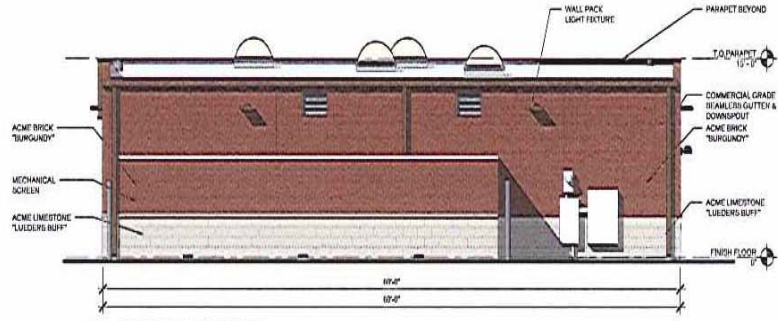
Public Hearing

Conditional Use Permit- 7- Eleven Store

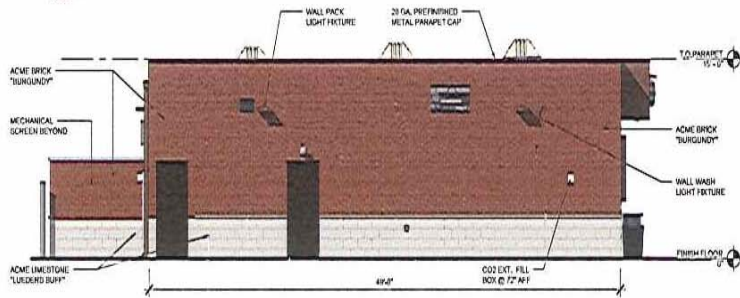




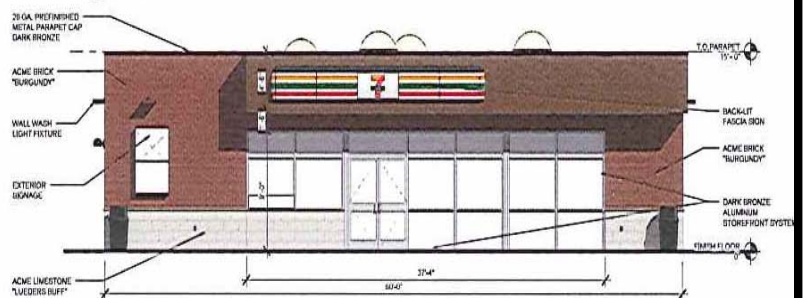
4 SOUTH ELEVATION - CENTER ST
3/16" = 1'-0"



2 EAST ELEVATION
3/16" = 1'-0"



3 NORTH ELEVATION



1 WEST ELEVATION - I 35



KYLE CITY COUNCIL MEETING

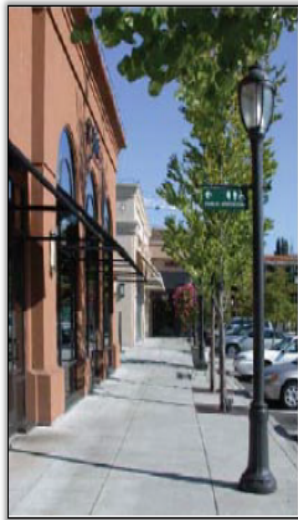
DECEMBER 18TH, 2012

VIII. Consider and Possible Action, cont...

10. *(Second Reading) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS AMENDING CHAPTER 53, ZONING ARTICLE III-OVERLAY DISTRICTS, DIVISION 4 - CONDITIONAL USE OVERLAY DISTRICTS OF THE CITY OF KYLE CITY CODE TO AMEND AND ESTABLISH SPECIFIC DEVELOPMENT REQUIREMENTS FOR PROPERTY WITHIN THE IH-35 OVERLAY DISTRICT; PROVIDING FOR THE AMENDMENT OF THE ZONING ORDINANCE; PROVIDING FOR RELATED MATTERS.*
~ Sofia Nelson, Director of Planning

Planning and Zoning Commission voted 6-1 to Recommend Approval.

Public Hearing



**I-35 Overlay
District
Development
Standards
Section 53-899**



Table of Contents

Purpose

Background

Applicability

Site Design Standards

Building Design Standards

Open Space

(a) Purpose

The I-35 Overlay Development Standards are intended to be concise and user-friendly. The development review process is intended to be predictable and flexible, and to facilitate the timely approval of projects that conform to the general development principles outlined in the comprehensive master plan for I-35.

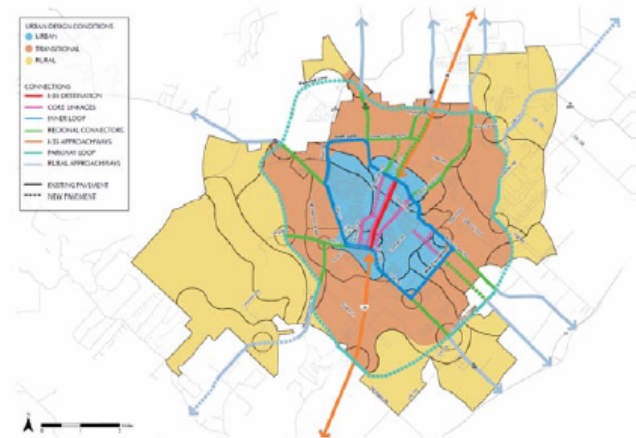
The requirements outlined in this document are intended to implement the vision, goals, policies and objectives outlined in the Comprehensive Master Plan and to ensure new development incorporates the following:

- Development that does not turn its back to I-35 and other major arterials and in cases when it has to that the back it presents is as attractive as possible.
- Streets and sidewalks that form a connected network, providing a variety of pedestrian and vehicular routes to any single destination in and out of the development.
- Building facades that create visual interest through horizontal and vertical articulation with windows, multiple entrances facing streets and sidewalks, and minimizing blank walls.

(b) Background

In 2010 the City of Kyle adopted a Comprehensive Master Plan that contains a variety of elements which shape the requirements outlined in this document. The Urban Design Plan (UDP) is a component of the Comprehensive Master Plan, which provides direct guidance regarding development within the public and private realm.

The UDP complements land use and zoning regulations by providing a more specific depiction of community, project and building attributes by establishing three different design conditions (urban, transitional, and rural). It is strongly recommended that property owners and developers review the urban design plan in conjunction with this document.



(c) Applicability

(1) Location: These standards apply to all new non-residential development within the I-35 Overlay District.

(2) Exemptions: These standards do not apply to the following:

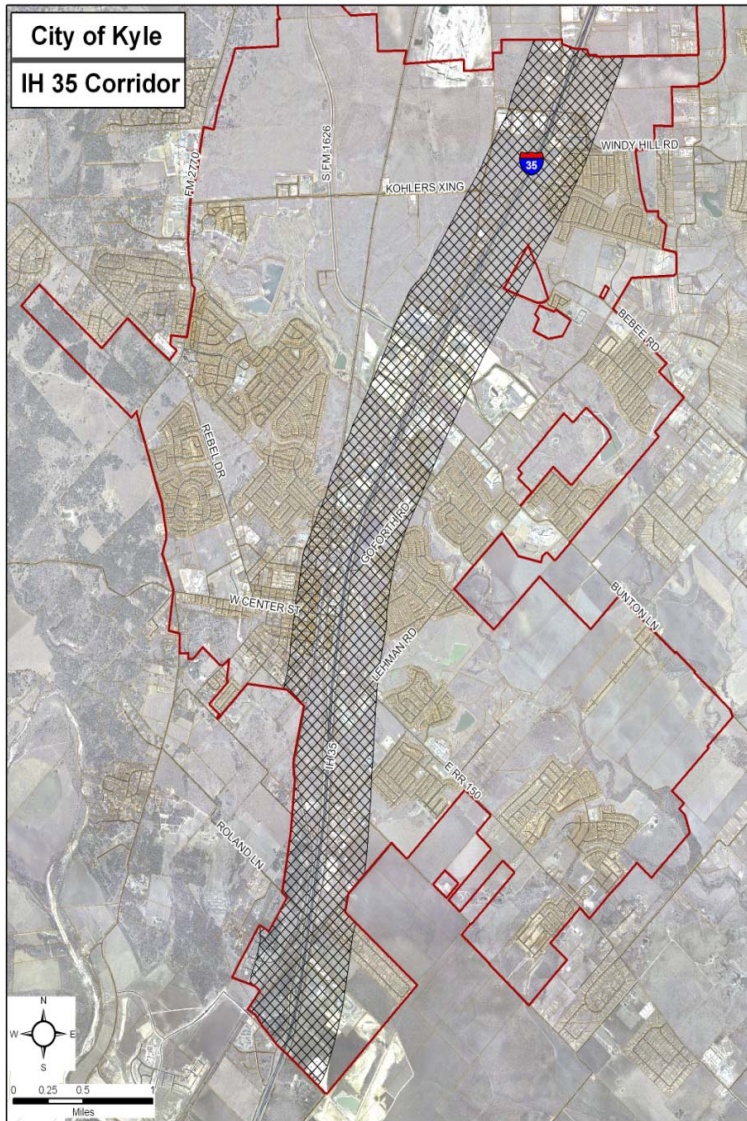
- Change in use of an existing structure or expansion of an existing use that is lawfully permitted by the underlying zoning district.
- Use or development for which only a single-family residential building permit or certificate of occupancy is required.
- Rehabilitation of an existing building or structure that does not change the use or enlarge the building or structure.

