

CITY OF KYLE



Notice of Regular City Council Meeting

KYLE CITY HALL
100 W. Center Street

Notice is hereby given that the governing body of the City of Kyle, Texas will meet at 7:00 PM on 11/18/2014, at Kyle City Hall, 100 West Center Street, Kyle, Texas for the purpose of discussing the following agenda.

Posted this 14th day of November, 2014 prior to 7:00 p.m.

I. Call Meeting To Order

II. Approval of Minutes

1. City Council Workshop Meeting - October 14, 2014 ~ Amelia Sanchez, City Secretary

 [Attachments](#)

2. City Council Regular Meeting - November 5, 2014 ~ Amelia Sanchez, City Secretary

 [Attachments](#)

3. City Council Special Called Meeting - November 10, 2014 ~ Amelia Sanchez, City Secretary

 [Attachments](#)

III. Citizen Comment Period With City Council

The City Council welcomes comments from Citizens early in the agenda of regular meetings. Those wishing to speak are encouraged to sign in before the meeting begins. Speakers may be provided with an opportunity to speak during this time period on any agenda item or any other matter concerning city business, and they must observe the three-minute time limit.

IV. Presentation

4. Presentation of End of Year results on retail recruitment by Catalyst Commercial.
~ Diana Blank-Torres, Director Economic Development

 [Attachments](#)

V. Appointments

5. Consider and take possible action to appoint recommended individuals to vacant positions on the Planning and Zoning Commission. ~ *R. Todd Webster, Mayor*

 [Attachments](#)

VI. Consent Agenda

6. Approve a purchase order to CALDWELL COUNTRY CHEVROLET, Caldwell, Texas, in an amount not to exceed \$27,980.00 for the purchase of one (1) 2015 Chevrolet 2500HD Silverado 4X4 Double Cab Truck through the Buy Board Purchasing Cooperative for the Animal Control unit in the Police Department. ~ *Jeff Barnett, Chief of Police*

 [Attachments](#)

7. Approve a 5-year trust and investment management services agreement with three 1-year renewal options with PEB TRUST administered by FirstSouthwest for a fixed management fee of \$10,500 per year for the City of Kyle's post-retirement medical benefits plan. ~ *Perwez A. Moheet, CPA, Director of Finance*

 [Attachments](#)

8. Approve a contract with SPAWGLASS CONTRACTOR'S, INC., Austin, Texas, in an amount not to exceed \$105,886.00 for landscaping and other exterior work for Phase 3 of the Historic Kyle Train Depot Restoration project. ~ *Jerry Hendrix, Chief of Staff*

 [Attachments](#)

9. Approve the use policy for the Kyle Public Library Burdine and Jack Johnson Wing Meeting Room. ~ *Connie Brooks, Director of Library Services*

 [Attachments](#)

10. (*Second Reading*) An ordinance authorizing permittees of mixed beverage permits and late-hours permits to sell or offer for sale mixed beverages from the hours of twelve midnight until two a.m. on any day; providing definitions; levying a fee on permittees after a three-year period following the issuance of permits; providing a penalty clause; providing a severability clause; providing for repeal of conflicting ordinances; finding and determining that the meeting at which this ordinance is passed is open to the public as required by law; providing an effective date; and making such other findings and provisions related hereto. ~ *Manuel De La Rosa, Director of Planning Services*

 [Attachments](#)

VII. Consider and Possible Action

11. (*First Reading*) Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2014-15 by increasing total appropriations for expenditures by

\$114,600; General Fund by \$95,800 and the Utility Fund by \$18,800 and decreasing fund balance by the same amounts in the General Fund and the Utility Fund respectively for payment of fine to Texas Commission on Environmental Quality (TCEQ) and for implementation of technology improvements for the City's information systems. ~ *Perwez A. Moheet, CPA, Director of Finance*

- **PUBLIC HEARING**

 [Attachments](#)

12. Approve an Ordinance authorizing the issuance of City of Kyle, Texas, General Obligation Refunding Bonds, Series 2014; authorizing certain parameters for the bonds; authorizing the execution and delivery of an escrow agreement, a paying agent/registrar agreement and other instruments and procedures related thereto; delegating authority to the city manager or the director of finance to select outstanding obligations to be refunded and approve all final terms of the bonds, approving the preparation and distribution of a notice of sale and official statement, and calling certain obligations for redemption. ~ *Perwez A. Moheet, CPA, Director of Finance*

- **PUBLIC HEARING**

 [Attachments](#)

13. (*First Reading*) An ordinance of the City of Kyle, Texas, amending the Code of Ordinances of the City of Kyle, Appendix "A" (Fee Schedule), to set certain fees for public use of the Kyle Public Library Burdine and Jack Johnson Wing meeting room; providing a severability clause; finding and determining the meeting at which this ordinance is passed is open to the public as required by law; providing an effective date; and making such other findings and provisions related hereto. ~ *Connie Brooks, Director of Kyle Public Library*

 [Attachments](#)

VIII. General Discussion

14. Discussion only regarding council requests for future agenda items.

 [Attachments](#)

15. Discussion only regarding options and other matters relating to the proposed FM 150 road realignment. ~ *R. Todd Webster, Mayor*

 [Attachments](#)

IX. City Managers Report

16. Update on various capital improvement projects, road projects, building program, and/or general operational activities. ~ *James R. Earp, CPM, Acting City Manager*

1. A detailed report is attached listing all payments processed totaling \$15,000

or less during the month of October 2014.

 [Attachments](#)

X. Staff Report

17. Presentation of City of Kyle's Financial Performance Report (unaudited) for the 4th quarter ending September 30, 2014. ~ *Perwez A. Moheet, CPA Director of Finance*

 [Attachments](#)

XI. Executive Session

18. 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.

 [Attachments](#)

19. Reconvene into Open Session to take any and all actions as deemed appropriate 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.

 [Attachments](#)

20. Convene into executive session pursuant to Section 551.071(1)(A), Tex. Gov't Code (Consultation with Attorney regarding pending or contemplated litigation) concerning the Bunton Creek Public Improvement District and assessments levied.

 [Attachments](#)

21. Reconvene into Open Session to take any and all actions as deemed appropriate regarding pending or contemplated litigation concerning the Bunton Creek Public Improvement District and assessments levied.

 [Attachments](#)

22. Convene into executive session pursuant to Tex. Gov't Code Sec. 551.074 (Personnel) and Sec. 551.071(2) (Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551) to deliberate and take possible action to hire a city manager and if appropriate, to negotiate and execute an agreement for employment with the selected individual.

 [Attachments](#)

23. Reconvene into regular session to discuss and take possible action to hire a city manager and if appropriate, to negotiate and execute an agreement for employment with the selected individual.

 [Attachments](#)

XII. ADJOURN

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

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



CITY OF KYLE, TEXAS

City Council Workshop - October 14,
2014

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: City Council Workshop Meeting - October 14, 2014 ~ Amelia Sanchez, City Secretary

Other Information:

Budget Information:

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 [City Council Workshop, October 14, 2014](#)

Cover Memo

Item # 1

CITY OF KYLE

CITY COUNCIL WORKSHOP

The governing body of the City of Kyle, Texas held a Workshop Meeting at 7:00 PM on October 14, 2014, at Kyle Public Works Building, 520 RR 150 E, Kyle, Texas for the purpose of discussing the following agenda with the following persons present:

Mayor Todd Webster
 Mayor Pro Tem Hervol
 Council Member Selbera
 Council Member Swaton
 Council Member Arabie
 Council Member Wilson
 James Earp, Interim City Manager
 Ken Johnson, City Attorney
 Connie Brooks, Library Director
 Robert Olvera, IT

Jerry Kolacny

CALL MEETING TO ORDER

Mayor Webster called the meeting to order at 7:10 P.M.

ROLL CALL:

Present were Mayor Webster, Mayor Pro Tem Hervol , Council Member Selbera, Council Member Swaton, Council Member Arabie and Council Member Wilson.

Council Member LeMense was absent.

CITIZENS COMMENTS

Mayor Webster opened the citizen comment period at 7:11 p.m.. Jerry Kolacny spoke and stated he was not sure how Council was tackling this issue understood they were trying to consolidate the committees and ordinances but that he would like to see them keep the committees as broad based by the different types of people in the community rather than allow these committees to be loaded up of certain persuasion or particular interest and that they should also live in the city limits and pay taxes. With no one else wishing to speak Mayor Webster closed the citizen's comment period at 7:13 p.m.

CONSIDER AND POSSIBLE ACTION

DISCUSSION ON MATTERS PERTAINING TO CITY COMMISSIONS, COMMITTEES AND BOARDS REGARDING STRUCTURE, SELECTION OF MEMBERS, PURPOSE, TERMS, RELEVANT ORDINANCES, AND OTHER

TOPICS RELATING TO SAID COMMISSIONS, COMMITTEES AND BOARDS.

Mayor Webster stated that council and the liaison of the committee had been submitting names for appointments and that there was a large number of applications so that these were some of the issues for discussion.

CITY COUNCIL WORKSHOP

October 14, 2014 ~ Page 2

Kyle City Hall

Mayor Webster stated he wanted to make sure the people he presented for appointments were people he had spoken with, were well intentioned and had work ethic, with the goal being balanced as stated by Mr. Kolacny. He stated there was a process on appointments but it was not working, and that nominations were submitted as his nomination and he knew nothing about it, but that he understood because it was done out of necessity to make sure the appointments were being made. Mayor Webster stated that council wasn't dealing with the committees consistently, the provisions that require that each committee, or the provisions in the ordinance that require the distribution that essentially requires him to look at a district map to see where an applicant lived functionally did not make sense. He stated there was ordinance upon ordinance and saw an opportunity to provide a structured process for these committees. He stated he wasn't sure if people realized what had happened over time when established committees view an ordinance verses a resolution or some other mechanism for establishing them. He stated when you give a committee a charge in the ordinance they are essentially delegating legislative power to a committee, so there isn't any restriction on any committee regarding number of meetings or staff time, and so what has happened legislative power has been removed from council and given to people who were not elected that should be playing an advisory roll. Mayor Webster stated another concern for him was putting members of council as a committee liaison and then not allowing them to engage as an equal member of the committee was something he disagreed with and that they should be full fledged members of the committee, and not limited to one council member. He stated that there were too many committees and thought there were 21, and in his view committees should be for a specific purpose, act as an advisory to council, providing information so that council to make sound decisions.

There was discussion on the different ordinances for different committees regarding terms with some being 2 years and the long range planning committee being 5 years with 2 terms. He stated maybe changing terms to 3 years and instead of all terms ending at the same time they could identify whatever committee have appointments every quarter and making appointments four times a year and not all at once.

Council Member Selbera stated that they should consolidate all of the ordinances in one and that the expiration of terms now was confusing. She stated that the application form itself needed updating and council needed to keep up with the applications.

Discussion on some of the qualifications mentioned included being registered voters in the City of Kyle, and live inside the city limits. It was decided that being a registered voter was not a good requirement to have but that regarding residency

they should be held to the same standards as the council. The yearly cycle of appointments should be included in the ordinance with a resolution designating the cycles.

Council Member Arabie stated that how committees are formed and appointing people should be a stand alone ordinance. He stated the second thing being discussed seemed to be a rule change, how the committees would be based and how to bring people into the committees instead of placing someone on a committee so that should also be a separate ordinance for each committee for their charge.

Council Member Wilson stated he had been approached by citizens stating that they had applied to be on committees but had never been contacted and he felt that they needed to do a better job in reaching out to the applicants.

CITY COUNCIL WORKSHOP

October 14, 2014 ~ Page 3

Kyle City Hall

Council Member Selbera stated that she like the idea of having members from across the city serve on committees and not necessarily from a specific districts, with Mayor Webster adding with the idea aimed at diversity

Mayor Webster stated that it would be up to the Council taking up the confirmation role seriously. He stated that by making it 5 votes for confirmation it would make it easier and he was advocating for more restrictions on his nominations with more consensus and more diversity.

After discussion the City Attorney was directed to work on an ordinance regarding structure, selection of members, purpose, terms and relevant ordinances for commissions, committees and boards. and bring it back to Council for further direction.

Discussion only. No action taken.

ADJOURN

With no further business to discuss

Mayor Pro Tem Hervol moves to adjourn. Council Member Swaton seconds the motion. All votes aye. Motion carried.

The City Council Workshop meeting adjourned at 10:22 P.M.

R. Todd Webster, Mayor

Amelia Sanchez, City Secretary



CITY OF KYLE, TEXAS

City Council Regular Meeting Minutes - November 5, 2014

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: City Council Regular Meeting - November 5, 2014 ~ *Amelia Sanchez, City Secretary*

Other Information: This item is for formal approval of the minutes from the November 5th Regular Meeting of the city council, a copy of which is included with the meeting packet.

Budget Information: N/A

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Attachments / click to download

 [City Council Regular Meeting Minutes - November 5, 2014](#)

REGULAR CITY COUNCIL MEETING

The City Council of the City of Kyle, Texas met in Regular Session on November 5, 2014 at 7:00 p.m. at Kyle City Hall, with the following persons present:

Mayor Todd Webster	Genest Hardint
Mayor Pro Tem Diane Hervol	Jason Dibble
Council Member Tammy Swaton	Jerry Kolacny
Council Member Selbera	
Council Member Swaton	
Council Member David Wilson	
James Collins, Honorary Member	
James Earp, Interim City Manager	
Perwez Moheet, Director of Finance	
Ken Johnson, City Attorney	
Jerry Hendrix, Chief of Staff	
Leon Barba, City Engineer	
Manny De La Rosa, Director of Planning	
Robert Olvera, IT	
Diana Blank-Torres, Director Economic Development	
Sandra Duran, HR Director	
Kerry Urbanowicz, Parks Director	
Harper Wilder, Public Works Director	
Chief Barnett, Kyle PD	

CALL MEETING TO ORDER

Mayor Webster called the meeting to order at 7:01 p.m.

ROLL CALL

Mayor Webster called for roll call. Present were Mayor Webster, Mayor Pro Tem Hervol, Council Member Selbera, Council Member Swaton, Council Member Arabie, Council Member Wilson, and Honorary Member James Collins.

Council Member LeMense was absent.

APPROVAL OF MINUTES

CITY COUNCIL SPECIAL CALLED MEETING - AUGUST 28, 2014 ~ *AMELIA SANCHEZ, CITY SECRETARY*

CITY COUNCIL SPECIAL CALLED MEETING - OCTOBER 21, 2014 ~ *AMELIA SANCHEZ, CITY SECRETARY*

Mayor Pro Tem Hervol moved to approve the minutes of the City Council Regular Meeting - October 21, 2014, and the August 28, 2014 Special Called Meeting. Council Member Selbera seconds the motion. All aye. Motion carried 6-0.

CITY COUNCIL REGULAR MEETING

November 5, 2014 – Page 2

Kyle City Hall

CITIZEN COMMENT PERIOD WITH CITY COUNCIL

THE CITY COUNCIL WELCOMES COMMENTS FROM CITIZENS EARLY IN THE AGENDA OF REGULAR MEETINGS. THOSE WISHING TO SPEAK MUST SIGN IN BEFORE THE MEETING BEGINS AT THE KYLE CITY HALL. SPEAKERS MAY BE PROVIDED WITH AN OPPORTUNITY TO SPEAK DURING THIS TIME PERIOD, AND THEY MUST OBSERVE THE THREE-MINUTE TIME LIMIT.

Mayor Webster opened the Citizens Comments at 7:03 p.m. Genest Harding spoke and stated she had been on the Community Relations Committee for the past 3 years and the committed had accomplished some important roles during that time. She stated their task being to review and make recommendations to the Council. She restated *recommendations* to the Council. She stated that regarding grants for nonprofits serving the citizens of Kyle they gave these organizations the opportunity to present their organizations benefits to the citizens of Kyle in a more personal way, and then made the recommendations to Council. She stated they were also asked to work on a lifetime award and had also worked on that very hard and that she agreed there needed to be guidelines for the committees and hoped the citizens would be allowed to continue to serve. Jason Dibble spoke and stated he was the new KPEA President and invited Council to a 2014 Thanksgiving food drive at the VFW on the 24th of November and try to collect enough for 30 families. Jerry Kolacny spoke and stated that at every meeting he attended it seemed that the spending kept growing and growing. He stated Council planned to spend 1/4 of a million dollars super high speed internet for the employees and asked if this was really needed. He also stated he also did not understand buying 50 guns at one time. With no one else wishing to speak Mayor Webster closed Citizens Comments at 7:10 p.m.

PRESENTATION

RECOGNITION OF TRISTA FUGATE FOR SERVICE AND COMMITMENT TO THE ECONOMIC DEVELOPMENT & TOURISM COMMITTEE. ~ *DIANE HERVOL, MAYOR PRO-TEM*

Mayor Webster presented Ms. Fugate with a plaque for her service to the Economic Development Committee.

PRESENTATION OF RESULTS FROM THE KYLE AREA YOUTH ADVISORY COUNCIL (KAYAC) YOUTH SURVEY DISTRIBUTED TO BOTH KYLE HIGH SCHOOLS. ~ KYLE AREA YOUTH ADVISORY COUNCIL

CITY COUNCIL REGULAR MEETING

November 5, 2014 – Page 3

Kyle City Hall

James Collins, and members of KAYAC presented the results of a survey done at Hays and Lehman High Schools regarding a broad range of youth opinions regarding services and activities in the City of Kyle and to provide information to help create programs to assist the youth.

CONSENT AGENDA

AUTHORIZE AWARD AND EXECUTION OF A PURCHASE ORDER TO MITCHELL MOTOR SPORTS, KYLE, TEXAS, IN AN AMOUNT NOT TO EXCEED \$16,000.00 FOR THE PURCHASE OF A NEW 72" ZTR MOWER FOR THE PARKS AND RECREATION DEPARTMENT. ~ *KERRY URBANOWICZ, DIRECTOR OF PARKS AND RECREATION*

APPROVE AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT BETWEEN CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY AND THE CITY OF KYLE IN AN AMOUNT NOT TO EXCEED \$54,000.00 FOR TRANSPORTATION SERVICES. ~ *JERRY HENDRIX, CHIEF OF STAFF*

APPROVE SUPPLEMENTAL WORK AUTHORIZATION #2 FOR GOFORTH ROAD EXTENSION NEW LOCATION ROADWAY IMPROVEMENTS (SWA#2) TO THE PROFESSIONAL SERVICES AGREEMENT WITH LOCKWOOD, ANDREWS, AND NEWNAM, INC., IN AN AMOUNT NOT TO EXCEED \$204,930.25, FOR THE PURPOSE OF PROVIDING ENGINEERING SERVICES AND DOCUMENTS NECESSARY FOR THE DEVELOPMENT OF PROJECT PLANS, ESTIMATES, AND BID SPECIFICATIONS. ~ *LEON BARBA, P.E., CITY ENGINEER*

APPROVE SUPPLEMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC., IN AN AMOUNT NOT TO EXCEED \$195,558.50 FOR LEHMAN ROAD IMPROVEMENTS TO INCLUDE PROVIDING RIGHT-OF-WAY SERVICES AND DOCUMENTS, (PARCEL PLATS, APPRAISAL REPORTS, ETC.), ADDITIONAL UTILITY ENGINEERING DESIGN AND DRAINAGE ANALYSIS, AND ACQUISITION OF PROPERTIES. ~ *LEON BARBA, P.E., CITY ENGINEER*

APPROVE A PROPOSAL FROM TIME WARNER CABLE BUSINESS CLASS FOR A 60-MONTH TERM IN AN AMOUNT NOT TO EXCEED \$262,140.00 OR \$4,369.00 PER MONTH INCLUDING A FEDERAL UNIVERSAL SERVICE FEE TO CONNECT ALL CITY OFFICE LOCATIONS TO A FIBER ELAN ETHERNET NETWORK. ~ *ROBERT OLVERA, SYSTEMS ADMINISTRATOR*

APPROVE THE PURCHASE OF MICROSOFT OFFICE 365 SOFTWARE FOR A ONE-YEAR TERM IN AN AMOUNT NOT TO EXCEED \$33,287.05 TO REPLACE CITY STAFF USE OF GOOGLE APPS ~ *ROBERT OLVERA, SYSTEMS ADMINISTRATOR*

CITY COUNCIL REGULAR MEETING

November 5, 2014 – Page 4

Kyle City Hall

APPROVE THE PURCHASE OF FIFTY (50) GLOCK 22 GEN IV .40 CALIBER PISTOLS FROM GT DISTRIBUTORS, INC., AUSTIN, TEXAS, IN AN AMOUNT NOT TO EXCEED \$23,687.50 TO BE USED BY THE KYLE POLICE DEPARTMENT. ~ *JEFF BARNETT, CHIEF OF POLICE*

APPROVE REVISION TO THE LEASE DATED JUNE 17, 2014, BETWEEN THE CITY AND DALLAS MTA, L.P., D/B/A VERIZON WIRELESS, TO ALLOW VERIZON TO RELOCATE ITS NEAREST PUBLIC RIGHT-OF-WAY FROM OLD STAGECOACH ROAD TO THE CITY'S ACCESS EASEMENT CONNECTING TO NEGLEY STREET. ~ *HARPER WILDER, DIRECTOR OF PUBLIC WORKS*

Mayor Pro Tem Hervol asked to pull items # 7 and 8 and moved to approve items 5, 6, 9 10, 11 and 12. Mayor Webster stated he was going to pull items 9 and 11 to respond to comments made earlier. Mayor Pro Tem Hervol withdrew part of the motion and restated the motion to approve items 5,6,10 and 12. Council Member Swaton seconds the motion. All votes aye. Motion carried 6-0.

Mayor Pro Tem Hervol moved to approve item # 7 Supplemental Work Authorization #2 for Goforth Road Extension new location roadway improvements (SWA#2) to the Professional Services Agreement with Lockwood, Andrews, and Newnam, Inc., in an amount not to exceed \$204,930.25, for the purpose of providing engineering services and documents necessary for the development of project plans, estimates, and bid specifications. Council Member Selbera seconds the motion. All aye. Motion carried 6-0.

Mayor Pro Tem Hervol moved to approve item # 8 Supplement No. 1 to Professional Services Agreement with HDR Engineering, Inc., in an amount not to exceed \$195,558.50 for Lehman Road improvements to include providing right-of-way services and documents, (parcel plats, appraisal reports, etc.), additional utility engineering design and drainage analysis, and acquisition of properties. Council Member Selbera seconds the motion. All aye. Motion carried 6-0.

Council Member Wilson moved to approve item # 9 a proposal from Time Warner Cable Business Class for a 60-month term in an amount not to exceed \$262,140.00 or \$4,369.00 per month including a Federal Universal Service Fee to connect all city office locations to a fiber Elan ethernet network. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried 6-0.

Council Member Wilson moved to approve item # 11 the purchase of fifty (50) Glock 22 Gen IV .40 caliber pistols from GT DISTRIBUTORS, INC., Austin, Texas, in an amount not to exceed \$23,687.50 to be used by the Kyle Police Department. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried 6-0.

CITY COUNCIL REGULAR MEETING

November 5, 2014 – Page 5

Kyle City Hall

CONSIDER AND POSSIBLE ACTION

(FIRST READING) AN ORDINANCE AUTHORIZING PERMITTEES OF MIXED BEVERAGE PERMITS AND LATE-HOURS PERMITS TO SELL OR OFFER FOR SALE MIXED BEVERAGES FROM THE HOURS OF TWELVE MIDNIGHT UNTIL TWO A.M. ON ANY DAY; PROVIDING DEFINITIONS; LEVYING A FEE ON PERMITTEES AFTER A THREE-YEAR PERIOD FOLLOWING THE ISSUANCE OF PERMITS; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING AN EFFECTIVE DATE; AND MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO. ~ *KEN JOHNSON, CITY ATTORNEY*

PUBLIC HEARING

Mayor Webster opened the Public Hearing at 8:09 pm to hear comments on *(First Reading)* An ordinance authorizing permittees of mixed beverage permits and late-hours permits to sell or offer for sale mixed beverages from the hours of twelve midnight until two a.m. on any day; providing definitions; levying a fee on permittees after a three-year period following the issuance of permits. Jerry Kolacny spoke and stated that when he move here from Houston 15 years ago Kyle was a nice place to live. Houston neighborhoods were troubled with gangs, but that now ever smaller cities are seeing gang problems and felt that this ordinance would set Kyle up for decline. He stated the late hour alcohol permit was not a good thing for downtown. James Rios spoke and stated San Marcos had crime decrease after going to late hour alcohol sales and people could walk home and not drive. He stated that Center Street was thriving and this would be a step in the right direction.

Mayor Pro Tem Hervol moved to approve *(First Reading)* An ordinance authorizing permittees of mixed beverage permits and late-hours permits to sell or offer for sale mixed beverages from the hours of twelve midnight until two a.m. on any day; providing definitions; levying a fee on permittees after a three-year period following the issuance of permits. Council Member Swaton seconds the motion. Mayor Webster asked for a roll call vote. Mayor Pro Tem Hervol votes aye, Council Member Selbera votes nay, Mayor Webster votes aye, Council Member Swaton votes aye, Council Member Arabie votes aye, Council Member Wilson votes aye. Motion carried 5-1 with Council Member Selbera voting nay.

GENERAL DISCUSSION

DISCUSSION ONLY REGARDING COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS.

Mayor Webster moved to table discussion regarding council requests for future agenda items. Council Member Selbera seconds the motion. All aye. Motion carried 6-0.

CITY COUNCIL REGULAR MEETING

November 5, 2014 – Page 6

Kyle City Hall

Mayor Webster moved to item # 18 with Council approval.

CONVENE INTO EXECUTIVE SESSION PURSUANT TO TEX. GOV'T CODE SEC. 551.074 (PERSONNEL) AND SEC. 551.071(2) (CONSULTATIONS WITH ATTORNEY) TO DISCUSS AND TAKE POSSIBLE ACTION REGARDING AN UPDATE BY SGR CONSULTANTS ON THE SEARCH FOR CANDIDATES TO FILL THE CITY'S VACANT CITY MANAGER POSITION.

CONVENE INTO EXECUTIVE SESSION PURSUANT TO SECTION 551.087, TEX. GOV'T CODE (CONSULTATIONS REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS) AND SEC. 551.071(2) (CONSULTATIONS WITH ATTORNEY) TO DISCUSS AND TAKE POSSIBLE ACTION REGARDING ECONOMIC DEVELOPMENT INFORMATION THE CITY COUNCIL HAS RECEIVED FROM BUSINESS PROSPECTS THE CITY COUNCIL SEEKS TO HAVE LOCATE IN OR NEAR THE TERRITORY OF THE CITY OF KYLE.

Council Member Wilson moved to Convene into executive session at 8:45 p.m. pursuant to Tex. Gov't Code Sec. 551.074 (Personnel) and Sec. 551.071(2) (Consultations with Attorney) to discuss and take possible action regarding an update by SGR consultants on the search for candidates to fill the city's vacant city manager position, and Convene into executive session pursuant to Section 551.087, Tex. Gov't Code (Consultations regarding economic development negotiations) and Sec. 551.071(2) (Consultations with Attorney) to discuss and take possible action regarding economic development information the city council has received from business prospects the city council seeks to have locate in or near the territory of the City of Kyle. Mayor Pro Tem Hervol seconds the motion. All aye. Motion carried 6-0.

RECONVENE INTO REGULAR SESSION TO DISCUSS AND TAKE POSSIBLE ACTION REGARDING AN UPDATE BY SGR CONSULTANTS ON THE SEARCH FOR CANDIDATES TO FILL THE CITY'S VACANT CITY MANAGER POSITION.

RECONVENE INTO REGULAR SESSION TO DISCUSS AND TAKE POSSIBLE ACTION REGARDING ECONOMIC DEVELOPMENT INFORMATION THE CITY COUNCIL HAS RECEIVED FROM BUSINESS PROSPECTS THE CITY COUNCIL SEEKS TO HAVE LOCATE IN OR NEAR THE TERRITORY OF THE CITY OF KYLE, AND IF APPROPRIATE, TO DIRECT THE CITY ATTORNEY TO NEGOTIATE DEVELOPMENT INCENTIVE AGREEMENTS AND OTHER RELEVANT DOCUMENTS WITH THE BUSINESS PROSPECTS.

CITY COUNCIL REGULAR MEETING

November 5, 2014 – Page 7

Kyle City Hall

Mayor Pro Tem Hervol moved to Reconvene into regular session at 9:50 p.m. to discuss and take possible action regarding an update by SGR consultants on the search for candidates to fill the city's vacant city manager position. Council Member Swaton seconds the motion. All votes aye. Motion carried 6-0.

Mayor Pro Tem Hervol stated no action was taken on this item in Executive Session.

Mayor Pro Tem Hervol moved to Reconvene into regular session at 9:50 p. m. to discuss and take possible action regarding economic development information the city council has received from business prospects the city council seeks to have locate in or near the territory of the City of Kyle, and if appropriate, to direct the city attorney to negotiate development incentive agreements and other relevant documents with the business prospects. Council Member Swaton seconds the motion. All votes aye. Motion carried 6-0.

Mayor Pro Tem Hervol moved to direct staff to negotiate an economic development agreement as authorized under the local government code. Council Member Swaton seconds the motion. All votes aye. Motion carried 6-0.

GENERAL DISCUSSION

DISCUSS AND TAKE POSSIBLE ACTION REGARDING AN ORDINANCE ADDRESSING CITY COMMITTEES AND DIRECTING STAFF TO DRAFT RESOLUTIONS APPLICABLE TO CITY COMMITTEES. ~ KEN JOHNSON, CITY ATTORNEY

Mayor Webster moved to table discussion and possible action regarding an ordinance addressing city committees and directing staff to draft resolutions applicable to city committees. Council Member Selbera seconds the motion. All aye. Motion carried 6-0.

CITY MANAGERS REPORT

UPDATE ON VARIOUS CAPITAL IMPROVEMENT PROJECTS, ROAD PROJECTS, BUILDING PROGRAM, AND/OR GENERAL OPERATIONAL ACTIVITIES ~ *JAMES EARP, ACTING CITY MANAGER*

- 2015 Park Projects Status

Acting City Manager James Earp highlighted some of the work on Steeplechase, Waterleaf and Gregg Clark parks, such as bringing in some heavy equipment to level the baseball and football and soccer fields with work already in progress.

Mr. Earp spoke about a technology project he was working on and better way to manage committees submitted by citizens, with a more professional and better video streaming of council meetings time saving on preparation of the meeting minutes.

CITY COUNCIL REGULAR MEETING

November 5, 2014 - Page 8

Kyle City Hall

Mr. Earp stated a weather station had been installed at the Public Works facility as approved in the budget that could be accessed on the city website or Smartphone, and spoke of a management tool for reporting things in the community that need attention.

Mr. Earp reminded Council of upcoming meetings: November 10, 2014 at 7:00 p.m. Council meeting with Ron Hollifield of SGR to review City Manager candidates. November 15, 2014 at 8:00 a.m. to conduct City Manager interviews.

ADJOURN

With no further business to discuss, Mayor Pro Tem Hervol moves to adjourn. Council Member Selbera seconds the motion. All votes aye. Motion carried.

The City Council meeting adjourned at 10:22 p.m.

R. Todd Webster, Mayor

Amelia Sanchez, City Secretary



CITY OF KYLE, TEXAS

City Council Special Called Meeting - 11-10-2014

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: City Council Special Called Meeting - November 10, 2014 ~ *Amelia Sanchez, City Secretary*

Other Information:

Budget Information:

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

Attachments / click to download

 [City Council Special Called Meeting - November 10, 2014](#)

SPECIAL CITY COUNCIL MEETING

The City Council of the City of Kyle, Texas met in Special Session on November 10, 2014 at 7:00 pm at Kyle City Hall, with the following persons present:

Mayor Todd Webster
 Mayor Pro Tem Diane Hervol
 Council Member Tammy Swaton
 Council Member Shane Arabie
 Council Member David Wilson
 Jerry Hendrix, Chief of Staff
 Perwez Moheet, Finance Director
 Sandra Duran, HR Director
 Ken Johnson, City Attorney

CALL MEETING TO ORDER

Mayor Pro Tem Hervol called the meeting to order at 7:00 P.M.

ROLL CALL

Mayor Pro Tem Hervol called for roll call. Present were Mayor Pro Tem Hervol, Council Member Swaton, Council Member Arabie, and Council Member Wilson.

Mayor Pro Tem Hervol noted for the record that Council Member LeMense would be arriving late as well as Mayor Webster. Mayor Pro Tem Hervol moved to excuse Council Member Selbera due to a death in the family. Council Member Arabie seconds the motion. All aye. Motion carried 4-0.

CITIZEN COMMENT PERIOD WITH CITY COUNCIL

Mayor Pro Tem Hervol opened the citizens comment period at 7:02 P.M. and called for comments on items not on the agenda or posted for public hearing. With no one wishing to speak Mayor Webster closed Citizen's Comments at 7:02 P. M.

CONSIDER AND POSSIBLE ACTION

A RESOLUTION OF THE CITY OF KYLE, TEXAS, INDICATING SUPPORT AND APPRECIATION FOR VETERANS OF THE UNITED STATES ARMED FORCES, ESPECIALLY THOSE WHO HAVE DIED IN ACTION OR ARE MISSING, AND EXPRESSING GRATITUDE FOR THE MEMBERS OF KYLE VFW POST 12058 AND AMVET POST 115 FOR THEIR TIRELESS AND SELFLESS SERVICE TO THE KYLE COMMUNITY AND THE VETERANS WHO HAVE CHOSEN TO CALL KYLE THEIR HOME.

COUNCIL SPECIAL MEETING

November 10, 2014 – Page 2

Kyle City Hall

Council Member Wilson moved to approve and asked Mayor Pro Tem Hervol to read A Resolution of the City of Kyle, Texas, indicating support and appreciation for veterans of the United States Armed Forces, especially those who have died in action or are missing, and expressing gratitude for the members of Kyle VFW Post 12058 and AMVET Post 115 for their tireless and selfless service to the Kyle community and the veterans who have chosen to call Kyle their home. Council Member Swaton seconds the motion. All aye. Motion carried 4-0.

EXECUTIVE SESSION

CONVENE INTO EXECUTIVE SESSION PURSUANT TO TEX. GOV'T CODE SEC. 551.074 (PERSONNEL) AND SEC. 551.071(2) (CONSULTATIONS WITH ATTORNEY) TO DISCUSS AND TAKE POSSIBLE ACTION REGARDING SELECTION OF CANDIDATES TO BE CONSIDERED TO FILL THE CITY'S VACANT CITY MANAGER POSITION (SGR CONSULTANTS).

Mayor Pro Tem Hervol moved to Convene into executive session at 7:08 p.m. pursuant to Tex. Gov't Code Sec. 551.074 (Personnel) and Sec. 551.071(2) (Consultations with Attorney) to discuss and take possible action regarding selection of candidates to be considered to fill the city's vacant city manager position (SGR consultants). Council Member Swaton seconds the motion. All aye. Motion carried 4-0.

Mayor Webster arrived at 7:20 p.m.

RECONVENE INTO REGULAR SESSION TO DISCUSS AND TAKE POSSIBLE ACTION REGARDING SELECTION OF CANDIDATES TO BE CONSIDERED TO FILL THE CITY'S VACANT CITY MANAGER POSITION (SGR CONSULTANTS).

Mayor Pro Tem Hervol moved to Reconvene into regular session at 9:14 p.m. to discuss and take possible action regarding selection of candidates to be considered to fill the city's vacant city manager position (SGR consultants). Council Member Wilson seconds the motion. All aye. Motion carried 5-0.

Mayor Webster stated no action was taken during Executive Session.

ADJOURN

With no further business to discuss Mayor Pro Tem Hervol moved to adjourn. Council Member Wilson seconds the motion. All votes aye. Motion carried.

The City Council meeting adjourned at 9:15 P.M.

COUNCIL SPECIAL MEETING
November 10, 2014 – Page 3
Kyle City Hall

R. Todd Webster, Mayor

Attest: Amelia Sanchez, City Secretary



CITY OF KYLE, TEXAS

End of Year Presentation by Catalyst Commercial

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Presentation of End of Year results on retail recruitment by Catalyst Commercial. ~ *Diana Blank-Torres, Director Economic Development*

Other Information:

Budget Information:

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

Attachments / click to download

 [End of Year Report by Catalyst](#)



Diana Blank, Director Economic Development

City of Kyle

100 West Center Street

Kyle, Texas 78640

Dear Mrs. Blank,

Catalyst Commercial, Inc. (Catalyst) was retained by the City of Kyle to conduct a market analysis with the purpose of identifying retail demand and potential tenants for the City of Kyle. The following is a brief summarization of the work we performed according to the tasks identified in the contract per the scopes of work:

- Monthly Conference Call with the City of Kyle
- Additional Research/Updates
- Monthly Recruitment
- Assist the City of Kyle with ICSC meetings & collateral
- Monthly written progress reports

Catalyst is currently in the Implementation Phase of this project. Progress is as follows:

- Catalyst is tracking over 75 retail opportunities
- Monthly Opportunity Calls with the City of Kyle
- Monthly update memo last received 09.14. The month of October is suspended due to scheduling for ICSC Dallas 2014
- Catalyst scheduled and represented the City of Kyle at RECon ICSC 2014 in Las Vegas, May 2014
- Catalyst updated the market collateral for the City of Kyle for the ICSC RECon 2014 event
- Currently Catalyst is scheduling meetings for the ICSC Dallas event November 13th-14th, 2014.
- Catalyst will be representing the City of Kyle at this event & will give an update on this conference prior to this event.
- Jason Claunch will present full end of year report to the City of Kyle on Nov. 18th, 2014

Should you have any questions or concerns, or require additional information, please feel free to contact me at the phone number or email below.

Jason Claunch

Catalyst

972-999-0081, x101

jason@catalystcommercial.net

www.catalystcommercial.net



CITY OF KYLE, TEXAS

Appointment to P&Z Commission

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Consider and take possible action to appoint recommended individuals to vacant positions on the Planning and Zoning Commission. ~ *R. Todd Webster, Mayor*

Other Information:

Budget Information:

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

Attachments / click to download



CITY OF KYLE, TEXAS

Approve P.O. for Animal Control truck

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Approve a purchase order to CALDWELL COUNTRY CHEVROLET, Caldwell, Texas, in an amount not to exceed \$27,980.00 for the purchase of one (1) 2015 Chevrolet 2500HD Silverado 4X4 Double Cab Truck through the Buy Board Purchasing Cooperative for the Animal Control unit in the Police Department. ~
Jeff Barnett, Chief of Police

Other Information:

Budget Information: A Fiscal Note is attached.

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

Attachments / click to download

 [Fiscal Note](#)

City of Kyle, Texas
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: November 18, 2014
CONTACT CITY DEPARTMENT: Police Department
CONTACT CITY STAFF: Jeff Barnett, Chief of Police

SUBJECT:

Authorize award and execution of a Purchase Order to CALDWELL COUNTRY CHEVROLET, Caldwell, Texas, in an amount not to exceed \$27,980.00 for the purchase of one (1) 2015 Chevrolet 2500HD Silverado 4x4 Double Cab LWB through the Buy Board Purchasing Cooperative for the Animal Control unit in the Police Department.

CURRENT YEAR FISCAL IMPACT:

This Purchase Order to CALDWELL COUNTRY CHEVROLET will require expenditure of funds from the Fiscal Year 2014-15 approved budget of the Police Department as follows:

1. City Department:	Police Department
2. Project Name:	Purchase of One (1) Chevrolet 2500HD Truck
3. Budget/Accounting Code(s):	110-151-57123
4. Funding Source:	General Fund
5. Current Appropriation:	\$ 450,000.00
6. Unencumbered Balance:	\$ 129,232.48
7. Amount of This Action:	<u>\$(27,980.00)</u>
8. Remaining Balance:	<u>\$ 101,252.48</u>

FUNDING SOURCE OF THIS ACTION:

The funding for this Purchase Order will be provided from the Fiscal Year 2014-15 approved budget of the Police Department.

ADDITIONAL INFORMATION/COUNCIL ACTION:

N/A.

 11/12/2014

Perwez A. Moheet, CPA - Date
Director of Finance



CITY OF KYLE, TEXAS

Approve an Irrevocable Trust Management Agreement for City's Post Retirement Medical Benefits Plan

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation:

Approve a 5-year trust and investment management services agreement with three 1-year renewal options with PEB TRUST administered by FirstSouthwest for a fixed management fee of \$10,500 per year for the City of Kyle's post-retirement medical benefits plan. ~ *Perwez A. Moheet, CPA, Director of Finance*

Other Information:

The City of Kyle offers health insurance coverage for a selective class of retirees who have completed twenty-five (25) years or more of continuous service as a full-time employee. These types of benefit provided by an employer to its retirees (other than pension plans) is commonly referred to as an Other Post-Employment Benefits (OPEB) plan.

OTHER POST-EMPLOYMENT BENEFITS OFFERED BY THE CITY

The City of Kyle offers health insurance coverage for its retirees who have completed twenty-five (25) years or more of continuous service as a full-time employee. In 2009, the City amended its health insurance coverage benefits plan and as a result, three groups of employees for purposes of eligibility were established with different benefit coverage.

The three employee groups are as follows:

Group 1 Retirees:

All former full-time employees, who have retired from the City after twenty-five (25) years or more of continuous service as an officer or employee of the City. All current full-time employees who have completed five (5) or more years of continuous service as a full-time employee of the City of Kyle by 4-1-2009 and complete a total of twenty-five (25) years or more of continuous service as an officer or employee of the City.

For Group 1 retirees, the City pays 100% of the cost of providing health insurance coverage which is to be at the same level as all other regular employees. The City also pays 100% of the cost of providing dental and vision coverage for this group of retirees until they reach the age of 65. This benefit is for the retired City employee only and not for their spouse or family.

Item # 7

Under Group 1, the City currently has one retiree receiving benefits and potentially thirteen (13) current employees who could be eligible to receive benefits if they complete 25 years of continuous service.

Group 2 Retirees:

All current full-time employees who have completed less than five (5) of continuous service as a full-time employee of the City of Kyle by 4-1-2009 and complete a total of twenty-five (25) years or more of continuous service as an officer or employee of the City.

For Group 2 retirees, the City pays a maximum of \$300.00 per month towards the cost of providing health insurance coverage which is to be at the same level as all other regular employees. The \$300.00 per month amount was set in April 2009 (base year) and is to be adjusted annually each October 1st based on the change in consumer price index (CPI) during the preceding 12-month period April through March. This benefit is for the retired City employee only and not for their spouse or family. The City does not provide dental and vision coverage at its cost to retirees in Group 2.

Under Group 2, the City currently does not have any retirees receiving benefits. There are potentially thirty seven (37) current employees who could be eligible to receive health insurance coverage benefits if they complete 25 years of continuous service.

Group 3 Retirees:

Any full-time employee hired after 4-1-2009 and subsequently completes twenty-five (25) years or more of continuous service as an employee of the City. The City, under the amended plan, does not offer health insurance coverage to retirees in Group 3. Currently there are one hundred ten (110) employees who were hired after April 1, 2009.

REQUIREMENTS FOR ACTUARIAL VALUATIONS

The Governmental Accounting Standards Board (GASB), the authoritative body that is responsible for establishing standards by prescribing accounting and financial reporting requirements for all state and local governmental entities, issued Standards 43 and 45 outlining specific accounting and financial reporting requirements for Other Post-Employment Benefits (OPEB) offered by governmental entities.

These standards require that expenses associated with retiree health benefits be accrued over the working lifetime of employees rather than expenses on a "pay-as-you-go" basis as retirees incur claims. GASB requires that all government entities conduct actuarial valuations every two to three years depending on the entity's size.

The standards also require that all contributions made by the City towards its OPEB obligations be administered and managed in an irrevocable trust held by a qualified third party independent of the City.

PRIOR ACTIONS TAKEN BY CITY COUNCIL

The City Council authorized the City Manager to retain the services of Dean Actuaries, LLC to complete the City's first actuarial valuation of its post-retirement medical plan expense and benefit obligations. The actuarial report dated February 24, 2014 was presented by the consultant to the City Council. Staff also briefed City Council that an irrevocable trust would have to be established in order to be in compliance with the requirements of GASB 45 and that staff would issue a Request for Proposal for recommending a trust administrator to City Council at a later date.

SOLICITATION PROCESS FOLLOWED BY CITY STAFF

After a low number of response (two) received to the City's initial Request for Proposal (RFP) for trust services, on September 12, 2014, the City issued a second Request for Proposal (RFP) soliciting proposals from firms providing trust management services for Other Post-Employment Benefits Plan.

A total of two (2) proposals were received from the following firms in response to the Request for Proposals issued by the City of Kyle:

- Public Agency Retirement Services (PARS), Newport Beach, CA
- PEB Trust/FirstSouthwest, Austin, TX

The two proposals were evaluated and scored by City staff using the following criteria:

1. Firm's Qualifications
2. Firm's Approach & Responsiveness
3. Compliance with GASB 45
4. Personnel Assigned
5. Fixed Cost/Fee Structure

STAFF RECOMMENDATION

City staff recommends approval of a 5-year trust and investment management services agreement with three 1-year renewal options with PEB TRUST administered by FirstSouthwest for a fixed management fee of \$10,500 per year for the City of Kyle's post-retirement medical benefits plan.

A complete copy of the draft Trust Agreement and all associated documents including RFP, Score Tabulation Sheet, and Actuarial Valuation Report are attached.

Budget Information:

Attachments / click to download

-  [Draft Trust Services Agreement](#)
 -  [Proposal Score Tabulation Sheet](#)
 -  [RFP - Trust Services](#)
-

PEB Trust



The Premier OPEB Trust Program

Client Manual
November 2014

Item # 7

Table of Contents

PEB Trust Documents

Tab A. PEB Trust Documents

1. **Adoption Agreement for PEB Trust.** For Board, Council, or Commission approval.
Signature Required.

Background documents:

2. **IRS Private Letter Ruling for PEB Trust.** This ruling applies to all employers participating in PEB Trust
3. **PEB Trust Agreement.** Submitted to the IRS as part of the Private Letter Ruling process, applies to all employers participating in PEB Trust
4. **Terms and Conditions of Participation and PEB Trust Bylaws.** Contains rules and terms related to PEB Trust and its Board
5. **PEB Trust Information Statement.** Contains disclosures regarding PEB Trust, its administration, and risks associated with investing

Tab B. Administrative Services

6. **Administrative Services Agreement.** For administrative services with FSW Advisory Services (part of First Southwest). **Signature Required**

Tab C. Account Application

7. **First Southwest New Account Application & Customer Agreement.** For custody, clearing, and trade execution. This agreement is filed with FINRA and is standard across many types of clients (e.g., retail, institutional). **Signature Required**

Tab D. Contact Information for PEB Trust Trustees and Providers

Updated November 2014

Tab A. PEB Trust Documents

1. **Adoption Agreement for PEB Trust.** For Board, Council, or Commission approval. **Signature Required**



**ADOPTION AGREEMENT
TO THE
PEB TRUST**

No guaranty that payments or reimbursements to employees, former employees or retirees will be tax-free. The Trust has obtained a ruling from the Internal Revenue Service concerning only the federal tax treatment of the Trust's income. That ruling may not be cited or relied upon by the Employer whatsoever as precedent concerning any matter relating to the Employer's health plan(s) (including post-retirement health plans). In particular, that ruling has no effect on whether contributions to the Employer's health plan(s) or payments from the Employer's health plan(s) (including reimbursements of medical expenses) are excludable from gross income of employees, former employees or retirees, under the Internal Revenue Code. The federal income tax consequences to employees, former employees and retirees depend on the terms and operation of the Employer's health plan(s).



Introduction

By executing this Adoption Agreement, the Employer specified in Section II of this Adoption Agreement adopts the PEB Trust Agreement ("PEB Trust"), a multiple employer pooled account arrangement which is designed to fund post-retirement benefits other than pension benefits for the Employer's eligible retired employees and their eligible dependents, and which PEB Trust is hereby incorporated by reference into this Adoption Agreement.

Defined terms shall have the meaning attributed to such terms in the PEB Trust Agreement.

The Employer hereby selects the following Plan specifications:

Section I Plan and Trust Information

A.1.1 FULL NAME OF TRUST: PEB Trust Agreement ("PEB Trust")

A.1.2 FULL NAME AND EFFECTIVE DATE(S) OF POST-EMPLOYMENT HEALTH CARE PLAN OR PLANS TO BE FUNDED BY THE PEB TRUST ON BEHALF OF THE EMPLOYER:

Section II Employer Information

A.2.1 EMPLOYER INFORMATION: (See Section 2.4 of Master Plan Document):

NAME OF EMPLOYER: _____

ADDRESS: (Street): _____

(City, State, Zip code: _____

(Phone Number): _____

A.2.2 EMPLOYER'S PLAN ADMINISTRATOR: _____

A.2.3 EMPLOYER'S TAX IDENTIFICATION NUMBER: _____



A.2.4 EMPLOYER'S FISCAL YEAR (means the 12 consecutive month period used by the Employer in preparing its financial statements).

Commencing on (month, day) _____ and

Ending on (month, day) _____

Section III Eligible Employees and Eligible Dependents

A.3.1 ELIGIBLE EMPLOYEE: The determination of Eligible Employees and Eligible Dependents is finally and conclusively determined by the Employer according to its applicable statutes, ordinances, Plans, policies and collective bargaining agreements.

***** Signature Page Follows *****



Execution and Adoption of PEB Trust Agreement

By executing this Adoption Agreement, the Employer hereby adopts and agrees to be bound by the PEB Trust Agreement along with any related documents and appoints the PEB Trust Board of Trustees as trustee.

The Employer understands and agrees that the documents referred to above may be amended from time-to-time in accordance with the terms of such documents.

This Adoption Agreement is hereby executed this ____ day of _____, 20____.

EMPLOYER (specify):

By: _____

Title: _____

Approved As To Form:

By: _____

Title: _____



Execution and Adoption of PEB Trust Agreement
Current List of Related Documents

In addition to the PEB Trust Adoption Agreement (pages 1-3 above), the Employer understands and agrees that the documents referred to herein may be amended from time-to-time in accordance with the terms of such documents. A current copy of each document is attached hereto.

1. PEB Trust Agreement
2. PEB Trust Terms and By-Laws
3. PEB Trust Information Statement
4. IRS PLR: 123064-08

This Adoption Agreement is hereby executed this _____ day of _____, 201____.

EMPLOYER (specify):

By: _____

Title: _____

Approved As To Form by Trustee of PEB Trust:

By: _____

(PEB Trust Trustee)



Instruction Information

Employer Name

Please complete this document with any special instructions as to how to handle your account. Please include instructions such as: Number of signatures or authorized persons required means of authorized communication (US Mail, email, phone, fax, etc.) or other requirements, such as receiving banks, accounts or other information.

Print Name of Signatory

Authorized Signatory

Date Effective



Authorized Persons
Appointment or Withdrawal of Appointment

Please provide information and authorization for **each** person authorized to act on behalf of Employer with regards to PEB Trust instructions.

Name of Employer and Plan

This is an Appointment_____ This is a Withdrawal of an Appointment_____

Date Effective_____ Date Withdrawn_____

Authorized Person Information:

Name

Address

Address

Phone and email address

Signature of Authorized Person-(Not required for withdrawal of appointment)

How will this person communicate? Email____Phone____Fax____Other_____

Name and position of person making appointment

Signature of Appointing Officer

Date of Appointment

2. **IRS Private Letter Ruling for PEB Trust.** This ruling applies to all employers participating in PEB Trust

FAX COVER SHEET

INTERNAL REVENUE SERVICE

**OFFICE OF ASSOCIATE CHIEF COUNSEL
(TAX EXEMPT & GOVERNMENT ENTITIES)**

1111 Constitution Ave., NW

Room 4409

Washington, DC 20224

FAX: (202) 622-1036



Date Sent: *Sept. 18, 2008*

Pages Sent: *5* (Counting Cover)

Deliver To: *Gus Fields*

FAX Number: *214-651-4330*
214-659-4051

Organization: *Strasburger*

Phone Number: *214-659-4302*

Sender: *Sylvia Hunt*

FAX Number: *(202) 622-1036*

Office: *CC:TEGE*

Phone Number: *(202) 622-1424*
7215

Sent by: _____

Time: _____

THIS DOCUMENT IS INTENDED ONLY FOR THE NAMED ADDRESSEE.

This communication is intended for the sole use of the individual to whom it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent for delivering the communication to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone, and return the communication to the address above via the United States Postal Service. Thank you.

COMMENTS:

*Attached is a favorable signed section 115
ruling letter for PEB Trust.*

Sylvia Hunt

Internal Revenue Service**Department of the Treasury**
Washington, DC 20224

Index Number: 115.00-00

Richard Joseph, Managing Dir.
The PEB Trust
c/o Alerus Financial, N.A.
10900 Wayzata Blvd, Ste 130
Minnetonka, MN 55305-5574

Person To Contact:
Martin Schaffer, ID No. 50-06422
Telephone Number:
(202) 622-6070
Refer Reply To:
CC:TEGE:EOEG:EO1
PLR-123064-08
Date: September 3, 2008

Trust: PEB Trust, EIN: 45-0140105
Agreement: PEB Trust Agreement
Employer: A local government adopting the PEB Trust
State: Texas

Dear Mr. Joseph:

This letter responds to a letter from your authorized representative dated May 9, 2008, as well as additional correspondence, submitted on behalf of the Trust, requesting a ruling that the Trust's income is excludable from gross income under § 115(1) of the Internal Revenue Code.

FACTS

The Agreement creates a multiple-employer pooled trust (the Trust) pursuant to State law, open to participation only by government entities (Employers) in the State whose income is excludable from federal income taxation under § 115 of the Code. The purpose of the Trust is to provide a vehicle for Employers to pre-fund retiree health care. The Trust will receive contributions from Employers that adopt the Trust to assist in funding their obligations to provide post-employment, non-pension benefits.

An independent, nondiscretionary trustee will serve as the custodian of Trust assets and will provide certain administrative services to the adopting employers. With respect to the assets of each adopting employer, to be held in a legally separate and individual account, the trustee will be subject to the direction of a plan administrator appointed by the employer (or, in the absence of such appointment, the employer itself).

PLR-123064-08

CC:TEGE:EOEG:EO1:MLSchäffer

The plan administrator may engage a professional investment advisor or manager to assist in selecting and monitoring investments.

A five-member advisory committee, the majority of which must be employees of the adopting employers and selected by a majority vote of the plan administrators, will be responsible for oversight of the trustee and the administrative and investment management services. Except for the power to appoint or remove the trustee by majority vote, and the limited authority to amend the Agreement to the extent necessary to assure that the Trust complies with federal and state law, the advisory committee will serve strictly in an advisory capacity. The committee will have no power or authority to interfere with the employers rights to control their separate accounts through the plan administrators.

Trust assets may not be assigned, alienated, attached, or garnished. Amendments to the Agreement may not revoke the Trust or cause assets to be diverted from the exclusive purpose of providing post-employment health and welfare benefits to eligible employees and paying the reasonable expenses of the Trust. The termination of an adopting employer's plan to provide post-retirement benefits other than pensions will not result in the employer recovering the assets in its separate account in the Trust, except upon the complete liquidation of the employer's obligation to provide further such benefits under applicable law, or the assumption of all such benefit obligations by the Social Security Administration or other government agency.

The Trust represents that the following statement will appear in bold type on the first page of the adoption agreement between each Employer and the Trust.

No guaranty that payments or reimbursements to employees, former employees or retirees will be tax-free. The Trust has obtained a ruling from the Internal Revenue Service concerning only the federal tax treatment of the Trust's income. That ruling may not be cited or relied upon by the employer whatsoever as precedent concerning any matter relating to the employer's health plan(s) (including post-retirement health plans). In particular, that ruling has no effect on whether contributions to the employer's health plan(s) or payments from the employer's health plans (including reimbursements of medical expenses) are excludable from the gross income of employees, former employees or retirees, under the Internal Revenue Code. The federal income tax consequences to employees, former employees and retirees depend on the terms and operation of the employer's health plan(s).

PLR-123064-08

CC:TEGE:EOEG:EO1:MLSchäffer

LAW AND ANALYSIS

Section 115(1) of the Code provides that gross income does not include income derived from any public utility or the exercise of any essential government function and accruing to a state or any political subdivision thereof.

In Rev. Rul. 77-261, 1977-2 C.B. 45, income from an investment fund, established under a written declaration of trust by a state, for the temporary investment of cash balances of the state and its participating political subdivisions, was excludable from gross income for federal income tax purposes under § 115(1). The ruling indicated that the statutory exclusion was intended to extend not to the income of a state or municipality resulting from its own participation in activities, but rather to the income of a corporation or other entity engaged in the operation of a public utility or the performance of some governmental function that accrued to either a state or municipality. The ruling points out that it may be assumed that Congress did not desire in any way to restrict a state's participation in enterprises that might be useful in carrying out projects that are desirable from the standpoint of a state government and which are within the ambit of a sovereign properly to conduct. In addition, pursuant to § 6012(a)(2) and the underlying regulations, the investment fund, being classified as a corporation that is subject to taxation under subtitle A of the Code, was required to file a federal income tax return each year.

In Rev. Rul. 90-74, 1990-2 C.B. 34, the Service determined that the income of an organization formed, funded, and operated by political subdivisions to pool various risks (casualty, public liability, workers' compensation, and employees' health) is excludable from gross income under § 115. In Rev. Rul. 90-74, private interests neither materially participate in the organization nor benefit more than incidentally from the organization.

The Trust provides health and welfare benefits to retired employees of the participating employers. Each of the Trust's participating employers is required to be a state, a political subdivision of a state, or an entity the income of which is excluded from gross income under § 115(1). Providing health and welfare benefits to current and former public employees constitutes the performance of an essential government function. Based upon Rev. Rul. 90-74 and Rev. Rul. 77-261, the Trust performs an essential governmental function within the meaning of § 115(1).

The income of the Trust accrues to its participating employers, all of which are political subdivisions or entities the income of which is excluded from gross income under § 115(1). No private interests participate in, or benefit from, the operation of the Trust other than as providers of goods or services. Trust assets may never inure to the

4

PLR-123064-08

CC:TEGE:EOEG:EO1:MLSchäffer

benefit of, or be recovered by, an employer, except for a mistake of fact, the complete liquidation of the employer's obligation to provide post-employment benefits, or the assumption of that obligation by a government agency. Any assets remaining in a separate account after satisfying all benefit obligations shall be paid to the employer to the extent permitted by law and consistent with § 115. See Rev. Rul. 90-74.

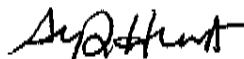
Based solely on the facts and representations submitted by the Trust, we conclude that the income of the Trust is derived from the exercise of an essential governmental function and will accrue to a state or a political subdivision thereof for purposes of § 115(1). Consequently, we hold that the Trust's income is excludable from gross income under § 115(1).

Except for the specific ruling above, we express or imply no opinion concerning the federal tax consequences of the facts of this case under any other provision of the Code. Specifically, we express or imply no opinion regarding the classification of the Trust as a trust for federal tax purposes or regarding the federal tax consequences of contributions to, or payments from, an Employer's health plan(s), including (but not limited to) whether contributions to the plan(s) are excludable from the gross income of employees, former employees or retirees under § 106 and whether payments from the plan(s) (including reimbursements of medical expenses) are excludable from the gross income of employees, former employees or retirees under §§ 104 or 105.

Under a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

This ruling is directed only to the taxpayer who requested it. According to § 6110(k)(3), this ruling may not be used or cited as precedent.