(3) Relationship to Other Regulatory Documents:

The I-35 Overlay District standards supplement the base zoning district classification. Whenever there is a conflict between the I-35 Overlay District requirements and other sections of the City of Kyle Zoning Ordinance or other applicable regulations, the more restrictive requirement shall prevail.

(4) Variances: Any variances to the standards within this document shall be approved by the Planning and Zoning Commission and appeals of the Commission's decision shall be reviewed by the City Council.

(5) Review and Approval: The review of the following standards shall take place at the time of site development and building permit review.



(d) Uses

The permitted uses of the property shall be determined by the use regulations set forth in the base zoning district for the property except as follows:

All outdoor sales of vehicle sales (new or used) within the I-35 overlay district shall require a conditional use permit.

(e) Site Standards

Intent: The purpose of the site standards outlined within this document are to create development patterns that welcome motorists, pedestrians, and cyclists while establishing development standards that visually and cognitively establish a separation from the ordinary Interstate landscape.

Development within the I-35 overlay district should have a “front door” feel in the way they address or face the roadway. The layout of parking areas and buildings should promote safe and efficient pedestrian travel.

The following standards are intended to:

- Enhance and protect Kyle’s character through clear development design goals and policies and minimum design standards.
- Protect and promote Kyle’s long-term vitality through design standards that encourage high quality development, Are there any other uses we would like to add to the list of not permitted

while discouraging less attractive and less enduring alternatives.

(1) Sidewalks

A minimum of a 5 foot sidewalk is required along all public streets. Street trees on an average of every 40 feet shall be planted between the street and the sidewalk within a tree planting zone of no-less than 7 feet wide (trees may be clustered without a reduction in the overall number of trees). Sidewalks and trees are to be installed within the public right-of-way. Sidewalks and street trees may be installed within private property if not feasible to construct within the right-of-way due to limited width, location of utilities, or other public agencies.

(2) Screening

Loading areas must be fully screened from view of public ROWs and residential districts (a minimum of a 14' screening wall must be provided for all loading areas). Wing walls, landscape screens, changes in building orientation, and/or other architectural elements must be used to buffer loading docks and mechanical equipment. Waste and recycling disposal areas must be screened from public streets, pedestrian gathering areas, and primary entrances with walls and/or landscaping.



Wing wall used to screen loading dock

Do this



Example of unscreened utility and waste disposal areas

Not this

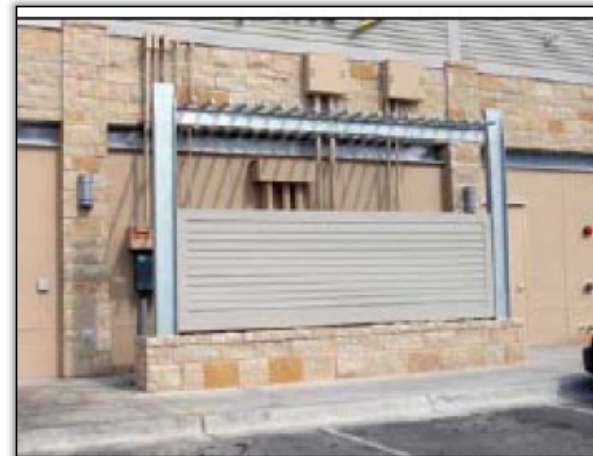
(3) Utilities

Utility boxes greater than 2 ft. tall cannot be placed in the clear vision area, or interfere with use of streets, alleys, sidewalks, and bicycle paths. When utility equipment is required by the electric company to be placed in clear vision of streets, alleys, or sidewalks written notice of the requirement from the electric company must be submitted with the site plan along with a landscaping plan for the screening of the utility equipment. Utility boxes must be a uniform earth tone color or if mounted to a building shall match the wall color upon which the box is located.



(4) Utility equipment screening

Utility equipment located adjacent to a public street, viewable from a public street or circulation path or in an area frequently seen by the general public must be screened with a wing wall architecturally integrated into the host structure or evergreen landscaping.

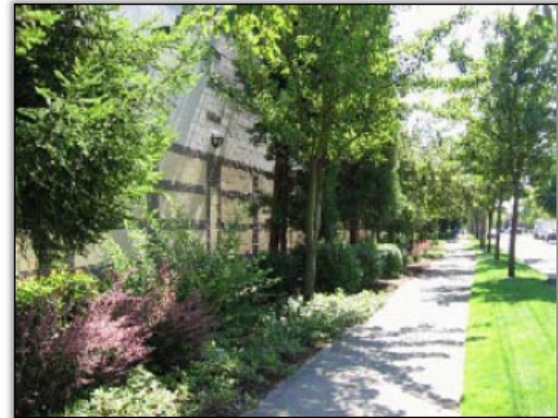


(f) Siting and Orientation

(1) Blank Walls

Blank walls adjacent to a public street, sidewalks, trails, or interior pathways are prohibited. Design methods to eliminate blank walls can include:

- Transparent windows or doors.
- Display windows.
- Decorative accent lighting
- Landscape planting bed at least 5 feet wide or a raised planter bed at least 2 feet high and 3 feet wide in front of the wall. Such planting areas shall include planting materials that are sufficient to obscure or screen at least 60 percent of the wall's surface within 3 years.
- Installing a vertical trellis in front of the wall with climbing vines or plant materials sufficient to obscure or screen at least 60 percent of the wall's surface within 3 years. For large areas, trellises should be used in conjunction with other blank wall treatments.
- Other methods such as murals or special building material treatments may also be approved.



This single-story commercial building has similar detailing on all visible walls.



This commercial building on a street corner has a similar level of detail on each facade.

(2) Orientation to streets

The primary façade and pedestrian entrance of a building must be oriented towards the public right-of-way or courtyard. If a building cannot have its primary entrance facing a public right-of-way, then the requirements for the façade facing the public right-of-way shall include the following:

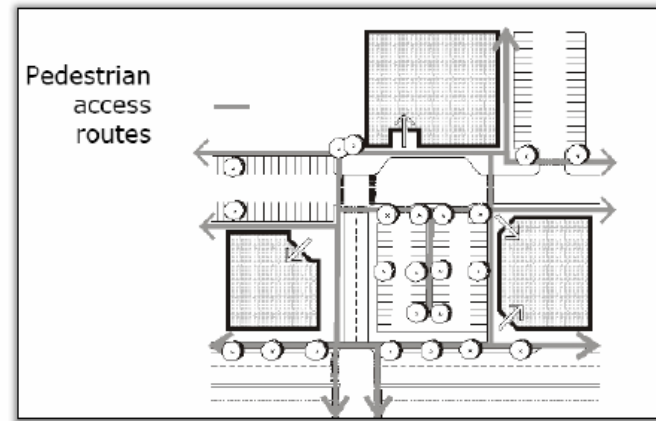
- Excluding window glazing, employ the same materials and colors as the building façade with the primary entrance.
- Utilize architectural treatments, detail and scale elements such as canopies, that are consistent with the primary building façade.
- Enclose dumpsters, recycle bins and compactors with screening walls that match materials, style and colors of the adjacent building.
- Locate dumpsters and service areas on the side of the buildings.
- Screen service areas, including storage, meter banks, HVAC equipment, generators and similar equipment with screening walls and landscaping.

(3) Orientation to walkways

One main building entrance must open directly onto a connecting walkway with pedestrian frontage.

(4) Circulation

Circulation patterns must be as simple as possible. All likely pedestrian routes must be considered in the design phase of a development to prevent shortcuts through parking and landscape areas. An internal pedestrian walkway, ADA accessible, at least 6 ft. wide must be provided from the perimeter public sidewalk to the primary public entrance.



Example of an integrated pedestrian circulation system. Note the connection from the street, between buildings through parking lots and adjacent sites.

(5) Conflict points

Internal pedestrian walkways must be distinguished from driving surfaces by textured pavement or painted pavement and lighting.



An example of a walkway with bollards that include light fixtures to clearly identify the pedestrian access.

(g) Water bodies and detention/ retention areas

Shape

Detention and water quality ponds shall utilize earthen berms and be designed with a curvilinear contoured shape. Any structural stabilization shall be limited to the use of native stone (except for outlet structure) and shall be limited to not more than 30% of the perimeter of the pond and shall be seamlessly integrated with landscape.

Natural and manmade water bodies at least 20,000 sq. ft. in size placed next to a public right-of-way must be integrated into the overall design of a project in one of the following ways:

- Provide a walkway, with native trees on average 25 ft. centers
- Provide a public access area with covered structure and seating and appropriate pedestrian access.
- Provide a plaza or courtyard with shaded benches and/or picnic tables next to the water body.

If a detention pond or water quality pond is not visible from or adjacent to a public or private street, sidewalk/ trail, commercial or residential used or zoned property, circulation path, parking lot, or courtyard than shape and stabilization requirements shall not apply.



Do this



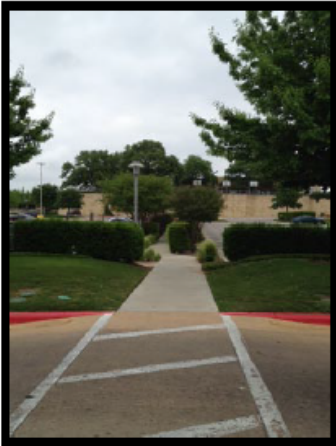
Not this

(h) Parking lots

(1) Large parking lots must be visually and functionally segmented into smaller lots with no more than 250 parking spaces per parking area. For every parking area a minimum of a 15 foot landscape median/divider shall be installed to help break up “rooms” of large parking fields. These medians shall contain pedestrian walkways to offer safe, marked routes between parking spaces and building entries.



Not this



Do this

(i) Outdoor Display/ Storage

(1) Outdoor display of merchandise is permitted when such display is of merchandise from a permanent business located in a permanent legal structure on site and such display is limited to not more than thirty percent (30%) of the gross floor area of the building which houses the business displaying such merchandise.

(2) Display is not permitted within required setbacks. Except for items that would normally be utilized and stored outside, outdoor display shall occur only during the business hours of the applicable business establishment.

(3) Outdoor storage and container storage are permitted as an accessory use as follows:

- a. Such storage does not exceed twenty percent (20%) of the gross floor area of the primary building that houses the business storing such materials,
- b. Such storage or container is located no closer to a street frontage than the primary building that houses the business storing such materials,
- c. Such storage or container is screened from view from adjacent properties
- d. Such storage or container is not permitted within required setbacks.

(j) Building Requirements



(1) Materials

Buildings constructed shall have a minimum of 90% masonry walls as defined below. The City of Kyle would like to encourage and support the use of red brick and white limestone, as used on Kyle City Hall. Retail buildings utilizing red brick and white limestone on 90% or more of new buildings shall be allowed a 10% reduction in glazing requirements and shall be allowed an uninterrupted length of up to 40 feet rather than 30 feet. Non-retail buildings utilizing red brick and white limestone on 90% or more of new buildings shall be allowed a reduction of 50% of the required number of building front design features.

Masonry shall be defined to include the following:

- Brick
- Natural Stone
- Concrete Masonry Units (Decorative)*

- Stucco/Plaster/Synthetic Stucco to be used in detail applications only
- Concrete sandblasted, textured and painted

The 10% of the exterior walls not included in masonry requirements may be covered with a variety of materials that could include but not limited to non-reflective corrugated steel panels, wood, prefinished metal panels, glass block, or other materials that are compatible with the overall design and use for the specific areas in which they are placed.

*Includes highly textured finish, such as split faced, intended, hammered, fluted, ribbed or similar architectural finish;

(2) Four-sided design

All walls must include materials and design characteristics consistent with those on the front of the building.

Exterior walls facing a driveway, public ROW, courtyard, sidewalk or circulation path or residential district or residential use cannot have a blank, uninterrupted length greater than 30 ft. without including two or more of the below features. Buildings over 50,000 sf. shall not be allowed an uninterrupted length greater than 50' without including two or more of the below features.

- change in plane
- change in texture
- masonry pattern

- windows, or
- other equivalent element(s) that subdivide the wall into human scale proportions.

Side or rear walls which do not face a driveway, public ROW, sidewalk, circulation path, courtyard, residential district or residential use shall maintain the same materials with those on the front of the building but are not required to adhere to the uninterrupted length requirement outlined above.

(2) Roof

The continuous plane of a roof line cannot be more than 100 feet. All roof mounted mechanicals must be screened from public view.

(3) Building Massing and Form

a. Retail

A single large dominant building mass must be avoided in new buildings. Buildings shall be constructed to one of the following two standards:

Option1-

30% of the wall area below ten (10) feet as measured from the finish floor level of the façade's entry shall consist of glazing (windows / doors).

Windows shall have a maximum exterior reflectivity of twenty percent (20%)

Option 2-

A minimum of twenty five percent (25%) of the front primary building façade shall consist of window or door openings. Window and door areas of the front façade may be reduced to 15% of area of façade if one additional architectural feature is added beyond the requirement

All building fronts shall have at least five different design features to break the wall plane, buildings under 100,000 square feet in size shall have at least five different design features, and buildings over 100,000 square feet shall have at least six different design features.

The following are examples of the types of design features that shall be utilized: horizontal off-sets, recesses or projections, porches, breezeways, porte-cocheres, courtyards, awnings, canopies, alcoves, recessed entries, ornamental cornices, display or other ornamental windows, vertical “elevation” off-sets, decorative accent lighting, peaked roof forms, arches, outdoor patios, architectural details such as tile work or moldings integrated into the façade, a clustered landscape zoned with integrated planters or wing walls, accent materials, varied roof heights, premium roofing materials such as tile or standing seam metal

All Retail anchor stores, at least 25% of the stores in a shopping center, and freestanding, single-use buildings, must have a clearly defined, highly visible customer entrance with four or more of the following elements:

- o Arcades

- o Arches

- o Canopies or porticos

- o Details such as tile work and moldings integrated into the building structure and design

- o Display windows

- o Integral planters or wing walls that include landscaped areas and/or places for sitting

- o Outdoor patios

- o Overhangs

- o Peaked roof forms

- o Raised corniced parapets over the door

- o Recesses and/or projections

b. Non-retail/ Office Buildings

All building fronts shall have at least five different design features to break the wall plane, buildings under 100,000 square feet in size shall have at least five different design features, and buildings over 100,000 square feet shall have at least six different design features. The following are examples of the types of design features that shall be utilized:

Horizontal off-sets, recesses or projections, porches, breezeways, porte-cocheres, decorative accent lighting, courtyards, awnings, canopies, alcoves, recessed entries, ornamental cornices, display or other ornamental windows, vertical "elevation" off-sets, peaked roof forms, arches, outdoor patios, architectural details such as tile work or moldings integrated into the façade, integrated planters or wing walls, accent materials, varied roof heights, premium roofing materials such as tile or standing seam metal, or similar design features approved by the Director of Planning and appealable to the Planning and Zoning Commission.

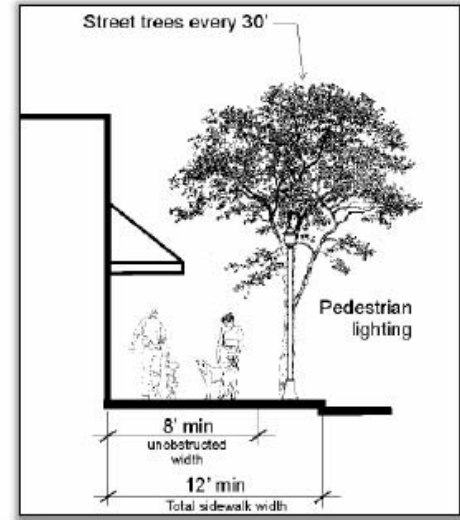
Warehouse, mini-warehouse and overhead (commercial service) doors shall not be oriented so as to face a street(s) or residential property or shall be screened from view from the street(s) or residential property unless approved by the Director of Planning, appealable to the Planning and Zoning Commission, determines that there is no other feasible.

(k) Walkway Width and Design

Sidewalks and walkways along the facades of mixed-use and retail buildings 100 feet or more in length (measured along the facades) that are not located adjacent to a street must be at least 12 feet wide (8' of the sidewalk shall remain unobstructed) and include the following:

- Trees shall be placed at an average of 30 feet on-center and placed in grates (except where trees are placed in planting strips). Breaks in the tree coverage will be allowed near major building entries to enhance visibility. However, no less than one tree

per 60 lineal feet of building facades must be provided.



Do this



Not this

(l) Garage doors

o Garage bay doors must be segmented, with windows covering at least 50% of the garage surface. Garage doors must be recessed at least 2 ft. behind the building façade.

o Vehicle service areas and bays must be screened or sited so visibility from the public right-of-way is as low as possible. Bay doors cannot face a public street.

o Garage bay doors must be integrated into the overall design of the site with color, texture, and windows.