Sincerely,



SYLVIA HUNT
Assistant Chief
Exempt Organizations Branch 2
Office of Division Counsel /
Associate Chief Counsel
(Tax Exempt & Government Entities)

Enclosures: copy for § 6110 purposes

Item # 7

TOTAL P.05

3. **PEB Trust Agreement.** Submitted to the IRS as part of the Private Letter Ruling process, applies to all employers participating in PEB Trust. This Agreement is approved by the Board of Trustees. Individual employers join via the PEB Trust Adoption Agreement.

PEB Trust Agreement





ARTICLE I

DEFINITIONS

“Adoption Agreement” shall have the meaning given to such term in Section 2.4.

“Advisory Committee” means the Committee appointed by the Employers to coordinate administrative and investment advisory services to the Employers and the Trustee.

“Agreement for Administrative Services” shall mean the agreement executed between the Employer and the Trustee which authorizes the Trustee to perform the specific duties of administering the Government Account of the Employer.

“Assets” shall mean all contributions and transfers of assets received by a Government Account on behalf of an Employer, together with the income and earnings from such contributions and transfers and any increments accruing to them.

“Code” shall mean the Internal Revenue Code of 1986 or its successor as amended from time to time.

“Effective Date” shall mean, with respect to each Employer, the date on which the Trustee received Plan Assets to be held in trust hereunder.

“Eligible Dependent” shall mean the spouse or dependent of an Eligible Employee who is entitled to post-employment health care benefits pursuant to any statute or ordinance or the Employer's plan, policies and/or applicable collective bargaining agreements.

“Eligible Employee” shall mean an active employee or retired employee of an Employer who is entitled to post-employment health care benefits pursuant to any statute or ordinance or the Employer's plan, policies and/or applicable collective bargaining agreements.

“Employer” shall mean a state or political subdivision thereof or an agency or instrumentality of a state or political subdivision that adopts the provisions of this Agreement, provided that such Employer's income is excludable from gross income under Section 115(1) of the Code. In no case may an organization become a participating employer in the PEB Trust unless it is a state, a political sub-division of a state, or an entity the income of which is excluded from gross income under Section 115 of the Code.

“GASB” shall mean the Governmental Accounting Standards Board or any successor thereof.



“Governmental Employees’ Post-Retirement Health Plan Account” or **“Government Account”** shall mean the legally separate account that is established for each Employer when it adopts the PEB Trust by executing an Adoption Agreement.

“OPEB” or **“Other Post-Employment Benefits”** shall mean benefits other than pension benefits, such as medical, dental, vision, life insurance, long-term care and other similar health benefits provided to retirees and excludable from the retirees’ gross incomes under Section 79,105 or similar provisions of the Code.

“OPEB Obligation” shall mean an Employer’s obligation to provide post- employment health care and welfare benefits to its eligible employees as specified in such Employer’s plan, policies and/or applicable collective bargaining agreements.

“PEB Trust Agreement” or **“Agreement”** shall mean this Trust Agreement which creates a trust for the purpose of commingling the assets of the Government Accounts established for each Adopting Employer.

“PEB Trust Effective Date” shall mean January 1, 2008.

“Plan” shall mean any post-retirement health care plan, adopted by an Employer as a separate plan for that Employer.

“Plan Administrator” shall mean the person or persons, including any individual designated by position of employment at the Employer, to act on its behalf in all matters relating to the Employer’s participation in the PEB Trust and Government Account.

“Pooled Account” shall mean an account, established for record keeping purposes only, to commingle the Assets of the Government Account.

“Trustee” shall mean the entity appointed as trustee of the PEB Trust and the Government Accounts established pursuant to the provisions of this Agreement.

ARTICLE II

THE TRUST

2.1 Pooled Trust

The post-employee benefits trust, or PEB Trust, is a multiple employer pooled account trust arrangement established to provide economies of scale and efficiency of administration to governments that adopt it to hold and invest the assets used to fund their respective OPEB Obligations.



2.2 Purpose of PEB Trust

The PEB Trust is established with the intention that it qualify as a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Code and the Regulations issued thereunder (if any) and as a tax-exempt trust under the provisions of the state's statutory provisions applicable to each Employer. This Agreement shall be construed and the PEB Trust shall be administered in a manner consistent with such intention. The fundamental purpose of the PEB Trust is to fund post-employment benefits (other than pension benefits), such as medical, dental, vision, life insurance, long-term care and similar health benefits, offered by the Employer to its employees as specified in each Employer's applicable statute, ordinance, policies and/or collective bargaining agreements. It is intended that the Assets accumulated under the PEB Trust will reduce the Employer's OPEB obligations as determined by GASB.

2.3 Date of Adoption

The date as of which each Employer adopts the PEB Trust shall be the "Effective Date" of the PEB Trust Agreement as to that Employer.

2.4 Employers

An Employer may adopt the PEB Trust Agreement only if such Employer's income is excluded from Federal Income tax under Section 115 of the Code. Adoption must be accomplished by action of its governing body in writing accepted by the Trustee, executing the attached adoption agreement for the PEB Trust ("**Adoption Agreement**") and an Agreement for Administrative Services. Such adopting Employer shall then become an Employer under the PEB Trust. Each Employer shall furnish the Trustee with the following documents to support its adoption of the PEB Trust:

- (a) a certified copy of the resolution of the governing body of the Employer authorizing the adoption of the PEB Trust Agreement and the appointment of an individual or individuals designated by position of employment at the Employer to act on its behalf in all matters relating to the Employer's participation in this PEB Trust ("**Plan Administrator**"), including any selection or ratification of the Advisory Committee, as may be required from time to time;
- (b) an original of the Adoption Agreement executed by the Plan Administrator or other duly authorized employee of the Employer;
- (c) an original of the Agreement for Administrative Services with the Trustee executed by the Plan Administrator or other duly authorized representative of the Employer;
- (d) a copy of any plan document of each Plan that is to be funded pursuant to this Agreement;



- (e) a copy of any document in which the Employer or Plan Administrator has appointed an investment advisor and described the authority of the investment advisor;
- (f) an address notice; and
- (g) such other documents as the Trustee may reasonably request, including evidence that the Employer's income is excludable from Federal Income taxes under Section 115 of the Code.

2.5 **Government Account**

An Employer that adopts the PEB Trust Agreement, as provided in Section 2.4, shall be deemed to have adopted a legally separate and individual Government Account whose provisions are identical to those of this Agreement. The Assets of a Government Account shall only be available to pay post-employment health care and welfare benefits of Eligible Employees of the Employer that created such Account. The Account is created for the purpose of receiving contributions made to fund the adopting Employer's OPEB Obligation; accumulating, managing and investing those contributions; and providing payments to health care providers (or reimbursing an Employer that has made payments to health care providers) on account of each Employer's OPEB Obligation. No separate accounts shall be established for individual Eligible Employees or Eligible Dependents.

2.6 **Assets of Government Account**

The Assets of each Government Account shall consist of all contributions and transfers received by the Account on behalf of the Employer, together with the income and earnings from such contributions and transfers, and any other increments accruing to them, net of any investment losses, benefits, expenses or other costs. All contributions or transfers shall be received by the Trustee in cash or in other property acceptable to the Trustee. The Trustee shall manage and administer the Assets of the Government Account without distinction between principal and income. The Trustee shall have no duty to compute any amount to be transferred or paid to the Trust by the Employer and the Trustee shall not be responsible for the collection of any contributions or transfers to any Government Account.

2.7 **Commingling for Investment and Administration**

The Assets of each Government Account may be commingled by the Trustee for investment and administrative purposes, to provide economies of scale and efficiency of administration to the Government Accounts. The responsibility for Plan level accounting within these Pooled Account(s) shall be that of the Trustee.



2.8 **Trustee Accounting**

The Trustee shall be responsible only for maintaining records and maintaining accounts for the aggregate assets of the PEB Trust and for each Government Account, based upon the accounts). Each Employer shall have a right to cause an audit of the records of the PEB Trust and each Government Account at any reasonable time.

2.9 **No Diversion of Assets**

The Assets in each Government Account shall be held in trust and prudently invested for the exclusive purpose of providing post-employment health care and welfare benefits to the Eligible Employees of the Employer that created the Government Account and defraying the reasonable administrative and actuarial expenses of such Government Account. Under no circumstances may the Assets in one Account be used for or diverted to, any other purpose, including, but not limited to, the satisfaction of any other Employer's OPEB Obligation.

2.10 **Nature of Trust**

Neither the full faith and credit nor the taxing power of any Employer is pledged to the distribution of benefits hereunder. Except for contributions and other amounts hereunder, no other amounts are pledged to the distribution of benefits hereunder. Distributions of benefits are neither general nor special obligations of any Employer, but are payable solely from the Assets of each Government Account, as more fully described herein. No employee of any Employer or dependent of any employee may compel the exercise of the taxing power by any Employer.

Distributions of Assets under a Government Account are not debts of any Employer within the meaning of any constitutional or statutory limitation or restriction. Such distributions are not legal or equitable pledges, charges, liens or encumbrances, upon any Employer's property, or upon any Employer's income, receipts, or revenues, except amounts in the Accounts which are, under the terms of each Plan and this Trust set aside for distributions. Neither the members of the legislative body of any Employer nor its officers, employees, agents or volunteers are liable hereunder.

ARTICLE III

ADMINISTRATIVE MATTERS

3.1 **Appointment of Trustee**

The Advisory Committee by vote of a majority of its members may appoint a bank, trust company, retirement board, insurer, committee or other entity as permitted by law, to serve as the successor Trustee of this PEB Trust. Such action must be in writing. Upon the written acceptance of such entity it shall become the Trustee of the PEB Trust and



each Government Account. By executing an Adoption Agreement, the adopting Employer hereby appoints the Board of Directors of the PEB Trust as the initial Trustee as of the Effective Date.

3.2 **Removal of Trustee**

The Advisory Committee by a majority vote may remove the Trustee and choose another Trustee of the PEB Trust. Such action must be in writing and delivered to the Trustee and each Plan Administrator. The Employer, or the Plan Administrator, if authorized by the Employer, also may withdraw its Government Account from the PEB Trust by giving at least ninety (90) days prior written notice to the Trustee. If the Employer or the Plan Administrator acts to remove the Account, the Employer or the Plan Administrator shall appoint a successor trustee for its Government Account, and such appointment shall vest the successor trustee with title to the Assets of the Government Account. Upon the successor trustee's acceptance of such appointment, Assets having a value equal to the funds held in the Government Account shall be segregated and placed in a separate trust by the Trustee. As soon as practicable thereafter, such Assets shall be transferred to a trust established by the Employer, provided that (i) such trust shall satisfy the requirements of Section 115 of the Code, and (ii) all assets held by such trust shall qualify as "plan assets" within the meaning of GASB Statement No. 45, in each case as reasonably determined by the Employer and certified in writing by the Employer to the Trustee.

3.3 **Resignation of Trustee**

The Trustee may resign as trustee of this PEB Trust at any time by giving at least ninety (90) days prior written notice to the Advisory Committee and the Plan Administrator of each Employer that has adopted the PEB Trust Agreement and not terminated its participation in the PEB Trust. Such resignation shall also be deemed a resignation as trustee of each of the Government Accounts. The Employer's appointment of a successor trustee to the Government Account will vest the successor trustee with title to the Assets of its Government Account upon the successor trustee's acceptance of such appointment.

If the Trustee resigns or is removed by the Advisory Committee pursuant to Section 3.2, the Advisory Committee shall appoint a successor trustee. The Trustee shall, upon the appointment and acceptance of a successor trustee, transfer and deliver the Assets and all records relating to the PEB Trust to the successor, after reserving such reasonable amount as it shall deem necessary to provide for its fees and expenses and any sums chargeable against the PEB Trust for which it may be liable. The Trustee shall do all acts necessary to vest title of record in the successor trustee.



3.4 **The Plan Administrator**

The governing body of each Employer shall have absolute authority for the administration and investment of the Government Account it has adopted, subject to any applicable state and federal laws and regulations. Each Employer shall by resolution designate a Plan Administrator. Unless otherwise specified in the Adoption Agreement, the Plan Administrator shall be deemed to have authority to act on behalf of the Employer in all matters pertaining to the Employer's participation in this PEB Trust and in regard to the Government Account of the Employer. Such appointment of a Plan Administrator shall be effective upon receipt and acknowledgment by the Trustee and shall be effective until the Trustee is furnished with a resolution of the Employer that the appointment has been modified or terminated.

3.5 **Failure to Appoint Plan Administrator**

If a Plan Administrator is not appointed, or such appointment lapses, the Employer shall be deemed to be the Plan Administrator. As used in this document Plan Administrator shall be deemed to mean Employer when a Plan Administrator has not been appointed.

3.6 **Advisory Committee**

An Advisory Committee comprised of five (5) members shall be responsible for the oversight of the Trustee and administrative and investment advice to the Employers that have adopted the PEB Trust. Except for the power to remove the Trustee, described in Section 3.2, and the limited authority to amend the PEB Trust Agreement, described in Section 7.2, the activities of the Advisory Committee are purely advisory and in no way conflict with the Employer's right to control its Government Account through the Plan Administrator.

The Plan Administrators of the adopting Employers by a majority vote shall select the initial members of the Advisory Committee. A majority of the members of the Advisory Committee shall always be employees of the Employers that have adopted the PEB Trust. At least one of the members shall have significant experience in providing investment advice and may be an investment advisor or investment manager for one or more of the adopting Employers. Members of the Advisory Committee may resign by providing thirty (30) days advance notice, and may be dismissed by a vote of two-thirds of the other members of the Advisory Committee. A member of the Advisory Committee shall also vacate his position on the Advisory Committee upon termination of employment with the entity that employed him at the time he first became a member of the Advisory Committee. The Advisory Committee shall nominate replacements for any position that is vacated by a member who was an employee of an adopting Employer; which nominee shall also be an employee of an adopting Employer and shall not become a member of the Advisory Committee unless and until confirmed



by a vote of a majority of all the Plan Administrators. If a vacancy occurs by reason of the resignation or ineligibility of a member of the Advisory Committee who is an employee of the investment advisor the investment advisor shall appoint a successor.

3.7 Investment Advisors and Managers

The Plan Administrator, acting on behalf of the Employer, may delegate investment authority, powers and duties to an investment advisor or investment manager to act in those matters specified in the delegation. Any investment advisor representative or investment manager representative shall be duly qualified and affiliated with a firm which is a Registered Investment Advisor. The Registered Investment Advisor shall have properly licensed and qualified personnel who are registered and in good standing at the State and/or Federal level as required under the statutes. Registered Investment Advisors and their personnel must have significant experience within the role(s) they are requested to perform. The delegation of duties to an investment advisor or investment manager must be in writing and must name and identify the investment advisor or manager, state the effective date of the delegation, specify the authority and duties delegated, be executed by the Plan Administrator and be acknowledged in writing by the Plan Administrator and the Trustee (which shall make such acknowledgement in a timely manner and which shall not withhold such acknowledgement). Such delegation shall be effective until the Trustee is directed in writing by the Plan Administrator that the delegation has been rescinded or modified.

3.8 Certification to Trustee

The governing body of each Employer, or other duly authorized official, shall certify in writing to the Trustee the names and specimen signatures of the Plan Administrator and all others authorized to act on behalf of the Employer whose names and specimen signatures shall be kept accurate by the Employer acting through a duly authorized officer or governing body of the Employer. The Trustee shall have no liability if it acts upon the direction of a Plan Administrator that has been duly authorized, as provided in Section 3.4, if that Plan Administrator is no longer authorized to act, unless the Employer has informed the Trustee of such change.

3.9 Directions to Trustee

All directions to the Trustee from the Plan Administrator must be in writing, which includes email, and must be signed by the Plan Administrator. For all purposes of this PEB Trust Agreement, direction shall include any certification, notice, authorization, application or instruction of the Plan Administrator or Trustee appropriately communicated. The above notwithstanding, direction may be implied if the Plan Administrator has knowledge of the Trustee's intentions and fails to file written objection.



The Trustee shall have the power and duty to comply promptly with all proper directions of the Plan Administrator, appointed in accordance with the provisions of this PEB Trust Agreement. In the case of any direction deemed by the Trustee to be unclear or ambiguous the Trustee may seek written instructions from the Plan Administrator on such matter and await written instructions without incurring any liability. If at any time the Plan Administrator should fail to give directions to the Trustee, the Trustee may act in the manner that in its discretion seems advisable under the circumstances for carrying out the purposes of the Government Account which may include not taking any action. The Trustee may request directions or clarification of directions received and may delay acting until clarification is received, in the absence of timely direction or clarification, or if the Trustee considers any direction to be a violation of the PEB Trust Agreement or any applicable law, the Trustee shall in its sole discretion take appropriate action, or refuse to act upon a direction.

3.10 Trustee's Compensation

The Trustee shall be paid compensation and reimbursed for expenses properly and actually incurred in the performance of duties with respect to each Government Account and the PEB Trust in accordance with Appendix A, attached hereto.

ARTICLE IV

THE TRUSTEE

4.1 Responsibilities and Duties of the Trustee

Subject to the provisions of Article V and Article VI, the Trustee shall serve as the custodian of the assets of each Government Account and the PEB Trust and shall have full power and authority to do all acts, take all proceedings, and exercise all rights and privileges, whether specifically referred to or not in this document, to carry out the investment directions of each Employer as issued by the Plan Administrator. Pursuant to the direction of the responsible Plan Administrator, the Trustee shall have the authority:

- (a) To invest and reinvest the Assets or any part hereof in any investments authorized by the Texas Trust Code; and
- (b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted.

4.2 Additional Trustee Powers

In addition to the authority with respect to investments described above, and subject to proper direction, the Trustee is authorized and empowered to do all things necessary



and desirable for the proper administration of the PEB Trust and each Government Account when consistent with this Agreement including, but not limited to, the following:

- (a) To invest funds pending required directions in any type of interest-bearing account including without limitation, time certificates of deposit or interest-bearing accounts issued by any bank or any mutual fund or short term investment fund, whether sponsored or advised by the Trustee or any affiliate thereof; the Trustee or its affiliates may be compensated for providing such investment advice and providing other service to such Fund, in addition to any Trustee's fees received pursuant to this PEB Trust Agreement;
- (b) To cause all or any part of any Government Account to be held in the name of the Trustee (which in such instance need not disclose its fiduciary capacity) or, as permitted by law, in the name of any nominee, and to acquire for the Government Account any investment in bearer form, but the books and records of the Government Account shall at all times show that all such investments are a part of the Government Account and the Trustee shall hold evidences of title to all such investments;
- (c) To employ such custodians, actuaries, agents and counsel as may be reasonably necessary in managing and protecting the Assets and to pay them reasonable compensation from the Government Account; to employ any broker-dealer or other agent, including any broker-dealer or other agent affiliated with the Trustee, and pay to such broker-dealer or other agent, at the expense of the Government Account, its standard commissions or compensation; and to settle, compromise or abandon all claims and demands in favor of or against a Government Account;
- (d) To prosecute, compromise and defend lawsuits, but without obligation to do so, all at the risk and expense of each Government Account; and to tender its defense to the Employer in any legal proceeding where the interests of the Trustee and the Employer are not adverse;
- (e) To exercise and perform any and all of the other powers and duties specified in this PEB Trust Agreement or any separate Agreement for Administrative Services;
- (f) To permit such inspections of documents at the principal office of the Trustee as are required by law, subpoena or demand by a United States agency;
- (g) To comply with all requirements imposed by applicable provisions of law;
- (h) To seek written instructions from the Plan Administrator or other fiduciary on any matter and await their written instructions without incurring any liability. If at any time the Plan Administrator or any other fiduciary should fail to give directions to the Trustee, the Trustee may act in the manner that in its discretion seems advisable under the circumstances for carrying out the purposes of each Government Account;



- (i) To compensate such executive, consultant, actuarial, accounting, investment, appraisal, administrative, clerical, secretarial, medical, custodial, depository and legal firms, personnel and other employees or assistants as are engaged by the Plan Administrator in connection with the administration of the Plan and to pay from the Government Account the necessary expenses of such firms, personnel and assistants, to the extent not paid by the Plan Administrator;
- (j) To act upon proper written directions of the Plan Administrator, including directions given by photostatic transmissions using facsimile signature, and such other forms of directions as the parties shall agree;
- (k) To pay from the Government Account the expenses reasonably incurred in the administration of the Government Account and a pro rata share, as a percentage of the Government Account's assets any separate expenses of the PEB Trust;
- (l) To maintain insurance for such purposes, in such amounts and with such companies as the Plan Administrator shall elect, including insurance to cover liability or losses occurring by reason of the acts or omissions of fiduciaries but only if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;
- (m) To separate the assets of any Government Account maintained on behalf of a governmental entity that loses its tax exempt status under Section 115 of the Code; if the Assets of such Government Account have been commingled with assets of other accounts in the PEB Trust's collective investment funds, the Trustee shall within 30 days of notice of such loss of tax exempt status, liquidate the Government Account's units of the collective investment fund(s) and invest the proceeds in a money market fund pending investment or other instructions from the Plan Administrator; the Trustee shall not be liable for any loss or gain or taxes, if any, resulting from said liquidation;
- (n) To borrow money on behalf of any Government Account from any source with or without giving security; issue promissory notes and secure the repayment thereof by pledging all or any part of the Assets to the extent authorized by the Plan Administrator of the Government Account;
- (o) To pay interest on borrowed money; to pay interest or principal on any bonds that have been issued to reduce the OPEB liability of the Employer but only if the proceeds of the bond issue have been transferred to the Employer's Government Account and the Plan Administrator has directed the payment of interest or principal on such bonds;
- (p) To pay or cause to be paid from any Government Account any and all real or personal property taxes, income taxes or other taxes or assessments of any or all kinds levied or assessed upon or with respect to the Government Account;



(q) To exercise all the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under applicable federal or Texas laws, as amended from time to time.

ARTICLE V TRUST

OPERATION

5.1 Directed Investment

The Plan Administrator shall have the right to elect between the various investment strategies and options offered. The Trustee shall invest the Assets of each Government Account in accordance with the direction provided by such Employer.

5.2 Contributions

Employees are not permitted to make contributions to the PEB Trust. The Plan Administrator shall, on behalf of the Employer, make all contributions to the Trustee. Such contributions shall be in cash unless the Trustee agrees to accept a contribution that is not in cash. All contributions shall be paid to the Trustee for investment and reinvestment pursuant to the terms of this PEB Trust Agreement. The Trustee shall not have any duty to determine or inquire whether any contribution to any Government Account by any Plan Administrator is in compliance with the Employer's policies and/or collective bargaining agreements; nor shall the Trustee have any duty or authority to compute any amount to be paid to the Trustee by any Plan Administrator; nor shall the Trustee be responsible for the collection or adequacy of the contributions to meet an Employer's OPEB Obligation, as may be determined under GASB Statement No. 45. The contributions received by the Trustee from each Employer shall be held and administered pursuant to the terms hereof without distinction between income and principal.

5.3 Records

(a) The Trustee shall maintain accurate records and detailed accounts of all investments, receipts, disbursements and other transactions hereunder at the Trust and Account level. Such records shall be available at all reasonable times for inspection by the Plan Administrator. The Trustee shall, at the direction of the Plan Administrator, submit such valuations, reports or other information as the Plan Administrator may reasonably require.

(b) The Assets of each Government Account shall be valued at fair market value on the date of valuation, as determined by the Trustee based upon such sources of information as it may deem reliable; provided, however, that the Plan Administrator shall instruct the Trustee as to valuation of assets which are not readily determinable on an established market. The Trustee may rely conclusively on such valuations provided



by the Plan Administrator and shall be indemnified and held harmless by the Employer with respect to such reliance. If the Plan Administrator fails to provide such values, the Trustee may take whatever action it deems reasonable, including employment of attorneys, appraisers or other professionals, the expense of which will be an expense of administration of the Government Account. Transactions in the account involving such hard to value assets may be postponed until appropriate valuations have been received and the Trustee shall have no liability therefor.

5.4 **Statements**

(a) On a quarterly basis and within sixty (60) days after each December 31, the Trustee shall render to the Plan Administrator and the Plan's investment manager, a written account showing in reasonable summary the investments, receipts, disbursements and other transactions engaged in by the Trustee during the preceding year or quarter with respect to the Trust. Such account shall set forth the assets and liabilities of the Trust valued as of the end of the quarter or year.

(b) The Plan Administrator may approve such statements either by written notice or by failure to express objections to such statements by written notice delivered to the Trustee within ninety (90) days after the date the statement is delivered to the Plan Administrator. Upon approval, the Trustee shall be released and discharged as to all matters and items set forth in such statement as if such account had been settled and allowed by a decree from a court of competent jurisdiction.

5.5 **Wire Transfers**

The Trustee shall follow the Plan Administrator's wire transfer instructions in compliance with the written security procedures required by the party receiving the wire transfers. The Trustee shall perform a telephonic verification to the Plan Administrator, or such other security procedure as selected by the party providing wire transfer directions, prior to wiring funds or following facsimile directions as Trustee may require. The Plan Administrator assumes the risk of delay of transfer if Trustee is unable to reach the Plan Administrator, or in the event of delay as a result of attempts to comply with any other security procedure selected by the directing party.

5.6 **Exclusive Benefit**

The Assets of the Government Account shall be held in trust for the exclusive purpose of providing post-employment health care and welfare benefits to the Eligible Employees of the Employer and their Eligible Dependents pursuant to the Employer's policies and/or applicable collective bargaining agreements, and defraying the reasonable expenses associated with providing such benefits, and shall not be used for or diverted to any other purpose. No party shall have authority to use or divert the Assets of any Government Account of an Employer to the payment of post-employment health care



and welfare benefits or expenses of any other Employer, or to any other person or purpose.

5.7 Delegation of Duties

The Plan Administrator may at any time retain the Trustee as its agent to perform any act, keep any records or accounts and make any computations that are required of the Plan Administrator by this PEB Trust Agreement or by the Plan. The Trustee may be compensated for such retention and such retention shall not be deemed to be contrary to this PEB Trust Agreement

5.8 Distributions

The Trustee shall, from time to time, upon the written direction of the Plan Administrator, make distributions from the Assets of a Government Account to the insurers, third party administrators, health care and welfare providers or other entities providing Plan benefits or services, or to the Plan Administrator for reimbursement of Plan benefits and expenses paid by the Employer in such manner in such form(s), in such amounts and for such purposes as may be specified in such directions.

In no event shall the Trustee have any responsibility respecting the application of such distributions, or for determining or inquiring into whether such distributions are in accordance with the Employer's policies and/or applicable collective bargaining agreements.

ARTICLE VI FIDUCIARY

RESPONSIBILITIES

6.1 More Than One Fiduciary Capacity

Any one or more of the fiduciaries with respect to the PEB Trust Agreement or any Government Account may, to the extent required thereby or as directed by the Plan Administrator pursuant to this PEB Trust Agreement, serve in more than one fiduciary capacity with respect to the PEB Trust Agreement and the Government Accounts.

6.2 Fiduciary Discharge of Duties

Except as otherwise provided by applicable law, each fiduciary shall discharge such fiduciary's duties with respect to the PEB Trust Agreement and the applicable Government Account:

- (a) solely in the interest of the Eligible Employees and for the exclusive purpose of providing post-employment health care and welfare benefits to Eligible Employees and their Eligible Dependents in accordance with the applicable Plan, and defraying



reasonable administrative and actuarial expenses associated with providing such benefits; and

(b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.

6.3 **Limitations on Fiduciary Responsibility**

To the extent allowed by the laws of the state of the Employer:

(a) No fiduciary shall be liable with respect to a breach of fiduciary duty by any other fiduciary if such breach was committed before such party became a fiduciary or after such party ceased to be a fiduciary.

(b) No fiduciary shall be liable for a breach by another fiduciary except as provided by law.

(c) No fiduciary shall be liable for carrying out a proper direction from another fiduciary, including refraining from taking an action in the absence of a proper direction from the other fiduciary possessing the authority and responsibility to make such a direction, which direction the fiduciary in good faith believes to be authorized and appropriate.

6.4 **Indemnification of Trustee by Employer**

The Trustee shall not be liable for, and the Employer shall (to the extent allowed by applicable Federal and state law) indemnify, defend (as set out in Section 6.6 of this PEB Trust Agreement), and hold the Trustee, its officers, agents, employees and attorneys, members of the Advisory Committee and other Employers harmless from and against any claim, demand, loss, cost, expense or liability imposed on the indemnified party, including reasonable attorneys' fees and costs incurred by the indemnified party, arising as a result of Employer's active or passive negligent act or omission or willful misconduct in the execution or performance of its duties under this PEB Trust Agreement.

6.5 **Indemnification of Employer by Trustee**

The Employer shall not be liable for, and the Trustee shall (to the extent allowed by applicable Federal and state law) indemnify, defend (as set out in Section 6.6 of this PEB Trust Agreement), and hold the Employer, its officers, agents, employees and attorneys, the members of the Advisory Committee and other Employers harmless from and against any claim, demand, loss, cost, expense or liability imposed on the indemnified party, including reasonable attorneys' fees and costs incurred by the indemnified party, arising as a result of Trustee's active or passive negligent act or omission or willful



misconduct in the execution or performance of its duties under this PEB Trust Agreement.

6.6 Indemnification Procedures

Promptly after receipt by an indemnified party of notice or receipt of a claim or the commencement of any action for which indemnification may be sought, the indemnified party will notify the indemnifying party in writing of the receipt or commencement thereof. When the indemnifying party has agreed to provide a defense as set out above that party shall assume the defense of such action (including the employment of counsel, who shall be counsel reasonably satisfactory to such indemnitee) and the payment of expenses, insofar as such action shall relate to any alleged liability in respect of which indemnity may be sought against the indemnifying party. Any indemnified party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the indemnifying party unless (i) the employment of such counsel has been specifically authorized by the indemnifying party or (ii) the named parties to any such action (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. The indemnifying party shall not be liable to indemnify any person for any settlement of any such action effected without the indemnifying party's consent.

6.7 No Joint and Several Liability

This document is not intended to and does not create any joint powers agreement or any joint and several liability. No Employer shall be responsible for any contributions, costs or distributions of any other Employer.

ARTICLE VII

AMENDMENT, TERMINATION AND MERGER

7.1 No Obligation to Continue Trust

Participation in the PEB Trust and continuation of the Employer's policies and/or applicable collective bargaining agreements that provide post-employment health care and welfare benefits are not assumed as a contractual obligation of the Employer and nothing in this document shall be construed to create any obligation upon any Employer to continue to provide any OPEB or to restrict in any way any Employer's rights to amend, alter or terminate any OPEB.



7.2 Amendments

(a) This PEB Trust Agreement may only be amended as provided herein. A two-thirds majority or greater of the Employers shall have the right to amend this PEB Trust Agreement from time to time, and to similarly amend or cancel any amendments. A copy of all amendments shall be delivered to the Trustee and the Plan Administrators promptly as each is made. The Advisory Committee (without the requirement of a vote of Employers) shall have the right to amend this PEB Trust Agreement from time to time but only to the extent necessary to keep the PEB Trust Agreement in compliance with applicable Federal and state law. The Trustee must consent to any amendment that would impose new duties on the Trustee but such consent shall not be unreasonably withheld.

(b) Amendments authorized by this Section shall be set forth in an instrument in writing executed by the amending party and the Trustee. Any amendment may be current, retroactive or prospective, provided, however, that no amendment shall:

- (1) Cause the Assets of any Government Account to be used for or diverted to purposes other than for the exclusive benefit of Eligible Employees of the Employer or for the purpose of defraying the reasonable expenses of administering the PEB Trust.
- (2) Have any retroactive effect so as to reduce the benefits of any Eligible Employee as of the date the amendment is adopted, except that such changes may be made as may be required to permit this PEB Trust Agreement to meet the requirements of applicable law.
- (3) Change or modify the duties, powers or liabilities of the Trustee hereunder without its consent.
- (4) Permit the Assets of any Government Account to be used for the benefit of any other person, including any other Employer.

7.3 Termination of Plan

A termination of the Employer's OPEB plan, plans or other obligation to provide OPEB pursuant to its policies and/or applicable collective bargaining agreements for which the PEB Trust was adopted shall not, in itself, effect a termination of the Government Account. Upon any complete liquidation of the Employer's obligation to provide further OPEB pursuant to applicable law, or the assumption of all OPEB Obligations by the Social Security Administration or other government agency, the Assets of the Government Account shall be distributed by the Trustee when directed by the Plan Administrator. From and after the date of such termination and until final distribution of the Assets the Trustee shall continue to have all the powers provided herein as are necessary or expedient for the orderly liquidation and distribution of such assets, and the



Government Account shall continue until the Assets have been completely distributed in accordance with the Employer's policies and/or applicable collective bargaining agreements to the extent that such distribution constitutes the exercise of an "essential governmental function" within the meaning of Section 115 of the Code. Any Assets remaining in the Government Account after satisfying all OPEB Obligations shall be paid to the Employer to the extent permitted by law and consistent with the requirements of Section 115 of the Code.

7.4 Fund Recovery Based on Mistake of Fact

Except as hereinafter provided, the Assets of the PEB Trust shall never inure to the benefit of any Employer. The Assets shall be held for the exclusive purposes of providing post-employment health care and welfare benefits to Eligible Employees and defraying reasonable expenses of administering the Government Account. However, in the case of a contribution which is made by an Employer because of a mistake of fact, that portion of the contribution relating to the mistake of fact (exclusive of any earnings or losses attributable thereto) may be returned to the Employer, provided such return occurs within two (2) years after discovery by the Employer of the mistake. If any repayment is due to the Employer, then, as a condition to such repayment, and only if requested by the Trustee, the Employer shall execute, acknowledge and deliver to the Trustee its written undertaking, in a form satisfactory to the Trustee, to indemnify, defend and hold the Trustee harmless from all claims, actions, demands or liabilities arising in connection with such repayment.

ARTICLE VIII MISCELLANEOUS

PROVISIONS

8.1 Nonalienation

Neither the PEB Trust nor any Government Account thereunder shall be liable in any way to attachment, garnishment, assignment or other process, or be seized, taken, appropriated or applied by any legal or equitable process, to pay any debt or liability of an Eligible Employee or any other party.

Eligible Employees shall have no interest in the PEB Trust. PEB Trust Assets shall not be subject to the claims of any Employer or the claims of any Employer's creditors.

8.2 Saving Clause

If any provision of this PEB Trust Agreement is held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of the PEB Trust Agreement and/or any Government Account, but this instrument shall be construed and enforced as if said provision had never been included.



8.3 **Applicable Law**

This PEB Trust Agreement and each Government Account shall be construed, administered and governed under the Code and the law of the State of Texas. To the extent any of the provisions of this PEB Trust Agreement are inconsistent with applicable state and Federal law, the provisions of such law shall control. In the event, however, that any provision is susceptible to more than one interpretation, such interpretation shall be given thereto as is consistent with the PEB Trust Agreement being a tax-exempt trust within the meaning of Section 115 of the Code.

8.4 **Joinder of Parties**

In any action or other judicial proceeding affecting this PEB Trust Agreement, it shall be necessary to join as parties only the Trustee and the Plan Administrator. No other person shall be entitled to any notice or service of process unless otherwise required by law. Any judgment entered in such a proceeding or action shall be binding on all persons claiming under this PEB Trust Agreement; provided, however, that nothing in this PEB Trust Agreement shall be construed to deprive any Eligible Employee or Eligible Dependent of any right to benefits that such Eligible Employee or Eligible Dependent may have under any Employer's Plan.

8.5 **Employment of Counsel**

The Trustee may consult with legal counsel (who may be counsel for the Trustee or any Employer) with respect to the interpretation of this PEB Trust Agreement or the Trustee's duties hereunder or with respect to any legal proceedings or any questions of law and shall be entitled to take action or not to take action in good faith reliance on the advice of such counsel and bind any applicable Government Account.

8.6 **Trust a Government Entity**

The PEB Trust and each Government Account is intended to be a governmental entity, or part of a governmental entity. Nothing in this Agreement shall deprive the PEB Trust or any Government Account of any defense it may otherwise be entitled to raise in any legal action including that of governmental or sovereign immunity.

8.7 **Gender and Number**

Words used in the masculine, feminine or neuter gender shall each be deemed to refer to the other whenever the context so requires; and words used in the singular or plural number shall each be deemed to refer to the other whenever the context so requires.



8.8 **Headings**

Headings used in this PEB Trust Agreement are inserted for convenience of reference only and any conflict between such headings and the text shall be resolved in favor of the text.

8.9 **Counterparts**

The Adoption Agreement of this PEB Trust Agreement may be executed in an original and any number of counterparts by the Plan Administrator (executing an Adoption Agreement) and the Trustee, each of which shall be deemed to be an original of the one and the same instrument.

The Trustee has executed this PEB Trust Agreement by its duly authorized agent on the dates set forth below their name, to be effective on the later of November 18, 2009, or the date of execution.

The Employer has adopted this PEB Trust Agreement by causing the Plan Administrator or other duly authorized agent of the Employer to execute the Adoption Agreement to be effective on the date the Trustee receives Plan Assets to be held in trust hereunder.

PEB TRUST BOARD OF TRUSTEES, SERVING AS TRUSTEE

By: _____
 Name: _____
 Its: _____

4. Terms and Conditions of Participation and PEB Trust Bylaws.

Contains rules and terms related to PEB Trust and its Board of Trustees



PEB Trust

TERMS OF PARTICIPATION AND BYLAWS

The Premier OPEB Trust Program for
State and Local
Governments

TERMS AND CONDITIONS OF PARTICIPATION

By making application to open an account in PEB TRUST, Participating employers ("Employers") agree to the following terms and conditions and make the following representations and delegations.

There is no guaranty that payments or reimbursements to employees, former employees, or retirees will be tax-free. The Trust has obtained a ruling from the Internal Revenue Service concerning only the federal tax treatment of the Trust's income. That ruling may not be cited or relied upon by the employer whatsoever as precedent concerning any matter relating to the employer's health plan(s) (including post-retirement health plans). In particular, that ruling has no effect on whether contributions to the employer's health plan(s) or payments from the employer's health plans (including reimbursement of medical expenses) are excludable from gross income of employees, former employees or retirees under the Internal Revenue Code. The federal income consequences to employees, former employees and retirees depend on the terms and operation of the employer's health plan(s).

1. PEB Trust.

1.1 Creation. The initial Employers have created PEB TRUST ("THE TRUST") as an investment pool to provide for the joint investment of Employers' public funds and funds under their control. PEB TRUST was created under the authority of applicable Texas law, including the Risk Pooling Act Section 172. Additionally, the Trust has received a Private Letter Ruling stating that the Trust's income is excludable from gross income under Section 115(1) of the Internal Revenue Code. At the April 2011 PEB Trust Board meeting, the Board of Trustees approved operating in one or more additional states. In any additional state(s), PEB Trust will conform with applicable laws of any other state(s) where eligible governmental entities join the Trust.

1.2 Name. The name of the Trust is PEB Trust and it may do business as PEB TRUST.

1.3 Governance. The business and affairs of PEB TRUST will be managed by the Board of Trustees ("The Board"). The Board is the governing body of PEB TRUST. The Board will have full power to act in the name of PEB TRUST or its own name. The Board may exercise all powers of the governing bodies of the Employers in respect of the investment of Employer funds deposited to PEB TRUST. The Board will supervise performance of the Employers' Agreement. The Board may appoint officers and delegate powers of the Board to the officers in accordance with the Investment Act and the Bylaws. Members of the Board will be selected, and the Board may act, as provided in the Bylaws.

1.4 Advisory Board. The Board may appoint an Advisory Board for each State in which it operates. The Advisory Board will consist of representatives of Employers and of other persons who do not have a business relationship with PEB TRUST and are qualified to advise the Board.

1.5 Bylaws. The Board will adopt (and act in accordance with) the Bylaws.

1.6 Dissolution. The Board may dissolve PEB TRUST and terminate the Agreement as provided in the Bylaws on not less than 90 days advance written notice to the Employers

and the approval of Employers representing at least two-thirds of the Employers in PEB TRUST. The Board may dissolve operations in one or more States without dissolving the entire Trust.

2. EMPLOYERS.

2.1 Agreement and Representations. By executing and submitting an application for an account in PEB TRUST, each applicant (1) agrees with the Board and each other Employer to the and conditions of (and delegates to the Board all powers described in) the Agreement, the Bylaws, the Investment Policy, and the Operating Procedures, and (2) represents that (a) the applicant is eligible to become an Employer (and to invest its funds through PEB TRUST) in accordance with the Agreement, the Cooperative Act, and the Investment Act, (b) the Employer's governing body has duly authorized execution of the application and investment through PEB TRUST by rule, order, ordinance, or resolution, as appropriate, and (c) the Employer has duly executed and delivered the application.(3) understands the irrevocable nature of the Trust to assist in funding their obligations to provide post-employment, non-pension benefits.

2.2 Withdrawal. An Employer may terminate its status as an Employer and its rights and obligations under the Agreement by providing written notice of termination to the Board in accordance with the Operating Procedures and adopting another eligible Trust. The Trust is irrevocable, and may be terminated only after satisfying all benefit obligations and shall be paid to the Employer to the extent permitted by law and consistent with Section 115. See Rev.Rul.90-74.

3. INVESTMENTS AND OPERATIONS.

3.1 Objectives. PEB Trust creates a multi-employer trust pursuant to State law, open to participation only to government entities whose income is excludable from federal taxation under Section 115 of the Internal Revenue Code. The purpose is to provide a vehicle for Employers to pre-fund retiree health care. Investments made in the Trust on behalf of Employers will be made in consultation with each Employer in accordance with criteria developed by and with that Employer and an Investment Consultant and/or Advisor chosen by the Employer. Employers will have individual accounts within the Trust.

3.2 Policies. The Board will adopt an Investment Policy and Operating Procedures. The Board will review and revise or readopt the Investment Policy annually. Employers will make deposits to their respective accounts and the Board will accept, hold, invest, and remit Employer funds in each Fund, in accordance with the Investment Policy and the Operating Procedures.

3.2.1 Investment Policy. The Investment Policy will be written, and will primarily emphasize due diligence of available providers of services to the Trust, and will include a list of the types of authorized investments in which each account within PEB TRUST may be invested, The Investment Policy will authorize investment only in investments authorized by the all applicable state Trust Code(s) for the investment of each Employer's funds, Investments that cease to be authorized after purchase shall be dealt with by the investment policy that is developed by each employer with their respective investment consultants, should disposition of such investment not be defined by statute. Development of individual investment strategies and governing policies for individual Employer accounts will be the responsibility of each Employer. The PEB Trust Information Statement contains additional restrictions and clarifications regarding authorized investments.

3.2.2 Operating Procedures. The Operating Procedures will be written and will establish procedures for (and any conditions to) becoming an Employer, opening accounts, depositing funds, crediting earnings, charging expenses, and withdrawing funds. Procedures shall be considered part of this agreement, and may be changed without notice.

3.3 Investment Advisors and Consultants. The Board will screen and make available qualified Investment Advisors and Consultants. It shall be the duty and responsibility of each Employer to choose, engage and develop an investment plan for each Employer account. Employers may engage Advisors and Consultants not pre-screened by the Board. Each such independent Consultant and/or Advisor must seek approval by the Board, who may develop certain criteria for inclusion in the program. Such independent Advisors and Consultants may not have the same operational efficiency as do pre-screened Advisors or Consultants, and may result in higher fees and/or less efficient implementation, including loss of Best Execution through the Custodian and Broker/Dealer. The Board may, at its discretion, veto or otherwise prohibit the engagement of certain Investment Counselors or Advisors with no liability to the Board or Trust, if, in its best judgment, such Counselors and/or Advisors do not meet minimum criteria.

3.4 Standard of Care. Investment Counselors and Advisors must agree that investments on behalf of Employers will be made with the judgment and care that, under prevailing circumstances, a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

3.5 Compliance. The Board will review an independent annual audit of the custodian's financial statements, and in connection with the audit, a compliance audit of management controls on control of assets. Furthermore, the Board will insure adherence to applicable trust investment provisions.

3.6 Ownership and Custody. Employers delegate to the Board the authority to hold legal title (as Trustee) to investments purchased with their funds deposited through PEB Trust. The Board may engage a bank or trust company or custodial broker/dealer to act as its custodian for investments and its depository for cash and invested funds. PEB Trust will open a separate account for each Employer Plan. Employers may have multiple Trust Accounts for Multiple Plans. While no plans exist currently, Employers' funds in PEB Trust may be commingled, but will be separately accounted for. Such arrangement requires express consent of the Employer.

3.7 Expenses. The Board may assess expenses of operating PEB Trust against each Employer's account in PEB Trust. Such expenses must be approved and authorized by the Board. These expenses may include, but are not limited to Accounting and Audit fees, attorney fees, and other expenses directly related to maintaining the Trust.

3.8 Information Statement and Reports. Each Employer shall receive a Statement directly from the Custodian no less than quarterly for those accounts with no transactions, or monthly for accounts with transactions. The Custodian shall also provide on-line access to each Employer for daily access to Employer's account(s). The Trust Administrator will provide independently calculated Performance Reports consistent with GIPS accounting standards no less than Quarterly. Each Investment Advisor and/or Counselor will provide other reports which they will deliver to the Employer in accordance with their individual agreements. The custodian will provide a copy of the independent annual audit of the custodian to PEB

Trust members and the PEB Trust Board within 120 days of the end of its fiscal year.

4. DEFINITIONS. IN THESE TERMS AND CONDITIONS FOR PARTICIPATION AND THE AGREEMENT:

4.1 **“Adoption Agreement”** means the agreement signed by an authorized signatory of the Employer (and with the Board) that adopts the Irrevocable Trust for Benefit of retirees and/or other beneficiaries of Employer’s Post-Retirement Benefits Plan. Employers’ authorization, execution, and submission of an application for an account in PEB Trust shall be upon a Form specified by the Trust. The agreement consists of (1) the applications of all Employers who have not withdrawn as an Employer in PEB Trust in accordance with the Operating Procedures and (2) these Terms and Conditions of Participation.

4.2 **“Board”** means the board of trustees of PEB Trust duly elected or appointed, qualified, and incumbent in accordance with the Bylaws.

4.3 **“Bylaws”** means the Bylaws for PEB Trust provided to the initial Employers, as amended from time to time in accordance with the terms of the Agreement and the Bylaws.

4.4 **“Code”** means the Internal Revenue Code of the United States.

4.5 **“Account”** means a separate portfolio of investments created for Employer funds with a different investment objective or strategy or authorized investments (or available to different Post Retirement Benefit Plans of Employers) than other funds in PEB Trust, as specified in the Investment Policy of each Employer and/or the Operating Procedures.

4.6 **“Investment Policy”** means the Investment Policy developed for a specific Account approved and authorized by the Employer as meeting the objectives of that specific Account’s requirements.

4.7 **“Trust Code”** means the Trust Code of each State governing investments in the Trust.

4.8 **“Trust Investment Policy”** means the Investment Policy for PEB Trust furnished to the initial Employers, as amended by the Board from time to time in accordance with the Agreement and the Bylaws.

4.9 **“Operating Procedures”** means the Operating Procedures for PEB Trust furnished to the initial Employers, as amended by the Board from time to time in accordance with the Agreement and the Bylaws.

4.10 **“Employer”** means the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing whose income is exempt from taxation under section 115 of the Internal Revenue Code.

4.11 **“PEB Trust”** means the Irrevocable Multi-Employer Trust, a joint investment pool, created by the Trust Adoption Agreement operating under the Laws of the State, and in accordance with the provisions as outlined in IRS PLR-123064-08.

5. MISCELLANEOUS.

5.1 **Notices.** Notices to an Employer may be given in accordance with the Operating Procedures to the address and the attention of the person specified in the Employer’s

account application, as amended or supplemented from time to time in writing delivered to the Board. Notices to the Board will be given as specified in the Operating Procedures.

5.2 Liability. The Employers and PEB Trust release the trustees and officers of PEB Trust from liability for and indemnify them against all loss and liability that may arise from or in connection with any of their acts or omissions, including acts and omissions caused by their negligence, as provided in the Bylaws, to the extent permitted by law. There is no guarantee implied or otherwise, that investments will perform in any specific manner or that funds invested will be sufficient to fund obligations of the Employer for post-employment benefits.

5.3 Severability. If any provision or application of the Agreement is invalid, illegal, or unenforceable, the validity, legality, and enforceability of the other provisions and applications of the Agreement will not be impaired or otherwise affected.

5.4 Benefits of Agreement. The Agreement is for the exclusive purpose of providing eligible employees of the Employer with post-employment health and welfare benefits and paying the reasonable expense of the Trust. It is not intended to create a legal right, remedy, or claim in favor of any other person. Trust assets may not be assigned, alienated, attached or garnished.

5.5 Applicable Law. This PEB Trust Agreement and each Government Account shall be construed, administered and governed under the Code and the law of the State of Texas. To the extent any of the provisions of this PEB Trust Agreement are inconsistent with applicable state and Federal law, the provisions of such law shall control. In the event, however, that any provision is susceptible to more than one interpretation, such interpretation shall be given thereto as is consistent with the PEB Trust Agreement being a tax-exempt trust within the meaning of Section 115 of the Code.

The PEB Trust Board may approve entering into agreements with one or more other public entities, including, but not limited to any applicable authority under:

- A. The Texas Interlocal Cooperation Act, Section 791 of the Texas Government Code.
- B. California Government Code Section 6500.
- C. Connecticut Statutes, Title 7 Municipalities Chapter 105, Section 7-339.
- D. Florida Statutes Chapter 163, the "Florida Interlocal Cooperation Act"
- E. Louisiana Statutes, Title 39 "Public Finance", Chapter 17 "Louisiana Procurement Code", Part VII "Intergovernmental Relations", including Section 39:1701-39:1704.
- F. Massachusetts Chapter 30B. the "Uniform Procurement Act"
- G. Oklahoma Statutes, Title 74 State Government Chapter 31 "Interlocal Cooperation Act", Section 74-1001.
- H. Rhode Island General Laws, Chapter 45-40.1 "Interlocal Contracting and Joint Enterprises"

5.6 Term. The Adoption Agreement will commence on the date that it is properly authorized and executed, and shall have no termination date. Service providers' contracts are not considered to be part of the Trust Adoption Agreement. Termination of the Employers account within the Trust must be made pursuant to the terms in the Adoption Agreement. PEB Trust will continue until the last Employer has terminated its individual account, or by terminating all Employer accounts by vote of 2/3 of all active participating Employers.

5.7 Amendments. The Agreement, Bylaws, Investment Policy, and Operating Procedures may be amended by the Board from time to time. The Board will provide at least 30 days advance written notice of amendments to each Employer. Employers agree to the terms of amendments unless they withdraw as an Employer before the effective date of the amendment.

BYLAWS

ARTICLE I GENERAL ORGANIZATION

SECTION 1.1. Organization.

By authorizing, executing, and submitting applications for participation that incorporate by reference PEB Trust Agreement, Terms and Conditions for Participation in PEB TRUST, eligible local governments and agencies have agreed jointly to invest public funds and funds under their control as a public funds investment pool ("*PEB TRUST*"), create an irrevocable multi-employer trust, and delegated their authority to invest the funds to PEB TRUST board of trustees (the "*Board*"). The applications and incorporated terms and conditions are referred to herein as the "*Agreement*." Eligible local governments and agencies that are parties to the Agreement are referred to herein as "*Employers*." Other terms used herein have the meanings assigned to them by the Agreement. These bylaws provide for the composition and authority of the Board.

SECTION 1.2. Name.

The name of the investment pools created by the Agreement is the PEB Trust, which may do business as "PEB TRUST."

SECTION 1.3. Offices.

The chief administrative office of the Board shall be located in Dallas, Texas. The Board may also have offices at such other places as the Board may from time to time determine or the business of the Board may require.

ARTICLE II TRUSTEES

SECTION 2.1. Trustees.

The number of trustees which shall constitute the Board shall be five. Three trustees shall be officers or employees of Employers (or, prior to becoming operational, prospective Employers). One trustee shall be an officer or employee of the company providing Employer service and marketing to the Board (the "*Employer Services Administrator*") or of an affiliate. One trustee shall be an officer or employee of the company providing custody and trading services to the Board (the "*Investment Administrator*") or an affiliate. The current trustees (as of November 2014) are as follows:

<u>Name</u>	<u>Affiliation</u>
Dean Frigo	City of Amarillo, Retired
Winston Duke	City of Huntsville, Retired
Tom Heidt	Port of Houston
Jack Addams	First Southwest Company
John Muschalek	FSW Advisory Services

Trustees serve renewable terms for three years, or until the position is filled.

SECTION 2.2. Terms.

The term of office of trustees (other than the initial term of the initial trustees) shall be three years. Each trustee not otherwise removed or replaced shall hold office until his or her successor shall be elected or appointed and qualified.

SECTION 2.3. Vacancies.

Any vacancy occurring in the Board may be filled by a majority of the remaining trustees, even if they constitute less than a quorum of the Board, except that (1) a vacancy in a position filled by an officer or employee of the Employer Services Administrator or the Investment Administrator or affiliate shall be filled by appointment of the Employer Services Administrator or the Investment Administrator, respectively, and (2) the person appointed to fill a vacancy in any other position may be replaced by vote of the Employers as described in this Section. A trustee elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office. The death, declination, resignation, retirement, removal, incapacity, or inability of the trustees, or any of them, shall not operate to annul PEB TRUST or the Board or to revoke any existing agency created pursuant to the terms of the Agreement.

The Board shall give notice to the Employers of each appointment of a trustee to the Employers within 45 days after the appointment. Employers may nominate one or more candidates to replace any trustee appointed by the Board by written instrument delivered to the Board. If, within 30 days after the Board gives notice of the appointment, the Board receives one or more nominations signed by Employers representing 25 % of Employers in PEB TRUST as of the end of the month preceding the month in which the appointment is made (the "*record date*"), the Board shall promptly conduct an election for a replacement trustee by written ballots mailed to the Employers. The ballots shall include the names of the trustee appointed by the Board and the candidate(s) nominated by Employers representing at least 25% of the Employers in PEB TRUST as of the record date. The candidate receiving the most votes on

ballots completed, signed, and returned by Employers within 30 days after the ballots are mailed, as of the record date, shall be elected to fill the unexpired term of the trustee appointed by the Board.

SECTION 2.4. Removal.

The Board may remove any trustee if (a) the trustee was an official or employee of an Employer when he or she became a trustee and the trustee ceases to be an elected or appointed official or employee of an Employer, either because he or she no longer serves the Employer or the Employer withdraws from participation in PEB TRUST, (b) the trustee files personal bankruptcy or is adjudicated incompetent, or is convicted of fraud or other criminal activity (c) the trustee has no business relationship with the Board. A trustee who was an officer or employee of the Employer Services Administrator or the Investment Administrator when he or she became a trustee may be removed with or without cause and replaced by the Employer Services Administrator or the Investment Administrator, respectively.

SECTION 2.5. Advisory Board.

The Board shall appoint an advisory board (the "*Advisory Board*") for PEB TRUST pursuant to the Investment Act. The Advisory Board may consist of any number of persons designated by the Board and may include members of the Board. All members of the Advisory Board shall be either (1) a representative of an Employer or (2) a person who has no business relationship with the Board but who is qualified to advise the Board, and the Advisory Board shall at all times include at least one member of each such description. The Advisory Board shall have such duties as may be delegated to it by the Board. The Board shall fix the terms of (and may remove) members of the Advisory Board.

ARTICLE III

MEETINGS OF THE BOARD

SECTION 3.1. Location.

Meetings of the Board, regular or special, shall be held within the State of Texas or such other location as may be determined by the Board and permitted by applicable law.

SECTION 3.2. Regular Meetings.

Regular meetings of the Board may be held upon such notice, at such time, and at such place as shall from time to time be determined by the Board, subject to applicable law.

SECTION 3.3. Special Meetings.

Special meetings of the Board may be called by the Chairman of the Board of Trustees and shall be called by the Secretary on the written request of two trustees. Notice of each special meeting of the Board shall be given to each trustee at least 72 hours before the date of the meeting or as otherwise required by applicable law, except that emergency meetings may be held as provided by applicable law.

SECTION 3.4. Waiver of Notice.

Attendance of a trustee at any meeting shall constitute a waiver of notice of such meeting, except where a trustee attends for the express purpose of objecting to the transaction

of any business on the ground that the meeting is not lawfully called or convened. Except as otherwise provided by law or by the Agreement, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting.

SECTION 3.5. Quorum.

With respect to any issue, a majority of the trustees shall constitute a quorum and the act of a majority of the trustees present when there is a quorum shall be the act of the Board.

SECTION 3.6. Open Meetings.

Board meetings and Advisory Board meetings shall be held in compliance with the Open Meetings Act, chapter 551, Texas Government Code. Notices of meetings shall be posted at the Dallas County Courthouse, the chief administrative office of the Board, and the office of the Secretary of State, or in accordance with any other governing law, code or ordinance.

SECTION 3.7. Committees.

The Board may from time to time appoint one or more committees of trustees, including an executive committee, which shall have and may exercise such powers as the Board may specify in the resolutions appointing them. A majority of all the members of any such committee may take action and fix the time and place of its meetings, unless the Board shall otherwise provide. The Board may change the members or authority of or discharge any such committee at any time.

SECTION 3.8. Expenses.

The trustees and members of the Advisory Board shall receive no compensation, but shall be paid their reasonable expenses, if any, of attendance at each meeting of the Board. Per diems and expenses paid to any trustee by an Employer for such trustee's service on the Board shall be considered an expense of the Board and shall be paid as a proper expense of PEB TRUST and billed to Employers upon proper invoice.

ARTICLE IV NOTICES

SECTION 4.1. Notices.

Any notice to trustees shall be in writing and shall be delivered personally or mailed to the trustees at their respective addresses appearing on the record books of the Board. Notice by mail shall be deemed to be given at the time when the same shall be deposited in the United States mail, postage prepaid. Notice to trustees may also be given by telegram, telecopy or email.

SECTION 4.2. Waivers.

Whenever any notice is required to be given under the provisions of the statutes or of these Bylaws, a waiver of notice in writing signed by the person or persons entitled to the notice, whether before or after the time stated in the waiver, shall be deemed equivalent to giving the notice.

ARTICLE V OFFICERS

SECTION 5.1. General.

The officers of the Board shall consist of a chairman, one or more vice chairman, a secretary, a treasurer, one or more assistant secretaries and assistant treasurers and an investment officer or officers. Officers of the Board shall be elected by the Board. Two or more offices may be held by the same person, except that offices of chairman and secretary must be held by two different individuals.

SECTION 5.2. Agents.

The Board may appoint such agents as it shall deem necessary or convenient. Agents of the Board shall hold their offices for such terms and shall have such authority, exercise such powers, and perform such duties as shall be determined from time to time by the Board consistent with these Bylaws.

SECTION 5.3. Chairman.

The chairman (which does not refer to specific gender) shall preside at all meetings of the Board and shall have such other powers and duties as may from time to time be prescribed by the Board.

SECTION 5.4. Vice Chairman.

During the absence or disability of the chairman, the vice chairmen in the order of their seniority, unless otherwise determined by the Board, shall perform the duties and may exercise the powers of the chairman. The vice chairmen shall also perform such other duties and have such other authority and powers as the Board may from time to time prescribe.

SECTION 5.5. Secretary.

The Secretary shall attend all meetings of the Board, record (or cause to be recorded) all of the proceedings of the meetings in a minute book to be kept for that purpose, and perform like duties for the standing committees when required. The secretary shall give, or cause to be given, notice of all meetings of the Board and shall perform such other duties and have such other powers as may be prescribed by the Board or, consistent with these Bylaws, the chairman.

SECTION 5.6. Assistant Secretaries.

During the absence or disability of the secretary, the assistant secretaries in the order of their seniority, unless otherwise determined by the Board, shall perform the duties and may exercise the powers of the secretary. They shall also perform such other duties and have such other powers as the Board may from time to time prescribe.