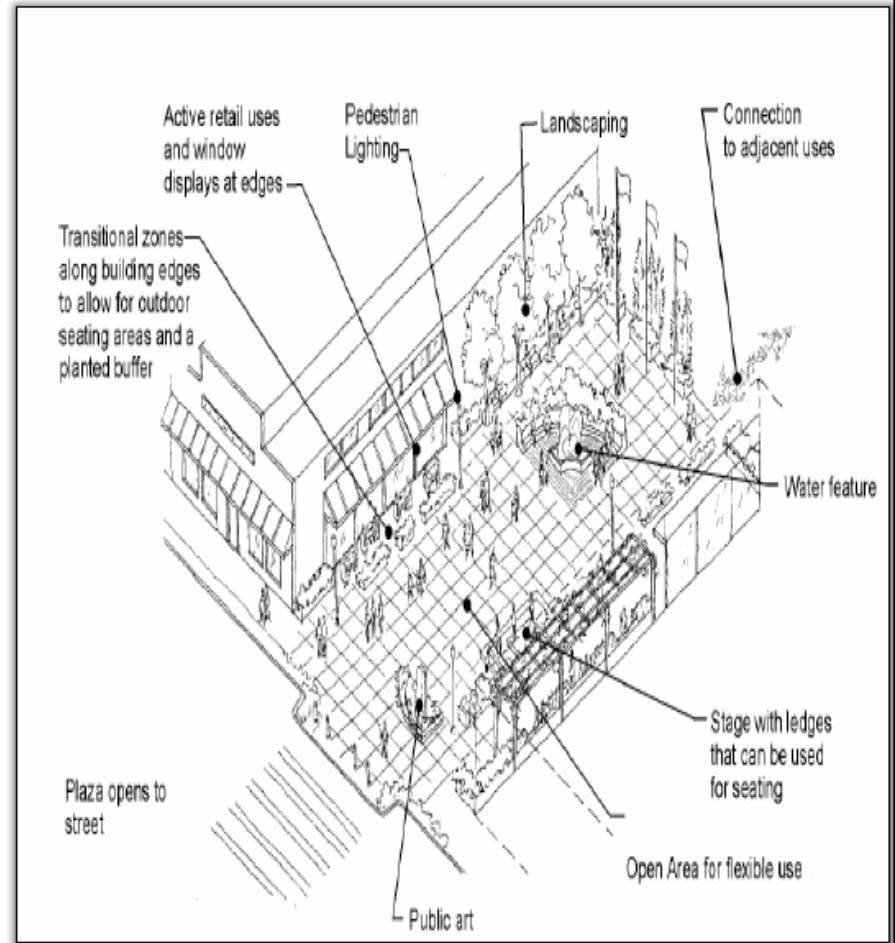
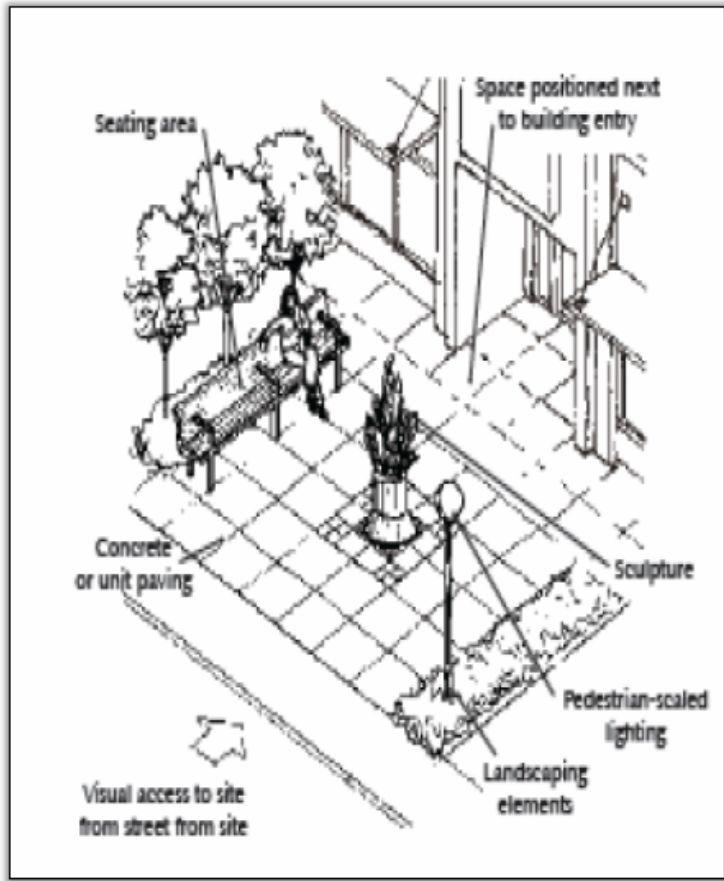
(m) Open Space

Intent: To provide a variety of accessible and inviting areas for outdoor dining, socializing and relaxing in commercial areas and to enhance the pedestrian environment.

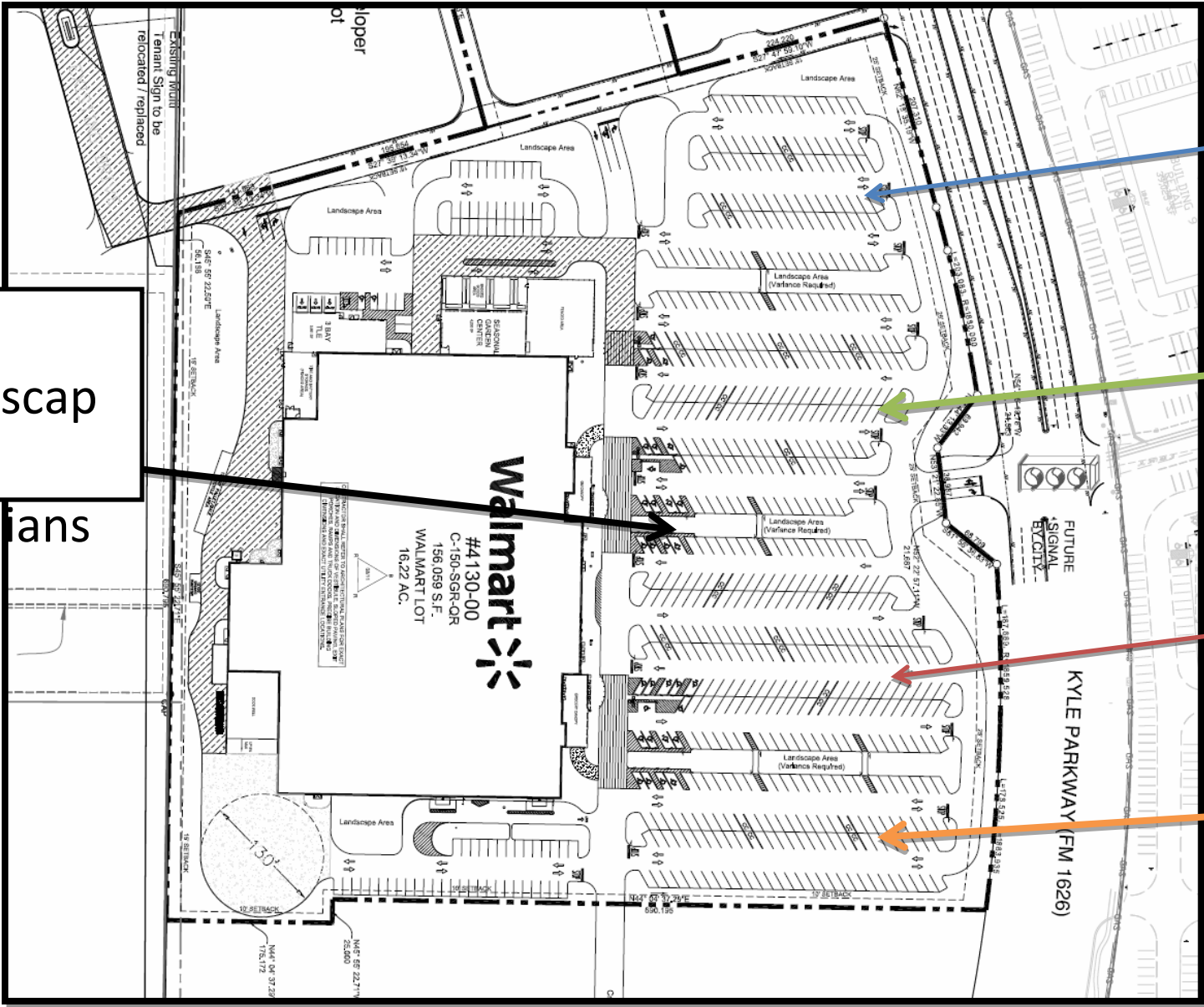
All commercial developments, 3 acres or more in size, shall incorporate open space on-site. This could include a single public open space for larger developments or a variety of pedestrian-oriented spaces.

These are predominately hard-surfaced, plaza or courtyard type spaces. Pedestrian-oriented space shall have the following:

- Pedestrian-scaled lighting (no more than 15 feet in height) may be on-site or building-mounted lighting.
- Be sited in areas with significant pedestrian traffic to provide interest and security, such as adjacent to a building entry.
- Integrate landscaping features that add interest to the space.
- Pedestrian amenities, such as a water feature, drinking fountain, tables, and/or distinctive paving or artwork.
- Pedestrian-oriented building facades on some or all buildings facing the space.



28'
landscap
e
medians



100

177

200

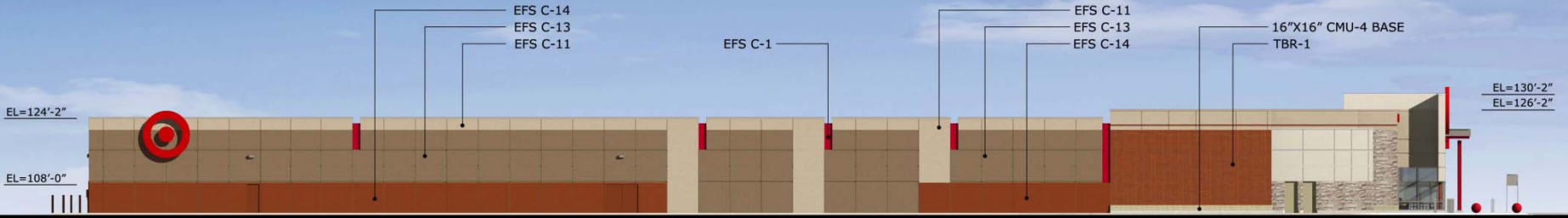
110

KYLE PARKWAY (FM 1626)

Target- Example

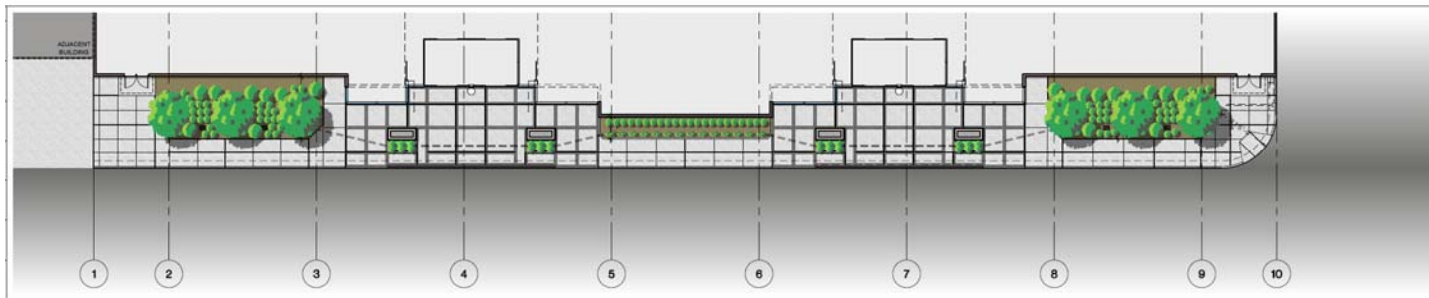


- 23% Glazing
- Sidewalks ranging from 25' to 30'
- 6 of the 7 required design features