SECTION 5.7. Treasurer and Assistant Treasurers.

The treasurer and any assistant treasurers shall perform such duties and have such powers as the Board may from time to time prescribe or as may otherwise be established by applicable law.

ARTICLE VI GENERAL PROVISIONS

SECTION 6.1. Disbursements.

Withdrawals of funds invested through PEB TRUST, distributions of earnings from investments, and all payments for investments shall be made in accordance with the Investment Policy and the Operating Procedures. All other checks drawn by and other authorizations for fund withdrawals from PEB TRUST shall be signed by such officer or officers or such other person or persons as the Board may from time to time designate.

SECTION 6.2. Fiscal Year.

The fiscal year of PEB TRUST and the Board shall be from January 1 to December 31.

SECTION 6.3. Books and Records.

The Board shall keep correct and complete books and records of account, minutes of the proceedings of the Board, and a record of the Employers (and their addresses) at its registered office or principal place of business or at the office of its Employer Services Administrator.

ARTICLE VII INVESTMENT MANAGEMENT AND ADMINISTRATION

Section 7.1 Professional Management.

The Board shall contract with one or more experienced persons for account administration, investment management, and custodial services required by PEB TRUST. Contracts for such services shall not exceed five years in duration.

SECTION 7.2 Engagement of Service Providers.

The Board initially shall engage First Southwest Company as Investment Administrator to provide custody and broker/dealer services, FSW Advisory Services as Employer Services Administrator to provide Employer services and marketing. Any person subsequently engaged to provide such services to the Board shall be approved by two-thirds of the Employers in PEB TRUST, unless such person is an affiliate of a person previously engaged to provide the same service and except that the Board may engage temporary services without Employer approval if any existing service provider resigns or becomes insolvent or unable to perform its duties or is removed for cause in accordance with the provisions of its contract.

Other Investment Managers and Consultants may be added as the Board deems appropriate.

ARTICLE VIII INDEMNIFICATION AND RELEASE OF TRUSTEES AND OFFICERS

SECTION 8.1. Indemnification.

A. Indemnification. Subject to the exceptions and limitations contained in *Subsection B* below:

(1) every person who is, or has been, a trustee or officer of the Board (hereinafter referred to as a “*Covered Person*”), whether or not the Covered Person has been alleged to have been negligent in the exercise of the duties of his office, shall be indemnified to the fullest extent permitted by law against liability and against all expenses reasonably incurred or paid by the Covered Person in connection with any claim, action, suit, or proceeding in which he or she becomes involved as a party or otherwise by virtue of being or having been a trustee or officer and against amounts paid or incurred by the Covered Person in the settlement thereof; and

(2) the words “*claim*”, “*action*”, “*suit*”, and “*proceeding*” shall apply to all claims, actions, suits, or proceedings (civil, criminal, or other, including appeals), actual or threatened, while in office or thereafter, and the words “*liability*” and “*expenses*” shall include, without limitation, attorneys’ fees, costs, judgments, amounts paid in settlement, fines, penalties, and other liabilities.

B. Limitations. No indemnification shall be provided hereunder to a Covered Person:

(1) who shall have been adjudicated by a court or body before which the proceeding was brought to be liable to the Board, PEB TRUST, or the Employers by reason of fraud, willful misfeasance, or bad faith; or

(2) in the event of a settlement, unless there has been a determination that the Covered Person did not engage in fraud, willful misfeasance, or bad faith,

(a) by the court or other body approving the settlement;

(b) by at least a majority of those trustees who are not parties to the matter, based upon review of readily available facts (as opposed to full trial-type inquiry); or

(c) by written opinion of independent legal counsel based upon a review of readily available facts (as opposed to a full trial-type inquiry).

C. Miscellaneous. The rights of indemnification herein provided may be insured against by policies maintained by the Board, shall be severable, shall not be exclusive of or affect any other rights to which any Covered Person may now or hereafter be entitled, shall continue as to a person who has ceased to be a trustee or officer, and shall inure to the benefit of the heirs, executors, and administrators of the Covered Person. Nothing contained herein shall affect any rights to indemnification to which PEB TRUST personnel, other than trustees and officers, and other persons may be entitled by contract or otherwise under law.

D. Expenses of Defense. Expenses in connection with the preparation and presentation of a defense to any claim, action, suit or proceeding of the character described in *Subsection A* of this Section may be paid as an expense of the applicable portfolio from time to time prior to final disposition thereof upon receipt of an undertaking by or on behalf of the Covered Person that such amount will be paid over by him to the applicable portfolio if it is ultimately determined that he is not entitled to indemnification under this Section; *provided, however,* that either (i) the Covered Person shall have provided appropriate security for such undertaking, (ii) the Board is insured against losses arising out of any such advance payments,

or (iii) either a majority of the trustees who are not parties to the matter, or independent legal counsel in a written opinion, shall have determined, based upon a review of readily available facts (as opposed to a trial-type inquiry or full investigation), that there is reason to believe that the Covered Person will be found entitled to indemnification under this Section.

E. Right to Defend. Subject to applicable law, the Board may, and if requested in writing by a Covered Person shall, undertake the defense of any claim, action, or proceeding in connection with the matters set forth in *Subsections A through D* for which the Covered Person is indemnified under this Section, and thereafter the Board shall not be liable to the Covered Person for any costs of counsel or other expenses other than reasonable costs subsequently incurred by the Covered Person at the request of the Board in connection with the defense thereof, unless (1) the employment of such counsel has been specifically authorized in writing by the Board, (2) the Board has failed after request to assume the defense and to employ counsel, or (3) the named parties to any such action (including impleaded parties) include both a Covered Person and the Board and the Covered Person shall have been advised by counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the Board (in which case, if the Covered Person notifies the Board in writing that it elects to employ separate counsel at the expense of the Board, the Board shall not have the right to assume the defense of the action on behalf of the Covered Person; *provided* that if the Board has insured against losses pursuant to *Subsection D* and the insurer proceeds to defend the Covered Person pursuant to the policy of insurance, then the Board shall have no further duty to indemnify costs of defense or defend the Covered Person pursuant to this Section.

SECTION 8.2. Limitation of Liability.

The trustees and officers of the Board are governmental officials and shall enjoy the same immunities from liability and suit as are enjoyed by officers of the Employers. Provided they have acted in good faith under the belief that their actions are in the best interest of PEB TRUST, the trustees and officers of the Board shall not be responsible for or liable in any event for neglect or wrongdoing by them or any officer, agent, employee, or investment advisor of PEB TRUST, but nothing contained herein shall protect any trustee against any liability to which he or she would otherwise be subject by reason of fraud, willful misfeasance, or bad faith.

The trustees may take advice of counsel or other experts and shall be under no liability for any act or omission in accordance with such advice. The trustees shall not be required to give any bond as such, nor any surety if a bond is obtained.

SECTION 8.3. Liability Insurance.

The Board may obtain general liability, directors and officers insurance and errors and omissions insurance for the protection of the Board and others in the operation and conduct of PEB TRUST in such amounts as the Board deems adequate to cover foreseeable tort and contract liability. Premiums for such insurance shall be paid by the Board as an expense of PEB TRUST.

ARTICLE IX DISSOLUTION

SECTION 9.1. Dissolution.

The Board may dissolve PEB TRUST in whole and terminate the Agreement, on not less

than 90 days notice to the Employers, provided that the Board makes provision for all liabilities and obligations of the Trust or of the Board and PEB TRUST, respectively, and, in the case of dissolution of PEB TRUST, Employers representing two-thirds of the Employers in PEB TRUST approve the dissolution. After voting to dissolve and making provision for all liabilities and obligations of the Board and PEB TRUST, the Board shall disburse all of the assets of the PEB TRUST to the successor trustee. After giving notice of dissolution of PEB TRUST, the Board may withhold such funds from the Accounts of PEB TRUST, respectively, in such amounts as it deems advisable to make provision for its liabilities and obligations.

ARTICLE X AMENDMENTS

SECTION 10.1. Amendments.

These Bylaws may be altered, amended, or repealed or new Bylaws may be adopted by a majority of the whole Board at any regular or special meeting. No amendment, alteration, repeal, or replacement shall be effective until 30 days after notice of the same is given to the Employers and, in the case of any amendment or repeal of Section 7.2 hereof or permitting dissolution of PEB TRUST without the approval of Employers representing two-thirds of the Employers in PEB TRUST, until approved by Employers representing two-thirds of the Employers in PEB TRUST.

Updated November 2014

5. **PEB Trust Information Statement.** Contains disclosures regarding PEB Trust, its administration, and risks associated with investing

PEB Trust

The Premier OPEB Trust Investment
Service for State and Local
Governments



INFORMATION STATEMENT

PEB Trust: Investment and Management Program

**Administered by FSW Advisory Services and First Southwest
March 2012**

There is no guaranty that payments or reimbursements to employees, former employees, or retirees will be tax-free. The Trust has obtained a ruling from the Internal Revenue Service concerning only the federal tax treatment of the Trust's income. That ruling may not be cited or relied upon by the employer whatsoever as precedent concerning any matter relating to the employer's health plan(s) (including post-retirement health plans). In particular, that ruling has no effect on whether contributions to the employer's health plan(s) or payments from the employer's health plans (including reimbursement of medical expenses) are excludable from gross income of employees, former employees or retirees under the Internal Revenue Code. The federal income consequences to employees, former employees and retirees depend on the terms and operation of the employer's health plan(s).

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No person or entity has been authorized to provide or communicate any information or to make any representations other than those contained in this Information Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by PEB TRUST, its Board of Trustees, the program administrators or any agent of the foregoing. The attachments are part of this Information Statement. The information contained in this document is subject to change without prior notice.

If you have any questions regarding this material, please contact:

PEB TRUST Employer Services
 FSW Advisory Services, Inc.
 325 North St. Paul, Suite 800
 Dallas, Texas 75201

1-800-678-3792 • (214) 953-4277 • Fax (214) 953-8730
 Email: PEBTrust@FIRSTsw.com

Organization and Structure

PEB Trust has been organized in conformity with the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code and Chapter 172 of the Texas Local Government Code relating to risk pools; and for public entities whose income is excludable from gross income under Section 115(1) of the Internal Revenue Code. These two acts provide for the creation of public Trusts investment pools and authorize eligible governmental entities (“Employers”) to invest their public assets and assets under their control through the investment pools. Additionally the Trust is intended to provide an investment vehicle for governmental entities to meet obligations they separately determine under GASB 45. At the April 2011 PEB Trust Board meeting, the Board of Trustees approved operating in one or more additional states. In such case, PEB Trust will conform with applicable laws of any other state(s) where eligible governmental entities join the Trust.

The Trust has received Private Letter Ruling PLR-123064-08 from the Internal Revenue Service, dated September 3, 2008, describing its structure, and is the basis of its governance, some of which is described below. A copy of that letter accompanies the adoption agreement, and is considered an attachment to the agreement. All Employers agree to be bound by the parameters described within the ruling to assure on-going tax-exempt status of the Trust and its Employer participant accounts.

The Trust was formed at the direction of First Southwest Company with an independent non-discretionary Trustee for the purpose of providing a vehicle for Employers to pre-fund retiree health care. The Trust will receive contributions from Employers that adopt the Trust to assist in funding their obligations to provide post-employment, non-pension benefits. The Trust is a multiple-employer pooled trust formed pursuant to State law, and open to participation by Employers.

A five-member Board of Trustees (the “Board”), the majority of which must be employees of the adopting employers and selected by a method outlined in the By-Laws of the Board of Trustees, as amended from time to time, will be responsible for oversight of the service providers, among other duties described later in this document. First Southwest Company and/or its affiliates will also be represented on the board. The Trust is designed to be an “open platform” allowing for certain choice and direction by each Employer regarding its individual needs, investment policy development and preferences, while keeping administrative functions at the employer level low, by engaging such providers as legal counsel, administration and service, and audit at the Trust level, thereby sharing costs, reducing exposure, and consolidating administrative functions.

FSW Advisory Services, Inc. (“FSWA”) serves as Employer Service Administrator (“ESA”) for PEB TRUST under an agreement with the PEB TRUST board of trustees. FSWA, a SEC Registered Investment Advisor, provides Employer services, marketing, co-ordination and implementation of service providers chosen by Employers, including investment advisors and/ or consultants, account billing and performance reporting with limited discretionary authority reserved for operationally executing instructions of Employers, Counselors or Advisors. Through contractual relations with First Southwest Company (“FSC”), FSWA will supply custodial, accounting, depository and broker/dealer services.

The Board may establish separate agreements from time to time with service providers to create a group of quality providers that can deliver services economically and efficiently to Employers, including an independent auditor. Employers' assets in the Trusts are segregated into separate accounts, monthly statements of which will be sent to the Employer, and which may be viewed on-line, real time, by the Employer. Employers may also engage Investment Advisors and /or Consultants independently as they may choose. There is no limit to the number of Employers who may participate in the Trust.

This Information Statement provides information relating to investments and services in the PEB Trust ("the Trust").

Public Trusts Investment Act Disclosure Items

Section 2256.016 of the Texas Public Trusts Investment Act requires investment pools to provide an information statement to the investment officer or other authorized representative of an investing entity. This section provides the required information for PEB TRUST.

- 1. Objectives of PEB TRUST.** The primary objectives of PEB TRUST are to provide a vehicle to maintain the tax-exempt nature of prefunding Other Post Employment Benefit (OPEB) obligations as they are defined by GASB 45, maintenance of sufficient liquidity to meet Employers' needs, diversification to avoid unreasonable or avoidable risks, and yield on investments made to meet future obligations. There is no sales charge and no investment minimum. PEB TRUST will invest in instruments authorized under both the Investment Policy Statement developed for each Employer participant account, as well as the current PEB TRUST Investment Policy.

Employers will choose either an Investment Manager and/or Investment Consultant who will aid the employer in developing an investment strategy and asset allocation.

These professionals may have pre-negotiated rates with the Board, or may be entirely independent, as the Employer chooses.

After consideration of numerous relevant factors, including, but not limited to: safety or risk tolerance, investment time horizons, growth of plan participants, liquidity needs and other factors, the PEB TRUST account will be invested at the direction of an investment advisor or consultant who the Employer has chosen.

- 2. Types of Investments Authorized for PEB TRUST.**

Board Policy is to leave wide flexibility, while avoiding undue risk and conflict. The board does prohibit Employers from investing in securities issued by the Employer, or an agency under its control. Currently the Board has prohibited margin accounts and use of leverage. Commodities and securities in non-dollar denominations will not be held in the trust. Each Employer shall engage an Investment Professional who shall develop an individual plan with each Employer, based on the criteria mentioned in Section 1, as well as any other relevant information needed to make an informed investment plan. Those plans may be developed with the aid of FSWA, but not by FSWA, unless FSWA has been selected as the Investment Professional. After the

Plan has been established, and authorized by the Employer, FSWA will implement the plan as instructed.

Authorized Investments:

Each employer, in consultation with their investment professional, will approve the investment plan, which will contain an Investment Policy Statement (“IPS”) for each Employer account. FSWA will follow instructions as given in each IPS. Each IPS must not be in conflict with the Laws of the State of Texas or IRC Code regarding Trust assets, or any law, statute or regulation imposed on any member from their respective governing authorities.

Prohibited Investments:

The PEB TRUST *will not* invest in:

- A. The PEB Trust will not hold Futures or Commodities or securities in non-dollar denominations. Foreign securities held in US dollars are permissible.
- B. Any investment requiring a margin account.

Diversification Guidelines:

Each employer will determine diversification guidelines for their portfolio in Consultation with their investment professional.

6. **PEB TRUST Board** THE PEB TRUST is required to establish and maintain a Board of trustees, a majority of which must be composed of Employers in PEB TRUST. Two Members of the Board are appointed by FSC and/or its affiliates. The Three Employer Members of the Founding Board of Trustees have been invited by FSC, and are early participants in the Trust. This Board of Trustees shall develop a Policy for elections to the Board Trustees of Employer Representatives. The names of the Advisory Board members are listed in either accompanying documents, or by contacting PEB Trust through FSWA, at 1-800-678-3792.
7. **Custodian for PEB TRUST.** FSC serves as custodian to PEB TRUST. The custodian will receive and disburse all Employer deposits and withdrawals, settle all Trust trades, safe keep securities, and collect all income or any other payments due in connection with purchased securities for PEB TRUST. The custodian will provide statements to employers no less than quarterly, or monthly when accounts have activity. Account information is also available on-line.
8. **Source of Payment.** The only source of payment to Employers is the market value of the assets of the PEB TRUST in which they invest and the income and profits (or losses) derived from those assets. There is no secondary source of payment such as insurance or guarantees. Accounts are subject to market risk, and there is no guarantee that Employers accounts will meet objectives.

9. **Independent Auditor.** PEB TRUST is subject to annual review by an independent auditor.
10. **Operating Procedures.** Deposits and withdrawals may be made by wire transfer or automated clearinghouse (ACH) transfer according to established operating procedures. The requirements for PEB TRUST deposits and withdrawals, deadlines, and other operating procedures are summarized under the section entitled "Summary of Operating Procedures" later in this Information Statement or in separate Operations Updates provided to Employers from time to time.
11. **Performance History.** The performance history is calculated quarterly at the Employer account level in a manner consistent with Global Investment Performance Standards (GIPS) but will not be calculated for the Trust as a whole.
12. **Investment Manager.** The Trust currently has 2 Investment Consultants available to it who have demonstrated both investment management experience, and an understanding of OPEB issues. Employers may independently interview and retain any Consultant or Manager they wish and are not limited to the services of the providers with whom the Trust has already established relationships and operational efficiencies. Managers chosen by each individual member must be vetted by the Board of Trustees.

These provider choices are listed separately, and may be changed or updated from time to time. The Board of Trustees may negotiate more favorable fees, using the collective buying power of the Trust.

13. **Administrative Services**

FSWA is a Registered Investment Advisor and an investment services affiliate of First Southwest Company. Founded in 1946, Texas based-First Southwest Company is consistently ranked as one of the nation's leading providers of financial advisory and underwriting services and maintains a dominating presence in the Southwest and Texas. First Southwest Advisory Services, Inc. (FSWA) serves as customer services and marketing agent, for PEB TRUST. FSWA through its affiliate FSC has extensive experience with the administration and investment management of local government investment pools, as well as providing trading, custody and investment services for approximately 75 independent broker/dealers and Registered Investment Advisors. FSWA provides administrative and investment services to the Board under a contract that may be extended periodically as the board determines. They may be replaced by the Board either for cause or by affiliates or upon resignation, or by an affiliate of the administrator, or with the approval of Employers representing two-thirds of the participants in PEB TRUST.

Understanding the Risks Associated with Investing in PEB TRUST

Investments are subject to many risks, and there is no guarantee that any particular investment will perform at expected rates. There is no guarantee that any Employer account will not suffer substantial loss, nor is there any guarantee that the prefunding actuarial calculations will result in account valuations resulting in the expected funding ratio of OPEB liabilities. Other risks to be considered are:

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- **Credit Risk.** Credit risk is the possibility that the issuer of a security will fail to make timely payments of interest or principal. In general, the lower the credit quality of a security, the higher the yield and the higher the element of credit risk, all other factors being equal.
- **Market Risk.** Market risk is the potential for a loss of principal due to a decline in market value. Market values are influenced by many factors not under the control of an investment manager. Overall economic activity, consumer confidence, interest rates, governmental stability, government policy and regulatory stability, tax policy and international relations are just a few of the factors that may influence or affect market forces.

GASB Effects and Risks. Contributions to the PEB Trust qualify as irrevocable contributions under GASB 45. Thus, contributions will reduce unfunded OPEB liabilities.

When compared with pay-as-you-go funding, prefunding will also affect the discount rate used to value liabilities. This occurs whether the prefunding is less than the ARC (actuarial calculation of annual required contribution), equal to the ARC, or greater than the ARC. According to GASB:

“the discount rate used for determining the actuarial present value of total projected benefits should be the estimated long-term yield on “the investments that are expected to be used to finance the payment of benefits” (investment return assumption). Depending on the method by which a plan is being financed, the relevant investments for that purpose could be investments of plan assets, of employer assets, or of a combination of plan and employer assets. The investment return assumption should reflect the nature and the mix of both current and expected investments and the basis used to determine the actuarial value of assets.” GASB Implementation Guide, Question 8.26.1

Changes in portfolio allocations may affect expected future returns, and thus affect expected discount rates used in actuarial calculations.

Changes in contribution policies may affect discount rates, even if there is no change in portfolio allocations. According to GASB, the following investments are expected to be used to finance the payment of benefits depending on the method of financing:

<u>Method or Status of Financing</u>	<u>Investments Expected to Be Used to Finance the Payment of Benefits</u>
The employer is expected to consistently contribute an amount equal to or greater than the ARC, according to the funding policy.	Investments of plan assets
The plan has no plan assets.	Investments of employer assets
The plan is being partially funded. (Some plan assets have been accumulated, but the employer is expected to generally contribute less than the ARC, according to the funding policy.)	A combination of investments of plan and employer assets; the discount rate should be a blended rate that reflects the proportionate amounts of plan and employer assets expected to be used

-GASB Implementation Guide 8.26.2.

In most years, actual returns on an investment portfolio will not exactly match the expected return.

If actual returns are below expected returns, an employer will likely have: a lower funding ratio than expected and a higher unfunded liability used to calculate the annual required contribution for subsequent years.

If actual returns exceed expected returns, an employer will likely have: a higher funding ratio than expected and a lower unfunded liability used to calculate the annual required contribution for subsequent years. If the actual returns are sufficiently large, a plan may become overfunded (have a funding ratio over 100%).

It is possible that changes in liability calculations will result in changes in funding ratios and annual required contributions. Such potential changes include: mortality, turnover, marriage rates (where spousal coverage is available), medical inflation, terms of medical coverage, retirement timing, participation rates in coverage, benefit structure, eligibility for benefits, and growth or shrinkage of the number of active employees.

Accounting standards may change, which could affect all calculations, expected returns, funding ratios or other factors.

Administration of PEB TRUST

- **PEB TRUST Board.** By executing and submitting an application to open an account, an Employer designates the Board of Trustees, PEB TRUST as its Trustee for investing deposited assets. The Board holds legal title to all money, investments, and assets and has the authority to employ personnel, contract for services, and engage in other administrative activities necessary or convenient to accomplish the objectives of PEB TRUST. Trust assets may not be assigned, attached, or garnished. Amendments to the Adoption Agreement may not revoke the Trust or cause assets

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to be diverted from the exclusive purpose of providing post-employment health and welfare benefits to eligible employees and paying the reasonable expenses of the trust. The termination of an adopting employer's plan to provide post-retirement benefits other than pensions will not result in the employer recovering the assets in its separate account in the Trust, except upon the complete liquidation of the employer's obligation to provide further such benefits under applicable law, or the assumption of all such benefits by the Social Security Administration or other government agency.

There is no guaranty that payments or reimbursements to employees, former employees, or retirees will be tax-free. The Trust has obtained a ruling from the Internal Revenue Service concerning only the federal tax treatment of the Trust's income. That ruling may not be cited or relied upon by the employer whatsoever as precedent concerning any matter relating to the employer's health plan(s) (including post-retirement health plans). In particular, that ruling has no effect on whether contributions to the employer's health plan(s) or payments from the employer's health plans (including reimbursement of medical expenses) are excludable from gross income of employees, former employees or retirees under the Internal Revenue Code. The federal income consequences to employees, former employees and retirees depend on the terms and operation of the employer's health plan(s).

The business and affairs of PEB TRUST are managed by the Board in accordance with its bylaws (the "*Bylaws*"). The Bylaws set forth procedures governing the selection of, and action taken by, the Board. Board oversight of PEB TRUST is maintained through daily, weekly, and monthly reporting requirements.

The Bylaws provide for a five-member Board consisting of three representatives of Employers and one member designated by each of the custodian and the administrator. Board members serve for staggered three-year terms. Replacement Board members (other than the administrator and custodial representatives) are appointed by the Board and may be replaced by directors elected by the Employers in accordance with the Bylaws. Board members serve without compensation but are entitled to reimbursement of reasonable out-of-pocket expenses incurred in the performance of Board duties. The names, terms, and affiliations of Board members are attached as an addendum hereto.

- **Investment Management.** PEB TRUST's Board has adopted (and will review and revise at least annually) a list of advisors that are authorized to engage in investment transactions with PEB TRUST. Before an advisor may be added to the list, a qualified representative of the advisor must certify that the advisor has read the PEB TRUST Investment Policy and has implemented reasonable procedures and controls to preclude investment transactions conducted between the advisor and PEB TRUST that are not authorized by the PEB TRUST Investment Policy, other than by reason of portfolio-wide diversification requirements or subjective standards.

The investment manager may dispose of securities without regard to the time they have been held when such actions, for defensive or other Trust management reasons, appear advisable. Investments may not be sold by one Trust sub-account to another Trust sub-account.

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All securities purchased on behalf of PEB Trust must be delivered to the custodian for PEB Trust. All book entry securities, whether purchased outright or under repurchase agreements, shall be held in separate custodial accounts which may be co-mingled with other fully paid for securities at appropriate Depositories, such as the Federal Reserve Bank, or Depository Trust and Clearing Corporation in the name of the Custodian. All securities not held in book entry form shall be held by the Custodian or its agent. Third party institutions must issue original safekeeping receipts to the Custodian. The Custodian shall keep accurate records reflecting PEB Trust's ownership of the securities. Money market Trust accounts must be in the name of PEB Trust. Free cash balances may also participate in the FDIC Bank Insured Cash Sweep Program. A separate brochure describing this program is provided to Employers at account opening.

- **Ratings.** All accounts within the Trust are held as separate account for the Benefit of each Employer, and will have no rating.
- **Valuation of PEB TRUST Assets.** All PEB TRUST securities will be marked to market on a daily basis by the custodian using standard industry pricing data and methodology. Illiquid or non-marketable securities will be carried at cost for a period of 90 days. After that time, the issuer must verify the value of the asset. Absent any verification, these assets will be carried at \$1.00 until such time as FSC receives verifiable information regarding values.
- **Ethics and Conflicts of Interest.** The custodian's and administrators' staffs must refrain from personal business activity that conflicts with the proper execution and management of the investment program or that could impair their ability to make impartial decisions. PEB TRUST may purchase investments from the inventories held by the administrators or their affiliates only on terms and conditions approved by a majority of the Employer members of the Board. The administrators must implement policies and procedures to comply with these restrictions.

Agents, advisors and contractors providing services in connection with the custody, management and investment of public Trusts under a contract with PEB TRUST must at all times avoid any actual or apparent conflict of interest with respect to the custody, management and investment of public Trusts, subject to the foregoing. As stated in the PEB TRUST Investment Policy, a conflict of interest refers to any situation in which the Board determines, at its sole discretion, that the duties of the agent, advisor or contractor under its contract with PEB TRUST are or may become inconsistent with the interests or other duties of the agent, advisor or contractor.

- **Fees and Expenses.** In return for contracted service, PEB TRUST has agreed to pay service fees to the administrators and custodian as a percentage of the assets held in each Employer Trust account expressed as basis points per year, calculated quarterly on the total Trust balances. A full schedule of fees is attached as Addendum A to this document. The administrator and custodian may (but are not obligated to) waive all or a portion of their fees from time to time. The service fees cover all normal services provided to the Board by the administrators and custodian. Additional expenses required to attain PEB TRUST objectives and conduct on-going operations will be incurred by PEB TRUST. These could include expenses for independent auditors, legal representation, liability insurance, board meeting attendance and other expenses that arise to properly conduct the business of the PEB Trust.

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The PEB TRUST service fees are deducted monthly in arrears based on the gross value of the account on the last business day of the month. Expenses will be deducted from accounts as the Board directs on a pro rata basis of all assets held in the Trust. There are no hidden costs or additional reductions to Employers' accounts.

- **Liability.** Except to the extent of any available liability insurance, PEB TRUST directors and officers will not be liable for (and PEB TRUST earnings may be applied to indemnify them against) loss and liability that may arise from or in connection with any of their acts or omissions, including acts and omissions caused by their negligence, to the extent permitted by law.

Participation in PEB TRUST

Participation in PEB TRUST is limited to eligible governmental entities that have authorized, executed, and submitted an application and Resolution to participate in PEB TRUST.

- **Eligibility to Invest.** Only governmental entities are eligible to join the PEB Trust. Such entities include: States, political subdivisions, and other entities whose income is exempt from taxation under Section 115 of the Internal Revenue Code.
- **Establishment of Accounts.** To participate in PEB TRUST, an eligible local government, state or state agency must duly authorize, complete, execute, and submit an application for participation. By executing and submitting an application, an Employer agrees to the terms and conditions governing PEB TRUST as well as its Bylaws, Investment Policy, and Operating Procedures. Application forms (including forms of authorizing resolutions) may be obtained from PEB TRUST Employer Services. In their applications, Employers must designate authorized representatives who have authority to transfer cash or securities for investment, to withdraw cash or assets, to issue letters of instructions, and to take all other actions necessary or appropriate for the investment of assets in PEB TRUST. An Employer must also provide a separate bank information sheet for each account and sub-account, signed by two authorized Employer representatives unless otherwise permitted by the Operating Procedures. The Operating Procedures describe in detail the procedures required for the establishment of account(s), deposits to and withdrawals from PEB TRUST, and related information. A copy of the Operating Procedures may be obtained from PEB TRUST Employer Services.
- **Amendments.** The Board may amend the PEB TRUST terms and conditions, Bylaws, Investment Policy, and Operating Procedures. It must give Employers at least 30 days advance notice of each amendment. Employers are deemed to have accepted the amendments unless they withdraw from PEB TRUST before the amendments are effective.

Summary of Operating Procedures

Deposits to and withdrawals from PEB TRUST may be made by wire transfer or automated

Item # 7

clearinghouse (ACH) transfer according to established operating procedures. Excerpts from the current Operating Procedures are provided below.

- **Wire Transfers.** Wire transfer transactions will be executed on the same day as initiated, provided there is adequate liquidity in the account. Otherwise, securities must be liquidated and settled, requiring 4 day s advance notice. Securities will be liquidated in a manner directed by the Investment Professional assigned to the Account, unless such authority has been withdrawn in writing by the Employer. In any case where there is no investment advisor, FSWA will liquidate, in its sole discretion, that portion of the account needed to raise funds in a manner consistent with maintaining reasonable asset allocation within the account. PEB TRUST must be notified by **1:00 p.m. central time** (or by both voice and facsimile to an Employer Services Representative by **1:00 p.m. central time**) for all wire transfer activity, and incoming deposits must be received by **1:00 p.m. central time**, to earn interest for that day. In addition, wire transfer deposits received after **1:00 p.m. central time** for which PEB TRUST has not received a corresponding subscription transaction by the applicable deadline will not be invested until such application is complete. Outgoing wire transfers from PEB TRUST requested by 10:30 a.m. are typically sent between 12:00 noon and 12:30 p.m. central time. Some delay may occur, depending on unforeseen circumstances, including, but not limited to, delays or failures unrelated to PEB TRUST.

PEB TRUST reserves the right to suspend the right of withdrawal or to postpone the date of payment in the event that the Federal Reserve is closed other than for customary weekend and holiday closings, in the event of a general suspension of trading in any securities market which affects PEB TRUST operations, or if, in the opinion of the Board, an emergency exists so that the disposal of PEB TRUST's securities or determination of its value is not reasonably practical.

PEB TRUST will process deposits and withdrawal requests only on the days the Federal Reserve is open for business. PEB TRUST may also be closed or have limited trading hours on any Friday preceding or Monday following a weekend, which includes a national holiday provided that notice has been given to Employers at least 30 days prior to such a day, or whenever FINRA, NYSE, or The Bond Market Association recommends that markets for securities close.

- **Automated Clearing House ("ACH") Transfers.** ACH transactions will be executed on the business day following the date the transaction was initiated. PEB TRUST must be notified by **1:30 p.m. Central time to** an Employer Services Representative by **1:30 p.m. central time**) for all ACH transfer activity, one day prior to the actual settlement of the Trust trades. ACH transfer withdrawals are sent in accordance with the prearranged Employer information as provided on the bank information sheet corresponding to that specific PEB TRUST account or subaccount.

In the event of an ACH rejection, PEB TRUST will contact the Employer to confirm the rejection. PEB TRUST will credit/debit the Employer's account accordingly.

- **Methods of Notification.** Employers may notify PEB TRUST of wire transfer or ACH activity by verbal notification to a PEB TRUST Employer Services representative followed by a fax confirmation.
- **Reports.** An Employer's monthly statement will be mailed within the first five (5) business days of the respective succeeding month. The monthly statement will include a detailed listing of the balance in the Employer's accounts as of the date of the statement; all account activity for the previous month, including deposits and withdrawals; and any special fees and expenses charged to the Employer. Additionally, copies of the Employer's reports will be maintained and made available for a minimum of three prior PEB TRUST fiscal years in either physical or electronic form.

A complete copy of the PEB TRUST Operating Procedures may be obtained by contacting PEB TRUST Employer Services.

The PEB Trust Information Statement should be read carefully before establishing an account and investing. Employers should consider the irrevocable nature, investment objectives, risks, charges and expenses associated with this or any other OPEB Trust solution prior to adopting the Trust. It is possible to lose money by investing through the Trust. Investments in PEB Trust are not insured or guaranteed by the Federal Deposit Insurance Corporation (FDIC) or any other government agency, except as provided in the documents provided by the custodian. SIPC insurance does apply to accounts held by First Southwest Company in accordance with coverage offered by SIPC and excess SIPC as described in a separate document provided by First Southwest Company. For further information, contact PEB Trust Employer Services at (800) 678-3792.

March 2012

Tab B. Administrative Services

6. **Administrative Services Agreement.** For administrative services with FSW Advisory Services (part of First Southwest). **Signature Required**



AGREEMENT FOR ADMINSTRATIVE SERVICES FOR PEB TRUST EMPLOYERS

This Agreement (this "Agreement") is made and entered into as of _____, 20__ by and between [_____] a [_____] ("Employer"), and FSW Advisory Services, Inc., a Delaware corporation ("FSWA").

RECITALS

WHEREAS, Employer desires for FSWA to administer and maintain certain cash and other assets from Employer contributions or any other source other than Employer employee contributions (the "Accounts");

WHEREAS, FSWA and Employer desire to enter into this Agreement to provide and receive, respectively, the Services (hereinafter defined); and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Employer and FSWA agree as follows:

REPRESENTATIONS AND WARRANTIES OF EMPLOYER

Employer represents and warrants to FSWA the following:

1. Employer is a duly organized and validly existing state or political subdivision thereof or an agency or instrumentality of a state or political subdivision whose income is exempt from federal income tax under Internal Revenue Code Section 115 of the Internal Revenue Code of 1986, together with any amendments thereto, and contributions to the Accounts shall be in accordance with Government Accounting Standards Board Statement No. 45 (GASB 45). Employer will notify FSWA of any changes, alterations, revocations or suspensions of any matter inconsistent with the representations and warranties made herein that occur at any time during the term of this Agreement.

2. To the extent permitted by law, Employer and the signatory executing on the Employer's behalf have all the requisite authority in conformity with all applicable laws and regulations to enter into this Agreement, to retain the services of FSWA in accordance with the terms and conditions herein, and to perform its duties, responsibilities and obligations hereunder.

3. Employer is a participant in the PEB TRUST



4. Employer is in full compliance with ALL the terms, conditions, representations and agreements of participation with and to the Trust.

5. Contemplated investments in the Accounts are authorized pursuant to Employer's investment policy, if any, and/or applicable law. Further, Employer hereby acknowledges and understands that contributions to the Accounts are irrevocable.

6. Employer has, in its sole discretion, engaged an investment advisor to act on Employer's behalf.

7. All contributions to the Accounts shall be paid by Employer even if all or a portion of those contributions have been made by Employer's employees or other parties. No distinction will be made in the records of the Accounts or the Trust for any funds originating with such employees.

REPRESENTATIONS AND WARRANTIES OF FSWA

FSWA represents and warrants to Employer the following:

1. FSWA is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

2. FSWA is registered as an investment advisor with the Securities and Exchange Commission ("SEC") pursuant to the Investment Advisers Act of 1940 and acknowledges that it is a fiduciary with respect to the Trust. FSWA will notify Employer if at any time during the term of this Agreement if it is not registered or if its registration is suspended or restricted.

3. To the extent permitted by law, FSWA has all the requisite authority in conformity with all applicable laws and regulations to enter into this Agreement, to provide the services to Employer in accordance with the terms and conditions herein, and to perform its duties, responsibilities and obligations hereunder.

4. For purposes of disclosure to Employer, FSWA has attached to this Agreement a copy of its current SEC Form ADV, Part II, or other requisite disclosure.

5. FSWA has been engaged by the Trust to provide certain services to the Trust and to Employer.



SERVICES

1. FSWA will provide, through its affiliate First Southwest Company (“Custodian”), clearing, custody, execution, account maintenance, reporting and other related administration services, including those listed in subsequent paragraphs in this Section (collectively, the “Services”) for the Accounts in accordance with the terms set forth in this Agreement, the Customer Agreement, Full Trading Authorization and Management Fee Authorization form and other agreements which may be required by FSWA or Custodian and must be executed by Employer. In connection with the provision of the Services, Custodian will send or make available trade confirmations, account statements and other documentation as authorized by Employer, and in accordance with applicable laws, rules or regulations. Custodian shall have sole custody of cash, securities and other assets of the Accounts.

2. Custodian will execute orders placed by Employer or Employer’s Authorized Representatives (hereinafter defined) (in accordance with Paragraph 6 of this Section), provided that Custodian receives securities or property in good deliverable form prior to settlement, subject to applicable rules and regulations and to Custodian’s trading rules and policies. Unless Employer specifies to Custodian that an order be executed on a specified exchange or market and Custodian has agreed to such exception, Custodian will, at its sole discretion, execute any order to purchase or sell securities in any location or on any market, any exchange or any Electronic Communication Network (ECN) where such security is traded. Any portion of the Accounts’ assets may be held in an interest-bearing money market account or money market sweep account (insured up to the maximum amount provided by the FDIC) with a bank or savings and loan association, including an affiliate of FSWA or Custodian.

3. Maintain web-portals for Employer to have current access to information related to the Accounts.

4. Designate and engage the services of such agents, representatives, consultants, counsel or accountants, any of whom may be an affiliate of FSWA or a person who renders services to such an affiliate. Any entity affiliated with FSWA or Custodian may act as broker or dealer to execute transactions, including the purchase of securities directly distributed, underwritten or issued by an entity affiliated with FSWA or Custodian. It is agreed and understood between Employer and FSWA that such additional services as set forth in this Paragraph 4 shall require further agreement as to the compensation to be received by FSWA for such services.

5. To exercise all of the further rights, powers, options and privileges granted, provided for, or vested generally under the laws of the State of Texas so that powers conferred upon FSWA herein shall not be in limitation of any authority conferred by law or under this



Agreement, but shall be in addition thereto; provided that such powers satisfy applicable requirements, if any, of the laws of the State of Texas.

6. In conjunction with opening the Accounts, Employer shall supply to FSWA, in writing, a list of individuals who are authorized on behalf of Employer, including Employer's designated consultant(s), investment advisor or other advisor(s) (the "Authorized Representatives") to instruct, direct and/or authorize Custodian or any of its duly authorized employees, in connection with performing the Services, to complete orders, trades, purchases, sales, payment(s) admissible pursuant to Employer's OPEB Plan ("Plan"), or the like of securities in the Accounts. FSWA and/or Custodian will only rely on instructions, directions and/or authorizations received from the Authorized Representatives and shall not be liable for acting or refraining from acting in accordance with any notice, instruction, request or other notification furnished to it and believed by it to have been signed or presented by the Authorized Representatives. Any changes to the list of Authorized Representatives must be made, in writing, and submitted to FSWA.

Any distribution from the Accounts shall only be made to the insurers, third party administrators, health care and welfare providers or other entities providing Plan benefits or services as designated by Employer or to the Employer for the reimbursement of Plan benefits and expenses paid by Employer. No distributions shall be made directly to Employer's employees or employees' dependents. Employer or the Authorized Representative shall provide information to FSWA regarding how distributions and reimbursements are to be made.

7. All performance reporting for the Accounts shall be consistent with Global Investments Performance Standards (GIPS).

COMPENSATION

As consideration for the Services provided by FSWA under this Agreement and pursuant to the Agreement for Administrative Services dated _____, 20__ by and among FSWA and the Trust, FSWA shall be entitled to fees in accordance with the fee schedule attached as Appendix A, which is incorporated herein as an integral part of this Agreement. Unless specifically provided otherwise on Appendix A or in a separate agreement between FSWA and Employer, such fees, together with any other fees and expenses as may have been mutually agreed upon, shall be payable quarterly and debited, in arrears, to the Accounts. FSWA shall not be entitled to any fees for the Services provided to Employer pursuant to this Agreement in addition to those listed on Appendix A unless otherwise agreed upon in writing, signed by FSWA and Employer, except for First Forward WRAP Program fees which shall be paid monthly and debited, in arrears, from the Accounts.

In no event shall the fees charged for the Services rendered to Employer be in violation of the Investment Advisers Act of 1940, as amended, the Employee Retirement Income Security Act of 1974, as amended, to the extent applicable, or any rules or regulations there under, or any other applicable law, regulation, Federal, state or local, or any constitution, by-law, rule or



instrument corresponding to the foregoing, or stated policy or practice of any National Securities Exchange or other securities agency (collectively the “Laws and Regulations”). In the event that any of the fees charged hereunder are deemed by Employer to be in violation of the Laws and Regulations, such fees shall be replaced with fees mutually agreed upon by FSWA and Employer.

ADDITIONAL RIGHTS AND POWERS OF FSWA

To the extent permitted by law and not otherwise prohibited herein, FSWA shall have the right, power and authority, on behalf of Employer, to:

1. Disburse amounts from the Accounts to pay the expenses of administering the Trust including, without limitation, taxes payable by the Trust, fees and expenses of legal counsel to the Trust, Trustee fees, insurance premiums and audits.
2. Deposit or invest all or any part of the assets of the Account in savings accounts or certificates of deposit or other deposits in a bank or savings and loan association or other depository institution, including FSWA, Custodian or any of their affiliates; provided that, with respect to such deposits with FSWA, Custodian, or any of their affiliates, the deposits bear a reasonable rate of interest.
3. Maintain accounts at, execute transactions through, and lend on an adequately secured basis stocks, bonds or other securities to, any brokerage firm including any firm that is an affiliate of FSWA.

TERM

This Agreement shall become effective as of the date executed by Employer as set forth on the signature page hereof and, unless terminated by either party pursuant to the Termination provision set forth below, shall remain in effect thereafter for a period of two (2) years from such date. Unless FSWA or Employer shall notify the other party in writing at least thirty (30) days in advance of the applicable anniversary date that this Agreement will not be renewed, this Agreement, upon proper authorization granted to Employer, may be renewed on the second anniversary of the date hereof for an additional two (2) year period and thereafter, upon proper authorization granted to Employer, may be renewed on each anniversary date for successive one (1) year periods.

TERMINATION

This Agreement may be terminated with or without cause by FSWA or Employer upon the giving of at least thirty (30) days’ prior written notice to the other party of its intention to terminate, specifying in such notice the effective date of such termination. In the event of such termination, it is understood and agreed that only the fees or expenses due FSWA for the



Services provided to the date of termination will be due and payable. assessed for the termination of this Agreement.

No penalty will be

Notwithstanding anything to the contrary, the sections titled "Indemnification," "Limit on Liability," "Miscellaneous, Governing Law," "Miscellaneous, Arbitration" and "Miscellaneous, Confidentiality" shall survive the termination of this Agreement.

INDEMNIFICATION

To the extent allowed by applicable laws, Employer agrees to indemnify and hold harmless FSWA, its officers, directors, employees, parent, and their respective affiliates, agents, attorneys and each person who controls FSWA within the meaning of the Investment Advisers Act of 1940 (collectively, "FSWA Indemnified Persons"), from and against all claims, demands, proceedings, suits and actions and all liabilities, losses, expenses and costs (including any reasonable legal and accounting fees and expenses) relating to FSWA's defense of any failure, for any reason, fraudulent or otherwise, by Employer or Employer's employees to comply with any of its/their obligations under this Agreement or any other agreement executed by Employer and delivered to FSWA in connection with FSWA's performance of the Services, provided that Employer shall have no liability or responsibility for any of same or any other consequences resulting from the gross negligence or willful misconduct on the part of any such FSWA Indemnified Persons. In no event shall any FSWA Indemnified Person be liable for special, indirect, consequential damages, or lost profits or loss of business, arising under or in connection with this Agreement or FSWA's performance of the Services.

FSWA shall indemnify and hold harmless Employer, its officers, directors, employees, agents, and attorneys (collectively, "Employer Indemnified Persons"), from and against any losses, claims, damages, liabilities or expenses, including without limitation to which Employer Indemnified Persons may become subject, insofar as such losses, claims, damages, liabilities or expenses arise out of, or are based upon the gross negligence or willful misconduct of FSWA or its employees in providing the Services.

Promptly after receipt by any indemnified party under this Section or notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnified party under this Section, notify the indemnifying party of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability that it may have to any indemnified party under this Section or otherwise unless actual prejudice results from said failure to notify.

In case any such action is brought against any indemnified party, and the indemnifying party receives notice of the commencement thereof, the indemnifying party will be entitled to participate in the defense thereof with counsel reasonably satisfactory to such indemnified party. Regardless of whether the indemnifying party elects to participate in the defense, the



indemnified party shall have the right to employ separate counsel of its choosing in any such action and to direct and control the defense thereof. All fees and expenses of such counsel shall be the responsibility of the indemnifying party.

EXCULPATION

To the fullest extent permitted by applicable law, no FSWA Indemnified Persons shall be liable to any Employer Indemnified Persons for any claims, demands, proceedings, suits and actions and all liabilities, losses, expenses and costs (including any reasonable legal and accounting fees and expenses) related to any act or omission performed or omitted by any FSWA Indemnified Persons under this Agreement or any other agreement executed by the Employer and delivered to FSWA in connection with FSWA's performance of services hereunder, except with respect to any act or omission resulting from the gross negligence or willful misconduct of any such FSWA Indemnified Persons.

LIMIT ON LIABILITY

To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of FSWA and FSWA's officers, directors, partners, employees and sub-consultants, and any of them, to the Employer and anyone claiming by or through the Employer, for any and all claims, losses, costs or damages, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to this Agreement, the Services and/or the Accounts from any cause or causes shall not exceed the total fees received by FSWA under this Agreement for the two (2) most recent years for which it received such compensation. It is intended that this limitation of liability apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

MISCELLANEOUS

Modification. This Agreement may be modified only by a writing signed by both parties to this Agreement. Unless expressly specified in said writing modification shall not be deemed as a cancellation of this Agreement.

Assignment. This Agreement shall be binding upon all successors, by operation of law of both parties hereto, irrespective of any change with regard to the name of or the personnel of Employer or FSWA. No assignment of this Agreement by either party shall be valid unless the other party consents to such an assignment in writing prior to the assignment. Neither this Agreement nor any operation hereunder is intended to be, shall not be deemed to be, and shall not be treated as, a general or limited partnership, association or joint venture relationship between FSWA and Employer.



Governing Law. The construction and effect of every provision of this Agreement, the rights of the parties hereunder and any questions arising out of this Agreement, shall be governed by and construed in accordance with the substantive laws and the decisions of the courts of the State of _____[state where employer is located], and shall be binding upon the successors and assigns of the parties hereto.

Arbitration. In the event of a dispute between the parties hereto related to the matters specified in this Agreement, that is not resolved by the mutual discussion and agreement of the parties, such dispute shall be settled by arbitration before arbitrators in accordance with the Code of Arbitration Procedures of FINRA then in effect. The arbitrators may allocate attorneys' fees and arbitration costs between the parties, and in accordance with applicable law such award shall be final and binding upon the parties and judgment thereon may be entered in any court of competent jurisdiction. Each party irrevocably waives any and all rights to trial by jury in any legal proceeding in connection with this Agreement, and acknowledges that this waiver is a material inducement to the other party's entering into this Agreement.

Entire Agreement. This Agreement represents the final and entire agreement of the parties hereto with respect to the subject matter hereof. This Agreement shall cover only the Services set forth herein and is in no way intended, nor shall it be construed, to bestow upon Employer or FSWA any special treatment regarding any other arrangements, agreements or understandings that presently exist between Employer and FSWA or that may hereafter exist. Employer shall be under no obligation whatsoever to deal with FSWA or any companies controlled directly or indirectly by or affiliated with FSWA, in any capacity other than as set forth in this Agreement. Likewise, FSWA shall be under no obligation whatsoever to deal with Employer or any of its affiliates in any capacity other than as set forth in this Agreement.

Severability. If any provision or condition of this Agreement shall be held to be invalid or unenforceable by the final determination of any court, or regulatory or self-regulatory agency or body, such invalidity or unenforceability shall attach only to such provision or condition. The validity of the remaining provisions and conditions shall not be affected thereby and this Agreement shall be carried out as if any such invalid or unenforceable provision or condition were not contained herein.

Force Majeure. The parties hereto shall be excused for liability for non-performance or delays in performance of this Agreement arising from any external event beyond any party's control, whether or not foreseeable by either party, in the nature of acts of war, terrorism, civil uprising, imposition of martial law, riots, acts of God, labor disturbances, trading suspension, general computer communications or transportation failures, fire, earthquakes, and other similar events or circumstances to those enumerated above.

Interpleader. If FSWA receives conflicting claims from Employer, an employee of Employer or others persons or agencies regarding money, securities or other property held by FSWA, FSWA may, in its reasonable discretion, tender such money, securities or other property



to a court of competent jurisdiction and institute an action in interpleader or other appropriate legal proceeding to determine the rights of the respective claimants. FSWA shall have no liability to Employer by reason of having pursued such interpleader action, and shall be entitled to reimbursement for its costs and expenses in connection with such action from Employer.

Confidentiality. To the extent authorized by law, the parties may wish, from time to time, in connection with the Services contemplated under this Agreement, to disclose confidential information to each other (the "Confidential Information"). Each party will use reasonable efforts to prevent the disclosure of any of the other party's Confidential Information to third parties for a period of two (2) years after the termination of this Agreement, provided that the recipient party's obligation shall not apply to information that (i) is not disclosed in writing or reduced to writing so marked with an appropriate confidentiality legend within thirty (30) days of disclosure, (ii) is already in the recipient party's possession at the time of disclosure thereof, (iii) is or later becomes part of the public domain through no fault of the recipient party, (iv) is received from a third party having no obligations of confidentiality to the disclosing party, (v) is independently developed by the recipient party, or (vi) is required by law or regulation to be disclosed. In the event that information is required to be disclosed pursuant to (vi) and to the extent authorized by law, the party required to make disclosure shall notify the other to allow that party to assert whatever exclusions or exemptions that may be available to it under such law or regulation.

Notice. For the purposes of any and all notices, consents, directions, approvals, restrictions, requests or other communications required or permitted to be delivered hereunder, FSWA's address shall be:

FSW Advisory Services, Inc.
C/O Todd Owen
325 North Saint Paul Street
Suite 800
Dallas, Texas 75201

with a copy to:

General Counsel
325 North Saint Paul Street
Suite 800
Dallas, Texas 75201

and Employer's address shall be:

[_____]



Either party may provide such notice or change its address for notice purposes by giving written notice pursuant to registered or certified mail, return receipt requested, of the new address to the other party.

Disclaimer. Employer understands and acknowledges that all investments are subject to risk, including loss of principal. No representation or guarantee is being made that the Accounts will or are likely to achieve profits or losses similar to those desired or anticipated by Employer. FSWA does not warrant that trading methods or systems of FSWA, Custodian or any of their affiliates presented in the Services or the information herein, or obtained from any other source will result in profits or losses.

Non-Exclusive. Employer understands that FSWA performs investment advisory services for other clients. Employer agrees that FSWA may give advice or take action with respect to any of its other clients that may differ from advice given or the timing or nature of action taken with respect to the Employer. Nothing herein is intended to be construed as creating any exclusive arrangement with Employer.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

FSW ADVISORY SERVICES, INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____
Dated: _____

Employer: _____
By: _____
Name: _____
Title: _____
Dated: _____

Tab C. Account Application

7. First Southwest New Account Application & Customer Agreement.

For custody, clearing, and trade execution. This agreement is filed with FINRA and is standard across many types of clients (e.g., retail, institutional). **Signature Required**

Sub			Branch				Account Number								RR Number			

About the Application

This is a Brokerage Account Application. Please read it carefully. You will select products and services, tell us how you want to communicate with us, and agree to certain provisions that will govern our relationship. When we accept it, this Application and all accompanying or supplemental documents form the entire Agreement between us for this account. We encourage you to seek personalized advice from qualified professionals regarding all investment, tax, and legal decisions.

Getting Started

Please complete and sign this Application, along with any required supplemental forms identified through this application process.

In order to complete this Application, you will need some or all of the following information:

- Identification information, such as a driver's license, passport, or another type of government-issued identification.
- Tax Identification Number
- Federal tax rate
- Information about your annual income, net worth, and investment experience.

The above information helps us comply with various securities regulations and rules and the USA PATRIOT Act, a Federal law that requires all financial firms to obtain, verify, and record information that identifies each applicant. Please note: if we cannot verify the information you provide, we may be required to restrict or deny your account.

Please remember to notify us if you experience a significant life change, such as the birth of a child, marriage, divorce, death of a spouse, loss of a job, change in financial situation, etc.



Sub			Branch			Account Number						RR Number		

BROKERAGE ACCOUNT APPLICATION

Account carried and cleared by First Southwest Company

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, the USA Patriot Act requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, tax identification number, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

1. SPECIFY SERVICES (ALL BROKERAGE ACCOUNT TYPES ARE ACCESSIBLE ONLINE)			
Account Type <input type="checkbox"/> Cash Only <input type="checkbox"/> Cash/Margin		If no boxes are checked, your account will be opened as a cash only account. NOTE: Your request for a margin account is subject to review.	
		Banking Services (Money Fund Accts Only) <input type="checkbox"/> Check Writing <input type="checkbox"/> VISA Debit Card	
How will you fund your account? (A 5-day credit hold may apply) <input type="checkbox"/> Check (Payable to First Southwest Company) <input type="checkbox"/> Wire <input type="checkbox"/> Transfer (ACAT Form Required)			Initial Transaction Amount \$ _____
Registration (*Accounts denoted with an asterisk require additional documentation. Call for details. + Accounts denoted with a plus sign, please see the Customer Agreement, Paragraph 30.) <input type="checkbox"/> Individual <input type="checkbox"/> Joint Tenants with Rights of Survivorship (JTEN)+ <input type="checkbox"/> Investment Club* <input type="checkbox"/> Custodian <input type="checkbox"/> Trust* <input type="checkbox"/> LLC* <input type="checkbox"/> S-Corporation* <input type="checkbox"/> Partnership* <input type="checkbox"/> Community Property+ <input type="checkbox"/> Joint Tenants in Common (TENCOM)+ <input type="checkbox"/> T.O.D. (Transfer on Death)* <input type="checkbox"/> C-Corporation* <input type="checkbox"/> Sole Proprietorship* IRA* <input type="checkbox"/> Rollover <input type="checkbox"/> SEP <input type="checkbox"/> Keogh <input type="checkbox"/> Other _____			
Account Instructions: <div style="display: flex; justify-content: space-between;"> <div> Proceeds <input type="checkbox"/> Pay <input type="checkbox"/> Hold <input type="checkbox"/> Credit Interest </div> <div> Dividends <input type="checkbox"/> Pay <input type="checkbox"/> Hold </div> <div> Sweep Choices <input type="checkbox"/> Bank Insured Deposit Program <input type="checkbox"/> Government Money Market <input type="checkbox"/> Tax Free Money Market </div> <div> Stock <input type="checkbox"/> Hold <input type="checkbox"/> Request Certificate* (*Additional fees may apply) </div> </div>			

2. TELL US ABOUT YOU - Account Holder (If custodial account, enter minor's information and Social Security Number as primary account holder here, enter custodian information in Co-Account Holder section on page 2.)							
Name <input type="checkbox"/> Individual			Social Security Number (SSN) or Tax ID (TIN)			Birth Date	
<input type="checkbox"/> Entity (Includes Name of Business, Partnership, Trust or Third Party Trustee Information)							
Mailing Address (If P.O. Box, must have physical legal address)				Physical Legal Address			
City	State	Zip	Country	<input type="checkbox"/> U.S. Citizen <input type="checkbox"/> Citizen of _____			
Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed			Number of Dependents		Are you known by any other name? <input type="checkbox"/> Yes <input type="checkbox"/> No If "YES", State Name _____		
Home Phone		Business Phone		E-Mail Address			
<input type="checkbox"/> Driver License or <input type="checkbox"/> Passport Number			Jurisdiction of Issuance		Issue Date		Expiration Date
<input type="checkbox"/> Employed <input type="checkbox"/> Unemployed <input type="checkbox"/> Retired <input type="checkbox"/> Student			Employer (If Self <input type="checkbox"/> Type of Business)		How Long?		Occupation
Employer Address (If P.O. Box, must have physical address)							
Account Holder Bank Reference						My Federal Income Tax Bracket is _____ % _____	
List any Brokerage Accounts held at other Securities Firms.							
Is either Account Holder or any family member - A director, 10% shareholder or policymaking officer of a publicly traded company? <input type="checkbox"/> Yes <input type="checkbox"/> No - Affiliated with any securities firm, bank, insurance company or trust company? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes to either, provide the Company's Name and Company's stock CUSIP if applicable.				Company CUSIP _____ Company Name _____			

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Account Number

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CO-ACCOUNT HOLDER (If custodial account, enter minor's information/Social Security Number in Account Holder section above, enter custodian information here.)

Name <input type="checkbox"/> Individual		Social Security Number (SSN) or Tax ID (TIN)		Birth Date	
<input type="checkbox"/> Entity (Includes Name of Business, Partnership, Trust or Third Party Trustee Information)					
Mailing Address (If P.O. Box, must have physical legal address)			Physical Legal Address		
City	State	Zip	Country	<input type="checkbox"/> U.S. Citizen	<input type="checkbox"/> Citizen of _____
Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed		Number of Dependents		Are you known by any other name? <input type="checkbox"/> Yes <input type="checkbox"/> No If "YES", State Name _____	
Home Phone		Business Phone		E-Mail Address	
<input type="checkbox"/> Driver License or <input type="checkbox"/> Passport Number		Jurisdiction of Issuance		Issue Date	Expiration Date
<input type="checkbox"/> Employed <input type="checkbox"/> Unemployed <input type="checkbox"/> Retired <input type="checkbox"/> Student		Employer (If Self <input type="checkbox"/> Type of Business)		How Long?	Occupation
Employer Address (If P.O. Box, must have physical address)					
Account Holder Bank Reference					My Federal Income Tax Bracket is %
List any Brokerage Accounts held at other Securities Firms.					
Is either Account Holder or any family member - A director, 10% shareholder or policymaking officer of a publicly traded company? <input type="checkbox"/> Yes <input type="checkbox"/> No - Affiliated with any securities firm, bank, insurance company or trust company? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes to either, provide the Company's Name and Company's stock CUSIP if applicable.				Company CUSIP _____ Company Name _____	

ELECTRONIC DELIVERY SERVICEElectronic Delivery (check all that apply): ☐ Confirms ☐ Statements ☐ Proxies ☐ Prospectus**INVESTMENT OBJECTIVES**

Investing involves risk. Different investment products and strategies involve different degrees of risk. The higher the expected return of a product or strategy, the greater the risk that you could lose most of your investment. Investments should be chosen based on your objectives, timeframe, and tolerance for market fluctuations.

Rank the investment objectives for this account 1-5 in order of importance, 1 being highest priority.

- A. Speculation** _____ I am willing to accept maximum risk to my initial principal to aggressively seek maximum returns, and I understand I could lose most, or all, of the money invested.
- B. Growth/Capital Appreciation** _____ I am willing to accept high risk to my principal, including high volatility, to seek high returns over time, and I understand I could lose a substantial amount of the money invested.
- C. Aggressive Income** _____ I am willing to accept some risk to my initial principal and tolerate some volatility to seek higher returns, and I understand I could lose a portion of the money invested.
- D. Income** _____ I am willing to accept low risk to my initial principal, including low volatility, to seek a modest level of portfolio returns.
- E. Preservation of Capital** _____ I want to preserve my initial principal in this account, with minimal risk, even if that means this account does not generate significant income or returns and may not keep pace with inflation.

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Please complete the following information as required by Rule 17a-3(a)(17) of the Securities Exchange Act of 1934, as amended. In compliance with the requirements of the Rule, the information provided will be sent to the customer.

Account Number							

FINANCIAL INFORMATION	
FSC and/or the Broker require the following financial information pursuant to regulatory directives and to assist FSC and/or the Broker in determining your investment needs. Your financial information is kept in the strictest confidence. For Joint Accounts please use combined amounts.	
Approximate Annual Income (Select One) <input type="checkbox"/> \$0 - 24,999 <input type="checkbox"/> \$25,000 - 49,999 <input type="checkbox"/> \$50,000 - 99,999 <input type="checkbox"/> \$100,000 + (List if over \$100,000, \$ _____)	
Net Worth (Assets minus Liabilities, not including Primary Residence) (Select One) <input type="checkbox"/> \$0 - 29,999 <input type="checkbox"/> \$30,000 - 49,999 <input type="checkbox"/> \$50,000 - 99,999 <input type="checkbox"/> \$100,000 - 499,999 <input type="checkbox"/> \$500,000 + (List if over \$500,000), \$ _____)	
Liquid Net Worth (Cash, Stocks, etc. - Net Worth assets easily converted to cash) (Select One) <input type="checkbox"/> \$0 - 29,999 <input type="checkbox"/> \$30,000 - 49,999 <input type="checkbox"/> \$50,000 - 99,999 <input type="checkbox"/> \$100,000 - 499,999 <input type="checkbox"/> \$500,000 + (List if over \$500,000), \$ _____)	
Investment Time Horizon (Select One) <input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1 - 5 yrs <input type="checkbox"/> 5 - 10 yrs <input type="checkbox"/> 10 - 15 yrs <input type="checkbox"/> 15 + yrs	
Investment Experience (Select Letter Indicating Years of Experience A = 0 years B = 1-5 years C = More than 5 years) Stocks _____ Bonds _____ Options _____ Mutual Funds _____	
Liquidity Needs (When is the earliest you expect to need funds from this account) <input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1 - 5 yrs <input type="checkbox"/> 5 - 10 yrs <input type="checkbox"/> 10 - 15 yrs <input type="checkbox"/> 15 + yrs Regarding your Liquidity Needs; Approximately, how much of the account do you expect to need? <input type="checkbox"/> 10% <input type="checkbox"/> 25% <input type="checkbox"/> 50% <input type="checkbox"/> 75% <input type="checkbox"/> 100%	
Investment Risk Tolerance (Select One) _____ Conservative _____ Moderate _____ Aggressive _____ Day Trading	

3. ACCOUNT AGREEMENT (READ AND SIGN)

By signing below, you confirm your intention to reinvest cash credit balances held by FSC in your name, and you further confirm that this cash credit balance is being maintained with FSC solely for the purpose of reinvestment. You understand that cash balances of up to \$250,000 are protected by Securities Investor Protection Corporation (SIPC), but SIPC coverage is not available for funds maintained solely for the purpose of earning interest.

DISCLOSURE OF NAME/ADDRESS ON SECURITIES YOU OWN

Under Rule 14b-1(c) of the Securities Exchange Act of 1934, as amended, FSC is required to disclose to an issuer the name and address, and securities position of its customers, or customers for which FSC clears transactions, who are beneficial owners of that issuer's securities unless the customer objects. Please check the box below if you do not want your ownership disclosed. ☐ I object to the disclosure of such information.

CERTIFICATION OF TAXPAYER ID NUMBER (SUBSTITUTE W9)

Check appropriate box: ☐ Individual/Sole Proprietor ☐ S-Corporation ☐ C-Corporation ☐ Partnership ☐ Other ☐ Exempt Payee
 Under penalty of perjury, you certify that: (1) the number shown on this form is your correct Social Security Number (SSN) or taxpayer identification number (TIN) or you are waiting for a number to be issued to you; and (2) you are not subject to backup withholding because: (A) you are exempt from backup withholding, or (B) you have not been notified by the Internal Revenue Service (IRS) that you are subject to backup withholding as a result of failure to report all interest or dividends, or (C) the IRS has notified you that you are no longer subject to backup withholding; and (3) you are a U.S. person (including a U.S. resident alien). Certification Instructions – You must cross out item (2) above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item (2) above does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign this certification, but you must provide your correct SSN or TIN.

BY SIGNING BELOW, YOU AGREE TO ALL TERMS OF THE CUSTOMER AGREEMENT INCLUDED WITH THIS ACCOUNT APPLICATION. YOU ACKNOWLEDGE RECEIPT OF A COPY OF THIS ACCOUNT APPLICATION AND THE CUSTOMER AGREEMENT. YOU UNDERSTAND YOU CAN REVIEW A COPY OF THE ENTIRE CUSTOMER AGREEMENT AT ANY TIME BY ACCESSING WWW.FIRSTSWCLEARING.COM. YOU CERTIFY THAT YOU HAVE READ, UNDERSTAND AND AGREE WITH ALL PROVISIONS OF THE CUSTOMER AGREEMENT. THE CUSTOMER AGREEMENT BENEFITS FIRST SOUTHWEST COMPANY, INTRODUCING BROKERS FOR WHICH IT CLEARS TRANSACTIONS AND PERSONS RELATED TO EACH OF THE FOREGOING. WITHIN THE CUSTOMER AGREEMENT, PARAGRAPH 30 CONTAINS A PRE-DISPUTE ARBITRATION CLAUSE.

Signature of Account Holder	Date	Signature of Co-Account Holder	Date
X		X	
Print Name		Print Name	
X		X	

Is the account executive registered in the customer state? <input type="checkbox"/> Yes <input type="checkbox"/> No			
AE Signature	AE Number	Date	Authorized Principal Signature
X			X
Print Name	Print Name		
X	Item # 7		

For FirstSouthwest and/or Broker/Dealers for which it clears transactions

Introduction

This Customer Agreement contains the terms and conditions that govern your “Account” with First Southwest Company (“FSC”). FSC serves your account either as your personal broker or as clearing agent by contractual arrangement with your personal broker who utilizes the services and facilities of FSC to perform certain execution and clearing functions (referred to herein as “Introducing Broker”). As used herein, “Broker” refers to the personal broker with whom you deal and the brokerage firm (either FSC or Introducing Broker) with whom he or she is associated; and “you” or “your” refer to each person who signs an Account Application (as defined below) with FSC, or any designee of the person who signs the Account Application. **Unless your Broker is an employee of FSC, then neither your Broker nor the brokerage firm (Introducing Broker) with which he or she is associated may contractually bind FSC or make any representations to you on behalf of FSC.**

You should discuss all your investment goals and objectives with your Broker in order for him/her to have a clear understanding of your financial goals. **SHOULD YOU HAVE ANY QUESTIONS CONCERNING ANY ASPECT OF THE INFORMATION CONTAINED HEREIN, YOUR ACCOUNT OR SECURITIES IN GENERAL, CONTACT YOUR BROKER IMMEDIATELY.**

FSC relies on your Broker and his/her agents for instructions concerning your Account. Except in cases where your Broker is employed by FSC, FSC clears only those trades introduced by your Broker and acts only to effect the administrative and clearing functions for your Broker. FSC does not give advice or recommendations concerning customer Accounts to the customers of Introducing Brokers. Therefore, you must consult your Introducing Broker for advice and recommendations concerning your Account.

**** PLEASE NOTE **** If you are a customer of an Introducing Broker, please be advised that (i) FSC will not review or analyze your Account for the purpose of providing advice to you and FSC will not provide any advice regarding your Account, (ii) FSC assumes no responsibility for trades made in your Account, and (iii) FSC has no responsibility or liability for any actions or omissions of your Introducing Broker or its representatives, employees or other agents.

In consideration for FSC opening and maintaining one or more Accounts, you agree to be bound by the terms and conditions of this Customer Agreement, as same may be amended from time to time, as follows:

1. **Opening an Account.** To open an Account, you must complete an application (“Account Application”) with your Broker. If you do not indicate on your Account Application the type of Account you wish to open, FSC will treat your application as an application to open a “Cash Account.” To open an Account, you must furnish your Broker with certain information, including your name, address, social security number or tax identification number, telephone number, citizenship, date of birth, employer, occupation, bank or other brokerage reference, investment experience, and a general overview of your financial situation (investment objectives, income and net worth).

Your Broker has responsibility for:

- opening, approving and monitoring your Account;
- obtaining and verifying new account documentation;
- obtaining knowledge of the customer and the customer’s investment objectives, experience and financial circumstances;
- approving or rejecting new accounts;
- supervising orders and accounts;
- furnishing investment advice;
- handling and supervising discretionary accounts; and,
- handling accounts for employees or officers of certain regulatory agencies and other financial institutions.

FSC will continue to accept from your Broker all orders for the purchase or sale of your Account securities and other property (as defined below), on margin or otherwise, and any other instructions concerning your account, without any inquiry or investigation, until receipt by FSC of written notice from you to the contrary. **If at any time your objectives or financial conditions change, you should notify your Broker.**

FSC and/or your Broker reserve the right to conduct a background check on any or all beneficial owners of the Account. When you submit your Account Application, you authorize FSC or your Broker to verify your creditworthiness and other information (and your spouse’s if you live in a community property state). To obtain verification, we may contact your employer (and your spouse’s, if applicable), obtain credit reports and make other inquiries, but are not obligated to do so. FSC and/or your Broker may request, and you agree to immediately provide, a legible copy of an unexpired, government issued, photo ID bearing the signature and address of any of the Account owners.

When you open an Account, you must inform your Broker if you want the securities registered in your name and delivered to you, or held by FSC for your Account in “street name.” In the absence of specific instructions, FSC will hold all securities and other property in the Account in “street name.” Registrations into a customer’s name require approximately four weeks and involve additional charges; occasionally, even longer delays are incurred in the delivery of securities.

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If securities are to be held for your Account in “**street name**,” FSC will receive your dividends or interest and credit them to your Account on or shortly after the payment date or when received. FSC will endeavor to notify you of any subscription rights FSC receives for your Account; however, no guarantee can be made that the notice will be given or that it will be given in a timely manner. FSC, by agreement with Automated Data Processing, Inc. (“**ADP**”) will forward to you all proxy material, including annual reports, quarterly reports and notices of meetings. FSC is under no obligation to forward any material to you unless FSC is reimbursed by the issuer of the securities for the expenses incurred in mailing this material.

2. **Back-Up Withholding.** Your Broker is required by law to withhold back-up withholding, at a rate mandated by law, on taxable interest, dividends and other taxable income payments, as well as proceeds from the sale of securities, if you fail to furnish FSC with your correct social security number or taxpayer identification number. For most individuals, the tax payer identification number is their social security number. To prevent back-up withholding on these funds, FSC must receive a completed Account Application form, which includes a W-9 form, within 30 days after the date the Account is opened. Once back-up withholding is implemented with respect to a particular Account, it may not be discontinued or reversed. You must properly certify that you are not subject to back-up withholding under Section 3406(a)(1)(c) of the Internal Revenue Code of 1986, as amended (the “**Code**”). If you are not a citizen of the United States and are exempt from this withholding, you must obtain an appropriate W-8 form and file it with FSC.
3. **Cash Account.** In a “**Cash Account**,” there is no extension of credit made in connection with the purchase of securities, and you must pay in full for any security that you purchase. Federal Reserve Board’s Regulation T and certain other regulations make it necessary to settle the purchase or sale of securities by the settlement date or within the required payment period. When a security is purchased for your Account, FSC must pay the selling broker on the settlement date and, when it does so, you will be responsible for reimbursement to FSC of the amount so paid, plus interest thereon and other costs associated therewith, if any. When a security is sold for your Account, FSC must deliver the certificate on the settlement date. You and your Broker are responsible for compliance with Federal Reserve Board’s Regulation T.

When you purchase a security, FSC must receive prompt payment. Checks must be made payable to First Southwest Company and mailed to 325 North St. Paul Street, Suite 800, Dallas, Texas 75201-3852. Your Broker can advise you of the exact amount due shortly after any purchase. A written notice of the transaction will be mailed to you as soon as possible after your order has been executed. Since purchases must be paid for within the required payment period or by the settlement date, you should not await the arrival of the mailed confirmation before paying. In the event that payment for securities is not received within the required payment period, your securities may be liquidated in accordance with the provisions of Federal Reserve Board’s Regulation T. You will be responsible for any resulting deficiency or loss, and FSC may charge interest on any debit balance in the Account at the same rate as applicable to margin accounts, in its sole discretion.

When you sell a security, it is essential that you deliver the certificate(s) to FSC promptly, since the proceeds of a sale cannot be paid to you until full settlement of the transaction has occurred (and then only if FSC has received your certificate in good deliverable form). In order for your certificates to be in good deliverable form, you must either sign the certificate on the back thereof or a stock power, in either case exactly as it appears on the front of the certificate (both parties must sign if registered jointly). Additional documentation may be required if there are any variations, such as for corporations, partnerships, trusts and estates. FSC provides no assurances that your certificates will ever be or become in good deliverable form. Negotiable securities must be in your Account prior to entering a sale order for those securities.

4. **Interest on Cash Balances.** FSC will pay interest on cash balances carried in your Account that are pending investment or reinvestment when the monthly accrual is \$2.00 or greater. For your Account to be credited with interest, you must sign the Account Application form, specifying that funds left in your Account are pending investment.

The annual rate of interest paid on a credit balance is generally determined by the cost of borrowing money. The rate is related to short-term money market instruments; however, it is not tied directly to any standard such as the prime or the broker call money rate. The rate is set solely at FSC’s discretion.

5. **Margin Account.** Subject to applicable rules and regulations and the terms hereof, FSC will allow you to purchase securities on margin. A “**Margin Account**” involves the extension of credit to you by FSC relative to the purchase of a security or the disbursement of funds. Your margin eligible securities are placed in your Margin Account as collateral for your loan. Your Account with FSC will be opened as a Cash Account unless you specify otherwise on your Account Application or complete a “**Customer Margin and Short Agreement**.”

There are two basic requirements for a Margin Account. First, there is an initial margin requirement at the time of purchase. Thereafter, there is a minimum amount of margin equity that must be maintained in your Account. In most cases, the minimum amount due for initial purchases is established by the Federal Reserve Board in accordance with Regulation T. This requirement is defined as a percentage of the purchase price and it may change periodically. For example, if the margin requirement is 50% when you purchase securities, you are only required to deposit 50% of the total purchase amount. The balance due on the purchase will be loaned to you by FSC and your Account will be debited for that amount. You are required to pay interest on the debit balance as you would on any other loan.

The securities you buy on margin are held by FSC and are collateral for your debt. Although FSC retains your securities as collateral, you receive credit for all dividends or interest, and you may direct your Broker to sell or vote your stock, as you decide, if your Account is in good order.

In addition to the Federal Reserve Board’s initial margin requirements, other regulatory agencies require that a customer opening a Margin Account have a minimum initial equity of \$2,000 in the account. For example, if the initial purchase of securities costs \$2,400, the deposit required is \$2,000, rather than the \$1,200 required by the Federal Reserve Board (assuming the Regulation T requirement is 50%).

Certain regulatory agencies also set the minimum margin maintenance requirements. Under present rules, the margin equity that must be maintained in an Account is based upon a percentage of the market value of all securities held “**long**” in the Margin Account. FSC may set

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margin requirements and maintenance levels above those mandated by the regulatory agencies, and such requirements and levels must be strictly adhered to at all times. If the equity in your Account falls below FSC's defined levels due to a decline in the market value of the securities in your Margin Account as a whole, it will be necessary for you to deposit additional marketable securities or make a cash payment to reduce your indebtedness. Currently, FSC will not permit you to purchase on margin, or deposit as margin collateral, securities having a market price under \$3.00 per share without the prior approval of FSC. Once a security is purchased on margin, if the value of the security falls below \$3.00 per share, you will generally not be permitted to use that security as collateral. For other securities, such as bonds, there may be a higher or lower requirement, depending on the security. FSC's maintenance requirements may change at any time without notice, and FSC may, in its sole discretion, require higher margin or maintenance levels for selected securities or all securities if FSC deems it necessary or appropriate for any reason (e.g., when there is an over-concentration in a particular security or market segment).

If your equity falls below FSC's margin maintenance requirements, or if the margin in any of your Accounts shall be or become unsatisfactory to FSC for any reason, you may receive a notice of a maintenance call informing you of the additional collateral or other action required to increase your Account balance to an acceptable level or to otherwise achieve acceptable compliance. Should you fail to meet a maintenance call, sufficient securities may be sold from your Account to meet your obligations to FSC. Market conditions and other circumstances often make it impractical for FSC to send you a maintenance call notice, since the volatility of the situation may require immediate action by FSC. In such cases, FSC may not notify you prior to taking an action it deems appropriate in order to protect its interests (this may include selling any or all of the securities in your Account). FSC is not required to send a maintenance call, prior notices of a maintenance call should not be construed as a waiver of FSC's right to take immediate action in your Account.

6. **Short Sales.** A "short sale" is a transaction in which you sell a security you do not own. Prior approval from FSC is required on all short sales. You and your Broker are responsible for determining whether or not the particular security you wish to sell short may be borrowed. FSC will assist in the transaction by borrowing the security on your behalf for delivery to the purchaser; however, FSC assumes no responsibility for determining the availability of the security and does not make any assurances that the security will, in fact, be available to cover the short sale. Short sales may only be made in accounts authorized for margin transactions and are subject to special margin and maintenance requirements as noted below. To complete a short sale, FSC must be able to borrow the securities you are selling short in order to cover the delivery to the purchaser. If FSC is unable to borrow the securities, or to re-borrow the securities following a recall by the lender of the securities, FSC may cover your short position by purchasing the securities on the open market at the current market price without any notice to you. You will be liable to FSC for any losses and costs incurred by FSC associated with the close out of a short position.

The credit appearing on your statement as a result of a short sale (including a sale "against the box," meaning a short sale with securities held long in your Account) is often offset by a debit of like amount. The credit generated by a short sale does not reduce your debit balance for the purpose of computing interest until the short position is covered. Your short credit may be reduced substantially or possibly lost altogether when you cover your short position by purchasing the security. There are special margin requirements on a short sale. Regulatory agency rules presently require margin maintenance on a short sale to be a specified percentage of the market value of the security when it sells at or above a specified price per share (FSC's current rate is higher than current regulatory rules), and a higher percentage for securities selling below that price. FSC reserves the right to alter its own maintenance levels at any time without prior notice.

If the security sold short, or short against the box, appreciates in market price over the selling price, interest will be charged on the appreciation in value. If the security sold short depreciates in market price, interest on any debit balance in your Account is reduced according to the depreciation in value. The daily closing price is used to determine any appreciation or depreciation of the security sold short (this practice is referred to as "marking-to-the-market").

You and your Broker have the responsibility, and you hereby agree, to designate as a short sale any order to sell a security that you do not own, and you understand that FSC will mark such order as a short sale. Any order that you do not specifically designate as a short sale will be treated for all purposes as a sale of securities owned by you, and if you do not have the securities in your Account, such a sale is in violation of the terms of this Agreement. In any event, you agree that you will deliver the securities so sold on or before the settlement date. If you fail to make such delivery in the time required, FSC is authorized to borrow such securities as necessary to make delivery for your sale, and you agree to be responsible for any loss FSC may sustain as a result of its inability to borrow such securities or the resulting close out of the short position.

7. **Interest Charges for Margin Accounts.** The rate of interest charged on the debit balance in your Account is determined by FSC's cost of borrowing money. The rate is related to short-term money market instruments, but is not tied directly to any standard, such as the prime or the broker call money rate. The rate is set solely at the discretion of FSC and may be changed without prior notice.
8. **How Interest is Calculated.** Interest is computed on a daily average basis on net debit balances. Each day's debit balance is accumulated into a monthly total. The total debit balance in the period is then averaged to determine the debit balance on which interest is charged. An offsetting free credit balance in a cash account serves to reduce this total. The interest period ends on the last business day of the month, except in December which is carried through December 31. Interest is computed by multiplying the average daily debit balance by the average interest rate (1/360 of the annual interest rate) times the number of days in the interest period. If there is a change in interest rates affecting your Account during an interest period, interest at the new rate will be averaged to determine the rate of interest to be charged on your debit balance.
9. **Security Interest.** You hereby grant to FSC a first and prior lien and security interest in all "securities and other property" (as defined below), now or hereafter held, carried or maintained by FSC in or for any of your Accounts, now or hereafter opened, including any Accounts in which you may have an interest, as security for the payment and discharge of all of your "Obligations" (as defined below) to FSC, to be held by FSC as security for the payment of your Obligations to FSC, to the fullest extent allowed by law. FSC shall have the right to transfer securities and other property so held by FSC from or to any other of your Accounts whenever FSC so determines. As used in this Customer Agreement, "Obligations" means all indebtedness, debit balances, liabilities or other obligations of any kind that you may have to FSC, whether now existing or hereafter arising and regardless of the manner in which same arose, were created or are maintained, all of which Obligations shall be, unless

specified in writing otherwise, payable in full upon the demand of FSC; and “**securities and other property**” shall include, but shall not be limited to, money, securities, commodities or other property of every kind and nature and all contracts and options relating thereto, whether for present or future delivery.

- 10. Liquidation.** Whenever you do not, on or before the settlement date, deliver collected funds as payment in full for any securities purchased for your Account, or deliver negotiable securities in good deliverable form sold for securities for such Account, or if the margin in any Account in which you have an interest shall be or become unsatisfactory to FSC for any reason, or if any other Obligations to FSC remain unpaid, FSC is authorized: (a) to sell any or all securities and other property that FSC may hold for you (either individually or jointly with others); (b) to sell any or all securities and other property in your Accounts with FSC (either individually or jointly with others); (c) to buy any or all securities and other property that may be short in such Accounts; (d) to cancel any open orders and to close any or all outstanding contracts, all without demand for margin or additional margin, notice of sale or purchase, or other notice or advertisement, and provided further that any prior demand or notice shall not be a waiver of FSC’s rights provided herein; and/or (e) to offset against the Obligations to FSC the amount of any cash held in any Account of yours or against any other obligation of FSC to you. In exercising any of the rights granted herein, FSC shall have full discretion to determine which securities and other property are to be sold, which contracts are to be closed and the method and timing of any or all of these actions, whether or not the taking of such actions, or the timing thereof, produces the best results for you. Any such sales or purchases may be made at FSC’s discretion on any exchange, the over-the-counter market (“**OTC**”) or any other market where such business is usually transacted, or at public auction or private sale, and FSC may be the purchaser for FSC’s own account.

In the event securities held in your Account (i) shall be or become illiquid such that they may not be sold in any recognized market, (ii) become nontransferable and (iii) with respect to which it becomes impossible or impractical to secure the issuance of stock certificates for physical delivery of such securities to you, then FSC shall transfer such securities from your Account into an account maintained by FSC for “**worthless stocks**.” Upon such transfer from your Account, you shall no longer hold any ownership interests or rights in and to such transferred securities.

You hereby constitute and appoint FSC as your lawful attorney-in-fact and grant to FSC a power of attorney with full power and authority, in your name, place, and stead, to exercise, do, or perform any act in connection with, arising out of, or relating to the exercise of any of the foregoing rights and powers granted herein. This power of attorney further authorizes FSC to sign, endorse, execute, acknowledge, deliver, receive, and possess all such notices, filings, agreements, covenants, conveyances, receipts and other documents or instruments in writing of whatever kind and nature as may be necessary or proper in the exercise of the rights and powers herein granted.

- 11. Refusal to Execute and Cancellation.** FSC shall have the right to refuse to accept and/or attempt to execute any transaction whatsoever, in its sole discretion. FSC is authorized, in FSC’s discretion, should FSC for any reason whatsoever deem it necessary for FSC’s protection, without notice, to refuse direction from you and/or your Broker, to cancel any outstanding order, to close out your Account(s), in whole or in part, or to close out any commitment made on your behalf.
- 12. Hypothecation.** Within the limitations imposed by applicable law, all securities now or hereafter held by FSC, or carried by FSC in any Account of yours (either individually or jointly with others), or deposited to secure same, may from time to time, without any notice, be carried in FSC’s general loans and may be pledged, re-pledged, hypothecated, re-hypothecated, separately or in connection with other securities for the sum due to FSC thereon or for a greater sum and without retaining in FSC’s possession or control for delivery a like amount of similar securities. It is understood, however, that FSC will deliver to you upon demand, upon payment of the full amount due thereon and provided there are no other Obligations for which the securities serve as collateral, all securities in such Accounts, but without obligation to deliver the same certificates or securities deposited by you originally. Any securities in your Margin Account or short account may be borrowed by FSC or loaned by FSC to others. In certain circumstances, such loans may limit, in whole or in part, your ability to exercise voting or other attendant rights of ownership with respect to the loaned or pledged securities.
- 13. Option Accounts.** In order for you to engage in option transactions, you must complete and submit an “**Options Account Application**” and acknowledge that you understand the risks associated with trading in options. You should receive, read and fully understand the terms, conditions and risks of options trading as set forth in the option disclosure booklet issued by the Options Clearing Corporation, and you must provide your Broker with pertinent financial information and a statement of your investment objectives. Should your financial situation or your investment objectives change, you must notify your Broker immediately. Notice to your Broker, however, will not bind FSC, and FSC may continue to accept orders for your Account until you notify FSC in writing to no longer accept instructions from your Broker.

Before purchasing or selling (writing) an option, you should be completely informed of the risks involved. Familiarize yourself with the business and financial condition of the issuer of the underlying security. Carefully consider if the option transaction is appropriate, relative to your financial situation, investment objectives and tax considerations.

The purchase and/or sale (writing) of PUT and CALL options involve a high degree of risk and are not suitable for all investors. You should not purchase an option unless you are capable of sustaining a total loss of the premium (cost of the option) and other related costs of purchasing the option. You should not sell (write) an option unless you own the underlying security or are in a position to assume the substantial risks inherent in writing “**naked**” options.

When purchasing an option, you must pay the full premium. An option purchase cannot be margined. There are special margin requirements governing the sale of options you must understand prior to commencing an option-writing program. FSC has stringent rules regarding short options. Details of these rules and margin requirements for options are available through your Broker. When you purchase an option, FSC must pay the selling broker the day after the transaction, making your payment also due on that date. Your Broker should be able to advise you of the amount you owe on the day of the transaction.

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Option contracts are traded for a specified period of time and may lose their entire value upon expiration. You must advise your Broker if you want to enter offsetting transactions by closing out your position or exercising the option prior to the expiration date. **Failure to do this may result in the option expiring “worthless,” even though it has monetary value on the expiration date.**

You agree that, in connection with any call option for your Account, you will not sell, during the life of such option, the underlying securities collateralizing such option, including any cash or securities that may accrue on the underlying securities, until such options are closed, exercised or expired, unless you have met the collateral requirements established by FSC and/or your Introducing Broker for carrying uncovered call options. You also agree that FSC and/or the Introducing Broker, in their respective discretion, may refuse any orders to sell such underlying securities received from you, or by means of a give up basis through another firm, unless prior to such sale, you have met the collateral requirements established by FSC and/or the Introducing Broker for carrying uncovered call options. FSC shall have the right, in its sole discretion, to permit you to apply the proceeds of such sale to such collateral requirements.

You bear full responsibility for taking action to exercise or sell valuable options. However, in the absence of notification by you to your Broker to exercise a valuable option contract by 3:00 p.m., Central Standard Time, on the last business day prior to the expiration date of the option contract and the absence of instructions from the Introducing Broker to FSC to sell or exercise valuable options on your behalf within such time, you agree that FSC may sell or exercise the options contract on your behalf. In the event of such action by FSC, you agree to relinquish your ownership in said option to FSC, and FSC may exercise such option for your Account. You understand and agree, however, that FSC is not obligated to take, and may not necessarily take, any action with respect to your options absent instructions from you or your Broker, and should FSC not, for whatever reason, exercise or sell a valuable option on your behalf without instructions from you or your Broker, you waive any and all claims for damages or losses as against FSC that you might sustain or incur arising out of the fact that the option was not exercised or sold.

You acknowledge and agree that when transactions on your behalf are to be executed and options traded in more than one marketplace, FSC may use its discretion in selecting the market in which to enter your order unless you specifically instruct FSC or your Broker otherwise.

14. **Allocation of Option Exercise Assignment Notices.** You should be aware that FSC utilizes a random method of allocation for options assignments received from the Options Clearing Corporation. Exercise assignment notices for options contracts are allocated among all customers' short positions within that series. This allocation is accomplished by a procedure that randomly selects from among all customer short option positions, including positions established on the day of assignment, those contracts that are subject to exercise. Certain short option positions are liable for assignment at any time. If an exercise notice is assigned to your Account, in the case of a call, you must deliver the underlying security to FSC, and in the case of a put, you must deposit cash with FSC sufficient to properly margin the security within a stated period of time. You may receive a more detailed description of this process from FSC upon request.
15. **Agency and Principal Transactions.** Many stocks and bonds are traded in the OTC. When you buy or sell a security in this market, FSC or your Broker may act as an agent or principal and the confirmation you receive will designate such. When FSC or your Broker acts as a principal, FSC or your Broker is selling securities to you that it either owns, expects to buy, or is buying from you for its own account. In these instances, only the net cost or proceeds are reflected on your confirmation. When FSC or your Broker acts in an agency capacity when you purchase or sell securities in the OTC, FSC or your Broker is dealing on your behalf with another broker/dealer or customer of their respective firm. In this instance, any commission will be reflected on your confirmation.
16. **Confirmations and Statements of Account.** Once your order is executed, you will receive a written confirmation (a confirmation is not an invoice) of every transaction. This confirmation will contain information concerning your transaction, including the quantity, name of the security, net cost or proceeds, commission, any taxes and/or fees and an indication of whether the trade was a principal or agency transaction. You should familiarize yourself with the codes, symbols and other information contained in your confirmation. The confirmation contains the terms of your trade. Should you have any questions regarding your confirmation, contact your Broker immediately.

It is extremely important that you retain your purchase and sale confirmations for tax reporting purposes of gains and/or losses. Confirmations should also be retained for all bearer securities in the event it is necessary to evidence proof of ownership.

A quarterly statement will be provided to you reflecting money and security positions in your Accounts. If there is qualified activity during the quarter, a statement will be provided to you for the month during which the entry was made. Your statement may also reflect dividends and/or interest payments FSC has credited for securities, or monies available for investment, held in your Account. If you maintain a Margin Account with FSC with a debit balance, the interest charged to that Account will also appear on your statement.

Additionally, FSC is required by law to report to the Internal Revenue Service any dividends, interest, sales proceeds and other taxable income payments credited to your Account. FSC will furnish you with a Form 1099 confirming income and sales proceeds reported as of the end of the calendar year.

It is your responsibility to review upon first receipt all confirmations of transactions. Transactions shall be conclusive and binding upon you if no objection in writing is made to FSC within five (5) days after the confirmation is mailed. It is also your responsibility to review upon first receipt all Account statements. The information contained in an Account statement (excluding transactions which are covered above in this paragraph regarding confirmations) shall be conclusive and binding upon you if no objection is made in writing to FSC within ten (10) days after the Account statement is mailed. In all cases, FSC reserves the right to determine the validity of any objection to the information contained in the Account statement or any objection to a transaction referenced in a confirmation.

17. **Bulk Segregation and Callable Securities.** FSC maintains securities in our custody for your benefit under the method of “**bulk segregation.**” Bulk segregation is used when certificates are not specifically assigned to each security account being held in bulk for all customer positions. **Item #7**

You have all rights and privileges of beneficial ownership under the bulk segregation system, with the option to request and obtain possession of specific certificates at your discretion. FSC is a member of various clearing facilities (e.g., the Depository Trust Clearing Corp.) and portions of the securities held in safekeeping by FSC are on deposit in bulk segregation form with such depositories.

18. **Securities Investor Protection Corporation.** FSC and the broker/dealer with whom your Broker is associated are required to be members of the Securities Investor Protection Corporation (SIPC), a federal corporation authorized to borrow funds from the U. S. Treasury, which provides customers with insurance protection for amounts account up to \$500,000 each, with a limitation of \$250,000 on claims for cash balances. You may obtain information about SIPC, including an explanatory brochure, on its website at www.sipc.org, or by telephone at (202) 371-8300. FSC has also acquired "Excess SIPC" insurance from a third party insurer to protect clients accounts up to their net equity for loss of securities and cash held at First Southwest Company. This "Excess SIPC" protection is in addition to the protection provided by the Securities and Investors Protection Act, which is administered by SIPC, and is subject to certain conditions and limitations, details of which are available upon request. The above coverage does not protect against loss of the market value of securities.
19. **Commissions and Other Fees.** Consult your Broker for details of his/her commission charges. As reflected on your confirmations, your Broker will establish the commissions to be charged. FSC reserves the right to charge interest (1) on payments made to you before the settlement date of securities sold; (2) on payments to you for securities sold where good delivery of the security has not been made; and (3) when payment has not been received from you on or before the settlement date for securities purchased. FSC may also charge other fees as agreed to with your Broker, or as independently established by FSC. Please contact your Broker for a list of these fees.
20. **Applicable Rules and Regulations.** All transactions effected by you or on your behalf shall be subject to all applicable laws, rules and regulations and shall also be subject to the constitution, rules, regulations, customs and practices of the exchanges or markets and their clearing houses, if any, upon which such transactions are executed.
21. **Liability for Costs of Collection.** The costs and expenses of collection of the Obligations owed by you to FSC, including without limitation, reasonable attorneys' fees and expenses, incurred and payable or paid by FSC shall be and become a part of the Obligations, payable to FSC by you upon demand.
22. **Accounts Carried as Clearing Broker.** The following processes are applicable to customers of Introducing Brokers:

You understand that FSC is carrying your Account(s) as clearing broker by contractual arrangement with your Introducing Broker through whose courtesy your Account(s) have been introduced to FSC. Until receipt from you of written notice to the contrary, FSC may accept and rely upon the verbal or written instructions and directions from such Introducing Broker and its representatives, employees and other agents, without any inquiry or investigation by FSC, and those instructions are hereby authorized and approved by you regardless of the circumstances, with respect to (a) orders for the purchase or sale in your Account(s) of securities and other property, and (b) any other instructions concerning your Account(s), and you agree to accept all transactions initiated, effected and/or created by the Introducing Broker on your behalf. You represent that you understand that FSC will act only to clear trades introduced by your Introducing Broker and to affect other back office functions for your Introducing Broker. You confirm to FSC that you are relying for any advice concerning your Account(s) solely on the Introducing Broker. You understand that all representatives, employees and other agents with whom you communicate concerning your Account(s) are agents of the Introducing Broker, and are not FSC representatives, employees or other agents. You understand that FSC is not a principal of or partner with, and does not control in any way, the Introducing Broker or its representatives, employees or other agents. FSC has no responsibility to supervise or monitor the activities of the Introducing Broker, and the Introducing Broker is exclusively responsible for ensuring that transactions in your Account(s) comply in all respects with applicable laws, rules and regulations. The foregoing notwithstanding, FSC reserves the right to enter into additional contractual or other arrangements with your Introducing Broker in the future, and should FSC elect to do so, such will not affect or modify in any respect any rights or privileges that FSC may have hereunder or any duties, obligations or responsibilities that you may have hereunder.

23. **Privacy Policy.** It is the policy of FSC to respect the privacy of customers who maintain accounts with FSC. Whether accounts are introduced to FSC by Introducing Brokers for whom FSC provides clearing services or the accounts are brokerage clients of FSC (collectively, referred to in this section as "**Account Holders**"), the security and confidentiality of Account Holders' nonpublic personal information is protected by FSC. Information collected to provide financial services requested by Account Holders are from sources such as:

- Applications and account documents received from Account Holders;
- Transactions of Account Holders; and,
- Information we receive from a consumer reporting agency.

FSC does not disclose any nonpublic personal information about Account Holders or former Account Holders to anyone, except as required or permitted by law and to effect, administer or enforce transactions requested by Account Holders in the ordinary course of processing, servicing or maintaining their accounts. Furthermore, FSC does not reserve the right to disclose Account Holders nonpublic personal information in the future without first notifying the Account Holders of a change in privacy policy and providing a convenient opportunity for Account Holders to opt out of information sharing with nonaffiliated third parties.

FSC restricts access to Account Holders' nonpublic personal information to employees who need to know for providing financial services to accounts primarily used for personal, family or household purposes. FSC maintains physical, data processing and procedural safeguards in compliance with regulations to protect Account Holders' nonpublic personal information. If you are a customer of an Introducing Broker, you should be aware that the

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privacy policy and practices of your personal brokerage firm with whom you maintain your brokerage account may be significantly different from that of FSC, which is the clearing firm for your Account. Please read the privacy notice of the Introducing Broker for important privacy information as it relates to you as their customers independently of FSC clearing firm policies.

Under the USA PATRIOT Act of 2001 (Public Law 107-56) (together with all rules and regulations promulgated thereunder, collectively, the “**Patriot Act**”), FSC and/or your Introducing Broker may be required or requested to disclose to one or more regulatory and/or law enforcement bodies certain information regarding transactions relating to your Account involving transactions with foreign entities and individuals, other transactions in your Account as required in the Patriot Act and other activities described in the Patriot Act as “**suspicious activities**.” Neither FSC nor your Introducing Broker shall have any obligation to advise you of any such disclosures or reports made in compliance with the Patriot Act.

- 24. Payment for Order Flow.** The Securities and Exchange Commission (“SEC”), as well as the Financial Industry National Regulatory Authority (“FINRA”), requires that all broker/dealers inform their customers, when a new account is opened, and on an annual basis thereafter, and on confirmations, of payment for order flow practices (compensation received by placing orders through “**market makers**” and specialists on registered U.S. exchanges). Consistent with the overriding principle of best execution, orders placed through FSC will be routed to primary exchanges and other market centers, including regional securities exchanges and dealers, which make markets OTC. In an effort to obtain best execution, FSC may consider several factors, including price improvement opportunities (executions at prices superior to the then prevailing inside market on OTC or national best bid or offer for listed securities), whether it will receive cash or non-cash payments for routing order flow and reciprocal business arrangements. Further information about the source and nature of the compensation for a particular transaction will be provided upon written request. Order routing statistics required under SEC Rule 11Ac1-6 are available on the Internet at www.firstsw.com.
- 25. Customer’s Responsibility Regarding Certain Securities.** Certain securities may grant the holder thereof valuable rights that may expire unless the holder takes action. These securities include, without limitation, warrants, stock purchase rights, convertible securities, options, bonds and securities subject to a tender or exchange offer. You are responsible for knowing the rights and terms of all securities in Accounts maintained by you. FSC is not obligated to provide, and will not necessarily provide, notice of any upcoming expiration or redemption dates, or to take any other action on your behalf without specific instructions from you or your Introducing Broker, except as required by law and applicable rules and regulations. However, if any such security is about to expire and become worthless, is to be redeemed for significantly less than its fair market value, or is the subject of a cash tender offer, and FSC has not received instructions regarding same, FSC may, at its discretion, sell or tender the security and credit your Account with the proceeds, all without any further approval or direction from you.

Similarly, you are responsible for knowing about reorganizations related to securities, that you own, including without limitation, stock splits and reverse stock splits. FSC is not obligated to provide, and will not necessarily provide, notice of any such reorganizations. If, due to reorganization, you sell more shares of a security than you own, or if you become uncovered on an option position, or if you become otherwise exposed to risk requiring FSC to take market action in your Account, you will be responsible for any losses incurred. Overselling in a cash or margin account is an impermissible short sale and may result in the imposition of broad and severe restrictions on such account.

- 26. “Control” or “Restricted” Securities.** Prior to placing an order in connection with the sale or transfer of any securities subject to Rules 144, 145, 148 and 701 under the Securities Act of 1933, as amended, you must advise FSC of the status of the securities and furnish FSC with the necessary documents (including opinions of legal counsel, if requested) to clear legal transfer. Even if the necessary documents are furnished in a timely manner, there may be delays with the processing of such securities. FSC, in its sole discretion, may require that such securities not be sold or transferred until they clear legal transfer. You are responsible for all costs associated with compliance or failure to comply with all the requirements of Rules 144, 145, 148 and 701.
- 27. ARBITRATION AGREEMENT. THIS AGREEMENT CONTAINS A PRE-DISPUTE ARBITRATION CLAUSE. BY SIGNING AN ARBITRATION AGREEMENT THE PARTIES AGREE AS FOLLOWS:**
- A. ALL PARTIES TO THIS AGREEMENT ARE GIVING UP THE RIGHT TO SUE EACH OTHER IN COURT, INCLUDING THE RIGHT TO A TRIAL BY JURY, EXCEPT AS PROVIDED BY THE RULES OF THE ARBITRATION FORUM IN WHICH A CLAIM IS FILED.**
 - B. ARBITRATION AWARDS ARE GENERALLY FINAL AND BINDING; A PARTY’S ABILITY TO HAVE A COURT REVERSE OR MODIFY AN ARBITRATION AWARD IS VERY LIMITED.**
 - C. THE ABILITY OF THE PARTIES TO OBTAIN DOCUMENTS, WITNESS STATEMENTS AND OTHER DISCOVERY IS GENERALLY MORE LIMITED IN ARBITRATION THAN IN COURT PROCEEDINGS.**
 - D. THE ARBITRATORS DO NOT HAVE TO EXPLAIN THE REASON(S) FOR THEIR AWARD UNLESS, IN AN ELIGIBLE CASE, A JOINT REQUEST FOR AN EXPLAINED DECISION HAS BEEN SUBMITTED BY ALL PARTIES TO THE PANEL AT LEAST 20 DAYS PRIOR TO THE FIRST SCHEDULED HEARING DATE.**
 - E. THE PANEL OF ARBITRATORS MAY INCLUDE A MINORITY OF ARBITRATORS WHO WERE OR ARE AFFILIATED WITH THE SECURITIES INDUSTRY.**
 - F. THE RULES OF SOME ARBITRATION FORUMS MAY IMPOSE TIME LIMITS FOR BRINGING A CLAIM IN ARBITRATION. IN SOME CASES, A CLAIM THAT IS INELIGIBLE FOR ARBITRATION MAY BE BROUGHT IN COURT.**
 - G. THE RULES OF THE ARBITRATION FORUM IN WHICH THE CLAIM IS FILED, AND ANY AMENDMENTS THERETO, SHALL BE INCORPORATED IN THIS AGREEMENT.**
- ANY AND ALL CONTROVERSIES, DISPUTES OR CLAIMS BETWEEN YOU AND FSC, OR THE INTRODUCING BROKER,**

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AGENTS, REPRESENTATIVES, EMPLOYEES, DIRECTORS, OFFICERS OR CONTROL PERSONS OF FSC OR THE INTRODUCING BROKER, ARISING OUT OF, IN CONNECTION WITH, FROM OR WITH RESPECT TO (a) ANY PROVISIONS OF OR THE VALIDITY OF THIS CUSTOMER AGREEMENT OR ANY RELATED AGREEMENTS, (b) THE RELATIONSHIP OF THE PARTIES HERETO, OR (c) ANY CONTROVERSY ARISING OUT OF FSC'S BUSINESS, THE INTRODUCING BROKER'S BUSINESS OR YOUR ACCOUNTS, SHALL BE CONDUCTED PURSUANT TO THE CODE OF ARBITRATION PROCEDURE OF THE FINANCIAL INDUSTRY NATIONAL REGULATORY AUTHORITY. ARBITRATIONS MUST BE COMMENCED BY SERVICE OF A WRITTEN DEMAND FOR ARBITRATION OR A WRITTEN NOTICE OF INTENTION TO ARBITRATE. IF FSC IS A PARTY TO SUCH ARBITRATION, TO THE EXTENT PERMITTED BY THE RULES OF THE APPLICABLE ARBITRATION TRIBUNAL, THE ARBITRATION HEARING SHALL BE CONDUCTED IN DALLAS, TEXAS. THE DECISION AND AWARD OF THE ARBITRATOR(S) SHALL BE CONCLUSIVE AND BINDING UPON ALL PARTIES, AND ANY JUDGMENT UPON ANY AWARD RENDERED MAY BE ENTERED IN A COURT HAVING JURISDICTION THEREOF, AND NEITHER PARTY SHALL OPPOSE SUCH ENTRY.

NO PERSON SHALL BRING A PUTATIVE OR CERTIFIED CLASS ACTION TO ARBITRATION, NOR SEEK TO ENFORCE ANY PRE-DISPUTE ARBITRATION AGREEMENT AGAINST ANY PERSON WHO HAS INITIATED IN COURT A PUTATIVE CLASS ACTION, OR WHO IS A MEMBER OF A PUTATIVE CLASS WHO HAS NOT OPTED OUT OF THE CLASS WITH RESPECT TO ANY CLAIMS ENCOMPASSED BY THE PUTATIVE CLASS ACTION UNTIL: (i) THE CLASS CERTIFICATION IS DENIED; OR (ii) THE CLASS IS DECERTIFIED; OR (iii) THE CUSTOMER IS EXCLUDED FROM THE CLASS BY THE COURT. SUCH FORBEARANCE TO ENFORCE AN AGREEMENT TO ARBITRATE SHALL NOT CONSTITUTE A WAIVER OF ANY RIGHTS UNDER THIS CUSTOMER AGREEMENT EXCEPT TO THE EXTENT STATED HEREIN.

ALL ARBITRATION PROCEEDINGS SHALL BE CONDUCTED IN THE ENGLISH LANGUAGE, UNLESS OTHERWISE AGREED BY THE PARTIES BY WRITTEN STIPULATION ENTERED INTO IN THE COURSE OF SUCH ARBITRATION PROCEEDING.

IF YOU ARE NOT RESIDING IN THE UNITED STATES AT THE TIME OF ANY CONTROVERSY BETWEEN YOU AND FSC SUBJECT TO THIS ARBITRATION AGREEMENT, YOU AGREE TO THE PROVISIONS SET FORTH ABOVE AND THE FOLLOWING ADDITIONAL PROVISIONS: (i) THE RULES OF THE FINANCIAL INDUSTRY NATIONAL REGULATORY AUTHORITY SPECIFICALLY PROVIDES FOR THE DESIGNATION OF THE PLACE WHERE THE ARBITRATION IS TO BE HELD; AND (ii) YOU SUBMIT TO THE PERSONAL JURISDICTION OF THE STATE OF TEXAS AND AGREE THAT THE COURTS OF SUCH STATE SHALL HAVE AUTHORITY AND JURISDICTION TO INTERPRET AND ENFORCE THESE ARBITRATION PROVISIONS AS SET FORTH IN THIS CUSTOMER AGREEMENT.

To the extent allowed by law, all applicable statutes of limitation and defenses based upon the passage of time related to any civil action or claim shall be tolled while the arbitration procedures specified in this section are pending. You agree to take any actions necessary to effectuate such tolling. You further agree that, to the extent allowed by law, any obligations owed to FSC that arise in connection with your Account(s) are collectable from marital community property estate assets.

28. **Cancellation Requests; Late and Corrected Reports.** When you place a request to cancel an order, the cancellation of that order is not guaranteed. The order will only be canceled if such request is received in the marketplace and matched up with your order before the order is executed. Market orders are subject to immediate execution. During market hours, it is rarely possible to cancel a market order. For the best chance of ensuring that a market order is canceled, a cancellation request should be placed at least fifteen minutes prior to the opening of the market.

You cannot and should not assume that any order has been executed or canceled until a transaction confirmation from FSC has been received. Also, please be aware that FSC, from time to time, receives late reports from exchanges and market makers reporting the status of transactions. Accordingly, you will be subject to late reports related to orders that were previously unreported or reported to you as being expired, canceled, or executed. In addition, any reporting or posting errors, including errors in execution prices, will be corrected to reflect what actually occurred in the marketplace.

29. **Telephone Recording.** You understand and agree that, for the mutual benefit of FSC and you, FSC may, in its discretion, electronically record any telephone conversations conducted with you without prior or further notice.

30. **Joint Accounts:** If you open a Joint Account, each of the persons executing the Account Application (each a "joint owner") jointly and severally agrees that each joint owner shall have authority on behalf of the joint account to (i) buy, sell (including short sales, if the Account is approved for short selling), and otherwise deal in, through FSC as broker, stocks, bonds, options, and other securities, commodities and/or property on margin or otherwise; (ii) to receive, on behalf of the joint account, demands, notices, confirmations, statements, reports and communications of every kind related to the Account; (iii) to receive on behalf of the joint account money, securities, and/or property of every kind and to dispose of the same; (iv) to make, terminate, or modify on behalf of the joint account this Customer Agreement and/or any other written agreement relating to the Account or waive any of the provisions of such agreements; and (v) generally to deal with FSC on behalf of the joint account as fully and completely as if each of the joint owners alone was the sole owner of the Account, all without notice to the other joint owner(s) in said account. Each of the joint owners agrees that notice to any joint owner shall be deemed to be notice to all joint owners. Each joint owner further agrees that he or she shall be jointly and severally liable for the Account. FSC may follow the instructions of any of the joint owners concerning the Account and make delivery to any of the joint owners of any and all securities and other property in the Account, and make payments to any of the joint owners, of any or all monies in the Account as any of the joint owners may order and direct, even if such deliveries and/or payments shall be made to one of the joint owners personally. FSC shall be under no obligation to inquire into the purpose of any such demand for such deliveries and/or payments. The authority hereby conferred shall remain in full force until written notice of the revocation by hand delivery or registered mail, addressed as follows: First Southwest Company, Attention: New Accounts Department, 325 North St. Paul Street, Suite 800, Dallas, Texas 75201-3852 (or such other address as FSC advises the joint owners).

Each of the joint owners further agree, jointly and severally, that all property FSC may at any time be holding or carrying for any one or more of the joint owners, shall be subject to a lien in FSC's favor for the discharge of the obligation of the joint account to FSC, such lien to be in addition to and not in substitution of the rights and remedies FSC otherwise would have.

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Laws governing joint ownership of property vary from state to state. Each of the joint owners understand that each of the joint owners is responsible for verifying that the joint registration he or she selects is valid in his or her state. Generally, however, for Joint Tenants with Rights of Survivorship, in the event of the death of either tenant, the entire interest in the joint account shall be vested in the surviving joint tenant(s) on the same terms and conditions. For Tenants in Common, the interest in each tenancy shall be equal unless specified in writing to FSC, and in the event of the death of either tenant, the interest in the share of the tenancy shall vest in the decedent's estate. State laws regulating community property vary. Each of the joint owners should consult his or her personal legal advisor concerning whether community property is applicable in his or her state.

For Community Property accounts, in the event of the death of either spouse, the surviving spouse shall give FSC written notice thereof, and upon notice, FSC may require certain documents it deems necessary. Unless the surviving spouse notifies FSC otherwise, and provides such documentation FSC deems necessary, FSC may presume the deceased spouse's said interest of the Account shall vest in the deceased spouse's estate. FSC may require the executor of the deceased spouse's estate to provide all documents FSC deems necessary and to instruct FSC how to distribute the said interest of the deceased spouse's portion of the account.

It is further agreed that in the event of the death of any of the joint owners, the survivor or survivors shall immediately give FSC written notice thereof, and FSC may, before or after receiving such notice, take such proceeding, require such papers of inheritance or estate tax waivers, retain such portion of and/or restrict transactions in the account as FSC may deem advisable to protect FSC against any tax, liability, penalty or loss under any present or future laws or otherwise. The estate of any of the decedent joint owner shall be liable and each survivor shall continue to be liable, jointly and severally, to FSC for the net debit balance or loss in said Account in any way resulting from the completion of transactions initiated prior to the receipt by FSC of the written notice of the death of the decedent or incurred in the liquidation of the account or the adjustment of the interest of the respective parties.

Any taxes or other expenses becoming a lien against or being payable out of the Account as the result of the death of any of the joint owners, or through the exercise by his or her estate or representatives of any rights in the Account, shall be chargeable against the interest of the surviving joint owner(s) as well as against the interest of the decedent joint owner's estate.

Unless the joint owners notify FSC otherwise and provide such documentation as FSC may require, FSC may presume that it is the express intention of the joint owners to hold the Account as joint tenants in common. In the event of the death of any of the joint owners, the decedent's interest in the Account shall be included as part of the decedent's estate on the same terms and conditions as theretofore held, without in any manner releasing the decedent joint owner's estate from liability.

Any taxes, costs, expenses or other charges becoming a lien against or being payable out of the account as a result of the death of the decedent, or through the exercise by his or her estate or representatives of any rights in the account shall, so far as possible, be deducted from the interest of the estate of such decedent. This provision shall not release the decedent's estate from any liability stated previously.

FSC reserves the right to require written instructions from all Account holders, in its sole discretion. This Agreement shall benefit FSC, FSC's successors and assigns, as well as, any introducing broker(s) for which FSC clears.

31. **Electronic Services and On-Line Trading Agreement.** Your Broker may offer certain electronic services to you that may include order execution and financial market information access (collectively, the "On-Line Services"). Your use of the On-Line Services, or your signed acknowledgment, indicates your acceptance of and agreement to all the following additional terms and conditions:

- A. **Financial Market Information.** You understand and agree that the financial market information made available through the On-Line Services (the "Information") has been independently obtained by various securities markets, exchanges, their affiliates and others (together, the "Data Sources") through sources believed to be reliable. The accuracy, completeness, timeliness or proper sequencing of the information is not guaranteed by FSC, your Broker, the Data Sources, any parties transmitting the Information (the "Data Forwarders") or other information service providers (the "Service Providers"). You understand and agree there may be delays, omissions or inaccuracies in the Information and that neither FSC, your Broker, the Data Sources, the Data Forwarders nor the Service Providers shall have any liability, contingent or otherwise, for the accuracy, completeness, timeliness or correct or proper sequencing of the Information, or for any decision made or action taken by you in reliance upon the Information or the On-Line Services, or for interruption of any data, information or aspect of the On-Line Services.

THERE IS NO WARRANTY OF MERCHANTABILITY, NO WARRANTY OF FITNESS FOR A PARTICULAR USE OR PURPOSE AND NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE INFORMATION OR ANY ASPECT OF THE ON-LINE SERVICES.

- B. **Proprietary Interests in the Information.** You understand and agree that each of the Data Sources, Data Forwarders and Service Providers asserts, or may assert, a proprietary interest in the market data it furnishes, the means by which it is transmitted and/or the manner by which same is disseminated. You also understand that these matters are or may be covered by copyright, patents or other means of protecting proprietary interests and you agree not to reproduce, retransmit, disseminate, sell, distribute, publish, broadcast, circulate, or commercially exploit the Information in any manner without the express written consent of your Broker and the relevant Data Sources, Data Forwarders and/or Service Providers. You also agree to use real-time quotes and other Information only for your individual use and shall not furnish such data to any other person or entity; and you shall not otherwise use the Information for any unlawful purpose.
- C. **Manner of Use of On-Line Services.** You shall be the only authorized user of the On-Line Services under this Customer Agreement. You shall be responsible for the confidentiality and use of the user identification number, sign-on password, trading password and other security information established for your Account with your Broker. You shall be solely responsible for all orders entered through the On-Line Services using your user identification number, sign-on password and trading password, regardless of whether or not the order was

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actually entered by you or was entered without your knowledge and/or consent. You agree to pay all subscription, service and use fees, if any, which are charged to you for the On-Line Services and that such fees may be changed from time to time without prior notice to you. You also agree to pay all federal, state and local taxes applicable to your use or receipt of the On-Line Services. Further, you agree to immediately notify your Broker if:

- i. an order has been placed through the On-Line Services and you have not received an order number relating thereto;
- ii. an order has been placed through the On-Line Services and you have not received an accurate acknowledgement (whether through hard copy, electronic, or verbal means) of the order or of its execution within five (5) business days of the date of the order;
- iii. you have received acknowledgement in any form of an execution for an order that you did not place or you receive any similar conflicting information regarding an order; or
- iv. you become aware of any loss, theft or unauthorized use of your user identification number, sign-on password, trading password or other security data or procedures established for your Account with your Broker.

The foregoing notwithstanding, you understand and agree that the providing of notice to your Broker as required herein above shall not relieve you of any responsibility with respect to orders entered through the On-Line Services using your user identification number, sign-on password and trading password until such time as your Broker has been instructed by you, in writing, that further use of the On-Line Services is no longer authorized by means of your then existing user identification number, sign-on password or trading password. In any event, FSC shall be entitled to rely on, and act upon, any and all instructions received from your Broker with regard to your Account, notwithstanding any different instructions and/or authorizations that may have been provided by you to your Broker, until such time as FSC receives written directions from you to the contrary. FSC shall be under no obligation to determine whether or not instructions from your Broker were properly authorized, properly executed or in conformity with any agreement or understanding you may have with your Broker for On-Line Services or otherwise.

- D. **Certain Limitations Relating to On-Line Services.** You agree to read, become familiar with and be bound by the terms of any user license agreements related to any software provided or used in the On-Line Services and further agree that the terms of such licenses are incorporated in this Customer Agreement by reference and made a part hereof, specifically including, without limitation, provisions thereof relating to the restrictions on the use of such software and the Information provided through the On-Line Services. Either FSC or your Broker may terminate, suspend, restrict or otherwise place limitations on your access to the On-Line Services, or any portion thereof, at any time and for any reason whatsoever, it being understood and agreed that the availability of the On-Line Services is provided to you as a customer service in the discretion of your Broker and FSC and not as a contractual right or commitment. Your Broker reserves the right to require a cash or equity deposit prior to the execution of any transaction through the On-Line Services; and such Broker shall not be responsible for any delay or failure to provide On-Line Services, such as the execution of an order, in the event of any failure or delay by you in making such deposit. Further, you understand and agree that response times for transactions entered through the On-Line Services may vary from one transaction to another and from time to time, depending upon a number of factors and circumstances, including without limitation, communications failures, delays or interruptions, volume of usage, variances in transmission speeds and capacities, services provider failures, errors or irregularities, and software and hardware malfunctions, failures or corruptions; and neither FSC nor your Broker shall be responsible for any losses, costs or expenses incurred or sustained by you as a result of any such variations in response times.
- E. **No Advice Given Regarding the Information.** Neither the On-Line Services nor the Information provided thereby is intended to supply tax or legal advice to you or any other person; and, while the Information may contain recommendations, suggestions or other subjective evaluations upon which investment decisions may be based, no such recommendations, suggestions or evaluations are prepared, submitted or endorsed by your Broker or FSC. No investment advisory services are provided by FSC or your Broker in the On-Line Services and neither offers any advice or counsel regarding the nature, extent, value, suitability, potential benefits or risks associated with any particular transaction or investment strategy. All transactions conducted through the On-Line Services are made by you at your own risk.
- F. **Indemnity.** You agree to indemnify and hold harmless your Broker and FSC of and from any and all claims, losses, liabilities, costs and expenses (including, without limitation, reasonable attorney's fees and expenses) arising out of your violation of any of the provisions of this Customer Agreement or of any copyright, patent, proprietary or privacy rights of any third party. This indemnity and hold harmless provision shall survive any termination of this Customer Agreement.
- G. **Limitation of Liability.** In no event will FSC or your Broker be liable to you or to any other person or entity for any consequential, incidental, special or indirect damages (including, without limitation, trading losses, lost profits, or damages resulting from delays or interruptions in the use of the On-Line Services). You acknowledge and agree that neither FSC nor your Broker shall be liable for any loss resulting from a cause over which they do not have direct control, including, without limitation, the failure or ineffectiveness of electronic or mechanical equipment or communication lines, telephone or other interconnect problems, software malfunction, failure or corruption, unauthorized access, theft, operator errors, severe weather, earthquakes, floods, fires, strikes or other labor problems, war, insurrection, riot, or government action.
32. **Unauthorized Transactions.** FSC shall have the right to refuse to process any transaction or take any action based upon documents, directions, instructions or instruments that FSC believes in good faith to have been (i) forged or otherwise illegally altered or modified, (ii) issued or given without due and proper authorization, or (iii) obtained or secured by duress, fraud, theft or other unlawful means. The foregoing notwithstanding, FSC shall have no obligation whatsoever to undertake, and FSC will not necessarily undertake, any investigation or perform any due diligence to determine or detect whether any such illegal or unauthorized actions has occurred with respect to any document, transaction or proposed transaction relating in any manner to your Account. Further, you understand and agree that FSC does, from time to time in the ordinary course of its business, issue signature guarantees in connection with certain securities transfers, which guarantees are issued to facilitate the timely and efficient transfer of securities and provide certain protections for the issuer of the securities and its transfer agents. You hereby waive any rights you may

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have to claims for damages, losses, liabilities, costs and expenses that may be incurred by reason of the issuance of signature guarantees by FSC or by reason of FSC's failure to determine or detect that any guaranteed signatures were forged, unauthorized or illegally obtained.