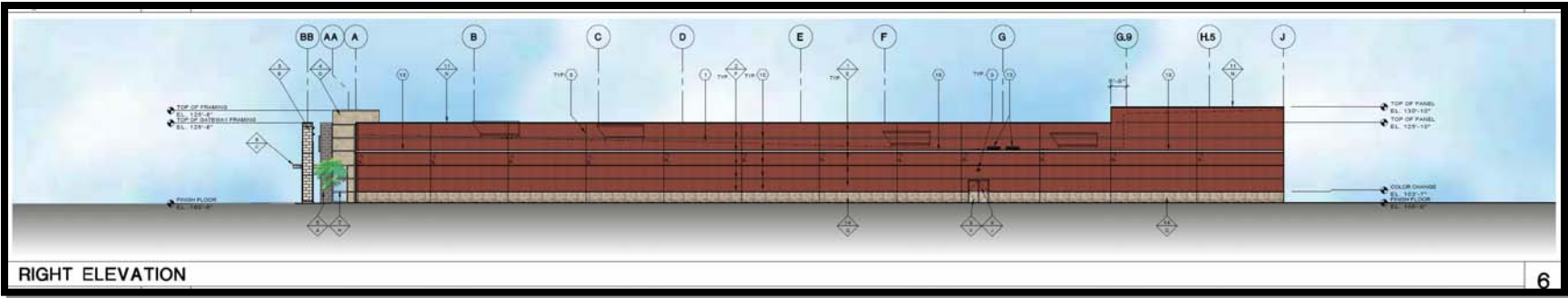




Kohls- Example



- Glazing- 31%
- Sidewalks- 14' to 20'



KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VIII. Consider and Possible Action, cont...

11. A RESOLUTION TO AUTHORIZE LOCAL FUNDING AND SUPPORT OF THE TRAIN DEPOT REHABILITATION PROJECT TO THE STATEWIDE TRANSPORTATION ENHANCEMENT PROGRAM FOR FUNDING COMPETITION IN THE TEXAS DEPARTMENT OF TRANSPORTATION 2012 PROGRAM CALL FOR PROJECTS

~ Joshua Moreno, Grants Administrator

Resolution No. _____

A RESOLUTION TO AUTHORIZE LOCAL FUNDING AND SUPPORT OF THE TRAIN DEPOT REHABILITATION PROJECT TO THE STATEWIDE TRANSPORTATION ENHANCEMENT PROGRAM FOR FUNDING COMPETITION IN THE TEXAS DEPARTMENT OF TRANSPORTATION 2012 PROGRAM CALL FOR PROJECTS

Whereas, the Texas Department of Transportation issued a call for nominations in September 2012 for communities to apply for federal highway funding assistance made available through the Transportation Enhancement Program; and

Whereas, the fully restored Depot will provide a two fold purpose, each critical to the City of Kyle. First, the Train Depot will serve as a visitor's center and museum to the public, and the northern end of the Depot to serve as the Kyle Chamber of Commerce's offices; and

Whereas, the program requires a minimum 20% local funding match and the City has allocated and will provide the minimum match requirement in the amount of \$77,963; thereby pledging 20% local matching funds, plus 100% of any overruns above the total project estimate of \$389,814:

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

- Sec. 1. The City of Kyle supports funding this project as shown in the nomination budget and commits to the project's development, implementation, construction, maintenance, management, and financing. The City is willing and able to enter into an agreement with TxDOT by resolution or ordinance.
- Sec. 2. That the City adopts a resolution approving the submission of the project nomination; and the support and funding of the project should it receive federal funds.
- Sec. 3. That the City Manager is hereby authorized to act on behalf of the City in all matters relating to this funding nomination and to execute all necessary applications, assurances, certifications, and other documents, relative to the submission, later acceptance, and administration of such funds.
- Sec. 4. That it is hereby officially found and determined that this meeting at which this resolution is passed is open to the public as required by law, and that the public notice of the time, place and purpose of said meeting was given as required. The regular meeting of the Kyle City Council was called to order at 7:00PM on December 18, 2012 in Kyle, Texas by Mayor Lucy Johnson.

Resolution _____ was presented and passed on this _____ day of December 2012, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Kyle, Texas.;

ATTEST:

City Secretary, Amelia Sanchez

Mayor, Lucy Johnson

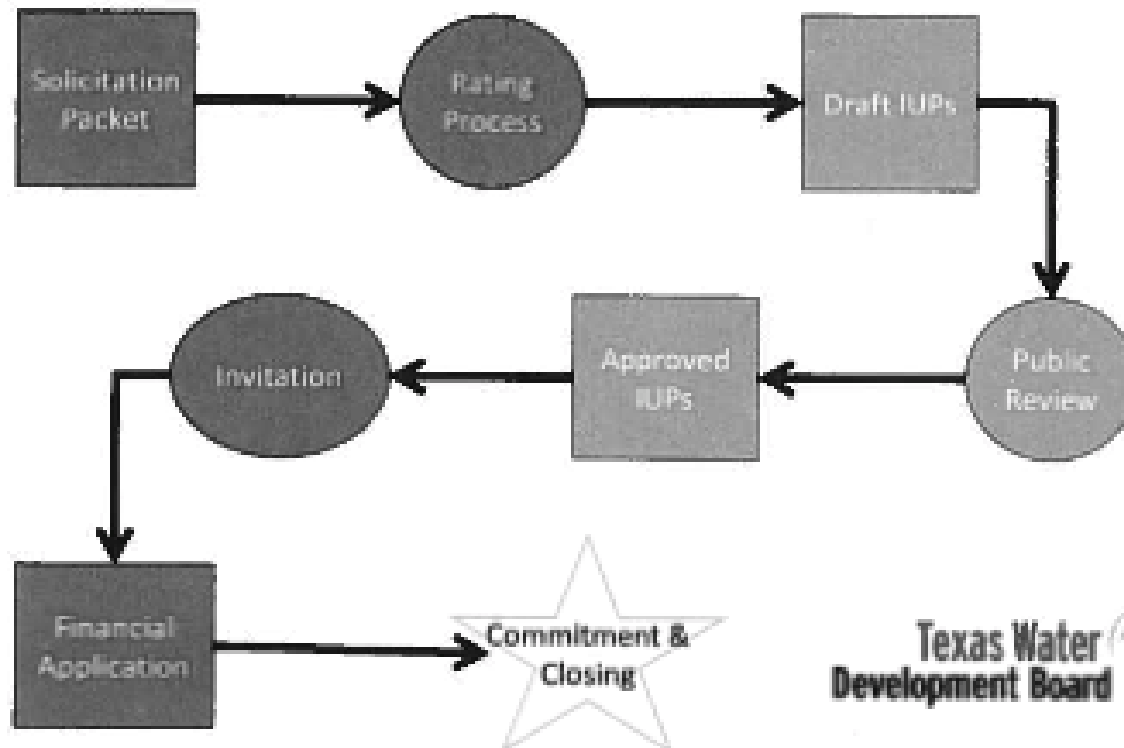
KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VIII. Consider and Possible Action, cont...

12. Approve a Resolution authorizing the City Manager to submit a loan funding invitation request to the Texas Water Development Board under the Clean Water State Revolving Fund in an amount totaling \$4,300,000.00 for the expansion of the City's wastewater treatment plant from 3.0 MGD to 4.5 MGD
~ *Joshua Moreno, Grants Administrator*

Overview of Funding Process



Here is an overview of the process involved with receiving funding from the TWDB's SRF programs.

Resolution No. _____

**A RESOLUTION TO AUTHORIZE LOCAL FUNDING AND SUPPORT OF A
WASTEWATER TREATMENT PLANT (WWTP) EXPANSION TO THE TEXAS WATER
DEVELOPMENT BOARD FOR FUNDS IN THE CLEAN WATER STATE REVOLVING
FUND 2013 SOLICITATION FOR PROJECT INFORMATION FORMS**

Whereas, the Texas Water Development Board opened a solicitation for Project Information Forms in December 2012 to eligible applicants to provide fixed and variable rate loans at subsidized interest rates made available through the Clean Water State Revolving Fund; and

Whereas, the WWTP Expansion will increase the capacity of daily average flow from 3.0 million gallons per day to 4.5 million gallons per day; and the City intends to submit a Project Information Form to be rated and placed on the state's annual invited projects list; and

Whereas, the loans can be used for planning, design, and construction of wastewater treatment facilities; and the need for the City of Kyle to expand its wastewater treatment capabilities; thereby pledging local funds to meet the total project estimate of \$4.3 million:

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

- Sec. 1. The City of Kyle supports funding this project as shown in the Project Information Form and commits to the project's development, implementation, construction, maintenance, management, and financing. The City is willing and able to enter into an agreement with TWDB by resolution or ordinance.
- Sec. 2. That the City adopts a resolution approving the submission of the Project Information Form; and the support and funding of the project should it receive loan funds.
- Sec. 3. That the City Manager is hereby authorized to act on behalf of the City in all matters relating to this funding Information Form and to execute all necessary applications, assurances, certifications, and other documents, relative to the submission, later acceptance, and administration of such funds.
- Sec. 4. That it is hereby officially found and determined that his meeting at which this resolution is passed is open to the public as required by law, and that the public notice of the time, place and purpose of said meeting was given as required. The regular meeting of the Kyle City Council was called to order at 7:00PM on December 18, 2012 in Kyle, Texas by Mayor, Lucy Johnson.

Resolution _____ was presented and passed on this _____ day of December 2012, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Kyle, Texas.;

ATTEST:

City Secretary, Amelia Sanchez

MAYOR, Lucy Johnson

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VIII. Consider and Possible Action, cont...

13. A RESOLUTION OF THE CITY OF KYLE, TEXAS, ACKNOWLEDGING THE CONTRIBUTIONS OF KYLE RESIDENT ADELL HURST, PARTICULARLY HER CONTRIBUTIONS FOR THE SENIOR CITIZENS OF KYLE AND THE PRESERVATION OF THE CITY'S HISTORY AND HERITAGE, AND TO MEMORIALIZE THOSE CONTRIBUTIONS BY RENAMING THE KYLE HISTORIC CITY HALL TO THE ADELL HURST SENIOR CITIZENS CENTER AND THEREBY HONORING HER FOR HER OUTSTANDING CIVIC INVOLVEMENT ON BEHALF OF THE CITY OF KYLE

~ David Wilson, Council Member District 4

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF KYLE, TEXAS, ACKNOWLEDGING THE CONTRIBUTIONS OF KYLE RESIDENT ADELL HURST, PARTICULARLY HER CONTRIBUTIONS FOR THE SENIOR CITIZENS OF KYLE AND THE PRESERVATION OF THE CITY'S HISTORY AND HERITAGE, AND TO MEMORIALIZE THOSE CONTRIBUTIONS BY RENAMING THE KYLE HISTORIC CITY HALL TO THE ADELL HURST SENIOR CITIZENS CENTER AND THEREBY HONORING HER FOR HER OUTSTANDING CIVIC INVOLVEMENT ON BEHALF OF THE CITY OF KYLE.

Whereas, the City of Kyle is fortunate to have a vigorous and active senior citizen's community; and

Whereas, the City's senior citizens have organized to form the Kyle Area Senior Zone (KASZ) for the purposed of giving Kyle's senior citizens an outlet for recreation, socialization and support; and

Whereas, the City of Kyle's Historic City Hall is an icon of Kyle's history and heritage; and

Whereas, the Historic City Hall was recently restored to its original glory with the assistance of KASZ and its members; and

Whereas, Adell Hurst is a founding member of KASZ and has dedicated countless hours of time and energy towards its mission; and,

Whereas, Adell Hurst was also a driving force in the efforts to restore the Kyle Historic City Hall and then to secure its use for the benefit of senior services and KASZ activities, and;

Whereas, it is just and appropriate to bestow the name of Adell Hurst on the building that encompasses so much of her life and spirit so that others may know of her importance to the history of the City of Kyle, and:

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

The Kyle City Council does hereby resolve and authorize the Kyle Historic City Hall to be renamed the Adell Hurst Senior Citizens Center, and by doing so ask that all who use and visit this historic facility give thanks to the many people who have benefited from the work and personal love for life that Adell Hurst gave to this city and especially to this city's senior citizens.

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. 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.

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VIII. Consider and Possible Action, cont...

14. Authorize the City Manager to negotiate and execute a 5-year professional services agreement with BICKERSTAFF HEATH DELGADO ACOSTA, LLP of Austin, Texas, with one 5-year extension option to provide bond counsel and related advisory services to the City of Kyle
~ *Perwez A. Moheet, CPA, Director of Finance*

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VIII. Consider and Possible Action, cont...

15. Authorize the City Manager to execute the First Amendment to Interlocal Agreement between Hays County and the City of Kyle to establish a 6-year annual payment schedule for the reimbursement of City's share totaling \$1,921,241.28 (24.39%) of construction costs for Dacy Lane roadway improvements. In addition, interest cost will accrue and due if payment in full is not made by the first year. Construction cost for the entire Dacy Lane project totaled \$7,877,168.00
~ *Lanny Lambert, City Manager*

**FIRST AMENDMENT TO
INTERLOCAL AGREEMENT BETWEEN
HAYS COUNTY AND THE CITY OF KYLE (DACY LANE)**

This 1st Amendment to an Agreement first executed on or about the 20th day of September, 2011 ("Amendment") is made this 30 day of October, 2012, by and between Hays County, a political subdivision of the State of Texas (hereinafter referred to as "County"), and the City of Kyle, Texas (hereinafter referred to as "City"). The above-cited parties are collectively referred to as "the parties to this Agreement" or "the parties."

The parties agree to amend their original Interlocal Agreement as follows:

Section 2.1 shall be modified so that full payment of Two Million Dollars (\$2,000,000 USD), as may be adjusted under Sections 2.3 or 2.4, is no longer *due* on or about September 30th of the fiscal year in which the Project reaches substantial completion. Instead, payment shall be *payable in full* beginning on or about the thirtieth (30th) day after the City receives written notice that the Project has reached substantial completion (hereinafter "the Payable Date"), subject to the terms of payment detailed below.

- 1) Final payment shall be due seven (7) years after the Payable Date ("Final Payment Date"). There shall be no prepayment penalty for payment in full prior to Final Payment Date.
- 2) Beginning on the Payable Date, interest shall accrue on the payment due at a rate of three and eighty-nine one-hundredths percent (3.89%) per annum. However, interest shall not accrue until one (1) year after the Payable Date.
- 3) If the City pays in full the amount owed under Section 2.1 within one (1) year of the Payable Date, then the City shall not be required to pay interest on the amount owed.
- 4) Until such time that the City has made payment in full, the City shall be obligated to make a minimum payment of two hundred thousand dollars (\$200,000.00 USD) each year beginning the second (2nd) year after the Payable Date and ending the fourth (4th) year after the Payable Date.
- 5) Until such time that the City has made payment in full, the City shall be obligated to make a minimum payment of four hundred thousand dollars (\$400,000.00 USD) each year beginning the fifth (5th) year after the Payable Date and ending the sixth (6th) year after the Payable Date.

EXCEPT FOR THE ABOVE MODIFICATIONS, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN UNCHANGED, UNLESS PROPERLY MODIFIED BY SUBSEQUENT AMENDMENT UNDER THE TERMS OF THE AGREEMENT.

This 1st Amendment to Interlocal Agreement between Hays County and the City of Kyle (Dacy Lane) is hereby executed this the 30 day of October, 2012, as is evidenced by the authorized signatures of the Parties, below.

CITY

BY: LANNY LAMBERT
KYLE CITY MANAGER

ATTEST:

BY:
KYLE CITY CLERK



COUNTY

Bert Cobb
HAYS COUNTY, TEXAS
JUDGE BERT COBB, M.D.
HAYS COUNTY JUDGE

ATTEST:

Liz Q. Gonzalez
LIZQ. GONZALEZ
HAYS COUNTY CLERK

City of Kyle, Texas
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: December 18, 2012
CONTACT CITY DEPARTMENT: Office of the City Manager
CONTACT CITY STAFF: Lanny Lambert, City Manager

SUBJECT: Authorize the City Manager to execute the First Amendment to Interlocal Agreement (ILA) between Hays County and the City of Kyle to establish a 6-year annual payment schedule for the reimbursement of City's share totaling \$1,921,241.28 (24.39%) of construction costs for Dacy Lane roadway improvements. In addition, interest cost will accrue and due if payment in full is not made by the first year. Construction cost for the entire Dacy Lane project totaled \$7,877,168.00

CURRENT YEAR FISCAL IMPACT:

This amendment to the ILA with Hays County will require expenditure of funds from the General Fund in future fiscal years beginning in FY 2013-14. It should be noted that this First Amendment to the ILA establishes minimum annual payments to be made by the City of Kyle to Hays County as follows:

Year 1 (FY 2012-13):	\$0.00
Year 2 (FY 2013-14):	\$200,000.00
Year 3 (FY 2014-15):	\$200,000.00
Year 4 (FY 2015-16):	\$200,000.00
Year 5 (FY 2016-17):	\$400,000.00
Year 6 (FY 2017-18):	\$400,000.00
Year 7 (FY 2018-19):	\$521,241.28 Plus Accrued Interest

FUNDING SOURCE OF THIS ACTION:

The funding source for the repayment of City's share of construction costs for Dacy Lane roadway improvements plus all accrued interest will be provided from future budgets of the City's General Fund.

Accordingly, sufficient funding will have to be planned and appropriated in future annual budget of the City to make the principal and interest payments each year. It is estimated that the average debt service payment for both principal and interest due to Hays County will total approximately \$360,000.00 each year for six fiscal years (Years 2 through 7) beginning in FY 2013-14.

ADDITIONAL INFORMATION/COUNCIL ACTION:

N/A

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VIII. Consider and Possible Action, cont...