33. **Successors.** You hereby agree that this Customer Agreement and all the terms hereof shall be binding upon your heirs, executors, administrators, personal representatives and assigns. This Customer Agreement shall inure to the benefit of FSC and its successors, assigns and agents. FSC may assign its rights and duties under this Customer Agreement to any of its subsidiaries or affiliates without giving you notice, or to any other entity upon prior written notice to you.
34. **Representations.** You hereby represent that you are of full age and that either (i) you are not an employee of any exchange, or of any corporation of which any exchange owns a majority of the capital stock, or of a member of any exchange, or of a member firm or member corporation registered on any exchange or of a bank, trust company, insurance company or of any corporation, firm or individual engaged in the business of dealing either as broker or as principal in securities, bills of exchange, acceptances or other forms of commercial paper, or (ii) if you are an employee of one or more of the foregoing, you have fully disclosed your affiliation to your Introducing Broker and have obtained appropriate approvals from the compliance officer or other supervisory person of your employer prior to opening this Account. You agree that you will promptly notify FSC in writing if you become so employed in the future.

If you are a corporation, partnership, trust or other entity, you represent that your governing instruments permit this Customer Agreement, that this Customer Agreement has been authorized by all applicable persons and all appropriate action and that the signatory on the Account Application is authorized to bind you.
35. **Notices and Other Communications.** Notices and other communications, including without limitation, margin and maintenance calls, delivered or mailed to the mailing address provided by you shall, until FSC has received notice in writing of a different address, be deemed to have been personally delivered to you whether actually received or not.
36. **Disclosure of Beneficial Ownership.** Under SEC Rule 14b-1(c), promulgated under the Securities Exchange Act of 1934, as amended, FSC is required to disclose to an issuer of securities the name, address and securities position of its customers who are beneficial owners of that issuer's securities, unless the customer objects to such disclosure. Unless you notify FSC in writing that you object to the disclosure of such information, FSC will make such disclosures regarding you and your securities position(s) to issuers.
37. **Indemnification and Limitation of Liability.** You hereby agree to indemnify and hold harmless FSC and its officers, directors, employees, agents and representatives ("**Indemnified Parties**") from any and all claims, losses, liabilities, costs, damages and expenses (including reasonable attorneys' fees) that may be brought or made or assessed against or incurred by any Indemnified Party caused by, arising out of or resulting from (i) your failure or refusal to follow any directions or instructions from FSC regarding your Account(s), or (ii) the use in any manner by you of the services provided by FSC pursuant hereto, except where such results from the gross negligence or willful misconduct of FSC. In no event shall FSC be liable to you, or anyone claiming by, under, or through you, or on your behalf, for any indirect, incidental, consequential or special damages arising from this Customer Agreement.
38. **Extraordinary Events.** FSC and/or its agents will not be liable for losses caused directly or indirectly by government restriction, exchange or market rulings, suspension of trading, computer or communication failure, war, earthquakes, strikes or any other conditions or circumstances that are beyond FSC's control.
39. **Business Continuity Plan.** FSC maintains a Business Continuity Plan ("**BCP**") that addresses the possibility of a future significant business disruption. The BCP outlines how FSC plans to respond to events of varying scope, including describing the diverse geographic location of FSC's branch offices, alternative business recovery site, data back-up capabilities, recovery of mission critical systems, customers access to funds and securities, and alternate communications between FSC and customers. In the event of a significant business disruption customers can call 800-678-4084 (primary) or 713-651-9580 (alternative). Information summarizing the firm's BCP will be included with new account information that is mailed to all customers upon opening an account and will be provided at least annually to existing customers. A more expanded summary is available on the firm's web site at www.firstsw.com and by mail upon customer request.
40. **Miscellaneous.** If any provision of this Customer Agreement is held to be unenforceable, it shall not affect any other provision of this Customer Agreement. The headings of each section of this Customer Agreement are descriptive only and do not modify or qualify any provision of this Customer Agreement. This Customer Agreement and its enforcement shall be governed by the laws of the State of Texas and shall cover individually and collectively all Accounts that you have previously opened, now have open or may hereafter open or reopen with FSC, FSC's predecessor or any Introducing Broker, and any and all previous, current and future transactions in such Accounts. Except as provided in this Customer Agreement, no provision of this Customer Agreement may be altered, modified or amended unless in writing signed by FSC's authorized representative.
41. **Electronic Delivery Service.** By enrolling in electronic delivery service, you agree to receive account statements, confirms, and shareholder communications by electronic mail (e-mail). Only those materials made available electronically by issuing corporations, mutual funds and other third parties will be sent via e-mail. Quarterly, semi-annual and annual reports, proxy statements, prospectuses and newsletters are examples of shareholder communications that may be made available electronically. The announcements will include the Internet address (URL) where the materials can be found. Materials referenced within the e-mail announcement may be viewed electronically via the Internet and printed with a local printer. If the materials are not made available electronically, you will receive the standard printed materials and no announcement will be made by e-mail.

Tab D. Contact Information for PEB Trust Trustees and Providers

PEB Trust Contacts

Trustees

Chairman

Dean Frigo
Retired Finance Director
City of Amarillo
806-690-2782
deanfrigo@gmail.com

Secretary

John Muschalek
Vice Chairman
FSW Advisory Services
325 N Saint Paul St. Suite 800
Dallas, TX 75201
214-953-4154
John.muschalek@firstsw.com

Vice-Chairman

Winston Duke
Retired Director of Finance
City of Huntsville
936-577-2342
wduke@gmx.com

Treasurer

Jack Addams, Vice Chairman
FirstSouthwest
325 N Saint Paul St. Suite 800
Dallas, TX 75201
214-953-4102
Jack.addams@firstsw.com

Tom Heidt
Vice President, Finance and Administration
Port of Houston Authority
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Houston, TX 77029
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PEB Trust Executive Management

Todd Owen
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Brian Whitworth
Senior VP Public Finance
FirstSouthwest
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Stacy Clark
Assistant Vice President
FSW Advisory Services
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Investment Consultants
Milliman

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randy.mitchell@milliman.com

Randall S. Mitchell
CIMA, Principal & Investment Consultant
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Gregory W Group

Gregory T. Weaver
President, Senior Consultant
Consultant
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Tulsa, Oklahoma 74119
918-583-1005
gweaver@gregorywgroup.com

Douglas J. Anderson
Senior Vice President, Senior
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Suite 2901
Tulsa, Oklahoma 74119
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danderson@gregorywgroup.com

Alpha Consulting/Wells Fargo Advisors

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Roy.browningjr@wfadvisors.com

Stephen Wheeler
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Meketa Investments

Leo Festino
Managing Principal
1001 Brickell Bay Drive, Suite 2000
Miami, FL 33131
Phone: 305 341-2900
lfestino@meketagroup.com

Mika L. Malone
Principal
5796 Armada Drive, Suite 110
Carlsbad, CA 92008
Phone: 760 795-3450
mmalone@meketagroup.com

W. Fran Peters
Principal
100 Lowder Brook Drive, Suite 1100
Westwood, MA 02090
Phone: 781 471-3500
fpeters@meketagroup.com



CITY OF KYLE, TEXAS

REQUEST FOR PROPOSALS (RFP)
RFP NO. 2014-03-PM

IRREVOCABLE TRUST & ASSOCIATED
INVESTMENT MANAGEMENT SERVICES FOR
OTHER POST-EMPLOYMENT BENEFITS PLAN

DUE DATE:
SEPTEMBER 30, 2014 AT 10:00 A.M. (CST)

ISSUED BY:
FINANCIAL SERVICES DEPARTMENT



**NOTICE OF REQUEST FOR PROPOSALS
RFP NO. 2014-03-PM**

**IRREVOCABLE TRUST & INVESTMENT MANAGEMENT SERVICES
FOR OTHER POST-EMPLOYMENT BENEFITS (OPEB)**

The City of Kyle will accept sealed Proposals for Irrevocable Trust & Associated Investment Management Services for Other Post-Employment Benefits (OPEB) Plan **until 10:00 A.M., September 30, 2014**, in the City's Financial Services Department. **Proposals received after this time will not be considered.**

Proposals will be acknowledged on October 1, 2014 at 8:00 A.M. Attendance is not required. All interested persons are invited to attend the acknowledgement at the City of Kyle, Financial Services Department's Conference Room, Kyle City Hall, 100 W. Center Street, Kyle, Texas.

Please mark on the outside of the envelope and on any carrier's envelope: "RFP No. 2014-03-PM for OPEB Trust Services", and send to the attention of Mr. Perwez A. Moheet, CPA, Director of Finance, 100 W. Center Street, Kyle, Texas 78640 (physical location) or P.O. Box 40, Kyle, Texas, 78640 (mailing address).

The City of Kyle will not be responsible in the event that the U.S. Postal Service or any other courier system fails to deliver the sealed proposals to the City of Kyle by the given deadline above. Electronic transmission or facsimile of Proposals will not be accepted.

The City of Kyle reserves the right to reject any or all responses and to waive irregularities contained therein and to accept any response deemed most advantageous to the City of Kyle.

Perwez A. Moheet, CPA
Director of Finance
City of Kyle, Texas



CITY OF KYLE, TEXAS
ACKNOWLEDGEMENT FORM
(Complete & Submit Upon Receipt)

Request for Proposals for Irrevocable Trust & Associated Investment Management Services for Other Post-Employment Benefits (OPEB) Plan.

Please fax or mail this page upon receipt of the RFP package and legal notice.

Check one:

- () Yes, I will be able to send a response based on RFP package received.
- () Yes, I will be able to send a response based on RFP package obtained from the City of Kyle's website.
- () No, I will not be able to send a response to this RFP for the following reason:

If you are unable to send your response to this RFP, kindly indicate your reason above and return this form to Mr. Perwez A. Moheet, CPA, Director of Finance, City of Kyle via fax to: (512) 262-3800. This will ensure you remain active on our vendor list.

Date _____

Company: _____

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

Email: _____



ETHICS STATEMENT
(Complete and Return this Form with Response)

The undersigned firm, by signing and executing this RFP, certifies and represents to the City of Kyle that the firm has not offered, conferred or agreed to confer any pecuniary benefit, as defined by 1.07 (a) (6) of the Texas Penal Code, or any other thing of value as consideration for the receipt of information or any special treatment of advantage relating to this RFP; the firm also certifies and represents that the firm has not offered, conferred or agreed to confer any pecuniary benefit or other thing of value as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion concerning this RFP, the firm certifies and represents that firm has neither coerced nor attempted to influence the exercise of discretion by any officer, trustee, agent or employee of the City of Kyle concerning this RFP on the basis of any consideration not authorized by law; the firm also certifies and represents that firm has not received any information not available to other firms so as to give the undersigned a preferential advantage with respect to this RFP; the firm further certifies and represents that firm has not violated any state, federal, or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like and that firm will not in the future offer, confer, or agree to confer any pecuniary benefit or other thing of value of any officer, trustee, agent or employee of the City of Kyle in return for the person having exercised their person's official discretion, power or duty with respect to this RFP; the firm certifies and represents that it has not now and will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent, or employee of the City of Kyle in connection with information regarding this RFP, the submission of this RFP, the award of this RFP or the performance, delivery or sale pursuant to this RFP.

THE FIRM SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY OF KYLE, ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDING, COSTS, DAMAGES AND LIABILITIES ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF FIRM OR ANY AGENT OR EMPLOYEE OF FIRM IN THE EXECUTION OR PERFORMANCE OF THIS RFP.

I have read all of the specifications and general RFP requirements and do hereby certify that all items submitted meet specifications.

FIRM: _____

OFFICER NAME: _____

OFFICER SIGNATURE: _____

ADDRESS: _____

CITY: _____

STATE: _____ ZIP CODE: _____

TELEPHONE: _____ TELEFAX: _____

FEDERAL ID#: _____ AND/OR SOCIAL SECURITY #: _____

DEVIATIONS FROM SPECIFICATIONS IF ANY:



**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS**
(Complete and Return this Form with Response)

Name of Entity: _____

The prospective participant certifies to the best of their knowledge and belief that they, the principals in the firm, and the firm:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible from providing trust and fiduciary services, financial advisory services, investment advisory services, and or associated management services, and or voluntarily surrendered their license to provide such related services in the State of Texas and or the United States of America.
2. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from conducting any business and or financial transactions by any department or agency of Federal, State, and or local government.
3. Have not been convicted of, had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
4. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, Local) with commission of any of the offenses enumerated in item 3 above of the certification; and
5. Have not within a five year period preceding this RFP had one or more public transactions (Federal, State, Local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Section 1001, a false statement may result in a fine up to a \$10,000.00 or imprisonment for up to five (5) years, or both.

Name and Title of Authorized Representative (Typed)

Signature of Authorized Representative

Date

☐ I am unable to certify to the above statements. My explanation is attached.



CONFLICT OF INTEREST QUESTIONNAIRE**FORM CIQ****For vendor or other person doing business with local governmental entity**

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

OFFICE USE ONLY

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

Date Received

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

1. Name of person who has a business relationship with local governmental entity.

2. ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3. Name of local government officer with whom filer has employment or business relationship.

Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

- A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?
☐ Yes ☐ No
- B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?
☐ Yes ☐ No
- C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?
☐ Yes ☐ No
- D. Describe each employment or business relationship with the local government officer named in this section.

4.

Signature of person doing business with the governmental entity

Date



I. DESCRIPTION OF THE CITY

The City of Kyle is a political subdivision and municipal corporation of the State of Texas (the "State"), duly organized and existing under the laws of the State including the City's Home Rule Charter, initially adopted by the voters in the year 2000.

The City operates as a Home Rule City under a Council-Manager form of government with a City Council comprised of the Mayor and six Council Members. The City Manager is the chief executive officer for the City of Kyle. The City covers approximately nineteen square miles and has an estimated population of 32,000 in 2014.

Kyle is a thriving community having easy access to major highways and roadways including Interstate Highway 35. Kyle is strategically located eight miles north of San Marcos, twenty miles south of Austin and sixty miles north of San Antonio. Kyle is the second largest city in Hays County and enjoys a south central location convenient to most major population and employment centers in Texas.

II. THE CITY COUNCIL

The governing body of the City, the City Council, is composed of a Mayor and six Council Members each elected for a term of three years. The Mayor and Council Members for Place 1, 3, and 5 are elected from the City at-large. Council Members for Place 2, 4, and 6 are elected from single member districts. The current members of the City Council are:

Mayor:	R. Todd Webster
Mayor Pro Tem:	Diane Hervol, Place/District 1
Council Members:	Becky Selbera, Place/District 2
	Shane Arabie, Place/District 3
	David Wilson, Place/District 4
	Samantha Bellows-LeMense, Place/District 5
	Tammy Swaton, Place/District 6

III. STRATEGIC PLANNING & FINANCE COMMITTEE

The Strategic Planning & Finance Committee is the equivalent of an Audit & Finance Committee and is currently composed of seven members appointed by the City Council:

Chair:	Greg Blackwell
Vice Chair:	Janine Smalley
Members:	Thomas Brown
	Alejandro Correa
	David Robertson
	Brian Ziegler
	Jeff Hatala



City Council Liaison: Pending Appointment

City Staff Liaison: Perwez A. Moheet, CPA
Director of Finance

IV. THE CITY OF KYLE ORGANIZATION

The City of Kyle provides all general municipal services within the City limits through the following City Departments:

1. Office of the City Manager
2. Building Inspection (Permits, Code Enforcement)
3. City Attorney
4. City Secretary
5. Communications (Public Information)
6. Economic Development
7. Emergency Medical Services (Contracted)
8. Engineering Services
9. Financial Services (Budget & Accounting, Utility Billing, and Municipal Court)
10. Fire Protection (Emergency Services District #5)
11. Human Resources
12. Information Technology
13. Parks & Recreation
14. Planning & Zoning
15. Police
16. Public Library
17. Public Works (Water, Wastewater, Street Maintenance)
18. Solid Waste & Recycling Services (Contracted)

The approved budget for Fiscal Year 2013-14 totals \$45.4 million for all funds and includes 162.0 authorized full time equivalent positions. A copy of the City of Kyle's approved budget for Fiscal Year 2013-14 and other financial reports is available on the City's website at:

www.cityofkyle.com/finance

V. INSTRUCTIONS TO PROSPECTIVE FIRMS

The City of Kyle, Texas, is requesting proposals from qualified firms interested in providing irrevocable trust and associated investment management services to the City for its other post-employment benefits program in compliance with the requirements of GASB 45 as outlined in the scope of services. Firms with relevant experience and qualifications are requested to submit their proposals. Preparation of submittals will be at the sole expense of the responding firm.

The following instructions should be followed by firms responding to this RFP:



1. Respond specifically to all information requested in this Request for Proposals or indicate on the attached acknowledgement form why no response is given.
2. Limit response to relevant material; additional information must be submitted in the form of an attachment or appendix.
3. Identify the question being answered in the introduction to each response.
4. Respondents or their representatives are prohibited from communicating with any City of Kyle officials to include City Council members regarding the RFP from the time the RFP is released until it has been acted upon by the City Council. Violation of this provision by the respondent or their agent will lead to disqualification of the respondent's RFP from consideration.
5. If there are any clarification questions regarding the scope of work and or any other requirements of this RFP, respondents or their representatives should submit written questions and forward those to the City's staff named as the contact person for this solicitation. All responses by the City will be provided in the form of an addendum and will be posted on the City's website.

VI. SOLICITATION & PROJECT SCHEDULE

The following timetable has been tentatively established to re-issue this Request for Proposal, for the review and evaluation of proposals received, and for the selection of a firm by the City Council.

<u>Key Dates</u>	<u>Project Milestone</u>
Sept. 12, 2014	RFP posted on the City's website and distributed to prospective firms or firms that had made a request previously
Sept. 30, 2014	Responses due 10:00 A.M. in the Financial Services Department
Oct. 1, 2014	Proposals acknowledged
Oct. 15, 2014	Proposal evaluations finalized
Oct. 21, 2014	City Council's selection of firm and award of contract

VII. BACKGROUND INFORMATION

In 2004, the Governmental Accounting Standards Board (GASB) issued Statement No. 45 which established standards for measurement, recognition, and display of other post employment benefits (OPEB) expenditures and related liabilities, note disclosures, and required supplementary information (RSI) in the financial reports of state and local government employers.

The City of Kyle is requesting proposals for irrevocable trust and associated investment management services in compliance with GASB Statement 45.



The City has completed its initial evaluation of OPEB liabilities and the analysis prepared by Dean Actuaries, LLC in February 2014 is attached. The City Council considered the results of this analysis on April 15, 2014.

VIII. OTHER POST-EMPLOYMENT BENEFITS OFFERED BY THE CITY

The City of Kyle offers health insurance coverage for its retirees who have completed twenty-five (25) years or more of continuous service as a full-time employee. In 2009, the City amended its health insurance coverage benefits plan and as a result, three groups of employees for purposes of eligibility were established with different benefit coverage.

The three groups are as follows:

Group 1 Retirees:

All former full-time employees, who have retired from the City after twenty-five (25) years or more of continuous service as an officer or employee of the City. All current full-time employees who have completed five (5) or more years of continuous service as a full-time employee of the City of Kyle by 4-1-2009 and complete a total of twenty-five (25) years or more of continuous service as an officer or employee of the City.

For Group 1 retirees, the City pays 100% of the cost of providing health insurance coverage which is to be at the same level as all other regular employees. The City also pays 100% of the cost of providing dental and vision coverage for this group of retirees until they reach the age of 65. This benefit is for the retired City employee only and not for their spouse or family.

Under Group 1, the City currently has one retiree receiving benefits and potentially eighteen (18) current employees who could be eligible to receive benefits if they complete 25 years of continuous service.

Group 2 Retirees:

All current full-time employees who have completed less than five (5) of continuous service as a full-time employee of the City of Kyle by 4-1-2009 and complete a total of twenty-five (25) years or more of continuous service as an officer or employee of the City.

For Group 2 retirees, the City pays a maximum of \$300.00 per month towards the cost of providing health insurance coverage which is to be at the same level as all other regular employees. The \$300.00 per month amount was set in April 2009 (base year) and is to be adjusted annually each October 1st based on the change in consumer price index (CPI) during the preceding 12-month period April through March. This benefit is for the retired City employee only and not for their spouse or family.

The City does not provide dental and vision coverage at its cost to retirees in Group 2.



Under Group 2, the City currently does not have any retirees receiving benefits. There are potentially forty six (46) current employees who could be eligible to receive health insurance coverage benefits if they complete 25 years of continuous service.

Group 3 Retirees:

Any full-time employee hired after 4-1-2009 and subsequently completes twenty-five (25) years or more of continuous service as an employee of the City.

Currently there are eighty two (82) full-time employees who were hired after April 1, 2009.

IX. SCOPE OF SERVICES

The City of Kyle is seeking irrevocable trust and associated investment management services for its OPEB funds. This will include receipt of annual contributions from the City (approximately \$120,000 to \$130,000), disbursement of funds in accordance with the plan requirements for annual medical insurance premium payments for eligible retirees (currently \$5,000 per year to a single entity), investment of funds (current balance approximately \$500,000), and monthly reporting to the City.

The City is providing the following information as part of this Request for Proposal to assist in the preparation of proposals by qualified firms for providing irrevocable trust and associated investment management services:

- Report on Actuarial Valuation of Post-Retirement Medical Plan Expense & Benefit Obligation for the Fiscal Year ended September 30, 2013.
- City of Kyle's Investment Policy

X. CONTRACT TERM

The City is considering an initial term of five years with three (3) 1-year renewal options which would be renewed automatically for each succeeding year after the initial term unless written notice of termination is provided by either party no less than 60 days before the end of the current term.

XI. FISCAL SECURITY/COLLATERAL REQUIREMENTS

The City of Kyle requires the selected firm and or banking institution to provide security of its investments by depositing adequate funds and or agency security instruments to be pledged as collateral and held by a third party in the name of City of Kyle to cover the total cash/market value of all investments in the City's trust account. The City expects and requires that the selected firm and or banking institution comply with the requirements of the City's Investment Policy and the Texas Public Funds Investment Act (PFIA). **(All proposals must respond to this requirement)**



XII. PROPOSAL CONTENT REQUIREMENTS

Any Firm interested in being considered for providing irrevocable trust and associated investment management services to the City for its Other Post-Employment Benefits (OPEB) Plan is requested to submit on the firm's letterhead, a proposal which provides information on the following points, numbered, and with section headings as indicated below.

Responding firms should refer to section titled: Instructions to Prospective Firms for additional response guidelines. Please note that the contents of the successful proposal may become a part of subsequent contractual documents. Failure to accept this requirement may result in the cancellation of any contract award.

In order to simplify the review process, please organize your proposal according to the following outline:

A. Title Page

Show the Proposal subject, the name of the proposing firm, address, telephone number, name of contact person, size of the firm, and date.

B. Table of Contents

Include a clear identification of the material by section and by page number.

C. Letter of Transmittal

1. Briefly state the Firms understanding of the work to be done and provide clear commitment to perform the work within the time periods specified.
2. State the fee structure for the trust services and associated investment services.
3. State the name of the person who will be authorized to make representation for the firm, their title, address, and telephone numbers.
4. State that the person signing the transmittal letter is authorized to bind the firm and enter in a contract.
5. Identify and discuss any potential conflicts of interest of which the firm is aware and not stated in the Conflict of Interest and Disclosure Statements.



D. Profile of the Responding Firm

1. State whether the firm is local, regional, national or international.
2. State the location of the office from which the work is to be performed and the number of professional staff employed at that office.
3. Provide a brief summary of the Firm's qualifications.
4. Identify the personnel that will be assigned to the City's OPEB trust services account, their credentials, and their experience. Specifically, provide the name and resume of the representative who will be assigned to the trust account. Names and resumes of other trust services personnel who will have key role in the engagement should also be provided.

E. Qualifications and Experience

1. Description of the firm's qualifications and previous experience on similar or related projects including performance history.
2. Description of and experience of any subcontractor to be used for the servicing of this trust account.
3. Resumes for the key professionals assigned, including summary information regarding professional qualifications and experience related to the requested work.
4. Provide at least five references of public agencies and or local governments for which the Firm has completed similar engagement within the last three years.
5. Reference must include contact information, nature of services performed, date completed, and the role of the firm.

F. Trust and Fiduciary Services

1. Description of the trust administration services that will be provided after implementation of the trust, including how trust transactions such as contributions, disbursements, and expenses will be handled.

G. Investment Services

1. Description of investment, advisory and management services offered with respect to the OPEB trust, including information on your investment policy and asset allocation policy.



H. Collateral Requirements

1. Describe how the collateral requirements and compliance with the requirements of the City's Investment Policy and the Texas Public Funds Investment Act (PFIA) will be met and complied with during the entire term of the agreement.

I. Implementation

1. Key tasks, dates and responsibilities for implementing the irrevocable trust, including reports, and other trust administration related services. The trust account should be ready to accept transfer of accumulated funds and City's annual contributions by January 1, 2015.
2. Provide a list of the types of information and data that will be required of the City including the timeframe.

J. Proposed Cost/Professional Fees

1. The City anticipates a fixed fee agreement. Clearly state, itemize, and provide a fee proposal outlining any one-time, up-front and ongoing fees including frequency that will be applicable to the City of Kyle's irrevocable trust account.
2. Identify and state clearly which fees will be subject to change/increase and the frequency of such changes, if any.
3. Complete and include Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

XIII. RIGHTS RESERVED BY THE CITY OF KYLE

1. If only one or no proposal is received by "submission date", the City has the right to accept, reject, re-solicit, accept and or extend the RFP by up to an additional two (2) weeks from original submission date.
2. The right to reject any or all proposals and to make award as they may appear to be advantageous to the City of Kyle.
3. The right to hold proposals for 90 days from submission date without action.
4. The right to extend beyond the original 90-day period prior to an award if agreed upon in writing by both parties.
5. The right to terminate all or any part of the unfinished portion of the work resulting from this solicitation within thirty (30) days written notice; upon default by the firm, for delay or non-performance by the firm, or if it is deemed in the best interest of the City of Kyle for convenience.
6. The City of Kyle reserves the right to request additional information or to meet with representatives from responding firms to discuss points in the RFP before and after submission, any and all of which may be used in forming a recommendation.



7. The City of Kyle reserves the right to reject any and all proposals received, and to accept the proposal it considers in its best interest based upon the requirements and descriptions outlined in this RFP.

Any interpretation, correction, or change to the RFP will be made by ADDENDUM. Changes or corrections to this RFP will be issued by the City of Kyle's Financial Services Department and posted on the City's website.

Any Addendum issued by the City of Kyle will be emailed or faxed to all who have returned the RFP Acknowledgement Form. Addendum will be issued as expeditiously as possible. Addendum, if issued, will also be posted on the City's website. It is the responsibility of the responding firms to determine whether all addendum have been reviewed and addressed in the proposal.

XIV. PROPOSAL EVALUATION FACTORS

The City staff's recommendation to the City Council will be based on the proposal determined to offer the best value to the City of Kyle. The evaluation of the proposals will be made based on, but not limited to, the following criteria, in no particular order of priority or rating. These factors will be applied to all eligible, responsive firms in comparing the proposals received and selecting the actuarial services firm.

The City of Kyle reserves the right to require oral presentations by any or all firms. In the event of oral presentations, a second matrix will be developed based on the selection criteria. A contract award may be made without oral presentation and or discussion with firms after RFP responses are received by the City of Kyle. Therefore, RFP responses should be submitted on the most favorable terms.

All costs directly or indirectly related to preparation of a response or oral presentation, if any, required to supplement and or clarify an item in the RFP shall be the sole responsibility of the responding firm.

The City of Kyle will use the following criteria in selecting the best qualified firm:

1. Qualifications and experience in providing OPEB trust and associated investment management services for public agencies and local governments.
2. Proposing Firm's approach to the examination and the work plan for accomplishing the scope of services required in the RFP.
3. Compliance with GASB standards 45.
4. Availability of trained personnel and technical resources to provide the scope of services within timeframe anticipated.
5. A fixed fee and or all inclusive not-to-exceed fee amount proposed for the OPEB trust and associated investment management services requested by the City of Kyle.
6. Quality, responsiveness, and completeness of the proposal submitted.



XV. PROPOSAL SUBMISSION REQUIREMENTS

The City of Kyle is requesting three (3) copies of the proposals including any attachments. Proposals should be enclosed in an envelope and clearly marked on the outside of the envelope or any carrier's envelope: "RFP No. 2014-03-PM OPEB Trust Services", to be mailed, sent by overnight courier, or hand delivered to the attention of:

Mr. Perwez A. Moheet, CPA
 Director of Finance
 City of Kyle
 100 W. Center Street, Kyle Texas 78640 (Physical Location)
 P.O. Box 40, Kyle, Texas 78640 (Mailing Address)

Proposals will be accepted only until 10:00 A.M., September 30, 2014.

NO PROPOSALS WILL BE ACCEPTED AFTER 10:00 A.M. ON SEPTEMBER 30, 2014, THE SUBMISSION DEADLINE.

Proposals will be acknowledged at 8:00 a.m., on October 1, 2014, in the Financial Services Department's Conference Room in City Hall located at 100 W. Center Street, Kyle, Texas 78640. Attendance by representatives of prospective firms is not required.

The City of Kyle is subject to the Texas Open Records Act. However, certain types of information may be exempt from disclosure under the Act. Firms submitting information which they deem confidential or proprietary must clearly mark and identify such information page by page. The City of Kyle will, to the extent allowed by applicable law, protect such information from disclosure. The final decision as to what information must be disclosed under the Open Records Act lies with the Texas Attorney General.

Questions or clarifications concerning the City of Kyle's RFP requirements should be directed by email only to:

Mr. Perwez A. Moheet, CPA
 Director of Finance
 City of Kyle
 pmoheet@cityofkyle.com

Response to any questions, if appropriate, will be issued in the form of an addendum to all firms that have returned the RFP Acknowledgement Form and will also be posted on the City's website at:

<http://www.cityofkyle.com/rfps>



APPENDIX A

Report on Actuarial Valuation of Post-Retirement Medical Plan Expense & Benefit
Obligation for the Fiscal Year ended September 30, 2013.



**The City of Kyle, Texas
Postretirement Medical Plan**

***GASB 45 Actuarial Valuation of
Postretirement Medical Plan Expense and Benefit Obligation
for the
Fiscal Year October 1, 2012 – September 30, 2013***

February 24, 2014

**DEAN ACTUARIES, LLC
5646 MILTON STREET, SUITE 210
DALLAS, TEXAS 75206
(214) 891-0990**

Website www.retsource.com

Email deanco@retsourcem.com

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Key Results

This section documents the key GASB Statement No. 45 (GASB 45) valuation and accounting results related to the employer-provided subsidies in the City of Kyle Postretirement Medical Plan. GASB 45 requires the following key measurements to be disclosed:

Actuarial Accrued Liability (AAL) - The amount of subsidies expected to be paid to current retirees and current active members (future retirees) that have already been earned, measured in today's dollars. Also referred to as the GASB 45 liability or OPEB Liability.

Annual Required Contribution (ARC) - The annual amount required under the actuarial cost method and funding policy for amortizing the unfunded actuarial accrued liability. It is made up of the normal cost (the amount earned in the next year) plus the amortization of the unfunded AAL.

Annual OPEB Cost - The ARC plus the amortization of the Net OPEB Obligation (NOO, see next bullet point). The Annual OPEB Cost is the expense for financial reporting.

Net OPEB Obligation (NOO) - The cumulative difference between the Annual OPEB Cost and actual employer contributions. The NOO is the balance sheet liability for financial reporting.

The table on the following page shows the above results. The City of Kyle has elected to amortize the Actuarial Accrued Liability over a 30 year period on a level dollar method as allowed by GASB 45.

Exhibit 1

**DEVELOPMENT OF THE ANNUAL REQUIRED CONTRIBUTION
AND NET OPEB OBLIGATION**

For the Year October 1, 2012 through September 30, 2013

1	OPEB liability (Accrued Actuarial Liability) at October 1, 2012	\$	877,418
<u>Annual Required Contribution</u>			
2	Annual Amortization (level payments)		
	30 years implementation OPEB liability	\$	53,866
	15 years gains and losses (level dollar)		0
		\$	53,866
3	Normal Cost (Normal Cost)		67,699
4	Annual Required Contribution (ARC) (Normal Cost + amortization)	\$	121,565
<u>Annual OPEB Cost</u>			
5	Interest on Net OPEB Obligation (NOO)		-
6	Amortization of Net OPEB Obligation		-
7	Annual OPEB Cost	\$	121,565
<u>Net OPEB Obligation</u>			
8	Employer Contributions (expected claims less contributions)		(4,591)
9	Change in Net OPEB Obligation for the year ended September 30, 2013	\$	116,974
10	Net OPEB Obligation at end of prior year September 30, 2012	\$	-
11	Estimated Net OPEB Obligation at September 30, 2013 9 + 10	\$	116,974

Key assumptions

Actuarial Cost Method:	Projected Unit Credit
Discount rate	4.50%
Healthcare trend	4.62% in 2013
and contribuion increases	graded to
	4.87% in 2060
Acceptance rate - medical (civilians)	100%
Acceptance rate - medical (police)	100%
Mortality	RP2000p
Turnover and retirement rates	Municipal experience

FUNDED STATUS AT THE END OF THE FISCAL YEAR		Exhibit 2
1	OPEB liability (Accrued Actuarial Liability) at October 1, 2012	\$ 877,418
2	Interest	39,484
3	Normal Cost with interest	67,699
4	Claims net of retiree contributions	(4,591)
5	OPEB liability (accrued actuarial liability) at September 30, 2013	\$ 979,908

Exhibit 3 traces the change in the Accrued Actuarial Liability (OPEB Liability) from the beginning to the end of the year.

Discussion

OPEB

Other post-employment benefits (OPEB) are benefits that are provided to retired employees beyond those provided by their pension plans. Such benefits include medical, prescription drug, life, dental, vision, disability, and long-term care insurance. The City of Kyle provides medical and prescription drug coverage for retirees and their dependents who elect to make the required contributions..

The OPEB relationship between the City of Kyle and its employees and retirees is not formalized in a contract or plan document, only a few sentences in the administrative policy manual. These benefits are considered for accounting purposes to be provided in accordance with a substantive plan. A substantive plan is one in which the plan terms are understood by the City and plan members. This understanding is based on communications between the employers and plan members and the historical pattern of practice with regard to the sharing of benefit costs; it may not be a long term legal commitment

Implicit Subsidy

The **implicit subsidy** is not a direct payment from the employer on behalf of the member but rather stems from retiree contribution levels that are less than the claims cost at retiree ages. Since claims experience for employees and non-Medicare eligible retirees are pooled when determining premiums, these retired members pay a premium based on a pool of members that, on average, are younger and healthier. There is an implicit subsidy from the employee group since the premiums paid by the retirees are lower than they would have been if the retirees were insured separately. The subsidies are valued using the difference between the age-based claims costs and the premium paid by the retirees.

GASB Statements No. 43 and 45

In the past, these subsidies have not been projected and accounted for under an accrual basis. Accrual accounting is meant to match the timing between when something occurs and when it is accounted for. In this case, it is meant to match the expense to the year in which the benefits are earned by the member. Pay-as-you-go funding is when the contributions are made when the cost occurs (after retirement). This cost is expensed as Kyle pays the current year's subsidies. However, the unfunded liability, the difference between what members are accruing and what Kyle has been paying, is growing and is not accounted for under the pay-as-you-go method. According to GASB, Statements No. 43 and 45 were created in an attempt to:

- ☐ Create financial transparency,
- ☐ Create better alignment between public and private sector accounting,
- ☐ Provide clarity among bargaining groups to show the true cost of benefits over time,
- ☐ Provide employers knowledge of the true cost of benefits over time,
- ☐ Provide investors knowledge of the true long-term liabilities; and,

- ☐ Show the decision-makers a cost that they need to recognize.

GASB Statement No. 45 requires each employer to calculate their OPEB liability. In addition to the overall liability, GASB requires that the ARC must be calculated. The ARC is the annual amount required under the actuarial cost method and funding policy for amortizing the unfunded actuarial accrued liability. GASB does not require that employers actually contribute the ARC each year, just that it is recognized so that all stakeholders can see how adequately the liability is being funded.

The City of Kyle has adopted GASB 45 reporting effective with the 2012-13 fiscal year.

Actuarial Valuation

In order to determine the GASB 45 liabilities, an actuarial valuation must be performed. An actuarial valuation is a way to determine what benefits will be paid throughout the future lifetimes of current members and discount those payments back to the present. The result is the present value of future benefits. For example, if you had a dollar amount today, which equaled the present value of future benefits, that amount could be invested, accrue earnings during the current plan members' lifetimes, and be paid out in a benefit stream when the members are eligible. The total amount remaining when there are no more benefits being paid would be zero. In this case, the benefits being paid out are the subsidies that are being paid for the City of Kyle retirees.

An actuarial valuation takes inputs such as participant data (who is receiving the benefits), benefit provisions (what are the benefits), and assumptions (how do we expect the members and the economy to behave). Participant data includes the members' ages, membership service, plan selection, etc. Benefit provisions include the structure of the benefits that the members receive; in this case, the subsidies supporting retiree medical benefits. Assumptions include the interest rate (investment return), health care inflation rates, general inflation rates, decrement rates, participation rates, Medicare coverage, etc.

The inputs are taken and valued using an actuarial cost method. The method chosen will allocate costs between past and future plan membership service. Distinct actuarial cost methods will produce somewhat different allocations since each method allocates cost a little bit differently. The inputs and the method are put into valuation software to determine the liability and ARC. Essentially, the valuation software uses the inputs to determine when a benefit will be paid, how much the benefit will be, and how long it will be paid to each member.

Funding Policy

In the past, these subsidies were funded on a pay-as-you-go basis, meaning that employers paid these costs as they occurred. This generally means today's taxpayers are paying for benefits that were accrued in the past. This funding policy is in conflict with the principle of intergenerational equity, which requires that a member's benefits be funded over the member's working lifetime. The idea is for the member's benefits to be paid by the taxpayers who benefit from that member's service, as opposed to making future taxpayers, who do not benefit from that member's service, pay for the member's benefits.

In the future, these liabilities can continue to be funded on a pay-as-you-go basis, or they can be pre-funded. If they continue to be funded on a pay-as-you-go basis, then a NOO (Net OPEB Obligation) will accrue as the annual contributions fall short of the ARC. The results are lower current contributions in the short-run, a growing liability, and continued conflict with the principle of intergenerational equity. In addition, if a pay-as-you-go funding method is selected, there will be no assets to invest; therefore, the interest discount rate must be lower, in the range of 4 to 5 percent. A lower interest discount rate will mean the reported overall liability will be larger.

If, instead, these liabilities are fully pre-funded, then contributions equal to the ARC must be made annually and placed in an irrevocable trust. If the choice to fully pre-fund is made, then a NOO will not accrue. The results are larger current contributions in the short-run, a lower unfunded liability, and adherence to the principle of intergenerational equity. In addition, if the choice is made to pre-fund there will be assets to invest; the investment return applied to the liabilities will reflect the expected long-term yield of the assets used to finance the payment of the benefits. If these assets are invested similarly to those in a typical retirement plan, an interest discount rate in the range of 7 to 8 percent might be used. A higher interest discount rate will mean the reported overall liability will be smaller.

It is our understanding that the City of Kyle has established a dedicated (earmarked) reserve account for the retiree medical benefits plan. The account had a balance of \$521,458 as of September 30, 2013. Because this money is not held in an irrevocable trust, the assets cannot be used to offset the actuarial liability of the retiree medical plan in the accounting calculations. (See the definition of "Plan Assets" in the Glossary). The City could, in the future, choose to transfer the funds to a true employee benefits trust fund with an independent trustee. If this were done, only the Actuarial Accrued Liability less trust assets would be subject to amortization. The discount rate used in the actuarial valuation could also be adjusted to reflect the asset allocation of the trust.

*City of Kyle Postretirement Medical Plan**Fiscal Year 2012-13***SUMMARY OF PLAN PROVISIONS****Eligibility****Group 1**

5 or more years of continuous service on 4/1/2009, and
25 or more years of continuous service at retirement

Group 2

Fewer than 5 years of continuous service on 4/1/2009, and
25 or more years of continuous service at retirement

Group 3

Hired after 4/1/2009

Benefits**Group 1**

Pre Age 65: Medical, prescription drugs, dental, vision and
\$2,000 life insurance – fully paid by the City for the retiree
Post Age 65: Medicare supplement and prescription drugs

Group 2

\$300 monthly stipend towards medical and prescription drug
coverage (both before and after age 65). The retiree pays any
additional cost. The retiree pays the full cost of spouse's
coverage.

Group 3

No retiree benefits

Medical plan provisions

	Network	Non-Network
Calendar Year Deductible	\$250	\$500
Out-of-Pocket Limit	\$2,000 i/ \$4,000 f	None
Coinsurance	85%	55%
Preventive care and annual exam	100%	100%

Prescription Drugs

Generic Drug	\$0 (value) \$10 (other)
Non-generic Drug	\$38 / \$60 (best price/non-best price)

Dental III

\$30.14/month employer cost per
employee 80%/ 50% \$2,000 annual
maximum

Vision B

\$9.00/month employer cost per
employee

**VALUATION
ASSUMPTIONS*****Economic assumptions***

■ **Discount rate** 4.0% per annum

■ **Health care cost trend**

Group 1 under age 65: The healthcare trend assumption was revised effective with the year-end (6/30/2013) valuation of the Postretirement Benefit Obligation: Plan year dependent rates graded from 4.62% in 2013-14 to 4.87% in 2060-61. The same trend is applied to retiree contributions. The trend from 2012-13 to 2013-14 is 16.0% based on the actual change in medical premiums for the City of Guthrie for those periods.

Healthcare trend for the next two years is based on projections by the Office of the Actuary, Centers of Medicare & Medicaid Services. Trend for subsequent years was developed using the Society of Actuaries Getzen healthcare economics model with inputs as follows:

Inflation	2.5%
Real GNP growth	1.7%
Income multiplier	1.4%
Technology	1.1%

The resulting trend rates are:

Year	Trend
2013	4.62%
2014	7.35%
2015	5.01%
2016	6.12%
2017	6.09%
2018	6.05%
2019	6.02%
2020	5.99%
2025	5.86%
2030	5.99%
2035	5.87%
2040	5.33%
2045	5.15%
2050	5.03%
2060	4.87%

The healthcare trend for Group 1 retirees after age 65 is assumed to be 5% per year.

CPI increases in the Group 2 specified benefit are assumed to be 3.0% per year.

Decrement assumptions

■ **Mortality** RP2000 Mortality with cohort mortality projection

■ **Terminations** Termination rates for civilian employees are based on the actual experience of the similar municipalities.

Rates per Thousand

Age	Rate
20	214.6
25	142.3
30	95.6
35	68.4
40	55.0
45	49.8
50	46.7
55	40.1
60	40.0

Additional rates per thousand are added for the first 5 years:

Year	Addl Rate
1	215
2	140
3	95
4	65
5	40

Termination rates for police are 88% of the rates for civilians (based on TMRS assumption).

■ **Retirement** Rates based on the actual experience of the TMRS municipalities.

*City of Kyle Postretirement Medical Plan**Fiscal Year 2012-13*

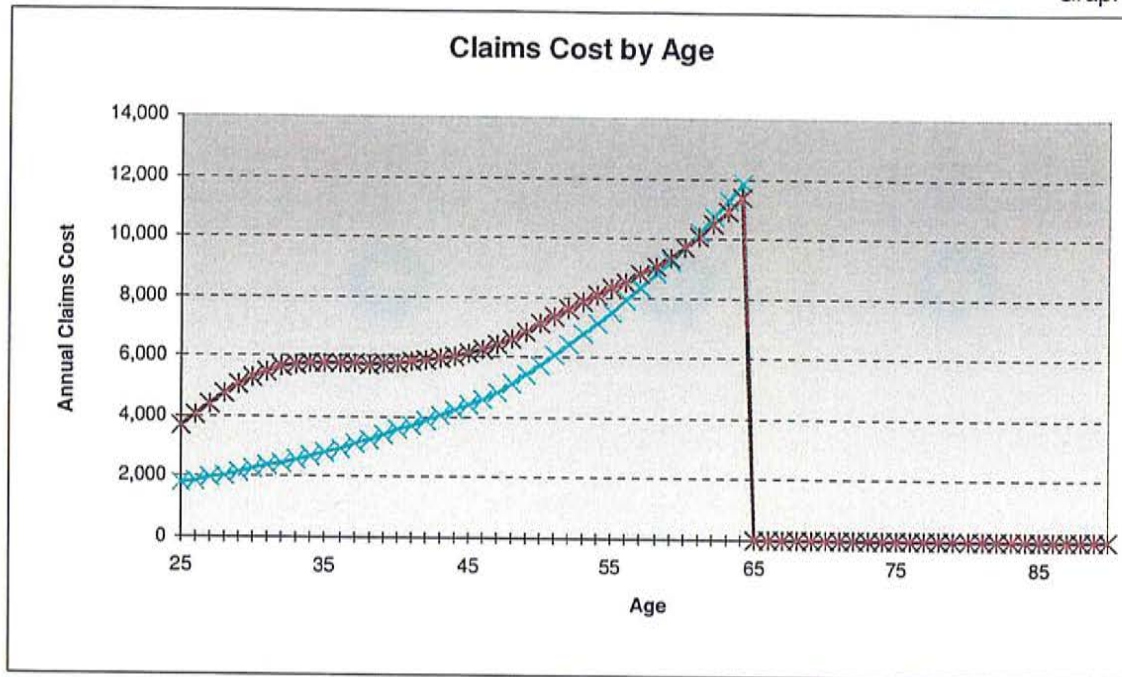
<u>Age</u>	<u>Male</u>	<u>Female</u>
40-49	6%	6%
50-53	8%	8%
54	8%	11%
55-59	14%	11%
60	20%	28%
61	25%	28%
62-65	32%	28%
66-69	22%	22%
70	100%	100%

- **Participation** 100% of Group 2 employees are assumed to elect retiree medical coverage if they meet the eligibility requirements.

Medical claims

- **Claims by age** The claims table was developed by fitting a national age – gender claim curve to the age - gender census of active employees. The claims cost per average employee was then normalized to the actual premium rates for the City's medical coverage. Graph 1 on the next page shows the pattern of claims cost by age and sex.
- **Spouses** It is assumed that spouses if covered will pay the actuarial cost of their benefits and therefore are not included in the valuation.

Graph 1



Group 1 Pre Age 65 Claims Cost

2013-14 Claims Level					
Age	Male	Female	Age	Male	Female
25	1,809	3,722	60	9,702	9,698
30	2,245	5,302	64	11,848	11,353
35	2,810	5,776	65	0	0
40	3,545	5,786	70	0	0
45	4,395	6,125	75	0	0
50	5,739	7,137	80	0	0
55	7,531	8,315	85	0	0

Group 1 Post Age 65 Claims Cost

Medicare Supplement and Rx (Group 1)

Fiscal Year 2012-13	\$371.37 per month
Fiscal Year 2013-14	\$386.32 per month

Actuarial Funding Method

The actuarial funding method chosen will determine the allocation of costs. For example, one method may allocate all costs between now and the time a member is fully eligible to retire whereas another method may allocate all costs between now and the time a member is expected to retire (several years after retirement eligibility). One method might allocate costs as a level dollar amount while another might allocate costs as a level percentage of payroll. Using a different method will provide slightly different results. In short, different methods will relatively frontload the costs or backload the costs.

GASB allows the selection of one of six different actuarial methods. The method selected for this report was Projected Unit Credit (PUC). This is the method required by FASB 106 in the private. PUC is known to backload costs compared with the Entry Age Normal cost method. This is reasonable to do for OPEB liabilities, which are "soft liabilities" because it allows for the realization of the assumptions before most payments are made.

GASB also allows for the selection of the amortization period (not to exceed thirty years). A longer amortization period means that the unfunded liability is being smoothed, and funded, over a longer period of time. This can be compared to a mortgage being paid off over a longer period of time (lower payments, but more interest). Thirty years was selected as the amortization period for this report.

City of Kyle Postretirement Medical Plan

Fiscal Year 2012-13

**POPULATION
SUMMARY**

The exhibits in this section describe the census data used in the valuation. The census date was September 30, 2013.

AGE AND SERVICE OF ACTIVE PARTICIPANTS

9/30/2013

*Civilian Employees***Group 1**

Age Group	Years of Service							35 - All Service
	0 - 4	5 - 9	10 - 14	15 - 19	20 - 24	25 - 29	30 - 34	
20 - 24								
25 - 29								
30 - 34								
35 - 39			2					2
40 - 44			2					2
45 - 49			1	1				2
50 - 54		1	1		1			3
55 - 59		1				1		2
60 - 64				1	1			2
65 - 69								
70 -								
Totals		2	6	2	2	1		13

Group 2

Age Group	Years of Service							35 - All Service
	0 - 4	5 - 9	10 - 14	15 - 19	20 - 24	25 - 29	30 - 34	
20 - 24								
25 - 29	2	1						3
30 - 34		4						4
35 - 39		8						8
40 - 44	5	4						9
45 - 49		6						6
50 - 54	1	4						5
55 - 59		1						1
60 - 64								
65 - 69								
70 -		1						1
Totals	8	29						37

City of Kyle Postretirement Medical Plan

Fiscal Year 2012-13

AGE AND SERVICE OF ACTIVE PARTICIPANTS

9/30/2013

Police

Group 1

Age Group	Years of Service							
	0 - 4	5 - 9	10 - 14	15 - 19	20 - 24	25 - 29	30 - 34	35 - All Service
20 - 24								
25 - 29								
30 - 34			1					1
35 - 39			3	1				4
40 - 44								
45 - 49								
50 - 54				1				1
55 - 59								
60 - 64								
65 - 69								
70 -								
Totals			4	2				6

Group 2

Age Group	Years of Service							
	0 - 4	5 - 9	10 - 14	15 - 19	20 - 24	25 - 29	30 - 34	35 - All Service
20 - 24								
25 - 29								
30 - 34		1						1
35 - 39		6						6
40 - 44		1						1
45 - 49		1						1
50 - 54								
55 - 59		1						1
60 - 64								
65 - 69								
70 -								
Totals		10						10

SUMMARY OF NONACTIVE PARTICIPANTS

9/30/2013

Age Group	Males	Females	Total
	Count	Count	Count
<i>Retired Participants in Payment Status</i>			
40 - 49			
50 - 54			
55 - 59			
60 - 64			
65 - 69	1		1
70 - 74			
75 - 79			
80 - 84			
85 - 89			
90 - 110			
Totals	1	0	1
Grand Totals	1	0	1
Ave amount			

**COSTS AND
DISCLOSURE ITEMS
UNDER GASB 45**

This section illustrates the detailed results of the actuarial valuation of costs and benefit obligations measured under GASB Statement 45. The valuation date for the calculations is September 30, 2013.

City of Kyle Postretirement Medical Plan

Fiscal Year 2012-13

SUMMARY OF VALUATION RESULTS

Valuation Date September 30, 2013

	Civilian employees		Police		Retirees			
	Number	Ave Age	Number	Ave Age	Number	Ave Age		
Employees								
Under eligibility age	49	44.8	16	40.3				
At or above eligibility age	1	57.0	0					
Total	50	45.1	16	40.3				
Covered retirees					1	69.0		
Covered retiree spouses					0			
	Employee	Spouse	Total	Employee	Spouse	Total	Retirees	Grand Totals
PVB pre65 claims	311,298	-	311,298	211,216	-	211,216	-	522,514
PVB	1,008,879	-	1,008,879	608,854	-	608,854	76,225	1,693,958
less PV EE Cont	0	0	0	0	0	0	0	0
Net PVB	1,008,879	0	1,008,879	608,854	0	608,854	76,225	1,693,958
GASB 45 Liability (AAL)	618,348	-	618,348	285,018	-	285,018	76,225	979,591
Less ee paid GASB 45 Liability (AAL)	0	0	0	0	0	0	0	0
Net GASB 45 Liability (AAL)	618,348	0	618,348	285,018	0	285,018	76,225	979,591
ABO of eligibles	123,005	-	123,005	-	-	0	76,225	199,230
Less ee paid	0	0	0	0	0	0	0	0
Net elig GASB 45 Liability (AAL)	123,005	0	123,005	0	0	0	76,225	199,230
Normal Cost (EOY)	44,320	-	44,320	26,412	-	26,412	0	70,733
Less ee paid	0	0	0	0	0	0	0	0
Net Normal Cost	44,320	0	44,320	26,412	0	26,412	0	70,733
Death benefit Normal Cost			9			4		13
Total Normal Cost			44,329			26,417		70,746
Death benefit GASB 45 liability			261			57	0	317
Total GASB 45 liability (AAL)			618,609			285,074	76,225	979,908

DEAN ACTUARIES, LLC

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Certification

This report presents the actuarial position of the City of Kyle Postretirement Medical Plan as of September 30, 2013, and develops the Annual OPEB cost for the 2012-13 fiscal year under GASB 45 and in accordance with generally accepted actuarial principles.

The valuation is based on our understanding of the substantive plan provisions as outlined in this report, census data provided by the City of Kyle, and information as to healthcare costs for the City's active and retired participants. The healthcare cost pattern shown in this report was selected to match the actual budgeted cost of the entire City medical plan (including both active and retired participants).

In our opinion, each assumption used in combination to calculate liabilities and costs represents our best estimate of anticipated experience under the plan and is reasonably related to the plan experience and to reasonable expectations. However, the most appropriate assumption for different purposes may vary and use of the values in this report for purposes other than those stated should be avoided or discussed with the actuary.

DEAN ACTUARIES, LLC



2/24/2014

Date

Charles E. Dean, FSA, FCA
Enrolled Actuary 11-01249



2/24/2014

Date

Sean M. Sullivan, FSA
Enrolled Actuary 11-03649

Glossary of OPEB Terms

Accrual Accounting - A system of accounting in which revenues are recorded when earned and outlays are recorded when goods are received or services performed, even though the actual receipt of revenues and payment for goods or services may occur, in whole or in part, at a different time. i

Actuarial Value of Assets - The value of cash, investments, other assets and property belonging to an OPEB trust, pension fund or similar entity, as used by the actuary for the purpose of actuarial valuation. Some funds may be restricted for other purposes, and smoothing of investment gains and losses often make the actuarial value of assets different from the market value of assets.

Agent multiple-employer plan (agent plan) - An aggregation of single employer plans, with pooled administrative and investment functions. Separate accounts are maintained for each employer so that the employer's contributions provide benefits only for the employees of that employer. A separate actuarial valuation is performed for each individual employer's plan to determine the employer's periodic contribution rate and other information for the individual plan, based on the benefit formula selected by the employer and the individual plan's proportionate share of the pooled assets. The results of the individual valuations are aggregated at the administrative level.

Annual Required Contribution - Normal Cost plus an amortization of the funding shortfall over a period of no more than 30 years.

Cash Basis Accounting - A system of accounting in which revenues are recorded when actually received and outlays are recorded when payment is made. ii

Cost-sharing multiple-employer plan - A single plan with pooling (cost-sharing) arrangements for the participating employers. All risks, rewards, and costs, including benefit costs, are shared and are not attributed individually to the employers. A single actuarial valuation covers all plan members, and the same contribution rate(s) applies for each employer.

Defined benefit OPEB plan - An OPEB plan having terms that specify the benefits to be provided at or after separation from employment. The benefits may be specified in dollars (for example, a flat dollar payment or an amount based on one or more factors such as age, years of service, and compensation), or as a type or level of coverage (for example, prescription drugs or a percentage of healthcare insurance premiums).

Discount Rate - The interest rate used to calculate present value of a series of future cash flows. Under GASB 45, the rate should be long term expected yield on the investments that are expected to be used to pay benefits as they come due. These would be plan investments for a funded plan, the employer's investments for a pay as you go plan [e.g. short term county investment pool], or a weighted average of expected plan and employer investments for a plan that is partially funded.

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Employer's contributions - Contributions made in relation to the annual required contributions of the employer (ARC). An employer has made a contribution in relation to the ARC if the employer has (a) made payments of benefits directly to or on behalf of a retiree or beneficiary, (b) made premium payments to an insurer, or (c) irrevocably transferred assets to a trust, or an equivalent arrangement, in which plan assets are dedicated to providing benefits to retirees and their beneficiaries in accordance with the terms of the plan and are legally protected from creditors of the employer(s) or plan administrator.

FASB - Financial Accounting Standards Board. Since 1973, the Financial Accounting Standards Board (FASB) has been the designated organization in the private sector establishing standards of financial accounting and reporting. iv.

GASB - Government Accounting Standards Board. The Governmental Accounting Standard Board (GASB) was organized in 1984 by the Financial Accounting Foundation (FAF) to establish standards of financial accounting and reporting for state and local governmental entities. Its standards guide the preparation of external financial reports of those entities. v

GFOA - Government Finance Officers Association. GFOA is the professional association of state/provincial and local finance officers in the United States and Canada, and has served the public finance profession since 1906. Approximately 16,000 GFOA members are dedicated to the sound management of government financial resources.

Healthcare cost trend rate - The rate of change in per capita health claims costs over time as a result of factors such as medical inflation, utilization of healthcare services, plan design, and technological developments.

Implicit Subsidy - The difference between a premium rate charged to retirees for a particular benefit and the estimated rate that would have to be applicable to those retirees if that benefit was acquired for them as a separate group. vi

Investment return assumption (discount rate) - The rate used to adjust a series of future payments to reflect the time value of money.

Irrevocable Contribution - Irrevocably transferred assets to a qualifying trust, or equivalent arrangement, in which plan assets are dedicated to providing benefits to retirees and their beneficiaries in accordance with the terms of the plan and are legally protected from creditors of the employer(s) or plan administrator. The preceding criteria preclude counting as [irrevocable] contributions (a) designations of net assets of a governmental or proprietary fund to be used for OPEB or (b) internal transfers of assets to a separate governmental or proprietary fund for the same purpose. Rather, such actions should be regarded as earmarking of employer assets. vii

Level Dollar Amortization - Funding a shortfall in OPEB assets with equal dollar payments over a designated number of years (no more than 30 years). The present value of the level payments equals the present value of unfunded liabilities, the UAAL.