16. A RESOLUTION OF THE CITY OF KYLE, TEXAS DECLARING GOALS FOR THE LEGISLATIVE SESSION TO INCLUDE PRIORITIES DETERMINED BY THE CITY COUNCIL THAT RANGE FROM WATER UTILITY REGULATION AND FIRE CONTROLS WITHIN CITY LIMITS, CERTIFICATE OF CONVENIENCE AND NECESSITY AUTHORITY OF CITIES, STATE FUNDING FOR LIBRARY SERVICES, EXTRATERRITORIAL JURISDICTION (ETJ) ISSUES AND ANNEXATION POWERS INCLUDING RIGHTS FOR LAND OWNERS THAT ARE ADJACENT TO ANOTHER CITY'S ETJ, AUTHORITY TO INCLUDE A CITY'S ABILITY TO COLLECT SALES TAX ON NEW CAR SALES TO THAT OF THE STATE, AND TO ADDRESS REASONABLE MUNICIPAL COURT FINES AND THE SHARE OF SUCH FINES WITH THE STATE OF TEXAS

~ Lanny Lambert, City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF KYLE, TEXAS DECLARING GOALS FOR THE LEGISLATIVE SESSION TO INCLUDE PRIORITIES DETERMINED BY THE CITY COUNCIL THAT RANGE FROM WATER UTILITY REGULATION AND FIRE CONTROLS WITHIN CITY LIMITS, CERTIFICATE OF CONVENIENCE AND NECESSITY AUTHORITY OF CITIES, STATE FUNDING FOR LIBRARY SERVICES, EXTRATERRITORIAL JURISDICTION (ETJ) ISSUES AND ANNEXATION POWERS INCLUDING RIGHTS FOR LAND OWNERS THAT ARE ADJACENT TO ANOTHER CITY'S ETJ, AUTHORITY TO INCLUDE A CITY'S ABILITY TO COLLECT SALES TAX ON NEW CAR SALES TO THAT OF THE STATE, AND TO ADDRESS REASONABLE MUNICIPAL COURT FINES AND THE SHARE OF SUCH FINES WITH THE STATE OF TEXAS

WHEREAS, The City of Kyle is a home-rule municipality with all powers enabled to it by the State Legislature under Chapter 51 of the Local Government Code; AND;

WHEREAS, The City Council is the elected ruling body of the City of Kyle; AND,

WHEREAS, The City Council has identified and described legislative changes that are of a priority nature to the citizens of Kyle; AND,

WHEREAS, The City of Kyle has identified that these priorities pose an immediate and direct threat to the home-rule doctrine expressed by the State Legislature in Chapter 51 of the Local Government Code; AND,

WHEREAS, The City of Kyle wishes to petition the duly elected Officials that represent the interests of the citizens of Kyle before the State Legislature to include these said priorities in the upcoming Legislative Session;

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

- 1) The City of Kyle finds the following issues relevant and timely to the upcoming Legislative Session and wishes for them to be included by all elected officials that are duly representing the interests of the City of Kyle;
 - a. That Fire Safety Authority of a City should include all areas of the incorporated boundaries of a City, including certain holders of Certificates of Convenience and Necessity (CCN) that are deemed exempt from providing Fire Protection through determinations of the Texas Commission on Environmental Quality under the requirements of Rural Water Corporations, more especially since the very fact that the CCN has been duly annexed by the City would indicate that increased density of development that occurs within the boundaries of cities would preclude

the annexed area from being considered "rural" and therefore exempt from providing fire protection that is expected within more dense areas; and,

- b. That Cities, which the Legislature has granted numerous powers for local control, be given powers that would include a simplified process for adding adjoining CCN's within their ETJ or City Limits to their own to minimize expenses incurred to offer improved service to rate payers of said areas, broaden the ability and lessen restrictions for a City to file for Dual Certification in areas within it's ETJ and City Limits, specify the process for condemning utilities within the ETJ and City Limits, and empower original jurisdiction over rates within the City Limits and ETJ; and,
 - c. That funding for Libraries removed in the last Legislative Session, especially that funding for new books, e-books, and the Tx Star Program be reinstated as it unfairly negatively effects smaller systems and the literacy of the citizens those systems serve; and,
 - d. That while the state has empowered property owners of greater than a certain amount of acreage that are adjacent to another CCN to determine which CCN they prefer to be in, it failed to allow for property owners that are adjacent to another city's ETJ or City Limits to determine which City the landowner would prefer to be included in. This results in an unfair burden being placed on these property owners who may prefer the utility services of an adjoining city, to which they have a right, but would be forced to have double standards placed upon them for development purposes since there is no such escape clause for the adjoining City's jurisdiction; and,
 - e. That while the State of Texas has authorized sales tax collection by the State on sales of new cars, it precluded local governments from doing the same. The City would request that new car sales no longer be exempt from local sales tax; and,
 - f. That collections of Municipal Court Fines for violations in the local jurisdiction are unfairly distributed with the bulk of any said fines going to the State of Texas. The City would request a more equitable way of distributing levied fines that would result a higher percentage of fines being kept local, where the laws are enforced, the court is held, and the fines collected.
- 2) The findings of fact, recitations, and provisions set out in the preamble of this Resolution are adopted and made a part of the body of this Resolution, as fully as if the same were set forth herein.

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VIII. Consider and Possible Action, cont...

17. Consideration and Possible Action to Authorize the City Manager to Execute Memorandum of Understanding regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise Program by City of Kyle
~ *Steven D. Widacki, P.E., City Engineer*



**MEMORANDUM OF UNDERSTANDING
REGARDING THE ADOPTION OF THE TEXAS DEPARTMENT OF
TRANSPORTATION'S FEDERALLY-APPROVED DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM BY CITY OF KYLE**

This Memorandum of Understanding (MOU) is by and between the **TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT)**, an agency of the State of Texas; and
CITY OF KYLE, a political subdivision of the State of Texas.

Whereas, from time to time CITY OF KYLE receives federal funds from the Federal Highway Administration (FHWA) through TxDOT to assist CITY OF KYLE with the construction and design of projects partially or wholly funded through FHWA; and

Whereas, CITY OF KYLE, as a sub-recipient of federal funds, is required by 49 CFR 26, to implement a program for disadvantaged business enterprises (DBEs), as defined by 49 CFR 26 (DBE Program); and

Whereas, TxDOT has implemented a Disadvantaged Business Enterprise Program (DBE Program) that is approved by the FHWA pursuant to 49 CFR part 26; and

Whereas, certain aspects of CITY OF KYLE's procurement of construction and design services are subject to review and/or concurrence by TxDOT as a condition of receiving federal funds from FHWA through TxDOT; and

Whereas, CITY OF KYLE and TxDOT undertake substantially similar roadway construction projects and design projects and construct and design their respective projects using substantially the same pool of contractors; and

Whereas, CITY OF KYLE desires to implement a federally compliant DBE Program by adopting the TxDOT approved program, as recommended by FHWA; and

Whereas, TxDOT and CITY OF KYLE find it appropriate to enter into this MOU to memorialize the obligations, expectations and rights each has as related to CITY OF KYLE's adoption of the TxDOT DBE's Program to meet the federal requirements;

Now, therefore, TxDOT and CITY OF KYLE, in consideration of the mutual promises, covenants and conditions made herein, agree to and acknowledge the following:

(1) TxDOT has developed a DBE Program and annually establishes a DBE goal for Texas that is federally approved and compliant with 49 CFR 26 and other applicable laws and regulations.

(2) CITY OF KYLE is a sub-recipient of federal assistance for construction projects and design projects and, in accordance with 49 CFR § 26.21, must comply with a federally approved DBE Program. The CITY OF KYLE receives its federal assistance through TxDOT. As a sub-recipient, CITY OF KYLE has the option of developing its own program or adopting and operating under TxDOT's federally approved DBE Program. The FHWA recommends that sub-recipients, such as CITY OF KYLE, adopt the DBE program, administered through TxDOT, and CITY OF KYLE by its prescribed protocol adopted the TxDOT DBE Program as of the date when adoption occurred.

(3) This MOU evidences FHWA's and TxDOT's consent to the adoption of the TxDOT DBE Program by CITY OF KYLE to achieve its DBE participation in federally assisted Construction and Design Projects.

(4) The parties will work together in good faith to assure effective and efficient implementation of the DBE Program for CITY OF KYLE and for TxDOT.

(5) CITY OF KYLE and TxDOT have agreed upon the following delegation of responsibilities and obligations in the administration of the DBE Program adopted by CITY OF KYLE :

(a) CITY OF KYLE will be responsible for project monitoring and data reporting to TxDOT. CITY OF KYLE will furnish to TxDOT any required DBE contractor compliance reports, documents or other information as may be required from time to time to comply with federal regulations. TxDOT will provide the necessary and appropriate reporting forms, to CITY OF KYLE.

(b) CITY OF KYLE will recommend contract-specific DBE goals consistent with TxDOT's DBE guidelines and in consideration of the local market, project size, and nature of the good(s) or service(s) to be acquired. CITY OF KYLE's recommendation may be that no DBE goals are set on any particular project or portion of a project or that proposed DBE goals be modified. CITY OF KYLE and TxDOT will work together to achieve a mutually acceptable goal, however, TxDOT will retain final decision-making authority regarding DBE goals.

(c) TxDOT will cooperate with CITY OF KYLE in an effort to meet the timing and other requirements of CITY OF KYLE projects.

(d) CITY OF KYLE will be solely responsible for the solicitation and structuring of bids and bid documents to procure goods and services for its projects that use federal funds and will be responsible for all costs and expenses incurred in its procurements.

(e) The DBEs eligible to participate on TxDOT construction projects or design projects also will be eligible to participate on CITY OF KYLE construction projects or design projects subject to the DBE Program. The DBEs will be listed on TxDOT's website under the Texas Unified Certification Program (TUCP).

(f) CITY OF KYLE will conduct reviews and provide reports with recommendations to TxDOT concerning any DBE Program compliance issues that may arise due to project specific requirements such as Good Faith Effort (GFE), Commercially Useful Function (CUF), etc. CITY OF KYLE and TxDOT will work together to achieve a mutually acceptable goal, however, TxDOT will retain final decision-making authority on those issues and reserves the right to perform compliance reviews. CITY OF KYLE shall provide TxDOT with a listing of sanctions that will be assessed against contractors for violation of federal DBE regulations and its procedures for investigation of violations and assessment of sanctions for documented violations. CITY OF KYLE will require contractors for its FHWA federally assisted projects to use the attached forms as follows:

Attachment 1 – Disadvantaged Business Enterprise (DBE) Program Commitment Agreement
Form SMS 4901

Attachment 2 – DBE Monthly Progress Report Form SMS 4903

Attachment 3 – DBE Final Report Form SMS 4904

Attachment 4 – Prompt Payment Certification Form (Federal-air Projects) 2177

(g) _____ CITY OF KYLE _____ will designate a liaison officer to coordinate efforts with TxDOT's DBE Program administrators and to respond to questions from the public and private sector regarding _____ CITY OF KYLE _____'s administration of the DBE Program through TxDOT.

(h) _____ CITY OF KYLE _____ will be responsible for providing TxDOT with DBE project awards and DBE Commitments, monthly DBE reports, DBE Final Reports, DBE shortfall reports, and annual and updated goal analysis and reports.

(i) TxDOT will be responsible for maintaining a directory of firms eligible to participate in the DBE Program, and providing business development and outreach programs.

_____ CITY OF KYLE _____ and TxDOT will work cooperatively to provide supportive services and outreach to DBE firms in _____ CITY OF KYLE _____ area.

(j) _____ CITY OF KYLE _____ will submit DBE semi-annual progress reports to TxDOT.

(k) _____ CITY OF KYLE _____ will participate in TxDOT sponsored training classes to include topics on Title VI of the Civil Rights Act of 1964, DBE Annual Goals, DBE Goal Setting for Construction Projects and Design Projects, DBE Contract Provisions, and DBE Contract Compliance, which may include issues such as DBE Commitments, DBE Substitution, and Final DBE Clearance. TxDOT will include DBE contractors performing work on _____ CITY OF KYLE _____ projects in the DBE Education and Outreach Programs.

(l) The Executive Director of _____ CITY OF KYLE _____ will implement all federal requirements, including those stated in Attachments A through F, which are incorporated as though fully set out herein for all purposes.

(m) In accordance with 23 CFR 200.1, _____ CITY OF KYLE _____ shall develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in , and beneficiaries of Sate highway programs, i.e., relocatees, impacted citizens and affected communities; develop a program to conduct Title VI review of program areas; and conduct annual reviews of special emphasis program areas to determine the effectiveness of program area activities at all levels. TxDOT, in accordance with federal law, may conduct compliance reviews by TxDOT's Office of Civil Rights (OCR).

(n) _____ CITY OF KYLE _____ will comply with 49 CFR 26.29 as stated in Attachment F.

(6) In the event there is a disagreement between TxDOT and _____ CITY OF KYLE _____ about the implementation of the TxDOT DBE Program by _____ CITY OF KYLE _____ the parties agree to meet within ten (10) days of receiving a written request from the other party of a desire to meet to resolve any disagreement. The parties will make good faith efforts to resolve any disagreement as efficiently as is reasonably possible in consultation with FHWA. Non-compliance by _____ CITY OF KYLE _____ can result in restitution of federal funds to TxDOT and withholding of further federal funds upon consultation with FHWA.

(7) This MOU becomes effective upon execution by all parties and automatically renews each year unless a party notifies the other parties of its intent to terminate the agreement.

(8) If this MOU is terminated for any reason, CITY OF KYLE will be allowed reasonable time in which to seek approval from FHWA for an alternative DBE Program, without being deemed non-compliant with 49 CFR Part 26.

(9) This MOU applies only to projects for which CITY OF KYLE is a sub-recipient of federal funds through TxDOT. CITY OF KYLE may also implement a Minority and Women-Owned Small Business Enterprise (M/W/SBE) policy and program that applies to projects for which it is not a sub-recipient of federal funds through TxDOT and which are not subject to the TxDOT DBE Program. CITY OF KYLE may, at its option, use some aspects of the TxDOT DBE Program and other similar programs in implementing its other policies and programs for its non-federally funded projects.

(10) The following attachments to this MOU are also incorporated as if fully set out herein for all purposes:

Attachment A – FHWA Memorandum HCR-1/HIF-1 (relating to access required by the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973);

Attachment B – SPECIAL PROVISION – LOCAL GOVERNMENT / RMA / NON-STANDARD CONTRACTS

Attachment C – 49 CFR §26.13 (contractual assurances)

Attachment D – DBE Program Compliance Guidance for Local Government Agencies

Attachment E – FHWA Form 1273

Attachment F – Texas Department of Transportation (TxDOT) Disadvantaged Business Enterprise (DBE) Program with attachments as follows:

Attachment F1 – DBE Regulations: 49 CFR Part 26

Attachment F2 – DBE Special Provisions 000-1966

Attachment F3 – TxDOT's Organizational Chart

Attachment F4 – Measurement and Payment Special Provision 009-007

Attachment F5 – Texas Unified Certification Program (TUCP) DBE directory example and website address to the directory

Attachment F6 – DBE Goal Methodology

Attachment F7 – DBE Bidder Certification

Attachment F8 – DBE Joint Check Approval Form

Attachment F9 – TUCP Standard Operating Procedures (SOP)

Attachment F10 – TUCP Memorandum of Agreement (MOA)

Attachment F11 – Forms list

(11) The following procedure shall be observed by the parties in regard to any notifications:

(a) Any notice required or permitted to be given under this MOU shall be in writing and may be effected by personal delivery, by hand delivery through a courier or a delivery service, or by

registered or certified mail, postage prepaid, return receipt requested, addressed to the proper party, at the following address:

CITY OF KYLE

NAME: LANNY S. LAMBERT
TITLE: CITY MANAGER

Hand Delivery:

100 W. CENTER ST., KYLE, TX 78640

Registered or Certified Mail (Return receipt requested):

100 W. CENTER ST., KYLE, TX 78640

TEXAS DEPARTMENT OF TRANSPORTATION
DBE Liaison
Office of Civil Rights
Address: 125 E. 11th Street
Austin, Texas 78701

(b) Notice by personal delivery or hand delivery shall be deemed effective immediately upon delivery, provided notice is given as required by Paragraph (a) hereof. Notice by registered or certified mail shall be deemed effective three (3) days after deposit in a U.S. mailbox or U.S. Post Office, provided notice is given as required by Paragraph (a) hereof.

(c) Either party hereto may change its address by giving notice as provided herein.

(12) This MOU may be modified or amended only by written instrument, signed by both

CITY OF KYLE and the TxDOT and dated subsequent to the effective date(s) of this MOU. Except as authorized by the respective parties, no official, employee, agent, or representative of the parties has any authority, either express or implied, to modify or amend this MOU.

(13) The provisions of this MOU are severable. If any clause, sentence, provision, paragraph, or article of this MOU, or the application of this MOU to any person or circumstance is held by any court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such invalidity, illegality, or unenforceability shall not impair, invalidate, nullify, or otherwise affect the remainder of this MOU, but the effect thereof shall be limited to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or unenforceable, and the application of such clause, sentence, provision, paragraph, or article to other persons or circumstances shall not be affected; provided, however,

CITY OF KYLE and TxDOT may mutually agree to terminate this MOU.

(14) The following provisions apply in regard to construction of this MOU:

(a) Words of any gender in this MOU shall be construed to include the other, and words in either number shall be construed to include the other, unless the context in this MOU clearly requires otherwise.

**Texas Department of Transportation (TxDOT)
Memorandum of Understanding (MOU) Instructions & Requirements**

All Local Government Entities ***must*** download both the MOU Form 2395 and MOU Attachments file containing MOU attachments 1-4 and A-F.

- The enforcement date of the MOU will be the actual date and time that it has been fully executed by the TxDOT Executive Director. The agenda and minutes or resolution approving the adoption of the DBE Program MUST accompany the signed duplicate counterpart originals of the MOU when presented to TxDOT Executive Director for signature. The originals must be signed by someone who has contract signature authority and can legally bind the Local Government Entity.
- If there is no such statute, ordinance, or delegation of authority, the Local Government Entity will need to convene a special meeting and pass such a resolution or ordinance and send those documents to TxDOT. The MOU cannot be fully executed prior to the authorization and confirmation of those documents.
- If this is a city, we'll need to receive a copy of the ordinance, city charter or other legal authority that gives the City Manager the authority to bind the City to the terms and conditions of the MOU; or
- That the mayor has the authority to delegate signature authority, and we'll need a letter from the Mayor acknowledging that authority. If the Mayor has delegated signature authority, the execution date on the MOU cannot be prior to the date on the Mayor's signature authority letter. A legal citing of the state law or statute granting this authority will also be required and need to be sent to TxDOT.

After successfully downloading and reviewing all of the above documents, complete and sign two (2) originals of the MOU by someone in an official capacity with the authority to bind the entity to the MOU agreement and then return to the address below:

**Texas Dept. of Transportation
Office of Civil Rights
Attn. - Local Government MOUs
125 E 11th Street
Austin, TX 78701**

For more information contact TxDOT's Office of Civil Rights at 512-486-5500 or email gloria.brown@txdot.gov

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

VIII. Consider and Possible Action, cont...

18. Authorize the Kyle Parks and Recreation Department to plan for a new special event called The Full Moon Jubilee and accept the event as a city sponsor event
~ *Kerry Urbanowicz, Director of Parks and Recreation*

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

IX. City Manager's Report

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

Discuss request for annexation

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

X. Executive Session

20. Convene Into Executive Session pursuant to Section 551.074, Tex. Government Code, Personnel Matters, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of various personnel positions

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

X. Executive Session, cont...

21. Reconvene Into Public Session and take action as appropriate in the Council's discretion regarding the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of various personnel positions

KYLE CITY COUNCIL MEETING

DECEMBER 18TH, 2012

XI. Adjourn