Level Percent of Payroll Amortization - Funding a shortfall in OPEB assets as a level percent of payroll over a designated number of years (no more than 30 years). The present value of the payments equals the present value of unfunded liabilities, the UAAL. Level percent of payroll typically has lower payments in the early years than level dollar amortization. When using level payroll amortization, employee count is assumed to be constant, and the payroll differences arise from overall wage trends.

Net OPEB obligation - The cumulative difference since the effective date of this Statement between annual OPEB cost and the employer's contributions to the plan, including the OPEB liability (asset) at transition, if any, and excluding (a) short-term differences and (b) unpaid contributions that have been converted to OPEB-related debt. (GASB 45 only)

Normal Cost - The actuarially determined present value contribution needed to fund benefits which are earned for employee service rendered during the current year. Normal cost depends on many factors, including the interest rate used to discount future cashflows, and expected inflation.

Plan assets - Resources, usually in the form of stocks, bonds, and other classes of investments, that have been segregated and restricted in a trust, or in an equivalent arrangement, in which (a) employer contributions to the plan are irrevocable, (b) assets are dedicated to providing benefits to retirees and their beneficiaries, and (c) assets are legally protected from creditors of the employers or plan administrator, for the payment of benefits in accordance with the terms of the plan.

OPEB - Other Post Employment Benefits - Postemployment benefits other than pension benefits. Other postemployment benefits (OPEB) include postemployment healthcare benefits, regardless of the type of plan that provides them, and all postemployment benefits provided separately from a pension plan, excluding benefits defined as termination offers and benefits.

OPEB expense - The amount recognized by an employer in each accounting period for contributions to an OPEB plan on the accrual basis of accounting. (GASB 45 only)

OPEB Trust - An entity other than a pension of retirement system which manages OPEB assets. In many respects it is similar to a pension fund for OPEB. For reasons detailed in GASB 45, contributions to an OPEB trust should be irrevocable in order to obtain the most favorable accounting treatment.

Pay-as-you-go funding - Paying benefits (such as pensions or OPEB) on a cash basis, with no money set aside for future liabilities which are already incurred.

POB - Pension Obligation Bond. Generally yielding taxable interest, POBs are issued to help fund a previously unfunded or underfunded pension liability.

Self funded plan - A plan whose benefits are not guaranteed in some manner by an insurance company.

Single-employer plan - A plan that covers the current and former employees, including

beneficiaries, of only one employer.

Substantive plan - The terms of an OPEB plan as understood by the employer(s) and plan members.

UAAL - Unfunded Accrued Actuarial Liability. Actuarial Accrued Liability minus the Actuarial Value of Assets.

-
- i. Source: Congressional Budget Office
 - ii. Source: Congressional Budget Office
 - iii. Source: GASB 45 Statement Paragraph 120 (page 96).
 - iv. Source: www.fasb.org/facts/index.shtml
 - v. Source: www.gasb.org/facts/index.html
 - vi. Source: GASB 45 Statement Paragraph 96 (page 86).
 - vii. Source: GASB 45 Statement Paragraph 141 (page 105).

APPENDIX B

City of Kyle's Investment Policy



RESOLUTION NO. 763

A RESOLUTION OF THE CITY OF KYLE, TEXAS, ADOPTING AN INVESTMENT POLICY FOR THE CITY OF KYLE; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.

Whereas, the Texas Public Funds Investment Act, Section 2256.005 requires that the governing body of an investment entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written Investment Policy regarding the investment of its funds and funds under its control, and,

Whereas, the Texas Public Funds Investment Act requires that the Investment Policy, including a list of authorized investments and investment strategies, must be approved annually, and,

Whereas, the attached Investment Policy complies with the provisions of the Texas Public Funds Investment Act.

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

Section 1. Findings. The Strategic Planning and Finance Committee as established by the City Council has reviewed the Investment Policy including any and all changes and has recommended by a majority vote the adoption of the said policy by the City Council.

As required by the Texas Public Funds Investment Act, the City Council has reviewed the Investment Policy and related investment strategies and that the revised Investment Policy made part of this City Council Resolution so adopted records any changes made to the City's Investment Policy and or investment strategies.

In addition, the following recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.


Section 2. Authorization. The Investment Policy of the City of Kyle is hereby adopted in compliance with the requirements set forth in Texas Public Funds Investment Act.

Section 3. Effective Date. This Resolution shall take effect from and after the date of its passage as authorized by the Charter of the City of Kyle.

Section 4. Open Meetings. It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Local Government Code.

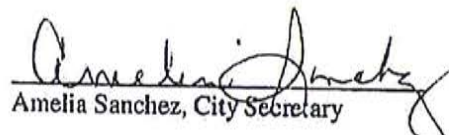
FINALLY PASSED AND APPROVED on this the 7th day of June, 2011.

THE CITY OF KYLE, TEXAS



Lucy Johnson, Mayor

ATTEST:



Amelia Sanchez, City Secretary



CITY OF KYLE, TEXAS

INVESTMENT POLICY

City Council Resolution No. 763
Adopted June 7, 2011

I. PURPOSE

A. Purpose and Scope

This Investment Policy applies to all investment activities of the City of Kyle of all funds held by the City of Kyle excluding funds held in the Employee Retirement Trust, Texas Municipal Retirement System, and the Deferred Compensation Plan. All applicable funds held by the City of Kyle shall be administered in accordance with the provisions of this policy. In addition to this policy, bond proceeds shall also be governed by the respective bond covenants and all applicable State and Federal Law.

The following Investment Policy of the City of Kyle, Texas, as revised, was reviewed and adopted by the City Council by Resolution No. 763 dated June 7, 2011. This Investment Policy is intended to comply with the statutory requirements of the Texas Public Funds investment Act (Chapter 2256, Texas Government Code).

II. INVESTMENT OBJECTIVES

A. Preservation and Safety of Principal

The primary objective of all investment activity is the preservation and safety of principal in the overall portfolio.

B. Maintenance of Adequate Liquidity

The investment portfolio will be managed to provide adequate liquidity in order to meet the cash flow requirements that might be reasonably anticipated. Liquidity shall be achieved to the extent practical and feasible by matching investment maturities with forecasted cash flow requirements.

C. Diversification

The policy of the City of Kyle, except when investing with the Depository Bank will be to diversify its portfolio to the extent allowed under this policy. Investments of the City shall always be selected on the basis which provides for the preservation and safety of principal.

D. Yield

Consistent with federal and state law and the City's Investment Policy, it will be the objective of the Investment Officer to earn the maximum interest rate feasible in compliance with the requirements of the types of investments allowed under this policy.

E. Maturity

Portfolio maturities will be selected, if market conditions are favorable, in such a manner to optimize earnings while maintaining the necessary liquidity to meet the City's cash requirements. The maximum allowable stated maturity of any individual investment owned by the City will not exceed five years.

F. Sale of Securities Prior to Maturity

The City Investment Officer may sell securities before maturity if market conditions present an opportunity for the City to benefit from the sale; funds are urgently needed to meet unforeseen expenditures, even if there is a loss of interest and/or principal due to the early sale; and when a security has lost its minimum required rating as an authorized investment.

G. Investment Management

It is the City's policy to provide training required under the Public Funds Investment Act, Sec. 2256.008 and periodic training in investments for the Investment Officer offered by professional organizations and associations in order to ensure compliance with the Act.

III. INVESTMENT STRATEGY**A. General**

In conjunction with the annual review of the City's Investment Policy, the City Council shall review the investment strategy for investing City funds. The investment strategy shall be based on the investment objectives outlined in Section II of this policy.

B. Investment Guidelines by Fund Type**1. Operating Funds**

Operating Funds require short-term liquidity to meet day to day cash requirements for City operations. Therefore, diversified investment maturities shall provide monthly cash flow based on the anticipated operating needs of the City. Short-term investment pools and other short-term securities allowed under this policy will be considered for the City's Operating Funds

2. Bond Funds

Proceeds from the issuance of debt obligations such as Bonds issued for the acquisition and or the construction of capital assets shall only be invested in the types of investments allowed under this policy. The investment maturities shall generally follow the anticipated cash flow requirements of the capital projects for which the debt obligations were issued.

3. Repair and Replacement Funds

Should the City Council authorize the establishment of a Repair and Replacement Fund, the maturity date of investments in this Fund shall generally be limited to the anticipated cash flow requirements identified in the City's approved budget for planned projects. Funds accumulated in the Repair and Replacement Funds shall only be invested in the types of investments allowed under this policy.

4. Debt Service Funds

Debt Service Funds shall be invested to ensure adequate liquidity for making semi-annual principal and interest payments on outstanding debt obligations. Funds accumulated in the Debt Service Funds shall only be invested in the types of investments allowed under this policy.

5. Bond Reserve Funds

Should the City Council authorize the establishment of a Bond Reserve Fund in compliance with future bond covenants, funds accumulated in the Bond Reserve Fund shall only be invested in the types of investments allowed under this policy.

Generally, Bond Reserve Funds do not incur planned expenditures. When required under a specific bond covenant, the funds are deposited as a reserve to provide payment protection to the bondholders. The funds are eventually released after the reserve requirements have been fully satisfied.

6. Fiduciary Funds

Fiduciary Funds are used to report assets held in a trust or agency capacity for others such as for the City's Other Post Employment Benefits (OPEB). All funds accumulated in the Fiduciary Funds shall only be invested in the types of investments allowed under this policy and shall be limited to the anticipated cash flow requirements.

IV. AUTHORIZED INVESTMENTS

Under the Texas Public Funds Investment Act several different types of investments are authorized. The City's Investment Policy requires that all funds held by the City of Kyle, Texas, as defined in Section IA of this policy, be invested in the following types of investments which are authorized Texas Public Funds Investment Act:

A. Guaranteed Securities

Securities guaranteed for both principal and interest by the federal government of the United States of America. All securities held in the City's name prior to the effective date of this City Council Resolution are exempt until such securities mature and funds become available for reinvestment.

B. Certificates of Deposit

Collateralized certificates of deposit from banks whose collateral consists of securities of the United States or secured by a letter of credit from the Federal Home Loan Bank Board that guarantees both principal and interest;

C. Investment Pools

Local government investments pools that comply with the requirements as defined and authorized under the Texas Public Funds Investment Act; or

D. Other Authorized Investments

Collateralized certificates of deposit from banks secured by a combination of collateral and guarantees as provided in (A) and (B), and/or bonds and debt obligations of the State of Texas and other selected investment instruments as authorized under the Texas Public Funds Investment Act and approved by the City's Investment Officer that meet the investment objectives as prescribed in this policy.

V. COLLATERAL REQUIREMENTS

A. Collateral Levels

Consistent with the requirements of State law, the City requires all deposits in financial institutions to be federally insured or collateralized with eligible securities.

1. Certificates of Deposit

The market value of the principal portion of collateral pledged for certificates of deposit must at all times be equal to or greater than the par value of the certificate of deposit plus accrued interest, less the applicable level of FDIC coverage.

2. Guaranteed Securities

Securities that are guaranteed for both principal and interest by the federal government of the United States of America may not be subject to collateral requirements.

3. Monitoring Collateral Adequacy

The City shall require monthly reports with market values of pledged securities from all financial institutions that have issued Certificates of Deposits to the City as an investment. The City's Investment Officer will monitor adequacy of collateral levels for the protection of the City's investments.

If the collateral pledged for a Certificate of Deposit falls below the par value of the deposit less FDIC coverage, the financial institution that issued the Certificate of Deposit will be

notified by the Investment Officer or its designee and will be required to pledge additional securities no later than the two business days of notification.

4. Collateral Substitution

Collateral for Certificates of Deposit often require substitution of the original collateral. Any broker, dealer or financial institution requesting substitution must contact the Investment Officer or its designee for approval and settlement. The substituted security's value shall be calculated to ensure that its value is equal to or greater than the required collateral level. The Investment Officer or its designee must provide written notification of the decision to the bank or the safekeeping agent holding the security prior to any substitution. The Investment Officer or its designee may limit substitution and assess appropriate fees if substitution becomes excessive.

VI. SAFEKEEPING OF SECURITIES AND COLLATERAL

A. Safekeeping Agreement

The City shall contract with a financial institution or an investment bank for the safekeeping of securities either owned by the City as a part of its investment portfolio.

B. Safekeeping of Certificate of Deposit Collateral

All collateral securing any Certificate of Deposit in the City's investment portfolio must be held by the Federal Reserve Bank in the name of the City of Kyle, Texas.

VII. INVESTMENT ADVISORY AND BROKER/DEALER SERVICES

A. Investment Advisor

The City may utilize the services of an investment advisory firm to assist the City in managing its investments. The selection of the best firm by the City shall be based on criteria established and evaluation of proposals solicited through a public solicitation process such as a Request for Proposal (RFP).

B. Investment Advisors and Broker/Dealers

Investment selection for all funds shall be based on compliance with the City's Investment Policy and the Texas Public Funds Investment Act. The City's investment portfolio shall be prudently managed to meet the stated objectives of this policy.

All investments made by the City will be made through either the City's depository bank or a primary dealer. A list of at least three broker/dealers will be maintained and reviewed annually in order to assure competitive bidding. The City's Investment Officer will establish criteria to evaluate Investment Advisors and Broker/Dealers, including:

1. Adherence to the City's Investment Policy and strategies.
2. Capability to comply with the Texas Public Funds Investment Act.
3. Investment performance and transaction pricing.
4. Responsiveness to the City's request for services, information and transparency in government investment activities.
5. Understanding of the inherent fiduciary responsibility of investing public funds.
6. Management and record-keeping system capabilities to meet all City and State reporting requirements including those required by the City's Investment Officer for transaction confirmations, market values, investment earnings, realized and unrealized gains and losses, and other monthly portfolio reports.

Investment Advisory and Broker/Dealers firms authorized to complete investment transactions for City shall be provided a written copy of this Investment Policy. The registered principal of the business organization selected to transact investment business for the City shall execute a written instrument to acknowledge and document that they have:

1. Received and reviewed the City's Investment Policy.
2. Their firm has taken precautionary measures and has implemented necessary procedures and internal controls to prevent imprudent and illegal investment activities with or for the City of Kyle.

The City shall not enter into an investment transaction with an Investment Advisory and or a Broker/Dealer firm prior to receiving the written assurance as described above.

VIII. INVESTMENT AUTHORITY AND MANAGEMENT REQUIREMENTS

A. Authority to Invest

The Director of Finance is the Investment Officer of the City. As the Investment Officer he/she is authorized to make all investment decisions including related to deposits, withdrawal, fund transfers, execution of documents, and manage City funds in accordance and compliance with the rules governing the investment of City funds as provided in this Policy. In the absence of the Director of Finance, the City Manager shall serve as the interim Investment Officer in his/her place and are subject to the requirements set forth in this policy.

B. Investment Management

The City's Investment Officer shall perform their duties in accordance with the procedures prescribed in the Investment Policy. The City's Investment Officer may designate the Investment Advisor to complete certain financial transactions on the City's behalf as deemed necessary.

C. Personnel Authorized to Transact Fiscal Affairs

All vouchers, checks, drafts, certificates of deposit, orders for the release or exchange of securities held as collateral for City's funds on deposit with its depository banks and any other instruments necessary in the transaction of City's financial affairs shall bear the signature of the Director Finance or the City Manager and one of the following City officials:

1. Mayor
2. Assistant City Manager
3. City Secretary
4. Finance Officer

It is required that at least one of the authorized signatures must be that of either the City's Director of Finance or the City Manager.

D. Standards of Ethics

The designated Investment Officer shall adhere to City's Code of Conduct. Additionally, the Investment Officer shall file with the Texas Ethics Commission and the City Council a statement disclosing any personal business relationship with an entity seeking to sell investments to the City or any relationship within the second degree by affinity or consanguinity to an individual seeking to sell investments to the City.

E. Establishment of Internal Controls

The Director of Finance will oversee the maintenance of a system of internal controls over the investment activities of the City within the City organization.

F. Liability of City's Investment Officer

The City Investment Officer is not responsible for any loss of City funds through the failure or negligence of a depository. The City's Investment Officer shall be relieved of any personal liability when carrying out his/her responsibilities as the City's Investment Officer and acting in good faith to comply with the City's Investment Policy.

G. Required Training for City's Investment Officer

As required by the Texas Public Funds Investment Act, the City shall allow for at its expense for the Director of Finance as the City's Investment Officer, to obtain:

1. At least one training session from an independent source containing a minimum of ten (10) hours of instructions relating to the Investment Officer's responsibilities, within 12 months after taking office or assuming duties.
2. Investments training session not less than once in a two-year period and receive not less than ten (10) hours of instructions relating to investment responsibilities from an independent source.

H. Reporting Requirements

1. Quarterly Reports

Investment performance will be monitored and evaluated by the Investment Officer. Not less than quarterly, the Investment Officer will provide a report to the City Council that shall include:

- a) Description of the investment position of the City.
- b) Beginning market value for the reporting period.
- c) Additions and changes to the market value during the period.
- d) Ending market value for the period.
- e) Fully accrued interest for the period.
- f) State the maturity date of investments that have a maturity date.
- g) State the compliance of the investment portfolio with the City's Investment Policy and relevant provisions of the Texas Public Funds Investment Act.

2. Annual Audit

The City's independent auditor, in conjunction with the annual audit of City's financial statements, records, and internal controls shall include review of investment reports. The independent auditor shall present the annual audit report to the City Council.

IX. ANNUAL REVIEW OF INVESTMENT POLICY

In compliance with the annual review requirements specified in the Texas Public Funds Investment Act, the City Council shall review the City's Investment Policy and investment strategies at least on an annual basis.

The City Council shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the Investment Policy and investment strategies and that the written instrument so adopted shall record any changes made to the Investment Policy or investment strategies.

APPENDIX C

Internal Revenue Service Form W-9
Request for Taxpayer Identification Number and Certification



Form W-9 (Rev. August 2013) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification	Give Form to the requester. Do not send to the IRS.
-------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------	-----------------------------------------------------------

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	Exemptions (see instructions): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)																																									
Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3. Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="10" style="text-align: left; padding: 2px;">Social security number</th> </tr> <tr> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> </tr> </table> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="10" style="text-align: left; padding: 2px;">Employer identification number</th> </tr> <tr> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> </tr> </table>	Social security number																				Employer identification number																			
Social security number																																									
Employer identification number																																									

Part II Certification			
Under penalties of perjury, I certify that:			
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. citizen or other U.S. person (defined below), and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.			
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.			
Sign Here	<table style="width: 100%;"> <tr> <td style="width: 60%;">Signature of U.S. person ▶</td> <td style="width: 40%;">Date ▶</td> </tr> </table>	Signature of U.S. person ▶	Date ▶
Signature of U.S. person ▶	Date ▶		

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. The IRS has created a page on IRS.gov for information about Form W-9, at www.irs.gov/w9. Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity.
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust, and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester.
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details).
3. The IRS tells the requester that you furnished an incorrect TIN.
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* on page 1.

What is FATCA reporting? The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA) name" on the "Business name/disregarded entity name" line.

Disregarded entity. For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulation section 301.7701-2(c)(2)(iii). Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Note. Check the appropriate box for the U.S. federal tax classification of the person whose name is entered on the "Name" line (individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the U.S. federal tax classification in the space provided. If you are an LLC that is treated as a partnership for U.S. federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation, as appropriate. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for U.S. federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

Other entities. Enter your business name as shown on required U.S. federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the *Exemptions* box, any code(s) that may apply to you. See *Exempt payee code* and *Exemption from FATCA reporting code* on page 3.

Exempt payee code. Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following codes identify payees that are exempt from backup withholding:

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Reg. section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Reg. section 1.1472-1(c)(1)(i)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ³ The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor ⁴
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



CITY OF KYLE, TEXAS

Approve Train Depot Contract-Phase 3

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Approve a contract with SPAWGLASS CONTRACTOR'S, INC., Austin, Texas, in an amount not to exceed \$105,886.00 for landscaping and other exterior work for Phase 3 of the Historic Kyle Train Depot Restoration project. ~ *Jerry Hendrix, Chief of Staff*

Other Information: This contract is for the remaining exterior and landscaping work designated for Phase 3 of the train depot restoration project. Interior work is being finalized by the architect and contractor and should be ready in the next few weeks.

Budget Information: A Fiscal Note is attached.

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

Attachments / click to download

-  [Train Depot Contract for Phase 3 \(outside work only\)](#)
-  [Fiscal Note](#)



AIA[®] Document A101[™] – 2007

Standard Form of Agreement Between Owner and Contractor *where the basis of payment is a Stipulated Sum*

AGREEMENT made as of the 28th day of October in the year 2014
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

The City of Kyle
100 West Center Street
Kyle, TX. 78640

and the Contractor:
(Name, legal status, address and other information)

SpawGlass Contractor's Inc.
1111 Smith Road
Austin, TX. 78721
Telephone Number: 512.719.5251
Fax Number: 512.719.5255

for the following Project:
(Name, location and detailed description)

The Historic Kyle Depot
Kyle, TX. 78640
Phase IIIA of a Historic Restoration to the existing building.

The Architect:
(Name, legal status, address and other information)

Clayton & Little Architects
1001 E. 8th Street
Austin, TX. 78702
Telephone Number: 512.477.1727
Fax Number: 512.477.9876

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201[™]–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS
10	INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

| N/A

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than Forty Five (45) days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Init.

Portion of Work

Phase III Work-Demo & Abatement Only

Substantial Completion Date

45 days for Notice to Proceed

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one hundred five thousand eight hundred and eighty six dollars and 00 (\$ Phase IIIA contract \$105,886), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 4.3 Unit prices, if any:

(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

Item**Units and Limitations****Price Per Unit (\$0.00)**

§ 4.4 Allowances included in the Contract Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

Item**Price****ARTICLE 5 PAYMENTS****§ 5.1 PROGRESS PAYMENTS**

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 30th day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than Twenty (20) days after the Architect receives the Application for Payment. *(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

Init.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten Percent percent (10.00% %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™–2007, General Conditions of the Contract for Construction;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Ten Percent percent (10.00% %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.5 of AIA Document A201–2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201–2007.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2007

☒ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

2.00 % monthly

§ 8.3 The Owner's representative:
(Name, address and other information)

Mr. Jerry Hendrix
100 West Center Street
Kyle, TX. 78640

§ 8.4 The Contractor's representative:
(Name, address and other information)

Mr. Mark Harrington
1111 Smith Road
Austin, TX. 78721
Telephone Number: 512.719.5251
Fax Number: 512.719.5255
Mobile Number: 512.848.4135
Email Address: mark.harrington@spawglass.com

Init.

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

§ 9.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
Exhibit A	Asbestos & Lead-Based Paint Survey Via Terracon	5/22/12	

§ 9.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
(Row deleted)		
G1.0	Cover Sheet	12.9.11
G1.1	Specifications	12.9.11
A1.0	Site Plan	12.9.11
A1.1	Floor Plan-Demo	12.9.11
A1.2	Floor Plan	12.9.11
A1.3	Reflected Ceiling / Finish	12.9.11
A2.0	Exterior Elevation	12.9.11
A2.1	Exterior Elevation	12.9.11
A3.0	Wall Section	12.9.11
A4.0	Interior Elevation	12.9.11
A4.1	Interior Elevation	12.9.11
A5.0	Details	12.9.11
S1.0	Foundation Plan	12.9.11
S1.1	Ceiling Plan	12.9.11
S1.2	Roof Framing Plan	12.9.11
S2.0	Foundation Details	12.9.11
S2.1	Foundation Details	12.9.11
S3.0	Framing Details	12.9.11
S4.0	Structural Notes	12.9.11
M-0	Overall Mechanical	10.27.11

Init.

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User Notes:

(1161187150)

M-1	HVAC Plan	10.27.11
M-2	Refrigerant Plan	10.27.11
M-3	Mechanical Sections	10.27.11
M-4	Mechanical Details	10.27.11
E-1	Electrical Power Plan	10.27.11
E-2	Lighting Plan	10.27.11
E-3	Electrical Panel Sched.	10.27.11
P-1	Water Piping Plan	10.27.11
P-2	Attic Waste Piping Vent	10.27.11
P-3	Plumbing Waste Piping	10.27.11
P-4	Plumbing Details	10.27.11

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum #1	December 21, 2011	
Addendum #2	January 27, 2011	

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

- .1 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:
- .2 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor’s bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)

Type of insurance or bond	Limit of liability or bond amount (\$0.00)
Insurance requirements shall meet spec Section 00 06 00 and as outlines:	
Workers Compensation:	
Employer’s Liability	\$2,000,00 each occurrence
Commercial Liability	
Bodily Liability	\$2,000,00 each occurrence
Property Liability	\$1,000,00 each occurrence
Personal Liability	\$2,000,00 each occurrence
Bodily Injury	\$2,000,00 each occurrence
Property Damage	\$1,000,00 each occurrence

Init.

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

CONTRACTOR (Signature)

(Printed name and title)

(Scott Hobza, President – Austin Region)



Init.

Additions and Deletions Report for AIA® Document A101™ – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:29:19 on 10/28/2014.

PAGE 1

AGREEMENT made as of the 28th day of October in the year 2014

...

The City of Kyle
100 West Center Street
Kyle, TX. 78640

...

SpawGlass Contractor's Inc.
1111 Smith Road
Austin, TX. 78721
Telephone Number: 512.719.5251
Fax Number: 512.719.5255

...

The Historic Kyle Depot
Kyle, TX. 78640
Phase IIIA of a Historic Restoration to the existing building.

...

Clayton & Little Architects
1001 E. 8th Street
Austin, TX. 78702
Telephone Number: 512.477.1727
Fax Number: 512.477.9876

PAGE 2

N/A

...

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than Forty Five (45) days from the date of commencement, or as follows:

PAGE 3

Phase III Work-Demo & Abatement Only 45 days for Notice to Proceed

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one hundred five thousand eight hundred and eighty six dollars and 00 (\$ Phase IIIA contract \$105,886), subject to additions and deductions as provided in the Contract Documents.

...

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 30th day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than Twenty (20) days after the Architect receives the Application for Payment.

PAGE 4

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten Percent percent (10.00% %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Ten Percent percent (10.00% %);

PAGE 5

[X] Litigation in a court of competent jurisdiction

...

2.00 % monthly

...

Mr. Jerry Hendrix
100 West Center Street
Kyle, TX. 78640

...

*(Name, address and other information)*information

Mr. Mark Harrington
1111 Smith Road
Austin, TX. 78721
Telephone Number: 512.719.5251
Fax Number: 512.719.5255
Mobile Number: 512.848.4135
Email Address: mark.harrington@spawglass.com

PAGE 6Exhibit A

Asbestos & Lean-Base 5/22/12
Paint Survey Via

Terracon

...

...

<u>G1.0</u>	<u>Cover Sheet</u>	<u>12.9.11</u>
<u>G1.1</u>	<u>Specifications</u>	<u>12.9.11</u>
<u>A1.0</u>	<u>Site Plan</u>	<u>12.9.11</u>
<u>A1.1</u>	<u>Floor Plan-Demo</u>	<u>12.9.11</u>
<u>A1.2</u>	<u>Floor Plan</u>	<u>12.9.11</u>
<u>A1.3</u>	<u>Reflected Ceiling / Finish</u>	<u>12.9.11</u>
<u>A2.0</u>	<u>Exterior Elevation</u>	<u>12.9.11</u>
<u>A2.1</u>	<u>Exterior Elevation</u>	<u>12.9.11</u>
<u>A3.0</u>	<u>Wall Section</u>	<u>12.9.11</u>
<u>A4.0</u>	<u>Interior Elevation</u>	<u>12.9.11</u>
<u>A4.1</u>	<u>Interior Elevation</u>	<u>12.9.11</u>
<u>A5.0</u>	<u>Details</u>	<u>12.9.11</u>
<u>S1.0</u>	<u>Foundation Plan</u>	<u>12.9.11</u>
<u>S1.1</u>	<u>Ceiling Plan</u>	<u>12.9.11</u>
<u>S1.2</u>	<u>Roof Framing Plan</u>	<u>12.9.11</u>
<u>S2.0</u>	<u>Foundation Details</u>	<u>12.9.11</u>
<u>S2.1</u>	<u>Foundation Details</u>	<u>12.9.11</u>
<u>S3.0</u>	<u>Framing Details</u>	<u>12.9.11</u>
<u>S4.0</u>	<u>Structural Notes</u>	<u>12.9.11</u>
<u>M-0</u>	<u>Overall Mechanical</u>	<u>10.27.11</u>
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<u>M-2</u>	<u>Refrigerant Plan</u>	<u>10.27.11</u>
<u>M-3</u>	<u>Mechanical Sections</u>	<u>10.27.11</u>
<u>M-4</u>	<u>Mechanical Details</u>	<u>10.27.11</u>
<u>E-1</u>	<u>Electrical Power Plan</u>	<u>10.27.11</u>
<u>E-2</u>	<u>Lighting Plan</u>	<u>10.27.11</u>
<u>E-3</u>	<u>Electrical Panel Sched.</u>	<u>10.27.11</u>
<u>P-1</u>	<u>Water Piping Plan</u>	<u>10.27.11</u>
<u>P-2</u>	<u>Attic Waste Piping Vent</u>	<u>10.27.11</u>
<u>P-3</u>	<u>Plumbing Waste Piping</u>	<u>10.27.11</u>
<u>P-4</u>	<u>Plumbing Details</u>	<u>10.27.11</u>

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<u>Addendum #1</u>	<u>December 21, 2011</u>
<u>Addendum #2</u>	<u>January 27, 2011</u>

...

<u>Insurance requirements shall meet spec</u>	
<u>Section 00 06 00 and as outlines:</u>	
<u>Workers Compensation:</u>	
<u>Employer's Liability</u>	<u>\$2,000,00 each occurrence</u>
<u>Commercial Liability</u>	
<u>Bodily Liability</u>	<u>\$2,000,00 each occurrence</u>
<u>Property Liability</u>	<u>\$1,000,00 each occurrence</u>
<u>Personal Liability</u>	<u>\$2,000,00 each occurrence</u>

Bodily Injury
Property Damage

\$2,000,00 each occurrence
\$1,000,00 each occurrence

PAGE 8

(Printed name and title)

*(Printed name and title)*Scott Hobza, President – Austin Region



Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Scott Hobza, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:29:19 on 10/28/2014 under Order No. 7113883544_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2007, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

City of Kyle, Texas
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: November 18, 2014
CONTACT CITY DEPARTMENT: Office of the City Manager
CONTACT CITY STAFF: Jerry Hendrix, Chief of Staff

SUBJECT:

Authorize a contract with SPAWGLASS CONTRACTOR'S, INC., Austin, Texas, in an amount not to exceed \$105,886.00 for landscaping and other exterior work for Phase 3 of the Historic Train Depot Restoration project.

CURRENT YEAR FISCAL IMPACT:

This Purchase Order for a construction contract with SPAWGLASS CONTRACTOR'S, INC., will require expenditure of funds from the accumulated donations received as follows.

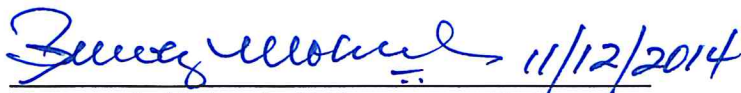
1. City Department:	Office of the City Manager
2. Project Name:	Train Depot Restoration – Phase 3 Exterior
3. Funding Source:	Train Depot Donation Fund
4. Budget/Accounting Code(s):	412-675-57222
5. Total Appropriations:	\$ 744,550.00
6. Unencumbered Balance:	\$ 447,628.00
7. Amount of This Action:	\$ <u>(105,886.00)</u>
8. Remaining Balance:	\$ <u>341,742.00</u>

FUNDING SOURCE OF THIS ACTION:

The funding source for this Purchase Order to SPAWGLASS CONTRACTOR'S, INC., will be provided from the accumulated donations received for the Train Depot Restoration Project. The City Council's approval of this item will also authorize staff to appropriate and apply accumulated donations in the Train Donation Fund.

ADDITIONAL INFORMATION/COUNCIL ACTION:

In the Fiscal Year 2014-15 General Fund budget, the City Council approved funding contribution of \$125,000 for the Train Depot Restoration Project.

 11/12/2014

Pervez A. Moheet, CPA - Date
Director of Finance



CITY OF KYLE, TEXAS

Approve Library meeting room use policy

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Approve the use policy for the Kyle Public Library Burdine and Jack Johnson Wing Meeting Room. ~ *Connie Brooks, Director of Library Services*

Other Information: See Attachments.

Budget Information:

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

Attachments / click to download

-  [Revised Meeting Room Policy approved by Library Board](#)
 -  [Rationale for Meeting Room Fee Changes](#)
-

Kyle Public Library Meeting Room Use Policy

Burdine and Jack Johnson Wing

PURPOSE

The Kyle Public Library's Burdine and Jack Johnson meeting room facilities are designed to meet the library's goal of providing for the informational, educational, recreational, and cultural needs of the community by providing a location for meetings. The meeting rooms are available on an equitable basis to groups requesting facility use.

ABOUT THE BURDINE AND JACK JOHNSON WING

There are two meeting rooms, each seating approximately 50 people and which may be opened to create one large space, seating approximately 100 people. Tables, chairs, a projection screen, and/or a lectern are available for use. Groups who use the meeting room are responsible for setting up their own tables and chairs and putting them away after their meeting. The adjacent kitchen area contains a small refrigerator, a microwave, and a sink. Wireless Internet access is available. Groups will need to bring their own audiovisual equipment.

This Meeting Room Use Policy establishes the guidelines and procedures for the use of the library's facilities. The Library Director is responsible for implementing this policy.

Use of the library does not constitute library or City of Kyle endorsement of viewpoints expressed by participants on the program. Advertisements or announcements implying such endorsements are not permitted.

The City of Kyle and Kyle Public Library are not responsible for any articles lost or stolen from any of the rooms.

MEETING ROOM GUIDELINES

- Library programs and events sponsored by the Kyle Public Library or the City of Kyle will have precedence in the scheduling of the meeting rooms. The library reserves the right to cancel or reschedule a reservation, with two weeks notice, if the room is needed for a library or city function.
- Reservations may be made no more than five weeks in advance. A separate contract must be submitted for each meeting.
- The public may only use the meeting rooms during hours the library is open.** All meetings must end 15 minutes before closing and cleared of all belongings. Hours of availability are:

Monday, Wednesday and Friday	10:00am-5:45pm
Tuesday and Thursday	10:00am-7:45pm
Saturday	10:00am-3:45pm

- Groups using the meeting rooms will be responsible for their own set-up and will be required to return the room to the condition in which they found it. The library does not provide equipment such as projectors, laptops, etc.
- Meeting rooms may not be reserved for social gatherings such as showers, birthday parties, family reunions, etc. or for commercial purposes. A "commercial purpose" is defined as a use intended to produce profit for any individual, association, corporation, or company.

- There may not be any admission charged or sales solicited. The exception to this policy will be events raising money for the City of Kyle or to benefit the Kyle Public Library.
- The meeting rooms may not be used for any activity which would be likely to cause an unreasonable amount of wear and tear on library facilities or which would be likely to disrupt the normal activities of the library. Charges will be assessed for damages or if extra cleanup is required.

The following activities are prohibited:

1. No events with amplified music.
 2. No candles or open flames are allowed in any of the meeting rooms.
 3. No decorations may be attached in any way to the walls, ceilings or fixtures of any of the rooms.
 4. No furniture may be borrowed or moved from other areas of the library.
 5. Registration tables, or any other activities, are not permitted outside the meeting room unless approved by the Library Director.
- Smoking and alcoholic beverages are not allowed in the library.
 - Equipment, supplies or personal items may not be left in the meeting rooms before or after the scheduled meeting. The City of Kyle and Kyle Public Library are not responsible for any articles lost or stolen.
 - All food and beverage service requires submittal of the food waiver form, as well as the completed meeting room contract, prior to the event.
 - A 24-hour cancellation notice is required. In the event of cancellation, a receipt for fees paid must be presented for a refund. There is a processing fee for all cancellations.
 - Repeated cancellations will result in the loss of reservation privileges for the period of one year.
 - The individual making the reservations, as well as the group as a whole, will be held responsible for any damages incurred.
 - Permission to use library facilities may be withheld from groups failing to comply with the Meeting Room Use Policy and from any group that damages the facility.
 - City of Kyle and Kyle Public Library activities will not be required to pay a cleaning fee.

Failure to follow the above rules and policies will result in refusal of further meeting room bookings

KYLE PUBLIC LIBRARY BURDINE AND JACK JOHNSON WING

Meeting Room Contract

Acceptance of this form does not constitute a confirmation of your request.

Name of Event: _____

Name of Organization: _____

**Social or Commercial (for-profit) events are prohibited.*

Date of Event: _____ Start Time : _____ End Time : _____

**Reservation requests will not be accepted more than five (5) weeks prior to the event*

Contact Name: _____

Mailing Address: _____ City/State/Zip: _____

Phone: _____ Email Address: _____

Will food or beverage be served (circle one) Yes No

***No alcohol or drinks with dark colored dye (such as red or purple) is to be served

***Please complete the Food Waiver form and submit with contract.

Expected Attendance: _____ Tables: _____ Chairs: _____ Room A: _____ Room B: _____

Fees:

_____ One event (up to 2 hours) free each month. Subsequent hours \$10 per hour

_____ \$100 cleaning fee (required if food is served)

Please read and initial all items below:

_____ I have read the Kyle Public Library Meeting Room Policy and agree to abide by the policies of the Kyle Public Library.

_____ I understand that I am responsible for the conduct of those in attendance at my event, including maintaining an appropriate volume so as not to disturb others in the adjacent rooms or library.

_____ I understand that I, or the affiliated organization, is responsible for setup, arrangement of tables and chairs, providing any audio/visual equipment and returning room to original condition.

_____ I understand that I, or the affiliated organization, will be responsible for cleanup and will be liable for any damage incurred while using the Kyle Public Library facilities.

All events and cleanup must be completed prior to 15 minutes before the library closes.

_____ The meeting room contract must be signed and completed, along with any fees and deposits required, and paid within 36 hours of booking the event.

_____ There is a 24-hour cancellation notice required to receive a refund (minus a \$5 processing fee).

_____ Repeated cancellation of reserved space will result in the loss of reservation privileges for one year.

_____ In case of refund, a receipt for paid fees must be presented for refund (minus a \$5 processing fee).

Signature: _____ Date: _____

For staff use only

Date of Payment: _____ Staff Signature: _____

Amount of Payment: _____ Check (Check # _____) _____ Cash

KYLE PUBLIC LIBRARY BURDINE AND JACK JOHNSON WING Food Waiver

Name of Organization: _____

Date of Event: _____

Time of Event: _____

Reserving Individual/Organizations are responsible for seeing that all Kyle Public Library policies are met. Your initials below indicate that you have read and understand each of the following statements.

- ____ Events with food provided by the reserving party must have a signed Food Waiver form on file with their reservation.
- ____ The reserving party assumes liability when food or beverages are provided.
- ____ All food items must be precooked prior to arriving at the Kyle Public Library.
- ____ All trash should be properly disposed of and not left on tables and/or counters.
- ____ Kyle Public Library personnel should be notified if extra trash receptacles are needed.

Release and Indemnity

- I agree to release and indemnify the Kyle Public Library, City of Kyle and its employees and agents from all liability for injury or illness associated with the consumption of food or beverage provided by myself and/or my organization.
- I assume responsibility for cleaning the room and any damage that may occur.

Signature: _____ Date: _____

Contact Name: _____
(please print name)

Mailing Address: _____ City/State/Zip: _____

Phone: _____ Email Address: _____

For staff use only

Date Received: _____ Staff Signature: _____

Item # 9

To: City Council
From: Connie Brooks
Subject: Proposed Changes to Library Meeting Room Fee Schedule
Date: November 12, 2014

On October 9, 2014, the Library Board approved a revised Meeting Room Policy. The primary reason for the revision was to address points that confused people trying to reserve the library's meeting room. Among the points of confusion was the fee structure for the meeting room.

The Library Board proposes that one event (up to 2 hours) per organization be allowed free each month and that the fee for subsequent hours be \$10 per hour. Previously, the fee was "\$20/per event (up to 2 hours) for each event occurring after initial event (up to 2 hours at no charge) each month." (See the attached FY2015 fee schedule that was approved for the library.)

The Library Board also proposes that the cleaning fee (required if food is served) be standardized to \$100. Previously, the fee schedule stated: "Clean-up fee for one side of Community Room if food is served: \$79; Clean-up fee for both sides of Community Room if food is served: \$158." (See attached FY2015 fee schedule.)

Thank you for your consideration of this matter.



CITY OF KYLE, TEXAS

2nd Reading - Ordinance regarding late-hours mixed beverages approval

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: *(Second Reading)* An ordinance authorizing permittees of mixed beverage permits and late-hours permits to sell or offer for sale mixed beverages from the hours of twelve midnight until two a.m. on any day; providing definitions; levying a fee on permittees after a three-year period following the issuance of permits; providing a penalty clause; providing a severability clause; providing for repeal of conflicting ordinances; finding and determining that the meeting at which this ordinance is passed is open to the public as required by law; providing an effective date; and making such other findings and provisions related hereto. ~ Manuel De La Rosa, Director of Planning Services

Other Information:

Budget Information:

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

Attachments / click to download

 [Ordinance \(Second Reading\)](#)

AN ORDINANCE AUTHORIZING PERMITTEES OF MIXED BEVERAGE PERMITS AND LATE-HOURS PERMITS TO SELL OR OFFER FOR SALE MIXED BEVERAGES FROM THE HOURS OF TWELVE MIDNIGHT UNTIL TWO A.M. ON ANY DAY; PROVIDING DEFINITIONS; LEVYING A FEE ON PERMITTEES AFTER A THREE-YEAR PERIOD FOLLOWING THE ISSUANCE OF PERMITS; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING AN EFFECTIVE DATE; AND MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO.

WHEREAS, the Texas Alcoholic Beverage Code regulates the hours of sale and the offer for sale of mixed beverages; and,

WHEREAS, said Code provides that a city may extend the hours of sale and offer for sale of mixed beverages by the passage of an ordinance; and,

WHEREAS, pursuant to said Code, an ordinance may allow the sale and the offer for sale of mixed beverages to apply to the hours between twelve midnight and two a.m. on any day; and,

WHEREAS, under said Code the city council may levy and collect a fee not to exceed one-half the state fee for each permit issued for premises located within the city, but the city shall not levy and collect a fee on a mixed beverage permit during the three-year period following the issuance of the mixed beverage permit and/or a late-hours permit;

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

Section 1. Findings. The facts and findings recited hereinabove are found to be true and correct and are hereby adopted as part of this ordinance.

Section 2. Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this ordinance, except where the context clearly indicates a different meaning. The singular shall include the plural and vice-versa, except where the context clearly indicates a different meaning.

Code means and refers to the Texas Alcoholic Beverage Code.

Mixed beverage means and refers to its definition found at Sec. 105.03 (Hours of Sale: Mixed Beverages) of the Code.

Permittee means a natural person or association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them and also includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock.

Premises means and refers to its definition as found at Sec. 11.49 (Premises Defined; Designation of Licensed Premises) of the Code.

Section 3. Late hours sale or offer for sale of mixed beverages.

- a. A permittee that has been issued a mixed beverage permit and a late-hours mixed beverage permit by the Texas Alcoholic Beverage Commission (TABC) may sell or offer for sale mixed beverages on the permittee's premises between the hours of twelve midnight and two a.m. on any day, if otherwise in compliance with this ordinance.
- b. A permittee must show written proof satisfactory to the chief of police that the permittee has been issued a mixed beverage permit and a late-hours mixed beverage permit from the TABC before the permittee may sell or offer for sale mixed beverages on the permittee's premises between the hours of twelve midnight and two a.m. on any day.
- c. If any written proof provided by the permittee is not satisfactory to the chief of police, the permittee may appeal the chief's decision to the city council. Upon appeal, the city council shall decide if said proof meets the requirements of subsection a. of this section and the Code. If the city council so determines, the permittee may proceed with the sale or offer for sale of mixed beverages on the permittee's premises between the hours of twelve midnight and two a.m. on any day. If the city council determines that said proof does not meet the requirements of said subsection or the Code, the city council may request of the TABC to cancel or suspend the permittee's late-hours permit or to seek any other remedies available at law to the TABC.

Section 4. Permit fee.

- a. A fee in an amount not to exceed one-half the state fee shall be charged and collected for each permit issued by the TABC for premises located within the city, including a mixed beverage permit and a late-hours permit, but the city shall not levy and collect a fee on a mixed beverage permit or a late-hours permit for three years following the issuance by the TABC of said permits to a permittee.

Section 5. Penalty. A violation of this ordinance is a violation of the Texas Alcoholic Beverage Code and subject to the penalties provided for thereunder.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be

severable.

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

Section 8. Compliance with Open Meetings Act. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, TEX. GOV'T CODE, and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon.

Section 9. Effective date. This ordinance shall take effect from and after its final passage and publication as required by law.

PASSED AND APPROVED on First Reading this ____ day of _____, 2014.

PASSED AND ADOPTED on Second Reading this ____ day of _____, 2014.

THE CITY OF KYLE, TEXAS

BY: _____
R. Todd Webster, Mayor

ATTEST:

APPROVED AS TO FORM:

Amelia Sanchez, City Secretary

Ken Johnson, City Attorney



CITY OF KYLE, TEXAS

Executive Session-Convene, Economic Development

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: 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.

Other Information:

Budget Information:

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

Attachments / click to download



CITY OF KYLE, TEXAS

Executive Session-Reconvene, Economic Development

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Reconvene into Open Session to take any and all actions as deemed appropriate 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.

Other Information:

Budget Information:

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CITY OF KYLE, TEXAS

Exec Session-Convene re Bunton Creek PID potential litigation

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Convene into executive session pursuant to Section 551.071(1)(A), Tex. Gov't Code (Consultation with Attorney regarding pending or contemplated litigation) concerning the Bunton Creek Public Improvement District and assessments levied.

Other Information:

Budget Information:

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CITY OF KYLE, TEXAS

Executive Session-Reconvene re Bunton Creek PID potential litigation

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Reconvene into Open Session to take any and all actions as deemed appropriate regarding pending or contemplated litigation concerning the Bunton Creek Public Improvement District and assessments levied.

Other Information:

Budget Information:

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CITY OF KYLE, TEXAS

Executive Session-Convene re Hiring of City Manager

Meeting Date:

11/18/2014

Date time: 7:00 PM

Subject/Recommendation:

Convene into executive session pursuant to Tex. Gov't Code Sec. 551.074 (Personnel) and Sec. 551.071(2) (Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551) to deliberate and take possible action to hire a city manager and if appropriate, to negotiate and execute an agreement for employment with the selected individual.

Other Information:

Budget Information:

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CITY OF KYLE, TEXAS

Executive Session-Reconvene re: Hiring of City Manager

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Reconvene into regular session to discuss and take possible action to hire a city manager and if appropriate, to negotiate and execute an agreement for employment with the selected individual.

Other Information:

Budget Information:

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CITY OF KYLE, TEXAS

Ordinance re Budget Amendment #1 for FY 2014-15: \$114,600 (First Reading)

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2014-15 by increasing total appropriations for expenditures by \$114,600; General Fund by \$95,800 and the Utility Fund by \$18,800 and decreasing fund balance by the same amounts in the General Fund and the Utility Fund respectively for payment of fine to Texas Commission on Environmental Quality (TCEQ) and for implementation of technology improvements for the City's information systems. ~ *Perwez A. Moheet, CPA, Director of Finance*

• PUBLIC HEARING

Other Information: On October 21, 2014, the City Council directed City staff to prepare a budget amendment in the amount of \$18,744.00 for City Council's consideration in order to pay for the City's 50 percent share of the fine levied by the Texas Commission on Environmental Quality (TCEQ) associated with the operation of the wastewater collection and treatment system.

In addition, funding is being provided for the implementation of the following technology improvements:

- A. \$52,500 for fiber network connectivity of all City facilities.
- B. \$33,300 for Microsoft Office 365.
- C. \$10,000 for Granicus project management system for City Council.

Budget Information: A budget amendment Ordinance is attached.

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

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[Ordinance - Budget Amendment #1](#)

Cover Memo

Item # 17

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING ORDINANCE NO. 820 ADOPTED ON SEPTEMBER 3, 2014 MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY FOR FISCAL YEAR BEGINNING OCTOBER 1, 2014 AND ENDING SEPTEMBER 30, 2015; BY INCREASING THE TOTAL AMOUNT OF APPROPRIATIONS FOR EXPENDITURES BY \$114,600; GENERAL FUND BY \$95,800 AND THE UTILITY FUND BY \$18,800 AND APPROPRIATING IN THE SAME AMOUNTS AS SOURCE OF FUNDS FROM THE FUND BALANCE IN THE CITY'S GENERAL FUND AND THE UTILITY FUND RESPECTIVELY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE:

Section 1.0 Amendment to Current Budget. That the appropriations for the Fiscal Year beginning October 1, 2014 and ending September 30, 2015, for the support of the general government of the City of Kyle, Texas, be amended for said term by increasing the amount of appropriations for expenditures in the General Fund by \$95,800 and in the Utility Fund by \$18,800.00 and appropriating in the same amounts as source of funds from the Fund Balance in the City's General Fund and the Utility Fund respectively in order to provide funding for the following expenditure items:

- (A) \$18,800 for the City's share of the fine levied by the Texas Commission on Environmental Quality (TCEQ) associated with the operation of the wastewater collection and treatment system,
- (B) \$52,500 for the implementation of fiber network connectivity of all City facilities to be provided by Time Warner Cable Business Class,
- (C) \$33,300 for the implementation of Microsoft Office 365 for all workstations, and
- (D) \$10,000 for the implementation of Granicus project management software for City Council.

Section 2.0 Approval of Amendment. That the amendment, as shown in words and figures above, is hereby approved in all aspects and adopted as an amendment to the City budget for the Fiscal Year beginning October 1, 2014 and ending September 30, 2015.

Section 3.0 Conflict. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 4.0 Open Meetings. That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Ch. 551, LGC.

Section 5.0 Effective Date. This Ordinance shall be in full force and effect from and after the date of its final passage and adoption in accordance with the provisions of applicable state law and the City Charter.

PASSED AND APPROVED on First Reading this ____ day of November, 2014.

FINALLY PASSED AND APPROVED on this the ____ day of November, 2014.

THE CITY OF KYLE, TEXAS

BY: _____
R. Todd Webster, Mayor

ATTEST:

APPROVED AS TO FORM:

Amelia Sanchez, City Secretary

Ken Johnson, City Attorney



CITY OF KYLE, TEXAS

Ordinance Authorizing Issuance of GO Refunding Bonds, Series 2014

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation:

Approve an Ordinance authorizing the issuance of City of Kyle, Texas, General Obligation Refunding Bonds, Series 2014; authorizing certain parameters for the bonds; authorizing the execution and delivery of an escrow agreement, a paying agent/registrars agreement and other instruments and procedures related thereto; delegating authority to the city manager or the director of finance to select outstanding obligations to be refunded and approve all final terms of the bonds, approving the preparation and distribution of a notice of sale and official statement, and calling certain obligations for redemption. ~ *Perwez A. Moheet, CPA, Director of Finance*

• PUBLIC HEARING

Other Information:

A public notice was published in the Hays Free Press on October 29, 2014 to notify the public that the City Council of the City of Kyle, Texas, will convene at 7:00 p.m. on the 18th day of November, 2014, at its regular meeting place in the City Hall, 100 W. Center Street, Kyle, Texas, and during such meeting, the City Council will conduct a public hearing on whether it should issue its City of Kyle, Texas General Obligation Refunding Bonds, Series 2014 in order to refund approximately \$7,045,000 of its outstanding City of Kyle, Texas Combination Tax and Revenue Certificates of Obligation, Series 2008.

The purpose of the refunding is to provide debt service savings to the City. The City of Kyle is authorized to issue refunding bonds without an election subject to Chapter 1207, Texas Government Code. No provision is made for a petition in connection with such refunding bonds.

The refunding bonds, if issued, will be payable from the levy of an annual ad valorem tax, within the limitations prescribed by law, upon all taxable property within the City. After the conclusion of the public hearing, the City Council will consider whether to issue such City of Kyle, Texas General Obligation Refunding Bonds, Series 2014.

Budget Information:

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

Attachments / click to download

 [Ordinance - Bonds GO Refunding Series 2014](#)

 [Preliminary Analysis GO Refunding Bonds Series 2014](#)

ORDINANCE NO. ____

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF KYLE, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2014; AUTHORIZING CERTAIN PARAMETERS FOR THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO; DELEGATING AUTHORITY TO THE CITY MANAGER OR THE DIRECTOR OF FINANCE TO SELECT OUTSTANDING OBLIGATIONS TO BE REFUNDED AND APPROVE ALL FINAL TERMS OF THE BONDS, APPROVING THE PREPARATION AND DISTRIBUTION OF A NOTICE OF SALE AND OFFICIAL STATEMENT, AND CALLING CERTAIN OBLIGATIONS FOR REDEMPTION

WHEREAS, the City of Kyle, Texas (the "City") has heretofore issued its Combination Tax and Revenue Certificates of Obligation, Series 2008; and

WHEREAS, the City desires to refund the callable portion of the outstanding Combination Tax and Revenue Certificates of Obligation, Series 2008 in advance of their maturities as determined pursuant to the parameters set forth herein (collectively, the "Refunded Bonds"); and

WHEREAS, Chapter 1207, Texas Government Code (the "Act"), as amended, authorizes the City to issue refunding bonds payable from taxes, without an election, for the purpose of refunding the Refunded Bonds in advance of their maturities and to accomplish such refunding by depositing directly with any paying agent for the Refunded Bonds the proceeds of such refunding bonds, together with other available funds, in an amount sufficient to provide for the payment or redemption of the Refunded Bonds, and provide that such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Bonds; and

WHEREAS, the Act further authorizes the City to delegate the authority to effect the sale of the refunding bonds hereinafter authorized to either of the City Manager or Director of Finance (the "Pricing Officer"); and

WHEREAS, the City desires to authorize the execution of an escrow agreement between the City and the Escrow Agent named therein (the "Escrow Agreement") and provide for the deposit of proceeds of the refunding bonds, together with other funds, if available, to pay the Refunded Bonds; and

WHEREAS, the City desires to achieve a present value savings and to restructure the City's debt service obligations; and

WHEREAS, upon the issuance of the refunding bonds herein authorized and the deposit of funds referred to above, the Refunded Bonds shall no longer be regarded as being outstanding, except for the purpose of being paid pursuant to such deposit, and the pledges, liens, trusts and all other covenants, provisions, terms and conditions of the ordinance authorizing the issuance of the Refunded Bonds shall be, with respect to the Refunded Bonds, discharged, terminated and defeased; and

WHEREAS, the Bonds hereinafter authorized and designated are to be issued and delivered pursuant to the Act.

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

SECTION 1. Recitals; Consideration. It is hereby found and determined that the matters and facts set out in the preamble to this Ordinance are true and correct.

It is hereby found and determined that the transactions contemplated in this Ordinance will benefit the City by providing a present value savings in the debt service payable by the City, and that such benefit is sufficient consideration for the refunding of the Refunded Bonds, and that the issuance of the refunding bonds is in the best interest of the City.

SECTION 2. Definitions. Throughout this Ordinance the following terms and expressions as used herein shall have the meanings set forth below:

The term "Act" shall mean Chapter 1207, Texas Government Code, as amended.

The term "Bonds" shall mean the \$_____ * City of Kyle, Texas General Obligation Refunding Bonds, Series 2014, authorized in this Ordinance, unless the context clearly indicates otherwise.

The term "Business Day" shall mean any day which is not a Saturday, Sunday, or a day on which the Registrar is authorized by law or executive order to close, or a legal holiday.

The term "City" shall mean the City of Kyle, Texas.

The term "Code" shall mean the Internal Revenue Code of 1986, as amended.

The term "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

The term "Dated Date" shall mean the dated date of the Bonds, _____, * 2014.

* From Officer's Pricing Certificate.

The term "Designated Payment/Transfer Office" shall mean the office of the Paying Agent which is designated for the presentment of the Bonds.

The term "DTC" shall mean The Depository Trust Company, New York, New York, or any successor securities depository.

The term "DTC Participant" shall mean any broker, dealer, bank, trust company, clearing corporation or certain other organizations with bonds credited to an account maintained on its behalf by DTC.

The term "Escrow Agent" shall mean _____*, as escrow agent for the Refunded Bonds.

The term "Escrow Agreement" shall mean the agreement between the City and the Escrow Agent relating to the escrow of funds to pay the Refunded Bonds.

The term "Interest and Sinking Fund" shall mean the interest and sinking fund for payment of the Bonds established by the City in Section 19 of this Ordinance.

The term "Interest Payment Date", when used in connection with any Bond, shall mean February 15, 2015, and each August 15 and February 15 thereafter until maturity or earlier redemption.

The term "Issuer" shall mean the City.

The term "Officer's Pricing Certificate" shall mean the certificate executed by the Pricing Officer confirming the sale of the Bonds, including the amount, interest rate, and terms thereof and other procedures and provisions related thereto.

The term "Ordinance" as used herein and in the Bonds shall mean this ordinance authorizing the Bonds.

The term "Owner" or "Registered Owner" shall mean any person who shall be the registered owner of any outstanding Bond.

The term "Paying Agent" shall mean the Registrar.

The term "Pricing Officer" means the City Manager or the Director of Finance, each of whom is authorized to make the determinations required in Section 5 of this Ordinance.

The term "Purchaser" shall mean the successful bidder which will be reflected in the Officer's Pricing Certificate.

* From Officer's Pricing Certificate.

The term "Record Date" for the interest payable on any Interest Payment Date shall mean the close of business on the last business day of the preceding month.

The term "Refunded Bonds" means those obligations selected by the Pricing Officer for refunding from the Schedule of Potential Refunding Candidates shown on Exhibit "A" attached to this Ordinance. A schedule showing the Refunded Bonds shall be attached to the Officer's Pricing Certificate.

The term "Register" shall mean the books of registration kept by the Registrar, in which are maintained the names and addresses of and the principal amounts of the Bonds registered to each Owner.

The term "Registrar" shall mean initially _____* and its successors in that capacity.

SECTION 3. Authorization. The Bonds shall be issued pursuant to the Act as fully registered obligations, without coupons in a maximum principal amount not to exceed \$8,125,000 for the purpose of refunding the Refunded Bonds, to restructure and level the debt service of the City, to provide a present value savings to the City and to pay costs of issuance of the Bonds.

SECTION 4. Date, Denomination, Interest Rates and Maturities. The Bonds shall be designated as the "CITY OF KYLE, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2014," and shall be dated as set out in the Officer's Pricing Certificate, shall mature on August 15 in each of the years and in the amounts set out in the Officer's Pricing Certificate, shall be subject to redemption as set forth in the Officer's Pricing Certificate, and shall bear interest from their Dated Date at the rates set forth in the Officer's Pricing Certificate payable on the dates set forth in the Officer's Pricing Certificate. The Bonds may be transferred and exchanged as set out in this Ordinance. The Initial Bond shall be numbered I-1 and all other Bonds shall be numbered in sequence beginning with R-1. Bonds delivered on transfer of or in exchange for other Bonds shall be numbered in order of their authentication by the Registrar, shall be in the denomination of \$5,000 or integral multiples thereof, and shall mature on the same date and bear interest at the same rate as the Bond or Bonds in lieu of which they are delivered.

SECTION 5. Selling and Delivering the Bonds. As authorized by Section 1207.007 of the Act, the Pricing Officer is hereby authorized to act on behalf of the City in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including without limitation, determining the price at which the Bonds will be sold, the issuance date for the Bonds, the form in which the Bonds shall be issued (whether as current interest bonds or as any combination of current interest bonds and compound interest bonds), the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, whether subject to mandatory sinking fund redemption, the dates, and all other

* From Officer's Pricing Certificate.

matters not expressly provided in this Ordinance, relating to the issuance, sale and delivery of the Bonds, and the refunding of the Refunded Bonds, all of which shall be specified in the Officer's Pricing Certificate; provided that:

- (i) the price to be paid for the Bonds shall not be less than 90% of the aggregate original principal amount of the current interest bonds or 90% of the present value of any compound interest bonds plus accrued interest thereon from the Dated Date to their date of delivery;
- (ii) none of the Bonds shall bear interest at a rate greater than 15% per annum or in excess of the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;
- (iii) the proceeds from the sale of the Bonds, along with any available funds of the City to be used in the refunding, must be sufficient to provide, after all original issue discount and underwriter's discount, amounts necessary to fund the costs and expenses of refunding the Refunded Bonds and the estimated costs of issuance of the Bonds;
- (iv) the net present value savings in debt service resulting from the issuance of the Bonds shall be at least 3% as shown by a table of calculations prepared by the City's financial advisor and attached to the Officer's Pricing Certificate;
- (v) the par amount of the Bonds shall not exceed \$7,750,000; and
- (vi) the maximum maturity of the Bonds shall not exceed August 15, 2028.

SECTION 6. Execution of Bonds; Seal. The Bonds shall be signed by the Mayor and City Secretary, by their manual, lithographed, or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds. If any officer of the City whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the authentication of such Bonds or before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

SECTION 7. Approval by Attorney General; Registration by Comptroller. The Initial Bond shall be delivered to the Attorney General of Texas for approval and shall be registered by the Comptroller. The manually executed registration certificate of the Comptroller substantially in the form provided in Section 22 of this Ordinance shall be attached or affixed to the Initial Bond.

SECTION 8. Authentication. Except for the Initial Bond, which need not be authenticated by the Registrar, only such Bonds which bear thereon a certificate of authentication, substantially in the form provided in Section 22 of this Ordinance, manually executed by an authorized representative of the Registrar, shall be entitled to the benefits of this Ordinance or shall be valid or obligatory for any purpose. Such duly executed certificate of authentication shall be conclusive evidence that the Bonds so authenticated were delivered by the Registrar hereunder.

SECTION 9. Payment of Principal and Interest. The Registrar is hereby appointed as the Paying Agent and Registrar for the Bonds. The principal of the Bonds shall be payable, without exchange or collection charges, in any coin or currency of the United States of America which on the date of payment is legal tender for the payment of debts due the United States of America, upon their presentation and surrender as they respectively become due and payable, whether at maturity or by prior redemption, at the Designated Payment/Transfer Office of the Registrar. The interest on each Bond shall be payable on each Interest Payment Date, by check mailed by the Registrar on or before the Interest Payment Date to the Owner of record as of the Record Date, to the address of such Owner as shown on the Register, or by such other method acceptable to the Registrar, requested by, and at the risk and expense of, the Owner.

If the date for payment of the principal of or interest on any Bond is not a Business Day, then the date for such payment shall be the next succeeding Business Day with the same force and effect as if made on the date payment was originally due.

SECTION 10. Successor Registrars. The City covenants that at all times while any Bonds are outstanding it will provide a commercial bank or trust company organized under the laws of the State of Texas or other entity duly qualified and legally authorized to serve as and perform the duties and services of the Registrar and Paying Agent for the Bonds. The City reserves the right to change the Registrar on not less than 60 days written notice to the Registrar, so long as any such notice is effective not less than 60 days prior to the next succeeding principal or Interest Payment Date on the Bonds. Promptly upon the appointment of any successor Registrar, the previous Registrar shall deliver the Register or copies thereof to the new Registrar, and the new Registrar shall notify each Owner, by United States mail, first class postage prepaid, of such change and of the address of the new Registrar. Each Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Section.

SECTION 11. Special Record Date. If interest on any Bond is not paid on any Interest Payment Date and continues unpaid for thirty (30) days thereafter, the Registrar shall establish a new record date for the payment of such interest, to be known as a Special Record Date. The Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the City. Such Special Record Date shall be fifteen (15) days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class, postage prepaid, not later than five (5) days prior to the Special Record Date, to each affected Owner of record as of the close of business on the date prior to the mailing of such notice.

SECTION 12. Ownership; Unclaimed Principal and Interest. The City, the Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment of the principal of or interest on such Bond, and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Owner of any Bond in accordance with this Section 12 shall be valid and effectual and shall discharge the liability of the City and the Registrar upon such Bond to the extent of the sums paid.

Amounts held by the Registrar which represent principal of and interest on the Bonds remaining unclaimed by the Owner after the expiration of three years from the date such amounts have become due and payable shall be reported and disposed of by the Registrar in accordance with the applicable provisions of Texas law including, to the extent applicable, Title 6 of the Texas Property Code, as amended.

SECTION 13. Registration, Transfer, and Exchange. So long as any Bonds remain outstanding, the Registrar shall keep the Register at its Designated Payment/Transfer Office and, subject to such reasonable regulations as it may prescribe, the Registrar shall provide for the registration and transfer of Bonds in accordance with the terms of this Ordinance.

Each Bond shall be transferable only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Registrar, duly endorsed for transfer, or accompanied by an assignment duly executed by the Registered Owner or his authorized representative in form satisfactory to the Registrar. Upon due presentation of any Bond for transfer, the Registrar shall, to the extent possible and under reasonable circumstances, authenticate and deliver in exchange therefor, within 72 hours after such presentation, a new Bond or Bonds, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity and aggregate principal amount and bearing interest at the same rate as the Bond or Bonds so presented.

All Bonds shall be exchangeable upon presentation and surrender thereof at the Designated Payment/Transfer Office of the Registrar for a Bond or Bonds of the same maturity and interest rate and in any authorized denomination, in an aggregate amount equal to the unpaid principal amount of the Bond or Bonds presented for exchange. The Registrar shall be and is hereby authorized to authenticate and deliver exchange Bonds in accordance with the provisions of this Section 13. Each Bond delivered in accordance with this Section 13 shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such Bond is delivered.

The City or the Registrar may require the Owner of any Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in

connection with the transfer or exchange of such Bond. Any fee or charge of the Registrar for such transfer or exchange shall be paid by the City.

SECTION 14. Mutilated, Lost, or Stolen Bonds. Upon the presentation and surrender to the Registrar of a mutilated Bond, the Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like maturity, interest rate, and principal amount, bearing a number not contemporaneously outstanding. If any Bond is lost, apparently destroyed, or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authorize and the Registrar shall authenticate and deliver a replacement Bond of like maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding.

The City or the Registrar may require the Owner of a mutilated Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Registrar. The City or the Registrar may require the Owner of a lost, apparently destroyed or wrongfully taken Bond, before any replacement Bond is issued, to:

- (1) furnish to the City and the Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Bond;
- (2) furnish such security or indemnity as may be required by the Registrar and the City to save them harmless;
- (3) pay all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Registrar and any tax or other governmental charge that may be imposed; and
- (4) meet any other reasonable requirements of the City and the Registrar.

If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Bond, authorize the Registrar to pay such Bond.

Each replacement Bond delivered in accordance with this Section 14 shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

SECTION 15. Cancellation of Bonds. All Bonds paid in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment. The Registrar shall furnish the City with appropriate certificates of destruction of such Bonds.

SECTION 16. Book-Entry-Only System.

(a) The definitive Bonds shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in Section 17 hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to the Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds, except as provided in this Ordinance. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute Owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on the Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this

Ordinance with respect to interest checks or drafts being mailed to the Registered Owner at the close of business on the Record Date, the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

SECTION 17. Successor Securities Depository; Transfer Outside Book-Entry-Only System. In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter by and between the City, the Paying Agent/Registrar and DTC (the "Representation Letter"), and that it is in the best interest of the Owners of the Bonds that they be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the City or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended; notify DTC and DTC Participants, as identified by DTC, of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants, as identified by DTC, of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts, as identified by DTC. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

SECTION 18. Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Representation Letter.

SECTION 19. Interest and Sinking Fund; Tax Levy. There is hereby established a separate fund of the City to be known as the City of Kyle, Texas General Obligation Refunding Bonds, Series 2014 Interest and Sinking Fund (the "Interest and Sinking Fund"), which shall be kept separate and apart from all other funds of the City. The proceeds from all taxes levied, assessed and collected for and on account of the Bonds authorized by this Ordinance shall be deposited, as collected, in the Interest and Sinking Fund. While the Bonds or any part of the principal thereof or interest thereon remain outstanding and unpaid, there is hereby levied and there shall be annually assessed and collected in due time, form and manner, and at the same time as other City taxes are assessed, levied and collected, in each year, beginning with the current year, a continuing direct annual ad valorem tax, within the limits prescribed by law, upon all taxable property in the City, sufficient to pay the current interest on the Bonds as the same becomes due and to provide and maintain a sinking fund of not less than two percent (2%) of the principal amount of the Bonds or the amount required to pay each installment of principal of the Bonds as the same matures, whichever is greater, full allowance being made for delinquencies and costs of collection, and said taxes are

hereby irrevocably pledged to the payment of the interest on and principal of the Bonds and to no other purpose.

SECTION 20. Effect of Pledge. Chapter 1208, Texas Government Code, as amended, applies to the issuance of the Bonds and the pledge of the taxes thereof granted by the City under Section 19 of this Ordinance, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the taxes granted by the City under Section 19 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the Registered Owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

SECTION 21. Redemption. The Bonds shall be subject to optional redemption prior to maturity to the extent provided in the Officer's Pricing Certificate. To the extent provided in the bid, the Pricing Officer shall include any mandatory redemption provisions for the Bonds in the Officer's Pricing Certificate.

SECTION 22. Forms.

(a) *Form Generally*. The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Authentication Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Bonds, (i) shall be substantially in the form set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and as may be necessary to conform to the terms specified in the Officer's Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) *Placement of Text*. Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) *Definitive Bonds*. The definitive Bonds shall be typed, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) *Initial Bond*. The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

(e) *Form of the Bonds.* The form of the Bonds, including the form of the Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller, which shall be attached or affixed to the Bonds initially issued, shall be, respectively, substantially as follows, with such additions, deletions and variations as may be necessary or desirable and not prohibited by this Ordinance:

REGISTERED
NO. R-__

REGISTERED PRINCIPAL
AMOUNT \$_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF KYLE, TEXAS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2014

Dated Date:	Interest Rate:	Stated Maturity:	CUSIP No.:
_____, 2014	_____%	August 15, ____	_____

Registered Owner:

Principal Amount: _____ DOLLARS

The City of Kyle, Texas (hereinafter referred to as the "City"), for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid principal amount hereof from the Dated Date specified above at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 in each year, commencing February 15, 2015. Principal of this Bond is payable at its Stated Maturity or redemption to the Registered Owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor. Interest is payable to the Registered Owner of this Bond whose name appears on the "Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the last business day of the month next preceding each Interest Payment Date, and interest shall be paid by the Paying Agent/Registrar by check sent by United States mail, first class postage prepaid, to the address of the Registered Owner recorded in the Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. All payments of principal of and interest on this Bond shall be without exchange or collection charges to the Registered

Owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

THIS BOND is one of a duly authorized issue of General Obligation Refunding Bonds, Series 2014, in the aggregate amount of \$_____ (the "Bonds"), issued for the purpose of refunding the Refunded Bonds, to restructure and level the debt service of the City, to provide a present value savings to the City and to pay costs of issuance, pursuant to an ordinance adopted by the City Council on November 18, 2014 (the "Ordinance"). Capitalized terms used herein have the meanings assigned in the Ordinance.

[Redemption provisions from Officer's Pricing Certificate]

The Bonds are payable from the proceeds of an ad valorem tax levied, within the limits prescribed by law, upon all taxable property in the City. Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the Registered Owner or Holder of this Bond by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of this Bond; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be discharged at or prior to its maturity, and deemed to be no longer outstanding thereunder; and for other terms and provisions contained therein.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the Registered Owner hereof, or his duly authorized agent. When a transfer on the Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations of \$5,000 or any integral multiple thereof, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the Registered Owner whose name appears on the Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal at the Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a Bond on a scheduled payment date and for thirty (30) days thereafter, a new record date for such

* From Officer's Pricing Certificate.

interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each Registered Owner of a Bond appearing on the Register at the close of business on the last business day next preceding the date of mailing of such notice.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things to be done precedent to and in the issuance of this Bond and the series of which it is a part, have been properly done, have happened and have been performed in regular and due time, form and manner as required by law; that proper provisions have been made for the levy and collection annually of taxes upon all taxable property in said City sufficient, within the limits prescribed by law, to pay the interest on this Bond and the series of which it is a part as due and to provide for the payment of the principal as the same matures; and that the total indebtedness of the City, including the Bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

Mayor
City of Kyle, Texas

City Secretary
City of Kyle, Texas

[CITY SEAL]

Form of Registration Certificate
of Comptroller of Public Accounts

The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such certificate on the Initial Bond is fully executed.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY SIGNATURE AND SEAL this _____.

(SEAL)

XXXXXXXXXX

Comptroller of Public Accounts
of the State of Texas

Form of Registrar's Authentication Certificate

The following Authentication Certificate of Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.

AUTHENTICATION CERTIFICATE

It is hereby certified that this Bond has been delivered pursuant to the Ordinance described in the text of this Bond.

_____ *

As Paying Agent/Registrar

By: _____
Authorized Signature

Date of Authentication _____

Form of Assignment

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto

(Please print or typewrite name and address, including zip code, of Transferee) / (Please insert Social Security or Taxpayer Identification Number)
 the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

 NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution as defined by SEC Rule 17Ad-15 (17 CFR 240-17Ad-15).

 NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

- (f) *The Initial Bond shall be in the form set forth therefor in paragraph (a) of this Section, except as follows:*

Heading and paragraph one shall be amended to read as follows:

REGISTERED
 No. I-1

\$ _____ *

UNITED STATES OF AMERICA
 STATE OF TEXAS
 CITY OF KYLE, TEXAS
 GENERAL OBLIGATION REFUNDING BOND
 SERIES 2014

Dated Date:

CUSIP No.: _____ *

Registered Owner: _____

Principal Amount: _____ *

The City of Kyle, Texas (hereinafter referred to as the "City"), for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on August 15 in the years and in the principal installments in accordance with the following schedule:

<u>MATURITY</u>	<u>PRINCIPAL AMOUNT</u>	<u>INTEREST RATE</u>
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[information to be inserted from Officer's Pricing Certificate]

(or so much principal thereof as shall not have been prepaid prior to maturity) and to pay interest on the unpaid principal installments hereof from the Dated Date specified above at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 in each year, commencing February 15, 2015. Principal installments of this Bond are payable in the year of maturity or on a prepayment date to the Registered Owner hereof by _____* (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated office in _____, _____* (the "Designated Payment/Transfer Office"). Interest is payable to the Registered Owner of this Bond whose name appears on the "Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the last business day of the month next preceding each Interest Payment Date, and interest shall be paid by the Paying Agent/Registrar by check sent by United States mail, first class postage prepaid, to the address of the Registered Owner recorded in the Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the Registered Owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

SECTION 23. Further Proceedings. After the Bonds to be initially issued shall have been executed, it shall be the duty of the Mayor and other appropriate officials and agents of the City to deliver the Bonds to be initially issued and all pertinent records and proceedings to the Attorney General of the State of Texas, for examination and approval. After the Bonds to be initially issued shall have been approved by the Attorney General, they shall be delivered to the Comptroller for registration. Upon registration of the Bonds to be initially issued, the Comptroller (or the Comptroller's bond clerk or an assistant bond clerk lawfully designated in writing to act for the Comptroller)

* From Officer's Pricing Certificate.

* From Officer's Pricing Certificate.

shall manually sign the Comptroller's Registration Certificate prescribed herein and the seal of said Comptroller shall be impressed, or placed in facsimile, thereon.

SECTION 24. Sale of Bonds. The Bonds authorized by this Ordinance are to be duly advertised for public sale by the City and bids received. The Bonds shall be sold and delivered to the Purchaser at a purchase price set forth by the Pricing Officer in the Officer's Pricing Certificate to the Purchaser submitting the best bid submitted at the public sale, such bid being submitted electronically and such bid as submitted being attached to the Officer's Pricing Certificate. The Initial Bond shall be registered in the name of the Purchaser as set forth on the bid. Delivery of said Bonds shall be made to such Purchaser as soon as practicable after the adoption of this Ordinance, the acceptance of the bid by the Pricing Officer and upon payment for said Bonds. The City Manager or the Director of Finance are hereby authorized and directed to execute such Official Bid Form on behalf of the City, and the City Manager, Director of Finance and all other officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds. The terms and provisions of the bid are to be determined by the Pricing Officer in accordance with Section 5 hereof. With regard to such terms and provisions of said bid, the Pricing Officer is hereby authorized to come to an agreement in accepting the bid from the Purchaser on the following, among other matters:

1. The details of the purchase and sale of the Bonds;
2. The details of the public offering of the Bonds by the Purchaser;
3. The details of an Official Statement (and, if appropriate, any Preliminary Official Statement) related to the Bonds and the City's Rule 15c2-12 compliance;
4. A security deposit for the Bonds;
5. The representations and warranties of the City to the Purchaser;
6. The details of the delivery of, and payment for, the Bonds;
7. The Purchaser's obligations under the Bid Documents;
8. The certain conditions to the obligations of the City under the Bid Documents;
9. Termination of the bid;
10. Particular covenants of the City;
11. The survival of representations made in the Bid Documents;

12. The payment of any expenses relating to the Bid and acceptance;
13. Notices; and
14. Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Bonds.

The Pricing Officer is hereby authorized and directed to execute said Bid for and on behalf of the City and as the act and deed of this City Council.

SECTION 25. Covenants Regarding Tax Exemption of Interest on the Bonds.

The City covenants to take any action necessary to secure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Code, the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

(a) to take any action to assure that no more than 10 percent of the proceeds of the Bonds or the projects financed or refinanced therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds of the projects financed or refinanced therewith are so used, such amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(b) to take any action to assure that in the event the "private business use" described in subsection (a) hereof exceeds 5 percent of the proceeds of the Bonds or the projects licensed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(c) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(d) to refrain from taking any action which would otherwise result in the Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(e) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(f) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with—

(1) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the Bonds are issued,

(2) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(3) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(g) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings);

(h) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code; and

(i) to maintain such records as will enable the City to fulfill its responsibilities under this section and section 148 of the Code and to retain such records for at least six years following the final payment of principal and interest on the Bonds.

In order to facilitate compliance with the above covenants (h) and (i), a "Rebate Fund" is hereby authorized to be established by the City for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including, without limitation, the Registered Owners. The Rebate Fund is authorized to be established for the additional purpose of compliance with section 148 of the Code.

It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings

promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the Mayor, the City Manager and the Director of Finance of the City to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds.

SECTION 26. Notice of Sale; Official Statement. The form and content of the Notice of Sale and Bidding Instructions relating to the Bonds is hereby approved. The City Council hereby approves the form and content, and the use and distribution, of the Preliminary Official Statement prepared in the initial offering and sale of the Bonds and hereby authorizes the preparation of a final Official Statement reflecting the terms of the Official Bid with the Purchaser and other relevant matters. The use of such Official Statement in the reoffering of the Bonds by the Purchaser is hereby approved and authorized. The proper officials of the City are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Bonds. The City Secretary is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting.

SECTION 27. Bond Insurance. The purchase of and payment of the premium for municipal bond insurance, if any, by the City, shall be as set forth in the Officer's Pricing Certificate. All officials and representatives of the City are authorized and directed to execute such documents and to do any and all things necessary or desirable to obtain such insurance, and the printing on the Bonds of an appropriate legend regarding such insurance is hereby approved.

SECTION 28. Use of Proceeds. Proceeds from the sale of the Bonds shall, promptly upon receipt by the City, be applied as follows:

- (a) Accrued interest shall be deposited into the Interest and Sinking Fund and invested in direct obligations of the United States of America.
- (b) The balance of the proceeds from the sale of the Bonds shall be applied to establish an escrow fund to refund the Refunded Bonds, as more fully provided below, and, to the extent not otherwise provided for, to pay all

expenses arising in connection with the issuance of the Bonds, the establishment of such escrow fund and the refunding of the Refunded Bonds. Any proceeds of the Bonds remaining after making all such deposits and payments shall be deposited into the Interest and Sinking Fund.

SECTION 29. Escrow Agreement. The discharge and defeasance of the Refunded Bonds shall be effectuated pursuant to the terms and provisions of an Escrow Agreement to be entered into by and between the City and the Escrow Agent, which shall be substantially in the form attached hereto as Exhibit B, the terms and provisions of which are hereby approved, subject to such insertions, additions and modifications as shall be necessary (a) to carry out the refinancing program designed for the City by the Financial Advisor, and which shall be certified as to mathematical accuracy by Grant Thornton LLP, certified public accountants, whose Verification Report (the "Verification Report") shall be attached to the Escrow Agreement, (b) to maximize the City's present value savings and/or to minimize the City's costs of refunding, (c) to comply with all applicable laws and regulations relating to the refunding of the Refunded Bonds and (d) to carry out the other intents and purposes of this Ordinance, and the Mayor is hereby authorized to execute and deliver such Escrow Agreement on behalf of the City in multiple counterparts and the City Secretary is hereby authorized to attest thereto and affix the seal of the City.

SECTION 30. Redemption/Defeasance of Refunded Bonds.

(a) *Call*. The City hereby calls the following obligations of the City for redemption prior to maturity or defeasance to maturity on the date set forth below, at a price of par plus accrued interest to the date fixed for redemption, and authorizes and directs notice of such redemption to be given in accordance with the ordinance authorizing the issuance of such obligations:

Obligations to be Redeemed

Redemption Date

Combination Tax and Revenue
Certificates of Obligation, Series 2008

As specified in Officer's
Pricing Certificate

Maturities to be specified in Officer's
Pricing Certificate

The City hereby authorizes and instructs the Mayor, City Secretary, Interim/Assistant City Manager, Director of Finance and the Escrow Agent to take such steps as are necessary to accomplish the redemption and the defeasance of the Refunded Bonds in accordance with the provisions hereof.

(b) *Notice of Defeasance/Redemption*. The City hereby authorizes the Escrow Agent to give notice of defeasance/redemption of the Refunded Bonds in the manner and within the time required by the ordinance authorizing the issuance thereof.

SECTION 31. Refunding of Refunded Bonds. It is hereby found and determined that the refunding of the Refunded Bonds is advisable and necessary in order to restructure the principal and interest requirements of the City, and the City further finds and determines that the City will receive a present value savings on the debt service of the Refunded Bonds.

SECTION 32. Refunding.

(a) *Source of Funds for Redemption*. The source of funds for payment of the principal of and interest on the Refunded Bonds called for redemption and to be redeemed in advance of maturity pursuant to this Ordinance shall be from the funds placed with the Escrow Agent pursuant to this Ordinance.

(b) *Purchase of United States Treasury Obligations*. To assure the purchase of the Federal Securities referred to in the Escrow Agreement, the Pricing Officer and the Escrow Agent are hereby authorized to subscribe for, agree to purchase, and purchase non-callable obligations of the United States of America, in such amounts and maturities and bearing interest at such rates as may be provided for in the Report, and to execute any and all subscriptions, purchase agreements, commitments, letters of authorization and other documents necessary to effectuate the foregoing, and any actions heretofore taken for such purpose are hereby ratified and approved.

(c) *Related Matters*. To satisfy in a timely manner all of the City's obligations under this Ordinance and the Escrow Agreement, the Mayor, the City Secretary, the City Manager, Director of Finance and all other appropriate officers and agents of the City are hereby authorized and directed to take all other actions that are reasonably necessary to provide for the refunding of the Refunded Bonds, including, without limitation, executing and delivering on behalf of the City all certificates, consents, receipts, requests, and other documents as may be reasonably necessary to satisfy the City's obligations under the Escrow Agreement and this Ordinance and to direct the application of funds of the City consistent with the provisions of such Escrow Agreement and this Ordinance.

(d) *Transfer from Interest and Sinking Fund*. On the date of delivery of and payment for the Bonds there shall be transferred from the interest and sinking fund for the Refunded Bonds to the Escrow Agent, an amount sufficient, if any, when added to the proceeds of the Bonds, to provide for the refunding of the Refunded Bonds, all as set out in the Report.

SECTION 33. QUALIFIED TAX-EXEMPT OBLIGATIONS. The City hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of section 265(b) of the Code. In connection therewith, the City represents: (a) that the aggregate amount of tax-exempt obligations issued by the City during calendar year 2014, including the Notes, which have been designated as "qualified tax-exempt obligations" under section 265(b)(3) of the Code, does not exceed \$10,000,000, and (b) that the

reasonably anticipated amount of tax-exempt obligations which will be issued by the City during calendar year 2014 including the Bonds, will not exceed \$10,000,000. For purposes of this Section, the term "tax-exempt obligations" does not include "private activity bonds" within the meaning of section 141 of the Code, other than "qualified 501(c)(3) bonds" within the meaning of section 145 of the Code. In addition, for purposes of this Section, the City includes all governmental units which are aggregated with the City under the Code.

SECTION 34. Continuing Disclosure Undertaking.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"*EMMA*" means the Electronic Municipal Marketplace Access System established by the MSRB.

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

(b) Annual Reports. The City shall provide annually to the MSRB through EMMA, within six months after the end of each fiscal year ending in or after 2011, financial information and operating data with respect to the City that is of the general type included in the Official Statement authorized by Section 26, being the information described in Tables 1 through 4 and 6 through 9 and in Appendix B thereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles the City may be required to employ from time to time in accordance with State law, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide (1) unaudited financial statements for such fiscal year within such six month period, and (2) audited financial statements for the applicable fiscal year to the MSRB through EMMA when and if the audit report on such statements becomes available.

If the City changes its fiscal year, it will notify the MSRB through EMMA of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB, that theretofore has been provided to the MSRB through EMMA or filed with the SEC).

(c) Event Notices. The City shall notify the MSRB through EMMA, in a timely manner not in excess of ten business days after the occurrence, of any of the following events with respect to the Bonds, if such event is material within the meaning of the federal securities laws:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds or other material events affecting the tax-exempt status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event;
13. The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(d) Limitations, Disclaimers and Advertisements.

The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by paragraph (c) of any Bond call or defeasance that causes the City to no longer be such an “obligated person.”

The provisions of this Section are for the sole benefit of the Bondholders and the beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the financial results, condition, or prospects of the City or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell the Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO BONDHOLDERS OR THE BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION 34, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances; and (ii)

either (A) a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Bondholders' consent to such amendment or (B) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Bondholders and the beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, or at the discretion of the City in any other circumstance, but in either case only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering, giving effect to (x) such provisions as so amended and (y) any amendments or interpretations of the Rule. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 35. Defeasance.

(a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Bond") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "Future Escrow Agreement") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the City with the Paying Agent/Registrar for the payment of its services until all Defeased Bonds shall have become due and payable. At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Bonds that is made in conjunction with the payment arrangements specified in subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the City expressly reserves the right to call the Defeased Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Bonds immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in

any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the City be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Bonds and interest thereon, with respect to which such money has been so deposited, shall be turned over to the City, or deposited as directed in writing by the City. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Bonds may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsection (a)(i) or (ii) of this Section. All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Bonds, with respect to which such money has been so deposited, shall be remitted to the City or deposited as directed in writing by the City.

(c) Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) In the event that the City elects to defease less than all of the principal amount of Bonds of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Bonds by such random method as it deems fair and appropriate.

SECTION 36. Reserved.

SECTION 37. Ordinance a Contract; Amendments. The Ordinance shall constitute a contract with the Owners, from time to time, of the Bonds, binding on the City and its successors and assigns, and shall not be amended or repealed by the City as long as any Bond remains outstanding except as permitted in this Section. The City may amend the Ordinance without the consent of or notice to any Owners to (i) cure any ambiguity, defect or omission therein that does not materially adversely affect the interests of the holders; (ii) grant additional rights or security for the benefit of the holders; (iii) add events of default as shall not be inconsistent with the provisions of the Ordinance that do not materially adversely affect the interests of the holders; (iv) qualify the Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect; or (v) make such other provisions in regard to matters or questions arising under the Ordinance that are not inconsistent with the provisions thereof and which, in the opinion of Bond Counsel for the City, do not materially adversely affect the interests of the holders. In addition, the City may amend the Ordinance in ways not described above with the consent of the holders of a majority of the aggregate principal amount of the Bonds outstanding if it is deemed

necessary or desirable by the City; provided, however, that without the consent of the holders of 100% of the then outstanding Bonds, no amendment may be made for the purpose of: (i) making any change in the maturity of any of the outstanding Bonds; (ii) reducing the rate of interest borne by any of the outstanding Bonds; (iii) reducing the amount of the principal of, or redemption premium, if any, payable on any outstanding Bonds; (iv) modifying the terms of payment of principal, interest or redemption premium on outstanding Bonds, or imposing any condition with respect to such payment; or (v) changing the minimum percentage of the principal amount of the Bonds necessary for consent to such amendment.

SECTION 38. Related Matters. The Mayor, City Secretary, Interim/Assistant City Manager, Director of Finance, and all other officers, employees, and agents of the City, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Officer's Pricing Certificate, the Bonds, the sale of the Bonds, the Official Statement, the Escrow Agreement and the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Bonds, the Mayor, City Secretary, Interim/Assistant City Manager, Director of Finance and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy any requirements of the provider of a municipal bond insurance policy, if any, or (iii) obtain the approval of the Bonds by the Attorney General's office. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 39. No Personal Liability. No recourse shall be had for payment of the principal of or interest on any Bonds or for any claim based thereon, or on this Ordinance, against any official or employee of the City or any person executing any Bonds.

SECTION 40. Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

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PASSED AND APPROVED this 18th day of November, 2014.

Mayor
City of Kyle, Texas

ATTEST:

City Secretary
City of Kyle, Texas

[CITY SEAL]

Exhibit A**Schedule of Potential Refunding Candidates**

**City of Kyle, Texas
General Obligation Refunding Bonds
Series 2014**

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
<hr/>					
Combination Tax and Revenue Certificates of Obligation, Series 2008					
	08/15/2017	4.000%	505,000	08/15/2016	100%
	08/15/2018	4.000%	525,000	08/15/2016	100%
	08/15/2019	4.000%	550,000	08/15/2016	100%
	08/15/2020	4.000%	570,000	08/15/2016	100%
	08/15/2021	4.000%	590,000	08/15/2016	100%
	08/15/2022	4.000%	615,000	08/15/2016	100%
	08/15/2023	4.000%	640,000	08/15/2016	100%
	08/15/2024	4.000%	665,000	08/15/2016	100%
	08/15/2025	4.000%	695,000	08/15/2016	100%
	08/15/2026	4.000%	720,000	08/15/2016	100%
	08/15/2027	4.000%	750,000	08/15/2016	100%
			\$ 6,825,000		

Exhibit B
Escrow Agreement

SOURCES AND USES OF FUNDS

City of Kyle, Texas
General Obligation Refunding Bonds, Series 2014
AA- BQ Scale as of October 9, 2014
*****Preliminary - For Discussion Purpose Only*****

Dated Date	12/02/2014
Delivery Date	12/02/2014

Sources:**Bond Proceeds:**

Par Amount	7,410,000.00
Premium	691,505.65
	<hr/>
	8,101,505.65

Uses:**Refunding Escrow Deposits:**

Cash Deposit	0.69
SLGS Purchases	7,957,010.00
	<hr/>
	7,957,010.69

Delivery Date Expenses:

Cost of Issuance	100,000.00
Underwriter's Discount	44,460.00
	<hr/>
	144,460.00

Other Uses of Funds:

Additional Proceeds	34.96
	<hr/>
	8,101,505.65

SUMMARY OF REFUNDING RESULTS

City of Kyle, Texas
General Obligation Refunding Bonds, Series 2014
AA- BQ Scale as of October 9, 2014
*****Preliminary - For Discussion Purpose Only*****

Dated Date	12/02/2014
Delivery Date	12/02/2014
Arbitrage yield	2.355934%
Escrow yield	0.711320%
Value of Negative Arbitrage	322,559.69
Bond Par Amount	7,410,000.00
True Interest Cost	2.578922%
Net Interest Cost	2.708637%
All-In TIC	2.712243%
Average Coupon	3.481343%
Average Life	11.301
Par amount of refunded bonds	7,045,000.00
Average coupon of refunded bonds	5.000000%
Average life of refunded bonds	11.791
PV of prior debt to 12/02/2014 @ 2.712243%	8,763,779.16
Net PV Savings	806,768.47
Percentage savings of refunded bonds	11.451646%

SUMMARY OF BONDS REFUNDED

City of Kyle, Texas
 General Obligation Refunding Bonds, Series 2014
 AA- BQ Scale as of October 9, 2014
 Preliminary - For Discussion Purpose Only

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
Combination Tax & Revenue C/O, Series 2008, 2008:					
BOND	08/15/2024	5.000%	1,065,000.00	08/15/2017	100.000
	08/15/2025	5.000%	1,485,000.00	08/15/2017	100.000
	08/15/2026	5.000%	1,560,000.00	08/15/2017	100.000
	08/15/2027	5.000%	1,635,000.00	08/15/2017	100.000
	08/15/2028	5.000%	1,300,000.00	08/15/2017	100.000
			7,045,000.00		

BOND PRICING

City of Kyle, Texas

General Obligation Refunding Bonds, Series 2014

AA- BQ Scale as of October 9, 2014

Preliminary - For Discussion Purpose Only

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Yield to Maturity	Call Date	Call Price	Premium (-Discount)
Bond Component:									
	08/15/2015	170,000	2.000%	0.300%	101.192				2,026.40
	08/15/2016	25,000	2.000%	0.600%	102.367				591.75
	08/15/2017	30,000	2.000%	0.750%	103.337				1,001.10
	08/15/2018	30,000	2.000%	1.050%	103.440				1,032.00
	08/15/2019	30,000	2.000%	1.300%	103.182				954.60
	08/15/2020	30,000	2.000%	1.500%	102.722				816.60
	08/15/2021	30,000	2.500%	1.700%	105.046				1,513.80
	08/15/2022	30,000	2.500%	1.900%	104.279				1,283.70
	08/15/2023	30,000	3.000%	2.250%	105.895				1,768.50
	08/15/2024	1,095,000	3.500%	2.100%	112.229				133,907.55
	08/15/2025	1,505,000	3.500%	2.250%	110.839	2.349%	08/15/2024	100.000	163,126.95
	08/15/2026	1,555,000	3.500%	2.350%	109.923	2.516%	08/15/2024	100.000	154,302.65
	08/15/2027	1,605,000	3.500%	2.450%	109.016	2.659%	08/15/2024	100.000	144,706.80
	08/15/2028	1,245,000	3.500%	2.700%	106.785	2.896%	08/15/2024	100.000	84,473.25
		7,410,000							691,505.65

Dated Date	12/02/2014
Delivery Date	12/02/2014
First Coupon	02/15/2015
Par Amount	7,410,000.00
Premium	691,505.65
Production	8,101,505.65
Underwriter's Discount	-44,460.00
Purchase Price	8,057,045.65
Accrued Interest	108.732060%
Net Proceeds	8,057,045.65

Item # 18

SAVINGS

City of Kyle, Texas
General Obligation Refunding Bonds, Series 2014
AA- BQ Scale as of October 9, 2014

Preliminary - For Discussion Purpose Only

Date	Prior Debt Service	Refunding Debt Service	Savings	Annual Savings	Present Value to 12/02/2014 @ 2.7122432%
02/15/2015	176,125.00	51,480.21	124,644.79		123,965.73
08/15/2015	176,125.00	296,937.50	-120,812.50		-118,546.68
09/30/2015				3,832.29	
02/15/2016	176,125.00	125,237.50	50,887.50		49,265.02
08/15/2016	176,125.00	150,237.50	25,887.50		24,726.79
09/30/2016				76,775.00	
02/15/2017	176,125.00	124,987.50	51,137.50		48,191.12
08/15/2017	176,125.00	154,987.50	21,137.50		19,653.11
09/30/2017				72,275.00	
02/15/2018	176,125.00	124,687.50	51,437.50		47,185.38
08/15/2018	176,125.00	154,687.50	21,437.50		19,402.23
09/30/2018				72,875.00	
02/15/2019	176,125.00	124,387.50	51,737.50		46,199.05
08/15/2019	176,125.00	154,387.50	21,737.50		19,150.81
09/30/2019				73,475.00	
02/15/2020	176,125.00	124,087.50	52,037.50		45,231.82
08/15/2020	176,125.00	154,087.50	22,037.50		18,899.05
09/30/2020				74,075.00	
02/15/2021	176,125.00	123,787.50	52,337.50		44,283.37
08/15/2021	176,125.00	153,787.50	22,337.50		18,647.14
09/30/2021				74,675.00	
02/15/2022	176,125.00	123,412.50	52,712.50		43,415.15
08/15/2022	176,125.00	153,412.50	22,712.50		18,456.22
09/30/2022				75,425.00	
02/15/2023	176,125.00	123,037.50	53,087.50		42,561.81
08/15/2023	176,125.00	153,037.50	23,087.50		18,262.27
09/30/2023				76,175.00	
02/15/2024	176,125.00	122,587.50	53,537.50		41,781.68
08/15/2024	1,241,125.00	1,217,587.50	23,537.50		18,123.34
09/30/2024				77,075.00	
02/15/2025	149,500.00	103,425.00	46,075.00		35,002.03
08/15/2025	1,634,500.00	1,608,425.00	26,075.00		19,543.49
09/30/2025				72,150.00	
02/15/2026	112,375.00	77,087.50	35,287.50		26,094.49
08/15/2026	1,672,375.00	1,632,087.50	40,287.50		29,393.29
09/30/2026				75,575.00	
02/15/2027	73,375.00	49,875.00	23,500.00		16,915.93
08/15/2027	1,708,375.00	1,654,875.00	53,500.00		37,995.46
09/30/2027				77,000.00	
02/15/2028	32,500.00	21,787.50	10,712.50		7,506.18
08/15/2028	1,332,500.00	1,266,787.50	65,712.50		45,428.24
09/30/2028				76,425.00	
	11,303,000.00	10,325,192.71	977,807.29	977,807.29	806,733.51

Savings Summary

PV of savings from cash flow	806,733.51
Plus: Refunding funds on hand	34.96
Net PV Savings	806,768.47

Item # 18

BOND DEBT SERVICE

City of Kyle, Texas
 General Obligation Refunding Bonds, Series 2014
 AA- BQ Scale as of October 9, 2014
 Preliminary - For Discussion Purpose Only

Period Ending	Principal	Interest	Debt Service	Annual Debt Service
02/15/2015		51,480.21	51,480.21	
08/15/2015	170,000	126,937.50	296,937.50	
09/30/2015				348,417.71
02/15/2016		125,237.50	125,237.50	
08/15/2016	25,000	125,237.50	150,237.50	
09/30/2016				275,475.00
02/15/2017		124,987.50	124,987.50	
08/15/2017	30,000	124,987.50	154,987.50	
09/30/2017				279,975.00
02/15/2018		124,687.50	124,687.50	
08/15/2018	30,000	124,687.50	154,687.50	
09/30/2018				279,375.00
02/15/2019		124,387.50	124,387.50	
08/15/2019	30,000	124,387.50	154,387.50	
09/30/2019				278,775.00
02/15/2020		124,087.50	124,087.50	
08/15/2020	30,000	124,087.50	154,087.50	
09/30/2020				278,175.00
02/15/2021		123,787.50	123,787.50	
08/15/2021	30,000	123,787.50	153,787.50	
09/30/2021				277,575.00
02/15/2022		123,412.50	123,412.50	
08/15/2022	30,000	123,412.50	153,412.50	
09/30/2022				276,825.00
02/15/2023		123,037.50	123,037.50	
08/15/2023	30,000	123,037.50	153,037.50	
09/30/2023				276,075.00
02/15/2024		122,587.50	122,587.50	
08/15/2024	1,095,000	122,587.50	1,217,587.50	
09/30/2024				1,340,175.00
02/15/2025		103,425.00	103,425.00	
08/15/2025	1,505,000	103,425.00	1,608,425.00	
09/30/2025				1,711,850.00
02/15/2026		77,087.50	77,087.50	
08/15/2026	1,555,000	77,087.50	1,632,087.50	
09/30/2026				1,709,175.00
02/15/2027		49,875.00	49,875.00	
08/15/2027	1,605,000	49,875.00	1,654,875.00	
09/30/2027				1,704,750.00
02/15/2028		21,787.50	21,787.50	
08/15/2028	1,245,000	21,787.50	1,266,787.50	
09/30/2028				1,288,575.00
	7,410,000	2,915,192.71	10,325,192.71	10,325,192.71

PRIOR BOND DEBT SERVICE

City of Kyle, Texas
 General Obligation Refunding Bonds, Series 2014
 AA- BQ Scale as of October 9, 2014
 Preliminary - For Discussion Purpose Only

Period Ending	Principal	Interest	Debt Service	Annual Debt Service
02/15/2015		176,125	176,125	
08/15/2015		176,125	176,125	
09/30/2015				352,250
02/15/2016		176,125	176,125	
08/15/2016		176,125	176,125	
09/30/2016				352,250
02/15/2017		176,125	176,125	
08/15/2017		176,125	176,125	
09/30/2017				352,250
02/15/2018		176,125	176,125	
08/15/2018		176,125	176,125	
09/30/2018				352,250
02/15/2019		176,125	176,125	
08/15/2019		176,125	176,125	
09/30/2019				352,250
02/15/2020		176,125	176,125	
08/15/2020		176,125	176,125	
09/30/2020				352,250
02/15/2021		176,125	176,125	
08/15/2021		176,125	176,125	
09/30/2021				352,250
02/15/2022		176,125	176,125	
08/15/2022		176,125	176,125	
09/30/2022				352,250
02/15/2023		176,125	176,125	
08/15/2023		176,125	176,125	
09/30/2023				352,250
02/15/2024		176,125	176,125	
08/15/2024	1,065,000	176,125	1,241,125	
09/30/2024				1,417,250
02/15/2025		149,500	149,500	
08/15/2025	1,485,000	149,500	1,634,500	
09/30/2025				1,784,000
02/15/2026		112,375	112,375	
08/15/2026	1,560,000	112,375	1,672,375	
09/30/2026				1,784,750
02/15/2027		73,375	73,375	
08/15/2027	1,635,000	73,375	1,708,375	
09/30/2027				1,781,750
02/15/2028		32,500	32,500	
08/15/2028	1,300,000	32,500	1,332,500	
09/30/2028				1,365,000
	7,045,000	4,258,000	11,303,000	11,303,000

ESCROW STATISTICS

City of Kyle, Texas
 General Obligation Refunding Bonds, Series 2014
 AA- BQ Scale as of October 9, 2014
 Preliminary - For Discussion Purpose Only

Total Escrow Cost	Modified Duration (years)	Yield to Receipt Date	Yield to Disbursement Date	Perfect Escrow Cost	Value of Negative Arbitrage	Cost of Dead Time
Global Proceeds Escrow: 7,957,010.69	2.529	0.711320%	0.711320%	7,634,450.96	322,559.69	0.04
7,957,010.69				7,634,450.96	322,559.69	0.04

Delivery date 12/02/2014
 Arbitrage yield 2.355934%

ESCROW DESCRIPTIONS

City of Kyle, Texas
 General Obligation Refunding Bonds, Series 2014
 AA- BQ Scale as of October 9, 2014
 Preliminary - For Discussion Purpose Only

Type of Security	Type of SLGS	Maturity Date	First Int Pmt Date	Par Amount	Rate	Max Rate
Dec 2, 2014:						
SLGS	Certificate	02/15/2015	02/15/2015	165,134		
SLGS	Certificate	08/15/2015	08/15/2015	149,110	0.050%	0.050%
SLGS	Note	02/15/2016	02/15/2015	149,162	0.130%	0.130%
SLGS	Note	08/15/2016	02/15/2015	149,258	0.300%	0.300%
SLGS	Note	02/15/2017	02/15/2015	149,483	0.510%	0.510%
SLGS	Note	08/15/2017	02/15/2015	7,194,863	0.730%	0.730%
				7,957,010		

SLGS Summary

SLGS Rates File	09OCT14
Total Certificates of Indebtedness	314,244.00
Total Notes	7,642,766.00
Total original SLGS	7,957,010.00

ESCROW REQUIREMENTS

City of Kyle, Texas
 General Obligation Refunding Bonds, Series 2014
 AA- BQ Scale as of October 9, 2014
 Preliminary - For Discussion Purpose Only

Period Ending	Interest	Principal Redeemed	Total
02/15/2015	176,125.00		176,125.00
08/15/2015	176,125.00		176,125.00
02/15/2016	176,125.00		176,125.00
08/15/2016	176,125.00		176,125.00
02/15/2017	176,125.00		176,125.00
08/15/2017	176,125.00	7,045,000.00	7,221,125.00
	1,056,750.00	7,045,000.00	8,101,750.00



CITY OF KYLE, TEXAS

Ordinance re Library meeting room Fees (First Reading)

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation:

(First Reading) An ordinance of the City of Kyle, Texas, amending the Code of Ordinances of the City of Kyle, Appendix "A" (Fee Schedule), to set certain fees for public use of the Kyle Public Library Burdine and Jack Johnson Wing meeting room; providing a severability clause; finding and determining the meeting at which this ordinance is passed is open to the public as required by law; providing an effective date; and making such other findings and provisions related hereto. ~
Connie Brooks, Director of Kyle Public Library

Other Information:

See Attachments

Budget Information:

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

Attachments / click to download

 [Ordinance 1st Reading](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF KYLE, APPENDIX "A" (FEE SCHEDULE), TO SET CERTAIN FEES FOR PUBLIC USE OF THE KYLE PUBLIC LIBRARY BURDINE AND JACK JOHNSON WING MEETING ROOM; PROVIDING A SEVERABILITY CLAUSE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING AN EFFECTIVE DATE; AND MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO.

WHEREAS, the City of Kyle provides public use of the Kyle Public Library Burdine and Jack Johnson Wing meeting room; and,

WHEREAS, certain fees are charged to the public for the use of said meeting room in order to help defray the expense of providing use of the meeting room; and,

WHEREAS, the fees being set by this ordinance have been recommended to be approved by the Library Board; and,

WHEREAS, the city council finds that it is in the public interest and welfare to charge fees to help defray the expense of providing the use of the meeting room;

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

Section 1. The facts and findings recited hereinabove are found to be true and correct and are hereby adopted as part of this ordinance.

Section 2. Appendix "A" of the Code of Ordinances of the City of Kyle shall be AMENDED to set the following fees for public use of the Kyle Public Library Burdine and Jack Johnson Wing meeting room:

One event (up to 2 hours) free each month. Subsequent hours \$10 per hour; and,

\$100 cleaning fee (required if food is served)

Section 3. If any section, subsection, sentence, clause, phrase, or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

Section 4. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, TEXAS GOVERNMENT CODE, and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 5. This ordinance shall take effect from and after its final passage and publication as required by law.

PASSED on first reading the 18th day of November, 2014.

PASSED AND ADOPTED on second reading the _____ day of _____, 2014.

CITY OF KYLE, TEXAS

By: _____
R. Todd Webster, Mayor

ATTEST:

Amelia Sanchez, City Secretary

APPROVED AS TO FORM:

W. Ken Johnson, City Attorney



CITY OF KYLE, TEXAS

Request for Future Agenda Items

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Discussion only regarding council requests for future agenda items.

Other Information:

Budget Information:

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

Attachments / click to download



CITY OF KYLE, TEXAS

Discussion only re FM 150 Realignment

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Discussion only regarding options and other matters relating to the proposed FM 150 road realignment. ~ *R. Todd Webster, Mayor*

Other Information:

Budget Information:

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Attachments / click to download



CITY OF KYLE, TEXAS

City Managers Report

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Update on various capital improvement projects, road projects, building program, and/or general operational activities. ~ *James R. Earp, CPM, Acting City Manager*

1. A detailed report is attached listing all payments processed totaling \$15,000 or less during the month of October 2014.

Other Information:

Budget Information:

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Attachments / click to download

 [Payments Under \\$15,000 Processed in October 2014](#)

City of Kyle, Texas
Accounts Payable Check Register - \$.01 - \$15,000.00
October 1, 2014 - October 31, 2014

Count	Check No	Vendor Name	Check Date	Amount	Description	Invoice No
1	27536	Thirkettle Corporation	10/23/2014	\$ 14,463.02	2" Omni C2 water meters (100/USG 6 wheel)	0053753-IN
2	27503	Seton Family of Hospitals	10/23/2014	13,954.50	8059896386-C Cartwright	8059896386 CC
3	27532	Seton Family of Hospitals	10/23/2014	13,207.16	August 2014 Receipts, Sales Tax For August 2014	10.30.14
4	27123	GBRA - Guadalupe Blanco River	10/3/2014	12,086.00	Interlocal agreement between GBRA & COK for funding	AR68207
5	27455	Cisneros, John & John Jr	10/20/2014	11,917.24	COK PD Unit # 24-Vehicle Maintenance	024042514
6	27428	Madero Holdings LLC	10/16/2014	11,475.14	(3) 5 Ton Condensing Units R410a	2203
7	27255	Lower Colorado River Authority	10/8/2014	10,146.81	Exacom Client Licenses	TCH-0004173
8	27449	Alsay Incorporated	10/20/2014	9,786.32	Sewer pump for Southlake Liftstation	8014
9	27065	Texas Fleet Fuel, Ltd	10/1/2014	9,570.80	COK PW-Fleet Management 08/25/14-08/31/14	NP42284600
10	27079	Barton Springs/Edwards Aquifer Conservation Dist	10/2/2014	9,429.17	COK 10/14-Monthly Water Use Fees	6204
11	27517	Barton Springs/Edwards Aquifer Conservation Dist	10/23/2014	9,429.17	COK 11/14-Monthly Water Use Fees	6252
12	27458	DP2 Billing Solutions, LLC	10/20/2014	8,958.69	Postage, Services-Utility Billing & Inserts	DP1402641
13	27485	AT&T Mobility II LLC	10/23/2014	8,944.75	Services 08/10/14-09/09/14	287255616197X09
14	27473	Powerplan OIB	10/20/2014	8,430.18	COK PW Unit # 98-Vehicle Maintenance	W31385
15	27419	Hays Caldwell Womens Center	10/16/2014	8,000.00	COK Community Support Grant 14/15	10.15.14
16	27502	Padgett, Stralemann & Co., LLP	10/23/2014	8,000.00	Professional Services Rendered Through 09/30/14	498811
17	27293	Thirkettle Corporation	10/8/2014	7,675.10	5/8" x 3/4" SRIL LL water meters-100 USG 4 wheel	0053484-IN
18	27250	Laser Technology, Inc.	10/8/2014	7,485.00	Three different types of portable radar units to equip new Chevr	139140 RI
19	27348	INOBBAR, LLC	10/14/2014	7,266.00	COK NovusAGENDA Annual Maint 10/05/14-10/04/15	23397
20	27117	Decatur Electronics, Inc	10/3/2014	7,245.00	1 Trailer Mounted Radar Unit	IN00010417
21	27288	Texas Fleet Fuel, Ltd	10/8/2014	7,195.00	COK PW-Fleet Management 09/22/14-09/28/14	NP42328556
22	27489	Capital Metropolitan Transportation Authority	10/23/2014	6,840.00	Remaining balance to provide para-transit services in the Kyle C	65965
23	27483	3M Company	10/23/2014	6,443.00	Acct # KBZ9782-Renewal Peroid 07/12/14-07/11/15	US49763
24	27635	STW Inc	10/30/2014	6,365.88	Annual Software Lease Through 05/03/14	22517
25	27497	GT Distributors Inc	10/23/2014	5,801.76	Whelen-L Angle Mounting Bracket	INV1210598
26	27437	Taser International	10/16/2014	5,345.75	Taser 25' Cartridges	SI1372912
27	27491	Davidson & Troilo, A Professional Corporation	10/23/2014	5,324.94	Legal Services through 09/30/14	6420-1 F.JG 0914
28	27126	GT Distributors Inc	10/3/2014	5,218.84	Various emergency equipment to equip the recently purchased new	INV0507701
29	27597	Texas Fleet Fuel, Ltd	10/28/2014	5,186.72	COK Bldg-Fleet Management 10/13/14-10/19/14	NP42571585
30	27297	Union Pacific Railroad Company	10/8/2014	5,185.98	LS-Rent, Preset-08/01/14-07/31/15	268618892
31	27301	Vasili, Michael S	10/8/2014	5,000.00	Installation services contract for the installation of emergency	134
32	27286	T.F. Harper & Associates LP	10/8/2014	4,934.30	Various Pool Grounds Improvements	C09-104
33	27521	Conway Data, Inc.	10/23/2014	4,510.00	2/3 page vertical ad in Texas Wide Open for Business publication	01013990
34	27418	Hays Caldwell Council on Alcohol and Drug Abuse	10/16/2014	4,500.00	COK Community Support Grant 14/15	10.15.14
35	27439	Texas Fleet Fuel, Ltd	10/16/2014	4,297.90	COK PD-Fleet Management 09/22/14-09/28/14	NP42487749
36	27116	D & R Electronics Co Ltd	10/3/2014	4,065.00	Storage System-Truck Storage, SUVs	135210
37	27407	CASA of Central Texas, Inc.	10/16/2014	4,000.00	COK Community Support Grant 14/15	10.15.14
38	27416	Greater San Marcos Youth Council, Inc.	10/16/2014	4,000.00	COK Community Support Grant 14/15	10.15.14
39	27461	Fremarek Inc.	10/20/2014	3,987.50	5 Gallons of M57 Super Liftstation Degreaser	0534198-IN
40	27108	Cisneros, John & John Jr	10/3/2014	3,943.63	COK PD Unit # 17-Vehicle Maintenance	017060414
41	27232	Emmis Publishing LLP	10/8/2014	3,718.07	Full Color Page 1 right hand read ad (half due by Sept 30th, 201	08.29.14
42	27525	Cowboy Motorsports of Austin LP	10/23/2014	3,775.00	2nd half of payment for full page ad in Greater Austin Economic	10.21.14
43	27456	P Harb Auto Repair LLC	10/20/2014	3,718.07	09/14 Motorcycle Lease-663324	687354
44	27530	Hays County Food Bank	10/23/2014	3,625.01	COK PW Unit # 112-Vehicle Maintenance	625
45	27420	Hays County Food Bank	10/16/2014	3,500.00	COK Community Support Grant 14/15	10.15.14
46	27421	Hays County Homespun, ECI, Inc.	10/16/2014	3,500.00	COK Community Support Grant 14/15	10.15.14
47	27640	Texas Fleet Fuel, Ltd	10/30/2014	3,232.80	COK PD-Fleet Management 10/13/14-10/19/14	NP42608936

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Count	Check No	Vendor Name	Check Date	Amount	Description	Invoice No
48	27234	Espey Consultants, Inc.	10/8/2014	3,186.88	Professional Services from 08/02/14-08/29/14	12066.00-22
49	27431	OmniBase Services Of Texas, LP	10/16/2014	3,174.00	3rd Quarter Activity-2014 (July, August, September)	OBS14300 835
50	27096	Office Of The Attorney General	10/3/2014	3,052.87	PR Batch 00027.09.2014 CS#N007840052 CSE#04-1748	10.01.14a
51	27633	P Harb Auto Repair LLC	10/30/2014	3,032.32	COK PD Unit # 901-Vehicle Maintenance/Repair	955
52	27524	Edwards Aquifer Authority	10/23/2014	3,024.49	10/14 Aquifer Mgmt Fee	201312206287 10
53	27584	Kyle Automotive	10/28/2014	2,993.89	PD Unit # 21-Vehicle Maintenance	4397
54	27617	Cisneros, John & John Jr	10/30/2014	2,979.06	COK PD Unit # 31-Vehicle Repair/Maintenance	031102014
55	27578	Goodyear Auto Service Center	10/28/2014	2,968.73	PD Unit # 17 Vehicle Maintenance	053666
56	27427	Lowe's	10/16/2014	2,927.31	PW Acct # 9900697025 7 Charges through 10/02/14	10.02.14 PK
57	27463	GT Distributors Inc	10/20/2014	2,919.27	Blue Gun; Holser; Memorial Badge	INV0507576
58	27444	Insights for Performance, LLC	10/16/2014	2,908.15	Annual Appraisal Smart Tiered Pricing Lic Fee	IPF74235
59	27508	TWE - Advance Newhouse Partnership	10/23/2014	2,834.13	Acct # 8260160750064719 09	0064719-09/14
60	27059	Progressive Commercial Aquatics Inc	10/1/2014	2,600.00	One (1) 3150 Powerpack PPG for the main pool and one (1) install	1386
61	27507	Thirkettle Corporation	10/23/2014	2,532.50	Flexnet M2 Software Support	0051952-IN
62	27466	Hester, David L.	10/20/2014	2,512.00	Digiclean Microfiber screen cleaner, marketing postcard	2014-236
63	27406	Buda United Methodist Church Inc.	10/16/2014	2,500.00	COK Community Support Grant 14/15	10.15.14
64	27424	Kyle Police Employee Association	10/16/2014	2,500.00	COK Community Support Grant 14/15	10.15.14
65	27292	Third Coast Vans & Access	10/8/2014	2,498.00	Tommy Lift gate for truck #120. Item has roll on ramp and expan	2697
66	27537	Thyssenkrupp Elevator	10/23/2014	2,478.00	Service Maintenance on City Hall elevator for FY 2015	3001330999
67	27445	Kent Motor Sports	10/16/2014	2,254.26	Honda EU2000i Companion Super Quiet portable generator	10.15.14
68	27228	Cartegraph Systems, Inc.	10/8/2014	2,250.00	Reserve Partner Hosting-06/01/14-06/30/14	40194
69	27469	Neptune Wilkinson Associates, Inc.	10/20/2014	2,091.00	Rebel Road Ground Storage Rehabilitation	0010863
70	27501	McKamie Krueger, LLP	10/3/2014	2,037.12	Professional Services rendered through 09/30/14	8634
71	27104	Cable, Andrew W.	10/9/2014	2,000.00	Judge Services for 09/2014	11100-14
72	27266	Officemax Contract Inc	10/8/2014	1,972.52	2015RY Apmtbk DSK w/m bl	139790
73	27475	SafeLane Traffic Supply, LLC	10/20/2014	1,926.00	Misc. Safety Signs & Barricades	8584
74	27240	Hach Company	10/8/2014	1,913.19	CL17 Reagents and field c12 monitoring supplies	9023731
75	27577	Cisneros, John & John Jr	10/28/2014	1,881.56	COK PD Unit # 14-Vehicle Maintenance	014100214
76	27555	Mobile Wireless LLC	10/27/2014	1,870.31	NetMotion Mobility Maintenance Renewal-DIR-SDD-2129	06.28.14
77	27063	RiverCity Sportswear LLC	10/1/2014	1,766.00	Gildan G800 T-shirts in Black for employee appreciation luncheon	089711
78	27465	HD Supply Waterworks LTD	10/20/2014	1,754.06	Various Items/Supplies	C977291
79	27336	CDW Government Inc	10/14/2014	1,745.00	Epson BrightLink 595wi	PS28335
80	27426	Lloyd Gosselink, Attorneys at Law	10/16/2014	1,728.00	Services & Disbursements rendered through 08/31/14	97458489
81	27260	Miller Uniforms & Emblems, Inc.	10/8/2014	1,677.86	2 Pants 34 x 32	546893
82	27114	Cowboy Motorsports of Austin LP	10/3/2014	1,617.13	COK PD 1HD1FMM1XDB663324-Motorcycle Maintenance	672782
83	27482	Espey Consultants, Inc.	10/23/2014	1,580.00	Elliot Branch Professional Services 09/14	12066.01-13
84	27060	Quill Corporation	10/1/2014	1,541.51	Misc. Office Supplies	5752144
85	27246	Kutscher Drilling, LTD	10/8/2014	1,540.00	7-Labor to fish wire/pump/motor	0322246
86	27409	Central Texas AMVETS Post 115	10/16/2014	1,500.00	COK Community Support Grant 14/15	10.15.14
87	27454	Catalyst Commercial, Inc.	10/20/2014	1,500.00	Services related to developing commercial retail growth & recrui	1990
88	27518	Catalyst Commercial, Inc.	10/23/2014	1,500.00	Recruitment/Implementation Monthly Services 10/14	2016
89	27435	Southern Computer Warehouse, Inc.	10/16/2014	1,491.20	8 Viewsonic VWS-VA2451M-Led	IN-000209090
90	27064	Roadway Specialties, Inc	10/1/2014	1,460.00	Repair guardrail on Golorth Rd. that was damaged by motor vehicl	081492
91	27618	City Electric Supply Company	10/30/2014	1,449.50	78W Led Ceiling Mount FIXT BRZ	KYL016870
92	27570	Texas Fleet Fuel, Ltd	10/27/2014	1,343.24	COK PAR-D-Fleet Management 10/06/14-10/12/14	NP42528499
93	27054	Lowe's	10/1/2014	1,330.94	Electrical/Plumbing Supplies	09.02.14 PW
94	27493	Ferguson Enterprises, Inc	10/23/2014	1,294.56	Sanitary Sewer Manhole rings/covers for Stock	0545732
95	27264	Neptune Wilkinson Associates, Inc.	10/8/2014	1,291.79	Perform site deupt and subdivision plan reviews 06/01-06/28/14	0010801
96	27312	DNT Construction	10/10/2014	1,282.90	UB Deposit Refund	099-5469767-005
97	27534	Texas Fleet Fuel, Ltd	10/23/2014	1,276.26	COK PW-Fleet Management 10/06/14-10/12/14	NP42528183
98	27436	Sprint	10/16/2014	1,273.10	Wireless Data Services	601356398-069
99	27270	PowerPhone Inc	10/8/2014	1,254.00	Suicide Intervention Training-11/06/14	11.06.14

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Count	Check No	Vendor Name	Check Date	Amount	Description	Invoice No
100	27238	Global Operations Texas L.P.	10/8/2014	1,231.30	Contract Overage Charge for 06/24/14-09/23/14	IN37777
101	27326	Regas	10/10/2014	1,231.29	UB Deposit Refund	099-8870753-000
102	27279	Safelane Traffic Supply, LLC	10/8/2014	1,195.00	Various Signs & Polies	8548
103	27274	Quill Corporation	10/8/2014	1,173.44	S104 Stylus pen,Bu.12PK	6158613
104	27446	Tracker Products LLC	10/16/2014	1,100.00	Tracker Products Software	15487
105	27241	HD Supply Waterworks LTD	10/8/2014	1,091.94	T-10 Top Section F/6860 V/Box	C94-5868
106	27567	Southern Computer Warehouse, Inc.	10/27/2014	1,000.32	Subscription License Renewal	IN-000209873
107	27415	GENaustin	10/16/2014	1,000.00	COK Community Support Grant 14/15	10.15.14
108	27423	Hope & Love 4 Kids	10/16/2014	1,000.00	COK Community Support Grant 14/15	10.15.14
109	27425	Kyle's Chain Reaction Inc	10/16/2014	1,000.00	COK Community Support Grant 14/15	10.15.14
110	27596	Texas Economic Development Corporation	10/28/2014	1,000.00	Texas One Membership; Pioneer level member 10/1/14-9/30/15	14-273
111	27221	Asphalt Patch Ent Inc	10/8/2014	995.88	56 Bags Asphalt Patch HP 60#-1 Pallet	458023
112	27441	Texas Underground Inc.	10/16/2014	995.00	1/2" pipe wolf nozzle w/8 inserts M6 and estimated freight	0087835-IN
113	27367	W. W. Grainger, Inc	10/14/2014	976.78	Pump,2 HP, 1 Phase, 115/230V,6 Stage	9543552013
114	27082	Safesite, Inc	10/20/2014	937.00	10/14 Admin-Records Storage Service	SA-76575
115	27307	Officemax Contract Inc	10/10/2014	918.71	FY15 Prof Wkly/Mnth Vien	086374
116	27100	Barton Publications, Inc.	10/3/2014	906.26	Stake Holder Meeting	45929
117	27626	Kyle Automotive	10/30/2014	898.15	COK PD 09 Dodge-Charger- Vehicle Maintenance	4458
118	27515	Bank of America	10/23/2014	896.72	Acct # 5106-09/16/14-10/15-14	10.15.14-HW
119	27320	M J Sheridan	10/10/2014	885.44	UB Deposit Refund	099-5759414-006
120	27055	Municipal Code Corporation	10/1/2014	875.00	25 Orders on WEB-N.O.W Services; Ordbank	00246938
121	27226	Barton Publications, Inc.	10/8/2014	868.07	3 x 4 HFP-Water	46280
122	27224	Baker & Taylor, Inc.	10/8/2014	848.89	Library Book-Broken Eye	5013306077
123	27471	P Harb Auto Repair LLC	10/20/2014	846.99	COK PW Unit # 120-Vehicle Maintenance	825
124	27327	Ringo Building Resources LTD	10/10/2014	813.19	UB Deposit Refund	099-8400425-002
125	27595	Login, Inc.	10/28/2014	800.00	Annual Payment/Annual Fee 10/30/14-10/29/15	23857
126	27514	Baker & Taylor, Inc.	10/23/2014	778.94	Oracle Night	5013317914
127	27229	Central Texas Library System, Inc.	10/8/2014	750.00	CTLS Level 2 Membership; Large Print Rotating	10.03.14
128	27280	Satterwhite, Ruben	10/8/2014	750.00	3 Loads of chocolate loam delivered to COK Yard	09092014
129	27290	Texas State University - San Marcos	10/8/2014	740.00	08/14 Samples Testing	2308
130	27403	Bales, Cecil Aubrey	10/16/2014	689.25	Electric Service & Repairs	33458
131	27251	Law Enforcement Targets Inc	10/8/2014	680.30	VTAC Targets-cardboard and double-sided	0259591-IN
132	27354	Madero Holdings LLC	10/14/2014	660.00	Unit Freezing up on # 5	1104
133	27560	Pedernales Electric Company	10/27/2014	627.50	Sports Complex Deposit Refund	10.15.14
134	27120	Flashbay, Inc.	10/3/2014	615.00	2GB Flash Drives	IN413497
135	27366	Torres, Diana	10/14/2014	603.12	Mileage Reimbursement 06/14-09/14	10.08.14 DT
136	27636	Sykes, Christine M	10/30/2014	600.00	Geometrix Pop Up Displays-5 Panel Display	459
137	27495	Gas Detection & Respiratory	10/23/2014	598.35	Draeger Panorana Nova mask	2199
138	27422	Home Depot Credit Service	10/16/2014	593.41	PW Acct # 6035 3225 0493 2447 Charges through 09/28/14	09.28.14 PW
139	27306	Earp, James	10/10/2014	592.71	Meals-Various dates 05/14-14-09/14/14	09.30.14 JE
140	27509	TWE - Advance Newhouse Partnership	10/23/2014	589.02	Library Phone Svcs 09/01/14-09/30/14	35848501 0914
141	27227	Bickerstaff Heath Delgado Acosta LLP	10/8/2014	588.00	General Matters through 09/15/14	95535
142	27289	Texas State Library & Archive Commission	10/8/2014	584.00	TexShare database membership fee for FY 2015	TS150681
143	27590	ProSource Specialties LLC	10/28/2014	583.30	Mood pencils	25265CC
144	27051	Amazon.com LLC	10/1/2014	580.30	Library-Acct # 033224 3-Library Books	09.10.14
145	27531	Rivas, Katherine Veronica	10/23/2014	577.50	Refund-Customer overpayment-was charged twice	10.20.14
146	27527	Keystone (US) Management, Inc.	10/23/2014	575.16	550 Scott St 10/01/14-10/31/14	22720779
147	27591	Quill Corporation	10/28/2014	570.02	DVD-R 4.7Gb 100Pk; Memorex cdr 100Pk	6932364
148	27239	Guerra, Debbie	10/8/2014	569.34	Mileage Reimbursement 07/14-09/14	10.06.14 DG
149	27452	Brauntex Materials Inc	10/20/2014	544.86	Open PO for hotmix	67567
150	27097	Texas Guaranteed Student Loan Corporation	10/3/2014	535.53	PR Batch 00027.09.2014 CS#282312500	10.01.14a
151	27564	Rhoades, Katie	10/27/2014	535.00	SeniorFit Instructor 09/17/14-10/15/14	10.15.14 KR

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Count	Check No	Vendor Name	Check Date	Amount	Description	Invoice No
152	27467	J & K Utility Services	10/20/2014	532.14	Installed breaker on Pump # 1	3006
153	27277	Rhoades, Katie	10/8/2014	525.00	SeniorFit Instructor 08/18/14-09/15/14	09.29.14 KR
154	27271	Priority Personnel Inc	10/8/2014	523.90	Admin Assistant-J Quinonez 09/02/14-09/05/14	43402
155	27089	AutoZone, Inc.	10/3/2014	519.75	Duralast Gold Battery	3519639834
156	27429	Miller Uniforms & Emblems, Inc.	10/16/2014	516.00	Namelape; Shirts; Pants	547720
157	27477	Shaddix, Shirley	10/20/2014	507.14	Remington Police 870 Shotguns	14102
158	27222	Austin Promotional Solutions, Inc.	10/8/2014	504.93	Misc. Sweatshirts; Jackels	20044
159	27118	Deer Oaks EAP Services LLC	10/3/2014	504.90	July, August, Sept 2014-EAP Services	COKL Y14-709
160	27401	(PALS) of Central Texas, Pet Prevent a Litter	10/16/2014	500.00	COK Community Support Grant 14/15	10.15.14
161	27529	Highway Interdiction Training Specialists, Inc.	10/28/2014	500.00	Advanced Vehicle Contraband Concealment 10/20/14-10/21/14 M Gaic	10.22.14 MG
162	27592	Quinn, Charles	10/28/2014	495.00	Headshots of 11 City Dept Heads	783
163	27642	Texas Old Town, Inc	10/30/2014	487.50	Deposit for Employee Christmas Party	10.29.14
164	27335	Brinks Incorporated	10/14/2014	483.67	Transportation-10/14	9557799
165	27247	Kyle Animal Hospital	10/8/2014	468.14	Patient ID 28612-Stray; Canine; Mixed	48464
166	27589	Professional Safety Systems	10/28/2014	465.00	Locking Amount for Zebra RW-420; S&H	PSS-124917
167	27474	Quill Corporation	10/20/2014	462.31	Misc. Office Supplies	6635167
168	27632	Officemax Contract Inc	10/30/2014	458.37	40 x 46 LNR X-Hvy 40-45 Gal	597051
169	27643	Texas Police Chiefs Association	10/30/2014	457.50	Police Office Entry Level Exams & Materials	070114
170	27624	Hofmann, Donald R.	10/30/2014	450.73	Electrodes; Blazing Alloy; Wheel GRD; Haz materials	385402
171	27265	Noles Pest Service LLC	10/8/2014	447.50	City Hall Pest Control	09.22.149760
172	27434	Sanchez, Amella	10/16/2014	446.30	TWCCP Election Law Seminar-Frisco, Tx- (01/15)	10.15.14 AS
173	27594	Spillar Custom Hitches, Inc	10/28/2014	442.00	COK PD Unit # 24-Vehicle Maintenance	86306
174	27614	Book Systems Inc	10/30/2014	427.50	Atnum CSA Half-Year Contract; eZCAT CSA Half Year Contract; Com	84951
175	27562	Progressive Commercial Aquatics Inc	10/27/2014	423.25	Muriatic-Drum	255988
176	27481	Verizon Communications	10/20/2014	422.77	Acct # 2888345669 xx/xx/14-xx/xx/14	2888345669 09
177	27510	Verizon Business	10/23/2014	422.18	Y2470924 Monthly Recurring Charges 09/01/14-09/30/14	74775317
178	27302	Victor O Schinnerer & Company Inc	10/8/2014	400.00	Policy # 61BSBFW4618-Perwez Moheet-10/25/14-10/25/15	R110148296
179	27573	Wells Fargo Bank	10/27/2014	400.00	KYLE1010CTR Paying Agent Fee 10/1/14-09/30/15	1121011
180	27098	Arnold Oil Company of Austin, LP	10/3/2014	399.06	Cable Start; Wire/Cable	2389640
181	27363	STW Inc	10/14/2014	387.04	SY-System Support	22589a
182	27350	Leslie's Poolmart, Inc.	10/14/2014	379.98	100LB Power Powder Granular	767-44393
183	27500	LightingVolts Electric Service Inc	10/23/2014	375.00	Replace 250 V 200 Amp Fuse-After Hours Emergency	1140822641
184	27561	Professional Turf Products, LP	10/27/2014	372.80	Blade-Rotary; 2014 Service Flash Dr	1276753-00
185	27273	Progressive Commercial Aquatics Inc	10/8/2014	370.80	Cal Hypo 100#; Freight	255916
186	27417	GT Distributors Inc	10/16/2014	363.79	Whelen Latch Motorcycle Box Spacer	INV0507043
187	27482	W. W. Grainger, Inc	10/20/2014	357.58	All Weather Foil Tape	9554289604
188	27305	Wilmington Trust, NA	10/8/2014	350.00	Kyle, Tx General Obligations BDS 2013	20140918-39848A
189	27340	Fluid Meter Service Inc	10/14/2014	350.00	1-Field Inspection on Meters	401407
190	27634	Physical Therapy & Rehab Concepts	10/30/2014	350.00	Worksteps Testing for PTHC-A Gonzales; T Cropley	10.29.14
191	27364	Texas Fleet Fuel, Ltd	10/14/2014	348.08	COK Building-Fleet Management 09/29/14-10/05/14	NP42487765
192	27268	P Harb Auto Repair LLC	10/8/2014	332.02	COK PD Unit # 34-Vehicle Maintenance	801
193	27529	Officemax Contract Inc	10/23/2014	321.77	RY15 PROF Wkly/Mnth	412498
194	27245	Kostler - Petty Cash Custodian, Kay	10/2/2014	320.15	Fin Petty Cash Replenishment 08/14/14-09/23/14	08.14.14
195	27235	Ferguson Enterprises, Inc	10/8/2014	317.84	12 HYD Ext 5-1/4 K81A / K81	0525341
196	27535	Texas Guaranteed Student Loan Corporation	10/23/2014	315.54	PR Batch 00011.10.2014 Case#00000000082851800	
197	27331	Arrow-Magnolia International, Inc	10/14/2014	314.30	7- Gal ARCS-250	IV140010668
198	27459	DPC Industries Inc	10/20/2014	311.53	Chlorine Gas and Associated Hardware	857001452-14
199	27124	Goodyear Auto Service Center	10/3/2014	310.96	2 Tires-P265/60R17	053231
200	27230	E-COMplete LLC	10/8/2014	310.21	Elisson Die Cuts-Various	30712
201	27359	Officemax Contract Inc	10/14/2014	307.74	Trimmer Heavy Duty	465344
202	27404	Barton Publications, Inc.	10/16/2014	306.55	Rebate Faucet	46397
203	27233	Empire Fence Co. Inc	10/8/2014	300.00	Install Timer on Existing Gate Operator	3470-1

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Count	Check No	Vendor Name	Check Date	Amount	Description	Invoice No
204	27057	Priority Personnel Inc	10/1/2014	297.60	Admin Assistant-J Quinonez 09/08/14-09/12/14	43412
205	27519	Cintas First Aid & Safety #F71	10/23/2014	294.17	Gatorade Variety	5001999234
206	27272	Professional Safety Systems	10/8/2014	287.00	Locking Mount for Zebra RW-420	PSS-124916
207	27256	Matera Paper Co.	10/8/2014	285.00	Custodial Supplies such as Cleaning Supplies	A076160
208	27504	Southern Computer Warehouse, Inc.	10/23/2014	282.10	ADE-WKB-1010BW	IN-000207567
209	27505	STW Inc	10/23/2014	281.25	SY-System Support\UB-Utility Billing	22689
210	27411	Copeland, Kenneth M.	10/16/2014	280.00	Rental/Storage 08/14-09/14	09.30.14
211	27538	US Bank	10/23/2014	279.00	Finance Copier Lease 09/28/14-10/27/14	263315210
212	27553	Mendoza-Johnson, Marcus Joseph	10/27/2014	270.00	COK PARD Flag Football Referee; 2 games @ \$30.00 Each	10.10.14 MM
213	27520	City Electric Supply Company	10/23/2014	269.85	Dimming T8 Ballast	KYL0707004
214	27513	Amazon.com LLC	10/23/2014	266.62	Library-Acct # 033224 3-Misc Supplies	10.10.14
215	27565	Sam's Club	10/27/2014	254.99	PARD Acct # 7715 0904 2174 2602-Charges through 10/08/14	10.08.14
216	27304	West Publishing Corporation	10/8/2014	254.78	West Information Charges-08/14	830225853
217	27512	West Publishing Corporation	10/23/2014	254.78	West Information Charges-09/14	830413144
218	27468	King Ranch Turfgrass, LP	10/20/2014	250.00	TIF 419 Sq Yd Wholesale	565604
219	27219	Aftermath Services LLC	10/8/2014	245.00	08/29/14-Techs J Hippeasteal; L Gonzalez, N Vil	JC20092314
220	27494	Garcia, Jo Ann E	10/23/2014	240.00	PE License Renewal-J Garcia	10.21.14 JG
221	27554	Mitchell Family Motor Trikes	10/27/2014	238.14	Assm Pulley Idler; Flat Idler; Belt; S/b Line	1314
222	27499	Keystone (US) Management, Inc.	10/23/2014	237.08	520 E FM 150-09/01/14-09/30/14	22506581
223	27298	United Rentals Northwest, Inc.	10/23/2014	235.42	1-Handwheel	122942001-001
224	27498	Hines Pool & Spa, Inc.	10/23/2014	228.23	1-ACID/5 Gallon Drum; 4 Pulsar 50# Tablets	41095a
225	27412	Dorsett, Patrick	10/16/2014	225.00	8" x 36" Sandblasted Cedar	13717
226	27569	Sweet Stuff, The	10/27/2014	225.00	Happy B-Day Past; Present, Future-to Gazebo	10.18.14
227	27480	Thirkettle Corporation	10/20/2014	221.42	5/8" x 3/4" SR II TR/PL	0053632-IN
228	27547	Hernandez, Gabriel	10/27/2014	210.00	Ford Truck-Left Bottom Seat	29720
229	27460	Easy Drive Stake, Inc.	10/20/2014	209.95	SVR-25T Level Rod	757426
230	27110	Coban Technologies, Inc.	10/3/2014	208.00	Service-Non-Warranty-Shipping	8771
231	27486	Griffith Ford	10/23/2014	206.28	Kit-TPMS SENS	123901
232	27587	Miller Uniforms & Emblems, Inc.	10/28/2014	203.05	86102-04 SS Lg	547439
233	27053	Keystone (US) Management, Inc.	10/1/2014	202.00	550 Scott St 08/01/14-08/31/14	22309863
234	27285	T.A.A.F.	10/8/2014	200.00	2015 Member City Dues	26771
235	27598	Travis County Sheriff's Office-STRIVE	10/28/2014	200.00	STRIVE-12/01/14-12/05/14 P Oaks	10.22.14 PO
236	27111	Collins, Jr., James N	10/3/2014	198.90	Kyle ED Logo Engraving; 8GB USB/Laser pointer Pens	09.26.14
237	27526	Hill Country Trophy, LLC	10/23/2014	193.50	Name Tags-Library Director	0025928
238	27476	Selon Shoal Creek Hospital, Selon Food Service	10/20/2014	193.25	09/19/14 COK Meeting-SMCH Boardroom	297127
239	27358	Office Depot	10/14/2014	192.09	Holder, Card	721940407001
240	27625	Industrial Disposal Supply	10/30/2014	190.39	Broom-435	441008
241	27102	Brazos Technology Corporation	10/3/2014	190.00	RW 420 Battery Eliminator-Open	19768
242	27488	Brooks, Constance	10/23/2014	188.16	Mileage Reimbursement 08/14	08.08.14 CB
243	27432	Quicksius, LLC	10/16/2014	184.00	Individual/Packaged Searches 09/01/14-09/30/14	32220
244	27225	Bandon Holdings LLC	10/8/2014	178.60	PR Batch 00005.09.2014 Fitness	
245	27316	KB Homes	10/10/2014	178.47	UB Deposit Refund	020-0001155-000
246	27101	BizDoc, Inc	10/3/2014	178.45	Contract Overage charge 08/24/14-09/23/14	INV179135
247	27448	All Battery Center of Metro Austin	10/20/2014	176.10	3-ALT0244	80016862
248	27623	Goodyear Auto Service Center	10/30/2014	174.21	COK PD 09 Ford Truck F150-Vehicle Maintenance	054125
249	27249	Kyocera Document Solutions America, Inc.	10/8/2014	173.36	Billing ID # 90136327737-10/01/14-10/31/14	61399345
250	27339	Ferguson Enterprises, Inc	10/14/2014	171.72	LF 2 SGL Mtr FLG Kit w/ Di	0547063
251	27440	Texas Regional Users Group (TRUG)	10/16/2014	160.00	4 Attendess @ \$40.00 Ea; Annual Conference	10.15.14
252	27061	Random House, LLC	10/1/2014	159.00	Misc CD/Movies	1081319129
253	27433	Quill Corporation	10/16/2014	157.47	Document Frames; Picture Frames	6435571
254	27105	Castelan, Carmen	10/3/2014	154.00	GCP Pavilion Rental-Deposit Refund	09.30.14
255	27258	Mendoza-Johnson, Marcus Joseph	10/8/2014	150.00	COK PARD Kickball Umpire; 3 games @ \$30.00 Each	09.23.14 MJ
256	27586	Martinez, Vanessa	10/28/2014	150.00	Kyle Pool Deposit Refund	10.23.14

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257	27619	City Of San Marcos	10/30/2014	150.00	IPMBA Police Cyclist Class Nov 10-14, 2014	10-10-14
258	27641	Texas Municipal Courts Education Center	10/30/2014	150.00	Registration & Housing Fee-01/11/15-01/13/15	10-29-14 JB
259	27616	Centerpoint Energy	10/30/2014	147.81	Acct # 2790926-6 Gas Service 09/19/14-10/20/14	5073769-1 1014
260	27106	Centerpoint Energy	10/3/2014	147.68	Acct # 2790926-6 Gas Service 08/20/14-09/19/14	5073769-1 0914
261	27257	Melendez, Irene	10/6/2014	147.50	2014 AmericanPlanning Association Conference-Frisco, Tx	10-06-14 IM
262	27402	AutoZone, Inc.	10/16/2014	147.23	Dorman Butt Conector	3519649083
263	27334	BizDoc, Inc	10/14/2014	146.00	Public Library Office Equipment Rental-Photocopier Kyocera Model	15920917
264	27506	Swonke, Joseph	10/23/2014	144.94	TNOA Conference Meals 08/17/14-08/20/14	10-17-14
265	27276	Recorded Books, LLC	10/8/2014	144.40	The Bone Clocks; The Children Act	75007397
266	27599	US Bank	10/28/2014	142.10	Library Copier Lease 10/08/14-11/06/14	263884082
267	27558	Office Depot	10/27/2014	141.94	2-Sinus, Physicians Care	734340390001
268	27582	Kyle Animal Hospital	10/28/2014	136.51	Exam-Comprehensive/Office Call	48981
269	27593	Sign Crafters, Inc.	10/28/2014	135.00	Removal of vinyl; Vinyl Application	50198
270	27243	Herrera, Nikki	10/8/2014	130.00	COK PARD Flag Football Administrator; 4 games @ \$10.00 Each	09-23-14 NH
271	27333	Baker & Taylor, Inc.	10/14/2014	128.55	I Thought My Father Was God; Writers Market 2015	5013286549
272	27129	Mc Henry, Michael D.	10/3/2014	125.25	1000 Compiles with Code	2942
273	27487	Bischoff, Jason	10/23/2014	125.06	UB Deposit Refund	024-0000348-002
274	27282	Spring Loaded Park LLC	10/2/2014	122.00	2 Hours of Jumping	06-27-14
275	27056	P Harb Auto Repair LLC	10/1/2014	121.30	COK PD Unit # 0901-Vehicle Maintenance	766
276	27125	Greyhound Package Express	10/3/2014	120.40	COK PD Texas Dept of State Health-Specimen Samples	3930236
277	27548	Herrera, Nikki	10/27/2014	120.00	COK PARD Flag Football Administrator; 3 games @ \$10.00 Each	10-10-14 NH
278	27490	Cavender Store, Ltd.	10/23/2014	119.99	Footwear Purchase-M Sanchez	04004000337
279	27628	Mitchell Family Motor Trikes	10/30/2014	119.98	5 LB .105 XLLine NEO	14603
280	27516	Barton Publications, Inc.	10/3/2014	115.38	Display 3x4" HFP-Water Rebate	46503
281	27549	Hesselbein Tire Southwest	10/27/2014	113.50	Hankook Dynapro HT RH12 Owl	1901468756
282	27579	GT Distributors Inc	10/28/2014	113.25	Satariland Single Mag Pouch; 775 Slimline Open Top 3	INV0510084
283	27284	STW Inc	10/8/2014	112.50		22589
284	27522	Dietz Tractor Company	10/23/2014	112.41	Kit Yoke/Frt	6079P
285	27631	Office Depot	10/30/2014	112.17	Wash. Eye, 4 OZ	736889768001
286	27231	Elliott Electric Supply, Inc.	10/8/2014	112.00	11PIN Relay 120V	98-90038-01
287	27332	Austin Armature Works, LP	10/14/2014	110.00	Electrical Repairs	NS13777
288	27430	Occupational Health Centers of the Southwest, P.A.	10/16/2014	108.00	Acct # N01-0060080241 09/14	315675204
289	27291	Texas State University-San Marcos	10/8/2014	107.51	250 # 10 Envelopes, Reprint Notecards	03716594
290	27058	Professional Turf Products, LP	10/1/2014	104.53	Filter-Air, Cab Exterior	1273930-00
291	27122	Gaylord Bros., Inc.	10/3/2014	102.82	6 - 6 & 8 Disc CD Album Black	2316838
292	27253	Letbetter, Sharma	10/8/2014	102.50	Double Booked	09-16-14 SL
293	27539	Albertson, Julia A.	10/27/2014	102.40	Sandwich Tray; Condiments; Cookies; Soft Drinks	10-14-14
294	27450	Animal Care Equipment & Services, LLC	10/20/2014	101.28	Midwest Snake Bagger System	29625
295	27551	Keystone (US) Management, Inc.	10/27/2014	101.00	550 Scott St 11/01/14-11/30/14	22913658
296	27345	Highsmith, Inc	10/14/2014	100.11	Misc. Library Items	5420657
297	27107	Chandler, Marci	10/3/2014	100.00	GCP Field # 3-Deposit Refund	14-0586
298	27263	Natal, Katharine	10/8/2014	100.00	COK PARD Flag Football Referee; 4 games @ \$25.00 Each	09-30-14 KN
299	27442	Varela, Geneve	10/16/2014	100.00	HKCH Deposit Refund	14-0518
300	27413	Faddis, Steven	10/16/2014	100.00	GCP Pavilion Rental-Deposit Refund	14-0580
301	27556	Natal, Katharine	10/27/2014	100.00	COK PARD Flag Football Umpire; 4 games @ \$25.00 Each	10-14-14 KN
302	27629	Moore, Matthew	10/30/2014	100.00	City Square Park Gazebo Deposit Refund	14-0454
303	27611	Alvizo, Jennifer	10/30/2014	100.00	Lake Kyle Pavilion-Deposit Refund	15-0002
304	27361	Priority Personnel Inc	10/14/2014	99.20	Receptionist-M D Kocen 10/03/14-10/03/14	43578
305	27457	John Deere & Company	10/20/2014	99.10	synchronous	64123-45302
306	27478	South Texas Implement Co.	10/20/2014	98.10	Temperature/Freight	P52446
307	27299	United Site Services of Texas, Inc	10/2/2014	98.27	DXR Deluxe Restroom; Wavler; EEC	114-2305084
308	27572	United Site Services of Texas, Inc	10/27/2014	98.27	DXR Deluxe Restroom; Damage Waiver; EEC	114-2376288

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309	27639	Texas Civil Service Reporter	10/30/2014	98.00	Texas Civil Service Reporter 10/14	HRDURAN 100714
310	27443	Grayhound Package Express	10/16/2014	90.70	COK PD Texas Dept of State Health-Rabies Samples	41500641
311	27355	Mendoza-Johnson, Marcus Joseph	10/14/2014	90.00	COK PARD Kickball Umpire; 3 games @ \$30.00 Each	10 07 14 MJ
312	27613	AutoZone, Inc.	10/30/2014	89.32	Prestone; Rain X All Seas	351968658
313	27550	Hill Country Trophy, LLC	10/27/2014	87.85	5 x 7 Plaque; Letters, Logo, Plate	0025921
314	27405	Blueline Rental, LLC	10/16/2014	86.70	6000 Watt Towable Light Tower	1466484-0001
315	27627	LAWE Industries, LLC	10/30/2014	86.24	COK Bldg-06 Ford Explorer-Vehicle Maintenance	96650
316	27511	Verizon Wireless	10/23/2014	82.77	COK PARD Acct # 621121659-00001 08/24/14-09/23/14	9732620558
317	27119	Exigo Service Group, LLC	10/3/2014	80.00	Detailed Shot Log/Shot Recorder Databook	XTS-1036
318	27568	Staples Business Advantage	10/27/2014	78.98	.5M USB Sync & Charger Cable	8031601428
319	27357	Michell Family Motor Trikes	10/14/2014	78.30	Switch Blade Engage; Pulley Spindle	1253
320	27066	U.S. Postal Service	10/1/2014	78.00	Annual Lease of PO Box 40	09/13/14
321	27533	Southern Computer Warehouse, Inc.	10/23/2014	75.95	ADI-ATR2100-USB	IN-000210317
322	27347	Home Depot Credit Service	10/14/2014	75.78	PARD Acct # 6035 3225 0493 2397 Charges through 09/28/14	09 28 14 PARD
323	27620	Community Coffee Company L. L. C.	10/30/2014	75.50	Coffee Supplies	12162430110
324	27052	Cisneros, Pete R	10/1/2014	75.00	COK PD Tire Change Services Unit # 34	2434
325	27115	Crayton, Jennifer	10/3/2014	75.00	COK PARD Flag Football Umpire; 3 games @ \$25.00 Each	09 23 14 JC
326	27308	Sykes, Christine M	10/10/2014	75.00	Shop Kyle Marketing Card w/ Screen Cleaner	463
327	27338	Crayton, Jennifer	10/14/2014	75.00	COK PARD Flag Football Referee; 3 games @ \$25.00 Each	10 07 14 JC
328	27410	Cisneros, Pete R	10/16/2014	75.00	COK PD Towing Services Unit # 34	2433
329	27545	Crayton, Jennifer	10/27/2014	75.00	COK PARD Flag Football Referee; 3 games @ \$25.00 Each	10 21 14 JC
330	27259	Midwest Tape LLC	10/8/2014	74.13	CD Books-Agatha Christie's; IDA Full Screen	92181545
331	27112	Community Coffee Company L. L. C.	10/3/2014	74.00	Coffee Supplies	12162427341
332	27470	Officemax Contract Inc	10/20/2014	73.88	2015 RY WK/MO 8.5 x 11	082235
333	27311	D R Horton Homes	10/10/2014	73.30	UB Deposit Refund	031-0000017-000
334	27278	Rick's Lock & Key Service	10/8/2014	73.00	Keys	48294
335	27262	ML Printing	10/8/2014	72.00	Business Cards-J Garcia	080555-00
336	27546	Dorsett, Patrick	10/27/2014	72.00	2' x 3' Banner	13754
337	27321	Montelongo, Tara	10/10/2014	70.73	UB Deposit Refund	021-0000164-001
338	27267	Ozarka Natural Spring	10/8/2014	67.99	Drinking Water-Mayor & Council	04/0120421029
339	27622	Dustless Air Filter Co	10/30/2014	65.16	Tri-Power Belt	H126634-IN
340	27344	Hesselbein Tire Southwest	10/14/2014	64.25	7281 ST225/75D15	1901458885
341	27346	Hill Country Springs	10/14/2014	63.59	PD 5 gal drinking water	348916
342	27362	Recorded Books, LLC	10/14/2014	62.20	Beautiful You	75009972
343	27130	Pike, Sharon	10/3/2014	61.00	SI 830.4 line w/box, Approved for Payment, red	61944
344	27637	T.A.A.F.	10/30/2014	60.00	6 Flag Football Team Registrations	26846
345	27319	LGI Homes	10/10/2014	59.49	UB Deposit Refund	026-0000297-000
346	27414	FedEx	10/16/2014	59.32	Transportation/Special Handling Charges Through 09/18/14	2-785-47567
347	27540	Alejandro, Andy	10/27/2014	58.80	Mileage Reimbursement 10/14	10 22 14 AA
348	27451	Arnold Oil Company of Austin, LP	10/20/2014	58.50	2 GA1 Ultra Mix	2370460
349	27300	Vargas, Victoria	10/8/2014	56.10	Gift Bags for Executive Gifts for Perfect Fast Track	09 23 14 VV
350	27557	Occupational Health Centers of the Southwest, P. A.	10/27/2014	54.00	Acct # N01-0060080241 10/14-M Palomares	315756601
351	27630	Occupational Health Centers of the Southwest, P. A.	10/30/2014	54.00	Acct # N01-0060080241 10/14-C Brune	315774931
352	27303	W. W. Grainger, Inc	10/8/2014	53.94	Coreless Roll Liner, 42 Gal	9545527922
353	27261	Michell Family Motor Trikes	10/2/2014	53.54	Cap Dust	1192
354	27581	Hill Country Springs	10/28/2014	50.64	PD 5 gal drinking water	348920
355	27295	Tumbling, Rosalie	10/8/2014	50.00	HKCH Deposit Refund	09 23 14
356	27576	Cintas First Aid & Safety #F71	10/28/2014	49.80	Various Medical Supplies	5001999233
357	27644	Underground Graphics	10/30/2014	49.00	Digital Printed Vinyl Graphics; Shipping	001523
358	27349	LAWE Industries, LLC	10/14/2014	48.19	COK UB Unit # 201 Vehicle Maintenance	95318
359	27408	Centerpoint Energy	10/16/2014	47.32	Acct # 8518608-8 Gas Service 08/29/14-09/30/14	8518608-8 0914
360	27556	Midwest Tape LLC	10/14/2014	45.98	Mr Peabody & Sherman, X-Men	92218064

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361	27479	Staples Business Advantage	10/20/2014	45.86	Staples, Splenda Sweetner	8031506543
362	27552	Matera Paper Co.	10/27/2014	45.53	Spl & Span 3 in 1 All Purpose Cleaner	A078828A
363	27486	AutoZone, Inc.	10/23/2014	44.38	Freon	3519613681
364	27223	AutoZone, Inc.	10/8/2014	42.71	StaMix 50 to 1 2 Stroke Engine	3519643228
365	27062	Rhoades, Katie	10/1/2014	42.00	Session #3.2 AquaFit	09.15.14 KR
366	27220	Alexander Jr., Titus R	10/8/2014	40.00	COK PARD Flag Football Administrator; 2 games @ \$20.00 Each	09.30.14 TA
367	27541	Herrera, Nikki	10/14/2014	40.00	COK PARD Kickball Administrator; 4 games @ \$10.00 Each	10.07.14 NH
368	27541	Alexander Jr., Titus R	10/27/2014	40.00	COK PARD Flag Football Referee; 2 games @ \$20.00 Each	10.10.14 TA
369	27353	Lutrick's Florist	10/14/2014	39.99	Sympathy Plant	19946
370	27248	Kyle Automotive	10/8/2014	39.95	PD Unit # 926 Vehicle Maintenance	4192
371	27612	Arnold Oil Company of Austin, LP	10/30/2014	39.50	Cast Iron Pulley	2412762
372	27252	LAWE Industries, LLC	10/8/2014	39.48	COK PW Unit # 116 Vehicle Maintenance	94458
373	27544	Camlin Automotive	10/27/2014	38.22	2005 Ford F150 Pickup	0016850
374	27310	Centro de Liberacion ESM, Inc	10/10/2014	38.16	UB Deposit Refund	001-0000216-002
375	27244	Hill Country Springs	10/8/2014	36.54	PD 5 gal drinking water	338193
376	27621	County Line Special Utility District	10/30/2014	35.60	Acct # 1436 Water Services 550 Holly Grove/Park Mt	10.21.14 1436
377	27113	County Line Special Utility District	10/3/2014	35.30	Acct # 1436 Water Services 550 Holly Grove/Park Mt	09.23.14 1436
378	27103	Brown, Jeffrey	10/3/2014	34.95	DVD-The Grove, Texas; Shipping	108
379	27588	P Harb Auto Repair LLC	10/28/2014	34.14	COK PD Unit # 0901-Vehicle Maintenance	859
380	27109	City Electric Supply Company	10/3/2014	32.35	3/16" x 4" x 6" Hammer -Drill Bit; Concrete Anchor System	KYL/016828
381	27360	Owings, Daniel	10/14/2014	30.00	Water Rebate Program-2 Dual Flush Conversion Valve	10.03.14 DO
382	27523	Dorsett, Patrick	10/23/2014	30.00	5" X 40" Printed Cover Up Installed	13756
383	27559	Officemax Contract Inc	10/27/2014	28.05	Folder ET Ltr MLA	653953
384	27563	Quill Corporation	10/27/2014	28.02	Qb 2 Round-Ring View Binder	6657661
385	27595	Staples Business Advantage	10/28/2014	26.19	Designer Suites Monitor Riser	8031699024
386	27571	The Reinalt-Thomas Corporation	10/27/2014	25.00	Bolt Pattern; OEM Inflation; Dismount/Installation	1107373
387	27275	RadioShack Corporation	10/8/2014	21.98	Gigaware USB-A To Micro USB; Protection Plan	024501
388	27464	Hays CISD-Facilities Use	10/20/2014	20.00	Library Blue Room-Lehman HS	890
389	27309	AHA Dream Homes, LLC	10/10/2014	19.83	UB Deposit Refund	022-0000246-000
390	27314	Goldenberg, Monica	10/10/2014	18.93	UB Deposit Refund	008-0000041-002
391	27528	Midwest Tape LLC	10/23/2014	18.99	DVD-Snowpiercer	92241096
392	27438	Texas Department of Agriculture	10/16/2014	18.00	NonCommercial Political Certificate (0671500) R Espaza	01189839
393	27575	AutoZone, Inc.	10/28/2014	17.99	47385 7 RV Blade to 5 FL	3519652771
394	27318	Legacy Real Estate & Mgmt	10/10/2014	16.53	UB Deposit Refund	013-0000219-005
395	27543	Brooks, Constance	10/27/2014	15.68	Mileage Reimbursement 09/14	10.22.14 CB
396	27365	The Reinalt-Thomas Corporation	10/14/2014	15.50	Mount; Inflation	1105458
397	27283	Staples Business Advantage	10/8/2014	15.48	3M USB SYNC & CHARGER CABLE	8031350931
398	27341	Hach Company	10/14/2014	15.45	Sample Cell w/Cap, 1CM/10ML PK/2	9025942
399	27328	Saucedo, Yolanda	10/10/2014	15.27	UB Deposit Refund	009-0000851-008
400	27615	Capital Chapter of Texas City Clerks & Secretaries	10/30/2014	15.00	2015 Chapter Dues Primary Member-Amelia Sanchez	10.29.14 AS
401	27330	Wood, Brian	10/10/2014	14.08	UB Deposit Refund	001-0000616-001
402	27322	Pardula, Todd	10/10/2014	14.08	UB Deposit Refund	012-0000174-007
403	27317	Kyle, Michael	10/10/2014	12.47	UB Deposit Refund	005-0008264-002
404	27287	TCMA Region 7	10/8/2014	12.00	Meals @ Region & Mtgs 05/16/14 & 09/19/14	00001
405	27313	Forbes, Christopher	10/10/2014	11.48	UB Deposit Refund	021-0000212-003
406	27315	Green, Tara	10/10/2014	10.40	UB Deposit Refund	020-0000863-003
407	27237	Gateway Business Products & Services, Inc.	10/8/2014	10.20	Book Memo, 3X5,Rld,60SH	1323991
408	27324	Polk, Damon	10/10/2014	8.95	UB Deposit Refund	020-0000444-001
409	27566	San Marcos Automotive Inc	10/27/2014	8.49	Tap	10.17.14
410	27323	Phillips, Ryan	10/10/2014	7.70	UB Deposit Refund	020-0000525-003
411	27325	Rangel, Bobbi	10/10/2014	7.54	UB Deposit Refund	020-0000394-002
412	27352	Lowe's	10/14/2014	7.35	09/01/14 Finance Charge	10.02.14 FIN

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Count	Check No	Vendor Name	Check Date	Amount	Description	Invoice No
413	27329	Telab, Moursif	10/10/2014	7.03	UB Deposit Refund	012-000249-005
414	27542	AutoZone, Inc.	10/27/2014	5.68	65-DLG Duralast Gold Battery	3519689539
TOTAL:				\$ 518,306.90		

Item # 22



CITY OF KYLE, TEXAS

City's Financial Performance Report for 4th Quarter Ending September 30, 2014

Meeting Date:
11/18/2014
Date time: 7:00 PM

Subject/Recommendation: Presentation of City of Kyle's Financial Performance Report (unaudited) for the 4th quarter ending September 30, 2014. ~ *Perwez A. Moheet, CPA Director of Finance*

Other Information: Provided for City Council's review and information is the City of Kyle's Financial Performance Report for the 4th quarter ending September 30, 2014. In compliance with Article VIII, Section 8.02(c), the purpose of the quarterly Financial Performance Report is to present the City's financial status in order to keep the City Council, City management, and the citizens of Kyle fully informed.

In addition to financial information for all City Funds, this report provides detailed financial information including comparative analysis of budget versus actual for major revenue and expenditure categories by budget line item for the City's following two primary Operating Funds:

1. General Fund (110)
2. Utility Operating Fund (310)

In an effort to further enhance transparency in the City's quarterly Financial Performance Reports, we have added a section pertaining to the status of each City department's approved budget. This section provides a summary budget status of all fourteen (14) City departments.

This Financial Performance Report for the 4th quarter ending September 30, 2014 includes summary reports on the status of all other Funds of the City. We have provided forty two (42) additional summary reports covering operations, capital improvements program, debt obligations, and investments as attachments for this reporting period.

A Fund is defined as a separate fiscal and accounting entity with a self-balancing set of accounts established to account for specific program activities including revenue and associated expenditures. For example, General Fund, Utility Operating Fund, Train Depot Donation Fund, Water Impact Fee Fund, Police Forfeiture Fund, 2010 Bond Fund, etc.

The Financial Performance Report for the 4th quarter ending September 30, 2014 includes the following detailed reports as attachments:

1. All Fund Summary: Citywide
2. Detailed Fund Summary: General Fund (110)
3. Detailed Fund Summary: Utility Operating Fund (310)
4. Detailed Fund Summary: Emergency Reserve Fund (112)
5. Detailed Fund Summary: Road Improvement Fund (115)
6. Detailed Fund Summary: Transportation Fund (127)
7. Detailed Fund Summary: Police Forfeiture Fund (131)
8. Detailed Fund Summary: Police Special Revenue Fund (132)
9. Detailed Fund Summary: Court Special Revenue Fund (133)
10. Detailed Fund Summary: Hotel Occupancy Fund (135)
11. Detailed Fund Summary: Economic Development Fund (136)
12. Detailed Fund Summary: Library Building Fund (138)
13. Detailed Fund Summary: Debt Service Fund (151)
14. Detailed Fund Summary: SIB/TIF Loan I&S Fund (152)
15. Detailed Fund Summary: Park Development Fund (172)
16. Detailed Fund Summary: Water Rebate Fund (315)
17. Detailed Fund Summary: Grant Fund (410)
18. Detailed Fund Summary: Reuse Feasibility Fund (411)
19. Detailed Fund Summary: Train Depot Donation Fund (412)
20. Detailed Fund Summary: Mental Health Services Grant Fund (413)
21. Detailed Fund Summary: Victims Coordinator Services Grant Fund (414)
22. Detailed Fund Summary: Hazard Mitigation Grant Fund (415)
23. Detailed Fund Summary: Mobile Library Grant Fund (416)
24. Detailed Fund Summary: Public Education & Government Fund (450)
25. Detailed Fund Summary: Structural Demolition Fund (610)
26. Detailed Fund Summary: Other Post Employment Benefit (810)
27. Detailed Fund Summary: General Gov't Fixed Assets (910)
28. Detailed Fund Summary: Pooled Cash Fund (999)
29. Capital Projects Report: 2007 CO Bond Fund (182)
30. Capital Projects Report: 2008 CO Bond Fund (184)
31. Capital Projects Report: 2009 Tax Notes Fund (185)
32. Capital Projects Report: 2010 CO Bond Fund (187)
33. Capital Projects Report: 2013 GO Bond Fund (188)
34. Capital Projects Report: 2014 Tax Notes Fund (190)
35. Capital Projects Report: Water CIP Revenue Fund (331)
36. Capital Projects Report: Sewer CIP Revenue Fund (341)
37. Capital Projects Report: Water CIP Impact Fee Fund (332)
38. Capital Projects Report: Sewer CIP Impact Fee Fund (342)
39. Schedule of Fund Balance for All Active Funds of the City
40. Schedule of Debt Outstanding (Principal & Interest)
41. Schedule of Investment Market Values and Earnings

Cover Memo

Item # 23

42. Schedule of Investments by Type and Earnings

A complete copy of the City of Kyle's Financial Performance Report (unaudited) for the 4th quarter ending September 30, 2014 will be posted and available on the City's web page at:

<http://www.cityofkyle.com/finance/financial-performance-report>

Budget Information:

The City's unaudited Financial Performance Report for the 4th quarter ending September 30, 2014 is attached.

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

Attachments / click to download

 [Report - FPR 4th Quarter 9-30-2014](#)



MEMORANDUM

TO: Mayor, Mayor Pro Tem, and City Council Members
James R. Earp, CPM, Acting City Manager
Ken Johnson, City Attorney
Amelia Sanchez, City Secretary
All City Department Directors

FROM: Perwez A. Moheet, CPA
Director of Finance

DATE: November 18, 2014

SUBJECT: Financial Performance Report: For 12-Month Period Ending September 30, 2014

Provided below for your review and information is the City of Kyle's unaudited Financial Performance Report for the 4th quarter ending September 30, 2014. In compliance with Article VIII, Section 8.02(c) of the City Charter, the purpose of the quarterly Financial Performance Report is to present the City's overall financial status in order to keep the City Council, City management, and the citizens of Kyle and fully informed and updated.

The combined Fund Balance for all City Funds for the 4th quarter ending September 30, 2014 is shown below:

All Funds Summary - Citywide	12-Months Ending 9/30/2014
Beginning Balance:	\$ 111,082,995
Total Revenue & Transfers-In:	44,627,313
Total Expenditures & Transfers-Out:	40,175,603
Sources in Excess of Uses:	4,451,710
Ending Balance (Unaudited):	\$ 115,534,705

In addition to the financial information for all City Funds, this report provides detailed financial data including comparative analysis of budget versus actual for major revenue and expenditure categories as well as individual revenue and expenditure line items for the City's following two primary Operating Funds:

Financial Performance Report (Unaudited)
 For 12-Month Period Ending September 30, 2014
 November 18, 2014

1. General Fund (110)
2. Water and Wastewater Utility Operating Fund (310)

In an effort to further enhance transparency in the City's quarterly Financial Performance Reports, we have added a section pertaining to the status of each City department's approved budget. This section provides a summary budget status of all fourteen (14) City departments.

This Financial Performance Report for the 4th quarter ending September 30, 2014 includes summary reports on the status of all other Funds of the City. We have provided forty two (42) summary reports covering operations, capital improvements program, debt obligations, and investments as attachments for this reporting period.

A Fund is defined as a separate fiscal and accounting entity with a self-balancing set of accounts established to account for specific program activities including revenue and associated expenditures. For example, General Fund, Utility Operating Fund, Train Depot Donation Fund, Water Impact Fee Fund, Police Forfeiture Fund, 2010 Bond Fund, etc.

The unaudited Financial Performance Report for the 4th quarter ending September 30, 2014 includes the following detailed reports as attachments:

- | | |
|----------------------------|------------------------------------------|
| 1. All Fund Summary: | Citywide |
| 2. Detailed Fund Summary: | General Fund (110) |
| 3. Detailed Fund Summary: | Utility Operating Fund (310) |
| 4. Detailed Fund Summary: | Emergency Reserve Fund (112) |
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| 23. Detailed Fund Summary: | Library Mobile Grant (416) |

Financial Performance Report (Unaudited)
 For 12-Month Period Ending September 30, 2014
 November 18, 2014

- 24. Detailed Fund Summary: Public Education & Government Fund (450)
- 25. Detailed Fund Summary: Structural Demolition Fund (610)
- 26. Detailed Fund Summary: Other Post Employment Benefit (810)
- 27. Detailed Fund Summary: General Gov't Fixed Assets (910)
- 28. Detailed Fund Summary: Pooled Cash Fund (999)
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- 34. Capital Projects Report: 2014 Tax Notes Fund (190)
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- 37. Capital Projects Report: Water CIP Impact Fee Fund (332)
- 38. Capital Projects Report: Sewer CIP Impact Fee Fund (342)
- 39. Schedule of Fund Balance for All Active Funds of the City
- 40. Schedule of Debt Outstanding (Principal & Interest)
- 41. Schedule of Investment Market Values and Earnings
- 42. Schedule of Investments by Type and Earnings

Highlights of unaudited revenue and expenditures for the 4th quarter ending September 30, 2014 are shown below for each of the City's two major Operating Funds. As outlined above, a detailed report for each Fund is also attached for your information.

GENERAL FUND
Financial Performance Highlights (Unaudited)

	FY 2011-12 9/30/2012 Actual	FY 2012-13 9/30/2013 Actual	FY 2013-14 Adopted Budget	FY 2013-14 Current Year Estimate	Year to Date w/Encumbrance 9/30/2014
Beginning Balance	\$ 3,065,766	\$ 4,723,303	\$ 5,976,050	\$ 5,976,050	\$ 5,976,050
Revenue & Transfers-In	13,357,257	14,564,926	14,561,574	15,655,444	16,495,033
Expenditures & Transfers-Out	11,699,720	13,312,180	14,946,484	14,061,007	13,795,096
Ending Balance	\$ 4,723,303	\$ 5,976,050	\$ 5,591,140	\$ 7,570,487	\$ 8,675,986

General Fund Revenue:

1. Year to date revenue and transfers-in from all sources for the General Fund through September 30, 2014 totaled \$16,495,033 or 5.4% above current year estimates for the year.
2. Property tax receipts (M&O portion) for the year totaled \$4,202,249 or 0.4% above current year estimate for the year.

Financial Performance Report (Unaudited)
 For 12-Month Period Ending September 30, 2014
 November 18, 2014

3. Sales tax receipts for the year totaled \$4,611,401 or 1.0% above current year estimate for the year.
4. Charges for services totaled \$2,354,677 or 3.2% above current year estimate for the year. This includes Solid Waste Collections.
5. Municipal Court fines totaled \$910,228 or 11.1% above current year estimate for the year.
6. Construction inspection fees for the year totaled \$1,141,180 or 43.8% above current year estimate for the year.
7. Land use planning and review fees for the year totaled \$354,294 or 28.7% above current year estimate for the year. These include development review fees, zoning amendment fees, and other planning fees.
8. Recreation, special event and swimming pool program fees totaled \$233,133 or 19.3% below current year estimate for the year. This includes summer camps, recreation programs, sport leagues, Polar Bear fee, and facility rental charges.
9. Transfers-in from the Utility Fund and Court Special Revenue for the year totaled \$1,326,646 or 100.0% of approved budget and current year estimates.

General Fund Expenditures:

1. Total expenditures and transfers-out the General Fund through September 30, 2014 totaled \$13,795,096 or 1.9% below current year estimates for the year.
2. Administrative department expenditures totaled \$1,499,550 or 2.5% below current year estimate for the year. This includes Mayor and Council, Office of the City Manager, Human Resources, Information Technology, and Office of Chief of Staff departments.
3. Community Development department expenditures totaled \$895,857 or 0.2% below current year estimate for the year. This includes Building Inspections, Planning & Zoning, and Economic Development departments.
4. Financial Services Department expenditures totaled \$1,007,383 or 9.8% above current year estimate for the year primarily due to write-off of uncollectible warrants. This includes Budget & Accounting and Municipal Court Divisions. The Utility Billing Division is accounted for in the City's Water and Wastewater Utility Fund.
5. Parks and Recreation Department expenditures totaled \$1,672,183 or 9.2% below current year estimate for the year. This includes Parks Administration, Recreation Programs, Aquatic Programs, Parks Maintenance & Operations, and Facilities Maintenance.
6. Public Library Department expenditures totaled \$416,478 or 0.1% below current year estimate for the year.
7. Police Department expenditures totaled \$4,335,207 or 1.3% above current year estimate for the year primarily due to an increase in the number of invoices pertaining

Financial Performance Report (Unaudited)
 For 12-Month Period Ending September 30, 2014
 November 18, 2014

to FY 2013-14 which were processed for payment during and after the month of September.

8. Public Works Department expenditures supported by the General Fund totaled \$2,415,323 or 6.9% below current year estimate for the year. This includes \$521,665 for Street Maintenance or 27.7% below current year estimate for the year and \$1,893,658 or 1.1% above current year estimate for the year for contracted Sanitation Services.
9. Non departmental expenditures which includes sales tax rebate payments to Seton, DDR/DB, insurance, workers compensation, etc., totaled \$666,841 or 5.9% below current year estimate for the year.
10. A detailed Fund Summary Budget Status Report for the General Fund is provided in the attached reports.

WATER AND WASTEWATER UTILITY FUND
Financial Performance Highlights (Unaudited)

	FY 2011-12 9/30/2012 Actual	FY 2012-13 9/30/2013 Actual	FY 2013-14 Approved Budget	FY 2013-14 Current Year Estimate	Year to Date w/Encumbrance 9/30/2014
Beginning Balance	\$ 2,331,829	\$ 1,463,167	\$ 3,384,378	\$ 3,384,378	\$ 3,384,378
Revenue & Transfers-In	9,689,208	13,348,040	12,093,377	12,662,094	13,485,880
Expenditures & Transfers-Out	10,424,650	10,227,601	11,676,297	11,070,485	9,947,507
Adjustment per Audit	(133,220)	(1,199,228)			(606,281)
Ending Balance (WC Basis)	\$ 1,463,167	\$ 3,384,378	\$ 3,801,459	\$ 4,975,988	\$ 6,316,470

Utility Fund Revenue:

1. Total revenue and transfers-in from all sources for the Water and Wastewater Utility Fund through September 30, 2014 totaled \$13,485,880 or 6.5% above current year estimates for the year.
2. Water sales revenue totaled \$7,786,500 or 7.8% above current year estimate for the year.
3. Miscellaneous water charges totaled \$529,362 or 34.9% above current year estimate for the year. This includes tap fees, reconnect fees, and late payment penalties.
4. Wastewater service charges totaled \$4,876,115 or 1.4% above current year estimate for the year. Wastewater service charges include volume charge and lift station charges for Hays CISD.
5. Miscellaneous wastewater charges totaled \$205,701 or 29.2% above current year estimate for the year. This includes tap fees and other fees.

Financial Performance Report (Unaudited)
 For 12-Month Period Ending September 30, 2014
 November 18, 2014

6. Interest income and other revenue totaled \$88,203 or 12.5% above current year estimate for the year. Interest income and billable work by City crews is reported in the miscellaneous revenue category.

Utility Fund Expenditures:

1. Total expenditures including encumbrances and transfers-out through September 30, 2014 totaled \$9,947,507 or 10.1% below current year estimates for the year.
2. Water Administration expenditures totaled \$779,761 or 1.8% above current year estimate for the year.
3. Utility Billing expenditures totaled \$554,961 or 4.5% below current year estimate for the year.
4. Water Operations expenditures totaled \$1,130,987 or 2.5% above current year estimate for the year.
5. Water Supply expenditures totaled \$3,146,086 or 19.1% below current year estimate for the year.
6. Wastewater Operations expenditures totaled \$2,161,774 or 15.7% below current year estimate for the year.
7. Transfers-out to the City's General Fund, CIP Funds, and to the Debt Service Fund totaled \$2,031,505 or 100.0% of approved budget.
8. A detailed Fund Summary Budget Status Report for the Utility Operating Fund is provided in the attached reports.

Summary Budget Status by City Department:

This section is intended to further enhance transparency in the City's unaudited quarterly Financial Performance Reports. The table below provides a summary budget status of each of the fourteen (14) City departments for the 4th quarter ending September 30, 2014.

Financial Performance Report (Unaudited)
 For 12-Month Period Ending September 30, 2014
 November 18, 2014

City Department	FY 2013-14 Approved Budget	Expenditures w/Encumbrance At 9/30/2014	Budget Remaining 9/30/2014	% of Budget Remaining 9/30/2014
Mayor and Council	\$ 74,034	\$ 63,664	\$ 10,370	14.01%
Office of the City Manager	627,709	549,813	77,896	12.41%
Human Resources	273,839	263,030	10,809	3.95%
Information Technology	505,400	460,437	44,963	8.90%
Office of Chief of Staff	177,534	162,606	14,928	8.41%
Building Inspections	422,156	419,733	2,423	0.57%
Planning	270,203	260,652	9,551	3.53%
Economic Development	269,481	215,472	54,009	20.04%
Financial Services (General Fund)	966,291	1,007,383	(41,092)	-4.25%
Financial Services (Utility Fund)	606,552	554,961	51,591	8.51%
Parks & Recreation	1,963,504	1,672,183	291,321	14.84%
Public Library	428,850	416,478	12,372	2.88%
Police	4,512,379	4,335,207	177,172	3.93%
Public Works (General Fund)	2,633,673	2,415,323	218,350	8.29%
Public Works (Utility Fund)	8,853,866	7,218,607	1,635,259	18.47%
Engineering (General Fund)	248,571	95,354	153,217	61.64%
Engineering (Utility Fund)	56,571	43,847	12,724	22.49%
Non Departmental	876,796	738,082	138,714	15.82%
TOTAL CITY DEPARTMENTS:	\$ 23,767,409	\$ 20,892,832	\$ 2,874,577	12.09%

A detailed copy of the City's Financial Performance Report for the 12-month period ending September 30, 2014, is attached and has been made available at the Kyle Public Library as well posted on the City's website at the following link:

<http://www.cityofkyle.com/finance/4th-quarter-financial-performance-report-0>

Please let me know if you have any questions or need additional information.



Perwez A. Moheet, CPA
 Director of Finance

Attachments

cc: Posted on City of Kyle Website
 Kyle Public Library